

Peace and Justice Commission

ACTION CALENDAR

June 15, 2004

To: Honorable Mayor and
Members of the City Council

From: Peace and Justice Commission

Subject: Corporate Constitutional Rights

RECOMMENDATION

Adopt a Resolution supporting an amendment to the United States and California Constitutions to declare that corporations are not granted the protections or rights of persons, and to declare that the expenditure of corporate money is not a form of constitutionally protected speech; and direct the City Manager to send a copy of this Resolution to our state and federal government representatives including: Governor Arnold Schwarzenegger, Majority and Minority Leaders of the California Senate Don Perata and James Brulte, California Assemblymember Loni Hancock, United States Senators Barbara Boxer and Dianne Feinstein, and United States Representative Barbara Lee.

BACKGROUND

In every country, corporations may access the courts on matters of property and contracts. To facilitate that, the law says a corporation is an "artificial person." Corporations in the United States, however, have gained additional protections based on a doctrine known as "corporate personhood." By arguing that "artificial persons" should have the same rights as human beings, corporations have convinced courts to overturn numerous laws, many of which were legislative attempts to protect the public interest. Given their tremendous influence, corporations now have more rights than people to free speech, due process, equal protection and more.

But a corporation is not like a human being. Unlike people, it can live forever. It does not need clean air to breathe or safe water to drink. It cannot feel pain or joy. It can be many places at once. If it commits a crime, it cannot go to prison. As a result of these and many other advantages, corporations have been able to accumulate enormous wealth and power, which is used to influence elected officials to support corporate interests.

The first United States corporations were required to serve the public good. However, today current law allows corporations to consider stockholder profit as their only goal, even when their practices are harmful to the environment and to the majority of families, workers and communities.

At the regular meeting of May 3, 2004, the Peace and Justice Commission heard testimony from 21 speakers and discussed the issue of amending the United States and California Constitutions to declare that corporations are not granted the protections or rights of persons.

Following the discussion, the Commission approved the following motion:

M/S/C (*sorgen, Freedkin*) to recommend that the City Council adopt the attached Resolution with regard to supporting an amendment to the United States and California Constitutions to declare that corporations are not granted the protections or rights of persons, and to declare that the expenditure of corporate money is not a form of constitutionally protected speech; and that the City Council directs the City Manager to send a copy of this Resolution to our state and federal government representatives including: Governor Arnold Schwarzenegger, Majority and Minority Leaders of the California Senate Don Perata and James Brulte, California Assemblymember Loni Hancock, United States Senators Barbara Boxer and Dianne Feinstein, and United States Representative Barbara Lee. **Ayes:** Brody, Cachola, Cohen, Freedkin, Lavine, Litman, Maran, McDonald, Sherman, sorgen, Wagley; **Noes:** Seaton; **Abstain:** None; **Absent:** Gabriel, Wright.


FINANCIAL IMPLICATIONS

None.

CONTACT PERSON

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Approved by:


Manuel Hector
Leslieann Cachola, Chairperson
Peace and Justice Commission

RESOLUTION NO. N.S.

SUPPORTING AN AMENDMENT TO THE UNITED STATES AND CALIFORNIA CONSTITUTIONS TO DECLARE THAT CORPORATIONS ARE NOT GRANTED THE PROTECTIONS OR RIGHTS OF PERSONS

WHEREAS, Chapter 3.68 of the Berkeley Municipal Code, which contains the initiative ordinance creating the Peace and Justice Commission, sets forth several functions of the Peace and Justice Commission, including, but not limited to, “(A) Advise the Berkeley City Council on all matters relating to the City of Berkeley’s role in issues of peace and social justice, including, but not limited to support for human rights and self-determination throughout the world; (B) Help create citizen awareness around issues of social justice [and] (C) Help develop proposals for the City Council in furtherance of the goals of peace and justice, and help publicize such actions in the community;” and

WHEREAS, under the United States and California Constitutions, all sovereignty resides with "We the People," such that people hold all inherent political power and government derives its power from the consent of the governed; government is created by the people and for the people for our health, safety, and welfare; our system of government is a representative democracy, through which the people govern; and “We the People” are entitled to inalienable constitutional rights to wield against oppressive governmental regulation; and

WHEREAS, “corporation” is not mentioned in the United States Constitution; our founders did not grant corporations rights; rights were reserved for natural people; historically corporations were created as artificial entities, chartered by state governments to serve the public interest, cause no harm, and be subordinate to the sovereign people; and yet by judicial interpretations, corporations gained personhood status, free speech and other protections guaranteed by the Bill of Rights and the 14th Amendment; and

WHEREAS, with “corporate personhood” and First Amendment rights, corporations dominate the political process and interfere with citizens’ control over our government as follows: corporations lobby our legislative and regulatory bodies; with the Supreme Court’s assertion that money is a form of free speech, corporations spend vast amounts of money to influence elections; and by virtue of their enormous wealth, corporations wield much more influence over our government and over the media than do “We the People”; and

WHEREAS, this corporate influence is transforming our government from one that is “by and for the people” to one that is by and for corporate interests; corporate influence over our government denies citizens our right to govern through a representative democracy and subjects us to minority rule by the wealthy few; and corporate influence has made it difficult to maintain a living wage, a clean environment, affordable health care, and quality education for all; and

WHEREAS, the citizens of the City of Berkeley consider it to be our sovereign right and civic duty to recognize that corporations remain artificial entities created by the people through our state

legislatures; hope to nurture and expand democracy in Berkeley and in our nation; and reject the concept of corporate constitutional rights based on "corporate personhood" or any other factor.

NOW THEREFORE, BE IT RESOLVED that the Council of the City of Berkeley supports amending the United States and California Constitutions to declare that corporations are not granted the protections or rights of persons, and supports amending the United States and California Constitutions to declare that the expenditure of corporate money is not a form of constitutionally protected speech.

BE IT FURTHER RESOLVED, that the City Council directs the City Manager to send a copy of this Resolution to our state and federal government representatives including: Governor Arnold Schwarzenegger, Majority and Minority Leaders of the California Senate Don Perata and James Brulte, California Assemblymember Loni Hancock, United States Senators Barbara Boxer and Diane Feinstein, and United States Representative Barbara Lee.