

**Boulder Anti-Corporate Personhood
Resolution:**

**Lessons Learned from the 2011 Boulder
Campaign**

Attachments A-F

**City of Boulder Ballot Initiative Proposal
May 16, 2011**

As concerned citizens and members of Boulder Move to Amend, we are proposing that the Boulder City Council put on the November 2011 ballot an initiative for the citizens to vote on. This initiative would give Boulder voters the civic ability to proclaim their “sense of the community” support for—or rejection of—an amendment to the US Constitution.

The specified Constitutional amendment would counter the effects of Supreme Court decisions such as the recent *Citizens United v FEC* decision, which granted human Constitutional rights to corporations and which precludes reasonable regulation of the expenditure of money to influence elections.

In April 2011, a similar ballot initiative was overwhelmingly approved by the citizens of Madison, WI (84% passage rate) and the surrounding Dane County (78%).

We are proposing the following language for the ballot initiative, with the understanding that the language ultimately to appear in an actual Constitutional amendment might evolve somewhat differently:

RESOLVED, the City of Boulder, Colorado, calls for reclaiming democracy from the corrupting effects of undue corporate and monetary influence by amending the United States Constitution to:

- 1. abolish corporate personhood and prohibit the granting of Constitutional rights to any entity other than a human being; and to**
- 2. clarify that the expenditure of money is not Constitutionally protected free speech so that money spent to influence elections can be subject to reasonable regulation to promote equal protection under the law for all human citizens.**

We are not proposing this ballot initiative lightly. We are doing so because we believe that our democracy is in danger of being corrupted by the unlimited expenditure of money by powerful corporations and individuals to control our government and dominate our elections. The amount of money actually spent on federal elections has exploded to astronomical heights, as shown by this graph from the Center for Responsive Politics:

Cycle Total Cost of Election

| | |
|-------|-----------------|
| 2008* | \$5,285,680,883 |
| 2006 | \$2,852,658,140 |
| 2004* | \$4,147,304,003 |
| 2002 | \$2,181,682,066 |
| 2000* | \$3,082,340,937 |
| 1998 | \$1,618,936,265 |

*Presidential election cycle

(<http://www.opensecrets.org/bigpicture/index.php>)

Things are only going to get much worse with the *Citizens United* decision. According to US News and World Report, the 2010 midterm elections were the most expensive midterm elections in history, with a total cost of approximately \$4 billion dollars.

(<http://www.usnews.com/news/articles/2010/11/09/4-billion-in-election-spending-a-drop-in-the-bucket>)

These astronomical election expenses makes it impossible for ordinary Americans—with ordinary incomes—to effectively get their needs across to their politicians, who have to spend much of their time requesting campaigns contributions from wealthy corporate and individual donors.

In addition, the granting of Constitutional rights to corporations have given large corporations the ability to stifle the will of the people, as expressed through their governments, in many spheres of economic and political life. For example, between 1905 and the 1930's, the Supreme Court invalidated approximately 200 economic regulations that interfered with corporations, usually under the due process clause of the 14th Amendment. (http://reclaimdemocracy.org/personhood/personhood_timeline.pdf)

There is a growing national movement to curb the power of corporations and the unrestrained expenditure of money in politics. Examples include:

- The Boulder County Democratic Party, on April 13, 2011, passed a resolution supporting the passage of a Constitutional amendment along the lines advocated in this proposal. (*See Attachment 1.*)
- On April 6, 2011, voters in the City of Madison and Dane County, WI, passed a similar initiative. (*See Attachment 2.*)
- In addition, many municipalities, including Berkeley, CA and Pittsburgh, PA, have passed resolutions to curb corporate power. To read about Berkeley's resolution, go to <http://www.duhc.org/profiles/blogs/berkeley-passes-resolution>
- To read about Pittsburgh's ordinance that challenges corporate personhood and bans fracking, go to http://www.huffingtonpost.com/brendan-demelle/pittsburgh-bans-natural-g_b_784489.html
- To see a map of resolutions nationwide, go to <http://movetoamend.org/resolutions-map>

Placing this initiative on the ballot will give the voters of Boulder a chance to weigh in on this important issue affecting all Americans, and place Boulder in the forefront of the movement to reclaim American democracy.

Boulder Initiative Proposal - ATTACHMENT 1

The Boulder County Democratic Party passed the following resolution supporting an anti-corporate personhood amendment on April 13, 2011:

Be it resolved that the Boulder County Democratic Party (BCDP) calls on our elected officials in the City of Boulder and County of Boulder, other communities within the County of Boulder, and our elected state and national officials, to join citizens, grassroots organizations and governments across the country in calling for an amendment to the U.S. Constitution to abolish corporate personhood and to prohibit the granting of Constitutional rights to any entity other than a human being, and to clarify that the expenditure of money is not Constitutionally protected free speech and that money spent to influence elections can be subject to reasonable regulation to promote equal protection under the law for all human citizens.

Be it further resolved that the BCDP supports the call to other communities, jurisdictions and organizations to join with us by passing similar resolutions.

Be it further resolved that the BCDP supports the call for education to increase public awareness of the threats to our democracy posed by corporate personhood and the granting of Constitutional rights to corporations, as well as by the granting of free speech protection to the expenditure of money to influence elections. The BCDP encourages lively discussion to build understanding and consensus to take appropriate community and municipal actions to democratically respond to these threats.

Boulder Initiative Proposal - Attachment 2

The text of the City of Madison ballot referendum (April 6, 2011) reads:

RESOLVED, the City of Madison, Wisconsin, calls for reclaiming democracy from the corrupting effects of undue corporate influence by amending the United States Constitution to establish that:

1. Only human beings, not corporations, are entitled to constitutional rights, and
2. Money is not speech, and therefore regulating political contributions and spending is not equivalent to limiting political speech.

(http://reclaimdemocracy.org/articles/2011/resolutions_ftbragg_wisconsin.php)

Abolish Corporate Personhood and Regulate Money in Politics Op-Ed by Dan Gould, Laura Spicer and Judy Lubow; Boulder Daily Camera

Corporations and other collections of human beings for a common purpose are an integral part of our society and economy. They often advance our purposes and our prosperity. That being said, they are not human beings, and shouldn't be treated as such.

The Supremes got it wrong. In 2010, when the U. S. Supreme Court, in *Citizens United vs. Federal Election Commission*, affirmed its bizarre proposition that corporations have the same Constitutional right of freedom of speech as human beings and that unlimited corporate spending to influence elections is protected free speech, they got it wrong! It is so wrong that we human beings have got to fix it.

This is why the Boulder County Democratic Party and Boulder Move to Amend are calling on the Boulder City Council to put the following referendum on the November City Ballot.

RESOLVED, the people of the City of Boulder, Colorado call for reclaiming democracy from the corrupting effects of undue corporate influence by amending the United States Constitution to establish that:

1. *Only human beings, not corporations, are entitled to constitutional rights, and*
2. *Money is not speech, and therefore regulating political contributions and spending is not equivalent to limiting political speech.*

This statement of principle says, in effect, that corporations and unions and clubs and other such entities aren't and shouldn't be treated as human beings. They are fundamentally different: human beings can be drafted, fight and die in wars, marry, have children, need medical treatment, healthy food, clean air and water, and the list goes on. Corporations, on the other hand, are lifeless artificial beings that can form, dissolve, change names and locations, and can accumulate the financial assets of countless human beings.

How did we get into this mess? Thom Hartmann's book Unequal Justice says it began with a mistake by a law clerk when summarizing a Supreme Court ruling in 1886. The Court had not ruled that Corporations were persons, but the summary written by the clerk said as much. This summary has been relied upon by later Courts to make further decisions. So, while the crafters of our Constitution did not see corporations as equal to humans, Supreme Court case law has made them so.

Would the amendment cause corporations and similar groupings to lose all their rights and protections? No, this amendment would simply say that the Constitutional rights like freedom of speech apply only to human beings. There are rights and protections in federal and state laws now for corporations and similar entities. These could continue and even be expanded, but they would not be inalienable rights such as exist for people under the Constitution - they would be changeable by legislatures based on evolving needs of society. Also, other countries (Canada, England, Germany, Japan, etc.) have corporations and economies that thrive without having constitutional rights equal to human beings.

Why here? The problem of corporations and their money being treated like humans is not just a state or national concern. Local governments make decisions every day-- zoning, tax breaks, utility ownership-- that corporations spend lots of money trying to influence. They have a right to protect their interests, but this right should not be the same as that which exist for humans. The citizens of Boulder should be given the opportunity to say “No, we don’t want big money and corporate power swaying the government decisions that affect our lives.”

Why Now? Tritely put, a journey of a thousand miles begins with one step. The process to get the Constitution amended will take a while, but it will not be finished if it doesn’t start. November 2011 is optimal timing. This issue can get the exposure and debate it deserves without being overshadowed by the Presidential and other races in 2012.

Join Us. On Tuesday, August 16th, the Boulder City Council will be voting on whether to include the proposed referendum on the November ballot, after holding a Public Hearing on the issue. We hope you will join the Boulder County Democratic Party, Boulder Move to Amend and other members of our coalition at 6:00 PM in City Council chambers, to show support for this referendum. If you choose, you can also speak at that time. Council Chambers are on the second floor of the Boulder Municipal Building at Broadway and Canyon. Some of us will be arriving earlier, between 5:30 and 6 pm, to show support for the municipalization issue which is also on the Council Agenda.

Learn more. There is more information about this issue at movetoamend.org and more information about the Boulder Democrats' position on this and other issues at bouldercountydems.org. Look us up, learn more and help protect the unique rights of *We the People*.

The People of Boulder Should Have the Chance to Vote on Corporate Constitutional Rights Op-Ed by Carolyn Brninski

Large multi-national corporations today wield enormous power. They determine whether our oceans are filled with oil, whether we get more floods, droughts, hurricanes, tornadoes and other signs of an accelerating climate crisis, whether Americans have jobs or our jobs are outsourced to low-wage countries, whether our military budget keeps expanding, and whether our economy implodes, to name a few of the thousands of ways that mega corporations impact us on a daily basis.

The fundamental question here is, who is in charge of our country-- the big corporations or the people and their elected officials? Who should make the decisions about our well being, our future, our environment and our jobs?

As a result of decisions of appointed-for-life Supreme Court justices over the past 125 years, corporations have been given a broad range of Constitutional Rights, including many of those contained in the Bill of Rights. Large multinational corporations have almost exclusively benefitted from these rights in courts of law. Local and small businesses, nonprofits and labor unions lose out from the granting of corporate constitutional rights because they cannot begin to complete in courts, or with money spent in elections, with these mega corporations.

Here are some of the rights Supreme Courts have been given to corporations:

1st Amendment Free Speech rights, which corporations use to influence elections through political contributions, and to advertise for guns, tobacco and other dangerous products;

4th Amendment Search and Seizure rights, which corporations have used to avoid subpoenas to investigate illegal price fixing and to continue corporate pollution in spite of community opposition;

5th Amendment Takings and Due Process rights, under which communities have had to pay corporations for lost property value after the communities passed laws to protect themselves from corporate harm; and

14th Amendment Due Process and Equal Protection Rights, passed to free slaves, which corporations have instead used to build chain stores and erect cell towers against community desires and to oppose public policies that protected local businesses.

In addition, mega corporations have used the Commerce Clause and the Contract Clause of the Constitution to further their goal of making larger profits at the expense of communities. For more info on the rights that corporation have used as a result of being granted Constitutional rights, see <http://movetoamend.org> and www.poclاد.org.

This judicial distortion of rights and the Constitution has resulted in the destruction of communities, our economy, our politics and the natural world. The Supreme Court, by granting

Constitutional rights to corporations and defining corporations as persons, has destroyed our democratic right to rule ourselves. Since the people are the legitimate source of power, we have the power to determine the role and limits of power of corporations in our society and to prevent them from destroying the quality of our lives and environment in their headlong pursuit of profit.

To do this, we need to amend the U.S. Constitution so that the constitutional rights granted to corporations by Supreme Courts are ended. This is essential so that we can restore our democracy and the primacy of real persons, to make the decisions essential for our survival, and to protect the earth.

A national movement of citizens (www.movetoamend.org) is organizing to pass a constitutional amendment to abolish constitutional rights for corporations and the equating of money with speech. In Boulder, the Boulder Coalition for Democracy, spearheaded by the Boulder Democratic Party, Boulder County Move to Amend, and the Rocky Mountain Peace and Justice Center, has asked the City Council to put a referendum on the Boulder ballot which would allow the people of Boulder to vote on these two propositions.

The ballot referendum would say:

"Shall the People of Boulder adopt the following resolution: RESOLVED, the People of Boulder CO call for reclaiming democracy from the corrupting effects of undue corporate influence by amending the United States Constitution to establish that:

- 1. Only human beings, not corporations, are entitled to constitutional rights, and*
- 2. Money is not speech, and therefore regulating political contributions and spending is not equivalent to limiting political speech."*

On Tuesday, August 16, the Boulder City Council will hold a public hearing on this proposal at the Municipal Building at Broadway and Canyon. Your presence is needed. You can just show up and support the resolution with your presence or you can sign up to speak. Please be part of this historic moment in restoring our democracy.

 END CORPORATE RULE. LEGALIZE DEMOCRACY.
MOVE TO AMEND

National Steering Committee

Alliance for Democracy
American Friends Service Committee – NE Ohio
Black Agenda Report
Center for Media and Democracy
Democracy Unlimited
Independent Progressive Politics Network
Liberty Tree Foundation for the Democratic Revolution
National Lawyers Guild
No More Stolen Elections!
Program on Corporations Law and Democracy
Progressive Democrats of America
Reclaim Democracy
Ultimate Civics
Women's International League for Peace and Freedom

Key Partners

A New Way Forward
After Downing Street
Backbone Campaign
Family Farm Defenders
Green Party of the U.S
Velvet Revolution
Wisconsin Democracy Campaign

August 3, 2011

Dear Honorable Councilmembers:

We are writing to provide legal and historical information to inform your decision on the proposed ballot measure dealing with corporate constitutional rights.

It is important to emphasize that this is a proposed *resolution*. There are no legal ramifications for the City of Boulder in placing this on the ballot or having the voters approve it. Placing this measure on the ballot is a straightforward way to give the people of Boulder a voice in one of the most pressing political debates of our time. We strongly encourage you to do this.

The legal doctrine commonly known as “corporate personhood” is the creation of case law over the last 125 years. It is shorthand for the idea that a corporation has inherent constitutional rights that cannot be infringed upon by the democratic process. *Citizens United v. Federal Elections Commission* (2010) represents one of the most recent rulings on the grounds of this doctrine, but the problems of corporate constitutional rights are far more expansive.

The word “corporation” does not appear anywhere in the U. S. Constitution – not even in the later amendments. The framers never intended for corporations to receive the same protections as natural persons. Thomas Jefferson warned against the power of large corporations when he wrote: "I hope we shall... crush in its birth the aristocracy of our moneyed corporations, which dare already to challenge our government to a trial of strength and to bid defiance to the laws of their country." (Letter to George Logan, November 12, 1816).

The origins of this doctrine can be traced back to *Santa Clara County v. Southern Pacific Railroad*, an 1886 Supreme Court case in which a court reporter with ties to the railroad industry included a head note deeming corporations persons under the Fourteenth Amendment. Three years later in *Minneapolis & St. Louis Railroad v. Beckwith* (1889), the Supreme Court formally ruled that a corporation is a “person” entitled to both due process and equal protection. This was the Robber Baron era when the ruling elite (especially railroad corporations) wielded enormous political power.

Justice Hugo Black, one of the foremost opponents of corporate constitutional rights in the history of the Court, would later point out that the decision to grant Fourteenth Amendment rights to corporations had no basis in law or history:

The judicial inclusion of the word “corporation” in the Fourteenth Amendment has had a revolutionary effect on our form of government. The states did not adopt the amendment with knowledge of its sweeping meaning under its present construction. No section of the amendment gave notice to the people that, if adopted, it would subject every state law and municipal ordinance, affecting corporations, (and all administrative actions under them) to censorship of the United States courts. No word in all this amendment gave any hint that its adoption would deprive the states of their long---recognized power to regulate corporations. (*Connecticut General Life Insurance Company v. Johnson*, 1938)

The Fourteenth Amendment was clearly intended to protect the life, liberty, and property of former slaves. It is illogical and outrageous that it has become a way for corporations to avoid and overturn business regulation efforts at every level of government. Famed historian Howard Zinn observes that “of the Fourteenth Amendment cases brought before the Supreme Court between 1890 and 1910, nineteen dealt with the Negro, 288 dealt with corporations.” (*A People’s History of the United States*, Chapter 11).

In contemporary times, former Vice President Al Gore notes in his book *The Assault on Reason*, that the granting of Fourteenth Amendment protections to corporations “marked the ascendancy of corporate power in both the economic and political spheres of American Life.” Gore argues that imbuing corporations with the same rights as human beings contributed to the concentration of wealth with an ever---smaller group of private business interests:

By the end of the nineteenth century, the “monopolies in commerce” that Jefferson had wanted to prohibit in the Bill of Rights were full---blown monsters, crushing competition from smaller businesses, bleeding farmers with extortionate shipping costs, and buying politicians at every level of government.

The Court later illegitimately granted corporations additional rights: Fourth Amendment protections (*Hale v. Henkel*, 1906), Sixth Amendment protections (*Armour Packing Co. v. U.S.*, 1908), Fifth Amendment protections (*Pennsylvania Coal Co. v. Mahon*, 1922), and Seventh Amendment protections (*Ross v. Bernhard*, 1970). They were also granted expansive First Amendment protections (*First National Bank of Boston v. Bellotti*, 1977), allowing for corporate spending in elections (made possible by the Supreme Court’s earlier ruling that money is equal to speech; *Buckley v. Valeo*, 1976).

In the nearly 100 years between *Santa Clara* and *Bellotti*, corporations had gained enormous political power, but there were still limits. Decades of jurisprudence had allowed for legislative limitations on corporate election spending. The Supreme Court even affirmed certain types of limitations on corporate spending (*Austin v. Michigan Chamber of Commerce*, 1990). Modest

limitations, like those in the McCain---Feingold Act were deemed legal because the government has a “compelling interest” in curtailing corruption. The Supreme Court’s recent ruling in *Citizen’s United v. Federal Elections Commission* delivered a huge blow to those efforts. Both for---profit and nonprofit Corporations may now spend unlimited amounts of money in our elections.

All these profound changes to how our society and government operate were handled in the Courts. We believe it is important to have a political debate on these issues, which is what a non---binding resolution creates.

It is our understanding that concerns have been raised by city councilmembers about how rolling back corporate constitutional rights might affect nonprofit corporations. We understand these concerns and we want to make sure they are addressed. But it is important to reiterate that the proposed resolution would be a statement of position, not a law.

As attorneys and democracy advocates who operate non---profits, we believe that both individuals and corporations deserve legal protections, but that only human beings deserve constitutional protections. Corporations are chartered by “We the People” through our government. Therefore their powers and protections should be statutory, not constitutional. The rights of natural persons, which the Constitution is designed to protect, have long been recognized as natural, inalienable rights given by god or inherent in nature. The Constitution does not create rights; it recognizes rights that pre---exist the Constitution itself.

The Court's ruling in *Citizens United* is the reason that this issue has recently gained so much attention. The actions of Citizens United, a nonprofit corporation, led to the court's ruling and the subsequent public outrage. If it weren't for nonprofit campaign spending, this item probably wouldn't even be on the City's agenda. Clearly the problem is not limited to for---profit corporations. Nonprofits on both sides of the political spectrum pour money into our elections in a seemingly endless and constantly escalating spending war that is unhealthy for democracy. It is no wonder that citizens are losing confidence in the integrity of elections and of our own government.

It has also come to our attention that specific concerns were raised about the privacy rights of Planned Parenthood and its patients. Personal privacy rights, including those affirmed and protected by *Roe v. Wade* (1973), would still apply in the absence of corporate constitutional rights. Government investigators would need to obtain a warrant in order to gain access to the medical records of patients, just as they do now. Health providers would still have a legal responsibility to protect personal medical information.

Move to Amend is a coalition of more than 100 organizations, including many prominent nonprofits such as the National Lawyers Guild, Friends of the Earth, Women’s International League for Peace and Freedom, Alliance for Democracy, and the Organic Consumers Association. We all agree that our organizations are fundamentally different from human beings and should be treated as such under law.

Attachment D

Without First Amendment protections for corporations, government could regulate or prohibit corporate campaign spending and lobbying (as they did for years). Without constitutional protections for “commercial speech,” it would become easier to put limitations on advertising for dangerous products like tobacco. Without the right of corporations *not* to speak, government could require additional product labeling laws to inform and protect the public.

Without Fourth Amendment protections for corporations, government could inspect for environmental, health, or worker safety violations without a warrant or prior notice. The Occupational Safety and Health Administration would regain the level of investigative authority it had up until 1978, when the Supreme Court ruled that checking for safety violations requires a warrant (*Marshall v. Barlow's, Inc.*). The same goes for other federal, state, and local agencies.

If the due process protections of the Fourteenth Amendment were not applied to corporations, government would have discretion to prevent corporate mergers and prohibit corporations from owning stock in other corporations. Without equal protection for corporations, government could levy differential taxes, regulate or prohibit chain stores according to community desires, and restrict the size of corporations.

Eliminating the court---created doctrine of corporate constitutional rights would open a number of new opportunities for meaningful regulations to protect democracy and restore public trust.

We have no doubt that such powers would be put to good use in progressive cities like Boulder. Yet this movement is larger than any one agenda or ideology. Indeed, one of the most outspoken critics of corporate constitutional rights was Justice William Rehnquist, a conservative appointed by President Richard Nixon:

It cannot be so readily concluded that the right of political expression is equally necessary to carry out the functions of a corporation organized for commercial purposes. A State grants to a business corporation the blessings of potentially perpetual life and limited liability to enhance its efficiency as an economic entity. It might reasonably be concluded that those properties, so beneficial in the economic sphere, pose special dangers in the political sphere. (*Bellotti*)

Principled people from across the political spectrum are concerned about the power that corporations have in our government and our society. Move to Amend is leading an effort to change the balance of power by amending the Constitution to clarify that corporations are not entitled to constitutional rights and that money is not speech. This is a struggle to make real the promise of American democracy.

We know this will be a long, difficult effort, which is why we are starting at the local level, where citizens are concerned about corporate power in their own communities. By organizing, educating, and passing local resolutions, we can build grassroots momentum to drive our

Attachment D

demands to state legislatures and ultimately to Congress. Please give the people of Boulder an opportunity to join this effort by placing this measure on the ballot.

If you have any questions regarding the content of this letter, please contact us at 707---269---0984. We would welcome the opportunity to continue this conversation.

Sincerely,
The Executive Committee of the Move To Amend Coalition

Laura Bonham
David Cobb, Esq.
George Friday
Lisa Graves, Esq.
Ben Manski, Esq.
Matt Nelson
Nancy Price
Kaitlin Sopoci---Belknap



August 1, 2011

Dear Members of Boulder City Council,

We applaud your serious consideration of a ballot measure that would allow Boulder voters the opportunity to express support for a constitutional amendment that would establish that unlimited campaign spending is not equivalent to free speech and that the constitution was never intended to extend extra rights to corporations above and beyond the rights held by their individual shareholders and members.

While Colorado Common Cause supports the language introduced by Councilor Cowles that gives voters a chance to “urge” Congress to propose a constitutional amendment, we would encourage you to adopt a practice known as voter instructions that was used by voters to bring about passage of the 17th Amendment for direct election of senators. The tradition of constituent instructions dates back prior to the Revolutionary War. For example, colonists sent delegates to the Continental Congress on a number of matters, even with explicit instructions to support the Declaration of Independence. The practice continued under the Articles of Confederation during the Philadelphia Constitutional Convention of 1787. While constituent instructions have never been considered legally binding, they have historically carried great force. Some of our Founding Fathers, including John Quincy Adams, resigned their offices rather than disobey instructions from their constituents.

Voter Instructions Language

A minor modification of Councilor Cowles’s proposal would embrace this long tradition of voter instructions if it read:

Shall the City of Boulder adopt the following resolution: RESOLVED, the City of Boulder, Colorado instructs our state and federal legislators to propose and ratify a specific amendment to reclaim democracy from the corrupting effects of undue corporate influence by amending the United States Constitution to establish that:

- 1. Only human beings, not corporations, are entitled to constitutional rights, and**
- 2. Money is not speech, and therefore regulating political contributions and spending is not equivalent to limiting political speech."**

Corporations do not have inalienable rights of life, liberty, and pursuit of happiness

Our Constitution recognizes certain rights of all human beings – the right to form a corporation is not among them. Rather, We the People have concluded that we want to encourage people to form economic associations above and beyond what they might do

naturally. In order to encourage that, our governments have created corporations that have even greater privileges than we do as individuals such as the right of limited liability.

As conservative Chief Justice John Marshall said in the case *Dartmouth College v Woodward* (1819) “A corporation is an artificial being, invisible, intangible, and existing only in contemplation of law. Being the mere creature of law, it possesses only those properties which the charter of creation confers upon it....”

Money is not speech

We agree with Justice John Paul Stevens that “money is property, it is not speech.” While money can indeed be used to disseminate speech, a system which bases the ability to be heard upon ones economic wealth ensures that speech will only be available to a wealthy few.

Expressing Boulder’s Values does not risk Unintended Consequences

We appreciate that as elected officials, councilors want to give great thought prior to making changes to our cherished Constitution. This is a topic which deserves our country’s thorough consideration. This is why we are not urging you to support a specific amendment to the Constitution; rather you are giving voters a chance to formally instruct state and federal legislators to begin a very thorough and deliberative process by which amendment language could be finalized.

Moreover, we suggest you keep three important factors in mind:

- 1) The Constitution existed for more than a century before the Supreme Court changed it to include constitutional rights for corporations beginning in 1886. It is not an unknown world that we seek to return to, but rather a time tested one that existed in our country.
- 2) The Constitution existed for nearly 200 years before the Supreme Court changed it to declare that unlimited campaign spending deserved protection as free speech. Many states had mandatory limits on campaign expenditures prior to the 1976 *Buckley v. Valeo* ruling and democracy flourished.
- 3) An amendment to restore the Constitution to its previous state before the courts altered it would not remove any of the existing protections that individuals have in the Constitution. Indeed, in the 1958 *NAACP v. Alabama* ruling, the Supreme Court found that “immunity from state scrutiny of petitioner’s membership lists is here so related to the **right of petitioner’s members** to pursue their lawful private interests privately and to associate freely with others in doing so as to come within the protection of the Fourteenth Amendment” (emphasis added). The constitutional rights of individuals involved with non-profit corporations such as Planned Parenthood, the NAACP, churches, or other political entities would not be impacted by this amendment.

We have attached a Frequently Asked Questions page that addresses in more detail some of the issues that have been raised around non-profit corporations.

Local Legislative Branches are Crucial to Restoring our Constitution

As far back as 1912, Teddy Roosevelt noted that the courts had “grown to occupy a position unknown in any other country, a position of superiority over both the legislature and the executive.” Worse, “privilege has entrenched itself in many courts just as it formerly entrenched itself in many legislative bodies and in many executive offices.”

The five members of the current Supreme Court who reversed the Court’s own precedent in the *Citizens United* ruling have abandoned any pretense of judicial modesty and are instead acting like an un-elected legislature by making rules of their own belief rather than simply interpreting the Constitution. Our system of checks and balances demands a response from the legislative branch.

As unlimited corporate spending holds more and more influence over our federal elections, we will find less leadership among federal legislators willing to change the system that elected them. This is the same dilemma that reformers faced when working to give women the right to vote and to create direct election of U.S. Senators.

As we did then, citizens must use state and local leadership to overcome the self-interest of entrenched federal incumbents. This is why local resolutions such as what you are now considering, are not only appropriate but indeed indispensable toward upholding the Constitution and the potential for a representative republic in America.

Thank you for your consideration,

Elena Nunez
Program Director, Colorado Common Cause
enunez@commoncause.org
(303) 292-2163 office



For Immediate Release:
INSERT DATE
Press Contacts:

YES on 2H Coalition Gathers to Stand Up for Democracy
Supporters Invited to Kickoff Event on September 26

Boulder— The YES on 2H Coalition will be gathering for a campaign kickoff event on September 26.

A growing number of organizations and Boulder citizens are coming together in support of Ballot Issue 2H. Referred by the Boulder City Council for the November ballot, Ballot Issue 2H allows Boulder voters to declare that corporations should not have the same rights as human beings, and that spending money should not be considered a form of free speech.

What: YES on 2H Campaign Kickoff Party
Where: Carelli's Restaurant, 645 30th Street, Boulder 80303
When: Monday September 26
Time: 5:30pm- 7:30pm

At the kickoff, supporters will be updated on YES on 2H's progress and have an opportunity to get involved. Yard signs will also be available. Representatives of endorsing organizations will also be available for interviews.

To learn more about YES on 2H or volunteer, visit www.YesOn2H.org.

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Endorsed by:

Boulder County Move To Amend, Boulder County Democratic Party, Rocky Mountain Peace and Justice Center, Colorado Common Cause, Boulder Area Labor Council-AFLCIO, Boulder County Peace Group, Boulder Veterans for Peace, Democratic Women of Boulder County, Earth Guardians, Greater Boulder Green Party, PLAN–Boulder County, Power Past Coal, Sierra Club-Indian Peaks Group, Student Humans Ending Legal Fiction (SHELF), 350.org