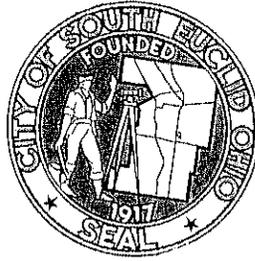


CITY OF SOUTH EUCLID



CITY COUNCIL

David B. Miller, Ph.D
President

Dennis Fiorelli
Marty Gelfand
Jane Goodman
Ruth Gray
Edward A. Icové
Modestino Romeo

REMINDER

NOTICE OF MEETING

MEETING OF: **LEGISLATIVE COMMITTEE**

CALLED BY: DAVID MILLER, COMMITTEE CHAIR

DATE: **MONDAY JUNE 16, 2014**

LOCATION: COMMITTEE/JURY ROOM

TIME: 6:30 P.M.

RE: ORD. 03-14: POLITICAL CAMPAIGN
CONTRIBUTIONS

COMMITTEE MEMBERS:

DENNIS FIORELLI
MARTY GELFAND

COUNCIL MEMBERS:

JANE GOODMAN
RUTH GRAY
ED ICOVE
MOE ROMEO

CITY OF SOUTH EUCLID, OHIO

ORDINANCE NO.: 03-14
INTRODUCED BY: Miller
REQUESTED BY: Gelfand

June 11, 2014
Third Reading: June 23, 2014

ORDINANCE

AN ORDINANCE FOR THE PURPOSE OF PLACING ON THE BALLOT AT THE NEXT GENERAL ELECTION FOR A VOTE OF THE ELECTORATE OF THE CITY OF SOUTH EUCLID, OHIO[,] THE PROPOSED CODIFIED ORDINANCE CHAPTER ___ ENTITLED "POLITICAL CONTRIBUTIONS" INCLUDING CODIFIED ORDINANCE SECTION _____ ENTITLED "PUBLIC HEARINGS REGARDING IMPACT OF POLITICAL CONTRIBUTIONS; ACTIONS BY MAYOR", WHICH PROPOSED CODIFIED ORDINANCE WOULD REQUIRE THE MAYOR TO NOTIFY THE LEADERS OF THE UNITED STATES CONGRESS [AND THE STATE LEGISLATURE] THAT THE VOTERS OF THE CITY OF SOUTH EUCLID HAVE CALLED FOR A CONSTITUTIONAL AMENDMENT INDICATING THAT CORPORATIONS DO NOT HAVE CONSTITUTIONAL RIGHTS AND THAT MONEY IS NOT THE EQUIVALENT OF SPEECH; ~~AND DECLARING AN EMERGENCY~~ AND WOULD REQUIRE THE MAYOR AND CITY COUNCIL TO HOLD AN BI-ANNUAL PUBLIC HEARING FOR THE PURPOSE OF STUDYING THE IMPACT ON LOCAL ELECTIONS[, INCLUDING LOCAL ELECTIONS,] OF POLITICAL SPENDING BY CORPORATIONS, AND.

WHEREAS, the First Amendment to the United States Constitution was designed to protect the free speech rights of individual human beings ("natural persons"), not corporations;

WHEREAS, Corporations are not people but instead are artificial entities created by the law of states and nations;

WHEREAS, the ruling of the United States Supreme Court in Citizens United v. Federal Elections Commission, 558 U.S. 50, 130 S.Ct. 876, 175 L.Ed.2d 753 (2010), overturned longstanding precedent prohibiting corporations from spending their general treasury funds in our elections;

WHEREAS, Citizens United v. Federal Elections Commission overturned the Court's earlier decision in Austin v. Michigan Chamber of Commerce, 494 U.S. 652 (1990), which correctly recognized the threat to a republican form of government posed by "the corrosive and distorting effects of immense aggregations of wealth that are accumulated with the help of the corporate form and that have little or no correlation to the public's support for the corporation's political ideas";

WHEREAS, Citizens United v. Federal Elections Commission erroneously equated the desire of large corporations to influence political decision-making through massive electoral expenditures with the speech of disadvantaged individuals seeking to make their voices heard;

WHEREAS, Justice John Paul Stevens's opinion for the four dissenting justices in Citizens United v. Federal Elections Commission noted that corporations have special advantages not enjoyed by natural persons, such as limited liability, perpetual life, and favorable treatment of the accumulation and distribution of assets, that allow them to spend prodigious sums on campaign messages that have little or no correlation with the beliefs held by natural persons;

WHEREAS, as a result of the decision in Citizens United v. Federal Elections Commission, the political spending of corporations and wealthy individuals receives a constitutional presumption of protected status, whereas the restrictions on the rights of individual citizens to protest the auctioning of our democracy are subject to a more deferential form of review;

WHEREAS, Citizens United v. Federal Elections Commission has in fact unleashed a torrent of corporate money in our political process unmatched by any campaign expenditure totals in United States history;

WHEREAS, Citizens United v. Federal Elections Commission purports to invalidate state laws and even state constitutional provisions separating corporate money from elections, many of which are over 100 years old;

WHEREAS, the general public and political leaders in the United States have recognized, since the founding of our country, that the interests of corporations do not always correspond with the public interest and that, therefore, the political influence of corporations should be limited;

WHEREAS, in his dissenting opinion in Citizens United v. Federal Elections Commission, Justice John Paul Stevens observed that "At bottom, the Court's opinion is ... a rejection of the common sense of the American people, who have recognized a need to prevent corporations from undermining self government since the founding, and who have fought against the distinctive corrupting potential of corporate electioneering since the days of Theodore Roosevelt... While American democracy is imperfect, few outside the majority of this Court would have thought its flaws included a dearth of corporate money in politics"; and

WHEREAS, the US Supreme Court in early April in McCutcheon vs Federal Elections, 572 U.S. _____, Commission struck down the \$123,000 limit on the aggregate amount persons can donate/invest to federal candidates, political parties and political committees in a 2-year election cycle, which now permits wealthy individuals to donate/invest up to \$5.9 million, and

WHEREAS, the Supreme Court in McCutcheon v. Federal Elections Commission held that the purported right of a few hundred superrich individuals to spend outrageously large sums on campaign contributions outweighs the national interest in political equality and a government free of corruption, and

WHEREAS, the First Amendment was never intended to provide a giant megaphone for the wealthiest to use to shout down the rest of us -- creating a plutocracy where the political influence of money overwhelms the political influence of people, and

WHEREAS, the City of South Euclid may wish to regulate corporations that make political contributions that influence or may influence elections or ballot measures that impact or may impact the citizens of the City of South Euclid;

WHEREAS, Article V of the United States Constitution empowers and obligates the people and states of the United States of America to use the constitutional amendment process to correct those egregiously wrong decisions of the United States Supreme Court that go to the heart of our democracy and republican self-government;

WHEREAS, notwithstanding the decision in Citizens United v. Federal Elections Commission and McCutcheon v. Federal Elections Commission, Council members have a duty to protect democracy and guard against the potentially detrimental effects of corporate spending in local, state, and federal elections; and

WHEREAS, this Council has the power and authority to place a proposed ordinance on the ballot for consideration by the electorate of the City of South Euclid pursuant to Ohio Revised Code Sections 3501.02, 715.01 and 705.15;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF SOUTH EUCLID, CUYAHOGA COUNTY, OHIO, two-thirds of all the members elected thereto concurring, that:

Section 1: The Council of the City of South Euclid hereby places the following Ordinance on the ballot for the November, 2014 general election for a vote of the electorate of the City of South Euclid, for the purpose of determining whether the electorate of the City of South Euclid wishes to adopt the proposed codified ordinance hereinafter set forth:

PROPOSED ORDINANCE

City of South Euclid

A majority affirmative vote is necessary for passage

CODIFIED ORDINANCE SECTION _____
"PUBLIC HEARINGS REGARDING IMPACT OF POLITICAL CONTRIBUTIONS;
ACTIONS BY MAYOR"

_____ PUBLIC HEARINGS REGARDING IMPACT OF POLITICAL CONTRIBUTIONS;
ACTIONS BY MAYOR

(a) On or before the 21st of January of each year until the United States Congress has proposed an amendment to the United States Constitution as provided for in Article V of the United States Constitution **[and until the State of Ohio has ratified that amendment]**, the Mayor shall provide written notice to the President of the United States Senate, the Speaker of United States House of Representatives, ~~and~~ the United States congressional delegation representing the City of South Euclid, including, but not limited to, the two United States Senators representing the State of Ohio, and **[any]** the U.S. Representative representing South Euclid in the U.S. House of Representatives, **[the Governor of Ohio, the President of the Ohio Senate, the Speaker of the Ohio House of Representatives, and any Ohio Senator and Representative representing South Euclid in the Ohio General Assembly]** indicating that the citizens of the City of South Euclid in November of 2014 voted in support of this codified ordinance calling for a constitutional amendment declaring:

- (A) Only human beings, not corporations, are legal persons with constitutional rights; and
- (B) Money is not equivalent to speech, and therefore regulating political contributions and spending is not equivalent to limiting political speech.

(b) Beginning in 2016, ~~2014~~, the Mayor and City Council shall hold a public hearing in February of each **[even]** year for the purpose of studying the impact on the City of South Euclid of political contributions by corporations, unions, Political Action Committees ("PACs") and Independent Expenditure-Only Committees ("Super PACs") in connection with the most recent election. The public hearing shall be advertised in accordance with City ordinances and shall be open to the public. Members of the general public in attendance shall be afforded the opportunity to speak for a period ~~of up to five minutes per person~~ **[to be determined by the presiding officer, but in no instance limited to less than three minutes,]** and to provide written testimony. The City shall issue a report of its findings to the City Fiscal Officer no later than July 15th of each year.

(c) The public hearing required hereunder shall cease if and when a constitutional amendment reflecting the principles set forth in subsection (a) above is ratified by three-fourths (3/4) of state legislatures in the United States of America.

(d) This ordinance shall take effect and be included in the city ordinances at the earliest date permitted by law.

| | | |
|--|-----|---|
| | YES | SHALL THE PROPOSED CODIFIED ORDINANCE SECTION _____ REQUIRING THE MAYOR AND CITY COUNCIL TO HOLD ANNUAL PUBLIC HEARINGS TO ANALYZE THE IMPACT OF POLITICAL CONTRIBUTIONS ON LOCAL ELECTIONS AND DIRECTING THE MAYOR TO NOTIFY THE UNITED STATES CONGRESS [AND THE OHIO LEGISLATURE] THAT THE ELECTORS OF SOUTH EUCLID PASSED THIS ORDINANCE BE ADOPTED? |
| | NO | |

Section 2: It is found that pursuant to Ohio Revised Code Sections 3501.02, 715.01 and 705.15, this Council has the power and authority to place the proposed Codified Ordinance Section _____ on the ballot for consideration and vote by the electorate of the City of South Euclid.

Section 3: In the event that any provision, term or Section of this Ordinance is held to be invalid or unenforceable in whole or in part, all other provisions, terms and Sections of this Ordinance will nevertheless continue to be valid and enforceable, with the invalid and/or unenforceable parts severed from the remainder of the provisions, terms and/or Sections of this Ordinance.

Section 4: That it is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and any of its committees on or after November 25, 1975, that resulted in such formal action were in meetings open to the public in compliance with all legal requirements, including Ohio R.C. Section 121.22.

Section 5: That this Ordinance shall take effect and be in force from and after the earliest period allowed by law and upon signature of the Mayor.

Passed this _____ day of _____, 2014.

David B. Miller, President of Council

Attest:

Approved:

Keith A. Benjamin, Clerk of Council

Georgine Welo, Mayor

Approved as to form:

Michael P. Lograsso, Director of Law