



CLEVELAND HEIGHTS

Council Committee of the Whole

June 13, 2024

6:00 PM

City Hall – Council Chambers

Democracy Day 2024

MINUTES

1) Call to Order/Roll Call

2) Welcome

11th Annual Democracy Day Public Hearing

3) Purpose of Democracy Day

- a. Cleveland Heights Codified Ordinances - Chapter 183: Political Influence by Corporate Entities

In November 2013, the citizens of the City of Cleveland Heights, Ohio voted in support of a Citizens' Initiative which enacted Chapter 183 of the Codified Ordinances of the City of Cleveland Heights, Ohio and calls for an amendment to the U.S. Constitution declaring:

1. Only human beings, not corporations, are legal persons with Constitutional rights; and
2. Money is not equivalent to speech, and therefore, regulating political contributions and spending does not equate to limiting political speech.

4) How It Works

Speakers have 5 minutes to testify Please fill out the comment request form if you wish to speak



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Chapter 183 requires an annual hearing before the City Council. Accordingly, on June 13, 2024, the City Council of Cleveland Heights held a public hearing to examine the impact on its city, our state, and our nation of political influence by corporate entities and big money in connection with the most recent election. Corporate entities include business corporations, Political Action Committees, Super PACs, 501 c4 groups and union. Members of the general public in attendance were afforded the opportunity to speak on these matters for up to five (5) minutes per person.

5) Democracy Day Speakers

Greg Coleridge, Anne Caruso, Carla Rautenberg, Deborah Van Kleef, Marlene Goldheimer, Dean Sieck, and Steve Norris

Greg Coleridge

It's been 11 years since Cleveland Heights voters passed Issue 32, calling for an amendment to the U.S. Constitution declaring:

1. Only human beings, not corporations, are legal persons with Constitutional rights, and
2. Money is not equivalent to speech, and therefore, regulating political contributions and spending does not equate to limiting political speech.

In many respects, little has changed.

Political money spent in elections - much of it donated or invested by the super rich and corporate entities, continue to increase, with more of it being “dark money” from sources and places that are unknown. The problem is not only federally, but increasingly at the state and even local levels. Legalized bribery has never been more legal and corrupting – with the voices of people who can’t invest in politicians less heard and responded to.

Additionally, Cash spent on lobbying from special interest groups continues to rise

In both cases, the super rich and corporations have hijacked First Amendment Free speech rights



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Communities and states continue to be unable to mandate corporations to include information on food products or renewable energy since it violates corporate First Amendment right “not to speak”

Communities continue to be unable for the most part to conduct surprise inspections on corporate property to protect workers, consumers and the environment since it violates corporate “Fourth Amendment “search and seizure” rights

Efforts to seriously call for keeping fossil fuels in the ground and not burned to prevent further climate destruction is deterred by the prospect that fossil fuel corporations will claim that unmined, drilled or fracked fossil fuels are lost future profits and violate their Fifth Amendment “takings” rights.

And communities continue to be unable to provide preferential treatment of local business over chain stores or to prevent cell phone towers in their communities since such actions are discriminatory, violating corporations Fourteenth Amendment “equal protection” rights

Yet, at the same time, much has changed in 11 years.

The explosion of money in politics and abuses and harms of corporations to people, places and the planet are becoming ever more blatant, hideous, systemic and unacceptable. Greater realization that simply electing better people, passing better laws, enacting better regulations or declaring better executive decisions are not proportionate in scale to the magnitude of the breadth and depth of corporate rule and money in politics. Merely putting out fires while ignoring the arsonists are just reactive, responsive and defensive. They will never, ever help us create a more just, peaceful, sustainable and democratic community, nation and beyond.

Discussion about constitutional renewal is becoming more mainstream on many fronts. That includes ending the constitutional doctrines that a corporation is a person and money is free speech.

The We the People Amendment, HJR 54, have never had more support. Over 518,000 individuals have signed our Motion to Amend. 706 communities have



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passed resolutions and/or citizens driven ballot initiatives – of which CH has done both. 8 states have done the same. 770 organizations – local, regional and national – have endorsed. And 85 Congresspersons have endorsed, including in April, Shontel Brown.

We're under no illusions. Amending the Constitution is a virtual impossibility – the most difficult of any on the planet. In fact, it's been done 27 times before, often when several were enacted in a relatively short period of time when external conditions warranted them.

Yet, we're under no illusions. External conditions warrant constitutional change. Our political crisis has reduced the trust in government. Without trust, you can't have a viable government. And our political economy is based on exploiting people and the planet by promoting perpetual economic growth on a finite planet without severe political, economic or environmental consequences. Talk about fantasy.

Changing the law is always preceded by changing the culture. "Nothing else in the world...not all the armies...is so powerful as an idea whose time has come." said Victor Hugo.

The time is rapidly coming to have a just, peace sustainable and democratic community, nation and beyond. The We the People Amendment is one part of what will inevitably become constitutional renewal.

What follows are testimonies on the impact of money in politics and corporate rule on our community and beyond – along with sharing a few notable historical events in June that related to corporate power, money in elections, democracy and the power to define corporate entities.

Fracking Ohio's Public Lands By Anne Caruso

A week ago I saw a video on the news showing Governor DeWine declaring 2024 as the "Year of Ohio State Parks". This caught my attention because last year on January 7 th , 2023 the governor signed HB507, a law which mandates fracking Ohio's public lands including our treasured state parks. HB507 was a poultry bill which covered food purity, utility use, and chicken production. The provision



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calling for fracking in our state lands was added at the last minute without fanfare or much media notice. Passage of it was unconstitutional because Ohio laws are limited to one subject and also because it was passed without the required 3 readings before it was voted on. Even so it's now on the books. Thirteen years ago in 2011 another law, HB133, allowing fracking in our state parks was passed but it was never enacted. Before its passage there were large protests against it in Columbus and the hearings had overwhelming opponent written and oral testimony with only a handful of testimonies in favor of it. It called for appointing a commission to oversee fracking in our state parks but that was never done. No one wanted to enact such an unpopular law, that is until now.

The current law, HB507, calls for creating a 5 member commission to oversee applications for and execution of fracking in our state lands and this time the commission members have been appointed and are processing "nominations" by the oil and gas industry of state lands they want to frack. The 5 person appointees to the commission all have ties to the oil and gas industry even though one commissioner is supposed to represent protection of the environment. The law calls for well pads placed not less than 400 feet from state land boundaries and Governor DeWine has assured the public there will be no surface disruption of state lands, yet the law does allow the industry to obtain permission from individual state agencies to do that if necessary. Fracking involves more than a well pad. Compressor stations, pipelines, flaring towers, noise, a constant stream of truck traffic to bring in toxic fracking fluids and take away the radioactive waste product are all part of fracking. In addition each frack requires millions of gallons of water which can come from our lakes and streams. You can go to the website called SaveOhioParks.org to see which state lands are up for fracking and are still accepting public comment.

The oil and gas industry is a major campaign contributor to Ohio state candidates on both sides of the aisle as well as having a daily lobbying presence in Columbus. In recent years the Ohio legislature has passed laws favorable to that industry including a law to end Ohio's renewable energy and energy conservation standards (HB6), a law allowing forced fracking on land parcels surrounded by leased land (Ohio Revised Code § 1509.27), laws that place major hurdles to large scale wind and solar energy projects (HB52), a vague law having a chilling effect on protests against oil and gas infrastructure (SB 33), and now this new



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law labeling fracking as “green energy” and allowing it in our public lands, lands that are paid for by our taxes and set aside for the preservation and enjoyment of nature.

It's not possible in a few minutes to explain all the harms caused by fracking and why fracking is inconsistent with the purpose of our state public lands. Democracy requires an informed citizenry so I'm suggesting two new books on this issue that came out this Spring. One by Cleveland author, Randy Cunningham, entitled *Where We Live: Environmental Activists' Fight to Save Their Communities* covers much of the environmental movement in Ohio. The other by Investigative reporter, Justin Nobel, entitled *Petroleum 238* covers the alarming and little known facts surrounding toxic radioactive fracking waste. This book is being compared to the wake up call, *Silent Spring*, by Rachel Carson in 1962. Both Randy's and Justin's books are on the shelves of MacsBacks bookstore and elsewhere now.

Deborah Van Kleef
(sung)

THE MONEY CROP

Notes: words and music by Malvina Reynolds; copyright 1966 Schroder Music Company, renewed 1994.

Well, money has its own way,
And money has to grow.
It grows on human blood and bone,
As any child would know.
It's iron stuff and paper stuff
With no life of its own,
And so it takes its growing sap
From human blood and bone.

HARD WORK & PERSEVERANCE

Lou & Peter Berryman

1. A mama fly she laid two eggs and left 'em on the floor.
An arbitrary breeze arose and blew 'em out the door.
One landed in the parking lot, the other with a splat
Was blown into the Shangri-La of one decaying cat.



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Subsequently they were hatched as maggots Dick and Doug,
And Dick upon the cat became a fat and healthy bug,
While Doug he starved and languished on the asphalt where he fell.
One day they met and Doug said, "Dick, how do you look so well?"

CHORUS: Hard work and perseverance,
Grim determination of the soul.
I'd say from your appearance
You could use a little self-control.

UNPLUG FirstEnergy! -- Carla Rautenberg

What happens to a corporate "person" that repeatedly bribes government officials and, I will show, the government itself? For the biggest corruption scandal in Ohio history, have there been any consequences? For a few individuals, yes. So far, the count is eight. Two have gone to prison on federal felony charges; two made deals with the feds; two died by suicide; and two former FirstEnergy executives now face state felony charges. If additional state and federal charges are brought, more individuals will be indicted and face trial, for the whole state capital is filthy with politicians who fed at the FirstEnergy/HB6 trough.

But the corporation itself? Doing just fine and dandy, thank you very much. In a recent shareholder address, the president and CEO Brian Tierney crowed "As a result of the excellent work we've done to strengthen our balance sheet, we're in a strong position for the first time in the company's history to grow and invest in the opportunities across our businesses." 1

Wait! How can this be? FirstEnergy paid a \$230 million fine to the federal government for its crime of bribing then-Ohio House Speaker Larry Householder with \$60 million. And settled a separate shareholder suit for \$180 million. But as Tabitha Woodruff of the National Lawyers Guild points out: "Fines and settlements do little to deter corporate misconduct...What is the real difference between a fine and a bribe, when FirstEnergy can just pay the government and go back to generating profit off Ohioans?"



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Even after some of the most egregious parts of House Bill 6 were repealed, others remain enshrined in law, and are costing Ohio electric rate payers half-a-million dollars every day through 2030 just to bail out two obsolete, polluting coal plants. While FirstEnergy does not benefit directly from those coal plant bailouts--that particular grift enriches principally American Electric Power (AEP), also a huge dark money contributor to Ohio electeds 2 —FirstEnergy has never been in better shape, as its chief executive assures us. Fines just don't faze them.

On May 29, Ohio Move to Amend, the state chapters of the National Lawyers Guild, the Green Party, and the Sierra Club, the Ohio Nuclear-Free Network, the Poor Peoples Army, and Save Ohio Parks, all gathered in Columbus and the FirstEnergy Accountability Coalition was born. We held a press conference calling on Ohio Attorney General to UNPLUG FirstEnergy by revoking its charter.

As Greg Coleridge of Move to Amend explained: "Corporations are legal creations of the state. Corporate charters or licenses were originally meant to...ensure that the state's corporate creations obeyed all laws, served the common good and provided useful goods or services." Charters of corporations that failed to follow the provisions of their charters were often revoked. In the 19th century, everyone knew this. In the 21st, almost no one does. Greg points out, when we surgically cut a malignant tumor out of the body, it's not to "punish" the cancer; it's to allow the body to heal and return to health. When a corporation commits a crime, that threatens democracy. We revoke a corporate charter – not so much to punish the corporation as to protect the body politic.

After our press event, we marched across the street to deliver a letter from the Coalition to Attorney General Dave Yost, who—surprise!-- did not deign to meet with us.

However, we got excellent news coverage from the Statehouse News Bureau, WOSU, WOUB, WVXU, Ideastream, and the Columbus Free Press, among others.

If you think we can't live without FirstEnergy, don't worry: no one will be sitting in the dark. But unplugging FirstEnergy WILL strike a healthy dose of fear into the remaining power utilities. If we succeed, companies will line up to take over FirstEnergy's very profitable operations. But they will know that the people of Ohio mean business. Honest, ethical business, NOT "pay to play."



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1 Renee Fox, WOSU.org, May 28, 2024

2 Jake Zuckerman, cleveland.com, June 7, 2024

Dean Sieck

For many years I have supported an organization called the Institute on Tax and Economic Policy (ITEP). It's the 501C3 associated with Citizens for Tax Justice. ITEP follows the implications of tax policy at both the federal and state levels. Incidentally, it's currently headed by Amy Hanauer, formerly of Policy Matters Ohio. Recently, ITEP released an analysis of the Trump Tax Cuts, otherwise known as the Tax Cut and Jobs Act (TCJA) of 2017. Specifically, ITEP' purpose was to study the effect of the TCJA seven years after the measure was enacted.

ITEP examined the tax paying habits of 296 Fortune 500 and S&P 500 companies which were profitable every year from 2013 to 2021. The study focuses on the record of taxes paid before and after the enactment of the Trump tax law in 2017 in two different four-year periods: 2013 to 2016 and 2018 to 2021. These companies' profits represent more than a third of the total nationwide \$8.2 trillion in pretax corporate profits reported by the Commerce Department between 2018 and 2021.

You may recall that the intent of the 2017 Trump Tax bill was to cut corporate taxes, which it did from 35% to 21%. But corporations also paid less than the statutory tax rate due to capitalizing on numerous tax breaks and loopholes which were not prohibited by the tax law, despite promises to the contrary. The study shows that if corporations had paid the same 35% rate that was still in effect between 2013 and 2016, they would have paid another \$666.4 billion in taxes. However, since they had the advantage of the Trump Tax cut, they paid only \$248 billion, a difference of 37%.

By sectors of the economy, the electronics, IT, communications, and Health Care companies enjoyed the greatest tax cuts from the TCJA, ranging from a high of over 21% to 15.5 % for healthcare. Interestingly, three business sectors had zero tax rates both before and after the tax cuts: auto manufacturing, oil and gas, and utilities.

Some specific companies may be of interest: Verizon, whose rate dropped from 21% to 8%, was spared \$11 billion in taxes by the Trump cuts when its tax debt



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dropped by 52% with profits of 18%. Walmart would have paid another \$9 billion more if its effective rate hadn't dropped from 31% to 17% meaning its taxes dropped by 45%. AT&T's taxes dropped by 81% saving the company 8 billion dollars. Why? The Trump tax cut helped its effective tax rate to drop from 13% to 3%.

When selling the program, Trump promised "tremendous relief for the middle class," in tax benefits and rewards to employees from grateful companies. But in fact fewer than 5 % of companies actually offered bonuses or wage hikes, and the greatest beneficiaries of the TCJA by far were the wealthiest Americans. Most companies used their TCJA windfall for stock buybacks, totaling \$1 trillion according to CNN. Several companies, including Verizon and AT&T actually laid off employees. Promises that the tax cut would pay for itself never materialized.

TCJA tax benefits to individuals are set to expire in 2025. Corporate tax rates will remain the same.

Marlene Goldheimer

It's both invigorating and comforting to be among members of Cleveland Hts City Council members and residents of Cleveland Hts who believe that Democracy is possible and are willing to advocate for a Democracy.

The focus is on Medicare Advantage Plans as an example of "corporations are people and money is speech."

Physicians for a National Health Program (PNHP) shined a light on the dangers of choosing a Medicare Advantage Plan over choosing Traditional Medicare. PNHP hosted a webinar entitled "Taking Advantage: How corporate health insurers harm America's seniors."

My presentation outlined some of the webinar, but I accidentally hit the delete button and was not able to recall the details. My suggestion is to email me and I will send you the youtube of the actual recording of the webinar. My email address is on the table as you leave, so please copy it. It is mlgoldheimer@msn.com

[NOTE: Here is the link to the webinar: <https://www.youtube.com/watch?v=xmu2UZCXH38>]

It will cover false marketing to vulnerable seniors by advertising how much you will save by not having to pay a monthly premium. Also, indicating they will



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provide dental and vision coverage, but will only pay a claim for in network providers. Millions of dollars are being spent lobbying legislators to assure health insurers can continue making exorbitant profits by delaying and denying care.

Medicare Advantage plans started out as a federal govt plan to save money and be more efficient. The plan costs taxpayers hundreds of billion dollars more than if seniors were enrolled in Traditional Medicare. Right now half of all seniors in Medicare are in Medicare Advantage Plans.

The good news is that the public sector is starting to see the damages from Medicare Advantage. That includes hospitals, providers, nursing homes and seniors. Pressure is getting legislators to take notice and Biden admin is investigating marketing tactics.

Without a doubt after you listen to the webinar, it will confirm the need for passage of HJR54 The We The People Amendment. That brings me to the fact that Rep Shontel Brown signed on as a cosponsor of HJR54. I thought it might be nice for her to know how much that is appreciated and that we thank her for taking a stand.

Tax-Increment Financing Extensions - Steve Norris

Tax-increment financing or TIFs can be a form of corporate rule when they benefit private corporations or individuals over public good. Cleveland has used 30-year TIFs to freeze tax rates at low levels prior to renovations. The avoided property taxes would normally go towards construction costs or infrastructure. When the TIF eventually expires the county and other tax entities like the MetroParks and libraries benefit.

East Fourth, the earliest TIF was going to expire in 2033 but has been extended until 2063. Other extended TIFs include the downtown Hilton and Westin hotels, Steelyard Commons and the Louis Stokes Cleveland VA Medical Center.

The Ohio Legislature allowed cities to double the length of TIFs and allow future TIF funds to be used outside property boundaries. Money can go towards infrastructure and potentially to private developers. Mayor Bibb's team said it won't initially but said they could use it that way in the future. If development is already complete, why is diverting taxes appropriate?



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Schools are generally excluded, so Cleveland.com projected these non-school property tax losses:

Cuyahoga County's health and human services: \$38 million

Cleveland Public Library: \$32 million

Cuyahoga Community College: \$20 million

Cuyahoga County Board of Developmental Disabilities: \$15 million

Cleveland Metroparks: \$12 million

County general fund/debt service: \$6 million

These estimates don't include suburban TIFs like Orange Village's Pinecrest and potentially Beachwood's Eaton Corp. and Shaker Heights's Van Aken District and others.

The city would also issue debt through the Port of Cleveland, for an estimated \$3.3 and \$7.5 billion Shore-to-Core-to-Shore TIF district. Where are the funds going?

Bedrock will develop Tower City Center and the East Bank of the Cuyahoga. \$400 million in infrastructure relates to \$3 billion private spending.

TIF funds will also go for a land bridge from downtown to the lakefront and development around Cleveland Browns Stadium. \$706 million matches \$1.3 billion in private investment.

Dale Miller called out the city for "severely impacting revenue, which is used for basic services for the neediest in our community." Beachwood City Councilman Mike Burkons said "These taxes were voted on by residents. Just because the city ... might legally be able to hijack the money from its intended purpose and use it for something else, doesn't mean we should."

The health and human services needs of everyday Clevelanders are being shortchanged while many millions of tax dollars support projects of billionaires Dan Gilbert and Jimmy Haslam. To fight inequality and end big money in politics, including here in Cleveland, we need H.J.R. 54, the We the People Amendment.



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<https://www.cleveland.com/metro/2023/12/short-term-pain-long-term-gain-cleveland-chips-away-at-social-safety-net-in-pursuit-of-revitalized-city.html>

<https://www.msn.com/en-us/news/us/cleveland-city-council-approves-creation-of-tax-district-paving-way-for-bibb-s-massive-downtown-redevelopment-plans/ar-BB1kwiJr>

Len Friedson

June 1, 1833 – Birth of Supreme Court Justice John Harlan – “Corporations are not people”

In *Hale v. Henkel*, 201 U.S. 43, 78 (1906), he asserted, “in my opinion, a corporation – an artificial being, invisible, intangible, and existing only in contemplation of law – cannot claim the immunity given by the 4th Amendment; for it is not a part of the ‘people within the meaning of that Amendment. Nor is it embraced by the word ‘persons’ in the Amendment. “

June 5, 1967 – *See v. Seattle* [387 U.S. 541] Supreme Court decision – corporations protected from random inspections under the 4th Amendment

The Supreme Court grants corporations 4th Amendment protection from random inspection by fire departments. The Court framed the issue on the basis of “business enterprises,” corporate or otherwise. An administrative warrant is necessary to enter and inspect commercial premises. Without random inspections it became virtually impossible to enforce meaningful anti-pollution, health, and safety laws.

Madelon Watts

June 13, 1866 – States ratify 14th Amendment to the U.S. Constitution, granting former slaves citizenship, “due process” and “equal protection of the laws”

After the Amendment’s adoption by Congress, Speaker of the House Schuyler Colfax spoke in favor of Section 1: “I will tell you why I love it. It is because it is the Declaration of Independence placed immutably and forever in the Constitution.”

Corporations almost immediately hijacked the 14th Amendment to claim “personhood” rights in the 1886 *Santa Clara vs Southern Pacific* decision. As



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Justice Hugo Black stated, "Of all the cases in this court in which the 14th Amendment was applied during the first fifty years after its adoption, less than one half of one percent invited it in protection of the Negro race and more than fifty percent asked that its benefits be extended to corporations."

June 14, 2010 -- Publication of revised edition "Unequal Protection: How Corporations Became "People" - And How You Can Fight Back" by Thom Hartman

A seminal work. "Unequal taxes, unequal accountability for crime, unequal influence, unequal control of the media, unequal access to natural resources—corporations have gained these privileges and more by exploiting their legal status as persons. How did something so illogical and unjust become the law of the land?"

Greg Coleridge

June 17, 1239 – Birth of King Edward I, first to utilize "*quo warranto*" written order *Quo warranto* is a Medieval Latin meaning "by what warrant?" It's a written order by a governing power (e.g. Kings in the past, legislatures early in U.S. history, and courts in the present) requiring the person to whom it is directed to show what authority they have for exercising a claimed right or power. It originated under King Edward I of England to recover previously lost lands, rights and franchises.

This power was transferred to states following the American Revolution. State legislatures utilized *quo warranto* powers to challenge previously chartered or franchised corporations that acted beyond their original privileges granted by the state. The result was frequent revocation of corporate charters and dissolution of corporations — in the name of affirming citizen sovereignty or self-governance.

June 18, 1849 – Birth of David K. Watson, Ohio Republican Attorney General Watson sought to revoke the charter of the Standard Oil Company in 1892 for forming a trust. In his legal brief to the Ohio Supreme Court, he stated, "Where a corporation, either directly or indirectly, submits to the domination of an agency unknown to the statute, or identifies itself with and unites in carrying out an



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agreement whose performance is injurious to the public, it thereby offends against the law of its creation and forfeits all right to its franchises, and judgment of ouster should be entered against it . . ." State v. Standard Oil Co., 30 N.E. 279 (Ohio 1892)

6) Additional Testimony From Audience

Speakers

Len Friedson - Citizen

Madelon Watts - Citizen

7) Councilmember Testimony/Reflection

Councilmembers thanked everybody for coming to present to the Council for Democracy Day as it is an important way for our community members to contribute. Council all felt that they learn something valuable every year.

8) Adjourn