

ORDINANCE NUMBER O- 9292 (New Series)

ADOPTED ON JUN 28 2004

AN ORDINANCE SUBMITTING TO THE QUALIFIED VOTERS OF THE CITY OF SAN DIEGO AT THE MUNICIPAL ELECTION CONSOLIDATED WITH THE STATEWIDE GENERAL ELECTION TO BE HELD ON NOVEMBER 2, 2004, ONE PROPOSITION AMENDING THE CITY CHARTER BY ADDING SECTION 216.1, ENTITLED "ACCESS TO GOVERNMENT INFORMATION"

WHEREAS, pursuant to San Diego Charter section 223; article 11, section 3(b) of the California Constitution; and California Elections Code section 9255(a)(2), the City Council has authority to place Charter amendments on the ballot to be considered at a Municipal Election; and

WHEREAS, by Ordinance No. O-19305, adopted on JUL 26 2004, the Council of the City of San Diego is calling a Municipal Election to be consolidated with the Statewide General Election on November 2, 2004, for the purpose of submitting to the qualified voters of the City one or more ballot propositions; and

WHEREAS, on March 28, 2004, the City Council approved Resolution No. R-299023, which directed the City Attorney to prepare a ballot measure for the Rules Committee to consider for placement on the November 2004 ballot; and

WHEREAS, this Council sponsored measure is a proposal to amend the San Diego City Charter to add a provision similar to California Senate Constitutional Amendment No. 1 (SCA 1); and

WHEREAS, the City Council desires to submit to the voters at the Municipal Election one proposition amending the Charter of the City of San Diego by adding section 216.1 titled "Access to Government Information"; NOW, THEREFORE,

BE IT ORDAINED, by the Council of the City of San Diego, as follows:

Section 1. One proposition amending the City Charter by adding Section 216.1, is hereby submitted to the qualified voters to be held on November 2, 2004, the proposition to read as follows:

PROPOSITION

Section 216.1: Access to Government Information

- (a) The people have the right to instruct their representatives, petition government for redress of grievances, and assemble freely to consult for the common good.
- (b)
 - (1) The people have the right of access to information concerning the conduct of the people's business, and therefore, the meetings of public bodies and the writings of public officials and agencies shall be open to public scrutiny.
 - (2) A statute, court rule, or other authority, including those in effect on the effective date of this Section, shall be broadly construed if it furthers the people's right of access, and narrowly construed if it limits the right of access. A statute, court rule or other authority adopted after the effective date of this Section that limits the right of access shall be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

- (3) Nothing in this Section supersedes or modifies the right of privacy guaranteed by Section 1 of the California Constitution or affects the construction of any statute, court rule, or other authority to the extent that it protects that right to privacy, including any statutory procedures governing discovery or disclosure of information concerning the official performance or professional qualifications of a peace officer.
- (4) Nothing in this Section supersedes or modifies any provision of this Charter or the California Constitution, including the guarantees that a person may not be deprived of life, liberty or property without due process of law, or denied equal protection of the laws.
- (5) This Section does not repeal or nullify, expressly or by implication, any constitutional or statutory exception to the right of access to public records or meetings of public bodies that is in effect on the effective date of this Section, including, but not limited to, any statute protecting the confidentiality of law enforcement and prosecution records.”

END OF PROPOSITION

Section 2. The proposition shall be presented and printed upon the ballot and submitted to the voters in the manner and form set out in Section 3 of this ordinance.

Section 3. On the ballot to be used at this Municipal Election, in addition to any other matters required by law, there shall be printed substantially the following:

<p>PROPOSITION ____ . AMENDS THE CHARTER OF THE CITY OF SAN DIEGO BY ADDING SECTION 216.1, ACCESS TO GOVERNMENT INFORMATION.</p>	<p>YES</p>	
<p>Shall the City Charter be amended to provide that the people have the right of access to information concerning the conduct of the people's business?</p>	<p>NO</p>	

Section 4. An appropriate mark placed in the voting square after the word "Yes" shall be counted in favor of the adoption of this proposition. An appropriate mark placed in the voting square after the word "No" shall be counted against the adoption of the proposition.

Section 5. Passage of this proposition requires the affirmative vote of a majority of those qualified electors voting on the matter at the Municipal Election.

Section 6. The City Clerk shall cause this ordinance or a digest of this ordinance to be published once in the official newspaper following this ordinance's adoption by the City Council.

Section 7. Pursuant to San Diego Municipal Code section 27.0402, this measure will be available for public examination for no fewer than ten calendar days prior to being submitted for printing in the sample ballot. During the examination period, any voter registered in the City may seek a writ of mandate or an injunction requiring any or all of the measure to be amended or deleted. The examination period will end on the day that is 75 days prior to the date set for the election. The Clerk shall post notice of the specific dates that the examination period will run.

Section 8. A full reading of this ordinance is dispensed with prior to its final passage, a written or printed copy having been available to the City Council and the public a day prior to its final passage.

Section 9. Pursuant to section 17 of the San Diego City Charter, this ordinance relating to elections shall take effect on JUN 28 2004, 2004, which is the day of its introduction and passage.

APPROVED: CASEY GWINN, City Attorney

By *Lisa A Foster*
Lisa A. Foster
Deputy City Attorney

LAF:jab
06/18/2004
Or.Dept: Rules
O-2004-152