

Agenda Items: ID#19-11554 (11:00 A.M.)

RECEIVED

Date: 11/14/2019

2019 NOV 14 P 2:33
CITY OF FRESNO
CITY CLERK'S OFFICE

FRESNO CITY COUNCIL



Additional Information

Agenda Related Item(s) – ID#19-11554 (11:00 A.M.)

Item(s)

***BILL-43 (Intro. 11/7/2019) (For adoption) - Adding Section 2-319 of the Fresno Municipal Code, relating to confidentiality of closed session attorney-client privileged communications. (Subject to Mayor's veto)

Contents: Amended Resolution

Supplemental Information:

Any agenda related public documents received and distributed to a majority of the City Council after the Agenda Packet is printed are included in Supplemental Packets. Supplemental Packets are produced as needed. The Supplemental Packet is available for public inspection in the City Clerk's Office, 2600 Fresno Street, during normal business hours (main location pursuant to the Brown Act, G.C. 54957.5(2)). In addition, Supplemental Packets are available for public review at the City Council meeting in the City Council Chambers, 2600 Fresno Street. Supplemental Packets are also available on-line on the City Clerk's website.

Americans with Disabilities Act (ADA):

The meeting room is accessible to the physically disabled, and the services of a translator can be made available. Requests for additional accommodations for the disabled, sign language interpreters, assistive listening devices, or translators should be made one week prior to the meeting. Please call City Clerk's Office at 621-7650. Please keep the doorways, aisles and wheelchair seating areas open and accessible. If you need assistance with seating because of a disability, please see Security.

BILL NO. _____

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF FRESNO, CALIFORNIA,
ADDING SECTION 2-319 OF THE FRESNO MUNICIPAL
CODE, RELATING TO CONFIDENTIALITY OF CLOSED
SESSION ATTORNEY-CLIENT PRIVILEGED
COMMUNICATIONS

THE COUNCIL OF THE CITY OF FRESNO DOES ORDAIN AS FOLLOWS:

SECTION 1. Section 2-319 is added to the Fresno Municipal Code to read:

SECTION 2-319. CLOSED SESSION ATTORNEY-CLIENT PRIVILEGE.

(a) Any person, including City officials and employees, and former City officials or employees, providing written materials or an image of written materials, or disclosing the content of materials, that are clearly marked "Confidential Closed Session Attorney-Client Privileged" or disclosing the content of closed session attorney-client privileged discussions, to any unauthorized person is prohibited. For the purpose of this Section, "unauthorized person" shall mean any person or entity to whom disclosure is not approved in advance by a majority vote of Council, or in advance in writing by the City Attorney.

(b) Whistleblower Protection. If an official or employee has a reasonable good faith belief that one or more other city officials or employees are violating the law, but the belief is based upon confidential closed session attorney-client privileged communication or records, then

1 of 3

Date Adopted:

Date Approved

Effective Date:

City Attorney Approval: _____

Ordinance No.

that official or employee may then contact law enforcement authorities and disclose that confidential information necessary to address the claimed legal violation. Compliance with this paragraph shall not constitute a violation of this ordinance.

(c) A waiver of the closed session attorney-client privilege may be approved only by Council majority vote or pursuant to a claim or defense asserted by the City Attorney in a legal matter.

(d) If a person has any concern whether particular information or records are confidential and subject to this ordinance, that person may contact the City Attorney for written advice. If that person then follows the written advice provided by the City Attorney that the particular information or records are not confidential or may be disclosed to a certain person, then that shall constitute a complete defense to a claim of violation of this ordinance.

(e) The City Attorney, or independent counsel hired by the City Attorney or the Council, may prosecute willful violations as a misdemeanor with maximum penalties as set forth in this code. If a city elected official is suspected of violating this Section, the Council will hold a closed session and give direction on how to proceed.

SECTION 2. This ordinance shall become effective and in full force and effect at 12:01 a.m. on the thirty-first day after its final passage.

* * * * *

///

STATE OF CALIFORNIA)
COUNTY OF FRESNO) ss.
CITY OF FRESNO)

I, YVONNE SPENCE, City Clerk of the City of Fresno, certify that the foregoing ordinance was adopted by the Council of the City of Fresno, at a regular meeting held on the _____ day of _____ 2019.

AYES :
NOES :
ABSENT :
ABSTAIN :

Mayor Approval: _____, 2019
Mayor Approval/No Return: _____, 2019
Mayor Veto: _____, 2019
Council Override Vote: _____, 2019

YVONNE SPENCE, MMC CRM
City Clerk

BY: _____
Deputy Date

APPROVED AS TO FORM:

DOUGLAS T. SLOAN,
City Attorney

BY: _____
Katie Doerr Date
Chief Assistant City Attorney