



AGENDA ITEM NO. 2B  
COUNCIL MEETING 5/9/13  
APPROVED BY

  
DEPARTMENT DIRECTOR

CITY MANAGER

May 9, 2013

**FROM:** DOUGLAS SLOAN, City Attorney  
City Attorney's Office

**SUBJECT:** COUNCIL COMMUNICATION POLICY

### RECOMMENDATION

Approve the Resolution establishing the Council Communication Policy ("Policy").

### EXECUTIVE SUMMARY

The Fresno City Charter § 803 provides the City Attorney represents and advises the Council, management, and City officials in all matters of law pertaining to their offices, and that the Council has control over all legal business and proceedings of the City. However, the City Attorney also provides legal services to the Mayor and City Manager, as well as all other City officials and staff. To do so effectively, communications between the City Attorney and the Mayor, other City officials, and staff may sometimes need to be shared, and at other times confidential on a limited basis.

The prior City Attorney, James Sanchez, began an informal policy or understanding among the City Attorney's office and the respective officials providing the City Attorney's office is free to meet with each and keep the discussions and advice confidential, and information would then be shared only when a matter has an imminent concern or a matter is being brought to Council for consideration. This policy encourages City officials and staff to meet and freely discuss legal issues with the City Attorney's office early and frankly, so that legal issues may be handled efficiently and appropriately. The policy provides assurance to all that it is not necessary for the City Attorney's office to immediately share information, which may discourage communication and seeking legal advice. However, since the City Council is the body ultimately having authority to waive or preserve the attorney client privilege, it is preferred the Council and Mayor formally approve a policy concerning the sharing of confidential information.

The policy also requires any notices of claims against the City, with certain limitations, to be forwarded to the City Attorney's office immediately. This should help to ensure any potential claims are handled timely.

The City Attorney recommends approval of the Policy.

### FISCAL IMPACT

None

Attachment: Resolution Establishing the Council Communication Policy.

**This page intentionally left blank.**

RESOLUTION NO. \_\_\_\_\_

A RESOLUTION OF THE COUNCIL OF THE CITY OF  
FRESNO, CALIFORNIA, ESTABLISHING THE COUNCIL  
COMMUNICATION POLICY

WHEREAS, Fresno City Charter § 500 provides the Council is the governing body of the City and, subject to the express limitations of the Charter, is vested with all powers of legislation in municipal affairs of the City; and

WHEREAS, Charter § 400 provides the Mayor shall recommend to the Council such measures and ordinances as the Mayor may deem necessary or expedient and to make such other recommendations to the Council concerning the affairs of the City as the Mayor finds desirable; and

WHEREAS, Charter § 803 provides the City Attorney represents and advises the Council, management, and City officials in all matters of law pertaining to their offices; and

WHEREAS, Charter § 803(g) provides the Council has control over all legal business and proceedings of the City; and

WHEREAS, the City Attorney provides legal services to the Council, Mayor and all other City officials and staff; and to do so effectively, communications between the City Attorney and the Council, Mayor, other City officials and staff may under some circumstances be open and complete, yet in other communications be confidential and limited.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Fresno that the Council Communications Policy shall provide the following:

///

Date Adopted:  
Date Approved:  
Effective Date:  
City Attorney Approval: \_\_\_\_\_

1. The City Attorney shall provide timely, complete information to the Council pertaining to all matters within the Council's jurisdiction, as provided herein.

2. The City Attorney shall be free to communicate with and preliminarily advise Councilmembers, the Mayor, City Manager, and staff on all City legal matters without the necessity of the City Attorney sharing the substance or fact of those communications and advice with the entire Council until such time as the City Attorney reasonably believes there is an immediate need for the Council to be informed, or such a matter may be brought before the Council for its consideration.

3. All City officials and staff shall immediately provide or communicate to the City Attorney documents and other forms of communication that state or indicate a claim, legal risk, or potential liability that exceeds the sum or value of fifty thousand dollars (\$50,000) affecting the City, including any new exposure on matters or projects the City has approved or has under consideration. This reporting requirement shall not include existing litigation, personnel complaints, or tort or civil rights claims that are processed through the claims procedures handled by the Risk Management Division or Personnel Department, until such time as a lawsuit is filed. The City Attorney then shall exercise discretion in sharing the documents or information with the Council, Mayor, City Manager, and other City officials. The City Attorney may discuss with the Council President, Mayor, and City Manager, the method and timing of communicating the information to Council or others.

4. In consideration of the acknowledgement by Council of the propriety of the City Attorney communicating with and advising the Mayor, City Manager, and staff without the immediate need to share those communications with Council, the Council encourages the Mayor,

City Manager, and staff to involve the City Attorney as early as possible in matters that may ultimately be brought before Council, so that legal issues may be resolved timely and effectively.

\* \* \* \* \*

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

I, YVONNE SPENCE, City Clerk of the City of Fresno, certify that the foregoing resolution was adopted by the Council of the City of Fresno, at a regular meeting held on the \_\_\_\_\_ day of \_\_\_\_\_, 2013.

AYES :  
NOES :  
ABSENT :  
ABSTAIN :

Mayor Approval: \_\_\_\_\_, 2013  
Mayor Approval/No Return: \_\_\_\_\_, 2013  
Mayor Veto: \_\_\_\_\_, 2013  
Council Override Vote: \_\_\_\_\_, 2013

YVONNE SPENCE, CMC  
City Clerk

BY: \_\_\_\_\_  
Deputy

APPROVED AS TO FORM:  
CITY ATTORNEY'S OFFICE

BY: \_\_\_\_\_  
Douglas T. Sloan, City Attorney

DTS:pn[61312pn/RESO]-rev. 04/30/13

**This page intentionally left blank.**