



Staff:
Steven Teglia, Assistant to the City Manager

City Council Members:
Terry Maxwell, Chair
Jacquie Sullivan
Russell Johnson

**Regular Meeting of the
Legislative and Litigation Committee
of the City Council – City of Bakersfield**

Monday, September 22, 2014
12:00 p.m.

City Hall North - Conference Room A
1600 Truxtun Avenue
Bakersfield CA 93301

AGENDA

1. ROLL CALL
2. ADOPT AUGUST 18, 2014 AGENDA SUMMARY REPORT
3. PUBLIC STATEMENTS
4. DEFERRED BUSINESS
 - A. Discussion regarding a Resolution in Support of the Local Oil and Gas Industry - Gennaro
5. NEW BUSINESS
 - A. Discussion regarding a Resolution in Support of Proposition 13 - Gennaro
 - B. Discussion regarding the Mills Act – Rudnick/Mclsaac
6. COMMITTEE COMMENTS
7. ADJOURNMENT



/s/ Steve Teglia

Staff: Steven Teglia
Assistant to the City Manager

Committee Members

Terry Maxwell, Chair
Jacquie Sullivan
Russell Johnson

**REGULAR MEETING OF THE
LEGISLATIVE AND LITIGATION COMMITTEE**

Friday, August 18, 2014
12:00 p.m.

City Hall North – Conference Room A
1600 Truxtun Avenue
Bakersfield, CA 93301

The meeting was called to order at 12:00 p.m.

1. ROLL CALL

Committee members:

Councilmember Terry Maxwell, Chair
Councilmember Jacquie Sullivan
Councilmember Russell Johnson

City Staff:

Alan Tandy, City Manager
Steve Teglia, Assistant to the City Manager
Chris Huot, Assistant to the City Manager
Virginia Gennaro, City Attorney
Andrew Heglund, Deputy City Attorney
Doug McIsaac, Community Development Director

Additional Attendees:

Nick Ortiz, Western States Petroleum Association
Tracy Leach, Kern Citizens for Energy
Representative from Senator Vidak's Office
Members of the Media

2. ADOPT MAY 19, 2014 AGENDA SUMMARY REPORT

The Report was adopted as submitted.

3. PUBLIC STATEMENTS

None

4. NEW BUSINESS

A. Efforts to Support Local Oil Companies (Related to Restrictive State Directives)

Assistant to the City Manager Teglia stated that this item was placed on the agenda by Committee Chair Maxwell, who asked to receive an update from the oil industry about the status of their operations and what challenges are being faced both statewide and locally. Mr. Teglia introduced Nick Ortiz, representative from the Western States Petroleum Association (WSPA), and Tracy Leach, from Kern Citizens for Energy.

Mr. Ortiz reported that Kern County produces, refines and transports most of the oil in California. The industry is heavily regulated by the California Division of Oil, Gas and Geothermal Resources (DOGGR).

SB-4, which was enacted in September, 2013, provides for a new regulatory structure that governs well stimulation, more commonly known as hydraulic fracturing, or fracking. The various Petroleum Associations are committed to ensuring that all timelines and provisions of the Bill are implemented. One challenge is that the permanent regulations do not go into effect until July, 2015, so the language of the Bill is still undergoing revisions. The regulations will ultimately cover oil and gas development, ground water protection, air quality and endangered species.

Mr. Ortiz asked for the City's support on Kern County's efforts to generate an Environmental Impact Report (EIR), which is a requirement of SB-4. The review will be conducted by an EIR Consultant who will be sequestered from the applicants to ensure impartiality. The report will be very comprehensive, and will allow the County to retain local control over all oil and gas operations. The local water, air district and fish and wildlife agencies will also use this report for their permitting needs. The final analysis will be conducted in certain instances by the agencies that are responsible for the necessary permitting. A scientific study of well stimulation, independent of both the industry and regulators, is being overseen by the Lawrence Livermore National Laboratory through the California Council on Science and Technology.

WSPA is collaborating with Tracy Leach of Kern Citizens for Energy, a Coalition of local leaders and small business owners, who are supportive of the industry's benefits, whether they are jobs, tax revenue or philanthropy. Specifically, more than 50,000 people are employed in the industry, both directly and indirectly, with a labor income of \$4,000,000,000. Additionally, more than \$400,000,000 is allocated to the County for property taxes, and approximately \$300,000,000 in sales taxes annually. The industry is responsible for nearly one-fifth of the County's gross domestic product.

Every incorporated city in the County will be approached to join the coalition to support the County in completing the EIR.

Statewide campaigns are underway to educate the public.

Committee member Johnson recused himself from any further discussion.

Committee member Sullivan voiced her support to join the coalition.

Committee Chair Maxwell asked Deputy City Attorney Heglund if lending support for the coalition might cause any problems for the City.

Mr. Heglund said he would research the information in more depth, and suggested that a resolution would be the formal method of supporting the County in their efforts.

City Manager Tandy asked if consideration had been given to those entities that would object to the oil industry's efforts.

Mr. Ortiz noted that all opposing viewpoints and comments would be considered, such as those from the agricultural and environmental industries.

Ms. Leach reported that there has been at least one farming operation that has signed on in support. Others will be approached, such as Grimmway and Bolthouse Farms.

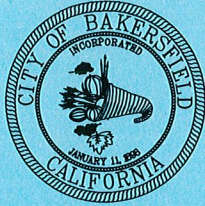
Committee Chair Maxwell requested that a sample resolution be provided to the Committee for discussion at the next meeting. Once the language can be put in final form, the resolution can be forwarded to the full Council for discussion and approval.

5. COMMITTEE COMMENTS

Committee member Sullivan said she looks forward to further discussion on the topic.

6. ADJOURNMENT

The meeting adjourned at 12:26 p.m.



**MEMORANDUM
CITY ATTORNEY**

September 18, 2014

TO: LEGISLATIVE AND LITIGATION COMMITTEE
Terry Maxwell, Chair
Jacquie Sullivan
Russell Johnson

FROM: VIRGINIA GENNARO, CITY ATTORNEY
ANDREW HEGLUND, DEPUTY CITY ATTORNEY

SUBJECT: RESOLUTION IN SUPPORT OF THE LOCAL OIL AND GAS INDUSTRY

At the August 18, 2014, Legislative and Litigation Committee meeting, representatives from the local oil and gas industry gave a presentation regarding the status of their operations and what challenges they face both statewide and locally.

Staff was directed to bring back a draft resolution in support of the industry and their efforts, and it is attached for the Committee's consideration and recommendation.

AH:dll

Attachment

cc: Alan Tandy, City Manager
Steven Teglia, Assistant to the City Manager
Amber Lawrence, Administrative Assistant II

RESOLUTION NO. _____

**A RESOLUTION OF SUPPORT FOR LOCAL OIL
AND GAS INDUSTRY.**

WHEREAS, the oil and gas industry is a key component of the economy of the City of Bakersfield, the County of Kern and the State of California; and

WHEREAS, activities related to oil and gas production in Kern County provide for a significant number of local jobs, property and sales tax revenues, and serve as an economic driver for our local economy; and

WHEREAS, the City Council of the City of Bakersfield understands the importance of this economic engine and supports governmental policies that promote and stimulate the safe and responsible growth of the oil and gas industry in our City, County, State and Country; and

WHEREAS, the County of Kern, with support from local industries, including the oil and gas industry, is currently conducting a project-level environmental review of oil and gas production within the unincorporated areas of Kern County; and

WHEREAS, the purpose for this environmental review is to provide for a clear, safe and understandable plan for oil and gas production activities to operate within and to minimize any conflicts between the activities of mineral rights holders and those of surface rights holders; and

WHEREAS, the City is aware that oil and gas production within the unincorporated areas of Kern County and their associated environmental review does not impinge upon or supersede the City's authority over such activities within its jurisdictional boundaries; and

WHEREAS, "Kern Citizens for Energy" is a coalition of small business owners, nonprofits, chambers of commerce, taxpayer advocates, and others that support a robust oil and gas industry in Kern County; and

WHEREAS, "Kern Citizens for Energy" is committed to supporting the thousands of men and women who work in the local oil and gas sector within Kern County and advocating continued oil and gas production in Kern County; and

WHEREAS, in accordance with the statements above, it is the intent of the Bakersfield City Council to formally support Kern County's ongoing environmental review of oil and gas production within the unincorporated areas of Kern County and the efforts of "Kern Citizens for Energy."

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Bakersfield as follows:

1. The above recitals are true and correct.
2. The City of Bakersfield hereby:
 - Acknowledges and appreciates the significant economic impacts a thriving oil and gas industry has on the economy of Bakersfield;
 - Supports the timely conclusion of Kern County's project-level environmental review of oil and gas production within the unincorporated areas of Kern County to allow for the future growth of the oil and gas industry in Kern County in a safe and responsible manner; and
 - Supports the efforts of "Kern Citizens for Energy."

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I HEREBY CERTIFY that the foregoing Resolution was passed and adopted by the Council of the City of Bakersfield at a regular meeting thereof held on _____, by the following vote:

YES: COUNCIL MEMBER RIVERA, MAXWELL, WEIR, SMITH, HANSON, SULLIVAN, JOHNSON
NOES: COUNCIL MEMBER _____
ABSTAIN: COUNCIL MEMBER _____
ABSENT: COUNCIL MEMBER _____

ROBERTA GAFFORD, CMC
CITY CLERK and Ex Officio Clerk of
the Council of the City of Bakersfield

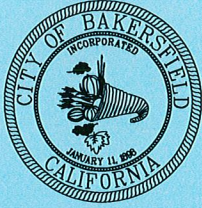
APPROVED _____

By _____
HARVEY L. HALL
Mayor

APPROVED AS TO FORM:
VIRGINIA GENNARO
City Attorney

By _____
ANDREW HEGLUND
Deputy City Attorney

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**MEMORANDUM
CITY ATTORNEY**

September 12, 2014

TO: LEGISLATIVE AND LITIGATION COMMITTEE
Terry Maxwell, Chair
Jacquie Sullivan
Russell Johnson

FROM: JOSHUA H. RUDNICK, DEPUTY CITY ATTORNEY

**SUBJECT: CONSIDERATION OF A RESOLUTION AFFIRMING SUPPORT OF
PROPOSITION 13**

During the Council and Mayor statements at the September 10, 2014, City Council meeting, Councilmember Russell Johnson requested Council support of a resolution from the Howard Jarvis Taxpayers Association in support of Prop 13.

The City Attorney's Office has drafted the attached resolution for your consideration.

JHR:vl
Attachment: Resolution

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE
CITY OF BAKERSFIELD, AFFIRMING SUPPORT
FOR PROPOSITION 13 – THE PEOPLE'S
INITIATIVE TO LIMIT PROPERTY TAXATION.**

WHEREAS, on June 6, 1978, Proposition 13, officially titled the "People's Initiative to Limit Property Taxation," and popularly known as the "Jarvis-Gann Initiative," was overwhelmingly approved by California's voters, reducing property tax rates on homes, businesses and farms, and capping the rate of increase in the future; and

WHEREAS, prior to the adoption of Proposition 13, California's raging inflation had sent property tax bills in California soaring so high that many families had to sell their homes because they could not afford to pay their taxes; and

WHEREAS, prior to the adoption of Proposition 13, property tax assessments showed wider divergences than assessment disparities under the current acquisition-value system; and

WHEREAS, with the approval of Proposition 13, real property values were adjusted to a base value equal to the 1976 assessed value of that real property, thereby introducing an objective standard upon which real property would be taxed and ending the previous subjective standard for assessment that engendered the property tax assessment abuses that occurred in the 1960s and 1970s; and

WHEREAS, with the passage of Proposition 13, taxpayers, for the first time, were provided a measure of certainty with respect to their property taxes; and

WHEREAS, following the passage of Proposition 13, the average homeowner has saved tens of thousands of dollars in property tax payments, money that was able to be spent in the economy to create jobs and foster economic development; and

WHEREAS, following the passage of Proposition 13, renters also benefitted as the reduction in taxes reduced upward pressure on rents; and

WHEREAS, the volatility of income and sales tax revenue to the state and local governments is a major flaw in California's tax system, while Proposition 13 has rendered California's property taxes as a stable and predictable source of

public revenue, even during economic downturns, which has provided a major benefit to local governments throughout California; and

WHEREAS, since the passage of Proposition 13, proposed alternatives to Proposition 13 would have a variety of unwelcome effects, including substantial tax increases for low-income and elderly homeowners; and

WHEREAS, voters intended Proposition 13 to protect all property owners, and they had rejected previous attempts to impose higher taxes on small businesses, knowing that these so-called “split-roll” proposals would inflict irreparable harm on California’s economy; and

WHEREAS, Proposition 13 has become a nationwide symbol for taxpayer revolt and for citizens exercising control and power over their governments.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Bakersfield as follows:

1. The above recitals are true and correct.
2. The City of Bakersfield, in recognition of the positive impact Proposition 13 has had on the State of California, formally reaffirms our support for Proposition 13 and the benefit that it provides to individual homeowners, renters, local governments and to the state's overall economy.

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YES: COUNCIL MEMBER RIVERA, MAXWELL, WEIR, SMITH, HANSON, SULLIVAN, JOHNSON
NOES: COUNCIL MEMBER _____
ABSTAIN: COUNCIL MEMBER _____
ABSENT: COUNCIL MEMBER _____

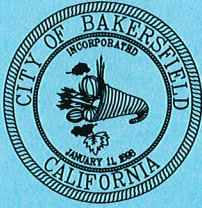
ROBERTA GAFFORD, CMC
CITY CLERK and Ex Officio Clerk of
the Council of the City of Bakersfield

APPROVED _____

By _____
HARVEY L. HALL
Mayor

APPROVED AS TO FORM:
VIRGINIA GENNARO
City Attorney

By _____
JOSHUA H. RUDNICK
Deputy City Attorney



**MEMORANDUM
CITY ATTORNEY**

September 11, 2014

TO: LEGISLATIVE AND LITIGATION COMMITTEE
Terry Maxwell, Chair
Jacquie Sullivan
Russell Johnson

FROM: VIRGINIA GENNARO, CITY ATTORNEY *Virginia Gennaro*
JOSHUA H. RUDNICK, DEPUTY CITY ATTORNEY *JR*

SUBJECT: MILLS ACT PROGRAM

Recently there has been a renewed interest in preserving historic buildings within the City. As a result, Councilmember Russell Johnson referred discussion of the Mills Act to the Legislative and Litigation Committee.¹

The following is a brief overview of the Mills Act and key requirements in implementing a Mills Act program.

- The Mills Act is state legislation enacted in 1972 to provide property tax relief to owners of historic properties for the purpose of assisting in the expense of restoration, repair, preservation and maintenance.
- To qualify, a historic property must be listed on a national, state, county or city historic property register.
- Under a Mills Act program, a property owner contracts with the City for 10 years to keep their historic property maintained in exchange for a tax break that is determined after a reassessment by the county assessor in accordance with California Revenue and Taxation Code.
- Under a Mills Act contract, the property owner agrees to restore the property if necessary, maintain its historic character, and use it in a manner compatible with its historic characteristics. Restoration and rehabilitation of the property are to conform to the rules and regulations of the Office of Historic Preservation of the Department of Parks and

¹ Kern County staff is also working on a referral regarding the preservation of historic buildings in the unincorporated areas of the county.

Recreation, the United States Secretary of the Interior's Standards for Rehabilitation, and the State Historical Building Code.

- Properties listed on the Bakersfield Register of Historic Places are also subject to the requirements of Bakersfield Municipal Code Chapter 15.72 (BMC 15.72) regarding any alteration, demolition, or relocation of a designated cultural resource or property within a historic district, which require prior approval by the Bakersfield Historic Preservation Commission or an appeal to the City Council with certain exceptions, such as specific plumbing, mechanical, roof, pool, and electrical repairs.
- The contract, which is recorded, automatically renews for subsequent one-year periods after the 10 year period is completed unless either the property owner or the city decides to terminate the contract. The contract also does not require the approval from the other taxing entities.
- The reassessment formula is complicated and based on a state-mandated formula using the "capitalization of income" method rather than simple "market value". This calculation basically results in a 40%-60% tax savings to the property owner and a similar tax reduction in property taxes to the taxing entities, which includes the City.
- If the contract is cancelled, the owner must pay a cancellation fee to the county assessor equal to 12 ½ percent of the current fair market value of the property, as determined by the county assessor.
- The City can establish a Mills Act program by amending its historic preservation ordinance (BMC 15.72), and implementing the Mills Act program and regulations through a resolution.
- Other costs to the City include the following:
 - Staff time to review and process the application and contract.
 - Costs of monitoring the property for compliance each year or every five years.
- Most cities charge an application fee as well as an annual inspection fee as the City has to make sure that the property owner is restoring and or maintaining the historic property each year so that the property is eligible for its yearly tax break.

- Some cities have the property owners fill out an annual report form and submit photos and invoices showing that they are maintaining their historic property.

In conclusion, the Bakersfield Register of Historic Places includes fourteen properties that are potentially eligible for the benefits of a Mills Act program. If the Committee is interested in moving forward, with the understanding that the fiscal impacts under such a program are unknown, staff could draft a proposed ordinance, resolution, and contract for Committee consideration.

JHR:dll

cc: Alan Tandy, City Manager
Doug McIsaac, Community Development Director
Nelson Smith, Finance Director



Community Development Department
Douglas N. McIsaac, Director

MEMORANDUM

SEPTEMBER 16, 2014

TO: LEGISLATIVE AND LITIGATION COMMITTEE
Terry Maxwell, Chair
Jacquie Sullivan
Russell Johnson

FROM: DOUGLAS McISAAC, COMMUNITY DEVELOPMENT DIRECTOR ^{DM}

SUBJECT: MILLS ACT

This memo is intended to supplement the memo from the City Attorney's Office by providing some additional comments regarding the possible implementation of a Mills Act program. Some of this is based upon experience I had previously in the City of Redondo Beach, including executing ten Mills Act contracts.

The majority of cities in California that have active historic preservation programs operate them as voluntary programs, i.e. a property owner must elect to participate in the program and the City may not place a property on a local historic register without being petitioned to do so by the property owner. The existing historic preservation ordinance and program in Bakersfield also operates in such a manner.

Some owners of historic buildings might elect to have their properties placed on a local historic register simply for the honor and prestige of such. Most owners, however, will be guided more by a "cost/benefit" determination, meaning that they will do it if there is at least some corresponding benefit associated with designation to counter-balance the added regulations and constraints on their property.

Currently, the City of Bakersfield Register of Historic Places includes 14 buildings (see attached). A likely reason why the number of listed buildings is so limited is that the City has not developed any tangible (i.e. economic) incentives to encourage participation as noted above.

The Mills Act is such an incentive that can provide a direct financial benefit to owners of historic properties. It may not provide enough of an incentive in all cases to cause property owners to elect to pursue historic register designation and a Mills act contract, but in a number of cases it can. It generally depends on whether the costs and the benefits of participating are the “right fit” for a particular owner and property.

The potential annual property savings are typically in the thousands of dollars, but a property owner generally must also desire to preserve the building in keeping with its historic character for reasons of their own. In cases like that, the additional requirements associated with a Mills Act contract are not terribly burdensome or different from what they would otherwise elect to do on their own. Conversely, where the requirements may limit or restrict what they might wish to do with their property, the property tax savings are not likely to be sufficient to tip the scale.

Another important consideration is that while the Mills Act provides certain standards that all cities must follow, there is also latitude and discretion for cities to determine how strict the standards for preservation, alteration, and rehabilitation are established and applied. A Mills Act contract can include requirements that are more stringent than those normally required of buildings listed on the local register. Some cities, however, allow the normal requirements associated with being listed on the local historic register to govern Mills Act contracts as well. And on that issue, local preservation ordinances vary to some degree as to how onerous the preservation requirements are.

Currently, the City’s historic preservation ordinance (BMC Chapter 15.72) generally requires exterior alterations and potentially some interior alterations to first be reviewed and approved. (Note: ordinary maintenance and repair activities do not require approval.) This level of review is not uncommon among cities with historic preservation ordinances.

Some cities, though, have limited the scope of discretionary review to only the exterior of the building, as this is obviously the part of the building that is visible to the public. Therefore the property owner is free to make alterations to the interior of the building without the added expense and restriction of having to get approval from the City. Going forward, this could be an option for

Bakersfield that would make listing on the historic register and entering into a Mills Act contract less restrictive and more appealing.

In summation, the degree to which a possible Mills Act program will be successful will generally be related to how relevant and attractive it can be made to owners of historic properties. If the associated regulations and restrictions will not overly impact an owner's ability to use and maintain an historic building as desired, the benefits are worthwhile and it becomes a "win/win" for the owner and the City. As discussed above, there are some options available to the City to construct a Mills Act program in such a way to accomplish its intended purpose of assuring the continued preservation of historic buildings without unnecessarily dissuading owners from participating.

Should the City Council elect to move forward with the Mills Act program, staff can evaluate some of these options in more detail.



BAKERSFIELD REGISTER OF HISTORIC PLACES

- | | |
|---|---|
| 1) The Hayden Building
1622 19 th Street | 8) Curran House
222 Eureka Street |
| 2) Women's Club of Bakersfield
2030 18 th Street | 9) Standard Oil Building
1800 19 th Street |
| 3) Frank Munzer House
1701 "F" Street | 10) Fox Theater
2001 "H" Street |
| 4) The Guild House
1905 18 th Street | 11) Spencer House
1321 "N" Street |
| 5) Colonial Apartments
1701 "B" Street | 12) Hugh Curran home
1910 Alta Vista Drive |
| 6) The McGill Building
1821-29 "B" Street | 13) Jastro House
1811 20 th Street |
| 7) "China Alley"
Alley between "L" & "M"/
21 st and 22 nd Streets | 14) Kern County Chamber
of Commerce Bldg./
County Museum
3801 Chester Avenue |

AREA OF HISTORIC INTEREST

- 1) James McKamy House
2124 "E" Street
- 2) R.L. Brown House
2128 "E" Street