BAKERSFIELD CITY COUNCIL
AGENDA
MEETING OF OCTOBER 17, 2012

Council Chambers, City Hall, 1501 Truxtun Avenue
Regular Meeting - 5:15 p.m.

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1. ROLL CALL
2. INVOCATION by Pastor Hayward Cox, Church of God.
3. PLEDGE OF ALLEGIANCE by Joseph Klopfenstein, 3rd grade student at Bimat Elementary School.
4. PRESENTATION
   a. Presentation by Mayor Hall of a Proclamation to Andie Apple and Kristie Coons, Co-Coordinators of One Book, One Bakersfield, One Kern, declaring September through November “One Book, One Bakersfield, One Kern, 2012 Months”.

5. PUBLIC STATEMENTS
6. WORKSHOPS
7. APPOINTMENTS
8. CONSENT CALENDAR

Minutes:
   a. Approval of minutes of the September 26, 2012 Regular City Council Meeting.

Payments:
   b. Receive and file department payments from September 14, 2012 to October 4, 2012 in the amount of $17,480,366.52 and self-insurance payments from September 14, 2012 to October 4, 2012 in the amount of $400,109.40, totaling $17,880,475.92.

Ordinances:

Resolutions:
   d. Resolution adopting an amended Conflict of Interest Code for City Departments.
   e. Resolution approving Cultural Resource Designation and for placement on the Bakersfield Register of Historic Places for property located at Union Cemetery, King Street and Potomac Avenue – Pioneers Section.
12. **DEFERRED BUSINESS**

   a. Review and comments on the Revised Draft Environmental Impact Statement/Report for the California High Speed Rail Project, and direct the City Attorney to retain outside counsel for the purpose of Authorizing Initiation of Litigation against the High Speed Rail Authority.

   *Staff recommends acceptance of the report.*

   The City Attorney's Office recommends that Council consider a motion directing the City Attorney to retain outside counsel for the purpose of Authorizing of Litigation against the High Speed Rail Authority on the grounds that said Revised DEIS/EIR fails, at a minimum, to comply with the California Environmental Quality Act (CEQA).

13. **NEW BUSINESS**

   a. Resolution exempting the City from prevailing wage requirements for locally funded public works contracts, except where required by law.

   *Staff recommends adoption of resolution.*

14. **CLOSED SESSION**

   a. Conference with Legal Counsel – Potential Litigation; Closed Session pursuant to subdivision (b)(3)(A) of Government Code Section 54956.9 (one matter).

   b. Conference with Legal Counsel – Initiation of Litigation; Closed Session pursuant to subdivision (c) of Government Code Section 54956.9 (four potential cases).

**RECESS TO CLOSED SESSION**

15. **CLOSED SESSION ACTION**

16. **COUNCIL AND MAYOR STATEMENTS**

17. **ADJOURNMENT**

   Respectfully submitted,

   [Signature]

   Alan Tandy
   City Manager

10/10/12 11:20am
TO: Honorable Mayor and City Council
FROM: Virginia Gennaro, City Attorney
DATE: October 2, 2012
SUBJECT: Resolution exempting the City from prevailing wage requirements for locally funded public works contracts, except where required by law. (All wards)

RECOMMENDATION:
Staff recommends adoption of the Resolution.

BACKGROUND:
On July 2, 2012, the California Supreme Court issued a decision, State Building and Construction Trades Council of California, AFL-CIO v. City of Vista, that clarified that charter cities may exempt themselves from the payment of prevailing wages for locally funded public works projects.

In that case, the City of Vista passed an ordinance that prohibited any city contract from requiring payment of prevailing wage unless 1) such payment was required by the terms of a state or federal grant; 2) the contract does not involve a municipal affair; or 3) payment of the prevailing wage is separately authorized by the city council. The ordinance was subsequently challenged in court. The challenge was based on whether a charter city could exempt itself from the state's prevailing wage law. The court held that the wage levels of contract workers constructing locally funded public works are a "municipal affair." Under the California Constitution, charter city laws supersede state law with respect to a city's "municipal affairs."

The City of Bakersfield is a charter city and may adopt a resolution to assert its municipal autonomy and conserve valuable financial resources by exempting itself from California's prevailing wage requirements for locally funded public works contracts. Other charter cities that have adopted similar resolutions include the cities of Arcadia, Modesto, Pacific Grove, and Newport Beach.

The attached resolution provides an exemption for locally funded public works projects, unless 1) payment of prevailing wage is required by the terms of a federal or state grant; 2) the public work is a matter of state-wide concern; or 3) the payment of prevailing wage is separately authorized by the City Council.

Financial Impact: It is difficult to determine an exact dollar amount of savings because public works projects vary in size and price. Attached is a memorandum from the City Manager's Office regarding the financial impact of prevailing wage and public works projects.