Meeting Date: 06 / 23 / 09

ACTION	TYPE OF ITEM
☐ Approved Recommendation	■ Info/Consent
☐ Ord. No(s). _____	☐ Report
☐ Res. No(s). _____	☐ Public Hearing (Info/consent)
☐ Other _____	☐ Other _____

Prepared By: Martin R. Erickson MRE Agenda Item No. I-2

Reviewed By: City Manager City Attorney SMF Finance JC Other *(Specify)*

DATE: June 17, 2009

TO: City Council

FROM: Martin R. Erickson, Legislative Affairs Manager
City Manager's Office

SUBJECT: **Adoption of a Resolution Authorizing the City Attorney to Cooperate with the League of California Cities, Other Cities and Counties in Litigation Challenging the Constitutionality of Any Seizure by State Government of the City's Gas Tax Funds**

RECOMMENDATION

That City Council adopt a resolution authorizing the City Attorney to cooperate with the League of California Cities, other Cities and Counties in litigation challenging the constitutionality of any seizure by State Government of the City's Gas Tax funds.

DISCUSSION

As the State struggles to find solutions to balance its massive budget deficit (over $24 billion at the time of this writing), local governments remain vigilant against further attempts to re-direct or "borrow" additional monies from local governments. In his proposed Fiscal Year 2009-10 budget, the Governor has proposed transferring $1 billion of local gas taxes and weight fees to the state general fund to balance the state budget, and over $700 million in local gas taxes permanently in future years. This action immediately jeopardizes the ability of City to maintain City streets, bridges, traffic signals, streetlights, sidewalks and related traffic safety facilities for the use of residents. The City of Oxnard would lose over $3 million per year as a result of this action.

This solution to the State's ongoing structural budget issues puts the burden on local governments and residents who will have to address this revenue shortfall in addition to the local financial challenges already being faced. Cities throughout the State have already enacted painful cuts to balance their own budgets. Oxnard faces a budget deficit of over $10 million in FY 2009/10. A loss of additional revenue could impact critical City services to our local residents.

FINANCIAL IMPACT

The adoption of this resolution by the Council does not have a resource impact. However, the proposal put forth by the State Department of Finance equates to over a $3 million annual loss to the City of Oxnard.

MRE:lal

Attachment #1 – Resolution

CITY COUNCIL OF THE CITY OF OXNARD

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OXNARD AUTHORIZING THE CITY ATTORNEY TO COOPERATE WITH THE LEAGUE OF CALIFORNIA CITIES, OTHER CITIES AND COUNTIES IN LITIGATION CHALLENGING THE CONSTITUTIONALITY OF ANY SEIZURE BY STATE GOVERNMENT OF THE CITY'S STREET MAINTENANCE FUNDS

WHEREAS, the current economic crisis has placed cities under incredible financial pressure and caused them to make painful budget cuts, including layoffs and furloughs of city workers, decreasing maintenance and operations of public facilities, and reductions in direct services to keep spending in line with declining revenues; and

WHEREAS, since the early 1990s the state government of California has seized over $10 billion of city property tax revenues statewide, now amounting to over $900 million each year, to fund the state budget even after deducting public safety program payments to cities by the state; and

WHEREAS, in his proposed Fiscal Year 2009-10 budget the Governor has proposed transferring $1 billion of local gas taxes and weight fees to the state general fund to balance the state budget, and over $700 million in local gas taxes permanently in future years, immediately jeopardizing the ability of the City to maintain the City's streets, bridges, traffic signals, streetlights, sidewalks and related traffic safety facilities for the use of the motoring public; and

WHEREAS, the loss of almost all of the City's gas tax funds will seriously compromise the City's ability to perform critical traffic safety related street maintenance, including, but not limited to, drastically curtailing patching, resurfacing, street lighting/traffic signal maintenance, payment of electricity costs for street lights and signals, bridge maintenance and repair, sidewalk and curb ramp maintenance and repair, and more; and

WHEREAS, some cities report to the League of California Cities that they will be forced to eliminate part or all of their street maintenance operations while others will be forced to cut back in other areas (including public safety staffing levels) to use city general funds for basic street repair and maintenance. Furthermore, cities expect that liability damage awards will mount as basic maintenance is ignored and traffic accidents, injuries and deaths increase; and

WHEREAS, in both Proposition 5 in 1974 and Proposition 2 in 1998 the voters of our state overwhelmingly imposed restriction on the state's ability to do what the Governor has proposed, and any effort to permanently divert the local share of the gas tax would violate the state constitution and the will of the voters; and

WHEREAS, cities and counties maintain 81% of the state road network while the state directly maintains just 8%; and

WHEREAS, ongoing street maintenance is a significant public safety concern. A city's failure to maintain its street pavement (potholes filling, sealing, overlays, etc.), traffic signals, signs, and street lights has a direct correlation to traffic accidents, injuries and deaths; and

WHEREAS, according to a recent statewide needs assessment on a scale of zero (failed) to 100 (excellent), the statewide average pavement condition index (PCI) is 68, or "at risk." Local streets and roads will fall to "poor" condition (Score of 48) by 2033 based on existing funding levels available to cities and counties.

NOW, THEREFORE, BE IT RESOLVED THAT THE CITY COUNCIL OF THE CITY OF OXNARD hereby directs the City Attorney to take all necessary steps to cooperate with the League of California Cities, other cities and counties in supporting litigation against the state of California if the legislature enacts and the governor signs into law legislation that unconstitutionally diverts the City's share of funding from the Highway Users Tax Account (HUTA), also known as the "gas tax," to fund the state general fund; and

RESOLVED FURTHER, that the City Manager or Clerk shall send this resolution with an accompanying letter from the mayor to the Governor and each legislator, informing them in the clearest of terms of the City's adamant resolve to oppose any effort to frustrate the will of the electorate as expressed in Proposition 5 (1974) and Proposition 2 (1998) concerning the proper use and allocation of the gas tax; and

RESOLVED FURTHER, that a copy of this Resolution shall be sent by the City Manager or Clerk to the League of California Cities, the local chamber of commerce, and other community groups whose members are affected by this proposal to create unsafe conditions on the streets of our City for pedestrians, bicyclists and motorists.

PASSED AND ADOPTED this 23rd day of June, 2009 by the following vote:

AYES:

NOES:

ABSENT:

Dr. Thomas E. Holden, Mayor

ATTEST:

Daniel Martinez, City Clerk

ATTACHMENT 1
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APPROVED AS TO FORM:

Alan Holmberg, City Attorney

ATTACHMENT 1
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