



AGENDA REPORT

Meeting Date: July 7, 2009

Item Number: E-2

To: Honorable Mayor & City Council

From: Cheryl Friedling, Deputy City Manager

Subject: RESOLUTION OF THE COUNCIL OF THE CITY OF BEVERLY HILLS OPPOSING STATE BUDGET MEASURES THAT WOULD DIVERT LOCAL FUNDS TO HELP BALANCE THE STATE BUDGET

Attachments:

1. Resolution
2. Letter to Governor Schwarzenegger

RECOMMENDATION

It is recommended that the City Council adopt the Resolution opposing the State of California's diversion of gas tax funds from local agencies.

INTRODUCTION

Presently, cities receive a local share of funding from the Highway Users Tax Account (HUTA), known as the gas tax. These gas tax funds are used to fund street maintenance, traffic signal repairs and pothole repairs, among others. Currently the City of Beverly Hills receives approximately \$583,000 in gas tax funds. The Governor has proposed transferring \$1 billion of local gas taxes and weight fees to the state general fund to help balance the state budget, and over \$700 million in local gas taxes permanently in future years. The State Legislature's Joint Budget Conference Committee has endorsed this recommendation.

DISCUSSION

There is considerable doubt about the constitutionality of this proposal to seize local gas tax funds. In both 1974 and 1998 California voters enacted Proposition 5, limiting the power of the Legislature to seize and use HUTA gas tax funds, and allowing only loans to the state general fund on a limited basis. These

restrictions are now included in Article XIX of the California Constitution. The League of California Cities maintains that such a seizure would violate the Constitution and is proposing litigation if the State goes forward with it.

The Resolution affirms the City Council's opposition to any seizure of local gas tax funds and authorizes the City Attorney to cooperate with any lawsuit filed by the League regarding this matter.

FISCAL IMPACT

There is no fiscal impact associated with adopting this resolution and directing the City Attorney's office to coordinate efforts with the League of California Cities regarding possible litigation.

Cheryl Friedling *cf*
Approved By

Attachment 1

Resolution

RESOLUTION NO. 09-R-

RESOLUTION OF THE COUNCIL OF THE CITY OF BEVERLY HILLS
OPPOSING STATE BUDGET MEASURES THAT WOULD DIVERT LOCAL
FUNDS TO HELP BALANCE THE STATE BUDGET

WHEREAS, the state of California is facing the worst budget crisis since the Great Depression of the 1930s, threatening the ability of state and local government to deliver essential services and threatening the long-term fiscal health of state and local government; and

WHEREAS, the Legislature should balance its budget with revenues as does every city and county in the state to avoid unbalanced spending plans or cash shortfalls; and

WHEREAS, in his proposed FY 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, 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, 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, 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 Legislature 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

Now, therefore, the Council of the City of Beverly Hills does hereby resolve as follows:

Section 1. The City of Beverly Hills hereby opposes any and all efforts by state government to "borrow" or seize local gas taxes and weight fees to finance state operations. Such a move would be fiscally irresponsible for the state and hamper effective local services and infrastructure investments.

Section 2. The City Attorney is directed 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

Section 3. The City Clerk shall certify to the adoption of the resolution and shall cause this resolution and his certification to be entered in the Book of Resolutions of the Council of this City.

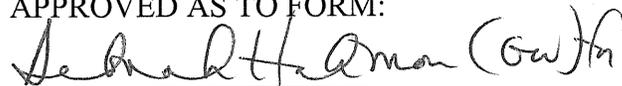
Adopted:

NANCY KRASNE
Mayor of the City of
Beverly Hills, California

ATTEST:

_____ (SEAL)
BYRON POPE
City Clerk

APPROVED AS TO FORM:



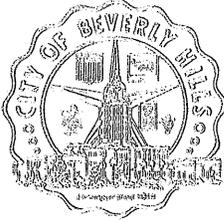
LAURENCE S. WIENER
City Attorney

APPROVED AS TO CONTENT:

RODERICK J. WOOD, CCM
City Manager

Attachment 2

Letter to Governor Schwarzenegger



CITY OF BEVERLY HILLS

455 NORTH REXFORD DRIVE • BEVERLY HILLS, CALIFORNIA 90210

NANCY KRASNE
MAYOR

June 16, 2009

Honorable Arnold Schwarzenegger
Governor
State of California
State Capitol
Sacramento, CA 95814

Dear Governor Schwarzenegger:

On behalf of the City of Beverly Hills, we request that you reject any proposal to divert gas tax funds from local agencies to the State's general fund. While we certainly appreciate the gravity of the State's fiscal crisis and the difficulty in finding solutions to help balance the budget, we hope you also understand the significance of the impact the proposed diversions will have at the local level.

Please consider the following before moving forward with a proposal to seize local gas tax funds:

- **Taking local gas tax funds is unconstitutional.** In 1974, Proposition 5 was passed by the voters of California. Proposition 5 provided cities and counties greater control over their allocation of funds from the Highway Users Tax Account (HUTA) and is known commonly as the gas tax. It also restricted the power of the legislature to amend the statutes governing the disbursement of the local share of the funds. In fact, 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 implement this type of proposal and any effort to permanently divert the local share of the gas tax would violate the state constitution.
- **Seizing local gas tax funds violates the will of the people.** Traffic safety and congestion have consistently topped the concerns of voters in Beverly Hills and throughout the state as California's streets and roads fall into further disrepair.
- **Diverting local gas tax funds will lead to greater injuries, loss of lives, and property loss.** Eighty-one percent of the road system in the state is city and county streets and roads that must be maintained for the safety of all Californians who use these roads. Local gas tax funds are used for basic street maintenance, traffic signal repair and pothole repair. Deteriorating streets and roads cause a disproportionate number of traffic accidents, and lead to emergency response delays, and loss of life.

While we understand the very difficult decisions that must be made in the coming weeks, we urge you to move forward without taking these revenues from local agencies.

Thank you in advance for your consideration of this request.

Sincerely,

A handwritten signature in cursive script that reads "Nancy Krasne".

Nancy Krasne
Mayor

cc: Members of the Senate
Members of the Assembly