



CITY OF MARTINEZ

**CITY COUNCIL AGENDA
June 24, 2009**

TO: Mayor and City Council

FROM: Tim Tucker, City Engineer
Cathy Heater, Finance Manager

SUBJECT: Opposition to Gas Tax take by State of California

DATE: June 17, 2009

RECOMMENDATION:

Authorize the City Attorney to cooperate with the League of California Cities in challenging the legality of the proposed take of future City Gas Tax revenues by the State of California.

BACKGROUND:

The Legislature is seriously considering the Governor's proposal to redirect local Gas Tax subvention funds to offset the State's General Fund costs associated with debt service on transportation bonds. The proposal is an estimated \$986 million diversion in FY 2009-10 and an ongoing shift of about \$745 million in FY 2010-11 and beyond.

Gas Tax funds are an important stream of revenue to the City of Martinez. The City leverages Gas Tax as match money towards grants such as Community Development Block Grants (CDBG) -primarily used for curb ramp installation; Transportation Development Act (TDA) - primarily used for pedestrian and bicycle route improvements; and Federal STIP paving grants. Gas Tax funds are also an important stand alone fund used for our Annual Pavement Management program such as slurry and cape seals for our residential streets. The 2009-10 Budget proposes \$255,000 of Gas Tax funds to be used toward capital projects.

The proposed FY 2009-10 Gas Tax operating budget is \$519,463. Gas Tax funds personnel, equipment, material, and contract services for the day to day maintenance of our streets. Approximately \$220,000 of the Gas Tax operating budget goes to partially fund Public Works street maintenance crews who are vital to keeping our streets safe from dangerous pot holes, to insure prompt cleaning of hazardous spills on roadways and keeping our City-maintained sidewalks clear of tripping hazards.

Per a report by MTC the State's proposed transfer of the Gas Tax subvention to the State's general fund for the City of Martinez is \$572,000 for FY 2009-10 and \$432,000 for FY 2010-11 (see Attachment 1 received from MTC). Over the past three years, City Gas Tax revenues have

varied from \$659,000 to \$680,000. Should the subvention be transferred to the State's general fund, this will have a major impact on the City's ability to fund street maintenance operation, and no excess Gas Tax would be available for the annual street management program. In the short term the City will have a Gas Tax fund balance at the end of FY 2008-09 that normally would go to the street management program but could be used instead to fund Public Works street maintenance. However, the Governor has hinted the Gas Tax diversion is a multi-year plan. Eventually the City would need to look for other revenue sources to fund paving and street maintenance.

The League of California Cities (League) believes the State's proposal to take Gas Tax violates the State Constitution. The League is asking all California cities to join in opposition to the State diverting Gas Tax funds to help resolve their fiscal crisis. Attached is a resolution the League has requested cities adopt which authorizes the City Attorney to work with other California cities, counties and the League in filing litigation against the State should the State and Governor move forward on taking Gas Tax subvention funds.

On a more local front the Metropolitan Transportation Commission (MTC) also opposes the Gas Tax diversion. MTC is requesting Bay Area cities write a letter of opposition to our State Legislators. Staff recommends the Council authorize the Mayor to sign the attached letter (Attachment 2) of opposition.

FISCAL IMPACT:

Under the current State proposal the City stands to lose \$572,000 in FY 2009-10 and a total of \$1,004,000 over the next two FYs in Gas Tax revenues.

At this time staff is unable to determine the cost of the City Attorney cooperating with the League of California Cities to challenge the constitutionality of the gas tax seizure by the State.

ACTION:

Adopt 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 street maintenance funds; and authorize the Mayor to sign a letter to the State Assembly opposing local Gas Tax fund diversion.

Attachments: Resolution, MTC impact chart, Letter of Opposition

APPROVED BY:



City Manager

APPROVED BY:



Assistant City Manager
Administrative Services Director

RESOLUTION NO. -09

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 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, 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 assessment¹ 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, IT BE IT RESOLVED That the City Council of the City of Martinez 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

BE IT 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 8 (1998) concerning the proper use and allocation of the Gas Tax; and

¹ *California Statewide Local Streets and Roads Needs Assessment*, Nichols Consulting Engineers, Chtd. (2008), sponsored by the League of California Cities, California State Association of Counties and County Engineers Association of California.

BE IT 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.

* * * * *

I HEREBY CERTIFY that the foregoing is a true and correct copy of a resolution duly adopted by the City Council of the City of Martinez at an Adjourned Regular Meeting of said Council held on the 24th day of June, 2009 by the following vote:

AYES:

NOES:

ABSENT:

RICHARD G. HERNANDEZ, CITY CLERK
CITY OF MARTINEZ

Bay Area Impact of Proposed Diversion of Local Gas Tax Subvention Funds

(Dollars in thousands)

TOTAL BAY AREA LOCAL STREET & ROAD FUNDS AT RISK	FY2009-10	FY2010-11 & Beyond
Alameda	(36,922)	(27,897)
Contra Costa	(26,076)	(19,703)
Marin	(6,808)	(5,144)
Napa	(4,271)	(3,227)
San Francisco	(18,874)	(14,261)
San Mateo	(19,616)	(14,822)
Santa Clara	(45,387)	(34,293)
Solano	(11,924)	(9,009)
Sonoma	(14,066)	(10,628)
Bay Area Subtotal	(183,945)	(138,984)
State Total	(986,000)	(745,000)

ALAMEDA	FY2009-10	FY2010-11
ALAMEDA	(1,150)	(869)
ALBANY	(256)	(194)
BERKELEY	(1,625)	(1,228)
DUBLIN	(667)	(504)
EMERYVILLE	(140)	(106)
FREMONT	(3,234)	(2,443)
HAYWARD	(2,259)	(1,707)
LIVERMORE	(1,266)	(956)
NEWARK	(668)	(504)
OAKLAND	(6,348)	(4,796)
PIEDMONT	(169)	(128)
PLEASANTON	(1,050)	(794)
SAN LEANDRO	(1,245)	(940)
UNION CITY	(1,105)	(835)
COUNTY (UNINCORPORATED)	(15,743)	(11,895)
COUNTY TOTAL	(36,922)	(27,897)
CONTRA COSTA		
ANTIOCH	(1,583)	(1,196)
BRENTWOOD	(773)	(584)
CLAYTON	(170)	(129)
CONCORD	(1,953)	(1,475)
DANVILLE	(673)	(509)
EL CERRITO	(367)	(277)
HERCULES	(379)	(286)

<i>Contra Costa Cont'd</i>		
LAFAYETTE	(379)	(286)
MARTINEZ	(572)	(432)
MORAGA	(256)	(193)
OAKLEY	(504)	(381)
ORINDA	(277)	(209)
PINOLE	(304)	(230)
PITTSBURG	(996)	(753)
PLEASANT HILL	(524)	(396)
RICHMOND	(1,641)	(1,240)
SAN PABLO	(489)	(370)
SAN RAMON	(917)	(693)
WALNUT CREEK	(1,034)	(781)
COUNTY (UNINCORPORATED)	(12,285)	(9,282)
COUNTY TOTAL	(26,076)	(19,703)
MARIN		
BELVEDERE	(36)	(27)
CORTE MADERA	(157)	(119)
FAIRFAX	(123)	(93)
LARKSPUR	(202)	(152)
MILL VALLEY	(230)	(174)
NOVATO	(872)	(659)
ROSS	(40)	(30)
SAN ANSELMO	(208)	(157)
SAN RAFAEL	(966)	(730)
SAUSALITO	(124)	(94)
TIBURON	(148)	(112)
COUNTY (UNINCORPORATED)	(3,702)	(2,797)
COUNTY TOTAL	(6,808)	(5,144)
NAPA		
AMERICAN CANYON	(266)	(201)
CALISTOGA	(88)	(67)
NAPA	(1,279)	(966)
ST HELENA	(100)	(75)
YOUNTVILLE	(55)	(41)
COUNTY (UNINCORPORATED)	(2,484)	(1,877)
COUNTY TOTAL	(4,271)	(3,227)
SAN FRANCISCO		
SAN FRANCISCO CITY AND COUNTY	(18,874)	(14,261)
COUNTY TOTAL	(18,874)	(14,261)



City of Martinez

525 Henrietta Street, Martinez, CA 94553-2394

Attachment 2

June 8, 2009

The Honorable Noreen Evans
Chair, Budget Conference Committee
California State Assembly
State Capitol
Sacramento, CA 95814

Opposition to Local Gas Tax Fund Diversion

Dear Chair Evans,

The City of Martinez strongly urges you to reject the Schwarzenegger Administration's proposed diversion of local gasoline tax funds to the General Fund to cover transportation-related debt service costs. For FY 2009-10, the Administration proposes diverting \$986 million in funds that cities and counties rely upon to fund their public works programs, including staffing costs. This redirection of funds would lead to thousands of job losses statewide and put an immediate halt on local transportation improvements across the state. To make matters worse, this funding cut would be compounded by a loss of federal funds provided through the American Recovery and Reinvestment Act if cities and counties are unable to provide the required local match or cover their staffing costs.

For the City of Martinez, the proposal translates into a \$572,000 hit, just one month before the beginning of the fiscal year. Not only is gas tax an important tool in leveraging federal paving grants such as recently approved stimulus programs and is an important source of funds for repairing our deteriorating streets, but these fund also ***completely funds the City's Public Works Street Maintenance Division***. The City may be faced with devastating lay-offs without these funds. Even without this diversion of funds, our state's local streets and roads are already close to the tipping point, where major rehabilitation — costing more than five times as much as regular maintenance — will be necessary. In the San Francisco Bay Area alone, we are underfunding our local streets and roads by roughly \$250 million per year.

We know the state faces immense budget challenges, but we implore you to find a better way to balance the budget than continued raids on the state's infrastructure programs.

Sincerely,

Rob Schroder, Mayor

cc: Members, Budget Conference Committee

The Honorable Robert Blumenfield

The Honorable Denise Ducheny

The Honorable Bob Dutton

The Honorable Kevin de Leon

The Honorable Mark Leno

The Honorable Alan Lowenthal

The Honorable Roger Niello

The Honorable Jim W. Nielson

The Honorable Mimi Walters

Members, San Francisco Bay Area Delegation

The Honorable Daryl Steinberg, Senate President Pro Tempore

The Honorable Karen Bass, Speaker, California State Assembly

The Honorable Dennis Hollingsworth, Minority Leader, California State Senate

The Honorable Sam Blakeslee, Minority Leader, California State Assembly

Michael C. Genest, Director, Department of Finance

DeAnn Baker, California State Association of Counties

Jennifer Whiting, League of California Cities