



CITY COUNCIL AGENDA REPORT

MEETING DATE: JULY 7, 2009

ITEM NUMBER:

SUBJECT: PROPOSED SEIZURE BY THE STATE GOVERNMENT OF CITY STREET MAINTENANCE AND REDEVELOPMENT FUNDS

DATE: JUNE 25, 2009

FROM: CITY MANAGER'S OFFICE

PRESENTATION BY: ALLAN L. ROEDER, CITY MANAGER

FOR FURTHER INFORMATION CONTACT: CAROL C. PROCTOR, MANAGEMENT ANALYST AT (714) 754-5688

RECOMMENDATION:

That the City Council Adopt 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 and Redevelopment Funds.

BACKGROUND:

On June 12, 2009, the California cities received a memorandum from the League of California Cities (League) Executive Director, Chris McKenzie, urging City Councils to take action in cooperating with the League in litigation challenging the constitutionality of any seizure by the State government of city street maintenance Highway Users Tax Account/Gas Tax (HUTA) funds.

Each year the Governor puts out a May revise of the State's budget. In his final May revise for this year, the Governor proposes taking \$1 billion in city and county (HUTA) revenues. The State Legislature's Budget Conference Committee is now pursuing a two-year take of the HUTA dollars and a three (3) year, \$350 million per year taking of Redevelopment funds.

The League of California Cities believes this move by the State is unconstitutional and is planning litigation to challenge the action. They have asked that cities approve a resolution that authorizes our City Attorney to cooperate with the League and other cities that may engage in litigation on the matter. The City of Costa Mesa would not be responsible for any direct costs related to any litigation.

ANALYSIS:

The HUTA seizure would translate to \$1.8 million dollars not being available to Costa Mesa. These revenues are depended upon for on-going road maintenance such as pothole repairs, crack sealing, infrastructure improvements, and other important activities that keep Costa Mesa streets well maintained. If taken, the City would need to fill the gap from the General Fund or suspend these maintenance activities. The City receives \$300,000 in Redevelopment funds each year which are used for public improvement projects in the City's Downtown Redevelopment Project Area. The courts have previously deemed seizure of Redevelopment funds unconstitutional. If the State approves these proposals, it will trigger additional litigation.

ALTERNATIVES CONSIDERED:

Do not adopt the Resolution.

FISCAL REVIEW:

If the attached Resolution is approved, then the City Attorney would likely spend a limited number of hours working with the League and other agencies, cooperating and reviewing information on League initiated legal challenges. The City of Costa Mesa would not be responsible for any direct costs for any litigation. The City receives approximately \$1.8 million in HUTA funds and \$900,000 total for 3 years in Redevelopment funds that would be at risk if the State moved forward with seizing those funds.

LEGAL REVIEW:

The City Attorney’s Office has prepared the attached resolution “as to form.”

CONCLUSION:

The City Council needs to consider the adoption of Resolution 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 and Redevelopment Funds.

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ATTACHMENTS: 1 [Resolution 09-___](#)
 2 [League of CA Cities Information on Pending Budget Proposals](#)