

RESOLUTION NO. 109-2007, 2007. It was moved by Commissioner Patterson and duly seconded by Commissioner Ellis to adopt the following Resolution:

WHEREAS, the Board of County Commissioners of Montrose County, Colorado (the "County") and the Citizens Committee For Funding Our Future, CC4FF, have determined that there is a need to fund the Public Safety Organizations acting within the County, such Public Safety Organizations being defined as a law enforcement agency or office, district attorney's office, judicial district, coroner's office, a fire protection district, fire department, or any other public entity dedicated to providing services related to public safety, public health, or emergency management at the county or local level in the State of Colorado; and

WHEREAS, the County does not have the funds in its treasury sufficient to finance the capital expenditures or operational costs associated with the Public Safety Organizations acting within the County (the "Public Safety Improvements"), without curtailing to an unacceptable level other services which the County is obligated to provide; and

WHEREAS, current Public Safety Improvement requirements that have been identified by the County include, but are not limited to, the need to bring the Sheriff's Department to adequate staffing levels and maintain such levels and to increase funding for the regional dispatch center, the drug task force; emergency management, public health programs, and other programs undertaken by the Public Safety Organizations acting within the County; and

WHEREAS, pursuant to Section 30-11-107.9, Colorado Revised Statutes ("C.R.S."), the County is authorized by law to impose a sales tax on the sale of tangible personal property of retail and services taxable in the County pursuant to the provisions of Sections 39-26-104, C.R.S., subject to approval of the registered electors of the County; and

WHEREAS, the Board of County Commissioners has determined that it is in the interest of the residents of the County to impose a 0.75% (three quarters of one percent) sales tax (the "Public Safety Sales Tax"), beginning January 1, 2008; and

WHEREAS, the Public Safety Sales Tax does not exceed the 2% rate permitted by Section 30-11-107.9, C.R.S.; and

WHEREAS, all net revenues of the Public Safety Sales Tax collected by the County after the payment of the costs of collection, administration, and enforcement to the Colorado Department of Revenue (the "Revenue Department") shall be used exclusively for Public Safety Improvements, as set forth more fully herein; and

WHEREAS, the Board of County Commissioners has determined that a question regarding the imposition of the Public Safety Sales Tax for the purposes enunciated

herein should be submitted by the Board of County Commissioners to the registered electors of the County; and

WHEREAS, Article X, Section 20 of the Colorado Constitution, known as the Taxpayer's Bill of Rights ("TABOR") requires voter approval in advance for any new tax; and

WHEREAS, November 6, 2007 is one of the dates upon which TABOR allows ballot issues to be submitted to the registered electors of the County.

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of the County of Montrose, State of Colorado, as follows:

I. General Provisions

A. Purpose. The purpose of this Resolution is, upon approval by a majority of the registered electors of the County voting on such proposal, to impose a three quarters of one percent (0.75%) Public Safety Sales Tax upon the sale of tangible personal property of retail and services taxable in the County pursuant to the provisions of Section 39-26-104, C.R.S. The Public Safety Sales Tax is authorized by Section 30-11-107.9, C.R.S., which is incorporated herein by this reference. The Public Safety Sales Tax shall become effective on January 1, 2008.

B. Statutory Definitions Incorporated. Unless otherwise defined herein, for purposes of this Resolution, the definitions of the words contained herein shall be as defined in Sections 30-11-107.9 and 39-26-102, C.R.S., which definitions are incorporated herein by this reference.

C. Gender. Every word herein importing the masculine gender only may extend to and be applied to females as well as males. Every word herein importing the feminine gender only may extend to and be applied to males as well as females. Every word herein importing the neuter gender only may extend to and be applied to all natural persons.

II. Imposition of Public Safety Sales Tax. Upon approval by a majority of the registered electors of the County voting thereon, commencing January 1, 2008, there shall be imposed a three quarters of one percent (0.75%) Public Safety Sales Tax on the sale of tangible personal property of retail and services taxable in the County pursuant to the provisions of Section 39-26-104, C.R.S., effective throughout the incorporated and unincorporated portions of the County, subject to the following terms and conditions:

A. The tangible personal property and services taxable in the County subject to the Public Safety Sales Tax shall be the same as the tangible personal property of retail and services taxable pursuant to Section 39-26-104, C.R.S.



B. The Public Safety Sales Tax shall be collected, administered, and enforced, to the extent feasible, pursuant to Section 29-2-106, C.R.S.

C. Vendor's Fee. At the time of making a monthly return of the Public Safety Sales Tax, every retailer shall be entitled to withhold a vendor's fee to cover the retailer's expenses in the collection and remittance of said Public Safety Sales Tax in the amount authorized for withholding with respect to the state sales tax pursuant to Section 39-26-105, C.R.S. or such other amount as may be determined by the Board of County Commissioners. If any retailer is delinquent in remitting said Public Safety Sales Tax, other than in unusual circumstances shown to the satisfaction of the Executive Director of the Revenue Department, the retailer shall not retain any amounts to cover such retailer's expenses in collecting and remitting said Public Safety Sales Tax. If any retailer, during any reporting period, shall collect as Public Safety Sales Tax an amount in excess of three quarters of one percent of all taxable sales, such retailer shall remit to the Executive Director of the Revenue Department the full amount of the Public Safety Sales Tax and also the full amount of such excess.

D. Application of Section 29-2-108, C.R.S. The Public Safety Sales Tax is exempt from the six and ninety one-hundredths percent limitation imposed by Section 29-2-108, C.R.S.

III. Effective Date. Upon approval by a majority of the registered electors in the County voting thereon at the election on November 6, 2007, the Public Safety Sales Tax provided herein shall become effective and be imposed beginning at 12:00 a.m. on January 1, 2008.

IV. Statute of Limitations. The statute of limitations applicable to the enforcement of the Public Safety Sales Tax shall be the statute of limitations applicable to the enforcement of state sales tax collections, the statute of limitations applicable to refunds of state sales tax, the amount of penalties and interest payable on delinquent remittances of state sales taxes, and the posting of bonds pursuant to Section 39-21-105 (4), C.R.S.

V. Necessity for Election. The Public Safety Sales Tax shall not become effective until and unless a majority of the registered electors voting thereon, pursuant to Section 30-11-107.9, C.R.S., approve the ballot issue at the election to be held within the County on November 6, 2007.

A. Ballot Title and Submission Clause. The ballot title and submission clause for the Public Safety Sales Tax, shall be, in substantially the following form:

## PUBLIC SAFETY SALES TAX

→ SHALL MONTROSE COUNTY TAXES BE INCREASED \$5,200,000 ANNUALLY BEGINNING IN 2008 AND BY SUCH AMOUNTS AS ARE RECEIVED IN ANY YEAR THEREAFTER BY THE IMPOSITION OF A 0.75% SALES TAX TO BE USED EXCLUSIVELY FOR CAPITAL EXPENDITURES OR OPERATIONAL COSTS ASSOCIATED WITH PUBLIC SAFETY ORGANIZATIONS, AS SUCH TERM IS DEFINED IN SECTION 30-11-107.9, COLORADO REVISED STATUTES, INCLUDING THE SHERIFF'S OFFICE, THE REGIONAL DISPATCH CENTER, THE DRUG TASK FORCE, RURAL MEDICAL CLINICS, THE DISTRICT ATTORNEY'S OFFICE, THE JUDICIAL DISTRICT, THE CORONER'S OFFICE, OR ANY OTHER PUBLIC ENTITY DEDICATED TO PROVIDING SERVICES RELATED TO PUBLIC SAFETY, PUBLIC HEALTH, OR EMERGENCY MANAGEMENT AT THE COUNTY OR LOCAL LEVEL, WITH NO LESS THAN 70% OF THE ANNUAL REVENUE OF SUCH TAX BEING DEDICATED TO THE MONTROSE COUNTY SHERIFF'S OFFICE; SHALL SUCH TAX COMMENCE ON JANUARY 1, 2008 AND BE IMPOSED AS FOLLOWS: A SALES TAX AT A RATE OF 0.75% ON THE SALE OF TANGIBLE PERSONAL PROPERTY OF RETAIL AND SERVICES TAXABLE IN THE COUNTY PURSUANT TO THE PROVISIONS OF SECTION 39-26-104, COLORADO REVISED STATUTES, PROVIDED THAT THIS QUESTION DOES NOT AUTHORIZE THE COUNTY TO INCREASE ANY OTHER FEE OR TAX, INCLUDING PROPERTY TAXES; AND SHALL THIS TAX INCREASE CONSTITUTE A VOTER APPROVED REVENUE CHANGE AND EXCEPTION TO THE LIMITS THAT OTHERWISE WOULD APPLY TO THE COUNTY UNDER ARTICLE X, SECTION 20 OF THE COLORADO CONSTITUTION, COMMONLY KNOWN AS THE TAXPAYER'S BILL OF RIGHTS OR "TABOR"; ALL IN ACCORDANCE WITH THE RESOLUTION ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS OF MONTROSE COUNTY AND SET FORTH IN RESOLUTION NO. \_\_\_\_\_ 2007?

B. Cost of Election. The entire cost of the election shall be paid from the general fund of the County.

C. Notice by Publication. The Montrose County Clerk and Recorder shall publish the text of this Resolution four separate times, a week apart, in the official newspaper of the County and each incorporated municipality within the County.

D. Designated Election Official. The Board of County Commissioners hereby appoints the County Clerk and Recorder as the designated election official for purposes of performing acts required or permitted by law in connection with the Election. Pursuant to Section 1-1-111(2), C.R.S., all powers and authority granted to the Board of County Commissioners may be exercised by the designated election official including but not limited to the power to appoint election judges. The designated election official, shall undertake all measures necessary to comply with the election provisions of TABOR, including, but not limited to, the mailing of required election notices and ballot issue summaries.



E. Conduct of Election. The conduct of the election shall conform to the general election laws of the State of Colorado and with the provisions of TABOR.

F. Contests. Pursuant to Section 1-11-203.5, C.R.S., any election contest arising out of a ballot issue election concerning the order of the ballot or the form or content of the ballot title shall be commenced within five days after the title of the ballot issue is set or the order of the ballot is set.

G. Public Moneys. No public moneys from any source shall be expended directly or indirectly to urge electors to vote in favor or against the imposition of the Public Safety Sales Tax. Nothing in this Subsection shall be construed as prohibiting an elected official from expressing his or her personal opinion concerning the imposition of the Public Safety Sales Tax.

VI. Use of Proceeds. All of the revenue derived from the Public Safety Sales Tax shall be deposited into the Public Safety Fund, to be used solely as described herein.

A. TABOR Restrictions. For purposes of TABOR; the receipt and expenditure of revenues of the Public Safety Sales Tax shall be accounted for, budgeted and appropriated separately from other revenues and expenditures of the County and outside of the fiscal year spending of the County as calculated under TABOR, and nothing in TABOR shall limit the receipt and expenditure in each fiscal year of the full amount of such Public Safety Sales Tax, nor shall receipt and expenditure of such revenues affect or limit the receipt or expenditure of any and all other revenues of the County for any fiscal year.

B. Expenditure of Public Safety Sales Tax Revenue. All net revenues of the Public Safety Sales Tax collected by the County after the payment of the costs of collection, administration, and enforcement to the Revenue Department in accordance with Section 30-11-107.9(4), C.R.S. (the "Net Tax Revenues") shall be used exclusively for Public Safety Improvements as follows:

i. No less than seventy percent (70%) of the Net Tax Revenues shall be used for Public Safety Improvements associated with the Montrose County Sheriff's Office, including the regional dispatch center and the drug task force.

ii. Any Net Tax revenues not used pursuant Subsection B(i) of this Section VI shall be used for Public Safety Improvements associated with rural medical clinics, the Seventh Judicial District, the district attorney, the Montrose County Coroner, or any other public entity dedicated to providing services related to public safety, public health, or emergency management at the county or local level.

C. Investment Earnings from Revenues. Any investment earnings generated from the investment of the Net Tax Revenues shall be used solely as described in Subsection B of this Section VI.

D. Audit. On an annual basis, the County will hire an independent auditor to audit the County's expenditures of the Public Safety Fund.

E. The Board of County Commissioners shall annually review completed allocations of Net Tax Revenues and receive input in regard to proposed future allocations. The Board of County Commissioners shall make a report to the public regarding the use of Net Tax Revenues from the preceding year and shall conduct a public hearing to present its findings.

#### VII. Repeal and Amendment

A. If this Resolution is approved by a majority of the registered electors of the County voting thereon at the election to be held on November 6, 2007, its provisions shall not be repealed or amended except by a subsequent vote of the registered electors of the County other than to: (1) cure any typographical or ministerial error or ambiguity contained in this Resolution; or (2) conform this Resolution to any applicable law of the State of Colorado.

B. If this Resolution is not approved by a majority of the registered electors of the County voting thereon at the election to be held on November 6, 2007, this Resolution and all of its provisions shall be of no further effect.

VIII. Severability. If any section, paragraph, clause, or provision of this Resolution, or the ballot issue submitted to the registered electors at the election provided in Section V above, shall be adjudged to be invalid or unenforceable, the invalidity or enforceability of such section, paragraph, clause or provision shall not affect any of the remaining sections, paragraphs, clauses, or provisions of this Resolution or said ballot issue. It is the intention of the Board of County Commissioners that the various parts of this Resolution and said ballot issue are severable.

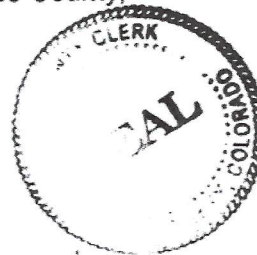
The vote was yes : Commissioner Belt, yes ; Commissioner Ellis, yes ;  
Commissioner Patterson, yes .

The Chair declared the motion passed and so ordered.

PASSED AND ADOPTED this 4th day of September, 2007, in Montrose County,  
Colorado.

Alan J. Belt  
ALAN BELT  
Gary Ellis  
GARY ELLIS  
William D. Patterson  
WILLIAM PATTERSON

6



Mari Simons