

August 9, 2018

Dear Sirs;

In an effort to protect the residents and property owners of the City of Richmond Hill, and all tax payers of Bryan County, the City of Richmond Hill is compelled to bring forth the following facts.

1. The Bryan County Commission has over budgeted expenditures and under budgeted revenues of the county for all years of operation from 2010 to 2016, based on the approved audits. This budget practice of the county for the past eight years has generated **\$12,211,312** dollars in property taxes more than necessary to pay for the services actually provided. This amounts to more than 10 mills in excess property tax collection over eight years. The general fund currently has a reserve of \$19,852,785. Without the excess taxes, the county would still have had a general fund reserve totaling \$11,724,819 as of the year ended 2017 - equaling seven months of its annual budget.
2. Property within the incorporated limits of the City of Richmond Hill has received a 1 mill reduction in county wide assessed millage since 2003. This millage reduction was a part of the 2003 service delivery strategy agreement. The millage reduction was based on an independent study of tax inequities presented by 'Government Solutions, Ltd', which calculated 2.33 mills of inequity by the county against the incorporated property owners of the City of Richmond Hill at that time. In a spirit of cooperation and compromise, the city council agreed to a 1 mill reduction rather than 2.33 mills as recommended.
3. All subsequent service delivery agreements have not challenged this funding item of the service delivery strategy agreement, and in fact, have continued the 1 mill reduction for properties located in the City of Richmond Hill.
4. The current service delivery agreement was required to be reviewed and revised prior to June 30, 2018. If a reviewed and revised agreement was not provided to the Georgia Department of Community Affairs by that date, sanctions would be placed upon the county and all municipal governments, including the loss of local government status. Despite the City of Richmond Hill's urging to begin the required process of negotiation, the county did not move forward in a timely manner, so that an extension had to be filed.
5. The city and county did eventually meet to negotiate. However, the parties were unable to reach an agreement to resolve the service delivery issues. The county and the cities agreed to enter into alternative dispute resolution (ADR) in hopes of settling the continued concerns of tax inequity against the incorporated residents of the City of Richmond Hill and all incorporated residents of the county.
6. Rather than let the ADR process resolve concerns by cooperation, negotiation and agreement, the County, without first notifying the Richmond Hill City Council, has called for a public hearing in order to provide financial data it believes justifies the removal of the 1 mill tax reduction to the property owners of the incorporated residents of the City of Richmond Hill. Removal of the 1 mill tax reduction will be a breach of the current service delivery strategy and will only force the City of Richmond Hill to litigate to protect the financial interest of its citizens.

7. Bryan County will hold the public hearing for the purpose of amending its 2018 Budget to remove the 1 mill tax reduction. In order to remove the 1 mill tax reduction, Bryan County proposes the creation of special service districts. However, the new 2018 budget document does not reflect all the services provided primarily for the benefit of the unincorporated areas. Therefore, the County has not placed all of the necessary expenditures related to the special districts into the proposed 2018 budget. In addition, some of the non-enumerated revenues the county proposes to use to pay for the special service district services are not allowed under Georgia law. For instance, mobile home tax, alcohol beverage tax, cable fees, alcohol licenses and occupational tax totaling \$528,000 dollars are not funding mechanisms allowed under Georgia law to pay for special service district expenditures.

“E. Non-Enumerated Revenues are not contemplated by the Act and are not authorized as funding sources for SDS services in a special service district.” (Gwinnett County v. Auburn et al. page 15).

“...SDS Services “shall be derived from special service districts created by the county in which property taxes, insurance premium taxes, assessments, or user fees are levied or imposed...” O.C.G.A. § 36-70-24(3)(b). When the legislature uses the word “shall” in a statute, the general rule is to interpret it as a command that is mandatory. Hardwick v. State. 264 Ga. 161, 163-64; 442 S.E.2d 236 (1994). The use of “property taxes, insurance premium taxes, user fees” and the limited version of the word “assessments” to fund SDS Services in special service districts is not optional. Such are the only means.” (Gwinnett County v. Auburn et al. page 11).

Further, “...For a special district to be applied constitutionally, there must be “a link between the service provided and the method of financing the service.” Martin v Ellis, 242 Ga. At 340-41. A revenue source lacking an essential link with the service may not be applied to fully fund the service in the special district. Id. On the contrary, each of the Unincorporated Revenues exists to raise revenues, defray regulatory or administrative cost, of approximate costs of services provided. Because the Unincorporated Revenues are derived from wholly unrelated sources, they cannot be included as a funding source for special service districts, Id.” (Gwinnett County v. Auburn et al. page 18).

The proposed changes in the 2018 County budget will result in a minimum of \$1,360,894 dollars in property tax receipts from the incorporated properties to pay for services provided primarily for the unincorporated property owner’s benefit. The \$1,360,894 dollars in property tax receipts, charged to the incorporated properties, result from the county not including all of the cost of services provided primarily for the benefit of the unincorporated areas and the use of ineligible revenues for unincorporated service cost. If the proper allocation of unincorporated service cost and the proper legal revenues were used in the proposed amended 2018 budget, then the total millage reduction for the incorporated property owners would be 4.47 mills up from the 2.33 calculated in the 1999 independent tax equity study authorized by the county and cities.

8. Additionally, the county had not accurately applied the insurance premium tax to reduce service cost and fees, as required by Georgia law, prior to the reduction of special service district taxes being rolled back for the amount of insurance premium tax receipts.

From the years 2010 to 2016, the county failed to budget and expend the insurance premium tax according to Georgia Code 33-8-8.3. The County identified fire and sanitation service as unincorporated services for which the insurance premium tax revenues must be used to reduce cost and fees for services. The below chart of fees and expenses discloses that the county may have charged excess fire and sanitation

fees for the years of service between 2010 and 2016, in excess of the amounts allowed according to the law.

Financial Audit Data, 2010-2016	Expenses	Ins Prem Tax	Net Cost (Allowed fees)
Fire & Solid waste/recycling	\$18,134,016	\$6,108,167	\$12,025,849
Actual fees charged			<u>\$16,037,474</u>
Excess fees charged to unincorporated payers			<u>\$ 4,011,625</u>

The county has not addressed this excess or how it plans to correct this issue.

9. The county has yet to share with the City of Richmond Hill how it plans to correct fund transfers in violation of the current service delivery agreement. The county made transfers and loans of county wide tax dollars to the special service district's fund for fire and water and sewer of \$2,101,222, between the years 2010 and 2017, of which approximately 46% or \$958,788 dollars (1.8 mills) was received from the incorporated property owners. Hence, city property owners paid for county services in the unincorporated area and received no benefit for the taxes that were paid.

10. Richmond Hill believes and has documented its belief that the county has collected \$12,218,365 dollars from incorporated property owners and has used these tax collections to provide services to the unincorporated area and to inflate fund reserves of the county in order to have funds to transfer to or borrow for expected cost over runs in the unincorporated area services.

All of the above concerns were documented and presented to the board of commissioners during the recent service delivery negotiations. In fact, the county and the cities agreed to extend the current service delivery agreements and submit the matters to alternative dispute resolution.

Now, the commission, in the disguise of equal taxation for all, is holding public hearings in an attempt to intentionally hold on to currently known inequities against the incorporated taxpayers.

We encourage the board of commission and all citizens to encourage the board of commission to allow the process to proceed according to the law, to show a spirit of cooperation with the cities, and to stop this action of amending its 2018 budget until the service delivery issues are resolved. Failure to stop this action will leave the City of Richmond Hill no alternative but to file civil litigation against Bryan County in order to protect the citizens and property owners of Richmond Hill. The incorporated taxpayers represent 46% percent of the digest and 41% of the population, and should stand together to correct these inequities now. We would encourage all citizens to let your commissioners know you want to follow the required process to resolve all concerns, correct inequities and correct any and all prior violations.

Please be guided accordingly.

SDS Consultants, LLC.

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