

CITY OF HIGH POINT

AGENDA ITEM



Title: Authorize Payment to Guilford County Board of Education for Prior Collected Property Tax Late Listing Penalties

From: Jeffrey A. Moore, Financial Services Director

Meeting Date: January 16, 2018

Public Hearing: N/A

Advertising Date: N/A

Advertised By:

Attachments: Budget Ordinance Amendment

PURPOSE:

In accordance with NC Constitution and judicial rulings, the City of High Point is required to pay to area school systems any and all clear proceeds of all penalties and forfeitures and collected fines. The City has recently been requested to turnover those funds previously considered budgeted High Point property tax revenues for Guilford County property tax late listing penalties. City Council's approval of a budget ordinance amendment appropriating funds from General Fund fund balance and authorization for the City Manager to remit prior collected fiscal year amounts is required.

BACKGROUND:

The City routinely remits amounts to Guilford County Schools for fines, penalties and forfeitures received any given month. The City's other county tax collection/administration contracts cause any eligible amounts to be remitted directly to their corresponding school systems, and the administrative portion provided to us. Until recently, this was also our understanding for those amounts provided from Guilford County.

The Guilford County Board of Education sent a demand letter dated June 9, 2017, at which time we learned our understanding may not have been correct. In the ensuing months, financial and legal staff have researched and corroborated majority of assertions in the letter, but do believe the City is eligible to retain the 10% administrative fees as statutory costs of collections embedded within the City's annual payment under the Interlocal Agreement for the Collection and Administration of Guilford County Property Taxes.

Fiscal Year Ended	Amount	Administrative Deduction	Remitted
2012	49,198.89	4,919.89	44,279.00
2013	66,114.11	6,611.41	59,502.70
2014	29,223.65	2,922.37	26,301.28
2015	35,132.08	3,513.21	31,618.87
2016	32,198.38	3,219.84	28,978.54
2017	34,755.60	3,475.56	31,280.04
	<u>246,622.71</u>	<u>24,662.28</u>	<u>221,960.43</u>

BUDGET IMPACT:

The 2017-2018 Annual Budget included expected revenues from late listing penalties of \$37,000. The attached budget ordinance amendment will appropriate prior year amounts collected, less the administrative fee deduction.

RECOMMENDATION / ACTION REQUESTED:

The City Council is recommended to approve the budget amendment and authorize the City Manager and Financial Services Director to pay \$221, 960.43 to the Guilford County Board of Education.

"AN ORDINANCE AMENDING THE 2017-2018 BUDGET ORDINANCE
OF THE CITY OF HIGH POINT, NORTH CAROLINA
TO APPROPRIATE FUND BALANCE FOR PAYMENT OF PRIOR COLLECTED
PROPERTY TAX LATE LISTING PENALTIES

Be it ordained by the City Council of the City of High Point, North Carolina, as follows:

Section 1. The City of High Point is required to pay Guilford County Schools any and all clear proceeds of all penalties and forfeitures and collected fines

Section 2. The 2017-2018 Budget Ordinance of the City of High Point, should be amended as follows:

(A) That General Fund revenues be amended as follows:

Appropriated Fund Balance	\$ 221,961
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(B) That the General Fund expenditures be amended as follows:

Special Appropriation Expenditures	\$221,961
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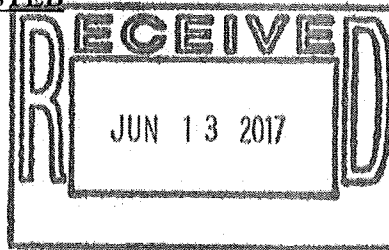
Section 3. That all ordinances, or parts of ordinances in conflict with this ordinance are hereby repealed to the extent of such conflict.

Section 4. That this ordinance shall be effective from and after its passage."

Adopted January 16, 2018

June 9, 2017

CERTIFIED MAIL
RETURN RECEIPT REQUESTED



Mr. Greg Demko
City of High Point
211 S. Hamilton St. #320
High Point, NC 27260

Dear Mr. Demko:

This law firm represents the Guilford County Board of Education. I am writing to notify you that the Board of Education has become aware that the City of High Point has collected certain fines and has not distributed those fines to the Board of Education. These fines include, but may not be limited to, fines collected by Guilford County on behalf of the municipality as late list penalties on property taxes.

As you are aware, pursuant to Art. IX § 7 of the North Carolina Constitution, a local board of education is entitled to receive the proceeds of all penalties, forfeitures, and fines received by a local municipality. *See also Shavitz v. City of High Point*, 177 N.C. App. 465, 630 S.E.2d 4 (2006). The municipal officer overseeing the funds must remit these proceeds to the school finance officer within ten (10) days after the close of the calendar month within which the funds were received or collected. N.C. Gen. Stat. § 115C-437. A municipality is entitled to retain ten percent (10%) of the proceeds to off-set the cost of collection. *Id.* However, in the case of the late list penalties described above, collection was performed by Guilford County, not the City of High Point.

Records of Guilford County and the Guilford County Schools indicate that City of High Point has not remitted the following late list penalties to the Guilford County Schools:

Fiscal Year 2012	\$49,198.89
Fiscal Year 2013	66,114.11
Fiscal Year 2014	29,223.65
Fiscal Year 2015	35,132.08
Fiscal Year 2016	32,198.38

Total **\$211,867.11**

Mr. Greg Demko

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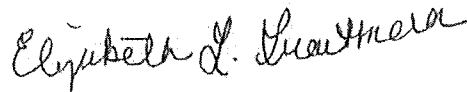
June 9, 2017

Accordingly, on behalf of the Guilford County Board of Education, I am writing to request that the City of High Point remit all proceeds from fines and forfeitures collected since July 1, 2014 to Angie Henry, Finance Officer for the Guilford County Schools, no later than June 25, 2017. If you do not remit the payments to which the Guilford County Board of Education is entitled by June 25, 2017, the Board will find it necessary to file a complaint for statutory and constitutional violations against you, the City of High Point, and any other necessary parties, seeking to recover damages arising out of these violations.

Alternatively, enclosed you will find a tolling agreement, whereby the Statute of Limitations governing the Board of Education's claims would be tolled pending resolution of this matter. If we receive an executed tolling agreement by June 25, 2017, the Board of Education will await to file suit in the hopes of resolving the matter through discussion and negotiation. Please feel free to email the executed tolling agreement directly to me at: etroutman@brookspierce.com.

If you have any questions or wish to discuss these issues further, please contact me at (336) 271-3138. Thank you for your prompt attention to this matter.

Sincerely,

A handwritten signature in cursive script, reading "Elizabeth L. Troutman".

Elizabeth L. Troutman

Enclosure

cc: Angie Henry, Chief Financial Officer
Guilford County Schools