



September 1, 2023

VIA OVERNIGHT DELIVERY

State Election Board
2 MLK JR Drive Southeast
Suite 802
Floyd West Tower
Atlanta, Georgia 30334

Re: City of Milton Municipal Election

State Election Board:

This office and the undersigned represent the City of Milton (“Milton” or the “City”). We are in receipt of attorney Bryan Sells’ correspondence to the State Election Board (“SEB”), suggesting that Milton has committed errors in its preparation for conducting the 2023 municipal election. While the City of Milton always appreciates citizen input and feedback; within the context of the 2023 election the asserted allegations advanced are meritless. Please accept this letter as Milton’s response to such allegations, with the City’s corresponding confirmation that it has (and will continue to) prepare for and undertake its municipal election in conformance with Georgia law.

Milton was incorporated on December 1, 2006. Historically, the City has entered into an Intergovernmental contract with Fulton County authorizing the Fulton County Board of Registrations and Elections to conduct Milton elections. In 2022, the City conducted a feasibility study to ascertain whether it might be cost-effective to administer municipal elections internally, rather than contract those duties to Fulton County. The City ultimately determined to conduct its own municipal election for the 2023 election cycle. All county, state, and federal elections pertinent to Milton residents will still be performed by Fulton County.

Attorney Sells’ correspondence [suggesting errors or omissions on the part of Milton in preparing for the upcoming municipal election] is – respectfully - inaccurate and predicated on incomplete information. The City will provide its responses in seriatim to the advanced allegations.

Allegation No. 1: That the Fulton County Board of Commissioners, rather than the City Council, possesses the sole authority to change the number and boundaries of precincts.

Response: Allegation No. 1 is not supported by law. O.C.G.A. § 21-2-262(d) provides that in a county “having a population of more than 250,000 (such as Fulton County),” the powers and duties conferred upon the superintendent in O.C.G.A. § 21-2-261 and § 21-2-261.1 shall be exercised and performed by the governing authority of the county. However, §§ 261 and 261.1

identify different entities for making decisions regarding precincts. Those distinct entities are the “county superintendent” or the “governing authority of a municipality.”

Thus, O.C.G.A. 21-2-262(d)’s declaration that the duties of the “superintendent” be performed by the county (assuming a population of over 250,000) – has no application to precinct decisions by the “governing authority of a municipality.” Such a conclusion is mandated by basic statutory construction. The reference to “superintendent” in § 262(d) modifies that *same* term in §§ 261 and 261.1 - as reflected by the arrows below. O.C.G.A. § 21-2-262(d) has no application to the precinct-based duties and functions of the “governing authority of the municipality.”

O.C.G.A. 21-2-262(d) is here:

(d) In any county having a population of more than 250,000 according to the United States decennial census of 1970 or any such future census, the powers and duties conferred upon the superintendent by this Code section and Code Sections 21-2-261 and 21-2-261.1 shall be exercised and performed by the governing authority of the county.

O.C.G.A. 21-2-261 provides:

(a) The superintendent of a county or the governing authority of a municipality may, as provided in Code Section 21-2-262, divide or redivide any precinct in that county or municipality into two or more precincts of compact and contiguous territory, or alter the bounds of any precinct in that county or municipality, or form a precinct out of two or more adjoining precincts or parts of precincts in that county or municipality, or consolidate adjoining precincts in that county or municipality, so as to suit the convenience of the electors and to promote the public interests.

O.C.G.A. 21-2-261.1 provides:

(b) The superintendent of a county or the governing authority of a municipality shall notify the board of registrars within ten days after such changes are adopted.

(c) The superintendent of a county or the governing authority of a municipality shall file with the Secretary of State and the Legislative and Congressional Reapportionment Office:

The interpretation advanced by attorney Sells would only be appropriate if language (in red, below) was added to O.C.G.A. § 21-2-262(d):

(d) In any county having a population of more than 250,000 according to the United States decennial census of 1970 or any such future census, the powers and duties conferred upon the superintendent or the governing authority of a municipality by this Code section and Code Sections 21-2-261 and 21-2-261.1 shall be exercised and performed by the governing authority of the county.

No such language exists. As such, stated succinctly, the first allegation leveled against Milton misses the mark.

Allegation No. 2: That the map accompanying the precinct resolution does not identify the boundaries of Precinct 1 and Precinct 2 “as required” by O.C.G.A. §§ 21-2-262(a) and (b) thereby rendering it “impossible” to determine whether they conform to the boundary requirements of O.C.G.A. § 21-2-261(a).

Response: Allegation No. 2 is incorrect and predicated on incomplete information. The City Council has yet to take final action on its 2023 precinct boundaries. The City is currently advertising a precinct boundary map containing three (3) precincts, with final action on same to occur September 6, 2023. As to attorney Sells’ concerns over precinct “boundary requirements” –

we find this concern curious given that the City has not altered the exterior precinct boundaries set by Fulton County. Rather than disturb those previously set precinct boundaries, the City is merely proposing to ‘consolidate adjoining precincts...so as to suit the convenience of the electors and to promote the public interest.’ O.C.G.A. 21-2-261(a). Not surprisingly, municipal elections – with no corresponding county, state, or federal matters on the ballot – have lower turnout and do not require the same level of staffing or locations to be successful. Once the municipal precincts are finalized, the City will make available an online interactive map on its webpage that allows a citizen to input their address to locate their assigned Milton precinct and polling location.

A copy of the draft precinct map is attached as Exhibit A. Again, this map will be up for approval on Wednesday, September 6, 2023.

Allegation No. 3: That O.C.G.A. § 21-2-262(c) requires the Fulton County Commission to give at least thirty (30) days’ notice of any changes in the number or boundaries of precincts by publishing the details in the legal organ of the county.

Response: The code section cited by attorney Sells is related to changes in precincts performed by the county superintendent. As explained in response to allegation 1, for municipal elections it is the “municipal governing authority” (not the superintendent) that is authorized to make changes to precincts. And, even though not required, in an effort at transparency, the City advertised the adjusted precincts in the legal organ more than thirty (30) days prior to the date of final Council action on same.

Allegation No. 4: Attorney Sells’ final allegation is that a City councilmember, “may be attempting to participate in the administration of his own election.” Attorney Sells further alleges improper influence in the hiring of an election consultant.

Response: This last accusation is unfounded. Georgia law contemplates that a municipal governing authority (City Council) is *required* to make various decisions regarding the administration of municipal elections. Rick Mohrig is a member of the City Council. As noted above, it is the City Council (not the Fulton County Board of Commissioners) that is required and expected to make decisions on precinct boundaries. Yet, the implicit suggestion in attorney Sells’ letter is that Council members (whose posts are up for election, like Council member Mohrig) must recuse. This suggestion is not accurate.

If it were the case that Council members whose posts were on the ballot were disqualified from voting on precincts (or other logistical issues), then, during the 2025 City election cycle, a quorum of the Council would be automatically disqualified. In 2025, the Mayor and Milton posts 1/1, 2/1, and 3/1 are up for election. So, if four (4) members of the Council were automatically disqualified because the Mayor and the 1/1, 2/1, and 3/1 posts were on the ballot – then the City would be legally hamstrung and unable to take any action. This would conflict with O.C.G.A. § 21-2-261 and be legally and practically untenable.

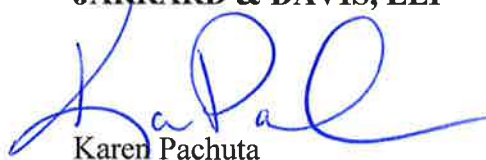
As to the allegation regarding “improper influence” in the hiring of an election consultant – that is an unsupported allegation. While there are communications reflecting Mohrig’s repeated

efforts at ensuring a particular candidate (for an election consultant position) was interviewed, Mohrig had no power to retain a consultant. In fact, Milton has had two election consultants, with both consultants serving pursuant to an independent contractor agreement approved by the full Council. Moreover, attorney Sells does not explain how an election consultant [whose service and contract was approved by the full City Council] can imperil the legitimacy, accuracy, or transparency of Milton's election process. Milton's election process has been heavily scrutinized, with numerous citizens and the local paper routinely reporting on all aspects of Milton's election effort. There is no merit to the suggestion that Milton's process has been compromised or anything other than front-facing, transparent, thoroughly vetted, and legally compliant.

In conclusion, and respectfully, the City disagrees with the factual predicate and conclusions advanced in attorney Sells' letter. The City is prepared to answer any questions the SEB may have regarding the City's election effort and would welcome questions or further inquiry. Should the SEB require further information on the upcoming municipal election and the steps Milton has undertaken to conduct the election, please reach out to our office.

Sincerely,

JARRARD & DAVIS, LLP

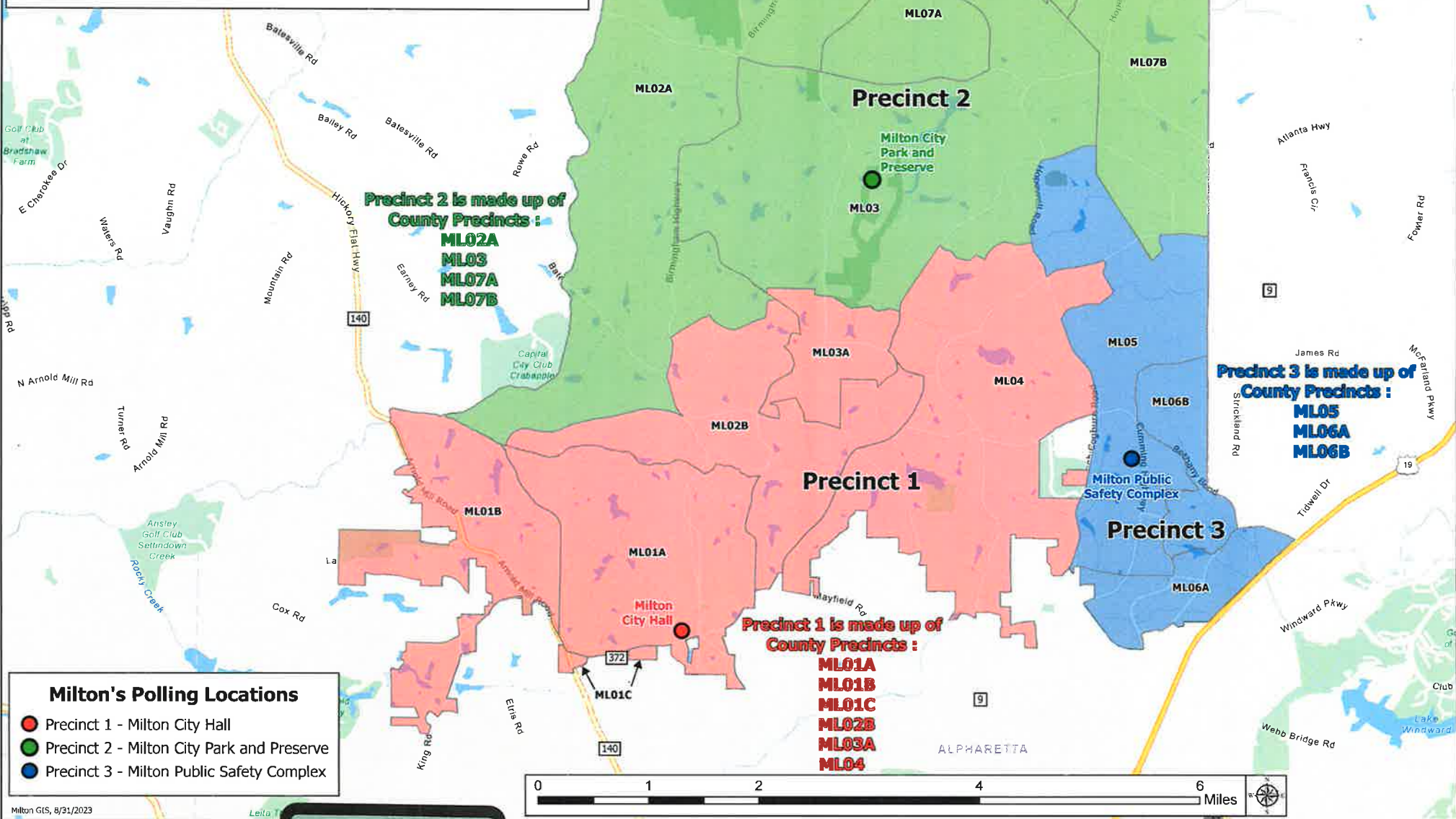


Karen Pachuta

Cc: Bryan L. Sells, Esq.
Steven Krokoff, City Manager and Municipal Superintendent

Enclosure

Milton's 2023 Voting Precinct and Polling Location Map

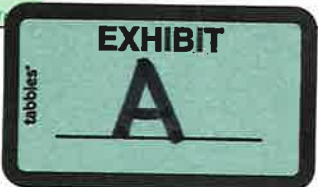


Precinct 2 is made up of County Precincts :
ML02A
ML03
ML07A
ML07B

Precinct 3 is made up of County Precincts :
ML05
ML06A
ML06B

Precinct 1 is made up of County Precincts :
ML01A
ML01B
ML01C
ML02B
ML03A
ML04

- Milton's Polling Locations**
- Precinct 1 - Milton City Hall
 - Precinct 2 - Milton City Park and Preserve
 - Precinct 3 - Milton Public Safety Complex



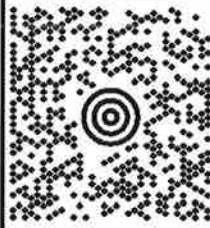
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222 WEBB STREET
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LTR

1 OF 1

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Karen Pachuta

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