

00-11746

(Do Not Write Above This Line)

A RESOLUTION

BY PUBLIC SAFETY AND LEGAL ADMINISTRATION COMMITTEE

A RESOLUTION AUTHORIZING THE SETTLEMENT OF THE CLAIM OF TRAVELERS PROPERTY CASUALTY AS SUBROGEE OF LINSEY FANNIN, Jr. IN THE AMOUNT OF \$24,990.46 AGAINST THE CITY OF ATLANTA ARISING FROM A SEWER BACKUP.

ADOPTED BY

AUG 07 2000

APPROVED BY:

Rosalind Rubens Newell

ROSALIND RUBENS NEWELL
DEPUTY CITY ATTORNEY

- CONSENT REFER
- REGULAR REPORT REFER
- ADVERTISE & REFER
- 1st ADOPT 2nd READ & REFER
- PERSONAL PAPER REFER

Date Referred

Referred To:

Date Referred

Referred To:

Date Referred

Referred To:

First Reading

Committee _____
 Date _____
 Chair C. T. Mendonca
 Referred to _____

Committee

Date

Chair

Action:

Fav, Adv, Hold (see rev. side)

Other:

Members

Refer To

Committee

Date

Chair

Action:

Fav, Adv, Hold (see rev. side)

Other:

Members

Refer To

Committee

Date

Chair

Action:

Fav, Adv, Hold (see rev. side)

Other:

Members

Refer To

Committee

Date

Chair

Action:

Fav, Adv, Hold (see rev. side)

Other:

Members

Refer To

FINAL COUNCIL ACTION

- 2nd
- 1st & 2nd
- 3rd
- Readings
- Consent
- V Vote
- RC Vote

CERTIFIED

CERTIFIED
AUG 7 2000

Rosalind Rubens Newell

CERTIFIED
AUG 07 2000

Rosalind Rubens Newell
MUNICIPAL CLERK

MAYOR'S ACTION

APPROVED

AUG 16 2000

WITHOUT SIGNATURE
BY OPERATION OF LAW



A RESOLUTION

BY PUBLIC SAFETY AND LEGAL ADMINISTRATION COMMITTEE

A RESOLUTION AUTHORIZING THE SETTLEMENT OF THE CLAIM OF TRAVELERS PROPERTY CASUALTY AS SUBROGEE OF LINSEY FANNIN, JR. IN THE AMOUNT OF \$24,990.46 AGAINST THE CITY OF ATLANTA ARISING FROM A SEWER BACK UP,

WHEREAS, TRAVELERS PROPERTY CASUALTY AS SUBROGEE OF LINSEY FANNIN, JR., has filed a claim against the City of Atlanta seeking damages arising out of a sewer back up to his property located at 26 Delmore Drive, NW; and

WHEREAS, property owned by LINSEY FANNIN Jr., has been damaged due to a sewer back up on February 20, 1999. The City was on notice of a blockage in the mainline on February 19, 1999 but failed to clear the blockage in a timely manner; and

WHEREAS, the City of Atlanta was on notice of said nuisance and yet the City failed to abate said nuisance; and

WHEREAS, inasmuch as the facts disclosed indicate said claim is not based on a claim of negligence, but is a nuisance which is not subject to a defense of sovereign immunity under the laws of the State of Georgia; and

WHEREAS, the claimant has asserted damages in the amount of \$24,990.46 and has agreed to accept this sum full and complete satisfaction and settlement of its claim against the City of Atlanta; and

WHEREAS, the City Attorney has recommended that the claim of TRAVELERS PROPERTY CASUALTY AS SUBROGEE OF LINSEY FANNIN, Jr., be settled for the sum of \$24,990.46.

THEREFORE, BE IT RESOLVED that the Council of the City of Atlanta, Georgia that \$24,990.46 be paid by the City of Atlanta to TRAVELERS PROPERTY CASUALTY AS SUBROGEE OF LINSEY FANNIN, Jr., in satisfaction of any and all claims TRAVELERS PROPERTY CASUALTY AS SUBROGEE OF LINSEY FANNIN, Jr., may have stemming from damages sustained to its insured property on or about February 20, 2000 at 26 Delmore Drive, N.W., and that the City Attorney prepare appropriate releases.

BE IT FURTHER RESOLVED that the Chief Financial Officer is hereby authorized to pay the above mentioned sum from account number 2J01/529017/T31001.

A true copy,
Rhonda Daughin Johnson
Municipal Clerk, CMC

ADOPTED by the Council
RETURNED WITHOUT SIGNATURE OF THE MAYOR
APPROVED as per City Charter Section 2-403

AUG 07, 2000
AUG 16, 2000

DEPARTMENT OF LAW - CLAIM INVESTIGATION SUMMARY

Claim No. 00L0142

Date: July 3, 2000

Claimant /Victim TRAVELERS PROPERTY CASUALTY AS SUBROGEE OF LINSEY FANNIN, Jr.

BY: (Atty) (Ins. Co.)

Address: P.O. Box 2954, Milwaukee, WI 53201-2954

Subrogation: X Claim for Property damage \$ 24,990.46 Bodily Injury \$

Date of Notice: 02/24/00 Method: Written, proper X Improper

Conforms to Notice: O.C.G.A. §36-33-5 X Ante Litem (6 Mo.) X

Date of Occurrence 02/20/00 Place: 26 Delmoor Drive, NW

Department Public Works Division: Sewer Operations

Employee involved Disciplinary Action:

NATURE OF CLAIM: Claimant sustained damage in the above-listed amount when sewage backed-up into his house. The City was on notice of a blockage in the mainline on February 19, 1999, but failed to clear the blockage in a timely manner.

INVESTIGATION:

Statements: City employee Claimant Others Written Oral

Pictures Diagrams X Reports: Police Dept Report X Other

Traffic citations issued: City Driver Claimant Driver

Citation disposition: City Driver Claimant Driver

BASIS OF RECOMMENDATION:

Function: Governmental X Ministerial

Improper Notice More than Six Months Other Damages reasonable X

City not involved Offer rejected Compromise settlement

Repair/replacement by Ins. Co. Repair/replacement by City Forces

Claimant Negligent City Negligent X Joint Claim Abandoned

Respectfully submitted,

INVESTIGATOR - DOBBS JORDAN

RECOMMENDATION:

Pay \$ 24,990.46 Adverse Account charged: 1A01 2J01 X 2H01

Claims Manager: Concur/date 07-19-00

Committee Action: Council Action

Jordan
03102100
D

COUNCIL OF THE CITY OF ATLANTA
MUNICIPAL CLERK
City Hall
55 Trinity Avenue, S.W.
Atlanta, Georgia 30335

RE: CLAIM FOR DAMAGES

Today's Date: 2/22/2000

FEB 24

02-24-00 P05:03
ENTERED - 3-6-00 - SB
00L0142 - DOBBS JORDAN

Dear Municipal Clerk:

This is to notify the City of Atlanta that I have suffered damages in the amount sum of \$ 16,435.00 property and/or \$ N/A bodily injury for which I contend the City is liable.

1. Date of incident: 02/20/00 (month/day/year). 2. Time of Incident: 4:30-5:00pm between. Police called: X Yes No

4. Location of incident (including street address): 26 Delmon Drive, N.W. Atlanta, GA.

5. Name of your insurance company: Traveler's Insurance Policy No. 2574642936332

6. State what and how incident occurred: The City of Atlanta was flushing their sewage line and the pressure backed the sewage into my basement.

Water level got about five inches high throughout basement, which caused property damage on attached sheet

7. ALL ESTIMATES AND DAMAGES ARE SUBJECT TO INSPECTION. THE MAKING OF FALSE CLAIMS WILL RESULT IN YOUR CLAIM BEING DENIED AND MAY RESULT IN CRIMINAL PROSECUTION!

8. The registered owner must make the claim for vehicle damages, complete the following and attach two (2) estimates of repair and proof of ownership of your vehicle (copy of the current tag receipt or title).

Your vehicle: N/A N/A N/A (Make) (Year) (Tag Number) (Driver's Name)

City vehicle: N/A N/A N/A (Make) (City Driver's Name) (Department/Bureau)

9. Witness: (1) Jerome Fannin 26 Delmon Dr NW Atlanta, GA. 30311 (404) 691-4471 (Name) (Address) (Telephone Number)

10. The acknowledgement of this claim in no way waives the sovereign immunity of the City of Atlanta, as granted by State law, nor is it an admission of liability on behalf of the City of Atlanta and / or its employee(s).

11. This claim should be mailed immediately to the address shown above.

I HEREBY SWEAR OR AFFIRM THAT THE ABOVE INFORMATION IS TRUE AND CORRECT.

Linsay Fannin Jr.
Signature of Claimant

Linsay FANNIN JR
(Print Claimant's Name)

26 DELMOOR DR, N.W.
(Address)

ATLANTA, GA. 30311
(City, State and Zip Code)

X 404-691-4471
(Work Number) (Home Number)

* See attached sheet for list of property.

Atlanta City Council

Regular Session

CONSENT 1

Pages 1-15 KP

Adopt

YEAS: 13
NAYS: 0
ABSTENTIONS: 0
NOT VOTING: 2
EXCUSED: 0
ABSENT 1

SEE ATTACHED LISTING OF
ITEMS ADOPTED/ADVERSED
ON CONSENT AGENDA

NV McCarty
Y Starnes
Y Bond
Y Winslow

Y Dorsey
Y Woolard
Y Morris
Y Muller

Y Moore
Y Martin
Y Maddox
Y Boazman

Y Thomas
B Emmons
Y Alexander
NV Pitts

ITEM (S) REMOVED FROM
CONSENT AGENDA
00-O-1102
00-R-1197
00-R-1106
00-R-1123
00-R-0721

08/07/00 Council Meeting		
ITEMS ADOPTED ON CONSENT AGENDA	ITEMS ADOPTED ON CONSENT AGENDA	ITEMS ADVERSED ON CONSENT AGENDA
1. 00-O-1009	41. 00-R-1175	64. 00-R-1148
2. 00-O-1010	42. 00-R-1176	65. 00-R-1149
3. 00-O-1011	43. 00-R-1177	66. 00-R-1150
4. 00-O-1012	44. 00-R-1178	67. 00-R-1151
5. 00-O-1079	45. 00-R-1179	68. 00-R-1152
6. 00-O-0834	46. 00-R-1180	69. 00-R-1153
7. 00-O-1065	47. 00-R-1181	70. 00-R-1154
8. 00-O-1004	48. 00-R-1182	71. 00-R-1155
9. 00-O-1112	49. 00-R-1183	72. 00-R-1156
10. 00-R-1139	50. 00-R-1184	73. 00-R-1157
11. 00-R-1140	51. 00-R-1185	74. 00-R-1158
12. 00-R-1141	52. 00-R-1186	75. 00-R-1159
13. 00-R-1142	53. 00-R-1187	76. 00-R-1160
14. 00-R-1144	54. 00-R-1188	77. 00-R-1161
15. 00-R-1204	55. 00-R-1189	78. 00-R-1162
16. 00-R-1208	56. 00-R-1190	79. 00-R-1163
17. 00-R-1209	57. 00-R-1191	80. 00-R-1164
18. 00-R-1210	58. 00-R-1192	81. 00-R-1165
19. 00-R-1106	59. 00-R-1193	82. 00-R-1166
20. 00-R-1146	60. 00-R-1199	83. 00-R-1167
21. 00-R-1147	61. 00-R-1200	84. 00-R-1168
22. 00-R-1194	62. 00-R-1201	85. 00-R-1169
23. 00-R-1203	63. 00-R-1202	86. 00-R-1170
24. 00-R-1205		87. 00-R-1171
25. 00-R-1212		88. 00-R-1172
26. 00-R-1213		89. 00-R-1173
27. 99-R-1145		90. 00-R-1174
28. 99-R-1932		
29. 00-R-1108		
30. 00-R-1110		
31. 00-R-1129		
32. 00-R-1130		
33. 00-R-1131		
34. 00-R-1134		
35. 00-R-1206		
36. 00-R-1121		
37. 00-R-0329		
38. 00-R-1136		
39. 00-R-1137		
40. 00-R-1138		