

00- R -1815

(Do Not Write Above This Line)

A RESOLUTION

BY PUBLIC SAFETY & LEGAL ADMINISTRATION COMMITTEE

A RESOLUTION AUTHORIZING THE SETTLEMENT OF THE CLAIM OF EDWARD M. BAILEY IN THE AMOUNT OF \$5,048.26 AGAINST THE CITY OF ATLANTA ARISING FROM A SEWER BACK UP

By: Robert N. Godfrey, Deputy City Attorney, ADOPTED BY

- CONSENT REFER NOV 20 2000
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
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
Consent
V Vote
RC Vote

CERTIFIED

CERTIFIED

NOV 20 2000

John M. Stokes, Municipal President Pro Tem

CERTIFIED

NOV 20 2000

Rachel Douglas Johnson, Municipal Clerk

MAYOR'S ACTION

APPROVED

NOV 29 2000

Mayor's Office

A RESOLUTION

BY PUBLIC SAFETY & LEGAL ADMINISTRATION COMMITTEE

A RESOLUTION AUTHORIZING THE  
SETTLEMENT OF THE CLAIM OF  
EDWARD M. BAILEY IN THE AMOUNT OF  
\$5,048.26 AGAINST THE CITY OF  
ATLANTA ARISING FROM A SEWER  
BACK UP.

00- R -1815

**WHEREAS**, EDWARD M. BAILEY has filed a claim against the City of Atlanta seeking damages arising out of a sanitary sewer back up to his property located at 308 E. Rhine Hill Road, SE, Atlanta, Georgia; and

**WHEREAS**, property owned by EDWARD M. BAILEY has been damaged due to a sewer back up and sewer overflow resulting from a blockage of the South River trunk line. This blockage is due to an accumulation of storm water in the system which the City had knowledge of prior to the back up which occurred on April 2, 2000 specifically; and

**WHEREAS**, the City of Atlanta was on notice of said nuisance and failed to respond and successfully 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 \$5,048.26 and has agreed to accept this sum in full and complete satisfaction and settlement of his claim against the City of Atlanta; and

**WHEREAS**, the City Attorney has recommended that the claim of EDWARD M. BAILEY, be settled for the sum of \$5,048.26.

**THEREFORE, BE IT RESOLVED** that the Council of the City of Atlanta, Georgia that \$5,048.00 be paid by the City of Atlanta to EDWARD M. BAILEY, in satisfaction of any and all claims he may have stemming from damages sustained to his property on or about April 2, 2000, at 308 E. Rhine Hill Road, SE, 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

November 20, 2000

November 29, 2000

DEPARTMENT OF LAW - CLAIM INVESTIGATION SUMMARY

Claim No. 00L0313

Date: November 3, 2000

Claimant /Victim EDWARD M. BAILEY
BY: (Atty) (Ins. Co.)
Address: 308 Rhine Hill Road, SE, Atlanta, Georgia 30315
Subrogation: Claim for Property damage \$ 5,048.26 Bodily Injury \$
Date of Notice: 5/17/00 Method: Written, Proper X Improper
Conforms to Notice: O.C.G.A. §36-33-5 X Ante Litem (6 Mo.) X
Date of Occurrence 4/2/00 - 4/7/00 Place: 308 Rhine Hill Road, SE
Department PUBLIC WORKS Division Sewer Operations
Employee involved Disciplinary Action:

NATURE OF CLAIM: Claimant sustained property damages to his residence from a sanitary sewer back up. An investigation determined that Claimant's back up continued for some length of time and the City was on notice of said sewer problem, but failed to respond and correct the problem within a reasonable time.

INVESTIGATION:

Statements: City employee X Claimant X Others Written Oral X
Pictures Diagrams Reports: Police Dept Report X Other X
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,

Gwendolyn Burns
INVESTIGATOR - GWENDOLYN BURNS

RECOMMENDATION:

Pay \$ 5,048.26 Adverse Account charged: 1A01 2J01 X 2H01
Claims Manager: Concur/date 11-02-00
Committee Action: Council Action

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

1/3 Reeves  
05/17/00  
Du  
Today's Date: April 24-2000

ENTERED - 5-19 - SB  
00L0313 - MIKE REEVES

Dear Municipal Clerk:

This is to notify the City of Atlanta that I have suffered damages in the amount sum of \$ \$2,400.00 property and/or \$ \_\_\_\_\_ bodily injury for which I contend the City is liable.

1. Date of incident: 4-2-2000 2. Time of Incident: \_\_\_\_\_ 3. Police called: \_\_\_\_\_  
(month/day/year) Yes No
4. Location of incident (including street address): 308 East Rhine Hill Rd - Atlanta, Ga. 30315
5. Name of your insurance company: \_\_\_\_\_ Policy No. \_\_\_\_\_

6. State what and how incident occurred: I had been out of town for a couple of days and came back in town and I had to go downstairs into my Basement to get some food out of the Deep freezer and behold I had a basement swimming pool of raw sewage floating into my full Basement. There was raw human species floating everywhere

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!

All items listed on following pages !!!

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: \_\_\_\_\_  
(Make) (Year) (Tag Number) (Driver's Name)

City vehicle: \_\_\_\_\_  
(Make) (City Driver's Name) (Department/Bureau)

9. Witness: \_\_\_\_\_  
(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.

Mr. Edward M. Bailey  
Signature of Claimant

MR. EDWARD M. BAILEY  
(Print Claimant's Name)  
308 East Rhine Hill Rd  
(Address)  
Atl. Ga 30315  
(City, State and Zip Code)  
404-622-8021  
(Work Number) (Home Number)

Council President Pro Tem Starnes  
Presided

RCS# 2401  
11/20/00  
2:00 PM

Atlanta City Council

Regular Session

CONSENT

Pages: 1-18

00-R-1849  
(Morris Voted NAY)

ADOPT

YEAS: 13  
NAYS: 0  
ABSTENTIONS: 0  
NOT VOTING: 3  
EXCUSED: 0  
ABSENT 0

SEE ATTACHED LISTING OF  
ITEMS ADOPTED/ADVERSED  
ON CONSENT AGENDA

Y McCarty  
Y Starnes  
NV Bond  
Y Winslow

Y Dorsey  
Y Woolard  
Y Morris  
Y Muller

Y Moore  
Y Martin  
Y Maddox  
Y Boazman

Y Thomas  
Y Emmons  
NV Alexander  
NV Pitts

ITEM (S) REMOVED FROM  
CONSENT AGENDA

00-O-1111  
00-R-1693  
00-R-1694  
00-R-1695  
00-R-1696  
00-R-1697  
00-R-1804  
00-R-1835

CONSENT

11/20/00 Council Meeting		
ITEMS ADOPTED ON CONSENT AGENDA	ITEMS ADOPTED ON CONSENT AGENDA	ITEMS ADVERSED ON CONSENT AGENDA
1. 00-O-1690 2. 00-O-1691 3. 00-O-1692 4. 00-O-1845 5. 00-O-1864 6. 00-O-0728 7. 00-R-1702 8. 00-R-1703 9. 00-R-1705 10. 00-R-1707 11. 00-R-1850 12. 00-R-1865 13. 00-R-1851 14. 00-R-1873 15. 00-R-1622 16. 00-R-1623 17. 00-R-1699 18. 00-R-1775* 19. 00-R-1776* 20. 00-R-1777* 21. 00-R-1782 22. 00-R-1687 23. 00-R-1668 24. 00-R-1786 25. 00-R-1789 26. 00-R-1799 27. 00-R-1800 28. 00-R-1813 29. 00-R-1814	30. 00-R-1815 31. 00-R-1849# 32. 00-R-1858 33. 00-R-1862 34. 00-R-1787* 35. 00-R-1790 36. 00-R-1791 37. 00-R-1794 38. 00-R-1798 39. 00-R-1861 40. 00-R-1686 41. 00-R-1843 42. 00-R-1869 43. 00-R-1870 44. 00-R-0973 45. 00-R-0816 46. 00-R-1803 47. 00-R-1805 48. 00-R-1806 49. 00-R-1807 50. 00-R-1808 51. 00-R-1809 52. 00-R-1810 53. 00-R-1811 54. 00-R-1812	55. 00-R-1816 56. 00-R-1817 57. 00-R-1818 58. 00-R-1819 59. 00-R-1820 60. 00-R-1821 61. 00-R-1822 62. 00-R-1823 63. 00-R-1824 64. 00-R-1825 65. 00-R-1826 66. 00-R-1827 67. 00-R-1828 68. 00-R-1829 69. 00-R-1830 70. 00-R-1831 71. 00-R-1832 72. 00-R-1833 73. 00-R-1834 74. 00-R-1836 75. 00-R-1837 76. 00-R-1838 77. 00-R-1839 78. 00-R-1840 79. 00-R-1841 80. 00-R-1842  * President Pitts recused himself.  # Lee Morris not voting.