

CITY COUNCIL
ATLANTA, GEORGIA

A RESOLUTION

02-*R*-0326

BY PUBLIC SAFETY AND LEGAL ADMINISTRATION COMMITTEE

**A RESOLUTION AUTHORIZING PAYMENT IN THE
AMOUNT OF \$2,971.00 TO MARK W. WAGNER IN
SETTLEMENT OF HIS CLAIM AGAINST THE CITY OF
ATLANTA**

WHEREAS, Mark W. Wagner has filed a claim against the City of Atlanta seeking damages arising out of a sewer back up at his property located at 1120 Los Angeles Avenue, NE; and

WHEREAS, the property owned by Mr. Wagner was damaged due to a sanitary sewer back up that was caused by a collapse in the sewer mainline. The City had knowledge of the condition of the sewer mainline prior to the sanitary sewer back up that occurred on June 8, 2001; 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 \$2,971.00 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 Mark W. Wagner be settled for the sum of \$2,971.00.

THEREFORE, BE IT RESOLVED that the Council of the City of Atlanta, Georgia that \$2,971.00 be paid by the City of Atlanta in satisfaction of any and all claims Mark W. Wagner owner of the property located at 1120 Los Angeles Avenue, NE may have stemming from damages sustained to his property on June 8, 2001.

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

A true copy,

Phonda Daughin Johnson
Municipal Clerk, CMC

ADOPTED by the Council
APPROVED by the Mayor

MAR 04, 2002
MAR 12, 2002

DEPARTMENT OF LAW - CLAIM INVESTIGATION SUMMARY

Claim No. 01L0422

Date: February 7, 2002

Claimant /Victim MARK W. WAGNER

BY: (Atty)(Ins. Co.)

Address: 1120 Los Angeles Avenue, NE, Atlanta, Georgia 30306

Subrogation: Claim for Property damage \$ 2,971.00 Bodily Injury \$

Date of Notice: 06/29/01 Method: Written, proper X Improper

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

Date of Occurrence 06/08/01 Place: 1120 Los Angeles Avenue, NE

Department Public Works Division: Sewer Operations

Employee involved Disciplinary Action:

NATURE OF CLAIM: The claimant's property was damage due to a sanitary sewer back up. The City was on notice of the condition of the sewer mainline prior to this event.

INVESTIGATION:

Statements: City employee X Claimant Others Written Oral X

Pictures Diagrams 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 X Damages reasonable

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,

[Signature]
INVESTIGATOR - DIANNE C. MITCHELL

RECOMMENDATION:

Pay \$ 2,971.00 Adverse Account charged: 1A01 2J01 X 2H01

Claims Manager: [Signature] Concur/date 02-07-02

Committee Action: Council Action

RCS# 3550
3/04/02
1:31 PM

Atlanta City Council

Regular Session

CONSENT I

Pgs.1-12;Except02-R-0348;02-R-0350;0380
02-R-0387;02-R-0347;02-O-0364;02-O-0249

ADOPT

YEAS: 15
NAYS: 0
ABSTENTIONS: 0
NOT VOTING: 1
EXCUSED: 0
ABSENT 0

SEE ATTACHED LISTING OF
ITEMS ADOPTED/ADVERSED
ON CONSENT AGENDA

Y Smith	Y Archibong	Y Moore	Y Mitchell
Y Starnes	Y Fauver	Y Martin	Y Norwood
Y Young	Y Shook	Y Maddox	Y Willis
Y Winslow	Y Muller	Y Boazman	NV Woolard

ITEM (S) REMOVED FROM
CONSENT AGENDA
02-O-0364
02-O-0380
02-O-0249

CONSENT I

**ITEMS ADOPTED
ON CONSENT
AGENDA**

1. 02-O-0370
2. 02-O-0155
3. 02-O-0200
4. 02-O-0243
5. 02-O-0374
6. 02-O-0371
7. 02-O-0372
8. 02-R-0348
9. 02-R-0350
10. 02-R-0387
11. 02-R-0199
12. 02-R-0209
13. 02-R-0353
14. 02-R-0367
15. 02-R-0383
16. 02-R-0386
17. 02-R-0327
18. 02-R-0328
19. 02-R-0329
20. 02-R-0330
21. 02-R-0331
22. 02-R-0333
23. 02-R-0334
24. 02-R-0339
25. 02-R-0325
26. 02-R-0326
27. 02-R-0345

**ITEMS ADOPTED
ON CONSENT
AGENDA**

28. 02-R-0203
29. 02-R-0365
30. 02-R-0315
31. 02-R-0316
32. 02-R-0317
33. 02-R-0318
34. 02-R-0319
35. 02-R-0320
36. 02-R-0321
37. 02-R-0322
38. 02-R-0323
39. 02-R-0284
40. 02-R-0285
41. 02-R-0286
42. 02-R-0287

**ITEMS ADVERSED
ON CONSENT
AGENDA**

43. 02-R-0288
44. 02-R-0289
45. 02-R-0290
46. 02-R-0291
47. 02-R-0292
48. 02-R-0293
49. 02-R-0294
50. 02-R-0295
51. 02-R-0296
52. 02-R-0297
53. 02-R-0298
54. 02-R-0299
55. 02-R-0301
56. 02-R-0302
57. 02-R-0303
58. 02-R-0304
59. 02-R-0305
60. 02-R-0306
61. 02-R-0307
62. 02-R-0308
63. 02-R-0309
64. 02-R-0310
65. 02-R-0311
66. 02-R-0312
67. 02-R-0313
68. 02-R-0314

02-R-0326

(Do Not Write Above This Line)

A RESOLUTION

BY PUBLIC SAFETY AND LEGAL ADMINISTRATION COMMITTEE

RESOLUTION AUTHORIZING PAYMENT IN THE AMOUNT OF \$2,971.00 TO MARK W. WAGNER IN SETTLEMENT OF HIS CLAIM AGAINST THE CITY OF ATLANTA

APPROVED BY:

Robert N. Godfrey
ROBERT N. GODFREY
DEPUTY CITY ATTORNEY
ADOPTED BY

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

Date Referred

Referred To:

Date Referred

Referred To:

Date Referred

Referred To:

First Reading

Committee
Date
Chair
Referred to

Committee: PSLA
Date: 2/26/02
Chair: [Signature]
Action: Fav. Adv. Hold (see rev. side)
Other: [Signature]
Members: [Signatures]
Refer To: C.T. Wood

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
MAR 04 2002
ATLANTA CITY COUNCIL PRESIDENT
[Signature]

CERTIFIED
MAR 04 2002
Municipal Clerk
[Signature]

MAYOR'S ACTION

MURLEY
MAR 12 2002
MAYOR