



CITY COUNCIL
ATLANTA, GEORGIA

**A RESOLUTION
BY THE PUBLIC SAFETY AND LEGAL ADMINISTRATION COMMITTEE**

**A RESOLUTION AUTHORIZING THE SETTLEMENT OF ^{02- R -0449}
ALL CLAIMS IN THE LAWSUIT STYLED "NICK
SYMBAS AND ALICE SYMBAS v. CITY OF ATLANTA;
SUPERIOR COURT OF FULTON COUNTY, GEORGIA;
CIVIL ACTION NO. 2001CV45856; FOR \$43,000;
AUTHORIZING THE CHIEF FINANCIAL OFFICER TO
DISBURSE THE SETTLEMENT AMOUNT FROM FUND
ACCOUNT CENTER NO. 2J01-529017-T31001; AND FOR
OTHER PURPOSES.**

WHEREAS, the lawsuit ("Lawsuit") styled "Nick Symbas and Alice Symbas v. City of Atlanta; Superior Court of Fulton County, Georgia; Civil Action File No. 2001CV45856" arises out of a sewer infrastructure break that occurred on or in the vicinity of property ("Property") owned by Nick and Alice Symbas ("Plaintiffs"), upon which their residence is constructed and within which the City has certain sewer easement rights;

WHEREAS, Plaintiffs alleged in the Lawsuit that the City, when it entered their property to investigate and repair the sewer infrastructure break, caused damage to their property by excavating and modifying the grade of the property, destroying or irreparably damaging trees and other vegetation located on the property, infiltrating a stream located upon the property with soil erosion run-off, and causing numerous other injuries and damages, as more particularly set forth in the Complaint filed by the Plaintiffs in the Lawsuit;

WHEREAS, the Plaintiffs also asserted in the Lawsuit, and provided notice to the City's Law Department, that the City was prohibited from re-entering the Property in order to complete its repairs of the sewer infrastructure;

WHEREAS, as a result, the City has not been able to complete the repairs to the sewer infrastructure and has, instead, instituted a temporary repair involving pumping wastewater around the sewer infrastructure break;

WHEREAS, the temporary repair effectuated by the City to the sewer infrastructure break requires full time monitoring by City employees at the site, costing the City considerable additional monies;

WHEREAS, the City and the Plaintiffs have had numerous meetings and discussions concerning settlement of the Lawsuit and the City's re-access to the Property to effectuate permanent repairs to the sewer infrastructure;

WHEREAS, the City and Plaintiffs have reached a tentative settlement of the Lawsuit, as well as an agreement to allow the City to re-access the Property to complete its repair work and, as near as possible, restore the grade of the property to its original condition prior to the sewer infrastructure break;



WHEREAS, the tentative settlement also provides for the reforestation of the Plaintiff's property by their arborist subsequent to the City's completion of its sewer infrastructure repair and site grading work;

WHEREAS, Plaintiffs have agreed to accept from the City the payment of \$43,000 to cover certain costs expended by the Plaintiffs in connection with the damage they allege the City caused to their property and to further cover the services of an arborist to reforest the Plaintiffs' Property once the City's sewer infrastructure repair and site grading work is completed;

WHEREAS, the City Attorney considers it to be desirable and in the best interests of the City to resolve this matter and the Lawsuit and recommends that the City pay the amount of \$43,000 to the Plaintiffs to settle all claims of the Plaintiffs against the City arising out of the facts alleged in the Lawsuit;

NOW THEREFORE, IT IS RESOLVED BY THE COUNCIL OF THE CITY OF ATLANTA, GEORGIA AS FOLLOWS:

SECTION 1. The City Attorney is authorized to settle the case of Nick Symbas and Alice Symbas v. City of Atlanta; Superior Court of Fulton County, Georgia; Civil Action File No. 2001CV45856, for the sum of Forty-Three Thousand Dollars (\$43,000).

SECTION 2. The Chief Financial Officer is authorized to pay the total sum of \$43,000 to Nick and Alice Symbas from Account No. 2J01-529017-T31001, in exchange for the Plaintiffs' execution and delivery to the City of a Final Payment and General Release and a filed Notice of Voluntary Dismissal With Prejudice.

A true copy,

Rhonda Daughkin Johnson
Municipal Clerk, CMC

ADOPTED by the Council
APPROVED by the Mayor

MAR 18, 2002
MAR 26, 2002

RCS# 3628
3/18/02
3:49 PM

Atlanta City Council

Regular Session

CONSENT I Pgs 1-13; Except 02-O-0167; 02-O-0458

ADOPT

SEE ATTACHED LISTING OF
ITEMS ADOPTED/ADVERSED
ON CONSENT AGENDA

YEAS: 11
NAYS: 1
ABSTENTIONS: 0
NOT VOTING: 3
EXCUSED: 0
ABSENT 1

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

ITEM (S) REMOVED FROM
CONSENT AGENDA
02-O-0167
02-O-0458

CORRECTED COPY

**ITEMS ADOPTED
ON CONSENT
AGENDA**

1. 02-O-0361
2. 02-O-0456
3. 02-O-0465
4. 02-O-0466
5. 02-O-0468
6. 02-O-0469
7. 02-O-0335
8. 02-O-0336
9. 02-O-0462
10. 02-O-0342
11. 02-O-0378
12. 02-O-0251
13. 02-O-0324
14. 02-O-0346
15. 02-O-0254
16. 02-O-0352
17. 02-R-0165
18. 02-R-0382
19. 02-R-0407
20. 02-R-0483
21. 02-R-0484
22. 02-R-0194
23. 02-R-0482
24. 02-R-0252
25. 02-R-0388
26. 02-R-0391
27. 02-R-0409

**ITEMS ADOPTED
ON CONSENT
AGENDA**

28. 02-R-0446
29. 02-R-0448
30. 02-R-0449
31. 02-R-0472
32. 02-R-0395
33. 02-R-0406
34. 02-R-0412
35. 02-R-0413
36. 02-R-0414
37. 02-R-0415
38. 02-R-0416
39. 02-R-0417
40. 02-R-0418
41. 02-R-0419
42. 02-R-0420
43. 02-R-0421
44. 02-R-0422
45. 02-R-0423
46. 02-R-0447

**ITEMS ADVERSE
ON CONSENT
AGENDA**

47. 02-R-0410
48. 02-R-0411
49. 02-R-0424
50. 02-R-0425
51. 02-R-0426
52. 02-R-0427
53. 02-R-0428
54. 02-R-0429
55. 02-R-0430
56. 02-R-0431
57. 02-R-0432
58. 02-R-0433
59. 02-R-0434
60. 02-R-0435
61. 02-R-0436
62. 02-R-0437
63. 02-R-0438
64. 02-R-0439
65. 02-R-0440
66. 02-R-0441
67. 02-R-0442
68. 02-R-0443
69. 02-R-0444
70. 02-R-0445

02-0449
 Do Not Write Over This Line

A RESOLUTION BY
 PUBLIC SAFETY & LEGAL ADMINISTRATION
 COMMITTEE

A RESOLUTION AUTHORIZING THE
 SETTLEMENT OF ALL CLAIMS IN THE
 LAWSUIT STYLED SYMBAS AND ALICE
SYMBAS v. CITY OF ATLANTA; SUPERIOR
COURT OF FULTON COUNTY, GEORGIA;
CIVIL ACTION NO. 2001CV45856; FOR
\$43,000; AUTHORIZING THE CHIEF
FINANCIAL OFFICER TO DISBURSE THE
SETTLEMENT AMOUNT FROM FUND
ACCOUNT CENTER NO. 2J01-529017-T31001;
AND FOR OTHER PURPOSES.

ADOPTED BY

APPROVED BY: **MAR 18 2002**

Rosalind R. 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 _____
 Referred to _____

Committee PSLA
 Date 3-12-02
 Chair [Signature]
 Action: [Signature]
 Fav, Adv, Hold (see rev. side)
 Other:
 Members [Signature]
 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
MAR 18 2002
 ATLANTA CITY COUNCIL PRESIDENT
Patricia W. Workman

CERTIFIED
MAR 18 2002
Rosalind Rubens Newell
 MUNICIPAL CLERK

MAYOR'S ACTION

MAR 26 2002

Shirley Franklin