

A RESOLUTION

02-*R*-1134

BY PUBLIC SAFETY AND LEGAL ADMINISTRATION COMMITTEE

**A RESOLUTION AUTHORIZING PAYMENT IN THE AMOUNT
OF \$3,381.78 IN SETTLEMENT OF THE CLAIM OF ERIC J.
HULSMAN AGAINST THE CITY OF ATLANTA**

WHEREAS, ERIC J. HULSMAN has filed a claim against the City of Atlanta seeking damages arising out of property damages sustained when a City sewer mainline stopped up and raw sewage backed up into his rental property on January 3, 2002 located at 2189 Bolton Road; and

WHEREAS, the City had notice of problems in the sewer mainline prior to the back up on January 3, 2002; 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 **\$3,381.78** 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 **ERIC J. HULSMAN** be settled for the sum of **\$3,381.78**.

THEREFORE, BE IT RESOLVED that the Council of the City of Atlanta, Georgia that **\$3,381.78** be paid by the City of Atlanta in satisfaction of any and all claims **ERIC J. HULSMAN** may have stemming from damages sustained to his property on or about January 3, 2002 at 2189 Bolton Road.

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

A true copy,

Thonda Daughkin Johnson
Municipal Clerk, CMC

ADOPTED by the Council
APPROVED by the Mayor

JULY 01, 2002
JULY 09, 2002

DEPARTMENT OF LAW - CLAIM INVESTIGATION SUMMARY

Claim No. 02L0137

Date: 6/12/02

Claimant /Victim ERIC J. HULSMAN

BY: (Atty)

Address: 5295 Trowbridge Drive, Dunwoody, Georgia 30338

Subrogation: Claim for Property damage \$ 3,381.78 Bodily Injury \$

Date of Notice: 01/17/02 Method: Written, proper X Improper

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

Date of Occurrence 01/03/02 Place: 2189 Bolton Road, NW

Department Public Works Division: Sewer Operations

Employee involved Disciplinary Action

NATURE OF CLAIM: The claimant sustained extensive damages to his real property when a City sewer mainline stopped up and raw sewage backed up into his rental property. The City had notice of problems in the sewer line prior to the January 3, 2002 occurrence. The City has made the necessary repairs to the sewer mainline and it no longer presents a hazard.

INVESTIGATION:

Statements: City employee Claimant X Other X Written X 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,

[Signature] INVESTIGATOR - ALEXIS HOLMES

RECOMMENDATION:

Pay \$ 3,381.78 Adverse Account charged: 1A01 2J01 X 2H01

Claims Manager: [Signature] Concur/date 06-13-02

Committee Action: Council Action

07/01/02 Council Meeting

**ITEMS ADOPTED ON
CONSENT AGENDA**

**ITEMS ADOPTED ON
CONSENT AGENDA**

**ITEMS
ADVERSED
ON CONSENT
AGENDA**

1. 02-O-0718
2. 02-O-1021
3. 02-O-1022
4. 02-O-1119
5. 02-O-1142
6. 02-O-0602
7. 02-O-1013
8. 02-O-1148
9. 02-O-0864
10. 02-O-1017
11. 02-O-1020
12. 02-R-1143
13. 02-R-1104
14. 02-R-1120
15. 02-R-1121
16. 02-R-1122
17. 02-R-0470
18. 02-R-0810
19. 02-R-1182
20. 02-R-1118
21. 02-R-1146
22. 02-R-1177
23. 02-R-1179
24. 02-R-1101
25. 02-R-1102
26. 02-R-1103
27. 02-R-1145
28. 02-R-1134
29. 02-R-1135
30. 02-R-1136
31. 02-R-1176
32. 02-R-1072
33. 02-R-1073

34. 02-R-1074
35. 02-R-1075
36. 02-R-1124
37. 02-R-1125
38. 02-R-1126

39. 02-R-1076
 40. 02-R-1077
 41. 02-R-1078
 42. 02-R-1079
 43. 02-R-1080
 44. 02-R-1081
 45. 02-R-1082
 46. 02-R-1083
 47. 02-R-1084
 48. 02-R-1085
 49. 02-R-1086
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 60. 02-R-1097
 61. 02-R-1098
 62. 02-R-1099
 63. 02-R-1127
 64. 02-R-1128
 65. 02-R-1129
 66. 02-R-1130
 67. 02-R-1131
 68. 02-R-1132
 69. 02-R-1133
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02-1134
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BY PUBLIC SAFETY AND LEGAL ADMINISTRATION COMMITTEE

A RESOLUTION AUTHORIZING PAYMENT IN THE AMOUNT OF \$3,381.78 IN SETTLEMENT OF THE CLAIM OF ERIC J. HULSMAN AGAINST THE CITY OF ATLANTA AND FOR OTHER PURPOSES

APPROVED BY:

Rosalind Rubens Newell

ROSALIND RUBENS NEWELL
INTERIM CITY ATTORNEY

ADOPTED BY

- CONSENT REFER
- REGULAR REPORT REFER 01 2002
- ADVERTISE & REFER
- 1st ADOPT 2nd READ & REFER
- PERSONAL PAPER REFER COUNCIL

Date Referred

Referred To:

Date Referred

Referred To:

Date Referred

Referred To:

First Reading

Committee _____
 Date _____
 Chair _____
 Referred to _____

Committee P.S.L.A
 Date JUN 25 2002
 Chair _____
 Action: _____
 Fav, Adv, Hold (see rev. side) _____
 Other: _____
 Members: Clara Thompson
Wanda G. Smith
C. J. Pearson
Paul Sh...
Carla Smith
 Refer To _____

Committee _____
 Date _____
 Chair _____
 Action: _____
 Fav, Adv, Hold (see rev. side) _____
 Other: _____
 Members: _____
 Refer To _____

FINAL COUNCIL ACTION
 2nd
 1st & 2nd Readings
 Consent
 V Vote
 RC Vote

CERTIFIED

CERTIFIED
 JUL 01 2002
 ATLANTA CITY COUNCIL PRESIDENT
Carlton W. Hoiland

CERTIFIED
 JUL 01 2002
Flora Daughlin Johnson
 MUNICIPAL CLERK

MAYOR'S ACTION

Andy Frank
 JUL - 9 2002
 MAYOR