

02-2-1769

(Do Not Write Above This Line)

A RESOLUTION

BY PUBLIC SAFETY & LEGAL ADMINISTRATION COMMITTEE

A RESOLUTION AUTHORIZING THE SETTLEMENT OF THE CLAIM OF JOYCE ELAINE WALKER IN THE AMOUNT OF \$4,500.00 AGAINST THE CITY OF ATLANTA

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 _____
Referred to _____

Committee PSLA
Date 10/15/02
Chair _____
Action: _____
Fav, Adv, Hold (see rev. side) _____
Other: _____
Members [Signatures]
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
OCT 21 2002
CITY CLERK, ATLANTA

CERTIFIED
OCT 21 2002
[Signature]

MAYOR'S ACTION

CERTIFIED
OCT 28 2002
[Signature]
MAYOR

CITY COUNCIL
ATLANTA, GEORGIA

A RESOLUTION

BY PUBLIC SAFETY & LEGAL ADMINISTRATION COMMITTEE

02-R-1769

**A RESOLUTION AUTHORIZING THE
SETTLEMENT OF THE CLAIM OF JOYCE
ELAINE WALKER IN THE AMOUNT OF
\$4,500.00 AGAINST THE CITY OF ATLANTA**

WHEREAS, JOYCE ELAINE WALKER, has filed a claim against the City of Atlanta seeking damages for bodily injuries arising out of a fall after stepping into a hole that was located in the crosswalk between the curb and the street; and

WHEREAS, the Street Division failed to keep the crosswalk located on Martin Luther King, Jr. Drive and Broad Street in a safe condition for travel in the ordinary mode; and

WHEREAS, the defect in the crosswalk of the street existed for such a length of time that the City in the exercise of ordinary diligence should have discovered and remedied it; and

WHEREAS, the construction and maintenance of public roads and sidewalks is a ministerial function and therefore this claim 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 \$15,910.00 and has agreed to accept the sum of \$4,500.00 in full and complete satisfaction and settlement of her claim against the City of Atlanta; and

WHEREAS, the City Attorney has recommended that the claim of JOYCE ELAINE WALKER, be settled for the sum of \$4,500.00.

THEREFORE, BE IT RESOLVED that the Council of the City of Atlanta, Georgia that \$4,500.00 be paid by the City of Atlanta to JOYCE ELAINE WALKER, in satisfaction of any and all claims she may have stemming from bodily injuries sustained to her on or about August 13, 2001 at Martin Luther King, Jr. Drive & Broad Street 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 1A01/529017/T31001.

A true copy,

Rhonda Dauphin Johnson
Municipal Clerk, CMC

ADOPTED by the Council
APPROVED by the Mayor

OCT 21, 2002
OCT 28, 2002

DEPARTMENT OF LAW - CLAIM INVESTIGATION SUMMARY

Claim No. 01L0572

Date: October 3, 2002

Claimant /Victim JOYCE ELAINE WALKER
BY: (Atty) (Ins. Co.)
Address: 2286 Bagwell Drive, SW, Atlanta, Georgia 30315
Subrogation: Claim for Property damage:\$ Bodily Injury \$ 15,910.00
Date of Notice: 8/29/02 Method: Written, Proper X Improper
Conforms to Notice: O.C.G.A. §36-33-5 X Ante Litem (6 Mo.) X
Date of Occurrence 8/13/01 Place: Martin Luther King Jr. Drive & Broad Street, SW
Department PUBLIC WORKS Division Street
Employee involved Disciplinary Action:

NATURE OF CLAIM: Claimant sustained a broken ankle when she stepped off the sidewalk and into a hole in the crosswalk of the street. An investigation determined that the hazardous defect was actually a gap of space that was located between the curb and the street. It was further determined that the City has no records to show actual notice of the condition, it has been determined that the condition existed since 1996 and the City has failed to make the area safe for pedestrians.

INVESTIGATION:

Statements: City employee Claimant Others Written Oral
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 Ministerial X
Improper Notice More than Six Months Other Damages reasonable
City not involved Offer rejected Compromise settlement X
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 \$ 4,500.00 Adverse Account charged: 1A01 X 2J01 2P01 2H01
Claims Manager: Concur/date 100302
Committed Action: Council Action

10/21/02 Council Meeting

ITEMS ADOPTED ON CONSENT

AGENDA

1. 02-O-1368
2. 02-O-1710
3. 02-O-1674
4. 02-O-1645
5. 02-O-1646
6. 02-O-1647
7. 02-O-1648
8. 02-O-1672
9. 02-O-1726
10. 02-O-1728
11. 02-O-1776
12. 02-O-1779
13. 02-O-1781
14. 02-O-1783
15. 02-O-1790
16. 02-O-1791
17. 02-O-1661
18. 02-O-1793
19. 02-O-1584
20. 02-O-1636
21. 02-O-1788
22. 02-R-1176
23. 02-R-1736
24. 02-R-1737
25. 02-R-1745
26. 02-R-1769
27. 02-R-1716
28. 02-R-1740
29. 02-R-1735
30. 02-R-1797
31. 02-R-1800
32. 02-R-1663
33. 02-R-1780
34. 02-R-1802
35. 02-R-1588
36. 02-R-1773
37. 02-R-1787
38. 02-R-1799
39. 02-R-1760
40. 02-R-1761
41. 02-R-1762
42. 02-R-1763
43. 02-R-1764
44. 02-R-1765

45. 02-R-1766
46. 02-R-1767
47. 02-R-1768

ITEMS ADVERSED

ON CONSENT AGENDA

48. 02-R-1746
49. 02-R-1747
50. 02-R-1748
51. 02-R-1749
52. 02-R-1750
53. 02-R-1751
54. 02-R-1752
55. 02-R-1753
56. 02-R-1754
57. 02-R-1755
58. 02-R-1756
59. 02-R-1757
60. 02-R-1758
61. 02-R-1759
62. 02-R-1366

Consent I Vote: 12 Yeas; 0 Nays (See RCS #4102)

Items Removed from Consent: 02-O-1643; 02-O-1795; 02-R-1803; 02-R-1729