

CITY COUNCIL
ATLANTA, GEORGIA

A RESOLUTION

02-R-2055

BY PUBLIC SAFETY AND LEGAL ADMINISTRATION COMMITTEE

**A RESOLUTION AUTHORIZING PAYMENT IN THE
AMOUNT OF \$5,741.20 IN SETTLEMENT OF THE CLAIM
OF SIDNEY WELCH AGAINST THE CITY OF ATLANTA**

WHEREAS, Sidney Welch has filed a claim against the City of Atlanta seeking damages arising out of several occurrences of sewer back ups into her property located at 1798 Flagler Avenue, NE; and

WHEREAS, property owned by Sidney Welch has been damaged due to several sewer back ups occurring on April 9 & 10, 2001, March 30, 2002, May 4, 2002 and September 21 & 22, 2002. The City has had knowledge of a problem with the sewer line since the occurrences on April 9 & 10, 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

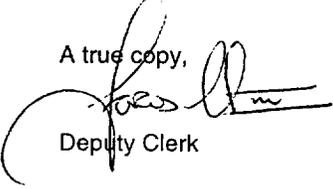
WHEREAS, the claimant has asserted damages in the amount of \$6,870.00 but has agreed to accept the sum of \$5,471.20 in full and complete satisfaction and settlement of her claim against the City of Atlanta; and

WHEREAS, the City Attorney has recommended that the claim of Sidney Welch be settled for the sum of \$5,471.20.

THEREFORE, BE IT RESOLVED that the Council of the City of Atlanta, Georgia that \$5,471.20 be paid by the City of Atlanta in satisfaction of any and all claims Sidney Welch owner of property located at 1798 Flagler Avenue, NE may have stemming from damages sustained to her property on April 9 & 10, 2001, March 30, 2002, May 4, 2002 and September 21 & 22, 2002.

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,


Deputy Clerk

ADOPTED by the Council
APPROVED by the Mayor

DEC 02, 2002
DEC 05, 2002

DEPARTMENT OF LAW - CLAIM INVESTIGATION SUMMARY

Claim No. 01L0637, 02L0275, 02L0340 & 02L0702

Date: November 12, 2002

Claimant /Victim SIDNEY WELCH

BY: (Atty)(Ins. Co.)

Address: 1798 Flagler Avenue, NE, Atlanta, Georgia 30309

Subrogation: Claim for Property damage \$ 6,870.00 Bodily Injury \$

Date of Notice: 05/07/02 Method: Written, proper X Improper

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

Date of Occurrence 04/09&10/01, 03/30/02, 05/04/02 & 09/21&22/02 Place: 1798 Flagler Avenue, NE

Department Public Works Division: Sewer Operations

Employee involved Disciplinary Action:

NATURE OF CLAIM: The claimant's property has been damaged due to a series of sewer back ups. The City was on notice of problems with the sewer line after the occurrences on April 9 and 10, 2001, but failed to correct the problem prior to the subsequent occurrences.

INVESTIGATION:

Statements: City employee Claimant Others Written Oral

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 Damages reasonable

City not involved Offer rejected Compromise settlement X

Repair/replacement by Ins. Co. Repair/replacement by City Forces

Claimant Negligent X City Negligent Joint Claim Abandoned

Respectfully submitted,

[Signature]
INVESTIGATOR - DIANNE C. MITCHELL

RECOMMENDATION:

Pay \$ 5,741.20 Adverse Account charged: 1A01 2J01 X 2H01 2P01

Claims Manager [Signature] Concur/date 11-13-02

Committee Action: Council Action

ITEMS ADOPTED ON CONSENT

AGENDA

- | | | |
|---------------|---------------|---------------|
| 1. 02-O-1925 | 31. 02-O-1920 | 62. 02-R-2104 |
| 2. 02-O-1926 | 32. 02-O-1921 | 63. 02-R-2112 |
| 3. 02-O-1927 | 33. 02-O-2001 | 64. 02-R-2113 |
| 4. 02-O-1928 | 34. 02-O-2097 | 65. 02-R-2115 |
| 5. 02-O-1929 | 35. 02-O-2098 | 66. 02-R-2116 |
| 6. 02-O-1969 | 36. 02-O-2099 | 67. 02-R-2117 |
| 7. 02-O-1976 | 37. 02-O-2100 | 68. 02-R-2125 |
| 8. 02-O-2095 | 38. 02-R-1593 | 69. 02-R-2126 |
| 9. 02-O-1998 | 39. 02-R-1848 | 70. 02-R-2016 |
| 10. 02-O-1892 | 40. 02-R-1849 | 71. 02-R-2017 |
| 11. 02-O-1903 | 41. 02-R-1850 | 72. 02-R-2018 |
| 12. 02-O-1907 | 42. 02-R-1985 | 73. 02-R-2019 |
| 13. 02-O-1139 | 43. 02-R-2003 | 74. 02-R-2022 |
| 14. 02-O-1292 | 44. 02-R-2004 | 75. 02-R-2060 |
| 15. 02-O-1913 | 45. 02-R-2009 | 76. 02-R-2061 |
| 16. 02-O-1930 | 46. 02-R-2010 | 77. 02-R-2062 |
| 17. 02-O-2103 | 47. 02-R-2011 | 78. 02-R-2069 |
| 18. 02-O-1922 | 48. 02-R-2012 | 79. 02-R-2072 |
| 19. 02-O-1923 | 49. 02-R-2013 | 80. 02-R-2074 |
| 20. 02-O-2091 | 50. 02-R-2014 | 81. 02-R-2122 |
| 21. 02-O-2092 | 51. 02-R-2057 | 82. 02-R-2023 |
| 22. 02-O-2105 | 52. 02-R-2058 | 83. 02-R-2064 |
| 23. 02-O-1396 | 53. 02-R-2073 | 84. 02-R-2065 |
| 24. 02-O-1792 | 54. 02-R-2015 | 85. 02-R-2066 |
| 25. 02-O-1914 | 55. 02-R-2059 | 86. 02-R-2070 |
| 26. 02-O-1915 | 56. 02-R-1216 | 87. 02-R-2028 |
| 27. 02-O-1916 | 57. 02-R-2119 | 88. 02-R-2029 |
| 28. 02-O-1917 | 58. 02-R-2123 | 89. 02-R-2030 |
| 29. 02-O-1918 | 59. 02-R-2055 | 90. 02-R-2031 |
| 30. 02-O-1919 | 60. 02-R-2063 | 91. 02-R-2032 |
| | | 92. 02-R-2033 |
| | | 93. 02-R-2034 |
| | | 94. 02-R-2035 |
| | | 95. 02-R-2036 |
| | | 96. 02-R-2037 |

ITEMS ADVERSED ON CONSENT

AGENDA

- | | |
|----------------|----------------|
| 97. 02-R-2027 | 107. 02-R-2047 |
| 98. 02-R-2038 | 108. 02-R-2048 |
| 99. 02-R-2039 | 109. 02-R-2049 |
| 100. 02-R-2040 | 110. 02-R-2050 |
| 101. 02-R-2041 | 111. 02-R-2051 |
| 102. 02-R-2042 | 112. 02-R-2052 |
| 103. 02-R-2043 | 113. 02-R-2053 |
| 104. 02-R-2044 | 114. 02-R-2054 |
| 105. 02-R-2045 | |
| 106. 02-R-2046 | |

Consent I Vote: 9 Yeas; 0 Nays (See RCS #4251)

Items Removed from the Consent Agenda: 02-O-2096; 02-R-2094; 02-R-2114; 02-R-2118

02-R-2055

(Do Not Write Above This Line)

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LEGAL ADMINISTRATION COMMITTEE

A RESOLUTION AUTHORIZING
PAYMENT IN THE AMOUNT OF \$5,741.20
IN SETTLEMENT OF THE CLAIM OF
SIDNEY WELCH AGAINST THE CITY OF
ATLANTA

APPROVED BY:

Linda K. Disantis
LINDA K. DISANTIS
CITY ATTORNEY

ADOPTED BY
COUNCIL

- 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

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
- Readings
- Consent
- V Vote
- RC Vote

CERTIFIED

DEC 02 2002

CERTIFIED

DEC 02 2002

Randy Douglas Johnson
MUNICIPAL CLERK

MAYOR'S ACTION

[Signature]

DEC 5 2002

MAYOR