



CITY COUNCIL
ATLANTA, GEORGIA

A RESOLUTION

BY PUBLIC SAFETY AND LEGAL ADMINISTRATION COMMITTEE 03- R -0025

**A RESOLUTION AUTHORIZING PAYMENT IN THE
AMOUNT OF \$2,750.00 IN SETTLEMENT OF THE CLAIM
OF FRANCINE S. SAMUELS AGAINST THE CITY OF
ATLANTA**

WHEREAS, Francine S. Samuels 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 49 Chappell Road, NW; and

WHEREAS, property owned by Francine S. Samuels has been damaged due to several occurrences of sewer back ups due to a blockage in the main sewer line that the City had notice of after the first occurrence on December 3, 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 \$5,500.00, but the claimant has agreed to accept the sum of \$2,750.00 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 Francine S. Samuels be settled for the sum of \$2,750.00.

THEREFORE, BE IT RESOLVED that the Council of the City of Atlanta, Georgia that \$2,750.00 be paid by the City of Atlanta in satisfaction of any and all claims Francine S. Samuels, owner of property located at 49 Chappell Road, NW, may have stemming from damages sustained to her property between December 3, 2001 and December 14, 2001.

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,

Rhonda Daughin Johnson
Municipal Clerk, CMC

ADOPTED by the Council
APPROVED by the Mayor

JAN 21, 2003
JAN 28, 2003

DEPARTMENT OF LAW - CLAIM INVESTIGATION SUMMARY

Claim No. 02L0104

Date: January 2, 2003

Claimant /Victim FRANCINE S. SAMUELS

BY: (Atty)(Ins. Co.)

Address: 49 Chappell Road, NW, Atlanta, Georgia 30314

Subrogation: Claim for Property damage \$ 5,500.00 Bodily Injury \$

Date of Notice: 01/24/02 Method: Written, proper X Improper

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

Date of Occurrence 12/03-07/01 & 12/10-14/01 Place: 49 Chappell Road, NW

Department Public Works Division: Sewer Operations

Employee involved Disciplinary Action:

NATURE OF CLAIM: The claimant's property was damage due to a series of sewer back ups. The City was on notice of this condition after the first occurrence on December 3, 2001, but failed to properly 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 City Negligent X Joint Claim Abandoned

Respectfully submitted,

[Handwritten Signature]
INVESTIGATOR - DIANNE C. MITCHELL

RECOMMENDATION:

Pay \$ 2,750.00 Adverse Account charged: 1A01 2J01 X 2H01 2P01

Claims Manager: [Handwritten Signature] Concur/date 01-03-03

Committee Action: Council Action

RCS# 4404
1/21/03
3:19 PM

Atlanta City Council

Regular Session

CONSENT 1

Pgs. 1-8; Except 03-R-0035; 03-R-0050

ADOPT

YEAS: 11
NAYS: 0
ABSTENTIONS: 0
NOT VOTING: 5
EXCUSED: 0
ABSENT 0

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

CONSENT 1

1/21/03 FULL COUNCIL MEETING

**Items Adopted on the
Consent Agenda**

1. 02-O-2129
2. 03-O-0040
3. 02-O-2132
4. 02-O-2133
5. 02-O-2128
6. 03-O-0047
7. 03-R-0029
8. 03-R-0030
9. 03-R-0025
10. 03-R-0032
11. 03-R-0036
12. 03-R-0058
13. 03-R-0059
14. 02-R-1137
15. 02-R-1628
16. 02-R-1874
17. 03-R-0031
18. 03-R-0046
19. 02-R-2056
20. 03-R-0001
21. 03-R-0002
22. 03-R-0013
23. 03-R-0014

**Items Adversed on the Consent
Agenda**

24. 03-R-0003
25. 03-R-0004
26. 03-R-0005
27. 03-R-0006
28. 03-R-0007
29. 03-R-0008
30. 03-R-0009
31. 03-R-0010
32. 03-R-0011
33. 03-R-0012
34. 03-R-0015
35. 03-R-0016
36. 03-R-0017
37. 03-R-0018
38. 03-R-0019
39. 03-R-0021
40. 03-R-0022
41. 03-R-0023
42. 03-R-0024

Consent I Vote: 11 Yeas; 0 Nays: (See RCS #4404/Reconsidered; See RCS # 4376
for Initial Vote & RCS #4403 for vote to Reconsider)

Items Removed from the Consent Agenda: 03-R-0035 & 03-R-0050

03- R -0025
(Do Not Write Above This Line)

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LEGAL ADMINISTRATION COMMITTEE
A RESOLUTION AUTHORIZING
PAYMENT IN THE AMOUNT OF \$2,750.00
IN SETTLEMENT OF THE CLAIM OF
FRANCINE S. SAMUELS AGAINST THE
CITY OF ATLANTA

ADOPTED BY

APPROVED BY: JAN 21 2003

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:
Date Referred
Referred To:

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
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

FINAL COUNCIL ACTION

- 2nd
- 1st & 2nd Readings
- Consent
- V Vote
- RC Vote

CERTIFIED

CERTIFIED
JAN 21 2003

ATLANTA CITY COUNCIL PRESIDENT

Catherine W. Woodward

CERTIFIED
JAN 21 2003

DEPUTY MUNICIPAL CLERK

MAYOR'S ACTION

Stanley Frankle
JAN 23 2003