



04-R-1349

A RESOLUTION

BY PUBLIC SAFETY & LEGAL ADMINISTRATION COMMITTEE

A RESOLUTION AUTHORIZING THE SETTLEMENT OF THE CLAIM OF EDDIE DUNCAN, THROUGH HIS ATTORNEY, CAROLD D. WILLIAMS, IN THE AMOUNT OF \$6,755.00 AGAINST THE CITY OF ATLANTA, SAID PAYMENT IS TO BE CHARGED TO AND PAID FROM FUND 1A01 (GENERAL FUND), ACCOUNT 529017 (PROPERTY LIQUIDATION) AND CENTER NUMBER T31001 (NON-DEPARTMENTAL)

WHEREAS, EDDIE DUNCAN, THROUGH HIS ATTORNEY, CAROLD D. WILLIAMS, has filed a claim against the City of Atlanta seeking damages arising out of his arrest on June 15, 2001 and confiscation of monies; and

WHEREAS, the damage to EDDIE DUNCAN, THROUGH HIS ATTORNEY, CAROLD D. WILLIAMS, occurred when he was arrested for collecting money out of parking meters without authority; and

WHEREAS, \$6,755.00 was confiscated, inventoried and placed in the Police Property Division for evidence in a resulting criminal case; and

WHEREAS, EDDIE DUNCAN, THROUGH HIS ATTORNEY, CAROLD D. WILLIAMS, pled guilty in the matter of *State of Georgia vs. Eddie Duncan*, Superior Court of Fulton County, Criminal Action No: 01SC13216, to theft by taking and was sentenced to probation for five years and ordered to pay \$10,000.00 in restitution to the City, which he is currently paying monthly; and

WHEREAS, The claimant has paid \$5,141.00 of the restitution to the City with a current balance of \$4,859.00; and

WHEREAS, this investigation did not discover any evidence to show that the City has a legal right to retain the confiscated funds; and

WHEREAS, the claimant has asserted damages in the amount of \$6,755.00 and has agreed to pay the City its remaining balance of \$4,859.00 out of the proceeds of this settlement and accept the sum of \$1,896.00 in full and complete satisfaction and settlement of his claim against the City of Atlanta; and

WHEREAS, this \$4,859.00 will be paid to the Georgia Department of Corrections on behalf of Eddie Duncan, and subsequently repaid to the City to satisfy the outstanding restitution owed to the City; and

WHEREAS, the City Attorney has recommended that the claim of EDDIE DUNCAN, THROUGH HIS ATTORNEY, CAROLD D. WILLIAMS, be settled for the sum of \$6,755.00.

THEREFORE, BE IT RESOLVED that the Council of the City of Atlanta, Georgia that \$4,859.00 be paid by the City of Atlanta to the Georgia Department of Corrections on behalf of Eddie Duncan, and \$1,896.00, be paid by the City of Atlanta to EDDIE DUNCAN, THROUGH HIS ATTORNEY, CAROLD D. WILLIAMS, in satisfaction of any and all claims he may have stemming from damages sustained by him on or about June 15, 2001, at Peachtree Street, NE & 3rd Street, NE, and that the City Attorney prepare appropriate releases.

A true copy,

Shonda Daughtry Johnson
Municipal Clerk, CMC

ADOPTED by the Council
APPROVED by the Mayor

AUG 16, 2004
AUG 20, 2004

DEPARTMENT OF LAW - CLAIM INVESTIGATION SUMMARY

Claim No. 03L0955

Date: July 13, 2004

Claimant /Victim EDDIE DUNCAN
BY: (Atty) (Ins. Co.) Carol D. Williams, Attorney at Law
Address: 5150 Old National Highway, College Park, Georgia 30349
Subrogation: Claim for Property damage \$ 6,755.00 Bodily Injury \$
Date of Notice: 11/26/03 Method: Written, Proper X Improper
Conforms to Notice: O.C.G.A. §36-33-5 X Ante Litem (6 Mo.) X
Date of Occurrence 6/15/01 Place: 675 Ponce de Leon Avenue, NE
Department POLICE Division:
Employee involved Disciplinary Action:

NATURE OF CLAIM: Claimant alleges that he sustained damage when the Police Department failed to return monies that were confiscated from him during an arrest. An investigation determined that the claimant pled guilty to theft by taking and was sentenced to five years probation and ordered to pay \$10,000.00 in restitution. The investigation did not discover any evidence to show that the City had a legal right to retain the confiscated funds. The claimant has paid \$5,141.00 of the restitution with a current balance of \$4,859.00. The claimant has agreed to pay the City its remaining balance out of the proceeds of this settlement and accept \$1,896.00 as complete settlement of his claim.

INVESTIGATION:

Statements: City employee Claimant Others X Written X 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 X Ministerial
Improper Notice More than Six Months Other Damages reasonable
City not involved Offer rejected Compromise settlement
Repair/replacement by Ins. Co. Repair/replacement by City Forces
Claimant Negligent City Negligent Joint Claim Abandoned

Respectfully submitted,

[Signature]
INVESTIGATOR, GWENDOLYN BURNS

RECOMMENDATION:

Pay \$ 6,755.00 Advise Account charged: 1A01 X 2PO1 2J01 2H01
Claims Manager: [Signature] Concur/date 07/21/04
Committee Action Council Action

| | | 8-16-4 Council Meeting |
|-----------------------------|-----------------------------|------------------------------|
| ITEMS ADOPTED ON CONSENT | ITEMS ADOPTED ON CONSENT | ITEMS ADVERSED ON CONSENT |
| 1. 04-O-1375 | 41. 04-R-1317 | 59. 04-R-1336 |
| 2. 04-O-1206 | 42. 04-R-1400 | 60. 04-R-1337 |
| 3. 04-O-1209 | 43. 04-R-1320 | 61. 04-R-1338 |
| 4. 04-O-1354 | 44. 04-R-1321 | 62. 04-R-1340 |
| 5. 04-O-1357 | 45. 04-R-1322 | 63. 04-R-1341 |
| 6. 04-O-1366 | 46. 04-R-1323 | 64. 04-R-1342 |
| 7. 04-O-0437 | 47. 04-R-1324 | 65. 04-R-1343 |
| 8. 04-O-1350 | 48. 04-R-1325 | 66. 04-R-1344 |
| 9. 04-O-1351 | 49. 04-R-1326 | 67. 04-R-1345 |
| 10. 04-O-1368 | 50. 04-R-1327 | 68. 04-R-1346 |
| 11. 04-O-1247 | 51. 04-R-1328 | 69. 04-R-1347 |
| 12. 04-O-1221 | 52. 04-R-1329 | 70. 04-R-1348 |
| 13. 04-R-1372 | 53. 04-R-1330 | |
| 14. 04-R-1273 | 54. 04-R-1331 | |
| 15. 04-R-1388 | 55. 04-R-1332 | |
| 16. 04-R-1402 | 56. 04-R-1333 | |
| 17. 04-R-1403 | 57. 04-R-1334 | |
| 18. 04-R-1404 | 58. 04-R-1335 | |
| 19. 04-R-1304 | | |
| 20. 04-R-1392 | | |
| 21. 04-R-1393 | | |
| 22. 04-R-1394 | | |
| 23. 04-R-1395 | | |
| 24. 04-R-1396 | | |
| 25. 04-R-1397 | | |
| 26. 04-R-1398 | | |
| 27. 04-R-1355 | | |
| 28. 04-R-1356 | | |
| 29. 04-R-1373 | | |
| 30. 04-R-1308 | | |
| 31. 04-R-1309 | | |
| 32. 04-R-1310 | | |
| 33. 04-R-1311 | | |
| 34. 04-R-1349 | | |
| 35. 04-R-1367 | | |
| 36. 04-R-1370 | | |
| 37. 04-R-1312 | | |
| 38. 04-R-1313 | | |
| 39. 04-R-1315 | | |
| 40. 04-R-1316 | | |

04-R-1349

(Do Not Write Above This Line)

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By: Jerry L. DeLoach Deputy City Attorney

ADOPTED BY

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

AUG 16 2004

COUNCIL

Date Referred

Referred To:

Date Referred

Referred To:

Date Referred

Referred To:

First Reading

Committee
Date
Chair
Referred to

Committee
Date
Chair
Action:
Other:
Members
Refer To

Committee
Date
Chair
Action:
Other:
Members
Refer To

FINAL COUNCIL ACTION
2nd
1st & 2nd
3rd
Consent
V Vote
RC Vote

CERTIFIED

AUG 16 2004
Juan M. Borders
COUNCIL PRESIDENT

CERTIFIED
AUG 16 2004
Paul Davidson Johnson
MUNICIPAL CLERK

MAYOR'S ACTION

CERTIFIED
AUG 20 2004
MAYOR