



CITY COUNCIL
ATLANTA, GEORGIA

A RESOLUTION

04-R-1797

BY PUBLIC SAFETY AND LEGAL ADMINISTRATION COMMITTEE

A RESOLUTION AUTHORIZING PAYMENT IN THE AMOUNT OF \$38,271.36 IN SETTLEMENT OF THE CLAIM OF RICHARD P. CLARK, JR. AGAINST THE CITY OF ATLANTA TO BE PAID FROM 2J01(WATER & SEWER) 529017(PROPERTY LIQUIDATION) Q30001(DEPUTY COMMISSIONER, TREATMENT & COLLECTIONS)

WHEREAS, Richard P. Clark, Jr. has filed a claim against the City of Atlanta seeking damages arising out of several occurrences of sewer back ups into the claimant's property located at 3077 West Andrews Drive, NW; and

WHEREAS, the property owned by **Richard P. Clark** has been damaged due to several occurrences of sewer back ups on or about September 21, 2002 and May 7, 2003; 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 **\$41,621.08** and has agreed to accept the sum of **\$38,271.36** 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 **Richard P. Clark, Jr.** be settled for the sum of **\$38,271.36**.

THEREFORE, BE IT RESOLVED that the Council of the City of Atlanta, Georgia that **\$38,271.36** be paid by the City of Atlanta in satisfaction of any and all claims **Richard P. Clark, Jr.**, owner of property located at 3077 West Andrews Drive, NW may have stemming from damages sustained to his property on or about September 21, 2002 and May 7, 2003.

BE IT FURTHER RESOLVED that the Chief Financial Officer be and hereby authorized to pay the above mentioned sum from account number 2J01 Water & Sewer) 29017(Property Liquidation) Q30001(Deputy Commissioner, Treatment & Collections).

A true copy,

Reanda Daughlin Johnson
Municipal Clerk, CMC

ADOPTED by the Council
APPROVED by the Mayor

October 18, 2004
October 20, 2004

DEPARTMENT OF LAW - CLAIM INVESTIGATION SUMMARY

Claim No. 03L0182

Date: October 1, 2004

Claimant /Victim RICHARD P. CLARK, JR.

BY: (Atty)(Ins. Co.) _____

Address: 3077 West Andrews Drive, NW, Atlanta, Georgia 30305

Subrogation: _____ Claim for Property damage \$ 41,621.08 Bodily Injury \$ _____

Date of Notice: 03/01/03 Method: Written, proper X Improper _____

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

Date of Occurrence 09/21/02 & 05/07/03 Place: 3077 West Andrews Drive, NW

Department Watershed Management Bureau: Waste Water

Employee involved _____ Disciplinary Action: _____

NATURE OF CLAIM: The claimant's property was damage due to a series of sewer back ups. The City has been on notice of a problem with the sewer system prior to the first occurrence and has failed to correct the problem with the sewer line.

INVESTIGATION:

Statements: City employee _____ Claimant _____ Others _____ Written _____ Oral _____

Pictures X 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,


INVESTIGATOR - DIANNE C. MITCHELL

RECOMMENDATION:

Pay \$ 38,271.36 Adverse _____ Account charged: 1A01 _____ 2J01 X 2H01 _____

Claims Manager:  Concur/date 10/01/04

Committee Action: _____ Council Action _____

RCS# 6139
10/18/04
2:33 PM

Atlanta City Council

Regular Session

CONSENT I

CONSENT I PGS 6-18, EXCEPT:04-O-1369
04-R-1764 04-R-1765
ADOPT

YEAS: 13
NAYS: 0
ABSTENTIONS: 0
NOT VOTING: 2
EXCUSED: 0
ABSENT 1

NV Smith	Y Archibong	Y Moore	Y Mitchell
Y Starnes	Y Fauver	Y Martin	Y Norwood
Y Young	Y Shook	B Maddox	Y Willis
Y Winslow	Y Muller	Y Sheperd	NV Borders

CONSENT I

10-04-04 Council Meeting		
ITEMS ADOPTED ON CONSENT	ITEMS ADOPTED ON CONSENT	ITEMS ADVERSED ON CONSENT
1. 04-O-1570	38. 04-R-1772	48. 04-R-1783
2. 04-O-1586	39. 04-R-1773	49. 04-R-1784
3. 04-O-1667	40. 04-R-1774	50. 04-R-1785
4. 04-O-1669	41. 04-R-1775	51. 04-R-1786
5. 04-O-1670	42. 04-R-1776	52. 04-R-1787
6. 04-O-1671	43. 04-R-1777	53. 04-R-1788
7. 04-O-1672	44. 04-R-1778	54. 04-R-1789
8. 04-O-1658	45. 04-R-1779	55. 04-R-1790
9. 04-O-1807	46. 04-R-1780	56. 04-R-1791
10. 04-O-1810	47. 04-R-1781	57. 04-R-1792
11. 04-O-1813		58. 04-R-1793
12. 04-O-1817		59. 04-R-1794
13. 04-O-1850		
14. 04-O-1651		
15. 04-O-1654		
16. 04-O-1808		
17. 04-R-1472		
18. 04-R-1751		
19. 04-R-1798		
20. 04-R-1485		
21. 04-R-1759		
22. 04-R-1760		
23. 04-R-1761		
24. 04-R-1797		
25. 04-R-1824		
26. 04-R-1825		
27. 04-R-1762		
28. 04-R-1754		
29. 04-R-1755		
30. 04-R-1756		
31. 04-R-1757		
32. 04-R-1827		
33. 04-R-1799		
34. 04-R-1768		
35. 04-R-1769		
36. 04-R-1770		
37. 04-R-1771		

04-~~P~~-1797

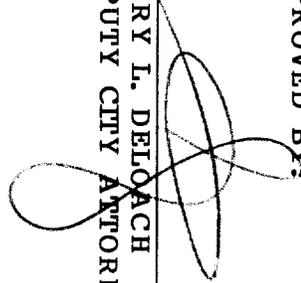
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IN THE AMOUNT OF \$38,271.36 IN
SETTLEMENT OF THE CLAIM OF RICHARD
P. CLARK, JR. AGAINST THE CITY OF
ATLANTA

APPROVED BY:


JERRY L. DELOACH
DEPUTY CITY ATTORNEY

ADOPTED BY
OCT 18 2004
COUNCIL

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

Date Referred

Referred To:

First Reading

Committee _____
Date _____
Chair _____
Refer To _____

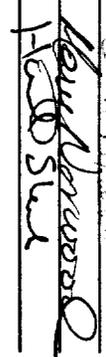
PSLA
Committee

Date

Chair

10/12/04
Fav, Adv, Held (see rev. side)
Other:

Members


Paul Howard
Fav, Adv, Held (see rev. side)

Refer To

Committee

Date

Chair

Action:
Fav, Adv, Held (see rev. side)
Other:

Members

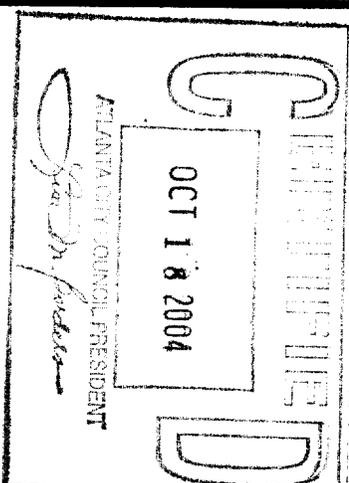
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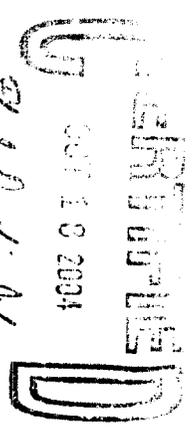
COUNCIL ACTION

- 2nd
 - 1st & 2nd
 - 3rd
- Readings

Consent V Vote RC Vote

CERTIFIED

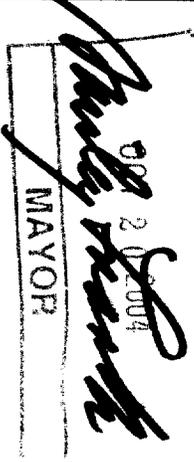

ATLANTA CITY COUNCIL PRESIDENT



OCT 18 2004

MUNICIPAL CLERK

MAYOR'S ACTION

APPROVED


OCT 2 2004
MAYOR