



CITY COUNCIL  
ATLANTA, GEORGIA

A RESOLUTION

BY PUBLIC SAFETY AND LEGAL  
ADMINISTRATION COMMITTEE

04-R-1824

**A RESOLUTION AUTHORIZING PAYMENT IN THE AMOUNT OF \$12,881.90 IN SETTLEMENT OF THE CLAIM OF DON C. PHILLIPS AGAINST THE CITY OF ATLANTA TO BE PAID FROM 2J01(WATER & SEWER) 529017 (PROPERTY LIQUIDATION) Q30001 (DEPUTY COMMISSIONER, TREATMENT & COLLECTIONS) AND FOR OTHER PURPOSES**

**WHEREAS**, Don C. Phillips, has filed a claim against the City of Atlanta seeking damages arising from a sewer back up on February 16, 2004; 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 asserted damages in the amount of \$24,000.00 but has agreed to accept the sum of \$12,881.90 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 Don C. Phillips be settled for the sum of \$12,881.90.

**WHEREAS**, the Council of the City of Atlanta adopted an favorable recommendation to settled this claim on September 20, 2004, however, the center number in the account number was incorrect.

**THEREFORE, BE IT RESOLVED** that Resolution 04-R-1607 be hereby rescinded.

**BE IT FURTHER RESOLVED** that the Council of the City of Atlanta, Georgia that \$12,881.90 be paid by the City of Atlanta in satisfaction of any and all claims Don C. Phillips may have stemming from damages sustained due to a sewer back up on February 16, 2004.

**BE IT FURTHER RESOLVED** that the Chief Financial Officer be and hereby authorized to pay the above mentioned sum from account number 2J01/529017/Q30001.

A true copy,

*Shonda Daughin 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. 04L0118

Date: September 2, 2004

Claimant /Victim DON PHILLIPS

BY: (Atty)(Ins. Co.) \_\_\_\_\_

Address: 1818 King Charles Road, Atlanta, Georgia 30331

Subrogation: \_\_\_\_\_ Claim for Property damage \$ 24,000.00 Bodily Injury \$ \_\_\_\_\_

Date of Notice: 02/23/04 Method: Written, proper X Improper \_\_\_\_\_

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

Date of Occurrence 02/16/04 Place: 1818 King Charles Road

Department Watershed Management Bureau: Waste Water

Employee involved \_\_\_\_\_ Disciplinary Action: \_\_\_\_\_

NATURE OF CLAIM: The claimant's property was damaged due to a sewer back up. The investigation determined that the City was on notice of a problem with the sewer mainline on January 27, 2004, but failed to make the necessary repairs before the claimant suffered another back up on February 16, 2004.

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 \_\_\_\_\_

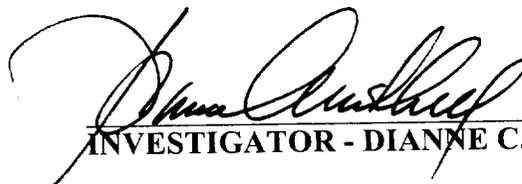
Improper Notice \_\_\_\_\_ More than Six Months \_\_\_\_\_ Other \_\_\_\_\_ Damages reasonable \_\_\_\_\_

City not involved \_\_\_\_\_ Offer rejected \_\_\_\_\_ Compromise settlement X

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

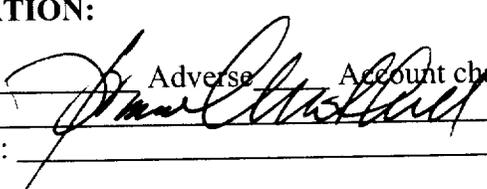
Claimant Negligent \_\_\_\_\_ City Negligent X Joint \_\_\_\_\_ Claim Abandoned \_\_\_\_\_

Respectfully submitted,

  
INVESTIGATOR - DIANNE C. MITCHELL

RECOMMENDATION:

Pay \$ 12,881.90 Adverse \_\_\_\_\_ Account charged: 1A01 \_\_\_\_\_ 2J01 X 2H01 \_\_\_\_\_ 2P01 \_\_\_\_\_

Claims Manager:  Concur/date 2/2/4

Committee Action: \_\_\_\_\_ Council Action \_\_\_\_\_



**MUNICIPAL CLERK  
ATLANTA, GEORGIA**

**04-R-1607**

**A RESOLUTION**

**BY PUBLIC SAFETY &  
LEGAL ADMINISTRATION COMMITTEE**

**BE IT RESOLVED BY** the Council of the City of Atlanta that the action of the Department of Law be approved in authorizing payment to **Don C. Phillips** in the sum of **\$12,881.90** settlement and satisfaction of all claims, past, present and future, of every kind and character, for damages alleged to have been sustained **as a result of a sewer back up on February 16, 2004 at 1818 King Charles Road**, as is more particularly set forth in the within claim; said sum taken from and charged to Account 2J01/529017/T31001, Settlement of Suits and Claims, Department of Law.

A true copy,

*Rhonda Dauphin Johnson*  
Municipal Clerk, CMC

ADOPTED by the Council  
APPROVED by the Mayor

**SEP 20, 2004  
SEP 28, 2004**



		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		

(Do Not Write Below 1024e)

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Q30001 (DEPUTY COMMISSIONER,  
TREATMENT & COLLECTIONS) AND FOR  
OTHER PURPOSES**

**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
- PERSONAL PAPER REFER

Date Referred

Referred To:

Date Referred

Referred To:

Date Referred

Referred To:

First Reading

Committee \_\_\_\_\_  
Date \_\_\_\_\_  
Chair H. J. [Signature]  
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
- Consent
- V Vote
- RC Vote

**CERTIFIED**

**CERTIFIED**  
OCT 18 2004  
ATLANTA CITY COUNCIL PRESIDENT  
[Signature]

**CERTIFIED**

OCT 18 2004  
[Signature]  
MUNICIPAL CLERK

**APPROVED**

OCT 20 2004  
[Signature]  
MAYOR