

**A RESOLUTION
BY THE PUBLIC SAFETY AND LEGAL ADMINISTRATION COMMITTEE**

A RESOLUTION AUTHORIZING THE SETTLEMENT OF ALL CLAIMS IN THE LAWSUIT STYLED MICHAEL S. WAKEFIELD AND REBECCA S. MICK V. CITY OF ATLANTA; SUPERIOR COURT OF FULTON COUNTY, GEORGIA; CIVIL ACTION FILE NO. 2003CV73346, IN THE AMOUNT OF \$1,500; AUTHORIZING THE CHIEF FINANCIAL OFFICER TO DISBURSE THE SETTLEMENT AMOUNT FROM FUND ACCOUNT CENTER NO. 2J01 (WATER/SEWER) 529017 (PROPERTY/LIQUIDATION) Q30001 (DEPUTY COMMISSIONER, TREATMENT AND COLLECTIONS); AND FOR OTHER PURPOSES.

WHEREAS, the lawsuit (“Lawsuit”) styled “Michael S. Wakefield and Rebecca S. Mick v. City of Atlanta; Superior Court Of Fulton County, Georgia; Civil Action File No. 2003cv73346” arises out of a certain storm water and sanitary sewer line that runs through the property (“Property”) owned by Michael S. Wakefield and Rebecca S. Mick (“Plaintiffs”), upon which their residence is constructed;

WHEREAS, Plaintiffs alleged in the Lawsuit that the City does not have easement rights to maintain or construct the sewer line that exists on the property as there is no easement or right of use of the property existing in the chain of title of the property nor is there any indication on the property or adjacent properties to suggest that such a right exists, as more particularly set forth in the Complaint filed by the Plaintiffs in the Lawsuit;

WHEREAS, the City and the Plaintiffs have had numerous meetings and discussions concerning settlement of the Lawsuit and the City’s ability to maintain a sewer line through the Property;

WHEREAS, the City and Plaintiffs have reached a tentative settlement of the Lawsuit, in which the City will purchase a subsurface easement from the Plaintiffs;

WHEREAS, the City Attorney considers it to be desirable and in the best interests of the City to resolve this matter and the Lawsuit and recommends that the City pay the amount of \$1,500.00 to the Plaintiffs to purchase the easement and settle all claims of the Plaintiffs against the City arising out of the facts alleged in the Lawsuit;

NOW THEREFORE, IT IS RESOLVED BY THE COUNCIL OF THE CITY OF ATLANTA, GEORGIA AS FOLLOWS:

SECTION 1. The City Attorney is authorized to settle the case of Michael S. Wakefield and Rebecca S. Mick v. City of Atlanta; Superior Court Of Fulton County, Georgia; Civil Action File No. 2003cv73346, for the sum of One Thousand Five Hundred



Dollars (\$1,500), the amount that the City shall purchase from the Plaintiffs a sub-surface easement.

SECTION 2. The Chief Financial Officer is authorized to pay the total sum of \$1,500 to Michael S. Wakefield and Rebecca S. Mick from No. 2J01 (Water/Sewer) 529017 (Property/Liquidation) Q30001 (Deputy Commissioner, Treatment and Collections), in exchange for the granting of a subsurface easement to maintain the sewer line on the property and Plaintiffs' execution and delivery to the City of a Settlement and Release and a filed Notice of Voluntary Dismissal With Prejudice.

SECTION 3. The City Attorney is authorized to accept from the Plaintiffs as owners of 850 Barnett Street, Atlanta, Georgia, after approving as to form, a sub-surface easement allowing for the use and maintenance of the existing sewer line on the property as contemplated by the Settlement and Release.

A true copy,

Rhonda Daughlin Johnson
Municipal Clerk, CMC

**ADOPTED by the Council
APPROVED by the Mayor**

**NOV 01, 2004
NOV 05, 2004**

RCS# 6199
11/01/04
1:42 PM

Atlanta City Council

Regular Session

CONSENT I

CONSENT I PGS 3-15

ADOPT

YEAS: 11
NAYS: 0
ABSTENTIONS: 0
NOT VOTING: 2
EXCUSED: 0
ABSENT 3

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

CONSENT I

		11-01-04 Council Meeting
ITEMS ADOPTED ON CONSENT	ITEMS ADOPTED ON CONSENT	ITEMS ADVERSED ON CONSENT
1. 04-O-1626	38. 04-R-1878	48. 04-R-1162
2. 04-O-1795	39. 04-R-1940	49. 04-R-1172
3. 04-O-1796	40. 04-R-1908	50. 04-R-1178
4. 04-O-1828	41. 04-R-1909	51. 04-R-1782
5. 04-O-1819	42. 04-R-1910	52. 04-R-1900
6. 04-O-1929	43. 04-R-1911	53. 04-R-1901
7. 04-O-1758	44. 04-R-1912	54. 04-R-1902
8. 04-O-1932	45. 04-R-1913	55. 04-R-1903
9. 04-O-1430	46. 04-R-1914	56. 04-R-1904
10. 04-O-1926	47. 04-R-1915	57. 04-R-1905
11. 04-O-1885		58. 04-R-1906
12. 04-O-1937		59. 04-R-1907
13. 04-O-1941		
14. 04-R-1893		
15. 04-R-1894		
16. 04-R-1895		
17. 04-R-1916		
18. 04-R-1917		
19. 04-R-1918		
20. 04-R-1920		
21. 04-R-1896		
22. 04-R-1897		
23. 04-R-1898		
24. 04-R-1899		
25. 04-R-1930		
26. 04-R-1884		
27. 04-R-1886		
28. 04-R-1888		
29. 04-R-1889		
30. 04-R-1890		
31. 04-R-1891		
32. 04-R-1928		
33. 04-R-1938		
34. 04-R-1870		
35. 04-R-1871		
36. 04-R-1874		
37. 04-R-1945		

(Do Not Write Over 1920)

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ADOPTED BY

NOV 01 2004

JERRY L. DELOACH, DEPUTY CITY ATTORNEY 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 _____

PSLA Committee

10/26/04 Date

Chair [Signature]

Action Fav, Adv, Hold (see rev. side) Other

Members [Signature]

[Signature]

[Signature]

Refer To _____

Committee _____

Date _____

Chair _____

Action Fav, Adv, Hold (see rev. side) Other

Members _____

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 _____

FINAL COUNCIL ACTION

2nd 1st & 2nd 3rd

Consent V Vote RC Vote

CERTIFIED

CERTIFIED

NOV 01 2004

ATLANTA CITY COUNCIL PRESIDENT

[Signature]

RECEIVED

NOV 01 2004

[Signature]

MUNICIPAL CLERK

MAYOR'S ACTION

[Signature]

NOV 01 2004

MAYOR