



AN ORDINANCE BY

04-0-2135

THE PUBLIC SAFETY AND LEGAL ADMINISTRATION COMMITTEE

AN ORDINANCE AUTHORIZING THE MAYOR AND THE CITY ATTORNEY TO SETTLE THE AMOUNT OWED TO THE CITY OF ATLANTA BY THE CITY OF EAST POINT FOR ITS PRO RATE SHARE OF CAPITAL IMPROVEMENTS RELATED TO THE CITY'S WASTEWATER CAPITAL PROJECTS IN THE AMOUNT OF SIXTEEN MILLION DOLLARS AND NO CENTS \$16,000,000.00; AUTHORIZING THE MAYOR AND THE CITY ATTORNEY TO EXECUTE A SETTLEMENT AGREEMENT WITH THE CITY OF EAST POINT TO EFFECT THE SETTLEMENT; AUTHORIZING THE CHIEF FINANCIAL OFFICER TO ACCEPT THE PROCEEDS OF THE SETTLEMENT; WAIVING CONFLICTING ORDINANCES; AND FOR OTHER PURPOSES.

WHEREAS, the City of Atlanta is required by State law (Senate Bill 500), and the City of Atlanta is currently under two federal consent decrees which require the City of Atlanta to upgrade, maintain and construct improvements to its sanitary sewer collection and wastewater treatment system, in order to comply with the Federal Clean Water Act and the Georgia Water Quality Control Act; and

WHEREAS, the City of East Point sends waste water to City of Atlanta owned and operated treatment facilities and is required by contract to contribute monies for any capital improvements to the treatment facilities; and

WHEREAS, the agreement with the City of East Point gives the City of East Point a number of options for payment of capital contributions including payments over the life of any bond issued by the City of Atlanta to cover costs of the improvements; and

WHEREAS, a dispute has arisen between the City of Atlanta and the City of East Point regarding monies owed for ongoing operations and maintenance of the plant as well as monies owed for capital improvements related to the City of Atlanta's phosphorous reduction capital improvements program; and

WHEREAS, City of Atlanta, through its Department of Watershed Management staff, has been involved in ongoing negotiations with the City of East Point staff representatives regarding the amounts owed and the manner in which the monies are to be paid; and

WHEREAS, the East Point City Council has authorized the City of East Point's Interim City Manager to offer as settlement of the contractual disputes the lump sum of Sixteen



Million Dollars and No Cents (\$16,000,000.00) to be paid to the City of Atlanta by January 31, 2005 (see letter and East Point Council minutes attached and incorporated by reference as Exhibit "A"); and

WHEREAS, the City of Atlanta Attorney's office in conjunction with the Department of Watershed Management, the agency charged with operating the City of Atlanta's wastewater treatment facilities, and the City's Finance Department, has thoroughly investigated the facts and circumstances involved in this matter and has determined that acceptance of the City of East Point's settlement offer of a lump sum of Sixteen Million Dollars and No Cents (\$16,000,000.00) is an appropriate resolution to the dispute with the City of East Point when there exists a likelihood that a court will determine that the appropriate remedy will be a payment of the debt owed over a period of twenty or more years.

BE IT HEREBY ORDAINED BY THE CITY COUNCIL OF THE CITY OF ATLANTA, GEORGIA, as follows:

Section 1. That the Mayor of the City of Atlanta or her designee is authorized to accept the City of East Point's offer of settlement of a one time lump sum payment of Sixteen Million Dollars and No Cents (\$16,000,000.00) for monies owed to the City of Atlanta for the City of East Point's obligations arising from the City of Atlanta's phosphorous reduction capital program and for monies the City of East Point owes for past Operations and Maintenance invoices in the amount of One Million, Nine Hundred Twenty-Five Thousand, Four Hundred Sixteen Dollars and Ninety-Nine Cents (\$1,925,416.99) dating from 1992; and

Section 2. That the settlement is conditioned upon the City of East Point's lump sum payment being delivered to the City of Atlanta by not later than January 31, 2005 and that all sums shall be paid to and deposited by the Chief Financial Officer in FAC 2JO1

Section 3. That the City of Atlanta's Attorney is authorized to draft and execute all release, agreements or other documents necessary to effect this settlement, and the Mayor of the City of Atlanta be authorized to execute the same.

Section 4. That any ordinance or part of any ordinance in conflict with the terms of this ordinance are hereby waived for this instance only.

A true copy,

Shanda Daughin Johnson
Municipal Clerk, CMC

ADOPTED by the Council
APPROVED by the Mayor

Jan 03, 2005
Jan 10, 2005

City of East Point

Exhibit A

CITY MANAGER'S OFFICE

2777 East Point Street
East Point, GA 30344

(404) 765-1001 (Phone)
(404) 765-1130 (Fax)



PATSY JO HILLIARD
MAYOR

June 22, 2004

TOM BARBER
INTERIM CITY MANAGER

Sheila Pierce
Deputy Commissioner
Department of Watershed Management
55 Trinity Avenue, Suite 5400, South Building
Atlanta, GA 30335-0310

COUNCIL MEMBERS

TERESA NELSON
GREG FANN, SR.

LANCE RHODES
PAT G. LANGFORD

EARNESTINE PITTMAN
WILLIAM H. MCCLURE

EDDIE LEE BREWSTER
C. ANN DOUGLAS

Re: Atlanta Phosphorus Reduction Program
Alleged Claim from 1992 to Present

Dear Deputy Commissioner Pierce:

As discussed in our meeting on May 25, the City of East Point offers to resolve the dispute over alleged obligations arising from the City of Atlanta's phosphorous reduction capital program ("Program"). Therefore, the City of East Point offers to finance its share of the Program by a one-time payment to the City of Atlanta by the end of 2004 in the total amount of \$16,000,000.

This offer, if accepted, is payment in full of all invoices and costs associated with expenses incurred to date for the Program from its inception to date. Additionally, by accepting this offer, the City of Atlanta agrees to abandon any and all claims for an alleged amount due of \$1,925,416.99 for sewer-related Operations and Maintenance invoices.

Thank you for your assistance in resolving this matter. I look forward to your response.

Respectfully,

City of East Point

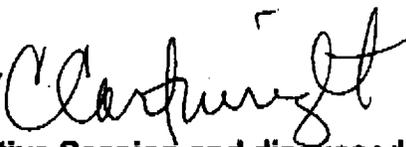
Tom Barber
Interim City Manager

cc: Patsy Jo Hilliard, Mayor
City Council
Cynthia Cartwright, City Attorney
Henry Bucci, Finance Director

EAST POINT CITY COUNCIL EXECUTIVE SESSION

Date: June 7, 2004

Prepared by: City Attorney



Council went into Executive Session and discussed:

- 1. Litigation matters
- 2. Personnel matters
- 3. Real Estate matters

Council Members Present:

- G. Fann
- E. Pittman
- W. McClure
- L. Rhodes
- E. Brewster
- A. Douglas
- T. Nelson
- P. Langford
- P. Hilliard

Council Member Brewster made a motion to adjourn into of Executive Session.

Council Member Pittman made the second. The motion carried.

Council Member Brewster made a motion to resume into the Regular Meeting.

Council Member Langford made the second. The motion carried.

The following motions were made:

_____ No motions were made.

1. Council Member Pittman made a motion to accept the city manager contract and send to her for signature.

Council Member Rhodes provided the second. The motion carried.

2. Council Member Pittman made a motion to authorize the City Attorney to hire an attorney to represent East Point in the College Park, et. al. v. Fulton County lawsuit.

Council Member McClure provided the second. The motion _____.

3. Council Member Nelson made a motion to table the decision until the next work session.

Council Member Brewster provided the second. The motion carried.

4. Council Member Rhodes made a motion to allow City Manager to present the settlement letter to Atlanta for \$16 million.

Council Member Langford provided the second. The motion carried.

Council Member _____ made a motion to adjourn at 12:30 pm.

RCS# 6370
1/03/05
2:00 PM

Atlanta City Council

Regular Session

CONSENT I

CONSENT I PGS 2-15

ADOPT

YEAS: 10
NAYS: 0
ABSTENTIONS: 0
NOT VOTING: 6
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	NV Sheperd	NV Borders

CONSENT I

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(Do Not Write Above This Line)

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

Date Referred 12-06-2004

Referred To: PS & LA ADOPTED BY

Date Referred JAN 03 2005

Date Referred COUNCIL

Committee PSLA First Reading
 Date 11/30/04
 Chair Ray
 Referred To PSLA

PSLA Committee

Date 12/14/04

Chair

Action

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

Members

Ray M. Shopoff
Patricia King
C. T. Hunt
Paul Smith

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

Refer To

Refer To

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

CERTIFIED

JAN 03 2005

CERTIFIED
JAN 03 2005

Ray M. Shopoff
MAYOR

MAYOR'S ACTION

APPROVED
Ray M. Shopoff
MAYOR