



PUBLIC SAFETY AND LEGAL ADMINISTRATION COMMITTEE DEPARTMENTAL OVERVIEW/BUDGET PRESENTATION

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**QUARTERLY BUDGET OVERVIEW
October 9, 2018**

**DEPARTMENT OF LAW
CITY ATTORNEY NINA R. HICKSON**





QUESTIONS AND TOPICS POSED BY PUBLIC SAFETY AND LEGAL ADMINISTRATION COMMITTEE

- Update on Claims and Settlements since last report provided to the Public Safety and Legal Administration Committee on June 12, 2018.
- Total Claims and Settlement Payment Update
- Current Major Matters across Practice Groups
- Departmental Accomplishments and Challenges
- Personnel Update
 - Vacancies, Attrition and Retention
- Outside Counsel Report
 - Number of Outsourced Matters
 - Spending to Date



UPDATE ON CLAIMS & SETTLEMENTS

❖ Total Claims and Settlement Payments

- There was a 9% increase from 971 to 1060 in pending claims as of CY18 Q2 from CY17 Q1.
- In CY18, the City received demands of \$17,549,708. Of the total amount demanded in CY18, the City paid \$4,571,609 in settlements, 26% of the amount demanded in CY18 Q2.



UPDATE ON CLAIMS & SETTLEMENTS CY18 Q2

❖ Itemized Claims and Settlement Payments by Department

CY18 Q2 2018 Litigation Cases Settlement Totals		
Department	Settlement Payment	Fund Impact
Fire Rescue	48,000	General Fund
Parks & Recreation	92,250	General Fund
Public Works	211,500	General Fund
Watershed Management	248,000	Water & Sewer
TOTAL Q2 LITIGATION SETTLEMENTS	599,750	
CY18 Q2 2018 Claim Settlement Totals		
Aviation	2,075	Aviation
Fire Rescue	2,021	General Fund
Municipal Court	441	General Fund
Parks & Recreation	14,232	General Fund
Planning	1,026	General Fund
Police	55,170	General Fund
Public Works	62,792	General Fund
Watershed Management	106,664	Water & Sewer
TOTAL Q2 CLAIM SETTLEMENTS	244,420	
TOTAL Q2 LITIGATION & CLAIM TOTALS	\$844,170	



UPDATE ON CLAIMS & SETTLEMENTS CALENDAR YEAR-TO-DATE

❖ Itemized Claims and Settlement Payments by Department

CY18 CYTD 2018 Litigation Cases Settlement Totals		
Department	Settlement Payment	Fund Impact
Fire Rescue	48,000	General Fund
Parks & Recreation	92,250	General Fund
Corrections	60,000	General Fund
Law	385,000	Aviation Fund
Municipal Court	40,500	General Fund
Police	793,500	General Fund
Public Works	278,500	General Fund
Watershed Management	2,456,000	Watershed Fund
TOTAL LITIGATION SETTLEMENTS	4,153,750	
CY18 CYTD 2018 Claim Settlement Totals		
Aviation	2,075	Aviation
Fire Rescue	4,652	General Fund
Mayor's Office	3,681	General Fund
Municipal Court	880	General Fund
Parks & Recreation	14,232	General Fund
Planning	1,026	General Fund
Police	146,498	General Fund
Public Works	84,753	General Fund
Watershed Management	7,714	General Fund
Watershed Management	152,349	Water & Sewer
TOTAL CLAIM SETTLEMENTS	\$417,859	
TOTAL CYTD LITIGATION & CLAIM TOTALS	\$4,571,609	



LITIGATION AND EMPLOYMENT PRACTICE GROUP





LITIGATION AND EMPLOYMENT PRACTICE GROUP

❖ Current Major Matters

- **City of Atlanta General Employees' Pension Fund and Police Officers Pension Fund v. City of Atlanta et al.**: A lawsuit filed by the boards of the Atlanta General Employees' Pension Fund and Atlanta Police Officers' Pension Fund regarding the city's December ordinance to consolidate the city's three pension fund boards. Plaintiffs' voluntarily dismissed the lawsuit without prejudice on July 23, 2018.
- **Cochran v. City of Atlanta**: A lawsuit filed by a former Fire Chief alleging that he was deprived of various constitutional rights involving the City's pre-clearance rules for outside employment. The Court granted the City's Motion for Summary Judgment on all claims, except for prior restraint and unbridled discretion. The parties participated in mediation on October 5, 2018, but were unable to resolve the matter. The case will be scheduled for trial to determine damages, if any, owed to the Plaintiff.



LITIGATION AND EMPLOYMENT PRACTICE GROUP

❖ Current Major Matters

- **DeKalb County School District v. City of Atlanta:** A lawsuit seeking a declaratory judgement that Atlanta Ordinance 17-O-1420, which annexed 744 acres located within DeKalb County along the City's eastern edge, absorbing (among other things) Emory University, the Centers for Disease Control and Prevention, and Children's Healthcare of Atlanta (the "Emory Annexation"), is void because its means of passage violated the procedural rules set forth in § 2-402(c) of the Atlanta City Charter. DCSD also seeks injunctive relief requiring that the City halt implementation and enforcement of the provisions of Ord. 17-O-1420 that require effected public-school students within the Emory Annexation to enroll in the Atlanta Independent School District ("APS") school system by July 1, 2018. On June 29, 2018, the Fulton County Superior Court granted Petitioner DCSD's motion for an interlocutory injunction and enjoined the expansion of APS into the annexed areas until such time as the assigned judge issues a final decision on the merits.



LITIGATION AND EMPLOYMENT PRACTICE GROUP

❖ Current Major Matters

- **Laurel Lawson et al. v. City of Atlanta:** A class action lawsuit with three named Plaintiffs, each of whom claims to be wheelchair bound and unable to navigate City sidewalks due to the City's failure to provide disabled access under Title II of the ADA and the Rehabilitation Act. The City filed a Motion to Dismiss to Plaintiffs' original Complaint on July 6, 2018 and filed a subsequent Motion to Dismiss Plaintiffs' amended Complaint on September 3, 2018.
- **Adam Rice, et al. v. Fulton County, Georgia, et al.:** A consolidated class action lawsuit alleging that the Fulton County Board of Assessors (FCBA) mis-assessed real estate property values. Plaintiffs' are seeking reimbursement of overpaid 2016 taxes plus interest for themselves and on behalf of all similarly situated property owners in Fulton County. Hence, all municipalities in Fulton County are named as party defendants. The City filed an Answer to the Complaint on August 27, 2018.



LITIGATION AND EMPLOYMENT PRACTICE GROUP

◆ Accomplishments

- **Crawford v. City of Atlanta**: Plaintiff, a former employee of the Department of Watershed Management, alleged that her employment was terminated in violation of the Georgia Whistleblower Act. The Court granted the City's Motion for Summary Judgment ruling that Plaintiff never made a protected disclosure under the Act.
- **Metz v. City of Atlanta**: Plaintiff alleged that she was injured in Adair Park when a large tree branch fell and struck her as she sat on a park bench. The Court granted the City's Motion for Summary Judgment and dismissed the case in its entirety.
- **Pitts v. City of Atlanta**: Plaintiffs alleged in this wrongful death action that City of Atlanta police officers negligently pursued the decedent Brandon Pitts. The Court granted the City's Motion to Dismiss based on the failure to timely file an ante litem notice.



LITIGATION AND EMPLOYMENT PRACTICE GROUP

◆ Accomplishments

- **Woodard v. City of Atlanta**: Plaintiff, a former Business Manager of the Finance Unit at the Atlanta Police Department alleged that she was terminated in violation of the Georgia Whistleblower Act. At the conclusion of a jury trial in the Fulton County Superior Court, the jury found that Plaintiff was not a whistleblower and had made no protected disclosure or objection under the Act. The Judge entered a judgment in favor of the City on the Plaintiffs' claims.
- **City of Atlanta v. Morgan, Lewis & Brockius LLP et al.**: A lawsuit filed by the City against the law firm Morgan Lewis & Brockius seeking to recover impermissibly expended pension assets to fund a lawsuit filed by the boards of the Atlanta General Employees' Pension Fund and Atlanta Police Officers' Pension Fund against the City. The parties reached a settlement agreement in the matter resulting in the recovery of \$205,000 by the City and the City's voluntary dismissal with prejudice of the lawsuit.



LITIGATION AND EMPLOYMENT PRACTICE GROUP

❖ Accomplishments

- **Super Bowl Moratorium:** The Law Department drafted legislation to issue a moratorium on the issuance of DPW permits for construction and activity in the rights of way.



FINANCE PRACTICE GROUP





FINANCE PRACTICE GROUP

❖ Current Major Matters

- **Department of Aviation - 2018 Commercial Paper Program**
 - Amount: \$350,000,000
 - Purpose: To fund projects at Hartsfield Jackson Atlanta International Airport.

- **Water and Wastewater System Revenue Refunding Bonds, Series 2018C**
 - Amount: \$327,720,000
 - Purpose: These bonds will provide fixed rate financing for prior floating rate notes.

- **Water and Wastewater System Subordinate Lien Reserve Bonds, Series 2018D**
 - Amount: \$12,000,000
 - Purpose: These Environmental Impact Bonds (EIB) will provide financing for green infrastructure and resilience projects.



FINANCE PRACTICE GROUP

❖ Accomplishments

- The Law Department provided legal guidance on the issuance of fifty-two million, five hundred ten thousand dollars (\$55,210,000) in refunding bonds. The refunded amount represents three hundred sixteen thousand nine hundred one dollars (\$316,901) in present value savings to the City of Atlanta.
- The Law Department assisted the Office of Contract Compliance in finalizing the City's Title VI Plan.
- **Water and Wastewater System Revenue Refunding Bonds, Series 2018A**
 - Amount: \$55,210,000
 - Purpose. Refunding of 2008 for interest savings



FINANCE PRACTICE GROUP

❖ Current Major Matters

■ **Proposed Gulch Financing Transaction**

- The Gulch financing transactions have a not to exceed amount of **\$1.875 billion**. The deals consist of **\$625,000,000** in Westside (Gulch) Tax Allocation District bonds and **\$1.25 billion** in Enterprise Zone bonds.





FINANCE PRACTICE GROUP

❖ Current Major Matters

■ **Office of Cultural Affairs / Office of Immigrant Affairs**

- Provided legal counsel and guidance regarding grants in excess of \$100,000.

■ **Office of Revenue**

- Provided legal counsel and guidance in recovering over \$200,000 in occupational tax payments.

■ **Recoverable Dividends vis-a-vis Bankruptcy:**

- Chastain Condominium Association (Chapter 11 Case): \$8,000 payment bringing account to current.
- Camelot Condominium Association: This is an old Chapter 11 bankruptcy case, with approximately \$250,000 pre-petition debt; and \$80,000 post-petition debt; with approximately \$8,000 per month running currently.



FINANCE PRACTICE GROUP

❖ Accomplishments

- **Water and Waste Water Revenue Refunding Bonds, Series 2018A**
 - Amount: \$55,210,000
 - Purpose: The refunded amount represent a savings valued at \$316,901 to the City of Atlanta.

- **Office of Revenue**
 - Finalizing the details of a multi-year software upgrade with Tyler Technologies.



FINANCE PRACTICE GROUP

❖ Accomplishments

- The Law Department, in collaboration with Risk Management, Atlanta Information Management and the Office of Emergency Preparedness, as well as in conjunction with outside counsel, is assisting in the preparation and submission of insurance claims, which total \$4.1M as of October 2018, related to the City's March 22, 2018 cyber-attack.



INFRASTRUCTURE AND REAL ESTATE PRACTICE GROUP





INFRASTRUCTURE & REAL ESTATE PRACTICE GROUP

❖ Current Major Matters

- **APS Deed Transfers:** The Law Department continues to work with APS to resolve issues and introduce legislation concerning transfer of the remaining 8 properties.
- **Dockless Shareable Mobility Devices:** The Law Department is drafting substitute legislation to regulate operators in the public right-of-way.
- **Renaming of Confederate Streets and Monuments:** The Law Department drafted legislation to rename Confederate Avenue, East Confederate Avenue and Confederate Court led by Councilmember Smith.



INFRASTRUCTURE & REAL ESTATE PRACTICE GROUP

❖ Current Major Matters

- **Rodney Cook Sr. Park in Historic Vine City:** Legislation was drafted and introduced authorizing the land acquisition of six parcels on Elm Street to assemble the necessary parcels to complete the park project. The Law Department is working through the land acquisition process with DPR.
- **143 Alabama Transactions:** Legislation was adopted authorizing: (1) land assemblage required for a land swap with MARTA and a purchase from the AFCRA; (2) the transfer of the assembled property to Invest Atlanta and sale of the same to Pope & Land; (3) the purchase from Pope & Land of a condominium at 143 Alabama for city office space. The Law Department has closed these transactions.



INFRASTRUCTURE & REAL ESTATE PRACTICE GROUP

❖ Current Major Matters

- **Distressed Housing Initiative:** The Law Department is working across multiple departments to create a program to reduce the numbers of distressed residences in the City through rehabilitation and other methods.
- **Bobby Jones Clubhouse:** Legislation was adopted authorizing the sublease of the clubhouse at Bobby Jones Golf Course. Legislation also authorized the City to enter into a MOU for the maintenance of the adjacent park. The Law Department is negotiating the sublease and MOU.



INFRASTRUCTURE & REAL ESTATE PRACTICE GROUP

❖ Current Major Matters

- **Midtown Streets Conversion:** The Law Department is negotiating a Project Management Agreement with Midtown Alliance for the two-way conversion of 3rd, 4th and 13th Streets.





INFRASTRUCTURE & REAL ESTATE PRACTICE GROUP

❖ Accomplishments

- **APS Deed Transfers:** The Law Department prepared legislation authorizing the transfer of 8 properties to APS during CY18 Q2. A total of 43 properties have been authorized to date, and only 8 properties remain to be authorized.
- **Park Land Acquisitions:** Legislation was adopted authorizing the acquisition of several park lands, including: (1) Piedmont Park expansion, which was closed on May 25, 2018; (2) Cornell Boulevard/Klaus Park & Preserve on Cornell Boulevard, which was closed on June 5, 2018; and (3) Doctor's Memorial Park on Fairburn Road, which was closed on June 21, 2018.



INFRASTRUCTURE & REAL ESTATE PRACTICE GROUP

❖ Accomplishments

- **Judgments Awarded – Distressed Property Litigation:** Recovered \$99,016 which represents the value of court-ordered judgements secured by the Law Department in quiet title and related litigation. Because of this work, outstanding, overdue bills for property taxes, solid waste fees and watershed services are changed from mere claims to a judgment, that is, an enforceable amount certain.



WATERSHED MANAGEMENT PRACTICE GROUP





WATERSHED MANAGEMENT PRACTICE GROUP

❖ Current Major Matters

- Currently handling significant financial, employment, personal injury, flooding, real estate, contract, nuisance, and water supply related litigation for the Department of Watershed Management.
- Handling on-going negotiations and administrative appeals with FEMA/GEMA for disaster relief funds.
- Providing legal advice on on-going construction matters and contractor disputes.
- Handling on-going water/sewer billing and Real Estate matters.
- Assisting with on-going Consent Decree and NPDES permit Compliance matters.



WATERSHED MANAGEMENT PRACTICE GROUP

❖ Accomplishments

- Recovered **\$15,200,000** through administrative appeals filed with FEMA to recover funds associated with the flooding of the Department of Watershed Management's R.M. Clayton facility.
- Recovered **\$120,000** in delinquent water and sewer bills.



AVIATION PRACTICE GROUP





AVIATION PRACTICE GROUP

❖ Current Major Matters

- **Safety Act Certification:** The Law Department is helping the Airport apply for designation and certification from the Department of Homeland Security to receive legal liability protection for qualified anti-terrorism technologies.
- **Green Acres ATL Energy Park:** The Law Department is assisting DOA with contract negotiations related to the first recycling and composting facility on the airport's grounds. The facility will recycle waste generated at the world's busiest airport and compost chipped yard trimmings from the Department of Public Works.



AVIATION PRACTICE GROUP

❖ Current Major Matters

- **Airport Noise Insulation Program:** The Law Department is providing ongoing legal advice to DOA and DOP regarding FAA AIP grant requirements as it relates to the airport's noise program.
- **Airport 2030 Capital Plan:** The Law Department is currently providing legal advice related to projects associated with DOA's 2030 Master Plan, which includes the recommended \$6.2 billion dollar development plan for the airport.



AVIATION PRACTICE GROUP

❖ Accomplishments

- **ATL West Closing:** In June 2018, the City of Atlanta and the City of College Park closed on the exchange of various parcels, easements and right-of-way associated with the ATL West parking deck trapezoidal parcel. The deal was structured such that the City of Atlanta tendered no money but received (\$1,320,000) from College Park.
- **Airline FAA Complaint:** In May 2018, the FAA agreed with the Law Department that Jet Blue's complaint regarding gates at the Airport was unsupported. The FAA determined that the Airport provided reasonable access to gates and was not required to provide JetBlue with specific gates.



AVIATION PRACTICE GROUP

❖ Accomplishments

- **Security Fence:** The Law Department assisted in the approval of new security measures along the fence at the airport. Most of the razor wire work has been completed.
- **American Bar Association:** Two members of the Law Department moderated and paneled the ABA Air and Space Sections conference on cybersecurity and deregulation in the airline industry.





OUTSIDE COUNSEL SPENDING REPORT FISCAL-YEAR-TO-DATE

	<u>FY19</u>	<u>FY18</u>	<u>% Chg</u>
▪ NUMBER OF OUTSOURCED MATTERS	74	87	-15%
▪ SPENDING TO DATE			
▪ AVIATION FUND	484,923	772,247	-37%
▪ WATERSHED FUND	764,655	152,193	402%
▪ <u>GENERAL FUND</u>	<u>200,691</u>	<u>826,121</u>	<u>-75%</u>
▪ TOTAL COMBINED FUNDS	1,450,269	1,750,561	-17%
▪ Increase in Watershed Outside Counsel Spending due to timing of invoices associated with Real Estate including Litigation and DOJ Matters.			
▪ Total Spending on DOJ Investigation: \$10.4M - \$9.6M paid to date and \$882K billed to date.			



REVENUE RECOVERY \$15.5M FISCAL-YEAR-TO-DATE

- **FEMA Recovery**: Recovered approximately \$15,200,000 through administrative appeals filed with FEMA to recover funds associated with the flooding of the Department of Watershed Management's R.M. facility.
- **Water/Sewer Collections**: The City collected \$120,000 in past due water/sewer bills on behalf of the Department of Watershed Management.
- **Occupational Tax Payment Recovery**: Provided legal guidance in recovering over \$200,000 in occupational tax payments.



FY18 Vacancies, Attrition and Retention

❖ Current Vacancies

- Total Current Department of Law Vacancies – 16*
 - Attorney Vacancies - 13
 - Support Staff Vacancies - 3
- Total Vacancies by Fund
 - General Fund - 7.34, Aviation Fund - 2.80 Aviation Renewal and Extension Fund - 1.53 and Watershed Fund 4.33
- *There are 5 offers pending and interviews have taken place for most of the remaining vacancies.

❖ Attrition and Retention

- FY19 Attrition Rate 5%, Retained 95% of Law Staff.
 - Attrition Rate for Attorneys 9%, Retained 91% of Attorneys
 - Attrition Rate for Support Staff 0%, Retained 100% of Support Staff
- FY18 Attrition Rate 8%, Retained 92% of Law Staff.
 - Attrition Rate for Attorneys 9%, Retained 90% of Attorneys
 - Attrition Rate for Support Staff 8%, Retained 92% of Support Staff



QUESTIONS

