



Department of Law City Attorney Nina R. Hickson

PUBLIC SAFETY AND LEGAL ADMINISTRATION COMMITTEE DEPARTMENTAL OVERVIEW/BUDGET PRESENTATION

Councilmember Joyce Sheperd - Chairman
Councilmember Carla Smith
Councilmember Andrea L. Boone
Councilmember Dustin Hillis
Councilmember Cleta Winslow
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QUARTERLY OVERVIEW
April 27, 2020

Update on Claims and Settlements since last report provided to the Public Safety and Legal Administration Committee on September 23, 2019

- COVID-19 Pandemic Response Highlights
- Law Staff Accomplishments
- Highlights & Major Matters across Divisions
- Division Accomplishments
- Total Claims and Settlement Payments
 - Quarterly Update
 - Calendar Year-To-Date Snapshot
- Outside Counsel Report
 - Number of Outsourced Matters
 - Spending to Date
- Revenue Recovery



COVID-19 PANDEMIC RESPONSE HIGHLIGHTS

COVID-19 PANDEMIC RESPONSE HIGHLIGHTS

- The Law Department provided the following support in response to the COVID-19 Pandemic:
 - Drafted contracts totaling over \$1.3 million to support Emergency Meals delivered to Senior citizens and Children of Atlanta who are food insecure in an effort to help minimize exposure to COVID-19.
 - Drafted contracts totaling over \$2 million to support the City's Expanded Sanitation Program at Hartsfield-Jackson and Live Streaming Informational Services in connection with the COVID-19 Pandemic.
 - In support of the Mayor's Emergency Rental Payment Relief Program, 54 active Concessions Agreements at Hartsfield-Jackson were amended to suspend the Minimum Annual Guarantee payment obligations of concessionaires and rental car facilities for an initial period of four (4) months in response to the COVID-19 Pandemic.

COVID-19 PANDEMIC RESPONSE HIGHLIGHTS

- Reviewed various contract relief requests for concessions operators and other airline/airport users.
- Reviewed and drafted legislation including concessions and matters related to public sheltering (atrium homelessness) in the airport.
- Reviewed potential bankruptcy impacts for airline partners.
- Reviewed CARES ACT funding implication on various airport users.
- Drafted Accommodation Agreement to mitigate impacts of the COVID-19 Pandemic.
- Drafted eleven (11) executive orders and eight (8) administrative orders in response to the COVID-19 Pandemic.
- Advised City departments regarding compliance with executive orders.

COVID-19 PANDEMIC RESPONSE HIGHLIGHTS

- Drafted and negotiated several memoranda of understanding to implement the Mayor's initiatives providing emergency assistance to those affected by the COVID-19 Pandemic.
- Provided advice and counsel to the Department of Human Resources on a variety of Employment matters related to the COVID-19 Pandemic. At the outset of the Pandemic, the Labor & Employment Group provided Coronavirus outbreak response recommendations and advice on how to manage accommodations for high risk employees or staff who have compromised immune systems.



LAW STAFF ACCOMPLISHMENTS

LAW STAFF ACCOMPLISHMENTS

ABA Published Article

- Kristen Wang co-authored an article titled “Anticipating and Allocating Risks in the 2017 AIA Owner-Contractor Agreement,” recently published in the American Bar Association’s “*The Construction Lawyer*” Journal of the ABA Forum on Construction Law.

Property & Casualty Adjuster Licensing Training

- Sherry Butler, Eric Williams and John Woods completed the Property & Casualty Adjuster Licensing training in January 2020 and will sit for the Claims Adjuster Property & Casualty License Exam by June 30, 2020.

LAW STAFF ACCOMPLISHMENTS

ABA Forum Co-Chair

- Diana Freeman served as Co-Chair of the Planning Committee for the ABA Forum on Air and Space Law at a Conference held on February 28, 2020 in Washington, D.C. She was the only Airport Lawyer in a Chairperson role for the Forum, which provides great, positive national exposure for the City of Atlanta and the Airport.

Land Use Presentation

- On October 3, 2019, Jonathan Futrell was a guest lecturer at Georgia State University's School of Law. Attorney Futrell presented a lecture regarding recent updates in Law to a class of Land Use Law Students.

LAW STAFF ACCOMPLISHMENTS

Atlanta Bar Association Appointment

- C. Elisia Frazier was appointed chair of the Government Operations Committee, and Co-Chair of the Diversity Committee for the American Bar Association's Section of State and Local Government Law.

Atlanta Bar Association Moderator

- C. Elisia Frazier moderated the panel "Implicit Bias: Governmental Complicity" presented by the Section of State and Local Government Law at the American Bar Association's mid-year meeting in San Antonio, Texas.

LAW STAFF ACCOMPLISHMENTS

National Business Institute Speaking Engagement

- Carl Christie spoke on the topics of funding, mandates and tax issues at the National Business Institute Seminar held at the Cobb County Galleria on November 5, 2019.



LITIGATION DIVISION

LITIGATION DIVISION

McFadden v. City of Atlanta

- This was a refiled slip and trip sidewalk incident that occurred on the outermost portion of Georgia Tech's Campus. The City argued that the sidewalk at issue was not within the City's "municipal street system" and that the City did not have notice of the defect. On February 14, 2020, the City's Motion for Summary Judgment was granted.

Gill v. City of Atlanta

- Plaintiff alleged that the City dumped trash on his property or failed to clean up trash that a third-party dumped on his property. On January 1, 2020, the City's Motion for Summary Judgment was granted.

LITIGATION DIVISION

Simic v. APD Officer, et al.

- Plaintiff alleged that three Atlanta Police Officers conspired with a civilian to fabricate sexual assault charges to get him arrested. On February 11, 2020, the City's Motions for Summary Judgment were granted for each officer and each Officer was entitled to Qualified and Official immunity.

Clark v. City of Atlanta

- On December 18, 2019, the Superior Court of Fulton County granted the City's Motion to Dismiss for allegedly failing to properly plead compliance with ante-litem notice requirements. The Judge found that a bare assertion that ante-litem notice was provided is not enough that the Plaintiff must put something on the record to show that all the elements of O.C.G.A. § 36-33-5 were met to survive a Motion to Dismiss challenging ante-litem.

LITIGATION DIVISION

Rush Memorial Congregational Church v. City of Atlanta

- This matter centered on an alcohol license application for a restaurant that would serve alcohol. The license was never issued because the application expired before a final decision could be made. Rush Memorial Congregational Church sought to forever bar the restaurant from achieving an alcohol license and also sought “special standing” to present evidence in the LRB hearing phase of the alcohol licensing process. The Judge ruled that there were no legal errors in the City’s alcohol licensing process and also ruled that he could not grant a mandamus on any issue before him because the licenses application was moot.

LITIGATION DIVISION

Young v. City of Atlanta, et al.

- The State Court of Fulton County dismissed a civil action suit against the City of Atlanta and a Watershed Management employee based upon sovereign immunity and because the employee was not a proper party.

Walton v. City of Atlanta

- The U.S. District Court for the Northern District of Georgia dismissed a civil action against the City of Atlanta for alleged violations of Plaintiff's Fourth Amendment rights associated with a traffic stop on a Motion to Dismiss. In granting the City's Motion the Court found that Plaintiff's claim lacked merit and were dismissed in total.

LITIGATION DIVISION

Croland v. APD Officer

- This Federal case centered on the June 1, 2014 arrest of Plaintiff in Woodruff Park by an APD Officer for disorderly conduct. Plaintiff alleged that she was arrested because the APD Officer did not like what she was saying in violation of the 1st and 4th Amendment Rights. On February 20, 2020, the Jury found that the Officer's arrest of Plaintiff was justified and delivered a complete defense victory. Following the successful Jury verdict, the Court awarded costs to the City.

LITIGATION DIVISION

Umana v. City of Atlanta, et al.

- Plaintiff alleged that her termination from the City of Atlanta was discriminatory as it was based on her national origin and race, and retaliatory as it took place after she complained of discrimination. The Court granted the City's Motion for Summary Judgment in its entirety and entered judgment in favor of the City. The Court also ordered that Plaintiff is given nothing in this lawsuit, and that the City is awarded the costs from defending this lawsuit.

LITIGATION DIVISION

Cheshire Bridge Holdings, LLC et al. v. City of Atlanta

- Plaintiff, owner of an adult business called Tokyo Valentino, brought suit in U.S. District Court against the City of Atlanta in response to a 2014 violation correction notice issued by the Office of Buildings which ordered Tokyo Valentino to cease operation of adult video booths in the basement of its building. Plaintiff sought to invalidate the City's adult business ordinance on several grounds.
- In 2018 the District Court dismissed Plaintiff's claims on various grounds. Plaintiff appealed that decision to the Eleventh Circuit Court of Appeals. That Court revived Plaintiff's claim that the City's adult business ordinance is overbroad and remanded the case back to District Court for further consideration.
- On March 6, 2020, the District Court ruled in favor of the City and declined to strike as overbroad the City's adult business ordinance definitions. The Court declined to enter an injunction against the separate legal nonconforming adult bookstore, but left the door open for the City to make that argument in State Court.

LITIGATION DIVISION

Rice, et al. v. City of Atlanta, et al.

- This is an action brought by multiple Fulton County property owners to challenge the 2016 and 2017 tax assessments of their properties under the refund statute, O.C.G.A. § 48-5-380. On April 16, 2020, the Court granted the Defendants' Motions to Dismiss, finding that the facts presented by the Plaintiffs did not provide a basis for establishing an error of law or fact that would authorize an action under the refund statute.

Woodard v. City of Atlanta

- This is an action brought under the Georgia Whistleblower Act, O.C.G.A. § 45-1-4, challenging Plaintiff's termination from her position as a Business Manager II at the Atlanta Police Department. The City argued that Plaintiff was terminated due to poor performance and management. The jury returned a verdict in favor of the City. On April 7, 2020, the Court of Appeals affirmed the jury's verdict in favor of the City.



TRANSACTIONS DIVISION

TRANSACTIONS DIVISION - FINANCE

- **Airport General Revenue Refunding Bonds, Series 2019E**
 - Amount: \$100,585,000
 - Purpose: To refund outstanding Department of Aviation bonds.
 - Closing Date: October 29, 2019
- **Airport Passenger Facility Charge and Subordinate Lien General Revenue Refunding Bonds, Series 2019F**
 - Amount: \$154,435,000
 - Purpose: To refund outstanding Department of Aviation bonds.
 - Closing Date: October 29, 2019
- **General Obligation Bonds, Series 2019A**
 - Amount: \$3,350,000
 - Purpose: To fund renovations to city owned facilities.
 - Closing Date: November 14, 2019

TRANSACTIONS DIVISION - FINANCE

- **General Obligation Bonds, Series 2019B**
 - Amount: \$16,290,000
 - Purpose: To refund outstanding general obligation bonds.
 - Closing Date: November 14, 2019
- **Atlanta Urban Redevelopment Agency Revenue Bonds, Series 2019**
 - Amount: \$25,000,000
 - Purpose: To fund renovations to city owned facility.
 - Closing Date: December 12, 2019

TRANSACTIONS DIVISION - FINANCE

Transactions Division Training Program

- The Finance Team, in conjunction with the Department of Finance and outside counsel, planned and participated in the Annual Continuing Disclosure and Post Issuance Tax Compliance Training.

TRANSACTIONS DIVISION – REAL ESTATE

Georgia State Legislature

- The Law Department analyzed multiple bills before the Georgia State Legislature and prepared summaries for the Mayor's Office regarding same; drafted language for proposed State House Bill exempting Affordable Housing projects from impact fees.

NCAA Men's Final Four

- The Law Department drafted legislation to create a Temporary Public Entertainment District in Downtown Atlanta in connection with the NCAA Men's Final Four which was to be held in Atlanta on March 30th through April 7th, 2020.

TRANSACTIONS DIVISION- REAL ESTATE

Real Estate Support

- The Law Department provided Real Estate support to the Departments' of Aviation, City Planning and Development, Enterprise Asset Management, Parks & Recreation, Public Works and Watershed Management, including the following:
 - Drafted and/or provided comments on over thirty-five (35) pieces of legislation.
 - Prepared over thirty (30) encroachments and/or easements.
 - Handled approximately thirteen (13) street abandonments.
 - Coordinated closings on approximately twenty-five (25) property acquisitions.
 - Drafted over fifteen (15) leases and/or MOUs, including cell tower leases.
 - Assisted with the development of RFPs for tennis facilities management, golf course concessions, and commercial development of property surrounding the Airport.

TRANSACTIONS DIVISION – REAL ESTATE

Affordable Housing Initiatives

- The Law Department played a key role in the development of groundbreaking Affordable Housing Initiatives advanced by both the Administration and the Atlanta City Council.



OPERATIONS DIVISION

OPERATIONS DIVISION - POLICIES

City of Atlanta Hobbs Act Anti-Bribery & Anti-Corruption Policy

- In October 2019, The Law Department submitted a draft of the “City of Atlanta Hobbs Act, Anti-Corruption and Anti-Bribery Policy” to the Department of Human Resources for consideration. The policy’s creation was prompted by City Council Ordinance 19-O-1073, which requested Human Resources to institute a policy and ensure that all elected officials, management and appointed officials of the City are aware of the Federal Hobbs Act. The policy sets out ethical guidelines for observing and upholding the City’s position on corruption or extortion and bribery.

OPERATIONS DIVISION - POLICIES

Atlanta Fire Rescue Department Social Media Policy

- In November 2019, The Law Department submitted a draft of the “AFRD Social Media Policy”. The policy establishes ethical guidelines for the use of social media by AFRD employees, including communications by employees under professional usernames, and procedures for representing and referencing the AFRD on social media platforms.

OPERATIONS DIVISION - TRAINING PROGRAMS

Operations Division Training Programs

- The Law Department facilitated two (2) separate trainings on Equal Employment Opportunity Laws (Title VII, ADA, ADEA, GINA, etc.) in November 2019. The first was held for the Senior Leadership team of the Department of Aviation. Nineteen (19) employees attended the training. The same training was held for the Atlanta Fire Rescue Department's Rising Phoenix Leadership class, which consists of future AFRD leaders. Twenty-seven (27) employees attended the training. EEOC conducted the training, at no cost to the City, on March 11, 2020.

OPERATIONS DIVISION - TRAINING PROGRAMS

SAVE/E-Verify Training

- The Department of Law facilitated its Annual SAVE/E-Verify training for all City of Atlanta Departmental Liaisons. The training is to ensure all City Departments are in Compliance with the Illegal Immigration & Enforcement Act (IIREA) which includes the SAVE Program and the Federal Work Authorization Program (E-Verify).



UPDATE ON CLAIMS & SETTLEMENTS

UPDATE ON CLAIMS & SETTLEMENTS

Total Claims and Settlement Payments

- There was a 28% decrease in pending claims during Q1 from (932) August 1, 2019 to (670) on September 30, 2019. There was an additional 24% decrease in pending claims during Q2 from (670) on October 1, 2019 to (507) on December 31, 2019.
- The Department of Law has received 647 new claims between July 1, 2019 and December 31, 2019, an average of 108 new claims per month. There were 359 new claims during Q1 and 288 new claims during Q2. Overall, Law Staff has closed 1613 claims during a six-month span, an average of 269 closed claims per month.
- The Law Department successfully and effectively litigated and negotiated claims and cases that resulted in the City only paying \$4.2 million when the financial exposure was over \$56 million.

UPDATE ON CLAIMS & SETTLEMENTS

FY20 Q1

Itemized Claims and Settlement Payments by Department

FY20 (Q1) Litigation Cases Settlement Totals

<u>Department</u>	<u>Payments</u>	<u>Fund Impact</u>
Aviation	\$50,000	Aviation
City Planning	\$50,000	General Fund
Fire Rescue	\$9,913	General Fund
Police	\$139,500	General Fund
Public Works	\$508,338	General Fund
Watershed Management	\$1,175,000	Water & Sewer
TOTAL LITIGATION SETTLEMENTS	1,932,751	

FY20 (Q1) CLAIM SETTLEMENT TOTALS

<u>Department</u>	<u>Payments</u>	<u>Fund Impact</u>
Fire Rescue	3,626	General Fund
Law	80,000	General Fund
Parks and Recreation	2,750	General Fund
Police	36,241	General Fund
Public Works	37,613	General Fund
Watershed Management	1,907	General Fund
Watershed Management	85,424	Water & Sewer
TOTAL CLAIM SETTLEMENTS	247,562	

TOTAL FYTD LITIGATION & CLAIM TOTALS	\$2,180,313	
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UPDATE ON CLAIMS & SETTLEMENTS

FY20 Q2

Itemized Claims and Settlement Payments by Department

FY20 (Q2) Litigation Cases Settlement Totals

<u>Department</u>	<u>Payments</u>	<u>Fund Impact</u>
Police	983,000	General Fund
Public Works	226,650	General Fund
Watershed Management	392,417	General Fund
TOTAL CLAIM SETTLEMENTS	1,602,067	

FY20 (Q2) CLAIM SETTLEMENT TOTALS

<u>Department</u>		<u>Fund Impact</u>
Aviation	400	Aviation
City Planning	17,432	General Fund
Fire Rescue	7,174	General Fund
Mayor	2,937	General Fund
Parks and Recreation	8,725	General Fund
Police	76,203	General Fund
Public Works	65,029	General Fund
Watershed Management	47,450	General Fund
Watershed Management	204,863	Water & Sewer
TOTAL LITIGATION SETTLEMENTS	430,214	

TOTAL FYTD LITIGATION & CLAIM TOTALS	\$2,032,281
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UPDATE ON CLAIMS & SETTLEMENTS

CONSOLIDATED FY20 Q1-Q2

Itemized Claims and Settlement Payments by Department

FY20 (Q1-Q2) Litigation Cases Settlement Totals

<u>Department</u>	<u>Payments</u>	<u>Fund Impact</u>
Aviation	50,000	Aviation
City Planning	50,000	General Fund
Fire Rescue	9,913	General Fund
Police	1,122,500	General Fund
Public Works	734,988	General Fund
Watershed Management	1,567,417	Water & Sewer
TOTAL LITIGATION SETTLEMENTS	3,534,818	

FY20 (Q1-Q2) CLAIM SETTLEMENT TOTALS

<u>Department</u>	<u>Payments</u>	<u>Fund Impact</u>
Aviation	400	Aviation
City Planning	17,432	General Fund
Fire Rescue	10,801	General Fund
Mayor	2,937	General Fund
Law	80,000	General Fund
Parks and Recreation	11,475	General Fund
Police	112,444	General Fund
Public Works	102,643	General Fund
Watershed Management	49,357	General Fund
Watershed Management	290,287	Water & Sewer
TOTAL CLAIM SETTLEMENTS	677,776	

TOTAL FYTD LITIGATION & CLAIM TOTALS	\$4,212,594	
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OUTSIDE COUNSEL SPENDING REPORT

FY20 FISCAL-YEAR-TO-DATE

	FY19	FY20	
	<u>July-April 2019</u>	<u>July-April 2020</u>	<u>%Chg.</u>
NUMBER OF OUTSOURCED MATTERS	53	59	11%
<u>SPENDING TO DATE</u>			
AVIATION FUND	1,159,290	408,648	-65%
WATERSHED FUND	1,617,611	1,704,780	5%
GENERAL FUND	1,962,086	2,363,064	17%
TOTAL SPENDING COMBINED FUNDS¹	\$4,738,987	\$4,476,492	-6%

- ¹Total Spending Combined Funds excludes DOJ Investigation expenses.
- There is a decrease overall of 6% in FY20 July - April 2020 outside counsel spending compared to FY19 July - April 2019. A 65% decrease in Aviation Fund outside counsel spending due to fewer outsourced matters. An increase of 5% in Watershed Fund outside counsel spending due to two (2) highly technical, high-stakes litigation cases and an increase of 17% in General Fund outside counsel spending due to one-time expense occurrences such as the cyber incident response & coordination, employment and condemnation litigation matters.
- FY20 Spending on DOJ Investigation: \$6.4M from July 2019 - April 2020. This amount represents both paid and unpaid invoices.
- Total Spending on DOJ Investigation: \$26.7M from January 2017 - April 2020. This amount represents both paid and unpaid invoices.



REVENUE RECOVERY

OPERATIONS DIVISION – WATERSHED **REVENUE RECOVERY**

FEMA/GEMA

- The Department of Law recovered \$4,157,277 from FEMA/GEMA for the Department of Watershed Management for flooding associated with a 2009 weather event.

OPERATIONS DIVISION TRANSPORTATION & TAXATION REVENUE RECOVERY

Taxation

- The Law Department assisted the Office of Revenue in collecting approximately \$50,000 in outstanding occupation taxes.

Pensions

- The Law Department provided advice and assistance to the third party pension administrator (Zenith) in developing a plan to collect pension overpayments. The Law Department is actively working with Zenith to develop strategies to avoid future pension overpayments.

OPERATIONS DIVISION TRANSPORTATION **& TAXATION REVENUE RECOVERY**

Scooter Fines

- With the assistance of the Law Department, several Scooter firms agreed to pay fees owed to the Department of Public Works for scooter impoundments. Until the Law Department became involved in the fee collection process, fees had been unpaid by scooter companies since impoundments first began in February 2019. The total amount collected in scooter fines to date is \$128,504.



QUESTIONS