

**Action Requested/Required:**

- ☒ Vote/Action Requested
☐ Discussion or Presentation Only
☐ Public Hearing
Report Date: _____
Hearing Date: _____
Voting Date: _____

Department: Administration **Presenter(s) & Title:** Billy Peppers
City Manager

Agenda Item Title:

Discussion and Possible Action to Approve a Resolution for Participation in the Amicus Brief in the Chang v. City of Milton Appeal

Summary:

The City of Milton and the Georgia Municipal Association suggest municipal participation in an appeal on a ruling against a municipality related to right of way obstructions. The appeal would go before the Georgia Supreme Court. The City Manager and City Attorney for Canton suggest participation in the amicus brief.

Budget Implications:

Budgeted? ☐ Yes ☐ No ☒ N/A

Total Cost of Project: _____ Check if Estimated ☐

Fund Source: General Fund ☐ Water & Sewer ☐ Sales Tax ☐ Other: _____

Staff Recommendations:

Motion to approve City of Canton participation in the Amicus Brief in the Chang v. City of Milton Appeal and to authorize the Mayor to sign such resolution of participation.

Reviews:

Has this been reviewed by Management and Legal Counsel, if required? ☒ Yes ☐ No

Attachments:

Resolution of the City of Canton, Georgia Authorizing Participation

**RESOLUTION OF THE CITY OF CANTON, GEORGIA AUTHORIZING PARTICIPATION
IN AN AMICUS BRIEF IN THE CHANG V. CITY OF MILTON APPEAL**

WHEREAS, there is presently pending before the Court of Appeals and/or Supreme Court of Georgia an appeal of a civil lawsuit that, at the trial court level, was referred to as Chang, et. al. v. City of Milton, State Court of Fulton County, Case No. 18EV004442;

WHEREAS, the case involves a claim of liability against the City of Milton for personal injuries due to a 2016 vehicle collision with a fixed obstruction (a masonry planter) located on City-owned right of way where the obstruction was outside the motoring lanes of travel;

WHEREAS, the masonry planter had been at the same location since 1992 and had never been the subject of a complaint or prior accident;

WHEREAS, at the trial court, the City of Milton was found to be partially at fault and a jury awarded money damages against the City of Milton of \$35,000,000;

WHEREAS, the Court of Appeals affirmed the findings of the trial court, City of Milton v. Chang, et. al., 2024 WL 4195584 (Chang appellate ruling);

WHEREAS, the Court of Appeals ruled that the “*planter...was a hazard for vehicles leaving the travel lanes*” and that its presence “*renders the use of these thoroughfares more hazardous*,”

WHEREAS, the City of Canton is concerned by the Court of Appeals decision finding that a municipality may be liable for fixed obstructions located outside the motoring lanes of travel where the obstruction had never been the subject of a prior collision or complaint;

WHEREAS, the City of Canton believes the Court of Appeals decision is inconsistent with existing legal precedent and should be overturned; and,

WHEREAS, the City of Canton believes the financial implications of the Court of Appeals decision could be devastating for Georgia municipalities.

NOW THEREFORE BE IT RESOLVED, that the City of Canton does hereby authorize participation in an amicus brief before the Georgia Supreme Court asking that the Chang appellate ruling be taken by the Supreme Court and reversed. An amicus brief so tendered may include the City’s name as a participating party.

This _____, day of _____, 2024.

Mayor Bill Grant