



City of Norman, OK

Municipal Building Council
Chambers
201 West Gray Street
Norman, OK 73069

Master

File Number: GID-1112-61

File ID: GID-1112-61

Type: Court Order

Status: Consent Item

Version: 1

Reference: Item No. 22

In Control: City Council

Department: Legal Department

Cost: \$53,850.00

File Created: 02/15/2012

File Name: WCC Jacob Hunt

Final Action:

Title: CONSIDERATION OF THE CITY ATTORNEY'S RECOMMENDATION FOR APPROVAL OF A COURT ORDER IN THE AMOUNT OF \$55,596.58 REGARDING JACOB HUNT VS. THE CITY OF NORMAN, WORKERS' COMPENSATION COURT CASE NO. WCC-2011-01174A.

ACTION NEEDED: Motion to approve or reject the City Attorney's recommendation; and, if approved, authorize compliance with the Workers' Compensation Court Order and direct payment of claims in the amount of \$55,596.58 which will constitute judgment against the City of Norman.

ACTION TAKEN: _____

Notes:

Agenda Date: 02/28/2012

Agenda Number: 22

Attachments: Attachment 1 Hunt, Court Award, Requisitions

Project Manager: Jeanne Snider, Assistant City Attorney

Entered by: denise.johnson@normanok.gov

Effective Date:

History of Legislative File

Ver- sion:	Acting Body:	Date:	Action:	Sent To:	Due Date:	Return Date:	Result:
1	City Council	02/28/2012					

Text of Legislative File GID-1112-61

Body

BACKGROUND: Mr. Hunt began his employment with the City as a Police Officer on June 10, 2005. He was injured on June 19, 2010, during a high speed pursuit of a stolen vehicle on I-35. His unit rolled over at the I-35 and Lindsey Street exit. After surgery and physical therapy, he returned to work on February 10, 2011.

DISCUSSION:

Nature of Claim. Mr. Hunt filed this Workers' Compensation Claim for injuries to his left shoulder, neck, back, head and consequential psychological overlay due to a roll-over accident on June 19, 2010. There is no question that Mr. Hunt was injured on the job. The issues presented at trial were the issues of nature and extent of his injuries. Nature and extent is determined by the trial judge based on the claimant's testimony and expert medical evidence. The Workers' Compensation Court Judge is free to accept either doctors' opinion or find anywhere within the range of competent medical evidence presented. Permanent Partial Disability ("PPD") is a factual determination made by the Workers' Compensation Court trial judge based upon the evaluating doctors' opinions regarding the extent of permanent partial impairment.

Treatment. Mr. Hunt was taken to the Norman Regional Health System Emergency Room where he was treated and released and an appointment made for an MRI. Thereafter, Mr. Hunt was seen by Dr. Mark Moses for his left shoulder and cervical spine. He was placed on conservative treatment. As his neck/cervical spine continued to improve, his left shoulder did not. Surgery was performed on his left shoulder on September 30, 2010. He was then given a series of physical therapy sessions and was released to full duty without restrictions on February 7, 2011.

On August 10, 2011, Mr. Hunt was evaluated by Dr. Lonnie Litchfield, who opined: 15% PPD to the head for chronic post concussion headaches; 26% to his cervical spine; 39% to his lumbar spine; 32% to his left shoulder and 8% consequential depression. These ratings equate to \$215,400 PPD. On October 7, 2011, Mr. Hunt was evaluated by the City's doctor, Dr. LeRoy Young, who opined 6% PPD to his left shoulder and no impairment to the remaining body parts. Mr. Hunt was felt to have 5% pre-existing degenerative disc disease to the cervical spine and 6% pre-existing degenerative disc disease to the lumbar spine. This rating equates to \$10,770. The trial judge is free to make a ruling within the range of the medical evidence presented at the time of trial. Therefore, the City's maximum exposure to compensate Mr. Hunt for his injury is \$215,400.

Court Award. This case was heard by the Workers' Compensation Court on February 5, 2012. After hearing the Claimant's testimony and considering the expert medical evidence, the Court entered its Order on February 6, 2012. The Court opined that the Claimant sustained 24% PPD to the left shoulder, 2% PPD to the head and 4% PPD to the cervical spine. The Court's findings are set out in Paragraph No. 5 of the Order, as follows:

"THAT as a result of said injury, claimant sustained 2 percent permanent partial disability to the HEAD, 4 percent permanent partial disability to the CERVICAL SPINE and 24 percent permanent partial disability to the LEFT SHOULDER (surgery), for which claimant is entitled to compensation for 150 weeks at \$359.00 per week, or the total amount of \$53,850.00 of which 52 weeks have accrued and shall be paid in a lump sum of \$18,668.00."

As can be noted in Paragraph No. 5 of the Court's Order, PPD compensation is expressed in terms of "weeks" of compensation with an accompanying "weekly wage rate." Workers' Compensation awards are normally paid at the weekly rate over a period of time. Mr. Hunt's weekly wage PPD rate is \$359. In this instance, a portion of the award has accrued and an additional four weeks will accrue for processing and placing on the Council Agenda.

If approved by Council, Mr. Hunt and his attorney will be paid the accrued lump sum amount and attorney's fee of \$30,874. (See Attachment No. 1)

The City will incur additional costs and Workers' Compensation filing fee in the total amount of \$1,620.88 as set out in Paragraph Nos. 9 and 10 of the Order, plus Cleveland County filing fee of \$125.70.

The total cost of this Order to \$55,596.58.

RECOMMENDATION: The issues tried on February 5, 2012 were the nature and extent of Mr. Hunt's injuries. The Award is within the medical evidence submitted in that it is well below one-third the difference between the medical evaluations. In light of the nature of the accident and the surgery to the left shoulder, it is not anticipated a more favorable ruling for the City could be achieved by further litigation. It is recommended that the City move forward to comply with this Order.

Acceptance of the Order would require the payments as outlined in Attachment No. 2. The Order would be certified to the Cleveland County District Court to be placed on the property tax rolls for collection over the next three years in accordance with 85 O.S. § 313, 51 O.S. § 159, and 62 O.S. § 361, *et seq.* Certifying the Order to the property tax rolls would, in effect, reimburse the City's Workers' Compensation Fund over the next three years.