



City of Norman, OK

Municipal Building
Council Chambers
201 West Gray
Norman, OK 73069

Master

File Number: R-1314-142

File ID: R-1314-142

Type: Resolution WCC

Status: Consent Item

Version: 1

Reference: Item No. 23

In Control: City Council

Department: Legal Department

Cost:

File Created: 06/10/2014

File Name: Compromise Settlement Earl Bridgeford

Final Action:

Title: RESOLUTION NO. R-1314-142: A RESOLUTION OF THE COUNCIL OF THE CITY OF NORMAN OKLAHOMA, AUTHORIZING COMPROMISE SETTLEMENT OF A CLAIM FILED BY EARL BRIDGEFORD UNDER THE PROVISIONS OF THE WORKERS' COMPENSATION STATUTES OF THE STATE OF OKLAHOMA IN THE CASE OF EARL BRIDGEFORD V. THE CITY OF NORMAN, WORKERS' COMPENSATION CASE NO. WCC-2010-14361A; DIRECTING THE LEGAL DEPARTMENT TO THEN FILE SUCH SETTLEMENT AND ALL ATTENDANT COSTS IN THE WORKERS' COMPENSATION COURT, OKLAHOMA CITY, OKLAHOMA; AND AUTHORIZING AND DIRECTING THE FINANCE DIRECTOR TO SUBSEQUENTLY PURCHASE SUCH WORKERS' COMPENSATION COURT JUDGMENTS FROM THE RISK MANAGEMENT INSURANCE FUND.

Notes: ACTION NEEDED: Motion to adopt or reject Resolution No. R-1314-142; and, if adopted, direct payment of claims in the amount of to \$25,855.01 which will constitute judgment against the City of Norman.

ACTION TAKEN: _____

Agenda Date: 06/24/2014

Agenda Number: 23

Attachments: Resolution R-1314-142, PRs

Project Manager: Jeanne Snider, Assistant City Attorney

Entered by: denise.johnson@normanok.gov

Effective Date: 06/24/2014

History of Legislative File

Ver- sion:	Acting Body:	Date:	Action:	Sent To:	Due Date:	Return Date:	Result:
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Text of Legislative File R-1314-142

Body

BACKGROUND: Earl Bridgeford was a permanent part-time Custodian for the Water Treatment Plant in the Utilities Department. He filed Workers' Compensation Claim WCC 2010-14361 A on December 17, 2010, alleging cumulative trauma to his bilateral hands with a date of last exposure on November 12, 2008. On September 27, 2011, he added bilateral elbows to his claim. The case proceeded through the normal litigation process and, through settlement negotiations; Mr. Bridgeford has agreed to settle his claim for the amount of \$24,904.44. The settlement offer is being presented to City Council at this time. It is recommended that this settlement be accepted.

DISCUSSION:

Nature of Claim. Mr. Bridgeford began his employment with the City on August 26, 1981 as a Maintenance Worker I in the Parks Department. After 28 years, he was accepted for a permanent part-time position as Custodian at the Water Treatment Plant.

Issues for Trial. Mr. Bridgeford claims injury to both hand and elbows due to years of repetitive use of park maintenance tools and operating cleaning and floor waxing equipment. This type of claim is known as cumulative trauma and has been routinely recognized by the Workers' Compensation Courts, particularly in instances involving long term employees. Therefore, the issue to be tried before the Workers' Compensation Court was the nature and extent of Mr. Bridgeford's cumulative injury or the Permanent Partial Disability (PPD) to Mr. Bridgeford's bilateral hands and elbows. Permanent partial disability is a factual determination made by the Workers' Compensation Court Trial Judge based on doctors' opinions and medical records regarding the extent of permanent partial impairment. Mr. Bridgeford was evaluated by Dr. Richard Ruffin pursuant to court order on June 16, 2011 for his bilateral hands, wrists and arms. He had an EMG examination by Dr. Jason Jackson on his bilateral hands on July 29, 2011. Dr. Derek West was subsequently appointed by the Court as the treating physician and he performed surgery on both wrists. Mr. Bridgeford was treated with a series of physical therapy sessions.

On August 11, 2013, Mr. Bridgeford was evaluated by Dr. Lance E. Rosson, who opined: 18% (33% less 15% preexisting) PPD to the left elbow; 20% PPD to the right elbow; 18% (33% less 15% preexisting) PPD to the left hand; and 39% PPD to the right hand; respectively, all of these ratings equate to \$78,625.80. Dr. Rosson also recommended continued medical maintenance and treatment.

The City had Mr. Bridgeford evaluated by Dr. Kent Hensley who opined 10% PPD to the right hand a result of his surgically treated carpal tunnel; 5% PPD to the left hand as a result of his carpal tunnel for which he only underwent conservative care; and 0% PPD to his right and left arms. Dr. Hensley further opined that continued medical maintenance or medical care and vocational rehabilitation would not be necessary. Respectively, these ratings equate to \$11,286. The maximum exposure to the City is \$78,625.80.

Trial. This case proceeded through the normal litigation process. A trial was scheduled for June 5, 2014. If a trial was held in this case, the Judge could determine nature and extent of the cumulative injuries anywhere within the range of the doctors' opinions as stated above. However, through settlement negotiations with Mr. Bridgeford prior to the trial a settlement in the amount of \$24,904.44 was reached.

Settlement. The proposed settlement is for a lump sum payment of \$24,904.44, which represents 22.5% PPD to the right hand, 8.1% PPD to the left hand and 2% PPD to the right elbow. A Compromise Settlement is beneficial to the City in that it is a full, final and complete settlement of any and all claims and closes out any continued medical treatment in this Workers' Compensation case. Moreover, the settlement offer is within the medical evidence.

It is felt that this settlement is fair and reasonable. This settlement is beneficial to Mr. Bridgeford in that it provides certainty for an award. It is also beneficial to him because the entire settlement amount is being paid in a lump sum rather than at a weekly rate over a period of time.

If this settlement offer is approved, payment to Mr. Bridgeford and his attorney would be paid as set out above which is slightly under one-half the difference in the medical opinion rates and the settlement rates .

Furthermore, if the case was settled in this manner, the City would incur additional costs and fees of: Workers' Compensation Administration Fund Tax in the amount of \$498.09; Special Occupational Health & Safety Fund Tax in the amount of \$186.78; Workers Comp Court Filing Fee in the amount of \$140.00; and Cleveland County Court Filing Fee in the amount of \$125.70. These additional costs and fees total \$950.57, which brings the total cost of this settlement to the City to \$25,855.01.

RECOMMENDATION: For the reasons outlined above, it is believed this Compromise Settlement is fair, reasonable, and in the best interest of the City. In light of Mr. Bridgeford's length of employment with the City, it is not anticipated a more favorable ruling for the City could be achieved by further litigation. Acceptance of the

Compromise Settlement would require the payments as outlined above. If approved, the settlement amount would be paid to Mr. Bridgeford and his attorney in a lump sum. The Compromise settlement 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 .