



City of Norman, OK

Municipal Building
Council Chambers
201 West Gray
Norman, OK 73069

Master

File Number: R-1920-43

File ID: R-1920-43	Type: Resolution WCC	Status: Consent Item
Version: 2	Reference: Item 22	In Control: City Council
Department: Legal Department	Cost: \$14,223.21	File Created: 10/01/2019
File Name: Workers Comp Settlement-Ryan Loveless	Final Action:	

Title: RESOLUTION R-1920-43: A RESOLUTION OF THE COUNCIL OF THE CITY OF NORMAN, OKLAHOMA, AUTHORIZING JOINT PETITION SETTLEMENT OF THE CLAIM FILED BY RYAN LOVELESS UNDER THE PROVISIONS OF THE WORKERS' COMPENSATION STATUTES OF THE STATE OF OKLAHOMA IN THE CASE OF *RYAN LOVELESS V. THE CITY OF NORMAN*, WORKERS' COMPENSATION COMMISSION CASE NO. 2017-05504 A; DIRECTING THE LEGAL DEPARTMENT TO THEN FILE SUCH SETTLEMENT AND ALL ATTENDANT COSTS IN THE WORKERS' COMPENSATION COMMISSION, OKLAHOMA CITY, OKLAHOMA; AND AUTHORIZING AND DIRECTING THE FINANCE DIRECTOR TO SUBSEQUENTLY PURCHASE SUCH WORKERS' COMPENSATION COMMISSION JUDGMENT FROM THE RISK MANAGEMENT INSURANCE FUND.

Notes: ACTION NEEDED: Motion to adopt or reject Resolution R-1920-43; and, if adopted, direct payment of claims in the amount of to \$14,223.21 which will constitute judgment against the City of Norman.

ACTION TAKEN: _____

Agenda Date: 10/08/2019

Agenda Number: 22

Attachments: Loveless-R-1920-43 cc-10-8-19,
Loveless-PR-R-1920-43

Project Manager: Jeanne Snider, Assitant City Attorney

Entered by: deedra.vice@normanok.gov

Effective Date:

History of Legislative File

Ver- sion:	Acting Body:	Date:	Action:	Sent To:	Due Date:	Return Date:	Result:
---------------	--------------	-------	---------	----------	-----------	-----------------	---------

Text of Legislative File R-1920-43

Body

BACKGROUND: Ryan Loveless, a heavy equipment operator for the City of Norman Water Line Maintenance Division of the Utilities Department, filed Workers Compensation Commission Case No. 2017-05504 A on August 27, 2017 alleging a single incident injury to the spine on August 29, 2016 when he was shoveling and twisting. The claim was admitted by the City of Norman and it proceeded through the normal litigation process. Prior to a trial being held, Mr. Loveless has agreed to settle this claim in the total amount of \$13,566 which represents 12% permanent partial disability to the body as a whole. The settlement offer is being recommended and is being presented to the City Council for consideration.

DISCUSSION: Mr. Loveless is a 16-year employee of the City of Norman who was hired as a maintenance worker I on February 21, 2003 and promoted to a maintenance worker II on July 26, 2006 and heavy equipment officer on March 28, 2008.

Medical Treatment. Mr. Loveless was initially seen by Dr. Harris on September 6, 2016 and sent for a magnetic resonance imaging (MRI) exam for the lumbar spine on September 12, 2016 which revealed his previous L5-S1 laminectomy, a previous work related injury to his back on April 30, 2012. The MRI also revealed a L4-5 disc herniation. He was referred to Dr. Voto and on December 5, 2016, December 26, 2016, and January 23, 2017 underwent a series of lumbar epidural steroid injections. Due to continued symptomology, he was referred to Dr. Cochran and underwent a L4-5 lateral recess decompression and discectomy April 26, 2017. He reached maximum medical improvement June 27, 2017 and returned to regular duty July 17, 2017 with no restrictions.

Issues for Trial. Since there is no question Mr. Loveless' injury to his spine occurred while in the course of his employment with the City, the primary issues to be tried in this case before the Workers' Compensation Commission are the extent of Mr. Loveless' injury and whether the injury to the spine was permanent in nature. Permanent partial disability is a factual determination made by the Workers' Compensation Commission Trial Judge based on doctors' opinions and medical records regarding the extent of permanent partial impairment.

On October 5, 2017, Mr. Loveless was rated by M. Stephen Wilson, M.D. who opined 19 percent (\$21,479.50) permanent partial impairment to the body as a whole regarding the lumbar spine over and above any prior injury, extend temporary total disability, as well as continued medical benefits in the form of pain management in regard to his chronic pain, assigned pain management specialist for treatment, and given entitlements for prescription medications or any treatments his treating physician deem necessary regarding this job-related injury.

Mr. Loveless was then rated by Dr. Kent Hensley, M.D., the medical expert for the City, on March 4, 2019 who opined 7% (\$7,913.50) permanent partial impairment to the whole body regarding the lumbar spine over and above his preexisting impairment. With regard to continued medical maintenance, Dr. Hensley stated that there are no objective findings for residual radiculopathy related to this injury at L4-5; however, it would relate to his prior surgery at L5-S1. The City's maximum exposure for total PPD would be \$21,479.50.

Trial. This case proceeded through the normal litigation process; however, Mr. Loveless has agreed to a settlement of this case as outlined below. If a trial was held in this case, the Judge could determine nature and extent of the injury to the spine and award permanent partial disability within a range of the doctors' opinions.

Proposed Settlement. The proposed settlement to close this case on a "Joint Petition" basis is for a lump sum payment of \$13,566 (less attorney fee) representing 12% permanent partial disability to the body as a whole.

It is felt that this settlement closing of the case is fair and reasonable. A 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 these Workers' Compensation cases. This settlement is beneficial to Mr. Loveless in that it provides certainty for an award and would be paid in a lump sum rather than at a weekly rate over a period of time.

Furthermore, if the case is settled in this manner, the City would incur additional costs and fees of Workers' Compensation Administration Fund Tax in the amount of \$271.32; Special Occupational Health & Safety Tax in the amount of \$101.75; and Workers Comp Commission Filing fee in the amount of \$140.00. In addition, the City would incur an additional cost and fee for the Cleveland County Court Filing Fee in the amount of \$144.14.

These additional costs and fees total \$657.21, which brings the total cost of this settlement to the City to \$14,223.21.

Adequate funds are available in the Order/Settlements Account (043-3002-415.21-31).

RECOMMENDATION: For the reasons outlined above, it is believed this settlement is fair, reasonable, and in the best interest of the City. Acceptance of the settlement would require the payments as outlined above. If approved, the settlement amount would be paid to Mr. Loveless and his attorney in a lump sum. The 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 85A O.S. § 107, 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.