



City of Norman, OK

Municipal Building
Council Chambers
201 West Gray
Norman, OK 73069

Master

File Number: R-2021-117

File ID: R-2021-117

Type: Resolution WCC

Status: Consent Item

Version: 2

Reference: Item 24

In Control: City Council

Department: Legal Department

Cost: \$22,206.25

File Created: 04/09/2021

File Name: Worker's Compensation Settlement - Andrew Palmer

Final Action:

Title: CONSIDERATION OF ADOPTION, REJECTION, AMENDMENT, AND/OR POSTPONEMENT OF RESOLUTION R-2021-117: A RESOLUTION OF THE COUNCIL OF THE CITY OF NORMAN, OKLAHOMA, AUTHORIZING JOINT PETITION SETTLEMENT OF THE CLAIM FILED BY ANDREW DAVID PALMER UNDER THE PROVISIONS OF THE WORKERS' COMPENSATION STATUTES OF THE STATE OF OKLAHOMA IN THE CASE OF *ANDREW DAVID PALMER V. THE CITY OF NORMAN*, WORKERS' COMPENSATION COMMISSION CASE NO. 2018-07531J; 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:

Agenda Date: 04/27/2021

Agenda Number: 24

Attachments: R-2021-117

Project Manager: Jeanne Snider

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:
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Text of Legislative File R-2021-117

Body

BACKGROUND: Andrew David Palmer was injured on April 21, 2018, and filed Oklahoma Workers Compensation Commission Case No. 2018-07531J on November 28, 2018, alleging a single incident injury to the right knee in an athletic activity while on duty. The claim was

accepted and has proceeded through the normal litigation process.

Prior to a trial being held, Mr. Palmer has agreed to settle this claim in the amount of \$22,206.25, which represents 25% permanent partial disability to the leg regarding the right knee. The settlement offer is being recommended and is being presented to the City Council for consideration.

DISCUSSION: Mr. Palmer is a firefighter for the City of Norman's Fire Department hired on September 12, 2012.

Medical Treatment.

Mr. Palmer was seen in the emergency room at Norman Regional Hospital the day of his injury, treated conservatively and sent for a magnetic resonance imaging (MRI) of the right knee on April 24, 2018. On April 25, 2018, he followed up with Norman Regional Occupational Medicine and due to MRI findings of a torn medial meniscus and anterior cruciate ligament tear was referred to orthopedic surgeon Michael Padilla, M.D. Mr. Palmer was evaluated by Dr. Padilla on April 26, 2018 and surgical intervention recommended. He was treated conservatively to include physical therapy in order to reduce swelling and improve range of motion preoperatively. On May 8, 2018, he underwent right knee arthroscopy and anterior cruciate ligament reconstruction with hamstring autograft as well as medial meniscal repair followed by postoperative physical therapy. Dr. Padilla placed him on light duty on October 13, 2018 and released maximum medical improvement (MMI) without restrictions on October 25, 2018. On November 2, 2018, Mr. Palmer returned to work. On January 2, 2019, Mr. Palmer returned to Dr. Padilla reporting while running he felt a pop and had worsening pain in his right knee. He returned to Dr. Padilla on January 8, 2019 following an MRI which revealed a medial meniscal tear and surgery was discussed. Surgery was not authorized by the City for this non-work related injury and was later informed by Mr. Palmer's attorney that Mr. Palmer had chosen not to have surgery and would be sent to be rated.

Issues for Trial. Since there is no question Mr. Palmer's injury to the right knee on April 21, 2018, 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 his injury and whether the injury is 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.

Mr. Palmer was rated by Dr. Rosson on October 23, 2020, regarding the above claim and opined 39% (\$34,641.75) permanent partial impairment to the right knee. He also opined Mr. Palmer should be given entitlements to continued care in the form of prescription medications on an as-needed basis as well as other treatment that his treating physician or further selected physicians might deem necessary with respect to this work related injury.

On December 3, 2020, the medical expert for the City, Dr. C.B. Pettigrew, opined 12% (\$10,659) permanent partial impairment to the right leg. He opined that Mr. Palmer was in no further need for medical care, continuing medical maintenance, continuing medical

maintenance for implanted medical devices/prosthetics/instrumentation, or prescription medications. The City's maximum exposure for total PPD would be \$34,641.75.

Trial. The case proceeded through the normal litigation process; however, Mr. Palmer 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 to his injuries and award permanent partial disability.

Proposed Settlement. The proposed settlement closes the case in a lump sum payment of \$22,206.25 (less 20% attorney fee) representing the settlement amount discussed above.

It is felt that the settlement to close this 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. This settlement is beneficial to Mr. Palmer 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 this case is settled in this manner, the City would incur additional costs and fees of:

Workers' Compensation Administration Fund Tax in the amount of \$444.13; Special Occupational Health & Safety Tax in the amount of \$166.55; 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 \$154.14.

These additional costs and fees total \$904.82, which brings the total cost of this settlement to the City to \$23,111.07.

Adequate funds are available in the Order/Settlements Account (43330102-42131).

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. Palmer 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* and 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.