



City of Norman, OK

Municipal Building
Council Chambers
201 West Gray
Norman, OK 73069

Master

File Number: R-1819-26

File ID: R-1819-26

Type: Resolution WCC

Status: Consent Item

Version: 2

Reference: Item 23

In Control: City Council

Department: Legal Department

Cost: \$11,305.00

File Created: 08/15/2018

File Name: Workers Comp Settlement-Brandon C. Ingraham v.
CON

Final Action:

Title: RESOLUTION R-1819-26: A RESOLUTION OF THE COUNCIL OF THE CITY OF NORMAN, OKLAHOMA, AUTHORIZING COMPROMISE SETTLEMENT OF THE CLAIM FILED BY BRANDON C. INGRAHAM UNDER THE PROVISIONS OF THE WORKERS' COMPENSATION STATUTES OF THE STATE OF OKLAHOMA IN THE CASE OF *BRANDON C. INGRAHAM V. THE CITY OF NORMAN*, WORKERS' COMPENSATION COMMISSION CASE 2016-02864 H; 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-1819-26; and, if adopted, direct payment of claims in the amount of to \$11,305 which will constitute judgment against the City of Norman.

ACTION TAKEN: _____

Agenda Date: 08/28/2018

Agenda Number: 23

Attachments: Ingraham Resolution, Ingraham Reqs-cc-8-28-18

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-1819-26

Body

BACKGROUND: Brandon C. Ingraham was a Maintenance Worker I in the Park Maintenance Division for the Parks and Recreation Department. On May 6, 2016, he filed a workers compensation claim alleging a single incident injury to the left shoulder on March 11, 2015, while lifting a trash can and a re-injury on or about April 2015 while lifting an edger. He then filed an amendment on July 18, 2016 changing the re-injury date to on or about July 13, 2015. The City admitted this claim and it proceeded through the normal litigation process. Prior to a trial being scheduled to determine compensability, Mr. Ingraham agreed to settle this claim in the total amount

of \$11,305. The settlement offer is being presented to City Council for consideration. It is recommended that this settlement be accepted.

DISCUSSION: Mr. Ingraham was hired by the City of Norman on September 16, 2013, and separated from employment June 5, 2017.

Initially following his injury dated March 11, 2015, a magnetic resonance imaging exam (MRI) was performed and he was treated conservatively with an injection to the left shoulder and physical therapy. Mr. Ingraham was released on April 29, 2015, having achieved maximum medical improvement to the injury, and returned to work. On July 13, 2015, he re-injured his left shoulder and a repeat MRI was performed the same day. He was treated conservatively with a steroid injection to his left shoulder on July 27, 2015, and physical therapy. Due to his persistent symptomology, a repeat MRI was performed on August 27, 2015, revealing a Superior Labrum Anterior and Posterior (SLAP) tendon tear. Mr. Ingraham was subsequently referred to Mark Moses, M.D. and underwent arthroscopic surgery on August 25, 2015, followed by post-operative physical therapy and was released, having achieved maximum medical improvement, with no restrictions on December 16, 2015, and returned to work on December 21, 2015.

Issues for Trial: The primary issues to be tried in this case before the Workers' Compensation Commission are the extent of Mr. Ingraham's injuries and whether the injuries to his left shoulder were 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 April 7, 2016, Mr. Ingraham was rated by Dr. Lance E. Rosson who opined 11.1% (\$12,548.55) permanent partial disability (PPD) to the whole man regarding the left shoulder as well as entitlement to continuing medical maintenance benefits, in the nature of prescription medication on an as-needed, basis, as well as other treatment that his treating physician or future selected physicians might deem necessary with respect to this injury. On September 28, 2016, the medical expert for the City, Dr. Kent Hensley opined 7% (\$7,913.50) impairment to the whole man regarding the left shoulder and entitlements to continuing medical maintenance would not be required. The City's maximum exposure for total PPD would be \$12,548.55.

Trial: This case proceeded through the normal litigation process; however, Mr. Ingraham 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 and re-injury of the left shoulder and award permanent partial disability within a range of the doctors' opinions.

Proposed Settlement: The proposed settlement to close this case on a "Compromise Settlement" basis is for a lump sum payment of \$11,305 (less attorney fee) representing 10% permanent partial disability to the body as a whole.

It is felt that this settlement closing of this case is fair and reasonable. 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 these Workers' Compensation cases. This settlement is beneficial to Mr. Ingraham in that it provides certainty for an award. It is also beneficial to Mr. Ingraham because the entire settlement amount is being 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 \$226.10; Special Occupational Health & Safety Tax in the amount of \$84.79; 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 \$595.03, which brings the total cost of this settlement to the City to \$13,177.78.

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

RECOMMENDATION: The settlement offer was discussed in Executive Session with City Council on August 14,

2018. For the reasons outlined above, it is believed this Compromise Settlement is fair, reasonable, and in the best interest of the City. Acceptance of the Compromise Settlement would require the payments as outlined above. If approved, the settlement amount would be paid to Mr. Ingraham 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 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.