



City of Norman, OK

Municipal Building
Council Chambers
201 West Gray
Norman, OK 73069

Master

File Number: R-1718-90

File ID: R-1718-90

Type: Resolution WCC

Status: Consent Item

Version: 2

Reference: Item 28

In Control: City Council

Department: Legal Department

Cost: \$75,000.00

File Created: 11/29/2017

File Name: Workers' Comp Settlement - Mark Helm

Final Action:

Title: RESOLUTION R-1718-90: A RESOLUTION OF THE COUNCIL OF THE CITY OF NORMAN, OKLAHOMA, AUTHORIZING COMPROMISE SETTLEMENT OF THE CLAIM FILED BY MARK HELM UNDER THE PROVISIONS OF THE WORKERS' COMPENSATION STATUTES OF THE STATE OF OKLAHOMA IN THE CASE OF MARK HELM V. *THE CITY OF NORMAN*, WORKERS' COMPENSATION CASE NO. 2007-07137A; 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 JUDGMENT FROM THE RISK MANAGEMENT INSURANCE FUND.

Notes: ACTION NEEDED: Motion to adopt or reject Resolution R-1718-90; and, if adopted, direct payment of claims in the amount of \$75,000 which will constitute judgment against the City of Norman.

ACTION TAKEN: _____

Agenda Date: 12/19/2017

Agenda Number: 28

Attachments: Text File WCC Helm, Helm R-1718-90, Purchase Req-Helm

Project Manager: Jeanne Snider, Assistant 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:
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Text of Legislative File R-1718-90

Body

BACKGROUND: Mark Helm is a retired Firefighter with the Norman Fire Department who filed three workers' compensation claims with the City of Norman for binaural hearing loss, PTSD and the third for multiple body parts. The binaural hearing loss (2007-09629Q) and the multiple body parts (2007-07137A) have been settled and all court awards have been paid in full. The trial court originally awarded Mr. Helm a PPD award in the PTSD claim; however, the Court of Civil Appeals reversed the trial court award and no award was paid on this claim.

Mr. Helm filed a 3E claim in Case No. 2007-07137A for benefits for combined disability against the City of

Norman. Because Mr. Helm's first injury (binaural hearing case) was from an awareness date in 2004, he did not meet the criteria for a Multiple Injury Trust Fund (MITF) claim which protects employers from liability for the combination of old and new disabilities. The Oklahoma Legislature had repealed the MITF in 2004 and did not reinstate it until 2005. Cases of multiple injuries which resulted in greater combined disability were the responsibility of the last employer during this period, thereby triggering a 3E claim.

As the case has proceeded through the litigation process, as well as a Court ordered mediation process, a settlement offer of \$75,000 has been made to resolve the case. City Council was briefed on this matter in Executive Session on November 21, 2017.

DISCUSSION:

Issues for Trial. The primary issue to be tried in this case before the Workers' Compensation Court is the level of the disability due to the combination of all adjudicated work related injuries. Claimant is seeking permanent total disability. Permanent total disability is a factual determination made by the Workers' Compensation Court Trial Judge based on doctors' opinions and medical records. If Mr. Helm is found to be permanent totally disabled, he would receive \$264 weekly (\$13,728/yr) for 15 years for a maximum exposure of \$205,920.

Proposed Settlement: Mediation was held on October 11, 2017, at the Workers' Compensation Court. The claimant has offered to settle the claim in full for \$75,000. As noted above the maximum exposure for permanent total disability is \$205,920. The merits of the settlement proposal were discussed by Council in the Executive Session.

If the case were settled, the City would incur additional costs totaling \$2,334.14 for taxes, fees, and filing costs all as imposed by Statute; Special Occupational Health and Safety Fund Tax (\$562.50); Workers' Compensation Administration Fund (\$1,500.00); Workers' Compensation Court Filing Fee (\$140); and Cleveland County Filing Fee (\$131.64). The total settlement cost would be \$77,334.14.

It is felt that the settlement closing this case is fair and reasonable. The settlement is beneficial to Mr. Helm because it provides certainty of the award, and it will be paid in a lump sum rather than in weekly payments over a period of time. The settlement offer is advantageous 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.

RECOMMENDATION: For the reasons outlined above, and based on Council input received in the Executive Session, it is believed this settlement is fair, reasonable, and in the best interest of the City. It is not anticipated a more favorable ruling for the City could be achieved by further litigation. Acceptance of the settlement for Mr. Helm would require the payments as outlined above. If approved, the settlement amount would be paid to Mr. Helm 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 for this settlement over the next three years.