



City of Norman, OK

Municipal Building Council
Chambers
201 West Gray Street
Norman, OK 73069

Master

File Number: R-1314-87

File ID: R-1314-87

Type: Resolution WCC

Status: Consent Item

Version: 1

Reference: Item No. 31

In Control: City Council

Department: Legal Department

Cost: \$24,907.98

File Created: 12/26/2013

File Name: WCC Compromise Settlement Resolution John
Curtis

Final Action:

Title: RESOLUTION NO. R-1314-87: A RESOLUTION OF THE COUNCIL OF THE CITY OF NORMAN, OKLAHOMA, AUTHORIZING COMPROMISE SETTLEMENT OF A CLAIM FILED BY JOHN CURTIS UNDER THE PROVISIONS OF THE WORKERS' COMPENSATION STATUTES OF THE STATE OF OKLAHOMA IN THE CASE OF JOHN CURTIS V. THE CITY OF NORMAN, WORKERS' COMPENSATION CASE NO. WCC-203-00572A; 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 approve or reject the City Attorney's recommendation; and if approved, authorize compliance with the Workers' Compensation Order and direct payment of claims in the amount of \$24,907.98 which will constitute judgment against the City of Norman.

ACTION TAKEN: _____

Workers' Comp Settlement

Agenda Date: 01/14/2014

Agenda Number: 31

Attachments: Resolution R-1314-87, PR Curtis.pdf

Project Manager: Jeanne Snider, Assistant City Attorney

Entered by: denise.johnson@normanok.gov

Effective Date: 01/14/2014

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-1314-87

body

BACKGROUND: John Curtis, a Maintenance Worker I for Street Maintenance in the Public Works Department. He filed Workers' Compensation Case No. WCC 2013-00572 X on January 15, 2013. Mr. Curtis alleged a single occurrence incident involving his right knee while working for the City of Norman on September 26, 2012. The case proceeded through the normal litigation process and, prior to a scheduled trial on December 16, 2013, Mr. Curtis offered to settle his case for \$23,982.75. The settlement offer is being presented to City Council at this time. It is recommended that this settlement be accepted.

DISCUSSION: Mr. Curtis is a 13 year employee of the City of Norman. He began his service with the City of Norman on February 7, 2000, as a Sanitation Worker in the Sanitation Division of the Utilities Department. He then transferred to Street Maintenance of the Public Works Department.

Nature of Claim. Mr. Curtis filed this Workers' Compensation claim alleging injury to his right knee when he slipped and fell unloading a skidsteer from a trailer. There is no question that Mr. Curtis was injured on the job.

Issues for Trial. The issues before the Workers' Compensation Court at a trial of this case would be the nature and extent of PPD. Permanent partial disability is a factual determination made by the Workers' Compensation Court Trial Judge based on doctors' opinions regarding the extent of permanent partial impairment.

Evaluations. Mr. Curtis was evaluated by Dr. J. Arden Blough on June 3, 2013. Dr. Blough opined 49% PPD to the right knee which equates to \$43,524.25. Dr. Blough also recommended continued medical maintenance. This would be the City's maximum exposure. The City had Mr. Curtis evaluated Dr. Kent Hensley who opined Mr. Curtis has 17% PPD to his right knee which equates to \$15,100.25. Dr. Hensley did not recommend continued medical maintenance. The Worker's Compensation Court Trial Judge is free to make a ruling within the range of the medical evidence presented at the time of trial.

Settlement. City Staff has negotiated with Mr. Curtis, through his attorney, a proposed settlement on a Compromise Settlement basis for a lump sum payment of \$23,982.75 which represents 27% PPD to the right knee. This Compromise Settlement is beneficial to the City in that it is a full, final and complete settlement of any and all claims in this Workers' Compensation case. Moreover, the settlement offer is in keeping with what the City has been ordered to pay in past years in similar cases by the Workers' Compensation Court.

Should this case proceed to trial, it is reasonably possible that the City could be ordered to pay more than the settlement offer and subsequent continued medical maintenance. This settlement is beneficial to Mr. Curtis 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. Curtis and his attorney would be paid at the PPD rate as set out above which is slightly less than one-third difference in the medical opinion rate and the settlement rate.

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 \$479.66; Special Occupational Health & Safety Fund Tax in the amount of \$179.87; 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 \$925.23, which brings the total cost of this settlement to the City to \$24,907.98.

RECOMMENDATION: For the reasons outlined above, it is believed this compromise settlement offer 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. Curtis 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.