



City of Norman, OK

Municipal Building
Council Chambers
201 West Gray
Norman, OK 73069

Master

File Number: R-1920-35

File ID: R-1920-35	Type: Resolution WCC	Status: Consent Item
Version: 2	Reference: Item 25	In Control: City Council
Department: Legal Department	Cost: \$6,092.08	File Created: 09/12/2019
File Name: Workers' Comp Settlement-Grant Ashley-CM16-07496A		Final Action:

Title: RESOLUTION R-1920-35: A RESOLUTION OF THE COUNCIL OF THE CITY OF NORMAN, OKLAHOMA, AUTHORIZING JOINT PETITION SETTLEMENT OF THE CLAIM FILED BY GRANT ASHLEY UNDER THE PROVISIONS OF THE WORKERS' COMPENSATION STATUTES OF THE STATE OF OKLAHOMA IN THE CASE OF *GRANT ASHLEY V. THE CITY OF NORMAN*, WORKERS' COMPENSATION COMMISSION CASE NO. 2016-07496 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-1920-35; and, if adopted, direct payment of claims in the amount of to \$6,092.08 which will constitute judgment against the City of Norman.

ACTION TAKEN: _____

Agenda Date: 09/24/2019

Agenda Number: 25

Attachments: R-1920-35, Purchase Requisitions

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-1920-35

Body

BACKGROUND: Grant Ashley began his employment with the City of Norman on July 20, 2015, as a permanent part-time custodian in the Parks and Recreation Department. He filed a workers compensation claim with the Worker's Compensation Commission on November 10, 2016, alleging cumulative injuries to the neck, upper back and both hands from pushing a buffer, mopping, vacuuming, and taking out the trash with last date of exposure May 25, 2016. Mr. Ashley separated from employment on October 14, 2016. The City of Norman admitted the claim for the reported injury to the back only and it proceeded through the normal litigation process. Prior to a trial, Mr. Ashley has agreed to settle this claim in the total amount of \$5,652.50, representing 5% permanent partial disability to the whole body. The settlement offer is being recommend and is being presented to the City Council for consideration.

DISCUSSION:

Medical Treatment. Mr. Ashley was seen by Kim Wiese, PA-C the day of his reported injury. He was treated conservatively with pain medication and a brief course of physical therapy. Mr. Ashley was also seen by Dr. Penwell and due to continued symptomology was sent for a thoracic magnetic resonance imaging (MRI) exam on June 28, 2016, which revealed degenerative changes and disc bulges in the lower cervical and upper back region. He was then seen by Dr. Ringus and sent for a cervical MRI on July 25, 2016, which revealed multilevel degeneration in the neck with some foraminal stenosis at various levels and disc protrusions with some stenosis and referred to Dr. Harris. Mr. Ashley was sent by Dr. Harris for an EMG, which showed bilateral carpal tunnel and ulnar nerve entrapment at the elbows. Dr. Harris recommended a carpal tunnel release, possible ulnar nerve transfers, and cervical steroid injections; however, Mr. Ashley refused surgery and the injections. By order of the court, Mr. Ashley was seen by Dr. Nasr on February 8, 2017 for an independent medical exam and was sent for a CT scan. The scan revealed significant ossification of his entire cervical spine with the exception of the C4-5 interspace. Dr. Nasr reported that Mr. Ashley had auto fusions on most every level and ossification of the posterior longitudinal ligament. Dr. Nasr's assessment was that Mr. Ashley neck pain was a result of an on the job injury, likely from a fracture of an osteophyte now fused, which is healed; therefore, no treatment or surgery would be required. Dr. Nasr recommended that Mr. Ashley follow-up with a spine surgeon due to his chronic inflammatory condition, which was not related to his workers' compensation injury and released maximum medical improvement with permanent lifting restrictions.

Issues for Trial. Since there is no question Mr. Ashley injured his neck 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. Ashley's injury and whether the injury to the neck 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. Both parties have agreed to settle the case prior to obtaining medical ratings and have agreed to stipulate that medical reports would support the settlement.

Trial. This case proceeded through the normal litigation process; however, Mr. Ashley 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 award permanent partial disability and

determine if the claim was work related.

Proposed Settlement. The City of Norman received a Child Support Court Order from the State of California. This Order would reduce the net settlement for Mr. Ashley by 50%. The proposed settlement to close this case on a "Joint Petition" basis is for a lump sum payment of \$5,652.50 (less attorney fee and court ordered child support) representing 5% permanent partial disability to the whole body.

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. Ashley 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 \$113.05; Special Occupational Health & Safety Tax in the amount of \$42.39; 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 \$439.58, which brings the total cost of this settlement to the City to \$6,092.08.

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. Ashley 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.