



City of Norman, OK

Municipal Building
Council Chambers
201 West Gray
Norman, OK 73069

Master

File Number: GID-1516-22

File ID: GID-1516-22	Type: Court Order	Status: Consent Item
Version: 2	Reference: Item 34	In Control: City Council
Department: Legal Department	Cost: \$24,225.00	File Created: 10/13/2015
File Name: Workers Compensation Ct. Order - Arthur Woods		Final Action:

Title: CONSIDERATION OF THE CITY ATTORNEY'S RECOMMENDATION FOR APPROVAL OF A COURT ORDER IN THE AMOUNT OF \$24,225 REGARDING ARTHUR WOODS VS. THE CITY OF NORMAN, WORKERS' COMPENSATION COURT CASE WCC 2014-08679F.

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 \$24,225, which will constitute judgment against the City of Norman.

ACTION TAKEN: _____

Agenda Date: 10/27/2015

Agenda Number: 34

Attachments: Court Order Woods, PR's Woods

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:
---------------	--------------	-------	---------	----------	-----------	-----------------	---------

Text of Legislative File GID-1516-22

Body

BACKGROUND: Arthur Woods was a Heavy Equipment Operator who filed Workers' Compensation Case No. 2014-08679 F September 10, 2014 alleging on or about June 2013 a work related cumulative trauma injury to his right shoulder, body due to lifting heavy equipment. He underwent an MR arthrogram of his right shoulder May 31, 2013 and a full thickness tear of the rotator cuff was identified and surgery recommended. On June 14, 2013 an arthroscopy of the right shoulder with a rotator cuff repair, a subacromial decompression, a distal clavicle excision, and a bursectomy surgery was performed followed by a course of post-operative physical therapy and was released without restrictions on September 24, 2013. The City denied the claim for notice, nature and compensability. The case has proceeded through the normal litigation process. A trial was held on September 23, 2015. On September 25, 2015 the Court found the injury was work-related and awarded Mr. Woods 15% permanent partial impairment to the right shoulder for the total sum of \$24,225.00.

DISCUSSION: Mr. Woods, a thirty five (35) year employee of the City of Norman, was hired as a Maintenance Worker I in the Stormwater Division of Public Works on July 17, 1978. He was promoted to Maintenance Worker II on February 2, 1979 and Heavy Equipment Operator on August 4, 1981. Mr. Woods retired from the

City of Norman on November 27, 2013.

Issues for Trial. The issues tried on September 23, 2015 before the Workers' Compensation court were permanent partial disability, medical, rate, continued medical maintenance, and commute. 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. Woods was evaluated on December 1, 2014 by J. Arden Blough, M.D. Dr. Blough opined 66% permanent partial impairment to the right shoulder which converts to a 40% permanent partial impairment to the body as a whole due to work related activities performed while employed by the City of Norman and continued care to the right shoulder (assigned a board certified orthopedic specialist, entitlements for prescription medication or any treatments his treating physician deems necessary in regard to this work related injury). The City's maximum permanent partial impairment exposure would be \$64,600.00.

The City had Mr. Woods evaluated by LeRoy E. Young, D.O. on January 26, 2015 who opined 6% (\$9,690.00) permanent partial impairment to the body as a whole for injuries to the right shoulder as a result of surgery and is degenerative in nature and not employment related, no further need of medical care or continued medical maintenance, and 3% pre-existing permanent partial disability to the body as a whole as a result of degenerative joint disease of his right shoulder. The Workers' Compensation Court Trial Judge is free to make a ruling within the range of medical evidence presented at the time of trial.

Court Award: The case was heard by the Workers' Compensation Court on September 10, 2015. After hearing the Claimant's testimony and considering the expert medical evidence, the Court entered its Order on September 25, 2015, awarding permanent partial impairment of 15% to the right shoulder for the total sum of \$24,225.00. 15% to the body as a whole represents less than one-third the difference in medical opinions.

The Court's findings are set out in Paragraph Nos. 5 and 6 of the Order, as follows:

-5- "That as a result of said injury, claimant sustained 15 percent permanent partial impairment to the RIGHT SHOULDER, over and above pre-existing 3% (DEGENERATIVE CONDITION PER DR. YOUNG'S REPORT OF JANUARY 26, 2015), for which claimant is entitled to compensation for 75 weeks at \$323.00 per week, or the total amount of \$24,225.00 of which 75 weeks have accrued and shall be paid in a lump sum of \$24,225.00."

-6- "THAT respondent and/or insurance carrier shall pay all reasonable and necessary medical expenses incurred by claimant as a result of said injury."

As can be noted in Paragraph No. 5 of the Court's Order, PPI compensation is expressed in terms of "weeks" of compensation with an accompanying "weekly wage rate." Workers' Compensation awards are normally paid at the weekly rates over a period of time. Mr. Wood's weekly wage PPI rate is \$323.00. In this instance, the entire portion of the award has accrued and is to be paid in a lump sum.

If approved by Council, Mr. Woods and his attorney will be paid the full amount of the award of \$24,225.00 which includes his attorney fees.

Further, in complying with the Order, the City will incur additional costs and fees as set out in Paragraph Nos. 8 and 9. Special Occupational Health and Safety Fund Tax in the amount of \$181.69, Workers' Compensation Administration Fund in the amount of \$484.50, filing fee to the Workers' Compensation Court in the amount of \$140.00; and Cleveland County filing fee in the amount of \$125.70. The costs and fees total \$931.89.

The total cost of this Order is \$25,156.89.

RECOMMENDATION: The issues tried on September 23, 2015 were permanent partial disability, medical, rate, continued medical maintenance, commute, all issues due to the cumulative trauma to the right shoulder injury. The Court Award in this case is within the medical evidence submitted in that the PPD award is less than one-third the difference between the medical evaluations. It is not anticipated a more favorable ruling for the City could be achieved by further litigation. It is recommended that the City move forward to comply with

this Order.

Acceptance of the Order would require the payments as outlined above. The Order 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.