



# City of Norman, OK

Municipal Building  
Council Chambers  
201 West Gray  
Norman, OK 73069

## Master

**File Number: R-1415-49**

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<b>File ID:</b> R-1415-49	<b>Type:</b> Resolution WCC	<b>Status:</b> ATS Paused
<b>Version:</b> 1	<b>Reference:</b> Item No. 21	<b>In Control:</b> City Council
<b>Department:</b> Legal Department	<b>Cost:</b> \$21,838.06	<b>File Created:</b> 10/17/2014
<b>File Name:</b> Workers Comp Settlement - Garrett Hays		<b>Final Action:</b>

**Title:** RESOLUTION NO. R-1415-49: A RESOLUTION OF THE COUNCIL OF THE CITY OF NORMAN OKLAHOMA, AUTHORIZING COMPROMISE SETTLEMENT OF A CLAIM FILED BY GARRETT HAYS UNDER THE PROVISIONS OF THE WORKERS' COMPENSATION STATUTES OF THE STATE OF OKLAHOMA IN THE CASE OF GARRETT HAYS V. THE CITY OF NORMAN, WORKERS' COMPENSATION CASE NO. WCC-2013-04390K; 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 adopt or reject Resolution No. R-1415-49; and, if adopted, direct payment of claims in the amount of to \$21,838.06 which will constitute judgment against the City of Norman.

ACTION TAKEN: \_\_\_\_\_

**Agenda Date:** 11/10/2014

**Agenda Number:**

**Attachments:** Resolution R-1415-49, PRs

**Project Manager:** Jeanne Snider, Assistant City Attorney

**Entered by:** denise.johnson@normanok.gov

**Effective Date:**

### History of Legislative File

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Ver- sion:	Acting Body:	Date:	Action:	Sent To:	Due Date:	Return Date:	Result:
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### Text of Legislative File R-1415-49

Body

**BACKGROUND:** Garrett K. Hays is a Police Officer filed Worker's Comp Case No. 2013-04390 K on April 24, 2013 alleging injury to his lower back on April 20, 2013. The case proceeded through the normal litigation process. Mr. Hays has offered to settle his claim in the amount of \$20,995. The settlement is being presented to City Council at this time. It is recommended that this settlement be accepted.

**DISCUSSION:** Mr. Hays was hired as a Police Officer on October 9, 2009. He filed this claim alleging low back injury while marching with the Honor Guard in a parade on April 20, 2013. A trial date was set on October 15, 2014. Prior to the trial date, City Staff negotiated a settlement with Mr. Hays through his attorney.

Issues for Trial. The issues before the Workers' Compensation Court at a trial of this case is the nature and extent of PPD and continued medical maintenance. 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. Hays was evaluated by Dr. Lonnie Litchfield on April 24, 2014 and again on April 2, 2014. Dr. Litchfield opined 41% PPD (over and above a 3% preexisting condition) which equates to \$66,215. Dr. Litchfield also recommended continued medical maintenance for pain management. This would be the City's maximum exposure.

The City had Mr. Hays evaluated Dr. LeRoy Young on June 3, 2014, who opined Mr. Hays has 0% PPD due to his preexisting military disability to his back, which equates to \$0. Dr. Young 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 negotiated a proposed settlement on a Compromise Settlement basis for a lump sum payment of \$20,995, which represents 13% PPD to the lumbar back. 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 this Workers' Compensation case. Moreover, the settlement offer is within the medical evidence.

It is felt that this settlement is fair and reasonable. This settlement is beneficial to Mr. Hays 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. Hays and his attorney would be paid as set out above which is under one-third the difference in the medical opinion rates and the settlement rates.

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 \$419.90; Special Occupational Health & Safety Fund Tax in the amount of \$157.46; 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 \$843.06, which brings the total cost of this settlement to the City to \$21,838.06.

**RECOMMENDATION:** For the reasons outlined above, it is believed this Compromise 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 Compromise Settlement would require the payments as outlined above. If approved, the settlement amount would be paid to Mr. Hays 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.