

impairment exposure would be \$36,951.20.

The City had Mr. Grady evaluated by Dr. Kent Hensley, M.D. on May 3, 2016 who opined 17% (\$12,080.20) impairment to the right foot. Dr. Hensley did not recommend continued medical maintenance as Mr. Grady has no current symptomatology. 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 February 15, 2017. After considering the expert medical evidence, the Court entered its Order on February 24, 2017, awarding 38% permanent partial disability to the right foot for a total amount of \$27,002.80.

The Court's findings are set out in Paragraph Nos. 3 and 5 of the Order, as follows:

-3- "THAT as a result of said injury, claimant sustained 0 percent permanent partial impairment to the RIGHT LEG, 38 percent permanent partial disability to the RIGHT FOOT, for which claimant is entitled to compensation for 83.6 weeks at \$323.00 per week, or the total amount of \$27,002.80 of which 52 weeks have accrued and shall be paid in a lump sum of \$16,796.00."

-5- "THAT respondent or insurance carrier shall pay claimant the accrued portion of the award herein in lump sum of \$16,796.00 and pay the balance of said award at the rate of \$323.00 per week until the total award of \$27,002.80 (less attorney fee) has been paid to claimant."

As can be noted in Paragraph No. 3 of the Court's Order, PPD 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. Grady's weekly wage PPD rate is \$323.00. In this instance, a portion of the award has accrued and is to be paid in a lump sum.

If approved by Council, Mr. Grady and his attorney will be paid the accrued lump sum amount and attorney's fee plus an additional four weeks for processing and Council approval in the lump sum of \$23,488.56, with the balance of the award of \$3,514.24 to be paid in weekly payments of \$323.00 until paid in full as set forth in the Payment Schedule attached.

Further, in complying with the Order, the City will incur additional costs and fees as set out in Paragraph Nos. 6 and 7. Special Occupational Health and Safety Fund Tax in the amount of \$202.52, Workers' Compensation Administration Fund in the amount of \$540.06, filing fee to the Workers' Compensation Court in the amount of \$140.00; and Cleveland County filing fee in the amount of \$131.64. The costs and fees total \$1,014.22.

The total cost of this Order is \$28,017.02.

RECOMMENDATION: The issues tried on February 15, 2017 were nature and extent of permanent partial disability to the right foot and continued medical maintenance due to the September 2, 2013 on the job injury. 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 in the attached Payment Table. 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.