



## CITY OF NORMAN, OK STAFF REPORT

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**MEETING DATE:** 11/09/2021

**REQUESTER:** Jeanne Snider

**PRESENTER:** Jeanne Snider, Assistant City Attorney

**ITEM TITLE:** CONSIDERATION OF ADOPTION, REJECTION, AMENDMENT, AND/OR POSTPONEMENT OF RESOLUTION R-2122-56: A RESOLUTION OF THE COUNCIL OF THE CITY OF NORMAN, OKLAHOMA, AUTHORIZING JOINT PETITION SETTLEMENT OF THE CLAIM FILED BY HENRY L. BASKEYFIELD UNDER THE PROVISIONS OF THE WORKERS' COMPENSATION STATUTES OF THE STATE OF OKLAHOMA IN THE CASE OF *HENRY L. BASKEYFIELD V. THE CITY OF NORMAN*, WORKERS' COMPENSATION COMMISSION CASE NO. 2020-03971 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.

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### **BACKGROUND:**

Henry Baskeyfield was injured on December 17, 2019, and filed an Oklahoma Workers Compensation Commission No. 2020-03971 A on July 20, 2020, alleging a single incident injury to the low back loading an aggressive dog into a cage. The claim was accepted and has proceeded through the normal litigation process. On January 19, 2021, Mr. Baskeyfield died as a result of a condition unrelated to the injury related to this claim. On March 29, 2021, the court ordered his surviving spouse, Deborah Marie Baskeyfield, as the proper party to be appointed the representative of the estate of Mr. Baskeyfield to pursue a revivor action.

Prior to a trial being held, Mrs. Baskeyfield has agreed to settle this claim in the amount of \$12,600, which represents 10% permanent partial disability to the whole body regarding the low back. The settlement offer is being recommended and is being presented to the City Council for consideration.

### **DISCUSSION:**

Mr. Baskeyfield is a former Animal Welfare Officer for the City of Norman's Animal Welfare Division of the Police Department hired July 27, 1977.

## Medical Treatment.

Mr. Baskeyfield was initially seen at Norman Regional Occupational Medicine on December 23, 2019. He was sent for a magnetic resonance imaging (MRI) on January 6, 2020. Due to MRI findings of minimal to mild lumbar disc bulges, pain management (epidural steroid injections) were recommended. Mr. Baskeyfield declined the pain management referral and requested physical therapy. On February 12, 2020, Mr. Baskeyfield reportedly had experienced 99 percent improvement since the date of injury and was released without restrictions at his request.

Issues for Trial. Since there is no question Mr. Baskeyfield's injury to the low back on December 17, 2019, occurred 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 his injury and whether the injury 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.

Mr. Baskeyfield was rated by Dr. Rosson on December 17, 2020, regarding the above claim and opined 25 percent (\$31,500) permanent partial impairment to the whole body regarding the low back over and above any pre-existing condition/impairment. In addition, he opined Mr. Baskeyfield should be given entitlements to continued care in the nature of prescription medications and on an as-needed basis, as well as other treatment that his treating physician or future selected physicians might deem necessary, with respect to this job-related injury.

On February 5, 2021, Dr. Pettigrew, the medical expert for the City, hypothetical rating on Mr. Baskeyfield opined no permanent partial impairment to the body as a whole over and above any pre-existing condition/impairment to the lumbar spine. The City's maximum exposure for total PPD would be \$31,500.

Trial. The case proceeded through the normal litigation process; however, Mrs. Baskeyfield 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 to Mr. Baskeyfield's injuries and award permanent partial disability.

Proposed Settlement. The proposed settlement closes the case in a lump sum payment of \$12,600 (less 20% attorney fee). Pursuant to 85A O.S. § 31(7)(b), for this injury that occurred on or after July 1, 2019, a Multiple Injury Trust Fund assessment in the amount of \$378, representing 3 percent of the permanent partial disability award would be deducted from Mr. Baskeyfield's settlement and paid to the Oklahoma Tax Commission by the City for net payment of \$12,222.

It is felt that the settlement to close this 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. This settlement is beneficial to Mrs. Baskeyfield 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 this case is settled in this manner, the City would incur additional costs and fees of:

Workers' Compensation Administration Fund Tax in the amount of \$252; Special Occupational Health & Safety Tax in the amount of \$94.50; 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 \$154.14.

These additional costs and fees total \$640.64, which brings the total cost of this settlement to the City to \$13,240.64.

Adequate funds are available in the Order/Settlements Account (43330102-42131).

**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 Mrs. Baskeyfield and her 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* and 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.