



CITY OF NORMAN, OK STAFF REPORT

MEETING DATE: 3/08/2022

REQUESTER: Jeanne Snider

PRESENTER: Jeanne Snider, Assistant City Attorney

ITEM TITLE: CONSIDERATION OF APPROVAL, REJECTION, AMENDMENT, AND/OR POSTPONEMENT OF RESOLUTION R-2122-100: A RESOLUTION OF THE COUNCIL OF THE CITY OF NORMAN, OKLAHOMA, AUTHORIZING JOINT PETITION SETTLEMENT OF THE CLAIM FILED BY STACEY ERIN CLEMENT UNDER THE PROVISIONS OF THE WORKERS' COMPENSATION STATUTES OF THE STATE OF OKLAHOMA IN THE CASE OF *STACEY ERIN CLEMENT V. THE CITY OF NORMAN*, WORKERS' COMPENSATION COMMISSION CASE NO. 2020-04580 R; 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.

BACKGROUND:

Stacey Erin Clement was injured on June 4, 2020, and filed an Oklahoma Workers Compensation Commission No. 2020-04580 R on August 14, 2020, alleging a single incident injury to the head, face, neck, back, both shoulders, arms, hands, and legs as a result of a motor vehicle accident. The claim was accepted and has proceeded through the normal litigation process.

Prior to a trial being held, Ms. Clement has agreed to settle her claim for 20 percent permanent partial disability to the whole body in the total amount of \$25,200 which represents 4% (\$5,040) to the head, 8% (\$10,080) to the neck, 3% (\$3,780) to the back, 2.5% (\$3,150) to the right shoulder, 2.5% (\$3,150) to the left shoulder and 0% to the face, arms, hands, and legs. The settlement offer is being recommended and is being presented to the City Council for consideration.

DISCUSSION:

Ms. Clement is a Police Captain for the City of Norman's Police Department. She was hired September 24, 2002, reclassified to a Master Police Officer September 11, 2006 and promoted to Lieutenant February 7, 2014 and Captain February 28, 2020.

Medical Treatment. Ms. Clement was seen in the emergency room at Norman Regional Hospital the day of her injury, treated conservatively and directed to follow-up with Norman Regional Occupational Medicine. On June 18, 2020, she was seen at Norman Regional Occupational Medicine and was treated conservatively to include physical therapy. Due to continued symptomatology without improvement, Ms. Clement was sent for a MRI of the cervical spine on July 23, 2020 and referred to an orthop-spine specialist, Dr. Stephen Eichert. On August 10, 2020, Dr. Eichert referred Ms. Clement to Dr. Rita Hancock for pain management. She was then evaluated by Dr. Lonnie Litchfield on August 26, 2020 and referred to a new treating physician Dr. Jason Leinen. Dr. Leinen treated Ms. Clement conservatively to include physical therapy and underwent an epidural steroid injection by Dr. Darryl Robinson on December 11, 2020. She was released by Dr. Leinen maximum medical improvement on March 1, 2021 without restrictions.

Issues for Trial. Since there is no question Ms. Clement's injury to the head, neck, back, right and left shoulder, occurred while in the course of her employment with the City, the primary issues to be tried in this case before the Workers' Compensation Commission are the extent of her injury and whether the injury is 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.

Evaluations. Ms. Clement was evaluated by Dr. Litchfield on March 17, 2021, regarding the above claim and opined a total rating of 28 percent permanent partial disability to the whole body over and above any prior injury. This rating represented 5% (\$6,300) to the head, 8% (\$10,080) to the cervical spine, 5% (\$6,300) to the thoracic spine, 5% (\$6,300) to the right shoulder, 5% (\$6,300) to the left shoulder and 0% to the face, bilateral arms, hands, and legs. On November 5, 2021, Dr. C.B. Pettigrew, the medical expert for the City, opined 2 percent (\$2,520) permanent partial impairment to the whole body regarding the cervical spine and 0 percent to the head, thoracic spine, right shoulder, left shoulder, face, bilateral arms, hands, and legs. The City's maximum exposure for total PPD would be \$35,280.

Trial. The case proceeded through the normal litigation process; however, Ms. Clement 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 her injuries and award permanent partial disability.

Proposed Settlement. The proposed settlement closes the case in a lump sum payment of \$25,200 (less 20% attorney fee) representing the settlement amount discussed above. Pursuant to 85A O.S. § 31(7), for injuries occurring on or after July 1, 2019, a Multiple Injury Trust Fund assessment in the amount of \$756, representing (3%) of the permanent partial disability award shall be deducted and paid to the Oklahoma Tax Commission.

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 and closes out any continued medical treatment. This settlement is beneficial to Ms. Clement 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 \$504; Special Occupational Health & Safety Tax in the amount of \$189; 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 \$987.14, which brings the total cost of this settlement to the City to \$26,187.14. 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 Ms. Clement 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.