



## Agenda Report

18-445

Agenda Date: 9/11/2018

### REPORT TO COUNCIL

#### SUBJECT

Action on an Ordinance Codifying Existing Claims Settlement Authority and Amending Settlement Authority for Workers' Compensation Matters

#### BACKGROUND

Settlement authority for resolving claims against the City, including workers' compensation claims, have historically been set by resolution (Attachment 1). Currently, those settlement authority amounts are:

- Claims up to \$5,000 - settled by third-party adjuster
- Claims up to \$25,000 - settled by City Attorney
- Claims up to \$50,000 - settled by City Attorney and City Manager
- Police Misconduct Cases - settled by City Council (all amounts)

In order to promote efficiency and transparency for the general public, and to bring the City into alignment with industry standards, while ensuring compliance with the applicable provisions of the Government Code, Labor Code and California Code of Regulations, the proposed ordinance codifies settlement authority limits and increases settlement authority for worker's compensation matters.

#### DISCUSSION

##### Worker's Compensation Matters:

Claims for which the workers' compensation system provides the exclusive remedy are exempt from the Government Claims Act (Government Code §905). As such, these claims are not subject to the \$50,000 statutory cap on Council's ability to delegate settlement of claims (Government Code §935.4). Based upon this, several neighboring jurisdictions, as described below, delegate full settlement authority to staff for compromise of workers' compensation matters.

Workers' compensation claim values are driven by prescribed statutory formulas. State law requires a permanent disability (PD) rating for an injured worker. A PD rating is a set amount for medical care payments and is dictated by the worker's level of impairment, the medical opinions about his/her condition, and the State of California's rating system. Once the PD rating is set at the Workers' Compensation Appeals Board (WCAB), there is little-to-no discretion in changing that award amount.

Generally, there are two types of workers' compensation matters that need settlement authority: stipulations and compromise and releases. Stipulations occur when the City agrees to a PD rating and will pay future medical costs. A compromise and release (C&R) results when the City agrees to a final settlement and no future medical costs will be paid.

Because there is little discretion in changing an award amount issued by the WCAB, in the vast majority of cases, the award is simply accepted by the employer. Therefore, staff recommends streamlining the settlement approval process to permit City Attorney and City Manager approval of all stipulation awards, regardless of amount and approval of C&R claims up to \$250,000. The authority to settle workers' compensation claims does not include negligence or other acts by the City or its employees (such as serious and willful misconduct cases); those cases would be limited to the settlement authority figures listed above in accordance with the \$50,000 limit in the California Government Code.

Limiting the times that these matters are presented at closed or open sessions of Council meetings would also ensure that employee medical privacy is maintained.

Therefore, staff recommends adopting an ordinance for this increased approval authority so that it is reflected in the City Code for transparency and ease of reference by the public (Attachment 2). Staff is recommending the \$250,000 authority amount for C&Rs because 99% of City workers' compensation claims are settled under that amount:

For the three year period of January 2015 through March 2018, the City's workers' compensation settlement amounts breakdown as follows:

Up to \$25,000	60%
\$25,001 to \$50,000	30%
\$50,001 and over	10%

Staff has surveyed several local agencies to determine how they handle workers' compensation claims. Of the local agencies surveyed, the majority of agencies authorize staff to approve stipulations regardless of amount and in half the agencies surveyed staff has full settlement authority for C&Rs. Specifically, those results are:

City of Campbell:

- Staff authorizes all Stipulations
- Staff has \$10,000 settlement authority for C&Rs
- Council approves all settlements over \$10,000

City of Milpitas:

- City Manager has up to \$50,000 Settlement Authority
- Anything over \$50,000 goes to Council - Closed Session

City of Mountain View:

- Staff has full settlement authority for all Stipulations and C&Rs

City of Palo Alto:

- Staff has full settlement authority for all Stipulations and C&Rs

City of Sunnyvale:

- Staff authorizes all Stipulations
- Staff has Settlement Authority for C&Rs up to \$50,000

Santa Clara Valley Transportation Authority:

- Staff has full settlement authority for all Stipulations and C&Rs

All Other Claims:

The proposed ordinance does not increase or otherwise alter the \$25,000 and \$50,000 settlement authority limits previously contained in Resolution 17-8430. Rather, in order to promote transparency and ease of access for the general public, that previously established claims settlement authority will now be codified. These limits comport with the restrictions of Government Code §934.5.

Resolution 17-8430 did include an express delegation to the City's third party claims administrator for settlements up to \$5,000. This ordinance does not contain such an express delegation, but allows the City Attorney to authorize a designee, such as the third party claims administrator, to compromise claims up to the amount of the City Attorney's authority (\$25,000).

**FISCAL IMPACT**

With the approval of the recommendation outlined in this report, staff time can be dedicated towards other priority issues.

**ENVIRONMENTAL REVIEW**

The action being considered does not constitute a "project" within the meaning of the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines section 15378(b)(5) in that it is a governmental organizational or administrative activity that will not result in direct or indirect changes in the environment.

**COORDINATION**

This report has been coordinated with the City Attorney's Office and the Finance Department.

**PUBLIC CONTACT**

Public contact was made by posting this agenda on the City's official-notice bulletin board outside City Hall Council Chambers. A complete agenda packet is available on the City's website and in the City Clerk's Office at least 72 hours prior to a Regular Meeting and 24 hours prior to a Special Meeting. A hard copy of any agenda report may be requested by contacting the City Clerk's Office at (408) 615-2220, email [clerk@santaclaraca.gov](mailto:clerk@santaclaraca.gov) <<mailto:clerk@santaclaraca.gov>> or at the public information desk at any City of Santa Clara public library.

**RECOMMENDATION**

Approve the introduction of an Ordinance Of The City Of Santa Clara, California, Adding Section 1.15.090 ("Claim Settlement Authority") To Chapter 1.15 ("Claims Against The City") Of Title 1 ("General Provisions") Of "The Code Of The City Of Santa Clara, California" to (1) revise the settlement authority limits for workers' compensation matters to reflect that the City Attorney, with written concurrence of the City Manager, has authority to settle claims by compromise and release up to and including \$250,000, and authority to settle stipulations at any amount, and (2) codifying existing authority for City Manager and City Attorney to settle all other claims.

Reviewed by: Julia Hill, Interim Director of Human Resources

Approved by: Deanna J. Santana, City Manager

**ATTACHMENTS**

1. Resolution No. 17-8430, A Resolution of the City of Santa Clara, California Repealing Resolution No. 6516 and Authorizing New Settlement Authority To City Manager, City Attorney, and Claims Adjusters
2. Proposed Ordinance Of The City Of Santa Clara, California, Adding Section 1.15.090 ("Claim Settlement Authority") To Chapter 1.15 ("Claims Against The City") Of Title 1 ("General Provisions") Of "The Code Of The City Of Santa Clara, California"