

MINUTES OF MEETING  
OF THE INDUSTRIAL COMMISSION OF ARIZONA  
Telephonic Meeting  
Held at 800 West Washington Street  
Phoenix, Arizona 85007  
Thursday, December 16, 2021 – 1:00 p.m.

Present: Dale L. Schultz	Chairman (Telephonic)
Joseph M. Hennelly, Jr.	Vice Chair (Telephonic)
Scott P. LeMarr	Commissioner (Telephonic)
D. Alan Everett	Commissioner (Telephonic)
James Ashley	Director (Telephonic)
Gaetano Testini	Chief Legal Counsel (Telephonic)
Jason M. Porter	Deputy Director (Telephonic)
Renee Pastor	Self Insurance (Telephonic)
Lisa Padgett	Labor Director (Telephonic)
Melissa Spurgeon	Labor Investigation Supervisor (Telephonic)
Melissa Hinojosa	Labor Division (Telephonic)
Christina Sanchez	Labor Division (Telephonic)
Jessie Atencio	ADOSH Director (Telephonic)
Steven Black	ADOSH Compliance (Telephonic)
Karen Schomburg	ADOSH Compliance (Telephonic)
Casey Ruyle	ADOSH Compliance (Telephonic)
Anna Maria Stonerock	ADOSH Admin (Telephonic)
Kara Dimas	Commission Secretary (Telephonic)

Chairman Schultz convened the meeting at 1:00 p.m. Also in attendance on the telephone, confirmed by roll call were William “Digger” Oster, Michelle Casciato and Thomas Partin (City of Surprise); Douglas Chappell (Drexel Heights Fire District); Tomi Sullivan (Five Guys Services LLC DBA Five Guys Roofing); Savannah Scharnhorst (Snell & Wilmer); and Merissa Hamilton.

Approval of Minutes of December 9, 2021 Regular Meeting Minutes.

Commissioner Everett moved to approve the Minutes of the December 9, 2021 regular session meeting and Commissioner LeMarr seconded the motion. Chairman Schultz, Vice Chair Hennelly, Commissioner LeMarr and Commissioner Everett voted in favor of the motion. The motion passed.

Consent Agenda:

All items following under this agenda item are consent matters and will be considered by a single motion with no discussion unless a Commissioner asks to remove an item on the consent agenda to be discussed and voted on separately. The Commission may move into Executive Session under A.R.S. § 38-431.03(A)(2) to discuss records exempt by law from public inspection. Legal action involving a final vote or decision shall not be taken in Executive Session. If such action is required, then it will be taken in General Session.

- a. Approval of Requests for Renewal of Self-Insurance Authority.

1. City of Surprise

Chairman Schultz noted the request also includes an exemption for security deposit and commended the City of Surprise for their continuing excellence in their safety as exemplified by their current experience modification factor of .92.

Vice Chair Hennelly moved to approve the item on the Consent Agenda as presented and Commissioner LeMarr seconded the motion. Chairman Schultz, Vice Chair Hennelly, Commissioner LeMarr and Commissioner Everett voted in favor of the motion. The motion passed.

Discussion and Action regarding Proposed Retaliation Penalty.

1. RT-2021-0022 Town of Florence Police Department \$3,131.31

Ms. Padgett provided the background on the 2016 Proposition 206 Fair Wages and Healthy Families Act which protects employees from retaliation for exercising their rights under the Earned Paid Sick Time law. Ms. Padgett summarized the Labor Department’s investigation into the Earned Paid Sick Time (EPST) Retaliation claim and the calculations for overtime hours. Ms. Padgett recommended that the Commission approve issuance of a Penalty in the amount of \$3,131.31 for violation of A.R.S. § 23-364.

Vice Chair Hennelly, Ms. Padgett and Ms. Spurgeon discussed the chart for the Proposed Findings and Order which shows both the overtime hours scheduled to work by the claimant and the hours actually worked by the claimant.

Chairman Schultz noted it was an excellent summary and appreciated Ms. Padgett’s summary.

Commissioner LeMarr moved to approve issuance of the Proposed Order under A.R.S. § 23-364(G) that the Respondent Town of Florence Police Department is ordered to pay the Claimant \$3,131.31 subject to withholdings authorized by Federal and State law with a written accounting for any deductions. The funds are to be payable to the Claimant but remitted directly to the Labor Department. Commissioner Everett seconded the motion. Chairman Schultz, Vice Chair Hennelly, Commissioner LeMarr and Commissioner Everett voted in favor of the motion. The motion passed.

Discussion and Action of Arizona Division of Occupational Safety and Health Proposed Citations and Penalties.

Drexel Heights Fire District	Fatality/Accident	
5950 S Cardinal Ave	Years in Business:	67
<u>Tucson, AZ 85746</u>	Empl. Covered by Inspection:	12
Inspection No:	FC-2022-T3633-0005	
Inspection Date:	11/18/2021	
Site Location:	5950 S Cardinal Ave	
	Tucson, AZ 85746	

Mr. Atencio removed this file for further review with staff noting there are no deadline issues.



Mr. Atencio also noted that Sundt Construction is hoping to mimic their partnership with the University of Colorado by creating a collaboration alliance with ASU and their construction safety through design program.

Chairman Schultz noted Sundt Construction would be an incredible partner to have in the VPP Program.

Mr. Ashley noted Sundt Construction is another great example of stakeholder relationships and valuable stakeholder partnerships.

Mr. Ashley updated the Commissioners with the AMS scorecard metrics for the fiscal year-to-date. He reviewed the metrics for Labor: EPST Retaliation Processing Time Limit, Wage Claim Processing Time Limit; # of Wage Claims Closed; Retaliation # of Claims Closed; % of Forms Submitted Via Webform; Investigator Audit Score; and Intake Audit Score.

Ms. Padgett commented that the Retaliation program has been a focus with the Labor Department trying aggressively to tackle the challenges which has resulted in significant progress as the timeframe of the oldest case at any given time is moving in the right direction.

Chairman Schultz thanked Ms. Padgett for her efforts and offered to help if any changes to rules or regulations are required.

Mr. Ashley announced the Golden Hard Hat Award for the month of December was presented to the Administrative Law Judge Division for their Alternative Dispute Resolution Program, which encourages all parties to settle disputes without protracted litigation which was launched in fiscal year 2021 and offered everything from informal pre-litigation conferences to informal settlement conferences and voluntary mediation.

Ms. Dimas confirmed Commission meeting dates through February 2021.

#### Public Comment.

Merissa Hamilton wanted to thank the Industrial Commission for meeting with City of Phoenix employees and Firefighters from across the state to hear the concerns of safety issues that they have in the workplace related to staffing issues related to vaccine mandates and potential issues down the road where workplaces may become unsafe because of the reactions from the local governments.

Chairman Schultz thanked Ms. Hamilton for sharing and that the Commission is equally dedicated to its mission which is to make Arizona the safest place to work in the nation and wished her a Merry Christmas and Happy Holidays.

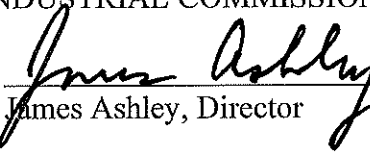
Mr. Ashley thanked Ms. Hamilton and all who joined in person and remotely for the very productive meeting.

There was no other public comment.

Commissioner Everett moved to adjourn and Vice Chair Hennelly seconded the motion. Chairman Schultz, Vice Chair Hennelly, Commissioner LeMarr and Commissioner Everett voted in favor of the motion and the meeting was adjourned at 1:55 p.m.

THE INDUSTRIAL COMMISSION OF ARIZONA

By

  
James Ashley, Director

ATTEST:

  
Kara Dimas, Commission Secretary