

MINUTES OF MEETING
OF THE INDUSTRIAL COMMISSION OF ARIZONA
Telephonic Meeting
Held at 800 West Washington Street
Phoenix, Arizona 85007
Thursday, November 18, 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)
	Trevor Laky	Legislative Affairs Chief/Public Information Officer (Telephonic)
	Renee Pastor	Self Insurance (Telephonic)
	Jessie Atencio	ADOSH Director (Telephonic)
	Steven Black	ADOSH Compliance (Telephonic)
	Miguel Castillo	ADOSH Compliance (Telephonic)
	Karen Schomburg	ADOSH Compliance (Telephonic)
	Randy Smith	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 Nathan Fraley (The Kroger Co.); Mary Wiggins and Lisa Olson (Sedgwick); Teresa Flores (AG Trucking); Luis Gonzalez (next of kin); Ryan Toomey (Zinda Law Group representing next of kin in the AG Trucking matter); Matthew Mullins (Guardtop); Greg Narsh (Troutman Pepper representing Guardtop); and Savannah Scharnhorst (Snell & Wilmer).

Approval of Minutes of November 4, 2021 Regular Meeting Minutes.

Vice Chair Hennelly moved to approve the Minutes of the November 4, 2021 regular session meeting and Commissioner Everett seconded the motion. Chairman Schultz, Vice Chair Hennelly 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 Proposed Civil Penalties Against Uninsured Employers.

1. 2CNP20/21-0786 George & Sons Roofing & Repairs LLC \$1,000

2. 2CNP21/22-0113 Rist Building Services LLC \$1,000

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

1. The Kroger Co.

Commissioner LeMarr moved to approve the items on the Consent Agenda as presented and 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.

Chairman Schultz discussed the purpose of and process for the Commission’s consideration of ADOSH citations and proposed penalties.

AG Trucking LLC	Fatality/Accident	
1261 W Miracle Mile Rd	Years in Business:	20
<u>Tucson, AZ 85705</u>	Covered by Inspection:	4
Site Location:	1525 W Miracle Mile Rd	
	Tucson, AZ 85705	
Inspection No:	T3633 - 1552630	
Inspection Date:	9/9/2021	

Mr. Atencio and the Compliance Officer, Mr. Black, were available for questions. Mr. Atencio summarized ADOSH’s investigation and reviewed the file and photographs. ADOSH is recommending a non-serious citation for AG Trucking LLC.

Chairman Schultz and Mr. Black discussed the inspection of the truck and whether there were any problems with the truck equipment including the mirrors. Mr. Black was told the driver could not see the right side of the truck because the truck was turned to the left, away from the trailer which was consistent with the direction he would be turned to go to the pile to be loaded making it so he could not see down the right side of the trailer.

Chairman Schultz checked if Ms. Flores would like to comment. She did not.

Chairman Schultz noted he cannot imagine his feelings about this happening at work. The Commission takes its responsibilities to try to keep employees safe very seriously and always hopes that people go to work safely and come home safely. Chairman Schultz expressed condolences on behalf of himself and the Commissioners. Mr. Gonzalez appreciated their condolences but did not have a comment.

The Commission took no action since there were no serious citations being issued.

LE Garden HB, LLC dba Midtown Garden Hotel	Fatality/Accident	
3600 N. 2 nd Ave.	Years in Business:	1
<u>Phoenix, AZ 85013</u>	Empl. Covered by Inspection:	7
Site Location:	3600 N. 2 nd Ave.	
	Phoenix, AZ 85013	
Inspection No:	V4364 - 1543326	

Chairman Schultz commented that this shows the power of the Arizona Management System that even things like litigation, can be measured and you can set goals and can hold people accountable. We want to continue to improve our performance, our service is incredibly valuable to the employees and employers of the State of Arizona and continuous process improvements needs to be how we view each and every day.

Mr. Ashley announced that the Arizona Food Marketing Alliance is holding their annual reception on January 12, 2022, and the Commission will resume the annual ICA Day at the Capitol Lawn on Monday April 11, 2022 and will share more information at a later date.

Ms. Dimas confirmed Commission meeting dates through January 2022. Commissioner LeMarr will not be available for the December 2, 2021 meeting.

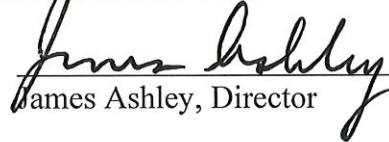
Public Comment.

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 2:17 p.m.

THE INDUSTRIAL COMMISSION OF ARIZONA

By


James Ashley, Director

ATTEST:


Kara Dimas, Commission Secretary