

MINUTES OF MEETING
OF THE INDUSTRIAL COMMISSION OF ARIZONA

Held at 800 West Washington Street
Conference Room 308
Phoenix, Arizona 85007
Thursday, August 28, 2014 – 1:00 p.m.

Present:	David M. Parker	Chairman (video conference)
	Susan Strickler	Vice Chair
	Michael G. Sanders	Member
	Joseph M. Hennelly, Jr.	Member
	Andrew Wade	Acting Director
	Sylvia Simpson	Chief Financial Officer
	Renee Pastor	Accounting Department
	William Warren	ADOSH Director
	Erik Anderson	Compliance Officer
	Bryce Rucker	Compliance Officer
	Christopher Anderson	Legal Division
	Valli Goss	Legal Division
	Kara Dimas	Commission Secretary

Chairman Parker convened the Commission meeting at 1:00 p.m. noting a quorum present. Also in attendance was Bradford Hammock of Jackson Lewis (video conference); Jason Weber of Snell & Wilmer.

Approval of Minutes of August 15, 2014 Meeting.

The Commission unanimously approved the Minutes of the August 15, 2014 General Session on motion of Ms. Strickler, second of Mr. Sanders.

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. 2C13/14-1936 Arthur Vasquez & Andrea Vasquez, h/w, dba Art's All American Cafe
2. 2C13/14-1274 AZ Roofing Sub-Contractor, LLC
3. 2C13/14-1280 Conrad Quiros & Blanca Quiros, h/w. dba Betania Care Home
4. 2C12/13-1401 Cowboy Way Adventures, L.L.C.
5. 2C13/14-1886 Cybernetic Research Laboratories, Inc.

6. 2C13/14-2170 Dean E. Lippert & Laurie Lippert, h/w. dba Lippert/Doyle Taxidermy
7. 2C13/14-1563 Eternal Life Care Center, L.L.C. dba Eternal Life Care Home
8. 2C13/14-0641 Lu's Enterprise, Inc. dba Red Dragon Chinese Food
9. 2C13/14-0788 Mat's RNR Enterprises, LLC, dba Dirty Pelican Grill
10. 2C14/15-0102 Quevedo Trucking, LLC
11. 2C13/14-1295 Vail Feeds, Inc. dba Choo-Choo Charlie's Feed & Pet Supplies

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

1. Central Arizona Water Conservation District.

Chairman Parker asked if any agenda items needed to be removed from the Consent Agenda. Hearing none, the Commission unanimously approved the items on the consent agenda on motion of Mr. Sanders, second of Mr. Hennelly.

Discussion and/or Action regarding Residential Fall Protection and Federal OSHA's Notice of Initiation of Proceedings to Reject State Initiated Plan Change No. 133, and Reconsider Arizona's State Plan Authority under Section 18(e) of the Occupational Safety and Health Act. The Commission may move into Executive Session under A.R.S. §§ 38-431.03(A)(3) and (A)(4) to consult with its attorneys to obtain legal advice and to consider its position and instruct its attorneys regarding pending or contemplated litigation.

Andrew Wade presented a summary regarding the Arizona state-specific standards for residential fall protection and the Notice that federal OSHA published in the *Federal Register* on August 21, 2014 and federal OSHA's initiation of two concurrent proceedings against Arizona's state OSHA plan. The attorney representing the Industrial Commission in Washington D.C., Mr. Bradford Hammock from Jackson Lewis was present via video.

The Commission unanimously voted to go into Executive Session to consult with its attorneys to obtain legal advice and to consider its position and instruct its attorneys regarding pending or contemplated litigation on motion of Mr. Sanders, second of Ms. Strickler. Executive Session Minutes are kept separately.

Upon return to General Session, Mr. Parker explained that the Commission has already provided significant comment to federal OSHA on the issues and recognized the importance of the option that stakeholders have to comment during the comment period. He stated that defending Arizona's state plan is and will continue to be the Commission's highest priority. Ms. Strickler moved to direct counsel to proceed as discussed in Executive Session. Mr. Sanders seconded the motion and the Commission unanimously approved the motion.

Discussion and Action of Arizona Division of Occupational Safety and Health (ADOSH) Discrimination Complaint.

13-2603-15 Paul Swek vs. Duncor, L.L.C. – William Warren presented a summary of the employee's complaint, the employer's response, and the results of the ADOSH investigation. He responded to questions from the Commissioners. Mr. Warren recommended that the

summarized the evidence and staff's conclusions regarding those topics and explained the basis for the additional violation which is now Citation 1 Item 2. He summarized the citations and proposed penalty and responded to questions from the Commissioners. Following discussion, the Commission unanimously approved issuing the citations and assessed the recommended penalty of \$4,500.00 on motion of Ms. Strickler, second of Mr. Hennelly. Mr. Parker thanked Mr. Warren for performing the additional review and stated he appreciated the extra effort.

Discussion and Action regarding Industrial Commission of Arizona vs. Metropolitan Domestic Water Improvement District, Superior Court Case Number CV2013-010140. The Commission may vote to hold an Executive Session under A.R.S. §38-431.03(A)(3) and (4) for the purpose of obtaining legal advice from the Commission's attorneys and to consider the Commission's position and instruct its attorneys regarding current litigation or settlement discussions conducted in order to resolve litigation.

Mr. Wade stated that the Commission's attorneys assigned to this matter have an update along with some legal advice.

The Commission unanimously voted to go into Executive Session to obtain legal advice from the Commission's attorneys and to consider the Commission's position and instruct its attorneys regarding current litigation on motion of Mr. Sanders, second of Ms. Strickler. Executive Session Minutes are kept separately.

Upon return to General Session, the Commission unanimously voted to proceed as discussed in Executive Session on motion of Mr. Sanders, second of Ms. Strickler.

Discussion and Action of New Employment Agency License Application.

Melissa Docherty on behalf of Evolve Model Management LLC – Mr. Wade presented the information provided by the Labor Department as required by the statutes and rules governing Private Employment Agencies. The Employment Advisory Council has recommended approval of this license. The Commission unanimously approved the application on motion of Ms. Strickler, second of Mr. Hennelly.

Announcements and Scheduling of Future Meetings.

Mr. Wade presented a retirement resolution for signature for Margaret Rodriguez for 33 years of state service. He announced that Mary Green, the Commission's Ombudsman, recently retired after 50 years of service.

Ms. Dimas confirmed the dates for September, and tentatively set September 4, 2014 if needed for a meeting. The meeting scheduled for October 23 is moved to October 16. The minimum wage and assessment rates topics will be added to the October 16, 2014 Agenda. November meetings are tentatively scheduled for the 6th, 13th, and 20th.

Ms. Dimas showed the Commissioners present the new format for business cards.

There being no further business to come before the Commission and no public comment, the meeting was adjourned at 3:00 p.m.

THE INDUSTRIAL COMMISSION OF ARIZONA

By 
Andrew F. Wade, Acting Director

ATTEST:


Kara Dimas, Commission Secretary