

MINUTES OF MEETING
OF THE INDUSTRIAL COMMISSION OF ARIZONA
Held at 800 West Washington Street
Phoenix, Arizona 85007
Thursday, April 6, 2023 – 1:00 p.m.

Present:	Dale L. Schultz	Chairman
	Joseph M. Hennelly, Jr.	Vice Chair
	Scott P. LeMarr	Commissioner (Telephonic)
	D. Alan Everett	Commissioner
	James Ashley	Director
	Gaetano Testini	Chief Legal Counsel
	Trevor Laky	Legislative Affairs Chief/Public Information Officer
	Jessie Atencio	ADOSH Director
	Anna Maria Stonerock	ADOSH Admin
	Yvonne Borunda	Acting Commission Secretary

Chairman Schultz convened the meeting at 1:00 p.m. In attendance, confirmed by roll call were Lea Bartysnki (Snell & Wilmer); Anne Ryman (ABC 15); Scott Lonergan (Dirtworks Contracting Inc.); Shelley Henry (Dyper Inc.); Dave Howard and Tracey Kopp (Premier Risk).

Approval of Minutes of March 30, 2023 Regular Meeting Minutes.

Vice Chair Hennelly moved to approve the Minutes of the March 30, 2023 regular session meeting 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.

Encore Landscape Maintenance LLC	Fatality
2600 S 20th Ave	Years in Business: 3
<u>Phoenix, AZ 85009</u>	Empl. Covered by Inspection: 4
Site Location: 367 E Virginia Ave	
	Phoenix, AZ 85004
Inspection No: FC-2023-E7721-0062	
Inspection Date: October 13, 2022	

Mr. Atencio summarized ADOSH's fatality investigation and reviewed the file. He noted that ADOSH was not recommending any citations.

Chairman Schultz and Mr. Atencio discussed the time of the day the incident took place, fall protection, and anchors.

Dyper Inc.
7240 W Erie St
Chandler, AZ 85226

Site Location: 7240 W Erie St
Chandler, AZ 85226
Inspection No: CP-2023-A7717-0085
Inspection Date: March 21, 2023

Complaint
Years in Business: 9
Empl. Covered by Inspection: 11

SERIOUS – Citation 1 - Item 1 –

- a) Warehouse: Two employees were operating a Crown brand standup forklift, model #RC5535 and serial #1A348541, without initial operator training.
- b) Warehouse: An employee operated a PE walk behind battery powered pallet jack, model #4500 and serial #10013076, without initial operator training. 29 CFR 1910.178(l)(3)
Div. Proposal - \$6,250.00 Formula Amt. - \$6,250.00
TOTAL PENALTY - \$6,250.00 TOTAL FORMULA AMT. - \$6,250.00

Mr. Atencio discussed ADOSH's inspection, summarized the citation and proposed penalty, and reviewed the photographs.

Chairman Schultz checked if anyone would like to comment. Ms. Henry commented that they are working with a third-party company to get the warehouse up to the OSHA specs and the warehouse manager and supervisor were provided forklift training; both are now certified. Chairman Schultz congratulated Ms. Henry on the growth of the business and commented that ADOSH is available for answering questions and providing free consultations.

Commissioner Everett moved to amend the citation and proposed penalties. Because of the prompt attention to safety and correcting the protocol he suggested at 25% Good Faith Discount for a total penalty of \$ 4,697.50. Vice Chairman Hennelly and Commissioner Scott LeMarr seconded the motion. Chairman Schultz, Vice Chair Hennelly, Commissioner LeMarr and Commissioner Everett voted in favor of the motion. The motion passed.

Grand Canyon Caverns and Inn, LLC
115 Mile Marker AZ-66
Peach Springs, AZ 86434

Site Location: 115 Mile Marker AZ-66
Peach Springs, AZ 86434
Inspection No: CP-2023-A7717-039
Inspection Date: February 3, 2023

Complaint
Years in Business: 80
Empl. Covered by Inspection: 6

SERIOUS – Citation 1 - Item 1 –

- a) Elevator Emergency Exit: Two employees were required to access and egress a metal staircase that lacked a top handrail.
- b) Elevator Emergency Exit: Two employees were required to access and egress a metal staircase that lacked a midrail. 29 CFR 1910.28(b)(11)(ii)
Div. Proposal - \$3,572.00 Formula Amt. - \$3,572.00

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 1:58 p.m.

THE INDUSTRIAL COMMISSION OF ARIZONA

By


James Ashley, Director

ATTEST:


Yvonne Borunda, Acting Commission Secretary