

MINUTES OF MEETING  
OF THE INDUSTRIAL COMMISSION OF ARIZONA  
Held at 800 West Washington Street  
Conference Room 308  
Phoenix, Arizona 85007  
Thursday, April 11, 2019 – 1:00 p.m.

Present:	Dale L. Schultz	Chairman
	Joseph M. Hennelly, Jr.	Vice Chair
	Scott P. LeMarr	Commissioner
	Steven J. Krenznel	Commissioner (Telephonic)
	James Ashley	Director
	Gaetano Testini	Chief Legal Counsel
	Trevor Laky	Legislative Affairs Chief / Public Information Officer
	Renee Pastor	Self Insurance
	Jessie Atencio	ADOSH Director
	Steve Black	Compliance Officer (Telephonic)
	George Hall	Compliance Officer (Telephonic)
	Charlie Preciado	Compliance Officer
	Kara Dimas	Commission Secretary

Chairman Schultz convened the meeting at 1:00 p.m. Also in attendance were Scot Butler (Unknown); Phillip Cundiff and Nikki Cross (City of Avondale); and Michael Fassett (Snell & Wilmer).

Approval of Minutes of March 21, 2019 Regular Meeting.

Commissioner LeMarr moved to approve the Minutes of the March 21, 2019 regular session meeting and Commissioner Krenznel seconded the motion. Chairman Schultz, Commissioner LeMarr and Commissioner Krenznel voted in favor of the motion. Vice Chair Hennelly abstained. 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.

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a. Approval of Proposed Civil Penalties Against Uninsured Employers.

- |    |                  |                                       |        |
|----|------------------|---------------------------------------|--------|
| 1. | 2C-NP-18/19-0211 | River Roofing Inc                     | \$1000 |
| 2. | 2C-18/19-0511    | Lebreck Painting & Finishes LLC       | \$1000 |
| 3. | 2C-NP-18/19-0134 | Leo J. Technology Services LLC        | \$1000 |
| 4. | 2C-NP-18/19-0089 | Doctor Construction LLC               | \$1000 |
| 5. | 2C-LP-18/19-0223 | Triscape Landscaping & Sprinklers LLC | \$1000 |
| 6. | 2C-18/19-0632    | Martin Framing LLC                    | \$5000 |
| 7. | 2C-18/19-0602    | Copper Fitness LLC                    | \$5000 |

8. 2C-18/19-0633 Nietos Framing Inc \$5000

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

1. City of Avondale
2. City of Tucson
3. Costco Wholesale Corporation

Chairman Schultz commended the City of Tucson on the reduction of their modification factor. He also noted that representatives from the City of Avondale were present and accordingly moved their request from the consent agenda to be heard separately.

Vice Chair Hennelly moved to approve the remaining items on the Consent Agenda and Commissioner LeMarr seconded the motion. Chairman Schultz, Vice Chair Hennelly, Commissioner LeMarr and Commissioner Krenzel voted in favor of the motion. The motion passed.

Approval of Requests for Renewal of Self-Insurance Authority.

City of Avondale – Mr. Cundiff and Ms. Cross presented a slide show for the Commissioners regarding the City of Avondale’s process to become self-insured; a process that Mr. Cundiff noted was easier than he originally thought. The City of Avondale shared their mission statement and outlined the safety programs they have implemented to have positive visibility and ensure best practices. Mr. Cundiff also noted the city is working on becoming a Public Entities Partnership Program (PEPP) member through ADOSH.

Chairman Schultz offered to participate in any safety program event in Avondale.

Commissioner LeMarr moved to approve the renewal of self-insurance authority for City of Avondale and Vice Chair Hennelly seconded the motion. Chairman Schultz, Vice Chair Hennelly, Commissioner LeMarr and Commissioner Krenzel 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.

B & J Metal Materials L.L.C 1870 S. Toltec Buttes Eloy, AZ 85131	Fatality/Accident Years in Business: 8 Empl. Covered by inspection: 1
Site Location: 51040 W Valley Rd Aguila, AZ 85320	
Inspection No: T0123 -1375341	
Inspection Date: 12/20/2018	

Mr. Atencio summarized ADOSH’s fatality investigation and reviewed the file and photographs. He noted that ADOSH was not recommending any citation.

Commissioner LeMarr and Mr. Atencio discussed whether the referenced torch was on or shut off at the time of the accident.

The Commission took no action.

St. David Volunteer Fire Department  
515 E Dragoon Vista Lane  
Saint David, AZ 85630

Fatality/Accident  
Years in Business: 26  
Empl. Covered by inspection: 1

Site Location: 145 S Sybil Rd  
Saint David, AZ 85630  
Inspection No: E5149 -1355279  
Inspection Date: 10/23/2018

SERIOUS – Citation 1 - Item 1a –

- a) 515 E Dragoon Vista Lane, St. David, AZ: A written respiratory protection program had not been established for employees that were required to use a Self-Contained Breathing Apparatus (SCBA). 29 CFR 1910.134(c)(1)  
Div. Proposal - \$800.00 Formula Amt. - \$800.00

SERIOUS – Citation 1 - Item 1b –

- a) 515 E Dragoon Vista Lane, St. David, AZ: Medical evaluations had not been provided to determine the employee's ability to use a respirator such as a Self-Contained Breathing Apparatus (SCBA). 29 CFR 1910.134(e)(1)  
Div. Proposal - \$0.00 Formula Amt. - \$800.00  
TOTAL PENALTY - \$800.00 TOTAL FORMULA AMT. - \$1,600.00

Mr. Atencio summarized ADOSH's fatality investigation and reviewed the file, he noted the citation was not related to the fatality and proposed penalties.

Commissioner LeMarr and Mr. Atencio discussed the medical screening requirements for the Volunteer Fire Department and the fit testing process.

Vice Chair Hennelly and Mr. Atencio discussed the medical examiner's report and any possible connection between the accident and fatality and whether the employer has implemented the required medical screening procedure.

Commissioner LeMarr moved to approve the citation and proposed penalties as presented and Commissioner Krenznel seconded the motion. Chairman Schultz, Vice Chair Hennelly, Commissioner LeMarr and Commissioner Krenznel voted in favor of the motion. The motion passed.

Superior Steel Supply, Inc.  
575 E 19<sup>th</sup> St  
Tucson, AZ 85701

Fatality/Accident  
Years in Business: 56  
Empl. Covered by inspection: 13

Site Location: 575 E 19<sup>th</sup> St  
Tucson, AZ 85701  
Inspection No: T3633 -1353659  
Inspection Date: 10/15/2018

SERIOUS – Citation 1 - Item 1 –



Announcements, Scheduling of Future Meetings and Retirement Resolutions.

Mr. Ashley discussed the next community outreach set for May 15 and 16 in Show Low and Pinetop/Lakeside.

Ms. Dimas presented a retirement resolution for Karen Wheeler, Legal Secretary II in the Tucson ALJ Division. She noted Ms. Wheeler's fourteen years of state service.

Ms. Dimas noted the agenda for April 18 was very light and Mr. Ashley noted there will be no ADOSH proposed citations; as such the April 18, 2019 meeting was cancelled. Ms. Dimas confirmed Commission meeting dates through May 2019.

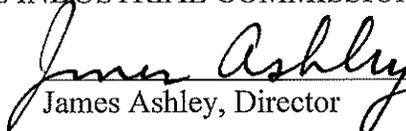
Public Comment.

There was no public comment.

Commissioner LeMarr moved to adjourn and Vice Chair Hennelly seconded the motion. Chairman Schultz, Vice Chair Hennelly, Commissioner LeMarr and Commissioner Krenzel voted in favor of the motion and the meeting was adjourned at 2:06 p.m.

THE INDUSTRIAL COMMISSION OF ARIZONA

By

  
James Ashley, Director

ATTEST:

  
Kara Dimas, Commission Secretary