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. Krenzel 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 Krenzel seconded the motion. Chairman Schultz, Commissioner LeMarr and Commissioner Krenzel 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.

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
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.

<table>
<thead>
<tr>
<th>B &amp; J Metal Materials L.L.C</th>
<th>Fatality/Accident</th>
</tr>
</thead>
<tbody>
<tr>
<td>1870 S. Toltec Buttes</td>
<td>Years in Business: 8</td>
</tr>
<tr>
<td>Eloy, AZ 85131</td>
<td>Empl. Covered by inspection: 1</td>
</tr>
</tbody>
</table>

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(c)(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 Krenzel seconded the motion. Chairman Schultz, Vice Chair Hennelly, Commissioner LeMarr and Commissioner Krenzel voted in favor of the motion. The motion passed.

Superior Steel Supply, Inc.
575 E 19th St
Tucson, AZ 85701

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

Site Location: 575 E 19th St
Tucson, AZ 85701

Inspection No: T3633 -1353659
Inspection Date: 10/15/2018

SERIOUS – Citation 1 - Item 1 –
a) 575 E 19th St. Tucson, AZ, 85701: Periodic inspections were not conducted for a 5-ton P&H overhead gantry crane, model B-13-1/2A and serial #CHL-19557-B.

b) 575 E 19th St. Tucson, AZ, 85701: Periodic inspections were not conducted for an overhead gantry crane, brand, model, and serial numbers unknown. 29 CFR 1910.179(j)(3)

Div. Proposal - $7,000.00  
Formula Amt. - $2,100.00

SERIOUS – Citation 1 - Item 2 –

a) Main shop: The walkway used by the south overhead crane operator was obstructed with various pieces of cut metal. 29 CFR 1910.22(a)(1)

Div. Proposal - $600.00  
Formula Amt. - $600.00

SERIOUS – Citation 1 - Item 3 –

a) Main shop: The Do All horizontal band saw, model and serial numbers unknown, did not have the unused portion of the blade guarded. 29 CFR 1910.212(a)(1)

Div. Proposal - $750.00  
Formula Amt. - $750.00

TOTAL PENALTY - $8,350.00  
TOTAL FORMULA AMT. - $3,450.00

Mr. Atencio summarized ADOSH’s fatality investigation and reviewed the file and photographs. Mr. Atencio noted a correction on the Citation 1, Item 1 due to the language in the FOM and the information reviewed, the penalty should be $2,100 for the Division Proposal and overall the total proposed penalty and formula will be $3,450 for both.

Commissioner LeMarr moved to approve the citation and proposed penalties in the amount of $3,450 and Commissioner Krenzel seconded the motion. Chairman Schultz, Vice Chair Hennelly, Commissioner LeMarr, and Commissioner Krenzel voted in favor of the motion. The motion passed.

Discussion and/or action regarding Industrial Commission goals, objectives and key initiatives for 2019. This Agenda Item may include discussion regarding the Commission budget and review of Division, Department, and Section specific objectives.

Mr. Ashley noted the success at the Legislature with the agency driven ideas. Mr. Laky provided an update on the excess insurance bill, HB 2137, which would allow the Special Fund to be the successor on any excess insurance policies held by a self-insured company if they go bankrupt. It has passed the Senate and is being sent to the Governor. Chairman Schultz and Mr. Laky discussed the effective date for the bill.

Chairman Schultz asked about other bills of interest to the Commission and Mr. Laky discussed additional bills. Mr. Ashley and Mr. Laky additionally discussed the bill that was introduced that would have impacted the Labor Department by modifying the minimum wage for young workers.

Mr. Ashley noted he would like to schedule another Commission Gemba for May 9 and May 23 following the Commission Meetings.

Chairman Schultz wanted to welcome Director Ashley back after concluding his temporary stint as the Arizona Department of Gaming Interim Director, and thanked him. Mr. Ashley noted it was an honor to be asked to fulfill that role.
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 [Signature]

James Ashley, Director

ATTEST:

[Signature]

Kara Dimas, Commission Secretary