

MINUTES OF MEETING
OF THE INDUSTRIAL COMMISSION OF ARIZONA

Telephonic Meeting
Held at 800 West Washington Street
Phoenix, Arizona 85007
Thursday, April 30, 2020 – 1:00 p.m.

Present: Dale L. Schultz Chairman (Telephonic)
Joseph M. Hennelly, Jr. Vice Chair (Telephonic)
Scott P. LeMarr Commissioner (Telephonic)
Steven J. Krenzle 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)
Lisa Padgett Labor Director (Telephonic)
Victoria Kamm Labor Supervisor (Telephonic)
Jennifer Krainski Labor Investigator (Telephonic)
Jessie Atencio ADOSH Director (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 Allie Matthews, Emely Aguino, Sara Hussak, Maria Robinson, and Vince Tracey (City of Tucson); Casey Price and Chief Barry Rosak (Maricopa County Sheriff's Office); Tim Little and Chris Brandon (Maricopa County Risk Management); and Christine Glover (Snell & Wilmer).

Approval of Minutes of April 21, 2020 Regular Meeting Minutes.

Vice Chair Hennelly moved to approve the Minutes of the April 21, 2020 regular session meeting and Commissioner Krenzle seconded the motion. Chairman Schultz, Vice Chair Hennelly, Commissioner LeMarr and Commissioner Krenzle 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. 2C19/20-0114 Planet Sub \$5,000
2. 2CLP19/20-0111 Lucio Gonzalez DBA Gonzalez Lucio Landscaping \$1,000
3. 2CSP19/20-0104 Martin's Building Solutions LLC \$1,000
4. 2C19/20-0105 Noble Homes LLC \$1,000

5. 2CNP19/20-0398 Sir Moves A Lot LLC \$5,000
6. 2CC19/20-0121 Pro Mechanical Services LLC DBA Climate Pro Care \$1,000

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

1. City of Tucson
2. The Home Depot, Inc.

Commissioner Krenzel moved to approve the items on the Consent Agenda and Vice Chair Hennelly seconded the motion. Chairman Schultz expressed concern over the experience modification factor for the City of Tucson, but wanted to note that they are working with the Consultation Division of the Arizona Division of Occupational Safety and Health to improve their loss experience. Chairman Schultz, Vice Chair Hennelly, Commissioner LeMarr and Commissioner Krenzel voted in favor of the motion. The motion passed.

Discussion and Action regarding Proposed Youth Employment Penalty.

CL1819-0296 Oregano's Pizza Bistro, Inc.

Ms. Padgett summarized the Labor Department's investigation, which included findings of various violations of A.R.S. § 23-231(A)(10). Ms. Padgett recommended that the Commission approve issuance of a Civil Penalty in the amount of \$600.00.

Chairman Schultz thanked Ms. Padgett for the photographs with the investigation, it made it easy to understand the working conditions.

Chairman Schultz checked if anyone on the phone would like to comment. There were no comments.

Commissioner LeMarr moved to approve issuance of a Civil Penalty in the amount of \$600.00 to Oregano's Pizza Bistro, Inc. Commissioner Krenzel seconded the motion. Chairman Schultz, Vice Chair Hennelly, Commissioner LeMarr and Commissioner Krenzel voted in favor of the motion. The motion passed.

CL1819-0304 Walmart, Inc.

Ms. Padgett summarized the Labor Department's investigation, which included findings of various violations of A.R.S. § 23-231(A)(7) and (A)(11). Ms. Padgett recommended that the Commission approve issuance of a Civil Penalty in the amount of \$200.00.

Commissioner Krenzel moved to approve issuance of a Civil Penalty in the amount of \$200.00 to Walmart, Inc. Vice Chair Hennelly seconded the motion.

Chairman Schultz checked if anyone on the phone would like to comment. There were no comments.

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

Chairman Schultz thanked Ms. Padgett for the thorough investigations.

was found to have an extensive safety and health program. ADOSH also opened an inspection with the City of Tucson Fire Department following the third collapse that occurred with another employee being injured, to insure they evaluate the work place to prevent any type of exposure to their employees if they have to conduct a rescue.

Chairman Schultz checked if anyone on the phone would like to comment. There were no comments.

Commissioner LeMarr moved to approve the citation and proposed penalties as presented and Vice Chair Hennelly seconded the motion.

Chairman Schultz shared his thoughts that it seemed like it could be considered a willful violation but appreciated conducting discussions with the general contractor and the City of Tucson. He understands their desire to help, the firemen are incredible folks, however could have lost one in this situation.

Chairman Schultz, Vice Chair Hennelly and Commissioner LeMarr voted in favor of the motion. The motion passed.

Discussion, Action, and Potential Resolution regarding Proposed Rulemaking to Title 20, Chapter 5, Article 10: Wage Claims.

Mr. Testini noted the Legal Division and the Labor Department recommend rulemaking to: (1) modernize A.A.C. Title 20, Chapter 5, Article 10 (Wage Claims), including by allowing for service of documents by electronic means; (2) streamlining and eliminating redundancies in the wage claim investigation process to reduce burdens on claimant and employers involved in wage claim disputes and to accelerate processing of wage claims; and (3) bringing R20-5-1006(A)(3) into compliance with A.R.S. § 23-356 as discussed at the last meeting. He noted he would like a Resolution to authorize the Legal Division to proceed with the proposed rulemaking by filing a request with the Governor's Office to file an exemption from the rulemaking moratorium and upon receipt of the exemption authority to file a notice of proposed rulemaking with the Secretary of State.

Chairman Schultz asked Ms. Padgett and if there were any comments. Chairman Schultz noted he was impressed with the thoroughness of the changes and the overall improvements, streamlining, and easing the processes, improving time frames and really appreciated the work done on this.

Commissioner Krenzel moved to authorize the Legal Division of the Industrial Commission of Arizona is directed to engage in rulemaking, consistent with the attached proposed amendments to A.A.C. Title 20, Chapter 5, Article 10, by seeking approval from the Office of the Arizona Governor pursuant to Executive Order 2020-02, and upon receipt of approval by the Governor, filing a Notice of Proposed Rulemaking with the Office of the Secretary of State in compliance with the provisions of the Administrative Procedure Act. 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.

Announcements, Scheduling of Future Meetings and Retirement Resolutions.

Mr. Ashley commented that this was the second meeting utilizing Google Hangouts and he is very pleased with the platform and will be using it going forward. Chairman Schultz agreed that it seems to be clear, everyone is understandable and very efficient with the ability to mute and unmute.

Ms. Dimas confirmed Commission meeting dates through June 2020. Commissioner Krenzel noted he will not be available on May 7th.

Public Comment.

There was no public comment.

Commissioner Krenzel 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 1:48 p.m.

THE INDUSTRIAL COMMISSION OF ARIZONA

By James Ashley
James Ashley, Director

ATTEST:

Kara Dimas
Kara Dimas, Commission Secretary