

MINUTES OF MEETING
OF THE INDUSTRIAL COMMISSION OF ARIZONA
Held at 800 West Washington Street
Conference Room 308
Phoenix, Arizona 85007
Thursday, April 5, 2018 – 1:00 p.m.

Present:	Dale L. Schultz	Chairman
	Scott P. LeMarr	Commissioner
	Steven J. Krenz	Commissioner
	James Ashley	Director
	Jason M. Porter	Chief Legal Counsel
	Trevor Laky	Legislative Affairs Chief / Public Information Officer
	Renee Pastor	Self Insurance
	Jessie Atencio	ADOSH Interim Director
	Stacey Rogan	Assistant Chief Legal Counsel
	Kara Dimas	Commission Secretary

Chairman Schultz convened the meeting at 1:00 p.m. Also in attendance were Mark Fryman with RCC Holdings LLC (dba Primera); Allie Matthews, Maria Robinson, and Frances Bracamonte with the City of Tucson; and Drew Newton with the Mahoney Group.

Approval of Minutes of March 29, 2018 Regular Meeting Minutes.

Chairman Schultz postponed consideration of this agenda item to the next regular session meeting.

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 Requests for Renewal of Self-Insurance Authority.

1. Maricopa County
2. Maricopa County Community College District
3. MTD Southwest, Inc.

Chairman Schultz discussed the purpose of the Consent Agenda. He postponed consideration of Consent Agenda Items (a)(1) (Maricopa County) and (a)(2) (Maricopa County Community College District) to the next regular session meeting. He commended Maricopa County and Maricopa County Community College District on the positive trends in their loss experience ratings.

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

Approval of Requests for Renewal of Self-Insurance Authority for the City of Tucson.

Ms. Pastor discussed the City of Tucson's request for renewal of self-insurance authority, her analysis of relevant data, the City's eligibility for a security deposit exemption, and the City's improving experience modification rating. Ms. Pastor recommended approval of the City's request and waiver of the security deposit.

Commissioner LeMarr and Ms. Pastor discussed the City's claim denial rate in 2017 and the high number of exposure claims filed with the City.

Ms. Matthews, Risk Manager for the City, introduced the members of her team and highlighted improvements in the City's risk management and self-insurance programs. During her presentation, Ms. Matthews discussed: (1) the City's programs and responsibilities; (2) services provided by the City, including service deliverables; (3) the creation of a self-insurance trust fund; (4) the financial status and impact of the self-insurance program; (5) changes implemented by the City to improve the self-insurance program, including a focus on teamwork and collaboration; (6) the reasons behind the program changes, including the City's historical experience modification factor and claim volume; (7) the enhanced self-insurance program services offered by the City; (8) the City's use of scorecards and metrics to track performance of the programs; (9) efforts to recognize individual successes; and (10) how the changes have strengthened the City's self-insurance program. She concluded by discussing the City's future financial plans and next steps, including the City's desire to participate in the Public Entities Partnership Program.

During the presentation, Chairman Schultz, Ms. Matthews, and Ms. Bracamonte discussed the City's use of internal and outside attorneys, implementation of automated reporting improvements, the City's driver recognition program, and the City's secondary victim program. During the presentation, Chairman Schultz and Ms. Matthews discussed the City's driver training program, a new vehicle monitoring program, balance sheet accruals related to the City's self-insurance program, and the City's success in reducing claims and discussed its experience modification rating.

Commissioner Krenzel moved to approve the City of Tucson's request for renewal of self-insurance authority and a waiver of the security deposit. Commissioner LeMarr seconded the motion. Chairman Schultz, 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.

JBS Tolleson, Inc.
651 S 91st Ave
Tolleson, AZ 85353

Site Location: 651 S 91st Ave
Tolleson, AZ 85353

Fatality/Accident
Years in Business: 62
Empl. Covered by inspection: 10

Inspection No: W0250 - 1286187
Inspection Date: 01/09/2018

NON-SERIOUS – Citation 1 - Item 1 –

a) Loin Line Area: An employee operating a MAJA De-Rinding Machine, Model ESM 3550 Serial Number MS2889, was not protected from the unused portion of the blade. 29 CFR 1910.212(a)(3)

Div. Proposal - \$5,000.00	Formula Amt. - \$4,500.00
TOTAL PENALTY - \$5,000.00	TOTAL FORMULA AMT. - \$4,500.00

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

Commissioner LeMarr and Mr. Atencio discussed the nature of the proposed citation and the company's lock out/tag out program.

Mr. Atencio noted that the document provided to the Commission should have stated that the proposed citation was "Serious."

Commissioner Krenzel and Mr. Atencio discussed whether the company had removed guarding, whether the machines were modified by the company, and the applicable guarding standard.

Chairman Schultz, Mr. Atencio, and Commissioner LeMarr discussed the company's inspection history.

Commissioner Krenzel and Mr. Atencio discussed how many of the subject machines were being used by the employer.

Commissioner LeMarr moved to approve the citation and proposed penalty as presented and Commissioner Krenzel seconded the motion. Chairman Schultz, Commissioner LeMarr, and Commissioner Krenzel voted in favor of the motion. The motion passed.

Commissioner Krenzel complimented Mr. Atencio on the documentation provided to the Commission.

Mr. Atencio discussed the work status of the injured employee.

RCC Holdings LLC DBA Primera 1321 W 21 st St Tempe, AZ 85282	Complaint Years in Business: 10 Empl. Covered by inspection: 45
Site Location: 1035 E Riverview Dr. Phoenix, AZ 85034	
Inspection No: I4064 - 1278605	
Inspection Date: 11/16/2017	

SERIOUS – Citation 1 - Item 1 –

a) Fabrication Shop: An employee was operating a Toyota forklift truck, model 8FGCU25, with an AARDWOLF Forklift Boom model FB2-3580 attachment used for hoisting stone countertops onto

a stationary edging saw without prior approval from the manufacturer for the use of the attachment. 29 CFR 1910.178(a)(4)

Div. Proposal - \$1,500.00

Formula Amt. - \$1,500.00

SERIOUS – Citation 1 - Item 2 –

a) Fusion Saw Area: Frequent inspections of the company's Gorbel Free Standing Jib Crane with a Harrington push trolley and electric chain hoist were not completed, as required. 29 CFR 1910.179(j)(2)

Div. Proposal - \$1,500.00

Formula Amt. - \$1,500.00

TOTAL PENALTY - \$3,000.00

TOTAL FORMULA AMT. - \$3,000.00

Mr. Atencio discussed ADOSH's investigation, summarized the citation and proposed penalties, and reviewed the photographs.

Commissioner LeMarr and Mr. Atencio discussed the scope of the complaint, silica dust testing, silica exposure levels, and the proposed non-serious violations related to the company's respirator and hazardous communications programs.

Mr. Fryman discussed the company's abatement efforts, including efforts to develop a respiratory program.

Commissioner LeMarr, Mr. Fryman, and Mr. Atencio discuss the new OSHA silica standard and Commission efforts to form a silica working group for impacted industries.

Commissioner LeMarr and Mr. Fryman discussed the company's use of a third-party for respirator fit testing and monitoring, and plans to transition to a wet cutting system.

Mr. Atencio discussed the company's robust safety program and training practices.

Based on prompt abatement and the company's robust safety program, Commissioner LeMarr moved to amend the proposed penalties, as follows: (1) reduce the proposed penalty for Citation 1, Item 1 from \$1,500.00 to \$750.00; and (2) reduce the proposed penalty for Citation 1, Item 2 from \$1,500.00 to \$750.00, for a total proposed penalty of \$1,500.00. Commissioner Krenzel seconded the motion. Chairman Schultz, Commissioner LeMarr, and Commissioner Krenzel voted in favor of the motion. The motion passed.

United Comb & Novelty Corporation
DBA United Solutions
33 Patriot Cir
Leominster, MA 01453

Complaint
Years in Business: 98
Empl. Covered by inspection: 48

Site Location: 1300 N Fiesta Blvd
Gilbert, AZ 85233
Inspection No: H9685 - 1275239
Inspection Date: 11/02/2017

SERIOUS – Citation 1 - Item 1a –

Mr. Ashley discussed a survey being conducted among Commission employees to select a charity to receive a \$250 donation based on the Commission's participation in the State Employee Charitable Campaign. Chairman Schultz noted that the Commission's participation in the Campaign was the best among mid-sized agencies and discussed how this was a reflection of employee engagement. Mr. Ashley credited Commission employees for their participation in the Campaign.

Mr. Ashley announced a banner signing for the Commission's VPP kick-off on May 3, following the Commission Meeting. He discussed a safety pledge drive for Commission employees that would be conducted on April 24.

Mr. Laky noted that House Bill 2047 had passed the Legislature and was headed to the Governor. He noted the physician dispensing bill had been signed by the Governor. Finally, he noted that Senate Bill 1100 was going back to the Senate before proceeding to Final Read.

Announcements, Scheduling of Future Meetings and Retirement Resolutions.

Ms. Dimas confirmed Commission meeting dates through May 2018. Mr. Ashley asked the Commissioners to provide their summer availability.

Public Comment.

There was no public comment.

Commissioner LeMarr moved to adjourn and Commissioner Krenzle seconded the motion. Chairman Schultz, Commissioner LeMarr, and Commissioner Krenzle voted in favor of the motion and the meeting was adjourned at 2:23 p.m.

THE INDUSTRIAL COMMISSION OF ARIZONA

By James Ashley
James Ashley, Director

ATTEST:

Kara Dimas
Kara Dimas, Commission Secretary