

MINUTES OF MEETING
OF THE INDUSTRIAL COMMISSION OF ARIZONA
Payson Town Council Chambers
303 North Beeline Hwy, Payson, Arizona 85541
Thursday, August 31, 2017 – 1:30 p.m.

Present:	Dale L. Schultz	Chairman
	Joseph M. Hennelly, Jr.	Vice Chair
	Scott P. LeMarr	Commissioner
	Robin S. Orchard	Commissioner
	Steven J. Krenzel	Commissioner
	James Ashley	Director
	Jason M. Porter	Chief Legal Counsel
	Trevor Laky	Legislative Affairs Chief / Public Information Officer
	Sylvia Simpson	Chief Financial Officer (telephonic)
	William Warren	ADOSH Director
	James Veck	Compliance Officer
	Kara Dimas	Commission Secretary

Chairman Schultz convened the meeting at 1:35 p.m. Also in attendance were Arizona House Member Brenda Barton; Melanie Baird-Simmons, Human Resources Manager with the Town of Payson; and Anthony Velez with AV Decking.

Approval of Minutes of August 11, 2017 and August 17, 2017 Regular Meeting Minutes.

Commissioner Krenzel moved to approve the Minutes of the August 11, 2017 regular session meeting and Vice Chair Hennelly seconded the motion. Chairman Schultz, Vice Chair Hennelly, Commissioner Orchard, and Commissioner Krenzel voted in favor of the motion. Commissioner LeMarr abstained. The motion passed.

Vice Chair Hennelly moved to approve the Minutes of the August 17, 2017 regular session meeting and Commissioner Orchard seconded the motion. Chairman Schultz, Vice Chair Hennelly, Commissioner Orchard, and Commissioner Krenzel voted in favor of the motion. Commissioner LeMarr 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. 2C16/17-2105 Aloha Home Solutions, LLC
2. 2C16/17-0366 Aster Elder Care LLC
3. 2C16/17-1141 Big Red Barn LLC

4. 2C16/17-2085 Cheetahs Movers LLC
5. 2C17/18-0111 Corrine Assisted Living LLC
6. 2C15/16-1243 El Nino Transportation LLC
7. 2C16/17-2042 George and Sons Roofing and Repairs LLC
8. 2C17/18-0102 Leon Furniture
9. 2C15/16-2069 Old Town Sarajevo LLC
10. 2C15/16-2024 Three Diamonds Construction, LLC
11. 2C16/17-1850 Samara Ranches LLC
12. 2C16/17-2156 Timber Peaks Construction, LLC

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

1. Albertson's Companies, LLC

Chairman Schultz reviewed the Consent Agenda and moved item a.7. (George and Sons Roofing and Repairs LLC) to the regular agenda.

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

Mr. Porter stated that George and Sons Roofing and Repairs had obtained workers' compensation insurance and recommended a reduced \$500.00 civil penalty, rather than staff's previous recommendation of a \$1,000.00 civil penalty.

Commissioner LeMarr moved to approve issuance of a \$500.00 civil penalty to George and Sons Roofing and Repairs LLC. Commissioner Krenzel seconded the motion. Chairman Schultz, Vice Chair Hennelly, Commissioner LeMarr, Commissioner Orchard, 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.

AV Decking, Inc. 5115 N Dysart Rd., Suite 202, #607 <u>Litchfield Park, AZ 85340</u>	Fatality/Accident	
Site Location: 3528 Phoenix Mart Loop Casa Grande, AZ 85194	Years in Business:	12
Inspection No: W6968-1221736	Empl. Covered by inspection:	4
Inspection Date: 03/13/2017		

SERIOUS – Citation 1 - Item 1 – 3528 Phoenix Mart Loop Construction Site, Casa Grande Arizona: An employee was engaged in leading edge work, installing a metal deck/roof that was over 31 feet and was not tied off and fell, resulting in his death. (29 CFR 1926.760(a)(1)).

Div. Proposal - \$7,000.00

Formula Amt. - \$7,000.00

SERIOUS – Citation 1 - Item 2 – 3528 Phoenix Mart Loop Construction Site, Casa Grande Arizona: An employee who was engaged in leading edge work, installing a metal deck/roof that was over 31 feet high had not been trained in the requirements specified in 29 CFR 1926.761. (29 CFR 1926.761(b)).

Div. Proposal - \$7,000.00	Formula Amt. - \$7,000.00
TOTAL PENALTY - \$14,000.00	TOTAL FORMULA AMT. - \$14,000.00

Mr. Warren summarized the citation and proposed penalties as listed and reviewed the photographs.

Mr. Velez discussed the fall protection equipment available at the worksite and the employee's training.

Commissioner Orchard, Mr. Veck, and Mr. Warren discussed Citation 1, Item 2, the training required for steel erection, and the sufficiency of the OSHA 10 and 30 hour training for steel erection.

Mr. Velez discussed the company's safety personnel and training program.

Mr. Warren discussed the investigation findings and the differences between the steel erection standard and the construction standard.

Chairman Schultz and Mr. Velez discussed the presence of other employees at the worksite, the supervisory responsibilities of the subject employee, and the employee's training.

Commissioner Krenzel moved to approve the citation and proposed penalties as presented and Vice Chair Hennelly seconded the motion. Commissioner Orchard discussed the employer's safety program. Chairman Schultz, Vice Chair Hennelly, Commissioner LeMarr, Commissioner Orchard, and Commissioner Krenzel voted in favor of the motion. The motion passed.

GW Framing LLC	Referral
1717 N 103 rd St	Years in Business: 11
Mesa, AZ 85207	Empl. Covered by inspection: 22
Site Location: 4833 N 7 th Street	
Phoenix, AZ 85014	
Inspection No: T1999-1242678	
Inspection Date: 06/23/2017	

REPEAT SERIOUS – Citation 1 - Item 1 – 4833 N 7th St Phoenix, AZ, 85014: Two employees engaged in residential construction were not protected from falling 30 feet to the ground below, a third employee was not protected from falling 9 feet to the floor below, by guardrail systems, safety net systems, personal fall arrest systems, or the combination of other fall protection systems required by the standard. (29 CFR 1926.501(b)(13)).

GW Framing LLC was previously cited for a violation of this occupational safety and health standard or its equivalent standard 1926.501(b)(13), which was contained in ADOSH inspection number 1135048, citation number 1, item number 1 and was affirmed as a final order on 10/24/16 with respect to a workplace located at 601 W Fillmore St Phoenix, AZ, 85007.

Div. Proposal - \$3,000.00	Formula Amt. - \$3,000.00
TOTAL PENALTY - \$3,000.00	TOTAL FORMULA AMT. - \$3,000.00

Mr. Warren summarized the citation and proposed penalty as listed and reviewed the photographs.

Commissioner Krenzel and Mr. Warren discussed the company's fall protection training and the absence of a training violation.

Chairman Schultz commended ADOSH on the investigation and photographs.

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

Discussion and Action of Request for Lump Sum Commutation. The Commission may move into Executive Session under A.R.S. §§ 38-431.03(A)(2) and (A)(3) to discuss or consider records exempt by law from public inspection or to consult with its attorneys for legal advice.

Mr. Porter summarized the lump sum commutation request and staff's recommendation to approve the commutation. He reviewed the standard to be considered for lump sum commutation under A.A.C. R-20-5-122(B). He noted staff's recommendation for approval.

Chairman Schultz and Mr. Porter discussed R-20-5-122(B).

Commissioner LeMarr and Mr. Porter discussed the remaining balance of the scheduled award and the amount of the proposed commutation.

Vice Chair Hennelly and Mr. Porter discussed the payment of attorney fees from the lump sum commutation.

Chairman Schultz discussed the amount of the proposed lump sum commutation, the financial-betterment analysis, and his inclination to accept the recommendation of staff.

Commissioner Orchard moved to approve the lump sum commutation and Commissioner Krenzel seconded the motion. Commissioner Orchard, Chairman Schultz, and Mr. Porter discussed eligibility for vocational rehabilitation benefits and supportive care. Chairman Schultz, Vice Chair Hennelly, Commissioner LeMarr, Commissioner Orchard, 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 2017. This Agenda Item may include discussion regarding the Commission budget and review of Division, Department, and Section specific objectives.

Mr. Ashley thanked the Payson community for a very informative and beneficial trip in which the Commission had the opportunity to meet with businesses, stakeholders, local elected officials, and members of the community. He thanked House Members Brenda Barton and Bob Thorpe for their work in the Arizona Legislature and for meeting with the Commission. Finally, he thanked Ms. Baird-Simmons and the Town of Payson.

Mr. Ashley discussed the process of updating on-line forms and current work to update the Notice of Permanent Disability and Request for Determination of Benefits (Form 107).

Mr. Ashley provided an update regarding usage of the Interested Parties Portal.

Mr. Ashley discussed plans to hold a Commissioner Gemba Walk on September 21, 2017.

Chairman Schultz and Mr. Ashley discussed usage of the ALJ Portal and plans to merge the ALJ Portal with the Interested Parties Portal.

Mr. Porter discussed the new electronic process for certifying records to the Court of Appeals and plans to make the electronic records more accessible to customers. Mr. Ashley discussed the electronic filing process used by the Office of Administrative Hearings.

Chairman Schultz and Mr. Porter discussed progress being made with the Legal Division's Compliance Unit in assisting uninsured employers to obtain workers' compensation insurance. Chairman Schultz discussed how usage of the Arizona Management System has resulted in great progress for the Compliance Unit.

Announcements, Scheduling of Future Meetings and Retirement Resolutions.

Ms. Dimas confirmed Commission meeting dates through October 2017.

Chairman Schultz noted that ADOSH will have a presence at the 48th Annual Convention and Trade Show of Roofers in Flagstaff on September 28-30, 2017. He noted ongoing efforts to work collaboratively through the Chairman's Roofing Alliance to improve safety and reduce fatalities and injuries.

Public Comment.

There was no public comment.

Commissioner Krenzel moved to adjourn and Commissioner LeMarr seconded the motion. Chairman Schultz, Vice Chair Hennelly, Commissioner LeMarr, Commissioner Orchard, and Commissioner Krenzel voted in favor of the motion and the meeting was adjourned at 2:16 p.m.

THE INDUSTRIAL COMMISSION OF ARIZONA

By James Ashley
James Ashley, Director

ATTEST:

Kara Dimas
Kara Dimas, Commission Secretary