

MINUTES OF MEETING
OF THE INDUSTRIAL COMMISSION OF ARIZONA
Held at 800 West Washington Street
Conference Room 308
Phoenix, Arizona 85007
Thursday, December 12, 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
	Rebecca Schaar	Legal Division
	Ruby Tate	Claims Manager
	Donald Denmon	Assistant Claims Manager
	Jessie Atencio	ADOSH Director
	Riley Hill	Compliance Officer (Telephonic)
	Devin Wheeler	Compliance Officer
	Martha Zamudio	Compliance Officer
	Kara Dimas	Commission Secretary

Chairman Schultz convened the meeting at 1:00 p.m. Also in attendance were Larry Butts (Erickson Framing); Harry Baker, Maverick Black, Bret Smith, and Jeff Schmidt (Southwest Industrial); Howard Kaplan (Liberty Crane); Scot Butler (Undisclosed); and Shanlie Blair (Snell & Wilmer).

Approval of Minutes of December 5, 2019 Regular Meeting Minutes.

Approval of the Minutes of the December 5, 2019 regular meeting were postponed to a future agenda.

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. 2CLP-18/19-0947 Tree Service Men LLC \$1000
2. 2C19/20-0015 Vinall Ventures LLC dba Planet Sub \$1000

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

1. The Proctor & Gamble Company

Vice Chair Hennelly moved to approve the 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.

Safety Committee Update and Topic Discussion.

Ms. Schaar reviewed the Industrial Commission's 2-Minute Near Miss process from reporting to investigation.

Chairman Schultz explained for the visitors that the agency is now a VPP site and the agency constantly looks for ways to improve safety.

Commissioner LeMarr and Ms. Schaar discussed the number of near misses for the agency for the current year.

Mr. Ashley presented a plaque received from the Governor's Office for the quarterly Good Government Award for achieving VPP status at the agency.

Chairman Schultz noted that every department has two boards one board for process improvement, and one for safety.

Discussion & Action regarding Appointment of Special Assistant to the Industrial Commission of Arizona.

Ms. Tate requested that Gloria Cerda be appointed as Special Assistant to the Industrial Commission. She noted Ms. Cerda's background for the position.

Commissioner LeMarr moved to appoint Gloria Cerda as Special Assistant to the Industrial Commission of Arizona 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, Action, and Potential Resolution regarding Final Rulemaking to Title 20, Chapter 5, Rule 507 "Safety Code for Elevators, Escalators, Dumbwaiters, Moving Walks, Material Lifts and Dumbwaiters with Automatic Transfer Devices." (Elevator Gap)

Mr. Testini noted he would like to enter into final rulemaking and explained that during the course of the rulemaking to allow pneumatic elevators there was a concern raised regarding the current rule on elevator gap clearance for residential and this rulemaking addresses that concern. He requested authorization to move forward with the final rulemaking process.

Commissioner LeMarr moved to approve final rulemaking for Title 20, Chapter 5, Rule 507 Safety Code for Elevators, Escalators, Dumbwaiters, Moving Walkways, Material Lifts and Dumbwaiters with Automatic Transfer Devices. 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.

a) Manufacturing Area: Employees were performing calibration and set-up work on the DSG-01 machine without having first been trained in the recognition, type, and magnitude of hazardous energy sources and the methods to control and isolate that energy. 29 CFR 1910.147(c)(7)(i)(A)

Div. Proposal - \$0.00	Formula Amt. - \$2,000.00
TOTAL PENALTY - \$2,000.00	TOTAL FORMULA AMT. - \$6,000.00

Mr. Atencio noted this matter was initially a referral but the employee has since passed away from his injuries. He discussed ADOSH's investigation, summarized the citation and proposed penalty, and noted the photographs were marked as trade secrets.

Commissioner LeMarr commented that it boils down to the manufacturer not having a manual for the safety of its own equipment for set up and asked if there was a manual in English for the operation of this equipment now that they have left and the equipment is here. Mr. Atencio and Compliance Officer Hill discussed that a manual had not been developed and it is the duty of the employer to develop a procedures manual. The employer has to do two things for this piece of equipment for maintenance: determine whether or not lock out /tag out procedures are implemented and assess what PPE will be required for using, and maintaining the machine.

Mr. Atencio and Mr. Hill discussed if Foot Print, who purchased the equipment, has a job safety analysis for their employees. At the time of the incident, the guarding had not been installed. Before it was to be put into production guarding would be installed and this type of accident would not be likely.

Mr. Atencio noted there was a file associated with this incident and a citation was issued to Foot Print for lock out / tag out procedures. He noted they received their lock out / tag out program and it is basic. He noted it is not uncommon to find one-offs out there.

Vice Chair Hennelly sees responsibility of the company purchasing the machine to install guards and implement their lock out / tag out with respect to the machine and would like to check that the guarding is in place since it is a one-off. Vice Chair Hennelly queried how often this occurs and how familiar with our standards of safety would they be, since they are a Chinese company. Mr. Atencio responded it was not much and very generic and will need to provide more awareness to someone coming out, that this is multi-employer and why Foot Print will receive a citation as well on the lock out / tag out.

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

Commissioner Krenzel asked whether ADOSH has purview to review new technologies before the come online.

Mr. Atencio responded yes and no. They are learning with VPP partners and associations and have been invited to look at some things, but there is no OSHA standard. He can put something in the ADOSH Advocate and look at other associations if they know something is a one-off or new to contact Consultation or Compliance before it goes into to use to prevent any type of injury before it happens. Mr. Atencio described a couple of possible options for learning new technology as it appears in the industry and let people know ADOSH services that are available so it does not go without notice.

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 noted the annual Food Marketing Alliance reception on January 15, 2020. If the Commissioners are interested in attending to let Ms. Dimas know in the event of a quorum.

Ms. Dimas confirmed Commission meeting dates through February 2020.

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 2:45 p.m.

THE INDUSTRIAL COMMISSION OF ARIZONA

By James Ashley
James Ashley, Director

ATTEST:

Kara Dimas
Kara Dimas, Commission Secretary