

MINUTES OF MEETING
OF THE INDUSTRIAL COMMISSION OF ARIZONA
Held at 800 West Washington Street
Conference Room 308
Phoenix, Arizona 85007
Thursday, December 19, 2019 – 1:00 p.m.

Present:	Dale L. Schultz	Chairman
	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
	Janine Locke	Special Services Manager
	Jessie Atencio	ADOSH Director
	Michael Mosesso	Chief Administrative Law Judge
	Kara Dimas	Commission Secretary

Chairman Schultz convened the meeting at 1:00 p.m. Also in attendance were Kevin Dandridge and Bella Dandridge (Adanac Builders Corporation); Jacob Tetlow, Meagan Vamos and Lilibeth Quezada (Arizona Public Service Company); Veronica Castillo; David Ybarra; Scot Butler (Undisclosed); Shanlie Blair and Charles Keller (Snell & Wilmer).

Approval of Minutes of December 5, 2019 Regular Meeting Minutes and December 12, 2019 Regular Meeting Minutes.

Approval of the Minutes of the December 5, 2019 and December 12, 2019 regular meeting was 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. 2CC19/20-0022 Iron Horse Welding Work LLC \$5000
2. 2CNP19/20-0011 Pigeon Pros Inc \$1000
3. 2CSP19/20-0090 Roberto Hernandez & Ana Maria Garduno dba HSKS LLC \$1000
4. LG-GM19/20-0043 Gracious Haven Healthcare LLC \$10000
5. 2CMO19/20-0005 Packman Movers LLC \$1000

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

1. City of Peoria

Commissioner LeMarr moved to approve the items 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.

Safety Committee Update and Topic Discussion.

The emergency evacuation procedures were outlined.

Ms. Locke provided information regarding the Safety Concern/Comment Survey on SharePoint for employees to submit any comments or concerns through SurveyMonkey; this program was implemented as part of the VPP program. Employees can stay anonymous if they wish, the information is submitted to Ms. Locke or Ms. Schaar and brought to the Safety Committee's attention for discussion and action.

Chairman Schultz apologized for not attending as many Safety Committee meetings and explained for the audience what the committee has accomplished.

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.

Adanac Builders Corporation
17505 North 79th Ave., Ste. 401
Glendale, AZ 85308

Fatality/Accident	
Years in Business:	16
Emp. Covered by Inspection:	12

Site Location: 2705 Navajo Blvd.
Holbrook, AZ 86025
Inspection No: K6582 -1438996
Inspection Date: 10/18/2019

SERIOUS – Citation 1 - Item 1 –

- a) 2705 Navajo Blvd., Holbrook, AZ 86025: Twelve employees were exposed to a fall above six feet when accessing the second-story landing zone from a 24' extension ladder. 29 CFR 1926.502(b)(13)
Div. Proposal - \$1,500.00 Formula Amt. - \$1,500.00

SERIOUS – Citation 1 - Item 2 –

- a) 2705 Navajo Blvd., Holbrook, AZ 86025: Nine employees were not provided adequate fall protection training so that the employees can recognize the hazards of installing anchor points, using their fall protection, and what height fall protection is required. 29 CFR 1926.503(a)(1)
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 fatality investigation, summarized the citation and proposed penalties, and reviewed the photographs.

Commissioner LeMarr and Mr. Atencio discussed that the witnesses' statements were that the victim was not tied off.

Chairman Schultz commented that the report was very good and covered the positives and negatives, and appreciated the efforts at abatement and the fact the employer maintains standards that are more stringent than the OSHA standards when using fall protection and the use of a video to educate in terms of using fall protection and made significant efforts to keep their employees safe.

Chairman Schultz noted there were folks from the employer present. Mr. Dandridge did not have any comments and just took on the case as a consultant to help the company out. He liked what he was hearing and appreciated the candor.

Commissioner LeMarr and Mr. Atencio discussed the fairly complete safety program and if the employer provided the information that the nine employees on the job had gone through the safety protocol after the fact, that portion of the citation would be dismissed.

Commissioner LeMarr moved to amend the Citation 1, Item 1 by proposing a 25% reduction for good faith, Citation 1, Item 2 remain the same for a total penalty to \$2,625.00. Commissioner Krenzel seconded the motion. Chairman Schultz, Commissioner LeMarr and Commissioner Krenzel voted in favor of the motion. The motion passed.

Arizona Public Service Company	Fatality/Accident	
400 N. 5 th St.	Years in Business:	133
Phoenix, AZ 85004	Empl. Covered by Inspection:	4
Site Location:	N. 1 st Ave. and 100 W. Washington St. Phoenix, AZ 85003	
Inspection No:	K6582 -1412326	
Inspection Date:	7/1/2019	

Mr. Atencio summarized ADOSH's fatality investigation and reviewed the file and photographs. He noted that ADOSH was not recommending a citation.

Commissioner LeMarr and Mr. Atencio discussed a foreman/superintendent on the site and the exhaustive lock out / tag out permitting process; it is presumed the victim identified the line to be worked on and the ones that were still energized prior to the work starting, and knew there would be live electrical wires.

Chairman Schultz assumed the wires had to be left live in order to maintain service in the area. Mr. Atencio agreed that the industry does not terminate all lines.

Mr. Tetlow, the Vice President of Operations with APS, wanted to state that it is a tragic event and his sincere condolences go out to the family and wanted to assure everyone in the room that the company is absolutely committed to the safety of its employees and the public they serve and there is no priority higher than that at Arizona Public Service.

The Commission took no action.

BIMU Group LLC dba GLH Hotel
1365 W Grant Rd
Tucson, AZ 85745

Complaint
Years in Business: 1
Empl. Covered by Inspection: 15

Site Location: 1365 W Grant Rd
Tucson, AZ 85745
Inspection No: R3180 -1423891
Inspection Date: 08/16/19

SERIOUS – Citation 1 - Item 1a –

- a) Hotel Rooms: Six employees used hazardous chemicals such as Netura-Clean RX and bleach while cleaning up fecal matter and were not provided nor required to use appropriate hand protection. 29 CFR 1910.138(a)
Div. Proposal - \$1,000.00 Formula Amt. - \$1,000.00

SERIOUS – Citation 1 - Item 1b –

- a) Hotel Rooms: Six employees were not provided or required to use gloves when handling used needles, cleaning up blood and other potentially infectious materials from rooms, and when handling sheets soiled with blood and other potentially infectious materials. 29 CFR 1910.1030(d)(3)(ix)
Div. Proposal - \$0.00 Formula Amt. - \$1,000.00

SERIOUS – Citation 1 - Item 2 –

- a) Laundry Room: One employee mixed up and diluted bleach and was not provided with a suitable eye-wash station for quick drenching and flushing of the eyes for immediate emergency use. 29 CFR 1910.151(c)
Div. Proposal - \$1,000.00 Formula Amt. - \$1,000.00

SERIOUS – Citation 1 - Item 3 –

- a) Laundry Room: Three employees were exposed to one oscillating stand fan that did not have a guard or cover over the blades. 29 CFR 1910.212(a)(5)
Div. Proposal - \$1,000.00 Formula Amt. - \$1,000.00

SERIOUS – Citation 1 - Item 4 –

- a) Laundry Room: Employees were not protected from a vertical drive belt and pulleys that were within seven feet of the floor on the rear of the Cissel brand dryer, Serial no. L2067-490, in that it did not have a fully enclosed guard. 29 CFR 1910.219(e)(3)(i)
Div. Proposal - \$1,000.00 Formula Amt. - \$1,000.00

SERIOUS – Citation 1 - Item 5a –

- a) Hotel: A written exposure control plan had not been established for employees who had occupational exposure to used needles when picking them up and disposing of them. 29 CFR 1910.1030(c)(1)(i)
Div. Proposal - \$1,000.00 Formula Amt. - \$1,000.00

SERIOUS – Citation 1 - Item 5b –

- a) Hotel Rooms: Employees were not provided with sharps containers for the disposable of used needles that were easily accessible or located as close as feasible to where sharps were reasonably expected to be found. 29 CFR 1910.1030(d)(4)(iii)(A)(2)(i)
Div. Proposal - \$0.00 Formula Amt. - \$1,000.00

SERIOUS – Citation 1 - Item 5c –

- a) Employees who handled contaminated laundry in the guest rooms and laundry room were not provided with or required to wear protective gloves. 29 CFR 1910.1030(d)(4)(iv)(B)
Div. Proposal - \$0.00 Formula Amt. - \$1,000.00

SERIOUS – Citation 1 - Item 5d –

- a) Hotel: Employees with occupational exposure did not have the hepatitis B vaccination series made available to them. 29 CFR 1910.1030(f)(1)(i)
Div. Proposal - \$0.00 Formula Amt. - \$1,000.00

SERIOUS – Citation 1 - Item 5e –

- a) 1365 W Grant Rd Tucson, Arizona: Employees with occupational exposure were not provided with training. 29 CFR 1910.1030(g)(2)(i)
Div. Proposal - \$0.00 Formula Amt. - \$1,000.00

SERIOUS – Citation 1 - Item 6a –

- a) Hotel: A written hazard communication program had not been developed or implemented for employees who were exposed to serious eye, skin and respiratory hazards when working with hazardous chemicals such as the Bleach and the Purpose Hf Intermediate. 29 CFR 1910.1200(e)(1)
Div. Proposal - \$1,000.00 Formula Amt. - \$1,000.00

SERIOUS – Citation 1 - Item 6b –

- a) 1365 W Grant Rd Tucson, AZ: A safety data sheet for Monogram Cleaning Disposables Disinfectant Bleach was not retained for employees who worked with it. 29 CFR 1910.1200(g)(1)
Div. Proposal - \$0.00 Formula Amt. - \$1,000.00

SERIOUS – Citation 1 - Item 6c –

- a) Hotel: Employees who work with the hazardous chemicals such as bleach, Netura-Clean RX, etc., were not provided with information and training on the hazards associated with the chemicals. 29 CFR 1910.1200(h)(1)
Div. Proposal - \$0.00 Formula Amt. - \$1,000.00

TOTAL PENALTY - \$5,600.00 TOTAL FORMULA AMT. - \$12,600.00

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

Commissioner LeMarr and Chairman Schultz both thought the compliance officer was generous with the grouping.

Chairman Schultz noted there was no one present to speak.

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

Discussion and/or Action regarding the Consideration of Candidates for the Administrative Law Judge Position. The Commission may move into Executive Session under A.R.S. §§ 38-431.03(A)(1), (A)(2), and (A)(3) to obtain legal advice and to discuss the candidates.

Chairman Schultz noted the Commissioners had the information regarding the three candidates and asked for a motion to approve the recommendation.

Commissioner LeMarr moved to accept staff's recommendation and offer the position to Candidate #3 who ranked #1. Commissioner Krenzel seconded the motion. Chairman Schultz, Commissioner LeMarr and Commissioner Krenzel voted in favor of the motion. The motion passed.

Judge Mosesso thanked the Commissioners and Director Ashley and expressed appreciation for the opportunity to present the candidates. Chairman Schultz appreciates all Judge Mosesso does, and commented that the ALJ section is filled with an extremely talented, well rounded staff.

Discussion and/or action regarding Industrial Commission goals, objectives and key initiatives for 2020. This Agenda Item may include discussion regarding the Commission budget and review of Division, Department, and Section specific objectives.

Mr. Ashley noted the December Golden Hard Hat was awarded to the Claims Division for the Out-of-State Adjustor Training because of the additional improvements made to the process; since February 2019, 560 out-of-state Adjustors have been authorized under the new program with approximately 500 passing the post test on their first try posting an average passing score of 89%. Chairman Schultz noted the program was wonderful because a significant percentage of our issues tend to involve out-of-state adjustors who are not current with our laws. Chairman Schultz felt the fact that we do not have 100% of the people passing the test on the first try shows we have achieved an appropriate level of difficulty in creating the test.

Mr. Ashley noted the requirement for all employees to take Cyber Security Training conducted by the State through an online class and since Commissioners also contribute to the agency's ability to achieve a 100% participation rate, the Commissioners will plan on participating.

Mr. Ashley noted the sale of the Tucson easement property for the Broadway widening project was complete.

Announcements, Scheduling of Future Meetings and Retirement Resolutions.

Ms. Dimas confirmed Commission meeting dates through February 2020.

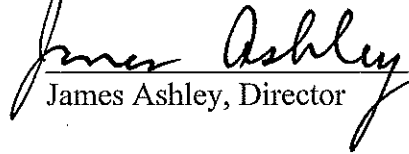
Public Comment.

There was no public comment.

Commissioner LeMarr moved to adjourn and Commissioner Krenzel seconded the motion. Chairman Schultz, Commissioner LeMarr and Commissioner Krenzel voted in favor of the motion and the meeting was adjourned at 2:00 p.m.

THE INDUSTRIAL COMMISSION OF ARIZONA

By


James Ashley, Director

ATTEST:


Kara Dimas, Commission Secretary