

MINUTES OF MEETING
OF THE INDUSTRIAL COMMISSION OF ARIZONA
Held at 800 West Washington Street
Conference Room 308
Phoenix, Arizona 85007
Thursday, February 21, 2019 – 1:00 p.m.

Present:	Dale L. Schultz	Chairman
	Joseph M. Hennelly, Jr.	Vice Chair
	Scott P. LeMarr	Commissioner
	Jason M. Porter	Deputy Director
	Stacey Rogan	Assistant Chief Legal Counsel
	Trevor Laky	Legislative Affairs Chief / Public Information Officer
	Renee Pastor	Self Insurance
	Jessie Atencio	ADOSH Director
	Steven Morgan	ADOSH Assistant Director
	Scott Huckfeldt	Compliance Officer
	Manuel Saldana	Compliance Officer
	Kara Dimas	Commission Secretary

Chairman Schultz convened the meeting at 1:00 p.m. Also in attendance were Scot Butler (Unknown); David Matthews and Joe Jatzkewitz (City of Phoenix); and Michael Fassett (Snell & Wilmer).

Approval of Minutes of February 7, 2019 Regular Meeting Minutes.

Vice Chair Hennelly moved to approve the Minutes of the February 7, 2019 regular session meeting and Commissioner LeMarr seconded the motion. Chairman Schultz, Vice Chair Hennelly and Commissioner LeMarr 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. 2C-18/19-0139 - Angel's Landscaping and Housekeeping, LLC for \$1,000.00
 2. 2C-18/19-0255 - Diggum Excavating, Inc. for \$1,000.00
 3. 2C-18/19-0094 - EGA Build & Design Construction, LLC for \$1,000.00
 4. 2C-18/19-0400 - Express Moves, LLC for \$1,000.00
 5. 2C-18/19-0402 - My Neighborhood Handyman, LLC for \$1,000.00

- b. Approval of Requests for Renewal of Self-Insurance Authority.
 1. City of Phoenix
 2. Dignity Health

3. Maricopa County Community College District
4. Mesa Unified School District No. 4

Chairman Schultz noted the excellent experience modification for Maricopa County Community College District. Chairman Schultz also noted he would like to remove the City of Phoenix from the Consent Agenda. Ms. Rogan noted that a.3. (My Neighborhood Handyman, LLC) had obtained insurance and the penalty was reduced to \$500.00.

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

City of Phoenix – Chairman Schultz noted he removed the City of Phoenix from the consent Agenda to give them an opportunity to make any comments.

Mr. Matthews thanked Ms. Pastor for her work on the renewal.

Commissioner LeMarr moved to approve the City of Phoenix Renewal of Self-Insurance Authority and Vice Chair Hennelly seconded the motion. Chairman Schultz, Vice Chair Hennelly and Commissioner LeMarr 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.

YBL LLC dba Liberty Lumber	Fatality/Accident	
8525 N 75 th Ave	Years in Business:	19
<u>Peoria, AZ 85345</u>	Covered by inspection:	3
Site Location:	8525 N 75 th Ave	
	Peoria, AZ 85345	
Inspection No:	N8278 - 1362745	
Inspection Date:	11/30/2018	

Mr. Atencio summarized ADOSH’s fatality investigation and reviewed the file. He noted that ADOSH was not recommending any citations and that the company has an injury illness prevention plan and program.

Commissioner LeMarr, Mr. Atencio and Chairman Schultz discussed whether the forklift seatbelt was being used and that the company training included the use of seatbelts.

The Commission took no action.

Dollar Tree Stores, Inc. dba Dollar Tree Stores, Inc. #3591	Complaint	
9820 W Lower Buckeye Rd.,	Years in Business:	30
<u>Tolleson, AZ 85353</u>	Covered by inspection:	4
Site Location:	9820 W Lower Buckeye Rd.,	
	Tolleson, AZ 85353	
Inspection No:	T0132 - 1351299	
Inspection Date:	10/4/2018	

Discussion and Action of Attorney Fee Petition. This agenda item may include discussion concerning the processing of attorney fee petition and the reasonable hourly rates used in analyzing fee petition.

Justin Greenberg / Trujillo – Ms. Rogan discussed her analysis of the Petition for Attorney Fees submitted by Mr. Greenberg and his representation of Mr. Trujillo.

Chairman Schultz and Ms. Rogan discussed the benefits resulting from the representation of Mr. Greenberg and Mr. Manion the applicant's new attorney, concluding that the applicant benefitted in large part as a result of Mr. Greenberg who succeeded in having an element accepted. The amount Mr. Greenberg has already received for his work securing the applicant's temporary benefits acts as a credit against the proposed amount.

Vice Chair Hennelly moved to approve staff's recommendation and Commissioner LeMarr seconded the motion. Chairman Schultz, Vice Chair Hennelly and Commissioner LeMarr voted in favor of the motion. The motion passed.

Mr. Porter noted that the hourly rate for attorney fees for work comp specialists and non-work comp specialists was set in 2013 and if the Commission would like, he would have the Legal Division conduct a review for more current rates. The Commissioners would like to see updates given the low rates.

Announcements, Scheduling of Future Meetings and Retirement Resolutions.

Ms. Dimas confirmed Commission meeting dates through May 2019, and noted the Yuma community outreach plans for March 6 and 7 plans are just about complete. Vice Chair Hennelly noted he was not available on March 28. The ICA Day at the Capitol will be March 27. Commissioner LeMarr noted he would be here or on the phone for March 28 and was not available on May 23.

Chairman Schultz noted the WCRI Conference for February 28 and March 1. Chairman Schultz and Vice Chair Hennelly will be attending.

Public Comment.

There was no public comment.

Commissioner LeMarr moved to adjourn and Vice Chair Hennelly seconded the motion. Chairman Schultz, Vice Chair Hennelly and Commissioner LeMarr voted in favor of the motion and the meeting was adjourned at 1:48 p.m.

THE INDUSTRIAL COMMISSION OF ARIZONA

By Jason Porter
Jason M. Porter, Deputy Director

ATTEST:

Kara Dimas
Kara Dimas, Commission Secretary