

MINUTES OF MEETING  
OF THE INDUSTRIAL COMMISSION OF ARIZONA  
Held at 800 West Washington Street  
Conference Room 308  
Phoenix, Arizona 85007  
Thursday, February 27, 2020 – 1:00 p.m.

Present:	Dale L. Schultz	Chairman
	Joseph M. Hennelly, Jr.	Vice Chair
	Scott P. LeMarr	Commissioner
	James Ashley	Director
	Gaetano Testini	Chief Legal Counsel
	Trevor Laky	Legislative Affairs Chief / Public Information Officer
	Renee Pastor	Self Insurance
	Lisa Padgett	Labor Director
	Victoria Kamm	Labor Investigator
	Jessie Atencio	ADOSH Director
	Kara Dimas	Commission Secretary

Chairman Schultz convened the meeting at 1:00 p.m. Also in attendance were Christopher Hansen and Nichole Martinez (City of Tempe); David Matthews, Ashley Pritchett and Joe Jatzkewitz (City of Phoenix); Katherine Callaway and Brandan Dodds (City of Scottsdale).

Approval of Minutes of February 20, 2020 Regular Meeting Minutes.

Vice Chair Hennelly moved to approve the Minutes of the February 20, 2020 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.

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a. Approval of Proposed Civil Penalties Against Uninsured Employers.

1. 2CC19/20-0053 Iron Horse Welding Works LLC \$10,000
2. 2CNP19/20-0224 Sir Moves A Lot LLC \$1,000

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

1. City of Mesa
2. City of Phoenix
3. City of Scottsdale
4. City of Tempe

5. Costco
6. Roman Catholic Church Diocese of Tucson

Chairman Schultz commended the City of Mesa on their safety experience modification factor. Chairman Schultz noted that representatives from the City of Phoenix, City of Scottsdale and the City of Tempe will present and accordingly moved their request from the consent agenda to be heard separately.

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.

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

City of Phoenix – Mr. Matthews presented a slide show for the Commissioners regarding the City of Phoenix’s current and new safety programs. The City of Phoenix water services department is currently in partnership with ADOSH through the Public Entities Partnership Program (PEPP). The city is interested in moving forward to the VPP program and getting other divisions into the PEPP program in the next couple of years. He explained there are both Department policies handled at the Department level, and citywide policies handled by their HR department. The larger departments with embedded safety staff are Water, Streets, Public Works, Parks, Aviation, Police, and Fire; HR oversees all other departments. They have started sending weekly injury notifications to all department heads with summaries of the injuries for the week. The City has instituted a new policy for physicals providing for pre-employment, annual and supplemental physicals when there is a change in medical history. They have also implemented annual cancer screenings for the entire fire department and opened it to all city staff.

He discussed a new on-line incident reporting system for all incidents which completes the necessary forms based on feedback from the employees, notifies the department supervisors and their onsite TPA adjusters.

Chairman Schultz noted he appreciates the City’s participation in the PEPP program and would like to get the entire City of Phoenix into the program.

Commissioner LeMarr moved to approve the renewal of self-insurance authority for the City of Phoenix 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 Scottsdale – Ms. Callaway, Director of Risk Management, and Mr. Dodds, Safety Manager, presented a slide show for the Commissioners regarding the City of Scottsdale safety program and shared some of their concerns with injuries. Mr. Dodds showed injury rates which fluctuate, and explained the reasons for some trends in different years and throughout different departments.

Mr. Dodds noted that all incidents are investigated and a determination is made as to whether the injury was preventable. He noted the majority of injuries are in public safety, with 92% determined to be non-preventable injuries.

Ms. Callaway stated that she and Mr. Dodds receive all injury reports to review and participate in the department’s safety meetings. They are implementing new software for claims and incident

reporting. The new system requires greater interaction between the injured employee and their supervisor.

Commissioner LeMarr asked about prior ADOSH inspections for the Water Department and Waste Department and if the City's prompt abatement resulted in a decrease in the number of injuries in those departments. Mr. Dodds agreed that some good lessons came out of the inspections which have been incorporated into the program.

Ms. Callaway stated there were 24 ADOSH interactions which have provided great information, and identified areas of concern that needed attention such as fall protection.

Chairman Schultz, Ms. Callaway and Mr. Dodds discussed that the 92% non-preventable was mostly from the police department, and includes injuries sustained chiefly during training exercises and altercations.

Mr. Dodds discussed that the safety focuses following the ADOSH inspections included employee safety development, safety steering committees, planned focuses, and program administrators in all departments.

Ms. Callaway explained the City Manager is now coming on board to help with the safety programs and they are awaiting a new management system. She believes that the increase in their experience modification is due to a spike in emergency room usage, an increase in PTSD claims, an increase in advanced medical testing, changes in the modified and transitional duty practices and an increase in medical disability retirement claims.

Chairman Schultz commented that the experience modification deterioration has been dramatic and currently represents the highest of any self-insured in the state and while he appreciates the efforts of the City, he is not seeing a positive impact and the experience modification continues to go the wrong direction which causes concern. He created the Chairman's Roofer Alliance because of the high rate of injuries in the roofing industry and we have made a dramatic impact reducing injury rates working with the major roofers in the state. Currently there is a concern about fire and police and we are thinking about creating a group to focus on just those areas, and bringing together the largest folks with the most exposure to begin to share best practices, given the dramatic difference in the injury rates in fire and police amongst municipalities.

Vice Chair Hennelly noted he had the same concerns about the experience modification. Ms. Callaway stated the City did make some headway from 2018 to 2019 but another good year is going to drop off next year, so the rate will rise.

Mr. Atencio noted that all three cities represented here today participate in the Arizona Governmental Safety Association, which is chaired by a member of the ADOSH Advisory Board, Robyn Steiner. The Association has identified the fire and police department as areas needing attention. The City does participate in other levels of communication and works closely with ADOSH.

Vice Chair Hennelly moved to approve the renewal of self-insurance authority for City of Scottsdale and Commissioner LeMarr seconded the motion. Chairman Schultz proposed a modification and suggested the self-insurance authorization is for a year, but requested to see the City of Scottsdale in six months to see if they are making additional progress. Vice Chair Hennelly modified his motion to that effect and Commissioner LeMarr seconded the modified motion. Chairman Schultz, Vice Chair Hennelly and Commissioner LeMarr voted in favor of the motion. The motion passed.

City of Tempe – Mr. Hansen, Risk Manager, presented a slide show for the Commissioners highlighting the City of Tempe’s programs and trends and their approach to public safety injuries which are hard to prevent. He outlined his risk management staff and mentioned that for the first time the City hired a workers’ compensation specialist to see where the money is going and to help prevent losses and costs.

Ms. Martinez, the workers’ compensation specialist, detailed her background.

Mr. Hansen noted there is greater communication between employees and medical providers. The City has developed both a SharePoint site which provides safety information to employees, including the required training for each employee based upon their position, and a color-coded training aid displaying the employee’s training history.

Mr. Hansen stated the majority of their injuries are back, shoulder and knee injuries in the Public Safety department. He is looking at bringing job specific safety and health training into the wellness program, to help prevent injuries and mental health.

Ms. Martinez explained that to combat the rapid increase in medical costs the City is looking at focusing on preventive measures.

Chairman Schultz discussed that in his experience situational awareness training has been the most successful preventive measure.

Mr. Hansen echoed that public safety medical retirements, cancer presumption cases and PTSD cases have increased.

Commissioner LeMarr moved to approve the renewal of self-insurance authority for the City of Tempe 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 regarding Proposed Youth Employment Penalty.

CL1819-0057          Adair Management Services, Inc. dba McDonald’s

Ms. Padgett summarized the Labor Department’s investigation, which included findings of violations of A.R.S. § 23-232(8)(b), § 23-233(A)(2) and § 23-233(A)(3). Ms. Padgett recommended that the Commission approve issuance of a Civil Penalty in the amount of \$500.00.

Commissioner LeMarr asked if there were only three individuals, but Ms. Kamm noted there were actually 16 separate violations. Commissioner LeMarr confirmed the \$500.00 fine for the violations doesn’t change based on the number of employees.

Vice Chair Hennelly confirmed that the company acknowledged it was going to monitor this more carefully and take some remedial action.

Commissioner LeMarr moved to approve issuance of a Civil Penalty in the amount of \$500.00 to Adair Management Services, Inc. dba McDonald’s. Vice Chair Hennelly seconded the motion.

Chairman Schultz, Vice Chair Hennelly and Commissioner LeMarr voted in favor of the motion. The motion passed.

Announcements, Scheduling of Future Meetings and Retirement Resolutions.

Ms. Dimas confirmed Commission meeting dates through April 2020.

Mr. Ashley invited the Commissioners to an Industrial Commission Employee Appreciation Luncheon on March 17, 2020.

Mr. Atencio noted March 12, 2020 for the VPP Celebration for Cintas, and the first for this type of service industry.

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 2:28 p.m.

THE INDUSTRIAL COMMISSION OF ARIZONA

By James Ashley  
James Ashley, Director

ATTEST:

Kara Dimas  
Kara Dimas, Commission Secretary