

MINUTES OF MEETING
OF THE INDUSTRIAL COMMISSION OF ARIZONA
Held at 800 West Washington Street
Conference Room 308
Phoenix, Arizona 85007
Thursday, January 17, 2019 – 1:00 p.m.

Present:	Dale L. Schultz	Chairman
	Joseph M. Hennelly, Jr.	Vice Chair
	Scott P. LeMarr	Commissioner
	Steven J. Krenznel	Commissioner
	James Ashley	Director
	Gaetano Testini	Chief Legal Counsel
	Sylvia Simpson	Chief Financial Officer
	Renee Pastor	Self Insurance
	Stacey Rogan	Staff Attorney
	Yvonne Borunda	Legal
	Kara Dimas	Commission Secretary

Chairman Schultz convened the meeting at 1:00 p.m. Also in attendance were Katherine Callaway (City of Scottsdale); Sherry Rodriguez (Concrete Reinforcements, Inc.); and Alexandria Dionne (Public Policy Partners).

Approval of Minutes of December 13, 2018 and January 10, 2019 Regular Meeting Minutes.

Commission LeMarr moved to approve the Minutes of the December 13, 2018 regular session meeting and Commissioner Krenznel seconded the motion. Chairman Schultz, Commissioner LeMarr and Commissioner Krenznel voted in favor of the motion. Vice Chair Hennelly abstained. The motion passed.

Vice Chair Hennelly moved to approve the Minutes of the January 10, 2019 regular session meeting and Commissioner LeMarr seconded the motion. Chairman Schultz, Vice Chair Hennelly, and Commissioner LeMarr voted in favor of the motion. Commissioner Krenznel 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 Requests for Renewal of Self-Insurance Authority.
 1. City of Chandler
 2. City of Scottsdale
 3. Maricopa County
 4. Washington Elementary School District No. 6

b. Discussion and Action of Application for Self-Insurance Authority.

1. Concrete Reinforcements, Inc.

Chairman Schultz moved items a.2 (City of Scottsdale) and b.1 (Concrete Reinforcements, Inc.) to the regular agenda. Commissioner LeMarr moved item a.3 (Maricopa County) to the regular agenda.

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

Discussion and Action Regarding the Request for Renewal of Self-Insurance Authority.

City of Scottsdale – Chairman Schultz asked Ms. Callaway if she would like to speak. Ms. Callaway noted she was available for questions.

Chairman Schultz expressed concern that the experience modification factor has been going in the wrong direction, however he also noted the City has agreed to use ADOSH consultation services and looks forward to seeing an improvement.

Commissioner LeMarr and Mr. Atencio discussed two prior cases and that consultation services' work with the City is ongoing.

Chairman Schultz, Ms. Pastor and Ms. Callaway discussed working with ADOSH consultation. Ms. Callaway noted the City self-administers their claims and rarely denies claims. Chairman Schultz noted it is possible to see improvement and working with ADOSH consultation should help with the improvement.

Commissioner LeMarr moved to approve self-insurance renewal for the City of Scottsdale 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.

Maricopa County – Chairman Schultz noted that Commissioner LeMarr sits on the Board of Trustees for the County and Commissioner LeMarr recused himself. Vice Chair Hennelly moved to approve the self-insurance renewal and Commissioner Krenzel seconded the motion. Chairman Schultz, Vice Chair Hennelly and Commissioner Krenzel voted in favor of the motion. Commissioner LeMarr abstained. The motion passed.

Discussion and Action Regarding the Self-Insurance Application of Concrete Reinforcements, Inc.

Chairman Schultz noted he liked to see new applicants to the Self-Insurance Program, which have employers with experience modification factors lower than others in the same industry and lower than employers in general throughout the state of Arizona.

Chairman Schultz noted that Concrete Reinforcements, Inc. has an improving experience modification rate and an enviable safety record. Chairman Shultz welcomed Concrete reinforcements, Inc. to the self-insured community.

Ms. Rodriguez noted they are working on implementing some other safety programs to see if they can further improve their experience modification factor.

Commissioner Krenzel moved to approve self-insurance authority for Concrete Reinforcements, Inc. 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.

Discussion and Action regarding Establishment of Discount Rate for Calculating Lump Sum Commutations under A.A.C. R20-5-121(B).

Ms. Pastor discussed lump sum commutations and the process for updating the discount rate to be used in calculating the present value of an award under A.A.C. R20-5-121 and R20-5-122. Staff recommended setting the discount rate at 0.90% for calculating fixed period and permanent lump sum commutations, effective immediately, which is slightly more than prior years, using the 2003 Life Tables.

Chairman Schultz noted the expected impact will be to increase the likelihood of more lump sum applications.

Commissioner LeMarr moved to approve staff recommendation to use 0.90% discount rate in the calculation for lump sum commutations under A.A.C. R20-5-121 and R20-5-122, effective immediately. 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 Approval of ASME A17.7-2007 and Proposed Rulemaking to Title 20, Chapter 5, Rule 507 Safety Code for Elevators, Escalators, Dumbwaiters, Moving Walkways, Material Lifts and Dumbwaiters with Automatic Transfer Devices.

Mr. Testini summarized the proposed rulemaking to incorporate the most updated version of the elevator rules dealing with new types of elevators, specifically the Pneumatic Elevators and allow those rules to be incorporated.

Mr. Ashley noted that a lot of this is based on stakeholder feedback received over the last year and this will remove the regulatory burden that prohibits Arizonans from installing one of these elevators in their homes.

Chairman Schultz noted that we have always approved the traction cars, but the difference here is these are pneumatic elevators. Mr. Atencio explained how the pneumatic elevators operate.

Commissioner LeMarr moved to approve of ASME A17.7-2007 and authorize the Legal Division to file the necessary notices to promulgate the proposed rulemaking by filing a request with the Governor's Office for an exemption from the rulemaking moratorium. Commissioner Krenzel seconded the motion. Chairman Schultz, Vice Chair Hennelly, Commissioner LeMarr and Commissioner Krenzel, voted in favor of the motion. The motion passed.

Mr. Ashley emphasized that this will ameliorate a regulatory burden by allowing pneumatic elevators.

Chairman Schultz noted it was in line with the Governor's State of the State Address, removing regulatory burdens, a wonderful goal in reducing statutes.

Discussion and/or action regarding Industrial Commission goals, objectives and key initiatives for 2019. This Agenda Item may include discussion regarding the Commission budget and review of Division, Department, and Section specific objectives.

Mr. Ashley attended the Arizona Food Marketing Alliance Legislative reception along with Vice Chair Hennelly and Mr. Laky and they were able to meet with Legislators and stakeholders. He noted that two groups of stakeholders provided positive feedback regarding their interactions with ADOSH.

Mr. Ashley provided an update on another way the agency is recognizing staff when they achieve a notable success. Every month success stories are submitted to the Governor's Office, and now the Industrial Commission has started a new tradition - every month a unit within a division will be awarded a golden hard hat. Yesterday, it was awarded to the Special Fund Division for their file audit goal accomplishments and process improvements.

Chairman Schultz asked for an update on the efforts to make sure the federally reimbursed folks are made whole. Mr. Ashley noted that OSHA Region IX recently notified states that the Department of Labor had received a full budget appropriation authority for the federal fiscal year through September 30. Should another partial shutdown occur after September, the same commitment to the employees that are partially funded by the grants will continue so that there is no interruption to service or to the employees.

Announcements, Scheduling of Future Meetings and Retirement Resolutions.

Mr. Ashley noted that ADOSH has been working with ADOA for a February 19th State Employee Safety Summit for those in state agencies involved with safety and health or risk management. Mr. Atencio provided some details about the Safety Summit and will include a webinar, also noting that a few are also considering VPP certification.

Chairman Schultz asked Mr. Atencio for a VPP update for the Industrial Commission. Mr. Atencio talked about the two day mock audit, which included employee interviews and a walk through. He noted the Industrial Commission will be the first state agency to get VPP certification. Mr. Ashley noted that as a result of the mock audit, the goal to achieve VPP status has been pushed back to the fall of this year. Chairman Schultz noted it was about leading by example and the team has done a lot of work, and an amazing amount of teamwork and focus on achieving VPP status.

Mr. Ashley announced the tentative itinerary for the next out of town trip to Yuma on March 6 and 7. Mark Smith, owner of Smith Farms, is willing to assist with setting up tours.

Ms. Dimas confirmed Commission meeting dates through March 2019. Vice Chair Hennelly noted he was not available on March 28.

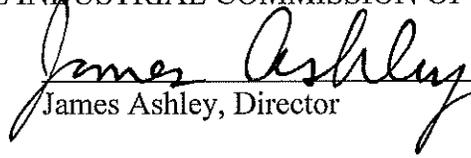
Public Comment.

There was no public comment.

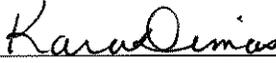
Commissioner Krenzel moved to adjourn and Vice Chair Hennelly seconded the motion. Chairman Schultz, Vice Chair Hennelly, Commissioner LeMarr and Commissioner Krenzel voted in favor of the motion and the meeting was adjourned at 1:42 p.m.

THE INDUSTRIAL COMMISSION OF ARIZONA

By


James Ashley, Director

ATTEST:


Kara Dimas, Commission Secretary