

MINUTES OF MEETING
OF THE INDUSTRIAL COMMISSION OF ARIZONA

Held at 800 West Washington Street
Conference Room 308
Phoenix, Arizona 85007
Thursday, January 9, 2020 – 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
	Janine Locke	Special Services Manager
	Jessie Atencio	ADOSH Director
	Kara Dimas	Commission Secretary

Chairman Schultz convened the meeting at 1:00 p.m. Also in attendance was Shanlie Blair (Snell & Wilmer).

Approval of Minutes of December 5, 2019, December 12, 2019 and December 19, 2019 Regular Meeting Minutes.

Commissioner LeMarr moved to approve the Minutes of the December 5, 2019 regular session meeting and Vice Chair Hennelly seconded the motion. Chairman Schultz, Vice Chair Hennelly and Commissioner LeMarr voted in favor of the motion. Commissioner Krenzel abstained. The motion passed.

Vice Chair Hennelly moved to approve the Minutes of the December 12, 2019 regular session meeting 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.

Commissioner LeMarr moved to approve the Minutes of the December 19, 2019 regular session meeting and Commissioner Krenzel seconded the motion. Chairman Schultz, Commissioner LeMarr and Commissioner Krenzel voted in favor of the motion. Vice Chair Hennelly 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 Proposed Civil Penalties Against Uninsured Employers.

1. 2CSP19/20-0074 Gardenias Tranquility Inc \$1000
2. 2C19/20-0082 Valley Med Trans Inc. \$1000

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

1. Mesa Unified School District No. 4
2. Arizona Counties Workers' Compensation Pool
3. The Arizona School Alliance for Workers' Compensation, Inc. Pool
4. Regis Corporation

Vice Chair Hennelly requested that b.2. (Arizona Counties Workers' Compensation Pool) 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, Commissioner LeMarr and Commissioner Krenznel voted in favor of the motion. The motion passed.

Arizona Counties Workers' Compensation Pool

Vice Chair Hennelly and Ms. Pastor discussed that some of the financial ratios are moving in the wrong direction, specifically when looking at the equity to liabilities and the cash. Ms. Pastor explained that it is based on losses, fewer insurance recoveries and various levels of stop loss causing the premiums to increase. Vice Chair Hennelly noted that since it is three years in a row of decline, he would like to know about it if it happens again next year.

Commissioner LeMarr and Ms. Pastor discussed if there was a particular county that is disproportionately higher than another. Ms. Pastor noted there were more presumption claims. She noted that a lot of the actuarial reports are not taking into account some of the presumption claims and going forward she wants to make sure they are counted too.

Chairman Schutz asked if they are using an actuary to determine their funding level, if the Commission gets a copy of the report and to what level they are funding. Ms. Pastor noted they are funding at expected levels and not discounting. Chairman Schultz noted it is concerning because the issue with presumptions is only going to increase in the near future and the financial picture could change greatly.

Chairman Schultz and Ms. Pastor discussed that the counties do not have individual excess coverage, instead the excess coverage applies to the total pool, but each county does have varying degrees of stop loss.

Commissioner LeMarr moved to approve the request for self-insurance renewal authorization from the Arizona Counties Workers' Compensation Pool and Vice Chair Hennelly seconded the motion. Chairman Schultz, Vice Chair Hennelly, Commissioner LeMarr and Commissioner Krenznel voted in favor of the motion. The motion passed.

Safety Committee Update and Topic Discussion.

SERIOUS – Citation 1 - Item 1a –

- a) 5011 E Wagoner Rd., Scottsdale, AZ 85254: A written respiratory protection program was not established and implemented for one employee, who was required to use a 3M brand N95 respirator, while on the roof dry cutting concrete roof-tile. 29 CFR 1910.134(c)(1)
Div. Proposal - \$1,000.00 Formula Amt. - \$1,000.00

SERIOUS – Citation 1 - Item 1b –

- a) 5011 E Wagoner Rd., Scottsdale, AZ 85254: One employee was required to wear a 3M N95 respirator, model number unknown, serial number unknown while dry-cutting concrete roof tile, and a medical evaluation was not performed on the employee to determine the employee's ability to use a respirator. 29 CFR 1910.134(e)(1)
Div. Proposal - \$0.00 Formula Amt. - \$1,000.00

SERIOUS – Citation 1 - Item 1c –

- a) 5011 E Wagoner Rd., Scottsdale, AZ 85254: One employee was required to wear a 3M brand N95 respirator, model number unknown, and serial number unknown, while dry cutting roof tile, and was not fit tested prior to initial use of the respirator. 29 CFR 1910.134(f)(2)
Div. Proposal - \$0.00 Formula Amt. - \$1,000.00

SERIOUS – Citation 1 - Item 2 –

- a) 5011 E Wagoner Rd., Scottsdale, AZ 85254: One employee was required to wear a 3M brand N95 respirator, model number unknown, serial number unknown, while dry cutting roof tile on the roof, without training. 29 CFR 1910.134(k)(1)
Div. Proposal - \$1,000.00 Formula Amt. - \$1,000.00

SERIOUS – Citation 1 - Item 3 –

- a) 5011 E Wagoner Rd., Scottsdale, AZ 85254: Two employee were working on a single story residential home roof 9' above the ground level without a fall protection system installed. 29 CFR 1926.501(b)(10)
Div. Proposal - \$1,000.00 Formula Amt. - \$1,000.00

SERIOUS – Citation 1 - Item 4 –

- a) 5011 E Wagoner Rd., Scottsdale, AZ 85254: Two employees were working on a single story residential home roof 9' above the ground level without receiving fall protection training. 29 CFR 1926.503(a)(1)
Div. Proposal - \$1,000.00 Formula Amt. - \$1,000.00

SERIOUS – Citation 1 - Item 5a –

- a) 5011 E Wagoner Rd., Scottsdale AZ, 85254: One employee was dry cutting roof tiles with a STIHL gas powered cut-off saw, model number TS410 and serial numbers unknown, without implementing engineering controls or work practice controls as per Table 1. 29 CFR 1926.1153(c)(1)

Div. Proposal - \$1,000.00

Formula Amt. - \$1,000.00

SERIOUS – Citation 1 - Item 5b –

- a) 5011 E Wagoner Rd., Scottsdale, AZ 85254: One employees, who was dry cutting with a STIHL gas powered cut-off saw, model number TS410 and serial numbers unknown, without an exposure control plan implemented. 29 CFR 1926.1153(g)(1)

Div. Proposal - \$0.00

Formula Amt. - \$1,000.00

SERIOUS – Citation 1 - Item 6 –

- a) 5011 E Wagoner Rd., Scottsdale, AZ 85254: One employee was exposed to respirable crystalline silica dust while dry cutting roof tiles with a STIHL gas powered cut-off saw, model number TS410 and serial numbers unknown, without training associated with respirable crystalline silica. 29 CFR 1926.1153(i)(1)

Div. Proposal - \$1,000.00

Formula Amt. - \$1,000.00

NON-SERIOUS – Citation 2 - Item 1 –

- a) 19541 N 55th Dr., Glendale, AZ 85308: The OSHA 300 logs and 300A Summaries for 2016, 2017, and 2018 were not provided within four hours. 29 CFR 1910.40(a)

Div. Proposal - \$400.00

Formula Amt. - \$400.00

TOTAL PENALTY - \$6,400.00

TOTAL FORMULA AMT. - \$9,400.00

Mr. Atencio discussed ADOSH’s investigation, summarized the citations and proposed penalties, and reviewed the photographs.

Chairman Schultz and Mr. Atencio discussed the notations regarding the use of the respirators on the photographs.

Vice Chair Hennelly was surprised that there was no training program after being in business for 17 years.

Commissioner LeMarr and Mr. Atencio discussed the available options if the employer showed up with a program.

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

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 commented that the agency has been working on the VPP status since 2018 and invited the Commissioners to the celebration of achieving certification, where one of the external Special Government Employees will talk about his experience during the audit.

Mr. Ashley stated the ICA Day at the Capitol is being planned for March 19 beginning at 11:00 am.

Mr. Ashley noted there will be two Executive Gemba Walks this month, and that ADOA is very interested in the VPP process since the ICA received the Good Government Award last month.

Mr. Ashley announced that Daniel Ruiz will be replacing Chief Gilbert Davidson as Chief of Operations.

Mr. Ashley also shared a series of tweets posted by an injured worker regarding their positive experience with the ICA.

Announcements, Scheduling of Future Meetings and Retirement Resolutions.

Ms. Dimas presented a retirement resolution for Marty Bonillas, Special Fund Investigator for 25 years of state service.

Mr. Ashley suggested cancelling the next meeting since there were no ADOSH citations pending.

Mr. Ashley discussed the next rural outreach meeting in Flagstaff. Ms. Dimas confirmed Commission meeting dates through February 2020.

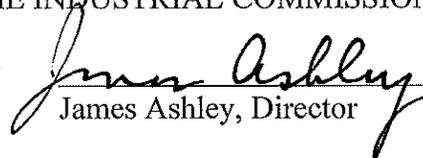
Public Comment.

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 2:31 p.m.

THE INDUSTRIAL COMMISSION OF ARIZONA

By


James Ashley, Director

ATTEST:


Kara Dimas, Commission Secretary