

MINUTES OF MEETING  
OF THE INDUSTRIAL COMMISSION OF ARIZONA

Telephonic Meeting  
Held at 800 West Washington Street  
Phoenix, Arizona 85007  
Thursday, July 1, 2021 – 1:00 p.m.

Present: Dale L. Schultz	Chairman (Telephonic)
Joseph M. Hennelly, Jr.	Vice Chair (Telephonic)
Scott P. LeMarr	Commissioner (Telephonic)
James Ashley	Director (Telephonic)
Gaetano Testini	Chief Legal Counsel (Telephonic)
Jason M. Porter	Deputy Director (Telephonic)
Trevor Laky	Legislative Affairs Chief/Public Information Officer (Telephonic)
Renee Pastor	Self Insurance (Telephonic)
Jessie Atencio	ADOSH Director (Telephonic)
Anna Maria Stonerock	ADOSH Admin (Telephonic)
Kara Dimas	Commission Secretary (Telephonic)

Chairman Schultz convened the meeting at 1:00 p.m. Also in attendance on the telephone, confirmed by roll call were Christopher Frank (Banner Health); Paul Murray, Darrin VandeVoorde, Joe Wisto and Denise Brownell (Bashas' Inc.); Libby Block (Roehl Transport, Inc.); Tyler Pearce (Fertizona-Casa Grande, LLC); and April Pearson (Avrilex, PLLC, attorney for Fertizona-Casa Grande).

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. 2CNP20/21-0649 Comfort Care Rose Arbor House LLC \$1,000

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

1. Banner Health
2. Bashas' Inc.
3. Mayo Clinic
4. Roehl Transport, Inc.

Chairman Schultz commented on the excellent experience modification factors for Mayo Clinic and Roehl Transport, Inc.

Vice Chair Hennelly requested to remove Bashas' Inc. from the Consent Agenda.

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.

Bashas' Inc. – Ms. Pastor commented that in light of the experience modification factor she had discussions with Bashas'. Bashas' is requesting ADOSH Consultation and have programs that they are implementing and have implemented over the past year due to the challenges they faced from Covid 19 as an essential employer. Chairman Schultz asked the representatives of Bashas' if they would like to comment.

Mr. Murray noted Bashas' has seen a dramatic decrease in the number of claims across the years, for example, in 2017 they had 450 reportable claims and that number decreased to 373 last year.

Ms. Pastor confirmed the loss run reflected the downward trend.

Mr. VandeVoorde highlighted the safety programs and plans going forward including working with ADOSH Consultation. He noted it has been a challenging year and a half for all grocers trying to continue and progress with programs with Covid and protecting members and customers. Despite the hardships conducting safety committee meetings and face to face training, Bashas' learned much over that time and has successfully returned to a downward trend. They plan on utilizing ADOSH Consultation, as they have in the past, to combat the spike in injuries at the distribution centers and on the retail side. To remedy the turnover in staffing Bashas' will implement education and training including an LMS system which made it easier to continue the training, but they look forward to going back to face to face and hands on training going forward. They are replacing a lot of older equipment and getting new equipment with more safety features. They are also working on updating training material to provide to new members and as a reinforcement for current team members.

Mr. VandeVoorde noted with respect to Covid-19, Bashas' remained below the state average of cases and had a program in place that included weekly Covid meetings, and plexiglass. Currently, Bashas' continues to have plexiglass barriers, practice social distancing, encourage hand washing and proper hygiene as part of the training, and require masks for vendors and employees that do not show proof of vaccination.

Vice Chair Hennelly moved to approve the request for Renewal of Self-Insurance Authority for Bashas' Inc. and Commissioner LeMarr 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.





Mr. Atencio and Mr. Pearce discussed if the abatement information was submitted which was not, Mr. Pearce thought there would be a certified letter and was not sure what the entire process was going to be after the fact, and he will take pictures and send them to the Compliance Officer.

Mr. Atencio reviewed the lock out tag out areas to be developed within their current program with procedures to make sure people are safe.

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

Executive Session under A.R.S. § 38-431.03(A)(3) & (A)(4) to Obtain Legal Advice and Discuss the Commission's Position Regarding Case No. 21-CV-01015-DJH.

Vice Chair Hennelly moved to go into executive session to consult with legal counsel and Commissioner LeMarr seconded the motion. Chairman Schultz, Vice Chair Hennelly and Commissioner LeMarr voted in favor of the motion. The motion passed.

The Commission went into Executive Session at 1:44 p.m.

The Commission returned to regular session at 2:35 p.m.

Chairman Schultz confirmed a quorum when the Commissioners had returned to the call.

Mr. Testini confirmed the Commissioners were back in regular session.

Announcements, Scheduling of Future Meetings and Retirement Resolutions.

Mr. Ashley reminded the Commissioners about the Annual Claims Seminar on August 12 and 13, 2021 which will be virtual again this year. Registration will be necessary and asked the Commissioners to contact Ms. Dimas if they were interested in attending. Chairman Schultz noted he would be attending.

Mr. Ashley noted the Fee Schedule draft staff proposal was sent out to the Commissioners and had been posted and distributed to the public on Tuesday which gives stakeholders 30 days for public comment before the July 29, 2021 Commission Meeting with the record remaining open for one week following the hearing and closing on August 5, 2021 with a vote to follow later in August.

Mr. Ashley updated the Commissioners with the AMS scorecard metrics for the fiscal year-to-date with the Legal Division's two metrics: # of Special Fund Mediations and Workers' Compensation Insurance Obtained. Mr. Testini also commented on the metrics for the division.

Ms. Dimas confirmed Commission meeting dates through September 2021.

Ms. Dimas presented a retirement resolution for Kari Distasio for 26 years of service as a Program Project Specialist 2 in the Tucson Administrative Law Judge Division.

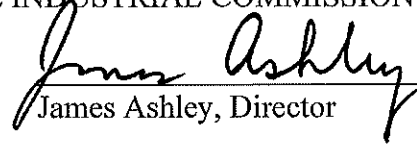
Public Comment.

There was no other 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 2:48 p.m.

THE INDUSTRIAL COMMISSION OF ARIZONA

By

  
James Ashley, Director

ATTEST:



Kara Dimas, Commission Secretary