

MINUTES OF MEETING  
OF THE INDUSTRIAL COMMISSION OF ARIZONA  
Held at 800 West Washington Street  
Conference Room 308  
Phoenix, Arizona 85007  
Thursday, March 16, 2017 – 1:00 p.m.

Present:	Dale L. Schultz	Chairman
	Joseph M. Hennelly, Jr.	Vice Chair
	Scott P. LeMarr	Commissioner
	Robin S. Orchard	Commissioner
	James Ashley	Director
	Jason M. Porter	Chief Legal Counsel
	Bob Charles	Legislative Affairs Chief / Public Information Officer
	William Warren	ADOSH Director
	Wendi McMillan	Compliance Officer
	Billie Gingrass	Compliance Officer
	Kara Dimas	Commission Secretary

Chairman Schultz convened the meeting at 1:02 p.m. Also in attendance were Jered Hamlin with Bass Cabinet Manufacturing; Jim Muller and Michael Schmidt with U.S. Sign Insurance Services; Tom Carroll and Sam Rios with Maricopa County; Chad Snow with Snow, Carpio & Weekley, PLC; Manny Tarango and Sheldon Lee with Salt River Project; Jennifer Callender and Logan Callender; Dan Miller with Tucker and Miller; Stephanie Coulter with The Cavanagh Law Firm; and Clawson Williams with Snell & Wilmer.

Approval of Minutes of March 9, 2017 Regular Meetings and March 9, 2017 Executive Session Minutes.

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Commissioner Orchard moved to approve the Minutes of the March 9, 2017 regular session meeting and Commissioner LeMarr seconded the motion. Chairman Schultz, Vice Chair Hennelly, Commissioner LeMarr, and Commissioner Orchard voted in favor of the motion. The motion passed.

Commissioner LeMarr moved to approve the Minutes of the March 9, 2017 executive session meeting and Vice Chair Hennelly seconded the motion. Chairman Schultz, Vice Chair Hennelly, Commissioner LeMarr, and Commissioner Orchard 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. 2C16/17-0257 Arizona R V Salvage Inc.

2. 2C16/17-0823 CK Assisted Living of Arizona LLC., DBA Peaceful Valley Care Home
3. 2C16/17-1572 Universal Carriers, Corp. (an Illinois Corporation)

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

Presentation from and/or discussion with the Industrial Commission's Public Information Officer. This agenda item may include discussion regarding the operations of the Industrial Commission.

Mr. Charles discussed media coverage and questions arising out of Proposition 206 and the Proposition 206 lawsuit. He also noted that HBO has made inquiries regarding sports-related injuries.

Mr. Charles provided an update on Senate Bill 1407, House Bill 1478, and Senate Bill 1332.

Chairman Schultz discussed meetings with legislators and stakeholders re the Commission's proposed legislation. Chairman Schultz thanked Mr. Charles for his efforts.

Discussion and Action regarding the Appointment of Members to the Boiler Advisory Board.

Mr. Warren noted Ivan Insua's resignation from the Boiler Advisory Board. He recommended that Sheldon L. Lee (with the Salt River Project) replace Mr. Insua and reviewed Mr. Lee's background.

Upon Chairman Schultz' request, Mr. Warren discussed the Boiler Advisory Board membership and background.

Chairman Schultz discussed Mr. Lee's resume and commented that he would be a wonderful addition to the Boiler Advisory Board. Vice Chair Hennelly noted that Mr. Lee seemed more than qualified and said that he was grateful to have his participation. Mr. Ashley noted that Mr. Lee was present.

Commissioner LeMarr moved to appoint Sheldon L. Lee to the Boiler Advisory Board and Commissioner Orchard seconded the motion. Chairman Schultz, Vice Chair Hennelly, Commissioner LeMarr, and Commissioner Orchard 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 purposes and processes involved in the Commission's consideration of ADOSH citations and proposed penalties.

Bass Cabinet Manufacturing Inc.  
503 W 3<sup>rd</sup> Ave  
Mesa, AZ 85201

Fatality/Accident  
Years in Business: 39  
Empl. Covered by inspection: 150

Site Location: 1564 N Alma School Rd  
Mesa, AZ 85201  
Inspection No: A3807-1190399  
Inspection Date: 11/10/2016

Mr. Warren and Ms. Gingrass discussed the subject fatality investigation and stated that ADOSH did not identify any violations.

Commissioner LeMarr, Vice Chair Hennelly, Mr. Warren, and Ms. Gingrass discussed whether anyone was aware of the vehicle's maintenance issues, the difference between the construction "backing" standard and standards applicable to general industry, the opinions of the master mechanic retained by ADOSH to assist with the investigation, and the condition of the vehicle.

Mr. Hamlin noted that the report was accurate and that the employer takes safety and maintenance issues seriously. He discussed steps that the employer has taken to improve safety. Ms. Gingrass echoed the work that the employer has done to improve safety.

Prayers were offered for the family of the deceased worker.

The Commission took no action.

Chairman Schultz complimented Ms. Gingrass on her investigation.

Specialty Roofing, Inc. 8200 N 75 <sup>th</sup> Ave Peoria, AZ 85345	Fatality/Accident Years in Business: 47 Empl. Covered by inspection: 2
Site Location: 16648 N 94 <sup>th</sup> St Scottsdale, AZ 85260	
Inspection No: W0250-1197088	
Inspection Date: 12/13/2016	

SERIOUS – Citation 1 - Item 1 – Roof: Two employees were working on a roof near unprotected skylights and were not utilizing guardrail systems or personal fall arrest to resulting in the death of one employee who fell 34' to the concrete below. (29 CFR 1926.501(b)(4)).

Div. Proposal - \$7,000.00	Formula Amt. - \$7,000.00
TOTAL PENALTY - \$7,000.00	TOTAL FORMULA AMT. - \$7,000.00

Mr. Warren discussed the subject fatality investigation, summarized the proposed citation and penalty, and discussed the photographs and types of available temporary skylight protection.

Commissioner Orchard noted she had one question regarding the relevance of the truck with the hose in photograph 6, but her question had been answered.

Commissioner LeMarr and Mr. Warren discussed the parapet wall in photograph 6, whether the building owner was also cited, and the circumstances leading to the fatality.

Commissioner Orchard and Mr. Warren discussed the employer's injury and illness logs.

Vice Chair Hennelly, Commissioner LeMarr, Chairman Schultz, and Mr. Warren discussed the employer's abatement efforts. Chairman Schultz and Mr. Warren discussed effective skylight protection systems.

Chairman Schultz and Mr. Warren discussed training records and employer's training program.

Chairman Schultz welcomed family members of the deceased worker and Dan Miller from Tucker and Miller, who was representing Ms. Callender (the widow of the deceased worker). Mr. Miller inquired about the chronology of events, whether the building owner had knowledge of the condition of the skylights, and the general contractor's knowledge of the condition. Chairman Schultz discussed the purpose for the Commission's meeting. Mr. Miller noted that he understood but inquired whether there was any information in the file about how long the skylights had been in the subject state. Mr. Warren responded that the file has not yet closed and that, until it has, ADOSH cannot disclose investigation information. Mr. Miller stated that they wished for the investigation to continue. Chairman Schultz noted that investigation information will be available if the Commission chooses to issue a citation and penalty.

Mr. Porter offered that there is a public records request form online and noted that Mr. Miller can request the file once the matter closes.

Prayers and condolences were offered for the family of the deceased worker.

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

Bella Fresh Phoenix, LLC  
420 N 52<sup>ND</sup> Ave Ste 1  
Phoenix, AZ 85043

Referral  
Years in Business: 23  
Empl. Covered by inspection: 120

Site Location: 420 N 52<sup>ND</sup> Ave Ste 1  
Phoenix, AZ 85043  
Inspection No: W0250-1197588  
Inspection Date: 12/15/2016

SERIOUS – Citation 1 - Item 1 – Warehouse: An employee was working on an Urschel Translicer 200 Cutter Machine Model Number TRS2000 and Serial Number 174 and was not protected from the point of operation. (29 CFR 1910.212(a)(3)(ii)).

Div. Proposal - \$5,000.00	Formula Amt. - \$5,000.00
TOTAL PENALTY - \$5,000.00	TOTAL FORMULA AMT. - \$5,000.00

Mr. Warren summarized the citation and proposed penalty and reviewed the photographs.

Commissioner Orchard, Mr. Warren, and Ms. McMillian discussed the machinery malfunction, associated training, whether the machine was operating properly, the delayed stop, and the employer knowledge element.

Commissioner LeMarr and Ms. McMillian discussed whether the manufacturer knew if the malfunction had happened in the past. Mr. Warren noted that the manufacturer evaluated the subject equipment and that it had been abated.

Commissioner Orchard and Mr. Warren discussed ADOSH's assertion that the employer should have known that the machine did not stop in 15 seconds.

Chairman Schultz, Ms. McMillan, and Mr. Warren discussed the machine's age, prior history maintenance issues, and lock out/tag out training.

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

Field Operation Manual Inspection Scope (Walkaround Inspection) Discussion.

Mr. Warren discussed walkaround inspections, including the purpose for walkaround inspections, the parties involved in the inspections, the inspection process, inspection documentation, and referral of observed non-safety violations to other divisions and agencies.

Chairman Schultz and Mr. Warren discussed whether ADOSH could interview a company representative who participates in a walkaround inspection, whether citations can be proposed based on hazards that were not observed during a walkaround inspection, and the scope of a walkaround inspections.

Commissioner LeMarr and Mr. Warren discussed when referrals to other divisions or agencies are appropriate.

Ms. Gingrass discussed her enjoyment of walkaround inspections and her appreciation for interactions with workers during that process. Mr. Warren echoed Ms. Gingrass' appreciation for such interactions.

Discussion and/or action regarding Industrial Commission goals, objectives and key initiatives for 2017. This Agenda Item may include discussion regarding the Commission budget and review of Division, Department, and Section specific objectives.

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Mr. Ashley noted that the second Annual ICA Day at the Capitol would take place Monday, March 27, 2017, between 11:00 A.M. and 12:00 P.M., and discussed the planned agenda. Mr. Ashley stated that, among the consultation partner recognitions, Graham County would be the Public Entities Partnership Program award recipient. Mr. Ashley thanked Vice Chair Hennelly and Commissioner LeMarr for their anticipated participation.

Chairman Schultz noted to guests that the Commission enjoys hearing from stakeholders and invited stakeholders to talk about their program and raise issues they may have.

Chairman Schultz complimented the entire Commission staff for strong efforts in implementing the Arizona Management System. He noted the incredible amount of work being done, the team's accomplishments, and the progress and improvement that is visible to those who do business with the Commission. Chairman Schultz discussed the positive feedback he has received from stakeholders. Mr. Ashley commented on the Commission's online services, forms, and portals.

Announcements, Scheduling of Future Meetings and Retirement Resolutions.

Ms. Dimas presented a retirement resolution for Maria Aniceta "Nici" Moul for 13 years of service with ADOSH.

Ms. Dimas confirmed meeting dates through May 2017. Vice Chair Hennelly stated that he was unsure about his ability on May 25, 2017. Commissioner Orchard noted that she will be able to attend the April 27 Fee Schedule Hearing. Chairman Schultz and Vice Chair Hennelly discussed future meeting dates.

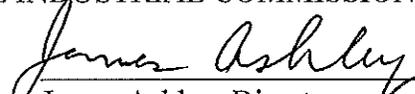
Public Comment.

There was no public comment.

Commissioner Orchard moved to adjourn and Commissioner LeMarr seconded the motion. Chairman Schultz, Vice Chair Hennelly, Commissioner LeMarr, and Commissioner Orchard voted in favor of the motion and the meeting was adjourned at 2:05 p.m.

THE INDUSTRIAL COMMISSION OF ARIZONA

By

  
James Ashley, Director

ATTEST:

  
Kara Dimas, Commission Secretary