

MINUTES OF MEETING  
OF THE INDUSTRIAL COMMISSION OF ARIZONA  
Telephonic Meeting  
Held at 800 West Washington Street  
Phoenix, Arizona 85007  
Thursday, March 4, 2021 – 1:00 p.m.

Present:	Dale L. Schultz	Chairman (Telephonic)
	Joseph M. Hennelly, Jr.	Vice Chair (Telephonic)
	Scott P. LeMarr	Commissioner (Telephonic)
	Steven J. Krenzel	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)
	Jessie Atencio	ADOSH Director (Telephonic)
	Steven Black	ADOSH Compliance (Telephonic)
	Joe Davis	ADOSH Compliance Supervisor (Telephonic)
	Anna Maria Stonerock	ADOSH Admin (Telephonic)
	Renee Pastor	Self Insurance (Telephonic)
	Michael Mosesso	Chief Administrative Law Judge (Telephonic)
	Marilyn Carter	HR Manager (Telephonic)
	Ruby Tate	Claims Manager (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 Allie Matthews, Sara Hussak and Emely Aguino (City of Tucson); Samantha Wright and Jerry Spears (Maricopa County); Shelly Gibson and Troy Little (Quik-Mart Stores, Inc.); Savannah Scharnhorst (Snell & Wilmer).

Approval of Minutes of February 25, 2021 Regular Meeting Minutes.

Commissioner Krenzel moved to approve the Minutes of the February 25, 2021 regular session meeting and Commissioner LeMarr 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.

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- a. Approval of Proposed Civil Penalties Against Uninsured Employers.

1. 2NCP20/21-0226 Setness & Escobar Floor Covering LLC \$1,000

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

1. City of Chandler
2. City of Tucson
3. Maricopa County

Vice Chair Hennelly requested the City of Tucson be removed and heard separately.

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.

Approval of Requests for Renewal of Self-Insurance Authority.

1. City of Tucson

Vice Chair Hennelly asked the City of Tucson to address the increase over the last year in the already high experience rating.

Ms. Pastor will report back when the 2020 experience rating has been completed. The City of Tucson is part of the PEPP Program for a couple of departments.

Ms. Matthews conceded that the experience modification factor has increased, but in October they entered into an agreement with ADOSH Consultation to evaluate two sites, one police and one fire, which were chosen for their high injury frequency. After the evaluation, the city completed all of the remediation, and in November they became a PEPP site for Arizona. Part of that process was to develop a program and have named it Target Zero. The goal of Target Zero is reducing injuries by 15%, implementing best practices and increasing employee involvement. The program started with a kickoff for Tucson Water and Tucson Parks but the overall goal is to eventually bring all departments into Target Zero. Tucson Parks and Tucson Water have reduced injuries and if that process continues the experience modification will decline. Ms. Hussak and Ms. Aguino have worked extremely hard in following up with injuries and working with the safety and loss control team and departments.

Vice Chair Hennelly appreciated the helpful information and presentation.

Mr. Atencio noted they had an original agreement and will revise it to bring in a couple of other city departments. They will be doing site visits virtually and will check with staff for any delay.

Chairman Schultz asked if the Police and Fire were part of the Target Zero Program.

Ms. Matthews stated they were not yet included, but she is working on developing several points of interest to bring to the Police Department. They have improved tremendously with their general orders, and now it is a matter of incremental steps and bringing them onboard with Target Zero. They will probably be one of the later department because of the extensive work that is going to be required to work with them.

Chairman Schultz requested an update when Police and Fire are included in the Target Zero Program.

Ms. Matthews noted the draft excess liability audit for the Tucson Police Department came out well.

Chairman Schultz thanked Ms. Matthews and noted it sound like a tremendous amount of work has been done with a ways to go.

Ms. Pastor has asked the City of Tucson to provide loss runs needed to calculate individual experience modifications for Police and Fire. She will have that information available to them as a device for tracking the losses.

Chairman Schultz thanked Ms. Pastor for providing support to these very important self-insured employers.

Chairman Schultz requested more information on the 41 exposure claims.

Ms. Pastor noted that most were exposures to bloodborne pathogens.

Vice Chair Hennelly moved to approve the self-insurance renewal for the City of Tucson and the waiver of posting security. Commissioner LeMarr seconded the motion. Chairman Schultz, Vice Chair Hennelly, Commissioner LeMarr and Commissioner Krenznel 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.

Quik Mart Stores, Inc.	Fatality/Accident	
8351 E. Broadway Blvd.	Years in Business:	55
<u>Tucson, AZ 85710</u>	Empl. Covered by Inspection:	5
Site Location:	6301 S. Park Ave	
	Tucson, AZ 85706	
Inspection No:	T3633 - 1507605	
Inspection Date:	12/22/2020	

SERIOUS – Citation 1 - Item 1 –

a) Back room: The rear exit door of the store was locked closed with a metal bar and two padlocks. 29 CFR 1910.37(a)(3)	
Div. Proposal - \$2,000.00	Formula Amt. - \$2,000.00
TOTAL PENALTY - \$2,000.00	TOTAL FORMULA AMT. - \$2,000.00

Mr. Atencio discussed ADOSH's investigation, summarized the citation and proposed penalty, and reviewed the photographs.

Chairman Schultz checked if a company representative had a comment.

Commissioner Krenzel moved to approve the citation and proposed penalties as presented and Commissioner LeMarr seconded the motion.

Chairman Schultz commended Quik Mart on having the controls in place and doing the training for a situation such as that faced by this employee. Chairman Schultz expressed condolences on such a tragic event which surely has a devastating effect on the entire company. He appreciated the company's efforts and remediation of the items identified during the investigation will result in an even safer workplace.

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

Woodpecker Framing, LLC.  
4113 E. Maldonado Dr.  
Phoenix, AZ 85042

Referral  
Years in Business: 10  
Empl. Covered by Inspection: 4

Inspection No: R2410 -1493991  
Inspection Date: 09/21/2020  
Site Location: 10040 E Happy Valley Rd Suite #2015  
Scottsdale, AZ 85255

Mr. Atencio removed Woodpecker Framing, LLC for further review by ADOSH.

Discussion and/or Action regarding the Consideration of Candidates for the Administrative Law Judge Position. The Commission may move into Executive Session under A.R.S. §§ 38-431.03(A)(1), (A)(2), and (A)(3) to obtain legal advice and to discuss the candidates.

Judge Mosesso commented that there were six applicants for the Administrative Law Judge positions for the Tucson office. Two applicants were interviewed and their applications were included in the packet and ranked Candidate #1 and Candidate #2 on the hiring list. Both applicants had good interviews and were excellent candidates. He noted that the interview panel agreed and recommended that the Commission offer Candidate #1 the position for the Tucson office.

Chairman Schultz commented that he was very impressed with Candidate #1's writing sample and appreciated the understanding of the role as an impartial fact finder.

Chairman Schultz asked the Commissioners if there was a need for an Executive Session for further discussion or if the Commissioners were comfortable with the recommendation from Judge Mosesso.

Commissioner LeMarr moved to accept Judge Mosesso's recommendation to extend an offer to Candidate #1 for the position. 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.

Chairman Schultz was impressed with the quality of the candidates brought to the Commission.

Judge Mosesso thanked the Commissioners for their consideration and support.

Chairman Schultz thanked Mr. Ashley for making it possible to create a smooth transition in these very important positions impacting the direction of the workers' compensation program in the State of Arizona. He also thanked Ms. Carter for securing great candidates and creating great interviews and evaluations.

Announcements, Scheduling of Future Meetings and Retirement Resolutions.

Mr. Ashley noted that Mr. Laky will provide an update on HB 2160 which pertains to several ADOSH items and Ms. Tate will discuss the Claims Division and the numerous tasks performed by the Division.

Mr. Laky provided an update on HB 2160, which passed the Senate Commerce Committee unanimously on March 3<sup>rd</sup>. Next it will be heard in the Rules Committee, then Caucus, COW and a Third Read.

Ms. Tate provided an update on the Claims Division and the Annual Summary of Successes for the division. She reviewed the various departments, with Awards improving by 41%, Compliance 55%, Insurance 97%, Admin 93% as well as improvements for Wage, No-Match, Data Entry, Customer Service, and the Ombudsman also showing high performance for 2020.

Chairman Schultz thought the incredible numbers demonstrate great progress and that working remotely did not slow down the teams' efforts.

Mr. Ashley noted the great accomplishment for Ms. Tate and the Claims team who are a prior recipient of the Golden Hard Hat for the Insurance Team for eliminating a backlog.

Mr. Ashley also noted that we were joined in the meeting by Joe Davis, and welcomed Mr. Davis to the ADOSH team as the new Compliance Supervisor in Tucson.

Chairman Schultz welcomed Mr. Davis and hoped to be able to meet him in person in the near future.

Ms. Dimas confirmed Commission meeting dates through April 2021.

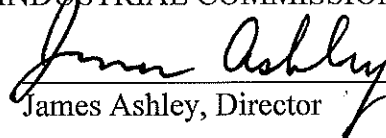
Public Comment.

There was no other 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 2:02 p.m.

THE INDUSTRIAL COMMISSION OF ARIZONA

By

  
James Ashley, Director

ATTEST:

  
Kara Dimas, Commission Secretary