

MINUTES OF MEETING
OF THE INDUSTRIAL COMMISSION OF ARIZONA
Telephonic Meeting
Held at 800 West Washington Street
Phoenix, Arizona 85007
Thursday, May 21, 2020 – 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)
Renee Pastor	Self Insurance (Telephonic)
Lisa Padgett	Labor Director (Telephonic)
Victoria Kamm	Labor Supervisor (Telephonic)
Jennifer Krainski	Labor Investigator (Telephonic)
Jessie Atencio	ADOSH Director (Telephonic)
Kara Dimas	Commission Secretary (Telephonic)

Vice Chair Hennelly will be Acting Chairman for this meeting and convened the meeting at 1:00 p.m. Also in attendance on the telephone, confirmed by roll call was Christine Glover (Snell & Wilmer).

Approval of Minutes of May 7, 2020 Regular Meeting Minutes and May 14, 2020 Regular Meeting Minutes.

Commissioner LeMarr moved to approve the Minutes of the May 7, 2020 regular session meeting and Chairman Schultz seconded the motion. Chairman Schultz, Vice Chair Hennelly and Commissioner LeMarr voted in favor of the motion. Commissioner Krenzel abstained. The motion passed.

Commissioner LeMarr moved to approve the Minutes of the May 14, 2020 regular session meeting and Chairman Schultz seconded the motion. Chairman Schultz, Vice Chair Hennelly, Commissioner LeMarr and Commissioner Krenzel 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.

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

1. 2CNP19/20-0449 Davra Enterprises LLC dba AZ Metro Cafe - \$1,000
2. 2C19/20- 0133 Kozzy Kare Assisted Living - \$1,000
3. 2CMO19/20-0042 First Class Moving & Storage Inc - \$1,000

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

1. Textron, Inc.

Mr. Testini requested to remove 3.a.1 (Davra Enterprises LLC dba AZ Metro Café) and 3.a.3. (First Class Moving & Storage Inc) because they obtained insurance.

Commissioner Schultz 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 Proposed Youth Employment Penalty.

CL1819-0326 Carrell5 LLC, D/B/A Chick-Fil-A at Tanque Verde

Ms. Padgett summarized the Labor Department's investigation, which included findings of various violations of A.R.S. § 23-231(a)(10) and (a)(11). Ms. Padgett recommended that the Commission approve issuance of a Civil Penalty in the amount of \$400.00.

Vice Chair Hennelly thanked Ms. Padgett for the very thorough report.

Chairman Schultz moved to approve issuance of a Civil Penalty in the amount of \$400.00 to Carrell5 LLC, D/B/A Chick-Fil-A at Tanque Verde. Commissioner LeMarr seconded the motion. Chairman Schultz, Vice Chair Hennelly, Commissioner LeMarr and Commissioner Krenzel voted in favor of the motion. The motion passed.

CL1819-0362 East Valley Collision LLC, D/B/A CarStar East Valley Collision

Ms. Padgett summarized the Labor Department's investigation, which included findings of various violations of A.R.S. § 23-231(a)(7). Ms. Padgett recommended that the Commission approve issuance of a Civil Penalty in the amount of \$100.00.

Commissioner Krenzel moved to approve issuance of a Civil Penalty in the amount of \$100.00 to East Valley Collision LLC, D/B/A CarStar East Valley Collision. Chairman Schultz seconded the motion. Chairman Schultz, Vice Chair Hennelly, Commissioner LeMarr and Commissioner Krenzel voted in favor of the motion. The motion passed.

Vice Chair Hennelly thanked Ms. Padgett for the presentation and material.

Discussion and/or Action pursuant to A.R.S. §23-1041(E) to Adopt the Maximum Average Monthly Wage under A.R.S. §23-1041(D)(8) for Calendar Year 2021.

Mr. Testini explained that A.R.S. § 23-1041(E) requires the Commission to annually adopt a maximum average monthly wage. Mr. Testini explained how the maximum average monthly wage is used in the workers' compensation system, and discussed the process used for the calculation of the maximum average monthly wage. Mr. Testini recommended the maximum average monthly wage be

set at \$5,030.33 for calendar year 2021, noting the Bureau of Labor and Statistics showed an increase of 2.9% in the "All Workers" category for calendar year 2019.

Vice Chair Hennelly noted this is a formulaic matter driven by the formula in the statute.

Commissioner Krenzel moved to set the maximum average monthly wage at \$5,030.33 for calendar year 2021 and Chairman Schultz seconded the motion. Chairman Schultz, Vice Chair Hennelly, Commissioner LeMarr and Commissioner Krenzel voted in favor of the motion. The motion passed.

Announcements, Scheduling of Future Meetings and Retirement Resolutions.

Mr. Ashley noted he would be sending communication to the public to inform them of the reopening of the Phoenix and Tucson buildings for in-person visits effective May 27, 2020. He highlighted the changes made for sanitizing processes, procedures and physical distancing practices and measures, including signage and barriers. We continue encouraging stakeholders to use our robust online services, and for staff to continue to hold meetings by video and teleconference in the near term.

Ms. Dimas confirmed Commission meeting dates through July 2020.

Public Comment.

There was no public comment.

Chairman Schultz moved to adjourn and Commissioner Krenzel 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 1:18 p.m.

THE INDUSTRIAL COMMISSION OF ARIZONA

By James Ashley
James Ashley, Director

ATTEST:

Kara Dimas
Kara Dimas, Commission Secretary