

MINUTES OF MEETING
OF THE INDUSTRIAL COMMISSION OF ARIZONA
Held at 800 West Washington Street
Conference Room 308
Phoenix, Arizona 85007
Thursday, October 25, 2018 – 1:00 p.m.

Present:	Dale L. Schultz	Chairman
	Joseph M. Hennelly, Jr.	Vice Chair
	Scott P. LeMarr	Commissioner
	Steven J. Krenznel	Commissioner
	James Ashley	Director
	Gaetano Testini	Chief Legal Counsel
	Trevor Laky	Legislative Affairs Chief / Public Information Officer
	Sylvia Simpson	Chief Financial Officer
	Renee Pastor	Self Insurance
	Sandy Perez	Claims
	Jessie Atencio	ADOSH Director
	Sylvia Sinohui	ADOSH
	Kara Dimas	Commission Secretary

Chairman Schultz convened the meeting at 1:00 p.m. Also in attendance were Barry Drewes and Jesus Aguirre (Ecology Recycling Services, LLC); George Lozoya and Lupita Lozoya; Brenda Pinegar (Premier Risk Management); Michael Fassett (Snell & Wilmer).

Approval of Minutes of October 18, 2018 Regular Meeting.

Commissioner Krenznel moved to approve the Minutes of the October 18, 2018 regular session meeting and Commissioner LeMarr seconded the motion. Vice Chair Hennelly, Commissioner LeMarr and Commissioner Krenznel voted in favor of the motion. Chairman Schultz 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. 2CRP18/19-0073 - Beach Ventures, LLC
 2. 2C-18/19-0282 - MD Triage, LLC

- b. Approval of Requests for Renewal of Self-Insurance Authority.
 1. Albertsons Companies, Inc.

2. FedEx Ground Package System, Inc.
3. Ruan Transportation Management Systems, Inc.

Chairman Schultz reviewed the Consent Agenda. Commissioner Krenznel requested the self-insurance renewal for Ruan Transportation Management Systems, Inc. (Item (b)(3)) be moved to the regular agenda.

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

Approval of Requests for Renewal of Self-Insurance Authority.

Ruan Transportation Management Systems, Inc. - Commissioner Krenznel noted he had a potential conflict of interest. Vice Chair Hennelly moved to approve the renewal of self-insurance authority for Ruan Transportation Management Systems, Inc. and Commissioner LeMarr seconded the motion. Chairman Schultz, Vice Chair Hennelly and Commissioner LeMarr voted in favor of the motion. Commissioner Krenznel abstained. The motion passed.

Discussion and Action of Request for Lump Sum Commutation. The Commission may move into Executive Session under A.R.S. §§ 38-431.03(A)(2) and (A)(3) to discuss or consider records exempt by law from public inspection or to consult with its attorneys for legal advice.

George Lozoya – Mr. Testini reviewed the report for Mr. Lozoya’s lump sum commutation petition and staff’s recommendation for approval and noted the carrier has agreed.

Chairman Schultz noted the Assistant Claims Manager supports the conclusion that the intended use of the lump sum commutation will result in financial betterment for the applicant.

Mr. Lozoya noted he was available for questions.

Commissioner Krenznel moved to approve the proposed lump sum commutation and Commissioner LeMarr seconded the motion. Chairman Schultz, Vice Chair Hennelly, Commissioner LeMarr and Commissioner Krenznel voted in favor of the motion. The motion passed.

Chairman Schultz wished Mr. Lozoya luck and noted it looked like an excellent opportunity.

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.

Century Roofing, Inc.
2165 W Lone Cactus Dr.,
Phoenix, AZ 85027

Referral
Years in Business: 27.5
Empl. Covered by inspection: 5

Site Location: 4324 E Southern Ave.,
Mesa, AZ 85206
Inspection No: T1999 - 1311549
Inspection Date: 05/25/18

Mr. Atencio discussed ADOSH's investigation, summarized the citation and proposed penalties, and noted the abatement. Mr. Atencio noted the correct amount for the Division Proposal is \$1,750.

Vice Chair Hennelly noted that given the injury issue he was surprised not to see the \$5,000 penalty and Mr. Atencio explained the ADOSH assessment of the inspection and that the employer does have a lock out/ tag out program, here it was more of a training or machine guarding issue. Mr. Hennelly asked how the employee was and no information was available in the file.

Chairman Schultz, Mr. Atencio, Vice Chair Hennelly and Commissioner Krenzel discussed the location of the lockout/tag, where the employee entered the machine and how the employee could not be seen in the machine, and reviewed the photographs.

Mr. Aguirre, stated he is the Safety Manager for eight years and Mr. Drewes is the Plant Manager. Mr. Aguirre noted they have an active program and machine specific procedures and noted it is always a challenge with new employees. He noted he did lock out training and the injured employee was in the training and he explained the equipment and why the other employee did not see the injured employee in the machine. The employee is recovering and hopefully he will return to work. He noted there are 15 similar sites and 500 trucks on the road and staff. He noted they did everything they could to make it easier on the family.

Commissioner LeMarr and Mr. Aguirre discussed what the company is doing differently to prevent a similar accident

Vice Chair Hennelly moved to approve the citation and proposed penalties as presented. Commissioner LeMarr seconded the motion. Vice Chair Hennelly commented that this could have easily been a \$5,000 no deductible penalty and he was deferring to the compliance officer. Chairman Schultz commented that he would commend the company for what they did for the injured employee's family, and noted it was a lesson that everyone has hopefully learned from. Vice Chair Hennelly and Chairman Schultz thanked them for attending. 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.

Ms. Dimas confirmed Commission meeting dates through December 2018. Vice Chair Hennelly noted he was not available for December 13 and 20, and will try to call in for the Tucson meeting. Commissioner Krenzel noted he was available for all of the meetings.

Mr. Ashley reminded the Commission of the Mesquite Solar VPP Recertification on November 14, 2018. Commissioner Krenzel will be attending in case a quorum notice is needed. Chairman Schultz is not available.

Mr. Ashley discussed the community outreach to Tucson on November 15, 2018.

Public Comment.

There was no public comment.

Commissioner LeMarr 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 1:40 p.m.

THE INDUSTRIAL COMMISSION OF ARIZONA

By James Ashley
James Ashley, Director

ATTEST:

Kara Dimas
Kara Dimas, Commission Secretary