

MINUTES OF MEETING  
OF THE INDUSTRIAL COMMISSION OF ARIZONA  
Held at 800 W. Washington  
Conference Room 308  
Phoenix, Arizona 85007  
Wednesday, January 19, 2011 – 1:00 p.m.

|          |                       |                                  |
|----------|-----------------------|----------------------------------|
| Present: | Brian Delfs           | Chairman                         |
|          | David Parker          | Vice Chairman (video conference) |
|          | John A. McCarthy, Jr. | Member                           |
|          | Kathleen Oster        | Member                           |
|          | Susan Strickler       | Member                           |
|          | Laura McGrory         | Director                         |
|          | Andrew Wade           | Chief Legal Counsel              |
|          | Darin Perkins         | Director, ADOSH                  |
|          | Renee Pastor          | Self Insurance Manager           |
|          | Michael Hawthorne     | Chief Financial Officer          |
|          | Kamen Kovatchev       | Self Insurance and Tax Acct.     |
|          | Teresa Hilton         | Commission Secretary             |

Chairman Delfs convened the Commission meeting at 1:00 p.m. noting a quorum present. Also present was Scot Butler, the agency's lobbyist.

Approval of Minutes of January 12, 2011 Meeting

The Commission unanimously approved the Minutes of the January 12, 2011 General Session on motion of Mr. Parker, second of Ms. Strickler. The Commission unanimously approved the Minutes of the January 12, 2011 Executive Session with a correction to the date in the first paragraph on motion of Mr. McCarthy, second of Ms. Oster.

Discussion &/or Action regarding Legislation

Scot Butler provided a summary of proposed legislation of interest to the Commission. Mr. Butler stated that Governor Brewer released the Executive Budget for fiscal years 2012 and 2013 and she is expected to call special sessions to address issues related to health care, education and the budget. Mr. Butler further advised that he will provide an initial list of bills next week. Mr. Butler stated that Ms. McGrory would be speaking before the Senate Economic Development & Job Creation Committee about Arizona's workers' compensation system.

Discussion & Action of ADOSH Discrimination Complaint

#10-30 Jose Mancia v Pure Landscape, Inc. - Darin Perkins presented a summary of the Division's investigation of a discrimination complaint filed by Mr. Mancia. In his complaint, Mr. Mancia alleged that he was terminated because he filed a safety complaint with ADOSH. In response to the complaint, the employer stated that Mr. Mancia was terminated for violating company policies.

Mr. Perkins presented a history of Mr. Mancia's employment and chronology of events and responded to questions from the Commission. The Division recommendation was to pursue

the matter. Mr. Perkins explained how the evidence supports a conclusion that the employer terminated Mr. Mancina in retaliation for Mr. Mancina having contacted ADOSH. In response to a question from Ms. Oster, Mr. Wade described the expected process if the matter is referred to the Legal Division. Following discussion, the Commission unanimously voted to pursue the complaint on motion of Mr. McCarthy, second of Ms. Oster.

#### Discussion & Action of Requests for Renewal of Self Insurance Authority

Arizona Counties Workers' Compensation Pool – Ms. Strickler recused herself from consideration of this agenda item. Ms. Pastor presented staff's renewal report along with a current Dunn and Bradstreet credit rating. She responded to questions from the Commissioners. Ms. Pastor advised that Administration is recommending renewal of workers' compensation self-insurance authority based on the pool's solid financial condition with assets of just under \$22 million as of June 30, 2010, posting of two clean audit reports, and acceptable credit ratings. The Commission granted continuance of self-insurance authority on motion of Ms. Oster, second of Mr. Parker. Ms. Strickler did not participate in the vote.

City of Scottsdale - Ms. Pastor presented staff's renewal report along with current Moody's, Standard and Poor's, Fitch, and Dunn and Bradstreet bond and credit ratings. She responded to questions from the Commissioners. Ms. Pastor advised that Administration is recommending renewal of workers' compensation self-insurance authority and approval of utilizing the City of Scottsdale's fully funded (actuarially based) internal service fund (risk management fund) as an alternative from the requirement to post securities pursuant to A.A.C. R20-5-1114 due to the financial stability of the fund; the financial stability of the City; a clean audit report and good credit ratings. Following discussion, the Commission unanimously approved continuance of self-insurance authority and approved utilizing the internal service fund as an alternative from the requirement to post securities on motion of Mr. Parker, second of Ms. Oster.

#### Discussion &/or Action regarding Establishment of Discount Rate for Calculating Lump Sum Commutations under A.A.C. R20-5-121(B)

Renee Pastor noted that the Commission is required to establish the discount rate each year for use in calculating the present value of an award that is commuted to a lump sum under A.A.C. R20-5-122. She explained the process under A.A.C. R20-5-121(B) and identified the applicable 3-month Treasury bill rates reported on December 31 of 2010 and for the prior four years. Based on the rates and the formula in A.A.C. R20-5-121(B), the Administrative Division is recommending that the discount rate be set at 1.69% for calculating fixed period and permanent lump sum settlements. The 1.69% discount rate, if adopted, will replace the current discount rate of 2.47% as of today and will be in effect until the Commission calculates a new rate. Mr. Delfs asked about the historical background of the rule and the impact the change would have on lump sum commutations. Ms. McGrory, Mr. Wade, and Ms. Pastor responded to the question. Following discussion, the Commission unanimously approved the discount rate of 1.69% on motion of Mr. Parker, second of Mr. McCarthy.

#### Discussion &/or Action regarding Budget and Operations of the Industrial Commission

Mike Hawthorne provided copies of budget related documents including the "Budget in a Flash" (from the Governor's Executive Budget), a summary of the Executive Budget, the

portions of the Executive Budget that relate to the Industrial Commission, the FY 2010 "Baseline" budget prepared by the Joint Legislative Budget Committee, and a summary of fund transfer recommendations (from the Governor's Executive Budget). Mr. Hawthorne and Ms. McGrory addressed revenue collections compared with the projections.

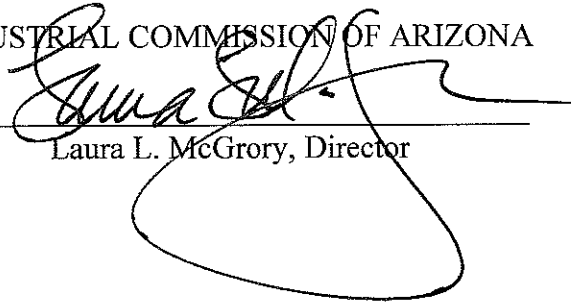
Announcements and Scheduling of Future Meetings

Ms. Hilton reminded the Commissioners that the next meeting is scheduled for Wednesday, February 2<sup>nd</sup>.

There being no further business to come before the Commission and no public comment, Chairman Delfs adjourned the meeting at 1:55 p.m.

THE INDUSTRIAL COMMISSION OF ARIZONA

By



A large, stylized handwritten signature in black ink, appearing to read 'Laura L. McGrory', is written over a horizontal line. Below the line, the name 'Laura L. McGrory, Director' is printed.

Laura L. McGrory, Director

ATTEST:

  
Teresa Hilton, Commission Secretary