

MINUTES OF MEETING
OF THE INDUSTRIAL COMMISSION OF ARIZONA

Held at 800 West Washington Street
Conference Room 308
Phoenix, Arizona 85007
Wednesday, March 14, 2012 – 1:00 p.m.

Present:	David Parker	Chairman (video conference)
	Kathleen Oster	Vice Chair
	John A. McCarthy, Jr.	Member
	Susan Strickler	Member
	Michael G. Sanders	Member
	Laura L. McGrory	Director
	Andrew Wade	Chief Counsel
	Melinda Poppe	Assistant Chief Counsel
	Darin Perkins	Director, ADOSH
	Michael Hawthorne	Chief Financial Officer
	Teresa Hilton	Commission Secretary

Chairman Parker convened the Commission meeting at 1:00 p.m. noting a quorum present. Also in attendance were Grant Sanders; Gloria Sanders; Scot Butler, the agency's lobbyist; Eda Barolli of Snell & Wilmer; Scott Smith, Governor's Deputy Chief of Staff and Director of ADOA; Kathy Peckardt, ADOA Human Resources Director; and Stephen L. Weiss, Attorney-at-Law.

Presentation & Discussion of Governor's Personnel Reform Plan, HB 2571

Laura McGrory introduced Scott Smith and Kathy Peckardt to the Commissioners. Chairman Parker stated that he and Vice Chair Oster recently attended a meeting with Mr. Smith, Ms. Peckardt and others at the Governor's Office to discuss the Governor's Personnel Reform Plan. He summarized two items of direct interest to the agency: The uncovering of State OSHA plan positions, and the appointment of the Commission Director by the Governor rather than the Commissioners. Mr. Smith gave an overview of the proposed legislation including proposed House Floor amendments and responded to questions from the Commissioners. Chairman Parker suggested that language be added to 41-744 to ensure that it addresses the State OSHA plan situation. He also asked if Federal OSHA had reviewed or approved the personnel changes made in Indiana and Utah, which also have state OSHA plans. Mr. Smith stated that he will research the other state plans and the wording suggestion. Commissioner Strickler expressed her support for the plan. Chairman Parker thanked Mr. Smith and Ms. Peckardt for the presentation.

Commissioner Sanders introduced two very important members of the public, Grant and Gloria Sanders, his son and daughter.

Approval of Minutes of March 1, 2012 Meeting

The Commission approved the Minutes of March 1, 2012 on motion of Ms. Oster, second of Ms. Strickler. Mr. McCarthy abstained.

Consent Agenda:

a. Approval of Proposed Civil Penalties Against Uninsured Employers.

1. 2C11/12-0327 Donald Roy Morris & Brenda Lee Morris,
Husband & Wife dba Global Care
2. 2C10/11-1971 My Sister My Friend
3. 2C11/12-0130 Suite Spot Commerce, Inc.
4. 2C11/12-1742 Oasis RV Center, Inc.
5. 2C11/12-0410 The Chile Pepper, L.L.C. dba Chile Pepper
Village Store Gift & Gourmet

Chairman Parker asked if any of the listed items needed to be removed from the consent agenda. Secretary Hilton stated that Ms. Oster has requested that item a.4., Oasis RV Center, Inc., be removed from the consent agenda. The Commission unanimously approved the remaining items on the consent agenda on motion of Mr. Sanders, second of Mr. McCarthy.

Discussion & Action of Proposed Civil Penalty Against Uninsured Employer

2C11/12-1742 Oasis RV Center, Inc. – Ms. Oster asked questions regarding the history with this employer and Mr. Wade responded to the question. Mr. Wade described the reasons for staff's recommendation for a \$10,000.00 penalty and he described the staff's plan regarding enforcement and collection. The Commission unanimously assessed the recommended penalty of \$10,000.00 on motion of Ms. Oster, second of Mr. McCarthy.

Discussion &/or Action regarding Legislation

Scot Butler provided a summary and bill status report and responded to questions from the Commissioners regarding HB's 2365, 2367, 2368, 2571, SB 1441 and 1388. With regard to HB 2365, Mr. Butler described the stakeholder meeting held last week and a subsequent meeting held with SCF Arizona. He described the issues confronted by the stakeholders and suggested that the Commission agree to assume responsibility for development and implementation of a process for the use of medical treatment guidelines to treat injured workers. Ms. McGrory provided an overview of a draft plan of action, which included the appointment of a committee to make recommendations to the Commission by consensus. Ms. McGrory also provided suggested legislative language which would replace the current language of HB 2365. Mr. Butler and Ms. McGrory explained that the proposed language is not intended to pre-determine anything regarding the use of medical treatment guidelines. Rather, this would be determined by consensus of a committee, who would then make recommendations to the Commission. Following further discussion the Commission unanimously approved the recommendation that gives the Commission the responsibility to develop and implement a process for the use of evidence based medical treatment guidelines to treat injured workers, along with the proposed outline that describes the steps to be taken by the Commission including the establishment of a committee to make recommendations to the Commission, on motion of Mr. Sanders, second of Ms. Strickler.

protected by the use of a personal fall arrest system or guardrail system at the time of transition (1926.451(g)(1)(vii)). There was another instance of this violation.
(No inspection history in the past three years).

Div. Proposal - \$750.00

Formula Amt. - \$750.00

SERIOUS – Citation 1, Item 2 – An employee was operating an aerial lift at a height of approximately 20’ above the ground without wearing a body belt or a full body harness and a lanyard (1926.453(b)(2)(v)).

Div. Proposal - \$750.00

Formula Amt. - \$750.00

SERIOUS – Citation 1, Item 3 – One employee was utilizing an aerial lift to access and exit the roof of a building and was not trained in the hazards associated with the operation of an aerial lift (1926.454(a)). There was another instance of this violation.

Div. Proposal - \$750.00

Formula Amt. - \$750.00

SERIOUS – Citation 1, Item 4 – Seven employees were working on a low-sloped roof without the use of a guardrail system, safety net system, or personal fall arrest system to prevent an approximate 20’ fall hazard (1926.501(b)(1)).

Div. Proposal - \$750.00

Formula Amt. - \$750.00

SERIOUS – Citation 1, Item 5 – Employees working at heights greater than 6’ and exposed to falls were not provided training to recognize the hazards of falling or the procedures to be followed in order to minimize those hazards (1926.503(a)(1)).

Div. Proposal - \$750.00

Formula Amt. - \$750.00

SERIOUS – Citation 1, Item 6 – Protruding reinforcing steel (i.e., rebar) onto which employees could fall, were not protected by appropriate caps, covers or other equivalent means to protect employees from the hazard created by impalement in the 2’ deep floor hole and at the interior of the perimeter walls (1926.701(b)).

Div. Proposal - \$ 750.00

Formula Amt. - \$ 750.00

TOTAL PENALTY - \$4,500.00

TOTAL FORMULA AMT. - \$4,500.00

Mr. Perkins summarized the citations and proposed penalty as listed and responded to questions from the Commissioners. The Commission unanimously approved issuing the citations and assessed the recommended penalty of \$4,500.00 on motion of Mr. McCarthy, second of Ms. Oster.

Discussion & Action regarding Application for New Employment Agency License

John Gonzalez on behalf of Gonzalez Entertainment Group LLC dba Gonzalez Entertainment – Laura McGrory advised that the Labor Department has investigated the applicant as required by the Arizona Revised Statutes and Rules governing Private Employment Agencies. The Employment Advisory Council has recommended approval of this license. The Commission unanimously approved the license on motion of Ms. Oster, second of Mr. Sanders.

Discussion &/or Action regarding Physicians' and Pharmaceutical Fee Schedule pursuant to A.R.S. §23-908(B)

Ms. McGrory provided the Commissioners with the 2012 Staff Recommendations for the Arizona Physicians' and Pharmaceutical Fee Schedule. She presented a brief overview of issues under consideration and a summary of the anticipated process to provide stakeholders and interested parties an opportunity to comment on staff's recommendations. She suggested that the Commission schedule a public hearing for April 25, 2012. Following discussion, the Commission unanimously directed staff to proceed with scheduling a hearing for April 25, 2012, and to post the Staff Recommendations on the Commission's web site on motion of Mr. Sanders, second of Ms. Strickler.

Announcements and Scheduling of Future Meetings

Chairman Parker congratulated Ms. Strickler on her appointment to the Board of PRIMA.

Ms. Hilton reminded the Commissioners that in addition to the Fee Scheduling Hearing set for April 25, 2012, there are Commission meetings scheduled for March 21st, April 4th, and April 11th, 2012.

There being no further business to come before the Commission and no public comment, Chairman Parker adjourned the meeting at 3:00 p.m.

THE INDUSTRIAL COMMISSION OF ARIZONA

By


Laura L. McGrory, Director

ATTEST:


Teresa Hilton, Commission Secretary