

MINUTES OF MEETING
OF THE INDUSTRIAL COMMISSION OF ARIZONA
Held at 800 West Washington Street
Conference Room 308
Phoenix, Arizona 85007
Wednesday, March 19, 2014 – 1:00 p.m.

Present:	David M. Parker	Chairman (video conference)
	Kathleen Oster	Member
	Michael G. Sanders	Member
	Joseph M. Hennelly, Jr.	Member (video conference)
	Laura McGrory	Director
	Andrew Wade	Chief Counsel
	Renee Pastor	Manager, Self Insurance
	William Warren	Director, ADOSH
	Bryce Rucker	Compliance Officer
	Mandy Murphy	Compliance Officer
	Melinda Poppe	Chief Administrative Law Judge
	Michael Hawthorne	Chief Financial Officer
	Teresa Hilton	Commission Secretary

Chairman Parker convened the Commission meeting at 1:00 p.m. noting a quorum present. Susan Strickler was not able to attend. Also in attendance were Scot Butler, Commission lobbyist (telephonic); Lorena Sanchez, Tom Duensing and Jim Brown of City of Glendale; Frances Bracamonte and Allie Matthews of City of Tucson; Drew Newton of The Mahoney Group/City of Tucson; Ruby Williams of Pinnacle Risk; and Andrea Lewis of Snell and Wilmer.

Approval of Minutes of March 6, 2014

The Commission unanimously approved the Minutes of the March 6, 2014 Executive Session on motion of Mr. Sanders, second of Ms. Oster.

The Commission unanimously approved the Minutes of the March 6, 2014 General Session on motion of Mr. Sanders, second of Ms. Oster.

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. 2C13/14-0509 Brush Stroke Painting, LLC
2. 2C13/14-1210 Lift Right, L.L.C.

3. 2C13/14-0250 Paragon9, LLC
4. 2C13/14-1110 Precision Housing Distributor, LLC
dba T&A Cabaret
5. 2C13/14-0466 Romney Motel An Arizona LLC
6. 2C12/13-1364 Saguaro Aquatics, L.L.C.

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

1. City of Glendale
2. City of Tucson

Chairman Parker stated that agenda item b.2. would be removed from the Consent Agenda and heard separately. The Commission unanimously approved the remaining items on the consent agenda on motion of Ms. Oster, second of Mr. Hennelly.

Discussion &/or Action regarding Legislation

Scot Butler presented a summary of proposed legislation of interest to the Commission including House Bills 2455, 2361, and 2487 and Senate Bills 1181, 1284 and 1307 and responded to questions from the Commissioners.

Discussion & Action of Request for Renewal of Self Insurance Authority

City of Tucson – Renee Pastor presented staff’s renewal report and advised that staff is recommending renewal of self-insurance authority due to the City’s improved financial condition in fiscal 2013; protections afforded it as a governmental entity; and a clean audit report. She stated that last year the Commission had questions about discounting claims and that issue has been resolved. She stated that representatives from the City are here to answer any questions. Chairman Parker invited Allie Matthews and Frances Bracamonte to the table and stated that the City of Tucson has come so far – they have established a trust, stopped discounting, and are moving toward being fully funded. He asked Ms. Matthews and Ms. Bracamonte to talk about where the City is and where they are going. Ms. Matthews and Ms. Bracamonte thanked Mr. Parker and Commission staff for their assistance over the past several years and explained the programs they now have in place. The Commission unanimously approved renewal of self-insurance authority on motion of Mr. Sanders, second of Ms. Oster.

Discussion & Action regarding ADOSH Boiler Advisory Board Appointment pursuant to A.R.S. § 23-474(2) and A.A.C. R20-5-403

Bill Warren advised that Chief Boiler Inspector, Randy Austin, solicited members of the boiler industry public for new volunteers willing and able to serve on the Boiler Board. Mr. Austin is recommending the appointment of Gilbert Davidson to fill a vacancy on the Board and a copy of Mr. Davidson’s resume, statements of qualification, and letter of interest was submitted for the Commission’s review. The Commission unanimously appointed Gilbert Davidson to the Arizona Division of Occupational Safety and Health (ADOSH) Boiler Advisory Board on motion of Ms. Oster, second of Mr. Hennelly.

Discussion & Action of ADOSH Discrimination Complaints

Ms. McGrory explained that the two cases on today's agenda are over 12 months old and she gave a brief overview of the challenges faced by ADOSH regarding the processing of discrimination complaints and the efforts underway to address those challenges. The Commission unanimously voted to go into Executive Session to obtain legal advice from the Commission's attorney and to discuss and instruct its attorney regarding pending or contemplated litigation on motion of Mr. Sanders, second of Ms. Oster.

Following the Executive Session, the Commission returned to General Session.

#13-2603-14 James Hanshew v. DMB Associates, Inc. - Bill Warren and Bryce Rucker presented a summary of Mr. Hanshew's complaint, the employer's response, and the Division's investigation of the matter and responded to questions from the Commissioners. Mr. Warren recommended that the Commission not pursue the matter because the investigation did not find sufficient evidence to support a causal link between the exercise of protected activity and the adverse action. Mr. Sanders stated he did not agree with ADOSH's recommendation for several reasons but commended staff for the well written report. The Commission voted not to pursue the complaint on motion of Ms. Oster, second of Mr. Hennelly with a vote of 3 to 1. Mr. Sanders voted against the motion.

#13-6444-18 Armstead Hollis Jr. v. Kearney Electric, Inc. - Bill Warren and Mandy Murphy presented a summary of Mr. Hollis' complaint, the employer's response, and the Division's investigation of the matter and responded to questions from the Commissioners. Mr. Warren recommended that the Commission pursue the matter. The Commission unanimously voted to pursue the complaint on motion of Mr. Sanders, second of Ms. Oster.

Discussion & Action of New Employment Agency License Application

Terri Camberlango on behalf of THE AGENCY ARIZONA LLC - Ms. McGrory presented the information provided by the Labor Department as required by the statutes and rules governing Private Employment Agencies. The Employment Advisory Council has recommended approval of this license. The Commission unanimously approved the application on motion of Ms. Oster, second of Mr. Sanders.

Discussion &/or Action regarding Interview Questions for 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 Discuss Interview Questions

Ms. McGrory stated that Melinda Poppe has provided for the Commissioners consideration draft questions for the ALJ interviews that will be conducted by the Commissioners. Ms. Poppe stated that she will be providing her recommendations regarding candidates for the Commissioners to interview prior to the next Commission meeting.

The Commission unanimously voted to go into Executive Session to review and discuss interview questions on motion of Ms. Oster, second of Mr. Sanders. Executive Session Minutes are kept separately.

The Commission returned to General Session.

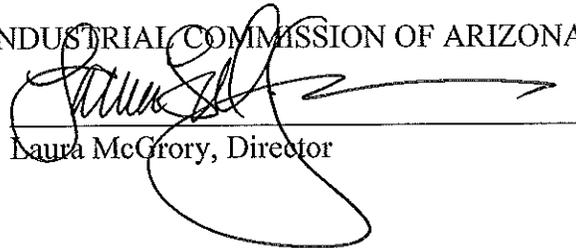
Announcements and Scheduling of Future Meetings

The Commissioners discussed the scheduling of the ALJ interviews and agreed that Wednesday, April 2nd could be an interview day. April 3rd and 4th would be available for morning interviews if required. Ms. McGrory will contact Ms. Strickler to ascertain her availability. Ms. Hilton reviewed the meeting dates through April and stated that the next meeting is scheduled for Thursday, March 27, 2014.

There being no further business to come before the Commission and no public comment, the meeting was adjourned at 3:15 p.m.

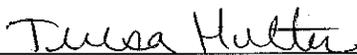
THE INDUSTRIAL COMMISSION OF ARIZONA

By



Laura McGrory, Director

ATTEST:



Teresa Hilton, Commission Secretary