

MINUTES OF MEETING  
OF THE INDUSTRIAL COMMISSION OF ARIZONA  
Held at 800 West Washington Street  
Conference Room 308  
Phoenix, Arizona 85007  
Thursday, December 17, 2015 – 1:00 p.m.

Present:	Dale L. Schultz	Chairman
	Scott P. LeMarr	Commissioner
	Robin S. Orchard	Commissioner
	James Ashley	Director
	Andrew Wade	Chief Legal Counsel
	Sylvia Simpson	Chief Financial Officer
	Renee Pastor	Accounting
	Karen Axsom	Labor Director
	William Warren	ADOSH Director
	Billie Gingrass	Compliance Officer
	David Sosa	Special Fund Manager
	Terry Ann Apodaca	Special Fund
	Bridgette Mack	Special Fund
	Kara Dimas	Commission Secretary

Chairman Schultz convened the Commission meeting at 1:00 p.m. noting a quorum present. Commissioner Joseph M. Hennelly, Jr. and Commissioner Clint Bolick were excused. Also in attendance was David Selden of the Cavanaugh Law Firm, Zachary Barnett with Federal OSHA, and Jason Weber of Snell & Wilmer.

Approval of Minutes of December 10, 2015 Regular Meeting.

Chairman Schultz tabled the approval of the minutes for lack of a quorum.

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. 2C14/15-2027 Clifton Foster, ASM, dba Valley Estate Sale Company
  2. 2C15/16-0257 Encanto De Tu Tierra, L.L.C., dba Mariscos Y Tacos Encanto
  
- b. Approval of Requests for Renewal of Self-Insurance Authority.
  1. Parker-Hannifin Corporation

2. Salt River Project Agricultural Improvement and Power District and The Salt River Valley Water Users' Association (SRP)
  3. The Kroger Co.
- c. Approval of New Employment Agency License Application.
1. Philip Tavasci on behalf of Educational Services, Inc.

Chairman Schultz stated that agenda item a.2., would be removed from the consent agenda and heard separately. He asked if any other items needed to be heard separately. The Commission unanimously approved the remaining items on the consent agenda on motion of Commissioner LeMarr, second of Commissioner Orchard.

Andrew Wade advised that a.2. Encanto De Tu Tierra, L.L.C., dba Mariscos Y Tacos Encanto, has obtained workers' compensation insurance and staff is recommending a reduced penalty of \$500.00, instead of staff's previous recommendation of a \$1,000.00 civil penalty. The Commission unanimously assessed the recommended penalty of \$500.00 against the employer on motion of Commissioner Orchard, second of Commissioner LeMarr.

Discussion and/or Action regarding Legislation. This agenda item may include discussion and/or action regarding the Sunset Review of the Industrial Commission of Arizona, and related Boards, Committees or Councils.

James Ashley updated the Commission regarding meetings that he had attended and will be scheduling with various Legislators and Legislative staff and stakeholders. He commented on a workers' compensation insurance issue with single-member limited liability companies and interest regarding legislation on that topic. He explained why the Committee of Reference had not issued a written response to the Commission's Review of Sunset Factors.

Commissioner LeMarr commented on a meeting with stakeholders and federal OSHA's publishing information regarding citations on the federal OSHA website. Mr. Ashley commented on the potential to include a link to that resource in the Commission's revamped website.

Chairman Schultz thanked Commissioner LeMarr and Commissioner Orchard for attending meetings with stakeholders and continuing with outreach efforts to obtain feedback on how the Commission can better serve the state and to learn about potential legislation. He added that these efforts are not just about the upcoming Legislative session, but will be part of an on-going effort to improve the Commission and the services it provides.

Discussion and/or action regarding Industrial Commission goals, objectives and key initiatives for 2016. This Agenda Item may include discussion regarding the Commission budget and review of Division, Department, and Section specific objectives.

Mr. Ashley commented on workshops for all state agencies hosted by the Office of the Arizona Governor to assist agency directors and division managers develop a score card that helps agencies develop procedures within the agencies to promote efficiency and accountability. He described the time frame for the workshop and noted other measures he is already implementing, including improvements in the Claims Division, as well as a full revamp of the Commission's website.



Mr. Warren noted the minimum penalty for a serious violation is \$100.00. Commissioner Orchard amended her motion to the \$100.00 minimum for Item 2, for a total penalty of \$4,600.00 and Commissioner LeMarr seconded the amended motion.

Chairman Schultz noted there was a motion to issue the citation with a total penalty of \$4,600.00. Commissioner LeMarr asked Mr. Warren when the file related to the September 1 inspection would be closed. Mr. Warren commented on the six month limitation.

The Commission unanimously approved issuing the citation and assessed the penalty of \$4,600.00.

Mr. Warren explained that the next three citations were related and he explained why. Commissioner LeMarr clarified the roles of the three employers on the jobsite.

Great Western Erectors, LLC	Unprogrammed Related	
211 S 26th St	Years in Business:	31
Phoenix, AZ 85034	Empl. Covered by inspection:	4
Site Location: 2511 W Queen Creek Rd		
Inspection No: A3807-1088615		
Inspection Date: 08/31/2015		

WILLFUL-SERIOUS – Citation 1 - Item 1 – Building 2 Podium Level: Four employees were working at a height of approximately 10 feet 7 inches above the lower level installing reinforcing bar and were not protected from falling by the use of guardrail systems, safety net systems, or personal fall arrest systems. (29 CFR 1926.501(b)(1)).

Div. Proposal - \$56,000.00	Formula Amt. - \$56,000.00
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SERIOUS – Citation 2 - Item 1 – West of Podium Deck: Four employees were exposed to protruding reinforcing steel that was not guarded to eliminate the hazard of impalement. (29 CFR 1926.701(b)).

Div. Proposal - \$1,750.00	Formula Amt. - \$1,750.00
<b>TOTAL PENALTY - \$57,750.00</b>	<b>TOTAL FORMULA AMT. - \$57,750.00</b>

Mr. Warren summarized the citation and proposed penalty as listed. Mr. Warren asked if they would like to discuss all three together or take one at a time. Commissioner LeMarr asked to hear them together since they were interrelated. He noted that the other two employers did not have a history, but Great Western Erectors did. The previous inspection from August of 2014 they were in compliance and clarified that they have not had a citation before. Mr. Warren clarified that the reported history is only for the previous three years.

KDM Contracting, Inc.	Referral	
219 Lone Cactus	Years in Business:	30
Chandler, AZ 85286	Empl. Covered by inspection:	12
Site Location: 2511 W Queen Creek Rd		
Inspection No: A3807-1088610		
Inspection Date: 08/31/2015		

WILLFUL-SERIOUS – Citation 1 - Item 1 – Building 2: Podium Deck: One employee of KDM Contracting Inc. were working at a height of approximately 10 feet 7 inches above the lower level and were not protected from falling by the use of guardrail systems, safety net systems, or personal fall arrest systems. (29 CFR 1926.501(b)(1)).

Div. Proposal - \$42,000.00

Formula Amt. - \$42,000.00

SERIOUS – Citation 2 - Item 1 – Building 2: Podium Deck: One employee working at a height of 10 feet 7 inches above a lower level was not trained to recognize the hazards of falling and the procedures to be followed in order to minimize these hazards. (29 CFR 1926.503(a)(1)).

Div. Proposal - \$1,250.00

Formula Amt. - \$1,250.00

SERIOUS – Citation 2 - Item 2 – West of Podium Deck: One employee of KDM Contracting, Inc. was exposed to protruding reinforcing steel that was not guarded to eliminate the hazard of impalement. (29 CFR 1926.701(b)).

Div. Proposal - \$1,250.00

Formula Amt. - \$1,250.00

TOTAL PENALTY - \$44,500.00

TOTAL FORMULA AMT. - \$44,500.00

Mr. Warren summarized the citation and proposed penalty as listed.

Mgmann Investments, LLP  
dba Statesman Construction, LLP  
9300 E Raintree Dr, Ste 100  
Scottsdale, AZ 85260

Planned  
Years in Business: 20  
Empl. Covered by inspection: 1

Site Location: 2511 W Queen Creek Rd  
Chandler, AZ 85286  
Inspection No: A3807-1088603  
Inspection Date: 08/31/2015

WILLFUL-SERIOUS – Citation 1 - Item 1 – Building 2: Podium Deck: Four employees of Great Western Erectors LLC and one employee of KDM Contracting, Inc. were working at a height of approximately 10 feet 7 inches above the lower level installing reinforcing bar and performing cleanup activities and were not protected from falling by the use of guardrail systems, safety net systems, or personal fall arrest systems. (29 CFR 1926.501(b)(1)).

Div. Proposal - \$38,500.00

Formula Amt. - \$38,500.00

SERIOUS – Citation 2 - Item 1 – West of Podium Deck: Four employees of Great Western Erectors LLC and one employee of KDM Contracting, Inc. were exposed to protruding reinforcing steel that was not guarded to eliminate the hazard of impalement in that appropriate caps, covers or other equivalent protection were not installed. (29 CFR 1926.701(b)).

Div. Proposal - \$1,250.00

Formula Amt. - \$1,250.00

TOTAL PENALTY - \$39,750.00

TOTAL FORMULA AMT. - \$39,750.00

Mr. Warren summarized the citation and proposed penalty as listed.

Commissioner LeMarr said it would be helpful if something similar to what Mr. Warren had just read was attached to the information in the packet and he explained why. Mr. Warren replied that he would provide the Commissioners with the analysis when a willful classification is proposed. Chairman Schultz agreed with Mr. Warren supplying the analysis. Commissioner LeMarr commented about the decision regarding protective railing being made between the general

contractor and KDM and that Western Erectors was working in conditions in which its employer had provided. Mr. Warren commented on Western Erectors' obligation to provide a safe workplace and how it allowed its own employees to work at heights with a potential fall hazard knowing of both its obligations and the employees were working at heights without the necessary protection. Commissioner LeMarr asked if the file had been reviewed and the willful classification approved by Legal. Mr. Warren replied that Legal had not reviewed these files. Commissioner LeMarr asked if it was ADOSH's position that there was enough evidence found that this is a willful violation based on the interviews. Mr. Warren responded to the question.

Commissioner Orchard commented on the size of the penalty in proportion to willfulness, and noted there have been other matters presented to the Commission where supervisors were aware that employees were wearing harnesses but were not connected, but no willfulness was determined. She noted the potential to view the fall protection around the elevator area in two different ways. Mr. Warren explained the employer's obligations, commented on the photographs, and added the elevator shaft area represented only a small piece of the decking.

Commissioner LeMarr stated that not putting the red plastic protectors or caps on the rebar is inexcusable. He explained that those caps can be installed quickly as work progresses and there is no reason not to install caps. Commissioner LeMarr commented on degrees of willfulness with fall protection citations and circumstances where the employee is wearing a fall protection harness and does not clip in. He asked Mr. Ashley for an overview of recent citations and penalties without being specific about cases.

Mr. Ashley summarized the range of penalties addressed at the last few Commission meetings and the number of employees in violation. Commissioner LeMarr commented on a prior matter. He added that this was a difficult matter, he supports the penalties for not capping the rebar but the total penalty amount seemed high. He noted that the general contractor should bear the burden for these circumstances and for not providing a safe jobsite environment.

Chairman Schultz noted that elevator shafts are often built very early in the project and is up before the decking goes in and asked if ADOSH had any information about when the guardrail was put in place relative to the elevator shaft. Mr. Warren responded to the question, Commissioner LeMarr's comments, and the difference between disregard and intentional disregard.

Commissioner Orchard asked for clarification regarding the calculation of the gravity based penalty for fall protection, noting the general contractor has \$55,000.00 and the two subs were at \$70,000.00. Mr. Warren explained how the gravity based penalty had been assessed. Chairman Schultz commented on Commissioner LeMarr's view, noting that it starts at the top, but to him all three employers were all culpable. He explained that there was no doubt that all three employers to some extent decided to not use fall protection where it was obviously warranted and the risk was exacerbated by the fact that the rebar was not covered, and there have been impalements before that have resulted in death and serious disability. Chairman Schultz added that this was flagrant disregard for something that is so easily done.

Commissioner LeMarr added that the Chairman had an excellent point that the highest most likely point of injury is not someone working on a flat surface that falls off, it is falling off onto unprotected rebar. He explained that those types of injuries are not minor injuries, they are catastrophic injuries and rebar companies should know this as well as concrete companies, and he added that capping rebar is so easy to do.

Chairman Schultz stated that whatever they decide in terms of the penalty it does need to be significant enough so that these employers understand that their willful disregard is going to dramatically change their profit margin on this kind of work and so they do not do it again. They will understand to protect their bottom line they will need protect their employees, and he explained that the penalties need to be significant.

Commissioner Orchard asked about follow up in this type of case where a willfulness has been determined. Mr. Warren commented on the time frames to complete the construction project. Commissioner Orchard commented on her being more inclined to support a lesser penalty if there was assurance that ADOSH could follow up and make sure the employers have improved their processes.

Commissioner LeMarr asked if the employers had been informed there was a possibility of a willful citation. Billie Gingrass responded to the question. Commissioner LeMarr asked if there was anyone present that was a representative of any of the employers. There was no response.

Commissioner LeMarr moved that for Mgmann Investment, LLP dba Statesman Construction, LLP, the prime general contractor who used scheduling and their supervision to allow these conditions not to be remedied, he proposed to accept the citations as proposed by ADOSH, with a \$38,500.00 penalty for Item 1, and a \$1,250.00 penalty for Item 2. With respect to KDM Contracting, Inc., he moved the citation be issued as recommended but that Citation 1, Item 1, be classified as a serious with a penalty of \$15,000.00 and a \$1,250.00 penalty for Item 2. For Great Western Erectors, LLC, he moved that the citation be issued as recommended but that Citation 1, Item 1 be classified as a serious with a \$15,000.00 penalty and a \$1,750.00 penalty for Item 2.

Mr. Wade stated that by statute a serious citation can be up to \$7,000.00 for each violation and this would mean that the \$7,000.00 would be the maximum amount.

Commissioner LeMarr amended his motion to Mgmann Investment, LLP dba Statesman Construction, LLP, the prime general contractor who used scheduling and their supervision to allow these conditions not to be remedied, that the citations be issued as recommend by ADOSH, with a \$38,500.00 penalty for Item 1, and a \$1,250.00 penalty for Item 2; For KDM Contracting, Inc. he moved to issue the citation as recommended but change the willful to serious and have a penalty of \$7,000.00 for Item 1 and a \$1,250.00 penalty for Item 2; For Great Western Erectors, LLC to issue the citation as recommended but change the willful to serious and have a penalty of \$7,000.00 for Item 1 and a \$1,750.00 penalty for Item 2. Commissioner Orchard seconded the motion.

Chairman Schultz asked if there was further discussion and noted that if there was a desire to assess penalties at \$15,000.00, the citations would need be issued as willfuls as opposed to dropping to a serious. He commented on the impact of a willful designation. He added that a penalty at \$7,000.00 is not insignificant, it should get their attention.

Commissioner LeMarr commented on the difference between serious and willful and he described the impact that a willful citation may have on an employer and why the citation against the general contractor is appropriate. He added that he thought the penalties that he proposed are still substantial, and that Great Western Erectors, LLC having an \$8,750.00 penalty will probably help next time when someone tells them to do something different they are going to say sorry and

follow their protocol, and that would be his hope. Commissioner Orchard added that she hoped the general contractor can remain in business. Commissioner LeMarr stated that would be the hope.

Commissioner Orchard asked Chairman Schultz his opinion of the penalties and whether they are substantial enough. Chairman Schultz explained that they cannot know what the impact is going to be - that is in the hearts and minds of the folks of the receiving end. He commented on the penalty amount impacting further decision making. He added that he was comfortable with the motion.

Chairman Schultz as if there were any other questions or discussion. The Commission unanimously approved the amended motion for all three employers.

Commissioner Orchard asked Mr. Warren moving forward if he would include the analysis. Commissioner LeMarr added that it would be beneficial to have that in advance. Mr. Warren agreed to provide the analysis in the future.

#### Discussion and Action of Attorney Fee Petition.

Cruz & Associates, P.C. vs. I. Beltran-Gonzales - Mr. Wade introduced Steve Ball and stated he was available for questions regarding the facts or analysis related to staff's recommendation. Mr. Wade summarized the Commission's obligation to set a fee and the limits to the Commission's discretion. Cruz & Associates, P.C. is requesting a fee based on 25% of the scheduled award and staff recommends an award of fees based on hours worked on the case using what the Commission has decided is a reasonable hourly rate. The Commission decided, in May of 2013, that a reasonable hourly rate to use when evaluating these type of petitions would be \$185.00 per hour for an attorney that is certified by the State Bar of Arizona as a specialist in workers' compensation law, and \$160.00 per hour for an attorney who is not certified. Mr. Wade explained staff's recommendation.

Commissioner LeMarr asked about the scheduled award and how the Commission arrived at the award. Mr. Wade summarized how scheduled awards are calculated. Commissioner LeMarr asked if the applicant had accepted the award and Mr. Wade replied that the applicant did not protest, or request a hearing against, the scheduled award and he described the time frame for filing such a protest. Commissioner LeMarr commented on the attorney's petition in light of the lack of negotiation or litigation for the award.

Commissioner Orchard commented on the inability to predict what an award will be until the injured worker has healed. She clarified that the injured worker retained an attorney, signed a contract and agreed to pay 25% of any award at the end. She asked if the agreement was provided to the applicant in Spanish. Mr. Ball responded that the fee agreement was not in Spanish but the attorney speaks Spanish. Commissioner Orchard commented on the importance of forms in a language that the person understands. She commented on the work the attorney performed and how when it comes time to pay the bill, an injured worker could backtrack and say they do not like the big number. Commissioner Orchard added that if she had seen the fee agreement in Spanish, she would have been inclined to award fees based on the 25% as agreed to.

Commissioner LeMarr asked about the case manager's interaction with the attorney and Commissioner Orchard replied that the role would be medical care coordination. She added there is no way to know if anybody helped the applicant understand the fee agreement when he was at the attorney's office and it was likely that a case manager would not be at that appointment.



Chairman Schultz commented on the last paragraph of the agreement that reads that he has carefully read this entire agreement, has had the provisions explained and interpreted into Spanish to the client, which would tend to indicate that had happened except that the document is in English. Commissioner LeMarr stated it would have helped to have a translator sign off on it. Chairman Schultz stated that the signature is printed which is interesting.

Chairman Schultz asked about attorneys' fees and paralegal time. Mr. Wade responded that a paralegal's time would fall within the definition of "attorneys' fees" if the paralegal is doing work that the attorney would normally do. If so, that time should be included as attorney time, although it would be a lower rate. Mr. Wade added that if a paralegal is performing clerical or secretarial work, that does not qualify as attorneys' fees as that term is used in the statute. Chairman Schultz referred to the itemized statement, noted that some of the time reported related to the paralegal type of activities, and clarified that the attorney's request was for \$1,360.00 for the paralegal and \$1,420.00 for the attorney.

Commissioner Orchard asked if staff's recommendation was based only on the reported 7.1 attorney hours and no recommendation to reimburse for paralegal time. Mr. Wade responded that was correct.

Commissioner LeMarr noted that the request for change of doctors was accepted and that Ms. Rios did not attend any hearings or participate in any discovery as is required by many workers' compensation cases. He added that it would have been difficult to determine if the applicant would have received the same results without an attorney. He agreed that she deserved to be compensated for her time. Mr. Ball responded to the comments.

Commissioner Orchard commented on the attorney / client relationship and the demands on the attorneys' time. She recommended that the Commission award \$160.00 per hour for the attorneys' time at 7.1 hours and would like to address a fee to reimburse the team. She asked if the Commission determined a reasonable hourly rate for paralegal or secretarial work. Mr. Wade explained that when the Commission established the reasonable hourly rates to be used in analyzing a request to set attorneys' fees, it was only for actual attorney time at the \$185.00 and \$160.00 rates.

Chairman Schultz stated he has reviewed the itemized statement and identified at least 4 hours of work by the paralegal that appear to be paralegal level work, and then there is clerical in nature and just as a thought, he would like to think about looking at three components to the award. The attorneys' fees at the \$160.00 and perhaps 4 hours at the \$85.00 an hour for the paralegal rate and then the remaining paralegal 12 hours at a clerical rate of \$35-\$40. Mr. Wade stated the Commission would not be able to award clerical fees, noting that the statute only allows attorneys' fees.

Commissioner LeMarr commented on the types of tasks involved and Mr. Wade noted the distinction includes looking at the level of expertise involved in performing a task. Commissioner Orchard asked about the process should the Commission decide to include paralegal time in the award for attorneys' fees and Mr. Wade commented on the process and suggested the rate of \$85 per hour.

Chairman Schultz noted that if it was a sole practitioner, he would be doing it all at attorney rate.

Commissioner Orchard moved that the Commission award 7.1 hours in attorneys' fees at the \$160.00 rate and 10 hours at a paralegal rate of \$85.00 per hour. Commissioner LeMarr seconded the motion if the amounts are less the fee the attorney has already been paid. Commissioner Orchard clarified that the fee award would be reduced by the fees already received by the attorney.

Mr. Wade clarified that the amount awarded Crystal Rios and her firm for the work performed for the applicant is 7.1 of attorney time at \$160.00, 10 hours or paralegal time at \$85.00 for a total of \$1,986.00 and then subtracting the one payment of \$524.85 already received and the balance of \$1,461.15 is the remaining amount awarded to the attorney. He summarized how the award will be structured and asked if part of the motion could include directing staff to type in their signatures on the award, as doing so will help issuing the award sooner. Commissioner Orchard confirmed that was part of her motion.

The Commission unanimously approved the motion.

Presentation and discussion regarding the operations of the Industrial Commission of Arizona's Special Fund Division.

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David Sosa summarized the operations of the Commission's Special Fund Division. He provided an organization chart and described the Division's primary programs including supportive care for pre-1973 workers' compensation claims, vocational rehabilitation (job retraining), second injury or apportionment claims, no-insurance claims, and bankrupt self-insured claims. Mr. Sosa summarized his background and introduced Bridgette Mack and Terry Ann Apodaca who oversee the majority of the claims processing in the Special Fund.

Mr. Sosa referred to the Special Fund Investment Committee and described its role. He presented a brief history of the Special Fund and noted that the Fund's adjusters, supervisor and support staff manage over 2,000 open claims. Chairman Schultz commented that the work is often more difficult sometimes that would be done by insurance carriers and guessed that a certain percentage of the claims they deal with the injured worker does not have a job to go back to and then creates adverse incentives and makes it difficult and he applauds staff for their efforts to return those injured workers to gainful employment. Commissioner LeMarr asked if the Special Fund has any interaction with the new Medical Resource Office. Chairman Schultz summarized the role of the Medical Resource Office.

Commissioner LeMarr ask about collecting from uninsured employers for benefits paid on the no insurance claims. Chairman Schultz asked Mr. Wade to include that in his presentation for the Legal Division.

Mr. Sosa explained that the Special Fund is reserving claims based on lifetime reserves or the probable ultimate cost of the claim. He added that staff is working on a project converting all claims to lifetime reserves to be in-line with industry best practices and actuarial requirements and the project should be completed before the end of the fiscal year.

Chairman Schultz added that the funds that are required in the Special Fund are determined by that actuarial report and this will assist the actuary having the reserves actually reflect the lifetime exposure instead of the actuary taking the annual expected expense and determining the lifetime potential, and he thought the lifetime reserving will be a great improvement.

Ms. Sosa described some accomplishments of Special Fund, including implementing a medical review process which has resulted average annual net savings of approximately \$3 million per year, implementing an electronic claims management system. He commented on an upcoming pilot program with a pharmacy benefit manager in an effort to contain costs related to prescription medications. Chairman Schultz stated the programs can help tremendously in many areas, including the use of NSAIDS, through step therapy, and injectables.

Chairman Schultz and the Commissioners thanked Mr. Sosa for his presentation. Chairman Schultz added they have a significant case load and he was particularly sensitive to the nature of the claims that they deal with and the fact that these folks have nowhere else to turn and yet the Special Fund staff do a wonderful job of making sure they are sensitive to their needs and staying within the statutory authority in making sure the claims are processed in a very cost effective manner.

#### Discussion and Action Regarding Selection of Vice Chair of the Industrial Commission.

Chairman Schultz asked if there were any nominations for Vice Chair. Commissioner Orchard nominated Commissioner Hennelly. Commissioner LeMarr seconded the motion. The Commission unanimously selected Commissioner Hennelly as Vice Chairman.

#### Announcements, Scheduling of Future Meetings and Retirement Resolutions.

Mr. Warren announced that the Division of Occupational Safety and Health is undergoing its Federal Annual Monitoring and Evaluation and the evaluation will be concluded on December 18. He introduced Mr. Zachary Barnett, Federal Area Director for Federal OSHA. He described the purpose of the Evaluation. Chairman Schultz invited Mr. Barnett to attend a future meeting and present an overview of the Federal OSHA program.

Mr. Ashley commented on training offered by the Governor's Office of Equal Opportunity and he will be working to schedule the Division Managers and Supervisors for the training starting in January. Mr. Ashley invited the Commissioners to attend if their schedules permit.

Ms. Dimas confirmed the meetings scheduled for February 4, 11, and 25, 2016.

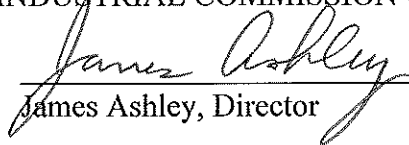
Ms. Dimas announced that Charlotte Kimbrough from the Administrative Law Judge Division is retiring with 16 years of state service and she presented a retirement resolution for signature.

#### Public Comment.

David Selden wanted to express his appreciation for the dialog opportunities the Commissioners and staff have extended to stakeholders. He referred to a comment made by Commissioner LeMarr regarding rebar caps. He explained that rebar is used with political signs. He noted that such signs are often next to sidewalks where children are on bicycles and people walking and how it is even more dangerous when the signs are removed but the rebar is left in place. He added that this is not an occupational issue except for campaign staff, but is a real safety issue.

Chairman Schultz asked if there was a motion to adjourn. Commissioner Orchard moved to adjourn and Commissioner LeMarr seconded the motion. The Commission unanimously voted to adjourn and the meeting was adjourned at 3:16 p.m.

THE INDUSTRIAL COMMISSION OF ARIZONA

By   
James Ashley, Director

ATTEST:

  
Kara Dimas, Commission Secretary