

MINUTES OF MEETING
OF THE INDUSTRIAL COMMISSION OF ARIZONA
Held at 800 West Washington Street
Phoenix, Arizona 85007
Thursday, April 27, 2023 – 1:00 p.m.

Present: Dennis P. Kavanaugh Chairman
 Joseph M. Hennelly, Jr. Vice Chair
 Scott P. LeMarr Commissioner
 D. Alan Everett Commissioner
 Maria Cecilia Valdez Commissioner

 James Ashley Director
 Gaetano Testini Chief Legal Counsel
 Trevor Laky Legislative Affairs Chief/Public Information Officer
 Renee Pastor Self Insurance
 Kara Dimas Commission Secretary

Chairman Kavanaugh convened the meeting at 1:00 p.m. In attendance, confirmed by roll call were Rasean Clayton, Alina Cordoba and Esau Gutierrez (AFL-CIO); Katelyn Parady and Peter Dooley (National Council for Occupational Safety & Health); Evelyn Rope Hinton, Sammie Hinton, Beth Hinton, Dave Rope, John Hinton; Clarrisia Rope Johnson and Rose Rope (Family of Lariat and Andre Rope); Alex Partridge (Injured Worker); Anna Keating (Family Member of Injured Worker); Dominique Hamilton, RN and Henry Soria (St. Mary’s Hospital, Tucson, National Nurses Organizing Committee “NNOC”); Devi Cooper (Injured Worker); Briona Parkinson (American Federation of State, County and Municipal Employees “AFSCME”); Carla Naranja (Southside Worker Center); Anakarina Rodriguez (National Domestic Workers’ Alliance in Arizona); Shannon Foley and Paul Stapleton-Smith (The International Alliance of Theatrical Stage Employees “IATSE”); Fernando Roman (Communications Workers of America); Frank J. Cota (CWA Local 7026); Javier Grajeda (Law Offices of Robert E. Wisniewski); Jessica Swarner (The Copper Courier); Kevin Parkinson (self); Bruce Hamilton (self); S. Del Portillo (self); Lea Bartynski (self). Also in attendance on the telephone, confirmed by roll call was Nikki Cross (City of Avondale).

Chairman Kavanaugh introduced himself noting he is the new Chairman, and provided his background, which includes being the Chief Counsel of the Commission in the 1980’s, representing the Commission in workers’ compensation, occupational health and safety and labor law matters, and being in private practice from 1988 until his retirement in 2021 representing parties before the Commission in a variety of matters, and primarily injured workers. Chairman Kavanaugh noted he also served in local government for many years.

Commissioner Valdez introduced herself. She is currently the Secretary/Treasurer for CW Communications of Arizona Local 7026, the Vice Chair for the Pima Area Labor Federation representing 22 different affiliations with the union, and the Treasurer for the Arizona Jobs with Justice, of which she is very proud. She also represents District 7 on the Defense Fund Oversight Committee. She was born and raised in Tucson and is thankful for the opportunity to serve the working class and the organization which she represents. She has been an employee with Lumen Communications for 45 years and worked her way up from an operator to a cable splicer.

Approval of Minutes of April 20, 2023 Regular Meeting Minutes.

Commissioner LeMarr moved to approve the Minutes of the April 20, 2023 regular session meeting and Commissioner Everett seconded the motion. Chairman Kavanaugh, Vice Chair Hennelly, Commissioner LeMarr, Commissioner Everett and Commissioner Valdez voted in favor of the motion. 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 from 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 Requests for Renewal of Self-Insurance Authority.
 1. City of Avondale
 2. Heartland Express, Inc.

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

Workers' Memorial Day Recognition.

Chairman Kavanaugh noted that April 28, 2023 is Workers' Memorial Day which is recognized throughout the country and worldwide. This year marks the 50th anniversary of the founding of the occupational safety and health administration.

It is with solemn reverence and deep respect that we gather today to recognize Workers' Memorial Day in Arizona. Workers' Memorial Day is not just a remembrance of those who have lost their lives or suffered injuries in the workplace, but also a call to action to ensure that every worker goes home safely at the end of each day. As we gather here today to honor the memory of those who have paid the ultimate price while on the job, we send out heartfelt condolences to the families, friends and colleagues who continue to feel the pain of their loss. We also acknowledge those workers who have been injured or fallen ill due to unsafe working conditions. Workers' Memorial Day is a stark reminder of the importance of workplace safety and the need for continuous efforts to prevent accidents, injuries and fatalities on the job and serves as a clear cut call to employers, policy makers and communities to prioritize the health and wellbeing of workers and to ensure that workplace safety regulations are robustly enforced. As we come together today, let us recommit ourselves to advocating for safer workplaces, promoting awareness about workers' rights and the need for safe and healthy working environments for all. Together, let's honor the memory of those who have fallen and worked tirelessly to prevent future tragedies. May we continue to strive towards a future where every worker is protected and can go home safely at the end of the day. He asked for a moment of silence.

Announcements, Scheduling of Future Meetings and Retirement Resolutions.

Mr. Ashley noted several experienced grant evaluators on staff are assisting the Governor's Office of Strategic Planning and Budgeting and recognized staff Marilyn Carter, Rosanne Oropeza, Melissa Spurgeon and Sharima Diaz and thanked them for spending extra time working with OSPB on grant evaluations.

Mr. Ashley stated the agency is working with the Arizona Broadcasters Association for a public service announcement safety campaign, and additional streaming services and web-based ads with a URL referring the public to a special ADOSH heat stress awareness and resources page as part of an upcoming heat stress awareness campaign. Additionally, the Commission will also be running Labor Department public service announcements promoting the importance of proper employer record keeping and posting requirements.

Public Comment.

Chairman Kavanaugh welcomed public comments by people in attendance on any topic they wish to convey to the Commission.

Speakers:

Rasean Clayton (AFL-CIO)

Mr. Clayton welcomed the new members of the Commission. To honor the memory of workers killed in Arizona in 2022, he read names and how they were killed. He asked for a moment of silence.

Katelyn Parady (National Council for Occupational Safety & Health)

Ms. Parady discussed health and safety in Arizona and the most recent public data, the 2021 Audit Report. She noted the Commission stated it is working hard to fill staffing positions and hope with more staff to see a system that prioritizes unprogrammed inspections and robust citations which are key tools for a safe work environment.

Evelyn Rope Hinton (Family of Lariat and Andre Rope)

Ms. Hinton introduced members of her family in attendance. She talked about the day their lives changed forever, November 8, 2017, with the death of her brother Lariat at his workplace because of a crane malfunction. She also talked about the death of her nephew Andre who worked at the same place, whose health declined and he passed six months later.

Sammie Hinton (Family of Lariat and Andre Rope)

Mr. Hinton noted the last 30 minutes of a work shift is crucial for employees, that is when accidents happen. Safety hazards are overlooked by corporations who fail to educate employees about OSHA 10-hour classes, fall protection equipment and do not provide an open suggestion box. Safety is very important and top priority and at the end of a workday workers want to go home and be with their family.

Alex Partridge (Injured Worker)

Mr. Partridge described his work-related injury on June 3, 2021 because he did not want what happened to him to happen to anyone else. His co-workers were told to take him to an urgent care and to tell urgent care the accident happened at his parent's backyard and to remove the company magnets off his truck. This accident was never reported to OSHA and when he called it was too late to do anything. He asked, how many more accidents are out there that have not been reported.

Anna Keating (Family Member of Injured Worker)

Ms. Keating, Mr. Partridge's mother, noted she was one of the lucky ones, because her son is still here, broken but still with us and fighting. She got involved when he was unable to get any attention to what happened and the egregious behavior of his company. She went through extraordinary measures to contact several agencies and companies. She thanked ADOSH Director Atencio who fined the company which was something, since this happened outside of the six month statutory window for reporting. People do not know their rights, do not speak the language, or are ignored as her son and how many unreported injuries are out there.

Ms. Keating, as a former CFO for a large local employer, understands that having inaccurate OSHA records or inadequately reflecting the safety pattern of a company are not good for business. We need to make sure accidents like this are reported, if they are not there are significant fines for not reporting.

Dominique Hamilton, RN (St. Mary's Hospital, Tucson, National Nurses Organizing Committee "NNOC")

Ms. Hamilton spoke about her experience as a nurse and Union steward for the hospital during the COVID 19 pandemic. She highlighted the lack of support from the hospitals, which included placing the N95 masks under lock and key, and providing one mask per nurse per week requiring the masks to be cleaned and reused with stains. When ADOSH inspected, the hospital did not have the Union present during the interviews or part of the tour. She takes her job seriously and each life has inherent value and need more accountability from facilities and employers and intervention when they fail.

Devi Cooper (Injured Worker)

Ms. Cooper will be graduating from GCU studying business. She managed a store and trained other General Managers, she spoke about her injury of having her foot crushed by a forklift. She spoke about the impact of having her wages decreased by one-third and the undue financial burden to pay bills, and how it disproportionately affects lower income workers. Anybody on medical leave is only allowed to receive 66% of their gross average monthly wage or paycheck. She was not given an answer why she would not receive 100% of her wages, except workers' compensation is not taxable, this does affect a worker's ability to recover.

Briona Parkinson (American Federation of State, County and Municipal Employees "AFSCME")

Ms. Parkinson represents the roughly 5,000 members in Arizona and speaking in solidarity with the people here today and the members of the state. She spoke about the need for a civilian honor guard and the Phoenix Civilian Honor Guard was established and extended to any city employee seeking an opportunity to honor those dedicated and committed. She told the story of Megan Lane a 911 dispatch operator killed on her way home by a drunk wrong way driver and the

story of a school bus driver in Tucson hit by a red light runner and her injuries and her options for recovery.

Carla Naranjo (Tucson Southside Worker Center)

Ms. Naranjo noted they have not personally suffered the loss of a co-worker but many have suffered personal injuries, unhealthy working conditions that expose them to extreme heat and other hazards and these day laborers are often stranded at worksites outside in the heat. The workers are vulnerable to the whims of unscrupulous employers and look to the Commission for workers to bring their concerns and she is pleased to hear about Commissioner Valdez's appointment and believes the Commissioner will bring her forty years of leadership experience in the field of labor relations and perspective.

Anakarina Rodriguez (National Domestic Workers' Alliance in Arizona)

Ms. Rodriguez welcomed Chairman Kavanaugh and congratulated Commissioner Valdez and offered condolences to all the families for being here and sharing their stories. As a group they are dedicated to fighting for the dignity and fairness of domestic workers and homecare workers who are poorly paid, lack benefits and economic security and are susceptible to discrimination and abuse. Domestic workers were essential during the pandemic and risked their lives and at risk of losing their jobs and deserve to have rights no matter what the workplace looks like. Elected leaders have an opportunity to ensure that care jobs are good jobs and advocate for the National Domestic Workers' Bill of Rights which closes the gap in overtime protections so workers receive fair compensation.

Shannon Foley (The International Alliance of Theatrical Stage Employees Local 415 in Tucson "IATSE")

Ms. Foley welcomed Chairman Kavanaugh and Commissioner Valdez. She wanted to call attention to the dangers Arizona workers are facing from extreme heat and encourage bold action to save lives. She told the story of the story of Mr. Grijalva who was shoveling dirt along an irrigation border at 109 degrees and died after five hours of exposure. In her industry heat is a hazard and difficult to acclimatize when you are used to working in 70 degrees conditions. Federal OSHA guarantees workers a safe workplace, and it places responsibility and adequate training on heat protection on employers. Employers need to provide water, shade and rest and heat stress awareness is a great campaign, and it's important to hold employers accountable. She discussed Oregon's new statewide heat illness prevention standard. It is time to create a worker safety program and prioritize workers' lives and engage with workers and advocates to speak openly without fear of retaliation from employers.

Peter Dooley (National Council for Occupational Safety & Health)

Mr. Dooley is an Industrial Hygienist and Certified Safety Professional from Tucson. He thanked everyone for their testimony and is grateful to have the family of Lariat Rope here whose death was preventable. All workplace injuries and illnesses and fatalities are preventable. Serious injuries and fatalities happen when there are inadequate health and safety programs in place. If programs are not adequate there needs to be serious consequences in terms of the enforcement of the state law. The OSHA Act of 1970 created the promise for workers to have a workplace free from safety and health hazards for every American worker and we are still working on that promise and hope to work together to make that happen with new policies and programs that can make health

and safety more of a reality for Arizona workers. There are so many unsafe places out there and need to be doing so much to identify those places and put prevention programs in place and where this type of testimony is the most important thing of developing a health and safety program.

Fernando Roman (Communications Workers of America)

Mr. Roman noted that Commissioner Valdez is his mentor and means the world to him and believed the Governor appointed the right person to the job because she takes workplace safety seriously. He offered condolences to the families. He stated, when are people and safety going to be prioritized over profits in this country. Safety must be a priority with the hundreds of millions of dollars coming to Arizona with President Biden's infrastructure package. He was saddened by the amount of the fines the companies received for a life, and asked the Commission to start a new day, a workers' day, that people and safety are over profits and do not lose any more lives after today.

The meeting was adjourned at 2:14 p.m.

THE INDUSTRIAL COMMISSION OF ARIZONA

By James Ashley
James Ashley, Director

ATTEST:

Kara Dimas
Kara Dimas, Commission Secretary