

MINUTES OF MEETING
OF THE INDUSTRIAL COMMISSION OF ARIZONA
Held at 800 West Washington Street
Phoenix, Arizona 85007
Thursday, July 13, 2023 – 1:00 p.m.

Present: Dennis P. Kavanaugh	Chairman
Scott P. LeMarr	Commissioner (Telephonic)
D. Alan Everett	Commissioner
Maria Cecilia Valdez	Commissioner (Telephonic)
James Ashley	Director
Gaetano Testini	Chief Legal Counsel
Renee Pastor	Self Insurance
Barbara Carmona	Accounting
Jessie Atencio	ADOSH Director (Telephonic)
Anna Maria Stonerock	ADOSH Admin (Telephonic)
Kara Dimas	Commission Secretary

Chairman Kavanaugh convened the meeting at 1:01 p.m. In attendance, confirmed by roll call were Lea Bartynski and Paloma Neevia (Snell and Wilmer). Also in attendance on the telephone, confirmed by roll call Jessica Davis (HonorHealth); Chris Miller (Purcell); Bill Beuchat (Pilot); Nathan Fraley (The Kroger Company); Christine Nelson (Central Arizona Water Conservation District); Ann Back (Macy's); Chuck Axmacher (BH Automotive); Whitney Douglas (Kiewit); and Ruth Miller (Textron).

Approval of Minutes of June 29, 2023 Regular Meeting Minutes.

Commissioner Everett moved to approve the Minutes of the June 29, 2023 regular session meeting and Commissioner Valdez seconded the motion. Chairman Kavanaugh, 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 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 Requests for Renewal of Self-Insurance Authority.

1. Banner Health
2. BH Automotive
3. Central Arizona Water Conservation District dba Central Arizona Project
4. Chevron U.S.A., Inc.
5. Freeport-McMoran, Inc.

6. HonorHealth
7. Kiewit Corporation
8. Knight Transportation, Inc.
9. Macy's, Inc.
10. Nordstrom, Inc.
11. Pilot Travel Centers, LLC
12. Prudential Overall Supply Company
13. Purcell Tire & Rubber Company
14. Swift Transportation Co., Inc.
15. Textron, Inc.
16. The Kroger Co.
17. Viad Corp

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

Discussion and Action of Arizona Division of Occupational Safety and Health Proposed Citations and Penalties.

Chairman Kavanaugh discussed the purpose of and process for the Commission's consideration of ADOSH citations and proposed penalties.

Commissioner LeMarr left the call.

Catalina Roofing & Supply, Inc. 2021 W Williams Dr Phoenix, AZ 85027	Complaint Years in Business: 35 Empl. Covered by Inspection: 6
Site Location: 7315 N Cotton Wood Ln Unit 11, 13, and 14 Litchfield Park, AZ 85340	
Inspection No: CP-2023-Q6169-0021	
Inspection Date: March 10, 2023	

SERIOUS – Citation 1 - Item 1 –

- a) 7315 N Cottonwood Ln Unit 11, 12 and 14: Three employees were installing concrete tile on a roof that was approximately 16'5" high without a fall protection system in place. 29 CFR 1926.501(b)(13)

Div. Proposal - \$4,465.00	Formula Amt. - \$4,465.00
TOTAL PENALTY - \$4,465.00	TOTAL FORMULA AMT. - \$4,465.00

Mr. Atencio discussed ADOSH's inspection, summarized the citation and proposed penalty, and reviewed the photographs.

Chairman Kavanaugh checked if anyone had questions.

Commissioner Everett moved to approve the citation and proposed penalty as presented and Chairman Kavanaugh seconded the motion. Chairman Kavanaugh, Commissioner Everett and Commissioner Valdez voted in favor of the motion. The motion passed.

Mr. Atencio discussed ADOSH's inspection, summarized the citation and proposed penalty, and reviewed the photographs.

Chairman Kavanaugh checked if anyone had questions and checked if Hilltown Packing was on the phone for comments.

Chairman Kavanaugh asked Mr. Atencio if it was a common occurrence to not have someone in the tractor seat while the tractor is in motion.

Mr. Atencio noted it is recognized by the industry, there is an active case in California being challenged, the manufacturer notes an employee could jump to the side of the machine at low speed. Based on what industry is doing and what it is pushing for is to have someone in the driver's seat to prevent someone from being run over, even at low speeds. Staff is working on a letter to send to growers in the area and insurance companies, advising them that this practice violates the General Duty clause; the letter also provides the means to contact consultation for more information and potential training.

Commissioner Everett moved to approve the citation and proposed penalty as presented and Chairman Kavanaugh seconded the motion. Chairman Kavanaugh, Commissioner Everett and Commissioner Valdez voted in favor of the motion. The motion passed.

Discussion and/or Action pursuant to A.R.S. §23-1041(E) to Adopt the Maximum Average Monthly Wage under A.R.S. §23-1041(D)(8) for Calendar Year 2024.

Mr. Testini explained that A.R.S. § 23-1041(E) requires the Commission to annually adopt a maximum average monthly wage. Mr. Testini provided background and explained how the maximum average monthly wage is used in the workers' compensation system, and discussed the process used for the calculation of the maximum average monthly wage. The Bureau of Labor and Statistics showed an increase of 5.1% in the "All Workers" category, which exceeds the statutory 5% maximum, so the 5% maximum is used. The 2023 maximum average monthly wage was \$5,393.37. Mr. Testini recommended the increase of \$269.67 setting the maximum average monthly wage at \$5,663.04 for calendar year 2024.

Commissioner Everett moved to set the maximum average monthly wage at \$5,663.04 for calendar year 2024 and Commissioner Valdez seconded the motion. Chairman Kavanaugh, Commissioner Everett and Commissioner Valdez voted in favor of the motion. The motion passed.

Announcements, Scheduling of Future Meetings and Retirement Resolutions.

Mr. Ashley announced Chester Szoltysik will be joining the agency as the new MIS Manager on July 17th and highlighted his background and experience.

Mr. Ashley discussed the current agenda for July 20, 2023 and the likelihood of consolidating those items with the July 27, 2023 meeting.

Ms. Dimas confirmed Commission meeting dates through September 2023.

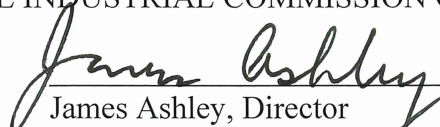
Public Comment.

There was no public comment.

The meeting was adjourned at 1:33 p.m.

THE INDUSTRIAL COMMISSION OF ARIZONA

By


James Ashley, Director

ATTEST:


Kara Dimas, Commission Secretary