

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

Present:	Dennis P. Kavanaugh	Chairman (Telephonic)
	Scott P. LeMarr	Commissioner (Telephonic)
	D. Alan Everett	Commissioner (Telephonic)
	James Ashley	Director (Telephonic)
	Gaetano Testini	Chief Legal Counsel (Telephonic)
	Trevor Laky	Legislative Affairs Chief/Public Information Officer (Telephonic)
	Jessie Atencio	ADOSH Director (Telephonic)
	Anna Maria Stonerock	ADOSH Admin (Telephonic)
	Andy Campbell	Chief Administrative Law Judge (Telephonic)
	Marilyn Carter	Human Resource Manager (Telephonic)
	Kara Dimas	Commission Secretary (Telephonic)

Chairman Kavanaugh convened the meeting at 1:00 p.m. There were no other callers.

Approval of Minutes of May 25, 2023 Regular Meeting Minutes.

Commissioner Everett moved to approve the Minutes of the May 25, 2023 regular session meeting and Commissioner LeMarr seconded the motion. Chairman Kavanaugh, Commissioner LeMarr and Commissioner Everett 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.

<u>APM Builders LLC</u> <u>7109 N 22nd Dr</u> <u>Phoenix, AZ 85021</u> Site Location: None Inspection No: FC-2023-F9669-0050 Inspection Date: January 13, 2023	Fatality/Catastrophe Years in Business: 10 Empl. Covered by Inspection: 1
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Mr. Atencio noted these two files were related for a multi-employer job site. He summarized ADOSH’s investigation and reviewed the file and photographs. ADOSH did not recommend a citation for APM Builders LLC.

Chairman Kavanaugh checked if anyone had any questions. There were no questions.

The Commission took no action.

<u>Sunrun Installation Services Inc.</u> <u>4219 E Broadway Rd Ste 102</u> <u>Phoenix, AZ 85040</u>	Unprogrammed Related Years in Business: 15 Empl. Covered by Inspection: 5
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Site Location: 402 E Windsor Dr
Gilbert, AZ 85296
Inspection No: UR-2023-F9669-0049
Inspection Date: January 13, 2023

SERIOUS – Citation 1 - Item 1 –

a) 402 E Windsor Rd, Gilbert, AZ: Two employees were installing solar panels on a single-story single-family home 6' above ground without fall protection. 29 CFR 1926.501(b)(J3)
Div. Proposal - \$10,360.00 Formula Amt. - \$10,360.00
TOTAL PENALTY - \$10,360.00 TOTAL FORMULA AMT. - \$10,360.00

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

Chairman Kavanaugh commented that the photographs were helpful to see the foreman right below the workers.

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

Discussion and/or Action regarding the consideration of candidates for appointment to the position of Administrative Law Judge pursuant to A.R.S. § 23-108.02(A). The Commission may move into Executive Session for the purposes described in A.R.S. § 38-431.03(A)(1) and (A)(3).

Judge Campbell noted there were 11 applications with a couple being eliminated that were not attorneys, they selected three for interviews however one of them took a promotion with their current employer. Judge Campbell presented two candidates that were interviewed and for the Commission's consideration and recommended Candidate #2 for the position.

Chairman Kavanaugh commented on Candidate #2 and agreed with the recommendation.

Commissioner LeMarr also agreed with the recommendation.

Commissioner LeMarr moved to accept Judge Campbell's recommendation to extend an offer to Candidate #2. Commissioner Everett seconded the motion. Chairman Kavanaugh, Commissioner LeMarr and Commissioner Everett voted in favor of the motion. The motion passed.

Chairman Kavanaugh thanked Judge Campbell and his colleagues for their evaluation, he appreciated seeing the process and noted the process was more detailed and thorough than back in the 1980s.

Discussion, Action, and Potential Resolution regarding Initial Rulemaking to Title 20, Chapter 5, Article 9, Youth Employment.

Mr. Testini requested approval to initiate a rulemaking package on Title 20, Chapter 5, Article 9: Youth Employment. The authority comes from A.R.S. § 23-240 which authorized the Commission to promulgate such rules and regulations as are necessary to carry out the provisions of this Article which is Title 20, Chapter 2, Article 3: Youth Employment. The rule package contains eight rules which were detailed in the memo to the commissioners and the accompanying copy of the proposed rules.

Chairman Kavanaugh noted the rules flush out the enforcement authority for youth employment and are consistent with the statutes and asked if there were any problems or issues that have arisen that these rules would address.

Mr. Testini noted these cover all of the statutes between § 23-230 and § 23-242 for cases before the Labor Department which are elevated to ALJ. A few months ago there was a case elevated to ALJ and a procedural defense was proffered based upon the other Labor rules but which were not specifically available for this section of Chapter 2. This package will help to give the necessary defenses for use in the future. He also asked for electronic signature on the Resolution.

Commissioner LeMarr moved to approve initial rulemaking for Title 20, Chapter 5, Article 9: Youth Employment, with electronic signature. Commissioner Everett seconded the motion. Chairman Kavanaugh, Commissioner LeMarr and Commissioner Everett voted in favor of the motion. The motion passed.

Chairman Kavanaugh thanked Mr. Testini and his colleagues for their work on the rules, it will be an asset in the field which is a concern across the country and was glad the agency is making sure that the rules will help remain in a position to effectively administer our Youth Labor Statute.

Announcements, Scheduling of Future Meetings and Retirement Resolutions.

Mr. Ashley noted it was an important and momentous day for ADOSH as he recognized our recent CSHO School graduates. These are technicians who took the required OSHA Training Institute compliance classes and the internal ADOSH initiated CSHO School. These technicians are now qualified to perform their duties independently. There are seven additional technician CSHOs that are going to be in the field by the end of June. He recognized and congratulated the 16 participants. It is very momentous to have these technicians fully trained after 10 to 12 months of preparation, study, training, and testing.

Ms. Dimas confirmed Commission meeting dates through July 2023.

Public Comment.

There was no public comment.

The meeting was adjourned at 1:24 p.m.

THE INDUSTRIAL COMMISSION OF ARIZONA

By James Ashley
James Ashley, Director

ATTEST:

Kara Dimas
Kara Dimas, Commission Secretary