

MINUTES OF MEETING
OF THE INDUSTRIAL COMMISSION OF ARIZONA

Telephonic Meeting

Held at 800 West Washington Street

Phoenix, Arizona 85007

Thursday, January 20, 2022 – 1:00 p.m.

Present: Dale L. Schultz	Chairman (Telephonic)
Joseph M. Hennelly, Jr.	Vice Chair (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)
Renee Pastor	Self Insurance (Telephonic)
Jessie Atencio	ADOSH Director (Telephonic)
Steve Black	ADOSH Compliance (Telephonic)
Anna Maria Stonerock	ADOSH Admin (Telephonic)
Kara Dimas	Commission Secretary (Telephonic)

Chairman Schultz convened the meeting at 1:00 p.m. Also in attendance on the telephone, confirmed by roll call were John Ashton, Tracy Foss, Roshell Lee, Garrett Mahoney and Lori Jundt (Securis Insurance Pool); Kelly Moreton, Chad Ferris and Sabine Hebert (FS Scottsdale Employment Inc. dba Four Seasons); Savannah Scharnhorst (Snell & Wilmer); Javier de Echevarri and Claude Wood (ADOSH Trainers) and the CSHO Class including Randy Smith, Laura Orosco, Brandt Smith, Peter Johnston, Mark Norton and Rebecca Stratton.

Approval of Minutes of January 13, 2022 Regular Meeting Minutes.

Vice Chair Hennelly moved to approve the Minutes of the January 13, 2022 regular session meeting and Commissioner Everett seconded the motion. Chairman Schultz, Vice Chair Hennelly, and Commissioner Everett voted in favor of the motion. The motion passed.

Approval of Request for Renewal of Self-Insurance Authority and Quarterly Pool Review for Securis.

Ms. Pastor presented both the annual renewal and the quarterly update for Securis Insurance Pool (“Securis”). The security deposit increased to just over \$2.1 million and has been posted in US treasury notes. Securis’ denial history looks good and the losses have one major driver, a COVID-19 claim. The cash flow is not looking too bad, and their experience rating is still building until 2023. Ms. Pastor recommended that the commissioners approve self-insurance authority for Securis Pool and she will continue quarterly updates starting in March.

Chairman Schultz checked if representatives from Securis would like to make any comments.

Mr. Ashton thanked the Commissioners for the opportunity to renew. Securis is a start-up pool intended to cover only Arizona Fire Districts, not municipal firefighters and no entities outside

of Arizona. There was good participation in year one and that the renewal for July 1, 2021 also showed good growth in the pool and represents probably on a premium basis over 80% of the Arizona Fire District markets.

Chairman Schultz applauded the growth. Securis shows good growth, good capitalization.

Commissioner LeMarr moved to approve the request for self-insurance authority and the provision of quarterly reports beginning March 31 and new member approval for Vernon Fire District and Commissioner Everett seconded the motion. Chairman Schultz, Vice Chair Hennelly, Commissioner LeMarr and Commissioner Everett voted in favor of the motion. The motion passed.

Chairman Schultz asked Mr. Aston to drop him a note for the cancer claims when he gets a decision for the coverage.

Mr. Aston noted he would and thanked the Commission for the renewal.

Chairman Schultz noted the Commission supports pools, which are a significant way to handle risks and a very favorable alternative to the commercial market which is not often responsive particularly for this kind of a situation with a very large number of small employers and excited to see the success of the group.

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.

There was no need for an executive session.

Discussion and Action regarding Establishment of Discount Rate for Calculating Lump Sum Commutations under A.A.C. R20-5-121(B).

Ms. Pastor discussed lump sum commutations and the process for updating the discount rate to be used in calculating the present value of an award under A.A.C. R20-5-121 and R20-5-122. Staff recommended setting the discount rate at 1.08% for calculating fixed period and permanent lump sum commutations, effective immediately and replacing the current rate of 1.17%.

Commissioner Everett moved to approve staff recommendation to use a 1.08% discount rate in the calculation for lump sum commutations under A.A.C. R20-5-121 and R20-5-122, effective immediately. Commission LeMarr seconded the motion. Chairman Schultz, Vice Chair Hennelly, 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 Schultz discussed the purpose of and process for the Commission's consideration of ADOSH citations and proposed penalties.

FS Scottsdale Employment Inc. dba Four Seasons	Fatality/Accident	
10600 E Crescent Moon Dr	Years in Business:	21
Scottsdale, AZ 85262	Empl. Covered by Inspection:	20

Site Location: 10600 E Crescent Moon Dr
Scottsdale, AZ 85262
Inspection No: FC-2022-A7717-0006
Inspection Date: 08/13/2021

Mr. Atencio summarized ADOSH's COVID exposure investigation and reviewed the file and photographs. ADOSH was not recommending a citation for FS Scottsdale Employment Inc. dba Four Seasons.

Chairman Schultz complimented Mr. Atencio on the thoroughness of the inspection.

Chairman Schultz complimented Ms. Moreton on the extensiveness of their program which goes above and beyond the CDC recommendations. He also let her know how much he understood the impact that this has had to lose two people, knowing there is a sizable group of 360 employees, but knows how workplaces come together as secondary families and how devastating it can be and the impact for the whole workforce. He appreciated what she is doing to keep people safe. This is a perfect example of how easily this virus spreads and how lethal it is and can only imagine the impact on the families of losing these two. He thanked her for doing all she is doing to keep people safe.

Ms. Moreton thanked the Chairman for his kind sentiments. She thanked Mr. Atencio for his professionalism and expertise in handling this investigation and for the suggestions to further enhance their protocols.

The Commission took no action.

Marco Antonio Carranza, A Single Man
3915 E Sargent Dr
Mesa, AZ 85215

Site Location: 2655 W Harmony
Mesa, AZ 85204
Inspection No: FC-2002-T3633-0008
Inspection Date: 11/10/2021

Fatality/Accident
Years in Business: 3
Empl. Covered by Inspection: 2

SERIOUS – Citation 1 - Item 1 –

- a) Construction site: The employer did not implement an accident prevention program to prevent injuries and illnesses to employees. 29 CFR 1926.21(b)(1)
- | | |
|----------------------------|---------------------------------|
| Div. Proposal - \$2,800.00 | Formula Amt. - \$2,800.00 |
| TOTAL PENALTY - \$2,800.00 | TOTAL FORMULA AMT. - \$2,800.00 |

Mr. Atencio noted that the Compliance Officer, Mr. Black was available for questions. Mr. Atencio discussed ADOSH's inspection, summarized the citation and proposed penalty, and reviewed the photographs.

Chairman Schultz stated that this is another incident highlighting how difficult it is for somebody who is unloading to determine the weight of the load they are going to be unloading or moving. He would like to think about the potential for standards relative to labeling of weight of materials that are to be unloaded.

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

Carondelet Health Care Corporation of Arizona dba Carondelet St. Mary's Hospital and Carondelet Health Care Corporation of Arizona dba Carondelet St. Joseph's Hospital.

Mr. Atencio commented that the Commissioners did not have any material for these items and that the Compliance Officer, Mr. Black was available for questions. These items do not meet the parameters to come before the Commission. ADOSH wanted to inform the Commission about inspections of St. Mary's by Mr. Black and St. Joseph's by Mr. Atencio. Essentially the complaint items were the same on these two files.

Mr. Atencio reviewed the seven findings on the complaint for St. Mary's regarding availability and supply of N95 respirators or PAPRs for nurses, COVID screening procedures, air conditioner failure/heat stress, and cleaning of hospital rooms. There were no findings of OSHA standards or the general duty clause to recommend a citation or hazard. ADOSH also reached out to more union members at the request of the Union Steward.

Mr. Black noted random interviews were arranged through the hospital. While there was a Union Steward Mr. Black offered to interview, he did not get a call back from that person. Mr. Black had discussions over the phone and exchanged emails with the Union Business Manager but no nurses ever called Mr. Black to set up interviews or even leave a message that they would like to interview.

Mr. Atencio noted that they did as much as they could to get involved and be available as much as they could. He noted the findings on the complaint for St. Joseph's had six similar complaint items and he was provided information to show that they do triage their employees, and they followed the federal ETS when it first came out. They have a COVID log for recording and contact tracing, and N95 masks were available, and they do isolate COVID patients and anyone else suspected of COVID symptoms and provided a long response from the Human Resources Manager and attorney.

Mr. Atencio asked if there were any questions, this was something discussed in October and the complainant did mention they did file a complaint, and thought it was appropriate to follow up.

Chairman Schultz commented that he appreciated Mr. Atencio and Mr. Black doing such a thorough evaluation since it was raised at the public meeting and confirmed what he presumed, those hospitals are operating like every other hospital in the state of Arizona. Hospitals are protecting their most important assets, their people, which makes good business sense to provide all of the PPE that is necessary and to take all of the steps necessary, whether ventilation, equipment, sterilization, and using UV sterilization, and while it dramatically increases the expense hospitals cannot operate without people. He was ecstatic that the inspections and discussions have borne out what he felt was true. Healthcare is ahead of the game in terms of efforts to prevent the spread and not behind.

Announcements, Scheduling of Future Meetings and Retirement Resolutions.

Mr. Ashley updated the Commissioners with the AMS scorecard metrics for the fiscal year-to-date. He reviewed the three metrics for Special Fund and the work that the team has done over

the last couple of years: Audit of all Claims; Supervisory Reviews; and Percent of Reserve Audits Completed.

Ms. Dimas confirmed Commission meeting dates through March 2021.

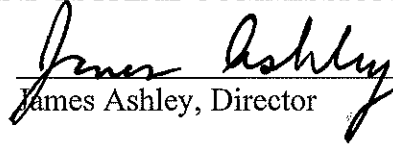
Public Comment.

There was no other public comment.

Commissioner Everett moved to adjourn and Vice Chair Hennelly seconded the motion. Chairman Schultz, Vice Chair Hennelly, Commissioner LeMarr and Commissioner Everett voted in favor of the motion and the meeting was adjourned at 2:20 p.m.

THE INDUSTRIAL COMMISSION OF ARIZONA

By


James Ashley, Director

ATTEST:


Kara Dimas, Commission Secretary