

MINUTES OF MEETING
OF THE INDUSTRIAL COMMISSION OF ARIZONA

Telephonic Meeting
Held at 800 West Washington Street
Phoenix, Arizona 85007
Thursday, July 16, 2020 – 1:00 p.m.

Present:	Dale L. Schultz	Chairman (Telephonic)
	Joseph M. Hennelly, Jr.	Vice Chair (Telephonic)
	Scott P. LeMarr	Commissioner (Telephonic)
	Steven J. Krenzel	Commissioner (Telephonic)
	James Ashley	Director (Telephonic)
	Gaetano Testini	Chief Legal Counsel (Telephonic)
	Jason M. Porter	Deputy Director (Telephonic)
	Trevor Laky	Legislative Affairs Chief/Public Information Officer (Telephonic)
	Renee Pastor	Self Insurance (Telephonic)
	Sylvia Simpson	Chief Financial Officer (Telephonic)
	Jessie Atencio	ADOSH Director (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 David Matthews and Ashley Pritchett (City of Phoenix); Shannon Pechar and Melissa Woitalewicz (Kiewit Corporation); Clark Smith (Young Electric Sign Company); Chuck Axmacher (Van Tuyl Group, LLC dba Berkshire Hathaway Automotive); Kimberly Carman (Walmart Associates).

Approval of Minutes of July 9, 2020 Regular Meeting.

Commissioner LeMarr moved to approve the Minutes of the July 9, 2020 regular session meeting and Vice Chair Hennelly seconded the motion. Chairman Schultz, Vice Chair Hennelly, Commissioner LeMarr and Commissioner Krenzel 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. HonorHealth
2. Kiewit Corporation
3. Van Tuyl Group LLC dba Berkshire Hathaway Automotive, Inc.
4. Wal-Mart Associates, Inc.
5. Young Electric Sign Company

Chairman Schultz complimented HonorHealth, Kiewit Corporation, and Van Tuyl Group LLC on their experience modification factors. Chairman Schultz also expressed his appreciation to Walmart, for the dramatic improvement to their experience modification factor, especially for a huge organization.

Chairman Schultz checked if anyone on the phone would like to comment. There were no comments.

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

Update Regarding City of Phoenix Experience Modification and Discussion of Security Requirements.

Ms. Pastor noted that during a Commission meeting in February the City of Phoenix presented their risk program. The Commissioners asked for an experience modification for the City of Phoenix since one has not been done for a while since "Tax Plan A" does not use experience modifications in its calculations. Ms. Pastor prepared experience modifications for 2017, 2018 and 2019 noting increases each year. Ms. Pastor broke down the 2019 calculation by police, fire and general government. Ms. Pastor highlighted the various safety programs used by the City of Phoenix, and their involvement with the ADOSH PEPP program, and the use of ADOSH consultation services. Since the fire department shows one of the highest risks of all of the programs, changes are being made with a focus on exposures with testing and screening for cancer available for the firefighters with medical partners. Ms. Pastor plans to go back and do experience modifications for 2017 and 2018 by police, fire and general government to have a comparison for the 2019 results.

Mr. Matthews added the department safety units have seen a great benefit for police and should help fire going forward with identifying trends and remediation efforts.

Vice Chair Hennelly thanked Ms. Pastor for the thorough presentation.

Chairman Schultz was concerned that with an expectation of potential increases in claims whether or not an additional security deposit should be required from the City to secure the payments of benefits. He asked if any of the Commissioners had any concern with the current security deposit for the City and that this is a reasonable expectation that the actions taken will reduce the potential for future claims and future significant financial exposure.

Vice Chair Hennelly asked about the current security deposit. Ms. Pastor noted there is an exemption from posting a security deposit and noted the balance in the trust fund and outstanding liability.

Chairman Schultz and Ms. Pastor discussed that the City of Phoenix would be up for annual renewal in about six months. Ms. Pastor noted the problem areas are police and fire and programs to reduce the experience modifications but not sure what the trend has been until she reviews 2017 and 2018 and thought this would be a good model for other municipalities to help the risk management teams with the problem areas and mitigate injuries.

Vice Chair Hennelly, Ms. Pastor and Mr. Matthews discussed the self-insured retention for first responders and general government.

Chairman Schultz noted he would like to watch the City closely and is glad to hear it will be reviewed again in six months. He thanked Mr. Matthews for the information and Ms. Pastor for her report and analysis of the potential for future financial exposure to the Special Fund.

Discussion and/or Action regarding Authorization of a FEMA COVID Grant Designee.

Ms. Simpson presented the Arizona Department of Emergency & Military Affairs request for the Commission to designate an “applicant agent” to allow the Commission to submit expense reimbursement requests related to COVID-19 to the FEMA Public Assistance program.

Ms. Simpson explained the types of expenses the Commission may be eligible to submit related to the purchase of equipment, supplies and services necessary to respond to the pandemic. The FEMA Public Assistance Program is a 75/25 grant, which means the Commission may be eligible for up to a 75% reimbursement of COVID-related expenses.

Ms. Simpson also explained the designated applicant agent shall have authority:

1. to prepare and submit, on the Commission’s behalf, grant applications, letters of support, and memoranda of understanding pertaining to requests for funding under FEMA’s Public Assistance program;
2. to attest to and submit any certifications required by funders on the Commission’s behalf; and,
3. to approve and sign grant-funded contracts and sub-recipient contracts that are not otherwise covered by the State of Arizona Procurement Code.

This delegation shall run until revoked by the Commission and is not subject to sub-delegation without prior and express written consent from the Commission. In cases where federal legislation or grantor regulations prohibit delegation, signatory authority will revert to the Chairman of the Commission.

Ms. Simpson requested that the Commissioners approve a resolution and allow for electronic signatures designating Sylvia Simpson as the Commission's applicant agent for the FEMA Public Assistance program.

Chairman Schultz noted he is familiar with the FEMA Grants from the healthcare industry and thanked Ms. Simpson for acting as the applicant agent, there is a significant amount of work with collecting information and submitting the applications for the grants.

Commissioner Krenzel moved to approve the Applicant Agent for the FEMA Public Assistance Grant Program and to allow electronic signatures. Commissioner LeMarr seconded the motion. Chairman Schultz, Vice Chair Hennelly, Commissioner LeMarr and Commissioner Krenzel 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.

Mr. Ashley thanked the Commissioners for their approval of the FEMA Grant Designation. Much can fall under that category including, for example, the mitigation efforts for barriers, signage and PPE and the purchase of those items and the additional cleaning and sanitizing crews.

Mr. Ashley provided an update regarding the building repairs after the extensive vandalism from the downtown protests and noted all windows have been replaced and bead blasting on the graffiti, which had been temporarily painted over, will be scheduled shortly.

Ms. Dimas confirmed Commission meeting dates through September 2020, changing the meeting that was tentatively scheduled for September 3 to Monday, August 31, 2020.

Public Comment.

There was no public comment.

Commissioner Krenzel moved to adjourn and Commissioner LeMarr seconded the motion. Chairman Schultz, Vice Chair Hennelly, Commissioner LeMarr and Commissioner Krenzel voted in favor of the motion and the meeting was adjourned at 1:49 p.m.

THE INDUSTRIAL COMMISSION OF ARIZONA

By James Ashley
James Ashley, Director

ATTEST:

Kara Dimas
Kara Dimas, Commission Secretary