

MINUTES OF MEETING
OF THE INDUSTRIAL COMMISSION OF ARIZONA
Telephonic Meeting
Held at 800 West Washington Street
Phoenix, Arizona 85007
Thursday, July 30, 2020 – 1:00 p.m.

Present: Dale L. Schultz	Chairman (Telephonic)
Joseph M. Hennelly, Jr.	Vice Chair (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)
Lisa Padgett	Labor Director (Telephonic)
Victoria Kamm	Labor Supervisor (Telephonic)
Christy Westberg	Labor Supervisor (Telephonic)
Jennifer Krainski	Labor (Telephonic)
Melissa Spurgeon	Labor (Telephonic)
Jessie Atencio	ADOSH Director (Telephonic)
Anna Maria Stonerock	ADOSH (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 Chris Frank, Debbie Stafford and Liliana Forney (Banner Health); Brad Anderson, Dana Little and Susie DeMello (Southwest Gas); Tiffani Burleson (AMRRP); John Thompson (Prudential Overall Supply); Paul Murray, Christi Zarate and Darren VandeVoorde (Bashas); Julie Morales, Christine Roberts, Sharon Gilman, Randy Denny and Ed Gilligan (Cochise County Douglas Road Yard); Tony Francis (FNS Ventures- Tempe LLC); John McClean and Nathan Carroll (Irish Roofing Company LLC).

Approval of Minutes of July 16, 2020 Regular Meeting Minutes.

Commissioner Krenzel moved to approve the Minutes of the July 16, 2020 regular session meeting and Vice Chair Hennelly seconded the motion. Chairman Schultz, Vice Chair Hennelly 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 Proposed Civil Penalties Against Uninsured Employers.

1. 2CRP19/20-0071 TopRoof LLC \$1,000.00

b. Approval of Requests for Renewal of Self-Insurance Authority.

1. Arizona Municipal Risk Retention Pool
2. Banner Health
3. Bashas' Inc.
4. Pilot Travel Centers LLC
5. Prudential Overall Supply, Inc.
6. Southwest Gas Corporation
7. Truly Nolan of America, Inc.

Chairman Schultz complimented Arizona Municipal Risk Retention Pool for reducing their experience modification, and Prudential Overall Supply, Southwest Gas Corporation and Truly Nolan who continue to have excellent experience modification factors.

Vice Chair Hennelly requested to move Arizona Municipal Risk Retention Pool to the regular agenda.

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

Approval of Requests for Renewal of Self-Insurance Authority.

1. Arizona Municipal Risk Retention Pool

Vice Chair Hennelly and Ms. Pastor discussed the difference in the operating and revenue expenses for 2019.

Vice Chair Hennelly, Ms. Pastor and Ms. Burleson discussed the data for 2020 given the loss in 2019 to determine if it would be continuing due to the circumstances in 2020. Ms. Burleson noted the figures included a combination of the property and casualty and workers' compensation.

Ms. Pastor stated the Arizona Municipal Risk Retention Pool is in a downward trend. The Pool voluntarily submitted their information to calculate experience modifications for the first time and their workers' compensation losses are leveling down.

Vice Chair Hennelly requested updated information for 2020 to verify the downward trend. Ms. Pastor will provide a six-month review.

Chairman Schultz was wondering the same based on the expenditures from 2017 and 2019 and inquired how much of that increase was due to claims.

Ms. Pastor noted that in the future she can indicate the property and casualty revenue and losses to compare both sides and detail the trend in claims.

Chairman Schultz explained the Commission's concern is simply making sure that the security is sufficient to cover the claims but what the Pool does with their surplus or equity is not a concern unless it puts them in a position of being underfunded.

Ms. Burleson will submit a copy of their Independent Financial Audit.

Chairman Schultz noted he did not have any issue with the renewal, although with things going on with cities and towns, the economy, COVID, and presumptive claims it is concerning and wants to make sure to watch things closely and act before it gets out of hand.

Vice Chair Hennelly moved to approve the self-insurance renewal for Arizona Municipal Risk Retention Pool and Commissioner Krenznel seconded the motion. Chairman Schultz, Vice Chair Hennelly and Commissioner Krenznel voted in favor of the motion. The motion passed.

Discussion and Action regarding Proposed Youth Employment Penalty.

CL-1819-0313 Coyotes Ice 2, LLC DBA Ice Den Scottsdale.

Ms. Padgett summarized the Labor Department's investigation, which included findings of various violations of A.R.S. § 23-233(A)(2), (A)(3), (A)(4) and (B). Ms. Padgett recommended that the Commission approve issuance of a Civil Penalty in the amount of \$1,000.00.

Chairman Schultz thanked Ms. Padgett for their thorough investigation and for including observations of the very active youth program, to demonstrate they are trying to do the right thing but also need to consider the regulations to keep these kids safe.

Commissioner Krenznel moved to approve issuance of a Civil Penalty in the amount of \$1,000.00 to Coyotes Ice 2, LLC DBA Ice Den Scottsdale. Vice Chair Hennelly seconded the motion. Chairman Schultz, Vice Chair Hennelly and Commissioner Krenznel voted in favor of the motion. The motion passed.

CL-1819-0424 Imagine Architectural Concrete, LLC

Ms. Padgett summarized the Labor Department's investigation, which included findings of various violations of A.R.S. § 23-231(A)(7). Ms. Padgett recommended that the Commission approve issuance of a Civil Penalty in the amount of \$100.00.

Commissioner Krenznel moved to approve issuance of a Civil Penalty in the amount of \$100.00 to Imagine Architectural Concrete, LLC. Vice Chair Hennelly seconded the motion. Chairman Schultz, Vice Chair Hennelly and Commissioner Krenznel voted in favor of the motion. The motion passed.

Discussion of the New Labor Salesforce System.

Mr. Ashley explained that for decades the Labor Department was using an IT system called Voyager which had limited functionality and lacked any possibility to integrate with other divisions when there is mission overlap. Considering the volume of the claims the department receives for wage claims, minimum wage, youth labor, and the implementation of earned paid sick time claims and retaliation, replacing the system became a top priority. The change to the Salesforce platform was completed in a short amount of time to fall within the 2020 fiscal year.

Ms. Padgett commented on the changes and improvements for the division noting there are approximately 300 claims a month for the six programs they oversee, and now the claims submitted

REPEAT SERIOUS – Citation 1 - Item 1 –

- a) 5531 E Main St, Mesa, AZ 85205: Five employees were installing Boral brand roof tile on the hotel's canopy rooftop 16ft above the ground level without a fall protection system in place. 29 CFR 1926.501(b)(10):

Irish Roofing Company LLC was previously cited for a violation of this Occupational Safety and Health Standard or its equivalent standard 1926.501(b)(13), which was contained in ADOSH Inspection Number 1441305, Citation Number 1, Item Number 1 and was affirmed as a Final Order on January 4, 2020 with respect to a workplace at 8311 E Via De Ventura, Bldg 34, Scottsdale, AZ 85254, and abated on November 4, 2019.

Div. Proposal - \$2,000.00

Formula Amt. - \$1,000.00

SERIOUS – Citation 1 - Item 2 –

- a) 5531 E Main St, Mesa, AZ 85205: Five employees were installing Boral brand roof tile on the hotel's canopy rooftop without receiving fall protection training. 29 CFR 1926.503(a)(1)

Div. Proposal - \$1,000.00

Formula Amt. - \$1,000.00

SERIOUS – Citation 1 - Item 3 –

- a) 5531 E Main St, Mesa, AZ 85205: Two employees were exposed to crystalline silica dust from dry cutting Boral brand roof tile with a STIHL gas power cut-off saw, model #TS410 and serial number without implementing a control method. 29 CFR 1926.1153(c)(1)

Div. Proposal - \$1,000.00

Formula Amt. - \$1,000.00

TOTAL PENALTY - \$4,000.00

TOTAL FORMULA AMT. - \$3,000.00

Mr. Atencio discussed ADOSH's investigation, summarized the citation and proposed penalties, and reviewed the photographs.

Chairman Schultz and Mr. Atencio discussed whether the PPE and fall protection were available, and the access to the roof which were not photographed or cited.

Mr. McClean noted he has been working with Mr. Carroll from Insured Compliance to become safety compliant. Mr. Carroll noted they are helping create and implement a stronger safe culture by focusing on policies in place and training on a regular basis. Following that they will be implementing tighter inspections to make sure the employees are following through with what is being taught as well as implementing and accountability programs. He noted Mr. McClean is very adamant about protecting his employees. Mr. Carroll noted he met Mr. McClean at an OSHA 10 hour training to try to better understand the requirements and how they can help his company run and be compliant with the OSHA standards.

Chairman Schultz noted that ADOSH consultation is always available and in addition the Roofers' Association offers fall protection training on almost a continuous basis and there is also a Roofers' Alliance at the Industrial Commission. The Roofers' Alliance works collaboratively with all of the members to share best practices and to help each other find the most cost-effective ways to comply and to provide the best protection for our workers. He suggested availing themselves of those programs.

Mr. Atencio noted Mr. Carroll with Insurance Compliance works collaboratively with ARCA and attends the Roofers Alliance meetings.

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

Chairman Schultz encouraged them to submit to Mr. Atencio their efforts of going forward to make it a safer place. Not everybody can keep up-to-date on everything all the time, but what is important is the culture and appreciate their comments about efforts to improve the safety culture.

Announcements, Scheduling of Future Meetings and Retirement Resolutions.

Mr. Ashley noted that the Governor and Dr. Christ will be holding a press conference at 3:00 pm.

Ms. Dimas confirmed Commission meeting dates through August 2020.

Ms. Dimas noted the online Claims Seminar for August 13 and 14 and if the Commissioners are interested in virtually attending. All Commissioners were interested in participating.

Public Comment.

There was no public comment.

Commissioner Krenzel moved to adjourn and Vice Chair Hennelly seconded the motion. Chairman Schultz, Vice Chair Hennelly and Commissioner Krenzel voted in favor of the motion and the meeting was adjourned at 2:34 p.m.

THE INDUSTRIAL COMMISSION OF ARIZONA

By James Ashley
James Ashley, Director

ATTEST:

Kara Dimas
Kara Dimas, Commission Secretary