

MINUTES OF MEETING
OF THE INDUSTRIAL COMMISSION OF ARIZONA
Telephonic Meeting
Held at 800 West Washington Street
Phoenix, Arizona 85007
Thursday, March 17, 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)
Jessie Atencio	ADOSH Director (Telephonic)
Steve Black	ADOSH Compliance (Telephonic)
Renee Pastor	Self Insurance (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 Holly Woonton and Sarah Powenski (Brightview Landscape Services); Steven P. Alvarado (Fisher Phillips LLP representing Brightview Landscape Services); and Nathan Madrigal (FL Smidth).

Approval of Minutes of March 10, 2022 Regular Meeting Minutes.

Commissioner Everett moved to approve the Minutes of the March 10, 2022 regular session meeting and Vice Chair Hennelly seconded the motion. Chairman Schultz, Vice Chair Hennelly and Commissioner Everett 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. 2CNP21/22-0389 Feed Right Pet Food Inc \$1000
2. CNP21/22-0355 Lena's Enterprises Inc dba Lena's Events & Rentals \$1000

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

1. Dignity Health
2. Maricopa County Community College District

Chairman Schultz commented on the excellent experience modification for Maricopa County Community College District.

Commissioner LeMarr moved to approve the items on the Consent Agenda 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.

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.

Brightview Landscape Services, Inc. 2902 E Illini St <u>Phoenix, AZ 85040</u>	Fatality/Catastrophe Years in Business: 7 Empl. Covered by Inspection: 8
Inspection No: FC-2022-V4364-0004 Inspection Date: October 21, 2021 Site Location: Southbound median of Cave Creek Rd Phoenix, AZ 85024	

Mr. Atencio summarized ADOSH's investigation and reviewed the file and photographs. ADOSH was not recommending a citation for Brightview Landscape Services, Inc.

Chairman Schultz checked if anyone from Brightview on the phone would like to comment.

Mr. Alvarado stated that they take safety very seriously at Brightview and this is obviously a very tragic accident and appears the motorist was going at a high rate of speed and was potentially distracted. They do not have a copy of the police report. They did cooperate fully with ADOSH and they are hoping to put this behind them and help their employees heal who were a part of this and had to witness this unfortunate incident.

Chairman Schultz thanked Mr. Alvarado for his comments.

Chairman Schultz asked if this was an ongoing project on Cave Creek.

Mr. Alvarado noted it was his understanding that it is an ongoing maintenance project for that particular area. Ms. Woonton noted she believed it was.

Chairman Schultz is familiar with this project and consistently sees the same crews and trucks there. He has been very impressed every time he goes by the crews, they are decked out in their PPE, working appropriately and taking all of the precautions he wished every landscaping service would take so many injuries would be avoided. They should be proud how they conduct their business.

Since there were no citations or penalties, the Commission took no action.

Chairman Schultz thanked Brightview for joining.

FL Smidth Inc.
5505 W Gillette Rd
Tucson, AZ 85743

Referral
Years in Business: 35
Empl. Covered by Inspection: 11

Inspection No: RF-2022-T3633-0018
Inspection Date: January 7, 2022
Site Location: 5505 W Gillette Rd
Tucson, AZ 85743

SERIOUS – Citation 1 - Item 1 –

- a) New machine shop: Employees operated a Union brand horizontal boring mill, unknown model and serial number, and the rotating cutting head of the mill was not guarded. 29 CFR 1910.212(a)(3)(ii)
- | | |
|----------------------------|---------------------------------|
| Div. Proposal - \$2,500.00 | Formula Amt. - \$2,500.00 |
| TOTAL PENALTY - \$2,500.00 | TOTAL FORMULA AMT. - \$2,500.00 |

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

Chairman Schultz checked if anyone on the phone would like to comment.

Mr. Madrigal did not have a statement.

Chairman Schultz thanked Mr. Madrigal for joining the call.

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

Announcements, Scheduling of Future Meetings and Retirement Resolutions.

Mr. Ashley congratulated Vice Chair Hennelly, Commissioner LeMarr and Commissioner Everett for successful, unanimous, bipartisan reappointment to the Commission.

Chairman Schultz thanked the Commissioners and expressed his appreciation for how much work they put in for this very important function and he could not do it without them.

Ms. Dimas confirmed Commission meeting dates through May 2022.

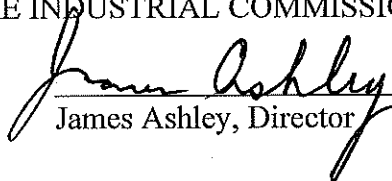
Public Comment.

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 1:44 p.m.

THE INDUSTRIAL COMMISSION OF ARIZONA

By


James Ashley, Director

ATTEST:



Kara Dimas, Commission Secretary