

MINUTES OF MEETING  
OF THE INDUSTRIAL COMMISSION OF ARIZONA

Telephonic Meeting  
Held at 800 West Washington Street  
Phoenix, Arizona 85007  
Thursday, May 6, 2021 – 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)  
Jessie Atencio ADOSH Director (Telephonic)  
Chandler Everett ADOSH Compliance (Telephonic)  
Carlos "Charlie" Preciado ADOSH Compliance (Telephonic)  
Don Kautz ADOSH Compliance (Telephonic)  
Joe Davis ADOSH Supervisor (Telephonic)  
Anna Maria Stonerock ADOSH Admin (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 Lynette Woodie and Mark Stallings (ABF Freight); George Woods and Kevin Cullens (City of Scottsdale); Evan Bauers (Alliance Companies for Arizona Structural Laminators, LLC); Manuel Curiel (Chaparaco Framing, LLC); Edegardo "Galo" Valenzuela and Rose Mesa (Mission Citrus, LLC); and Savannah Scharnhorst (Snell & Wilmer).

Approval of Minutes of April 29, 2021 Regular Meeting Minutes.

Commissioner Krenzel moved to approve the Minutes of the April 29, 2021 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 Proposed Civil Penalties Against Uninsured Employers.

1. 2CSP20/21-0090 Better Way Roofing LLC \$5,000
2. 2CNP20/21-0494 JM Enterprise II LLC dba The Monroe Bar \$1,000

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

1. ABF Freight
2. Honeywell International
3. Town of Gilbert

Chairman Schultz highlighted that Honeywell's .34 experience modification factor is the lowest of all members of the self-insured program, which is an amazing accomplishment.

Vice Chair Hennelly requested to have the Town of Gilbert moved forward to the regular agenda for further discussion. Chairman Schultz requested to have ABF Freight moved forward to the regular agenda for further discussion.

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

Approval of Requests for Renewal of Self-Insurance Authority.

3. Town of Gilbert

Vice Chair Hennelly requested clarification for the change from the initial experience modification factor established at 1.4 to the staff recalculation of 1.07.

Ms. Pastor explained that the staff calculation represents a pure loss cost experience modification factor which is based on incurred totals for medical and indemnity only.

Vice Chair Hennelly thanked Ms. Pastor for the information and inquired whether it was possible to determine a trend with respect to recalculated experience modification factor.

Ms. Pastor explained the process used by staff to determine the experience modification factors, and how it differs from the rates produced by NCCI.

Vice Chair Hennelly thanked Ms. Pastor and the Commission plans to monitor the Town of Gilbert to make sure they are moving in the right direction.

Ms. Pastor also noted that the Town of Gilbert is working towards VPP and working actively with ADOSH and being proactive in their safety programs.

Chairman Schultz thanked Ms. Pastor for her extra work which is the appropriate way to treat self-insureds for a number of reasons.

Vice Chair Hennelly moved to approve the self-insurance renewal for the Town of Gilbert and Commissioner Krenznel seconded the motion. Chairman Schultz, Vice Chair Hennelly, Commissioner LeMarr and Commissioner Krenznel voted in favor of the motion. The motion passed.

Approval of Requests for Renewal of Self-Insurance Authority.

1. ABF Freight

Chairman Schultz requested information on the number of actual claims and loss costs.

Ms. Pastor stated there are an average of 19 claims per year, and currently there are 23 open claims, the majority of which are from 2018 and prior. For 2021 the costs were \$143,000 and \$498,000 for all prior years. ABF Freight does not have many claims but they have an aging workforce. She also mentioned the programs that they are instituting.

Ms. Woodie provided additional background on ABF which operates in 50 states and has been in business for almost 100 years hauling all kinds of things, not all of which can be moved with a forklift. They have been self-insured in Arizona since 1979 and self-administered since 1997. They are interested in making sure that all of their injured workers are taken care of and receive their timely benefits. The number of claims and the costs of the claims are increasing. Ms. Woodie highlighted their excellent safety program which won the American Trucking Association President's Trophy for Safety seven times. They have 12 regional safety managers who conduct inspections at all ABF facilities, they have safety training for all ABF employees monthly, and have a corporate based loss prevention program which provides safety information to all employees monthly. Additionally, ABF is working with ADOSH Consultation to inspect the facility. They hope to bring down their experience modification factor again, and would like to continue their self-insurance and will work for ADOSH and whatever they need to do.

Chairman Schultz thanked Ms. Woodie for sharing and recognized the excellent programs but understands the nature of the industry and how difficult loss control is because they do not have people in one place.

Commissioner Krenzel moved to approve the self-insurance renewal for ABF Freight 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.

#### City of Scottsdale Workers' Compensation Safety Program Update.

Mr. Woods provided an update regarding the City of Scottsdale:

The City has implemented Triage Now beginning in February and noticed the utilization rate for public safety employees is about 25% and all other city employees are at about 35%. He has challenged and incentivized the police and fire departments to get those numbers to 40% with these two departments leading the way that would help with the experience modification factor. Since February he noted a reduction both in claims being reported and medical treatment being sought.

The City entered in the Public Entity Partnership Program ("PEPP") with ADOSH on May 4, 2021 and fully enrolled in the program with Water, Public Safety, Community Services and Public Works Divisions. Consultation under PEPP will begin next month and the City is looking forward to seeing what can be cleaned up.

The City established a new classification for a Safety and Training Coordinator within Risk Management in an effort to increase the presence in the City hoping to expand so that every department has a safety coordinator that would report to Risk Management.

The City has expanded the Safety and Health Reward Incentive Program for the Police Department designed to ramp up the fitness and wellness of the department.

The City Risk Management increased its meeting frequency with the City departments that have been identified to have a large loss history.

The City implemented a new Learning Management System to streamline and update the safety, health, wellness and ADA training and technology to reach more employees.

The City actively engaged with Facilities Management team to develop a preventative maintenance program to help reduce injuries.

Mr. Cullens provided an update on WestWorld of Scottsdale which sits on federal lands and has different requirements but has the same challenges as other parts of the City and included in the changing plan and resources.

The City is going to revamp the supervisor's report of accident ("SRA") to obtain better information to ascertain how the injury occurred and pull more information from the employee initially.

Chairman Schultz enjoyed the updates from Mr. Wood and Mr. Cullens and learning what the City accomplishes from meeting to meeting, and applauded Mr. Wood and Mr. Cullens for their work.

Ms. Pastor asked if the Commission would like to continue with the quarterly updates or would rather have an update at the next renewal.

Chairman Schultz suggested Ms. Pastor checked with the City for the next quarter to decide if the City wants to present anything otherwise it can be at the next renewal, because the program is on track.

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.

Arizona Structural Laminators, LLC	Referral	
2000 W Central Ave	Years in Business:	15
<u>Eagar, AZ 85925</u>	Empl. Covered by Inspection:	41
Site Location:	2000 W Central Ave	
	Eagar, AZ 85925	
Inspection No:	V0936 -1514207	
Inspection Date:	02/08/2021	

SERIOUS – Citation 1 - Item 1 –

- a) 2000 W Central Ave Eagar, AZ 85925: The employer did not ensure the glue line was kept clean and orderly, as clamps and other work materials accumulated on the walking-working surface of employees.

- b) 2000 W Central Ave Eagar, AZ 85925: The employer did not ensure that the production shop was clean and orderly, as large quantities of sawdust was accumulated on the floor. 29 CFR 1910.22(a)(1)  
Div. Proposal - \$900.00 Formula Amt. - \$900.00

SERIOUS – Citation 1 - Item 2 –

- a) 2000 W Central Ave Eagar, AZ 85925: Two employees were exposed to high levels of noise averaging a time-weighted-average above 85 dBA without being provided audiometric testing. 29 CFR 1910.95(g)(1)  
Div. Proposal - \$1,200.00 Formula Amt. - \$1,200.00

SERIOUS – Citation 1 - Item 3 –

- a) 2000 W Central Ave Eagar, AZ 85925: A gantry crane, model and serial number unknown, was used with a hook without a hook keeper attached to lift a weight for the glue line without meeting the manufacturer's recommendations. 29 CFR 1910.179(h)(4)  
Div. Proposal - \$1,200.00 Formula Amt. - \$1,200.00

SERIOUS – Citation 1 - Item 4 –

- a) 2000 W Central Ave Eagar, AZ 85925: One employee was exposed to an in-going nip point while using a chop saw, model and serial numbers unknown, without guards attached. 29 CFR 1910.212(a)(1)  
Div. Proposal - \$1,200.00 Formula Amt. - \$1,200.00

SERIOUS – Citation 1 - Item 5a –

- a) 2000 W Central Ave Eagar, AZ 85925: One employee was required to use a Northfield table saw, model and serial numbers unknown, to create cambers for wood products without spreaders on the table saw. 29 CFR 1910.213(c)(2)  
Div. Proposal - \$1,200.00 Formula Amt. - \$1,200.00

SERIOUS – Citation 1 - Item 5b –

- a) 2000 W Central Ave Eagar, AZ 85925: One employee was required to use a Northfield table saw, model and serial numbers unknown, to create cambers for wood products without anti-kickback fingers attached. 29 CFR 1910.213(c)(3)  
Div. Proposal - \$0.00 Formula Amt. - \$1,200.00

SERIOUS – Citation 1 - Item 6 –

- a) 2000 W Central Ave Eagar, AZ 85925 (glue line): The shaft ends of the glue line conveyor belt were projected more than one half the diameter of the shaft.  
b) 2000 W Central Ave Eagar, AZ 85925 (chop saw): The shaft end of the chop saw belt projected more than one half the diameter of the shaft. 29 FR 1910.219(c)(4)(i)  
Div. Proposal - \$1,200.00 Formula Amt. - \$1,200.00

SERIOUS – Citation 1 - Item 7 –

- a) 2000 W Central Ave Eagar, AZ 85925: One employee was exposed to a hazardous substance such as, diesel, without receiving training. 29 CFR 1910.1200(h)(1)  
 Div. Proposal - \$900.00 Formula Amt. - \$900.00  
 TOTAL PENALTY - \$7,800.00 TOTAL FORMULA AMT. - \$9,000.00

Mr. Atencio discussed ADOSH's investigation, summarized the citation, and reviewed the photographs. Mr. Atencio noted for Citation 1, Item 2 the proposed penalty was not adjusted for size, so he made that correction; the proposed penalties are as listed above. Compliance Officer Everett was also available for questions.

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

Mr. Bauers, the Safety Director for Alliance Companies, explained that this company has had some hard issues over the last year with COVID 19, because half of their labor force was required to be replaced because they relied upon inmate labor. He started working with the company closely over the past year because of some of these issues they are having and tried to improve the company's safety practice by conducting job hazard analyses and safety observations. The company has made progress over the last year. Some of the citations and penalties have been corrected, the spray bottles are labeled, the table saw now has the spreaders, the chop saw was replaced, and the hazard protection and hearing protection programs are now in place.

Chairman Schultz thanked Mr. Bauers and was pleased to learn about the progress of abatement and development of more comprehensive programs, which is the information the Commission looks for in trying to evaluate the proposed penalties and citations.

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

Chaparaco Framing, LLC  
 7433 E Glacier Pk Ct  
 Tucson, AZ 85745

Planned  
 Years in Business: 10  
 Empl. Covered by Inspection: 6

Site Location: 3256 N Baby Bruno Way  
 Tucson, AZ 85629  
 Inspection No: E7721 -1516440  
 Inspection Date: 02/24/2021

SERIOUS – Citation 1 - Item 1 –

- a) 3256 N Baby Bruno Way, Tucson, AZ 85745: Three framers were observed working at a height of twelve feet without fall protection installing sheets of four-by-eight plywood on trusses. 29 CFR 1926.501(b)(13)  
 Div. Proposal - \$2,000.00 Formula Amt. - \$2,000.00

SERIOUS – Citation 1 - Item 2 –

- a) 3256 N Baby Bruno Way, Tucson, AZ 85745: Three framers were observed working on a new single-story home installing oriented stranded board (OSB) to the roof trusses without training. 29 CFR 1926.503(a)(2)(i)



remained on without training on Lockout/Tagout procedures. 29 CFR 1910.147(c)(7)(i)(A)  
Div. Proposal - \$0.00 Formula Amt. - \$4,000.00

SERIOUS – Citation 1 - Item 2 –

- a) Dump Site location: Employees worked in close proximity to three conveyor belt shafts on the right side that protruded more than one and one half the diameter of the rusted shaft that had exposed key slots.
- b) Dump Site location: Employees worked in close proximity to three conveyor belt shafts on the left side that protruded more than one and one half the diameter of the rusted shaft that had exposed key slots. 29 CFR 1910.219(c)(4)(i)  
Div. Proposal - \$1,200.00 Formula Amt. - \$1,200.00

NON-SERIOUS – Citation 1 - Item 1 –

- a) 3250 E 30th ST, Yuma, AZ 85365: An amputation was not reported to ADOSH after a housekeeping laborer's right foot was amputated when it got caught through a moving auger that grinds fruit debris on a conveyor system. 29 CFR 1904.39(a)(2)  
Div. Proposal - \$800.00 Formula Amt. - \$800.00
- TOTAL PENALTY - \$6,000.00 TOTAL FORMULA AMT. - \$10,000.00

Mr. Atencio discussed ADOSH's investigation, summarized the citations and proposed penalties, and reviewed the photographs. Mr. Atencio also noted that Compliance Officer Preciado was also available for questions.

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

Ms. Mesa pointed out that Photograph 4 is a mesh guard that was installed after the accident and the metal cover in Photograph 3 is now covered with the mesh guard in Photograph 4 where a mesh grate was put over the opening.

Ms. Mesa noted the auger is going to be removed and replaced with a high water pressure system.

Chairman Schultz noted that sounded like a wonderful improvement.

Ms. Mesa discussed that while they have training and lockout/tagout procedures they are not implemented like they should be. Starting in September Able Almanza and Roberto Ramirez from Alliance will do the lockout/tagout training and safety training. Additionally, Mr. Valenzuela does everyday reminders of safety, but if it is not documented you are not doing it. Unfortunately, this accident was very serious, and Mr. Valenzuela is very upset to have an 18 year old lose part of his leg.

Chairman Schultz thanked them for their comments and appreciated the fact that they are going to replace the equipment and asked about the cost of replacement.

Mr. Valenzuela was unsure of the cost.

Chairman Schultz complimented the housekeeping supervisor who reacted so quickly.



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 Krenzel voted in favor of the motion. The motion passed.

Ms. Mesa thanked Mr. Atencio and Mr. Preciado for all of the help and the opportunity to hear them out.

#### Announcements, Scheduling of Future Meetings and Retirement Resolutions.

Mr. Ashley talked about Arizona's Connected Workforce, which is an initiative consisting of a long term detailed plan to maximize telework opportunities for State employees in Arizona. The initiative started the process with a workgroup spearheaded by Sarah Pirzada and Chief Daniel Ruiz at the Governor's Office. Months ago, a poll was conducted of every state employee about their views on telework. Some of the identified "pros" were time and gas savings, a better work life balance and a better ability to focus without the usual workplace distractions. Some of the identified "cons" were feeling disconnected from colleagues, not having the necessary hardware or connectivity issues. The agency has worked aggressively to counter these "cons" by encouraging the divisions to maintain rapport and by making cellphones available to employees who spend a significant amount of the day on the phone and providing agency laptops. A third con listed statewide was having additional family members at home. Overall 76% of state employees viewed telework as a significant employee benefit.

Prior to COVID 19 about 6% of state employees recorded at least one day of telework per week. That changed dramatically in March and April of 2020 and statewide that rose to about 43% considering state employees that cannot telework to a great extent like the Department of Corrections, Department of Public Safety, and ADOT, which would have increased the percentage significantly.

Arizona's Connected Workforce includes four computer based training videos: Remote Work Basics; Successful Communication and Teamwork in a Remote Work Environment; Ergonomics and Safety in the Home Office; and Security Concerns in a Remote Work Environment.

Related to Ergonomics and Safety in the Home Office, Jessie Atencio and Jordan Senia from the ICA led the safety focus of the Arizona Connected Workforce workgroup and created training documents.

Mr. Atencio stated he helped out with the meetings and their focus was ergonomics and to ensure that the employees that were going to be working from home assess their workplace for themselves. ADOA had really good ergonomic videos but were missing the instructional piece for supervisors or managers to help facilitate the dialog in the event someone working from home has a question. He noted it was a great experience and there are so many talented professionals working within state government.

Chairman Schultz thanked Mr. Atencio and Mr. Senia for their work in addition to their normal work, and looks forward to seeing the videos and what was created for the Commission. He appreciated that, once again, the Agency is leading the way.

Mr. Ashley shared an email he received from a gentlemen named Scott Richards with Schindler regarding his interaction with Steve Harder the Unit Chief for Elevators who is pulling

dual responsibilities as Unit Chief for Boilers. The email stated "I've been in four different markets, Los Angeles, San Diego, Hawaii and now Phoenix. No doubt you are the best I have ever worked with." Very quick and to the point email congratulating the elevator team.

Chairman Schultz offered his congratulation to Mr. Harder, and noted he is stretching to cover the two areas and doing a great job.

Mr. Ashley thanked Commissioner LeMarr and Commissioner Krenzel for stopping by the office to sign Resolutions and visiting ADOSH.

Ms. Dimas confirmed Commission meeting dates through June 2021.

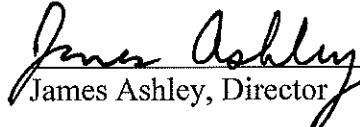
Public Comment.

There was no other 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 3:21 p.m.

THE INDUSTRIAL COMMISSION OF ARIZONA

By

  
James Ashley, Director

ATTEST:



Kara Dimas, Commission Secretary