

MINUTES OF MEETING
OF THE INDUSTRIAL COMMISSION OF ARIZONA
Held at Pinetop-Lakeside City Hall, Council Chambers
325 W. White Mountain Boulevard, Lakeside, AZ 85929
Thursday, May 16, 2019 – 1:30 p.m.

Present:	Dale L. Schultz	Chairman
	Joseph M. Hennelly, Jr.	Vice Chair
	Scott P. LeMarr	Commissioner
	James Ashley	Director
	Gaetano Testini	Chief Legal Counsel
	Trevor Laky	Legislative Affairs Chief / Public Information Officer
	Renee Pastor	Self-Insurance (Telephonic)
	Phil Murphy	Assistant ADOSH Director
	Kara Dimas	Commission Secretary

Chairman Schultz convened the meeting at 1:30 p.m. Also in attendance were Keith Johnson (Pinetop-Lakeside Town Manager), and Jim Snitzer and Lynn Krigbaum (Pinetop-Lakeside Town Council).

Approval of Minutes of April 25, 2019 Regular Meeting and May 9, 2019 Regular Meeting.

Because a quorum of Commissioners who were present at the April 25, 2019 and May 9, 2019 regular session meetings were not present, the agenda item for approval of the Minutes of the April 25, 2019 and May 9, 2019 regular session meetings were moved to the agenda of the next regular meeting.

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. The Home Depot, Inc.
 2. The Salvation Army USA, Western Territory

Commissioner LeMarr moved to approve the items on the Consent Agenda and Vice Chair Hennelly seconded the motion. Chairman Schultz, Vice Chair Hennelly and Commissioner LeMarr 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.

The Sherwin-Williams Company
 dba Sherwin-Williams Store #1602
 225 W Willis St.
 Prescott, AZ 86301

Complaint
 Years in Business: 152
 Employ. Covered by inspection: 2

Site Location: 225 W Willis St.
 Prescott, AZ 86301
 Inspection No: N8278 - 1366263
 Inspection Date: 12/14/2018

SERIOUS – Citation 1 - Item 1 –

- a) Sherwin-Williams Store #1602: One employee was exposed to a corrosive chemical such as Tile-Clad HS High Solids Epoxy (Part A) without immediate access to an emergency eyewash station. 29 CFR 1910.151(c)
 Div. Proposal - \$1,500.00 Formula Amt. - \$1,500.00

SERIOUS – Citation 1 - Item 2 –

- a) Sherwin-Williams Store #1602: Two employees were exposed to hazardous chemicals such as PROMAR 200 Interior Latex Flat Paint, Exterior Oil Based Wood Primer, Multi-Purpose Water based Acrylic-Alkyd Primer, Water Blocking Interior Latex Primer, Water Blocking Interior Latex Primer/Finish, Extreme Cover Stain Blocking Paint and Primer in One Egg-Shell Extra White, Sher-Wood BAC Wiping Stain, Direct-to-Metal Alkyd Enamel, All Surface Enamel, and Sher-Kern High Gloss Metal Finishing Enamel without receiving effective information and training. 29 CFR 1910.1200(h)(1)
 Div. Proposal - \$1,500.00 Formula Amt. - \$1,500.00

TOTAL PENALTY - \$3,000.00 TOTAL FORMULA AMT. - \$3,000.00

Mr. Murphy discussed ADOSH’s investigation, summarized the citation and proposed penalties, and reviewed the photographs.

Commissioner LeMarr and Mr. Murphy discussed the quality and location of the eyewash station.

Vice Chair Hennelly, Chairman Schultz and Mr. Murphy discussed the penalty amounts, Mr. Murphy explained that Sherwin-Williams was not entitled to a ten percent history reduction since there was no previous inspection within the required timeframe.

Chairman Schultz recapped the citation, noting there was an anonymous complaint with six potential hazardous conditions and four were not found valid. There was a robust safety program, good documentation and training. The documentation indicates that the proposed citations are virtually the same as the Field Operations Manual with \$1,500 for each of the two citations.

Commissioner LeMarr added that the pictures portray a clean environment, the employer had a good safety program, and photograph #3 does not show the doorways needed to travel through to reach the eyewash station. Mr. Murphy agreed that the photograph does not show the doorways.

Commissioner LeMarr stated the two citations appear to be for the same hazard, there was a safety program, MSDS sheets, and questioned why would there be a citation for item #2. Mr. Murphy

explained that the training provided by the employer for exposure to hazardous chemicals does not necessarily train the employees prior to being exposed.

Commissioner LeMarr moved to amend the citation based on the company's strong safety program, stellar eyewash station, clean work environment, and items properly labeled and stacked, by proposing a 25% good faith reduction of Citation 1, Items 1 and 2 reducing the citations to \$1,125 for each citation and a total of \$2,250.00. Vice Chair Hennelly seconded the motion. Chairman Schultz, Vice Chair Hennelly and Commissioner LeMarr voted in favor of the motion. The motion passed.

Discussion and/or action regarding Industrial Commission goals, objectives and key initiatives for 2019. This Agenda Item may include discussion regarding the Commission budget and review of Division, Department, and Section specific objectives.

Mr. Ashley noted this will wrap up a beneficial and informative out of town outreach trip to Show Low and Pinetop-Lakeside. He thanked Show Low Mayor Daryl Seymore, Show Low Council Members and City Manager. He thanked Pinetop-Lakeside Mayor Stephanie Irwin and the Council Members for Pinetop-Lakeside and Pinetop-Lakeside Town Manager, Mr. Keith Johnson. The trip was informative and showed additional ways to work collaboratively.

The tours of the Show Low Waste Water Treatment Facility and the Navopache Electric Co-Op Facility were very revealing and demonstrated the impressive way the communities are successfully addressing the challenges they face and providing superior service to their residents while maintaining high safety standards.

Mr. Ashley noted how the agency acknowledges accomplishments within the agency by awarding a monthly Golden Hard Hat Award. In April the Legal Compliance Unit received the award based on their improvements in making sure employers are covered for workers' compensation coverage as tracked under the Arizona Management System. In May the Medical Resource Office received the award for setting the Physician and Pharmaceutical Fee Schedule and Treatment Guidelines and reducing opioid use and abuse in the industry. He noted that Jacqueline Kurth and Renee Englen received a commendation from the Governor for their work on opioid reduction.

Mr. Ashley noted the agency is partnering with Federal OSHA on communication regarding OSHA Truck Standards requesting stakeholder input for potential rulemaking for the Powered Industrial Truck Standards used in the General, Construction and Maritime Industries. Federal OSHA is hoping to reduce regulatory burdens and create jobs while improving workplace safety.

Mr. Ashley reminded the commissioners that in March, while in Yuma, there was a discussion of another Federal OSHA program regarding Heat Stress. The Industrial Commission of Arizona is working on public safety announcements utilizing radio spots geared toward the Agriculture Industry related to heat stress awareness.

Mr. Ashley discussed the Annual Safety Stand Down process and the participation around the state.

Announcements, Scheduling of Future Meetings and Retirement Resolutions.

Ms. Dimas confirmed Commission meeting dates through July 2019. We will need to confirm Commissioner Krenzel's availability.

Public Comment.

There was no public comment. Commissioner LeMarr thanked everyone for the hospitality and commented he appreciated seeing Pinetop, and noted the community shows good responsible leadership and government. Chairman Schultz seconded that and noted the turnout of members exceeds communities many times their size and showed the cohesiveness of officials looking for opportunities to collaborate to improve their community.

Vice Chair Hennelly moved to adjourn and Commissioner Krenzel seconded the motion. Chairman Schultz, Vice Chair Hennelly and Commissioner LeMarr voted in favor of the motion and the meeting was adjourned at 2:01 p.m.

THE INDUSTRIAL COMMISSION OF ARIZONA

By  _____
James Ashley, Director

ATTEST:

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Kara Dimas, Commission Secretary