

MINUTES OF MEETING
OF THE INDUSTRIAL COMMISSION OF ARIZONA

Telephonic Meeting

Held at 800 West Washington Street

Phoenix, Arizona 85007

Thursday, October 22, 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)
Renee Pastor	Self Insurance (Telephonic)
Jessie Atencio	ADOSH Director (Telephonic)
Victoria Kamm	Labor Supervisor (Telephonic)
Melissa Spurgeon	Labor Investigator (Telephonic)
Michael Mosesso	Chief Administrative Law Judge (Telephonic)
Marilyn Carter	Human Resources (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 George Woods, Denise Plug, Brian Heaton and Kevin Cullens (City of Scottsdale).

Approval of Minutes of October 8, 2020 Regular Meeting Minutes.

Commissioner Krenzel moved to approve the Minutes of the October 8, 2020 regular session meeting 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.

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. 2CNP19/20-0529 McElroy's Automotive LLC \$1,000
2. 2CC20/21-0036 Navarrete Construction LLC \$1,000
3. 2CSP20/21-0001 Tasa Restoration Services LLC fka Tasa Network & Service Solutions \$5,000

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

1. Dole Food Company, Inc.
2. Hyatt Corporation
3. DG Retail, LLC

c. Discussion and Action regarding Proposed Youth Employment Penalty.

1. CL-1819-0522 Stockbridge Energy Group, LLC \$700
2. CL-1920-0003 PMS Associates, LLC a Washington Limited Liability Company \$600
3. CL-1920-0004 Sun Country Floors, Inc. \$200
4. CL-1920-0262 Rouser Concrete, LLC \$200

Chairman Schultz complimented Dole Food Company on their excellent experience modification factor.

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

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

Ms. Pastor noted that on February 27th the Commissioners requested additional review after six months of the City of Scottsdale ("Scottsdale") and their fund. The review was delayed because of changes with the Risk Management staff. Mr. Woods, the new Risk Manager, has hired additional staff including a new Safety Manager, Mr. Cullens. Ms. Pastor compared the prior and current reports. Ms. Pastor talked about the previous use of ADOSH consultation and stated Scottsdale has entered the PEPP program for various departments. Based on their claims ratio and financial information she recommended that Scottsdale maintain an exemption. She introduced Mr. Woods from Scottsdale who presented on the changes that they have made and intend to make.

Mr. Woods thanked the Commission for the opportunity to explain their new approach to tackle the high experience modification factor. Because public safety, and specifically the police and fire departments are driving their high e-mods their focus will be police and fire. Scottsdale has purchased a new claims system, Origami, which enables them to better extrapolate data. With the new tools, they are able to focus and drive change in those departments as opposed to burdening the entire city. With COVID impacting revenue and limited resources, this is the best approach. Since the majority of the claims seem to be sprains and strains which lead to surgeries and LEC payments and drive the costs and e-mod up, they are starting to focus on removing some of the potential hazards that lead to sprains and strains by consulting with other cities and management networks for ergonomic friendly materials for officers and firefighters.

The fire department injuries are inherent to what they do given the expectation to perform their duty to save lives and protect property. The Origami system allows the city to focus on when the injuries are occurring and the cause.

Mr. Woods spoke of a recent ADOSH Consultation at one of their facilities and will continue to partner with ADOSH to inspect other facilities in addition to joining the PEPP program.

Mr. Atencio added that ADOSH is familiar with the systems that Mr. Woods highlighted from other VPP programs. Scottsdale is on the brink of joining the PEPP program.

Mr. Wood appreciated the information provided by Mr. Atencio and wanted to relate some of the tools, ideas and approaches they are using. They are looking for a partnership with everyone involved to improve the program moving forward and any and all help is appreciated.

Chairman Schultz commented that being data driven is important, but the emphasis must be on "driven". The data leads you to what needs attention, but the driven is what gets the job done. Chairman Schultz appreciates the 85% confidence level used in the city's analysis. Chairman Schultz believes Scottsdale is going in a direction to achieve favorable results in a short period of time, and appreciates Scottsdale joining the PEPP program because collaborative efforts are the way to actually affect the safest workplaces for our workers in Arizona. He was impressed with the presentation and more impressed by how aggressive Scottsdale is in attacking these issues and expects to see some real change.

Vice Chair Hennelly echoed the Chairman's sentiments for the thorough presentation and the actions they are taking. The confidence level on the actuarial review gives him a level of confidence with respect to Scottsdale's ability to perform its functions and meet its obligations.

Chairman Schultz noted no action is required unless a Commissioner wishes to make a change in either authorization to continue self-insurance or the waiver of the security requirement. Hearing none Chairman Schultz thanked Mr. Woods and his team for joining the meeting and taking the time and thanked Ms. Pastor for her efforts to analyze these companies and really help them to improve their programs while keeping the Commission protected.

Discussion and/or Action regarding the Consideration of Candidates for the Administrative Law Judge Position, discussion regarding interview questions, second interviews, and the salary. The Commission may move into Executive Session under A.R.S. §§ 38-431.03(A)(1) and (A)(3) to obtain legal advice and to discuss the candidates and the salary.

Judge Mosesso has been recruiting and has put together a hiring list to fill an Administrative Law Judge position for the Phoenix office. Judge Mosesso is also in the hiring process for an Administrative Law Judge for the Tucson office but will bring that recommendation to the Commission at a future date. There were six candidates chosen from the interviews. He recommended that the Commission offer the position to Candidate #4, the Commission is familiar with this candidate who is highly qualified and has been working in the workers' compensation field for a while, including previously as a judge.

Judge Mosesso noted that the interview panel agreed that Candidate #4 was the top candidate for the Phoenix position.

Chairman Schultz asked the Commissioners if there was a need for an Executive Session for further discussion or if the Commissioners were comfortable with the recommendation from Judge Mosesso and wished to make a motion. Commissioner LeMarr moved to accept Judge Mosesso's recommendation of Candidate #4. Vice Chair Hennelly seconded the motion. Vice Chair Hennelly has been spending time getting to know the ALJs during State Bar seminars, and the recommendation is excellent, and he supports it based on his experience. Chairman Schultz agreed. Chairman Schultz, Vice Chair Hennelly, Commissioner LeMarr and Commissioner Krenzel voted in favor of the motion. The motion passed.

Chairman Schultz complimented Judge Mosesso on the materials and stated he is overwhelmed by the quality of the candidates and he is sure the panel worked very hard to make the recommendation and he is pleased with the group selected for presentation. Judge Mosesso noted it was a good group with potential and thanked the Commissioners for the opportunity.

Announcements, Scheduling of Future Meetings and Retirement Resolutions.

Mr. Ashley noted that he and a couple of the members of this meeting will shortly be joining the virtual meeting with the Home Builders Association of Central Arizona this afternoon to celebrate 19 partnerships that are being formed between ADOSH and the Home Builders.

Mr. Ashley shared that today the ICA wrapped up its VPP Audit, as a result from the conditional status received last November with a number of items that needed to be addressed, and the good news is that the Industrial Commission of Arizona Phoenix building will be recommended for VPP Star status. The process for the Tucson building is advancing. Achieving this status is an assurance of the successful measures that we have been taking and a reminder of our adherence to continual improvement.

Chairman Schultz congratulated Mr. Ashley and knows how hard the team worked, from the safety committee and departments, to each person in the Commission who were so involved in the process and VPP exemplifies continuous improvement and continuous learning which fits so much into the overall culture that has been developed at the agency. He was pleased that the Commission did get the designation that everyone worked so hard for. It is cause for a celebration when we figure out how to do a socially distant celebration.

Ms. Dimas confirmed Commission meeting dates through December 2020.

Public Comment.

There was no public comment.

Commissioner Krenzle moved to adjourn and Commissioner LeMarr seconded the motion. Chairman Schultz, Vice Chair Hennelly, Commissioner LeMarr and Commissioner Krenzle voted in favor of the motion and the meeting was adjourned at 1:56 p.m.

THE INDUSTRIAL COMMISSION OF ARIZONA

By


James Ashley, Director

ATTEST:


Kara Dimas, Commission Secretary