

MINUTES OF MEETING
OF THE INDUSTRIAL COMMISSION OF ARIZONA
Held at 800 West Washington Street
Conference Room 308
Phoenix, Arizona 85007
Wednesday, April 23, 2014 – 1:00 p.m.

Present:	David M. Parker	Chairman (video conference)
	Susan Strickler	Vice Chair
	Kathleen Oster	Member
	Michael G. Sanders	Member (telephonic)
	Joseph M. Hennelly, Jr.	Member
	Laura McGrory	Director
	Andrew Wade	Chief Counsel
	Renee Pastor	Manager, Self Insurance
	Larry Gast	Asst. Director, ADOSH
	Kara Dimas	Legal Dept.
	Yvonne Borunda	ALJ Division
	Teresa Hilton	Commission Secretary

Chairman Parker convened the Commission meeting at 1:00 p.m. noting a quorum present. Mr. Sanders had not yet joined the meeting. Also in attendance were Scot Butler, Commission lobbyist; Scott Coulter and Harry Griffith of U.S. Carpentry; Tom Carroll of Maricopa County; Stephanie Coulter of the Cavanagh Law Firm; and Andrea Lewis of Snell and Wilmer.

Approval of Minutes of April 17, 2014 Meeting

The Commission approved the Minutes of the April 17, 2014 meeting on motion of Mr. Hennelly, second of Ms. Oster with a vote of 3 in favor and none against. Ms. Stickler was not present for that meeting and did not participate in the voting on the Minutes.

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. 2C13/14-1476 Andy Sutton & Santa Sutton, Husband & Wife, dba Mi Casa Restaurant
2. 2C13/14-1171 NASA Auto Electric, Inc. dba NASA Complete Auto Service
3. 2C13/14-0151 Ramsey Canyon Inn, L.L.C. dba Ramsey Canyon Inn Bed & Breakfast

4. 2C13/14-0878 S and D Lewis Partners, LLC dba Sacred Hogan Navajo Frybread
5. 2C13/14-1490 Serenity Assisted Living of Havasu, L.L.C. dba Serenity Assisted Living
6. 2C13/14-1682 TAK Development, Inc.

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

1. City of Yuma
2. Costco Wholesale Corporation
3. Mesa Unified School District No. 4
4. Tucson Unified School District No. 1

Chairman Parker stated that he was removing consideration of self-insurance renewal for Costco from the consent agenda. The Commission unanimously approved the remaining items on the consent agenda on motion of Ms. Strickler, second of Ms. Oster.

Discussion & Action of Request for Renewal of Self-Insurance Authority

Costco Wholesale Corporation – Chairman Parkier commented that the experience modification rate has gone up.

Mr. Sanders joined the meeting telephonically at this point.

Mr. Parker further stated that staff has been working with Costco to try and reduce losses and asked Ms. Pastor to get with the new risk manager so they recognize the high experience modification rate and make sure they know that the Commission would like to see improvement in that ratio next year. The Commission unanimously approved renewal of self-insurance authority on motion of Mr. Parker, second of Ms. Oster.

Discussion &/or Action regarding Legislation

Scot Butler presented a brief summary of legislative activity and advised that the session may sine die tomorrow or could continue for another 10 days. He summarized recent activity on SB's 1181, 1284 and 1307 and responded to questions from the Commissioners.

Discussion & Action of OSHA Proposed Citations & Penalties

MNI Enterprises Inc. dba U.S. Carpentry Tucson, LLC
 3131 S. Country Club Rd.
 Tucson, AZ 85713-4048

Complaint
 Yrs/Business – 30
 Empl. Cov. by Insp. – 5

Site Location: 754 E. Seneca St., Tucson, AZ 85719
 Inspection #: N7988-317449627
 Insp. Date: 11/20/2013

WILLFUL SERIOUS – Citation 1 - Item 1 – Roof-top: Two employees were observed working on the roof-top of a two-story residential structure that was approximately 20' above the ground level and had a pitch of 4:12, and were not utilizing any fall protection. (A.R.S. § 23-492.04(G)(1)(a)).

Div. Proposal - \$56,000.00

Formula Amt. - \$56,000.00

WILLFUL SERIOUS – Citation 1 - Item 2 – A site specific written residential fall protection plan was not prepared and implemented to reduce or eliminate fall hazards for employees engaged in activities six feet or more above lower levels. (A.R.S. § 23-492.07(A)(1)).

Div. Proposal - \$56,000.00

Formula Amt. - \$56,000.00

SERIOUS – Citation 2 - Item 1 – Northside of House, Second Floor: A top guardrail was not installed on a window opening where the height of the sill was 34", and the drop to the outside was approximately 13'. (A.R.S. § 23-492.03(I)(1)).

Div. Proposal - \$ 1,500.00

Formula Amt. - \$ 1,500.00

TOTAL PENALTY - \$113,500.00

TOTAL FORMULA AMT. - \$113,500.00

Larry Gast summarized the citations and proposed penalty as listed and responded to questions from the Commissioners. In response to a question from Mr. Parker, he explained why the citation 1 Items 1 and 2 were not grouped for purposes of a penalty. Ms. Strickler asked if ADOSH had received the plan for the site and Mr. Gast and Mr. Wade responded to the question. Ms. Oster asked if Legal had reviewed the file. Mr. Wade stated that Legal has completed its review and the file contains sufficient evidence to support the willful classification. Mr. Sanders noted that this is a large employer and asked if ADOSH had any current plan to inspect any other work sites. Mr. Gast responded to the question. Mr. Parker noted that representatives from the company were present and asked if they wished to address the Commission with any clarifications or incorrect information that may have been presented. They stated they were just here to listen. The Commission unanimously approved issuing the citations and assessed the recommended penalty of \$113,500.00 on motion of Ms. Oster, second of Mr. Hennelly. Mr. Parker recommended to the company's representatives to follow-up with the Director of ADOSH regarding an informal conference.

Discussion &/or Action regarding Residential Fall Protection and Federal OSHA's Notice of Initiation of Proceedings to Reject State Initiated Plan Change No. 133, and Reconsider Arizona's State Plan Authority under Section 18(e) of the Occupational Safety and Health Act. The Commission may move into Executive Session under A.R.S. §§ 38-431.03(A)(3) and (A)(4) to consult with its attorneys to obtain legal advice and to consider its position and instruct its attorneys regarding pending or contemplated litigation

Ms. McGrory advised that the Governor has signed SB 1307 and that Federal OSHA has allowed for one additional week after the end of the Legislative session to respond to the Federal OSHA show cause letter. The Commission unanimously voted to go into Executive Session on motion of Ms. Strickler, second of Mr. Sanders.

The Commission returned to General Session for consideration of the remaining agenda items.

Announcements and Scheduling of Future Meetings

Ms. McGrory stated that this is Teresa Hilton's last Commission meeting before her retirement on April 30th. The Commissioners thanked her for her service and wished her the best.

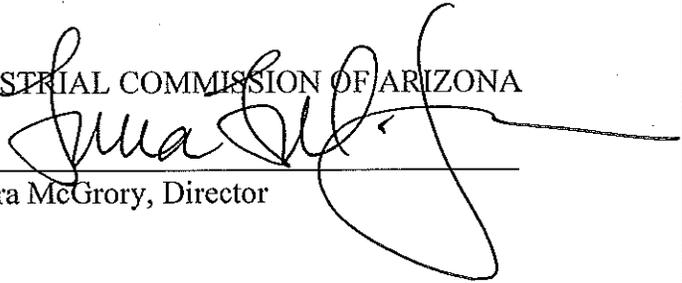
Secretary Hilton reminded the Commissioners that the next meeting is scheduled for Wednesday, May 7, 2014.

Ms. McGrory confirmed that the annual assessment tax hearing will be scheduled for June 19, 2014 and stated that a Notice will be placed on the web site.

There being no further business to come before the Commission and no public comment, the meeting was adjourned at 1:50 p.m.

THE INDUSTRIAL COMMISSION OF ARIZONA

By



Laura McGrory, Director

ATTEST:



Kara Dimas, Commission Secretary