

MINUTES OF MEETING
OF THE INDUSTRIAL COMMISSION OF ARIZONA
Held at 800 West Washington Street
Conference Room 308
Phoenix, Arizona 85007
Thursday, March 10, 2011 – 1:00 p.m.

Present:	David Parker	Vice Chairman (video conference)
	John A. McCarthy, Jr.	Member
	Kathleen Oster	Member
	Susan Strickler	Member
	Laura McGrory	Director
	Andrew Wade	Chief Legal Counsel
	Darin Perkins	Director, ADOSH
	Renee Pastor	Self Insurance Manager
	Michael Hawthorne	Chief Financial Officer
	Teresa Hilton	Commission Secretary

Vice Chairman Parker convened the Commission meeting at 1:00 p.m. noting a quorum present. Chairman Delfs was not able to attend. Others in attendance included Scot Butler, the agency's lobbyist; Stephen L. Weiss, attorney at law; Darryl Engle, attorney at law; Teresa Makinen, Centennial Way Project; and Eda Barolli of Snell & Wilmer.

Approval of Minutes of March 3, 2011 Meeting

The Commission unanimously approved the Minutes of March 3, 2011 on motion of Mr. McCarthy, second of Ms. Oster.

Discussion &/or Action regarding Legislation

Scot Butler provided an update of proposed legislation of interest to the Commission. Mr. Butler discussed HB's 2151, 2476, 2541, 2584, 2616 and 2617 and SB's 1102, 1264 and 1567 and responded to questions from the Commissioners. He advised that committee hearings should be completed in the next two weeks with a budget vote by the end of the month. The goal is to be out of session around mid-April.

Darryl Engle addressed the Commission with regard to HB 2617 and stated that injured workers' attorneys are adamantly against the bill since it would entice workers to settle for nominal amounts and sign away rights to future benefits. He stated that having carriers provide a summary of future costs for a claim is not a good idea and suggested that an independent body summarize future costs as in currently done with Medicare set-asides. Stephen Weiss stated that over the years he has seen a significant amount of workers' compensation legislation but is surprised that a bill with this much far reaching impact has progressed this far without more input from the workers' compensation community. He stated that it was his hope that the legislature would invite those who would be affected by the settlement bill to participate in discussions about the bill.

Presentation, Discussion &/or Action regarding Arizona Centennial Way Project

Laura McGrory introduced Teresa Makinen, Centennial Way Project, and stated that she invited her to address the Commission since the project will impact the property owned by the Special Fund. Ms. Makinen gave a summary of the project which will encompass Washington Street from 7th Avenue to 15th Avenue and include monuments, enhanced landscaping, and shade structures and responded to questions from the Commissioners.

Discussion & Action of Proposed OSHA Citations and Penalties

K E & G Construction, Inc.	Fatality
1601 Paseo San Luis	Yrs/Business – 39
Sierra Vista, AZ 85635	Empl. Cov. by Insp. – 5
Site Location: Canyon de Flores Dr. & Great Basin Lane, Sierra Vista, AZ 85650	
Inspection #: A9339/315247049	
Insp. Date: 01/03/11	

SERIOUS – Citation 1, item 1 – The superintendent was working under a suspended crane load of about 3,500 pounds when the load fell out of the manhole clamp on the crane (1926.550(a)(10)).

(No inspection history in the past three years).

Div. Proposal - \$7,000.00

Formula Amt. - \$7,000.00

Darin Perkins advised that this case file and the next are related and summarized the citation and proposed penalty as listed. The Division proposal was for the gravity-based penalty with no adjustment factors since the violation directly related to the fatality. Mr. Parker questioned whether the violation should be classified as willful. Following discussion, the Commission unanimously tabled consideration of the proposed penalty pending review by the Legal Division on motion of Mr. Parker, second of Mr. McCarthy.

Mr. Parker also tabled consideration of the next cast file, Jensen Precast.

Discussion & Action of Request for Renewal of Self Insurance Authority

Renee Pastor advised that she is holding consideration of the renewal request for City of Peoria for updated information.

City of Prescott – Ms. Pastor presented staff's renewal report along with current Moody's, Fitch, Standard & Poor's and Dunn and Bradstreet bond and credit ratings. The City does not have a trust fund but has an internal service fund and an annual actuary study. She stated that the actuarial report uses a confidence level of 75%. Ms. Pastor advised that Administration is recommending renewal of workers' compensation self-insurance authority based on the City's stable condition in economic turbulence, protections afforded it as a governmental entity; clean audit report and acceptable bond and credit ratings. The Commission unanimously approved renewal of self-insurance authority on motion of Mr. McCarthy, second of Ms. Strickler.

City of Tempe - Renee Pastor presented staff's renewal report along with current Moody's, Fitch, Standard & Poor's and Dunn and Bradstreet bond and credit ratings. The City

does not have a trust fund but has a risk insurance fund and an annual actuary study. The actuarial report uses a confidence level of 100% with an 8% present value discount factor. Ms. Pastor advised that Administration is recommending renewal of workers' compensation self-insurance authority based on the City's stable financial condition during economic turbulence; protections afforded it as a governmental entity; clean audit report; and acceptable bond rating and credit scores. The Commission unanimously approved continuance of self-insurance authority on motion of Ms. Oster, second of Ms. Strickler.

Mesa Unified School District No. 4 - Renee Pastor presented staff's renewal report along with current Moody's and Dunn and Bradstreet bond and credit ratings. The District has a trust fund for workers' compensation, an annual actuary report as of this year and uses an 80% confidence level with a 3.5% discount. Ms. Pastor advised that Administration is recommending renewal of workers' compensation self-insurance authority based on the District's stable financial condition; ability to raise funds as a governmental entity; receipt of a clean audit report; and good bond and credit ratings. The Commission unanimously granted continuance of self-insurance authority on motion of Mr. McCarthy, second of Ms. Oster.

Discussion & Action of Proposed Civil Penalties Against Uninsured Employers.

- 2C10/11-0957 David Macias & Brandy Macias,
Husband & Wife dba Big Dave's
Towing & Road Service
- 2C10/11-1122 Mariscos de Guaymas, L.L.C.
dba Pescaderia Seafood Market
- 2C10/11-0692 Rodriguez Company, Inc. dba Santa Fe Ingredients
- 2C10/11-1053 Velvet Gold Mind, LLC dba The Sweet Pot

Andrew Wade advised that with regard to the above listed employers, a compliance investigation confirmed that they were operating (or had operated) a business with employees, but without workers' compensation insurance. Giving consideration to the factors of A.R.S. §23-907(K), civil penalties of \$1,000.00 are recommended against employers #0957, 1122 and 0692. He advised that employer #1122 is still in binder status but has not actually obtained a policy. He stated that he is holding consideration of a civil penalty for employer #1053 since the name is not correct on the agenda. Following discussion, the Commission unanimously assessed civil penalties of \$1,000.00 against employers #0957, 1122 and 0692 with the stipulation that if employer #1122 provides evidence of an actual policy within two weeks the penalty be reduced to \$500.00 on motion of Mr. Parker, second of Ms. Strickler.

Discussion &/or Action regarding Budget and Operations of the Industrial Commission

Ms. Strickler asked for clarification on whether uninsured employers reimburse the Special Fund for no insurance claims. Mr. Wade explained there is a minimum statutory penalty of \$1,000.00 and all costs of the claim plus 10% plus interest are assessed against the uninsured employer. He also summarized the results of the Commission collection efforts. In response to a question from Mr. McCarthy regarding the status of the new computer systems, Ms. McGrory advised that with respect to the system upgrade in the Claims Division, full parallel testing is expected to be done next week. With regard to the accounting system upgrade, some issues have been encountered, but progress is being made. The goal is to have the in-house program developed to act as a bridge until the Commission can purchase a new accounting system.

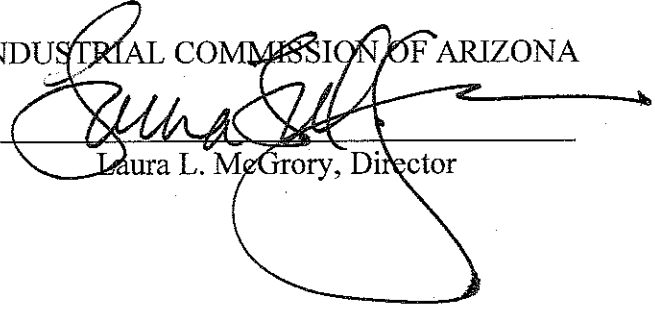
Announcements and Scheduling of Future Meetings

Ms. Hilton reminded the Commissioners that the next meeting is scheduled for Thursday, March 31st and there is a meeting scheduled for Wednesday, April 6th.

There being no further business to come before the Commission and no further public comment, Vice Chairman Parker adjourned the meeting at 2:25 p.m.

THE INDUSTRIAL COMMISSION OF ARIZONA

By



A large, stylized handwritten signature in black ink, appearing to read 'Laura L. McGrory', is written over a horizontal line. The signature is highly cursive and extends to the right of the line.

Laura L. McGrory, Director

ATTEST:

Teresa Hilton
Teresa Hilton, Commission Secretary