

MINUTES OF MEETING
OF THE INDUSTRIAL COMMISSION OF ARIZONA

Held at 800 West Washington Street

Conference Room 308

Phoenix, Arizona 85007

Wednesday, January 25, 2012 – 1:00 p.m.

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

Chairman Delfs convened the Commission meeting at 1:03 p.m. noting a quorum present. Also in attendance were Scot Butler, the agency's lobbyist; Craig Cress; Nicole Miller of Tri-City Management Services and Villages North HOA; Mark Elliott of Villages North HOA; Rachel Kaplan and Jean-Marie Bellington of Tri-City Property Management; and Eda Barolli of Snell & Wilmer.

Approval of Minutes of January 11, 2012 Meeting

The Commission unanimously approved the Minutes of January 11, 2012 on motion of Mr. Parker, second of Ms. Strickler.

Discussion &/or Action regarding Legislation

Scot Butler provided a summary of, and preliminary recommendations for, proposed legislation including HB 2155, 2365, 2366, 2367, 2368, HCR 2030 and SB 1016. He responded to questions from the Commissioners and stated that he would present another report at next week's meeting, at which time the Commissioners may be asked to take a position on the legislation.

Michael Hawthorne summarized the recommendations of the Office of Strategic Planning and Budgeting as well as the Joint Legislative Budget Committee for the Commission's administrative fund budget for fiscal year 2013.

Consent Agenda:

- a. Approval of Self Insurance Renewal Applications.
 1. City of Prescott
 2. Maricopa County

b. Approval of Proposed Penalties Against Uninsured Employers.

1. 2C10/11-1820 E & J Construction, LLC
2. 2C10/11-1923 Express Auto Commercial, L.L.C.
3. 2C10/11-1323 Irma's Roofing, Inc.
4. 2C10/11-1884 Monarch Roofing Systems, L.L.C.
5. 2C10/11-1947 Selective Health Care, Inc.

Chairman Delfs asked if any of the listed items needed to be removed from the consent agenda. Secretary Hilton stated that Ms. Oster has requested that the two self insurance renewals be removed. The Commission unanimously approved the remaining items on the consent agenda on motion of Mr. McCarthy, second of Ms. Oster.

Discussion & Action of Applications for Renewal of Self Insurance Authority

City of Prescott – Ms. Oster stated that she had questions regarding the City's funding and whether we have established guidelines for the City. Ms. Pastor advised that the City is in the process of establishing a trust fund for their risk management liabilities. At present, the City has posted Local Government Investment Pool (LGIP) funds with the State Treasurer. She further stated that the City seems to be stable and has a positive history with respect to complying with Commission requests. Mr. Parker commented that there is a unique statute when it comes to public employers that require funds be placed into a trust fund so those funds cannot be swept. He explained that he has found that some entities have been using the terms "trust fund" and "internal service fund" interchangeably. The Commission unanimously approved renewal of self insurance authority on motion of Mr. McCarthy, second of Ms. Oster.

Maricopa County – Mr. Parker and Ms. Strickler both recused themselves from consideration of this agenda item. Ms. Oster asked Ms. Pastor about the County's large number of denials for workers' compensation claims. Ms. Pastor explained that 107 of those claims appeared to be "exposures" only and not really denials of claims. Ms. McGrory commented on the difference between reports of exposures and claims. Following further discussion, the Commission approved renewal of self insurance authority on motion of Ms. Oster, second of Mr. McCarthy by a vote of 3 to 0.

Discussion & Action of ADOSH Discrimination Complaint

#11-02 Craig Cress vs. Tri City Property Management Svc., Inc. – Andrew Wade provided a summary of the matter and explained that Mr. Cress had requested the Commission reconsider its decision to not pursue the discrimination claim any further. He stated that the Commissioners had granted Mr. Cress' request to appear at a Commission meeting and address the Commission as part of his request for reconsideration of the Commission's prior determination not to pursue his discrimination complaint. He advised that representatives from the employer are here today as well. Chairman Delfs explained to Mr. Cress that this is an informal process to allow Mr. Cress the opportunity to present new information. Mr. Delfs explained that after hearing from Mr. Cress and the employer, the Commission may then reconsider their prior action or allow the prior decision to stand. He further explained that this is outside the ordinary process, but the Commissioners wanted to give Mr. Cress the opportunity to present his case.

Discussion & Action regarding Establishment of Discount Rate for Calculating Lump Sum Commutations under A.A.C. R20-5-121(B)

Renee Pastor noted that the Commission is required to establish the discount rate each year for use in calculating the present value of an award that is commuted to a lump sum under A.A.C. R20-5-122. She explained the process under A.A.C. R20-5-121(B) and identified the applicable 3-month Treasury bill rates reported on December 30 of 2011 and for the prior four years. She explained that there was no rate available for December 31, a Saturday, and that is why the calculation included the rate as of December 30 even though the rule specifies December 31. Based on the rates and the formula in A.A.C. R20-5-121(B), the Administrative Division is recommending that the discount rate be set at 0.72% for calculating fixed period and permanent lump sum settlements. The 0.72% discount rate, if adopted, will replace the current discount rate of 1.69% as of today and will be in effect until the Commission calculates a new rate. Following discussion, the Commission unanimously approved the discount rate of 0.72% on motion of Mr. Parker, second of Mr. McCarthy.

Discussion &/or Action regarding Industrial Commission of Arizona, for itself and as Trustee for the Special Fund of the Industrial Commission of Arizona, and the Special Fund of the Industrial Commission of Arizona, Petitioners, v. Dean Martin, Arizona State Treasurer, in his official capacity; Janice K. Brewer, Governor of the State of Arizona, in her official capacity, Respondents. The Commission may move into Executive Session under A.R.S. §§38-431.03(A)(3) and (A)(4) for Discussion and Consultation with the Attorneys of the Public Body regarding Pending Litigation or Settlement Discussions in order to resolve Litigation. 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.

The Commission unanimously moved into Executive Session at 2:20 p.m. on motion of Mr. McCarthy, second of Ms. Strickler. Minutes of the Executive Session are kept separately.

Announcements and Scheduling of Future Meetings

Ms. Hilton reminded the Commissioners that there are Commission meetings scheduled for February 2nd and 9th, 2012. An additional meeting was scheduled for February 23rd, 2012.

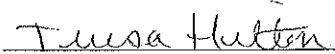
There being no further business to come before the Commission and no public comment, Chairman Delfs adjourned the meeting at 2:50 p.m.

THE INDUSTRIAL COMMISSION OF ARIZONA

By


Laura L. McGrory, Director

ATTEST:


Teresa Hilton, Commission Secretary