

MINUTES OF MEETING
OF THE INDUSTRIAL COMMISSION OF ARIZONA
Held at 800 West Washington Street
Conference Room 308
Phoenix, Arizona 85007
Wednesday, July 10, 2013 – 1:00 p.m.

Present:	David Parker	Chairman
	Susan Strickler	Vice Chair (telephonic)
	Kathleen Oster	Member
	Michael G. Sanders	Member
	Laura McGrory	Director
	Andrew Wade	Chief Counsel
	Bernadette Burick	Staff Attorney
	Valli Goss	Staff Attorney
	William Warren	Director, ADOSH
	Michael Hawthorne	Chief Financial Officer
	Teresa Hilton	Commission Secretary

Chairman Parker convened the Commission meeting at 1:04 p.m. noting a quorum present. John A. McCarthy, Jr. was excused. Also in attendance were Scot Butler, the agency's lobbyist; Jeff Horner of General Dynamics; Matt Saxe of Lanes, Baker & Klain; and Andrea Lewis of Snell and Wilmer.

Approval of Minutes of July 3, 2013 Meeting

The Commission unanimously approved the Minutes of the July 3, 2013 meeting on motion of Ms. Oster, second of Ms. Strickler.

Consent Agenda:

a. Approval of Proposed Civil Penalties Against Uninsured Employers

1. 2C12/13-0031 Eden Manor Assisted Living, Inc.
2. 2C12/13-1756 Gerardo Sanchez Garcia & Rosa Soto,
husband and wife dba Quality Oak
3. 2C12/13-1759 Muehlstaetter Performance Horses, LLC
4. 2C12/13-1181 Towers Enterprises, LLC dba Malex Online
5. 2C12/13-1762 Tortilleria Y Panaderia Real Inc.

Chairman Parker stated that agenda item a (4) would be removed from the consent agenda. The Commission unanimously approved the remaining consent agenda items on motion of Mr. Sanders, second of Ms. Oster. Andrew Wade advised that with regard to item a (4) Towers Enterprises, LLC dba Malex Online, the employer has obtained workers' compensation insurance and staff is recommending a penalty of \$500.00 be assessed against this employer. The Commission unanimously assessed the recommended penalty of \$500.00 against employer a (4) on motion of Mr. Sanders, second of Ms. Oster.

Discussion &/or Action regarding Legislation

Scot Butler provided a final report on the 2013 legislature and responded to questions from the Commissioners. The First Regular Session ended on June 14, 2013 and general effective date for the new legislation is September 13, 2013. He advised that a referendum effort has been started against Medicaid expansion and summarized HB2305. Mr. Butler also discussed the bills that impact and/or may require action from the Commission: SB1148, SB1310 and HB2485.

Discussion & Action regarding OSHA Review Board Appointments pursuant to A.R.S. §23-422 and A.R.S. §23-423

Bill Warren advised that the OSHA Review Board consists of five members appointed by the Governor, based upon the recommendations of the ADOSH Advisory Committee (AAC) with the concurrence of the Commission. He further advised that the Review Board consists of one member representing labor, one representing management, and three members representing the general public. The term of service for Chuck Alvarez, representing the general public, expired on February 23, 2013. The AAC conducted a public meeting on June 12, 2013, in which it discussed and reviewed qualified candidates who were willing and able to serve on the OSHA Review Board. The members of the AAC recommended the following names be forwarded to the governor for consideration for appointment to the OSHA Review Board: Gary Lasham, Construction Project Manager, Gannett Flemming; Ken Baldwin, Risk Administrator, Southwest Gas; and Mark Norton, Independent Safety Consultant & Trainer. Mr. Warren stated that ADOSH concurs with the AAC's recommendations and has provided their resumes for review and approval by the Commission. In response to a request from Chairman Parker, Director McGrory explained what the OSHA Review Board does and that they have independent counsel. The Commissioners agreed that these candidates had a valuable amount of experience and very deep credentials and unanimously decided to submit these candidates to Governor Brewer on motion of Mr. Sanders, second of Ms. Strickler.

Discussion & Action regarding ADOSH Advisory Committee Appointments pursuant to A.R.S. §23-409

Mr. Warren advised that the ADOSH Advisory Committee (AAC) consists of nine members, appointed by the Commission, representing the public sector (2), labor (2), management (2), agriculture (1), and "at large" (2). He advised there are currently three vacancies on the Committee. The remaining committee members have considered possible replacements and are recommending that the Commission appoint the following members: Ken Bourdo, CHSP, Maricopa Integrated Health System, replacing Chuck Alvarez, representing "at-large"; Robyn Steiner, CIH, Cardno ATC Safety, replacing Mr. Cavness, representing "at-large"; and Margaret Penado, CPCU, ARM-P, Risk Manager, City of Flagstaff, replace Mr. Kadous, representing the public sector. ADOSH concurs with the AAC's recommendations and has provided resumes for review and approval by the Commission. Following discussion, the Commission unanimously appointed the three candidates on motion of Mr. Sanders, second of Ms. Oster.

Discussion & Action regarding ADOSH Discrimination Complaint

#13-3633-09 Justin Wright vs. Poly Print Inc. - Mr. Warren presented a summary of the employee's complaint, the employer's response, and the Division's investigation of the matter. Mr. Warren responded to questions from the Commissioners. Mr. Warren recommended that the Commission decline to pursue the matter because the investigation did not find sufficient evidence to support a causal link between the exercise of protected activity and adverse action. The Commissioners discussed concerns regarding the unguarded press machine that Mr. Wright had been injured on. Mr. Warren advised that during the inspection, the guarding violation was found. Following discussion, consideration of the matter was tabled for further information including whether or not the two men working on the machine had asked Mr. Wright for help, clarification of the time line, and clarification of lockout/tagout and guarding procedures. Mr. Sanders requested copies of the recorded statements from interviews of three individuals.

Discussion & Action of Proposed OSHA Citations & Penalties

Green Rhino Builders, LLC
1425 E. University Drive
Tempe, AZ 85281

Complaint
Yrs/Business - 1
Empl. Cov. by Insp. - 3

Site Location: 1670 E. Perkinsville Rd., Chino Valley, AZ 86323

Inspection #: R1538-317165272

Insp. Date: 06/14/2013

REPEAT SERIOUS - Citation 1 - Item 1 - Employees exposed to fall hazards of six feet or more were not trained in recognition of fall hazards. (A.R.S. § 23-492(09)).

Div. Proposal - \$2,000.00

Formula Amt. - \$2,000.00

SERIOUS - Citation 2 - Item 1 - A written fall protection plan which reduces or eliminates fall hazards for employees engaged in residential construction activities six feet or more above lower levels did not contain the required elements as outlined in subparagraphs A.1, 2 and 3. (A.R.S. § 23-492(07)(A)).

Div. Proposal - \$1,000.00

Formula Amt. - \$1,000.00

TOTAL PENALTY - \$3,000.00

TOTAL FORMULA AMT. - \$3,000.00

Mr. Warren summarized the citations and proposed penalty as listed and responded to questions from the Commissioners. Following discussion, the Commission tabled consideration of this matter for clarification of whether the roofing standard or the residential standard applies.

Discussion & Action of Application for Renewal of Self-Insurance Authority.

Yuma County - Chairman Parker tabled consideration of this matter. He advised that he and Renee Pastor met with Yuma County's legal counsel who is researching the compliance issue.

Announcements and Scheduling of Future Meetings

Mr. Wade introduced new staff attorneys Bernadette Burick and Valli Goss and stated that the Legal Division is now fully staffed with six attorneys.

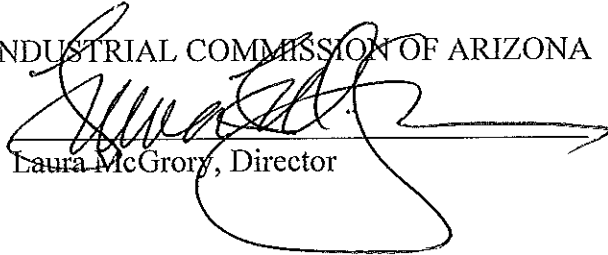
Mr. Parker stated that he had the honor of attending the memorial service for the 19 fallen firefighters in Prescott and that it was a very moving experience.

Secretary Hilton reminded the Commissioners that the next meeting is scheduled for Wednesday, July 24, 2013. The Commissioners agreed to change the meeting scheduled for August 14, 2013 to August 15, 2013.

There being no further business to come before the Commission and no public comment, the meeting was adjourned at 2:22 p.m.

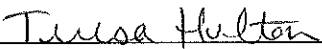
THE INDUSTRIAL COMMISSION OF ARIZONA

By



Laura McGrory, Director

ATTEST:


Teresa Hilton, Commission Secretary