

MINUTES OF MEETING  
OF THE INDUSTRIAL COMMISSION OF ARIZONA  
Held at 800 West Washington Street  
Conference Room 308  
Phoenix, Arizona 85007  
Thursday, August 27, 2015 – 1:00 p.m.

Present:	Dale L. Schultz	Chairman
	Michael G. Sanders	Vice Chairman
	David M. Parker	Commissioner (video)
	Joseph M. Hennelly, Jr.	Commissioner
	Clint Bolick	Commissioner
	Laura McGrory	Director
	Andrew Wade	Chief Counsel
	Renee Pastor	Accounting
	Kathryn Harris	Legal Division
	Jacqueline Kurth	Medical Resource Office
	William Warren	ADOSH Director
	Glenn Saavedra	Compliance Officer
	Erik Anderson	Compliance Officer
	Melinda Poppe	Chief Administrative Law Judge
	Kelly LeFevre	Human Resource Manager
	Kara Dimas	Commission Secretary

Chairman Schultz convened the Commission meeting at 1:00 p.m. noting a quorum present. Also in attendance were Scot Butler, the Commission's lobbyist, Susan Strickler of the Arizona Self Insurers Association (ASIA), Cathy Vines of CopperPoint Mutual Insurance Company, Jason Weber of Snell & Wilmer, and Tom Dorsey.

Approval of Minutes of August 14, 2015 Regular Meeting and Executive Session.

The Commission unanimously approved the Regular Session Minutes and the Executive Session Minutes of the August 14, 2015 on motion of Vice Chairman Sanders, second of Commissioner Hennelly.

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. 2C15/16-0260 Arizona Auto Shippers, L.L.C.
2. 2C14/15-0324 Equine D.V.M., Inc.

3. 2C15/16-0017 Kayden, L.L.C., dba Rookies
4. 2C14/15-0600 Mackenzie and Company, LLC
5. 2C14/15-0911 Monster Medical, L.L.C., dba Flood Impact Xperts
6. 2C14/15-2541 West Valley Golf Cars, L.L.C.

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

1. Albertson's Holdings, LLC
2. Chevron U.S.A., Inc.
3. Dole Food Company, Inc.
4. Intel Corporation
5. Kewit Corporation
6. Prudential Overall Supply, Inc.
7. Texton Inc.

Chairman Schultz asked if any items would need to be removed from the consent agenda and heard separately. Commissioner Parker requested that item b.1. be removed from the consent agenda and Andrew Wade requested that item a.6. also be removed and heard separately. The Commission unanimously approved the remaining items on the consent agenda on motion of Commissioner Bolick, second of Commissioner Hennelly.

Mr. Wade advised that item a.6., West Valley Golf Cars, L.L.C., has obtained workers' compensation insurance and staff is recommending a reduced penalty of \$500.00, instead of staff's previous recommendation of a \$1,000.00 civil penalty. The Commission unanimously assessed the recommended penalty of \$500.00 against the employer on motion of Commissioner Bolick, second of Vice Chairman Sanders.

Albertson's Holdings, LLC - Ms. Pastor presented staff's report and reviewed the financial information. She noted that the employer's headquarters is located in Boise, Idaho. She summarized how the business operations and the names have evolved. She recommended the Commission approve Albertson's Holdings, LLC request for workers' compensation self-insurance authority.

Commissioner Parker asked about the large deductible policy, and prior self-insured claims. Ms. Pastor replied to the questions. Chairman Schultz asked about financial issues, accounts payable aging beyond 90 days, and whether there have been any defaults in payments to creditors. Ms. Pastor responded to the questions. Chairman Schultz asked if there were any concerns about the administration of claims. Ms. Pastor responded to the question and commented on the third party administrator. Chairman Schultz also asked about the parent company guaranty, the financial restructuring, and the outlook going forward. Ms. Pastor replied that with the guaranty and the bond, the security appears adequate and prior claims were in run-off.

Commissioner Parker asked Ms. Pastor about her comment that claims were in run-off. Ms. Pastor clarified what she meant when she used the term run-off. Commissioner Parker asked Ms. Pastor to supply him with more information and he described the information.

Commissioner Schultz asked if there was a motion. The Commission unanimously granted self-insurance authority for Albertson's Holdings, LLC on motion of Commissioner Bolick, second of Vice Chairman Sanders.

Discussion and Action Regarding Implementation of a Process for the use of Evidence Based Medical Treatment Guidelines to Treat Injured Workers under A.R.S. §23-1062.03, which may include a discussion of a pilot program and/or rulemaking.

Ms. McGrory explained the purpose of this agenda item. She noted that she had received a letter from Debra Runbeck and an email from Arthur Gage shortly before today's meeting and copies have been provided to the Commissioners. Chairman Schultz asked if it was necessary to read that letter and email into the record or submit them as an attachment to the minutes. Mr. Wade responded that it appeared the author's intent was for the Commissioners to have copies and the opportunity to read them. Chairman Schultz stated that each of the Commissioners has received copies of the letter and email and has had an opportunity to review them.

Cathy Vines from CopperPoint Mutual described her involvement in the efforts to bring evidence based medicine and treatment guidelines to Arizona. She summarized the meetings of the pilot program steering committee. She explained that, unfortunately, a pilot program is not going to be feasible and added that she appreciates the opportunity to assemble as stakeholders to explore the potential for a pilot program.

Susan Strickler noted that when she was Vice Chair of the Commission, she supported the concept of a pilot program. She commented on the efforts to establish a pilot and explained that it will take much longer to establish a pilot program than originally anticipated and given the legislative mandate, she suggested rulemaking should probably be implemented sooner rather than later.

Vice Chairman Sanders commented that the pilot program was a great idea, the pilot program steering committee made a good attempt and the dialog that has taken place will be helpful during the rulemaking process.

Commissioner Bolick asked where this would leave the process. Chairman Schultz explained that the rulemaking process is a very open process and there will be multiple opportunities for additional comment from all stakeholders. He added that the Commission needs to request staff to prepare a draft of the initial rulemaking package. Ms. McGrory replied that staff will provide the Commission in the near future with a draft notice of proposed rulemaking and there will be an agenda item to discuss and take action on that draft notice of proposed rulemaking. She summarized the current status of the development and implementation of the electronic process that will support the process for the use of evidence based medical treatment guidelines and other staff efforts to prepare for that process.

Chairman Schultz asked if there were any other questions or comments from the guests. Hearing none, he thanked them for joining the Commission today.

Executive Session under A.R.S. § 38-431.03(A)(3) and (A)(4) to Discuss Arizona Division of Occupational Safety and Health Discrimination Complaint.

Chairman Schultz stated that there would not be an executive session for this item.

Discussion and/or Action of Arizona Division of Occupational Safety and Health Discrimination Complaint.

14-2865-25 Joseph Lewis vs. Demilec (USA) Inc.

William Warren explained that this matter has been resolved. Commissioner Parker commented on efforts to resolve matters. Commissioner Bolick added that this was an exceptionally well done investigation.

Discussion and Action of Arizona Division of Occupational Safety and Health Proposed Citations and Penalties.

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A & B Farms, LLC	Fatality/Accident	
P.O. Box 11090	Years in Business:	15
Casa Grande, AZ 85130	Empl. Covered by inspection:	3
Site Location:	Fastrack & Milligan Rds	
	Casa Grande, AZ 85130	
Inspection No:	B7667-1048370	
Inspection Date:	03/18/2015	

Mr. Warren summarized ADOSH's investigation into a fatal accident and noted that the investigation did not identify any violations and ADOSH was not recommending any citations. Commissioner Parker, Commissioner Bolick and Vice Chairman Sanders asked for additional details concerning the circumstances of the fatality and possible equipment malfunction and Mr. Warren responded to the questions.

City of Winslow, Wastewater Plant	Complaint	
600 N Rd.	Years in Business:	115
Winslow, AZ 85021	Empl. Covered by inspection:	14
Site Location:	600 N Rd.	
	Winslow, AZ 85021	
Inspection No:	U5916-1064414	
Inspection Date:	05/18/2015	

REPEAT NON-SERIOUS -- Citation 1 - Item 1 -- City of Winslow, Wastewater Plant, Water Department: The employer required employees to wear respiratory protection during the chlorine injection process, exposing employees to chemicals such as Constant Chlor Plus without establishing and implementing a written respiratory protection program. (29 CFR 1910.134(c)(1)).

The City of Winslow Fire Department was previously cited for a violation of this occupational safety and health standard or its equivalent standard 1910.134 (c)(1) written respiratory program, which was contained in OSHA inspection number 1004963, citation number 1, item number 1 and was affirmed as a final order on February 02, 2015 with respect to a workplace located at 215 N Taylor Ave, Winslow, AZ 86047.

Div. Proposal - \$160.00

Formula Amt. - \$160.00

SERIOUS -- Citation 2 - Item 1 -- City of Winslow, Wastewater Plant, Fleet Shop Bay: Employer did not require periodic inspections of a 10,000 lb. capacity AMMCO Multi-Purpose Auto Lift, model B2250, serial number P981229015, at intervals specified by the equipment owner's manual and the applicable industry standard, ANSI/ALI ALOIM: 2008. (A.R.S. § 23-403(A)).

Div. Proposal - \$1,750.00

Formula Amt. - \$1,750.00

SERIOUS – Citation 2 - Item 2 – City of Winslow Wastewater Plant, Fleet Services, Shop area: mezzanine over the office area had an open sided, unprotected opening that was 11 feet 10 inches above the floor and not guarded by standard railings or equivalent on all open sides, nor were toeboards provided. (29 CFR 1910.23(c)(1)).

Div. Proposal - \$1,750.00

Formula Amt. - \$1,750.00

SERIOUS – Citation 2 - Item 3 – City of Winslow, Wastewater Treatment Plant area: Employer did not evaluate the spaces in the workplace, including but not limited to the Head Works area, to determine if the spaces were permit required confined spaces. A survey of the entire site should be conducted to locate all confined spaces, starting with the Head works area. (29 CFR 1910.146(c)(1)).

Div. Proposal - \$1,750.00

Formula Amt. - \$1,750.00

SERIOUS – Citation 2 - Item 4 – City of Winslow, Wastewater Plant, Fleet Shop: The employer did not establish an energy control program at the Fleet Shop that included equipment-specific energy control procedures, including but not limited to earth-moving equipment, and periodic inspections. (29 CFR 1910.147(c)(1)).

Div. Proposal - \$1,750.00

Formula Amt. - \$1,750.00

SERIOUS – Citation 2 - Item 5 –

- a) City of Winslow, Wastewater Plant, Fleet Shop Area: One Mitsubishi forklift, model and serial numbers unknown had a nameplate that was not legible. (29 CFR 1910.178(a)(6)).
- b) City of Winslow, Wastewater Plant, Fleet Shop Area: Employees operating powered industrial trucks were not trained in the safe operation of the equipment. (29 CFR 1910.178(l)(1)(i)).
- c) City of Winslow, Wastewater Plant, Fleet Shop Area: A green Mitsubishi forklift model and serial number unknown, was not examined prior to daily use. (29 CFR 1910.178(q)(7)).

Div. Proposal - \$1,750.00

Formula Amt. - \$1,750.00

SERIOUS – Citation 2 - Item 6 – City of Winslow, Wastewater Treatment Plant Area: One Prime PolyBlend Polymer Feed Systems Fan Press (unknown model and serial number), was not guarded to protect the operator from placing any part of his body into the danger zone during operation. (29 CFR 1910.212(a)(1)).

Div. Proposal - \$1,750.00

Formula Amt. - \$1,750.00

TOTAL PENALTY - \$10,660.00

TOTAL FORMULA AMT. - \$10,660.00

Mr. Warren summarized the citation and proposed penalty as listed. Commissioner Bolick asked about some details related to adjustment factors and Mr. Warren responded to the question.

Commissioner Parker had questions relating to the general duty clause citation, the use of the ANSI standards, and what is common in the industry regarding annual inspection or periodic inspections. Mr. Warren responded to his questions. Vice Chairman Sanders had questions regarding the frequency in which the lift was used, the types of inspections that were performed on the lift, and the legibility of the plate information depicted in mounted photograph number 17. Mr.

Warren responded to the questions. Commissioner Hennelly asked for more information about the lift and employer practices in Arizona and Mr. Warren responded to the questions.

Commissioner Parker referred to the ANSI standard and noted that employers should be performing the inspections and performing those inspections should be common in the industry. Mr. Warren followed up and described the efforts to determine what was common in industry. Chairman Schultz commented on the issues that Commissioner Parker raised and ask if he would like to make a motion or continue with further discussion. Commissioner Bolick commented that he shared Commissioner Parker's concerns, commented on the statutory authority for this violation and the wisdom of adopting the requirements as a rule.

Commissioner Parker moved to issue the recommended citation and penalties with the exception of Citation 2, Item 1, which will result in a total penalty of \$8,910.00. Commissioner Bolick seconded the motion. Chairman Schultz asked for a brief description of how the Commission may adopt the ANSI standard. Ms. McGrory explained how this topic could be referred to the OSHA Advisory Committee. The Commission unanimously approved the motion with an assessed total penalty of \$8,910.00.

Empire Metal Products, Inc.  
2007 W Mountain View Rd  
Phoenix, AZ 85021

Referral  
Years in Business: 11  
Empl. Covered by inspection: 107

Site Location: 2007 W Mountain View Rd  
Phoenix, AZ 85021  
Inspection No: T9350-1059372  
Inspection Date: 04/29/2015

SERIOUS – Citation 1 - Item 1 – 2007 W Mountain View Rd Phoenix, AZ 85021: The employer did not develop a specific procedure to control hazardous energy of the downward stroke of a Chicago Dreis & Krump Mfg. Co. Press Brake 15 ton, Model number 135, Serial number 15098, when the employee was required to remove or bypass the guard or place a part of his body into the area of the machine where work was being performed resulting in an amputation. (29 CFR 1910.147(a)(2)(ii)(A)).

Div. Proposal - \$5,000.00

Formula Amt. - \$5,000.00

SERIOUS – Citation 1 - Item 2 – 2007 W Mountain View Rd Phoenix, AZ 85021: The employer did not establish an energy control program for the location, or energy control procedures for specific equipment in order to prevent the unexpected startup or energization of equipment that could cause injury to an employee performing service or maintenance on the equipment. (29 CFR 1910.147(c)(1)).

Div. Proposal - \$1,750.00

Formula Amt. - \$1,750.00

SERIOUS – Citation 1 - Item 3 – Curb Department: A Chicago Dreis & Krump Mfg. Co. Press Brake 15 ton, Model number 135, Serial number 15098, was not guarded at the point of operation to prevent the operator from placing any part of the body into the danger zone during the operating cycle. (29 CFR 1910.212(a)(3)(ii)).

Div. Proposal - \$3,500.00

Formula Amt. - \$3,500.00

TOTAL PENALTY - \$10,250.00

TOTAL FORMULA AMT. - \$10,250.00

Mr. Warren noted that this matter had previously been presented, was tabled for further review, and he explained the outcome of the further review. Commissioner Parker suggested that this matter be presented as a new matter. Mr. Warren summarized the citation and proposed penalty as listed and described what is shown in the photographs.

The Commission unanimously approved issuing the citation and assessed the recommended penalty of \$10,250.00 on motion of Vice Chairman Sanders, second of Commissioner Bolick.

R.K. Sanders Inc.  
3028 W. Lincoln Street  
Phoenix, AZ 85009

Complaint  
Years in Business: 7  
Emply. Covered by inspection: 5

Site Location: Peter Rd. & Burriss Rd.  
Casa Grande, AZ 85193  
Inspection No: B7667-1052852  
Inspection Date: 04/01/2015

SERIOUS – Citation 1 - Item 1 – Intersection of Peters Rd. & Burriss Rd., Casa Grande, Az.: Employees worked inside an excavation 20' in depth, 35' in width top, 5' in width bottom, and 65' in length, and were not instructed in the recognition and avoidance of unsafe conditions and the regulations applicable to their work environment to control or eliminate any hazards or exposure to injury. (29 CFR 1926.21(b)(2)).

Div. Proposal - \$750.00

Formula Amt. - \$750.00

SERIOUS – Citation 1 - Item 2 – Intersection of Peters Rd. & Burriss Rd., Casa Grande, Az.: Employees worked in an excavation that was 20' in depth, 35' in width top, 5' in width bottom, and 65' in length, and did not have a safe means to egress. (29 CFR 1926.651(c)(2)).

Div. Proposal - \$750.00

Formula Amt. - \$750.00

SERIOUS – Citation 1 - Item 3 – Intersection of Peter Rd. & Burriss Rd., Casa Grande, Az: A visual and at least one manual soil analysis were not conducted for employees working in an excavation 20' in depth. (29 CFR 1926.651(k)(1)).

Div. Proposal - \$750.00

Formula Amt. - \$750.00

SERIOUS – Citation 1 - Item 4 – Intersection of Peters Rd. & Burriss Rd., Casa Grande, Az: An inadequate protective system was installed in an excavation that was 20' in depth, 35' in width at top, 5' in width at bottom, and 65' in length. (29 CFR 1926.652(a)(1)).

Div. Proposal - \$750.00

Formula Amt. - \$750.00

TOTAL PENALTY - \$3,000.00

TOTAL FORMULA AMT. - \$3,000.00

Mr. Warren summarized the citation and proposed penalty as listed and reviewed the photographs. Vice Chairman Sanders inquired about the soil type and mounted photograph number 6. Mr. Warren responded to the question. The Commission unanimously approved issuing the citation and assessed the recommended penalty of \$3,000.00 on motion of Vice Chairman Sanders, second of Commissioner Hennelly.

Discussion and/or Action Regarding Sunset Review of the Industrial Commission of Arizona, OSHA Review Board, OSHA Advisory Committee, Boiler Advisory Board and Employment Advisory Council.

Ms. McGrory summarized the public hearings held by the Committees of Reference on August 25, 2015. She explained the vote on the motion to continue the Industrial Commission did not pass, with three in favor, four against, and three members not voting because they were not present. She noted that some members explained their votes and, in explaining their votes, it appeared that there was concern with and interest in exploring the scope of the Commission's operations. Ms. McGrory added that there was no testimony or apparent concern about how well the Commission is operating.

Chairman Schultz commented that he attended the Committee hearing and noted that he has absolutely no problem with the Legislature reviewing the scope of the Commission's statutory authority. He explained that he views the process as the Legislators reviewing their own work, assessing whether there is still a need to continue legislation and regulation in the areas that they have given to the Commission, but these are all responsibilities that were given to the Commission and as Ms. McGrory pointed out, there were no questions or concerns about the work that the Commission has performed.

Vice Chairman Sanders complimented Director McGrory on her presentation to the Committee and commented on his view of the Committee hearing.

Scot Butler commented on the Committee hearing and provided some historical information related to some of the Commission's programs. Ms. McGrory summarized the anticipated process and noted that the Committee is expected to prepare a report for the full Legislature, possibly in early December. Ms. McGrory added that there were two different Committee of Reference hearings. She explained that the OSHA Review Board, Boiler Advisory Board and the OSHA Advisory Committee were all recommended for 8 year continuation. Ms. McGrory noted that Arizona is constitutionally obligated to have a workers' compensation system.

Commissioner Bolick asked about the press report on Commissioner per diems and whether specific concerns were expressed during the Committee hearing. Mr. Butler commented on Senator Yee's inquiry and noted that there appeared to be interest in examining the per diem practices for boards and commissions state-wide. Commissioner Parker suggested the Commission address the per diem issue.

Chairman Schultz explained that if the Commissioners are in agreement that the Commission should address the per diem issue, that a formal guideline for per diem reimbursement could be developed. Chairman Schultz suggested that staff provide a recommendation to the Commission on this issue. Vice Chairman Sanders commented that the recommendation should not come from staff. Ms. McGrory noted that it would be helpful if the Commission has this topic as a separate agenda item, discusses the issue, then based on that discussion, staff can draft guidelines which the Commission can discuss and take action on. Commissioner Parker commented that staff may not be comfortable in developing guidelines for the Commissioners and he would rather have the Commissioners discuss the topic and provide staff with directions to create the draft guidelines. Chairman Schultz suggested that other boards and commissions may already have practices or guidelines. Ms. McGrory replied that staff can perform that research and supply the Commissioners with the results of that research. She added that she will let them know when the information is ready and the topic can be added as a future agenda item. Chairman Schultz stated he would like it on the agenda as soon as there is enough information. Commissioner Bolick agreed and asked that staff include with information about the practices of other boards and commissions, whether there are statutes that apply to other boards and commissions and whether other boards and commissions



address this topic as a practice or if they developed policies. Vice Chairman Sanders added that the Commission is unique in the country and the responsibilities of these Commissioners are a lot broader than any other board or commission, and it depends on the Commissioner how much time they are able to commit. He asked about that press release. Commissioner Bolick noted that was a reference to the Yellow Sheet Report.

Discussion and Action regarding the Appointment and Hiring Process for Administrative Law Judge.

Ms. McGrory explained that an administrative law judge position is vacant and staff recommends the position be filled. She explained the process under the state-wide hiring freeze implemented as of February 1, 2015, and noted that the Commission may fill this position if it determines that the position is mission critical.

Ms. Poppe presented a summary of the ALJ Division and the goal of resolving disputes in the workers' compensation system fairly, equitably, and with efficiency. She described the number of cases each judge handles, expectations regarding increasing workloads, and the fast track pilot program.

Chairman Schultz stated he appreciated her presentation at the Claims Seminar and was impressed with her timeliness of resolving disputes and asked if the time frames were increasing or if a backlog of cases may cause the judges to not be as efficient. Ms. Poppe responded that until this last vacancy they were completely on track and how the most recent vacancy occurred on relatively short notice and may result in a temporary increase in the time to resolve cases.

Chairman Schultz asked if a motion was needed. Ms. McGrory suggested a motion to designate the filling of one vacant administrative law judge position as mission critical and vital to and directly involved in the providing for the health and safety of the public. Vice Chairman Sanders made that motion and Commissioner Hennelly seconded the motion.

Commissioner Parker also thanked Ms. Poppe for the work she has done with the program, noted that the vast majority of work the judges perform is adjudicating workers' compensation disputes and these disputes need timely adjudication. He explained that timely adjudication is not just important to those paying the bills, but extremely important to those receiving benefits and getting those decisions made equitably, fairly and timely is in everybody's best interest.

Commissioner Bolick thanked Ms. Poppe for the presentation and stated he has heard nothing but good things about the ALJ program. He added that he was prepared to support the recommendation based on the presentation. Commissioner Bolick described performance data he would like to receive such as the number of judges, the length of time for determinations, whether that length of time is increasing or decreasing, the average time to resolution, and numbers relating to the back log. He commented on the fast track pilot program.

Ms. McGrory noted the Division presentations scheduled to begin in September and that the presentation for the Administrative Law judge Division is scheduled for November. Commissioner Bolick said that his request for information could be presented at that time.

Chairman Schultz asked if there were any further questions or comments. There were no more questions or comments. The Commission unanimously approved the motion to designate the

filling of one vacant administrative law judge position as mission critical and vital to and directly involved in the providing for the health and safety of the public.

Ms. McGrory noted that now that the position has been designated as mission critical, the recruitment process will begin and she described the process the Commission followed since 2014. She also described the prior process noting that, under that process, all of the interviews were performed by the Chief Administrative Law Judge who supplied the Commissioners with a recommendation for appointment. Based on that recommendation, the Commissioners would make the appointment.

Commissioner Parker commented that he like the current process, noting that it was time consuming. He clarified that, under the current process, Ms. Poppe could add candidates to the first interview list compiled by the Commission. He added that he liked performing the interviews a little more, but that he also recognized the value of the prior process and trusts Ms. Poppe's ability to select qualified candidates and supply appropriate recommendations to the Commission.

Vice Chairman Sanders stated the current process is a good process, noted that the process is time intensive, and added that process has had a positive impact on the ALJ Division. He explained his desire to continue with the current process.

Chairman Schultz commented on his view of governance versus management. He referred to Commissioner Parker's comments and added that he too has complete faith in Ms. Poppe to perform an initial review of candidates and supply the Commission with a recommendation for the person she recommends the Commission appoint. He commented on his board experience, and explained that he does not believe board involvement has ever added to the hiring process.

Commissioner Bolick explained that he would divide the level of hands on involvement into the category of deference to management decisions, where the management has every incentive to do exactly the right thing verses the instances where the Commissioners have a fiduciary responsibility that may require them to be more hands on. He added that in this situation, he would be more inclined to have Ms. Poppe perform the initial interviews, recommend a candidate, and have the Commission meet the final candidate, review the interviews and decide whether to appoint that person or expand that final candidate pool.

Commissioner Hennelly noted that he has been through the current process, and that it was time consuming, but this is part of why there are Commissioners. He added that, in the prior recruitments, he thought the Commission's views of candidates were co-extensive with Ms. Poppe's. He explained that he has ultimate confidence in her ability to select the most qualified candidates and was amendable to reverting back to the prior process.

Commissioner Parker summarized the discussion as leading towards the prior process, but reserving the right to include components of the newer process, to include the Commission deciding at a later point to just interview the candidate that Ms. Poppe recommends or expand the number of second interviews.

Chairman Schultz noted that he was suggesting that the Commission only review Ms. Poppe's final candidate, but if the other Commissioners were in favor of having Ms. Poppe supply a short list of finalists, he was fine with that approach as well.

Vice Chairman Sanders noted that that he did not want to be the only dissent, explained that his view does not have anything to do with his confidence with Ms. Poppe, which is the highest, but he is the longest serving member and the newer Commissioners may not have the historical perspective that he has. He explained why the current process is the better process.

Ms. Poppe summarized the ALJ recruitment from 2014.

Vice Chairman Sanders added that interviewing candidates is about more than skill sets and includes whether the candidate would be fair and impartial.

Chairman Schultz asked Ms. Poppe for feedback on the last recruitment, whether the candidates appointed were those that she wanted hired or if she would have preferred candidates that were not appointed. Ms. Poppe replied that she agreed with a comment from Commissioner Hennelly that the Commission and her were in sync with the selections.

Commissioner Parker commented on his view and noted that he did not think the Commissioners, by default, interview all the candidates. He explained that he would be comfortable with either the process of Ms. Poppe supplying recommendations that they would then vote on or ask her to go back and do more work, or if they wanted to leave the option that after the recommendation they could meet with the candidate for the personal concurrence or move to additional Commission interviews as well.

Chairman Schultz clarified that he believes the Commissioners should interview the candidate that Ms. Poppe has determined to be the best most well suited person for the position.

Commissioner Parker stated he understood and would be comfortable with that approach. Vice Chairman Sanders stated he did not want the Commission to be viewed as a rubber stamp, explained that the best intentions can produce results that ultimately may not be the best for the community and that is no reflection on Ms. Poppe. He added that it is the Commission's job to be involved in making the appointment.

Commissioner Bolick stated he has learned on his short time on the Commission that it is not a rubber stamp body and he explained why. He added that he has sufficient trust in the staff and the quality of the staff that they are probably going to make recommendations that are the very best, but the Commission reserves the independent judgement to disagree with staff's recommendation.

Chairman Schultz asked if there needed to be a motion. Ms. McGrory responded that a motion would be preferred and the process will be detailed in the minutes.

Commissioner Parker moved that the process be as follows: Following the posting of the position, Ms. Poppe will review the hiring list and provide the Commission with the candidates' resumes and a summary of her review of the candidates. The Commission will identify the candidates for Ms. Poppe to interview and she will conduct interviews. Following her interviews, Ms. Poppe will provide the Commission with a summary of the interviews and a recommendation for appointment of a specific individual. The Commission will decide whether to interview that person and may appoint based upon the resume, writing sample, and Ms. Poppe's interview. He added that the process includes the option for the Commission to direct either that additional candidates be considered and or to start the process over. Chairman Schultz clarified that before appointing a candidate recommended by Ms. Poppe, the Commission would interview the

candidate. Commissioner Parker clarified that component was part of his motion. Commissioner Hennelly seconded the motion.

Commissioner Bolick asked if the process would include the Commissioners deciding who should be interviewed by Ms. Poppe. Chairman Schultz stated that he did not intend that step, but he was comfortable with that step. He noted that doing so will add to the time it takes to fill the position and he was not sure that doing so would result in anything different than those that Ms. Poppe selects for an interview. Commissioner Bolick added that having just determined that this position is a mission critical position, he did not want to add any undue bureaucracy or impediments.

Commissioner Parker clarified that his motion included that Ms. Poppe can add names to the list of those candidates to interview and he explained the value of this component of the process.

Chairman Schultz noted that there was a motion and a second. The Commission unanimously approved the motion.

Announcements, Scheduling of Future Meetings and Retirement Resolutions.

The Commission reviewed the meeting schedule through October.

Ms. Dimas presented a retirement resolution recognizing Thomas Knudson, IC Investigator II with the Labor Division, for 10 years of State service.

Public Comment.

Tom Dorsey stated he is an attorney, explained why he was attending the meeting, and noted how diligent the Commissioners are in performing their work. Chairman Schultz thanked him for attending and noted that he was welcome to come to any of the meetings

Chairman Schultz asked if there was a motion to adjourn. Vice Chairman Sanders moved to adjourn and Commissioner Hennelly seconded the motion. The Commission unanimously voted to adjourn and the meeting was adjourned at 3:42 p.m.

THE INDUSTRIAL COMMISSION OF ARIZONA

By

  
\_\_\_\_\_  
Laura McGrory, Director

ATTEST:

  
\_\_\_\_\_  
Kara Dimas, Commission Secretary

Kara Dimas, Commission Secretary