## MINUTES OF MEETING OF THE INDUSTRIAL COMMISSION OF ARIZONA

Held at Yuma City Hall, Council Chambers, 1 City Plaza, Yuma, Arizona 85364 Thursday, March 7, 2019 – 1:30 p.m.

Present:

Dale L. Schultz

Chairman

Joseph M. Hennelly, Jr.

Vice Chair

Scott P. LeMarr

Commissioner (Telephonic)

Steven J. Krenzel

Commissioner (Telephonic)

James Ashley

Director

Gaetano Testini

Chief Legal Counsel

Trevor Laky

Legislative Affairs Chief / Public Information Officer

Jessie Atencio

**ADOSH Director** 

Kara Dimas

Commission Secretary

Chairman Schultz convened the meeting at 1:30 p.m.

## Approval of Minutes of February 21, 2019 Regular Meeting.

Vice Chair Hennelly moved to approve the Minutes of the February 21, 2019 regular session meeting and Commissioner LeMarr seconded the motion. Chairman Schultz, Vice Chair Hennelly, and Commissioner LeMarr voted in favor of the motion. Commissioner Krenzel abstained. The motion passed.

## 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.

#### Approval of Proposed Civil Penalties Against Uninsured Employers. a.

1. 2C-18/19-0365

Tena's Framing LLC \$1000

2. 2C-NP-18/19-0153 Zenem Corporation \$1000

3. 2C-18/19-0582

Your Window Cleaners \$5000

Commissioner LeMarr moved to approve the items on the Consent Agenda and Vice Chair Hennelly seconded the motion. Chairman Schultz, Vice Chair Hennelly, Commissioner LeMarr and Commissioner Krenzel voted in favor of the motion. The motion passed.

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

Chairman Schultz discussed the purpose of and process for the Commission's consideration of ADOSH citations and proposed penalties.

A O Services, LLC 640 S Perry Ln

Fatality/Accident

Years in Business:

Empl. Covered by inspection:

1.5 3

Tempe, AZ 85281

2430 S Mill Ave

Tempe, AZ 85282

Inspection No:

Site Location:

V4364 - 1345159

Inspection Date:

9/10/2018

# SERIOUS - Citation 1 - Item 1a -

a) 2430 S Mill Rd., Tempe, Arizona, 85281: An employee was required to use a 3M half-mask respirator 5200 series while sanding and painting without establishing and implementing a written respirator protection program with worksite-specific procedures. 1910.134(c)(1)

Div. Proposal - \$750.00

Formula Amt. - \$750.00

## SERIOUS – Citation 1 - Item 1b –

a) 2430 S Mill Rd., Tempe, AZ, 85281: An employee was required to use a 3M half-mask respirator 5200 series without receiving a medical evaluation to determine the employee's ability to use a respirator. 29 CFR 1910.134(e)(1)

Div. Proposal - \$0.00

Formula Amt. - \$750.00

## SERIOUS – Citation 1 - Item 1c –

a) 2430 S Mill Rd., Tempe, AZ, 85281: An employee was required to use a 3M half-mask respirator 5200 series without receiving a fit test prior to initial use of the respirator. 29 CFR 1910.134(f)(2)

Div. Proposal - \$0.00

Formula Amt. - \$750.00

TOTAL PENALTY - \$750.00

TOTAL FORMULA AMT. - \$2,250.00

Mr. Atencio discussed ADOSH's investigation, summarized the citation and proposed penalties, and reviewed the photographs.

Commissioner LeMarr moved to approve the citation and proposed penalties as presented and Vice Chair Hennelly and Commissioner Krenzel seconded the motion. Chairman Schultz, Vice Chair Hennelly, Commissioner LeMarr and Commissioner Krenzel voted in favor of the motion. The motion passed.

Discussion and/or Action regarding Legislation. This agenda item may include Discussion and/or Action Regarding Pending or Proposed Legislation.

Mr. Laky noted the legislative session is about halfway over having passed switch week. Mr. Laky provided an update on bills of interest to the Commission. He noted that HB 2137, regarding excess insurance, will be going to committee next week.

Discussion and/or action regarding Industrial Commission goals, objectives and key initiatives for 2019. This Agenda Item may include discussion regarding the Commission budget and review of Division, Department, and Section specific objectives.

Mr. Ashley noted this will wrap up another successful and informative out of town outreach trip to Yuma. He thanked the community and agriculture industry for providing a warm welcome and an opportunity to explore ways in which we can work collaboratively together. Chairman Schultz added that agriculture is a high risk industry and deserves our attention.

Director Ashley discussed the recent Benchmark AMS visit with representatives of the Arizona Commerce Authority, Department of Corrections, OSPB, the Governor's Communication Office and new Government Transformation Office staff who have made it part of their standard work to attend.

Mr. Ashley noted the rulemaking to allow residential Pneumatic Elevator installation has received approval from the Governor's office and we are ready to move on to the next step in the rulemaking process.

Mr. Ashley noted the Golden Hard Hat Award was awarded this month to the Labor Division. 2016's Prop 206 presented a significant set of responsibilities and the Labor Department has reduced the oldest unpaid sick time claim by 106 days, and average pending time dropped by 26 days.

Mr. Ashley noted the Arizona Food Marketing Alliance has a new president after the retirement of Tim McCabe. Mark Miller will be the new president and we will be looking forward to meeting with him.

Announcements, Scheduling of Future Meetings and Retirement Resolutions.

Ms. Dimas presented a retirement resolution for Linda Lodwick, Legal Secretary in the ALJ Division with 5 years of state service.

Ms. Dimas confirmed Commission meeting dates through May 2019.

Mr. Ashley noted that the ICA Day at the Capitol will be held on March 27, 2019 at 11:00 am. Chairman Schultz, Commissioner LeMarr and Commissioner Krenzel confirmed they will be attending. Vice Chair Hennelly noted he will not be available.

# Public Comment.

There was no public comment.

Vice Chair Hennelly moved to adjourn and Commissioner Krenzel seconded the motion. Chairman Schultz, Vice Chair Hennelly, Commissioner LeMarr and Commissioner Krenzel voted in favor of the motion and the meeting was adjourned at 1:57 p.m.

THE INDUSTRIAL COMMISSION OF ARIZONA

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James Ashley Director

ATTEST:

Kara Dimas, Commission Secretary