



STATE OF OKLAHOMA

WORKERS' COMPENSATION COMMISSION

M I N U T E S

of the

WORKERS' COMPENSATION COMMISSION

FOR THE STATE OF OKLAHOMA

for the

August 17, 2017

Regular Public Meeting

MINUTES OF THE MEETING OF THE WORKERS' COMPENSATION COMMISSION
FOR THE STATE OF OKLAHOMA

The members of the Workers' Compensation Commission for the state of Oklahoma met at 1915 N. Stiles Ave., Oklahoma City, Oklahoma, on August 17, 2017.

Members present: Chairman Gilliland, Commissioner Liotta, and Commissioner Russell.

Others in attendance on behalf of the Commission: Kim Bailey, Clif Cypert, Lindsey Christopher, Scott Chance, Stormy Moore, and Jennifer Reeves.

Chairman Gilliland expressed appreciation for those in attendance. After the roll was taken, he announced the presence of a quorum and the Statement of Compliance with the Open Meeting Act was read. The meeting was called to order at approximately 1:30 p.m.

Approval of Minutes

Chairman Gilliland presented the minutes of the July 27, 2017 and August 4, 2017 public meetings for approval.

Motion: Commissioner Liotta moved to approve the minutes of the July 27, 2017 and August 4, 2017 public meetings.

Second: Chairman Gilliland.

Those voting aye: Chairman Gilliland, Commissioner Liotta, and Commissioner Russell.

The motion carried.

1. **Discussion and Consideration of Distribution of Surplus Monies to Members of the Oklahoma Automobile Dealers Self-Insurance Association**

Oklahoma Automobile Dealers Self-Insurance Association, a group self-insurance association, is requesting a partial distribution of surplus back to its members in the amount of \$4,500,000 which will be payable from fund years FY 16-17 (\$1,000,000), FY 15-16 (\$2,000,000), FY 14-15 (\$1,000,000), FY 13-14 (\$300,000), FY 12-13 (\$100,000), and FY 11-12 (\$100,000). The Fund's March 31, 2017 financial statement shows an overall surplus for the Fund of more than \$14,281,000 for all years combined. Their financial surplus last year was \$11,965,578 for all years

combined as indicated in the financial statement for the period ending on March 31, 2016. Commission Rule 810:25-11-10 states that any surplus monies may be declared refundable by the association's board. The date and manner of the distribution shall be declared by the association's board and shall be in accordance with the association's bylaws. The board shall submit the distribution request to the Commission, with all supporting documents. WCC Insurance Director Stormy Moore was recognized, gave a report, and gave a recommendation. The Commission considered approving the distribution of surplus monies to members of the Oklahoma Automobile Dealers Self-Insurance Association.

Motion: Commissioner Liotta moved to approve the distribution of surplus back to the members of the Oklahoma Automobile Dealers Self-Insurance Association in the amount of \$4,500,000.

Second: Commissioner Russell.

Those voting aye: Chairman Gilliland, Commissioner Liotta, and Commissioner Russell.

The motion carried.

2. Discussion and Consideration of Reducing or Releasing the Security Deposit of Kaiser Aluminum & Chemical Corporation, a Former Own Risk Employer Permit #12324

A security deposit posted with the Commission as required by 810:25-9-4 must remain in place, at its existing amount, for two years after an individual own risk employer voluntarily leaves self-insurance. A security deposit may be reduced at the Commission's discretion after the two year waiting period upon application by the employer and submission of current financial statements and workers' compensation loss runs.

A security deposit may be released at the Commission's discretion upon application by the employer and submission of current financial statements and a signed and notarized affidavit, from a duly authorized officer of the employer, affirming that all workers' compensation claims incurred under the own risk permit of the employer have been permanently closed, and the statute of repose for reopening the claims has passed. WCC Insurance Director Stormy Moore was recognized, reported, and gave a recommendation. The Commission considered reducing or releasing the security deposit of Kaiser Aluminum & Chemical Corporation, a former own risk employer.

Motion: Commissioner Liotta moved to approve the release of the Security Deposit for Kaiser Aluminum & Chemical Corporation, a former own risk employer.

Second: Commissioner Russell.

Those voting aye: Chairman Gilliland, Commissioner Liotta, and Commissioner Russell.

The motion carried.

3. Discussion and Consideration of Contract for Court Reporter Services for FY18

The Commission discussed and considered approving the contract for court reporting services by Lowery and Associates for FY18. WCC CFO, Jennifer Reeves, was recognized, reported, and gave a recommendation.

Motion: Chairman Gilliland moved to approve the contract as recommended.

Second: Commissioner Liotta.

Those voting aye: Chairman Gilliland, Commissioner Liotta, and Commissioner Russell.

The motion carried.

4. Discussion and Consideration of Adoption of Emergency Proposed Amendment to Permanent Rules

The Commission will consider adopting the proposed emergency rule to the finally adopted permanent rules (effective 9/11/17). If the proposed emergency amendment is adopted, it is submitted to the Governor and Legislature via the online filing system within ten (10) days of adoption. The Commission considered adopting the proposed emergency rule, which will be effective upon approval of the Governor or on September 12, 2017, whichever is later. WCC Commission Counsel Lindsey Christopher was recognized, reported, and gave a recommendation.

Motion: Chairman Gilliland moved to affirm that an emergency exists and to approve the emergency proposed rule to the adopted permanent rules.

Second: Commissioner Russell.

Those voting aye: Chairman Gilliland, Commissioner Liotta, and Commissioner Russell.

The motion carried.

5. **Discussion and Consideration of Requesting an Audit of the Commission**

With the changeover in Commissioners, the Commission considered requesting a financial audit by the Office of the State Auditor or a private firm. The audit will provide the Commission with an independent evaluation of the performance, management, and expenditures of the Commission for the benefit of the new Commissioner and Chair, as well as those leaving leadership roles in the Commission. Commissioner Liotta was recognized to report and make a recommendation. WCC CFO Jennifer Reeves was also recognized to add input.

Motion: Commissioner Liotta moved to approve going forward with collecting quotes and requesting an audit of the Commission by the Office of the State Auditor or a private firm.

Second: Commissioner Russell.

Those voting aye: Commissioner Liotta and Commissioner Russell.

Those abstaining: Chairman Gilliland

The motion carried.

6. **Discussion and Consideration of Approving a Salary Review Policy**

The Commission discussed and considered approving a performance and salary review policy. Commissioner Liotta and WCC HR Director Clif Cypert were recognized, reported, and gave a recommendation.

Motion: Commissioner Liotta moved approval of the Salary Review Policy.

Second: Chairman Gilliland.

Those voting aye: Chairman Gilliland, Commissioner Liotta, and Commissioner Russell.

The motion carried.

7. Consent Agenda for Travel Vouchers Currently Outstanding

85A O.S. §23 states any commissioner or employee of the Commission shall be entitled to receive his or her necessary traveling expenses as provided in the State Travel Reimbursement Act. The expenses shall be certified by the person who incurred them and shall be allowed and paid on presentation of vouchers approved by the Commission. In accordance with this section, the Commission considered a vote to approve the currently outstanding vouchers.

All vouchers listed within this Consent Agenda have been made available to each Commissioner prior to today's meeting, are considered routine, and will be enacted by one motion of the Commission. If separate discussion is desired, that item may be removed from the Consent Agenda and separately voted upon.

Motion: Commissioner Liotta moved approval.

Second: Chairman Gilliland.

Those voting aye: Chairman Gilliland, Commissioner Liotta, and Commissioner Russell.

The motion carried.

8. Reports

THE FOLLOWING REPORTS ARE PRESENTED FOR INFORMATIONAL PURPOSES ONLY. NO ACTION WILL BE TAKEN.

4th Annual Workers' Compensation Educational Conference Update Report

Commissioner Russell gave a report on the 4th Annual Workers' Compensation Educational Conference being held on Oct. 5th and 6th, 2017. Communications & Administrative Director Scott Chance was recognized to also report.

No Action was Taken.

9. **Possible Executive Session Pursuant to Title 25 O.S. § 307(B)(1) for the purpose of discussing the hiring, salary or employment of Candidate A, Candidate B, or Candidate C for the position of Tulsa Administrative Law Judge; and for the purpose of discussing employment evaluation, promotion, salary or performance of Commission's Administrative Law Judge Blair McMillin**

Motion: Chairman Gilliland moved to go into executive session for the purpose of discussing the hiring, salary, or employment of Candidate A, Candidate B, or Candidate C for the position of Tulsa Administrative Law Judge; and for the purpose of discussing employment evaluation, promotion, salary or performance of Commission Administrative Law Judge Blair McMillin

Second: Commissioner Liotta.

Those voting aye: Chairman Gilliland, Commissioner Liotta, and Commissioner Russell.

The motion carried.

Vote to Reconvene in Open Session

Motion: Chairman Gilliland moved to go reconvene in open session.

Second: Commissioner Liotta.

Those voting aye: Chairman Gilliland, Commissioner Russell, and Commissioner Russell.

The motion carried.

The Following motions were made as a result of Executive Session

A. Motion: Chairman Gilliland moved to take action on the hiring, salary, or employment of Candidate A, Candidate B, or Candidate C for the position of Tulsa Administrative Law Judge as discussed in Executive Session.

Second: Commissioner Liotta.

Those voting aye: Chairman Gilliland, Commissioner Liotta, and Commissioner Russell.

The motion carried.

B. Motion: Chairman Gilliland moved to take action on the employment promotion, salary or performance of Commission's Administrative Law Judge Blair McMillin as discussed in Executive Session.

Second: Commissioner Liotta.

Those voting aye: Chairman Gilliland, Commissioner Liotta, and Commissioner Russell.

The motion carried.

Announcements

The next regular meeting of the Commission is scheduled for September 21, 2017.

ADJOURNMENT.....Mr. Gilliland, Chair

Motion: Chairman Gilliland moved to adjourn.

Second: Commissioner Liotta.

Those voting aye: Chairman Gilliland, Commissioner Liotta, and Commissioner Russell.

The motion carried.