

**MINUTES OF THE SPECIAL MEETING OF THE WORKERS' COMPENSATION COMMISSION HELD ON WEDNESDAY, DECEMBER 11, 2013, AT THE WORKERS' COMPENSATION COURT IN OKLAHOMA CITY, OKLAHOMA.**

**Present:** Troy Wilson, Chairman, Workers' Compensation Commission, Robert Gilliland, Commissioner, Workers' Compensation Commission and Denise Engle, Commissioner, Workers' Compensation Commission.

**Others Present:** Ted Rossier, Oklahoma Office of the Attorney General, Norma McRae, Workers' Compensation Court, Tish Sommer, Special Counsel, Workers' Compensation Court, Rick Farmer, Oklahoma Insurance Department and Michael Clingman, Administrator, Workers' Compensation Court.

**Call to Order:** The public meeting was called to order by the Chairman, Troy Wilson.

**Roll Call:** All Commission members were present.

**Declaration of a Quorum:** All Commission members were present constituting a quorum.

**Statement of Oklahoma Open-Meeting Law Compliance and Posting Agenda:** Ted Rossier of the Oklahoma Office of the Attorney General informed the Commission members that the Secretary of State had been timely notified of the meeting and the agenda had been timely posted at the Workers' Compensation Commission Oklahoma City office and the Workers' Compensation Court Oklahoma City location in accordance with the Open Meeting Act.

Chairman Wilson called for a motion to approve Mr. Rossier's statement of compliance. A motion was made by Commissioner Gilliland and seconded by Commissioner Engle. A

roll call vote was taken: Chairman Wilson voted aye, Commissioner Engle voted aye and Commissioner Gilliland voted aye. The motion passed.

**Discussion and Possible Approval of the Minutes from the November 8, 2013 meeting:** Chairman Wilson called for discussion and possible approval of the Minutes from the November 8, 2013 meeting. There being no discussion, Chairman Wilson called for a motion to approve the Minutes.

A motion was made by Commissioner Engle to approve the Minutes from the November 8, 2013 meeting. Commissioner Gilliland seconded the motion and a roll call vote was taken: Chairman Wilson voted aye, Commissioner Engle voted aye and Commissioner Gilliland voted aye. The motion passed.

**Discussion and Possible Approval of the Minutes from the November 13, 2013 meeting:** Chairman Wilson called for discussion and possible approval of the Minutes from the November 13, 2013 meeting. There being no discussion, Chairman Wilson called for a motion to approve the Minutes.

A motion was made by Commissioner Engle to approve the Minutes from the November 13, 2013 meeting. Commissioner Gilliland seconded the motion and a roll call vote was taken: Chairman Wilson voted aye, Commissioner Engle voted aye and Commissioner Gilliland voted aye. The motion passed.

**Election of Vice-Chair, to be authorized to act on the Chair's behalf, in the absence of the Chair:** Chairman Wilson stated the Commission's need for a Vice-Chair to act on the Chair's behalf and in absence of the Chair. Chairman Wilson recommended that the Commission move to elect Commissioner Engle to serve as Vice-Chair and called for discussion on the matter. There being no discussion, Chairman Wilson called for a motion to elect Commissioner Engle as Vice-Chair to the Commission.

A motion was made by Chairman Wilson to elect Commissioner Engle as Vice-Chair to the Commission. Commissioner Gilliland seconded the motion and a roll call vote was taken: Chairman Wilson voted aye and Commissioner Gilliland voted aye. Commissioner Engle abstained. The motion passed.

**Discussion of current status and progress of emergency rulemaking; possible vote on any related action items:** Chairman Wilson then called on Special Counsel Tish Sommer of the Workers' Compensation Court to give a report on the current status of the Commission's emergency rulemaking.

Special Counsel Sommer informed the Commission that a notice of rulemaking intent had been posted with the Oklahoma Secretary of State on December 2, 2013, triggering a thirty (30) day period of public comment on the rules as required by statute. She further informed the Commission that the period of public comment must take place before the rules proposed by the Commission can become effective and that the Commission would

hold a public hearing on January 2, 2013 at 1:30 p.m. in the Oklahoma Judicial Center to hear recommendations from the public on the Commission's proposed rules.

She recommended that the Commission combine all public recommendations and proposed changes into one document review and consideration before finalizing a draft of the rules. She then indicated that after a review and revision process was concluded by the Commission, it would need to hold a special meeting in order to adopt the rules per statutory authority.

After her initial report, Special Counsel Sommer and Ted Rossier of the Oklahoma Office of the Attorney General responded to inquiries from the Commissioners concerning the matter. The Commissioners also discussed procedural and administrative aspects associated with the emergency rulemaking process.

Chairman Wilson thanked Special Counsel Sommer for her report and considered the next agenda item.

**Discussion and possible action to request that the Office of the State Auditor and Inspector conduct a transition audit of the Workers' Compensation Court:** Chairman Wilson called on Commissioner Engle to offer comments on this agenda item.

Commissioner Engle stated that a transition audit was a common practice among state agencies going through significant change and recommended the Commission consider requesting an audit of the Workers' Compensation Court to be conducted by the Office of the State Auditor and Inspector.

Ted Rossier followed Commissioner Engle's comments by stating that Commission would have to vote to allow the Chair to request an audit and, if approved, for the Chair to request an audit from the Office of the State Auditor and Inspector by providing guidelines as to the subject of the audit and by requesting an estimate of time and cost.

Chairman Wilson then called for discussion of the matter. There being none, he called for a motion for the Commission to approve the Chair to request that the Office of the State Auditor and Inspector conduct a transition audit of the Workers' Compensation Court. Commissioner Engle made the motion and Commissioner Gilliland seconded the motion. A roll call vote was taken: Chairman Wilson voted aye, Commissioner Engle voted aye and Commissioner Gilliland voted aye. The motion passed.

**Discussion and possible action to adopt a Commission Seal:** Chairman Wilson informed the Commissioners that the Commission required an official seal and called on Commissioner Engle to offer comments on this matter.

Commissioner Engle informed the Commissioners that she had researched the process for designing a seal and was still looking into what state agency helps with designing seals. She further detailed a rough design of the seal that included the full name of the Commission and Oklahoma's motto.

Commissioner Gilliland stated that the Commission would need to approve a seal design for use by February 1, 2014. Special Counsel Sommer further offered that Section 21(c) of Title 85A required the Commission's seal contain the words: 'Workers' Compensation Commission, State of Oklahoma.'

After discussion by the Commissioners on the matter, Chairman Wilson called for a motion for Commissioner Gilliland and Commissioner Engle to draft a seal design to be used by the Workers' Compensation Commission for approval and adoption by the Commission at a future meeting. The motion was made by Chairman Wilson and seconded by Commissioner Gilliland. A roll call vote was taken: Chairman Wilson voted aye, Commissioner Engle voted aye and Commissioner Gilliland voted aye. The motion passed.

**Pursuant to 25 O.S. § 307(B)(1), discussion and possible vote to enter Executive Session to address the hiring of specific employees, including but not limited to consideration of the following positions: Executive Director, Executive Secretary/Assistant, Administrative Law Judges:** Based off the recommendation of Mr. Rossier, Chairman Wilson called for a motion for the Commission to go into Executive Session. The motion was made by Commissioner Gilliland and seconded by Commissioner Engle. A roll call vote was taken: Chairman Wilson voted aye, Commissioner Engle voted aye and Commissioner Gilliland voted aye. The motion passed.

**Vote to re-convene in Open Session; and possible vote on action items discussed in Executive Session:** Chairman Wilson called for a motion to return to Open Session. A motion was made to return to Open Session by Commissioner Gilliland and seconded by Commissioner Engle. A roll call vote was taken: Chairman Wilson voted aye, Commissioner Engle voted aye and Commissioner Gilliland voted aye. The motion passed.

Chairman Wilson then called for a vote on action taken in Executive Session. Commissioner Gilliland moved to hire Dr. Rick Farmer as Executive Director to the Oklahoma Workers' Compensation Commission with a salary of \$112,000 per year effective December 27, 2013. The motion was seconded by Commissioner Engle and a roll call vote was taken: Chairman Wilson voted aye, Commissioner Engle voted aye and Commissioner Gilliland voted aye. The motion passed.

**Discussion of date, time and agenda items for next meeting:** Chairman Wilson called for discussion of date, time and possible agenda items for the next meeting.

The following items were recommended by the Commissioners for the agenda of the next meeting:

Discussion and possible action on a proposed "clean-up" bill;

Discussion and possible action regarding the Insurance Department of the Oklahoma Workers' Compensation Court to be discussed in proposed Executive Session;

Discussion and possible action regarding space to be discussed in proposed Executive Session;

Discussion and possible action regarding a commendation for Court Administrator Michael Clingman of the Workers' Compensation Court; and

Progress reports from Commissioners regarding their assigned duties and tasks.

**Discussion of individual Commissioner administrative responsibilities and reports which may be requested by the Chair at the next meeting:** Commissioner Gilliland informed the Commissioners that he had prepared a preliminary progress report on his assigned administrative responsibilities.

Commissioner Gilliland reported that he and Mr. Rossier had reviewed statutes pertaining to recording cases and concluded that the Commission would be required to have stenographic recordings of the Commission's hearings in addition to any audio recordings. He further recommended that this issue be added to the proposed "clean-up" bill.

Commissioner Gilliland next reported that he and Special Counsel Sommer had been working on rules of practice and procedure for attorneys involved in hearings before the Commission.

Third, Commissioner Gilliland stated that he was working on a Workers' Compensation handbook in order to inform people of the claims process under the Commission. The Commission further discussed this issue and issue of electronic notification to claimants.

Commissioner Gilliland ended his report by stating that he had met with supervisors of the Docket Department of the Workers' Compensation Court to discuss procedures to be used with the Administrative Law Judges under the Workers' Compensation Commission. He stated that the procedures are currently being discussed.

**Discussion and possible action on regular meeting schedule for 2014:** Mr. Rossier advised the Commissioners that the Oklahoma Secretary of State required that the Commission provide it with a regular meeting schedule for 2014 by December 15, 2013.

Mr. Rossier indicated that he had met with the Commissioners individually and each Commissioner indicated that quarterly or monthly meetings would be appropriate for administrative matters of the Commission with special meetings for the judicial functions of the Commission.

The Commission discussed and determined that it would meet every third Thursday of the month at 1:30 p.m. to discuss administrative matters.

Chairman Wilson then called for a motion for the Commission to meet every third Thursday of the month at 1:30 p.m. unless the Commission was closed for a holiday; in which case the Commission could change the date. The motion was made by Commissioner Engle and seconded by Commissioner Gilliland. A roll call vote was taken: Chairman Wilson voted aye, Commissioner Engle voted aye and Commissioner Gilliland voted aye. The motion passed.

**Adjournment:** Chairman Wilson called a motion to adjourn the meeting. Commissioner Engle seconded and a roll call vote was taken: Chairman Wilson voted aye, Commissioner Engle voted aye and Commissioner Gilliland voted aye. The motion passed.