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1. **AGENDA**

2. I. Call to Order and Roll Call

3. II. Announcements

4. III. Conflict of Interest Declaration

5. IV. Old Business


7. Summary prepared by the Labor Standards Unit

8. V. New Business


11. * Discuss future Prevailing Wage Meeting dates for 2018

12. VI. Adjournment

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**Appearances**

- Commissioner Burns Phillips, Chairman
- Commissioner Wayburn Crabtree, TDOT Designee
- Commissioner Stephen Wright, Industry Representative
- Wright Brothers Construction Company, Inc.
- Commissioner R.T. Summers, Industry Representative
- Summers-Taylor, Inc.
- Commissioner Ann McGauran, State Architect
- Tennessee Department of Treasury
- Kim Jefferson, Esq., Administrator
- Dan Bailey, Esq., Legal Counsel
- Jan Caudill, Administrative Assistant
- Carolyn Sherrod, Administrative Services Manager
- Kenneth Nealy, Director
- Kent Starwalt, TRBA

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**Proceedings**

CHAIRMAN PHILLIPS: Okay.

MR. CRABTREE: Present.

CHAIRMAN PHILLIPS: We know Ann's not here. Stephen's not here. Mr. Summers.

MR. SUMMERS: Present.

CHAIRMAN PHILLIPS: And I am present, Burns Phillips. Okay. In the event of an emergency -- I have to do this, right?

MS. CAUDILL: Yes, you do.

CHAIRMAN PHILLIPS: In the event of an emergency, security --

MR. SUMMERS: I'm going to follow you.

CHAIRMAN PHILLIPS: -- and/or staff will take meeting attendees to a safe place in the building or direct them to exit the building on the Rosa Parks side. Just follow me. I'll be in the front of the line.

MR. STARWALT: We'll be right behind you the whole time.

CHAIRMAN PHILLIPS: Did you get my conflict of interest?

MS. CAUDILL: I did.

2. MR. CRABTREE: I move for approval.

3. CHAIRMAN PHILLIPS: Second?

4. MR. SUMMERS: Wait, what are we doing?

5. CHAIRMAN PHILLIPS: You know, the last meeting.

6. MR. SUMMERS: Oh, the past meeting.

7. CHAIRMAN PHILLIPS: Yeah.

8. MR. SUMMERS: The minutes.

9. CHAIRMAN PHILLIPS: Yeah. The minutes.


11. CHAIRMAN PHILLIPS: Okay. All in favor?

12. MR. SUMMERS: Aye.


14. CHAIRMAN PHILLIPS: All opposed?

15. Okay. Give me just a second. Okay. Any discussion on -- and new business on revised rates? Are there any conflicts?

16. MR. SUMMERS: I had one issue, and I think I'm correct. The law only gives us the right to change the survey rate by six percent. Of six percent -- if you take the 2017 Prevailing Wage times six percent and then the survey rate, and we can plus or minus the new survey rate by that amount where we have adequate data. Under Class 24, the work site traffic coordinator, we went outside that legal right. I think we can only modify the survey rate of $17.13 by, what did we say, $1 --

17. MS. CAUDILL: $1.19.

18. MR. SUMMERS: $1.19.

19. MS. CAUDILL: That's six percent of the current rate.

20. MR. SUMMERS: Six percent of $19.82 is $1.19, and we can add that to $17.13, but anything more than that I think is outside our legal abilities.

21. CHAIRMAN PHILLIPS: Any discussion on that?

22. MR. CRABTREE: Second. I'm sorry.

23. Oh, you said discussion. I'm sorry.

24. MR. SUMMERS: But that's the way we've done it in the past. We only have a right -- six percent up or down.

25. MR. CRABTREE: I can't remember...
1. meeting.
2. CHAIRMAN PHILLIPS: Second?
3. MR. CRABTREE: Second.
4. CHAIRMAN PHILLIPS: Any discussion?
5. All opposed? All in favor?
7. MR. CRABTREE: Aye.
8. CHAIRMAN PHILLIPS: So moved. Okay.
9. We need a motion to approve the prevailing wage rates for 2018.
10. MR. SUMMERS: I thought that's what we just did.
11. MS. CAUDILL: That's what we just did.
12. CHAIRMAN PHILLIPS: Just did?
13. MR. SUMMERS: Yeah.
14. CHAIRMAN PHILLIPS: How come it's on here twice?
15. MS. CAUDILL: Is it?
16. CHAIRMAN PHILLIPS: I'm just giving you a hard time.
17. MR. SUMMERS: Don't mess with her.
18. She's doing a good job. Don't mess with her.
19. MS. CAUDILL: Thank you. And I was like, I read that twice. That's what I was going to say.
20. CHAIRMAN PHILLIPS: Okay. And the future prevailing wage meeting dates, I thought we had already set those.
21. MS. CAUDILL: No. We said at the last meeting --
22. CHAIRMAN PHILLIPS: Okay.
23. MS. CAUDILL: -- we would set them at this meeting.
24. CHAIRMAN PHILLIPS: All right.
25. MS. CAUDILL: But before we go to that, you all have a copy of -- I had sent them out on the 20th of November. It was -- you had asked us to draft a response regarding the --
26. CHAIRMAN PHILLIPS: Yes.
27. MS. CAUDILL: -- airport construction and prevailing wage involvement with that.
28. CHAIRMAN PHILLIPS: Did y'all have a chance to read it?
29. MR. SUMMERS: And that's basically all -- what the new law says.
30. MR. CRABTREE: That's what it --
31. CHAIRMAN PHILLIPS: That's what it says.
32. MR. CRABTREE: That's what it says.
1. sir.
2. **MR. SUMMERS:** So I mean, it's to the
3. entity -- the local entity's benefit to use our wage
4. rates, because other things that are out there in
5. the marketplace are not as accurate as ours and are
6. all over the board. So I mean, people, if they --
7. when the federal government requires wage rates, you
8. know, I think that we ought to require them, too.
9. Require them to use ours, because these are the best
10. available. But I know -- right now, according to
11. the law, you can't.
12. **CHAIRMAN PHILLIPS:** Right.
13. **MR. CRABTREE:** Well, I -- we're still
14. discussing that internally, not necessarily for
15. airports, but for what we call our local programs.
16. **MR. SUMMERS:** Sure.
17. **MR. CRABTREE:** All of our locally
18. managed programs. And that's huge.
19. **MR. SUMMERS:** It is.
20. **MR. CRABTREE:** There is a bunch of
21. them. And we haven't come to a consensus on it,
22. either. What we think is, we probably would go
23. ahead and put those -- put the state rates in. But
24. if someone challenges it, then all we have is a
25. contract to enforce it. And there's no remedy in

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1. the contract if someone doesn't want to do it.
2. **MR. SUMMERS:** Okay.
3. **CHAIRMAN PHILLIPS:** But the
4. Commission is bound by this, in terms of any
5. recommendations. I mean, this is --
6. **MR. SUMMERS:** What do you think
7. the -- well, maybe you can't speak, but would the
8. administration and/or TDOT mind or oppose a
9. clarification of this law to include TDOT money that
10. goes to airports and local entities, to use this
11. rate?
12. **CHAIRMAN PHILLIPS:** It'd have to go
13. to the Attorney General.
14. **MR. SUMMERS:** Probably have to get a
15. law passed.
16. **MR. CRABTREE:** Yeah. Do you do a
17. rule -- promulgate the rule?
18. **MR. BAILEY:** You'd have to change the
19. statute.
20. **CHAIRMAN PHILLIPS:** Yeah. You would.
21. **MR. SUMMERS:** Okay.
22. **CHAIRMAN PHILLIPS:** I mean, you could
23. go -- you could ask for a formal --
24. **MS. CAUDILL:** Opinion?
25. **CHAIRMAN PHILLIPS:** -- opinion from

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1. but --
2. **MR. SUMMERS:** Yeah.
3. **CHAIRMAN PHILLIPS:** -- this binds us
4. at this point in time.
5. **MS. CAUDILL:** So when I get a wage
6. determination from aeronautics, what do I tell them,
7. because --
8. **MR. CRABTREE:** What does she tell
9. them, Commissioner?
10. **MS. CAUDILL:** -- 18 of --
11. **CHAIRMAN PHILLIPS:** It doesn't bother
12. me if it doesn't fall within the parameters of the
13. statute language.
14. **MS. CAUDILL:** Okay. So if it's not a
15. state contract, then basically is the first question
16. to ask. And if it's not, then we have no
17. jurisdiction or no regulation.
18. **CHAIRMAN PHILLIPS:** We have no
19. authority.
20. **MS. CAUDILL:** Okay. Because 18 of
21. the last 20 I got were from them.
22. **CHAIRMAN PHILLIPS:** Just keep
23. saying --
24. **MR. SUMMERS:** But there's nothing to
25. prevent them --
1. MS. CAUDILL: Right.
2. CHAIRMAN PHILLIPS: No, no, no.
3. MR. SUMMERS: If a -- if their
4. funding requires a prevailing wage, there is nothing
5. to prevent them and they should, in my opinion, use
6. ours.
7. MS. CAUDILL: Yeah. That's in the
8. last paragraph.
9. CHAIRMAN PHILLIPS: Yeah. They can
10. certainly do that.
11. MR. CRABTREE: But all they have to
12. enforce it is the contract, and there's no remedy in
13. the contract if someone doesn't want to abide by it.
14. MS. CAUDILL: Right.
15. MR. CRABTREE: And for that matter,
16. they could use last year's or the year before or --
17. but it gets -- it kind of gets out of hand once you
18. deviate from --
19. CHAIRMAN PHILLIPS: There's no remedy
20. in the contract?
21. MR. CRABTREE: I don't believe so.
22. MR. SUMMERS: Well --
23. MR. BAILEY: I mean, they can put
24. it --
25. MS. JEFFERSON: It's the theory of

contracts.
2. MR. SUMMERS: -- I think there would
3. be -- I mean, it just -- if we were doing a local
4. job, an airport, and it had this scale in it and we
5. did not pay it, I think there's a civil remedy from
6. our -- you know, the people who aren't getting paid
7. properly could sue us.
8. MR. BAILEY: Yes.
9. MR. SUMMERS: And then you all
10. wouldn't be able to help the employee.
11. MS. JEFFERSON: Right.
12. MR. SUMMERS: But they could -- is --
13. am I correct? I'm no lawyer, but --
14. MR. BAILEY: That's correct. In
15. fact, if it's a prevailing wage job, a state highway
16. project, and I'll look to make sure, but my
17. understanding is either the employee or the
18. Commission can bring action if they're not paying
19. the prevailing wage rate.
20. MR. SUMMERS: But this would be
21. outside --
22. MS. CAUDILL: Airport.
23. MR. SUMMERS: This would just be on
24. an airport, so --
25. MR. BAILEY: Right. No. In that

situation, no, we would have no jurisdiction.
2. MS. CAUDILL: Unless it was a state
3. contract.
4. MR. SUMMERS: Yeah.
5. MR. CRABTREE: Correct? Okay.
6. MR. BAILEY: Well, now, on -- we
7. wouldn't have jurisdiction on an airport even if it
8. was a state -- because it's not a highway.
9. MS. CAUDILL: Okay.
10. MR. BAILEY: Yeah.
11. MR. SUMMERS: I think it would be a
12. fairly simple fix to change this -- instead of just
13. highway, to change it to TDOT funding. And this
14. wage rate follows the funding.
15. MR. CRABTREE: I don't think anyone
16. at TDOT would object to that. I can only really
17. speak for myself but --
18. MR. SUMMERS: Yeah.
19. MR. CRABTREE: -- the conversations
20. I've had, I don't think anyone would object to that.
21. If that's what the law says, then that's what we'll
22. do.
23. MR. SUMMERS: Uh-huh.
24. MR. BAILEY: Does TDOT fund projects
25. that are, like, road-related, like, putting up the

guard rails, and things like that? Does TDOT fund
2. that stuff?
3. MR. CRABTREE: Yes, sir.
4. MR. BAILEY: All right. Now, is that
5. kind of work currently receiving prevailing wage?
6. MR. CRABTREE: Yes, sir.
7. MR. BAILEY: Okay. All right. I was
8. just wondering. When you say any TDOT funding, I
9. didn't know if that might throw a big net out there
10. that was unintended, but I don't know that it would.
11. CHAIRMAN PHILLIPS: Well, that would
12. fall within the provisions of the statute.
13. MR. CRABTREE: If it's a TDOT
14. contract. Now, a lot of these are locally managed
15. contracts, locally led, locally administered. So --
16. MR. BAILEY: Yeah.
17. MR. CRABTREE: -- it's not a TDOT
18. contract. But our current practice is, yes, we
19. require the local agencies to include the state wage
20. rates in their contracts.
21. MR. BAILEY: Okay.
22. MR. CRABTREE: Right or wrong?
23. MR. BAILEY: I mean, I agree with
24. Mr. Summers. I think it ought to apply to all of
25. TDOT funded projects, but I don't think the law says
1. that.
2. MR. SUMMERS: Well, Mr. Starwalt, can
3. the law be changed?
4. MR. STARWALT: If you can get 50 in
5. '17, it can (phonetic).
6. CHAIRMAN PHILLIPS: Yeah. Good luck
7. with that, right? We don't disagree, but --
8. MR. SUMMERS: I think we understand
9. how everybody feels.
10. CHAIRMAN PHILLIPS: Yeah.
11. MR. SUMMERS: So we'll --
12. CHAIRMAN PHILLIPS: Okay.
13. MS. CAUDILL: Okay.
14. CHAIRMAN PHILLIPS: Good. This is
15. good. I like short and sweet and to the point.
16. Okay. So now we need to look at the next year's
17. schedule, right?
18. MS. CAUDILL: Yes.
19. CHAIRMAN PHILLIPS: Okay. So does
20. anybody -- have you got any kind of a tentative --
21. MS. CAUDILL: Well, typically, we
22. meet, you know, the first meeting in August and then
23. the 15th seems to kind of stand out for the last two
24. years. That's a Wednesday. I don't know if -- we
25. typically avoid Friday and Monday. But the 15th of
26. August?
27. CHAIRMAN PHILLIPS: Let's -- make
28. sure -- let me check this.
29. MR. SUMMERS: Would the 14th be as
30. good?
31. MS. CAUDILL: Yes. As far as -- I've
32. got Ann's schedule here, so she's good for that
33. date. I don't know about Mr. Wright, though. He
34. told me I could call him if I needed to.
35. MR. STARWALT: Let's just --
36. MR. BAILEY: You said August 14th?
37. MS. CAUDILL: August 14th.
38. MR. BAILEY: What time?
40. prefer morning or afternoon?
41. CHAIRMAN PHILLIPS: That's really --
42. he's -- you know, he's got a long ways to go and --
43. MS. CAUDILL: You want to do 1:30
44. or --
45. MR. SUMMERS: Sure. That'll be fine.
46. MS. CAUDILL: 1:30.
47. CHAIRMAN PHILLIPS: Work for you?
48. MR. CRABTREE: Yes, sir.
49. CHAIRMAN PHILLIPS: Okay. All right.
50. MS. CAUDILL: And I threw September
1. 30th. We could still do it like we're doing today, have the meeting and get them posted in the afternoon. We won't have any extra day there. If we pull the meeting back, Ann is busy the 28th and 29th. So --

CHAIRMAN PHILLIPS: Is that -- okay.

MS. CAUDILL: -- what dates do you have?

CHAIRMAN PHILLIPS: But does that work for y'all, with what you have to do?

MS. CAUDILL: The 30th or --

CHAIRMAN PHILLIPS: 28th, 29th, 30th?

MS. CAUDILL: 28th and 29th, she would be unable to --

CHAIRMAN PHILLIPS: Okay.

MS. CAUDILL: Well, let's see. The 29th, she would be available the 29th, in the afternoon. That would work.

CHAIRMAN PHILLIPS: Any of them work for me. I'm just --

MR. SUMMERS: They're fine with me.

CHAIRMAN PHILLIPS: I mean, I'm right here in the building.

MS. CAUDILL: You good on the 29th?

MR. CRABTREE: That's fine.

2. 29th? All right.

CHAIRMAN PHILLIPS: 29th at 1:30.

CHAIRMAN PHILLIPS: How many opposed?

Motion carries.

END OF PROCEEDINGS.

1. MS. CAUDILL: 29th?

2. CHAIRMAN PHILLIPS: All right.

3. MS. CAUDILL: 29th at 1:30.

4. CHAIRMAN PHILLIPS: Okay.

5. MR. STARWALT: And then your August 14th date, what time were you --


8. MR. STARWALT: 1:30, as well? So everything's 1:30.

9. MR. SUMMERS: And tell Steve that's Central.

10. CHAIRMAN PHILLIPS: Okay.

11. MS. CAUDILL: Okay. So we have the first meeting on August 14th at 1:30 p.m., the second meeting on November 15th at 1:30 p.m., and the last meeting on November 29th, also at 1:30.

12. CHAIRMAN PHILLIPS: Okay.

13. MS. CAUDILL: Okay.

14. MR. CRABTREE: When would you like to have the list, the mailing list?

15. MS. CAUDILL: I would like to have that as -- if I have it by the first week of September, last week of August.

16. MR. CRABTREE: Okay.

1. CHAIRMAN PHILLIPS: Is that workable?

2. MS. CAUDILL: Because once you send it in, it's a matter of an upload, so it worked really well this year. It went really well.

3. MR. CRABTREE: Not a problem.

4. CHAIRMAN PHILLIPS: Okay. Anything else?

5. MS. CAUDILL: No.

6. CHAIRMAN PHILLIPS: Okay. Great. So I'll ask for a motion to adjourn.

7. MR. CRABTREE: Move to adjourn.

8. CHAIRMAN PHILLIPS: Second?

9. MR. SUMMERS: Second. I better do it, huh?

10. CHAIRMAN PHILLIPS: Any questions?

11. No? How many in favor?

12. MR. CRABTREE: Aye.

13. CHAIRMAN PHILLIPS: Aye.


15. CHAIRMAN PHILLIPS: How many opposed?

16. Motion carries.

END OF PROCEEDINGS.

1. CERTIFICATE

2. STATE OF TENNESSEE )

3. COUNTY OF WILLIAMSON )

4. 

5. I, Dominique A. Dubois LCR# 686, Notary Public and Court Reporter, do hereby certify that I have recorded to the best of my skill and ability by machine shorthand all the proceedings in the foregoing transcript, and that said transcript is a true, accurate, and complete transcript to the best of my ability.

6. I further certify that I am not an attorney or counsel of any of the parties, nor a relative or employee of any attorney or counsel connected with the action, nor financially interested in the action.

7. SIGNED this 28th day of December 2017.

8. ____________________________________

9. Dominique A. Dubois, LCR# 686

10. Notary Public State at Large

11. My commission expires: 4/9/2018

Digitally signed 12/28/2017 at 10:19am CST