AGENDA

I. Call Meeting to Order
II. Introductions and Announcements
III. Adoption of Agenda
IV. Approval of November 30, 2017 and May 21, 2018 Meeting Minutes
V. Labor Standards Unit’s Reports

* Carolyn Sherrod – Administrative Process
* Jan Caudill – 2018 Prevailing Wage Determination/Survey & Rates
* Kenneth Nealy – Investigative Process

VI. Old Business – none
VII. New Business

* Review and approve revisions to 2018 Prevailing Wage Survey Letter and Form
* Tennessee Rules

VIII. Open Discussion Items:
IX: Announcement of Next Meeting – November 16, 2018 at 1:30pm. (Additional Meeting Date for 2018: Thursday, November 29th at 1:30pm)

X. Adjournment

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CHAIRMAN PHILLIPS: So we’re going to call the prevailing wages commission meeting to order.

The first thing we’re going to do is have everybody in the room introduce themselves for the benefit of our court reporter.

MS. XIXIS: Tia Xixis, legislative liaison for the Tennessee Department of Labor and Workforce Development.

MR. STARWALT: Kent Starwalt, Tennessee Road Builders Association.

MS. KELSEY: Melinda Kelsey, chief of staff, Department of Labor and Workforce Development.

MS. PATE: Esther Pate, guest of the court reporter.

MS. PAIGE: Ebony Paige, WRC, ASA3.

MR. NEALY: Kenneth Nealy, labor standards director.

MS. SHERROD: Carolyn Sherrod, administrative services manager, labor standards.

MS. CAUDILL: Jan Caudill, ASA1, Labor Standards.

MR. BAILEY: Dan Bailey, legal counsel, the Tennessee Department of Labor.

MS. JEFFERSON: Kim Jefferson, assistant commissioner, Tennessee Department of Labor.

MS. KIRBY: Lynn Kirby, board secretary, ASA3.


CHAIRMAN PHILLIPS: Burns Phillips, commissioner of the Department of Labor and Workforce Development.

MR. WRIGHT: Steve Wright with Wright Brothers Construction Company, commissioner.

MR. CRABTREE: Wayburn Crabtree. I represent the commissioner of transportation.


CHAIRMAN PHILLIPS: Okay. I need to make the traditional announcement. In the event of an emergency or natural disaster, security personnel will take attendees to a safe place in the building or direct them to exit the building on the Rosa Park side.

Are we ready to move forward?
MS. JEFFERSON: Yes, sir.

CHAIRMAN PHILLIPS: So the first order is to adopt the agenda. Are there any corrections to the agenda? Each of you should have received the agenda.

MR. WRIGHT: I would move for acceptance.

MS. GAURAN: Second.

CHAIRMAN PHILLIPS: Any discussion?

(No verbal response.)

CHAIRMAN PHILLIPS: Those in favor?

(Affirmative response.)

CHAIRMAN PHILLIPS: Motion carries.

The second item on the agenda is the approval of the November 30th, 2017 and May 21st, 2018 meeting minutes. Are there any corrections?

(No verbal response.)

CHAIRMAN PHILLIPS: If not, is there a motion to approve?

MS. GAURAN: I move for approval.

MR. CRABTREE: Second.

CHAIRMAN PHILLIPS: Discussion?

(No verbal response.)

CHAIRMAN PHILLIPS: All in favor?

(Affirmative response.)

Motion carries.

And next we'll have the reports from the Labor Standards Unit. And first will be Carolyn.

MS. SHERROD: Good afternoon and welcome.

CHAIRMAN PHILLIPS: Hi, Carolyn.

MS. SHERROD: I just want to give you a brief report to bring you up to date of what has transpired since we met in May. Just a little overview.

In late June, the administrative staff got to work revising the Labor Standards Unit's SOPs, beginning with the prevailing wage. Our SOPs encompass all parts of the processes that are necessary to meet the unit's policies with respect to reporting for both any inspectors and administrative personnel.

We are happy to announce that the prevailing wage SOP revision was completed in mid July. Preparedness for the prevailing wage season requires time and attention to detail.

And just a little bit of metrics, a few metrics, as I close my presentation. Since July 1st, the administrative personnel has received a total of 39 starting notices and 8 completion notices on construction projects. Of these notices, only two were projects for which we have jurisdiction.

But we just wanted to give you that little update of what the administrative personnel and administrative staff is doing. Thank you.

CHAIRMAN PHILLIPS: Thank you, Carolyn.

Any questions about the administrative process report?

(No verbal response.)

MS. SHERROD: Thank you.

CHAIRMAN PHILLIPS: Thank you.

Jan, do you want to speak to the survey and rates?

MS. CAUDILL: Good afternoon. We have received the TDOT mailing list from Mr. Crabtree, and formatting has been approved by our IT department. This year we have 724 employers on the mailing list with all but three
of them having email addresses. Once the
prevailing wage database has been cleared, this
list will be uploaded into the system in
preparation for sending out this year's survey
forms.
Compared to last year, we sent out
735 surveys. 718 of those were emailed; 17 were
mailed. And of that number, 132 employees
responded, with 82 of them responding with actual
project data, which left us with a project
response, including data, overall, of
11.1 percent.
And then over the next several weeks,
we'll be testing the system to ensure that the
administrative and employer sides both are
operating properly. Once this is confirmed, we
will send out the letters and surveys in the month
of September. If, by any chance, the surveys come
back as an invalid address, a request will be made
to the employer for a corrected address and the
emails, or mailings will be re-sent.
CHAIRMAN PHILLIPS: Great. Thank
you, Jan.
Any questions about Jan's report?
(No verbal response.)

'18-'19 schedule and the ten precon meetings that
have been scheduled. One was scheduled and one
was attended. Zero companies are reported to the
state contract agency as of this date.
And that concludes my presentation.
CHAIRMAN PHILLIPS: Thank you,
Kenneth.
Any questions about the investigative
process?
(No verbal response.)
CHAIRMAN PHILLIPS: All right.
Let's move on to old business. There is no old
business.
New business, there are a couple of
areas. First, we need to review and approve
revisions to the 2018 prevailing wage survey list,
letter and survey form, all of which we received.
Has everyone had a chance to look it
over, and if so, I'll ask for a motion to approve.
MS. MCGAURAN: I'll move to
approve.
MR. WRIGHT: Second.
CHAIRMAN PHILLIPS: Okay. Any
discussion?
(No verbal response.)
CHAIRMAN PHILLIPS: Those in favor?
(Affirmative response.)
CHAIRMAN PHILLIPS: Motion carries.
Now we need to discuss the Tennessee
prevailing wage rules proposed changes. And we
have several. And the first is a proposal to
delete "Ditch Paver Machine Operator" from
Established Crafts, Rule 0800-03-02-.02 (ix).
Wayburn and Rab, do you-all want to
comment on that?
MR. CRABTREE: I think it's
obsolete.
MR. SUMMERS: I agree.
CHAIRMAN PHILLIPS: Okay. Is there
a motion to delete?
MR. WRIGHT: So moved.
MR. SUMMERS: Second.
CHAIRMAN PHILLIPS: Discussion?
Any discussion?
(No verbal response.)
CHAIRMAN PHILLIPS: If there's no
discussion, then those in favor, say aye.
(Affirmative response.)
CHAIRMAN PHILLIPS: Motion carries.
Next, we have a proposal to add
concrete barrier rail, transfer machine operator
to established crafts. Rule 0800-03-02-.02, Alpha Order. And the proposed definition is, "A barrier transfer machine is a heavy vehicle used to transfer concrete lane dividers which are used to relieve traffic congestion during rush hours. It is also used, temporarily, during construction work."

Do we have a motion to add that classification and new definition?

MR. SUMMERS: I have a question.
CHAIRMAN PHILLIPS: Certainly.
MR. SUMMERS: Would that be a stand-alone craft? It wouldn't be part of one of the existing A, B, C, or D, machine operators?

MR. BAILEY: That was my question, where to put it.

MR. SUMMERS: I mean, I think if it was a stand-alone craft, I think the chances of us getting sufficient data to really promulgate it properly are slim. I mean, it's only on a big interstate paving job when there's lane closures and a lot of miles of barrier rail that someone would use that, because it's a fairly expensive machine.

So if we were able to put it as an additional classification under one of the equipment operator categories, I think that would be more likely to have a proper wage rate.

MR. CRABTREE: Sounds reasonable to me. It looks like something that needed to be addressed one way or the other.

MR. SUMMERS: I agree.

MS. MCGAURAN: Or should it be part of the Class D operator. I think that's the question.

MR. SUMMERS: It would either be C or D, I think. I was just trying think about what it's function, the size of it -- it's similar, Wayburn, to a material transfer device, you know, in front a paver or maybe a milling machine.

MR. BAILEY: Well, that sounds more like Class C, what you just said.

MR. SUMMERS: Yes, sir. It doesn't make much difference. I think that we could put it in either one. The dollars between the two are not significant, I don't think. I would think it -- I really think it would be -- with the complexity of it, it might possibly be more in Class C than D. Just my opinion.

MR. BAILEY: So we would add that as a new paragraph, Roman Numeral VIII, under Class C?

MS. MCGAURAN: So I'll move that we add concrete barrier rail transfer machine operator to the Class C operator section.

MR. WRIGHT: Second.
CHAIRMAN PHILLIPS: So moved and seconded. Any discussion, further discussion?

No verbal response.

CHAIRMAN PHILLIPS: All in favor?

Affirmative response.

CHAIRMAN PHILLIPS: Motion carries.

MR. WRIGHT: Second.
CHAIRMAN PHILLIPS: So moved and seconded. Any discussion, further discussion?

No verbal response.

CHAIRMAN PHILLIPS: All in favor?

Affirmative response.

CHAIRMAN PHILLIPS: Motion carries.

MR. BAILEY: Yes, sir.

CHAIRMAN PHILLIPS: Next, we have a proposal to change the language from "on the date the bid is advertised" to "on the day preceding the date bids are received," Rule 0800-03-02-.04.

Wayburn?

MR. CRABTREE: I would like to change that to ten days. I have since read in the literature of the ten-day rule, and I think that would be more appropriate than on the day before.

We have the technology to do it on the day before, but my logic may have been a little bit flawed there. When I first thought about that, I thought, well, we're going to have to go by it anyway, so we would have to change every contract that we had the incorrect rate in.

I think if we did it within ten days.
That's what we give ourselves, from January the 1st to January the 11th, so that we would be consistent with it.

CHAIRMAN PHILLIPS: So how would it read, then?

MR. CRABTREE: To "ten days preceding the day bids are received."

CHAIRMAN PHILLIPS: Okay.

MS. MCGAURAN: So effective ten days to the date the bids are received?

MR. CRABTREE: "Ten days preceding the day bids are received," yes, ma'am.

MR. WRIGHT: So you really want to change -- you want to strike "on the date the bid is advertised," and change your suggested language from "on the day" to "ten days prior" or "ten days preceding the date bids are received"; is that correct?

MR. CRABTREE: Yes.

CHAIRMAN PHILLIPS: Correct, yes.

Then we'll ask for a motion.

MR. BAILEY: Let me make sure I'm clear on that. We're proposing -- the current language says "on the date the bid is advertised," and change your suggested language from "on the day" to "ten days prior" or "ten days preceding the date bids are received"; is that correct?

MS. MCGAURAN: I move to add.

MR. CRABTREE: Second.

CHAIRMAN PHILLIPS: Any discussion?

MR. WRIGHT: Second.

CHAIRMAN PHILLIPS: Motion carries.

Next is a proposal to add "state contract" instead of "contract" in Rule 0800-03-02-.01 1(e).

MS. MCGAURAN: It's showing in the document, reading that way, but I just thought it was clearer than just contract in general.

CHAIRMAN PHILLIPS: Okay. Motion to add?

I move to add.

MR. CRABTREE: Second.

CHAIRMAN PHILLIPS: Any discussion?

(No verbal response.)

CHAIRMAN PHILLIPS: Those in favor?

(Exhales.)

CHAIRMAN PHILLIPS: Okay. Motion carries.

Next is proposal to decide how to treat crane operator in Rule 0800-03-01.02(a)3(ii), less than 20 tons, and Rule 0800-03-01.02(a)4, equal to or greater than 20 tons. The rest of the definition language is identical, but these appear to have two different types of crane operators.

Ann, that's you again.

MS. MCGAURAN: What I was referring to is that we have two defined terms in here that are crane operators.

CHAIRMAN PHILLIPS: Right.

MS. MCGAURAN: And the defined term is "crane operator," not a crane operator with any clarification. And one is for crane operators with equipment less than 20 tons, and one is for crane operators with equipment equal to or greater than 20 tons. So I was wondering if the definition needed to be modified to say "crane operator," paren, "greater than 20 tons," and "crane operator," paren, "less than 20 tons."

MR. WRIGHT: Well, I would think that the crane operator that's penciled in in red here, equal to or greater, the proposed number 8, that's a -- is that a stand-alone rate?

MR. SUMMERS: Equal and greater to.

MR. WRIGHT: Okay. Because in my experience, you know, you're talking about big and little cranes. So the heavy crane operators are a very, very special item. You know, a 200-ton crane operator is probably going to be much more expensive than a Class A operator.

MS. MCGAURAN: I agree. And I'm not changing any of the other language. It's just that if you look at it --

MR. WRIGHT: Yeah. And you're proposing to make that "less than" --

MS. MCGAURAN: No. I'm proposing to change what's in parentheses -- what's in the quotes as the term to be descriptive of what you're really defining. So all I am saying is...
leave them both where they're currently at, but
call one of the crane operator terms -- you
know, it says "crane operator," and that's in
quotes, and that's essentially defining that term.
We have that same term being defined
two different ways in our document, and so we
should --
MR. BAILEY: And I understand what
you're saying, but the one difference is the one
crane operator is a subdivision of Class A
operator.
MS. MCGAURAN: Okay.
MR. BAILEY: And the other crane
operator is a stand-alone definition.
MS. MCGAURAN: And so if legally
that's fine -- I just didn't want it to be
confusing and people categorize them incorrectly.
MR. BAILEY: I mean --
MR. WRIGHT: I mean, agree that the
small crane operator -- really, what you're
showing the Class A operator would be the
smaller-type crane operators. That was probably
an appropriate place for that in a Class A
operator.
This one that's in paragraph 8 would
be the large crane operator, which is greater than
20 tons. It makes logical sense to me.
MS. MCGAURAN: I defer.
MR. BAILEY: I mean, does it ever
cause a problem out on the job? I mean, a
smaller-crane operator knows they're a Class A
operator.
MR. SUMMERS: Well, if you look at
our survey form and descriptions, under Class A
operator, "crane" is not listed. It says
"Dragline." But it doesn't say "motor crane." It
just says "Backhoe, end loader, Motor Patrol
Finish, Pile Driver, Dragline."
It should say "crane less than
20 tons."
MR. BAILEY: On the survey form?
MR. SUMMERS: Yes, sir. I think
that's what we intend. Because we have, you know,
parentheses and in bold letters "less than 20
tons," but it actually doesn't say "crane
operator."
MR. WRIGHT: Well, Rab, are you in
agreement that a big crane operator is probably
going to be more expensive than your average
Class A --

MR. SUMMERS: Of course. Of
course.
MS. MCGAURAN: And maybe it would
be as simple as saying, on our survey form, when
we say "crane operator," defining that that's for
those crane operators that are greater than
20 tons, and that the other crane operator should
be up under Class A.
I just didn't want the Class A crane
operators being accounted in your larger, more
specialized category. When people were reporting
was what I was concerned about.
MR. WRIGHT: I agree with you. And
after we make these changes, I would think some of
these -- that form we just approved may need to be
revised, honestly.
MR. BAILEY: Sounds like it.
MR. SUMMERS: Jan, do you see what
I'm talking about in that, just in the language
there?
MS. CAUDILL: I do. Right at the
back of Class A operators, it has everything but a
crane operator. And then it says "less than
20 tons."
MR. SUMMERS: Yeah. So it should
MR. BAILEY: There is less than 20 tons under Class A, but it doesn't say "crane operator."

MR. WRIGHT: It says "dragline."

CHAIRMAN PHILLIPS: Yeah, "dragline."

MR. BAILEY: Well, it looks like it says "dragline," period, and then it says "less than 20 tons." So we just need to add "crane operator.--"

MR. WRIGHT: Does that mean everything less than 20 tons?

CHAIRMAN PHILLIPS: Let's don't complicate it any more than it is.

MR. WRIGHT: I've got to practice for a meeting we're going to where we wordsmith for two days.

MS. MCGAURAN: And potentially, on page 20, if we just put the word "large-crane operator," and then "crane operator," that might distinguish those two different kinds. I don't know.

MR. WRIGHT: That would probably save three questions a year in my office.

MS. MCGAURAN: So I'm going to move that we change the term in 8 for the "equal to or greater than 20 tons" to large-crane operator."

CHAIRMAN PHILLIPS: So you've made the motion. Is there a second?

MR. CRABTREE: Second.

CHAIRMAN PHILLIPS: Any discussion?

(No verbal response.)

CHAIRMAN PHILLIPS: All in favor.

(Affirmative response.)

CHAIRMAN PHILLIPS: Okay. Motion carries.

Next is a proposal to change the language from "Prevailing Wage Act of 1975" to "Prevailing Wage Act for State Highway Construction Projects," Rule 0800-03-01-.03.

Motion to change the language?

MR. WRIGHT: So moved.

MR. SUMMERS: Second.

CHAIRMAN PHILLIPS: Any discussion?

(No verbal response.)

CHAIRMAN PHILLIPS: All in favor?

(Affirmative response.)

CHAIRMAN PHILLIPS: Motion carries.

MR. SUMMERS: Just a question. When the Tennessee Aeronautics Commission with the Department of Transportation lets projects, they also use this same prevailing wage.

MR. CRABTREE: What's the question?

MR. SUMMERS: Well, your aeronautics division uses this same prevailing wage when they let a project on one of the smaller airports, and even the larger ones that they're involved with. We're not confusing things on that, are we? Because instead of State Highway Construction Projects, those are still Department of Transportation projects, aren't they, since --

MR. CRABTREE: They are, yes, sir. MR. SUMMERS: -- since they're a part of the Department of Transportation.

Prevailing wage should say Tennessee Department of Transportation Projects?

MR. CRABTREE: I don't know how many contracts our aeronautics division lets themselves. I know they probably do, but more times than not, they give the money out, just like our locally managed projects, and the local agency lets for the airport. I don't know how many times we do it one way and how many times we do it another. And maybe that doesn't matter.

MR. SUMMERS: But you still require them to use a Tennessee prevailing wage.

MR. CRABTREE: If our aeronautics division lets the contract, yes, sir.

MR. SUMMERS: But even when you give it to the locals, don't you --

MR. CRABTREE: No, sir.

MR. SUMMERS: Doesn't the wage follow the money?

CHAIRMAN PHILLIPS: No. We had this discussion last year.

MR. CRABTREE: Last year. What we have decided is if local agencies want to use the prevailing wage rates, then they may. However, we're not going to enforce them, and from what I understand from Commissioner Phillips, that the Department of Labor is not going to enforce them either. So the only enforcement they have is their contractual ability to enforce this. So they do it at their own risk.

MR. SUMMERS: Even if the money flows through TDOT, that doesn't matter to you.

MR. CRABTREE: Doesn't matter.

That's what our general counsel has determined and that's what our deputy commissioner has agreed to, so that's what we're doing.
MR. SUMMERS: Okay.

CHAIRMAN PHILLIPS: And we did discuss this last year.

MS. MCGAURAN: Yes, we did.

MR. WRIGHT: I mean, because this -- the position is consistent.

MR. SUMMERS: Okay. I'll remember that now.

CHAIRMAN PHILLIPS: Okay. So next, Rab, this is your proposal to define highway contractor, public highway, and state construction project, Rule 0800-03-02-.01 (f), (g), and (h) using the following language: "Any state agency or by any municipality, county, or other political subdivision, as defined in Rule 0800-03-02-.03."

MR. SUMMERS: I guess this is the same -- pretty much, it's the same issue. I mean, we have TDOT money going to counties, to cities. I thought they would be required to use the prevailing wage, but just what the general counsel has said, that they're not?

MR. CRABTREE: That's correct. Our general counsel says they're not. And I think we may have even voted on it last year here and agreed to that position.

CHAIRMAN PHILLIPS: So are we making a motion?

MR. SUMMERS: I'm being quiet.

MR. BAILEY: So...

CHAIRMAN PHILLIPS: Dan?

MR. BAILEY: I was just looking at an email that I had sent. It was to Ms. Jefferson and Chance. Which I'm making the argument that based on the definitions that it would apply -- an argument could be made that it does apply in this municipality or applicable subdivisions of the state that is funded in whole or part -- let me just read it to you. It says, "Kim, in response to Mr. Crabtree's concern regarding whether the Tennessee Department of Labor has authority over a municipal project that receives state funding, I think that is covered in the definition of 'public highway' that I set out in my earlier email about airport runways. In that email, I stress the underlined portion, but I think Mr. Crabtree's concern is addressing the highlighted portion that I just did. The public highway" -- and I go through the definitions of public highway, medians, any street -- "constructed or maintained by the state or any municipality or applicable subdivision of the state. And that is funded in whole or in part by federal or state highway funds. State contract means any contract or agreement written," blah blah blah, "for the performance of work on a state highway" -- and I go through the definitions of public highway, contractor, public highway, and state construction project. "And then State highway construction project means any construction project for the purpose of building or rebuilding or repairing any public highway."

CHAIRMAN PHILLIPS: Yes.

MR. SUMMERS: Okay.

MR. CRABTREE: Now, whether that's the way it should be or not, I can't say. But based on our reading, our general counsel's reading of the statute, we believe that's what it says.

MR. SUMMERS: Is he talking about the Prevailing Wage Act Statute or --

MR. CRABTREE: Yes. As amended.

MR. SUMMERS: -- a bunch of other -- it's in the prevailing wage portion.

Okay.

MR. CRABTREE: Yes.

MR. SUMMERS: Okay. That's good.

CHAIRMAN PHILLIPS: So are we making a motion?

MR. SUMMERS: I'm being quiet.

MR. BAILEY: So...

CHAIRMAN PHILLIPS: Dan?

MR. BAILEY: I was just looking at an email that I had sent. It was to Ms. Jefferson and Chance. Which I'm making the argument that based on the definitions that it would apply -- an argument could be made that it does apply in this...
we want to move to hold on proposal number 6 to
change the language?

CHAIRMAN PHILLIPS: Yes.
MS. MCGAURAN: I would like to move
that we hold on changing the language until the
lawyers have a chance to reconcile their opinions.
CHAIRMAN PHILLIPS: Is there a
second?
MR. WRIGHT: There is a second.
MR. SUMMERS: You're including
proposals 6 and 7, right?
MS. MCGAURAN: For proposal 6 and
7, yes, sir.
CHAIRMAN PHILLIPS: Any more
discussion?
MR. CRABTREE: I would like to ask
a procedural question.
CHAIRMAN PHILLIPS: Sure.
MR. CRABTREE: Once this rule is
finalized here, the Department of Labor, then it
goes to the attorney general's office, and at some
point, it goes out for comments; is that correct?
MR. BAILEY: Well, it will go to
the attorney general's office. Well, first of
all, the governor's office, then the attorney
general's office, for them to review it and
approve it. And it depends on which rulemaking
path we take. If we take the rulemaking hearing
rule path, then there's a meeting where the public
can comment on the rules. If you go proposed
rulemaking route, then you don't have that, unless
somebody objects. And then you've got to go back
through the hearing process.
So it just depends on which route you
want to take. If you think there's a lot of
people in the public that would want to comment on
these rules, then it's best to go that route to
begin with.
But, now, for the most part, these
rules aren't really changing anything, other than
taking the building portion out and just solely
focusing it on state highway construction
projects. I mean, it doesn't change much of
anything else other than that.
So I'm saying that only to say that I
don't know how much public comment you would get,
so I don't know, you know, if going that route is
the best route, because it is a longer route.
MR. CRABTREE: Okay. Thank you.
CHAIRMAN PHILLIPS: Okay. A motion
was made, seconded, and approved.
MS. MCGAURAN: Did we approve it?
CHAIRMAN PHILLIPS: Yes, we did.
MS. MCGAURAN: Okay.
CHAIRMAN PHILLIPS: And then
finally, we have some clean-up language to
properly refer to the Commission Department and
Labor Standards Unit where appropriate.
Do you want to speak to that at all?
MS. JEFFERSON: Yes, sir. That's
basically it. Throughout the rules, the rules
sometimes refer to the Commission when it should
refer to Labor Standards. We just want to clean
up all of that language and just make it plain.
And that's basically it.
CHAIRMAN PHILLIPS: And it's just a
matter of consistency.
MS. JEFFERSON: Yes.
MR. WRIGHT: I had looked through
this yesterday, and I have four or five things in
these definitions that I think should cleaned up
as well. Is this an appropriate time to do that?
Or should I submit them in writing or...
CHAIRMAN PHILLIPS: Sure. Might as
well do it now as later.
CHAIRMAN PHILLIPS: Yes.

MR. WRIGHT: Okay. And then if you go to paragraph 3, where it says "End loader operator." --

MR. BAILEY: Yeah.

MR. WRIGHT: I hadn't heard the term "end loader" in 20 years. Have you, Rab?

MR. SUMMERS: Well, I don't know which end they're talking about.

MR. WRIGHT: Yeah. Aren't they just really loaders? That's a slang.

"End loader" is slang, that they're either track loader or wheel loaders, by industry definition.

So I would move to strike the word "end." And then I don't think the commission would care whether it's on tracks or wheels, I don't believe.

Rab, is that good?

MR. SUMMERS: Yes, sir. I don't know which end they're talking about.

MR. WRIGHT: That's kind of where I'm at. And we've got some on a list, but I'm not sure...

And then going on to Class B operator -- one other thing in paragraph 4, "Motor Crane Operator," is this a category we even need, considering that we have crane operator well defined as above and below 20 tons? Paragraph 4, right below it, the next definition below "end loader." --

MR. SUMMERS: We don't recognize any difference in a crane operator, of whether it's a crawler crane or a motor crane. It's just the lifting capacity.

MR. WRIGHT: It's just a crane. I mean, I would suggest that we strike that in its entirety.

MR. SUMMERS: Okay.

MR. WRIGHT: Which means it'd also need to be stricken from the survey form?

MR. WRIGHT: Yes.

And then if you go down to Class B operator, paragraph 1, bulldozer or push dozer operator, I would strike "push dozer."

MS. MCGAURAN: Would you also, under 4, Class B operator, would you strike the word "end loader" --

MR. WRIGHT: Yes, ma'am.

MS. MCGAURAN: -- from that definition?

MR. WRIGHT: Yes, ma'am.

MS. MCGAURAN: Okay.

MR. WRIGHT: Well, actually, it really shouldn't be in Class B at all.

MS. MCGAURAN: Because it's in the --

MR. WRIGHT: Because it's -- well, excuse me. It's less than three yards. Yes, it may very well be.

MR. BAILEY: So strike the word "end," then?

MR. WRIGHT: Yes. Please strike the word "end," but the category is probably still appropriate.

MR. BAILEY: Right.

MR. WRIGHT: And then if you go to paragraph 1, I would strike "push dozer."

MR. BAILEY: Right.

MR. WRIGHT: If you go to paragraph 4 -- Rab, do you own a shovel?

MR. SUMMERS: We do not.

MR. WRIGHT: We don't either.

That's kind of an obsolete machine.

MR. SUMMERS: I mean, maybe somebody does.

MR. WRIGHT: There may be, but I --

CHAIRMAN PHILLIPS: I mean, I'm sure if you strike it, somebody will have --
MR. WRIGHT: I would move to strike Number 5.

MR. CRABTREE: What about our mowers? Is it possible that a ride-away mowing could be using that classification?

MR. WRIGHT: Well, there's another one in here.

MR. CRABTREE: You've got another one?

MR. SUMMERS: Yes, farm tractor.

MR. WRIGHT: If you go to page -- I marked it. I was trying to figure that out, Rayburn, is what got me on that.

Okay. It's on page 20, "Tractor Operator, one who operates a rubber tired" --

MR. SUMMERS: That's not a mower.

MR. WRIGHT: No, I misspoke.

MR. SUMMERS: See, I don't know what that guy does.

MR. WRIGHT: I don't either.

That's why I've got "eliminate" beside it. So we do need the operator for the mowing machines.

CHAIRMAN PHILLIPS: Uh-huh.

Because I don't think it's addressed anywhere else.

MR. WRIGHT: So that's a Class C operator?

MS. MCGAURAN: It's a Class B operator?

MR. SUMMERS: The classification Number 10 in our form is "Farm Tractor Operator" or "Power Broom." So that's where the Classification 10, we take care of all the people doing all the mowing on the right-of-ways.

MR. WRIGHT: Yes. There it is.


MR. BAILEY: So you're saying delete that?

MR. WRIGHT: Yes.

CHAIRMAN PHILLIPS: So strike that one?

MR. SUMMERS: And I think Number 6, also.

MR. WRIGHT: Yeah. Trenching machine...

MR. SUMMERS: Well --

MR. WRIGHT: If you go to page -- I marked it. I was trying to figure that out, Rayburn, is what got me on that.

Okay. It's on page 20, "Tractor Operator, one who operates a rubber tired" --

MR. SUMMERS: That's not a mower.

MR. WRIGHT: No, I misspoke.

MR. SUMMERS: See, I don't know what that guy does.

MR. WRIGHT: I don't either.

That's why I've got "eliminate" beside it. So we do need the operator for the mowing machines.

CHAIRMAN PHILLIPS: All right.

MR. SUMMERS: All this is, is getting the rule to reflect the same thing as our survey form does, basically.

CHAIRMAN PHILLIPS: Exactly.

MR. BAILEY: Okay. So if I've got all these noted correctly, you're going to entertain a motion to delete, on page 15, under Class A operator, in the introductory paragraph of Class A operator, the words "Tractor," parenthesis, "Crawler/Utility," parenthesis, "Scrap," "Shovel," and the words "or Trenching Machine."

CHAIRMAN PHILLIPS: Okay. What was the last one, again? Stephen, what was the last one?

MR. WRIGHT: Oh, gosh. No, that was just a question about -- there's no suggested action.

CHAIRMAN PHILLIPS: All right.

MR. SUMMERS: All this is, is getting the rule to reflect the same thing as our survey form does, basically.

CHAIRMAN PHILLIPS: Exactly.

MR. BAILEY: Okay. So if I've got all these noted correctly, you're going to entertain a motion to delete, on page 15, under Class A operator, in the introductory paragraph of Class A operator, the words "Tractor," parenthesis, "Crawler/Utility," parenthesis, "Scrap," "Shovel," and the words "or Trenching Machine."

MR. WRIGHT: Yes, sir.

MR. BAILEY: And on page 16, small Roman Numeral iii, your motion is to delete the word "end" from the parenthesis, "end load operator."

MR. WRIGHT: Yes, sir.
MR. BAILEY: And also to delete Roman Number subparagraph iv just below that, which is the definition for motor crane operator.

MR. WRIGHT: Yes, sir.

MR. BAILEY: And then in paragraph 4, Class D operator, in the introductory paragraph, again, delete the word "end" from "end loader." And then in subparagraph Roman Numeral i, eliminate the words "or push dozer operator."

MR. SUMMERS: You could probably delete "push dozer" in the description there, too.

MR. BAILEY: Okay. In the introductory paragraph?

MR. SUMMERS: Yes, sir.

MR. BAILEY: Okay. All right. And then finally, on page 17, small Roman Numeral paragraph v, delete that whole paragraph, which is the definition for a Tractor Operator, parenthesis, Crawler/Utility, end parenthesis.

MR. WRIGHT: Yes, sir.

MR. BAILEY: Okay. So that's your motion?

MR. WRIGHT: Yes, sir. Well, and I see one other thing I would like to bring up. In Class -- the paragraph -- the entry -- the beginning paragraph iv, it does say end loader, and we talked about striking "end loader less than three yards." If you read through all of the definitions in Class B, there is no definition for that. See, it only has bulldozer; motor patrol operator; scraper operator; the shovel operator, the one we're eliminating; and trenching machine operator. Then it goes to Class C and introduces those.

So I would think the Department either needs to write a paragraph for a loader less than three yards -- and I'm looking over here to my left to see -- do we want a big loader and a little loader like we have a big crane and a little crane? Because --

MR. SUMMERS: Well, since you say that, we talked about another Class A operator, end loaders three yards or over. But then under the Class A operator, where it says "Loader operator," it doesn't require it to be three yards or over. So it should.

MR. WRIGHT: It should, yes. I'm wondering we need to correct this just like we did the crane, to have a big and a little.

MR. SUMMERS: Under your definition, under Class A operator, it says, "End loader" -- or "loader, three yards and over." But when you go to iii, it just says "loader operator," and it doesn't reference the size.

MR. WRIGHT: Which would be the first paragraph on page 16. When we remove "end," it would probably need a parenthesis that says "three yards and larger" or "larger than three yards," whichever is appropriate.

MR. CRABTREE: Is there that much difference in operating those two?

MR. WRIGHT: Yeah, there really is, because, you know, the little guy is feeding the asphalt plant, and the other guy is running a million-and-a-half dollar machine, loading hundred-ton rock trucks. Is that fair?

MR. SUMMERS: Yeah. So under Class B operator, you would --

MR. WRIGHT: Which would be your asphalt loader guy.

MR. SUMMERS: You would put that loader operator, exactly the same definition down there, except it would say less than three yards.

MR. WRIGHT: So you would need to copy the paragraph iii down into the Class B.

MR. BAILEY: Okay. So continuing on, your motion, then, would also add the words under subparagraph Roman Numeral iii, under Class A operator, "Loader operator," parenthesis, "larger than three yards," parenthesis.

MR. WRIGHT: Yes, sir.

MR. BAILEY: And then under Class B operator, add a paragraph to define "loader," parenthesis, "less than three yards" under Class B operator, which would be a new Roman Numeral -- a small Roman Number vii.

MR. WRIGHT: Yes, sir.

MR. BAILEY: And basically, it's the same definition as "loader operator" under Class A operator, but less than three yards.

MR. WRIGHT: Yes, sir. I think that's our intent.

MR. BAILEY: Okay. So all of that is the motion.

MS. MCGAURAN: I'll second the motion.
CHAIRMAN PHILLIPS: Does anybody really have that motion?

MR. WRIGHT: Yeah, I'll make that motion.

MS. MCGAURAN: And I'll second it.

MR. WRIGHT: I can't recant it.

CHAIRMAN PHILLIPS: And I hope we don't have any more discussion on it.

MR. WRIGHT: We're good.

CHAIRMAN PHILLIPS: All in favor?

(Affirmative response.)

CHAIRMAN PHILLIPS: Motion carries.

MS. MCGAURAN: And I want to make one more motion. I know that we previously approved the survey letter and the form, but I would like to move that staff be allowed to update the survey letter and form to reflect any of the changes that we just made to the document itself.

MR. WRIGHT: Second.

CHAIRMAN PHILLIPS: Any discussion?

(No verbal response.)

CHAIRMAN PHILLIPS: Everybody in favor, say "aye."

(Affirmative response.)

CHAIRMAN PHILLIPS: Carries.

That's good, Ann. Good catch there. Okay. So we don't need to have a motion to approve what we just approved, right?

MS. JEFFERSON: We're done.

CHAIRMAN PHILLIPS: We're done with that one.

MR. SUMMERS: I have one question. On page 27, here, we're codifying a pattern of behavior that the Prevailing Wage Commission has followed, more or less, over a number of years. All of that is within the 6 percent up or down that we have. Do we need to codify that pattern of behavior? It's not a rule. It's just something that we have done to even out cyclical things that are sometimes there's been some data in that we think we can't exclude, but it's not indicative of what goes on in the industry.

But that Number 8 there in red would -- it says it can adjust, according -- if that means we don't have to, then I'm okay with it. But if this is going to --

CHAIRMAN PHILLIPS: If it said "will," that would be different. But it says "can."

MR. SUMMERS: So "can" -- I mean, the commission could disregard this and do something different --

MS. JEFFERSON: Yes.

MR. SUMMERS: -- is that correct?

MS. JEFFERSON: Yes. You can adjust according to these guidelines. Yes, those are discretionary, is the way I understand it.

MR. WRIGHT: This is helpful to me, Rab, because you're the only one that knows the rules.

MS. MCGAURAN: So those are -- so what we're doing is -- so just to make sure, what we're doing is we're codifying the guidelines, suggested norms?

MS. JEFFERSON: Yes. Being from what I understand, that's -- is that a requirement, Jan, their five, or is that just discretionary based on the history of the commission?

MS. CAUDILL: On the one less than five, that's the one that's stated in the law. That's --

MS. CAUDILL: That's the only one that's stated in the law.

MS. JEFFERSON: But the others are discretionary. And mainly, this is being placed in the rules because we receive questions from time to time, and we have to explain justification, as to why we're doing things. And, say, if any of you were to leave and we're not here to explain, then we would have something to fall back on. Right now, we don't have anything to fall back on. So that's why we were proposing to include those things.

CHAIRMAN PHILLIPS: "A" is the only one that's really codified. The other two -- no?

MS. CAUDILL: "B."

CHAIRMAN PHILLIPS: Oh, excuse me. Yes. "B" is the only one that's codified. The others give us discretion under this.

MS. MCGAURAN: Would it make sense, then, for "A" and "C" to change the word "will" in those statements to "may"?

"The prevailing wage rate may be set at survey. The prevailing wage rate may be set at plus or minus," instead of "will." So that, then, the one in the middle says you "will," and the other ones say you "may."

CHAIRMAN PHILLIPS: Yes.
MR. BAILEY: Well, this is also covered in the statute. So to kind of follow up with what you were saying, I mean, if it's in the statute, it kind of calls into question do you need to put it in the rules.

MS. JEFFERSON: Is all of it in the statute?

MR. BAILEY: 6 percent is in the statute. It says that the commission, if it ascertains a certain economic condition, can adjust the final wage for determination as developed by the documentation certified to the commission by adding to or subtracting from the determination a percentage factor of not more than 6 percent based on the previous years' prevailing wage rate. Such determination shall be effective until the next determination of the prevailing wage rate pursuant to the terms hereof unless herein otherwise specifically provided. And then --

MS. JEFFERSON: And see, that refers to the 6 percent, which we know is in the law. So we're not disputing that. A is referring to 15 percent. And actually, C is referring to 10 to 15 percent. Those are different than what's in the code.

CHAIRMAN PHILLIPS: So would it not be resolved just by changing the word -- two words so that it's discretionary rather than --

MS. JEFFERSON: Yes, for A and B.

CHAIRMAN PHILLIPS: Yeah, for A and B.

MS. JEFFERSON: A and B would be discretionary.

CHAIRMAN PHILLIPS: A and C.

MS. CAUDILL: A and C.

CHAIRMAN PHILLIPS: I mean A and C.

MS. JEFFERSON: A and C, I'm sorry.

B is in the code. We just put that in because that was -- actually, there were four factors that were considered. One was outdated. We talked with Mr. Summers about that, when it was outdated, so we went ahead and deleted that. However, the other three -- all three of these were used historically.

So as Ann suggested, we can leave A and C in the rules with the understanding that they are discretionary and use the discretionary word; whereas, B would be -- since it's in the law --

MR. BAILEY: I would have to confirm that.

MS. JEFFERSON: Was that in the law, Jan? I know it's in the rule. But I think we would just include that. It was previously in the rule, the way I understand it.

MR. SUMMERS: I don't think there was a requirement. What you do when you have insufficient data -- I think the insufficient data was thrown out, and then the commission had the right to keep it the same as last year, increase it by the state average, or do anything, basically, within the 6 percent.

MS. JEFFERSON: Okay. I can't remember if I actually saw that in the rules. For some reason, I thought I saw that in the rules. I'll have to lean on the Labor Standards Unit to verify the original rules to make that determination. But it just makes it a little easier for us when it comes time for audits, because we have to justify why we do what we do. And if we don't have documentation somewhere to justify it, it's going to cause problems for us. So that's why we suggested just laying out everything and describing it.

CHAIRMAN PHILLIPS: So would it not be resolved just by changing the word -- two words so that it's discretionary rather than --

MS. JEFFERSON: Yes, for A and B.

CHAIRMAN PHILLIPS: Yeah, for A and B.

MS. JEFFERSON: A and B would be discretionary.

CHAIRMAN PHILLIPS: A and C.

MS. CAUDILL: A and C.

CHAIRMAN PHILLIPS: I mean A and C.

MS. JEFFERSON: A and C, I'm sorry.

CHAIRMAN PHILLIPS: Yeah, B is in the statute.

MS. JEFFERSON: Is B in the statute?

MR. SUMMERS: The reason for this rule is called a might fits rule. When there were 13 different prevailing wages across the state for the building trades, there were 13 different regions from Memphis to East Tennessee. And you would get 20 percent fluctuations up and down, just all the time, and we tried to -- and Mike came up with this method of trying to smooth out the ups and downs within the commission of 6 percent. Because when the prevailing wage was building, we got really inaccurate data, really inaccurate data.

MR. CRABTREE: So do we still need it? If we're getting good data now, do we still need that breakdown?

MR. SUMMERS: Personally, I don't think so. Personally, I think that the commission has the right to go up or down 6 percent. This was in response to some complaints by some of the union people to have a pattern of why you're doing what you do. So Mike...
came up with this formula to have a pattern for
our behavior on the building trade side.
We get excellent data on the highway
side. We know we do. There's no problem with our
data. And I don't know that we need them, but...
MR. WRIGHT: If we don't need them, why do we have them?
MS. JEFFERSON: But if we don't have anything, we would have to use -- we could only do plus six or minus six. We couldn't ever do anything different, because that would cause problems as far as auditing. As long as we're aware of that, then I'm okay with that. But whatever the commission decides.
MR. WRIGHT: You mean greater or less than 6 percent.
MS. JEFFERSON: Greater or less than 6. We would be bound by that. We wouldn't be able to make any type of adjustments, because if we don't have anything to fall back on and justify why you're doing something different than what the law requires, it causes problems. So as long as --
CHAIRMAN PHILLIPS: Particularly with the auditors.
else, if that is what it is.
MR. WRIGHT: We can just refer the auditor to the law.
MS. CAUDILL: Right. Well, they referred us to the law.
MR. WRIGHT: Now you can refer them.
MS. CAUDILL: But if that's all you can do, then why have these --
CHAIRMAN PHILLIPS: That doesn't always work. I can tell you.
MS. CAUDILL: I think it causes more confusion, myself.
MR. SUMMERS: Are you saying that --
MR. CRABTREE: I kind of tend to agree.
MR. SUMMERS: Are you saying that if there was one rate that went up 15 percent, and all the other rates went up 3, 4, 5. And we said, well, this one goes up 15 percent, 1/2 percent of this calculation, we just say that's too high.
MS. JEFFERSON: If you did something outside of that plus or minus --
MR. SUMMERS: Well, no, we wouldn't go outside the plus or minus. We'd say that 15 percent, that's got to go down 6.
MS. JEFFERSON: Right. Well, as long as it's not outside of the plus or minus range, then it's okay. But if we tended to do something a little different because the economic conditions required, based on just looking at the rates and saying, well, this is too high. This is way too high so I'm going to do something maybe plus 8 --
MR. SUMMERS: Oh, no.
MS. JEFFERSON: -- then that would cause a problem.
MR. SUMMERS: We can't do that.
MR. BAILEY: We can't do that.
MR. SUMMERS: And this is all within 6 percent.
MR. BAILEY: Yeah. And that was corrected.
MS. JEFFERSON: Yes, it was corrected.
MR. BAILEY: Yeah. Because that law won't allow them to do that. But, I mean, you know, they can't do that.
MR. WRIGHT: Well, if that's the
case, we need to change "will" to "may" in B as well.

MS. JEFFRSON: We can do that, just change that to "may" and leave it there.

MR. WRIGHT: Or just eliminate it altogether.

MS. JEFFRSON: Yes.

MR. WRIGHT: Which would be my first choice.

MS. MCGAURAN: I guess my question is, Kim, is your assertion that adding this to our rules gives the commission more flexibility rather than less flexibility?

MS. JEFFRSON: Yes. Because if the law -- I know if the law says one thing, it does trump; however, these notes, in the past, they've been used anyway, historically, long before any of us, you know, were here, that these notes were used, despite what the law said. And we tried to justify that based on rates that had been proposed.

Some of the rates were plus 8 percent or plus whatever. They were outside that plus-6 or minus-6 range. And that's -- that caused problems for us, and that's why we had a special meeting --

CHAIRMAN PHILLIPS: With the comptroller.

MS. JEFFRSON: -- this past -- actually, earlier on. And we just want to make sure, going forward, that doesn't happen again.

But whatever you-all propose, if we wanted, just use the law, what the law states, then we can eliminate these, and we can proceed based on what the law states without any exceptions, plus or minus.

CHAIRMAN PHILLIPS: But then you don't have any flexibility. Do you want flexibility, or do you not?

MR. SUMMERS: Well, this doesn't give any more flexibility. And we've always tried to stay within the 6 percent. I think, at times, our arithmetic has gotten off, and I don't think there was ever an intent to get outside the 6 percent, but there was just some arithmetic.

I don't see where this --

MR. WRIGHT: -- helps anything?

MR. SUMMERS: -- helps anyone.

MS. WRIGHT: Well, let's move to strike.

MS. MCGAURAN: Can I -- I just want to clarify one thing. So it appears to me that what this says is that we can use the state survey rate as the baseline versus the prior annual rate as the baseline for our plus or minus 6 percent. If the survey rate shows an increase or a decrease of more than 15 percent over the previous year's prevailing wage rate, then the new prevailing wage rate would be set at the survey rate. So you take the survey rate, where people are responding with a plus or a minus to what you were hearing is the rates. In the absence of this rule, do we have to go by -- so say our previous year's rate was $15, and the people are paying $20 an hour, then it appears that we could take the $20 and do plus or minus 6, do we still have to use -- or do we always have to use the 15?

MR. CRABTREE: I think it says the determination, which is the current year's survey rate --

MS. JEFFRSON: Yeah, the current year's rate, we would always use that as a basis.

MR. SUMMERS: Where we got messed up last year is we were using -- we were going off the survey rate, as you're talking about. But the
1 if the current rate was $15 an hour and it comes
2 in at 20, we could take 6 percent of the 15, or
3 0.90 and take it off the 20, and that's all we can
4 do. And that's all we can do in here.
5 MS. MCGAURAN: Okay.
6 MR. SUMMERS: There's no
7 difference.
8 MS. JEFFERSON: And, also --
9 MS. MCGAURAN: That answers my
10 question. Thank you.
11 MS. JEFFERSON: Yes. As far as B is
12 concerned, we, pretty much -- if there are
13 insufficient survey responses, less than 5, we
14 generally don't use those. So if we get rid of
15 that, we won't be doing that going forward either,
16 because that's not in the law.
17 MS. CAUDILL: That was the only one
18 we considered keeping.
19 MS. JEFFERSON: I believe those
20 were in the rules previously. So that's been in
21 the rules. B has been in the rules.
22 MS. CAUDILL: And the only way we
23 changed that was by plus or minus the state
24 average, as long as it wasn't more than 6 percent.
25 Because you're going to be working -- if there's

1 as four different companies responding, or one
2 company responding on four different projects?
3 MS. CAUDILL: The way it interprets
4 it right now, we do four different companies.
5 MR. SUMMERS: That's the way I -- I
6 think it should be.
7 MS. CAUDILL: Because they're --
8 yes.
9 MR. SUMMERS: Yes.
10 CHAIRMAN PHILLIPS: So does anybody
11 know where we are?
12 MR. SUMMERS: Well, if you want, we
13 can take a motion. Under Number 8, I would just
14 remove everything except B, and I would say if
15 there are insufficient survey responses, less than
16 five companies --
17 MR. BAILEY: May I interject?
18 MR. SUMMERS: Sure.
19 MR. BAILEY: If you look at the
20 paragraph just above it, Number 7 --
21 MR. SUMMERS: Yeah.
22 MR. BAILEY: -- it covers B. That
23 is the current language.
24 CHAIRMAN PHILLIPS: Well, you're
25 right. It does.

1 no responses, you're going to be working off of
2 the current year's rate anyway. And as long as
3 the state average isn't more than 6 percent,
4 you're still within the law.
5 MR. SUMMERS: I don't have a
6 problem keeping B if that gives you a problem with
7 the auditors, if we just arbitrarily do something
8 there. That's not as significant. That's not a
9 significant thing.
10 MS. JEFFERSON: That's fine.
11 MR. CRABTREE: I think there ought
12 to be a minimum. I don't know if four is the
13 right minimum or not. It should be less than
14 five, so it has to be four.
15 MR. BAILEY: The current rule says
16 if any classification of a craft listed -- this is
17 on the prevailing wage survey form, where four or
18 fewer responses are received, these responses may
19 be excluded from establishing the rates. Where
20 the data is excluded, the commission may continue
21 the rate in existence since the time of survey or
22 adjust it pursuant to @TCA 12-4-405(4). That's
23 the current rule.
24 MR. SUMMERS: How do you interpret
25 four responses? Do you interpret four responses

1 MR. BAILEY: So you don't need
2 Number 8.
3 MS. MCGAURAN: So strike 8 in its
4 entirety?
5 CHAIRMAN PHILLIPS: Strike 8.
6 MR. SUMMERS: Can we put in for
7 fewer separate companies? So there's always sort
8 of, a -- to make sure that one company can't put
9 in five or six jobs, and then all of a sudden
10 they're setting the prevailing wage for the state.
11 MR. WRIGHT: Is there a definition
12 section?
13 CHAIRMAN PHILLIPS: Jan said that
14 it was companies.
15 Where did you get that?
16 MS. CAUDILL: That's just part of
17 the survey. When the responses come in, the
18 responses are referred to per company.
19 MS. JEFFERSON: It's just based on
20 the way we currently do it.
21 CHAIRMAN PHILLIPS: Okay.
22 MR. BAILEY: So does the company
23 send more than one survey?
24 MR. SUMMERS: Oh, yeah.
25 MS. CAUDILL: They can. They can
have several projects.

MR. SUMMERS: Yeah. We send in multiple --

MS. CAUDILL: We've had more than 40 or 50, yeah.

MR. SUMMERS: Most of the major firms will send in, I don’t know, 15 or 20 different surveys on different projects. Because we have to detail the project that it’s on and say we have so many hours on this project...

MR. BAILEY: So you’re wanting there to at least be four surveys from four different companies.

MR. SUMMERS: Surveys from four different companies, yes, sir, to make sure we don’t have any confusion.

MR. BAILEY: So would we just want to add the word "company" between the words "fewer" and "separate"?

MR. SUMMERS: However you want to do it, but just -- I mean, I’d like to have "companies" in there some way.

MR. BAILEY: Fewer companies, separate. Or maybe --

MS. CAUDILL: Or take out "survey."

MR. BAILEY: So four or fewer unaffiliated companies --

MR. CRABTREE: That may not be the best choice of words, but it would keep Wright Brothers, Inc. and Wright Brothers, LLC from submitting the same data whenever they’re the same company.

MR. BAILEY: Just tell me the words you want me to put.

MR. CRABTREE: "Unaffiliated" is the word that we use, but there may be a better word. I don’t know.

MR. SUMMERS: You could say "four or fewer survey responses from unaffiliated companies are received."

CHAIRMAN PHILLIPS: Just say "four or fewer nonaffiliated company survey responses."

Do we have a motion?

MR. BAILEY: No.

MS. MCGAURAN: I would move to modify the language in Number 7 on page 27 and strike Number 8 on page 27, as discussed.

CHAIRMAN PHILLIPS: As discussed.

Do I hear a second?

MR. CRABTREE: Second.
MS. MCGAURAN: I move adjournment.
MR. WRIGHT: Second.
CHAIRMAN PHILLIPS: Motion to adjourn and second. All in favor.
(Affirmative response.)
CHAIRMAN PHILLIPS: We're adjourned.

END OF PROCEEDINGS.

CERTIFICATE

STATE OF TENNESSEE )
COUNTY OF WILLIAMSON )

I, Cassandra M. Beiling, a Notary Public in the State of Tennessee, do hereby certify:
That the within is a true and accurate transcript of the Prevailing Wage Commission Meeting taken on the 14th day of August, 2018.
I further certify that I am not related to any of the parties to this action, by blood or marriage, and that I am in no way interested in the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto set my hand this 28th day of September, 2018.

Cassandra M. Beiling, CCR, LCR# 371
Notary Public State at Large
My commission expires: 3/15/2020

Stone & George Court Reporting
615.221.1089
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| 1(e) | 19:19 |
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| 11th| 18:2  |
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| 15  | 9:1 37:5,6 45:14 |
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| 1975 | 27:13 |
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