FOR THE CASE OF
Prevailing Wage Commission Meeting

TRANSCRIPT OF
August Meeting
August 30, 2017

Stone & George
COURT REPORTING
2020 Fieldstone Pkwy
Suite 900 - PMB 234
Franklin, TN 37069
(615) 268-1244
This transcript is intended for your law firm’s own use. If you wish to share this transcript with an outside law firm, log back in to your CasePlannerPro account and click the Share button.

For questions, call (615) 268-1244 or send an email to nangeorge@stoneandgeorge.com
1. STATE OF TENNESSEE
   DEPARTMENT OF LABOR AND WORKFORCE DEVELOPMENT
   DIVISION

   Transcript of Proceedings
   of
   The Prevailing Wage Commission Meeting
   August 30, 2017

2. 1. APPEARANCES
    2. Commissioner Burns Phillips, Chairman
    3. Commissioner Wayburn Crabtree, TDOT Designee
    4. Commissioner Stephen Wright, Industry Representative
    5. Wright Brothers Construction Company, Inc.
    6. Commissioner R.T. Summers, Industry Representative
    7. Summers-Taylor, Inc.
    8. Commissioner Ann McGauran, State Architect
       Tennessee Department of Treasury
    9. Dan Bailey, Esq., Legal Counsel
    10. Jan Caudill, Administrative Assistant
    11. Carolyn Sherrod, Administrative Services Manager
    12. Kenneth Nealy, Director
    13. Kent Starwalt, TRBA
    14. Stamatia Xixis, Department of Labor & Workforce Development

3. IX. Adjournment
1. PROCEEDINGS
2. CHAIRMAN PHILLIPS: Well, first, I
3. guess I need to call everybody to order, correct?
5. CHAIRMAN PHILLIPS: And -- with roll
6. call. And we'll start with Wayburn.
7. MR. CRABTREE: Present.
8. CHAIRMAN PHILLIPS: R.T.
10. CHAIRMAN PHILLIPS: Stephen.
11. MR. WRIGHT: Here.
13. MS. MCGAURAN: Here.
14. CHAIRMAN PHILLIPS: And what is the
15. correct pronunciation of your last name? I think
16. I've been saying it wrong.
17. MS. MCGAURAN: Oh, well, don't worry
18. about it. I say "Mc-Garr-ehn" (phonetic).
19. CHAIRMAN PHILLIPS: Okay. Well, I've
20. been saying it right.
21. MS. MCGAURAN: But I mispronounced it
22. for two years before my husband told me I was, so
23. you're good.
24. CHAIRMAN PHILLIPS: All right. Good.
25. I don't feel so bad.

1. MR. NEALY: That's awesome.
2. CHAIRMAN PHILLIPS: Welcome. We
3. welcome you to this commission, and I think you'll
4. find that we are very succinct here and to the
5. point. Try to get to business and get it done.
6. Okay. We have to make this safety
7. announcement. Oh. Testing. Can you hear it?
8. Put it right here?
9. MS. CAUDILL: That's fine.
10. CHAIRMAN PHILLIPS: In the event of
11. an emergency, security and/or staff will take
12. meeting attendees to a safe place in the building or
13. direct them to exit the building on the Rosa Parks
14. side, which will be over here.
15. Okay. Has everybody signed the
16. conflict of interest statement? It's due by
17. September the 12th.
18. MS. CAUDILL: Actually, they're going
19. to be signed at that luncheon.
20. CHAIRMAN PHILLIPS: Oh, at that
22. MS. CAUDILL: So they'll be done by
23. then.
24. CHAIRMAN PHILLIPS: All right. Well,
25. if I had read my note, I would have known that,
1. Very good.

CHAIRMAN PHILLIPS: Thank you, Carol.

1. to meet you, Ann. I am the secretary for the Prevailing Wage Commission. And as Carolyn mentioned, we run a test prior to setting up the surveys and letters to be mailed out in September. It all starts with the TDOT mailing list, which I receive from Mr. Crabtree at TDOT.

1. This year, we have 736 contractors listed, which is about 125, I believe, more than we had last year. Once we receive that, we format it and send it up to the IT department for uploading to the prevailing wage database.

1. The fact that we got so many that provided their e-mails this year, we are hoping to be able to electronically send the survey and the letter out. Almost everyone provided an e-mail this year, so that should expedite the process of not only getting the surveys and letters out but also their response time coming back to us.

1. Once that is done, the contractors -- they are asked to give, per the project information for the most previous quarter, which -- in the months of July, August, and September. They fill in the information regarding the number of employees, the number of hours they worked, and the amount of wages they were paid based on each of the 25 classifications. That information is then entered either electronically -- the contractors can enter it online. If not, the form is mailed in, at which point, an administrative staff would enter it manually onto the prevailing wage system.

1. Once that's done, the contractors -- also their response time coming back to us. They provide their e-mails this year, we are hoping to be able to electronically send the survey and the letter out. Almost everyone provided an e-mail this year, so that should expedite the process of not only getting the surveys and letters out but also their response time coming back to us.

1. Once that is done, the contractors -- they are asked to give, per the project information for the most previous quarter, which -- in the months of July, August, and September. They fill in the information regarding the number of employees, the number of hours they worked, and the amount of wages they were paid based on each of the 25 classifications. That information is then entered either electronically -- the contractors can enter it online. If not, the form is mailed in, at which point, an administrative staff would enter it manually onto the prevailing wage system.

1. Once that's done, the contractors -- also their response time coming back to us. They provide their e-mails this year, we are hoping to be able to electronically send the survey and the letter out. Almost everyone provided an e-mail this year, so that should expedite the process of not only getting the surveys and letters out but also their response time coming back to us.

1. Once that is done, the contractors -- they are asked to give, per the project information for the most previous quarter, which -- in the months of July, August, and September. They fill in the information regarding the number of employees, the number of hours they worked, and the amount of wages they were paid based on each of the 25 classifications. That information is then entered either electronically -- the contractors can enter it online. If not, the form is mailed in, at which point, an administrative staff would enter it manually onto the prevailing wage system.

1. Once that's done, the contractors -- also their response time coming back to us. They provide their e-mails this year, we are hoping to be able to electronically send the survey and the letter out. Almost everyone provided an e-mail this year, so that should expedite the process of not only getting the surveys and letters out but also their response time coming back to us.

1. Once that is done, the contractors -- they are asked to give, per the project information for the most previous quarter, which -- in the months of July, August, and September. They fill in the information regarding the number of employees, the number of hours they worked, and the amount of wages they were paid based on each of the 25 classifications. That information is then entered either electronically -- the contractors can enter it online. If not, the form is mailed in, at which point, an administrative staff would enter it manually onto the prevailing wage system.

1. Once that's done, the contractors -- also their response time coming back to us. They provide their e-mails this year, we are hoping to be able to electronically send the survey and the letter out. Almost everyone provided an e-mail this year, so that should expedite the process of not only getting the surveys and letters out but also their response time coming back to us.

1. Once that is done, the contractors -- they are asked to give, per the project information for the most previous quarter, which -- in the months of July, August, and September. They fill in the information regarding the number of employees, the number of hours they worked, and the amount of wages they were paid based on each of the 25 classifications. That information is then entered either electronically -- the contractors can enter it online. If not, the form is mailed in, at which point, an administrative staff would enter it manually onto the prevailing wage system.

1. Once that's done, the contractors -- also their response time coming back to us. They provide their e-mails this year, we are hoping to be able to electronically send the survey and the letter out. Almost everyone provided an e-mail this year, so that should expedite the process of not only getting the surveys and letters out but also their response time coming back to us.

1. Once that is done, the contractors -- they are asked to give, per the project information for the most previous quarter, which -- in the months of July, August, and September. They fill in the information regarding the number of employees, the number of hours they worked, and the amount of wages they were paid based on each of the 25 classifications. That information is then entered either electronically -- the contractors can enter it online. If not, the form is mailed in, at which point, an administrative staff would enter it manually onto the prevailing wage system.

1. Once that's done, the contractors -- also their response time coming back to us. They provide their e-mails this year, we are hoping to be able to electronically send the survey and the letter out. Almost everyone provided an e-mail this year, so that should expedite the process of not only getting the surveys and letters out but also their response time coming back to us.

1. Once that is done, the contractors -- they are asked to give, per the project information for the most previous quarter, which -- in the months of July, August, and September. They fill in the information regarding the number of employees, the number of hours they worked, and the amount of wages they were paid based on each of the 25 classifications. That information is then entered either electronically -- the contractors can enter it online. If not, the form is mailed in, at which point, an administrative staff would enter it manually onto the prevailing wage system.

1. Once that's done, the contractors -- also their response time coming back to us. They provide their e-mails this year, we are hoping to be able to electronically send the survey and the letter out. Almost everyone provided an e-mail this year, so that should expedite the process of not only getting the surveys and letters out but also their response time coming back to us.

1. Once that is done, the contractors -- they are asked to give, per the project information for the most previous quarter, which -- in the months of July, August, and September. They fill in the information regarding the number of employees, the number of hours they worked, and the amount of wages they were paid based on each of the 25 classifications. That information is then entered either electronically -- the contractors can enter it online. If not, the form is mailed in, at which point, an administrative staff would enter it manually onto the prevailing wage system.

1. Once that's done, the contractors -- also their response time coming back to us. They provide their e-mails this year, we are hoping to be able to electronically send the survey and the letter out. Almost everyone provided an e-mail this year, so that should expedite the process of not only getting the surveys and letters out but also their response time coming back to us.

1. Once that is done, the contractors -- they are asked to give, per the project information for the most previous quarter, which -- in the months of July, August, and September. They fill in the information regarding the number of employees, the number of hours they worked, and the amount of wages they were paid based on each of the 25 classifications. That information is then entered either electronically -- the contractors can enter it online. If not, the form is mailed in, at which point, an administrative staff would enter it manually onto the prevailing wage system.

1. Once that's done, the contractors -- also their response time coming back to us. They provide their e-mails this year, we are hoping to be able to electronically send the survey and the letter out. Almost everyone provided an e-mail this year, so that should expedite the process of not only getting the surveys and letters out but also their response time coming back to us.

1. Once that is done, the contractors -- they are asked to give, per the project information for the most previous quarter, which -- in the months of July, August, and September. They fill in the information regarding the number of employees, the number of hours they worked, and the amount of wages they were paid based on each of the 25 classifications. That information is then entered either electronically -- the contractors can enter it online. If not, the form is mailed in, at which point, an administrative staff would enter it manually onto the prevailing wage system.

1. Once that's done, the contractors -- also their response time coming back to us. They provide their e-mails this year, we are hoping to be able to electronically send the survey and the letter out. Almost everyone provided an e-mail this year, so that should expedite the process of not only getting the surveys and letters out but also their response time coming back to us.
1. by the Commission, then, as Carolyn said, they are
2. approved at the third and final prevailing wage
3. meeting and we post them to the website December
4. 1st.
5. One other thing that we did -- I did
6. want to mention that we gained access to the
7. access database, as well as a file that
8. Mr. Crabtree provided me through the Tennessee
9. ServiceNow database that allows us better access
10. of tracking the projects. It'll give us the
11. starting dates and the completion dates and
12. anything that's ongoing until that project is
13. completed, at which point, the investigative
14. process usually picks up.
15. MR. NEALY: All right. How's
16. everybody doing? I'm Kent. I'll talk about the
17. investigative process. So we start from the pre-con
18. meeting. The inspector attends the pre-con meeting
19. and provides the contractor with the packet. If
20. they cannot attend the meeting, they will mail it
21. out, and the primary contractor can complete all
22. information that's in packet.
23. At the pre-con meeting, the inspector
24. will educate the contractor, subcontractors,
25. everybody in attendance on the laws that our unit

<table>
<thead>
<tr>
<th>Page 13</th>
<th>Page 15</th>
</tr>
</thead>
</table>
| 1. inspector and administrative staff informing that
2. the project has ended. And then, upon completion
3. of the project, the inspector will securely
4. maintain all payroll records and documents
5. pertaining to the particular project that the
6. documents -- then the documents will be destroyed
7. using our RDA process. And that's the
8. investigative process.
9. CHAIRMAN PHILLIPS: Thank you. Does
10. anybody have any questions?
11. MR. SUMMERS: Jan, most years, there
12. might be a question about one or more surveys.
13. MS. CAUDILL: Correct.
14. MR. SUMMERS: When we had the hard
15. copies, we just thumbed through there and looked at
16. it.
17. MS. CAUDILL: Uh-huh.
18. MR. SUMMERS: Now it's on the
19. database. In the last couple of years, it's been
20. very hard to actually see the form that the people
21. submit electronically. Will it be possible this
22. year, if we give you several days' notice, if we
23. say, I'd like to see form one, two, and three, that
24. you could actually print it out or --
25. MS. CAUDILL: Uh-huh. You'd like to

<table>
<thead>
<tr>
<th>Page 14</th>
<th>Page 16</th>
</tr>
</thead>
</table>
| 1. regulates and how the project -- and how the
2. construction project -- those pertaining to the
3. project (verbatim).  
4. THE REPORTER: I'm sorry. Can you
5. speak up, please? Thank you.
6. MR. NEALY: Sorry about that.
7. So at the pre-con meeting, the
8. inspector will educate the contractor,
9. sub-contractor on our laws and how they pertain to
10. their particular project. So immediately
11. following the pre-con meeting, the inspector will
12. submit an inspection report in our system that
13. will come back here to the administrative staff.
14. Before the project is started, the
15. state -- or administrative staff receives a
16. starting notice on the contract or subcontractor
17. (verbatim). And any time during that process,
18. during the course of the project, the inspector
19. can do an on-site visit to make sure that proper
20. materials are posted.
21. Payroll records from the
22. subcontractor or the contractor are combined and
23. submitted to the inspector during the entire
24. length of the project. Once the project is
25. complete, a completion notice will be sent to the

|---------|---------|
| 1. see the actual project numbers from the
2. individual --
3. MR. SUMMERS: Yes.
4. MS. CAUDILL: -- contractors. If
5. necessary, yes. We can print those.
6. MR. SUMMERS: At times, people submit
7. forms for projects that are not qualified.
8. MS. CAUDILL: Okay.
9. MR. SUMMERS: We've had that in the
10. past. So we -- sometimes we like to look at the
11. heading to see what project they are or what type of
12. project it is to see if it's even qualified to be
13. included in our survey. So --
14. MS. CAUDILL: That can be printed.
15. The survey entry form page can be. It'll have the
16. header at the top. It'll have the company name, the
17. project name.
18. MR. SUMMERS: And we just have to
19. give you a couple days' notice.
20. MS. CAUDILL: Yeah. If when those
21. projected numbers come out in the binder, if you see
22. something in there that looks out of line -- but at
23. any point --
24. MR. SUMMERS: That's where it would
25. be. When we get the binders, I always look through
1. and there's some times their rates are really out --
2. the hours and rates are not indicative of everything else.
3. MS. CAUDILL: We had one last year that was ridiculously high --
4. MR. SUMMERS: Yeah.
5. MS. CAUDILL: -- and when we researched it, we found out that that gentleman had been there 30-some years. He was getting paid almost three times more than some of the other workers and it skewed --
6. MR. SUMMERS: Yeah.
7. MS. CAUDILL: -- the numbers quite a lot.
8. MR. SUMMERS: Yeah.
9. MS. CAUDILL: But yeah, any one that you want to see individual numbers on, we can print those.
11. CHAIRMAN PHILLIPS: I'm just curious. How many more contractors did you say? 100 and what?
12. MS. CAUDILL: Approximately 125. I'm thinking we had about 600 -- around 600 last year, and this year, we have 736.
13. CHAIRMAN PHILLIPS: And to what is that attributed?
14. MR. CRABTREE: I don't know.
15. CHAIRMAN PHILLIPS: That's why I look at you --
16. MR. CRABTREE: This list --
17. CHAIRMAN PHILLIPS: -- because you gave us the --
18. MR. CRABTREE: -- is the list of prequalified, eligible-to-be-contractors companies that are in our system on the day that I run it. Now, that's a moving target, because prequalifications are constantly expiring and being renewed. So I think from the first one I ran to the second one, maybe, there was -- I don't know -- three or four --
19. MS. CAUDILL: There were three more on the second one. But that --
20. MR. CRABTREE: So --
21. MS. CAUDILL: -- brings up a question that I had under the pre-qual -- expiration date. There are some on this list that the date has passed, so should I delete them from -- there's some, like -- or is it just a typo of the year? Because there's a lot that hit June 30th of this
22. MR. CRABTREE: I don't think so.
23. MR. CRABTREE: -- doesn't mean they're not doing work and employing carpenters --
24. MS. CAUDILL: Okay.
25. MR. CRABTREE: -- and so forth.
27. MR. CRABTREE: And if one of them happens to respond, that's just one -- more data that we have, and we have a problem getting enough data anyways sometimes. So I think --
28. MS. CAUDILL: Okay.
29. MR. CRABTREE: -- use them all, regardless.
30. MR. SUMMERS: And they're pre-quals could be in the process.
31. MS. CAUDILL: Okay.
32. MR. CRABTREE: Now, we give them three months, 90 days --
33. MS. CAUDILL: Uh-huh.
34. MR. CRABTREE: -- after the expiration date to renew their prequalifications.
35. MS. CAUDILL: Okay.
36. MR. CRABTREE: So they're not precluded from bidding just because they've expired. They still have 90 days to renew.
37. MS. CAUDILL: Okay.
38. MR. WRIGHT: Georgia's running a year behind in renewing theirs.
39. CHAIRMAN PHILLIPS: Really?
1. changed last year is we added Classification Number
2. 25 to separate the crane operator that was equal to
3. or greater than 20 tons. Other than that, we
4. haven't had any issues with any of the
5. classifications or descriptions matching up.
6. MS. MCGAURAN: Okay. Thanks. I just
7. wanted to double check.
8. CHAIRMAN PHILLIPS: And what process
9. would you use to do that?
10. MR. WRIGHT: I think the discussion, the -- we've got survey instrument
11. as I remember it -- we've got survey instrument
12. argument that that position doesn't exist anymore.
13. CHAIRMAN PHILLIPS: Right.
14. MR. WRIGHT: Because when's --
15. CHAIRMAN PHILLIPS: And we discussed
16. that last time.
17. MR. WRIGHT: -- the last time you saw
18. somebody running a transit? Yeah. They're all GPS
19. drivers now. They're looking at a TV screen.
20. CHAIRMAN PHILLIPS: But your question
21. was in -- just in total. How do we validate that
22. these descriptions are accurate?
23. MS. MCGAURAN: Right. For the
24. current work, you know, in that, we've got the right
25. classifications out there. Do we survey that or do
26. we ask businesses any of that -- I just --
27. THE REPORTER: I'm sorry, what was
28. the end of that?
29. MS. MCGAURAN: Do we survey the
30. classifications with the businesses, whether or not
31. they're still appropriate classifications and
32. distribute -- descriptions for the type of employees
33. that they employ or whether --
34. CHAIRMAN PHILLIPS: I don't think
35. that we do.
36. MS. MCGAURAN: -- there's
37. classifications we're missing or --
38. MS. CAUDILL: We don't, but I would
39. have thought if there was any classification in
40. questions, it would pop up during the survey
41. process. They might say, well, we've got this
42. employee who doesn't really fit here and we think he
43. should be in a different classification, but we've
44. never had that issue come up yet.
45. CHAIRMAN PHILLIPS: We can look into
46. that for the next one --
47. MR. SUMMERS: Most of --
48. CHAIRMAN PHILLIPS: -- because there
49. are ways to do that.
50. MR. SUMMERS: Most of these are
51. pretty standard classifications --
52. CHAIRMAN PHILLIPS: Yeah.
53. MR. SUMMERS: -- for our industry.
54. The building trades gets -- has more issues with
55. classifications, especially electricians and
56. something like that, you know. So ours are pretty
57. simple, like what Steve said, you know, the -- now, the guy that does the surveying --
58. MR. WRIGHT: Technology's kind of
59. changed the --
60. MR. SUMMERS: Technology's --
61. MR. WRIGHT: Yeah.
62. MR. SUMMERS: -- almost done away
63. with his job.
64. MR. WRIGHT: And it may just be as
65. simple to -- and I know having been asked over the
66. years, where do I put this person in? Tell me
67. what -- you know, from our HR folks. You know. If
68. you read this definition on survey instrument
69. operator in the title, it probably needs updating,
70. really, just due to the technology changes, because
71. they're really -- this was aimed at an instrument
72. operator, is the way I understood it, which was part
73. of a three- or four-man crew. Now, a survey crew is
1. one person. And they set up this thing and walk
2. around with this little magic stick --
3. MR. SUMMERS: How does it know but it
does.
4. CHAIRMAN PHILLIPS: Yeah, it does.
5. MR. WRIGHT: I don't know how it
knows, but it's -- the technology has changed. So
you know -- and that'll lead you to errors in your
reporting if you've got a guy that's really in
charge of surveying for the job and they're trying
to report him as a survey instrument operator. It
could be misinterpreted is all -- and I don't know
how to clean it up, but technology's changed it a
lot.
16. CHAIRMAN PHILLIPS: And we can, you
know, there's -- we can --
17. MR. WRIGHT: The rest of them look
great.
18. CHAIRMAN PHILLIPS: -- crossmatch the
labor market information in the codes provided by
the Department of Labor just to see if anything, you
know, quirky pops out, just to see if there's
anything that's strange or maybe needs to be looked
at. Okay? Any other questions?
25. MR. CRABTREE: I have a question for
Mr. Nealy.
2. Sometimes, questions on,
3. particularly, locally managed projects find their
way to me, and I don't know what to do with them.
5. But are you the appropriate person to contact if
we have --
7. MR. NEALY: Yes, sir. Myself and
8. Carolyn.
9. MR. CRABTREE: -- any issues on
locally managed projects?
11. MR. NEALY: Yes, sir.
12. CHAIRMAN PHILLIPS: Any other
questions?
14. Okay. Next will be Old Business, of
which there is none. And next in order would be
New Business. So has -- have we had a chance to
review the preliminary 2017 prevailing wage
mailing list that you have in front of you?
19. MR. SUMMERS: It looks pretty
20. complete.
21. MR. WRIGHT: I'm amazed at the number
22. of e-mail addresses.
23. CHAIRMAN PHILLIPS: That's a
24. positive.
25. MR. CRABTREE: I don't know what else
1. MR. SUMMERS: Okay.
2. MS. CAUDILL: It's assigned -- when
3. we upload the mailing list into the database, it
4. automatically assigns a code for this specific year
5. to that specific contractor and only their
6. information -- and only they can work on that --
7. under that code number.
8. MR. SUMMERS: Okay.
9. CHAIRMAN PHILLIPS: Is there a motion
10. to approve the survey and schedule?
11. MR. WRIGHT: There is. Yes.
12. CHAIRMAN PHILLIPS: A second?
15. CHAIRMAN PHILLIPS: Any questions?
16. How many are in favor?
17. MR. SUMMERS: Aye.
18. MR. WRIGHT: Aye.
22. MR. SUMMERS: I compliment you on the
23. improvements you've made.
24. MS. CAUDILL: Thank you.
25. MR. SUMMERS: Because I think four or

1. five years ago, our technology was marginal, at
2. best, but it looks like you've done things to help
3. people out.
4. MS. CAUDILL: Thank you.
5. CHAIRMAN PHILLIPS: Actually, just in
6. the last year, year and a half, two --
7. MR. SUMMERS: Yeah.
8. CHAIRMAN PHILLIPS: -- it's really
9. improved things significantly. Absolutely.
10. MS. MCGAURAN: Have you seen -- about
11. how many -- what percentage of contractors replied
12. to survey requests?
13. MS. CAUDILL: Last year we didn't
14. have the response we had hoped. It was less than
15. 50 percent, so we're hoping with the implementation
16. of the e-mailing and getting things out quicker and
17. giving them more time to respond -- because we did
18. get some that came late, but once they come in past
19. that third business day after October 31st, we can't
20. accept them anymore. So those are kept in a
21. separate tally, and there was -- I mean, not a lot,
22. but there were probably 35 that just missed the
23. cutoff because they just didn't have the time. But
24. we're hoping for that percentage to come up this
25. year.

1. create a sense of value in their doing it so that --
2. because if they're not required and they don't see
3. that it's beneficial to them, I can understand why
4. people don't respond. So --
5. MS. CAUDILL: Well, we try to
6. emphasize that, you know, this is setting up wages
7. for your employees, you know, as a benefit to them.
8. But I think a lot of times -- and you know, maybe
9. Mr. Wright or Mr. Summers could address this -- a
10. lot of times, they're already getting paid more than
11. the prevailing wage anyway.
12. MR. SUMMERS: Well -- yeah. And you
13. have to understand that of all these people -- I
14. mean, Wayburn could probably run a report. But all
15. these people didn't have a project in Tennessee this
16. year.
17. CHAIRMAN PHILLIPS: Right.
18. MR. WRIGHT: Well, half of them never
19. bid.
20. MR. SUMMERS: Yeah. A lot of them --
21. CHAIRMAN PHILLIPS: Oh, is that true?
22. Okay. Half of them never bid?
23. MR. WRIGHT: I don't know. I mean,
24. there's a lot of them --
25. MR. SUMMERS: And just because
1. they're prequalified --
2. MR. CRABTREE: I'd say less than
3. that.
4. MR. WRIGHT: Yeah. Probably less
5. than that.
6. MR. SUMMERS: Yeah. Just because
7. they're prequalified does not mean they have a
8. project in Tennessee --
9. MS. CAUDILL: Right.
10. MR. SUMMERS: -- this year at all.
11. So --
12. MR. WRIGHT: Yeah. There's some of
13. them on here I know from, like, long ways away, in
14. different places, and all they're waiting on is some
15. big, huge job before they come bid anything.
16. Flatiron's not going to bid --
17. MR. CRABTREE: I could get that
18. information probably if --
19. MR. WRIGHT: I was surprised --
20. MR. CRABTREE: I mean --
21. MR. WRIGHT: If you get --
22. THE REPORTER: Please don't --
23. MR. BAILEY: Yeah.
24. THE REPORTER: -- speak over each
25. other.

1. MR. WRIGHT: Sorry.
2. MR. CRABTREE: Thank you.
3. THE REPORTER: I can't keep up.
4. CHAIRMAN PHILLIPS: Okay. Stephen,
5. go ahead.
6. MR. WRIGHT: I was just saying, I was
7. surprised that you get a 50-percent response rate,
8. because I would assume less than 50 percent even bid
9. on --
10. MS. CAUDILL: Well, of that --
11. MR. WRIGHT: Bid on --
12. MS. CAUDILL: -- 50 percent, they
13. might have responded with no work done. You know.
14. MR. WRIGHT: Well, we've got a new
15. payroll person this year. Can you help me --
16. because I get asked every year. What is an eligible
17. project and what isn't, determinate on this survey?
18. Is a private --
19. MS. CAUDILL: No privates.
20. MR. WRIGHT: Okay. So it's got to be
21. DOT or public --
22. MS. CAUDILL: Yeah. It can't be,
23. like, a driveway or -- no residents, no --
24. MR. WRIGHT: What about a
25. municipality?

1. MS. CAUDILL: No.
2. MR. WRIGHT: City of Chattanooga or
3. something.
4. MS. CAUDILL: I don't believe so. I
5. mean, it has to be --
6. MR. SUMMERS: We always submit on
7. city projects, county projects.
8. MS. CAUDILL: Okay.
9. MR. WRIGHT: Okay.
10. MR. SUMMERS: If it's a road
11. construction project --
12. MS. CAUDILL: Right.
13. MR. SUMMERS: No matter the --
14. MR. WRIGHT: Highway construction for
15. a government municipality in the State of Tennessee
16. or TDOT.
17. MR. SUMMERS: I don't think that the
18. law says that it has to be a public entity. It has
19. to be a road construction project.
20. MR. WRIGHT: Okay.
21. MR. SUMMERS: I think that you could
22. put one in for a major private job.
23. MR. WRIGHT: Yeah. So --
24. MR. SUMMERS: We have in the past.
25. MR. WRIGHT: I just -- it happens

1. every year. I get asked that. I never really know
2. the right answer.
3. CHAIRMAN PHILLIPS: Just -- we'll go
4. back just to verify that, but R.T.'s probably right.
5. MS. MCGAURAN: So is that information
6. that would make sense to be added to the letter?
7. MR. WRIGHT: It may be in there.
8. I've never read -- I don't know.
9. MS. MCGAURAN: I meant in the letter
10. about the survey projects. But they do say, please
11. note, the data we are requesting does not have to be
12. for work performed on a state-funded project.
13. However, it is not to include data for private
14. residential construction.
15. MR. SUMMERS: Correct. Private --
16. MS. MCGAURAN: So I just was
17. wondering if that comment needed to be expanded in
18. order to make it clearer, if you get that question
19. every year?
20. MR. WRIGHT: Well, if it's private
21. residential is excluded, that makes it clear to me.
22. But maybe I should just read the paper.
23. CHAIRMAN PHILLIPS: We'll revisit it
24. just to be sure, Ann. Thanks. Okay.
25. MR. WRIGHT: Thank you.
1. CHAIRMAN PHILLIPS: Any additional business?
2. MR. BAILEY: If you want to hear the definition of highway contractor --
3. CHAIRMAN PHILLIPS: Yeah.
4. MR. BAILEY: -- it means any contractor, subcontractor, person, firm, or corporation engaged in a state construction project for the purpose of building, rebuilding, locating, relocating, or repairing any streets, highways, or bridges.
5. CHAIRMAN PHILLIPS: And when it says "state project," it means the State of Tennessee?
6. MR. BAILEY: It just -- it says, engage in a state construction project for the purpose of building, rebuilding, locating -- so it's got to be a state construction project.
7. MR. SUMMERS: I think we've always interpreted it as a project within the state, not a State --DOT project.
8. MS. CAUDILL: Right.
9. CHAIRMAN PHILLIPS: Right.
10. MR. SUMMERS: It's a project -- within the state of Tennessee.
11. CHAIRMAN PHILLIPS: That was my question.
12. MR. SUMMERS: -- within the state of
14. CHAIRMAN PHILLIPS: Does "state" mean the state of Tennessee or State government, State of Tennessee?
15. MR. WRIGHT: Well, if we do, it's going to be the same people anyway.
16. MR. STARWALT: If he's reading out of the code -- sorry. The code would define "state" as the State of Tennessee.
17. MR. BAILEY: As the --
18. MR. STARWALT: -- as the State of Tennessee.
19. MR. BAILEY: Right.
20. CHAIRMAN PHILLIPS: Okay.
21. MR. BAILEY: And then the very next section talks about any highway contractor entering into a State contract for the performance of work on State highway construction projects shall pay not less than the prevailing wage rate for all types of classifications --
22. CHAIRMAN PHILLIPS: Yeah.
23. MR. BAILEY: -- of such work.
24. CHAIRMAN PHILLIPS: Okay. All right.
25. That clarifies it.
2. MR. BAILEY: Or aren't a lot of municipal highway projects also funded by the State partially?
5. MR. WRIGHT: Yeah. Or the other way around. The State administers some that are funded by the local. And then an awful lot of them refer to specifications to TDOTs. You know. You get copied a lot. I don't know --
10. MR. CRABTREE: You've hit up on a good question right there. Whether we -- if we interpret that literally, I don't know if the locally managed projects that TDOT funds have to use the state wage rates or not, if you interpret that literally. It says "state highway project." And if it's a project led by Elizabethton and funded by TDOT, is that a State highway project? It's a greenway. I don't --
19. MR. SUMMERS: I think the interpretation has always been if it has state DOT funds.
22. MR. NEALY: Correct. I agree with that.
24. MR. CRABTREE: But that's not what it says. It says --
1. CHAIRMAN PHILLIPS: State project.
2. MR. SUMMERS: -- DOT project.
3. MS. CAUDILL: Right.
4. CHAIRMAN PHILLIPS: Right.
5. MR. SUMMERS: I think we've always interpreted it as a project within the state, not a State --
1. MR. WRIGHT: I just -- it's curious, just curious.
2. MR. BAILEY: I think it's always been kind of broadly construed that if State money's --
3. like Mr. Summer said, if State money's involved in the project, it's kind of a quasi-State project and the prevailing wage would apply.
4. CHAIRMAN PHILLIPS: So that's the determining factor, that there's state funding involved.
5. MR. BAILEY: Correct.
6. CHAIRMAN PHILLIPS: Regardless of where the project --
7. MR. WRIGHT: My guess is that Tennessee would just -- out of the room.
8. MR. STARWALT: As far as I know, county projects do not require prevailing wage --
9. CHAIRMAN PHILLIPS: Okay.
10. MR. STARWALT: -- even if it's a State project, as far as I know.
11. CHAIRMAN PHILLIPS: Okay.
12. MR. CRABTREE: And a lot of our locally managed projects are not on state-owned facilities. They're on local streets and local roads and greenways and sidewalks, and I think it's a little bit ambiguous. But personally, I think everybody -- I think they should, but I don't -- I'm sure the statute supports that.
13. MR. STARWALT: When the -- so when the legislature repealed the prevailing wage for building --
14. CHAIRMAN PHILLIPS: Right.
15. MR. STARWALT: -- they came back again the next year or two years after that and narrowly defined what prevailing wage could be used for. It was really based on a project -- it was really based on a state park project.
16. CHAIRMAN PHILLIPS: Right.
17. MR. STARWALT: -- where --
18. CHAIRMAN PHILLIPS: That's right.
19. MR. STARWALT: -- they crossed the road. It was not a road project, but the utility crossed a road and the determination was made that that should have been a prevailing wage. The legislature came back and defined that, that that would -- prevailing wage would not apply to that because it wasn't a road project. Even though they crossed the road, it wasn't a road project.
20. CHAIRMAN PHILLIPS: Yeah.
21. MR. STARWALT: So just -- they have a sort of narrowly defined what truly is -- the prevailing wage applies to.
22. CHAIRMAN PHILLIPS: But it doesn't seem to have caused any issues. So you know, the old saying about swatting a hornet's nest with a stick. So maybe just leave it be.
23. MR. WRIGHT: Well, that would be a hornets' nest.
24. CHAIRMAN PHILLIPS: Any additional business? None? Motion to adjourn?
25. MR. WRIGHT: So moved.
26. MR. CRABTREE: So moved.
27. CHAIRMAN PHILLIPS: Second?
28. MR. WRIGHT: Second.
29. CHAIRMAN PHILLIPS: Any questions?
30. All in favor?
31. MR. CRABTREE: Aye.
32. MR. WRIGHT: Aye.
33. MR. SUMMERS: Aye.
34. MS. MCGAURAN: Aye.
35. END OF PROCEEDINGS.

C E R T I F I C A T E

STATE OF TENNESSEE )
COUNTY OF WILLIAMSON )

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.

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.

SIGNED this 18th day of September 2017.

___________________________________
Dominique A. Dubois, LCR# 686
Notary Public State at Large
My commission expires: 4/9/2018

Digitally signed 9/18/2017 at 7:25am CDT