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1. STATE OF TENNESSEE
2. DEPARTMENT OF LABOR AND WORKFORCE DEVELOPMENT
3. WORKER'S COMPENSATION DIVISION
4.
5.
6.
7.
8. Transcript of Proceedings
   of
   The Prevailing Wage Commission Meeting
   December 1, 2016
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   DOMINIQUE A. DUBOIS, LCR# 686
   STONE & GEORGE COURT REPORTING
   2020 Fieldstone Parkway
   Suite 900 - PMB 234
   Franklin, Tennessee 37069
   (615) 221-1089
23.
24.
25.

1. A P P E A R A N C E S
2.
3. Commissioner Burns Phillips, Chairman
4. Commissioner Wayburn Crabtree, TDOT Designee
5. Commissioner Stephen Wright
6. Wright Brothers Construction Company, Inc.
7. Commissioner Peter L. Heimbach, State Architect
8. Dan Bailey, Esq., Legal Counsel
9. Christina Tugman, Inspector
10. Jan Caudill, Assistant
11. Kent Starwalt, TRBA
12. Carolyn Shirrod, Department of Labor and Workforce Development
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1. A G E N D A
2. I. Call to Order and Roll Call
3. II. Announcements
4. III. Conflict of Interest Declaration
5. IV. Old Business
7. Prevailing Wage Commission Meeting Minutes
8. V. New Business
12. * Discuss future Prevailing Wage Meeting dates for 2017
13. VI. Adjournment
14. 15.
16. 17.
18. 19.
20. 21.
22. 23.
24. 25.

1. P R O C E E D I N G S
2.
3. CHAIRMAN PHILLIPS: Okay. We have the roll call. Right? Call to order and roll call.
4. All right?
5. MS. CAUDILL: Uh-huh.
6. CHAIRMAN PHILLIPS: Me do that?
7. MS. CAUDILL: Sure.
8. CHAIRMAN PHILLIPS: Or you do that?
10. MR. CRABTREE: Present.
11. CHAIRMAN PHILLIPS: Peter.
12. MR. HEIMBACH: Here.
13. CHAIRMAN PHILLIPS: He's not --
15. MR. WRIGHT: Here.
17. Okay. Do I need to read that announcement again about the -- I have to read that, right? Okay. In the event of an emergency or natural disaster, security and/or staff will take meeting attendees to a safe place in the building or direct them to exit the building on the Rosa Parks side. Okay?
18. MR. BAILEY: I would recommend the
1. words "or natural disaster" be eliminated from it.
2. CHAIRMAN PHILLIPS: Okay.
3. MR. BAILEY: Because an emergency is
4. an emergency, right?
5. CHAIRMAN PHILLIPS: Well, that's
6. right.
7. MR. HEIMBACH: Yeah.
8. MS. TUGMAN: Okay.
9. CHAIRMAN PHILLIPS: Natural or not,
10. right?
11. MR. BAILEY: That's right.
12. CHAIRMAN PHILLIPS: Okay.
13. MR. BAILEY: It doesn't matter.
14. CHAIRMAN PHILLIPS: We'll make that
15. change next time.
16. MR. HEIMBACH: Yeah, I don't think we
17. need to vote on that.
18. MR. WRIGHT: No, no, no.
19. CHAIRMAN PHILLIPS: We'll just do
20. that under the table. No. Anybody have anything
21. else to declare since, what, two weeks ago?
22. Conflict of interest. Okay.
23. MR. WRIGHT: I have no answer, sir.
24. CHAIRMAN PHILLIPS: I have no answer,
25. either.

1. painter, sandblaster craft.
2. MR. CRABTREE: But there's an
3. insufficient number of responses. Therefore --
4. CHAIRMAN PHILLIPS: That's the --
5. MR. CRABTREE: -- those are not
6. considered. The surveys themselves --
7. MR. HEIMBACH: Right. But the --
8. MR. CRABTREE: -- are not considered.
9. MR. HEIMBACH: The note number three
10. says, the rate is set at the prevailing wage 2016
11. rate plus or minus the State average. And if I'm
12. not mistaken, what we've done in the past is if the
13. survey, even though there were insignificant
14. responses, if the responses were negative, it was
15. set minus 4.06. If the responses were positive, it
16. was set plus 4.06. I didn't -- is that --
17. MR. CRABTREE: Well, I would take
18. issue --
19. MR. HEIMBACH: Is that accurate to
20. what we've done in years past?
21. MS. TUGMAN: It is. I mean, you --
22. MR. CRABTREE: I would take issue
23. with that, though, because there's an insufficient
24. number of responses and if there's an --
25. MR. HEIMBACH: Right.
MR. HEIMBACH: Right.

MS. CAUDILL: Which is why there's a zero percentage. And as far as classification number 15, you've got it at number three, but then you also have asterisk, you know, number one, which says if it's larger than 15 percent, it doesn't fall under any of the above categories. So it's kind of your choice to make it what you want.

MR. HEIMBACH: Right.

MS. CAUDILL: So that's why I looked at the past years' records to see what you did do when it fell that far, that high of a percentage and they were left at the current rate.

MR. CRABTREE: I would still argue that since it was an inadequate number of responses that that should not be considered at all. Now, on the positive and negative, I don't know, I'd have to read the rule to see if it specifically says that. I think it just says or responses, I think.

MR. HEIMBACH: For the -- yes, for the -- to my recollection, for the number of responses that we have to have in order to consider an adequate survey, there has to be at least five, I think, to consider it an adequate survey. And when it's below that number, I don't think there's a rule that pertains to whether we do it. It's purely precedent to what we've done in the past, I believe.

MR. BAILEY: I believe you're right.

I can look at the rule real quick, but I don't think the rule spells it out.

MR. HEIMBACH: Which is why -- make it very clear, it's not my opinion, it's -- I'm just trying to --

MR. BAILEY: That may be. But --

CHAIRMAN PHILLIPS: Let Dan look at it and see what -- I think there's positives and negatives to each side. Really, I think what it is is we can do open -- pretty well on both. So -- and, you know, he's got a valid argument; you've got a valid argument, unless the rules, you know, dictate otherwise.

MR. CRABTREE: Well, if someone asked me to defend what we've done here, it would be easier for me to defend increasing those than it would for me to explain why we've made an exception there.

MS. CAUDILL: Well, while he's doing that, are there any questions on Classification Number 13? Because it was over the six percent, I brought it back down to the 4.06.

CHAIRMAN PHILLIPS: Well, that's
1. consistent with what we did on the others. So I
2. don't know what's your vision. So anybody have any
3. questions on that while we're --
4. MR. HEIMBACH: Number --
5. CHAIRMAN PHILLIPS: 13.
6. MR. HEIMBACH: -- 13?
8. MR. WRIGHT: Is it not changing to
9. nine percent?
10. MR. HEIMBACH: It's --
11. MR. CRABTREE: Survey rate minus six
12. percent.
13. MR. HEIMBACH: It's six percent.
14. Yeah. It's the survey --
15. MR. CRABTREE: So that would be --
16. MR. HEIMBACH: It's the increase
17. minus the six percent of the current prevailing wage
18. rate, not an increase of six percent.
19. MR. WRIGHT: All I could add about
20. that particular class is industry standard for a
21. company like ours to hire a heavy-duty real
22. mechanic, $22 an hour, or 23, for that matter, is
23. not even -- it's closer to 30 plus -- the guys you
24. see in the Caterpillar trucks, they've all got a
25. three in front of their first --
26. MR. HEIMBACH: And then --
27. MR. WRIGHT: So everything we can do
28. to increase that prevailing wage will get it closer
29. to that number being relevant.
30. MR. HEIMBACH: And I would expect
31. that to be the case in most of these --
32. MR. WRIGHT: That's --
33. MR. HEIMBACH: -- categories because
34. these set --
35. MR. WRIGHT: That's just a fact to
36. the --
38. Well, these set minimums. So --
39. MR. WRIGHT: Understand.
40. MR. BAILEY: The rule does address
41. it. It's 0800-3-2-.08, paragraph seven. It says,
42. in any classification of a craft of workers listed
43. on the prevailing wage survey form where four or
44. fewer separate survey responses are received, these
45. responses may be excluded from establishing the
46. rates.
47. MR. HEIMBACH: Okay.
48. MR. BAILEY: So it's not mandatory.
49. MR. HEIMBACH: Right.
50. CHAIRMAN PHILLIPS: Everybody in
51. favor?
52. MR. WRIGHT: Aye.
53. MR. CRABTREE: Aye.
54. CHAIRMAN PHILLIPS: Aye.
55. MR. HEIMBACH: Aye.
56. MR. WRIGHT: Did we call for
57. questions?
58. CHAIRMAN PHILLIPS: So we have a
59. motion and we have a second.
60. MR. HEIMBACH: Okay.
61. CHAIRMAN PHILLIPS: Okay.
62. MR. CRABTREE: Okay. So we do
63. have --
64. MR. CRABTREE: So that would be my
65. motion to --
66. CHAIRMAN PHILLIPS: Right. That's
67. the motion to --
68. MR. HEIMBACH: So we do have broad
69. discretion.
70. MR. CRABTREE: Honestly, it's about a
71. State average as we did all the others.
72. MR. HEIMBACH: Okay.
73. MR. WRIGHT: Did we -- --
74. CHAIRMAN PHILLIPS: So we have a
75. motion and we have a second.
76. MR. HEIMBACH: Okay.
1. is already done that way. I think the 4.04 is  
2. because we're rounding error.  
3. MR. WRIGHT: Yeah.  
4. MR. HEIMBACH: If you do --  
5. MR. WRIGHT: No. Number 18 -- I'm  
6. sorry, what --  
7. MR. HEIMBACH: Oh, I -- I'm sorry.  
8. CHAIRMAN PHILLIPS: You're talking  
9. about the survey instrument operator.  
10. MR. WRIGHT: Yeah. That's fine.  
11. MR. CRABTREE: Do we need to consider  
12. sometime rewriting the description for that one to  
13. bring it up to --  
14. MR. WRIGHT: It's my personal  
15. opinion, yes, but I don't know exactly what to call  
16. it.  
17. CHAIRMAN PHILLIPS: Y'all want to --  
18. MR. WRIGHT: Well, maybe you need to  
19. read the description because most of --  
20. MR. CRABTREE: It says "survey  
22. MR. WRIGHT: Yeah. Yeah.  
23. MR. CRABTREE: It doesn't really say  
24. "transit." It says "survey instrument," so that  
25. could be a total station.

1. MR. WRIGHT: They're -- most of the  
2. deal there seems to be, you know, your survey crew  
3. of the 80s and 90s had three to five people in it.  
4. And now it's one.  
5. MR. HEIMBACH: Yeah.  
6. MR. WRIGHT: To walk around with a  
7. little magic stick and --  
8. MR. HEIMBACH: Yeah. You set the  
9. computer out in the middle of the field and --  
10. MR. WRIGHT: So he's the --  
11. MR. HEIMBACH: -- it does everything.  
12. MR. WRIGHT: He's the crew leader,  
13. party chief, the foreman, the superintendent. I  
14. don't know exactly if there's -- I'm sure he's  
15. classified as something other than a survey operator  
16. to the -- which I don't know. I'll ask some other  
17. folks I know and see what they think and get back to  
18. you on that.  
19. MR. CRABTREE: That'd be good.  
20. MR. HEIMBACH: That is a good point,  
21. though. Technology changes a lot when you start  
22. looking at who's doing what.  
23. CHAIRMAN PHILLIPS: That might  
24. actually apply to several of these, really, in terms  
25. of accurate description. They just don't get logged

1. on that. Okay. So motion carried on -- so now, we  
2. need a motion to approve these rates.  
3. MR. WRIGHT: So moved, sir.  
4. CHAIRMAN PHILLIPS: Second?  
5. MR. CRABTREE: Yeah. Motion carries.  
6. MS. CAUDILL: What did you decide to  
7. do on 13? Are we leaving it at the --  
8. CHAIRMAN PHILLIPS: We're leaving it.  
9. MS. CAUDILL: We're leaving it at the  
10. survey rate or at the 22.34?  
11. MR. HEIMBACH: I think it was to  
12. leave it as you --  
13. MR. WRIGHT: As published with  
14. your --  
15. CHAIRMAN PHILLIPS: Leave it as --  
16. MR. HEIMBACH: -- as you have it  
17. published.  
18. MR. WRIGHT: Like the fun work you  
19. did.  
21. 22.34.  
22. CHAIRMAN PHILLIPS: Okay. Discuss  
23. future Prevailing Wage Meeting rates. Did we come  
24. up with 2017? Meetings, not the rates.  
25. MR. HEIMBACH: Dates.

1. MS. CAUDILL: Oh. Well, the ones  
2. that I had sent out, everybody was fine with those  
3. with the exception, I think, Mr. Heimbach needs --  
4. if we do it -- we've got August meetings set for the  
5. 30th and then we had the second meeting set for the  
6. 15th of November and the third meeting set for the  
7. 30th. The only conflict that -- or really, not even  
8. a conflict -- Mr. Heimbach would need the meeting on  
9. the 30th to be in the afternoon. Now, if you would  
10. all prefer a.m. meetings, we could bring it back to  
11. the 29th or --  
12. MR. HEIMBACH: Right. And I just --  
13. that happens to fall on a Thursday. So I have a  
14. standing Thursday morning meeting relative to the  
15. building commission that I can't move off of.  
16. CHAIRMAN PHILLIPS: Anybody have a  
17. problem --  
18. MR. HEIMBACH: So as long as we can  
19. meet in the afternoon, that's --  
20. CHAIRMAN PHILLIPS: I'm with whatever  
21. y'all want to do.  
22. MS. CAUDILL: Leave it in the  
23. afternoon on that date? So do we want to go 9:30 on  
24. August 30th and then 9:30 on November 15th and then  
25. 1:30 on the 30th?
1. CHAIRMAN PHILLIPS: Okay, I think, by everybody, right?
2. MR. HEIMBACH: That's fine with me.
3. MS. CAUDILL: Okay.
4. CHAIRMAN PHILLIPS: Okay.
5. MR. WRIGHT: I assume you go publish that at some point.
6. MS. CAUDILL: Yes, sir.
7. MR. WRIGHT: I booked the whole day.
8. CHAIRMAN PHILLIPS: Okay. Motion to adjourn?
9. MR. WRIGHT: So moved.
10. MR. HEIMBACH: So moved.
11. MR. CRABTREE: Second.
12. MR. HEIMBACH: Third.
13. CHAIRMAN PHILLIPS: We're adjourned.
14. END OF PROCEEDINGS.

CERTIFICATE

STATE OF TENNESSEE )
COUNTY OF WILLIAMSON )

I, Dominique A. Dubois LCR# 686, 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 1st day of December, 2016.

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 8th day of December, 2016.

___________________________________
Dominique A. Dubois, LCR# 686
Notary Public State at Large
My commission expires: 8/9/2018