

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

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1. STATE OF TENNESSEE  
 DEPARTMENT OF LABOR AND WORKFORCE DEVELOPMENT  
 2. DIVISION  
 3.  
 4.  
 5.  
 6.  
 7.

8. Transcript of Proceedings  
 9. of  
 10. The Prevailing Wage Commission Meeting  
 11. August 30, 2017  
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23. -----  
 DOMINIQUE A. DUBOIS, LCR# 686  
 STONE & GEORGE COURT REPORTING  
 24. 2020 Fieldstone Parkway  
 Suite 900 - PMB 234  
 25. Franklin, Tennessee 37069  
 (615) 221-1089

1. AGENDA  
 2. I. Call to Order and Roll Call  
 3. II. Introductions  
 4. III. Announcements  
 5. IV. Review and Approve December 1, 2016  
 Prevailing Wage Commission Meeting  
 6. Minutes  
 7. V. Labor Standards Report  
 8. \* Carolyn Sherrod - Administrative  
 Process  
 9. \* Jan Caudill - 2017 Prevailing Wage  
 Determination/Survey & Rates  
 10. \* Kenneth Nealy - Investigative Process  
 11. VI. Old Business  
 12. \* None  
 13. VII. New Business  
 14. \* Review and Discuss the Revised  
 Preliminary 2017 Prevailing Wage for  
 15. State Highway Construction Projects  
 Mailing List  
 16.  
 17. \* Discuss and Approve Schedule for 2017  
 Prevailing Wage for State Highway  
 Construction Projects Survey  
 18.  
 19. - Survey notice to be mailed  
 September 29, 2017  
 20. - Deadline for receipt of survey  
 responses, 3rd State working day past  
 October 31, 2017 (November 3, 2017)  
 21. - November 15, 2017 second meeting -  
 review data and set preliminary rates  
 22. - November 30, 2017 final meeting and  
 establish final rates  
 23. - Deadline for setting final rates -  
 December 1, 2017  
 24.  
 25. VIII. Additional Business

1. APPEARANCES

2. Commissioner Burns Phillips, Chairman  
 3. Commissioner Wayburn Crabtree, TDOT Designee  
 4. Commissioner Stephen Wright, Industry  
 5. Representative  
 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  
 15. Development  
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1. IX. Adjournment

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1. PROCEEDINGS  
2. CHAIRMAN PHILLIPS: Well, first, I  
3. guess I need to call everybody to order, correct?  
4. MS. CAUDILL: Uh-huh.  
5. CHAIRMAN PHILLIPS: And -- with roll  
6. call. And we'll start with Wayburn.  
7. MR. CRABTREE: Present.  
8. CHAIRMAN PHILLIPS: R.T.  
9. MR. SUMMERS: Present.  
10. CHAIRMAN PHILLIPS: Stephen.  
11. MR. WRIGHT: Here.  
12. CHAIRMAN PHILLIPS: Ann.  
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.

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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  
21. luncheon. Okay. Good.  
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,

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1. wouldn't I?  
2. Okay. So we need to -- has everybody  
3. had a chance to review the minutes from the  
4. previous meeting, December 1st? Do I have a  
5. motion to approve?  
6. MS. MCGAURAN: Motion to approve the  
7. minutes.  
8. MR. CRABTREE: Second.  
9. CHAIRMAN PHILLIPS: Second. Any  
10. questions? Okay. Everybody in favor?  
11. MR. SUMMERS: Aye.  
12. MR. CRABTREE: Aye.  
13. MR. WRIGHT: Aye.  
14. MS. MCGAURAN: Aye.  
15. CHAIRMAN PHILLIPS: Aye. Motion  
16. carries.  
17. The labor standards report.  
18. MS. SHERROD: And if you don't mind,  
19. Commissioner, I'm going to go up to the podium.  
20. CHAIRMAN PHILLIPS: Certainly.  
21. MS. SHERROD: I do better --  
22. CHAIRMAN PHILLIPS: You can sit here  
23. if you want to.  
24. MS. SHERROD: I do better standing up  
25. talking.

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1. Good morning, everyone.  
2. MR. SUMMERS: Good morning.  
3. MS. MCGAURAN: Good morning.  
4. MR. CRABTREE: Good morning.  
5. MS. SHERROD: As you can see from the  
6. agenda, my name is Carolyn Sherrod and I'm the  
7. administrative services manager for the Labor  
8. Standards Unit. I oversee the everyday process, the  
9. administrative process, once our reports get here  
10. and to the office to make sure that they're  
11. processed and finalized.  
12. And to the everyday individual, it  
13. may seem like the prevailing wage season only  
14. lasts from the term of August through December  
15. each year. However, we're busy with labor -- with  
16. prevailing wage all the time, all year long. Some  
17. phases of the prevailing wage process requires our  
18. attention daily.  
19. As the administrative services  
20. manager for the Unit, I'll just share a basic  
21. month-to-month overview of the administrative  
22. procedures and Jan will give you an update on the  
23. more detailed account of what duties are performed  
24. administratively.  
25. Our preparation for the prevailing

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1. wage term begins in January each year. The  
 2. commission secretary, who is Jan, the  
 3. administrative support supervisor, myself, and our  
 4. director, Mr. Kenneth Nealy, will meet the  
 5. representatives of the department's IT division as  
 6. many times as necessary to update the prevailing  
 7. wage electronic system. We do testing and  
 8. resolution of any discovered issues; then a  
 9. retesting is performed as many times as required  
 10. to ensure that the system is functioning properly.

11. Then all this comes along and there's  
 12. a month designated for the first meeting of the  
 13. year. We also conduct more in-depth testing of  
 14. the prevailing wage survey system management and  
 15. applications, once again, in preparation for the  
 16. mailing of the survey forms.

17. September is prevailing wage survey  
 18. month. Surveys are sent to employers via e-mail  
 19. or USPS. The required deadline for all surveys to  
 20. be distributed is September 30th or the last  
 21. working day of the month of September. If several  
 22. surveys are mailed USPS, they must carry a  
 23. September 30th postmark.

24. Employers participating in the survey  
 25. have until October 31st to submit their completed

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1. surveys. As a courtesy, the Labor Standards Unit  
 2. will continue to receive surveys until the third  
 3. working day past the October 31st deadline,  
 4. provided the survey is postmarked by October 31st.

5. Upcoming at the first November  
 6. meeting, the preliminary calculations will be  
 7. reviewed in preparation for setting the rates for  
 8. the year. The college rates must be set and  
 9. posted on the Department's website by December  
 10. 1st. There will be a second meeting this year in  
 11. November, at the end of November, so that we can  
 12. get that task done, the rates set, and ready for  
 13. posting.

14. All calculations will be approved,  
 15. rates will be set, and a final step in this year's  
 16. process will be to ensure that the rates are  
 17. posted on the Department's website per statute.  
 18. And after a few weeks, we'll look at everything  
 19. and then the whole process will begin again for  
 20. the year of 2018.

21. And that's just a brief overview of  
 22. what we do administratively with the work that's  
 23. entrusted to us. Thank you.

24. CHAIRMAN PHILLIPS: Thank you, Carol.  
 25. Very good.

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1. MS. CAUDILL: I'm Jan Caudill. Nice  
 2. to meet you, Ann. I am the secretary for the  
 3. Prevailing Wage Commission. And as Carolyn  
 4. mentioned, we run a test prior to setting up the  
 5. surveys and letters to be mailed out in September.  
 6. It all starts with the TDOT mailing list, which I  
 7. receive from Mr. Crabtree at TDOT.

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

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

20. Once that is done, the contractors --  
 21. they are asked to give, per the project  
 22. information for the most previous quarter,  
 23. which -- in the months of July, August, and  
 24. September. They fill in the information regarding  
 25. the number of employees, the number of hours they

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1. worked, and the amount of wages they were paid  
 2. based on each of the 25 classifications. That  
 3. information is then entered either  
 4. electronically -- the contractors can enter it  
 5. online. If not, the form is mailed in, at which  
 6. point, an administrative staff would enter it  
 7. manually onto the prevailing wage system.

8. Once that's done, the database takes  
 9. everything that was entered for each  
 10. classification, pulls all the numbers together,  
 11. and puts out what is called a median wage, and  
 12. that becomes the baseline for the upcoming  
 13. prevailing wage numbers. Once that median is  
 14. reached, we crunch the numbers. We are given a  
 15. percentage one way or the other, compare those to  
 16. the current prevailing wage, a binder is put  
 17. together with those projected rates that is then  
 18. sent out to the five committee members at least  
 19. one week prior to our second meeting.

20. The second meeting is where we will  
 21. look at those numbers. If there was any  
 22. questions, anything looks out of line, if you have  
 23. any suggestions -- hopefully, you really like them  
 24. so we don't have to do too much work from there  
 25. on. But once those projected wages are approved

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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

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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

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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

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1. see the actual project numbers from the  
2. individual --

3. MR. SUMMERS: Yes.

4. MS. CAUDILL: -- contactors. 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  
 3. else.  
 4. MS. CAUDILL: We had one last year  
 5. that was ridiculously high --  
 6. MR. SUMMERS: Yeah.  
 7. MS. CAUDILL: -- and when we  
 8. researched it, we found out that that gentleman had  
 9. been there 30-some years. He was getting paid  
 10. almost three times more than some of the other  
 11. workers and it skewed --  
 12. MR. SUMMERS: Yeah.  
 13. MS. CAUDILL: -- the numbers quite a  
 14. lot.  
 15. MR. SUMMERS: Yeah.  
 16. MS. CAUDILL: But yeah, any one that  
 17. you want to see individual numbers on, we can print  
 18. those.  
 19. MR. SUMMERS: Okay. Wonderful.  
 20. CHAIRMAN PHILLIPS: I'm just curious.  
 21. How many more contractors did you say? 100 and  
 22. what?  
 23. MS. CAUDILL: Approximately 125. I'm  
 24. thinking we had about 600 -- around 600 last year,  
 25. and this year, we have 736.

1. CHAIRMAN PHILLIPS: And to what is  
 2. that attributed?  
 3. MR. CRABTREE: I don't know.  
 4. CHAIRMAN PHILLIPS: That's why I look  
 5. at you --  
 6. MR. CRABTREE: This list --  
 7. CHAIRMAN PHILLIPS: -- because you  
 8. gave us the --  
 9. MR. CRABTREE: -- is the list of  
 10. prequalified, eligible-to-be-contractors companies  
 11. that are in our system on the day that I run it.  
 12. Now, that's a moving target, because  
 13. prequalifications are constantly expiring and being  
 14. renewed. So I think from the first one I ran to the  
 15. second one, maybe, there was -- I don't know --  
 16. three or four --  
 17. MS. CAUDILL: There were three more  
 18. on the second one. But that --  
 19. MR. CRABTREE: So --  
 20. MS. CAUDILL: -- brings up a question  
 21. that I had under the pre-qual -- expiration date.  
 22. There are some on this list that the date has  
 23. passed, so should I delete them from -- there's  
 24. some, like -- or is it just a typo of the year?  
 25. Because there's a lot that hit June 30th of this

1. year, and I'm just wondering are they -- on page  
 2. number two, if you go down to VR Miller and Company,  
 3. it says that their pre-qual date expired June 30th  
 4. of this year.  
 5. MR. CRABTREE: June 30th is probably  
 6. the date that I used to capture everything after  
 7. that.  
 8. MS. CAUDILL: So my question is, on  
 9. this list, then -- because this is the list that was  
 10. uploaded to the database for mail-out of the  
 11. surveys -- should I pull the ones that are past off  
 12. of this list?  
 13. MR. CRABTREE: I don't think so.  
 14. Just because they're not prequalified --  
 15. MS. CAUDILL: Okay.  
 16. MR. CRABTREE: -- on this particular  
 17. date --  
 18. MS. CAUDILL: Okay.  
 19. MR. CRABTREE: -- doesn't mean  
 20. they're not doing work and employing carpenters --  
 21. MS. CAUDILL: Okay.  
 22. MR. CRABTREE: -- and so forth.  
 23. MS. CAUDILL: I just wanted to make  
 24. sure.  
 25. MR. CRABTREE: And if one of them

1. happens to respond, that's just one -- more data  
 2. that we have, and we have a problem getting enough  
 3. data anyways sometimes. So I think --  
 4. MS. CAUDILL: Okay.  
 5. MR. CRABTREE: -- use them all,  
 6. regardless.  
 7. MR. SUMMERS: And they're pre-quals  
 8. could be in the process.  
 9. MS. CAUDILL: Okay.  
 10. MR. SUMMERS: Yeah.  
 11. MR. CRABTREE: Now, we give them  
 12. three months, 90 days --  
 13. MS. CAUDILL: Uh-huh.  
 14. MR. CRABTREE: -- after the  
 15. expiration date to renew their prequalifications.  
 16. MS. CAUDILL: Okay.  
 17. MR. CRABTREE: So they're not  
 18. precluded from bidding just because they've expired.  
 19. They still have 90 days to renew.  
 20. MS. CAUDILL: Okay.  
 21. MR. WRIGHT: Georgia's running a year  
 22. behind in renewing theirs.  
 23. CHAIRMAN PHILLIPS: Really?  
 24. Interesting.  
 25. MR. WRIGHT: They just send you a

1. letter saying keep bid. Weird.

2. CHAIRMAN PHILLIPS: How many of the

3. 736 are Tennessee companies? Do you know off the

4. top of your head?

5. MS. CAUDILL: I'm sorry?

6. CHAIRMAN PHILLIPS: How many of the

7. 736 are Tennessee companies? I'm just curious. I

8. mean, I can -- we can always put a query in, but I'm

9. just curious if you knew.

10. MS. CAUDILL: Just looking at it, I

11. would guess 80 percent.

12. CHAIRMAN PHILLIPS: Okay. All right.

13. Any other questions?

14. MS. MCGAURAN: I have one quick

15. question. In reading the minutes, obviously I'm new

16. to this group, but it seemed there was some

17. discussion about the categories and whether the

18. categories and the descriptions were still

19. appropriate, based on the current job descriptions.

20. I think the surveyor was one of the ones that was

21. referenced in the last meeting, and I was wondering

22. if you guys had done anything to double-check to

23. make sure that your descriptions and your job

24. classifications were appropriate.

25. MS. CAUDILL: The only thing we

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,

11. as I remember it -- we've got survey instrument

12. operator, Category Number 18, and you can make the

13. argument that that position doesn't exist anymore.

14. CHAIRMAN PHILLIPS: Right.

15. MR. WRIGHT: Because when's --

16. CHAIRMAN PHILLIPS: And we discussed

17. that last time.

18. MR. WRIGHT: -- the last time you saw

19. somebody running a transit? Yeah. They're all GPS

20. drivers now. They're looking at a TV screen.

21. CHAIRMAN PHILLIPS: But your question

22. was in -- just in total. How do we validate that

23. these descriptions are accurate?

24. MS. MCGAURAN: Right. For the

25. current work, you know, in that, we've got the right

1. classifications out there. Do we survey that or do

2. we ask businesses any of that -- I just --

3. THE REPORTER: I'm sorry, what was

4. the end of that?

5. MS. MCGAURAN: Do we survey the

6. classifications with the businesses, whether or not

7. they're still appropriate classifications and

8. distribute -- descriptions for the type of employees

9. that they employ or whether --

10. CHAIRMAN PHILLIPS: I don't think

11. that we do.

12. MS. MCGAURAN: -- there's

13. classifications we're missing or --

14. MS. CAUDILL: We don't, but I would

15. have thought if there was any classification in

16. questions, it would pop up during the survey

17. process. They might say, well, we've got this

18. employee who doesn't really fit here and we think he

19. should be in a different classification, but we've

20. never had that issue come up yet.

21. CHAIRMAN PHILLIPS: We can look into

22. that for the next one --

23. MR. SUMMERS: Most of --

24. CHAIRMAN PHILLIPS: -- because there

25. are ways to do that.

1. MR. SUMMERS: Most of these are

2. pretty standard classifications --

3. CHAIRMAN PHILLIPS: Yeah.

4. MR. SUMMERS: -- for our industry.

5. The building trades gets -- has more issues with

6. classifications, especially electricians and

7. something like that, you know. So ours are pretty

8. simple, like what Steve said, you know, the -- now,

9. the guy that does the surveying --

10. MR. WRIGHT: Technology's kind of

11. changed the --

12. MR. SUMMERS: Technology's --

13. MR. WRIGHT: Yeah.

14. MR. SUMMERS: -- almost done away

15. with his job.

16. MR. WRIGHT: And it may just be as

17. simple to -- and I know having been asked over the

18. years, where do I put this person in? Tell me

19. what -- you know, from our HR folks. You know. If

20. you read this definition on survey instrument

21. operator in the title, it probably needs updating,

22. really, just due to the technology changes, because

23. they're really -- this was aimed at an instrument

24. operator, is the way I understood it, which was part

25. of a three- or four-man crew. Now, a survey crew is



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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  
4. does.  
5. CHAIRMAN PHILLIPS: Yeah, it does.  
6. MR. WRIGHT: I don't know how it  
7. knows, but it's -- the technology has changed. So  
8. you know -- and that'll lead you to errors in your  
9. reporting if you've got a guy that's really in  
10. charge of surveying for the job and they're trying  
11. to report him as a survey instrument operator. It  
12. could be misinterpreted is all -- and I don't know  
13. how to clean it up, but technology's changed it a  
14. lot.  
15. CHAIRMAN PHILLIPS: And we can, you  
16. know, there's -- we can --  
17. MR. WRIGHT: The rest of them look  
18. great.  
19. CHAIRMAN PHILLIPS: -- crossmatch the  
20. labor market information in the codes provided by  
21. the Department of Labor just to see if anything, you  
22. know, quirky pops out, just to see if there's  
23. anything that's strange or maybe needs to be looked  
24. at. Okay? Any other questions?  
25. MR. CRABTREE: I have a question for

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1. Mr. Nealy.  
2. Sometimes, questions on,  
3. particularly, locally managed projects find their  
4. way to me, and I don't know what to do with them.  
5. But are you the appropriate person to contact if  
6. we have --  
7. MR. NEALY: Yes, sir. Myself and  
8. Carolyn.  
9. MR. CRABTREE: -- any issues on  
10. locally managed projects?  
11. MR. NEALY: Yes, sir.  
12. CHAIRMAN PHILLIPS: Any other  
13. questions?  
14. Okay. Next will be Old Business, of  
15. which there is none. And next in order would be  
16. New Business. So has -- have we had a chance to  
17. review the preliminary 2017 prevailing wage  
18. 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

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1. to tell you. I can -- 50 percent, but --  
2. MR. WRIGHT: I didn't look before you  
3. put one on here.  
4. CHAIRMAN PHILLIPS: So that calls,  
5. then, for a motion to approve.  
6. MR. SUMMERS: I move to approve the  
7. list.  
8. CHAIRMAN PHILLIPS: And second?  
9. MR. WRIGHT: Second.  
10. CHAIRMAN PHILLIPS: Any opposition?  
11. Motion carries. Okay? We didn't vote, but I knew  
12. what the vote was going to be. Okay.  
13. Next is to discuss and approve the  
14. projects survey. Now, have you got that in front  
15. of you?  
16. MR. SUMMERS: Uh-huh.  
17. CHAIRMAN PHILLIPS: The survey  
18. notice? Okay. Jan, do you want to speak to these?  
19. MS. CAUDILL: It's basically exactly  
20. the same as it was --  
21. CHAIRMAN PHILLIPS: Okay.  
22. MS. CAUDILL: -- last year. We  
23. tweaked it a little bit just to allow more room for  
24. addresses, because it was -- had a character limit,  
25. so we extended that a little bit. So now the

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1. addresses on the survey will print exactly as they  
2. will on the letter. There won't be anything  
3. shortened or cut off.  
4. Another thing that we're working on  
5. is, the customers all giving their code number.  
6. We have come contractors who might have 60-some  
7. projects and they would have to reenter the  
8. information at the top of the -- of every project  
9. over and over and over. So we fixed it so that if  
10. they -- once they put their code in, it just  
11. auto-populates. That'll take a lot off of the  
12. contractors.  
13. But basically, it's the same -- it's  
14. the exact same survey we -- and letter we had last  
15. year. The link is provided for them to go in  
16. electronically. Their code number is inserted,  
17. and we just had to, basically, change the dates,  
18. you know, of deadline.  
19. MR. SUMMERS: How many of these  
20. contractors have a password? Do you have any idea?  
21. MS. CAUDILL: Every one -- what's --  
22. the code?  
23. MR. SUMMERS: Yeah. The code.  
24. MS. CAUDILL: Every one of them has  
25. their own individual code.

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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?  
13. MS. MCGAURAN: Second.  
14. MR. CRABTREE: Second.  
15. CHAIRMAN PHILLIPS: Any questions?  
16. How many are in favor?  
17. MR. SUMMERS: Aye.  
18. MR. WRIGHT: Aye.  
19. MR. CRABTREE: Aye.  
20. MS. MCGAURAN: Aye.  
21. CHAIRMAN PHILLIPS: 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

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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.

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1. CHAIRMAN PHILLIPS: Is there anything  
2. that could be done to, you know, encourage them to  
3. respond, because the more responses, the better the  
4. survey, right?  
5. MS. CAUDILL: Outside of getting it  
6. to them sooner? Another thing that is going to  
7. change on the letter -- because I checked in the  
8. laws and the rules and the only dates that really  
9. come into play is that it must be returned or  
10. postmarked by October 31st, and we can accept them  
11. up to the -- or through the third business day after  
12. that.  
13. With this e-mailing, the date of the  
14. survey and the letter, as far as when it is sent  
15. out, is going to auto-populate the day you do it.  
16. It just says they have to have them by the end of  
17. September. So we might be able to, you know, get  
18. those e-mails out a few days sooner. There's no  
19. date that -- or no law that says it has to be  
20. October 30 -- or September 30th.  
21. CHAIRMAN PHILLIPS: And they're not  
22. required to respond.  
23. MS. CAUDILL: They're not required to  
24. respond. And --  
25. CHAIRMAN PHILLIPS: So how do you

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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

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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.

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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?

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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

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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  
 2. business?  
 3. MR. BAILEY: If you want to hear the  
 4. definition of highway contractor --  
 5. CHAIRMAN PHILLIPS: Yeah.  
 6. MR. BAILEY: -- it means any  
 7. contractor, subcontractor, person, firm, or  
 8. corporation engaged in a state construction project  
 9. for the purpose of building, rebuilding, locating,  
 10. relocating, or repairing any streets, highways, or  
 11. bridges.  
 12. CHAIRMAN PHILLIPS: And when it says  
 13. "state project," it means the State of Tennessee?  
 14. MR. BAILEY: It just -- it says,  
 15. engage in a state construction project for the  
 16. purpose of building, rebuilding, locating -- so it's  
 17. got to be a state construction project.  
 18. MR. SUMMERS: I think we've always  
 19. interpreted it as a project within the state, not a  
 20. State --  
 21. CHAIRMAN PHILLIPS: State project.  
 22. MR. SUMMERS: -- DOT project.  
 23. MS. CAUDILL: Right.  
 24. CHAIRMAN PHILLIPS: Right.  
 25. MR. SUMMERS: It's a project --

1. CHAIRMAN PHILLIPS: That was my  
 2. question.  
 3. MR. SUMMERS: -- within the state of  
 4. Tennessee.  
 5. CHAIRMAN PHILLIPS: Does "state" mean  
 6. the state of Tennessee or State government, State of  
 7. Tennessee?  
 8. MR. WRIGHT: Well, if we do, it's  
 9. going to be the same people anyway.  
 10. MR. STARWALT: If he's reading out of  
 11. the code -- sorry. The code would define "state" --  
 12. MR. BAILEY: As the --  
 13. MR. STARWALT: -- as the State of  
 14. Tennessee.  
 15. MR. BAILEY: Right.  
 16. CHAIRMAN PHILLIPS: Okay.  
 17. MR. BAILEY: And then the very next  
 18. section talks about any highway contractor entering  
 19. into a State contract for the performance of work on  
 20. State highway construction projects shall pay not  
 21. less than the prevailing wage rate for all types of  
 22. classifications --  
 23. CHAIRMAN PHILLIPS: Yeah.  
 24. MR. BAILEY: -- of such work.  
 25. CHAIRMAN PHILLIPS: Okay. All right.

1. That clarifies it.  
 2. MR. BAILEY: Or aren't a lot of  
 3. municipal highway projects also funded by the State  
 4. partially?  
 5. MR. WRIGHT: Yeah. Or the other way  
 6. around. The State administers some that are funded  
 7. by the local. And then an awful lot of them refer  
 8. specifications to TDOTs. You know. You get copied  
 9. a lot. I don't know --  
 10. MR. CRABTREE: You've hit up on a  
 11. good question right there. Whether we -- if we  
 12. interpret that literally, I don't know if the  
 13. locally managed projects that TDOT funds have to use  
 14. the state wage rates or not, if you interpret that  
 15. literally. It says "state highway project." And if  
 16. it's a project led by Elizabethton and funded by  
 17. TDOT, is that a State highway project? It's a  
 18. greenway. I don't --  
 19. MR. SUMMERS: I think the  
 20. interpretation has always been if it has state DOT  
 21. funds.  
 22. MR. NEALY: Correct. I agree with  
 23. that.  
 24. MR. CRABTREE: But that's not what it  
 25. says. It says --

1. MR. SUMMERS: Yeah.  
 2. MR. CRABTREE: -- a State highway  
 3. project. And everything else you read there would  
 4. kind of lead me to believe that it's questionable at  
 5. least whether or not locally managed projects  
 6. require -- or that mandates using state wage rates  
 7. on locally managed projects.  
 8. MR. WRIGHT: What about --  
 9. MR. CRABTREE: I don't know the  
 10. answer.  
 11. MR. WRIGHT: What about a county  
 12. highway department that's using TDOT money to do  
 13. something?  
 14. MR. SUMMERS: Now you're messing.  
 15. MR. WRIGHT: I'm just asking a  
 16. question.  
 17. MR. SUMMERS: I would agree. But --  
 18. MR. WRIGHT: Because I know that, you  
 19. know, as of July 1st, they have all gotten a lot  
 20. more money to spend, and I've watched them -- our  
 21. local highway department paving on a road. I would  
 22. just be curious if they were required to pay the  
 23. prevailing wage to their employees.  
 24. MR. BAILEY: I think it -- I'm sorry.  
 25. I didn't mean --

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1. MR. WRIGHT: I just -- it's curious,  
 2. just curious.  
 3. MR. BAILEY: I think it's always been  
 4. kind of broadly construed that if State money's --  
 5. like Mr. Summer said, if State money's involved in  
 6. the project, it's kind of a quasi-State project and  
 7. the prevailing wage would apply.  
 8. CHAIRMAN PHILLIPS: So that's the  
 9. determining factor, that there's state funding  
 10. involved.  
 11. MR. BAILEY: Correct.  
 12. CHAIRMAN PHILLIPS: Regardless of  
 13. where the project --  
 14. MR. WRIGHT: My guess is that  
 15. Tennessee would just -- out of the room.  
 16. MR. STARWALT: As far as I know,  
 17. county projects do not require prevailing wage --  
 18. CHAIRMAN PHILLIPS: Okay.  
 19. MR. STARWALT: -- even if it's a  
 20. State project, as far as I know.  
 21. CHAIRMAN PHILLIPS: Okay.  
 22. MR. CRABTREE: And a lot of our  
 23. locally managed projects are not on state-owned  
 24. facilities. They're on local streets and local  
 25. roads and greenways and sidewalks, and I think it's

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1. a little bit ambiguous. But personally, I think  
 2. everybody -- I think they should, but I don't -- I'm  
 3. sure the statute supports that.  
 4. MR. STARWALT: When the -- so when  
 5. the legislature repealed the prevailing wage for  
 6. building --  
 7. CHAIRMAN PHILLIPS: Right.  
 8. MR. STARWALT: -- they came back  
 9. again the next year or two years after that and  
 10. narrowly defined what prevailing wage could be used  
 11. for. It was really based on a project -- it was  
 12. really based on a state park project.  
 13. CHAIRMAN PHILLIPS: Right.  
 14. MR. STARWALT: -- where --  
 15. CHAIRMAN PHILLIPS: That's right.  
 16. MR. STARWALT: -- they crossed the  
 17. road. It was not a road project, but the utility  
 18. crossed a road and the determination was made that  
 19. that should have been a prevailing wage. The  
 20. legislature came back and defined that, that that  
 21. would -- prevailing wage would not apply to that  
 22. because it wasn't a road project. Even though they  
 23. crossed the road, it wasn't a road project.  
 24. CHAIRMAN PHILLIPS: Yeah.  
 25. MR. STARWALT: So just -- they have

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1. sort of narrowly defined what truly is -- the  
 2. prevailing wage applies to.  
 3. CHAIRMAN PHILLIPS: But it doesn't  
 4. seem to have caused any issues. So you know, the  
 5. old saying about swatting a hornet's nest with a  
 6. stick. So maybe just leave it be.  
 7. MR. WRIGHT: Well, that would be a  
 8. hornets' nest.  
 9. CHAIRMAN PHILLIPS: Any additional  
 10. business? None? Motion to adjourn?  
 11. MR. WRIGHT: So moved.  
 12. MR. CRABTREE: So moved.  
 13. CHAIRMAN PHILLIPS: Second?  
 14. MR. WRIGHT: Second.  
 15. CHAIRMAN PHILLIPS: Any questions?  
 16. All in favor?  
 17. MR. CRABTREE: Aye.  
 18. MR. WRIGHT: Aye.  
 19. MR. SUMMERS: Aye.  
 20. MS. MCGAURAN: Aye.  
 21. END OF PROCEEDINGS.  
 22.  
 23.  
 24.  
 25.

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1. CERTIFICATE  
 2.  
 3. STATE OF TENNESSEE )  
 4. COUNTY OF WILLIAMSON )  
 5.  
 6. I, Dominique A. Dubois LCR# 686, Notary  
 7. Public and Court Reporter, do hereby certify that I  
 8. have recorded to the best of my skill and ability  
 9. by machine shorthand all the proceedings in the  
 10. foregoing transcript, and that said transcript is a  
 11. true, accurate, and complete transcript to the best  
 12. of my ability.  
 13. I further certify that I am not an attorney  
 14. or counsel of any of the parties, nor a relative or  
 15. employee of any attorney or counsel connected with  
 16. the action, nor financially interested in the  
 17. action.  
 18. SIGNED this 18th day of September 2017.  
 19.  
 20.  
 21. \_\_\_\_\_  
 22. Dominique A. Dubois, LCR# 686  
 23. Notary Public State at Large  
 24. My commission expires: 4/9/2018  
 25.

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