

1 STATE OF TENNESSEE
2 DEPARTMENT OF LABOR AND WORKFORCE DEVELOPMENT
3 PREVAILING WAGE COMMISSION MEETING
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10 November 13, 2019
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23 CASSANDRA M. BEILING, LCR# 371
24 STONE & GEORGE COURT REPORTING
25 2020 Fieldstone Parkway
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Franklin, Tennessee 37069
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Page 2

1 APPEARANCES:

2 Commissioner Jeff McCord, Chairman

3 Paul Degges, Deputy Commissioner TDOT

4 Ann McGauran, State Architect (not present)

Tennessee Department of Treasury

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Scott Thompson, Talley Construction Co.

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Stephen Wright, Wright Brothers Construction Co.

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Steve Hawkins, Deputy Commissioner

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Tom Herrod, Assistant Commissioner

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Dan Bailey, Legal Counsel

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Kenneth Nealy, Director

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Jan Caudill, Commission Secretary

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2 CHAIRMAN MCCORD: I'm going to call

3 the meeting to order, but I want to introduce

4 myself first. My name is Jeff McCord, and I have

5 the pleasure and honor of serving as the new

6 commissioner of Labor and Workforce Development.

7 And first, to our group here

8 gathered, thank you for your time and for your

9 expertise and willingness to come and help move

10 things forward and keep things the way they should

11 be.

12 I think the first thing we need to do

13 is roll call. So let's start to our -- I guess

14 I'll do the roll call. Jan has practiced with me

15 on this, so she'll keep me in line.

16 So Paul Degges?

17 MR. DEGGES: Here.

18 CHAIRMAN MCCORD: Ann McGauran?

19 (No verbal response.)

20 MR. BAILEY: She's not here.

21 CHAIRMAN MCCORD: Scott Thompson?

22 MR. THOMPSON: Here.

23 CHAIRMAN MCCORD: Stephen Wright?

24 MR. WRIGHT: Here.

25 CHAIRMAN MCCORD: Very good. As

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AGENDA

1 I. Call Meeting to Order

2 II. Introductions and Announcements

3 III. Adoption of Agenda

4 IV. Approval of the November 29, 2018 Meeting

Minutes

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7 V. Overview of Revised Prevailing Wage Rules

* Dan Bailey

8 VI. Labor Standards Unit's Report(s)

* Jan Caudill -2019 Prevailing Wage Survey

statistics

9

10 VII. New Business

* Calculation of Prevailing Wage Rates

for 2020 (25 Classifications)

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12 VIII. Open Discussion Items:

13 IX. Announcement of Next Meeting - The next

regularly scheduled meeting of the

Prevailing Wage Commission will be held

1:30 p.m. on Thursday, November 21, 2019,

at the State of Tennessee, Department of

Labor and Workforce Development building,

located at 220 French Landing Drive,

Nashville, Tennessee 37243. (Tentative)

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26 X. Adjournment

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1 far as announcements go, if there is to be an

2 emergency, we all need to follow Kenneth. He will

3 lead us out to that lobby and then out to exit the

4 building on the Rosa Parks side of the building.

5 So any questions about emergencies?

6 Kenneth, it's like you're in the

7 aisle seat where the emergency door is. Are you

8 willing to accept this mission?

9 MR. NEALY: Yes, sir.

10 CHAIRMAN MCCORD: Okay. Very good.

11 So the third item is we want to make

12 sure all our conflict of interest documents are

13 signed.

14 Jan, do you know if we have all those

15 signed and they're on file?

16 MS. CAUDILL: The only one I don't

17 have is Stephen's.

18 MR. WRIGHT: Do you have one I can

19 sign?

20 MS. CAUDILL: I do.

21 CHAIRMAN MCCORD: Okay. Very good.

22 So Tia, for the record, what are we

23 looking at?

24 MS. XIXIS: This is his oath of

25 office.

<p style="text-align: right;">Page 6</p> <p>1 (Whereupon, a discussion off the 2 record occurred.)</p> <p>3 CHAIRMAN MCCORD: Oh, okay. We'll 4 move along to begin with old business. And so the 5 first order on our old business -- excuse me. 6 We're going to do the adoption of the agenda 7 first. And so every time before we -- so is there 8 a motion to adopt the current agenda?</p> <p>9 MR. WRIGHT: I would move for 10 acceptance.</p> <p>11 MR. DEGGES: Second.</p> <p>12 CHAIRMAN MCCORD: And there's a 13 second. And so as part of our discussion -- 14 before we enter discussion, is there any conflict 15 of interest that's with the agenda?</p> <p>16 (No verbal response.)</p> <p>17 CHAIRMAN MCCORD: Okay. So any 18 discussion on the agenda?</p> <p>19 (No verbal response.)</p> <p>20 CHAIRMAN MCCORD: Okay. We have a 21 motion and a second. All those in favor, say aye. 22 (Affirmative response.)</p> <p>23 CHAIRMAN MCCORD: All those 24 opposed?</p> <p>25 (No verbal response.)</p>	<p style="text-align: right;">Page 7</p> <p>1 CHAIRMAN MCCORD: So our agenda is 2 adopted.</p> <p>3 In terms of old business, the next 4 item is reviewing the minutes from the 5 November 29, 2018 commission meeting. So I'll let 6 you take a look at that. I think those have gone 7 out already. And we'll wait and see if there's a 8 motion to accept those minutes.</p> <p>9 MR. WRIGHT: I would move for the 10 acceptance as well.</p> <p>11 CHAIRMAN MCCORD: Is there a 12 second?</p> <p>13 MR. DEGGES: Second.</p> <p>14 CHAIRMAN MCCORD: I have a first 15 and a second. As part of discussion, is there any 16 conflict of interest that we need to disclose?</p> <p>17 (No verbal response.)</p> <p>18 CHAIRMAN MCCORD: All those in 19 favor of adopting the old minutes, say aye. 20 (Affirmative response.)</p> <p>21 CHAIRMAN MCCORD: All those 22 opposed?</p> <p>23 (No verbal response.)</p> <p>24 CHAIRMAN MCCORD: Okay. The motion 25 carries.</p>
<p style="text-align: right;">Page 8</p> <p>1 We'll move into our business, really, 2 now. And so Dan, take it away.</p> <p>3 MR. BAILEY: Thank you 4 Mr. Commissioner.</p> <p>5 I'm Dan Bailey and I'm legal counsel 6 to the commission. We had adopted or promulgated 7 some new rules over the past couple of years. I 8 know Commissioner Wright is quite aware of it, but 9 for the sake of the new members here today, our 10 rules went into effect July 7, 2019, the new rules 11 did. And the Prevailing Wage Act of 1975 was 12 amended in 2013 by the, quote, "Prevailing Wage 13 Act for state highway construction projects," end 14 quote, which removed all references to state 15 building construction. That was effective 16 January 1, 2014.</p> <p>17 In the new rules that recently went 18 into effect, all references to state building 19 construction have been removed and the job 20 classifications associated with state building 21 construction have also been removed and any 22 references to the Prevailing Wage Act of 1975 were 23 changed to the name of the new law.</p> <p>24 We also updated the rule numbering 25 system from 0800-03-02 to 0800-02-02, which is the</p>	<p style="text-align: right;">Page 9</p> <p>1 proper way to number the rules per the Secretary 2 of State's office.</p> <p>3 We deleted the job classifications 4 of, quote, "Motor Crane Driver," end quote; quote, 5 "Tractor Operator," parentheses, "crawler or 6 utility," end parens, end quote; and quote, "Ditch 7 Paver Machine Operator," end quote, as those job 8 classifications are no longer in use.</p> <p>9 We also deleted the job class of, 10 "Powder Person," parentheses, "Blaster," end 11 quote, and followed the definitions found in the 12 Tennessee Blasting Standards Act of 1975 for the 13 new classifications of, quote, "Blaster," end 14 quote, and, quote, "Handler," end quote.</p> <p>15 The, quote, "Powder Person/Blaster," 16 end quote, classification was basically a 17 combination of the quote, "Blaster" and, 18 quote/unquote, "Handler" classifications.</p> <p>19 Now, under these rules, the Blaster 20 is a stand-alone classification, and the Handler 21 position is a subclass of the classification of, 22 quote/unquote "Skilled Laborer."</p> <p>23 We also added the job classifications 24 of a, quote, unquote, "Concrete Barrier Rail," 25 parenthesis, "Transfer Machine Operator," end</p>

<p style="text-align: right;">Page 10</p> <p>1 quote, and, quote/unquote, "Large Crane Operator." 2 Rule 0800-03-02-.07 was amended by 3 deleting the title, quote, "Regulations for 4 Commission," end quote, and replacing it with, 5 quote, "Inspection Process," end quote, and 6 amending the language to reflect what this 7 department will do to enforce this law. 8 Rule 0800-03-02-.08 was amended by 9 adding language to allow the electronic submission 10 of the prevailing wage survey and changing the 11 word, quote/unquote, "commission" throughout this 12 rule to, quote/unquote, "department" to reflect 13 that the surveys ways are to be submitted to this 14 department for processing. 15 And finally, Rule 0800-03-02-.09, 16 quote/unquote "copy fee" was added to show the 17 fees to be charged for copies of public documents. 18 And I'll take any questions if you 19 have any. 20 CHAIRMAN MCCORD: Any questions for 21 Dan? 22 (No verbal response.) 23 CHAIRMAN MCCORD: All right. 24 Seeing none, we'll move on and go to new business. 25 And this next item is to review and discuss our</p>	<p style="text-align: right;">Page 11</p> <p>1 survey data on wage rates. And as part of that, 2 I'm going to let our Deputy Commissioner Steve 3 Hawkins introduce you to our Assistant 4 Commissioner Tom Herrod as a part of that review. 5 MR. HAWKINS: So good afternoon. 6 As the commissioner said, he's recently appointed 7 by the governor. And as I know all of you in my 8 previous role at TOSHA as the administrator. And 9 the commissioner asked me to serve as the deputy 10 commissioner and gave me three areas of 11 responsibility. One of them in workplace 12 regulation and compliance, which is where 13 prevailing wage is housed. And when he appointed 14 me to this position, he asked me who we might -- 15 do we have anybody in mind who might be a good fit 16 for WRC. 17 And I wanted to introduce you to Tom 18 Herrod, who also was our public sector manager in 19 TOSHA for about five years, worked for TOSHA for 20 about eight years. He previously worked at DuPont 21 as a chemical engineer for them and did a great 22 job in TOSHA and has done a great job in WRC in 23 the last six months that he's been in that role. 24 And so I asked the commissioner if I could have 25 the opportunity to introduce Tom because I just</p>
<p style="text-align: right;">Page 12</p> <p>1 want you-all to know how much I think of this guy. 2 And so we did have a couple of repeat 3 findings from the comptroller because we did not 4 calculate the prevailing wage exactly as it is 5 outlined in the law. And so one of the things I 6 asked Tom to do when he came in is, "Tom," I said, 7 "work with Dan." And so we've all three worked 8 together to make sure that we have a process that 9 at the end of this meeting, if you choose to, we 10 have set the prevailing wage for the following 11 year correctly and by the law and by the rule. 12 So Tom has done a great job 13 developing the spreadsheet that's going to help us 14 do that. So I wanted you to know that we've been 15 working on that. And so what you've got before 16 you is a spreadsheet that Tom has developed, and 17 his staff, and also let you know a little bit 18 about Tom. And he's going to kind of walk us 19 through the process at the appropriate time. But 20 I just wanted to have the opportunity to tell you 21 how much I think of Tom and what a great guy he 22 is. 23 So thank you, Commissioner. 24 CHAIRMAN MCCORD: Sure. I'm not so 25 sure yet about Tom, by the way, but Steve is.</p>	<p style="text-align: right;">Page 13</p> <p>1 MR. HAWKINS: I am. I'm sure about 2 him. 3 CHAIRMAN MCCORD: I'm just teasing. 4 Go right ahead, Tom. 5 MR. HERROD: Thank you. With 6 Steve's help and Jan's help and Dan's help, also, 7 we have put together a spreadsheet that should 8 show us exactly what ranges we can set the new 9 prevailing wage rates at. 10 Before you, you have two pages. And 11 in the first column, classification column, are 12 the job classifications, the 25 classifications, 13 that we had surveys sent out for. 14 Now, some of these classifications, 15 there were less than four responses. They're 16 highlighted in the burnt orange in Column 3. And 17 that's important to know because if you have four 18 or fewer, there are a couple of options you have 19 as far as setting the prevailing wage, and we'll 20 talk about that as we go through. 21 Column 3 has a number of responses, 22 like I say. Column 4 is the survey rate. We have 23 that up here, also, for you to see. Column 5 is 24 the current 2019 prevailing wage rate, if there is 25 one. And, also, Column 6, the next one to it, is</p>

<p style="text-align: right;">Page 14</p> <p>1 the change from the current rate to the survey 2 rate, so we have the percentage change. 3 Overall, there was a 2.8 percent 4 change in the wages. That's the survey rate 5 versus the current prevailing wage rate. So an 6 overall average of 2.8. 7 Some classifications, as you can see, 8 had a negative number. Some had a higher-than- 9 normal increase. But overall, there was a 10 2.8 percent. We'll talk about that. 11 Now, Columns 8 and 9 are very 12 important because based upon the number of 13 responses that we have, we are allowed to set the 14 prevailing wage rate at the survey rate plus or 15 minus 6 percent of the current rate. 16 We have done the math for you. The 17 light pink is the minimum; the light green is the 18 maximum if there are five or more responses. So 19 those are the options you have in Columns 8 and 9. 20 In Columns 10 and 11, for those 21 responses, four or fewer, you have an option, 22 also, of setting at the current rate plus or minus 23 6 percent. So, for example, when we look at 24 bricklayer, there were two responses, so you have 25 an option of the survey rate plus or minus</p>	<p style="text-align: right;">Page 15</p> <p>1 6 percent of the current rate, or you can set the 2 new rate at the current rate, prevailing wage 3 rate, plus or minus 6 percent. So that is the 4 range. 5 On the spreadsheet that Jan has up -- 6 the other one, Jan, that shows the -- well, the 7 entry here that you have before you, Column 12, is 8 for your convenience where you can write in the 9 numbers. But on the other spreadsheet we want to 10 show you in a minute, if we set prevailing wage 11 outside the permissible limits, it will flag us 12 and tell us we're not -- yes. Okay. So right 13 here. So in the green, we've already populated. 14 In Column 12, we put the survey rate in that 15 column, but that can be changed. That's depending 16 on what you want to do, so -- yes, that column 17 right there that Jan has highlighted. 18 Jan, for example, on bricklayer, set 19 that rate at something outside the acceptable rate 20 and just put in 19 or something. 21 MS. CAUDILL: (Complies.) 22 MR. HERROD: Okay. You can see 23 that it flags since it's outside of the acceptable 24 range. So that is for every classification, that 25 it will flag us and let us know if we're outside</p>
<p style="text-align: right;">Page 16</p> <p>1 the range. 2 In previous times that we've set 3 prevailing wage rates, the commission has decided 4 to take the current prevailing wage rate and 5 adjust it up by the average overall increase. In 6 Column 13, on over to the left there, right there, 7 for those classifications that you can do that in, 8 we've given you that figure, if you so choose to 9 use that figure. So those figures that are shown, 10 would follow within the ranges acceptable for the 11 commission to approve. 12 So this spreadsheet does summarize or 13 gives us a working platform to enter the rates and 14 set those rates today. 15 CHAIRMAN MCCORD: Okay. So let me 16 just ask a couple of questions first. Before we 17 start the discussion again, I need to ask, again, 18 if there's any conflict of interest, before the 19 discussion. 20 (No verbal response.) 21 CHAIRMAN MCCORD: Okay. Hearing 22 none, we'll proceed. 23 And so, Tom, we have the option of 24 going one by one and talking through them, or the 25 option of saying, you know, we're going to look</p>	<p style="text-align: right;">Page 17</p> <p>1 and go by 2.8, because that is where it came out 2 over all for most of these. 3 MR. HERROD: Right. 4 CHAIRMAN MCCORD: Or something in 5 between. 6 MR. HERROD: That's correct. 7 CHAIRMAN MCCORD: And so are you 8 going to lead us through that? 9 MR. HERROD: We can do that. 10 CHAIRMAN MCCORD: Okay. So does 11 the commission have a preference of do we want to 12 go one by one and talk through them or -- I mean, 13 we may come out at the same place and we may not. 14 MR. WRIGHT: Mr. Commissioner, I 15 think we need to talk about the first two items -- 16 CHAIRMAN MCCORD: Okay. 17 MR. WRIGHT: -- because that is a 18 unique situation, in my opinion. 19 CHAIRMAN MCCORD: Super. 20 So Tom, we'll start with blaster. 21 MR. HERROD: Okay. As Dan told you 22 just a few minutes ago -- Dan Bailey -- that the 23 blaster position is a renamed position. It used 24 to be powder person, slash, blaster. This year, 25 it's been the blaster. The higher position has</p>

<p style="text-align: right;">Page 18</p> <p>1 been separated out, and the skilled labor has been 2 put under Craft Number 18.</p> <p>3 So you have the option, as I 4 understand -- Dan, you can correct me -- that you 5 can go with a setting that blaster at the survey 6 rate, which shows in Row Number 1 there, or you 7 can utilize the fact that there were six 8 responses, and you can put the new range in 9 between the \$33.39 and \$36.07, depending on your 10 preference. Those are the two options.</p> <p>11 MR. WRIGHT: Well, I would say, in 12 my humble opinion, that the \$34.73 rate is 13 abnormal. And the data, in my opinion, is an 14 issue. There's only -- while there are six 15 responses, they're all from the same people for a 16 total of 64 hours. If you look at this, that 17 sampling is quite small, in my belief, to be 18 setting the state wage.</p> <p>19 And I would also offer that this 20 is -- you know, it depends on how you -- you know, 21 I'm not an attorney, Mr. Bailey, as you well know 22 from previous discussions. But we had a rate last 23 year of \$22.40 for this same job. And we've 24 retitled it, and I employ several of these 25 blasters. None of them make \$35 an hour. And I</p>	<p style="text-align: right;">Page 19</p> <p>1 think if we actually go back and quiz the people 2 that did the data, you'll find that that's a 3 salaried person that they just converted to an 4 hourly rate.</p> <p>5 One day, they had six responses but 6 it was, like, one day -- you know, they visited a 7 job six times for one day at a time, which would 8 be like a shot service. You come in and you, you 9 know, you lay a shot out, blow it up, and leave. 10 To me, to set the entire state, I don't think 11 we're doing the State an appropriate service to 12 have a rate that is \$15 or \$10 an hour out of what 13 is the appropriate market range for that job.</p> <p>14 MR. BAILEY: Well, if I may, the 15 reason there's two different categories there for 16 that, the question that came up was should we 17 compare this new blaster classification to the old 18 powder person classification for prevailing wage 19 purposes, or should we treat it as a new 20 classification. Because, you know, it arguably is 21 a new classification. So that's why it was kind 22 of done this way, to -- not knowing what the 23 pleasure of the commission would be, as far as 24 whether -- would we want to compare it to the 25 powder person or treat it as a new classification.</p>
<p style="text-align: right;">Page 20</p> <p>1 I have no idea what blasters make. You know, I 2 know you would.</p> <p>3 MR. WRIGHT: Yes, sir.</p> <p>4 CHAIRMAN MCCORD: So, Dan, what are 5 our options? So the very first one, Blaster 6 versus Powder Person/Blaster, what are our options 7 there? Let me just say something back to you and 8 see if it's wrong. Blaster can be a new 9 occupation and Powder Person/Blaster sounds more 10 like what you're talking about. Does that make 11 sense?</p> <p>12 MR. WRIGHT: Well, what I'm saying 13 is I think we have a technical issue with the law. 14 If we made -- as Dan so eloquently explained, we 15 spent a lot of time last year or the year before, 16 whenever it was, redoing all these codes trying to 17 get them right. And this was driven by the fact 18 that there was, somewhere, one of the powder 19 companies had a subcontract, which I think put 20 them in a situation with Paul's organization that 21 they had to report payroll.</p> <p>22 CHAIRMAN MCCORD: Got you.</p> <p>23 MR. WRIGHT: 99 percent of what 24 powder companies do today is on an invoice because 25 they're not subcontracted to do the work. They</p>	<p style="text-align: right;">Page 21</p> <p>1 are hired, just like Caterpillar is, to come work 2 on your bulldozer when it breaks down, is the way 3 we do it.</p> <p>4 And there's not been enough big rock 5 jobs, that very few people actually employ 6 full-time blasters anymore. I think we used to 7 have five. We've got one and a half now. You 8 know, one is about too old to work and one young 9 guy. So I would think that this should fall in 10 the category of -- would basically, since this was 11 the prevailing wage for that position and what 12 that role would have filled last year, then we 13 would -- because we kind of -- that it would be 14 appropriate to adjust it off of the 22 number, if 15 we could do that.</p> <p>16 But, Dan, if you'll think back to 17 when Austin Powder was here.</p> <p>18 MR. BAILEY: Yes.</p> <p>19 MR. WRIGHT: The reason that he was 20 here and we got into this discussion wasn't that 21 his blasters weren't a problem with the weight 22 scale; it was the handlers. Because we had the 23 handlers, which is just a laborer.</p> <p>24 If you -- to fill you in, 25 Commissioner, if have somebody on the shot loading</p>

<p style="text-align: right;">Page 22</p> <p>1 powder, if you touch that stuff, you have to be 2 approved by the ATF to actually touch it. And 3 that's called a possessor or handler. And they 4 do, like, a minimal background check. And he was 5 being held to the standard, either by the 6 Department of Transportation or his internal 7 payroll people or -- I don't know who it was that 8 was saying that they had to raise their handlers, 9 which was basically a skilled laborer, up to the 10 position that the blaster was.</p> <p>11 And so you can see he wasn't worried 12 about it because he was paying his blaster \$34 an 13 hour, so it wasn't worried about that. It was the 14 \$12-an-hour handlers that he didn't want to have 15 to pay \$22. Does that make sense?</p> <p>16 MR. DEGGES: I have a question. So 17 first, is the 2.79, 2.8 percent average change, is 18 that calculation weighted, or is it Column 19 Number 6 --</p> <p>20 MR. HERROD: It's weighted.</p> <p>21 MR. DEGGES: So it's weighted by 22 the number of responses?</p> <p>23 MR. HERROD: By the number of hours 24 worked and the total --</p> <p>25 MR. DEGGES: So the number of hours</p>	<p style="text-align: right;">Page 23</p> <p>1 worked.</p> <p>2 MR. HERROD: Right. And the total 3 wages paid. Yes, it's a weighted average.</p> <p>4 MR. DEGGES: So while items for the 5 Powder Person/Blaster show a 55.04 percent 6 increase, is it felt that the skilled laborer, the 7 238 responses there, there are a number of those 8 that came out of the prior classification? Would 9 that be --</p> <p>10 MR. HERROD: Yes. Yes, sir, that's 11 right.</p> <p>12 MR. DEGGES: So if you take the 13 overall average, the 2.8 percent increase would 14 give you --</p> <p>15 MR. HERROD: Twenty-two --</p> <p>16 MR. DEGGES: So y'all had -- in the 17 pre-meeting data that I've got, there was an 18 additional column --</p> <p>19 MR. HERROD: Right.</p> <p>20 MR. DEGGES: -- that took the 21 2.8 percent increase and added it to the 2019 22 prevailing wage; came up with a \$23.02 figure.</p> <p>23 MR. HAWKINS: You still have that 24 in Column 13 except for that one entry, Paul.</p> <p>25 MR. HERROD: Yes. It's actually</p>
<p style="text-align: right;">Page 24</p> <p>1 \$22.66. 2.8 percent times \$22.40.</p> <p>2 MR. DEGGES: Well, the preliminary 3 data --</p> <p>4 MR. HERROD: Yeah, right.</p> <p>5 MR. DEGGES: And I know this is the 6 current data. I guess my question is the 7 comptroller and everybody that audits all of us 8 good agencies, do I understand, from what the 9 comptroller's data is going to say, that if we 10 went with a 2.8 percent adjustment to the 2019 11 prevailing wage, we would be out of compliance 12 with what 12-4-405 tells us? Is that how I 13 understand it?</p> <p>14 MR. HERROD: It's very possible, 15 yes, sir.</p> <p>16 MR. DEGGES: And so I think what 17 Mr. Wright has expressed is that he believes the 18 data is suspect, I guess, for lack of a --</p> <p>19 MR. HERROD: Right.</p> <p>20 MR. DEGGES: I mean, it is what it 21 is, but it's not reflective of what the blaster 22 position is.</p> <p>23 Steve, is that --</p> <p>24 MR. WRIGHT: That's right. I don't 25 know of anybody, really, that employs a blaster</p>	<p style="text-align: right;">Page 25</p> <p>1 anymore.</p> <p>2 MR. DEGGES: So it is a service; it 3 is not an employee.</p> <p>4 MR. WRIGHT: Right. But some of 5 the people, like -- I don't mean to call names, 6 but Austin Powder will occasionally quote -- they 7 must have a job somewhere where they have quoted 8 it and been issued a subcontractor by whomever the 9 prime contractor is which then puts them under the 10 rules where they have to report payroll; whereas, 11 if they were just providing a service, they 12 wouldn't have to -- I think -- I hope that's 13 right.</p> <p>14 MR. DEGGES: And so, I mean, 15 arguably, if it was a very small quantity, your 16 overhead cost to come do the work are going adjust 17 your hourly rate, is your point to it.</p> <p>18 MR. WRIGHT: Yes.</p> <p>19 MR. DEGGES: And so is there in the 20 regulation a process to talk about when it is felt 21 the data is not representative of the --</p> <p>22 CHAIRMAN MCCORD: It's a good 23 question. Is there an exception process or 24 something to that?</p> <p>25 MR. BAILEY: Well, the statute at</p>

<p style="text-align: right;">Page 26</p> <p>1 TCA 12-4-406(a) talks about, basically, at this 2 hearing, that we could review the documentation 3 that was submitted. And then it goes on to say, 4 "and any other facts upon which the prevailing 5 wage determination was made. Any interested party 6 may present any other facts or documentation 7 material to the determination of the prevailing 8 wage rate at such hearing." 9 So I think the statute gives us some 10 latitude to consider information other than the 11 surveys alone in setting the rates. 12 CHAIRMAN MCCORD: Okay. 13 MR. DEGGES: So we would need to be 14 able to articulate in this committee meeting, 15 then, some rationale of why we felt six responses 16 totaling 64 hours of work is not representative of 17 the Blaster title that was created last year. Is 18 that -- 19 MR. BAILEY: That would be correct. 20 What would you say a Blaster's rate 21 is, currently? 22 MR. WRIGHT: It was about right, 23 the mid-20s. So if we did the 2.8 percent to the 24 \$22.40, I would think you would fairly represent 25 the value of those that are employed full-time by</p>	<p style="text-align: right;">Page 27</p> <p>1 the company doing the work. 2 Again, if you -- you know, I think 3 this situation is unique in that you have to do a 4 lot of drilling and blasting to even have a 5 full-time powder person. And most companies, 6 between the difficulties of actually storing the 7 materials on site and the rules and regulations 8 for being appropriately safe with it, it limits -- 9 you know, this is historically -- I think, if you 10 go back through time, it's been one of those that 11 about every other year, there wasn't enough 12 responses on it to even set the rate, is my 13 recollection of the last few years. I don't know 14 if anybody else has that -- 15 CHAIRMAN MCCORD: So let me ask 16 this: So, we have the latitude to evaluate the 17 data and have the discussion, deliberate on the 18 data, which we've done; and we have experts in the 19 room to help us interpret the data, which we've 20 done; and we have a record that reflects all of 21 that; and so are we okay, Dan, to set the wage 22 based on our current rate for that second position 23 of the 2.8 times the \$22.40? 24 MR. BAILEY: I think so, unless 25 there's anybody here that can provide any</p>
<p style="text-align: right;">Page 28</p> <p>1 counter -- 2 MR. DEGGES: So the only question 3 that I would have when you look at the data, the 4 skilled labor category -- and I am not privy to 5 the entire conversation here, but I guess the 6 question that I would have is did the breakout of 7 the what I'm going to call the blaster's 8 assistant's role -- 9 MR. HAWKINS: The handler. 10 MR. DEGGES: The handler. Did the 11 breakout of that, would it affect -- the \$22.40 12 rate that was established in the prior year was 13 based on a position that included the primary 14 handler and the secondary employee. Is that -- 15 MR. HAWKINS: Like, it might be 16 artificially low, because the handler brought the 17 average down. 18 MR. DEGGES: Yeah. That's what I'm 19 saying. Right. Exactly. And so I guess that's 20 my -- I don't know. 21 MR. WRIGHT: In my opinion, no, 22 because the -- I don't think that's the case 23 because most people that we put a shot, we've 24 never turned them in as blasters. If they were a 25 handler, we turned them in as a skilled laborer.</p>	<p style="text-align: right;">Page 29</p> <p>1 We interpreted -- I think this whole 2 discussion came down to it was either an internal 3 argument at Austin Powder or an argument with one 4 of your supervisors about whether -- it was an 5 interpretation that a handler was, in fact, a 6 powder person. And that's why we went through 7 that big rigmarole of trying to define it. You 8 know, we defined the powder person as what ATF 9 defined as a powder person, which cleared up any 10 potential for misunderstanding amongst whomever it 11 might be that's going, well, you know, you're a 12 handler, therefore, you are a powder person. It 13 was kind of a messed up thing to start with. 14 MR. DEGGES: I guess I would be 15 agreeable to Mr. Wright's analysis of the 16 situation. I don't know, short of anybody in the 17 audience that wants to... 18 CHAIRMAN MCCORD: Let's ask that 19 question now. Do we have anybody who would like 20 to comment? 21 (No verbal response.) 22 CHAIRMAN MCCORD: Seeing none... 23 Scott, do you have any input? 24 MR. THOMPSON: No, I don't. 25 CHAIRMAN MCCORD: Okay. Dan, were</p>

<p style="text-align: right;">Page 30</p> <p>1 you going to say something?</p> <p>2 MR. BAILEY: Well, I'll let him</p> <p>3 look at his...</p> <p>4 As I understand it, though,</p> <p>5 Mr. Wright, prior to these rules going into</p> <p>6 effect, which just happened in July, a so-called</p> <p>7 person that you would consider a handler, they</p> <p>8 would have had to have been turned in as a powder</p> <p>9 person and paid that rate, right? So I guess my</p> <p>10 point is --</p> <p>11 MR. WRIGHT: That's not what I</p> <p>12 said. We would have turned them in as a skilled</p> <p>13 laborer.</p> <p>14 MR. BAILEY: Even before the rule</p> <p>15 change?</p> <p>16 MR. WRIGHT: Yes, sir.</p> <p>17 MR. BAILEY: Okay.</p> <p>18 MR. WRIGHT: Because I always read</p> <p>19 that rule as a powder person was the guy -- you</p> <p>20 know, there's all kinds of liability issues, being</p> <p>21 the one that actually pushes the button. And, you</p> <p>22 know, like, some road blew up around here the</p> <p>23 other day. The guy that pushed that button was</p> <p>24 more in trouble than the -- you may have heard</p> <p>25 this -- the guy that loaded that shot, that laid</p>	<p style="text-align: right;">Page 31</p> <p>1 those caps out, that told them, that directed the</p> <p>2 operation of how to load that shot, is the one</p> <p>3 that is on the hook with the ATF and with</p> <p>4 government agencies and with Mr. Degges. The guy</p> <p>5 that just carried the powder up there, no. He's</p> <p>6 just a bag toter. So that's the difference.</p> <p>7 And we had always interpreted that as</p> <p>8 skilled laborer and turned it in that way. And as</p> <p>9 I remember, there was some kind of argument</p> <p>10 irrelevant to this group that started that, and I</p> <p>11 think it revolved around a subcontract. And I</p> <p>12 really don't think TDOT was involved with it. I</p> <p>13 think it was internal to discuss businesses.</p> <p>14 MR. DEGGES: I mean, just from</p> <p>15 looking at the raw data here, it appears to me</p> <p>16 that a small sample size, a small quantity of</p> <p>17 hours, that -- you know, if you call someone in to</p> <p>18 pop a boulder, you're going to charge more than if</p> <p>19 you've got production blast going on over six</p> <p>20 weeks or something.</p> <p>21 MR. HAWKINS: But it shouldn't be</p> <p>22 what you're charged. It should be what you're</p> <p>23 paying the person who popped that boulder. And</p> <p>24 that doesn't usually change from job to job,</p> <p>25 right, Paul?</p>
<p style="text-align: right;">Page 32</p> <p>1 MR. DEGGES: So, you know, I will</p> <p>2 say that -- I mean, there is an economy scale and</p> <p>3 a lot of -- if you have to bring somebody to do</p> <p>4 something once, I would assume that there's a</p> <p>5 premium you're paying, even for an hourly rate for</p> <p>6 an employee.</p> <p>7 MR. HAWKINS: So being on the</p> <p>8 blasting advisory committee and -- I was a</p> <p>9 licensed blaster myself for a long time. I did it</p> <p>10 as a summer job when I was in college for four</p> <p>11 years.</p> <p>12 When I talked to Dan and Tom about</p> <p>13 this, my understanding was this new category was</p> <p>14 going to be licensed blasters in the state,</p> <p>15 because that's the only person who could push the</p> <p>16 button in this state, is a licensed blaster.</p> <p>17 And so, number one, my understanding</p> <p>18 was that's what this new category is going to be,</p> <p>19 and all the handlers would fall down to skilled</p> <p>20 laborer, like you've been reporting them all this</p> <p>21 time. And so, number one, that. And number two,</p> <p>22 it was my understanding, from talking to Tom this</p> <p>23 morning, that because this is a brand-new</p> <p>24 classification, and it is significantly different</p> <p>25 from powder person, which is what it was before,</p>	<p style="text-align: right;">Page 33</p> <p>1 that the commission was free to set that rate</p> <p>2 without regard for the previous rate because it's</p> <p>3 a new classification. And there's not a previous</p> <p>4 rate. And that's why Tom put it on here twice,</p> <p>5 because we could go either way.</p> <p>6 So it was my understanding on this</p> <p>7 one only, from talking to Tom this morning and his</p> <p>8 conversation with Dan, that the commission could</p> <p>9 set this rate at -- basically, they had a lot of</p> <p>10 leeway on this particular rate because there's not</p> <p>11 a last year's rate to set the limit from.</p> <p>12 MR. BAILEY: Well, there's an</p> <p>13 argument that there is a last year's rate because</p> <p>14 the powder person -- because there wasn't a powder</p> <p>15 person that also, you know, used dynamite. So.</p> <p>16 That was the question. Should this</p> <p>17 be just a new classification and there's no old</p> <p>18 rate to compare it to, or should we compare it to</p> <p>19 the old powder person rate? And that's why Tom</p> <p>20 put two different sectors on Number 1, depending</p> <p>21 on which way the commission would want to go.</p> <p>22 But what Mr. Wright is saying is, is</p> <p>23 that this data is weighted. Because even if you</p> <p>24 decrease that amount by 6 percent, based on last</p> <p>25 year's rate, you still don't get it down, you</p>

<p style="text-align: right;">Page 34</p> <p>1 know, to what the market rate is, is what you're 2 saying.</p> <p>3 CHAIRMAN MCCORD: So -- go ahead.</p> <p>4 MR. STARWALT: Kent Starwalt of the 5 Tennessee Road Builders Association. I have 6 called Matt Landis, who is a principal in the 7 company of Austin Powder Company, and asked if the 8 data they submitted for blaster person, whether it 9 was a salaried or an hourly employee. And they 10 have just told me via phone that the 11 classifications that they've submitted for blaster 12 are all salaried employees, which would, 13 therefore -- so they would -- I presume they 14 probably need to send you-all a note, an email or 15 something to say that the data was a salaried 16 employee, and so therefore, it would not be 17 considered.</p> <p>18 CHAIRMAN MCCORD: Thank you very 19 much.</p> <p>20 And so let me summarize where we are. 21 Given all that, that we've deliberated, and we 22 have the option and we've got some new 23 information, it sounds to me like we should set 24 the rates off the powder person, the second one. 25 Is that what we're hearing?</p>	<p style="text-align: right;">Page 35</p> <p>1 MR. WRIGHT: That is what I think 2 is appropriate, yes, sir.</p> <p>3 CHAIRMAN PHILLIPS: All right. So 4 why don't we -- and we don't need to approve these 5 one at a time, do we? But if we have general 6 agreement with that, we'll move on to the next 7 one.</p> <p>8 MR. DEGGES: Well, I want to make 9 sure I understand. So your proposal, then, would 10 be, to set it off the powder person but base it on 11 a 2.8 percent increase overall, which is outside 12 of the limits, and have the narrative discussion 13 in the minutes of this meeting, that the survey 14 rate is not representative of the hourly rate.</p> <p>15 CHAIRMAN MCCORD: Well, I think 16 what we just heard was that first position, for 17 the blaster position, was a salaried position, 18 which should not be part of the discussion. And 19 what we've heard from Mr. Wright is the second 20 position is more indicative of what it really -- 21 what the salary really is. I don't want to speak 22 for you, but --</p> <p>23 MR. WRIGHT: I think what 24 Mr. Degges said is correct, but also, you can take 25 the approach that, based on what Mr. Starwalt</p>
<p style="text-align: right;">Page 36</p> <p>1 said, there's really not six valid responses.</p> <p>2 MR. BAILEY: That's what I was 3 about to say.</p> <p>4 MR. WRIGHT: It should get an 5 orange box, then, because it really doesn't have 6 any valid responses.</p> <p>7 MR. BAILEY: I think, basically, we 8 ought to exclude those six surveys as not being 9 valid, and then refer to the old powder person's 10 rate in determining this year's blaster rate.</p> <p>11 CHAIRMAN MCCORD: That makes sense.</p> <p>12 MR. WRIGHT: I think that's the 13 cleanest and appropriate thing to do.</p> <p>14 MR. HERROD: And Jan will put that 15 in the gray box. It will be \$23.03.</p> <p>16 MS. CAUDILL: The gray box?</p> <p>17 MR. HERROD: Well, otherwise, 18 you'll have an orange -- unless you want to just 19 put \$23.03 by --</p> <p>20 MS. CAUDILL: By the --</p> <p>21 MR. HERROD: That's fine.</p> <p>22 MR. THOMPSON: Is there a clear 23 definition of "blaster"?</p> <p>24 MR. BAILEY: Yes. In the rules. 25 Do you want to see it?</p>	<p style="text-align: right;">Page 37</p> <p>1 MR. THOMPSON: Yeah. I mean, I'm 2 just curious as to why that would lead them to put 3 a salaried person in that, unless there's just no 4 homework done.</p> <p>5 MR. WRIGHT: I think they have a 6 problem in their payroll.</p> <p>7 CHAIRMAN MCCORD: Okay. So that 8 does make sense. We don't really have a ballot, 9 so it kicks us back to the previous rate.</p> <p>10 MR. DEGGES: So there were three 11 items that had a similar issue; Items 1, 10, and 12 19. Do we need to talk about Items 10 and 19 13 similarly? In that the rate plus -- the survey 14 rate minus 6 percent is below the --</p> <p>15 MR. THOMPSON: Drill operator.</p> <p>16 MR. DEGGES: The electrician...</p> <p>17 MR. HERROD: Yeah. That would fall 18 outside. We can't -- that number is just there 19 for convenience, but it's not -- it would not fit 20 within that range there. For electrician, for 21 example, the minimum is \$31.04. So the overall 22 change was great. It was such a high figure that 23 they would not -- prevailing wage rate plus 24 2.8 percent would not fit within the limits.</p> <p>25 MR. WRIGHT: If I might comment on</p>

<p style="text-align: right;">Page 38</p> <p>1 that. As I recall, in the past -- which I always 2 hate it when I hear people tell me that, but -- it 3 really does bother me -- but the items that 4 Mr. Degges just raised are places where it appears 5 that would lead you to believe with the number of 6 responses and the man-hours that are included in 7 that, that our rate is a little bit below market, 8 is what I would read out of a 10 percent increase 9 in a number with several responses.</p> <p>10 In the past, at times, if we decided 11 to do the 2.8 blanket, that for those items where 12 you had that market pressure, we have, in the 13 past, jumped them up to 6 to address the market 14 pressure and stay within the guidelines of the 15 law.</p> <p>16 MR. DEGGES: That was my point. 17 CHAIRMAN MCCORD: That was your 18 point. Okay. 19 MR. HAWKINS: And that falls within 20 the range, and that's perfectly acceptable from 21 the rules standpoint, I think. 22 MR. WRIGHT: So was that a motion 23 Mr. Degges? 24 MR. DEGGES: Well, that was a 25 discussion. It was initially discussion. And</p>	<p style="text-align: right;">Page 39</p> <p>1 so --</p> <p>2 CHAIRMAN MCCORD: Say the numbers 3 again.</p> <p>4 MR. DEGGES: So Items Number 10 and 5 19, if you only did the 2.8 percent increase, you 6 would be below the 6 percent range stipulated in 7 12-4-405. And so, I guess, the discussion is 8 Mr. Wright indicated that he felt that it appears 9 that there are market forces driving, you know, 10 competitions. And so the question is, is the 11 survey rate minus 6 percent enough, or should it 12 be survey rate plus 6 percent or somewhere in 13 between?</p> <p>14 I don't have a feel. I don't know if 15 you guys have much thought on is the minimum -- 16 it's a pretty hefty jump.</p> <p>17 MR. WRIGHT: Well, if you went to 18 on, like, electrician, it appears the survey rate 19 was \$32, and we are at \$30. So if you did 20 6 percent on that, you would be -- if you did 21 6 percent off of \$30, you would be \$34. 22 MR. THOMPSON: Yeah, \$34.66. 23 MR. WRIGHT: Which is a \$4-an-hour 24 jump. 25 CHAIRMAN MCCORD: And above the</p>
<p style="text-align: right;">Page 40</p> <p>1 survey rate.</p> <p>2 MR. DEGGES: Well, if you did just 3 the last year's plus 2.8 percent, you're at 4 \$30.95, which is below the \$31.04. So, you know, 5 it's --</p> <p>6 MR. HERROD: If we go 6 percent, 7 it'll be \$31.92, which would get you within the 8 range.</p> <p>9 MR. DEGGES: So, basically, going 10 6 percent above the 2019 rate? Is that --</p> <p>11 MR. HERROD: That's correct. 12 MR. DEGGES: Which would be \$31 -- 13 MR. HERROD: -- 92. 14 MR. THOMPSON: So you're talking 15 about -- I've got a question, the new kid here. 16 So when you're talking about jumping the 6 percent 17 or whatever, it's always of the 2019 rate or the 18 existing rate. Okay. 19 MR. HERROD: Yes. 20 MR. WRIGHT: Well, the law says of 21 the survey rate. 22 MR. THOMPSON: Oh, okay. 23 Because -- 24 MR. HAWKINS: The law doesn't say 25 that.</p>	<p style="text-align: right;">Page 41</p> <p>1 MR. THOMPSON: -- we're talking 2 about two different numbers here. I've heard it 3 mentioned twice where it's -- one per person is 4 talking about survey rate, and one is talking 5 about a 6 percent off of two different numbers.</p> <p>6 CHAIRMAN PHILLIPS: Go ahead, Tom. 7 MR. HERROD: Yeah. But sometimes 8 the prevailing wage rate times the 6 percent will 9 get you within the survey rate limits. So we'd --</p> <p>10 MR. THOMPSON: But your cap is 11 survey plus 6 -- okay. 12 MR. DEGGES: Yeah. It's 6 percent 13 of the survey rate plus or minus the 2019 rate. 14 MR. HERROD: No. 15 MR. DEGGES: Did I say it 16 backwards? 17 MR. BAILEY: It's 6 percent of the 18 current rate plus or minus the survey rate. 19 MR. DEGGES: Okay. 20 MR. WRIGHT: All I can tell you is 21 it's perpetually confusing. 22 MR. THOMPSON: I apologize for 23 asking the question. 24 MR. HERROD: It might be easier if 25 we go in order and get the easy ones out of the</p>

<p style="text-align: right;">Page 42</p> <p>1 way.</p> <p>2 CHAIRMAN MCCORD: Yes, let's do</p> <p>3 that. I agree.</p> <p>4 MR. HERROD: And I'm not sure</p> <p>5 bricklayer is any easier, but at least it's</p> <p>6 Number 2 on the list. With two responses and with</p> <p>7 the change of survey rate of 11 percent -- but</p> <p>8 with two responses, you have the option of taking</p> <p>9 the survey rate limits, which is in Columns 8 and</p> <p>10 9, or going to the existing rate plus or minus</p> <p>11 6 percent. So basically, you have two ranges.</p> <p>12 They do fall within -- you can go \$15.18, which is</p> <p>13 the lowest limit on the prevailing wage rate, and</p> <p>14 go up to \$18.93. And with two responses, what you</p> <p>15 said before, the prevailing wage rate plus or</p> <p>16 minus 2.8 percent -- and I'm sorry, I'm going to</p> <p>17 have to figure it -- it's \$16.60, which would fall</p> <p>18 within the allowable limits. That's \$16.15 plus</p> <p>19 one point.</p> <p>20 MR. THOMPSON: Plus the</p> <p>21 2.8 percent.</p> <p>22 MR. HERROD: 2.8 percent, yes.</p> <p>23 \$16.60 for that one.</p> <p>24 CHAIRMAN MCCORD: So are we okay</p> <p>25 with that one, at \$16.60?</p>	<p style="text-align: right;">Page 43</p> <p>1 MR. DEGGES: I'm okay.</p> <p>2 MR. THOMPSON: I'm okay.</p> <p>3 MR. WRIGHT: I am.</p> <p>4 CHAIRMAN MCCORD: Okay. Let's go</p> <p>5 to 3, Tom.</p> <p>6 MR. HERROD: Number 3, the</p> <p>7 carpenter and it says leads person -- I assume</p> <p>8 that's the correct spelling there -- there was an</p> <p>9 overall increase of 3.58 percent. The range you</p> <p>10 have is listed there, \$19.36 to \$21.74. If you</p> <p>11 choose the 2.8 percent increase over the current</p> <p>12 prevailing wage rate, it will get you within the</p> <p>13 limit. It will be \$20.40, and will get you within</p> <p>14 the acceptable range. Good?</p> <p>15 MR. WRIGHT: Yes.</p> <p>16 MR. DEGGES: Yes.</p> <p>17 MR. HERROD: Next one, Class A</p> <p>18 Operators, 2.8 percent increase from last year.</p> <p>19 The range is \$20.83 to \$23.43. If you choose the</p> <p>20 2.8 percent, the \$22.29 will get you within the</p> <p>21 acceptable range. Is that good?</p> <p>22 MR. DEGGES: Good.</p> <p>23 MR. WRIGHT: Yes, sir.</p> <p>24 MR. HERROD: Okay. The next one,</p> <p>25 Class B Operators, we have a slight increase,</p>
<p style="text-align: right;">Page 44</p> <p>1 slightly less than 1 percent. The acceptable</p> <p>2 range is \$18.37 to \$20.69 and it's 1.02 percent.</p> <p>3 2.8 percent would be \$19.88, would be the new</p> <p>4 figure. \$19.88, is that good?</p> <p>5 (Affirmative response.)</p> <p>6 MR. HERROD: Okay. The next one is</p> <p>7 Class C Operators at 1.74 percent increase with a</p> <p>8 2 percent increase over the current prevailing</p> <p>9 wage rate. \$20.66 will get us within the</p> <p>10 acceptable range. Is that good?</p> <p>11 MR. DEGGES: Good.</p> <p>12 MR. HERROD: The next one, Class D</p> <p>13 Operators, we had a slightly less than 1 percent</p> <p>14 increase. \$19.18, which is the 2.8 percent</p> <p>15 increase, would get us within the acceptable</p> <p>16 range. \$19.18, is that acceptable?</p> <p>17 (Affirmative response.)</p> <p>18 MR. HERROD: Next one is Concrete</p> <p>19 Finisher. The range, we had an increase of</p> <p>20 5.63 percent. However, if we go with the</p> <p>21 2.8 percent increase, \$17.89 will get us within</p> <p>22 the acceptable range for that. Is that good?</p> <p>23 MR. THOMPSON: This is market</p> <p>24 pressure, right? This is classic market pressure.</p> <p>25 CHAIRMAN MCCORD: Uh-huh.</p>	<p style="text-align: right;">Page 45</p> <p>1 MR. HERROD: Is that one good?</p> <p>2 \$17.89?</p> <p>3 (Affirmative response.)</p> <p>4 MR. HERROD: Drill Operator --</p> <p>5 MR. THOMPSON: That's too low. Can</p> <p>6 we go back up?</p> <p>7 MR. HERROD: Yes.</p> <p>8 MR. THOMPSON: I mean, I think it's</p> <p>9 going to be more, like, in the \$18 range.</p> <p>10 MR. HERROD: You have \$17.34 to</p> <p>11 \$19.42.</p> <p>12 MR. THOMPSON: I mean, that's</p> <p>13 just -- I'm just throwing out my opinion.</p> <p>14 Because, I mean, the survey rate --</p> <p>15 MR. HERROD: \$18.38, yes.</p> <p>16 MR. WRIGHT: What if we just did</p> <p>17 the survey rate?</p> <p>18 MR. HERROD: That's good. That</p> <p>19 works.</p> <p>20 MR. THOMPSON: That would be fine.</p> <p>21 I just feel like that one is --</p> <p>22 CHAIRMAN MCCORD: Okay. For that</p> <p>23 one, we'll do the survey rate.</p> <p>24 MR. HERROD: \$18.38. Okay.</p> <p>25 The next one, Drill Operator,</p>

<p style="text-align: right;">Page 46</p> <p>1 Caisson, there were only four responses. There 2 was a survey, a negative 6.19 percent change. You 3 have an option here of going with the survey rate 4 plus or minus 6 percent, or taking the prevailing 5 wage rate, current, and going up or down 6 6 percent. The \$34.65 would fall in but would be 7 acceptable to both limits there, if you choose the 8 \$34.55. That's 2.8 percent increase over last 9 year. Any discussion? 10 (No verbal response.) 11 MR. HERROD: Good? 12 CHAIRMAN MCCORD: Good. 13 MR. HERROD: Okay. Electrician, we 14 had a 9 percent increase over last year. The 15 range, \$31.04 to \$31.66, the 2.8 percent increase 16 would be 30.95, would be less than the minimum of 17 the survey rate. So we could take it up 6 percent 18 over the prevailing wage rate and it would get us 19 within that limit, if you would like to do that. 20 CHAIRMAN MCCORD: So we would have 21 to go 6 percent to get there. 22 MR. HERROD: It would be \$31.92. 23 CHAIRMAN MCCORD: It would be 24 \$31.92. 25 MR. HAWKINS: Which is less than</p>	<p style="text-align: right;">Page 47</p> <p>1 the survey rate. 2 MR. HERROD: Right. Is that good? 3 MR. DEGGES: \$31.92? 4 MR. HERROD: Yes. 5 MR. DEGGES: We do have a lot of 6 pressure in this area. 7 MR. THOMPSON: I just want to say, 8 this is one that's kind of like if you understood 9 who the survey and the data -- what makes up the 10 data and the survey, who they are and where the 11 areas are, I don't know, to me, that's where you 12 get a little insight of how much more market 13 pressure are there than, I mean -- 14 MR. WRIGHT: This one had 3,000 man 15 hours assigned to it, which is better than a lot 16 of them. 17 MR. HERROD: Yeah, good 18 representation. 19 MR. THOMPSON: So then that's a 20 more accurate number, probably. 21 MR. WRIGHT: Yes. I think the 22 survey rate is probably fairly accurate. 23 MR. THOMPSON: Yeah. 24 MR. WRIGHT: Because odds are 25 that's not just one contract.</p>
<p style="text-align: right;">Page 48</p> <p>1 MR. THOMPSON: No. 2 MR. HERROD: \$31.92? 3 CHAIRMAN MCCORD: \$31.92. 4 MR. DEGGES: So I guess the 5 question I've got is, \$31.92 is a 6 percent 6 increase -- 7 MR. HERROD: Over the current rate 8 of prevailing of \$20.19. It's still less than the 9 survey rate. 10 MR. THOMPSON: I don't know if I 11 would argue the survey rate, the \$32.85. 12 MR. HERROD: Is better? 13 MR. THOMPSON: Yes. 14 MR. HERROD: Okay. 15 MR. THOMPSON: Paul? 16 MR. DEGGES: Well, that's where I 17 was -- that was my question. 18 MR. HERROD: Okay. \$32.85. 19 MR. WRIGHT: The responses are from 20 NAFCO, Calloway, Wade Airfield, et cetera, and 21 McCrory Electric. So it's five different 22 contractors with -- one of them didn't have the 23 three hours, but that's... 24 CHAIRMAN MCCORD: So we're going 25 with the survey rate there, right, \$32.85.</p>	<p style="text-align: right;">Page 49</p> <p>1 MR. HERROD: Survey rate. Good. 2 Farm Tractor Operator, there was a 3 3.2 percent increase over last year. \$15.72 is 4 the 2.8 percent increase. Is that acceptable? 5 (Affirmative response.) 6 MR. HERROD: Iron Workers 7 Reinforcing, there were only three responses, and 8 there was a fairly small increase from last year. 9 We have two options here, two ranges we can go to. 10 \$18.96 falls within both of those ranges. \$18.96 11 is a 3 percent increase from last year. It's more 12 than the survey rate, but not by much, 0.46 more 13 than the survey rate. 14 Do you want to go with \$18.96? Good? 15 (Affirmative response.) 16 MR. HERROD: Okay. We're good. 17 Ironworkers, structural, there was no 18 responses there. Last year's rate, \$19.13, we 19 have the option of keeping that or going up the 20 2.8 percent, which is \$19.67. Do you want to go 21 to the 2.8 percent? 22 MR. DEGGES: I would propose that, 23 yes. 24 MR. HERROD: Okay. We'll go there. 25 Large Crane Operator, slightly</p>

<p style="text-align: right;">Page 50</p> <p>1 negative change from last year. The 2.8 percent 2 is \$23.80, slightly above the survey rate. Is 3 that a good figure, \$23.80? 4 MR. DEGGES: Good to me. 5 MR. THOMPSON: See, we didn't have 6 any in Tennessee last year. 7 MR. HERROD: \$23.80 for a large 8 crane operator. Okay. Very good. 9 Next one is the Mechanic, Heavy Duty, 10 2.76 increase from last year. Okay. So we're 11 spot on with that. The \$24.99 would be the 12 2.8 percent increase. Is that good? 13 (Affirmative response.) 14 MR. HERROD: Okay. Craft 15 Number 16, Mechanic, Light Duty, a slight decrease 16 from last year. The 2.8 percent increase over the 17 current rate would give us \$22.14. \$22.14, is 18 that a good number for you? 19 (Affirmative response.) 20 MR. HERROD: Okay. 21 Painter/Sandblaster, we had zero responses. Last 22 year's rate was \$29.85. 2.8 percent increase 23 would be \$30.69. Is that good? 24 (Affirmative response.) 25 MR. HERROD: Okay. Skilled</p>	<p style="text-align: right;">Page 51</p> <p>1 Laborer, we had 3.18 percent increase from the 2 last year. The 2.8 percent increase over the last 3 year's rate would be \$17.78, which would be below 4 the survey rate. So the option is go with the 5 survey rate or the lower rate or somewhere in 6 between. \$17.85 is a higher number than the 7 2.8 percent increase. 8 Do you want to go with the \$17.85 9 survey rate? 10 MR. WRIGHT: That's fine with me. 11 MR. THOMPSON: Yeah. 12 MR. HERROD: Okay. Out of my 13 skilled craft Number 19, Survey Instrument 14 Operator, 11 percent increase. This is where we 15 had a big increase from last year. The 16 2.8 percent would be \$24.34, which would be below 17 the minimum of the range that we had. We had 18 10 responses, so I think we need to get at least 19 to the \$25.03. 20 MR. WRIGHT: Or the actual survey 21 rate. 22 MR. HERROD: Or the survey rate, 23 yes, sir. 24 CHAIRMAN MCCORD: That would be 25 consistent with what we've been doing.</p>
<p style="text-align: right;">Page 52</p> <p>1 MR. HERROD: Survey rate good? 2 (Affirmative response.) 3 MR. HERROD: Okay. Sweeping 4 Machine, 3.63 increase from last year. We have 5 the -- \$18.12 would be the 2.8 percent increase, 6 which would be slightly below the survey rate, but 7 since we're doing the survey rate, is that good, 8 \$18.27? 9 (Affirmative response.) 10 MR. HERROD: Okay. Truck Driver, 11 2 axles, about a 1 percent increase from last 12 year. We had \$17.87, would be the 2.8 percent 13 increase, which is above the survey rate. So is 14 \$17.88 good? 15 (Affirmative response.) 16 MR. HERROD: Craft Number 22, Truck 17 Drive, 3 to 4 axles, about a 4 1/2 percent 18 increase from last year. The 2.8 percent is below 19 the survey rate, so I assume we want to go with 20 the survey rate? 21 (Affirmative response.) 22 MR. HERROD: Okay. 23, Truck 23 Driver, five or more, about a 5 percent increase 24 from last year. 2.8 percent increase, \$19.13, 25 below the survey rate, \$19.57. Do we want to go</p>	<p style="text-align: right;">Page 53</p> <p>1 with the survey rate? \$19.57? Is that good? 2 (Affirmative response.) 3 MR. HERROD: Item 24, Unskilled 4 Labor, 3.38 percent. The 2.8 percent is slightly 5 below the survey rate, so we want to go with the 6 survey rate, correct? 7 (Affirmative response.) 8 MR. HERROD: All right. And the 9 Worksite Traffic Controller, no, really, increase, 10 \$19.13 this survey. \$19.66 is the prevailing wage 11 from last year. 2.8 percent would be \$19.66. Do 12 you want to go with \$19.66? 13 (Affirmative response.) 14 MR. HERROD: Okay. Commissioner, I 15 think that's it. 16 CHAIRMAN MCCORD: So did we settle 17 the very first one we talked about, the blaster? 18 Did we get that settled. 19 MR. DEGGES: Yes. \$23.03. 20 CHAIRMAN MCCORD: Jan, are you good 21 with what you have? 22 MS. CAUDILL: Yes. 23 CHAIRMAN MCCORD: Okay. So we've 24 deliberated and we've set rates. And I'm not sure 25 if I have to do this again, but before we vote,</p>

<p style="text-align: right;">Page 54</p> <p>1 I'm going to ask if any conflict of interest one 2 more time. And if not, I'll ask for a motion to 3 approve the rates. 4 MR. BAILEY: I have a question on 5 Number 9, Drill Operator. Why is that \$34.55 not 6 outside the range? 7 MR. HERROD: Because it falls 8 within the acceptable -- the prevailing wage plus 9 or minus 6 percent. 10 MR. DEGGES: There's less than four 11 responses. 12 MR. HERROD: There's less than four 13 responses. You have two ranges you can choose 14 from. 15 CHAIRMAN MCCORD: Because of the 16 less than -- four or less responses, then you have 17 more latitude. 18 MR. THOMPSON: You can use the 19 range. 20 CHAIRMAN MCCORD: Does that make 21 sense to you, Dan. 22 MR. BAILEY: Yes. 23 CHAIRMAN MCCORD: Okay. So we need 24 a motion to approve the rates. 25 MR. DEGGES: Motion.</p>	<p style="text-align: right;">Page 55</p> <p>1 CHAIRMAN MCCORD: Second? 2 MR. THOMPSON: Second. 3 CHAIRMAN MCCORD: I've got a motion 4 and a second. Any discussion? 5 (No verbal response.) 6 CHAIRMAN MCCORD: Hearing no 7 discussion, all those in favor, say aye. 8 (Affirmative response.) 9 CHAIRMAN MCCORD: All those 10 opposed, like sign. 11 (No verbal response.) 12 CHAIRMAN MCCORD: The motion 13 carries. 14 Okay. So thank you, first of all, 15 again. Good discussion. I think it's important 16 and we took the time to do exactly what we needed 17 to do and wrestle with it a little bit. 18 And the other good news is that I 19 think we finished all our business, and so there 20 will not need to be another meeting. I'm looking 21 for confirmation. So we're okay without having 22 another meeting, unless you just want to have 23 another meeting. 24 (No verbal response.) 25 CHAIRMAN MCCORD: Okay. That's</p>
<p style="text-align: right;">Page 56</p> <p>1 what I thought. And with that, let me go off the 2 agenda. 3 MR. NEALY: Commissioner? 4 CHAIRMAN MCCORD: Yes? 5 MR. STARWALT: I may be completely 6 wrong, I've only been coming here for 20 years. 7 So you-all have set a rate which now then goes to 8 the public, basically. It now becomes here is 9 what you're proposing to have the rate to be. 10 Isn't the purpose of the next meeting -- I don't 11 think anybody will be here; I understand that -- 12 but is the purpose of the next meeting to allow 13 the public to come, ask questions about the rate 14 that you are proposing, and then for -- I don't 15 know. I'm just not sure from a standpoint -- 16 CHAIRMAN MCCORD: Yeah. From a 17 statute standpoint, yeah. 18 MR. STARWALT: Or from a legal 19 standpoint. But I thought that the reason for the 20 next meeting was for the public to come, if they 21 wanted to, to comment on the rate, because now 22 you're putting this out there on the public domain 23 for comments. It's out there, basically, for 24 comment, for all practical purposes. 25 CHAIRMAN MCCORD: Right. Got you.</p>	<p style="text-align: right;">Page 57</p> <p>1 MR. STARWALT: But the comments 2 would happen at your next meeting. I mean, I'm 3 not trying to have you have another meeting. 4 CHAIRMAN MCCORD: So -- no. That's 5 actually -- so let's look for Jan or Dan... 6 MR. BAILEY: Well, I mean, the 7 statute, it doesn't talk about two meetings. It 8 talks about having a meeting -- 9 CHAIRMAN MCCORD: A public meeting. 10 MR. BAILEY: -- open to the public, 11 a public meeting -- which this was advertised to 12 the public -- to determine the prevailing wage 13 rate, which, basically, is what has happened 14 today. 15 So as I look through the statute and 16 the rules, I didn't see anything that required a 17 second meeting. We can certainly have another 18 meeting, but the question that came to me was 19 could it all be done in one meeting. And I said 20 yeah, I don't see anything that says it can't be 21 done in one meeting. 22 MR. DEGGES: And I think, Kent, to 23 your point, the way it's written, I think there's 24 flexibility, as Dan has mentioned, that the 25 commission shall determine the prevailing wage</p>

<p style="text-align: right;">Page 58</p> <p>1 rate pursuant to the terms of this part and give 2 notice thereof. On or before December 1st of each 3 year, a determination is to be made. 4 So I think the perspective is that at 5 this meeting, the calculations were done. This 6 meeting was advertised for public to attend. And 7 I think, to your point, Kent, I think -- Dan, what 8 your interpretation here is that while we set a 9 rate here, we, pursuant to this section of the 10 code, we have met that public notice requirement. 11 Is that how you -- 12 MR. BAILEY: That's the way I look 13 at it, yes, sir. 14 CHAIRMAN MCCORD: That's great. 15 MR. STARWALT: I'm not looking for 16 another meeting, like anybody else. The previous 17 practice has been to do that, and I just wanted to 18 make sure. 19 MR. DEGGES: Was this information 20 made available? 21 MS. CAUDILL: To the public? 22 MR. WRIGHT: What do we do with 23 this information now other than give it to TDOT to 24 put in their contracts? 25 MS. CAUDILL: Typically, we've</p>	<p style="text-align: right;">Page 59</p> <p>1 never been able to get them through on a second 2 meeting. So we typically -- like, last meeting, 3 when we set the final rates, was on November 29, 4 they had to be posted by the next day, so there 5 was no time. 6 And Dan and I have talked. The way I 7 understood it was that once they are posted, if 8 someone out there has a conflict, there can be 9 another meeting within ten days of their 10 notification. You know, if someone wants to know 11 where these rates came from they can set notice, 12 and then the commission has to meet within ten 13 days to address that conflict. 14 MR. WRIGHT: There is redress, 15 then. 16 CHAIRMAN MCCORD: And that's your 17 interpretation, too, Dan, right? 18 MR. BAILEY: Yes, sir. 19 CHAIRMAN MCCORD: Okay. 20 MS. CAUDILL: And we are going to 21 go ahead and post these immediately. They'll get 22 posted probably tomorrow. 23 MR. WRIGHT: And I had one other 24 question. Janet was kind enough to email me the 25 data behind this. If next year, before we meet,</p>
<p style="text-align: right;">Page 60</p> <p>1 if we could have that data so you could look 2 through it, because in the past, Mr. Summers, we 3 could always count on him to pilfer through all of 4 that, all the pages, and find the flawed data. So 5 if we could get those, like, emailed or Dropboxed 6 or something, in time to review them before this 7 meeting, I think we could have a cleaner, quicker 8 meeting. That's all I'm trying to say. 9 CHAIRMAN MCCORD: Makes good sense. 10 We can change that process. 11 Jan? 12 MS. CAUDILL: I just wanted to let 13 you know, if you notice there's thumb drives at 14 your -- all the data, all the projects, all the 15 data from those projects are on those thumb 16 drives, just so you have it. 17 CHAIRMAN MCCORD: Okay. So no 18 future meeting unless we have somebody comment 19 within ten days and we need to come back for a 20 readdress to your point. 21 Once again, thank you, and I look for 22 a motion to adjourn. 23 MR. WRIGHT: So moved. 24 CHAIRMAN MCCORD: Do I have a 25 second?</p>	<p style="text-align: right;">Page 61</p> <p>1 MR. DEGGES: Second. 2 CHAIRMAN MCCORD: We are adjourned. 3 Thank you very much. 4 END OF PROCEEDINGS. 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p>

1 C E R T I F I C A T E

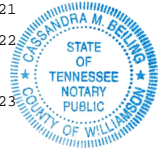
2 STATE OF TENNESSEE)
3 COUNTY OF WILLIAMSON)

4
5
6 I, Cassandra M. Beiling, a Notary Public
7 in the State of Tennessee, do hereby certify:

8
9 That the within is a true and accurate
10 transcript of the Prevailing Wage Commission
11 Meeting taken on the 13th day of November, 2019.

12
13 I further certify that I am not related to
14 any of the parties to this action, by blood or
15 marriage, and that I am in no way interested in
16 the outcome of this matter.

17
18 IN WITNESS WHEREOF, I have hereunto set my
19 hand this 2nd day of December, 2019.



20
21
22 *Cassandra M. Beiling*

23 Cassandra M. Beiling, CCR, LCR# 371
Notary Public State at Large
24 My commission expires: 3/15/2020
25

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