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STATE OF TENNESSEE
DEPARTMENT OF LABOR & WORKFORCE DEVELOPMENT

Transcript of Proceedings
of
The Prevailing Wage Commission

November 15, 2022
220 French Landing Drive, Pearl Room
Nashville, Tennessee 37228
1:30 p.m. - 2:52 p.m.

1 APPEARANCES:

2 Deniece Thomas, Chairman, TDLWD

3 Dewayne Scott, Deputy Commissioner, TDLWD

4 Ann McGauran, State Architect

5 Scott Thompson, Talley Construction

6 Stephen Wright, Wright Brothers Construction

7 Brian Egan, Deputy Commissioner, TDOT

8 Tom Herrod, Assistant Commissioner, TDLWD

9 Dan Bailey, Legal Counsel, TDLWD

10 Lisa Watson, Director, TDLWD

11 Kenneth Nealy, Assistant Administrator, TDLWD

12 Michelle Irion, Administrative Services
13 Manager, TDLWD

14 Rachel Hagan, Administrative Services
15 Assistant, TDLWD

16 Kent Starwalt, TRBA

17 Wayburn Crabtree, TDOT

18 Stamatia XiXis, TDLWD

19 Matthew Grove, TDLWD

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1 AGENDA

2 I. Call to Order and Roll Call

3 II. Introductions and Announcements

4 Completed Conflict of Interest forms for
5 all members should be on file with TDL-WD

6 III. Adoption of Agenda

7 IV. Old Business

8 Review and approve Prevailing Wage
9 Commission Meeting Minutes - September 7,
2022

10 V. New Business

11 Review Prevailing Wage Survey Data

12 VI. Prevailing Wage Commission Meeting Date

13 Tuesday, November 29, 2022

14 1:30 p.m.

15 220 French Landing Drive, Nashville,
16 Tennessee 37243

17 VII. Adjournment

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2 P R O C E E D I N G S

3 CHAIRMAN THOMAS: All right. Good
4 afternoon, everyone. We're going to go ahead
5 and get started in the interest of time. We
6 want to respect the agenda before us today.

7 We're going to call the meeting to order.
8 And as I call your name, please signify your
9 presence by saying "aye" or "here" -- I mean
10 "here" or "present."

11 Paul Degges, I believe, is gone?

12 MR. EGAN: Yes. Present -- Brian
13 Egan from TDOT, present.

14 CHAIRMAN THOMAS: Thank you.

15 Ann McGauran? Did I say that right?

16 MS. MCGUARAN: Present. Yes.

17 CHAIRMAN THOMAS: Thank you, Ann.

18 Scott Thompson?

19 MR. THOMPSON: Present.

20 CHAIRMAN THOMAS: Stephen Wright?

21 MR. WRIGHT: Present.

22 CHAIRMAN THOMAS: All right. All
23 present and accounted for.

24 For our non-Commission members, I will
25 have introductions as well. I'm assuming

1 everybody knows everybody. I'm probably the
2 only person in the room nobody knows, and I'll
3 get to that in a second.

4 But, Tom, are there any -- is there any
5 need for introductions of non-Commission
6 members?

7 MR. HERROD: As long as everybody has
8 signed in before you go or right now sign in.

9 CHAIRMAN THOMAS: Okay.

10 MR. HERROD: Yes, that's good.

11 THE COURT: All right. So before we
12 get any further, I'm the new face in the room,
13 somewhat of a new face. I'm Deniece Thomas.
14 September 27th was my first official day as
15 commissioner of the department. It's a
16 pleasure meeting you, looking forward to
17 working with you in the future.

18 Just a couple of notes before we move
19 further. I will be here for the bulk of the
20 agenda, but after that, you'll see me pass the
21 gavel to Deputy Scott on my right. As you can
22 imagine, being new in the role, there's some
23 competing interests, and I'm trying to make
24 sure I can check all the boxes, but I'll be
25 here with you as long as I possibly can but

1 really appreciate your work on the commission,
2 and I thank you for your continued support to
3 the department.

4 So hopefully everybody has signed their
5 conflict of interest forms, and Rachel has
6 those. If not, please make sure that you get
7 these to her prior to any voting. So if you
8 are missing conflict of interest, please make
9 sure those get done.

10 Tom, did you have anything on that?

11 MR. HERROD: I have nothing. That's
12 fine.

13 CHAIRMAN THOMAS: Okay. All right.

14 All right. So the first order of
15 business is the agenda. I'm assuming everyone
16 has had a chance to look over that, the agenda.
17 If there are no immediate questions for that,
18 we'll need a motion to approve the agenda.

19 MS. MCGUARAN: I'll make a motion to
20 approve the agenda.

21 CHAIRMAN THOMAS: Okay. I have a
22 motion by Ann.

23 MR. WRIGHT: Second.

24 MR. THOMPSON: Second.

25 THE COURT: I have a motion to

1 second.

2 Are there any questions regarding the
3 agenda?

4 Hearing none, all in favor, "aye"?

5 THE COLLECTIVE COMMISSION: Aye.

6 CHAIRMAN THOMAS: Any opposed?

7 No opposition.

8 Motion carries.

9 All right. Next order of business is to
10 approve the minutes from the September 7th
11 meeting. Hopefully, again, everyone has had a
12 chance to review the minutes from the previous
13 meeting. We hope that you have. We will need
14 a motion to approve the minutes. If I could
15 get a motion from the group?

16 MS. MCGUARAN: I'll move that the
17 minutes be approved.

18 CHAIRMAN THOMAS: Thank you, Ann.

19 Any second?

20 MR. WRIGHT: Second.

21 MR. THOMPSON: Second.

22 CHAIRMAN THOMAS: Thank you.

23 Any questions regarding the minutes? Any
24 questions or corrections regarding the minutes?

25 Hearing none, all in favor signify by

1 saying "aye."

2 THE COLLECTIVE COMMISSION: Aye.

3 CHAIRMAN THOMAS: Any opposed?

4 Hearing none, motion carries.

5 So we have an approved agenda, and we
6 have approved minutes, and according to the
7 agenda, we don't have any old business unless
8 that was an oversight.

9 Tom, has that changed, no old business to
10 discuss?

11 MR. HERROD: No change.

12 THE COURT: Okay. Well, with that, I
13 know we have quite a bit of new business to
14 talk about, and so with that, I'm going to pass
15 the gavel here to Deputy Scott, and he will
16 walk us through our new business and the
17 prevailing wage survey data.

18 So with that, again, I look forward to
19 reconvening with you at future wage prevailing
20 meetings. Thank you for your patience today.

21 Dewayne?

22 DEPUTY COMMISSIONER SCOTT: Thank
23 you, Commissioner.

24 We're going to begin new business by
25 asking our Assistant Commissioner Tom Herrod to

1 review the 2022 survey data that you have.

2 MR. HERROD: Thank you, Deputy
3 Commissioner.

4 You have a handout, a single-page
5 handout, that sums up all the approved
6 validated data from the '22 survey. We had --
7 as a total, we had 1,818 responses, and with
8 those responses, we had an hourly wage rate
9 weighted -- weighted based on number of hours
10 worked and the hourly wage 22.80. Last year --
11 the way this is calculated, take last year's --
12 or the current year's prevailing wage rate
13 versus those number of hours and what would
14 that total be, and based on that, we had an
15 overall increase of 5 percent versus the '22
16 prevailing wage, 5.1 percent.

17 I want to go over one thing here. With
18 all the responses that we had, the way I broke
19 it down, we had three categories that had zero
20 responses, and they're shown here. Craft 2,
21 17, and 13. We'll talk about what those are
22 exactly. Blaster, Large Crane Operator -- I'm
23 sorry. Yeah, the Painter, the Bricklayer and
24 then 17 was the -- 13 was the Ironworkers
25 (Structural). Those three had zero survey

1 entries.

2 Also, when we took the surveys, we had a
3 total of a little over 1,900 responses in
4 total. And what I did was I took the -- what
5 they -- what the contractor said was paid for
6 each craft and number of hours. If those rates
7 were not -- if the prevailing wage for that
8 year was not used, that data was not added in.
9 So with a 1,912 total responses, there were
10 about 94 that were not used in the -- in the
11 calculation because they were paid below what
12 the prevailing wage was for that year.

13 Now -- so that's why we have a survey --
14 that's why the 1,818 responses, 5.1 percent
15 increase.

16 Yes?

17 MR. WRIGHT: Say that again.

18 MR. HERROD: Okay.

19 MR. WRIGHT: The part about they
20 weren't paying scale?

21 MR. HERROD: They weren't paying
22 scale for the entries they turned in. For
23 example, you could look here, I can go to --
24 since.

25 MR. WRIGHT: They weren't paid '22

1 scale?

2 MR. HERROD: Well, they weren't
3 paying the scale for the individual year. In
4 other words, the contract year, let's say it
5 was 2020, the prevailing wage rate for that
6 year, they did not pay that prevailing rate for
7 that particular year.

8 MR. WRIGHT: Isn't that a bigger
9 problem?

10 MR. HERROD: Well, now, that is, and
11 TDOT knows about it.

12 MR. WRIGHT: Okay. I'll be quiet.

13 MR. HERROD: No. That's great
14 because I expected that question.

15 The reason -- and I called some of the
16 contractors asking them why you didn't pay.
17 For example, Summers Taylor, is that one of the
18 contractors? Person who said that said they
19 have to pay according to the contract. If
20 they're in shop and they have to take
21 equipment, let's say, to the worksite, that
22 truck driver doesn't get paid what the
23 construction rate is because it's not within
24 the site, but they have to charge against the
25 contract. So they send all that information in

1 even though it was not really --

2 MR. WRIGHT: You're saying they sent
3 data that wasn't truly on --

4 MR. HERROD: It wasn't truly viable
5 data. So whether they paid it correctly or
6 thought according to what their shop hours
7 were, we didn't add that in. We did not
8 take -- we discarded that information; so,
9 therefore, you'll see on several of these
10 particular contracts, Rogers Group and Summers
11 Taylor, for example, so that's out.

12 MR. THOMPSON: I've already -- I've
13 already checked mine because I was on that
14 list. We had wrong classifications down on
15 time sheets.

16 MR. HERROD: Okay. All right.
17 Well --

18 MR. WRIGHT: We can probably figure
19 out a way to make it even more confusing.

20 MR. HERROD: Was that -- did you
21 resend that, by any chance, or just --

22 MR. THOMPSON: No, I didn't discover
23 it until two days ago.

24 MR. HERROD: Okay. Well, I can't --
25 I don't think I can accept that.

1 Can we accept corrected data at this
2 time.

3 MR. THOMPSON: I assumed that you
4 couldn't because it was --

5 MR. HERROD: I don't think so.

6 MR. THOMPSON: -- it's past time.

7 MR. HERROD: It has to be within that
8 time frame.

9 MR. BAILEY: Of course, you know,
10 there's reference in the statute that other
11 data can be considered -- may be considered.
12 So if it were to come to a situation where that
13 data might be influential on one of these
14 rates, it may be considered, but it's not part
15 of the survey data.

16 MR. WRIGHT: While we've got that
17 grenade down on the floor, can I ask about
18 every year Rab wants to include the data for
19 city work and the Commission rejects it. He
20 was on the committee for what? 200 years or
21 something?

22 MR. BAILEY: No, that's not rejected,
23 it's my understanding.

24 MR. WRIGHT: The e-mail thinks it is.

25 MR. HERROD: Was it sent -- was it

1 sent in under a contract?

2 MR. WRIGHT: It was sent in --

3 DEPUTY COMMISSIONER SCOTT:

4 Commissioner, can I ask you to use your
5 microphone, please?

6 MR. WRIGHT: If I understand it, it
7 was sent in for local government work. He
8 believes that should go into the -- and he --
9 you know, we've had the discussion before, Dan,
10 I believe, but every year I promise Rab I'll
11 bring it up. And so --

12 MR. HERROD: What was it?

13 MR. WRIGHT: -- can we get a
14 clarification on whether if he was working for
15 the city of Johnson City with TDOT funds
16 included into that project, money came through
17 TDOT, therefore, that's his nexus? Am I
18 correct, Kent?

19 MR. STARWALT: (Nodding.)

20 MR. WRIGHT: That he believes makes
21 it eligible to make it reported into this data,
22 and -- and if I understand right, he wasn't
23 able to submit that.

24 MR. HERROD: What company is it?

25 MR. WRIGHT: Summers Taylor.

1 MR. HERROD: Okay. And what was the
2 craft?

3 MR. WRIGHT: The labor department was
4 not allowing any hours to be reported on TDOT
5 work.

6 MR. HERROD: Do you remember the
7 craft?

8 MR. WRIGHT: He never told me. I
9 don't know.

10 MR. HERROD: Well, I've got a bunch
11 from Summers Taylor, a bunch.

12 MR. THOMPSON: That's an e-mail sent
13 back from Department of Labor to him, though,
14 correct, stating that they did?

15 MR. WRIGHT: I can't tell if it is.
16 It's got Aldridge's (phonetic) signature,
17 but I'm just saying he -- this has happened
18 like two or three years in a row, couple, three
19 years back, the Department would not take, and
20 we had a discussion about it at that time, but
21 it continues to come up, and I just -- I either
22 need a ruling that will make Rab happy or we
23 need to accept his data, one of the two at some
24 point in time.

25 MR. BAILEY: I thought this had been

1 covered in depth a couple or so years ago, and
2 our position is that if it's a municipal
3 project using state funds, that it should --
4 that data should be included. Now, I don't
5 know if it is or isn't.

6 MR. WRIGHT: That's wonderful. Is
7 there any way I can -- you can give me
8 something that I can correctly communicate the
9 position of the department to Rab, or could you
10 all do it?

11 MR. BAILEY: You could probably look
12 at some old minutes when that was discussed ad
13 nauseam.

14 MR. WRIGHT: Oh, my goodness.

15 MR. BAILEY: I mean, it's not a
16 secret. We have a different position on that
17 than TDOT does, and our position is if it's a
18 municipal road project that's using either
19 federal or state funds, that it should be
20 included -- that data should be included.

21 MR. WRIGHT: Okay.

22 MR. BAILEY: Now, I don't have
23 nothing to do with collecting the data or
24 putting it into this, so I'm assuming we are
25 accepting that data.

1 MR. HERROD: If it's -- if he
2 submitted it electronically or by mail, that's
3 the only two ways we can take it,
4 electronically or by mail. And if that wasn't,
5 I don't know how much that was, but we can --
6 as Dan said, is that an exception that we can
7 accept it now?

8 MR. BAILEY: What?

9 MR. HERROD: This corrective.

10 MR. WRIGHT: Not to take everybody's
11 time away, Mr. Dan, could I get a real clear
12 position question from Rab and submit it to you
13 and get someone to answer it?

14 MR. BAILEY: Sure. That's fine.
15 But, I mean, when the minutes of the meeting
16 come out, I've already said on the record our
17 position --

18 MR. WRIGHT: Okay.

19 MR. BAILEY: -- if it's local road
20 project using state or federal dollars, that
21 that data should be included.

22 MR. WRIGHT: I will send him the
23 minutes. Thank you.

24 MR. EGAN: If I could clarify from
25 TDOT. Information that we provide is only

1 those construction projects that we have on the
2 contract. So I just want to make that clear.
3 And we're not providing any local program
4 contracts. So if that's the criteria using,
5 we're not providing the local program list of
6 projects because they're not TDOT's projects,
7 they're local government projects. I just want
8 to make that point clear. We don't provide
9 that list of projects. We only provide what we
10 have under contract.

11 MR. BAILEY: Okay. Right.

12 Understood.

13 MR. HERROD: All right. Does anyone
14 else have a -- this is -- this is an overview.
15 Does anybody have a question about the
16 information on this one-page handout? We can
17 come back to it if there is, but the data shows
18 we have about -- we have 1. -- 5.11 percent
19 increase on the survey versus the prevailing
20 wage rate.

21 Now, what I have -- the second handout
22 that you have is a two-pager. This is a
23 breakdown of every classification with a little
24 more information in it. And I want to warn you
25 that it could get a little sticky over here.

1 I'm not going to go that far, but I'm going to
2 show you what we will to be doing in the next
3 meeting where we actually calculate or figure
4 what the prevailing wage is based upon the
5 rules we have for that.

6 The Blaster -- I'm going to show them one
7 at a time real quickly.

8 Blaster, we only had one response. It
9 was almost twice as much as the prevailing wage
10 rate for that year.

11 According to the statute and the rules,
12 we can either use that one response or we can
13 discard it. We don't have to use it. Only
14 those responses one to four -- one to four,
15 less than five, you can either use the survey
16 or prevailing wage rate from the current year.
17 If you have zero responses, you have to use the
18 current rate. If you have more than five or
19 more, you have to use the survey rate unless
20 you find a problem. Well, you have to use the
21 survey rate.

22 So the Blaster, so that's either -- at
23 that time, you can decide and have a
24 discussion -- we can have a discussion on
25 whether to even use that one response or go

1 with prevailing wage. And what I've done here
2 is shown the survey rate and how much you can
3 adjust it according to the rules and statute.
4 If it's adjustable by the prevailing wage rate
5 of the current year, I've shown this value, and
6 as a check, I've shown what contract or wages
7 were for the third quarter based on TDOT data
8 independent of the survey. So this is a check.
9 And then these are, over here (indicating), are
10 just autogenerated recommended, proposed,
11 approved. That's what we're going to do at the
12 next meeting, and then it will be validated
13 whether or not it meets the criteria.

14 For Bricklayer, we had zero responses, so
15 we'll have to use the prevailing wage from
16 the previous -- for the 2022;

17 Carpenter/Leadsperson, we had 59, so we
18 will have to use the survey rate. The overall
19 increase for that is about 5 percent;

20 Class A Operator, we had 106, and we'll
21 have to use the survey rate for that. Here are
22 our low and our high (indicating);

23 Class B Operator, 135 responses, we'll
24 have to use survey rate;

25 Class C, 126, we'll have to use the

1 survey rate;

2 Class D, 164;

3 Concrete Finisher, 30;

4 Drill Operator, 1, we'll either use the

5 survey or the prevailing wage rate;

6 Electrician, 29;

7 Farm Tractor, 17;

8 Iron Worker (Structural), we had zero

9 responses, so we will have to use the 2022

10 prevailing wage rate to set that;

11 Ironworkers, we only had one, so we have

12 the option of going with the survey or the

13 prevailing wage rate of this year;

14 Large Crane Operator, we had 34;

15 Mechanic, First Class, 37, we'll have to

16 use the survey rate;

17 23, the survey rate;

18 Painter/Sandblaster had zero responses.

19 We'll have to use the prevailing wage rate for

20 this year;

21 Skilled Laborer, 380, we'll use the

22 survey rate;

23 Survey Instrument, we had 2, so we have

24 the option of doing survey or the prevailing

25 wage rate based on these figures;

1 Sweeping Machine, we had 5. That's the
2 minimum. We'll have to use the survey rate for
3 that, which seems to be quite a bit more than
4 what we had in previous years. We'll come back
5 and look at this one in detail in just a
6 second, No. 20;

7 Truck Driver with 2 axles, 48, we'll have
8 to use the survey rate;

9 Truck Driver, 3 and 4 axles, we had 90,
10 survey rate;

11 Truck Driver, 5 or more axles, 62, we'll
12 use the survey rate;

13 Unskilled Laborer, 404, we'll use the
14 survey rate;

15 And Work Site Traffic Coordinator, we had
16 64. We'll use the survey rate.

17 The breakdown on Item No. 20, since it
18 was right at the cutoff, here are the
19 individual -- let me see if I can blow that up.

20 MR. THOMPSON: It's the same thing
21 we've had before.

22 MR. HERROD: Yeah.

23 MR. THOMPSON: It's two different
24 types of machinery that you're -- you've got
25 one that's tunnel cleaning and one that's

1 highway on the interstate for milling.

2 MR. HERROD: Okay. So you're saying
3 the Diamond Specialized entries were --

4 MR. THOMPSON: They're tunnel.

5 MR. HERROD: -- quite a bit higher.

6 MR. THOMPSON: And that's -- that's
7 normal. That's tunnel -- that's working in
8 tunnels, cleaning tunnels, whereas, Jones
9 Brothers is -- is milling on interstate,
10 brooming. I mean, there's -- with a sweeper
11 truck.

12 MR. HERROD: All right. What was the
13 intent of this classification? Was it for both
14 types or just the single type?

15 MR. THOMPSON: I would say that --
16 that sweeping trucks on the highway didn't
17 start, Brian, until the last five years maybe?

18 MR. EGAN: Yeah. They're optional.

19 MR. THOMPSON: But they've become --
20 some of them are required in some situations.
21 So I would say that you're -- Jones Brothers is
22 new -- is newer because it wasn't -- I mean, it
23 wasn't -- we didn't ever even consider it ten
24 years ago.

25 MR. HERROD: Okay.

1 MR. EGAN: We do have those
2 maintenance contracts that include street
3 sweeping, literally the street sweepers
4 cleaning the shoulders, cleaning the -- along
5 the median barriers. So they are street
6 sweepers with vacuum systems that we could use
7 on state-funded maintenance contracts. It
8 doesn't appear that the companies who have
9 those submitted any data.

10 MR. HERROD: No.

11 MR. EGAN: But we do have street
12 sweeping contracts that we -- we let every
13 year.

14 MR. HERROD: Okay. So as a check,
15 that's why I got the TDOT third quarter data.
16 We'll just maybe see. Item 20 was paid at
17 26.59 according to the third quarter of TDOT
18 independent of this, 26.59, and what we have
19 here is, for the overall of the survey, 27.77.
20 So a dollar difference but still higher than
21 last year's for the 2022 prevailing wage rate.

22 So it begs the question if -- if this
23 data is considered -- let me get to it.

24 Do you want to use this -- Items 3, 4,
25 and 5, or not use those? Does that skew the

1 data too much or is it -- it's submitted in --
2 under that classification, so I need some help
3 on whether or not that's valid data.

4 MR. EGAN: I don't think under the
5 rules for the description that Diamond
6 Specialized does the cleaning tunnels matches
7 the description of the rules for a street
8 sweeper machine operator. I would move not to
9 consider the Diamond Specialized data.

10 MS. MCGUARAN: Although, it doesn't
11 appear to skew data too much when you
12 consider -- when you consider the TDOT data of
13 what they're showing, then you put it with
14 the -- with the other amounts here, it seems to
15 put it kind of in the same.

16 MR. EGAN: It's close, it's just not
17 consistent with the description, individual
18 submitted data interpreted to be the same as
19 the street sweeper.

20 MS. MCGUARAN: So should that data be
21 somewhere else in a different classification?

22 MR. EGAN: That's a good question.
23 We don't have a classification that would
24 define that, so that's why it's a challenge.

25 MR. WRIGHT: What do they do?

1 MR. EGAN: They got brushes that
2 basically clean the grit and grime --

3 THE REPORTER: I can't hear you.

4 MR. HERROD: You have to speak up.
5 She can't hear you.

6 MS. HAGAN: If everyone could use
7 their microphones when you're speaking, that
8 would be helpful.

9 MR. HERROD: One at a time. Go
10 ahead.

11 MR. WRIGHT: Do you think we should
12 create a classification for that in the future?

13 MR. EGAN: Either we create a new
14 classification or we modify the No. 20 to
15 include that in there as part of that
16 classification is my recommendation.

17 MR. THOMPSON: I would say that,
18 Brian, what you're talking about, some of the
19 maintenance contracts, that and then what
20 you're seeing with the Jones Brothers, those
21 are the same machines. Those are the same
22 that -- the tunnel is completely is different.
23 So, to me, I think -- I think you do need to
24 change -- I think you do need to have two
25 because you're talking about -- I just -- I

1 think you're getting into a situation where
2 you're having a person who's specialized in
3 something and not necessarily as specialized,
4 but you're requiring that kind of -- I mean,
5 you're getting into to -- I don't know. I
6 just -- different types of training and
7 everything. That's my opinion.

8 MR. EGAN: The reality is we have
9 three tunnel cleaning contracts a year, and for
10 as long as I can recall, Diamond Specialized
11 has had it. So they're establishing their own
12 price as it is. So if we establish a category,
13 they would still be the only one submitting to
14 that category every year. They're the only
15 contract that does that type of work.

16 MS. MCGUARAN: Today.

17 MR. EGAN: Today, that's correct.
18 And in many as years as I can remember, they're
19 the only ones.

20 So, again, if we establish a new
21 category, they would be controlling all that
22 anyways because they would be the only one that
23 would supply, and they wouldn't have four
24 different contractors submit. So we already
25 know that that category is only using those

1 three contracts, and today, and as in past
2 years, they're the only one that does that
3 work.

4 MR. BAILEY: So -- so you're saying
5 that the work that Diamond does doesn't meet
6 the definition of a Sweeping Machine (Vacuum
7 Operator) under the rules?

8 MR. EGAN: In my opinion, no, it
9 doesn't. It does have -- the equipment they
10 use is -- again, it's cleaning the dirt and
11 grime off the tunnels -- off the tiles in the
12 tunnels. Then they do vacuum up the residue,
13 but it's not a street sweeping operator or a
14 vacuum operator. It's a brushes and cleaning
15 grime and dirt off tunnels, tiles, and then
16 vacuuming it up. So some -- some of the words
17 will fit in the category but not as read.

18 MR. HERROD: Okay. Well, we can
19 eliminate those three entries if you feel like
20 that that's the proper thing to do. It's your
21 call. It won't affect the overall 5 percent
22 very much, but it will -- the individual
23 will -- it be down to just two entries.

24 MR. THOMPSON: I think that we
25 should, and I -- and I reinforced that with

1 because they are two different types of
2 machines with two different types of operators.
3 Diamond is all of a sudden not going to change
4 their wage rate based off of this. You will
5 affect the other ones, you will force them to,
6 but Diamond is not going to change.

7 MR. HERROD: All right.

8 MR. BAILEY: I think we need a motion
9 to -- to exclude --

10 MR. WRIGHT: I second Brian's earlier
11 motion.

12 MR. BAILEY: He's made a motion.
13 Okay.

14 DEPUTY COMMISSIONER SCOTT: So what's
15 the motion?

16 MR. HERROD: To exclude Diamond
17 Specialized for Craft No. 20, which is Sweeping
18 Machine.

19 DEPUTY COMMISSIONER SCOTT: Which of
20 the board is making that motion?

21 MR. EGAN: (Indicating.)

22 DEPUTY COMMISSIONER SCOTT: We have a
23 motion. Thank you.

24 MR. BAILEY: Brian Egan made the
25 motion.

1 MR. EGAN: Yes, Brian Egan made the
2 mow.

3 MR. THOMPSON: Stephen Wright
4 seconded it.

5 DEPUTY COMMISSIONER SCOTT: All in
6 favor, state "aye."

7 THE COLLECTIVE COMMISSION: Aye.

8 DEPUTY COMMISSIONER SCOTT: Any
9 opposed?

10 (No response.)

11 Motion passed.

12 MR. HERROD: I can't change anything
13 at this point. I have to update my
14 spreadsheet, but it will -- that number will be
15 down to two, and it will be at a rate of --

16 MS. MCGUARAN: Tom, could I ask one
17 question?

18 MR. HERROD: Yes.

19 MS. MCGUARAN: When you look at that
20 spreadsheet you just had up on the screen --

21 MR. HERROD: Uh-huh.

22 MS. MCGUARAN: -- I just want to make
23 sure I'm understanding something.

24 MR. HERROD: Okay.

25 MS. MCGUARAN: So where you say --

1 where you show Columns M, N, and O, "2023
2 Prevailing Wage Rate, Recommended, Proposed
3 Approved," recommended -- the recommend is what
4 you put on there, right?

5 MR. HERROD: It's autogenerated based
6 on previous types of --

7 MS. MCGUARAN: So it gets --
8 recommended, proposed, and approved are all the
9 exact same numbers on all of them --

10 MR. HERROD: Right.

11 MS. MCGUARAN: -- as I look at them.

12 MR. HERROD: Right. They'll change
13 when we do the --

14 MS. MCGUARAN: But we will -- we will
15 at the next meeting --

16 MR. HERROD: Yes.

17 MS. MCGUARAN: -- actually fill in
18 the correct --

19 MR. HERROD: Yes.

20 MS. MCGUARAN: -- approved box,
21 but -- but you guys come up with, from your
22 data, you come up with a recommendation and a
23 proposed, and then we determine the approved?
24 I just want to know what the --

25 MR. HERROD: Okay. It was just

1 another entry I wanted to think about. We
2 recommended, someone proposed, and then the
3 final approval. So it's kind of a three-step
4 process.

5 MS. MCGUARAN: Okay.

6 MR. HERROD: Proposed and approved
7 are always the same, but you have to have a
8 proposed before you have an approved.

9 MS. MCGUARAN: Okay. But the
10 proposed and approved will actually be the
11 numbers that will be filled in, essentially, at
12 the next meeting?

13 MR. HERROD: At the next meeting.

14 MS. MCGUARAN: Great. I just wanted
15 to make sure I understood that.

16 MR. HERROD: Yes.

17 This spreadsheet was just used so I could
18 break it down into a single craft at a time so
19 it wouldn't get too confusing, but we'll do
20 that. So we'll -- this will -- that number
21 will be taken down. So at the next meeting,
22 you will -- I'm going to use the same
23 spreadsheet we have in the past, but then it
24 will be auto- -- then it will be autopopulated
25 into this spreadsheet.

1 So I will -- what I want to do since we
2 looked at all the different crafts, unless
3 somebody has another issue, the data will be
4 massaged based on those three entries taken
5 out, and this will be changed. I will send you
6 a copy that you can look at, play with, put
7 your entries in, and be ready for the next
8 meeting, okay?

9 THE COLLECTIVE COMMISSION: (No
10 response.)

11 MR. HERROD: Does anyone have a
12 question on the process for the next meeting?
13 We've looked at all the data. The data is now
14 overall approved, and we'll break it down. At
15 the next meeting, we'll have several that are
16 zero -- zero responses, and those will be just
17 based upon, again, the current prevailing wage.
18 We'll have a few that are one, two, three, or
19 four, and they'll be based upon the survey rate
20 or the prevailing wage rate, whichever your
21 desire is, but we will have to make sure they
22 are -- they are validated and they will fall
23 within the limitations and what the statute and
24 rules allow so that we don't have any more
25 audit findings.

1 MR. THOMPSON: I have a question.

2 MR. HERROD: Yes.

3 MR. THOMPSON: What about the ones --
4 we're limited to 6 percent, correct?

5 MR. HERROD: Yes, yes, 6 percent over
6 the current prevailing wage, either added to
7 the current prevailing wage or to the survey
8 rate.

9 MR. THOMPSON: Is there a process
10 if -- to go above the 6 percent?

11 MR. HERROD: I have nothing in the
12 law -- the statutes that allow that.

13 MR. THOMPSON: Okay.

14 MR. HERROD: The only time you
15 could -- the only time you could do that is if
16 the survey shows one to four responses and
17 you'd rather have that versus the current
18 prevailing wage. Then if that -- if those
19 numbers are significantly higher --

20 Just like what we have with the sweeping
21 machine. It was a 36 percent difference. If
22 you would rather move the current prevailing
23 wage for next year up 36 percent, and we only
24 have four responses total, you can do that
25 according to the law, but if you have five or

1 more, you could not; or if you had zero, you
2 could not.

3 MR. THOMPSON: Okay. So under
4 Unskilled Labor, we have 404 responses. Even
5 though it's showing a 10.81 percent change, we
6 can only do 6?

7 MS. MCGUARAN: No.

8 MR. THOMPSON: Okay. Okay. I didn't
9 think so, but then I --

10 MS. MCGUARAN: No. In that case, I
11 think what we can do --

12 MR. HERROD: We can take the survey
13 rate.

14 MS. MCGUARAN: -- the survey rate of
15 \$19.62.

16 MR. THOMPSON: All right. So if it's
17 less than the five, that's when the 6 percent
18 comes into play. Okay.

19 MS. MCGUARAN: Yeah. So that would
20 really come into question, for instance, if you
21 were to look at potentially Class No. 12, for
22 instance, where there's one survey response,
23 and that was for \$23, and the current
24 prevailing wage is 21.15, and so the question
25 is do you use the 23, or do you use the 21.15?

1 MR. HERROD: Correct. You could
2 choose a rate that satisfies both criteria.

3 MR. BAILEY: And, just to be clear,
4 the 6 percent is applied to the new surveyed
5 rate once the data is collected.

6 MR. THOMPSON: I thought --

7 MR. HERROD: Okay. Here's the rule.
8 Okay. 6 percent of the current prevailing wage
9 have that number.

10 MR. THOMPSON: The '22?

11 MR. HERROD: The '22 prevailing wage,
12 that's either added to or taken away from the
13 current prevailing wage or the survey. If
14 we're talking survey rate, it's added to or
15 taken from the survey rate.

16 MR. BAILEY: So I guess --

17 MR. HERROD: Above that, yes.

18 MR. BAILEY: So I guess to get to his
19 point, I think, so if -- if the surveys show
20 that in -- in Classification A the rates being
21 paid now are 10 percent higher than they were
22 last year, then you would calculate a survey
23 rate?

24 MR. HERROD: Yes.

25 MR. BAILEY: And then depending on

1 the pleasure of the commission, they could
2 either add 6 percent to it or take 6 percent
3 away, up to 6 percent. You could take
4 2 percent or add -- or take 2 percent away.

5 MS. MCGUARAN: But the percentage is
6 calculated on the '22 prevailing wage, not on
7 the survey rate?

8 MR. BAILEY: Correct.

9 MR. HERROD: The delta that you could
10 move it.

11 MS. MCGUARAN: Right.

12 MR. HERROD: And the overall -- the
13 overall -- the overall increase could be
14 10 percent, it could be up to 16 percent, or it
15 could be down 4 percent.

16 MR. THOMPSON: I understand.

17 MR. WRIGHT: Sort of.

18 MS. MCGUARAN: It's always fun.

19 MR. HERROD: It's always a challenge.

20 MR. THOMPSON: I asked that just
21 simply so we don't -- I wanted to make sure I
22 understood that on some of these, when we get
23 into these labor positions where we're seeing
24 this dramatic increase, that we're not going to
25 be confused in two weeks about what we can or

1 cannot do. Because this is obvious what the
2 data is showing we need to do. And if we can't
3 do that -- if we can't do based off what the
4 data is showing today, then I want to make sure
5 I understood and have a conversation about it
6 today.

7 MR. HERROD: Well, if there's a -- if
8 there's a huge increase, you'll be able to make
9 that change.

10 MR. THOMPSON: Right. I want -- you
11 answered my question.

12 MR. HERROD: Okay. All right. Yes?

13 MR. WRIGHT: Mr. -- Tom, could --
14 going back just a moment to the Diamond
15 Specialized sweeping issue --

16 MR. HERROD: Okay.

17 MR. WRIGHT: -- I've been on sidebar
18 with Kent. We don't know whether we're allowed
19 to have a skill set that we don't have a rate
20 for. If we take the data out, we won't have a
21 rate. Do we need to formulate a rate going
22 forward or maybe find another group like a
23 Class A Operator or something that we could
24 just add some kind of description for that into
25 it? I mean, what is -- I don't know the rules

1 on that. It's never -- I don't ever remember
2 it coming up before, "Hey, we got a thing here
3 that we don't have a rate for."

4 MR. HERROD: Ann?

5 MS. MCGUARAN: I think in the past
6 we've created new classifications or adjusted
7 classifications so that we had a place to put
8 everybody.

9 MR. HERROD: I think you can -- you
10 can make -- can they not make that change
11 today, Dan?

12 MR. BAILEY: Like putting it on this
13 survey form?

14 MR. HERROD: Well, they could either
15 include it in another classification today or
16 they can create a whole new -- we have several
17 that have never -- have not been used in the
18 past number of years. For example, Bricklayer
19 has not been a classification; just rename it.

20 MR. WRIGHT: I think, you know, as
21 time goes on things change. All the manholes
22 now are precast. If you can find somebody to
23 lay a brick -- they could be too busy doing a
24 house and won't build a manhole, so you almost
25 couldn't get bricklayers. But as we've changed

1 it, what, two or three years ago, Mr. Dan,
2 didn't we go through this and redo a bunch of
3 stuff?

4 MR. BAILEY: Yeah, we went through
5 the rulemaking process to put all the
6 classifications at that time into the rules.

7 MR. WRIGHT: I don't think it's a
8 hurry to do today because we've already got
9 their data. They're paying what they want to.
10 Brian's point's technically correct. If we
11 create a position just for them and only one
12 guy is doing it, what he pays is what it's
13 going to be anyway, right?

14 MR. EGAN: Yeah.

15 MR. WRIGHT: So I just want to be
16 sure we're not making a mistake by not doing
17 that. Or, you know, if you look at the --
18 if -- if that's -- if that is a highly
19 specialized position or skilled position, and I
20 imagine it would be, cleaning the tunnel --

21 MR. THOMPSON: I have no idea.

22 MR. WRIGHT: -- it closely may -- we
23 might just slide that category into one of the
24 other operator classes or -- but if that
25 requires rulemaking, then we might as well just

1 make a rule for whatever it is we want. My
2 question is somewhat legal, I guess.

3 MR. BAILEY: Yeah.

4 Well, you could go through the rulemaking
5 process and create a new classification and put
6 it in the rules, but if I'm hearing it,
7 basically, this is kind of controlled by one
8 company here in Tennessee. I don't think
9 there's an urgency to do that until there's
10 more than one that's competing with each other,
11 then I can see the need to do it.

12 As, you know -- you may or may not know,
13 going through the rulemaking process is not a
14 picnic, to put it mildly.

15 MS. McGUARAN: Is there -- would we
16 have to go through the rulemaking process to
17 add some additional clarification to an
18 existing classification?

19 MR. BAILEY: If you going -- if you
20 going to change the rules in any way, you'll
21 have to go through the rulemaking process
22 unless it's just a typographical --

23 MS. McGUARAN: So my question is, the
24 classifications are part of the rules?

25 MR. BAILEY: Yes.

1 MS. MCGUARAN: The classification
2 definitions are part of the rules?

3 MR. BAILEY: Right.

4 But, now, the statute does say -- it
5 says, "For purposes of determining the
6 prevailing wage rate for workers employed by
7 highway contractors, the commission may issue
8 classifications of crafts of workers including
9 but not limited to the following," and then it
10 lists a whole bunch of classifications.

11 I mean, the statute seems to give you
12 some leeway that you can -- that you can
13 consider maybe a classification that is not
14 spelled out in the rules. You could put that
15 on the survey form. That's why I was asking
16 about the form. So I think the statute gives
17 you the discretion to consider a classification
18 that's not spelled out in the rules, but if do
19 you so, I think at some point in time, you
20 know, you need to amend the rules so that it's
21 in there, but it could be put on the survey
22 form.

23 MR. WRIGHT: Could I suggest that we
24 talk in a year or so do a thorough evaluation
25 of the other classes to see if we need to

1 eliminate something else or add something else?

2 MR. BAILEY: Since I plan to retire
3 next December, I think that's a great idea.

4 MR. WRIGHT: Thank you for your
5 honesty, sir.

6 MR. BAILEY: I think that's a great
7 idea.

8 MR. HERROD: Okay. Any other
9 questions on the data and then what my proposal
10 is as far as sending you a new set of
11 calculations and a new worksheet and you can
12 see the data, what your options are, and then
13 be ready to make those changes when you come in
14 in two weeks?

15 MS. McGUARAN: I think that sounds
16 good. I just have a quick question. Can you
17 explain to me why some of the classifications
18 have the '22 prevailing wage minus a plus
19 6 percent grade out instead of with the math in
20 it?

21 MR. HERROD: Yes. Well, the -- I
22 only show -- for example, when you have zero to
23 four responses, I'm just showing how you can
24 move the prevailing wage. You'll have to use a
25 prevailing wage. You have the option to use

1 the prevailing wage and what that range would
2 be. After you get above five and above, you
3 don't have an option of using prevailing wage,
4 so I don't show the plus or minus 6 percent.

5 You talking about this right here
6 (indicating)?

7 MS. MCGUARAN: Right.

8 MR. HERROD: It just shows you, for
9 example, 59 total responses here. The survey
10 rate is 23.02 plus or minus 6 percent of the
11 current prevailing wage is here (indicating).

12 MS. MCGUARAN: Okay.

13 MR. HERROD: You don't have an option
14 of using anything here to set it.

15 MS. MCGUARAN: Thank you. That's
16 helpful. I was noticing that we had the plus
17 or minus 6 percent under the survey rate, so
18 great. Thanks.

19 MR. HERROD: I hope -- when you're
20 presenting data, I understand it. I know it's
21 hard to maybe verbalize it for y'all to grasp
22 what I'm trying to show here, but at the end of
23 the day in two weeks what we'll have is a
24 validated, approved prevailing wage for each
25 classification, and it will have the -- it will

1 have to meet the limitations that we have, and
2 this spreadsheet will show that as well as
3 these others here.

4 So I will send you an updated
5 spreadsheet, and you can do what -- do what you
6 will with it, have some entries, have something
7 in mind for that time.

8 Yes, sir?

9 MR. STARWALT: I guess I -- I guess
10 my question about the purpose of this meeting
11 today -- and I'll go back to I've been coming
12 to these for 26 years. Isn't the purpose of
13 the meeting today to look at the data, and in
14 that one column where it says "proposed" for
15 the commission to propose rates, and then those
16 rates that are -- I'm going to use air
17 quotes -- published, which they're out there,
18 and then they come back at the next meeting in
19 two weeks and approve the final rates? So
20 coming out of today's meeting, the proposed
21 column should be decided and then the final
22 approval in two weeks? Isn't that the purpose
23 of today; to look at the data, propose, two
24 weeks approve?

25 MR. HERROD: Well, this is my first

1 time without a second meeting of prevailing
2 wage in the same year. We've always done that
3 in one process, so I can't say what went on
4 before.

5 My understanding of this meeting was to
6 show you the data -- show everyone the data and
7 then look through the data, see if there's
8 anything that needs to be discarded, not used,
9 and then come up with the -- all the final
10 calculations, and then at the next meeting, let
11 everyone come up with the final approval.

12 MR. STARWALT: By the way, Kent
13 Starwalt with the Tennessee Road Builders
14 Association. I apologize.

15 I agree with that overall assessment
16 except you've -- you've discussed the -- the
17 sweeping number, and you've thrown out the data
18 there. As you mentioned, you don't have the
19 new data in front of you but for those ones
20 that have zero or one responses -- less than
21 four, four or less. Doesn't there need to be a
22 discussion today on those, on whether or not
23 you're going to take the rate, or are you going
24 to take -- take the 6 -- take -- keep it where
25 it was, do the plus or minus wherever it is, or

1 take the statewide average?

2 I guess I'm -- again, I thought the
3 purpose of the meeting today was to sort of
4 have, quote, proposed rates out there because
5 then that -- again, I go back to the past, that
6 it would allow -- because they're -- quote, the
7 rates are published, it allows people to come
8 to the next meeting to provide comment if they
9 wanted to to the commission about what those
10 rates are.

11 And I know we've had that discussion in
12 the past, too, about -- what the purpose of
13 that last meeting, but typically, that's been
14 you publish them for people to review and look
15 at and then approval on the next meeting.

16 MR. HERROD: I believe what -- as I
17 understand what they've done in the past is
18 published those rates, and then based upon
19 requests from the public or anyone, then, if
20 there's a need for another meeting, then it's
21 discussed at that time.

22 I don't believe this meeting was
23 intended -- it is my understanding, I have to
24 go back to the fact that this is the first time
25 I've done this type of meeting. We've always

1 done it, while I've been an assistant
2 commissioner, done everything at one time, but
3 just to present the data and throw out the data
4 that we don't think it's -- needs to be
5 included or -- and exclude that data. So it
6 will be up to the commission to make a decision
7 on that.

8 Does anyone on the Commission have a --
9 would you rather do that, all our
10 decision-making at the next meeting?

11 MR. WRIGHT: Steve Wright.

12 I -- I technically think Kent is correct,
13 but it has been messed up for the last several
14 years, even COVID 1 and 2, and then before that
15 I think was the year, Mr. Bailey, that we were
16 redoing the rates and that was a big kerfuffle,
17 if you remember correctly. So it's been about
18 four or five years since it has actually worked
19 that way to one of the first couple of years
20 that I was actually on this -- on this board,
21 we did pretty much what he said. You kind of
22 set rates today, and if there was comments --
23 the last meeting was like 15 minutes, 10,
24 instead of kind of the other way around like
25 we're having now. I think he's historically

1 accurate, in my opinion. Now, whether we're in
2 a position to do that today or not, I'm not --
3 I'm not --

4 MR. HERROD: You may very well be in
5 a position to do it. That's up to y'all.

6 MR. WRIGHT: He's been around here
7 longer than anybody.

8 MR. CRABTREE: I agree.

9 MR. WRIGHT: So we have a second on
10 Kent's comment?

11 MS. McGUARAN: We probably need to
12 enter Mr. Wayburn's name into the record.

13 MR. WRIGHT: The comment was by
14 Wayburn Crabtree.

15 MR. CRABTREE: You talking to me?

16 I agree with what Mr. Starwalt has said
17 as well as with what Mr. Wright has said. I
18 think pre-COVID, it was more formal, and at
19 this meeting, it was a working meeting, we
20 sorted everything out, and at the end, we moved
21 to agree on the new rates with changes. That's
22 the way we would leave it. We would come back
23 the next meeting to verify the changes.

24 DEPUTY COMMISSIONER SCOTT: Can you
25 state your name, please?

1 MR. CRABTREE: Wayburn Crabtree with
2 TDOT.

3 DEPUTY COMMISSIONER SCOTT: So your
4 decision on proposed rates for today, what do
5 you want to do for today? Are you going to
6 take those back or work through that today?

7 MR. EGAN: This is Brian Egan, TDOT.
8 I'm just curious how all the proposed
9 rates and the spreadsheet were derived.

10 MR. HERROD: The proposed rates?
11 Based upon --

12 MR. EGAN: Right, the 2023. For
13 example, the Class A Operator, the survey rate
14 showed 25.84, we got the plus or minus
15 6 percent, the recommended rate is 26.76. I'm
16 not sure how 26.76 was developed.

17 MR. HERROD: Okay. The whole -- the
18 overall increase was 5.11 percent. The
19 increase -- the survey increase of that
20 5.11 percent was 1.58 percent more than last
21 year's rate. We adjust an additional
22 adjustment of 3.53 percent. It was used to
23 take it up to the five total -- 5.11 percent
24 increase over previous year's rate. Does that
25 make sense?

1 It's based upon two years before, '19,
2 '20, '21, how we did it then; is to bring it up
3 or take it back slightly and keep it within
4 that overall increase. We can go down the
5 list. You just tell me when to go and we'll
6 go.

7 MS. McGUARAN: So I'm going to make a
8 motion that we establish proposed rates for
9 this next year at this meeting so that the
10 commission can vote on them.

11 DEPUTY COMMISSIONER SCOTT: We have a
12 motion. Do we have a second?

13 MR. THOMPSON: Repeat that again.
14 I'm sorry.

15 MS. McGUARAN: I'm proposing that the
16 commission establish what they think the
17 proposed rates are -- are to be, and then we'd
18 come back later to approve --

19 MR. THOMPSON: Oh, you're talking
20 about in this meeting?

21 MS. McGUARAN: In this meeting.

22 MR. THOMPSON: I'll second that.

23 DEPUTY COMMISSIONER SCOTT: We have a
24 second.

25 All in favor for the motion to work

1 through the proposals as -- on today, state
2 "aye."

3 THE COLLECTIVE COMMISSION: Aye.

4 DEPUTY COMMISSIONER SCOTT: Any
5 opposed?

6 THE COLLECTIVE COMMISSION: (No
7 response.)

8 DEPUTY COMMISSIONER SCOTT: The
9 motion is passed.

10 Tom, I would suggest you just kind of
11 start at 1 and go down through, and let's get
12 that agreement of the board; is that okay?

13 MR. HERROD: Okay.

14 Blaster, we have a survey rate of 48,
15 which was 91 percent higher than the current
16 year. Proposal is to take the current year,
17 adjust it 5.11 percent, which would take it to
18 26.29. That's the suggested. Can you see?

19 MS. MCGUARAN: So the suggestion is
20 26.29, and it's up to us to say whether we
21 agree that should be the proposed the rate or
22 somebody should recommend a different proposed
23 rate?

24 MR. HERROD: You can go up -- if you
25 use this year's prevailing wage, you could go

1 up to 26.51 or down to 23.51.

2 MS. MCGUARAN: And if we use the
3 survey rate, we can go up to 49.50 or down to
4 46.50?

5 MR. HERROD: That's correct. That's
6 exactly correct.

7 MS. MCGUARAN: But we cannot pick a
8 number between 26 and --

9 MR. HERROD: No.

10 MS. MCGUARAN: -- and 46.

11 MR. HERROD: That's exactly correct.
12 You have caught on. Otherwise we're going to
13 have two yellow -- two orange warnings right
14 here.

15 What's your proposal?

16 MR. WRIGHT: I would support using
17 what you have, 26.29.

18 MR. THOMPSON: I would agree.

19 MS. MCGUARAN: So the proposed is the
20 recommended.

21 MR. WRIGHT: I think recommended
22 comes from him, proposed comes from us.

23 MS. MCGUARAN: Right.

24 MR. HERROD: Right. Or suggested.

25 Have to see which one I want to use here.

1 Okay. Let's use this spreadsheet right here.

2 It's suggested or recommended, same
3 thing. 26.29.

4 Item 2, we have no entries for
5 Bricklayer. I propose to take it up
6 accordingly 5.11 percent, 18.95.

7 What do you -- what's the commission's
8 preference?

9 MR. WRIGHT: Fine with me if there's
10 nobody --

11 DEPUTY COMMISSIONER SCOTT: You are
12 accepting 18.95?

13 MR. WRIGHT: Yeah.

14 DEPUTY COMMISSIONER SCOTT: Okay.

15 MR. HERROD: Item No. 3, Carpenter,
16 we have to use the survey rate. The survey
17 rate versus the current prevailing wage
18 increased 3.87 percent. The recommendation is
19 to take it up to the full 5.11 percent, which
20 would be an additional 1.24, which would take
21 us to 23.30.

22 MR. WRIGHT: I would say my general
23 philosophy would be in this -- in this current
24 environment that we raise the ones that are
25 relevant to the maximum we can because we're

1 running behind. You know, sort of like
2 except -- last year we needed to stay as
3 relevant as we can. I can't speak for my
4 fellow commissioners, but I would propose
5 raising that one and several others to the
6 maximum 6 percent.

7 MR. HERROD: 6 percent increase would
8 take it to 24.35. Is that the --

9 MR. WRIGHT: Yes, sir, that would be
10 my personal recommendation.

11 MR. EGAN: I guess I want to clarify,
12 what are the relevant positions, I guess,
13 before we get -- do we know what those would
14 be, or how do we decide what those are?

15 MR. WRIGHT: The ones with numerous
16 responses, the ones that get used.

17 MS. McGUARAN: I think the question
18 is at what response level? Is that at 50
19 responses, or is that at 30 responses, or is
20 that at 100 responses? What constitutes
21 numerous?

22 MR. WRIGHT: Six.

23 MR. HERROD: Six.

24 MR. THOMPSON: I mean, my opinion of
25 this is that when we're going down through

1 here, we know which ones are the hot-button
2 issues, and that -- at that point, when we hit
3 those, we'll say 6 percent. That will be our
4 recommendation. Is everybody okay with that?
5 Or I'll say it. I mean, because, you know, we
6 get down here, I mean, the Power Broom Farm
7 Truck has only got 17. You know, I mean, it's
8 showing 2, I may not go 2, I may go 5, but I
9 may not go 6. I mean, let's just treat each
10 one of them individually --

11 MS. MCGUARAN: Right.

12 MR. THOMPSON: -- as we're going
13 through here is all I'm asking.

14 MS. MCGUARAN: So what I'm hearing
15 you say is for the Carpenter/Leadsperson, Craft
16 No. 3, you're recommending we go to \$24.35?

17 MR. WRIGHT: Yes, ma'am.

18 MS. MCGUARAN: And my question is,
19 what does TDOT think?

20 MR. EGAN: I guess, let me clarify,
21 first, we're trying to establish what the
22 prevailing wages are, that is what is currently
23 paid, but we're allowed to increase that by 6
24 percent by the rules?

25 MR. HERROD: Right.

1 MS. MCGUARAN: Right.

2 MR. THOMPSON: That's correct.

3 MS. MCGUARAN: Because we only --
4 we're seeing what was paid last year, and we're
5 setting it for next year. So if you assume a
6 6 percent escalation, or whatever you think the
7 percentage escalation would be, would be
8 appropriate to keep these -- these wages in
9 line is, I think, the idea.

10 MR. WRIGHT: This is Steve.

11 Brian, I would say that if you look --
12 and my recollection, which is not very good,
13 but the 5.4 percent -- whatever it is, 5. --

14 MR. THOMPSON: 11.

15 MR. WRIGHT: -- 11 percent upward
16 pressure from last year is as high as I ever
17 recall it being, which tells you that we're in
18 an upward -- we know that we're in a wage
19 battle every day with the -- with the rest of
20 the world, and I would think in the places
21 where we can, we should increase it as much as
22 we -- as it makes sense to try to stay
23 relevant.

24 MR. HERROD: I have 24.35 as the
25 proposal.

1 MS. MCGUARAN: I don't have any
2 issue.

3 MR. THOMPSON: I agree with that.

4 MR. EGAN: I'll concur.

5 MS. MCGUARAN: I will say that
6 we're -- we are seeing all across construction
7 double-digit inflation rates for the last two
8 years. So I do think that's a reasonable thing
9 to make in this particular time.

10 MR. HERROD: All right. Item 4,
11 Class A Operators. We had 106 responses.
12 Survey rate versus the current prevailing wage
13 rate was only 1.58 percent higher. You have --
14 you can go up to -- the maximum is 27.37. The
15 suggested is an additional 3½ percent just
16 based on previous years. So you can go up to
17 23.37.

18 MS. MCGUARAN: I think we can go up
19 to 27.37.

20 MR. HERROD: 27.37. I'm sorry.

21 MR. THOMPSON: I was going to say...

22 MR. HERROD: I'm getting a little
23 number crazy.

24 27.37 max.

25 MS. MCGUARAN: I think that's the

1 group's consensus on this one, 27.37.

2 MR. HERROD: All right. Item No. 5,
3 Class B, 135 responses. You can go up to 24.99
4 on that particular -- that --

5 MR. THOMPSON: I would agree with
6 that.

7 MR. HERROD: Okay. 24.99.

8 DEPUTY COMMISSIONER SCOTT: Anyone
9 else in agreement on that?

10 MS. MCGUARAN: Yeah.

11 DEPUTY COMMISSIONER SCOTT: Go ahead,
12 Tom.

13 MR. HERROD: Class C Operator, we can
14 go up to 26.22. Is that what we -- stop me if
15 I'm putting words or numbers in your mouth.

16 MR. THOMPSON: You're not.

17 MR. HERROD: Okay.

18 MS. MCGUARAN: We would agree.

19 MR. HERROD: All right. Item Class D
20 Operators, we can go up to 24.71.

21 MR. THOMPSON: I would agree with
22 that.

23 I have a question, and this is more
24 directed, I guess, Steve, maybe. Why do we
25 continuously see that B is lagging behind?

1 MR. WRIGHT: I've wondered that
2 myself.

3 MR. THOMPSON: There's something --
4 something is not -- something's not --

5 MR. WRIGHT: Something is not right
6 in how we do that.

7 MR. THOMPSON: That happened, I
8 think, last year as well.

9 MR. WRIGHT: It's been that way for
10 years.

11 MS. McGUARAN: Well, so I think what
12 you're saying is Class A should be at the
13 highest rate, Class B at the second highest
14 rate, Class C at the third highest rate, Class
15 D at the fourth highest rate, and it doesn't
16 seem to work out that way?

17 MR. WRIGHT: It's all the paving
18 guys. I'm sorry.

19 MR. THOMPSON: Be careful. You got
20 one, too.

21 MR. WRIGHT: Class C operator is
22 Asphalt Milling Machine, Asphalt Paver,
23 Concrete Finishing Machine Operator, Concrete
24 Grinder Operator, Concrete Paver Operator,
25 Scale Operator, Spreader Operator. I'm not

1 sure what that is.

2 MR. THOMPSON: That's an asphalt
3 spreader.

4 MR. WRIGHT: And a concrete Barrier
5 Rail (Transfer) Machine Operator, which I
6 thought -- I don't know what that is. So I
7 think it's -- it's --

8 MR. THOMPSON: The classifications,
9 it's what's in there.

10 MR. WRIGHT: It's what's in there,
11 and it's what that position has evolved into, I
12 guess, is the real answer.

13 MR. HERROD: Item No. -- or Craft
14 No. 8, Concrete Finisher, this is one where the
15 survey was less than the current prevailing
16 wage. You can make an adjustment up to 22.61
17 to get it where -- that's the maximum you can
18 increase it, 26.21.

19 MS. McGUARAN: 22.61.

20 MR. HERROD: Excuse me. I'm going to
21 start looking a little closer. 22.61, Steve.

22 MR. THOMPSON: We need to do that.

23 MR. HERROD: Okay. Item No. 9, Drill
24 Operator. We had one, and it was less than the
25 current prevailing wage. Suggestion, we can go

1 up to -- we can take the current prevailing
2 wage and increase it. The max we can increase
3 is 39.78 based upon that one where we have an
4 option of using the survey or the prevailing
5 wage.

6 MS. MCGUARAN: My question would be
7 will we use the 38.56 or the 39.78?

8 MR. HERROD: That's correct.

9 MS. MCGUARAN: I think one of those
10 is the right answer. I defer to my much more
11 knowledgeable colleagues.

12 MR. WRIGHT: I would say the 38 one,
13 if I was just picking one.

14 MR. HERROD: 38.56.

15 MS. MCGUARAN: Yeah.

16 MR. HERROD: Craft No. 10,
17 Electrician. We had a decrease versus the
18 current wage rate. We can make a correction up
19 to 35.59. That's the max we can take it, which
20 is what we've done in the past or close to.

21 MS. MCGUARAN: I think that's
22 appropriate. It's only 2¢ more than your
23 recommendation.

24 MR. HERROD: Yes. It's your 2¢
25 worth, exactly.

1 Item No. 11, Farm Tractor Operator. It
2 took a huge -- well, almost a 4 percent
3 decrease. We can take it up to 17.27. That's
4 what we've done in the past or close to it
5 again, is that what you wish to do?

6 MR. THOMPSON: I'm fine with
7 your proposed, use 17.23.

8 MR. HERROD: Okay. Well, you've got
9 whatever y'all decide.

10 MR. WRIGHT: That's fine with me.

11 MR. HERROD: 17.23. Okay.

12 No. 12, Ironworkers Reinforcing, we
13 can -- we had a survey rate, which was
14 8 percent -- 8½ -- 8.75 percent higher. We can
15 take either the -- we can work off the survey
16 or off of the prevailing wage. If you take the
17 current prevailing wage rate, it's 22.42 max,
18 or if you take the survey, it's 24.27 max. I
19 have a suggested of 22.23, but that's just
20 based on previous years.

21 MR. THOMPSON: Can we take the 23,
22 the one that was --

23 MR. HERROD: Yes, sir, you can if --
24 well, let's see.

25 MS. MCGUARAN: Yes, you can.

1 MR. HERROD: Yeah, you can. Sorry.

2 You can. 23. Good catch. 23.

3 Is that what everyone wants?

4 DEPUTY COMMISSIONER SCOTT: We agree
5 on 23 on that one?

6 MS. McGUARAN: Yes.

7 MR. HERROD: All right. Ironworkers,
8 13, we had zero entries. We have to use the
9 survey -- the current prevailing wage rate. I
10 mean, we can take it up to 22.64. I had 22.45.
11 Your pleasure?

12 MR. WRIGHT: Leave it like it is.

13 MR. HERROD: Item No. 14, Large Crane
14 Operator. Survey rate is a little bit higher.
15 We can go up to 28.78 is the max.

16 MR. WRIGHT: I would propose to use
17 that, 28.78.

18 MR. THOMPSON: I would agree.

19 MR. WRIGHT: You can't hire them for
20 that.

21 MR. HERROD: Mechanic (Class 1),
22 survey is 28.84. We can go up to 30.48. The
23 survey is already higher than the current
24 minimum wage, so we can keep it there or
25 there's your range 27.20 to 30.48.

1 MR. THOMPSON: I'm going to propose
2 the 30.48 since we can't even hire them.

3 MR. HERROD: All right. 30.48.

4 Everyone agree?

5 MS. McGUARAN: Yeah.

6 MR. HERROD: Yes. Okay.

7 MS. McGUARAN: I believe at the end
8 we'll probably make a motion to accept all
9 these just to make it official --

10 DEPUTY COMMISSIONER SCOTT: Yes.

11 MS. McGUARAN: -- instead of doing
12 each one.

13 MR. HERROD: No. 16, Class 2
14 Mechanic. We can go up to 28.22.

15 MR. THOMPSON: I would propose 28.22.

16 MR. HERROD: Sandblaster, No. 17,
17 zero responses. We can work off of last --
18 this current year's prevailing wage. The max
19 is 35.35.

20 MR. THOMPSON: Your proposed.

21 MR. HERROD: Proposed.

22 MR. BAILEY: 35.35.

23 MR. HERROD: Item No. 18, Skilled
24 Labor. We had 380 entries. Overall increase
25 was 6 percent from last year. We can go to --

1 can go as high as 23.09 or we can keep it to
2 the 6 percent to the current survey, 20.62 to
3 23.09; suggested is 21.86.

4 MR. THOMPSON: 23.

5 MR. WRIGHT: Works for me.

6 MR. HERROD: 23.09?

7 MS. MCGUARAN: Yes, sir.

8 MR. HERROD: Survey Instrument, we
9 had two entries. We can work off either the
10 survey or prevailing wage. They are very
11 close. Proposed is 29.44. We can go up to
12 29 -- or we can go up to 30.05.

13 MR. WRIGHT: I think we should use
14 your rate, too.

15 MR. HERROD: 29.44.

16 Item No. 20, the Sweeping Machine, that's
17 the one that was all wrong. And I haven't been
18 able -- this information is not updated. So if
19 we -- if we go back, if you just give me a
20 second here to go back and look at this.

21 MS. MCGUARAN: I would say that based
22 on the Sweeping Machine data that you showed us
23 before, we would probably want to go to the
24 maximum once you recalculate it.

25 MR. HERROD: Okay.

1 MS. MCGUARAN: I mean, I would just
2 say when you showed us the TDOT data.

3 MR. HERROD: Yes.

4 MS. MCGUARAN: It seems like the
5 survey rate of \$28 wasn't that far off.

6 MR. HERROD: That's correct.

7 Okay. We can -- I can put in a figure
8 here. I can leave this 27.77, and we just note
9 to come back and look at it again?

10 MS. MCGUARAN: 28.99 is what we
11 thought it would be.

12 MR. HERROD: 28.99. Okay. Let me
13 just --

14 MS. MCGUARAN: Whatever the
15 equivalent is of that box.

16 MR. HERROD: Right. Yes.

17 Truck Driver (2 axles), the overall
18 increase from last year was 6 points --
19 6.7 percent. We can go up to a maximum of
20 22.63. Recommendation is to keep it to the
21 survey, but we can go up even higher.

22 MR. WRIGHT: Scott?

23 MR. THOMPSON: They all need -- I
24 think it needs to be the 22 number.

25 MR. HERROD: 22.63?

1 MR. THOMPSON: Yes, sir.

2 MR. HERROD: All right. And then the
3 three-axle driver?

4 MR. THOMPSON: 23.19.

5 MR. HERROD: 23.19.

6 And the five or more axle?

7 MR. WRIGHT: 27.97.

8 Every one of those guys carries your
9 whole company with them every time they get out
10 on the road.

11 MR. HERROD: Unskilled Labor, we can
12 take it to the -- up to 20.69 or we can leave
13 it -- it had a substantial jump, almost
14 11 percent. Keep it at the survey rate or go
15 up to 20.69.

16 MR. WRIGHT: I'd say 20.69.

17 MR. THOMPSON: Yeah, I was going to
18 say.

19 MR. HERROD: 20.69.

20 And, finally, the Worksite Traffic
21 Coordinator. We can take it up to the max, or
22 we can leave it at somewhere between -- up
23 to -- leave it at the 26.15? 27.59?

24 MR. THOMPSON: I think it's 27.59.

25 MR. HERROD: Okay. We have set

1 proposed rates over the 2023 prevailing wage.

2 MS. MCGUARAN: And I'll make a motion
3 that we agree to these proposed rates to be
4 published. The question is how will they be
5 published?

6 MR. WRIGHT: Go to the history
7 department over there.

8 DEPUTY COMMISSIONER SCOTT: Let's
9 just do this. Let's get the second, first, and
10 then we'll have a discussion.

11 MS. MCGUARAN: Okay. So motion that
12 these proposed rates be accepted and -- be
13 accepted by the commission.

14 DEPUTY COMMISSIONER SCOTT: And a
15 second?

16 MR. THOMPSON: I'll second.

17 DEPUTY COMMISSIONER SCOTT: We have a
18 second.

19 Discussion?

20 MR. WRIGHT: How should we propose --
21 how should we send out these rates?

22 MR. THOMPSON: Publish.

23 MR. WRIGHT: Thank you for the word.

24 MR. STARWALT: Was the motion voted
25 on?

1 DEPUTY COMMISSIONER SCOTT: We're in
2 discussion right now before we vote.

3 MR. THOMPSON: We'll still debating,
4 Kent, whether or not -- how we're going to hand
5 this out.

6 MR. BAILEY: I believe the statute
7 addresses this a little bit.

8 MR. WRIGHT: Published in the
9 newspaper, every county seat.

10 MR. HERROD: Okay. Well, let me --

11 MR. THOMPSON: Be careful what you're
12 asking for here.

13 MR. HERROD: We -- we send out these
14 rates two ways. We put it on the website, we
15 send out a mailer to everyone who has
16 subscribed to the prevailing wage rates, and
17 that will go out after its been included on the
18 website.

19 MR. WRIGHT: I'll withdraw my
20 question.

21 MR. BAILEY: The statute says that:

22 "The Commission shall give notice of such
23 prevailing wage rate to all highway contractors
24 who submitted documentation in accordance with
25 subdivision (1) and to any others making

1 written requests for such notice. Such notice
2 shall include the time and place of the public
3 hearing required by TCA 12-4-406. The
4 Commission shall take all reasonable steps to
5 verify the survey results submitted to it by
6 highway contractors pursuant to this
7 department."

8 So if anybody submitted data, they should
9 automatically get the notice of the rates and
10 anybody else that requests it.

11 MS. MCGUARAN: So as I understand
12 that, then, you -- the department -- the
13 department would send it out to everybody who
14 submitted data and say that these are the
15 proposed rates and then tell people when the
16 next meeting is that they could then attend to
17 speak to them if they have any questions about
18 it?

19 MR. HERROD: That's correct.

20 MS. MCGUARAN: Well, that sounds like
21 that actually confirms the earlier discussion,
22 the statute does.

23 MR. BAILEY: Yeah, it does.

24 DEPUTY COMMISSIONER SCOTT: Any other
25 questions or discussions on the two motions?

1 All in favor of accepting proposed rates
2 that will be known by stating "aye"?

3 THE COLLECTIVE COMMISSION: Aye.

4 DEPUTY COMMISSIONER SCOTT: Any
5 opposed?

6 THE COLLECTIVE COMMISSION: (No
7 response.)

8 DEPUTY COMMISSIONER SCOTT: All
9 right. Motion granted.

10 Okay. Our final Prevailing Wage
11 Commission Meeting date is set currently for
12 November 29th, 1:30. It's a Tuesday. It will
13 be here. And, of course, at that time, based
14 on -- and, Tom, as to timeliness of the rates
15 going out is going to be key to that. So that
16 there may be members of the public will have
17 discussions on that. And the goal would be to
18 finalize and approve those rates at that
19 meeting.

20 MR. HERROD: Correct.

21 DEPUTY COMMISSIONER SCOTT: Okay.

22 MR. HERROD: That's correct.

23 DEPUTY COMMISSIONER SCOTT: All
24 right. So can I have a motion to adjourn?

25 MR. WRIGHT: So moved.

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DEPUTY COMMISSIONER SCOTT: A second?

MR. THOMPSON: Second.

THE COURT: All right. We're
adjourned.

(WHEREUPON, the foregoing proceedings
were concluded at 2:52 p.m.)

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REPORTER'S CERTIFICATE

STATE OF TENNESSEE

COUNTY OF WILLIAMSON

I, Nicole Marie DeBartolo, court reporter, with offices in Brentwood, Tennessee, hereby certify that I reported the foregoing Prevailing Wag Commission Meeting by machine shorthand to the best of my skills and abilities, and thereafter the same was reduced to typewritten form by me.

I further certify I am not related to any of the parties named herein, nor to their counsel, and have no interest, financial or otherwise, in the outcome of the proceedings.

I further certify that in order for this document to be considered a true and correct copy, it must bear my original signature and that any unauthorized reproduction in whole or in part and/or transfer of this document is not authorized, will not be considered authentic, and will be in violation of Tennessee Code Annotated 3-914-104, Theft of Services.



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TN LCR #915 - Expires: 6/30/2024
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