

1 STATE OF TENNESSEE
2 DEPARTMENT OF LABOR AND WORKFORCE DEVELOPMENT
3 PREVAILING WAGE COMMISSION MEETING
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10 September 7, 2023
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20 ORIGINAL
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23 CASSANDRA M. BEILING, LCR# 371
24 STONE & GEORGE COURT REPORTING
25 2020 Fieldstone Parkway
Suite 900 - PMB 234
Franklin, Tennessee 37069
615.268.1244

1 APPEARANCES:

2 Commissioner Deniece Thomas, Chairman

3 Gwendolyn Whittaker, TDOT Designee
4 TDOT Construction Resources Manager5 Ann McGauran, State Architect (not present)
6 Tennessee Department of Treasury7 Scott Thompson, Industry Representative
8 Talley Construction Company

9 Dan Bailey, Legal Counsel

10 Melissa Owens, Legal Counsel

11 Tom Herrod, Assistant Commissioner

12 Dewayne Scott, Deputy Commissioner

13 Kenneth Neely, Assistant Administrator

14 Lisa Watson, Director

15 Rachel Tate, Administrative Services Assistant 4

16 Jamie Diefenbach, Executive Administrative
17 Assistant 318 Stamatia XiXis, Chief of Staff
19 Tennessee Department of Labor & Workforce
20 Development

21 Jonathan Haynes, Staff Attorney

22 Brian Eagan
23 Tennessee Department of Transportation24 Matthew Grove, Legislative Liaison
25 Tennessee Department of Labor & Workforce
DevelopmentKent D. Starwalt, Executive Vice
Tennessee Road Builders Association

AGENDA

- 1
- 2 I. Call to Order and Roll Call
- 3 II. Introductions and Announcements
- 4 III. Adoption of Agenda
- 5 IV. Approval of the previous Prevailing Wage
Commission Minutes
- 6 *November 29, 2022-2023 PW Rates Finalized
- 7
- 8 V. New Business
- 9 *Review/Discuss Prevailing Wage Survey
Letter and Survey Form
- 10 VI. Next 2023 Prevailing Wage Commission Meeting
- 11 *Review survey data
- 12 *Discuss and propose rates for each
classification (2024 PW).
- 13 November 14, 2023
- 14 Tuesday, 1:30 p.m.
- 15 220 French Landing Drive
- 16 Nashville, Tennessee 37243
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- 25 VII. Adjournment

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2 CHAIRMAN THOMAS: We are going
3 to bring the Commission meeting -- call it to
4 order, if we could.

5 Good afternoon, everyone. I think I
6 know just about everyone in the room, but I'm
7 Deniece Thomas. I know you're like, I haven't
8 seen you in a while, but I'm here today. I'm the
9 Commissioner of the department.

10 And what we're going to do so that we
11 can both make sure we know who's in the room and
12 satisfy introductions, we're just going to go
13 around the room, have you introduce yourselves,
14 and we'll get re-familiar with one another.

15 And if we could, we'll start right
16 here with you.

17 MS. WHITTAKER: Okay. Gwen
18 Whittaker. I'm with TDOT.

19 CHAIRMAN THOMAS: Thank you.

20 MR. THOMPSON: Scott Thompson,
21 Talley Construction Company.

22 MS. TATE: I'm Rachel Tate.
23 I'm with WRC.

24 MS. WATSON: I'm Lisa Watson.
25 I'm the Labor Standards Director.

1 MR. NEALY: Kenneth Nealy,
2 Assistant Administrator with WRC.

3 MR. HERROD: Tom Herrod,
4 Assistant Commissioner, WRC.

5 MR. D. SCOTT: Dewayne Scott,
6 Deputy Commissioner.

7 MR. BAILEY: Dan Bailey, legal
8 counsel.

9 MS. OWENS: Melissa Owens,
10 Deputy General Counsel.

11 CHAIRMAN THOMAS: Tia, I'm
12 going look to you for our number of members who we
13 have. Can we establish a quorum?

14 MS. XIXIS: We only have the
15 three, because Ann --

16 MR. HERROD: Ann is late.
17 She'll be late. She's coming. And then Stephen
18 Wright is not going to be here today.

19 MS. XIXIS: But if Ann gets
20 here, we'll have a quorum if we have to take a
21 vote.

22 MR. HERROD: Since the
23 Commissioner is on the board --

24 CHAIRMAN THOMAS: Do I count,
25 Dan?

1 MR. BAILEY: Oh, yeah.

2 MR. HERROD: You're good.

3 You're good to start.

4 CHAIRMAN THOMAS: All right.

5 MR. HERROD: We can go ahead
6 if anybody else wants to introduce themselves.

7 You're good to start.

8 MR. STARWALT: Kent Starwalt,
9 Tennessee Road Builders Association.

10 MS. XIXIS: Tia XiXis, Chief
11 of Staff.

12 MR. HAYNES: Jonathan Haynes,
13 staff attorney with workforce services.

14 MR. GROVE: Matthew Grove,
15 Legislative Liaison for the Department.

16 MS. DIEFENBACH: Jamie
17 Diefenbach, Executive Admin Assistant, WRC.

18 MR. EGAN: I'm Brian Egan,
19 Tennessee DOT.

20 CHAIRMAN THOMAS: Thank
21 you-all. Now that I know I count, I'm going to
22 establish a quorum so that we can conduct
23 business. Thank you.

24 Everyone should have in front of them
25 the agenda for the day, and we're going to ask for

1 an adoption of the agenda as identified.

2 Can we get a motion for adoption?

3 MR. THOMPSON: So moved.

4 MS. WHITTAKER: Second.

5 CHAIRMAN THOMAS: The adoption
6 of the agenda has been -- we've received a motion
7 and a second. And so is there anyone opposing the
8 adoption of the agenda?

9 (No verbal response.)

10 CHAIRMAN THOMAS: All right.
11 We will adopt the agenda and conduct it
12 accordingly.

13 We will also need to approve the
14 minutes from the previous prevailing wage
15 commission. I don't know if everyone has had a
16 chance to look at those, but if you would, if you
17 have not, if you could glance at those to see if
18 there's any corrections, retractions, or any
19 revisions needed to the minutes. If not, I will
20 entertain a motion for adoption of the minutes.

21 MS. WHITTAKER: So moved.

22 MR. THOMPSON: Second.

23 CHAIRMAN THOMAS: Thank you.
24 We have a proper motion and it's been seconded.

25 Any questions or discussions

1 regarding the minutes?

2 (No verbal response.)

3 CHAIRMAN THOMAS: All in
4 favor, please signify by saying aye.

5 (Affirmative response.)

6 CHAIRMAN THOMAS: The minutes
7 have been approved. Thank you very much.

8 We're going to move now to our new
9 business, and I'm going to turn that over to
10 Assistant Commissioner Herrod.

11 MR. HERROD: Thank you,
12 Commissioner.

13 The purpose of today's meeting is to
14 review the survey letter and survey form. The
15 survey letter is the second stapled attachment
16 that you have. It's the same as last year with
17 the dates changed. It just sends out to the
18 construction companies who have current contracts
19 with TDOT, asking those companies to participate
20 in the survey. It's a simple three-paragraph,
21 three-sentence letter with an explanation on the
22 back of what is needed and why we do it and what
23 the timeline is.

24 They will receive the letter and the
25 survey on or before September the 30th. And then

1 those companies will have through the end of
2 October to respond either online or by mail to the
3 Department of Labor.

4 At that point we'll take the survey
5 results and compile it, enter it into an Excel
6 spreadsheet and determine the prevailing wage
7 recommended rates. And then after that, the
8 Commission will come back together to discuss the
9 survey data and propose rates on November the
10 14th.

11 After some period of time, two weeks
12 later, we will come back again for a short meeting
13 to finalize, approve the rates for each
14 classification.

15 Also attached is the survey form with
16 the 25 classifications. Last year, we made just
17 some minor changes to the survey to describe the
18 truck drivers two, three, four, and five axles.
19 Those were classifications 21, 22, and 23, just to
20 say "on highway." Nothing else changed on that
21 survey.

22 Last year we sent out to 196
23 companies. We got 93 companies to respond, which
24 was 46 percent, which was pretty good since it's a
25 voluntary survey. This year we'll be sending out

1 to at least 250 companies. Those are the number
2 of companies that have current contracts with
3 TDOT. That's what's been supplied to TDOT. Kent
4 Starwalt will help us with any other companies
5 that he knows of that may have contracts that we
6 don't have their names, and we will send those
7 out.

8 So that is the process, the survey
9 letter with the explanations on it and an example
10 of what we're looking for. The companies will be
11 asked to just fill in the number of employees,
12 total hours worked, and the hourly wage. That is
13 not -- does not include any benefits or overtime.
14 It's just straight wage hours. And we will come
15 up with a weighted average for all of that, and
16 then that will go into the calculation for the
17 prevailing wage and the percent increase that we
18 can have.

19 One of the last attachments you have
20 are all the companies involved with TDOT contracts
21 at this time. If you're familiar with TDOT
22 contracts, the next-to-the-last handout shows a
23 sample one with the contract number -- "CN" for
24 contract number -- and then a letter associated
25 with it, VWXYZ, depending on the year. "V" was

1 '21. "W" was '22. I assume "X" is '23.

2 So we will get that information back
3 from the contractors and then determine whether or
4 not the contractors actually paid the proper
5 prevailing wage. No wage that's not within the
6 range for that year will be acceptable and will
7 not enter into the calculation. So we won't take
8 bad data and utilize that information. We'll
9 exclude that. And I'll show that at the next
10 meeting how that's done. It's been done the last
11 two years.

12 Does anybody have any questions,
13 comments, or suggestions on any changes to either
14 the letter or to the form that we're presenting
15 today?

16 MR. THOMPSON: Is the state
17 aid question, Kent, that always arises every year,
18 is it -- do you think it's addressed with the
19 language that's written in here so that when --

20 Tom, do you remember -- we talk about
21 that every year, about state aid. And it gets
22 confusing and...

23 MR. HERROD: Dan can answer
24 that better than anybody. But --

25 MR. THOMPSON: I just want to

1 make sure we've got -- they know and understand
2 that if it has state dollars in it, then they
3 can...

4 MR. BAILEY: Yes, they can
5 participate.

6 MR. HERROD: State or federal
7 either one.

8 MR. BAILEY: Right.

9 MR. HERROD: We assume if they
10 do any kind of highway construction at all,
11 there's some money that's state aid -- it's in
12 there. It's not just a --

13 MR. THOMPSON: Because a lot
14 of people aren't using state aid projects for --
15 that gets asked every year, so...

16 And then the other thing I had was
17 when we have people that -- or companies that
18 aren't paying the wage, like, if we see a trend,
19 maybe we could, like, highlight that when we have
20 a meeting. And there may not be any. It may just
21 be random. But all of a sudden, if we've got any
22 kind of trends, then maybe we see anything that's
23 confusing or that we can better define.

24 MR. HERROD: We can do that,
25 because I'll show each craft or each

1 classification separately and highlight it in
2 light red or pink -- light red, that will show
3 which ones are not paying the proper wage, so
4 they'll be excluded. So it will be easy to
5 identify them.

6 I'm not sure if TDOT does that. They
7 should do that because -- well, I say "should."
8 They get all the payroll data in on the third
9 quarter anyway. I'm not sure if you look at that.

10 MS. WHITTAKER: Our system
11 does check to ensure that they meet the prevailing
12 wage.

13 MR. HERROD: Okay.

14 MR. THOMPSON: What I was
15 worried about, Gwen, was, like, if all of the
16 sudden we see a trend, like we've got something
17 that's confusing for something people are getting.
18 Because, I mean, we had some last year within our
19 company, and we had tried to go back and tried to
20 address and figure out. And it was jumping from B
21 to C. It was these operators that were jumping in
22 training and stuff like that. And that's what was
23 causing it.

24 MR. HERROD: If we see some
25 funny looking entries, submissions of data, we'll

1 call the company and verify, is this exactly the
2 classification you were talking about? Is this
3 the wage you were paying for this year? Is that
4 correct? And try our best to follow up with them.

5 CHAIRMAN THOMAS: So just to
6 recap, state aid is included, and trends,
7 questions, anomalies will be addressed and
8 highlighted for discussion.

9 MR. HERROD: Yes, ma'am.

10 CHAIRMAN THOMAS: Any
11 additional questions/comments for Assistant
12 Commissioner Herrod?

13 (No verbal response.)

14 CHAIRMAN THOMAS: All right.
15 Tom, is there any additional new business?

16 MR. HERROD: There is no
17 additional new business that I'm aware of.

18 CHAIRMAN THOMAS: All right.
19 We have two prevailing wage meetings scheduled;
20 November 14th, Tuesday, at 1:30 and November 28th,
21 which is a Tuesday, at 1:30.

22 You can see the business listed there
23 for November 14th is review survey data, discuss
24 and propose rates for each classification for
25 2024.

1 November 28th is to finalize and
2 approve rates for each classification for 2024.

3 Any omissions?

4 (No verbal response.)

5 CHAIRMAN THOMAS: Hearing
6 none, I'm going to look to the team to see if
7 there is anything that we did not cover, need to
8 cover, should cover, or want to cover.

9 MR. BAILEY: I guess, for the
10 record, I'm assuming there's no objections to the
11 prevailing wage survey letter and survey form
12 that's going out. I just want to get that on the
13 record.

14 MR. THOMPSON: No.

15 CHAIRMAN THOMAS: Dan, does
16 that require voter approval?

17 MR. BAILEY: I don't think it
18 does, but I just want to get it on the record to
19 make sure that nobody objects to what the Unit is
20 proposing to send out.

21 CHAIRMAN THOMAS: Okay. Thank
22 you. All right. Hearing nothing else, I'll
23 entertain a motion for adjournment.

24 MR. THOMPSON: So moved.

25 MS. WHITTAKER: Second.

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CHAIRMAN THOMAS: Meeting

adjourned.

END OF PROCEEDINGS.

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C E R T I F I C A T E

STATE OF TENNESSEE)

COUNTY OF WILLIAMSON)

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

That the within is a true and accurate
transcript of the Prevailing Wage Commission
Meeting taken on the 7th day of September, 2023.

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

IN WITNESS WHEREOF, I have hereunto set my
hand this 23rd day of September, 2023.



Cassandra M. Beiling, LCR# 371
Notary Public State at Large
My commission expires: 3/10/2024