

PREVAILING WAGE COMMISSION MEETING
November 15, 2012
MINUTES

PRESENT: COMMISSIONER KARLA DAVIS
BRENT HALL
BOB OGLESBY
WAYBURN CRABTREE
R.T. SUMMERS

Recorded by Christina J. Tugman

Please note this transcript is not a word-for-word account. Some general discussion and comments have been omitted for the sake of brevity.

I. Call to Order and Roll Call

Christina J. Tugman called the meeting to order at 10:00 a.m. with the Commission members stating their names for the record.

II. Conflict of Interest

Commissioner Davis asked the Commission members if they had any new changes within the Conflict of Interest Statements. Wayburn Crabtree and R.T. Summers completed their Conflict of Interest statements at this time.

III. Old Business

Review and approve minutes from the September 24, 2012, Prevailing Wage Commission meeting.

Commissioner Davis asked for a motion to approve the minutes from the September 24, 2012, Prevailing Wage Commission meeting.

Brent Hall motioned. Wayburn Crabtree seconded.

All approved. Motion passed.

IV. New Business

Review and discuss data from the 2012 Highway and Bridge Construction survey.

R. T. Summers stated that he had some changes that he would like to make within the survey results. Looking under Ironworkers Reinforcing (12) – Border Rebar, LLC, reported a large number of hours. Mr. Summers contacted the company and the company stated that the work should have been reported under the building data.

Mr. Summers stated that he received an email from Bizzack Construction, Inc. – stating that they in error placed information in the Mechanic (Class I) Heavy Duty (13), when it should have been placed in Mechanic (Class II) Light Duty (14). Therefore the hours reported, 3,037 hours, should be 1,672 hours.

Lastly, Diamond Specialized, Inc. submitted three forms for classification Truck Driver (2 axles) (20). This company specializes in tunnel cleaning. The company verified that their machines are two axles but that they have brushes on the ends of their machines, which should be classified as Sweeping Machine (Vacuum) Operator (19).

Bob Oglesby asked that the Labor Standards staff possibly put together a key stating what the process is for determining how the Commission comes to the conclusion of the rates.

Commissioner Davis stated that last year that if we had less than 5 responses then the Commission would set the rate at the current rate plus or minus the State average.

Bob Oglesby stated that he looked at the number of responses but wanted to know if possibly all the responses came from the same company.

Commissioner Davis said that looking at the data that these companies submit sometimes causes the rates to jump several percentages.

Bob Oglesby asked if the LS staff could make the notebook more user friendly by adding additional tabs, sub tabs, classifications, columns, etc. making it easier to evaluate the information that the companies provide to the Commission to determine wage rates. Lastly could the staff place on each subclass form a line that shows what the current rate is on the survey rates so that you could see what the survey responses are below the current rate and which ones are above the current rate.

Michael Dattilo stated that he would need to get with the IT division to see if this would be possible.

R.T. Summers commented on the handout that Michael Dattilo provided to the Commission and stated that the figures do not match.

Michael Dattilo stated that the handout is to show, with the notes, the calculation methodology used for this year.

Brent Hall commented on the issue on the number of responses by one contractor. He stated that the standard practice of the Commission is if we have more than 5 responses that the Commission uses the data. He urged the Commission not to change this rule. He believes that an additional requirement to ask that there be 5 responses from 5 different companies would tie the Commission's hands in that it would be asking too much of the survey.

The Commissioner stated that this is something the Commission needs to consider at a later date, and that once the Commission digs deeper in to some of the responses and see how big the change is, then that might bring some clarity as to why this should be discussed.

Bob Oglesby stated he would like this matter put on the table for discussion.

R.T. Summers ask that a the Ironworkers Reinforcing classification data for Border Rebar, LLC, be moved over to the Building Survey because their form indicated this work was on a hospital.

Commissioner Davis asked for a motion to approve that Ironworkers Reinforcing classification data for Border Rebar, LLC, be moved over the Prevailing Wage Building Survey to reflect appropriate work.

R.T. Summers motioned. Brent Hall seconded.

All approved. Motion passed.

R.T. Summers asked that the data entered by Bizzack in survey form number 20120440 for Mechanic (Class II) Light Duty (14) be changed to Mechanic (Class I) Heavy Duty (13), and should be 1,672 hours instead 3,037 hours. This error is per an email from Bizzack to Director Dattilo. The other 1,365 hours in the 3,037 figure would fall under either Skilled Laborer or Class "D" Operators (to be verified by Director Dattilo).

Commissioner Davis asked for a motion to approve data entered by Bizzack be moved from Mechanic (Class II) Light Duty (14) to Mechanic (Class I) Heavy Duty (13).

R.T. Summers motioned. Brent Hall seconded.

All approved. Motion passed.

R.T. Summers clarified that Director Dattilo will Email any changes regarding the new proposed rates to the Commission members and reviewed at the next meeting.

R.T. Summers asked that the data entered on three survey forms by Diamond Specialized, Inc. under Truck Driver (2 axles) (20), be changed to Sweeping Machine (Vacuum) Operator (19). This error was reported in an Email from the Company to Director Dattilo.

Commissioner Davis asked for a motion to approve data entered by Diamond Specialized be moved from Truck Driver (2 axles) (20), to Sweeping Machine (Vacuum) Operator (19).

R.T. Summers motioned. Bob Oglesby seconded.

All approved. Motion passed.

Commissioner Davis stated that some of the IT configurations will be reviewed in order to generate some of the more practical reports Bob Oglesby recommended in order to make survey data more easily read and understood. Director Dattilo offered to produce a spreadsheet not generated by the program; but the Commissioner decided it would be best to use information generated by IT.

Commissioner asked for public comments on Highway and Bridge, and there were none.

R.T. Summers pointed out the data for last year was in keeping with our past goal of moderating pluses or minuses in the different categories. He said last year and previous years if the survey rate had increased more than 15%, we would use our 6% authority to raise or lower the rate. Any increase or decrease less than 10%, we would go to the survey rate. In the past any change over 10% but less than 15%, the Commission has taken the rate down by 3%, or one-half of the Commission's authority. The insufficient survey responses less than 5 went to the State average for an increase.

R.T. Summers asked that the Commission apply the formula used last year to calculate the survey rate that has been calculated for this year.

Commissioner Davis asked for a motion to apply the formula used to calculate last year's Prevailing Wage rate.

R.T. motioned. Brent Hall seconded.

All approved. Motion passed.

Commissioner Davis noted that there would be a change to Truck Driver (2 axles) (20), to Ironworkers Reinforcing (11), and to Powder Person Blaster (16) because they fall in to the 10% to 15%.

Bob Pitts, Associated Builders and Contractors, came to the public comment table to speak about the Highway survey and using the Statewide average result this year to decide the up or down. He suggested companies with less than 5 responses be pulled out of the calculations developing the State average figure due to this method allowing one company to dictate the increase or decrease. Wayburn Crabtree inquired if one company with less than 5 responses would have submitted a majority of the hours, would they still not be considered?

Brent Hall disagreed because of the hours actually being worked and those wages were paid. He agreed with Wayburn Crabtree that in a Statewide average it is going to be miniscule. Brent Hall pointed out that in the past there was much discussion over reducing the number of Regions in Building. This would strongly affect the rates in rural counties. He supports sticking to the present practice of the Commission that if there are five or less responses, the rate plus or minus the State average is used. In one classification if there are not five responses, the Commission will not go up or down on that one classification, and it is not referring to the Statewide average.

The Commissioner made a point that there may only be one or two companies that even do a certain type of work in a certain Region, and that in that case they would never have more than five responses.

Brent Hall explained that we might be sending a message to rural companies not to send in their surveys because their data would not be considered anyway.

Bob Oglesby asked if LS staff could look at this to see what impact this change might have, and Commissioner Davis said this would be discussed in a subsequent meeting.

Commissioner Davis then asked for public comments on the Building Survey.

Director Dattilo stated that the same criteria was used to set the preliminary Building rates as was utilized to set the Highway and Bridge preliminary rates; but without the 3% revision. Director Dattilo will advise the Commission of what rates will be changed due to this revision before the next meeting.

Director Dattilo stated the 6% was used when we had to engage the State average because the overall State average for Building was 9.2%. Where rates went down, the same formula was used; except with the 3% revision.

There was discussion on how many of the Regions were becoming more populated and the demographics of the State were changing, and therefore the possibility of redefining the Regions. Projects move around, and a Region may have work at one time and not at another.

Commission also asked LS staff to review how the Regions were set up initially, and to try and determine a format we could look at that would allow us to evolve in the future to set wages more appropriately in response to what is really going on in a given year.

Brent Hall asked to approve all preliminary rates; noting that the LS staff will go back and apply the 10% to 15% rule and adjust accordingly before the next meeting.

Commissioner Davis asked for a motion to approve all preliminary rates with the clarification that the LS staff will apply the 10%-15% rule and adjust accordingly.

Brent Hall motioned. R.T. Summers seconded.

All approved. Motion carried.

Commissioner Davis brought the Commission's attention to the point that there might be only one company that submits responses and how that might skew a wage. The Commissioner mentioned the Elevator Constructor classification, and in 2011 and 2012 for Regions 10, 11 and 12, the rates were \$19.59, \$19.49 and \$25.78. The new 2013 rates for Elevator Constructor, Regions 10, 11 and 12 using our criteria, would go up to \$35.66, \$37.38 and \$34.65. That is because only one company is submitting all of the information for those categories, and is a prime example of how the rates can change

significantly. Also this is a reason for the Commission to give consideration to what to do when you have one company that submits all the responses, and subsequently makes a major change in the rate.

Anthony Newton, President of Nashville Building Trades, made a public comment about the discussion of possibly creating more Regions. He believes this is a bad idea. He stated that we would get lesser data. As far as the Elevator Constructors, there are only 3 or 4 manufactures of elevators across the Country, and eliminating the data for one company submitting is detrimental to that particular trade.

Director Dattilo discussed that we did not call the 4 companies that wanted to discuss their data from Building during this meeting per statue verbally over the telephone because they submitted skewed data originally. This data represents various Regions. Some of this data was submitted by a Union; but Director Dattilo stated it has to be verified from the actual company. The legal staff verified that LS had already thrown out the data for these companies. Legal determined that this data would be a clarification and had to be in by the close of this meeting today. The Commission stated that at least 2 of these companies are large and know very well how to participate correctly in the survey, and that extending the survey deadline would only make more work for the LS staff and set a precedent not to abide by the survey deadline. Since the original information was unusable and the companies had already been contacted regarding such and the companies are not present to testify, Legal determined that the data should be thrown out and the four companies would not be called during this meeting today.

Brent Hall stated that this data is not timely and is unusable, should not be included it in the survey and the Commission does not need to make calls to the companies for further clarification during this meeting.

Commissioner Davis asked for a motion to not include untimely and unusable data, and furthermore not to contact the companies for further clarification during this meeting.

Brent Hall motioned. R.T. Summers seconded.

All approved. Motion passed.

V. Adjourn

Commissioner Davis asked for a motion to adjourn the meeting of the Prevailing Wage Commission meeting.

Brent Hall motioned. Bob Oglesby seconded.

All approved. Motion passed.

