

PREVAILING WAGE ADVISORY COMMITTEE

Meeting Minutes

Friday, February 27, 2009

Portland State Office Building
Room 1A
800 NE Oregon Street
Portland, OR

Members Present

Daniel Bonham
Mark Holliday
Don Kool
Jim McKune
Greg Miller
John Mohlis
Patrick O'Brien
Carl Redman

Members Absent

Norm Malbin
Shawn Miller
Pete Savage

Staff Present

Brad Avakian
Christie Hammond
Lois Banahene
Susan Wooley
Mike Kern
Maggie Wilson
Kate Newhall
Denise Voll (Oregon
Employment Department)

The meeting was called to order at 1:35 PM.

Introduction of New Members

Commissioner Avakian introduced the new committee Co-chairs, Jim McKune and Don Kool. Mr. McKune is Chief Operating Officer of Emerick Construction Co., and Mr. Kool is a soon-to-be-retired business representative with the United Association of Plumbers and Steamfitters, Local 290.

Commissioner Avakian expressed his hope for advice from the committee on PWR issues from both labor and management standpoints. In particular, Commissioner Avakian asked the advisory committee to provide input relating to residential construction and affordable housing issues under the law, as well as suggestions regarding how to improve the PWR survey process.

Proposed Committee Operational Policies

Wage and Hour Division Administrator Christie Hammond briefly summarized the provisions of draft operational policies for the Prevailing Wage Advisory Committee, and opened the topic for discussion and comments from committee members.

The implementation of member term limits was discussed in detail. Ms. Hammond explained that the draft operating policies would establish two-year terms for committee members. As a way of staggering the terms of the current members, it was suggested that members' terms expire either in

2010 or 2011, based on the member's date of appointment. If a member was appointed in an odd year, the member's term would expire in 2011; if appointed in an even year, the member's term would expire in 2010. At that time, each member would be eligible to be reappointed. The present committee members agreed to this method. Committee members John Mohlis and Patrick O'Brien agreed to switch the year their terms expire due to the current length of Mr. Mohlis' membership.

Committee member Carl Redman told the committee about the time and effort it took for him to be appointed to the committee. Mr. Redman agreed with the implementation of terms to make it easier for those in the industry who would like to be involved to have a chance to serve on the committee.

Co-chair Don Kool expressed his support for the policies, stating they would help to formalize committee procedures already in place.

The group consensus was that PWAC members be eligible for one reappointment; therefore, members would be limited to serving only two terms consecutively. Ms. Hammond said she would revise the language in the draft procedure to make this clearer.

All present members unanimously approved the proposed operational policies.

Minutes of Last Meeting of November 19th, 2008

The committee members present unanimously approved the minutes of the November 19, 2008 meeting as written.

Staff Reports (Including Legislation)

Summaries of BOLI's PWR enforcement activities and education seminars conducted fiscal year-to-date were provided by staff.

Information relating to both BOLI and non-BOLI PWR-related legislation was provided to the committee members, including copies of bills, "briefs" regarding BOLI bills, any proposed amendments, and a summary of the status of each bill. BOLI Legislative Director Kate Newhall told the committee members that the legislative summary provided was current as of that morning.

Co-chair Jim McKune announced that the issue of application of the PWR law to affordable housing projects (HB 2430) would be the primary agenda item for the next PWAC meeting to be held on March 12th. Members were encouraged to review HB 2140 from last legislative session and HB 2430 in preparation for the discussion at the next meeting. Staff advised the committee members that a summary of the affordable housing issue was included in their notebooks.

Mr. McKune told committee members there would be at least two weeks notice between PWAC meetings to give members enough time to review related information prior to the meeting.

Co-chair Don Kool asked if PWAC meetings were always open to the public. The group agreed that the meetings were open, and they have always been conducted that way.

Overview of PWR Law

Susan Wooley, the Prevailing Wage Rate Unit TA Coordinator, presented a Prevailing Wage Rate law overview. Members were encouraged to ask questions throughout.

Co-chair Jim McKune asked if privately owned construction projects with a public agency occupying or using 25% or more of the space are subject to the \$750,000 public funds threshold in order to be considered a “public work” subject to the prevailing wage rate law. Ms. Wooley explained that the \$750,000 threshold is separate.

Committee member Carl Redman inquired about how BOLI determines when coverage would begin when an agency decides to lease 25% or more of a private construction project after construction has already begun.

Ms. Wooley responded that generally, coverage is not retroactive, but that to her knowledge, such a situation had not yet come up, and BOLI would likely review the facts of a particular project and issue a determination in such an event.

Committee member Patrick O’Brien stated that in his experience, a public agency is typically a primary leaser, and there would be a slim chance the agency would sign a lease during construction.

Committee member Daniel Bonham asked who would be liable if an agency failed to include the applicable prevailing wage rates in its contract. Ms. Wooley responded that in such a situation, the agency could be held liable for the difference between the prevailing wage rate and rates paid.

In response to additional emerging PWR topics, committee member Carl Redman suggested the committee put together a list of issues members would like to address.

Co-chair Jim McKune agreed that discussion of a list of issues identified by the committee would be possible if there was extra time at meetings. Mr. McKune recommended that the committee first and foremost address the issues the commissioner specifically asked the committee to review, and that if at any time Commissioner Avakian asks the committee for additional topics they would like to address, the committee could then present topics that surface during committee discussions, such as 4/10 schedule requirements.

Next Meeting/Meeting Schedule

The next PWR Advisory Committee meeting was scheduled for March 12, 2009, at the International Union of Operator Engineers in Gladstone.

The meeting adjourned at approximately 4:00 PM.