

1 DEPARTMENT OF LABOR AND INDUSTRIES

2 STATE OF WASHINGTON

3
4 _____
5
6 ELECTRICAL BOARD MEETING

7
8 TRANSCRIPT OF PROCEEDINGS

9
10 Thursday, April 24, 2014
11 _____
12

13 BE IT REMEMBERED, that an Electrical Board meeting
14 was held at 9:00 a.m. on Thursday, April 24, 2014, at the
15 address of the Hal Holmes Center, 209 North Ruby Street,
16 Ellensburg, Washington, before CHAIRPERSON TRACY PREZEAU,
17 BOARD MEMBERS RODNEY BELISLE, JANET LEWIS, DAVID CORNWALL,
18 DOMINIC BURKE, MIKE NORD, DYLAN CUNNINGHAM, DON BAKER,
19 DENNIS TOWNSEND, BRAD KING, ALICE PHILLIPS, and
20 SECRETARY/CHIEF ELECTRICAL INSPECTOR ROD MUTCH. Also
21 present was ASSISTANT ATTORNEY GENERAL PAM REULAND
22 representing the Board.

23 WHEREUPON, the following proceedings were held, to
24 wit:

25
26 Reported by:
27 H. Milton Vance, CCR, CSR
28 (License #2219)

29 EXCEL COURT REPORTING
30 16022-17th Avenue Court East
31 Tacoma, WA 98445-3310
32 (253) 536-5824

Thursday, April 24, 2014
Ellensburg, Washington

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Thursday, April 24, 2014
Ellensburg, Washington

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CHAIRPERSON PREZEAU: Good morning. It is 9:02. And I would like to bring the April 24, 2014, Washington State Electrical Board meeting to order. Good morning, everybody.

THE BOARD: Good morning.

CHAIRPERSON PREZEAU: Before we ask for a motion to approve the minutes, just to remind us, our cell phones, if you either turn them off or on vibrate, that would be greatly appreciated.

Item 1. Approve Transcripts from January 30, 2014
Electrical Board Meeting

CHAIRPERSON PREZEAU: And certainly the Chair would love to entertain a motion to approve the transcripts from the January 30, 2014, meeting.

Motion

BOARD MEMBER NORD: Motion.

CHAIRPERSON PREZEAU: We have a motion. Is there a second?

BOARD MEMBER KING: Second.

1 CHAIRPERSON PREZEAU: So motion to approve the
2 January 30, 2014, minutes. All those in favor, signify by
3 saying "aye."

4 THE BOARD: Aye.

5 CHAIRPERSON PREZEAU: Opposed? Approved. Excellent.

6

7 Motion Carried

8

9 Item 2. Departmental/Legislative Update

10

11 CHAIRPERSON PREZEAU: Rod, do you want to give us a
12 departmental/legislative update? I am assuming that Jose'
13 is not going to be here this morning?

14 MR. MUTCH: That's correct.

15 Jose' Rodriguez, the Assistant Director for Field
16 Services and Public Safety was not able to make the
17 meeting. And so he asked me to give the update on the
18 Department and legislative updates.

19 So I want to welcome the Electrical Board to Eastern
20 Washington. We have four Electrical Board meetings per
21 year. And each year we have one off-site meeting. And we
22 chose to put the Board meeting in Eastern Washington,
23 which I think is good for the Board members to be able to
24 see some new territory and also good for the community to
25 be able to attend a Board meeting here.

1 This Kittitas County is actually my previous
2 inspection area when I was an inspector with the
3 Department. And it's a good example of how the Department
4 has a challenge in attaining adequate response time in an
5 inspection area. So if you came from the west, when you
6 passed over the top of the pass, you probably saw a sign
7 that said, "Welcome to Kittitas County." If you came from
8 the east, when you cross the Columbia River, that is the
9 other boundary of Kittitas County.

10 This area is served by the Yakima office. So the
11 inspector starts his day in Yakima. And typically, the
12 first inspection stop is probably 45 minutes to an hour
13 from the office. So we spend a lot of time in some areas
14 of the state, you know, driving to our inspection stops.
15 So when the statute requires that inspections be made
16 within 48 hours of request, some areas just based on sheer
17 geography is very difficult to attain.

18 For example, if the first inspection stop -- and
19 typically the most efficient way to inspect an area is to
20 go to the farthest end of the area and work your way back.
21 That allows for adjustments in schedule. If something
22 happens and an inspector has to change his schedule, it
23 allows more flexibility. But what that is, in this area,
24 for example, it's an hour and a half drive from Yakima
25 office to the top of the pass before the inspector can

1 even start. So it presents a real challenge.

2 And it's a good example for the Electrical Board to
3 be able to see the geography of the state and how the
4 Department does have challenges in meeting those response
5 times. So I think that's a good thing for you to be able
6 to see that.

7 So I wanted to give you an update on the rules. We
8 have -- the last step in the rule-making process was the
9 public hearing on April 10th. We had a period where we
10 accepted comments on the proposed rules. We received five
11 or six I believe written comments on the rules, and we are
12 responding to those.

13 The public hearing there was attended by maybe half a
14 dozen folks, and none elected to speak on behalf either
15 for or against the rules. So we're responding to the
16 public comments.

17 The next step is to brief the Director of Labor and
18 Industries on the proposed rules and the public comments.

19 And then we will file the CR-103 with the Office of
20 the Code Reviser. Adoption date is scheduled for May
21 20th. And the effective date of the new rules is July 1,
22 2014.

23 And now that the public hearing period is completed,
24 we are in the process of notifying the folks that
25 submitted proposals to the rules. A lot of those folks

1 that submitted proposals were actually members of the
2 Technical Advisory Committee and were involved in the
3 discussion on the proposals. Some were not. The ones
4 that were not, we were trying to contact.

5 I personally talked to the gentleman that submitted
6 the proposal to amend the definition of "emergency." If
7 you'll recall, the Electrical Board in an appeal hearing
8 discussed the meaning of the term "emergency" for the
9 purposes of determining whether permits are required. And
10 so I talked to him and explained the outcome of that
11 proposal and how we had arrived at kind of a compromise
12 with the Technical Advisory Committee.

13 So that's the rule-making process.

14 As far as legislation, there were two bills that
15 affect the Department that were passed.

16 House Bill 2253 was a telecommunications bill that
17 was actually two bills that were rolled into one at the
18 last minute. And it was passed unanimously by the House
19 and the Senate.

20 The first provision in that bill expands the
21 definition of telecommunication systems. And it
22 effectively expands the work scope that an 09
23 telecommunications contractor is allowed to do. It
24 provides -- what the scope does is it expands to allow
25 telecommunications contractors to provide operational

1 power to telecommunications devices.

2 Currently there's not a definition of a
3 telecommunications device. That will be a subject of a
4 future stakeholdering process and possible rule making.
5 In the interim, we used the definition of what is not a
6 telecommunications device that's specified in rule to
7 guide our decisions about that.

8 So in the statute, it says telecommunications systems
9 do not include horizontal cabling used for fire protection
10 signaling systems, intrusion alarms, access control
11 systems, patient monitoring systems, emergency management
12 control systems, industrial and automation control
13 systems, HVAC refrigeration control systems, lighting and
14 lighting control systems, and stand-alone amplified sound
15 or public address systems. Those are systems that are not
16 included in the telecommunications definition. And so
17 that's what is going to guide our determinations.

18 CHAIRPERSON PREZEAU: Just -- an interesting subject.
19 I'm sorry to interrupt. But what do you think the time
20 line is going to be if you had to guess on sort of the
21 development through stakeholder input of the definition of
22 a telecommunication device? And I guess there's some
23 source of consternation because if you have what it is
24 not, and that is not necessarily an exhaustive list, that
25 it creates confusion.

1 SECRETARY MUTCH: Yes.

2 CHAIRPERSON PREZEAU: So what do you think in a
3 perfect world what would be the time line? Yesterday,
4 right?

5 SECRETARY MUTCH: Right.

6 CHAIRPERSON PREZEAU: But I -- I get that.

7 SECRETARY MUTCH: So what that would entail is we
8 would have to amend the work scope definition in WAC
9 296-46B-920 to make it match what the statute requires,
10 and then define "telecommunications device." We --
11 there's some time lines about opening up the rules to do
12 rule making since we have opened up 920 in the past
13 recently. And so just to guess, I would say, you know,
14 it's going to be quite a process because we want to get
15 plenty of stakeholders involved and get feedback from
16 everyone.

17 For example, I would say a typical rule-making
18 process takes a year by the time you form the stakeholder
19 groups, go through all of the stakeholdering and determine
20 what the rule is, then filing. So it's going to be quite
21 a process.

22 CHAIRPERSON PREZEAU: And is the effective date of
23 the legislation, do you know what -- is it July 1st or has
24 it already passed?

25 SECRETARY MUTCH: The provision that expanded the

1 telecommunications work scope as effective immediately
2 upon passage. So it is effective now.

3 So currently the Department published a newsletter
4 article in April that specified, you know, the way we
5 would use -- the way we would guide our decisions would be
6 based on what I just said. So that provision of the rule
7 is effective now.

8 The other provision in the telecom bill was to allow
9 -- and this will be effective June 12th, which is 90 days
10 after the bill was passed, through June 30, 2015.
11 Telecommunications workers will be able to apply one hour
12 of every two hours of unsupervised telecommunications work
13 experience toward eligibility for examination for a
14 limited-energy specialty electrician certificate. The
15 previous work experience must have been gained in
16 Washington state while working for a licensed 01 general
17 or 06 limited energy electrical contractor.

18 (Board Member Cunningham now joins the proceedings.)

19 SECRETARY MUTCH: So that provision allows a limited
20 window of opportunity for telecommunications work
21 experience to be credited toward the work experience
22 required for the 06 limited energy specialty certificate.

23 The other bill that was passed was House Bill 2146,
24 and it has to do with appeal bonds. Currently appeal
25 bonds when a citation is issued are specified in statute

1 at \$200. That's basically a bond that says the appellant
2 will show up for the hearing. The bill amended that to
3 say that the appeal bonds will be \$200 or 10 percent of
4 the penalty amount, whichever is less, but in no event
5 less than \$100. So it would effectively reduce appeal
6 bonds on many of the citations from \$200 to \$100. So that
7 was passed. That will not go into effect until July 1,
8 2015.

9 The other thing that happened in the legislative
10 session has to do with the pumping industry. The
11 Department has been working with representatives of the
12 Washington Ground Water Association regarding the
13 requirements for the 03 and the 03A combination plumbing/
14 electrical certificates.

15 And so we've agreed to -- there was a bill that was
16 going to be proposed, and the Department was in the
17 process of working with the Ground Water Association. And
18 what we agreed to was to allow four hours of basic trainee
19 classroom credit as long as there was four hours of
20 electrical content in the course. And so, for example,
21 what they wanted to do was to be able to teach an
22 eight-hour course -- classroom course and teach four hours
23 of electrical and four hours of plumbing content for their
24 folks. And we agreed to credit the four hours of
25 electrical content toward the basic trainee classes.

1 We also have been working with them coordinating the
2 certification and renewal requirements with the plumbing
3 section. So there's a little bit of confusion between the
4 electrical section and the plumbing section on
5 requirements for renewal of the combination certificates.

6 CHAIRPERSON PREZEAU: Rod, how many people are in
7 this universe?

8 SECRETARY MUTCH: Well, it's a small group. I don't
9 know the exact number. And I can get that number of
10 contractors and electricians.

11 I can tell you that according to the exam pass
12 results, last year I believe in 2012 there were eight
13 folks that took the exam for the 03 and four that took the
14 exam for the 03A.

15 CHAIRPERSON PREZEAU: There were three that took the
16 exam -- oh, that's administrator; excuse me. There were
17 11 that took the exam for the 03 and three that took the
18 exam for the 03A.

19 SECRETARY MUTCH: Okay. So it's a small -- a small
20 group.

21 The concern was that we wanted to make sure that the
22 education that a trainee receives to become an
23 electrician, whether it's an 03 or any other specialty, is
24 based on electrical content. So that's -- the Department
25 was able to achieve that. So I think that was a good

1 thing.

2 The last item I wanted to mention was that the
3 Department issued a supplemental budget request to the
4 legislature. And that was approved for the Department to
5 restore 17 positions that had been eliminated during the
6 2009 and 2010 layoffs. So it was approved to hire a
7 technical specialist to serve as a statewide training
8 coordinator along with 16 inspector positions statewide.
9 So we are in the process of coming up with a hiring plan
10 to put those folks on. And there will be more details
11 about that in the Secretary's Report.

12 (Board Member Townsend now joins the proceedings.)

13 SECRETARY MUTCH: But that pretty much covers the
14 legislation that happened this year along the rule
15 updates.

16 I'd be happy to answer any questions that anyone may
17 have.

18 CHAIRPERSON PREZEAU: Any questions for Rod? Super.

19

20 Item 3. Appeals

21

22 CHAIRPERSON PREZEAU: All right. So that brings us
23 to agenda item 3 which is appeals.

24 We have -- as you guys can see from your agenda that
25 we have -- we have one appeal we're going to hear today.

1 And we'll begin that process in a moment.

2 Just an update, agenda item 3B, Tamarack Ridge
3 Construction, Tamarack Ridge Construction and the
4 Department of Labor and Industries entered into a
5 settlement, so we're not going to hear that appeal this
6 morning.

7 3D as in David, the parties in the Jack Brodhead,
8 Jack Brodhead Electrical Contracting appeal, that has been
9 continued to the July meeting.

10 And then the Gregory Rix and Comfort Zone Heating and
11 Air Conditioning appeal, just to give you guys a little
12 bit of background, but we did share with you a piece of
13 communication, the letter that was sent to Mr. Gregory Rix
14 and Ms Nancy Kellogg, the Assistant Attorney General for
15 the Department, through the Attorney General's office
16 petitioned the Board for a summary judgment in this case.

17 And pursuant to WAC 10-08-200, as the Chair of the
18 Board, I'm also the presiding officer, and one of the
19 authorities -- pieces of authority that I have as the
20 presiding officer is to make decisions with respect to
21 motions for summary judgement.

22 And given that both the Department through the
23 Attorney General's office and Mr. Rix in correspondence
24 sent to the state Electrical Board agree that Comfort Zone
25 Heating and Air Conditioning was not -- through Gregory

1 Rix -- was not made a licensed electrical contracting
2 firm, which is a violation of their settlement agreement.
3 There was no material disagreement on the fundamental fact
4 of violation of the settlement agreement, and so I agreed
5 with the Department's motion for summary judgment. And
6 part of that was certainly out of respect for everybody's
7 time, the Board, Mr. Rix, the Attorney General's office,
8 the Department if there's no disagreement in the material.
9 I had the basic essence of the case. Then why hear the
10 appeal?

11 Mr. Rix has the ability to seek further his appeal
12 rights to that decision. So if he decides to, he can
13 certainly have his quote/unquote "day in court."

14 So hopefully, I would hope that the Board members
15 understand and hopefully support my decision to make that
16 decision on our behalf.

17 So any questions about that? Beautiful.

18

19 Item 3.a. Metalsmiths, Inc.

20

21 CHAIRPERSON PREZEAU: So given that, let's -- I would
22 like very much to move to agenda item 3A, and the matter
23 of Metalsmiths, Inc. versus Department of Labor and
24 Industries.

25 And what I would like to do is -- I know that the

1 Attorney General representing the Department, Mr. Paul
2 Weideman, is in the room. If you would please come up and
3 join us, and any parties that are hear to represent any of
4 the parties involved in the Metalsmiths appeal.

5 Great. And what I am going to do is basically read a
6 statement, sort of introduce the parties, set the ground
7 rules, and make sure that everybody is operating off the
8 same sort of set of rules. Does that make sense? Very
9 good.

10 My name is Tracy Prezeau. I'm the Chair of the
11 Electrical Board. The matter before us today is an appeal
12 of the matter of Metalsmiths, Inc., docket number
13 2013-LI-0091.

14 This hearing is being held pursuant to proper notice
15 to all interested parties in Ellensburg, Washington on
16 April 24, 2014, at approximately 9:21 a.m.

17 This is an appeal from a proposed decision and order
18 issued by the Office of Administrative Hearings on
19 September 30, 2013. It is my understanding that the ALJ's
20 proposed decision overturns citation and notice numbers
21 ECHAE00962, 963, 964 issued by the Department of Labor and
22 Industries on January 3, 2013.

23 It is further my understanding that the appellant in
24 this matter is the Department through their attorney, the
25 Attorney General's office, and in this case it is

1 Mr. Weideman. And they have timely appealed the decision
2 to the Electrical Board.

3 At this time I'd like the record to reflect that
4 Mr. Weideman is present.

5 And Mark, I can read your name on your -- but if you
6 would please identify yourself. I'm sure you're here
7 representing Metalsmiths, Inc.

8 MR. CRAY: Yes. I'm Mark Cray with Metalsmiths.

9 CHAIRPERSON PREZEAU: Would you please spell your
10 last name for the --

11 MR. CRAY: C-R-A-Y.

12 CHAIRPERSON PREZEAU: Thank you.

13 Mr. Weideman, will you please spell your name for our
14 court reporter.

15 ASSISTANT ATTORNEY GENERAL WEIDEMAN:

16 W-E-I-D-E-M-A-N.

17 CHAIRPERSON PREZEAU: Excellent. Thank you.

18 So I'm just going to go through and explain the
19 procedure to both parties and to the Electrical Board.

20 The Electrical Board is the legal body authorized by
21 the legislature to not only advise the Department
22 regarding the electrical program but to hear appeals when
23 the Department issues citations or take some other lawful
24 action regarding electrical license, certification and/or
25 electrical installation. The Electrical Board is a

1 completely separate entity from the Department, and as
2 such will independently review the action taken by the
3 Department.

4 When the Department issues penalties that are
5 appealed, the hearing is assigned to the Office of
6 Administrative Hearing to conduct the hearing pursuant to
7 the Administrative Procedures Act. The ALJ who conducts
8 that hearing then issues a proposed decision and order.
9 If either party appeals, that decision is subject to
10 review by the Electrical Board.

11 Please keep in mind that while a review is de novo,
12 which means we sit in the same position as the
13 administrative law judge, we'll review the entire record
14 regardless of whether a certain piece of evidence is
15 referenced by the ALJ.

16 We are bound by the evidence in the record, and no
17 new evidence can be submitted at this hearing. Each party
18 will be given approximately 15 minutes today to argue the
19 merits of your case. Any Board member may ask questions.
20 And the time may be extended at the discretion of the
21 Board.

22 At the conclusion of the hearing, the Board will
23 determine if the findings and conclusions reached by the
24 ALJ are supported by the facts and the rules pertaining to
25 electrical installations, permitting and inspection.

1 Are there any questions before we begin?

2 Seeing that nobody has any questions, Mr. Weideman,
3 since you are the appealing party, you have to establish
4 -- you have the burden or proof, and therefore, we will
5 hear from you first.

6 ASSISTANT ATTORNEY GENERAL WEIDEMAN: Thank you. And
7 thank you to the Board members for hearing the
8 Department's appeal this morning.

9 As you've heard, this is a case in which the
10 administrative law judge reversed three electrical
11 citations against the Metalsmiths, and the Department is
12 here today to request that the Board review that decision
13 and reverse the administrative law judge's decision in
14 this case.

15 And there are in the Department's view two reasons
16 why the Board should reverse the administrative law
17 judge's decision in this case.

18 The first is that it's undisputed in this case unlike
19 in some other cases where there is a dispute about the
20 electrical work. Here it's undisputed that the
21 Metalsmiths' employee named Ron Johnson performed
22 electrical work without obtaining a permit, without having
23 a certificate of competency or a training certificate, and
24 without his employer, The Metalsmiths, Incorporated, being
25 an electrical contractor. That's undisputed.

1 The second reason the Electrical Board should reverse
2 the administrative law judge's position is because The
3 Metalsmiths can be held responsible for its employees'
4 actions.

5 Very briefly -- I know you've reviewed the record --
6 the facts -- the relevant facts here are the following:
7 Mr. Johnson was working in a -- I believe it was a new
8 construction or a new edition, and he connected the
9 furnace in the attic to a thermistor on the main floor
10 with a low-voltage wire. He did this, as he testified,
11 basically as a favor to the homeowner and general
12 contractor because it was very wet during that season. As
13 you've seen from the pictures, the framing was exposed,
14 and they wanted to dry out the framing in order to put the
15 drywall on.

16 Mr. Johnson had had a certificate in the past. He
17 was knowledgeable about the electrical laws of Washington.
18 He knew that he needed a permit. He knew that he needed a
19 valid certificate of competency or training certificate,
20 and he knew that his company needed to be an electrical
21 contractor. But despite knowing all that, he proceeded
22 anyway and did the electrical work.

23 Now, it's true that in this case the Department cited
24 Mr. Johnson individually, and that he admitted guilt and
25 that he paid his fine. And the administrative law judge

1 here put significant emphasis on the fact that Mr. Johnson
2 should be held solely responsible for his actions, not his
3 employer. It's the Department's position, however, that
4 The Metalsmiths can be held responsible in this case for a
5 few reasons.

6 First, none of the statutes or regulations under
7 which The Metalsmiths were cited in this case specifically
8 require the employer's knowledge. And there's a good
9 policy reason for that which is employers should be held
10 responsible when their employees go out and do electrical
11 work that's unlicensed, unpermitted. That's dangerous
12 work. And the employee, of course, can be cited for what
13 the employee did, but so can the employer as the employer
14 of the individual.

15 Second, in this case, Mr. Johnson was a long time --
16 is a long-time employee of The Metalsmiths. I think he's
17 worked for the company for 25 years. As you've seen from
18 his testimony, he was primarily responsible for this
19 particular job which was installing an HVAC system on
20 site. He negotiated the contract with the homeowner. He
21 was there for three or four days on site. He was handling
22 everything.

23 So in this case, he was really engaging for the
24 employer on site. He had significant authority to act on
25 the company's behalf including the ability to negotiate

1 and sign contracts.

2 The electrical work I think performed in this case
3 also benefitted the company. Although, it does not appear
4 that he was specifically paid for doing the electrical
5 work; it was performed in connection with the HVAC system,
6 connecting the furnace to the thermistor downstairs, and
7 therefore, it was related to the work that the company had
8 contracted.

9 And finally, unlike in other safety health contexts
10 such as DOSH, for instance, or WISHA proceedings where the
11 legislature has actually put into statute a defense called
12 "Unpreventable Employee Misconduct," that an employer can
13 assert when there is a safety health violation, the
14 employer can say, "We trained our employees to not do
15 this. And the fact that this particular employee went out
16 and violated a WISHA regulation should not be on us."

17 In WISHA, there's a specific statutory affirmative
18 defense of unpreventable employee misconduct. As part of
19 proving that defense, you have to show that you have
20 provided a safety program for your employees, that
21 essentially you provided training, that you've adequately
22 communicated safety rules. So there is procedural
23 protections in place to ensure that if the employer
24 asserts the defense and if they prevail in that defense,
25 it's because they have told their employees about the

1 safety program. They have done everything in their
2 dominion in order to prevent safety and health
3 regulations.

4 Here, the legislature has not established the type of
5 defense, at least by statute that the judge here relied
6 on, which is, well, the employee went out and did it on
7 his own, and therefore, the employer should be excused.
8 And because there is no similar defense, the Department
9 believes that the employer can be cited in this case for
10 the actions of its employee.

11 That's all I have, unless the Board has specific
12 questions for me.

13 CHAIRPERSON PREZEAU: Any questions for Mr. Weideman
14 at this time?

15 Okay, Mr. Cray, if you would.

16 MR. CRAY: We were contracted to put in a heating
17 system for the house. We did the gas piping, all the
18 associated venting and such.

19 The homeowner asked Ron who knew better and has
20 written in here his admission that he knew better; he did
21 not check with me. The homeowner called him directly
22 without my knowledge. And perhaps it is partially my
23 responsibility. But just as he hopped on the freeway to
24 get there, I cannot contain his ability to go past the
25 speed limit or drive without a seat belt.

1 The moral of the story is is that he did it, he knew
2 it, he was the administrator for my company. So he knew
3 full well when he got an 11th-hour call from a customer
4 whose home was soaking wet and wanted to progress to
5 insulation and Sheetrock and was worried about prep and
6 mold in the building, he went out and did it, and that's
7 as simple as it gets.

8 CHAIRPERSON PREZEAU: Okay. Any questions for
9 Mr. Cray from Board members? Wow, you're awfully quiet
10 this morning. Thoughts? Rod.

11 BOARD MEMBER BELISLE: Well, you know, I know it's in
12 the record that Mr. Johnson's administrator license has
13 expired. You just stated that he was your administrator.
14 So I don't recall if it's in the record that at some point
15 in time that The Metalsmiths were, in fact, an electrical
16 contractor or able to do that work. Perhaps someone
17 recalls that information?

18 ASSISTANT ATTORNEY GENERAL WEIDEMAN: The Metalsmiths
19 were an electrical contractor I believe the record shows
20 until 2008, the Department's Exhibit Number 21 which is
21 the page 153.

22 BOARD MEMBER BELISLE: Good. Thank you.

23 ASSISTANT ATTORNEY GENERAL WEIDEMAN: It indicates
24 that the license expired 2008.

25 CHAIRPERSON PREZEAU: That is absolutely correct.

1 Exhibit 21, page 153.

2 All right. So anybody else have any thoughts?

3 Here's what I seem -- here's what I understand to be
4 true. I guess we'll see if we can start to establish
5 this. But there doesn't seem to be in dispute that
6 Mr. Johnson installed the low-voltage wire. There doesn't
7 seem to be in dispute that Mr. Johnson is not a certified
8 electrician and Metalsmith is not a certified electrical
9 contractor. Those issues do not seem to be in dispute by
10 either party.

11 The question comes down to, from my perspective, is
12 if you -- the decision of the ALJ basically in a nutshell
13 says you can't hold the employer responsible for an
14 employee's decision.

15 We have heard this very same issue in front of the
16 Board previously. Some Board members may remember that.
17 Some may not. As much as this Board has struggled with
18 some decisions in the past -- because sometimes the rules
19 and statute does not allow for leniency. And it is not
20 the job of the Board to find leniency in statute that does
21 not exist.

22 So the question that I think is central -- and you
23 can agree or disagree with me -- is whether or not you
24 think that the employer can be held responsible for the
25 decisions of the employee.

1 I know what my answer to that question is. But you
2 may or may not agree with me.

3 Janet.

4 BOARD MEMBER LEWIS: I think it's clear that there is
5 not a defense in the electrical statute which we as Board
6 members have to review, that there is not a defense for an
7 employee not telling you or you're trying to disclaim the
8 actions of your employee. The only reason he was on that
9 job site because he was representing the employer and he
10 is an agent of the employer. So to come here and try to
11 reach into other statutes and say that, well, he did
12 something that you didn't know about, you as the employer
13 are still responsible for that. And I think that's what
14 we're grappling with here as the Board that the law was
15 violated, and we can't create exceptions that do not
16 exist.

17 CHAIRPERSON PREZEAU: All right. Any other comments?
18 Mike.

19 BOARD MEMBER NORD: As I read through this and as
20 it's been presented this morning, the facts seem to be
21 that this gentleman is a long-term employee of yours, 25
22 plus years. He has been an electrical administrator for
23 your company in the past. He's held a trainee
24 certificate. He's held apparently other certificates
25 within the trade to do that work for you. And I have a

1 very hard time grasping such as the rest of the Board how
2 this man didn't know any better. It's obviously employee
3 misconduct, but employee misconduct should not cause the
4 Board to dismiss the actions. And I really have a
5 struggle with that, much like Janet and the rest of the
6 Board.

7 CHAIRPERSON PREZEAU: Other comments? Yes.

8 BOARD MEMBER CORNWALL: Is Mr. Johnson still an
9 employee with Metalsmiths?

10 MR. CRAY: He does -- no, not in the sense that he's
11 out in the field any longer. He does -- when we get busy,
12 he will coordinate a few things and this and that. But
13 for the most part, he finds projects, and we'll get
14 together and propose them and this and that. But as far
15 as his field work goes, no, he's not in the field. And
16 that was one of those deals where we took that particular
17 project on, we did most of the physical work, and then --
18 my sons and I, and then he got the call to do that
19 particular task and took it upon himself, having seen the
20 structure and -- (inaudible). And that's where the
21 failure happened.

22 BOARD MEMBER CORNWALL: Thank you.

23 ASSISTANT ATTORNEY GENERAL REULAND: I did want to
24 caution the Board that any information about the current
25 employment status that's not contained in the record,

1 while it may be information for the Board, you cannot
2 consider that as part of making your decision because it
3 is not in the record. Although, I understand there's
4 curiosity.

5 CHAIRPERSON PREZEAU: Yeah, we are -- the Board is
6 bound to the information that is in the appeal packet.

7 BOARD MEMBER BAKER: I just wanted to point out that
8 it looks like there wasn't a permit pulled. If there was
9 a hole in the scope of work there between the electrical
10 and mechanical, and after the citation was posted Woodford
11 Electric pulled the permit for low voltage. But the cable
12 had already been installed. So I don't know that Woodford
13 was working for Metalsmiths. I assume that they -- I
14 don't see anything that tells me that. But I think it's
15 important that the record reflect that Woodford actually
16 pulled the permit after the fact and the cable was already
17 installed. Woodford probably didn't even install the
18 cable the way this reads.

19 But then Mr. Johnson mentioned that Woodford was
20 responsible for the electrical permit, and it was under
21 their scope of work? That's how I read it.

22 MR. CRAY: Pretty much. We typically contract to do
23 the HVAC system with the caveat that the homeowner will
24 contact their electrical contractor to do that and --
25 (inaudible) -- did work in a temporary fashion and --

1 (inaudible). He just ran a piece of wire that wasn't
2 attached or anything of that nature. But it appears that
3 there was a hole going through the top plate that had been
4 -- (inaudible). So at that point they already had their
5 call -- (inaudible). But the wire's not affixed or
6 attached. He just slinkied it through and -- (inaudible).

7 CHAIRPERSON PREZEAU: Alice.

8 BOARD MEMBER PHILLIPS: So I appreciate your
9 description of, you know, him driving to work on the
10 freeway. However, if you take that one step further, and
11 he gets in an accident and it's his fault and there are
12 injuries, is the company not held responsible if he's in a
13 company car?

14 MR. CRAY: If you were in a company vehicle. But
15 typically he is not in a company vehicle.

16 BOARD MEMBER PHILLIPS: So my scenario kind of falls
17 into this: I guess I'm struggling also with how the
18 employer is not responsible for the employee's actions
19 when the employee is, quote, "on the clock with that
20 company" or is performing duties associated with what the
21 company has him doing. Now, granted, you're telling us
22 that he wasn't authorized to do this particular task. But
23 he was on site overseeing work that your company was
24 provided. And that's where I'm struggling with.

25 MR. CRAY: Okay. He negotiated the contract with

1 Mr. Penny with the assertion that they would deal with the
2 low voltage. He got a after-hours call from them asking
3 him if he would start the furnace because the house was
4 thoroughly saturated and they wanted to move on with
5 finishes.

6 At that point, yeah, he could have called me and
7 said, "Hey, can I do that?" I'd said, "Can we call an
8 electrician to come out there, and we'll get it going."

9 He took it upon himself. He drove his vehicle and
10 did it. And I did not come and -- I did not know about
11 it.

12 And yes, you're correct. It's ultimately in a lot of
13 ways -- (inaudible). One must be a fool to be a
14 contractor in the state of Washington. (Inaudible) -- to
15 go along with it. But in this sense, he took it upon
16 himself to do that.

17 I'd had a couple of conversations with Mr. Penny.
18 But he called him and begged him to come out and do that.
19 And Ron's admitted it right out of the gate, "I did it."

20 BOARD MEMBER NORD: Madam Chair?

21 CHAIRPERSON PREZEAU: Yes, Mike.

22 BOARD MEMBER NORD: I don't believe that his present
23 testimony is reflected anywhere in the record here.

24 CHAIRPERSON PREZEAU: Yeah. Here's the -- you know,
25 as I read in the rules of engagement, and I said this

1 twice now. This will be the third time. We should not
2 consider any new information. You can only consider what
3 is in the record.

4 So as Pam said, I'm sure -- you know, yes, these
5 issues create some curiosity and some desire for more
6 information. Unfortunately these are the rules of
7 engagement. We are also bound not only by the statute --
8 the electrical statutes are cited -- we're also bound by
9 the citation schedule. So we do not have the leniency or
10 the ability to alter the citation amounts if there was a
11 decision to uphold the citations.

12 Rod.

13 BOARD MEMBER BELISLE: Well, I think to me, I read
14 through the transcript three months ago. I read it again
15 last night, and it reminded me very clearly. And I had
16 highlighted page after page, and I have all kinds of
17 notes.

18 And the one thing I feel like I have to come back to,
19 page 114 in the transcript, it's written right in there as
20 part of the hearing, the second paragraph down, line 9
21 says, "... the fact remains" -- this is referring to
22 Mr. Johnson -- "... he is an agent of his employer, he is
23 a direct employee, he gets paid by Metalsmiths."

24 If you go down a little further to line 13, it says,
25 "Mr. Cray testified that Mr. Johnson had full authority to

1 enter into the contract." And "It would be the
2 Department's decision (sic) that Mr. Johnson cannot simply
3 say I did all these things as an employee, but then I did
4 something else on my own. (It's) part and parcel of ...
5 the job" and so forth.

6 I mean, I understand that it wasn't intended in the
7 contract. I understand that Mr. Cray probably wouldn't
8 wanted him to do it. But he was an employee. He was paid
9 by the employer. He represented the employer. He signed
10 the contract. He did the work.

11 I'm not sure there's any way you can determine that
12 he wasn't working under the auspice of the employer, you
13 know, as difficult as that may seem. It seems pretty
14 clear to me.

15 CHAIRPERSON PREZEAU: So in light of your comments,
16 I'm wondering if you are -- I understand what the rest of
17 the Board feels like -- I would very much like to hear a
18 motion.

19 BOARD MEMBER BELISLE: So I guess before I make a
20 motion, I think we need to clarify. I mean, I would make
21 a motion that we overturn the determination by the
22 administrative law judge, but I believe we have to make
23 individual motions on each finding of fact and conclusion
24 of law; is that right?

25 ASSISTANT ATTORNEY GENERAL REULAND: Perhaps I could

1 clarify?

2 BOARD MEMBER BELISLE: Yes, please.

3 CHAIRPERSON PREZEAU: Please.

4 ASSISTANT ATTORNEY GENERAL REULAND: The petition
5 that was filed by the Department requested that the Board
6 reverse Finding of Fact 13 and Conclusion of Laws 9, 11
7 and 12. Now, it's true that the Board is conducting a de
8 novo review and if there are other findings or conclusions
9 that you believe are inappropriate, you can certainly
10 address. No response was filed by Metalsmiths, and I
11 don't know if there's other ones at issue. Perhaps
12 Mr. Weideman can clarify. But if those are the only
13 issues, then I would suggest that those are -- Finding of
14 Fact 13, Conclusion of Law 9, 11 and 12 were the original
15 focus. I'm not sure, Mr. Weideman, if you wish to amend
16 that or move for something differently. But that's -- I
17 would direct the Board's attention to those absent the
18 clarification.

19 Does that help?

20 CHAIRPERSON PREZEAU: Mr. Weideman.

21 ASSISTANT ATTORNEY GENERAL WEIDEMAN: That's correct.
22 The remaining findings of fact I believe are supported by
23 the record, and the Department has no concern with those.

24 And, in fact, even Finding of Fact 13 is generally
25 supported by the record. The first sentence, for example,

1 I don't think there's any dispute that before performing
2 the task Mr. Johnson did not inform Mr. Cray that he had
3 been asked to do work outside of the scope of Metalsmiths'
4 bid, nor do I think there is any dispute about the third
5 sentence about compensation.

6 Where the Department has concerns with Finding of
7 Fact 13 is regarding knowledge or authorization. As some
8 of the Board's comments have indicated; although, there
9 may not have been specific authorization to perform the
10 work, the employee, Mr. Johnson, was acting essentially on
11 behalf of the company. And that's why it's on there,
12 Finding of Fact 13. I'm concerned about that language
13 about knowledge or authorization.

14 ASSISTANT ATTORNEY GENERAL REULAND: So you could
15 make a motion to adopt the undisputed findings of fact if
16 that's the Board's decision with, for instance, 1 through
17 12, focus then on Finding of Fact 13, then move on to the
18 various -- and the other findings of fact? That would be
19 my recommendation to the Board. And then do the same with
20 the conclusions of law.

21

22 Motion

23

24 BOARD MEMBER BELISLE: So I would make a motion to
25 affirm the Finding of Fact 1 through 12 and 14 through 19

1 and reverse the Finding of -- stop there?

2 ASSISTANT ATTORNEY GENERAL REULAND: I would suggest
3 that we handle the affirming and the modifying and
4 reversing separately.

5 BOARD MEMBER BELISLE: Okay.

6 BOARD MEMBER LEWIS: Second.

7 CHAIRPERSON PREZEAU: So there is a motion and a
8 second to affirm findings of fact from the ALJ's decision
9 September 6, 2013, affirm Finding of Fact 1 through 12 and
10 14 through 19. There is a second.

11 Any discussion on the motion? Seeing none, all those
12 in favor please signify by saying "aye."

13 THE BOARD: Aye.

14 CHAIRPERSON PREZEAU: Opposed? Motion carried.

15

16 Motion Carried

17

18 Motion

19

20 BOARD MEMBER BELISLE: I make a motion to modify
21 Finding of Fact Number 13 by deleting the sentence "He
22 performed the work without the knowledge or authorization
23 of Cray."

24 BOARD MEMBER LEWIS: Second.

25 CHAIRPERSON PREZEAU: So there is a motion to modify

1 Finding of Fact 13, striking the statement that

2 Mr. Johnson did not inform his employer, Mark Cray.

3 BOARD MEMBER BELISLE: Or without authorization.

4 CHAIRPERSON PREZEAU: Or without authorization.

5 Any discussion on the motion? Seeing none, all those
6 in favor signify by saying "aye."

7 THE BOARD: Aye.

8 CHAIRPERSON PREZEAU: Opposed? Motion carries.

9 Good.

10

11 Motion Carried

12

13 CHAIRPERSON PREZEAU: So conclusions of law. So the
14 Department's -- the Department through their attorney,
15 Mr. Weideman's request of the Board is to focus in on
16 Conclusions of Law 9, 11 and 12.

17 So is there someone willing to make a motion to
18 affirm conclusions of law that are not in dispute?

19

20 Motion

21

22 BOARD MEMBER NORD: I would make a motion to affirm
23 Conclusion of Law 1, 2, 3, 4, 5, 6, 7, 8 and 10.

24 BOARD MEMBER KING: Second.

25 CHAIRPERSON PREZEAU: So there is a motion and a

1 second to affirm Conclusions of Law 1, 2, 3, 4, 5, 6, 7, 8
2 and 10. Is there any discussion on the motion? Seeing
3 none, all those in favor signify by saying "aye."

4 THE BOARD: Aye.

5 CHAIRPERSON PREZEAU: Opposed? Motion carries.

6

7 Motion Carried

8

9 CHAIRPERSON PREZEAU: So we have -- so let's -- so
10 the conversation that's happening here is some
11 consternation about whether or not what choices the Board
12 has in terms of the remaining conclusions of law.

13 We have the ability to completely strike sentences,
14 entire numerical conclusions of law, edit them, just to
15 make sure people understand if you want to take a minute
16 and look at the conclusions of law that are remaining,
17 which if I do my math correctly I believe are 9, 10 --

18 BOARD MEMBER BELISLE: 9, 11 and 12.

19 CHAIRPERSON PREZEAU: 9, 11 and 12.

20 I would love to take a suggestion from the Department
21 through Mr. Weideman.

22 ASSISTANT ATTORNEY GENERAL WEIDEMAN: Well, with
23 regard to 9, I believe it's the only -- only the first
24 sentence the Department takes issue with. Although, that
25 is the issue in the case, it's the Department's position

1 that the employee is liable in this -- or sorry -- the
2 employer is liable for the employee's actions. I don't
3 think a specific issue statement is needed.

4 I would also point out that I think the rest of
5 Conclusion of Law 9 are actually factual findings that the
6 Department does not dispute, most of which appear to be
7 already in the factual findings.

8 CHAIRPERSON PREZEAU: Yeah. So here's my
9 perspective. I agree with -- number 9 says, "The question
10 to be resolved is whether Metalsmiths should be held
11 responsible for the independent and unauthorized actions
12 of its employee." I don't know that I agree with the way
13 it is characterized, but I do believe that that is the
14 question before the Board, right?

15 BOARD MEMBER BELISLE: Yeah.

16 CHAIRPERSON PREZEAU: So I'm -- you know, I'm not
17 making a motion because that would be improper. But I
18 think maybe the question to be resolved is whether
19 Metalsmiths should be held responsible for the actions of
20 its employee.

21 Rod.

22

23 Motion

24

25 BOARD MEMBER BELISLE: I would make a motion to

1 modify Conclusion of Law 9 and strike the words "for the
2 independent and unauthorized."

3 CHAIRPERSON PREZEAU: Is there a second?

4 BOARD MEMBER NORD: Second.

5 CHAIRPERSON PREZEAU: Okay. So motion -- Conclusion
6 of Law 9, and a motion and second is to strike the words
7 "for the independent and unauthorized." Actually --
8 excuse me.

9 BOARD MEMBER BELISLE: Just strike "independent" --

10 CHAIRPERSON PREZEAU: It's just "independent and
11 unauthorized."

12 Any discussion on the motion? Seeing none, all those
13 in favor please signify by saying "aye."

14 THE BOARD: Aye.

15 CHAIRPERSON PREZEAU: Opposed? Motion carried.

16 Thank you.

17

18 Motion Carried

19

20 CHAIRPERSON PREZEAU: Conclusion of Law 11.

21

22 Motion

23

24 BOARD MEMBER BELISLE: I'd make a motion to strike
25 Conclusion of Law 11.

1 CHAIRPERSON PREZEAU: Is there a second?

2 BOARD MEMBER NORD: Second.

3 CHAIRPERSON PREZEAU: Motion and second to strike

4 Conclusion of Law 11.

5 Any discussion? Seeing none, all those in favor

6 please signify by saying "aye."

7 THE BOARD: Aye.

8 CHAIRPERSON PREZEAU: Opposed? Motion carried.

9

10 Motion Carried

11

12 CHAIRPERSON PREZEAU: 12.

13

14 Motion

15

16 BOARD MEMBER NORD: 12, I'd like to propose a motion

17 that we strike from where "Mr. Johnson should be held

18 solely responsible for his poor decision to perform work

19 outside of the scope of the bid and beyond his

20 responsibilities" to "The employer should be responsible

21 for the actions of their employees." But I'd look for

22 guidance from the AG.

23 CHAIRPERSON PREZEAU: So I think the Chair

24 understands the intent and would offer a friendly

25 amendment.

1 BOARD MEMBER NORD: I'm hoping to have any friendly
2 amendment.

3 CHAIRPERSON PREZEAU: Instead of -- I would suggest
4 that it says -- the last line says "Metalsmiths, Inc.
5 should be held responsible for Mr. Johnson's poor decision
6 to perform work outside the scope of the bid."

7 BOARD MEMBER NORD: I propose that as mine.

8 CHAIRPERSON PREZEAU: All right. So "Metalsmiths,
9 Inc. is responsible for Mr. Johnson's decision to perform
10 work outside the scope of the bid."

11 BOARD MEMBER NORD: I propose that as mine.

12 ASSISTANT ATTORNEY GENERAL REULAND: I'd also bring
13 to the Board's attention the first sentence includes the
14 same language that you previously struck, that without the
15 knowledge and permission of the employee, it would be
16 somewhat inconsistent not to address that.

17 BOARD MEMBER NORD: As part of the motion I move to
18 strike that sentence also.

19 BOARD MEMBER BELISLE: The first sentence. I second
20 that.

21 CHAIRPERSON PREZEAU: So motion and second. For
22 clarification, the motion before the Board right now up
23 for discussion is Conclusion of Law 12 is to strike the
24 first sentence, "The preponderance of the evidence
25 establishes that Johnson performed the installation

1 without the knowledge or permission of his employer," and
2 the last sentence it shall read, "Metalsmiths, Inc. is
3 solely responsible for Mr. Johnson's poor decision to
4 perform work outside the scope of the bid."

5 BOARD MEMBER NORD: Yes, that is my motion.

6 BOARD MEMBER BURKE: One comment?

7 CHAIRPERSON PREZEAU: Hang on. We'll get to
8 discussion in a minute. I'm just making sure everybody
9 understands what the motion is. A little bit of confusion
10 on the language, right?

11 The maker of the motion, you're happy?

12 BOARD MEMBER NORD: I'm happy.

13 CHAIRPERSON PREZEAU: The second to the motion,
14 you're happy?

15 BOARD MEMBER BELISLE: Yes, ma'am.

16 CHAIRPERSON PREZEAU: Before discussion, attorney.

17 ASSISTANT ATTORNEY GENERAL REULAND: I just wanted to
18 bring to the Board's attention in terms of the use of the
19 word "solely." My understanding is that Mr. Johnson was
20 also cited. So from a legal perspective, I'm not sure
21 that that word is necessary or true. But I would just ask
22 you to consider that.

23 BOARD MEMBER NORD: Could I offer to change my motion
24 to strike the word "solely"?

25 BOARD MEMBER BELISLE: Second that.

1 CHAIRPERSON PREZEAU: You certainly as the maker of
2 the motion can --

3 BOARD MEMBER NORD: I'd like to amend my own motion
4 to strike the word "solely."

5 CHAIRPERSON PREZEAU: Rod, I think you're the second.
6 Do you --

7 BOARD MEMBER BELISLE: I agree with that.

8 CHAIRPERSON PREZEAU: All right. So let's make sure
9 everybody -- so we're striking the first sentence, right?
10 in Conclusion of Law 12. And then in the last sentence of
11 Conclusion of Law 12, "Metalsmiths Inc. is responsible for
12 Mr. Johnson's poor decision to perform work outside the
13 scope of the bid."

14 BOARD MEMBER NORD: Yes, that is my motion.

15 CHAIRPERSON PREZEAU: Great. Any discussion on the
16 motion?

17 BOARD MEMBER BURKE: That was what I was going to
18 ask. I just don't want to take the emphasis off
19 Mr. Johnson also because it's a joint responsibility.

20 CHAIRPERSON PREZEAU: Don, did you want to --

21 BOARD MEMBER BAKER: Yes. So the word "solely"
22 because all parties are responsible.

23 CHAIRPERSON PREZEAU: Any other comments? Discussion
24 on the motion? Seeing none, all those in favor please
25 signify by saying "aye."

1 THE BOARD: Aye.

2 CHAIRPERSON PREZEAU: Opposed? Motion carried.

3

4 Motion Carried

5

6 CHAIRPERSON PREZEAU: So we have the proposed orders
7 to deal with. And there's three of them. And I would
8 like the record to reflect that in the ALJ's decision,
9 proposed order number 3 there is a typo. And in proposed
10 order number 3, the ALJ references citation number
11 ECHAE00963, which is the same citation in proposed order
12 2, and I believe if we're going to be consistent with the
13 record, that proposed order number 3 actually deals with
14 noncompliance citation number ECHAE00964.

15 So the Chair would entertain -- would like to
16 entertain independent motions for each proposed order.

17

18 Motion

19

20 BOARD MEMBER NORD: Okay. I'd like to propose a
21 motion for Proposed Order Number 1 to change it to "The
22 Appellate did violate RCW 19.28.041 on or about December
23 12, 2012. Non-compliance Citation Number ECHAE00962,
24 which imposes a civil monetary penalty of \$3,000, dated
25 January 3, 2013" be affirmed.

1 CHAIRPERSON PREZEAU: Is there a second to the
2 motion?

3 BOARD MEMBER BURKE: Second.

4 CHAIRPERSON PREZEAU: So a motion and second to
5 affirm -- disagree with proposed order 1 and affirm
6 Citation Number ECHAE00962.

7 Any discussion on the motion? Seeing none, all those
8 in favor please signify by saying "aye."

9 THE BOARD: Aye.

10 CHAIRPERSON PREZEAU: Those opposed? Motion carried.

11

12 Motion Carried

13

14 Motion

15

16 BOARD MEMBER NORD: Madam Chair, I'd like to propose
17 a motion, Proposed Order Number 2, that "The Appellant did
18 violate RCW 19.28.217 on or about December 12, 2012.

19 Non-compliance Citation Number ECHAE00963, which imposes a
20 civil penalty of \$500, dated January 3, 2013" be affirmed.

21 CHAIRPERSON PREZEAU: Is there a second?

22 BOARD MEMBER LEWIS: Second.

23 CHAIRPERSON PREZEAU: Motion and second to affirm
24 Citation Number ECHAE00963. Discussion on the motion?

25 ASSISTANT ATTORNEY GENERAL WEIDEMAN: May I address

1 something?

2 CHAIRPERSON PREZEAU: Yes.

3 ASSISTANT ATTORNEY GENERAL WEIDEMAN: The statute
4 number is incorrect. It should be .271 not .217.

5 CHAIRPERSON PREZEAU: This ALJ.

6 BOARD MEMBER NORD: I amend my motion to correct the
7 statute.

8 CHAIRPERSON PREZEAU: I wish it were that easy.

9 BOARD MEMBER NORD: I get to go through it all over
10 again, don't I.

11 CHAIRPERSON PREZEAU: I don't -- I think we've made a
12 very clear record, right? So the motion is Proposed Order
13 2, that "The Appellant did violate RCW 19.28.271 on or
14 about December 12, 2012. Non-compliance Citation Number
15 ECHAE00963, which imposes a civil monetary penalty of
16 \$500, dated January 3, 2013" is affirmed. Is there a
17 second?

18 BOARD MEMBER LEWIS: Second.

19 CHAIRPERSON PREZEAU: Any discussion on the motion?
20 Seeing none, all those in favor please signify by saying
21 "aye."

22 THE BOARD: Aye.

23 CHAIRPERSON PREZEAU: Opposed? Motion carried.

24

25 Motion Carried

Motion

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BOARD MEMBER NORD: Madam Chair, to proposed order number 3, I would propose a motion to read as follows:

"The Appellant did violate RCW 19.28.101 on or about December 12, 2012. Non-compliance Citation Number" -- and I'd ask the Chair to provide me with the correct citation number.

CHAIRPERSON PREZEAU: The correct citation number is Non-compliance Citation Number ECHAE00964.

BOARD MEMBER NORD: 64. Okay. "Non-compliance Citation Number ECHAE00964, which imposes a civil monetary penalty of \$1,000, dated January 3, 2013" be affirmed.

CHAIRPERSON PREZEAU: Is there a second?

BOARD MEMBER PHILLIPS: Second.

CHAIRPERSON PREZEAU: It's been moved and seconded, Proposed Order 3 that the appellant did violate 19.28.101, and that noncompliance citation number ECHAE00964 be affirmed.

Any discussion on the motion? Seeing none, all those in favor please signify by saying "aye."

THE BOARD: Aye.

CHAIRPERSON PREZEAU: Opposed? Motion carried.

Motion Carried

1 CHAIRPERSON PREZEAU: Thank you, Mr. Cray and
2 Mr. Weideman for your time this morning. Appreciate it
3 very much.

4 (To Ms. Reuland) How do you want me to handle the
5 order?

6 ASSISTANT ATTORNEY GENERAL REULAND: In terms of
7 preparing an order, Mr. Weideman, I don't know whether you
8 brought a proposed order with you.

9 ASSISTANT ATTORNEY GENERAL WEIDEMAN: I do not have a
10 proposed order.

11 ASSISTANT ATTORNEY GENERAL REULAND: So the issue for
12 the Chair would be if the parties cannot agree, my
13 suggestion would be that this matter be automatically set
14 for presenting at the next Board meeting.

15 If you reach -- if you agree, if the parties reach an
16 agreement, that can be submitted. Otherwise, we have a
17 date certain when the order will be entered.

18 CHAIRPERSON PREZEAU: And the next Electrical Board
19 meeting will be July 31, 2014, in Tumwater?

20 SECRETARY MUTCH: Yes.

21 CHAIRPERSON PREZEAU: So to make sure the parties
22 understand, so the order is drafted, if the parties are in
23 dispute, Mr. Cray, if you are not in agreement with the
24 order that reflects the actions taken today, then you get
25 to come back if you'd like to the Electrical Board meeting

1 in July and we'll take up the matter of the order.

2 If the order is not in dispute that Mr. Weideman
3 drafts, then -- I'm sure he'll be in contact with you --
4 then we'll move forward from there.

5 Everybody's clear? Very good. Thank you again for
6 coming here, Mr. Weideman and Mr. Cray.

7 So very good. I would like to take a break. What do
8 you guys think about that idea.

9 BOARD MEMBER BELISLE: So moved.

10 CHAIRPERSON PREZEAU: All right. So let's come back
11 at 25 minutes after 10:00.

12 (Recess taken.)

13 CHAIRPERSON PREZEAU: All right. It is 10:27, and we
14 are coming back to order. The April 24, 2014, Electrical
15 Board meeting will come back to order.

16

17 Item 4. Secretary's Report

18

19 CHAIRPERSON PREZEAU: And we are under item number 4
20 which is the Secretary's Report. Rod.

21 SECRETARY MUTCH: So I have an item to bring up
22 that's not on the Secretary's Report. But Elissa is
23 passing out a two-page paper of our minutes from a 2003
24 Board meeting in which a motion was made to allow the
25 Chief Electrical Inspector to make decisions on timeliness

1 of appeals.

2 And so when we have an appeal that comes in on a
3 citation, we look at it to determine if the appeal was
4 timely, in other words, if the appellant brought the
5 appeal within the 20 days that are within the statutory
6 requirement. In order to do that, we have to make a
7 determination.

8 And so in 2003, the Board made a motion to allow the
9 Secretary of the Board which is the Chief Electrical
10 Inspector to make the initial determination of timeliness
11 of appeals, and that the appellant always has the right to
12 appeal that decision to the Electrical Board as a
13 stand-alone appeal.

14 And so that was buried in the minutes of a 2003
15 Board meeting. And I've been advised that we should
16 probably as a Board have that incorporated into the bylaws
17 and make it clear that the Secretary to the Board has that
18 initial determination of the timeliness of an appeal but
19 that the appellant always can appeal to the Electrical
20 Board.

21 The current practice is that we if we receive an
22 appeal that we determine to be untimely, we send out a
23 notice of denial and we state on that notice of denial
24 that they have the right to appeal to superior court,
25 which is actually incorrect, and we're going to amend that

1 practice.

2 But I would recommend that at the discretion of the
3 Board, of course, and I'd like to have some discussion
4 about that, and Pam, I'd like to have your input as well
5 if this would be something that we should put into the
6 bylaws to allow that.

7 The alternative would be that each appeal that is
8 received by the Department would have to be sent to
9 probably the Chair of the Board to review to make that
10 determination whether the appeal is timely or not.

11 So like I said, in 2003 that was delegated to the
12 Secretary of the Board to make that determination, and I
13 believe it should probably be placed into the bylaws if
14 the Board decides that that would be a good bylaw change.

15 ASSISTANT ATTORNEY GENERAL REULAND: So if I -- this
16 came up --

17 CHAIRPERSON PREZEAU: I'm shocked you have an
18 opinion.

19 ASSISTANT ATTORNEY GENERAL REULAND: This -- and you
20 guys recall, we had that long discussion, the Stanley
21 Access case. And that went up to the superior court. And
22 it was -- the issue of that was whether the Secretary had
23 the authority to make the determination on timeliness.
24 And the reason this is important is timeliness is
25 technically a jurisdictional issue, whether they get a

1 hearing or not. And there is an appearance of a conflict
2 because the Chief Electrical Inspector causes the
3 citations to be issued on behalf of the Department. But
4 then he puts his hat on as the Secretary to the Electrical
5 Board and then says that your appeal is not timely. And
6 that is a problem.

7 And then there was some discussion during that about
8 these Board minutes from 2013. When I went back -- I've
9 looked at that. And then I went back and looked at the
10 bylaws, and the bylaws specify the duties of the
11 Secretary. And it's not laid out in there in terms of the
12 -- what -- the Secretary actually can do this, make an
13 initial determination. And I think that that needs to be
14 clarified. Because how does a member of the public
15 clarify whether the Secretary -- who has the ability to
16 make these decisions.

17 We also met with the Department -- because that is a
18 workload issue too. If appeals come in and they're
19 timely, it's not a problem because we're not taking away
20 any rights technically. And the Department has a form
21 letter that they send out setting it for hearing. So I
22 think procedurally that's perfectly fine. That's just a
23 procedural matter. But if everyone comes in and it's
24 determined to initially be untimely, will they have to go
25 to Tracy as the Chair as the presiding officer to review,

1 and then she would have to sign it. And it could be a
2 nightmare. What if Tracy's on vacation? What if things,
3 you know -- there's all sorts of problems.

4 So I think the first question is whether or not the
5 Board wants to confirm this delegation of authority. I
6 reviewed this, and this -- the way this was worded does
7 say "initial determination." So if you do allow them to
8 bring it to the full Board, they still have that right.
9 But you're cutting out maybe the issue of the workload.

10 But I think it needs to be reflected clearly
11 somewhere. And since we don't have any other rules for
12 the Board, the bylaws in my opinion would be the
13 appropriate place to do that.

14 Now, somebody has to make a motion to amend the
15 bylaws and have them -- it has to be a motion. There's
16 time lines that go along with all of that.

17 So did I clarify exactly what --

18 SECRETARY MUTCH: Yes. Thanks, Pam.

19 And I don't have the authority to make a motion. I'm
20 just raising the issue and presenting it before you.

21 CHAIRPERSON PREZEAU: Okay. And I have a copy of the
22 Board bylaws. I don't know if other people have looked at
23 them.

24 And Article 9, amendments to the bylaws, says, "The
25 bylaws may be amended by a simple majority of the Board

1 provided the amendment has been read at the previous
2 meeting or mailed to the Board members 20 days prior to
3 the meeting at which the voting will occur.

4 So there can be no amendment of the bylaws today.
5 There can be discussion, certainly, and there can be
6 language drafted for a proposed amendment. But it would
7 be in violation of our bylaws to vote on that amendment
8 today.

9 The other option I want to make sure the Board
10 members, Pam, are aware: The Electrical Board also has
11 this document -- governing document called "Operating
12 Principles." And there may be -- there's -- I don't know
13 if you guys -- if everybody is unpacking your operating
14 principles -- I know Alice is -- there are some pieces
15 about Board members -- expectations of Board members,
16 expectations of the Chief Electrical Inspector.

17 It might be that in order to make a complete record,
18 that we may want to -- we may want to have the language in
19 both documents. Or not. Something to consider. If it's
20 cleaner and you want it only in the bylaws, then it's
21 something we can discuss, but today we can't vote on it.

22 BOARD MEMBER LEWIS: Madam Chair?

23 CHAIRPERSON PREZEAU: Yes, Janet.

24 BOARD MEMBER LEWIS: Is there anything in the RCW or
25 the WAC that gives the Board, you know, any illusion that

1 giving the Board the, say, sole authority to make those
2 decision or not?

3 ASSISTANT ATTORNEY GENERAL REULAND: You mean the
4 decisions --

5 BOARD MEMBER LEWIS: Of timeliness.

6 ASSISTANT ATTORNEY GENERAL REULAND: I'm not sure I
7 understand the question.

8 BOARD MEMBER LEWIS: Well, I just want to make sure
9 before we move forward with addressing the bylaws that
10 there's not other existing language that already gave us
11 -- established that authority in the Board itself.

12 ASSISTANT ATTORNEY GENERAL REULAND: I think that the
13 authority does lie in the Board -- with the Board as the
14 body to determine issues of timeliness. There's also I
15 believe some authority in terms of if it's a procedural
16 issue, the procedural issues can be ruled upon by the
17 presiding officer of a body. In this case, it would be
18 the Chair of the Board.

19 I am not entirely certain whether or not the Board
20 can delegate that authority to the Secretary. And I
21 haven't had an opportunity to go back and review the
22 complete meeting notes from 2003 regarding -- I don't know
23 who was present. I don't know what legal advice the Board
24 was given at that point in time. But I'd like to review
25 that.

1 I think the discussion, however, should recommend
2 that it would be, Does the Board want to continue to do
3 that? And then I can for sure look into that between now
4 and the next meeting.

5 CHAIRPERSON PREZEAU: Janet, does that make you
6 happy?

7 BOARD MEMBER LEWIS: Well, yeah.

8 My question really was: Can the Board actually
9 delegate that authority or not?

10 Thanks.

11 ASSISTANT ATTORNEY GENERAL REULAND: And to be honest
12 with you, I have some reservations about that. But
13 apparently there was some basis that it was done in 2003,
14 and I need to review that.

15 CHAIRPERSON PREZEAU: So perhaps, you know, unless --
16 I don't think that any of the current Board members were a
17 part of the Board in 2003. Is that a correct statement?

18 BOARD MEMBER BELISLE: That is correct.

19 CHAIRPERSON PREZEAU: My -- well, maybe Janet was
20 there.

21 So my suggestion to the Board -- I mean, it certainly
22 is -- especially in light of the fact that even if we
23 wanted to amend the bylaws, we are not allowed -- our
24 bylaws don't allow us to do that today. But perhaps --
25 but it would allow us, you know, if you want Pam to work

1 with Rod and Elissa and delve further into this, and then
2 if the bylaws -- you feel that there's a need to amend
3 the bylaws, that language can be mailed out to the Board
4 members at least 20 days in advance of the July 31th
5 meeting and take appropriate action in July. Does that
6 make everybody happy?

7 BOARD MEMBER TOWNSEND: Just a point of order, Tracy.
8 Would you have that as a line item on the agenda with that
9 in mind in case the public has comment? The public may
10 want to have interest in this.

11 CHAIRPERSON PREZEAU: Yeah, no, I -- so looking over
12 at Elissa because she is kind of the keeper of the agenda,
13 or at least that's who I interact with when it comes to
14 the agenda. So we can certainly make sure -- if it's --
15 depending on what Pam finds, right? If there is a need to
16 move toward or have substantive discussion, and if there's
17 going to be a vote on -- or a potential motion to amend
18 the bylaws or discussion to amend the bylaws, it would
19 definitely be appropriate to be on the public agenda.

20 Thank you.

21 Any other -- Milton.

22 THE COURT REPORTER: If we can go off the record? If
23 I can offer a comment or something -- a point off the
24 record?

25 CHAIRPERSON PREZEAU: Sure. Okay.

1 (Comments off the record.)

2 CHAIRPERSON PREZEAU: All right. So let the record
3 reflect we only went off the record because Milton, our
4 court reporter, can't type and speak at the same time, but
5 was offering his assistance -- and for the record, neither
6 can I -- but was offering his assistance in securing a
7 complete set of the transcripts from the July 31, 2003,
8 Electrical Board meeting.

9 Okay. So I was reading the members that were
10 present. This is a blast from the past. Joe Devish.

11 All right. Alice.

12 BOARD MEMBER PHILLIPS: I just have a couple
13 questions.

14 CHAIRPERSON PREZEAU: Sure.

15 BOARD MEMBER PHILLIPS: This is kind of -- I feel bad
16 asking this one, but who's the Vice Chair?

17 CHAIRPERSON PREZEAU: It is an interesting question
18 that you ask. Because technically we've been running
19 without a Vice Chair since Rocky Clark -- Rocky Sharp did
20 not renew his position with the Board.

21 And if you look at the bylaws, the Chair and the Vice
22 Chair can be elected at any time. And I have actually
23 been sort of -- I think I until today until this moment
24 that you brought it up, nobody else has been aware of that
25 except maybe me, right? And the only time you really need

1 a Vice Chair is if I'm not going to be here.

2 But if the Board wants to, at any time you can elect
3 a Vice Chair.

4 BOARD MEMBER PHILLIPS: I think we need to consider
5 that for two reasons. One, it's in the bylaws. It's
6 always good to have a backup. Something -- you know,
7 Tracy could get sick. Or -- although I think that in the
8 international policies for the IBEW, you're not allowed to
9 take vacations, but ...

10 CHAIRPERSON PREZEAU: Actually according to my
11 assignment letter, my scope of work is 24 hours a day,
12 seven days a week.

13 BOARD MEMBER PHILLIPS: I feel for you.

14 So for that reason, I think we should have a Vice
15 Chair.

16 The other reason is we were talking -- there was a
17 comment made earlier about workload and if Tracy wasn't
18 here who would approve those timeliness issues. I think
19 that would automatically fall to the Chair.

20 And I personally -- and no disrespect -- but I am
21 really into the appearance of fairness. And I kind of
22 have an issue with our Chief Electrical
23 Inspector/Secretary performing those decisions and what
24 that looks like to the public. And I think it's our duty
25 to make sure that this is a very open transparent process.

1 That's just my two cents.

2 So I would be interested in rounding up a chairperson
3 -- or Vice Chair.

4 CHAIRPERSON PREZEAU: So -- and I completely 100
5 percent agree with what Alice just said about -- and, you
6 know, it's not just because there was a court decision
7 that said, Hey, you don't get to be the enforcer of the
8 law and the holder of the key. And we've been working
9 collaboratively with Rod and Pam to make sure that we are
10 not only upholding the intent of that court ruling but the
11 spirit of that.

12 And it's interesting. This body -- and some of you
13 may have been here or may not have been here, but it used
14 to be that when we heard appeals, the rule, the WAC
15 actually put the burden of proof on the individual the
16 Department was charging. So they were guilty until proven
17 innocent. And the Board -- this Board -- and I'm very
18 proud of that, right? This Board said that's not fair.
19 And we -- the Department -- we made that rule change. For
20 all of those same reasons. That's not fair.

21 So -- and I appreciate Alice's comments. But yeah,
22 we have not had a Vice Chair. And I have tried to
23 recruit, and up to this point, nobody has said yes. So --
24 but understanding that nominations for Vice Chair can
25 happen at any meeting and be elected at any meeting

1 according to our bylaws, the Chair would love to entertain
2 a nomination for Vice Chair for this Board.

3 BOARD MEMBER PHILLIPS: I need to work on it a little
4 bit, Tracy.

5 BOARD MEMBER LEWIS: Question?

6 CHAIRPERSON PREZEAU: Well, I would work on it.
7 Here's the problem: It's not really appropriate for me to
8 make nominations, right? If it was --

9 BOARD MEMBER PHILLIPS: Well, no. I mean, the
10 recruiting process.

11 CHAIRPERSON PREZEAU: Oh.

12 BOARD MEMBER PHILLIPS: We need to talk. And I can
13 help you recruit. Is that not appropriate?

14 CHAIRPERSON PREZEAU: No, that's absolutely -- I'm
15 sort of hearing some willingness from -- no? Janet.

16 BOARD MEMBER LEWIS: I just had a question
17 historically. Has the Chair and Vice Chair been shared --
18 I mean, if the Chair was a contractor, was the Vice Chair
19 an electrician? Or -- you know? What's the history of
20 those offices?

21 CHAIRPERSON PREZEAU: So historically, the Chair and
22 Vice Chair positions -- you guys understand there's a
23 number of different constituency groups that are
24 represented on the Board. There are multiple contractor
25 representatives, and there's multiple electrician

1 representatives. Historically the Chair and Vice Chair
2 have been the electrician representative and the
3 contractor representative and have taken turns Chair and
4 Vice Chair. That hasn't always been the case. When
5 Gloria Ashford was the Chair, Jim Simmons was Vice Chair,
6 and they were both contractor representatives. And so it
7 has -- there have been times when that balance --
8 historical balance hasn't always been achieved.

9 So there is nothing that precludes anyone who is
10 motivated to become Vice Chair. It's not occupying one of
11 those seats from seeking nomination.

12 BOARD MEMBER PHILLIPS: I would be interested, but I
13 need to talk to you about how much time it may take.
14 Because if I can't do it 100 percent, then I don't want to
15 do it. I need to know the time involved.

16 CHAIRPERSON PREZEAU: Okay. Do you want to know
17 right now?

18 BOARD MEMBER PHILLIPS: Gosh.

19 CHAIRPERSON PREZEAU: So let me just -- because maybe
20 some other Board members are interested. Hey, you started
21 it. We're now going to finish it.

22 BOARD MEMBER NORD: What's involved as long as you
23 show up.

24 CHAIRPERSON PREZEAU: Yeah, what's involved as long
25 as I show up is not a whole lot, right?

1 BOARD MEMBER PHILLIPS: It's a railroad, and it's
2 working hard.

3 CHAIRPERSON PREZEAU: It is working hard.

4 And the other thing is, you know, I have -- we have
5 really a tremendous asset in Pam. You know, our attorney
6 general advises us, sort of streamlines some of the
7 processes.

8 And the reality is there are times when preparation
9 for the Board meeting, if there's several appeals for
10 original hearings like we could have had with the
11 suspension or revocation of hearings, those can be a
12 little bit laborious. But again, it's only if I wasn't
13 going to be able to be present and -- or I think it would
14 be important too, you know, I don't usually miss Board
15 meetings. I think my attendance has been pretty stellar.
16 But barring some -- I think it's important for us to have
17 a Vice Chair. What would happen if I was driving over
18 here from Wenatchee this morning and I got a flat tire or
19 hit an elk?

20 So it's important for the --

21 BOARD MEMBER BELISLE: Or both.

22 CHAIRPERSON PREZEAU: -- Chair to be prepped and up
23 to speed in the event that something unforeseen does
24 occur. So there's potential vulnerability that I think --
25 it's not a huge amount of time.

1 BOARD MEMBER PHILLIPS: If I'm nominated, I'll serve.

2

3 Nomination/Motion

4

5 BOARD MEMBER NORD: Can I make a nomination, Madam
6 Chair?

7 CHAIRPERSON PREZEAU: I think that would be in order.
8 Who would you like to nominate to a position?

9 BOARD MEMBER NORD: I would like to nominate Alice
10 Phillips for the Vice Chair for this Board.

11 BOARD MEMBER TOWNSEND: I'll second that nomination.

12 CHAIRPERSON PREZEAU: So there's a nomination and a
13 second for Alice Phillips to serve as the Vice Chair of
14 the Washington State Electrical Board.

15 Any discussion on the motion? Seeing none, all those
16 in favor please signify by saying "aye."

17 THE BOARD: Aye.

18 CHAIRPERSON PREZEAU: Opposed? Motion carries. Yea.

19

20 Motion Carried

21

22 BOARD MEMBER PHILLIPS: Thank you.

23 ASSISTANT ATTORNEY GENERAL REULAND: I'd like to --

24 if I could with Board members go back and clarify --

25 because this was brought up by Alice's comments is that I

1 think that the Department is making a suggestion in terms
2 of the delegation of authority. But I do think the Board
3 has the ability to make a decision -- I will do the
4 research in terms of whether you can delegate that
5 authority, but the decision by the Board is whether you
6 should delegate that authority.

7 We have the meeting minutes from 2003. But I still
8 think that's open for discussion for the Board in terms of
9 how the Board wants to handle that.

10 BOARD MEMBER PHILLIPS: So a question on that. If we
11 made a decision today and found out some additional
12 information, we could always change it later; is that
13 correct?

14 ASSISTANT ATTORNEY GENERAL REULAND: You could. You
15 know, it's not on the agenda today. I do have some
16 questions in terms of whether we need to get it on the
17 agenda, have it open for public discussion if necessary or
18 public input on that.

19 And I'm happy to also clarify exactly what goes into
20 that decision. I would also point out that the way that
21 the resolution or the motion was passed what Rod has
22 provided provides that the initial decision is made by the
23 Secretary. And I can see that from a work standpoint.
24 But then if the dispute is made, it still comes to the
25 Electrical Board. And the problem is then we've been

1 sending them to superior court. That costs money. That
2 costs time. You know, if a lot of people don't disagree
3 it was untimely, and that would be the end of it. But if
4 they dispute that, they still have the right to come here,
5 get it on the agenda. And we've talked to the Department
6 about amending those letters to make sure that the people
7 are apprised of that right. So it's preliminary review.
8 Now, whether that's appropriate or not, I will definitely
9 figure out, make sure that we can do that. But it's
10 whether you want to let that happen too. Not let, but
11 whether you take the appropriate use of resources.

12 BOARD MEMBER NORD: I think that you should be given
13 an opportunity to do the research prior to us making a
14 decision.

15 ASSISTANT ATTORNEY GENERAL REULAND: The only reason
16 I haven't done -- I don't know what they relied upon in
17 2003. That's --

18 BOARD MEMBER NORD: That's my concern also.

19 ASSISTANT ATTORNEY GENERAL REULAND: Is there
20 something out there that I'm not aware of.

21 BOARD MEMBER NORD: That's also my concern.

22 CHAIRPERSON PREZEAU: Rod.

23 BOARD MEMBER BELISLE: I would like to at least
24 discuss the concept that if somebody applies for an appeal
25 at this point, and the current policy is the Chief will

1 evaluate that appeal for timeliness, if it's initially
2 determined it's untimely, that the letter go out and
3 direct them that if they disagree they have the right to
4 be placed on the agenda of the Electrical Board to be
5 determined whether it is, in fact, timely are not. I
6 think that's -- at least as an initial or step to this
7 transition or change or not, that that seems like that
8 needs to happen for sure. And maybe we don't need to
9 address that, but I think that should be done for sure.

10 ASSISTANT ATTORNEY GENERAL REULAND: I think that is
11 consistent with the resolution for 2013. And my
12 understanding is that is what is going to happen.

13 SECRETARY MUTCH: It isn't what is happening
14 currently, but we're making a change to those letters.
15 And that's how we propose to do it.

16 ASSISTANT ATTORNEY GENERAL REULAND: Rod has to wear
17 two hats. So we're making it very clear that the hats are
18 separate.

19 BOARD MEMBER BELISLE: I think given that, that if
20 the Chief makes the determination that it's untimely and
21 the person receives a letter, and they acknowledge it's
22 untimely and they can walk away knowing that, or they have
23 the right to still be placed on the agenda to contest
24 that, I think that's reasonable and fair.

25 And it might share a reasonable amount of workload

1 that would otherwise go to the Chair, which I don't have a
2 problem with, but she (indicating) might. But I think
3 it's worth considering that if it's within the allowance
4 of the Board to defer that to the Chief with the provision
5 that they always have access to the Board, I might be
6 supportive of that.

7 CHAIRPERSON PREZEAU: Janet.

8 BOARD MEMBER LEWIS: So are we back to the point
9 where we are going to research it and put it on the agenda
10 for the next Board meeting, that we're not making a
11 decision yet about anything? We're reviewing the decision
12 of 2003?

13 CHAIRPERSON PREZEAU: Correct. And in the meantime,
14 though, making some procedural changes to reflect sort of
15 the Board and the Chief's desire and our attorney's
16 recommendation to be fair, right? and have that
17 transparency piece.

18 Janet.

19 BOARD MEMBER LEWIS: I do have a question now, Rod.

20 If the Chief makes the decision it's not timely, then
21 -- and if the person appeals to the Board, do they have to
22 now furnish a \$200 appeal bond for your decision?

23 SECRETARY MUTCH: I think that's something that Pam
24 and I will need to discuss. I don't know that -- so when
25 they receive a notice of citation, they appeal to the

1 Board. And I would make the initial determination whether
2 that appeal was timely or not. I don't know that
3 referring it -- if the appellant desires to appeal my
4 initial determination, I don't know that that is another
5 appeal that would require --

6 ASSISTANT ATTORNEY GENERAL REULAND: I can probably
7 help with this.

8 What happens is when anyone appeals to the Board,
9 they have to submit the appeal bond. Typically it's my
10 understanding that when the letter's gone out -- and it
11 goes out under the Secretary to the Board versus the Chief
12 -- that if they say it's untimely, that appeal bond is
13 rescinded. Perhaps the system could be that they have so
14 many days to appeal that decision, don't rescind the bond
15 until that's done so they don't have to come up and pay
16 another bond. They just don't get the money back until
17 they've decided whether they're coming to the full Board
18 or to -- or they're going to walk away. If they walk
19 away, they get their money back. If they come to the
20 Board --

21 BOARD MEMBER BELISLE: I think that's a good --

22 ASSISTANT ATTORNEY GENERAL REULAND: Does that sound
23 fair?

24 BOARD MEMBER LEWIS: Yeah.

25 BOARD MEMBER BELISLE: Yep.

1 SECRETARY MUTCH: There are times when we will
2 receive an appeal that does not have the bond included,
3 and we will deny that appeal based on not providing the
4 appeal bond.

5 CHAIRPERSON PREZEAU: Because they didn't comply with
6 the statute.

7 SECRETARY MUTCH: Right.

8 ASSISTANT ATTORNEY GENERAL REULAND: And then giving
9 them appeal rights to the Board for those?

10 BOARD MEMBER BAKER: That's a separate issue, right?

11 SECRETARY MUTCH: That's a separate issue. I think
12 this has to do with timeliness and possibly --

13 CHAIRPERSON PREZEAU: Well, I think there is maybe
14 some -- there can be some debate had about timeliness. I
15 think there is very little debate that can be had about
16 whether or not \$200 was received.

17 SECRETARY MUTCH: Although part of an appeal is
18 within 20 days to submit a written notice of appeal and
19 include the appeal bond. So ...

20 ASSISTANT ATTORNEY GENERAL REULAND: The issue's not
21 necessarily if there's no -- if no bond comes in.
22 Sometimes the issue comes up whether the bond is
23 sufficient.

24 SECRETARY MUTCH: Right.

25 ASSISTANT ATTORNEY GENERAL REULAND: Whether --

1 there's been some appeals that you've heard where the
2 appellant says \$200 is sufficient for me to appeal all
3 five citations, and the Department has taken the position
4 that you should have been submitting \$200. Maybe a new
5 statutory change will change that.

6 CHAIRPERSON PREZEAU: There was a clarification.
7 There has already been a piece of legislation that
8 clarified exactly that.

9 SECRETARY MUTCH: Right.

10 CHAIRPERSON PREZEAU: Right? Because it could
11 potentially -- yeah. Like in the case of Metalsmiths and
12 its three citations, that would be \$200 appeal for each
13 citation rather than the entire --

14 SECRETARY MUTCH: Per statutory violation.

15 ASSISTANT ATTORNEY GENERAL REULAND: It was amended.
16 But it's still a maximum. And that was changed again,
17 but ...

18 CHAIRPERSON PREZEAU: Not until July 1, 2015. So
19 we'll give you (directed at Ms. Reuland) some more time to
20 figure that one out. How about that?

21 See, Alice? It's a piece of cake. You just ask Pam
22 to do it.

23 ASSISTANT ATTORNEY GENERAL REULAND: I generally --

24 CHAIRPERSON PREZEAU: Oh, no, no, no. I said it
25 before, and I'll say it again. Pam is a tremendous asset

1 to the Board and definitely to me. And to Alice now.

2 All right. Any other comments, concerns? I look
3 forward to comprehensive discussion at the July meeting
4 regarding this matter. It's good stuff.

5 So Rod, on the Secretary's Report, what do you got
6 next for us?

7 SECRETARY MUTCH: Okay. So you have a copy of the
8 Secretary's Report in your packets.

9 As far as the budget goes, the electrical fund
10 balance through February was 8.16 million. We just
11 received the numbers for March, and the electrical fund
12 balance through March was 8.24 million. 1.7 million was
13 transferred to the General Fund in January as directed by
14 the legislature.

15 And we submitted -- as I mentioned in the earlier
16 legislative and Department briefing, we submitted a
17 supplemental budget request which was approved allowing
18 the Electrical program to restore 17 positions that had
19 been eliminated in 2009 and 2010 due to the economic
20 turn-down. We are currently recruiting for 10 of those
21 positions and will monitor revenue which has slowed in
22 recent months and has not shown the growth that was
23 previously projected. The remaining seven positions will
24 be restored as determined by our assessment of revenue
25 later in the spring and early summer.

1 Another 1.7 million is due to be transferred to the
2 to the General Fund in July of 2014.

3 Under Customer Service, we sold 27,393 permits during
4 the previous quarter. And of all the permit purchases,
5 24,297 or 89 percent of those were made on-line. Our
6 on-line services have remained fairly stable with 95
7 percent of all electrical contractor permits sold were
8 purchased on-line. Homeowner on-line sales were at 53
9 percent. And on-line requests for inspection were at 79
10 percent. And during the quarter, customers made 64
11 percent of all electrical license renewals on-line.

12 Testing labs, there were no new testing labs that
13 have been approved. However, a new engineer was approved.
14 James Smith with Pracotti (phonetic) Brothers was approved
15 for performing engineering evaluations.

16 CHAIRPERSON PREZEAU: So how many do we have then?

17 SECRETARY MUTCH: We have I believe three firms that
18 perform engineering evaluations. Is that right, Larry?

19 MR. VANCE: Two firms, three engineers.

20 SECRETARY MUTCH: Two firms with three engineers that
21 perform engineering evaluations.

22 MR. VANCE: Wait a minute. Three firms, four
23 engineers. Power Science Engineering. Parker Massaun
24 (phonetic), and Pracotti Brothers were the two engineers.
25 Pracotti has two engineers and --

1 CHAIRPERSON PREZEAU: Is that a healthy number?

2 SECRETARY MUTCH: I believe they are keeping up with
3 the demand.

4 And so an engineering evaluation is allowed for
5 industrial control panels and industrial utilization
6 equipment. So if a piece of equipment does not meet the
7 appropriate standards, and it is industrial control or
8 industrial utilization equipment as defined in rule, the
9 engineers are allowed to evaluate the standards that that
10 equipment was built to. For example, it may have been
11 built in Germany, and German equipment has standards that
12 are required to be met when they build equipment. So
13 that's what these engineering firms are allowed to do.
14 And so if it's equipment that comes in to a plant that may
15 not meet the nationally recognized testing laboratory
16 standards, the engineering firms are allowed to evaluate
17 the standards that they were built to.

18 And I believe that, you know, it is a small number of
19 engineers, but I haven't heard any problem with delays in
20 this process.

21 CHAIRPERSON PREZEAU: Thank you.

22 Don.

23 BOARD MEMBER BAKER: Just a quick question on the
24 permits. Do we track refund requests?

25 SECRETARY MUTCH: I don't know that we have a report

1 to track refund requests. When we receive a refund
2 request, are you asking if we know the totals or --

3 BOARD MEMBER BAKER: Well, I was just -- as many
4 on-line permits that are being pulled, this allows people
5 to pull permits in areas that aren't in your jurisdiction.
6 I'm just wondering if there's been an uptick in refund
7 requests as well.

8 SECRETARY MUTCH: I don't have that information. I
9 don't believe we track the numbers of requests. I can
10 talk to our IT folks and see if that's possible.

11 BOARD MEMBER BAKER: How does that number work in
12 that budget then, your budget together?

13 SECRETARY MUTCH: Revenue from permit sales goes into
14 the budget, and refund requests comes out of that.

15 BOARD MEMBER BAKER: Okay.

16 SECRETARY MUTCH: So when we get the total revenue
17 number, it includes the amount of permits -- review that
18 came in minus the refunds that have come through. So it
19 may be different month to month. For example, a permit
20 may be sold in one month and refunded the next month. But
21 it's all accounted for in the budget.

22 BOARD MEMBER BAKER: How difficult would it be to
23 share that number with us?

24 SECRETARY MUTCH: Which number is that?

25 BOARD MEMBER BAKER: The refund request number, the

1 deficit.

2 SECRETARY MUTCH: That's what I don't know. I can
3 research that and see if that's available.

4 BOARD MEMBER BAKER: Okay.

5 CHAIRPERSON PREZEAU: Mr. Belisle.

6 BOARD MEMBER BELISLE: Don brought up something that
7 I had been thinking about when I looked at the transcript,
8 and there was discussion about the on-line permit process
9 and buying a permit and not knowing which office to call
10 it from, and that the Department at each office had a
11 method for referring those. And there was some discussion
12 about looking at IT and potentially having some maps or
13 some boundaries.

14 CHAIRPERSON PREZEAU: GIS.

15 BOARD MEMBER BELISLE: Yeah.

16 Did that -- is that still in the works or ...

17 SECRETARY MUTCH: What we're working on now -- and
18 Megan is working on putting together a list based on zip
19 codes.

20 So right now when you purchase a permit you choose
21 the county that the site location is. There are some
22 counties -- I believe there's 17 counties where there are
23 multiple service locations served by that county. So when
24 you choose the county, it gives you a list of two or maybe
25 even three service locations. And the process right now

1 that Phyllis Cooper, our IT person, instructs our
2 contractors to do is to look at where the site location is
3 within the county and choose the nearest service location
4 to that site. We are trying to put together a list --
5 because zip codes would narrow it down farther into the
6 county. And when you select a zip code, they would
7 possibly be able to identify which county that is. But
8 that's a IT change that probably wouldn't happen for a
9 couple years.

10 What we can do, though, is provide -- and I've been
11 talking to Don in previous meetings about this -- is
12 provide a list of zip codes, which zip codes apply to
13 which service locations.

14 BOARD MEMBER BELISLE: Thank you.

15 CHAIRPERSON PREZEAU: Great question.

16 SECRETARY MUTCH: So going down to the performance
17 measures, the first indicator or goal that we have is to
18 perform timely electrical inspections. Our goal, of
19 course, statewide is that we would perform 94 percent of
20 electrical inspections within 48 hours of request.
21 Currently through March -- and this is from January 2014
22 through March of 2014, we are performing 90 percent of
23 those inspections in what we would say within 48 hours of
24 request.

25 The number of focused citations and warnings which

1 includes contractor licensing, worker certification and no
2 permit, we have a goal for that first quarter of 889
3 citations. We issued 826 in the quarter.

4 Inspection stops per inspector per day were at 10.
5 So the average statewide inspector performs 10 inspection
6 stops per day.

7 Electrical disconnect corrections. Now, these are
8 corrections that would if they are not corrected would
9 result in the Department initiating the process to turn
10 off somebody's power. That was 13,165 corrections that
11 were issued statewide.

12 Licensing turn-around time --

13 CHAIRPERSON PREZEAU: Hey, Rod?

14 SECRETARY MUTCH: Yes.

15 CHAIRPERSON PREZEAU: I don't know if I've ever asked
16 this question before. But can you have multiple
17 corrections at one inspection location? I'm assuming the
18 answer is yes?

19 SECRETARY MUTCH: Yes.

20 CHAIRPERSON PREZEAU: So this is not necessarily a
21 representative of how many instances or how many
22 installation sites. It's not 13,165 installation --

23 SECRETARY MUTCH: Correct.

24 CHAIRPERSON PREZEAU: -- sites; it's citations
25 overall. Because you can have multiple --

1 SECRETARY MUTCH: Corrections overall. So, for
2 example, if we would go do a service inspection, we may
3 find that the service conductors are undersized for the
4 overcurrent protection. We may find that on the same
5 service it's missing a main bonding jumper. The service
6 nipple between the meter base and the panel is not bonded
7 properly. So those would all be very serious safety
8 problems that we would note, and that's included in the
9 total. So ...

10 CHAIRPERSON PREZEAU: Thank you.

11 SECRETARY MUTCH: So licensing process turn-around
12 time. When someone submits a application for license to
13 our licensing program, the goal is to turn that around in
14 three and a half days, and we are at two and a half days.
15 We are actually a lot better than that. We have
16 streamlined our licensing process to where most of the
17 licensing applications are done the same day. And I'm
18 thinking for the next fiscal year is to change that goal
19 from what the turn-around time actually is to the number
20 of the percentage of licensing applications that are not
21 processed same day. So we're getting more efficient with
22 our processing. And I'm thinking about in the next fiscal
23 year to change that goal. So I think that would be more
24 realistic. So we're doing a lot better than that.

25 Plan review time for average set of plans to review

1 them, our goal is to review them on an average in less
2 than three weeks. And right now we are .5 weeks. So
3 they've really streamlined their process in plan review
4 and they've become very efficient at that.

5 Licensing. As of last quarter, 5,065 electrical
6 licenses were printed which is down from 5,477 the
7 previous quarter. License turn-around time has increased
8 slightly to two and a half days, reflecting staff
9 shortages for the month of March.

10 CHAIRPERSON PREZEAU: This is really certifications?

11 SECRETARY MUTCH: This is all licenses. This is
12 certificates, contractor licenses --

13 CHAIRPERSON PREZEAU: This is everything.

14 SECRETARY MUTCH: Everything, yep. So electrician
15 certificates of all different specialties and electrical
16 contractor licensing.

17 CHAIRPERSON PREZEAU: Excellent.

18 SECRETARY MUTCH: I have one other statement to read.
19 Does anyone have any questions on the budget,
20 customer service?

21 CHAIRPERSON PREZEAU: I have a -- so obviously the
22 other 1.7 million scoop is happening in July. And given
23 that, you know, we have new inspector in the supplemental
24 budget and blah, blah, blah, blah, blah. I know we went
25 through all these very conservative projections.

1 And we are -- you still feel comfortable -- you don't
2 have to go into a huge amount of detail, but you still
3 feel comfortable with that other 1.7 million scoop coming
4 out of July we're tracking?

5 SECRETARY MUTCH: What happened with the supplemental
6 budget request is back in August/September time frame, we
7 began putting that request together to submit to the
8 legislature for this legislative session. That was based
9 on projections of housing submitted by the Economic and
10 Revenue Forecast Council, which issues a projection each
11 quarter. When we submitted that request, each subsequent
12 quarter, that projection was reduced a bit. And so we
13 requested the authority to hire 17 FTE's based on a
14 projection that happened last fall. The growth
15 projections have been reduced slightly. So that's why in
16 my report I noted that we are going to currently hire 10
17 FTE's, and we'll monitor the revenue as it comes in to
18 verify that there will be enough revenue stream to support
19 putting on the additional seven.

20 So yes, we're watching that very closely. I'm
21 comfortable that at that level that we are hiring now that
22 we will be able to support that. But the full 17 will be
23 -- we'll reassess that based on the revenue projections
24 that we see coming next spring -- or this spring and into
25 the summertime.

1 CHAIRPERSON PREZEAU: Thank you for flushing that
2 out.

3 And one last thing, I just want to -- under this
4 hearing "Report to the Board" is last quarter, you guys
5 will remember, Department Director Sacks was here, and we
6 again talked about the Ethics Board and the policy -- the
7 ethics policy that bars inspectors from serving as
8 continuing education and basic classroom training
9 providers/educators. And we heard Mr. Sacks say that
10 there was going to be ongoing discussion. And I've
11 received notice from Jose' Rodriguez that I'm going to be
12 a part of the committee stakeholder group that's going to
13 continue to deal with that issue. So I just wanted to put
14 that on the record that Mr. Sacks is consistent in his
15 commitment, and that's -- I just received that e-mail this
16 week -- that's moving forward.

17 Thank you.

18 SECRETARY MUTCH: Thank you.

19 Any other questions on that?

20 BOARD MEMBER CORNWALL: Yeah, Rod. I have one. Just
21 on the key performance measures, what kind of criteria is
22 used to generate the goal for the number of focused
23 citations and warnings?

24 SECRETARY MUTCH: So we have kept that goal the same
25 for I believe two fiscal years now. We haven't increased

1 that goal. That is based on approximately seven citations
2 per quarter per inspector. And I don't want to increase
3 that goal. I want to -- I want that to remain the same.

4 Director Sacks shared I believe his -- and we've been
5 talking about the five agency goals. And goal 4 is to
6 make it easier on the contractors that are abiding by the
7 law by making sure that we focus on those contractors that
8 are not abiding by the law. And so that's what I want our
9 focus to be on. I don't want our citation numbers to be
10 generated by going out and issuing citations that are
11 we'll say easy to find. I want the ones that are actually
12 the underground economy that are out there violating the
13 law and trying to gain an economic advantage on the good
14 contractors. That's what I want my focus to be.

15 BOARD MEMBER CORNWALL: Thank you.

16 BOARD MEMBER BURKE: A simpler request or comment.
17 Would it be easy enough to add another column here to show
18 maybe the previous quarter so we could see a --

19 SECRETARY MUTCH: Yep.

20 BOARD MEMBER BURKE: -- quick snapshot of --

21 SECRETARY MUTCH: We could do that.

22 CHAIRPERSON PREZEAU: Or you could do what I do. I
23 write them in while I review the transcript.

24 That's good, right? Because it's nice to have that
25 trend.

1 SECRETARY MUTCH: Well, we have room on that piece of
2 paper to put another column. It's very easy to do.

3 CHAIRPERSON PREZEAU: A great suggestion.

4 SECRETARY MUTCH: Okay. If there are no other
5 questions on the Secretary's Report, I have a statement
6 I'd like to read.

7 (As read) After much careful consideration, I have
8 decided to step down as Chief Electrical Inspector. This
9 decision was not an easy one, and I am making it in the
10 best interest of my family. I have lived in the Yakima
11 Valley for my entire life, and my family has deep roots
12 there. My wife and I have maintained our home there for
13 two and a half years. And I've been working in central
14 office which means I have been doing lots of traveling
15 back and forth across the pass. I find that I have been
16 missing out on too many important family events. My wife,
17 children and grandkids need to have me closer, and I need
18 to be closer to them. I've experienced tremendous support
19 and encouragement from everyone in the electrical program,
20 the agency, contractor and electricians, and the
21 Electrical Board. I'm very grateful for the opportunity I
22 have been given to serve the program and our customers in
23 this capacity. The details and time line have yet to be
24 worked out. I would like to get back to Yakima and my
25 family as soon as possible, but I would like to remain

1 available to assist and make the transition as smooth as
2 possible for the next Chief Electrical Inspector. I
3 notified my -- Jose' Rodriguez last week. I notified my
4 staff this week. I notified the supervisors. And it was
5 a tough decision to make, but I believe that this decision
6 is going to be the best in the interest of my family.

7 CHAIRPERSON PREZEAU: Thank you, Rod.

8 So -- you know, obviously I'm assuming that everybody
9 is equally surprised by Rod's decision. It certainly was
10 not on the agenda. And it's been a year and a half; is
11 that correct?

12 SECRETARY MUTCH: I've been in central office for two
13 and a half years, and I've been in the Chief's position
14 for a year and a little over a month.

15 CHAIRPERSON PREZEAU: And I've had a conversation
16 with Rod about his decision, and I must confess that I am
17 not surprised. And it's not because, you know, I know his
18 family, but I just know that Rod has demonstrated the
19 level of integrity that he brings to this position, and it
20 doesn't surprise me that that level of integrity extends
21 to making decisions about his family. And there is no job
22 on the face of the planet that is worth destroying your
23 family.

24 And as much as I am saddened by Rod's decision, I
25 completely support it for the reasons that he stated.

1 I also intend to talk with -- or give feedback to
2 Jose' about -- I was involved in the process -- fortunate
3 enough to be involved in the process of where -- the
4 selection process to replace the previous chief. And I'm
5 hopeful that Joel Sacks and Jose' will allow me to be
6 involved in that process, and also want to give feedback
7 to Jose' about potentially looking at being a little
8 creative about the way we staff this Chief Electrical
9 Inspector position. It's an enormous job that has an
10 enormous scope of work and huge impacts potentially.

11 And I think Rod has done a tremendous job in the year
12 and one month that he has served as the Chief, and I don't
13 think that there is a single stakeholder in the state of
14 Washington that has interacted with him that could say
15 anything negative about his performance. And I think that
16 speaks volumes.

17 And I think it's important that the Department and
18 electrical program does not lose the good ground that we
19 made in the last year and one month with Rod at the helm.

20 And I'm hoping that the Department will be -- will
21 entertain some flexible creative solutions that will allow
22 Rod to -- moving forward into the future provide
23 assistance and advice to the next chief because of the
24 success that you've seen him have in the last year and one
25 month and, you know, to continue with that credibility

1 that he's built in the last year.

2 So that's my intention is to have a conversation with
3 Jose'.

4 Rod.

5 BOARD MEMBER BELISLE: I think I'd like to just kind
6 of echo those comments. Everybody that I've worked with
7 within the industry has been incredibly pleased with the
8 transition, the change, the willingness to kind of
9 compromise and look at solutions.

10 I was involved with the TAC committee. And I know
11 I've mentioned it before, but the way that that meeting
12 ran to try to develop rules with 30-some people having an
13 opinion and getting it done in an incredibly efficient
14 amount of time, and then to go out to public comment and
15 have five written comments, and to hold meetings across
16 the state and everybody seems pleased with that, I think
17 that just demonstrates the accomplishment and the quality
18 of work that you've done. And I'm really disappointed,
19 but I absolutely respect your decision and you certainly
20 have my support. And everybody that I work with I know is
21 hugely supportive of everything you've done. Appreciate
22 it.

23 CHAIRPERSON PREZEAU: Thank you, Rod.

24 Any other comments?

25 So thank you Rod for sharing that with us. And if

1 you -- you know, given the fact that it's not really
2 flushed out what the time line is and everything else, you
3 know, if you could -- as those developments come to
4 fruition, if you could keep us in the loop, that would be
5 great. Or maybe Jose' or whatever that looks like. If we
6 can entice you to come back in July, we'd love that.

7 BOARD MEMBER BURKE: Let's see how long we can keep
8 him.

9 CHAIRPERSON PREZEAU: So I know we have two more
10 things on the agenda.

11 Rod, I'm assuming that completes your Secretary's
12 Report?

13 SECRETARY MUTCH: Yes, it does.

14 CHAIRPERSON PREZEAU: Before we get to Larry and the
15 certification, I would like to -- this is the April
16 meeting. We have three Board positions that are --
17 technically their appointments will be expired by the July
18 31st meeting. Janet Lewis who is seeking reappointment to
19 the Board representing electricians. Cathy Bailey-Bright
20 who represents the public sector seat, and who
21 unfortunately was not able to be here today, but Cathy is
22 not seeking reappointment due to -- she got a really cool
23 job that's going to conflict. So she's going to step
24 aside. And then Brad King, our low-voltage contractor, is
25 not seeking reappointment but has done due diligence to

1 find his replacement. So I appreciate that.

2 I'm trying to be secret squirrel about this. I've
3 got two cards running around. One's for Brad, and one's
4 for Cathy for Board members to sign. I don't know where
5 they're at. And then I didn't want to circulate one for
6 Rod until he made his announcement. Now we'll have one
7 for Rod.

8 So I want to thank Brad and Cathy for their
9 commitment and service to the Board. And I understand
10 that you have other things to take care of. But I
11 appreciate your dedication to the industry. Thank you for
12 your service.

13 BOARD MEMBER KING: Thank you. It's been a good
14 experience.

15

16 Item 5. Certification/CEU Quarterly Report

17

18 CHAIRPERSON PREZEAU: So Larry, you want to come join
19 us?

20 MR. VANCE: I will.

21 Madam Chair, members of the Board, my name is Larry
22 Vance. I'm a technical specialist. I work for the Chief
23 Electrical Inspector, Rod Mutch, here.

24 In your packets you will find a new report you
25 haven't seen before such as this. It's new from PSI, our

1 testing firm. And in past Board meetings, there's been a
2 lot of questions about how the numbers jibe. And I did
3 include a copy of that other report which is known as the
4 statistic summary report because this is a truer
5 representation of where people are when they take our
6 examination.

7 For instance, the 01 general electricians examination
8 during the period of April 1, 2013 to March 30, 2014, so a
9 one-year period, there was 718 people that took the
10 open-book general electrician examination. But those that
11 took the examination, 53 percent passed on their first
12 attempt. So what that says is 53 percent of the
13 candidates for examination had taken an open-book test and
14 passed it.

15 If you look at the 02 residential examination, the
16 numbers are significantly lower. 22.8 percent can pass an
17 open-book examination on the first attempt. It also gives
18 you a representation of exactly how many people took the
19 examination. You'll notice that there's a lot of other
20 numbers here that people, you know, on their seventh
21 attempt how many people passed, how many failed.

22 So I thought this information would be more useful to
23 the Board than the previous report.

24 I am -- as I spoke at the last Board meeting, I am
25 working on a project that's taking a year's worth of

1 examination data and looking at each candidate and
2 figuring out who they are. Are they a Washington state
3 apprenticeship graduate? Are they somebody that kind of
4 came through the trainee path? Are they out-of-state
5 apprenticeship? Are they just out of state undetermined?
6 I'm trying to get a better picture of how people are doing
7 on this open-book examination.

8 There's been some other numbers that I -- the
9 preliminary numbers I gave to the Board last meeting were
10 higher than this 53 percent for apprentices. When I
11 complete my project, there will be some very good numbers
12 on where that actually fell as far as people coming in
13 from out of state, Washington state trainees, Washington
14 state apprentices.

15 CHAIRPERSON PREZEAU: Yeah, I don't know about the
16 rest of the Board, but I find this report way more helpful
17 than previous formats. I think -- and I applaud your
18 interest in drilling down, delivering more information.

19 And it's not just rooted solely in the fact that -- I
20 mean, really the one thing that the Board really sort of
21 owns is the exam, right? and continuing education. And so
22 I'm superexcited and want to thank the Department and
23 Larry for trying to really understand what these metrics
24 mean and breaking it out into different population of
25 folks and what is success and what is not success.

1 Some of you may remember that Gloria Ashford, the
2 previous Chair, contractor representative, the exam was a
3 particular point of passion for her. And one of the
4 particular points of passion for Ms. Ashford was the pass
5 percentage rate. She didn't like that 70 percent as the
6 pass rate. And we've had -- I've had long conversations
7 about the exam with the predecessor, Doug Erickson. But
8 anyway

9 Any other comments?

10 I look forward to seeing more information. And
11 hopefully -- my appointment to this Board expires in 2016,
12 so I'm hoping I'm going to see it before then.

13 MR. VANCE: You will.

14 We have some large tasks on our plate right now. One
15 of those is that we're meeting with PSI and looking at
16 next steps to update the examination. We're still
17 currently examining on 2008 National Electric Code. We
18 didn't update it to the 2011 because we didn't adopt the
19 2011. But now that we have the '14 coming in being
20 adopted on July 1st, we need to update the examination.

21 So it's not something that's going to happen right
22 away. There's thousands of questions to go through. But
23 we're meeting with PSI here at the end of this month --
24 that's our testing firm, PSI -- to look at the next steps
25 and how that looks. It's not only updating the questions,

1 it's adding some new questions because of the new
2 requirements, of course, and also applying those to
3 different types of certification. So it's -- it's an
4 interesting process.

5 CHAIRPERSON PREZEAU: Yeah. Right? I mean that
6 whole like the bank of questions and formatting those. My
7 hope is that the vast majority of the work, the heavy
8 lifting was already done. It was you and Doug that done
9 that?

10 MR. VANCE: Doug did it all last time. Doug
11 Erickson.

12 CHAIRPERSON PREZEAU: Did the reformatting of the
13 questions, and now it's just a matter of going in -- I
14 know there's a lot of them. There's 2,500 of them --
15 going in, not all of which have to do with the NEC; some
16 are WAC and RCW's. But I'm sure maybe some work needs to
17 be done there too.

18 MR. VANCE: It all needs to be -- we need to kind of
19 lift the hood up and take a look.

20 CHAIRPERSON PREZEAU: You're a lucky, lucky man.

21 MR. VANCE: I am a lucky guy.

22 Not only that. But probably our latest task that we
23 have ahead of us right now is updating our correction
24 writer database which is 4,907 corrections that the
25 electrical inspectors use to issue corrections, we've got

1 to update that from the 2008 to the 2014 format.

2 CHAIRPERSON PREZEAU: So yeah, no. So here's the
3 deal: We've got this. We've got the correction writer.
4 We're supposed to get a whole new computer system. And
5 oh, by the way --

6 BOARD MEMBER BURKE: A new Chief.

7 CHAIRPERSON PREZEAU: -- there's another little issue
8 that's pending.

9 MR. VANCE: Yes, yes.

10 And to speak to that, it's been an absolute pleasure
11 to work with Rod. He stepped into the position at a
12 rather tenuous time. He was left with a lot, a lot of
13 great things. And he -- but he had a whole bunch of work
14 to do. And he's really tackled that, and he's done a
15 fantastic job. And it's been a pleasure to work with Rod.

16 CHAIRPERSON PREZEAU: Absolutely. Here, here.

17 Any other comments, questions, concerns for
18 Mr. Vance?

19 Thank you very much.

20

21 Item 6. Public Comments

22

23 CHAIRPERSON PREZEAU: All right. So public comments.
24 The only people that have signed in thus far were Paul
25 Weideman representing the Department of Labor and

1 Industries speaking on the Metalsmiths, Inc., issue. I
2 don't believe Mr. Weideman is still in the room, so I'm
3 assuming that means he has nothing further he would like
4 to add. And Mark Cray, also representing Metalsmiths,
5 speaking on the L & I issue, the appeal. And again, I
6 don't believe Mr. Cray is still in the room which signals
7 to me that he has nothing further to say.

8 Is there anybody else who would like to make -- who
9 would like to address the Electrical Board or Rod ... or
10 Milton?

11 Going once. Going twice. Perfect. Let the record
12 reflect there is no desire to address the Electrical
13 Board.

14 So before the Chair would entertain a motion to
15 adjourn, I just want to say one last time that Rod, we are
16 going to miss you as the Chief tremendously. And you're
17 leaving very big shoes to fill. And your tenure was not
18 long in duration, but it was large in impact. So thank
19 you very much.

20 SECRETARY MUTCH: Thank you, Tracy.

21 BOARD MEMBER LEWIS: The same here.

22 CHAIRPERSON PREZEAU: Okay. Any other comments?
23 Seeing none, the Chair would love to entertain a motion to
24 adjourn.

25 ///

1 Motion to Adjourn

2

3 BOARD MEMBER NORD: Motion.

4 BOARD MEMBER BELISLE: Second.

5 CHAIRPERSON PREZEAU: Motion and second to adjourn.

6 All those in favor signify by saying "aye."

7 THE BOARD: Aye.

8 CHAIRPERSON PREZEAU: Opposed? Motion carried.

9

10 Motion Carried

11

12 CHAIRPERSON PREZEAU: Thank you, ladies and

13 gentlemen.

14 (Whereupon, at 11:36 a.m.,
15 proceedings adjourned.)

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