

Meeting Minutes
 Prevailing Wage Advisory Committee (PWAC)
 September 1, 2021
 9:00pm – 11:30
 Zoom

Attendees (taken from meeting participant list): Chuck Ziegert, David Ciprut, Derek Patches, Earl Smith, Esmeralda Lemos, Harvey Means, Hoang Tran, Jeanette Aranda, Jeff Vest, Jennie Kordenat, Jerry Vanderwood, Joan Simmons, John Bufford, Kyla Richards, Yvonne Nemes, Bonnie Dressel, Jim Christensen, Monty Anderson, Reason Pearson, Aaron Nelson, Billy Wallace, Brandy DeLange, Brian Walter, Bruce Chatten, Christine Brewer, Jolene Skinner, Keith Weir, Laura Herman, Lee Willeman, Lori Moody, Matt Chapman, Matthew Erlich, Michael de Give, Mike Root, Miriam Moses, Nicole Blackwood, Neil Hartman, Ramona Christensen-Russell, Randy Curry, Scott Middleton, Sean Anderson, Shelli Edwards, Shelly Williams, Steve Taylor, Stuart Sorrell, Tiffany Huff, Todd Mitchel, Van Hurst, 1425 8888212

Agenda Item	Discussion
Opening Remarks Introductions	Jim Christensen – L&I <ul style="list-style-type: none"> • Welcome: Welcome to the Sept. PWAC meeting. This PWAC meeting is open to the public, but discussion will be between committee and LNI. If there is time remaining when the agenda is concluded the floor will be opened to the public. • Safety Topic: ‘Fall Season Tips’.
PWAC Draft Meeting Minutes from May 24, 2021	Jim Christensen – L&I <ul style="list-style-type: none"> • Draft minutes from May 24, 2021 – previously sent to committee members, do they accurately reflect what we went over? Motion to approve. Josh Swanson – IUOE 302 <ul style="list-style-type: none"> • Motion to approve minutes. Jerry Vanderwood – AGC of WA <ul style="list-style-type: none"> • Second Jim Christensen – L&I <ul style="list-style-type: none"> • Minutes are approved and will be on our website, lni.wa.gov, for everyone to view.

<p>General Topics/Program updates</p> <ul style="list-style-type: none"> • Strike and Debar • Enforcement Updates • Restructuring • IT Updates • Intent and Affidavit Fees • 2021 Meeting Schedule • Wrap-up and Next Steps • Adjourn 	<p>Strike and Debar:</p> <p>Reasa Pearson – L&I</p> <ul style="list-style-type: none"> • Debarments and Strikes for 1st quarter 2021 and 2nd Q 2021. <p>Jerry Vanderwood – AGC of WA</p> <ul style="list-style-type: none"> • There were a lot more in 1st Q then 2nd Q. Is there a reason for this? <p>Reasa Pearson – L&I</p> <ul style="list-style-type: none"> • Tied to the number of NOV's issued. Not many finalized during 2nd quarter. <p>Reasa Pearson – L&I</p> <ul style="list-style-type: none"> • Other stats about cases that we have resolved for 1st and 2nd quarters. Reductions and waivers, NOV's issued. All agents under Jim now. NOV's are low for 2nd quarter, should be more issued this year. <p>Jerry Vanderwood – AGC of WA</p> <ul style="list-style-type: none"> • Can you explain contractor choice to me? <p>Reasa Pearson – L&I</p> <ul style="list-style-type: none"> • Contractor choice is a choice for contractor once wages owed are issued. They can go with new penalties. They have one time choice of taking lower penalty. <p>Jim Christensen – L&I</p> <ul style="list-style-type: none"> • Simplest version is that if a contractors history doesn't show previous violations, the contractor can take a different penalty structure. They can do this once. <p>Jerry Vanderwood – AGC of WA</p> <ul style="list-style-type: none"> • Why would they not make that choice? <p>Jim Christensen – L&I</p> <ul style="list-style-type: none"> • Probably is a good option for contractor if LNI is issuing severe penalties. Its effectively a strike.
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Monty Anderson – Seattle Building Trades

- Since it is standard practice for NOV's to be appealed, are they taking waivers?

Reasa Pearson – L&I

- We can now issue penalties without NOV's. Once a NOV is issued they can not take lower penalty. Wages interest and penalties collected so far this year.

Enforcement Updates:

Jim Christensen – L&I

- Complaints received and resolved. Blue line is complaints received, orange line is complaints resolved. Investigations began and investigations resolved would be better title. What we are seeing is what you would expect. 2021 is projected data to the end of calendar year. Number of complaints grew from 2019 to 2021 about 40 %. For complaints resolved, there is a dip in 2020 due to pandemic. That has effected the way we do business. COVID slowed things down in 2020. Investigator position is still open in Spokane. We have filled other vacancies recently. 30% or so of complaints are in technical review right now. We have about a dozen cases in litigation right now. Workload has risen for PW program.

Bruce Chattin - Washington Aggregates & Concrete Assn.

- Do you log the source of complaints? Where do they come from? Are there any trends in the complaints you receive? On litigation, does the department send out info on what cases might be going to litigation?

Jim Christensen – L&I

- Yes the department captures info on who is filing complaints. Don't have a report on that yet. The parties involved in litigation are fully aware, lawyers involved. LNI doesn't do much to invite participation in litigation. No altering people of current litigation as of now. We could have a separate meeting to discuss this.

Bruce Chattin - Washington Aggregates & Concrete Assn.

- It would be interesting to know how to get that information.

	<p>Jim Christensen – L&I</p> <ul style="list-style-type: none"> • We can talk about making that information more broadly available. <p>Josh Swanson - International Union of Operating Engineers, Local 302</p> <ul style="list-style-type: none"> • Typically when it comes to intervener status, those parties engaged have been notified, or at least know that it is going on. <p>Jerry Vanderwood – AGC of WA</p> <ul style="list-style-type: none"> • Curious as to Jims take on the new CPR requirements? Does that play into this chart? Does it make complaints more or less likely? <p>Jim Christensen – L&I</p> <ul style="list-style-type: none"> • We are looking at complaints with new CPR requirement. Great many contractors have not gotten the memo. We have tried to reach out and communicate to contractors. Not everyone is signed up to our listserv though. Hoping to have contractors update the email addresses for listserv. Struggling on how to get the word to contractors about CPR. <p>Jerry Vanderwood – AGC of WA</p> <ul style="list-style-type: none"> • We can help get the word out. What percentage of compliance do we have so far? <p>Bonnie Dressel – L&I</p> <ul style="list-style-type: none"> • We have about 5,000 contractors who have not complied. (25,000 intents). <p>Jolene Skinner – L&I</p> <ul style="list-style-type: none"> • About 30 % <p>Jerry Vanderwood – AGC of WA</p> <ul style="list-style-type: none"> • The compliance we are getting, is it helpful in anyway? <p>Jim Christensen – L&I</p> <ul style="list-style-type: none"> • It is helpful. LNI has a robust system to get CPR records. <p>Scott Middleton – MCA of Western WA</p> <ul style="list-style-type: none"> • What is the process for enforcing CPR requirement? Is it complaint driven, or is LNI making decision to enforce? Does LNI have a process for working with contractors if they missed a CPR or two?
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Jim Christensen – L&I

- Enforcement mechanisms can be triggered either of the two ways you mentioned. Trying to get voluntary compliance. Resources are an issue, there is a limit to what LNI can go. We just want to get contractors in compliance.

Scott Middleton – MCA of Western WA

- Is there some process LNI is using when an Affidavit is approved? Do they look to see if CPR is filed?

Jim Christensen – L&I

- The Affidavits are not connected to CPR, so they computer can't do this. Like to turn around these forms as efficiently as possible. If we manually checked this it would take longer for the forms to get through the system. We get over 600 intent/affidavit forms a day. On track to receive 150,000 of these forms this year.

Restructuring:

Jim Christensen – L&I

- Here is a chart showing where were at on the turn around time for investigations. 47% are less than 6 months, we would like this to be 70%. 31% have been going on between 6 and 12 months. Most frightening of this is 22% have been going on for more than a year. Some have been going on for more than 2 years. We are focused on getting these older cases wrapped up. That is our main enforcement goal at the moment. 2 agents are handling the bulk of old cases. All agents workloads are effected by this. To address this problem we are starting to fill vacancies, diverting staffing resources, avoiding scope creep, weekly team meetings, and training. Questions?

Monty Anderson – Seattle Building Trades

- What is the approximate caseload per investigator, and what should it be?

Jim Christensen – L&I

- Varies, agents right now between 15-30 on their desk right now. These investigations are not simple. PW investigations are complex, my opinion is that 15-30 per investigator is too high of a workload.

Monty Anderson – Seattle Building Trades

- Thanks Jim. I understand that 1 case could be harder than 10.

Jim Christensen L&I

- We're showing that with the increase in complaints received there has been no increase in staffing resources. Need to address timeliness and quality of investigations. We need more people, hope request goes through.

Jerry Vanderwood – AGC of WA

- Is it correct that a consequence of this is that retainage is being held until a case is complete?

Jim Christensen – L&I

- That is true. Agent tracks project, and there is a window at end of project where LNI can file a bond or retained funds. Whatever pile of money that exists to protect workers we are putting a lean on that. This does negatively affect contractors. Often times I am grateful for the participation of the contractor on these. We notice they become an active player, its in their best interest to get this resolved.

Yvonne Nemes – L&I

- We are interviewing tomorrow for the IRA 3 position, and we just hired a new CSS.

Jim Christensen – L&I

- Proud to have on boarded someone today, happy to have a full staff of customer service staff. Hiring for IRA investigator. One of the things we are doing is that PW program has done restructuring. Moved the investigators from other division, so there is a more direct reporting chain from agents to industrial statistician. Created more direct communication. Excited about this and thinks it is the right thing to do. Streamlines the program, especially for enforcement. That change took place as of July 1st.

IT Updates:

Jolene Skinner - L&I

- Couple of small updates, work on external systems. In August add in utilization plan category to system. Added OMWBE certification flag to datasets on data.wa.gov. this month we are making an update to intent form. Changing the default answer to “yes” for the question of will you have employees perform work on this project? Continuing to always fix bugs and little things here and there.

Jerry Vanderwood – AGC of WA

- What exactly are they adding to apprentice utilization?

Jolene Skinner – L&I

- We provide that data on the portals and data sets. Contractors don’t have to do anything new. More easily identify the apprenticeship utilization (?) firms certified vs not certified.

Sophia Steele – ABC, Western WA

- Does this mean an apprentice can look on the LNI website to see what hours they have?

Jolene Skinner – L&I

- They could in a roundabout way, do a filter by their name. I would have to check, we might not provide name on data set.

Sophia Steele – ABC, Western WA

- I have heard we have apprentices who want to verify their hours on the system?

Jolene Skinner – L&I

- For public works or for general? We don’t have it for public works only right now. As far as just for general, they can go to public look up for ARTS to see.

Jim Christensen – L&I

- We have had some conversations about departments request for additional resources. So you know Jolene’s excellent work over the years are ongoing. So there is going to be a request for more money for IT improvements.

PW topics sometimes don't have consensus. The IT improvements are wanted and appreciated by everyone. Thank you Jolene.

Intent & Affidavit fees

Jim Christensen – L&I

- The fee was \$40 for a long time. Were cut in half for the biennium. What is the fee going to be going forward? We filed an emergency rule to continue fee at \$20. If we hadn't there would technically be no fee. We started permanent rule making process to set fee. Proposed setting fee back to \$40. Stakeholders will be sending in their preferences. There is going to be a public hearing in late September. Shortly after that LNI is going to file a permanent rule. We know that \$20 is not enough, so it will be more than \$20. Can't be higher than \$40 because there is a limit in law.

Josh Swanson - International Union of Operating Engineers, Local 302

- Questions on budget, supplemental budget. Fee reduction for exchange of appropriate funding. It seems to me that the message is you need more resources. Whatever we can do to advocate for that we will do.

Jerry Vanderwood – AGC of WA

- Yes we did have an agreement. I would like to double check that I understand what we agreed to. There were specific resources for enforcement that we agreed to.

Jim Christensen – L&I

- I appreciate the support that we get on PW. There seems to be a consensus of support here. All of the major stakeholder groups rely on an efficient LNI.

Sophia Steele – Associated Building Contractors, Western Washington.

- This increase to 40 dollars, was this part of the resource?

Jim Christensen – L&I

- Fees used to be \$25. Fees were then increased to \$40. During this time we created the system to file forms online. Couple years ago the legislature changed the fee from \$40 to \$20. The account had a high balance. There was an agreement to cut fee in half for biennium.

The account balance was drawn down. \$20 fee is not sustainable. In the middle of rule making to determine what fee will be now.

2021 Meeting Schedule:

Jim Christensen – L&I

- Yvonne might be asking for your calendar information, and feedback on proposed dates.

Wrap-up and Next Steps:

Jim Christensen – L&I

- Seeing some email traffic telling me Sophia is interested in listerv messages going out about CPR records. I will create a conversation about how we can get the word out. I was alerted yesterday that court of appeals has made a decision on lawsuit with AGC on the CBA bill. Court of appeals did not rule in states favor. Just making that announcement.

David Ciprut – Washington Pipe Trades

- Want to recognize the service I received from PW staff. I recently asked a question, and Bonnie reached out to help. Wanted to thank Bonnie specifically for her help.

Jim Christensen – L&I

- Thank you David. I appreciate the kind words. The processing of intent/affidavit forms is pretty complex.

Meeting Adjourned