

MEMORANDUM

TO: MEETING ATTENDEES

FROM: TONY WIGGLESWORTH

DATE: JUNE 24, 2008

**SUBJECT: MINUTES OF JUNE 18, 2008 NEW YORK/NEW ENGLAND CONFERENCE
LABOR MANAGEMENT MEETING**

A meeting of the above captioned group was conducted on June 18, 2008 at the Crowne-Plaza Albany City Centre, Albany, New York pursuant to appropriate notice.

The conference began with a welcome session during which opening remarks by Fred DeMartino, International Vice President of Heat & Frost Insulators and Allied Workers, Jim Towle, Vice President of ESICA and Francis Boudrow, Business Manager of Local #6, Boston were delivered.

The conference began with two speaker presentations. The first was delivered by Christopher Alund, Director of the Bureau of Public Works, New York State Department of Labor. Mr. Alund's presentation (a copy of which is attached to these minutes) focused on recent legislation and current guidelines for contracting in New York State. The second presentation (a copy of which is also attached) was made by Bill Palmisano, Director of the Boilermaker's MOST program entitled "State of the Art Workplace Construction Technology."

Following these presentations, open discussion regarding issues of joint concern was initiated. The working session of the conference began with a report from the discussion's facilitator, Tony Wigglesworth. In this report, Mr. Wigglesworth noted that he had caucused with employers attending the meeting the evening of June 17, and had received a list of issues of concern from labor participants the morning of June 18. In reviewing the list of issues in preparation for the working session, Mr. Wigglesworth observed that virtually no overlap between the employer list and the union list and in general, the labor list were directed at what employers needed to do and the employer list was directed at what unions needed to do. In the absence of significant overlap, the suggestion was made that items would be discussed directly from each of the lists, with employer and labor issues alternating. This path forward was agreed to.

Mr. Wigglesworth concluded his remarks by establishing ground rules for the working session which are summarized below.

- Members were asked to bring up issues of joint concern to both labor and management
- Participants were challenged to raise issues which were of global concern rather than those that affected a local geographic area

- Participants were encouraged to related success stories, even if these were local in nature
- Participants were asked to keep stories to a minimum and focus on lessons learned rather than war stories

By mutual consent, the first item selected was from the employers list.

1. **APPRENTICESHIP**

- The employer interest expressed in this subject included the following:
 - The appropriateness of skills taught in the apprenticeship process
 - Recruiting younger people to the industry
 - Testing procedures (and whether testing includes a time element)
 - Reinforcement of a production mentality
 - Sufficiency of recruitment efforts given industry demand
- In response, several labor representatives noted the Joint Apprenticeship Training Committee process as the most logical venue for discussing labor management concerns regarding the apprenticeship process. In response to a question, it was noted that different locales have different interval timing for their Joint Apprenticeship Committees and that for those that meet less often (once or twice a year), consideration should be given to accelerating the JATC meeting schedule.
- Several labor representatives noted issues regarding contractor apprenticeship placement. It was noted that apprentices only spend 244 hours a year in school. The rest of their time is spent in job experience. It was noted that apprentices learn more on the job than they do in school.
- In response to this observation, a question was raised by contractors regarding whether apprenticeship activities include measuring out a job, estimating a job and running a job. As a follow up to this, it was noted by several employers that apprentices (and even journeymen) seem to be afraid to be alone on projects and, that the nature of the business in the industrial sector, is one of working alone.
- Returning to the question of contractor apprentice placement, several locals noted that they have begun tracking where apprentices work industry-wide. This is being done to make sure that apprentices are getting a full exposure to the commercial and industrial sides of the insulation industry.
- One idea which was discussed was utilizing foremen who are working in the industry to train apprentices in job management. Conversely, it was suggested

that joint instruction to foremen regarding educating apprentices and how apprentices should be trained might be of value.

- In response to the above observation, a need for more contractors to be proactive in the apprenticeship training process was observed. In answer to a question, it was noted that JATCs would welcome the active participation of employers in the apprenticeship process.
- As a side comment, a suggestion was made that more interaction outside of the workplace between employers, unions, foremen, journeymen and apprentices should be encouraged. One simple step identified in this regard was to invite employers to union sponsored social events and to invite union representatives to company sponsored events.
- Following a conversation regarding spotty performance on the part of some apprentices, union apprentice representatives noted a clear need to inform the school right away if there is a problem with apprentice performance.
- Following up on discussion regarding contractor involvement in apprenticeship activities, one particularly valuable opportunity for this was identified as the blue print aspect of apprenticeship.
- Responding to questions regarding sufficiency of recruitment, it was noted that the International is in the process of changing the foremen apprentice ratio from 4-to-1 to 3-to-1. It was noted that the type of work affects the effective apprentice journeyman ratio. In addition it was noted that an international mandate has been announced to have locals increase apprentices by 15% this year.
- Notwithstanding these efforts to increase apprenticeship numbers, a need for continued dialogue regarding apprentice performance was seen as essential. This was further reinforced by the high cost of increasing apprenticeships and the difficulty in keeping apprentices consistently working (particularly in the commercial sector).

2. SELECTIVE BIDDING

- This issue is characterized by labor representatives as the inability to comprehensively bid work due to the inability or unwillingness of contractors to bid.
- In response to a question regarding whether prevailing wage leveled the playing field enough to encourage contractors to bid, it was noted that even on prevailing wage jobs, non-union contractors can underbid union contractors through jurisdictional flexibility.

- In response, several labor representatives noted that they cannot protest public non-union awards if no union bid or contractor has expressed a bidding interest. In response, contractors noted that bidding and estimating work is expensive and they don't want to throw away money on low yield projects.
- While this was acknowledged as an issue, several labor representatives noted that local contractors in some areas are not bidding to union contractors on Project Labor Agreement work.
- One response to this issue was noted as a joint message to mechanicals regarding payment to their insulation subs and increased detail and cost. It was also suggested that unions need information regarding bidding from contractors on a consistent basis so that they know that contractors have bid selected work.

3. **GREEN INITIATIVES**

- This issue was characterized by the observation that mechanical insulation is not currently included as a green initiative even though it has extensive energy saving possibilities. In this regard it was suggested that insulation should be promoted as a green initiative for mechanical systems and that the approach should include education of end users.
- Among the initiatives which could center on the subject of green initiatives are training, user education, and the involvement of manufacturing representatives in the education process.
- One particular activity which was identified was the 3M program. It was noted that many contractors are currently doing this. The 3M process includes a two day training and the training can be provided locally.
- As a matter of information, it was noted that starting January 1, 2009, New York State will be requiring double layer fire insulation material everywhere except New York City for grease duct only. In addition, this new requirement will apply to new projects only.

4. **JOURNEYMEN**

- Employers presented this issue as the need for increased leadership for both journeymen as well as foremen.
- To help encourage such leadership, it was suggested that the insulator foreman should be involved in job meetings.
- Among the activities referenced as increasing leadership among journeymen and foremen was encouragement from contractors, more honesty and communication regarding actual schedule outcomes and a strong focus on productivity, absenteeism and early quits among journeymen and foremen.

- One other industry practice which was felt to have led to productivity issues within the insulation trade is a lack of job site coordination regarding the insulators work.
- Discussion of this subject led to a discussion regarding the P3C process that's in effect on discipline of journeymen. By way of explaining the Professional Craftsman Code of Conduct program (P3C), it was noted that among the provisions that P3C states that the first firing of a journeyman results in a hearing before his Executive Board. The second violation results in charges brought through the Business Manager, and the third violation requires a hearing with the General President. In response to a question, it was noted that three or four craftspeople had been separated as a result of this process.
- Regarding productivity, absenteeism and early quits, both labor and management noted a need for a joint solution focused on encouraging best practice and enforcement of rules. Included in this practice is not only penalizing non-performing journeymen and foremen but rewarding good journeymen and foremen.

5. **LICENSING**

- This item was explained by labor representatives as a desire to license contractors (and perhaps even craftspeople) in a public way for activities such as fire stopping, insulation and green building activities.
- A second reason for going through this process was a need to get men more knowledgeable regarding the industry that they work in and to more strongly identify contractors in the industry.
- Downstream it was suggested that such a process could result in state approval for licensed contractors in industries such as insulating, mold and mildew and green initiatives.

6. **OWNER OPERATORS**

- Employers characterize this issue as one where small perpetual owner operator contractors are permitted to “game” the collective bargaining agreement by underpaying benefits hours and not progressing into full contractor status.
- Labor representatives responded by asking whether or not employers in the room were losing work as a result of owner operator participation. In general the response was that the work performed by owner operators was very small.
- Employers did note that owner operators are consistently cheating funds as a result of underpaying on hours worked and suggested as a solution that in the trust agreement, contractors should be required to have at least 1,940 hours in benefits.

- On this issue it was noted that language had been changed recently at the International level that allows a member to sign a collective bargaining agreement and work and pay benefits as a sole employee.
- Alternately it was noted that the Sheet Metal Workers union has collective bargaining language which defines a spouse as a company owner required to pay 40 hours per week.
- Conversation regarding this subject ended with contractors noting they are looking for a level bidding playing field.

7. CAPITALIZATION/RESOURCES/EQUIPMENT

- Labor representatives characterize this issue as one where contractors are under-resourcing their own company.
- As a result of conversation, it was acknowledged that while this might be a problem, it is not a problem with the employers who were in the room.
- It was observed that the nature of the non-union industry is changing and that they are increasing their capitalization and becoming more serious contractors.

8. BACKGROUND CHECKS / NEW WORKERS

- It was noted that given the increased security and records keeping influences in the market, social security cards are mattering more.
- It was generally acknowledged that going forward more documentation of individuals workers and more background information will be required by owners, worksites and employers.

9. DIRECT HIRE

- This issue is characterized as one where jobsite agreements are being offered to non-insulation contractors, thereby undercutting insulation contract award opportunities.
- Labor representatives in the meeting noted that they signed such contractors to their full agreement. In addition, they noted that the alternative to direct signing of contractors is non-union work, and that a union's ability to protest work assigned to a non-union contractor is eliminated if they refuse to sign a contractor.
- Many labor representatives noted that they do discourage direct contracting with non-insulation contractors and that they do not want to sign contractors direct. They noted however, that they need to protect the insulator jurisdiction and that the alternative is a non-union workforce.

10. PICKETING

- This issue is characterized by labor representatives as one where employers are balking at making members available to man picket lines.
- In response to a question, it was noted that the local asks members to picket for one day and that contractor can send \$50 to have a retiree man a picket space in lieu of the craftsperson.
- This conversation led to the observation that many owners pressure trades to pull down picket lines and that placing picket lines makes observance of the picket line a matter of conscience for journeymen and foremen.

11. MARKET RECOVERY

- This issue was characterized by labor representatives as cases where market recovery / targeting funds are drawn down on a job for which it is not needed as opposed to being used to stave off non-union awards.
- Several instances of contractors returning target money because it was not needed were noted.
- A request was made by many Laborer representatives that contractors send letters to the local regarding successful use of market recovery/targeting funds.

12. LABOR MANAGEMENT COOPERATIVE TRUST

- Employer representatives asked the question of whether or not the Labor Management Cooperative Trust is being used at the International level to develop a marketing program or whether local initiatives can gain access.
- In response it was noted that resources for local initiatives might be available through the LMCT and that it might be productive to consider a labor management proposal regarding end user and craftsman training referenced under the green initiative portion of these minutes.

13. CONTRACTOR PARTICIPATION

- Labor representatives noted a desire to increase contractor participation on cooperative activities and in conferences such as this one.
- In response it was noted the conference was marketed to all ESICA members and to all non-ESICA members.
- Several contractor representatives noted that they had hoped to get more contractors and that they too want more contractors participating in this cooperative process.

- Many employers requested that labor challenge those contractors who are not participating. In this regard it was suggested and agreed that a list of ESICA members will be sent to each Building Trades Council participating in the New York/New England Conference. It was also noted that this list is available at ESICA's website which is ESICA.org.
- In response to a question, it was noted that ESICA is a union only association, a change made six years ago. It was further suggested that area union websites be linked to the ESICA website.
- Discussion took place regarding at what interval meetings such as this one should be conducted. First it was observed that subcommittee work around issues of joint concern should be considered. Second, it was suggested and agreed that the subject of how often joint labor management conferences would take place would be a subject of conversation at an upcoming ESICA board meeting.

14. POLITICAL ACTION COMMITTEE

- Labor representatives noted that they each had a Political Action Committee but that contractors did not participate in either a PAC or lobbying effort.
- It was confirmed that the contractors, while they engage in political advocacy individually, do not have a joint platform for this advocacy.
- Labor representatives in the meeting strongly encouraged contractors to become politically active and to join with union members in joint advocacy of issues of mutual concern.

The meeting concluded with an observation by Tony Wigglesworth that derived from these minutes a task list of items of apparent consensus would be developed. Such a list is attached to these minutes.