

WORKERS' COMPENSATION ACT REVIEW
Stakeholder Advisory Group/Public Consultation

Yukon Inn, Whitehorse, Yukon
March 10, 2006

Governance and Assessment Issues

PANEL:	Patrick Rouble	Chair
	Ivan Dechkoff	Member
	Michael Travill	Member
 PRESENT:		
	Douglas Rody	Yukon Federation of Labour
	Alan Byrom	Injured Workers' Alliance
	Deborah McNevin	Public Service Commission
	Derek Holmes	Public Service Commission
	Mark Hill	YWCHSB
	Valerie Royle	YWCHSB
	Linda Profeit	YWCHSB
	Craig Tuton	YWCHSB - Board of Directors
	Laurie Butterworth	Yukon Employees' Union
	Don Buyck	Na Cho Nyak Dun
	Beverley Blanchard	Na Cho Nyak Dun
	Rick Karp	Whitehorse Chamber of Commerce
	Ed Sager	Whitehorse Chamber of Commerce
	Sandy Babcock	Yukon Chamber of Commerce & Yukon Tourism Association

(The meeting was called to order at 1:05 p.m.)

Mr. Rouble: I'd like to welcome you all here, today, to the *Workers' Compensation Act* Review Panel meeting. My name is Patrick Rouble; I am the Chair of the Review Panel. I am also joined with Mr. Ivan Dechkoff and Mr. Mike Travill, the other two Panel members. I think most of you know us, and know our background, so I'll spare you the introductions.

The *Workers' Compensation Act* Review Panel has been tasked with identifying issues and concerns with the current *Workers' Compensation Act*, and making recommendations to the minister responsible, on how to amend the legislation in order to best serve the needs of all stakeholders. We are empowered to consult with stakeholders, to review existing information, review other jurisdictions' legislation, contract for additional information, and then present our recommendations for changes to the legislation to the minister.

We are committed to following a process that is inclusive, open and fair, and that will ultimately produce recommendations that will ensure that the *Workers' Compensation Act* continues to meet the needs of Yukon stakeholders to the greatest extent possible.

We are committed to insuring that the principles of Workers' Compensation are met and continue to be followed.

Section 105 of the current Act called for the minister to initiate a review no later than January 1st, 2003, and following the General Election in November, 2002, this Panel was appointed in December, 2002. The Panel then identified a process to be used to conduct this review. This began with the identification of issues, including issues mandated by the Act to be reviewed, issues identified by the Auditor General of Canada, and issues brought forward by the Review Panel. We then put out a call for the identification of issues, which generated more. We then asked for comments on all of the issues brought forward. In other words, we asked for comments on the issues additionally brought forward by other stakeholders. The minister then directed us to consider all of the issues brought forward.

In our final report, we will address all 88 issues.

We then conducted an examination of the issues, and prepared options for addressing these issues raised. The Panel is now seeking feedback and comments on these issues. We'd like to hear whether or not you feel the issue should be addressed through changes in legislation; whether or not you support a particular option, and why; or if you see other options for addressing the issues and the underlying problem.

We are also interested in hearing what your criteria are; what are those principles with which you think we should evaluate the different options that we are mandated to do.

The Panel will consider your comments. Additionally, we will conduct other research and analysis. We will then prepare our recommendations to the minister on how to amend the legislation. And, again, the Panel has identified 88 different issues, and we have been tasked with providing comments and recommendations to the minister on all of those.

Now, in order to receive comments, the Panel has created a schedule of public forums to provide an opportunity for people to voice their comments. The Panel will also receive written submissions by mail, fax or e-mail.

The Panel recognizes that people and organizations have varying levels of interest in

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participating in an act review, varying levels of time available to participate, and that there are other factors that can influence participation in a review such as this. We are committed to accommodating the many diverse and sometimes conflicting needs, in order to ensure that people have opportunities to make meaningful comments to the Panel.

Upon the release of the consultation schedule, we heard that some needs were not being met satisfactorily. These needs included the ability to participate in a public meeting outside of regular business hours; and the flexibility not to stay for the whole meeting in order to make a comment. We also received comments that the meeting schedule was too time-consuming; also, we heard that there was not enough time scheduled to address all of the issues. We also received comments from some members of the Stakeholder Advisory Group that they would like to see changes in order to meet their needs.

To address these concerns, we would first like to remind participants that they have the ability to make written submissions to the Panel, or may leave their comments on the Panel's voice mail. But we do propose to change the format of the meetings to address some of the valid concerns. First, we will be adding an evening meeting to allow for comments from those who are unavailable to attend during the weekday.

Second, we will use an open mike format for the first half of the scheduled meetings, to allow individuals to come forward and make their comments. That's what we did this morning; we conducted an open mike process from 9:00 until approximately 11:30. This allows people to make their presentation, provide their comments, and leave. Also, individuals would not have to wait until a particular issue was brought forward before they could speak to the issue that was important to them.

The proceedings of the early meeting and, indeed, these meetings now, will be recorded, and a transcript of the comments made available on the website. This will allow people to access the comments made without being present for the entire time, and also fulfills the Panel's obligation to be open, fair and transparent.

Additionally, members of the Stakeholder Advisory Group also expressed concerns. Earlier this week, the minister and I heard that you had some concerns with the process, and requested to have a meeting with us to discuss those. To that end, we decided to change the schedule, and changed it to this current format, where, during the second half of the scheduled meetings, from 1:00 to 5:00 p.m., we will discuss the issues with you folks directly. In keeping with the Panel's philosophy of being open, inclusive and fair, these meetings will be open to the public, the contents of which will be transcribed and put on the website.

Additionally, we wanted to have a meeting with you, now, to finalize how this consultation should then continue, and how you want to work with the Panel. On Tuesday, this week, the information I received from you folks is that you wanted an opportunity where you could decide on which issues you felt did not need to be addressed through legislative change; you wanted to then see what kind of agreement you, as stakeholders, would come to as to which was the preferred option; and, additionally, you wanted the opportunity to identify which options or which issues you couldn't come to agreement on, and then you would then provide your own submissions to the Panel on those issues.

So, that brings us to today. The Panel and I want to hear from you, as to how we can

establish a format that will accommodate your needs, and that will provide the Panel with the comments that we need to make our decision, so that we can do our work to make the recommendations to the minister.

Now I'd like to hear some feedback.

Mr. Rody: Well, for us, this format works. And I think we will, in the coming weeks, prior to each meeting, we will seek out the other stakeholders to see what issues we can come to agreement on, in terms of where we would like to see the legislation changed or not changed.

Mr. Karp: We agree with that.

Mr. Rouble: One point that I'd like to put out, right from the get-go, is that we are tasked with providing recommendations on all of the 88 issues. That's our job and our responsibility. We're looking to you folks for your comments, your thoughts and opinions, on these issues. But, even if you folks come to an agreement on a particular issue, that doesn't absolve us of our responsibility to continue to examine the issue.

Mr. Tuton: We understand that.

Mr. Royle: Based on the comments that we received from the public meetings, the meetings with you folks, and additional information that we received, and additional research, we will be pursuing, in greater detail, some of these issues, and we will draw our own conclusions.

So, we want to hear your feedback. If you folks find that it's beneficial to you, in order to provide input to us, to talk with each other, we think that's wonderful. We do also want to recognize that we need to identify the issues and the principles that are behind it. The last thing we wanted to do is get to an issue of trading issue for issue, or position for position. I don't know if there is a risk in that happening if there is this kind of forum. I just identify that as a risk that has been identified to me. But I think you've made it perfectly clear to me that, if there is an issue that you don't have agreement on, that you will provide your own submissions.

Mr. Karp: Mr. Chair, the Whitehorse Chamber will be making a submission at the end of the full session, but we are, with the labour groups, meeting before, and coming to some sort of consensus if that's possible.

Mr. Rody: In terms of, you asked what sort of principles, or what sort of criteria for evaluating proposals or approaches to solutions... one of the things that, in our group, we talked about a long time ago, the approach we thought we would take, and it's actually the reason some of our issues, that we raised, we want to drop, and we'll get to that later, but... one principle would be that any solution be consistent with the Meredith Principles. I mean, that's the foundation of the entire system.

The other question I think we should all ask ourselves is, whatever we suggest, will it improve the legislation; and, subsequent to that, improve the Workers' Compensation system? Which also, I guess, brings into consideration, is it something that needs fixing?

That's the approach that, in our group, we've taken, and it may very well be the same with the others.

Mr. Rouble: That's one of the comments that we heard earlier today. One of the presenters commented that we have a pretty good system now; it might just need a little bit of fine tuning, so let's stick with the original principles.

I think we can all agree that we want a system that will protect workers; that will reduce the number of injuries that occur out there; that will keep true to the other Meredith principles; and there are other factors, such as the cost of the system, which also need to be considered.

Mr. Karp Mr. Chair, just a point of procedure... so, if we understand it correctly, we're going to be meeting mornings for the public, afternoons for stakeholders. You will then accept final submissions by the middle of June, at which time the Panel will review, make its recommendations to the minister. Will the stakeholders and public have an opportunity to see those recommendations before they go to the minister, and comment on them?

Mr. Rouble: It's our intention that, once we come to conclusion on our recommendations, we will present those to the minister.

Mr. Karp: To the stakeholders at the same time, or after?

Mr. Rouble: Shortly after, to the stakeholders. It's just fair to give the minister a bit of a head's up, so that he or she has the opportunity to be able to comment on them when he or she would be expected to comment the day after by the media.

Mr. Rody: A question in that regard, with regard to your report. Would you be actually proposing draft legislation, or just proposing suggestions for how to change the legislation?

Mr. Rouble: Suggestions for.... We won't be sitting down and doing the legal drafting, and saying this is the proposed legislation that we would see tabled in the Assembly. Which is an additional process, that we will make the recommendations to the minister, the minister will consider them. It will then go through the Cabinet process, and then the legislative process.

Mr. Karp: Mr. Chair, would you be doing the cost analysis on your recommendations for the minister in advance of?

Mr. Rouble: We expect that, in order to come to conclusion on some of the issues, we'll certainly have to sit down and look at what the cost implications are. We also heard, though, that we didn't want to go down the road of doing a full in-depth analysis on each and every

one of these issues, until we've gotten some more feedback from you.

As you can appreciate, we have 88 issues, with, let's just say on average, three options for each issue, so that's 270 different scenarios to look at, which... we thought we could try to seek some more concise agreement before pursuing those kinds of endeavours.

Ms Babcock: Mr. Chair, how will you weight the submissions? You know, you'll have individuals providing submissions, as well as large organizations such as ourselves and the Federation of Labour, who actually represent a lot of people. How do you weigh those?

Mr. Rouble: Well, that's the role of the Panel, to sit down and again look at the issue, look at other jurisdictions' ways of addressing it, and the repercussions of that, and then looking at the submissions from you folks and other interested parties, crunching the numbers, our own internal examination, and then our own discussion.

We don't have a magic formula that says, if one group, representing X number of people, says this, that we'll do that. We still need to sit down and come to our own

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conclusions on that. We're looking for your advice on what conclusions to reach, and what criteria to use to reach those conclusions, but it's then the Panel's role and responsibility to make the decisions.

Mr. Byrom: What I was thinking of, was that there is a possibility that we could be looking at a contract that has actually been negotiated between employer reps, worker reps, Administration and YTG. So that, although an employer rep would represent a large number of employers, how many employers have discussed, with their workers, this contract? So then we have the labour reps, who represent organized labour, but there's unorganized labour.

So I was wondering if individuals, as employers, have actually discussed this with workers. And the reason why I'm raising this issue, because First Nations are new to this game, so they're not on top of this situation right now, but the unique thing about their situation is that they're employers and workers. So there's a situation where the Band governance could actually have meetings with their entire Band membership, to discuss the terms of the contract. So then they're presented an option which is not a labour option/employer option, it's an employer/labour option, as to what's good for them. Which could be different than a position presented by an employer rep and a labour rep.

So there is an element, let's say, of the democratic process, because we know that there's 12,000 workers out there, and their families, who could be getting a contract that's been shaped by 75 people. So I just thought I'd put that in there.

The question on the issue would be, it's the time constraint whereby somebody like First

Nations would say, Look, we want to analyze this. It's just fallen on our doorstep. We know it's been out there for awhile, but... supposing we want to do this. Because you're dealing with the second largest stakeholder group in the Yukon. If they were to say "We want to discuss this", is there a flexibility for that kind of situation?

Mr. Rouble: Thank you for your comments. At the beginning of this process, all employers, that were registered with Workers' Compensation, were advised that the Act Review was going to be undertaken. Additionally, all injured workers, that had a relationship with Workers' Compensation, were advised that the Act Review was going to be undertaken. Additionally, all First Nation governments were advised that the Act Review was going to be undertaken, and a letter went out to Grand Chief and all Yukon First Nation chiefs, requesting input as to how they would like to be consulted; whether it was at a government-to-government relationship, or working with them as an employer. Additionally, we advertised the existence of the Act Review on radio and newspaper, to make all Yukoners aware of this. Throughout the entire process, each phase of it, we have issued press releases, and conducted advertising, to make as many Yukoners aware of this as we possibly could. We have included all of the material on the website, so it is very accessible. We have received criticisms about the time line... valid criticisms, I'll add.

I think it's safe to say that those who have an interest in this are now aware of it, and that they have had opportunities, all the way along, to gain additional knowledge, and to participate. And now we're at this juncture of the review, where we have released the document; we're seeking feedback; we're seeking feedback from having public meetings, allowing any person interested to come forward and produce their comments; we're having meetings with folks such as yourselves; we're having both Whitehorse meetings and community-based meetings; we've added an evening meeting to allow input; we're also accepting input in written format, either through e-mail or normal mail; and we'll accept input on our voice mail number.

We've set the consultation schedule in order to give time, between the major subjects, for people to then look and prepare their next submission. And then we've set out a deadline, for written comments, to June 15th, to allow people to have time to reflect, after the meeting, on what their final submission should be. We need to have some time line on this.

We've also heard from you folks that consultation in the summertime just... don't go there. So we're not going there. We'll use the summer to write our report. Which we all want to see the conclusion of this exercise, and we need to conclude it within a reasonable time.

Mr. Buyck: Mr. Chair, if the 11 First Nations and the Council for Yukon First Nations have not responded in any way, shape or form, as I said this morning, it leaves the workers unprotected. So, if none of those entities have responded, and guys like us are trying to find ways to make the Workers' Compensation Board relevant and helpful to the injured worker, it seems to me the onus is on somebody to do something about that. Now, I'm not sure if that's WCB, or if that's the Yukon Government.

You made a comment about, as a government, or as an employer, it seems like it's a conflict or something. And the way I see it, under the self-government act, you're supposed to look after your employees. Ten years ago, the Laws of General Application, all Yukon Territory Government laws, came into effect for my First Nation. In those 10 years, I haven't seen any real proactive, or any kind of effort, by WCB or government, to make sure, through due diligence, or I'm not sure what the right word is, the duty to accommodate, or things like those kind of expressions, nobody's doing that on our behalf of the injured worker. So somebody has to do that.

I don't think that report is final and complete if you don't have a response from any First Nation government and CYFN, because nobody, there, is speaking on our behalf. And yet we pay good money into that, as an employee and as a government. So it blows me away that those governments and CYFN haven't responded.

In terms of myself trying to deal with this paper, deal with all the recommendations, and come up with something that's a nice tidy package to hand off to whoever, it's going to take – like, I don't have all that expertise to go through all this stuff. So we need help from somebody, and we could use your help to identify who those somebody's are. Because I think Workers' Compensation Board has a big obligation to make sure that the workers are represented, and that's not the case today.

Mr. Rouble: I appreciate your concern, and the issue that you've raised. One of the things that we need to focus on, as part of an Act Review, is that we are looking at a piece of legislation. We always face a challenge of getting into a review of the organization and its activities, when we get into a review of this nature, but we're trying to focus on the actual piece of legislation.

We're trying to receive as much information as we can from all those who have an interest in Workers' Compensation. With the concurrence of my Panel members, I'm prepared to write an additional letter to the Grand Chief and all Yukon First Nations, again reminding them that the Act Review is underway, and inviting their comments.

Mr. Buycck: Yes, they have a responsibility to respond, they can't just ignore it.

Mr. Rouble: Now, the June 15th deadline for comments... I think that's far enough down the road, that it would give adequate time to form a comment and send it back, so we still need to maintain the current time line.

Mr. Byrom: So that answers the question I was asking, around that flexibility to engage these groups, like First Nations, which are new to this game, and which our friend, here, is saying that, without a response, something is missing. You know, they're going to get something that they did not ask for, or been a party to.

Now, you could say, well, that's their problem. But I don't know if an employer here – I don't know if you have any workers, I don't know if you've discussed the contract with your workers. It's just one of those things whereby, is the flexibility an issue of the government

says “This is how it is”? Or is it a question of stakeholder groups, like First Nations, saying, “We want it like this”? Who’s calling the shots on that? The contract guidelines and deadlines... who’s telling who where it’s at?

There should be some flexibility, because it could be on your agenda that it’s related to a political election, to do it before the next election, or whatever. We don’t know if that deadline is for workers and employers, or for government.

Mr. Travill: The scheduling was set by this committee. We had notified all injured workers, that were within the compensation system, at the outset. We had notified all the employers, who were registered with the Compensation Board, at the outset. We’ve advertised on radio and in the news, in both papers. We’ve done those sorts of things. We’ve set the schedule, and in fact we’ve been criticized for allowing it to carry on too long.

We’ve moved to the point, and we do have to move forward with legislative development. We can’t wait for people who don’t want to participate.

Mr. Byrom: Yes, I understand that.

Mr. Dechkoff: We also heard a lot from the employer group, saying that, Don’t do it in summertime; that’s our busy time, we don’t have time to do it then. So the pressure is on to make sure that it’s done to meet their needs as well. And that’s what we’ve tried to do, to make sure that everybody has the opportunity to voice their thoughts.

Mr. Byrom: My spanner in the works was, it seems to me like the First Nations is a pretty big pressure group; that they could change their attitude, and suddenly they’re putting the pressure on. You know, that’s what I’m saying. If that happened, if they would just become informed and, after this meeting, if they were told, and began to communicate, and they actually went into the CYFN chief’s office and said “We got to deal with this; we got to get on to this”, and then they became the pressure group to say –

Mr. Dechkoff: I guess what you have to understand is, we don’t have that power to do that. All we can do is ask for input. We don’t have that role, to go after people; we can only say “We would appreciate your information.”

Mr. Byrom: Yes, but I’m saying I might be the one that does that; goes in there and speaks to these guys, and says “You should do this.” And if they did do that, they did come back and say that, would you be more flexible? Or would you say “Sorry”?

Mr. Rouble: The Panel is trying to accommodate all reasonable requests. It’s trying to respond to the valid issues and concerns raised. But deadlines are a reality. So we need to proceed.

I don’t want to get too bogged down on a “what if” scenario. I’d like to hear comments, the Panel wants to hear comments, but we do need to have a deadline to bring some closure to this, so that the Panel can get on with the business of making recommendations.

We do have the flexibility, as was done with past Act Reviews, of identifying additional areas that should be reviewed in the future. This isn't to say, though, that this can't be a topic that the Board, either the Administration or the Board of Directors, can't look at. One of the things I think we've seen, by the identification of some of the issues in the Act Review, it may have caused the Board to take a second look at some of their other policies or practices, and been able to address some of the issues already. So, by highlighting the issue in an Act Review, it's caused the Board to take a look at its policy work. If other issues like this come up, that certainly doesn't preclude the Board from taking action on it.

Mr. Byrom: Okay, thanks for your response.

Mr. Rouble: Now, I should add, I can't speak for the Board of Directors; that's not my role, I'm not on the board. I'm the MLA for the beautiful Southern Lakes, and Deputy Speaker, and been tasked with chairing this review. So we look at the review, and the Board looks at its issues.

Can we move on?

Unknown Speaker: Please.

Mr. Rouble: The next issue that I'd like some comments from you folks on, is what role you would like to see me, as the chair of this panel, take in facilitating these discussions.

Mr. Rody: You're the chair.

Mr. Karp I take it, Mr. Chair, all the larger stakeholders at the table now have gone through the governance issues, and the assessment issues, and we're prepared to comment on them, either individually or as a group. If we were able, if everyone is in agreement, to go issue by issue, for the 16 or so issues, we can make our comments on those right around the table. At the end of that, if there is time, then perhaps we could come back to other issues that were addressed earlier. If everyone agrees.

Mr. Rouble: So what I'm hearing, then, is that I will start with Issue #1, call for the issue, and then... is there a preferred order, or is it just whoever wants to go first, goes first? We'll ask, then, if there are any other comments,

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and then, hopefully, we'll reach a natural conclusion to the issue, and then go on to the next one.

Mr. Karp: Just one point, Mr. Chair... are those present written into the minutes? Should we go around the table?

Mr. Rouble: We have a record of who was in attendance. And the comments that are presented in our open public meeting will be transcribed,

and will be put on the web page.

Mr. Sager: Do we have an opportunity to make a general comment as we go around the table?

Mr. Rouble: A general comment regarding the Act Review, governance, or specific –

Mr. Sager: I guess the Whitehorse Chamber has a brief

introduction we would like to read into the record, but we can do it at whatever time is appropriate.

Mr. Rouble: Well, let's start with that, then.

Mr. Sager: I'm Ed Sager, I'm the Chair of the Whitehorse Chamber, which represents about 350 small to medium employers, and that would be 3500 to 4,000 employees; and we're also representing the large employers group.

To explain our stance, we believe that a well-functioning Workers' Compensation system is in the interests of all stakeholders, and that's injured workers, non-injured workers, employers and governments.

Injured workers, who are receiving compensation from a system, want to ensure that their compensation is adequate and sustainable. Non-injured workers want the security of a financially viable system in place, should they become injured, but they also want to ensure that excessively high payroll taxes used to finance the system do not become job killers, if firms have to reduce employment because of those taxes. Employers want a financially viable system that doesn't deter their competitiveness. And governments want to ensure that compensation is adequate, so that workers don't become wards of the state; and also that the costs of the system don't deter business investment and job creation.

As we all know, Workers' Compensation arose as a historic compromise whereby workers would receive no-fault compensation, and workers and employers would be free of the costly, time-consuming and uncertain legal proceedings of the tort liability

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system, and that being a delicate balancing act is required to ensure fair and equitable compensation in a non-legalistic and, hopefully, non-adversarial fashion, and where the concept of "fair and equitable" applies to employers as well as employees. Without that, the system is in jeopardy.

The recommendations that we're putting forward are advanced in the spirit of the need to restore that balance. They're not meant to be critical of the basic premises of the system based on the Meredith Principles. Rather, we're advancing them in the spirit of concrete,

constructive, suggestions to restore balance, in order to preserve the system in the joint interests of all stakeholders.

The concern is that the costs of the system are rising dramatically, and are expected to rise even more so in the future. This is occurring in spite of the fact that injuries, themselves, are down. The rising cost, in part, reflects the fact that the duration of claims is increasing substantially. And as we will document subsequently, this is occurring, in part, because of features of the Workers' Compensation system. And if these features are not changed to restore balance, the whole system is at risk for all stakeholders.

Thank you.

Mr. Rouble: Thank you. Is there anyone else who wishes to make an opening statement? Hearing none, we'll continue on with the review.

One other point I would just like to add... through the identification of options in this document, there are some areas where we felt it was intellectually honest to provide an additional option (it could be an option proposing the alternative point of view) in order to fully have the discussion and look at the contrasts. There are going to be options that people don't agree with. I would just ask that folks, when making comments, we focus on the issue at hand, not over personality issues, or dwell too much on negative past experiences. And that we just respect the right of others to have an alternate point of view.

Mr. Tuton: Mr. Chair, just for the record, I think I should note that, if the Chair feels the need to direct a question to the Board, because I do speak for the Board, please feel free to do so, and I'll respond.

Mr. Rouble: Thank you. Okay, well, the topic for today is "governance". In writing this document, we thought we would start with the real easy one first... the "Entire governance structure". Now, do folks feel this should be addressed through legislative change?

Mr. Rody: Well, there are probably a couple of items

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that... the first one being, of course, "Board of Directors". I think that's been a problem in the past, where the Act says "Board", and it's not always clear whether they're referring to the Board of Directors or the administration. And it would probably be helpful if there were changes made so that, where the Act is referring to the Board of Directors, that it say "Board of Directors".

Mr. Rouble: Does anyone else wish to address this issue, or are you in agreement with the comment?

Ms Babcock:

Yukon Chamber agrees with that.

Mr. Karp: The Whitehorse Chamber agrees with that as well.

Mr. Tuton: As do we.

Mr. Travill: So “Board” to mean the administration; “Board of Directors” signifies, directly, the Board of Directors.

Mr. Rody: That’s correct.

Mr. Rouble: The next issue identified, then, “size and composition”.

Mr. Rody: Sure, I’ll jump in again. It’s no secret that, in terms of public interest representatives on the board, the Federation of Labour is opposed to the suggestion.

First of all, I would say that a public interest representative is contrary to Meredith. Meredith identified two stakeholders that would have representatives that would direct activities of the Board; employers and workers. We believe, if you introduce public interest representatives, that it will open the system up to political interference, whether that’s the government of the day or the Legislature of the day who is going to appoint those representatives.

I think those with interest in the system are either employers or workers.

Mr. Rouble: Additional comments?

Mr. Byrom: I’d just like to make a comment that, when the Meredith Principles, and Mr. Meredith, himself, was walking the planet, we lived in a world of God, King and Country. So the whole ethical obligation/expectation world, that Mr. Meredith lived in, has become the world of last man standing. So the reason why

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the inclusion of public interest is probably on the table is because of the failures within that representation.

I’m not saying for or against, but it could be viewed that the public representation is actually there to safeguard the Meredith Principles. That’s another way of looking at it. I’m not going to say, one way or the other, we should have them or not.

But one comment I would make, is that the qualifications for the public representation interest did look like it could be in the interest of WCB administration; and then I thought to myself, Well, there’s nothing wrong with that. Because what’s good for the administration could be good for the public interest. There is no guarantee, of course, that the public interest will be impartial or non-political, but there’s no reason why we should impute any form of corruption or negativity towards Mr. Cathers; he’s new and young, and he might be

an upright man, and you may get some good people on there. So, that's just a comment.

Ms Babcock: Yukon Chamber would like to see the legislation stand as is. We do not see the inclusion of a public member to the board to increase its effectiveness. And I think that's what we're looking to do here, is to strengthen the effectiveness of the legislation.

Mr. Karp: The Whitehorse Chamber of Commerce agrees with that as well, due to the recent governance changes at the WCB, and also the fact that we tend to want to trust that our representatives are acting in the better interests of the public, and we would agree with the making no changes to legislation.

Mr. Tuton: We agree with those comments.

Mr. Byrom: One additional comment I'd like to make is that, when we were in consultation with the Auditor General, one of the issues of the board representations was the level of education, and the problem with understanding the English language, understanding the legislation. So I noticed, on the qualifications, potential of public interest, educational levels of that. So that is just an additional comment about the level of education of the representatives on the Board.

Mr. Rody: Just one additional comment. With regard to, supposedly, a benefit of having a public interest representative or representatives, there's a suggestion out there that the addition of public interest representatives would facilitate a decision in the case of where employer and employee representatives are deadlocked. What my response to that is, if they did that, then they're going to be identified with one side or the other. And, where employer reps and employee reps on the Board are in disagreement, maybe they're not ready to make the decision yet, and maybe they need to discuss things more. That would be a preferred alternative, than

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having a public interest representative break the deadlock, one way or another.

Mr. Rouble: Thank you. Any other comments on this issue?

Ms Babcock: I think I just have one, and that's a clarity... is

that the Board members, although we refer to them as labour and employer representatives, they don't actually represent us on the Board. Correct me if I'm wrong, Craig. What they do is bring those perspectives to the Board, but they represent the Board, itself. And, therefore, I would suggest that that would be public interest.

Mr. Rouble: Thank you. We're ready to roll on to "Frequency of Board Meetings".

Mr. Sager: We have something about the Chair of the Appeal Tribunal.

Mr. Rouble: Oh, under “Size and composition”, there were additional options there, looking at the issue of amending the legislation so that the Chair of the Appeal Tribunal is removed as a member.

Mr. Rody: We’re okay with that. I think the original reason, in the last round of amendments, that the Chair of the Appeal Tribunal was put on the Board was to encourage communication between the Appeal Tribunal and the Board. And there are other ways to do that, and a number of people are concerned about the appearance of conflict with the Chair of the Appeal Tribunal being on the Board, and I think it’s a valid concern. So, from our perspective, we think the legislation should be changed to remove the Chair of the Appeal Tribunal from the Board, and leave it to the Board and the Appeal Tribunal to work out ways of communication amongst themselves.

Mr. Sager: We concur with that.

Mr. Rouble: Any other comments?

Mr. Tuton: We concur with that.

Mr. Rouble: Point number 5 was: “Add a requirement to the legislation stating that the Chair of the Appeal Tribunal shall attend Board meetings once each quarter.”

Mr. Rouble: We don’t think it’s a good idea. Once you’ve removed that person from the Board, it doesn’t make sense, then, to make them attend

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a Board meeting. Again, if the purpose is to encourage communication between the Appeal Panel and the Board, that’s a governance issue that should be best left to them.

Mr. Rouble: Additional comments?

Mr. Sager: We concur with that.

Mr. Tuton: We agree.

Ms Babcock: As does the Yukon Chamber.

Mr. Rouble: Okay, 6: “Amend the legislation so that the

President is a voting member of the Board.”

Mr. Rody: No, we don’t agree with that. I think it puts the president in a difficult position. The president should be a member of the Board, but a non-voting member.

Ms Babcock: We absolutely agree with that. It is the role of the president to receive the

direction from the Board and implement; not to be directing the Board.

Mr. Sager: Whitehorse Chamber supports that.

Mr. Tuton: There wouldn't be a president in the world that would accept that.

Ms Royle: That means the Board agrees, as does the president.

Mr. Rouble: "Frequency of Board Meetings". Do you folks want me to take a schedule of going around the room, to see who starts first?

Mr. Rody: I think it's working well the way it is.

Mr. Rouble: Okay.

Mr. Rody: No change to the legislation... we're suggesting. I have been on the Board, and if there's a concern that time commitments are too onerous and a hindrance to finding willing candidates, what I would say to that is, the time commitments are onerous. Being on that board is not something to be taken lightly; it's a lot of work. And there's no point in suggesting to anyone, to sugar

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coat it, that it isn't time consuming.

Mr. Rouble: Other comments?

Ms Babcock: We agree to no change in the legislation.

There are minimum requirements set out, that does not preclude the Board from

meeting more often if necessary.

Mr. Sager: We support that.

Mr. Tuton: We agree.

Mr. Rouble: One down, 87 to go.

Mr. Buyck: Excuse me, Mr. Chair, I'm sorry I missed this,

but, earlier this morning, when I was talking about composition of the Board, I raised the issue about the Umbrella Final Agreement, and the issue of representation. You indicated that, to your understanding, that wasn't the case. But I'd like to raise that through the Public Service Commission.

Do they not have a mandate to ensure that you have proper representation based on – I forget that word – given the fact that you have 14 First Nations and the CYFN, we have a large number of workers and stuff like that? Shouldn't the Public Service Commission be looking at addressing that?

I don't expect an answer today, but it's an issue that needs to be addressed.

Mr. Travill: Just one question for clarification. Because of being a large employer, they should then have a right to be on the Board; is that what you were thinking?

Mr. Buyck: Not so much because we're a large employer, but because the Yukon's supposed to be representative of all its people, and, as we know, First Nations are a significant part of that.

Ms McNevin: Just to very briefly speak to that, the obligation in the First Nation Final Agreements is for the government to have a representative on the Public Service plan, but it is aimed at achieving a representative public service within the Public Service, itself. So, in terms of our employees, that we are aiming for a public service that's representative of the population it serves. It does not deal with appointments to boards and committees, in terms of that obligation. And I don't believe the Board is one of the boards that's covered under the representative requirements in the Final Agreements, themselves.

Mr. Buyck: That has to change.

Mr. Rouble: Okay, are we prepared to move on to Issue #2? Okay, Issue #2 is "Voting and role of the Chair".

Mr. Sager: I can speak to this. I believe the legislation is silent on the voting role of the Chair, which would appear to suggest that the Chair does not have a vote. So we would suggest that the legislation be left as it is. And our comment would be that this is a governance issue for each Board of Directors. The Chair's duties should be in the governance guide and not in the legislation.

Mr. Rouble: Other comments?

Mr. Rody: We would support leaving the legislation as it is. The Chair's role can often be pretty dicey. The Chair is supposed to be neutral. On the one hand, if the Chair has to cast a vote, if the Board is split along employer/employee lines, then it compromises the Chair's neutrality. On the other hand, there has to be the potential to break a deadlock.

Now, hopefully, the Chair would encourage more discussion to break that deadlock, but, at some point, there has to be the possibility that a tie would have to be broken. Again, it's something that I think each Board should probably deal with in their governance document.

Suffice it to say that probably, if it gets to a point where the Chair does have to cast a vote, that may very well be the first and last time the Chair votes, because the Chair has compromised his or her neutrality.

Mr. Tuton: We would agree with those comments.

Mr. Rouble: Other comments on the issue?

Ms Babcock: Yukon Chamber supports that.

Mr. Rouble: Also in this issue was the option of including additional responsibilities.

Mr. Rody: We don't like the idea. You don't put the job

description in the legislation, I don't think.

Mr. Rouble: Other comments?

Ms Babcock: We don't believe it should go in the legislation.

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Pretty much on any board, the Chair's role is very consistent, from board to board, and we don't see a need to limit it, or prescribe what their role is, within the Act.

Mr. Sager: We agree.

Mr. Tuton: We agree.

Mr. Karp: Mr. Chair, this is a difficult issue. We do agree

with leaving it as it is now, the position and responsibilities of the Chair. Something, perhaps, that you could note to follow and check out, if we have a next review, as something we could look at to see how it's working.

Mr. Rouble: Okay, Issue #3, "Relationships between the Appeals Tribunal and the Board".

Mr. Rody: This is sort of dead, from our perspective. We are saying the Chair of the Appeal Tribunal shouldn't be a member of the Board, whether voting or non-voting.

Mr. Sager: Yes.

Mr. Rouble: Any other comments? Issue #4, "Links between the powers/duties of the Board and the objects of the Act".

Mr. Sager: Whitehorse Chamber suggests there be no change to this. Comments... specific duties of the Board is a governance concern, not legislative. And objects of the Act... section one already covered this.

Mr. Rody: We'd say no change to the legislation. I understand the issue as it was originally phrased, but that currently the Board of Directors are not explicitly linked to the objects of the Act. It's our understanding that the Board of Directors are responsible for administering the Act, the whole Act, including the objects, so we don't see a problem with the legislation as it reads. What you're talking about, again, is a governance issue, that should be in their governance document.

Mr. Rouble: Other comments?

Ms Babcock: I think what we found out, when we reviewed these issues again, is that a lot has changed in the last few years. And so these issues have been revisited by us with a view of today, not yesterday.

Mr. Rouble: "Reporting structure of the President".

Ms Babcock: It is our position that the President should, clearly, report to the Board, and to the Board only.

Mr. Sager: We concur.

Mr. Rody: We have the same position. I know the former President always found it difficult to report. It's a conflict. You're either reporting to the minister, or the Board. And we think the President should report to the Board, and the

Chair reports to the minister.

Mr. Tuton: We agree.

Mr. Travill: By "reporting", you mean the ability to hire and fire as well?

Mr. Rody: Yes.

Ms Babcock: I understand the legislation already says that

the President is the employee of the Board; therefore, that's who they should report to, that's who should hire and fire.

Mr. Tuton: It should be clearly understood that there's another Act or two that has to take place here... as long as everybody is aware of the PSC Act.

Mr. Rody: Yes, I guess that may require consequential amendments to the other Acts, yes.

Mr. Rouble: Issue #6, "Process for appointment to the Board and the Appeal Tribunal". We've also heard some discussion about this earlier, with criteria being discussed. Comments?

Mr. Buyck: More a question of clarification... is there a process laid out with a First Nation government? Is there a process laid out whereby they have that opportunity, now, to play a part in this?

Mr. Travill: The legislation directs the minister will consult with the representatives of workers and representatives of employers for the appointments.

Mr. Buyck: So, is that by a formal letter going to the First Nations?

Mr. Travill: The minister gets to select the method and manner that he does that.

Mr. Buyck: I guess that's what I'm trying to clarify... what is the manner and process?

Mr. Travill: It's up to the minister, whoever the minister of the day is, to choose what process they will use.

Mr. Buyck: Well, I guess, just to be clear then, I don't see that, and it needs to be laid out.

Mr. Rody: Option number 2, "Amend the legislation to require the Minister to consult with the Chair of the Board...", we don't think that's a good idea. The minister may very well consult with the Chair of the Board, but we don't think it's a good idea to put that requirement in the legislation.

And, as far as appointing representatives from employers and workers, we'd like to see it perhaps strengthened a little bit, so that the minister should appoint those representatives from a list of names supplied either by employers and employer organizations, or workers and worker organizations. We'd just like some idea of – for example, if we put a name or two forward, and they're not chosen, we'd like some idea that the eventual person, who was chosen, was from some other lists provided by – we'd like to know where the nominee comes from, that's all. So we're suggesting to strengthen that clause somehow.

Mr. Dechkoff: You're talking about number 3, then, are you?

Mr. Rody: Yes.

Mr. Butterworth: As long as you strike out the last sentence.

Mr. Rody: Yes. No, no, we don't agree that the minister should have sole discretion to appoint the Chair. Ultimately, it is the minister's decision to appoint the Chair, but I think it's important that the minister consult with the stakeholders about that appointment.

I mean, to suggest that the minister have sole discretion, means that they don't need to consider any input from any stakeholders. We think input from stakeholders is helpful.

Mr. Dechkoff: So, am I hearing you saying, then, that there should be a list created, similar to the representatives?

Mr. Rody: I don't think it's a good idea to get overly prescriptive in the legislation, but I think there should be a requirement to consult with stakeholders over the appointment of the Chair.

Mr. Karp: We've experienced appointments being made where there have been names submitted, and another person was appointed and we don't know where that list came from. As an employer, when we're interviewing and hiring, we have a set format with Human Rights, and all sorts of other legislation that we have to follow, and this option number 3 would just allow the same procedure to come into appointments to the Board of Directors.

Mr. Travill: And were you in agreement with the thing about the Chair?

Mr. Karp: Yes.

Mr. Travill: That number 3 is from Saskatchewan legislation.

Mr. Rody: That's a good place for it to stay.

Mr. Tuton: We would agree with all of those comments.

Mr. Rouble: Can we safely assume, then, if you don't raise

a concern, that you're agreeing with the comments?

Unknown Speaker: I don't think so.

Ms McNevin: No, you can't.

Mr. Butterworth: You might end up with written submissions.

Mr. Byrom: I might have to study the Saskatchewan

legislation. **Mr. Rouble:** Okay. I'm just trying to get a feel for how much I should continue to call for issues if I'm not seeing people coming forward. So, on occasion, I'm seeing heads nod, and other times I'm not. So I'll just continue doing

what I'm doing, to call for issues, and if folks wish to put forward their comments, please do so. Okay, ready to move on to Issues #7 and 8, "Board policy developments (emerging

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Ms Babcock: Yukon Chamber doesn't think that this should be a legislated issue; that it belongs in policy. We do not wish to see how Board policy is done, entrenched in legislation, because it may not work for every policy.

Mr. Travill: So remove the process that's in there now?

Ms Babcock: Yes.

Mr. Rody: Sorry, remove what process?

Ms Babcock: No change... no change to the legislation.

Mr. Dechkoff: But there is restriction in there now.

Ms Babcock: We don't want to see it changed.

Mr. Dechkoff: So what you're saying is, you want to continue

to have specific guidelines as to when and how policy is developed and created, and

process? Because that's what's in there now.

Ms Babcock: It's two different issues, it's emerging issues and policies current.

Mr. Butterworth: Number 7 is what I think we're talking about.

Mr. Dechkoff: Okay, because I misunderstood that.

Mr. Karp: See, Issue #8 deals with section 108(j). But I

think Issue #7 doesn't deal with any legislation.

Mr. Dechkoff: Okay.

Mr. Karp: So we're saying, just leave it out.

Mr. Byrom: So, just for clarification, on the issue when the

Board does something that's controversial, and then governance says, "Look, you

should have consultation with your stakeholders...", is that what we're talking about? **Mr.**

Travill: No. I believe that we're talking about, if there's something that all of a sudden you would like to see a policy developed around, that

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there is some way of forcing them to do the consultation and do a policy on that issue.

Mr. Dechkoff: So what you're saying is, number 3 is not necessary? Is that what you're saying?

Mr. Karp: No, to options 3 and 4.

Mr. Byrom: Well, you know, we're not experienced, but I'm thinking about the time of the public consultations over CL-35.

Mr. Karp: Well, that's the next issue.

Mr. Dechkoff: But number 3 mentioned “Amend the legislation to require the Board develop an annual policy development and amendment plan and also requires that the Board provide sufficient resources to carry out the plan.” Does that not deal with number 7?

Mr. Rody: No. The new number 7, the old number 65, as I understand it, how it was phrased, there’s no process in the Act as to how, and how quickly, the Board will develop, review or implement policies.

We would suggest that it’s not at all appropriate to put anything in the Act to direct the Board as to how or how quickly they will develop new policies. That’s a policy issue.

I mean, what would happen if you said, as soon as an issue is in the newspaper, the Board has to develop a policy? What if they didn’t? Are we going to sue them, or what? It’s not something that is an item for legislative change.

Number 8 is a different subject.

We’re saying no legislative change on Issue 7. It’s not a legislative issue.

Mr. Karp: We agree.

Mr. Rouble: Are we ready to move on to 8? “Consultation process on policy development”.

Mr. Rody: I’ll start, since I was more or less involved in how it got into the legislation through the last review. The Federation of Labour believes that there’s still a need to have something in the legislation that notifies the stakeholder, the public, that there is a review, or that there are policies going to be reviewed.

I understand the concern, right now, is that, after a policy has gone through the policy working group, and has been approved by the Board, there is a process. The process in the legislation, now, is very prescriptive, and it delays implementation of that policy for basically 60 days.

We’re amenable to the idea of putting the requirement for a public notice, of some kind, at the front end of the policy review and development process, rather than the back end. As to the wording... I’m not going to suggest wording at all. But the idea of shifting the time of the notice, to the front end of the process, is an idea that we can accept.

Mr. Sager: Whitehorse Chamber agrees with that. Specifically, we repeal section 108(j), which specifies the public policy consultation process, and add a new section which requires the Board to consult with stakeholders on all non-administrative policies, and which requires the Board to give advance notice of policies under development. And this would be a principal section, and it doesn’t have to state details of specific requirements.

Mr. Dechkoff: Can you clarify to me what you mean by “nonadministrative”? For example, at this point in time, policy, the way it’s worded, is anything that impacts on benefits must be

reviewed. Where do you see employer issues coming into this? Would they be the same as benefits, or is that administrative?

Because, at this point in time, there is a distinguishing feature between the two.

Mr. Sager: I'm not sure exactly how to answer that.

Ms Royle: It was including all policies related to claims, assessments, occupational health and safety. But some of the policies the Board sets are, for example, with spending limits for the president, versus the executive director, versus a director, which is an administrative policy that would not need that type of consultation. But it should be broadened beyond claims for compensation, to include assessment issues and OH&S or any other policies that affect stakeholders directly.

So, broaden it.

Mr. Travill:
administrative?

So broaden it to cover all policies except

Mr. Rody:

Yes, I mean, that's only fair. If the workers get

notice that policies affecting them are going to be reviewed, then employers should receive the same courtesy.

Mr. Rouble: Other comments on Issue 8?

Mr. Tuton: We agree.

Mr. Rouble: Issue #9, "Disclosure of financial/management information".

Mr. Rody: We don't think this is a legislative issue, it's a policy issue, and we don't see any need to change the legislation. I think to suggest that there be something in the legislation, requiring the Board to develop strategic and service plans, etc., etc., etc., is far too prescriptive.

Mr. Sager: Whitehorse Chamber agrees.

Mr. Karp: We may address that issue later on, with some other matters.

Mr. Rouble: Okay, Issue #10, "Annual reporting of the Board and the President to the Legislative Assembly". My apologies... in the document, option number 1 is "Status Quo - no change to the legislation." That should just read "No change to the legislation." "Status Quo" implies that that's the way it would continue. If we don't change the legislation, it doesn't prevent the Board from changing policies or practice to address the issue.

Comments on Issue #10?

Mr. Rody: We don't see any need to change the legislation. Having the Board and the Chair appear in the Legislature is a good idea.

Mr. Sager: We like to see them grilled.

Ms Royle: We like to be grilled.

Mr. Tuton: I agree. I welcome the opportunity.

Mr. Rouble: Issue 11, "Releases of the annual report and the financial statements".

Ms Babcock: We would like to see a change in that. We would like to see an earlier date set forward. That would be April 30th.

Mr. Dechkoff: As compared to the March 30th that was put in option 2?

Ms Babcock: Yes.

Mr. Rouble: Any comments?

Mr. Rody: We agree with that. I understand that the reason the financial statements are not done until June 30th is, that's when the requirement is in there, and that's when the Auditor General does them. And if we move it forward, the Auditor General is quite capable of doing it earlier.

April 30th then gives the possibility that financial statements, and the annual report, are done at the same time, and tabled in the Leg., and after that – I guess I'm getting into the next issue, but – then there is the possibility that the Annual Information Meeting can be held earlier in the year, before the summer.

So, yes, we support the changing legislation to have the annual report and the financial statements done by April 30th.

Mr. Sager: I guess the idea was to repeal sections 108 (c) and (d), and replace them with a single annual report, which would include the audited financial statements, by April the 30th every year.

Mr. Tuton: We would agree with that, with just one caveat... just an understanding that the first year might be a push to get it in that timeframe. But only the first year, just till we change our procedures. So we would agree with it and see no problem reaching those time lines.

Mr. Rouble: Issue #12, "Consistency of scheduling the annual information meeting".

Mr. Karp: So, basically what we're saying is to repeal section 111(I), and replace it with requirement for an annual information meeting to be held after the tabling of the annual report in the Legislature.

And Doug was looking ahead to this one, but it's basically a follow-up from the previous one. I think, without an actual time line, I think (Craig, correct me if I'm wrong), the Board will have this meeting as soon as possible, after it's tabled in the Legislature.

Mr. Tuton: The understanding would be that we have the meeting, and the stakeholders tell us when. If they want it sooner than later, then so be it, once the information is tabled. So we would concur with that.

Mr. Travill: So, what we're hearing is, there's not a need for writing the number of days?

Mr. Tuton: No.

Mr. Rouble: Other comments?

Mr. Rody: We would agree with that. The problem with

specifying a number of days, the report's only released to the public after the minister tables it in the Legislature. The Board has no control over that. And, if the minister chooses, for whatever reason, to delay tabling as long as possible, if you give a specific time line for scheduling an Annual Information after that, that Annual Information Meeting could very well end up in June... which is not what people want. It's too busy.

So, we're comfortable with the idea that, once it's tabled, the Board will schedule an Annual Information Meeting as soon as possible, and consult with the stakeholders about when that happens.

Mr. Rouble: Folks, it's 2:30. Do you want to take a 10minute recess now?

(Meeting adjourned at 2:30 p.m.) (Meeting reconvened at 2:40 p.m.)

Mr. Rouble: The next issue at hand is Issue #13, "Promotions of WCB and occupational health and safety programs and accident prevention strategies". Tied with this issue is "The effectiveness and appropriateness of the Board administering both the Workers Compensation Act and Occupational Health and Safety".

Mr. Rody: In my binder, the original issue, the Act states that the members of the Board shall make publicly available all policies in the Board relating to claims for compensation, assessment procedures and occupational health and safety.

That's fine. I mean, promoting that is a policy issue. It may require something in the legislation to allow the Board to have various programs but, beyond that, we don't see a need for putting prescriptive clauses in the Act, that say the Board must do various programs.

As far as the effectiveness of administering both Acts, we think it should remain as is; no change to the legislation. It's very telling, I think, that, at page 35 of your book, it says, under option 2, at the very end, "Removing the OH&S function from the board could result in a significant loss of focus on injury reduction. This move could result in added costs which would not be in the control of the Board."

That's precisely why we think the Board should still administer both Acts. The Federation of Labour is very pleased to see the focus of the Board on prevention. We are very supportive of the Board's decision to assist the Safety Association. Those are initiatives that we support whole-heartedly.

Mr. Karp: Yes, and we concur with that. And we're very pleased with the safety and prevention initiative, and the partnerships being formed with the new Northern Safety Network, and the switch from the Construction Safety Association to the Northern Safety Network, and the partnerships that are being developed there, and the money being put into safety and prevention for the small and medium sized businesses, as well as the larger businesses. I think it's a great initiative and will be a cost-saver in the future. So we concur with the Federation of Labour on this.

Ms Babcock: Yukon Chamber of Commerce supports keeping OH&S under the WCB. As to appropriateness, it is absolutely appropriate that they do so, and it enables them to control the costs associated with that. The effectiveness comes under a policy issue, so there are really two different issues in that statement, and effectiveness should not be entrenched in legislation.

Mr. Tuton: And we'll be bringing up, a little bit later, that we'll need some kind of legislation that will enable us if we choose to proceed with any kind of incentive programs. We don't have that in the legislation now. So, just want to make a note here, at this point. But we do concur with the other groups.

Mr. Rouble: Other comments? Okay, we'll move on to Issue #15, "Administration costs".

Ms Babcock: Yukon Chamber feels that administration costs are very important to the employers' committee; however, we do not see entrenching it in the legislation. We are not sure how you can entrench administrative costs in the legislation; that has to be done through policy development and responsible governance of the Board.

So, while it's very important, we do not see it as a legislative issue.

Mr. Sager: Whitehorse Chamber agrees with that.

Mr. Rody: Agreed. We don't think it's a legislative issue. It's a policy issue. And, for the record, we categorically reject any suggestion to contract out Workers' Compensation in the Yukon to another jurisdiction.

Mr. Rouble: Any other comments?

Ms Babcock: That was pretty clear.

Mr. Karp: Well, just hearing what was presented this morning, I think the recommendation was simply to look into that, to see if it is a viable option or not. I don't think the recommendation, this morning, was that the Board actually harmonize with B.C. or any other jurisdiction.

And in that respect, with all of our due diligence that we're doing now, and cost saving, I don't think we see a problem with looking into it.

Mr. Travill: But the question to us is, do we write into this legislation, or the legislative amendment, that we are to look into that; or is that an initiative –

Mr. Dechkoff: Or is that part of our function right now?

Ms Babcock: We don't see that as part of your function. Not the Panel.

Mr. Karp: No. This was an independent presentation this morning, so that will be up to you.

Mr. Tuton: Well, I don't think it's in the mandate of the Panel, respectfully.

Mr. Rouble: Any other comments on administrative costs?

Mr. Byrom: Administrative costs... does that address the

issue of quality control of claims management; is that part of that issue?

Mr. Tuton: No, it's separate.

Mr. Travill: Administrative costs are the actual running of

the Board.

Mr. Byrom: Right, okay.

Mr. Rouble: Issue #16, "Attraction and retention of key

personnel”. **Mr. Butterworth:** This, here, I don’t think has anywhere to belong in the Act. This could be policy, but a lot of this would be around collective

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bargaining, I think, if you’re trying to deal with retention and that kind of thing. The same thing we’ve done with nurses.

Ms Babcock: We don’t think it belongs within this legislation; it’s a Human Resources issue.

Mr. Sager: Agree.

Mr. Tuton: We would just like to attract and retain people... so I guess that means we agree.

Mr. Rouble: Well, congratulations, folks, we have just made it through the governance issues. Well, we’ve made it through them here... as I said earlier, the Panel’s work is just beginning.

Assessment issues. Issue #1, “Access to information on which individual assessment rate is based and calculated and rationale for any change to assessment rates”.

Associated with this issue is Issue #2, “Distribution of administration costs to industry classifications”.

Ms Babcock: Obviously, this would be an important issue to employers; however, we don’t see any change to the legislation strengthening their ability, that they have today, to appeal any assessment decisions on their industry.

Mr. Dechkoff: Can you repeat that?

Ms Babcock: That the ability to appeal or question your assessment rate is already available to employers. And that’s how I’m reading this, is to employers, on their assessment rates. Issue #1, Ivan.

Mr. Dechkoff: Oh, okay. I’m just trying to get an understanding in my mind here. How do you appeal if you don’t know the foundation? Just, “I don’t like what I’ve got”?

Ms Babcock: Well, in my perspective, you have a right to appeal, so you have a right to ask why you’re in an assessment rate. What is the decision basis on that? What has led them to that decision? That’s part of your appeal case.

Mr. Karp: Perhaps we should check with the Chair on that. From an employer's point of view, I've got an assessment rate. If I think that assessment rate is too high, the question here, I believe, is, do I have, under the existing legislation, the power to question that? And, in my understanding, the answer to that question is "yes".

Mr. Tuton: Yes. Not only do you have a right to question the rate, you have a right to question the classification, or the industry classification, that you're in.

Mr. Karp: And, therefore, I would receive, under the current legislation, an explanation of the rate, the classification, and how it was arrived at; and then I could make a decision on the appeal process, if I wanted to appeal it.

Mr. Travill: The way the concern came to us was that people didn't feel that they were provided enough information, at the outset, to determine whether the assessment that they were being levied was appropriate, and whether they had enough information to say, based on what you've provided me, I think I should be in a different group, or my rate should be lower. And so the feeling, the way it came to us, was that the people just didn't feel that they had enough information, and couldn't get enough information out of the Board.

Mr. Karp: I think that's probably essentially true. I don't know of any employer that has actually been notified of how their assessment rate or classification has been arrived at. I certainly have never received any communications in that respect.

However, I think there is a lack of communication on the part of the employer, as well, in not seeking that information. And I think it's a communication issue, where it's the responsibility, perhaps, of a Chamber to get that information out, that you are able to do this. I think the existing legislation is sufficient; I do not think we have to put anything further on that. Or, sorry, the Chamber doesn't. Is that correct, Doug?

Mr. Rody: Yes, we don't see the need for any legislative change. Having been on the Board, and sat on one of those assessment panels, I can tell you the Board provided the employer with whatever information the employer asked for and the Board had. The Board can't provide information that they don't have.

Mr. Tuton: I would agree with that comment.

Mr. Rouble: Any other comments on either of these two issues?

Mr. Buyck: Just a question for clarification. How is the First Nation government classed, or how do you go about doing that for First Nations?

Ms Royle: Every employer, and the First Nations are considered an employer under the Act, is classified into one of 14 industry codes. One of the codes that we have is for government; and, so, the First Nation government is classified in that government rate code.

How each individual rate is set depends on the claims cost history of the employers in that rate code. It goes back over a period of time, and looks to the future, to see where payroll will be in each industry; and then the actuary looks at how much money the system needs to run, for claims costs, administration, running the Appeal Tribunal, the Workers' Advocate office, and all the costs of the Board; and then it gets distributed across each of the 14 rate codes, based on a percentage of how much they contribute to the system. So that's kind of, in a broad sense, how it gets done.

First Nations is classified in the government rate code, and it pays the same rate as the other governments in Yukon.

Mr. Rouble: Okay, moving on then, Issue #3, "Equal treatments for all employers".

Mr. Rody: Are we done with 2?

Mr. Rouble: I'm sorry, I was calling for comments on both of the issues.

Mr. Rody: Oh, okay. Well, our comments, then, for both, no legislative change.

Mr. Rouble: Calling for comments on Issue #3, "Equal treatments for all employers".

Mr. Rody: This may generate some controversy. We are

suggesting that the legislation be amended to allow the Board the ability to audit the Government of Yukon the same way they audit any other employer.

Ms Babcock: Yukon Chamber supports that.

Mr. Tuton: We would not only support it, but look forward to it.

Mr. Sager: Whitehorse Chamber and the large employer group supports this.

Mr. Rouble: Does anyone else care to comment on this

issue?

Mr. Byrom: I was wondering if the business of the audit is ever used as a punitive weapon against an employer who might be supporting his employee in some way. You know, I've heard that before. The game guide who got his trigger finger kicked by a horse.

Mr. Travill: We can't comment on –

Mr. Byrom: No, I know, but it's the issue of where it seems like, as part of the battle, they called an audit on his employer, and it cost him a fortune.

Mr. Karp: Mr. Chair, having been through a WCB audit, and having talked to other employers who have been through WCB audits, it's strictly a financial thing. It has nothing to do with who you are, what you are, who you support and who you don't support.

Mr. Byrom: So you can't use it to bash somebody?

Mr. Karp: No, because it's a set format. It's just a matter of, you provide your books, is your payroll equal to what you've claimed your payroll was for that particular year; and if it is or isn't, there is either a penalty or some money given back.

Mr. Rouble: comments to this? Would the Board like to add additional

Mr. Tuton: I don't think there's any required. The audit is

simply a vehicle in which the Board insures that it's getting a fair payment for fair compensation, or for fair assessment. And it would only be used as prescribed under the law and the specific legislation that covers it.

Mr. Travill: I don't know for sure, but isn't, every three or five years, the Board supposed to audit everybody?

Mr. Tuton: Yes... employers.

Mr. Travill: Yes, but there's a set period where everybody gets audited.

Mr. Tuton: Yes, legislated. I think it's legislated.

Mr. Travill: No, I think it's just policy.

Mr. Tuton: Oh, it's policy. Sorry.

Mr. Rouble: It's every three years.

Mr. Tuton: That's just to make sure that they're paying what they're supposed to be paying.

Mr. Rouble: Any other comments? Well, that went way too quick.

I will ask, now, is this format working for you folks?

Mr. Karp: Absolutely.

Mr. Rouble: Okay. We had some very good discussion this morning, too, allowing for public input, where we did hear other comments, other options and other considerations. So there was certainly value in having the open public meeting this morning.

We plan, then, to continue on with the existing schedule; where, again, in the morning we will have the public forum and then, in the afternoon, meeting with you folks. In addition, we will add another public meeting to an evening here in Whitehorse. That will allow for input from those who are unavailable to participate during the normal working hours.

Mr. Karp: Mr. Chair, is there the possibility that if, for example, the next meeting, which is on the benefits, takes a little longer, or we don't have the same kind of agreement that we had for this meeting, that there's a possibility of another meeting to continue that process for those issues?

Mr. Rouble: I think, if we get to the end of the meeting and there's still work to be done, and everyone wants to come back and have another meeting, I think we could adjust the schedule to include that.

Mr. Dechkoff: Or start the process earlier. If no one wants to talk in the morning –

Mr. Rouble: Start in the morning for this.

Mr. Tuton: I do have a question, Mr. Chair.

Mr. Rouble: Yes, please.

Mr. Tuton: More a concern than a question. I know we talked about it briefly in the introduction, but if I could just ask what the Panel's thoughts are, when consideration is to be given to costing various issues, as to how you intend to do that. Because, as you probably are aware, costing issues is not a very simple procedure or task.

It's just a question.

Mr. Rouble: Well, we expect that we will be coming to you folks for your input as to what different options would cost. That could involve additional involvement and assistance from your actuary.

Mr. Tuton: Yes, and I guess that's where I was heading. If everybody would agree, I think that it makes much more sense for our actuary to be involved in the costing. To bring any actuary in, to try to get to the same result, would be, number one, very costly; and, number two, would take probably twice as long. So it's just a question, and I need to know that, so that we can instruct the President, who sits to my left... at your pleasure.

Mr. Rouble: We appreciate those concerns, and that will certainly be a factor in our decision of where to go to run the numbers.

Mr. Tuton: Thank you.

Mr. Rouble: Are there any other concluding comments that anyone would like to make? With no other comments, then, we will adjourn the meeting.

(The meeting adjourned at 3:05 p.m.)