

**Wisconsin Chapter NECA**  
**2200 Kilgust Rd.**  
**Madison WI 53713**

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# Watts News

**February 2009**

## Aloha from the Winter Meeting!

The 2009 Winter Meeting was held in Wisconsin Dells at the Kalahari Resort. Complete with a giant indoor waterpark and indoor theme park and luxury spa, the resort offered a little something for every guest.

Our event began with a cocktail reception Friday evening where members reconnected with members from other areas of the state and relaxed among friends.

The general session began at 8:00 on Saturday morning with reports from the Chapter Governor, Jerry Schulz; Chapter President, Bernie Cleppe and Chapter ECPAC Chair, Mark Hady. Our first speaker was Leslie Ptak, Compliance Assistance Specialist from OSHA, who talked about OSHA's Voluntary Protection Program for Construction (VPP). The program is fairly new in the construction industry but seeks to recognize contractors who have exemplary safety training and management of their workers.

Mike Callanan, Director of the NJATC, was our next speaker. Mike talked about the future of apprenticeship programs and the continued importance of training new journeyman workers to replace those that will be retiring. The "Green" sector is poised to provide many new opportunities

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## Lighting Plan Seminar Feb. 25

The Safety & Buildings Division recently announced they would be placing more emphasis on general and emergency lighting during commercial plan reviews conducted by the Division, effective March 2, 2009. Safety & Buildings Division staff had concerns that recent energy efficiency code changes have not been met.

The Wisconsin Chapter NECA has scheduled a seminar called "Safety & Buildings Commercial Building Code Seminar", which will address specific concerns the state has, and how contractors can be sure they are in compliance to ensure a simple plan review process.

The seminar will be held Wednesday, February 25, 2009 at the Crowne Plaza Hotel in Madison from 1:00 to 4:00 p.m. The instructors will be Randall Dahmen and Tom Garvey. Registration information was sent to all members February 12, 2009.

## Meeting Certificate Winners

At the 2009 Winter Meeting, the winners of certificates toward attendance at future NECA meetings were drawn. Congratulations to these lucky winners:

**Summer Meeting  
(worth \$700 each):**

**B & B Electric, Eau  
Claire**

**Barth Electric, Racine  
Electric Construction,  
Madison**

**Jacobs Electric, Madi-  
son**

**Pieper Electric,  
Kenosha**

The Summer Meeting will be held July 29- August 2 at Lake Lawn Resort in Delavan, Wisconsin.

**National Convention  
(worth \$2800):**

**Nickles Electric, Madi-  
son**

The NECA National Convention will be held September 12-15 in Seattle, Washington.

We hope to see you at the future meetings!

## Winter Meeting (continued)

for electrical contractors and a strong apprenticeship program is key to maintaining a strong workforce for those jobs.

Our final speaker of the day was nationally renowned author Mark Breslin, who gave a presentation called "Alpha Dog". Mark discussed both the strong and weak points of the union construction industry and demonstrated his visions of how the contractors and their workers need to change their attitudes and processes to become more efficient. Mark's straight talk presentation was a lively session that led to considerable discussion.

Our weekend ended with our closing reception and banquet and this year's theme was Hawaiian Luau, leaving everyone with warm memories of the Winter Meeting in the Dells! Congratulations to our raffle prize winners, **Carolyn Eland (Eland Electric, Green Bay), James Schwab (Arrow Electric, Madison) and Steve Foley (Foley Electric, Beloit)**, and many thanks to all of you who participated in the raffle.



Our next Chapter meeting will be the 2009 Summer Meeting, July 29 – August 2 at the Lake Lawn Resort in Delavan, near Lake Geneva.

## Chapter's MEI Schedule for 2009

In addition to the Safety & Buildings Code Seminar on February 25, the Chapter has scheduled the following MEI seminars in 2009.

**May 20, 2009 – Advanced Project Management – Risk Identification and Mitigation** with Perry Daneshgari. The seminar will be held in Madison.

**June 17 – 18, 2009 – Advanced Estimating** with Bob Mooty. This two-day seminar will be held in Wisconsin Dells.

**September 2, 2009 – Avoid Killer Jobs by Improving Estimation Accuracy** with Perry Daneshgari to be held in Wisconsin Dells.

**October 19, 2009 – Managing Payment: Bonds, Liens and Other Collectibles** with Marvin Fabryanaske. This seminar will be held in Madison.

**November 9, 2009 – Managing Field Productivity** with Dr. Awad Hanna to be held in Madison.

**December 2, 2009 – Hard Hat Productivity** with Norb Slowikowski. The location of this seminar will be Appleton.



As always, the seminars will be open to NECA members and their staff, and we will update you with more details as each approaches.

## From the Desk of Attorney Kay



### THE SUBSTITUTION OF BONDS FOR CONSTRUCTION LIENS

In the last few articles of this publication the lien law has been discussed, including proposed amendments to improve the protection accorded subcontractors. A 2005 decision of the Wisconsin Court of Appeals will remind the reader that construction liens constitute security in the improved real estate and that the Wisconsin Statutes allow the owner to free the improved property from the lien security by obtaining a bond.

In Hunzinger Construction Company v. SCS of Wisconsin, Inc. (subcontractor) and Demco Wisconsin 4, LLC, (owner) et al., the sole issue before the court was whether the owner was entitled to dismissal from a lien foreclosure action initiated by the subcontractor against the prime contractor. Because the lien security in the property had been released by a bond, the court held that no personal judgment could be rendered against the owner.

In the case, the owner had hired a general contractor to do extensive remodeling work on a building. The general contractor subcontracted with the subcontractor to do demolition work at the site. A dispute arose between the general contractor and the subcontractor regarding payment for the work performed. The subcontractor filed a construction lien claim. The general contractor filed a bond for 125% of the claim of the subcontractor. The bond provided that if the general contractor shall pay all judgments against it then the bond was void.

The general contractor commenced a lawsuit claiming it was entitled to some offsets in the contractual relationship between the general contractor and the subcontractor. The subcontractor filed a counterclaim to collect unpaid compensation and also commenced a third-party action against the owner to foreclose the subcontractor's construction lien claim. While the subcontractor admitted that the prime contractor had filed the bond, it maintained that the owner was still liable to it for its unpaid compensation due from the general contractor.

The Court of Appeals held that the purpose of the bond was to release the owner's property from the construction lien and that the property owner thereafter had no personal obligation to the unpaid subcontractor. The Court held:

Because the effect of the release bond procedure is to free the real property from the effect of the claim and lien and any action brought to foreclose such a lien and because a lien foreclosure action is an in rem proceeding, unless personal judgment can otherwise be rendered against the property owner, the owner of the liened property is entitled to a judgment of dismissal from the foreclosure action. The action may then proceed against other defendants against whom a personal judgment might be rendered, such as the general contractor, the bond principals and the sureties.

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### March 2009

- March 4**  
Madison Membership  
Janesville-Beloit Membership
- March 5**  
La Crosse Membership
- March 9**  
Kenosha-Racine Membership
- March 11**  
Northeast and Fox Valley  
Joint Membership
- March 12**  
Indianhead Membership
- March 19**  
Wisconsin Valley Membership

### Upcoming Meetings

- March 22-25, 2009**  
Midwest Regional Spring Conf.  
Kauai, Hawaii
- July 29-August 2, 2009**  
NECA Summer Meeting  
Lake Lawn Resort, Delavan
- September 12-15, 2009**  
NECA Convention  
Seattle, WA

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The La Crosse and Indianhead Divisions met jointly in February 2009 and invited their Veteran Members to attend this special meeting as well.

### Gene Roshell

(Roshell Electric, Chippewa Falls), **Jack Papenfuss** (Papenfuss Electric, La Crosse) and **Rick Jones** (Jones Electric, Altoona) all were able to join the group for the dinner meeting held in Eau Claire.

All reported that retirement is treating them well, and surprisingly none of them admitted to wanting to return to the construction industry in this trying economic session. They noted they had survived the 80's, and the labor relations discussion seemed to be very similar to topics discussed when they were still members! We are pleased that they were able to attend.



Have you got a code question for Tom? Let us know and we'll ask him to answer it in a future newsletter.

## Prevailing Wage Law Amendments?

The Wisconsin State AFL-CIO Building Trades group is pursuing legislation to revise the prevailing wage law to include:

- Require submission of certified payroll records to verify contractor compliance. While contractors and subs are required to sign an affidavit of compliance, no verification procedure is in place.
- Extend prevailing wage law to include TIF projects and other projects with government monies. Because public money is involved in the project, it should be handled as a "public" project.
- Eliminate the annual prevailing wage survey. The DWD has multiple employees who work on this seminar all year. Plus, we would all hate to see it go!
- Remove the fee assessed when investigations fail to produce a contractor violation. This provision is a real deterrent to third parties or other employers making a complaint because they could be fined if evidence of a violation is not produced.
- Readjust the threshold downward and eliminate indexing. Wisconsin currently has one of the highest thresholds in the country for public projects.



The group has asked for NECA's support of this legislation as it would benefit contractors as well as the electricians. Loyal will be proposing this to the Chapter Board of Directors. According to the Wisconsin IBEW Conference lobbyist, they feel they have a good chance of success with the legislation given the fact that the Democrats now hold the majority in the Assembly and Senate, and of course, the Governor's Office. We'll keep you updated on the progress they are making with this legislation, as we receive more information.

## Tom's Code Corner

**Question:** I am installing a service for a new fire pump in an existing building. The fire pump controller will be located well inside the building. Am I required to install a service disconnect ahead of the controller? How do I size the service disconnect? How do I size the meter cabinet?

**Answer:** No more than 8-feet of service conductors or cable is permitted inside of the building per Comm 16.230-(3). NEC 230.70(A) requires service disconnect to be located outside or inside nearest the point of entry. 695.4(B)(1) is used to size the fuse or circuit breaker. The overcurrent protective device shall be rated or set to carry the locked rotor current of the fire pump motor indefinitely. This requirement does not apply to the service conductors, feeder conductors or the meter cabinet. The meter cabinet and fire pump circuit conductors shall be sized at not less than 125% of the full load of the fire pump motor. They also must be sized to meet the voltage drop requirements of 695.7.

## MANPOWER STATISTICS

For the Month of -- **December 2008**

Local Union #	14	127	158	159	388	430	577	890	TOTAL
	=====	=====	=====	=====	=====	=====	=====	=====	=====
Local Contractors: NECA	7	3	4	17	5	5	2	6	49
Non-NECA	34	12	14	18	9	15	10	15	127
<b>Total Local Contractors:</b>	<b>41</b>	<b>15</b>	<b>18</b>	<b>35</b>	<b>14</b>	<b>20</b>	<b>12</b>	<b>21</b>	<b>176</b>
Traveling Contractors: NECA	8	5	5	0	4	5	5	9	41
Non-NECA	4	10	6	4	2	4	1	2	33
<b>Total Traveling Contractors:</b>	<b>12</b>	<b>15</b>	<b>11</b>	<b>4</b>	<b>6</b>	<b>9</b>	<b>6</b>	<b>11</b>	<b>74</b>
<b>TOTAL # OF CONTRACTORS - LOCAL AND TRAVELERS:</b>	<b>53</b>	<b>30</b>	<b>29</b>	<b>39</b>	<b>20</b>	<b>29</b>	<b>18</b>	<b>32</b>	<b>250</b>
Contractors More Than Two Months Delinquent in N.E.B.F.	1	2	1	2	3	0	0	0	9
Total Number of Contributing Contractors in Area:	54	32	30	41	23	29	18	32	259
Employees: NECA	254	58	108	538	196	54	154	191	1553
Non-NECA	204	106	164	61	48	60	80	63	786
<b>TOTAL EMPLOYED:</b>	<b>458</b>	<b>164</b>	<b>272</b>	<b>599</b>	<b>244</b>	<b>114</b>	<b>234</b>	<b>254</b>	<b>2339</b>

<u>Union #</u>	<u>NECA Division Name</u>
127	Kenosha Division
158	Northeastern Division
159	Madison Division
388	Wisconsin Valley Division
430	Racine Division
577	Fox Valley Division
890	Janesville-Beloit Division
14	Indianhead/La Crosse Divisions

NOTE: These figures only reflect employees of contractors not more than 2 months delinquent in their N.E.B.F. payments.

Several Wisconsin architectural firms are lobbying for additional tax credits to promote “green” or sustainable construction projects. The tax credit is currently \$1.80 per square foot, and the group is pushing to get an increase to \$2.25 per square foot, a more realistic figure to help offset the additional construction costs. Under the federal project, commercial building owners are eligible for the tax credits of up to \$1.80 per square foot if their building meets a 50% energy savings target.

While the group admits that the economic climate is not the best time to be asking for additional credits, they say it will provide the impetus needed for commercial building owners to commit to green building projects, creating future energy savings.

It was with true sadness this week that we said goodbye to former **Chapter Governor, Jerome “Jerry” Hill.** Jerry was one of the founding members of the Wisconsin Chapter and served the Madison Division and Wisconsin Chapters in nearly every capacity in his years of NECA membership. Jerry was Governor of the Wisconsin Chapter for 17 years, the longest serving Governor in the Chapter’s history, and he passionately supported NECA and was an active advocate for the benefits of membership to all.

He was a nationally recognized figure among NECA members and was proud that he had attended every NECA convention since he had joined, until his health prevented it in 2004. Jerry was inducted into the Academy of Electrical Contracting in 1988, and won the NECA Comstock Award in 1998. Together Jerry and Ron Steiner lead the Wisconsin Chapter to first place in ECPAC fundraising among District IV Chapters and lead District IV to first place nationally.

Our hearts go out to his family and many dear friends.

## From the Desk of Attorney Kay

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Since electrical contractors are often subcontractors to a general contractor, it is reasonable for the electrical contractor to foresee that any contract provision in the contract between the general contractor and the owner permitting the substitution of a bond for a construction lien claim may result in a bond being ultimately filed which then releases the owner’s improved land from the electrical subcontractor’s construction lien. Upon the filing of the bond the lien attaches to the bond. The owner has no further liability except for possible nonpayment to the general contractor. The electrical subcontractor must then continue to press its claim against the nonpaying general contractor and the surety. Unless the surety fails financially, adequate security for the unpaid electrical contractor should exist.

## Energy Center’s Green Conference

Well, everyone in the construction world is anxious to see how the new economic stimulus package will benefit their sector. As the facts become available, there is hope that monies in the package will help to create new jobs and jumpstart many projects which are currently on hold, all hopefully helping to jumpstart the construction industry.



It is with that in mind that the Energy Center of Wisconsin has added a special session to their upcoming “Better Buildings: Better Business Conference” to be held March 4 – 6 at the Kalahari Resort in Wisconsin Dells.

The special session will be titled, “Shaping Your Recovery Plan: What the economic stimulus bill could mean for residential builders and contractors” and will be held on March 5, 2009. The conference is intended for builders, contractors, remodelers, and code officials, so it is highly focused on the construction industry. The focus of the conference overall will be “Is the green revolution leaving you behind?”.

The Energy Center of Wisconsin is an independent, non-profit organization that works to find solutions to energy challenges and promote alternative energy sources, sustainable building projects and education for the workforces involved. The Better Buildings Conference is hosted by the Energy Center of Wisconsin.

Registration information can be found at the Energy Center University website: <http://www.ecw.org/university/ecuevent.php?ecuid=63>.

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*According to the PEW Center on the States, more than one in 100 adults in the United States is in jail or prison. This number is an all-time high, and is estimated to cost state governments nearly \$50 billion a year.*