

Capital Projects Advisory Review Board
Project Feedback Process Workgroup

Meeting Notes 04/18/2024

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Committee Members: (14 members, 8 = Quorum)

- | | |
|---|---|
| Dave Johnson Co-Chair, General Contractors | X Art McCluskey, Owner General Public |
| X Jeff Gonzalez, Co-Chair, Owners State | Karen Mooseker, School Districts |
| X Kurt Boyd, Specialty Subcontractors | X Mike Pellitteri, Specialty Subcontractors |
| X Marvin Doster, General Contractors | X Irene Reyes, Private Industry |
| X Lekha Fernandes, OMWBE | Linneth Riley Hall, General Owner |
| Bobby Forch, Jr., Disadvantaged Businesses | Robynne Thaxton, Private Industry |
| X Thomas Golden, Design Industry-Architects | X Olivia Yang, Higher Ed |

Guests:

Monique Martinez, DES Staff
Scott Middleton, MCA
Shelly Henderson
Ananda Gordon-Peabody, MFA

Co-Chair Jeff Gonzalez called the meeting to order at 11:04 a.m. A quorum was established.

1) Review and approve agenda - Action

Co-Chair Gonzalez reviewed the agenda and asked the group for any edits before proceeding.

Tom Golden moved, seconded by Mike Pellitteri, to approve the agenda. The motion was approved by a voice vote.

2) Approve minutes from 3/21/2024 – Action

Co-Chair Gonzalez asked the group for any edits to the meeting minutes from March 21, 2024.

Marvin Doster moved, seconded by Kurt Boyd, to approve the meeting minutes. The motion was approved by a voice vote.

3) Refine Post Incident Process – Discussion\Action

Co-Chair Gonzalez reviewed the updated notes from the 3/21/2024 meeting and invited discussion from the group. Art McCluskey pointed out that they had incorporated comments aimed at establishing structure in the process. For instance, they suggested implementing notification timeframes, such as requesting a written response from the violator after a specified number of days. Irene Reyes concurred with this suggestion. Art also mentioned the need to clarify whether the violator is always the owner, but acknowledged that this clarification might be unnecessary, as responsibility typically rests with the owner regardless.

Co-Chair Gonzalez responded, acknowledging that they had met with Dave before the meeting to review all the comments. They affirmed Art's observation regarding owner/violators and agreed on the importance of addressing this aspect. Additionally, Co-Chair Gonzalez confirmed that formal dates and timelines would be incorporated into the process.

Olivia Yang suggested a more collaborative approach to the process, proposing that the violator receive a verbal notification via phone call before receiving a formal letter. Tom Golden agreed that the process should maintain its informal and collaborative nature, emphasizing that the current structure provides flexibility. Robynne Thaxton previously highlighted that the discussion was focused on refining specific wording rather than altering the overall process. Irene expressed concern about giving undue weight to individual feedback, fearing potential bias. Co-Chair Gonzalez clarified that Robynne, like any other member, provided edits based on her concerns about wording. Co-Chair Gonzalez suggested that any proposed action arising from these discussions be addressed at the next meeting.

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4) Discuss Forum for Issues Other than Violations of RCW 39.10– Discussion

Co-Chair Gonzalez clarified that there had been a distinction made between violations of RCW 39.10 and best practices, with the intention to refine best practices through a formal process rather than simply venting frustrations. Co-Chair Gonzalez and Co-Chair Johnson met with Kurt, who oversees the Education Connections Committee and is involved in GC/CM Training. Kurt offered to address any questions or comments and integrate them into the training. Co-Chair Gonzalez mentioned that subcontractor bids and payment deadlines will now be included in the training, as most owners participate, providing an opportunity to capture aspects of the process there.

Olivia mentioned that Brian Askey is part of Kurt's committee, and together they have facilitated the collaboration of other owners to establish best practices and develop a class. They particularly lean towards utilizing the Design-Build best practices. Co-Chair Gonzalez supplemented that they are currently in the process of finalizing the Design-Build best practices. Marvin Doster emphasized the importance of addressing all aspects of RCW 39.10, not solely focusing on Design-Build.

Olivia expressed concern about the lack of clarity regarding the consequences for violating best practices, especially since they are separated from RCW 39.10. They emphasized the importance of clearly defining the best practices, determining who has authority over them, and establishing protocols for addressing violations. Olivia reiterated that their primary objective is to support each other and ensure successful project outcomes, rather than focusing solely on punitive measures. Marvin echoed this sentiment, emphasizing the need for a supportive approach and offering grace to the next generation who may encounter challenges or make mistakes along the way.

Olivia further emphasized that best practices serve to address areas where the law may not provide explicit guidance. She expressed a desire to foster a community where members hold each other accountable and openly communicate about these practices. However, Marvin raised a concern about the potential perception of collusion in such collaborative efforts.

Mike Pellitteri cautioned against excessive leniency or the use of "kid gloves" when dealing with owners who violate best practices. He emphasized that consequences are necessary to inform better decision-making in the future and that owners should be held responsible, prepared, and compliant with the rules. Mike clarified that the committee's understanding was to address issues at the lowest level by initially discussing mistakes with the involved parties. However, if owners persist in their non-compliance after being informed, the committee should suggest that they may not be ready for certain responsibilities.

Olivia agreed with Mike's point but clarified that their previous suggestion aimed to offer support and hold owners accountable rather than absolving them of responsibility. Mike suggested that the committee should not expend excessive effort on owners, to which Olivia responded that such efforts provide an "insurance" mechanism in case of future claims. She explained that by providing resources and guidance to owners and documenting their refusal to comply, the committee ensures that it has fulfilled its obligations, even if owners choose not to heed the advice.

Mike also emphasized the importance of considering past performance when evaluating compliance. Kurt supported this perspective, suggesting that the Public Works Committee should be aware of past incidents. Marvin highlighted the distinction between best practices and legal requirements, noting the challenge of withholding approval solely based on non-compliance with best practices if all other legal criteria are met. He clarified that the committee is not an enforcement agency and should not seek retribution. Instead, their role is to assess projects for legal compliance and make decisions accordingly.

Mike emphasized that the discussion focused solely on legal compliance with the RCW, not best practices. He also expressed concerns about the efficiency of the process. Co-Chair Gonzalez clarified that legal violations would be addressed according to the previously discussed process, which differs from the handling of best practices. Additionally, Co-Chair Gonzalez expressed hope that most owners would adjust their behavior after

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receiving feedback. Mike and Marvin raised concerns about the incident log and the policy of removing incidents after three years.

Co-Chair Gonzalez initiated a discussion on the type of forum that could be established. Mike inquired about the possibility of implementing a grievance board. Olivia mentioned that some projects already utilize a dispute resolution board. Mike then raised the question of whether it would be feasible for someone to request an interpretation if an agency is misinterpreting the RCW in front of CPARB. Olivia explained that soliciting an AG's opinion requires effort and may involve costs, and the situation is not always straightforward. Co-Chair Gonzalez suggested that the current process is addressing Mike's concerns. Irene added that there is an intention to improve the process as the PRC operates independently.

Co-Chair Gonzalez suggested that they table the discussion for now and readdress it at the next meeting.

5) Next Meeting Agenda – Discussion

- Welcome & Introductions
- Approve Agenda
- Approve Minutes
- Refine Post-Incident Process
- Discuss Forum for Issues Other than Violations of RCW 39.10
- Next Meeting Agenda
- Adjournment

6) Action items

- Co-Chair Gonzalez and Co-Chair Johnson to follow up with Robynne and receive their feedback.

7) Meeting Adjourned at 12:05 p.m.