

CAPITAL PROJECTS ADVISORY REVIEW BOARD

Minutes

1500 Jefferson – Presentation Room

Olympia, Washington

May 14, 2015

Members Present

John Ahlers
Ty Heim
Senator Bob Hasegawa
Steven Crawford
Santosh Kuruvilla
Robert Maruska (Chair)
Gary Rowe
Walter Schacht
Ed Kommers (Vice Chair)
Rebecca Keith
Andrew Thompson
William Frare
Rep. Vincent Buys

Representing

Private Industry
Public Hospital Districts
Senate (D)
School Districts
Engineers
Washington Ports
Counties
Architects
Specialty Contractors
Cities
General Contractors
DES
House (R)

Members Absent

Mark Riker
Vacant
Alexis Oliver
Alan Nygaard
Vince Campanella
Rep. Hans Dunshee
Christopher Hirst
Charles Horn
Greg Fuller
Lee Newgent

Representing

Construction Trades Labor
Senate (R)
OMWBE
Higher Education
General Contractors
House (D)
Private Industry
Insurance/Surety Industry
Specialty Contractors
Construction Trades Labor

STAFF & GUESTS are listed on the last page

Welcome & Introductions

Chair Robert Maruska called the Capital Projects Advisory Review Board (CPARB) meeting to order at 9:07 a.m.

A meeting quorum was attained.

Everyone present provided self-introductions.

Chair Maruska welcomed new member Rebecca Keith representing Cities. She works for the City of Seattle in the city Attorney's Office.

Chair Maruska recognized Senator Hasegawa and Representative Buys.

Approve Agenda

Chair Maruska requested a minor reordering of the agenda to accommodate the early departure of John Ahlers.

John Ahlers moved, seconded by Ed Kommers, to approve the agenda as amended. Motion carried.

Approve February 12, 2015 Meeting Minutes

The motion at the top of page 16 was corrected to reflect the following, "...Representative from Granite Construction, WSDOT Representative Mark Gaines, and a representative from Sound Transit."

Ed Kommers moved, seconded by Gary Rowe, to approve the February 12, 2015 minutes as amended. Motion carried.

Public Comments

Chair Maruska encouraged public comments throughout the meeting.

Bill Kent, Mortenson Construction, reported he submitted an application for membership on the Board to replace Mr. Campanella, who is leaving effective June 1. Mr. Kent shared information about his involvement in the Design-Build Institute of America (DBIA) as the President of the Northwest Region of DBIA. He teaches the organization's classes. He was also involved in early efforts of GC/CM when the first test projects were implemented at Airway Heights Correction Center and at the Washington Correction Center (WCCW) for Women. The first project awarded under the new legislation was the 256-bed expansion at WCCW. Mortenson Construction was awarded the project. He served as the project manager for the project. During that time, he was involved in meetings with the Mechanical Contractors Association (MCA) and the Office of Minority and Women Business Enterprises (OMWBE) about participation allocated between bid packages and what was and wasn't working. He managed several projects that were not under the guise of laws for self-performed work. The changes made by the Board benefitted the legislation and the process. His passion is helping owners do the right things so that public funds are expended appropriately. He also has experience in public bids and could bring a wide range of perspectives on different delivery methods. His interest is ensuring public agencies are pursuing the right delivery method at the right time. He asked for the Board's endorsement for appointment.

CPARB Member Service Recognition

Chair Maruska recognized four members who are leaving the Board because their respective terms end in June.

Vince Campanella was recognized for his eight years of service to the Board representing General Contractors. Mr. Campanella began service on the Board in 2007 and served on several CPARB Committees on issues surrounding undisputed claims and reauthorization. Chair Maruska said Mr. Campanella would receive a certificate of appreciation and a letter recognizing his contribution to the CPARB.

Chris Hirst served on the Board for eight years representing Private Industry. Mr. Hirst's contribution surrounded schools and legal issues pertaining to public owners. He assisted in working on eight of the 12 legislative bills the Board pursued through the Legislature. Mr. Hirst will also receive a certificate of appreciation and letter of recognition.

John Ahlers represented Private Industry and served on the Board for eight years. Mr. Ahlers is leading the Public-Private Partnership Committee and was involved in the task force for public owner responsibility criteria. He actively participated in 10 legislative bills. Chair Maruska presented Mr. Ahlers with a certification of appreciation and a letter of recognition.

Mr. Ahlers expressed appreciation for the opportunity to work with members of the Board. The experience has been great for him personally. The experience was very worthwhile and he is pleased to have become acquainted with so many people in the industry, as well as learning to appreciate other points of view. He thanked the Board for the recognition.

Chair Maruska reported **Ed Kommers** is the longest serving member on the Board with over 10 years of service. He was involved in the early development of legislation. Mr. Kommers has been a member of many committees and a strong advocate for alternative public works by balancing and leading the efforts on reauthorization committees to include working closely with the Legislature on a number of important issues. Mr. Kommers was always willing to lead efforts, as well as find a compromise. Mr. Kommers has served as Vice Chair since 2008. Chair Maruska thanked Mr. Kommers for his support.

Mr. Kommers expressed his thanks to everyone. He thanked Nancy Deakins and Danelle Bessett for managing the Board's process and budget. He and the Chair have worked through some difficult issues and while they may have differed on views occasionally, they both found a way to work through those differences.

He thanked Representative Kathy Haigh for her years of leaderships by ignoring partisan issues and serving as the Board's gatekeeper to keep the Board on track. She was an advocate for the Board in the Legislature for those who did not understand the Board's role or responsibilities. Ms. Haigh provided great service to the taxpayers of the state by helping the Board promote good procurement practices that positively impacted the entire state. Lastly, he heard recently from someone in the Legislature that the Board really doesn't do anything. Frankly, that's "bullshit" as the Board has completed much work. Because of the participants and the stakeholders, the Board would not be in existence had reauthorization not been passed. The Board successfully worked together as stakeholders with different perspectives representing different constituencies. He encouraged members to continue the good work by working together to achieve results that benefit everyone. The lifecycle analysis involved many efforts to include Mr. Schacht who sought the assistance of two talented architects and many other participants. That effort entailed working closely with DES to produce a report at literally no cost to the Legislature. Although RCW 39.10 has some flaws and concerns in some of the provisions, there are no significant problems. The legislation has delivered some good projects to taxpayers in the state in an effective manner that was fair to the public body and to the private sector.

Chair Maruska presented Mr. Kommers with a certificate of appreciation and a letter of recognition.

Public-Private Partnership Committee Report

Mr. Ahlers updated the Board on the status of the committee's work. At the committee's first meeting, members received substantial input. The committee prepared a draft borrowing from other state statutes to assist the committee in developing a draft. The committee has the option of augmenting the draft or starting over. Currently, the state statute includes provisions for public-private partnerships (P3) but it hasn't been utilized because it's perceived as not user-friendly. The committee drafted provisions that would be effective if opportunities arise for a P3 project for either buildings or heavy construction projects. The next meeting date will be rescheduled because it conflicts with the Project Review Committee meeting. The goal is providing a report to the Board on a proposal to receive consensus for pursuing legislation.

The committee is well represented with many different interests from labor, public works, public owners, contractors, subcontractors, DBE, and minority contractor participation. Mr. Ahlers invited everyone to participate in the process.

Rodger Benson, Mortensen Construction, asked whether the committee's meetings are posted on CPARB's website. Mr. Ahlers affirmed the meetings are open to the public and notices are posted on the website.

Chair Maruska remarked that one of the first tasks during the committee meeting was developing a common understanding of P3.

Andy Thompson encouraged Mark Gaines from WSDOT to attend the next meeting if possible. Mr. Ahlers affirmed an invitation was forwarded to WSDOT. WSDOT participated in the GC/CM statute and the agency is utilizing GC/CM as a delivery method for the Coleman Dock project.

Mark Gaines, WSDOT, confirmed his plans to attend the next committee meeting, but noted that it's likely another representative from WSDOT would serve on the committee.

Mr. Benson commented on other groups that might be interested in attending. They include the West Coast Infrastructure Exchange and Partnership BC. Both organizations would likely be interested in becoming involved.

Mr. Ahlers said the Canadian representatives were speakers at the last meeting. Other outreach included the Office the Attorney General (OAG) and state engineers.

Mr. Benson offered to provide the name of the Executive Director of the West Coast Infrastructure Exchange, a consortium of California, Washington, Oregon, and British Columbia interests focusing on public-private partnership delivery of infrastructure for public agencies. Much of the research on P3s has been completed by the organization.

Chair Maruska reviewed current membership and the status of unfilled position on the Public-Private Partnership Committee:

- Granite Construction – to be determined
- Architect community - Walter Schacht reached out to architects and was unable to identify a potential member but will continue to search for a member.
- OWWBE – Alexis Oliver
- WSDOT – Mark Gaines said he would contact the appropriate individual within the agency to serve on the committee.
- Sound Transit – Linneth Riley-Hall
- Higher Education – a University of Washington representative attended the first committee meeting. Mr. Ahlers offered to follow up with the individual.

Mr. Ahlers inquired about quorum requirements for committee meetings. Chair Maruska replied that in accordance with the guidance from OAG, state law requires a quorum for any type of meeting activity. A quorum is a majority of the appointed positions.

Phil Lovell identified the individual from the University of Washington. He offered to send the information electronically to staff.

Mr. Schacht said that during a recent meeting of the Design-Build Best Practices Committee, a member asked whether it was possible for an alternate or proxy to attend on behalf of the member. Chair Maruska reviewed the procedures and indicated that an alternate may attend on behalf of the member but cannot vote on matters, which speaks to the difficulty of appointing larger committees because of the difficulty of attaining a quorum.

Gary Rowe asked about the option of revising the procedures to allow the designation of member alternates for participation on committees. Chair Maruska said the issue is being addressed within the report that he is working on with the OAG for revisions to the procedures. The OAG is conducting some research on what is or isn't allowable under the Open Public Meetings Act.

Mr. Rowe said he sits on other boards as an alternative member and has the ability to vote based on the bylaws of the organization.

Mr. Schacht commented that the current structure provides value because of continuity of members. Most committees are short-lived and continuity of membership is important in terms of achieving consensus on matters.

Ms. Deakins reviewed the December meeting minutes containing information on the initial appointment of 10 members with several others designated to represent different organizations. The Board should consider designating members who want to be involved in the process.

Mr. Ahlers recommended retaining committee membership at 10 positions for ease in attaining a meeting quorum. When he was unable to attend other committee meetings, he was fully informed of the results of the meeting from the meeting notes and emails exchanged between members.

Mr. Schacht cited some problems with the Design-Build Best Practices Committee comprised of 13 members. Two members have missed the first two meetings. The schedule of meetings was reviewed by all members. He would like to convey to those who miss a meeting to voluntarily resign from the committee to avoid jeopardizing the committee's business. He asked whether that situation would require action by the Board.

Mr. Rowe questioned whether the Board's formal action is required to assign individuals to a committee. It's important to have some procedures in place to ensure everyone understands the expectations.

Representative Buys asked whether the Board's operating guidelines on attendance apply to the Board's committees. Chair Maruska advised that the full representation of CPARB cannot be included within a committee of the Board. The Board's quorum is 10 members and committees comprised of 10 Boardmembers would equate to a Board meeting. Representative Buys asked whether the guidelines address the absence of members. Chair Maruska said the statute stipulates that if members miss two consecutive meetings, the Chair can request the Governor to remove and reappoint another member. Representative Buys suggested that for consistency, those guidelines should also apply to committees.

Ms. Deakins reviewed the bylaws, which stipulate that Boardmembers are expected to consistently attend Board meetings and the Chair may ask the Governor to remove any member who hasn't attended two meetings in any calendar year without cause.

Mark Gaines offered a suggestion. He serves on a school board and there are a number of other committees he sits on. The committees only render recommendations and cannot make any decisions. CPARB committees are similar in that they can complete the work and make recommendations. However, any legislation is the responsibility of the Board. If a quorum of the Board is present, the meeting must be publicized otherwise no advertisement of the meeting is necessary. It's also worth investigating whether the Board must open committee meetings to the public. Chair Maruska replied that because of statute and rules under which the Board operates, the OAG has advised the Board of rules to follow under the Open Public Meetings Act.

Bill Frare suggested considering the administrative effectiveness of having a committee of three members with participation from others to share different viewpoints.

Chair Maruska noted the only issue pertaining to membership surrounds representation from WSDOT and Sound Transit.

John Ahlers moved, seconded by Bill Frare, to retain the original 10 members for the Public-Private Partnership Committee and not expand membership.

Linneth Riley-Hall spoke for both Sound Transit and for WSDOT as it relates to membership on the committee. Both agencies would attend the meetings and provide input and do not necessarily need to be a member.

Discussion ensued on the importance of WSDOT and Sound Transit's participation within the committee.

Motion carried.

Gary Rowe moved, seconded by Walter Schacht, that the Chair of CPARB be informed of the identity of the unnamed members for official appointment by the Board. Motion carried.

Mr. Schacht said the issue of voluntary resignations hasn't been addressed. It is important committees not supersede the Board's rule when a member misses two meetings. The Chair could request replacement through the Governor's Office.

Walter Schacht moved, seconded by Bill Frare, to direct that any committee member appointed by the CPARB who misses more than two meetings over the course of the committee's work without cause would be referred to the Chair of CPARB for one or more of the three options until action by the Board can occur at the next meeting:

- ***Discuss with the member the importance of attending and participating in the meetings; or***
- ***Substitute another member for the position; or***
- ***Terminate the member's position on the committee.***

Rebecca Keith supported Mr. Frare's recommendation to limit membership to a smaller number to avoid the problems associated with alternates and not attaining a meeting quorum. The number of members shouldn't impact the work of the committee adversely because the work product is the important outcome as long as the work is exposed to different constituencies.

Chair Maruska spoke to the goal of inclusiveness for all committees to ensure participation and consensus recognizing that some individuals are not able to participate. The advice to date from the OAG requires appointment by the Board of committee members and not alternates.

Representative Buys moved to table the discussion on committee formations and forward the discussion to the Bylaws Committee to review and render a recommendation on the structure of committees and operating rules. There was no second to the motion. The motion died.

Chair Maruska called for the vote on the original motion.

Motion carried.

Chair Maruska recommended moving Representative Buys' suggestion to the Bylaws Committee for further discussion. There was no objection by the Board.

John Ahlers left the meeting.

Project Review Committee (PRC)

March Meeting Minutes

Linneth Riley-Hall, Chair, PRC, reported on the results of the March 26 PRC meeting. The PRC has been seeking opportunities to expand responsibilities beyond reviewing project applications, such as providing training and inviting participation by the CPARB Chair and Vice Chair. However, the volume of applications hasn't afforded an opportunity to pursue those options. At the last meeting, one application was reviewed enabling the committee to complete some training and afford some time to the CPARB Chair and Vice Chair to share information with members.

The application was from Morgan Middle School for a modernization and addition project within the Ellensburg School District valued at \$44 million. While the school district had limited GC/CM experience, the district contracted with Hill International with a project team with significant GC/CM experience. The project met the provisions of RCW 39.10. Project representatives responded to numerous questions from the PRC evaluation panel. The panel voted unanimously to approve the project application.

Chair Maruska and Mr. Kommers addressed the PRC on the rules and responsibilities of the PRC, the formation of the PRC, and expectations of the committee in the review of project applications and agency certifications. Chair Maruska and Mr. Kommers responded to questions from members on some of the challenges the PRC has experienced. Members were appreciative of the time they both took to attend the meeting.

New members received training. New members on the PRC include Jon Lebo, Kurt Boyd, Chuck Davis, Darrin Gillis, and Vicki Barren-Sumann. The training provided a refresher to current members as well and afforded an opportunity for new members and existing members to exchange information. All members acknowledged the role the PRC plays in reviewing project applications for Design-Build (D-B), GC/CM, or agency certification for GC/CM and D-B. Phil Lovell, Tom Peterson, and Ms. Riley-Hall provided the training.

The next meeting is on May 28. Four applications have been submitted. Sound Transit submitted a D-B certification application, Point Defiance Zoo submitted a GC/CM project application for the new aquarium, City of Spokane submitted an application for GC/CM for the River Front Park, and the Washougal School District submitted an application for Jemtegaard Middle School, Excelsior High School, and a new elementary school.

AGC's GC/CM training is scheduled on June 24-25, 2015. The training is the third session this year and the class has been filled. Ms. Riley-Hall added that she is hopeful Mr. Kommers will continue his involvement in the AGC training.

Public Body Certification Report/Update

Ms. Riley-Hall reported the Board previously requested a recommendation from the PRC on the issues related to agency certification specifically pertaining to the denial of the Lake Washington School District GC/CM application for agency certification. The PRC formed a subcommittee to review the issue. The subcommittee reviewed and drafted legislation during a January meeting. The draft was presented to the PRC at the March meeting. During the meeting, Chair Maruska and Mr. Kommers shared their respective thoughts on in-house personnel versus consultant expertise for agency certification. Mr. Kommers was also a member of the subcommittee and answered several questions from PRC members. The PRC unanimously approved the proposed language change to the bylaws and forwarded the proposal to the CPARB for review and consideration.

The discussion surrounding certification centered on the responsibility of each PRC member to review and determine whether an agency has the skills and the personnel - whether in-house or through consultant assistance - to meet the requirements of RCW 39.10. Based on that direction, language was drafted amending the bylaws to assist PRC members. Because of turnover in PRC membership, members believed it was important to have some guidance included in the bylaws to help guide future PRC members. The amendment inserts new language in Section 4 adding section "D" stating, "Evaluate project and public body certification applications on the merits of the application and not base decisions solely on whether the proposed personnel are employees of the public body, consultants, or independent contractors." The request is for approval of the amendment by the Board.

Mr. Kommers asked about the status of some edits he previously submitted. Ms. Deakins said the document hasn't been updated at this time. Some general updating of terms is necessary as well as similar updates to the Board's bylaws. She anticipates receiving some comments from legal staff; however, other minor changes correcting the agency name and code references could be updated prior to publishing the document.

Mr. Kommers suggested a motion on the language as recommended by the PRC and the minor clerical changes to the agency name and code references.

Mr. Frare remarked on his attendance to the PRC meeting when the Lake Washington School District application was considered. The debate on school employees versus consultants was very interesting and he was often swayed by both sides of the debate during the discussion. Additionally, members representing private industry voted in favor of consultants as opposed to members representing public bodies that opposed and insisted the expertise must exist through school personnel. He asked about the change in opinions of the seven members who adamantly preferred in-house expertise as opposed to consultant expertise.

Ms. Riley-Hall said the change in opinion occurred through a general understanding, as each PRC member is responsible for evaluating and considering whether the applicant meets RCW requirements. The PRC should not evaluate solely on whether the applicant is using consultants or in-house expertise as the applicant could have satisfied all other requirements. For a determination on whether the experience is in-house or consultant expertise, it's important for the applicant to demonstrate the experience is available through the life of the certification by demonstrating the knowledge base remains intact for the three-year certification. Each application will be different and PRC members should evaluate based on the application and their respective experience and knowledge base. It's uncertain if the same or different results would apply as part of it depends on the presentation by the agency, and how well it demonstrates to the PRC that the agency meets all the requirements of the RCW.

Mr. Frare said the points addressed by the seven members centered on differentiation between a project certification and a school board certification and certainty of the expertise remaining with the organization through the life of the certification period. It appears the concern was satisfied by ensuring the contract with the consultants is effective during the life of the certification.

Santosh Kuruvilla asked whether the PRC evaluates the performance of the agency during the prior three-year certification period. Ms. Riley-Hall advised that the PRC does not pursue performance evaluations on each agency during its previous certification. The certification application includes questions about the agency's GC/CM experience on subject projects, as well as addressing staffing concerning any major changes in staff since the previous application. The application also has questions on lessons learned during the certification period. Mr. Kuruvilla questioned whether the application should include additional language addressing the issue.

Mr. Kommers pointed out that existing language in the application affords the ability for anyone from the public or constituent group to speak to any issues regarding the agency. The PRC offers a public comment period during the review process.

Mr. Crawford said many public agencies have the ability to contract with other public agencies for resources. He asked whether the proposed amendment allows for that circumstance for an agency to develop a team by contracting expertise through an interlocal agreement. Mr. Kommers said he's unsure whether the language addresses the issue; however, it doesn't appear to preclude the option. The message to the PRC is for each member to assess the presentation by the public body on how they will accommodate the requirement. That

specific method shouldn't be a litmus test and he doesn't believe the proposal would preclude it. It likely opens the door for the PRC to entertain that type of proposal. Mr. Crawford said he would be more comfortable if the language was clarified to avoid putting the PRC in the position of debating the issue.

Senator Hasegawa said he's trying to ascertain why the amendment to the bylaws is necessary. He asked whether draft legislation is tied to the bylaws. Ms. Riley-Hall apologized for the confusion. The issue was generated by the Lake Washington School District decision and the denial of the application. It is not a change to legislation, but rather to the bylaws to help clarify for members how to evaluate experience. Senator Hasegawa asked whether the proposal complies with underlying CPARB legislation and whether the amendment might change the underlying statutory authority by evaluating projects based on private sector participation.

Mr. Thompson explained that the effort is intended to provide a better understanding for PRC members and to afford some latitude in terms of evaluating personnel. By approving the amendment, it may remedy some debate within the PRC as the applications are presented.

Mr. Schacht remarked that his perspective is that the proposal could be deemed to be modifying the intent of the legislation dependent on how the RCW is interpreted. In terms of the RCWs for individual project authorization, consultants are specifically allowed. However, within the RCW for agency certification, that authorization is not mentioned. It could be contended that the amendment is only a clarification, as well as conveying that consultants can now be considered without modifying legislation. That's a concern many architects have in that the language specifically defined consultants for projects but doesn't mention consultants when it pertains to agency certification. By judicial intent, it appears that the proposal expands the realm of possibilities for agency certification.

Senator Hasegawa asked whether it might be possible for different constraints by different entities, such as a public entity that might have federal affirmative requirements if federal funds are attached to the project. He's unsure of the interplay regarding the issues to ensure minority contracting opportunities are considered.

Ms. Riley-Hall said she's unsure whether the clarification impacts the utilization of small businesses and DBEs. Those requirements would be addressed by each agency when developing the project proposal. For example, Sound Transit receives federal funds and is required to ensure exclusiveness of small businesses and DBEs. It's up to each agency and its funding source to address those types of issues.

Mr. Benson said he's been a member of the PRC for eight years and was one of the seven members voting against the certification application. Unfortunately, he missed last month's PRC meeting and did not participate in the discussion. However, he doesn't believe legislation precludes a public body from using consultants to meet any criteria set forth for qualifying for certification. Historically, the PRC has considered certification as an important action because it's carte blanche authority to utilize another alternative delivery method on a project. It's also demanded a higher level of scrutiny than a project application submitted by a public body. The clarification could be of value because there has been precedent over the last eight years with a number of public bodies that were expected to have in place, a solid management plan and team with the appropriate practical experience to demonstrate it could successfully move forward with whatever delivery it was seeking for approval. In the case of Lake Washington School District, he did not feel comfortable that there was certainty of having the expertise necessary on the team over the three-year period to be successful. It wasn't because he believed legislation didn't provide sufficient clarity. Legislation can be subject to interpretation throughout the provisions. A recent denial of a project application for GC/CM was because of insufficient GC/CM experience of the team. The statute doesn't speak to the requirement to have GC/CM experience. Precedence has been established during the last eight years when some public bodies did not

receive approval when it was determined appropriate experience was lacking. It's possible to micromanage the statute to avoid having the PRC render any decisions or interpreting any conditions. The PRC is comprised of 28 smart and experienced members, which has been effective. Personally, he doesn't believe anything is broken as there will always be a difference of opinion.

Mr. Lovell agreed the RCW doesn't specify tweaking language because as part of the flexibility in the language, relative to certification, it provides for public agencies with a limited number of projects to hire consultants with the necessary experience versus hiring in-house staff. When the PRC considers a certification, members consider whether the agency has a plan that includes necessary experience, and if not available in-house, the applicant must demonstrate that the experience has been secured through a consultant.

Mr. Crawford commented that current statutory language allows for interpretation because for agency certification it doesn't speak to consultants. There were members of the PRC that checked the box and denied the application because the agency didn't have sufficient in-house staff even though the school district had management staff who successfully completed three GC/CM projects. Another school district received approval that completed only one project and only had two GC/CM experienced staff members. There is nothing to preclude an agency with in-house staff to lose staff and that experience and not have the ability to ramp up or down as an agency would if they had hired consultants. In that case, the consultant team would be able to provide additional resources. It seemed appropriate to seek some clarification of the language that speaks to the requirement of not just checking a box, but rather it's a process for each member to consider each application on its merits and determine whether the agency has developed a package that includes the resources necessary to adequately manage and successfully deliver projects.

Mr. Schacht advised that he contacted architects across the state to obtain some feedback. The concerns by architects is that public owners with strong in-house management skills tend to be the most effective public owners. Developing those skills to achieve agency certification is a good idea. There was also a concern about the challenges in the fairness of project selection when a private entity is involved on behalf of a public agency. There are strict rules about interaction between engineers, architects, contractors, and those who work for public agencies. However, a consultant hired to support an agency seeking certification is encumbered by the same constraints. There are some questions as to how relationships may or may not develop in terms of the selection processes because GC/CM and D-B are much more complicated than Design-Bid-Build. It might be worth considering the potential downsides of stepping over the line unintentionally. It might create unintended consequences and result in some negative results.

Mr. Kommers suggested the comments do not appear to preclude decision-making by each member. He doesn't share Mr. Schacht's concerns. The concern was the up or down vote by PRC members based on the criteria, which wasn't anticipated. The proposed amendment provides appropriate guidance.

Ed Kommers moved, seconded by Steve Crawford, to approve the proposed amendment to PRC Bylaws to include changes correcting the agency name and code references.

Senator Hasegawa restated his original question of what's driving the need for the change. He only foresees downsides and consequences for future applications because of a rule change, loss of ethical considerations, and loss of internal capacity over time for public agencies to attain. Outsourcing only creates an incentive for in-house capacity to leave and cross over to the private sector. He doesn't believe the need for the change has been documented.

Mr. Kommers replied that the need for the change would help determine whether relying on in-house or out-house expertise is a mischaracterization of the statute that creates two problems. The first is the up or down

votes that creates an appealable process, but it also degrades the process and just promotes the opposite. The PRC was designed to consider all factors in total and not just determine a yes or no on this particular matter. It provides direction to the PRC conveying to each PRC member that they should evaluate the application on the total and it may not be the same for each agency.

Mr. Thompson said he believes the proposal does provide some clarity for the PRC but at a consequence because it represents a substantial change to the RCW. He believes in maintaining the status quo. Should the PRC be challenged in that arena, it should be noted that there is a difference between public body certification and a project certification.

Representative Buys said his main concern is whether the proposal changes the statute.

Mr. Kommers said he shares a similar concern but disagrees with the approach, as the conclusion by Mr. Schacht is erred in that the proposal saves the Board from a statutory change because drawing the conclusion that the proposal is a statutory change is completely wrong. As one of the co-authors of the initial statute, the proposal provides the flexibility that the statute was designed to provide.

Ms. Keith asked whether the statute's reference to "personnel" was intended to be broadly interpreted. Mr. Kommers affirmed that was the intent.

Motion failed. Andrew Thompson and Walter Schacht voted against. Rebecca Keith abstained.

Chair Maruska recessed the meeting from 10:56 a.m. to 11:08 a.m. for a break.

PRC Application Criteria Questions

Mr. Kommers said there were some questions from PRC members at the last meeting's discussion about their role as a stakeholder in the PRC process and the types of questions permitted to ask. Part of the training focused on the purpose of the PRC to evaluate the statutory criteria to approve a project. However, some members asked whether they are able to ask specific questions of a project applicant. For example, a mechanical contractor representative couldn't vote against the project application if the applicant didn't select a mechanical contractor who is a member of the Mechanical Contractors Association. That type of consideration is not related to the statute. Questions should be based on the statutory criteria based on each member's perspective as a stakeholder. Although it's important to maintain representation of the member's constituency, it's important to consider the statutory requirements for approving a project.

PRC Appointments

Chair Maruska reviewed applicant submittals for reappointment or appointment to the PRC. He referred members and the audience to the matrix listing all the applicants. John Palewicz, the incumbent, applied for reappointment for the Owner – General Public position. No applications were received for the open position for Cities. He asked Ms. Keith to assist in some recruiting efforts. Bill Dobyms, Brett Earnest, Tyler Kimberly, and Rob Warnaca applied for the two open positions of General Contractors. Joshua Swanson applied for the one open position of Construction Trades Labor, and Linneth Riley-Hall, the incumbent applied for the General Owner position.

Gary Rowe moved, seconded by Ed Kommers, to appoint John Palewicz to the PRC position of Owner-General Public, Joshua Swanson to the Construction Trades Labor position, and Linneth Riley-Hall to the General Owner position. Motion carried.

Chair Maruska referred to the four candidates for the General Contractors positions. The application for Tyler Kimberly appears to be a company application and not an individual application. Staff attempted to contact the company to speak to the applicant and has been unsuccessful in speaking to the applicant.

Ms. Bessett reported she spent some time following up with IMCO General Construction, which submitted the application as a company. The company never confirmed the individual the company was submitting for consideration. She never received any feedback from her phone calls and emails.

Rodger Benson spoke in support of the appointment of Rob Warnaca for one of the two position. He has known Mr. Warnaca for eight years. The integrity of the individuals serving on PRC and the panels is paramount to the success of the PRC experience. There have been many members who have served and left over the last eight years. There are a number of significant decisions the PRC is responsible for rendering. One is whether the projects are appropriate for alternative delivery and that the public body qualifies for certification to use alternative delivery. During interpretation of whether an organization has a management plan and a team in place to be successful requires the PRC member to have some practical experience in alternative delivery. PRC members must rely on those practical experiences in order to render value judgments. Mr. Warnaca has been involved in dozens of state GC/CM projects, involved in 10 Design-Build projects, has practical experience with the Progressive Design-Build, as well as working with many contractors in ECCM and MCCM. It's doubtful anyone else in the state has the depth of practical experience with alternative delivery than Mr. Warnaca. If not for another travel commitment, Mr. Warnaca would be in attendance to speak to his qualifications.

Mr. Kommers echoed similar comments about Mr. Warnaca.

Mr. Schacht reported he knows Mr. Dobyns and Mr. Earnest professionally and both are highly skilled. They both have experience in alternative project delivery. The Board has three good choices to consider.

Ed Kommers moved, seconded by Andrew Thompson, to appoint Rob Warnaca to the position of General Contractors on the PRC. Motion carried.

Mr. Kent said he knows Bill Dobyns. Mr. Dobyns has completed much work for the State of Washington.

Mr. Kommers agreed and added that Mr. Dobyns also has many connections to some projects in eastern Washington.

Ed Kommers moved, seconded by Steve Crawford, to appoint Bill Dobyns to the position of General Contractors on the PRC. Motion carried.

Operating Procedures & Bylaws Committee Report

Chair Maruska said the goal is to complete the revisions to the bylaws for the Board's action. New legal counsel is working with the committee. The goal is to complete the update by the end of June for the Board's consideration at the September meeting. As part of that work, the committee will review the PRC bylaws for any recommended changes.

Mr. Rowe asked whether the committee plans to address the issues previously discussed. Chair Maruska affirmed the committee would address all questions on the quorum requirements for committees, Open Public Meeting processes, and consider the structure of committees.

Design-Build Best Practices Committee Report

Mr. Schacht reported the committee has met twice. In April, the committee held its kick-off meeting. The Board appointed committee members. The committee nominated and elected Oliva Yang from Washington State University to serve as Co-chair. Initially, Alan Nygaard represented Higher Education; however, he only held the position for Ms. Yang as the Higher Education representative.

During the first meeting, members discussed issues. At the second meeting, members discussed defining Design-Build (D-B) and associated issues because of the variations of D-B ranging from Progressive D-B, D-B with more design provided by the owner's documents, and D-B through design competition.

Members plan to meet monthly and by September propose to have some initial findings to present to the Board with a draft of the Best Guidelines Handbook presented to the Board in November followed by completion of the work with a formal recommendation at the Board's December meeting. Over the next several meetings, the committee will define issues and ask participants to share lessons learned, case studies, best practices, and experiences that produced the best results, as well as identifying issues that may have been roadblocks for achieving good outcomes. Ms. Yang and Mr. Schacht plan to meet to draft issues identified from the first two meetings for the committee's concurrence to study followed by inviting presentations from others on lessons learned and case studies to ensure industry-wide representation.

Mr. Schacht asked for the Board's approval to designate Oliva Yang as the representative for Higher Education and confirm Janice Zahn as the representative for Ports. Currently, the committee includes 13 members; however, the committee would also like to nominate John Palewicz as a committee member and George Shaw, an architect who has much experience in D-B. The committee doesn't envision voting to determine best practices. The addition of the two members affords better representation on the committee.

Walter Schacht moved, seconded by Santosh Kuruvilla, to appoint Oliva Yang to the Design-Build Best Practices Committee as the Higher Education representative and appoint John Palewicz and George Shaw as members.

Senator Hasegawa remarked that the University of Washington has not been very effective in outreaching to smaller businesses in D-B projects. He suggested focusing best practices in those areas.

Mr. Schacht clarified that Ms. Yang is with Washington State University and Mr. Palewicz is with the University of Washington affording representative from each institution. The committee has a strong focus on small business and women-minority businesses. He is also a small business owner. Alexis Oliver from OWMBE is also participating on the committee and solicited the participation of two minority businesses. The issue will be a central element the committee plans to address. Mr. Kuruvilla added that Ms. Oliver also plans to capture some of the lessons learned from other states.

Motion carried.

Ms. Deakins pointed out the tentative status of several representatives who were not officially appointed by the Board involving Sound Transit, Granite Construction, DBIA, and Ports.

Ms. Riley-Hall confirmed she plans to participate and represent Sound Transit.

Mr. Thompson said he would need to identify the representative for Granite Construction if the position is still required. Mr. Schacht reviewed the current status of representation for general contractors, which is significant to include Vince Campanella, Phil Lovell, and Bill Kent. Bill Kent said his participation is as the

representative for DBIA. Mr. Schacht said a representative from Granite Construction might not be necessary as there appears to be a good level of participation from general contractors.

Mr. Thompson asked to withdraw Granite Construction as a member. The company can attend meetings as a participant.

Ed Kommers moved, seconded by Ty Heim, to withdraw Granite Construction as a member of the Design-Build Best Practices Committee, confirm John Palewicz as the DBIA Public Owners representative, confirm Oliva Yang as representing Higher Education, confirm Bill Kent as the DBIA representative, confirm Janice Zahn as the Port's representative, and confirm Linneth Riley-Hall as the representative for Sound Transit. Motion carried.

Update on Other Committees

Mr. Frare requested consideration of his appointment to the Public Works Issues Committee as a representative of DES.

Ed Kommers moved, seconded by Gary Rowe, to appoint Bill Frare to the Public Works Issues Committee as the DES representative. Motion carried.

Senator Hasegawa requested correction of his name on the roster for the Web-based Data Collection Committee. Staff affirmed the request.

Representative Buys left the meeting.

Budget Update

Ms. Deakins provided an update on the budget. The DES budget includes approximately \$150,000 for the biennium with \$90,000 allocated for the first fiscal year. Unfortunately, in the management of accounting for staff time, some time wasn't allocated to CPARB. Some funds are included for the data collection website. DES determined not to host JOC Collection on the website at this time. Some of that effort will need to carry forward, which explains the large amount of the Board's unspent allocation.

Mr. Thompson commented that as a member of the Web-based Data Collection Committee, there hasn't been much movement. The issue of data is consistently raised during different discussions. He questioned the costs associated with the effort as the Board has an allocation of funds for the website. Ms. Deakins explained that a specific amount was allocated for the additional time spent on the last update report. The website updating was allocated for the first fiscal year, which didn't occur. Communication needs to occur with the accounting department on allocations by fiscal year. DES experienced a large staff turnover at the beginning of the biennium, which impacted processes. Mr. Thompson asked if a project has been designated within the budget figures. Ms. Deakins noted that at this point, there wouldn't be sufficient time to expend the funds by June 30 when the fiscal year ends. Mr. Thompson asked about the status of funds in the new budget for data collection. Ms. Deakins said that at this point, she's unsure of the status of the budget. Some funds are projected in the operating budget.

Mr. Rowe asked whether the Board would have some information on the amount to allocate once the budget has been determined. Ms. Deakins said she's unsure of the budget request for the CPARB.

Mr. Thompson pointed out that part of the ability to collect data is to ensure budget dollars are available to manage data collection. He offered to contact Mr. Nygaard to determine the status of the committee's efforts.

Offering a web-based program requires funding. Ms. Deakins acknowledged uncertainties with the budget until the Legislature approves the budget.

Senator Hasegawa asked whether data collection was included in a budget request for DES. Ms. Deakins indicated the Board's budget is incorporated within the DES budget. The maintenance funds should include some funds for the data collection effort.

Mr. Thompson pointed out the requirement by the Board to collect the data and for public bodies to provide the data. Currently, there are no ongoing efforts underway. It's important to define the challenges and move forward with some solutions.

Chair Maruska offered to email the Board's budget after the Legislature adopts the budget.

Legislative Update

Chair Maruska referred to a list on the status of 2015 session bills as of February 4, 2015. The Board did not have any bills introduced to the Legislature this session. The Job Order Contracting bills to increase the limits for DES and cities with populations over 400,000 were signed by the Governor. The Board's prior review of appeals for counties (HB 1601) was also signed by the Governor.

Set Agenda Items for September Meeting

Agenda items for the September meeting include:

- Report by Operating Procedures and Bylaws Committee/Election of Officers
- Status Report by Public-Private Partnerships Committee
- Report from the Design-Build Best Practices Committee
- CPARB Budget Update/Status
- PRC Report

Mr. Frare requested the addition of a discussion on building envelope legislation at the request of Representative Buys.

Ms. Keith asked whether the building envelope request is similar to legislation introduced during the session. Mr. Frare affirmed that it's similar.

Mr. Frare asked about the status of appointment for new members. Chair Maruska said the Governor appoints new members. Ms. Deakins said the Governor's Office has advised that appointments will occur in June effective July 1. Chair Maruska added that if the Governor does not make appointments, the current practice is for incumbents to continue serving on the Board especially for positions that have been difficult to fill. Submittal of applications closes on June 1. Ms. Deakins noted staff will monitor the submittal of applications with the Governor's Office and provide updates to the Board. She encouraged members to solicit and endorse applicants.

Adjournment

Bill Frare moved, seconded by Ed Kommers, to adjourn the meeting at 11:57 a.m. Motion carried unanimously.

Staff & Guests

Nancy Deakins, DES
Danelle Bessett, DES
Neil Hartman, WSBCTC
Tom Gow, Puget Sound Meeting Services
Frank Lemos, WA Minority Bus. Adv. Council
Dick Lutz, Centennial Construction
Rodger Benson, Mortenson Construction

Robyn Hofstad, DES
Linneth Riley-Hall, PRC & Sound Transit
Mark Gaines, WSDOT
Bill Kent, DBIA
Phil Lovell, PRC
Thuy Hong, Sound Transit
Jan Knudson, KCWTD

Robert Maruska, CPARB Chair

Prepared by Valerie L. Gow, Recording Secretary/President
Puget Sound Meeting Services, psmsoly@earthlink.net