

**CAPITAL PROJECTS ADVISORY REVIEW BOARD
PROJECT REVIEW COMMITTEE**

**Northwest Carpenters Facility
25120 Pacific Highway South**

Kent, Washington

March 26, 2015

9:00 AM

Draft Minutes

MEMBERS PRESENT

Ato Apiafi, Ato Apiafi Architects
Vicki Barron-Sumann, Minority/Women Businesses
Rick Benner, Western Washington University
John Boknecht, Stacy and Witbeck, Inc.
Kurt Boyd, Valley Electric
Jim Burt, King County
Steve Crawford, Issaquah School District
Chuck Davis, Seattle Central College
Darrin Gillis, Skagit Regional Health
Howard Hillinger, Parametrix

Ian Kell, Seneca Group
Jon Lebo, University of Washington (UW)
Phil Lovell, Turner Construction NW
Shasta McKinley, Civil & Environmental
Consultants LLC
Darron Pease, Pease & Sons, Inc.
Tom Peterson, Hoffman Construction Co of WA
Paul Powell Jr., CPO Construction
Linneth Riley-Hall (Chair), Sound Transit
Yelena Semenova, Department of Enterprise Svcs
Mike Shinn, Shinn Mechanical

MEMBERS ABSENT

Rodger Benson, MA Mortenson Company
Curt Gimmestad (Vice Chair), Absher Construction
Tim Graybeal, Integrus Architecture
Jonathan Hartung, SHKS Architects
Rustin Hall, ALSC Architects

Miriam Israel Moses, Rebound
Timm Ormsby, Rebound
John Palewicz, University of Washington
Rusty Pritchard, Washington State University

STAFF, GUESTS, PRESENTERS

Robyn Hofstad, DES
Dr. Paul Farris, Ellensburg School District
Mark Gaines, WSDOT
Tom Gow, Puget Sound Meeting Services
Neil Hartman, WSBCTC
Ed Kommers, MCAWW/CPARB

Robert Maruska, Port of Seattle /CPARB
Melissa McFadgen, Northwest Architecture
Tim Mead, Hill International, Inc.
Farley Walker, Ellensburg School District
David Zeitlin, Hill International, Inc.

Welcome & Introductions

Chair Linneth Riley-Hall called the Capital Projects Advisory Review Board (CPARB) Project Review Committee (PRC) meeting to order at 9:50 a.m.

Public Comments

There were no public comments.

Ellensburg School District (GC/CM) – Morgan Middle School

Panel Chair Tom Peterson thanked the applicants for providing written answers to questions previously submitted. He outlined the presentation and question/answer/deliberation format.

Panel members included Tom Peterson, Jon Lebo, Jim Burt, Rick Benner, Darron Pease, Ian Kell, and Vicki Barron-Sumann.

David Zeitlin, Program Manager, Hill International, presented the application on behalf of the Ellensburg School District as the owner's representative. He introduced team members Melissa McFadgen, Project Manager, NAC Architecture; Dr. Paul Farris, Superintendent, Ellensburg School District; Tim Mead, Construction Manager, Hill International; and Farley Walker, Business Manager, Ellensburg School District.

Mr. Zeitlin reported the Morgan Middle School was built in the 1920s.

Dr. Farris reported in 2006, the school district pursued a bond measure to replace the middle school followed by three additional bonds to replace the middle school with a new school. All four of the bonds failed. During the fifth bond attempt, the school district reached out to the community for feedback on how the district could achieve a successful bond. During the previous bonds, the building sites were different with two bonds proposing construction in the county on a 20-acre undeveloped site. The fourth bond was for construction of a middle school near the existing high school located on approximately 40 acres. The school district completed a community survey through the Washington State University Social Research Department. Survey results revealed 56% of the community wanted a new middle school and 44% wanted to renovate the existing building. Of those desiring a new school, the majority wanted to construct the school at the existing location and 70% preferred retaining the older 1920s building if the school was constructed on another site.

The school district established a Team for a Common Vision representing a diversity of opinions comprised of 18 individuals who met 15 times for three-hour meetings to examine all possible configurations offered previously to develop a solution. The solution mirrored the results of the survey for construction of a hybrid building with the majority of the building new construction of 67,000 square feet and renovation of 50,000 square feet of the historic structure. The site is located on 6.6 acres, which presented some additional challenges and is a major reason for seeking the GC/CM delivery method.

Mr. Mead reviewed the organizational structure for the Morgan Middle School Modernization and Addition Project. All contracts would be held by the school district and administered by Hill International.

Mr. Zeitlin referred to a question as to whether the GC/CM would be reporting to Hill International. The GC/CM is contracting directly with the school district with Hill International administering the contract. He reviewed how construction funds would be allocated. The overall budget is approximately \$44 million. The budget includes several contingencies to include \$1.9 million as a design contingency, as well as escalation dollars and the 5% GC/CM statutory requirement.

Mr. Zeitlin reviewed team member roles for the project:

- David Zeitlin – Program Manager with support from two other individuals with day-to-day assignments to provide oversight on the entire project and work on the GC/CM selection process, complete high level reviews of the budget, work with the leadership team, school board, and assist in community outreach.
- Tim Mead – Senior Project Manager will be involved in the day-to-day management of the project. Between both individuals, coverage is 100% with other support staff with expertise in finance and construction.

Mr. Zeitlin reviewed his and Mr. Mead's GC/CM experience. Mr. Zeitlin said he was involved in an \$82 million Lake Washington School District high school project from 2006 through 2011. Mr. Mead worked on a GC/CM engineering building project for WSU and several large private sector projects similar to the GC/CM delivery method. After completing the WSU project, Mr. Mead assisted in negotiating a contract on a grain export terminal in the southwest area of the state and then completed an \$800 million golf course and retail facility project in Korea. After returning to the states, Mr. Mead served as an owner representative for a \$230 million replacement hospital in Springfield, Ohio.

Mr. Zeitlin said his experience is concentrated in schools and he's spent 20 years in the private sector as an architect and 11 years in the public sector employed with a school district to build schools. He joined Hill International, a company specializing in school facilities.

Ms. McFadgen, Northwest Architecture, has over ten years of experience on a high school project as a traditional Design-Bid-Build (D-B-B) project. The firm is experienced in the GC/CM delivery method. Key team members include Tom Golden, Principle, Steve McNutt, and herself. Most recently, the firm worked with Spokane Public Schools on a large high school renovation project very similar to the proposed project involving the modernization of an existing school facility and new additions constructed during the course of the school year with students on campus.

Ms. McFadgen reviewed the proposed project site. Typically, middle schools are located on sites between 17 and 20 acres in size and include the full complement of athletic fields. The project site is approximately seven acres imposing many restrictions. The existing historic building has been modified and expanded over the years. The project includes demolishing newer sections and modernizing the original structure. The conceptual plan illustrates how the site limits choices and requires construction over existing buildings while maintaining class circulation for students and faculty in a safe environment.

Within the second floor, some complex vacancies are necessary as the central core and an existing auditorium are condemned and cannot be occupied because of safety. The likelihood of some additional development is anticipated for space for students, adding to the complexity of the project.

Mr. Mead reviewed the construction schedule. Several questions were generated by the PRC regarding timing of the GC/CM. The intent is hiring the GC/CM before schematic design is completed. Should the PRC approve the application, the Request for Qualifications (RFQ) would be released. Another question centered on the timing for setting the "maximum allowable construction cost" (MACC). The intent is establishing 90% construction documents and then negotiating the MACC at that point moving forward. The completion date of the project is scheduled in February 2018.

Mr. Zeitlin reviewed critical GC/CM factors. The importance of the GC/CM covers many reasons to include limited size of the site, multiple phasing, movement of portables during construction, and the logistics of using another site located nearby for staging and delivery of materials. This project requires the GC/CM delivery method to ensure success of the project. The building will need abatement with every area of the building renovated creating logistics issues. The difficulty of construction and phasing speaks to the encroachment of new construction on existing buildings that would continue operating during construction, such as the kitchen, which also serves nearby elementary schools. Traffic and circulation patterns will be impacted for both pedestrians and vehicles. The GC/CM is important to ensure site safety and logistics through advance planning.

Ms. McFadgen said the phasing strategies include additional portable classrooms to offset the loss of classrooms during construction, modernizing the existing building early when not occupied, and potentially

vacating 1st Avenue located to the north to provide temporary space. All phasing strategies would be validated by the GC/CM.

Mr. Zeitlin outlined some GC/CM lessons learned as a team member in previous GC/CM projects. The most important lesson is creating a team and having the GC/CM onboard early to help foster the team approach, especially in complex projects. Mr. Mead's private experience in medical construction included the presence of patients within the project site. GC/CM is a similar process in the public sector entailing a three-legged stool with the owner one leg, GC/CM another leg, and the architect serving as the last leg. The faltering of one leg could result in the collapse of the entire stool, which speaks to the importance of the entire team working together. Using the MACC contingency to pay for acceleration, if necessary, can be a less expensive alternative than a costly schedule delay. School projects require timely completion because of school year scheduling. Complex projects require a GC/CM to ensure adherence of the project schedule. The existing team work well together and has developed a culture of respect and collaboration. A GC/CM delivery method works because all partners have a role and stake in the successful outcome of the project. Clearly defined roles, responsibilities, and agreement to work jointly and in support are essential for a successful project. It's important to define methods to work out differences. Understanding the process takes significant time and commitment. It's important to plan the project together as a team to achieve the best results and celebrate successes together.

Chair Peterson invited questions from panel members.

Rick Benner asked how the project schedule might impact either a MC/CM or EC/CM delivery method. Mr. Zeitlin replied that the project would benefit by contracting with mechanical and electrical subcontractors during design. Although, he's had no practical experience in other projects, this particular project speaks to the need. Having a GC/CM contracted enables an opportunity to discuss issues with mechanical and electrical subcontractors. It's a viable option and it's important to prequalify some subcontractors to ensure the right selection occurs for major project elements. Mr. Benner asked how that process would potentially affect the schedule. Mr. Zeitlin said the team plans to conduct a GC/CM selection process over six weeks with schematic design one-third to halfway complete. After contracting with the GC/CM, a decision is necessary to contract with electrical and mechanical contractors before the end of schematic design. Other projects included contracting with the GC/CM prior to completion of design. Another project entailed contracting with the GC/CM during design development. It's much more effective when the GC/CM is hired and working with the architects prior to completing any design.

Ian Kell asked about the market in the Ellensburg area for GC/CM project experience. Mr. Zeitlin replied that the GC/CM market in Ellensburg is limited to several companies. However, soliciting and completing the bid packages for local market participation is supported by the project team.

Mr. Kell referred to the lack of including any financial incentives. He asked whether the project team considered performance incentives, such as achieving schedule milestones because of site constraints associated with summer and mid-winter breaks. Mr. Zeitlin replied that the project team discussed financial incentives. The primary reason for excluding incentives was based on feedback from the industry because incentives can often become a deterrent in terms of the GC/CM not utilizing the contingency and preserving it to achieve milestones, rather than applying it to project elements as intended by statute. Hill International advises clients in these types of projects not to include financial incentives for those reasons because project budgets rarely include funds for incentives in addition to a project contingency.

Jim Burt asked about the identity of the person providing contract assistance since this project is the district's first exposure to the GC/CM delivery method. Mr. Zeitlin identified the contact as Greg Gudel with Foster

Pepper. Mr. Gudel has experience working with a number of school districts. Foster Pepper provides customized contracts with school districts, as well as pre-construction contracts.

Jon Lebo asked whether the GC/CM contingency is for the contractor's use or the school district's contingency. Mr. Zeitlin said the 5% contingency is for the GC/CM only. However, the school district has a contingency that can only be used by the GC/CM with the owner's approval. Separate accounts would be maintained for both contingencies with GC/CM changes and owner changes documented separately and numbered in different sequences. Mr. Lego asked about the uses of the contingency specific to the GC/CM. Mr. Zeitlin said the contingency would be used by the GC/CM for unforeseen expenses, such as scheduled maintenance or contracting additional electricians. Mr. Lebo said it's unclear as to the amount of the owner's contingency. Mr. Zeitlin advised that the owner contingency is \$1,568,000 for the construction element only. An additional owner management reserve (OMR) is included for unknowns. The project is considering a half-street vacation at this point, and it's uncertain what that might entail. Those funds would be allocated from the OMR contingency totaling another \$1.6 million. A number of contingencies are included in the budget for the design phase, GC/CM contingency, escalation contingency, owner contingency, as well as the OMR contingency.

Mr. Lebo suggested it would be beneficial to have the GC/CM participate as much as possible during the schematic design phase because of the number of decisions inherently necessary for this project. There appears to be no benefits by shortcutting the amount of time with the GC/CM. Mr. Zeitlin agreed.

Chair Peterson asked Mr. Mead about his prior involvement in a GC/CM project and whether it was through completion of the project. Mr. Mead advised that he left the project during the drywall installation to work on negotiations for the \$200 million project and then he traveled to Korea. The project was nearly completed at the time of his departure.

Chair Peterson asked about local participation and the intent to pre-qualify subcontractors. Mr. Zeitlin reported the process entails hiring mechanical/electrical subcontractors early in the process and prequalifying for other major bid packages, such as structural steel and possibly the drywall stud package. The team is striving to utilize top tier contractors for those particular bid packages. Another important aspect is soliciting local contractors within the Ellensburg area to afford opportunities. Many GC/CMs often contact local halls, advertise in local newspapers, or schedule workshops to provide training on how to bid on a GC/CM contract. Many small contractors have never worked under a GC/CM contract. Although the outreach process is not necessarily focused exclusively to the local community, the intent is ensuring opportunities are available to the local community.

Mr. Mead noted that since Ellensburg is not a large area, it's been difficult to secure three to four viable bids in any category. It requires actively contacting subcontractors to advise them of the opportunity and contacting other sources. Mr. Zeitlin added that the option of approaching the college to discuss intern opportunities during the summer was discussed as well.

Chair Peterson invited public comments. There were no public comments.

Vicki Barren-Somann mentioned the lack of any public outreach efforts within the application. She asked whether the project team is assuming community outreach responsibilities. Mr. Zeitlin said a community outreach plan was developed.

Dr. Farris added that early in the process the importance of community communication was acknowledged. The school district hired a communications specialist. The importance of managing expectations was

recognized because of the student body's presence during construction and the community's interest in the project. The presentation provided to the PRC will be included on the school district's webpage and Facebook page.

Ms. Barren-Somann asked whether the GC/CM would be a stakeholder in community outreach. Mr. Zeitlin said the GC/CM would be involved to the extent possible. Previous experience has revealed that not all contractors are comfortable in that role. Some of the larger contractors have resources specializing in community outreach while others lack that additional expertise. For this project, other methods are available as the site is located within a residential neighborhood and a certain level of customer service focus by the GC/CM is necessary to address questions, concerns, or provide project updates.

Mr. Benner asked about the status of the two GC/CM projects listed as experience within the application. Ms. McFadgen reported the WSU Spokane Academic Center was completed approximately 10 years ago and Selah Middle School is currently in design development.

Mr. Benner said the cost estimate includes a 3% inflation factor. He asked whether the estimates in design and construction are adjusted accordingly given the project is two years out to ensure against utilizing the entire contingency prior to commencement of the construction phase. Mr. Zeitlin acknowledged market differences in eastern Washington. Recent bidding on a smaller project in Wenatchee of approximately \$6.5 million resulted in bids with low estimates. Although there was good competition, the bids were \$300,000 to \$400,000 lower than the estimate. The market is beginning to recover in eastern Washington, but not as much as in the greater Puget Sound area. The inflation factor of 3% is from recent cost estimates provided by industry experts on current projects escalating to mid-buyout.

Mr. Lebo inquired about the availability of Mr. Walker if the 15% allocation of time is insufficient. Mr. Walker replied that the time necessary for the project would be devoted to the project.

Chair Peterson closed the question and answer session.

Panel members deliberated the proposal.

Darrin Pease commented that the project meets the criteria for GC/CM, especially with the site constraints and other issues. However, his concern revolves around prequalifying major disciplines and how that's pursued because it appears to be an effort of mixing the top tier with locals within the same discussion, which might be problematic.

Ian Kell agreed the project meets the criteria. The project is extremely important to the community and it's been very well demonstrated by the community's passage of the bond. The project is difficult to phase because it's located at a middle school. The team appears to have the right approach, demonstrated in the qualifications of the two senior PMs with Hill International to support the project. Considering MC/CM and EC/CM are important for the project because of the challenges of demolition of existing mechanical and electrical and phasing new installation of systems. Having subcontractors early in the process helps to mitigate risks. The negotiated support services budget might need to be reviewed moving forward, as it typically involves costs the GC/CM can't easily quantify and bid as part of the general conditions, such as temporary protection and mechanical and electrical system operations.

Mr. Lebo said the project meets the requirements for GC/CM and he's pleased experienced staff is involved. He encouraged the team to take full advantage of the schematic design phase with the contractor.

Rick Benner moved, seconded by Ian Kell, to approve the Morgan Middle School Modernization and Addition project application for the GC/CM contracting procedure. Motion carried unanimously.

The meeting was recessed for a break from 10:41 a.m. to 11:03 a.m.

Comments by CPARB Chair and Co-chair

Newly appointed PRC members Jon Lobo, Howard Hillinger, Kurt, Chuck Davis, Darrin Gillis, and Vicki Barren-Sumann provided self-introductions and shared information about their respective professional experience.

Chair Riley-Hall introduced CPARB Chair Robert Maruska and Co-chair Ed Kommers.

Chair Maruska expressed appreciation to members for their commitment and service to the alternative public works delivery process. Alternative public works entails a delicate balance and the PRC review process applies checks and balances through its members having expertise and day-to-day experience for ensuring public owners are prepared to complete public projects under the alternative form of delivery. As the PRC, different rules apply to include adherence to the Open Public Meetings Act and Public Disclosure. Online training is available through the Department of Enterprise Services to assist members.

The Board asked Chair Riley-Hall and the PRC to provide a recommendation on an issue the PRC considered last year surrounding public owners and the certification process. The PRC initially requested direction from the Board on interpreting the RCW. The Board determined that as experts, the PRC should develop a recommendation for the Board to consider.

Ed Kommers, Executive Director, Mechanical Contractors Association of Western Washington (MCAWW), and Vice Chair, CPARB, encouraged members to review and become familiar with RCW 39.10. He described the efforts of him and several other individuals in drafting legislation implementing the PRC. The PRC was established with basic guidelines and requirements to enable experienced members to evaluate project proposals. To date, the PRC has been successful through the efforts of qualified members. Important sections in RCW 39.10 include 39.10.250, 39.10.270, 39.10.280, and 39.10.340. He encouraged members to copy the sections and use them as references during project reviews.

Within section 39.10.280 – Project approval process, the provisions include specific criteria (a-e) for approval of project proposals to include members using their respective experience to evaluate whether the public body can fulfill the requirements. Members should ask questions to ensure the public body has satisfactorily addressed the questions both within the application and during the presentation. Any remaining questions should be asked to ensure the applicant has met the criteria.

During a recent workshop on the bylaws, some clarity was provided in terms of why PRC members are appointed. The CPARB appoints members because of the level of experience that's unique to each appointee. Members should use their experience during the project evaluation process; however, as part of that process, other factors are also involved in making a final decision.

In terms of judgment, the issue of personnel and whether that expertise should be in-house or provided by consultants has created different interpretations whereby some believe consultants used in Design-Build (D-B) are different from in-house personnel. That interpretation wasn't the legislative intent. Most would believe that in-house personnel would be more desirable; however, in small school districts, it might not be desirable and perhaps the district should expand its experience through the use of consultants. PRC members should evaluate proposals based on the applicant's demonstration that its team has the ability to deliver the project

under the statute. That could include in-house personnel and consultants or the team could be comprised of only consultants.

Mr. Maruska offered that previous challenges in the past speak to the PRC not considering whether a project is needed, necessary, or justified. The public body is responsible for determining whether the project is a good project. The PRC is responsible to determine whether the public body has demonstrated the ability, according to the statute, to execute and deliver the project.

Mr. Kommers commented that it's also not the responsibility of the PRC to assist public bodies in obtaining approval. There have been some differing opinions because there is a responsibility by everyone to ensure public bodies deliver successful projects; however, it's not the charge of the PRC to assist a public body in obtaining approval if the project isn't right for the delivery method. The questions asked by the panel earlier appeared to be borderline in terms of balancing comments to ensure the applicant could complete a successful project. Members should pursue their duties under the project approval process and then after the vote offer some suggestions. The panel decision should be rendered on the information in the record. It's also appropriate to spend additional time after the vote to offer some suggestions to the applicant.

Mr. Hillinger asked about the potential of developing a body of best practices to assist PRC members. Mr. Kommers said the CPARB could establish a committee to explore producing a white paper on the topic. However, the guide wouldn't be used in evaluating applications.

Mr. Peterson inquired about the questions that appeared to be borderline. Mr. Kommers said he reviewed several of the questions asked of the applicant and applied the questions to sections of the statute that appeared to apply. The questions were not inappropriate. However, several years ago, there were many inappropriate questions asked by panel members. In this case, the question asked of the applicant about outreach didn't appear to be addressed. He interpreted the question as to whether there would be outreach for subcontracting and participation in construction contracting. The applicant addressed the question in the realm of outreach to the community and public relations. It would have been appropriate to request additional clarification because it speaks to the applicant understanding the GC/CM process. When asking questions, panel members should consider how it addresses the provisions in the RCW.

In terms of the questions about prequalifying MC /CM and EC/CM, those questions test the respondent as to whether they know the statute. However, promotion or suggestions beyond those questions shouldn't be pursued. Mr. Kommers said that as one of the coauthors of MC/CM and EC/CM legislation, he's uncomfortable with the current process and believes the process has been abused. He's disappointed in how some GC/CMs and public bodies have utilized the statute.

In terms of certification, the statute includes criteria the PRC should consider. The questions asked of the public body should assist the PRC in determining whether the public body fully demonstrates during the presentation, its understanding of the statute and whether it meets the qualifications. PRC members should use their respective experience to judge responses. During a vote disapproving an application, it's appropriate to share information with the respondent about the member's vote to disapprove the application.

Agency Certification and Proposed Change in Bylaws

Mr. Kommers referred to the issue of in-house personnel versus consultants and suggested each member should judge the circumstance as it's not a litmus test for applicant approval or disapproval. The provision includes "or consultants" in the D-B statute because it wasn't intended to preclude personnel in other provisions of the statute from being consultants, independent contractors, or employees. Personnel include all three categories of employees, independent contractors, or consultants.

Mr. Maruska noted that some Boardmembers have a contrary opinion. The Board's discussion centered on the certification of a public body as a much different process than approval of a project proposal. Certification of a public owner provides the owner with the authority to render decisions for three years. If the use of consultants is a practice, perhaps there should be different questions asked about whether the consultant is available for the entire contract period.

Shasta McKinley commented on the prior review of the Lake Washington School District certification and the difficulty for members to interpret whether personnel pertained to consultants or in-house personnel. Additionally, it's possible for any public owner to experience employee turnover. There are no guarantees of employee continuity. Mr. Kommers emphasized that the PRC must consider all factors to demonstrate that the public body has the necessary experience and qualifications to carry out the alternative contracting procedure. He referred to some factors in statute.

Ms. Riley-Hall addressed questions about the status for clarifying the in-house versus consultant issue. CPARB requested PRC establish a committee to address and discuss the issue. All PRC members as well as CPARB members were invited to attend the meeting. Committee members who attended the meeting thoroughly discussed pros/cons and drafted some changes to the bylaws.

Mike Shinn commented on the expanding business of many industry consultants and the potential of assuming too much business creating a situation whereby the consultant is unable to provide the committed level of service.

Discussion ensued on the importance of questions to consultants about the status of current projects as a way to determine whether the consultant can provide adequate support. In many cases, the same consultants are providing support for many different projects, and in some cases, consultant support between the projects can exceed 100%, which speaks to questions PRC members should be asking.

Mr. Maruska commented on the importance of assessing resources and qualifications during the three-year certification period and receiving assurance that the consultant would maintain a level of resources that would qualify the public body.

Mr. Kommers referred to the proposed language change to the bylaws drafted by members of the committee to provide direction to the PRC and clarify that members should not evaluate solely on the litmus test of whether consultants are considered employees. Each member's responsibility is to evaluate each situation. The decision shouldn't rest solely on a litmus test. Mr. Maruska added that there could be a situation of a small public entity with no qualified employees; however, by statute, the public entity is the decision-maker and that role cannot be delegated to a consultant. If members are not comfortable that a public entity is capable of making those types of decisions for a particular delivery method, then the public entity may not be qualified. The PRC should consider those questions during the presentation.

Mr. Benner said in many cases, agencies submitting for certification do so because they believe the PRC project review is too onerous and cumbersome. Mr. Kommers advised that certification wasn't implemented because it's too difficult to submit projects for review. The PRC should assess whether the request for certification by an agency is appropriate because in some cases the number and frequency of projects might not support certification.

Chair Riley-Hall added that a major consideration by members is identifying the specifics of a "no" vote. It should not be because consultants are the major part of the team, but rather the reasons are numerous and could

be supported by the RCW. The Lake Washington School District has advised that should adoption of the bylaw amendment occur the district plans to reapply to PRC for agency certification.

Mr. Kommers complimented Mr. Peterson for providing an opportunity to receive public comment on the application. Mr. Peterson cited instances where the public attempted to ask the applicant questions. The opportunity to speak is only for comments on the proposal rather than an exchange of questions and answers.

Discussion ensued on the intent of allowing public comments. Several examples of acceptable testimony were cited. A public comment asking the PRC to disapprove an application because the public body has demonstrated it cannot handle the project would be an acceptable public comment. However, an employee terminated by a public body speaking against the entity wouldn't be appropriate.

Mr. Shinn asked whether the CPARB tracks projects reviewed by the PRC. Mr. Kommers affirmed there is a requirement for data collection, which is under revision by the CPARB. Mr. Maruska said one problem associated with the difficulty of data collection is the inherent difference in the types of alternative delivery projects for comparative purposes. The Joint Legislative Audit Review Committee (JLARC) required all data collection for the last seven years to pursue reauthorization of RCW 39.10. Analysis was completed by JLARC, as well as by the CPARB. The outcome was the inability to reach any meaningful conclusions because there were so many variables in the data. The CPARB approved a new direction for data collection to identify the competition (performance), whether the project was successful, and whether consultants or other work were contracted.

Ms. McKinley inquired about the status of data collection, as there have been access and data entry problems in the past. Mr. Maruska said there were several factors affecting data collection beginning with the budget and a systems change at DES. The JLARC report recommended some changes in data collection. The CPARB established a committee chaired by Alan Nygaard to work with DES and identify data to collect and submit electronically. Currently, the committee is identifying the type of data to collect.

Ms. Riley-Hall asked members to consider approving the proposed amendment to the bylaws.

Ian Kell moved, seconded by Tom Peterson, to recommend CPARB approve the amendment to the PRC Bylaws inserting the following language in Section 4 following C as new "D."

"D. 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."

Members discussed the proposed language and offered their respective opinions. Several members said the language was too vague. Mr. Kommers said the proposal is vague to avoid specifying that a decision is based solely on whether personnel are in-house or contracted.

Mr. Maruska added that should PRC not want to exercise judgment and prefers checking a box, the proposed language is likely not appropriate. The issue is how PRC wants to utilize each member's skills, knowledge, and abilities when rendering judgments. The CPARB recognizes and is confident in each member's experience to render a judgment. However, if members don't feel the proposal is appropriate, then the CPARB would reconsider the proposal.

Mr. Peterson agreed the proposal provides members with the latitude to determine if consulting is appropriate for projects or certification.

John Boknecht commented that the legislation provides for the judgment under 39.10.280 (b), which cites some tests. It's not just a check box because it's the role as the PRC to make the judgment.

Ms. Semenova suggested there are major differences between a project and a public body. She suggested including two amendments addressing each situation.

Chair Riley-Hall pointed out that in the evaluation of a project or a public body, the RCW for projects stipulates the use of consultants. The RCW for certification of the public body excludes any reference to consultants.

Members offered their respective opinions regarding the proposal with several members supporting the proposal because it's PRC's responsibility to determine certification approval because of the PRC's collective experience and good judgment to evaluate each application based on totality.

Mr. Maruska reminded members the statute currently states "personnel with appropriate construction experience," which is the issue of contention as it's subject to interpretation as to whether "personnel" refers to employees, consultants, or both. The proposal to amend the bylaws is an attempt to define how PRC will interpret the statutory requirement in relation to PRC's evaluation.

Motion carried unanimously.

Ms. Riley-Hall reported the proposed amendment would be presented to the CPARB for its deliberation and consideration. In addition to the amendment, some housekeeping changes will likely be included to update RCW references.

Members discussed potential changes to the evaluation form and applications. Steve Crawford, Tom Peterson, and Chuck Davis agreed to review the forms.

The meeting was recessed from 12:19 p.m. to 12:36 p.m. for lunch.

PRC Member Training

Phil Lovell provided new member orientation/training to both new and long-term members. He reviewed the materials members received in a binder:

- PowerPoint presentation of PRC Training/Orientation
- RCW 39.10
- CPARB Member Roster
- PRC Roster
- PRC Bylaws
- PRC Project Application and Certification Application Forms
- PRC Panel Applicant Evaluation Forms
- PRC Duties & Responsibilities Outline
- PRC Panel Procedures Outline

Mr. Lovell stressed the importance of reviewing and becoming familiar with RCW 39.10 and the bylaws. He encouraged member to visit PRC's webpage at www.des.wa.gov.

Chair Riley-Hall introduced Mark Gaines, Washington State Department of Transportation (WSDOT). During a previous CPARB meeting, the Board asked PRC to extend an invitation to Mr. Gaines to attend PRC meetings, as well as consider appointment to the PRC as a specialty member.

Mr. Gaines reported he is a Construction Engineer with WSDOT and is currently working in the area of GC/CM policy. He's assigned to the Colman Dock Project and has Design-Build experience in other large transportation projects. He is looking forward to learning more about the PRC and the CPARB.

Mr. Lovell reviewed the training/orientation agenda and provided a PowerPoint overview on the history and purpose of alternative public works delivery, role of PRC, PRC project and certification processes, agency appeal process, assignment of PRC panels, roles and duties of PRC Panel Chair, and inappropriate questions during project and certification interviews.

The alternative public works delivery method was created primarily to increase flexibility in procurement, improve project delivery and expediency of the process, and retain public confidence in contracting. Secondly, the goal was to achieve predictability in projects, achieve desired cost, quality, and timeline, provide more flexible delivery methodology for complex projects, and reduce litigation outgrowth from projects.

Initial enabling legislation was adopted in the early 1990s and implemented through three pilot projects administered by the Department of General Administration. In 1994, RCW 39.10 was codified. In the ensuing years, the statute has been amended to add and change provisions. In 2009, an amendment added EC/CM and MC/CM contracting provisions. Legislation in 2013 extended the RCW until June 30, 2021.

The CPARB was created through provisions added to the legislation in 2005. CPARB positions are appointed by the Governor. The PRC was established in 2007 to review project and certification applications. The CPARB appoints members of the PRC.

Mr. Davis noted that prior to the PRC, public hospital districts had formed a PRC for its projects. Mr. Lovell acknowledged that prior to the establishment of the PRC for the entire state, the first oversight committee was through the school districts followed by the hospital districts.

Mr. Lovell reviewed the structure and mission of the CPARB. The CPARB's activities include the appointment of several committees working on specific aspects of the industry. A current committee is studying the implications and advisability of expanding public/private partnerships.

The duties of the PRC include review and approval of public projects and certification of public bodies to complete alternative public works projects allowed by statute. PRC's bylaws stipulate a minimum of six members for each panel reviewing project applications. The PRC amended the bylaws and expanded the panels to eight members to ensure adequate coverage.

The PRC reviews and approves the use of D-B DB or GC/CM for non-certified public bodies and certifies public bodies to use D-B or GC/CM delivery methods for projects.

The PRC is responsible to evaluate whether project proposals meet the requirements of the RCW for D-B or GC/CM and whether the project team has the necessary experience and staffing to complete the project under alternative works delivery. Certification of public bodies requires the PRC to determine that the public body has the necessary experience and qualification to determine which projects are appropriate for alternative

contracting procedures, has the necessary experience and qualifications to carry out the alternative contracting procedure, and has resolved any audit findings.

PRC membership requires commitment to participate and attend meetings, have knowledge and familiarity with RCW 39.10 provisions, determine what constitutes an experienced public body or a qualified project team, and understand the criteria for determining whether a project qualifies for D-B or GC/CM delivery methods.

Chair Riley-Hall and Mr. Lovell emphasized the importance of members regularly attending meetings to attain a meeting quorum, which is required under the Washington State Open Public Meetings Act.

Mr. Lovell reviewed GC/CM project criteria for approving a project.

Members discussed how public bodies determine the fiscal benefits of alternative delivery method projects. Mr. Lovell noted that public bodies often document cost savings by achieving an accelerated project schedule or how the public benefits from completing a project under the alternative works delivery method. Mr. Crawford noted the JLARC report concluded that there is no evidence that GC/CM saves construction costs other than there are multiple benefits for the alternative works delivery method.

Mr. Lovell shared information on the CPARB committee chaired by Alan Nygaard to study project reporting because of the inherent difficulty of the reporting process for projects under the alternative project delivery methodologies. Collectively, the experience and knowledge will define the benefits of the delivery process. Additionally, exposure to litigation has been eliminated. The committee is working to develop some meaningful methodologies for measuring the success of projects completed under alternative delivery methods. He believes the success of projects should be measured against the criteria established in statute rather than a comparison analysis against other projects completed in the state.

Mr. Davis suggested the elimination of “fiscal” and revising the language to reflect that the delivery method provides substantial benefit. He recommended forwarding the suggestion to CPARB for consideration.

Mr. Lovell reviewed the six project criteria for approving a GC/CM project:

- Implementation involves complex scheduling, phasing, or coordination.
- Project involves construction at an occupied facility that must continue to operate during construction.
- Involvement of the GC/CM during the design stage of the project is critical to the success of the project.
- The project encompasses a complex technical work environment.
- The project requires specialized work on a building/facility that has historic significance.
- The project is a heavy civil construction project.

Mr. Lovell encouraged members to review the provisions in statute pertaining to heavy civil construction projects because the PRC will likely begin receiving an increase in the number of heavy civil project applications because of the tremendous increase in contractors, designers, and consultants attending GC/CM training who are aligned within the heavy civil construction industry.

Mr. Gaines reported WSDOT considered pursuing legislation to benefit the department’s D-B program as the department doesn’t have signatory authority for GC/CM. Ultimately, the department elected not to pursue legislation this session. Should the department receive a revenue package, more work will be necessary on the

SR 520 project with many of the projects ideal under the GC/CM delivery method. The department is monitoring the outcome of the Coleman Dock project.

Mr. Lovell added that it's possible WSDOT could seek approval from the PRC for project approval under heavy civil rules for GC/CM. Mr. Gaines said the department was pursuing legislation affording WSDOT authority to develop and administer a D-B program. However, the department currently doesn't have that authority.

Members discussed the potential for WSDOT seeking agency certification for a three-year period. Chair Riley-Hall commented that under the provisions of certification of a public body, the agency must demonstrate successful management of a GC/CM project. The Coleman Dock GC/CM project hasn't been initiated at this time. Mr. Gaines said the project is not scheduled for construction until 2017.

Mr. Lebo referred to the previous panel review and questions pertaining to the requirement of having team members experienced in GC/CM. That question has been addressed in previous panels and the legislation doesn't specify individuals must have GC/CM experience. It appears to be a judgment by the panel to ascertain whether the project team has the necessary experience. Mr. Lovell replied that during the earlier reviews, many project proposals included experience for GC/CM projects in Oregon. Essentially, the panel considers whether individuals within the team have experience in project delivery methodology of a three-legged team comprised of an architect, builder, and owner working together collaboratively. There are many variations to include consultants and personnel who have experience in either private industry or other employment situations. It's an example of the review process each panel member should undertake when reviewing the application by reviewing the qualifications of the entire team. One provision/criterion included in the RCW several years ago stipulated that a contractor didn't necessarily need to complete a GC/CM project within the state to qualify the public owner for a GC/CM project. Any experience obtained by the consultant through the private industry should also be considered.

Members discussed the vagueness of the project evaluation process for determining whether a public body has necessary experience or a qualified team. Mr. Peterson cited the RCW provision that the public body has the necessary experience or qualified team to carry out the alternative contracting procedure including, but not limited to: (1) Project delivery knowledge and experience; (ii) sufficient personnel with construction experience to administer the contract; (iii) a written management plan that shows clear and logical lines of authority; (iv) the necessary and appropriate funding and time to properly manage the job and complete the project; (v) continuity of project management team, including personnel with experience managing projects of similar scope and size to the project being proposed; and (vi) necessary and appropriate construction budget.

Chair Riley-Hall said during an evaluation of a public body with a team with Design-Bid-Build (D-B-B) experience and no GC/CM knowledge or experience, it's likely the project would be completed as a D-B-B project rather than as a GC/CM project because the experience is lacking on the project team.

Mr. Peterson stressed the importance for all members to become familiar with the provisions in RCW 39.10. Panel members are also encouraged to contact the Panel Chair to clarify any questions.

Mr. Lovell reviewed the GC/CM project application evaluation form and the criteria for approving a D-B project.

Chair Riley-Hall pointed out the frequency in changes to the RCW during sessions, which often includes additional criteria for project approval. She encouraged members to review the RCW regularly to ensure the criteria are applicable at the time of a project evaluation.

Mr. Lovell reported CPARB recently formed a committee to study D-B provisions in RCW 39.10 because of another committee's work chaired by CPARB member Walter Schacht, an architect, which studied the impacts of D-B provisions in RCW 39.10 on the design industry. Some of the impacts could be deemed not positive. Committee meetings of the CPARB and the PRC are open to the public and members are encouraged to attend. The committee is studying the implications of a report and is providing recommendations to the CPARB for potential changes to the statute.

Chair Riley-Hall described the multiple evaluation forms for D-B projects and the criteria panel members use to evaluate project applications or agency certification. All criteria are included in RCW 39.10. Agency certification approval requires attaining a meeting quorum of the PRC.

Robyn Hofstad emphasized the importance of notifying her in advance of a member's attendance status.

Chair Riley-Hall described the appeal process for any agency to appeal a PRC determination. The agency has seven days following the final determination to submit an appeal to the PRC and CPARB. Additionally, the CPARB has 45 days to review the appeal.

Mr. Peterson shared information on a prior appeal process that entailed a review of the PRC panel recording to develop PRC's report to the CPARB in response to the appeal. All comments, emails, and other communications by panel members are subject to the state's public disclosure laws.

Chair Riley-Hall reviewed the process PRC undertakes when receiving an application(s), assignment of panel(s), panel procedures, and panel chair responsibilities.

Mr. Lovell added that the statute also imposes deadlines for the application and review process.

Ms. Hofstad reviewed information posted on PRC's webpage. Members were encouraged to visit the webpage.

Chair Riley-Hall explained the process for assigning panel members to ensure appropriate balance of public and private sector members, to ensure a balanced panel, and assigning members with similar project and delivery experience as the applicant.

Members were asked to verify their respective information on the membership roster.

Election of the PRC Chair (Vice Chair Curt Gimmestad) is scheduled at the July meeting, as well as the Vice Chair. Both officer positions represent an owner and a private membership position.

Chair Riley-Hall reviewed different circumstances for a member's recusal from voting. Typically, recusal from voting is because of association with the applicant or because of a potential conflict of interest.

The panel chair's responsibilities include confirming the panel's participation and collection of questions and preparation for the panel review. Mr. Peterson said the panel chair's responsibilities are important in terms of communicating with the panelists prior to the review to obtain any questions the applicant should address and affording adequate time to review the appropriateness and the intent of the questions.

Ms. Hofstad addressed questions about the process of notifying the applicant to confirm the interview date. Mr. Lovell recommended drafting a memorandum to include with the PRC agenda to the applicant providing

information on the desired parameters the applicant's presentation should focus on. Mr. Davis recommended publishing presentation guidelines on the PRC webpage.

Chair Riley-Hall asked for volunteers to draft presentation guidelines. Mr. Peterson offered to draft guidelines for review by the PRC.

Mr. Peterson continued his review of panel chair responsibilities and the format of the panel presentation, panel questions and answers, public comments (10 minutes), and the panel's deliberation.

Members discussed the minimum number of members required to conduct a panel. The RCW specifies a minimum of six members with 4 votes required for approval of an application. PRC's bylaws stipulate that eight members should be designated to ensure a minimum of six members in attendance for a panel. It was noted that there have been occasions when members were appointed on a panel because the designated panel member did not attend the meeting.

Chair Riley-Hall commented on the issue of the appropriateness of panel questions. Several years ago, some panel members focused on women and minority outreach and rendered their respective decision based on whether the applicant had been inclusive of women and minority firms. The RCW criterion doesn't speak to the inclusiveness of women or minority firms. At that time, CPARB leadership reviewed inappropriate questions with the PRC that are not in alignment with the RCW.

Ms. McKinley noted the PRC's membership represents women and minority businesses. She asked how that representation is factored during the applicant review process. Mr. Crawford replied that the PRC is represented by a diverse body of individuals representing diverse interests. The primary function of the panel is to determine whether the project proposal is appropriate for the alternative delivery method. In that process, it's important for the member to put their specific interests aside when rendering a decision based on the criteria within the statute.

Mr. Lovell agreed the issue can be sensitive as there's a fine line between the appropriateness of asking a question of the applicant or because it's a specialty interest by a panel member. Some applications under D-B certification have some specific minority requirements; however, the criteria for establishing the committee are to ensure a broad representative of professionals within the D-B industry.

Chair Riley-Hall added that the CPARB is also required to have specific member representatives, which is mimicked by the PRC to ensure balance.

Mr. Davis said CPARB membership includes a member from labor who provides a level of knowledge and interest valuable to the Board.

Ms. Semenova said her interest is learning whether the applicant is capable of managing a contract and understands the difference between a GC/CM contract, a D-B contract, and D-B-B contract. She questioned whether that question would be appropriate to ask of an applicant. Mr. Lovell said the application should include an organizational chart and the experience level of each team member.

Ato Apiafi said that as the chair of an architectural and engineering committee for many minority groups and the Vice President for the National Organization of Minority Contractors he attends CPARB meetings and when exposed to issues or discussions unfavorable for women and minorities, he speaks up. However, the PRC panel process is different and is focused on making a decision for a project.

Mr. Peterson outlined the voting process of the panel and notification procedures of the decision to the applicant. It was noted there never has been an instance whereby a panel did not vote publicly. When the PRC was first established, members received information on ethics, Open Public Meetings Act, and public disclosure. At that time there also was acknowledgment that the panels would not necessarily always meet in the Seattle area. The PRC represents the entire state and there were discussions regarding the possibility of panel meetings in eastern Washington. Guidance to the PRC at that time inferred that it would be possible. However, because of state budget constraints, a different meeting location was never addressed. The statute also allows telecon participation by members.

Members recalled some outcomes of prior panel votes and issues of dispute that led to a tie vote.

Mr. Crawford spoke to public disclosure laws and advised members that the use of personal electronic devices for PRC business might expose personal devices to public disclosure requests.

Mr. Gaines referred to legislation effective in June 2014 requiring boards and commissions to complete open government training. He offered to forward information on the new law.

Adjournment

With there being no further business, Chair Riley-Hall adjourned the meeting at 2:37 p.m.