

The following is a collection of excerpts from Capital Projects Advisory Review Board (CPARB) historical documentation on the development and maintenance of the Project Review Committee (PRC). This documentation is intended to assist CPARB's Board Development Committee (BDC) with their efforts to evaluate the intent and purpose of the PRC, identify how it has evolved and to support CPARB's efforts to Reimagine the PRC.

2005 – Pre PRC

Presentation on Alternative Public Works Contracting Procedures Overview of RCW 39.10

Nancy Deakins 9/6/2005

- History
 - 1991 - GA / DOC first authorized to use GC/CM as a pilot
 - Early 1990's -3 Design Build Thurston County Office Building projects finished
 - 1994 -RCW 39.10 enacted
 - Changes to the law since 1994–Added authorized users & projects
 - ✓ –Increased GC/CM self-performance
 - ✓ –Changed GC/CM selection process
 - ✓ –GC/CM may pre-qualify subcontractors
 - ✓ –Creation of Capital Projects Advisory Review Board
 - GA has managed 17 GC/CM projects with a total value of more than \$700M, 1 Design Build (DOC)
 - More than 30 GC/CM projects have been managed by other public agencies–UW and WSU
 - ✓ City of Seattle and Port of Seattle
 - ✓ King, Pierce, and Snohomish Counties
 - ✓ Public Facility Districts (RCW 35.57.020)
 - ✓ More authorized users starting to use
- GA Issues [Now Department of Enterprise Services]
 - Would like law to become permanent without sunset
 - Should be cautious on expanding
 - Recent changes have authorized some unqualified users but have left some off
 - Huge loophole with Public Facilities Districts, authorized away from 39.10

CPARB Issues to Consider – August 2005

JLARC Recommendations from General Contractor/Construction Manager Procedures Study Final Report, June 2005

1. The Legislature, through the Capital Projects Advisory Review Board, should further analyze the implications of the low-bid requirement on major capital projects. (From Final Report conclusion: Some agencies may be using GC/CM to overcome perceived deficiencies in the low-bid process in Design-Bid-Build.)
2. A. The CPARB should be convened quickly to ensure the Board is prepared to provide recommendations to the Legislature before the 2007 termination date of GC/CM legislation. (From Final Report conclusion: Executive-level oversight is critical to the ongoing development of sound public works contracting policy.)
2. B. **The CPARB should consider adding to its work plan improving the consistency of GC/CM project documents across projects and jurisdictions.** (From Final Report conclusion: Executive-level oversight is critical to the ongoing development of sound public works contracting policy.)
3. A. The CPARB, in consultation with OFM, should develop standardized statewide performance indicators and benchmarks for all major public works projects. (From Final Report conclusion: Lack of sound, reliable, and consistent data collection is a major impediment to understanding the impacts of GC/CM.)
3. B. Project performance data should be collected on state and local projects to form a portfolio of projects. (From Final Report conclusion: Lack of sound, reliable, and consistent data collection is a major impediment to understanding the impacts of GC/CM. Note: this was not specifically a recommendation for CPARB to address.)

CPARB Bylaws Subcommittee Guidelines 9-18-2005

Mission/Purpose

The subcommittees of the Capital Projects Advisory Review Board (Board) are formed by the Board to support the mission of the Board as defined in ESHB 1830 (RCW 39.10.800 and 39.10.810) to provide an evaluation of public capital projects construction processes, including the impact of contracting methods on projects outcomes, and to advise the legislature on policies related to alternative public works delivery methods. Specifically to:

- Develop and recommend to the legislature criteria that may be used to determine effective and feasible use of alternative contracting procedures;
- Develop and recommend to the legislature qualification standards for general contractors bidding on alternative public works projects;
- Develop and recommend to the legislature policies to further enhance the quality, efficiency, and accountability of capital construction projects through the use of traditional and alternative delivery methods in Washington, and make recommendations regarding expansion, continuation, elimination, or modification of the alternative public works contracting methods;
- Evaluate the potential future use of other alternative contracting procedures including competitive negotiation contracts.

Presentation to Sen. Government Operations & Elections Committee 9/20/2005

Implementation of ESHB 1830 creating CPARB (by John Lynch and Nancy Deakins)

- ESHB 1830 Creates CPARB to:
 - Evaluate public capital project construction processes, including impact of contracting methods on project outcomes
 - Advise the legislature on policies related to alternative public works delivery methods
- ESHB 1830 Deliverables
 - Criteria for choosing alternative public works methods
 - Qualifications required for contractors bidding alternative public works
 - Recommended improvements or changes to traditional and alternative public works procedures
 - Evaluation of other alternative procedures

CPARB Member Priority Issues List from 9/29/2005

Alternative Procurement Issues

- Dan Absher
 - Reg Allocation of Risk: Some owners are using GC/CM to improperly shift the risk of escalation, inflation and other market factors to contractors. This is resulting in attempts by public owners to have GC/CM contractors pay for significant portions of public buildings.
 - Eligibility Issues: It is important that only owners who are capable of properly managing alternative procurement projects be given the authority to do so. It is also important that the proper projects are selected for alternative procurement for the right reasons.
- Gerald 'Butch' Reifert
 - Design-Build-Leaseback Procurement: Some local governments are expanding the use of alternative delivery to include methods that do not appear to be authorized. One example is the design-build development of a building that is leased back to the public owner. This is treated as a real estate transaction that skirts the design/construction procurement laws. The CPARB should investigate examples of this practice to determine if it is in compliance with state law.
 - Reauthorization of the Alternative Public Works Procurement Law: Support continuing the alternative public works procurement law so that current projects can be completed and currently authorized agencies can utilize the law. However, it is important to keep its use restricted to larger projects performed by more sophisticated projects and to not expand it to restrict expansion from smaller owners and more simple projects. Any reauthorization should continue tracking data on the projects for future evaluations.
- Olivia Yang
 - Issues for Specific Alternative Contracting specific to GC/CM: - Early selection of major subcontractors during design. Early selection of major subcontractors during design: As owners, we believe it would be very helpful to have input of major subcontractors (mech., elec. or others) during design phase, so that the collaboration between designer, contractor and owner can happen before design is developed and bid.

- John Lynch
 - Better Define Alternative Public Works users: Provide the Legislature a logical and consistent rule for determining which public agencies are allowed to use APW.
- Gary Ballew
 - Expansion of the usage of GC/CM and design/build to all levels of government: RCW 39.10.051 (4) limits the use of alternative procurement methods to Counties with populations greater than 450,000. This criterion prohibits the use of these procurement tools in 36 of Washington's 39 Counties. Allowing smaller public entities (with the necessary capabilities to manage a GC/CM or design build projects) to utilize this procurement tool will expand the available pool of experienced contractors, and provide an enhanced competitive environment throughout the State.
 - Reduction or elimination of limitations based on dollar size: Projects that meet the criteria for being good candidates for GC/CM and design build should be allowed to utilize these construction methods, regardless of size.
- Rodney Eng
 - Public bodies authorized to use alternative public works procurement methods:
 - Design-build and GC/CM are sophisticated procurement methods that need owners with a certain level of skill, experience and understanding of the processes to properly use them.
 - Not all public bodies should be allowed to use these alternative public works methods, only those with the necessary skills, experience and understanding.
 - The current size and/or dollar limitations are, at best, only rough methods for defining which owners have the necessary skills, experience and understanding.
 - Can we develop a more efficient method that allows all public owners with the necessary skills, experience and understanding to utilize alternative public works methods while preventing unqualified public owners from using these processes?
 - Types of projects to use alternative public works methods on:
 - Not all projects are appropriate for the use of alternative public works methods.
 - There may be several types of complex projects that are less than \$10 million that would benefit from being procured using an alternative public work method.
 - Should the \$10 million threshold be lowered?
 - Is there a way of refining the definition of the type of "complex" projects that would be appropriate to use alternative public works methods on?
 - Are design-build and GC/CM different enough that separate criteria should be developed for determining what an "appropriate" project is? Specifically, if it is determined that dollar thresholds should be retained, should there be different thresholds for design-build and GC/CM?
- Wendy Keller
 - Minimum Participant Qualifications for Public Entity use of alternative contracting methods: Public entity should have well developed contract Terms & Conditions which are based on contracts (used by public entities) who completed a project using an alternate contracting method. Even if project was not successful – lessons learned can be valuable. Public entity should have staff or contracted staff with experience in the process actively working on the project. And, be able to demonstrate & certify their level of project involvement & role prior to authorization to use an alternative process.
 - More Stringent Project Effectiveness Evaluation Requirements: Develop specific criteria for the evaluation of project using alternative contracting methods. Help solve the public benefit question. Require public entities to pay for & complete such evaluation using a qualified evaluator (someone not involved with the project) as a condition of being authorization to use alternative contracting methods.
 - Develop Project Management Training & require participation: Require public entities to have project managers, key staff & decision makers for the project attend at least a basic course before managing a public construction contract (applies especially to alternative contracting methods). Like how/when to set MACC, establish profit levels, use of contingencies etc.

2006 – Pre PRC

CPARB Issues for Legislation August 10, 2006

Clarify definition of eligible projects and owners

- Threshold for use of GC/CM process or taking projects to Project Review Committee = Total project budget less financing and land acquisition costs. (Also added total project cost and threshold to Sec. 201, Design Build p.12, but not Sec. 301, GC/CM, p. 17.)

Centralized approval of eligible projects and owners for GC/CM and Design Build, excludes Job Order Contracting

1. Project Review Committee will exist
2. CPARB will appoint members of Project Review Committee
3. Committee review GC/CM and Design Build only
4. Every entity proposing to use GC/CM or DB will come to the Project Review Committee
5. Some form of Grandfathered System?
 - \$10M Threshold under which all projects to be reviewed.
 - Experienced Users? (Subcommittee to discuss.)

2007 – Pre PRC

CPARB Decision Issues February 8, 2007

2. Proposed Changes to HB 1506 (or may need to amend Senate bill)

a. Section 104 –Project Review Committee provisions proposed by King County & Nora Huey (Adds to Section 104)

Motion carried for CPARB to address these three issues during the development of the Project Review Committee procedures, 7-0.

- (a) **Removal of Committee Member for Conflict of Interest.** A provision allowing a public owner to request the removal of a committee member if the owner demonstrates some bias or conflict of interest.
Proposed language: A public owner may challenge the appointment of a member for the project review committee established to review either the certification or recertification of that public owner or review and approve the use of design-build or general contractor/construction manager for that public owner's project. To challenge the appointment of a committee member, the public owner must identify the facts and circumstances evidencing a conflict of interest and such challenge must be presented to the chair or vice-chair of the committee no later than 15 days before the project review meeting. Upon receipt of a timely presented written challenge, the member shall not serve on committee matters relating to the certification or recertification of that public owner or the review and approval of the use of design-build or general contractor/construction manager for that public owner's project.

(b) **Public Process for Development of Committee Procedures.**

Proposed language: The board shall establish a public process for (a) the development of the review committee procedures for reviewing projects and certification applications, and (b) the development of evaluation criteria. This process shall ensure an opportunity for all interested parties to participate and provide comment on the procedures and criteria.

- (c) **Effectiveness of the Review Committee.** A provision requiring CPARB to evaluate the effectiveness of the Review Committee, how it is functioning, timeliness, ease of use, and overall value of the process. Depending on the outcome of the review, opportunities for improvement should be evaluated and implemented.

Proposed language: Three years after formation of the project review committee, the board shall evaluate the effectiveness of the project review committee, how well the committee is functioning, timeliness of reviews and identify any problem areas. The board shall solicit comments from public owners and the contracting community, identify areas for improvement, and implement appropriate changes to the project review

b. Sec 201 - DBOM (From Ed Kommers & UW)

Motion for CPARB to address DBOM before 2008 session carried without opposition.

- (4) Except for utility projects and demonstration projects for design-build-operate-maintain, the design-build procedure may not be used to procure operations and maintenance services for a period longer than three years.

Add new paragraph:

(5) Demonstration Projects for Design Build Operate Maintain. For design-build projects authorized under this section, public bodies may procure operation and maintenance services as a part of the design-build procedure subject to the following conditions:

- (a) The Design Build Project must be approved by the Project Review Committee or be performed by a public body certified to use design-build. **Demonstration DBOM projects may only be proposed by certified public owners.**
- (b) The procurement procedure for operation and maintenance services proposed by the public body must receive approval from the Project Review Committee. CPARB shall develop procurement procedure guidelines for operation and maintenance services.
- (c) The Project Review Committee shall not approve more than two demonstration projects using the design-build-operate -maintain procedure.

CPARB Minutes March 8, 2007

CPARB Enforcement Role and Purpose

Mr. Absher referred to a *Seattle Daily Journal* article about a library system using the DB process for five new branches in an effort to open libraries sooner and save some funds. The library system admitted it packaged projects to meet the DB threshold requirements, which violates the statute. Mr. Absher asked about the enforcement mechanism. Chair Lynch responded that the statute establishing CPARB states an assignment is to advise the Legislature and collect data and provide the Legislature with a report. Data could include the library's action. CPARB does not have enforcement authority.

Mr. Eng indicated the Board should not have an enforcement role. The specific problem raised in the article could have been solved with the creation of the PRC. A review committee would not have approved the library's proposal to use the DB process as outlined in the newspaper article.

Mr. Absher said an owner might not bring a project to the PRC or an owner could bring a project to the PRC that is not approved and proceed anyway. Chair Lynch said another possibility is that King County could become certified and proceed with a similar project without PRC review and/or approval.

Discussion ensued about the Board providing the Legislature with reports that include feedback and recommendations concerning issues observed within the industry that are brought to CPARB's attention, and that auditors typically provide enforcement on behalf of the owners. Chair Lynch added that reports provided to the Legislature could also be forwarded to the Auditor's Office and legislators.

Mr. Kommers emphasized that he's not suggesting the Board act as the enforcement authority. A grievance process could help owners learn what they did wrong. It is the CPARB's job to listen and record (through data collections) those things that are contrary to the intent.

Mr. Absher suggested that CPARB could send a letter to an entity that is violating the intent of the statute.

Mr. Eng said although he doesn't disagree with Mr. Absher, another approach is to amend the statute that states the contract is void if an owner does not follow the procurement method requirements.

Mr. Goldsmith said once the PRC is in place, the committee or CPARB could issue a press release to public owners and the State Auditor's Office announcing their role, outlining the process, and that owners are required to comply.

Ms. Yang stated the enforcement options may appear to be extreme, but are still better than a law that is written in reaction to one bad example.

Discussion followed about Public Facility Districts (PFDs) going before the PRC for review and approval.

The Board agreed to add "Enforcement" as a new issue #15 under APW issues on the summary.

Plan for Project Review Committee

The Board discussed strategies about the PRC such as how the process works, what a submittal should include, and what constitutes passing and/or failing. Chair Lynch commented that the Hospital Review Board has done a thorough job of defining similar tasks. A suggestion was that the Expansion Subcommittee could initiate the work. Ms. Keller expressed her support to establish a smaller task force to present ideas to the Board at the next meeting. Mr. Vaught, Ms. Keller, and Mr. Goldsmith volunteered to serve on the task force with Ms. Yang coordinating the group. Ms. Keller offered to forward copies of sample documents for the task force's review.

Discussion ensued about how to recruit candidates to fill PRC positions. Mr. Eng suggested Board members ask potential candidates to submit letters of interest so that the Board can take action and appoint members to the PRC. At one time, there was a list of criteria outlining the number of members, how many panels, and representation by each industry. Chair Lynch said the task force could develop a list of potential candidates at the April 6, 2007 meeting and begin working out the mechanics of the PRC.

Mr. Absher suggested potential nominations could submit their resume or qualifications in advance of the next meeting.

Discussion ensued about creating a balance on the PRC and that potential candidates must meet the requirements outlined in section (2) on page 7 of the 2SHB 1506. Ms. Keller added that it is important candidates to have experience in the construction industry. Ms. Deakins said developing an announcement outlining expectations and responsibilities and how to apply would be helpful.

Mr. Lutz asked if a CPARB member could also serve on the PRC. Chair Lynch affirmed it is possible.

Ms. Keller said a larger pool of candidates would give the Board the ability to assemble more than one review committee if needed.

Members discussed placing an advertisement in the newspapers, including reaching out to eastern Washington.

Ms. Keller volunteered to draft a letter of interest that could also function as an advertisement. Ms. Deakins offered to work with Ms. Keller.

Mr. Eng said the notice should be fairly general. It is important that the invitation welcomes interest from all facets of the construction industry.

Mr. Goldsmith offered to work with Ms. Keller. The letter should state that travel expenses are reimbursed.

Chair Lynch said using GA's and/or CPARB's website would help save on advertising costs.

Mr. Goldsmith, Mr. Absher, Ms. Deakins, Ms. Yang, and Mr. Johnson (Ms. Tilton's suggestion) offered to review the draft letter. Chair Lynch said resumes and/or letters of interest should be forwarded to Ms. Deakins or Ms. Kelly. GA staff will bring the materials to the Board's next meeting. It was noted the group is more than willing to accept e-mail submittals. Members agreed to leave the deadline open until the positions are filled.

Members voted on the previously deferred motion to forward PRC to the Expansion Subcommittee and that subcommittee chairs will develop a working group to begin working on the issues. Motion carried.

CPARB Minutes April 12, 2007

Brief Report from Subcommittees

Expansion – Olivia Yang

Ms. Yang reported the Expansion Subcommittee met on April 6, 2007 and worked on the issues list and discussed the Project Review Committee (PRC). Items #1 and #2 were referred to a task force chaired by Ms. Huey. Items #3, #4, #5, #9, #10, and #11 were referred to a task force chaired by Robynne Parkinson. Items #6 and #7 were referred to a task force chaired by Dick Lutz. It was agreed the task forces will meet on April 27, 2006. She encouraged members and stakeholders to attend and participate at the meetings. Ms. Huey said a meeting location has not been determined. Each task force meeting will take approximately two hours. She suggested one member contact the Northwest Carpenters Hall in Kent to schedule a block of time for April 27, 2007. Ms. Kelly said she will follow up with the Northwest Carpenters Hall.

Ms. Yang referred to the "Application for Certification of Public Body" and "Application to Use the GC/CM or DB Alternative Contracting Procedure" packets within the Expansion Subcommittee's information. The subcommittee used the law as the framework and incorporated bullet points into the "Application for Certification of Public Body." The subcommittee proposes page and size limits. The application materials used by the School District and Public Hospital Project Review Boards were influential in the development of the individual project approval packet.

Ms. Keller reviewed the proposed "Application to Use the GC/CM or DB Alternative Contracting Procedure." She noted the application packet is limited to 20 pages. An applicant can attach six sketches. The intent is to create a single application for GC/CM or DB procurement methods. She described requirements #6 (Public Benefit), #7 (Public Body Qualifications), #8 (Public

Body Construction History), and #9 (Preliminary Concepts, sketches or plans depicting the project). An instruction sheet and examples are also provided in the application packet. A set of tentative bylaws was drafted for the PRC.

Ms. Yang said if an application is approved, the applicant must meet data collection requirements, which is not optional.

Discussion followed about how to proceed. Ms. Keller proposed that the Board refine application language, bylaws and procedures and refer it to the organized committee. The PRC has something it can use that can be adjusted if necessary. The Board can then address the certification packet.

Ms. Huey asked for the Board's consideration to forward rules and procedures previously identified by the Board to the PRC for its review and consideration.

Nora Huey moved, seconded by Ed Kommers, to forward to the PRC, a version of the "Application to Use the GC/CM or DB Alternative Contracting Procedure" packet and bylaws accompanied with the list of issues previously identified by the Board that the PRC will address when formed. Motion carried.

Boardmembers discussed "Application for Certification of Public Body." Ms. Keller addressed two questions raised by Ms. Septelka:

- *Should an agency separately apply for each delivery method?* Ms. Keller's response to Ms. Septelka was that an agency could apply to use both methods at the same time. The applicant is required to provide materials related to both.
- *Do poor audit findings relate to the agency or project audits?* Ms. Keller said the Board should resolve the issue. Agencies are audited for a number of things that don't apply to certification. The Board should concentrate on what the agency did if it handled an alternative project that resulted in a negative audit and narrow the focus to project audits.

Ms. Yang suggested that to capture the spirit of the law, public bodies should be obligated to cite appropriate audit findings whether project specific or related to an office audit.

Ms. Keller said an owner is applying to use an Alternative Public Works (APW) method and an applicant is demonstrating the experience to gain certification. Audit findings should be related to the projects an applicant is citing for qualification. She said she doesn't understand why audit findings would apply to other areas.

Ms. Yang said the University of Washington (UW) is unable to provide a project audit. UW could provide an office audit of selected GC/CM or DB projects. She said she understood that the applicant must demonstrate that they are a competent public owner, which is just as valid as a project audit. She said she supports both types of audits. The PRC would be well served with the information.

Ms. Huey explained how her agency is audited. An audit that touches on APW projects seems important.

Discussion ensued about determining what audit findings are appropriate to disclose. Mr. Kommers said he's not sure he agrees the requirement applies only to APW projects. However, applying the requirement to any audit finding of an organization is too broad.

Mr. Absher said Senator Rockefeller's intent was not to limit audit findings to alternative procurement

projects. He believes other factors outside alternative procurement can be relevant to an owner's qualifications and ability to manage an APW project. The audit findings should be related to an owner's construction program and projects. Owners will not necessarily know what is appropriate or relevant. He suggested developing guidelines broader than just alternative procurement but not so broad an owner is submitting a lengthy audit document.

Ms. Keller added that including the private sector would help to balance the language. She volunteered to take the lead to develop alternative language.

Mr. Goldsmith suggested the application include text that speaks to projects completed within a timeframe and a threshold that captures the complexity of a DB or GC/CM project. Ms. Keller said she will follow up on refining the definition.

Mr. Goldsmith said the certification application does not offer sufficient direction or specificity to an applicant.

The application should include precise information the Board and/or the PRC needs. He volunteered to work with someone that is familiar with benchmark standards. The request to describe the public body doesn't add anything to the application.

Review Project Review Committee Applicants

Ms. Yang referred to the PRC applicants listing. The Board discussed how to proceed with evaluating and selecting candidates to serve on the PRC and whether to establish an interim committee. It was acknowledged that other applicants might submit letters of interest and/or resumes. Mr. Absher suggested identifying the number of members who would serve as the initial group to work through the issues until appointments are confirmed. Ms. Deakins clarified that even if the Board voted, another vote would be required after legislation creating the PRC passes. It is important to create a balance between private and public owners.

Mr. Johnson asked whether a deadline was established, as there are no applicants that represent labor. Ms. Deakins said the notice publicized April 5, 2007 as a deadline. The website indicates applications will be accepted until the positions are filled. Mr. Johnson said it's important to understand the committee mix.

The Board agreed to create a roster with categories and list the applicants that represent each area of interest.

At the request of Ms. Yang, Mr. Kommers reviewed the statute on the membership of the review panel. Ms. Yang said each time the PRC meets, six members should be present to afford a proper balance.

Discussion ensued about whether a representative from the School District Project Review Board (SDPRB) might submit an application. Mr. Vaught said he'd also like to see the SDPRB represented on the committee.

Public owner representation is important. There was a prior discussion that the panel would consist of a public hospital or school district representative if projects related to the two groups were submitted to the PRC for review. Ms. Deakins referred members to section (d) of the statute.

Discussion followed about having an adequate pool of candidates so that the PRC could conduct two meetings concurrently if required. Ms. Keller suggested placing two main names under each of the categories followed by "ad hoc" members. All candidates would attend the GC/CM training.

Mr. Absher agreed with Ms. Keller's suggestion. However, more than two owners are needed. There might be a need for two candidates within the remaining categories. Except for the owner category, the remaining members are from the private sector. There should be a balance between public and private interests.

Mr. Anderson commented that only two people from eastern Washington are identified on the list of 34.

Ms. Crowson said there is only one MWBE company that has completed a GC/CM project. She said the contractor did not respond to her telephone calls.

Ms. Keller said not all representatives are required to have completed GC/CM projects. As long as the candidate is qualified and skilled in their area of expertise, the candidate can be taught how to review projects. Mr. Absher agreed but noted the statute dictates otherwise. Ms. Keller added that undertaking GC/CM training will provide the candidates with some experience. The Board could determine that attending the training and obtaining certification could qualify a candidate to serve on the PRC.

The Board agreed to add one MWBE representative from the office and a MWBE contractor to the roster. Members discussed candidate backgrounds and areas of expertise. [staff removed table]

The Board discussed the number of UW candidates that applied. Ms. Yang explained that Mr. Palewicz expressed interest in serving but is unsure he can attend ongoing monthly meetings. He asked that consideration be given to alternates that could attend in his absence.

Discussion ensued about candidates from eastern Washington. Mr. Absher said some special consideration should be given when candidates from eastern Washington apply.

Ms. Deakins reported that Mr. Anderson contacted her and inquired about applying. She indicated she indicated to Mr. Anderson that if he did not have DB or GC/CM experience, he probably should not apply.

Nora Huey moved, seconded by Carolyn Crowson, to consider individuals who are otherwise qualified to serve on the PRC even if they do not have direct GC/CM and DB experience and designate them to complete the four-day UW/AGC training session.

Mr. Peterson asked whether training is sufficient to qualify a candidate. Ms. Keller said the Board is looking at different disciplines. The training will provide candidates with the principles they need to consider. If the candidates are given the basics and are surrounded by others that are experienced, the candidates will learn quickly.

Mr. Asher indicated he has no issue appointing someone with Mr. Anderson's experience. However, the motion is not necessary. The Board can review a candidate's qualifications on a case-by-case basis and make a decision on qualifications. The motion could be construed as opposition to the legislation recently passed.

Ms. Deakins pointed out that the statute states in part, "... who are knowledgeable in the use of..."

Mr. Anderson said he will discuss submitting an application for the Board's consideration with his company.

The makers of the motion withdraw the motion.

Ms. Yang said the Board will have an opportunity to refine the listing at its May meeting.

Discussion ensued about informing applicants regarding their placement on a roster for serving on the PRC and notifying other candidates that they might be added at a later date.

Mr. Slunaker said the Northwest Chapter of the AGC is outreaching to the industry to recruit candidates.

There might be more applications. One issue associated with notifying applicants who have been initially selected is whether the Board decides to add more names to the roster. Ms. Yang confirmed the Board is looking for more applicants to apply. The Board could designate the roster as a preliminary list at this time.

The CPARB will consider new information in May and determine whether the list is a final list.

Mr. Slunaker commented that he doesn't see a balance on the PRC as there's a preponderance of public owners. Ms. Yang responded that the balance the Board is looking for is between public and private. Mr. Absher said there is room for several more private sector representatives.

Further discussion about balancing the PRC pool followed.

Ms. Yang said the distribution represented is not as relevant as the distribution represented on a review panel.

The depth of the pool will assist in the equitable distribution of a review panel. The Board can add more names. She suggested retaining the list as drafted and not distributing the information at this time, which provides the CPARB with some flexibility to consider new information and finalize the list at the May meeting. The Board generally agreed to label the list a preliminary draft.

Mr. Absher suggested the Board should consider Mr. Bodell's name to determine if there is a tie to eastern Washington.

CPARB Minutes May 10, 2007

Brief Reports from Subcommittees

Expansion - Project Review Committee Task Force – Olivia Yang

Ms. Yang reported the "Application for Project Approval" is similar to what was presented and discussed at the last meeting. The task force discussed the "Application for Certification of Public Body." A small group of the task force refined the document. The purpose of the certification of the public body is that the owner must demonstrate competency in Alternative Public Works (APW) delivery methods. She referred to item 8 on page 2 of the certification application requesting the owner demonstrate success in managing at least one project using the contacting procedure within the last five years.

Chair Lynch suggested reviewing the timeline for when the Project Review Committee (PRC) will become functional, availability of applications, and when the PRC could expect to receive applications. Ms. Yang explained the task force anticipates the CPARB to appoint PRC members during the meeting. The PRC will meet up to two times prior to July 1, 2007 to discuss operating procedures/bylaws and how to interpret whether a project meets APW criteria. The intent is for the PRC to be ready to meet July 1, 2007 to review project applications with certification of public bodies beginning in August. Appointing the members during the Board's meeting gives the PRC the remainder of May and all of June to work on procedures and to function as a body by July 1, 2007. The CPARB should make strategic and/or policy decisions. The PRC should be allowed to work out the details concerning the operating procedures/bylaws based on the Board's policies.

The PRC might also have recommendations about refining the applications.

Mr. Absher emphasized that the task force has moved forward in drafting the applications. The PRC should take the lead from this point forward and determine the details.

Discussion ensued about whether the CPARB would play a role in approving and/or reviewing the PRC bylaws or operating procedures. Mr. Vaught responded that any changes to the application templates or bylaws will come back to the CPARB for informational purposes, but not necessarily for approval.

Ms. Huey conveyed that King County has concerns that the PRC has appropriate operating procedures and a review mechanism should problems emerge.

Mr. Eng said the CPARB is a policy body and the PRC is responsible for day-to-day activities. The PRC should not be totally independent from the Board. He said he wants to ensure the PRC is following the regulations set forth in statute. The CPARB should review the bylaws and confirm the intent about how the PRC moves forward. Mr. Johnson echoed similar comments and indicated he expects the PRC Chair to report to the CPARB on a regular basis.

Chair Lynch agreed the PRC is a subcommittee to CPARB and not an autonomous, separate group. However, the PRC needs to be sufficiently independent to manage its affairs.

Ms. Yang reported a monthly report from the committee chair or vice chair might be appropriate to keep CPARB apprised of project review activities.

Discussion followed about incorporating language in the bylaws that the subcommittee chair or vice chair provides the CPARB with monthly reports about PRC activities and that any policy changes would be approved by the CPARB.

Members discussed how the CPARB communicates policy direction to the PRC. Mr. Absher indicated the statute outlines policy direction for the committee. The Board should let the committee know it expects monthly reporting. The committee can forward a draft copy of its bylaws and/or operating procedures to the CPARB.

Mr. Eng said it's appropriate for the CPARB to approve the committee's bylaws. The bylaws outline how the Board expects the committee to operate.

Discussion followed about approving the bylaws prior to the committee's first meeting. Boardmembers discussed appointing a Boardmember to serve as a liaison to the PRC to help ensure an orderly transition, and/or the PRC chair could attend CPARB meetings to gain a perspective about the process.

Ms. Deakins noted the CPARB currently does not have the authority to create the PRC. The committee structure is not effective until the bill is signed.

Mr. Eng suggested the Board could ratify PRC appointments at the June meeting.

Ed Kommers moved, seconded by Nora Huey, to create the PRC pending the Governor's signature of the legislation and in accordance with Section 104, provide the committee with the draft application packages (certification and projects) and draft bylaws, direct the PRC to convene in July 2007, elect officers, approve the bylaws and applications packages in the amended form, and forward the final documents to the CPARB for ratification at the next practical meeting, as well as having officers or representatives attend CPARB meetings on a monthly basis.

Chair Lynch said the PRC is convening in July to conduct business. He offered a friendly amendment, that the PRC meet in advance of the July meeting to finalize the bylaws for the CPARB's approval in June 2007.

Mr. Johnson suggested a friendly amendment for the agreement to include having PRC officers or representatives attend CPARB monthly meetings for the purpose of providing a report on PRC activities.

Ms. Huey expressed support for having several CPARB members attend the first several meetings of the PRC to answer questions.

Ms. Deakins suggested the Board could add a requirement to the bylaws for PRC officers or representatives to attend monthly CPARB meetings.

The makers of the motion accepted the friendly amendments. Motion as amended carried unanimously.

Finalize Project Review Committee Procedures and Appointments

Mr. Johnson commented that he hasn't received any responses from the labor category and asked that the Board hold the positions open.

Ms. Deakins reviewed applicants new to the list since the Board's last meeting to include Jim Anderson, Gary Arndt, Paul Berry, Gregory Bogard, Gary Laasko, Philip Lovell, John Mannix, and Peg Staeheli. The eight candidates proposed by the University of Washington (UW) were reduced to two; Dave Marberg and Eric Smith. Dan Bodell withdrew his application.

Ms. Deakins presented the panel matrix and described the process Boardmembers used at the April meeting to create the PRC pool. The PRC Chair will select individual panels of six for each review team.

Members discussed new candidate backgrounds and areas of expertise. [staff removed table of candidate]

Ms. Deakins noted that both Chandler and Jurgensen are from the same company. Mr. Kommers recommended not having two representatives from the same firm on the PRC. The Board concurred to replace Jurgensen with Berry in the CM category.

Discussion ensued about placeholder spots for Cities, MWBE, and Labor. The Board will ultimately approve candidates to fill the positions.

Boardmembers considered Arndt and Staeheli to fill AE positions. Mr. Absher suggested replacing Estvold with Arndt or Staeheli. Mr. Reifert indicated his preference for Arndt is based on the candidate's background and experience. There were no objections.

Members discussed the two candidates from UW (reduced from eight) and adding a placeholder for higher education (other than UW) to the owner category.

Chair Lynch recessed the meeting from 10:27 a.m. to 10:47 a.m.

Continue Finalizing Project Review Committee Procedures and Appointments

Chair Lynch reported Mr. Mequet left the meeting during the break and that Mr. Eng and Ms. Huey will vote for Cities/Counties/Ports.

Discussion ensued about the diversity of the candidates selected.

Chair Lynch noted Koal with General Administration (GA) has recent GC/CM experience and is knowledgeable about the contracts. GA would have no objections to replacing Szumlanski with Koal. There were no objections from Boardmembers about making the change.

The Board discussed adding Staeheli to the AE category, efforts to keep the PRC at a size to effectively interact rather than continuing to expand the pool number, and the purpose of the "Other" category and experiences represented by Beebe and Molner. CPARB agreed to include Staeheli in bolded text in the AE category.

Ms. Moses commented that there appears to be a lack of balance and diversity within the PRC panel.

Mr. Vaught said the School District Project Review Board (SDPRB) intends to recruit a candidate from western Washington in the event Mannix is unable to attend a meeting. He said he will likely provide another name for the Board's consideration at the next meeting.

Ms. Crowson commented about problems where boards have evolved and people begin to believe they "own" the positions. PRC positions should be individually focused. The Board should continue to balance the committee.

Chair Lynch said if Mannix is not available to attend a meeting, the PRC Chair will consider another member from the pool.

Dave Johnson moved, seconded by Rocky Sharp, to approve the PRC pool listing.

Mr. Eng clarified that the intent of the motion is to approve the specific individuals identified on the list and identifying spots the Board intends to fill to create the appropriate balance.

Mr. Byers commented that the "Other" category provides a broader composition to the PRC.

Mr. Eng said the list establishes the initial PRC. The Board can add or subtract as necessary and is not locked into the seven categories.

Mr. Kommers reported the initial PRC term is three years. There will be a need to overlap terms. The chair or subcommittee could work out the details. The Board should clarify the terms.

Mr. Kommers offered a friendly amendment stating, "The Board shall stagger the appointment of the committee member with Chair Lynch appointing a subcommittee to determine staggering." The makers of the motion agreed to the friendly amendment. Motion as amended carried unanimously.

Discussion ensued about the next steps. Boardmembers indicated a preference to send a letter to the candidates appointed to the PRC as soon as possible. The letter could include language that the Board is determining the staggering of appointments. The letter should contain a materials packet (bylaws and project and certification applications). Ms. Deakins noted some of the applicants have indicated a preference for one, two, and/or three-year terms.

The CPARB reviewed a draft PRC operating bylaws document. Chair Lynch said GA has the ability to reimburse committee members for travel expenses. GA submitted a fiscal note for HB 1506; however, no money was appropriated. GA is requesting additional funds during the supplemental session.

Chair Lynch said he and Ms. Deakins will determine the staggering of appointments later in the day. There were no objections.

Discussion followed about specifying a meeting date in the appointment letters. The first PRC meeting should take place prior to CPARB's June 14, 2007 meeting. Boardmembers identified June 7, 2007 as the first PRC meeting date. Ms. Yang and Mr. Absher will coordinate a meeting time and location (most likely the Seattle area).

Ms. Moses asked if the letter will be sent out as a draft. Chair Lynch confirmed that it will be a draft.

Ms. Deakins said the Board wants to add language that the PRC chair reports to the CPARB on the committee's progress and issues. Ms. Yang suggested providing Board feedback about the bylaws to the PRC for discussion at its first meeting.

Mr. Peterson said the PRC should have an opportunity to become familiar with the bylaws prior to the meeting. He offered a suggestion of staff posting the bylaws on the website or including the draft document with the appointment letter. A main focus of the PRC's June meeting should be adoption of the operating bylaws.

Mr. Absher suggested the letter should include information about the upcoming GC/CM training.

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Brief Reports from Subcommittees

Project Review Committee Status

Ms. Yang introduced Rodger Benson, Chair, Project Review Committee (PRC). Mr. Benson reported the PRC met on June 7, 2007 with 25 members in attendance. There are currently three vacant positions. Eric Smith was elected as Vice Chair. The committee reviewed, modified, and approved operating bylaws. He reviewed key decisions rendered during the meeting:

- Chair and Vice Chair positions should be filled by public and private representatives.
- The committee will meet on the fourth Thursday monthly through the end of the year. Application review meetings will be held on the same day as the committee meeting with concurrent reviews as necessary. Regular meetings will be held in the mornings with application reviews scheduled in the afternoons.
- For now, all PRC members will participate in the public agency certification approval process. It provides an opportunity for all committee members to gain experience with the review and approval process prior to serving on a project review panel.
- The panel size for project review will consist of eight members appointed by the Chair and Vice Chair. A minimum of six members is required for a quorum. A supermajority vote is required for all panels to approve an application. Panels will be led by the Chair, Vice Chair, or a designated lead appointed by the Chair.

Ms. Yang asked if the PRC defined a supermajority. Mr. Benson replied a supermajority is two-thirds of members present at a meeting.

Mr. Kommers asked about the logic for requiring a supermajority rather than a simple majority. Mr. Benson explained the committee debated the issue. It should be perfectly clear which projects and which owners are appropriately using Alternative Public Works (APW) processes. The committee perceived for example, that a 51/49 vote would not represent a solid decision.

Mr. Eng said the subcommittees did not contemplate or discuss a requirement for a supermajority vote. If they had, the subcommittees would have incorporated relevant provisions within the legislation. Owners expressed concern about the PRC

process. Requiring a supermajority vote could potentially render the process burdensome and difficult. The law does not refer to a supermajority vote. A majority vote is likely more appropriate.

Ms. Yang and Ms. Deakins explained that a quorum (19) is required to review applications. Fourteen votes are required to approve an application. Mr. Benson commented that none of the owners raised an issue about the voting requirements at the meeting. Mr. Eng questioned whether the PRC can set a higher voting requirement than authorized by statute. Ms. Deakins reported she discussed the bylaws with GA's Assistant Attorney General (AG), specifically about the committee's ability to set quorums and similar matters. The AG indicated the PRC has the ability to define its operating procedures.

Mr. Kommers asked whether the bylaws include a separate section addressing quorum and voting requirements for certification of public owners. Members concluded that the answer is no. Mr. Kommers said taking action on certifications is an important matter. It's important a quorum is attained and that requiring a supermajority vote is an idea. However, an owner can appeal a decision to the Board. Requiring a supermajority vote appears excessive.

Mr. Absher stated the bylaws are well written. A supermajority vote is appropriate. He said he didn't recall an instance when an action taken by the Board resulted in a split vote. Requiring a supermajority vote gives the public confidence that a certified owner meets a higher standard.

Ms. Septelka reported some members believe it's important that all PRC members support moving a project forward. The matter was debated at length. The committee agreed a supermajority vote was a compromise.

Mr. Benson said there is nothing that precludes an owner from coming back to the PRC with a revised proposal addressing concerns raised by the committee.

Ms. Deakins noted there is an opportunity to ask the applicant questions about a project prior to presentation to the PRC.

Mr. Benson reported the committee reviewed the project approval information sheet. Some cosmetic changes were made including adjustments to the sample attachments and clarifying submittal requirements. A more significant change includes establishing a review cycle. Electronic and mailed applications are due by 4:00 p.m. on the first business day of each month for consideration at the next PRC meeting. There were no modifications made to the certification packet.

Mr. Benson reported a public notice was published announcing the new law requiring approval of special types of public construction projects and providing notice of a July 2, 2007 application deadline for the July 26, 2007 PRC meeting. Ms. Deakins added that a press release was also sent to the news media. Mr. Benson said the Board's website has been updated with the current project and certification approval information packets.

Next steps include CPARB approving the committee's operating bylaws, scheduling committee training, identifying a meeting place for the long-term, and standardizing internal and external communications.

Discussion followed about whether the PRC entertained the idea of assembling concurrent review panels at different locations.

Mr. Benson reported the PRC is ready to accept applications on July 2, 2007 for review at its July 26, 2007 meeting.

Discussion ensued about whether the PRC considers applications not received by the deadline. Mr. Benson said the committee could review a late application but would not be obligated to do so. Ms. Deakins said the PRC Chair could consult with the Vice Chair to decide if scheduling another meeting is necessary.

Members discussed the issue and agreed that the project approval and certification of public body application packets should clarify that submittal of an electronic application by 4:00 p.m. on the first business day of the month triggers a complete application.

Ed Kommers moved, seconded by Rocky Sharp, to endorse Chair (Rodger Benson) and Vice Chair (Eric Smith) appointments to the PRC. Motion carried.

Mr. Kommers said the Board is required to ratify PRC bylaws. The Board expects the committee to refine the application forms and due dates over the next several months. He suggested deferring the majority/supermajority issue and asked whether the committee is proposing to amend Article 4 to reflect that a quorum (19) is required to review and approve certification applications and that 14 votes are required to approve an application. Mr. Benson affirmed that is the request.

Mr. Maruska asked if the amendment includes ethics and conflict of interest exclusions. Ms. Deakins replied the issue was discussed but is not reflected in the bylaws.

Discussion followed about additional challenges requiring the officer's attention, such as appointing panels representing both public and private sector interests and appointing members to panels who have relevant experience related to the delivery method proposed. Mr. Benson said the committee recognizes other changes are likely and will be presented to the Board for discussion and action.

Mr. Eng said he doesn't want Article 4 language preventing all committee members from attending a hearing and voting on an action. Mr. Benson replied that the intent is for all members to attend and participate at certification meetings. The officers are committed to ensuring members are properly prepared to function when called upon. There is no provision in the bylaws limiting the number of members who serve on the early panels.

Mr. Kommers suggested the first sentence of item B on page 3 of the bylaws should read in part, "Shall designate a minimum of 8 members for each panel..." There were no objections.

Ed Kommers moved, seconded by Daniel Absher, to approve the bylaws as presented by the PRC with an amendment that defines the requirements for the full panel to consider public body certification. Motion carried (3-2). Mr. Eng and Mr. Maruska opposed.

Ms. Yang said another item requiring Board action is completing the PRC roster. [staff removed the PRC appointments section]