

CAPITAL PROJECTS ADVISORY REVIEW BOARD

1500 Jefferson Street SE
Presentation Room
Olympia, Washington 98504

Minutes February 8, 2018

MEMBERS PRESENT

Bill Frare (*Chair*)
Andrew Thompson (V. Chair)
Teresa Berntsen
Steve Crawford
Ty Heim
Joaquin Hernandez (Telecon)
Charles Horn
Rebecca Keith
Santosh Kuruvilla
Brent LeVander
Irene Reyes (Telecon)
Walter Schacht

REPRESENTING

State Government
General Contractors
OMWBE
Higher Education
Public Hospital Districts
Private Industry
Insurance/Surety Industry
Cities
Engineers
General Contractors
Private Industry
Architects

MEMBERS ABSENT

Rep. Vincent Buys
Greg Fuller
Senator Bob Hasegawa
Lee Newgent
Robert Maruska
Rep. Steve Tharinger
Mark Riker
Gary Rowe
Mike Shinn
Senator Judy Warnick
Vacant

REPRESENTING

House (R)
Specialty Contractors
Senate (D)
Construction Trades
Washington Ports
House (D)
Construction Trades Labor
Counties
Specialty Contractors
Senate (R)
Higher Education

Staff & Guests are listed on the last page

WELCOME & INTRODUCTIONS

Chair Bill Frare called the Capital Projects Advisory Review Board (CPARB) meeting to order at 8:37 a.m.

A meeting quorum was attained.
Members provided self-introduction.

APPROVE AGENDA - *Action*

Walter Schacht requested an update on data collection.
Chair Frare removed the Project Review Committee Report from the agenda.

Brent LeVander moved, seconded by Rebecca Keith, to approve the agenda as amended. Motion carried unanimously.

APPROVE DECEMBER 14, 2017 MINUTES – *Action*

The following changes were requested to the December 14, 2017 minutes:

- On page 5, revise the first paragraph to reflect the following changes (in red), “*Mr. Maruska asked whether the concern only applies to traditional DB rather than Progressive DB. Mr. Schacht affirmed that in today’s procurement market, design professionals believe Progressive is a better instrument overall because of cost to compete and better opportunities to engage with the owner and the builder. Current statute requires payment of an honorarium; however, if the honorarium was \$1, \$500, or \$1,000 to reach that threshold, no one would object. Progressive projects could be implemented with initial design required except it would not be tied to a firm cost. That amount of effort could be stepped up by the team to pursue Progressive projects. A minimum honorarium could be appropriate dependent upon the level of effort.*”
- On page 20, revise the first bulleted items to reflect (in red), “*Are honorarium payments required for all design-build procurements? Unlike the WSDOT statute, RCW 39.10 requires honorarium payments to finalists not selected. Ms. Cortez added that she does not believe it would be a nominal amount as referenced earlier by Mr. Schacht. The statute would likely not be interpreted as applying to nominal amounts.*”

Andrew Thompson moved, seconded by Rebecca Keith, to approve the minutes of December 14, 2017 as amended. Motion carried unanimously.

PUBLIC COMMENT

Chair Frare encouraged public comments throughout the meeting.

**PROJECT REVIEW COMMITTEE – Informational
January 23, 2018 – Report Deferred**

PRC Recruitment

Chair Frare reported Project Review Committee (PRC) members serve a three-year term. The Board is soliciting applications for the following positions:

- 2 – General Contractor
- 1 – Owner General Public
- 1 – Owner Public Hospitals
- 1 – Owner Cities
- 1 – General Owner

The Board is scheduled to review resumes and appoint candidates at the May meeting for the positions expiring June 30, 2018. The Owner Public Hospitals position has not been filled for over a year. Talia Baker encouraged the Board to recruit candidates for the position.

Andy Thompson suggested members should consider the agenda with respect to scheduling interviews and accommodating individuals who may wish to participate by telephone.

Santosh Kuruvilla inquired about the current incumbent for the Owner Cities position. Ms. Baker advised that Joe Stowell representing the City of Oak Harbor is the incumbent.

DESIGN-BUILD STATUTE REVIEW COMMITTEE – Action/Information

Walter Schacht reported several areas were identified for more attention during the committee's work on the Best Practices Guidelines. The goal of the Design-Build Statute Review Committee is to review the statute, compare provisions against the Best Practices Guidelines, and confer with PRC members on the outcome of application reviews for DB projects or agency certifications. The effort involves a clean-up rather than a major overhaul of legislation specific to honoraria payments and the requirement for public owners to include project criteria within Request for Proposals (RFP). In many instances, the owner has hired DB teams to help establish project criteria.

Chair Frare asked Mr. Schacht about his interest in serving as chair. Mr. Schacht recommended members of the committee should elect the chair, and although he is willing to serve, it is important for the committee to render a decision.

Chair Frare invited nominations to the committee.

Mr. Schacht advised that after conferring with Co-Chair Oliva Yang, both agreed to limit the committee to 12-14 members for manageability, ease in attaining a quorum, and diversity in representation. Recommended nominees include:

- Tim Thomas, Bouten Construction
- Brentt Earnest, Clark Construction
- Rustin Hall, ALSC Architects (current PRC Chair)
- Walter Schacht, Schacht, Aslani Architects
- Katie Popolow, Miller Hull Partnership
- Elisa Young, OMWBE
- Rebecca Keith, City of Seattle
- Debra Delzell, DES
- Janice Zahn, Port of Seattle

- Nick Datz, Sound Transit
- Steve Tatge, University of Washington
- Joe Kline, Washington State University
- Washington State Department of Transportation – extend invitation to Art McCluskey

Chair Frare advised of the possibility of substituting the representative from DES.

Mr. Kuruvilla asked about the possibility of including a representative from Washington State Department of Transportation (WSDOT). Mr. Schacht replied that Mark Gaines with WSDOT was a member of the DB Best Practices Committee. He could serve as a member or in an advisory role as a participant as WSDOT's DB statute is different.

Mr. Thompson agreed and suggested an invitation even though the statutes are different. He offered to contact Mr. Gaines and extend an invitation. Mr. Kuruvilla added that Mr. Gaines has assumed another position. He recommended contacting Art McCluskey who is involved in WSDOT DB projects.

Chair Frare commented that WSDOT should have the option of identifying a nominee to serve on the committee.

Mr. Schacht recommended adding a third contractor to ensure a balance between contractor and design professionals.

Mr. Thompson asked whether the clean-up of the DB statute could result in some specific recommendations in time for the next legislative session. Mr. Schacht said he is reluctant to presume any recommendations on behalf of the committee. One of the main concerns surrounds detailed RFP requirements because of the lack of a definition between Traditional, Bridging, and Progressive DB within the statute. Another initial proposal to revise the statute to embrace Progressive represented a major change in the statute. However, the Board determined the effort to change the statute would be too much to pursue. Consequently, the statute was amended to include a provision on cost or price related factors. Some outcomes did not necessarily recognize the requirement. The committee could explore ways to ensure the intent of any change is effective for potential legislation. It might be possible to submit a recommendation by the next legislative session.

Dan Seydel, Platinum Group & Entrepreneurial Institute of Washington, nominated Curt Gimmetad with Absher Construction to serve on the committee. He asked whether specialty contractors would be considered within the classification of contractors. Mr. Schacht said membership on the committee is open to any company serving as a contractor. During meetings of the DB Best Practices Committee, outreach was ongoing to small specialty contractors. Small contractors typically encounter time challenges because of workload. Although many specialty contractors were invited to participate or become a member, the effort was unsuccessful and did not attract regular participation.

Mr. Kuruvilla advised that the City of Spokane is planning its first Progressive DB project on the City's Post Street Pedestrian and Utility Bridge. Some initial struggles were encountered during the approval process from WSDOT Local Programs. Hill International is serving as the owner representative. He suggested the project would be a good example for the committee to review.

Mr. Thompson said the City of Spokane is scheduled to select the design-builder in the next several weeks. It might be beneficial to contact the contractor to participate.

Mr. Schacht responded to questions on whether the nominees agreed to serve on the committee. All nominees agreed to participate on the committee. He recommended approving the nominees to include open positions designated to represent specific categories to enable committee meetings in March. Assuming an appointment of

a DES representative, one open position remains for a general contractor affording a sufficient number of members to achieve a quorum.

Members discussed the Board's previous approval of the committee's scope and deliverables stating, "*CPARB will establish a workgroup to evaluate issues in the statute and consider design community concerns around honoraria, Progressive DB, and what is required in RFP/RFQ versus Progressive.*" Mr. Schacht said the scope is more limited than his recommendation as the committee should review the entire statute. Issues surrounding honoraria and RFP requirements have been identified as problematic. Other clean-up language might be required based on the review. One example is the requirement for public owners to maintain a five percent budget contingency. Only the construction budget is addressed during a PRC review. There are several anomalies between statute requirements and PRC's review, which speak to some of the issues identified by the committee during the development of the guidelines.

Several members noted the approved scope speaks to a review of the statute and consider design community concerns around honoraria, Progressive DB, and what is required in RFP/RFQ versus Progressive.

Chair Frare requested concurrence from Mr. Gimmestad to serve on the committee. Mr. Gimmestad affirmed his agreement.

Based on the Board's discussion, Nancy Deakins recommended the scope of the committee as previously approved should reflect, "*Comprehensively review the Design-Build provisions in RCW 39.10 and identify issues that should be addressed in addition to (a) RFP requirements that do not align with progressive procurements and (b) clarity about honorarium payments.*"

Steve Crawford moved, seconded by Ty Heim, to establish the Design-Build Statue Review Committee with the revised mission statement and appointing the following members:

- *Tim Thomas, Bouten Construction*
- *Brent Earnest, Clark Construction*
- *Curt Gimmestad, Absher Construction*
- *Rustin Hall, ALSC Architects (PRC Chair),*
- *Walter Schacht, Schacht/Aslani Architects*
- *Katie Popolow, Miller Hull Partnership*
- *Elisa Young, OMWBE*
- *Rebecca Keith, City of Seattle*
- *DES - TBD*
- *Janice Zahn, Port of Seattle*
- *Nick Datz, Sound Transit*
- *Steve Tatge, University of Washington*
- *Joe Klein, Washington State University*
- *Washington State Department of Transportation – extend invitation to Art McCluskey*

Motion carried unanimously.

LEGISLATION OF INTEREST – *Information*
CPARB Bill SB 6546 – DB and JOC Changes

Chair Frare reported SB 6546 was sponsored by Senators Hasegawa and Warnick. The bill did not move from the committee and was referred to Tribal Relations chaired by Senator Sam Hunt. CPARB leadership worked with Senator Hunt to schedule a hearing but was unsuccessful as the policy cutoff date was February 2.

Chair Frare commented that as an employee of the Executive Branch of an agency reporting directly to the Governor, he is required to follow specific requirements for agency requested legislation. Those requirements

begin in August prior to the legislative session. Unfortunately, he encountered some resistance by DES leadership to coordinate directly with Senators and Representatives rather than following the process. He was successful in conveying how the requests do not reflect agency requested legislation but rather legislation initiated by CPARB. To be an effective chair, he stressed the importance of having the latitude to represent the body. DES leadership agreed and provided some guidance for navigating the process. Part of that process included reviewing his role with the Office of Financial Management (OFM) and the Governor's Policy Office to ensure a clear understanding of his role in support of CPARB. The transition occurred and he was able to initiate the process but lacked sufficient time to work the bill through the committee process. He apologized for the unanticipated delay.

Mr. Thompson commented that any potential legislation having any opportunity for success should be established no later than the Thanksgiving holiday. Administratively, CPARB motions should occur prior to that deadline.

Teresa Berntsen suggested including a future discussion on the legislative process for CPARB-sponsored legislation. Additionally, the CPARB should discuss requirements for a specific level of information surrounding legislative analysis.

Mr. LeVander agreed the Board should be clear about legislative deadlines and establish specific milestones to achieve for any proposed legislative changes.

Chair Frare recognized Dan Seydel.

Mr. Seydel thanked CPARB for its leadership with respect to the proposed legislation. Some of the setback could be attributed to some changes in leadership and transfer of knowledge and experience, which has not been necessarily been transferred. He agreed the Board's guidelines and timelines would be important to share with the community. Ms. Deakins has done a good job over the years of maintaining a comprehensive database of opportunities and legislation that should be tracked. He has submitted some proposed legislation to CPARB and to other agency leaderships.

Chair Frare recommended delaying the introduction of the proposed legislation until later in the meeting under other business. Mr. Seydel added that his goal is to incorporate language within SB 6546.

Chair Frare advised that staff would develop a proposed calendar of milestones for proposed legislation aligning with CPARB scheduled meetings. At the next meeting, members can review and establish the timeline for legislative review and approval cycles.

Several members spoke in support of the proposal.

Mr. Schacht asked for consideration to require the PRC to provide a report on the effectiveness of \$2 -\$10 million projects as required by the statute. The Board lacks information and has not followed up on reporting activities because of the lack of data collection.

Ms. Berntsen suggested defining criteria for specific data for any proposed legislation, i.e., such as the purpose of the bill, fiscal impact, affected parties, and other standardized information to help inform the Board.

Chair Frare recommended including the legislative calendar and SB 6546 on the next meeting agenda.

Members discussed the request for the PRC to provide a report at the May meeting. Several members supported the proposal while acknowledging the heavy workload of the PRC. Mr. Schacht reminded the Board of the statute requiring PRC to provide an annual report.

Ms. Deakins reviewed PRC duties as defined in statute.

Chair Frare added the PRC report to the May meeting agenda.

Mr. Crawford inquired about issues or concerns surrounding SB 6546. Chair Frare replied that the legislative committee believed there was insufficient time for a hearing. Although he assured the committee the proposed legislation was simple and had been thoroughly vetted by CPARB with no opposition, the committee conveyed there was insufficient time to schedule a hearing.

HB 2726 – Public-Private Partnership - Information

Mr. Thompson updated members on the status of [HB 2726](#). The bill received a hearing. Input from the Treasurer's Office was presented opposing the legislation primarily because of concerns over debt and the ability for local agencies to assume debt. The concerns were voiced by an individual recently appointed to the state. The Public-Private Partnership (P3) Committee process over the last two years included over 20 meetings with 30 participants. No one from the Treasurer's Office participated or shared concerns. Although it is not possible to know if the discussion would have affected the Treasurer's viewpoint, there was never any opportunity to pursue a conversation. Following the hearing, James Lynch, a leading proponent and coauthor of the bill, met with the individual to pursue a discussion with the Treasurer's Office. Currently, the bill is static. Additionally, the Treasurer's Office pointed out that another bill (WSDOT's RCW 47.29) was acceptable to the Treasurer's Office with respect to how debt is handled. He recommended extending an invitation to WSDOT recognizing the statutes are different.

Mr. Schacht said he spoke on behalf of the American Institute of Architects (AIA) Washington Council and was a member of a panel with Van Collins representing The American Council of Engineering Companies of Washington (ACEC), a trade association of engineers and technical companies. Mr. Collins' testimony was similar and did not expressly speak in opposition of P3s. A series of questions were whether the legislation had been fully vetted, whether a full assessment had been completed on P3 with respect to other approaches of private development supporting public projects, a potential for increased costs to taxpayers to implement P3 projects, and decision-making processes. He offered to share notes of his testimony with the Board. In summary, the testimony spoke to the need for more study at this time prior to moving forward with legislation. It is also his opinion that the proposed legislation developed through the Board's committee was developed by many stakeholders supportive of P3 legislation. The architect community would like to see an independent group not associated with P3 interests evaluate the legislation and identify pros, cons, and potential outcomes for small businesses.

Mr. Thompson reminded Mr. Schacht that during the two-year process, all interests were able to participate. To insinuate that all stakeholders held pro-P3 perspectives is incorrect.

Mr. Schacht replied that his testimony was comprised primarily of questions rather than representing a stance of support or non-support. His testimony raised the issue of whether the process generated sufficient information at this time to determine whether the legislation is a good or bad idea. Most of his questions were previously addressed to the Board, which he believes were never answered.

Mr. Kuruvilla asked about the testimony provided by Mr. Collins as a representative of ACEC. Mr. Schacht replied that Mr. Collins' testimony was very similar but from a different perspective. He recommended following up online to view a video of the testimony through TVW.

Mr. Crawford noted that the Treasurer's opposition is obviously an issue that would have to be resolved if P3 legislation has any chance of moving forward.

Ms. Keith agreed as the Board identified the need for involvement by the Treasurer's Office to review the legislation. Because the Board's focus is project-oriented and P3 encompasses so much more, it is likely more review is necessary despite several years of hard work and input from broad perspectives. P3 legislation likely represents a multi-disciplinary bill requiring support from all constituents.

Mr. Thompson remarked about the need for the P3 Committee to meet with the Treasurer to identify any opportunities to protect the interests of the Treasurer's Office that could be addressed by additional language in the bill, as well as continuing discussions with other stakeholders representing a broad spectrum of diverse voices to include extending an invitation to WSDOT to participate. Regardless of the outcome of P3 legislation, a tremendous amount of process and procedure might be able to be used within the current statute (RCW 47.29) to address why existing legislation is not being utilized. Rather than pursuing a successful bill, the next step could take advantage of all the efforts during the last two years.

Ms. Berntsen commented that convening a diverse and broad representation of interests during a two-year period is not the same as a systematic multi-disciplinary analysis. Her fear is ending at the same spot unless the committee identifies the questions that have not been answered and systemically identifies those that might be affected. Although, she was not a member of the Board when the committee was established, multiple questions were asked and not answered during the Board's discussion. She also addressed the need to consult with the Treasurer many months ago. In fairness to the Board, members must be deliberative while acknowledging the unfairness of conveying that the Board is not supportive even though there was much discussion because many questions remained unanswered.

Mr. Crawford pointed out the P3 Committee has not been disbanded and would have opportunity to continue further work to address the original committee goal and charge if desired. Chair Frare affirmed a similar understanding.

Ms. Keith noted that James Lynch has been an advocate and is meeting with representatives from the Treasurer's Office. Perhaps the next step is receiving a report from Mr. Lynch on the outcome of that discussion.

Chair Frare supported the suggestion and recommended the Chair and Vice Chair meet with Mr. Lynch to schedule an update to the Board at the May meeting to include presenting a project plan for moving forward along with a multi-discipline outreach plan. There might be merit to the recommendation for a third party review of the legislation as well.

The Board supported the Chair's recommendation.

Other Legislation of Interest – Information

Chair Frare asked about the status of [SHB 1897](#) amending the small works statute. Ms. Berntsen reported the bill was referred to committee but failed to move forward.

Chair Frare referred to a list of legislation of interest. He asked for feedback on the proposed legislation or other legislation to add to the list.

Mr. Seydel asked about the possibility of distributing the document or attaching the document to the minutes. Talia Baker reported list of legislative bills is included on the Board's home page and is updated weekly.

Matt Calcavecchia, Public Facilities Group (PFG), said the non-profit organization has significant experience in real estate development and finance in structuring P3 projects using IRS [63-20](#) and 501(c)(3) bonds to finance and own public facilities for the public benefit. The organization has been involved in 18 P3 projects in the state of Washington. Although CPARB does not recognize [63-20](#) as a P3 project, the DES building is a 63-20 project. PFG has also encountered resistance from the Treasurer's Office for the last 20 years since PFG began developing

and financing 63-20 projects. Although similar to P3, 63-20 is privately issued tax exempt debt and meets the same standards of a performance-based model. During a recent conference in December, Mr. Lynch indicated there were no completed P3 projects in the state, which is incorrect as there are over 18 P3 projects delivered on time and under budget. All 18 projects were very successful projects with reports from King County Auditors and the University of Washington suggesting significant cost savings. During discussions with the State Treasurer, it appears that some sort of assessment of P3 encompasses both approaches, as the state has had more successes in P3 than any other state in the union. Any discussion should include 63-20. The State Treasurer's Office has experienced a significant amount of transition and today is the best time to pursue those conversations.

Ms. Deakins shared the analysis completed by Steve Massi on HB 2726. Mr. Massi mentioned 63-20 during his introductory remarks of the proposed bill to the Capital Budget Committee.

Ms. Keith disagreed with the perspective that CPARB does not view the existence of other P3 models. It was important to public owners to ensure the bill included supplemental authority. She expressed appreciation of Mr. Calcavecchia's recommendation and comments.

Chair Frare invited Mr. Seydel to present his proposal.

Dan Seydel, Platinum Group LLC, referred to a copy of his proposal for RCW 39.10 changes to empower stakeholders to improve alternative works by promoting small business participation. He has worked with many members on small business advocacy as well chairing the Board's Small Business Task Force responsible for a number of legislation bills enacted into law. Over the last several years, he reviewed all RCWs for alternative public works. As a former member of the PRC, he has some personal knowledge of the process. Existing language in RCW 39.10 for DB, GC/CM, and Progressive DB address opportunities to empower stakeholders. Language such as "may" could be converted to "shall." With the great work of the Office of Minority and Women's Business Enterprises, there are opportunities to make robust changes. The proposed changes could empower agencies and general contractors. As a private practitioner, he has managed over \$250 billion in public projects. One task is connecting small diverse business to projects. However, in many instances, general contractors are challenged by the RCWs and often lack the power to pursue favorable actions. He asked the Board to consider the proposed changes and the intent of empowering stakeholders to pursue economic development by involving and assisting small and large businesses within the state. The proposal is a collaborative bipartisan opportunity for the Board to move the dial further. He invited questions about the proposed language.

Mr. Thompson asked Mr. Seydel to address how subcontractors are challenged by the statute. Mr. Seydel replied that a project he is working on today is a state-funded project with stated goals of exceeding 12% small business participation in a heavy-civil environment near water. The site is challenging when seeking that level of participation from small firms let alone diverse firms. For a general contractor to include small firms within the project, those firms must be competing within the area. Because of the lack of a development process, most small companies have never been exposed to competition or gained the experience to participate. There are opportunities to develop capacity when language is included in the RCW exposing smaller firms to opportunities. Some proposed language is included in some bills developed by the Board. He noted he did not offer the proposal previously as he misunderstood the Board's legislative process and plans to participate in the Board's efforts to define that process. The RCW for GC/CM includes language for negotiating support services. General contractors can select small firms; however, the percentage of work is limited. There are opportunities to empower the general contractor to work with the public agency to develop a collaborative plan to maximize inclusion.

Chair Frare recessed the meeting from 10:00 a.m. to 10:15 a.m. for a break. Mr. Hernandez no longer participated via telephone following the break.

BYLAWS REVIEW – Informational/Action

Ms. Deakins reported prior discussions pointed to the need to update the Board's Bylaws. A number of the changes are housekeeping in nature, such as updating references to the correct statute. A new section addressing the Board's appeal policy is included in Article VII Committees following the Project Review Committee because appeals are from decisions rendered by the PRC. Under section 2 pertaining to the Bylaws of the Project Review Committee, the last sentence was removed stating, "*Proposed changes to procedure or by-laws shall not take effect until approved by the Board.*" The statute directs the PRC to establish a set of bylaws and does not authorize the Board governing authority of the PRC bylaws other than for the appointment of members and consideration of appeals. The second major change is insertion of the interim appeals language to establish the Board's procedures for appeals.

Mr. LeVander asked whether the appeal language was reviewed by the Board's legal counsel. Ms. Deakins said the language was drafted by the Board's legal counsel in conjunction with staff last spring following action on an appeal to the Board.

Mr. Crawford recommended revising the first sentence of section 2. *Bylaws* stating, "*The Project Review Committee shall establish and maintain its own procedures or bylaws for approval by the Board.*" because the Board does not have oversight approval of the PRC bylaws. Ms. Deakins affirmed the request.

Mr. Schacht noted a typographical error within section 3 changing "*Projects*" to reflect "*Project.*" He asked whether the policy would have affected the outcome of the Board's last appeal decision or the appeal process. Ms. Deakins said the only change would have entailed not voting on the procedures prior to considering the appeal. Having the policy included in the bylaws, the Board could have implemented the procedures saving the time invested with legal counsel to establish the procedures prior to the Board considering the appeal.

Members discussed the specific appeal, which had been previously appealed. Chair Frare explained that the first appeal was based on a public notification protest surrounding how DES advertises PRC project applications. Previously, DES advertised in the Journal of Commerce rather than in the specific county where the project was located. Subsequently, a protest was filed against DES for not following the RCW noticing requirements for public meetings. DES has since revised its process to ensure public notice is provided in the county's approved newspaper where projects are located. Another outcome of changing public noticing is a change in the project submittal process to DES. Due dates for project proposals to the PRC has been moved to the 20th of the month before the month of the PRC meeting to ensure adequate time is afforded to publications that might not publish daily.

Teresa Berntsen moved, seconded by Santosh Kuruvilla, to approve changes to the Capital Projects Advisory Review Board Bylaws as proposed and amended. The motion did not pass, as a two-thirds majority of the membership was not present.

Chair Frare said the bylaws would be included on the May meeting agenda.

OTHER BUSINESS

Data Collection

Chair Frare reported the capital budget was passed by the Legislature in January. As a result, DES has the funding to proceed with data collection by the University of Washington.

Ms. Deakins advised that staff plans to contact UW to establish a schedule and finalize data to collect.

DRAFT AGENDA – MAY 10, 2018

Chair Frare reviewed preliminary May agenda topics:

- Introductions
- Approval of Minutes
- PRC Committee Report
 - Monthly report
 - DB Report (*Mr. Schacht offered to forward an email to the Chair on suggestions for what the report should include*)
 - PRC Recruitment (*potential of AM and PM sessions*)
- Design-Build Statue Review Committee Report
- P3 Committee Future Plan – James Lynch (*Chair Frare and Vice Chair Thompson will contact Mr. Lynch and discuss development of a future plan for the P3 Committee and a report on the outcome of his discussions with the Treasurer's Office, WSDOT, or others not represented in the committee*)
- Approval of CPARB Bylaws
- JOC Evaluation Committee Report

Chair Frare requested dissolution of the High Performance on Design-Bid-Build Committee. The initial request from Representative Hans Dunshee was to include DB performance guarantees in legislation for Design-Bid-Build. A budget proviso within the DES staffing appropriation required some work on the proposal; however, the proviso is not included in the current proviso and subsequently the effort would not be funded. He recommended including the dissolution of the committee on the May meeting agenda.

- Dissolution of High Performance on Design-Bid-Build Committee

Ms. Deakins added that DES reported on some of the committee discussions from several meetings last May. No official report was produced.

- Legislative Calendar

Mr. Thompson reported on an email he and Chair Frare received from a contractor who participated in a GC/CM process. The contractor asked that the Board consider concerns surrounding the venue in which a bid is opened when a GC/CM is self-performing the work. The GC/CM statute requires the public body to manage the process. Chair Frare added that the observation surrounded those instances where bid openings occur at the GC/CM's office affording less accessibility for public viewing. Sometimes, bid openings are conducted at the public owner's office offering more accessibility to the public. The concern surrounds transparency and whether there should be a requirement for bid openings to be held at the public body's office. The individual has offered to attend the May meeting to speak to the concern. Mr. Thompson said the contractor has participated in over 18 different bid openings. Members agreed on the importance of affording time to the individual to discuss the concerns.

- Bid Opening Public Comment

Chair Frare reported DES is accepting applications for PRC positions. Based on the number of applications, the agenda may be adjusted to include AM and PM sessions.

- Discussion on language proposed by Dan Seydel

Mr. Schacht asked for more information on the requirement by general contractors to extend a performance payment bond to subcontractors as required by DB and GC/CM statutes. The Board should receive more information about the potential impact. He recommended receiving a presentation from the contracting community on the feasibility and burdens created, as it appears to be blanket provision applies to all subcontractors.

Mr. Crawford said the discussion is important because legislation passed during the last session requires contractors to provide subcontractor bonding when requested.

Mr. LeVander reported he plans to meet with Mr. Seydel and is willing to provide a report to the Board on both requests as the bonding requirement would have an effect beyond Mr. Seydel's proposal.

- Revisions to GC/CM and DB Statutes for Small Business Changes to RCW 39.10.

ADJOURNMENT

Andy Thompson moved, seconded by Walter Schacht, to adjourn the meeting at 10:45 a.m. Motion carried unanimously.

STAFF & GUESTS

Talia Baker, Department of Enterprise Services
Matt Calcavecchia, Public Facilities Group
Nick Datz, Sound Transit
Nancy Deakins, Enterprise Services
Curt Gimmestad, Absher Construction
Valerie Gow, Puget Sound Meeting Services

Tae-Hee Han Sound Transit
Janet Jansen, Department of Enterprise Services
Don Laford, CMAA
Dan Seydel, Platinum Group
Elisa Young OMWBE

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