

**CAPITAL PROJECTS ADVISORY REVIEW BOARD**

**John L. O'Brien Building  
504 15<sup>th</sup> Avenue, Hearing Room A  
Olympia, Washington  
September 14, 2006  
9:00 AM**

**Final Minutes**

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<b><u>MEMBERS PRESENT</u></b>	<b><u>REPRESENTING</u></b>	<b><u>MEMBERS ABSENT</u></b>	<b><u>REPRESENTING</u></b>
Gerald "Butch" Reifert	Design Industry	Sen. Dave Schmidt	Senate (R)
Rocky Sharp	Specialty Contractor	Dan Kristiansen	House of Representatives (R)
Ed Kommers	Specialty Contractor	Sen. Phil Rockefeller	Senate (D)
Juan Huey-Ray	OMWBE		
John Lynch (Chair)	General Administration		
Rodney Eng	Cities/Counties/Ports		
Janice Zahn	Cities/Counties/Ports		
Larry Byers	Insurance/Surety Industry		
Daniel Absher	General Contractor		
David Johnson	Construction Trades Labor		
Olivia Yang	Higher Education		
Dan Vaught	School District Project Rvw Bd		
Nora Huey	Cities/Counties/Ports		
Wendy Keller	Public Hospital Project Rvw Bd		
Kathy Haigh (Vice Chair)	Senate (D)		

**STAFF & GUESTS**

Nancy Deakins, GA	Marsha Reilly, OPR
Searetha Kelly, GA	Dick Lutz, Centennial Contractors
Cheri Lindgren, Puget Sound Meeting Services	Rick Slunaker, AGC
Pam Johnson OST	Darlene Septelka, King County
Dick Goldsmith, AWPFD	Ashley Probart, Association of Washington Cities
Rick Benner, Western WA University	Ginger Eagle, WPPA
Stan Bowman, AIA WA Council	Wendy Kancianich, OST
Diane Smith, OPR	Paul Berry, CMAA
Jerry Schlatter, WSU	Denise Stiffarm, Preston Gates Ellis
Michael Transue, AGC	

**Welcome & Introductions – Chair's Comments**

Chair Lynch called the Capital Projects Advisory Review Board (CPARB) meeting to order at 9:11 a.m. A meeting quorum was attained. Everyone present provided self-introductions.

Ms. Deakins conveyed that the two of the three members voting on behalf of Cities/Counties/Ports are Nora Huey and Rodney Eng. Chair Lynch acknowledged that Juan Huey-Ray and Janice Zahn are attending in the absence of Carolyn Crowson and Michael Mequet, respectively. He introduced Pat Buker, General Administration's (GA) new Assistant Director for the Facilities Division.

**Approve Agenda**

**Dave Johnson moved, seconded by Daniel Absher, to approve the agenda as presented. Motion carried.**

**Approval of August 10, 2006 Meeting Minutes**

**Nora Huey moved, seconded by Olivia Yang, to approve the minutes of August 10, 2006 as presented. Motion carried.**

**Public Comments**

There were no public comments.

**Brief Reports from Subcommittees**

***Data Collection – Darlene Septelka***

Ms. Septelka presented the proposed internet-based *Team Evaluation Survey* to collect data from architects or engineers, prime contractors, owners, and subcontractors participating on a particular project. The evaluator will identify their role on the project and other contracted parties. The evaluator rates project performance in the following areas: cost, owner requirements, public value, schedule, performance and quality, and safety. The next section addresses project team performance based on communications, problem solving, overall trust/candor, and meeting project goals. An additional question under each section is whether the team experienced problems, and whether the problem(s) caused or made worse the project method utilized.

*Representative Haigh arrived at 9:21 a.m.*

The second part of the survey delves into the detail of specific elements of the project such as facilities management programming, design, prime contractor selection process, subcontract selection process, and construction. Ms. Septelka reviewed the questions under each category.

Discussion followed about what triggers an evaluator to complete the shorter survey and whether the survey applies to all new projects. Ms. Septelka stated the construction contracts could stipulate that the contractors and/or subcontractors are required to complete the survey upon completion of the job. She recommended that projects completed after 2007 should complete a survey.

Discussion followed about ensuring contractors and subcontractors complete the survey and that the exercise is voluntary and not mandatory. Ms. Septelka added the contract owner or project manager has the responsibility to ensure the project team completes the survey at the close of the project. The owner needs to determine how completing the survey is incorporated in the process. The Board needs to determine whether completing the survey is voluntary or mandatory.

Representative Haigh said if the Board allows owners to use GC/CM as a delivery method, the owner should take the responsibility and include a requirement in the contract document stating the project team is required to complete the survey. It's important the owners and project team receive information that provides value for completing the survey.

Members asked several questions and discussed the following:

- How is "budget" defined? Questions under design and construction categories ask whether the design or construction was completed within budget. Does it mean original budget, budget with approved changes, or budget with owner

corrected changes? One suggestion is to craft the question to ask, “original authorized budget including authorized owner changes necessary to the project,” or similar wording.

- Related to design changes, does it apply to all out of scope changes, discretionary or non-discretionary changes? There currently is a discussion about what’s in and what’s out.
- What does “applicable RCW requirements” mean? Ms. Septelka said the intent of the question is whether the owner properly followed the law concerning solicitation and management of a project under the current RCW. A member suggested allowing space for the evaluator to include a qualifier to pinpoint a problem. Ms. Septelka said a pull down screen with a limited number of choices will help to make the data meaningful after collection.
- Will the evaluators identify themselves for follow up purposes? Ms. Septelka said the survey is anonymous at this point. A space could be provided where an evaluator includes contact information if desired.
- The survey is fairly subjective and is more of an opinion rather than a “hard facts” survey. The instructions could indicate that point.
- Qualitative analysis of a project is possible if the project is identified on the survey and more than one person responds.
- There was a concern that the Board is not accomplishing the objective it desires. Additional responses could result from a shorter survey (such as five questions) that would make the data more meaningful. The answers obtained from some of the questions will not indicate a difference between design bid build (DBB), design build (DB), and GC/CM projects. Subcontractors will not know how to answer some of the questions and they won’t take the time to fill out the survey. Ms. Septelka said the detail helps to identify problems or successes in design and construction areas. A member said subcontractors are more likely to respond to the survey if asked how the GC/CM, owner, and/or design team did. It was suggested to customize the survey for the subcontractors to include five to eight questions. Ms. Septelka said the survey could expand to the owner, contractor, and designer elements with elimination of the more detailed questions. The survey could be designed to provide a customized, shorter survey when the evaluator responds as a subcontractor.
- How is quality of design affected by the delivery method? The design quality is reflective of the investment of the owner. Ms. Septelka said it indicates whether the project is receiving bad marks for cost and schedule and whether the project failed due to upfront planning rather than contractor work.
- The Board can’t lose sight of the basic purpose of the data collection such as whether the deliveries are better or worse when compared to the DBB method. A member noted there is no tie between GC/CM and a bad design. The Board should carefully evaluate whether completing the survey is mandatory. Many subs do not want to participate. Ms. Septelka conveyed that a prior survey version included a question asking whether the DB or GC/CM project performed better than DBB. It might be beneficial to include a few of the questions that measure the success or failure as a result of the delivery method. However, subs might not know what the delivery method is.

Ms. Septelka said she could provide a revised survey for the Board’s approval at the next meeting based on feedback from the Board’s discussion. She asked members representing subcontractors to forward what they believe are the appropriate questions for the subs. Mr. Kommers asked staff to forward the survey to him and Mr. Absher for further review and input. Chair Lynch asked members to forward any further comments electronically to Ms. Septelka.

Chair Lynch distributed a “*Master List: CPARB Survey of Projects > \$10 Million*” document to members. Names and/or contact information are needed for some of the projects. A handout showing how the on-line survey screens will appear was provided to members. He asked members to forward any comments about the survey to him. Ms. Septelka added all previous survey data have been downloaded into the current database.

### ***Reauthorization of Alternative Public Works – Rodney Eng***

Mr. Eng reported the Reauthorization Subcommittee focused on contractor/subcontractor issues and discussed concepts. The subcommittee approved the draft language within Section 305, page 33, of the September 13, 2006 working draft document provided to members. The concept is that once an owner and the GC/CM agree about work and the cost it must be done in writing. Interest will run beginning 60 days after the written agreement is attained. The written agreement is not recognized as a formal change order. Ms. Huey said the subcommittee agreed on the concept. However, further refinement of the wording is needed.

**CPARB FINAL MINUTES**

**September 14, 2006**

**Page 4 of 12**

The subcommittee discussed “pre-qualification.” The concept is if an owner and GC/CM agree that a particular subcontract package merits a pre-qualification effort, they must hold a public hearing disclosing the pre-qualification method proposed and allow for comments. There are some outstanding issues that the contractor/subcontractor task force needs to resolve prior to incorporating language into the legislative draft. The issues are understood and there is a commitment to resolve the issues within the next month.

Chair Lynch asked whether language concerning “pre-qualification” is included in the working draft. Ms. Smith replied it’s contained within Section 307.

Discussion ensued about whether a subcontractor can submit an invoice on something that is not considered a change order. As outlined in Section 305 on page 33 of the working draft, Mr. Eng said the concept is that interest accrues following “30 days after a properly submitted invoice.” Chair Lynch noted GA initiates some projects with a “field authorization.” Ms. Huey said the goal is for public owners to pay once there’s a written agreement and not necessarily an executed change order. Mr. Eng said the intent is to give owners a disincentive to delay work.

Mr. Johnson spoke about the need for criteria to establish whether a bidder is responsible or not for every project. A responsible bidder is the key element and not, “*if* determination ... is in the best interest of the project and critical to the successful completion of a subcontract bid package” as stated on page 36 of the draft. He asked who makes the determination that a contractor is responsible. Chair Lynch said the section addresses “early analysis” of subcontractor eligibility. Mr. Kommers noted “responsibility” is consistent related to post bid pre-award and pre-bid determination in Sections 306 and 307, respectively. “In advance of seeking bids” is the difference and not responsibility. Mr. Johnson emphasized the list of “A through F” qualifications is eliminated. Mr. Eng noted the language only applied to pre-qualification efforts. Further dialogue about bidder qualifications followed. Chair Lynch said it’s an industry-wide issue and is unsure it should be addressed in 39.10 or elsewhere in the statute. The small works roster section connects to the “43.19” list. A list of responsible criteria is not included in 39.10. Mr. Johnson said no one wants to talk about what “responsibility” is. Every awarding agency should have a checklist. Smaller entities don’t know what to look for in terms of a responsible bidder and are hesitant to include language in contracts because they’ve been told it’s discriminatory. The entities are then locked in awarding a contract to the lowest responsive bidder. If statute language states “lowest responsible bidder,” everyone should understand what “responsible” means.

Ms. Keller agreed. Chair Lynch noted the issue has been addressed a number of times. Not having a list gives agencies additional flexibility. Mr. Johnson added the list should be objective, not subjective and not open to interpretation.

Mr. Kommers stated Mr. Johnson has discovered an omission. The current version of the draft, Section 306, page 34, beginning on line 13 states, “Responsibility shall be determined in accordance with the criteria listed in RCW 43.19.1911.” Not all members agree, but that is how responsibility is determined in a post bid pre-award. If, in the event a GC/CM and owner determine they have to determine responsibility prior to the bidding process, they must go to Section 307. Section 307 does not refer back to the responsibility criteria, assuming it’s agreed upon, in Section 306. The language in Section 306 should be cross-referenced in Section 307. He agreed that the Board should address the matter.

***Expansion – Olivia Yang***

Ms. Yang reported the Expansion Subcommittee met last week. Consensus was attained for refining the DB two-step RFQ and RFP selection process. The subcommittee clarified the evaluation criteria for the two steps. Subcommittee members discussed honorariums. One question is whether an owner should pay if it terminates the RFP process due to cancellation of funding and how the owner then meets the obligation. Members will present the issue to stakeholders for further consideration prior to bringing it to the Board.

**CPARB FINAL MINUTES**

**September 14, 2006**

**Page 5 of 12**

The subcommittee discussed modular buildings and determined they should be allowed regardless of cost. Pre-engineered buildings will not come to the project review committee. Ms. Smith noted where the proposed language is located in the draft for DB contracting, the two-step selection process, and pre-engineered buildings.

Ms. Yang reported the subcommittee did not discuss the language contained in Section 202 on page 21. Ms. Smith described the difference between the previous draft and the working draft as it relates to project management and contracting requirements. The language needs further subcommittee review.

Ms. Yang reported subcommittee consensus was achieved concerning the \$10 million threshold.

Ms. Yang said the mechanical contractors have a significant concern about design building operation and maintenance (DBOM). It limits subcontractor ability to bid on the work because the contract obligation spans a long period of time (i.e., 15 to 30 years).

The subcommittee discussed the definition of owner criteria. The design industry has concerns. Mr. Reifert and Mr. Bowman are talking to respective stakeholders. The comments relate to the level of specificity of the criteria. Mr. Reifert and Mr. Bowman are proposing a different set of criteria. Mr. Reifert added there is also a question of where it goes in the statute. The design industry has agreed to come back with its version of specifics for the Board's October meeting.

Chair Lynch asked Mr. Reifert if the project and owner criteria are acceptable, will the current list of authorized owners in statute continue or will it be open to all public owners as long as the projects run through the committee. Ms. Yang said design industry concern is that the owner criteria are specific enough so there is not a perception that the door's wide open. The current criteria are difficult to administer. Mr. Reifert added the design industry is not opposed to expansion, but some criteria by which to qualify are needed.

Chair Lynch asked if the subcommittee is close to a recommendation about how a CPARB committee would treat currently authorized users versus new users. The subcommittee discussed *review and comment* and *review and approve* concepts. The subcommittee has narrowed the criteria to experienced owners as having completed one or two DB projects with or without graduation. Chair Lynch suggested the subcommittee decide what the best fit is and forward that as a recommendation to the Board for a vote. Ms. Yang said there is consensus that how the subcommittee decides to define experienced owners, it will apply to GC/CM and DB delivery methods.

Mr. Eng said the intent is to create a process that is open for any qualified owner and qualified project to use one of the alternative public works methods. The key is "qualified" owner and "qualified" project.

Chair Lynch recessed the meeting from 10:39 a.m. to 11:02 a.m.

**Draft Legislation**

Ms. Smith summarized the changes to the working draft legislation since the Board's last meeting. She noted shaded language indicates further clarification is necessary.

Representative Haigh said there was a prior discussion that legislators should not sit on a committee that has authority to approve projects to avoid any conflict of interest.

Mr. Reifert referred to the need to review owner and project criteria.

Mr. Eng said Representative Haigh's issue was raised during a subcommittee meeting, but it was described differently. The concept embodied in the legislation is continuing CPARB, but also creating a project review committee with membership appointed by the Board. The appointing body consists of some legislators. It is unsatisfactory for the CPARB not to have legislator representation because legislators understand the issues of the industry and can bring them forward. He said he

**CPARB FINAL MINUTES**

**September 14, 2006**

**Page 6 of 12**

would rather see a separation between the project review committee and CPARB and would like to better understand the issue. Mr. Eng suggested the Attorney General (AG) could review the matter. Representative Haigh said nonvoting legislators appointed to CPARB is fine. However, legislators should not sit on an approval committee or vote on its membership. Ms. Deakins noted there is an appearance of conflict of interest with legislators sitting on the Board. Representative Haigh added it has not been challenged in Washington State.

Mr. Reifert conveyed that he should go back to his constituents and reconsider the review process.

Mr. Kommers said a negotiated support services category was created and should be included in the definition for "maximum allowable construction cost" (MACC) if members agree. Section 306 should include the old "paragraph 6," which is what the legislative writers have done concerning the post bid traditional bid process for subcontractors. Section 307 was created for pre-bid responsibility determination. In addition, GC/CM self-performance old "paragraph 7," begins to be incorporated in Section 306 on page 35, lines 13, 14, 15. He suggested using paragraph 7 and creating a new section for GC/CM self-performance that is more consistent with the old statute. At a prior meeting, the Board agreed to eliminate item # (3) on page 34, "The requirements of RCW 39.30.060 apply to each subcontract bid package and equipment and material package." Two other important action items at a task force level concern "paragraph 8" and the issue of responsibility at the Reauthorization Subcommittee level.

Discussion followed about elimination of item # (3) on page 34 as referenced. Ms. Deakins pointed out that removing the language assumes the big packages are by trade. Some bid packages relate to buildings. Mr. Eng noted there was no objection by anyone in the industry for removing the requirement. Chair Lynch indicated staff will follow up and include a notation on the "issues" spreadsheet.

Mr. Byers conveyed that his industry's concerns are similar to those of the subcontractors.

Mr. Eng said if the proposal is to change public hospitals and schools from nonvoting to voting members, cities would like a full vote. "Cities/Counties/Ports" have two votes but there are three members.

Ms. Keller said a significant portion of the industry is not represented on the Board, such as construction management. She said she would like special consideration given to public hospitals that have projects less than \$10 million, as provided in prior legislation.

Mr. Vaught conveyed that the school districts are pleased with representation on the review committee and continuation of the authorization as proposed.

Ms. Zahn said the self-performance section should include wording about the maximum of 30%. The Ports are concerned about the "rolling MACC" concept. Ms. Deakins explained the idea of the rolling MACC is meant to address the early bid package and the ability to start work. It is included in the negotiated MACC at 90%. Mr. Eng added the reason for selecting 90% relates to setting the MACC too early given volatile market conditions. However, there are projects that need to begin and construction cannot start until the MACC is negotiated. The idea is in early bid packages, such as demolition, excavation, and shoring, which could be bid and awarded prior to negotiation of the MACC. Owners might have to amend their contracts to incorporate the new concepts.

Ms. Yang reported the Expansion Subcommittee invited small business lobbyists to attend the October meeting.

Mr. Sharp agreed with Mr. Kommers statements concerning the need for additional work related to Sections 306 and 307, and clarifying the invoice/change order issue within Section 305.

Mr. Absher conveyed public owners do not like the term "guaranteed" contract cost. He suggested changing "guaranteed" to "total" throughout the draft legislation document.

## **CPARB FINAL MINUTES**

**September 14, 2006**

**Page 7 of 12**

Mr. Absher expressed concern about the experienced public body language. An idea is to consider an owner is experienced if the owner has completed two projects within the last three years. General contractors have not agreed to the proposed subcontractor qualifications and bidder responsibility language. In general, there is language the industry will agree to contingent upon resolution of other clauses. It appears the Board is adding more public sector members. The addition of private sector members (such as general contractors and construction managers) would help balance membership.

Ms. Deakins said CPARB agreed to the 90% construction document completion for negotiating the MACC. The language could allow some flexibility if owners and GC/CMs want to negotiate it earlier. There are stakeholder groups that haven't participated at a subcommittee or Board level. A strategy is needed to educate stakeholders on the proposed changes.

Chair Lynch expressed interest in incorporating language regarding the 90% construction document completion for negotiating the MACC to afford some flexibility. The CPARB approval process for owners and projects does not include job order contracting (JOC). The issue is whether to leave the existing list of JOC owners in statute or whether the CPARB approves JOC owners as well. The Board should consider ways to ensure the process is as efficient as possible so that it can act in a timely way and not slow projects or hold up major projects waiting for the next committee meeting.

Ms. Septelka said the Board has voiced interest in collecting data for DBB, which is not included in the working draft language.

Representative Haigh said the Joint Legislative Audit and Review Committee (JLARC) review believes the Office of Financial Management (OFM) should be collecting DBB data. Ms. Septelka clarified the collection of data for other projects is not covered in the draft proposal.

**Jerry Schlatter, Washington State University (WSU)**, conveyed that WSU prefers to remain in the category of an exempt owner as currently defined. He said he would like the language that speaks to the public notice/public hearing process clarified. The survey should be simple. OFM and JLARC collect data from WSU. The agencies should look at one another's data.

**Dick Lutz, Centennial Contractors**, said there is no discussion of JOC as it relates to data collection.

**Stan Bowman, AIA**, referred to Section 400 on page 37 and suggested changing line 26 to read, "Public bodies may use a job order contract for *the construction of* public works projects."

Chair Lynch recessed the meeting from 11:55 a.m. to 12:46 p.m. for lunch.

### **Continue Draft Legislation**

Ms. Huey said there should be an opportunity for all owners to participate whether experienced or not. Any owner that is in the procurement process for DB or GC/CM proposals by June 2007 should be able to continue with its project rather than undertaking an approval process.

Members and staff reviewed the September 14, 2006 "CPARB Issues for Legislation" matrix. Ms. Deakins said if an issue on the list requires a Board action, it should occur now. The Board is required to approve final language in the draft legislation document. She suggested there are items members can agree to conceptually. The writers will follow up with the appropriate statute language.

Concerning item #3 under issue #5, Ms. Yang said she believes the Board agreed to a \$10 million project threshold for GC/CM and DB delivery methods. Mr. Eng said members previously discussed that all projects below \$10 would go to the review committee for review and approval. He asked if there is a threshold below \$10 million where no GC/CM or DB projects can be built. Ms. Deakins referred to page 25 of the working draft that states in part, "public bodies may utilize the GC/CM procedure for public works projects in which the total cost is over \$10 million." Mr. Eng referred to page 10 where

**CPARB FINAL MINUTES**

**September 14, 2006**

**Page 8 of 12**

it states in part, “review and comment on the use of DB and GC/CM is required for projects with a total cost of \$10 million or more.” Ms. Deakins asked whether there should be a threshold for use or whether it is open subject to approval by the committee.

Ms. Keller said public hospitals in particular have had the ability to use \$5 million as a threshold. If a project meets the criteria perhaps a threshold is not necessary. She said she believes the \$10 million threshold applies to owners that currently have authority and if the project is under \$10 million, the project requires committee approval.

Mr. Absher said his understanding is the \$10 million threshold is not needed. Committee approval for projects under \$10 million is required for experienced owners, while inexperienced owners have to secure approval for all projects regardless of cost. Ms. Yang said owners would like the flexibility to use GC/CM or DB for smaller projects.

Chair Lynch said if the \$10 million is not included in statute, it could be a criterion to define an eligible project.

Mr. Eng said he supports not including a threshold.

Mr. Reifert said he'd like an opportunity to seek additional feedback from his constituents because the project and owner criteria might be different between the two delivery methods.

Mr. Johnson commented that the Reauthorization Subcommittee discussed the matter and determined that increasing the threshold would limit the pool of bidders. He said his understanding was for a \$10 million threshold. There was also discussion at the subcommittee about smaller projects using GC/CM or DB processes with review. He said he does not agree with eliminating the threshold.

Representative Haigh expressed concerns about including a dollar threshold. She said she would like the responsibility to rest with the Board.

Following further discussion, the Board agreed the language needs more work. Chair Lynch suggested forwarding language summarized by Mr. Eng and Mr. Absher to the writers for further discussion purposes. A recommendation is needed from the Expansion Subcommittee.

The Board agreed items #4 and #5 under Issue #5 also need recommendations from the Expansion Subcommittee.

Mr. Eng asked if a legal review is necessary for item #2 under issue #14 concerning the Board with legislative representation appointing members to the project review committee. Representative Haigh said the Governor's action of appointing review committee members could solve the concern. Ms. Keller said nonvoting legislative representation was discussed earlier in the meeting. There is no conflict if the language stipulates that legislative representatives do not make committee appointments. Mr. Absher added it is valuable to have legislators involved on the Board. Chair Lynch conveyed GA will follow up with the AG in the next several weeks.

Ms. Deakins noted the JOC issue was moved to the Expansion Subcommittee section.

Concerning the MACC contingency, the CPARB approved prohibiting the use for incentive payments to GC/CM. The Board needs to review the draft language for the MACC contingency, as well as, the timing for setting of the MACC (change to 90% contract documents).

Discussion ensued about “deemed denied” language. Ms. Huey said the draft language states in part, “... a specified time period but no later than 60 calendar days after receipt of related documentation...” Mr. Eng said the subcommittee approved the concept and recommends it to the Board. Mr. Kommers said one question was whether equitable adjustment covers all cases when a change order is deemed denied.

**Rodney Eng moved, seconded by Dave Johnson, to accept the Reauthorization Subcommittee's recommendation that a claim or request for equitable adjustment is deemed denied if the owner has not acted on it within 60 days.**

*Ms. Huey offered a friendly amendment that the 60 days is based on when the owner receives a claim. The makers of the motion accepted the friendly amendment.*

Discussion ensued about verbal versus written responses. Ms. Deakins noted the language on page 30 states in part, "... if the public owner does not respond to a request..."

*Members and the makers of the motion also agreed to a friendly amendment that the language should read, "... if the public owner does not respond in writing to a request for equitable adjustment or claim..."*

**The motion as amended carried unanimously.**

Members acknowledged the language requires further review by the Board.

Concerning the interest issue with change order administration, Mr. Eng said the subcommittee approved and recommends approval of the concept embodied in Section 305 on page 33 of the draft language to the Board. The wording needs additional refinement by the Board.

**Rodney Eng moved, seconded by Daniel Absher, to accept the concept embodied in Section 305 of the draft. Motion carried.**

Mr. Kommers suggested incorporating the wording within Section 302 rather than creating a new Section 305.

Mr. Kommers referred to issue #7 and said the Reauthorization Subcommittee needs to review the subcontractor eligibility standards/requirements/qualifications language. He offered to develop a proposal for the subcommittee's review.

Discussion followed about whether the list of responsibility elements is an industry-wide issue and not included within the GC/CM section. Mr. Johnson clarified the responsibility elements should apply across the board.

**Rodney Eng moved, seconded by Nora Huey, that the list of responsibility elements is an industry-wide issue and should not be placed within the GC/CM section. The intent is that the elements apply across the board. Motion carried.**

Mr. Eng said the remaining components related to Issue #7 should be returned to the subcommittee for consensus on language implementing the concept of a public hearing process.

**Rodney Eng moved, seconded by Nora Huey, to accept adding the concept, "negotiated support services" to the GC/CM legislation. Motion carried.**

The Board discussed subcontractor issues added to the matrix since the last meeting. Mr. Kommers said the concepts were incorporated in the working draft before the Board and some refining of the language is necessary. Mr. Eng stated the subcommittee has not discussed DB. Draft legislation contained in Section 202 needs review.

**Ed Kommers moved, seconded by Nora Huey, to approve, with the exception of Section 202 (DB), the subcommittee's recommendation for general language for issues SC-1, (except 202), SC-2, SC-3, SC-4, SC- 5, and SC-6.**

**CPARB FINAL MINUTES**

**September 14, 2006**

**Page 10 of 12**

Mr. Huey-Ray asked about “Sec 302 (1) (e).” Mr. Kommers replied that he spoke with Ms. Smith to ensure the writers understand the subcommittee’s recommendation is related to the intent. Chair Lynch said members will have an opportunity to review the draft language. Mr. Kommers noted Section 202, paragraph 21, has not been reviewed.

**Motion carried unanimously.**

Chair Lynch said the goal is to have recommended legislation completed prior to the Thanksgiving holiday.

The meeting was recessed from 2:02 p.m. to 2:10 p.m. for a break.

**Job Order Contracting Overview**

Chair Lynch provided a PowerPoint presentation on JOC. A definition of JOC was reviewed. Unique aspects of JOC include the initial procurement of a JOC contractor that is based on a combination of qualifications and bid price. Work orders are currently issued for repair, renovation, and remodel projects under \$150,000. The law provides for two work orders up to \$200,000 during the period of the contract. There is a proposal to raise the \$150,000 threshold to \$350,000. Several features of JOC construction include fast response for small, repair, renovation, remodel and alteration projects, services provided on an on-call basis, construction costs are based on Unit Price Book – RS Means, and the cost coefficient is established up-front in the bid.

Ms. Yang said the University of Washington relies on JOC for a quick response on small projects along with the ability to talk directly with a contractor in the development of a scope of work and design.

Discussion of the cost coefficient followed.

A list of typical projects was presented that include infrastructure up-grade projects. Some benefits of the JOC process include owners beginning work immediately upon awarding of a work order, no bid documents, and JOC projects usually require no architectural or engineering services.

Discussion followed about how the University of Washington and GA benefit using JOC in terms of having the ability to utilize in-house architects and engineers.

Chair Lynch highlighted the increased opportunities JOC provides for small and disadvantaged businesses.

Discussion followed on JOC’s advertising and contractor selection processes. Mr. Johnson expressed concerns that the JOC processes limit the pool of contractors owners work with. Mr. Lutz explained how Centennial Construction outreaches to the construction industry, such as holding periodic subcontractor fairs.

Members discussed bonding procedures.

Chair Lynch reviewed “site visit with owner,” “develop scope of work,” and “proposal phase” slides with Boardmembers. Ms. Yang noted the University of Washington involves its designer in developing a scope of work with the JOC contractor, as well as creating the documentation for pricing costs.

Chair Lynch reported the JOC contractor prepares all subcontract documents, mobilizes and manages all subcontractors, provides jobsite safety supervision, quality control, progress reports, conducts pre-final and final inspections, and submits as-built drawings. He reviewed contractors some of the owners currently use. A JOC/work order summary slide was also presented.

In response to inquiries and comments from Mr. Huey-Ray, discussion followed about collecting data for JOC projects, and what that may look like. Chair Lynch said the JOC issues are under the Expansion Subcommittee’s purview. Ms. Septelka

**CPARB FINAL MINUTES**

**September 14, 2006**

**Page 11 of 12**

is the lead on data collection matters. Mr. Huey-Ray said he'd like to see the Board take some action related to data collection for JOC.

**Daniel Absher moved, seconded by Dave Johnson, to request the Data Collections Subcommittee address data collection for JOC. Motion carried.**

Discussion ensued about how raising the JOC limits from \$150,000 to \$350,000 could impact smaller contractors. Chair Lynch suggested owners should ask JOC contractors what their plans are to outreach, spread the work, and encourage small business, women, and minority businesses to bid on work so that the issue is not overlooked. A bidding process for small projects is not cost effective for smaller subcontractors.

Ms. Yang agreed that she'd rather see an emphasis on outreach rather than bidding on individual projects.

**Industry-Wide Issues**

Chair Lynch suggested the Board form a subcommittee to evaluate and develop a strategy to address industry-wide issues and determine issues that should be addressed during the next legislative session. Ms Deakins reported a work group met last week and identified priority items from the list Boardmembers viewed at the August meeting. Although the "Mike M. Johnson case" listed under Notice Provisions is a priority issue; it will not be solved before the session.

Mr. Johnson, Mr. Absher, Chair Lynch, Mr. Reifert, Mr. Kommers, Mr. Huey-Ray, Ms. Yang, Ms. Huey, Mr. Eng, and Ms. Zahn volunteered to serve on the industry-wide issues subcommittee. Other interested parties included Lyle Martin, Hoffman Construction; John Ollars, Attorney, Rick Slunaker, AGC; Miriam Moses; John Phelps, Rick Bender, and Julie Murray.

Discussion ensued on the selection of a subcommittee chair, holding meetings on Thursdays or Fridays in conjunction with other subcommittee meetings, and current subcommittee time commitments. Members agreed Thursday mornings were preferable depending on facility availability. However, some members are not available to meet the first Thursday in October due to scheduling conflicts. A member suggested the Board appoint a chair to establish the meeting date and develop the agenda.

**Rodney Eng moved, seconded by Olivia Yang, to nominate and elect Nora Huey as chair of the industry-wide issues subcommittee and appoint members who previously volunteered. Motion carried.**

**Other Business**

Chair Lynch announced Ms. Kelly will be out of the office for several months.

Mr. Johnson announced the University of Washington recently incorporated language in contracts pertaining to unions and union subcontractors. GC/CMs with subcontractor language in respective collective bargaining agreements require the use of signatory subcontractors. University of Washington's language outlines a process requiring a general contractor to accept the lowest responsive bid without regard to whether the subcontractor has signed a collective bargaining agreement. GC/CM may not require subcontractors to sign collective bidding agreements or contribute to union benefit funds as a condition or award of a subcontract. Several court cases have moved forward where the courts have struck down state law stating it interferes with protected federal bargaining rights. The new language will negatively impact the number of general contractors on job sites or bidding on GC/CM projects.

Ms. Yang said in the past, the university's GC/CM RFP's were silent on the particular issue and the language was not added. However, the university's AG advised that the language should be included with the current "round" of GC/CM projects. The labor union has approached the school. Future meetings are anticipated. The AG says if the university wants to administer the law that says, "open and competitive bidding," the university must include the language.

***CPARB FINAL MINUTES***

***September 14, 2006***

***Page 12 of 12***

Chair Lynch noted the issue is new. AG's contracts are silent about the matter. He suggested the Board review the clause the university's AG is referring to as part of the language update project. Members agreed to place the matter on the "issue" list as a placeholder.

**Set Next Meeting Agenda**

The Board agreed to full meeting day in October to afford sufficient time to review draft legislation language changes. Ms. Deakins asked members to forward any further draft language changes or comments to her by September 29, 2006.

**Adjournment**

Chair Lynch adjourned the meeting at 3:06 p.m.

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John Lynch, Chair, CPARB

Prepared by Cheri Lindgren, Recording Secretary  
Puget Sound Meeting Services