

**PUBLIC WORKS CONTRACTORS LICENSE BOARD
SPECIAL TELECONFERENCE MEETING**

Thursday - February 18, 2016 - 3:00 p.m. (MST)

**Division of Building Safety
1090 East Watertower Street, Suite 150, Meridian, Idaho**

NOTE: The following report is not intended to be a verbatim transcript of the discussions at the meeting, but is intended to record the significant features of those discussions.

Chairman Roletto called the meeting to order at 3:04 p.m. (MST)

Board Members Present:

Jim Roletto, Chairman
Garry Tolley
Evan Goodwin
Robbie Austin
Brian Bailey
Chuck Graves

DBS Staff Present:

C. Kelly Pearce, Administrator
Steve Keys, Deputy Administrator-Operations
Ron Whitney, Deputy Administrator-Administration
Patrick Grace, Deputy Attorney General
Bill Hatch, Public Information Officer
Larry Jeffres, Regional Manager, Region 1
Chris Jensen, Regional Manager, Region 3
Terry Blessing, Compliance Program Supervisor
Renee Bryant, Administrative Assistant 2/Board Recorder

Board Members Absent:

Joe Jackson, Vice-Chairman

◆ **Appeal Review - Hearing Officer Vs. Board**

Based on the result of action taken under Title 67 Chapter 28, Idaho Code, by the Caldwell City Council, the Division received an appeal from a public works contractor. The provision in question relates to the contractor prequalification requirements on the Solids Handling and Digestion Improvements project at the Caldwell Wastewater Treatment Plant.

Idaho Code § 67-2805(3)(b)(iv) states in part, “The public works contractors license board shall decide any such appeal within thirty-five (35) days of the filing of a timely appeal.” Two options were provided on how to proceed with the appeal: 1) The Board would hear the appeal directly, OR 2) Appoint a hearing officer to take evidence, hear the arguments of the appeal and issue a recommended order in which the Board would make a final decision.

Based on the time frame and complication of the appeal, the Board decided to hire a hearing officer.

MOTION: Garry Tolley made a motion to appoint a hearing officer to review the contractor’s prequalification and provide a recommendation to the Board for a final decision on the appeal. Chuck Graves seconded. All in favor, motion carried.

ACTION: The Deputy Attorney General will create the appropriate documentation for the Chairman’s signature; providing copies to the hearing officer, as well as to the appellant and respondent’s representatives.

◆ **Bonneville School District and CM/GC Contract**

The Division received a complaint with regard to the Bonneville School District's solicitation of a Construction Manager/General Contractor (CM/GC).

The Deputy Administrator-Operations provided a brief synopsis of the allegation/complaint. Authority relative to construction managers and enforcement proceedings resides with the Board. Therefore, for any action to be taken, the Board must provide a directive to the DBS.

Dan Pratt, Vice-President, and Joe McAllister, General Council, Hughes General Contractors, Inc., explained their work history, as well as the company's experience in construction management.

The Administrator recused himself from the Executive Session; stating in a private capacity he is engaged in a contract with Bateman Hall.

MOTION: Garry Tolley made a motion that the Board, pursuant to Idaho Code § 74-206, convene into executive session to communicate with legal counsel regarding pending/imminently-likely litigation [Idaho Code § 74-206(1)(f)]. Chuck Graves seconded. Roll call vote: Evan Goodwin, aye; Garry Tolley, aye; Jim Roletto, aye; Chuck Graves, aye; Brian Bailey, aye; and Robbie Austin, aye. All in favor, motion carried.

◆ **Executive Session**

Pursuant to Idaho Code § 74-206(1)(f), an Executive Session was held with the following individuals: Board Members Roletto, Tolley, Graves, Goodwin, Bailey, and Austin, Deputy Administrator-Operations Keys, Deputy Attorney General Grace and Board Recorder Bryant.

The Board discussed with legal counsel its legal opinions, as well as legal consequences and risks associated with the current CM licensing controversy.

MOTION: Garry Tolley made a motion to close out of Executive Session and return to the regular session. Brian Bailey seconded. All in favor, motion carried.

◆ **Bonneville School District and CM/GC Contract (Cont'd)**

The Chairman asked for a motion.

MOTION: Garry Tolley made a motion to direct the DBS to gather additional information about the response by Hughes General Contractor to the RFQ in the next seven (7) business days, and then reconvene to make a final determination. Brian Bailey seconded. All in favor, motion carried.

For clarification, the Board would like to review the following documentation: 1) Statement of Facts from the Division's standpoint, 2) Opinion from the Deputy Attorney General's perspective, and 3) The Idaho Association of General Contractors letter clarifying their position on this issue.

The Administrator asked, and Hughes General Contractors, Inc., offered to provide a written summary on the information they presented at today's meeting.

Upon review of all documentation, the Board will reconvene and make a decision.

ACTION: The Division and Deputy Attorney General will provide additional information to the Board within seven (7) business days.

◆ **Adjournment**

MOTION: Chuck Graves made a motion to adjourn the meeting. Evan Goodwin seconded. All in favor, motion carried.

The meeting adjourned at 5:38 p.m. (MST).

JIM ROLETTO, CHAIRMAN
PUBLIC WORKS CONTRACTORS
LICENSE BOARD

C. KELLY PEARCE, ADMINISTRATOR
DIVISION OF BUILDING SAFETY AND
BOARD SECRETARY

DATE

03/29/2016rb

DATE