

BCOC Meeting Minutes

Date: October 15th, 2020, 5:30pm

Location: Video Conference

Video of this meeting, and past BCOC sessions can be found at:

<https://www.bsdt.org/district/budget/bhs-renovations/>

Present

Committee Members: Doug Nedde, Peter Bahrenburg, Clare Wool, David Boehm, Kate Stein, Martine Gulick, Marty Spaulding, Nathan Lavery, Tom Peterson

Members of the Public: Anna Huener, Natty Jamison, Mike Fisher, Monika Ivancic, Colin from RETN, Tom Flanagan

Introduction:

Tom Peterson began the meeting by introducing the makeup and role of the BCOC. Reminded those attending that there is time for public comment and questions at the end of the meeting.

- **Tom Peterson (TP):** I'd like to recap the purpose and genesis of the BCOC. There is a Memorandum of Understanding between the City and BSD. This MOU was a condition of getting the bond vote on the ballot. The MOU requires the hiring of an OPM, and creation of the BCOC with monthly meetings. The BCOC is tasked with providing regular updates to the BSD board of commissioners, the board of finance, and to seek approval for specific milestones. A project like this requires several meetings per week, and we couldn't expect volunteer committee members to attend all of those. We have the Owner's meetings every Wednesday. This group helps facilitate the design process and interfacing between the design, construction team, and the faculty and staff.
- **TP:** The monthly BCOC meetings are intended to give the public an opportunity to hear about the project, brief the committee members, and make decisions and recommendations. Transparency is a major part of the directive. I wanted to check in tonight and see how the BCOC members and the community are feeling about the process - does the structure of the BCOC support the goals of timely decision making and transparency? What are the pros and cons and changes needed, if any?
- **TP:** There are big decisions coming up. The Owner review and approval of the subcontractor qualification criteria for instance. VT bid law dictates that the school board must approve these criteria. When it comes time for bids, they must be opened publicly, at a school board meeting. There will be quite a few of those bid openings, which may require special board meetings.

Review of BCOC Role and Make-up:

TP reviewed the makeup of the BCOC, and announced that Commissioner Martine Gulick was joining the BCOC.

- **TP:** I'd now like to discuss the format of this BCOC format.

- **Martine Gulick (MG):** It seems like a pretty good system. I did have a question about the MOU. Obviously that predates the pandemic and the discovery of PCBs. Has there been discussion to amend it at all?
- **TP:** Not to my knowledge. I'm not sure what could be altered or added to the MOU that would provide any specific COVID response or relief. Clare, do you have any insight on this idea?
- **Clare Wool (CW):** Definitely worth while to think about that.
- **David Boehm (DB):** Oftentimes I felt that the detail that those Wednesday meetings got into was more than the BCOC was being expected to keep up with - do we feel that the committee is getting enough background information to be informed to make decisions?
- **TP:** BCOC members are welcome to join the Wednesday meeting, but we haven't specifically invited them. Like you said, those meetings can get dense, but we could share the minutes from those meetings. Those usually are issued the following day, which might help keep you abreast of everything.
- **DB:** I think that could certainly be part of the answer. Does it feel like there is a void, and that more members from this group on the Wednesday morning meeting would be helpful?
- **TP:** I don't know that there is a void, but I'd love to hear others perspectives.
- **CW:** I think it would be great to have any of you join in those meetings. There is also an Owner Architect Contractor (OAC) meeting every Monday. But the Wednesday meeting would be great to join in.
- **Doug Nedde:** How long is the meeting?
- **TP:** 9:00am to 10:30am generally, although they often run over. The OAC is Monday afternoons from 1:00pm to 2:30pm. Those tend to be more design oriented.
- **Marty Spaulding (MS):** I'd say they involve more of the Architect's sub-consultants, with detailed questions about design. Less school program related.
- **TP:** OACs had been starting with PCB and other Haz Mat discussion - but recently PCB updates have moved to the Wednesday meeting.
- **Nathan Lavery (NL):** It may make sense to expand the Wednesday meetings attendance, but they do sometimes meander - we will need to be really mindful of sticking to the agenda.
- **TP:** Going forward we'll plan to distribute the Wednesday meeting minutes to the BCOC. That will provide some good insight. I think we can ask WT to send an invite to the BCOC as well - no pressure to attend.
- **DB:** When does the agenda get issued?
- **TP:** I try to get it out a day ahead, but sometimes it is just a bit before.
- **DB:** The agenda would be helpful in determining if it is a good meeting to attend.
- **TP:** Do the Commissioners on the call have any questions or comments?
- **Monica Ivancic (MI):** Thanks for asking, but I'm still just trying to get acclimated.
- **Mike Fisher (MF):** My question is: what is the problem we are trying to solve? What is driving this discussion of "are we functioning correctly". Has there been a deficit? Just trying to improve?

- **TP:** I think a little of both - I think Tom Flanagan (TF) and myself are a bit concerned about how decisions are being made - making sure the who and when of decision making is clear and defined.
- **MF:** Seems to me, the decisions need to be made by the full BCOC. If the group on the Wednesday meeting can bring those decisions forward to the full committee - that seems necessary. If the BCOC needs to have additional meetings, that seems appropriate. If decisions are happening at the Wednesday meeting, that seems like it needs to be corrected.
- **NL:** That's a bit too simplistic. There is a wide range of decisions needing to be made - which decisions are appropriate to be brought to this committee? For instance, we don't want to bring minor design decisions to this group.
- **MF:** Good point - if those smaller decisions are being made at the Wednesday meeting - do you need a quorum, etc.
- **CW:** Our new super - TF, will be heavily involved. He is going to revisit the goals of his community and leaders. He wanted a reset to be sure everyone is clear of their role in the project. We welcome his leadership.
- **MF:** We need to ask ourselves - what is working well, what is not. Then we can decide what to address.
- **CW:** The BCOC is an oversight committee - intended to give guidance to the project, but a fulltime body to manage the project.
- **TP:** I'm rereading the MOU - which is very specific about the makeup of the BCOC, and it is clear that the intention is oversight, but it doesn't actually say they are intended to make decisions. It is an oversight role and to give updates to the city and the board of finance. I think it was very appropriate to ask the BCOC members for their help when we had to do major value engineering for instance. The BCOC was very helpful in making recommendations to the school board.
- **MS:** I think part of what TP is getting at is that there are certain decisions that need to be made by the board coming up, and we need the BCOCs help in making recommendations.
- **TP:** Right. The decision at hand is the subcontractor prequalification criteria. The school board has to approve the criteria - I think it would be great to have the BCOC recommend a course, as they are more up to date on the project.
- **MG:** The question of are students are going to occupy the building or not is so important too. That will affect the work of the BCOC but not be decided by them.

PCBs and Urban Soils:

- **TP:** Fuss & O'Neill has suggested that we do baseline air testing. The agencies seem to be all over the map as to what type of test and analysis they want. There are so many variations - and they don't all agree. Our consultant has devised a plan to do the baseline test and use methods that will help close the data gap. On the last round of air testing it was hard for the agencies to correlate the data because of the type of testing that was called for. The VTDOH screening levels are so low that many testing methods can't pick up anything at that level. We wanted the agencies to weigh in as to whether or

not they thought it was a good course of action. They have not yet. This round of testing is \$20k. I'm a little cautious - what we put into place has to have full buy-in from the agencies. We can't throw it out and do it over.

- **PB:** They understand the urgency I assume - how long have you been waiting?
- **TP:** Not too long. The final plan was just shared with the agencies a few days ago. They're not sitting on it - but we don't want to jump the gun. I think we'll say please give us the yay or nay by Friday.
- **CW:** TP you can share about how we got to this point.
- **TP:** Yes. In order to determine how and if we can make the school safe, we have to do a pilot project. They'll select several rooms that had high test results, and each one will become a mini mitigation project. They'll target the suspected materials, make a work plan approved by the EPA, DEC, and DOH. They'll take out a material, test again, and see if they are under the state's levels. Our consultant was on site last week and inventoried more materials and made a list of suspected materials that may require more bulk testing. The PCBs in the soils is really a different project. ATC is making a report of their site assessment. That will be filed this week. Then they will make a work plan filed with the DEC, and EPA. That will be filed by next Friday. Right now they aren't doing additional testing until the work plan is approved. Then the testing will get a deeper profile of the soils around the building.
- **TP:** the state's screening levels are lower than literally anywhere else in the world. The level represents a 1 in a million chance of getting cancer if you are in the building 11 hours a day, 250 days a year, for 30 years. A big question is if the state will allow averaging of test results. There is a parent advocacy group pushing to let the school reopen.
- **TP:** Touching on the development soils - some will have to be shipped off site. Again, the state has very low screening levels for that. That will be a considerable expense. Some soils may be able to be left on site and capped. If we are technically able to get the air levels down to acceptable levels, will it be fiscally possible?
- **DN:** There must be other schools/public buildings experiencing similar issues. Are there any successful projects that we could look to?
- **TP:** We have asked that of the agencies and our consultants, but there has been nothing of this magnitude.
- **MS:** That is accurate. The state did a pilot project a few years ago - one of which was at our Champlain school. They did find PCBs. Some levels were zero, some were 150, but they averaged the results, giving a total that was below the recommended levels. There have been other schools that found PCBs in the caulk, but no air testing was done. Because our project was planned to be phased over 3 years, we did the air testing now so we'd know occupants were safe. Other schools just found it in the caulk, removed it, and moved on. That's what we had intended to do.
- **TP:** We'll have to see if there is a silver lining to closing the school. If it is empty, and we can do a full abatement, then move on to the planned renovation, will that shorten the schedule and save money? Will it be a net savings when you have to have students elsewhere? Currently, the planning is moving forward with the understanding the

building will be occupied. If it remains empty, we'll adjust the phasing plans and do a cost analysis. I'd like to open it up to questions from the committee.

- **DB:** Is there a decision for us to comment on at this moment? It seems as though the PCB and soils work is necessary and moving ahead.
- **TP:** There's no decision at this point. Just want to keep the committee up to date on what is happening.
- **KS:** I have a question to the Commissioners: The upcoming board meeting on tuesday - what is the topic there?
- **CW:** We are working with TF on that. The BCOC will be included in the discussion about that agenda.
- **MF:** Is it correct to say we will be discussing overall strategy?
- **CW:** Yes. And immediate concerns of in person learning, that is the priority.

Subcontractor Prequalification Criteria:

- **TP:** I'd like the BCOC to weigh in on the subcontractor qualification criteria now. Again, it is a law that the school board approves this criteria. It is within the purview of this committee to bring a recommendation to the board. I know some folks may feel that the project should pause due to the PCBs, but we can't lose time, and need to get the permits and bidding systems in place. We sent out the sample list of criteria earlier this week.
- **DN:** I have a question about the bonding - any sub with a bid over \$500k is required to be bonded at that amount?
- **MS:** VT has some very strict bid laws for school construction projects. There is a line between bidders over and under \$500k. Anyone over \$500k has to be prequalified. They send us a bunch of info about their company, then the board approves based on their criteria. Of those approved, we are bound to go with the low bid. Under 500k, if we have a minimum of 3 bidders, we can choose among them.
- **DN:** I'm used to the GC providing the bond, not the subs.
- **MS:** Usually we only prequalify GCs, because that is usually what is over \$500k. But in the CM delivery method, the subs work for the district, not the contractor, so they have to be bonded.
- **TP:** And the bid laws are silent on what the criteria should be, only that they have to be approved by the board. They do not speak to bonding at all. But we obviously want to require bonding for large contracts.
- **NL:** The question to the BCOC is, do you want to make any recommendations to the school board with respect to these criteria. Is there anything we should add? Anything to take off?
- **TP:** To add some context, I've done a lot of projects that require criteria like this, and I've seen a very wide range of how robust they are.
- **MS:** We want a criteria that is not impossible to achieve, but be thoroughly screening them because we won't have another chance.
- **DB:** Has BRD weighed in?
- **TP:** Yes, the list at the bottom of the page here is from them.

- **DB:** I like what i see here. Some questions seem subjective - quality of workmanship for example. Some are more quantitative. Good mix.
- **MS:** Right, and references will be integral to judging the more subjective questions.
- **NL:** To try to move us forward - for the first 8 criteria - are there any items that don't belong or should be adjusted?
- **TP:** In my mind #4 needs to be clarified. I'm not a big fan of #8... how would they demonstrate that?
- **NL:** I agree.
- **MG:** Are you open to having the school board wordsmith?
- **NL:** Absolutely - that is their prerogative. We are just looking for the BCOC's recommendation.
- **MG:** I'm sure the board will have plenty to say.
- **NL:** I feel one of BRD's should be added, and maybe #8 should be taken out.
- **Tom Flanagan (TF):** This list should be as tight as possible before going to the board. We don't want this to hold anything up.
- **TP:** Agreed, thanks for saying that TF. We are hoping to get it in front of the board and approved at their Tuesday meeting.
- **DB:** #8 is, in my opinion, a one sided requirement that leaves things open for the contractor, but protects the school board. It's not quite fair perhaps, but if I were a contractor, I'd just be adding everything my company would bring to the table. I don't think people will be kept from responding, but will qualify their response.
- **MG:** Can we leave #8 for now, and the board can remove it if they want?
- **DN:** I've got a couple great subs whose companies aren't 10 years old, for what it's worth.
- **TP:** Yes, that is something good to consider.
- **MG:** Do you feel like 5 years experience is sufficient?
- **DN:** Well, the principles may have been in business a long time - but then started a new company. So I generally look at an individual's experience.
- **MG:** Adding that language seems good.
- **NL:** Or perhaps just ask them to demonstrate stable organizational structure.
- **DN:** So I'd just delete the 10 years part.
- **NL:** It makes the evaluation a bit different - may not be apples to apples.
- **TF:** Any other points Doug?
- **DN:** Experience is everything. If they worked in a school or not seems irrelevant.
- **MS:** Working on a school project is unique. Lots of more requirements. Some experience with schools seems appropriate to me. These will be big subs that will be involved for a long time.
- **DN:** I thought this was for every sub.
- **MS:** Only those bidding on work over \$500k.
- **MG:** There hasn't been a ton of school renovation in the state recently.
- **TP:** Maybe again just delete the 5 years reference.
- **DB:** There is the line saying 'or institutional work' which broadens the pool a bit.
- **TP:** I agree that K-12 work is unique.
- **DN:** It will really limit the pool of subs.

- **MS:** I can't disagree. Many of these pre-qualifications will be familiar to GCs though.
- **DN:** But not smaller subs.
- **NL:** Other items to discuss?
- **DN:** On #7 I'd make sure they have easy access to what those ordinances are.
- **DB:** Why do you phrase #4 that way?
- **MS:** The expectation is that they bond for the cost of their scope of work. This list will go to different subs with varying scopes. One sub may have \$10 million of work, another maybe only \$500k. The bonding should align with their scope
- **NL:** The additional items from BRD that have been moved up - I think something to the effect of #13 should go in, but I think it is too narrow as is. They may not have worked around school children.
- **TP:** I added occupied facilities.
- **NL:** But if they haven't worked in an occupied school...
- **DN:** Not many contractors work in schools during the year. That will be a very small pool.
- **MS:** I'd eliminate the reference to schools in #13.
- **TP:** Done.
- **NL:** Any other items to come off?
- **MS:** #8 is being left for board discussion? Or remove?
- **MG:** As a board member I'd say leave it for now.
- **CW:** Agreed.
- **NL:** My issue with it as is, is that it is too broad. If the board approves it, I'd be concerned. All criteria and no criteria in one. I'd remove it, and the board can add anything they want. As it is now, it will feel to the board that the BCOC is recommending it.
- **KS:** We could add a note saying the BCOC didn't love it, but that it had been in previous projects.
- **MG:** I do think the board needs an opportunity to weigh in on this. We could delete and add a note at the bottom.
- **TP:** I could attend that meeting.
- **CW:** Was this the criteria used on your last big project MS?
- **MS:** Yes, but again, it was aimed at GCs who needed to manage the project.
- **CW:** What's your recommendation?
- **MS:** I'd say remove it. We are asking for this group's recommendation though.
- **DB:** I would advocate for removing it as well.
- **CW:** I'd like the professionals recommendation on this - from WT maybe?
- **TP:** Ok, we can do that. I want to get this criteria on the school board's agenda though. We have consensus to forward this to the board. Anyone from the public for comment or questions?

There was none.

- **DN:** Final comment: a decision making flow chart would be really helpful. I'm still not totally clear on who makes what kind of decision.
- **TP:** NL and I are working on something to that effect.

Meeting Concluded at 7:22PM