

BUILDING BEST PRACTICES

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Welcome to Building Best Practices, the AGC MA quarterly publication featuring informative member driven content that will drive best business outcomes, contributed by industry thought-leaders to benefit the built environment.

10 Tips Construction Companies Should Know About Crisis Communications

Construction firms designate time and resources to safety programs, equipment, and coordinators, yet often neglect to plan for how to handle a crisis. Even with safety precautions and good business practices, accidents happen. How would you respond to a reporter asking about a construction incident involving your company?

A crisis or unexpected event that focuses media attention on your firm can be disruptive to normal business operations and have a real or perceived negative impact upon your company. Especially in this digital age of social media, bloggers, and the relentless 24/7 news cycle, construction companies would be naïve to think that they alone can control the dialogue during a crisis. Here are 10 tips every construction company should know about crisis communications:

1. It's important to view crisis communications planning as a necessary part of business, on par with a strategic business plan. A crisis situation on an active construction site can happen to any firm at any time. Construction companies would be wise to prepare now to prevent one from turning into a reputational crisis.

2. Crisis communications is as much a preparedness exercise for responding quickly and ethically in a challenging moment as it is a tool for reputation management. The goal is to provide precise, consistent information to the press, employees, clients, and partners in an effort to protect the firm's reputation. If you do not provide information, the story can take on a life of its own – and not always an accurate one.

3. A detailed crisis communications plan will help you evaluate the scope and level of a crisis while establishing a uniform communications system, procedures and protocols to help your company deal effectively with an unexpected emergency situation.

4. Whether you hire someone to develop a crisis communications plan for you or handle it in-house, you should create and implement a crisis communications plan before a crisis affects your company. A well-conceived crisis communications plan provides actionable steps to help a company best control its narrative when it will matter most.

5. Appoint a crisis response team and outline their roles, including one effective, well-informed spokesperson to interact with the press. Be sure to instruct staff where to refer inquiries.

6. In the event of a crisis, activate the pre-determined crisis team and gather available information to assess the situation. The goal is for the company to control its narrative when others are highly likely to create competing and ill-informed story lines. Until you have confirmed information, don't speculate on the cause of the emergency, the condition of the people involved, the resumption of normal operations, the dollar value of losses, etc.

7. Offer an explanation instead of flatly refusing to answer. If something is too controversial to discuss, explain as much as you can. "No comment" sounds as though you're hiding something. Answer truthfully and remember that nothing is truly off the record.

8. If a reporter calls and you're not prepared to be interviewed, assure them you will call back before their deadline. Return phone calls as quickly as possible. You can't influence a story once the deadline has passed.

9. If a TV crew shows up unexpectedly at your office, escort them to an area where they will not have access to staff and clients and have someone stay with them until you're ready to speak with them.

10. Consider creating a micro-website to post relevant event updates. Social media and online posts should be monitored diligently and responded to immediately via the same platform. Deal with rumors swiftly. Update information frequently and always stay on the record.

A crisis communications plan needs to be a living, breathing document and something you visit and update on a regular basis. Many firms either don't have a crisis communications plan, create one and let it gather dust, or mobilize on the fly, which can be disastrous. The more up-to-date your crisis communications plan, the better prepared you will be to handle an urgent event professionally and with minimum impact to your firm.

About the author

Susan Shelby, FSMPS, CPSM is the President and CEO of Rhino Public Relations, a full-service PR and marketing agency focused on meeting the unique needs of construction firms. Rhino PR offers customized services based on each individual client's goals and budget.

Follow her @RhinoPRBoston or visit www.rhinopr.com for more information about how Rhino PR can help you take charge of your PR.





Individual Improvement Through Collaboration

Should a construction manager or general contractor ever pose the following question to a subcontractor – ‘How can I, as a CM, improve your company’s safety?’ – the answer would likely take some serious thought. Answering this question requires a construction manager (for the purposes of this article, the term construction manager will be synonymous with general contractor) to walk in the shoes of their subcontractors, as well as the trade people that build the project.

Here’s the problem: despite the best intentions of every subcontractor, their burden regarding safety is oftentimes overwhelming, and *always* inefficient. This is not a slight on the subcontractor, but rather on us CMs. Picture the Boston construction market. Now picture the CMs that manage this market, and finally picture the safety programs for these CMs. You’ll notice that the safety programs for *all* of the CMs are fundamentally the same. In other words, the bones of our safety program are nearly identical. We require subcontractors to bid certain safety requirements, submit project-specific safety plans, submit job hazard analyses, attend orientation, provide hoisting plans for crane operations, etc., etc. This is not to say that the safety climate is the same with all CMs, but rather our basic programs have an undeniable commonality. The burden for our subcontractors lies in the necessity to adapt to *minor* differences in safety programs every time they move from CM to CM, project to project. A project manager, superintendent or foreman must change, in minor ways only, how they manage safety depending on which CM they’re building for.

As an example, almost all CMs require trades to provide a detailed, written plan for their operations, commonly referred to as a pre-task plan. Some CMs require a particular form or document, and require them at different intervals (daily, weekly, per operation, etc.). What if CMs agreed to a standardized form and delivery? The work that subcontractors perform, except for constraints and logistics – time and space, does not change substantially from job to job – framing walls is basically framing walls. What if every trade across the city could walk onto any major CM’s job, and know exactly what to expect, because it was the same as the last project with a different CM? What if every crane company in Boston utilized a standard hoisting plan that met the basic requirements of all CMs? The result would be a very noticeable increase in efficiency, with a large decrease in learning curve. Translation: more efficient = better product = healthier and safer outcome for the trades people. It’s much easier to learn something once and perfect it over time by repeating it, than it is to learn new requirements continuously.

It is this thought process that led several Boston CMs to create a new group with this goal in mind. Safety professionals from Shawmut, Consigli, Columbia, Lee Kennedy, Turner, Dimeo, Suffolk, JMA, Bond, Lendlease and Skanska have partnered with the AGC to make this a reality. The *Boston Construction Managers Safety Partnership* has the following mission: *The Boston CMSP is a group of experienced and passionate construction safety professionals from the leading CMs in the Boston region. Our mission is to align CMs on **key issues** that impact the safety of construction trades people in the Boston area. We will achieve this mission by (1) determining key issues that will improve efficiency and consistency among Boston’s subcontractor base in regards to execution of safety, (2) developing strategies, policies and practices that create consistent and streamlined execution of safety on construction projects across all CMs, (3) engaging experienced and expert personnel from Boston’s trade representatives, trades people and subcontractor core to aid in the development of these strategies, policies and procedures, and (4) implementing these strategies, policies and procedures across all of the CMSP members’ projects.*

It’s worthy to note here that the intent of this group is *not* to remove the individual identities of CMs and their safety programs, but rather to find common ground by which we can make our subcontractors’ efforts more efficient. We all share the same subcontractor pool, and the majority of the actual construction that takes place on any project is by our subcontractors. The potential gain for each individual CM is great. For more information about the Boston CMSP and its initiatives, please contact Chris Ziegler Ziegler@agcmass.org

About the author

Jason Edic is the Director of Environmental Health and Safety for Lee Kennedy, Co., Inc. Jason also serves as the Board Chair of the Boston Construction Managers Safety Partnership.

The Boston CMSP is a group of experienced and passionate safety professionals from the leading general contractors in the Boston region. Their mission is to align general contractors on key issues that impact the safety of construction trades people in the Boston area. Learn more at www.agcmass.org/boston-cmsp





SNAPSHOT in TIME: The Daily Report

If you've ever been tasked with reading or writing a daily report, it may not rank high on your excitement meter. Perhaps, so was reading Shakespeare in high school, as it is often difficult for students to find the relevance of the ancient script to their 21st century existence. Yet, as we all eventually learn, Shakespeare's writings contain timeless themes that have an undeniable lasting impact. So too are those of the daily reports. Not designed for their poetic delivery of information, they are no less important to a construction project.

Their importance can be segmented into two main categories: the profitability of the project, and risk prevention.

Profitability: put simply, the collective reports tell a story about job progress, materials and/or resource delays, and provide information which will allow you to course correct, initiate recovery schedules, and deliver the project on time – essential to making money. They also provide information on which trades were on site, how many workers, and the timeframes in which they worked. Major material deliveries get recorded, which means, they must be checked for accuracy and/or damage to product. This analysis informs who gets paid, status of job progress to date, and ensures materials are on site when needed. Regulatory inspections are noted, as well as, confirming the safety of the project.

Risk Prevention: Field notes, that document the activity on the site, are often the most reliable account of what happened, months, and years later, in the event of a contractual or legal dispute. Memories fade, and details matter. Daily reports provide a lasting record.

Daily reports are as powerful a tool as any of those in your toolbox. Take them out, fill them out, and record advance signs or warnings. While you may not have a best seller on your hands, you can find comfort in delivering a profitable job.

About the author

For 7 years, Jackie Falla has held the role of Director of Client Services at Elaine Construction providing expertise ranging in strategic planning, technical writing and time management.

Her skills in establishing and cultivating client relationships have continually proven successful in generating new business opportunities for the organization.

For more information please visit:
www.elaine.com



If You Didn't Notice It, It Can Cost You

When a potential change on a project is discovered, reviewing the contract documents is often not the contractor's first step. A contractor is typically inclined to focus its attention first and foremost on solving the problem. However, it is important to recognize that most contracts contain provisions requiring certain steps be taken by any contractor or subcontractor who intends to assert a claim for extra work. For example, notifying the appropriate designated representative within a specific time frame is typically required. It was recently reported that a Massachusetts Appeals Court decision confirmed that strict compliance with written notice provisions of the contract was paramount and failing those obligations was not excused. Contracting parties should therefore understand that the litigation of a claim may be quite short lived if a contractor fails to comply with the notice requirements contained in its contract with the owner.

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If You Didn't Notice It, It Can Cost You (cont.)

In a typical contract used by owners, the American Institute of Architects (AIA) contract documents has numerous references to the many notices required under various circumstances. AIA A201 general conditions require that the contractor or subcontractor give written notice of any claim *"within 21 days after the occurrence of the event giving rise to such claim or within 21 days after the claimant first recognizes the condition giving rise to the claim, whichever is later."*

A201 does not detail the notice and documentation requirements for a claim. Instead, it provides: *"The Contractor's Claim shall include an estimate of cost and of probable effect of delay on progress of the Work."* The Associated General Contractors ("AGC") of America has also developed its own set of standard form contract documents called ConsensusDocs. In accordance with Article 8.4 Claims for Additional Cost or Time, written notice is required within 14 days after occurrence or 14 days after Contractor first recognizes condition giving rise to claim, whichever is later. It also notes written documentation of claim within 21 days after giving notice, unless a longer period is agreed upon. In addition to the AIA and AGC standard form documents, the Engineers Joint Contract Documents Committee ("EJCDC"), the Design-Build Institute of America ("DBIA") and the Associated Owners & Developers ("AOD") have each developed their own set of standard form contract documents. Those documents contain notice of claim provisions similar to those found in AIA A201 and ConsensusDocs.

Contracting parties should take great care to prevent a technical requirement from turning into a technical deficiency when intending to make a claim for extra time and or compensation.

Always make sure that you and your field personnel are aware of and follow all notice provisions requisite to perfect your claim. Failure to follow those provisions to the letter can result in the denial of an otherwise legitimate claim for extra work.

There are some situations where a contractor can make the case to overcome the lack of notice, such as its ability to demonstrate waiver, actual knowledge, misconduct, cardinal change, or the notice provision was not yet in effect. Another reason used to get around lack of notice is that the owner was not "prejudiced" by the lack of having notice (i.e., it would not have changed the situation, the owner was not harmed/damaged, etc.) assuming they at least had constructive notice.

Circumstances such as these (there may be others) may permit the prosecution of the claim even without strict compliance with contractual notice provisions.

However, the prudent contractor, when asserting a change, should not rely on convincing a trier of fact that one or more of these exceptions existed, thereby obviating the need to provide proper and timely notice.

The 2017 revisions to AIA A201 modernize the mode in which notices may be delivered. All notices still must be in writing, but the methods are expanded to now include delivery *"in person, by mail, by courier, or by electronic transmission if a method for electronic transmission is set forth in the agreement."*

Contractors could realize greater benefits from flexible notice provisions. Electronic and fax notice are particularly efficient ways for the contractor's project management and field personnel to communicate notice of claims to an owner, but understand it must be specifically agreed upon in the document. Also the notice must satisfy the contract's notice of claim requirements. Whatever information is required in the written notice of claim by the contract, should be included in an e-mail or fax notification, and make sure you retain proof of receipt by fax or e-mail. Follow up in writing. Another important change to the AIA notice provisions was the modification of the notice required to make a claim for concealed or unknown conditions. The limited notice window was changed from within 21 days *"after the first observance of the conditions,"* to just 14 days. These are only a couple of the changes in the most recent version of A201.

In recognizing the critical importance of notice requirements, there are some steps you can take at the start of the project to better prepare your team. These include:

- Review proposed contractual language that defines the deadlines for notification of a claim, and determine if your organization is set up to comply before agreeing to that proposed language.
- Develop a summary of the agreement that highlights any notice requirements and make that summary readily available to all your team members (office and field).
- Regularly audit your team to identify any recent events which could potentially give rise to a claim, and confirm they have met the notice window with a contractually compliant notice.
- Pay particular attention to include "flow down provisions" in your subcontractor/consultant contracts so that they can meet the notice requirements in the contract with the Owner.
- Last but not least, AIA A201 provides: *"The Contractor's Claim shall include an estimate of cost and of probable effect of delay on progress of the Work."* Early quantification of the impacts may be hard but absolutely key to timely resolution of a change.

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If You Didn't Notice It, It Can Cost You

(cont.)

Some argue that notice and documentation provisions generally are enforced even more strictly in public contracts than those found in private contracts. In either case, don't give the Owner or the courts any reason to use a lack of notice as a reason to reject your claim.

This article is not intended to offer legal advice. The parties to contracts should always seek qualified legal advice from attorneys experienced in construction law prior to contract execution, and as necessary throughout the contract term.

About the author

John Sheridan is the Executive Director at PMA Consultants, LLC a hispanic-owned, international construction consulting firm and recognized leader in program, project, and construction management. They specialize in owner representation, project controls, claims management, and project risk management.

For 28 years, John has provided a diversified portfolio of project management and expert services to Private and Public Clients on programs/projects ranging from a few million to billion(s) of dollars.

Learn more at www.pmaconsultants.com



EDITOR'S NOTES

Contributed by Tom Dunn, Construction Lawyer, Pierce Atwood LLP



I am thrilled to contribute to the AGC's Building Best Practices and honored to write in the inaugural edition. Our goal with this quarterly newsletter is to share the best practices developed by our members and to propose new strategies or ideas to improve the construction industry in Massachusetts. Whether done through case studies, tips, articles, or sample documents, it is our intention to spark an increased dialogue about ways we can improve construction processes for AGC MA members.

Our authors set the bar high for future editions. Susan Shelby made the case for a Crisis Communications Plan. Failing to have such a plan, and team in place, could have direct and meaningful consequences to a company's reputation if and when such a crisis arises. Jason Edic, and the dedicated companies that form the Boston Construction Managers Safety Partnership (CMSP), are taking real action to harmonize safety practices on projects. The focus is on safety but also to obtain substantial efficiencies amongst subcontractors by having consistent safety requirements. John Sheridan's and Jackie Falla's articles also provide invaluable tips, including developing a 1-2 page cheat sheet of contractual notice provisions on every contract for your project management team. This is a practice I recommend to my clients. The contractors who have implemented the practice are much more likely to have project correspondence from their PMs citing key contract provisions and not missing certain requirements or deadlines that could be detrimental to their legitimate claims.

The editorial team of Building Best Practices wants to hear from YOU. Contact us with your suggestions, ideas, and articles. We want this to be a valuable resource for all of AGC MA's members, and the best way to achieve that is if our members contribute!

WALSH BROTHERS Since 1901

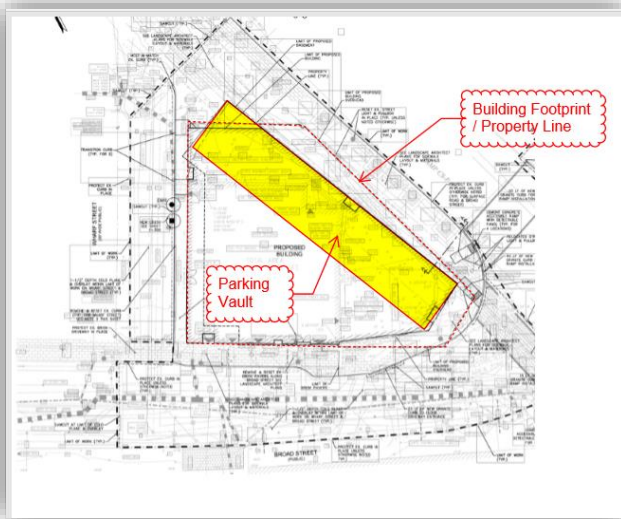
Have you ever worked on a postage stamp of construction site?

At 110 Broad this concept takes on a whole new meaning. With limited space, approximately 110,000sf to be exact, we had the challenge of building 36 luxury condo units with 3,500sf of commercial space on the ground level. The challenge came when we had to find a way to provide a parking solution to accommodate 48 spaces. It required the team to get innovated, dig deep (literally) and come up with the best and most unique solution – an automated guided vehicle (AGV).

Construction of the 12-story cast-in-place post tension concrete residential building on the corner of Broad Street and the Greenway in downtown Boston is moving quickly toward completion. The project creates a visual link between the high-density business district, the Custom House Historic District and the Rose Kennedy Greenway. In keeping with the historic vibe of the area, we preserved two facades of the historic Bulfinch warehouse while incorporating a reimaged entrance and exterior.

The four-level Park Plus AGV system was set within the buildings 53-foot-deep slurry wall. This innovative approach helped to move the project forward but also required a high-level of creative team work to solving the myriad of challenges. Right from the start, Commodore Builders took an active role in the pre-construction process with the design-build contractor Park Plus. We took site tours of projects in New York that were currently using this system including a visit to the manufacturing facility of the system in New Jersey. We spent countless hours consulting with the engineers who designed the New York parking system and came back fully equipped to begin construction.

One of the first challenges encountered was the tolerance of the slurry wall foundation and the clearances in the garage space to install steel and MEP systems. During excavation multiple obstructions were discovered including an old steel H-pile left behind from the Big Dig. This created a blow-out in the slurry wall which needed to be chipped out with a Brokk to get within the Park Plus tolerance level. The Commodore team anticipated this would happen again and designed the slurry wall cages to include box-outs at the steel within the parking vault. (cont'd on next page)



The 100,000 sf building includes 36 luxury condo units with 3,500sf of commercial space on the lower level with a café and retail space. The most unique feature of the project is the 48-space fully automated below-ground garage. In fact, it is the first of its size in the City of Boston. Residents will be able to drive their vehicles onto a large platform, which will spin and slide the car into a slotted parking space. Residents simply retrieve their cars by a keycode or smartphone app and the vehicle will be returned to the platform. Sounds easy enough, right? There was a lot of planning and research that went into this unique approach.

Box Out at Parking Vault Steel



Sprinkler Piping Solution



WALSH BROTHERS *Since 1901*

Another challenge was the layout and sizing of the fire protection system. The final as-built condition is within 1/8" tolerance from the bottom of the heads to the clearances needed for the vehicles. The piping is run tight to the underside of the decking and the heads actually turn up inside the decking and drop over, since the typical install would not allow us to maintain the clearances. This was a collaborative process during the planning phase. Various options were explored, ultimately resulting in not resizing the mains, still allowing for pre-fabrication off site with no impact to schedule or cost.

Being the "first" to do anything in the City of Boston is no easy feat. Although there are other automated parking systems in Boston including the Rack and Rail system – the AGV concept was the first in Boston and naturally required an extensive review process by many agencies.

This created a few anticipated obstacles in which the team worked through seamlessly. We are thrilled to be turning over this ground breaking project very soon!



Future Car Lift Opening



Tight Tolerance

"Building a 'first of its kind' innovative solution to a parking problem has been a unique challenge. There is nobody to turn to that has built one of these AGV systems in Boston. We need to eliminate the surprises, elevate the experience, and execute with excellence because there are a lot of eyes watching us and waiting to see how we perform."

Daniel Connolly - Commodore Builders (Project Manager)

Commodore/Walsh Team

Joe Albanese PIC (Commodore)
Richard Walsh PIC (Walsh)
Chris Sharkey PX (Commodore)
Ryan Desmarais SPM (Walsh)
Chad Vaughn APM (Walsh)
Ed Corey Super (Commodore)
Ross McSweeney Super (Commodore)
Dan Connolly PM (Commodore)

Design Team/Ownership team

Owner – New Boston Ventures
Architect – Finegold Alexander
Structural – McSal
MEP – WSP
Parking Engineer – Simon Design

Trades

Parking Subcontractor – Park Plus
MEP – EM Duggan
Elec. T&T Elec.

About the author

Dan Connolly is a Project Manager for Commodore Builders and past Chair of the AGC MA Construction Leadership Council (CLC) Committee.

Commodore Builders is a \$350M construction management firm that builds many of the most notable projects within Greater Boston. They provide clients and partners with a construction process that eliminates the unexpected, while elevating the experience, allowing them to execute with excellence. Commodore focuses their expertise within the commercial, tenant interior, institutional/academic, life sciences and hospitality markets.

For more information visit
www.commodorebuilders.com



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**Are you an AGC MA member and
interested in contributing?
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