

CAPITAL PROJECTS ADVISORY REVIEW BOARD

REAUTHORIZATION COMMITTEE

Draft Minutes

April 23, 2020 Noon – 3:00 pm

Meeting Location: VIA SKYPE/PHONE ONLY

206-386-1200,,509200# (US) English (United States)

844-386-1200,,509200# (US) English (United States)

Conference ID: 509200

Members Present: **Chair:** Rebecca Keith (WA Cities)
Vice Chair: Robynne Thaxton (Private Industry)
Loren Armstrong (WA Ports), Becky Blankenship (Architects), Neil Hartman (WA Building Trades), Janet Jansen (DES), Robin Heinrichs (School Districts), Santosh Kuruvilla (Engineers), Scott Middleton (Specialty Contractors), Eric Nordstrom (Counties), Mike Pellitteri (General Contractors) (left at 2 p.m.), Linneth Riley-Hall (Transit) (left at 1:30 p.m.), Lisa Van der Lugt (OMWBE), Olivia Yang (Higher Ed)

Others Present: Nancy Deakins (DES), Bill Dobyms (CPARB, General Contractors), Jesse Gilliam (City of Seattle), Howard Hillinger (PRC), Don Laford (CMAA), Walter Schacht (CPARB Chair), Dan Seydel (Platinum Business Group, Small Business), Vikki Stocker (KBA, Inc., CMAA)

Committee Task: Achieve reauthorization of RCW 39.10

12:00 noon

Welcome and Introductions

Meeting convenes at 12:01 p.m.

Approve agenda

DECISION: Agenda approved - no additions, no objections.

Review and approve meeting notes from March 5, 2020

DECISION: Scott makes motion to approve minutes. Robynne seconds. All approve, none opposed.

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12:10 – 12:20

Update and discussion regarding timeline and strategy post-COVID 19 - Rebecca and group

REBECCA: We are currently scheduled to deliver proposal to CPARB in mid-May. COVID-19 has impacted internal schedules and potential timelines and priorities of Legislature.

COVID-19 has given an opportunity to focus on what needs to happen most: getting reauthorization.

Proposes the committee should bring draft before CPARB in mid-May with issues considered, issues rejected, issues in proposal and open issues.

LINNETH: Agrees with approach. Suggests another bucket: issues that need to be worked on, but that could be delayed to another year given the priority of reauthorization.

REBECCA: Explains open bucket as encompassing that – issues that will need to be discussed over the summer to decide on timeline.

ROBYNNE: Agrees focusing on reauthorization and further refining over the summer is the right approach.

JANET: In agreement. Notes Legislature will have many other things to be concerned about and CPARB reauthorization needs to be streamlined to be accomplished.

LOREN: Agrees.

LISA: Asks to engage with legislators now so we can move quickly later.

REBECCA: Notes she and Walter have been in touch and were going to meet with legislators, however meetings were delayed by COVID-19.

WALTER: Notes at this point people have adapted to a different mode of communication so group could reconsider meetings at this time.

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REBECCA: Closes issue.

12:20 – 12:32

GCCM Committee update – Scott Middleton

SCOTT: Notes challenges to GCCM decision-making process with snow event and COVID-19 delaying an already assertive timeline.

Thanks committee for work to date.

On May 1, Scott will present all GCCM suggestions at once. Feels confident he will present a solid package to the group.

GCCM Committee will meet April 28 to go over final outstanding items:

- ECCM/MCCM issues – reviewing counters from public owners.
- Expanding 39.10.385 to all trades – still under consideration.
- GCCM subcontracting and subcontractor bid packaging – a subcommittee will meet to discuss this Tuesday.

Next task for committee is designing a best practices guide for GCCM delivery.

REBECCA: Thanks committee for work. Asks about process.

SCOTT: Process is to meet Tuesday as a GCCM committee and then Scott and colleagues will meet to compile package and outstanding items.

Information will ideally be sent to reauthorization committee as a pre-read.

REBECCA: Closes issue.

12:31 – 1:30

Review and Finalize decisions on CPARB Membership, Powers and Duties (RCW 39.10.220 and 230) (see three

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proposals re: membership; see proposal for .230 re: questionnaires)

REBECCA: Explains the committee will now review proposals and starts with summary of issues re: CPARB membership.

- Transit: hearing universal approval for adding transit. However, outstanding issue is whether and how CPARB should be balanced.
 - Some feel that balance is acceptable after adding transit given that legislators do not vote and there are still more private voting members than public.
 - Others believe one more private position should be added and current ratio of public/private maintained.
 - For those supporting adding another private position, there is divergence on what that position should be

Several proposals have been received and distributed with meeting agenda – Rebecca asks to have each one presented each and then discuss as group.

CMAA proposal (Submitted by Howard Hillinger) – would add two positions

HOWARD: The proposal would be to add to CPARB: one position from construction management and one from transit.

Notes CMs are currently three of 30 positions on PRC, have expertise in many issues relevant to PRC.

CM positions on PRC are over-subscribed, with five applications for two positions.

CMs are a reliable source of expertise and bring broad experience with many forms of alternative delivery.

REBECCA: Asks if the CM should be from a specific organization (CMAA) or if this is a general addition.

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HOWARD: Notes this would be a general position – in line with other professional and industry positions.

This proposal represents what the CMAA Board has adopted and requests.

SANTOSH: Notes CPARB does have CM representation already. Asks what additional perspective CMAA would bring.

REBECCA: Asks to hold question as it is substantive, would like to have all membership proposals and clarifications then discussion of the substance.

LINNETH: Clarify – would this be construction management as defined by CMAA?

HOWARD: In the statute, current language does not define representation so CMAA suggests the CM position follow suit not be defined.

Notes PRC has definitions (non-statute).

LINNETH: Notes everyone has a different idea of what a CM is – does someone need a specific certificate?

HOWARD: Defines CM as someone having expertise in ten areas – experience, education, testing. CMAA does have a certification process. Majority of people who carry the title would be owners rep or construction manager.

LINNETH: Asks if proposal to add a representative from ACEC is similar to this proposal.

HOWARD: Clarifies the ask is for a CM representative rather than a specific group.

DES/Scott Middleton proposal - qualifications

SCOTT: Proposals include:

- Add that members of board must be knowledgeable about public works procedures
 - Add “one representative from either construction general contracting or specialty subcontracting
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whose principal place of business is located in Eastern Washington”

- Add transit position but clarify it is for “transit mobility”
- Keeps current public and private balance

HOWARD: Asks about Eastern Washington specific position for contractor v. other positions?

REBECCA: Asks to move to substantive discussion section.

Olivia: Alternative proposal based on geography

REBECCA: Explains proposal is:

- Appointments to the Board shall be made to reflect the geographic diversity of the state

OLIVIA: Notes there are two proposals that say CPARB should present the entire state and also two proposals say that CPARB board members should be knowledgeable about public works procedures.

Notes there is nuance about the term “eastern Washington” and what represents eastern Washington.

Discussion

REBECCA: Outlines discussion as:

- Should we add transit?
- Should we add another position? What would it be?
- Should we add language about members being knowledgeable and experienced?

Transit

LINNETH: Sound Transit in support of position and of having it go through the Washington State Transit Association.

REBECCA: Asks about the “transit mobility” term.

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SCOTT: Notes Andy Thompson mentioned it would add more flexibility, however does not have further information.

REBECCA: Transit position approved by Washington State Transit Association was tentatively approved in November.

DECISION:

“One member representing public transit selected by the Washington State Transit Association.”

Robynne moves to accept this language. Janet seconds. No discussion. All approve. None opposed.

Next issue for discussion is should we add another position?

OLIVIA: Asks to clarify number of public and private positions.

SCOTT: If historically we have a balance (even as numbers are uneven), we don't want to change the balance. As we just agreed to add a public position, we must add a private position.

OLIVIA: Notes – that means we must keep the historical imbalance, not balance.

SCOTT: We should keep balance the same whatever it is.

WALTER: Has not seen board decisions be impacted by division along the public and private sector sides.

Notes bringing transit aboard brings knowledge of horizontal construction, not vertical construction.

Feels as a private member it is not crucial to bring another private representative on board.

Notes that as the Chair he does not want the Board to get larger due to challenges obtaining quorum.

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As the architect representatives he would not support adding two seats.

SANTOSH: Agrees with Walter's point. Asks – what is the manageable size for the Board? Notes quorum is difficult.

JANET: Agrees with Walter. Notes CMAA proposal is a private company, and notes transit may have made the balance.

SANTOSH: Eastern Washington representation is a good one but could be captured in who the Board votes for.

REBECCA: Notes these are positions the Board does not appoint.

LINNETH: Comments if there is a specialty lacking, we should add – but we shouldn't just add in one area because we added in another area.

Focus on the needs – not tit for tat.

HOWARD: In experience at PRC has not been conscious as a public or private position in decision-making.

Discusses positive aspects of adding transit and CM.

DAN: Notes in chat comments that he agrees with Howard. In PRC we had a strong CM presence but CPARB has lacked it.

ROBYNNE: Notes balance issue of public/private is not an emergent one. Notes geographic diversity is biggest lacking element.

Notes she really likes the experience language.

OLIVIA: Asks if Robynne supports adding private position or not.

ROBYNNE: Does not think it is necessary to add a private position, but as a compromise she would be

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willing to add a position that is for a representative that would encourage Governor to add geographic diversity and add focus on experience.

OLIVIA: States she is in the same place as Robynne. Does not think CPARB should add. Notes that if group does add, should make a more generic private industry position.

Values “procurement geeks” over specific title.

Notes there should be at least a basic grasp of construction management – not necessary to be at the level of construction manager position.

SCOTT: Supports adding a private industry position over a CM position – it can be general.

Clarifies that he does not believe there is anything nefarious going on between public and private, but feels that historical set up of balance should be retained.

WALTER: Real issue is to get transit on the board. Not sure historical balance matters.

In terms of who gets appointed, the Governor’s office does look at multiple criteria. Board must support Governor’s goals and consider other priorities. Working hand-in-hand with Governor’s office, CPARB has made headway. Writing into legislation might not hurt, but where the rubber meets the road is CPARB working with Governor’s office.

CPARB could bring eastern Washington representation to Boards and Commissions as another angle to diversity.

Walter believes if another private industry would be added (which he does not support) it should be a licensed design professional.

LOREN: Notes he is supportive of a consensus-based approach and keeping things as small as possible.

BILL: Supports transit.

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ERIC: Does not support adding another position just for the sake of balance reasons.

BECKY: Agrees with Walter and Olivia.

BILL DOBBINS: Agrees with Becky.

1:30

Break

1:45

Continue conversation of proposals

REBECCA: discussed process with Vice-Chair on break. To be transparent, Committee agreed to add transit and to add another position there needs to be a motion and a vote. If no motions are made, nothing will go forward.

SCOTT: His vote to add a transit position was contingent on adding a private industry position to CPARB. Understanding was that was where the committee was headed.

Public/private balance was a historical decision made by the legislature. Changing that balance should be made by the legislature.

MIKE: States his vote would be to have another contractor on the position. Wide variety of public and private owners, each with a different perspective. Contractors doing the work all have different perspectives as well. Having another contractor brings another important perspective, especially since contractors have to live with the repercussions of this committee.

REBECCA: Asks if anyone else feels transit vote was contingent on another position.

HOWARD: Adds that CMAA would be prepared to endorse another private industry position in general.

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MIKE: Notes that if someone in CPARB does not participate, they should risk losing the position for their industry.

REBECCA: Notes in times when positions do not participate issues are dealt with appropriately by chair. Notes Governor controls appointments. Does not see how adding a position addresses concerns about vacancies – thinks it is a separate issue.

REBECCA: Asks again if there are any motions.

DAN: Asks if he can make comments.

REBECCA: Notes he can make comments, but a member must make a motion.

REBECCA: Notes absent a motion, the status is that the group voted to add transit.

Closes issue, moves forward.

Geographic diversity and knowledge

ROBYNNE: Echoes Olivia's comment – what does eastern Washington mean?

Notes it is not a good idea to focus geographic diversity in just one position.

Likes the addition of knowledge of public works procedures.

Suggests that for the drafting, that knowledgeable of public works procedures could be adjusted to (a) through (e)– doesn't think it would apply to legislators.

REBECCA: Notes that currently the knowledge and experience language refers to requirement for appointed members.

Scott and Nancy propose moving members up to section two which would make it apply to all members, but Robynne notes accurately it could be an issue with legislators.

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OLIVIA: Asks if her proposed language can be substituted.

REBECCA: Has a question about direct experience – what does that mean?

OLIVIA: Says if you have experience handling contracts and procurement that should qualify you. More than your job/experience puts you in the procurement area.

Says can remove “direct” and change to and/or.

NANCY: Notes code reviser does not like and/or in statute. Can it change to “must be knowledgeable and have experience in public works contracting.”

OLIVIA agrees.

NANCY: Geographic diversity is a great idea but is also part of Governor’s policy to represent population diversity.

OLIVIA: Does not understand comment and asks if diversity will be controversial?

NANCY: Notes that it is part of policy to look at geographic diversity for Governor.

SCOTT: Support language with focus on experience.

Notes there is probably a way to carve out legislative members with wordsmithing, a simple phrase, adding another number.

REBECCA: Proposes swapping f and g to make sure legislature is dealt with different than appointed/selected members.

ROBYNNE: Thinks group should seek input from code revisers. Volunteers to connect with code revisers.

DECISION:

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Move forward to add this phrase, after wordsmithing*
Informal ask – none objected.

“All members* must be knowledgeable and have experience in public works procurement and contracting.”

* needs to be wordsmithed to exclude legislators

Geographic diversity

OLIVIA: Notes people not in Puget Sound feel left out.

REBECCA: Asks if eastern Washington applicants apply.

WALTER: Notes Governor has been and will be petitioned by interest groups to have their group on CPARB.

Notes he has not seen applicants from Eastern Washington.

Says if we want to expand geographically or ethnically we need to make our voice heard at the Governor’s boards and commissions.

LISA: Asks why people are not applying.

BILL: Notes travel makes it hard to participate as there are never meetings on the east side.

OLIVIA: Notes language would be a good gesture to those in eastern Washington.

Notes it would be good to show inclusiveness.

Issues debated and solutions proposed/mandated at CPARB do not always apply to eastern Washington.

Opposing view would be to keep on board members as a best practice.

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She further notes that CPARB is writing laws that apply to the entire state and has to speak from a body of experience that looks at all nuances of an issue.

ROBYNNE: Discusses concerns and realities of eastern Washington representation. Proposes moving this forward to deal with after reauthorization.

REBECCA:

“Appointments to the Board should reflect the geographic diversity of the state to the maximum extent possible.”

LOREN: Does not want to have unintended consequences.

ROBYNNE: Should move to Board development committee.

OLIVIA: Notes that someone does not have to be some a place in order to make decisions that include other geographic areas.

WALTER: Says if he is Board development chair in future– if we are going to add diversity to the statute – geographic diversity is not the only important diversity issue. Could move this issue to the Board Development Committee.

There is further discussion and support for CPARB Board Development Committee’s consideration.

REBECCA: Asks if there is a motion. Not hearing any, closes issue and moves forward.

2:33

Review Small Business proposals – Discussion and next steps

DAN: Notes that the time is really limited and proposes that in the interest of time that Rebecca and smaller group, including Dan, work on how to move this issue forward. May be additional changes needed to proposal.

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OLIVIA: Volunteers to join the group.

DAN: Asks Robynne, Howard to join.

REBECCA: Notes Olivia, Robynne, Dan, Scott, Rebecca, Lisa will join committee.

WALTER: Asks if it would make sense to have this proposal moved to CPARB Business Equity Committee.

LOREN: Ask that nothing that gets added that is too difficult to incorporated into federally funded contracts.

DAN: Agrees with proposal to move this issue to the Business Equity Committee.

HOWARD: Offers to help.

CPARB duties re: data

REBECCA: Reviews proposal distributed earlier to alter way CPARB works with data as currently there are misconceptions about CPARB's engagement with data.

ROBYNNE: Agrees.

HOWARD: Notes PRC may have more role, influence and would like PRC to have authority to bring applicants back if their work diverges from PRC.

DECISION:

Rebecca makes motion to change RCW 39.10.230 shown in Rebecca Keith's proposal to about collecting and using data.

Robynne seconds. All in favor. None opposed.

ANDY: Asks for sixth point to require Board to determine and recommend data collection to be conducted by other legislative agencies. After discussion, Andy withdraws proposals.

Review of Design Build Proposals distributed with agenda: (Higher Ed proposal for small design build

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projects; proposal for Walter Schacht to remove pre-engineered buildings proposal) – Discussion and next steps

OLIVIA: Asking for authority from WSU to use DB on projects under \$2 million.

Would support growing pool of small businesses.

Asking for support of committee.

HOWARD: Asks if consistent with 39.10.

OLIVIA: 39.10 lowered threshold to \$2 million. WSU is asking for ability to use DB below \$2 million. UW is not asking at this time, although they asked for critical care roster several years ago.

ROBYNNE: Asks if there needs to be an amendment to 39.10 to allow this.

OLIVIA: Does not know. Also concerns for across board DB.

LOREN: Wants to lower threshold for WSU.

WALTER: Concerned about order of things in legislature with exceptions of 39.10. Maybe should do pilot project within 39.10.

Discussion time limited, next proposal reviewed.

Pre-engineered metal buildings

WALTER: When statute was written, pre-engineered buildings were specifically defined as things already built that could be set up easily. At this time modular buildings and pre-engineered metal buildings have a different meaning. For that reason he thinks it should be removed from the statute – he thinks it is important that a public agency now get approval for this use of DB.

REBECCA: Given timing, we must table this issue.

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3:00

*Proposal for definition of “Co-efficient” in JOC statute
– review and next steps*

REBECCA: Notes that she has not been able to discuss with Gordian, but knows her runway is up on this subject and is working on it.

2:45

Confirm May 1 agenda and follow up tasks

REBECCA: Recommends another meeting in summer to discuss PRC issues.

HOWARD: Agrees and volunteers to lead this meeting.

ROBYNNE: Concerned about time.

OLIVIA: Believes summer meeting would be useful.

GENERAL AGREEMENT for summer meeting.

OLIVIA: Asks to go from noon to four at next meeting.

REBECCA: May 1st will be:

- GCCM (2 hours)
 - Proposal from smaller group on revision to knowledge and experience of CPARB members
 - Small business proposals for CPARB business equity/diverse business inclusion committee
 - Proposes to expand meeting invite by one hour
 - Pre-reads must go to CPARB by May 8
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Next Meeting:

May 1, 2020

Noon – 4 pm

SKYPE meeting invitation to be updated