

CAPITAL PROJECTS ADVISORY REVIEW BOARD

Via Teams

Meeting Minutes—**MFA DRAFT**

October 12, 2023, 8:00 – 11:00 a.m.

Page 1 of 12

MEMBERS PRESENT	REPRESENTING	MEMBERS ABSENT	REPRESENTING
Janice Zahn (Chair)	Ports	Representative Mike Steele	House (R)
Keith Michel (Vice Chair)	General Contractors	Representative Steve Tharinger	House (D)
Corey Fedie	Public Hospital Districts	Senator Judy Warnick	Senate (R)
Lekha Fernandes	OMWBE		
Bobby Forch Jr.	Disadvantaged Businesses	<i>Vacant</i>	Specialty Contractors
Senator Bob Hasegawa	Senate (D)		
Bruce Hayashi	Architects		
Janet Jansen	Dept. of Enterprise Services		
Santosh Kuruvilla	Engineers		
Karen Mooseker	School Districts		
Mark Nakagawara	Cities		
Matt Rasmussen	Counties		
Irene Reyes	Private Industry		
Mark Riker	Construction Trades Labor		
Linneth Riley Hall	Transportation		
John Salinas II	Specialty Contractors		
Kara Skinner	Insurance/Surety Industry		
Robin Strom	General Contractors		
Josh Swanson	Construction Trades Labor		
Robynne Thaxton	Private Industry		
Olivia Yang	Higher Education		

Staff and guests are listed on the last page.

CALL TO ORDER & ROLL CALL FOR QUORUM - Information

Chair Janice Zahn called the Capital Projects Advisory Review Board (CPARB) meeting to order at 8:00 a.m. A roll call of members confirmed a meeting quorum.

WELCOME BOARD MEMBERS & INTRODUCTIONS - Information

Chair Zahn welcomed new member Matt Rasmussen representing Counties. Mr. Rasmussen introduced himself, noting he is currently the Deputy County Administrator for Benton County, a role that he has been in for four years. He shared he has been involved in public works contracting and procurement for over fifteen years. Mr. Rasmussen expressed excitement to be on the Board.

APPROVE AGENDA – Action

Vice Chair Keith Michel noted the first action item for today was to review the agenda and provide any edits or comments.

Lekha Fernandez moved, seconded by Olivia Yang, to approve the agenda. A voice vote approved the motion unanimously.

APPROVE MEETING MINUTES – Action

September 14, 2023

Chair Zahn wanted to ensure the Board had enough time to read the previous meeting minutes thoroughly. Chair Zahn noted her name was misspelled on the first page. She said that if the Board did not have enough time to review the minutes, they do not need to approve the minutes right then. Vice-Chair Michel noted he was open to deferral or approval, whichever the Board preferred.

Robynne Thaxton moved, seconded by Irene Reyes, to approve the minutes of September 14, 2023. A voice vote approved the motion unanimously.

CAPITAL PROJECTS ADVISORY REVIEW BOARD

Via Teams

Meeting Minutes—MFA DRAFT

October 12, 2023, 8:00 – 11:00 a.m.

Page 2 of 12

INVITATION FOR PUBLIC COMMENTS - *Information*

Vice Chair Michel invited public comments.

There were no public comments.

CHAIR REPORT – *Information/Action*

Chair Zahn shared that Irene Reyes's and Santosh Kuruvilla's terms were extended for another year by the Governor's Office. She noted that the Governor's Office has not yet made a decision on the applicants for Private Industry and thanked Robynne Thaxton for continuing to serve in that role. The Specialty Contractors position has not yet received applications.

Chair Zahn expressed excitement to carry out the format of this meeting. With the committee reporting sections being more succinct, this meeting was projected to finish by 11 a.m. With no PRC appointments, the goal is for the meetings to move a little more quickly.

She shared that she has been attending the SHB 1621 Review Committee meetings and was looking forward to hearing Board reports. She also explained that even though this section says information/action, there are no actions.

Chair Zahn then noted that there is new information she was not aware of—there is a Specialty Contractor applicant now in the queue. Chair Zahn shared that she would follow up with the Governor's Office to see if there are any new developments with this new applicant.

BOARD ENGAGEMENT - MEMBER OPENING THOUGHTS/ SHARED COMMITMENTS - *Discussion*

Chair Zahn reminded members that the Board had developed the following shared commitments: Respect, Purpose, Listening to Understand, Accountability, and Inclusion. When more time is on the agenda during future meetings, she would like to make sure that new Board members can weigh in with any edits or modifications, and that they are comfortable adopting these commitments. This will help ensure these new commitments are not forgotten as CPARB moves into a new year with new members. She opened the meeting by saying that she is excited about the new meeting format and looks forward to continuing to be the Chair for the next eight months.

Vice-Chair Michel shared that he appreciates the opportunity to come to this meeting with purpose. He expressed excitement about the work that the SHB 1621 Committee has been doing and feels energized about this meeting and looks forward to sharing more about that committee's work later.

Other members expressed their happiness to be at the meeting, despite some experiencing fatigue or illness. Mr. Kuruvilla noted that he is coming to this meeting with purpose and introduced frustration with cost escalation. Ms. Thaxton expressed excitement to be present at perhaps her last CPARB meeting and shared enthusiasm for members to volunteer as mentors.

UPDATES TO THE BIDDER RESPONSIBILITY GUIDELINES (SB 5088) – *Information/Action*

Nancy Deakins pulled up the Suggested Guidelines for Bidder Responsibility document and provided some background and history of the document. CPARB created a document for bidder responsibility in 2007, when it was included in the Revised Code of Washington (RCW) 39.04.350, which also indicates that CPARB would create and maintain these guidelines. Over the years, CPARB has kept these guidelines updated, and, due to changes over the last few years, DES needed to update the guidelines to reflect current statute.

The new legislation this year that affected the Bidder Responsibility Guidelines was SB 5088. This legislation updated the mandatory responsibility that required if bidders were self-performing electrical or plumbing, they had to be licensed at the time of bid. This forced owners to check the status of license at the time of bid. Ms. Deakins noted that she had made a few more edits. As an overview, she noted that the updated document now covers the mandatory requirements that owners must check for every bidder to determine if they are responsible. It also discusses what is in the law, suggested bidding language, and documentation that can be collected, as well as subcontractor responsibility criteria, which is mandatory. She noted that subcontractor responsibility is at the time of execution, not time of bid. There are tools included for supplemental responsibility, with a lot of good guidance and improvements.

Chair Zahn noted that the Board needs to vote to adopt these as new updated guidelines. She explained that there are not a lot of changes in the document, but it reconciles updates to SB 5088 and keeps the guidelines up to date and in compliance

CAPITAL PROJECTS ADVISORY REVIEW BOARD

Via Teams

Meeting Minutes—MFA DRAFT

October 12, 2023, 8:00 – 11:00 a.m.

Page 3 of 12

with language in the RCW. Ms. Reyes asked Ms. Deakins that when she was revising language, whether there was any input from the small business community. Ms. Deakins noted there was no committee assigned or created to make updates to the guidelines. Ms. Deakins pointed out that with some of the changes in statute, she did add outreach and inclusion in the supplemental responsibility criteria and documentation, which was not included in prior versions of the guidelines. She noted there is an opportunity for members to beef up the examples section and incorporate more language regarding outreach and inclusion, if desired.

Ms. Reyes, being conscious of time and not wanting to delay moving these guidelines forward, asked if it would be possible to revisit any of these issues later. Chair Zahn said that as issues arise, they can go into the New Business section of the agenda, noting there might be a committee that could take this on. For now, the goal is to ensure that these guidelines are in compliance with SB 5088. Ms. Reyes reiterated the importance of being able to revisit the guidelines later, noting that the policy needs to be in line with ongoing external changes. Chair Zahn noted there are many guidance documents that should also consider how frequently they should be updated. She added in the parking lot for New Business the question of how often documents should be updated.

Ms. Thaxton thanked Ms. Deakins for her work in updating the document. She shared that it is important to keep this up to date because owners will use the guidelines with the expectation that it is regularly updated. It is important that it is in line with the current legislation and is statutorily compliant. She suggested this may be a good opportunity for one of the committees to periodically go through it and ensure that this is up to date and in line with how the business community has changed. But because DES has a responsibility to have documents that are updated and consistent with the statute, it's important to get it updated and posted as soon as possible. Ms. Thaxton reiterated that any CPARB documents and guidelines can be updated at any time.

Mr. Rasmussen echoed Ms. Thaxton's comments and expressed appreciation for Ms. Deakin's work on the guidelines and noted it reflects the current statutory requirements. He shared that he read through it and had some comments and suggestions, and that they owe it to the owners to get it out there and be able to use something that meets the statutory requirements. He agreed that having a more regular review of this document and other CPARB guidelines will help with clarity, so owners know exactly what to do and what their options are. Mr. Rasmussen noted that he enjoys writing specifications and would be willing to help with the review and writing of documents and guidelines.

Matt Rasmussen moved, seconded by Irene Reyes, to adopt the updated Suggested Guidelines for Bidder Responsibility as written. A voice vote approved the motion unanimously.

Ms. Deakins wanted to recognize the original author of the document, Mike Purdy, who was a part of CPARB for many years and recently passed away this year.

COMMITTEE & WORKGROUP REPORTS:

Chair Zahn noted that the expectation for the future would be to have written committee reports if possible. She shared that she would ask each of the presenters from the committees about whether they need time on the agenda to share information, or whether a written report will suffice for the next time. This will help with meeting management and setting expectations.

PROJECT REVIEW COMMITTEE - Information

Committee Co-Chair Kyle Twohig reported that the Project Review Committee (PRC) held a business meeting which has become a regular practice. They also welcomed their newest member, Traci Brewer-Rogstad from Renton School District, who was appointed to the Owner-Higher Education position, replacing Louise Sweeney. Co-Chair Twohig mentioned the Education Connections committee has put together a document with training resources for public works and has requested that members review the draft document and flag any gaps or areas for discussion.

The PRC's meeting dates have been set for next year, which included adding a seventh meeting, when in past years they typically had six. Co-Chair Twohig explained that once or twice a year they typically needed to extend to a second day on Friday. Scheduling seven meetings will hopefully provide that space without needing to extend meetings. He shared that the PRC is planning to do two in-person meetings per year, with one meeting in the fall on the west side and a meeting in the spring on the east side. Their next PRC meeting will be in-person on the west side, and they found a venue that can accommodate both in-person and hybrid.

CAPITAL PROJECTS ADVISORY REVIEW BOARD

Via Teams

Meeting Minutes—MFA DRAFT

October 12, 2023, 8:00 – 11:00 a.m.

Page 4 of 12

Regarding the Alternative Subcontractor Selection Process (ASSP) best practices, Co-Chair Twohig and GC/CM Committee Chair Nick Datz will be meeting soon to discuss updates. The PRC had discussions regarding recusals and reviewing the bylaws. Since the last CPARB meeting there have been five projects and one recertification; all of which were approved unanimously. Co-Chair Twohig opened the discussion for any questions or follow up actions.

Ms. Deakins asked Co-Chair Twohig to describe ASSP, and he explained that it is an expansion of what was originally just EC/CM and MC/CM in the original statute. A GC/GM contract allows for a qualifications-based selection for any trade that is key to the project. While EC/CM and MC/CM are the most predominant usage of ASSP, they have seen some other interesting qualifications-based selection practices, such as a baggage handling system or a kitchen equipment contractor.

Olivia Yang expressed gratitude towards Co-Chair Twohig for his leadership, and for the cooperation of the PRC for making positive changes overall. Chair Zahn added that she likes how the PRC is considering addressing recusals as a review of the bylaws. She noted that regarding the recertification for Tacoma Public Schools, Board members were looking for some lessons learned. While some information was summarized in the written report, Chair Zahn asked if there was any additional information that Committee Co-Chair Twohig could share. Co-Chair Twohig noted he missed this presentation due to a medical exemption. With no additional context to provide, he pointed members to read the written report.

Chair Zahn shared that there were a couple of things that came to mind on the Tacoma Public Schools recertification that were related to quorum and recusals. For instance, with 19 members present, 1 recusal and 13 not available, it does not take many more absences before losing quorum. She highlighted the importance of ensuring that committees can make quorum.

In addition, Chair Zahn asked for a more holistic understanding of how many GC/CM and Design-Build (DB) projects move forward for certified owners, including dollar amounts. She asked whether there was a better way to capture that information. Talia Baker noted that on the PRC webpage, under statistics, this data is captured by calendar year. It is a summary by date of agency recertifications or certifications for GC/CM and DB that were or were not approved, as well as totals at the end. Ms. Baker said she is updating those statistics from the applications that were sent in, and she noted she is open to suggestions for other ways to show that information.

Pulling up the webpage, Ms. Baker showed a table that indicated PRC applications and actions, with \$3 billion of projects that have been approved. Chair Zahn asked whether there was a way to capture the numbers and dollar amounts of certified owners. Committee Co-Chair Twohig noted that the committee could send a quick note to each certified agency to ask how many projects they completed under their certification. While they may not get a 100% response rate, it may be a more accurate estimate than what the agency thinks they may do.

Mr. Kuruvilla asked if the statistics they were discussing distinguished between DB and Progressive DB, and it was confirmed there was no distinction. He asked whether there should be an additional column to indicate Progressive DB, as there have been an increasing number of projects with that delivery method. Ms. Thaxton explained that traditional DB and progressive DB are not differentiated in the statute, and noted that utilities and owners have done several projects with traditional DB. Mr. Kuruvilla noted would like to include a column in the statistics to indicate whether an owner is asking for a Progressive DB. This is something that can be taken to the PRC as feedback.

Senator Hasegawa asked for clarification on the purpose of the PRC. Co-Chair Twohig shared that the charge of the PRC is to review statutory requirements that pertain to the use of alternative delivery for both project approvals and agency certifications. Agencies that have demonstrated experience with the use of alternative delivery projects under the RCW 39.10 and plan to perform additional projects under that statute can get a three-year approval for the agency to utilize either the Design-Build or GC/CM delivery method to complete their projects. They need to be reauthorized every three years. Bruce Hayashi noted that agencies still have limitations related to dollar value (all projects must be \$2M or more), and they still must adhere to the restrictions of the delivery method outlined in the statute. Co-Chair Twohig clarified that the only owner who has an exemption for small projects under \$2M is Washington State University who are conducting a pilot.

CAPITAL PROJECTS ADVISORY REVIEW BOARD

Via Teams

Meeting Minutes—MFA DRAFT

October 12, 2023, 8:00 – 11:00 a.m.

Page 5 of 12

Ms. Thaxton noted that up until 2007, only a few agencies were able to do DB. When the statute was modified and the PRC was being created at that time, the rationale was that every agency could use it, but they should be able to prove that they are able to manage the project and understand the limitations of the statute. The certification process was created so that agencies could demonstrate that they understand the limitations and are able to manage the project well. Senator Hasegawa clarified that the purpose of the PRC is not to take advantage of the members of the PRC and their experience, but rather to ensure that the owners understand how to use alternative delivery methods. Ms. Thaxton noted that projects benefit when the owner comes before the PRC, because the PRC looks at the whole process and asks questions to ensure the owner has a good plan. Ms. Yang observed that WSDOT has its own authority to do DB and doesn't have to come to the PRC. Chair Zahn noted that the PRC is the most active committee within CPARB and has authority and responsibility to act on CPARB's behalf.

Noting that WSU has an exception as mentioned earlier, Mr. Hayashi asked how that is going and what the outcomes are. Ms. Yang shared that a presentation was given at the April CPARB meeting to report on how it has been going for the first six small projects, which used DB. Their state capital budget was limited to two million dollars, which they used to experiment with how to support small businesses in construction. This was used to attract a pool of contractors in Eastern Washington and introduce DB to smaller contractors who usually use Design-Bid-Build. What they learned is that it takes a lot of time for owners to coach and mentor the smaller businesses through the DB process. Chair Zahn pointed out that WSU presented at the April 13 Board meeting and asked Ms. Yang and Mr. Hayashi to take further discussion and questions offline.

Jon Rose noted that the L&I Intents and Affidavits is an additional data source, which also includes GC/CM usage. He shared that he was willing to work with Ms. Baker and Co-Chair Twohig to coordinate on compiling PRC data if needed.

BOARD DEVELOPMENT COMMITTEE (BYLAWS UPDATE) – Information/Action

Committee Co-Chair Robynne Thaxton noted that at the next regular Board meeting the committee will propose language that will aid committees in meeting quorum. She explained how on some committees there are positions for a stakeholder group that do not have appointments. The state has interpreted that these positions are still part of the voting body and quorum, which presents challenges for meeting quorum. The Board Development Committee has proposed adding a section to the bylaws that indicates that non-filled positions do not count for quorum. This is proposed now and will be voted on in December. The Committee will be having two more meetings, and Co-Chair Thaxton encouraged people to attend the meetings and provide feedback.

Regarding PRC position realignment, Co-Chair Thaxton shared her information as a preliminary step toward realignment. Because members of the PRC are appointed for three years, there are situations in which positions come open at the same time, which presents challenges for filling them. The committee has been trying to work through the issue to ensure that this does not happen. One of the proposed solutions was to assign terms for each of the individual positions so that they are staggered. After serving that one staggered term, each position would then revert back to a three-year term. If someone leaves midway, then anyone appointed to fill that position would need to serve the remainder of the term. The goal is to set up the terms so that roughly one-third of the members' terms are up at the same time. They are trying to do this via positions and not people. The proposed staggering of positions goes into 2028 and 2029. Co-Chair Thaxton asked if there were any questions and noted that no changes will be made now, and they will be talking to the PRC about this proposed change.

Committee Co-Chair Lekha Fernandez noted that as these seats on the PRC come open, the Board needs to be recruiting for a diversity of voices and experiences in every category. It is the responsibility of Board members to ensure there is diversity. This will help when members are voting on items, and to understand that there will be multiple people for each seat. Co-Chair Thaxton pointed out that there will be around thirteen positions expiring in the next several years and encouraged members to think about what that CPARB meeting would be like. She suggested setting some of the terms to expire across different months, so that some would expire in March and some in December and to avoid them all expiring in June. This should be set up so it runs well and efforts for recruitment can be more proactive rather than reactive. Chair Zahn encouraged members to attend the next Board Development Committee meeting. Committee Co-Chair Thaxton reiterated that they need more mentors and directed people to let Vice-Chair Michel know if they would like to continue.

CAPITAL PROJECTS ADVISORY REVIEW BOARD

Via Teams

Meeting Minutes—MFA DRAFT

October 12, 2023, 8:00 – 11:00 a.m.

Page 6 of 12

Ms. Reyes noted one thing that needs to be clarified. If someone decided not to continue on CPARB, but remain on a committee, she asked how that is articulated in the guidelines that are being created. Chair Zahn noted that committee members do not need to be Board members, and that the Board often appoints chairs and co-chairs. There have been past discussions about committee chairs and co-chairs not being CPARB members and it is up to the Board whether they would like to change that. Ms. Reyes noted that they need to have that in writing to ensure that the Board and all committees are on the same page. Committee Co-Chair Thaxton agreed that membership on committees is not restricted to CPARB. Chair Zahn clarified that Ms. Reyes would like language that indicates committee chairs and co-chairs do not need to be Board members. Chair Zahn said they can make sure that this is documented as part of the bylaws.

SMALL WORKS COMMITTEE UPDATE – Information

Committee Co-Chair Bill Frare was not present. Committee Co-Chair Irene Reyes shared that the committee is ahead of schedule in their work to guide implementation of the recent Small Works Legislation. Rulemaking processes and updates for each of the agencies can be found on the agencies' websites, and the Small Works Committee webpage on the DES website also has links to the rulemaking webpages. Ms. Fernandes added that the public comment period is over for OMWBE, but comments are still open at least on DES rulemaking. She encouraged CPARB members to make comments. Chair Zahn shared that this bill, which was passed unanimously, is going to transform Small Works. She classified it as the Board's crowning glory to get this bill passed and the rulemaking completed. She invited questions from the committee but there were no comments.

EDUCATION CONNECTIONS COMMITTEE – Information

Committee Chair Curt Gimmestad was not present. Chair Zahn shared Committee Chair Gimmestad's update that they are moving forward with putting education links up on the CPARB website. Ms. Baker pulled up the CPARB website to show members what the updates will look like under the header, "Public Works and Construction Training Resources," which is also a new name for the section. Under the header is a link to a PDF document that contains links to the websites to agencies who provide trainings with descriptions. This document is a living document will be updated as new information is collected. She noted this document is by no means all-inclusive, but it is a good starting point. The committee is hoping that members of the Board, PRC or any members' agencies will send in additional trainings and resources that can be added to this list. Known best practices that CPARB and other subcommittees have developed are also included.

Ms. Fernandes asked to note in the document which trainings have associated costs, for instance with an asterisk, so that small diverse businesses with limited resources are aware up front about costs. Ms. Baker also noted that some of these trainings require membership to an organization, and membership fees can be quite high, and so costs a will also be noted. Ms. Reyes agreed that adding additional details about membership fees and associated costs would be beneficial and shared that sometimes there are specials on membership dues. Ms. Baker said they can expand the paragraphs describing trainings under specific organizations to mention any dues or charges associated with taking the trainings. Chair Zahn shared that she would check in with Committee Chair Curt Gimmestad to make sure there is a representative of small or diverse businesses on the committee, so their internal discussion can be more robust.

SHB 1621 Committee - Information/Action

Chair Zahn introduced the next committee report, noting that they have been working very hard over the last several months to provide a review and recommendation on SHB 1621 by December 31, 2023. Committee Co-Chair Michel provided some context on the bill. It included a provision that CPARB would provide recommendations on the bill passed last session, which provides this legislative session the opportunity to revise or improve the bill before it takes effect next spring. The intent of this bill standardized several local government procurement rules among special districts by amending a few sections of the RCW. Highlights of this bill include establishing uniform project thresholds of \$75,000 and \$150,000 for work that can be self-performed by a public entity. It further extends that threshold to \$300,000—when the work is considered Prudent Utility Management (PUM), the definition for which will be discussed later. The bill includes a definition of "equipment," which has been a topic of discussion because "equipment," as defined, is excluded from the \$300,000 threshold limit. This report clarifies these details and the bill's intent and provides responses.

Co-Chair Michel showed members the list of committee members, noting the diverse range of perspectives represented among public entities and private contractors. In the most recent committee meeting, the report was updated to prime the

CAPITAL PROJECTS ADVISORY REVIEW BOARD

Via Teams

Meeting Minutes—**MFA DRAFT**

October 12, 2023, 8:00 – 11:00 a.m.

Page 7 of 12

committee to vote on their agreement or disagreement with multiple points for the purposes of crafting recommendations for CPARB to review.

Committee Co-Chair Nakagawara shared that it has been difficult to address such complex issues within a short timeline and reiterated that they did manage to identify issues they could vote on. However, it is obvious there are some topics the committee will not reach consensus on. Co-Chair Michel noted they are working to set up additional meetings to prepare for the CPARB Special Meeting in November with hope of gaining approval on the report. Since the SHB 1621 Committee has additional meetings between now and then, there are ongoing opportunities to influence the outcome of this report. The goal is to arrive at an agreeable report that represents the depth of the work done by this committee and the stakeholders.

Chair Zahn shared that when she pulled up the committee report, she did not see the votes. Co-Chair Michel confirmed that is correct, and that the vote is a recent development not included in the pre-read. The version with the votes is the version that Co-Chair Michel had open on the screen. They are currently integrating the results of the vote with the report and will follow up with CPARB.

The first item presented to the SHB 1621 Committee was that committee members recommend uniform single trade \$75,000 and multiple trade \$150,000 thresholds for work performed by regularly employed personnel. 8 members agreed and 1 disagreed.

The second item recommended revisiting the appropriateness of the uniform application of PUM for cities, sewer/water districts and fire districts. As context, this term has been utilized by public utility districts since 1971. This bill applied that same definition to all these other public entities listed, so the question for the committee was should the application of PUM be revisited as applied to everyone. 6 members agreed it needs to be revisited and 3 disagreed. This issue also included sub-questions: (1) Should PUM apply for cities? 9 members voted no – reaching consensus. (2) should PUM apply for sewer/water districts? 6 members voted no 3 voted yes. (3) Should PUM apply for fire districts? 8 voted no and 1 abstained.

Mr. Kuruvilla asked the Co-Chairs to share a little of what the committee had discussed. Co-Chair Michel shared there is diversity on the committee, as well as an effort from members to represent outside views that may not be directly represented on the committee. Everyone has been working to identify pros and cons for various entities involved in public contracting on different issues in the bill, balancing their need to get work done with these increased dollar thresholds. There is an understanding that when public entities are allowed to self-perform more work in certain circumstances, there is a wide range of potential changes in the number of public bid opportunities made available. Because it is \$300,000 or less, this falls in the category of opportunities that are very important to small and diverse businesses.

Chair Zahn also added that PUM is a term in statute that has been available but not used by cities, water-sewer districts and fire districts, which has created a lot of discussion about whether the definition of PUM can be broadly interpreted the same way across multiple agencies. Ms. Reyes added there was a long discussion of PUM definition. Her concern was how PUM is defined by a first-class city is not the same as for a second-class city or town. PUM for Seattle is not the same as it would be for Milton or Buckley. She said there were sub-definitions for each type of entity—the current definition in the bill is very broad.

Co-Chair Michel agreed, noting that if the committee cannot support applying PUM to all these entities, then they would be working to identify an alternative. Cities provided the following statement as an alternative:

A first-class city may have its own regularly employed personnel with the requisite experience, capability and qualifications, perform public works activities to address the exigency, efficiency or financial needs of the public body without a contract in the sum not to exceed \$300,000.

Co-Chair Michel shared that the committee may consider this alternative language to define the types of circumstances that would justify a city to use this \$300,000 threshold of self-performed work. He noted they want to provide this kind of flexibility, but there needs to be some reason to justify not using a public bid process, or the small works roster or some other solution. Votes on this language to apply to cities were 4 for yes, 3 for no, and 1 abstention. Votes for the draft

CAPITAL PROJECTS ADVISORY REVIEW BOARD

Via Teams

Meeting Minutes—MFA DRAFT

October 12, 2023, 8:00 – 11:00 a.m.

Page 8 of 12

language to apply for sewer/water districts were 4 for yes, 4 for no, and 1 abstention. Votes for the draft language to apply for fire districts were 4 for yes, 3 for no, and 2 abstentions.

Mr. Kuruvilla asked if the committee still feels good about the \$300,000 threshold. Co-Chair Michel shared that some committee members do not support the increased threshold. Other members do support it, and that increased threshold was clearly stated in the bill that passed last session. The legislative process demonstrated support for that threshold.

Co-Chair Michel noted the next subcategory of votes. The Mechanical Contractors Association and committee member Michael Transue offered feedback on the cities' proposed alternative language—changing “exigency, efficiency **or** financial needs” to “exigency, efficiency **and** financial needs,” to further narrow the opportunity to self-perform. A vote was proposed on whether to incorporate this language into the recommendations. One voting member abstained from this sub-vote so they would not be put into the negative category on the overall statement if the latter wording was chosen.

Next, all nine members voted yes to changing the definition of “equipment” in PUM. “Equipment” is currently referenced as items such as cable, conductor, or pipe, which do not all fit in the definition of “equipment” for most entities. The committee agreed that the definition should be modified in the bill. The second question is whether “equipment” with those changes to the definition should be excluded from the \$300,000 threshold. 5 members voted yes, 3 voted no, and 1 abstained.

Finally, members voted on an element in the bill that incorporates certain bidder responsibility provisions that the committee identified as not aligning with current bidder responsibility criteria included in RCW 39.04.050. The committee asked whether those provisions should be extended to public entities via this bill. 4 members voted yes and 4 voted no.

Co-Chair Michel reiterated that this is a key piece of legislation. The SHB 1621 Committee is working very hard to create a report CPARB can stand behind and approve at a special meeting in November. He encouraged Board members to read the report and consider joining in the discussion at one of the upcoming subcommittee meetings. Members can also call Co-Chair Michel or Co-Chair Nakagawara to provide feedback. There are a lot of nuances to the bill, and it is vital that the Board provide good recommendations and feedback for the next legislative session.

Chair Zahn clarified that when CPARB has recommendations from a committee, they consider them as a full Board. Similar to the local government study from several years ago, there will likely be recommendations that receive unanimous support from the Board, and there will be some that will not have consensus. These will all be noted as part of the final recommendation coming from the Board to the legislature. Chair Zahn noted that this work is a heavy lift because some of these items related to PUM have not been discussed by this Board before, and they have not spent a lot of time with fire and sewer/water districts. Because these may be new ideas for the Board, Chair Zahn encouraged members to please reach out to Co-Chairs Michel and Nakagawara if they had any questions and to attend the committee meetings. She cautioned members to be mindful of reaching quorum for CPARB members attending the committee meeting. If it gets to that point, Board members may be asked not to join the call.

Chair Zahn asked Ms. Baker to discuss when the special meeting would be held to specifically discuss this bill and recommendations. Ms. Baker shared the date with the most votes was November 8 from 2:30-4:00 p.m. Chair Zahn said that the meeting requires a quorum of at least 11 voting Board members. She reiterated that this is an important bill that CPARB has been asked to review and there is a need to have as many members attend as possible.

BE/DBI COMMITTEE – Information

Committee Co-Chair Lekha Fernandes shared that their committee had a great meeting last month, in which they discussed best practices related to Prompt Pay. They heard examples from WSDOT, WSU, and Oregon and discussed the pros and cons of all those examples. At the next meeting, they will discuss payment structures, what works, does not work, and why, and how they can move the needle forward in that structure. They discussed how in current conditions some subcontractors are not getting paid for several months and are essentially floating capital. The question at hand is if it is Paid-when-Paid, and if so, how can the payment terms be shortened. She encouraged members to join in discussion at the next committee meeting, as well as to discuss whether there is a need for more representation and views on the BE/DBI Committee membership.

CAPITAL PROJECTS ADVISORY REVIEW BOARD

Via Teams

Meeting Minutes—MFA DRAFT

October 12, 2023, 8:00 – 11:00 a.m.

Page 9 of 12

Chair Zahn shared that this is an excellent topic for CPARB to weigh in on—it is a topic the Board has heard much about over the years. She noted that bidder responsibility guidelines could be a parking lot item for this committee. Co-Chair Fernandes shared there is a lot of momentum on the conversation around the Prompt Pay issue and would like to first develop best practice. Then the committee can look more holistically at best practices and see where BE/DBI is impacted and update those as needed. Committee Co-Chair Reyes noted that Senator Hasegawa brought in an inquiry about bonding and whether that should also be discussed. Bonding has been noted as another barrier for small businesses. Co-Chair Fernandes agreed, noting that she still wants to focus on Prompt Pay to put together best practices by the end of the year before moving onto additional issues. This may also require putting together subcommittees to discuss these topics.

PROJECT FEEDBACK PROCESS WORKGROUP – Information

Committee Co-Chair Jeff Gonzalez shared that their last meeting was productive. The committee discussed and took action on allowing proxies in order to reach quorum and keep the work moving forward. They have also been making progress in working through their objectives and have primarily focused on owner preparedness. They will continue to discuss the first objective and then think through some of the recommendations that can be made to ensure owner preparedness. Committee Co-Chair Dave Johnson agreed they are still working on owner preparedness and next they will address how to respond when things go awry.

Chair Zahn liked the approach of starting with owner readiness. She wanted to confirm that the workgroup has a charter or some goals or focus that the Board is aware of, noting that when the workgroup was first formed these were unclear. Committee Co-Chair Gonzalez shared that they have done work to establish and reach a consensus on the committee's objectives: 1) pre-incident (what can we do to prevent an incident from happening, i.e., a deviation from RCW or best practices), and 2) post-incident (what do we do about it when there is an incident). So far, the committee is focusing on those key objectives. Chair Zahn thanked him for the clarification and agreed that was a good path forward.

Chair Zahn recessed the meeting at 10:10 a.m. for a break.

Chair Zahn reconvened the meeting at 10:20 a.m. and confirmed quorum.

NEW BUSINESS – Information

Chair Zahn noted the parking lot list of member ideas which Ms. Baker shared on the screen and was also included in the agenda. She noted that Mr. Kuruvilla, Ms. Reyes, and Senator Hasegawa had indicated some additional items for discussion, which Ms. Baker added on the screen. She also wanted to see whether there was capacity and desire for the Board to hold a retreat. She reminded the Board these meetings will be held virtually until May, when they will hold an in-person meeting. She noted it is important to occasionally hold meetings in person but recognized that members come from around the state and meeting always in person can be a barrier. Chair Zahn pointed out that with the number of committees and work ahead of them, there may not be capacity to take any more. Chair Zahn also noted that this meeting is the first to finish in three hours. She asked members if these two- or three-hour long meetings, not including PRC appointments, is something the Board would like to continue.

Ms. Yang expressed appreciation that this meeting would end at 11 a.m. and thanked Chair Zahn and the committee presenters for being swift. She supports the meetings taking place from 8-11 a.m. and the idea of a retreat to dive deeper into other issues.

Mr. Kuruvilla asked if there was an opportunity in future meetings to carve out 20-30 minutes for one or two presenters to share how alternative delivery is going. This would enable the Board to stay connected with what is happening. This may provide an opportunity to add in items for discussion, such as cost escalation, and provide an opportunity for these presenters to comment on those issues. Chair Zahn agreed the Board has not heard holistically about trends in the construction industry. With the work ahead of the Board, fitting in presenters would probably mean extending the meeting time. She asked members to consider whether they should stay with 8-11 a.m. meetings or create some space for presenters and extend meetings until 11:30 a.m. Matt Rasmussen suggested the Board could hold one or two longer meetings per year to have presenters give an update. Thirty minutes could probably fit three presenters, which might be sufficient once or twice per year.

CAPITAL PROJECTS ADVISORY REVIEW BOARD

Via Teams

Meeting Minutes—MFA DRAFT

October 12, 2023, 8:00 – 11:00 a.m.

Page 10 of 12

Vice-Chair Michel supported this idea of being open to adding presenters that may be more specific, either to what is going on in the industry or to something tangible about an upcoming CPARB action item. In the context of SHB 1621, Vice-Chair Michel shared he has sensed interest from experts on that committee in sharing more of their feedback on related issues with CPARB. He acknowledged how difficult it can be to get caught up in the technical background for that report.

Senator Hasegawa shared that while shorter is always better, he agreed that the extra half hour would be valuable. In the eyes of the legislature, CPARB is very special and comes with a high-level of credibility. The more that CPARB can squeeze under our umbrella and make suggestions to improve public investment, then they are at an advantage in terms of contributing to the legislature. He suggested that CPARB should try to take advantage of every opportunity to convey the wisdom of this body to the legislature and embed it in statute. Chair Zahn thanked Senator Hasegawa for his thoughts and agreed this is a committed and qualified group. She noted they may be able to leverage other tools, such as surveys, to help meet the needs of the Board and the legislature. Senator Hasegawa also followed up to thank Chair Zahn for her work in setting up the group for success, noting the Board is functioning at a high level under her leadership.

Chair Zahn summarized that the group would like to remain within the three-hour time period for meetings moving forward but will consider extending as needed to hear feedback on what is going on in the industry.

BUDGET REPORT

Chair Zahn noted that the budget report was sent as a pre-read and directed members to that document.

WEBSITE UPDATES – Information

Ms. Baker shared an update on a project she has been working on with the DES web team. They are planning on a minor change to the CPARB website. She pulled up a “click map” showing where people are most often clicking on the website. One of the things the web team did when they migrated the webpage was place the list of committees in the middle of the page, because each committee has their own page. In June, Ms. Baker had a conversation with the web team, who also suggested putting them in the sidebar. The committee links listed in the sidebar appear to be getting a lot more clicks. Considering this, Ms. Baker suggested removing the committee links from the middle of the page, which would shorten the page and keep the committee links in the side bar.

It appears as if visitors to the CPARB homepage do not navigate to the Bylaws, Guidelines, and Reports page from the bottom of the homepage. So, the web team suggested shortening or removing that section. Training resources are located at the bottom, just above where past meetings permanently reside. The web team would like to move trainings up on the website to make the page much shorter and highlight key information. Chair Zahn thanked Ms. Baker for her efforts to improve the Board’s communication and website navigation.

RECAP OF ACTION ITEMS - Information/Action

Chair Zahn shared that sometimes it takes time to get the meeting minutes, but there is a need for prompter action items. Ms. Deakins shared that she has been tracking the action items from this meeting and stepped through each of them for members:

1. DES staff will post approved Bidder Responsibility Guidelines.
2. The Board Development Committee will work on including language into the bylaws that committee chairs and co-chairs do not need to be CPARB members.
3. All Board members are encouraged to visit the Small Works Committee webpage on the rulemaking and other actions on the small works roster that will be in place next year.
4. All Board members are encouraged to read and review the SHB 1621 draft report to ensure everyone is prepared for the next CPARB meeting on November 8, 2023.
5. Senator Hasegawa will report to the Board whether legislators will need any help from CPARB on legislation revisions going into the next session.

Ms. Thaxton clarified the action item for the Board Development Committee, which was to send the pre-read for the modification to the bylaws, could be noted as complete. Ms. Thaxton had added into the chat with clarification on the bylaws: 'The Board may establish other committees as appropriate and may invite nonmembers of the Board to serve as

CAPITAL PROJECTS ADVISORY REVIEW BOARD

Via Teams

Meeting Minutes—**MFA DRAFT**

October 12, 2023, 8:00 – 11:00 a.m.

Page 11 of 12

voting committee members.’ Under Article VII, Section 4, that committee nomination and leadership selection procedures are ‘intended to be flexible, to suit the needs of individual committees.’ Therefore, there is nothing that prohibits a non-CPARB member from being a member of and a chair for a CPARB committee. Ms. Thaxton also provided a list of current CPARB committees that have non-CPARB member chairs: Education Connections Committee, GC/CM Committee, JOC Evaluation Committee, Local Government Public Works Study Committee, and Project Feedback Process Workgroup Committee. With this update provided, the action item for the Board Development Committee can be marked as completed.

Chair Zahn thanked Ms. Deakins and agreed this recap of action items will be added to the regular meeting agenda.

AGENDA FOR DECEMBER 14TH MEETING- Information

Vice-Chair Michel shared the outlined agenda for December, which is also included at the bottom of the current agenda and asked for any additions. Chair Zahn asked whether there would be a PRC appointment and Ms. Baker confirmed that was the expectation, however she had not received any applications for the Owner - Public Hospital position. Ms. Yang asked who currently sits in the Hospital position for PRC, and Ms. Baker confirmed it was Cory Hamilton. Ms. Thaxton shared that the Board Development bylaws update should be an action on the agenda rather than information.

Ms. Deakins noted that she removed the Bidder Responsibility Guidelines from the agenda. Ms. Yang brought up the retreat and asked what the status of that was. Chair Zahn shared it is currently in New Business and the Board will first need to discuss when that would happen and how. Ms. Baker clarified they need to determine if that is possible, because if there is a quorum it must be a public meeting. Ms. Yang asked for clarification about what the Bylaws indicate regarding executive session for CPARB.

Chair Zahn clarified they are allowed to have executive session, but shared her view of the retreat was to shift from looking at things coming from the legislature to diving into other issues of interest to the Board members. She shared there is no issue in making it open, as they will not be discussing confidential issues. Mr. Rasmussen shared the Department of Commerce could be a good example to draw from in how an open public meeting and/or retreat can be set up. Ms. Yang suggested finding a time for an in-person retreat. Chair Zahn shared that it is a short legislative session this year, which may help with bandwidth to attend a retreat.

December 14th Meeting agenda:

- Minutes 10/12/2023
- Committee/Workgroup Reports
 - o Board Development (Bylaws Action)
 - o Education Connections
 - o GC/CM Best Practices – ASSP Chapter
 - o BE/DBI
 - o PRC
 - o SHB 1621 Review Committee
 - o Project Feedback Process Workgroup
 - o Small Works Committee
- PRC Appointment – Owner Public Hospital Districts
- New Business
- Budget Report
- Recap of Action Items

CLOSING THOUGHTS- Information/Action

Chair Zahn thanked members, noting that it is important to create space, particularly in virtual meetings, for Board members to have closing thoughts. She expressed gratitude for members’ commitment to volunteering their time to do this work. Members shared agreement and appreciation for everyone’s attendance, participation, commitment, and hard work, as well as reflection on how CPARB has grown and improved its functioning and efficiency over the past year and appreciation for how people have shared different perspectives with respect for each other. Mr. Kuruvilla thanked Vice-

CAPITAL PROJECTS ADVISORY REVIEW BOARD

Via Teams

Meeting Minutes—MFA DRAFT

October 12, 2023, 8:00 – 11:00 a.m.

Page 12 of 12

Chair Michel for the level of detail he provided in his committee report out. Ms. Thaxton thanked members for the important work they do, noting this is likely her last CPARB meeting as a member.

Chair Zahn reiterated there will be a special meeting on November 8th to discuss SHB 1621 only, then back to regularly scheduled programming in December.

ADJOURNEMENT

With there being no further business, Chair Zahn adjourned the meeting at 10:54 a.m.

Staff & Guests

Liz Anderson, WA PUD Association

Talia Baker, DES

Nancy Deakins, DES

Brandy DeLange, Association of WA Cities

Jeff Gonzalez, DES

Dave Johnson, Hoffman Construction Company

Don Laford, AECOM/ URS

Brad Lentz, P2S

Monique Martinez, DES

Claire Moerder, Maul Foster & Alongi

Art McCluskey, WSDOT

Jessica Murphy, City of Seattle

Colleen Newell, Maul Foster & Alongi

Brenda Portaro, OMWBE

Roe Pulalasi-Gonzales, Pierce County

Jon Rose, MRSC

Linda Shilley, Pierce Transit

Jolene Skinner, L&I

Leeann Snyder, King County

Michael Transue, MCAW

Kyle Twohig, Spokane County

Jerry Vanderwood, AGC