

CAPITAL PROJECTS ADVISORY REVIEW BOARD
Minutes
1500 Jefferson – Presentation Room
Olympia, Washington
December 10, 2015

<u>Members Present</u>	<u>Representing</u>	<u>Members Absent</u>	<u>Representing</u>
Lee Newgent	Construction Trades Labor	Rep. Vincent Buys	House (R)
Ty Heim	Public Hospital Districts	Greg Fuller	Specialty Contractors
Steven Crawford	School Districts	Vacant	Senate (R)
Santosh Kuruvilla	Engineers	Rep. Hans Dunshee	House (D)
Teresa Berntsen	OMWBE	Senator Bob Hasegawa	Senate (D)
Robert Maruska (Chair)	Washington Ports		
Alan Nygaard	Higher Education		
Gary Rowe	Counties		
Walter Schacht	Architects		
Bill Frare	State Government		
Rebecca Keith	Cities		
Andrew Thompson	General Contractors		
Charles Horn	Insurance/Surety Industry		
Joaquin Hernandez	Private Industry		
Irene Reyes	Private Industry		
Mark Riker	Construction Trades Labor		
Brent LeVander	General Contractors		
Mike Shinn	Specialty Contractors		

STAFF & GUESTS are listed on the last page

Welcome & Introductions

Chair Robert Maruska called the Capital Projects Advisory Review Board (CPARB) meeting to order at 9:00 a.m.

A meeting quorum was attained.

Everyone present provided self-introduction.

Approve Agenda - Action

Mark Riker advised that he would need to leave the meeting at 11:30 a.m.

Chair Maruska reported on a request from Community Transit to add Job Order Contracting to the agenda.

Bill Frare moved, seconded by Andrew Thompson, to approve the agenda as amended. Motion carried.

Approve November 12, 2015 Meeting Minutes – Action

The following changes and clarifications were requested to the minutes:

- On page 3, revise the seventh paragraph to state, “Ato Apiafi said that as a member of the PRC, he represents women and minority firms on that committee.”

- On page 7, change the quoted language in the motion to reflect the following, "...Board shall elect a new Vice-Chair to serve the remainder of the term. If the Vice-Chair position..."
- On page 7, revise the second sentence in ninth paragraph to reflect the following, "Ms. Keith said she prefers for the Board to have the ability to use either option; however, in the event..."
- On page 8, within the third paragraph, revise the second sentence to state, "The proponents of the bill support protections from bid shopping for building envelope contractors."
- On page 9, revise the first sentence in the fifth full paragraph to state, "Mr. Nygaard asked whether the proposal is to pursue an analysis or render a recommendation on the legislation."
- On page 9, within the third full paragraph, change "company" to "Association."
- On page 9, within the fourth full paragraph, revise the sentence to reflect the following, "Mr. Thompson commented on a number of interests and may want the Board to include some specific subcontractor identification requirements when the low responsible bidder is determined if this legislation is adopted."
- Members discussed the intent of the language in the second sentence in the fifth paragraph on page 11 attributed to Mr. Newgent at the November 12 meeting and agreed to retain the language acknowledging that the issue surrounded the City's desire to maintain oversight of small works because of prior contractor fraud in Seattle Public Schools.
- Correct "Ms. Crawford" on page 13 in the third paragraph from the bottom of the page to reflect "Mr. Crawford."
- On page 13, correct the comments in paragraph attributed to Ms. Berntsen to reflect Ms. Reyes.

Alan Nygaard moved, seconded by Bill Frare, to approve the minutes of November 12, 2015, as amended. Motion carried.

Project Review Committee

December Meeting Report

Curt Gimmestad, Chair, Project Review Committee (PRC), reported that at the last meeting, PRC panels comprised of eight members considered and approved the following three GC/CMs and one Design-Build project:

- **Renovation of Tahoma & Cedar River Middle Schools for Elementary School Realignment – GC/CM.** The project is renovation and conversion of several middle schools to elementary schools. The school district passed a bond several years ago. The project cost is approximately \$14 million. Project challenges include construction occurring when the schools are occupied necessitating the involvement of the contractor to provide input and guidance on phasing. The panel unanimously approved the application.
- **Replacement of Sehome High School – GC/CM.** The project sponsor is Bellingham Public Schools. The project budget is \$73 million. The project is located on large, sloped site surrounded by wetlands. Construction would occur when the campus is occupied and input from the GC/CM for phasing and budgeting is paramount to the success of the project. The panel unanimously approved the application.
- **Liberty Lake Town Square Project – Design-Build.** The City of Liberty Lake is located east of Spokane. The project is a community center and pool totaling \$12 million. Panel members deliberated on scheduling, timing, budget constraints because of the lack of identified funding, and team experience, as it's the City's first community project. The applicant demonstrated that the team within the City and the consultant team would be able to move forward effectively to develop a Design-Build team. The application also received favorable public comment. The panel unanimously approved the application for D-B.
- **City of Tacoma East Side Community and Aquatic Center – GC/CM.** The project sponsor is Metropolitan Park District of Tacoma. Metro Parks has received approval of two previous GC/CM projects within the recent past. One project was a Heavy-Civil project. The project budget is

approximately \$31 million and includes several partners. The project site is located on the campus of an existing middle school located in east Tacoma off Portland Avenue. Public comment supported the project proposal as well as the project team and the ability of the team to complete other similar projects in the Tacoma area. The panel voted unanimously to approve the project. The project includes different sources of funding. Panel members discussed the challenge of managing different funding sources and incorporating the different sources into a GC/CM contract.

Mr. Gimmestad said that at this time, there are no outstanding project applications for consideration by the PRC. The next meeting is scheduled on January 28. Within the last six months, the PRC has considered nearly two dozen project applications, which speaks to the full utilization of alternative delivery methods in the state.

Bill Frare asked about the breakdown as to the type of delivery method. Mr. Gimmestad responded that of the two dozen projects, approximately six were D-B with the remaining projects utilizing the GC/CM delivery method. There were also several public entity recertifications for GC/CM and D-B.

Chair Maruska recommended providing a summary report of projects during 2015 at the February meeting. Mr. Gimmestad affirmed the request to develop a summary of 2015 projects to include total value, procurement model, and a summary of public entity recertifications.

Andrew Thompson requested the addition of designating which GC/CM projects are Heavy-Civil. Mr. Gimmestad acknowledged the request.

Nancy Deakins pointed out that the summary would not reflect all GC/CM or D-B projects in 2015 because some certified public bodies are not required to submit project applications for projects to the PRC for approval. Mr. Gimmestad said many public entities are utilizing other procurement methods. A number of projects have been completed in 2015 that would not be included within the summary. He offered to provide an overview of some of those projects he personally has knowledge of, as well as obtaining input from other PRC members. Ms. Deakins recommended confining the summary to only those projects reviewed by the PRC.

Walter Schacht inquired about the possibility of receiving an annual summary on the delivery methods utilized by public agencies. Chair Maruska said a report produced annually documents all Job Order Contracting projects. Tallying the total number of GC/CM and D-B projects reviewed by the PRC could be easily accomplished; however, information would be lacking on the projects completed by certified public owners. If the Board would like to have that information, the statute requires certified public bodies to provide the information. At this point, the Board has never requested the information. Mr. Schacht suggested the Board should discuss the request to determine whether a report would be helpful on the number and value of all projects using the alternative delivery method.

Alan Nygaard pointed out that the Board approved the Data Collection Committee's proposal for data collection, which includes the information requested by Mr. Schacht. However, the mechanism for collecting the information is still pending.

Chair Maruska recommended deferring additional discussion on the issue until the Data Collection agenda item.

Review of Candidate – Action

Nancy Deakins reported on one PRC position vacancy representing Owner – Cities. At the November meeting, the Board considered an application from Joe Stowell, City Engineer with the City of Oak Harbor. Mr. Gimmestad obtained positive reference checks on Mr. Stowell with respect to his experience with alternative delivery projects. Additionally, DES recently received an application from Ahmad Qayoumi, Director Public Works with the City of Pasco. His resume did not include any experience with alternative public works. Mr. Qayoumi also planned to obtain some references but lacked sufficient time for submittal.

Chair Maruska invited comments from Rebecca Keith based on a previous discussion. Ms. Keith acknowledged that Mr. Qayoumi was unable to attend the Board meeting. She actively recruited applicants for the position and is appreciative that two candidates are willing to make a commitment to serve on the PRC. Mr. Qayoumi represents a city from eastern Washington. The Board previously discussed the goal of ensuring representation from the entire state. Mr. Gimmestad received positive reference checks for Mr. Stowell. It's also important for the PRC to have members with alternative public works experience. She was hopeful that Mr. Qayoumi could have attended the meeting to discuss his experience, as it's not reflected in the information. The Association of Washington Cities (AWC) supports Mr. Stowell's candidacy. She invited Mr. Stowell to speak to his experience.

Joseph Stowell reported he has approximately 20 years of experience beginning with private industry in land development, drafting contours, and completing site design on a D-B project. Although his experience is somewhat limited, he has been exposed to the public works delivery method in terms of design. He eventually worked for a county utility for water and sewer design for approximately eight years, and was responsible for numerous projects from beginning to completion involving simple water line extensions to extending water systems to 500 homes. He also completed similar work for sewer. He was responsible for managing a \$100,000 water importation project from an adjacent valley. The private project included the selling of water rights to support development in the valley. He ensured the project was properly completed to city specifications. Mr. Stowell reported he has worked for the City of Oak Harbor for five years. He's been the City Engineer for three years. The City is working on a new treatment plant initiated in 2008. In March 2015, the project received approval from the PRC to proceed with the GC/CM delivery method. The project is complex because of the tight timeline as the sewer system is currently at capacity. The project is phased with multiple issues surrounding the location near a waterfront and cultural resources. A fifth amendment to the contract was recently approved with the sixth amendment pending on issues related to procurement, heavy-civil, and bids. Mr. Stowell said he believes he has sufficient experience although not directly involved in GC/CM projects. However, the last project afforded him with the ability to identify whether a project proponent has the capability of completing a public project successfully.

Chair Maruska invited discussion on the applicants.

Ms. Keith suggested moving forward on a decision if no further discussion is anticipated.

Santosh Kuruvilla said it's important that more than one candidate applied. He contacted several individuals and believes most of the candidates appointed to the PRC represent western Washington. It's important to have geographic representation across the state. Of the individuals he contacted, several were located in Spokane. There has also been insufficient time to receive any responses. He suggested affording more opportunity for the applicant to speak to his GC/CM/D-B experience because the applicant has been the public works director in several cities to include jurisdictions in Oregon and the East Coast. Mr. Qayoumi is currently the Public Works Director for the City of Pasco and has experience in transportation projects, wastewater projects, and building construction constituting real experience the Board would likely want represented on the PRC. However, he's unsure whether the applicant has GC/CM experience. He suggested affording the applicant an opportunity to provide more information about his credentials.

Danelle Bassett reported she received a response from Mr. Qayoumi and could provide the information to the Board.

Chair Maruska said the issue before the Board is to consider the applicants or defer action.

Mike Shinn noted that there are multiple positions on the PRC and perhaps the applicant could be considered for another vacancy.

Ms. Deakins advised the Board that the current recruitment sought letters of interest and resumes by January 1, 2016. Upcoming expiring or expired positions include Higher Education, Ports, Architect, Engineer, and General Contractor.

Mr. Shinn noted that the applicant could also apply for the Engineer position.

Alan Nygaard moved, seconded by Rebecca Keith, to appoint Joseph Stowell to fill the vacant Owner-Cities position on the PRC.

Mr. Thompson encouraged Mr. Qayoumi to apply for the Engineer position.

Motion carried unanimously.

Ms. Deakins encouraged members to contact potential candidates throughout the state and encourage them to apply.

Ms. Bassett noted that she currently hasn't received any applications from candidates from eastern Washington. Mr. Kuruvilla asked whether a representative from Washington State Ferries could apply for the Port position. Chair Maruska encouraged the applicant to apply.

Linneth Riley-Hall, Sound Transit, added that there are no categories for a transportation representative on the PRC. Sound Transit is filling a General-Owner position.

Building Envelope Legislation Discussion - Information

Bill Frare reported that the building envelope legislation did not pass during the 2015 legislative session. At that time, he testified in opposition of the bill. The bill has been suspended during the legislative break and the proponents of the legislation were advised to consider presenting the proposed legislation to the CPARB to share the intent of the bill and issues the proposed legislation might solve, as well as to receive input from industry representatives serving on the Board. He introduced Tonia Sorrell-Neil, Executive Director, Masonry Institute of Washington.

Ms. Sorrell-Neil briefed members on the proposed legislation. In many public buildings, many failures of installed masonry systems are occurring five to 10 years after completion of the building. The issue is not masonry products or the quality of installation, but rather failures occurring to construction elements surrounding the systems. The masonry industry identified a number of projects from Bellingham to Vancouver where failures have occurred during the last year. Because the problem is not structural, all systems beginning from the sheathing outward have been identified as the problem within the building envelope where wire intrusion or energy leaks are causing systems to fail. Masonry failures are easier to identify because they are modular units. Repairs are possible, but at a cost to the public. In response to the problem, legislation was proposed in HB 1742 to list and define the building envelope and to require the listing of masonry subs on bid day similar to other subs such as mechanical, electrical, and plumbing (MEPs).

Opposition in the House concluded that the proposal would require too many subs and was too vague. The proposed compromise would require the owners to list the subs at the time of project award, which wouldn't affect the bidding process. The Burien Fire Station is a good example of masonry failure. The contract specified hiring a local precast company to complete precast seals. However, during the construction phase, a local precast company was substituted with a company from Mesa, Arizona primarily to save money. Mesa's weather is totally different from Washington's weather. Additionally construction processes are different in Arizona than in Washington. The project ended up in litigation because of significant failures. In fact, the building was demolished and rebuilt. Many of the leaks were caused by the precast work. Additionally, there were other leaks involving the roof and other building elements.

Under the proposed legislation, the masonry subcontractor would not have been substituted during the process if the bid had identified the sub at time of award. Listing the subs upfront completes the process at the beginning affording time to vet as opposed to waiting and potentially impacting project schedules. The proposed legislation would have listed subcontractors at the time of award; however, there was opposition from some in the industry.

The masonry industry and others spent the last six months preparing a systems guide and educating the masonry industry and masonry contractors on bidding full systems. A certification program is now available for all contractors for commercial projects for estimating, bidding waterproofing, installations, and energy thermal modeling to ensure against building failures and to protect the lifespan of new public buildings. The certification guide is 311 pages and was developed through a series of meetings by stakeholders in the masonry industry, general contractors, architects, and engineers. The guide is available on January 1, 2016.

Ms. Sorrell-Neil asked the Board to consider supporting some statutory language addressing the masonry industry. The industry recognizes the importance of helping all subs in the entire building envelope because masonry systems are not the only product encountering similar problems. The new systems guide provides standardized best practices for masonry wall systems design and construction. The certification program emphasizes that any public building utilizing the GC/CM, D-B, or Design-Bid Build delivery methodology would benefit by having a certified mason subcontractor bid the project and receive the award. It's important to hire a sub that is trained and educated in the processes of the full building envelope system. The goal is to stop building failures because those failures reflect negatively on the entire industry.

Mark Riker asked Mr. Frare if he had originally opposed the legislation. Mr. Frare affirmed he testified against the proposed legislation. Mr. Riker said the minutes from the November meeting mentioned Ms. Sorrell-Neil as a proponent who later withdrew support. Mr. Schacht acknowledged that he was the source of the comments, as it was his understanding that Ms. Sorrell-Neil had backed away from supporting the legislation.

Ms. Sorrell-Neil pointed out that the association never opposed the legislation and believes it's the right answer.

Mr. Riker suggested discussing the issue because the building envelope is important to the trade he represents. He would also like to have a better understanding of the proposal. Ms. Sorrell-Neil said the proposal speaks to the failures experienced in public buildings and trying to arrive at some solutions.

Joaquin Hernandez asked whether the legislation is attempting to identify a correlation between not listing subcontractors at the time of award and building failures. He asked whether that scenario might apply to other trades not listed. Ms. Sorrell-Neil affirmed that listing of products and subcontractors upfront identifies the subcontractors for the project except in some extreme circumstances. Currently, many products change

because the design wasn't completed at the time of the bidding process. As design is developed, schedules are often impacted leading to shortcuts and lack of time to evaluate potential energy impacts surrounding specific product decisions, such as how flashing might impact masonry. Listing the subs conveys that the process has been considered upfront. Mr. Hernandez asked whether the legislation would have prevented the use of the Mesa subcontractor. Ms. Sorrell-Neil replied that in the Burien Fire Station case, it would have been a local western Washington precast company rather than the Arizona company. The local contractor in that particular case understands weather issues and manufacturing processes. The proposed legislation wouldn't necessarily have prohibited the use of the Mesa contractor, but it would have required listing the contractor upfront. In that case, the general contractor contacted the owner and recommended substituting the work with a Mesa precast company to achieve some cost savings. The owner who was not familiar with construction processes trusted the general contractor's recommendation.

Mr. Thompson thanked Ms. Sorrell-Neil for briefing the Board. The Board advises the Legislature to amend statutes. The request to the Board is to consider amending the statute when the issue is about failures, which speaks to quality, bridging documents, quality control and assurance, the construction process, and installation. His concern with the proposal as an estimator is that he would be required to name an entity upfront to prevent problems or facilitate better performance. He believes there are two different issues.

Ms. Sorrell-Neil cited MEPs as an example because of fewer MEP failures. The proposal is not a perfect solution and likely wouldn't solve all issues; however, with MEPs, the similar issues are not nearly as many because the subs are listed early. From the construction industry perspective, many processes could be handled differently to increase effectiveness. Based on past practices, the masonry industry believes the legislation is important.

Steve Crawford remarked that general contractors often develop low bids at the last minute creating a scramble to assemble all information and make a determination on the subcontractors. Listing complicates that process and increases the potential for errors. The definition of building envelope is difficult, and if the proposal requires listing all subcontractors relating to the building envelope, there is a real opportunity to miss listing one and increasing opportunities for bid protests. The shift in direction to develop a guide is beneficial. If masonry contractors began exploring expanding its scope of work by becoming more of a building envelope subcontractor, that could be an advantage. However, listing subcontractors offers no guarantees of high quality subcontractors.

Ms. Sorrell-Neil agreed there are no guarantees in the construction industry. When the bill was reviewed by the House, the language was adjusted to reflect listing of subcontractors would not occur on bid day but when the bid was awarded to enable some additional time. The main issue is ensuring the best product is installed.

Mr. Schacht shared information on the discussion of the proposal by architects in the state. Although, the architectural industry did not testify against the bill, there wasn't support because of discussions between practicing architects and design professionals who specifically deal with building envelopes. The design profession and architects agree with Ms. Sorrell-Neil on the importance of ensuring better outcomes in the construction building envelopes. However, there is a difference of opinion in terms of achieving those outcomes. The industry doesn't believe there is a substantial benefit of listing subcontractors to achieve a better outcome in the building envelope. The issue of the building envelope is complicated and unlike MEPs, there isn't a practice of packaging envelopes under the auspices of a larger subcontractor. For example, the completion of mechanical may identify the sheet metal subcontractor as the prime responsible for fire protection, plumbing, controls, and air handling with electrical subcontractors responsible for power, IT, lighting, and other pieces. That likely was a practice at the time the RCW required listing MEP subcontractors. Mr. Schacht added that he also believes more claims within the construction industry are generated from MEPs

because of the difficulty in commissioning buildings, as well as not achieving building performance criteria. The listing of subcontractors for MEPs would indicate the industry isn't achieving the desired results. CPARB's Life Cycle Cost Committee identified commissioning as important. Better solutions could be accomplished by providing better oversight during design and construction. Commissioning has proven to some extent to produce better outcomes on projects. Design professionals believe strongly that envelope commissioning is the way to deal with the issue. An effective envelope commissioning works with the design team regardless of the delivery method by examining the details of the project to reduce the number of potential failures and to ensure constructability. He suggested representatives from the material supply trades should engage in discussions with design and general contractors to determine a way to arrive at better outcomes.

Ms. Sorrell-Neil replied that the masonry industry recently completed a series of stakeholder meetings over six months with representatives across the industry to include architects, engineers, general contractors, and masonry. Those issues were addressed. In terms of MEPs as the largest cost factor, MEPs are major components of most projects and not because of bid listing. The majority of construction project costs are for mechanical, electrical, and plumbing. The masonry industry wants to focus on the building envelope, as it's now a new focus because of today's emphasis on energy use and energy savings. The conversation on energy savings or water failures has only occurred since the early 2000s when green buildings, LEED, and achieving carbon neutral were recognized as priorities. The building envelope is more important now than it has ever been. The masonry industry would like to participate in recommendations that are industry-specific in terms of fixes. She asked the Board to consider including best practices language for masonry elements of buildings for the GC/CM delivery method. For example, a \$1 million construction project with a masonry element would require utilization of a certified masonry contractor who has been trained on the entire masonry system.

Mr. Newgent commented on the different envelope systems available in the construction industry prompted by energy reform, which is complicating the building envelope and interaction of different materials. He supports the idea that the Board should consider how to develop packaging of the building envelope because it has changed the face of construction. It would be problematic to deny and try to catch up later. The Board should be involved in determining the building envelope. Being involved in the process as a bidder and supplier, he recognizes the importance of having that information early in the bid cycle rather than prior to construction.

Brent LeVander asked whether the intent is pursuing the revised language for subcontractors to be listed at time of award or pursuing certification language. Ms. Sorrell-Neil said the intent is currently under development. At this time, the focus is on certification. The goal is to obtain consensus by the Board and work together as an industry.

Gary Rowe acknowledged that he's learned much from the conversation. Any position considered by the Board should be fully vetted by the Board rather than supporting proposed legislation. As a representative of a public owner, he appreciative of the desire for projects to succeed rather than fail. He also appreciates the architect and the contractor who are well versed in the issues. He often defers to their expertise.

Chair Maruska said it appears the Board is interested in addressing the issues. Ms. Sorrell-Neil asked about the Board's preferences in terms of certification as a component of best practices. Chair Maruska said the issue is worthy of further discussion. The Board typically appoints a team of Board members and other experts and interested parties to draft best practices. He suggested an approach of examining best practices for GC/CM and other delivery methods to consider the inclusion of certification.

The meeting was recessed for a break from 10:24 a.m. to 10:39 a.m.

DES Agency Legislation – Proposed Changes to Small Works Roster – Action

Mr. Frare briefed members on the proposal to:

- Increase the maximum dollar threshold for small works rosters from \$300,000 to \$500,000.
- Increase the maximum dollar threshold for limited public works from \$35,000 to \$150,000.
- Authorize contracting agencies to solicit and award contracts to small and veteran-owned businesses for small works roster contracts.
- Authorize contracting agencies to solicit and award contracts to mini- and micro-businesses for limited public works.
- Allow the option of waiving the retainage requirement on a case-by-case basis for small works roster projects.

DES believes that the proposal would remove barriers from minority-owned businesses that may have been disadvantaged in the competitive bid process by having access to credit and bonds at the same rates as other established firms.

Since the November meeting, Mr. Frare said he's spoken to several individuals about options that might be conducive for effective changes in the legislation. After consultation with stakeholders and DES staff members, not all changes were recommended with acknowledgement that some of the recommendations could be included. One request was to eliminate the maximum dollar threshold, which may be possible. Labor asked for a reduction in the limit from the proposed \$150,000 to an increase of \$35,000 to \$70,000. The department does not believe the amount is sufficient to create a fair bidding environment for smaller businesses. He suggested a vote by the Board to endorse the bill as originally proposed.

Additionally, the Governor's Office is hesitant in supporting the bill and the agency may not pursue the bill as an agency-requested legislation acknowledging that there is sufficient support of the bill to identify another proponent to sponsor the bill.

Mr. Rowe suggested that because of new membership on the Board, it might be beneficial to review the process for the Board's action for endorsing or proposing legislation.

Ms. Reyes supported the suggestion and recommended a new member orientation.

Chair Maruska summarized the actions the Board may take ranging from the development of a bill for submission to the Legislature to supporting proposed legislation submitted by others. Legislation drafted by the Board is submitted to the Legislature as a CPARB requested bill. When members vote on a CPARB-sponsored bill, the Chair represents the Board's position during legislative testimony. Members of the Board would not directly oppose a CPARB-sponsored bill in those instances where there might be a split vote. However, each member's constituency may advocate for or against the bill. Boardmembers represent the Board's position and take action as a board. The Legislature created CPARB to enable industry representatives to work together on various complex and difficult issues to reach a consensus. However, members did not forfeit the ability to introduce individual legislation or represent the positions of its constituency. In those situations, where the legislation is not a CPARB bill and the entity is seeking the Board's support, the process is somewhat different in that the Board would submit a letter documenting its position. Sometimes the Board has objected to bills and in other circumstances, the Board has supported the bill. Efforts to move the bill through the legislative process would be the responsibility of the bill's sponsor.

Chair Maruska asked whether the version of the proposed bill is the same bill previously reviewed by the Board. Mr. Frare affirmed there have been no changes to the bill.

Mr. Newgent advised that he's not supportive of the bill. There was some testimony that indicated the bill's targeted contractors only represent 1% of work today and the proposal to increase the threshold for a contractor who is only completing 1% of the work today is problematic, as it would also increase the likelihood of other contractors taking advantage of the legislation. Additionally, for limited public works, he supports doubling the amount as it has been many years since original legislation was enacted. However, he's also mindful that the packaging of small works in large contracts for a public entity entailed a fraud of over \$1 million. There is packaging in the fraud capacity within limited public works rosters. In terms of retainage, there have been attempts to work with cities and owners to fast-track payments to DBEs and MBEs. Mr. Newgent said his constituency is supportive of those efforts to help them succeed in the market. The idea of eliminating retainage should be addressed because his industry must deal with retainage often because of lost wages and benefit packages at considerable cost. Another concern is that the bill is proposed to CPARB as part of a DES-supported bill. DES should be utilizing its resources to support apprentice utilization and contracted fraud. He is troubled now that DES might not be supportive of sponsoring the bill. The Board shouldn't be entertaining the proposal if DES is not sponsoring the bill.

Mr. Schacht expressed interest in receiving more information on why there's some concern from the Governor's Office while DES believes strongly that the proposal is important legislation.

Chair Maruska invited public comments.

Duke Schaub said he represents the Association of General Contractors (AGC). Although respective of the bill, the AGC believes the Board should delay a vote on the proposal until there is adequate opportunity to thoroughly vet the legislation with small businesses. Many small businesses who are members of the AGC are unaware of the proposal. It might be beneficial to obtain their feedback. He agreed that are several issues relative to retainage, payment on time, and other issues that are very concerning to the small business community. There is no objection to the objectives of the proposal, but more vetting is warranted prior to the Board's action. It also would be unfortunate for the Board to introduce legislation that would require AGC to testify in opposition and he would rather be in the position of supporting CPARB's endorsement.

Mr. Frare addressed Mr. Schacht's comments. DES has met with members from the National Association of Minority Contractors and other minority groups over the last several years to review and discuss concerns. The intent is to develop counter measures to address barriers. DES is very involved in the community and is aware of the issues. The Governor's Office expressed concerns that the proposal could elicit opposition from labor that the Governor's Office is not in a position to address during the short legislative session because the Governor's Office targeted several larger issues to accomplish during the short session. DES is striving to make some significant strides in contracting. The proposal would allow the Department to create an environment for smaller businesses and minority businesses to succeed at the lower level and enable them to expand credit and business lines. In terms of timing, his goal is to demonstrate some progress to the community during this legislative session. Additionally, should the legislation move forward, many of the issues would likely be resolved.

Mr. Riker requested a response to his comments at the November meeting about the effect of changes in 2009 legislation increasing \$200,000 to \$300,000 in the small works roster. There hasn't been any data provided as to whether the increase satisfied the intent of the legislation. It's important to monitor whether legislation has accomplished the goal intended. He cannot support the proposal without knowing whether legislation in 2009 was successful. The proposed increase in limited public works is also unacceptable. His suggestion was

doubling the amount and monitoring the effectiveness of the increase for several years. If the results are positive and meet the intent, the amount could be increased. Mr. Riker added that labor also opposes the retainage provision as the worker could end up with nothing requiring them to file a lawsuit and losing money in the long term.

Mr. Kuruvilla agreed with Mr. Frare, as it's important for the Board to consider action prior to the legislative session. The proposal has been reviewed during the last several meetings and by the National Association of Minority Contractors. He supports taking action on the proposal.

Mr. Nygaard added that he wants to support the bill because it's an improvement over existing legislation. Although there have been consistent references to "minority," that term is not included in the bill. It's important to be clear that although it may be the purpose, the bill is for small businesses and veterans. Additionally, public owners have the ability to use limited public works in addition to the small works roster. The bill would require public owners to use the small works roster for limited public works procurement. The concern is that often the project is simple, such as repairing a garage door that may entail not having a garage door repair company on the small works roster. Requiring the use of the small works roster limits the ability of an agency to contact a company to have the problem repaired without the need for obtaining three quotes. Limited public works affords the ability to complete small projects quickly. In terms of the limit amounts, public owners are constantly criticized for the cost of projects. It often costs more to procure than the total cost of a project in many cases. Any method to reduce the cost of procurement would be beneficial for taxpayers. Increasing the amount that is viable for the procurement process and tied to the size of the project should be the goal.

Mr. Thompson questioned the frequency of workers not receiving pay. Mr. Riker said it's common within the construction trades industry. Unfortunately, the state doesn't have the resources to complete the investigation or track all cases. Sheet Metal Works Local Union 66 spends approximately \$3 million annually on tracking sheet metal contractors, representing a substantial amount of the budget to ensure competitors bidding on public works projects are paying the appropriate rates.

Mr. Hernandez supported voting on the bill. Waiving retainage is an option within the bill. He is hopeful that public owners consider the type of project and judge the risk that a small business may be unable to pay the labor versus a larger project that includes a substantial amount of material purchase. The bill will increase competition.

Mr. Newgent remarked that the amount of liability experienced in the industry is from the smaller contractors rather than the larger contractors. It's important to have more oversight over small contractors on defaults.

Ms. Reyes expressed support of the bill. The Board should also consider the bill as an inclusion plan because most small and minority contractors are always precluded in many bidding opportunities.

Mr. Schacht reported architects in the state are supportive of increasing equity for business and entrepreneurial in the state. There are always unintended consequences because of the difficulty in projecting outcomes. It's time for substantial change and opening doors for more people to have an opportunity to be successful. It's also important for the economic health of the state.

Ms. Keith said she has conferred with a number of jurisdictions that support increasing opportunities for small businesses, as well as having access to more streamlined processes. However, she is personally concerned about the higher thresholds and adverse impacts, particularly since the retainage and bond waiver are

permissive. If the jurisdiction elects not to waive both and ~~assumes~~ assume the risk, she is concerned that it might result in an adverse impact. It would be helpful to monitor the data over the never several years.

Mr. Shinn spoke to alternatives for retainage, such as obtaining a retainage bond. To secure a \$150,000 bid bond, most small businesses would likely have a truck asset that could be used for equity to secure a bond. He opposes waiving a bond for projects because it protects wages as well.

Mr. Crawford supported comments by Mr. Hernandez as it's permissive and includes options for the public owner through bonding and retainage. Commentary from different segments of the community spoke in support on the proposal because it helps to open opportunities.

Chair Maruska spoke to the perspective from Washington State ports. Ports support increasing the dollar value and limited public works. With the exception of the three largest ports, smaller ports struggle in terms of the cost of routine projects. Any assistance to small ports to become more cost effective is supported. Many public owners do not utilize limited public works because the dollar value is too low. There are also concerns about creating unintended consequences of conducting business under a restructure of small works. However, ports support the intent of the bill. He cautioned that unless a motion supports the ability to make changes within certain parameters of the bill, the Board would need to withdraw support. For example, if the Board voted to support the bill and then through additional negotiations, a number of provisions change in the bill, the Board would be unable to endorse the bill. The Board should also consider whether it would support a bill sponsored by a private entity rather than an agency-sponsored bill.

Walter Schacht moved, seconded by Teresa Berntsen, to approve the proposed changes to Small Works Roster legislation.

Mr. Frare offered a friendly amendment to approve the proposed changes regardless of the bill's sponsor. The makers of the motion accepted the friendly amendment.

Mr. Nygaard expressed a preference for the motion to include more flexibility, as it's likely the bill will change as it continues through the legislative process. The motion should include some flexibility to account for potential changes.

Mr. Frare noted that the Board has an opportunity in February to reaffirm any changes in the bill.

Mr. Crawford added that he also has some concerns, as it appears there may be some significant future discussions regarding dollar amounts. If the Board is voting to support the proposed bill as stated and it changes, then the Board's support would be withdrawn. He suggested resolving the issues before supporting the bill.

Chair Maruska responded to questions and provided guidance on different options the Board could consider for the motion.

Mr. Rowe pointed out that this is a short session and that from a practical standpoint the motion should reflect the bill as drafted.

Mr. Newgent said labor offered DES a proposal that could be supported. The intent was DES would sponsor the bill. The motion should reflect "as proposed."

Although, the amendment to the motion was offered and accepted as a friendly amendment, the Board voted in favor to approve the amendment to the motion.

Motion carried on the amended motion (12-5).

Chair Maruska reported communication to the Legislature would indicate that the bill was supported by a majority of the Board.

Alan Nygaard moved, seconded by Steve Crawford, to add the bill to the February meeting agenda to afford an opportunity to review proposed amendments to enable the Board to consider whether it would continue to support the bill.

Mr. Nygaard said his non-support concerned some technicalities and he would like to consider some changes that could be supported by his industry.

Mr. Crawford commented on his support for the concept of the bill and suspects there might be changes as the proposal likely wouldn't be successful and could potentially damage CPARB's credibility. He supports revisiting the bill in February.

Mr. Hernandez asked whether an amended bill would be presented in February.

Mr. Nygaard said that generally, specific amendments might not be identified by the February meeting but that it would be revisited in terms of the status of the bill, as well as exploring ways to continue support of the bill if there are changes.

Motion carried unanimously.

Mr. Riker advised that as the representative of Local 66, he would be opposing the bill but not as a member of the Board.

Mr. Riker left the meeting.

Public-Private Partnerships Committee Report – Information

Chair Maruska deferred the report and referred members to minutes of the committee meeting.

Hospital Districts Legislation – Information

Ty Heim provided an update on two legislative proposals. The first is a bid amendment in RCW 70 applicable only to hospital districts. The request would limit those circumstances where bids are automatically disqualified if the bid exceeds the project estimate. The proposal strikes language from RCW 70 to enable hospital districts to fall within the provisions of RCW 39. The proposal clarifies situations with bidding by general contractors and increases the efficiency for hospital districts. Previous cases incurred significant increases in project cost for no greater public benefit.

The second request is adding public hospital districts to JOC authorization in RCW 39.10.420. Previous concerns surrounding the request centered on the level of sophistication or size hospital districts assume that that increased responsibility. Hospital districts addressed the concerns by including a \$15 million threshold. The intent is to secure another tool within the tool box by authorizing JOC.

Hospital districts have also reached out to DES. DES is willing to include hospital districts in JOC to afford opportunities for hospital districts to learn how to use JOC.

Mr. Heim introduced Lisa Thatcher with the Association of Washington Public Hospital Districts.

Ms. Thatcher provided additional information on the proposals. The association values the ability to present a bill to the Legislature with the support of CPARB. The request is to vote affirmatively on both proposals.

The Board reviewed the proposal to strike language in RCW 70.44.140. Chair Maruska said because CPARB is under two different titles, two requests might be required. Ms. Thatcher affirmed two separate requests would be submitted.

Steve Crawford moved, seconded by Bill Frare, to support the revised language in RCW 70.44.140 as presented. Motion carried unanimously.

Mr. Nygaard questioned which hospital districts have revenues less than \$15 million annually. Mr. Heim said that approximately 25% of all hospitals would be excluded. Ms. Thatcher said the proposal would exclude only five hospitals. The issue centered on sophistication. Most hospitals are critical access hospitals with 25 beds.

Ms. Keith spoke to earlier conversations for increasing participation by small businesses and minority businesses. The City of Seattle has experienced some success and this proposal presents another opportunity.

Mr. Frare mentioned the discussion with Mr. Heim about the smaller hospital districts having access to JOC through DES. DES is able to provide assistance because of legislation passed last year to increase thresholds for JOC. DES would coordinate the process through an interagency agreement with hospitals.

Chair Maruska asked whether the change affords an opportunity for all hospital districts to enter into an agreement with DES for JOC. Mr. Heim affirmed that's the intent. His agency has a robust capital projects department and likely would learn the process very quickly and pursue JOC projects independently after the initial learning curve with DES.

Alan Nygaard moved, seconded by Bill Frare, to accept the proposed modifications and recommend modification of RCW 39.10.420 as presented. Motion carried unanimously.

Potential New Committee – Best Practices for MCCM/ECCM – Action

Mr. Shinn presented the proposal. As a co-founder of RCW 39.10.385 and the MCCM, there have been some concerns about the inconsistency of using the procedure and process by GC/CMs and public bodies. The inconsistencies and varied approaches are challenging the reason the process was initiated. Now that a history has been establishing for utilizing the process, it's timely and appropriate to review the effectiveness of the process and establish best practices. The request is to establish and appoint members to an M/E-CCM Review Committee. Mr. Shinn reviewed the purpose of the committee:

1. Review recent projects that utilized the 39.10.385 process for mechanical and electrical and identify significant successes and concerns.
2. Develop a model procurement for M/E-CCM under 39.10.385 and identify best practices.
3. Consider changes to the statute if necessary and make a recommendation to CPARB.

Mr. Shinn addressed the committee's scope of work and indicated the committee would be responsible for developing the draft proposal. The focus is only for mechanical and electrical within the GC/CM process.

Ed Kommers provided additional clarification on the proposed scope of the committee. Forming a stakeholders committee would benefit the process and address many of the concerns, as well as address many of the Board's questions. Case studies and RFPs that have been assembled will assist the committee. RCW 39.10.385 is limited to mechanical and electrical. As previously directed by the Board, committees are requested to provide a clear mission for the committee, which includes the three earlier stated issues. Over the next year, the three items would likely be possible for the committee to achieve, as well as position the Board for potential legislative changes during the 2017 session.

Mr. Crawford supported the proposal to establish a committee if there are concerns in the industry to assist in refining procedures to ensure ECCM/MCCM continues as a sustainable practice.

Mike Shinn moved, seconded by Brent LeVander, to create an M/E-CCM Best Practices Committee. Motion carried unanimously.

Chair Maruska recommended considering initial appointments to the committee.

Members offered the following nominations to the committee:

John Lebo (UW), Janice Zahn (Port of Seattle), Andrew Thompson(Granite), Mike Shinn, Dick Lutz (Centennial Construction), Aleanna Kondelis (City of Seattle), Thuy Hong (Sound Transit), and representatives from National Electrical Contractors Association (Puget Sound Chapter)

By affirmation, the Board unanimously approved the nominations to the committee.

Design-Build Best Practices Committee Report – Information

Mr. Schacht reported on the status of several committee members because of the inability to attend meetings. No action is requested at this time; however, a slate of proposed replacements will be presented for consideration by the Board at the February meeting. Additionally, although Ms. Deakins attends the meeting, DES has no position on the committee. It's important for DES to be represented on the committee as well.

The committee continues dialogue about D-B best practices. No proposals have been adopted at this point with the committee focusing on dialogue. The committee has a public DropBox folder and any requests for information can be accommodated for minutes and other materials.

Mr. Schacht referred members to the pre-read on the draft report prepared by the committee. At this point, the committee has attained some consensus on common terminology. Because of different terminology, it increases the difficulty of public owners, contractors, and design professionals to communicate.

The December committee meeting is scheduled on Wednesday, the 16th. The focus of that meeting is working on fairness and competition. Currently, a legislative mandate is included in the capital budget assigning a report requirement due by DES/CPARB. The committee is attempting to focus on those efforts to develop some initial suggestions that would increase opportunities for contractors, engineers, and design professionals to participate in the D-B process.

Mr. Kuruvilla added that the conversations have been lively and Mr. Schacht has done a good job of managing the conversations. It's important to ensure the document is inclusive of all owners and perhaps including a section on transportation infrastructure projects, which may be a missing piece. Washington State Department of Transportation (WSDOT) has completed much work in the D-B environment. That work should be captured in the report.

Mr. Schacht agreed and suggested the committee is at a point where it is likely subcommittees should be formed to review particular issues.

Mr. Thompson said the committee's effort to create best practices was created before the legislation dictated the development of D-B best practices. The committee is ahead the curve with two ongoing efforts to include the WSDOT effort and the committee's work. The committee is working on the mandate from the Legislature. However, there will be an outcome from both efforts and the question is whether those efforts should be combined to afford consistency.

Mr. Schacht suggested one of the first steps is a discussion on the two processes to gauge how they could be combined or exist in parallel.

Mark Gaines, WSDOT, advised that the efforts are independent in many ways and that it would be difficult to obtain consistency between the two. The timeline for WDOT's \$700,000 research project is not to produce deliverables until the end of 2016. It would be difficult to insert some synergy between the two efforts prior to the due date by the Legislature.

Mr. Schacht offered to meet with Mr. Gaines to discuss the issue. He outlined the consensus steps of the committee and questioned whether the CPARB believes there is some pressure to produce a response to the budget note for this legislative session or target the next full session.

Chair Maruska said he doesn't recall the language within the budget proviso. Mr. Schacht said the proviso speaks to increasing opportunities for more architects, engineers, and contractors to participate in the process. Chair Maruska said that previously, the Board has advised the Legislative committee chair on progress to date since there is no definitive delivery date. That affords an opportunity for interaction with the committee and addressing some legislative questions. Mr. Schacht reported that the AELC met with a state representative and discussed a wide range of issues. It was clear, the legislator wasn't aware of the mandate. Although the issue is important, it would be difficult for the committee to reach consensus for presenting legislation to the CPARB.

Mr. Frare offered that it would be important to provide a report on the status and progress of the committee's work during this legislative session. He agreed deferral is the preferred option for vetting a report until the 2017 legislative session rather than rushing through the process.

Mr. Schacht affirmed he would work in coordination with DES to prepare a status report to the Legislature.

Mr. Frare offered to contact the Office of Financial Management to define date expectations for the report.

Data Collection – Community Transit Request

Chair Maruska reported the Board received a request from Community Transit to consider its addition to the JOC statute. Community Transit provided justification information on what it plans to accomplish by inclusion within the statute and some of the difficulties encountered in bidding projects that could be addressed by JOC. Community Transit officials were advised of the Board's meeting deadline for agenda topics.

Community Transit could pursue a separate bill. The Board will monitor activity and include the item on the February agenda.

A report by the Data Collection Committee was deferred to the February meeting.

Agenda Items for February Meeting & Approval of Meeting Schedule for 2016

Chair Maruska reviewed the proposed 2016 meeting dates for consideration:

- February 11, 2016
- May 12, 2016
- September 8, 2016
- November 10, 2016
- December 8, 2016

Gary Rowe moved, seconded by Santosh Kuruvilla, to approve the meeting dates for 2016 as presented. Motion carried unanimously.

Agenda items for the February 11, 2016 meeting include:

- PRC Report
- Changes to Small Works Roster Legislation
- 2015 Summary CPARB Report
- Review of PRC Candidates
- Review of any other legislative bills affecting public works
- Public Private Partnerships Committee Report
- Report from D-B Best Practices Committee
- Data Collection Timeline & Discussion on Data Collection Process
- Report by WSDOT on GC/CM-Design-Build Programs
- Community Transit JOC Discussion

The Board discussed data collection efforts and the best collection method. It was noted that when public agencies resubmit for public agency recertification to the PRC, the recertification application includes a list of all projects, which resides with the PRC.

Adjournment

Alan Nygaard moved, seconded by Ty Heim, to adjourn the meeting at 12:22 p.m. Motion carried unanimously.

Staff & Guests

Nancy Deakins, DES
Danelle Bassett, DES
Aleanna Kondelis, City of Seattle
Tom Gow, Puget Sound Meeting Services
Kelsey Beck, City of Seattle
Dick Lutz, Centennial Construction
Curt Gimmetstad, PRC (Via Telecon)
Ed Kommers, MCAWW

Duke Schaub, AGC
Joe Stowell, City of Oak Harbor
Chad Merrill, King County
Mark Gaines, WSDOT
Tonia Sorrell-Neil, Masonry Institute of Washington
Linneth Riley-Hall, Sound Transit
Larry Stevens, NECA
Lisa Thatcher, Assoc. of WA Public Hospital Districts

Robert Maruska, CPARB Chair

Prepared by Valerie L. Gow, Recording Secretary/President
Puget Sound Meeting Services, psmsoly@earthlink.net