

CAPITAL PROJECTS ADVISORY REVIEW BOARD

Via Zoom

Minutes - Amended

October 8, 2020

MEMBERS PRESENT	REPRESENTING	MEMBERS ABSENT	REPRESENTING
Rebecca Keith (<i>Chair</i>)	Cities	Brian Belarde	Construction Trades Labor
Andrew Thompson (<i>Vice Chair</i>)	General Contractors	Rep. Mike Steele	House (R)
Garett Buckingham	Public Hospital Districts	Rep. Steve Tharinger	House (D)
Bill Dobyms	General Contractors	Senator Judy Warnick	Senate (R)
Janet Jansen for Bill Frare	State Government		
Senator Bob Hasegawa	Senate (D)		
Matthew Hepner	Construction Trades Labor		
Santosh Kuruvilla	Engineers		
Mike McCormick	Higher Education		
Karen Mooseker	School Districts		
Barbara Piloni Benz	Insurance/Surety Industry		
Irene Reyes	Private Industry		
John Salinas II	Specialty Contractors		
Walter Schacht	Architects		
Mike Shinn	Specialty Contractors		
Robynne Thaxton	Private Industry		
Lisa van der Lugt	OMWBE		
Jane Wall	Counties		
Janice Zahn	Ports		

Staff & Guests are listed on the last page

WELCOME & BOARD MEMBER INTRODUCTIONS

Chair Rebecca Keith called the regular Capital Projects Advisory Review Board (CPARB) meeting via Zoom to order at 8:01 a.m.

A meeting quorum was attained.

INTRODUCTION AND WELCOME OF NEW BOARD MEMBERS

Vice Chair Thompson introduced and welcomed new Board member Barbara Piloni Benz representing the Insurance/Surety Industry position.

Ms. Benz reported she has been in the insurance industry for 20 years and opened her business in 2008 when many businesses were closing. Today, the company serves over 10 states with a primary focus on commercial insurance, bonds, and other lines of insurance. She is active as a woman-owned business and works with the city on many projects to include assistance to 62 businesses for financial relief caused by the COVID-19 pandemic.

Chair Keith acknowledged former Chair Walter Schacht for receiving a Gold Medal Lifetime Achievement Award from the American Institute of Architects.

Chair Keith encouraged Board members to advise her when receiving an industry award to afford an opportunity for the Board to acknowledge the expertise and public service represented on the Board.

APPROVE AGENDA - Action

Chair Keith noted the Local Government Public Works Study (SB 5418) should be considered an action item with no action scheduled for the Education Committee Report. Bill Dobyms asked that the Subcontractor Bid Listing Report Committee Report should be reflected as an action item.

Vice Chair Thompson moved, seconded by Mike McCormick, to approve the agenda as amended. Motion carried unanimously.

APPROVE SEPTEMBER 10, 2020 MEETING MINUTES – Action

The following changes were requested to the minutes of September 10, 2020:

- On page 2, within the second to the last paragraph, strike “additional” in the last sentence and replace with “at-large.”
- On page 3, within the first sentence of the tenth paragraph, changes “candidates” to reflect “candidate.”
- On page 4, within the first paragraph, replace “conservation” with “conversation.”
- On page 4, within the third paragraph, strike “Washington State Department of Transportation State.”
- On page 4, within the second to last paragraph, revise the third sentence to reflect, “The appointment represents an opportunity for the Board to appoint applicants who have served as a MWBE advocate in the community and are able to attend meetings of national organizations, like NAMC and TABOR 100.”
- On page 9, correct the spelling of “Keith Michel, Forma Construction” within the seventh paragraph.

Garrett Buckingham moved, seconded by Matthew Hepner, to approve the minutes of September 10, 2020 as amended. Motion carried unanimously.

INVITATION FOR PUBLIC COMMENTS

Vice Chair Thompson invited public comments throughout the meeting.

PRC APPOINTMENTS

Project Review Committee – Chair Update and Proposal - Informational

Chair Keith commented on the recent Joint Legislative Audit and Review Committee’s (JLARC) review recognizing the Board’s appointment of experienced and qualified Project Review Committee (PRC) candidates. The Board, however, should continue to improve the Board’s appointment process.

Walter Schacht reported on forthcoming recommendations by the Business Equity/Diverse Business Inclusion Committee to solicit efforts by Board members to ensure PRC applicants represent both diversity and geographic diversity within the state, as well as consideration of the PRC review process to include some questions about stakeholder representation. The committee’s discussion will be included in a final report to the Board.

Santosh Kuruvilla conveyed appreciation to the Chair and Vice Chair for reaching out to him to discuss his perspective for voting against the appointment of a PRC candidate at the last meeting. Often in a rush to move the agenda forward it is essential not to lose sight of the importance of listening to feedback from the Board and other stakeholders. Recruitment of PRC members is a Board member responsibility. He encouraged members to consider recruiting within their particular constituencies when PRC vacancies exist to ensure adequate time is afforded to the process as well as increasing the pool of candidates.

Lisa van der Lugt thanked leadership for reaching out to her as well and for the many conversations with Chair Keith about the last meeting and mutual agreement to work together moving forward. Differing opinions reflect diverse thinking and different experiences of each Board member. Sometimes discussions surrounding diversity, equity, and inclusion include assumptions and statements that can be interpreted differently by members. Most people have the best intentions, but it is often not heard or it is difficult to accept what is heard. Her experience was a lack of interest conveyed during the discussion about having diversity, equity, and inclusion on the Board and some comments about “staying in her lane.” She plans to become more invested in ensuring MWBE representation and discussions to ensure the Board is stronger and better.

Irene Reyes thanked Chair Keith for reaching out to her as well as it was a gesture of engagement. She agreed with Mr. Kuruvilla about the importance of listening. Ms. van der Lugt, as the Director of the OMBWE Office, represents hundreds of minority certified businesses. It is important to nominate individuals who are both minorities, as well as engaged in the minority community.

Janice Zahn commented that having previously served on the PRC, the Board has successfully appointed candidates experienced in alternative delivery. Within the nuances of the PRC, it is also important to ensure broad and balanced voices to benefit panels that are tasked to review applications representing owners, contractors, small business, and specialty contractors. It is important not to diminish that balance and representation just to expediently fill PRC positions.

She was also concerned about considering candidates representing the same company during the May meeting and recommended future conversations about the practice by the Board.

Senator Hasegawa conveyed appreciation to the Chair for affording time to engage in such an important conversation. When he was appointed to the Board, his main goal was to increase MBE participation and contracting opportunities. Although frustrated, not by CPARB, but more by the process, there appeared to be no clear path forward on how to achieve those desired outcomes as there is no substitute for having a voice at the table. Ms. Reyes' comment of not appointing a person of color but a person who is engaged in the community is an important point. He serves as a member of JLARC. JLARC recently received a presentation from DES staff on the sunset review. Staff surveyed many contractors about the alternative delivery process, and although the survey responses were positive, the survey did not include any minority or certified business enterprises. Staff could not identify any of those businesses that were interviewed, which speaks to institutional barriers that must be discussed. His ongoing frustration is reflected in the lack of (minority) numbers increasing. He thanked Chair Keith for enabling the important conversation. Senator Hasegawa advised that he would need to leave the meeting at 9 a.m. to chair a caucus meeting.

Vice Chair Thompson expressed appreciation for the conversations both during the meeting and off-line to share different perspectives.

Curt Gimmetstad recalled his experiences in crafting his letters of interest when applying to the PRC. At that time, his letters and his advice to other applicants was to focus on RCW 39.10 and their respective experience. He suggested formalizing the application process and include more specifics on what the applicants should address in the letter of interest to assist in preparing for and understanding the expectations of the Board's interview process.

Talia Baker advised that the PRC recruitment notice includes a paragraph and bulleted items of requested information to include in a letter of interest.

Chair Keith agreed some improvements in the application process have been implemented by DES staff. Recent feedback she has received from both applicants and the Board indicates applicants are unsure of expectations during the interview process and Board members often believe they lack the information necessary to make an informed decision. Current job descriptions may not necessarily reflect all the Board's values in terms of the importance of diversity, geographic diversity, and inclusion. She has received feedback from applicants, PRC members, and the Board about ways to improve the process. Based on conversations with Ms. Zahn and her willingness to serve as a chair of a committee to explore improvements to the PRC appointment process, she proposes the formation of a committee chaired by Ms. Zahn. The proposal is a request for Ms. Zahn to draft a work plan for the Board's review.

Ms. Zahn expressed support of the Chair's proposal to review underlying procedures and process to ensure values and the interests of the Board are reflected and to communicate that information and the Board's expectations to candidates.

Chair Keith moved, seconded by Mike McCormick, to appoint Janice Zahn to chair a committee to review PRC issues and develop a draft a work plan for consideration by the Board in December.

Jane Wall joined the meeting.

Vice Chair Thompson suggested the appointment of PRC member Ato Apiafi to serve as Co-chair as he serves as the OMWBE representative on the PRC to ensure that stakeholder group is represented on the committee. Ms. Zahn offered to contact Mr. Apiafi to ascertain his interest in serving on the committee.

The Board discussed renaming the committee to avoid confusion with the PRC, possibility combining the new committee with the Board Development Committee as continuity on the PRC and attendance have a bearing on PRC appointments, deferring to Ms. Zahn to recommend a Co-Chair, and consider adding a task emphasizing an increase in outreach by the Board. Chair Keith noted that the proposal does not align with the tasks of the Board Development Committee unless Ms. Zahn's recommendation includes merging with the Board Development Committee and redefining the committee's scope. Her primary concern is completing the work with a focus on the PRC.

Ms. Zahn shared that she discussed the option with Bill Frare, who serves as the Chair of the Board Development Committee, which has not met because of other priorities by the Board's committees. Some members, such as Bob Maruska have also retired. The charge of the Board Development Committee is not similar to the tasks related to the PRC. The PRC is a statutory committee with a limited number of positions. She confirmed that she would present a work plan and purpose of the committee at the December meeting. While developing the work plan, an appropriate committee name would likely be identified as well. The most frustrating aspect for applicants is a lack of understanding of the process and uncertainty surrounding the intent of the position they are seeking to fill.

Ms. van der Lugt supported Ms. Zahn's proposal. At some point, she would like more information on the status of the Board Development Committee and ways to initiate activity by the committee.

Motion carried unanimously.

Project Review Committee Appointments – Action

Ms. Baker introduced Cory Hamilton, who is applying for the Owner's Representative, Public Hospitals.

Chair Keith invited Mr. Hamilton to speak to his interest for serving on the PRC.

Mr. Hamilton reported he has spent 21 years designing and building hospitals. During the last eight years, he has served as a Project Manager for the University of Washington (UW) Medical Center and is currently serving as a Senior Project Manager at Valley Medical Center. The most important decision for projects is the procurement method. At Valley Medical Center, the hospital has not utilized Design-Build or Job Order Contracting. He is working to implement those methods. During his tenure at UW Medical Center, he was involved in many JOC projects as the hospital representative working with the UW Capital Projects Office. He was involved in the interviews and scoring of contractors for GC/CM and Design-Build. He is interested in learning more and is interested in serving on the PRC as the delivery method is one of the most important decisions the hospital renders.

Mr. Buckingham said he supports appointment of Mr. Hamilton to the PRC. He has an opportunity to work with Mr. Hamilton when he was at the UW Medical Center as the owner representative. He and his colleagues have worked with Mr. Hamilton on dozens of projects using a variety of delivery methods. He is appreciative of Mr. Hamilton's understanding of the owner's role and importance of successful projects. He understands the roles and selection, intricacies of contract issues, and the involvement and success of stakeholders including minority-owned and women businesses. He supports his application and appointment to the PRC.

Chair Keith invited Curt Gimmestad to speak to his application.

Mr. Gimmestad reported he applied to fill the position as it has been challenging to identify potential applicants from public hospitals. In light of the recent submittal by Mr. Hamilton, he offered to withdraw his application as his alignment with general contractors is more appropriate than with public hospitals.

Chair Keith reviewed the nomination and voting process for appointment of an applicant.

***Mike McCormick nominated Cory Hamilton for the PRC position of Public Hospital Representative.
By unanimous affirmation, Mr. Hamilton was appointed to the PRC position of Public Hospital Representative.***

Ms. van der Lugt commented that the appointment process illustrates the need for either Board Development or recruitment as candidates have indicated they were asked to submit an application as the position was open and needed to be filled. It speaks to people helping the Board's appointment process. However, often there is only one candidate and many times it has been communicated that the Board needs a candidate to fill the position resulting in only one individual applying. She suggested that at some point, the Board should discuss Board Development, recruitment, and what the Board can do differently.

Mike McCormick left the meeting at 9:20 a.m.

Ms. Baker introduced Michelle Helmholz, who is applying for one of two vacant Construction Trade Labor positions.

Chair Keith invited Ms. Helmholz to speak to her application.

Ms. Helmholz said she has worked in construction labor since 1979. She worked for management in the mid-90s. In 2001, she was hired as an Agent for the local union and served as a Business Agent for 19 years enforcing contracts, prevailing wage, PLAs, and CWAs. She has worked with the Port of Seattle, City of Seattle, and King County and is interested in the construction industry as a whole and looks forward to being considered for the position on the PRC.

Matthew Hepner supported Ms. Helmholz's application because of her experience in construction trades labor.

Chair Keith asked the applicant about her experience with alternative procurement methods. Ms. Helmholz asked whether the question surrounds her alternative procurement experience with JOC. Chair Keith clarified that she is seeking information about experience with GC/CM and Design-Build delivery methods. Ms. Helmholz explained that she works with contractors and negotiates contracts and pre-jobs and is not involved in day-to-day contracting.

Robynne Thaxton asked Ms. Helmholz to describe her understanding of the PRC. Ms. Helmholz responded that she understands the PRC reviews project documentation and circumstances surrounding the project to arrive at a best value conclusion. Ms. Thaxton said that description does not accurately describe PRC's work as the PRC reviews projects and organizations to determine whether the project meets the statutory requirements and whether the organization meets the statutory requirements to receive approval for either Design-Build or GC/CM. One of the statutory tasks of the Board is to select PRC members who are experienced in alternative delivery methods. PRC rules require panelists to have experience either in GC/CM or Design-Build. Her concern surrounds the lack of experience with either GC/CM or Design-Build and what Ms. Helmholz can contribute to help the PRC render decisions. Ms. Helmholz replied that she has many years of experience working with minority contractors and serving on numerous committees with the City of Seattle, Sea-Tac Airport, and is focused on diversity inclusion which would provide a wide-range of benefits to the PRC. She has worked with several minority contractors over the years along with enforcing the conditions of contracts.

Ms. Thaxton followed up to ensure that the applicant has no experience with GC/CM or Design-Build. Ms. Helmholz confirmed she has no experience with either of the delivery methods on the contracting side.

Karen Mooseker asked for clarification of Ms. Helmholz's role in enforcing contracts and if she is self-employed. Ms. Helmholz advised that she has served as a Business Agent for the labors union for the last 19 years enforcing contracts and negotiating contracts throughout Seattle and King County area on many large projects for cities, Sound Transit, and others, etc. Ms. Mooseker asked whether Ms. Helmholz is currently serving in that role. Ms. Helmholz replied that she is no longer enforcing contracts, and was reassigned at the beginning of the year. She is responsible for membership outreach, but continues to sit on various committees and boards.

Mike Shinn commented that as a member of the PRC since its establishment, he understands the questions about experience; however, there should be no expectation that the candidate for the Construction Trade Labor position should know about the bid processes as the PRC is based on multiple and varieties of experience by members. The PRC is seeking good trade knowledge. Although Ms. Helmholz did not comment about her knowledge base, she likely is well versed with Sea-Tac Airport, PLAs and other processes other PRC members are not familiar with. Her experience level should not be weighed on what she knows about GC/CM or Design-Build or EC/CM as the PRC needs a trade labor representative.

Mr. Schacht offered that the Board is somewhere between a "rock" and a "hard place" as he shares Mr. Shinn's perspective that a candidate representing Construction Trades Labor would not have the knowledge due to the nature of their involvement. The position has been vacant for some time and the goal is to fill the position to ensure all stakeholders are represented. Nonetheless, other members have stressed the importance of abiding by the statute. The Board should either comply or change the statute, but the Board should not ignore the statute. RCW 39.10.240 (2) states, "*The board shall, by a majority vote of the board, appoint persons to the committee who are knowledgeable in the use of the design-build and general contractor/construction manager contracting procedures. Appointments must represent a balance among the industries and public owners on the board listed in RCW 39.10.220.*" He does not disagree that the candidate

might be appropriate; however, the Board has the responsibility and is governed by the statute. Creating more flexibility, which speaks to the proposed committee organized by Ms. Zahn, might also consider modification to the statute.

Mr. Hepner said although he is not content with current language in statute, his main concern is that it is unlikely any representative from labor would have the experience the Board is seeking as the main responsibilities of labor is ensuring worker protections, enforcement of contracts, and constructing projects. Having the voice of workers responsible for building projects is absolutely critical and the Legislature would likely agree.

Ms. Zahn noted the discussion is challenging as the role labor plays in the industry does not necessarily result in direct contracting procedures. As an employee of the Port of Seattle, she has witnessed Ms. Helmholz's participation in discussions on projects that are GC/CM, Design-Build, and low bid. Her indirect knowledge of alternative delivery appears to be present; however, knowledge of contracting procedures would be challenging.

Ms. van der Lugt asked Ms. Helmholz why she is seeking to be a member of the PRC. Ms. Helmholz responded that the construction industry is important to her as she has been actively involved in construction since she was 18 years old. She has always been interested in contracting whether it involves the alternate procurement process or the lowest apparent bidder. She is somewhat familiar with some of the processes that occur. Her goal and purpose over the last several years has been to encourage and uplift minority contractors and those that want to be viable contractors along with serving membership. Ms. van der Lugt thanked Ms. Helmholz for her response even though it did not answer her question.

John Salinas II agreed with Mr. Schacht's interpretation of the statute. Because of the time and efforts the Board has expended on MBE candidates, it is important to maintain consistency. Currently the Board is guided by a set of rules, regardless if some members disagree or agree with the rules. The Board should follow the rules for all candidates as the Board has spent much time during the meeting and at the previous meeting discussing a candidate related to the MBE participation on PRC that did meet the criterion listed in the RCW under section 1 and 2. The Board also spent considerable time debating whether the language was sufficient. In this particular consideration, the candidate represents labor and the Board should maintain consistency and abide by the rules to the extent possible. If the Board disagrees with the rules, the Board should consider changing the rules moving forward. He agreed it would be difficult to find a candidate representing labor to fulfill criterion #2 while also meeting criterion #1.

Mr. Schacht offered a solution and suggested reviewing the language that speaks to "knowledgeable" rather than "experienced," knowledge would enable the candidate to understand the alternative delivery methods of GC/CM and Design-Build. If the candidate is willing to reapply in December and in the interim follow up with a number of Board members and attend the workshops on Design-Build and GC/CM, the candidate could qualify for consideration by becoming knowledgeable.

Chair Keith noted that Mr. Gimmestad has offered to the Building Trades Executive to assist a candidate to learn about the PRC and help inform them about the RCW and the processes. He offered to follow up with Ms. Helmholz if she is interested in being considered for appointment. Mr. Schacht's solution would enable the Board to fulfill statutory obligations and with Mr. Gimmestad's assistance it could result in a solution.

Ms. Zahn offered to contact Ms. Helmholz as the Port has several alternative delivered projects that would serve as good examples to describe procurement and process.

Ms. Thaxton agreed it is important to appoint candidates who are knowledgeable while agreeing that the experience for this particular position would be difficult to achieve. She offered to assist Ms. Helmholz with information on Design-Build as the Design-Build Institute of America has much educational material available through the website on the Design-Build delivery method.

Chair Keith asked the applicant whether she would support deferral of her application until she has an opportunity to learn about alternative delivery methods. Ms. Helmholz welcomed any mentoring offered by the Board.

Vice Chair Thompson commented that while some public agencies have adopted the use of CWA and PLAs, CPARB, and PRC have membership with both open shop and organized labor. As the candidate's background in labor membership

outreach, it is important to ensure the candidate can evaluate a project application without a lens to influence an owner's determination to use project labor agreements. Ms. Helmholz replied that she has the ability to consider both sides clearly.

Ms. Helmholz affirmed she is willing to participate in some training and research RCW 39.10, as well as accepting any mentoring from any Board member willing to spend some time with her.

The Board discussed next steps and suggested another option of Ms. Helmholz attending the December 3, 2020 PRC meeting. The Board agreed to defer appointment of the PRC open position until the December meeting. Chair Keith thanked Ms. Helmholz for her time and participation.

COMMITTEE REPORTS

Project Review Committee Report – *Informational*

Edward Peters, PRC Chair, referred to the PRC report. Since the last meeting, the PRC conducted one meeting and considered two recertifications and three project applications. All five applications were approved. PRC also provided some examples of lessons learned and is currently obtaining the full presentation from UW on lessons learned.

Ms. Baker announced the availability of the Design-Build Lessons Learned from the UW on CPARB's website.

Reauthorization Committee – *Informational*

JLARC Report – *Informational*

Chair Keith reported JLARC released its draft report on evaluating the sunset review of CPARB and RCW 39.10. The draft report was released to JLARC on September 30, 2020. A number of Board members viewed the virtual meeting to include participation by her and Mr. Frare. The JLARC conducted a thorough and detailed consideration of the benefits of alternative public works. JLARC recommends continuing the statute and alternative public works in the state. JLARC affirmed that CPARB is achieving its statutory duties and is appointing experienced and knowledgeable members to PRC and effectively offering policy recommendations to the Legislature for legislative changes for alternative public works. Of the two minor recommendations one included collection of information on JOC, which the Reauthorization Committee recommended against because collection of JOC compliance information by the Board is not possible and the Board lacks authority for any compliance. Alternatively, the Reauthorization Committee recommended public owners should be responsible for maintaining the information and providing the information upon request. Nancy Deakins displayed the two JLARC recommendations for the benefit of the Board.

Chair Keith added that JLARC members recognized CPARB for providing good service to the Legislature as the Board works with all stakeholders to vet legislation that will be supported. JLARC expressed appreciation for the early presentation of proposed changes to legislation. JLARC members indicated they are looking forward to receiving the Local Government Public Works Study report and anticipate the Board will undertake the same stakeholder engagement and vetting processes similar to other policy issues presented to the Legislature by the Board.

Vice Chair Thompson said interest by elected members of JLARC on the value of the Local Government Public Works Study surprised him because it speaks to responsibilities by CPARB that were delegated and not necessarily a statutory responsibility. During the hearing, Senator Hasegawa emphasized the importance of engagement of the minority community in the study and by the Board. Vice Chair Thompson reiterated the importance of ensuring that during the formation of any CPARB committee, a position representing the minority and small business community should be included on the committee from the beginning.

Ms. van der Lugt reported she reviewed the recommendations, and based on her position as Director of OMWBE, the report was incomplete. They did not interview minority and women-owned businesses, which represents a huge gap, but this does not mean the report lacks good points or that the recommendations are not valid. However, the report is incomplete.

Vice Chair Thompson requested clarification of which report (JLARC Report or the Local Government Public Works Study) she was referencing. Ms. van der Lugt clarified the report was the Local Government Public Works Study.

Chair Keith noted that she and Ms. Deakins provided a report to JLARC as part of the audit process. The report addressed efforts the Board is undertaking to address diversity and inclusion. Ms. van der Lugt expressed appreciation for the clarification.

Chair Keith recessed the meeting at 10:01 a.m. for a break.

Chair Keith reconvened the meeting at 10:17 p.m.

Chair Keith reviewed some minor reordering of the agenda and potential deferral of some committee reports.

Reauthorization Committee - Continued Proposed Legislation – Action

Chair Keith reported the schedule includes the Board reviewing and voting on recommended statute changes that will serve as the basis for the reauthorization bill. The Board received the statute in May and a summary of changes in September. Ms. van der Lugt expressed some concerns about some of the changes and since then some additional work has been completed. Ms. van der Lugt and Olivia Yang will speak to those changes followed by any questions or concerns by the Board prior to entertaining a vote.

Chair Keith emphasized that the feedback received from the legislators and lobbyists centered on the critical nature of drafting the bill early so everyone has an opportunity to review the entire bill early in the process. A considerable amount of information has been released on much of the content to date. The Board's action is required for DES to develop the bill. She is also concerned that some will believe the door closes following action by the Board as work continues on statutory and policy review, advice, and improvements by several committees working on GC/CM and JOC Best Practices, as well as new information and learning about the PRC process, and the importance and ways to improve the inclusion of equity in policies. Those doors will not close with this bill.

Ms. Deakins displayed a copy of proposed statute changes.

Ms. van der Lugt complimented the Chair on the legislative outreach and asked whether the outreach included any members of the State Senate Color Caucus, particularly in the leadership positions such as Senators Saldaña and Dhingra to discuss the Board's reauthorization efforts. Chair Keith said she is not familiar with all of the members of the caucus other than meeting with Senator Hasegawa and Representative Tomiko Santos. Ms. van der Lugt asked whether the coalition of caucus members has been outreached. Chair Keith committed to additional outreach with guidance from Ms. van der Lugt.

Irene Reyes offered to email a listing of the members of the State Senate Color Caucus to Chair Keith. Chair Keith acknowledged the offer.

Vice Chair Thompson offered to include the Board members on the call to the legislators. He described some of the conversations with legislators up to this point.

Chair Keith noted that "small business entity" is defined in the statute as a small business as defined in RCW 39.26.010, which is the OMWBE certification. Within the appointment of CPARB members, two proposed changes are reflected from discussions from the Reauthorization Committee on the importance of members who are knowledgeable and experienced in public works procurement. Proposed language may actually duplicate and add to more confusion. She recommended retaining existing statute language to avoid confusion. Committee members did not express concerns about the proposal. Chair Keith recommended deleting the proposed language stating "identified in subsections (a) through (f) below must be knowledgeable and have experience in public works procurement and contracting" to RCW 39.10.220 (2). She invited comments and questions regarding the proposal.

Ms. Reyes suggested that the elimination of the proposed language essentially moves away from the purpose of the proposed committee chaired by Ms. Zahn as the intent is revisiting the criteria of applicants in determining appointments. She suggested some leniency understanding the challenges of identifying qualified applicants. She suggested adding "must be knowledgeable and/or have experience in public works procurement and contracting." Chair Keith noted the section pertains to appointments to the Board, which are appointed by the Governor for most of the appointments. The

section is not addressing the PRC appointment process. Existing language in the statute speaks to all appointed members must be knowledgeable about public works contracting procedures. The only proposed change is adding “and have experience.” Ms. Reyes suggested language depicting “and/or have experience” because the Board will face some challenges similar to earlier in the meeting. Chair Keith pointed out the possibility of the code reviser or the AG not allowing “and/or.” She suggested language depicting, “all appointed members must be knowledgeable or have experience with …” within section (2) (a).

Ms. Thaxton commented that the last PRC appointment pointed to the issue as previous language included adding “experience” as she agrees being knowledgeable should be the standard. The additional language should address the concern that the door is open to individuals who are knowledgeable and do not necessarily need to have the experience. However, retaining existing language in the statute is another option as attempting to change language while retaining the same intent/meaning is difficult. The situation earlier in the meeting speaks to the need to expand the availability to populations that may not have direct experience with alternative public works or public contracting while maintaining expansion to individuals who are knowledgeable. She prefers eliminating the proposed language as it is redundant to the language in section (2) (a) and retain language stating, “All appointed members must be knowledgeable” to serve as the Board’s baseline to avoid additional confusion.

Mr. Hepner asked whether the statute defines “knowledgeable.” Chair Keith advised that the Governor’s Office interprets the statute when offering an appointment.

Ms. Deakins added that during the committee’s work, the intent with the proposal to add “knowledgeable” to RCW 39.10.220 (2) to apply to all members appointed and not just to members appointed by the Governor. The intent was to avoid redundancy and remove similar language in RCW 39.10.220 (2) (a). She supported retaining “knowledgeable” in section (2) only.

Vice Chair Thompson noted that Mr. Salinas and Mr. Schacht agree with the comments offered by Ms. Thaxton.

Mr. Schacht said it is important to clarify the location of the language. It is important to understand the clear distinction between what is asked for of Board members versus what is asked for of PRC members. It is important for Board members to be knowledgeable about public works procurement as that there is no requirement that Board members understand alternative project delivery whereby PRC statute language is specific about understanding Design-Build and GC/CM. There is a difference because the PRC is responsible for reviewing applications from public bodies for project approval, certification, or recertifications. The statute is very specific and more technical in nature. Board members are engaged in policy discussions and have a much broader set of criteria for Board members. Nearly 10 years ago when he was appointed as a member of the Board he had several decades of experience in capital projects but had never completed a Design-Build or a GC/CM project. That did not prevent him over time to effectively represent architects as a Board member. The Board’s definition is broader enabling more individuals to participate.

Chair Keith cited options for retaining, moving, or eliminating proposed language.

Ms. Thaxton acknowledged of being reminded of the conversation to include sections (a) – (f) and believes it is important to include “or” to ensure membership capacity is expanded. She recommended deleting the proposal language in section (2) (a) and adding language to section (2) to ensure clarity that appointed members have some experience or knowledge.

Senator Hasegawa rejoined the meeting at 10:40 a.m.

Chair Keith cited the Washington State University (WSU) proposal and the importance of allocating some time to review the proposal.

Olivia Yang reported on conversations between Ms. van der Lugt and OMWBE Deputy Director Sarah Erdmann over the last several weeks. The proposal as presented (RCW 39.10.300 (6)) does not represent the proposed addition to language adding a sentence at the end of the paragraph reflecting that the report would also include inclusion measures to be developed in concert with the Office of Minority & Women’s Business Enterprises. That proposal was forwarded to members earlier in the week. Additionally, ongoing meetings are planned with Ms. van der Lugt and Ms. Erdmann to

sponsor a certification workshop for central and eastern Washington with monthly meetings planned beginning in November between WSU and the OMWBE. She is encouraged by WSU's efforts to promote inclusion. The demographics in eastern Washington are different and rather than being compliant with respect to those differences, WSU is pursuing options to expand the pool. She plans to review other recommendations from the Disparity Study. The notion of technical assistance and other contract language review is leveraging. In partnership with OMWBE, it may be possible to make some progress in eastern Washington.

Ms. van der Lugt said the proposal was prompted based on concerns surrounding accountability. Ms. Erdmann who is overseeing outreach and work around the Disparity Study and the Community of Practice will be launching an equity toolkit in November for state agencies. They have had several conversations with Ms. Yang surrounding the proposal. For some time, the message has been that opportunities are not available in eastern Washington for OMWBE businesses. She believes it is possible to expand opportunities as OMWBE has tools used by other organizations that have been successful in expanding opportunities. Some of the outreach today has been virtual because of the pandemic to include virtual deployment of best practices.

Chair Keith cited posted language as referenced by Ms. Yang and Ms. van der Lugt. She expressed appreciation for the work to discuss opportunities. She asked Ms. van der Lugt whether she would support the WSU proposal if the language is included. Ms. van der Lugt affirmed her support.

Chair Keith recommended adding "small business entity participation" to align with the statute definitions. Ms. Yang supported the recommendation. Ms. van der Lugt requested clarification of the proposal. Chair Keith said the proposed language would reflect the following, *"(6) Washington State University may perform design-build demonstration projects with a total project cost under two million dollars to develop best practices in encouraging small business participation and in managing capital projects under two million dollars. Washington State University shall provide a report to the Board every other year, starting with two years after the effective date of the statute. Such reports shall include information on the type of project performed, the initial and final project cost and schedule of the projects, small business entity participation, and the best practices derived from the projects. The report would also include inclusion measures to be developed in concert with the Office of Minority & Women's Business Enterprises."* Ms. van der Lugt concurred with the proposed language as stated.

Chair Keith shared that she recently received communication from Frank Lemos with the National Minority Business Advisory Council (MBAC) outlining his intent to support reauthorization with the caveat that he also had some other priorities of interest for reauthorization. Some of his priorities have been addressed. One pertained to reports including past performance of certified firms, which was included in proposed language for the GC/CM statute and the Design-Build statute. Mr. Lemos believes the statute should include a sunset provision. Other requests were in two categories of reporting and information available on the CPARB website on estimated project costs before, during, and after project completion, as well as other information that would require collection, and specifying what would be required in an inclusion plan. Last year, Mr. Lemos was invited to participate in the Reauthorization Committee. The committee did not receive the benefit of his participation. The committee strived to keep stakeholders updated. Several times the Board has been asked to outreach their respective constituencies. It is not possible to determine the viability of the proposals with all the stakeholders. She wants the Board to be aware that Mr. Lemos has expressed concerns. He also indicated he did not have time to review the proposed bill until December, which is concerning since feedback from legislators have indicated the importance of releasing an early bill. As noted earlier, efforts will not end with the submittal of a bill.

Vice Chair Thompson asked whether the Mr. Lemos was representing a specific stakeholder group or whether the letter represented his concerns. Chair Keith said the letter from Mr. Lemos indicated the priorities are MBAC.

Janet Jansen offered a suggestion to have Mr. Frare contact Mr. Lemos and share information about the Board's work and priorities prior to the December meeting. Chair Keith confirmed that continuing the dialogue is important as well as moving the Board's legislation forward.

Robynne Thaxton moved, seconded by Vice Chair Thompson, to approve the recommended changes as discussed and modified for inclusion in the bill to the Legislature.

Ms. van der Lugt acknowledged that it might not be the appropriate time but she wants to ensure there will be sufficient time for OMWBE stakeholders to review MWBE language for reauthorization and submit some suggestions. Chair Keith stressed that timing at this point is a critical piece. The door does not close for any future changes. She is willing to receive input but stressed the importance of moving forward with the draft bill.

Mike McCormick rejoined the meeting at 11:30 a.m.

Mr. Schacht said he understands that the motion is to approve the proposed legislation and forward the draft to the code reviser. Several legislators have agreed to sponsor the bill. Approval of the motion does not anticipate additional changes as the draft bill would be forwarded to the code reviser. He questioned Ms. van der Lugt's intent as they have co-chaired the Business Equity and Diverse Business Inclusion Committee with ongoing conversations over the last year. The committee recommended modifying the GC/CM provisions of the statute to reflect the increased focus on certified businesses as a required element of selection criteria. At this point, he is unsure of other proposals. The Board implemented a process to consider other changes and no other changes have been proposed by the committee they co-chair. Ms. van der Lugt said the input is different and resulted from a stakeholder meeting. She discussed the possibility of changes with Chair Keith. The request is for another review with the possibility of no changes or minor changes. All bills are subject to public testimony and are subject to change over the course of the legislative process. She offered to present some suggestions in the next several weeks or the changes could be pursued through the legislative process.

Chair Keith noted the Board is not scheduled to meet until December and the Reauthorization Committee is not scheduled to meet. She is not comfortable authorizing any changes without the benefit of the Board's input. Her main concern is delaying the draft of the bill for release to stakeholders.

Ms. van der Lugt referred to her recent conversation with the Chair and her commitment to provide input by October 23, 2020 with the understanding that the input is late but would result in a better bill. She offered that regardless of the process, another review of the bill is forthcoming by other stakeholders.

An extensive discussion by the Board followed on affording an opportunity for additional changes, clarification of the code reviser process and timing for formatting the bill, recognition of the work invested in negotiating the statute and the give and take necessary for creating the draft. Additional discussion included impacts caused by the pandemic, recognition of the efforts Ms. van der Lugt is working on in conjunction with the priorities conveyed by Mr. Lemos, and input from Senator Hasegawa on the importance of ensuring the best bill is presented that promotes movement toward inclusiveness, diversity, and equity, which is most strongly represented by the OWMBE representative. Senator Hasegawa suggested the Board should consider the feedback whether it is considered prior to the code reviser or as an amendment on the floor. He offered that the Board should include any recommendations in the bill to avoid amendments during the legislative process to streamline its passage. Timing for presenting the bill to legislators is not as crucial if the bill has the full support of the Board.

Vice Chair Thompson offered the option of scheduling a November meeting to afford an opportunity to review proposed changes to meet the timeline for the code reviser.

Discussion ensued on the timing required by the code reviser to prepare the bill. The Board discussed the option of scheduling a meeting in November to ensure completion of the bill because the session is forecasted to be very busy given all the issues surrounding the budget, pandemic, and addressing systematic racism. Passage of the bill is necessary to ensure alternative public works continues to be available to public owners to benefit taxpayers.

Mr. Schacht commented both on the importance of accommodating another meeting to consider proposals to the bill while also being more responsible to each other relative to the Board's established review process to ensure better results.

Ms. Thaxton offered to withdraw her motion.

Senator Hasegawa suggested leadership should meet with Melissa Van Gorkom to review the code reviser's process.

Ms. Van Gorkom advised that the code reviser converts the information to a draft bill to enable release of the draft to legislators and for seeking sponsors. At the point sponsors approve the draft, the bill is resubmitted for finalization with notations included highlighting any changes. She provided additional information on the entire code reviser process.

Chair Keith outlined next steps to release proposals to the Board from Ms. van der Lugt by October 23, 2020 for consideration at a special meeting on November 19, 2020.

The makers of the motion offered a friendly amendment to the motion following consensus by Ms. Reyes, Mr. Kuruvilla, and Ms. van der Lugt to approve forwarding the proposed changes as discussed to the code reviser to include in a bill with the understanding that the Board will meet in November during a special meeting to consider additional changes to finalize the bill. A roll call vote approved the motion. Mike Shinn was unavailable to render a vote.

Subcontractor Bid Listing Report Committee (SB 5457) – Action

Bill Dobyms reported the committee met five times with good participation and feedback from the industry. At some point, participants did not believe further actions were necessary beyond the proposal. The committee recommended the following changes:

- Section 1. (1)(a) on line 18, page 1, change “or” to “and.”
- Section (5) should be revised to reflect, “This Section does not apply to projects procured under RCW 39.10.
- The committee recommends the committee review the impact of the current legislation for a period of two years and to determine whether further expansion of the bill is warranted.

The committee was challenged in identifying measurable data to support any changes. Following input from the subcontracting community, owner representatives, general contractors, and other stakeholders attending the meetings, it was unclear that measurable data existed to recommend any additional changes. The recommendations were passed unanimously by the committee.

Mr. Hepner thanked Mr. Dobyms for his leadership. A number of affiliates attended the meetings with viewpoints on both sides of the issue. The committee was able to reach consensus on the proposal.

Ms. Deakins requested clarification as to the statute proposed for amendment as the recommendation lacks a reference to the statute. Mr. Hepner noted the proposed changes are to Engrossed Senate Bill 5457. He welcomed any input on formatting the proposal correctly. Ms. Deakins noted that the modifications to the bill would be reflected in the statute.

Chair Keith said the Board was directed to provide a report to the Legislature. She suggested the committee co-chairs work with staff on the correct format for the recommendation to the Legislature. Ms. Deakins noted the deadline of the report to the Legislature is November 1, 2020. She questioned whether the Board prefers to vote on the proposal with the Chair authoring a letter to the legislative committees.

Mr. McCormick noted how the minor changes represent important changes to the statute.

Mr. Schacht expressed appreciation to the committee. He supports the recommendation for changing language in line 18 and for excluding RCW 39.10. It was anticipated that the report would not be delivered until 2021. As the representative of design professionals, he shared an email message he received the previous day about some concerns with the proposal. The information was shared with Mr. Dobyms. A design colleague in eastern Washington shared concerns conveyed by school district clients surrounding the 48-hour time requirement. The RCW requires steel installation be submitted up to 48 hours after the time of bid. Typically, by this time, bids have been opened and the contractor is aware of the low bid. Owners are finding that the contractor will often wait 48 hours to include their steel rebar installer and in the event the contractor was considerably below the next bidder on costs, they will not turn in their rebar steel installer bid, which essentially voids the bid and enables the contractor to exit the bid without forfeiting the bid bond. One option is changing the provision to time the action at the same time as mechanical, electrical, and plumbing bids. Another suggestion is listing steel and rebar suppliers rather than the installer to prevent bid shopping or bid peddling.

Chair Keith commented on potential next steps as the report is due by November 1, 2020 and forwarding a report to the Legislature when there is the potential for architects testifying against the proposal. Mr. Schacht reminded the Board of the negotiation with construction trades labor during a special meeting last year with Senator Kiser attending the meeting followed by ongoing conversations. Bill language requiring the report to be submitted by November was a mistake. There has been general agreement by construction trades labor and others that the report is due next year. He is also uncertain as to whether architects will testify in opposition of the proposed changes. The Board also has the option of proposing draft legislation and seeking sponsorship from Senator Keiser. He asked Mr. Dobyms to respond to the concerns conveyed by the architect and the school district.

Mr. Dobyms said during the meetings, participants discussed the timelines at length with different viewpoints offered in terms of merits of shortening the timeline or extending the timeline. To retain existing timelines in the statute was a compromise that was acceptable to everyone engaged in the process. The potential of listing suppliers rather than subcontractors was problematic as there is no provision in any statute that requires the listing of suppliers. Listing of a supplier is different than listing a subcontractor and would not alleviate bid shopping or bid peddling. It is likely not a viable alternative.

Senator Hasegawa asked for additional information within Section 5 as it is specifically tailored towards JOC rather than to the entire alternative public works contracting process. Mr. Dobyms explained that the GC/CM delivery method, when the GC/CM prime contract is awarded, there are no subcontracts involved. In the process of pursuing a GC/CM delivery method, subcontracts are bid competitively. The consensus by the committee was that it eliminates bid shopping because bids are open and reviewed with the low bid generally awarded the contract unless there is an error. When the contract is awarded in both progressive and traditional Design-Build, options are available to have the prime contract either bring their subcontracting team as part of the overall team or to bid those components later avoiding the process of submitting sub bids to enable the prime to make a final proposal. The process by definition does enable bid shopping or peddling. Bid shopping and peddling occurs in the traditional Design-Bid-Build method with the prime submitting a bid and subcontractors are components of the bid. It is at that point, where bid shopping or bid peddling occurs. The proposal focuses the change in the legislation to be specific to the traditional method because that is where the problem resides.

Senator Hasegawa asked whether the Design-Build process considers the costs of subcontracting later in the process. Mr. Dobyms responded that the contract is established at that point and the general contractor and the designer team work to design a project that fits within the contract amount.

Chair Keith acknowledged some dissenting opinions about the process.

Ms. Thaxton explained that often in Progressive Design-Build there may only be the designer, contractor, and perhaps several specialty experts selected with the price factor typically the design-builder's fee percentage that is separate than the subcontracts. Subcontracts are typically not awarded on a low price basis for Design-Build because the contractual obligations for the design-builder and the risks they assume are so much higher than in GC/CM or Design-Bid-Build, which are lower. The design-builder has the discretion to determine the subcontract based on performance because they are responsible for the performance of the contract unlike GC/CM or Design-Bid-Build. The risk structure for the design-builder is significantly different than for GC/CM and Design-Bid-Build, which is why the design-builder is able to choose subcontractors to perform the work.

The Board discussed deferring action until the December meeting both because of the lack of time and because of some nervousness by public agencies about the "and/or" proposal and potential consequences. Mr. Hepner agreed it would be appropriate to direct the committee to propose legislative changes and not just a recommendation in a report.

Scott Middleton referred to the "and/or" proposal and advised of a group planning to offer a bill to address the problem to clarify the intent of the parties when the bill was initially adopted. The proposal has not received any pushback from other stakeholders.

Local Government Public Works Study (SB 5418) - Action

Jon Rose, Municipal Research Services Corporation (MSRC) reminded the Board of the previous review of recommendations for consideration by the Board. He recommended separating the recommendations by

recommendations passed unanimously, recommendations that did not pass unanimously, and those recommendations that require ongoing maintenance versus policy changes. The purpose of the review is for the Board to vote on the recommendations for inclusion in the final report. The team will update the draft report with the approved recommendations for consideration by the Board at its December meeting to accept the final report for presentation to the Legislature and the Governor's Office.

Chair Keith recommended focusing the discussion on those recommendations of consensus with an understanding that the Legislature is concerned about repeated requests for changes to the thresholds. Helping the Legislature solve that problem would be very beneficial and likely result in agreement that other recommendations might require additional consideration or work.

Mr. Rose reviewed three policy update recommendations supported by the committee unanimously:

1. **Adjust Port District and Irrigation District Small Works Roster Statutes to refer to RCW 39.04.155.** The proposal requires a review of existing statute language for Port and Irrigation district and updating statute language.
2. **Remove retainage and bond requirements for projects under \$5,000.** Cost of the recommendation is the resource necessary to review controlling statute for an update.
3. **Define small business in the public works contracting statute.** The state has defined small business but local government does not have a definition. Cost of the recommendation is the resource necessary to identify which statute to update and develop language definition.

The next series of recommendations approved unanimously require maintenance or ongoing costs:

1. **Creation of a centralized list of rosters.** Questions for consideration include how it would be implemented, who would maintain the list, and how to ensure agencies are committed to keep the rosters updated.
2. **Create a list of certification/registration programs for disadvantaged businesses.** Similar questions apply along with a commitment to update the list.
3. **Coordinate schedule of significant outreach events between public agencies and other stakeholders.** Similar questions apply as well as identification of the agency responsible for the schedule with an ongoing commitment by the agency. *Chair Keith noted that different agencies have different programs and suggested more clarity surrounding the recommendation.*

The next series of recommendations not unanimously approved by the committee include:

1. **Expand the 'no-bid response' process to all agencies.** Concerns centered on misuse by those entities that currently have access to the process. Potential expansion should include a discussion on the controls that should be implemented. The proposal requires identification of current authorizing statutes and aligning implementation of those statutes.
2. **Give unit price contracting authority to all public agencies.** Concerns centered on misuse by those entities that currently have access to the process. Potential expansion should include a discussion on the controls that should be implemented. The proposal requires identification of current authorizing statutes and aligning implementation of those statutes.

The series of recommendations involving some level of maintenance that were not unanimously supported include:

1. **The Small Works Roster (SWR) threshold increases to state-wide inflation factor based on CCI.** Expansion of the Small Works Roster was of concern by some business stakeholders as expansion of the SWR process beyond current level was of concern. The proposal requires definition of the frequency of review for the five-year inflation factor.
2. **CPARB should update supplemental bidder responsibility guidelines.** The proposal includes additional requirements or scenarios that have been raised since 2014 that might warrant additional guidance to agencies. Dissenting voices questioned whether funding would be required for the effort or already included within CPARB's mandate. Discussion would be necessary to define the scope and duration of the update.
3. **Provide professional assistance to local government for contracting guidance, marketing and outreach to contractors.** Concerns surrounding the proposal include defining the scope of support, creation of two lines of support (agency and business), concerns about creating new resources to implement the recommendation, and identifying current available resources and ways to leverage those resources.

Chair Keith thanked Mr. Rose for developing a logical format for the recommendations. Based on her understanding, the Legislature wants to translate the recommendations from the report to statutory changes. It is important for the Board to recognize the significance of moving the recommendations forward. One possible alternative is approving all the recommendations with a note stipulating that the recommendations were generated and some were unanimously approved and some were not unanimously approved along with information about specific concerns. Many of the recommendations would also create an unfunded mandate. She suggested the Board should include qualifications with any recommendations by indicating that the committee generated the recommendations but the Board is not ready to implement those recommendations.

Vice Chair Thompson noted that the recommendation of most interest by the Legislature is the recommendation tying the Small Works Roster threshold increases to state-wide inflation factor based on CCI. Chair Keith said she believes that some of the concerns for increasing the limits were from communities representing small business and women and minority business. Mr. Rose said the proposal generated concerns from larger businesses.

Ms. Deakins shared information on concerns shared during the JLARC meeting surrounding how local governments are required to accept the low bid. The Supplemental Bidder Responsibility Guidelines allow some additional qualification of bidders and eliminate poor performers, which might assist local governments. Local governments also want a more consistent state-wide threshold.

Ms. Reyes questioned the identification of the voting members for the recommendations. Chair Keith explained that the Board approved the committee's membership last year. Ms. Reyes questioned the representation of eastern Washington. Jane Wall added that the Board appointed members of the committee. She served as a member and other stakeholders were represented on the committee. Mr. Rose shared a list of committee members. Additionally, other stakeholders participated in the committee's conversations.

Chair Keith asked Ms. Reyes whether representation by different stakeholders would have affected the outcomes differently. Ms. Reyes said she believes so. As a business owner, bids are her source of income. She has been in business for 27 years. There are many opinions that are not welcome. It is important that outreach is broad as the Board should not invite consistent membership as it leads to inaccurate perceptions. She suggested it is time for the Board to revisit its processes and how public opinion is solicited.

Mr. Rose explained that a component of the outreach strategy included over 30 interviews with various business and agency stakeholders with a survey offered to several hundred business and agency stakeholders. Those voices lead to the content of the discussions with the committee. Committee members sorted through the information to form the recommendations.

Vice Chair Thompson addressed the comments and shared his perspective on the process. As a member volunteering to serve on the committee and working with MRSC and understanding the documentation and initial outreach, the question of whether the effort reached out to the right people can be answered by referring to the voluminous amount of information published statewide that MRSC compiled. He asked Ms. Reyes to read the reports because accusations are offensive. As a member of the committee, the information is available to anyone. To imply that the committee's efforts were not inclusive is inaccurate.

Ms. Reyes responded that she was not critical of the Board but that it is the reputation of the Board within the community and the perception created by the Board. The Board has an opportunity to improve the situation. As a member of the Board of the National Association of Minority Contractors she was not aware of any members asked to participate or offer an opinion. She was offended to hear of the Board's reputation.

Chair Keith acknowledged the importance of honesty and difficult conversations. She expressed appreciation to both Ms. Reyes for her perspective and to Vice Chair Thompson for his response. She encouraged Ms. Reyes to assist the Board in improving outreach and vetting efforts to different organizations. She asked for each individual's consensus to move forward with recommendations. Vice Chair Thompson and Ms. Reyes affirmed their support for moving forward.

Chair Keith reviewed options for moving the recommendations forward.

Aleanna Kondelis offered a suggestion to submit the report in response to the Legislature's request for the Board to provide a report on several issues. Because of the committee's efforts, the Board could present a report on the result of the review to the Legislature with a request as to whether the Board should review some of the recommendations for potential statutory changes. Chair Keith responded that based on the timeline and stakeholder concerns, the Board could submit a report documenting the convening of the committee to study the issues and that recommendations were offered based on dialogue and observations.

Ms. van der Lugt commented on the conversation on inclusion and asked the Board to consider the impact of the questions asked and for those receiving the questions to remember the impact of words. She believes the Board strives for the best of intentions with a goal to complete good work. Involving MWBE can occur in a variety of ways by showing up prepared, reading materials, and engaging with people. It is important not to close the conversations because some are offended by the nature of the conversations. It is important to protect the Board's value of hearing other people.

Michael Transue reported that as a member of the committee he supports the proposal by Chair Keith to move all recommendations to the Legislature with comments, as well as agreement of comments by Ms. Kondelis in terms of expectations the Legislature might have if all recommendations are forwarded. Combining those efforts would satisfy the statutory mandate of the Board and provide the Legislature with some options to consider.

Ms. Jansen clarified that when the effort with MSRC moved forward, the basis of the proposal involved working with agencies and groups around the state that have public works authority. Consequently, contact would likely not have occurred with NMAC because the focus was on public works guidelines and rules for different agencies.

Ms. Zahn acknowledged the work completed by MSRC to prepare the report. However, she does not believe the Board has spent the necessary time to vet through the recommendations similar to other reports submitted by other committees. She stressed the importance of identifying the sources of opposition for some of the recommendations and understanding the reasons for the lack of support. She does not believe the report is ready for forwarding as a recommendation by the Board as it appears to be a work in progress requiring some due diligence by the Board.

Ms. Mooseker thanked Mr. Rose and MSRC for the volume of data and information provided to the committee. She recalled that for the recommendations not receiving unanimous support were due in large part to questions of whether the recommendations were within the scope of the project or because of potential budget implications.

Ms. Reyes thanked Mr. Rose for his efforts. She agreed with the recommendation offered by Ms. Zahn as the Board should spend more time reviewing the recommendations.

Chair Keith added that she also has concerns about fully vetting the recommendations by November 1, 2020, which is the original due date for the report. However, DES has indicated the report could be provided prior to the next legislative session.

Mr. Schacht asked staff to display the budget proviso outlining the direction to the Board. In a recent conversation with Mr. Frare, Mr. Schacht offered the suggestion of moving the recommendations forward to the Legislature to fulfill the proviso obligation. Mr. Frare's response was indicative of the proposal not satisfying the charge of the budget proviso as the Legislature is counting on the Board to forward a recommendation.

Chair Keith reviewed the request for the Board to provide a report to the Governor and appropriate committees by November 1, 2020. The report must include the following with the status in italics:

- a) Identification of the most common contracting procedures used by local governments – *MSRC provided the information;*
- b) Identification of the dollar amounts set for local government public works contracting processes - *MSRC provided the information;*
- c) Analysis of whether the dollar amounts identified in (b) of this subsection comport with estimated project costs within the relevant industries – *Analysis is included in the Report materials.*

- d) An analysis of the potential application of an inflation-based increaser, taking regional factors into consideration, to the dollar amounts identified in (b) of this subsection, for example: *(Addressed in the Report)*
 - (i) Applying the implicit price deflator for state and local government purchases of goods and services for the United States as published by the bureau of economic analysis of the federal department of commerce; and
 - (ii) Adjusting the bid limit dollar thresholds for inflation, on a regional basis, by the building cost index during that time period;
- e) Recommendations to increase uniformity and efficiency for local government public works contracting and procurement processes – *Requires a recommendation by the Board*
- f) Rates of participation of all contractor types, including qualified minority and women-owned and controlled businesses, in the small works roster and limited public works contracting processes – *Requires more work moving forward*
- g) Barriers to improving the participation rate in the small works roster and limited public works contracting processes – *Requires more work moving forward.*

Mr. Schacht suggested the option of following up with the Legislature to receive direction on the proposal the Legislature expects to receive.

Ms. Jansen shared that Mr. Frare has engaged in a discussion with the Legislature.

Mr. Rose shared that he and Ann Larson with DES had a conversation with Representative Gerry Pollet to discuss high-level concepts contingent on approval by the Board. Representative Pollet said each of the recommendations would be valuable, which may prompt the need for more discussion by the Board on which of the recommendations could become a statutory request.

Chair Keith offered that she would meet with DES staff and Mr. Rose to schedule a meeting with the appropriate representatives before the December meeting to seek direction and share information on the status of efforts.

Mr. Schacht inquired about an option of sharing the report with the Legislature and conveying that the Board has not determined whether it is in the position to make recommendations and believes additional outreach might be necessary to help the Board understand the implications of any recommendations.

Ms. Zahn supported the Chair's proposal to schedule a meeting rather than moving a draft recommendation forward when more discussion is necessary by the Board.

Chair Keith encouraged members to email her if they are interested in being involved in the next steps. She confirmed scheduling a meeting with Mr. Rose and Mr. Frare. She recommended deferring reports by the other committees unless critical information should be shared with the Board. She thanked committee chairs and members for their continuing work.

Ms. van der Lugt offered to meet with DES and the Chair to provide support for the report.

Mr. Kuruvilla offered a suggestion to include a 10-minute block on each meeting agenda to afford time for Board members to share suggestions and ideas on ways to improve the Board's process as it is important that the topics represent a unified voice while considering and listening to varying and different opinions.

ADMINISTRATIVE

Approve 2021 Meeting Dates

The Board offered no comments pertaining to the proposed 2021 meeting dates:

- February 11, 2021
- May 13, 2021
- September 9, 2021
- October 14, 2021
- December 9, 2021

Vice Chair Thompson moved, seconded by Chair Keith, to approve the 2021 meeting dates as published. Motion carried unanimously.

CPARB Budget Report – Report available online

December 9, 2020 Meeting Draft Agenda

Vice Chair Thompson reviewed the proposed agenda for the December 9, 2020 meeting:

Committee Reports:

- Reauthorization Committee – Discussion/Possible Update
- Business Equity/Diverse Business Inclusion Committee
- Data Collection Implementation Committee - Information
- Board Development Committee
- Project Review Committee
 - o Report from Janice Zahn
 - o Report from December 3, 2020 meeting
 - o PRC Appointments
- Subcontractor Bid Listings Policies Committee Update
- Local Government Public Works Study Committee
- JOC Evaluation Committee

The Board agreed to schedule the December meeting from 8:00 a.m. to 1:30 p.m.

ADJOURNMENT - Action

Chair Keith moved, seconded by Vice Chair Thompson, to adjourn the meeting at 1:17 p.m. Motion carried unanimously.

STAFF & GUESTS

Talia Baker, Department of Enterprise Services
Sarah Bollard, MRSC
Nancy Deakins, Department of Enterprise Services
Quinn Dolan, Centennial Construction
Curt Gimmetstad, Absher Construction
Cory Hamilton, UW Medicine/Valley Medical Center
Michele Helmholtz, Laborers Local 212
Chris Herman, WPPA
Judy Isaac, MRSC
Kelci Karl Robinson
Joseph Kline
Aleanna Kondelis, University of Washington
Eric Lindstrom, Forma Construction
Art McCluskey, Washington State Dept. of Transportation

Brian McConaughy
Scott Middleton, MCAA
Edward Peters, Edmonds School District
Drew Phillips, Forma Construction
Jim Phillips, Forma Construction
Jon Rose, MRSC
Linda Shilley, Pierce Transit
Jolene Skinner, Department of Labor & Industries
Michael, Transue, Specialty Contractors
Jerry Vanderwood,
Melissa Van Gorkom, Washington State Legislature Staff
Charles Wilson, DES
Olivia Yang, Washington State University