

## CAPITAL PROJECTS ADVISORY REVIEW BOARD

1500 Jefferson Street SE  
Presentation Room  
Olympia, Washington 98504

**Minutes - Amended  
September 12, 2019**

<b>MEMBERS PRESENT</b>	<b>REPRESENTING</b>	<b>MEMBERS ABSENT</b>	<b>REPRESENTING</b>
Walter Schacht ( <i>Chair</i> )	Architects	Greg Fuller	Specialty Contractors
Rebecca Keith ( <i>Vice Chair</i> )	Cities	Senator Bob Hasegawa	Senate (D)
Brian Belarde ( <i>Telephone</i> )	Construction Trades Labor	Rep. Mike Steele	House of Representatives (R)
Bill Frare	State Government	Rep. Steve Tharinger	House (D)
Charles Horn	Insurance/Surety Industry	Lisa van der Lugt	OMWBE
Santosh Kuruvilla	Engineers	Senator Judy Warnick	Senate (R)
Mike McCormick	Higher Education	Vacant	Hospital Districts
Karen Mooseker	School Districts	Vacant	Construction Trades Labor
Mike Pellitteri ( <i>Alternate</i> )	General Contractors	Vacant	Private Industry
Irene Reyes ( <i>Telephone</i> )	Private Industry		
Mike Shinn	Specialty Contractors		
Andrew Thompson	General Contractors		
Elisa Young ( <i>Alternate</i> )	OMWBE		
Jane Wall	Counties		
Janice Zahn	Ports		

*Staff & Guests are listed on the last page*

### **WELCOME & INTRODUCTIONS**

*Chair Walter Schacht called the regular Capital Projects Advisory Review Board (CPARB) meeting to order at 8:05 a.m.*

Members present and participating by telephone provided self-introduction. A meeting quorum was attained.

### **APPROVE AGENDA - Action**

Vice Chair Keith proposed revising the agenda to add a budget report from Mr. Frare under *Administrative*. Aleanna Kondelis, University of Washington, requested the removal of the briefing on UW Critical Care Roster under *New Business*. Elisa Young, OMWBE, requested the removal of the informational briefing on the Disparity Study/I-1000 Update under *Strategic Planning*. Chair Schacht recommended retaining the item as the intent was only to provide an update rather than a presentation.

*Rebecca Keith moved, seconded by Bill Frare, to approve the agenda as amended. Motion carried unanimously.*

### **APPROVE MAY 9, 2019 MEETING MINUTES – Action**

The following changes were requested to the minutes of May 9, 2019:

- On page 3, revise the second paragraph under *GC/CM Committee – Discussion* to reflect the following: “Vice Chair Keith said the goal is to introduce a bill on reauthorization by the first part of 2020 or by the end of next year to enable a thorough review during the summer prior to the Board acting on the proposal in fall 2020.”
- On page 6, within the first bulleted list for proposed membership of the GC/CM Committee delete “Rebecca Keith, Cities.”

Chair Schacht noted that the minutes of May meeting reflect unfinished business for nomination of individuals to fill committee positions. He suggested incorporating nominations throughout the meeting.

*Rebecca Keith moved, seconded by Bill Frare, to approve the minutes of May 9, 2019 as amended. Motion carried unanimously.*

## **INVITATION FOR PUBLIC COMMENTS**

Vice Chair Keith invited public comments throughout the meeting.

## **STRATEGIC PLANNING**

### ***What Does CPARB Mean to You?***

Chair Schacht invited members to participate in a roundtable discussion to initiate an ongoing discussion on the role of the Board, actions of the Board, and the future of the Board. He asked members to share what the Board means to them respectively. The discussion is particularly important as the Board moves forward into a two-year cycle of the reauthorization process. He asked members to consider what the Board means to them, why the member is on the Board, and what is of critical importance to stakeholders represented by each member.

*Mike McCormick arrived at 8:18 a.m.*

Chair Schacht welcomed newly appointed Board members Karen Mooseker representing School Districts, and Janice Zahn representing Ports and acknowledged the reappointment of several Board members.

Members offered the following feedback:

Santosh Kuruvilla said he is appreciative and has enjoyed his service on the Board. He believes the Board has the ability to make a difference. During his early service, he recognized the ability of the Board to work through a process. In terms of his constituents of fellow engineers, one important concern is the commoditization of engineering services whereby engineering services are treated only as a commodity rather than participating in a direct relationship with owners. Similar concerns were conveyed during the Board's discussions on best practices for Design-Build. The engineering community believes the issue is important and must be resolved.

Bill Frare said the Board holds a unique niche within state government. The Legislature is bombarded with ideas from special interest groups representing different segments of the construction industry. Individual legislators do not necessarily have a perspective or the contacts to assist in making an informed decision. In terms of alternative public works contracting, the Board serves as way to move formulated concepts forward to contract language, standardized practices, or forming an oversight committee to ensure successful completion of alternative public works projects. The Board has successfully increased the limit for work orders and contracts to afford an opportunity for more owners to utilize alternative public works. The benefit of the Board is moving a complex contracting methodology through a process involving all stakeholders to produce a common practice. CPARB provides the forum for stakeholders to be represented and advises the Legislature on contracting methods that legislators might lack in experience and background to enable the Legislature to render informed decisions. The creditability of the Board is very important. As the Board moves forward through the reauthorization process, it will be important to maintain that creditability and the respect the Board has developed with legislative committees. Members of legislative committees seek input and answers from the Board. In the future, small and diverse businesses will be an issue the Board will need to consider, as well as determining how to incorporate protections for small and diverse businesses to ensure opportunities are protected and available.

Charles Horn commented that his representation involves a narrowly focused industry. The Board appears to be more political and has completed some good work. Last year, the Board was able to adjust bonding requirements.

Brian Belarde said that as a new member of the Board, he has not yet determined what the Board means to him. He is thankful for his membership on the Board and can offer knowledge and input on any issues surrounding construction trades labor. With 32 years of experience in the industry, he can provide assistance and participate in discussions. He is honored to serve as a member of the Board.

Andy Thompson said the Board is a unique forum in the state because it represents all facets of the industry from large to small businesses, public agencies, labor, large and small contractors, architects, engineers, and other interests. The Board has increased its focus on equity and the role it has in alternative procurement because of differences in the traditional low

bid process. It is important for the Board to examine the idea of fair, competitive, open and transparent methods of a qualifications-based process. As a General Contractor representative, his focus is extended to general contractors, subcontractors, and suppliers. During the spring and fall activities surrounding the legislative session, the Board is more involved in advising the Legislature on different bills. Mr. Thompson said it has been an honor to serve and participate on the Board. He welcomed new members and conveyed the importance of attendance and participation during meetings to ensure all constituencies are represented. The Board is unique because it represents so many different entities.

Mike McCormick said the Board is involved in an industry that has the lowest productivity other than farming. Obviously, that means change and doing things differently. The former way of working has not been effective and positions the industry for disruption. The state has a set of statutes enabling the industry to take progressive actions, which is a credit to the Board as Washington State is one of few states that has adopted statutes allowing alternative procurement methods. That was because of the Board's ability to work through the issues with an understanding of the need for a change in the industry. However, it is important that as the industry moves forward, others are not left behind, such as labor, small contractors, or women and minority businesses. The Board has done a commendable job of moving forward and he hopes it will continue. However, as the Board moves forward and prepares for inevitable changes in the industry, it will be important not to leave anyone behind. The Board is unique in the entire country because many states are clamping down on different delivery methods and impeding the construction industry.

Irene Reyes said she has negotiated contracts and bids for supplies for 26 years. The biggest challenge facing the Board and the industry is the lack of a universal process for procurement. The process today is a challenge. Procurement law dictates that the execution of a public contract must be a fair, equitable, and transparent process. The Board has been able to deliver a fair process; unfortunately, the policies creating the Board have resulted in the Board moving in different directions rather than remaining on point to achieve the original reason for the formation of CPARB of ensuring tax dollars are spent wisely by government agencies lacking the capacity to procure appropriately. Today, the climate is political and the Board should remain focused on several of the original guiding principles that can be delivered, which is a fair, equitable, and transparent process.

*Mike Shinn arrived at 8:35 a.m.*

Jane Wall shared that her reference point of the Board is her working experience in legislative affairs in some capacity for over a decade. Throughout those years, there were many references to the Board in various committee hearings in terms of CPARB recommendations or proposals. She has served on the Board for a year but not as effectively as she would have preferred. She plans to become an active member moving forward. She considers the Board as a clearinghouse for capital projects and policies surrounding procurement. The creditability of the Board within the Legislature is important and has prevailed over time. When CPARB is referenced during a hearing or by a policymaker, it is understood that the policy has been well vetted. Her perception historically is that once the vetting process has been undertaken by the Board there is acknowledgment of the Board's smooth process of vetting proposals as it moves through the legislative process. There is a perception by legislators and others that the experts and the diversity represented on the Board have vetted the proposal and can be trusted. That is her perception of what CPARB is and what the Board should continue to strive to be.

Janice Zahn reported she has been engaged with the Board since 2006 when she served as an alternate for the Port's representative on the Board. Since then she has served on a dozen different CPARB committees in addition to her membership on the Project Review Committee for the last three years. In 2006 and 2010, the Board created white papers on different delivery methods and why alternative delivery methods made more sense than Design-Bid-Build. Since then the Board has focused on many areas and changes have occurred. In earlier years, many end run efforts occurred by some segments of the industry to influence the Legislature. Over time, the Board has pursued more difficult discussions on equity and workforce development. Ten years ago, she did not foresee the Board pursuing some of the committees that were formed to examine ways to perform better as an industry. Those efforts have demonstrated how the Board continues to work cooperatively in a broad and diverse industry to make positive changes. Her role at the Port of Seattle is overseeing construction management, which encompasses oversight of all major construction projects. The Board's

upcoming review of RCW 39.10 provides an opportunity to review why some outcomes have not been successful and how some provisions in the RCW could be adjusted or eliminated if they serve as a barrier and not effective for the industry.

Karen Mooseker commented that as a representative of a public owner, all school districts are fully dependent upon the public for construction funding. It is important that all construction projects are efficient and sustainable through operations and maintenance. The value of alternative procurement methods produces those outcomes. She is appreciative of CPARB being able to broaden the availability of the procurement methods to agencies as it is very important and often difficult for smaller agencies to take advantage of the methods. The Board's ability to evaluate the statute and ensure the method is efficient is important.

Mike Shinn said he has been a mechanical contractor for 25 years. He has been both a member of CPARB and PRC and is the longest serving member of PRC at this time. He supports the different procurement methods. His company works with a variety of public agencies in different counties. The purpose of his participation on the Board is to represent the interests of specialty contractors and to ensure a level playing field. The Board has been effective in submitting legislation that resulted in regulations, as well as establishing the rules for the PRC. As a member of PRC he believes his contribution is important as he serves on both the Board and the PRC. He has witnessed many different construction methods evolve and what have been successful or unsuccessful. His contribution is to provide a contractor's perspective. The Board has an opportunity to review lessons learned on many of the projects to improve outcomes for all entities. The goal is to secure the best construction contract and obtain the best value. Many of the smaller school districts with less construction experience have more difficulty in understanding where it can obtain the best value. The Board's role is to provide guidelines and guidance.

Elisa Young said she perceives the role of the Board as an advisor on ways to improve the quality and efficiency of public projects. In terms of the Board's membership, it is comforting to see how the Board has evolved in valuing the role of subcontractors and small businesses and what they can contribute to the state. CPARB is one of the few entities focusing on the impacts to small businesses. As the Board moves forward it will become more important to make it a priority to determine how to innovate in terms of bringing awareness and making changes, as well as addressing challenges for small businesses. She foresees the Board continuing to evolve, define, and identifying what it really means to improve efficiencies.

Mike Pellitteri said that as a new member of the Reauthorization Committee, it has been his first involvement with the Board. He views the Board as a think tank and a place where different interests and perspectives are shared.

Rebecca Keith said she is heartened as many of the values that have been shared by members are the same values she perceives of the Board in terms of seeking innovative ways to serve the public while utilizing public dollars in a way that achieves the best value through an equitable and fair process. It is also interesting that some of the issues occurring in the capital projects industry are similar issues that other industries and society as a whole are grappling with as well. The commoditization of professional services is also occurring in many other industries, as well as the need to have equitable transparent processes. The Board has some issues to work through. However, members of the Board have shared values. The Board can also be leaders and educators of other public owners and others in the industry to establish high standards and improve public works.

Chair Schacht recognized the arrival of Ms. Reyes.

Ms. Reyes added that she accepted the nomination to serve on the Board several years ago because as an owner of a minority-owned company she has firsthand knowledge of the challenges small companies face. In fact, in the 26 years she has been in business, the challenges are the same for small and minority-owned businesses, and have worsened in recent times. When she first became a member she had to study to learn about the role and language of the Board. Fortunately, she was midway through construction of her building and was able to learn the terminology. She is a better member of the Board today as she understands that the owner sets the tone of inclusion of women, minority, and veteran-owned businesses. Contracts and quotes that convey a process that is fair, equitable, and transparent serve as the example for

contractors and subcontractors to follow suit. The Board also serves as a venue to share information about bad experiences because they serve as good examples of lessons learned. She believes the Board is near to achieving its original goal and mission and that membership of the Board is very dynamic and diverse. The Board should be able to deliver far more, as well as expanding greater inclusion to all businesses.

Chair Schacht reported he is beginning his ninth year on the Board and is likely the ultimate convert in support of alternative delivery methods despite his earlier skepticism of the Board's enthusiasm for alternative public works. Eight years ago, his practice was entirely focused on public works and was incredibly successful using Design-Bid-Build. Today, both horizontal and vertical construction projects are incredibly complex and range from high performance buildings, bridges, transit lines, and railways, etc. Design-Bid-Build procurement consists of separating the conceptualization of the specifications and details of the product from the actual construction. The vast majority of construction projects require a unique prototype that can be refined and revised to produce a successful outcome. The notion of bringing the conceptualizer and the constructor together to develop a prototype to produce a successful product makes sense. There is much value in alternative public works. He strongly supports opening the doors to the broadest number of people to participate in public works projects. Competition brings value to ensure public owners select from the broadest group of entities who will do the work, as well as being fair in how public dollars are expended. However, that goal is often challenged when there are highly specialized delivery systems with public owners measuring a company's capability based on a history of past performance. RCW 39.10 presents a unique circumstance for CPARB as a vast amount of public dollars expended on public works procurement fall under RCW 39.04 (Design-Bid-Build). Design-Bid-Build offers no venue for public owners, contractors, and design professionals to meet and discuss issues. Procurement using Design-Bid-Build often results in a tendency for public owners to select the same firms although competition is just as important as it is under RCW 39.10. The Board's work centers on procurement methods and industry participation. It is important for the Board to maintain its work as it provides a support forum for all stakeholders through a unique venue. As a participant on many other private and non-profit boards and entities, he was amazed by the consensus building by the Board and the willingness to listen to different ideas. Over time, the Board has appeared to stray to separate camps and he would like the Board to work more on becoming a unified entity where each member represents their respective stakeholders while also representing all stakeholders collectively. It is likely the Board can find a balance between the two to complete its best work.

Mr. Shinn cited his company's record of working on one of the first GC/CM projects at the University of Washington and how he built his company on public works, low bid, and utilization of minority and women-owned businesses. He referred to the Board's efforts on reauthorization and urged members to avoid complicating the alternative delivery process because it discourages minority and small business participation. He spent hundreds of thousands of dollars submitting pre-qualifications on projects he did not have a chance of winning. It is important to improve the process for smaller companies to participate competitively. He built his company on low bid, best value, and small business participation. Today, it's nearly impossible for small businesses to enter the alternative delivery market because it requires the expenditure of too much money that small businesses cannot afford. Evaluation factors weighed in a pre-qualification bid places too much emphasis on the number of project managers, the size of the office, or the number of detailers. He is hopeful that changes can occur through reauthorization by tightening loopholes to level the playing field.

Mr. Kuruvilla commended the Chair for initiating the meeting by having members participate in a self-evaluation. He recommended adding a self-evaluation exercise at least once or twice a year. He referred to the Board's continuous improvement and suggested inviting larger public owners to share lessons learned with the Board during 15-minute presentations. The Board should modify its agenda, its approaches, and discussions to become more outcome-based instead of reacting to situations. He recommended establishing a goal and an agenda stipulating that by the end of this year, the Board would accomplish a specific action(s).

Chair Schacht affirmed the agenda includes a review of 2018/19 and establishing goals for 2019-2020. He acknowledged the suggestion to schedule some presentations on lessons learned. The Board represents public owners from all sectors. He offered to meet with Vice Chair Keith to review a format for presentations to the Board.

***Disparity Study/I-1000 Update – Information***

Chair Schacht referred to the Disparity Study and asked Ms. Young about timing to receive a presentation on the study. With the Board addressing the issues of equity, business practices, and setting goals for next year, sharing the results of the study will be important for the Board.

Ms. Young advised that the presentation on the Disparity Study could be scheduled during the October meeting. She updated the Board on the status of the study. The first statewide 218-page Disparity Study was released on April 19, 2019. Because most people find it difficult to understand a disparity study, OMWBE created some tools to assist the public and agencies to understand the purpose of a disparity study and some of the legal requirements on why the study was completed. OMWBE's website includes a document on *Understanding the Disparity Study*. The document contains definitions and phrases and explains the intent of the information. An accompanying *Frequently Asked Questions* document answers questions that relate to I-1000 and how it is relevant in relationship to the Disparity Study. That information is available to the Board on the website at [www.omwbe.wa.gov](http://www.omwbe.wa.gov) under the *Subcabinet on Business Diversity* link. Additionally, to receive notification of activities, members can sign up on the site to receive email notices. On July 1, 2019, the Governor's Business Diversity Subcabinet moved from the Department of Enterprise Services to the Office of Minority Women Business Enterprise (OMWBE) to include the transfer of Rex Brown. Next steps involved engaging with communities that requested the Disparity Study to discuss next steps moving forward. The Civil Rights Coalition of Washington requested the Disparity Study. The first meeting after the release of the study was with the Coalition. The Governor attended the meeting on July 31, 2019 and formally presented the Disparity Study to the Coalition. The next step involved the study consultant breaking down the study and its components. The consultant was able to answer many questions over the course of three meetings with the Civil Rights Coalition, state agencies, higher education, and the community at-large throughout the state. The next phase is implementation of the recommendations. Later in the day, a presentation is scheduled on study data results. The Disparity Study includes 14 recommendations. The Subcabinet has addressed 13 of the recommendations. The first recommendation was procurement of an IT system to track and monitor data to include the subcontractor level. In the meantime, OMWBE continues to work on seven decision packages focused on implementing the recommendations from the Disparity Study. OMWBE is seeking support and allies with the Legislature to move forward with funding necessary to implement the recommendations.

Ms. Reyes asked whether a contact address or phone number is available for members who have questions about the Disparity Study. Ms. Young affirmed that members could contact her as well as subscribing on the website to receive notifications on activities surrounding the Disparity Study. All contact information is available on the website as well.

Mr. Shinn asked whether OMWBE has researched what is involved for a minority contractor to become a licensed contractor in the state. The mechanical industry in Seattle and western Washington today includes two mechanical contractors that complete public works projects at prevailing wages. The state is handcuffing individuals who want to become a minority contractor by requiring the owner to have the ability to complete the mechanical work. Employees who are completing the work often do not have the skillset to manage a business. To become a mechanical contractor, the state requires the individual to install a toilet. He noted that he has been fighting for years to help increase the number of minority licensed contractors in the state, but no one is listening.

Ms. Young responded that the Disparity Study analyzed several data sets to include the impact of I-1000 and analysis of project awards against available contractors. Data outcomes were further analyzed under the North American Industry Classification System (NAICS) codes to identify disparity by industry segment. Mr. Shinn's comments speak to the qualifications of contractors. In her role at OMWBE, she engages in discussions about the role qualifications play in securing a contract award. The CPARB could also play a role in those discussions. During the statute review for Design-Build, members considered qualifications in terms of its importance to a project. Data have documented a reduction in businesses over the last 20 years. Before 1998, the state had over 5,000 certified firms. Today, only 2,500 firms are certified, which represents an increase over the last several years because of efforts to reengage with entrepreneurial. She acknowledged that much work will be necessary. The Disparity Study represents a legal framework and in order to attain the point where policies can be implemented that speak to specific requirements to utilize small businesses, processes must be in place and ready to address complaints and issues. Additionally, the recommendations also speak to capacity-

building. Within the ranks of certification, many companies graduate from the program as one of the intents of the certification program is graduating companies by attaining a specific threshold to free capacity for other start-up companies. OMWBE is focused on capacity-building as part of the recommendations from the Disparity Study. She agreed that it entails the first step of all the work that will be necessary. Anecdotal information from the study was feedback from businesses on what is actually occurring as contract data does not document the entire story. Speaking to businesses was a very important element to help determine the methodology to use moving forward to engage with communities.

Mr. Shinn reiterated the difficulty of any individual becoming a licensed contractor. He acknowledged that it is possible to assist existing contractors; however, the reality is that a person who is a minority or a woman who wants to become a mechanical contractor cannot do so unless they can demonstrate they are able to install a toilet.

Chair Schacht suggested that because of timing, it would be preferable to identify the appropriate forum to continue the discussion.

Mr. Pellitteri asked whether the Business Equity/Diverse Business Inclusion Committee would be an appropriate forum to continue the conversation. Chair Schacht advised that at this time he is unsure as the issue raised by Mr. Shinn is not under the purview of the Board. The issue is important as the Board serves as a clearinghouse for different issues. However, the licensing of mechanical contractors does not fall under the purview of RCW 39.10. Mr. Pellitteri replied that if the goals of RCW 39.10 cannot be achieved for diversity because of some systematic problem, it appears the Board should be researching systematic problems and recommending a remedy. If it is outside the realm of RCW 39.10, he asked about the appropriate forum to discuss the concerns. Chair Schacht preferred to defer the question at this time as there is a limit in terms of time, space, resources, and legislative authority to address issues.

#### ***Review 2018-2019, Establish Goals for 2019-2020 - Discussion***

Chair Schacht recommended because of the lack of time, deferring the discussion until the October meeting to enable sufficient time for the Board to discuss its collective agenda and goals. Earlier input by members provided information on different perspectives. Committee reports will also update the Board on current efforts. There were no objections by the Board to defer the review to the October meeting.

## **COMMITTEE REPORTS**

### ***Reauthorization Committee***

Ms. Keith, Chair, Reauthorization Committee, updated members on the committee's activities. She acknowledged the ongoing participation by members of the committee. The committee lacks representation from school districts and two positions representing small businesses. The committee met five times between May and September 5, 2019. The first meetings focused on developing a framework and schedule to address issues in specific areas of alternative public works as part of the reauthorization bill, issues that could be addressed outside of statute changes, such as best practices or through industry education, and what elements should be included in the bill.

Robynne Thaxton, an active participant with Design-Build Institute of America (DBIA) and who works with many public owners on Design-Build projects was elected as Vice Chair.

The committee reviewed ways to coordinate efforts with other CPARB committees. During previous reauthorization efforts, subgroups/task forces were formed to work on specialized areas. However, the Board appointed several specialty committees and subsequently the committee developed a schedule of topics to coordinate efforts with those committees to assist specialty committees in formulating recommendations to the Reauthorization Committee.

Originally, the committee's goal was developing a draft reauthorization bill to CPARB for its review as early as January 2020. At the last committee meeting, members agreed the timeline was unrealistic and agreed to adjust the timeline to present a draft bill to the Board in May 2020 with continued updates to the Board on proposed changes to the bill. The adjusted timeline affords some time for the recently formed GC/CM Committee to begin its work as GC/CM issues are

major issues to be addressed in the reauthorization statute. The role of the PRC, business equity and diversity issues, and potential changes to the JOC statute are other important issues. Providing the committee some extra time to complete the work would be helpful.

Committee consensus was attained on some statute updates:

- Add a CPARB position for public transit while maintaining current balance of public and private positions.
- Consider whether to add a private position or combine/eliminate an existing public position to maintain balance.
- Clarify CPARB duties and powers to give CPARB more flexibility on focus of work. It is apparent JLARC interpreted the power and duties on data collection by stipulating that the Board was obligated to complete data collection. Many members believed that the Board wanted the power to complete data collection rather than the ability to design data collection efforts that are realistic and provide meaningful information to support the Board's work.

The committee is continuing discussions on the role of PRC and some issues, such as conflict of interest on panels and potential ways to address that issue. The committee is reviewing other statutes for examples. Ongoing discussions continue about the role of JLARC in a future reauthorization effort.

The committee reviewed proposals from MCAWW (Mechanical Contractors Association of Western Washington) addressing concerns about the early alternative procurement of mechanical contractors during the GC/CM process. Members agreed to review some proposals from MCAWW during the September meeting entailing some changes to the statute that MCAWW believes would address many of the concerns. The committee agreed on the importance of receiving input from the GC/CM Committee and plans to forward the proposals to that committee for review and input.

Upcoming committee meetings are scheduled on September 23, 2019 to discuss PRC roles and conflict of interest. The October 7, 2019 meeting will include a joint meeting with the JOC Evaluation Committee to address changes to the statute based on proposals submitted by the Gordian Group during the legislative cycle.

Mr. Shinn questioned the issues surrounding conflict of interest with respect to the PRC.

Mr. Thompson said he addressed the issue as the RCW provisions require the recusal of panel members with a conflict of interest but does not prevent the member from being involved in the panel's discussion which appears to be contradictory. The statute does not identify a formal method for identifying whether a conflict of interest exists. Mr. Shinn asked whether the proposal would result in a change to the PRC.

Vice Chair Keith advised that future legislative changes have not been determined as the discussion will center on whether the issue should be addressed through PRC bylaws or through a change in the statute. The issue surrounds the ability to attract and retain qualified individuals on the PRC as many member companies are contracted to work on public works projects creating potential conflict of interest issues. The issue is how to identify what it means to be involved in the application of a process and when does that involvement rise to the level of conflict of interest. That could entail a change in the bylaws or a change in the statute. The committee is reviewing other statutes to learn how the issue might be addressed.

Mr. Shinn offered that a change in the bylaws would be a much easier process than a change in the statute.

Mr. Thompson replied that because of the timing of reauthorization and concern over potential statutory changes in a number of areas, the timing would be appropriate to address the issue as the current bylaws are not consistent with several provisions within the RCW.

Mr. Kuruvilla asked about the Vice Chair's comfort level surrounding the overall schedule. He suggested considering some joint meetings at some point. Vice Chair Keith agreed the suggestion would be appropriate to review with the committee at its next meeting.

Janice Zahn acknowledged that as a former member of PRC, several recusals occurred and typically involved members of construction management (CM) firms hired as the owner's representative. Currently, a CM position is lacking on both the Reauthorization Committee and the GC/CM Committee. During a recent GC/CM Committee meeting members discussed those situations where owners lacking GC/CM experience rely on the CM as the owner's representative, which may be a voice that is lacking at both committees.

Vice Chair Keith said membership could include the addition of a school district representative and minority/small business representative. At this time, no one has been nominated to fill those positions. The next step is identifying a potential candidate for the Board to consider appointing. Ms. Zahn agreed as some of the school districts rely on CM owner representatives. Appointment of a CM could serve as the voice of school districts.

Chair Schacht noted that based on the success of Board committees, participation does not necessarily require appointment by the Board. He suggested inviting interested representatives from the Construction Management industry to attend the next meeting as all participants have equal voices. Vice Chair Keith noted that at this time, no one from the Construction Management industry is participating regularly.

Mr. Thompson asked whether the committee's proposed timeline might require some adjustment. He complimented the committee for developing the schedule as it speaks to expectations required of the Board. The document has helped him understand what needs to occur.

#### ***JOC Evaluation Committee – Information***

Tae Hee Han, Chair, JOC Evaluation Committee, briefed the Board on the status of the committee's work. Since the last meeting of the Board, the committee has met three times in June, July, and August. One meeting was dedicated to the data collection report with a representative from DES. Reporting deadlines were established and posted on the website for 2017, 2018, and 2019 for JOC contracting reporting. Members continue to discuss potential legislative changes proposed by the Gordian Group earlier in the year. The committee is scheduled to present its recommendations on October 7, 2019 to the Reauthorization Committee. The next meeting is scheduled on September 24, 2019.

Vice Chair Keith asked whether the committee's next steps include a focus on best practices. Mr. Han replied that the September meeting will revisit the data collection format as the old format is currently in use. The format should be revised to ensure easier collection of meaningful data. Future agendas include development of a best practices manual for new JOC users. During the review of the proposed changes by the Gordian Group, a company representative from California attended the meeting and was engaged in the discussion. The discussion included all members of the committee.

#### ***GC/CM Committee – Information***

Chair Schacht noted that two appointments to the committee require action by the Board.

Nick Datz, Co-chair, GC/CM Committee, participating by telephone, updated members on the work of the committee to date. The Board established the goals of the committee to evaluate best practices of GC/CM procurement and review specifically what is working and what is not working, provide a summary of best practices to CPARB, identify outcomes that could be achieved, and document changes to the statute and recommend those changes to the Board.

The committee began meeting in early July and established the plan to address the goals. Although there are five specific goals, the committee established two deliverables that would address all goals. The first deliverable is a recommendation of changes to the statutes by early 2020 followed by a compilation of a best practices document following the submittal of the statute recommendations to the Reauthorization Committee and the Board.

The committee has met three times and compiled a list of items that are working and not working to provide a starting point. The list continues to grow as conversations progress. Members established committee priorities for evaluating

current legislation against any potential changes to keep the process on track and focused to meet the early 2020 timeline. Members are also identifying some best practices and what should be addressed in the statute.

Because of the short timeline, members agreed to increase meeting frequency to twice a month for the remainder of the year. Members started the review with RCW 39.10.340 and completed half of the review of RCW 39.10.360. Future meetings are scheduled on September 25, 2019 and October 14, 2019. The committee anticipates that during one of those meetings, members will address the concerns presented by MCAWW, as well as other portions of subcontracting provisions.

Scott Middleton serves as the committee's Co-chair as well as serving as a member of the Reauthorization Committee. All efforts are being coordinated with the Reauthorization Committee to ensure issues are addressed as part of the reauthorization efforts.

Mr. Datz reviewed the five priorities to address the statute (not in priority order):

- Reduce the prescriptiveness of the GC/CM statute to ease the administration burden under GC/CM
- Establish earlier cost certainty in the process
- Seek earlier participation of subcontractors
- Ensure sufficient owner involvement
- Improving payments to the GC/CM and subcontractors

Vice Chair Keith asked about the status of adding a priority addressing equitable access. Mr. Datz said the five priorities were identified at the last meeting; however, other topics of review included transparency and improved subcontractor participation, as well as clarifying the components of the MACC and the contingencies that are established under the statute, as well as more clarity for audit requirements. Subcontractor participation is another issue the committee has elevated high on the list of priorities.

Mr. Datz added that the conversations have been productive with sharing of opinions.

Ms. Zahn noted that the priorities identified by members will entail a thorough review of root causes. Some of the conversations have been about symptoms of overly prescriptive or some of the RCW language that has created issues. At the last meeting, the review was productive in terms of identifying how some of the provisions in the RCW could serve as a barrier.

Chair Schacht commented that the evaluation of GC/CM, potential statutory changes, and a review of best practices are important opportunities as a part of the reauthorization process. Over the last several years, the Board completed an exhaustive evaluation of Design-Build, developed Best Practices Guidelines, and submitted statutory changes, as well as statutory changes for JOC. The Board oversees GC/CM, Design-Build, and JOC. The GC/CM method has advanced and evolved as a procurement method and has become much more sophisticated. GC/CM has become complex and is not being utilized to the extent it was used previously. For public owners that want to pick the design professionals and contractors separately and believe it is important to maintain an open door for selecting a design professional directly and then having a direct contractual relationship with the owner, GC/CM is an important tool to achieve that outcome. For the public owner, GC/CM is an important tool and the success of RCW 39.10 is important. However, the timeframe is limited and the issues are complex because of different issues and concerns. He is hopeful the committee will be able to work through the issues and as part of reauthorization to improve the GC/CM procurement method.

Chair Schacht referred to the open architect position. Sam Miller of LMN Architects has been participating regularly at the GC/CM Committee. He asked about the status of the Higher Education position. Olivia Yang said Josh Kavullj with Western Washington University has participated in the meetings.

**Walter Schacht nominated Sam Miller with LMN Architects representing Architects and Josh Kavullj with Western Washington University representing Higher Education, to serve on the GC/CM Committee. Bill Frare seconded the nominations.**

**With unanimous affirmation the Board appointed the nominees to the GC/CM Committee.**

Mr. Thompson shared that as the General Contractor representative involved in some of the discussions with the GC/CM Committee, he believes it would be reasonable to communicate that some of the concerns raised by the MCAWW, particularly in the areas of procurement, specified general conditions, and interviews, are issues general contractors believe need to be addressed and most likely would require some statutory changes. He advised that he would work the issues through the GC/CM Committee but that the general contractor community will continue to monitor the procurement process.

Chair Schacht shared that the Design-Build Statute Review Committee currently exists but has not held any meetings based on the Board's successful revisions to the statute. However, at some point, some clarity is needed when proposed changes to GC/CM might need to mirror the Design-Build statute. He is seeking some clarity and consistency between the different procurement methods. For example, the Business Equity/Diverse Business Inclusion Committee completed a review of the GC/CM language to align with the Design-Build statute to designate the necessity of evaluating utilization plans for certified minority and women-owned businesses. It is important for consistency between the statutes. He suggested designating that task to the GC/CM Committee as it reviews language in the GC/CM statute. Additionally, if provisions are included for interviews, which is not mentioned in any of the statutes, those provisions should be considered for all alternative delivery statutes.

Informally, the Design-Build Statute Review Committee has posted a summary of legislative changes in the Design-Build statute as codified in House Substitute Bill 1295. The changes are posted on CPARB's website. The PRC might also want to inform public owners of the changes. Currently RCW 39.10 has not been updated to reflect the recent changes in statute, which can be confusing. The committee is also responsible for updating the Design-Build Best Practices Guidelines to comply with the statutory changes. The committee conducted an initial review and plans to produce the update and reissue.

Mr. Shinn inquired about the cut-off date for submittal of changes to the reauthorization bill. Vice Chair Keith advised that the goal is for the Legislature to consider the proposal during the 2021 legislative session. Chair Schacht said the Board would be seeking sponsors in both the House and Senate beginning in spring 2020. The Board was successful in the passage of House Substitute Bill 1295 with some controversy at the end of the process involving JOC provisions. Vice Chair Keith reviewed the timeline for the draft bill to the CPARB for review and vetting with the final bill completed in September 2020. However, JLARC might have other input that will require a response, which likely means the bill would be continually refined throughout the fall of 2020 in time for introduction by a legislative sponsor by early 2021. Legislative strategy is another component of the Reauthorization Committee with updates provided continually to the Board.

Mr. Han asked whether the JOC Evaluation Committee should pursue developing a summary of proposed changes for JOC similar to the proposed changes to Design-Build. Chair Schacht confirmed it would be helpful.

***Business Equity/Diverse Business Inclusion Committee – Information***

Chair Schacht reported the committee has met twice since the Board's last meeting and engaged in an open-ended conversation covering a broad range of issues. At this time, the committee lacks a note taker and some solution needs to be identified to assist the committee with preparation of minutes. He plans to speak to staff off line to come up with a solution. The next meeting is scheduled on Friday, September 20, 2019. The committee is in limbo pending the release of information on the Disparity Study and ways to utilize the study. He understands the Attorney General's Office is developing some guidance on the impacts of the study statewide. Information is also pending on the status of I-1000, which would significantly change the landscape. At this point, information on I-1000 is not available until the General

Election in November. Another issue the committee is considering is CPARB's role in promoting business equity and diverse business inclusion. Business equity speaks to competition by any entity regardless of certification status. Diverse business inclusion speaks to the issue of women and minority businesses with the issue of certified versus non-certified undetermined. CPARB is primarily a policy board and the PRC serves as a gate for alternative public works procurement. Public owners can procure freely under RCW 39.04 (Design-Bid-Build). The PRC serves as a checkpoint for public owners to understand the statute, as well as sharing some lessons learned during the committee's reviews and discussions. The OMWBE is seeking to assume a significant role in data collection. A state agency with the internal resources and funding to collect data and perform the evaluation and analysis is a benefit to the Board because of the resources OMWBE could provide. The Board has agreed the focus on policy, education, and dialogue/communicator rather than serving as an enforcer. The committee completed an initial review of the GC/CM provisions in the statute and attempted to identify where changes to the Design-Build provisions create a larger focus on the evaluation of utilization plans for certified businesses that could be incorporated within the GC/CM statute.

### ***Data Collection Implementation – Information***

Andy Thompson, Chair, Data Collection Implementation Committee, reported the GC/CM Committee has secured meeting minutes service through Granite Construction. He asked whether the Board would be willing to pay for meeting minutes service for the GC/CM Committee. Vice Chair Keith recommended deferring the discussion until the Budget Review.

Mr. Thompson said the Data Collection Implementation Committee has narrowed its focus to meeting the expectations of the JLARC Report. Consequently, the committee was able to work with public owners with pending recertifications to provide examples of how the owners have been monitoring and posting the information when they are nearing recertification. Two public owners with pending recertifications at the end of the month (City of Seattle and DES) have provided information online. The information provides an opportunity to review public agency best practices that have submitted for project certification for GC/CM. A meeting of the Data Collection Implementation Committee is scheduled within the next week. At that time, the committee will discuss whether all public bodies submitting project applications in 2020 that previously utilized GC/CM are required to submit applications with the documentation addressing JLARC recommendation 3 (Public bodies using GC/CM should obtain information on project subcontract awards and payments and provide a final project report on their GC/CM subcontracting to CPARB.). He believes the committee should continue to work with the PRC to develop similar language used for public agency certification for project certification. He is hopeful that during the Board's October meeting, information can be shared on joint efforts by the Department of Labor and Industries (L&I) and OMWBE and the service agreement between the agencies to enable the Board to help identify the collection of information. The goal of the agencies for collection of data could serve to provide information desired by the Board.

Jolene Skinner, Lead Business Analyst for Prevailing Wage and Public Works IT Systems at the Department of Labor and Industries, reported that over the past year, the department has worked on system improvements based on this year's legislative changes. Some of those changes include identifying the contract type when contractors perform work on public works projects. Most of those contractors must pay prevailing wages and are required to file a statement of intent to pay prevailing wages. When the contractors file the form, L&I asks the contractor to identify the contract type, which is a data field for all alternative delivery methods of GC/CM, Design-Build, and JOC. Each delivery method requires different wage effective dates than other contract types. Additionally, the forms and the affidavit of wages paid for GC/CM include the design and construction phase with each having a separate project and separate form to enable L&I to capture that particular phase. For JOC contracts, work order numbers and the overall JOC contract is captured within the system effective October 3, 2019. The intent is developing a process to provide the data to the Board.

Mr. Shinn asked whether the data are considered public information. Ms. Skinner affirmed the information is public and would be available online when searching for intents and affidavit forms. Mr. Shinn suggested designing the forms to include information on whether the contractor is a minority or women-owned business. Ms. Skinner advised that data.wa.gov is the online source for public agencies to release data for the public. L&I will consider which specific data fields the Board wants captured. L&I could then create a data service to publicize the information for public consumption. With respect to the partnership with OMWBE, L&I has a data sharing agreement with OMWBE providing access of

OMWBE's certifications that are downloaded into L&I's system. As soon as a contractor files the statement of intent, the contractor's UBI number is pinged to verify if the contractor is certified. If the contractor is certified, that information is included automatically within the L&I system and L&I tracks the utilization numbers. However, the level of data is not at the contract award and the amount and the utilization based on the dollar amounts. L&I is exploring those options. At this time, L&I is tracking the utilization and displaying the information on the projects within the portals for the awarding agency and contractors for OMWBE utilization.

Ms. Skinner introduced Jim Kaltenbaugh who is with the Apprenticeship Section at L&I. She has been working with the Apprenticeship Section and pulled data from the section into the L&I system to enable a query of apprentice utilization on all projects, as well as diversity reports at the worker level. Certified payroll reports are required for all public works projects effective January 1, 2020. The reports provide good information on employees to include apprentices on a project, as well as the opportunity for the contractor to identify race, ethnicity, and status as a veteran for all employees. L&I will be providing diversity reports based on the information supplied for each employee.

Ms. Young shared information on existing data available at this time. The information provided to L&I is only on certification at this time. However, OMWBE is preparing to implement a new system that will tie to the collection of L&I data. The goal is automating the integration of data between the systems.

Mr. Thompson commented on the possibility of considering some changes in the objectives of data collection while still adhering to JLARC's 2012 recommendations as a Board. It might be possible to utilize existing resources with different datasets and combining data to produce desired data. Within the Disparity Study, the first recommendation states, "Implement an Electronic Data Collection and Monitoring System for all State Agencies. Perhaps the most critical recommendation is to implement an electronic data collection and monitoring system for all state agencies. The ability to track M/WBE participation at the highly detailed level of 6-digit NAICS codes for prime vendors and all subcontractors (not just certified firms) is the foundation for any efforts to increase opportunities. While some departments (WSDOT and DES, for example) have begun this process, others have not. This first step must occur to enable other program elements to be targeted to actual needs and barriers. Failure to do so will undermine all other remedial program initiatives."

Although ongoing data collection efforts are occurring outside the Board, there is an opportunity without much cost to assist in satisfying the study's first recommendation as well as acknowledging the significant investment OMWBE has recently received for data collection.

Ms. Young clarified that the funds are only designated for securing the data collection system and not for the operations and maintenance of the system.

Mr. McCormick noted the recent developments speak to the idea that the Board should not be tasked with data collection. However, the next question to ask is what the Board would do with the data. There is the potential for the Board to receive a substantial amount of information and the question the Board is attempting to answer. The issue speaks to the analysis of the data rather than data collection and how the Board uses the information. There could be a shift in the mission of the committee as the issue is addressing what the Board is seeking in the data.

Mr. Thompson commented on the focusing of efforts by L&I and OMWBE. He suggested a short presentation during the October meeting to help the Board understand the collection efforts by the two agencies.

Mr. Pellitteri added that as a contractor it would be very beneficial to enter data into one system.

Ms. Skinner shared that during her discussions with contractors and awarding agencies, one of the goals is to lessen the burden for everyone involved in projects by minimizing data input to the extent possible. Ms. Young confirmed she received similar feedback. With the implementation of the new system, data collection will not be confined to diversity enabling the ability to determine what data could be queried.

Ms. Skinner added that she is working with WSDOT, which has committed to decommissioning its system used to track apprentice utilization, which requires the prime to submit all information on all subcontractors on a monthly basis for hours and apprentices. WSDOT plans to switch to L&I's system. She is working with WSDOT to identify required reports to enable WSDOT to track utilization.

Ms. Reyes questioned the timing of updating or synchronizing data between the two agencies. Ms. Skinner replied that the systems are updated daily. Ms. Reyes inquired about the degree of factual data. Ms. Skinner explained that contractors have a responsibility to ensure the information submitted is accurate. Contractors attest to the accuracy when they file the forms with L&I as required by law. Some contractors have had some difficulty in identifying the correct contract type and erroneously selected the wrong contract type. L&I plans to contact the awarding agencies to update the information. The awarding agency has the ability to input all project information, which helps guarantee that the information is correct prior to the prime filing their statement of intent, which initiates the project. WSDOT has committed to input project information to ensure the information is correct. Other awarding agencies have been inputting the information. Awarding agencies have more control as contractors have a tendency to make mistakes.

Vice Chair Keith thanked Mr. Thompson for presenting the various pieces of information because when she became a member the Board continually inferred it was supposed to be collecting data. Chair Schacht illustrated why data collection has been so challenging for the Board and pointed out how JLARC confirmed the Board was ineffective in data collection and should focus efforts on a specific subset of data. The Board has received input from minority businesses about the importance of data. She never believed that the Board was well equipped to serve that role. The information appears to provide a more accurate role and the Board should consider rethinking its mission for data collection because it is also an issue in the reauthorization statute, which has been discussed by the Reauthorization Committee.

***Andy Thompson offered a motion to direct a review of the Data Collection Implementation Committee mission prior to the next Board meeting for the purpose of facilitating a discussion on how new data collection processes by L&I and OWMBE might benefit the Board and alter the committee's mission/objectives.***

Chair Schacht offered that in lieu of a motion the next step entails designating some time on the next meeting agenda for a more detailed discussion on the issue, and in the interim, the committee should frame a recommendation for consideration by the Board.

Ms. Skinner informed the Board that the data captured by L&I is only on contractors and subcontractors subject to prevailing wages. During the design phases of GC/CM and Design-Build, engineers and architects are not subject to prevailing wages and consequently no data would be provided. One way to mitigate that lack of data is requiring architects and engineers to file forms for projects subject to prevailing wages without assessing a filing fee. However, that process would require legislative action.

Chair Schacht thanked Ms. Skinner for the information and for her participation in the meetings. He is encouraged that L&I took the initiative and stepped forward to assist the Board.

#### ***Education/Outreach Committee – Information***

Co-chair Mike McCormick reported the committee has met several times with initial focus on inventorying of training opportunities. The committee identified many groups sponsoring irregular forums or workgroups with a few offering regular and reliable training opportunities that might benefit the Board. The programs are well known in the industry and include the AGC Education Foundation sponsorship of GC/CM Workshops, DBIA's certification programs and regular Design-Build programs, and an OWMBE program, as well as the state offering programs. Members plan to focus on those groups offering regular programming to leverage best practices created by the Board to ensure they are incorporated within the curriculum. Following those efforts, the committee will submit information for posting on CPARB's website for educational opportunities.

**Board Development Committee – Information**

Co-chair Frare advised that the committee has not met since the Board's last meeting.

**Business Equity/Diverse Business Inclusion Committee (Continued)**

Chair Schacht offered the nomination of Brenda Nnambi, Diversity & Small Business Development Manager with Sound Transit, to serve on the Business Equity/Diverse Business Inclusion Committee. Vice Chair Keith seconded the nomination.

***By a unanimous vote of affirmation, Ms. Nnambi was appointed to the committee.***

*Chair Schacht recessed the meeting from 10:44 a.m. to 11:04 a.m. for a break.*

**Project Review Committee – Information**

Jim Dugan, Chair, Project Review Committee, reported he is serving as the newly elected Chair and has served on the committee for three years. He manages an office in Tacoma of project managers who use alternative delivery methods every day. He is looking forward to the meeting to discuss the PRC conflicts of interest.

The PRC held meetings in May, June, and July. Over the last three meetings, the committee considered two recertifications and 10 project applications. During the July meeting, the PRC considered five GC/CM project applications and one Design-Build project application. Year-to-date totals reflect 31 applications. In comparison to the last several years during the same period, the PRC reviewed 33 applications in 2018, 29 applications in 2017, and 34 applications in 2016. Although various project details are changing rapidly, there is movement away from GC/CM to Design-Build with first-time users utilizing GC/CM. The PRC denied a project application from the Port of Port Townsend because of the lack of understanding the statute and the lack of experience during the presentation. All other applications were approved.

The next meeting is scheduled on September 26, 2019 to consider four GC/CM project applications from Klickitat County Public Hospital District, Lakehaven Water & Sewer District, Seattle School District, and Snohomish County Facilities, one Design-Build project application from Tacoma Public Schools, one certification application for GC/CM and Design-Build from the City of Seattle, and a recertification application from the Department of Enterprise Services. Mr. Dugan noted that Tacoma Public Schools was the first school district to submit the first Progressive Design-Build project application for approval for a public K-12 school. He noted that within Tacoma Public Schools, an elementary school program was implemented in all three delivery methods by the same client at the same time in the same market with the same contractor. The project used Design-Build, GC/CM, and Design-Bid-Build. The difference between what the market bore for the bid market and the actual executed GMP for the Design-Build project achieved significant savings in the millions of dollars. That piece alone is informing at least that public client in its next capital bond measure by continuing to use Design-Build.

Trends in the market gleaned through presentations and conversations surrounding the RFP process for GC/CM reveal nearly equal weights applied to qualifications, interviews, and pricing. The interview is not required by statute, although it is weighed nearly equally to qualifications. The pricing component is becoming a smaller element to the point of being innocuous. It is not uncommon to have a 200 point range with the pricing component only 10-15 points of the total. Within the Design-Build procurement at least through the PRC presentations, discussions, and Q&A, conversations are occurring on the evolution of the interview formats extending from an hour format to an interview that became a workshop and then progressed to a charrette of four to six hours conducted in the office progressing to procurement of the contractor

separate from the design team. During a recent DBIA breakfast presentation, some of the same scenarios were shared. It is important for the Board to be informed as to what the PRC is witnessing in the evolution of the industry.

Mr. McCormick agreed the information on trends the PRC discovers as project applications are presented is important information for the Board when creating policies.

Mr. Shinn commented that the Issaquah School District also pursued a Design-Build project for a high school. Mr. Dugan replied that Issaquah School District's project was submitted after the Tacoma Public Schools application.

Vice Chair Keith commented that the information speaks to earlier comments by Mr. Kuruvilla regarding lessons learned. She assumes the PRC received the information on the three school projects procured three different ways by Tacoma Public Schools when the school district applied for recertification. Mr. Dugan said the school district shared the information during the presentation. She suggested the issue ties into lessons learned and case studies as it appears the PRC receives information on completed projects as opposed to only information on the front end of projects. Mr. Dugan advised that the PRC has the best opportunity to review completed projects as the applicant is striving to convince the PRC that it has the competency. Applicants share project history and information on successes, challenges, and without exception lessons learned. At least one member of a panel always asks an applicant about lessons learned during the last three years of certification. Vice Chair Keith suggested one way of conveying and sharing that information with the Board is through PRC reports highlighting some of the information. Mr. Dugan agreed it would be an easy request to accomplish.

Mr. Kuruvilla suggested focusing the spotlight on why the Port of Port Townsend application was rejected. Ms. Zahn responded that as the former Chair during that presentation, the project sponsor originally did not seek approval for a heavy civil GC/CM when in reality it would have been the appropriate delivery method. Rather the applicant sought approval for a GC/CM delivery method. She agreed that leveraging the PRC to share information on lessons learned is appropriate. The PRC reviews projects approved and denied. It may be necessary to modify the recertification application to include information on lessons learned; however, most owners are aware the PRC will ask about lessons learned. Most of the slide presentations by owner typically include a slide on lessons learned. The ability to share that information with the Board is a good idea.

Mr. Dugan added that the applicant (Port of Port Townsend) failed to demonstrate the alternative delivery experience and lacked experienced team members. The owner also lacked the appropriate and necessary funding at the time to carry out the project, which is a specific criterion. The responses from the public agency related to negotiating self-performance with the GC/CM (not allowed in statute) revealed a lack of knowledge of the statute. Typically, it is very clear why some agencies fail to receive approval.

Mr. Shinn pointed out that WSDOT is not required to seek PRC approval for Heavy Civil GC/CM projects. WSDOT does not fall under the realm of PRC to receive approval for projects. Several members pointed out that WSDOT falls under a specific statute for Design-Build. Mr. Thompson noted that as a courtesy to the Board, WSDOT presented the Coleman Dock project to the PRC. The WSDOT statute does not address GC/CM, which is why they completed the project application process through the PRC. It is unclear whether WSDOT must use RCW 39.10 for GC/CM procurement. Chair Schacht commented that if WSDOT's Design-Build statute does not authorize GC/CM, WSDOT would not have choice other than using RCW 39.10.

Mr. Shinn added that his company submitted a bid on the Coleman Dock project and he does not recall WSDOT seeking PRC approval.

Talia Baker cited information that verified WSDOT received approval of the GC/CM Coleman Dock project by the PRC on December 11, 2014.

Chair Schacht queried the Board on willingness to schedule an additional meeting to focus on case studies/lessons learned with potential presentations from:

- Tacoma Public Schools to present information on its project of three schools using three delivery methods.
- The University of Washington presenting information on the logic of selecting the contractor first and the designer later.
- Inviting a successful Design-Build or GC/CM procurement project.
- Inviting a project that achieved targets for diverse business inclusion.

Members supported the suggestion. Chair Schacht reported he and Vice Chair Keith would follow up with Mr. Frare to work through the organizational structure of scheduling an additional meeting.

Mr. Dugan offered that if the goal is to empower current and new users of alternative public works, those users need to be able to begin with what has worked and not worked in terms of recent and relevant projects of similar size and complexity. That information would be invaluable to those agencies rather than having to learn lessons.

Mr. Shinn recommended conducting the meeting in Tacoma to accommodate members traveling from the north.

## **NEW BUSINESS**

### ***UW Critical Care Roster – Deferred***

Mr. McCormick advised that the report would be available for the October meeting.

### ***ESSB 5418***

Mr. Frare said ESSB 5418 transitioned into different forms throughout the legislative session and ended up as an omnibus bill for small contracting. The bill addresses cities, counties, public utility districts, and sewer districts for contracting limits, day labor limits, unit price contracts, and other issues. Section 16 in the bill requests the Board conduct a study of contracting methodologies across all special purpose districts and municipalities and generate a report. One of the first iterations of the bill was a request to JLARC to complete the study. JLARC presented an estimated cost of \$350,000 to complete the study. After identifying CPARB as an all-volunteer Board, legislators assigned the request to the Board because there would be no cost. He advised legislators that because the Board is comprised of volunteer members, the task would not be possible and since DES serves as staff to the Board, the task would essentially defer to DES to assist in data collection and analysis. The Board is efficient in policymaking and consensus-building but as already demonstrated data collection is not necessarily the Board's strongest ability. As staff to the Board, he submitted a fiscal note to the Legislature on the cost associated with the assignment. The fiscal note is \$240,000. At first the Legislature indicated it would appropriate the funds but failed to do so. Consequently, the Legislature continues to promise to appropriate the funds. The Governor has directed DES to move forward on the work on behalf of the Board.

Even though the bill was sponsored by the Senate, the bill was reviewed by the House Local Government Committee, which consolidated the bill with three other bills. Mr. Frare advised that he and Chair Schacht and a representative from the Municipal Research Services Center are scheduled to provide a presentation to the House Local Government Committee on public works contracting, the role and responsibility of CPARB, and how to move forward on the study.

When DES began considering the work involved in the study, staff considered issuing an RFP to the contracting community to query local districts to obtain all the information. As DES collected information and engaged in conversations with various entities it became apparent that Municipal Research Services Center already has a substantial amount of the data. Subsequently, DES is working with contracting personnel to issue a sole source contract with MRSC. MRSC is a non-profit organization and the mechanisms surrounding the study are relatively simple. A draft contract has been developed. Prior to issuance of the contract, the House Local Government Committee requested a meeting to receive information on the scope of work and the process. The meeting is scheduled on September 13, 2019. The overall concept of the effort is reviewing a number of contracting methodologies through MRSC and having MRSC collect the data as required in Section 16 of the bill. When data have been collected and some analytics compiled, a presentation will be

scheduled to the Board on the information and some of the policy implications and which methods would be more beneficial for small and diverse businesses. A number of policy issues are of interest to the Board that speak to a need for a Board session to reach consensus on some recommendations to the Legislature.

Mr. Frare reported that some of the questions from the Legislature spoke to the lack of experience by legislators with public works contracting and how legislators are continually approached by local districts and municipalities with specific requests. Not knowing if the requests were appropriate a request was generated by a desire to establish a set of conditions across a consistent paradigm for smaller contracts to ensure uniformity in limits, which could be adjusted in accordance with an index. At first the index was identified as the Consumer Price Index (CPI), which he advised against as it was not representative of the construction industry. Instead, he recommended ENR's Construction Cost Index and Building Cost Index for the Seattle area. Those issues were discussed during the legislative session. Today, legislators are seeking the Board's input for moving forward. Essentially, the Legislature wants some information about small contracting for small local governments and has asked CPARB to complete the study with DES assisting as staff support to the Board. DES is contracting with MRSC to compile the data with the Board receiving information on the policy aspects for input and reach consensus on a recommendation to forward to the Legislature by November 2020.

Mr. Thompson inquired about the source of funds to complete the work. Mr. Frare advised that the funds at this time have been allocated from a DES operating fund with the Governor's Office and key legislators promising to make funding the study a priority.

Mr. Kuruvilla asked about the possibility of one of the outcomes supporting the Board's data collection efforts. Mr. Frare said it could be possible.

Vice Chair Keith supported working with MRSC compiling the data as the organization has the foundation to complete the work efficiently.

Ms. Zahn asked about those entities that are not included in the description of local government. Mr. Frare said state agencies and high education would be excluded. Local government encompasses water districts, sewer districts, dike districts, public utility districts, and small municipalities. Ms. Wall added that she does not believe ports would be included as ports fall under a different RCW. However, she urged staff to double check.

### ***2019 Legislative Review – Discussion***

Nancy Deakins reported the Board received a list in May of the bills that passed during the legislative session.

Chair Schacht asked about pending 2020 legislation that might be of interest to the Board.

Mr. Frare reported on discussions surrounding a bill on bid shopping. He spoke to Jerry Vanderwood earlier in the day and plans to follow up about the bill. He has also had some conversations with the Governor's Policy Office relative to interest in the bill. Currently, prime contractors with bid submittals over \$1 million are required to list mechanical, electrical, and plumbing subcontractors. During the 2019 session, bills were presented in the House and the Senate to expand the requirement for all subcontracts. At that time, DES opposed the bills because it would increase the opportunity for bid protests, create delays, and increase contract costs because contractors would need to have all the information available in advance or on the bid date. At this point, conversations are ongoing with labor interests and minority firms on how to resolve the problem of bid shopping.

Vice Chair Keith remarked that she supports conversations as another issue is the statute is unclear and open to interpretation. She has become aware of a number of disputes surrounding provisions in the statute. She would support attempts to clarify the provisions. She asked for input on whether the Board should be involved in providing input on both the bid shopping issue and the statute. Mr. Frare said the bill is still active and all alternatives are on the table to move the bill forward and overcome any opposition.

Chair Schacht said the issue relates to RCW 39.04 procurement. Given the risks and the challenges of lowest responsible bidder procurement, some elbow room is necessary post-bid to contract the job to meet the target budget.

Mr. Thompson said the issue is raised either annually or every other year. For the most part, general contractors oppose the bill. He understands labor is attempting to learn of the identity of the subcontracted work as early as possible. Any compromise should exclude requiring the information during the bidding environment and after the bid to avoid disruption to the bid process.

Chair Schacht noted that a buyout process for a procurement could take weeks or months. Mr. Thompson said having all parties meet to discuss the proposal prior to the legislative session would be helpful because the issue is raised every year.

Mr. Frare briefed members on another proposed bill involving an issue associated with the Washington State Federation of Employees. A bill was presented amending some of the collective bargaining rules for protected work for state employees requiring the state to perform a higher level of analysis and reporting relative to work that would be contracted. Work customarily and historically completed by state employees within collective bargaining units is typically protected until the work is contracted. The bill imposes a requirement to complete an analysis on the cost, performance metrics of the contractor, quality assurance measures, and justification of why contracting the work is in the best interests of the state rather than completed by state employees. Additionally, in the event state employees lose their jobs, local area impacts could be affected in terms of economics, social services, and other issues that are fairly expansive for an agency to complete an economic analysis. Typically, contracting a large amount of work, such as contracting all maintenance on Capitol Campus could justify an economic analysis. The bill failed to pass out of committee. He spoke to the bill's sponsor on ways to move the bill forward to ensure protections for state employees and taxpayers.

## **ADMINISTRATIVE REPORTS**

### ***Budget Report – Information***

Mr. Frare referred members to a copy of CPARB's 2019-2021 Budget. For many years prior to his arrival to DES, it was recognized that CPARB has a budget that does not cover all expenses. He's addressed the shortfall within the agency and because of other pending million dollar issues, the shortfall of \$300,000 is not perceived as a priority to resolve. The budget outlines the budget allocation for the Board and the staffing requirements to support the Board's operations and how costs are allocated. He plans to provide the information at each meeting to help the Board monitor expenditures. The information offers more transparency and accountability on how the Board's budget is expended. The biennial budget reflects expenses of \$371,338 with a budget of \$75,000 creating a shortfall of \$296,332, which is absorbed by DES on behalf of the Board. Monthly actuals reflect an allocation from DES of approximately \$10,000 to \$12,000 from the operating budget to help supplement the expenditures of the Board.

Mr. Thompson questioned the possibility of working with the Board's legislative members to assist in increasing the Board's budget.

Chair Schacht asked about the Board's budget prior to the recession before the budget was reduced. Ms. Deakins advised that the budget was approximately \$250,000 prior to the recession. Chair Schacht said the Board previously met each month and during the recession the budget was reduced substantially with DES assuming a much larger portion of the budget as well as many cost-cutting measures to include reducing the number of meetings to five a year. The question is whether the Board should be advocating for CPARB and not having DES subsidize the Board from its operating budget, as well as whether the Board believes that meeting five times a year is sufficient for interaction and to complete the work of the Board. Although reauthorization is a statutory issue, the Board's budget is a procedural issue the Reauthorization Committee could examine. The question is whether the Board should assume more responsibility for funding the Board's activities and whether five meetings a year is adequate for the Board to conduct its business.

Vice Chair Keith remarked that much of the important work of the Board is informed by committee work. Committee work must continue and adding additional Board meetings would only be effective if committee work is stepped up.

Ms. Zahn said some of the cost is associated with recording and transcription of the meetings. PRC struggled to have minutes transcribed and available. Delaying meeting minutes does not engender the committee's work to be transparent. Some committees have discussed ways to generate more participation as there is no option for compensating small businesses for participating. The broader question surrounds meetings, support, and budget.

Vice Chair Keith agreed as the City of Seattle is subsidizing the cost of the transcribing the meeting notes for the Reauthorization Committee. The Board should advocate for an increased budget. She appreciates DES providing support with budget and staff support. It would be helpful for the Board to consider what would be helpful to complete a better job. She supports increasing the budget for meeting minutes.

Mr. Shinn asked about assessing a fee for PRC applications, such as \$5,000 for each application. Mr. Frare advised that the suggestion would entail a review of the process to ascertain whether it would be possible. Initiative 976 requires a vote for increasing fees. Mr. Shinn suggested assessing a permit fee.

Vice Chair Keith offered that the question is valid but she does not believe the Board would have the authority.

Chair Schacht said the Board's operating budget should be approved by the Legislature. The Board does not have taxing authority. The Board has an obligation to determine whether operationally the Board is on target as its inclination is to add one additional meeting focused on case studies and an open conversation similar to the earlier information sharing exercise. The Board would be automatically advocating by working through the reauthorization statute which would be a good time to discuss an appropriate budget with legislators.

Mr. Kuruvilla asked whether the Board was more effective with more meetings. Chair Schacht said he does not have the answer but would refer to Ms. Yang who was a member when the Board met more frequently.

Ms. Yang responded that similar to the comments by Ms. Keith, committees complete the work with reports to the Board. Committees are able to meet frequently. The Board could reduce meetings to quarterly assuming committees continue producing. Many organizations meet quarterly.

Chair Schacht noted that there is logic for the scheduled five meetings relative to the annual rotation of legislative sessions. Legislative activities increase after the Thanksgiving holiday. The Board meets in September, October, and December which positions the Board to prepare to engage with the Legislature during the session. The next meeting is in February, which enables the Board to contend with emerging issues surrounding bills. The meeting schedule is logical as it follows the legislative cycle. He agreed committees have demonstrated capacity to complete a significant amount of work.

Discussion ensued on the sourcing for completion of committee minutes.

Mr. Shinn pointed out that one of the largest expenditures is for advertising public notification of meetings.

Ms. Zahn said she supports five Board meetings a year provided committees continue to meet and meeting minutes are produced timely. She asked about the potential of the Reauthorization Committee meetings extending to a full day rather than scheduling additional half-day meetings.

### ***2020 Meeting Dates Proposal – Action***

Ms. Deakins reviewed the proposed 2020 meeting dates:

- February 13, 2020
- May 14, 2020
- September 10, 2020
- October 8, 2020
- Wednesday, December 9, 2020 (meeting conflict with the State Capitol Committee meeting)

Mr. Shinn inquired about the possibility of meeting at another location. Chair Schacht advised of the difficulty of meeting at another location because of administrative staff and his regular meetings with DES on the administration of the Board.

Vice Chair Keith asked about the possibility of offering video conferencing for participation in the meetings. Ms. Baker advised that DES is working on providing a system but it has not been activated at this time. The option is in process.

Chair Schacht offered that meetings are much better when everyone attends. He believes the Board is more effective when members are present.

***Draft Agenda for October 10, 2019 Meeting – Action***

Chair Schacht and members offered input on the following October meeting agenda topics:

- 2018/2019 Review/2020 Goals
- Data Collection Coordination with L&I and OWMBE
- Reauthorization Committee Updates on JOC and Progress to Date
- Critical Care Roster Report Update
- Project Review Committee Report
- Design-Build Statute Committee Report
- GC/CM Committee Report
- Education/Outreach Committee Report
- Board Development Committee Report
- Reauthorization Committee Report
- Business Equity/Diverse Business Inclusion Committee Report
- Disparity Study Update/Status of I-1000
- JOC Evaluation Committee Report
- Draft of Guidelines for Public Works Training Requirements

Mr. Thompson withdrew the request for funds to pay for transcription of the GC/CM Committee minutes. He plans to speak to his representative who is the Chair of the Finance Committee as well as Senator Hasegawa about possible support for funding minute services.

**ADJOURNMENT - Action**

***Bill Frare moved, seconded by Mike Shinn, to adjourn the meeting at 12:36 p.m. Motion carried unanimously.***

**Staff & Guests**

Talia Baker, Administration

Nick Datz, Sound Transit (*Telephone*)

Nancy Deakins, Department of Enterprise Services

Matt Doumit, Gordon Thomas Honeywell, GA

Jim Dugan, Parametrix

Valerie Gow, Puget Sound Meeting Services

Tae-Hee Han, Sound Transit

Janet Jansen, DES

Jim Kaltenbaugh, L&I

Aleanna Kondelis, University of Washington

Don Laford, CMAA

Bob Maruska, Port of Seattle

Art McCluskey, WSDOT

Jolene Skinner, L&I

Jerry Vanderwood, AGC