

CAPITAL PROJECTS ADVISORY REVIEW BOARD

Via Zoom

Minutes

February 10, 2022

MEMBERS PRESENT	REPRESENTING	MEMBERS ABSENT	REPRESENTING
Janice Zahn (<i>Chair</i>)	Ports	Corey Fedie	Public Hospital Districts
Bill Dobyns (<i>Vice Chair</i>)	General Contractors	Bobbie Forch, Jr.	Disadvantaged Businesses
Jeri Arbuckle - <i>Alternate</i>	Transportation	Senator Bob Hasegawa	Senate (D)
Matthew Hepner	Const. Trades Labor	Rep. Mike Steele	House (R)
Janet Jansen	State Government	Rep. Steve Tharinger	House (D)
Santosh Kuruvilla	Engineers	Senator Judy Warnick	Senate (R)
Erik Martin	Counties		
Keith Michel - <i>Alternate</i>	General Contractors		
Karen Mooseker	School Districts		
Mark Nakagawara	Cities		
Irene Reyes	Private Industry		
Mark Riker	Const. Trades Labor		
John Salinas II	Specialty Contractors		
Walter Schacht	Architects		
Mike Shinn	Specialty Contractors		
Kara Skinner	Insurance/Surety Industry		
Lisa van der Lugt	OMWBE		
Robynne Thaxton	Private Industry		
Olivia Yang	Higher Education		

Staff & Guests are listed on the last page

CALL TO ORDER & ROLL CALL FOR QUORUM

Chair Janice Zahn called the Capital Projects Advisory Review Board (CPARB) virtual meeting to order at 8:01 a.m.

A roll call of members established a meeting quorum.

WELCOME NEW BOARD MEMBERS & INTRODUCTIONS

Chair Zahn welcomed newly appointed Erik Martin representing Counties. Mr. Martin reported he serves as the County Manager for Lewis County located in Chehalis, Washington. He has served in the position for 3+ years and previously served as the Public Works Director and County Engineer for the county. He has been a professional engineer for nearly 20 years working in the private and public sectors. He also served on the State Public Works Board for approximately three years.

Chair Zahn asked members to refrain from using the zoom chat function to help facilitate management of the meeting.

APPROVE AGENDA – *Action*

Chair Zahn advised that the agenda as originally published required some changes to include adding “new” to Erik Martin’s name to help identify new members. addition of a report by the JOC Evaluation Committee, correction of Quinn Dolan’s name, addition of a report by the Subcontractor Bid Listing Policy Evaluation Committee, and correction of the spelling of Matthew Hepner.

Walter Schacht recommended adding a discussion on the Board’s response to a request from Jen Masterson on a Construction Cost Assessment Report under consideration by the Office of Financial Management (OFM). Chair Zahn explained that the OFM discussion was previously included on the agenda and subsequently removed because Ms. Masterson was unable to attend the meeting. She recommended accommodating a discussion on the request from OFM.

Olivia Yang requested removal of the informational report on *Metrics from Sound Transit and WSDOT* under the Business Equity/Diverse Business Inclusion Committee.

Chair Zahn added that beginning with the next meeting a Chair Report will be published prior to each meeting on recent activities to keep members informed.

Irene Reyes moved, seconded by Olivia Yang, to approve the agenda as modified. A voice vote unanimously approved the motion.

APPROVAL OF OCTOBER 14, 2021 MEETING MINUTES – Action

The following changes were requested to the minutes of October 14, 2021:

- On page 1, the meeting convened at 8 a.m. rather than 9 a.m.
- On page 16, under *Staff and Guests* correct the spelling of *Keith Michel* and change *Chris Tull* to reflect *Chip Hull*.

Janet Jansen moved, seconded by Kara Skinner, to approve the minutes of October 14, 2021 as amended. A voice vote approved the motion unanimously.

APPROVAL OF DECEMBER 9, 2021 MEETING MINUTES – Action

The following changes were requested to the minutes of December 9, 2021:

- On page 1, delete reference of *alternate* next to Axel Swanson's name
- On page 18, the discussion on future Board meetings should reflect the meeting day as the second Thursday rather than the second Tuesday.

Olivia Yang moved, seconded by Janet Jansen, to approve the minutes of December 9, 2021 as amended. A voice vote approved the motion unanimously.

INVITATION FOR PUBLIC COMMENTS – Information

Vice Chair Dobyms invited public comments.

There were no public comments.

CHAIR REPORT –Information

Chair Zahn advised that the Chair Report would be posted as a preread prior to each meeting. Since the last meeting in December, she attended the Project Review Committee meeting in January and the Board Development Committee and GC/CM Committee meetings. As part of the Local Government House Committee follow-up, a number of members attended the House Local Committee meeting on January 19, 2021. Boardmembers Mark Riker, Olivia Yang, and Lisa van der Lugt joined her at the meeting in addition to DES staff member Bill Frare and Michal Transue with MCA. The committee discussion included the Board's feedback on the draft bill sponsored by Representative Pollet and some issues the Board had not considered but offered to pursue by forming a committee on small works to consider potential statute changes. Chair Zahn said she spoke with Jon Rose with Municipal Research and Services Center (MRSC) about a potential budget proviso for professional assistance. Mr. Rose will present the proposal during the legislation of interest discussion to request the Board's support. A survey was released in January by the Business Equity/Diverse Business Inclusion Committee to members of the Alternative Public Works community seeking information on access to equity as it relates to RCW 39.10. An email was transmitted on OFM's request to seek information on the cost assessment study on February 4, 2022, with a link to the survey. On January 3, 2022, an email was transmitted on Board vacancies under recruitment (General Contractor and Architect positions). She thanked Andrew Thompson for pointing out how the description of the Board published on the Governor's Board and Commissions webpage is outdated. She plans to work with the Governor's Office to update the description of the Board.

BOARD ENGAGEMENT– Informational

Boardmember Opening Thoughts/Shared Commitments

Chair Zahn thanked Marika Barto for working with the Board to reach the point of finalizing the Board's shared commitments. She cited a quote by author and inspirational speaker Simon Sinek about shared commitments and values: "*Communication is not about speaking what we think. Communication is about ensuring others hear what we mean.*" Ms. Barto invited members to share opening thoughts.

Lisa van der Lugt: Today, I am coming into this really excited about the work ahead. Janice is right, there is a lot going on legislatively for many of us, but I am glad to be here and to move us further in our work. Thank you Marika, you are a superstar and thank you for everything that you do as I appreciate it.

Keith Michel: I am representing general contractors this morning filling in for Andy Thompson. I have met many of you over the years serving on different subcommittees of CPARB and yet coming to the table this morning on reasonably short notice but wanted to make time to sit in a little

more formally for the morning. I am basically showing up with an open mind and want to listen and will contribute wherever my expertise may support the discussions.

Irene Reyes: Good morning everyone. I am excited. I look forward to making a difference today for the community and also making a difference for myself. If I can achieve those two today, it would be wonderful. Have a peaceful day.

John Salinas: I admit I am a little tired just professionally as there are some things going on that are just kind of wearing me out so I am trying to get into the zone.

Finalize Board Engagement Themes

Ms. Barto reviewed the five commitments and a list of three pending questions related to the commitments. Following feedback from the Board, the commitment document will be finalized and forwarded to Chair Zahn to share with the Board.

The first question is a recommendation to include an introduction section within the document. The recommended draft introduction states:

“The following are the shared commitments adopted by the members of CPARB. RCW 39.10.200 and 39.10.230 define our purpose, intent, powers, and duties (what brings us to the table); these commitments are how we strive to accomplish our charge (how we interact at the table).”

Based on the results of voting, Ms. Barto verified the inclusion of the introduction within the document. The second question pertains to the commitment of Respect. The following comment was offered:

- *Showing honesty vs. being honest. “Showing honesty” could be perceived as being political – as this is a trait of most political people. Being honest can be perceived as being too direct and at time results in other stakeholders reacting that a person’s perspective is not considerate of theirs. We need to as a board be respectful and understand points of view can be very different and our forum is an opportunity to discuss openly. We all represent our stakeholders, CPARB appeal is the big table that’s unlike any other in the public contracting arena.”*

Ms. Barto asked members whether the document should reflect, “showing honesty” or “being honest.” She shared a copy of the entire commitment to provide context. Based on the results of voting, Ms. Barto verified the document would be revised to include “being honest.”

The last question pertains to the purpose commitment. The first segment currently reads:

- *Staying focused on the purpose of CPARB by using agenda without our personal agenda.*

A proposal was offered revising the section to state:

- *Staying focused on the purpose of CPARB by using agendas and engage in board matters with a professional approach recognizing each member’s personal life experiences.*

Ms. Barto asked members whether the document should reflect the first statement or the proposed statement. Based on the results of voting, Ms. Barto verified the document would be revised to incorporate the second statement.

Walter Schacht recommended a revision changing “engage” to reflect, “engaging.” Ms. Barto affirmed the request.

Ms. Barto encouraged members to stay true to the commitments and address issues as they arise. She thanked members for the feedback to help improve and articulate the commitments.

Chair Zahn thanked and acknowledged Ms. Barto for her efforts, as the exercise is not an easy task for seeking and receiving feedback from a broad coalition of industry leaders to enable a consensus outcome on a set of commitments for working together. The next step is implementing those commitments moving forward. She recommended adding a statement of the five values to each meeting agenda to remind and assist in grounding the Board in the commitments as the Board pursues its work. Additionally, it is important to revisit the commitments periodically to make any adjustments that might be necessary.

COMMITTEE REPORTS – Information

Job Order Contracting (JOC) Evaluation Committee

Committee Co-chairs Linda Shilley and Quinn Dolan provided the update.

Mr. Dolan reviewed a request to approve a change in membership for three positions. The University of Washington representative, Anna Daeuble, is no longer with the University and Ms. Daeuble's proposed replacement is Beck Eatch with the University of Washington (UW) who has been involved in the JOC program since the contracting method was authorized by the state. Maja Huff, representing Washington State University (WSU), is also leaving the committee and her proposed replacement is Jason Harper representing WSU. Brent LeVander is stepping down as a voting member and his proposed replacement is Brambly Tollen with Snohomish County, who has served as a non-voting member of the committee for several years. Snohomish County recently began utilizing the JOC program within the last year.

Irene Reyes moved, seconded by Olivia Yang, to approve the following membership changes to the JOC Evaluation Committee:

- ***UW voting member Anna Daeuble replaced by Beck Eatch***
- ***WSU voting member Maja Huff replaced by Jason Harper***
- ***Add Brambly Tollen with Snohomish County as voting member***
- ***Remove Brent LeVander with CCE, Inc., as voting member***

A voice vote approved the motion unanimously.

Ms. Shilley reported the committee has scheduled two workshops on JOC Best Practice Guidelines in 2022 through the AGC. A May workshop is scheduled by the Contract Administration Education Committee (CAEC) of the American Public Works Association (APWA) in partnership with MRSC.

Chair Zahn thanked the committee and the Co-chairs for their multi-year efforts to complete the guidelines and schedule training opportunities.

Ms. Reyes inquired as to how the committee plans to publicize the workshops. Ms. Shilley explained that the hosts provide information on the training sessions on their respective websites. Mr. Dolan added that the AGC posts information about the workshops on its website as well. The committee can also provide information to DES for posting on CPARB and PRC websites.

LEGISLATION OF INTEREST – Information

Vice Chair Dobyns facilitated the discussion on recent legislative bill activity.

Vice Chair Dobyns asked about recent media reports on a bill introduced to change the requirement for bond passage by a simple majority vote rather than a super majority vote. Karen Mooseker affirmed the bill was introduced and is advancing through the legislative process. Vice Chair Dobyns recommended adding the bill to the bill tracking list as it would affect many stakeholders.

Mr. Schacht added that the architects have supported the proposed measure for many years and have advocated for the passage of the bill. Vice Chair Dobyns said general contractors also support the bill. Ms. Mooseker added that a companion joint resolution accompanies the bill for a simple majority because it requires an amendment to the state constitution. Both bills should be included on the list to track.

Jon Rose, MRSC, presented the request for public works funding through the submission of a budget proviso for professional assistance prompted by recommendations included in a CPARB Study completed in June 2021. He is seeking support from the Board for the budget proviso, as well as seeking support from members to reach out to CPARB's legislative members to seek their support for the budget proviso as it works through the Appropriations Committee process.

In June 2021, the Local Government Public Works Study was completed by CPARB with assistance from MRSC in partnership with DES and the Local Government Public Works Study Committee over an 18-month period. The study

included eight distinct recommendations. Those recommendations were presented to the Local Government House Committee. One of the recommendations pertained to professional and marketing assistance to contractors and local governments. Following efforts to develop a bill on the recommendations, the bill was subsequently delayed in response to the addition of several new issues beyond the scope of the original recommendations from CPARB. Alternatively, a budget proviso has been proposed for the recommendation on professional assistance. The proposed budget proviso is for \$1.4 million for DES to contract with PTAC (Procurement Technical Assistance Center) and MRSC to provide training and technical assistance to local agencies and contractors on public works contracting focused on the following:

- Utilization of supplemental bidding criteria
- Utilization of alternative public works contracting
- Cost estimating
- Obtaining performance and payment bonds
- Increasing participation of women and minority owned businesses

Another goal of the study is exploring ways to increase participation by women and minority owned businesses. MRSC staff has been working with OMWBE to develop strategies to move the effort forward collaboratively in addition to technical training. Beyond the technical training and outreach, the intent is to work closely with the Board on developing best practices for alternative project delivery and disseminating that information across the state. MRSC's mission is to help support local government. MRSC staff is assisting in the development and delivery of content to all local owners. Those efforts provide an opportunity for a collaborative effort with the Board.

Additionally, Representative Pollet, who sponsored the bill and worked closely with CPARB, is continuing his work on some of the recommendations. Previously, the Board was asked to review some additional issues within a limited timeframe. In response, the Board conveyed a need for additional time for review. The proviso would also fund continued work on some suggested provisions:

- Small Works Roster Threshold increase from \$350,000 to \$500,000 within the current legislation
- Small Business definition
- Notification of two small businesses
- Limiting individual contracts to a single contractor to 20%
- Certification included and reference within the legislation
- Agencies to post information at OMWBE to be eligible for grants

Mr. Rose said he is seeking the Board's support of the proviso and supporting a letter authored by Representative Pollet for distribution to CPARB's legislative members. He invited questions from the Board.

Chair Zahn noted that the budget proviso is somewhat different from the recommendation, as it does not include OMWBE. She invited Ms. van der Lugt to respond to OMWBE's exclusion.

Ms. van der Lugt affirmed OMWBE was not included in the budget proviso. The agency has expanded significantly over the last year nearly doubling staff. Consequently, the agency is comfortable partnering in the effort utilizing existing staff. However, the agency continues to examine all possibilities as conditions could change in the next year.

Rachel Murata, OMWBE, added that staff have been meeting with representatives from PTAC and MRSC each month. It is likely OMWBE will be able to participate without requesting additional funding.

Discussion ensued on the process of seeking support through legislative letters. Mr. Rose explained that Representative Pollet is seeking support from legislators by informing them of the importance of the funding as they draft the budget through the Appropriations Committee process to ensure sufficient support has been secured. He clarified that the proviso is not included in the Governor's Budget although the Governor's Office was notified of the request. The Governor's Office conveyed support for the funding request and recommended pursuing a budget proviso.

Ms. Reyes asked about the process of small businesses seeking MRSC membership to enable the companies to bid on projects. She has often noticed that some smaller cities utilize MRSC to post project bids. She asked whether the agency assesses a fee for small businesses to access those bids. Mr. Rose explained that the issue relates to the Small Works

Roster, a separate program MRSC manages. To join the program, MRSC offers business a no-fee option for responding to bids from nine agencies or less; however, if the business wants to respond to bids across a county or a larger region, MRSC charges a nominal fee of \$75 annually to help sustain the program.

Tiffany Scroggs, PTAC, added that many of PTAC's clients use the free version. However, businesses seeking more opportunities to bid pay the nominal fee. In terms of the partnership between PTAC and MRSC, PTAC supports small businesses and their efforts to compete effectively by assisting owners in understanding the marketplace and assistance in estimating, bonding, and other bidding requirements. MRSC focuses on agency education and assisting agencies in developing clear and concise proposals and solicitations.

Ms. Reyes explained that her concerns surround the many smaller businesses that want to bid on projects and charging small businesses to access bids creates an unfair bidding environment and another barrier. Mr. Rose acknowledged the feedback and suggested it is an issue that would likely benefit from the best practices discussions. The program and fee structure has been in effect for the last decade. Should there be a desire to modify the structure, it would be worthy of a discussion between CPARB and MRSC. He added that MRSC charges nominal fees to help sustain the programs and provides the no-cost option to ensure access is available to small businesses. MRSC also charges a nominal fee to local governments. CPARB is a good venue to pursue conversations on different funding models.

Ms. Reyes thanked Mr. Rose for the explanation and underscored her reservations of charging small businesses to access bids.

Keith Michel added that he served on the Local Government Public Works Committee and views the funding request as valuable in terms of the recommendations the committee formulated. The investment would help improve and refine an already very viable pathway to contracting for small businesses. He supports the proposal as it allocates the funds to capable organizations that can create some impact within public contracting.

Chair Zahn noted that she reviewed a suggestion with Mr. Rose to include the addition of "in collaboration with CPARB and OMWBE" within the budget proviso language to reflect how the Board and OMWBE are working in partnership with PTAC and MRSC. Additionally, the Board established an Education Committee to consider the process of collecting information in support of training efforts on best practices guidelines. That collaboration could enable the Board to leverage PTAC and MRSC for some of the training as well.

Ms. Yang acknowledged the issue is similar to other complicated subjects the Board has addressed and might benefit from a full and thorough discussion as a component of the Small Works Roster discussion recognizing the proviso does not directly speak to that particular issue.

Chair Zahn recommended a motion authorizing the Chair to sign a letter of support for the budget proviso.

Olivia Yang moved, seconded by Kara Skinner, to authorize the Chair to sign a letter on behalf of the Board in support of the budget proviso as presented below with the addition of "in collaboration with CPARB and OMWBE."

The proposed budget proviso is for \$1.4 million for DES to contract with PTAC and MRSC to provide training and technical assistance to local agencies and contractors on public works contracting in the following areas:

- ***Utilization of supplemental bidding criteria***
- ***Utilization of alternative public works contracting***
- ***Cost estimating***
- ***Obtaining performance and payment bonds***
- ***Increasing participation of women and minority owned businesses***

Mr. Rose noted a request to modify the proviso language citing the collaboration of CPARB and OMWBE has been submitted to Representative Pollet. Chair Zahn said with the Board's approval she could also advocate for the inclusion of the language.

Ms. Reyes asked how the funds would be distributed as one of the tasks is increasing participation of women and minority owned businesses. Charging businesses to access bids is a big barrier and rather than increasing participation, it will decrease participation. She asked whether the funding would enable an increase in participation. Mr. Rose advised that the Small Works Roster program is a separate effort with a specific funding component. As noted earlier, it is possible to review the structure independently. The budget proviso is intended to add staff to support the work of educating agencies on how to utilize existing processes and to help support small businesses in understanding how to respond to solicitations, as well as conducting additional outreach to minority and women owned businesses. The collaboration with OMWBE will focus on increasing participation of women and minority owned business through outreach events, training opportunities, and reviewing best practices with agencies. Concerns surrounding the Small Works Roster process entail a separate conversation of that particular component. Any training offered as part of the proviso would be at no charge.

Santosh Kuruvilla commented that the benefits of a business listed on a roster within the MRSC program enables exposure of the business to other agencies. Businesses need to submit qualifications. At some point, he would prefer a process requiring only one submittal of qualifications for access by all agencies. Additionally, two issues continually addressed during Business Equity/Diverse Business Inclusion Committee meetings are network access and access to capital. He asked that the training also include information on access to capital and how small businesses contract with the banking industry.

Ms. Yang recommended clarifying the motion by indicating that CPARB supports the proposed budget proviso with the Board delegating the Chair to author the letter and advocate where appropriate on behalf of CPARB.

Ms. Reyes recommended the letter should include some sort of metric to measure outcomes. Mr. Rose responded that if the proviso is approved and budgeted, the intent is for the Department of Commerce to manage the distribution of funds and would likely include requirements for outcomes. That detail is typically included during the supplemental phase of the process.

A voice vote approved the motion unanimously.

OMWBE FOLLOW-UP FROM 12/9/21 [EO 22-01](#) - Information

Ms. van der Lugt reported Timolin Abrom, Assistant Director of Supplier Diversity, will participate in the presentation. Ms. Abrom is responsible for implementation of Executive Order 22-01. She acknowledged Rachel Murata, Director of Policy, for her support and involvement.

Ms. van der Lugt reported Governor Inslee recently signed Executive Order 22-01 on Equity and Public Contracting. The Office of Minority and Women's Business Enterprises (OMWBE) is charged with the implementation of Executive Order (EO) 22-01 requiring all executive and small cabinet agencies to use the newly developed Tools for Equity in Public Spending. OMWBE will continue serving as the lead agency responsible for implementing the Roadmap to Contracting Equity developed in response to the 2019 Statewide Disparity Study. The timeline for implementation is six months. Issuance of the Executive Order directs agencies to implement the requirements. Within the next six months, agencies must designate a Supplier Diversity agency contact who will work with OMWBE. Agencies must review, incorporate, and adopt the appropriate tools for Equity and Public Spending and conduct outreach to OMWBE and DBA certified businesses before executing new contracts. OMWBE will collaborate with DES to offer training, guidance, and technical assistance to agencies. OMWBE will also lead data collection compliance with the Access Equity System. Over the course of the next six months, OMWBE is meeting with agencies to assist in implementing the Executive Order.

Ms. Abrom briefed the Board on the implementation plan. For fiscal year 2023 and beyond, OMWBE is responsible for ensuring agencies implement EO 22-01 and will monitor agencies to ensure adoption of the Tools for Equity in Public Spending. The tools include planning, forecasting, outreach and inclusion plans, and internal processes that may serve as barriers to participation. Prior to executing new contracts (master or primary), agencies are required to search available directories for certified businesses, conduct outreach, ensure any required inclusion plan is reviewed during pre-bid conferences, and including inclusion plans are included when subcontracting is included in the contract. OMWBE will also lead efforts for the enterprise level data collection system, known as Access Equity to monitor how agencies are paying contractors and subcontractors. Access Equity provides highly detailed information on prime vendors, subcontractors, and public spending. The system improves data collection and participation. The Washington State

Department of Transportation and DES will be required to review bonding, insurance, retainage, and experience requirements to render recommendations to eliminate barriers to minority, women, and veteran-owned businesses. Many of today's requirements within Request for Proposals (RFPs) are excluding small businesses from participating, such as requesting 10 years of state-level contracting experience when the business has the knowledge, skills and abilities to perform the work. Those types of requirements in the RFP are barriers to small businesses.

At the end of June 2023, OMWBE will report quarterly on each agency's progress towards its goals for participation by certified minority, women-owned business, and veteran-owned businesses over the baseline established in 2022. All agencies will be able to use the New Access Equity Data Collection and Monitoring Reporting System by June 2023. OMWBE will continue working with DES on the monthly tool kit workshops and any workshop that provides training opportunities.

Ms. van der Lugt complimented the efforts of the team, which expanded from one position to five positions in the last six months. The increase in staff will enable one-on-one meetings with agencies quarterly to review the status of goals for inclusion.

Chair Zahn requested clarification as to the identity of the agencies as the new requirements are not applicable to all public owners. Ms. Abrom clarified that "agencies" are state public agencies and higher education institutions.

Chair Zahn remarked that it is no surprise data collection, oversight, and accountability are issues the Board has continuously discussed. Over the years, the Board was often pushed to serve as the repository for oversight or for data collection. The Board has consistently recognized it serves as an advisory body to the Legislature and although data collection and oversight are important, the Board works in collaboration with other entities and groups to achieve those results. It is important to learn about the work by OMWBE as the organization has the necessary resources to complete the work to address important issues.

Ms. Reyes asked whether OMWBE solicited feedback from certified firms about their respective experience with the state. Ms. Abrom said feedback is important because businesses should have a voice. It was important to ensure small businesses had a voice and a representative. Ms. van der Lugt directed the team to solicit input, and listen and learn what suppliers and businesses were sharing. The team received good feedback, suggestions, and questions that informed the EO.

Ms. Reyes responded by sharing her experience as a contractor and stressed the importance of "utilization" versus "participation" as many contractors may participate but often are not utilized. Ms. Abrom agreed and recounted her numerous conversations with DES staff about the number of certified businesses that are listed as having a master or primary contract with DES. She asked the team to examine why those contracts were not being utilized. Awarding a contract is not sufficient at this time. The question is why small businesses are not being utilized and why some agencies are not using master contracts for issuing RFPs. The goal is to pursue work that is intentional rather than settling for a listing on a master contract that is never utilized.

Ms. van der Lugt thanked Ms. Reyes for addressing utilization, as there have been many conversations about utilization. During the last year, "utilization" has been missing from many conversations as the disparity study emphasized utilization early but transitioned to "participation" by the end of the study. Additionally, OMWBE hosted listening sessions on the EO and had conversations with the advisory committee to collect as much information as possible. One aspect of the process that should not be overlooked is the number of voices that have not contributed to the conversations. Most of those voices are small businesses who cannot attend when meetings are scheduled or they do not trust government. The OMWBE team is striving to work through those issues by building outreach and figuring out how to reach those voices that have different experiences.

Chair Zahn encouraged success for both participation and utilization. During some joint training with the Diversity Director at the Port of Seattle, her presentation focused on how "to survive and thrive" in a contract with public agencies because if there is no broad understanding by public owners it could serve to be a detrimental experience for a small business.

Mr. Kuruvilla asked how HB 1259 works in tandem with the efforts of OMWBE as the bill affects Design-Bid-Build as opposed to alternative delivery methods. Ms. van der Lugt replied HB 1259 was passed last year and the agency received funding for compliance enforcement. The bill provided some enforcement authority as well as some funding to complete the work.

Ms. Abrom shared that the bill addresses accountability, which has been lacking. Within her unit, contract compliance will include monitoring performance of primes in relation to subcontractors to include reviews of inclusion plans for projects.

Chair Zahn recessed the meeting at 9:53 a.m. for a break.

Chair Zahn reconvened the meeting at 10:05 a.m. A meeting quorum was verified.

COMMITTEE REPORTS

Project Review Committee – Information

Chair Zahn invited Mike Shinn to provide the committee report.

Mike Shinn reported the last meeting included committee business. Two members, Eza Agoes and Jeannie Natta, were welcomed as new members. The committee considered a Design-Build/GC/CM recertification application from WSU, a GC/CM recertification application from Sound Transit, and a GC/CM Sewer Plant project application from the City of Bellingham. All applications were approved unanimously.

Chair Zahn conveyed appreciation for the depth of the PRC Chair Report. The information also included attendance of panel members as previously requested by the Board.

Mr. Schacht offered a comment not relating to the committee report but a concern he addressed previously regarding a procurement by the Tacoma Housing Authority not in compliance with a number of requirements in RCW 39.10. He notified DES staff regarding his concerns. An initial consideration surrounded the possibility of an exception within the housing authority statute if a project receives federal funds. He is unsure whether staff pursued the question with the State Attorney General's Office (AG) and is concerned some state agencies in Washington are not following the requirements of 39.10. In this particular case, the project was a single-phase procurement and did not follow the two-phase procurements of 39.10 that are important for providing equity and ensuring teams have an opportunity to compete effectively for the contracts. He is unsure of any federal requirement that might be in conflict with state requirements that would have enabled any agency or housing authority the opportunity to omit the two-phased procurement process. He asked about the possibility of reviewing the issue.

Mr. Shinn noted that he is not aware of any project application from a housing authority submitted to the PRC during his tenure on the PRC.

Mr. Schacht said neither the Board nor the PRC has any enforcement responsibility or enforcement mechanism; however, over the course of many years, the Chair has notified public owners that were not following the requirements of the statute and as a result those owners elected to comply with the statute. The issue is a gray area and likely should be reviewed by the AG's Office. Language in the housing authority statute speaks to receiving federal funds. However, he does not believe a federal statute would be in conflict with an application to PRC or filing a two-phase selection process. It is important to consider that the underlying value of PRC is to ensure owners are prepared to follow statutory guidelines governing GC/CM and Design-Build. As a representative of architects, his constituents would like to ensure any Washington State public agency follows all steps required in 39.10. Architects also support federal funding that support development of affordable housing projects.

Chair Zahn replied that Nancy Deakins researched the issue because of some history surrounding housing authorities.

Nancy Deakins advised that earlier in the year, she provided Mr. Schacht with research including a challenge in 2010 by a housing authority using the Design-Build procurement for a housing project. The housing authority was able to change the statute. The statute stipulates that housing authorities are subject to 39.10 except where alternative requirements for

procedures of federal law or federal regulation are authorized. That provision was interpreted broadly to apply to projects receiving federal funding to be exempt from the requirements of 39.10.

Mr. Schacht said the issue is a gray area and enables housing authorities to receive federal funds that have significant funding requirements attached. However, his question speaks to whether any federal requirement would withhold funding if an agency submitted an application to the PRC and whether federal funding requirements prohibit a two-phase selection process. He suspects that is not the case for either scenario and would like clarity on whether an agency following 39.10 would be in jeopardy of losing federal funding.

Chair Zahn offered to contact the AG's Office to seek clarification as to which agencies are exempt from RCW 39.10 provisions and whether the original interpretation of the 2010 case is applicable today. She cited the example of WSDOT, which is specifically authorized to use Design-Build but has applied to the PRC when the agency implemented Progressive Design-Build or if they plan to use GC/CM. WSDOT is governed by its statutory authority under another RCW; however, the agency often presents proposals to PRC in those circumstances where the delivery method is different than what is statutorily authorized to pursue. Mr. Schacht said he would be troubled if the Board discovered a pattern of exclusions from 39.10 for public agencies based on any condition because that pattern could lead to the dissolution of the Board's ability to ensure 39.10 is implemented properly and fairly to all parties.

Ms. Yang commented that the Reauthorization Committee, during its work on reauthorization, debated the issue of policing and whether CPARB serves as the enforcer of 39.10. The Board is not viewed as the enforcer; however, there are levels of intervention that may be of interest to consider. She suggested seeking the AG's Office interpretation and inviting representatives from the housing authority to meet with the Board to identify the statutes governing the agency.

Mr. Kuruvilla addressed an issue but prefaced his comments as lessons learned or constructive feedback rather than criticism. The issue speaks to training, conduct, and ethics. Over the last several meetings, PRC panelists on several occasions stepped over the line and offered their professional assistance to applicants. He questioned whether some type of orientation might be helpful prior to each meeting to ensure new members and panelists are aware of appropriate behavior during panel presentations.

Chair Zahn recommended deferring further discussion until New Business discussions on Conflict of Interest/Code of Conduct and PRC Approvals after Advertisement. She summarized next steps to address Mr. Schacht's concerns and plans to contact the AG's Office for an interpretation and invite the housing authority to brief the Board on how or whether RCW 39.10 applies to its projects.

Ms. van der Lugt disconnected from the meeting temporarily.

Mr. Schacht noted that although the Board does not enforce 39.10, during his tenure as Chair and during the terms of other chairs, letters were forwarded to public bodies not following the requirements of the statute for GC/CM or Design-Build projects. The letter requested a review of procurement documents to ensure compliance with 39.10. In all cases except for one public body, the owners thanked the Board for contacting them and revised their procurements to align with 39.10. Those contacts were not adversarial.

Jeri Arbuckle referred to those historical actions the Board pursued for seeking compliance with the statute. She recommended a similar path by forwarding a letter to the housing authority to enable the agency to provide an explanation prior to seeking input from the AG's Office.

Chair Zahn thanked Ms. Arbuckle for the feedback and recapped a modified action of outreaching via a letter and following up with the AG for an interpretation.

Mr. Schacht commented on the importance of being well versed as to the requirements of the statute before asking questions of agencies. The issue provides an opportunity to receive an informed opinion from the AG's Office. That process is not an adversarial action but ensures the Board is informed.

Ms. Arbuckle agreed with the suggestion. Chair Zahn affirmed the next steps of contacting the AG's Office and extending an invitation to the housing authority to attend a Board meeting.

Based on feedback by members, Chair Zahn reordered the agenda moving New Business to follow PRC Appointments. Ms. van der Lugt rejoined the meeting.

PRC Appointments – Action

Chair Zahn asked applicants to speak to their application and outlined the Board's voting process to include any recusals.

Construction Trades Labor – 1 Position

Mallorie Davies reported she currently serves as the State Regulatory and Policy Coordinator for the Washington and Northern Idaho District Council of Laborers. Much of her experience was gained in the field as a laborer since 2010. She was able to travel throughout the United States and worked in 35 states on construction projects along the interstate system. She understands how projects are bid, controlled, and reviewed, and she is interested in learning about and participating in the process. She has enrolled for the next session of AGC trainings and is extremely interested in learning more about the process.

The Board offered no questions.

Mark Riker nominated Mallorie Davies to the position of Construction Trades Labor on the PRC. Janet Jansen seconded the nomination.

A voice vote unanimously confirmed the appointment of Mallorie Davies to the position of Construction Trade Labor on the PRC.

Disadvantaged Business Enterprises – 1 Position

Young-Sang Song reported he is a DBE owner of a local company, Song Consulting, LLC. He was raised in Seattle and graduated from the University of Washington with a degree in construction management in the early 2000s. He has worked over 15 years with a large prime contractor on alternative delivery projects along the West Coast and in Canada. In 2017, he opened his company focusing on DBE services. He serves on the Board of National Association of Minority Contractors and the Association for Women and Minority Businesses. He has had the opportunity to teach and share information with small businesses about what he has learned as a DBE navigating within alternative delivery projects. He currently serves as the schedule manager for WSDOT/RS&H for the West Seattle Bridge Improvements Project and as the DBE Project Administrator with Atkinson on the SR 167/I-5 to SR 509 – New Expressway Project. He would benefit the PRC through his shared experiences in alternative delivery with DBEs and MBEs.

The Board offered no questions.

Olivia Yang nominated Young-Sang Song to serve on the PRC representing the position of Disadvantaged Business Enterprises. Santosh Kuruvilla seconded the nomination

Ms. Reyes questioned whether she should recuse herself from voting as she serves on the same boards with Mr. Song.

Mr. Riker advised that as a representative of Labor, he often has sought legal counsel with respect to his role on the State Apprenticeship Council when apprenticeship programs are considered involving any of his affiliates. Because he represents nearly all interests there is a component of honor, trust, and integrity involved when rendering a vote. He does not believe serving as a member of the same boards would disqualify Ms. Reyes from voting. Robynne Thaxton and Mr. Schacht agreed.

A voice vote of members unanimously appointed Young-Sang Song to the PRC in the position representing Disadvantaged Business Enterprises.

Private Sector – 1 Position

Timothy Buckley conveyed appreciation for consideration of his application to continue his service on the PRC. His career has been focused on the design and construction industry that has provided a deep understanding and appreciation for the process, which has been very beneficial while serving on the PRC for the last three years during the evaluation of different proposals. As a private sector business and as a SAVE International Certified Value Specialist (CVS) providing design review and constructability review services on projects statewide from building design to transportation projects, much of the experience has included review of alternative delivery projects. He has worked on numerous projects for Seattle Public Schools, Lake Washington School District, Central Kitsap School District, and some hospitals. He is also a licensed architect. He has successful GC/CM project experience, as well as private Design-Build experience as a contractor lead accredited professional on a federal project. He believes he is an objective committee member with a professional background and understanding of the construction industry and reviews each project application based on its merits to ensure the projects meet the requirements of RCW 39.10 for alternative contracting procedures. He would like to continue those efforts to help support the committee.

Mr. Kuruvilla mentioned that as a design professional practicing within the alternative delivery realm, architects and engineers are often commoditized. He asked how Mr. Buckley would work to improve that issue as a member of PRC. Mr. Buckley advised that panelists have a very narrow role and responsibility when reviewing projects. Members work from a checklist to evaluate projects and whether those projects meet the requirements of RCW 39.10. It is more difficult to influence and not become commoditized. The very narrow band afforded to panelists when reviewing project applications helps to prevent any straying outside the boundaries. Mr. Kuruvilla asked Mr. Buckley to be mindful of the issue as a member of the PRC in terms of ways architects and engineers can improve the challenge professionals are facing of being commoditized in the alternative delivery realm.

Irene Reyes nominated Timothy Buckley to serve on the PRC representing the position of Private Sector. Janet Jansen seconded the nomination.

A voice vote of members unanimously appointed Timothy Buckley to the PRC in the position representing Private Sector.

Mr. Hepner disconnected from the meeting.

The Board discussed a request from staff for clarification as whether a member can continue serving on the PRC after retiring. Several members recalled instances of PRC members retiring from their positions but remaining on the PRC. Mr. Riker recommended enabling the member to continue serving until another candidate is identified for potential appointment. Mr. Schacht pointed out that the selection criteria for PRC members versus the Board are different. Board members represent a stakeholder group. If a member retires from the industry but retains their respective license and stakeholders continue to believe they represent their voice, employment of the member should not be a requisite for continuing membership on the PRC. Selection of PRC members is based on expertise to assist in ensuring public bodies are prepared to undertake procurements in alignment with the requirements of the statute. Essentially, he does not believe there is a conflict if a member retires, as membership is reflective of expertise, experience and the ability to participate in meetings and fulfill their role.

Board Development Committee – Information

Chair Zahn said when the Board Development Committee was established, the intent was for training, onboarding, and examining and streamlining processes. She questioned whether the committee could serve as the venue to review and discuss shared expectations on how PRC panel and Board members behave.

Chair Zahn invited Co-chairs Bill Frare and Walter Schacht to update the Board on committee activities.

Mr. Schacht advised of pending Board elections in May requiring a discussion on the process as well as the issues of code of conduct, conflict of interest, and onboarding.

Bill Frare reported the committee discussed applying the process established last year of soliciting applications from interested candidates for review and consideration for a recommendation to the Board.

Mr. Schacht added that the last election process requested letters of interest from candidates. A series of questions were asked of the applicants; however, applicants were not required to address the questions. He suggested reviewing that process and soliciting letters of interest for the May election. Additionally, the Board's bylaws require a majority vote of voting members to elect an officer. However, previous voting often failed to attain a majority vote of any candidate. Subsequently, Mr. Frare recommended and the Board utilized a process whereas if voting failed to attain a super majority vote of a candidate, the candidate receiving the highest number of votes would be subject to another vote by the Board.

Mr. Schacht said some members of the committee agreed to meet separately as a subcommittee to review code of conduct and conflict of interest. However, those discussions have not occurred. The committee drafted an outline for onboarding new members and plans to review PRC's onboarding process for new members, as well as information he was able to collect on the history of the Board. Because of the lack of time for both members and staff, he recommended narrowing the focus and addressing tasks separately to ensure delivery of the committee's assignments. He also believes it is the committee's responsibility to consider issues of conduct and ethics for both the Board and the PRC.

Chair Zahn suggested inviting new members to offer their insights on the onboarding process. Mr. Schacht advised that all committee meetings are open public meetings with agendas posted on the website. He invited new members to consider participating as all Board committees welcome participation regardless of membership status.

Talia Baker noted that the Board added a meeting on April 14, 2022.

Mr. Schacht affirmed the committee would present a series of recommendations on process.

Ms. Yang recommended pursuing training from either the AG's Office or the Auditor's Office on ethics and conflict of interest for the Board and the PRC to ensure all members are aware of the legal parameters for member conduct. Additionally, although the Board may lack a specific code of conduct, the Board's recent adoption of the Shared Commitment and Values could serve as a way to address code of conduct.

Vice Chair Dobyns noted the availability of online training through the Office of Boards and Commissions.

Ms. Baker affirmed all members of boards and commissions are required to complete online training on onboarding and ethics. The training is required every two years to keep pace with any updates.

Mr. Shinn inquired about the status of concerns previously addressed by Mr. Kuruvilla. Chair Zahn advised that those conversations would be consolidated into the committee's discussion on onboarding for PRC members. She asked Mr. Kuruvilla whether that process would address his concerns. Mr. Kuruvilla said his intent was flagging the issue to ensure it was part of the discussion.

In response to Mr. Shinn's request concerning specific incidents, Mr. Kuruvilla described several incidents where PRC members crossed the line by offering their assistance to applicants. It is important for PRC members to remain objective and neutral when considering project applications.

Mr. Riker disconnected from the meeting.

Chair Zahn asked Mr. Kuruvilla to share his observations with Mr. Shinn concerning expectations of panel members.

Ms. van der Lugt shared that she attended the last PRC meeting and observed that the panel's criticisms and/or observations that were shared with the applicants were not followed up with any suggested corrective actions or problem-solving solutions. She experienced some frustration that many of the applicants did not understand the certification process or the overall process for project applications.

Ms. Reyes commented on the committee's duty to serve the community and that no members should be self-promoting, which speaks to the seriousness of the issue as she has often learned how many PRC panelists have promoted themselves during a presentation, which represents a major conflict of interest.

Chair Zahn summarized the discussions and concerns and referred to the opportunity for members to provide feedback to the Board Development Committee and to Mr. Shinn.

Ms. Reyes emphasized the importance of reaching out to members to share or clarify issues rather than pursuing a back door approach and negatively espousing a member because it violates the Board's shared commitments of open, honest, and transparent communications.

GC/CM Committee - Information

Chair Zahn acknowledged GC/CM Committee Chair Nick Datz.

Mr. Datz updated the Board on the status of activities. The committee has completed reviews of the Subcontracting and Heavy Civil Chapters within the Best Practices Guidelines for proposed changes in statute language. At the last meeting in January, the committee discussed preconstruction services and solicited input for development of the chapter. The committee anticipates reviewing the chapter at its next meeting. Remaining work includes a review of the last three chapters following by compiling some recommended changes by summer 2022. The committee has a position vacancy representing Cities. Rebecca Keith needed to step away from the position. He spoke with Mark Nakagawara about the possibility of stepping in to assume the position. Mr. Nakagawara has agreed to serve subject to the Board's approval. Mr. Datz offered a nomination of Mark Nakagawara to fill the Cities position on the GC/CM Committee.

Mr. Shinn disconnected from the meeting.

Olivia Yang moved, seconded by Santosh Kuruvilla, to appoint Mark Nakagawara to the GC/CM Committee serving in the Cities position. A voice vote approved the motion. Mark Nakagawara abstained.

Chair Zahn inquired about the status of the committee outreaching to AGC. Mr. Datz advised that outreach to the AGC has not occurred, but would be scheduled before the next committee meeting. The committee has discussed the possibility of posting some of the chapters on CPARB website but the committee has lacked capacity to complete that task. Next steps include continuing the review of the remaining chapters and publicizing the draft document for public comments, review, and edits.

Chair Zahn noted that Curt Gimmestad has offered to follow-up with Mr. Datz with respect to outreach to the AGC.

Mr. Martin disconnected from the meeting.

Business Equity/Diverse Business Inclusion Committee – Information

Chair Zahn invited committee Co-chairs Olivia Yang and Santosh Kuruvilla to provide the update.

Ms. Yang advised that the update will include the outline of the report due to the Legislature in June 2022. Mr. Kuruvilla will update members on the survey issued with the assistance of DES.

Ms. Yang reported the committee began its work in May 2021 to prepare a report to the Legislature as directed by reauthorization legislation. During summer 2021, the committee worked on developing problem statements informed by recommendations in the DES Disparity Study and other disparity studies. As the committee moved through identifying barriers and compiling problem statements, members reached out and invited owners and contractors to share information with the Board. Subsequently, the Board scheduled panel presentations by several contractors, WSDOT, and Sound Transit. During the initial development of the report, the focus was on organizing barriers within broad categories. Ms. Yang shared an example of the outline with the categories of *access to opportunities*, *access to capital*, and *access to training*. The committee reviewed multiple disparity study recommendations (DES, City of Seattle, Sound Transit, & WSDOT), identified overlaps, and summarized all study recommendation within the three categories. The next products include policy recommendations and proposed statutory changes for the 2023 legislative session. Statutory language for any changes might not be included in the report to the Legislature; however the report will lay the groundwork for ongoing efforts. The committee continues to meet monthly.

Mr. Kuruvilla reported on the results of the survey results to date. The survey was released in January and has generated 26 responses. The survey has been extended to the end of February. Respondents ranked barriers of opportunities in contracting, access to project cash, access to networks/relationship opportunities, and opportunities for training. The rankings are consistent with other similar surveys.

Ms. van der Lugt reported OMWBE posted the survey the previous day on the agency's website and to date, the page has been visited by 1,632 visitors with 63 visitors linking to the survey. The agency will post the survey until the survey closes at the end of the month.

Ms. Reyes shared information on efforts to disseminate the survey to other venues to include OMWBE. She thanked Ms. van der Lugt for posting the survey.

Mr. Kuruvilla reported the survey also generated additional comments. The intent is to capture the survey results and publish the results as an appendix to the report. He invited feedback from members.

Chair Zahn thanked the committee for the efforts and outreach to the community. She recommended inviting Kara Skinner representing the insurance/surety industry to participate to assist in providing information. Ms. Skinner affirmed her plan to participate in the meetings. Chair Zahn added that it would also be important to consider any potential legislative changes for insurance/surety that would assist in removing barriers for access to capital.

Ms. van der Lugt spoke to her initial pushback for another survey as so many surveys have been released; however, this particular survey was developed thoughtfully. She appreciates Mr. Kuruvilla, Ms. Yang, and Ms. Reyes for pushing her forward because it was the right step to post the survey on the agency's website. She cited the most current data on visitors to the survey totaling 2,280 visitors with 73 visitors assessing the survey.

Ms. Reyes commented that the important information generated from the survey will be the comments. The top three issues would likely be access to capital, networking, and training.

Mr. Kuruvilla shared an outline of the schedule moving forward. Chair Zahn stressed the importance of advising the Board on the availability of draft content to review. Ms. Yang advised that the committee is beginning to work on the problem statements drafted last summer and placing them within the appropriate category within the outline. That work will serve to inform new legislative needs. At the April Board meeting, much of the editing and formatting should be completed. Some of the committee's discussions in February, March, and April will identify practices that should be adopted under current legislation and identifying new legislation to improve accountability. Essentially, the work is being completed in phases.

Discussion ensued on the potential vehicles to ensure the Board remains informed on timing and expectations for participation and review at the Board level.

Mr. Martin rejoined the meeting.

Chair Zahn encouraged feedback from members on the timeline and the process moving forward as time is limited before the end of June when the report must be finalized, as well as meeting with key legislators interested in the report.

OFM Construction Cost Assessment Study – Information

Mr. Schacht reported OFM commissioned a study for accurate budgeting for state-funded capital projects. The study was completed by Peter Morris with AECOM. The Board received a preliminary draft for comment. OFM has requested comments by March 4, 2022, either as individuals or as a Board. OFM is scheduled to present the study to the Legislature on March 31, 2022. The study intersects other conversations in progress with engineers, architects, and legislative counsel with DES on some of the same issues. Significant concerns exist among public agencies, architects, engineers, and contractors about current projects. The concrete strike in King County has disrupted the industry and material costs have escalated hundreds of thousands of dollars affecting project contingencies and outcomes. Architects are very concerned because despite the concrete strike, many projects were underfunded relative to the intended program and scope before escalation increased over 10%. The comment window is a short timeframe, but it presents a unique

opportunity for the Board to provide input to the state on a topic that he believes is important. Mr. Schacht said he reached out via email to general contractor members of CPARB and Mr. Kuruvilla representing engineers to prompt some discussions by private sector interests. He is also unsure if the timing would enable the Board to establish and organize a committee to develop a Board position statement by March 4, 2022. However, he encouraged members to work collegiately even if each industry and public body have different commentary, as it would be beneficial to continue a dialogue and send information to OFM to help them understand the enormous struggles encountered by the industry. He cited how budgets for higher education projects of a 70,000 square-foot building can now only build a 50,000 square-foot building today. Budgets for 55,000 square-foot buildings are now building a 40,000 square-foot building before the concrete strike in King County.

Bill Frare said he does not believe OFM asked for the Board to complete an assignment other than the Legislature directed OFM to complete a study. Looking through optimistic lens, the request from the Legislature is for a better understanding of budget numbers within a specific phase of a contract. As an example, DES is engaged in the Legislative Campus Modernization Project on Capitol Campus. Capital budget writers have generated many questions about cost estimates at the predesign level with a budget variability of 15%, which has generated inquires about the level and whether that figure is an industry standard. Legislators want information on risk factors within a contract relative to pricing. As those unknowns begin to diminish, confidence tends to increase. The study is an opportunity to assist the Legislature, OFM, and legislative staff understand what a predesign estimate entails, what a schematic design entails, and how that uncertainty diminishes over the life of a contract.

Ms. Yang added that DES client agencies, higher education, and school districts receive funding from the state and are affected by the study. While the study helps to inform actual project funding, there is no promise of funding.

Mr. Frare agreed as the study serves as a tool to educate and provide confidence to legislative budget writers.

Ms. Yang commented that she is unsure whether the study is the right forum to address the nearly catastrophic impact of escalation in recent years and that the timing is insufficient to address the issues as summarized by Mr. Schacht.

Mr. Schacht responded that it is a rare circumstance when the Board is invited to offer an opinion on an issue. Although time is limited and the outcome does not represent a silver bullet, it is important to note that the opportunity creates an important audience. The study applies to agencies receiving direct funding from the Legislature with impacts to all because public agencies rely on the state for standards, which is why the state's AE fee schedule is frequently used as a basis for compensation by cities, counties, and other governmental entities.

Chair Zahn recommended deferring the OFM discussion to *New Business* in addition to the small works discussion to enable a short recess.

Chair Zahn recessed the meeting at 12:09 p.m. for a break.

Chair Zahn reconvened the meeting at 12:16 p.m. A meeting quorum was verified.

Subcontractor Bid Listing Policy Evaluation Committee – Information

Chair Zahn reported approximately 18 months ago the Board submitted a letter to the Legislature with a set of recommendations on the Subcontractor Bid Listing with a follow-up of another set of recommendation due November 1, 2022. The committee has not held meetings in lieu of the Board's workload; however, to meet the November 1, 2022 deadline, the committee should reconvene and begin reviewing new information to develop a set of recommendations.

Vice Chair Dobyns advised that the committee has been unable to meet. He has verified membership of the committee and plans to work with staff to schedule a meeting and distribute a notice. The committee is tasked to recommend any changes, additions, or modifications to the current Subcontractor Listing law.

Discussion ensued on current membership of the committee. Vice Chair Dobyns and Mathew Hepner serve as Co-chairs. Vice Chair Dobyns recommended adding a position representing WSDOT to replace the incumbent who has left WSDOT. Robynne Thaxton and Curt Gimmetstad offered to participate on the committee. Ms. Reyes suggested contacting Bobby

Forch for possible membership on the committee. Ms. Yang noted that Garrett Buckingham is no longer representing public hospitals. Corey Fedie agreed to serve representing public hospitals.

Bill Dobyms moved, seconded by Irene Reyes to appoint Corey Fedie to the Subcontractor Bid Listing Policy Evaluation Committee representing Public Hospitals.

Mr. Kuruvilla offered a name of an individual to fill the WSDOT position.

A voice vote unanimously approved the motion.

NEW BUSINESS

PRC Approval After Advertisement

Chair Zahn recommended deferring the discussion to the next meeting and offered to follow-up with the AG's office to seek clarification. The Board supported deferring the discussion.

OFM Construction Cost Assessment Study (Continued)

Ms. Yang offered the suggestion of forming an informal group of members to discuss the cost assessment to provide feedback to OFM.

Chair Zahn affirmed members should follow-up with Mr. Schacht to develop feedback to OFM.

Small Works Committee

Ms. Yang recommended establishing the committee and begin appointing members if the goal is to offer legislation for the 2023 session. The issues outstanding in the Local Government Study were complicated and if Representative Pollet and other legislators are interested in increasing the Small Works Roster from \$350,000 to \$500,000 more time is necessary for the committee to complete its work and formulate a recommendation.

Mr. Frare commented on the need to rewrite the statute, [RCW 39.04.155](#), as the statute is confusing. The initial intent of the statute was to provide an administratively efficient method of releasing bids. It has been utilized by some public owners as an incubator for small and diverse businesses to contract their first project, build credit history, build bonding capacity, and fulfill other important components of a contract. Rewriting the legislation could provide clarity within the legislation, such as how to establish a roster, definition of limited public works and small public works, difference processes inherent in each, and clarity and flexibility for agencies. He has been interested in working on legislation over the last five years and is interested in participating in addition to other members. He and Ms. Reyes discussed the proposal and she has volunteered to serve as Co-chair. Labor participation is important because increasing the limit is of concern to labor.

Chair Zahn thanked Mr. Frare and Ms. Reyes for volunteering to serve as Co-chairs.

Ms. Yang suggested assuming members of the Board would serve on the committee unless they designate an alternative.

Discussion ensued on the process for establishing and appointing members to a new committee. Staff advised of the requirement to ensure membership of a committee does not constitute a quorum of the Board. Mr. Schacht recommended following previous processes by appointing the co-chairs to solicit stakeholders and members to present a slate of members for appointment by the Board in April.

Walter Schacht moved, seconded by Olivia Yang, to establish the Small Works Committee and appoint Bill Frare and Irene Reyes to serve as Co-chairs with a slate of members presented for the Board's consideration at the April meeting. A draft of the committee's task is to update the Small Works statute, RCW 39.04.155 to incorporate some of the recommendations from the Local Government Study and to provide clarity and an equity lens for small and diverse businesses. A voice vote unanimously approved the motion.

Board members interested in serving were encouraged to contact Mr. Frare or Ms. Reyes.

Ms. van der Lugt requested posting each Board meeting video on the website. Ms. Baker advised that the video could be included on the meetings page.

ADMINISTRATIVE

April 14, 2022 Meeting Planning & Draft Agenda – Discussion and Action

Vice Chair Dobyns reviewed the proposed April meeting agenda:

- Chair Report
- Small Works Committee Report
- Board Development Committee Report
- JOC Evaluation Committee Report
- GC/CM Committee
- Subcontractor Bid Listing Policy Evaluation Committee
- OFM Follow-up by Jen Masterson (*Ms. Jansen shared that she and Ms. Yang served on the selection committee for the consultant working with OFM. She encouraged each stakeholder group to develop a response to OFM*)
- Business Equity/Diverse Business Inclusion Committee
- PRC Report and Appointments
- Legislative Bills Update
- Discussion on scheduling an industry forum
- Add shared commitments/values to meeting agendas

Mr. Salinas disconnected from the meeting.

CLOSING THOUGHTS OF ALL BOARD MEMBERS

Chair Zahn acknowledged the intense workload of the Board and the desire to reduce the length of meetings. She encouraged members to add closing thoughts via the zoom chat function. She appreciates the Board's commitment to work together to complete its work.

ADJOURNMENT

With there being no further business, Chair Zahn adjourned the meeting at 12:59 p.m.

Staff & Guests

Timolin Abrom, OMWBE	Valerie Gow, Puget Sound Meeting Services
Talia Baker, Department of Enterprise Services	Aleanna Kondelis, Akana
Marika Barto, OMWBE	Art McCluskey, WSDOT
Timothy Buckley, Meng Analysis	Rachel Murata, OMWBE
Nick Datz, Sound Transit	Cathy Robinson, City of Lynnwood
Mallorie Davies, LIUNA	Jon Rose, MRSC
Nancy Deakins, Department of Enterprise Services	Tiffany Scroggs, PTAC
Quinn Dolan, Centennial Contractors Enterprises	Linda Shilley, Pierce Transit
Bill Frare, Department of Enterprise Services	Tara Smith, Department of Enterprise Services
Curt Gimmestad, Absher Construction	Young-Sang Song, Song Consulting, LLC

Prepared by Valerie L. Gow, Puget Sound Meeting Services, psmsoly@earthlink.net