

## CAPITAL PROJECTS ADVISORY REVIEW BOARD

Via Zoom

### SPECIAL Meeting Minutes – Amended

November 19, 2020

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

*Staff & Guests are listed on the last page*

### WELCOME & BOARD MEMBER INTRODUCTIONS

*Chair Rebecca Keith called the special Capital Projects Advisory Review Board (CPARB) meeting via Zoom to order at 8:00 a.m.*

A meeting quorum was attained.  
Members provided self-introduction.

### SPECIAL MEETING PURPOSE

Chair Keith reported the meeting is a special meeting to review and discuss feedback and proposals for changes to RCW 39.10 received from the Office of Minority and Women Business Enterprises, Minority Business Advisory Council (MBAC), community stakeholders, and CPARB committees for potential action to incorporate changes into CPARB's draft bill to reauthorize RCW 39.10 Alternative Public Works Contracting Procedures.

### CPARB BYLAWS – ARTICLE IV SECTION 1 – *Consensus-Based Decision-Making*

Chair Keith acknowledged Board members for working through communication issues and reaching out to members because of some miscommunications during the last Board meeting. She invited feedback on the Board's communication process as the Board's bylaws are based on consensus-based decision-making.

Vice Chair Thompson recalled that the manner in which he expressed some points of view with several Board members could have been improved and he was appreciative of several members who were willing to engage with him following the meeting.

Senator Hasegawa advised of his planned departure for a portion of the meeting because of another meeting. Unfortunately, he was unable to attend the last meeting and participate in the conversation on diversity, equity, and inclusion. Conversations surrounding race, equity, diversity, and inclusion are some of the most difficult discussions by the Board and he is appreciative of each member's good faith efforts to work on the issues, as he views the process as a once in a ten-year opportunity to document change within the statute for diversity, equity, and inclusion. Often, many indicate that I-200 prevents actions, which is neither his interpretation nor the Attorney General's Office. More often than not, too many people afford I-200 too much power over the things that can be accomplished to improve diversity, equity, and inclusion in contracting procedures. He acknowledged the difficulty of the conversation but also wanted to convey thanks to each member for their good faith efforts in using the opportunity to advance the issues.

## INVITATION FOR PUBLIC COMMENTS

Vice Chair Thompson reviewed the format for providing comments and invited comments.

**Bill Kent, Mortensen Construction**, commented on the momentum in the state for using alternative delivery and Design-Bid-Build. He is involved with the Design-Build Institute of America and has knowledge of activities across the country. Actions by public owners and agencies in the state of Washington are far ahead and beyond what is occurring across the country in helping public agencies achieve their goals and deliver great projects. Public agencies are achieving programmatic success but also experiencing success in diversity and involvement. The true benefit is the flexibility of the process because it enables owner goals and design-build team goals to align and value what is important. Today, nothing is more important than ensuring equity and diversity are embedded into the process. With the flexibility to align values and create great teams, great projects, and good participation have occurred. He wants to ensure the momentum continues as the state is doing some great things and others across the country are noticing.

**Brian Urban, Skanska Construction**, commented that the flexibility the RCWs allow for Design-Build to enable contractors to align goals with the goals of the owners. His company encourages owners to use Design-Build to enable the flexibility to meet many of the Office of Minority and Women's Business Enterprises (OMWBE) goals. He's appreciative of the RCWs and is hopeful the Board and industry can continue to push the momentum forward.

**Ryan Piper, Hensel Phelps**, echoed similar comments as Design-Build and alternative delivery enables the opportunity to maximize participation and the ability to work with small businesses and the DBE community to focus on business equity and developing creative strategies to identify ways to maximize participation. The results are evident when agencies and design builders achieve and exceed goals. Through participation, many agencies and design builders were able to increase participation between 25% and 50%.

*Irene Reyes joined the meeting.*

Robynne Thaxton asked the speakers to speak to their respective experience in meeting diversity goals.

Mr. Kent advised that in terms of alternative delivery, GC/CM is better but still challenging because of state income compliance. However, Design-Build whether progressive or traditional, has enabled the company to experience increased participation, especially in progressive projects where the entire team is involved in selecting partners. He is currently working on a small project for the University of Washington and eight diverse firms are involved in the project completing more than 30% of the work. The owner and the design builders are involved in the process.

Mr. Piper added that many firms were involved early affording the ability of a value-based focus by the agency and translating that into the business equity portion of the project whether that included a small business at the beginning to focus on a particular scope of the project, cater their work to what they do best, or divide the scope among several firms. His company was involved with Sound Transit on some projects that enabled the firm to double DBE participation from the original goals because of the collaborative environment. The process enables flexibility by not just focusing on the lowest bid or price component, but what will bring the project the most value by using the strengths to focus the package on a trade partner that is interested.

Mr. Urban cited how most of the K-12 projects in Tacoma have transitioned to Progressive Design-Build specifically to address diversity and inclusion goals. Those projects have been achieving those goals as the delivery method enables those achievements.

## REVIEW OF OMWBE, MBAC, AND COMMUNITY STAKEHOLDER PROPOSALS FOR REAUTHORIZATION OF 39.10 ALTERNATIVE PUBLIC WORKS CONTRACTING PROCEDURES

### *Summary of process and review of committee feedback and recommendations*

Chair Keith reported the committees will share information on progress from the October 8, 2020 meeting to the present. At the last meeting, new proposals were received from MBAC and OMWBE shared feedback from stakeholders on proposals that would improve the statute if included. As the Board approved the package of revisions for the draft reauthorization bill at the last meeting, members agreed to consider the additional proposals.

The Business Equity and Diverse Business and Inclusion Committee (BE/DBI) met and reviewed the proposals. She invited Walter Schacht and Lisa van der Lugt to review the proposals and the committee's review process.

Mr. Schacht recapped the committee's charge and the process for advancing a set of recommendations to the Reauthorization Committee to modify the proposed reauthorization statute to include more provisions for equity and diverse business inclusion. Two years ago, the committee was established by the Board with a clear understanding the committee would work through the issues and examine how they relate to the reauthorization proposal. The committee was tasked with a comprehensive review of RCW 39.10 through the lens of equity to create consistency and statutory language even though language for Design-Build and Job Order Contracting (JOC) provisions in the statute had been modified to increase requirements for considering diverse business inclusion. The committee also evaluated effective strategies and opportunities for firms to compete, which have been embedded in the best practices guidelines for educating public agencies and creating common understanding on how to increase opportunities for equity and diverse business inclusion. The committee submitted proposed language to the GC/CM Committee to align with changes in the statutes for Design-Build and JOC of increased requirements for considering disadvantaged business enterprises as part of contractor selection. Committee members reviewed best practices and leveraged information from the Disparity Study and ongoing work by the OMWBE to create a community of practice to increase opportunities for inclusion. Eventually, some of the conversations by the Board turned the committee's focus to the statute to explore whether the statute could be improved. Concurrently, proposals were received from Frank Lemos, Aleanna Kondelis, and OMWBE, which prompted re-engagement in the conversations on ways to improve the statute. Regardless of the outcome of any statute changes and the work accomplished to date by the committee, the committee is by no means finished with future work planned for incorporating best practices, educating public agencies, and targeting ways to increase equity within the state. The committee believes the proposal for consideration will have an immediate and positive impact for increasing equity and diverse business inclusion. The committee is not advocating for ending future dialogue on other ways to improve the statute. Mr. Schacht added that with due respect to Senator Hasegawa, he believes the opportunity to change statute and state policy for any issue under RCW 39.10 is and has been an ongoing process to improve outcomes for everyone involved in capital projects. The Board, over the course of many years, has pursued legislative changes in addition to reauthorization to improve the industry for everyone's benefit. He supports the Senator's sentiment for reauthorization and potential changes that would improve outcomes. The proposal before the Board will help to achieve good outcomes. Similar to the work entailed in developing best practices, the committee's work is not done and will continue through the life of the work by the Board.

Lisa van der Lugt said OMWBE is appreciative of the CPARB leadership to enable the addition of language to the reauthorization proposal. The reauthorization proposal is better but it is not perfect even though it represents opportunities for continued diversity and inclusion efforts. Ongoing dialogue and work continue to be important. Much work is necessary as the bill is not perfect. The intent is to keep it moving. Many discussions have occurred with stakeholders. Joanne Eide with OMWBE has done phenomenal work. OMWBE represents certified firms and is not a voice for all MWBEs statewide. OMWBE encourages all MWBEs to use their voice statewide. Ms. van der Lugt thanked Chair Keith and Mr. Schacht for their collaboration.

Chair Keith reported that after the receipt of the proposals in October 2020, the BE/DBI Committee held a meeting. The proposals forwarded were co-chair proposals because of the timeline impeding committee votes. The GC/CM Committee then convened two meetings. She invited Scott Middleton to summarize the GC/CM Committee's process for reviewing the proposals.

Scott Middleton, Co-Chair of the GC/CM Committee, explained that the committee was tasked to prepare a legislative proposal and conduct a best practices review. The proposals for equity and diverse business inclusion impact GC/CM. The Co-Chairs convened a meeting to review the proposals, as well as working with Ms. van der Lugt, Joanna Eide, and Ms. Kondelis to review the proposals and ascertain how the GC/CM Committee could support the proposal moving forward. Committee members accepted the proposals as presented by consensus. Some dialogue centered on several concerns; however, in whole, the consensus of the committee was to support the proposals. The committee has transitioned to reviewing best practices for GC/CM and will continue to explore ways to support equity and diverse business inclusion.

Chair Keith shared that the next step was the Reauthorization Committee reviewing the comments from the GC/CM Committee and the Co-Chairs of the BE/DBI Committee by following the same process the committee used for reviewing other proposals from other committees. One committee not fully represented was the JOC Committee; however the changes proposed for JOC are minor and could be addressed during the meeting. During the recent Reauthorization Committee meeting, members reviewed the prioritized proposals from the BE/DBI Committee and approved forwarding a number of the proposals to the Board as reflected in a document previously forwarded to the Board. She invited questions on any of the documents in terms of the recommendations and added that the committee was unable to review all proposals or engage in full discussions, which is why it is important for the Board to review and discuss the proposals. The proposals are advisable and could be enacted immediately along with other proposals the committee believes need additional work.

Ms. Thaxton acknowledged the efforts of Chair Keith and the other committee chairs for the incredible effort to work through the proposals and create a better statute. The work has been extensive over a considerable period of time and she is appreciative of all the work and efforts. She stressed the importance of ongoing work on best practices to assist small public owners that lack staff and are seeking best practices for inclusion. The entire state will benefit from the work.

***Board member discussion of proposals for reauthorization of RCW 39.10 from Office of Minority and Women's Business Enterprises, Minority Business Advisory Council, and community stakeholders***

Chair Keith reviewed several formats of the proposed changes in spreadsheet form and the RCW with redlined changes. Members agreed to review the proposals using the redlined RCW. During the Reauthorization Committee's review process of proposals, the review evaluated whether the proposal was necessary for reauthorization, could be supported by both the Board and the Legislature, and whether the proposal should be considered as best practices or included in the statute.

Senator Hasegawa advised that he has spoken to the chair of the committee of jurisdiction for the reauthorization bill who indicated that a bill number is necessary prior to placing the bill on the schedule. Approval of the bill by the Board at the December meeting would meet the timeline as both the legislative committee chair and staff are aware of the pending bill.

*Senator Hasegawa disconnected from the meeting.*

The Board reviewed proposed changes to RCW 39.10.

Nancy Deakins pointed out that the new tracked changes, highlighted in yellow, are recommendations approved by the Reauthorization Committee with input from the BE/DBI Committee, the GC/CM Committee, and other stakeholders. The changes are shown as tracked changes to the existing statute rather than the format for a final bill.

Chair Keith reported Ms. Kondelis proposed adding a Board position appointed by the National Association of Minority Companies (NAMC WA). During the committee's discussions, other organizations were identified in addition to NAMC WA. When the committee supported adding the transit position, a fair amount of dialogue occurred with Sound Transit representatives speaking to a number of industry representatives, other lobbyists, and other stakeholders for feedback to ensure solid industry support for appointment of a Sound Transit representative. The Board includes several positions appointed by an industry or public association versus positions appointed by the Governor. The Reauthorization Committee supported Ms. Kondelis' recommendation for including a dedicated position but recommended the position should be appointed by the Governor, as there is no clear vetting process for all possible industry appointing interests.

Mr. Schacht suggested motions to adopt provisions as some of the proposals may require additional review and discussion.

***Walter Schacht moved, seconded by Robynne Thaxton, to approve the proposal to add "one individual representing the interests of the disadvantaged business enterprise community" to RCW 39.10.220 (2) (a) as revised by Ms. Deakins for consistency in language.***

Janice Zahn said adding the position would ensure voices are represented on the Board. She supports the motion.

John Salinas asked whether the position would be a representative from a private company or a public agency. Chair Keith advised that the appointment would be by the Governor of one individual representing the interests of the disadvantaged business enterprise community. The question does require clarification as she considered the position would be from the private sector.

Mr. Schacht said he believes the intent is for a representative from the private sector. ***He offered a friendly amendment clarifying the language to state, "One representative from the private sector representing the interests of the disadvantaged business enterprise community."***

Ms. Deakins agreed the proposal would clarify the intent.

Mr. Salinas noted that Ms. Kondelis had pointed out that a public agency cannot be certified by OMWBE. The definition is an individual certified by OMWBE, which would automatically limit the position to the private sector.

***Ms. Thaxton accepted the friendly amendment.***

Jerry Vanderwood with AGC, asked whether the intent of the proposal is to add a new position to the Board or to convert one of two existing private sector positions to a position representing the DBE community. Chair Keith replied that the proposal would add a position.

Ms. Zahn questioned whether an individual from a non-profit that advocates for DBEs would fall within the private sector classification. Ms. van der Lugt responded that the particular issue was not discussed but she would assume non-profits would fall under the private sector classification. Ms. Thaxton suggested the Governor's Office would make the determination with respect to the individual from the private sector, which could a representative from a non-profit as there are many organizations advocating for diverse businesses that are non-governmental organizations (NGOs). The issue speaks to whether the individual is from the public or the private sector. Ms. Zahn said her question is to ensure that by including "private sector" it does not preclude NGOs and non-profits and does not create an issue for the Governor. Ms. van der Lugt added that private sector could be part of the definition of an NGO.

Ms. Thaxton pointed out that other provisions in the statute speak to "private industry" as well as "private sector" and that difference could potentially be important and could open it to a representative from an NGO. Mr. Schacht noted that the statute does not speak to private for-profit or private non-profit. The statute only speaks to "private." Private non-profits would fall under the definition as much as private for-profits.

Chair Keith restated the motion to add the following language to RCW 39.10.220 (2) (a) after "private industry;" to reflect *"one individual from the private sector representing the interests of the disadvantaged business enterprise community"*

Irene Reyes commented that certified minority firms are considered either DBE or MWBE. The issue is what term should be included. Ms. van der Lugt advised that DBEs are certified firms. Ms. Reyes responded that her company has two certifications. She is certified as a DBE by the federal government for federal contracts. The state's procurement statute defines small businesses as certified minority businesses. Some companies cannot be certified as MWBE but are certified as DBE. Including DBE in the statute could preclude certified minority woman-owned companies. She questioned whether the proposal should include "DBE/MWBE."

Chair Keith cited the applicable definition in RCW 39.10.210 stating, "Disadvantaged business enterprise" means any business entity certified with the Office of Minority and Women's Business Enterprises under Chapter 39.19 RCW. Ms. Reyes pointed out that she is certified DBE in other states, as well as in the state of Washington as it is much easier to obtain DBE certification than receiving MWBE certification. She is not opposed to the motion and reminded the Board that there could be some concerns in the future. Ms. Kondelis conveyed a message through the chat option that she wants to ensure the motion does not preclude WMBE and asked about limiting language to reflect "certified."

Ms. van der Lugt reported the BE/DBI Committee reviewed the statute and the terminology and was comfortable with the proposed language. She does not anticipate any problems if the definition is included. Mr. Schacht noted that during the review of the statute, the committee noted different ways of designating diverse business inclusion for certified firms. The committee also acknowledged the proposal should align with the definition as defined in RCW 39.10.210:

*"Disadvantaged business enterprise" means any business entity certified with the office of minority and women's business enterprises under chapter 39.19 RCW."*

Ms. Thaxton said the statute only applies to OMWBE certified businesses. Mr. Kuruvilla added that most of the language in RCW 39.10 pertains to minority and woman-owned firms. Ms. Reyes said she supports the proposal and indicated how construction companies often do not understand the statute and often make excuses during contracting decisions.

Chair Keith shared that with respect to Governor appointments, communications can ensure the Governor is aware of potential issues and would likely seek input and references.

***A roll call of present voting members unanimously approved the motion 16/16.***

*Following the vote, Garrett Buckingham disconnected from the meeting for approximately 1.5 hours.*

Chair Keith reviewed the second proposal to add language to RCW 39.10.220 (11) reflecting, *"The board shall encourage participation from persons and entities not represented on the board, including providing opportunities to gain insights from businesses owned by minorities, women, and veterans and small businesses."*

***Walter Schacht moved, seconded by Lisa van der Lugt, to adopt the proposed language addition as stated to RCW 39.10.220 (11).***

***A roll call of present voting members unanimously approved the motion 15/15.***

Chair Keith reviewed the third recommendation of additional language (*italics*) reflecting the value of equity in RCW 39.10.230 (1): *"Develop and recommend to the legislature policies to encourage competition and to further enhance the quality, efficiency, and accountability of and equity in capital construction projects through the use of traditional and alternative delivery methods in Washington, and make recommendations regarding best practices, expansion, continuation, elimination, or modification of the alternative public works contracting methods, including considerations for reducing barriers for participation by disadvantaged business entities."*

***Walter Schacht moved, seconded by Lisa van der Lugt, to approve the proposed addition of language as reviewed to RCW 39.10.230 (11).***

Mr. Salinas referred to the inclusion of "reducing barriers" and asked whether the intent was targeted to specific circumstances. Mr. Schacht responded that any reference to barriers would entail a long conversation as there are many who lack access to information about bid opportunities to the complexity of submitting proposals for projects. The Best Practices Guidelines for Design-Build identifies barriers within the chapter on encouraging competition. However, the question prompts a friendly amendment revising the language to reflect *"including considerations for increasing participation by disadvantage business entities."* Ms. van der Lugt supported the recommendation and shared that many of the recommendations from OMWBE speak to modifying approaches for equity, diversity, and inclusion without including too much prescriptive language that might create other barriers.

Mr. Schacht noted the Disparity Study has documented inadequate participation rates. The goal is to increase participation and reducing barriers is one strategy among many other strategies.

Ms. Reyes offered that because each business and challenge is unique, barriers continue to exist as contractors/owners often indicate they reached out and increased participation and received quotes. However the barrier is camouflaged and does not reflect that the contractor or owner did not want to work with minority companies. She supports language that speaks to reducing barriers as increasing participation is often only a token action because there is no metric for measuring increased participation.

Ms. Thaxton offered a friendly amendment revising the addition to reflect, *"Including considerations for reducing barriers and increasing participation by disadvantaged business entities."* ***The makers of the motion accepted the friendly amendment.***

***A roll call of present voting members unanimously approved the amended motion 15/15.***

Chair Keith reviewed the proposal for revisions to RCW 39.10.240 for the Project Review Committee. The first change adds the following to the end of RCW 39.10.240 (2), “*and must include at least one member representing the interests of disadvantaged business enterprises.*” The language is similar to a prior proposal for adding a member representing the interests of disadvantaged business enterprises. The Reauthorization Committee addressed a number of questions because CPARB included two positions on the PRC representing minority and women-owned business enterprises. Those positions were established by Board policy as the statute only required a balance of industry representatives on the PRC. The proposal embodies in statute the Board’s previous actions through policy. Additionally, the proposal includes additional language at the end of RCW 29.10.2420 (3), stating, “*and should, to the extent reasonably practicable, include a member representing the interests of disadvantaged business enterprises.*”

Ms. Zahn spoke to the reasons for the inclusion of “should” within the second change. PRC establishes the dates of PRC meetings each year, and often, not all PRC members are available to serve on a project or certification panel on a particular day. By including “should,” it ensures applications are reviewed should a member representing disadvantaged business be unable to attend. Additionally, as part of the proposed PRC Review Committee, the recommendation also includes an addition to the work plan of a discussion on how to ensure all members are represented to the extent possible. The committee could include discussions on proposals that are not in the statute but should be considered as part of the work plan for potential changes to procedures and selection of PRC members.

Chair Keith clarified that the proposal does not add another position to the PRC, but only affirms the current practice of one position representing disadvantaged business enterprises.

***Walter Schacht moved, seconded by Lisa van der Lugt, to approve the addition of the two revisions as reviewed to RCW 39.10.240 as submitted by the Reauthorization Committee.***

***A roll call of present voting members unanimously approved the motion 14/14.***

Chair Keith reported the next proposal from the Reauthorization Committee is to RCW 39.10.300 Design-Build Contract Award Process. The language (in concept) is included in multiple locations within the statute. This proposal addresses advertising for solicitations.

Mr. Schacht said the proposal arose from concerns surrounding barriers pertaining to a lack of knowledge of contracting opportunities. The intent is seeking opportunities to encourage public bodies to publicize public contracting opportunities to the extent possible. Originally, the GC/CM Committee considered including the language but encountered some concerns. Language was drafted acceptable to the parties. Ms. van der Lugt added that the proposal was discussed by the GC/CM Committee and speaks to recommendations from the Diversity Study and feedback about the need for more opportunities to learn about contracting opportunities. The proposal attempts to bring the process up-to-date to reflect the current working environment and the exchange of information.

Chair Keith said members of the GC/CM Committee were concerned about provisions in 39.10.385 and ensuring alternative subcontracting notices were published in the same manner as GC/CM notices were published. Mr. Middleton agreed the comment was an accurate depiction of the conversation other than whether too much language was included in the last sentence. However, members agreed with the proponents and the consensus of the committee was to move forward with the proposal.

Chair Keith offered the option of considering the proposal as a whole as many other proposals include adding similar language. Members could authorize the changes in sections in the statute where advertising is referenced.

Ms. van der Lugt and Ms. Thaxton supported combining the proposals as one motion recognizing some of the language might be somewhat different based on the context; however, each provision addressing notification in legal newspapers should include more efforts beyond the requirement to advertise contracting opportunities more broadly.

Ms. Deakins displayed a summary the sections affected by the proposed addition.

Mr. Schacht added that the provisions speak to the boarder issue of business equity in general because identifying contracting opportunities is important, especially in Design-Build to have an opportunity to compete. Encouraging public bodies to provide notice gives the entire industry an opportunity to participate at a higher level.

Chair Keith noted that the Local Government Public Works Study on barriers to participation also addresses the issue.

Ms. Deakins noted several sections of the RCW did not receive a vote by the Reauthorization Committee. She recommended including the language within RCW 39.10.440 for the JOC's annual notice as well.

***Robynne Thaxton moved, seconded by Rebecca Keith, to approve the addition of language encouraging public bodies and GC/CMs to publish solicitation notices in additional venues, such as websites for business associations or the Office of Minority and Women's Business Enterprises, and to further publicize the opportunity for qualified Design-Build teams in RCW 39.10 Sections .330 (1), .360 (2), .380 (1), .385 (1)(a), .400 (1)(b), .430 (3), and .440(5).***

***A roll call of present voting members unanimously approved the motion 15/15.***

The Board's review continued on proposed changes to RCW 39.330 on evaluation factors. Existing language speaks to outreach plans, which is not adequate and should include more than just outreach, which could be part of an inclusion plan, but it is important that an inclusion plan is required.

Mr. Schacht said the suggestion was offered as inclusion is a much more specific term and used by many public bodies indicating they are encouraging diverse business inclusion. Outreach does not have the same priority.

Mr. Salinas asked whether the intent is for a formalized plan of inclusion to promote participation rather than an outreach solicitation to generate participation. Mr. Schacht affirmed that was the intent of the proposal.

***Walter Schacht moved, seconded by Mike McCormick, to approve replacing "outreach" with "inclusion" within RCW 39.10.330 (1)(d)(ii): Design-Build Award Process – RFP (Phase 2 selection) Evaluation Factors.***

Aleanna Kondelis said the inclusion plan was not defined but rather a suggestion that inclusion should include a variety of strategies that is up to the teams and the owners. Outreach could be part of an inclusion plan. However, it should be a more robust opportunity to consider multiple strategies.

Chair Keith added that one of the proposals included a definition of an inclusion plan, which was discussed by the GC/CM Committee. That portion of the proposal was not fully vetted by the Reauthorization Committee and more discussion is warranted on the content of an inclusion plan and ascertaining whether it falls under best practices or should be included in the statute. Ms. Kondelis responded that she was comfortable with the conversation during the GC/CM Committee meeting for not defining the inclusion plan at this time and pursuing other strategies and best practices at a future date.

Ms. Reyes supported the comments by Ms. Kondelis as she favors the proposal; however, she reminded members that if the definition of inclusion includes "utilization" and no contracts are awarded to a certified company, nothing has been accomplished. Outreach is part of inclusion and if utilized, the goal has been accomplished.

Ms. Thaxton agreed but pointed out that the evaluation document for qualifications is important as it includes past performance. In many instances, utilization of OMWBE certified businesses is included in the qualification section. The evaluation factors for a proposal should consider past utilization.

***A roll call of present voting members unanimously approved the motion 15/15.***

Mr. Schacht said that for consistency in statutory language, he recommends modifying the evaluation factor for GC/CM qualifications for proposer's past performance to include disadvantaged business enterprises (certified firms) and modifying the permissive evaluation factor relating to inclusion plans to the extent permitted by law.

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

*During the break, Irene Reyes disconnected from the meeting.*

*Chair Keith reconvened the meeting at 10:15 a.m. A meeting quorum was present.*

Chair Keith referred to a question from Ms. Reyes on whether the Board was familiar with the history surrounding the definition of DBE.

Chair Keith referred to Mr. Schacht's suggestion prior to the break. She asked Ms. Kondelis whether replacing disadvantaged business enterprises was a recommendation she offered as well. Ms. Kondelis said she did not offer any suggestions in terms of disadvantaged business enterprises other than improving consistency and not questioning the purpose of the definition or the use of the language.

Mr. Schacht suggested the Board should make a choice about the language in the statute. Today, in order to emphasize the focus on the use of businesses certified by OMWBE, the definition in the statute is disadvantaged business enterprises. Either way the language is wrong or right, but consistent language is preferred to avoid confusing the issue. As the Board has previously adopted the use of "disadvantaged business enterprise" in describing the positions added to the Board and to the PRC, and it is included in other provisions in RCW 39.10, it is important to be consistent.

Ms. van der Lugt suggested pursuing additional discussion off-line but is supportive of the change.

Ms. Thaxton suggested eliminating "the" prior to "disadvantaged business enterprises."

*Irene Reyes rejoined the meeting.*

***Walter Schacht moved, seconded by Robynne Thaxton, to approve revising RCW 39.10.330 (I) (d) (i) to reflect : "Evaluation factors for qualifications shall include technical qualifications, such as specialized experience and technical competence of the firms and the key design and construction personnel; capacity to perform; the proposer's past performance in utilization of disadvantaged business enterprises, to the extent permitted by law; the ability to provide a performance and payment bond for the project; and other appropriate factors."***

***A roll call of present voting members unanimously approved the motion 15/15.***

Chair Keith referred to the previous inquiry from Ms. Reyes about the origin of DBE. Ms. Deakins said the terminology was changed in 2013, but she would need to explore the reason for the change.

Ms. Reyes said it was likely limited inclusion at the time the definition was included in statute. Chair Keith asked whether the concern was generated about the potential confusion between the federal program and the state program. Ms. Reyes affirmed that it was.

Chair Keith reviewed the next proposed change to RCW 39.10.360 (3). She encouraged the Board to discuss the proposal conceptually or the intent as the terminology is challenging.

Mr. Schacht cited an oversight in the amendment to RCW 39.10.230 and recommended replacing "entities" with "enterprises" for the section stating: "(1) Develop and recommend to the legislature policies to encourage competition and to further enhance the quality, efficiency, and accountability of and equity in capital construction projects through the use of traditional and alternative delivery methods in Washington, and make recommendations regarding best practices, expansion, continuation, elimination, or modification of the alternative public works contracting methods, including considerations for reducing barriers for and increasing participation by disadvantaged business ~~entities~~ enterprises."

**Mr. Schacht moved, seconded by Robynne Thaxton, to revise RCW 39.10.230 (1) to reflect: “Develop and recommend to the legislature policies to encourage competition and to further enhance the quality, efficiency, and accountability of and equity in capital construction projects through the use of traditional and alternative delivery methods in Washington, and make recommendations regarding best practices, expansion, continuation, elimination, or modification of the alternative public works contracting methods, including considerations for reducing barriers for and increasing participation by disadvantaged business enterprises.”**

*A voice vote unanimously approved the motion.*

Chair Keith reported the Reauthorization Committee asked the chairs of the BE/DBI Committee and GC/CM Committee to review the statute on mandatory and permissive evaluation factors for selections of qualified GC/CMs within GC/CM provisions in RCW 39.10. The original proposal from OMWBE recommended past performance and inclusion as mandatory factors. The Board has supported replacing outreach plans with inclusion plans. The issue is defining mandatory and permissive factors. If inclusion plans are deemed mandatory, she suggested including, “to the extent as permitted by law.”

The Board approved the following provisions at its October meeting: *RCW 39.10.360 (3) (3a) (vi) The proposer’s past performance in utilization of the office of minority and women’s business enterprises certified businesses, to the extent permitted by law. (vii) An agency may also consider the firm’s outreach plan to include small business entities and disadvantaged business enterprises, and the firm’s past performance in the utilization of such firms as an evaluation factor.*

Mr. Schacht commented that when the Board revised Design-Build provisions in SHB 1295, conversations by members of the minority business community stressed the importance of separating “shall” aspects of evaluation factors from “may” evaluation factors. Minority business representatives indicated that small businesses should be separated and that the requirement for “shall” should apply to certified businesses but should the agencies want to include small businesses they could include them. The issue created some difficulty as the goal was to provide opportunities for proposers to include small businesses. This proposal retains the requirement of past performance and utilization of certified DBEs as required but applies the inclusion plan to both certified DBEs and small businesses to increase participation rates and business equity.

Ms. Kondelis agreed with the requirements of “shall” and “may” but wants to ensure that the inclusion of disadvantaged business enterprises speaks specifically to RCW 39.19. As an owner representative administering a robust inclusion enterprise, the University promotes bidding to all small businesses. It would be important to be permissive to include small businesses, disadvantaged business enterprises, and other forms of businesses as characterized as diverse businesses within Sections v and vi and with an expansion of Section vi, if possible. Chair Keith said it appears the request by Ms. Kondelis is to consider past performance not only of certified firms but to consider past performance of all firms as the organization defines diversity. Ms. Kondelis said she wants to ensure the language does not limit options for the University. The University would like the inclusion plan to include robust strategies.

Mr. Schacht explained that words normally capitalized are not capitalized in the statute. The fact that “disadvantaged business enterprises” is in lower case does not change the meaning as described in the Definitions section. As a public body, RCW 39.10.360 outlines the requirements but does not create any limits. After the last reauthorization, a strong push by the minority business community and a belief by Board members that the reauthorization did not sufficiently address “disadvantaged business enterprises” resulted in revisions to the statute to include certified businesses or diverse business enterprises. As those provisions were added to the statute, the Board also added the definition of “disadvantaged business enterprises.” That definition is contemporaneous with the Board’s desire to include more businesses and a need to incorporate language that begins to signal that intent in the statute.

**Walter Schacht moved, seconded by Robynne Thaxton, to approve the following revision to RCW 39.10.360 (3) (vi) “The proposer’s past performance in the utilization of disadvantaged business enterprises, to the extent permitted by law. (vii) Evaluation factors may include proposer’s inclusion plan for small business entities and disadvantaged business enterprises, and the proposer’s past performance in the utilization of small business entities.”**

Melissa van Gorkom asked for clarification as to whether the intent is to retain “may” as changing “may” to “shall” would change section b to reflect section vii, and retaining “may” would retain the section as b.

*Mr. Schacht and Ms. Thaxton accepted the friendly amendment to retain “may.”*

Ms. Kondelis commented that the proposal as stated in section vi, limits past performance to only certified disadvantaged business enterprises as she would prefer to expand it to any diverse business. She also wants to avoid language that if an inclusion plan is considered, past performance must also be required. She suggested adding “and/or” to avoid a requirement for an exhaustive list.

Mr. Schacht noted that the use of “and/or” is not included in statutory language, but as drafted, the owner would be able to utilize the statute as described by Ms. Kondelis to include adding other evaluation criteria at the owner’s discretion.

Chair Keith said the proposal was generated by the BE/DBI Committee and OMWBE earlier when language was added to RCW 39.10.220 to add a board member from the disadvantaged business enterprise community. Additional language spoke to providing opportunities to gain insights from businesses owned by minorities, women, veterans, and small businesses. She would offer that would be the broader definition that Ms. Kondelis is referencing as she wants the broader definition for her inclusion plan. Ms. Kondelis added that she wants to ensure the language affords options.

Discussion ensued by the Board on the interpretation of language in RCW 39.10.360. Mr. Schacht pointed out that in addition to other proposals, the proposed changes encourages public bodies to extend themselves to do more by asking GC/CM’s to demonstrate that either they have an inclusion plan that will meet the public body’s goals and/or exceed them, as well as past performance for small businesses. Section “b” does not appear to limit Section “a.”

Chair Keith commented that if the goal is to increase the expansiveness of “b” there should no harm in adding broader language. It is important to be open and transparent because there are many public agencies that choose to define diverse businesses more broadly than a business certified through OMWBE.

Ms. Thaxton suggested improving the draft by making sections “a” and section “b” parallel as evaluation factors may include but are not limited to, which would clarify that the public entity could include other factors that are unique to the project in addition to requirements in the RCW. For instance, as a public entity advisor, she would include experience in sustainability or experience with permitting. She suggested language stating, “Evaluation factors may include but are not limited to.”

Chair Keith agreed with the suggestion to parallel the language in (3) (a) with (3) (b).

*Mr. Schacht accepted the friendly amendment from Ms. Thaxton.*

Karen Mooseker supported the suggestion offered by Ms. Thaxton because school districts and other public owners who may be dependent on local communities and voters for funding for capital projects. It is often a priority to encourage participation from local businesses, small businesses, and disadvantaged businesses. The language provides public owners with the ability to utilize those businesses in addition to the broader community of businesses.

***Chair Keith called for a vote on the motion to approve the following changes to RCW 39.10.360 (3)(a): “(vi) The proposer’s past performance in the utilization of disadvantaged business enterprises, to the extent permitted by law. (b) Evaluation factors may include, but are not limited to: proposer’s inclusion plan for small business entities and disadvantaged business enterprises, and the proposer’s past performance in the utilization of small business entities, to the extent allowed by law.”***

***A roll call of present voting members unanimously approved the motion 15/15.***

Chair Keith reviewed proposed changes from the BE/DBI Committee co-chairs that were not thoroughly vetted by the Reauthorization Committee for RCW 39.10.380 (1). The proposal adds the following *italicized* language to subsection (1)

*Individual bid packages are to be prepared with trades separated in the manner consistent with industry practice to maximize participation and competition across all trades and to reduce barriers to and increase participation by disadvantaged business entities enterprises.*

Ms. van der Lugt recommended changing *entities* to *enterprises*.

Ms. Thaxton suggested revising the language by changing *reduce barriers* to *reduce barriers for and...*

Ms. Kondelis commented that the discussion surrounding the proposal centered on industry practice and some comments that industry practice may be counterproductive to reducing barriers and increasing participation. She asked whether that aspect was discussed and whether it was resolved. Chair Keith recalled discussions about industry practice but was unsure of the outcome related to utilization. Ms. Kondelis said that based on her experience, she would agree with the other comments from general contractors that they could provide evidence that certain packaging structures create barriers.

Bill Dobyms noted that each project is different and the circumstances around projects should be considered when making decisions on what is best for the project. It would be difficult to include a blanket statement in the provision.

Chair Keith advised that language previously approved by the Board for RCW 39.10.380 (1) included: *Individual bid packages are to be prepared with trades separated in the manner consistent with industry practice to maximize participation and competition across all trades.* The language was recommended by the GC/CM Committee following substantial discussion. Mr. Middleton agreed that there was robust discussion about the issue. One objective of the committee when considering legislative changes was to increase competition among contractors for entry into the alternative delivery market. Other statutory language reduces barriers by limiting criteria the GC/CM or the owner can request to assist some contractors attempting to enter into the market and to educate them that proposals should be narrowly tailored to the project. The GC/CM Committee has tried to assist in other areas of legislation to help promote those interests.

*Garrett Buckingham rejoined the meeting.*

Ms. Kondelis commented that she supports the concept of reviewing each bid for each project and understanding what makes sense both in the spirit of reducing barriers and increasing participation; however, the language, as proposed, is very prescriptive.

Mr. Salinas shared that as a contractor he participates in contracting and finds the language *industry practice to maximize participation* conflicts with *reduce barriers and increase participation* as GC/CM subpackages are complex. He questioned the intent of reducing barriers and increasing participation but continue to adhere to industry practices for preparing the packages.

Mr. Schacht explained that the intent of the BE/DBI Committee was to encourage measures that would increase participation. The provision could also be defined as best practices guidelines as opposed to inclusion in the statute. The general direction of many of the recommendations is to clarify the intent by including language in the statute. Although it may be creating confusion, he suggested revising the proposal and including the addition as a separate sentence of: *Individual bid packages should also be prepared to reduce barriers and increase participation.* The proposed language from the GC/CM Committee was crafted to ensure bid packages did not combine a whole range of different subtrades that would make it difficult for reasonably-sized entities with reasonable skills and qualifications to submit a bid. The overall intent is unbundling subtrade packages so more companies can participate.

Mr. Middleton agreed with the comments as the language recommended by the GC/CM Committee was a result of some experiences that bundling packages was to their exclusion and not consistent with industry practice. The proposed language is an effort to achieve one of the objectives of the GC/CM Committee to level the playing field and increase subcontractor participation in the market.

Ms. Reyes suggested separating the sentences.

Ms. Zahn supported the addition of the proposal recognizing that it speaks to two different goals. She recommended separating the goals as different subsections similar to other previously proposed revisions.

Vice Chair Thompson supported separating the sentence as it would retain some of the original language from the GC/CM Committee and it would address the inclusion of disadvantaged business enterprises.

Mr. Salinas supported the intent as outlined by Mr. Schacht as he is a representative of specialty contractors. The bundling of packages is more than likely the biggest hindrance to many small businesses or disadvantaged business enterprises participating in subpackages for GC/CM contracts. He is struggling with language stating, *These packages shall be prepared consistent with industry practice* while including language that speaks to reducing barriers and increasing participation yet the subsection includes language that speaks to bundling of trades not normally combined into one package is not allowed without justification. He views the language as increasing the number of packages and making them smaller. If the goal is to increase participation by small businesses or disadvantaged businesses, it should entail a scope that is clearly defined and small to the extent that all financial ramifications surrounding the ability to bid on a particular package is not the hindrance. Although he agrees with Mr. Schacht's intent, he is unsure how the provision should be stated that follows code but also increases participation while adhering to normal practices.

Ms. Thaxton agreed that bundling of trades is not the only barrier. The first sentence is specific to the augmentation of random trades, which serves as a barrier to many businesses. She recommended adding, *bundling of trades not normally combined are to be prepared to reduce barriers and increase participation by disadvantaged business enterprises*, which should address the concerns by Mr. Salinas. Mr. Salinas agreed as bundling is a major hindrance because dependent upon the GC/CM contract, smaller specialty contractors and subcontractors often experience other hindrances, such as bonding and financial insurance limitations that complicate participation.

Mr. Dobyms said he recognizes bundling can be a major roadblock or barrier; however, if coordinated with the owner and the market, bundling can also remove barriers. For instance, releasing a package that enables some entities to participate as a second tier sub includes less stringent requirements as second tier sub than for first tier subs. Sometimes, if the GC/CM and the owner are working in the best interests of the market and disadvantaged community, they can strategically develop a bundled package that would reduce barriers and enable more competition. He would not want to rule out that option as a tool and limit owners because it often can increase participation and competition. He explained that first tier subcontractors submitting a bid on a GC/CM project must comply with all components of the bid specifications. Second level sub tiers can be assessed by qualifications, inclusions, exclusions, or financial capabilities. If a second level sub tier is in a precarious situation of securing a bond or is experiencing difficulty in financing the project, the GC/CM can offer assistance, whereas the first tier sub must comply fully with all specifications.

Ms. Mooseker commented that the proposal of: *bid packages are to be prepared to reduce barriers...* is a definitive statement without defining "barriers." The language is within a legal statute and the range of interpretations could be many. She is also unsure how the language could be implemented in practice.

Chair Keith questioned the possibility of a public owner or a GC/CM subject to a bid protest based on language that speaks to *industry practice* and *reducing barriers for participation*. She questioned whether the language would be in harmony.

Mr. Middleton reported the proposed language by the GC/CM Committee was well vetted through the course of multiple meetings and discussions on the issues. The committee has recently initiated a review of best practices but fully intends to provide more guidance on some of the terms and practices as the intent of the language proposal was to avoid being too prescriptive. As the committee works through best practices, further guidance will be offered.

Mr. Schacht addressed the issue in the context of RCW 39.10 in its entirety as the proposed revisions to the statute reflect a challenge experienced throughout reauthorization discussions and not just in terms of diverse business inclusion. He offered that the Board is incorporating best practices guidelines into statute, which is both positive and negative as pointed out because when the proposed language is added to contractor selection processes there is flexibility as to how public bodies apply the provisions and how it affects outcomes. The proposed language from the GC/CM Committee and

additional language proposed by the BE/DBI Committee are different in terms of how it can be interpreted and whether, at the end of the day, a bid could be set aside. Throughout the Board's discussion, members questioned the definition of "industry practice" or "unbundling." Essentially, the terms could be considered industry jargon, which is complicated. Legislating behavior by public bodies and general contractors is not the easiest task to accomplish. He agreed with the intent of the language proposed by the GC/CM Committee and the BE/DBI Committee; however, he believes the proposal has complicated matters especially when it stipulates "are to be prepared." He suggested substituting "should be prepared, should reduce barriers, should not be allowed, and should receive specific approval" because the proposal is too rigid in terms of the requirements and it would be difficult to implement or include multiple terms that further complicate the issue. He suggested prudence in the included language.

Vice Chair Thompson referred to the Local Public Works Study, which includes the term "reduce barriers." He questioned whether there could be a nexus to the bill on local public works. Chair Keith responded that the report has not been adopted as legislation and she would be concerned with referencing a report that has not been finalized. She conceded the proposal is difficult as other stakeholders have shared that the language is too weak.

Ms. Thaxton agreed the proposal incorporates some best practices that currently do not exist. She recommended, as Mr. Schacht suggested, that bid packages should be prepared to reduce barriers, as well as deferring the language as it is one of the issues tasked to the GC/CM Committee and BE/DBI Committee as part of the best practices review. As best practices are identified, it would be important to consider revisiting the language. She agreed the inclusion of "should" would enable public entities and GC/CMs the latitude and reduce the likelihood of receiving protests based on technical language when pursuing the right course of action.

Chair Keith reviewed the proposed language as proposed by the GC/CM Committee and the additional sentence as offered initially by the BE/DBI Committee (underlined) and subsequently revised to reflect: *RCW 39.10.380 (1) Individual bid packages are to be prepared with trades separated in the manner consistent with industry practice to maximize participation and competition across all trades and to reduce barriers to and increase participation by disadvantaged business ~~entities~~ enterprises. Bid packages should be prepared to reduce barriers for and increase participation by disadvantaged business enterprises.*

***Rebecca Keith moved, seconded by Robynne Thaxton, to approve the following changes to RCW 39.10.380 (1): Individual bid packages are to be prepared with trades separated in the manner consistent with industry practice to maximize participation and competition across all trades and to reduce barriers to and increase participation by disadvantaged business ~~entities~~ enterprises. Bid packages should be prepared to reduce barriers for and increase participation by disadvantaged business enterprises. Bundling of trades not normally combined into one bid package is not allowed without justification and specific approval by the public entity.***

*Senator Hasegawa rejoined the meeting.*

*Ms. Kondelis offered a friendly amendment to change "entity" in the last sentence to reflect "body" to maintain consistency within the statute. The makers of the motion supported the friendly amendment.*

Senator Hasegawa noted the change from "are to be" to "should be" changes the intent from requirement to optional. Ms. Thaxton replied that a concern was raised by Ms. Mooseker representing school districts as the proposal essentially would codify best practices where none exist. The proposed change is with the understanding that the GC/CM Committee and BE/DBI Committee will continue to build on best practices and would likely need to review the statute in the future to provide public bodies with a better understanding and uniform guidance as to what reduces barriers and increases participation. "Should" is much more forceful than "may." She plans to assist in the development of best practices and subsequently revisit the statute for a possible change to "shall" eventually.

Chair Keith remarked that the language recommended by the GC/CM Committee was a result of hours of discussion over the course of many meetings. The provision affects specialty trades and others who may want to protest based on the language. The proposal is a compromise and she prefers not making any changes to the proposal offered by the GC/CM Committee.

Mr. Dobyms cautioned against making the language too restrictive by not allowing owners some flexibility as it could result in the release of packages with no bids received. It would be detrimental to the entire delivery method process if it becomes a pattern where packages receive no bids.

Ms. Kondelis supported adding the second sentence to enable consideration jointly but separately while affording flexibility for the benefit of the project.

***A roll call of present voting members unanimously approved the motion 16/16.***

***NEXT STEPS – Possible Action Regarding Proposals with Consensus for Inclusion in Reauthorization Bill***

Chair Keith referred to a spreadsheet of recommended changes. The spreadsheet includes recommendations for more discussion, as well as recommendations for best practices. Based on Senator Hasegawa's previous comments, the Board has time to approve the final bill at the December meeting to meet legislative deadlines. She acknowledged the enormous amount of work invested since October. The Board has achieved amazing progress, but she does not believe there is a logistical way to review the remaining proposals and reach consensus by the December meeting. She asked for input on her assessment.

Ms. van der Lugt said her comments do not differ from previous conversations while recognizing the short timeline, but she is troubled that recommendations have been offered but not reviewed by the Board or proponents have not had an opportunity to advocate for or to share information on the importance of the proposal moving forward. Her question is whether there is a way to give voice to the other recommendations as most of the recommendations were submitted by Ms. Kondelis. She asked for feedback from Ms. Kondelis.

Chair Keith pointed out that the BE/DBI Committee engaged in discussions on all proposals. However, the committee did not review the shorter list at that time. Additionally, at the Reauthorization Committee meetings, other stakeholders provided input. There were additional proposals relating to accountability from Mr. Armstead. The committee did not have sufficient time to fully discuss that proposal. As Mr. Schacht alluded to earlier, the discussion will not end with the submission of the reauthorization bill. She is willing to offer a recommendation to include within the bill a section proposing CPARB be required to develop best practices guidelines that are posted on the website and that CPARB should be required to offer further recommendations after completing best practices. The Board could also take advantage of the work required in SB 5418 to identify barriers. That study has identified many barriers. The Board could also refer to the Washington State Disparity Study with many recommendations, as well as individual public bodies completing similar work in those areas. The conversation should not end but the issue is how to address those proposals prior to the December 9<sup>th</sup> CPARB meeting.

Ms. Thaxton referred to the bill recommendation column within the spreadsheet and questioned whether the Board has reviewed all bill recommendations. Ms. Deakins responded that all items within the column were updated to reflect recommendations by the Reauthorization Committee. The only sections not reviewed by the Reauthorization Committee include RCW 39.10.440 & &460. Ms. Thaxton said it is likely the Board could address those items, but any other recommendations beyond those two would not be possible before the December 9<sup>th</sup> meeting.

Ms. Reyes referred to the proposal for RCW 39.10 460 (JOC) and recommended adding disadvantaged business enterprises for consistency. Chair Keith noted the Board did not consider or vote on the proposal. She suggested adding Ms. Reyes' proposal to the language recommendation column.

Ms. Mooseker offered that does not want to leave recommendations unaddressed. She inquired about the potential of extending the meeting, the December 9<sup>th</sup> meeting, or adding another meeting to address the proposals.

Chair Keith noted the meeting could not be extended and requested input from other members.

Ms. Thaxton commented on the difficulty of complying with the Open Public Meetings Act requirements to meet publication deadlines. She emphasized that the work does not end with the submission of the reauthorization bill as the Board will continue to move forward. She commented on the efforts by Chair Keith, Mr. Schacht, Ms. van der Lugt, Mr. Middleton, and Mr. Datz for contributing hours of work to reach the point today. It would take many more hours to

address the remaining issues with many more stakeholders who may not be able to accommodate meetings because of the upcoming holiday.

Bill Frare added that the overarching goal is the reauthorization bill that has been in progress for the last two years. Many aspects of the reauthorization bill are important and minority business inclusion is an element that is very important. The Board has spent much time over the last several weeks incorporating suggested language into the reauthorization bill. That effort effectively completed the work while acknowledging that there is more work ahead. To try to find time and call upon resources that have been tapped is not reasonable. The Board's next meeting is on December 9<sup>th</sup> and it is time to conclude the process and congratulate each other on a job well done. He thanked Mr. Schacht, Ms. van der Lugt, Ms. Kondelis, Chair Keith, Talia Baker, Ms. Deakins, Vice Chair Thompson, and others who have been at the forefront. He believes the Board has produced a good bill and expended efforts to incorporate as much of the language into the bill to the extent possible. The Board has committed to continue to work for minority business inclusion and it is time to move forward with the current proposal.

Ms. Kondelis expressed appreciation for the work and is amenable to moving the bill forward and perhaps contacting other members before the December meeting to propose some committee work moving forward.

Senator Hasegawa commented on the operational aspect of the Legislature when considering bills. During this session, emphasis is on equity because of the crises on racial and economic equity. Both Chambers will be focused on that top priority this session. Bills are scrutinized through the legislative process. The Senate recently seated the first African American Senator in a decade and the House seated four African American women and one African American man. The proposal will undergo intense scrutiny on whether it improves economic access for disadvantage communities.

Vice Chair Thompson commented on the span of time between now and the next meeting. He spoke to the "fifth leg of the stool" where the audience are speaking up but feel like they have not been heard. Earlier in the day, the Board took action on direct representation of a disadvantaged business enterprise individual. If there is unfinished work, that individual's voice will carry weight as equal to other Board members. Much work has been accomplished to this point that should ensure the Board does not sway from issues of importance during this legislative session. Chair Keith added that the Board currently includes valuable voices, such as Ms. Reyes and others from the women and minority business community who have contributed to the Board's learning.

Chair Keith proposed including time on the December meeting agenda and working with Ms. Kondelis to fine-tune a proposal that embodies the continuation of the work and with the co-chairs of the BE/DBI Committee and others who may be interested to present a proposal at the December meeting and affording an opportunity to consider other recommendations.

Ms. Zahn asked whether the two pending issues identified were the only two issues pending further discussion.

Chair Keith asked Ms. Kondelis to confirm whether the issues identified by Ms. Reyes were the two remaining issues to address on December 9<sup>th</sup>.

Vice Chair Thompson added that time on the agenda is also required for discussion on SB 5418.

Chair Keith thanked the Board for their work.

**ADJOURNMENT - Action**

***Vice Chair Thompson moved, seconded by Bill Frare, to adjourn the meeting at 12:14 p.m. Motion carried unanimously.***

**STAFF & GUESTS**

Brian Aske, Lease Crutcher Lewis  
Talia Baker, Department of Enterprise Services  
Nancy Deakins, Department of Enterprise Services  
Quinn Dolan, Centennial Construction  
Joanna Eide, OMWBE  
Valerie Gow, Puget Sound Meeting Services  
Janet Jensen, Department of Enterprise Services  
Kelci Karl-Robinson, Washington State Legislature  
Bill Kent, Mortensen Construction  
Aleanna Kondelis, University of Washington  
Scott Middleton, MCAA

Ryan Piper, Hensel Phelps  
Vicki Puckett, DEI  
Linda Shilley  
Jim Stoner, Hainline Inc.  
David Talcott, Exeltech Consulting  
Brian Urban  
Jerry Vanderwood, AGC  
Melissa Van Gorkom, Washington State Legislature Staff  
Charles Wilson, Department of Enterprise Services  
Olivia Yang, Washington State University

*Prepared by Puget Sound Meeting Services, [psmsoly@earthlink.net](mailto:psmsoly@earthlink.net)*