

## CAPITAL PROJECTS ADVISORY REVIEW BOARD

1500 Jefferson Street SE  
Olympia, Washington 98504  
Presentation Room

### Minutes

September 13, 2018

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<b>MEMBERS PRESENT</b>	<b>REPRESENTING</b>	<b>MEMBERS ABSENT</b>	<b>REPRESENTING</b>
Walter Schacht ( <i>Chair</i> )	Architects	Rep. Vincent Buys	House (R)
Rebecca Keith ( <i>V. Chair</i> )	Cities	Senator Bob Hasegawa	Senate (D)
Brian Belarde	Construction Trades Labor	Joaquin Hernandez	Private Industry
Steven Crawford	Higher Education	<i>Vacant</i>	Counties
Bill Frare	State Government	<i>Vacant</i>	Hospital Districts
Greg Fuller	Specialty Contractors		
Charles Horn	Insurance/Surety Industry		
Santosh Kuruvilla	Engineers		
Brent LeVander	General Contractors		
Robert Maruska	Washington Ports		
Mike McCormick	Higher Education		
Irene Reyes	Private Industry		
Mark Riker	Construction Trades Labor		
Mike Shinn	Specialty Contractors		
Rep. Steve Tharinger	House (D)		
Andrew Thompson	General Contractors		
Lisa van der Lugt	OMWBE		
Senator Judy Warnick	Senate (R)		

*Staff & Guests are listed on the last page*

### **WELCOME & INTRODUCTIONS**

*Chair Walter Schacht called the Capital Projects Advisory Review Board (CPARB) meeting to order at 8:01 a.m.*

A meeting quorum was attained.

### **APPROVE AGENDA - Action**

Chair Schacht reviewed the draft agenda and supplemental agenda with details of the strategic planning session.

*Mike Shinn arrived at the meeting.*

***Robert Maruska moved, seconded by Bill Frare, to approve the agenda as published with the addition of the supplemental agenda for the strategic planning session. Motion carried unanimously.***

### **APPROVE MAY 10, 2018 MINUTES – Action**

Andrew Thompson requested the following change to the May 10, 2018 minutes:

- On page 24, within the third paragraph following the bulleted items, revise the first sentence to reflect, “Mr. Thompson noted the Board has one vacant Higher Education vacancy and one vacancy for the Construction Trades Labor position.”

***Steve Crawford moved, seconded by Robert Maruska, to approve the minutes of May 10, 2018 as amended. Motion carried unanimously.***

### **INVITATION FOR PUBLIC COMMENTS**

Vice Chair Rebecca Keith invited public comments throughout the meeting.

**Rick Benner**, Director of Facilities Development and Capital Budget, Western Washington University (WWU), conveyed his endorsement and support for the candidacy of Sherrie Montgomery for appointment to the Project Review Committee (PRC). He has known Ms. Montgomery for more than 26 years. Ms. Montgomery serves as a Senior Project Manager at Western Washington University and has worked on hundreds of public works projects to include GC/CM projects and one of the University's first Progressive Design-Build projects. Ms. Montgomery is very familiar with alternative delivery methods. Western Washington University has a small program comprised of approximately 20 employees serving as project managers and classified staff. Project manager responsibilities cover the range from "soup to nuts" involving development of capital budget requests, developing cost estimates, developing project schedules, rendering recommendations on the delivery method, and planning, design, and project execution. Ms. Montgomery is well-grounded and is an outstanding Project Manager. As one of the founding members of the PRC, Mr. Benner said he is very familiar with the role and responsibilities of PRC membership. Ms. Montgomery understands the roles and responsibilities that would be required from her commitment to serve on the PRC.

### **2018 STRATEGIC PLANNING (SUPPLEMENTAL AGENDA) – Information & Discussion**

Chair Schacht advised members that the strategic planning session would focus on introduction of members and each member's respective position on the Board, a discussion on future meetings with respect to paralleling the legislative session for any legislative recommendations on policy and alternative project delivery, and a discussion on organizing the year around goal-setting in September to consider potential legislative proposals to move forward.

Chair Schacht invited members to provide self-introduction and share information about their interests and involvement in alternative project delivery, as well as stakeholder outreach and feedback on key issues. Following introductions, members will engage in a self-evaluation session to include any input or questions from stakeholders surrounding alternative project delivery. Chair Schacht invited members of the public to provide self-introduction and share information on their respective connections in the industry to assist the Board.

#### **INTRODUCTIONS – Board Members**

**Brent LeVander**, Chief Operating Officer, Centennial Contractors, represents General Contractors on the CPARB. Primary stakeholders are general contractors and small and disadvantaged businesses in the state. The company strives to improve participation of small and disadvantaged businesses in alternative public works projects. Communication with stakeholders is through the Board committee structure as a member of the Job Order Contracting (JOC) Evaluation Committee and through other industry meetings.

**Charles Horn** represents the Insurance and Bond industry, and in particular, small businesses. Mr. Horn plans to focus on improving communication with other insurance companies.

**Mike Shinn**, Shinn Mechanical, represents Specialty Contractors. The majority of the company's work involves public projects. Public projects are important to him personally, as well as to other mechanical contractors. He is a member of the local Mechanical Contractors Association (MCA) Board and meets periodically to discuss items of legislative interest. He and other mechanical contractors share feedback on concerns surrounding different bid processes. Stakeholders also attend all MC/CM and GC/CM-focused meetings and meet with general contractors to ensure policies are implemented accordingly. He represents all mechanical contractors in the state.

**Greg Fuller** represents Specialty Contractors. Mr. Fuller supports minority contractors and shares information via emails. His company is a member of National Electrical Contractors Association.

**Steve Crawford**, Director of Capital Projects, Issaquah School District, has been with the School District over 20 years with 4 ½ years spent at Central Kitsap School District prior to assuming his current position. Mr. Crawford is a trained architect. The School District continually shares information with other school districts as many districts have successfully passed bond measures for large capital projects. Information sharing occurs through the Puget Sound Schools Coalition of School Districts representing districts located throughout Pierce, King, and Snohomish Counties, as well as other connections through the Washington State School Directors' Association (WSSDA).

**Mike McCormick**, Associate Vice President, University of Washington, is a new member to the Board. He is an architect but spent most of his career as an owner in delivering projects by all delivery methods from the standard Design-Bid-Build to GC/CM and Design-Build (DB). He is a firm believer in alternative public works. The University has some resources to bring to the conversation. The University's new Dean is a national expert in project deliveries. His expertise could help bring resources to conversations on alternative delivery methods. The University communicates to its constituency through monthly public owner meetings and meetings with other universities through the Council Presidents organization.

**Lisa van der Lugt** is the new Director of the Office of Minority and Women's Business Enterprise (OMWBE). The OMWBE strives to certify minority, small, and women-owned businesses for both state and federal certification. The OMWBE is shifting its focus on outreach and is working closely with an advisory committee, as well expanding outreach throughout the state to include representation in eastern Washington and King County to educate and inform business owners on how OMWBE can provide assistance to help businesses become certified. The outreach also affords an opportunity to receive feedback on what OMWBE could do better, potential legislative change, and how services could be provided in a manner that is consistent and easy for people to understand who are not working in Olympia fulltime. The OMWBE is shifting its efforts to convey plain talk about the purpose of the OMWBE and increase the number of certified businesses.

**Rebecca Keith** represents Cities on the Board. She is interested in alternative public works because of earlier work as a law student when she recalled a public owner conveying frustrations with limited project delivery methods. Owners that she has engaged with all acknowledge the options alternative project delivery provides as it is extremely advantageous for not only owners but for the entire industry as well. Her philosophy of a good contract, good procurement, and good projects do not come from one side benefitting the other, but from working on a project in a way that facilitates the people who can bear the risks or taking the risks and being accountable for what is within their zone of control, and having a fair process for everyone. She engages with stakeholders by participating in the public owner group meetings and periodically connects to the Association of Washington Cities. She previously communicated extensively by email, which was not as effective as she believed as the CPARB updates she forwarded to cities was not effective. She is interested in learning about better ways to engage and appreciates the feedback from the Board on other outreach methods.

**Walter Schacht** represents Architects on the Board. His small firm located in Seattle focuses almost exclusively on public works for Washington State agencies with a major focus on higher education. The firm works on Design-Bid-Build, JOC, DB, and GC/CM. The firm is involved in all means of capital projects procured in the state. He has long-time involvement with AIA Washington Council, which serves as a major way to connect conveniently to other architects across the state. Over the years, he has been involved with the Architects Engineers Legislative Council, which represents all types of design professionals both through member associations and through trade associations and offering another method for communicating with design professionals from across the state. He believes design professionals embrace alternative project delivery in terms of how it benefits and improves partnerships among designers, contractor professionals, and owners. However, some significant concerns exist about how alternative project delivery is changing the role of design professionals and the constraints it places on fairness in competition.

**Bob Maruska** represents 75 Washington public ports. He has 40 years of experience in the industry and is an engineer by trade with half of his experience in the private sector and the remaining half in the public sector. In terms of alternative public works and public works, he has worked both sides of the fence as a design professional competing on large DB and GC/CM projects for owners and contractors, as well as establishing procurement processes and rendering decisions on the appropriate approach for project delivery for the owner. He has been actively involved in public works and alternative public works for a number of years and has been a member of the Board since 2007 serving as Chair from 2008 to 2017. He is actively involved with all CPARB committees and the larger professional community and in interactions with the Legislature to pursue issues and submit recommendations. Because of the varied size and diversity of port districts throughout the state, the Washington Public Ports Association (WPPA) represents all ports in the state. He interacts with members on a regular basis. The WPPA has an appointed Legislative Committee similar to most other organizations. Each owner has different legislative agenda items of focus that reside outside of public works. His focus is on public works ranging from environmental, business, or increasing participation of disadvantaged firms. He also reaches out to smaller ports and regularly attends the specialty conference of small ports. He typically is one of the presenters on public

works and updates ports on recent changes initiated by CPARB or other entities. The forum provides a good way to receive feedback on challenges facing ports. He also provides training and serves as an advisory for other port districts.

**Representative Steve Tharinger** represents the 24<sup>th</sup> Legislative District of Clallam and Jefferson Counties and part of Grays Harbor County. He is nearing the end of his fourth term. He chairs the House Capital Budget and is a member of the Appropriations Committee and the Health and Wellness Committee.

**Santosh Kuruvilla** represents Engineers on the Board. His stakeholders are members of the American Council of Engineering Companies (ACEC), American Public Works Association (APWA), American Society of Civil Engineers, and the Structural Engineers Association of Washington (SEAW). He is active in ACEC and chairs one of the committees with the Washington State Department of Transportation on business administration of similar topics the Board often addresses. Most of the feedback from engineers is indicative of positive comments surrounding alternative delivery of DB, GC/CM, and Progressive DB. Most concerns pertain to design professionals and engineers feeling that they have been somewhat commoditized or squeezed as a commodity within the supply chain of alternative delivery. The second issue is a sense that quality and sometimes design intent is compromised, as quality has now become a line item in the bid. That continues to be an area of concern. However, the engineering community is optimistic about DB as the engineering industry support the idea of alternative delivery and DB and GC/CM. As he previously addressed, the Board has the ability to make a real change and a difference. He encouraged the Board to consider something similar to “lessons learned” to receive information from the PRC by encouraging PRC members to ask owners and other stakeholders to share information on lessons learned on projects delivered projects over the years. It could involve sponsoring an annual conference with the Board and the PRC and inviting owners and others to share lessons learned on projects.

**Andrew Thompson** represents General Contractors and is a Senior Project Manager for Granite Construction. He has been with the company for nearly 27 years. The experience he brings to CPARB is a heavy-civil perspective as a member for nearly five years. Prior to his membership on the Board, he attended many Board members and participated by sparking some interest in heavy-civil changes to the GC/CM delivery method through a process. During that time, he learned about the role of CPARB providing advice to the Legislature along with the role of the Board changing or influencing RCW 39.10 and the importance of fair and competitive language. His involvement and interaction with stakeholders is through participation with the Associated General Contractors (AGC) Diversity and Government Affairs Committees. He was recently involved in the Association of Washington Business Leadership Program that provided an opportunity to visit the entire state and learn about what is occurring outside the Puget Sound region. He is a member and the Chair of the Snohomish County Initiative to Improve Transportation. The group was formed in 1995 and serves as an advocacy group to ensure infrastructure is planned and executed in Snohomish County. He believes the Board is the only forum in the state that is representative of a diverse stakeholder group representing all industry interests. When becoming a member of the Board, he believed the Board’s mission was very narrow and could only be involved in alternate procurement delivery. Some would argue that mission is accurate today; however, over the years, the Board has provided a forum for other stakeholders to address any issue. In most cases, the Board can synthesize those messages through representation of Board members. From this point forward until the legislative session, the Board’s activities will increase, which speaks to his education of the Board’s role because the Board provides a unified effort and communicates to elected officials by educating and informing legislators. There is also a need to understand the role of the Board for diversity and outreach issues whether through JOC, DB, or GC/CM, as each method has a different perspective of what should be included in the evaluation criteria. Clarifying what the Board is allowed to address by law would be important rather than what the Board might want to pursue to help the Board work within its framework.

**Bill Frare** is an Assistant Director at the Department of Enterprise Services (DES). His department oversees public works contracting as project managers serving elected officials, executive branch agencies, and community and technical colleges. His interest in alternative public works is effective project delivery to control costs, ensure administrative effectiveness, timing and execution of contracts, project scheduling, and management of risk associated with each project that can add costs to the contract through litigation or cause delays to the contracts because some measure of the law was not followed. The objective in delivering projects for clients is at the least cost and quickly. He is interested in business equity and diverse business inclusion within the contracts. He attends the National Association of Minority Contractors meetings regularly and has relationships with many contractor members. He also works with the National Association of State Facility Administrators, an organization serving all states to share ideas on effective policies. DES stakeholders are risk averse in terms of preferring Design-Bid-Build. Moving clients away from traditional contracting methods has been

somewhat of an effort for DES. The last several years have been more successful as clients began seeing the benefits of JOC. JOC affords a quick administrative process for contracting and most clients recognized that JOC was an effective method to complete projects. Similar to DB and GC/CM, some clients were wary of the methods until completion of some alternative delivery projects, such as the successful 1063 Block project delivered on time (2 years) and within budget. He is interested in Progressive DB in terms of releasing bids and initiating work relatively quick. DES has used Progressive DB for three projects. Because of the limited Legislature timeline, two contracts for CLT classrooms were delivered within a year of authorization. There are many benefits associated with alternative project delivery that he supports. He is interested in legislation moving forward through CPARB to clarify Progressive DB. The legislation should eliminate some of the risks of protests. It is quite important to remember the role of the Board as well. The Board is a legislative advisory board. He appreciates the membership of Representative Tharinger and Senator Warnick because it is important to maintain relationships with legislators. The legislative session can be fervent at times with different stakeholders and special interests testifying to what they believe are good ideas. In most cases, those ideas gain traction. The CPARB has the diversity of interests from labor to contractors, to engineers and architects, state agencies, and other contracting agencies to vet ideas with everyone's interest present at the table and then providing a unified or a well-considered voice to the Legislature. It is his hope that when special interests approach the Legislature, legislator allies would refer those special interests to the CPARB for debate and vetting.

**Senator Judy Warnick** represents the 13<sup>th</sup> Legislative District of Kittitas County, most of Grant County, Lincoln County, and parts of Yakima County. Grant County is home to 11 ports and several are governed by three Commissioners with only one employee. She represents many small businesses and is very interested in helping small businesses succeed. She has been involved in the Capital Budget side of the Legislature and has worked with Representative Tharinger on the budget. She currently serves on the Agriculture, Water, Natural Resources & Parks Committee as the ranking member, and the Ways & Means Committee. She requested appointment to the CPARB when the vacancy was announced, as she wanted to receive input from the diverse membership of the Board on how the state can economically and successfully finance state buildings. Having opinions from members will be helpful for her. She is looking forward to learning more.

**Mark Riker** has been a member of the CPARB since 2009. Prior to February 2018, he was the representative of Sheet Metal Workers Local #66, representing one craft. In February 2018, he assumed the position of Executive Secretary for the State Building and Construction Trades Council and represents all crafts and all construction workers in the state. Everything discussed and actions pursued by the Board eventually result in the construction of buildings, which affect the members he represents. Those members listen and discuss many issues with members of the Board to ensure good policies are implemented to provide good value to the taxpayers. He looks forward to participating in the upcoming session and enjoys participating in strategic planning and long-term planning. He is appreciative that the issue is being discussed by the Board.

**Brian Belarde** is the Business Manager and Secretary/Treasurer for Laborers Local #252 and Executive Secretary for the Olympia Building Construction Trades Council. As a new member, he is honored and privileged to sit on the Board and looks forward to listening and providing input from labor. He has 33 years of experience as a laborer in Alaska with Local #341 and with Local #252 in Tacoma. He was involved on some major projects including the Ted Stevens International Airport in Alaska and the Hood Canal widening project out of Port Angeles and Tacoma, and he worked in Seattle on the elevated light rail project. He is knowledgeable in both building and road construction. He has four offices located in Port Angeles, Tumwater, Silverdale, and Tacoma. For a living, he solves problems when agents are unable to resolve issues. He converses with 2,300 members quite frequently and deals with hundreds of members on a daily basis. He is a problem-solver and can provide much input. He is from Alaska, married to his high school sweetheart for the last 32 years, and has two children. His job is one of the best in the world as he represents worker rights and assists members in retiring with dignity and respect.

Chair Schacht welcomed new members to the Board and acknowledged former Chairs Mr. Maruska and Mr. Frare, and former Vice Chair Mr. Thompson. They all represent significant resources in terms of their experience and continued involvement. He encouraged members to seek their guidance and expertise. He expressed appreciation to Representative Tharinger and Senator Warnick for their involvement as the Board has been strongest when legislators participate. He spoke to the support provided by former legislative members. He thanked them for attending and assisting the Board, as the CPARB is on a long list of responsibilities each legislative member has.

Chair Schacht commented on the importance of members attending all meetings. Alternatively, if a member is unable to attend, members are encouraged to send a proxy to participate in the dialogue and discussion. He encouraged legislative members who may be unable to attend, to send staff so they can share information with them about the Board's discussion.

**INTRODUCTIONS – Public**

Chair Schacht invited members of the audience to provide self-introduction and share information about themselves and their respective interests.

**Sherrie Montgomery** said she works for Western Washington University and has applied for a position on the PRC.

**Elisa Young**, OMWBE, said she is a member of the DB Statute Review Committee.

Chair Schacht added that Ms. Young was also a member of the DB Best Practices Committee, as well as a member of faculty for the DB Workshops sponsored by the AGC Education Foundation.

**Kellee Christensen** said she is with the King County Wastewater Treatment Division.

**Megan Backeri** said she is with King County Wastewater Treatment Project Control.

**Steve Massi** said he is staff to the House Capital Budget Committee, as well as staffing most of the legislation from CPARB for the House.

**Scott Middleton**, General Counsel and Government Affairs Director, Mechanical Contractors Association of Western Washington said he reports to Ed Kommers. They are both very active in the MC/CM process and often attend legislative public hearings. He and Mr. Kommers plan to comment on the development of criteria and will continue to ensure the process is fair, transparent, and consistent with the statute.

**Melissa Van Gorkom** said she is a staff member to the Senate State Government, Tribal Relations & Elections Committee.

**Jolene Skinner** reported she is with the Department of Labor and Industries (L&I). For the last six years, she has been working on and reviewing public works projects. She is interested in data and communications with stakeholders and customers. She has been updating all IT systems over the last five years for contractors and awarding agencies to provide them access to review project data. She understands that the Board is working with data. Within the current IT project, the Department is including reports for customers for contractors and awarding agencies. The Department is seeking input on the type of data and line items that would benefit the Board to enable the systems to produce reports. The Department is also working with OMWBE to incorporate certification information within L&I systems to enable customers to verify whether a contractor is certified, as well as including utilization data for awarding agencies within their portals to reflect utilization on their respective projects for minority and women-owned businesses for the projects. The system will also include apprenticeship utilization reports in real-time. The Department is updating much of the system and is interested in learning more about CPARB and receiving feedback on the type of information the Board would find beneficial.

**Janet Jansen** said she is Program Manager for Engineering and Architectural Services, Department of Enterprise Services, and reports to Bill Frare. The Department has approximately 26 project managers with public works authority for state agencies and the State Board of Community and Technical Colleges. She worked on the first two Progressive DB projects as part of a 2016 proviso supported by Representative Tharinger and Senator Warnicks's for their respective districts for several school district sites using cross-laminated timber (CLT) to build classrooms, which were both under \$10 million.

**Oliva Yang**, Washington State University, reported she is a former member of CPARB. The University's interest is optimizing project delivery with a focus on DB.

Chair Schacht noted Ms. Yang also served as Co-chair of the DB Best Practices Committee, which has since transitioned to the DB Statute Review. Ms. Yang also leads the AGC Education Foundation DB Workshops.

**Aleanna Kondelis** reported she works at the University of Washington for Mr. McCormick. She previously worked at the City of Seattle for 10 years in capital project deliveries. She has been a member of several CPARB and PRC committees over the last 10 years including Heavy-Civil GC/CM and JOC. Currently, she is supporting data collection efforts and is very interested in continuing to build the tools to deliver efficient and practical public delivery, as well as peer support to ensure the tools continue to be available.

**Steven Johnson** said he is a supervisor within the Procurement and Contracts Division at Sound Transit. His group procures and assists in the administration of all alternative public works and contracts.

Chair Schacht invited Ms. Yang to speak to a proposal to organize an owner's forum to share information with small disadvantaged businesses about the opportunities for competing for small DB projects.

Ms. Yang commented that over the last five to ten years, the use of DB has continued to increase in part based on former Representative Dunshee's sponsorship inspired by the GSA Federal Center South DB project incorporating energy monitoring and life cycle considerations. Much has changed in DB even during the three years of CPARB's DB Best Practices Committee with the advent of Progressive DB partly in response to the high cost of competing for DB projects. When DB was first initiated, design competition was expensive especially if the firm failed to receive the contract. As DB progressed, efforts continue to explore existing legislation limiting DB to only projects under \$10 million and not more than five projects for certified owners. For many owners, collaboration and integration of design and build is very powerful and results in a process more predictable in both schedule and budget. In the early days of DB, the last action on a project was not to collect all the as-builts but rather to enter arbitration and mediation and if lucky, litigation. The move toward alternative procurement was because the benefits were evident if the owner wanted a truly integrated and collaborative process. Today, the issue is why limit DB to \$10 million and over. She was a participant in the early discussions in 2005 when that argument spoke to the cost of DB only benefitting projects that were over \$10 million. Since then, the practice has evolved and modified to the point where it is now more economical and financially feasible for most firms to compete. The benefits of having that collaboration and integration should also apply to small projects where schedule and budget are more constrained. However, it is also understood that by moving DB into the \$10 million threshold, it could be challenging for those who compete in that marketplace. The intent of any potential changes is to be as inclusive as possible. The proposal is to conduct a 2 to 4-hour forum (possibly October 17) of owners, DB practitioners, and firms that are new to DB and might be interested in entering the market to discuss how potential legislative changes to DB could be conducive and positive to the extent possible. Discussion topics could include why owners prefer DB, advantages of DB for projects under \$10 million, pitfalls, and requirements for developing a DB team. Developing a DB team is not a simple process because it essentially is a unique merger of cultures. Many issues require discussion, but many believe the benefits outweigh the issues. The forum would be open for anyone to attend.

Chair Schacht added that the forum would also provide an opportunity to educate designers, contractors, and owners about the advantages of ensuring the entire industry moves forward with alternative project delivery and not just a few entities benefitting from the experience. The forum could be sponsored under the auspices of CPARB or in partnership with public owners to attract more competition across the state and to educate everyone on how the Board is a resource for addressing issues.

Mr. Shinn inquired as to the location of the forum. Ms. Yang said locations under consideration include the Seattle area because many practitioners are located in Seattle. Options include the office of the AGC or at some building located along the Sound Transit link line. Additionally, on October 17, CPARB and the AGC Education Foundation are sponsoring a DB Workshop.

## **CPARB BACKGROUND – Discussion**

### **Training**

Chair Schacht reported the following training is required for both new and existing members:

- Read the Boards and Commissions Membership Handbook
- Complete Governor's Appointee online Training

*Irene Reyes arrived at the meeting.*

Talia Baker advised that links to training are listed on the CPARB website page. All new members and members serving more than five years on the Board should complete the training.

Chair Schacht advised that staff would also share a list of members that completed the training by the next meeting if the information is available. He recommended all members should attend a Project Review Committee meeting and participate in the AGC Education Foundation DB and GC/CM Workshops. He described the importance of the PRC and the Board's obligation to consider nominations and appoint PRC members. The DB and GC/CM workshops are a two-day training course and held at AGC's headquarters building on Lake Union. Content of both courses was generated from the work of the CPARB. Instructors of both courses are former CPARB or PRC members. Although appointment by the Governor to the CPARB does not require knowledge or experience with alternative delivery methods, it is important for all members to become more educated on the methods and the different entities utilizing the methods to ensure effective decisions are rendered by the Board on behalf of the state. He emphasized the importance of early registration as class space is limited and registrations are accepted on a first-come first-served basis.

### **MISSION**

Chair Schacht encouraged all members to read RCW 39.10. He reviewed RCW 39.10.230, which describes the Board's mission:

#### **RCW 39.10.230**

#### **Board—Powers and duties.**

The board has the following powers and duties:

- (1) Develop and recommend to the legislature policies to further enhance the quality, efficiency, and accountability of capital construction projects through the use of traditional and alternative delivery methods in Washington, and make recommendations regarding expansion, continuation, elimination, or modification of the alternative public works contracting methods;
- (2) Evaluate the use of existing contracting procedures and the potential future use of other alternative contracting procedures including competitive negotiation contracts;
- (3) Submit recommendations to the appropriate committees of the legislature evaluating alternative contracting procedures that are not authorized under this chapter;
- (4) Appoint members of committees; and
- (5) Develop and administer questionnaires designed to provide quantitative and qualitative data on alternative public works contracting procedures on which evaluations are based.

The capital projects advisory review board is directed to review current statutes regarding life-cycle cost analysis and energy efficiency as related to the DB procurement method performed under chapter 39.10 RCW. Capital projects advisory review board shall report to the appropriate committees of the legislature by December 31, 2013, with recommendations for statutory changes that promote energy efficiency and reduce the total cost to construct, operate and maintain public buildings. Recommendation must include provisions for post occupancy validation of estimated energy efficiency measures, and operating and maintenance cost estimates. Life-cycle estimates of energy use must include estimates of energy consumptions for materials used in construction.

The last paragraph was added with respect to life-cycle cost analysis in 2013, which the Board completed by submission of a life-cycle analysis report. Chair Schacht suggested the future Reauthorization Committee might want to review whether the requirement is still applicable today.



Mr. Maruska added that the provision in the statute was through a capital budget authorization rather than a legislative change sponsored by an entity.

Chair Schacht reported the PRC Committee approves projects and certifies public agencies. The Board is responsible to assign members to the PRC. He noted that when he speaks to other professionals and interest groups throughout the state, everyone is aware of the PRC with fewer less aware of the CPARB. In terms of a public face, PRC has a stronger identity than the Board.

#### ***CPARB SELF-EVALUATION - Discussion***

Chair Schacht said the discussion would focus on whether the Board is doing a good job responding to the Board's mission as defined by statute. In 2013, the Joint Legislative Audit Review Committee (JLARC) recommended four specific actions. It is also likely JLARC will want information on the outcome of the four recommendations. JLARC recommended the following four actions:

1. The Legislature should reauthorize alternative public works, Chapter 39.10 – *Completed*
2. CPARB should revise job order contract reporting to identify separate contracts with the same contractor during the annual July 1 – June 30 reporting period. – *Completed*
3. Public Bodies using GC/CM should obtain information on project subcontract awards and payments and provide a final project report on their GC/CM subcontracting to CPARB.
4. CPARB should refocus its efforts and limited resources on collecting information that will more readily assist the Board in developing recommendations to improve public works delivery methods.

Vice Chair Keith reminded members to consider the near-term schedule as well as the long-term schedule. In the near term, the Board has four meetings this fiscal year on October 11 and December 13, and tentative meetings on February 14 and May 19, 2019. During the May 2018 meeting, Mr. Frare presented a proposed legislative flowchart, which speaks to initiating advocacy efforts for any legislation beginning in the fall. As the committees continue working year-round, the time between January and August is important because any draft legislation is presented to the CPARB in September. If CPARB concurs and moves the proposal forward, members can begin the work of developing summaries and fiscal impacts, and soliciting sponsors to help advocate moving the legislation forward. Ideally, the Board should resolve any issues by the October meeting because of the necessity of having the months of November and December to secure sponsors and work with the code reviser. Members should consider the meeting schedule during the season while being mindful of the larger picture as the last date for executing a contract for alternative public works is July 1, 2021 unless the Legislature reauthorizes the Board during the 2021 legislative session. Based on experience, the Board would need at least a full year to work on reauthorization to include working with JLARC, legislators, and a wide variety of stakeholders to prepare for success in 2021. Many member terms are expiring prior to 2021. It will be important for the Board to be prepared in 2020 to begin the year-long effort for reauthorization. Based on the number of anticipated vacancies, members are asked to consider scheduling issues as members engage in the strategic discussion.

Ms. van der Lugt asked about decision packages for the Governor's Office or the Legislature that are due this week and how that might affect the Board's work. Mr. Frare replied that for Executive Branch agencies, the decision packages are due to the Office Financial Management (OFM). DES has a number of packages to submit; however, because CPARB is an advisory board to the Legislature and four legislators serve on the Board, the Board works with legislative members rather than through the Governor's Office or OFM.

Chair Schacht said the legislative flowchart stresses the importance of defining the legislative proposals by the October meeting because the Board would be unprepared to solicit legislative support to sponsor bills or advocacy for the bills. For the 2019 legislative session, the Board is submitting two proposals for statutory changes to the RCWs that the Board will review later in the meeting for action in October.

#### ***SELF-EVALUATION OF STRENGTHS, WEAKNESSES, OPPORTUNITIES, AND THREATS - Exercise***

Chair Schacht invited everyone to participate in the conversation.

Chair Schacht shared his definition of “Strengths” and “Weaknesses” as internally focused. “Opportunities” and “Threats” are external, such as reauthorization that could be either an opportunity or a threat. Additionally, should reauthorization of RCW 39.10 not succeed, two outcomes could be possible involving no opportunities to pursue alternative public delivery or completion of all alternative public delivery methods without the oversight of CPARB and PRC, which could be a threat to public owners, designers, and contracting professionals because oversight to ensure fairness in procurement would no longer exist.

The following represents the roundtable exchange of feedback from members and the public on perceived Strengths, Weaknesses, Opportunities, and Threats:

<b><i>Strengths</i></b>	<b><i>Weaknesses</i></b>	<b><i>Opportunities</i></b>	<b><i>Threats</i></b>
<p>The Board has the ability for all interested parties to resolve differences or issues prior to the legislative process.</p> <p>The Board has been successful in working with the Legislature to pass legislation to improve alternative public works contracting and procurement.</p> <p>PRC process is working well as intended by the statute.</p> <p>Improve Board’s understanding of legislative process (engage legislative Board members more).</p> <p>Outstanding work of CPARB committees.</p>	<p>Need to do a better job of staying connected with PRC.</p> <p>Need for determining whether the alternative delivery method improved the outcome.</p> <p>No methods for sharing lessons learned other than through the PRC.</p> <p>Board may rely too much on specific individuals.</p> <p>The Board lacks a strategic process for leadership transition.</p> <p>Improve outreach by expanding efforts to eastern Washington for all trades to learn what is working and what is not working to increase the Board’s awareness of issues.</p> <p>Improve understanding of horizontal construction through potential representation on the Board, e.g., Sound Transit, WSDOT, or others.</p> <p>Need new member transition and orientation.</p> <p>Board is transactional rather than strategic.</p> <p>No compliance mechanism. Does the Board want a compliance mechanism, which could entail more meetings to judge cases?</p> <p>The Board has very limited resources.</p>	<p>Broaden focus to include Design-Bid-Build.</p> <p>Follow up with PRC on project completion outcomes or changes in delivery method.</p> <p>Improve Board’s role as an advisor.</p> <p>Pursue opportunities to expand training and improve outcomes and make public owners more aware and educated:</p> <ul style="list-style-type: none"> <li>• GC/CM</li> <li>• Design-Build</li> <li>• Small business forum.</li> </ul> <p>Improve the Board’s understanding of the legislative process.</p> <p>Opportunity to improve the existing data collection process. First step could include collecting data from the PRC.</p> <p>Improve coordination and communication between CPARB and WSDOT.</p> <p>Consider expanding membership to include transit representation (<i>Mr. Maruska shared that the Board previously reviewed possible changes and additions in membership. Ultimately, the Board concurred with the intent to maintain a 19-member board for balance. Sound Transit petitioned the Legislature for inclusion on the Board; however, for various reasons, the Governor did not approve legislation.</i>)</p> <p>Partnerships with other agencies regarding training/sharing of data.</p> <p>Who does the Board represent?</p> <p>The Board has the opportunity to represent the value of stakeholders by</p>	<p>Impact of alternative project delivery on role of design professionals.</p> <p>Threat to reauthorization in terms of JLARC requirements for data collection, which is limited. The perception is JLARC wants more data or data that provides other outcomes regarding costs or success of a project. Closely intertwined in data collection are lessons learned, which may not be quantitative but rather as a substantial learning tool.</p>

<i>Strengths</i>	<i>Weaknesses</i>	<i>Opportunities</i>	<i>Threats</i>
	Consider drawing on other available resources.	<p>presenting consensus vetted proposals to the Legislature.</p> <p>How does the Board improve the value of facilities constructed? (<i>Mr. Maruska cautioned the Board against exceeding its scope, as the Board is not statutorily authorized to render a judgment on any particular project other than qualifying owners to use a particular process. Chair Schacht recommended a future discussion similar to the Board's work on life cycle analysis, which considered collective wisdom from the construction industry across the state to publish the analysis.</i>)</p>	

*Chair Schacht recessed the meeting at 10:23 a.m. to 11:02 a.m. for a break and a fire drill.*

Members supported the Chair's recommendation to resume the regular agenda to include tabling the discussion on Standing Committees and Temporary Committees/Task Forces with the Chair and Vice Chair assuming responsibility for organizing the feedback and presenting the information for discussion at the October meeting.

**COMMITTEE REPORTS**

***PROJECT REVIEW COMMITTEE – Information***

PRC Chair Janice Zahn reported on the delay of the presentation of the PRC Annual Report until the October meeting because of the lack of resources earlier in the week to ensure the report's accuracy.

Ms. Zahn referred to information recapping PRC panel presentations at the May 24 and July 26, 2018 meetings. During the May meeting, members considered two recertification applications from Sound Transit and the City of Tacoma, and 11 project applications. All recertifications and project applications were approved. The information provided to members included the public body, project name, delivery method, total project cost, and the PRC decision.

During the July 26, 2018 meeting, the PRC received presentations on 11 projects of which 10 applications were approved and one application denied. The application from the Kalama School District was denied because although the panel believed the project was appropriate for GC/CM, the School District lacked its full project team to present the application creating some challenges in answering panel questions. The Kalama School District has resubmitted its application for the September meeting. A different panel will evaluate the School District's application at the September meeting.

Mr. Frare asked whether there were other concerns with respect to the team members or lack of expertise. Ms. Zahn advised that the team members in attendance were able to respond; however, the panel believed the School District likely could use more support in completing the application because the answers from the Q&A did not match information contained in the application, which may speak to a need for more support.

Mr. Maruska asked whether the approvals represented a unanimous approval by the panels. Ms. Zahn advised that the records on each decision would need to be reviewed. The meeting minutes should reflect each panel decision. She offered to add the information to the summary sheet for the next meeting's presentation.

As part of training for new members, members were reminded to review applications prior to the meeting and forward questions to the applicant prior to the presentation to afford the owner/agency with an understanding of potential questions during the presentation and to ensure the right team members are present to address questions.

Another new report tracks the number of applications received by the PRC. Over the last four PRC meetings, members have reviewed 37 applications, which align with previous years. Since the beginning of the year, PRC has received 28

project applications and recertifications. In 2017, PRC received 34 applications and conducted nine meetings and three special meetings. In 2016, PRC received 40 applications and held eight meetings to include two special meetings. This year, there have been no special meetings. The goal is to continue on that track by ensuring a sufficient number of panel members can attend to review the applications. However, dependent upon the number of applications received, it may require some special meetings. Ms. Zahn acknowledged that as part of the delay in the capital budget, funds were not available for any special meetings. To date, PRC has been able to maintain the regular meeting schedule, but if warranted may need to schedule a special meeting.

Other information provided to members included the number of certified owners. Tracking the information will assist in forecasting future recertifications within the next three years. For example, in 2019, if all owners scheduled to recertify submit applications, the PRC would review and consider seven recertification applications, which requires a full quorum of the PRC.

Currently, the PRC has five vacancies of the 30 members. Information was also provided to members reflecting all PRC member terms with expiration dates. Over time when vacancies arose, some inconsistency occurred in terms of the length of appointed terms. Today, 12 members have terms expiring in 2020, which represents nearly half of the membership. Other positions with terms expiring in 2021 include four positions with another nine positions expiring in 2019. Ms. Zahn recommended the Board consider shortening membership terms when recruiting new candidates to avoid having up to one-half of the members with expiring terms in the same year.

Chair Schacht agreed with the recommendation because one of the Board's struggles has been a lack of time to review PRC candidate nominations and appoint candidates. Extending the review and appointment of new members would assist the Board in effectively using its limited time. Sequencing the transition of new members would also ensure continuity of PRC members. He queried Mr. Maruska and Mr. Frare in terms of the RCW prohibiting a modification of PRC membership terms to ensure only one-third of the membership could potentially change at one time.

Mr. Maruska questioned whether the PRC Bylaws establish the term of the positions. Ms. Zahn reported PRC's bylaw include provisions for length of term. Mr. Frare recommended suspending the PRC bylaws through a motion by PRC members. Once the bylaws are suspended, the Board could alter the appointment of new member terms as appropriate. Ms. Zahn added that the PRC has begun to implement the July 1 through June 30 recruitment. Changing the terms moving forward would help the situation. Her appointment expires in February even though her term as Chair ends in June, which would require the Board to extend her term to complete her tenure as Chair.

Chair Schacht questioned whether the Board could act to create a realignment of terms and rotations or whether the PRC could discuss the issue. Mr. Frare offered that several options could occur; however, the PRC could suspend its bylaws to enable the Board to appoint new members with an appropriate term.

Mr. Maruska commented on the importance of transparency and recommended identifying positions to stagger so candidates applying understand the position's term prior to issuing a recruitment process.

Ms. Zahn said she would request the PRC, at the direction of the Board, discuss options at its next meeting.

Ms. Keith affirmed the statute for the PRC includes a provision for three-year terms that are staggered for the initial appointments.

Chair Schacht said it appears the Board agrees on the importance of rationalizing the selection process for the benefit of both the Board and PRC. He asked Ms. Zahn and the PRC Vice Chair to discuss the option of an administrative adjustment for presentation at the October meeting.

Ms. Zahn requested direction from the Board on follow-up items pertaining to the status of including the DB Best Practices Guidelines within PRC's review process. In July, the PRC lacked a full quorum; however, the September meeting includes a scheduled quorum providing an opportunity for members to discuss how to incorporate the information within the PRC's application process. She added that she believes the direction of the Board was no requirement for applicants to include the information within the application.

Another follow-up item pertained to reporting on DB projects between \$2 million and \$10 million. At the May and July PRC meetings, as well as the five applicants scheduled for the September meeting, none of the projects were below the \$10 million threshold.

Chair Schacht advised that former PRC Chair Rustin Hall provided a report on those specific projects and fulfilled the statutory obligation for reporting.

Ms. Zahn spoke to an observation surrounding GC/CM and whether the delivery method is being used less by public owners. At the May and July meetings, 17 of the applications were GC/CM and four applications were DB. It appears owners still value the GC/CM delivery method.

In terms of the OMWBE, the Board discussed and requested the PRC reach out to certified owners to learn whether owners are using a template to collect data. Ms. Keith said she recalls the Board approved having public owners provide specific information within the application. Follow-up by the PRC questioned the process for implementing the request, as the information could not be considered as part of the criteria for approval. Ms. Zahn acknowledged the outstanding task of ensuring some modifications to the application for including a request for owners applying for recertification to describe efforts for OMWBE inclusion.

Mr. Thompson said the request included four questions to be included in the application. However, the questions would not be used to evaluate the application for approval or disapproval.

Ms. Keith offered to follow-up with Ms. Zahn on the specific request by the Board.

Ms. Zahn reported that during the last meeting of the PRC, some proposed position descriptions were submitted. She asked for feedback from the CPARB regarding the draft descriptions. Talia Baker noted that the Board accepted the descriptions, which have been posted on the website.

Several members questioned the status of the approval of the PRC position descriptions. Chair Schacht affirmed that staff would follow-up to ensure the Board approved the descriptions. If not, the descriptions would be included on the October meeting agenda.

After additional review of the meeting minutes, Mr. Kuruvilla said it appears the Board approved the PRC position descriptions.

Ms. Zahn advised that the September PRC meeting is scheduled to include a quorum of members. She asked the Board if there was an interest for PRC members to provide feedback on the DB Statute Review Committee Report. Chair Schacht acknowledged interest in receiving feedback on the proposed changes to help inform the Board's discussion.

Ms. Zahn reported the PRC is also scheduled to elect a Vice Chair during the September meeting.

***PRC REVIEW CANDIDATES/SELECT NEW MEMBERS – Discussion & Action***

***PRC Position – Owner - Higher Education***

Chair Schacht invited the applicant to speak to her respective application.

**Sherri Montgomery** said she works for Western Washington University and has been practicing architecture since 1982. She has been with Western Washington University since 1992 and has completed over 100 public works projects. Currently, Western Washington University is considering its first Progressive DB project. The University has completed two GC/CM projects and another GC/CM is pending on the docket. The University presented the application at the PRC's July meeting and received approval for all three projects to move forward. She is excited at the prospect of serving on the PRC. She is also an Associate DBIA member.

Mr. Frare asked Ms. Montgomery whether she gained her GC/CM experience from project management and whether she is embarking on her first Progressive DB project. Ms. Montgomery affirmed that the University's first Progressive DB would be her first exposure to Progressive DB and that she gained her GC/CM experience during the prior two GC/CM projects.

**Mike McCormick moved, seconded by Mike Shinn, to appoint Sherrie Montgomery to serve on the PRC in the position of Owner, Higher Education. Motion carried unanimously.**

**DESIGN-BUILD STATUTE REVIEW COMMITTEE – Information**

Chair Schacht introduced Steve Tatge and Brett Earnest as the Co-chairs of the DB Statute Review Committee. The Board approved forming the DB Statute Review Committee to comprehensively review DB provisions as part of the DB Best Practices Guidelines. The committee began its work in March and completed its review on August 7, 2018.

Steve Tatge reported he is the Executive Director for Project Delivery at the University of Washington and the Chapter President for the Western Washington Chapter of DBIA. Brett Earnest reported he is the Regional Vice President at Clark Construction. He is also a member of the DBIA Board.

Mr. Tatge briefed members on the results of the committee's efforts and work completed. Membership on the committee included a broad representation of owners, architects, and engineers who use the statute and those who are receivers and responders to the work provided by the statute.

The committee spent time on the degree of its review approach and elected to limit the effort to fine-tuning and clean-up. Members wanted to recognize and address the increasing use of Progressive DB, which appears to be inadequately addressed in the statute. Members wanted to ensure flexibility for both owners using the statute to craft RFQs and RFPs, as well as ensuring ease for DB responders for submission of proposals. It was also important to acknowledge the importance of the marketplace not finding it cost-prohibitive to respond to RFQs and RFPs. There was some mindfulness about the level of the effort. Members agreed on the importance of attaining consensus and believed it was important to leverage and build on the Best Practices Guidelines led by Chair Schacht because it is a substantial body of work on how DB should be executed.

It was important to address Progressive DB because the current statute is not relevant in many aspects as to how Progressive DB is executed. Members agreed to an approach that improves the statute as opposed to drafting companion legislation. The committee believed flexibility was preferable rather than an overly prescriptive statute. The current statute includes a fair amount of redundancy and a lack of clarity and the committee's efforts strived to eliminate those shortcomings to include missing commas, which can add confusion and change the purpose of a provision.

Mr. Tatge reviewed a summary of the committee's recommendations:

- 39.10.210 Clarify "price-related factor" and provide additional options for public owners.
- 39.10.250 Remove the limit of 15 Design-Build projects between \$2 million and \$10 million that the PRC is allowed to approve for noncertified bodies.
- 39.10.270 Remove the limit of 5 Design-Build projects between \$2 million and \$10 million that certified public bodies are allowed to do during their certification period.
- 39.10.300 Allow certified and noncertified public bodies to use Design-Build contracting procedures including Progressive Design-Build, on projects equal to or greater than \$2 million (subject to requirements in RCW 39.10.250, 39.10.270, or 39.10.280).
- 39.10.330 Simplify and clarify the selection process described in RFQ and RFP documents, and strengthen language around honoraria.
- 39.10.470 Clarify disclosure requirements for documents related to a Design-Build procurement.
- 42.56.270 Make exempt from disclosure any financial information submitted by proposers for alternative public works projects as required by RCW 39.10.200 through 39.10.905.

In summary, the price factor definition was improved, as well as broadening the ability to use DB as a delivery method. The committee spent time on reviewing RCW 39.10.330 pertaining to procurement.

The committee through its discussions also discovered some items that did not need modification at this time, but could be referred to the Best Practices Guidelines in terms of how information should be communicated in particular trade newspapers. The effort wanted to improve clarity rather than undertake a major overhaul that could be addressed through best practices.

Mr. Kuruvilla asked for additional information about the committee's discussion on allowing public bodies to use DB contracting on projects equal to or greater than \$2 million. Mr. Earnest explained that the conversation centered on the opportunity for enabling public bodies to use one of the delivery methods of choice and to enable participation of smaller businesses at the \$2 million range as a way for those businesses to build portfolios and resumes for future DB and Progressive DB projects. Additionally, within the industry, many public bodies are utilizing programs in lieu of projects to exceed the \$10 million threshold. The proposal is intended to provide opportunities to the owner, as well as to smaller design-builders to gain experience.

Mr. Tatge added that the expansion of the capacity of the building industry was another consideration because many DB projects leverage the expertise of trade partners. The proposal affords more opportunities to smaller businesses to provide value-added services and work collaboratively with the design teams.

Chair Schacht added that the Board previously approved modification to the statute last year to remove the threshold constraint on the number of DB projects valued between \$2 million and \$10 million.

Mr. Earnest said the review was not conducted in a vacuum as the committee took advantage of counsel and industry partners attending the meetings. The proposal was vetted during the Washington State University Forum held on July 30, at the DBIA Board meeting, and at a recent DBIA breakfast.

Mr. Frare said the proposal appears to allow Progressive DB, which is not mentioned specifically. He questioned whether there is a definition of Progressive DB within the proposal. Mr. Tatge affirmed the proposal includes definitions. The proposal improves the definition of Progressive DB within the price factor definition.

Chair Schacht spoke to sections in the statute lacking any mention of DB while most sections address GC/CM. Only three sections of the statute apply to DB. Design-Build, as a statute, was originally organized around traditional design price competitions and bridging. Progressive DB entered the market as a mechanism in 2013 during reauthorization simply by allowing price-related factors as opposed to a firm contract award. Questions have since been raised. The issue is whether to define Progressive DB, design and price competition, and bridging in the statute, which could be challenging because in practice they could be cited as hybrids. For example, WSU completed a Progressive Bridging procurement. Including definitions might limit options. Yet, since Progressive DB is distinct because the contract award comes after selection of the design-build team, it was important to reinforce language for price-related factors and indicate what it meant, and then specifically cite Progressive DB because it is a different method. He acknowledged that the proposal is not a perfect solution.

Mr. Frare said he understood there were many conversations both in the committee and outside the committee relative to the conundrum while attempting to provide flexibility in the statute while ensuring Progressive DB was sufficiently defined to enable entities to proceed with projects and selection of the team prior to contracting.

Mr. Earnest added that another conversation spoke to language of qualifications-based selection and what that meant versus price-related factors. He was unsure whether there was consensus during the discussions.

Ms. Reyes asked for more elaboration on the suggestion for allowing the use of DB on smaller dollar value projects to increase opportunities for smaller businesses to participate. She asked for a definition of smaller businesses that would be targeted. Mr. Tatge replied that the target encompasses a full range of businesses from consultants to trade partners. The intent is to leverage the expertise of trade partners that do not have access as part of traditional delivery methods where the design team is often working in a vacuum without trade partner input. In addition to purchasing construction services from trade partners, trade partner expertise is also desired as part of the design process. That method should be available on a wide variety of projects and not just larger projects. The proposal attempts to expand that pool for smaller

engineering firms or trade partners to enable access to projects that might otherwise not be possible if the project was a larger dollar value project.

Ms. Reyes asked whether the proposal is directed towards certified or noncertified firms. The definition of “small businesses” is different between the federal government, the Procurement Policy Manual, and DES. Mr. Tatge said the objective of the committee was to enable the RCW to allow for small business participation regardless of how they are defined. The committee did not specifically address the definition of small businesses. Mr. Reyes asked for consideration to include a definition.

Chair Schacht clarified that the intent of the proposed changes to the statute is not to commit to any range of projects to state certified enterprises. Design-Build is a method for larger companies and experienced public owners, such as WSU and UW although both entities have sometimes released project proposals purposely seeking firms with no DB experience and for teams that have never worked together. Both of the entities have used smaller value projects to pursue that course because of the increased risk of firms with less experience that can be more easily mitigated on smaller projects. Earlier, Ms. Yang spoke to a commitment from public owners to seek new partners for projects valued between \$2 million and \$10 million by conducting a forum in October with support from the CPARB. Experienced and successful DB firms will be invited to speak with firms with no DB experience to share information. Owners will share information on smaller projects. A chapter encouraging competition in the DB Best Practices Guidelines addresses the industry as a whole and speaks to many players that have no experience in DB, as well as to the specific challenges that small businesses face.

Ms. Reyes pointed out that many small businesses are involved in larger projects, such as WSDOT, which encourages mentoring programs.

Chair Schacht said the goal is for those companies and owners that have been successful with alternative project deliver to share their expertise with other companies to support the industry as a whole.

Brent LeVander requested confirmation that the committee is recommending changes, some of which were already submitted in the previously amended Senate bill with some additional changes as recommended by the committee for the Board’s consideration during the October meeting.

Chair Schacht acknowledged Ann Larson with DES for assisting in the facilitation of a proposed statute for the Board’s review. The next month will be focused on outreach to receive feedback for review by the Board prior to a vote.

Mr. Maruska asked whether the committee voted on the proposal. Mr. Tatge affirmed the proposal was unanimously approved by the committee.

Mr. Maruska asked whether the recommendation by the committee includes splitting the bill or whether that decision should be deferred until the October meeting. Chair Schacht said the Board should consider the bill the Board agreed to advocate during the last session to remove constraints on the number of \$2 million to \$10 million projects and open the use of JOC to any public agency in the state. Those proposals were included in a single bill. The JOC proposal will be reintroduced during the update by the JOC Committee. The issue is whether the DB revisions are included in one bill or should the JOC proposal be a separate bill.

Representative Tharinger advised that too many topics in one piece of legislation could be problematic; however, in this particular instance, the bill would be reviewed by the House Capital Budget Committee, which at this time is not heavy with bills. However, the bill would be also be reviewed by the Senate Ways and Means Committee, which does have many bills. Combining the proposals might be beneficial if the topics are complementary.

Mr. Thompson recalled that the Board’s vote for JOC changes was unanimous.

Mr. LeVander said it also included the two changes for DB.

Mr. Riker requested separating the proposals as he was not present and his constituents traditionally have concerns about JOC. He would not want to prevent the DB proposal from moving forward if it is tied to the JOC proposal.



Chair Schacht said that at the time, combining the two proposals was logical because they were two small changes. However, the DB statute revisions are clean-up changes whereas the proposal for JOC extends the range to all public bodies.

Ms. Keith added that the Attorney General's Office was supportive of the DB clean-up changes as they were value-added. Considering the proposals in October affords a better window for the Board to consider whether to support the legislative changes.

Mr. Kuruvilla said the DB proposal intentionally avoids defining Progressive DB as the changes appear to be of a lighter touch throughout the document. He suggested consideration of adding a sentence to the fifth recommendation that speaks to a definition of Progressive DB.

Mr. Crawford said he believes the definition of DB includes Progressive DB, Bridging, and Traditional as it exists in the draft proposal. Attempts at specific language can make for some challenges.

Chair Schacht summarized the discussion and effort involved in developing the proposed changes. The fundamental difference between Design-Build and Progressive DB is the design team is selected prior to negotiation of the contract.

Ms. Keith shared that the committee also considered including language speaking to a qualifications-based selection if Progressive DB is not defined. It was significant that the committee agreed it was not the intent as price-related factors are important, which is why they are reflected in the definitions that were clarified and enhanced. She also appreciated the private sector sharing information on problems with qualifications-based selection because if it difficult for some contractors to compete. The committee considered that viewpoint in its decision to have the definition of Progressive DB meet industry standards and best practices.

Mr. Frare expressed support of the language and the intent for flexibility. He also understands that his version of Progressive DB is likely different from the definition understood by UW, WSU, or Sound Transit.

Chair Schacht encouraged members to review the proposed legislation and reach out to committee chairs with comments and questions. He recommended reviewing the proposed revisions line by line at the October meeting. He asked the Co-chairs to attend the October meeting to assist the Board in its review. Over the next month, members should outreach to the industry. Additionally, the bill summary will be republished in the correct format on the website. He thanked the Co-chairs for their efforts.

#### ***JOC EVALUATION COMMITTEE – Information***

Brent LeVander provided an update on behalf of Tae-Hee Han, Sound Transit, who was in Washington, D.C. on business. The last committee meeting was held on August 30, 2018 at Sound Transit. The committee is comprised of owners and contractors. The primary focus of the committee is best practices following the lead of the DB Best Practices Committee. Although not as robust, the JOC Evaluation Committee has fewer members who have focused on best practices for RFPs, owners, and contractors. The committee has divided into groups with different assignments. The next committee meeting is scheduled on September 25, 2018 with a focus on RFP owner training and improving MWBE participation within the contracting method.

The former chair of the committee, Amy Engel, moved to California and the committee elected Tae-Hee-Han as the Chair and Quinn Dolan as Vice Chair representing the private sector.

The committee also continues to discuss data collection because the proposal for JOC data collection would likely be different than DB and GC/CM. DES is releasing a request for data next month for fiscal years 2016 to 2017 followed by another request before the end of the year for fiscal years 2017 to 2018.

The committee plans to re-present the legislative proposal at the October Board meeting. Two minor changes include eliminating the need for subcontractor bonding on JOC projects and reviewing prior inclusion plan efforts as part of the analysis. Currently, the statute requires a JOC awarded contractor to submit an inclusion plan, which is reviewed and

approved following a discussion. The committee was asked to include another requirement for the public body to review contractor past history of inclusion in terms of submittals of inclusion plans and performance outcomes. Committee members have not voted on the proposed changes. The committee will present its recommendation at the Board's October meeting. At this time, none of the members oppose the changes. A decision by the Board will be required as to whether all JOC changes are included in one bill or separate bills.

Mr. Maruska asked whether labor was represented on the committee. Mr. Riker advised that labor was not represented on the committee, but he would be interested in participating. Mr. LeVander added that he planned to invite Mr. Riker to participate.

Mr. Maruska asked Mr. Riker if other groups should be contacted that might be critical to the discussion. Mr. Riker advised that he would review committee membership and confer with Mr. LeVander regarding participation.

Mr. Thompson noted that there was no intent to exclude Mr. Riker. As a contractor, he supports the expansion of JOC because it is good for the community. If the changes inadvertently create less work for some contractors while allowing other contractors to increase participation then the result is a win-win for the community. He is hopeful labor would be able to engage with the committee.

Mr. Riker said his comments were not meant to infer that labor was not afforded an opportunity to participate. The Board has always afforded labor an opportunity to participate. However, at this time, there are only two representatives and the organization is planning to expand the number of personnel participating on committees to avoid one person continually attending meetings.

Ms. van der Lugt asked Mr. Thompson to expand on his comment that it would be "good for the community." Mr. Thompson said the community includes architects, engineers, contractors, or public owners. Often, the Board's audience expresses interest in ensuring all voices are considered. The JOC mechanism provides greater opportunities for small business to secure work. Although he has concerns as a contractor in terms of the increase in competition, the end result is that it is good for the community.

Mr. Reyes added that not only would it benefit the community, it would benefit the entire economy of Washington State by including small businesses.

### ***P3 COMMITTEE – Information***

Mr. Thompson said the Board previously discussed having some members of the committee meet with the State Treasurer's Office to review some concerns specific to the legislation introduced in January. He had an opportunity to meet with the Deputy Treasurer for the state. John Ahlers who is the Chair of the committee was unable to attend as he is visiting Africa.

The Public-Private Partnership Committee formed in December 2014 was directed to focus on the public works and alternative delivery method, evaluate existing statute, RCW 47.29, Transportation Initiative Partnership, and if existing statute is not appropriate, draft proposed statutory language. Over the next several years, the committee drafted HB 2726, which was considered by the Capital Budget Committee on January 23, 2018. The bill did not pass out of the Committee. Based on that outcome and the meeting with the Deputy Director of Debt in Olympia, the committee has fulfilled its charter.

The Deputy Director was candid in his concern over the success of P3 projects in other parts of the country, as well as shifting the maintenance to the private sector, as he did not believe it was needed. He also offered that if the legislation could potentially include a review by the State Finance Committee (*comprised of the Governor's Office, Lt. Governor, and the Treasurer's Office*), he might be able to reconsider his view of the proposal. However, after further discussions there was concern that as part of the State Finance Committee, the Treasurer's Office would likely not be an advocate for private-public partnerships and the effort would likely be unsuccessful.

Following a meeting between him, Mr. Ahlers, and Representative Buys, there was agreement that if the P3 statute were to be considered as part of RCW 39.10, it would require a public owner to pursue legislation. Subsequently, Mr. Ahlers reached out to Sound Transit. Through the agency's strategic planning, the agency advised that it has been evaluating the possibility of public-private partnerships for delivery of some of the agency's projects. Mr. Ahlers believe the committee has fulfilled its charter and is seeking action to disband the committee. A report was prepared to include the proposed bill drafted by James Lynch. The report provides a summary of the actions by the committee. The committee has not held a meeting in over a year except for the meeting with the Treasurer's Office.

Mr. Thompson addressed questions about the conversations with the Deputy Director. He shared that the lesson learned was not engaging sooner with the Treasurer's Office. During the course of drafting legislation over a span of 12 committee meetings, members believed it was better to prepare the draft bill and then engage with OFM, the Governor's Office, and the Treasurer's Office. In retrospect, he would have engaged with the agencies earlier in the process.

Mr. Maruska reported there are a number of public entities that are examining private-public partnerships under different scenarios. His concern is continued discussion by owners seeking ways to apply P3 while the perception that P3 is dead as the Treasurer's Office might hamper other activities that are attempting to expand P3 opportunities.

Mr. Thompson noted that within CPARB, there were two distinct stakeholder groups concerned about P3. They include architects and members of private industry and OMWBE.

Mr. Kuruvilla asked about the outcome of the meeting between Mr. Ahlers and Sound Transit. Mr. Thompson affirmed the meeting occurred but that he didn't perceive interest by the agency. However, meeting minutes from the agency's strategic session is included within Mr. Ahler's final report, which speaks to interest in P3 at the executive level at Sound Transit.

Mr. LeVander added that it is likely public bodies will continue to use P3 unregulated. The Board should consider that it is less about whether there was support for P3 legislation but more about whether the Legislature should regulate P3. For a variety of reasons, he believes P3 should be regulated similar to other construction alternative procurement models in the state. Next time, the Board might want to consider examining P3 through a different lens as the question is whether P3 should be regulated.

Mr. Crawford acknowledged the valuable work completed by the P3 Committee. It was disappointing that one agency could defeat the effort when so much effort was expended to move the legislation forward. Mr. Thompson conceded representatives from the Treasurer's Office should have been involved in earlier P3 Committee meetings. Personally, it was a challenge to draft proposed statutory language as a CPARB member while attempting to address, include, or protect interested parties while simultaneously being a thoughtful advocate for a new delivery method. He was wearing many hats while considering member input, as well as advocating for the proposal. He tried to make the distinction concerning his membership on the CPARB as he discussed the proposal with different elected officials. Today, within the Puget Sound region, there are ongoing discussions evolving around failure in leadership to address infrastructure challenges. The proposal was potentially a method to expedite projects that are needed but not necessarily politically supported in today's environment. The P3 method enables delivery of projects that would benefit the community. He also acknowledged that there are limits in terms of implementing the legislation and should a public owner be willing to pursue advocacy of the proposal, it could be successful.

Discussion ensued on next steps and the option to disband the committee at this time until such time a group or public body steps forward and volunteers to champion the issue. Mr. Kuruvilla offered that Sound Transit presents the greatest opportunity to revive some interest rather than disbanding the committee. Chair Schacht preferred to disband as the committee is no longer active. Mr. Frare agreed and recommended archiving the legislation and the summary report along with an introductory summary of the committee's work for future retrieval in the event new sponsors step forward.

***Mr. Maruska moved, seconded by Bill Frare, to convey appreciation to members of the Private-Public Partnership Committee for its efforts and declare its mission as originally tasked by the Board as completed and the committee is now disbanded. Motion carried unanimously.***

Mr. Thompson thanked members of the Board, Senator Hasegawa and Representative Buys and other P3 Committee participants (+30) for their efforts over the last three and half years. He thanked John Ahlers and James Lynch for their support. Representative Buys attended many committee meetings, championed the proposal, and assisted the committee in negotiating the legislative process.

**DATA COLLECTION IMPLEMENTATION COMMITTEE – Information**

Vice Chair Keith assumed the responsibility of Chair during the report.

Mr. Thompson updated members on the status of the committee. He reviewed the committee's mission, the data collection 2015 proposal, status of the online portal, and the JLARC Report pertaining to recommendations #3 and #4. Members should consider whether the information collected through the portal would satisfy JLARC's recommendations.

The committee was tasked to complete a goal by September defining data for collection and when a data collection system could be completed. There have been ongoing efforts to take advantage of the portal site offered by the team of DES and University of Washington.

Aleanna Kondelis, University of Washington, reported the University agreed to sponsor an online portal for data collection. The online portal is simple and flexible and includes the ability to enter project information. The last action by CPARB occurred by 2015 in terms of defining the data for collection, which is the point where the discussions began in initiating the online portal agreement with DES. Entry of data consists of a one-page questionnaire about the project. The University collected all applications from 2015, 2016, and 2017 submitted to the PRC including certifications. Owners will be able to input data beginning in October. Basic data includes project name, owner name, delivery method, and budget. Changes to the portal are possible by project. The portal has the ability to include general contractor information, subcontractor information, and general questions. She offered to provide a demonstration of the online system at the Board's October meeting.

Mr. Thompson said the application is geared to collect information rather than data. The CPARB data collection proposal approved in 2015 included four areas. Some of the information was quantitative and some was qualitative. Project set-up and the selection of the delivery method are included and would be available after inputting information from the PRC. The system provides some data on projects utilizing alternative procurement delivery methods. In terms of subcontractor identification, inputting information is more challenging in terms of collecting the information. Ms. Skinner with L&I has offered to provide some information as well.

The fourth question was a post project team report, which could include lessons learned. The information can be downloaded to a PDF format.

Ms. Kondelis added that at the last Public Owners' Group meeting, staff asked owners to respond to the 2015 data collection request. Approximately five public agencies responded with data each agency collects. Most of the agencies indicated the information is available in some format and might take some time to obtain. All responding owners welcomed the opportunity to enter the information. Additionally, the portal is searchable. Owners reported they track GC/CMs or Design-Builders who participate in selection processes.

Mr. Thompson referred to representative Tharinger's remarks with respect to limited capital and making difficult decisions. Data collection is a good example where there are limited funds and a requirement to meet a statutory requirement. His question is whether the portal is sufficient to provide quantitative and qualitative information that also meets the requirement of recommendation #3 while also recognizing that the Board has limited ability.

Mr. Schacht pointed out that upon further review of the JLARC 2013 Report, it appears the Board is collecting qualitative data. JLARC also acknowledged that the Board has not been successful in collecting quantitative data and the Board should forgo the effort with one exception. Although JLARC indicated there was no violation of the limits of self-performed work general contractors, there was insufficient information to validate that information. In the future, the Board was directed by JLARC to document the percentage of self-performance versus percentage of work bid competitively for GC/CM contracts. Consequently, he reviewed JLARC's recommendations and determined the following conclusions:

1. The Board is complying with JLARC's recommendations regarding refocusing overall efforts on data collection by refocusing efforts away from quantitative and focus on qualitative by engaging stakeholders directly.
2. The Board has a modest amount of work to meet JLARC's recommendation regarding information on GC/CM subcontract awards.
3. He is concerned; however, that the 2015 CPARB Data Collection Proposal, as well as some of the recommendations during the self-evaluation exercise contradicts JLARC's recommendation #3, as the CPARB could request submittal of reports with the totals calculated by the submitter.

Ms. Skinner asked whether JLARC is requesting information on all payments made to subcontractors or the overall amount paid to a subcontractor. Mr. Schacht said he believes JLARC wants to verify that the 30% limit for self-performance by a general contractor is not exceeded.

Ms. Skinner shared information on data L&I collect for projects to include the dollar amount of the contract and amounts for subcontractors for those companies filing affidavits for prevailing wages.

Mr. Schacht reviewed JLARC's #4 recommendation of, "CPARB should refocus its efforts and limited resources on collecting information that will more readily assist the Board in developing recommendations to improve public works delivery methods." JLARC's recommendation is indicative for not collecting quantitative data as it is not possible to collect or analyze; however, the Board has demonstrated (2013) that because it has the capacity to reach out to the community as a whole, the Board has the capacity to determine what is and what is not working, as well as the capacity by conversations and engagement in dialogue to effectively recommend policy and changes. An example is DB and the Board's approach to design professionals struggling with what was occurring in the industry. Subsequently, the Board established the DB Best Practices Committee that led to the DB Workshops, an outreach process, the DB Statute Review Committee, and its subsequent proposal. Today, the Board has an effective process, and he would rather the Board invest time and energy towards outreach and engagement rather than collection of data.

Finally, the Board has a modest allocation of funds for data collection and a \$50,000 contract with UW, which would not fund the portal into perpetuity. Analysis of the data is not included in the budget.

Mr. Schacht suggested the Board should consider ways to engage the community as whole, educate, receive feedback, and work with stakeholders to improve outcomes.

Ms. Reyes inquired as to the process for requiring contractors to complete forms the Board requires. Vice Chair Keith said that most public agency contracts require general contractors to submit required data. Ms. Reyes commented that it appears the Board lacks a uniform form for data collection.

Mr. Shinn offered that after determining the data to collect, the best source is through the PRC by requiring applicants to submit data. He cited some issues occurring in the industry whereby some public owners are not timely paying subcontractors.

Mr. Maruska thanked Mr. Schacht for reviewing the 2013 JLARC Report. The Board has had fundamental problems with obtaining consistent data and analyzing the data despite best efforts. When the JLARC Report was presented to the Board, some members wanted to pursue data collection and wanted data analyzed. In 2015, the Board recommended a compromised proposal to collect information because the Board believed it would help provide recommendations to the Legislature.

Mr. Schacht cited JLARC's recommendation for the Board to rethink its approach to fulfilling its statutory duty to collect information. Instead, the Board persists in wanting to collect more data.

Mr. McCormick questioned whether the Board has used any data to render any legislative recommendations, which might assist in identifying data the Board would need.

Mr. Maruska said he does not believe any data were used, as the information was not collected. The question is how the Board would use the data if collected.

Ms. Skinner said L&I is exploring the collection of additional data within the existing forms on alternative delivery information.

Vice Chair Keith questioned whether DES has the ability to import data from L&I. Ms. Kondelis affirmed it is possible but only for entities that pay prevailing wage and file affidavits. Alternative delivery involves many subcontractors and different elements. Any information on L&I's website could be exported or imported.

Mr. Crawford asked whether the L&I database includes the total contract amount or only the labor rate. Ms. Skinner advised that the database includes the total contract amount.

Mr. LeVander asked about the possibility of L&I reporting entities designating the delivery method because it could help identify information about the owner's contract, subcontractor amounts, and identity of the entities. It is possible data already exists.

Members discussed next steps for the Data Collection Committee.

Mr. Thompson questioned whether the committee's collection of information would be contrary to the direction by JLARC to the Board. He reviewed several options for consideration.

Mr. Schacht recommended the Board should adopt JLARC's Recommendations 3 and 4, obtain information on self-performance for GC/CM subcontracts, and use the Board's outreach mechanisms and other community engagement processes, subcommittees, and task forces as the mean way to collect the information that assists the Board inform policy recommendations to the Legislature.

Mr. Frare offered a simplified option of DES documenting the number of GC/CM contracts and forwarding a one-time letter requesting verification of numbers for specific contracts and that the general contractor did not exceed the amount of self-performance. The process should meet the intent of JLARC's recommendation.

Representative Tharinger commented on the discussion for collection of data that likely would not be useful yet it is required by statute. JLARC, in its review has indicated the process is ineffective. He suggested the Board could change the requirement through the Board's work on reauthorization because if the requirement is ineffective, it should be either changed or eliminated.

Vice Chair Keith thanked Representative Tharinger for the suggestion. She concluded the discussion on data collection.

#### **DRAFT AGENDA FOR OCTOBER 11, 2018 MEETING –Action**

Chair Schacht reported he and Vice Chair Keith would consolidate the information from the self-evaluation session and provide a report at the next meeting. Other agenda topics include:

- Conversation on Standing Committees, Temporary Committees, and Task Forces for 2018-2019
- PRC Report
- PRC Nominations /Potential PRC Appointments
- Recommendation for Sequencing PRC Position Terms
- Follow-up on Data Collection Committee Conversation
- Design-Build Statute Changes – Action
- JOC Statute Changes - Action

The Board agreed to schedule the October meeting to begin at 8:30 a.m. and end at 12:30 p.m.

***Bill Frare moved, seconded by Mike Shinn, to approve the draft agenda as presented. Motion carried unanimously.***

**ADJOURNMENT**

***Bill Frare moved, seconded by Irene Reyes, to adjourn the meeting at 1:30 p.m. Motion carried unanimously.***

**STAFF & GUESTS**

Talia Baker, Department of Enterprise Services	Ann Larson, Department of Enterprise Services
Megumi Barberi, King County Wastewater Division	Steve Massi, Legislature
Rick Benner, Western Washington University	Scott Middleton, National Contractors Assn of W. WA
Kelle Christensen, King County Wastewater Division	Sherrie Montgomery, Western Washington University
Brett Earnest, Clark Construction	Jolene Skinner, Department of Labor & Industries
John Furman, Western Washington University	Steve Tatge, University of Washington
Valerie Gow, Puget Sound Meeting Services	Melissa Van Gorkom, Washington State Legislature - SCS
Janet Jansen, Department of Enterprise Services	Oliva Yang, Washington State University
Steve Johnson, Sound Transit	Elisa Young, OMWBE
Aleanna Kondelis, University of Washington	Janice Zahn, Port of Seattle/PRC