

CAPITAL PROJECTS ADVISORY REVIEW BOARD

1500 Jefferson Street SE
Presentation Room
Olympia, Washington 98504
Minutes
October 11, 2018

Members Present

Walter Schacht (*Chair*)
Rebecca Keith (*Vice Chair*)
Brian Belarde
Steven Crawford
Bill Frare
Senator Bob Hasegawa
Charles Horn
Brent LeVander
Robert Maruska
Mike McCormick
Irene Reyes
Mark Riker
Mike Shinn
Andrew Thompson
Lisa van der Lugt
Senator Judy Warnick (*Telecon*)

Representing

Architects
Cities
Construction Trades Labor
Higher Education
State Government
Senate (D)
Insurance/Surety Industry
General Contractors
Washington Ports
Higher Education
Private Industry
Construction Trades Labor
Specialty Contractors
General Contractors
OMWBE
Senate (R)

Members Absent

Rep. Vincent Buys
Greg Fuller
Joaquin Hernandez
Santosh Kuruvilla
Rep. Steve Tharinger
Jane Wall
Vacant

Representing

House (R)
Specialty Contractors
Private Industry
Engineers
House (D)
Counties
Hospital Districts

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 8:34 a.m.

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

APPROVE AGENDA - *Action*

Bill Frare moved, seconded by Robert Maruska, to approve the agenda as published. Motion carried unanimously.

APPROVE SEPTEMBER 13, 2018 MINUTES – *Action*

The following changes were requested to the minutes of September 13, 2018:

- On page 9, change the third sentence within the fourth paragraph to reflect, “During the May 2018 meeting, Mr. Frare presented...”
- On page 19, change the second sentence within the first paragraph to reflect, “Subsequently, Mr. Ahlers reached out to Sound Transit.”
- On page 19, change the first sentence within the sixth paragraph to state, “Mr. LeVander added that it is likely public bodies will continue to use P3 unregulated.”
- On page 21, change the second sentence within the seventh paragraph to state, “Vice Chair Keith said that most public agencies...”

Mike McCormick moved, seconded by Steve Crawford, to approve the minutes of September 13, 2018 as amended. Motion carried unanimously.

INVITATION FOR PUBLIC COMMENTS

Vice Chair Rebecca Keith invited public comments throughout the meeting.

Lisa van der Lugt arrived at the meeting.

2018 STRATEGIC PLANNING – Information & Discussion
2018 Mission & Goals

Chair Schacht referred members to the analysis of the Board's self-evaluation exercise during the September meeting on strengths, weaknesses, opportunities, and threats (SWOT). During the course of that conversation, feedback was documented on flip charts. The information was sorted and categorized as policy, education, implementation, data collection, board development, and outreach to help identify next steps for the Board. The six categories aided in drafting recommendations for establishing 2018-2019 CPARB committees and task forces. Chair Schacht invited comments from members.

Mike McCormick commented that the Board's exercise was useful as it identified many overlaps between the categories. One example is developing policies from information collected. The Board has a substantial role in helping the industry move forward in developing alternative delivery methods, and it exists to support alternative delivery methods recognizing that each method requires organizational training, education, and thoughtful practices. Essentially, policy, education, information gathering, and lessons learned overlap in a meaningful and powerful way because it enables the Board to collect lessons learned or best practices, which can be combined with the Board's ability to educate the entire industry leading to the development of better policies. The Board's conversations, the Board's work, and some of the Board's struggles could be focused in that direction, which could aid the conversation. Using categories to inform other categories could result in important progress moving forward.

Chair Schacht shared that as he and Vice Chair Keith reviewed the Board's feedback, the intent was to identify issues to determine what is or is not working and then consider where crossovers exist. If the Board wants to effectively create policies to improve the effectiveness of alternative project delivery methods, it is important to identify the source of information informing policy if the Board is striving to increase the number, as well as educate public owners, contractors, design professionals, and others on how the methods work or the most effective way to determine a delivery method. Another issue is how the Board organizes itself effectively to create those connections.

Vice Chair Keith added that the information is a suggestion on what might be effective in terms of how the Board organizes to complete its work. However, as noted during the exercise, CPARB committees were acknowledged for serving as the Board's strength because much of the important groundwork occurs outside Board meetings. The suggested format of committees and task forces would only be effective if all members support efforts and participate. She invited feedback on the proposal and added that volunteers would be required to staff the committees and task forces.

Steve Crawford agreed committees have served as a strength and critical component over the years. Whenever there was interest in pursuing a new direction or a new opportunity, a committee was typically formed. The committee expended much time researching, developing information, and presenting the Board with a package of recommendations for consideration. In some cases, the Board often attained consensus on a proposal to move forward. Over time, much of that work created a positive direction and new opportunities. Some committee efforts also resulted in a proposal not supported by a majority of the Board. Committees are critical to pursue new opportunities and new options. More time and energy is expended at the committee level.

Andy Thompson agreed the committee structure is important; however, committee work can be extensive with multiple meetings requiring time and effort from committee members and others attending the meetings. It is important to be thoughtful in the development of the committees to consider the commitment of time by members.

Ms. van der Lugt offered that based on her experience, the link between the leadership, committee members, and the expectations should be clearly defined. It is a critical link because if not established many people who have committed their time, efforts, knowledge, and expertise can often achieve no results. Leadership and committee members must have a relationship, a clear link, and a communication of expectations and timelines to drive the work. She clarified that leadership could be either the Board or at the committee level.

Mr. Crawford said many ideas are offered by Board members or other stakeholders. An option of forming a committee is presented to the Board and the Board discusses the charge of the committee and seeks volunteers. Based on prior experience, most of the Board's committees have been comprised of volunteer members.

Chair Schacht affirmed the Board has performed well with respect to topical issues, such as Design-Build Best Practices, Design-Build Statute Review, P3, Data Collection, and JOC legislation. The Board has experienced success with those issues as some members of the Board or stakeholders had a desire to tackle the issues. The challenge the Board has experienced is the limited lifespan of a task force because it tends to focus on a single issue. Typically, task forces offer proposed changes to operations, a document, or proposed revisions to the statute. Standing committees are important to the health, growth, and development of the Board but present bigger challenges. He offered several suggestions for committees or task forces based on current efforts surrounding data collection and feedback from the design industry to revisit how GC/CM works with respect to best practices similar to Design-Build (DB). He recommended establishing three standing committees to include a Board Development Committee, Reauthorization Committee, and an Education/Outreach Committee.

The Board previously discussed establishing a nominating committee to address some of the transitional issues with Board leadership and how chair and vice chair positions are nominated and appointed. Most members are also members of other boards or commissions that have assigned a nominating committee assisting members through the nominating and election process. Additionally, since appointments occur every two years, the Board Development Committee could also be tasked with monitoring the leadership transition process and evaluating how the appointment cycles interface with the eight-year reauthorization. Previously, the Board was connected more with the Governor's Office of Boards and Commissions for solicitation of candidates for the Board. That connection has lessened over time. It would be important to reestablish that connection as well.

Irene Reyes arrived at the meeting.

The Governor has the responsibility and authority to appoint most members to the Board. All members have an opportunity to assist the Governor's Office in identifying good candidates.

Another important task is Project Review Committee (PRC) candidate outreach and selection. In some instances, the Board has spent an entire afternoon interviewing and selecting PRC candidates. It could benefit the Board for the Board Development Committee to vet candidates. The Board and the PRC should also strive to attract good PRC candidates. The Board also lacks a process for member development and advocacy training, which adds to the menu of items the Board Development Committee could oversee on a regular basis. For reauthorization, the Board needs to establish a Reauthorization Committee. The Board is scheduled to initiate that process in December to prepare for the JLARC review and reauthorization.

Mr. Schacht said he views education and outreach to stakeholders as an overlap issue because it entails either the Board approaching stakeholders to engage and learn about what is important or stakeholders contacting the Board directly or indirectly through the AGC training workshops. Effective management of education programs would promote feedback from stakeholders. Another option is establishing a committee to oversee the training programs to assist in developing an annual lessons learned and best practices program to engage public owners and other stakeholders. Those efforts would help update the DB Best Practices Guidelines and other CPARB documents. To date, many committed stakeholders who evolved from the Board and the PRC developed the DB and GC/CM training programs. Olivia Yang, a member of the DB Best Practices Committee and a former Board member is a good example. Ms. Yang continues to push efforts forward with assistance of faculty members at Washington State University. Although AGC is a good partner for sponsoring the training programs, the DB Best Practices workshop is a CPARB brand. He supports a more direct and ongoing partnership between the Education/Outreach Committee and AGC to ensure continual evolution of faculty members serving as instructors. Additionally, with the development of Best Practices Guidelines, the next challenge is ensuring the guidelines are updated regularly. The menu is rich with issues and brings many different aspects of how the Board works together. It should initiate a conversation about where policy is and where it should go.

Robert Maruska noted that previous efforts for reauthorization included a task force even though it was a multiple year effort. He is uncertain as to whether a standing committee would be warranted for reauthorization, as it might be possible multiple Board members would want to be involved in all discussions, which would lead to difficulties in scheduling meetings. He suggested an option of combining some of the committees into one single standing committee with smaller subgroups responsible for education/outreach to ensure all issues are covered while recognizing time commitments of

each contributor. Many years ago, the Board had two standing committees creating meeting challenges for members who were involved in both committees.

Chair Schacht agreed with designating reauthorization as a task force. The Board Development Committee has a specific charge and is distinct from Education/Outreach. However, the Board Development Committee could be tasked with developing new member training during the first year. More efforts would be required for education/outreach, which could entail prioritizing all issues and focusing on one specific topic each year.

Mr. Maruska pointed out the difficulty of working on all issues simultaneously because of the lack of resources. Some form of prioritization would be necessary if an umbrella committee was formed. Chair Schacht added that to ensure success, at least one or more Board members would need to lead.

Ms. van der Lugt asked whether the Board has ever requested more staff resources to support ongoing efforts. Although the discussion centers on committees, she questioned whether there is a commitment by Board members in time, effort, expertise, and knowledge. She suggested identifying willing Board members who plan to support efforts to assist in developing the framework, as she is unsure of the time expectations as a Board member. Providing that information would help her understand how she could provide the most assistance.

Chair Schacht said many members are already engaged to some extent, but not in an organized fashion. Many members are currently involved in training efforts. A DB workshop is scheduled in the next week. Outreach is also planned next week to the business community regarding DB project opportunities. Many efforts are underway but they occur in silos and different places that lack an organized effort.

Mr. McCormick recommended exploring opportunities to coordinate efforts to avoid overly burdensome work. The prior committee work on best practices and other task forces entailed much work. It might make sense to combine Board Development and Education/Outreach as it essentially entails coordinating efforts that are already in progress.

Mr. Thompson commented on the importance of a more deliberate process, particularly with Board Development and Education/Outreach. Task force efforts tend to be much more labor intensive. It is important to draft proposals the Board will support. It is also important for either committee or task force members to commit to a proposal presented to the Board.

Vice Chair Keith queried members on possible areas of focus for forming a task force or committee and whether the Board should establish priorities.

Bill Frare commented on the importance of having information to support decision-making. Previous comments regarding budget and staff resources is important information the Board should have. He committed to providing the Board with budget information to enable a better understanding of the Board's appropriation and how funds are spent. DES support to the Board far exceeds the funding appropriation to DES with the excess paid from the Engineering and Architecture allocation for projects. DES is subsidizing the Board's budget to some degree.

Chair Schacht referred to staffing for committees. CPARB committees and task forces over the years have been supported by members and stakeholders with participation from Nancy Deakins. All notes and minutes were completed by committee members except for the DB Best Practices Committee when the Board agreed to fund transcription for minutes. Moving forward, the Board should establish a file-sharing program for access to all members.

Ms. van der Lugt said her inquiry was whether the Board has an option of seeking funding from the Legislature. She asked whether the Board has an assigned technical expert who serves as staff support to the Board. The fact that DES is spending twice as much as the budget allocation would support an argument for more staff resources.

Mr. Maruska reported that in the past, CPARB leadership and staff worked with the Board's legislative representatives in preparation of the DES budget request for the Board. Funding levels have fluctuated over the years dependent upon the availability of funds. By statute, DES is providing support to the Board and the Legislature has funded the support. The issue is how much funding the Board has received and identifying the need in addition to staffing for the PRC. The

process has been in place, which has been followed for a number of years. However, it appears DES has not received sufficient funds from the Legislature to cover the costs with DES subsidizing the Board with project budgets.

Ms. van der Lugt asked whether the Board has ever requested additional funds for staff. Mr. Frare said DES has not requested additional funding for CPARB since he arrived at DES. The reason pertains to the many budget issues within the agency amounting to millions of dollars.

Mr. Maruska recalled that the budget for CPARB was approximately \$300,000. During the state budget decline, the amount was reduced by approximately \$150,000, which has remained at that level. Mr. Frare said he believes the budget is approximately \$130,000 for the biennium.

Mr. Reyes suggested the Board should articulate the need for an increased budget.

Mr. Frare advised that the 2019-2020 budget was already submitted by DES.

Chair Schacht suggested the options of either modifying the amount if it does involve too many complications or refer the budget issue to the Reauthorization Task Force to address for the next biennium budget.

Chair Schacht reviewed the request for the Board to organize its structure formally as recommended and establish the committees at the December meeting. Another option could include some Board member volunteers reviewing the scope and logistics of both a Board Development Committee and Education/Outreach Committee. Developing the scope of the committees prior to formalizing the structures could assist the Board in its decision to establish the committees.

Dan Seydel, former Chair of the CPARB Small Business Task Force and founder & CEO, Entrepreneurial Institute of Washington, said he is pleased to see the proposal as it is proactive and speaks to the Board's leadership. He does not necessarily agree with the training piece as it relates to the Board's ownership of training because many stakeholders have attended AGC's GC/CM training. Although Mr. Maruska was one of the instructors, it may not always involve a member of the Board serving as an instructor for future sessions. He offered to participate in the Board Development Committee because there are many stakeholders who have served on the PRC or CPARB who could use that type of support. The Board has established three current committees. Approximately, six months ago, he proposed some modifications to DB, GC/CM, and JOC Contracting. He also met with Brent LeVander multiple times but has not communicated with members of the DB Statue Review Committee. Moving forward, he is hopeful the Board has implemented a process of inclusiveness and stakeholder exchange with members. Additionally, the proposal lacks a Legislative Development Committee, as the Reauthorization Committee would be specific for only reauthorization. He suggested legislative and policy development should be an ongoing effort. He is interested in supporting the Board and believes he can assist in bringing some qualified candidates for some of the open positions. He is interested in serving on the Board Development Committee and Education/Outreach Committee.

Senator Judy Warnick joined the meeting by telephone.

Chair Schacht invited Board members to consider serving on the Board Development Committee. Mr. Frare, Ms. Reyes, and Mr. Maruska volunteered to serve.

Chair Schacht invited Board members to consider serving on the Education/Outreach Committee. Chair Schacht, Mr. McCormick, and Ms. Yang (former Board member) offered to serve.

Chair Schacht recommended having the volunteers develop a brief prospectus for each committee and publish the documents as a pre-read prior to the December meeting to assist in the discussion and decision to establish the committees in December.

Chair Schacht noted that to comply with the JLARC 2012 Audit, the Board needs to complete the GC/CM self-performance evaluation. He asked Mr. Maruska about the timing for reactivating the task force for the reauthorization process. Mr. Maruska said the timing is related to how the activities are conducted. During the previous efforts for reauthorization, efforts spanned a year with all alternative works delivery methods discussed at separate meetings. For

example, all issues for DB were identified during a meeting and documented in a matrix format. Members reviewed and addressed options on particular issues and solicited feedback from stakeholders. The process was lengthy but thorough to ensure all stakeholders were included. Members achieved consensus on proposed reauthorization language. That effort spanned a year with CPARB's Vice Chair leading the effort.

Discussion ensued on the timeline necessary for the task force to complete its work. Chair Schacht recommended appointing members to the task force to enable members to map the schedule.

Vice Chair Keith offered to serve on the task force with support for data collection.

Chair Schacht reported on interest in the design community to revisit best practices for GC/CM to evaluate what is or is not working and whether there are ways to improve GC/CM so that the original intent can be maintained of collaboration between designers and builders, cost certainty, contract awards, and other issues as they have evolved as Progressive Design-Build. Officials with the Washington Council of American Institute for Architects have committed to working on the issues along with others design professionals. Some public owners have indicated a willingness to participate in the process.

Mike Shinn asked whether that effort would roll into the reauthorization process. Chair Schacht replied that it depends on whether reauthorization involves posing significant changes to the GC/CM statute or whether the committee conducts a best practices evaluation to determine changes to the statute that would improve outcomes and increase use. The issue is whether to parallel the effort with the DB Best Practices Committee's work as a standalone legislative change or fold recommendations into reauthorization. Mr. Shinn volunteered to serve and offered a nomination of Scott Middleton if the effort involves GC/CM or the reauthorization process.

Scott Middleton confirmed his interest to participate on the Reauthorization Task Force.

Chair Schacht recommended initiating a conversation surrounding the scope and schedule of a task force between interested members and industry stakeholders and public owners.

Tae-Hee Han with Sound Transit volunteered to participate.

Chair Schacht referred to the formation of the Reauthorization Task Force and inquired about the timing to establish the task force. Mr. Maruska agreed it makes sense to move forward as it takes some time to delve into the issues. He supports the suggestion of the former Vice Chair from the previous reauthorization to participate as well if he is willing to make the commitment. Mr. Middleton affirmed Mr. Kommers interest in reauthorization. He plans to urge him to become involved. Chair Schacht urged Vice Chair Keith and Mr. Kommers to consider serving as Co-chairs of the Reauthorization Task Force.

Steve Crawford moved, seconded by Andy Thompson, to create the Reauthorization Task Force appointing Rebecca Keith as a Co-chair with the task force appointing a willing candidate to serve as Co-chair.

Mr. Thompson recommended the Board should identify the responsibilities of the Task Force because success or failure has often been related to the responsibilities of the committee.

Mr. Crawford recommended against identification of responsibilities, particularly because of the important function of the Reauthorization Task Force. Perhaps the Co-chair could engage in discussions with potential co-chairs and present an outline of the scope of work at the December meeting.

Vice Chair Keith agreed, as the first step of the Task Force should entail some research of previous efforts, identifying a timeline, and identifying the composition of the Task Force.

Mr. Reyes said she prefers the Board identify expectations of task force members followed by the task force outlining its responsibilities.

Mr. Thompson noted reauthorization does not occur until 2021 and a month to identify the mission and responsibilities of the task force would be preferable. Much of the work from other committees and task forces will roll into reauthorization efforts. It would be important to demonstrate to legislators and JLARC that the Board pursued a proactive strategic approach for alternative procurement delivery legislation.

Vice Chair Keith asked whether the proposal is to work collectively before the next meeting or whether the task force should initiate the process and present a proposal to the Board. Mr. Thompson responded that the Board, recognizing reauthorization is not until 2021, should establish a task force, and define its scope and responsibilities at the December meeting.

Chair Schacht acknowledged that the suggestion is similar to the proposal for the Board Development Committee. Establishing a task force opens all early efforts to the Open Public Meetings Act. Some level of research is necessary to identify the scope of work and to establish membership. Pursuing research and reaching out to the industry to develop a proposal for the Board would be an easier and preferable next step. He recommended withdrawal of the motion.

Mr. Crawford and Mr. Thompson withdrew the motion to enable members and interested parties to develop a task force scope of work/responsibilities for consideration at the December meeting.

Chair Schacht recessed the meeting at 9:53 a.m. to 10:13 a.m. for a break.

Chair Schacht pointed out that the Board's Bylaws only authorize "committees."

COMMITTEE REPORTS

DATA COLLECTION IMPLEMENTATION COMMITTEE – Discussion & Action

Mr. Thompson asked for input on whether the data collection proposal should be amended to reflect any changes because proceeding with the existing portal might be contrary to JLARC's request to the Board. CPARB approved the Data Collection Proposal in November 2015. The proposal includes a request to collect a significant amount of information that might be contrary to JLARC's guidance. It might be preferable for members of the Data Collection Implementation Committee to propose appropriate questions in light of JLARC's guidance.

Mr. Crawford noted that JLARC's request for information is much less than originally included in the proposal. Prior reauthorizations sought more information; however, JLARC's request was not for more information. The first priority is ensuring the Board delivers the information requested by JLARC.

Mr. Maruska added that JLARC reviewed data collected by CPARB and concluded there was not sufficient consistency to provide any meaningful conclusions. Collecting more data likely would not yield better results; however, the recommendation from JLARC was to refocus efforts on collecting information that readily assists in the development of recommendations for improvements. The issue is determining the appropriate information to collect to assist in developing recommendations to the Legislature on delivery methods.

Chair Schacht commented that when he reviewed JLARC's document, recommendation #2 stipulated the Board should collect information that readily provides the Board with information it needs to inform the Legislature on policy. However, the document also conveys that CPARB's informal qualitative data collection through committees, outreach, and training is good and that the Board has a track record of influencing policy through those mechanisms as opposed to quantitative data, which the Board has not successfully collected.

Mr. Maruska questioned the need to collect data for the Board to perform its functions or whether to utilize the other methods the Board pursues through committees and outreach to accomplish the same outcome, which is fundamentally different from what the Board approved in November 2015.

Mr. Thompson said that having an understanding of the magnitude of use of procurement delivery and the firms awarded the projects would be useful information for the Board.

Mr. Maruska questioned the comment regarding magnitude of use. The Board could document a specific dollar amount of completed alternative public works projects. However, the Board does not collect supporting data identifying the completion of different alternative project deliveries. He questioned the value of obtaining data and using resources if no data are available for comparison.

Mr. Thompson cited the lack of funding for CPARB in recent years, which has limited the ability for the Board to administer its responsibilities. The best source of information at this time for determining the number of DB, GC/CM, and JOC completed projects is through the PRC. Knowing the amount of money expended on alternative procurement would help justify an increased budget appropriation for supporting CPARB. Additionally, the portal has been created and the questions could be modified.

Chair Schacht reviewed the four data collection issues outlined in the November 2015 proposal and JLARC's recommendation to assist in determining whether quantitative or qualitative data would be required:

1. Is the process fair and open to a broad range of businesses in Washington State?
2. Is there correlation between outreach plans and the level of participation of Small Business/DBE businesses?
3. Do we see any trends in the project reports that we could help to drive proposed legislative changes?
4. Do we see best practices or training needs that could assist organizations in presenting their information during upcoming training?

The first challenge is that the fundamental requirement for GC/CM reporting is not listed within the four issues. The questions should be revised, as it is imperative to collect information on GC/CM, which was a directive. He does not believe quantitative or qualitative data are required for the four issues, as the Board has pursued training and outreach to stakeholders. Generally, the Board is aware of the dollar values and how they are shifting. The correlation between outreach plans and level of participation has been acknowledged with respect to the significant amount of interest and concern by Board members and stakeholders for small and diverse business inclusion.

Vice Chair Keith conveyed concerns that the approved questions do not address issue #2. To the extent that those were concerns driving data collection efforts, that goal has not been achieved. A separate discussion might be warranted on methods to achieve the goal. The Board identified four issues data collection would address. However, long-term data collection is not funded. It is also possible that the collection of data would not be sufficient to perform an analysis.

Chair Schacht indicated he needs no additional data to answer the first issue as all delivery methods have constraints with respect to openness and fairness. The Board does not need data to ascertain whether the Board could improve the level of inclusion of small business and DBE businesses as the state is scheduled to release the Diversity Study fairly soon.

Ms. van der Lugt said study data are unknowns at this time until the study is published in January 2019. Issues #1 and #2 could be addressed by the Diversity Study because it would be easier to identify what is needed and where disparities exist. It might be a duplication of effort given the time and lack of staff. She would need more information beyond the first issues to ensure the Diversity Study addresses those issues.

Mr. Seydel requested clarification regarding which disparity study was referenced. Ms. van der Lugt replied that the study is the Disparity Study being conducted by the state. The study is scheduled for release by the end of January 2019.

Mr. Seydel commented that over the years, there has been some dissatisfaction with some of the quantitative or qualitative data from JLARC. He expressed appreciation for the Chair's comments regarding the importance of inclusion within the data. However, he would prefer not reinventing the wheel as JLARC has data and the Office of Minority Women and Business (OMWBE) collects data on inclusion. Combining the data and presenting the information to CPARB might help to document good quantitative information, which is important to diverse businesses. He asked whether it would be possible for OMWBE to collect inclusion data with JLARC's data to produce quantitative data to create a CPARB data clearinghouse.

Ms. van der Lugt advised that the Disparity Study was spearheaded by the Governor's Subcabinet on Diversity. DES was contracted to issue the study. Implementation of training and voluntary measures is anticipated to begin in March/April.

Mr. Seydel noted that over the last 11 years, approximately 12 disparity studies have been completed by different agencies and municipalities.

Ms. van der Lugt added that in addition to the statewide study, the Washington State Department of Transportation is completing a disparity study, as well as Sound Transit.

Ms. Reyes affirmed disparity studies have been completed by Sound Transit and Washington State Department of Transportation. However, more information is required for new members, as the discussion has occurred over the last two years. It appears the challenge is consolidating the data into one spreadsheet.

Mr. Frare noted that there is no common repository for different sources of data as each agency has its own information.

Chair Schacht said the question is whether a board of volunteer members with limited funding from the Legislature has reasonable capacity to assemble and interpret quantitative data. The task is vastly beyond the Board's scope. Such an effort would require a state-funded dedicated survey. The issue is whether the Board has the capacity to assume that task.

Jolene Skinner, Department of Labor & Industries (L&I), reported that L&I is working with OMWBE to obtain data on certifications for inclusion in L&I's database for public works projects. L&I would provide the information to prime contractors and awarding agencies in real-time as affidavits are filed for public works projects. That process would assist in identifying the level of certification of DBE businesses on public works projects. L&I is also exploring potential ways to assist the Board in identifying participation on GC/CM, DB, and JOC projects by possibly including that datapoint when prime contractors are filing their prevailing wage intents. As L&I requires the information, that information could be shared with the Board.

Mr. Seydel asked whether L&I collects data on the service industry, e.g., architects, engineers, and other professional service providers. Ms. Skinner said those organizations are not required to file a prevailing wage intent or affidavit. However, the information could be added to excel reports by the receiving organization. Additionally, certification information from OMWBE will be included for access to the public.

Ms. van der Lugt reported Elisa Young is OMWBE's lead on diversity and is working with DES to release the Diversity Study. She recommended scheduling a presentation on the status of the study, which has encompassed a two-year effort.

Vice Chair Keith asked about L&I's timeline for entering data. Ms. Skinner said data entry on alternative bidding projects and OMWBE certifications are scheduled for implementation in February/March 2019.

Mr. McCormick noted that since efforts for data collection are in progress by several other agencies, the Board's time might be better spent on identifying best practices to improve the rate of inclusion of women and minority businesses. The University of Washington experienced some of the same challenges with respect to collecting data over the course of years instead of working on efforts to improve best practices. Data collection is a very difficult task and he would prefer spending the Board's energy on identifying ways to improve best practices to achieve better outcomes. The issue is recognized by everyone and more data would not help achieve some desired outcomes.

Ms. Yang shared information on outreach planned to connect to small and diverse businesses for DB projects on Wednesday, October 17, 2018 at the University of Washington. The design forum will be held in the afternoon with practitioners of owners, architects, and contractors to offer advice to smaller and newer companies that would like to enter the DB arena while also providing the firms with an opportunity to share information concerning their unsuccessful attempts to participate. The forum will conclude with practitioners sharing efforts they have implemented to improve participation opportunities for small businesses.

Walter Schacht moved, seconded by Mike McCormick, to refocus the Data Collection Committee's efforts on the GC/CM subcontractor information required to determine levels of contract self-performance per the 2012 JLARC Audit, include an update on the status of the Disparity Study by Elisa Young during the December meeting, and to

satisfy issues #1 and #2, reach out to those state government entities currently collecting quantitative data to review data and ascertain how it might inform policy.

Several members requested clarification on the intent of the motion.

Mr. Thompson offered a friendly amendment to limit the motion directing the Data Collection Committee to collect GC/CM subcontractor quantitative data in response to recommendation #3 in JLARC's 2012 Audit.

The makers of the motion accepted the friendly amendment.

Aleanna Kondelis recommended the committee should first convene and develop a strategy for collection of data. As mentioned previously, the committee learned that owners collect data differently. The committee would like to share some ideas on how to implement collection efforts and identify a format for conveying data to the Board. Chair Schacht supported the request.

Vice Chair Keith said she interprets the original motion as refocusing efforts to comply with JLARC's recommendation, which may mean the committee delays data collection.

Ms. Kondelis added that owners also need some time to consider the request.

In response to questions about CPARB's initial response to JLARC's Audit, Mr. Maruska cited CPARB's response to the audit for recommendation #3 stating, "*CPARB will establish guidelines to collect and report data on GC/CM self-performance and subcontractor work such that public owners will have an independent summary of contractor costs.*"

Chair Schacht urged moving forward immediately as the Board is scheduled to establish a Reauthorization Committee. This issue is a core element of the committee's work. The effort should be ready to launch by December. He recommended an off-line discussion on whether to develop a format for data collection or allowing owners to submit data in different formats.

Janice Zahn noted information within the upcoming PRC report includes the Board's request to refine the PRC application template to address MWBE participation. As part of that effort, she offered PRC's assistance to work on the data collection piece.

Vice Chair Keith requested clarification on the direction to the Data Collection Committee with respect to data collection commencing immediately or reviewing the format and presenting a proposal to the Board in December prior to implementing efforts. Chair Schacht said he prefers action by the committee immediately; however, if the committee believes it needs additional direction from the Board in December that would work as well. Vice Chair Keith questioned whether the collection of the information would be retroactive. Chair Schacht recommended the committee should determine the process. He suggested that at a minimum, collection of data should begin with current data.

Motion carried unanimously.

PROJECT REVIEW COMMITTEE – Information

Janice Zahn, Chair, of the Project Review Committee, reported during the September meeting, a full quorum of the membership was present. New PRC member Sherrie Montgomery representing Owner – Higher Education was welcomed. James Dugan was elected as Vice Chair. Members received a recap of the September CPARB meeting. The direction to PRC to draft revisions to the application and certification template to include CPARB's requested addition of MWBE information and reference to DB Best Practices Guidelines is in progress. Based on the Board's last conversation, she plans to work with Mr. Thompson and Ms. Kondelis on what information would be incorporated within the application. Members also reviewed and unanimously approved a draft RCW 39.10 statute revision. One member questioned why the statute limited the number of projects within the \$2 million and \$10 million threshold. Some members recalled that when the statute was initially adopted, some concerns surrounded limiting the number of smaller projects because of the impact of changes required of agencies.

PRC panels reviewed five GC/CM and DB project applications during the September meeting. All five applications were unanimously approved. The five projects included:

- **Rock Island Dam** – Powerhouse #2 Rehabilitation involves the rehabilitation of all hydro-turbine-generator units and the associated balance of plant equipment and systems using a hybrid Progressive DB delivery method for a \$352 million project implemented over 10 years. The DB method enables the owner to work directly with the designer on the renovations sequentially over 10 years.
- **Cedar Falls Substation** – City of Seattle, was approved for DB. The project is on a tight timeline to complete the work by mid-2020.
- **City of Quincy Water Reuse Project** – The GC/CM project was approved. The unusual project involves many clients. The City will work in partnership with Microsoft at 10 sites located throughout the City. The ability to use the GC/CM delivery method would be beneficial.
- **Klickitat Valley Health** submitted a GC/CM application for the Bold Vision 20/20 Project to build a new addition and renovate an acute and surgical suite area while the building remains operational 24/7. The application was unanimously approved.
- **Kalama School District** submitted a GC/CM application to construct a new secondary school and elementary school. The District previously presented the application to the PRC in July; however, the project was denied because the project team was unable to demonstrate owner readiness and expertise. The District reapplied and presented the project with a different plan reflecting resource commitments of each team member supporting the project. The project was unanimously approved.

Approval of the five projects equated to a total of \$438 million in projects increasing the year-to-date total to 30 projects at a cost of \$2 billion.

The September meeting included no GC/CM or DB owner certifications or recertifications. Seven owner certifications or recertifications are scheduled for consideration in 2019 providing an opportunity to present the data collection template.

Ms. Zahn thanked Talia Baker and Sound Transit for efforts to review some identified discrepancies in the expiration dates published in approval letters to six owners. New letters will be sent notifying owners of the correct date, which should be three years from the previous expiration date and not three years from the date of receiving approval of recertification. Additionally, several owners submitting multiple applications over the years might be ready to submit an application for certification. PRC member, David Brossard, notified the PRC that he has left his position with King County. Consequently, his position representing *Owner – Counties* is vacant. Ms. Zahn thanked the Board for filling vacant positions as certifications and recertifications require a full quorum of the membership. When vacancies exist, it is often difficult to attain a quorum.

Chair Schacht thanked Ms. Zahn for her work and efforts.

PRC CANDIDATES/SELECT NEW MEMBERS – Discussion & Action

PRC Position – Owner – Higher Education

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

Talia Baker spoke on behalf of **John Palewicz**, who disconnected from the telephone conference because of difficulties in hearing the discussion. He transmitted an email extending his apologies and conveying his interest in serving on the PRC.

Chair Schacht acknowledged the difficulty of identifying a more skilled candidate than Mr. Palewicz who has served as the PRC Chair and has worked in the Capital Projects Office at the University of Washington for many years. Mr. Palewicz also assisted in developing the GC/CM training course and is a GC/CM instructor. He was a member of the DB Best Practices Committee and serves as a DB instructor as well. As a representative of a public owner, Mr. Palewicz's ability to adjust as the industry has evolved is commendable. Chair Schacht supported his selection.

Mr. McCormick shared that he has spoken with many of his peers in higher education institutions and they conveyed the same message as Mr. Palewicz has a level of experience that would be important for the position.

Vice Chair Keith inquired about Mr. Palewicz's plan for continuing to represent higher education. Mr. McCormick explained that Mr. Palewicz is working with the University of Washington within the metro traffic element for the next four to five years.

Mike McCormick moved, seconded by Bill Frare, to appoint John Palewicz to serve on the PRC in the position of Owner – Higher Education. Motion carried unanimously.

PRC Position – Construction Manager

Chair Schacht invited the applicant to speak to his application.

Jeff Jurgensen (telecon) reported on his experience in the construction industry for over 25 years. He has extensive experience with DB, GC/CM, as well as participating in the JOC contracting process with the Spokane School District. He oversees the capital offices for Olympic Associates Company (OAC) and spends most of his time working on the development of staff and helping them become better practitioners of GC/CM and DB. He also helps to educate owners to improve the application of GC/CM for scoring determining fees, and RFP development. He spends much time with owners working on those elements and less time practicing as a project manager as his efforts are helping people develop skills and in promoting the process of the different delivery methods available to owners today.

Bill Frare moved, seconded by Mike Shinn, to appoint Jeff Jurgensen to serve on the PRC in the position of Construction Manager. Motion carried unanimously.

PRC Position – Design Industry – Architect

Chair Schacht reported the applicant, Thomas Golden, is a Principal with NAC Architecture in Spokane. He is acquainted with Mr. Golden but has never worked with him. Mr. Golden has worked on a number of alternative project delivery projects.

Thomas Golden said he is with NAC Architecture and works in the Spokane office. He has dedicated his career to public architecture for K-12, higher education, and civic projects. He served as the architect for record for over a dozen projects combined between GC/CM and DB including the first DB project at Washington State University on the Pullman campus in 2011. He has a good history of working on alternative delivery methods and is interested in GC/CM and DB, as well as the next generation of delivery methods. As there continues to be a never-ending quest for the perfect delivery method, he wants to be involved in pursuing new opportunities as it relates to the design component of the delivery method. He understands the commitment for serving on the committee and is and able to meet the commitment.

Chair Schacht added that another important consideration is Mr. Golden's representation of the Spokane area, which is a goal of the Board to increase the number of members representing different areas of the state.

Bill Frare moved, seconded by Rebecca Keith, to appoint Thomas Golden to serve on the PRC in the position of Design Industry - Architect. Motion carried unanimously.

PROPOSED LEGISLATION

DESIGN-BUILD STATUTE REVIEW COMMITTEE – Discussion & Action

Chair Schacht reported the Board received a presentation on the proposed revisions in September. The intent is to act on the proposal. Several administrative changes include correcting the order of elements within the draft legislation. Ann Larson with DES provided assistance in revising the document. Additionally, the original draft was noted as a "Z" draft, which would have been introduced through the Executive Branch. However, the plan is to introduce the proposed legislation through the Legislature and subsequently the draft was modified to reflect a House and Senate statute. Should the Board approve the proposed revisions, advocacy efforts will commence later in the month.

Chair Schacht shared that he reviewed the proposal with Representative Steve Tharinger, Chair of the House Capital Budget Committee and with Senator David Frockt, Vice Chair of the Senate Ways and Means Committee.

Dan Seydel commented that several months ago he presented some modifications to the proposed DB statute. Within section 320, the proposed change would replace "may" with "shall" within paragraphs F, I, and ii. Another change was

the addition of a sentence in section 8 addressing inclusion. When the language was drafted in 2013, the environment was different and since then a number of state and agency studies have been completed. The term “*may*” should be modified to reflect, “*shall*” as many small businesses across the state support the proposed change.

The Board discussed and reviewed the sections affected by the proposed revisions.

Vice Chair Keith conceded that although she did not attend all committee meetings, she did not recall any discussion on the proposal. The committee was represented by a broad spectrum of members from the industry. Mr. Seydel did provide comments to the Board last spring about the proposal; however, at that time the Board’s time was limited for further discussion. According to Mr. Seydel, the proposal was offered in 2013 when the environment was different. Ms. Keith’s concerns are whether the change would be legal and because the change pertains to past performance, it might entail a policy decision. She also has not had an opportunity to vet the change and is somewhat concerned about delaying the Board’s legislative schedule lacking a full discussion on the proposal.

Mr. Seydel said he appreciates the position, which is why he approached the Board earlier in the process and was hopeful that he would be part of the ongoing discussion. His reference to the difficulty of passing the legislation with the proposed language was based on a personal opinion because of the environment at that time. Many Board members were present when the proposal was presented and he would prefer yielding his time to Mr. Maruska, who was present during that period and was the CPARB Chair.

Mr. Maruska recalled that there were a number of proposals presented and discussed during that time. However, he does not recall the specifics of the proposal other than the Board discussed whether the proposal would be reasonable for acceptance by the Legislature. Without having sufficient time to vet the proposal, he would be hesitant to move the proposal forward as a number of people on the committee would need to provide input.

Chair Schacht noted that the committee meetings were open to the public and the dates and agendas were posted on CPARB’s website. Opportunities were available to anyone in the community to participate. He is aware that the proposal to change “*may*” to “*shall*” was an issue addressed in the past; however, he does not believe it intersected with the DB Best Practices Statue Review process. He expressed appreciation to Mr. Seydel for attending and addressing the issue; however, the concern with the proposal is the timing of the Board’s review process.

Senator Bob Hasegawa arrived at the meeting.

Mr. Seydel acknowledged the Board’s position but noted that he was hopeful to have received a response from the initial presentation and proposal. After receiving no response, he assumed the committee had considered the proposal.

Chair Schacht questioned whether there might be a legal implication of changing “*may*” to “*shall*.” Several members affirmed that it likely would result in some significance.

Mr. Seydel affirmed that it would result in some impacts, as there are agencies that are not necessarily as serious about inclusion as other agencies, which is having an impact on taxpaying businesses across the state. He is appreciative of the Board’s position and that the proposal was presented at the wrong time, although he presented the proposal several months ago. He deferred to the Board’s leadership and position while noting that the recommendation only pertained to DB as the previous proposal included GC/CM and JOC. He plans to re-present the proposal for those delivery methods.

Mr. Shinn acknowledged Mr. Seydel’s position but noted that during the PRC application review, panel members address inclusion as it is part of the application process.

Ms. Zahn noted that one of the challenges in revising the application template to include inclusion is determining what the specific ask is of the applicant. The application includes additional questions on efforts for outreach. Certification applications request information on lessons learned and what the applicant would do differently and how they plans to improve future processes. On project-specific applications, questions are included that speak to the applicant’s approach to the industry. The PRC is not authorized to mandate any requirements. Rather, PRC members encourage applicants to explore ways to encourage participation as part of the panel discussion.

Mr. Seydel affirmed the PRC's efforts are beneficial; however, as an American-African male who has lived in Washington his entire life, he can attest that provisions not specified in law are not necessarily applied.

Ms. Reyes asked whether the questions included within the PRC application are required or voluntary. Ms. Zahn replied that because of the importance of inclusion and its importance to CPARB, if inclusion is not addressed within the application, panel members question the applicant during the question and answer session about the applicant's approach for inclusion and outreach. Owners seeking recertification typically provide information about outreach and participation data. Data collection will help inform the Board about the status and progress of inclusion efforts. The PRC has reviewed 22 GC/CM projects this year. As data is entered for those projects, information will reveal some results.

Mr. Seydel agreed with the efforts by the PRC, as well as the efforts by the University of Washington to improve its performance from previous years. His specific request pertains to parity for all public agencies.

Mr. Frare acknowledged Mr. Seydel's previous submittal with supporting documentation to the Board. He would have preferred presenting the information to the DB Statute Review Committee to afford a discussion of the proposal within the entire realm of the other changes. However, the request does not pertain to the PRC and its application process and review. The recommended "*shalls*" would be included within the process for soliciting the RFPs and reviewing the contract by making it a requirement rather than a "*suggestion*" or as an evaluation criterion. In terms of ensuring inclusion is part of the integrity of the proposal, it would entail a big step to require inclusion. He supports the proposed changes as recommended by Mr. Seydel, as it would make enforcement of the inclusion plan stronger for agencies.

Ms. Zahn shared that she was a member of the DB Statute Review Committee. The proposal was discussed by members and stakeholders and the reason "*may*" was retained. Concerns were conveyed by some stakeholders from eastern Washington who shared concerns about some regions encountering some challenges.

Chair Schacht commented that there are no issues with respect to a long-term commitment to improve outcomes for inclusion and equity. However, if the intent is to change "*may*" to "*shall*", it likely should apply to all three delivery methods at the same time as part of the reauthorization effort rather than incrementally. He prefers a comprehensive approach for consistency in the statute. Alternatively, changing "*may*" to "*shall*" does not necessarily affect outcomes because the statute for the three procurement methods does not specify the evaluation factor. Any public owner may indicate they do not value diverse business inclusion and rank the criterion for business inclusion as only 1 point out of 1,000 points. It speaks to the value of education and outreach, which would demonstrate to public owners and contractors the value of utilizing and enhancing the resources of all businesses in the state.

Mr. Seydel responded that some of the reasons for gaining support of the proposal from a variety of industry groups pertained to the permissive language in the statute. The Chair's comments speak to permissive authority as public agencies have the authority to assign values based on their community and expectations of their respective tax base. The issue pertains to creating parity and improving the ease of collecting information, as well as simplifying the process for stakeholders to provide the information. His hope is that the Board will consider the importance as many firms are capable and have the capacity but do not necessarily have the roadmap. The intent of the proposal is to create some parity and not handcuff public agencies. He agreed to defer to the Board's decision while emphasizing the proposal is an opportunity for the industry to make a change that would have an impact while affording an opportunity to engage in dialogue with stakeholders from eastern Washington, as there are many diverse certified firms located in eastern Washington.

Mark Riker reported that labor supports retaining "*may*" and not changing language to reflect "*shall*." Labor has serious concerns regarding language on page 7, line 12 on why the proposal eliminates the consideration of submissions of proposers' accident prevention program, which speaks to jobsite safety. Any dilution of jobsite safety can lead to the potential of injuries on the jobsite.

Chair Schacht explained that the provision was moved from the RFQ phase submission to the RFP phase submission as stakeholders believed that to succeed to the RFP phase, the proposer must demonstrate bonding capacity. The RFP phase

requires a level of detailed information that demonstrates the proposer's capabilities to include submission of the safety plan.

Mr. Seydel added that other language was included in his proposal that pertained to bonding. He plans to attend to the next committee meeting to engage in a conversation before the Board's December meeting

Chair Schacht advised that the Board is scheduled to act on the committee's proposal because of the timeline to meet legislative deadlines. Additionally, the timeline for legislative proposals was introduced during the Board's May meeting. The timeline was subsequently published on the CPARB website. He recommended considering alternative project delivery strategically by developing a uniform set of proposals.

Vice Chair Keith pointed out that the committee's proposal includes changes approved by CPARB last year eliminating the \$2 million to \$10 million limitation, which might help facilitate more involvement of small businesses.

Mr. Seydel conveyed his intent to continue working with labor and the Board. However, many new firms are attempting to participate in the procurement process. Unfortunately, many lack alternative delivery experience. Lowering the threshold may be beneficial, but it may not address the problem.

Chair Schacht re-emphasized the opportunity for small businesses to attend the small business forum next week. Many of the participating public owners (*Sound Transit, City of Seattle, and universities*) have committed to using \$2 million to \$10 million projects to provide teams and firms with no DB experience an opportunity to participate in smaller projects.

Chair Schacht reviewed some options to act on the committee's proposed changes to the legislation.

Steve Crawford moved, seconded by Mike Shinn, to adopt the Design-Build Statute Review Committee's proposed changes to RCW 39.10.

Mr. Frare advised that rather than amending the motion despite his support for stronger language for minority businesses and providing some tools to agencies for enforcement versus considerations or using past performance as a criterion, he is unsure as to the risks associated with the change and plans to consult with legal counsel to receive feedback on any potential ramifications.

Mr. Crawford expressed support of the general notions as have been discussed regarding changing "may" to "shall."

Senator Hasegawa stated that if there is a problem with the proposal and the MBE community believes "shall" should be substituted, the bill would likely not move through the legislative process. He acknowledged that he needs to review the proposal to analyze any potential implications and recommended the Board resolve the issue prior to forwarding a proposal.

Mr. Frare commented on the Board's timeline and review process for changes to legislation. Amendments can be offered later in the early legislative process affording additional time to vet the proposal prior to the amendment advancing through the legislative process.

Mr. McCormick recommended separating the discussion of Mr. Seydel's proposal, which he supports, from the legalities of any implications. It might be possible to offer a friendly amendment conveying the Board's support of the proposed changes assuming a legal opinion is rendered reflecting the change as legal and allowable.

Vice Chair Keith clarified that Mr. Seydel confirmed there were no legal barriers preventing the proposed changes from previously moving forward. Her comments pertained to the proposal having legal significance because it would be a requirement as opposed to being authorized. She is supportive of the concept and intent but is uneasy as she vetted the current proposed version with other cities and stakeholders. The issue is essentially about timing. As mentioned by Chair Schacht, another forum could address the proposed changes through a holistic review of all delivery methods. A stakeholder event is planned next week and although supportive of the conversation, she is uneasy about making changes so late in the process while ensuring proposed legislation is in the queue.

Mr. Maruska said that regardless of the Board's recommendation, the Legislature ultimately decides on the final language. Regardless of the amendment process, many opportunities exist between now and the end of the session to change the language. However, if some members of the Board are opposed to the proposal that could entail groups opposing the legislation placing the Board in an awkward position. He prefers to resolve all outstanding issues and attain consensus. He asked Mr. Seydel whether his constituents would oppose the bill if the changes were not included.

Mr. Seydel replied that the small businesses he represents would prefer the inclusion of "*shall*"; however, many of the businesses expected the language proposed months ago would have been considered and vetted as part of the dialogue. He does not believe any of his constituents would want to jeopardize the current proposal. However, he would like more information as to why labor opposes the inclusion of "*shall*," and would like feedback on the concept of the changes. Mr. Seydel reiterated the importance of the Board considering the proposal for the next legislative session should the proposal fail to move forward during the 2019 session.

Chair Schacht committed to reaching out and soliciting feedback on whether to pursue changes during the 2019 session or deferring the proposal to the Reauthorization Committee to consider.

Senator Hasegawa conveyed interest in receiving some information on the committee's initial feedback pertaining to Mr. Seydel's proposal. Chair Schacht clarified that the proposal was considered by the committee, but the recommendation was to reconsider the proposal given today's discussion.

Ms. Zahn pointed out that the committee's discussion did not advance to the level of Mr. Seydel's perspective because there was some recognition by stakeholders that more challenges might exist in eastern Washington because of the limited number of firms. She believes there was insufficient representation to share information on the different perspectives. Should the committee re-entertain the proposal, broader conversations would be necessary to ensure a spectrum of opinions.

Chair Schacht remarked that the comments speak to the reason why the review should be within the realm of proposed changes for all alternative delivery methods.

Senator Hasegawa cited labor's opposition to the proposal and asked for more input on the reasons for the objection.

Mr. Riker responded that there could be the potential of excluding some contractors. However, he did not have an opportunity to review the proposal in its entirety to determine how it might affect labor members.

Senator Hasegawa commented on the continuing decrease of small contractors. After I-200 passed, a downward spiral began within the construction industry because of the difficulty in securing work. The environment continues to worsen. Prior to 1999, the number of minority-owned certified contractors in existence were fourfold than today. It is important to figure out a way to reverse that trend.

Ms. Reyes referred to the proposal's deferral to a committee and recommended developing a universal questionnaire so the same questions are presented uniformly to achieve a collective response.

Chair Schacht acknowledged the possibility of developing a template similar to the bill summary template for proposed legislation or modifications to legislation. The template could include the proposed modifications to the statute and the category of issues to address.

Mr. Thompson expressed appreciation to Mr. Seydel for his courage and persistence in speaking to the Board. Prior to his affirmative vote on the proposed DB proposal, it would be beneficial for the Board to review the statute applicable to the other delivery methods, as it would be easier to support the proposal if he knew the Board was planning to consider those changes. For years, concerns have been expressed by many people. It is in the Board's best interest to review the proposal and determine whether it is a subjective perspective regarding "*may*" or "*shall*" or whether it is a legal issue.

Ms. Deakins displayed the committee's proposed bill summary for the benefit of the Board.

Mr. Crawford commented that as the maker of the motion, there likely would be an amendment as the discussion has indicated the proposed legislation likely would not move forward if outstanding questions continue to persist as to whether the language should reflect, “*may*” or “*shall*.” There is also general agreement that more work is necessary. He asked whether a motion was necessary to place the proposal on the legislative agenda or whether action could be deferred until December.

Mr. Frare reminded members of their approval of the *Design-Build* proposed legislation last year. However, because of timing, the proposal was not considered during the 2018 session.

Mr. Crawford reiterated his support of the motion to ensure meeting the legislative deadline as the legislative process could include an amendment.

Chair Schacht outlined the reasons the DB Statute Review Committee reviewed the statute and forwarded a proposal:

1. To reinforce and clarify the use of Progressive DB, which is important to the community of entities that pursue and execute the work (*small and large businesses*) because the costs and risks of pursuing design price competitions can be extraordinarily onerous.
2. To clarify price-related factors.
3. Added “*Progressive Design-Build*” to provide clarity about the legislative intent.
4. Removed the number of DB projects between \$2 million and \$10 million.
5. Removed the limit of 5 projects the PRC could approve for non-certified bodies.
6. Removed the limit of 5 projects for certified bodies during the period of certification.
7. Clarified the use of DB.
8. The RFQ and the RFP requirements were established prior to DB, which included requirements that are onerous or inconsistent with Progressive procurement forcing public owners to request information not needed or circumventing the statute. Other issues pertain to the sequence of information submittals.
9. Clarified disclosure requirements for documents related to DB.

The Board was instrumental in modifying the statute so proprietary information in the DB submittal could not be revealed during the course of competition. The proposed modifications are intended to benefit public owners, contractors, design professionals, and the state. Small and diverse businesses were part of the conversation. The language of the statute is critical to ensure diverse business inclusion and equity.

Mr. Crawford said the critical importance of the body of the work is why he supports the motion and moving the proposal to place on the legislative agenda.

Vice Chair Keith pointed out that last year when the Board acted on some but not all of the changes, the decision to move forward with a committee structure to review the statute was also generated from concerns raised by the architect and design community. At that time, the Board committed to review honorarium language. It also appears members are supportive of the same commitment to continue the dialogue with respect to Mr. Seydel’s proposal. She conveyed appreciation to Mr. Seydel for re-presenting the proposal.

Chair Schacht added that a small modification was included in the language relative to honorariums.

Motion carried unanimously.

Chair Schacht affirmed the Board would follow-up on the issue of diverse business inclusion as discussed.

Mr. Riker added that as a representative of labor, if labor reviews and supports the amendment, labor would proactively support passage of the amendment.

JOC EVALUATION COMMITTEE – Discussion & Action

Tae-Hee Han, Sound Transit and Chair of the JOC Evaluation Committee, reported the committee previously developed a proposal for changes to RCW 39.10 for JOC. At the September Board meeting, the committee was asked to outreach to

labor. Since then, the committee has worked with Mr. Riker, Neil Hartman, Mr. Maruska, and Ms. Kondelis. At this time, no recommendation is forthcoming pending further direction from the Board with respect to the legislative timeline for proposals.

Mr. Riker said that following the September meeting, he met with Mr. LeVander. Mr. LeVander provided an update on the status of the proposal and he was able to share labor concerns. Since then, he has been working with committee members. Although the parties are close to consensus, the proposal is not ready.

Mr. Maruska noted that agreement has been attained except for ways to include or address apprenticeships within contracts as the apprenticeship statute applies to all contracts over \$1 million. Conceptually, there is consensus but fine-tuning the details is still pending agreement.

Mr. Han said the committee's previous efforts focused on clarifying some confusing language and pursuing some discussions with Mr. Riker and Mr. Hartman. As noted, one provision regarding apprenticeships is still under discussion. He anticipates the committee will finalize and present a proposal to the Board.

Mr. Riker requested an extension to enable the committee to discuss the issues until the December meeting as all stakeholders are close to consensus.

Mr. Maruska added that the group is trying to work out an issue from many different perspectives with all parties striving to achieve a recommendation. Moving a bill forward in December can be challenging; however, he urged the Board to permit the committee to complete its work for presentation of a proposal in December. If a bill is introduced and fails to move forward, the bill could be reintroduced during the next session as a carryover bill.

Mr. LeVander suggested an option of proceeding with the proposal except for the section under discussion to enable the committee to continue working with labor while moving forward with the remaining sections to maintain the legislative timeline.

Mr. Han noted that for the most part, agreement was attained on the other sections except for the one section.

Mr. Riker preferred pursuing the entire proposal because of the interconnectiveness of the changes. While conceptually there is agreement on four sections, the last section also affects the other sections. From labor's perspective, the entire proposal should be considered rather than separately. Although he does not prefer to affect legislative timelines, an intact JOC proposal supported by labor would convey a stronger message.

Chair Schacht recommended delaying action until December and begin legislative advocacy for the proposal immediately.

Bill Frare moved, seconded by Mark Riker, to begin conversations with potential legislative sponsors on the proposed JOC legislation subject to the Board's approval in December. Motion carried unanimously.

ADMINISTRATIVE

2019 CALENDAR – Information & Action

Ms. Baker reviewed the proposed 2019 meeting schedule. A conflict exists for the December 12, 2019 meeting. An alternative date could include the prior Wednesday or the Wednesday or Thursday of the following week.

Bill Frare moved, seconded by Robert Maruska, to adopt the 2019 meeting calendar as proposed designating the December meeting on Wednesday, December 11, 2019. Motion carried unanimously.

DRAFT AGENDA FOR THE DECEMBER 13, 2018 MEETING – Information

Chair Schacht and members provided input on the following December agenda topics:

- Follow-up Discussion – DB Statute Review Committee – Statute Changes
- JOC Evaluation Committee Discussion & Action on Legislative Proposal
- Report on Proposed:
 - Board Development Committee
 - Reauthorization Committee
 - Education/Outreach Committee
- Diversity Study Presentation
- PRC Report
- Data Collection Implementation Committee

ADJOURNMENT

Bill Frare moved, seconded by Robert Maruska, to adjourn the meeting at 12:32 p.m. Motion carried unanimously.

STAFF & GUESTS

Talia Baker, Dept of Enterprise Services	Jeff Jurgensen, OAC Services (<i>Telecon</i>)
Megumi Barberi, King County Wastewater Div.	Aleanna Kondelis, University of Washington
Eric Christensen	Ann Larson, Dept of Enterprise Services
Marla Coles, King County	Scott Middleton, National Contractors Assn of W. WA
Nick Datz, Sound Transit	Shari Purves-Reiter, Dept of Labor & Industries
Nancy Deakins, Dept of Enterprise Services	Jolene Skinner, Dept of Labor & Industries
Quinn Dolan, Centennial	Dan Seydel, Entrepreneurial Institute of Washington
Marvin Doster, Mortenson Construction	Melissa Van Gorkom, WA State Legislature - SCS
Thomas Golden, NAC Architecture	Bob Wubbena, Cap. Lake Improvement & Protection Assoc.
Valerie Gow, Puget Sound Meeting Services	Oliva Yang, Washington State University
Tae-Hee Han, Sound Transit	Janice Zahn, Port of Seattle/PRC