

CAPITAL PROJECTS ADVISORY REVIEW BOARD

1500 Jefferson – Presentation Room

Olympia, Washington

December 8, 2016

Minutes-Amended

Members Present

Bill Frare (*Chair*)
Andrew Thompson (*V. Chair*)
Steven Crawford
Teresa Berntsen
Rep. Vincent Buys
Greg Fuller (Telecon)
Senator Bob Hasegawa
Ty Heim
Joaquin Hernandez
Rebecca Keith
Santosh Kuruvilla
Brent LeVander
Robert Maruska
Alan Nygaard
Irene Reyes (Telecon)
Mark Riker (Telecon)
Gary Rowe
Walter Schacht
Mike Shinn (Telecon)

Representing

State Government
General Contractors
School Districts
OMWBE
House (R)
Specialty Contractors
Senate (D)
Public Hospital Districts
Private Industry
Cities
Engineers
General Contractors
Washington Ports
Higher Education
Private Industry
Construction Trades Labor
Counties
Architects
Specialty Contractors

Members Absent

Charles Horn
Lee Newgent
Rep. Steve Tharinger
Vacant

Representing

Insurance/Surety Industry
Const. Trades Industry
House (D)
Senate (R)

STAFF & GUESTS are listed on the last page

Welcome & Introductions

Chair Bill Frare called the Capital Projects Advisory Review Board (CPARB) meeting to order at 8:35 a.m.

A meeting quorum was attained.

Everyone present provided self-introduction.

Approve Agenda - Action

The report from the Design-Build Best Practices Committee was removed from the agenda.

Rebecca Keith arrived at the meeting.

Robert Maruska moved, seconded by Walter Schacht, to approve the agenda as amended. Motion carried unanimously.

Approve November 10, 2016 Meeting Minutes – Action

The following changes were requested to the minutes:

- On page 5, within the first sentence of the fifth paragraph, change “*caviler*” to “*cavalier*.”
- On page 10, within the fifth paragraph, change both references of “*LNI*” to “*Labor*.”
- On page 11, revise the last sentence in the thirteenth paragraph to reflect, “*Make recommendations to improve the design-bid-build project delivery method to include high performance...*”

Andrew Thompson moved, seconded by Steve Crawford, to approve the minutes of November 10, 2016 as amended. Motion carried unanimously.

Joaquin Hernandez arrived at the meeting.

Public Comments

Chair Frare encouraged public comments throughout the meeting.

Project Review Committee - Information

John Palewicz, Chair, Project Review Committee, referred members to the meeting summary of the September and December meetings.

During the September 22nd meeting, the PRC reviewed, considered, and approved the Port of Seattle's recertification application for General Contractor\Contract Manager (GCCM) and Design-Build (DB). The PRC approved the Department of Enterprise Services application for recertification of GCCM and DB. The PRC is experiencing a trend over the last several years of agencies applying for certification or recertification for both delivery methods to reduce time and improve efficiency.

A PRC panel approved a GCCM project from the Bainbridge School District for a new elementary school constructed on an occupied site to replace an existing facility. The new school would be approximately 65,150 gross square feet and cost \$39 million.

A PRC panel approved a project application from the Seattle School District for a GCCM project to renovate Webster Elementary School at a cost of \$31.7 million.

The GCCM project application from the City of Everett for redevelopment of a service center was approved. The project is a comprehensive, phased redevelopment of a 14-acre site currently occupied by the City of Everett. The project budget is \$74 million.

During the December 1st meeting, PRC members approved the GCCM project application for an addition to the Ingraham High School within Seattle Public Schools. The project adds 20 new classrooms, as well as seismic retrofit and re-roofing of some existing buildings. During construction, the school will be occupied.

The GCCM project application for the Tahoma School District for three schools was denied. The panel believed the project schedule was not realistic and did not adequately address the complexity of the work. The applicant was advised to reconsider the construction schedule and reapply for consideration.

A PRC panel considered Mount Vernon School District's GCCM project application for a modernization project of 54,303 square feet involving the Old Main Building at Mount Vernon High School. The project was approved by the PRC. The project budget is \$29.5 million.

The PRC unanimously approved the GCCM certification application submitted by Tacoma Public Schools.

A PRC panel approved GCCM capital improvement projects for Ridgefield Schools consisting of four phases of upgrades and new schools with each phase dependent on the next phase. The total project budget is \$98.5 million.

The DB project application submitted by Okanogan County PUD 1 was approved for the Enloe Hydroelectric project. The project would restore power generation at Enloe Dam with new facilities constructed to include a river intake, intake channel, hydroelectric power plant, electric substation, and improvements to public recreation facilities at a cost of \$42.5 million.

Spokane Parks and Recreation received approval of its DB project for the Riverfront Park Pavilion. The project repurposes a 1974 pavilion structure and adjacent landscape into a new outdoor venue and public plaza. The project includes demolition of existing structures and renovation of existing administration areas at a cost of \$19.7 million.

The PRC's workload has been busy during the last three meetings. The July meeting required concurrent meetings in two conference rooms. Over the last three meetings, the PRC considered four agency certifications or recertifications and 17 project applications. Agency certification and recertification require a 60% quorum. With 30 members on the Committee, a minimum of 18 members must attend. Fortunately, the PRC has always achieved a quorum. However, because of the current construction environment, the logistics of ensuring a meeting quorum each month has been an extensive process. Administrative support by DES has been very important, particularly during the first of each month. Periodically, DES staff and the PRC Chair receive calls from agencies considering the submittal of a project application.

Unfortunately, it is not known how many project applications might be submitted until the first of each month, which requires a scramble to post the applications on the website to meet the 20-day noticing requirement. DES administrative support is critical for the functioning of the PRC.

At its September meeting, the PRC conducted a one-hour training session with PRC members. The goal is to provide training to new members as they are appointed. Recruitment is pending for nearly a dozen members with expiring terms. Mr. Palewicz asked for timely notification by the Board of any new appointments to the PRC to enable him to send a welcome letter and provide the new member with some of the training materials to inform new members of PRC policies and procedures.

Mr. Palewicz said the PRC bylaws were adopted in 2008. Some of the references to laws are outdated with references to Department of General Administration rather than DES. Otherwise, the substance of the bylaws and the operating responsibilities of the PRC are current, although some references should be updated.

PRC members reviewed panel procedures, timing, meeting format for project presentations, and applicable RCWs, such as RCW 39.10 and 270, which addresses certification of public bodies, RCW 39.280, project approval process, RCW 39.10.340 on the uses of GCCM, and RCW 39.10.300 on the uses of Design-Build. Members utilized the RCWs as a guide during the discussion.

Next July would be timely to schedule a training session for new appointees to the PRC. The PRC has 11 members with expiring terms by July 1, 2017. Shasta McKinley resigned from the PRC last month. Current members were encouraged to solicit new applicants. Mr. Palewicz stressed the importance of appointments effective by July to ensure a smooth transition.

Mr. Palewicz said the PRC has not extensively discussed potential revisions to RCW 39.10. However, previous conversations surrounded the requirement of RCW 39.10.276 requiring the submission of recertification application at least 90 days before the expiration date of the initial certification. The PRC discussed the issue at its last meeting, as well as during the PRC training. Most members offered guesses on why the requirement was included for the 90-day requirement with many believing the logic was to afford adequate noticing to the public of the meeting date to attend to protest or comment on a recertification application. The law does not require a presentation or hearing of the application for recertification near the end of 90 days. Typically, agencies are meeting the 90-day requirement with several agencies missing the date. Those agencies missing the date can follow up with another application 30 days later and receive recertification. If the 90-day waiting period was intended to provide more public notice, that was not achieved in most cases. The requirement is somewhat confusing and difficult for the PRC.

Mr. Maruska advised that when the Board approved its bylaws, there was recognition of the need to update PRC's bylaws. He asked whether the PRC has scheduled time for the Board to address inconsistencies between the two bylaws. Mr. Palewicz replied that some language and references to different laws are outdated. However, he is not aware of any inconsistencies between the bylaws and RCW 39.10.

Ms. Deakins affirmed some inconsistencies because the law has changed several times since 2008. Any proposed changes to the bylaws would not likely be considered until the May meeting dependent upon the first full meeting of the PRC. Staff reviewed the bylaws and drafted a revision to conform to current statute. She offered to forward the draft to Mr. Palewicz.

Mr. Palewicz affirmed his intent to review the draft to identify any inconsistencies.

Representative Buys offered to work with Mr. Palewicz on revisions to RCW 39.10 along with Senator Hasegawa and Representative Tharinger. He expressed interest in considering a potential fix to subsection 6 and does not believe the Board would object to a simple correction to language requiring submission of recertification applications within 90 days of expiration of the original certification.

Mr. Palewicz conveyed appreciation because a number of agencies have missed the deadline even though the provision is clear in the RCW and in the letter forwarded from the PRC. If an agency misses the deadline, it places the PRC in an awkward position of declining a request because of statute requirements. The application for recertification is less rigorous than an application for certification.

Chair Frare asked the Board to consider endorsing or authorizing Representative Buys to assume the lead for changing language in the provision from “must” to “should.”

Representative Buys added that although action by the Board supports the process, he does not believe the proposal is political as long as the focus remains on subsection 6 with no other changes. Having the Board’s endorsement or action could assist the process.

Chair Frare asked about any reservations to the proposal from members.

Mr. Maruska suggested crafting a motion directing Representative Buys to remove the 90-day requirement and propose a CPARB bill supported by the membership.

Chair Frare said it appears there are two directions of removing the requirement entirely or changing “must” to “should.” He asked for input from the Board.

Mr. Schacht questioned why the Board would remove the requirement if the original intent of the language were to afford the public an opportunity to comment on a recertification application. He acknowledged the procedural issues. However, it appears there are two issues. One issue surrounds agencies seeking recertification overlooking or not being aware of the 90-day requirement. He questioned why the Board would alleviate that requirement, as it is a requirement all agencies should understand. DES staff could send a letter to agencies with pending deadlines for recertification requesting notification as to whether the agency intends to reapply. The letter could include a citation of the RCW. The other issue pertains to the requirement of filing the recertification 90 days prior to the expiration while there is no requirement for the PRC to review the application within the 90-day period. That issue might benefit from a change in the RCW. However, he’s unsure why the Board would forfeit the 90-day requirement, as the requirement makes sense to him.

Mr. Palewicz responded that the theory shared by PRC members for the 90-day requirement was enabling public notice for recertification. Many long-term members concluded that was the reason for the provision. A 90-day requirement is not required for certification. Another guess was to allow time to ensure the PRC had a quorum to consider a recertification application. The RCW mentions no timing provisions as to when the PRC should consider recertification applications. Until now, agencies have been applying within 90 days and scheduling presentations within the first month, which sets the clock on the three-year certification period.

Mr. Nygaard said he was present when the provision was discussed. He believes the provision was included to guard against in any lapse in agency certifications by ensuring agencies submitted recertification in appropriate time to afford the PRC an opportunity to review the application. At that time, PRC met bi-monthly. It was necessary to afford sufficient time to schedule a PRC meeting and to ensure certifications did not expire. A 30-day notice was afforded for proper public notification while 60 days was to ensure agency certifications did not expire.

Mr. Palewicz added that agencies are not electing to wait until the three-year certification period to apply for recertification. A number of agencies, to include the University of Washington, have been certified for GCCM for one period and certified for Design-Build for a different period. The PRC has enabled agencies to combine both certifications into one recertification for each delivery method to afford one expiration date for the agency.

Rodger Benson said he was also involved in original discussions surrounding the RCW. The only other issue addressed at that time was some interest by public bodies to allow some time to reapply if recertification was denied. The 90-day period affords time for public agencies who did not receive approval to avoid incurring a gap in the agency’s authority.

Ms. Keith responded to comments implying agencies not submitting recertification in time are negligent. Her City had to make a decision based on workload and decided to defer submittal of an application for recertification because of

workload and the lack of any pending projects. The City will be in a situation for resubmittal of certification because the City could not meet the 90-day requirement. The provision led to an interesting situation, as the processes are different resulting in a lag time of several months between the certification lapsing and submittal of a new certification. The City understood the outcome and she believes the real issue is how much time the PRC requires to make a decision to ensure recertifications do not lapse. She would defer to the PRC regarding that issue.

Mr. Rowe pointed out the statute specifies the PRC must review the recertification before the certification lapses. It appears there could be some conflict if an agency submits a recertification two weeks prior to the expiration, which administratively would be impossible to achieve.

Mr. Kuruvilla asked whether recertification applications are posted on the DES website. Mr. Palewicz said all applications are posted a minimum of 20 days prior to the meeting. Mr. Kuruvilla asked whether that timeline affords sufficient time for the public to review and comment. Mr. Palewicz replied that based on his experience, he has encountered no negative comments for a certification or recertification. He suggested some language should be included to ensure an application is not considered prior to the 90 days.

Representative Buys remarked that any of the procedures would be subject to the Administrative Procedures Act and the Open Public Meetings Act. Any proposed language could not circumvent those requirements. The proposal to change the language would be in conformance with the requirements while affording flexibility. He offered to work on the draft language with Mr. Palewicz.

Robert Maruska moved, seconded by Andrew Thompson, to authorize Representative Buys and the PRC Chair to draft language to address the 90-day requirement.

Several members inquired as to whether draft language would be reviewed by the Board prior to submittal to the Legislature.

Mr. Nygaard pointed out that the provision was included for a reason. He believes it was included to help public agencies, as there is a requirement for the PRC to behave in a way public agencies could rely on. He understands the procedural issues but agrees with Mr. Schacht to a certain extent, as all parties need to be aware of the rules and behave accordingly. He is not supportive of crafting language that might harm existing processes and procedures.

Mr. Thompson offered that the Board is fundamentally responsible for providing advice to the Legislature. A legislative representative has offered to administratively change a provision in conjunction with the Chair of the PRC, a public owner. He has confidence that between both individuals, language could be drafted meeting the expectations of the Board's responsibilities.

Mr. Schacht pointed out that there likely is no lack of trust in Representative Buys' ability to craft legislation. However, Mr. Nygaard's point is that the Board would want to be informed about the proposed language. It is appropriate for the Board to approve proposed legislative changes.

Representative Buys added that as a legislator, the Board's permission is not required to move forward and work on the legislation. However, the intent is to work with the Board and he would like an opportunity for the Board to testify in support of the proposed change in language. Should that not be possible to achieve until February or the next meeting, efforts on crafting language could continue for future approval by the Board. At this time, no action by the Board is required for him to move forward.

Chair Frare suggested another option of working with Mr. Palewicz to draft language for review by the Board via email.

Mr. Schacht said it appears there are two options of eliminating the 90-day requirement and allowing language in section 6 to remain intact, while the second option is maintaining the 90-day requirement and modifying section 6 to eliminate the conflict by stating something to the effect of, "...*provided that the requirement for 90 days was met, then the PRC would have to review the recertification before the expiration of the certification.*" He questioned the intent of either eliminating the 90-day requirement or modifying the language to recognize 90 days.

Mr. Palewicz advised that if the provision of 90 days is important, the language should reflect that the PRC would not review the application until 90 days or 60 days, etc. Otherwise, an agency could submit an application on January 1, 90 days prior to the expiration requesting consideration of the application during the January meeting. Language should be crafted indicative of the presentation and public hearing scheduled near the end of 90 days.

Mr. Shinn commented that when an agency submits an application to the PRC for certification there is no 90-day requirement. It appears to be a technicality because any agency could submit an application for certification and not have to meet the 90-day requirement.

Mr. Crawford said there is a general expectation for agencies to apply and follow the timelines posted on the PRC website. In his experience, it has not been a problem for the PRC to schedule committee meetings and review project applications submitted at the beginning of the month. If part of the intent of the 90-day requirement enables public agencies an opportunity to resubmit after a denial, it would entail a review of the initial recertification application prior to the end of 90 days. It would be up to the public agency to submit applications earlier if the 90-day requirement is eliminated to allow an opportunity to resubmit if the application is denied.

Mr. Rowe said he views the three month requirement in statute as an administrative requirement to ensure opportunities for all processes to proceed, such as proper notification, etc. He does not view the requirement as a limitation that requires no review of the application for 90 days.

Chair Frare commented that based on input from those initially involved in the original legislation, the intent was to ensure certifications did not lapse affording an opportunity to submit more information or correct perceptions that led to a denial. Today, if an agency does not meet the 90-day requirement, the agency is administratively excluded from having the certification extended. An agency might be underway with three projects that could be impacted by the agency losing certification. From a customer service perspective, that situation does not make sense as long as the PRC is following other administrative rules on noticing requirements. The PRC and Board should strive to the extent possible to serve public bodies by recertifying to ensure agencies have the authority to manage projects that likely are in progress.

Mr. Benson said at the time the language was under discussion, the PRC was meeting monthly. The PRC Chair also has the authority to call special meetings if the schedule is detrimental to the agency. The PRC has some flexibility. The parties discussed the three months and agreed it was an adequate amount of time for most public agencies to resubmit. Additionally, he does not believe the statute prevents an agency from submitting an application earlier than 90 days. During the eight years he served on the PRC, he does not remember any instance where the 90-day requirement was an issue.

Mr. Maruska commented that the motion was to remove the 90 days. Should the Board want to consider other language, the motion should be considered. If it fails, the Board could consider another motion.

Mr. Schacht said he is appreciative of the conversation because it afforded a better understanding of the issue. However, based on the Board's discussion, he would offer a friendly amendment to change "must" to "should," as recommended originally by Representative Buys, as it would enable fair warning and serves as a non-binding recommendation that does not prevent an agency from submitting a late application.

It was clarified that the original motion addressed the 90-day requirement rather than removing the 90-day requirement.

Mr. Schacht reviewed the proposed friendly amendment to authorize Representative Buys and the PRC Chair to draft language changing "must" to "should."

The makers of the motion accepted the friendly amendment.

Mr. Rowe pointed out that the PRC has bylaws that were approved by the Board. He asked whether the PRC is able to establish cut-off dates and thresholds for applications. Chair Frare replied that it might be possible other than the statute

would be the determining factor. Mr. Rowe commented that if the statute is silent or is not prescriptive, the PRC would still have the ability to establish a procedural process for review and approval.

Ms. Keith asked whether replacing the language of “must” with “should” affects a public agency’s submittal of an application 30 days prior to expiration. She questioned whether there are any assurances agencies would receive a review of the application prior to the lapse of the certification. She is concerned the change would convey a message of proceeding at an agency’s own peril.

Mr. Palewicz responded that the normal timeframe to receive applications is the first of the month prior to the scheduled meeting.

Mr. Nygaard continued to express concerns, as he does not believe the Board understands the consequences, which speaks to the need to review the proposed language. The Board is attempting to solve a problem that might not exist based on assumptions of some issues. Not changing the language continues to hold the PRC accountable to attain a 60% quorum as opposed to a project application that has different rules than a recertification. There must be sufficient time for the PRC to achieve a 60% quorum to consider a recertification application, which is a different threshold than a project application where only eight members are required. The language was created to protect both the PRC and public owners. Submittal of the application within 90 days guarantees the public body a public hearing. Reducing the timeline does not remove the provision for the PRC to consider the application. The issues have not been bisected sufficiently to determine if there is a problem. Changing one word in legislation can have ramifications.

Mr. Palewicz reported that for certification applications, there is no submittal date requirement other than requiring the PRC to achieve a 60% quorum. The PRC has always achieved a quorum.

Chair Frare reviewed the intent of the motion authorizing Representative Buys to draft language to change the RCW from “must” to “should” relative to the 90 day submittal requirement.

Motion carried. Brent LeVander, Mark Riker, Rebecca Keith, Gary Rowe, Ty Heim, Steven Crawford, and Alan Nygaard voted against.

Chair Frare recessed the meeting from 9:52 a.m. to 10:10 a.m. for a break.

Mike Shinn and Greg Fuller no longer participated in the meeting via teleconference.

Chair Frare adjusted the agenda moving action on the Public-Private Partnership Committee Feedback & Proposed Legislation as the next item for consideration.

Public-Private Partnership Committee Feedback & Proposed Legislation - Action

James Lynch, Ahlers & Cressman, reviewed the proposed revised legislation correcting or addressing all open issues.

The Public-Private Partnership (P3) Committee developed the proposed P3 legislation over the last two years with over 30 participants representing the industry over the course of eight meetings and many offline conversations and exchanges with all stakeholder groups interested in the process. The legislation is broadly defined in terms of what public-private partnership is. At the last meeting, the definition of P3 was reviewed with stakeholders agreeing to adopt new terminology. The definition is the most important aspect of the legislation in terms of defining the consolidated delivery method of Design-Build-Finance-Operate, and/or Maintain. The method is Design-Build (DB) with a long-term operations and maintenance component with financing as a unique element. Other ways are available to accomplish what is proposed in the legislation, such as 63-20 financing that some agencies have used successfully, long-term lease arrangements, or workarounds to achieve some of the same goals. The Committee spent time over the last two years drafting an efficient and direct way to accomplish objectives of public agencies by creating one piece of legislation that represents a balance providing flexibility to owners while protecting competition through an RFQ/RFP process to ensure healthy participation. The proposed legislation includes an honorarium provision mirroring the DB delivery method. The procurement process could be defined as DB+, as it includes similar language from existing DB statutes with additional requirements to ensure projects are implemented properly.

The legislation includes protections for Labor interests through bonding and prevailing wages, specific provisions requiring the issue of participation and diversity to be addressed, and provisions requiring protection of long-term public interest.

Board questions addressed during the last review were reviewed by the Committee at its last meeting. All concerns were addressed along with new issues raised during the meeting. The prior proposal included a provision for a PRC subcommittee of subject matter experts to review all project proposals. However, after receiving feedback from Representative Buys and others, members agreed a better process with more protections could be achieved by having all project applications reviewed by a PRC subcommittee of subject matter experts who would forward a recommendation to the CPARB for the Board's review and consideration for either approval or denial of the project proposal. That provision is addressed in Section 580.

The Committee also agreed a graduated roll-out to address other concerns would be wise with the proposed legislation implementing a maximum of four projects per year from 2017 through 2021. The 2017, 2019, and 2021 legislative sessions are long sessions affording a good opportunity to refine the legislation based on any lessons learned. RCW 39.10 is scheduled for a broad review during the 2021 legislative session. Although the proposed legislation includes no specific sunset, CPARB would have an opportunity to review whether the process has been effective prior to sunset review in 2021 for RCW 39.10. The intent of establishing a maximum of four projects was to afford two vertical and two horizontal projects and the inability to predict the number of projects.

Prior proposed legislation presented to the CPARB included over 30 specific contract requirements. Feedback from owners indicated the requirements were too prescriptive. The current proposal in Section 520 has been narrowed to apply to P3-specific concerns with some essential terms and protections included.

Another pending issue spoke to the interplay between P3 projects and debt limitations. The proposed legislation defers addressing the issue although there were concerns surrounding other provisions other jurisdictions could use indicative of P3 financed projects not affecting debt limitations. In Washington State, the limits are constitutional, and rather than creating any constitutional problems, the legislation is silent on the issue essentially affording each owner and legal counsel the ability to consider the issue on a project-by-project basis to determine whether the financing structure meets bond limitation requirements.

The Committee also addressed honorariums, which was an issue by the design community. The concern centered on the procurement process, which is very expensive, and without an appropriate honorarium, many small companies are excluded. The Committee agreed it was a valid concern and included an honorarium provision that essentially mirrors DB provisions for honorariums. However, the proposed legislation affords an opportunity for the owner to elect not to offer an honorarium, which must be disclosed in the solicitation.

The Committee also believed "Public-Private Partnerships" was a misnomer with connotations of how the process has been implemented in other states. After review and discussions, the Committee agreed the terminology should reflect "Cooperative Project Delivery (CPD)" as the term accurately describes what the legislation is intended to accomplish.

Another question addressed was whether a public hearing should be scheduled for project proposals. The Committee recommends utilizing the requirements for a public hearing as outlined in the legislation for GCCM.

Mr. Lynch added that another concern is whether P3 or CPD is essentially a privatization of government functions with some philosophical opposition to the delivery method. The Committee did not address those concerns specifically within the legislation other than to ensure CPD projects are delivered similar to existing public works methods. Another concern surrounds architecture and engineering industry concerns that the process essentially commoditizes professional services rather than affording qualifications-based selections. The process provides incentives for the owner to pursue lower pricing from design professionals, which could be perceived negatively. However, pragmatically, some prior implementation of P3 projects sparked concerns that the delivery method was utilized as a way to avoid labor provisions. Those concerns are specifically addressed in statute. There were other concerns that some P3 projects excluded smaller companies, which is a valid concern the Committee discussed and attempted to address through the competitive process.

During the roll-out phase, most of the projects implemented would likely be large and would typically exclude smaller companies. In those cases, the proposed legislation would serve to assist in including smaller companies because of qualification and quality-based selection of subcontractors.

One final concern surrounded studies depicting P3 projects as more expensive than other delivery methods. Some P3 projects were completed with optimistic financing models. In those cases, the public agency was sold a bill of goods that was not delivered, and in retrospect, those agencies determined the P3 delivery method was not the best financial model to implement. The Committee discussed those concerns and agreed the resolution in the legislation for a graduated roll-out and a CPARB review offers some safeguards acknowledging that there are no absolute protections for any model to be more cost-effective than another method. With the combination of a competitive process, CPARB review, graduated roll-out, and specific contractual requirements, the Committee believes the issues have been addressed.

Mr. Lynch asked the Board for a vote rather than delaying action until next year because if the proposed legislation is not introduced to the Legislature by January, it is unlikely the legislation would be considered in 2017. As 2018 is a short session, it is also likely legislation would not be considered until 2019. The Committee has spent time to ensure most issues remaining could be resolved now rather than delaying legislative action. The proposed legislation would likely be scrutinized at the legislative level and the final statute would likely not match the proposed legislation. If there are other changes or details, as well as additional concerns, the Committee recommends deferring those issues to the Legislature to initiate the process rather than spending more time on wordsmithing the proposal that has been through several years of review.

Ms. Keith asked whether a representative from Washington State Department of Transportation (WSDOT) attended the last committee meeting. Mr. Lynch advised that no representative from WSDOT attended the last meeting.

Ms. Keith asked for additional information on the recommendation to include a two-layer review by the PRC and the CPARB. Mr. Lynch said the proposal was prompted from questions by Representative Buys in terms of the accountability of the PRC to the Legislature. Since the PRC has no direct accountability to the Legislature, the Committee discussed ways to elevate the subcommittee or consider a two-step review process to ensure project review expertise while also including a review body directly accountable to the Legislature. The recommendation would entail another work item for the Board, as well as another step the public owner would be required to complete.

Mr. Rowe expressed concerns about the PRC review process because the intent is for the PRC subcommittee to review project proposals and the methodology the owner undertook to evaluate risks for selection of the CPD method. He is unsure whether that process would be adequate, as well as how the process would be implemented. Secondly, there is an expectation of the CPARB and the potential of the Board to evaluate the proposal, which prompts the issue of the Board's level of expertise, as well as being adequately funded. There are too many unknown implications in terms of technical expertise and funding.

Mr. Lynch replied that the Committee discussed different iterations of the proposal because of similar concerns. Some proposals included an approval process through the PRC with the public owner presenting to a committee at the solicitation stage followed by a check-in and monitoring. However, that method was not supported by many owners who would consider using CPD method. The ability to pull the plug when resources have been invested was a major concern owners want to avoid. Another proposal in the prior draft was a requirement for the public body to present the RFQ/RFP and draft contract. However, many owners were concerned with that level of investment when presenting project proposals for approval. That option was deemed not practical. The current proposal requires public bodies to present project proposals to the PRC subcommittee with much more information required than a GCCM or DB project proposal. The owner must satisfy a list of items that would be included in the project proposal presented to the PRC subcommittee. Typically, that would include a business case analysis by the public body documenting whether the method is appropriate, goals for accomplishment, and comparison of CPD to other models, followed by a second level analysis of value for money analysis. To complete that analysis, a private sector contractor would need to be onboard to determine the financing. The proposed legislation requires the owner to present preliminary pro formas for review. In terms of expertise at the Board level, the Committee agreed expertise on the PRC committee would be required if a financial note is required in the legislation. The PRC's review would fulfill that requirement on behalf of the Board with the recommendation providing more details. Other jurisdictions have spent millions of dollars to fund a central P3

organization to administer, oversee, and govern P3 projects. However, at this point, no one believes that level of engagement was a feasible starting point. Rather, a graduated roll-in with a limited number of projects reviewed by the PRC and the CPARB was the preferred course. In terms of the Board's review, the legislation is specific on what the PRC receives and it includes broad discretion to the CPARB in terms of its decision.

Mr. Kuruvilla commented on the practical aspect of what occurs in the end. Within Europe, some of the problems faced within the Design-Bid world were transitioning to alternative project delivery to address similar concerns existing in the U.S. Several projects, including high speed rail projects spoke to the lean mindset and the supply chain logistics-type of thinking that comes into play during the operation of a project. Unfortunately, architects, engineers, and small businesses are commoditized. Although with all the available knowledge, not much has been done to invest that knowledge in the proposed legislation. The proposal lacks language or provisions that would have corrected that deficiency by possibly including some checks and balances. Because of those reasons, Mr. Kuruvilla said he is concerned that engineers and architects will not have an opportunity, which impacts the small business community.

Mr. Lynch said the concerns are valid and were discussed and considered by the Committee. There is a belief and an experience that those concerns also apply to DB as well, although DB has been codified by statute. Unlike DB, the private sector has a longer term stake and a higher degree of commitment to project quality and innovative design than within the DB sector. There is more of an incentive for the team to include the best designers rather than the cheapest designers. It is also true that as long as design professional are working for someone who is on a budget, there is a goal to keep prices low. That tension exists, but it may not be reconcilable.

Mr. Kuruvilla urged the Committee to review some of the language particularly as it relates to value for money and consider devising a commercial template, as there are mechanisms to address some of the issues to protect professional services subcontractors.

Joaquin Hernandez spoke to his concerns surrounding ambiguity in several of the provisions for participation by small businesses. Participation of small businesses as specified in the provision would be an important factor for his support of the legislation.

Mr. Lynch agreed as it speaks to a key benefit the legislation provides. The provision was included in several sections with different language because of interest by owners to set the tone. Owners would determine the outcome. However, the legislation speaks to the necessity of addressing plans for outreach and participation. The proposed legislation does not necessarily identify the means, as the owner would prescribe the process. Not all subcontracts would be procured on a low price basis affording an opportunity to increase participation by small businesses.

Mr. Schacht asked about the provision specifying the rollout of the projects. Mr. Lynch advised the provision is included in section 580 G. Mr. Schacht said the provision identifies the rollout period and the number of projects over a period of years; however, it is silent in terms of future projects. Mr. Lynch affirmed the legislation is silent after the initial four years, essentially eliminating the limit after four years. However, in 2021, the Legislature is scheduled to review RCW 39.10, which would include a review of the proposed legislation as well. Mr. Schacht pointed out that as a stand-alone recommendation for legislation to modify RCW 39.10, this particular legislation would no longer apply after four years.

Representative Buys noted that only the limitation of projects would terminate after four years.

Mr. Lynch said the proposal was drafted as "training wheels for four years" with the training wheels removed after four years.

Mr. Schacht said that interpretation is unclear, as the legislation does not speak to any limit on the number of applications after four years.

Mr. Maruska commented that the reauthorization of RCW 39.10 contains a sunset provision whereby all alternative delivery methods cease in 2021. The statute authorizes projects for one additional year with all alternative delivery methods ceasing by 2021. The Legislature would need to act on all delivery methods in 2021. The proposal includes a built-in ending point that cannot be bridged.

Mr. Riker commended Mr. Lynch and the Committee for developing the proposed legislation. Labor supports the body of the proposed legislation; however, as he mentioned during the last committee meeting, Labor does not agree with changing the name of P3, as the method is a public-private partnership. Labor would support the proposed legislation if the name was not changed. As proposed, Labor opposes the legislation.

Irene Reyes said her main concern is the inclusion plan for minority companies and measurements for accountability, risk, and control. She acknowledged the time Mr. Lynch and the Committee spent on developing the P3 proposal. Nationally and internationally, there has been much press about P3. She questioned whether the Committee obtained information on why P3 legislation failed in a number of states while some states have passed P3 legislation. Based on information she reviewed, only a few states passed legislation, which speaks to reasons why the legislation has not passed in other states.

Mr. Lynch said he reviewed much of the same information.

Ms. Reyes offered to share the information, as the proposed legislation is too vague.

Greg Fuller spoke against the proposal because it does not include sufficient provisions for small business.

Mr. Lynch addressed the concerns. Many states introduced similar legislation, which did not pass because it did not include protections for small businesses or it lacked a well-defined competitive process. Since the beginning, the terms of diversity and small business inclusion was a key point of discussion by the Committee because unlike Design-Bid-Build and other methods, there is an opportunity for the owner to determine the level of participation and include it as a contractual requirement.

Bob Armstead, National Association of Minority Contractors, said the association opposes that line of thinking, as it is that line of thinking that led to women and minority business participation at the state at less than 1%. The association opposes any legislation that allows owners to choose at their discretion when, if, and how. Historically, that method has resulted in zero participation.

Mr. Crawford asked whether the CPARB has previously been involved in approving projects within a pilot program. An unidentified individual indicated he did not believe so.

Mr. Maruska commented that once the Code Reviser is involved to draft legislation, the definitions would move to the definition section in RCW 39.10. The definitions still require some work because the definitions would apply to the entire statute. His concerns center on definitions.

Mr. Nygaard said existing legislation speaks to the strength of the project team completing the proposal. The investment is in compiling the team for development of the project application for project review. There is a significant amount of investment before any preliminary feedback is offered. His concern is setting the threshold high at the onset as it might dissuade owners from participating in the delivery method. He is concerned about setting the bar too high. Perhaps a two-step would be preferable rather than setting a high bar at the first level that might prevent owners from even applying. He asked for feedback on the Committee's discussion and recommendation as opposed to a two-step process or qualifications based selection.

Mr. Lynch said the issue relates to balance because the main concern surrounding the two-step process was the initial under investment by an owner followed by a significant investment only to have the project denied. Members believed there was too much risk and uncertainty to require a substantial amount of money and resources associated with the two-step process. It was also one of the main problems with existing innovative transportation partnerships, which requires more than two steps. The prior draft included more requirements for the initial review, which has since been pared in the proposal. Most of the analysis would occur as part of the owner's review and vetting internally prior to presenting a proposal to the PRC. A P3 project requires the proposed level of scrutiny.

Mr. Nygaard said some of the comments spoke to the lack of a qualifications-based process. It is possible to accomplish more by having a team approach. Development of the team depends on qualifications, which will be important. The team, in terms of quality, could include support from other resources if a qualifications-based step is included. It is an incentive for establishing a good team without commoditizing the engineering and design elements.

Mr. Lynch conceded there are many ways for a review. He asked whether that process would be included as part of the project review and approval to receive input on whether the project is worth pursuing in terms of investment followed by a formal presentation of the proposal after selection of the team. Mr. Nygaard conceded that he has not considered the right procedure but would be willing to help define the process. However, the provision applicable to qualifications and the importance of the team within the document might solve some of the other concerns the design industry has. Timing is important for when those actions occur, as well as the process. While it would be unfortunate for a public owner to invest in seven steps only to have the rug pulled at the eighth step, it would provide useful feedback if some of that work was accomplished earlier in terms of the type of investment to ensure the project is successful. There is no right answer because each project is different requiring a generic process amenable for any project review.

Ms. Reyes asked whether DES has implemented a pilot P3 project. Chair Frare said DES has not implemented any P3 projects. The Jefferson Building was completed under 63-20 financing authorized by the Legislature. Ms. Reyes advocated for more research and additional work on the proposal, as well as receiving more information about the disadvantages and lessons learned from other P3 projects.

Mr. Rowe expressed appreciation of the work completed by Mr. Lynch and the Committee. The proposal has generated many questions. The question for the Board relates to the formation of the committee that rendered a recommendation to move forward. He is also concerned about the Board promoting legislation not completely vetted. The situation has created many unanswered questions that would benefit from more discussion. It also might benefit from having more than the subcommittee of the Board working on the issues. If the Board considers the proposal as important, perhaps the Board should consider asking the Legislature or the budget process to pursue some form of study by a legislative committee to increase it to a level to receive proper attention other than through the CPARB.

Theresa Berntsen acknowledged the reference to voluntary inclusion plans; however, data verifies inclusion plans do not work. She also reviewed comments received over the last six months and does not agree with the statement that the issues have been resolved, as there are many unanswered questions.

Mr. Schacht remarked that the proposed legislation of this magnitude fundamentally changes the scope of RCW 39.10 and does not require the Board to achieve consensus or convey support. However, for this particular issue, the Board should be close to consensus if not full consensus, otherwise, the risk of the legislation moving forward with organizations represented on the Board opposing the proposal during legislative hearings would be reflective of a divided Board. It is likely architects and engineers would be opposed to some, if not all of the provisions. It is important for the Board to determine a way to reach consensus, otherwise the likelihood of being successful is limited. CPARB's stamp of approval should be more than a 10/9 vote, otherwise the Board is risking its standing. If the legislation moves away from requiring voluntary participation, it is true that any kind of DB procurement could increase the capacity of public agency support and participation. However, it tends to categorize participation. Limits or requirements for participation could be included enabling small, disadvantaged, women, minority, and veterans to compete. The nature of the procurement type typically reduces that level of participation as a subcontractor by its nature. The industry has small, disadvantaged, women, minority, and veteran-owned businesses who are primes as professional service providers for those types of projects while the likelihood is limited because of the need to have a priority relationship with the developer. The design industry's main concern with P3 is design excellence and separation from owners. Design excellence of architects and engineers is inherent by being directly involved in owner decision-making, which would be the biggest loss for the P3 delivery method. He also has questions about how P3 plays in budget policy for state, county, and municipal owners if a budget bill fails to pass and the owner is unable to collect revenues to complete the project. He thanked Mr. Lynch for his presentation on the pros and cons but it is still likely that the Board really does not understand P3 at this point. Not all members are ready to support the proposal.

Chair Frare referred to some information included in the pre-read materials, as well as the prior attendance of a representative from Wright Runstad. The representative was planning to address the Board on proposed developer-led legislation.

Representative Buys acknowledged efforts on the proposal could continue; however, it likely would result in an uphill battle and he is not inclined to create problems with architects and engineers in the state. However, he supports moving the proposal forward as no draft legislation is fully vetted at this stage. One of the downsides of boards is revolving membership with new members exposed to proposals. Deferring the proposal for two years would likely entail reviews by new members who have never been exposed to the subject. Each member's expertise resides within a particular element of the industry and perhaps deferring the proposal might result in missing a good opportunity, as many of the concerns would be vetted at the legislative level as well.

Mr. Thompson said the best aspect of the Board is its ability to discuss issues, regardless of the difficulty. However, P3 should not be viewed only through the lens of inclusion for small business because it is an industry-wide concern. He challenged members against stagnating the industry in terms of procurement methods, as new methods are needed. The effort by the Committee has been commendable; however, the Board should ensure with creation of any committee, that the right members are represented on the Committee. The Committee has worked over the course of two years with some members attending later in the process. Representatives from WSDOT also attended many meetings and are an important part of moving forward with the proposal because WSDOT would be one of the larger public owners utilizing P3 for projects. With respect to P3 training wheels, it was to ensure the best interests of the public. The concern of creating a top-down government committee versus private would likely result in studying the issue indefinitely as the delivery method has been a private effort to introduce a new methodology to the Board. Successful implementation will result in projects that previously lacked sufficient financial backing. He cited Sound Transit and WSDOT projects as examples. He asked the Board to consider strengthening provisions for inclusion of small business and minorities.

Mr. Hernandez said the undercurrent issue appears to center on the inclusion of small business and minority-owned women businesses. However, the proposed legislation does not reflect that intent. Provisions stipulating that public bodies are encouraged to include public outreach during the RFP process and provisions required to speak to outreach to small businesses, as well as provisions to the extent specified by the public body do not reflect requirements. The Board has an opportunity to include some requirements for small business and disadvantaged business goals. He supports P3, but the lack of those requirements is troubling.

Mr. Nygaard expressed support for any additional tools for public owners. In terms of issues surrounding opportunities for small business procurement, P3 does a better job than other procurement methods. Some members might believe it does not go far enough, but it is a step in the right direction. Overall procurement through the private sector has enabled public owners to increase participation. Although the proposal does not solve all issues, compared to other procurement methods, the proposal is a step forward. He prefers revising the language to address the concerns so that the Board can achieve consensus.

Mr. Lynch said the request to the Board was due in part to timing of the 2017 legislative session and logistics. He agreed with Mr. Nygaard that if the current proposal does not meet the requirements of the Board or stakeholders, the Committee would likely not oppose any constructive changes. The issue was having a similar discussion six months ago. Since then the Committee has met several times and issued two drafts. If there is no support to move the proposal forward, he encouraged the Board to direct the Committee to continue working on the draft and follow through with any proposed language to address the concerns.

Alan Nygaard moved, seconded by Joaquin Hernandez, to return proposed P3 legislation to the committee and appoint interested CPARB members to assist in ensuring all concerns are addressed.

Mr. Thompson recommended more specificity to ensure success in terms of the expected outcome.

Mr. Maruska spoke to his involvement with the Committee during the last two years and how the frustration experienced by the Committee centers on the lack of participation by the Board. He suggested members should consider how to ensure active participation to resolve the issues or make a decision of non-support.

Mr. Thompson encouraged members opposing the proposal to attend the committee meeting and participate.

Mr. Crawford said he supports the availability of many tools as possible to make the best selection for projects. In this case, one major segment does not support the name change. He recalled significant discussions surrounding minority business participation and potentially changing the language during discussions on the reauthorization of 39.10. Various entities could not reach agreement as to what language should be included. He expressed doubts that this process would result in general agreement today, but agrees that those who have issues should be part of the process for addressing concerns.

Mr. Thompson agreed each member has primary responsibilities acknowledging the goal of each member to influence better outcomes for procurement. He encouraged members to invest their time and become engaged.

Mr. Hernandez said it is unlikely the Committee could present a draft that receives unanimous support. However, he believes the goal is close to achieve.

Brent LeVander agreed the issues could be addressed through some fine-tuning.

Ms. Keith supported more procurement tools for owners. One form of feedback from representatives involved in public financing spoke to the proposal resembling a procurement statute. Her main concern as a member of a Board involved in public procurement pertains to how P3 projects involve long-term financing, operations, and maintenance beyond procurement. She understands that WSDOT's review process for similar projects has become somewhat politicized, which speaks to the importance of the Board recognizing that it may encounter a similar burden by being accountable to the Legislature for review of P3 projects. She questioned whether that is the direction the Board wants to assume or whether the Board wants to remain focused on procurement methods. Her issue is the possibility of the Board's role changing with the legislation. She agreed with concerns echoed by other members while acknowledging the larger issue of whether the Board should be in the role of advising the Legislature to adopt the proposed legislation.

Mr. Thompson commented that the PRC has been tasked with a similar responsibility as authorized by the CPARB. Ms. Keith added that the current review process for WSDOT is different and that the proposed legislation would enable WSDOT to present proposals to CPARB.

Mr. Schacht said the issue has been discussed many times. He questioned why CPARB would want to deal with the legislation as many states have P3 statutes separated from alternate project delivery. He agreed with Ms. Keith in that he is also unsure as to whether he would want to be in the position of approving projects. In his role as a CPARB member, it is important to be a project delivery agnostic as decisions must be metered for all stakeholder interests. Members also have a responsibility to the Board for assuming new responsibilities, determining appropriate roles of the Board, and alignment with Board expertise. That question should also be addressed, which is why he would like a discussion explaining and describing P3 at the Board level. It is not the responsibility of members to attend committee meetings to determine whether P3 legislation is appropriate. It is the responsibility of the P3 Committee to convince the Board. He acknowledged the interest of some members attending the committee meeting but stressed that the major responsibility of the Board is being convinced about the totality of the proposal. He recommended receiving a comprehensive presentation during a dedicated meeting with no time constraint to enable the Board to understand the process and to allow appropriate time to determine if the delivery method is an appropriate mechanism that ought to be available in the State's tool kit.

Several members referred to a second similar proposal by Wright Runstad. Chair Frare explained that the representatives had planned to discuss the developer-led design-build option with the Board but left the meeting earlier because of a meeting conflict.

Motion carried unanimously.

Gary Rowe left the meeting.

ECCM/MCCM Committee Guidelines – Action

Scott Middleton, Mechanical Contractors Association of Western Washington (MCAWW), presented on behalf of Ed Kommers, Chair, ECCM/MCCM Committee. Members received a comprehensive status report on the Committee's November meeting. Several follow-up items directed by the Board included the set of six principles the Committee approved for presentation to the Board for administering RCW 39.10.385, as well as the lack of a consensus on some legislation by the Committee. However, MCAWW intends to introduce similar legislation during the 2017 Legislative session. The Board asked that the Committee review the proposed legislation to ascertain whether there would be consensus to forward the proposal to CPARB for a recommendation to the Legislature.

The principles generated comments to clarify that the justification criteria for using ECCM/MCCM is different from evaluation criteria. The clarification was included as a pre-read. Another clarification pertained to low-bid procurement under 39.04 versus 39.10.380. The Committee approved the revisions and requests the Board's approval of the principles and publishing the principles on the CPARB website.

Mr. Maruska moved, seconded by Brent LeVander, to accept the recommendations from the ECCM/MCCM Committee and publish the Principles for Alternative Subcontractor Selection Process as modified on the CPARB website. Motion carried unanimously.

Mr. Middleton referred to the prior request to forward legislation from MCAWW to the Committee to determine if there is consensus to move it forward to the CPARB. Unfortunately, the Committee failed to reach consensus. MCAWW appreciates all comments from the Committee. MCAWW still intends to introduce the legislation in its present form during the 2017 Legislative session as a MCAWW-sponsored bill. CPARB is not requested to consider action on the proposed legislation.

Mr. Crawford recommended some discussions to ensure consistency between guidelines and principles between the various CPARB committees.

Robert Maruska moved, seconded by Alan Nygaard, to terminate the ECCM/MCCM Committee and thank members for their service. Motion carried unanimously.

Chair Frare recessed the meeting from 11:56 a.m. to 12:05 p.m. for a break.

During the recess, Representative Buys and Rebecca Keith left the meeting. Irene Reyes ended her participation via teleconference.

Senator Bob Hasegawa arrived at the meeting.

High Performance on Design-Bid-Build Committee – Appoint Members – Action

Chair Frare reported on the budget proviso to DES to work with CPARB on High Performance for Design-Bid-Build (HPDBB). He asked for nominations from members.

Mr. Maruska nominated Janice Zahn, representing Washington Ports, to serve on the Committee.

Mr. Schacht nominated Dave Huotari and Stephen Starling representing architects.

Mr. Thompson nominated Curt Gimmestad representing general contractors.

Chair Frare nominated Nancy Deakins representing DES.

Mr. Riker inquired about the purpose of the Committee. Ms. Deakins reported the purpose of the Committee is to make recommendations to improve the design-bid-build project delivery method to include high performance criteria with incentives for the designers and contractors meeting the performance measures.

Mr. Riker submitted his nomination to serve on the Committee representing Labor.

Mr. LeVander submitted his nomination to serve on the Committee representing General Contractors.

Mr. Crawford submitted his nomination to serve on the Committee representing Schools.

Mr. Nygaard nominated Garrett Buckingham representing Higher Education

Mr. Schacht recommended contacting an engineer to participate. He offered to contact engineers for a possible nominee before the next meeting.

Mr. Thompson offered to contact PRC member Ato Apiafi to ascertain his interest to serve on the Committee.

Mr. Santosh offered to contact the project manager for the Coleman Docks project for possible interest to serve on the Committee.

Robert Maruska moved, seconded by Walter Schacht, to appoint Nancy Deakins (DES), Janice Zahn (WA Ports), Steve Crawford (Schools), Garrett Buckingham (Higher Ed), Dave Huotari (Architects), Stephen Starling (Architects), Curt Gimmestad (General Contractors), Brent LeVander (General Contractors), and Mark Riker (Labor) as members of the High Performance on Design-Bid-Build Committee. Motion carried unanimously.

2017 Work Plan for CPARB – Action

Chair Frare invited Mr. Thompson to review a proposal for an additional work item during 2017.

Mr. Thompson described the proposal to form a committee representing the interests of minority, women, small, and veteran-owned businesses to increase participation, diversity, and inclusion on public projects within Washington State. The intent is to invite various stakeholders to identify areas of agreement and disagreement and determine next steps to address the challenges and opportunities. The Committee would complement the Governor's Business Diversity Initiative. He reviewed a partial list of organizations representing potential members.

Chair Frare supported the proposal, as it would entail CPARB assuming a leadership role in minority business inclusion and participation. Diversity is an element of many CPARB committees. Consolidating those efforts to produce some outcomes would benefit the industry and speak to the Board's leadership.

Mr. Santosh referred to the current work underway by both DES and WSDOT on disparity studies. He asked how the Board plans to ensure the effort works in concert with those studies. Chair Frare indicated he doesn't believe it would be difficult as WSDOT's efforts on its disparity study satisfy requirements to receive federal funding. WSDOT also has a number of ideas the agency is exploring for mentoring and contracting assistance. DES is exploring and examining similar efforts. However, DES efforts lack funding. The disparity study underway by DES is different from WSDOT's study. The study is broader and encompassing and was prompted by the Governors Business Diversity Initiative led by DES Director Chris Liu. The proposed committee could support those efforts, as well as support WSDOT's efforts.

Mr. Santosh suggested the inclusion of language that speaks to those other concurrent efforts.

Mr. Thompson cited the information as an initial framework of a proposal without too much specificity, which would include those disparity studies.

Mr. Santosh inquired about the potential inclusion of a representative from the America Institute of Architects (AIA). Mr. Schacht offered to reach out to identify interested parties.

Chair Frare explained that the proposal is developing a work plan over the next year with the possibility of the concept and membership changing. He asked members for conceptual agreement to move forward on the next steps.

Alan Nygaard moved, seconded by Steve Crawford, to include the Diversity Committee proposal on the CPARB's 2017 work plan.

Senator Hasegawa spoke in support of the proposal. He recommended expanding the list of stakeholders because of the number of other diversity commissions that might be interested, as well as other owner stakeholders, such as the Council of Presidents representing Higher Education and Community Technical Colleges.

Mr. Thompson supported the suggestion to include other groups working on similar efforts.

Senator Hasegawa shared that his support and work on diversity issues is because employment of individuals from those communities means public dollars are recirculated within the community.

Ms. Berntsen requested clarification of the intent of the motion. Chair Frare said the proposal would be added to the work plan as a future agenda item to afford time for members to contact their respective constituents to solicit interest in serving on the Committee.

Motion carried unanimously.

Mr. Nygaard recommended including the creation of a Job Order Contracting (JOC) Committee on the work plan to review data, the collection process, and analyze data to develop recommendations on desired data submissions.

Chair Frare requested development of an outline of the proposal for staff to distribute to members.

Robert Maruska moved, seconded by Ty Heim, to include the formation of a JOC Committee on the 2017 work plan. Motion carried unanimously.

Mr. Schacht commented on the possibility of exploring a process for the Board to receive presentations on lessons learned for different procurement methods. He offered to develop a proposal with support from several members to develop a proposal for a process to receive feedback on projects. Currently, the CPARB receives most feedback from the PRC report.

Chair Frare supported the proposal, as feedback on lessons learned would benefit the Board.

Mr. Santosh suggested several options of a standard agenda item for presentations, a day-long symposium, or possibly conducting a survey. The Board should have a clearer understanding of what is occurring with alternative delivery projects. The best way is likely inviting owners of major projects to provide presentations.

Mr. Crawford supported the suggestions and added that the Board should work closely with PRC to emphasize the importance of soliciting lessons learned as part of the project application and recertification presentations.

Mr. Santosh questioned whether the Board's five scheduled meetings per year are sufficient to address the work plan. Chair Frare said the Board has extended its meeting time.

By consensus, the Board agreed to include a proposal on the 2017 work plan for developing a process for sharing information on alternative delivery lessons learned.

Mr. Schacht added that he would ask Mr. Palewicz to assist him in developing a proposal for CPARB's consideration.

Mr. Maruska asked members to consider resources with respect to the work plan to ensure adequate budget and resources to accomplish the tasks.

Mr. Thompson offered an idea of inclusion of other owners on the Board, such as Sound Transit and WSDOT.

Chair Frare expressed some reservations about expanding membership. Mr. Maruska added that previous bills have been introduced, as well as the Board discussing membership extensively. While not opposed to reviewing the composition of the Board, the process could be difficult.

Mr. Thompson conceded to the potential difficulty but stressed the importance of a discussion to vet the proposal. Mr. Maruska said he is supportive of including the proposal as a discussion item but not as a task on the work plan.

Upcoming Legislation of Interest

Jerry Vanderwood, Associated General Contractors (AGC), presented draft legislation in response to the M. Johnson Supreme Court decision requiring builders to strictly comply with contractual notice and claim provisions losing the right to be paid for additional work even if the State or other agencies order the work. The decision represents a catch-22 situation because sometimes it is impossible to fulfill the strict notice requirements and lose the right to a claim. It creates an imbalance in the contractual relationship. The proposal would provide balance for allowing claims to move forward. The merit of the claim would be the main decision point rather than the arbitrary process.

Mr. Maruska acknowledged that the proposal is not the first submission. Previously, a number of public owners offered legislation on false claims. He asked whether Mr. Vanderwood was willing to negotiate a false claim bill in conjunction with the proposed legislation. Mr. Vanderwood affirmed his willingness to discuss the possibility.

Senator Hasegawa shared information on a bill he has been promoting over the last several years to create a publicly owned state bank for Washington. When the State collects tax revenue, the State must have a bank account. The State's bank account is currently with Bank of America. North Dakota is the only state in the nation that has a state bank and is able to generate revenue for the State while also providing access to financing capacity for public works projects and infrastructure. He plans to reintroduce SB 5553 from the last session.

ADJOURNMENT

Robert Maruska moved, seconded by Walter Schacht, to adjourn the meeting at 12:42 p.m. Motion carried unanimously.

STAFF & GUESTS

Nancy Deakins, DES
Talia Baker, DES
Valerie Gow, Puget Sound Meeting Services
Bob Armstead, NAMC (Telecon)
Rodger Benson, Mortenson Construction
Dan Campbell, Department of Commerce
Neil Hartman, WSBCTC
Don Laford, CMAA

Phil Lovell, Citizen
James Lynch, Ahlers & Cressman
Scott Middleton, MCAWW
John Palewicz, PRC (Telecon)
Ryan Spiller, Wright Runstad
Larry Stevens, MCA/NECA
Jerry Vanderwood, AGC
Brian Zeallear, NBBJ