

Board Meeting 11-7-18 Transcription

[VICE-PRESIDENT BARKE LEADS THE BOARD MEETING DUE TO PRESIDENT WILLIAMS BEING OFFSITE AT AN IRVINE LOCATION. PRESIDENT WILLIAMS JOINED THE BOARD MEETING VIA TELECONFERENCE]

Barke: Welcome everyone. Our Regular Meetings are held monthly at 10:00 A.M. unless otherwise noted, like today. Board Agendas are also posted online and can be reviewed at www.ocde.us/board/pages. Agendas are available on the back table and when wishing to address the Board to or express their free speech rights is required to complete a Request to Address the Board card available on the table near the back door. Please submit the completed card to the Board Recorder prior to the beginning of the Board meeting or before the agenda Item Discussion if it's an Agenda Item. Each individual is allowed up to three minutes per meeting and may not give his or her time to others.

This is a public meeting and we are obligated to be respectful of and demonstrate civility towards the Board, Superintendent, staff and other guests attending this public meeting. Anyone deemed to be disruptive will be required to leave and removed by the Orange County Sheriff Deputy pursuant to Penal Code Section 403 that is posted to the right side of the board entry doors. Penal Code 403 is defined as every person who, without authority of law, willfully disturbs or breaks up any assembly or meeting.

Examples of disturbing a public meeting includes, but is not limited to, verbal outbursts, standing up during the meeting to draw attention, clicking fingers and clapping of hands. Thank you for attending the Board Meeting of the Orange County Department of Education. Welcome. I want to start by announcing that Dr. Williams will be participating from another location via teleconference, and I believe he is with us. Hello? Dr.?

Williams: Hi, Mari, I'm here.

Barke: Oh wonderful. Wonderful. Okay, so I will call the meeting to order and we will start with an Invocation by Trustee Sparks.

Sparks: Dear heavenly father, bless all who are called to serve and lead our country on the local levels, on the...every...every level that you're calling our leaders to serve. I pray that our leaders will be blessed and serve with integrity through all the decision-making that...that they're called to decide on. Please bless our kids here in Orange County and our families as they are navigating their way through the system, and guide us in all the decisions that we're making related to the kids and families of Orange County. In God's name we pray, amen.

Barke: Thank you. And next, I would like to ask Jonathan Brenner to lead us in the Pledge of Allegiance.

Brenner: Right hand over the heart, hands to the side, repeat with me.

[ALL IN ATTENDANCE SAY THE PLEDGE OF ALLEGIANCE TOGETHER]

Everyone: I pledge allegiance, to the flag of, the United States of America. And to the Republic for which it stands, one nation under God, indivisible with liberty and justice for all.

Brenner: Thank you.

Sisavath: Trustee Sparks.

Sparks: Here.

Sisavath: Trustee Barke.

Barke: Here.

Sisavath: Trustee Williams.

Williams: Here.

Sisvath: Trustee Gomez.

Gomez: Present.

Sisavath: Trustee Bedell.

Bedell: Present.

Nina Boyd: And just for the record, Dr. Mijares will not be in attendance today. He was unexpectedly invited to a meeting at the Capitol this morning and so he's meeting with some state officials regarding some potential funding.

Barke: Great. Okay, and are there any introductions?

Boyd: Jack?

Bedell: Yeah. I would like...I wonder if Tom Froehlich and Jan Mackey would come to the podium, please? There's a Yiddish expression, to get verklempt, which means to get emotional, to swell up, to get emotional, and these two people have decided to begin a new journey. They have the infinite wisdom to leave us after a specified period of time which must seem indeterminable, but I would just like to speak for myself and I'm...I'm sure I'm speaking for others, that you two have consistently provided quality service to this Board; sometimes very awkward circumstances and sometimes fun circumstances.

But, whatever the circumstances, you were always here for us, which means that you were here for the unique children this department serves, our 7,000 or so. So, wherever you go, be it Tennessee or London, Prague or Tennessee, I'm sure there are legions of people who have watched you and observed you and for whom you've been models in service to this County, going back to Trustee Sparks' comment about dignity or integrity. You two scream it and I just want to say in a verklempt mode that I genuinely appreciate all you have done and I wish you both the best of happiness can bring, and exciting adventures and you always know where to find us. So, thank you, thank you, thank you.

Froehlich: Thank you.

Mackey: Thank you.

Froehlich: It's been a pleasure.

Boyd: Thank you for your service.

Barke: Yeah, thank you for your service.

[MS. MACKEY AND MR. FROEHLICH RECEIVE APPLAUSE FROM ALL IN ATTENDANCE]

Boyd: And just for the record, Jan Mackey is an Executive Assistant in the Superintendent's office and she's responsible for all of the Association memberships for this Board and all of your reimbursements, your travel, your hotel accommodations. So, she's the person in the background that you never see that does – and I think Dr. Bedell, because he's been on the Board as long as he has, and Dr. Williams – know that she's the person...the go-to person with regards to all that, so we'll make sure that we have that taken care of and there will be no gaps.

And Tom Froehlich is our Maintenance and Operations Administrator and he is responsible for the setup in here as well as this full site and making sure that the team is getting all the printing; everything delivered and accepted to the organization and to all of our sites and...and all the repairs and so forth. So, just so that the members of the public and the Board also know the expanse of the work that they do.

Barke: Thank you for that. We do appreciate their service and we will miss them. We know that. Okay, so introduction. All right. So, first, I would ask for the Adoption of the Regular Minutes from the November 7th meeting. No, sorry, that's...

Boyd: The Agenda.

Barke: I'm sorry. To Adopt the Agenda for today will be the first thing I would ask for.

Bedell: So Moved.

Williams: I So Move.

Gomez: Second.

Barke: Okay, and then I would ask for Approval for the Special Meeting Minutes from September 26th.

Boyd: You want to take...

Gomez: Take a vote.

Boyd: You have a...take a vote.

Barke: Oh, I'm sorry. I'm sorry. Sorry, so we're going to vote on the Agenda for today.

Bedell: Aye.

Sparks: Aye.

Gomez: Aye.

Barke: Aye. Passes.

Williams: Aye.

Boyd: 5-0.

Barke: Okay, and then, for the Special Meeting Minutes of September 26th.

Bedell: Move to Approve.

Sparks: Second.

Barke: Approved. Vote?

Boyd: It was moved by Jack and seconded by Lisa?

Barke: Mmhhh.

Boyd: Okay.

Sparks: Should we vote?

Barke: Yes.

Boyd: The vote. All in favor?

Bedell: Aye.

Gomez: Call for a vote.

Barke: Calling for a vote.

Williams: Aye.
Gomez: Aye.
Barke: Aye.
Sparks: Aye.
Boyd: Jack?
Williams: Aye.
Barke: So it passes, 5-0?
Boyd: Excuse me. And Darou...all of the votes have to be roll call...
Sparks: Oh.
Barke: Oh.
Boyd: ...because Dr. Williams is on the phone, so similar to what we did when Miss Sparks was gone; so, Dr. Sparks, excuse me. So, we'll go back to the...the Agenda. So, Darou will do a roll call on everything today.
Barke: Okay.
Sisavath: Trustee Sparks.
Sparks: Yes.
Sisavath: Trustee Barke.
Barke: Yes.
Sisavath: Trustee Williams.
Williams: Yes.
Sisavath: Trustee Gomez.
Gomez: Yes.
Sisavath: Trustee Bedell.
Bedell: Yes. We need another one.
Boyd: And then for the Minutes.
Sisavath: Trustee Sparks.
Sparks: Yes.
Sisavath: Trustee Barke.
Barke: Yes.
Sisavath: Trustee Williams.
Williams: Aye.
Sisavath: Trustee Gomez.
Gomez: Yes.
Sisavath: Trustee Bedell.
Bedell: Yes.
Barke: Okay, and finally, I would like to request Approval of the Regular Meeting Minutes from October 3rd.
Bedell: Move.
Williams: I So Move.
Bedell: Second.
Boyd: Moved by Dr. Williams, Second by Jack Bedell.
Barke: And then a vote.
Sisavath: Trustee Sparks.
Sparks: Yes.
Sisavath: Trustee Barke.
Barke: Yes.

Sisavath: Trustee Williams.

Williams: Aye.

Sisavath: Trustee Gomez.

Gomez: Yes.

Sisavath: Trustee Bedell.

Bedell: Yes.

Barke: Okay. Moving right along, I would now like to request a Motion to recess the Regular Board Meeting in order to conduct a meeting of the Orange County Department of Education Facilities Corporation Meeting. Is that a Motion?

Williams: So Moved.

Sparks: Second.

Bedell: You Seconded it, Lisa?

Sparks: Yes.

Sisavath: Trustee Sparks.

Sparks: Yes.

Sisavath: Trustee Barke.

Barke: Yes.

Sisavath: Trustee Williams.

Williams: Aye.

Sisavath: Trustee Gomez.

Gomez: Yes.

Sisavath: Trustee Bedell.

Bedell: Yes.

Barke: So, that passes.

Boyd: So you're now in the Regular Meeting of the Facility...

Barke: Yep.

Boyd: ...Corporation. So, you can Move to that.

Bedell: Move Approval of those Minutes? No?

Boyd: She's going to go through it,

Bedell: Oh, I'm sorry.

Barke: Okay, so now, we are going to go into recess so that our Regular Board Meeting can go into the Meeting of the Orange County Department of Education Facilities Corporation to approve the Facilities Corporation Minutes.

Sisavath: Trustee Sparks.

Sparks: Yes.

Sisavath: Trustee Barke.

Barke: Yes.

Sisavath: Trustee Williams.

Williams: Yes.

Sisavath: Trustee Gomez.

Gomez: Yes.

Sisavath: Trustee Bedell.

Bedell: Yes. Who made that Motion?

Boyd: This is a roll call. She's just doing a roll call for the meeting.

Bedell: Sounds good.

Barke: So, I'm going to call for a Motion to Approve the Agenda for that meeting today.

Sparks: So Moved.
Williams: So Moved.
Boyd: Lisa Sparks Moves...made the Motion.
Williams: I'll Second.
Boyd: Ken, Second.
Barke: Okay, and I'm going to now call for a Motion. Oh, I'm sorry. Do... we have to vote. Sorry. Calling for a vote.
Sisavath: Trustee Sparks.
Sparks: Yes.
Sisavath: Trustee Barke.
Barke: Yes.
Sisavath: Trustee Williams.
Williams: Yeah.
Sisavath: Trustee Gomez.
Gomez: Yes.
Sisavath: Trustee Bedell.
Bedell: Abstain; yes.
Barke: Okay. I'm now going to call for a Motion to Approve the Minutes from the Regular Meeting of September 12th, 2018 for Approval of them.
Williams: I So Move.
Bedell: Second.
Sparks: Second.
Boyd: Jack? Okay, Ken and Jack.
Barke: I will now call for a vote for that.
Sisavath: Trustee Sparks.
Sparks: Yes.
Gomez: Excuse me. Can we clarify? What are we voting on now?
Boyd: You're voting on the Minutes from...for...
Barke: For the Facilities Corporation.
Gomez: Facilities? Okay.
Boyd: Okay, start over.
Sisavath: Trustee Sparks.
Sparks: Yes.
Sisavath: Trustee Barke.
Barke: Yes.
Sisavath: Trustee Williams.
Williams: Aye.
Sisavath: Trustee Gomez.
Gomez: Yes.
Sisavath: Trustee Bedell.
Bedell: Yes.
Barke: Okay, that passes. Okay. Are there any Public Comments?
Boyd: No, there were no cards pulled for...
Barke: Okay.
Boyd: ...the Facilities part.
Barke: Okay.

Boyd: There are no Special Recommendations and there's no Closed Session on the Facilities Corporation either. So...

Barke: Okay, so I will call for a Motion to Adjourn.

Bedell: So Moved.

Williams: So Move.

Sisavath: Trustee Sparks.

Sparks: Yes.

Sisavath: Trustee Barke.

Barke: Yes.

Sisavath: Trustee Williams.

Williams: Aye.

Sisavath: Trustee Gomez.

Gomez: Yes.

Sisavath: Trustee Bedell.

Bedell: Yes. It's like sausage making.

Gomez: I know, really.

Barke: Okay. Now that we've finished that, now I am going to Request a Motion and a Second to vote to return to the Regular Meeting of the Orange County Board of Education.

Sparks: So Moved.

Gomez: Second.

Barke: Roll Call.

Sisavath: Trustee Sparks.

Sparks: Yes.

Sisavath: Trustee Barke.

Barke: Yes.

Sisavath: Trustee Williams.

Williams: Aye.

Sisavath: Trustee Gomez.

Gomez: Yes.

Sisavath: Trustee Bedell.

Bedell: Yes.

Barke: Now we move to Public Comments.

Boyd: Yes, and I have no Public Comment cards today. So...

Barke: Okay, so then I will call Greg Rolen to the podium.

Rolen: Good morning, Members of the Board.

Barke: Good morning.

Rolen: Did you get out all the voting out of your system?

Barke: yes, I did.

Rolen: Back in September the...the Board asked me to do an analysis of whether the retention of our firm was a gift of public funds under the California Constitution. In response to multiple concerns raised in multiple correspondence suggesting that we were...retaining our firm was a gift of public funds. So, suffice it to say, it was a labor of love to the Board approved 10 hours and I'm happy to say we came in well under budget. So, the...the issue before the Board, the public gift of public funds issue is whether the

Board can reasonably determine that services are for a public purpose. That's the primary issue.

We saw in the memo provided in the Sturgis case, or the Sturgeon case I should say, that a 27% retroactive benefit increase to judges was not a gift of public funds although it benefited a small group of people, and it directly benefited them and it was provided after the fact. But, the courts determined that it was a gift...it was not a gift of public funds because it was for the public purpose of attracting and retaining judges. Similarly, other...other decisions said that retroactive lump sum pay increases for public employees weren't gifts of public funds from the very same reason, to attract and retain good state employees.

The courts give great deference to whether the...whether...what the legislative body determines to be a gift of public funds under the Winkelman and Carlton case. So, simply put, the Board has to make reasonable determination that the services were for a public purpose. Legal services are provided for a public purpose are within the statutory guidelines of the School Board. They were within the statutory guidelines of the County Board, and educational institutions are allowed to appropriate money for a number of different reasons. It's for a public purpose if it's not contrary to law, and we're all familiar with the permissive code that allows us to do anything that is not prohibited. So, we respectfully submit the memo states that legal services are for a public purpose; is for the public purpose of the Board carrying out its duties.

County Boards and School Districts hire outside vendors to perform legal services regularly and they are not determined to be unlawful gifts of public funds. Now, although, it's a gift for me to be here, it's not a gift under statute. The statute says that a gift is something that is provided without consideration. Under contract law we had an offer and acceptance. We had consideration employment. So, as a matter of law, it's not a gift. So, there was the issue of whether – because there's competent staff to perform some of the duties – whether that constitutes a gift of public funds. It doesn't change the constitutional analysis whether there's somebody else available or not.

School Districts and County Boards have multiple lawyers on staff all the time. They have...even when they have in-house General Counsel. I was in-house General Counsel. I had seven separate law firms on...on staff. Sometimes they ask the lawyer the same question. Sometimes department heads go to their preferred vendor. Sometimes people are hired based on their specific expertise. That doesn't change the gift of public funds analysis. So, if there's any questions, I'm happy to field them.

Barke: Does anybody have questions?

Gomez: I just have a clarification. We...I personally did not get your memo directly and it was...I was given it second-hand. Does that break attorney-client privilege when I'm not given it directly from our attorney?

Rolen: No.

Gomez: Really? So, it's second-hand, so it could be...there could be...

Rolen: I don't know how you received the memo, but if...you're the client...

Gomez: ...but what I'm asking if there's a memo to us and you're representing us,

shouldn't that go to all of us as you're representing all of us? That's my question.

Rolen: Yes, it should.

Gomez: Okay, but it didn't, so...

Rolen: I was not aware of that. The communication protocol to this point had been that I was communicating directly with the Board President. We talked about that a little bit in Closed Session, about how everybody would like to receive the memos.

Gomez: And I thought it was clear when we met in Closed Session that you were going to send it directly to all of us so that there wasn't any confusion and we all got the information at the same time.

Rolen: If that was the...if that was the direction then it's my fault. I would have been happy to send it to everybody directly.

Gomez: I just want to be sure we're all getting information...

Williams: Mari, I'd like to...I'd like to chime in here on this conversation when it's done.

Barke: Okay, Dr. Williams, go ahead.

Williams: Yeah, Beckie. I think that was really an unfair attack publicly upon a good person. You failed to ask any questions. That was so inappropriate of you and I'm just disappointed in your public comment. The...the communication between Greg and myself was distributed to Darou as in our normal protocol and fashion, and it was distributed to everybody else. So, I think it's small, I think it's spiteful. I think it hurts Board collegiality and Boardsmanship. So, sorry, Greg did not do anything wrong. It is totally appropriate. If you wanted to...if you want to attack anyone, please attack me and do it to my face.

Gomez: Well, if you were here you would be involved in the conversation, but Dr. Williams, I'm asking a clarification. I don't think I'm attacking...

Williams: No, you didn't, you attacked him and you were very, very rude...

Gomez: Excuse me, but I have the floor, so if you could give me the courtesy of finish...letting me finish. I'm asking a clarification because if we are to be represented by an attorney, then we need to have...all have the same access and I thought that was a...that was clear when we met. And I'm just trying to...

Williams: And didn't you have access? Didn't you have access? Were not you given is that a...that attorney-client communication to Darou? I assume you received it. I was told you did.

Gomez: May I have the courtesy of finishing and clarifying what I was trying to do? It would be...it would be most helpful if you were here because I think we could have a better dialogue than having this at a distance. My...my intent was just to make sure that we all got the same information at the same time so there was no confusion, because there was a little bit of confusion a few weeks ago. That's all I'm...that's all I'm trying to do is to clarify that. If you think that's a personal attack, that's certainly your prerogative, but that was not my intent. I'm finished.

Williams: Well, very good. So, you know, this is the first time this has happened, so, I think giving grace and forgiveness and charity is very, very important to help Board collegiality. The...the appreciation of how it came across was not that and it wasn't as

though it was an inquiry, it was more of an how I viewed it as an attack, Beckie. So yes, I wish I was there to be directly next to you talking about this or I wish you would have just called me and said hey, how did this occur? Very simple question, but you didn't do that.

Gomez: Well accordingly, I've been a little tied up with some other responsibilities that I have, so...

Williams: ...the right to communicate. If we want to establish protocols, let's do that. But, let's not be negative. Let's not be accusatory and let's be collegial. That's all I ask.

Gomez: Well, I would agree with that but asking the question, I don't think, is an attack and...and it's unfortunate and I really don't want to continue this conversation at a distance. I personally prefer face-to-face conversation. So, I'm not going to pursue this at this point. I would just ask that all communication come to all of us at the same time. That's all I'm asking.

Barke: Any other comments? Mr. Bedell?

Bedell: Pass.

Rolen: Thank you.

Barke: Thank you.

Gomez: Thank you.

Barke: All right. So, now I am going through...

Boyd: Item 2 on here, so, is Item 2 going to be the Review of the State Education?

Barke: Oh, okay.

Boyd: Okay. Could you...would you, just for the record? Because it's listed on the Agenda. So, if you're just doing one then that's fine.

Rolen: Again, this is probably a communication issue. That's my fault. I am...I was asked...I was...saw the Agenda with this Number 2 was placed and determined that was an inappropriate thing to be discussing at this time. Communicated that to the Board President.

Boyd: Okay.

Gomez: Thank you for the explanation, I appreciate that.

Barke: So, now I'd like to announce that the Board will go into Closed Session to conference with our legal counsel.

Boyd: Ken, they will...you'll need to hang up on the line that you're on so that they can call you. Which do you want to be called on, your cell phone or on your office line?

Williams: Yes, please.

Boyd: Which one?

Williams: Yes, please.

Barke: The cell?

Boyd: The cell?

Williams: On the cell is fine.

Barke: Yeah, cell. Yeah.

[THE BOARD MEMBERS PROCEED INTO THE BOARD MEETING ROOM FOR THE CLOSED SESSION. UPON COMPLETION, THEY RETURN TO THE

BOARD ROOM AND CONTINUE THE REGULAR MEETING AS SCHEDULED]

Barke: Alright, so we'll call the meeting back to order and we will start with a report out on the actions taken during Closed Session.

Brenner: Thank you so much. In the Closed Session we discussed the dispute that has been filed in this office that has been the subject of other meetings and discussions.

Boyd: Can I just halt you for a moment? We can't hear. Okay, and...and Dr. Williams, I'm not sure if there's something in the background. We hear a beep coming over here.

Williams: I'm sorry.

Boyd: Okay, perfect. I'm sorry.

Brenner: That's perfectly okay, thank you. In addition to the...the litigation and dispute, the Board also discussed communication and protocols internally in connection with future communications within the Board regarding that matter and...and related matters and there were no resolutions considered or passed during the Closed Session and that's the report out.

Barke: Thank you.

Brenner: Thank you.

Barke: Any questions or comments? Okay. Alright, so I'll now call for a Motion to Approve all the Consent Calendar Items 2 through 5.

Bedell: So Moved.

Barke: So Moved. Second?

Sparks: Second.

Barke: Roll call, please.

Sisavath: Trustee Sparks.

Sparks: Yes.

Sisavath: Trustee Barke.

Barke: Yes.

Sisavath: Trustee Williams. Trustee Williams?

Barke: Ken?

Williams: Yeah.

Barke: We're voting for...to Approve the Consent...the Consent Calendar Items 2 through 5.

Williams: Yes, I heard. Yes is my vote.

Sisavath: Trustee Gomez.

Gomez: Yes.

Sisavath: Trustee Bedell.

Bedell: Yes.

Boyd: Okay.

Barke: Okay, and I understand that we have no Charter School Submissions today, so we'll pass over Number 6. And then, moving on to Number 7, I'll call Teresa Johnson to the podium.

Johnson: Good morning, Vice-President Barke, Members of the Board and Superintendent, who's unavailable this morning. Today, College and Career Preparatory

Academy is submitting a Request for Material Revision to their charter and the Board will hold a hearing to consider public input regarding the request. The school is requesting to modify locations used to serve students and to open a new location within the boundaries of Orange County. The school has also asked for an expedited process to meet the needs of students immediately. The Board approved College and Career Preparatory Academy as a dependent charter school in June 2015.

The school began operations in August 2015 at multiple sites throughout Orange County. The document submitted to you includes the information known at this time. The hearing is now open for Public Comment from individuals who have submitted a comment card to Address the Board. Each individual will have three minutes to speak with a total of 30 minutes allocated for comments. For those speaking today, the Board Clerk will time each speaker. A red light will flash and a buzzer will sound when time is up. Vice-President Barke, please call for the first speaker.

Barke: I call for the first speaker.

Boyd: And there were no speaker cards submitted for the Public Hearing.

Johnson: Being as there...there are no speaker cards, this concludes the Public Hearing for the Material Revision request for College and Career Preparatory Academy. College and Career Preparatory Academy will not be giving a presentation to this morning because their Material Revision is simply to add additional sites and meet legalities that have gone into effect since the original opening of the school. Staff is available should the Board have any questions. As a reminder, the Board will render a decision at the December Board Meeting. Vice-President Barke, I now turn the meeting back over to you to facilitate any questions the Board may have.

Barke: Thank you. Does the Board have any questions?

Gomez: Not at this time.

Sparks: No.

Barke: No? Okay. Dr. Williams, do you have any questions? Ken, do you have any questions at all?

Williams: No, no.

Barke: Since there are no questions, we will see...we move on to our next Item, and my understanding is that Dr. Craig did not make it this morning.

Boyd: That is correct. Dr. Craig is not going to be here this morning but has requested to be at the December Board Meeting. So, if the Board is so inclined, we will add her to the December Board Agenda.

Bedell: Madam Vice-President?

Barke: Yes.

Bedell: In light of that, I have some questions that I think would be most helpful for me were she too address in her comments.

Barke: Okay.

Bedell: So, for my...if I could just go there now to help her I can, you know, I would be...that's okay with the my colleagues so that she...rather soon will have the data.

Barke: Okay.

Bedell: Okay. My first question would be is, what is the enrollment? What is the enrollment forecast? What is the relationship with the Orange Unified School District and the money owed there, and how much is it? The last...I thought it was about \$400,000. Construction, what is the situation with construction and what is the outcome of making that site usable and being responsible for other parts of...like adding a sprinkler to where they will not have students? My next question will be is how are they compensating for the field trip days in terms of instruction? Was their instruction lost and these are all questions. I'm not working an Agenda. I want that to be clear. Okay.

Staff development, staff turnover. Keeping the staff within that context. When I left here from this meeting, and I take responsibility for this, I thought the school was closed. I thought the school was closed and then I heard that the school wasn't closed, and I heard that the Board voted to close it. That's what I thought I heard and then I subsequently learned that the Board reversed that decision.

And I guess my bottom line is, Madam Chair Pro Temp, I certainly do not want to see a single child hurt going with that decision in the school. That's...and from my Board responsibility and the way I look at what the oath I took for this department, I sure as heck don't want to see a single student of ours for which the five of us have responsibility, hurt. And in that case, the mainly financial. If we have a cut...what is the most recent construction cost estimate?

Boyd: Over \$800,000.

Bedell: So, over \$800,000? What was it originally? Do you remember?

Gomez: It was 406.

Boyd: Well, the last update to all was 400-some thousand but in June when it came to the Board, it was 200 and they had a 200, I think, 65,000 dollar budget for construction.

Bedell: So, it went from 200 to 400 to 200 to 800. That focuses ones attention like the guillotine. So, I...these are not, and this is really sad for me because I really think that that program had some very interesting academic components that I liked, as an academic putting that moccasin on. However, if we're dealing with an \$800,000 construction issue, are there any other expenses?

Boyd: Well, that's unknown. There are questions with regards to the budget and I believe Dr. Craig will be answering those questions when she comes before the Board because staff has asked for a budget update. They have a new back office provider since all of the questions around, you know, the...the school continuing, and they are working diligently to try to figure out their financial situation. So, the...

Bedell: They being the school?

Boyd: The back office provider for the school...

Bedell: Is trying to figure out...

Boyd: ...the financial situation and there with the...what that looks like. They know they have a shortfall. Our understanding working with staff is that they have...we know that they have enough resources through next month, or that was what was estimated, but Dr.

Craig has been working diligently to secure either loans or more donations. I know she's working in the community and working with her Board on that. So, that would be part of the Board update.

Bedell: Do we know if there have been any lawsuits filed or liens filed?

Boyd: We received preliminary notice, but we don't know that they had actually invoiced. It's part of normal construction that there's 20 day lien notices. We notified them we're not a party because they should have gone directly to the school and so forth, but other than that, no, we are unaware.

Bedell: So, that way I would...that would be helpful to have that cleared up, Madam Chair Pro Tem. Okay, so I don't know...that's pretty much...I...I'm sad. I mean, I'm really sad and many times when we've dealt with this school in fairness, something is always postponed. Something is always revised. This has been, and I hate to say this, but this has been the norm unlike any other charter that I've been familiar with and that we've dealt with. This one has been, terrible grammar here, the most unique. Sorry. Okay, so I really am worried about this and again, in a crash sense, my bottom line is I don't want any of our own kids hurt. And then, of course, those other whatever it was.

Barke: Okay.

Bedell: Thank you very much.

Williams: Jack? Hi. Ken.

Barke: Of course, of course.

Williams: Jack?

Bedell: Yes, I'm sorry.

Willimas: Hi. Okay. So, great questions. Great comments.

Boyd: Ken, can you talk a little louder or bring your phone closer to you?

Williams: Hold on.

Boyd: There you go.

Williams: Is this better?

Boyd: Much better.

Williams: Is that better?

Barke: Yes.

Williams: Okay. So, great questions. Great comments, Jack. Are...I share the same concerns. The only thing that I can shed light on, number 1 for the meeting originally when we talked, I talked with Erin about coming in. It was like a month ago when this crisis occurred and we heard at the last Board meeting that they would be closing. There was a lot of us in the community who got off our dobson, got on the horses and we did a round up, and we did a lot of pressing. The...and calls and trying to do everything until this thing wouldn't go through. What I understand, it was a city-related permit thing with the Fire Authority and a whole lot of other issues.

I talked with the City Manager. Eventually, the next day they came in and they gave her the operational permit to continue, so Erin can give you a lot more details. I can share with you she's very frustrated about the process. I think she would say you're right,

Trustee Bedell, to be concerned because I'm...I'm concerned and I'm upset of how the process and how we've been treated. So, there are reasons for all these things.

I think it'd be great when we get Erin back here. Unfortunately, she couldn't make it today because she had another engagement that she...that I did not ask about so we put her on the Agenda, as you know, the Agenda finalized a week before we even get together here. So, that's why you see it on the Agenda now, but she had she told me in advance she could not make it.

Boyd: Ken, in your conversations you were saying that about the possibility of getting extra mural funds from people in the community to help with these costs and the debts. Do I remember that right?

Williams: Well, there...let's just say that this is a school that requires community support. As far as future funding and where it comes from, that I'll let Erin answer. I'm not involved in that part of this process.

Bedell: Okay, thank you very much.

Batke: Any other questions?

Gomez: Yes.

Barke: Yes?

Gomez: I think I just have a simple question. On October 3rd, we were told they were going to cease operations. I wrote it right across my...my memo here that they were going to cease operations at 5 o'clock that...that day on October 3rd. So, if their Board voted to cease operations and we're their oversight, how did they get to keep going when they had all these other issues going on?

It didn't seem as though they solved them and I'm guessing there're kids there. This...this is really unnerving to me. If we're responsible and we don't even know what's going on, and we're told that they've got kids at that location. They did not have an occupancy permit from the city. They might have it now, but there was no...literally no communication to us. Did they communicate to the county? To your charter unit?

Boyd: There were several communications that came...

Williams: Kelly...Kelly was in on every step of this process in getting the eventual approval the next day by the city. And so, if she wants to speak to that or, you know, if we can just be patient and wait till next month, that would be the prerogative of my colleagues.

Gomez: Well, I appreciate that, but when we're told that a...that a school is going to cease operations and all of a sudden they keep on going, that concerns me a little bit. So, could, Nina, could you go ahead and finish what you were mentioning?

Boyd: They...the Board did call for another meeting, a Special Meeting.

Gomez: Their Board.

Boyd: Their Board.

Gomez: Okay.

Boyd: The Board for Unity and initially the day after the Board Meeting where you all were noticed that they were closing, there was a scheduled meeting with the Board and

then they cancelled that and they sun-shined another Board Meeting, and then canceled that, and then they sun-shined another Board Meeting and they actually held that Board Meeting, and that's when they voted to remain open. And so...but we did...we heard that through audiotape. We did not receive anything from them until several days later, and so...and at that point in time we received something from Erin stating that they were going to remain open, that they had worked out some things with the city, that they had an agreement, that they were going to be able to provide school at the campus.

The construction work would occur before and after school, and so, we've been dialoguing with her and her team with regards to getting more information that we could share with the Board, because the questions around the financial is probably the bigger question that we knew that the Board would...would be concerned about because the last report was there was not enough in terms of the finances and the revenue stream because of the fact that they were not receiving money this year, because of the ADA issue last year. So, there's a lot of questions. Ken is correct. Our team has been trying to get information.

We've been sending Notices of Concern to and requesting documentation, and so forth. Erin has been very responsive in terms of dialoguing with us, but she hasn't been able to get some of the things that we need because they're still trying to figure out some things. So, by the December meeting, hopefully we'll have additional information along with what she reports to you so we can do a combined update to the Board. But, we do have a timeline that we've been working on in terms of the sequence of events because you're correct, we were noticed about 10 minutes before the Board Meeting that – the last Board Meeting – that they were closing and had taken Board action to close.

There was nothing on the Agenda or...or nothing...anything could be added for you all to do anything with that information other than to receive it, and then after that, within five days, all of that changed and so now we're working with the change that's occurred, and they are seeing students and so students are attending. Our team has gone out to take a look and to evaluate, make sure that things are occurring that should be, so that we can affirm to you that the delivery of instruction is what it should be, and that is occurring.

Gomez: So, when the Board agreed to reopen the school or whatever, how many days was that after October 3rd? Was that like weeks or...

Boyd: 12 days.

Gomez: 12 days? Okay, 12 school days or 12 calendar days?

Boyd: 15. Wait, Kelly, why don't you go to the podium? And that's what I have as well. October 15th was the timeframe.

Gaughran: They voted to rescind the closure on October 15th and, was it October 3rd? That was our Board Meeting.

Gomez: Right.

Gaughran: 12 days.

Gomez: Okay, so...

Bedell: What happened to the learning...

Gomez: Yeah.

Bedell: ...of the students during those 12 days?

Gaughran: Those students had a week off, so they are...they are going to be adjusting their calendar to deal with those...

Gomez: Instructional minutes that they missed?

Gaughran: Yeah.

Gomez: Okay.

Gaughran: So, they're going to...I was told they're going to ask parents for input and then they're going to decide whether to change the upcoming holiday or add it to the end of the school year.

Gomez: Okay, and so on October 15th, did they notify us that they were going to reopen? Did their Board?

Gaughran: They replied to us on the 17th, I believe, I got a letter but they contacted us the next day.

Gomez: Okay.

Gaughran: That was in the evening.

Gomez: Okay. Okay. Well, I am a little concerned because of all these different construction issues and budget issues that they got...you know, I'm looking at the memo from...from last meeting, and there were three Notices of Concern and are we going to send another Notice of Concern and it's, you know, is it going to be met? So...

Gaughran: We're waiting to hear from her about their budget and like Nina said, with their new back office, they're...they're recreating the budget so that it's a better budget.

Gomez: Yeah. Well, I'm just a little concerned about the...the oversight of their Board. If they vote to close and then you know, two...three days later, they want to have another meeting and then they...they cancel that. This goes on. It doesn't give me a warm, fuzzy feeling that their Board is really in touch with...with what they want to do. So, that's kind of frustrating.

Bedell: May I?

Gaughran: Yes?

Bedell: Thank you very much. So, Kelly, in the bottom line. If you in your...I know this is off the top of my bald spot, not yours, right now as we sit here November, whatever, that school right now has how many dollars of a problem?

Gaughran: So...

Bedell: If I were going to write a check to fix all their financial problems as of today, how big would that or how small would that check have to be?

Gaughran: Well, okay, so they have \$815,000 in construction costs of which they paid \$70,000. So, they owe that for sure. There are other costs. Again, like Nina said, you know, we're not certain. We're waiting for the revised budget to come but you had mentioned that is about 450 in overpayment. However, that's going to be paid back this year and then they have double the students this year, so they'll get an additional...some additional money because they have doubled. Does that make sense?

Bedell: Yeah.

Boyd: The ADA?

Gaughran: Yeah. So, all of those numbers kind of need to be figured out and then we'll see where they end up, but the \$800,000 construction cost is what keeps me up at night.

Bedell: Okay, but there was beyond that 400 and something thousand. There was another couple hundred thousand owed to whom? I don't remember.

Gaughran: There's...there's various loans out there. So, she has a loan out, a charter school revolving loan. For example, I think it was at \$150,000 or \$200,000, and I think there's another organization that loaned her some money as well.

Bedell: So, in the worst case analysis...that's about \$1,300,000.

Gaughran: Yeah.

Bedell: If I do that quickly then ultimately we can subtract the 450.

Gaughran: Right.

Bedell: So, it's \$900,000 problem. Whatever. Okay, is there any way that we would be asked to eat that?

Gaughran: I have no idea what will happen with that construction loan. I just don't know.

Bedell: And we don't own that building. It's not a building we're constructing in.

Gaughran: We don't own it and she doesn't own it.

Boyd: She has a lease.

Gaughran: Yeah.

Bedell: Thank you.

Gaughran: You're welcome.

Barke: Any other discussion?

Bedell: So, we have some questions for next December. Excellent.

Gomez: Well, this...this entire packet that we got on October 3rd has a lot of concerns in it, so I'm hope...I'm hoping that she'll be able to address those. Because there's a lot of financial issues; construction issues.

Bedell: And now, the lien issue. We didn't have that before.

Boyd: We can take the questions from today that you all raised in the meeting and we will share that information and the questions that the Board's interested in hearing, along with making sure that she understands that the Board may have questions with the document that they received last month as well.

Bedell: And also, we would like...I would like a background or the new office report on what that new accounting firm or whatever it is...

Boyd: The back office providers.

Bedell: ...the back office providers...provider provides.

Boyd: So noted.

Bedell: Thank you, Madam Chair, for your patience.

Barke: My pleasure. My pleasure. Okay, I believe now it's time for us to go into our second Closed Session?

Boyd: Correct. He's on.

Williams: I still have you.

Boyd: All right, thanks, Ken.

Barke: Okay. I am going to now call on Jack to give us a summary on...our Trustee Bedell to give the summary on our...

Bedell: This direction was provided to our legal counsel, and there is no reportable action.

Barke: Okay, moving right along. I'm going to move to the Board Recommendations and that's Number 9, and that's something for you, Jack?

Bedell: Yes. Number 9. Number 9 is in response to...I Move Approval of it.

Barke: Okay.

Bedell: Thank you for the discussion.

Barke: Okay.

Bedell: Number 9 was my attempt to summarize in the fairest way possible the concerns raised by all parties at our open hearing and on the California Healthy Youth Act and concerns before and after. So, what it is, it's a statement honoring the dignity of all children and honoring the rights of all parents. I didn't want to...

Williams: And I'll Second that Motion.

Bedell: Yeah. Thank you. Mr. Chairman. It was trying to be a closure statement.

Barke: Did you make a Motion?

Boyd: Jack made the Motion. We need...Ken...

Bedell: Ken Seconded it.

Boyd: Ken Seconded it.

Barke: Okay. We'll vote. Roll call.

Sisavath: Trustee Sparks.

Sparks: Yes.

Sisavath: Trustee Barke.

Barke: Yes.

Sisavath: Trustee Williams. Trustee Williams?

Boyd: Ken?

Bedell: He Seconded it.

Williams: Yes.

Sisavath: Trustee Gomez.

Gomez: Yes.

Sisavath: Trustee Bedell.

Bedell: Yes. Madam Chair Pro Temp, may I ask that the public affairs folks draft...notice that we sent. We approve this unanimously today for the record.

Barke: Sure.

Bedell: Thank you. Thank you very much, my colleagues.

Barke: Okay, then we have Number 10: Approve the agreement for National University Academic Homeschool Independent Study, Orange County, and designate the Associate Superintendent to sign be...on behalf of the OCDE.

Bedell: I'll Move it.

Barke: Second?

Boyd: You're Seconding?

Barke: No, I'm asking if anybody wants to Second it.

Sparks: Second it.

Barke: Okay.

Bedell: And just, Madame Chair, I was wondering...we had some concerns about overlapping counties and that issue and the Board. Where are we with those two issues now?

Boyd: Kelly? I know our coun...our beloved counsel over there also...

Gaughran: So, the agreement eliminates the Murrieta site for us.

Bedell: So, that potential legal issue is gone?

Gaughran: Yes.

Bedell: Double County? Okay. And their Board is ready to roll or is rolling or...?

Gaughran: The agreement asked them to have everything ready by December 3rd...

Boyd: So that would be...

Gaughran: ...by their Board.

Bedell: That would be reported out at our next meeting as an Item of Information.

Gaughran: Yes.

Bedell: Thank you very much.

Gomez: I have a couple questions just to clarify. I asked this question last time and I want to be sure that we have this information correctly. Is this a home school or is this independent study?

Gaughran: It is both.

Gomez: It is both?

Gaughran: They have homeschool in Orange County right now. They are looking to expand to add independent study.

Gomez: Within Orange County?

Gaughran: Correct?

Gomez: Orange County students?

Gaughran: Yes.

Gomez: Okay. Do we have a clarification on the Board members and who they are?

Gaughran: They are working on that. By December 3rd is what the agreement asked for them to have that together by.

Gomez: Okay. So, on December 3rd if that...those stipulations are not that, then what?

Boyd: Who were you posing the question to? To the Counsel or to...

Gomez: To anyone that can answer my question.

Boyd: I believe this is a legal question and so staff would not be...have the ability answer that. I think if...what we would say is if they have not complied by the December 1st date because what the Board authorized was provided they met all the stipulations in the MOU would be developed to address those things. Then we would be preparing a document for the Board for consideration related to the fact that we...where we have a concern. We don't know which way to go and we'd be seeking direction at the December Board Meeting on what happens next.

Gomez: So, this Agenda Item is to sign the MOU so that you could pursue these things, but if they do not meet these requirements, you're going to come back with a staff report that's going to give us an update?

Boyd: Yes.

Gaughran: Correct.

Gomez: Okay. All right. Okay, thank you.

Bedell: I'd like the record to show, Madama Chair, that I...as old as I am, I have never been in a meeting as often as I've ever heard the word "clarification" except from Trustee Gomez. I just think...I am edified by your clarifications.

Gomez: I'm not sure if I say I appreciate that or not. I'm not sure.

Bedell: Let me clarify.

Sparks: Yeah.

Barke: So, any other discussion?

Boyd: I would just make a note that based on your comment related... I want to make sure that we've addressed that in the agreement and so we'll be consulting to make sure that there's not a problem with...if the agreement is signed and then there's still some issues. You know, we don't want the signatures to prevail if the Board has, you know, a reason to have different directions, so we would be not signing this doctor...document until December 1st or after. So, we would not run into that issue.

Gomez: Okay, so if we can also get the number of children the...or the enrollment, basically, and then the grades that they intend to serve, that would be helpful as well.

Boyd: Enrollment and grade...

Gomez: Grade served.

Boyd: Grade served. Okay.

Bedell: Do an enrollment by grade.

Gomez: Enrollment by grade would be helpful as well as total. Since my colleague wanted to clarify that from me.

Boyd: Okay, any other questions?

Barke: Anything else?

Boyd: Roll call.

Sisavath: Trustee Sparks.

Sparks: Yes.

Sisavath: Trustee Barke.

Barke: Yes.

Sisavath: Trustee Williams. Trustee Williams?

Williams: Yes.

Boyd: He said yes.

Williams: Yes.

Sisavath: Trustee Gomez.

Gomez: Yes.

Sisavath: Trustee Bedell.

Bedell: Yes.

Barke: Okay, then I'll make a Motion to go ahead and Approve 11, 12 and 13 if everybody is agreeable to that?

Bedell: Second.

Barke: Okay. Do we want a vote?

Boyd: Any questions? Roll call. Questions?

Barke: Questions? Okay.

Boyd: Okay. Roll call.

Sisavath: Trustee Sparks.

Sparks: Yes.

Sisavath: Trustee Barke.

Barke: Yes.

Sisavath: Trustee Williams.

Williams: Yes.

Sisavath: Trustee Williams?

Williams: Yes.

Sisavath: Trustee Gomez.

Gomez: Yes.

Sisavath: Trustee Bedell.

Bedell: Yes.

Barke: Okay, Item 14: Confirming the existing date to the 2018 – 2019 and approve new Board dates for 2019 – 2020.

Bedell: Move Approval.

Sparks: I just had a couple of potential amendments on...that I don't know yet, just the dates are fine, but the time...

Bedell: Okay.

Sparks: ...on a handful of them might need to be after 11:30 AM.

Bedell: Oh, okay.

Sparks: And I don't have those exact times exactly yet.

Bedell: Are you doing it in the near future or the past...far future?

Sparks: No, far future.

Bedell: As long as that's...

Sparks: We've now done our schedule before my provost has done his schedule, but he also...we also do every second Wednesday.

Bedell: Sure.

Sparks: So, it would just be three or four meetings in terms of changing the time on those days.

Bedell: If I have enough head lead time...couple meetings ahead then I'm okay.

Gomez: So, it may be difficult for me to make those changes, but maybe if we know...if you...if you think you'll have that information in the next month or so?

Barke: We want to move this to the December meeting when we have more information?

Gomez: Yes, can we do that and then we'll...

Sparks: Great, because I put it out to them and I'm waiting to find out.

Gomez: Okay.

Barke: Okay.

Bedell: I Move that we postpone consideration until December.

Boyd: We'll table until next...

Barke: Okay.

Sparks: Thank you.

Barke: Okay. Now I think we're ready for our Time Certain.

Boyd: It's a Closed Hearing, so we'll need to clear the Board Room.

Barke: Yes. So, we have a Closed Hearing. We need to clear the Board Room.

Bedell: Is Ken joining us for the hearing?

Boyd: Ken, are you going to participate in the hearing or are you signing off?

Williams: I'm going to not participate...

Boyd: We could not hear you.

Bedell: He's signing off of this phase.

Williams: I'm signing off.

Boyd: Okay.

Bedell: Okay. Have a good week, Ken.

Williams: Thank you, Jack. God bless you all there. Bye, bye.

Barke: Bye.

**[THE BOARD ROOM IS CLEARED FOR THE CLOSED SESSION HEARING.
ONCE CONCLUDED, THE REGULAR MEETING RESUMES]**

Barke: All right. Ready to start? Okay.

Boyd: So, just for the record my...you explaining the response to the parent and then the parent and Placentia / Yorba Linda will dialogue. She's connecting them back with the home district so that they can have some dialogue and...and he can feel supported by you know, what needs to happen next. So, Madam Vice-President, you have Information Items and...

Barke: Back? Okay, back to reality here. Let's see. All right. Yeah. Anyway, we have some Informational Items; Announcement. The Superintendent's not here but Associate Superintendent.

Boyd: Just a couple of reminders for you. The next Board Meeting is December 12th, and the submission deadline is Wednesday, November 28th. So, want to make sure that you have that date because some of you are attending a CSBA Conference up in San Francisco, and we want to make sure that you have your items in before you leave. We...in your red folder, there is a flyer on Warming Hearts for the Holidays. For our two new Board Members, we have students in our alternative education program who teachers select based on their attendance and encourage them; it's a reward system.

They write profile in terms of how many family members and we adopt families. It's an opportunity for you to participate if you choose to. In the past, some Board Members have chosen to adopt a family. Others have just participated by giving a financial donation and then we spread that across and others have chosen not to participate at all. So, we want you to be aware of the opportunity should you choose to do that.

Barke: Okay.

Boyd: And then I wanted to mention to you that we want to have a dialogue with the Board with regards to Notices of Concern and Notices of Violation with regards to charter schools that are authorized by the Board, because the staff does the oversight and accountability for the charter schools on the administration side, and this year, we sent out more Notices of Concerns than we have in and really this is only the second year of really having as many charter schools as we have, so that's not unusual. But, we are finding ourselves at the point that there's nothing in your protocol that determines how many Notices of Concern trigger a Notice of Violation and not speaking about any one charter school, we've got a couple of charter schools that we've had some concerns with.

I'll give you an example. Samueli, as great a school as that has been and working with them and so forth, we've issued Notices of Concern for over a year with regards to a non-credentialed teacher providing service and they haven't been able to remedy the situation. So they are, in a sense, violating the petition and the Board's authority on what they should be doing, but yet, we don't have the means to give the Notice of Violation until we get that from the Board. So, we'd just like to have the conversation about is it three Notices of Concern? Is it situational based on what type of Notice of Concern, barring health, safety and welfare of student?

We naturally know, you know, that would trigger, but I wanted to bring that in advance just as a courtesy. We'll put something on the Agenda for discussion so that we can have a dialogue. And then the other question we noticed when we receive charter submissions, we've been providing binders and flash drives, and in some instances both, and we're killing a lot of trees and then the binders are still here.

So, we just wanted to know if there's a preference. If you all would just let me know and I'll poll you individually. If you only have a preference for a flash drive, then we'll only make that available to you. If you have a preference for both, we'll still continue to do that. And those of you who just want the binder but it's...there's a lot of staff time that goes into doing all of that, and we want to make sure that we're also being diligent in the resources that we have. So, that's all I have.

Barke: Okay, thank you. I make a Motion to Adjourn.

Sparks: Second.

Barke: Okay. No discussion? Okay, we're adjourned.

[THE BOARD MEETING CONCLUDES]