

Agenda Item

16.11 Approve Minutes of July 28, 2009, Special Board Meeting

Meeting: 08/20/2009 ESUHSD REGULAR BOARD MEETING - 4:00 P.M.
Category: 16. Consent Calendar Items - ATTACHMENT A
Agenda Type: Action (Consent)
Public Access: Yes

Agenda Item Content



EAST SIDE UNION HIGH SCHOOL DISTRICT

TO: Board of Trustees
FROM: Dan Moser, Acting Superintendent
SUBJECT: Approve Minutes of July 28, 2009, Special Board Meeting

Attached are the minutes of the July 28, 2009, Special Board meeting for review and approval by the Board of Trustees.

FISCAL IMPACT: None

FUNDING SOURCE: None

RECOMMENDATION: It is recommended that the Board of Trustees approve the July 28, 2009, Board meeting minutes as presented.

Additional Executive Content

Our adopted rules of Parliamentary Procedure, Robert's Rules, provide for a consent agenda listing several items for approval of the Board by a single motion. Most of the items listed under the consent agenda have gone through Board subcommittee review and recommendation. Documentation concerning these items has been provided to all Board members and the public in advance to assure an extensive and thorough review. Items may be removed from the consent agenda at the request of any board member.

Created on 08/10/2009 at 09:38 AM by Mary Gullen. Last update on 08/18/2009 by Mary Gullen.

East Side Union High School District
Approved
Board of Trustees
August 20, 2009 *Maryann M. Smith*

EAST SIDE UNION HIGH SCHOOL DISTRICT
Minutes of the Special Meeting of the Board of Trustees
Meeting Held at Education Center
July 28, 2009

1. CALL TO ORDER/ROLL CALL

The Special Meeting of the Board of Trustees was called to order at 5:30 p.m. by President Martinez-Roach. Clerk Biehl, Member Nguyen and Member Garcia were present. Vice President Herrera arrived at 5:32 p.m.

2. PLEDGE OF ALLEGIANCE

3. WELCOME AND EXPLANATION TO AUDIENCE

President Martinez-Roach extended a welcome to everyone, explained the format of the meeting and noted that all Board Meetings are recorded.

4. CONSIDERATION OF PROPOSED AMENDMENTS TO AGENDA

None

5. PUBLIC MEMBERS WHO WISH TO ADDRESS THE BOARD OF TRUSTEES

None

6. OPERATIONAL ITEMS/BOARD DISCUSSION AND/OR ACTION

6.01 Presentation of Report of County Superintendent Concerning Complaint regarding District Fiscal Procedures – Patricia Martinez-Roach, Board President

• East Side Union High School District's Response

Board President Martinez-Roach introduced Dr. Cary Dritz who is representing Dr. Chuck Weis to formally present the report of the County Superintendent concerning the complaint regarding the District's fiscal procedures.

Dr. Cary Dritz, SCCOE Deputy Superintendent

Good evening and thank you for this opportunity. My name is Cary Dritz and I am the Deputy Superintendent of the Santa Clara County Office of Education. I am here representing the County Superintendent, Dr. Charles Weis, who is unable to be present at this meeting tonight.

I am here in connection with the COE's duties as they relate to Education Code 1241.5. Under this section, the COE is authorized to audit the expenditures and internal controls of school districts that are fiscally accountable. East Side is one of those districts.

CALL TO ORDER

PLEDGE OF ALLEGIANCE

WELCOME AND EXPLANATION

CONSIDERATION OF AMENDMENTS

ORAL COMMUNICATIONS

**OPERATIONAL ITEMS/
BOARD DISCUSSION
AND/OR ACTION**

The review was undertaken in response to several allegations the COE received earlier this year. The allegations claimed that inappropriate expenditures had been made by district staff and that insufficient internal controls were in place at the district.

We sent copies of our report to you last week and, in a moment, I would like to briefly review the findings and recommendations with you.

However, before doing that, on behalf of the County Superintendent, I would like to thank Superintendent Nuñez and his staff, as well as the Board, for their cooperation during this review.

We requested a great deal of information from the District as we performed this review. Staff was responsive and complied with each of our requests to the best of their ability, and I would like to thank them for that effort; particularly, given the timing of our requests, when staff was also responding to the challenges of the California State budget situation.

So, under the Ed Code, we are required to report our findings and recommendations to the Board. Our review encompassed six areas of concern. I'll formally report those areas tonight. Then, over the next several months, we'll work with you to help ensure that the District is following best practices in accounting and expenditure procedures.

To summarize our review, we explored questions that arose regarding:

- The legality of various credit card expenditures;*
- The value to the district of various contracts;*
- The validity of certain payroll payments made to the Superintendent and executive management;*
- The appropriate reporting of the Superintendent's vacation time and cash received by the Superintendent in lieu of unexpended vacation;*
- The potential conflict of interest surrounding the hiring of the Superintendent's son by one of the District's contractors; and,*
- The expenditure of Measure E bond funds without attendant progress in construction.*

East Side staff was unable to provide all records requested, but based on the information that was provided, our staff did find material weaknesses in the District's internal controls, and so, as we have previously communicated to you, there is work to be done.

The COE will work with the District to review policies and procedures to see that Ed Code and best practices are systematically implemented. Also, the COE plans to request

the involvement of FCMAT, the State's Fiscal Crisis and Management Assistance Team. We will ask FCMAT to undertake a more in-depth review of district operations, and look at those areas in which we didn't have sufficient time or records to draw definitive conclusions surrounding the allegations.

Thank you for your attention and I'll now yield the floor for your discussion of the District's plans to respond to the findings and recommendations. Thank you.

Board President Patricia Martinez-Roach

Thank you. Did you have a formal letter for us or what you already provided us is...

Dr. Cary Dritz, SCCOE Deputy Superintendent

What we provided was the formal communication.

Board President Patricia Martinez-Roach

I just have one question. The fifteen-day period begins now; the fifteen days to respond?

Dr. Cary Dritz, SCCOE Deputy Superintendent

The 45 days, yes.

Board President Patricia Martinez-Roach

Since today is the formal...

Dr. Cary Dritz, SCCOE Deputy Superintendent

This is the formal presentation of the public Board meeting.

Board President Patricia Martinez-Roach

Okay, very good; just needed clarification. Thank you.

Dr. Cary Dritz, SCCOE Deputy Superintendent

Thank you.

Board President Patricia Martinez-Roach

What I did is I asked the Superintendent to make a presentation and I believe you have – do you have something you want to provide for information.

Superintendent Bob Nuñez

Well, I have two things. One is I want to make sure that we take the opportunity on the time allotted to go over the report from the County Office. We are anxious to work with the County Office and ready to address any concerns that they may have. We believe that we have worked cooperatively with the County Office and will continue to do that to move forward. We want to make sure that everything that is done is open for the public and for District staff and parents to see. We want to be able to put out to the Board and community all the things we are doing to try to improve our internal controls.

I understand that there is a real perception, there needs to be a real perception that this District, in fact, all districts are managed in an appropriate way so they stay fiscally sound

and so, as I look at it, I think this gives us that opportunity and we look forward to working with the County Office towards that end.

Having said that, I do know that there have been a number of articles in the newspaper and I really do believe that the side from the District and myself has not come out as of yet; and, though this is not a formal response back to the County Office, because we are going to take our time to go through that process and meet with you.

I do want to make sure that I am at least able to go forward with some of those points that are very specific. So, if I may:

First, I do want to thank Cary, you and the staff, for meeting with us on July 16. That was our first opportunity to sit and sort of go through the report, myself, Jerry Kurr and two Board Members. It allowed us to take a look at those types of things you were looking at and really get a sense at what type of information you might need going forward.

With regard to the credit cards and I am going to sort of go item by item down through it.

Item 1, credit cards, I don't believe, in fact, we are in violation of the Board Policy, but having said that I understand I really need to make sure that we have all the receipts that everyone wants to have so that you can see those and I do want to at least indicate that in December of 2008 I returned that credit card because it was becoming such an issue and have not used it. I have used my own monies for business expenses with this District. I do agree that we need to have something in place for all types of reimbursements for staff, administrators and everyone else.

With regard to the contracting out, which is item two, by East Side, which had terms of value added to the District, there was some question about that, and as I looked at Appendix D, I want to thank you for whoever sent that to me.

Board President Patricia Martinez-Roach
I did.

Superintendent Bob Nuñez
Well, Attachment D wasn't in the original one.

Board President Patricia Martinez-Roach
I think we got it today.

Superintendent Bob Nuñez
We did. I thank you for that because as I see there, the ones that they seem to be focusing on when you said contractors that got awarded over and over again seem to be in the Bond Measure and, in our minds, that is probably one of those areas that is looked at most often and by so many different people that we feel that, in fact, we would want anyone to come and look at that. Just this year, before we

went out with Measure E, we had the Business Office, Facilities Office and SGI put together a process that allowed us to develop an interview and ranking for all persons wanting to come in and do work for the District, especially in the Bond Measure. Also, they put together an assessment tool so that we could find out, in fact, the work they were doing was of the quality we wanted to continue with them.

We have, at least in my mind, one of the most active CBOC Oversight Committee. We have had annual financial audits of our Bonds that have come out positive and on June 15, 2008, we had an extensive performance audit done by Total School Solutions that really covered five years. Copies will be provided to the County Office, if they haven't already, to let you know that we do take this very seriously and that we would support a review of our Bond, managements of those Bonds, by anyone that would like to come in.

With regard to the payroll payments, where you found that there was no area of concern, just to let you know that all Cabinet members are treated in that same way with regard to benefits and their salaries.

Vacation payoff, and yes, vacation payoff is part of my employment contract as it is with the three Associate Superintendents. It is not uncommon for me to try and block off part of my days so that I can go visit school sites and/or just work in my office and I meet persons outside of that.

I did see that one of the recommendations was to go see about work products for those days and I have, in fact, calendars of who I met with and e-mails that I have sent back and forth on all those days in question for the days with regard to my vacation. So, I can tell you that I have not taken vacation time, except for last week, which was maybe timely, and that the fact that I work evenings and weekends is part of the job and I understand that, but I think for the days that you questioned, there are, in fact, going to be calendars provided to you to show that, in fact, I was working.

But, this did allow me to go back and take a look at how persons keep calendars altogether because in looking at other staff, there are many times where I will find that either they don't keep an electronic calendar, and that is what I do, and/or they don't fill in all the dates. I think that if this is a reflection that because it says they are not there or something of that sort, we need to make sure that persons have the opportunity to know what to be keeping track of so that this question does not come up again.

I do believe, though, that we need to look at a process for Board approval for all vacation payouts. We had 340 employees get vacation payouts this year. So, it wasn't just the Superintendent.

The related party, yes, my son did work for SGI for a summer. I didn't hide that. Actually, I was kind of glad because it was

in his field and allowed him to say at the end of that it is what he wanted to stay in. He is a construction management major at Arizona State University and this is his last year. At this point, there was no contract pending with SGI at the time. I did not ask for him to be employed there, but he did work there. That nobody asked me about his employment there until after he had left and, once I was asked, I told him that was not the place for him to go work again and to find someplace else, which he has done. I do have to tell you that those of you that may have college age children, when the question was, "Did he add to my income?" The answer is "No." When he came here, I paid for his lodging, for his car, for his gas, for everything, so that he could save his money for school and I am thankful he did that. I am thankful that SGI actually has a program that allows Latino students to look at their field to move forward.

Measure E, item 6, the funds that have been expended in progress of construction and there seems to be an issue with regard to SGI and that's what I got from the report.

So, first, SGI in fact, is one of the approved construction management entities here. There was an RFQ process that we went through. There was a selection process; so they are part of that. It was vetted here in front of the Board so they understood that. Also, they are the facilities program management; the program management entity for the East Side. There was in the audit of Total School Solutions in June 2008, that was one of their recommendations, that is to continue with SGI because of the quality of the work that they have been performing. As I recall at that meeting, one of our Board Members actually asked both the Chair of CBOC about the quality of work of SGI, as well as the Associate Superintendent of Facilities, who both agreed that they should continue on and so I am going to be providing the minutes with those statements in there, but in all, the Board did act on a recommendation from Total School Solutions to continue with SGI for Measure E.

I believe that your report indicated that you find that information was lacking and we need to be able to provide you with that so you can finish your report. I think if you want to have a third party to come in and help this District, I think any help that any district can get during these times is important. At the same time, in my reading of the report didn't cause me to question the fiscal accountability status of this District. I think the audits done since 2004, of which are available, indicated this is a fiscally sound District. I think that the questions that come up with regard to, not only myself, but any part of this District, need to be answered. They need to be answered in a public forum, which is this. At the same time, I think that if there are areas we need to improve in, we need to do that moving forward and I look forward to the County Office assisting with that, as well as if it is FCMAT or any other agency. I think we did that with Total School Solutions. I think we've done that with our auditors and I think we will do that with any entity that wants to be part of

this. It is important to me and I believe to the Board that the community feels we are good stewards of this District. There's always going to be questions that, at this point, I am thankful to have the opportunity to work with the County Office moving forward.

Board President Patricia Martinez-Roach
Were you responding to anybody else?

Superintendent Bob Nuñez
I have responded.

Board President Patricia Martinez-Roach
Very good. Thank you.

Members of the Board do you wish to comment or do you want to hear from the audience?

Board Clerk Frank Biehl
I would like to ask a question of the County if I could.

Board President Patricia Martinez-Roach
Is that okay with everybody, Board Members?

Board Clerk Frank Biehl
I just had a quick question. You referred to your report as a review. You did not refer to it as an audit. Was it a review or an audit?

Cathy Grovenburg, SCCOE Chief Business Officer
At this point, it was a review.

Board President Patricia Martinez-Roach
Can you please state your name for the record?

Cathy Grovenburg, SCCOE Chief Business Officer
I'm sorry. Cathy Grovenburg, Chief Business Officer at the Santa Clara County Office of Education, one of the individuals that participated in the review. It's a review of policies, procedures, practices of the District.

Board Vice President J. Manuel Herrera
Meaning that it was not an audit?

Cathy Grovenburg, SCCOE Chief Business Officer
No.

Board Clerk Frank Biehl
It is not an audit. Now, all districts, and I believe certainly we fall under that category, complete an audit from an external auditor every year and then, correct me if I am wrong, that audit is then turned into the County Superintendent for review.

Cathy Grovenburg, SCCOE Chief Business Officer
That is correct.

Board Clerk Frank Biehl

Do you recall any audit turned in from this District in the last several years where the County found material weaknesses in the audit?

Cathy Grovenburg, SCCOE Chief Business Officer

I can't speak definitively, but I...

Board Clerk Frank Biehl

If there were material weaknesses, what procedures would you follow?

Cathy Grovenburg, SCCOE Chief Business Officer

Well, you would have audit findings that we would be then responding to and following up with the District to make sure they are taking the corrective action that's set forth in those.

Board Clerk Frank Biehl

Okay.

Cathy Grovenburg, SCCOE Chief Business Officer

So, we do follow up on that.

Board Clerk Frank Biehl

For the record, in my term on the Board for 2 ½ years, I don't recall any audit findings from the County Office based on our audit, external audit, for the entire District of \$220,000,000, but I do appreciate the fact that you and the County Superintendent have an obligation to respond to anonymous complaints when they come to you and you need to investigate them and that's what you've done and, essentially, you've recommended that we embark upon a course to investigate them further with a disinterested third party that is qualified to do that work. As one Board Member, I want to say that I welcome that and I will cooperate in whatever manner is necessary.

Board President Patricia Martinez-Roach

Thank you. Member Herrera do you want to say something?

Board Vice President J. Manuel Herrera

We are going to hear from our community. I'll make a preliminary statement. Simply that what's most important here is to look at every aspect of the questions that have been raised. I think that there is no question that we are going to be cooperating completely with the County Office and even beyond their standard. I think they are looking at whether there was any fraudulent action, anything illegal. Our standard is much higher than that. We need to be able to show to the community that we merit their trust and that we are accountable with our practices and with our checks and balances and with our oversight. So, I think it goes without saying that the order of the day is cooperation, collaboration, good faith response and at the end of the day, every action necessary to ensure the public trust in this matter.

Board President Patricia Martinez-Roach

Thank you. I just wanted to, before I forget, to make this statement. It is really important because there was a couple of e-mails that I received and there was an article in the newspaper regarding this matter implying that the Board was covering up information or covering up for the Superintendent, administration, etc. I just want to go on record saying that is incorrect. I absolutely would disagree with anyone who is thinking that. As early as I believe was February when I received an anonymous complaint from an individual who used District letterhead and District envelope, it had such detailed information that it immediately caught my attention and I forwarded the information to the appropriate people for investigation. It was not ignored. The Board was aware of it. We were looking into it and things happened so quickly that in July, July 1, when I was contacted by Dr. Weis, I was in Mexico on vacation. I was so concerned about the investigation that I made time on behalf of the Board to have a conference call with all the appropriate people at the County and we also have representation from the District. So, immediately the Board was notified again. We called a Special Session. We are taking this complaint very seriously. I, personally, can say for myself that I do believe we have some internal issues that we need to look at and we need to correct. I am not going to dance around it and say that everything is fine. Everything is not fine. I believe that we have many issues, we need to address them and we are doing so officially this evening.

I did want to talk about the audit. Since I came back in November...

Board Vice President J. Manuel Herrera

The review?

Board President Patricia Martinez-Roach

No, the audit that Mr. Biehl was talking about. I was part of an audit this year and I always talk about audits and it was the usual findings and recommendations about student body accounts. So, there was something there, which is something that I am not proud of because it seems to be a continued issue every year, every year.

So, this Board does pay attention to the audits. The County pays attention to the audits I have no doubt. Had you seen anything there you probably would have contacted us. So, I just want to thank you for taking the time and effort to point out our weaknesses because I really think this is a collaborative effort for us to work together to resolve whatever issues we might have and thank you again for that. So, I appreciate it.

Now we are going to hear from the audience.

Public Speakers:

- John T. Moore
- Gordon Holscher
- Michele Holscher

Board President Patricia Martinez-Roach

I do want to clarify for the record that the FCMAT audit will be paid by the County initially.

Board Vice President J. Manuel Herrera

What does that mean initially?

Board President Patricia Martinez-Roach

I don't know..any other audits, I think, we have to pay for. Dr. Dritz, is that correct? I was told by Dr. Weis, when I spoke to him, that the FCMAT was being paid by the County.

Cathy Grovenburg, SCCOE Chief Business Officer

Seventy-five percent County, twenty-five percent District.

Board President Patricia Martinez-Roach

Oh, now it changed. Okay, seventy-five percent County, twenty-five percent District. Thank you. That was an important point.

Public Speakers (continued):

- Don Dawson
- Dianne Walker
- Jeff Moore

Board President Patricia Martinez-Roach

Any comments? Mr. Garcia.

Board Member Eddie Garcia

Thank you Madam President. Thanks everybody for being here on this summer evening. I am sure we all have better places to be. You know, in listening to the community, almost every one of your sentiments and every one of your thoughts went through my mind when I read this report. It was very difficult to read and go through. I gave it a lot of thought and lost a lot of sleep over it.

As one Board Member, how can I address these issues and this is what I came down to. I think it's down to three things that we need to focus on in the coming days, weeks and, hopefully, not months, but we need to focus on, first and foremost, and Reverend Moore, we are in agreement on this, first and foremost, we have an obligation to our students, our staff, our Principals to make sure we have a smooth start to school in about a month. We can't let this issue or any other issues distract that. So, I am asking my Board Members to join me in making sure that whatever decisions we make tonight in going into the future that our obligation to the

students, the staff, the Principals is solid and we get what we are here to do, which is to educate our students.

The second obligation I believe we have is to the public trust. We need to answer these questions. We need to make sure that each and every one of these questions is investigated fully and fairly. I heard the word cooperate from my colleagues and I agree 100%. We need to cooperate fully with the Santa Clara County Board of Education to make sure that we look at every single one of these issues and improve and get better on internal controls in whatever it takes for us to make sure we are fiscally successful.

I do want to put on the record, however Madam President, that I am a little perplexed and a little concerned about the determination in the review, not an audit, the review that the fiscal accountability status of the East Side should or should not be revoked based on which are nothing but six inconclusive remarks in the report of the review. I think, once we get through the full investigation, we get through a full audit, then we can start talking about that. So, I do want to put on the record before the County Superintendent, his staff, to take back to your Board, I am not sure how credible that statement is and I am not sure why it was included in this review until we know everything. Up to this point it is pretty inconclusive, but it still means we have a full obligation to the public trust to get to the end of this and the bottom of this.

Finally, the third issue is that there are two employees implicated with allegations in this report. I think it is our obligation to provide them with a full and fair opportunity to look at these issues. So, as we move through that, that's what I want to do tonight. I want to walk out of here tonight: number one, making sure we, and excuse the sports metaphor here wherever you are Reverend Moore, "We keep our eye on the ball," which is the students, staff and the Principals at our schools; two, that we are fully obligated to take care of this investigation and make sure we need to do what we need to do; and, three, and I think it's more appropriate from a legal standpoint to take care of this in Closed Session is address the potential personnel issue.

That's all I have to say Madam President and I look forward to working with everyone to make sure we get through this.

Board President Patricia Martinez-Roach
Okay. Member Nguyen.

Board Member Lan Nguyen
First of all, this review cannot come at a worse time. The State is going to cut about \$6 billion into the education area and this District, just a couple of months ago, passed a budget that is going to have a \$23 million budget hole. With this coming along, it's a great concern, not only for the Board Members' staff, but also for parents and community members. Eventually, we will have to address these concerns, these six concerns, one by one. I believe we are

going to be able to do that, however, not only do we have to address these concerns to the County Board of Education, the Santa Clara County Office of Education, but we also have to repair the public trust. How do we do that? I believe that in this review, there are two parts. The first part has to do with the Superintendent, even though the Superintendent is the CEO of the organization, he is still an employee and it has to do with a personnel issue. That issue would need to be dealt with in Closed Session and also with advice from Legal Counsel. The second issue has to do with District policies and how Board Members have an oversight of our own fiscal responsibility or accountability. It is something that we will have to look at. I think, at this point, we are being encouraged by the County Office of Education to hire a third party independent auditor to look into this and we also heard a parent that mentioned that suggestion might cost money and so on. We have to look into those suggestions and find the best way to do this, but I think in the end, regardless of whether we think we can answer these six questions thoroughly and appropriately or not, this Board has the obligation to answer to the public and restore the public's trust. Tonight, I am very confident that this Board, either in Closed Session or in Open Session, will be able to come up with solutions and also the appropriate response to the County and also to present to the public in a way that, "Yes, we are taking this seriously and we need to do what we can do to fix the problem."

Board President Patricia Martinez-Roach

I think that for the record and for the County you should know that in my conversation with Dr. Weis, I did promise that we were going to stay closely in touch with updates and immediately we are going to be placing the bills and warrants, as they should be, on the agenda, the August 19th Board Meeting is it?

Board Clerk Frank Biehl

The 20th.

Board President Patricia Martinez-Roach

The 20th. So, that's already began in place. In addition to all the comments that the Board Members have made, I think this is really an important issue that has been made about accountability, about fiscal management, and, of course, who we are. We are an education corporation. Our only business should be to educate kids, but it's all important.

You can't separate it. It's all part of the same issue, but we do have a breach in security in this District. Somebody stole personal information from a computer system that belongs to the District and I have taken that very seriously and I know the Board has too and we have charged already, we began an investigation into that process because we don't think it is okay. It is not only illegal to steal somebody's Social Security and other personal information, but to actually break into a system and take it, as I believe is something that could be prosecuted. So, whoever has done this...I think that we are

never going to find out who it is probably because this person or people were pretty smart in how they did it, but it is very, very troubling that that is going on. On the other hand, it is a blessing that this has come out. It's no secret that I have been so critical for so many years.

Being on the School Board from '94 to 2006 and then staying away for two years that I believe this District has a systemic problem of overspending of spending, spending, spending and I guess my favorite word is pork barrel spending. I think, Dianne, that is what you were talking about, but it's true. We have serious issues when it comes to our fiscal matters in this District. We should not have to cut so many programs in my opinion. So, I welcome this investigation and I'm glad it happened, not because I am enjoying it, believe me it has been horrible to go through this, I have no doubt the Superintendent and Mr. Kurr and the whole District is bleeding over this. It's not something that we want to be involved in, but sometimes, you know, you have to go through these things to make things better.

If there are no comments on this item, I wanted to move on to 6.02, but I think we might need to take action officially accepting the report, the one that the County just presented, right Mr. Ruiz?

Legal Counsel Rogelio Ruiz
That would be fine.

Board President Patricia Martinez-Roach
Yes. I need a motion please.

Motion #1
Motion to accept the report presented by the Santa Clara County Office of Education County Superintendent concerning complaint regarding District fiscal procedures made by Vice President Herrera, second by Board Member Nguyen.

Vote: 5/0

Board Vice President J. Manuel Herrera
Madam President, is there a Board action required with regards to the nature and process for further investigation into all of the issues?

Board President Patricia Martinez-Roach
That was my next recommendation.

Board Vice President J. Manuel Herrera
An internal auditor is a different issue than what I just asked.

Board President Patricia Martinez-Roach
I failed to add another investigator, and, if I may, to the Board, just tell you what my thoughts were and then we can discuss it. Under 6.02, one of the recommendations made by the County that we look into an internal auditor and, although I

am not happy about spending anymore money, I think it is an important point because I believe that an independent internal auditor would be able to help us to look into the many issues that we...we might find that we have a very good system, but we also, I am sure, will find that we need to do better in some areas.

Board Vice President J. Manuel Herrera
So, have you moved onto 6.02?

Board President Patricia Martinez-Roach
Yes, we already voted on it.

Board Vice President J. Manuel Herrera
Well, I was raising a question before we went on to 6.02.

Board President Patricia Martinez- Roach
Okay.

Board Vice President J. Manuel Herrera
The question is, "What action of the Board"...we are not going to rely, in my mind, we are not going to rely on the hiring of an internal auditor to address the immediate need for further investigation and resolution of the issues that have been raised.

Board President Patricia Martinez-Roach
That wasn't what I was trying to correct 6.02.

Board Vice President J. Manuel Herrera
Would we be simply be acting, for example, to invite the FCMAT Team to and cooperate with the County in resolving the issues that still need to be resolved? Would that be, for example, an action that we would take still under 6.01 and then, I believe, Board Clerk Frank Biehl, also had some thoughts about an audit process or protocol or structure around that, but all of that is very different from the hiring of an internal auditor. So, I just want to stay on 6.01 until we can take necessary action.

Board President Patricia Martinez-Roach
Well, we just took action on it. So, are you wanting to...

Board Vice President J. Manuel Herrera
We accepted a report.

Board President Patricia Martinez-Roach
Right.

Board Vice President J. Manuel Herrera
And the...it calls for discussion and/or action. It calls for the East Side Union High School District response. So, the response, in my mind, needs to include the action by the Board to invite the FCMAT Team and work with the County on resolving this forthwith. We need this not to be hanging over the District week-by-week; we need answers on it. I wonder if you can go back to the microphone and just help

me out with this.

Board President Patricia Martinez-Roach
I don't think that that's what's done. That's pretty obvious.
We are going to be doing that.

Cary Dritz, SCCOE Deputy Superintendent
Cary Dritz, Deputy Superintendent, Santa Clara County
Office of Education. We are in the process of inviting FCMAT
to come into this review. That's a process the County Office
is taking.

Board Vice President J. Manuel Herrera
Okay. So, I imagine it would be helpful if the Board also
joined in that action because we need to ensure that we are
going to have a further...

Board President Patricia Martinez-Roach
I don't think we have much of a choice do we.

Cary Dritz, SCCOE Deputy Superintendent
We are working on it.

Board Vice President J. Manuel Herrera
But, it's our Board on the record. It puts our Board on the
record as to that we are looking for a resolution, further
investigation and closure on these issues.

Board President Patricia Martinez-Roach
Okay.

Board Vice President J. Manuel Herrera
I do want to move that the Board invite the FCMAT Team in
collaboration with the County process to conduct the
necessary further investigation for resolution of these issues.

Board President Patricia Martinez-Roach
Well, we just moved under the rules here.

Board Vice President J. Manuel Herrera
It's part of what is agendized as the District's response.

Board President Patricia Martinez-Roach
Okay, Rogelio, he wants another motion after we already
approved it to accept FCMAT. Can we just do it under
comments?

Board Vice President J. Manuel Herrera
No.

Legal Counsel Rogelio Ruiz
You can have multiple motions with any specific agenda item.
That's been done by this Board before.

Board President Patricia Martinez-Roach
Okay.

Legal Counsel Rogelio Ruiz

If a motion is not seconded, it dies.

Board President Patricia Martinez-Roach

There's no second.

Clerk Frank Biehl

Do you have a second? What's your motion again, Manuel?

Board Vice President J. Manuel Herrera

The motion is that the Board invite the FCMAT Team, in collaboration with the County Office of Education, to conduct further investigation for resolution of the issues in this matter and that puts the Board on the record for the action that we also need to initiate because if it wasn't going to be FCMAT, then we need to find some other vehicle for the further investigation and resolution of these issues. We can't just be passive on the matter.

Board President Patricia Martinez-Roach

I don't have any dispute with your comments. I think it's a given that we are going to do it and I do appreciate you want to make it official. However, what I think we need is a forensic investigator and C.P.A. Somebody that will come in and go through things and really analyze things and tell us what the issues are. I think that we are talking about two different issues. FCMAT is hired by the County. We need to hire somebody in our organization and deal with that issue.

Clerk Frank Biehl

Madam President?

Board President Patricia Martinez-Roach

Yes.

Clerk Frank Biehl

For purposes of...can we bring the house to order (to the audience)...

Board President Patricia Martinez-Roach

Excuse me (to the audience) if you want to speak, if you could please do so quietly or go outside because we...you kind of interrupted our...

Clerk Frank Biehl

First of all, for purposes of discussion here, I would like to second the motion that was made by Vice President Herrera so that we can discuss it and take a vote on it if we would and then after that, I would like to offer another motion that deals with what, I think, are some of the long-term things that we need to do relating to this issue in terms of structure of the Board, but I would like to vote on his issue first.

Board Member Lan Nguyen

Maybe Member Herrera can explain more about the added value into having FCMAT working with the Board or with our

organization in doing this investigation.

Board Vice President J. Manuel Herrera

I am going to be repeating myself. The Board needs to have a response to this. So far, the County is acting and responding and pursuing this issue. This is our opportunity to also initiate a response. If FCMAT was not going to be invited from the County, it would be incumbent on us to designate some process and some agent in this to conduct further investigation and to help resolve the issues that have been raised. So, we should take an action to put ourselves on the record and because the County is already moving with the FCMAT Team. They are highly reputable. They do forensic level inquiries and investigations. We need to get behind that with our own charge to that tune to work with this District and this Board, especially to get to the bottom of this and to resolve it and to expedite it, quite frankly, because this is not something that could go on into September into October into November. We need to move very quickly on this matter.

Board Member Lan Nguyen

In my mind, I thought that we can even draft a letter of response tonight after the meeting to respond to the County as in a way of letting them know what actions we are going to be taking in looking into the matter. I don't know if the Board taking action in inviting FCMAT into working with us or with an internal, with an auditor we are going to hire has an added value to this response letter we are going to be drafting to respond to the County Office of Education. Does it make sense?

Board President Patricia Martinez-Roach

It makes sense.

Board Vice President J. Manuel Herrera

We are going to repeat each other. We repeat ourselves. I am hearing you and I think you are hearing me.

Board President Patricia Martinez-Roach

Eddie, any thoughts on this?

Board Member Eddie Garcia

No.

Board President Patricia Martinez-Roach

Okay. So, let's just vote on the motion then.

Board Member Eddie Garcia

Vice President Herrera if your whole point is to put on the record that we are going to be fully engaged, I can support this.

Board President Patricia Martinez-Roach

That is a good word "engaged."

Motion #2

Motion made by Vice President Herrera, second by Board Member Nguyen for the Board to be fully engaged and invite the FCMAT Team, in collaboration with the County Office of Education, to conduct further investigation for resolution of the issues in this matter, which is the complaint regarding District fiscal procedures.

Vote: 5/0

6.02 Discussion/Action regarding Process for Appointment of Internal Auditor Directly Responsible to the Board of Trustees – Patricia Martinez-Roach, Board President

Board President Patricia Martinez-Roach

One of the recommendations by the County is to engage in hiring an internal auditor. So, I added that to the agenda and I failed to add that there are two parts to this. There should also be, we should do our own internal investigation and that is why I was suggesting and working in what I am recommending that I work with our Legal Counsel and determining... Rogelio, if you could add something of value of retaining someone that will come to the District and engage. Rogelio, can you please help me out with this? That was the whole...and I am sorry for not adding this investigator to the agenda. I'll hear from you, Frank, after I hear from Rogelio.

Legal Counsel Rogelio Ruiz

Are you referring to the Board taking action to engage in an independent investigator to investigate the allegations that the County reviewed and then to help or assist the Board in preparing a written response to the County?

Board President Patricia Martinez-Roach

That's correct and what I was suggesting is that I can work with our Legal Counsel in making sure that we are selecting a firm or I don't know how...How do you...just stop interrupting Manuel. Rogelio, can you explain please.

Legal Counsel Rogelio Ruiz

The District has used outside investigators in the past that have been approved by the Board.

Board President Patricia Martinez-Roach

Maybe you can repeat that again because people are laughing and it's difficult to hear. Can you say that again?

Legal Counsel Rogelio Ruiz

The District and the Board have used outside investigators in the past that have been approved by the Board previously and, so, you could always go to a list of those folks that you have used for these types of engagements in the past.

Board President Patricia Martinez-Roach

Okay, very good. This is in Open Session, right? We have to do it in Open Session? Correct?

Legal Counsel Rogelio Ruiz
Correct.

Board President Patricia Martinez-Roach
That's the reason why it's on the agenda.

Board Member Lan Nguyen
And I agree with Counsel that if we can go back to that list and look at the folks that hired to work with us before and their work is effective, that will save us time and is probably quicker and more effective, but I have a question for Member Biehl this is your proposed...

Board Vice President J. Manuel Herrera
That's a different issue.

Board Clerk Frank Biehl
This is a motion that I want to...

Board President Patricia Martinez-Roach
Let's take one issue at a time.

Board Member Lan Nguyen
Okay.

Board President Patricia Martinez-Roach
If he wants to make a motion after we discuss this issue?

Board Clerk Frank Biehl
Well, actually, I wanted to put it on the table. I think it will help facilitate discussion at the beginning of discussion of 6.02 and either if it doesn't facilitate it, then I'll withdraw it, but I think it will help facilitate our discussion of item 6.02 and I would like to have the opportunity to explain why.

Board President Patricia Martinez-Roach
Were you done, Lan?

Board Member Lan Nguyen
Well, actually, I thought we have been talking about 6.02, probably not.

Board President Patricia Martinez-Roach
We are.

Board Member Lan Nguyen
Okay. So, that's all I have.

Board Vice President J. Manuel Herrera
Madam President?

Board President Patricia Martinez-Roach
Yes.

Board Vice President J. Manuel Herrera
I would like to ask a clarifying question before Member Biehl

adds more to the discussion. I was hearing references to hiring an investigator, using a firm, so and so on, which I interpret as very different from an appointment of an internal auditor.

Board President Patricia Martinez-Roach

Yes, two different ones.

Board Vice President J. Manuel Herrera

So, my questions is why would be talking about hiring anybody to do an investigation if we are going to work with the County in partnership with FCMAT to have this investigation conducted. What's the purpose of the District in hiring somebody?

Board President Patricia Martinez-Roach

Can you please come and explain why you are recommending an internal auditor?

Board Vice President J. Manuel Herrera

The internal auditor is a different issue.

Board President Patricia Martinez-Roach

I know, but it was...(to audience) wait, just a minute, stop. It was one of the recommendations by the County.

Board Vice President J. Manuel Herrera

I am not questioning the internal auditor. That's not my issue at this moment. An internal auditor is very different from what we were just addressing about potentially hiring an external firm for an investigation.

Board President Patricia Martinez-Roach

Okay, let him explain and then we will deal with them one at a time.

Cary Dritz, SCCOE Deputy Superintendent

I think what you are referring to, Madam President, is in our report, we refer to an audit exception in 2000 where it was requested and recommended that the East Side Union High School District hire an internal auditor within that's an employee within your organization. There's nothing in our report that talks about any kind of forensic auditor at this time.

Board President Patricia Martinez-Roach

No, that was my idea.

Cary Dritz, SCCOE Deputy Superintendent

And let me just explain something about FCMAT. We are engaging cooperatively with FCMAT in a management review. If FCMAT were to find something that would move in into an extraordinary audit, then it would become an AB139, which means then the State, the California Department of Education, would be involved and would also be responsible for the cost.

Board President Patricia Martinez-Roach

Yes, thank you very much.

Board Member Eddie Garcia

Madam President, with that being said, my understanding of 6.02, was exactly like Vice President Herrera's. Just by reading it, it sounded like it was going straight to the heart of a recommendation, not only in this report, but in the 2000 report that we hire a full-time internal auditor, which is what I believe this item to be. If that is the recommendation, then I would be more than happy right now to entertain Mr. Biehl's suggestion because I think that fits right under this. If that's not what the recommendation is, then let's take a vote because we are talking about two different things here.

Board President Patricia Martinez-Roach

I just...I have a question about... Well, you are going to talk about your proposed... Let's do one at a time because I still think we are talking about...

Board Member Eddie Garcia

I think it is one in the same.

Board Clerk Frank Biehl

I think it is the mechanism of how to implement the next steps to move forward. I think if you could allow me just a few minutes to explain.

Board President Patricia Martinez-Roach

Okay, go ahead.

Board Clerk Frank Biehl

Hopefully, it will help.

Board President Patricia Martinez-Roach

If it resolves this confusion, let's do it.

Board Clerk Frank Biehl

The first thing I would like to say is that Member Garcia and Member Nguyen did an excellent job, I think, of framing the issues and Mr. Garcia always does a very good job of laying out the big picture of what needs to be resolved. I think he, once again, tonight did that and was complemented by the following commentary by Member Nguyen as well.

I tend to be one that looks in terms of what are the definitive next steps that we need to take and I tend to work toward what we can all agree to -- to move the organization forward. So, what I did is I went back and I reviewed our own Board Policies, which were revised and adopted I think about three months ago. We adopted a revised Board Policy 3640, which permits this Board to a point to establish an audit committee and I think what we need to do is to begin the implementation of that. I would think that because in the short-term here, we need to move quickly, that the quickest way to do this right now would be to establish an ad hoc audit committee that serves in an advisory committee to the Board and that it would be initially composed of two members of the Board

who are selected and approved by the Board. That committee in the future might be expanded to include other members of the public that have experience and knowledge in the fiscal matters to serve on that as well. The guidelines in Board Policy 3460 clearly layout what are the responsibilities of an audit committee and I think it lends itself to many of the material weaknesses that the County Office pointed out to us.

Specifically, an audit committee would make recommendations the selection of an external independent auditor; that could also be an internal auditor. They would review the plan for the audit process with the independent auditor and determine the adequacy of the nature, scope and timetable of any audit. They would review the results of the audit and participate with the independent auditor and management in preparing final recommendations and responses and they would participate with the independent auditor in presenting the audit report to the Board. They would review Board policies and Administrative Regulations to recommend any revisions needed to ensure effective financial reporting. They would provide input on the effectiveness of the independent auditor and they would periodically report to the Board regarding the status of the previous audit recommendations for improving audit, accounting and internal control systems.

Let me tell you why this is important. You cannot have the Superintendent in any district selecting the audit firm. You cannot have the auditor reporting somehow indirectly or directly to the Superintendent. It needs to be an independent body. What is suggested in the Board Policies here that we adopted is a mechanism to ensure that independence.

I am just suggesting tonight that we embark on a fourth step. This first step on that by adopting a resolution that I have a proposed motion that I put before you and that we work cooperatively with the Santa Clara County Office of Education to recommend the selection of a qualified independent third party to review these allegations in addition to, which I assume at this point would include FCMAT, but it also may include, if we determine that, is a recommendation an independent person to look at the procedures that we follow within the District. So, I think there is a need to kind of have a mechanism of the Board in place while the FCMAT work is going forward and it needs to be independent of the administration. So, that's why I am recommending this. I am certainly welcome to any other suggestions from Board Members. I want to try to reach consensus and make sure that we move forward with the next steps.

Board President Patricia Martinez-Roach

I think that your idea for an ad hoc committee is we've been talking a lot about Board committees and is probably a very good idea, but I'm not...it might be a conflict of interest to have two Board Members sitting in a committee during an audit review where we are being audited by another third

party. So, it doesn't sound to me like this is probably... It's a good idea to have period, like in general, but not to deal with this particular issue, and I'm going to advocate strongly that we hire an internal auditor. I really...or somebody that is disengaged from any of us, that doesn't know any of us that is just independent, is just going to go in there and really look at things and come out and say you are doing a great job, hopefully. If not, to tell us, you know, you have some serious issues you have to deal with them before the State gets in here. I mean, you guys, listen, I know that there is an issue that some folks don't think that the County has the authority to come in here and do this. They do have the authority. They've done it. They can go to the State and tell them we are not doing our job. I don't want to get to that point. I don't want to spend money for an internal auditor. We have a situation now. We need to have an independent person come in here. We can't have two Board Members sitting in a committee when there is an ad hoc committee. I can't support it.

Board Clerk Frank Biehl
Well...

Board President Patricia Martinez-Roach
If that is your intent, I wouldn't support the committee. If it your intent to do a general District review of the budget, etc., well, maybe, but I...

Board Clerk Frank Biehl
Madam President...

Board President Patricia Martinez-Roach
I just think there is a conflict.

Board Clerk Frank Biehl
If I may explain a little further. Basically, the establishment of a two-member Board committee is to eliminate the potential conflict of having the administration make the recommendations as to who the auditor is or, in fact, having the administration conduct a process for the selection of the internal auditor. The administration cannot do that. You need to have an independent Board committee that does that and that committee can have additional members from the public who are knowledgeable included in that.

I think at this point tonight and I can go back and ask for comments from the Associate County Superintendent here is if this is a process that would help facilitate this interaction with FCMAT by having a two-member Board audit committee that would be able to interface with them because you are not going to be able to have the entire Board interface with them unless you are at a formal meeting, but this would allow them to have an interface with the Board. Could you comment on that?

Dr. Cary Dritz, SCCOE Deputy Superintendent

I am not sure if it would make a huge difference. At this time, I am not sure. My experience with FCMAT coming in and they are an independent body. They work independently. The work report to the Board as a whole.

Board Clerk Frank Biehl

In the long-term do you think it is a good practice for Boards to have an audit committee that makes the selection, that makes the recommendation for the selection of an internal auditor, and works with that auditor in terms of when the audit is being conducted. Is that in general a best practice?

Dr. Cary Dritz, SCCOE Deputy Superintendent

I am not sure I can comment on that and what would be the best practice at this time.

Board Clerk Frank Biehl

How does the County of Santa Clara, how does your office do that?

Dr. Cary Dritz, SCCOE Deputy Superintendent

I think that...Cathy, do you want to address that?

Board President Patricia Martinez-Roach

I think that we are talking about two different issues, Frank. One of them has to deal with the auditors that we select. Yes?

Cathy Grovenburg, SCCOE Chief Business Officer

A couple of things that I think I would point out here. One is FCMAT will come as an independent entity and will conduct their review based on what has happened and what has happened in the past. They will make recommendations as to what they think should happen going forward. So, they will have findings and recommendations. We can certainly ask them to speak to structure, appropriate structure, going forward as to what we think would be the best way to move the District forward on this one. So, we could include that as part of it, but they will be coming as an independent entity.

We will expect the full cooperation of the District and we don't see any issues with that. So, they will identify with whom they need speak with in order to pull together the information they need in order to complete their review. So, that's the first question.

The second question is how we do it at the Santa Clara County Office of Education. We go out on a bid process for our external auditor and we have a stakeholder committee who does the oral panel and reviews that and, so, every five years, you know, there's Ed Code and legal that we are supposed to be – we need to rotate that and that's a challenge for all of us as you know to try to find somebody to do it for \$50,000 and who does a good job -- \$70,000 I think.

Board Member Eddie Garcia
Madam President.

Board President Patricia Martinez-Roach
Do you have a question?

Board Member Eddie Garcia
I do have a question and this is to cut to the chase here and please excuse me if the comments sound a little... I am not trying to be funny here, but I really want to know. What is the end goal of this 6.02 and let me tell you why I am asking the question. Is the end goal to get a third party to come and look at this situation or is the end goal to hire an internal auditor on an ongoing basis as recommended by a County audit nine years ago? If the end goal is the first piece, I won't be able to support this because I think FCMAT will take care of that portion of it. If it's the second piece, I think we need to have a discussion because there's two issues going on. One, we are out of compliance on a recommendation that is nine year's old and two, in any organization I have ever participated in, an internal auditor is usually a revenue generating position. In other words, they pay for themselves and some. So, I think I can support that kind of proposal. So, I need to know, definitively, what are we voting on 6.02?

Board President Patricia Martinez-Roach
I recommend the latter. That's the way the other one was paid. The internal auditor that we used to have was paid when Zendejas was here. I don't know when you were here. It was paid out of revenues paid by whatever...

Board Member Eddie Garcia
So, Madam President, excuse me. Let me be clear then. The recommendation, your recommendation, on 6.02 is to hire an internal auditor based on the County's audit recommendations of 2000?

Board President Patricia Martinez-Roach
That's probably correct. That was the initial recommendation, but of course not. It's to address the issue now.

Board Member Eddie Garcia
But I think wouldn't FCMAT...my position and, if it's now, FCMAT takes care of that. Anyway, I got my next question answered.

Board President Patricia Martinez-Roach
Why don't we take a vote on...

Board Clerk Frank Biehl
Could I respond briefly? Mr. Garcia, I think you make a good point. There is a distinction between what needs to be done immediately and what needs to be done in the long-term and I agree with you that the internal auditor is one possible long-term solution. I think that what I was proposing here tonight perhaps got mixed in with FCMAT's proposal. That really

needs to move forward; that's going to move forward, but I think in the long run, internal auditor is a very good possibility. It may be a different process with external auditors. I am not exactly sure, but I think we definitely need to have an independent committee that is involved in making those recommendations back to the Board. So, that was my approach.

Board Member Eddie Garcia

My recommendation is let's table this because this is a longer term issue.

Board President Patricia Martinez-Roach

Mr. Herrera.

Board Vice President J. Manuel Herrera

I wouldn't say that we should table it, but it does need to be looked into further before any conclusive action tonight and we are looking at systems checks and balances and Board level oversight and accountability mechanisms. I am not persuaded at this moment that a full-time internal auditor position is the way to meet that standard, especially given all of the other budget, you know, pressures we are under right now and I don't even think it was the intent of the County to suggest that that was required or maybe I...

Board President Patricia Martinez-Roach

No, they never said it was required. They were suggesting, but it is required under, wait a minute...

Board Vice President J. Manuel Herrera

That is needing clarification for me too. The County report indicated that this is required in order to maintain fiscal accountability status. The District has been fiscally accountable, has had that status since the 1960's. I'm not aware, I've been on the Board 19 years, I'm not aware that there's ever been an internal auditor, you know, in order to ensure fiscal accountability status and I am told by more than one reading of the Ed Code that that interpretation that an internal auditor is required in order to fiscal accountable status, I am told that that interpretation is not accurate. I'm confused at this point. That's why I am saying it needs to be looked at as to whether it is required or not. Separate from that is the question is what is best practice for the Board to pursue for accountability to our community and I question whether that would be a full-time internal auditor or whether it would be an annual audit process that was some external agent that did that on a project basis. All that needs to be looked into in terms of cost trade-offs with accountability being the goal.

Board President Patricia Martinez-Roach

I think maybe we just vote on this. I want to move that we consider a process for appointment of internal auditor. Let's just go on record saying you don't want to do it or you want to do it and then we can move on.

Public Speaker:

- John Moore

Board Member Lan Nguyen

I just need to clarify this and I think my question is somewhat clarified. I do believe that we had an internal auditor up until a year ago, which was Bill Jakel. Was that correct? We just haven't had an independent auditor and that is a recommendation by Mr. Biehl tonight to create an ad hoc committee to look at an independent auditor for a long-term stability of the District.

Now, I think there were issues that we are debating back and forth on whether a District our size legally needs to have an independent auditor or not. That could be debated, however, because of what's been happening or what's been coming forward it makes sense whether we are required or not to have an independent auditor. Because of that, it takes me back to 6.02 because 6.02 works in a way that we need an internal auditor, but not an independent auditor. So, I think that if 6.02 can be changed to instead of having appointment, to a process of appointment, of internal auditor directly the responsibility to the Board of Trustees and we change that to an independent auditor. I think that would be more helpful.

President Patricia Martinez-Roach

Independent instead of internal?

Board Member Lan Nguyen

Yes, independent.

President Patricia Martinez-Roach

I can...yeah, that's fine. I can live with that. So, are you seconding my motion then? Is that a second? Okay, we have a first and a second.

Board Clerk Frank Biehl

I am sorry was my motion on the floor?

President Patricia Martinez-Roach

It was my motion. Who's motion?

Board Clerk Frank Biehl

I thought I had a motion on the floor.

President Patricia Martinez-Roach

Your's died. It didn't have a second. Did it have a second?

Board Member Lan Nguyen

Wait, wait...

Board Clerk Frank Biehl

I don't think I ever had the opportunity to present it.

President Patricia Martinez-Roach

Okay, let's have a little bit of order here. I had a motion...

Board Member Lan Nguyen

We need to vote on Member Biehl's proposed motion first and then we can come back on this change of 6.02. Is that correct?

Board Clerk Frank Biehl

Members of the Board I would like to, based on the Board's discussion, I would like to make some changes to the motion that I have in front of you because I am listening to what you said and, basically, my motion is supposed to address the long-term problem not the short-term problem and FCMAT is addressing the short-term issue. Basically, what I am suggesting here is that I will change the motion to read add this sentence, "Pursuant to Board Policy 3460"

Board Vice President J. Manuel Herrera

Where do you add it?

Board Clerk Frank Biehl

Right at the beginning.

Board President Patricia Martinez-Roach

Just read it.

Board Clerk Frank Biehl

The Board shall immediately establish an ad hoc audit committee. The committee shall serve an advisory capacity to the Board. The committee will initially be comprised of two Board Members appointed by the Board. The committee may be a vote of the Board, the committee, by a vote of the Board, may be expanded at a future date to include other representatives of the community who are knowledgeable in fiscal matters. The committee will begin its work immediately and report back to the Board at the next meeting.

So, I think the committee would have the opportunity to investigate the issues of how do we establish an independent auditor and I can include those words too and the purpose of the committee, I can add that to it. The purpose of this committee is to prepare the recommendations for establishing the independent auditor that you are recommending. An independent auditor that reports directly to the Board and I am trying to incorporate what you want to have done.

Board President Patricia Martinez-Roach

I am just think of the conflict of interest the Board Member has for sitting and selecting an independent auditor.

Board Member Eddie Garcia

They are just selected. For conversation there, let's second it.

Board Clerk Frank Biehl

Madam President, they don't select; they recommend. The power remains with the Board. It always remains with the

Board. The important thing here is that it provides a mechanism for an independent auditor.

Board President Patricia Martinez-Roach
All right.

Board Clerk Frank Biehl
And I think this District is far too large not to have an independent auditor that reports directly to the Board.

Board President Patricia Martinez-Roach
To the Board, okay, as long as...

Board Clerk Frank Biehl
I agree that it will save more money than it costs.

Board President Patricia Martinez-Roach
As long as it's included the independent auditor, except the next regular Board meeting in not until August the 20th.

Board Clerk Frank Biehl
I believe this should all come back on August 20th and if you want you can wait and appoint Board Members at that time and everything else. I just think we need to get the process started.

Board President Patricia Martinez-Roach
Well, you know, I can live with that motion.

Motion:
Motion by Clerk Biehl, second by Member Garcia on the following:

Pursuant to Board Policy 3460, the Board shall immediately establish an ad hoc audit committee. The committee shall serve an advisory capacity to the Board. The committee will initially be comprised of two Board Members appointed by the Board. The committee, by a vote of the Board, may be expanded at a future date to include other representatives of the community who are knowledgeable in fiscal matters. The committee will begin its work immediately and report back to the Board at the next meeting.

Vote: 5/0

Board Vice President J. Manuel Herrera
I supported the motion because I do believe we need a longer term response to all of these issues. I am not convinced yet that a full-time auditor is the way to do that. Although, I do because of our budget problems, I believe that we need an annual budget, an annual budget process that can address these kinds of issues, but I am seeing that that's going to be discussed further, assessed further, brought back to the Board for more discussion before there is an actual action taken. That's why I supported the motion; just to create the committee.

Board President Patricia Martinez-Roach
Right.

Board Vice President J. Manuel Herrera
Just to create the committee and the committee is going to then come back with recommendations. We'll have further discussion.

Public speaker:
• Dianne Walker

Board Vice President J. Manuel Herrera
Madam President, just purely and professionally, we have been tossing around this term, an acronym, FCMAT. I know it took me a long time to finally ask, "What the heck does that stand for" and I want to inform those of you that don't know stands for. The acronym is F C M A T. It's a State team and I believe it stands for Fiscal Crisis Management Assistance Team and they are kind of like the first ones on the job when issues arise of this nature with district's throughout the State and we refer to it as FCMAT.

Superintendent Bob Nuñez
And, if I may, Just real quick, whoever said they thought I was on the Board of West Coast Aquatics, I am not on the Board of West Coast Aquatics.

Board President Patricia Martinez-Roach
Okay, very good. Five minutes Board and we are going into Closed Session.

7. CLOSED SESSION

CLOSED SESSION

**7.01 Public Employee
Discipline/Dismissal/Release/Complaints/
Administrative Leave (Government Code Section 54957)**

The Board upon a motion by Member Garcia, second by Board President Martinez-Roach voted 4/1, Member Herrera voting No, to place the Superintendent on paid administrative leave, effective July 29, 2009.

The Board, also, upon a motion by Member Biehl, second by Member Garcia voted 4/0/1, with Member Herrera abstaining, directed Counsel to select an independent investigator to investigate potential issues of employee discipline in connect with the report and review issued by the County Superintendent.

8. REPORT CLOSED SESSION ACTION(S)

**REPORT CLOSED
SESSION ACTION(S)**

See item 7.01 for reporting of Closed Session Action(s)

9. **ADJOURNMENT**

Motion by Clerk Biehl, second by President Martinez-Roach to adjourn the Board meeting at 11:12 p.m.

Respectfully submitted,


Board Clerk

ADJOURNMENT

East Side Union High School District

Approved

Board of Trustees

August 20, 2009

