

Orange County Board of Education Meeting January 16, 2015 Transcript

- A. Call to Order
- B. Pledge of Allegiance
- C. Roll Call
- D. Introductions
- E. Agenda – Adoption
- F. Minutes – Approval
- G. Time Certain –
 - G-1 Outstanding Contributions to Education
 - G-2 Public Hearing/Presentation

(Start of Transcript)

G-3 Presentation – Law Firm, Cota Cole LLP

Ken Williams: The Board is back in session and we are moving on to Agenda Item G-3 presentation by Mr. Daniels from Cota Cole regarding, excuse me, regarding counsel on the issue of in-house counsel. So, uh, Mr. King if you can come on up and share with us your report. You may get some questions.

David Boyd: This relates to the memorandum I received?

Ken Williams: That is correct.

David Boyd: Ok. Thank you.

Dan King: Good morning ladies and gentlemen. Uh, rather than rehashing what was said in that memorandum, uh I know all of you have already had the opportunity to look at it so I won't bore you by trying to re-hash it all. I suppose I'll start by asking if anybody on the board has any questions.

David Boyd: Um, yes. Um, I, I guess we can summarize this quickly with respect to the conflict of interest issues. It comes down to disclose, disclose, disclose, as long as in-house counsel discloses the inherent conflict, um that satisfies the both the statute and the ethical considerations. Is that a good summary?

Dan King: In the event of a conflict of counsel's personal interests, yes. In the event of conflict between two clients, here we'd be talking about the board itself and the superintendent. Uh, the

requirement is then one of informed consent, both that full disclosure and a knowing written consent from this body.

David Boyd: Ok. I mean would it be really necessary for written consent? I think everybody who joins this board in the first month realizes there is an inherent conflict. Um, our legal counsel is the employee of the superintendent. So you're saying that every time Ron comes before us, um, there should be a written consent?

Dan King: No. Um, and the difficulty with the problem, uh, Trustee Boyd is that it really turns on a case by case basis and what the interests are. There are no doubt a host of times when the interest of the board and the interest of the superintendent are directly aligned. Right, and in those occasions it's perfectly permissible for counsel to act on behalf of both bodies uh, without any disclosure. The difficulty comes when we get into gray areas where there is perhaps a conflict between what the board wants and what the superintendent wants. Um, by way of sort of a general example, uh, or the question the relative powers of the board and the superintendent as to whether or not they're comfortable continuing to use one counsel to address a matter like that. And if either the two clients is not comfortable, both then lose that counsel for that issue.

David Boyd: Ok. Um, let me perhaps rephrase my question a little bit better. There are many instances where there is you know a potential conflict between the board and the superintendent I mean that's the way Education Code is written.

Dan King: Yes. The Legislature has stuck to that.

David Boyd: And the Legislature and their wisdom, um, decided to do it that way. Uh, so, are you saying that in those situations, and I'm trying to think of one off the top of my head and, um it's not coming to me but there would be some type of disclosure that the board would sign or a resolution that the board would sign that we recognize there's conflict in we're waiving it. Or, how, how would that work from a practical standpoint?

Dan King: Absolutely. We're sitting in in-house counsel's difficult seat in this situation I would insist on it to protect myself because that's what the California Rules of Professional Conduct say. Um, I think in all frankness, in-house counsel is in the most difficult situation here as between all of us.

David Boyd: I concur. Yeah. Um, I'm going to, um, Page 10. Um, everything seems pretty clear and I think its pretty consistent with what everybody was expecting up until that point that, uh, in the event that there is a vacancy in the legal counsel it would require the board and the superintendent to get together in that selection process and it's unknown what would happen if we can't get together. Um, but when we get to a (inaudible) termination. You made a reference to...well... let me just read this short paragraph. General Counsel is a member of senior management as we have today, uh, he or she may be terminated in a forty-five days notice of the expiration of the current term without cause, um, and, I'm leaving out a little bit but it goes on to

say, I understand that it's the case of the Orange County Board of Education that a resolution of that effect is passed. Uh, I'm not aware of any such resolution. Um, and

Dan King: I could be, I could be mistaken on that. I'll be frank, I simply asked staff if Mr. Wenkart was a member of senior classified management.

David Boyd: Oh, he is. But, yeah, I'm referring to the, uh, a resolution.

Dan King: It requires one for him to be a member. In my understanding, statutory understanding but, short of a, uh, uh, side point.

David Boyd: It requires a resolution for an individual to be a member of senior management?

Dan King: No. Senior classified management. At any rate, uh to the extent I misspoke there...

David Boyd: Alright, well...

Dan King: I apologize.

David Boyd: Ok. Um, but then, I can't quite connect the dots with the last part. Where you say that, ok, both parties have to agree on counsel going into the position. But either party has the right to terminate the contract, or terminate the (inaudible) because there is no contract here as I understand. It is an at will employment agreement. Are, are you saying that the board could terminate, uh, unilaterally?

Dan King: It's a great question. And my opinion is either party could in the factual situation you are talking about, now I think there is some ambiguity between you and I on the issue that really I haven't explored, I must confess, which is what is the nature of current in-house counsel's employment contract? Is he on a four year contract where he is entitled to continue to retain that position until renewal?

David Boyd: If I understand correctly there is no contract.

Nina Boyd: There is no contract.

David Boyd: It is an at will employee position.

Dan King: So I'm going to give an answer which you'll probably find satisfactory because you're a lawyer as well. Um, but which may be difficult for everyone else in the room. Um, it depends. It's not clear. Here's how I've come to believe this would play out if there were a fight about it. If we look at the leading California Supreme Court case on the collision we have here between, um, employment statutes and the Rules of Professional Conduct. What the Supreme Court said was, we affirmed the client's right in this case, the board or the superintendent, to terminate counsel for any reason or no reason at all. However, we won't let the client violate employment statutes in doing so. We're the client's public agency. That's that Santa Clara

County Counsels Association case. I think what that says is as to the employee for counsel, the folks who are working for Mr. Wenkart. I think you couldn't terminate them at will. It would come down to the statutory scheme and who has the right to do that and what circumstances they have the right to do that.

David Boyd: And, and this is further complicated by the fact that, uh, the employees are deemed to be employees of the superintendent. At least according to that Attorney General opinion, which I'm not terribly excited about either...

Dan King: (Laughter)

David Boyd: But you know, that's the law as we see it today. Can we summarize this by saying we just don't know?

Dan King: We can summarize it by saying there is not a clear binding decision on point about who could terminate Mr. Wenkart. The closest Supreme Court guidance suggests that both clients retain the right to let go of counsel. In the event they want to, in their discretion, and um, in my read of that case is, that right is limited only where there are statutory protections for that counsel. And I think what you've told me today is, there aren't those protections with respect to current in-house counsel. Um...

David Boyd: That's what I've been informed.

Dan King: In all fairness, um, that point is not clear. And would likely be an invitation to a lengthy fight.

David Boyd: Okay. I, I, guess I can summarize this by saying we're not clear. We don't really know. I mean, you know, and this is not your fault. Don't get me wrong, but we came into this, you know, last month, not knowing what was clear and you know we're essentially at the same place we are today.

Dan King: Well, and, I think here's what we have learned through the process. Um, there are in fact conflict issues at play here. And when that conflict arises, the board has the option to elect to have other counsel advise it.

David Boyd: Right. And that's one point that's clear. Ok. Thank you.

Ken Williams: Ok, so to clarify um, you made a comment uh regarding termination of, no one has ever talked about, nor has anyone ever implied that anyone or any specific staff is going to be fired. These are all hypotheticals in relationship to the position of in-house counsel and the purpose of this is to have to have the dialogue when we are not in a crisis, uh, to have this good civil debate and to try and understand what the position is. Uh, so that needs to be iterated. Um, what I take away from this is, the, the selection of the in-house counsel for whatever reason that

occurs that a vacancy is open. Um, that is the board and the superintendent that must decide equally who will be their in-house counsel?

Dan King: Yeah. I've described it previously as a mutual veto.

Ken Williams: So, if we, how would be that process if Mr., uh, Dr. Mijares, if you could help me out. Do we put an ad out in some periodical or magazine announcing the position is open and um, I assume there is a process for curricula vitae, applications come in, would there be a screening process? How would, enlighten me, and share with me that process.

Al Mijares: Well, I'm going to treat the situation as we would treat any employee. Because he is an employee of the Orange County Department of Education hired by me in this case. So, I respectfully disagree with this zero veto or mutual veto you called it, um, but that's for another discussion. Um, so, we would hire like we hire our other positions. There'd be an announcement, a position posted and then we would go through a process of selection. And ultimately I would make the selection. That's how it's done right now. So, if there is, um, new light shed on the subject that would change that, then we would have to think about how does that happen. Um, is there an interview with the board or something of that nature?

Ken Williams: Well, that's what we're trying to clarify all this.

Al Mijares: Right.

Ken Williams: But before the crisis occurs, before there is bad or hostile feelings, try and resolve this. That's, that's what I'd like to accomplish.

Al Mijares: Right. So, I want to go on record to say, that I respectfully disagree with this notion that both sides have a veto. So, that's his opinion, and that may be true and I can be corrected and I would stand corrected. But, at this moment, I don't agree with that position. So, I agree with the position that the county superintendent does all of the hiring, does all the evaluations and assessments and creates the necessary determination.

Ken Williams: Now, is that because of the legal opinion you obtained from our current in-house counsel.

Al Mijares: It is not an official legal opinion, but it's in dialogue that I've had with our internal counsel. Yes.

Ken Williams: Okay, so, um, just so I can be aware of, is that with our current in-house counsel. That's what he's told you?

Al Mijares: Well, I don't want to speak necessarily for Mr. Wenkart, he's here in front and he can speak for himself. But, we have not exercised the notion of a full legal opinion from him. It has been casual dialogue. So, I want to put that caveat out there that it is not an official opinion. But, I am getting ready to ask him for an official opinion and possibly another law firm as well.

David Boyd: Can I ask a follow-up?

Ken Williams: Yeah. Absolutely.

David Boyd: Um. There is another issue that the board would have to face if we're a part of the process. Whether, whoever the new counsel would be, would be brought in as an at will employee situation we have now. Or whether they would be brought in as an independent contractor which I understand other county boards utilize that. It would seem to me, and correct me if I'm wrong, that the issue would be a little clearer with respect to termination if we were talking about independent contractors versus at will employees.

Dan King: You then certainly lose the question of whether or not there are Education Code protections for their employment.

Ken Williams: So, getting back to the clarification. Um, I hear two different opinions here. One from you and one potentially that we haven't heard officially but was just shared with us by our good superintendent that uh, there may be some conflict here is that correct?

Dan King: That's my understanding.

Ken Williams: And what, what would we do?

Jack Bedell: Get a third opinion.

Dan King: I, now I know last time we discussed this. There was discussion of trying to, um get someone from the Legislature to take it up with the Attorney General. That's one option. Um, perhaps the best option is to work together. Um, provided this body and the superintendent agreed on who to hire as in-house counsel some years in the future. Um, when Ron's retired headed off to the Virgin Islands. Um, the problem doesn't arise and you don't have a difficult and potentially expensive fight. If it really comes to logger heads you're probably looking at a writ proceeding. Right? Somebody is going to take a Writ of Mandamus and say, hey the superintendent has appointed counsel without us and we believe we are entitled to have a say in that and um, that's not, I think good for this body or for the superintendent. That's just my opinion.

Ken Williams: So, if you can expand upon Education Code 35041.5, um, because it starts out by saying the board or the superintendent may appoint in-house legal counsel. But then it ends that both should do it, right? Is that the general consensus? Am I reading it right?

Dan King: You are. It says either may appoint, either may direct, either may affix compensation. Um, but then says the board shall appoint the same counsel as the superintendent.

Ken Williams: Right.

Dan King: Now...

Ken Williams: Is that where you get the mutual veto power? Where it says the board and the superintendent must appoint and that if one potentially disagrees, that they mutually veto each other?

Dan King: Correct. And I think it's also supported by longstanding notions of the voluntary nature of the attorney-client relationship. As a matter of law that has stood for hundreds of years, the client always has the right to decide who is going to represent its interests. There are certain statutory cases where the Legislature has bent that idea and that's what we see in the Santa Clara case, um, which is discussed in the memo. Is the collision between the Legislature, um, trying to give their civil service protections to employees who happen to be attorneys. But again, the Supreme Court stood up there and said, um, no those principals are important and to the extent that the public agency perceives a problem with even an employee taking on any particular matter, they work around that. They can basically wall them off from it and hire outside counsel.

Ken Williams: So, the issue of the inclination or the favor status of the in-house counsel with the superintendent. You, you brought that up here. Um, let's suppose that there is private conversation with our in-house counsel with the board or with an individual board member. Um, I assume that it is the rights and the privileges of that conversation to be private. That it cannot go beyond the board, it cannot go to his employer, which would be the superintendent. Is that correct?

Dan King: That is actually not correct. One of the fundamental tenets of the attorney-client relationship is if you're in one of these three-way attorney-client relationships, nothing is confidential. Both clients have the right to know what the other client is saying, provided it relates to that representation. One of the things which drives us lawyers us a little bit nuts. It's a tough spot to be in, again, for in-house counsel.

Ken Williams: Right. Uh, could you speak to the practice of hiring, um, in the event of a vacancy to an in-house counsel? How other county boards or other entities that are in like position handle it? Is there a best practices? Is there a consensus? Or is it done differently in every circumstance?

Dan King: It doesn't, I, nothing comes to the top of my mind. But I'd be happy to circulate back with you guys. Perhaps an e-mail that can be shared with the other board members of what I found on that issue.

Ken Williams: Okay. Okay. I'll defer.

Linda Lindholm: Um. Okay. I think this is on there. Actually, I'm not quite sure. Um, but, um, it sounds like there can be conflicts of interests on issues. And if there is a conflict of interest of, my, our main in-house attorney, then he would know that and we could hire an outside attorney for an opinion. That might be on charter schools, or whatever it might be on

that there could be a conflict if we decided to choose and get a second opinion. I think that's what I'm seeing. But it's fine and ok for this board to get a second opinion?

Dan King: Absolutely. Um, and the, you know the question was phrased to me, sort of from the other side. Alright, well what are counsel's obligations and how does that work, right? Um, and I think Trustee Boyd summarized that pretty well. It is a duty of full written disclosure. And then from there, you as the board get to decide. How do you want to do it?

Linda Lindholm: Okay. To me, it's a basic issue of conflict of interest. Since there is a conflict, then, uh, we seek another opinion.

Robert Hammond: Uh, Dr. Bedell did you have...?

Jack Bedell: Go ahead.

Robert Hammond: Thank you sir for your time, uh, um, I'm also going to refer to Page 10. Uh, last paragraph, we are referencing the Santa Clara County cases. Um, am I reading it right? Where was that the Supreme Court? Or Supreme Court. Was that the state Supreme Court or was that just decided at the appellate level?

Dan King: It's the state Supreme Court.

Robert Hammond: Were there any other state Supreme Court cases even similar to this issue?

Dan King: The Deukmejian case which is referenced in it. Is another case which implicated sort of the collision of the public lawyer's special role with the California Rules of Professional Conduct and his obligations under that. Um, in that case then, Attorney General Deukmejian gave advice to the governor on a bill to sign it and then turned around and sued the governor over signing the bill. Um, those are some egregious facts which tend to make interesting law. Um, it's not really directly on point here. Um, but it does I think provide another example of the Supreme Court in the state recognizing that there is tension there and affirming the idea that the Rules of Professional Conduct do bind um, forgive me, the public layer all the way up to the Attorney General himself.

Robert Hammond: Was there any cases that could be from the federal side even looked at?

Dan King: I think there a couple federal authorities who reviewed and mentioned, I may have mentioned within the opinion letter that I sent to the board. If you give just a second I could perhaps see if I can pull one up. Hmm. Alright so there is one federal case that I do briefly cite and that one is on the question about ethical screening and the idea that ethical screening is not effective if we've got a current conflict of interest between someone in in-house counsel's office and one of the clients.

Robert Hammond: Okay. Thank you. I have no further questions Mr. President.

Linda Lindholm: Um, Mr. President may I comment?

Ken Williams: Yes.

Linda Lindholm: Um, I just want to thank you for getting back to us so quickly as we asked and requested at our prior meeting. Thank you for that, I'm glad we have it and um, just my approach is always kind of to work as a team and if we have a conflict or real conflict (inaudible) to talk to the parties and say, are we on the same page? Or, this is what we believe, this is what you believe and I like to work as a team as much as possible. (Inaudible) Something where you can't, but as long as we can, um, I think that's the best approach because we are here for the children. That's the main purpose.

Dan King: I appreciate the thanks, Madam Trustee and the opportunity to be back.

Ken Williams: Jack?

Jack Bedell: Yeah. Uh, first of all I'd like to thank Trustee Lindholm for her first comment and her second comment because that was exactly one of my concerns is that this discussion in and of itself creates an impression of divisiveness especially when particular persons are referenced as it relates to their careers. As I said last month, I was very concerned about that because I don't like the image that that creates. I appreciate the way you open the remark, open your remarks today, Trustee Williams. I guess, and I'm going to second what Trustee Lindholm said, um it's not quite clear to me and this is going to sound New York cheek, again I apologize for it, uh, but, I don't know what I know today that I didn't know last month. You see what I'm saying? I just what's different? I think we need to talk...we need to...we're still up in the air about certain things...uh, we have, uh, the superintendent is clear about what he would do that's always been known. So, I guess, I guess, help me feel better. And again, I'm not being cheap, because with the money we spend, which is money away from the kids, bottom line, our kids who are unique. So, help me understand what I know now that I didn't know four weeks ago.

Dan King: Certainly, I'll be happy to. So, um, to start with the first thing you know is that in the event of a personal conflict of interest with in-house counsel, you're entitled to written disclosure, what you also know that I think was unclear before, from the discussion as I understood it is that you as the board have the right to decline representation from in-house counsel in that instance. The second thing you've learned, broadly, that in the case where there is a conflict of interest between in-house counsel, or forgive me, for in-house counsel, as a result of a conflict between the board and the superintendent, you are entitled to written disclosure and in-house counsel may not continue to represent either party absent, signed, written consent from both. Um, I think there is some fairness, I'll call it criticism, that there isn't a clear answer on the question of can you terminate in-house counsel in some theoretical future state. Um, but that's the nature of our job. Sometimes the answer is, I think this is how it's going to come out and I think that based on a California Supreme court case, or on the other side it might be, I think that based on a letter that was sent to a committee at the time this was passed. Um, and those are

tough decisions, which do we think is going to win out. Um, but the question we're clear cut, I suspect one of you would have found the answer already.

Ken Williams: One of things I learned, is the selection process. Um, and that I think is important. The termination is secondary. It's interesting academically. Um, the selection process, what we're saying is that we have the statutory authority to be involved in that selection of in-house counsel.

Dan King: Yeah. With all due to respect to the superintendent, he and I disagree on that point. And that's some, somewhat predictable.

Ken Williams: Okay.

Al Mijares: Can I just make a comment? And I totally agree with uh, our attorney here and I have no "animus" toward you or the law firm. It's strictly you know, my perspective of where I sit. Um, your point about working together is the idea. And, whether we ever find ourselves on a quagmire because of uh, misunderstanding then hopefully we're going to have the decency and stability to work it out, just as you would in your family life. Um, there may be situations though, that where you cannot agree, and in as much I have always viewed the county superintendent as the employer who is responsible for all the hiring, all the evaluations to determine job performance and if necessary, a termination, like for example, we never bring hire to you for approval, we never bring a termination to you for approval. We do all that internally. It's a bifurcated system where we're both elected. So, I would want you to know if we were having a problem with counsel and we would work together on that, but let's assume that you want him fired, and I do not want him fired. What do you do? Can't cart his body off the campus. He, he decides, we decide, or he decides he's going to quit under duress and being forced out and he gets an attorney. They'd put me on the stand and I'd say he's the best thing I've ever seen in my life, I don't know why he was fired. Now he's in jury, he gets a claim, a judgment. You see, that's the problem. Now again, we have to work together. Now I'm totally willing to do this. I mean I wasn't the one that generated the discussion about this, but, nonetheless, we find ourselves at this point. But, I fully expect us to work together on everything we do. That's the way it is. But, I agree with the board in this one sense that, theoretically, it's a little messy and that's why I think at some point, I need to have my own opinion, which I'm entitled to do. If you were me, you would do the same thing. Right?

Ken Williams: Absolutely.

Al Mijares: So, that's, that's my point.

Ken Williams: So, so the difficulty in the, the, um, difficulty in interpretation then, is in the termination process which I, I think is a valid argument for that. But the selection process, uh, is that more clear?

Dan King: It is in my view, yes. Um, the combination of the right to appoint counsel, the right to direct him, the right to fix his compensation being in the board, along with well settled tenets about the attorney-client relationship means that to use the superintendent's parlance, in-house counsel carts himself off. The Rules of Professional Conduct require him to and that goes with respect to. And that goes with respect to any individual matter or generally. He simply, as a matter of the law that governs lawyers permitted to keep involuntarily representing a client whose decided to let him go.

Ken Williams: And the issue of whether he is a salary employee or whether he is an independent contractor, uh, the statutes are clear on that? It can be either or? It doesn't have to be one?

Dan King: Correct.

Ken Williams: Okay.

Dan King: I believe it's that same Education Code section actually.

Ken Williams: Okay, and so then it would be up to the board and the superintendent to determine what status he would be?

David Boyd: If they mutually agree. (Laughter in background).

Ken Williams: See that they mutually agree. Ok. Excellent. Any other follow-up questions?

David Boyd: Can I have one follow-up question?

Ken Williams: Absolutely.

David Boyd: Um, this written disclosure recommendation seems a little clumsy from a practical standpoint.

Dan King: Particularly with the Brown Act.

David Boyd: Yeah. And, and, from, would it be practical for the board to draft a resolution indicating that, you know, with respect to issues related to the responsibilities of the superintendent versus the responsibility of the board, that we recognize that, you know, there is a conflict of interest and we do that one time so we don't have to do it every time there is a potential conflict. Because these conflicts, potentially come up all the time. I mean, you know, the statute is written in a very poor manner, in my humble opinion. And if we could just do it one time, so we've got the ethical consideration off the table, it would make me feel better, and it may make our counsel feel better as well.

Dan King: I didn't look directly into it, Trustee Boyd. My recollection is, um, that you can't as a client, make a waiver of all future conflicts and a waiver of disclosure of all future conflicts as a matter of the CPRC, the Rules of Professional Conduct. Forgive me for using acronym. Um,

so I would have some trepidation whereas sitting in in-house counsel's seat about whether or not that was effective, to protect me. Um, with any good rule it can be bent though. Right? The question, I think you're begging is how far can we bend that specific disclosure rule to cover a given situation. I think if it was the board's um, decision as a body to say, hey, we're willing to accept advice on the...

David Boyd: And that's basically what I'm talking about. I'm not talking about a situation where, and I can't even imagine where this would come up. Whether it would be a conflict to me as an individual versus our in-house counsel.

Dan King: Right.

David Boyd: But, if we could draft one resolution that covers all relationships between the board and the superintendent from an ethical disclosure standpoint, it would certainly make it easier from everyone's standpoint.

Linda Lindholm: I don't think I'd be comfortable with that. You've been here 30 years, uh, that's.

Ron Wenkart: (Inaudible)

Linda Lindholm: Yes, but may I finish the thought?

Ron Wenkart: Sure. (Inaudible)

Linda Lindholm: Uh, I think that's quite impressive. Um, but my thought is, if you perceive that you have a conflict. I think there is that inherent integrity that you would let the board know.

Ron Wenkart: Absolutely.

Linda Lindholm: And with that inherent integrity, then we would say, then we would have a discussion and you could just let us know to that effect. But that's a long and a very commendable history. Quite such.

Ron Wenkart: Thank you.

Linda Lindholm: So, uh, almost, I know you're an attorney. It's hard to interrupt an attorney.

Ron Wenkart: No, no. You're saying similar to what I was going to say. So, I'm just going to let you go ahead and finish.

Linda Lindholm: But I, I, I think what, as a new member of the board, I understand there's probably about three different conflicts that have come up that had to do with suspensions and a few other things like that. And in that it comes to a discussion, and a way to discuss it as we're discussing today, that we don't believe that's the direction we need to be going and if you say

you there's a conflict then we get a second opinion. But, I think it's better to open the conversation. And I think this is a receive and file anyway, so I'm, go ahead, sorry.

Ron Wenkart: I was going to say you hit the nail on the head. You expressed pretty much what I was going to say that if there is a conflict, I would certainly let the board know, absolutely, if the board disagreed with an opinion that I gave, then we get a second opinion, which we did with the expulsion appeal. I gave an oral opinion, and then we get a written opinion from Rutan & Tucker. Opinion on hiring of in-house counsel, we've got a second opinion. So, I would certainly do that. So, I, that's the process that we've always followed. It hasn't come up too often except in the last year or so, then we've had more disagreements. I would call them disagreements, more than conflict. It, there is now a potential conflict because we have two different opinions. In the past, you know when we got a second opinion, it was the same as the first opinion, so we didn't have a conflict. Now, I think we have a potential conflict. But I'm not sure where the board wants to go with it, so we'll see. And if it gets to the point, as you said that there is a conflict, then I would certainly inform the board. Either in writing or at a board meeting, either or, either way. So, I thank you for your comments. And thank you, I think you hit the nail on the head.

Ken Williams: Anybody else? Um, couple thoughts going forward, and, Jack, I'll, I'll ask you, being the past president of the state association of the county boards, um, these are the type of matters that really don't get brought up a whole lot. Do you think they would be interested in receiving this opinion here? And that we should forward this to them?

Jack Bedell: I certainly would think that would be appropriate.

Ken Williams: Ok.

Jack Bedell: It's a just a result of this conversation is the opinion that we received.

Ken Williams: Yeah. I mean, this, this is good dialogue. It has been a good healthy civil debate. I appreciate.

Jack Bedell: We may want to send it to CCESSA, the Superintendent's Association.

Ken Williams: Oh, sure. Yeah. No, I think that's important. Um.

Robert Hammond: What about the charter schools association?

Ken Williams: The Charter School Association...would they be interested?

Linda Lindholm: No.

Ken Williams: Well, um...Can you help me out? Can you make this ten page document into about a paragraph with bullet points?

Dan King: If you look at the opening, there actually the first section is the questions asked. The second section is the bullet points.

David Boyd: I've got the summary of it.

Ken Williams: Those are long bullet points.

David Boyd: Complicated...(Laughter.)

Ken Williams: Ok. So you're saying you can't do it and that you've already done it.

Dan King: Well. I can boil them, I'll take a crack at boiling them down further.

David Boyd: What would be the goal be in doing that?

Robert Hammond: Easier to read.

Ken Williams: Easy to read. Easier, quicker read. I would think.

David Boyd: I would think though, that whoever is interested in reading it would want the detail.

Linda Lindholm: Hmm.

Ken Williams: Jack? What do you think?

Jack Bedell: I think that's probably accurate. They would want the back-up, the flavor, the discussion.

Ken Williams: Well, I'm not saying substitute it. I'm just saying add it. Or, you know, if you could just do it for me, because I'm the simple mind here. I'm not the lawyer. I would greatly appreciate, uh, the bullet points. That would be great.

Jack Bedell: If that, if you send that to the chairman, I would hope that would be sent to all the board for our files.

Ken Williams: Of course, of course.

Dan King: Yeah, and I think that Trustee Boyd's correct to observe it's easy to lose some of the nuance doing that. I'll make that one caveat.

Ken Williams: Very good. Any other questions from my esteemed board members? Thank you, again, um, I appreciate it so much. Uh, you're awesome at what you expressed to us. I know you did this at a very timely basis and we so appreciate it.

Dan King: Thank you very much for having me back.

Ken Williams: Thank you, Mr. King.

Robert Hammond: I like what Dr. Bedell was referring to. Um, how soon should we try to get those to the organizations that you guys mentioned?

Jack Bedell: I would include as back-up that summary. What he's going to prepare and then attach everything else to them. So whatever his time frame would be.

Robert Hammond: Yeah.

Jack Bedell: They're not going to meet again until May.

Robert Hammond: Oh, okay. So we're not. Okay.

G-4 Public Hearing

Ken Williams: Very good. Um, moving on we have Item G-4 and G-5 Public Hearing. Renee where are you? There you go. Welcome.

Renee Hendrick: Good afternoon, President Williams and members of the board. Thank you for allowing a superintendent to conduct this public hearing, um for input into the OCSEA which is the Orange County School Educator Association proposal to the superintendent for the 2015-16 school year, and attached – so this is the, um, proposal to the superintendent from the association. At this time I'd like to open the public hearing for any comments from the public regarding the proposal from the teacher's association. Hearing no comments, I'd like to move on.

G-5 Public Hearing

Renee Hendrick: I'd like to open the public hearing for the comments for the superintendent's proposals. So we do both one for each side and so the next one is the superintendent's proposal to the Orange County Teacher's Association for the 2015-16 year and I've handed that proposal to you. Hearing no comments from the public at this time, I'd like to close the public hearing. Thank you again, President Williams and members of the board for allowing us the time during these hearings to conduct our business.

Ken Williams: Thank you, Renee.

Robert Hammond: Just real...When were um, the initial proposal to the superintendent when was it received? Roughly.

Renee Hendrick: Um...

Nina Boyd: December.

Renee Hendrick: December. So, I think they voted on it with their group in that time period.

Nina Boyd: They typically take a um...they extend a survey to all their teachers and then based on their survey results are how they determine what they're open or if they going to be in – they forwarded those to us. Uh, early part of December and um, with the indication we would bring those in January and do our public hearings, start our negotiations with the teachers in February.

Ken Williams: Thank you, Nina.

Renee Hendrick: And they are only allowed to openers.

Robert Hammond: Oh. Right.

H. Public Comments

Ken Williams: Very good. Moving on with our meeting, the public comments, uh, typically, and customarily we have public comments, general public comments. But, if the, uh, public wants to speak on a specific agenda item we allow them to speak right before that is spoken. Uh, how is it broken down today?

Penny Dunseth: We just have the one with the Parents Advocate League, and then the rest of them, seven I believe are Common Core.

Ken Williams: Ok. So that would be J-5?

Penny Dunseth: Yes.

Ken Williams: Or the current J-5...

Penny Dunseth: Oh wait.

Ken Williams: Whatever that number is now.

Penny Dunseth: Yeah. Alright.

Ken Williams: Ok. Uh. So who is the name?

Penny Dunseth: Uh, Julie Collier, for the Parent Advocate.

Julie Collier: Good Afternoon, my name is Julie Collier. I'm with Parents Advocate League. We are a grassroots, parent led organization that focuses on educating parents on their rights for their children and especially as it relates to choices and education. Um, we are based here in Orange County, but we also have members throughout California and I would actually like to personally invite all of you to the Orange County, the California Kick Off for the National School Choice Week that's happening right here in Orange County. It's going, I'm going to pass this out. It's going to be January 25th, it's a Sunday afternoon, it is a happy hour. Um, it's just a minor little happy hour. And it is hosted by parents advocate lead, you, all of you and a guest are welcome to come, in fact I would love to have an actual Orange County, um Board of Education

table. So, if you would like to get back to our staff and let us know who can attend, we would really appreciate it. And, you also get this lovely, highly fashionable scarves. Everyone that attends. Thank you so much, I hope to see you on the 25th.

Ken Williams: Thank you. Very good. And no other public comments at this time?

Penny Dunseth: The rest are...no.

I. Consent Calendar

Ken Williams: Ok. Very good. Moving on to Consent Calendar, Calendar Motion for Consent. Calendar?

Jack Bedell: So move.

Robert Hammond: Second.

Ken Williams: Second. We have a motion and a second any discussion? Bar none. All those in favor say aye? Oppose? Abstain? Item passes 5-0.

Jack Bedell: Mr. Chairman, may I request that when the minutes are reported that I-2 list the persons for whom the certificates were, so there's just that (inaudible) in the consent item report? Scores and scores of service – years that would be just lost and if we could just list the names that would be (inaudible).

Ken Williams: Yeah. Absolutely. I signed all those letters.

Jack Bedell: Yes, you are correct.

Ken Williams: And put personal notes thanking them myself. Ok. Moving on I'd like to hear from my colleagues. Do you want to adopt and approve the minutes? Do you want to talk about that now? Do you want to move on?

Robert Hammond: I'd like to do minutes. I mean, might as well.

David Boyd: Might as well resolve it.

Linda Lindholm: Ok. I'm good with that.

Ken Williams: Uh, may I have um, a (inaudible), to kind of give some background? So, there's a lot of confusion for staff about how do we do this? Before it was just a summary, it was um, not in great detail. Um, Penny has been told she wants more detail. There might have been that iterated in the board round table discussions. The current board minutes, um, that we have is a little bit lengthy and I think it's more of a transcription, a transcription of dialogue, rather than a summary of events and votes. Um, and, so what we did is um, I believe everybody has a revised, uh, minutes from that meeting. We don't have to accept it. Uh, I'm just offering it as a

suggestion to make it consistent with the remainder of all of our minutes, as well as, let's maybe have that discussion how we would like our minutes to be in the future. So...

David Boyd: Ok. Um, I don't think it's a huge deal. One way or another. I, I did see the difference in the last few months as to how the minutes were being reported. I personally like it that way, in my mind the purpose of the minutes is to memorialize what's taken place at the meeting. And you know, from a transparency standpoint, or for lack of better term what the current format does what the old format doesn't do, it shows some the passion that some of the members may have on some of these issues and I think personally that constituents or other interested parties might want to see. Now, I've been told from a practical standpoint that once we put the recordings of our meetings on the website as we had agreed to months ago, uh, there's going to be a word for word transcript, uh, that needs to be prepared to be compliant with the Americans with Disabilities Act so, this is just a summary of what's going to be up there anyway.

Ken Williams: Robert?

Robert Hammond: Yeah, um. I prefer the revised minutes that are before us, only because um, the current minutes that were submitted to us, there's a lot there and I cannot in good conscience vote for them because I even had a chance to go back and actually listen to the audio record to see if you know, was there anything mistyped, was there anything left out. I mean I'm not disparaging staff, but I'm just saying I haven't had a chance to go back and proof it. And all of the boards I've ever been involved with, I've never had minutes like that before. Um, the revised minutes that were given to me today, that's what I'm use to for all the years that I've ever been involved in things, so, um, I just, uh, the revised minutes that are before me, that's what I can go with.

Ken Williams: Linda?

Linda Lindholm: Uh. Okay. Great. Um, thank you. I do think uh, with the availability of the audio recording the people who'd like to hear the full dialogue can hear them. Uh, but for the minutes, they should be minutes. They should be quick, they should be to the point, and they should be a summary and that's, I, I, know you're trying to juggle things and it's nothing to do with how you're approaching it. But, I'd rather have it quick to the point, I was trying to find out what the motion was, what got made, and there's just a lot of verbatim stuff that I don't think, it may be pertinent, but I don't think it's a time and place for it. So, I would prefer to see uh, the minutes that you have submitted. But, I'd like to carry them over for the vote. I would say approve as, because then that has to be made sure that we haven't missed anything because I think they just saw them. So, uh, I'd much prefer to have 2, 3 page minutes. I think it's better for staff, I think it's better for everybody.

Ken Williams: Dr. Bedell?

Jack Bedell: Yeah. I don't disagree with that as long as the public. This was all done in the name of transparency and I agree that there are formal minutes. You can say just say the meeting opened at one and closed at two. That would be minutes too, you know? Theoretically that's a form of minutes. But so, uh, I like the idea of going with the revised plan if, and only if, what goes on the website is what actually happens so that the public has access to know what went on, what was the flavor, the future board members can get the sense, or what were they thinking when they did that. How did it go that way, why didn't they – you know that kind of thing. So, having that transcript, having the audio on that makes me much more comfortable with neutered minutes.

David Boyd: What if we did this, as a compromise: I understand it's going to be some time before we're going to be able to get the minutes, or the transcript posted on the website.

Nina Boyd: Well, actually we are in the process. We are posting November's as we speak and then we'll be working on completing December's and hopefully we'll be a month in the rear as we move forward, in terms of getting those posted on the website.

Ken Williams: And, and we discussed this at executive council. I guess this is a trend that is occurring with other agencies too. So, not only putting the audio, but they're having the transcription or the transcribed audio because of the Disabilities Act and the existing laws. So, I'm, I'm more in favor of the abbreviated summary that I have worked with Penny on creating and making it more succinct and I want my board colleagues, both Mr. Boyd and Dr. Bedell to know that we're going to have a conversation I believe under round table today regarding how we're going to do the audio and the transcription. So, that's the direction I believe this board is heading. Um, and that's where I'd like to go personally.

Linda Lindholm: Do you need a motion for that? (Laughter)

Ken Williams: Well...

Robert Hammond: I'll second that.

Linda Lindholm: (Laughter)

Ken Williams: Well, well...to begin with we really didn't have a motion to adopt the minutes. So, we're talking without an official...

Robert Hammond: Mr. President, I so move to accept the revised minutes as presented by staff.

Ken Williams: Ok. And I a second?

Linda Lindholm: And I will second that. And that's for the further review for the accuracy from um, staff.

Jack Bedell: So, you're asking that they be postponed to February?

Linda Lindholm: Um, no how long would it take you to review the revised minutes to see if they're accurate? A day?

Penny Dunseth: Yes. Maybe.

Linda Lindholm: Ok. Uh, the nice thing about that is then it gets up for the public to see. They can see the votes, they can see who voted for what.

Ken Williams: If I can provide some insight in working on this, um, the dialogue was removed and only the, what happened was put in, the votes and the motions and the background, it's just a cut and paste, uh there's nothing created here. Except that all the dialogue was removed.

Linda Lindholm: With that, I'll take off the caveat.

Robert Hammond: Um, Mr. President, um.

Ken Williams: Okay. So, so, just help me out here. So we have a motion to second we're talking about accepting...

Jack Bedell: Approve the revised minutes.

Ken Williams: To approve the revised minutes. So we're still on the discussion phase of that. Um.

Robert Hammond: Um, one more thing.

Ken Williams: Okay. Everybody will get a chance, so...

Robert Hammond: Um, on Page 5 under M. Adjournment um, it says, Williams Absent, I believe it should be Lindholm Absent.

Ken Williams: Oh, that's true.

Linda Lindholm: Yeah.

Robert Hammond: I would just respectfully request that change be made.

Ken Williams: I didn't catch that. Any other comment on this? Because we do have a very tight agenda.

Jack Bedell: I respect that Mr. Chairman but you meant something. I can vote for these minutes as you presented them. I have no trouble that, it's not the way I would prefer to do it since we just got them. And I appreciate – however, it's very, very important to me and to me my constituents that you concern when you said in the round table how we're going to approach transcriptions and what goes up. To me, that doesn't need to be discussed, the whole thing goes up, next subject. And if there's going to be some editing of a transcript, or editing a tape, then I

can't support that. So, my understanding is what's going to go up, is going to be up, is going to be the tape and the transcript of that tape. Next subject. Is that correct?

Ken Williams: That's my understanding.

Jack Bedell: Then I have no problem.

Ken Williams: Yeah. The reason for my statement, is just so you know that there's going to be some insight given by staff that we've discussed that we've discussed at the executive committee.

Jack Bedell: Sure. Sure. I just didn't want it to be a subject of motion and then to do something to the transcript.

Ken Williams: I'm trying to enlighten my dear colleague, Bedell.

Jack Bedell: Thank you.

Ken Williams: You're welcome. Okay, are we, any further comments on the board minutes? On the revised board minutes that we have a motion to second?

Robert Hammond: All the questions are fine.

Ken Williams: Bar nothing none, those in favor say Aye?

All Board Members: Aye.

Ken Williams: Oppose? Abstain? Motion passes 5-0.

J. Special Recommendations

Ken Williams: Moving on with Special Recommendations, Item J-1 may I have a motion?

J-1

Robert Hammond: Um. I will so move J-1, however, um, I'd like to know if my fellow board members would be willing to meet later in the day? Say beginning at 4 o'clock or after?

Ken Williams: Can we do this? Can I get a second?

Jack Bedell: Second.

Ken Williams: Okay. Second. Okay, go ahead and now we're on discussion, go ahead and share with us you're concerns.

Robert Hammond: The reason being is um, as of yesterday afternoon I was asked by Long Beach Unified on that particular day, if I would come in and take over a severe emotional class,

and I've worked with these kids before and um, I don't know maybe it's the marine in me, I'm crazy enough to take those, you know, assignments that virtually nobody else would ever consider. Um, and I've worked with the kids before so I'd like the opportunity to continue working with these kids. They're all junior high kids and we're making inroads. So, if we meet at 11, I can't take, uh, I can't go there that day. Um, we meet after 4 o'clock I can go and drive straight from Long Beach to here.

Jack Bedell: I'll move to amend this motion to change the time from 11 to 4.

Ken Williams: Ok. So we have amendment. Do we have a second on that amendment? Do we have a second? I'll second it.

David Boyd: Bedell second.

Ken Williams: Now, we'll go to discussion...

David Boyd: That actually works out better for me as well because I won't be getting back from Washington D.C. until about 11 o'clock the night before so, it will be give me a greater time to go over the package.

Ken Williams: And you get some sleep. Okay. Any other discussion? I think there's some consensus that the start time will be 4. So we're voting on the subsidiary motion. All those in favor say, Aye?

All Board Members: Aye.

Ken Williams: Oppose and Abstain? Motion passes 5-0. Going back to the change of the date, um, again that is approving the meeting change from the 11th to the 5th. Any further discussion on this item?

Linda Lindholm: Thank you.

Ken Williams: Barring none, all those in favor say, Aye?

All Board Members: Aye.

Ken Williams: Oppose? Abstain? Motion passes 5-0.

J-2

Ken Williams: Uh, moving on down J-2 may I have a motion?

Robert Hammond: So move.

Ken Williams: And a second?

Ken Williams: I'll second it. Um, uh, any discussion on Item J-2? Okay. Barring no discussion we'll go for vote. All those in favor so, Aye?

All Board Members: Aye.

Ken Williams: Oppose? Abstain? Motion passes 5-0.

J-3

Ken Williams: Um, moving on to item J-3 approving travel for the NSBA Conference.

Linda Lindholm: Move it.

Ken Williams: Can I get a second?

David Boyd: Second.

Ken Williams: And a second, any discussion? Bar none, all those in favor say, Aye?

All Board Members: Aye.

Ken Williams: Oppose? Abstain? Motion passes 5-0.

J-4

Ken Williams: Moving on to item J-4...

Jack Bedell: So move.

Ken Williams: And I have a second by?

Linda Lindholm: Question?

Ken Williams: Well, we have to, I think we have to second it. I'll second it. Go ahead and ask your question.

Linda Lindholm: Um, are they here? The auditors?

Robert Hammond: Renee?

Linda Lindholm: No?

David Boyd: No.

Linda Lindholm: No? They're not? Nobody. Um, I just want to, this is an unqualified audit report? Is that correct? Can somebody tell me that? It's unqualified?

Renee Hendrick: It's unqualified. (Inaudible)

David Boyd: It's an unqualified report.

Renee Hendrick: It's an unqualified report so there was no management um, anomalies they discussed in a management letter. There were the two findings that you saw.

Linda Lindholm: That's fine. I want to compliment you and your entire staff uh, to get an unqualified report is the highest you can get. And you should be very proud and pass that on to all your staff.

Renee Hendrick: Thank you. And this was the first time with this auditing firm so, it was a little more detailed than normal. So we were very proud that we went through that as well.

Linda Lindholm: Good work.

Ken Williams: Very good.

Linda Lindholm: That's the only question I had.

Ken Williams: Okay so, do we have a motion to second?

David Boyd: Could I have a, have a question for Renee?

Ken Williams: Absolutely.

David Boyd: I'm sorry Renee, I should've asked you when you were up there. Um, what was the cost of the audit this year relative to last year? Do you have that off the top of your head? Or maybe you can bring that to us to next month?

Renee Hendrick: Yeah, I'll bring the exact cost. It did go up but not necessarily just because the change in the auditing firms but because in the new regulations that went in, so I'll bring those exact numbers.

David Boyd: Okay. Thank you.

Ken Williams: Very good. Okay. Any other questions? Bar none, um this is not a...

Jack Bedell: It's a motion to receive...

Ken Williams: Yeah, it's not a resolution. So, all those in favor say, Aye?

All Board Members: Aye.

Ken Williams: Oppose? Abstain? Motion passes 5-0.

J-5

Ken Williams: Moving on to Item J-5. Mr. Boyd this is yours and I'll give you the privilege of making the motion.

David Boyd: Yes. I will move.

Ken Williams: Okay, I need a second.

Jack Bedell: Second.

Ken Williams: Okay. We have a first and second. Uh, at this time, um, I may have made a procedural effort, um problem, because we have public comments. We have several I hear.

Penny Dunseth: Um, six or seven.

Ken Williams: Okay, so uh, typically we hear public comments but uh, do I have a consensus go ahead and let public comments occur?

David Boyd: Sure.

Linda Lindholm: Is there a staff report on J-5 first though?

Ken Williams: We don't have a staff report.

Linda Lindholm: My understanding is that...

Ken Williams: Do we have a staff report Nina that?

Nina Boyd: On J-5, no. But there was...

Linda Lindholm: The other one when the school board is filing um...

Nina Boyd: That's related to J-6.

Linda Lindholm: Okay, J-6. Nevermind thank you.

Ken Williams: Okay. So, yeah go ahead and call up for public comments.

Penny Dunseth: Jeff Arthur?

Jeff Arthur: Happy New Year, Board. Um, I want to thank you for that fantastic prayer. I think it's all downhill from now. That's a hard act to follow. But, um, from that I'd like to say it's time to be honest about Common Core. Common Core lowered standards. Parents did not ask for it they did not want it. Teachers do not support it. Here are the facts: First, Claire Cavalero, Common Core proponent expert testified the Fordham Institute which is a conservative think tank, concluded Common Core Standards are clear and more rigorous than the majority of

previous state standards. That's not a rigorous statement. The Fordham Institute is not conservative and she omitted the important fact that Common Core Math and English standards are lower than California's. She is in California talking about standards. California standards are higher. Second, Huffington Post reported a recent a PKD Gallop report found 62 percent of parents oppose Common Core being taught in their schools. So, it's not popular. And finally, last year New York State United Teachers Union Board unanimously withdrew its support for Common Core and National Education Association President Dennis Van Roekel wrote, in far too many states implementation has been completely botched, seven of ten teachers believe that implementation of the standards is going poorly in their schools. So this isn't something that's made up. These are facts. I think we should have the conversation. I appreciate the meetings that we've had, um, and, uh, to see both sides, but I really I thought that the opponents won the debate. The proponents really had no arguments, no proof of their positions and uh, thank you.

Penny Dunseth: Laurie Kaylor?

Laurie Taylor: Honorable Trustees, Superintendent Mijares, my name is Laurie Kaylor. Truth is very important to me, it seems to me that truth and facts are being censored or ignored. I was at both of the public hearings on Common Core. The experts given much time to speak but they were allowed to turn in supplemental material. Why has this material not been put up on the website? Also, why have the affidavits not been put up on the website? Because I feel so strongly about the truth being known, I had written an eight page letter specifically to Trustee Boyd. I felt that the information in it was important enough for every trustee and the superintendent to read. I sent personal copies in separate large white envelopes with handwritten notes to the others explaining why they were receiving this letter. I also sent a copy to Dr. Jeff Hittenberger. My husband did not want me to send these by certified mail. He said it would be too costly. However, I brought them into the post office to make sure that I had the proper amount of postage. I checked to make sure I had the right address for this building and I included my return address. These were sent on November 25th. It is my understanding that none of these were delivered to the addressee, potentially a federal offense. At the next board meeting on December 10th, I brought in extra hard copies. After speaking, I turned these in to Penny and asked if she could send them out to each of the trustees and superintendent. At the break, I spoke with Trustee Boyd and asked if he had received my letter, he said that it didn't ring a bell. The next day, December 11, I called and spoke with Trustee Hammond, asking if he had received my letter in the mail or the copy I brought in person. He said he had not seen either. He suggested that I speak with Nina Boyd, Penny Dunseth or with Dr. Jeff Hittenberger. I called the Orange County Board of Ed office and both Nina and Penny were out but I left messages with Pat leaving my name, home phone number, cell phone number and the reason why I was calling, asking for them to return my call. I did not receive a return call from Nina Boyd. I did not receive a return call from Penny Dunseth. I did not receive a call from Dr. Jeff Hittenberger. On December 17th, I called Trustee Hammond to see if he ever received my letter. He had not. I then called the Orange County Board of Ed office again, and Penny answered the

phone. I told her the situation. She said she had never seen the letters I mailed, but that she had sent the letters I brought in person. I was confused because all she had to do was pass out the copies I had made for everyone. I asked if she had sent the letters to each person's home. She got my name and number and told me that she would call me back and let me know what happened. She called me back and said she had e-mailed them along with all the other materials passed in front from the public speakers to everyone, the day after the meeting. But just in case they hadn't received them she would e-mail them again. I followed up and found that finally an e-mail was delivered with me letter with two pages missing. I would like to make sure that each person receives my letter in full. With your permission, I would like to pass them out to you personally. Thank you. Can I have permission?

Ken Williams: Uh, Penny, if you just want to give it to Penny, she'll pass it off to us right now. We have to stay somewhat within protocol. Thank you, um, Laurie.

Laurie Kaylor: Thank you.

Ken Williams: Nina, who is the next speaker here?

Nina Boyd: We need to set the timers.

Ken Williams: Okay.

Penny Dunseth: Garrett Kaylor.

Ken Williams: Eric Kaylor.

Robert Hammond: Eric or Garrett?

Ken Williams: Garrett?

Penny Dunseth: Garrett.

Ken Williams: Garrett. Garret Kaylor.

Garrett Taylor: Thank you, my name is Garrett Taylor. I was the champion debater at Foothill High School in Tustin Unified. After shooting through the two debates held in this room, I can state emphatically that no impartial person could deny that the problems with Common Core are overwhelming, which was proven decisively. The only person who would still support Common Core would be someone who has ulterior motives or lacks the courage to stand up for our children. I found an interesting article in the Washington Post entitled "Why Support for Common Core is Sinking". This is relevant to us because they are dealing with the implementation issues that we will be dealing with. The board of directors of the New York State United Teachers – they are a union with more than 600,000 members – passed a resolution withdrawing support for the Common Core State Standards and also declaring no confidence in the policies of the State Education Commissioner John King. Why is support for the Core is

sinking rapidly? New York high school principal of the year, Carol Burris, Principal of South Side High School in New York, explains – hit the delay button. That was the message New York senators sent to State Education Commissioner John King during last week’s hearing. Education Committee Chairman John Flanagan made it clear that if they did not act, senators on his panel would. Senator Maziarz observed the only Common Core supporters remaining are yourself, King, and the members of the Board of Regents. To make his position crystal clear, Senator Latimer emphatically smacked the table while calling for a delay, likening the rollout of Common Core to steaming across the Atlantic when there are icebergs in the water. The defiant King refused to acknowledge the icebergs, and remained insistent on full steam ahead. He let the senators know, you’re not the boss of me, by asserting that standards are controlled by the State Education Department and the regions, not by the Legislature. Following a meeting, King told reporters there was no need for a delay because we have strong support for the Common Core from all of the educational stakeholder groups in the state. Less than two days later, the largest stakeholder group of all – the New York State United Teachers – not only withdrew its support of the implementation of Common Core, the public called for the dismissal of the Commissioner. Whoops. Why support for Common Core in New York so quickly - sinking so quickly – into the deep? Support is disappearing, not because schools don’t have the Common Core curriculum, but because for the first time, they do. After last year’s testing debacle, teachers are frantically attempting to implement the standards, using the modules provided by the state. Kids and parents are reeling from the effects of teaching Common Core Standards at the fast pace needed to get through them in time for the test. The fact that no one in the State Education Department either realized or cared about the effects of wholesale K-8 implementation of Common Core demonstrates a callous disregard for an entire generation of New York state students. It’s no wonder that both the New York State Alliance for Public Education and now NYSUP, are calling for John King to leave. There will be time to analyze what went wrong, but now is the time for us to undo as much of the damage as we can, for the sake of our students, we must lower the lifeboats into the water. New York senators are right – hit delay on Common Core and the misguided policies that go along with it. Examine the reform policies one by one, and when needed, have both the honesty and the courage to then hit delete. Thank you.

Penny Dunseth: Susie, excuse me, Susie Cohn?

Ken Williams: Susie Cohn? Is she here?

Penny Dunseth: Gloria Prime?

Gloria Prime: Good afternoon, Superintendent Mijares, President Williams, and honored school board members. My name is Gloria Prime, Chairman of Orange County Common Core Concerned Citizens. David Coleman announced the decision to align the SAT test with Common Core when he became president. The change in the nature of the SAT will be most harmful to low income students. An achievement test is far less useful as a vehicle for

identifying students with high Science, Technology, Engineering, and Math (STEM) potential of who attended high schools and poor math science instruction. Retrospective tests are also more susceptible to coaching, which provides another advantage to students from families who can afford less preparation courses. Low income students will also be hurt the most by the shift to weaker math standards. Since the Common Core math standards only end at a partial Algebra 2 course, nothing higher than Algebra 2 will be tested by federally funded assessments that are currently under development. High schools in low income areas will be under the greatest fiscal pressure to eliminate undersubscribed electives like Trigonometry, Pre-Calculus, and Calculus. Two of the authors of Common Core Math Standards, Jason Zimba and William McCallum, have publicly acknowledged the Standards' weakness at a public meeting in Massachusetts in 2010. Zimba said the CCMS, Common Core Math Standards, is not for STEM and not for selective colleges. Proponents claim the Common Core Standards are internationally benchmarked, but compulsory standards for the lower secondary grades in China are more advanced than any Common Core Math Standards material. A one-size-fits-all academic achievement target must of a necessity be low, McCallum said, otherwise, politically unacceptable numbers of students will fail. I respectfully request that my comments be photocopied for each board member, and I request that the document be included as an original meeting document for historic reference. Thank you.

Penny Dunseth: David Whitley?

David Whitley: Happy New Year, supervisor and board, President Williams. Um, I am David Whitley. My children attend Irvine Unified School District and I'm here to talk about Common Core and some of the agenda items that are, that we have before us, and I would like to see, uh, any items related to Common Core, um, be put on hold until we see the full report that should be coming out from this board on the two debates that, uh, we had presented to us in October and November. We haven't seen the results of that and I'm hoping that, rather than, uh, receiving a bullet point, uh, sheet on what transpired, that we can get an analysis of the information that each of the, uh, participants supplied to the board. And I know that that's a significant amount of information, but I think it's important that the public sees that and understands what was turned in by those experts. Um, I want to also, um, mention that in my local school districts, that many of the teachers are not in their classrooms right now because they are out being trained in Common Core, and so, I've received e-mails, uh, saying why that the students are coming home and saying that they are having substitute teachers so often with their current permanent teachers out being trained in how to teach this new Common Core. Um, as was repeated earlier, there is many problems with the Common Core. The Fordham Institute, as was mentioned, rated the standards in California higher than Common Core, and I think that those, um, issues should be taken into account by this board, uh, when voting on any resolutions before you. Uh, also, 563 psychologists in New York signed a paper that parts, aspects of Common Core, were harmful to younger children, that their brains weren't, uh, prepared for some of the critical thinking that they are expecting from children in the lower grades. Um, the New York unions are against

Common Core, after having dealt with it for two years – we’ve heard that. There are many principals in, uh, school districts that are not happy with the implementation of Common Core. Some of the school teachers that teach my children have talked to me about it. Um, seventy percent of teachers polled say that it’s been bungled in its rollout, and over sixty percent of parents that know about Common Core are not happy with it, especially the mathematics aspect. And I want to mention a personal story with regard to my middle school daughter, uh, with regard to the clear thinking, or the deeper thinking aspect of this – when the Ebola situation happened recently, they gave the kids assignments that came from, I believe, Time and CNN, as news articles, to do a report on the deeper thinking of the facts and the evidences on the issue of Ebola, and my problem with that is, you’re not getting two sides to this equation. I personally don’t look at Time and Newsweek and the journalists that write these articles as authoritative on these subjects, yet they are getting the children to look at those articles and come to a conclusion that what they are reading in those two papers is, in fact, the facts, when they are not the facts – they are one side of the story. So, some of the, some of what’s coming down as, uh, Common Core educational deeper thinking is, in fact, not deeper thinking, it’s, it’s monolithic thinking. Thank you.

Penny Dunseth: Eric Stolting:

Eric Stolting: Good afternoon, board, uh, Superintendent Mijares. I wanted to, once again, thank you and happy New Year to everybody – thanks for letting me speak a little bit. I wanted to address something that, uh, Dr. Bedell said last board meeting. It was just a comment, it was something about, um, in – I’m not completely remembering exactly where it was, but he had had conversations with different teachers and most of the replies that he had been getting were pro-Common Core – they were supportive. And I wanted to address something that has kind of, in my experience over the last few months or a year, uh, why that may be the case. Now, obviously, there is always going to be a teacher here and there that will like the new system, because maybe that haven’t completely been involved in it or whatever, uh, uh, whatever reason. But, in a personal experience with a teacher that I knew that kind of opened my eyes a little but was, uh, and I won’t reveal the name of this person, but this person is close to me, and I respect them greatly. Um, when I had been, uh, trying to get them to come to one of our informational meetings that we had done, at first, this person was very, no, I support strongly Common Core. Well, I wanted to try to appeal to them to at least come and hear the other side, because I believe that most teachers have only been heard from the side of the administration, and being trained and all the good things from everybody – the sales pitches put out there – and in so doing, I got a response that surprised me. It was actually angry. It was more like, do you want me to lose my job? There is a fear – and this is something I’ve come in contact with multiple teachers that I’ve invited, that there is kind of a fear that until the administration or until the teachers’ union is backing them, they are afraid to speak up in their opposition to Common Core. Whether they disagree with it, whether they don’t like it, and I’ve talked to some teachers – they won’t even bring it up in a conversation in school because they are afraid of what their peers will say. It’s

almost like if you're not on board the whole boat, we're gonna kick you off the boat. There is a fear in that, now whether it is justified or not, that is not my job, but coming from a board member, I think that that type of response that you receive that they were pro-Common Core is probably going to be par for the course. If you could get those teachers in a position to where they were not afraid to speak – it was a more personal setting – I would be willing to bet the majority of them are not happy about it in some way or form. So, parents are starting to learn about it. They are not as afraid to speak up, though some parents are even afraid to speak up. I have talked to parents that will not get in front of the thing because they are afraid. What they are afraid of, I don't know, but they are. But can you imagine the teachers, afraid of losing their job, afraid of work – whatever – different pressures from, whether it be the principal, whether it be administrators – whatever – I think you guys should take that into effect and possibly take that into consideration as, uh, when you are trying to get a general idea of how your public school teachers think about Common Core. Thank you.

Penny Dunseth: Brad Dacus?

Brad Dacus: Hello, my name is Brad Dacus. I'm an attorney and, uh, constitutional attorney at present of the Pacific Justice Institute. I want to thank you for the opportunity to, to be here at this time. I first off wanted to salute, uh the, uh, Orange County Board of Education for the, the time and effort that you have taken. You didn't have to, but you took considerable time with regard to the issue of Common Core, uh, to listen to the concerns intelligently, from both perspectives. Uh, I also understand it, after the information is received, that there are not only issues of fact, but there are also issues of law, uh, that have been brought, uh, before you. Uh, some issues of law that I think are – have merit – and are of concern – should be of concern, uh, for the sake of the students and their welfare here in Orange County and beyond. Um, we at the Pacific Justice Institute are a non-profit legal defense organization. We founded it, I founded it in 1997, with the help of Attorney General Ed Meese, who still serves as chairman of our advisory board. Uh, we have, we handle more case matters dealing with parent rights, uh, constitutional issues on the west coast, uh, than any other organization in the country, bar none. We have the largest attorney network of its kind on the west coast, uh, with over 500 affiliated attorneys, and uh, we have also worked hard to maintain a very high reputation. Most of the cases we take on, with regard to school districts or otherwise, we get resolved without litigation, and we do that because we have a very high success rate, but we do litigate. Needless to say, the point I'm getting to is that, uh, we don't litigate for the sake of litigating. We'd litigate if we think our clients have a strong meritis possibility of prevailing. Uh, that said, uh, I want to make it very clear and to everyone here, as well as to the board that we are, uh, very convinced that there are both, like I said, legal and, uh, uh, factual issues sufficient to, um, to bring action, and there is a number of different actions that the board can take that we at the Pacific Justice Institute would be more than willing to entertain representation. When we take on a case, uh, on the litigation side, we do so, uh, in a way that picks up all the costs and all the expenses for our clients. That includes the Orange County Board of Education, if it comes to actual litigation, um,

so I want to make that very clear. That's what we are offering. Um, we don't – we're not emphatic in saying this is what you need to do, but if you, uh, would like our legal counsel, uh, you would like us to research, uh, you can make that request and the counsel we give, uh, will be the kind of counsel that we'd give any client, which is, uh, all their options, uh, with the positives and negatives with those legal options, and, and, potential legal actions. Um, I don't want to take any more time than I need to, but needless to say, if you have any questions at any time, feel free to give us a call and we would be more than happy to serve you as you take on the very important job of ensuring that the students and the young people in the public schools of Orange County, and the charter schools of Orange County, uh, have the utmost opportunity for education. Thank you very much.

Ken Williams: Thank you, Mr. Dacus. Anybody else?

Penny Dunseth: That's all for this section.

Ken Williams: That's it, okay. So, uh, we have a motion by, uh, Mr. Boyd, for J-5 and a second by Dr. Bedell. Uh, I'll allow and recommend and encourage, um, Mr. Boyd, for you to kind of give us a reason you put this on the agenda and, what, what your purpose? I'm curious.

David Boyd: Well, the purpose is simply that, uh, I've had any number of e-mails from constituents asking, now that we've had the public hearings, now that we've discussed these matters for over a year now, if I'm not mistaken, um, when's the board gonna make a decision on what they're gonna do? And, as I see it, we have received a tremendous amount of information, both on the positive side and the negative side, with respect to, um – well, actually, let me back up – I was gonna comment on Common Core, but I – on, on this lawsuit, which is actually J-5, that's what I should be talking about, as opposed to Common Core in general, so let me back up just a little bit...

Ken Williams: Okay.

David Boyd: You know, I don't profess to be a constitutional law expert. You can get me any number of different opinions on whether or not the federal government's intrusion into public education was, is supported under the Constitution, but I do know that, uh, I was not elected as a trustee to get the board involved in litigation against the federal government. I know that, um, there are any number of – and this will touch upon the Common Core – but I will take away from my time on, on J-6 – there are good people that are opposed to Common Core, there are good people that are in favor of Common Core. One of the things that I took out of the meetings of the public hearings was – I believe one of the last comments – and I, I'm paraphrasing now, but, you know, the question I raised – can reasonably well educated, good people disagree on Common Core? And, I think everybody on that panel said yes, you know, reasonable people can disagree. There was also the comment that there was – I believe I asked the question that – in the – when was the last time there was overwhelming support for a change in academic standards? And somebody commented, oh, I think it was 1790 – um, in other words, there has

never been a situation where a change in academic standards was not controversial, and this is nothing different than that. With respect to a lawsuit against the federal government, this came up during my interview at the Orange County Register during the campaign, and you know, my opponent had, uh, raised, during our meetings, his encouragement that we file a lawsuit against the federal government. I brought that up to the Register and here is what the Registrar said, and I am quoting verbatim: such a hopeless, frivolous lawsuit is something these editorial pages reject and will pose as a waste of taxpayer money. And, uh, that's pretty much all I have to say, you know, I, I feel very reasonable listening to everything that's come before us – it's not an easy decision – but this is not a – this is a board of education – it's not a litigation body. There are any number, probably hundreds of thousands of entities that could file a similar lawsuit if they so choose. This board has no unique standing to file suit. Quite frankly, I think any, any parent who has a student that's being taught under Common Core might have better standing than, than this board does to raise such a suit. And, in summary, it's beyond what we were elected to do.

Ken Williams: So, your purpose then is to have us vote on this and then move on and not talk about it again? Is that kind of...

David Boyd: Well, if we vote to pursue a lawsuit, we would obviously have to talk about it again, but it's my hope that we would vote not to pursue a lawsuit and yes, that the matter would be decided as far as this board is concerned.

Ken Williams: So you don't want to file a lawsuit, you just brought this up for – that's what remains unclear – not to file a lawsuit, but you just want our votes and positions as...

David Boyd: my constituents want a decision on what we're gonna do.

Ken Williams: Okay. Robert?

Robert Hammond: Well, Dr. Bedell made a second. I would defer to him as...

Ken Williams: Oh.

Robert Hammond: ...made a second, sir?

Jack Bedell: Yeah, uh, we've been discussing this issue with great public input since April 2013. Uh, I think that the public deserves a up or down on this, frankly. It has consumed a great deal of staff time. Under my roundtable, I will be talking about what I heard from other school districts at the California School Board Association on Common Core, and they are almost 180 degrees from what we hear at this meeting. That said, I think that, uh, this motion honors the concerns of the people, I think it is helpful in moving the board forward, and I think that, uh, we just heard somebody who might be interested in doing this. I think that, uh, the time has come as my mother who had a fifth grade education would say, tinkle or get out of the bathroom.

Ken Williams: Whoever wants to speak up.

Robert Hammond: Uh, Mr. President, yeah, I think J-5 is absolutely 100 percent premature. Um, there was something I sent to Penny and I'm hoping that that can be passed out – and to Nina – it was a four page pdf. Um, I'll give this to you, Dave.

David Boyd: Thank you.

Nina Boyd: That was sent on Monday to – electronically – to the board members, Robert.

Robert Hammond: Oh, alright.

Jack Bedell: Is this the four things?

Nina Boyd: Yes.

Linda Lindholm: Do we have copies? It was sideways on the monitor.

Jack Bedell: Yeah, mine was, too.

Linda Lindholm: Yeah.

Robert Hammond: Voting up or down right now on a, on a lawsuit, as much as I would like to, um, from my research, would be absolutely premature and, um – the third appellate, which I believe is San Diego – um, dismissed a lawsuit from a school district down there because they had not filed a test claim with the Commission on Mandates in regards to funding. That is why my one item, uh, which was J-6, which is now J-7, um, was placed on the agenda. Um, otherwise, if we take any action, I think, on J-5, outside of tabling it, whether we try to vote up or down, is gonna be completely premature. Um, so, for us, filing a test claim, I think, is the best option that we have to simply to discuss, um, the funding aspect. And the four pages that I sent, or that Penny sent out, um, Dr. Marc Ecker is who, at the time – this was a year ago – it was March – it was in the Ed Cal issue March 24, last year – uh, current superintendent of Fountain Valley, did a tremendous job. He was there for a number of years, and at the time, was the current president, I believe, of uh...

Jack Bedell: CCSESA – or ACSA, ACSA.

Robert Hammond: ACSA – wasn't it ACSA? And where he goes on record saying that we're gonna need a minimum of 1.25 billion more dollars just for the upcoming school year. That's a tremendous amount and the governor has been kind of saying it looks like we're in some frugal times now, so my concern is, before we even consider voting up or down on any type of a lawsuit – and I want to thank Mr. Brad Dacus for coming before us and it appears that, I guess we – I guess the terminology is pro bono for now – um, I think it would behoove us to table J-5 and to, uh, get the test claim going. Because otherwise, if we do file anything, I have a feeling as

soon as we file, it would be immediately rejected, as we had failed to exhaust our administrative remedies and that would be a waste of taxpayer money. Thank you, Mr. President.

Jack Bedell: Mr. Chairman – just following up with a question – what would be bad about doing this both if we support your resolution and support J-5 at the same time, in preparation for vote doing both?

Ken Williams: Are you asking me, or are...

Jack Bedell: No, I was asking you as, as Trustee Hammond thought...

David Boyd: May I make an observation, Mr. Hammond?

Ken Williams: Well, let's – Jack asked a question and then you can go next.

David Boyd: I apologize.

Robert Hammond: Well, do you want to yield to his observation?

Jack Bedell: No. I never want to yield...

Ken Williams: Unless you want to do it...

Robert Hammond: I thought I'd try to make a first here for, um – no, I'll answer Jack's question real quick. Um, just from what I can gather, I'm trying to make sure that we exhaust our administrative remedies, so that any and everything we do, I'm gonna say is timely, um, and it seems like if we vote on this now, you know, do we want to file a lawsuit or not? We may not even have to file a lawsuit if the Commission on Mandates comes back and says it's unfunded. So, I, that's why I'm, I guess, I'm wanting to take it a step at a time and so if we can take the first step, which is the test claim, um, I don't see that costing really anything. Um, and I'd like to, uh, you know – I'm jumping ahead to J-7, so I apologize – um, at the Executive Committee meeting yesterday, we were informed that there has been a test claim filed...

Ken Williams: Yes.

Robert Hammond: ...and I'd like to try to get as much information about that – kind of jumping the, jumping the gun on that, but, so for me, J-5, I believe, is just premature. I'd like it tabled until I can get more information about my item, the test claim. Is that an option? I think it is. I think it's necessary and I think we need to pursue that first. Don't get me wrong – I am more than happy to come back and visit, especially if we have somebody like, uh, Brad Dacus and company saying, hey, we'll represent you guys pro bono.

Linda Lindholm: Mr. Chair?

Ken Williams: Absolutely.

Linda Lindholm: Thank you. I haven't commented yet. Um, first of all, I appreciate the people in the audience who come, who come here and dedicate their time and energy. Um, this particular item I'm actually looking forward to the same item that, uh, Trustee Hammond is – the J-6, uh, which is the filing of the test claim. I think that's a tremendous opportunity for us to piggyback on a test claim that's already being filed by two different entities. I believe, and uh, the California Charter School Board Association – uh, please help me – I'm gonna look to Nina and ask her.

Nina Boyd: It's, uh, CSBA – California School Boards Association...

Linda Lindholm: Okay.

Nina Boyd: ...and then there's a number of school districts that are named and, actually when we get to that item, then, uh, Dr. Mijares has some information and Ron, if you have questions.

Linda Lindholm: Okay. Fantastic. But with that opportunity to hit the state mandates board for an unfunded mandate – that's kind of a cherry that I'd like to go after. Um, and if we're able to find out in the future, between this month and the next month, if we can join that, even at no cost, because they – my understanding they've written – and, uh, Trustee Boyd, you said it's 600 pages? 300 pages?

David Boyd: No. 268 pages, I believe.

Robert Hammond: Oh, is that all.

David Boyd: 264 pages.

Linda Lindholm: So, that is a fantastic thing, that we might be able to just piggyback on, uh, save money working for our, the kids in the, the districts, and see what we can do and just be one of the joiners – the signature joiners – and that gives us standing. Uh, I'm not the attorney, but I believe that does give us some standing. So, I do, um, I think I understand that you put this on there as a no vote. Uh, I'm not sure I ever like to do something just as a no vote. I might consider that in about six months from now, but I'd be happy to table that discussion for like six months, so we don't have to bring it up constantly. But, not as a, um – I think this is a wonderful opportunity – I'm looking forward to the next item.

Ken Williams: Okay, so, uh...

Robert Hammond: Was that a motion by Trustee Lindholm?

Ken Williams: No. Well...

Linda Lindholm: As motion to table it – that would, that would, that would be mine, but...

Ken Williams: Well, can I, can I speak out courtesy...

Linda Lindholm: No, no, absolutely...

Ken Williams: I, I am very patient...

Linda Lindholm: ...he was asking me.

Ken Williams: Okay. Uh, I, I appreciate Mr. Boyd putting this on for the, um, thought and vote, uh, I appreciate Dr. Bedell and his comments, uh, I'd like to table this, you know, we don't talk about litigation without having the full facts ? and the ability to talk about litigation without having that attorney-client privilege in closed session to see about the chances and success of such a, of a lawsuit, uh, yeah, Common Core is bad, Common Core is standards that we talk about and we had experts say that they're lower standards, but they're no standards, and this is not me, this is the Southerland Institute of Utah – standards lead to curriculum changes and curriculum textbooks and pedagogy and the entire education system changes just as the SAT and the ACT and every single home school and every single private school and every single vocation and charter schools will be impacted by this. I think Common Core is evil, it's dark, and it's gonna hurt our kids. It's equivalent to the CLAS test in the '90s, it's equivalent to the School-to-Work that came out of the Clinton administration in the '90s, and it's just bad as the No Child Left Behind out of the Bush administration. We were improving our state standards under the previous standards as Dr. Wurman from the Stanford Hoover Institute iterated, that we had gone from dead last to the middle on the, on the older stand – on the previous standards – those were good standards, those were high standards. I went through them when they were drafted. Uh, I don't see any problems with them. The new standards lead to global citizens as a, as a theme, it leads to this uncomfortable theme of social justice, which is nothing more than political correctness. Uh, you know, we talked about the data mining, the lower standards – it's just not good. Finally, we had Mr. Hugh Hewitt, who is a constitutional lawyer, who sat there and told us that if we didn't do anything, if we didn't speak up, that we as board members will become marginalized and nothing more than figureheads, so there is some possible actionable issues with this federal lawsuit again. I don't know anything about it – I would certainly like to know more about it. If we have, uh, Mr. Dacus, who is willing to give us pro bono work, I, I would – certainly very challenging – it's like candy out in front of a kind – yeah, it sounds good – but, before we even get there, you know, I'd like to have a private dialogue about what can we and what can we not do, what are the odds and the probability of – when, you know, are we gonna be a direct, um, plaintiff or are we gonna file a amicus brief? I know we have, uh, Governor Bobby Jindal's lawsuit that he has in the Fifth District court there. I don't know if we file an amicus with the Fifth, or do we file it directly with the Ninth, so there's a lot of different issues I don't know about this, and I'm just not ready, with all due respect, David, to vote on this here, and I, I would be in favor of tabling this, uh, for another day until we approach that. So, um, anyway, that's my thoughts, for what they're worth.

Linda Lindholm: Okay. My motion is to table it for six ?...at least not be discussing...

Ken Williams: Okay, so...

Linda Lindholm: ...if you would like to talk to your in-house counsel, if you would like, as president of the board, to talk to Mr. Dacus, I think all those things would be available, but so this is not brought up at every single meeting and the next, uh, the next item is, uh...

Ken Williams: Is important to you.

Linda Lindholm: ...is very important, and it's a very good opportunity, it's a clear-cut opportunity that I think we can join in on...

Ken Williams: Right.

Linda Lindholm: ...and that takes a stand.

Ken Williams: So, so, Penny, help me out here – we, who – do we have a motion for a table?

Robert Hammond: Second.

Ken Williams: No, no, I'm asking...

Robert Hammond: Well, I thought she made a motion, I'm making a second, it's your...

Penny Dunseth: Linda made a motion...

Ken Williams: Linda made the motion, okay...

Penny Dunseth: ...after we – for six month, for six months.

Linda Lindholm: So it doesn't come back.

Nina Boyd: But we have a motion to...

Penny Dunseth: I know. We have a motion for...

Ken Williams : We have a motion to...

Penny Dunseth: ...J-5 has a motion from, um, Boyd and Bedell prior to the conversation, but never could...

Ken Williams: Right, right, so, but if we table, you don't have to come back to that, correct?

Robert Hammond: That's right.

Ken Williams: Yeah. Okay, so we have a motion by Trustee Lindholm to table this, and, I believe, Robert, did you second that?

Robert Hammond: Yes, sir.

Ken Williams: Okay, so the motion is – any further discussion on that?

David Boyd: Yes, sir.

Ken Williams: Okay.

David Boyd: The unfunded mandate argument is an interesting one, but it really has nothing to do with J-5, you know, whether or not we have an unfunded mandate in California, or an underfunded mandate in California, has nothing to do with whether or not the federal government violated the Constitution in adopting, uh, their rules. So, unfunded mandate has nothing to do with J-5, it's whether or not this board should sue the federal government.

Linda Lindholm: I, I think if you look at the information we have – we don't have a cost on this, we don't have any idea – I mean, with that, I'm not...

David Boyd: But now, but all this is...

Linda Lindholm: ...interested in going forward at this time.

David Boyd: All this is doing, though, is directing the Executive Committee to recommend legal counsel. It's not appointing legal counsel, it's not, uh, filing a lawsuit.

Ken Williams: With all due respect, David, I, I understand when, uh, you have a consensus – I sense there's a consensus – that there's three votes here that are gonna ask this to be tabled and I understand your frustration. Is there – but, remind me – why do you want it so bad?

David Boyd: We arrived at this consensus before. I had the opportunity to comment that it has nothing to do with whether it's an unfunded mandate. J-5 has nothing to do whether it's an unfunded mandate, it's whether the federal government violated the Constitution.

Ken Williams: Well, and, and again, no, you're asking to recommend legal counsel to go forward on a legal lawsuit.

David Boyd: Right.

Ken Williams: Is this a rhetorical question?

David Boyd: No, to discuss. You know, to, for you as Executive Committee to approach legal counsel, uh, Mr. Dacus, or whoever, and see what the issues are.

Ken Williams: Yeah, and I sense there's a consensus building here which with you in the minority, that we don't want to make that decision now. We want it to – we have a motion on the table here to return this in six months. I think there's a lot of legwork.

David Boyd: Correct me if I'm wrong, but, you know, when Trustee Lindholm recommended we defer it, that's when before it was under the impression that J-5 had something to do with whether the, whether there were unfunded mandates...

Ken Williams: I didn't think that.

David Boyd: ...and it does not.

Ken Williams: Yeah, I wasn't thinking that at all.

Linda Lindholm: And I do understand that, but the thing with an unfunded mandate it, then they have to step up to the plate, and if they have to step up to the plate to fund the Common Core curriculum, then that's a whole challenge to the Common Core, uh, movement to go forward. So, it is a wraparound for me, and I'm comfortable with that, and with your permission and the time, I will call the question.

Ken Williams: Okay. Okay, so we have a, the subsidiary motion to table this, which takes us off for six months. That's the motion beforehand. Um, question is called – all those in favor say aye.

Multiple Voices: Aye

Ken Williams: Opposed?

Jack Bedell: No

Ken Williams: And abstain? Obviously, the motion passes, 3-2-0. We'll see this back in six months. Moving on as Dr. Bedell wanted to do, is to talk about J-12, and that's moved to J-6, I guess?

Robert Hammond: Yes, sir.

Jack Bedell: Yes.

Ken Williams: Um, and, um, Mr. Boyd, again, I'll give you the privilege, since it's your item you put on the agenda, to make the motion.

David Boyd: It's basically the same...

Ken Williams: Well, you have to make the motion first.

David Boyd: Oh, I will make a motion.

Ken Williams: Okay. Second?

David Boyd: Um, same issue...

Jack Bedell: I'll second it for the purposes of discussion.

Ken Williams: Very good.

David Boyd: My constituents, you know, would like to know what the board plans to do, and whether these standards are going to be regulations that are going to be implemented or not. It's as simple as that.

Ken Williams: So, so this is a question for your constituents.

David Boyd: And, presumably, yours.

Ken Williams: Let's pass it on down. Robert?

Robert Hammond: Well, right now, I believe the superintendent has fully, is already fully implementing Common Core. I don't think it's a question of is he or is he not. I mean, Mr. Boyd, if you want to, the superintendent's right next to you, you can ask him, but as far as I understand, the superintendent is already, um, implementing Common Core. As a matter of fact, I think every school district in Orange County has implemented Common Core to the fullest of their ability. Am I correct on that, sir?

Al Mijares: Yes, you are.

David Boyd: Probabaly every district in the state of California.

Al Mijares: Do you want me to address it, or do you want to go into the unfunded mandate?

Ken Williams: No, no...

Robert Hammond: Well, I can't – I'm on...

Al Mijares: Well, let me just say one thing in reference to the question.

Ken Williams: What question is that?

Al Mijares: Mr. Hammond's question about is it being implemented. If you just want a yes/no, I'll say yes, it's being implemented.

Robert Hammond: It's, it's already being implemented. You know, and because it's already being implemented, that's another reason why I want the test claim.

Al Mijares: It's being implemented, and Eric Stolt has talked about a foreboding fear, and I wouldn't go as far as saying fear, but absolutely when the State of California proposes standards, I, as well as the practitioners out there – boards and districts – must implement those standards. That's the way it's been since day 1. I mean, we don't like, sometimes, what the government tells us what to do. I mean, I wake up every morning and pull my hair out over what I see in

Washington, D. C., but nonetheless, that is the government of this country, and in Sacramento, these are state expectations, expectations from every grade level and if I don't do that, then I – it's a form of malpractice for me. So, you have to ask yourself, I mean, even the 1997 standards that we want to go back to, which I had no problem with, frankly, in terms of truth be known – we had to implement them – and, I think, I think we actually are disingenuous when we make the public believe that we can do something that the state board says we can't do. Now, if you want to sue the State Board of California, then I guess we have a right to do that, but until then, those principals, those teachers, those superintendents – and they're fully engaged in the implementation of the Common Core – and you work for Long Beach Unified – you work for a superintendent who has been a leader in the Common Core State Standards. You know that – Chris Steinhauser.

Robert Hammond: It's, its' – Common Core is in every single classroom and every school I've been in...

Al Mijares: So, so, what – I wanna ask for the forbearance on the part of the public when you deal with an administrator or a teacher to just go rogue and go against it. Um, I think, people, we have to remember that, you know, despite the fact that we have strident political differences, we still are a country of law and rules and order, and that, by the way, Schwarzenegger was Governor, and it was a Republican school board that approved this in 2010. Because I hear people tell me, well, it's a Democrat thing, it's a Republican thing, and I don't want to get into the partisanship of this – I'm simply saying that yes, indeed, it's being implemented today as we speak and our staff – we're providing professional development on the Common Core as best as we can, because that's what we do.

Robert Hammond: So, I would just simply say that what was J-12, now J-6, is premature. I mean, it, it's – I don't even know if it's okay to use the word premature – it's – the superintendent is doing what he feels that he is legally obliged to do.

David Boyd: Well, in other words, we're not going to do it. You know, we're not going to openly defy, so all you have to do is agree with the motion.

Robert Hammond: No. Um, you, you're saying, you know, are we going to openly defy California law? And my thought is, is that, I want the test claim done. You know, it – I'm just gonna say right now – I think that this is highly irregular and I'm not gonna – I'm very uncomfortable with what you have put on the agenda, Mr. Boyd.

Ken Williams: Moving on, um, Trustee Lindholm, Trustee Bedell, any thoughts?

Jack Bedell: I...

Linda Lindholm: Go ahead, no, go ahead. I'll follow you.

Jack Bedell: Uh, I appreciate the superintendent's comments. I have been blessed that very people in my nine years on the Fullerton board or the twelve years here – very few people have said something to me that I have found outrageous or repugnant, and I had, during one of these conversations about the Common Core, a member of the audience tell me, basically, if you're doing your job, Bedell, you will violate California law, and that personally is disgusting to me. I took an oath to uphold the Constitution of the State of California and in no way will I knowingly violate the law of California. I want to make that perfectly clear. That has been the most disturbing statement that has said to me in 21 years of school board service. It was unfortunate that it was in this room. Thank you.

Linda Lindholm: Okay. Um, yes, we absolutely have to follow the letter of the law from the State of California. It's our job and our obligation to do that. Now, is it our job and our obligation to absolutely listen to the members of the public and the parents who say that the math is awful? That the math is very challeng – not challenging, it's just very confusing. I do believe that also. But, I, I'm not sure – I would prefer, if you're gonna put a motion on, that it gives us somewhere practical. That it gives us somewhere to go. Um, the motions say we openly defy California law, um – we're not gonna do that – I'm not gonna do that, and I won't vote to do that, but will I look at and analyze, um, the mathbooks and the curriculum and understand the convoluted way they're doing the math? Yes. That I will do, um, but no, I'm not gonna violate California law, so it's really a redundant question for me – it doesn't get me anywhere new.

Ken Williams: So, here's my two thoughts. Um, I'd like to table this. I'm not gonna make a formal motion at this time. I'd like to see it tabled. Um, you know, when you start breaking laws, that's no good – I mean I'm a sworn law enforcement officer – breaking a law is not good, although I must admit I go over the speed limit a few times. I don't cross the, um, the fast lane, though. That's a really safety issue.

Linda Lindholm: Oh, Ron wrote that down. I'm teasing.

Ken Williams: Um, you know, I don't, I don't think this is an appropriate item. I think it has more political undertones than anything. Uh, if we could, um, bring up a lawsuit. If we could do, uh, something related to the state mandates, I would be more than happy to stop Common Core in any way I can, but I can't break the law, you know, we took an oath. I think we all agree with that. Our good superintendent made the statement and iterated the position properly...

David Boyd: I agree.

Ken Williams: ...but, um – I, I'd like to table this action and make the motion now – I'd like to table this, uh, for six months.

David Boyd: Could, could I comment?

Ken Williams: Uh, while there's a motion, I, I, there needs to be a second.

Robert Hammond: Second.

Ken Williams: Second – okay. Any discussion on tabling this?

David Boyd: Yes.

Ken Williams: You can go ahead and speak.

David Boyd: Trustee Lindholm's comments are not mutually exclusive from what we have here. You can say we are not going to openly defy the law, but we are going to study Common Core and how it's implemented. This was phrased this way because these are the questions we get. How many people have come to us in public comment and said you should violate the law and not implement Common Core.

Linda Lindholm: Would you amend your question to say that we would analyze – what were the words you used?

David Boyd: Well, we will do that. What I want to do is answer my constituents when they ask me a pointed question, and the pointed question is, are you willing to defy the law and not implement Common Core? And I think we all agree to that – we're not gonna openly defy, so I don't really see what the issue is. Are we saying if we table it for six months, that six months from now we might openly defy?

Ken Williams: No. We might modify it, though.

David Boyd: Yeah, but that's not what this says.

Ken Williams: Well, we could modify it.

Jack Bedell: Modify what?

Ken Williams: Well, it happens all the time – we modify and amend...

Jack Bedell: Oh, you're talking about the motion.

J-6

Ken Williams: Yeah, J-12 – or now, J-6. Again, I think that this has political undertones. My constituents clearly know my position as an anti-Common Core. I think everybody in our district knows our positions. I think this is, is made as a political trap. I don't think it needs to be voted upon, and I don't think it's good. Um, there is a motion and a second now to table this, so, if we can have our discussion on that, I would really like to focus the discussion on such.

David Boyd: Could I comment on that? I resent the fact that you said this is a political trap.

Ken Williams: Okay.

David Boyd: Now, please, now come on, let's, let's be serious. Have you not been asked this question or made this comment a hundred times in the last year?

Ken Williams: No.

David Boyd: You need to openly defy the law.

Ken Williams: No one's ever asked me to openly...

David Boyd: Well you should go back and listen to the tapes. Or, maybe you weren't here at that point in time, I don't know, but I have been encouraged to openly defy the law time after time after time and I could probably give you 50 e-mails that ask for just that.

Ken Williams: And I think you're political...

David Boyd: Well, I guess everything we do is political.

Ken Williams: And I think you're honorable to say your position that you iterated here – it's the same position I would iterate. We can't.

David Boyd: Okay, well, that's all I'm saying. Let's tell these people that we can't do it (inaudible). We owe it to them so they don't continue to come back, and meeting after meeting, encourage us to, to defy the law. We can table it for six months and they'll come back for six months.

Ken Williams: So, are you saying this – just to have the people who are against Common Core not come to speak to us at public comments? Is that what I'm hearing you say?

David Boyd: No, give them a realistic assessment of what this board is likely to do. That's all.

Ken Williams: Well, I...

David Boyd: I mean we could vote that. I mean we could vote yes. They would be delighted.

Ken Williams: David, with all due respect, I, I'm fine with just tabling this – I know you're angry and upset again – sorry, um...

David Boyd: I'm not angry, but when you talk about politics, you simply don't want to take a stand – that's politics.

Robert Hammond: Whoa. Wait a minute. What do you mean, he doesn't want to take a stand? I think he's...

David Boyd: He doesn't want to vote on it.

Robert Hammond: ...he's more than...

Linda Lindholm: Gentlemen, we have a motion on the table...

Ken Williams: Yeah, okay...

Linda Lindholm: ...and the motion is to table it. I would call the question...

Ken Williams: Okay, the question is called, no further debate will be allowed. All those in favor of tabling Item J-6 now, please say aye.

Multiple voices: Aye (Ken Williams, Robert Hammond, Linda Lindholm)

Ken Williams: Opposed?

Multiple voices: No (Jack Bedell, David Boyd)

J-7

Ken Williams: Okay, motion passes 3-2. It's tabled for six months. Moving on with our meeting to Item J-7, I think we're calling that. Um, Mr. Hammond, because you...

Jack Bedell: That's the test claim?

Ken Williams: This is the test claim. So, Mr. Hammond, because you put this on, you now have the privilege of making this motion.

Robert Hammond: Um, move to, uh, to file a test claim.

Ken Williams: Okay, so you're moving J-6. A second?

Jack Bedell: Second.

Ken Williams: A second by Dr. Bedell. Um, discussion?

Robert Hammond: Yes, sir. Um, we were given some information at our Executive Committee meeting, uh, yesterday, and I'm just glad to see Ron here. It looks like you're feeling much better, so, you know, blessing for that. Um, and I was just curious if, uh, Nina if you feel it's appropriate or have Ron – I don't know – to give us more information about what's going on.

Nina Boyd: Okay. Um, Dr. Mijares and Ron will give you further information related to what we have found out about the test claim that's been filed.

Al Mijares: Okay. And, uh, Mr. Wenkart can join me in just a minute, but just still, let me say as a way of introduction, that, um, the mandated cost process is outlined by regulation, and it does involve the Commission on State Mandates, as you know. Now, the Governor established a mandate block grant for \$218 million, and this identified some 24 items that we can submit claims for. Um, the claim for this, this coming year had to be submitted by December 31st. Now, it is true, and we mentioned, uh, the California School Boards Association – CSBA, ACSA

– that’s the Association of California School Administrators, and CASBO, the California Association of School Business Officials. These are bodies that have a presence in Sacramento, they work for legislation and provide professional development to practitioners and board members. They have come together to file this claim, but the claim is based on the implementation of Smarter Balanced, which is the assessment of the Common Core State Standards.

David Boyd: That’s the technology that doesn’t (inaudible)

Al Mijares: Right. So, the last year’s budget, we received \$1.25 billion for the implementation of Common Core in California. This year, it’s about \$1.8 billion. So, to say it’s an unfunded mandate is really not true. What, what made – now you can argue sufficiency – we’ve always argued that – the money we get is just not adequate. But, the wisdom of these organizations, as well as, uh, the people that, um, populate them – superintendents, principals, school board members – have landed on this matter of Smarter Balance, because that’s gonna cost an enormous amount of money, uh, for us to implement, simply because it is a digital form of assessment, it is done online, you need devices to do it, uh, you need hardware, software, you need infrastructure, and the devices have a shelf-life, so you can’t just buy it once and go home – you have to continue to do this. So, that’s kind of the, uh, the wisdom that, you know, was undertaken, and they used districts who would be optimum, provide an optimum scenario as to, um, you know, why it makes sense to reimburse them. And they used a large and a small and a medium-sized district. Um, and those three districts are – there’s, there’s actually four that have been joined into the mix – but it’s Santa Ana, here in our own county – that’s the large – Porterville, Plumas USD – Plumas Unified School District, and the county office in that case joined, and Vallejo. So, county offices alone really, because of the user of Smarter Balanced is a much smaller cell size, um, you don’t have the same demand as you would have if you were Santa Ana, almost 60,000 students. Um, so, let me say that this will then go to the Commission, and the Commission is not going to spit out a quick answer, individuals, because, um, this is complicated, and they don’t want it overturned by the Supreme Court. There will be audits along the way. So, the window they’re giving us is a minimum of two years, possibly longer before this is resolved. So, your point about a six month – it’s not gonna happen in six months. Um, but if the Commission decides that it is, uh, not an appropriate, um, mandated cost claim, and, and of course, if these districts win, then that opens the floodgate for the rest of us, but if they decide not, then it can be appealed to the Supreme Court of California. So that’s it, in a nutshell. Now, if you want to argue anything out of Smarter Balanced, in terms of it being burdensome and this expense is too much for us to bear, given the fact that the Governor has already funded it, um, the folks that have joined this other, you know, joined in on this other rationale, don’t believe that’s gonna stand the test of time or scrutiny by the Commission. So, um, now you can argue, if Common Core goes away, will we still have Smarter Balanced? And the answer is yes. That is the state adopted assessment system. They’ve already paid millions, moving into billions of dollars for this. And, by the way, that assessment is a requirement under federal law. You

can't just wake up tomorrow and decide under NCLB that we're not gonna test anybody anymore. In fact, we had to get a waiver this past time, because we suspended the former assessment that was used in the state and reluctantly, the federal government gave us a one year waiver.

Ken Williams: May I ask a question?

Al Mijares: Yes.

Ken Williams: So, the federal government is requiring us to implement this SBAC?

Al Mijares: No, not requiring us to implement Smarter Balanced, they are requiring you to implement a, a statewide assessment. We've chosen Smarter Balanced – the state has.

Ken Williams: The state has.

Al Mijares: Yeah.

Ken Williams: Okay, so, the federal government's requiring some type of assessment, and that's because of No Child Left Behind.

Al Mijares: Right, and even previous laws, under federal law, you had to have – if you're gonna be receiving federal dollars, you know, there has to be some, uh, accountability mechanism.

Ken Williams: Right, and this has to do with that argument that they require us to, to implement what they – if we're gonna get our federal funds, we have to do everything they require, but they're only going to fund this what, 20 percent?

Jack Bedell: That's IDEA.

Al Mijares: No. That's a little different, he's talking about that's a special ed matter.

Ken Williams: So, the federal government's requiring states to adopt a test, or assessment.

Al Mijares: You have to have assessment, and what's happened in the country is that, uh, the country is divided along PARCC, which is a test on the Partnership for – that's an acronym, and I can get more technical if you need it, but it deals basically with college and career readiness...

Ken Williams: Okay.

Al Mijares: ...and Smarter Balanced is the compliment of PARCC...

Ken Williams: Um-hmm.

Al Mijares: ...and most of the western side of the United States has gone Smarter Balanced.

Ken Williams: So, if we don't do this federal regulated, state adopted assessment, we don't get any federal funds, is that kind of the sentiment?

Al Mijares: That's one thing that could happen, yes.

David Boyd: Yes, that's the lever – it's the money.

Ken Williams: Hence why we should sue the federal government.

David Boyd: Well, you want to reconsider, uh...

Al Mijares: No, there's states out there that have not adopted the Common Core State Standards, as you know,...

Ken Williams: What's gonna happen with them?

Al Mijares: ...like Texas, Alaska for two – well, they'll have their own statewide system – they will be in compliance with NCLB. I don't know, does anybody know if Texas has a waiver? I don't think Texas has a waiver of NCLB, so, they, they'll have their own form of statewide assessment, but in California, what I'm saying is, the train has left, in terms of Smarter Balanced, and we are already, as you see in the paper and read at the – the, the problem in LA Unified debacle, where they bought, you know, billions of dollars worth of iPads and...

Ken Williams: They're gone.

Al Mijares: ...oh I have a friend of mine that's a principal in one of the schools, he said just one day a guy came up and says, where do you want these iPads unloaded, and there were pallets of them, with no, no game plan. So, that's another story, but the point is, we're trying to get these devices so we can go online and test, and that really – as much as it's taking a lot of people by the, their collars, into this process – it's gonna, it's the wave of the future. I mean, advanced placement courses, the SAT, uh, LSAT, you know, MCAT – they're all going to absolutely online, digitalized and you get a quick response of the way you performed on that test.

Linda Lindholm: You're very knowledgeable on this and I'm grateful for your explanation. Would you suggest that we try and join this, or we just watch it?

Al Mijares: We can't join this particular one.

Linda Lindholm: Okay.

David Boyd: There, there is a public comment period, though, uh, it ends on February...

Ken Williams: And Mr. Wenkart might want to respond to that part of it.

Linda Lindholm: Okay. Thank you.

Ron Wenkart: Well, I just had a few things. I think Dr. Mijares summed it up very well. Uh, this is the test claim, it's about 270 pages approximately. Uh, CSBA retained a law firm in San Diego, uh, to file it. It seeks reimbursement for the cost of administering the SBAC testing as Dr. Mijares mentioned. So, it's focused on that. Um, there are some – when you read the claim – there is a lot of numbers in there, but I'll just mention one of them. Santa Ana Unified is one of the claimants. They estimated the increased cost of testing to be \$3.2 million for the current fiscal year, and \$8.6 million for the next fiscal year. They mention here that the estimated statewide additional cost is estimated at \$1 billion statewide, uh, and that there's no dedicated state funding for the testing, so it's focused on the testing. Now, there's a one year statute of limitations for filing the claim. They filed it on December 23rd, 2014, so they came within the one year statute of limitations, because the law took effect January 1, 2014. There is a public comment period, and that's one thing that we could do is file a public comment, uh, and if the board is supportive of doing that, we could file a public comment supporting the test claim on behalf of the Orange County Board of Education.

Linda Lindholm: Would that give us any status?

Ron Wenkart: Not, uh, not direct status, but it would be supportive of CSBA and the more letters of support that are filed with the State Commission, you know, each letter has a certain amount of impact, and of course, Orange County being the second largest county in the state, I think carries some weight.

David Boyd: But the deadline is February 1st, so if we're going to do it, we need to decide today.

Ken Williams: Okay. Question. So, in January of 2014, um, was the start and the end was that month in December of the same year. They got it within six days. Does that mean we can do nothing?

Ron Wenkart: Well, if we file our own test claim, it might be thrown out on the basis of statute of limitations, but what we could do is, you know, CSBA has suggested to us that, uh, we file a letter of support by February 1st supporting their claim, and then, if their claim is successful as Dr. Mijares said, we will all benefit – all the school districts and all the county offices statewide will benefit.

Ken Williams: Explain to me what an amicus brief or an amicus support would be.

Ron Wenkart: Well, amicus brief is a friend of the court brief, so when you are in litigation in court, this is an administrative proceeding initially – with this Commission on State Mandates – but when you're in court, say like in the appellate court, the Ninth Circuit Court of Appeals, for example, and let's say CSBA is involved in litigation and they ask for support, we could file an amicus brief. You know, you can't just file an informal letter with the courts – they are more

formal. So, you file an actual friend of the court or amicus brief supporting CSBA, for example, or whoever it might be.

Ken Williams: So this is an administrative hearing...

Ron Wenkart: Yeah.

Ken Williams: ...so, not, not a civil suit...

Ron Wenkart: Right.

Ken Williams: ...we can't really do that, is that what you're...

Ron Wenkart: It's less formal, so they would – you'd just file a letter of support.

Robert Hammond: How long would it take for staff to do this?

Ron Wenkart: Um, well, with your approval, then I would contact CSBA, they would probably give me information to put together a letter – what they would like to see in it – I would put in what I think should be in it, and, uh, so, you know, I – five to ten hours of work, I'd say.

Jack Bedell: Mr. Chairman, I would strongly, strongly recommend that we do this for a variety of reasons, not only the principle of and the merits of the particular argument, but also in support of our fellow school board members and county offices. This is a huge statement of support, recognizing what they're having to deal with and giving them credit in moving forward on it and I would strongly recommend that we do that.

Robert Hammond: Especially because Santa Ana's involved.

Jack Bedell: Yes.

Ken Williams: More of a technical question for my colleagues – so, Item J-6 talks about, um, a file, actually filing a test claim. We just heard from our counsel that it's too late. We can't file a test claim, is that...

Ron Wenkart: I'd say, most likely, it'll get thrown out because it past the...

Ken Williams: ...past the due date. So, um, in order to do what Dr. Bedell just talked about, we're gonna have to make some sort of language change in here, and I sense, maybe, that Robert, you would be willing to kind of change your language here and instead of filing a test claim, maybe a letter of support to the CSBA and Santa Ana School District or such?

Jack Bedell: The relevant parties.

Ken Williams: Relevant parties, thank you.

Jack Bedell: That motion could be approve Orange County recommendation submission of a letter of support to, in regarding of.

Robert Hammond: Yeah.

David Boyd: Yeah, that'd be just fine, (inaudible)...

Robert Hammond: Is there any type of, uh, grounds that you could see that we could stand on to violate test claim calendar year on anything?

Ron Wenkart: We could research it to see, but initially, I had a conversation when I saw this on the agenda – I contacted CSBA because I was aware that they were talking about filing it, and so I called them when I saw this on the agenda and they told me that they had filed it. They informed me about the one year statute of limitations. They indicated that, if your board is interested, we would appreciate a letter of support to be filed by February 1st.

Robert Hammond: Alright, then two things then can – because then it sounds like then now we have time – can you report back to us by February's meeting if we do have any grounds to file a test claim this calendar year.

Ron Wenkart: Sure. I can do that.

Robert Hammond: Alright, and then the second thing would be, with your recommendation, Dr. Bedell, I like your, or – about the letter...

Ken Williams: I think it would be a lot cleaner, hearing the discussion here, and I think there's a consensus that's being developed here, that if you yourself changed, um, the language to, write a letter of support to the CSBA and all other interested parties.

Robert Hammond: Well, that, that's what I was saying that I want to – I, I'll change – I'd like to have the letter filed, you know, timely, um, modify it as Dr. Bedell said.

Ken Williams: Okay, so, just for the staff, because I know they are looking at me like what did you guys just say? What are you proposing, Jack, if you could...

Jack Bedell: I'm proposing that J – the new number J-7...

Ken Williams: This is a motion you're making...

Jack Bedell: ...be amended to read that we approve the Orange County Board of Education submission of a letter of support to CSBA and other parties regarding...

Robert Hammond: Their test claim.

Jack Bedell: ...their test claim.

Ken Williams: With the California Commission on State Mandates.

Jack Bedell: Right.

Ken Williams: Oh, okay. Yeah. I think that's nice, so that's a motion and I'll second that. Okay, um, do we have any discussion on that?

Robert Hammond: Do we need to bring this back first for a vote, or can we simply vote it out now and...

Ken Williams: Well, we'll vote it out right now. That, that's what we're doing...

David Boyd: Good. We have to, as the deadline is February.

Ken Williams: We're, we're changing it, and then we have to come back to vote for this item again, so...

Robert Hammond: Okay.

Ken Williams: So, we have a, a motion to second. Any other further discussion? Does everybody know what we're going on? Okay. All those in favor say aye.

Multiple voices : Aye.

Ken Williams: Okay, so now, we're going to go back to the original motion, uh, to approve Item, I guess it's J-7 now with the new language, to go out and send a letter of support to the CSBA and other parties, uh, for this commission on mandates. Okay. Any further discussion? Bearing none, all those in favor say aye.

Multiple Voices: Aye.

Ken Williams: Aye. Opposed? Item passes, 5-0.

Jack Bedell: Mr. Chairman, may I request that any transmissions of this item include that the vote was unanimous?

Ken Williams: Uh, it will be 5-0, yeah.

Jack Bedell: Unanimously support...

Ron Wenkart: I'll mention that in the letter.

Jack Bedell: Thank you.

Ken Williams: Okay, good. Thank you, Jack. Uh, moving on – you guys are doing pretty good here, so...

Jack Bedell: I move that we adjourn.

(laughter)

Robert Hammond: I'm tempted to second that motion.

Ken Williams: Um, if I can say a few words.

Jack Bedell: What is your operational definition of a few?

Robert Hammond: Well, at least he's not an attorney, billing by the word.

Ken Williams: Um, so, um, so, what I'm gonna, what I'm gonna say when they come up is, Item J, I guess now 10, 11, 12 – the carryover over from last month – I was gonna recommend that we table that just for the sake of the time. Um, so, so, we're pretty near done, uh, with the meeting here, we do have a couple of announcements and, and, uh, roundtable.

David Boyd: We've got the stipend issue.

Ken Williams: Uh, and the stipend, um, again, I'll just take it in formal consensus vote here – what does this board want to do at this time? Do we want to...

Jack Bedell: Well, regarding what's now J-8, there are minutes that need – I don't know if the other board members have seen that – I would like the board members to see and so I'm comfortable with either J – the new J-8 – either being withdrawn, or postponed because of the minutes from 2010 authorizing that action. That was probably put on the agenda for transparency.

David Boyd: You lost me. Sorry you lost me.

Linda Lindholm: Yeah.

Robert Hammond: Yeah. You're wanting J-8 to be removed?

Jack Bedell: It's the new...

Nina Boyd: J-8 is about the board of ed.

Jack Bedell: Oh, I'm sorry – J-9, J-9. It's the new J-9, and I'm comfortable with that.

Linda Lindholm: Okay, and, and we – talk to us – what?

Jack Bedell: J-9, yes – the reason...

Nina Boyd: For point of order, did you not do anything with J-8? Are we...

Ken Williams: We haven't done anything. We're just sort of talking right now.

Jack Bedell: We're just...

Ken Williams: There's nothing to vote on, nothing...

Penny Dunseth: A public comment for J-8.

Ken Williams: We have a public comment for J-8 – okay.

Linda Lindholm: But they (inaudible) moved that to J-9.

Ken Williams: Um, let, let's be, um...

Penny Dunseth: Superintendent's salary.

Ken Williams: Yeah, let, let's...

Jack Bedell: What do you want to do?

Ken Williams: Well, we have public comment, and I think that's a priority.

Jack Bedell: Okay, sure.

Ken Williams: Yeah. So, public comment. Who is that from?

Penny Dunseth: Uh, Deborah Pauley?

Ken Williams: Ms. Pauley, welcome.

Deborah Pauley: Thank you, Dr. Williams. Uh...

Ken Williams: Go ahead and come to the...

Deborah Pauley: I know, I'm not speaking, but I would like to, um, get some clarification. I wasn't...

(laughter)

Nina Boyd: We're sorry, you need to...

Jack Bedell: Very rigid, we're very rigid.

Robert Hammond: Welcome to the microphone.

Deborah Pauley: Thank you. Uh, I arrived late to the meeting and did not realize that the special recommendations, uh, board agenda numbers had been reshuffled, so I want to be clear, I'm not here to speak on what used to be, uh, J-7. I am here to speak on what used to be J-8, which I guess is now J-9, which has to do with the two percent pay increase for the Orange County Superintendent.

Nina Boyd: That's correct.

Deborah Pauley: so, so you're taking comment on that at this time?

David Boyd: Yes.

Deborah Pauley: Okay. No don't start my time too fast. Alright, very good.

(laughter)

Deborah Pauley: Good afternoon, honorable trustees and Mr. Superintendent. My name is Deborah Pauley. I just completed eight years as a councilwoman in the city of Villa Park, so Dr. Williams is one of my constituents and I am one of his. I have also spent the past quarter of a century as a political activist, advocating for fiscally responsible government, which means I'm starting to feel a little old. Um, I am here to speak in opposition to approving a two percent pay raise for the superintendent, who is already handsomely compensated. At \$287,500, he is already the highest paid elected official in Orange County. With the two percent pay raise, it will be \$293,250, which is an outrageous sum of money, and if you include benefits, that's \$338,482. He is already making 25 percent more than the average highest paid, uh, official working in the highest performing school districts in California. There is really no justification for this pay raise. And I had a very difficult time getting to these numbers, so I'm hoping that they are accurate. Nowhere on this agenda item were there reports that I could link to, to get information – further information – that's most unusual to me as a councilwoman. All of my constituents are able to click on any agenda item for a complete report, staff reports, uh, contract – everything of that nature that they needed – that they needed, so that they can keep an eye on what their local elected officials are doing. I got this information from Transparent California and research and data from the California Policy Center, I really do wanna key in on not just the issue of an outrageous pay increase, or a salary already in existence, but I am really concerned about the lack of transparency at the Orange County Board of Education's website. I am very well-versed in doing research on government websites. I've been at it now for quite some time. There were no reports, as I indicated, there were no documents, there was no contact information – that was lacking – there's a broken or nonexistent link to staff directories, so that I couldn't get any additional information. I really feel like you need to put this on the backburner, and as you're looking at transparency – and that is really important – and I know you're talking about minutes and transcribed minutes and the visual – I'm thinking that you might want to explore something that I instituted in the city of Villa Park for a rather insignificant sum of money, and that is to videotape the council meetings so that they could be watched live on website and archived for on demand viewing.

(Applause)

Deborah Pauley: And quite frankly, if you forego the superintendent's pay increase, you can possibly get a good start on funding that item. Thank you for your time.

Ken Williams: Thank you, Deborah. I appreciate it. Um, okay. Um, and so I was just for the first time, aware of something here regarding...

Jack Bedell: Right, that's why, uh, I am okay if we take the new J-9 and postpone it to February, or pull it from the agenda, because, on December 9, 2010, the board made the following motion: motion by Park, seconded by Boyd, and carried by a vote of 5-0, to maintain the superintendent's compensation at the existing level – 2009-10 – and confirm it would become salary at the start of his new term. The superintendent shall continue to receive health and welfare benefits, sick leave and monetary increases in the same amount when other OCDE management employees receive them. This passed by a 5-0 vote, and the reason, going back to your comments, I don't think anybody knows that or knew that, and that's the – so I ask that this be put on the agenda I talked about with people – on the agenda in terms of transparency. It is board policy that that's what we agreed to do for all of management, including the superintendent, and this past year we gave two percent to management?

Nina Boyd: Two percent to all employees, um, on, uh, salary schedule...

Jack Bedell: Right.

Nina Boyd: ...was negotiated by the, uh, teams...

Jack Bedell: Right.

Nina Boyd: ...that went into effect July 1.

Ken Williams: But, that, that's for classified and certified employees.

Nina Boyd: Classified and certificated and management all received that increase.

Ken Williams: Yeah.

Deborah Pauley: (inaudible)

Ken Williams: Deborah, actually, to be honest with you...

Multiple voices: (inaudible)

Deborah Pauley: You're not allowed?

Ken Williams: Yeah. I, I can't.

Jack Bedell: (inaudible) just quoted from...

Deborah Pauley: (inaudible) order though. He is not an employee – he is an elected official, and that's...

Ken Williams: Yeah, but the point of order is usually brought up between the elected people here. Thank you, though, for your concern.

Jack Bedell: And the special amendment that, that dealt with him specifically, so the fact that we have this as a matter of record, and there was – I think it's the board policy voted unanimously to do it. I think that that needs to be (inaudible).

Ken Williams: Yeah, so I sense what you're saying is that, there needs to be – especially at the Executive Committee – and I'm just finding out about this now, that it may – is there any time, uh, element here that we have to take...

Jack Bedell: No, no, that's what I'm saying. It's technically – if you want to be strictly linear about it – it doesn't even need to be an agenda item, because it is board policy.

Ken Williams: So that, that would be (inaudible) means? Yeah.

David Boyd: So, that means we'd have to change board policy.

Jack Bedell: Yeah.

David Boyd: So, to change it we'd have to change board policy.

Jack Bedell: Change board policy. It would require an amendment to change board policy, because then it is the board policy.

Robert Hammond: Which board policy is that, Jack?

Jack Bedell: It's just what we have here – it's the motion – the superintendent's salary, J-6, we passed unanimously – it's December '10? December 9, 2010. So, four years ago we passed that.

Ken Williams: Right. For the one-time salary then.

Jack Bedell: Well, no, then it says, superintendent shall continue to receive health and welfare benefits, sick leave, and monetary increases in the same amount when other OCDE management receive them.

Ken Williams: Okay. So, there – what you're saying then is every two years...

Jack Bedell: Well, whatever, whatever.

Ken Williams: ...should be an increase...

Jack Bedell: Whatever.

Ken Williams: That's not what I've been understanding that – through our dialogue.

Nina Boyd: There have, there have been no increases since 2007-08, so when the board implemented that, there were no increases that were being given to employees. The board passed, by a 5-0 vote, I believe, is what Jack is referring to, is that they recognized that at such a time when there was – they put into language that they were approving for the superintendent to get whatever that increase was, and so, that is the language that was approved in that excerpt. But, it is not a policy, so I just want to correct that...

Jack Bedell: Yeah, yeah...

Nina Boyd: That's not board policy, that was what

Jack Bedell: The practice then voted for.

Linda Lindholm: Can I ask? Can I ask as a new member, uh, to give a, I understand this probably needs to go to the next meeting. I was not unhappy with what we had here. But, I need to get a copy of what that was at the next meeting. I think in terms of transparency which is what Deborah Polly is talking about. Uh, you can still have an item saying this was what his salary is and this is what it's going to be and you actually have the money and those figures there. Everything we always have, when I was on the City Council, would list, uh, the salary. It wouldn't just say 2 percent. It would say here's the current salary, and here's what the increase is and what it is currently.

Jack Bedell: It's an item of information.

Linda Lindholm: It's an item of information at that point, is what I'm hearing from what the original – but, I, there's no contract, and um, he's doing a great job, he's an elected official. So, it kind of puts him at a different category to the next time, get more information.

David Boyd: We should also point out too, if my recollection is correct. Dr. Mijares came in at a lower salary than our previous superintendent. Even with his two percent increase, he would still be below the pay level of the superintendent five years ago.

Jack Bedell: That is true.

David Boyd: So, even with, even with his two percent increase he would still be below the pay level of the superintendent five years ago.

Nina Boyd: That's correct.

Linda Lindholm: Um, I will point out. And this doesn't have to do with you, but in terms of when I was looking at the budget that the amount of money that goes into the health care because we are doing a pass through on that, that's a significant increase in itself. That's a significant increase in itself. That could be about six percent, uh, I'd have to ask Renee. So, the increase there as a pass through, aside from the two percent, which I think is a reasonable amount, uh, it amounts to about an eight percent, because of the health care. Not their fault, not anybody's

fault, but the health care's going up. So they're actually getting and they're not having to share that proportion. So, keeping those figures in front of the public and then there's no question. So, I think we carry it till next time.

Ken Williams: Okay. So I'm hearing a consensus that the current Item J-9 that we're going to carry over, do we want to address any monthly stipends for the board? I personally, am going to vote no against, but do we want to take that up next time? Or?

David Boyd: I think we just pull it.

Ken Williams: So you want to move...

David Boyd: I would hate to give up that extra five dollars a month I would get.

Ken Williams: (Laughter)

Linda Lindholm: I think it's ten.

Robert Hammond: It's twenty-five.

Linda Lindholm: Ten.

Ken Williams: Oh, okay. So, if I can have a motion then to move Items J-8 and J-9 to the February agenda? I would entertain such.

Jack Bedell: So, move.

Ken Williams: A second?

Linda Lindholm: Second.

Ken Williams: Okay. I think we beat this horse to death. Any further discussions?

Jack Bedell: In following Trustee Lindholm, I would like to see the comparable figures for board members, county boards of our size and districts of our size. Because I could support personally eliminating our stipend. I personally could support that.

Ken Williams: Okay.

Jack Bedell: So, uh. I think I would like to sit through – our looking at the day that Trustee Lindholm (inaudible) I would like you to look it up.

Ken Williams: Okay, so, um, basically, we're assigning Nina something to do. If you can follow-up and give us that data and uh...

Linda Lindholm: And, but I would disagree with you on removing the stipend. Not that I would need it, but there are people who have, they're leaving their jobs to come here and do this. And so, I'm respectful of that and it's very difficult for some people.

David Boyd: I mean, it, it...

Linda Lindholm: I know, it's five hundred dollars a month so we're not really going really far on this, but it can be pay for your gas at your day off of work.

Ken Williams: Okay, so I think, uh, there's a consensus on this, um, we have a motion to second, I assumed no further discussion. All those in further of tabling Item J-8 say, Aye?

All Board Members: Aye.

Ken Williams: Oppose? Abstain? Item passes 5-0.

Jack Bedell: And we table the new ten, eleven and twelve?

Linda Lindholm: Nine, ten, eleven, twelve?

Ken Williams: So, what I would like to um, move, is that the new J-10, 11 and 12, there's no time certain on these things.

Jack Bedell: So move.

Robert Hammond: So February?

Ken Williams: So move by Jack. And a second by?

Robert Hammond: Well, no, I'm asking is it tabled?

Ken Williams: No, no. Till February.

Robert Hammond: Till February? Okay.

Ken Williams: Right. Okay, so, um, and there's just one thing I may add, um, you know there is some by David at the last meeting and there was some information our packets say regarding the charter school issue that I really, really want to know the answer to. But, I sense they may be going in that direction and choosing a law, a charter law firm on their own. So, I have no problem about withdrawing that entire, um, issue in the future by the way, as far as public discussion. So, we have a motion and a second to remove the current J-10, 11, 12. Any further discussion? Bar none, all those in favor say, Aye?

All Board Members: Aye.

Ken Williams: Oppose? Motion passes, um, 5-0. Okay, closed session items.

Closed Session

Linda Lindholm: Closed session?

Ken Williams: No. No, I'm asking Nina. I'm looking, okay, Informational Items?

Linda Lindholm: AI?

Ken Williams: AI?

Al Mijares: Very good, thank you. Great to be with you again, members of the board, just a couple of quick things, I attended the Sunburst Graduation, had the pleasure of speaking to those students and once again, I want to commend our staff for the amazing job we do with, uh, with students who really need a hand up and really don't know which way to go. Absent that program, I think they would be lost. Um, let you know too, that the speaker, I'm going to name an actor, and see if you know who this is. The speaker they had is an actor by the name of Danny Trejo. Do you know who that is? Remember the movie Machete? No? It's, it's you guys do right?

Jack Bedell: I'm much too young. I'm much too young to remember that movie.

Al Mijares: He's the guy that if you saw him on the street you would think he was a criminal. Long hair, got tattoos all over his body. Well, he's an actor, in fact that movie, Robert De Niro starred in that movie. He spoke, and he did a marvelous job, in fact we're going to use him, I think we're going to use him, but you can't take photos with him, um, to help some of our kids, particularly our latino students who need...

Linda Lindholm: Oh, good.

Al Mijares: And, and the thing about it is, he's really not an academic but nonetheless he's had a transformational life. And that's an important message. Also, I want to thank, um, David Boyd for attending the staff HOCO Holiday Luncheon, thank you sir, it was great to have you there with our people. And I want to thank our staff for doing a fantastic job. Also, I want to let you know that we went to the uh, I attended a long with Trustee Bedell the California School Boards Association Conference, uh, fantastic motivational speakers, Freeman Robowski, Sal Khan and Amanda Ripley who wrote the book Smartest Kids in the World. I think we learned a lot from them. We're looking at the possibility of having possibly Sal Kahn come here, in terms of the (inaudible) Academy. Now, I want to let you know too, that I also had a chance to meet with Susan Moss of Charters OC and Miles Durfee, the Managing Regional Director. You heard from Miles earlier and the, uh, the time we spent together that was extremely valuable in terms of understanding how we can collaborate and work on behalf of our students. Um, lastly, I did meet with, uh, Dorethea Okwin, she is the new Provost for Academic Affairs at Vanguard University and we're too working with relation with Vanguard in a lot of different ways in terms of fortifying the instructional, um, program. Um, one last thing, I must say this, yesterday, and I

want to thank Dr. Hittenberger and Olmstead for the student technology showcase rehearsal. This is in preparation for the cue, which is computers using educators conference on January 31. But we saw kids in this room here, uh, that would blow your mind. A five year old, on a one of these an iPad, they're learning how to do webpages. Eight year olds who were doing webpages. I think of the money that I had to spend for my webpage. I want to hire one of those guys. But, the point is that our kids are doing miraculous things in my mind. In the classroom, and I want to commend their staff. Christine, thank you for doing that and hopefully we'll fair well on the 31st of this month. That's all I have under my reports, Mr. President.

Ken Williams: Thank you, sir. Nina anything from your other staff?

Nina Boyd: No. We have no reports at this time.

Ken Williams: Okay. Very, very good. Uh, being that there are no, reports from staff, executive committee, again, the substance that we talked about was already iterated in great detail here during this meeting.

L-4

Ken Williams: Um, moving on to L-4, Roundtable. Um, Hammond, Bedell, on the Common Core Hearing Reports? Uh...

Jack Bedell: We have received about twelve of the persons reports...

Ken Williams: Of the sixteen?

Jack Bedell: The other four we'll get writing.

Ken Williams: Awesome. So it's still in the works. Yeah. Wonderful

Jack Bedell: Thank staff for following up on that.

Ken Williams: Ok. Good. Linda? You have something under Roundtable.

Linda Lindholm: Yes. Uh, for the district bond borrowing, I spoke with Wendy. Do I see, Wendy? Yeah. Thank you. Uh, and, my concern has always been when we have the districts who want to do a bond and they don't quite understand that if you borrow a bond at a certain rate, a hundred – well I'm going to give it one million, uh that the pay back could four million. And so, I asked how she would like to present that to the districts to be helpful and what she told me, and I clearly believe is that it would be really helpful to them to have something on the web that would give guidelines, points, some procedures and some ideas. So, I think she with the board's consensus is going to be kind of enough to produce something that she believes that will be useful to the districts, uh, so they can look at this when they go out to do a bond borrowing they don't get in to that trap of oh, here's a hundred thousand for this, but oh, yeah, by the way the payback is this, so I'm very grateful for that and I believe she is working on that, I don't

know if she wants to say anything but, ok. So, hopefully that will be coming up in the future and be useful to the people and I think that's a good thing.

Ken Williams: Very good. Um, moving on to the next item on our agenda and that's the roundtable charter school progress report a new board policy, I think that's uh, David, unless you both are working on that?

Linda Lindholm: Go David.

David Boyd: Okay. Thank you. Um, you all have in your packets, a discussion draft of what I propose a new policy might look like. First thing you're going to notice it's far more comprehensive than any of our other board policies. Um, the thought being that from a transparency standpoint, the more information we could put out toward petitioners, potential petitioners as to what the policy is, um the better. It was put together after, well after one meeting with the staff, and one meeting with the California Charter School Association. Uh, we did have a meeting yesterday with staff uh, to go over this and they had some good comments and they're going to give us some recommended changes shortly. Uh, we want your comments. I'm not sure how we do that and stay in compliance with the Brown Act. Ron, could you give us any you know, because we have a two person committee if...

Ron Wenkart: The best way to handle that would be is board members have some suggestions that they submit those to Nina.

David Boyd: Ok.

Ron Wenkart: Staff will look at all those comments and then when we meet with the committee again, we'll go over those uh, comments and come up with a second draft.

David Boyd: Ok. Alright, I don't know if anybody has had a chance to go through this. If you have any comments you want to make now, or we going in the general direction you're hoping that uh...

Ken Williams: Yeah. I'll give, give you some thoughts. Great job. Thank you for doing this. I sincerely appreciate the fact that you're taking this up, you and Linda. Um, real, real brief, um, maybe a little too detailed for a board policy. Um, I think it's good that you're writing for maybe like a staff policy. But for a board policy, I think a summary would be easier. Maybe you can reference a board policy? Um, or a staff policy just to make it more easy to read.

David Boyd: If I can comment on that?

Ken Williams: Sure.

David Boyd: Um, if we make it a board policy, then it can only be changed by the board. If we make it a staff policy, it could be changed by the staff and it may or may not come to our attention.

Ken Williams: Uh, that's a good point. That's a very good point. You know, I think the idea is we want to work with staff.

David Boyd: Oh, absolutely.

Ken Williams: And work with our good superintendent, I mean this is, this is, one of those items that this is not just us, because the staff, they are the specialists, they know it more than us, about all the details and keeping up with the laws. Um, I don't know how they answered that then, um, we'll, we'll discuss it.

David Boyd: We'll kick it around.

Ken Williams: Yeah. One of, one of the issues, I, I, heard from the last meeting for the first time, uh, as you know, I put an item in to kind of get an answer to this, can we modify a charter appeal? Just like we have with the Vista hear. You know, I want to know can we modify that, so we can change any of the shortcomings by having some sort of memorandum of understanding and so that, that was really important to me. And I know, that you, I just heard, um, that you're working with an attorney. Can that attorney answer that question for us?

David Boyd: Well, um, we're actually, working with, I shouldn't say working with, maybe, we've met with an attorney from the California Charter School Association. She gave us input on this.

Ken Williams: Okay.

David Boyd: Um. Whether or not – this is me speaking not, whether or not we would need an outside opinion or not, would depend upon where we are after discussions with the superintendent and where we are with, uh – if we're all on the same page, whatever the document ends up to be, that yes, this applies and I personally don't feel there's a need for outside counsel.

Ken Williams: Right. Then, but, but, my concern only because this has been going on for many years, we have our wonderful in-house who has an opinion, and I happen to disagree with him, respectfully, and there's a lot of other attorneys who've had differing opinions. Um, and it's, and it's very important, we're going to have a charter appeal before us next month, and I'm going to have questions and I'm going to want to know can I change it and modify it so we can adopt it and pass it and get a charter school get going here?

David Boyd: Well, the practical problem as far as the next meeting goes, and we have take action next meeting.

Ken Williams: Right.

David Boyd: Is that correct?

Ron Wenkart: Yeah.

David Boyd: I mean we can't...

Ron Wenkart: Right.

Ken Williams: We can't delay it right?

Ron Wenkart: Well, let me just quickly comment that if the board adopts a policy we will work with you to help you implement that policy. And if it differs a little bit from our legal opinion. So be it. We'll work with you.

Linda Lindholm: Fantastic. Can I comment?

Ron Wenkart: You know, I mean, you asked us for an opinion, we gave our opinion. You want to go in a slightly different direction. That, that's fine, we'll help you do that.

David Boyd: Can I ask you a question, while you're up there?

Ron Wenkart: Sure.

David Boyd: Um, with respect, to the um, public hearing that we had today I would have loved to have had the opportunity to ask some questions during that hearing? Is that permissible under the code?

Ron Wenkart: Yeah. The code doesn't directly address that, so we were thinking that we would, in the past, what we've done is, um, we've taken the questions and had staff ask the questions, get the answers and then present them back to the board. But if you want to modify the practice and allow for questions, we can do that.

David Boyd: I guess in the past what happened our questions came at the time we have to make a decision 30 minutes later. That just doesn't give us.

Ken Williams: Exactly. Yeah, I agree David.

Ron Wenkart: So, if you want to add that to the policy we could...

David Boyd: With that in mind, um, we will work on redrafting some of this language then that we have in this draft to indicate that the board...

Ron Wenkart: Okay.

Linda Lindholm: Yeah. Okay.

Ken Williams: So then do I have consensus then that we can have modification of the language in the form of an MOU.

Linda Lindholm: Can I comment on it? Um, because it was my pleasure to work with um, Trustee Boyd on this, on this item, and thanks for your concern for my health, and also Trustee Boyd over this time period. Um, this is for your review, uh, I would particularly, we've already heard uh, that we'd like to get fifteen copies. But, I'd like you to focus too, on, um, one item, that I don't, I want to make sure we're not too exclusive and that's on Page 2 and that is Item 10, not the signature of pages but what will not be considered. Because this, you as board members have sat through many more appeals than I have, so please make sure that that exclusion is appropriate.

David Boyd: Yeah. Now, let me emphasize too that this is not code. You know, this is something that uh, I think Linda is on board on this...

Linda Lindholm: Yeah.

David Boyd: That we came up with in fairness to the local board we didn't feel that a completely new application should ever be looked at. There should be certain things that should never change. And what we proposed was that the school's mission should not change from the time it goes to the district to us, the target student population should not change and the proposed educational program, which is fairly broad, should not change. Because you start changing those, it really becomes a different school.

Linda Lindholm: But, we were open to, and we were really. And thank you for your comments, that if they have additional or corrected submissions we would like to be able to consider those. That's very critical to the whole and to you President Hammond, Hammond.

Robert Hammond: Wow, I just got promoted. Holy cow.

Linda Lindholm: Williams! Williams! (Laughter) Uh, you got promoted a moment. Uh, that's very critical to us and I think I agree with Trustee, wow, it's getting late guys. Uh, Boyd, that I don't know that we will need a second opinion. As long as you've read through this...

Ron Wenkart: We're comfortable with the draft. We reviewed the draft, both Kelly Barnes and I and we had a few suggestions but we're in general comfortable with the draft.

Linda Lindholm: That's fantastic, and one more thing I wanted to share with you, is we did, um, work to follow the California State Charter Rules. So, this should mirror, mirror, the California Charter School Association Rules.

David Boyd: Not only the Charter School Association, but the California State Board of Education.

Linda Lindholm: Rules. So that was our goal. I just wanted to share that with you.

David Boyd: (Inaudible)

Linda Lindholm: We didn't come up from thin air. We wanted to mirror as a state requirement. So, we're pretty excited about this and we hope that you take time to read it and get comments in and members who have charter schools also.

Ken Williams: And just a couple thoughts, uh, a question, you had a committee of two that was going to meet with the petitioners. Uh, is that in here?

David Boyd: Um, we could. That's board discussion. I mean, again, all of this is a simply discussion draft.

Linda Lindholm: Draft.

Ken Williams: The thought on that is that the two ad hoc committee members then would have additional information that would not be privy to the remainder of the board. That might be – and I would run that by Ron, if that's a legal issue.

David Boyd: I don't know if it's legal or whether we want to do it to ask that question. But, our thought was that you know, we could get, by we, I don't know who is going to be on the committee because it wouldn't be Linda and I all the time, it would be different committee members as different petitions came in. But, the committee could basically get the answers to the relevant questions and share it with the board before we vote.

Linda Lindholm: And any documents that come to a committee are a matter of public record and they are shared automatically with the remaining board members as they come in. They're not held. I don't like to have documents held.

David Boyd: That might need support Ken.

Ken Williams: Okay.

David Boyd: I mean give us your comments.

Ken Williams: You're doing an awesome job. Thank you. Any other roundtable item discussions? Yes. Go ahead, Jack.

Jack Bedell: I'm sorry, I'm probably misreading our agenda. I apologize I was doing – in the communications, do we drop down from those communications?

Ken Williams: Uh, yeah.

Jack Bedell: L-2 we skipped over them.

Ken Williams: Yeah, so went L-2 Communications, I went to Nina and then...

Linda Lindholm: There was none. Do you want to communicate?

Jack Bedell: Yeah, that's why.

Linda Lindholm: He would like to communicate.

Jack Bedell: That's where I was going to talk about...

Linda Lindholm: Okay.

Jack Bedell: The CSBA update on the L-2.

Ken Williams: Oh, okay.

David Boyd: Okay.

Nina Boyd: But before you get there, just going back to the conversation on the draft policy on the charter, we need to have your, any comments, questions, input, for the committee that you're going to be submitting to me by next Wednesday. And the reason for that is the intent is that the committee wanted to have an action item next month um, so if there's going to be or if you have an interest for there to be more conversation around it. Then we need to at least get that back to the committee. So that, because they're taking input from staff, they want input from the board, and they want to finalize their document before the board submittal deadline.

David Boyd: But we'll bring it back only if we think it's ready to be brought back to action. So, if there's still unknowns, um, there's nothing magic about the next meeting, I mean we can't really implement these policies in connection with the Vista Charter application. Do we have any other charter appeals that we're aware of in the pipeline?

Nina Boyd: Not that we're aware of. Um, so, there's things out there hovering, but there hasn't been anything that has been brought to...

David Boyd: So, it probably doesn't matter whether we adopt these in February or March.

Linda Lindholm: The sooner the better.

David Boyd: The better, yeah.

Nina Boyd: And I'm just relaying that based on the staff meeting that I had with David and Linda that was the timeline that was identified to help them, for at least for them to know that there were still concerns or things out there so they didn't start moving forward finalizing if in fact one of you still had an interest to put input.

Ken Williams: Just real quick, on the transcripts and the audio, I think as we earlier talked about we're going forward with that, there's some issues that the staff informed me that they're learning about but, I think the progress we're going in the right direction, it should be fully implemented soon um.

Nina Boyd: And as by, I'm not sure if it was last night or early this morning, the audio, and the transcript for November are on the website. And so, we'll hopefully have the transcription from December completed. But the challenges, are as you know trying to transcribe depending on right now, we're starting to have record meetings in terms of three to five hours, which means there's a lot more to transcribe and so the due diligence in trying to make sure those documents are accurate and we're trying to cross-reference those back to the audio and having multiple people check them and do a check and balance. Then, it is a lot more time taken to do that. Now, in a conversation that I had with uh, Board Member Boyd in a meeting yesterday, he indicated that he was going to forward to us some information with regards to a company they use, um, (inaudible), it is external and that maybe we want to take a look at that and do some pricing and see maybe if we could it so that we could speed up the process and we also have some internal because of contractual issues, and bargaining, we want to make sure that we don't step outside of our bargaining agreements as well. We'll keep you informed, but, because the next meeting is in a shorter time frame, I'm not sure that we'll have December up by the February 5th date but they will be up in the first part of February.

Ken Williams: And just a real quick reminder, because the meeting is three weeks from tomorrow, one week from tomorrow is the drop dead date before anything on the agenda. You got one week to do it. That's for my dear, Penny.

Penny Dunseth: Thank you.

Ken Williams: Okay. You're going to talk?

Jack Bedell: Yeah. Just a couple things very briefly, I want to tell Al, I appreciate being at the CSBA with you and the rest of the staff and to have that kind of representation. Uh, we received our new President, Jesus Halgeen, who is from Moreno Valley and our new Vice President is Chris Unger. What's interesting about those two is that Chris who is President elect is out of the county office in San Luis Obispo I believe, and uh, Jesus has experience from the San Bernardino County. So, this is the first time, in my memory that we have the two leading offices of our organization so closely related to county offices. So, I think that should help in terms of always keeping, you know when they offer a program, is there something there for the county. I attended several sessions on the Common Core, and that's why I appreciate you people staying here. Uh, Common Core was showcased by districts at the California School Boards Association. It was show cased, I think there is no other verb to talk about. Um, there was a litany of success stories about how Common Core is being implemented, um, consistently they are reporting as we have report – heard any problems with Math implementation, very little to no to no problems with implementation of the English piece but a philosophical problem with narrowing of the English piece. Okay, so the implementation piece is different, uh, there was no energy to talk about overturning. There was not one discussion that I attended that broke the subject. I went up to speakers afterwards and I asked what are your positions on over ruling etc. There was no district that I spoke to referenced that that was where they were going. And uh,

people would say, but what about Indiana? And people would say, and one person actually said, who in the hell wants to be Indiana? California is better than Indiana. So, I'm just broaching to this, so that you have, the people in the audience have a sense of the state association and the talks and the conversations and what's being presented. Um, one of the biggest things is, and I appreciate the comments about New York, because New York, my home state like to think it does everything better than everybody and even when they do something bad they'll tell you they're doing it better than anybody. New York is offered up as the test case of how not to do Common Core. New York did it, do a 180 degrees from it. So, that's an interesting conversation. Uh, but everybody is in agreement that I heard, they're talking about testing. You think there's controversy about Common Core now, you wait til' testing hits and it'll be significantly more politicized than any conversation that we've had so far about Common Core. And that's right, I'm glad we agreed to join that (inaudible). So, I just want to tell our friends you've been so good about coming, just – you have a sense of the Common Core and what we hear as school board members. I wanted to share that with you as friends and colleagues.

David Boyd: What's the concern on testing related to the cost?

Jack Bedell: Well, no, the testing is – Well, Secretary Duncan several months ago said, these mothers are realizing that they're children are not so brilliant after all. And then it blew up in his face. But, the bottom line is that the kids are going to bomb the test.

David Boyd: Wouldn't he calibrate the test though?

Jack Bedell: Well, that's, you would think that. There doesn't seem to be much. There seems to be some question of not liking, or trusting the testing process and they're fully predicting bad test scores. And that's going to be an issue all school boards are going to have to deal with as they continue to move forward. But as we said earlier, and as Trustee Hammond said about Long Beach, the districts are doing it and uh, so there we are. I just want to thank you Mr. Chairman for your patience. I just wanted to report (inaudible).

Linda Lindholm: I'm very glad you reported.

Ken Williams: Okay. Anything else as a board? Okay, being that they're not having a motion to get out adjourn.

Jack Bedell: No.

David Boyd: No.

Linda Lindholm: Okay.

Robert Hammond: Two things: roundtable. Um, Common Core Hearing Committee, have we received the sixteen write-ups yet?

Ken Williams: I thought we have twelve?

Penny Dunseth: I gave them to you and to Jack.

Robert Hammond: You gave them to me?

Penny Dunseth: Yes, I did.

Robert Hammond: Alright, I'll look for that. Alright, so, Jack, I'll reach out to you, maybe this week so we can.

Jack Bedell: When we get the rest –we can sit down.

Robert Hammond: Please.

Jack Bedell: I don't think it will be more than 200 pages by the time we are done.

Robert Hammond: Conservatively. Um, last thing is invocations date on the website says that, um, you wanted people to respond by the second of this month. Yesterday, you told me that there was only one other person in the pipeline to do an invocation.

Jack Bedell: I'll get you some more.

Ken Williams: (Laughter)

Robert Hammond: Okay. Okay, I mean Jack should do it. But can we change that on the website? Or, are we allowed to change that on the website?

Penny Dunseth: Sure, I can just change it. That was trying to get started for the first of the year.

Robert Hammond: Alright. Ok.

Penny Dunseth: We can change it until it's ongoing.

Ken Williams: Did you find him?

Nina Boyd: The board policy said it would be done during the month of December but based on the fact there has been not a lot of response, we can leave the information up there and take the date off and then we could move forward, um, we've also as we dialogued reached out to the interfaith community to send them the information who we have a lot of partners that work with the education in the interfaith community so we've just used that service.

Robert Hammond: Thank you, that's all I have. Motion to adjourn.

Ken Williams: Motion to adjourn.

All Board Members: Adjourn.

RDW:tnm/las