

ESUHSD CITIZENS' BOND OVERSIGHT COMMITTEE
Measure G
"Meeting Minutes of May 6, 2009"

- Call to order by: John Moore (CBOC Chair)
- Time called to order 6:15 PM
- The following were in attendance:

7 Visitors

Patricia Martinez-Roach (Board Member)
Julio Hernandez (SGI)
Mariana Solomon (SGI)
Joseph Cavanagh (SGI)
Frank Biehl (Board Member)
Vernesha Thomas (SGI)
Dan Moser (Board Member)

9 CBOC Members

John Moore (Chairman)
David Hernandez
John Sellarole
Sara Przemielewski
Rowena Smith
Bill Becker
Ruben Dominguez
Jon Reinke
Rosa Solorzano

4 District Members

Alan Garofalo
Jerry Kurr
June Rono
Bob Nuñez

- Meeting adjourned by: John Moore (CBOC Chair)
- Time of adjournment: 7:36 PM

Public Comments

- There were no public comments made.

Review and Approve Meeting Minutes of February 4, 2009

- Members of the CBOC read the minutes from the February 4, 2009 meeting. The minutes were approved.

Old Business Overview

- No old business overview

Old Business

- The CBOC chair explained going forward the meeting will run as a single committee (combining both Measure G and Measure E committees). In an effort to make the best use of time.

- Lance Jackson of SGI speaking on performance audits commented that there is a total of three performance audits Prop. 39 require. (1) Fiscal audit and (2) performance audits.
- John Moore commented that the committee debated and said that this additional performance audit should have been done at the district's expense because it went over and above the legal requirements that of audits that needed to be performed, and should therefore be an expense of the operating funds. Right, wrong or indifferent that was what the committee voted for.
 - "What was told to the committee is that the expense will be taken out of the bond anyway. We are an advisory body, but that is a precedent that I personally object to."
 - "For the record I object to that, I don't think that's it's the proper way. I acknowledge that the 1st cabinet and ultimately the board has the ability and the right to disregard the recommendation made by the committee, but it should be done in a way that is more public." "It should be something that we can look to that says "hey we've (Board) taken your advise under council and we disagree."
 - "Not suggesting or proposing that this committee do the Board's work, but if our advice is to have any weight we can't be simply ignored."
- It was commented that there are two opinions on performance audits.
 - People who wrote the law said a performance audit should be agreed on standard, "was this money spent within accordance of the bond?" That's the basic way the law was written.
 - However the word "Performance Audit" according to the US Government is a whole different thing, where they come in and look at the operation. So we always had the cheap audit (\$3,000), but the district wanted to have the full performance audit which included going through the entire operation (i.e. "Were the people doing what they were suppose to do?").
- How Measure G Money was Spent
 - John Moore complimented SGI and District staff, despite critiques of the issues over salaries. The representation of how bond money was spent on project was the best seen in 8 years. Job well done to all. The report is clear and concise.
- Question was asked where were the Change Orders reflected shown in the report.

- Lance responded that the only way it would be reflected if it affected the bottom line increase.
 - (i.e. Pg 23 of the report, Yerba Buena tab, “Major Projects”, Bldg 900 Voc. Ed.)
- If there is a budget of \$5 million dollars and it cost a little over \$2 million dollars including the A/E fees, the \$3 million savings will go back to into the Measure G building fund.
- It was questioned if those funds were allocated specifically somewhere?
 - Mariana Solomon responded that the transaction will not show up on the report until the district gets whatever final documents they need from the state where they actually have half the money in hand, and it recorded into their QSS system. Once that is complete, then SGI will reflect it on the report.
 - The difference/savings, once transferred can be used for another project.
- Per Lance Jackson, the funds cannot be disencumbered until we know we have the savings.
- It was suggested for SGI, to include a list of how much was saved on the projects to be incorporated into the data report.
- Question was raised “Got the bid and saved \$2 million, so now that goes back to the bond fund and you can’t use it until that school is completed? Or when can you use that for something else? Where did the savings on the bidding go?
 - John Moore: The money was never spent, that money remains in the bond program in the overall fund, and the only money that was spent was the money that was billed for, which is reflected in the report.
- Lance Jackson to give a small presentation explaining how to read the report.
 - Program Summary Tab:
 - CBOC Summary Report:
 - Column B shows the same fund amount as the budget under each school tab.
 - Column’s C-I is an executive overview of the entire bond program each year from 2002 thru November 30, 2008.
 - Individual School Tab (ref. Independence HS):
 - Campus Allocations Page

- \$36 Million is the budget, \$28 Million was spent (Expenditures), \$1.5 Million was committed, and the remaining balance is \$6.4 Million.
- Project Status Page
 - Explain which projects, in a graphical way, are at in various phases
- Bond Program Update Page
 - A drill down into the actual projects from a cash flow point of view
 - Shows expenditures by project.
 - Column (A) shows the amount budgeted per project.
 - The final page of the of this section (Bond Program Update pg 27) titled “Project Total for Independence” shows the same budget total as the “Program Summary” tab for Independence.
 - Column’s (B), (C), (D), serve as clarity when there are additional funds outside of pure bonds (i.e. other funds that come to bare on projects.
 - Other funds include: State Funds, Other Funds, and Developer Funds.
 - Column (H) – Changes in activity since the last CBOC meeting.
 - Shows the funds spent as well as possible credits (-) since time reported.
 - Explains how to track funds that might flow between projects.
 - Example: If funds were taken out of Independence HS, it would show as a credit, and if it was placed for Yerba Buena, Yerba would show that same amount.
 - Is the difference of the Current Expenditure and the Previous CBOC meeting data
 - If there is any activity within that project, Column (H) will show it.
 - Per John Moore, this column is what was specifically what the committee requested SGI to add to this report in the previous meeting.
 - Column (G) subtracted by Column F equals H

- $(G) - F = (H)$
 - Column (G) is expenditures as of a certain date
- John Moore commented, per Mr. Hernandez and Mr. Becker, that it would be nice to see a page (Executive Summary Overview) that would include dollar amounts for ease of use; it would also make good press.
- Bill Becker stated the reason the Committee is here is to trace the dollar flow.
- John Moore stated “In my opinion, there is a learning curve for all of us. As we (committee) become more familiar with the format, the report will make more sense to everyone. This is a good format, compliment to SGI.”
- Per Lance Jackson, in our capacity as your Program Manager we have to manage the risk, i.e. potential change orders etc, and meet the milestone required by the contract. Once beneficial occupancy is filed that triggers the lead time for contractors and subcontractors to submit any final changes.
 - We want to make sure we maximize the output of the bond money. If there is a potential new project to be funded, we look at this report to see what dollar amount is left so that we can move it on to the next project.
- Bill Becker questioned that in other districts he receives a list of vendors and their contract amounts and how much is spent on the contracts, as well as a remaining balance, is that something that is do able for this district?
 - The concentration of the report would show a dollar amount paid to each vendor (i.e. \$=SGI, \$=Blach Construction etc.). So when you add up all the major players we know where we spent the money to who the vendors were, so we would know if we have too much concentration on one vendor, to avoid a possible risk of that vendor going out of business/bankrupt.
- Bill Becker questioned how we look at fixed assets when a contract is closed, because there was a problem with SGI before with going to fixed assets.
 - Lance Jackson replied that is not SGI's roll.
 - Alan Garofalo replied that it is updated annually through the risk management office.
 - John Moore replied that this subject will be on the agenda for the next meeting.
- Measure G Funds Spent on Salaries
- Per Lance Jackson, 9.2 FTE is what is being charged against the bond. \$298 Million is the Measure G Bond value. Total current program value is \$314 Million

accumulative effect of FTE in reporting period from the last time reported to this time. There in Column A of the FTE salary report shows the changes from December 31st 2008, \$3,728,302 is the net cost for the 9.5 FTEs.

- Mariana Solomon commented that “Capitol Funds Transferred to Measure G” include OPSC Funds coming in and State Funds. “Other Funds Transferred to Measure G” would reflect City Grants.
- John Moore questioned if the interest earned from the County is shown?
- Mariana Solomon stated the report reflects what the district had in their system as of November 30th 2008. The changes on the report are changes that were received as of the end of the day Thursday February 4th 2009, because we wanted to show you that there’s transfers for those items that were not suppose to be part of the FTE reconciliation.
 - Lance Jackson commented that in the future, when SGI report out on the FTE it’s included in the overall program pie chart, the backup data will be behind that page.
 - Member requested a definition of all the job description.
 - Per Lance Jackson the information is forthcoming.
- Per John Moore, would like to be able to track what the bond is paying SGI, and incorporated in SGI, if the bond is paying anyone else (Bond paying SGI, and if SGI is paying other sub-consultants). Would like to have that information for the next meeting.
- David Hernandez questioned if SGI is hired as a consultant why is it necessary to know who they are paying or sub-consultant.
 - John Moore stated he that has worked with SGI a long time, and with a great deal of confidence. It is his responsibility to say to anyone “I know where that money went.” If that includes payments to SGI for them to send to someplace else, he would like to be able to know that.
- Bill Becker stated that it seems to be an attitude from SGI when we (committee) ask a question, or try to get illumination on something that we’re complaining about what SGI is doing. That is not the case, we’re only asking for whatever it is to be accounted for so we can justify why we’re here.
- Member requested a description of what is included in the “Capitol Funds,’ “Other Funds,” how much is from interest, e-rates, and how much from everything goes into the Bond.

- Member to e-mail SGI a list of all information requested.
- Review of status of insurance reimbursements to Measure G from bond proceeds used to repair/rebuild Foothill HS following fire damage.
- John Moore questioned “What is the status of that reimbursement? Have we received the money from the insurance company? If we did, was it put back into the bond?”
- John Moore commented:
 - Foothill Library was reconstructed using Measure G bond money at a cost higher than the damages.
 - Measure G should be responsible for any cost in excess of the reimbursement, but Measure G should be reimbursed by whatever the insurance settlement is.
- Jerry Kurr responded:
 - Foothill Library burned a year ago.
 - It was agreed to use capitol funds to up front the cost of replacing the library, at the same time filed for loses with the insurance company. The losses’ included the actual building, the impact on the staff, and other items affected by the fire.
 - Taken to the Board in December 2008, as part of addressing the budget problem we had with the state, and items included in the report was the amount of \$880,000 insurance proceeds.
 - The insurance proceeds itself is not restricted for a certain purpose; it is simply reimbursing the client for a loss.
 - The commitment understood was that Measure G was up fronting the funds, but it has not gone back to the Board, and was told the alternative because it’s not on any of bond project to replace the Foothill Library.
 - Did not see the dollars spent out of the Foothill funds.
 - Will be using other capitol funds to reimburse Measure G for that cost.
 - Received \$880,000 reimbursement from the insurance company those funds were not returned to the bond.
- Bill Becker commented, “My opinion would be that that’s Measure G funds that is being used for operating funds and that is in violation.

- Jerry Kurr responded: “We know we had the commitment to the intent of Measure G, but the Board has the option of replacing those funds with other capitol funds the district has. We do not have just General Fund Money.”
- Frank Biehl commented that from a Board Member perspective it would be said “Do we use Measure G funds to pay for the insurance?”
 - It would seem that the proceeds from the insurance policy should go back to the fund that was used to pay for the insurance policy.
 - If Measure G funds were not used to pay for the policy, then it would be reasonable thing for the Board to consider using the proceeds from the insurance money back to the General Fund.
- Jon Reinke stated that the intent of the Insurance is to make the District whole again after a loss, to restore what was destroyed.
- Per Alan Garofalo, the district has received the \$880,000 reimbursement for the loss. It is not the total amount, approximately an additional \$750,000 is coming to the district for the loss, and that should bring the project to close. There was a difference because the Library was upgraded in the process and brought up to current standards. Approximately \$400,000 in upgrades.
- John Moore stated there were other losses the district incurred in addition to the Library. Those costs should be paid out of the insurance proceeds.
- John Moore stated that at some point funds that would have been spent elsewhere was spent on a project that was not part of the bond. Therefore the bond should be reimbursed to the maximum extent.
- John Moore stated that lines have been crossed. Lines were crossed with salaries, lines were crossed with “well we really are in desperate circumstance” thoughts and actions, and lines were really crossed many years ago with the Quimby Funds. We need to stop crossing the lines.
- Bud LoMonaco questioned if there was an exact figure the insurance came up with in the replacement dollars? Is the insurance company policy written for accurate or current replacement?
 - Alan Garofalo to return with a response later.
- Sara Przemielewski questioned if the district has an intent on returning the funds that was not expected to be spent to Measure G bond?

- Jerry Kurr stated the District have other alternative that can be given to the Board for replacement of the fund, the General fund does not necessarily have to be hit.
- Bill Becker question if the District continues to borrow from the Measure G bond because it is bad time/economy, how and when would the district be able to pay back those funds.
 - Alan Garofalo commented that we do expect the economy to change eventually.
 - John Moore stated things are going to get a lot worse before they get better.
- Measure G meeting was adjourned and Measure E meeting called to order. Per John Moore, it is not necessary to review meeting minutes for the second time.

New Business

- **John Moore** stated there will no longer be Measure G or Measure E committee but simply the Eastside Union High School District Citizens Bond Oversight Committee.
- **John Moore** introduced the New Board of Trustee Patricia Martinez-Roach.
 - Any Board Member is welcome at the CBOC meetings.
- Per **John Moore** once discussion begins on any give issue, any committee member that has a desire will have an opportunity to speak before any member of the public.
 - Keep comments relevant to what you believe in and keep them as short as possible.
- **Patricia Martinez-Roach** introduced herself
 - Long time resident of East Side, a kindergarten teacher at Franklin McKinley for 35 years and served on the Board of Trustees since 2004
 - As Board President very interested in everything and staying on top of everything, including learning more about what CBOC does.
 - Thank the CBOC on behalf of the Board for the hard work and everything they've done.
- All attendees introduced themselves and stated their position.
- **John Moore** stated after submitting the agenda to everyone for comments, additions, and deletion he received a letter from a member of the district cabinet. *(See next page for letter)*



East Side Union High School District

830 North Capitol Avenue • San José, California 95133-1316 • 408-347-5000

Academic, personal and social success for each and every student.

April 28, 2009

John Moore
535 Suisse Drive
San Jose, CA 95123

Hello John,

I have reviewed the May 6 agenda for the CBOC and wanted to share my comments and observations with you regarding a couple of agenda items. As you know, the purpose of the CBOC is to inform the public concerning the expenditure of bond revenues and to review and report on the proper expenditure of bond funds for school construction. I am concerned that two of the agenda items are beyond the purview of the CBOC and may well be extending into areas of the Board's decision-making power.

Agenda Item IV.A. Insurance reimbursements are made to the District and are not necessarily for the direct benefit or reimbursement of Measure G. Since the Foothill library was a proper Measure G project and expenditure, the decision as to how the insurance proceeds are expended or where they are deposited is ultimately a Board decision.

Agenda Item VI.B. Bond auditors are selected by the Board of Trustees, and not the CBOC. The CBOC has no funding mechanism and thus no funding means to pay for any auditor.

Please give me a call so that we can discuss these issues.

Thank you,

BOARD OF TRUSTEES: Frank Biehl, Eddie Garcia, J. Manuel Herrera, Patricia Martinez-Roach, Lan Nguyen
It is the policy of the East Side Union High School District not to discriminate on the basis of sex, age, religion, race or national origin, sexual orientation, or handicapping condition in its educational programs and activities or in the recruitment and employment of personnel.

- **John Moore** stated “That prompted me because I owe you as a committee and the voters that we represent definitive research that goes beyond an opinion.”
 - Researched the California Ed Code article 13A that deals with the issuance of bonds and the responsibilities of the CBOC.
 - Researched the 2003-2004 Santa Clara County Civil Grand Jury Inquiry into the East Side Union High School District Audits for it Measure G Bond. John Moore stated “Included strictly because it establishes a precedent by which the citizens’ bond oversight committee may and should and did object to expenditures that were uninvertedly misplaced and got them reimbursed back to the bond.”
 - Grand Jury Inquiry from the Background and Discussion section read:
 - *(A) A requirement that the proceeds from the sale of bonds be used for the purposes specified in Article XIII A, Section 1 (b)(3), and not for any other purpose, including teacher and [school] administrator salaries and other school operating expenses.*
 - **John Moore** stated, “This committee has already dealt with and I am not revisiting, nor will I the issue of salaries. It is the other operating expenses that this applies too”
 - *(B) A list of the specific school district board, community college board, or county office of education has evaluated safety, class size reduction, and information technology needs in developing that list.*
 - **John Moore** stated “For the record, our board did in fact do that and we have printed proof, however the operative thing here is a list of specific projects to be funded. That is very relevant to our discussion”
 - **John Moore** stated “The point of this is not to criticize anything that happened that is resolved. This is to establish the precedent that the CBOC does in fact review, comment and urge the reconstitution of improperly spent funds.”
 - (ex. There were 84 passenger low emission school buses, other things, other expenditures that were in the neighborhood of \$300,000 that the district upon review; upon the criticism of the CBOC and upon review put back into the Measure G Bond.)

- Researched education codes: 15284, 15288, 17565-17592.5
 - **John Moore** stated “That deals with the issuance and purchase of insurance by a school board, and the right, responsibilities that the board has in the way that they pay for the insurance and by extension.” It deals with the state law and how insurance is purchased and how the proceeds are used.
 - Portion(s) of Education Code 17566 read:
 - (a) *The governing board of any school district, by resolution, may establish a fund or funds for losses.*
 - *In the fund or funds shall be placed those sums, to be provided in the budget of the school district, that will create an amount that, together with investments made from the funds, will be sufficient in the judgment of the governing board to protect the school district from those losses or to provide for payments on the deductible amount under deductible types of insurance policies, losses or payments arising from self-insurance programs, or losses or payments due to noninsured perils.*
 - *The funds or funds shall be considered as separate and apart from all other funds of the school district, and the balance therein shall not be considered to be part of the working cash of the school district in compiling annual budgets.*
 - **John Moore** stated “This is the Ed Code as it applies to insurance. The Board of Trustees is tasked by the Ed Code to provide insurance, and they are allowed to set aside funds for the payment of that, and to set aside, they can even have a deductible account”
 - “What that says is that insurance premiums set aside in a fund and we don’t count it in the operating budget, and that means that when we get insurance settlements they are not part of the operating budget.”
 - “What is an issue here money went out; that’s fine. We all agreed to that. It was in the best interest of the district. No one here I believe objects to that. What is an issue is getting the money back.”
 - “The cost of rebuilding the library to current code exceeds the cost, or exceeds the proceeds from the insurance settlement. That means that we need Measure G funds to make up that difference. “

- Per the documents from SGI, that could be in the neighborhood of 2 to 4 hundred thousand dollars. Pretty broad range but it's still a work in progress. I don't have a problem with it. I just want the legal insurance settlement to come back to the bond.
- Portion of Education Code 15284 read:
 - *(a) An action to obtain an order restraining and preventing any expenditure of funds received by a school district or community college district through the sale of bonds authorized by this chapter pursuant to paragraph (3) of subdivision (b) of Section 1 of Article XITIA of the California Constitution and subdivision (b) of Section 18 of Article XVI of the California Constitution may be maintained against any officer, agent, or other person acting on behalf of, that school district or community college district, or who has paid an ad valorem tax on real property within the school or community college district within one year before the commencement of the action if it appears by the complaint or affidavits that any of the following conditions are present.*
 - Per **John Moore**, "In other words we can call action against any board member, district officer as to the appropriate legal authorities. The appropriate legal authorities in this case would be Dolores at the district attorneys' office, it might be the county board of education, it might be the grand jury. Again, I am only reporting to you as complete as I can the results of the research that I did."
- Researched Measure G Bond language specifically as it deals to what we want to do with Measure G for Foothill.
- Researched education code 15278
 - Education Code 15278 read:
 - *(a) If a bond measure authorized pursuant to paragraph (3) of subdivision (b) of Section 1 of Article XVIIA of the California Constitution and subdivision (b) of Section 18 of Article XVI of the California Constitution is approved, the governing board of the school district or community college shall establish and appoint members to an independent citizens' oversight committee, pursuant to Section 15282, within 60 days of the*

date that the governing board enters the election results on its minutes pursuant to Section 15274.

- *(b) The purpose of the citizens' oversight committee shall be to inform the public concerning the expenditure of bond revenues. The citizens' oversight committee shall actively review and report on the proper expenditure of taxpayers' money for school construction.*
 - **John Moore** stated:
 - For the record, nothing that I say implies or should be interpreted that anything that this committee does is either intended or accidentally to disserve the rights or privileges of the board.
 - “The board of Trustees working through their executive cabinet is the only body that can make decisions on how money is spent. Our role is to where it comes to the bond proceeds is to review those expenditures and comment if there is an error. Again, I emphasize error not mismanagement.”
 - “We act as a servant to the board of trustees but our accountability is to the voting public and that is who we report too.”
 - “The oversight committee shall advise the public. The citizens' bond oversight committee shall convene to provide oversight for, but not limited to, the following.”
 - “That is a general clause that gives us a fair amount of latitude in evaluating, reviewing, and commenting, on bond expenditures for the development of facilities within this district. By that we are not, and this is not an issue today, but by that we are not restricted only to Measure G or Measure E Bond Funds. But for funds and other categories of funds that impact spending of the bond.”
- **John Moore** presented a list of approved projects that was given to the voter, for the use of bond dollars at Foothill High School. Created the list independently after receiving the letter from the district.
 - “I did this research so that you and I could discuss facts rather than opinion, so that we could arrive at a rational conclusion as to what we should do.”
 - “1.7 to 1.8 million dollars was fronted by Measure G Bond to rebuild the Foothill High School Library on the assumption that when we received the

insurance settlement; that those proceeds would come back into the bond; to be used for recognized bond projects. That is currently in contention.”

- “The point is the library is not mentioned in any consideration. The letter suggested that the library was a recognized Measure G project. In fact it is not. It was not, it still isn’t.”
 - “Does that mean that Measure G Bond, that pool of money should not be used to help out temporarily the district when there is a need? In my opinion, absolutely. What is at issue here is getting the money back where it belongs, so that we can in fact use that money to complete the projects that we approached the voters on when we passed Measure G in 2002.”
 - That is relevant because it answers the argument that the library was part of Measure G and therefore it should have been funded by Measure G. It cannot.
- **John Moore** stated:
 - What this is about is that moneys, Foothill library burned down. Foothill needed a library. Measure G was in a position to advance the funds pending refund. And we did that, and this committee approved that, or accepted that, or conquered. Choose one. When I say approved I do not, once again do not intend to impinge on the rights of the Board of Trustees who are in fact the only ones that can approve or disapprove the expenditure of funds.
 - If this committee votes by majority vote that the position that I have just stated is the correct one. Then we will submit that through the district cabinet to the Board of Trustees.
 - The Board of Trustees will then have an opportunity to research, question, and then vote. If the money comes back it stops there. If the money doesn’t come back and this committee has voted by majority vote to carry it forward, we will carry it forward.
 - If the money does not come back and this committee has voted by majority vote to not proceed further, we will not proceed further. This is in fact a committee that is made of a lot more special people than the chairman.
 - In the minutes, Mr. Kurr in fact acknowledged and advanced the opinion, which I totally concur with, that the district had money or could find money to reimburse the bond. For the record, what I want is that the bond gets paid back whatever the insurance proceeds are. As far as I’m concerned it doesn’t have to come from the insurance proceeds.
 - We advanced 1.8 million dollars that we need to get back from whatever source the district and a specialist like Mr. Kurr believe is the most appropriate source. I agree with this position in wanting, for advancing that.
 - **John Reinke** questioned if it was the intent of John Moore to say that the funds in excess of the insurance settlement need to come from Measure G.
 - **John Moore** commented: “In fact I did say that but it is appropriate to say it would be a better thing if it didn’t come from Measure G. But I recognize

- **John Reinke** questioned if Foothill HS was not on Measure G.
 - **John Moore** commented that Foothill was on the Measure G, but the library was not.
- **John Moore** stated there is a delta or a difference of about two to four hundred thousand dollars between the insurance proceeds and the actual cost of bringing the new library to code
- **Rowena Smith** questioned it is not the responsibility of the CBOC to do recommendations for that delta or that difference, that the difference would not be coming out of Measure G money
 - **John Moore** stated it wasn't the responsibility of the CBOC. "A case can be made for that. As far as I'm concerned a case can be made that Measure G under the safety clause allows the bringing up of a destroyed building to code. That is an opinion. I will bow to the majority of the committee."
- **Bill Becker** commented that a lot of people are getting paid out of the bond and don't think they should.
- **Bill Becker** stated "I think the law is very clear both Prop 39 and the Education Code such states that to ensure that the proceeds that the sales of school facilities bonds be used for specific school facilities, and that is what went to the public and asked to spend money on, and not for teacher administrative salaries and other school operating expenses. So let's say you don't return the money to the bond you now put that in the general operating fund which we would now be spending on administrative expenses, which is in violation of the bond, and Prop 39 and the Education Code. So it's my feeling that you have to put up a firewall and to not spend this money, and I can carry it even further to the extra money because it's an insurance matter and not a bond matter."
- **John Sellarole** stated "When we built the library at Foothill there was some upgrades beyond what was there originally. I think it had something to do with technology, maybe Alan or Mr. Kurr somebody could speak to that, because I think the upgrades probably could come out of Measure G, which might be a few hundred thousand I need to check into it."
- **John Moore** commented that a certain amount of money was advanced against insurance proceeds, those insurance proceeds as of last November were not going to be returned. "Did I in fact build a case that says they should by law?"

- **Ruben Dominguez** commented “I think John’s made a good presentation here and I really appreciate that. I do feel that the bond money was given to the district for the purpose of rebuilding the library, and the associated building next to it. They should be returning that money because of that.”
- **Sara Przemielewski** stated “When you make an agreement to lend the money to cover the cost of the library with the understanding that the money was going to be put back, the money should be put back. It is not right to not spend the money as we state we would on the bond when it went to the voters, I believe that’s important, and I do think that the insurance issue is totally a separate matter that should be dealt with at a different time.”
- **John Moore** commented according to the Ed Codes, insurance premium payments and the receipt of proceeds are separate from the operating budget and are not by law, to be counted in the operating budget.
- **David Hernandez** commented regarding the measure itself and what John Moore presented “What I see as the facts in regards to the guidelines that we have to go by when it comes to funding projects and sharing the responsibly of the district as well as our responsibility as the bond oversight committee. If it is a fact that we did up front the money to rebuild the Foothill library, and the district chose to upgrade the facility, with the knowledge that the money was to go back to the bond, then I think that is something that has to be done.”
- **John Moore** stated that all of Measure G is accounted for, so the 1.7 to 1.8 million dollars worth of projects were not accomplished because there was no money.
- **John Reinke** commented regarding the Measure G bond money spent on Foothill High School, to the extent that Measure G bond money was spent on a project, that was not on the ballot measure, and is not what the district committed to do per the voters, Measure G bond funds need to be restored in terms of maintaining the integrity of the use of the bond money, as far as the voters are concerned.
- **Bob Nuñez** stated “I don’t plan to speak to this issue I think Alan can do that for us. In one of the emails that came, John you reminded the board members about, if there was going to be more than three to be aware of that. What came back to us from our attorney is that, which was news to me, is that as long as there was a legally agendized meeting, that actually all of the board members could come.”
 - John Moore replied “Which is fine, I was trying to keep people that are important to me out of trouble.”
- **Bob Nuñez** stated “That was told to us by our attorney is that as such that when they come to those meetings they can make general comments, but they cannot speak to a specific item, and I know the board members are going want to speak to, and I know that’s new information, both those parts for us.”

- **John Moore** stated that Rogelio, the board’s attorney, is a man of great integrity and insight, but a legal opinion is legal opinion.
- **Patricia Martinez Roach** commented that it’s very clear that the authority of the oversight committee is to oversee expenditures. That is the charge and sole purpose of, to make sure that money is not wasted. All the research done is greatly appreciated. was not here when the action was taken by the board to authorize the expenditure of the bond moneys, on the ESUHSD’s website there’s no charter, there are no bylaws, by this committee, so there is a procedural question for the committee. As governance issue members are entrusted with governance of the entire district including the, this committees’, to oversee.
 - Did the board of trustees authorize on a board agenda the expenditure of the funds to be used?
 - Is there a record, minutes that it was done by the board, it was approved?
 - Everyone is saying that the committee authorized the expenditures but the CBOC have no authority to do that only the board.
- **John Moore** responded: “The committee was approached, would we support this. This committee does not want to by action or accident impinge on the board of trustees; who is the only body that can spend money. However, we were consulted, would we go along with it, pending re-receipt and this committee in the spring of 2008 said, yes we will, pending getting the money back. In the fall 2008, specifically November, when we enquire, pardon me February Meeting, when we enquired as to, and I will come back to you, this is only chronology. But in February of 2009 was the first official notice to this committee, that stated, in the opinion of the cabinet this money does not have to go back to the bond, we’re going to spend it in our operating budget.”
- **Bob Nuñez** requested Alan to speak on the issue.
 - Per **John Moore**: “Actually, the person that authorized this is Jerry, and so I’d like to hear from Jerry, because its Jerry who told us he was giving us the money back, and we all agreed with it. Alan, has not.”
- **Bill Becker** commented “Our first duty is to the tax payers who voted for this bond measure or any other schools, and the reason that is, is because you were able to get a 55% vote approval, in order, because you allow the bond oversight committee to look at the way you spend the money, so again our duty is not how to tell you how to spend it, but it is to inform the public, or the legal authorities or whoever it is, just feel that it’s not done properly”
- **David Hernandez** commented that the questions basically are that moneys were fronted, somewhere along the line a conversation was had or a decision was made to give the money back, and there is a dispute whether it should be given back or not.

- Questioned “Are you Mr. Chair looking for the committee to make a motion or a recommendation to the board that says, you know at this particular point in time we feel that was done was not correct and we would like to see the district move forward in giving the money back to the bond, or are you looking for it to say, you know the committee recognizes what occurred however at this point in time we don’t believe that anything should be happening?”
- **John Moore** responded “It is my request of the committee that we vote on a motion made by a committee member that says, that acknowledges one that moneys were advanced from the bond. Two it is the opinion of this committee that, that money has to be returned to the bond. From my point of view it can stop there. I don’t care where it comes back from as long as all of the moneys that were advanced from the bond, come back to the bond“
 - The motion was second by Bill Becker and Ruben Dominguez.
 - **John Moore** confirmed “The motion is that this committee recommendation, instructs the board that we are aware that moneys were advanced from Measure G for the building of Foothill High School Library, and that those moneys should be returned. We leave to the discretion of the board, and the chief financial officer, and the district cabinet where that money should come from.
- **David Hernandez** questioned what if the committee decides to do nothing, and move on.
 - **John Moore** responded “I am the chair of a committee of independent people. I will react, and respond, and act in accordance with whatever the majority of this committee says.”
- **Alan Garofalo** stated:
 - “I believe the contract for the reconstruction of the Gymnasium went to the board in March of ’07, for approval. That contract was under the title of the CFO, but I prepared it. The funding sources were insurance and Measure G. The reason Measure G was listed at that time was because we knew there was a short fall for code upgrades or building improvement, for the technology centers we put in that particular building, which didn’t exist before. “
 - “You will note under the bond language the ballot language that Mr. Moore had posted, the technology upgrade and to provide for labs at that school is a Measure G project. There are two sizeable computer labs in that building. So, yes, the cost of, were to be split, not evenly, and it depends upon what the insurance paid out, and what the total damage was, but it plays out right about now to 1.7 to 1.8 million dollars. The rest would be picked up under Measure G would be a legitimate expenditure. “
 - “We have not settled the claim; that is still with the business division and with risk management. Once that claim is settled, and we know what the total costs were, the total money out, what was used from the bond, what was used or paid by insurance minus the soft cost, which are, the architect,

the design, the CM services, because insurance companies don't pay for that, those dollars will be extracted and put toward the bond funds, which would be a legitimate expenditure. "

- "A recommendation, once it's all settled, out, will be coming from my office division to the Superintendent to make to the board as to whether or not and what amount of reimbursement would be made. So, as I fully respect, understand everything that is being said this evening it may be just a bit premature to go much further, until we know how much the total settlement is going to be. And what the recommendation to the superintendent will be."
- Per **John Moore**, the settlement is \$850,000 plus yet to be received \$780,000 that the district has yet to apply for, but that's in the insurance documents.
 - **Alan Garofalo** responded stating the figures that Mr. Moore is quoting were the figures that were presented to the district from the insurance company first round. Risk management still has to go to negotiate with the insurance company to get as many dollars as possible. So the actual determination hasn't been made yet.
- **David Hernandez** suggested the committee wait until the exact figures are known to make a decision.
- **Bob Nuñez** "I just wanted to confirm what Alan said. I think that at this point what the district is going to do is wait to make sure we get every dollar we can. At the same time, now hearing the information tonight, we need to go back ourselves and look at which one of those dollars, which one of those additions in fact were going to say are part of the bond, or how much were going to come back and say we're going to pay on our own."
- **Rowena Smith** stated that there is no timeline for the original motion, that there was a commitment to reimburse the bond the amount of money loaned.
- **Jon Reinke** recommended/suggested the committee withdraw the motion and as additional figures become available to raise the issue again in the future if it becomes necessary.
- **John Moore**
 - The issue is the rightful use of bond funds. It is in fact legal in other circumstances to advance facilities bond money to the district for other uses providing it is paid back with interest in a timely fashion
 - Measure G or E are not equity lines of credit that can be drawn on at the discretion of who ever happens to be in authority at the time. There may not be a cabinet, in some future point, as ethical as this one. Honor is important, and doing what's right is important.

- **Bob Nuñez** stated “I just wanted to make sure, John, that the letter you talked about coming from the cabinet is addressing a much more general question than the one that’s now being talked about. That one was more, and correct me if I’m wrong, that one was more about insurance reimbursements as a title as opposed to what I hear again, this is about an agreement where bond dollars were being fronted and that there was some discussion.....that letter does not respond to that question.”
 - **John Sellarole** “I respectfully disagree because it says right in there the Foothill Library...etc. that what generated the letter.”
- **John Moore** to entertain a vote on the motion:
 - “The CBOC refers to the Board of Trustees that monies advanced for the reconstruction of Foothill Library, pending receipt of insurance proceeds, those insurance proceeds should come back to the bond whenever they are received.”
- **Ruben Dominguez** questioned if the expenses for the upgrade of Foothill including the library with be returned to Measure G bond.
 - John Moore requested that discussion be postponed until the August meeting.
- **David Hernandez** questioned if Measure E funds can be used to pay for the Foothill upgrades.
 - John Moore requested that discussion be postponed until the August meeting.
- **John Moore** stated per the SGI data there is a 2 million dollar project that was not completed at Foothill High School because the library was completed.
 - “As long as it comes back to Measure G, it is the Board of Trustees prerogative to spend it and our obligation to certify to the public that it is properly spent.
- **John Moore** stated SGI put together a very comprehensive report to regarding Measure G spending, specific projects, salaries. The data is consistent with everything that has been done in the past.
- **John Moore** commented on the Measure G funds spent on salaries
 - The CBOC requested a more detailed breakdown than what was given, and should have been given. There has been three months to prepare the data, its sixty days in the rears which is a sufficient amount of time.
 - The delta between the number in February and the number in May is approximately \$150K, that’s a run rate of approximately \$50K a month or \$600K a year in salaries that has been drawn from Measure G and ultimately Measure E.
- **Jerry Kurr** stated that the district is reducing staff and using funding sources other than the bond, it is possible that the run rate will go down not up.

- **David Hernandez** commented that the CBOC requested the report be given on a more timely basis.
 - **John Moore** responded that the district has had one or two things to deal with in terms of budgetary matters for the last six months that may have occupied time.

- **Bill Becker** stated that most organizations can provide their information regarding salaries have been up to yesterday. This information should be provided for in a more timely matter.
 - **John Moore** responded that the funding for California education is in so much chaos now, that it is understandable that there are other more pressing issues.

- **John Moore** questioned if the District members, under the constraint of Mr. Nuñez, or members of the Board of Trustees have items to bring to the attention of the committee.
 - Reminded the all that “Mr. Nuñez said that there were constraints on what you could and could not say in a public meeting”
 - **Frank Biehl** stated “We cannot confer at this meeting privately, but in the context of a public meeting, and the context of what’s on your agenda we can.”

- **Patricia Martinez Roach** stated part of her research “One of the tasks that I noticed is that we are suppose to be supporting you in all these endeavors, so I want to make sure that for whatever its worth that I’m going to make sure that I have a discussion with the superintendent to find out why the reports (financials) have not been submitted on a timely basis. I consider six months to be a little too long, but I don’t know the particulars.”
 - Distributed “Charter & Memorandum of Understanding” for information purposes only.
 - Offered support and gratitude for the work of the CBOC.

- **Frank Biehl** read from the Board Policy 9320 pages 4 of 7:
 - “Other gatherings attendance by majority of board members at any of the following events is not subject to the brown act, provided that a majority of the board members do not discuss district business among themselves other than as part of the scheduled program”. Number 3 is an open meeting of another body of the district, which is what you are.”

Additional Items
