

**MINUTES OF THE BOND OVERSIGHT COMMITTEE
ORGANIZATIONAL MEETING
GUSTINE UNIFIED SCHOOL DISTRICT
TUESDAY, FEBRUARY 28, 2017
MINUTES**

TIME AND PLACE

The meeting of the Gustine Unified School District Bond Oversight Committee was held on Tuesday, February 28, 2017. The meeting was held in the Gustine High School, 501 North Avenue, Gustine, California.

CALL TO ORDER

The meeting was called to order at 10:03 a.m. by Debbie Lopes.

MEMBERS PRESENT

Debbie Lopes-Chair, Andrew Bloom-Vice Chair, Joe Oliveira, Ken Rose, Sherri Marsigli, John Lawrence, Camille Alamo, Robert Borba, Dennis Brazil, and Jennifer Pacheco.

Absent: None

District Staff present: Lizett Aguilar, Sara Gomez, Russell Hazan, and Superintendent Bill Morones

Others Present: Meredith B. Johnson, Attorney

PUBLIC COMMENT

None

APPROVAL OF MINUTES

Sherri Marsigli amended the September 22, 2016 Minutes with the following change: On page two in the first paragraph, in the last sentence, change the word billion to million.

John Lawrence made a motion to approve the minutes of the last meeting held on November 15, 2016, seconded by Dennis Brazil. Motion carried, 10-0.

FINANCIAL REPORT

Lizett explained the Measure P Bond Fund Activity spreadsheet. In the income section on 12/30/16, the Sale of Series B has been posted for \$5.3 million. So now, the District can move forward with the second phase. The total income combined year-to-date is \$9,355,763.81. The new activity shown on the expenditure section is dated between November 4, 2016 through February 2, 2017. The biggest project the District had was the locker rooms. They spent over \$3 million on it. They have paid six payments to C.T. Brayton. Over all they have \$5.1 million left that hasn't been paid out or encumbered. The encumbered amounts are the amounts that are in blue that they have purchase orders in the system for but haven't paid them yet. The overall cash balance is \$6,656,000.48.

Mr. Lawrence asked if C.T. Brayton received about \$2.8 million. He also asked if CA Design West received \$535,000, which included some amounts from the science cafeteria/classroom. According to the payment schedule for the locker room, the District has paid up to payment number six and still have one more payment of \$313,965.00 then after that they will have six payments of \$91,573.00. Mr. Rose asked for the total cost of the locker room project. Lizett

stated that she didn't know but she could look it up for him. Mr. Bloom stated that the amount should be \$3,093,143.50. Lizett said that any amount listed in blue is not the final number; they still have some outstanding obligations. It may be off a little bit. Mr. Rose then asked how that amount compares to the original estimates that they got from CA Design West. Lizett answered saying that they are within the contract. She thinks they are scheduled to have a little bit of savings at the end because the whole contingency amount wasn't used. Mr. Morones clarified that they would be getting between \$35,000 - \$40,000 back. Mr. Dennis Brazil asked what was the amount built into the contingency fund. Mr. Morones answered saying he thought it was \$120,000.

Mr. Andrew Bloom asked Lizett to explain the S & P Bond Rating Fees. Lizett explained that when the District goes through the Bond Sale they have to go through S & P Global Ratings to give them a rating and they charge a fee. This fee must be paid in order to go through the sale.

AUDIT REPORT (DRAFT) – MICHAEL ASH

Michael Ash explained the Measure P Audit Report. He stated that when a Prop 39 Bond is passed one of the requirements is that the bond must undergo an independent audit each year by an independent auditor. Every year there will be a financial and a performance audit of the funds that have been spent. The financial audit focuses on the year-end balances and the activity of the year whereas the performance audit focuses more on the expenditures that were spent out of the bond and making sure those are allowable under the ballot language. He reminded everyone that this is only the draft copy and will be finalized once management and Lizett have gone through it. On page three under the opinion paragraph, is the unmodified opinion, which is the best type of audit opinion to have. He continued to explain the report page by page. Mr. John Lawrence asked about the money under the cash in county treasury and if that was the money that they send to the county. Mr. Ash replied by clarifying that the District is required to keep the money in the Cash in county treasury balance. It's the District's money but the county does reconciliation on it. Mr. Lawrence knows that the amount collected in taxes has been less than \$1 million over the past two years and wanted to know if that amount included in the Cash in county treasury. Mrs. Ash stated that all monies collected from taxes are in a different fund. Mrs. Marsigli asked why on page 8 the summary of cash is different from the Fund Balance on page 5. Mr. Ash replied that there are a lot of things that are impacting that. The amount on page 8 ties with the Cash in county treasury amount on page 4. Other things like accounts payable and a small due from the general fund also impact that fund balance. On page 11, you will see all the bonds that were issued and expenditure amounts by project. Internal Control over Financial Reporting is another auditor's report they are required to do under the Government Auditing Standards. Which means they are not giving an opinion on the internal control but if they do come across something that they determine to be an internal control weakness they are required to report it. With that said, Mr. Ash was happy to say that they did not have any conditions that they had to report for this audit. The Performance Audit, which starts on page 14, shows that the expenditures and transfers tested to be in compliance with the terms of the Measure P Ballot Measure, Facilities Master Plan, and applicable state laws and regulations. He continued to say that if they had found any issues that were reportable during the audit it would be stated on page 18. Mr. Bloom asked if they looked at Lease Lease Back Contracts as bids. Mr. Ash replied that they typically do not because there are different requirements for those. Mr. Bloom also asked if ending June 30, 2016, they didn't have any formal bids even if the contract was signed with C.T. Brayton before that and if it's included or looked at. Mr. Ash stated that they only look at formal contracts. Mr. Rose asked if that will come up in the next audit. Mr. Ash replied that only a piece of it would, as far as the payments that go. This audit report isn't

due until March 31 so the things that the Citizen's Oversight Committee is focused on now are so different from the things that were looked at in this audit. This report is a good independent look to make sure that those expenditures are being spent on things that are allowable.

Mr. Rose made a motion to accept the Audit Report as presented, seconded by Mr. Oliveira. Motion carried, 10-0.

Mr. Lawrence stated that he is unclear about how Prop 39 fits in with Measure P, fits in with Prop 51. Mr. Morones stated that once Prop 51 money does come in the Citizen's Oversight Committee would be responsible for it. Mr. Bloom stated that Prop 39 are the just rules that have to be followed.

Mrs. Marsigli asked why the committee doesn't vote on the agenda. Usually the agenda is approved, like at Regular Board Meetings. Mrs. Lopes said that they have never done that. Mr. Morones clarified that the School Board does it; they have a change or modification of the agenda. Mrs. Marsigli stated that sometimes things are added on to the School Board Agenda. The reason she brought this up was because she expected some items to be on the Citizen's Oversight Committee's Agenda that aren't. Attorney Meredith Johnson stated that under the Brown Act you have to post an agenda 72 hours prior to the meeting. Therefore, you cannot add items to an agenda at the meeting. You can amend the agenda, move things around, you can take items off but you cannot add items for discussion that you haven't given 72 hours' notice. There is an exception for special meetings that only require 24-hour notice. If there is an item, you wanted to add you could call a special meeting right after the scheduled meeting.

ATTORNEY MEREDITH B. JOHNSON: CLARIFY ROLES

Meredith Johnson from Dannis Woliver Kelly serves as bond council for the District. She has been working with the District since prior to the election and has been advising the District on all of the education code rules, government code rules, federal tax rules that apply to school district municipal bonds. In accordance with Proposition 39, in the education code, the District went out to the voters and asked for authorization to issue bonds, \$14 million. Part of the requirement of Prop 39 are that once the bonds are approved by the voters the District will establish Citizen's Oversight Committee. The Citizen's Oversight Committee's job is to report on how bond proceeds are spent. They have to conduct open public meetings in accordance to the Brown Act. The committee then issues a report on it's activities. That is a short summary of what a citizen's oversight committee does as required by Prop 39. Your purpose is to help the community keep track of one of things that the District promised it would do and that was to spend all of the Measure P funds in accordance with the project list that the voters approved. Prior to the election, a sample ballot was sent out to all of the registered voters in the community. In that sample ballot there was a project list the District had drafted and the Board had approved. It was a bulleted list of construction projects and the District told the voters if they gave them approval for Measure P the District promises to spend the proceeds on these projects. Its call the Project List. It is the Citizen's Oversight Committee's job to inform the public that the District has spent the money in accordance with the Project List and to issue regular reports at least once a year. To clarify the things that Citizen's Oversight Committee does not have the power to do is to decide how to spend the money. The Citizen's Oversight Committee is informed of the expenditures after they are made not prior to them having been made and not when decision-making process is being undertaking. That is reserved for the Board. The Citizen's Oversight Committee's job is not to advise the Board on thing that they should do in regards to Measure P. Your job is to receive information from the District. If the Board wants to provide information that's fine, and use that information to inform the public that the District is spending the money in accordance with the Project List. She understands that there may be an advisory committee

being established for the Board as to expenditures of bond proceeds. It would not be appropriate for this Committee to have any role on that advisory committee because that is not what the education code grants to this committee as its responsibilities. Your job is not to advise the Board. Your job is to communicate information to the public. What is the scope of your ability? It is very clear in the Education Code. The language out of the California Constitution reads, "Ensure bonds revenues are expended only for construction, reconstruction, rehabilitation, or placement of school facilities." Prop. 39 has limits on the kind of expenditures it can be made in addition to this Project List. It only allows expenditures for reconstruction, rehabilitation, replacement of school facilities and equipment. Also, no funds are to be used for operating expenses. An exception allows for payments of project management only if District employees do it. The Bond proceeds cannot be used for operating expenses such as teacher or administrator's salaries. So your annual activities are, like you just did, reviewing the financial performance audit. Inspect school facilities and grounds. The auditor talked about going out and doing a site visit. Go take a look and make sure that what they tell you is actually happening. Your job is to understand how the Measure P Funds are being spent compare what you are being told with the Project List and make sure that all those expenditures are on the Project List. Mr. Rose asked if a member of the committee could visit the site independently. Ms. Johnson answered that yes, you could to the extent that members of the public are allowed on school grounds. You have to comply with whatever the requirements are for entering a school during school hours. Mr. Morones mentioned that this is something they have done collectively as a group. You can review deferred maintenance proposals and plans. That might help you understand what is being spent and why it's being spent. You can review the Districts efforts to maximize Bond revenues and implement deficiencies. This is something that you can help the public understand as well. Mrs. Marsilgi asked if the joint use of facilities include the City. Ms. Johnson replied yes, any other public agency that you can share costs with. The District with regards with the Citizen's Oversight Committee has the responsibility to provide you administrative and technical support. They will post your agenda's for you; they will draft your agendas for you and provide you with a meeting space. Their job is to make sure you have the tools you need to do your job. There is a restriction that they can't use any bond funds to do that. It has to come out of District funds. How can you use your Bond proceeds? Prop 39 reads, acquisition of construction of real property, furnishing and equipment of real property, acquisition or lease of real property. In all of those need to happen within the parameters of that Project List that the voters approved at the election in 2014. That Project List lives for the life of the Bond and every expenditure has to be from the Project List. There is a little bit of legal compliance that applies to the Citizen's Bond Oversight Committee. The first thing is the Brown Act. It's the open meetings law. It requires that the government's business be conducted in the public so the public has access and can be informed as to what is happening with government officials. It applies to all public agencies and all government and city council not just schools. The basic requirement of the Brown Act is to give notice of a meeting, it's posted 72 hours in advance, and special meetings only requires 24 hours' notice. The agenda gets posted, it's held in an open location where the public has access, and there is public comment allowed but there is allowance for a reasonable limitation on any public comment. There is a limit for when a public body can have a closed session but that doesn't apply to the Citizen's Oversight Committee. There are no closed sessions for Citizen's Oversight Committees. May not take action on anything that is not on the agenda. Any material given to the members of the meeting must be available to the public. Videotaping the meeting is allowed.

There are specific Conflict of Interest Rules that apply only to Citizen's Oversight Committee that are in the Education Code. Then there are some general Conflicts of Interests Rules that apply to all California public officials and government officers. Regarding the specific Conflict of Interest Rules for the Citizen's Oversight Committee found in the Education Code states that the Citizen's Oversight Committee Members may not include employee or official, a vendor, or a contractor or consultant of the District. Therefore, anybody who works for the District should not be on the Citizen's Oversight Committee. Anyone who has a financial interest in some kind of business with the District should not be on the Citizen's Oversight Committee. A good policy is immediate family member should also be independent. Mr. Lawrence asked about having a sister on the School Board. Ms. Johnson clarified that "immediate family" to her is a husband, wife, or child. Mr. Rose stated that his wife is on the School Board. Ms. Johnson said that it was a grey area and it would be better for him not to be on the Citizen's Oversight Committee. Even though Mrs. Rose doesn't have a financial interest in the District she is paid a stipend for her time at the Board Meetings, which is why she thinks it's a grey area. The general Conflict of Interest that applies to all types of government officials and employees states that any public official shouldn't participate in any contract, development, negotiation or execution if they have a financial interest in that contract. The Citizen's Oversight Committee is not entering into any contracts but if there is anyone on the committee who has any financial interests in any business with the District they should not be on the Citizen's Oversight Committee. If you are engaged in some activity that makes you have a conflict of interest financial or otherwise is in compatible with your job role on the Citizen's Oversight Committee it would be best if you were not on the Citizen's Oversight Committee.

Mrs. Marsigli asked if they could ask for invoices. Ms. Johnson answered yes, they could. They should receive what the District gives them, review it and ask for more. Another question Mrs. Marsigli asked is how they are supposed to know what a reasonable amount is spent on something, like the architect. Ms. Johnson stated that they do not really have to worry about what is reasonable. Their job isn't to decide if they spent too much or too little. The District and the Board will make decisions as to how much is reasonable for expenditures and the things they are spending money on. Your job is to make sure that whatever they did spend was in accordance with the Project List. Lizett mentioned that as far as invoices, if you'd like to come in a take a look at them, they are all in a binder in chronological order. If you have one or two invoices you want to look at we can scan them to you or you are welcome to look at the binder to see everything.

Mr. Bloom asked if the School Board moved forward with the technical advisory committee would it be appropriate for a Member of Citizen's Oversight Committee to be on it. Can they serve on two committees? Ms. Johnson stated that in general she doesn't think there isn't any limitation on how many committees they can be on. It is not appropriate for this Board to serve on that committee. It's not within the jurisdiction of this Board. Mr. Bloom asked if a person who was on this Board could also be on that committee separately. Ms. Johnson answered that in a separate capacity as an individual representative of the public then yes, by all means. Regarding the agenda Mr. Bloom wanted to know who can request an agenda item to be on it. If it was just the President? Ms. Johnson stated that a member should ask the President to have it put on the agenda. Mr. Morones asked what should be on the agenda. Ms. Johnson stated that only items related to the expenditure of Measure P Funds. That's really the only responsibility related to that. This Committee has a very narrow purpose. Anything related to the District outside the Committee's purpose is for the Board of Education not the Citizen's Oversight Committee. Mr. Brazil asked what the Vice Chair's capacity is regarding putting items on the agenda. Ms. Johnson stated that she would keep it all through the Chair Person. The Chair

Person would collect requests for items on the agenda then the Chair Person would communicate with whoever at the District is responsible for actually printing the agenda. She thinks that centralizing the process seems makes sense. In the Chairs absence, the Vice Chair would step up into that position. Mrs. Marsigli clarified on why all these questions. She said that at a Special Board Meeting Mr. Morones made a comment that he was going to be creating a technical committee. At the time, they didn't know how that was going to be developed. It was understood or assumed that the committee would be comprised of a representative from the Citizen's Oversight Committee. Is that not true? Is it a totally separate entity that has nothing to do with the oversite committee putting a representative on the advisory committee? Ms. Johnson stated that the technical advisory subcommittee is a completely unrelated committee and in her opinion as to Bond Council, it is not appropriate for a member of the oversight committee to be seated on that committee. Once you leave this room you are all members of the public and if there is a committee, any committee, that is being composed of members of the public you are all eligible as a member of the public to be on that committee.

Mr. Brazil asked what the protocol is if an item is not added to the agenda after it had been requested. Ms. Johnson replied that those questions aren't "Bond" related questions. You could redress if the item isn't on the agenda. Mr. Morones reminded everyone that the only items that should be on the CBOC agenda are expenditures that are related to the Bond and Ms. Johnson agreed. Ms. Johnson clarified that she serves as council to the District not to the Citizen's Oversight Committee. Mr. Morones will and has contacted her about receiving a request to be added to the agenda and if it doesn't belong, there she will let him know. In generally redress consist of public comment at a Board Meeting or at this meeting.

Mrs. Marsigli asked about the Annual Report, who writes it and do they present it to the School Board. Ms. Johnson replied that the committee writes it. Either the President could take responsibility or ask another member of the committee and draft it yourselves. If you want some direction on that, you can google it. There are lots of them online. You can find them from all different types of school districts, big, small, community colleges. You can see some of them is a simple one page Microsoft Word Document in back and white. Larger community colleges may print pictures, and make it in color but you don't need to do that. Once the report has been approved by the members of the committee, it is then presented to the School Board. Mrs. Marsigli asked when their calendar started because it has been more than a year. Mr. Morones replied that it is their goal that the Committee would present their report to the Board in April no later than May. Mrs. Marsigli asked if the report should say yes, they spend Bond money on the List. Ms. Johnson replied that it can say things like we received the following information, we reviewed the following information, we went to visit XYZ School, and we took a site visit. You can describe your activities for the year. Google "school district oversite committee" or "school oversight committee report" and you will see all the kinds of things that Districts put on the report. You will decide what you like and don't like and create your own. It doesn't have to be too long. A short synopsis of what your activities were for the year and your findings.

Mrs. Lopes asked about the technical committee and if it's going to be the Board who is going to appoint members. Ms. Johnson replied that is completely unrelated to the Citizen's Oversight Committee. It has no relationship whatsoever so she doesn't have the answer to that question.

Mrs. Lopes asked if they see something on the wrong column and it has already been paid so what is the process of getting that corrected. Ms. Johnson said that if you see something that was paid for that was not on the Project List your redress is to let the public know. Your actual ultimate redress would be a taxpayer lawsuit against the District if you were to find expenditures that were made that were unlawful. The committee itself does not have any remedies outside the scope of any other member of the public. Mrs. Marsigli asked if they could go to the Board and

let them know. Ms. Johnson said yes, that they could go to the Board. Lizett asked if the committee saw something that they questioned if it was allowable or not wouldn't the first thing for them to do is to ask the District about it. Ms. Johnson replied not really, because the District is going to say that it was allowable. What they should do is look at the Project List. For example, if you see they built a health spa but you don't see a health spa on the Project List you go run around town and tell everybody including the newspaper; you make it public and she promises that things will start to happen from there. When the District has a question, it's her job to clarify using the Project List. To modernize means to take the room that exists and make it more updated. You cannot knock it down and rebuild it. To construct means to start from the ground up or knock the existing building down and rebuild it.

Mr. Bloom asked Ms. Johnson if the Locker Room was not on the Project List for the high school. Lizett showed the Project List to Ms. Johnson where she saw that it did mention the locker rooms under "Improve P.E. fields and facilities for school and community use". Even though there has been a little bit of litigation regarding the word "specific". You want to make sure that the list is specific but also gives the District the ability to actually meet the needs of their students because priorities and needs change.

Mr. Brazil stated that normally there is a flag salute to start the meeting. Mr. Morones asked Ms. Gomez to add flag salute and roll call to the agenda.

Mrs. Lopes thanked everyone for attending.

Mr. Lawrence asked that under Title V showers in the locker rooms are supposed to be so many heads and if we meet that requirement from Merced County. Mr. Morones stated that we do have showers in the locker room. It was different from when some of us were in high school. There used to be 35-40 showers for the kids but they don't take showers anymore. The District did provide minimal showers but that is why the locker room and team room were much bigger than before.

Mr. Rose asked if he needed to submit a letter of resignation. Mrs. Lopes stated that because in the beginning he filled out an application to be on the committee then he should write something and submit it. Mr. Rose said that he would be doing that.

ADJOURNMENT

The meeting was adjourned at 11:01 a.m.