# ORANGE COUNTY EMPLOYEES RETIREMENT SYSTEM BOARD OF RETIREMENT 2223 E. WELLINGTON AVENUE, SUITE 100 SANTA ANA, CALIFORNIA

REGULAR MEETING Monday, April 17, 2017 9:00 a.m.

#### **MINUTES**

Chair Ball called the meeting to order at 8:59 a.m.

Attendance was as follows:

Present: David Ball, Chair; Eric Gilbert, Chuck Packard, Russell Baldwin, Shawn Dewane, Roger

Hilton; Frank Eley and Shari Freidenrich

Also Present: Steve Delaney, Chief Executive Officer; Brenda Shott, Assistant CEO, Finance and Internal

Operations; Suzanne Jenike, Assistant CEO, External Operations; David James, Director of Internal Audit; Gina Ratto, Chief Legal Officer; Lee Fink, Deputy Chief Legal Officer; Anthony Beltran, Visual Technician; Megan Cortez; Disability Coordinator; Cammy Danciu,

Recording Secretary.

Guests: Harvey L. Leiderman, ReedSmith LLP

Absent: Chris Prevatt, Vice Chair; Wayne Lindholm

Mr. Hilton led the Pledge of Allegiance.

#### **CONSENT AGENDA**

All matters on the Consent Agenda are to be approved by one action unless a Board Member or a member of the public requests separate action on a specific item.

Mr. Ball pulled item C-10d for discussion.

Following discussion, a <u>motion</u> was made by Mr. Dewane, <u>seconded</u> by Mr. Hilton to move the remainder of the consent calendar.

The motion carried unanimously.

BENEFITS	ı

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Application Notices
Death Notices

April 17, 2017 April 17, 2017

**Recommendation**: Receive and file.

#### **ADMINISTRATION**

# C-2 OPTION 4 RETIREMENT ELECTION – STANLEY ABRAMOWICZ

**Recommendation:** Grant election of retirement benefit payment, Option 4, based on Segal Consulting actuarial report.

#### C-3 BOARD MEETINGS AND COMMITTEE MEETINGS

Regular Board Meeting Minutes
Audit Committee Meeting Minutes

March 20, 2017 March 29, 2017

**Recommendation**: Authorize meeting and approve minutes.

#### C-4 CEO FUTURE AGENDAS AND 2017 OCERS BOARD WORK PLAN

**Recommendation**: Receive and file.

# C-5 QUIET PERIOD – NON-INVESTMENT CONTRACTS

**Recommendation:** Receive and file.

# C-6 FIRST QUARTER 2017 EDUCATION AND TRAVEL EXPENSE REPORT

**Recommendation**: Receive and file.

# C-7 2017 OCERS BOARD OF RETIREMENT COMMITTEE ASSIGNMENTS - UPDATED

**Recommendation**: Receive and file.

# C-8 PROPOSED REVISIONS TO THE RECORD RETENTION POLICY AND GUIDELINES

**Recommendation**: Approve revisions to the Record Retention Policy and Guidelines.

#### C-9 SCHEDULED REVIEW OF BOARD POLICY

**Recommendation**: Approve the Acceptance and Reporting of Gifts Policy without revision.

#### C-10 AUDIT COMMITTEE OUTCOMES

**Recommendation:** Approve the Audit Committee recommendations for Items A, B, C, D, E, and F as recommended by the Audit Committee on March 29, 2017.

#### A. 2016 FINANCIAL STATEMENT AUDIT – ENTRANCE CONFERENCE

Recommendation: The Committee voted to receive and file MGO'S 2016 Audit Service Plan.

After discussion, a <u>motion</u> was made by Mr. Eley, <u>seconded</u> by Mr. Gilbert to receive and file Macias Gini & O'Connell, LLP's (MGO) 2016 Service Plan.

The motion passed unanimously.

#### B. AUDIT OF CITY OF SAN JUAN CAPISTRANO PAYROLL TRANSMITTALS

**Recommendation:** The Committee voted to receive and file the report Audit of City of San Juan Capistrano Payroll Transmittals.

After discussion, a <u>motion</u> was made by Mr. Gilbert, <u>seconded</u> by Mr. Eley to receive and file the audit of City of San Juan Capistrano Payroll Transmittals.

The motion passed unanimously.

# C. CONSIDERATION OF REVISIONS TO THE INTERNAL AUDIT CHARTER AND AUDIT COMMITTEE CHARTER

**Recommendation:** The Committee voted to approve changes to the Internal Audit Charter and Audit Committee Charter.

After discussion, a <u>motion</u> was made by Mr. Gilbert, <u>seconded</u> by Mr. Eley to approve changes to the Audit Committee Charter and Internal Audit Charter and send to the Board for approval.

The motion passed unanimously.

#### D. DIRECTION FROM THE BOARD OF RETIREMENT – INVESTMENT FEES

<u>Recommendation:</u> The Committee directed Investments staff to present at the April 17, 2017 Regular Board meeting an educational presentation about the construction of OCERS' annual investment fee report and how it may help OCERS comply with California Government Code Section 7514.7 (A.B. No. 2833).

After discussion, the Committee directed staff to bring back to the Regular Board meeting a fee report and the presentation from the Investment staff.

#### E. STATUS OF INTERNAL AUDITS AND AUDIT PROJECTS

**Recommendation:** The Committee voted to receive and file the Update on Status of Internal Audits and Projects.

After discussion, a motion was made by Mr. Eley, seconded by Mr. Gilbert to receive and file.

The motion passed unanimously.

#### **CLOSED SESSION ITEM**

# F. THREAT TO PUBLIC SERVICES OR FACILITIES (GOVERNMENT CODE SECTION 54957)

**Recommendation:** No reportable action taken.

No reportable action.

#### C-11 BOARD COMMUNICATION

Recommendation: Receive and file.

\* \* \* \* \* \* END OF CONSENT AGENDA \* \* \* \* \* \*

# **INDIVIDUAL ITEMS AGENDA**

# 1-1 INDIVIDUAL ACTION ON ANY ITEM TRAILED FROM THE CONSENT AGENDA

C-10d: Audit Committee Outcomes - Direction from the Board of Retirement - Investment Fees

Mr. Delaney spoke on behalf of the Audit Committee Chair, Mr. Packard, on the fee issue on budget adjustments. Noting that the question of how the OCERS budget will address fees will be forwarded to the Governance Committee, an adjustment to the recommendation was requested to change the motion to "receive and file" and bring the remaining question of crafting an effective fee report back to the Audit Committee before it comes to the full board.

Following discussion, a <u>motion</u> was made by Mr. Eley, <u>seconded</u> by Mr. Baldwin to receive and file item C-10d.

The motion carried unanimously.

# I-4 SACRS BOARD OF DIRECTORS ELECTION 2017-2018 – DIRECTION TO VOTING DELEGATE Presentation by Gina Ratto, Chief Legal Officer, OCERS

<u>Recommendation</u>: Consider the candidate slate set forth in the Final Ballot for the election of the SACRS Board of Directors and provide direction to the OCERS voting delegate and alternate delegates for the election to be held at the SACRS meeting on May 19, 2017.

Mr. Hilton presented the slate from SACRS:

President Dan McAllister, San Diego CERA

**Recommended by SACRS Nominating Committee** 

Vice President Gabe Rodrigues, Contra Costa CERA

**Recommended by SACRS Nominating Committee** 

Treasurer\* Harry E. Hagen, Santa Barbara CERA

Recommended by SACRS Nominating Committee and Write-In Candidate

Secretary (contested)

Art Goulet, Ventura CERA

OCERS' (and others') nominated Write-In Candidate

2. Kathryn Cavness, Mendocino CERA

Recommended by SACRS Nominating Committee

Mr. Hilton stated that Art Goulet would like remain as Secretary.

Following discussion, a <u>motion</u> was made by Mr. Hilton, <u>seconded</u> by Mr. Baldwin to approve the slate of candidates for the SACRS Board of Directors, with Art Goulet as Secretary, and direct OCERS delegate to vote accordingly.

The motion carried unanimously.

Ms. Freidenrich arrived at 9:05am

Mr. Gilbert arrived at 9:07am

#### I-5 PROPOSED AMENDMENT TO SACRS' BY-LAWS

Presentation by Gina Ratto, Chief Legal Officer, OCERS

<u>Recommendation</u>: Request that SACRS By-Laws Committee consider an amendment to the SACRS By-Laws to clarify the role of the Nominating Committee in establishing the Recommended and Final ballots for SACRS' Board of Director Elections.

Ms. Ratto presented the proposed amendment to SACRS' by-laws to add clarity to the role of the nominating committee in preparing both ballots for the SCARS Board of Directors election.

Ms. Freidenrich asked how the SACRS write-in process works.

Ms. Ratto explained the two ballots/two-step process of how the nominations and write-in candidates are processed.

Mr. Ratto continued to explain that this item came to the board as a proposal to add clarity to the nominating committee on both ballots.

Ms. Freidenrich made a motion to seek more clarification on this item. The motion died for a lack of a second vote.

A <u>motion</u> was made by Mr. Eley, <u>seconded</u> by Mr. Baldwin to request that SACRS By-Laws Committee consider an amendment to the SACRS By-Laws to clarify the role of the Nominating Committee in establishing the Recommended and Final ballot for SACRS' Board of Director Elections. The motion carried **6-0** with voting as follows:

AYES	<u>NAYS</u>	<u>ABSTAIN</u>	<u>ABSENT</u>
Mr. Eley		Ms. Freidenrich	Mr. Lindholm
Mr. Hilton			Mr. Prevatt
Mr. Baldwin			Mr. Packard
Mr. Gilbert			
Mr. Dewane			
Chair Ball			

Ms. Freidenrich abstained from this vote due to being absent for part of the discussion.

#### I-3 OCERS VISION AND VALUES

Presentation by Steve Delaney, Chief Executive Officer, OCERS

**Recommendation:** Take appropriate action.

Mr. Delaney presented OCERS Vision and Values.

#### Mr. Packard arrived at 9:30am

Mr. Eley asked what the difference is between a Mission, Vision and Values statement.

Mr. Delaney explained that a Mission statement answers the pivotal question "What is OCERS business?" A Vision statement should answer the basic question, "What do we wish to become?" A Values statement is a declaration that informs the members and staff of this agency's top priorities and outlines its core beliefs.

Each board member expressed his or her preferred statements and gave input for what OCERS Mission, Vision and Values statement should be.

Mr. Ball asked Mr. Delaney to take the Board's suggestions and come back with an updated presentation at the June 12, 2017 Regular Board meeting.

Following discussion, a <u>motion</u> was made by Mr. Hilton, <u>seconded</u> by Mr. Eley to receive and file OCERS Vision and Values.

The motion carried unanimously.

The Board recessed for break at 9:54a.m.

The Board reconvened from break at 10:03a.m.

#### I-2 ANNUAL BROWN ACT AND CONFLICTS OF INTEREST EDUCATION

Presentation by Harvey Leiderman, ReedSmith, LLP

Recommendation: Receive and file.

Mr. Leiderman presented the annual Brown Act and Conflict of Interest Education.

Mr. Hilton stepped out at 10:44am

Mr. Hilton returned at 10:46am

The Board recessed for break at 10:55a.m.

The Board reconvened from break at 11:00a.m.

Following discussion, a <u>motion</u> was made by Mr. Eley, <u>seconded</u> by Mr. Baldwin to receive and file the annual Brown Act and conflicts of interest education.

The motion carried unanimously.

\* \* \* \* \* \* END OF INDIVIDUAL ITEMS AGENDA \* \* \* \* \*

# **DISABILITY APPLICATIONS/MEMBER APPEALS AGENDA**

#### 11:00 A.M.

NOTE: WHEN CONSIDERING DISABILITY RETIREMENT APPLICATIONS, THE BOARD MAY FIND IT NECESSARY TO DISCUSS MATTERS RELATING TO THE EVALUATION OF THE WORK PERFORMANCE OF AN EMPLOYEE WHO HAS APPLIED FOR DISABILITY RETIREMENT, OR DISCUSS COMPLAINTS OR CHARGES MADE AGAINST SUCH EMPLOYEE. IF THIS OCCURS, THE BOARD MAY ADJOURN TO A CLOSED SESSION TO DISCUSS SUCH MATTERS PURSUANT TO GOVERNMENT CODE SECTION 54957, UNLESS THE EMPLOYEE REQUESTS THAT THE DISCUSSION BE IN PUBLIC.

Megan Cortez, Disability Coordinator, presented D-1 to the Board along with the staff recommendation.

#### D-1: Debbie L. Brown-Vasquez

Group Counselor I, Orange County Social Services Agency

Date of employer filed application for service and non-service connected disability retirement: 03/10/2016

Date of employee filed application for service and non-service connected disability retirement: 06/07/2016

GRANT SERVICE CONNECTED DISABILITY RETIREMENT WITH AN EFFECTIVE DATE OF MARCH 18, 2016, THE DAY FOLLOWING THE LAST DAY OF REGULAR COMPENSATION AS A GROUP COUNSELOR I. AND TO FIND THE APPLICANT IS CAPABLE OF PERFORMING OTHER DUTIES IN THE SERVICE OF THE COUNTY OF ORANGE PURSUANT TO GOVERNMENT CODE SECTION 31725.65 AND TO GRANT A SUPPLEMENTAL DISABILITY RETIREMENT PAYMENT ALLOWANCE IN THE AMOUNT OF THE SALARY DIFFERENCE BETWEEN THE HIGHER AND LOWER PAYING POSITIONS EFFECTIVE MARCH 18, 2016, THE DATE OF THE POSITION CHANGE UNTIL THE LAST DAY OF COMPENSATION. (GENERAL MEMBER) (D-1)

Following discussion, a motion was made by Mr. Eley, seconded by Mr. Packard to grant service connected disability retirement with an effective date of March 18, 2016, the day following the last day of regular compensation as a Group Counselor I; to find the applicant is capable of performing other duties in the service of the county of orange pursuant to government code section 31725.65; and to grant a supplemental disability retirement payment allowance in the amount of the salary difference between the higher and lower paying positions effective march 18, 2016, the date of the position change until the last day of compensation. The motion carried 8-0 with voting as follows:

AYES	<u>NAYS</u>	<b>ABSTAIN</b>	<u>ABSENT</u>
Mr. Dewane			Mr. Lindholm
Mr. Eley			Mr. Prevatt
Ms. Freidenrich			
Mr. Hilton			
Mr. Packard			
Mr. Baldwin			
Mr. Gilbert			
Chair Ball			

Megan Cortez, Disability Coordinator, presented D-2 to the Board along with the staff recommendation.

# D-2: Janet Colston-Nill

Park Ranger II, Orange County Community Resources

Date of employee filed application for service connected disability retirement: 02/10/2015

GRANT SERVICE CONNECTED DISABILITY RETIREMENT WITH AN EFFECTIVE DATE OF JULY 12, 2013, THE DAY FOLLOWING THE LAST DAY OF REGULAR COMPENSATION AS A PARK RANGER II. AND TO FIND THE APPLICANT IS CAPABLE OF PERFORMING OTHER DUTIES IN THE SERVICE OF ORANGE COUNTY COMMUNITY RESOURCES PURSUANT TO GOVERNMENT CODE SECTION 31725.65. AND TO GRANT A SUPPLEMENTAL DISABILITY RETIREMENT PAYMENT ALLOWANCE IN THE AMOUNT OF THE SALARY DIFFERENCE BETWEEN THE HIGHER AND LOWER PAYING POSITIONS EFFECTIVE JULY 12, 2013, THE DATE OF THE POSITION CHANGE UNTIL THE DATE OF HER SERVICE RETIREMENT ON OCTOBER 14, 2014. (GENERAL MEMBER) (D-2)

Ms. Freidenrich stated that neither of the injuries of the applicant were reported immediately and asked what does staff do to check or verify information.

Ms. Cortez stated that staff reviews medical records as well as all other records. Once the doctors review the medical records as well as the job description, they determine their recommendation.

Ms. Jenike stated that in this case, the doctor looked at the progression of the injury as Ms. Colston-Nill reported different injuries at different times while on the job.

Following discussion, a motion was made by Mr. Packard, seconded by Mr. Eley to grant service connected disability retirement with an effective date of July 12, 2013, the day following the last day of regular compensation as a Park Ranger II; and to find the applicant is capable of performing other duties in the service of Orange County Community Resources pursuant to government code section 31725.65; and to grant a supplemental disability retirement payment allowance in the amount of the salary difference between the higher and lower paying positions effective July 12, 2013, the date of the position change until the date of her service retirement on October 14, 2014. The motion carried <u>8-0</u> with voting as follows:

AYES Mr. Dewane Mr. Eley Ms. Freidenrich Mr. Hilton Mr. Packard Mr. Baldwin Mr. Gilbert	NAYS	<u>ABSTAIN</u>	ABSENT Mr. Lindholm Mr. Prevatt
Chair Ball			

Megan Cortez, Disability Coordinator, presented D-3 to the Board along with the staff recommendation.

# D-3: Luis Fernandez

Fire Apparatus Engineer, Orange County Fire Authority

Date of employee filed application for service connected disability retirement: 02/27/2015

GRANT SERVICE CONNECTED DISABILITY RETIREMENT PURSUANT TO GOVERNMENT CODE SECTION 31720.5 (HEART PRESUMPTION) WITH AN EFFECTIVE DATE OF FEBRUARY 27, 2015. (SAFETY MEMBER) (D-3)

Mr. Hilton asked staff to explain the heart presumption provision of the law as well as explain why the service connected disability belongs to OCERS and not to CALPERS.

Mr. Hilton stated that optically, this situation doesn't look good even though everyone involved did what they were supposed to do.

Ms. Ratto stated that the statute isn't clear and doesn't contemplate a situation like this.

Ms. Ratto discussed the optics, the timing, and the interagency financial motives.

Ms. Jenike explained that Mr. Fernandez was hired in 2014 and did not establish reciprocity. Mr. Fernandez was hired by OCFA with pre-existing conditions, and due to the heart presumption, it is presumed that his injury is job caused. Mr. Fernandez does not need to have any number of years as a requirement to be eligible for a service connected disability.

Following discussion, a **motion** was made by Mr. Gilbert, **seconded** by Mr. Dewane to grant service connected disability retirement pursuant to Government Code section 31720.5 (heart presumption) with an effective date of February 27, 2015. The motion carried <u>8-0</u> with voting as follows:

AYES NAYS ABSTAIN ABSENT
Mr. Dewane Mr. Lindholm
Mr. Eley Mr. Prevatt

Ms. Freidenrich Mr. Hilton Mr. Packard Mr. Baldwin Mr. Gilbert Chair Ball

#### D-4: Janell Garza

Comprehensive Care Nurse II, Orange County Social Services Agency
Date of employee filed application for non-service connected disability retirement: 03/16/2016

STAFF RECOMMENDATION IS TO GRANT NON-SERVICE CONNECTED DISABILITY RETIREMENT WITH AN EFFECTIVE DATE OF MARCH 16, 2016. (GENERAL MEMBER) (D-4)

Item D-4 was pulled from the agenda at the member's request.

Megan Cortez, Disability Coordinator, presented D-5 to the Board along with the staff recommendation.

#### D-5: Albert Rouwenhorst

Utility Worker/Driver, Orange County Community Resources

Date of employee filed application for non-service connected disability retirement: 01/25/2017

STAFF RECOMMENDATION IS TO GRANT NON-SERVICE CONNECTED DISABILITY RETIREMENT WITH AN EFFECTIVE DATE OF MARCH 17, 2017. (GENERAL MEMBER) (D-5)

Following discussion, a motion was made by Mr. Packard, seconded by Mr. Dewane to grant non-service connected disability retirement with an effective date of March 17, 2017. The motion carried 8-0 with voting as follows:

AYES NAYS ABSTAIN ABSENT
Mr. Dewane Mr. Lindholm
Mr. Eley Mr. Prevatt
Ms. Freidenrich

Mr. Hilton Mr. Packard Mr. Baldwin Mr. Gilbert Chair Ball

Megan Cortez, Disability Coordinator, presented D-6 to the Board along with the staff recommendation.

#### D-6: Carol Thompson

Institutional Cook, Orange County Sheriff's Department

Date of employee filed application for service and non-service connected disability retirement: 10/29/2012

STAFF RECOMMENDATION IS TO DENY SERVICE CONNECTED DISABILITY RETIREMENT DUE TO INSUFFICIENT EVIDENCE TO WARRANT SERVICE CONNECTED DISABILITY. (GENERAL MEMBER) (D-6)

Following discussion, a **motion** was made by Mr. Packard, **seconded** by Mr. Dewane to deny service connected disability retirement due to insufficient evidence to warrant service connected disability. The motion carried <u>8-0</u> with voting as follows:

AYES NAYS ABSTAIN ABSENT
Mr. Dewane Mr. Lindholm
Mr. Eley Mr. Prevatt
Ms. Freidenrich

Mr. Hilton

Mr. Packard

Mr. Baldwin

Mr. Gilbert

Chair Ball

# D-7: Max Chance

Sergeant, Orange County Sheriff's Department

Date of employee application for service and non-service connected disability retirement: 09/20/2012

STAFF RECOMMENDATION IS TO DISMISS WITHOUT PREJUDICE THE APPLICANT'S APPLICATION FOR SERVICE AND NON-SERVICE CONNECTED DISABILITY RETIREMENT. (SAFETY MEMBER) (D-7)

Item D-7 was pulled from the agenda.

#### **CLOSED SESSION ITEMS**

E-1 CONFERENCE REGARDING SIGNIFICANT EXPOSURE TO LITIGATION (ONE MATTER) (GOVERNMENT CODE SECTION 54956.9)

Adjourn pursuant to Government Code Section 54956.9(d) (2)

Recommendation: Take appropriate action.

No reportable action taken.

E-2 CONFERENCE REGARDING LITIGATION THAT HAS BEEN INITIATED
(GOVERNMENT CODE SECTION 54956.9(d)(1)) O.C. Department of Education v. OCERS, CA

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# Superior Court, Orange County, (Case No. 30-2016-00836897) Adjourn pursuant to Government Code Section 54956.9(d)(1).

Recommendation: Take appropriate action.

No reportable action taken.

#### **PUBLIC COMMENTS:**

None

#### **CHIEF EXECUTIVE OFFICER/STAFF COMMENTS:**

Mr. Delaney informed the Board and the public that OCERS staff will be coming to the Board in the month of May to discuss a correction that will need to be made to certain retiree benefits. This correction is very narrowly focused, applying only to County of Orange Safety members. Specifically, OCERS has found that over the past 10 years approximately, 140 retired members were overpaid by an average of about \$50 a month. The actual range of overpayment runs from \$6 to \$376 per month. An additional 70 or so members were underpaid by a similar amount. OCERS will begin notifying impacted members later this week, letting them know that this topic will be on the Board's agenda for initial discussion on May 15, with a return for possible action in June.

#### **BOARD MEMBER COMMENTS:**

None

#### **COUNSEL COMMENTS:**

None

ADJOURNMENT: (IN MEMORY OF THE ACTIVE MEMBERS, RETIRED MEMBERS, AND SURVIVING SPOUSES WHO PASSED AWAY THIS PAST MONTH)

#### **Active Members:**

Gonzalez, Beatriz

#### **Retired Members:**

Abernathy, Barbara Bigger, Patricia Bowen, Levin Campbell, Dorris Castorena, Janet Clark, Jean Coburn, Douglas Dao, Tuong Davis, Betty Fernandez, Bertha

Ford, Ramona

Germain-Wachs, Susan

Glaab, Paul

Goad, Vernon

Hartnett, Patricia

Henderson, Arlie

Henderson, Harold

Hunt, Patricia

Hurd, Donna

Kettenburg, Norma

Kott, Kathleen

Krazinski, Sandra

Lawrence, Joan

Leake, George

Lepham, Trina

Mahady, William

Martinez, Emma

Masuda, Marjorie

Miller, Jeffrey

Mizu, Alyce

Mower, Philip

Nichols, Marina

Olson, Milton

Overby, Robert

Palomarez, Rosa

Penkoff, Stephen

Picazo, Delia

Rounds, Sharon

Schwartz, Mark

Towns, Shane

Williams, Elvin

Willingham, Donald

# **Surviving Spouses:**

Adelsperger, Nannette

Edwards, Sally

Fishel, Shirley

Gloor, Henry

Hagerman, Richardi

Hudson, Gail

Marquet, Barbara

Mckee, Alberta

Perona, Carl

Strom, Helen

Tiernan, Florence

There being no further business to bring before the Board, the meeting adjourned at 1:31p.m.

Orange County Employees Retirement System April 17, 2017 Regular Board Meeting – Minutes

Submitted by:

Steve Delaney

Secretary to the Board

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Approved by:

David Ball Chairman