

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

**REGULAR MEETING
Monday, May 17, 2021
9:30 a.m.**

MINUTES

Chair Dewane called the meeting to order at 9:34 a.m.

Cammy Torres administered the Roll Call attendance.

Attendance was as follows:

Present via Zoom video teleconference pursuant to Executive Order N-29-20 issued by Governor Newsom on March 17, 2020:

Shawn Dewane, Chair; Frank Eley, Vice-Chair, Shari Freidenrich, Adele Tagaloa, Charles Packard, Chris Prevatt, Arthur Hidalgo, Jeremy Vallone, Wayne Lindholm; and Roger Hilton

Also Present via Zoom:

Steve Delaney, Chief Executive Officer; Brenda Shott, Assistant CEO, Internal Operations; Suzanne Jenike, Assistant CEO, External Operations; Gina Ratto, General Counsel; Jenny Sadoski, Director of Information Technology, Javier Lara, Visual Technician; Cammy Torres; Recording Secretary

Guests via Zoom:

Harvey Leiderman, ReedSmith

Steve Delaney announced that the Board would not make a decision on item A-2. The item would be presented as a "first reading" only. There will be a "second reading" at the June 21st Regular Board meeting and at that time the Board would proceed with their decision.

CONSENT AGENDA

MOTION by Packard, **seconded** by Tagaloa, to approve recommendations on all of the following items on the Consent Agenda:

BENEFITS

C-1 OPTION 4 RETIREMENT ELECTION

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

- Salvador Gutierrez
- Forrest C. De Spain
- James R. Johnston
- Donald Sharps

ADMINISTRATION

C-2 BOARD MEETING MINUTES

Regular Board Meeting Minutes

April 19, 2021

Recommendation: Approve minutes.

C-3 18TH ANNUAL GLOBAL ARC BOSTON

Recommendation: Approve Trustee Freidenrich’s attendance and related expenses including overnight accommodations for the “18th Annual Global Arc Boston” Conference, October 25-October 27, 2021, at the InterContinental Boston, USA.

The motion passed **unanimously.**

CONSENT ITEMS: DISABILITY/MEMBER BENEFITS AGENDA

OPEN SESSION

CONSENT ITEMS

MOTION by Packard, **seconded** by Lindholm, to approve staff’s recommendation on all of the following items on the Disability/Member Benefits Consent Agenda except for DC-5:

DC-1: CHRISTINE ALFORD

Attorney IV, Orange County Public Defender’s Office (General Member)

Recommendation: The Disability recommends that the Board:

- Grant service connected disability retirement.
- Set the effective date as November 23, 2018.

DC-2: VICTOR CURIEL

Coach Operator, Orange County Transportation Authority (General Member)

Recommendation: The Disability Committee recommends that the Board:

- Grant service connected disability retirement.

- Set the effective date as March 15, 2019.

DC-3: DANIEL DESLAURIERS

Fire Apparatus Engineer, Orange County Fire Authority (Safety Member)

Recommendation: The Disability Committee recommends that the Board:

- Grant service connected disability retirement.
- Set the effective date as December 18, 2009.

DC-4: DEWAYNE FOWLKES

Weapons Instructor, Orange County Sheriff's Department (General Member)

Recommendation: The Disability Committee recommends that the Board:

- Grant service connected disability retirement.
- Set the effective date as June 5, 2020.

DC-5: NOEMI GONZALEZ

Senior Administrative Analyst/Officer, Orange County Superior Court (General Member)

Recommendation: The Disability Committee recommends that the Board:

- Grant service connected disability retirement.
- Set the effective date as March 29, 2019.

Ms. Freidenrich pulled item DC-5.

DC-6: JOHN HAMILTON

Firefighter/Paramedic, Orange County Fire Authority (Safety Member)

Recommendation: The Disability Committee recommends that the Board:

- Grant service connected disability retirement.
- Set the effective date as September 28, 2018.

DC-7: EDNA HERNANDEZ

Coach Operator Orange County Transportation Authority (General Member)

Recommendation: The Disability Committee recommends that the Board

- Grant non-service connected disability retirement.
- Set the effective date as August 19, 2018.

DC-8: ISELA NAVARRO-SANDOVAL

Warehouse Worker IV, Orange County Sheriff's Department (General Member)

Recommendation: The Disability Committee recommends that the Board

- Grant service connected disability retirement.
- Set the effective date as December 21, 2018.
- Require the member to undergo the reexamination process in two years' time per Government Code Section 31729.

DC-9: MARK NORTHART

Sergeant, Orange County Sheriff's Department (Safety Member)

Recommendation: The Disability Committee recommends that the Board:

- Grant service connected disability retirement.
- Set the effective date as September 27, 2019

DC-10: SOU PHOMMASA

Office Technician, Orange County Community Resources/Housing Authority (General Member)

Recommendation: The Disability Committee recommends that the Board:

- Deny service connected disability due to insufficient evidence of job causation.

DC-11: JACK SONGER

Sergeant, Orange County Sheriff's Department (Safety Member)

Recommendation: The Disability Committee recommends that the Board:

- Grant service connected disability retirement.
- Set the effective date as March 13, 2020.

DC-12: ROBERT SWANSON

Deputy Sheriff I, Orange County Sheriff's Department (Safety Member)

Recommendation: The Disability Committee recommends that the Board:

- Grant service connected disability retirement.
- Set the effective date as April 10, 2020.

DC-13: RODOLFO TOBIAS

Coach Operator, Orange County Transportation Authority (General Member)

Recommendation: The Disability Committee recommends that the Board

- Grant service connected disability retirement.
- Set the effective date as March 16, 2020.

DC-14: KENDALL WHALEY

Deputy Juvenile Correctional Officer II, Orange County Probation Department (Safety Member)

Recommendation: The Disability Committee recommends that the Board:

- Grant service connected disability retirement.
- Set the effective date as August 17, 2020.

DC-15: MATTHEW WHITE

Firefighter, Orange County Fire Authority (Safety Member)

Recommendation: The Disability Committee recommends that the Board:

- Grant service connected disability retirement.
- Set the effective date as July 3, 2020.

The motion passed **unanimously**.

OPEN SESSION

**DA-1: INDIVIDUAL ACTION ON ANY ITEM TRAILED FROM THE DISABILITY/MEMBER BENEFITS
CONSENT AGENDA**

DC-5: NOEMI GONZALEZ

Senior Administrative Analyst/Officer, Orange County Superior Court (General Member)

Recommendation: The Disability Committee recommends that the Board:

- Grant service connected disability retirement.
- Set the effective date as March 29, 2019.

Ms. Freidenrich pulled item DC-5. She asked if there should be a document included in the materials that states the Board decision on the specific question of whether, her position was her job, as opposed to just seeing staff's decision as the recommendation.

Ms. Jenike stated that all documents are included in the Disability Committee's materials folder and that only certain documents are included in the Regular Board Meeting Folder. The staff analysis section of the materials shows that the Disability Committee was comfortable with the staff determination regarding the member's position.

MOTION by Freidenrich, **seconded** by Dewane, to approve item DC-5.

The motion passed **unanimously**.

The Board adjourned into closed session at 9:46 a.m.

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.

OPEN SESSION

The Board reconvened into open session at 10:12 a.m.

REPORT OF ACTIONS TAKEN IN CLOSED SESSION

On behalf of Chair Dewane, Ms. Ratto stated that there was no reportable action taken in closed session.

ACTION ITEMS:

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

N/A

A-2 *Alameda County Deputy Sheriff's Assoc. et al., v. Alameda County Employees' Retirement Assn., et al* – Staff Recommendations Regarding Resolution and Implementation of the Alameda Decision

Presentation by Suzanne Jenike, Assistant CEO of External Operations and Steve Delaney, Chief Executive Officer, OCERS

Recommendation:

1. STAFF RECOMMENDS THE BOARD APPROVE THE UPDATED PENSIONABLE DESIGNATION OF THE FOLLOWING PAY ITEMS AS A RESULT OF STAFF'S APPLICATION OF THE TEST AND DEFINITION OF NORMAL WORKING HOURS, AND FIND THESE PAY ITEMS ARE NOT PENSIONABLE:

- a. County of Orange: Attorney Special Duty Pay, Sheriffs Canine Pay and On Call Pay
- b. Orange County Fire Authority: On Call Pay
- c. Transportation Corridor Agencies: Stand-By Statistical
- d. City of San Juan Capistrano: On Call Pay
- e. Sanitation District: On Call Pay
- f. Superior Court: On Call Pay

2. THE GOVERNANCE COMMITTEE RECOMMENDS THE BOARD APPROVE REVISIONS TO THE FOLLOWING POLICIES, PROCEDURES, PAY ITEM REQUEST FORM AND ADMINISTRATIVE PROCEDURES (OAP) REGARDING COMPENSATION EARNABLE TO REFLECT THE APPROVED TEST AND DEFINITION OF NORMAL WORKING HOURS:

- a. Compensation Earnable Policy
- b. Pensionable Compensation Policy
- c. Pay Item Request and Approval Procedures for Employers
- d. Employer Pay Item Request Form
- e. Compensation Earnable and Pensionable Compensation Determination OAP
- f. Final Average Salary Calculation OAP

3. STAFF RECOMMENDS THE BOARD DIRECT STAFF TO:

- a. Recalculate retirement allowances prospectively excluding the pay items listed in Recommendation #1, above, from compensation earnable for any payee with a benefit effective date of January 1, 2013 through October 1, 2020,
- b. Recover overpayments made to such payees between January 1, 2013 and October 1, 2020 by offsetting the overpayments against any over-collected employee contributions during that period. Any remaining overpayments made between January 1, 2013 and October 1, 2020 will be recovered via the actuarial valuation process;
- c. Credit/refund overpaid employee contributions that are remaining after being offset against the overpayments in 3.b above to the payees, if applicable;

- d. Credit/refund any overpaid employee contributions made between January 1, 2013 and October 1, 2020 to the non-payees (i.e., active and deferred members) as of October 1, 2020; and
- e. Collect overpayments made between October 1, 2020 and the date of the benefit recalculation in 3.a., above from the payee in accordance with the Overpayment/Underpayment of Plan Benefits Policy.

Mr. Delaney introduced item A-2 and reiterated that no decision would be made at the May Board meeting.

Mr. Leiderman gave an overview of the Alameda item.

Ms. Jenike reviewed and discussed the recommendations for item A-2.

Mr. Sam, retiree from the Sheriff's department, asked if he will receive a refund of his contributions since he never benefited from on-call pay. He stated that he will email Steve Delaney with his questions and will wait on his reply.

Mr. Marquez had a question regarding re-evaluating the measuring period used to calculate his benefit allowance given the exclusion of on-call pay.

Ms. Jenike stated that OCERS uses the highest consecutive 36 months of earnings and will look to a different 36 month period if it results in a higher salary for the retiree once the on call pay is removed.

Mr. Foran, Attorney representing AOCDS, expressed his disagreement with the test specified in the recommendation.

Ms. Reinhold, Attorney representing OCAA, reiterated that attorneys do not have "regular working hours" and it is not appropriate to consider their hours in the classification of "on-call" pay.

Ms. Crane, retiree, stated that her on-call pay should be included in the calculation of her benefit.

Ms. Robinson, Co-president of REAOC, spoke against the test listed in the recommendation.

Mr. Storm, Co-president of REAOC, also spoke against the recommendation.

After Board discussion, Mr. Delaney stated that the second reading of item A-2 will be held at the June Board meeting.

The Board recessed for break at 11:38 a.m.

The Board reconvened from break at 11:56 a.m.

Ms. Torres administered the roll call.

A-3 BOARD INTERVIEWS OF NOSSAMAN LLP AND REED SMITH LLP AND AWARD OF CONTRACT FOR FIDUCIARY COUNSEL SERVICES

Presentation by Gina Ratto, General Counsel, OCERS

Recommendation: Staff recommends (1) the Board interview the two finalists, Nossaman LLP and Reed Smith LLP, selected by the Board at its April 19, 2021 meeting, to serve as the Board’s fiduciary counsel; and (2) after conducting such interviews, that the Board award a Contract for Fiduciary Counsel Services to one of the two firms, subject to satisfactory negotiation of terms.

The Board interviewed the two finalists, Reed Smith LLP followed by Nossaman LLP to serve as the Board’s fiduciary counsel.

After Board discussion, **MOTION** by Hilton, **seconded** by Prevatt, to award a contract for Fiduciary Counsel Services to Reed Smith LLP.

The motion passed **unanimously**.

The Board recessed for break at 2:41 p.m.
The Board reconvened from break at 2:52 p.m.

Ms. Torres administered the roll call.

INFORMATION ITEMS

Presentations

- I-1 PRELIMINARY DECEMBER 31, 2020 ACTUARIAL VALUATION**
Presentation by Paul Angelo, Senior Vice President, Actuary, Segal Consulting

Mr. Angelo and Mr. Yeung presented the December 31, 2020 Actuarial Valuation.

- I-2 COVID-19 UPDATE**
Presentation by Steve Delaney, Chief Executive Officer, OCERS

Mr. Delaney presented the COVID-19 update for the month of May. He informed the Board that while OCERS staff continue to work remotely until the end of May, in line with current County Health Department advice emphasizing telework wherever possible, that decision is revisited by himself and the Crisis Management Team (CMT) every month. Mr. Delaney further stated that while he is sure OCERS will be continuing mandatory telework through the end of June, he would not be surprised if OCERS much like other pension plans such as CalPERS remains out into the summer. He also discussed what other Retirement systems are doing at this time in terms of returning to the office vs telecommuting.

Ms. Ratto updated the Board on the executive order of the Brown Act provisions that may affect the OCERS June 21, 2021 Regular Board meeting. Staff will update the Board once OCERS receives more information.

WRITTEN REPORTS

No written reports were pulled for discussion.

- R-1 MEMBER MATERIALS DISTRIBUTED**
Written Report

Application Notices

May 17, 2021

Death Notices

May 17, 2021

R-2 COMMITTEE MEETING MINUTES

- 01-25-2021 Audit Committee Minutes

R-3 CEO FUTURE AGENDAS AND 2021 OCERS BOARD WORK PLAN

Written Report

R-4 QUIET PERIOD – NON-INVESTMENT CONTRACTS

Written Report

R-5 BOARD COMMUNICATIONS

Written Report

R-6 LEGISLATIVE UPDATE

Written Report

R-7 SAFETY ELECTION UPDATE

Written Report

R-8 FIRST QUARTER 2021 BUDGET TO ACTUALS REPORT

Written Report

R-9 FIRST QUARTER UNAUDITED FINANCIAL STATEMENTS FOR THREE MONTHS ENDED MARCH 31, 2021

Written Report

BOARD MEMBER COMMENTS

N/A

CHIEF EXECUTIVE OFFICER/STAFF COMMENTS

N/A

COUNSEL COMMENTS

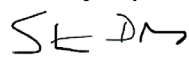
N/A

Chair Dewane adjourned in memory of the active members, retired members, and surviving spouses who passed away during the past month. The meeting ADJOURNED at 3:43 p.m.

Orange County Employees Retirement System
May 17, 2021
Regular Board Meeting – Minutes

Submitted by:

Approved by:

DocuSigned by:

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Steve Delaney
Secretary to the Board

DocuSigned by:

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Shawn Dewane
Chairman