

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

**REGULAR MEETING
Monday, February 16, 2021
9:30 a.m.**

MINUTES

Chair Dewane called the meeting to order at 9:30 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, Anthony Beltran, Visual Technician; Cammy Torres; Recording Secretary

Guests via Zoom:

Harvey Leiderman, ReedSmith

CONSENT AGENDA

MOTION by Hilton, **seconded** by Lindholm, to approve recommendations on all of the following items excluding item C-2 and C-3 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.

- Jeffrey Hoey
- Ronald Reed

ADMINISTRATION

C-2 BOARD MEETING MINUTES

Regular Board Meeting Minutes

January 19, 2021

Recommendation: Approve minutes.

C-3 ENTERPRISE RESOURCE PLANNING (ERP) SYSTEM - CONTRACT AWARD AND BUDGET AMENDMENT

Recommendation: Approve an amendment to the 2021 budget for the 2021 Business Plan initiative to procure and implement a new Enterprise Resource Planning (ERP) System in the amount of \$50,000 for a total estimated project cost of \$200,000 and authorize staff to execute an agreement with RSM US LLP (RSM) for ERP implementation services in an amount not to exceed \$200,000 and post-implementation annual subscription fees not to exceed \$75,000 per year.

The motion to pass item C-1 passed **unanimously**.

CONSENT ITEMS: DISABILITY/MEMBER BENEFITS AGENDA

OPEN SESSION

CONSENT ITEMS

MOTION by Packard, **seconded** by Hidalgo, to approve staff’s recommendation on all of the following items on the Disability/Member Benefits Consent Agenda excluding DC-2, DC-5 and DC-10:

DC-1: VANESSA HAMLIN

Social Worker II, Orange County Social Services Agency (General Member)

Recommendation: The Disability Committee recommends that the Board of Retirement:

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

DC-2: JOHN MANNING

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

Recommendation: The Disability Committee recommends that the Board of Retirement:

- Deny service connected disability retirement due to insufficient evidence of permanent incapacity.

Item DC-2 was **pulled** from the agenda.

DC-3: JOHN CLINKINBEARD

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

Recommendation: The Disability Committee recommends that the Board of Retirement:

- Grant service connected disability retirement
- Set the effective date as December 20, 2019.

DC-4: DANIEL ESPINOZA

Fire Captain, Orange County Fire Authority (Safety Member)

Recommendation: The Disability Committee recommends that the Board of Retirement:

- Grant service connected disability retirement
- Set the effective date as February 28, 2019.

DC-5: MARTIN NEAL

Coach Operator, Orange County Transportation Authority (General Member)

Recommendation: The Disability Committee recommends that the Board of Retirement:

- Grant non-service connected disability retirement.
- Set the effective date as September 16, 2018.

Mr. Neal **pulled** item DC-5.

DC-6: SHERI PAK

Eligibility Technician, Orange County Social Services Agency (General Member)

Recommendation: The Disability Committee recommends that the Board of Retirement:

- Grant non-service connected disability retirement
- Set the effective date as December 7, 2018.

DC-7: MITCHELL SIGAL

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

Recommendation: The Disability Committee recommends that the Board of Retirement:

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

DC-8: COLIN WATERSON

Groundskeeper, Orange County Community Resources/OC Parks (General Member)

Recommendation: The Disability Committee recommends that the Board of retirement:

- Grant service connected disability retirement.
- Set the effective date as December 23, 2016.

DC-9: ALAN WYFFELS

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

Recommendation: The Disability Committee recommends that the Board of Retirement:

- Grant service connected disability retirement
- Set the effective date as the day after the last date of regular compensation.

DC-10: ZILLE ZAMAN

Accountant/Auditor II, Orange County District Attorney's Office (General Member)

Recommendation: The Disability Committee recommends that the Board of Retirement:

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

Ms. Freidenrich **pulled** item DC-10.

The consent agenda motion passed **unanimously**.

ACTION ITEMS:

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

The Board adjourned into closed session at 10:01 a.m.

CLOSED SESSION

DISABILITY/MEMBER BENEFITS AGENDA

OPEN SESSION

The Board reconvened into open session at: 10:11 a.m.

REPORT OF ACTIONS TAKEN IN CLOSED SESSION

On behalf of Chair Dewane, Ms. Jenike reported that the Board took the following actions in Closed Session:

DC-5: MARTIN NEAL

MOTION by Prevatt, **seconded** by Hilton to approve and grant non-service connected disability retirement with an effective date of September 16, 2018.

The motion passed **unanimously**.

DC-10: ZILLE ZAMAN

MOTION by Eley, **seconded** by Packard to approve and grant service connected disability retirement with an effective date of January 17, 2020.

The motion passed **unanimously**.

DA-2: MEMBER APPEAL – KENNETH SCOTT TRUE

Recommendation:

- (1) Find that in light of the cost of collection of the overpayment and the likelihood of hardship to the member, OCERS will forgive the amount of the overpayment to Kenneth Scott True (True) of \$6,862.69 plus interest, pursuant to Subdivisions c and d of Section 8 of the OCERS Overpaid and Underpaid Plan Benefits Policy dated October 21, 2019; and
- (2) Authorize OCERS staff to enter into a settlement agreement with True pursuant to Subdivision E of Rule 3 of the OCERS Adjudication Policy and Administrative Hearing Rules dated January 16, 2018, whereby in exchange for OCERS' forgiveness of the overpayment of \$6,862.69 plus interest, True dismisses his appeal with prejudice and waives any and all claims against OCERS, including without limitation, any claim arising from the continued payment to him by OCERS between January 1, 2012 and September 30, 2018, of the amounts that should have been paid to True's former spouse.

MOTION by Eley, **seconded** by Hilton to approve both staff recommendations which reads: Find that in light of the cost of collection of the overpayment and the likelihood of hardship to the member, OCERS will forgive the amount of the overpayment to Kenneth Scott True (True) of \$6,862.69 plus interest, pursuant to Subdivisions c and d of Section 8 of the OCERS Overpaid and Underpaid Plan Benefits Policy dated October 21, 2019; and authorize OCERS staff to enter into a settlement agreement with True pursuant to Subdivision E of Rule 3 of the OCERS Adjudication Policy and Administrative Hearing Rules dated January 16, 2018, whereby in exchange for OCERS' forgiveness of the overpayment of \$6,862.69 plus interest, True dismisses his appeal with prejudice and waives any and all claims against OCERS, including without limitation, any claim arising from the continued payment to him by OCERS between January 1, 2012 and September 30, 2018, of the amounts that should have been paid to True's former spouse.

Ms. Kendra Carney Mehr spoke on behalf of Mr. True. She stated that Mr. True was disappointed with the way OCERS handled his case and would like to ensure that it won't happen to any other member. He also requested an accounting document of his benefits be sent to him as well as a document stating that payments are made appropriately to his former wife.

Mr. Delaney stated that OCERS staff will follow up and make sure to get the requested items to Mr. True.

The motion passed **unanimously**.

ACTION ITEMS:

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

C-2 BOARD MEETING MINUTES

Regular Board Meeting Minutes

January 19, 2021

Recommendation: Approve minutes.

Mr. Hilton pulled item C-2.

In regards to item I-1, Mr. Hilton asked that the sentence have the word “always” be replaced with either “can” or “may” in the second sentence.

After Board discussion, a **MOTION** by Hilton, **seconded** by Prevatt was made to approve the January 19, 2021 Regular Board Meeting Minutes on understanding that for item I-1 only the first sentence remains.

The motion passed **unanimously**.

C-3 ENTERPRISE RESOURCE PLANNING (ERP) SYSTEM - CONTRACT AWARD AND BUDGET AMENDMENT

Recommendation: Approve an amendment to the 2021 budget for the 2021 Business Plan initiative to procure and implement a new Enterprise Resource Planning (ERP) System in the amount of \$50,000 for a total estimated project cost of \$200,000 and authorize staff to execute an agreement with RSM US LLP (RSM) for ERP implementation services in an amount not to exceed \$200,000 and post-implementation annual subscription fees not to exceed \$75,000 per year.

Ms. Freidenrich pulled item C-3.

Ms. Freidenrich had a question regarding software solution and implementation services.

Ms. Shott explained that the implementation partner is going to do the ongoing support as well. She continued stating that just like OCERS current contract provider, the licensing fees for the software will run through that contract and RSM would bill OCERS for the Sage Intacct subscription fees.

Ms. Freidenrich stated that the three-year time frame should be added to the recommendation. She also asked if RSM receives ongoing commissions on the subscription fees.

Ms. Freidenrich also stated that a draft of the contract was not included in the material and was unsure of OCERS practice and if draft contracts are reviewed by the Board.

Ms. Shott confirmed that RSM does not receive a commission on the subscription cost.

Ms. Freidenrich asked if OCERS has a standard contract form and if OCERS has an indemnification process in case of release of information, since information is stored in the Cloud.

Ms. Shott replied yes, OCERS has a standard contract form, and OCERS also utilizes Gartner to review IT contracts such as this one to ensure all optimized terms are included to protect OCERS

Regarding Ms. Freidenrich's contract question, Mr. Delaney replied that the OCERS Board has not requested to see draft contracts in the past but, if it is the direction of the Board, staff can certainly add draft contracts as attachments to the Board documents.

MOTION by Freidenrich, **seconded** by Eley to approve an amendment to the 2021 budget for the 2021 Business Plan initiative to procure and implement a new Enterprise Resource Planning (ERP) System in the amount of \$50,000 for a total estimated project cost of \$200,000 and authorize staff to execute an agreement with RSM US LLP (RSM) for ERP implementation services in an amount not to exceed \$200,000 and post-implementation annual subscription fees not to exceed \$75,000 per year *for a three-year period with an option for three additional years, with no annual subscription fee amount going to RSM.*

Mr. Eley stated that draft contract topic should be raised at the Governance Committee meeting and the Board should decide on a standard contract review process.

The motion passed **unanimously** with Mr. Prevatt absent.

A-2 2021 COST OF LIVING ADJUSTMENT

Presentation by Suzanne Jenike, Assistant CEO of External Operations, OCERS

Recommendation: Adjust all applicable benefit allowances by 1.5% effective April 1, 2021, in accordance with Government Code section 31870.1, resulting from the 1.62% change to CPI in calendar year 2020.

Ms. Jenike presented the 2021 Cost of Living Adjustment.

Ms. Linda Robinson, Co-President representing the Retired Employees Association of Orange County (REAOC), requested that the Board approve the COLA increase and explained the importance of the COLA to all retirees. She also thanked OCERS staff on their hard work and dedication to the retirees.

MOTION by Eley, **seconded** by Tagaloa to adjust all applicable benefit allowances by 1.5% effective April 1, 2021, in accordance with Government Code section 31870.1, resulting from the 1.62% change to CPI in calendar year 2020.

The motion passed **unanimously**.

A-3 SACRS BOARD OF DIRECTORS ELECTIONS 2021-2022

Presentation by Gina M. Ratto, General Counsel

Recommendation: Identify one or more nominees for the SACRS Board of Directors election to be conducted on May 14, 2021; and direct staff to submit the nomination(s) to the SACRS Nominating Committee on or before March 1, 2021.

Mr. Hilton stated that he will not run for the SACRS Board this year.

Mr. Prevatt stated his interest to run for the SACRS Board.

Ms. Ratto stated that for the purpose of the February 16th meeting, Mr. Prevatt's nomination would suffice with the understanding that further direction will be given by the Chair and Vice-Chair as to which position Mr. Prevatt will run.

MOTION by Dewane, **seconded** by Eley to identify Mr. Prevatt as a nominee for the SACRS Board of Directors election to be conducted on May 14, 2021; and direct staff to submit the nomination to the SACRS Nominating Committee on or before March 1, 2021.

The motion passed **unanimously**.

The Board recessed for break at 10:49 a.m.
The Board reconvened from break at 11:00 a.m.

The Board recessed into closed session at 11:00 a.m.

CLOSED SESSION ITEM

**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 12:48 p.m.

REPORT OF ACTIONS TAKEN IN CLOSED SESSION

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

INFORMATION ITEMS

Each of the following informational items were presented to the Board for discussion.

Presentations

I-1 *Alameda County Deputy Sheriff's Assoc. et al., v. Alameda County Employees' Retirement Assn., et al – Draft Staff Recommendations Regarding Resolution and Implementation of the Alameda Decision for DISCUSSION ONLY*

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

Mr. Delaney introduced the Alameda case item. He stated that the item is informational only and that the Board will not come to a decision this month.

Mr. Leiderman gave an overview of the Alameda decision and the task set before the OCERS Board.

Ms. Jenike gave a high level overview and walked the Board through staff's recommendation.

Juan Viramontes, President of AOCDS expressed the disappointment of their deputies in regards to the Alameda decisions and its effects on their pension.

Paul Bartlett, Executive Director of AOCDS, also requested that the OCERS Board not adopt staff's recommendation.

Derek Foran, attorney representing AOCDS, urged the Board to not adopt staff's recommendation as the decision is not mandated by PEPRA or by the Supreme Court and went into details discussing what is and what is not mandated.

Doug Storm, Co-President of REAOC speaking on behalf of retired members, stated that they support staff recommendation to not recover overpayments directly from retirees. He agrees with the AOCDS comments and stated that when the MOUs were first created for specific classifications, they were not created with retirement benefits in mind.

Mr. Mena Guirguis, representing OC Attorneys Association, echoes the comments and remarks of Mr. Foran and stated that "normal working hours" does not apply to attorneys as they are salaried employees and they may work all hours of the day.

Mr. Kevin Nadeu, Sheriff Retiree, expressed his disappointment and appealed to the Board to be fair and honorable in their decision.

Mr. Kent McBride, Sheriff Retiree, also expressed his disappointment for the damage and loss in his benefits should the Board proceed with staff recommendation.

Mr. Larry Zurborg, Retired OCSD Investigator, discussed his work hours and training. He asked the OCERS Board to use common sense and heart in their decision.

Mr. Leonard Letze, retired OCSD, also expressed his disappointment and asked the Board to be fair when making their decision.

Mr. Brian Sims, retired employee from Orange County Traffic Bureau, discussed his work prior to retirement and requested that the benefits should continue as is.

Mr. James Hayfield, OCSD retiree, stated that on-call pay was mandatory in his line of work. He agrees with the AOCDS attorney and urged the Board to do the right thing.

Mr. Delaney thanked the stakeholder groups and all participants and discussed the Board and staff's next steps before final recommendations come to the Board.

I-2 COVID-19 UPDATE

Presentation by Steve Delaney, Chief Executive Officer, OCERS

Mr. Delaney presented the COVID-19 update for the month of February. He informed the Board that while OCERS staff continue to work remotely until the end of February, 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 he would not be surprised if OCERS remains teleworking at least through to the end of March 2021.

Mr. Eley stated he supports staff telecommuting until everyone receives the COVID vaccine.

WRITTEN REPORTS

None of the written reports were pulled for discussion.

R-1 MEMBER MATERIALS DISTRIBUTED

Written Report

Application Notices

February 16, 2021

Death Notices

February 16, 2021

R-2 COMMITTEE MEETING MINUTES

- 04-23-19 Personnel Committee Meeting Minutes
- 05-20-19 Personnel Committee Meeting Minutes
- 06-20-19 Personnel Committee Meeting Minutes
- 07-20-19 Personnel Committee Meeting Minutes
- 10-01-19 Personnel Committee Meeting Minutes
- 11-07-19 Personnel Committee Meeting Minutes
- 01-31-20 Personnel Committee Meeting Minutes
- 02-26-20 Personnel Committee Meeting Minutes
- 08-19-20 Personnel Committee Meeting Minutes
- 10-13-2020 Audit Committee Minutes
- 12-17-2020 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 OVERPAID AND UNDERPAID PLAN BENEFITS – 2020 REPORT

Written Report

R-8 2021 STAR COLA COST POSTING

Written Report

R-9 2020 BUSINESS PLAN – END OF YEAR REPORT

Written Report

R-10 BOARD ELECTION, SAFETY MEMBER AND ALTERNATE SAFETY MEMBER UPDATE

Written Report

R-11 ANNUAL REPORT OF CONTRACTS GREATER THAN \$50,000

Written Report

Ms. Freidenrich stated that it would be helpful to add the contract amounts in staff's memo for contracts listed as time and material contracts for 2020.

Mr. Delaney stated that he will get back to Ms. Freidenrich regarding the amounts of the contracts in question.

R-12 2021 POLICY COMPLIANCE REPORT

Written Report

The Board adjourned into closed session at 2:18 p.m.

CLOSED SESSION ITEMS

**E-2 CONFERENCE REGARDING INITIATION OF LITIGATION (ONE MATTER)
(GOVERNMENT CODE SECTION 54956.9)**

Adjourn pursuant to Government Code section 54956.9(d)(4) to discuss initiation of litigation.

Recommendation: Take appropriate action.

OPEN SESSION

The Board reconvened into open session at 2:36 p.m.

REPORT OF ACTIONS TAKEN IN CLOSED SESSION

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

CHIEF EXECUTIVE OFFICER/STAFF COMMENTS

Ms. Hockless updated the Board on the OCERS Volunteer Program piloted in 2019.

BOARD MEMBER COMMENTS

Mr. Packard asked if the Volunteer Program is a paid program.

Ms. Hockless replied that the program is not a paid program.

COUNSEL COMMENTS

Ms. Ratto reminded the Trustees that Form 700 is due April 1st.

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 2:41 p.m.

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