

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

**REGULAR MEETING
Monday, March 15, 2021
9:30 a.m.**

MINUTES

Chair Dewane called the meeting to order at 9:35 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 Packard, 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.

- Alan Wilkes

ADMINISTRATION

C-2 BOARD MEETING MINUTES

Regular Board Meeting Minutes

February 16, 2021

Recommendation: Approve minutes.

The motion passed **unanimously** with Ms. Freidenrich absent.

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 excluding DC-9:

DC-1: KATHERINE KLUG

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

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

- Grant service connected disability retirement.
- Set the effective date as February 1, 2017.

DC-2: MEGAN MEIER

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 the day after the last date of regular compensation.

DC-3: EDWARD MOSQUEDA

Firefighter, 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 August 3, 2018.

DC-4: GABRIELLE PELOQUIN

Lieutenant, 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 January 3, 2020.

DC-5: STEVE ROVANO

Fire Captain/Paramedic, 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 March 27, 2020.

DC-6: FERNANDO SALAS

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 April 15, 2020.

DC-7: SOU PHOMMASA

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

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

- Grant non-service connected disability retirement.
- Set the effective date as June 12, 2015.

DC-8: ERMA JONES

Coach Operator, Orange County Transportation Authority (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-9: JUANITA BRACAMONTES

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

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

- Deny service and non-service connected disability retirement due to the member's failure to cooperate.

This item has been *pulled* from the agenda.

DC-10: ANGELINA CORTEZ

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

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

- Deny service and non-service connected disability retirement due to the member's failure to cooperate.

The motion passed **unanimously** with Ms. Freidenrich absent.

Ms. Freidenrich joined the meeting at 9:38 a.m.

ACTION ITEMS:

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

N/A

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

N/A

A-2 2021 STAR COLA FINAL APPROVAL

Presentation by Suzanne Jenike, Assistant Chief Executive Officer, External Operations, OCERS

Recommendation: Approve payment of STAR COLA for the period April 1, 2021 through March 31, 2022 in the amount of \$356,419.

Ms. Jenike presented the 2021 STAR COLA final approval.

Sara Ruckle-Harms, representing Retired Employees Association of Orange County (REAOC) thanked OCERS staff for their hard work and dedication and asked the Board to grant the STAR COLA for an additional year.

MOTION by Eley, **seconded** by Prevatt, to approve payment of STAR COLA for the period April 1, 2021 through March 31, 2022 in the amount of \$356,419.

The motion passed **unanimously.**

The Board adjourned into closed session at 9:47 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.

The Board reconvened into open session at 11:33 a.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.

The Board recessed for break at 11:34 a.m.
The Board reconvened from break at 11:46 a.m.

A-3 *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 Chief Executive Officer, External Operations, and Steve Delaney, Chief Executive Officer, OCERS

Recommendation:

1. Staff recommends the board approve the test and definition of normal working hours for the purposes of determining whether certain items of pay can be included in compensation earnable under the terms of the plan.
2. Staff recommends the board approve the updated policies, procedures, pay item request form and OCERS administrative procedures (OAP) regarding compensation earnable reflective of the approved test.

Mr. Delaney opened with a review of OCERS actions over the past months in preparation for the Board's discussion today. He shared input received from various stakeholders over the course of those months since the Supreme Court announced its Alameda decision.

Ms. Jenike reviewed the Decision Document pertaining to the Alameda "test", as well as related policies.

Discussion on staff recommendation #1 only:

MOTION by Eley, **seconded** by Lindholm, to approve the test and definition of normal working hours for the purposes of determining whether certain items of pay can be included in compensation earnable under the terms of the plan.

Juan Veramontes, President, Paul Bartlett, Executive Director and Derek Foran, Attorney, all representing AOCDS, expressed concerns regarding staff recommendation #1. They will send proposed documentation to Mr. Delaney over the next month in hopes that staff will not move forward with the test proposed in recommendation #1.

Laurence Zaken, attorney representing OCAA, stated that the test proposed by staff is flawed and should not be adopted.

Doug Storm, Co-President of REAOC, voiced his concern about staff recommendation #1 as well.

The following members of the public also commented on item A-3, recommendation #1, voicing their opposition to staff recommendation.

- Sam Neinard
- Larry Zurborg
- Alex Quilanten
- Robert Mann
- Kevin Nadeaukm

Mr. Hilton stated that staff’s recommendation of the test is more restrictive than the law itself. He stated that in the policy, the word “all” is too broad and requested it to be taken out from the test as well as adding the language “of positions” after the word “class”.

Mr. Leiderman showed the Supreme Court case documentation where the word “all” was included in their explanation which is why it was adopted by OCERS. He stated that if the word “all” would be taken out from the test, it would be less consistent with the Supreme Court decision.

Ms. Ratto stated that leaving the word “all” makes the test more accurate and recommended it would be left in the test.

Substitute MOTION by Hilton, **seconded** by Eley to strike the word “all” from the definition of “normal working hours” and add the language “of positions” after the word “class”.

The substitute motion **failed 4-5** with voting as follows:

<u>AYES</u>	<u>NAYS</u>	<u>ABSTAIN</u>	<u>ABSENT</u>
Mr. Packard	Mr. Lindholm		
Ms. Tagaloa	Mr. Prevatt		
Mr. Hilton	Mr. Hidalgo		
Chair Dewane	Mr. Eley		
	Ms. Freidenrich		

The original **MOTION** by Eley, **seconded** by Lindholm, to approve the test and definition of normal working hours for the purposes of determining whether certain items of pay can be included in compensation earnable under the terms of the plan **carried 8-1** with voting as follows:

<u>AYES</u>	<u>NAYS</u>	<u>ABSTAIN</u>	<u>ABSENT</u>
Mr. Packard	Mr. Hilton		
Ms. Tagaloa			
Mr. Lindholm			
Mr. Prevatt			
Mr. Hidalgo			
Mr. Eley			
Ms. Freidenrich			
Chair Dewane			

Mr. Hilton requested that staff recommendation #2 be moved and discussed at a Governance Committee meeting before it’s brought back to the full Board.

Chair Dewane directed staff to move recommendation #2 to the next Governance Committee meeting and to be brought back to the full Board at a later time.

INFORMATION ITEMS

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

Presentations

I-1 UPDATE ON REQUEST FOR PROPOSAL – FIDUCIARY COUNSEL

Presentation by Gina Ratto, General Counsel, OCERS

Ms. Ratto presented the Update on Request For Proposal – Fiduciary Counsel.

The Board approved the panel of OCERS staff comprised of CEO Steve Delaney, Assistant CEO Suzanne Jenike, General Counsel Gina Ratto, and Staff Attorney Manuel Serpa. They will review and evaluate all the proposals that meet the minimum qualifications set forth in the RFP, and present the Board with a proposed list of finalists. Based on staff’s evaluation of the proposals, staff will then recommend one or more finalists to the Board for its approval at the April 19, 2021 Board meeting, and at that time will ask the Board to determine if it’s interviews will be by the Board as a whole, or a subcommittee of the Board, and to then direct staff to schedule interviews of the finalists to be conducted during the Board’s May 17, 2021 meeting.

I-2 COVID-19 UPDATE

Presentation by Steve Delaney, Chief Executive Officer, OCERS

Mr. Delaney presented the COVID-19 update for the month of March. He informed the Board that while OCERS staff continue to work remotely until the end of March, 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 April, he would not be surprised if OCERS much like other pension plans such as CalPERS remains out into the summer.

WRITTEN REPORTS

None of the written reports were pulled for discussion.

R-1 MEMBER MATERIALS DISTRIBUTED

Written Report

Application Notices

March 15, 2021

Death Notices

March 15, 2021

R-2 COMMITTEE MEETING MINUTES

- None

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 BOARD ELECTION, SAFETY MEMBER AND ALTERNATE SAFETY MEMBER UPDATE

Written Report

R-8 FIRST QUARTER REVIEW OF OCERS 2021-2023 STRATEGIC PLAN

Written Report

R-9 FOURTH QUARTER 2020 BUDGET VS. PRELIMINARY ACTUALS REPORT

Written Report

R-10 FOURTH QUARTER UNAUDITED FINANCIAL STATEMENTS FOR THE YEAR ENDED DECEMBER 31, 2020

Written Report

R-11 REEDSMITH, LLP PERFORMANCE REVIEW – FIDUCIARY COUNSEL SERVICES

Written Report

BOARD MEMBER COMMENTS

N/A

CHIEF EXECUTIVE OFFICER/STAFF COMMENTS

Ms. Shott updated Chair Dewane that OCERS will consolidate Board and Committee check stipends to be mailed out once a month.

Mr. Delaney updated the Board on OCERS Retiree 100th Birthday Program.

COUNSEL COMMENTS

Ms. Ratto reminded the Board 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 1:52 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