

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

**REGULAR MEETING
Monday, April 19, 2021
9:30 a.m.**

MINUTES

Chair Dewane called the meeting to order at 9:33 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

Mr. Delaney informed the public that item A-2 will be informational only and no action will be taken on this item.

CONSENT AGENDA

MOTION by Packard, **seconded** by Lindholm, 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.

- Chad Baker

- Anthony Ferrentino
- Paul McBride

ADMINISTRATION

C-2 BOARD MEETING MINUTES

Regular Board Meeting Minutes

March 15, 2021

Recommendation: Approve minutes.

C-3 GOVERNANCE COMMITTEE OUTCOMES FROM COMMITTEE MEETING HELD ON MARCH 5, 2020

Recommendation: The Governance Committee recommends the Board adopt revisions to the following policies as presented:

- (1) Cost Impacting Policy
- (2) Disposition of Surplus Property Policy
- (3) Extraordinary Expense Recovery Policy
- (4) Legislative Policy

C-4 18TH ANNUAL GLOBAL ARC BOSTON

Recommendation: Approve Trustees Packard and Tagaloa, together with CEO Delaney’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.

C-5 DISABILITY COMMITTEE OUTCOMES FROM COMMITTEE MEETING HELD ON MARCH 15, 2021

Recommendation: The Disability Committee recommends that the Board:

- (1) Adopt revisions to the Disability Reemployment Policy, including changing the name to the Disability Reassignment Policy, as approved by the Disability Committee; and
- (2) Adopt revisions to the Hearing Officer Selection and Retention Policy as approved by the Disability Committee.

The motion passed **unanimously**.

CONSENT ITEMS: DISABILITY/MEMBER BENEFITS AGENDA

OPEN SESSION

CONSENT ITEMS

MOTION by Hilton, **seconded** by Packard, to approve staff’s recommendation on all of the following items on the Disability/Member Benefits Consent Agenda:

DC-1: MARY NEGRON

Office 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 June 7, 2019.

DC-1 was **pulled** from the Agenda.

DC-2: MARTIN NEAL

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-2 was **pulled** from the Agenda.

DC-3: TAMARA JIMENEZ

Group Counselor II, 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 May 10, 2019, the day after the last day of regular compensation for the Group Counselor II position.
- Find the Applicant is capable of performing other duties in the service of the County of Orange pursuant to Government Code Section 31725.65.
- Grant a supplemental disability retirement payment allowance in the amount of the salary difference between the higher and lower paying positions effective May 10, 2019, the date of the position change until the day Ms. Jimenez wishes to retire from the new position.

DC-4: REBECCA CONTRERAS

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

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

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

DC-5: JUAN OCEGUEDA

Senior Institutional Cook, Orange County Sheriff's Department (General Member)

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

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

DC-6: RANDY RIPKEN

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 March 27, 2020.

DC-7: RICARDO ZAMORA

Sheriff's Special Officer II, Orange County Sheriff's Department (General Member)

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

- Grant service connected disability retirement.
- Set the effective date as September 25, 2020.

The motion passed **unanimously**.

OPEN SESSION

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

N/A

**DA-2: AGENDA ITEM DA-2: MCDONALD, KEVIN – REQUEST FOR ADMINISTRATIVE REVIEW OF CEO
DETERMINATION**

Recommendation:

1. Staff recommends that the Board review and determine the Request for Administrative Review of CEO Determination filed by OCERS member, Kevin McDonald (Applicant), at the Board's meeting on April 19, 2021; and
2. The Board affirm that OCERS' Staff correctly calculated the Applicant's final average salary in accordance with the law, OCERS' policies and procedures, and the applicable Memorandum of Understanding (MOU).

MOTION by Eley, **seconded** by Prevatt, to approve staff's recommendation on DA-2.

Ms. Jenike presented Mr. McDonald's item to the Board.

Mr. McDonald addressed the Board and expressed his concerns regarding timesheet calculation of hours and asked for this item to be continued to a later date in order to receive documentation from the County regarding his case.

Ms. Jenike indicated the members account could be recalculated if additional information was received by the County after the Board decision.

After Board discussion, a Substitute **MOTION** by Hilton, **seconded** by Hidalgo was made to defer item DA-2 to the June Regular Board meeting.

The motion passed **unanimously**.

The Board adjourned into closed session at 8:58 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 10:17 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.

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 aforementioned pay items 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 them 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 (see f below);
- 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 non-payees 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.
- f. Actuarial valuation process for recovering overpayments – Any remaining overpayments from 3.b above to be recovered from the employers by continuing to recognize the overpayments as part of the employers' unfunded actuarial accrued liability (UAAL).

Mr. Delaney presented item A-2 and outlined that this item was informational only and that action will take place at the May Regular Board Meeting.

A-3 FIDUCIARY COUNSEL RFP – SELECTION OF FINALISTS FOR INTERVIEW BY THE BOARD

Presentation by Gina Ratto, General Counsel, OCERS

Recommendation: Select the candidates for Fiduciary Counsel who will be interviewed by the Board; establish the interview panel consisting of the full Board; and determine the interviews will be conducted at the Board meeting on May 17, 2021.

Ms. Ratto presented the Fiduciary Counsel RFP item and stated that the two final candidates that will be interviewed at the May Regular Board Meeting to serve as the Board's fiduciary counsel are Nossaman LLP and Reed Smith LLP.

MOTION by Eley, **seconded** by Packard to approve Nossaman LLP and Reed Smith LLP as the two candidates for Fiduciary Counsel who will be interviewed by the Board at the May 17, 2021 Regular Board Meeting.

The motion passed **unanimously**.

A-4 SACRS BOARD OF DIRECTORS ELECTION 2021-2022 – DIRECTION TO OCERS' VOTING DELEGATE
Presentation by Gina Ratto, General Counsel, OCERS

Recommendation: Consider the SACRS Nominating Committee's recommended slate of candidates and the list of additional candidates interested in running for the election of SACRS Directors; and give direction to OCERS' Voting Delegate and Alternate Delegates for the SACRS Board of Directors election to be held at the SACRS Spring Conference to take place on May 14, 2021.

Ms. Ratto presented the SACRS Board of Directors Election item and outlined the recommended ballot.

SACRS Nominating Committee Final Ballot:

Vivian Gray, Los Angeles CERA President
Kathryn Cavness, Mendocino CERA Vice President
Harry Hagen, Santa Barbara, CERS Treasurer
Thomas Garcia, Imperial CERS Secretary
David MacDonald, MD, Contra Costa CERA Regular Member
Vere Williams, San Bernardino CERA Regular Member

Mr. Prevatt thanked the Board for their support in previously submitting his name to the SACRS Nominating Committee. He stated that as he had not been recommended by the Nominating Committee there was no chance he could succeed at the May SACRS conference. He recommended the Board approve the Nominating Committee's slate of candidates.

MOTION by Hilton, **seconded** by Packard to move the recommended slate.

The motion passed **unanimously**.

A-5 SACRS LEGISLATIVE COMMITTEE RECOMMENDED LEGISLATION FOR SACRS SPONSORSHIP – DIRECTION TO OCERS' VOTING DELEGATE
Presentation by Gina Ratto, General Counsel, OCERS

Recommendation: Direct the SACRS voting delegate and alternate delegates to vote to approve SACRS' formal sponsorship of SB 634, an omnibus bill to provide technical and clarifying changes to the CERL, when such matter is presented to the SACRS membership for a vote at the SACRS business meeting on May 14, 2021.

MOTION by Hilton, **seconded** by Packard to direct the SACRS voting delegate and alternate delegates to vote to approve SACRS' formal sponsorship of SB 634, an omnibus bill to provide technical and clarifying changes to the CERL, when such matter is presented to the SACRS membership for a vote at the SACRS business meeting on May 14, 2021.

The motion passed **unanimously**.

The Board adjourned to break at 10:40 a.m.

The Board reconvened from break at 10:57 a.m.

Ms. Torres administered the Roll Call attendance.

INFORMATION ITEMS

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

Presentations

I-1 ANNUAL FIDUCIARY EDUCATION

Presentation by Harvey Leiderman, ReedSmith, LLP

Mr. Leiderman conducted the annual fiduciary education.

I-2 COVID-19 UPDATE

Presentation by Steve Delaney, Chief Executive Officer, OCERS

Mr. Delaney presented the COVID-19 update for the month of April. 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 April, he would not be surprised if OCERS much like other pension plans such as CalPERS remains out into the summer.

WRITTEN REPORTS

No written reports were pulled for discussion.

R-1 MEMBER MATERIALS DISTRIBUTED

Written Report

Application Notices
Death Notices

April 19, 2021
April 19, 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 UPDATE TO BOARD ELECTION, SAFETY MEMBER AND ALTERNATE SAFETY MEMBER**
Written Report
- R-8 GOVERNMENT FINANCE OFFICERS ASSOCIATION (GFOA) CERTIFICATE OF ACHIEVEMENT FOR EXCELLENCE IN FINANCIAL REPORTING**
Written Report
- R-9 FIRST QUARTER 2021 TRAVEL AND TRAINING EXPENSE REPORT**
Written Report
- R-10 2021 AMERICAN ADVERTISING BRONZE AWARD FOR THE 2019 COMPREHENSIVE ANNUAL FINANCIAL REPORT**
Written Report

BOARD MEMBER COMMENTS

N/A

CHIEF EXECUTIVE OFFICER/STAFF COMMENTS

N/A

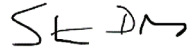
COUNSEL COMMENTS

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 11:35 a.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