

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

**REGULAR MEETING
Monday, December 13, 2021
9:30 a.m.**

MINUTES

Chair Dewane called the meeting to order at 9:32 a.m.

Recording Secretary administered the Roll Call attendance.

Attendance was as follows:

Present via Zoom Video conference pursuant to Government Code § 54953, as amended by AB 361:

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

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, Audio-Visual Technician; Brittany Cleberg; Recording Secretary

CONSENT AGENDA

MOTION by Mr. Lindholm, **seconded** by Mr. Prevatt to approve recommendations on all of the following items excluding item 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.

- None

ADMINISTRATION

C-2 BOARD MEETING MINUTES

Regular Board Meeting Minutes

November 15, 2021

Recommendation: Approve Minutes.

C-3 BOARD FINDINGS PURSUANT TO GOVERNMENT CODE § 54953, AS AMENDED BY AB 361, AND ADOPTION OF BOARD RESOLUTION 2021-03

Recommendation: That the Board (1) make the following findings pursuant to Government Code section 54953, as amended by AB 361;

- a. The Board has reconsidered the circumstances of the state of emergency resulting from the COVID-19 pandemic; and
- b. The Board has determined that the following circumstances exist:
 - i. The state of emergency continues to directly impact the ability of the members of the Board to meet safely in person; and
 - ii. State or local officials continue to impose or recommend measures to promote social distancing.

and

(2) Adopt Board of Retirement Resolution 2021-03 to reflect such findings.

C-4 2022 OCERS BOARD ANNUAL WORK PLAN

Recommendation: Approve 2022 OCERS Board Annual Work plan.

CONSENT ITEMS: DISABILITY/MEMBER BENEFITS AGENDA

OPEN SESSION

CONSENT ITEMS

Ms. Jenike announced that item DC-1 and DC-3 was pulled from the agenda.

MOTION by Eley, **seconded** by Oates, to approve staff’s recommendation on all of the following items on the Disability/Member Benefits Consent Agenda excluding item DC-1 and DC-3:

DC-1: EDWARD CORTEZ

Journeyman Mechanic, Orange County Transportation Authority (General Member)

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

- Deny service and non-service connected disability retirement without prejudice due to the member’s failure to cooperate.

DC-2: MINEA GRACIA

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

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

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

DC-3: MONICA RANGEL-SANTOS

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

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

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

DC-4: MICHAEL SCHROEDER

Battalion Chief, 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 26, 2021.

DC-5: STEVE TEAL

Firefighter/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 August 13, 2021.

The motion passed **unanimously**.

OPEN SESSION

DA-2: APPLICATION OF JAMES B. MORELL FOR A RECALCULATED RETIREMENT ALLOWANCE -- ON REMAND FROM THE LOS ANGELES COUNTY SUPERIOR COURT AFTER JUDGMENT ON PEREMPTORY WRIT OF MANDATE

Recommendation: Staff recommends that the Board: (1) set aside its prior administrative decision of October 18, 2018 in this matter, and (2) reconsider the Application of James B. Morell for a Recalculated Retirement Allowance in light of the Superior Court's Judgment and Writ, wherein the Board is directed by the Court to decide the Applicant's contentions that OCERS improperly excluded Optional Benefit Plan payments from the calculation of his final compensation separate and apart from the 2002 Settlement Agreement in *In re Retirement Cases*, Judicial Council Coordination Proceeding No. 4049 in San Francisco County Superior Court.

Ms. Ratto provided the Board an overview of the procedural background of Mr. Morell's case, and explained the two actions needed from the Board in order to comply with the Court's Writ. First, the

Board must set aside its prior administrative decision dated October 18, 2018 in this matter; and second, the Board must reconsider Mr. Morell's contentions that OCERS improperly excluded Optional Benefit Plan (OBP) payments from the calculation of his final compensation separate and apart from the 2002 Settlement Agreement in *In re Retirement Cases*.

Ms. Ratto asked Chair Dewane to call for a motion to set aside the Board's October 18, 2018 administrative decision.

Chair Dewane requested a motion.

MOTION by Eley, **seconded** by Tagaloa, to set aside the Board's prior administrative decision of October 18, 2018.

The motion passed **unanimously**.

Ms. Ratto then stated for the record there is a court reporter in attendance who is transcribing the proceedings. She also confirmed for the record that on November 19, the Board was provided a copy of the Administrative Record in this case, the Opening and Responsive Briefs of both Mr. Morell and OCERS, and Declarations and exhibits from both parties – almost 3,000 pages of records.

Chair Dewane introduced James Morell, a retired attorney, representing himself in this matter.

Mr. Morell first expressed concerns regarding the procedural overview of his case that was presented to the Board by Ms. Ratto. Mr. Morell then summarized and walked the Board through the written briefs that he filed, and presented his legal argument to the Board, with references to court cases supporting his position. He requested that the Board reconsider his case.

Chair Dewane introduced OCERS Staff Attorney, Dawn Matsuo.

Ms. Matsuo presented legal argument in support of OCERS' staff's position that OCERS properly excluded OBP payments from the calculation of Mr. Morell's final compensation.

After questions from the Board directed to both parties and discussion by the Board, Chair Dewane made the following statement and motion:

In accordance with the instructions of the Los Angeles County Superior Court in this matter, the Board has, separate and apart from the 2002 Settlement Agreement reconsidered the application of James Morell for a recalculated retirement allowance; and the Board has heard Mr. Morell's contentions that OCERS improperly excluded Optional Benefit Plan payments from the calculation of his final compensation; and that the Board make a finding that OCERS properly excluded all OBP payments from the calculation of Mr. Morell's final compensation under the CERL provisions and related laws in effect when Mr. Morell retired in 2014.

The motion was seconded by Prevatt.

Mr. Morell asked a procedural question about the motion. Ms. Ratto responded to Mr. Morell's question and Mr. Morell stated he was in agreement with the procedure as described.

The motion passed **unanimously**.

Ms. Ratto asked the Chair to direct staff to prepare written proposed findings and decision, and share them with Mr. Morell by December 22, and tht Mr. Morell would then have until January 4 to submit changes and/or objections to the proposed findings and decision, and that both documents be provided to the Board on or before January 7 for consideration by the Board at its January 18, 2022 meeting.

Chair Dewane confirmed that this was the direction of the Board to staff.

The Board took a break at 11:40 a.m.

The Board reconvened at 12:01 p.m.

ACTION ITEMS:

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

Ms. Freidenrich pulled item C-3.

Ms. Freidenrich stated she is concerned about item C-3 Recommendation: b, ii. State or local officials continue to impose or recommend measures to promote social distancing, as the County does not have these requirements at the workplace.

Ms. Ratto stated the recommendation came from the County of Orange Health Officer's Orders and Strong Recommendations that was revised on November 17, 2021.

Ms. Ratto explained the Orders and Recommendations contain a statement on the importance of taking preventive measures to avoid contracting Covid-19. They include: getting vaccinated, wearing a mask, avoid gatherings, and social distancing.

Ms. Ratto stated based on these Orders and Recommendations, staff wanted to bring this item before the Board for approval to adopt this resolution.

MOTION by Freidenrich, **seconded** by Dewane, to approve item C-3 on the Consent Agenda.

The motion passed **unanimously**.

A-2 ELECTION OF OCERS BOARD VICE CHAIR

Presentation by Steve Delaney, Chief Executive Officer, OCERS

Mr. Delaney provided brief remarks and options electing Vice-Chair in 2022. He turned the item over to Mr. Dewane for discussion.

Mr. Eley gave brief explanation why he was opting not to serve as Chair.

MOTION by Eley, **SECONDED** by Packard, to appoint Dewane to serve a second term as Chair of the Board in 2022.

SUBSTITUTE MOTION by Prevatt, **SECONDED** by Packard for purposes of discussion, to appoint Prevatt to serve as Chair of the Board in 2022.

During discussion, Vice Chair Eley indicated that he has changed his mind and is now willing to accede to the position of Chair of the Board in 2022 as contemplated by the Board of Retirement Charter. After discussion, the original motion was **WITHDRAWN**.

With Eley acceding to the position of Chair of the Board in 2022, the Board proceeded to consider the election of a Vice Chair for 2022.

After discussion, **MOTION** by Packard nominating Mr. Hidalgo to serve as Vice Chair of the Board in 2022. **SECONDED** by Prevatt. Mr. Hidalgo declined nomination.

MOTION by Lindholm, **SECONDED** by Packard, nominating Dewane to serve as Vice Chair of the Board in 2022.

SUBSTITUTE MOTION by Packard, **SECONDED** by Hidalgo, to appoint Dewane to serve a second term as Chair of the Board in 2022, and to elect an elected Board member to serve as Vice Chair.

After discussion, the substitute motion was **WITHDRAWN**.

The original **MOTION** by Lindholm, **SECONDED** by Packard, nominating Dewane to serve as Vice Chair of the Board in 2022, **carried unanimously**.

Frank Eley will serve as Chair of the OCERS Board in 2022, and Shawn Dewane will serve at the Vice Chair of the Board in 2022.

The Board took a break at 12:55 P.m.

The Board reconvened at 3:30 p.m.

A-3 COMPENSATION OF THE CHIEF EXECUTIVE OFFICER

Recommendation: Take appropriate action.

Mr. Eley stated that based inflation and on the evaluation of Mr. Delaney's performance he recommended a salary increase of 6%.

After discussion by the Board they proposed: (broken down)

5% base

2% Bonus

MOTION by Packard, **seconded** by Prevatt, to approve an increase of 5% in the salary for the OCERS Chief Executive Officer, Steve Delaney, broken out as 5% base building (salary adjustment) and 2% in a lump sum (bonus).

The motion passed **unanimously**.

CLOSED SESSION

The Board adjourned into closed session at 3:37 p.m.

Government Code section 54957

Adjourn to Closed Session under Government Code section 54957 to consider member disability applications and to discuss member medical records submitted in connection therewith. The applicant may waive confidentiality and request his or her disability application to be considered in Open Session.

OPEN SESSION

The Board reconvened into open session at 4:50 p.m.

REPORT OF ACTIONS TAKEN IN CLOSED SESSION

No reportable action taken.

INFORMATIONAL ITEMS

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

Presentations

I-1 RETIRED EMPLOYEES ASSOCIATION OF ORANGE COUNTY – ISSUES UPDATE
Presentation made by Linda Robinson and Doug Storm, Co-Presidents, REAOC

Mr. Storm and Ms. Robinson provided their yearly update and explained the challenges faced by retirees in 2021 especially with the current pandemic. They also thanked OCERS staff for their ongoing support and services on behalf of retired members.

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

Mr. Delaney presented the COVID-19 update. He informed the Board that OCERS staff continue to work remotely until the end of the year. Mr. Delaney mentioned that the plan is to have a hybrid schedule for OCERS staff beginning January 2022. Mr. Delaney further stated that OCERS remains closed to the public.

Written Reports

No written reports were pulled for discussion.

R-1 MEMBER MATERIALS DISTRIBUTED

Written Report

Application Notices

December 13, 2021

Death Notices

December 13, 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 REVIEW OF NEW PAY ITEMS ADDED BETWEEN DECEMBER 31, 2009 AND SEPTEMBER 30, 2021 AS PRESENTED TO THE GOVERNANCE COMMITTEE ON OCTOBER 28, 2021

Written Report

R-7 GENERAL MEMBER ELECTION UPDATE

Written Report

CLOSED SESSION

E-1 PUBLIC EMPLOYEE PERFORMANCE EVALUATION PURSUANT TO GOVERNMENT CODE SECTION 54957

Adjourn to closed session pursuant to Government Code Section 54957

Position to be evaluated: Chief Executive Officer

Recommendation: Take appropriate action.

Mr. Leiderman reported Board had no reportable action taken.

BOARD MEMBER COMMENTS

N/A

CHIEF EXECUTIVE OFFICER/STAFF COMMENTS

Mr. Delaney reminded the Board to respond to inquiry on Committees.

Announced CA Legislation passed new Mask mandate.

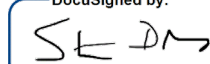
Announced 7 people / 7% of OCERS staff have resigned.

COUNSEL COMMENTS

N/A

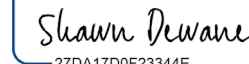
The meeting **ADJOURNED** at 5:04 p.m.

Submitted by:

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Steve Delaney
Secretary to the Board

Approved by:

DocuSigned by:

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Shawn Dewane
Chairman