

ORANGE COUNTY SANITATION DISTRICT

MINUTES

BOARD OF DIRECTORS

JANUARY 25, 2023



**Board Room
Administration Building
10844 Ellis Avenue
Fountain Valley, CA 92708
(714) 593-7433**

CALL TO ORDER

A Regular meeting of the Board of Directors of the Orange County Sanitation District was called to order by Board Chairman Chad Wanke on Wednesday, January 25, 2023 at 6:00 p.m. in the Administration Building of the Orange County Sanitation District. Director Christine Marick delivered the invocation and led the Pledge of Allegiance.

1. **APPOINTMENTS TO THE ORANGE COUNTY SANITATION DISTRICT BOARD OF DIRECTORS** [2023-2708](#)

Originator: Kelly Lore

WITHOUT OBJECTION ACTION TAKEN TO RECEIVE AND FILE THE FOLLOWING:

Receive and file minute excerpts of member agencies relating to appointments to the Orange County Sanitation District Board of Directors:

Agency	Director	Alternate Director
City of Brea	Christine Marick	Cecilia Hupp
City of Buena Park	Susan Sonne	Art Brown
City of Tustin	Ryan Gallagher	Austin Lumbard
City of Villa Park	Robbie Pitts	Jordan Wu
Board of Supervisors	Doug Chaffee	Donald P. Wagner

ROLL CALL AND DECLARATION OF QUORUM

The Clerk of the Board declared a quorum present as follows:

PRESENT: Brad Avery, Pat Burns, Doug Chaffee, Jon Dumitru, Rose Espinoza, Stephen Faessel, Ryan Gallagher, Glenn Grandis, Phil Hawkins, Johnathan Ryan Hernandez, Steve Jones, Farrah Khan, Christine Marick, Sandra Massa-Lavitt, Scott Minikus, Jordan Nefulda, Andrew Nguyen, Robert Ooten, Robbie Pitts, David Shawver, Susan Sonne, Chad Wanke, Bruce Whitaker, John Withers and Debbie Baker (Alternate)

ABSENT: None

STAFF PRESENT: Jim Herberg, General Manager; Rob Thompson, Assistant General Manager; Lorenzo Tyner, Assistant General Manager; Kelly Lore, Clerk of the Board; Jennifer Cabral and Mortimer Caparas were present in the Board Room. Celia Chandler, Director of Human Resources; Kathy Millea, Director of Engineering; Riaz Moinuddin, Director of Operations and Maintenance; Lan Wiborg, Director of Environmental Services; Andrew Brown; Tanya Chong; Daisy Covarrubias; Raul Cuellar; Justin Fenton; Beck Gass; Tina Knapp; Laura Maravilla; Lori McKinley; Rob Michaels; Vanh Phonsiri; Olga Prado; Valerie Ratto; Kevin Schuler; Wally Ritchie; Thomas Vu; Eros Yong; and Ruth Zintzun were present telephonically.

OTHERS PRESENT: Brad Hogin, General Counsel, was present in the Board Room. Mike Markus, OCWD; Jim Clark, Black & Veatch; Amber Baylor, South Orange County Wastewater Authority; Jayne Joy, Santa Ana Regional Water Quality Control Board; Akaash; and Natalie Herberg were in attendance telephonically.

PUBLIC COMMENTS:

None.

Clerk of the Board Kelly Lore stated that staff requested that Item No.16 be heard after Closed Session.

SPECIAL PRESENTATIONS:

2. EMPLOYEE SERVICE AWARDS

[2023-2701](#)

Originator: Kelly Lore

Director of Environmental Services Lan Wiborg recognized Van Phonsiri for his 30-years of service at OC San. Chair Wanke recognized those who could not be in attendance:

30-year Service Award

Vanh Phonsiri, Scientist - Division 630

20-year Service Awards

Hardat Khublall, Sr. Engineer - Division 750

Brandon Yokoyama, Environmental Technician - Division 630

3. RECOGNITION OF GENERAL MANAGER JAMES D. HERBERG

[2023-2709](#)

Originator: Kelly Lore

Chair Wanke asked staff to play a video created to celebrate the retirement of General Manager Jim Herberg. Once concluded, the following agencies provided a commendation or resolution recognizing Mr. Herberg for his over 30 years of dedicated service to the Orange County Sanitation District:

Congressmen Lou Correa and Alan Lowenthal; Congresswoman Michelle Steel; US Senators Dianne Feinstein and Alex Padilla; Assemblymen Phillip Chen and Tri Ta; Assemblywomen Sharon Quirk-Silva, Diane Dixon, and Cottie Petri-Norris and State Senators Bob Archuleta, Josh Newman, and Janet Nguyen; County of Orange Board of Supervisor Chairman Donald P. Wagner; Orange County Business Council President Jeffrey Ball; Orange County Water District General Manager Mike Markus; Santa Ana Watershed Project Authority Chairman Bruce Whitaker; SCCWRP; Santa Ana Regional Water Quality Board, Jayne Joy; SOCWA, Amber Baylor; Cities of Anaheim, Brea, Buena Park, Fountain Valley, Garden Grove, Irvine, La Habra, Newport Beach, Orange, Placentia, Santa Ana, Seal Beach, Stanton, and Tustin; Costa Mesa Sanitary District; Irvine Ranch Water District; and Yorba Linda Water District.

Chair Wanke provided Mr. Herberg with an OC San Resolution recognizing him for his contributions and dedication to public service as General Manager of the Orange County Sanitation District on his retirement.

Mr. Herberg thanked and acknowledged everyone for their support and recognition. He provided a few parting remarks.

REPORTS:

Chair Wanke announced that Special Board Meetings had been called on February 15, 2023 for OC San Board Orientation and on February 16, 2023 for a Virtual Tour of Plant No. 1, with both meetings beginning at 3:00 p.m.

Chair Wanke stated that in person tours of Plant No. 1 will be held prior to the March Operations and Administration Committee meetings and in person tours of Plant No. 2 will be held prior to the April Operations and Administration Committee meetings. These Special meetings will begin at 3:00 p.m. for the tours, with the regular meetings of the Committees beginning at 5:00 p.m.

Chair Wanke stated that the Clerk of the Board previously provided information regarding vacancies on the OC San Committees. He thanked those who expressed interest or a request. He further announced the following appointments:

Steering Committee: Jon Dumitru - Member-At-Large
GWRS Steering Committee: Pat Burns and Andrew Nguyen - Alternate members
Audit Ad Hoc Committee: Jon Dumitru, Bob Ooten and Bruce Whitaker - Members
SAWPA Joint Policy Committee: Pat Burns - Alternate member
NWRI: Jon Dumitru - Board delegate

Chair Wanke announced that talking points regarding OC San activities for use while reporting out to councils, boards, and community groups will be provided tomorrow. He encouraged the Directors to use this tool as a resource to communicate the activities going on at OC San. In addition, with so many new Board Members, he extended an offer to have staff come and present at an upcoming council or agency meeting. If interested, please let the Clerk know.

Mr. Herberg provided a brief report and reminder that the Governor's Emergency COVID-19 Order expires at the end of February. He stated that all Committee and Board meetings will resume in person starting in March.

Mr. Herberg also reported that OC San's current five-year sewer fee rate schedule expires at the end of the current fiscal year. As directed by the Board of Directors in December 2022, Prop 218 notifications will be mailed to the affected property owners next week. The notification will include the fee schedule with an increase of approximately 3.5 percent for fiscal years 2023-24 through 2027-28, and will be posted on OC San's website in English, Spanish, and Vietnamese.

CONSENT CALENDAR:**4. APPROVAL OF MINUTES**[2023-2702](#)**Originator:** Kelly Lore

MOVED, SECONDED, AND DULY CARRIED TO:

Approve Minutes of the Special Board of Directors Meeting held December 15, 2022 and the Special Board of Directors Meeting held January 11, 2023.

AYES: Brad Avery, Pat Burns, Doug Chaffee, Jon Dumitru, Rose Espinoza, Stephen Faessel, Ryan Gallagher, Glenn Grandis, Phil Hawkins, Johnathan Ryan Hernandez, Steve Jones, Farrah Khan, Christine Marick, Sandra Massa-Lavitt, Scott Minikus, Jordan Nefulda, Andrew Nguyen, Robert Ooten, Robbie Pitts, David Shawver, Susan Sonne, Chad Wanke, Bruce Whitaker, John Withers and Debbie Baker (Alternate)

NOES: None

ABSENT: None

ABSTENTIONS: None

**5. RESOLUTION NO. OC SAN 23-02 COMMENDING GENERAL
MANAGER JAMES D. HERBERG**[2023-2710](#)**Originator:** Kelly Lore

MOVED, SECONDED, AND DULY CARRIED TO:

Adopt Resolution No. OC SAN 23-02, entitled: "A Resolution of the Board of Directors of the Orange County Sanitation District commending James D. Herberg for his outstanding contributions and dedication to public service as General Manager of the Orange County Sanitation District".

AYES: Brad Avery, Pat Burns, Doug Chaffee, Jon Dumitru, Rose Espinoza, Stephen Faessel, Ryan Gallagher, Glenn Grandis, Phil Hawkins, Johnathan Ryan Hernandez, Steve Jones, Farrah Khan, Christine Marick, Sandra Massa-Lavitt, Scott Minikus, Jordan Nefulda, Andrew Nguyen, Robert Ooten, Robbie Pitts, David Shawver, Susan Sonne, Chad Wanke, Bruce Whitaker, John Withers and Debbie Baker (Alternate)

NOES: None

ABSENT: None

ABSTENTIONS: None

6. OPERATIONS AND MAINTENANCE FACILITY IMPROVEMENTS AT PLANT NO. 2, PROJECT NO. P2-138 [2023-2705](#)

Originator: Kathy Millea

MOVED, SECONDED, AND DULY CARRIED TO:

- A. Approve a Revised Professional Design Services Agreement with Stantec Architecture Inc. to provide engineering services for Operations and Maintenance Facility Improvements at Plant No. 2, Project No. P2-138, for an amount not to exceed \$7,914,529; and
- B. Approve a contingency of \$791,453 (10%).

AYES: Brad Avery, Pat Burns, Doug Chaffee, Jon Dumitru, Rose Espinoza, Stephen Faessel, Ryan Gallagher, Glenn Grandis, Phil Hawkins, Johnathan Ryan Hernandez, Steve Jones, Farrah Khan, Christine Marick, Sandra Massa-Lavitt, Scott Minikus, Jordan Nefulda, Andrew Nguyen, Robert Ooten, Robbie Pitts, David Shawver, Susan Sonne, Chad Wanke, Bruce Whitaker, John Withers and Debbie Baker (Alternate)

NOES: None

ABSENT: None

ABSTENTIONS: None

RECEIVE AND FILE:

7. COMMITTEE MEETING MINUTES [2023-2721](#)

Originator: Kelly Lore

WITHOUT OBJECTION ACTION TAKEN TO RECEIVE AND FILE THE FOLLOWING:

- A. Minutes of the Administration Committee Meeting held November 9, 2022
- B. Minutes of the Legislative and Public Affairs Committee Meeting held November 14, 2022
- C. Minutes of the Steering Committee Meeting held November 16, 2022
- D. Minutes of the Operations Committee Meeting held December 7, 2022

8. REPORT OF THE INVESTMENT TRANSACTIONS FOR THE MONTH OF DECEMBER 2022 [2023-2714](#)

Originator: Lorenzo Tyner

WITHOUT OBJECTION ACTION TAKEN TO RECEIVE AND FILE THE FOLLOWING:

Report of the Investment Transactions for the month of December 2022.

OPERATIONS COMMITTEE:

None.

ADMINISTRATION COMMITTEE:

None.

STEERING COMMITTEE:

9. PUBLIC AFFAIRS UPDATE FOR THE MONTHS OF NOVEMBER & DECEMBER 2022 AND JANUARY 2023 [2023-2750](#)

Originator: Jim Herberg

MOVED, SECONDED, AND DULY CARRIED TO:

Receive and file the Public Affairs Update for the months of November & December 2022 and January 2023.

AYES: Brad Avery, Pat Burns, Doug Chaffee, Jon Dumitru, Rose Espinoza, Stephen Faessel, Ryan Gallagher, Glenn Grandis, Phil Hawkins, Johnathan Ryan Hernandez, Steve Jones, Farrah Khan, Christine Marick, Sandra Massa-Lavitt, Scott Minikus, Jordan Nefulda, Andrew Nguyen, Robert Ooten, Robbie Pitts, David Shawver, Susan Sonne, Chad Wanke, Bruce Whitaker, John Withers and Debbie Baker (Alternate)

NOES: None

ABSENT: None

ABSTENTIONS: None

10. LEGISLATIVE AFFAIRS UPDATE FOR THE MONTHS OF NOVEMBER & DECEMBER 2022 AND JANUARY 2023 [2023-2751](#)

Originator: Jim Herberg

MOVED, SECONDED, AND DULY CARRIED TO:

Receive and file the Legislative Affairs Update for the months of November & December 2022 and January 2023.

AYES: Brad Avery, Pat Burns, Doug Chaffee, Jon Dumitru, Rose Espinoza, Stephen Faessel, Ryan Gallagher, Glenn Grandis, Phil Hawkins, Johnathan Ryan Hernandez, Steve Jones, Farrah Khan, Christine Marick, Sandra Massa-Lavitt, Scott Minikus, Jordan Nefulda, Andrew Nguyen, Robert Ooten, Robbie Pitts, David Shawver, Susan Sonne, Chad Wanke, Bruce Whitaker, John Withers and Debbie Baker (Alternate)

NOES: None

ABSENT: None

ABSTENTIONS: None

11. GENERAL MANAGER’S FY 2022-2023 WORK PLAN MID-YEAR UPDATE [2023-2752](#)

Originator: Jim Herberg

MOVED, SECONDED, AND DULY CARRIED TO:

Receive and file the General Manager’s FY 2022-2023 Work Plan Mid-Year Update.

AYES: Brad Avery, Pat Burns, Doug Chaffee, Jon Dumitru, Rose Espinoza, Stephen Faessel, Ryan Gallagher, Glenn Grandis, Phil Hawkins, Johnathan Ryan Hernandez, Steve Jones, Farrah Khan, Christine Marick, Sandra Massa-Lavitt, Scott Minikus, Jordan Nefulda, Andrew Nguyen, Robert Ooten, Robbie Pitts, David Shawver, Susan Sonne, Chad Wanke, Bruce Whitaker, John Withers and Debbie Baker (Alternate)

NOES: None

ABSENT: None

ABSTENTIONS: None

12. DEFERRED COMPENSATION PLAN 457(b) ON BEHALF OF ORANGE COUNTY SANITATION DISTRICT BOARD OF DIRECTORS [2023-2753](#)

Originator: Lorenzo Tyner

MOVED, SECONDED, AND DULY CARRIED TO:

Adopt Resolution No. OC SAN 23-03 entitled: “A Resolution of the Board of Directors of Orange County Sanitation District (OC San), approving payment by OC San to OC San’s 457(b) Deferred Compensation Plan (“457 Plan”) on behalf of OC San’s Director-Employees in lieu of Contributions Pursuant to the Federal Insurance Contributions Act (“FICA”), as mandated by the Federal Omnibus Budget Reconciliation Act of 1990 (“OBRA”); and Repealing Resolution No. OCSD 98-4”.

AYES: Brad Avery, Pat Burns, Doug Chaffee, Jon Dumitru, Rose Espinoza, Stephen Faessel, Ryan Gallagher, Glenn Grandis, Phil Hawkins, Johnathan Ryan Hernandez, Steve Jones, Farrah Khan, Christine Marick, Sandra Massa-Lavitt, Scott Minikus, Jordan Nefulda, Andrew Nguyen, Robert Ooten, Robbie Pitts, David Shawver, Susan Sonne, Chad Wanke, Bruce Whitaker, John Withers and Debbie Baker (Alternate)

NOES: None

ABSENT: None

ABSTENTIONS: None

13. DEFERRED PAYMENT AGREEMENT REQUEST FOR CHARGES AND FEES OWED BY NOR-CAL BEVERAGE CO., INC. INDUSTRIAL WASTEWATER DISCHARGE PERMITTEE [2023-2754](#)

Originator: Lorenzo Tyner

MOVED, SECONDED, AND DULY CARRIED TO:

Approve the request for a deferred payment agreement for charges owed for user fees with Nor-Cal Beverage Co., Inc. in the amount of \$986,149.55.

AYES: Brad Avery, Pat Burns, Doug Chaffee, Jon Dumitru, Rose Espinoza, Stephen Faessel, Ryan Gallagher, Glenn Grandis, Phil Hawkins, Johnathan Ryan Hernandez, Steve Jones, Farrah Khan, Christine Marick, Sandra Massa-Lavitt, Scott Minikus, Jordan Nefulda, Andrew Nguyen, Robert Ooten, Robbie Pitts, David Shawver, Susan Sonne, Chad Wanke, Bruce Whitaker, John Withers and Debbie Baker (Alternate)

NOES: None

ABSENT: None

ABSTENTIONS: None

NON-CONSENT:

14. APPOINTMENT OF ROBERT C. THOMPSON TO THE POSITION OF GENERAL MANAGER, APPROVAL OF AN AT-WILL EMPLOYMENT AGREEMENT ON BEHALF OF THE BOARD OF DIRECTORS WITH GENERAL MANAGER ROBERT C. THOMPSON, AND AUTHORIZATION OF THE BOARD CHAIRMAN TO EXECUTE THE AT-WILL EMPLOYMENT AGREEMENT [2023-2755](#)

Originator: Celia Chandler

Chair Wanke described the recruitment and selection process and provided the recommended action.

MOVED, SECONDED, AND DULY CARRIED TO:

- A. Adopt Resolution No. OC SAN 23-04, entitled “A Resolution of the Board of Directors Appointing Robert C. Thompson to the Position of General Manager for the Orange County Sanitation District and Authorizing the Chair of the Board of Directors to Enter into an At-Will Employment Agreement Effective February 10, 2023”;
- B. Approve the At-Will Agreement, attached hereto, with Mr. Thompson specifying terms and conditions of employment for General Manager services beginning February 10, 2023; and
- C. Authorize the Board Chairman to execute the At-Will Employment Agreement, attached hereto.

AYES: Brad Avery, Pat Burns, Doug Chaffee, Jon Dumitru, Rose Espinoza, Stephen Faessel, Ryan Gallagher, Glenn Grandis, Phil Hawkins, Johnathan Ryan Hernandez, Steve Jones, Farrah Khan, Christine Marick, Sandra Massa-Lavitt, Scott Minikus, Jordan Nefulda, Andrew Nguyen, Robert Ooten, Robbie Pitts, David Shawver, Susan Sonne, Chad Wanke, Bruce Whitaker, John Withers and Debbie Baker (Alternate)

NOES: None

ABSENT: None

ABSTENTIONS: None

15. CONTINUATION OF TELECONFERENCED PUBLIC MEETINGS

[2023-2707](#)

Originator: Kelly Lore

MOVED, SECONDED, AND DULY CARRIED TO:

Adopt Resolution No. OC SAN 23-05 entitled, “A Resolution of the Board of Directors of the Orange County Sanitation District authorizing the continuation of remote meetings pursuant to Government Code Section 54953”.

AYES: Brad Avery, Pat Burns, Doug Chaffee, Jon Dumitru, Rose Espinoza, Stephen Faessel, Ryan Gallagher, Glenn Grandis, Phil Hawkins, Johnathan Ryan Hernandez, Steve Jones, Farrah Khan, Christine Marick, Sandra Massa-Lavitt, Scott Minikus, Jordan Nefulda, Andrew Nguyen, Robert Ooten, Robbie Pitts, David Shawver, Susan Sonne, Chad Wanke, Bruce Whitaker, John Withers and Debbie Baker (Alternate)

NOES: None

ABSENT: None

ABSTENTIONS: None

INFORMATION ITEMS:

None.

AB 1234 DISCLOSURE REPORTS:

Director David Shawver reported on an upcoming OCCOG meeting.

Director Johnathan Ryan Hernandez left the meeting at approximately 7:18 p.m.

CLOSED SESSION:**CONVENED IN CLOSED SESSION PURSUANT TO GOVERNMENT CODE SECTIONS 54956.9 (d)(4) & 54956.9(d)(2).**

The Board convened in closed session at 7:17 p.m. Confidential minutes of the Closed Sessions have been prepared in accordance with the above Government Code Sections and are maintained by the Clerk of the Board in the Official Book of Confidential Minutes of Board and Committee Closed Session meetings.

**CS-1 CONFERENCE WITH LEGAL COUNSEL RE ANTICIPATED
LITIGATION - GOVERNMENT CODE SECTION 54956.9(d)(4)**[2023-2756](#)

CONVENED IN CLOSED SESSION:

Number of Potential Cases: 1

Potential initiation of litigation regarding Miller-Holder Easement.

**CS-2 CONFERENCE WITH LEGAL COUNSEL RE ANTICIPATED
LITIGATION - GOVERNMENT CODE SECTION 54956.9(d)(2)**[2023-2757](#)

CONVENED IN CLOSED SESSION:

Number of Potential Cases: 1

Claim received from Matt Cortez Law, PC for Thomas Nguyen of Thomas Solar Energy re OC San Project No. FR1-0007 Control Center Offices & Day Training Room Remodeling at Plant No. 1.

RECONVENED IN REGULAR SESSION.

The Board reconvened in regular session at 8:26 p.m.

CONSIDERATION OF ACTION, IF ANY, ON MATTERS CONSIDERED IN CLOSED SESSION:

General Counsel Brad Hogin did not provide a report.

**16. CONTROL CENTER OFFICES & DAY TRAINING ROOM
REMODELING AT PLANT NO. 1 PROJECT NO. FR1-0007**[2023-2718](#)**Originator:** Lorenzo Tyner

MOVED, SECONDED, AND DULY CARRIED TO:

Receive, file, and deny the claim submitted by Counsel for Thomas Solar Energy dated December 15, 2022 for Control Center Offices & Day Training Room Remodeling at Plant No. 1, Project No. FR1-0007.

AYES: Brad Avery, Pat Burns, Doug Chaffee, Jon Dumitru, Rose Espinoza, Stephen Faessel, Ryan Gallagher, Glenn Grandis, Phil Hawkins, Steve Jones, Farrah Khan, Christine Marick, Sandra Massa-Lavitt, Scott Minikus, Jordan Nefulda, Robert Ooten, Robbie Pitts, David Shawver, Susan Sonne, Chad Wanke, Bruce Whitaker, John Withers and Debbie Baker (Alternate)**NOES:** None**ABSENT:** Johnathan Ryan Hernandez**ABSTENTIONS:** Andrew Nguyen**OTHER BUSINESS AND COMMUNICATIONS OR SUPPLEMENTAL AGENDA ITEMS, IF ANY:**

None.

BOARD OF DIRECTORS INITIATED ITEMS FOR A FUTURE MEETING:

None.

ADJOURNMENT:

At 8:30 p.m., Chair Wanke adjourned the meeting until the Special meeting of the Board of Directors (Board Member Orientation) to be held on Wednesday, February 15, 2023 at 3:00 p.m.

Submitted by:

Kelly A. Lore, MMC
Clerk of the Board