

ORANGE COUNTY SANITATION DISTRICT

MINUTES

BOARD OF DIRECTORS

OCTOBER 27, 2021



**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 John Withers on Wednesday, October 27, 2021 at 6:01 p.m. in the Administration Building of the Orange County Sanitation District. Director Kim Carr delivered the invocation and led the Pledge of Allegiance. Chair Withers stated that the meeting was being held telephonically and via Internet accessibility in accordance with new provisions in California Government Code Section 54953 and Resolution No. OC SAN 21-14, due to the continued State of Emergency Order. Chair Withers announced the teleconference meeting guidelines.

ROLL CALL (Clerk of the Board)

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

PRESENT: Brad Avery, Art Brown, Kim Carr, Mark Chirco, Rose Espinoza, Stephen Faessel, Marshall Goodman, Patrick Harper, Johnathan Ryan Hernandez, Brooke Jones, Anthony Kuo, Sandra Massa-Lavitt, Paulo Morales, Andrew Nguyen, Kim Nichols, Robert Ooten, Glenn Parker, David Shawver, Jesus Silva, Chad Wanke, John Withers and Donald Wagner (Alternate)

ABSENT: Ryan Gallagher, Steve Jones and Chad Zimmerman

STAFF PRESENT: Kelly Lore, Clerk of the Board, and Mortimer Caparas were present in the Board Room. Jim Herberg, General Manager; Rob Thompson, Assistant General Manager; Lorenzo Tyner, Assistant General Manager; Celia Chandler, Director of Human Resources; Kathy Millea, Director of Engineering; Lan Wiborg, Director of Environmental Services; Stephanie Barron; Andrew Brown; Jennifer Cabral; George Crawford; Raul Cuellar; Tina Knapp; Laura Maravilla; Tom Meregillano; Jeff Mohr; Wally Ritchie; Thomas Vu; Eros Yong; and Ruth Zintzun were in attendance telephonically.

OTHERS PRESENT: Brad Hogin, General Counsel, and Gary Weisberg, Associate Counsel, were present in the Board Room. Maya Grasse, Alston and Bird, and Jeff Gilson, TASC, were in attendance telephonically.

PUBLIC COMMENTS:

None.

Clerk of the Board Kelly Lore announced that after the publication of the Agenda, she was notified that Closed Session Item Nos. CS-2 and CS-3 A-C would not be heard; and that CS-6 would be heard at the beginning of Closed Session.

SPECIAL PRESENTATIONS:**1. EMPLOYEE SERVICE AWARDS**

[2021-1892](#)

Originator: Kelly Lore

Chair Withers recognized the following individuals for their years of service:

20-year Service Awards

George Crawford	Senior Mechanic	Division 870
Luis Kawile	Machinist	Division 870

REPORTS:

Chair Withers announced that due to the Thanksgiving holiday the Steering and Board Meetings will be held on the third Wednesday next month, on November 17.

He then stated that Assuming Office - Form 700 reminders had been sent out to those who have not yet filed and encouraged the members to contact the Clerk of the Board the if filing assistance is needed.

Chair Withers announced that Board Member talking points will be provided tomorrow.

General Manager Herberg announced the inclusion of a subset of OC San's performance matrix for the last quarter in his monthly report; and stated that the report will be included on a quarterly basis moving forward.

Mr. Herberg also announced that a digital copy of the Annual Report was included in the agenda packet. He stated that the annual report highlights what transpired during the 2020-2021 fiscal year including OC San's achievements and accomplishments and a video capturing highlights will be sent to the members in tomorrow's Board Member talking points. The video and report will also be published on OC San's website and social media.

Mr. Herberg provided information regarding the passing of Assembly Bill 818 requiring all packaging for diaper wipes, cleaning wipes, and cosmetic wipes to display clear "Do Not Flush" warnings. The CASA sponsored bill is the result of a three-year effort between representatives from wastewater and product stewardship groups, and wipes manufacturers, to address an urgent pollution problem that has plagued public wastewater infrastructure. The bill will go into effect in July 2022.

CONSENT CALENDAR:

2. APPROVAL OF MINUTES

[2021-1893](#)

Originator: Kelly Lore

MOVED, SECONDED, AND DULY CARRIED TO:

Approve Minutes of the Board of Directors Special Meetings held September 29, 2021 and October 6, 2021.

AYES: Art Brown, Kim Carr, Mark Chirco, Rose Espinoza, Stephen Faessel, Marshall Goodman, Patrick Harper, Johnathan Ryan Hernandez, Brooke Jones, Anthony Kuo, Sandra Massa-Lavitt, Paulo Morales, Andrew Nguyen, Kim Nichols, Robert Ooten, Glenn Parker, David Shawver, Jesus Silva, Chad Wanke, John Withers and Donald Wagner (Alternate)

NOES: None

ABSENT: Ryan Gallagher, Steve Jones and Chad Zimmerman

ABSTENTIONS: Brad Avery

RECEIVE AND FILE:**3. COMMITTEE MEETING MINUTES**[2021-1549](#)

Originator: Kelly Lore

WITHOUT OBJECTION ACTION TAKEN TO RECEIVE AND FILE THE FOLLOWING:

- A. Minutes of the GWRS Steering Committee Meeting held July 12, 2021
- B. Minutes of the Steering Committee Meeting held August 25, 2021
- C. Minutes of the Operations Committee Meeting held September 1, 2021
- D. Minutes of the Administration Committee Meeting held September 8, 2021

4. REPORT OF THE INVESTMENT TRANSACTIONS FOR THE MONTH OF SEPTEMBER 2021[2021-1699](#)

Originator: Lorenzo Tyner

WITHOUT OBJECTION ACTION TAKEN TO RECEIVE AND FILE THE FOLLOWING:

Report of the Investment Transactions for the month of September 2021.

5. ORANGE COUNTY SANITATION DISTRICT ANNUAL REPORT - FISCAL YEAR 2020-2021[2021-1888](#)

Originator: Jim Herberg

WITHOUT OBJECTION ACTION TAKEN TO RECEIVE AND FILE THE FOLLOWING:

Receive and file the Orange County Sanitation District Annual Report for Fiscal Year 2020-2021.

OPERATIONS COMMITTEE:**6. PLANT NO. 1 BUILDING A FEEDER CABLES REPLACEMENT (MP-337) [2021-1894](#)**

Originator: Rob Thompson

MOVED, SECONDED, AND DULY CARRIED TO:

- A. Approve a Service Contract to AMTEK Construction for P1 Building A Feeder Cables Replacement (MP-337), for 480V feeder cables, per Specification No. S-2021-1261BD, for a total amount not to exceed \$356,333; and
- B. Approve a contingency of \$35,633 (10%).

AYES: Brad Avery, Art Brown, Kim Carr, Mark Chirco, Rose Espinoza, Stephen Faessel, Marshall Goodman, Patrick Harper, Johnathan Ryan Hernandez, Brooke Jones, Anthony Kuo, Sandra Massa-Lavitt, Paulo Morales, Andrew Nguyen, Kim Nichols, Robert Ooten, Glenn Parker, David Shawver, Jesus Silva, Chad Wanke, John Withers and Donald Wagner (Alternate)

NOES: None

ABSENT: Ryan Gallagher, Steve Jones and Chad Zimmerman

ABSTENTIONS: None

7. SUNFLOWER PUMP REPLACEMENT AT PLANT NO. 1, PROJECT NO. FE19-04 [2021-1895](#)

Originator: Kathy Millea

MOVED, SECONDED, AND DULY CARRIED TO:

- A. Receive and file Bid Tabulation and Recommendation for Sunflower Pump Replacement at Plant No. 1, Project No. FE 19-04;
- B. Award a Construction Contract to GSE Construction Company Inc. for Sunflower Pump Replacement at Plant No. 1, Project No. FE19-04, for a total amount not to exceed \$2,123,200; and
- C. Approve a contingency of \$212,320 (10%).

AYES: Brad Avery, Art Brown, Kim Carr, Mark Chirco, Rose Espinoza, Stephen Faessel, Marshall Goodman, Patrick Harper, Johnathan Ryan Hernandez, Brooke Jones, Anthony Kuo, Sandra Massa-Lavitt, Paulo Morales, Andrew Nguyen, Kim Nichols, Robert Ooten, Glenn Parker, David Shawver, Jesus Silva, Chad Wanke, John Withers and Donald Wagner (Alternate)

NOES: None

ABSENT: Ryan Gallagher, Steve Jones and Chad Zimmerman

ABSTENTIONS: None

8. NEWHOPE-PLACENTIA TRUNK REPLACEMENT, SEGMENT B, PROJECT NO. 2-72B

[2021-1896](#)

Originator: Kathy Millea

MOVED, SECONDED, AND DULY CARRIED TO:

Approve a contingency increase of \$1,164,840 (2%) to the Construction Contract with Group OHL USA, Inc. for Newhope-Placentia Trunk Sewer Replacement, Project Nos. 2-72B and 2-72C, for a total construction contingency of \$6,989,040 (12%).

AYES: Brad Avery, Art Brown, Kim Carr, Mark Chirco, Rose Espinoza, Stephen Faessel, Marshall Goodman, Patrick Harper, Johnathan Ryan Hernandez, Brooke Jones, Anthony Kuo, Sandra Massa-Lavitt, Paulo Morales, Andrew Nguyen, Kim Nichols, Robert Ooten, Glenn Parker, David Shawver, Jesus Silva, Chad Wanke, John Withers and Donald Wagner (Alternate)

NOES: None

ABSENT: Ryan Gallagher, Steve Jones and Chad Zimmerman

ABSTENTIONS: None

ADMINISTRATION COMMITTEE:

9. MAXIMO MOBILE SOLUTION FOR WAREHOUSE

[2021-1913](#)

Originator: Lorenzo Tyner

MOVED, SECONDED, AND DULY CARRIED TO:

A. Approve a Professional Services Agreement to Total Resource Management, Inc. to provide a Maximo Mobile Solution, Specification No. CS-2021-1257BD, for a total amount not to exceed \$174,722; and

B. Approve a contingency of \$26,208 (15%).

AYES: Brad Avery, Art Brown, Kim Carr, Mark Chirco, Rose Espinoza, Stephen Faessel, Marshall Goodman, Patrick Harper, Johnathan Ryan Hernandez, Brooke Jones, Anthony Kuo, Sandra Massa-Lavitt, Paulo Morales, Andrew Nguyen, Kim Nichols, Robert Ooten, Glenn Parker, David Shawver, Jesus Silva, Chad Wanke, John Withers and Donald Wagner (Alternate)

NOES: None

ABSENT: Ryan Gallagher, Steve Jones and Chad Zimmerman

ABSTENTIONS: None

10. RENEWAL OF ESRI GIS ENTERPRISE LICENSE AGREEMENT SUBSCRIPTION AND SUPPORT [2021-1914](#)

Originator: Lorenzo Tyner

MOVED, SECONDED, AND DULY CARRIED TO:

A. Approve Amendment No. 2 of Agreement 334620 with Environmental Systems Research Institute, Inc. for the renewal of the Sole Source GIS Enterprise License Agreement, for a three-year period commencing December 31, 2021 through December 30, 2024, for a total amount not to exceed \$382,000; and

B. Approve a not to exceed contingency of \$19,100 (5%).

AYES: Brad Avery, Art Brown, Kim Carr, Mark Chirco, Rose Espinoza, Stephen Faessel, Marshall Goodman, Patrick Harper, Johnathan Ryan Hernandez, Brooke Jones, Anthony Kuo, Sandra Massa-Lavitt, Paulo Morales, Andrew Nguyen, Kim Nichols, Robert Ooten, Glenn Parker, David Shawver, Jesus Silva, Chad Wanke, John Withers and Donald Wagner (Alternate)

NOES: None

ABSENT: Ryan Gallagher, Steve Jones and Chad Zimmerman

ABSTENTIONS: None

11. WASTEWATER REFUNDING REVENUE OBLIGATIONS, SERIES 2022A [2021-1915](#)

Originator: Lorenzo Tyner

MOVED, SECONDED, AND DULY CARRIED TO:

Authorize the General Manager to issue new fixed rate Certificates of Participation, to be referred to as Wastewater Refunding Revenue Obligations, in an amount sufficient to refund (1) up to \$100,645,000 of Wastewater Refunding Revenue Obligations, Series 2012A and (2) up to \$6,670,000 of Wastewater Refunding Revenue Obligations, Series 2012B.

AYES: Brad Avery, Art Brown, Kim Carr, Mark Chirco, Rose Espinoza, Stephen Faessel, Marshall Goodman, Patrick Harper, Johnathan Ryan Hernandez, Brooke Jones, Anthony Kuo, Sandra Massa-Lavitt, Paulo Morales, Andrew Nguyen, Kim Nichols, Robert Ooten, Glenn Parker, David Shawver, Jesus Silva, Chad Wanke, John Withers and Donald Wagner (Alternate)

NOES: None

ABSENT: Ryan Gallagher, Steve Jones and Chad Zimmerman

ABSTENTIONS: None

LEGISLATIVE AND PUBLIC AFFAIRS COMMITTEE:

None.

STEERING COMMITTEE:**12. LABOR RELATIONS - CHIEF NEGOTIATOR AGREEMENT**[2021-1928](#)

Originator: Celia Chandler

MOVED, SECONDED, AND DULY CARRIED TO:

Authorize the Board Chair to execute an agreement with Liebert Cassidy Whitmore, for Laura Drottz Kalty to serve as the external Chief Negotiator for labor contract negotiations and related items, for an amount not to exceed \$150,000.

AYES: Brad Avery, Art Brown, Kim Carr, Mark Chirco, Rose Espinoza, Stephen Faessel, Marshall Goodman, Patrick Harper, Johnathan Ryan Hernandez, Brooke Jones, Anthony Kuo, Sandra Massa-Lavitt, Paulo Morales, Andrew Nguyen, Kim Nichols, Robert Ooten, Glenn Parker, David Shawver, Jesus Silva, Chad Wanke, John Withers and Donald Wagner (Alternate)

NOES: None

ABSENT: Ryan Gallagher, Steve Jones and Chad Zimmerman

ABSTENTIONS: None

13. SUCCESSION MANAGEMENT - EXECUTIVE MANAGEMENT TEAM[2021-1929](#)

Originator: Jim Herberg

MOVED, SECONDED, AND DULY CARRIED TO:

Authorize recruitment and selection for the vacant Director of Operations and Maintenance position.

AYES: Brad Avery, Art Brown, Kim Carr, Mark Chirco, Rose Espinoza, Stephen Faessel, Marshall Goodman, Patrick Harper, Johnathan Ryan Hernandez, Brooke Jones, Anthony Kuo, Sandra Massa-Lavitt, Paulo Morales, Andrew Nguyen, Kim Nichols, Robert Ooten, Glenn Parker, David Shawver, Jesus Silva, Chad Wanke, John Withers and Donald Wagner (Alternate)

NOES: None

ABSENT: Ryan Gallagher, Steve Jones and Chad Zimmerman

ABSTENTIONS: None

NON-CONSENT:**14. CONTINUATION OF TELECONFERENCED PUBLIC MEETINGS**[2021-1898](#)**Originator:** Lorenzo Tyner

MOVED, SECONDED, AND DULY CARRIED TO:

Adopt Resolution No. OC SAN 21-15 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, Art Brown, Kim Carr, Mark Chirco, Rose Espinoza, Stephen Faessel, Marshall Goodman, Patrick Harper, Johnathan Ryan Hernandez, Brooke Jones, Anthony Kuo, Sandra Massa-Lavitt, Paulo Morales, Andrew Nguyen, Kim Nichols, Robert Ooten, Glenn Parker, David Shawver, Jesus Silva, Chad Wanke, John Withers and Donald Wagner (Alternate)

NOES: None

ABSENT: Ryan Gallagher, Steve Jones and Chad Zimmerman

ABSTENTIONS: None

INFORMATION ITEMS:

None.

AB 1234 DISCLOSURE REPORTS:

Director Shawver announced his upcoming attendance at the Annual OCCOG meeting to be held November 6th.

CLOSED SESSION:**CONVENED IN CLOSED SESSION PURSUANT TO GOVERNMENT CODE SECTIONS 54957.6, 54956.8, 54956.9(d)(4) & 54956.9(d)(2).**

The Board convened in closed session at 6:30 p.m. to hear four items. Item Nos. CS-2 and CS-3 were not heard. 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 LABOR NEGOTIATORS - GOVERNMENT
CODE SECTION 54957.6**[2021-1930](#)

CONVENED IN CLOSED SESSION:

Agency Designated Representatives: General Manager Jim Herberg, Assistant General Manager Lorenzo Tyner, and Director of Human Resources Celia Chandler.

Employee Organizations: International Union of Operating Engineers Local 501, Orange County Employees Association, Supervisory and Professional Management Group, and unrepresented: Confidential, Managers, and Executive Managers.

**CS-2 CONFERENCE WITH REAL PROPERTY NEGOTIATORS -
GOVERNMENT CODE SECTION 54956.8**

[2021-1931](#)

DID NOT CONVENE IN CLOSED SESSION:

Property: 7292 Slater Avenue Huntington Beach, CA - APN No. 110-010-39

Agency negotiators: General Manager Jim Herberg, Assistant General Manager Lorenzo Tyner, and Assistant General Manager Rob Thompson

Negotiating parties: Northington Huntington Beach Investors LLC

Under negotiation: Price and terms of payment

**CS-3 CONFERENCE WITH LEGAL COUNSEL RE EXISTING LITIGATION -
GOVERNMENT CODE SECTION 54956.9(d)(1)**

[2021-1932](#)

DID NOT CONVENE IN CLOSED SESSION:

Number of Cases: 3

- A. Gilbert Barela v. Orange County Sanitation District; Steve Thornburg; Roy Reynolds; and Does 1-100, inclusive. Superior Court of California, County of Orange, Case No. 30-2021-01220927-CU-WT-CJC.
- B. Heidi M. Janz v. Orange County Sanitation District; Its Board of Directors, Officers, Officials, Agents and Celia Chandler, Director of Human Resources and Does 1 through 10, Superior Court of California, County of Orange, Case No. 30-2021-01208616-CU-OE-CJC.
- C. Raul Palazuelos v. Orange County Sanitation District, a government entity; Richard Kwiecien, an individual; and Does 1 through 100, inclusive. Superior Court of California, County of Orange, Case No. 30-2021-01217839-CU-OE-CJC.

**CS-4 CONFERENCE WITH LEGAL COUNSEL RE ANTICIPATED
LITIGATION - GOVERNMENT CODE SECTION 54956.9(d)(4)**[2021-1933](#)

CONVENED IN CLOSED SESSION:

Number of Potential Cases: 1

Potential initiation of eminent domain litigation regarding property owned by Bayside Village Marina, LLC.

**CS-5 CONFERENCE WITH REAL PROPERTY NEGOTIATORS -
GOVERNMENT CODE SECTION 54956.8**[2021-1934](#)

CONVENED IN CLOSED SESSION:

Property: Portions of 300 East Coast Highway, Newport Beach, CA; APN No. 440-132-60.

Agency negotiators: General Manager Jim Herberg, Assistant General Manager Lorenzo Tyner, Assistant General Manager Rob Thompson, Director of Engineering Kathy Millea, and Controller Wally Ritchie.

Negotiating parties: Bayside Village Marina, LLC

Under negotiation: Price and terms of payment

**CS-6 CONFERENCE WITH LEGAL COUNSEL RE ANTICIPATION OF
LITIGATION - GOVERNMENT CODE SECTION 54956.9(d)(2)**[2021-1937](#)

CONVENED IN CLOSED SESSION:

Number of Potential Cases: 1

Significant exposure to litigation regarding Notices of Violation from South Coast Air Quality Management District.

RECONVENE IN REGULAR SESSION.

The Board reconvened in regular session at 7:06 p.m.

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

General Counsel Brad Hogin reported that the Board of Directors approved the following:

- A. Approved the proposed Health Reimbursement Arrangement (HRA) plan for the Managers Group with employee-funded contributions in the form of mandatory payouts for actively accruing leave banks, including personal leave, compensatory leave, vacation leave and sick leave; and

- B. Authorized the Orange County Sanitation District to pay the annual administrative costs of the HRA plan for an amount, not to exceed \$17,520, which accounts for a maximum of \$30 per employee per year for all potential participating groups, based on current headcounts, and contingent on ratification of tentative agreements with all collective bargaining groups and unrepresented groups.

OTHER BUSINESS AND COMMUNICATIONS OR SUPPLEMENTAL AGENDA ITEMS, IF ANY:

None.

BOARD OF DIRECTORS INITIATED ITEMS FOR A FUTURE MEETING:

None.

ADJOURNMENT:

At 7:08 p.m., Chair Withers adjourned the meeting until the next Regular Meeting of the Board of Directors to be held on Wednesday, November 17, 2021 at 6:00 p.m.

Submitted by:

Kelly A. Lore, MMC
Clerk of the Board