

# **ORANGE COUNTY SANITATION DISTRICT**

## **MINUTES**

### **BOARD OF DIRECTORS**

**AUGUST 25, 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 August 25, 2021 at 6:02 p.m. in the Administration Building. Director Anthony Kuo delivered the invocation and led the Pledge of Allegiance. Chair Withers announced that the meeting was being held telephonically and via audio/video teleconferencing in accordance with the Governor's Executive Order No. N-29-20, due to the Coronavirus Pandemic (COVID-19). Chair Withers announced the meeting guidelines.

**ROLL CALL AND DECLARATION OF QUORUM**

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

**PRESENT:** Art Brown, Kim Carr, Doug Chaffee, Mark Chirco, Stephen Faessel, Ryan Gallagher, Marshall Goodman, Patrick Harper, Brooke Jones, Steve Jones, Anthony Kuo, Sandra Massa-Lavitt, Paulo Morales, Andrew Nguyen, Robert Ooten, Glenn Parker, David Shawver, Chad Wanke, John Withers and Chad Zimmerman

**ABSENT:** Rose Espinoza, Johnathan Ryan Hernandez, Kim Nichols and Jesus Silva

**STAFF MEMBERS PRESENT:** General Manager Jim Herberg, Clerk of the Board Kelly Lore, and Joshua Martinez were present in the Board Room. Assistant General Manager Lorenzo Tyner, Assistant General Manager Rob Thompson, Director of Engineering Kathy Millea, Director of Environmental Services Lan Wiborg, Director of Human Resources Celia Chandler, Andrew Brown, Jennifer Cabral, Tanya Chong, Raul Cuellar, Brian Engeln, Laurie Klinger, Tina Knapp, Laura Maravilla, Jeffrey Mohr, and Thomas Vu participated telephonically.

**OTHERS PRESENT:** Brad Hogin, General Counsel, and Gary Weisberg, Associate Counsel, were present in the Board Room.

**PUBLIC COMMENTS:**

No public comment was provided.

Clerk of the Board Kelly Lore stated that late communication was received regarding a change to the attachment on Item No. 8 which was provided to the Directors and made available to the public.

**SPECIAL PRESENTATIONS:****1. EMPLOYEE SERVICE AWARDS**[2021-1789](#)

**Originator:** Kelly Lore

Chair Withers recognized:

**25-year Service Award**

Brian Bingman - Engineering Supervisor, Division 770

**REPORTS:**

Chair Withers announced that the Board Member talking points regarding OC San activities for assistance with agency reporting would be made available tomorrow.

Chair Withers reported on plans for the Board and Committee meetings to return to in-person public meetings beginning with the Operations Committee on October 6. He stated that the Board will receive communication in the near future announcing the return, along with expectations to comply with OC San's COVID protocols. Should the Governor's executive order be extended to allow the continuance of virtual meetings, OC San will remain in a virtual format.

Chair Withers reminded the Board Members that the September Steering and Board meeting date was changed from September 22 to the 29th. The Clerk will send out a reminder.

General Manager Jim Herberg reported on fund transfers within the Biosolids Account Pool from one contract to another, as deemed necessary to effectively manage biosolids. He stated that \$1,600,000 was moved from the Tule Ranch contract to increase the Nursery Products and the Liberty Compost account by \$800,000, each to ensure sufficient funds were available to sustain these contracts through the end of the year.

Mr. Herberg reported on the current status of the phased return to office plan wherein 25% of remote workers recently moved back onsite. Mr. Herberg stated that due to the current up tick in COVID-19 cases in our community and onsite, the escalation of additional workers returning to office has paused, and we will remain at our current capacity until we begin to see the numbers resume back in a downward trend.

Mr. Herberg stated that the final 2021-2022 GM Work Plan was presented to the Steering Committee this evening. He provided a brief explanation of this year's plan for the Board and stated that a change was made to a goal which was provided to the Board by the Clerk.

**CONSENT CALENDAR:****2. APPROVAL OF MINUTES****[2021-1788](#)****Originator:** Kelly Lore

MOVED, SECONDED, AND DULY CARRIED TO:

Approve Minutes of the Regular Meeting of the Board of Directors held July 28, 2021.

**AYES:** Art Brown, Kim Carr, Doug Chaffee, Mark Chirco, Stephen Faessel, Ryan Gallagher, Marshall Goodman, Patrick Harper, Brooke Jones, Steve Jones, Anthony Kuo, Sandra Massa-Lavitt, Paulo Morales, Andrew Nguyen, Robert Ooten, Glenn Parker, David Shawver, Chad Wanke, John Withers and Chad Zimmerman

**NOES:** None

**ABSENT:** Rose Espinoza, Johnathan Ryan Hernandez, Kim Nichols and Jesus Silva

**ABSTENTIONS:** None

**3. CORRECTIONS TO THE 2021-2022 BUDGET - ERRATA INFORMATION**

[2021-1811](#)

MOVED, SECONDED, AND DULY CARRIED TO:

Approve the incorporation of adjustments and corrections into the 2021-22 Fiscal Year Budget.

**AYES:** Art Brown, Kim Carr, Doug Chaffee, Mark Chirco, Stephen Faessel, Ryan Gallagher, Marshall Goodman, Patrick Harper, Brooke Jones, Steve Jones, Anthony Kuo, Sandra Massa-Lavitt, Paulo Morales, Andrew Nguyen, Robert Ooten, Glenn Parker, David Shawver, Chad Wanke, John Withers and Chad Zimmerman

**NOES:** None

**ABSENT:** Rose Espinoza, Johnathan Ryan Hernandez, Kim Nichols and Jesus Silva

**ABSTENTIONS:** None

**RECEIVE AND FILE:**

**4. COMMITTEE MEETING MINUTES**

[2021-1547](#)

**Originator:** Kelly Lore

WITHOUT OBJECTION ACTION TAKEN TO RECEIVE AND FILE THE FOLLOWING:

- A. Minutes of the GWRS Steering Committee Meeting held April 12, 2021.
- B. Minutes of the Steering Committee Meeting held June 23, 2021.
- C. Minutes of the Operations Committee Meeting held July 7, 2021.
- D. Minutes of the Administration Committee Meeting held July 14, 2021.

**5. REPORT OF THE INVESTMENT TRANSACTIONS FOR THE MONTH OF JULY 2021**

[2021-1697](#)

**Originator:** Lorenzo Tyner

WITHOUT OBJECTION ACTION TAKEN TO RECEIVE AND FILE THE FOLLOWING:

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

6. **2021 ORANGE COUNTY SANITATION DISTRICT NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT (NPDES PERMIT NO. CA0110604, ORDER R8-2021-0010)** [2021-1795](#)

**Originator:** Lan Wiborg

WITHOUT OBJECTION ACTION TAKEN TO RECEIVE AND FILE THE FOLLOWING:

Receive and file the U.S. Environmental Protection Agency (EPA) National Pollutant Discharge Elimination System (NPDES) Permit No. CA0110604 and Santa Ana Regional Water Quality Control Board Waste Discharge Requirements Order No. R8-2021-0010.

### **PUBLIC HEARING**

7. **COLLECTION OF SEWER SERVICE CHARGES VIA THE TAX ROLL** [2021-1708](#)

**Originator:** Lorenzo Tyner

Chair Withers opened the public hearing at 6:15 p.m. and hearing no comment or objections, closed the public hearing.

MOVED, SECONDED, AND DULY CARRIED TO:

- A. Conduct a public hearing to receive input on a report filed with the Clerk of the Board entitled: "Sewer Service Charges for Collection on Tax Rolls for Fiscal Year 2021-22":
1. Open the Public Hearing
  2. Receive staff report and recommendations
  3. Report of written communications by Clerk of the Board
  4. Public Comment
  5. Close Public Hearing
  6. Discussion by Board of Directors;
- B. Unless there is a majority protest, adopt the report, which has the assessor's parcel numbers and amount of charges for collection on the tax rolls;
- C. Adopt Resolution No. OC SAN 21-13 entitled "A Resolution of the Board of Directors of the Orange County Sanitation District adopting the Report proposing to collect Sewer Service Fees on the Tax Roll for Fiscal Year 2021/2022";
- D. Authorize execution of the "Certification of Assessment";
- E. Direct staff to file a certified copy of the adopted Resolution, Report, and the Certification of Assessment with the County Auditor-Controller; and
- F. Direct staff to coordinate collection of sanitary sewer service charges on the general Orange County tax rolls with the County Auditor-Controller, Assessor, and Tax Collector.

**AYES:** Art Brown, Kim Carr, Doug Chaffee, Mark Chirco, Stephen Faessel, Ryan Gallagher, Marshall Goodman, Patrick Harper, Brooke Jones, Steve Jones, Anthony Kuo, Sandra Massa-Lavitt, Paulo Morales, Andrew Nguyen, Robert Ooten, Glenn Parker, David Shawver, Chad Wanke, John Withers and Chad Zimmerman

**NOES:** None

**ABSENT:** Rose Espinoza, Johnathan Ryan Hernandez, Kim Nichols and Jesus Silva

**ABSTENTIONS:** None

**OPERATIONS COMMITTEE:**

None.

**ADMINISTRATION COMMITTEE:**

None.

**LEGISLATIVE AND PUBLIC AFFAIRS COMMITTEE:**

None.

**STEERING COMMITTEE:****8. GENERAL MANAGER'S FISCAL YEAR 2021-22 WORK PLAN [2021-1816](#)**

**Originator:** Jim Herberg

MOVED, SECONDED, AND DULY CARRIED TO:

Approve the General Manager's Fiscal Year 2021-22 Work Plan.

**AYES:** Art Brown, Kim Carr, Doug Chaffee, Mark Chirco, Stephen Faessel, Ryan Gallagher, Marshall Goodman, Patrick Harper, Brooke Jones, Steve Jones, Anthony Kuo, Sandra Massa-Lavitt, Paulo Morales, Andrew Nguyen, Robert Ooten, Glenn Parker, David Shawver, Chad Wanke, John Withers and Chad Zimmerman

**NOES:** None

**ABSENT:** Rose Espinoza, Johnathan Ryan Hernandez, Kim Nichols and Jesus Silva

**ABSTENTIONS:** None

**9. BAY BRIDGE PUMP STATION FORCE MAIN ISOLATION VALVE REPLACEMENT, PROJECT NO. FRC-0013 [2021-1819](#)**

**Originator:** Kathy Millea

MOVED, SECONDED, AND DULY CARRIED TO:

A. Ratify Approval of an Emergency Repair Service Contract to Charles King Company for Bay Bridge Pump Station Force Main Isolation Valve Replacement, Project No. FRC-0013, for an amount not to exceed \$289,585; and

B. Approve a contingency of \$144,793 (50%).

**AYES:** Art Brown, Kim Carr, Doug Chaffee, Mark Chirco, Stephen Faessel, Ryan Gallagher, Marshall Goodman, Patrick Harper, Brooke Jones, Steve Jones, Anthony Kuo, Sandra Massa-Lavitt, Paulo Morales, Andrew Nguyen, Robert Ooten, Glenn Parker, David Shawver, Chad Wanke, John Withers and Chad Zimmerman

**NOES:** None

**ABSENT:** Rose Espinoza, Johnathan Ryan Hernandez, Kim Nichols and Jesus Silva

**ABSTENTIONS:** None

**10. BAY BRIDGE PUMP STATION VALVE REPLACEMENT, PROJECT NO. FRC-0002 [2021-1820](#)**

**Originator:** Kathy Millea

MOVED, SECONDED, AND DULY CARRIED TO:

Approve a contingency increase of \$269,100 (45%) to the service contract with Innovative Construction Solutions for Bay Bridge Pump Station Valve Replacement, Project No. FRC-0002, Specification No. S-2020-1192BD, for a total contingency of \$328,900 (55%).

**AYES:** Art Brown, Kim Carr, Doug Chaffee, Mark Chirco, Stephen Faessel, Ryan Gallagher, Marshall Goodman, Patrick Harper, Brooke Jones, Steve Jones, Anthony Kuo, Sandra Massa-Lavitt, Paulo Morales, Andrew Nguyen, Robert Ooten, Glenn Parker, David Shawver, Chad Wanke, John Withers and Chad Zimmerman

**NOES:** None

**ABSENT:** Rose Espinoza, Johnathan Ryan Hernandez, Kim Nichols and Jesus Silva

**ABSTENTIONS:** None

**NON-CONSENT:**

**11. TREASURER'S REPORT FOR THE FOURTH QUARTER ENDED [2021-1703](#)  
JUNE 30, 2021**

**Originator:** Lorenzo Tyner

MOVED, SECONDED, AND DULY CARRIED TO:

Receive and file the Orange County Sanitation District Fourth Quarter Treasurer's Report for the period ended June 30, 2021.

**AYES:** Art Brown, Kim Carr, Doug Chaffee, Mark Chirco, Stephen Faessel, Ryan Gallagher, Marshall Goodman, Patrick Harper, Brooke Jones, Steve Jones, Anthony Kuo, Sandra Massa-Lavitt, Paulo Morales, Andrew Nguyen, Robert Ooten, Glenn Parker, David Shawver, Chad Wanke, John Withers and Chad Zimmerman

**NOES:** None

**ABSENT:** Rose Espinoza, Johnathan Ryan Hernandez, Kim Nichols and Jesus Silva

**ABSTENTIONS:** None

**12. GENERAL MANAGER'S COMPENSATION AND BENEFITS [2021-1815](#)**

**Originator:** Celia Chandler

Mr. Herberg left the Board Room for discussion on this item.

Chair Withers provided a report on the General Manager's performance evaluation.

MOVED, SECONDED, AND DULY CARRIED TO:



Approve a performance-based non-base building lump sum merit payment of 2.5% for the General Manager based on Fiscal Year 2020/2021 job performance, as authorized in Resolution No. OCSD 19-12.

**AYES:** Art Brown, Kim Carr, Doug Chaffee, Mark Chirco, Stephen Faessel, Ryan Gallagher, Marshall Goodman, Patrick Harper, Brooke Jones, Steve Jones, Anthony Kuo, Sandra Massa-Lavitt, Paulo Morales, Andrew Nguyen, Robert Ooten, Glenn Parker, David Shawver, Chad Wanke, John Withers and Chad Zimmerman

**NOES:** None

**ABSENT:** Rose Espinoza, Johnathan Ryan Hernandez, Kim Nichols and Jesus Silva

**ABSTENTIONS:** None

### **INFORMATION ITEMS:**

**13. 2020-21 FISCAL YEAR BUDGET - FINANCIAL CLOSING UPDATE** [2021-1813](#)

**Originator:** Lorenzo Tyner

Assistant General Manager Lorenzo Tyner provided a report on changes to the closing of the 2020-21 fiscal year budget.

ITEM RECEIVED AS AN:

Information Item.

**14. ORANGE COUNTY SANITATION DISTRICT LEVELS OF SERVICE** [2021-1799](#)

**Originator:** Jim Herberg

Assistant General Manager Rob Thompson provided a presentation outlining OC San's proposed Levels of Service meant to align with the upcoming Strategic Plan.

RECEIVED AS AN:

Information Only.

### **AB 1234 DISCLOSURE REPORTS:**

Director Dave Shawver reported on his recent virtual tour of the GWRS expansion and requested that the Board of Directors be offered the same tour in the future.

### **CLOSED SESSION:**

**CONVENED IN CLOSED SESSION PURSUANT TO GOVERNMENT CODE SECTIONS 54956.9(d)(4), 54956.9(d)(1) & 54956.8.**

The Board convened in closed session at 6:55 p.m. to hear three items. 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)** [2021-1817](#)

CONVENED IN CLOSED SESSION:

Number of Cases: 1

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

**CS-2 CONFERENCE WITH LEGAL COUNSEL RE EXISTING LITIGATION - GOVERNMENT CODE SECTION 54956.9(d)(1)** [2021-1818](#)

CONVENED IN CLOSED SESSION:

Number of Cases: 1

Bayside Village Marina, LLC v. Orange County Sanitation District; Orange County Sanitation District Board of Directors; and Does 1-25, Inclusive, Superior Court of the State of California for the County of Orange - Central Justice Center Case No. 30-2021-01194238-CU-WM-CXC.

**CS-3 CONFERENCE WITH REAL PROPERTY NEGOTIATORS - GOVERNMENT CODE SECTION 54956.8** [2021-1823](#)

CONVENED IN CLOSED SESSION:

Number of Cases: 1

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 Richie.

Negotiating parties: Bayside Village Marina, LLC

Under negotiation: Price and terms of payment

**RECONVENE IN REGULAR SESSION.**

The Board reconvened in regular session at 7:25 p.m.

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

General Counsel Brad Hogin reported the Board of Directors voted unanimously in Closed Session to:

Approve the appraisal of Back Bay Landing at Coast Highway and Bayside Drive in Newport Beach for OC San Pump Station Bay Bridge Pump Station Expansion Project dated August 25, 2021;

Authorize staff to offer Bayside Village Marina, LLC \$4,417,486 for the real property interests described in the appraisal and that are needed to construct the project; and

Authorize staff to reimburse Bayside Village Marina, LLC for the reasonable costs of an independent appraisal not to exceed \$5,000.

|                |  |
|----------------|--|
| <b>AYES:</b>   | Art Brown, Kim Carr, Doug Chaffee, Mark Chirco, Stephen Faessel, Ryan Gallagher, Marshall Goodman, Patrick Harper, Brooke Jones, Steve Jones, Anthony Kuo, Sandra Massa-Lavitt, Paulo Morales, Andrew Nguyen, Robert Ooten, Glenn Parker, David Shawver, Chad Wanke, John Withers and Chad Zimmerman |
| <b>NOES:</b>   | None   |
| <b>ABSENT:</b> | Rose Espinoza, Johnathan Ryan Hernandez, Kim Nichols and Jesus Silva   |

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

None.

**BOARD OF DIRECTORS INITIATED ITEMS FOR A FUTURE MEETING:**

None.

**ADJOURNMENT:**

At 7:27 p.m., Chair Withers adjourned the meeting until the Special Meeting of the Board of Directors to be held on Wednesday, September 29, 2021 at 6:00 p.m.

Submitted by:

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Kelly A. Lore, MMC  
Clerk of the Board