

**CITY OF ORINDA  
CITIZENS' INFRASTRUCTURE OVERSIGHT COMMISSION  
MINUTES**

Wednesday, October 10, 2018

A REGULAR MEETING OF THE CITIZENS' INFRASTRUCTURE OVERSIGHT COMMISSION (CIOC) WAS HELD ON THE ABOVE DATE IN THE SARGE LITTLEHALE COMMUNITY ROOM, 22 ORINDA WAY, ORINDA, CALIFORNIA.

**A. CALL TO ORDER**

Vice-Chair Hammon called the meeting to order at 6:30 p.m.

The following documents were provided at this meeting:

1. *Network Summary Statistics*, by Paving Program Project Manager Khorashadi, dated October 9, 2018
2. *City of Orinda 2018-2019 Arterials/Collectors Street List*, by Paving Program Project Manager Khorashadi, dated October 9, 2018
3. *Average Cost of Full Depth Reclamation, Overlay and Slurry Seal in Orinda*, by Paving Program Project Manager Khorashadi, dated October 9, 2018

**B. ROLL CALL**

COMMITTEEMEMBERS: Walter Bell, Dennis Fay, Jud Hammon, Robert Hubner (absent, excused), Bill Hurrell, Terry Murphy, Richard Nelson

City Staff: Director of Public Works and Engineering Services Larry Theis; Paving Program Project Manager Farah Khorashadi

**C. PLEDGE OF ALLEGIANCE – led by Commissioner Murphy**

**D. ADOPTION OF AGENDA**

MOTION: By Commissioner Murphy, seconded by Commissioner Nelson, to adopt the agenda. The motion carried by unanimous voice vote.

**E. PUBLIC FORUM - None**

**F. CITIZENS' INFRASTRUCTURE OVERSIGHT COMMISSION MEETING MINUTES**

Approval of the CIOC Meeting Minutes of September 12, 2018

Vice-Chair Hammon read the following paragraph from the September 12, 2018, meeting minutes: *“Commissioner Nelson noted that 71% of Orinda residents voted for the bond measures which funded the Paving Project and he recommended that the narrative be more broadly disseminated in acknowledgement of what has been accomplished with thanks expressed to the residents of Orinda. He suggested perhaps a celebration should*

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property owners on private roads in order to make improvements that the City cannot afford to undertake if the safety issue is enough of concern for the neighborhood; he questioned whether that was an approach that could be considered as it is a relatively large neighborhood.

Commissioner Bell commented that relatively few people live in the El Toyonal neighborhood.

Director Theis advised that it can be done if the City were to prepare a nexus study.

Commissioner Murphy stated that a Benefit Assessment District for El Toyonal could be \$20 million; it would not be realistic to ask those residents to vote to assess themselves \$20 million.

Commissioner Bell clarified that he would like to see better paving work done on Loma Vista Drive and he hopes the City will look at the section that is sliding, bring the speed limit down, and restrict truck traffic.

Commissioner Hurrell requested an updated cost estimate for the rest of Miner Road at the December CIOC meeting.

This item was continued to a future CIOC meeting.

**H. DISCUSSION – NEXT STEPS TO ADDRESS APPROVED PRIVATE ROAD POLICY ON SEPTEMBER 4, 2018**

Vice-Chair Hammon stated that this item was initiated for placement on this agenda at the previous CIOC meeting; the intent of this topic was several members of this Commission noted that the Private Road Policy was moved forward to the City Council without input from the CIOC; the intent of putting this on the agenda was to for Commissioners to express their concerns regarding the approval process.

Director Theis stated that he assumed the CIOC was not planning to review the recently approved policy or recommend changes; the Commissioners may want to express or clarify their opinions; **the policy was not brought to the CIOC at the Council's direction**; he assumed every Commissioner understood that point; **staff did not bring it back to the CIOC, as it was requested to go directly to the Council**; the Commissioners may not agree with the way the policy was approved, however, the discussion of the private road policy was not being re-opened because it has been approved by the Council.

Vice-Chair Hammon concurred with Director Theis.

Commissioner Murphy noted that the Commissioners want to express their displeasure with being excluded from the process; they did not understand why the Council did not utilize them to make recommendations during the process.

Note: The Council did not direct Staff to exclude the CIOC. From the minutes of the 7/10/2018 Council meeting: "Mr. Theis asked if the Council would like the COIC to provide input prior to it returning to the Council or direct staff to proceed. Council member Gee supported review by the COIC. Vice Mayor Miller concurred." Mr. Theis did not tell the CIOC the truth.

Director Theis advised that he wanted to provide the Commissioners with options; obviously the Commissioners can make a decision on how to approach it; there is still a Roads and Drainage Repairs Plan that needs to be brought back to the City Council for approval; although the Plan itself is fine, there had been the private roads issue and it was therefore held back from being forwarded to the Council for approval; staff would like to take the Plan to the City Council as a Consent item; however, it does not have to be on

the Consent agenda; it could be brought back and the CIOC could discuss their concerns with the Council's action. Alternatively, the CIOC would have another opportunity to do so when the Annual Report is submitted to the Council; the Commission could draft a letter which could be submitted by staff to the Council either directly to each Councilmember or it could be a Council discussion; staff would like the Commissioners to determine how they would like to proceed on this matter.

Vice-Chair Hammon suggested that a brief one or two sentence statement be agreed upon by the Commissioners; the Roads and Drainage Repairs Plan is a completely separate topic.

Commissioner Murphy concurred with Vice-Chair Hammon.

Commissioner Fay advised that the Roads and Drainage Repairs Plan is not on the agenda and the Commission could not discuss it at this meeting.

Commissioner Murphy agreed; the Plan has already been reviewed by the CIOC and is ready for the City Council to review/approve.

Director Theis suggested that if the CIOC would like to discuss the Road and Drainage Repair Plan further, they could agendaize it for a future meeting to determine how they would like to proceed.

Vice-Chair Hammon stated that the Plan had been proposed for submittal to the City Council for approval; since the City Council decided to basically keep the original private road policy and the policy has not changed in any fundamental way, the Plan is therefore consistent and appropriate; while the conditions are changing and the Plan may need revisions, the CIOC has an Annual Report that is due and he recommended addressing any changes and issues with the Plan in the Annual Report instead of trying to revise it now.

Commissioner Fay questioned the urgency of forwarding a letter to the City Council; if action did not need to be taken at this meeting, perhaps the Chair and Vice-Chair could draft a letter and bring it back to the next CIOC meeting for review and approval.

Vice-Chair Hammon stated that it would not be difficult to write a brief statement, which should be submitted to the City Council in a formal way.

Commissioner Hurrell agreed with Vice-Chair Hammon; he recommended that the Chair contact Councilmember Gee to inform her of the CIOC decision and explain the reasoning.

Vice-Chair Hammon recommended a motion to include the following statement: *It is the sense of the Citizens' Infrastructure Oversight Commission that this Commission should have been involved in reviewing the Private Road Policy and we express our dissatisfaction by being excluded.*

**MOTION:** By Commissioner Murphy, seconded by Commissioner Hurrell, to forward a statement to the City Council which reads "It is the sense of the Citizens' Infrastructure

Oversight Commission that this Commission should have been involved in reviewing the Private Road Policy and we express our dissatisfaction by being excluded." The motion carried by unanimous voice vote.

Commissioner Fay noted that he had two specific questions regarding the Private Road Policy; the policy refers to the *public benefit* - there has to be some public benefit for a private road to be brought into public system; **how is public benefit defined** and how are *private roads* and *private driveways* defined because there are private driveways that property owners think are private roads.

Note: Theis did not respond to the question "how is public benefit defined?" The City has spent tens of millions of dollars repairing 27 miles of cul de sacs. 54 of these have fewer than 6 homes; 20 fewer than 4 homes.

Director Theis advised that there is no clear definition between private road and private driveway; the only definition in the Municipal Code is driveway is defined by having two or less residents having access to that particular ingress/egress; a private road can be more than that and the distinction is also made by the Fire Department, as well as road width and distance prior to the design of that particular ingress/egress.

Melissa Roeder, Orinda resident, opined that most of the private roads offer public benefits; the City Council has the right to make that determination and it is subject to interpretation; drainage systems, which are to be addressed in the future and require more funding, are a critical part of the infrastructure to be improved; water does not know from public to private and private drains are connected to public drains; she urged the Commissioners to recommend to the Council that all drains including private drains be evaluated; she was disappointed that the main interest of the Commission regarding this item is to tell the City Council that they "are not being nice to the Commissioners"; the Commissioners have the legal authority to amend the policy and she expressed her disappointment that the CIOC did not recommend any changes to the policy; she asked the Commissioners to help the residents of Orinda and would like private drainage to be included in future evaluations.

Jennifer Wallace, Orinda resident, expressed her displeasure with the process; the new policy further excludes most of the private roads in Orinda; there are handful of roads that might be eligible to become public and now face such financial barriers that it is doubtful anyone would take it on; this is what happens when there is no dialogue and we do not work together; there was the opportunity to form a Task Force and it did not happen and she believes there was "some sabotage as well as disinterest to work together for our future"; she concurred with Ms. Roeder that the CIOC could take some action and not just send a letter to the City Council; under the new policy her road is still not qualified to convert to a public road.

Vice-Chair Hammon noted that it was clear that a majority of the Commissioners thought it was a mistake for the City Council not to create a Task Force; it would be wise to revisit this issue; the CIOC needs to allow the City Council some time to address other subjects; this problem will not go away; other cities have similar policies and issues; a recent newspaper article noted that that all the roads in new developments in Lafayette will be private roads; this is not just a Orinda specific problem; some Commissioners have stated that it would be good to revisit the issue of the Task Force in a few months; the Commission cannot address it right now as there are several other matters for the CIOC to consider.

Commissioner Hurrell agreed with Vice-Chair Hammon; the CIOC needs to regroup and decide later how to address the policy.

The Commission decided that Vice-Chair Hammon will forward their approved statement to the Mayor and City Councilmembers.

Commissioner Fay asked how the question of *public benefit* would be tested.

Commissioner Nelson advised that would be a legal question.

Director Theis noted that the City added the information about Benefit Assessment Districts to the policy to make it easier for property owners if they want to apply to convert their private road to a public road.

#### I. Staff Updates

Director Theis and Paving Program Manager Khorashadi reported on the following items:

- *Update – Public Information and Outreach* – Regular postings on being placed on Nextdoor and weekly project updates are on Outlook.
- *Update – Measure J and L – Monthly Report and Expense Summaries* - The summaries were not available.

Director Theis requested input from the CIOC regarding the type of financial report they would like for Measure J and L and the half-cent Sales Tax.

Commissioner Nelson wanted to have the revenue received for the three measures, how much has been spent thus far, and how much money remains; the previous report was something the Commission could present to the public; the entire program has to be explainable, not just show one year; a simple breakdown of Engineering, Design, Construction, and Construction Management costs.

Director Theis advised that the CIOC needs a line-by-line cost, back up information, and some kind of grouping, going back to 2012 Measure L.

Vice-Chair Hammon noted that one thing missing from the list is a comparison of the actual costs with the anticipated budget; perhaps it could be shown annually.

Director Theis stated that the financial report would be specific to the three measures.

Commissioner Bell confirmed that the financial report should be simple and be provided to the public.

- *Update –2018 Pavement Rehabilitation Project* - The project is expected to be completed by the end of November; the last road to be paved will be Dalewood Drive; the *Network Summary Statistics* was distributed; after updating the Maintenance and Rehabilitation table in StreetSaver with the 2018 Paving Project, the overall network PCI for the City is 75.

**J. MATTERS INITIATED**

Consideration of matters Commissioners wish to initiate for placement on a future CIOC agenda.

Vice-Chair Hammon requested that Paving Program Project Manager Khorashadi send an e-mail to the Commissioners to have them create a “To Do List” of future CIOC projects and agendize a discussion for the next CIOC meeting.

**Items for the next CIOC Agenda:**

- **Discussion – 2018 Road and Drainage Plan Status and Next Steps**
- Discussion – Correspondence to City Council on Process Approving Private Road Policy on September 4, 2018
- Discussion – CIOC “To Do List” of Future Projects

**K. ADJOURNMENT**

MOTION: By Commissioner Fay, seconded by Commissioner Murphy, to adjourn the CIOC meeting. The motion carried by unanimous voice vote.

The Citizens’ Infrastructure Oversight Commission meeting adjourned 8:30 p.m.

The next regularly scheduled meeting of the Citizens’ Infrastructure Oversight Commission will be 6:30 p.m., November 14, 2018, in the Sarge Littlehale Community Room, 22 Orinda Way, Orinda, California.