

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

November 20, 2018

A SPECIAL 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. *Road and Drainage Repairs Plan (As Updated in 2017)* , dated February 6, 2018
2. *Correspondence – E-mail from Steve Cohn to the CIOC*, dated November 10, 2018

B. ROLL CALL

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

D. ADOPTION OF AGENDA

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

E. PUBLIC FORUM

Paving Program Project Manager Khorashadi distributed correspondence from Steve Cohn, Orinda resident, urging the CIOC to continue working toward a different outcome on the private road issue.

F. CITIZENS' INFRASTRUCTURE OVERSIGHT COMMISSION MEETING MINUTES

Approval of the CIOC Meeting Minutes of October 10, 2018

MOTION: By Commissioner Hammon, seconded by Commissioner Hurrell, to approve the meeting minutes of October 10, 2018. The motion carried by unanimous voice vote.

G. DISCUSSION – CORRESPONDENCE TO CITY COUNCIL ON PROCESS APPROVING PRIVATE ROAD POLICY ON SEPTEMBER 4, 2018

Commissioner Hammon advised that he had forwarded to Councilmember Gee the CIOC statement approved at the last CIOC meeting regarding the CIOC's dissatisfaction with

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being excluded from the Private Road Policy process; he had not submitted a formal statement to the City Council; he inquired whether Director Theis or Paving Program Project Manager Khorashadi had forwarded the statement to the City Council..

Director Theis stated that at the last CIOC meeting, the CIOC had approved a motion affirming a statement by the Commissioners and that the Chair or Vice Chair was to contact Councilmember Gee to inform her; based upon an e-mail Commissioner Hammon received from Councilmember Gee, Councilmember Gee has a difference of opinion regarding the steps for approving the Private Road Policy.

Commissioner Hammon advised that Councilmember Gee had been surprised and did not think that the City Council did not want the CIOC to review the draft Private Road Policy; it was clear when the motion was made in the City Council meeting there was no statement about going to the CIOC prior to it being brought back to the City Council; when staff took the policy to the City Council in September 2018, no mention was made by the City Council that the policy should be reviewed by the CIOC; the City Council reviewed the draft policy, made minor revisions, and approved it; therefore, he did not believe it would be appropriate for him to send the statement to the City Council and it should be discussed further.

Commissioner Nelson advised that it is not the role of the CIOC to chastise the City Council; it is important to focus on working together and having a constructive relationship.

It was not the Council that should have been "chastised", it was Mr. Theis who ignored Council's direction. The CIOC was hamstrung by Gee's false recollection.

Chair Hubner commented that he does not see the statement as chastising the City Council; the CIOC was raising concerns regarding the approval process of the Private Road Policy; he questioned whether the CIOC can have a more open discussion at the CIOC meetings as opposed to having a Task Force.

Director Theis advised that any item placed on the agenda can be discussed.

Chair Hubner stated that the public constantly raised their concerns at the City Council meetings and three minutes allotted for public comment is not sufficient to have a meaningful discussion; he asked if the same rule applies at CIOC meetings or can there be a more relaxed rule.

Director Theis advised that the Commissioners have to be fair; one person cannot be given three minutes and others allowed to speak for 30 minutes.

Commissioner Nelson stated that the Chair of the CIOC can consult with City Manager or City Attorney to check the rules on how to conduct public meetings.

Director Theis advised that Brown Act applies to all the meetings; if the topic is agendaized, it can be discussed because the public has been notified; there is more latitude to have open discussions about topics.

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These are conflicting statements by Gee and the second one is in conflict with the minutes of the 7/10/18 Council meeting where they state that Theis specifically "asked if the Council would like the CIOC to provide input prior to returning to the Council or direct staff to proceed."
"Councilmember Gee supported review by the CIOC." "Vice Mayor Miller concurred." No one disagreed. The motion did not specifically state the CIOC should review but it did not state that it should not.

Chair Hubner stated that he will discuss this matter further with the City Manager; the CIOC may have an opportunity to review the Policy and look at options that have not been addressed.

Director Theis advised that if the Commissioners decide to discuss the Private Road Policy again, he would caution the Commission because the CIOC is an *advisory commission* to provide input to the City Council; the City Council has been very clear on the Private Road Policy and it has already been approved. He had asked the City Council whether the CIOC should weigh on the policy and after considerable discussion the City Council decided not to have the CIOC do so. Therefore, what format any discussion should take going forward should probably start with some kind direction from the City Council.

Chair Hubner stated that he will have an opportunity to speak with Mayor Worth and Councilmember Gee.

Commissioner Nelson noted that Director Theis had made a valid point; he would not say the direction has to come from the Council, but it has to be a cooperative effort; the Commission cannot simply go off on their own way; if this Commission thinks that there are factors that can be improved, it could be with a Task Force or without forming a Task Force which would then avoid the issue of the initial cost; if the Commission believes that some of the considerations that the Councilmembers weighed in making their decision either were too limited or inaccurate, then the CIOC can approach the City Council and suggest that they revisit the policy; if the City Council does not approve revisiting the policy, then the CIOC does not have a role.

Chair Hubner stated that he is comfortable with Commissioner Hammon's decision to hold off on sending formal correspondence to the City Council.

Director Theis advised that if the Commission wants to revisit this issue, contacting the CIOC liaison Councilmember Gee is the first step; she can initiate the process and if the City Council votes for re-discussion, staff will do whatever City Council directs; in terms of correspondence, he did not know if it would be beneficial; the CIOC could make another motion to rescind their previous motion and clarify on the record that they have decided *not* to send the statement to the City Council.

Commissioner Hurrell commented that the Commission could rescind the motion; however, the Chair should plan to discuss the next step with Councilmember Gee as soon as possible.

Commissioner Nelson commented that he was reluctant to rescind the motion because there are Commissioners not present at this meeting; the issue is that the CIOC could have contributed; whether the Commission goes forward with the statement or not, they should move toward working together with the City Council; in the future, if the CIOC decides to go the City Council and requests to be involved, the decision will be up to the City Council.

Commissioner Hammon stated his preference was to say that the CIOC has determined *not* to send a formal statement to the City Council; instead, the Chair will directly discuss the subject with Councilmember Gee.

MOTION: **By Commissioner Hammon, seconded by Commissioner Hurrell, to *not* forward the previously approved statement to the City Council and that Chair Hubner will directly discuss the matter with Councilmember Gee, the CIOC liaison. The motion carried by unanimous voice vote.**

The subject of the CIOC being cut out or the process, by either Theis or the Council, was dropped as a new Council was in place (two new members including Fay had been elected).

H. DISCUSSION – 2018 ROAD AND DRAINAGE REPAIRS PLAN STATUS AND THE NEXT STEPS

Director Theis advised that this item is one he wanted to bring back to the CIOC, as the 2018 Road and Drainage Repairs Plan has not been approved by the City Council; there were some comments that had been addressed but overall the City Council thought it to be a good document; the City Council had not approved the Plan because at the time there had been the outstanding private road issue; with CIOC direction now, staff can take the report to the City Council under Consent Items. Pavement rehabilitation for all Residential streets will be completed next year; the City needs \$7- \$8 million for rehabilitation of Arterial and Collector roads and \$15 million for specific drainage infrastructure, primarily on large critical culverts that are under Arterials and Collectors; \$22 million was envisioned for Phase 4 of the plan; the current Sales Tax will expire in year 2022; how the City ultimately handles the overall drainage issues and the remainder of Arterials and Collectors, as well as the maintenance costs for the entire system, can be done many different ways; it is recognized that it would be difficult to pass another bond measure; Proposition 6 did not pass so SB1 remains in place; staff estimates that \$3.5 million per year is needed for maintenance of the entire system; Gas Tax is approximately \$800,000 per year; Return to Source CCTA is approximately \$400,000 per year; the current Sales Tax is about \$1 million per year; the Vehicle Impact Fee is \$684,000 per year, however, this is a restrictive fund which is to be spent only on roads; and a Franchise Fee, which is a separate fund.

Commissioner Nelson asked whether the Vehicle Impact Fee is new.

Director Theis noted that it was implemented last year; if the City gets a full One Cent Sales Tax, there is potential to generate \$2 million per year; with the Gas Tax, CCTA, and the Vehicle Impact Fee, there would be adequate funding for maintenance. The Vehicle Impact Fee will decline because 15% of the cost of what the City spends on the roads is the impact fee from garbage trucks; the Vehicle Impact Fee is directly related to how much money the City spends on roads; increasing the Sales Tax should be part of the plan and it is definitely easier to pass because it requires approval by only 50% plus one versus 66%; this measure has to be on the ballot in year 2020; the question is how the CIOC wants to approach the drainage issues. The CIOC can consider that as a separate bond.

Commissioner Hammon stated that the CIOC should look at some funding mechanism to allow residents who live on private roads to pay less than residents who live on public roads; there are ways to accomplish that.

Commissioner Nelson replied that it could be done by Parcel Tax; the City could reduce the tax on private road residents by \$100 to \$200 so they could use the funds to fix their roads; residents would support funding for roads; a drainage plan is needed.

Director Theis agreed with Commissioner Nelson; the City needs a Streetsaver version for drainage.

Commissioner Nelson stated that this item should be agendaized for the January CIOC meeting.

Chair Hubner asked Commissioner Nelson if he wants to modify the current Road and Drainage Repairs Plan.

Director Theis recommended waiting on any modifications to the Road and Drainage Repairs Plan and having further discussion to decide the next steps; if the CIOC agrees with the Phase 4, \$22 million bond, then they can proceed. They should consider whether there needs to be a comprehensive drainage plan and then have a total cost for everything; the list for the drainage improvements in the current Plan was prepared based upon a \$15 million budget; of course staff has selected the most critical improvements. He asked if there was consensus not to take the Road and Drainage Repairs Plan to the City Council.

Chair Hubner stated that there would be no harm to hold further discussions and determine how to clarify the drainage matters, as well as the issue of Fire Flow which has not been addressed in the current Plan.

Commissioner Hammon stated that it is clearly within the responsibility of the CIOC to address the Fire Flow issue.

Commissioner Nelson concurred with Chair Hubner, however, the Commission cannot put it off for long; the report should be forwarded to the City Council as soon as possible; the CIOC should have a separate plan for drainage; there are number of issues on which the Commission should focus.

Director Theis proposed bringing it back in January; the CIOC most likely would want to make a recommendation in the first half of year 2019 and to obtain City Council input on whether this is the desired direction; if there are some changes, there would be sufficient time for the CIOC to make them; the beginning of 2020 would typically be the time when the City would poll property owners regarding a bond measure.

Commissioner Nelson stated that the City Council has to vote on it in September or October 2019.

Chair Hubner asked whether the Commissioners need guidance or direction from the City Council or should they work on refining the infrastructure aspects of the plan.

Director Theis confirmed that it is well within their purview to do so.

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Commissioner Nelson stated that it would be a good idea to take another look at the Plan since it has been some time since the report was written; the CIOC should push to get it to the City Council as soon as possible for two reasons – first, Commissioner Hammon did a tremendous job in putting together the history and it is important to publish it; second, the CIOC should move forward and establish some priorities; they may decide to do the drainage first and focus on maintenance later.

Commissioner Hammon commented that the Plan says Phase 4 and Phase 5 will happen in year 2020, in that order.

Director Theis noted that the CIOC and the City Council have to discuss Sales Tax regardless; how the Commission wants to handle a bond measure for Arterials and Collectors, as well as other drainage, can wait; the Sales Tax has to be addressed because the City will lose the opportunity.

Commissioner Hammon stated that they need to push hard to move forward effectively on the drainage question; he cited Commissioner Nelson's concern, with which he empathized; the \$15 million number that the CIOC assembled for drainage was almost taken out of the air; the estimate does not have substantive backing and it is conceivable that it is considerably underestimated; the CIOC should have a compelling discussion of what the drainage issues are and a reasonable and convincing engineering estimate of what those costs are likely to be; then the City Council can make an informed decision.

Director Theis concurred with Commissioner Hammon.

Commissioner Nelson stated that the CIOC should explicitly state the objectives.

Chair Hubner asked staff if there are any metrics that can be applied to establish priorities.

Director Theis responded that there are two categories – 1) Pipe Condition; 2) Pipe Capacity. *Capacity* is essentially based upon the typical storm size; the industry standard is for a storm drain system to handle a ten-year storm; capacity for creeks is a 100-year storm; the issues are primarily condition of the pipe and there are localized capacity issues; for *Condition* there is rating system from 1 to 5, with five being the poorest condition. Keeping to that sort of rating system in terms of targets may be a favorable way to approach objectives.

Commissioner Nelson commented that the Road and Drainage Repairs Plan had been completed some time ago and he recommended that the Drainage portion of the Plan be updated.

Director Theis advised that the Councilmembers agree that the drainage portion of the Plan needs to be updated; City staff are currently attempting to map all the drainage facilities on GIS; subsequently, a consultant will be hired to assess the condition of the pipes; the GIS information will be available within the next few months.

Commissioner Hammon stated that he had reviewed the 2015 Storm Drain Master Plan, which was impressive; it is extensive and has detailed, well-presented information. Unfortunately, two or three major issues that appeared with respect to drainage in the last two years were not noted, which was disappointing; Miner Road drainage had been assessed but was put as low priority.

Commissioner Nelson commented that the Miner Road culvert was rated as moderate priority; his involvement in the previous two bond sales has proven to be difficult work; it is not easy to sell these types of bonds, so it will be necessary to present the best case.

Chair Hubner advised holding off on submitting the Road and Drainage Repairs Plan to the City Council; the CIOC could look at editing the report at the January CIOC meeting; hopefully, some further input on metrics will help guide them to augment the storm drain infrastructure aspect of the report.

Commissioner Nelson added that the CIOC will identify and include additional detailed plans for the drainage aspect of the Plan.

This item was continued to the next CIOC meeting.

I. CIOC “TO DO LIST” OF FUTURE PROJECTS

Commissioner Hammon stated that they had spoken about creating a “To Do List” that would allow them to identify items which require attending to; however, this should not be scheduled for the next meeting.

Commissioner Nelson stated that the CIOC should create a sub-committee to handle each item on the “To Do List”.

Director Theis concurred; it is more effective to get input from a two-person sub-committee and provide guidance moving forward.

Director Theis stated that one of the follow-up items from the last meeting was about the safety element, particularly the Commissioners had talked about Loma Vista Drive; he had discussed this with the Traffic Safety Advisor Committee (TSAC) and they would like to have a liaison from the CIOC attend one of their meetings to further discuss the matter prior to them identifying locations; if the Chair or a designated person could attend the TSAC meeting, he will agendaize the item.

Commissioner Nelson supported that and believes safety is an important issue; the City should consider setting aside funds for safety improvements.

Chair Hubner stated that it is a matter of identifying the issues and the scope of improvements.

Commissioner Hurrell was concerned that the CIOC would be outside of their scope and moving into another committee’s area of responsibility; that is why it would be important to have some kind interaction with the TSAC; residents do not come to this Commission

for safety matters, they go to the TSAC, and then the TSAC is responsible to address those concerns. However, there may be a way that the CIOC could support their efforts by coordinating where monies are being spent.

Chair Hubner wanted to add an item on the “To Do List” to establish an improved relationship with the TSAC, as well as the Public Work Aesthetic Review Committee (PWARC).

Commissioner Nelson agreed with Commissioner Hurrell; it is a role and responsibility issue; he agreed that the CIOC should not identify safety projects; however, recommended safety improvements may possibly be incorporated into a road or drainage project.

Director Theis advised that if the City seeks additional funding, they could contact the TSAC and the PWARC to see what other potential elements could be included in the bond measure, as the bond measure may not be road specific.

Chair Hubner asked the Commissioners what other items should be on the “To Do List”.

Commissioner Hurrell commented that drainage is a major issue and it is obvious that the CIOC should put extra efforts toward it and gather information so that a clear explanation of needed improvements can be provided.

Commissioner Hammon noted that the Fire Flow issue is another item that should be on the list.

Chair Hubner added that the Finance Director’s audit report should also be on the list.

Commissioner Hammon noted that there are two factors to the audit report; the first is the June 2018 audit that the Finance Director will have available within couple of months; the second is the Quarterly Revenue and Expenditure Report.

Commissioner Nelson said that he would like improved reporting on revenues and expenditures for the Sales Tax and the two bond measures; a regular report is needed on the status of the roads and both reports can be tied to data that can be audited; there is a great success story to show and some of it is in this type of report. Forming a sub-committee should be on the agenda; there are possible staff implications as it was clear from the Finance Director’s comments that he does not have time to do what he thinks should be done. The City needs to allocate staff to provide a regular management report to the residents; additionally, planning for drainage improvements is important, particularly for maintenance over time; also needed is the creation of a fund like *sinking funds* - some sort of reserve account.

This item was continued to a future CIOC meeting.

Commissioner Hammon requested the financial report prior to the January CIOC meeting.

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 – 2018 Pavement Rehabilitation Project* – Paving Program Project Manager Khorashadi reported that paving of all the roads was completed on November 19th.
- *Update- 2019 Pavement Rehabilitation Project* - Paving Program Project Manager Khorashadi reported that she is currently reviewing the 65% design plans.

The Commissioners decided that they will organize a celebration following the completion of the 2019 Pavement Rehabilitation Project to commemorate the successful improvement of all roads throughout the City. All publicly owned roads, which are only 75% of Orinda's roads.

Following discussion, the CIOC decided to cancel the December 12, 2018 CIOC meeting.

Commissioner Hammon stated that he would abstain from the vote as he did not endorse cancelling the December meeting.

MOTION: By Commissioner Hurrell, seconded by Commissioner Nelson , to cancel the December 12, 2018, CIOC meeting. The motion passed by voice vote of 3-0-1 (Hammon Abstain).

J. MATTERS INITIATED

Items for the next CIOC Agenda:

- Discussion - 2018 Road and Drainage Repairs Plan Status and Next Steps

K. ADJOURNMENT

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

The Citizens’ Infrastructure Oversight Commission meeting adjourned 8:25 p.m.

The next regularly scheduled meeting of the Citizens’ Infrastructure Oversight Commission will be 6:30 p.m., January 9, 2019, in the Sarge Littlehale Community Room, 22 Orinda Way, Orinda, California.