

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

Wednesday, September 12, 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

Chair Hubner called the meeting to order at 6:30 p.m.

The following documents were provided at this meeting:

1. *Finance Department Report – June 30, 2017 – Financial Reports: GO Bonds/Add-On Sales Tax* – dated September 6, 2018, by Finance Director Paul Rankin
2. *Resolution #59-18 – Revised Policy for Acceptance of Certain Existing Private Streets in the City's Public Roadway Network* – dated September 4, 2018

B. ROLL CALL

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

City Staff: Paving Program Project Manager Farah Khorashadi; Director of Finance Paul Rankin

C. PLEDGE OF ALLEGIANCE – led by Chair Hubner

D. ADOPTION OF AGENDA

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

E. PUBLIC FORUM

Melissa Roeder, Orinda resident, stated that she had a question regarding Resolution #59-18; she was advised that it would be addressed under Item H1 and public discussion would be opened at that time.

The Commissioners congratulated Paving Program Project Manager Khorashadi for receiving the Manager of the Year Award from the American Public Works Association.

Commissioner Nelson noted that 71% of Orinda residents voted for the bond measures which funded the paving project and he acknowledged Paving Program Project Manager Khorashadi for her contributions in overseeing this major project; he recommended that the narrative be more broadly disseminated in acknowledgment of what has been

September 12, 2018

accomplished, with thanks expressed to the residents of Orinda. He suggested perhaps a celebration should be planned at the end of next year.

Paving Program Project Manager Khorashadi replied that the award should actually be for the residents of Orinda for approving the three bond measures.

F. CITIZENS' INFRASTRUCTURE OVERSIGHT COMMISSION MEETING MINUTES

Approval of the CIOC meeting minutes of July 11, 2018.

MOTION: By Commissioner Murphy, seconded by Commissioner Hurrell, to approve the minutes of July 11, 2018. The motion carried by unanimous voice vote.

G. REVIEW – AUDIT FOR MEASURES J AND L

Director Rankin distributed *Finance Department Report – June 30, 2017 – Financial Reports: GO Bonds/Add-On Sales Tax*, and excerpts from the City of Orinda Capital Improvement Plan (CIP), fiscal years 2018-2022, adopted by the City Council on June 19, 2018. The CIOC has oversight of the two Bond Measures and the Add-On Sales Tax; the City produces a comprehensive Annual Financial Report which is available on-line that contains the audit and other additional information. The standard issuance of the financial report and audit is within six months of the close of the fiscal year; due to staff turnover in 2017, the audit was completed at the end of January 2018; the report met all the required standards of the Government Finance Affairs Association. His intention was to review the June 30, 2017, report at this meeting, and within the next six months to present the audit for June 30, 2018.

There are three measures, each tracked in separate funds; General Obligation funds, 2014 and 2016 Measures J and L, with Sales Tax a subcomponent of the General Obligation fund; in 2017 over \$2 million were spent; the tax was first collected by the State in April 2013. The revenue for add-on tax in 2017 was just over \$1 million, additional funds previously collected in reserve were also available, for a total expenditure of approximately \$2 million; 99% of the cost was related to the construction contract, with \$15,000 dollars disbursed from this fund for project management; the initial authorization for the 2014 Measure J was for a \$20 million bond; \$10 million were issued and in April 2017, a second \$10 million were sold. Further details of the report for the CIP were reviewed, along with the Expenditures and Funding Sources for each project.

Commissioner Hammon inquired how the interest and miscellaneous revenues are generated.

Director Rankin advised that the City invests proceeds from the bonds; the miscellaneous revenue is the reimbursement for work the City performs on behalf of the Central Contra Costa Sanitary District (CCCSD) and the East Bay Municipal Utility District (EBMUD) for adjusting manholes during construction.

~~Commissioner Fay asked why the benefits and salary are charged to only one fund rather than spread over all the funds.~~

~~Director Rankin replied that both sets of bonds were issued in April 2017; the 2014 Measure J funds became available near the end of April; with only two months left in the fiscal year, and the budget was already set up for all the costs to come from that fund.~~

~~The Commissioners requested that Director Rankin provide them with an executive summary of Revenues and Expenditures for Measures J and L and the 2012 Sales Tax.~~

~~Commissioner Nelson noted that the *Management Report* should be updated and be on the website, as it is vitally important to have this information when the City goes back to the public for additional funding.~~

~~Director Rankin replied that he would take it under consideration.~~

H. **STAFF UPDATES**

Paving Program Project Manager Khorashadi reported on the following items:

- ***Update –Resolution 59-18 – Revised Policy for Acceptance of Certain Existing Private Streets***

Resolution #59-18 was distributed and the item was opened for discussion.

Angeline Abriel, Orinda resident, stated that the decision by the City Council on the revised policy was based upon funding; the figures provided by Public Works and Engineering Services Director Theis is out of line and she cited a line item of \$2.9 million for capital improvement of eight to nine miles of road

Paving Program Project Manager Khorashadi advised that the City spent more than \$11 million to rehabilitate ten miles of roads.

Chair Hubner added that the \$2.9 million is only for a small project in Moraga for which the City will be reimbursed.

Ms. Abriel asked what the assessment level would be for converting a private road to a public road per the approved resolution.

Paving Program Project Manager Khorashadi advised that the level of road assessment is clearly stated in the adopted policy - pavement condition, drainage, soil stability, grade, alignment and sight distance, fire access, and width.

Ms. Abriel questioned whether all the City public roads meet that standard.

Chair Hubner responded that when the City incorporated in 1985, the County effectuated some road improvements; he did not know if all the public roads in

Orinda meet the current standard but the City has maintained these roads since 1985.

Melissa Roeder, Orinda resident, submitted the following statement dated September 12, 2018, to be included in the minutes:

To the Committee Members:

I am writing to express my views on the vote taken by the City Council at the 9/4/18 meeting regarding the road adoption policy and the substance of the revised policy.

It is clear that the City is going in the wrong direction on the issue of private road funding.

Over the past year, at least 400 residents, public and private, have petitioned for a task force to solve for this issue. The City and the CIOC both agreed to proceed. Then the City allowed the Public Works Director and City Manager to scare them off with false data and cost projections so that the Council reneged on its own motion and the CIOC's advice to set up a task force.

The City then agreed to revise Resolution 56-90 to allow for at least some streets to qualify. It asked for the CIOC's input into a revised adoption policy. Instead, Staff pushed through a proposal three days before the Council vote without showing it to this committee and without time for any real public comment. That action is an abuse of process and a betrayal of our trust in our officials.

The City attorney has publicly advised that the City has the authority to evaluate and adopt "private" streets without violating a public gifts doctrine because the roads can be shown to serve the public interest. Roads convey people, goods, services and service providers - emergency and commercial - throughout Orinda.

That is the public interest. Roads are the most basic service a city can provide. All residents pay for them and only 80% receive road service. That is wrong and very likely an illegal position for the council to take.

The new policy has worsened the plight of private road owners, not improved it. The 3 voting Councilmembers, if they are reviewing the materials at all, are relying on false data. For example, not all public roads are 16' wide, as Amy Worth and Inge Miller stated, so there is no consistency or legitimacy in imposing a grossly separate standard for similar, adjoining private streets.

I think it can be empirically determined (by over a half century of actual usage) that a street that narrows to as little as 12' provides adequate access. Maybe not universal but adequate. Therefore, while a 16' minimum might be a reasonable goal or maybe even a constraint for new construction, it is certainly not a requirement for providing a benefit to the public which is the keystone of public funding.

There is no separate geography dividing public and private roads in Orinda. Other examples of how this policy is regressive:

A \$1K deposit per homeowner, nonrefundable if a majority on a street don't agree on Assessment terms.

Assessment district proposals In some cases, there are property owners like

September 12, 2018

PG&E who would not approve an assessment, or owners who own the back of roads so don't drive on them and so would not approve. Owner should not be denied road service because of situations like this out of their control.

A ban on anyone belonging to an HOA. As I wrote to Council for the 9/4/18 meeting, HOAs differ widely in their size, age and purpose and so should not be lumped together. More importantly, this policy violates the most basic right

of individual citizens to seek help from their government. HOAs are neither people, citizens nor voters.

Is the Council acting cynically by allowing Staff to continually draft impossible and false standards for it to approve? Or is the council not energetic or creative enough to consult other advisors who are not dead set against helping Orinda citizens? In either case, the road adoption policy still needs to be rewritten to create a reasonable means for all residents to secure road maintenance.

I ask you to formally object to Resolution 59-18 because neither your committee nor the citizens previewed it meaningfully (**the C is for Citizens in the CIOC**) and to the policy text, which is yet another impossible set of rules designed to exclude nearly all homeowners from basic city service that they pay for and don't receive.

The best way to secure votes for future road maintenance to all Orindans is to provide equal service to them all.

Sincerely,
Melissa Roeder
Orinda Homeowner

Ms. Roeder also read and submitted the following statement from Jennifer Wallace, Orinda resident:

At the last City Council meeting it was very frustrating to see large number of citizens being ignored when the Council decided to focus on one aspect of public road acceptance policy, the HOA membership issues and completely avoided all other aspects of the policy and the citizen's concerns. As the new policy stands, our portion of Mira Loma Road is still excluded from public road consideration due to width requirements and ambiguous approach based on staff's opinion of public benefits and HOA exemption. Added to the policy were further financial barrier requiring each homeowner on private road to pay \$1000 dollars non-refundable and sufficient deposit just to enter public road consideration process. This restrictive and financially more burdensome policy is another example of staff's steadfast efforts to work against us instead of working with us. Similarly the outrageous \$90,000 for nine monthly task force meeting was just a coward attempt to give Council an excuse to reject the proposal and avoid meaningful dialogue. We are thankful to CIOC for your past willingness to listen and work with residents of Orinda. We hope you still support dialogue with community to come up with a policy that is beneficial to everyone.

Commissioner Hammon expressed displeasure with the policy but he did not have a specific recommendation; he believed the City made a mistake not going forward with the Task Force and recommended revisiting this matter in a few months.

September 12, 2018

Note: The Council did not 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."

Commissioner Fay confirmed that he stands by the motion he made to form a Task Force; it would be a wiser course of action to have facts on the table and if cost was an issue, steps could have been taken to attempt to bring down the costs.

Chair Hubner stated that he was disappointed with the original motion by the City Council for excluding the CIOC members from reviewing the policy prior to approval.

Commissioner Hurrell concurred with Commissioner Hammond to perhaps revisit the private road policy in a few months.

Commissioner Bell commented that he lives on a private road and the condition of the road is better than most public roads; the Commissioners should state their displeasure of not being consulted regarding the private road policy to the Council.

Note: six out of seven CIOC members were displeased with the revised private street policy presented to and adopted by The Council and the fact that Staff made the revisions without consulting The Commission. They did not seem to be aware that Staff (Theis) was directed by Council to have the revised policy reviewed by the CIOC.

Chair Hubner agreed with Commissioner Bell.

Commissioner Nelson was also in agreement with Commissioner Bell; it is important to come together as a community; to celebrate what we have accomplished thus far; he urged the community to work together to solve this problem.

The Commissioners decided to agendize this matter for the October CIOC meeting.

- *Update –Public Information and Outreach* – Information is being posted on Nextdoor and Outlook on a regular basis.
- *Update – Measure L and Measure J – Monthly Revenue and Expense Summaries* – Summaries were not available.
- *Update - 2018 Paving Project* – Approximately 30 streets have been paved; the City has received a \$350,000 grant from CalRecycle and under this grant, ten streets are scheduled to be paved in October with rubberized asphalt.

I. MATTERS INITIATED

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

Commissioner Hammon requested that a discussion of the 2019 Pavement Rehabilitation Project for Arterials and Collectors be agendized for the October CIOC meeting.

Item for the next CIOC Agenda:

- Discussion - 2019 Pavement Rehabilitation Project – Arterial and Collector Streets
- Discussion – Next Steps to Address Approved Private Road Policy on September 4, 2018

J. ADJOURNMENT

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

The Citizens' Infrastructure Oversight Commission meeting adjourned 8:50 p.m.

The next regularly scheduled meeting of the Citizens' Infrastructure Oversight Commission will be 6:30 p.m., October 10, 2018, in the Sarge Littlehale Community Room, 22 Orinda Way, Orinda, California.