



City Council Regular Meeting:
Tuesday, Sept. 17, 7 p.m.
Orinda Library Auditorium

Planning Commission
Tuesday, Sept. 25, 7 p.m.
Orinda Library Auditorium

Supplemental Sales Tax Oversight Commission
Wednesday, Sept. 11, 6:30 p.m.
Sarge Littlehale Community Room, 22 Orinda Way

City of Orinda:
www.cityoforinda.org
Phone (925) 253-4200

Chamber of Commerce:
www.orindachamber.org

The Orinda Association:
www.orindaassociation.org

Court judgment leads to exchange of blame in Orinda

By Sora O'Doherty

A writ of mandate has been ordered by a Contra Costa Superior court judge against the City of Orinda in partially granting the petition of Orindans for Safe Emergency Evacuation (OSEE). The conclusion of the lawsuit prompted comments on the cost of the litigation to the city.

Superior Court Judge Charles Trent summarized the case in a minute order last February, saying that petitioner OSEE challenged respondent City's certification of the Plan Orinda Final Environmental Impact Report/Responses to Comments on the Draft EIR ("FEIR") in connection with the approval of zoning modifications and general plan amendments (the "Project" or "Plan Orinda") approved on Jan. 31, 2023. OSEE contended the City failed to comply with the California Environmental Quality Act, Public Resources Code §§ 21000 et seq. ("CEQA") in approving the FEIR and the Project. OSEE sought a writ of mandate ordering the City to vacate its certification of the FEIR and approval of the Project, and other related relief.

The writ was partially granted by Judge Treat on Aug. 22, entering a writ of mandate in favor of OSEE and against the City of Orinda. The judge also found that OSEE was entitled to recover their legal costs from the city.

The action of the court prompted Nick Waranoff, a retired attorney who frequently appears before the City Council to offer his views, to issue a letter regretting that the city failed to take his advice on the issue and instead "incurred legal fees to its own lawyers and to OSEE's lawyers, of \$1

million, according to a public comment made by Mayor Gee at the July 4 celebration," adding that, "In a city whose annual budget is only \$14 million, that is a sizeable sum."

Waranoff suggested that, "Instead of whining and complaining about Michele [Michele Jacobson, of OSEE] and me, and the others involved with and supporting OSEE, the City should seek a partial refund from Rincon Consultants, Placeworks, and its lawyers."

The city issued a press release in response to the court action. "While we are glad to resolve this legal matter, the City and community have been harmed in several ways by this lawsuit," stated Mayor Darlene Gee. "The City has poured time and resources into defending ourselves from the accusations within this lawsuit, leading to significant costs for consultants and attorneys. Ultimately, this lawsuit has wasted time and staff resources that could have been better spent on other community priorities. We are frustrated that our community was placed in this situation, despite early extensive attempts at settlement. We will continue to serve and protect residents as we take these next steps."

City Manager David Biggs issued the press release, which says that the city will make minor technical revisions and will be able to return its focus to downtown revitalization, which was put on hold pending the conclusion of the litigation.

"One unfortunate impact of this litigation has been to delay the Council's ability to rezone downtown," stated Vice Mayor Latika Malkani. "Councilmembers and residents have expressed overwhelming support for a more vibrant downtown, and I sincerely hope that we can refocus our efforts on bringing that community vision to life."

The City's website addresses this latest court ruling, issued on Aug. 22, saying that it aligns with the stipulated compromise and outlines the following directives: The City will decertify the EIR and refrain from further reliance on it until necessary revisions are made; the City will be held to specific deadlines for revising the EIR and associated documents, specifically addressing the identified deficiencies related to wildfire evacuation analysis; and the City will set aside its approval of the Downtown Precise Plan until completion of the EIR revisions, at which time the DPP can be re-adopted relying on the revised EIR.

Throughout the EIR revision process, the city's certified Housing Element and the Safety Element will remain in place. Upon completion of the revisions, the city will assess the need for potential revisions to the Housing Element and other related documents.

The press release says that following the approval of Plan Orinda, OSEE sued the city under CEQA. Plan Orinda is a multi-year planning effort including the Housing Element update cer-

tified by the California Department of Housing and Community Development, a safety element update, the Downtown Precise Plan, and an environmental impact report as required under CEQA.

The city contends that CEQA is "a law that has too often been used to slow or stop municipal development." The city also noted that "OSEE's membership is largely unknown; only one individual, Michelle Jacobson, has come forward to identify herself as a member of OSEE in the paperwork filed in court." Further, the city said, "the OSEE suit against the City under CEQA has led to a lengthy and costly legal process culminating in the recent court ruling."

The city noted that, while "the lawsuit claimed to be about evacuation, . . . the City of Orinda has been a leader within California in pursuing evacuation planning and wildfire resilience," and concluded that, "while precious taxpayer dollars were required to defend this litigation asking for a revised evacuation analysis, the City was always pursuing evacuation planning in a forward thinking, state of the art manner."

Waranoff suggested that OSEE and himself, not a member of OSEE, had repeatedly urged the city to participate in the Court's free, non-binding mediation program. He requested that the city post the court documents on the PlanOrinda.com website in the section that contains litigations documents.

The city has posted a summary of the case on its website at <https://cityoforinda.org/617/OSEE-Litigation>

Many documents from the case are available for viewing from the Superior Court's website <https://odyportal.cc-courts.org/Portal/Home/WorkspaceMode?p=0>

Lucas Lambert new Deputy Chief of MOFD

By Sora O'Doherty



Deputy Chief Lucas Lambert

Battalion Chief Lucas Lambert has been promoted to Deputy Chief of the Moraga Orinda Fire District (MOFD), a position approved by the directors of MOFD in June. Lambert's promotion created three other promotional opportunities throughout the ranks. Engineer Tom Schwedhelm, Captain Anthony Grgurevic and Battalion Chief Jon Bensley have all received promotions.

Lambert is in his 18th year in the Fire Service. He began with the East Bay Regional Park District and was hired by MOFD in 2009. He holds a number of higher education degrees, including a Bachelor's degree in Fire Administration and a Masters in Public Administration and Emergency Services Management.

While the Deputy Fire Chief position has a large administra-

tive component, Lambert says that he will remain engaged with our firefighters and community in the field.

He explained that, "while ensuring we provide the highest level of service to the district residents, MOFD has always participated in the state Master Mutual Aid Agreement. When we have the staff available to assist outside of our area, MOFD benefits from stepping up to assist other communities in crisis by building relationships with other agencies and staying current with incident mitigation strategies and tactics."

Lambert continued, "Over the last seven years, in response to community demand, the fire district has expanded services in many areas.

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