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## Debate continues over Orinda's private road maintenance

By Sora O'Doherty

Residents of private roads continue strenuously to press the Orinda City Council to alleviate their plight, which they say is unfairly burdensome on them for no logical reason, but Orinda staff have recommended that there be no change to the city's policy on private roads. On April 10 the city council received a report prepared by Director of Public Works Larry Theis, City Manager Steve Salomon, Finance Director Paul Rankin and City Attorney Osa Wolff. Private road residents submitted their own report imploring the city to set up a special task force to investigate the issue. After a long and heated discussion, the council directed staff to come back to them at a publicly noticed meeting and tell them who should be on such a task force and what its general scope should be.

The private road residents argue that there are many private road residents, representing 20 percent of the households in Orinda, who live on streets that are not maintained by the city. These residents pay the same taxes as every other Orinda homeowner, but do not receive the benefit of having their street maintained. Their report characterizes this as disenfranchisement of a significant minority of Orinda. The difference, they maintain, is due to an historical arbitrary government decision on who receives public benefits and who does not. Further, they say, it is the private road residents who will help pass future road maintenance taxes. Theis said that plenty of the private roads, over half, were always intended to be private and were never offered to the city. However he acknowledged that some areas go back to Spanish land grants without subdivision maps. Eleven percent of the private roads were dedicated to the city by developers but were not accepted by the city, and these were mostly cul de sacs. Theis and Wolff both spoke of the much debated issue of using public funds to maintain private streets, which, they said, raises the issue of gifts of public funds. Further, Theis said, staff wants to give five years notice terminating the agreement under which Orinda maintains the private roads in Orindawoods.

Staff are extremely concerned about any additional fiscal burden on the city's limited funding, including any liability that might be associated with adopting the private roads. The existing policy on the acceptance of existing private roads for public maintenance states that the only roads that might be considered for such acceptance "shall connect directly to a public street or highway," which rules out any private streets that connect to another private street, which may or may not connect directly to a public street. These and other requirements, which staff continue to support, would, according to the residents, exclude 200 of the 204 existing private streets.

Many private road residents spoke in the public forum portion of the meeting. Steve Cohn asked the council to reject the staff recommendation and to instead create a task force. Jennifer Wallace said that many public roads don't even meet the standards for private roads to be accepted as public roads. The staff report, she noted, suggests that neighbors sue each other. She added that the private roads are used for very public access to things such as school busses, regular busses, and trails. Melissa Roeder said that it is not acceptable that private road residents continue to be taxed for benefits that they don't receive, and mentioned that PG&E is a very uncooperative owner of lands on private roads. Cindy Finch countered the notion that the residents wanted private streets: they don't, she said. Bob de Oro of Orinda Downs told the council, "Just because it is hard, doesn't mean you should just stop," a sentiment echoed later by Council Member Darlene Gee.

Gee spoke at length and passionately about the need for a task force. "I appreciate staff's focus on the fiscal and liability issues," she said, "but I personally have lived here long enough that I don't feel that we became a city just to protect the entity we created. We created the city so that we could have the best community that we could possibly provide for all of our residents." Gee acknowledged how hard the issue is but added, "There is a huge difference between the Wilder homeowner agreements, which are very modern and have all been done very recently, and a road like Mira Loma, which has no rhyme or reason as to how it ended up with half the street being one way and the other half being the other.

"Even our own staff," she added, "testified that you can go back and dig and dig and dig but some of these things just don't add up." She praised the information submitted by Steve Cohn and the resident's group, and spoke at length about how the private streets mirror the public streets, with many cul de sacs, characterizing Orinda as "a windy stretch of a lot of residential streets that go nowhere." Gee said that she would be more than happy to sit on the task force. "I very much agree with the idea of having a task force to explore what the entire range of options are without that being a promise to do anything other than to hear everybody's voice and really think it through," she concluded to applause from the audience. Vice Mayor Inga Miller also prompted a response from the audience, but it was to correct her use of the term "our money." Miller quickly agreed with the audience members who shouted out that it is taxpayer's money, but she contrasted the often wealthy residents of Orinda with the "very unwealthy" city itself. She stressed the need to maintain funds to deal with difficult issues, such as the Miner Road sinkhole or the upcoming damage to Camino Pablo by EBMUD's latest project.

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