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Orinda reaches a settlement to open the 53 Rheem easement soon; pays property owners \$45,500

By Sora O'Doherty

Following a June 4 closed session, Orinda Mayor Inga Miller announced that the long-running controversy over the easement across the property at 53 Rheem Blvd. had been settled, avoiding threatened litigation. Property owners Kent and Dawnette DeSpain have agreed to grant the city an easement for pedestrians to walk the trail that leads from Rheem Boulevard to Parkway Court from dawn to dusk. Prior to the purchase of the property by the DeSpains, residents said that they had used the easement over the land to get to Glorietta Elementary School for some 40 years. But controversy flared over whether there actually was an existing easement, leading the DeSpains to install a locked gate, denying access to the easement for most of the past school year.

The city ultimately accepted the easement, and the property owners contested the legality of that action, leading to prolonged negotiations.

Under the settlement, which is available to the public from the city clerk, the owners have granted the city a supplemental trail easement over the disputed trail. They will remove obstructions, including any gate, and will construct a privacy fence on their property, which will be their sole property and for the maintenance of which they will have the sole responsibility. The city will pay \$17,500 for fence, no matter what the actual cost to build it turns out to be. The DeSpains will use their best efforts to have fence constructed within 25 days. The city will also pay the DeSpains \$5,500 to defray the costs of surveyors, and a negotiated payment of \$22,500, which represents the value of the easement and the avoided legal costs that would have been incurred in litigation. Both sides will pay their own attorneys' fees.

Orinda will operate the easement as a park facility. Since the trail is unlit, like a park, its use will be limited to dawn to dusk daily. No bicycles or motorized cycles, and no unleashed dogs are permitted, although leashed dogs are allowed. There will also be no equestrian use; the trail will be limited to pedestrian use only. When the trail is opened to the public, the city will assume liability and responsibility for the trail and its maintenance. City staff have also undertaken to email residents who sign up to let them know when the trail is open and ready for use.

Allison and John Banisadr, who used to live on Parkway Court, both attended the meeting to thank the city council for its hard work and determination to restore the easement between Rheem and Parkway Court. "We really appreciate your dedication," they said. "What you do, all your time, is well, well worth it in the eyes of the community," they continued, concluding that "even though it seems a small thing, it is huge to the community."

Naomi Greenstone also appeared to thank the council for its work on the issue, which she said was "near and dear to my heart and my husband's heart." For years, she said, "we've been telling our son he could walk to school when he was in the fourth grade." Although he was not able to walk to school this past school year, she thanked the council for making it possible for him to walk to school next year.

Council Member Amy Worth wanted to thank the property owners, who worked with city staff, and also to thank all the neighbors who conveyed how this was a matter of very, very high priority to them. Worth noted that the trail will be part of the safe routes to school and recreational facilities in Orinda. The council also approved a three-way stop at at Rheem Boulevard and Zander.

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