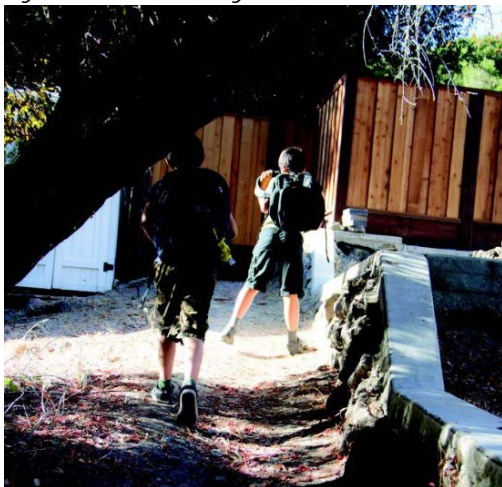


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## One way or the other, Rheem easement will reopen

By Sora O'Doherty



The gate at 53 Rheem. Photo Sora O'Doherty

Orinda City Manager Steve Salomon asked the city council on Oct. 2 to once again continue action on accepting the easement at 53 Rheem Blvd. and promised that on Oct. 16 he would either return to them with an agreement with the property owner, or he would then advise them to accept the easement. The council agreed to do so.

Both the property owner and the neighboring residents are now represented by legal counsel and the neighbors appeared ready, if reluctant, to proceed with litigation over the issue if necessary. Salomon said that there had been meetings with the property owner and his attorneys. "We believe that the goal of getting the trail open can be met," he said.

If the city can reach an agreement with the property owner, Kent DeSpain, Salomon said the city attorney will then draft the agreement and the easement would then open "with relatively little pain." Still, he noted, "the devil is in the details;" but he estimated that there is a

reasonable chance of agreement. The option of accepting the easement at the Oct. 2 meeting was available, but Salomon believed that it would result, potentially, in creating more acrimony. He acknowledged that there was urgency, and pledged to work very hard to get agreement.

Attorney Eric Shaffer of Bowling & Shaffer was hired to represent the homeowners who support the trail easement being opened. He argued that the easement creates a public good and that there had been a fair amount of legal and actual notice. The easement has been used for decades, he said, and children cannot walk on Rheem or Glorietta to get to Glorietta Elementary School. Shaffer said that the homeowner had recognized the easement when getting planning permission for his home. "Representations to the planning commission are important," Shaffer said, referring to DeSpain's promise to the commission to keep the easement open.

John and Allison Bannisadr, longtime residents who lived for 13 years on Parkway Court, said that they cared deeply about the easement, which John Bannisadr used to mow so that children could use it. Jon Cooper urged the council to accept the easement. He said that he had offered to pay for the homeowner's privacy fence and landscaping, but that the homeowner had not responded to his offer. Alexis Miller, a mother and an attorney, said that she has done a fair amount of legal research and believes that the city's interpretation of the law is correct. "We don't want to litigate, but we will," she said, if necessary.

Another neighbor, Nancy Brown, was visibly upset as she addressed the council. "This land is our land," she said, "and we would be wonderful partners and friends.

"This isn't new," she added, "we shook hands on it."

But Terry Murphy, former chair of the planning commission, said that the easement had not existed since the city rejected it 10 years ago. He argued that the DeSpains bought the property with only a sewer easement.

"The convenience of neighbors should not outshine the property rights of homeowners," he concluded.

Several neighbors spoke kindly about DeSpain, but agreed that the easement has been in existence for decades and supported it being open to the public. The meeting concluded with a continuance of the matter for two weeks when it would again come before the council, which intended to accept the easement on Oct. 16. That meeting occurred after this publication went to press.

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