

NextDoor.Com Posting by [Melissa Roeder](#)  
[For Orinda Voters](#)  
October 19, 2018

The Orinda City Council is Segregating the City We need Council Members who will address the issue of Same Road Service for All. Please vote for DENNIS FAY, NICK KOSLA and KATHLEEN JENKINS. These three have committed to bring back a real discussion of the issue of public funding for all of Orinda's streets. The facts are: (1)Twenty percent of Orinda, those who live on the streets the City has refused to adopt and euphemistically calls "private" to imply an air of exclusivity which these streets never asked for, pays taxes for but are denied the basic benefit of street maintenance. (2) Over 400 residents petitioned the City Council to form a task force to discuss the issue. (3)The Council refused. (4)The Council then passed a resolution prohibiting virtually all "private" streets from ever receiving public maintenance funds. (5)This is despite the fact that tens of millions of our tax dollars are being used to repair the City's residential streets which are identical to the "private" streets. (6)The City will soon ask us to commit to \$2.5 million per year to maintain their streets, while ignoring their "private" equivalents. (7)The upcoming election has two members of that Council, Amy Worth and Eve Phillips, seeking re-election. They have let the entire community down. (8)They have three challengers: DENNIS FAY, NICK KOSLA and KATHLEEN JENKINS. We are asking you to support these candidates.  
Thank you,

Citizens for Fair Road Funding [www.OrindaRoadFacts.info](http://www.OrindaRoadFacts.info)

[Linda Michels](#)

, North Orinda · 19 Oct

The private roads has never made sense to me. Part of my property is on one and I have paid road maintenance (formerly Hacienda Homes) for 46 years!!!!

[Brad McCullough](#)

, Miner Road · 19 Oct

I was on a private road before (I think originally it was a driveway to the house at the end) and when I bought the house it was very clearly laid out that it was a private road (this was 28 years ago). When repairs were needed to the road we each pitched in a portion of the cost depending on the length of the road to our house. Is the case any different with those that are on private roads now - were you notified through your purchase that you were on a private road? I haven't fully researched this, but it seems to me that the fact that it was a private road when you purchased it (along with any future costs that represented) should have gone into your decision on which house to purchase. There might have even been a slight reduction in purchase price, or less competition due to that fact. There might have been a prestige factor (I live on a private street). Are houses on the private streets selling just as easily today and at the same relative price as those on public streets? I have no idea but if someone has done that research it might be interesting. There are a lot of things that local governments do that some people don't think of as fair. The question is what's best for the entire community. At this point from what I've read from others I personally don't think that the city should take over the private roads, with all of the costs associated with doing that especially since we are having trouble as it is getting all the public roads fixed. From a financial standpoint it doesn't seem prudent for the city government to

do that. If the 3 candidates you listed have come out as saying that they will make the private roads public without due compensation from the owners, that would indicate a lack of financial prudence which would concern me. And then from a fairness standpoint do you then compensate homeowners on private roads who have paid for their road improvements in the past? There are lots of things to think about...

### Louise Benvenue

, Upper El Toyonal·20 Oct

Amy Worth also voted to eliminate school bus service on El Toyonal; adding excess traffic to that road every day and creating an inconvenience for all the families with kids in school.

### Steve Cohn

, Ardor/Valley View·20 Oct

Brad: Thank you for responding and opening the discussion. This is what we have been seeking from the City for over a year and what the three Council Candidates, Fay, Kosla and Jenkins, have pledged to open. They have not (yet) pledged to fund “private” street maintenance; they, as we, just want to air the facts. And there are a lot of facts. Many of them can be found on our web site [www.OrindaRoadFacts.info](http://www.OrindaRoadFacts.info). But the basic fact is that there are more residential streets funded by our tax dollars that look JUST LIKE the “private” streets than there are private streets which have to pay for their own maintenance AND the maintenance of their neighbors' public streets. The City’s streets are divided into three classes: (1) Major Streets (29 miles of arterials and collectors) which the City pays to maintain with tax dollars. (2) Public Residential Streets (64 miles with 4,500 families living on them) which the City funds ONLY IF special taxes are voted in like the half cent sales tax we voted for in 2012 and the \$45 million in bonds we voted for in 2014 and 2016. When those funds are used, there is no money to maintain these streets and we will have to vote in more new taxes if we don’t want to see our \$55 million go down the drain. (3) “Private” Residential Streets (with 1,500 families living on them). These are streets that the County, and then the City, has refused to grant public funds to maintain. They title them “private” to give them an air of exclusivity which no one ever requested. People are unaware that most are private. Some have signs; a couple even post “no trespassing”. One or two, out of 200, actually are gated. Some, like in Wilder, the City has required that they grant public right of way so they are only “private” due to the fact that they are privately maintained. People claim that most are just driveways. Over one hundred of these streets have over five homes. 57 public street have five or fewer homes. There is no logic for what is being given public funds and what is not. As for “private” home buyers paying less for their homes because they know they have to pay for street maintenance. This is not true. Up until a few years ago, Orinda had the worst streets in the Bay Area. That was the worst public streets. There were no funds to maintain the public streets so they fell into disrepair. Conversely, most of the private streets were well maintained. If anything, the homes on “private” streets sold at a premium. If a buyer today was actually appraised of the facts, that there is still no money to maintain the public streets even though they have been drastically improved with or \$55 million of new tax dollars, then the homes there may still sell at a discount. But few know this fact. These are the types of facts that we hope an honest and open discussion of the topic will bring to light. Then “The City”, in other words THE PEOPLE, can decide if we want to continue with a segregated street system where 100% of the residents pay for a benefit only 80% are allowed to receive, or we are all treated equally and we

all share in both the costs and the benefits. Vote for a City Council which will open that discussion.

[Joan Foster](#)

, North Orinda · 20 Oct

I agree. Change is needed. None of the current members of the council ever returned my emails on city issues I was facing. Joan Foster

[Steve Cohn](#)

, Ardor/Valley View · 20 Oct

Jean: Join the club. if I had \$10 for every email I sent that went ignored, I could personally fund my street's maintenance. I have started asking for confirmation of receipt and only some of the Council members even provide that.

[Theresa Slaman](#)

, North Orinda · 20 Oct

We need a fresh look at the issues facing Orinda, so time for a regime overhaul.

[Kathy Finch](#)

, Stein Way · 20 Oct

These 3 candidates have agreed to examine how to make road maintenance more equitable— all private road residents want is a task force to investigate. It is difficult for me to understand why the incumbents refuse even to open a discourse. I am voting for Kosla, Jenkins and Fay as a result.

[Steve Cohn](#)

, Ardor/Valley View · 20 Oct

My understanding as to why they will not open a discourse is they are not creative enough to envision a solution to the problem and their egos are too large to believe that others might come up with one. They know that we are going to have to soon vote in \$2.5 million a year to maintain the public residential streets and they cannot believe that the 80% of Orinda who enjoy public street financing would offer to include the other 20% who have supported the \$55 million of repairs we have all voted in.

[Gary Curtis](#)

, Manzanita Miner · 20 Oct

Yup. Time to throw the bums out.

[Carol Sensendorf](#)

, Oak Springs · 20 Oct

Will do!

[Joe Barakeh](#)

, Orinda Oaks · 20 Oct

Eve Phillips recused herself from the private road issue at a recent council meeting. She is now catching some heat for this from private road advocates, but I can understand why she did. I live on a private road as well, and don't appreciate being taxed full price for partial benefit. However,

there are many issues facing Orinda. The families, schools, and taxpayers of Orinda will need an advocate who puts them first. Eve Phillips' voting record reflects these priorities; hence, she gets my vote.

[Joel Libove](#)

, Diablo View·20 Oct

Agreed - The incumbents have shown a callous disregard for providing basic services taxpayer/residents are entitled to. They have virtually ignored road and drainage problems until they destroyed property. The culvert in the photo is on Diablo View Drive (a "public" road). It clogged in 1998, destroying a portion of a private road below. Now, 20 years later, and after multiple terms with Amy Worth on the Council, the culvert and its portion of Diablo View Drive have STILL not been repaired. It's time to elect more responsible City council - Vote for NICK KOSLA, DENNIS FAY and KATHLEEN JENKINS.



[Steve Cohn](#)

, Ardor/Valley View·20 Oct

Joe, you say you understand why she whimped out and refused to even try to get the Council to discover the facts surrounding why 20% of Orinda do not receive the basic public service of road maintenance. Could you share with us? I see a real lack of leadership which is not a good thing for a City leader.

[Steve Cohn](#)

, Ardor/Valley View·20 Oct

Joe, I reread your statement. You are saying you understand why she is getting heat but this is just one issue of many. Fair enough. But I believe she walked away from this one far too fast. Might she personally benefit some day if her private street gets public funding? Sure. How would that happen? Only if the voters vote in new taxes. She is not going to decide that, the voters are. She is responsible for developing the facts so that they can vote. She walked away from that responsibility. Time to give someone else a shot.

[Anthony Drewitz](#)

, Lower El Toyonal·21 Oct

At a candidate event, I recently asked Eve Phillips about recusing herself on this issue. Apparently Eve lives on a private road herself, and as such was advised by the city attorney that she had to recuse herself (I'm not aware of the law, but something about a direct financial benefit requiring recusal). Given this, I think to say she "wimped out" is not fair. Though it does not seem quite right that only those who are NOT affected by this issue get to vote on it... Generally I agree with Joe's sentiment, Eve has been an asset on the council.

[Steve Cohn](#)

, Ardor/Valley View·21 Oct

I believe the City Attorney's opinion needs to be questioned. I am not sure what facts she was given to opine on. I do know that Dennis Fay, who is also a candidate for Council, who lives on a private road, and who has said he will vote to open the discussion, is also a City Official (a Commissioner on the CIOC). He led the discussion at the CIOC and voted, in concert with all of the other CIOC Commissioners, to recommend that the City form a Task Force. The City Council, in a 3:1 vote, voted to ignore their recommendation but the fact that he participated in the discussion at the CIOC level never came up. In recent years the Council has discussed at length, and put ballot measures up for vote to raise \$55 million for the reconstruction of Orinda's residential streets. All members of the Council partook in those discussions. Most members live on those streets. No one ever recused themselves until it came down to a specific street "shall we fix street x this year?" We all benefit in ways from their decisions. I believe if Ms. Phillips had really wanted to she could have made the case to remain in the discussion. If she owned a 1/1,500 interest in property downtown, would she have tried to recuse herself from any discussion on downtown planning because she might just benefit from it some day? I don't think so.

[Joe Barakeh](#)

, Orinda Oaks·21 Oct

The issue of CIOC vs. city council membership and how that might relate to conflicts of interest has already been noted on a different thread here. Are CIOC elected? Nevertheless, I am curious what the result of a 2-2 vote at that council meeting would have been. Also, how is any council member going to second-guess the City Attorney? Hire their own attorney? For the purpose of voting on a private street issue because they live on one? How would that be viewed by the public in general, and political opponents in particular?

[Joe Sensendorf](#)

, Oak Springs·21 Oct

I would like to point out that if we're going to insist that only those who are not affected can vote on this issue, then the logical conclusion is: no one can vote on it! Why is that? If you live on a "private" street, you obviously benefit from the city covering the cost. If you live on a "public" street, you benefit from the city NOT covering the cost of private streets, since more money will be available for your "public" street. Seems like we're in a bit of a bind folks.

[Steve Cohn](#)

, Ardor/Valley View·21 Oct

We are not talking about voting in benefits. We are talking about setting up a task force of Citizens, who only have the power of obtaining information for the Council and, at the very most, making recommendations. If Ms. Phillips wants to be sure she does not exert her significant power over a situation which she might, in some small way, personally benefit from, she can decline to become part of that task force. I just believe it was bad judgement on her part to remove herself from the process. For all I know, she may have turned a 3:1 vote into a 4:1 vote. This is not about winning or losing. It is about being part of the process and allowing the process to happen.

### [Joel Libove](#)

, Diablo View · 21 Oct

Agreed. Also, many roads the city arbitrarily mis-classifies as private actually provide more public benefit than many they classify as public. The photo below shows how Canyon View Drive, which has 17 homes, is ironically classified as "private" despite the fact that it is much wider and 6 times longer than three much smaller roads that the city classifies as public. During each winter 6 large culverts under Canyon View Drive drain millions of gallons of rainwater from (public) Diablo view drive and the hillsides above, and yet Canyon View Drive residents must pay to maintain and occasionally replace these culverts. In 1998 the City failed to maintain a culvert under Diablo View, and it clogged causing a landslide onto Canyon View (then blocking one of Canyon View's culverts), which the city initially refused to fix until threatened with legal action. It is simply unfair to have two artificial classes of roads that in reality have equal utility, and cheat the members of one class..



### [Charlie Brown](#)

, Sleepy Hollow · 21 Oct

Dennis Fay???? He was on the Citizens Infrastructure Committee (CIOC) when road rehabilitation was first being discussed. The private road issue came into discussion at the time, and Mr. Fay was silent on the subject. Now that he wants to sit on Council, he suddenly is an advocate for the private road residents???? Hrrmph! As for Eve Phillips, if the city attorney tells her she is to recuse herself, she is to recuse herself. Period. She has opposed the hiring of a series of consultants as being fiscally irresponsible when such monies could have gone to a Task Force for private road residents and when there is negligible funds (like none) for road MAINTENANCE and deferred maintenance on our public buildings. Wake up people! Understand who you are voting for and against.

### [Nick Waranoff](#)

, Miner Road · 21 Oct

A public official needs to recuse himself or herself if: 1. Is it reasonably foreseeable that a governmental decision will have a financial effect on any of the public official's financial interests? 2. Will the reasonably foreseeable financial effect be material? 3. Can the public official demonstrate that the material financial effect on the public official's financial interest is indistinguishable from its effect on the public generally? 4. If, after applying the three steps above the public official determines they have a conflict of interest, he or she may not make, participate in making, or in any way attempt to use his or her official position to influence the governmental decision, unless some exception applies. ([https://www.ca-ilg.org/sites/main/files/chapter\\_2.pdf](https://www.ca-ilg.org/sites/main/files/chapter_2.pdf)) We can debate the application of these principles to the facts. But if Eve was advised by the City Attorney to recuse herself, she had no choice. Moreover, Dennis Fay, who lives on a private road in the Pulte development, will have no choice other than to recuse himself, regardless of whatever he was persuaded to do or not do on CIOC. When you look at these factors you can understand that a public officials residence on a public

road does not create a MATERIAL financial interest. So: (1) don't hold Eve's recusal against her. She has been a breath of fresh air on the Council. Even though i have not agreed with all of her votes, i think she is better than the alternatives. (2) Kathleen Jenkins has met with the private road supporters and announced her support for a Task Force.

[Michael Hawes](#)

, Charles Hill·21 Oct

Yes! The old guard has to go.

[Nancy Chase-Dowdall](#)

, St. Stephen's Hill Top·22 Oct

Eve Phillips has been the one person who has been fighting for all of Orinda & residents. She has been the only voice. My only votes will be for Eve& Kathleen. You can forget the others

[Joan Foster](#)

, North Orinda·22 Oct

Really??

[Gary Curtis](#)

, Manzanita Miner·22 Oct

@Nancy: agreed on Eve. I've talked personally with Kathleen Jenkins (new Council candidate) and find her committed to reversing the homeowner-unfriendly, insulting private roads decision. The rest of them don't deserve to be on the Council.

[Ariele Taylor](#)

, Glorietta School·22 Oct

Nancy~ I 100 % agree! Its Eve all the way for me. Yes, a breath of fresh air. Yes, a lone voice of reason. One person we can count on who is not being paid by outside interests.

[Laura Abrams](#)

, Lower El Toyonal·22 Oct

As a former elected official who served 12 years on the Orinda City Council its not all as it seems. As for folks who live on a private road which I believe is both Eve and Kathleen they will both have to recuse themselves. Not their choice. That is dictated by the City Attorney. Not even sure Amy can vote as her daughter now lives on a private road. When the City Attorney advises you to recuse you really have no choice. I live on a private road. I live on the El Toyonal hill and I had to recuse myself from a zoning decision that did not even impact my property. No choice on that. As for the bus issue on El Toyonal there was no way for the council around that due to a study that showed all the unsafe stops in Orinda which then became uninsurable. Not just on El Toyonal. The council did not feel good about the move but they were boxed in a corner. These are volunteers. They are not paid in Lamorinda and there is no way anyone receives financial compensation for their positions. You can go down to the city and read the financial disclosures. You can also read all the financial contributions above a certain amount to the campaigns. Obviously people will vote for whoever they choose but is it really necessary to vent hostility to your neighbor council members who really are constrained by many factors when they vote on an issue. There are some pretty big issues facing the city like the development at BART stations

which so far we have avoided due to Cal Trans owning our station. We are well served to have some elected officials on the council that have long term relationships that benefit the city. Think beyond the obvious.

[Melissa Roeder](#)

, North Orinda·22 Oct

Allow me to share some thoughts. The business about recusing oneself from a discussion about merely convening a community group to discuss a change in road policy is clearly a political convenience to these people. No one other than Darlene Gee gave one creative thought to the issue at Council meetings because the rest don't regard the rights of 20% of Orinda taxpayers as legitimate or worthwhile. A Task Force would bring solutions and ideas for the voters to consider - Not the Council - whether that be a bond, a slight expansion of the next round of financing for all road service, a reduction in taxes for those receiving No Service (up to 20% of all Orinda), or other measures. If the council continues to block solutions either by action - the new ugly no-adoption policy - or inaction - that is simply voter suppression. I also believe that it is the law that if there is not enough of a quorum to vote on a matter before council, the council must override the recusals in order to conduct public business.

[Laura Abrams](#)

, Lower El Toyonal·22 Oct

Melissa that simply is not true. Having a community meeting that results in a discussion that might lead to council action is enough as I recall to taint the process. For example there was a council member involved in downtown development years ago that had to recuse as a result of an action that was brought to the fair political practices commission. It tainted the process and they dropped the effort as I recall. You are correct about the need for a quorum but I doubt that either Eve who is really careful about following the law or Kathleen who would have the city attorney making it clear what her obligations are could vote. I never was in a situation where more than two folks had to recuse.

[Laura Abrams](#)

, Lower El Toyonal·Edited 22 Oct

I also dont believe for a minute that the other council members did not think the needs of 20% of the tax payers were not worthwhile. I was not there for the discussion so I cannot speak directly as to their intent. One thought might be for private road folks to work on the issue independent of the city, if they wont or for some reason legally cant take the lead..... We have so many attorneys and experienced locals that might lead somewhere. Just brainstorming. I think all you need is one council member to place an item on the agenda.

[Gary Curtis](#)

, Manzanita Miner·22 Oct

Well they sure voted as if our roads were not worthwhile.

[Melissa Roeder](#)

, North Orinda·22 Oct

Note: Kathleen does not live on a private street. You may be thinking of Dennis Fay. To your point: I have been there for every significant Council and CIOC meeting on the subject in the last

18 months, since my street brought a petition to the CIOC to consider adoption. I have seen firsthand that the council's interest, judging by its behavior, is to discourage us and make us go away. It has delayed and then ultimately chosen to accept outrageous cost estimates provided by their Staff (again, of convenience) as a pretext for shutting down an important community concern. Inge Miller once voiced a willingness to have informal workshops - or coffees with stakeholders - but that was ultimately lip service. The point is that there is no sustained dialogue permitted at the meetings, which is critical to developing a solution. They are behaving with fear and not with reason or compassion for the people they are supposed to represent. Many problems with residents far fewer in number and with less at stake somehow get redress with their representatives. We are no less deserving and there has to be an end to these endless waves of taxation and withholding of benefits from residents.

[Louise Benvenue](#)

, Upper El Toyonal-22 Oct

The council members who live on city maintained roads get the monetary benefit of the taxes and the garbage surcharge that the residents of private roads pay. Hence, keeping the status quo is a benefit to them. Why didn't they have to recuse themselves?

[Laura Abrams](#)

, Lower El Toyonal-22 Oct

I can empathize with your frustration. We should meet and talk sometime.

[Laura Abrams](#)

, Lower El Toyonal-22 Oct

Louise there is a general policy when the decision affects a certain percentage of the community that you dont have to recuse. I cant recall the details on that one. By the way I live on a private street and pay the garbage surcharge so I guess I am one of the 20%!

[Louise Benvenue](#)

, Upper El Toyonal-22 Oct

Hi Laura, I'm not frustrated at all. I'd prefer to keep my street private. On the other hand, I'd appreciate a reduction in my taxes, or receiving the garbage truck surcharge I pay. My road could use it. I asked the question to better understand who has to recuse and who doesn't. And we should talk sometime. That would be lovely.

[Laura Abrams](#)

, Lower El Toyonal-22 Oct

Call me soon. I have to update you on a more important thing.

[Steve Cohn](#)

, Ardor/Valley View-22 Oct

Over the past several years there have been several City Council votes regarding the public funding of City streets. One of the first regarded the allocation of Pavement Management Program (PMP) fund revenues in 2011. The Council agreed with a CIOC suggestion that virtually all funds, about \$1million per year, be allocated to Orinda's most heavily used streets, those streets designated Arterials, Collectors and School Routes. It allocated money away from

Orinda's 64 miles of publicly funded Residential Streets. I believe that Council Member Dean Orr lives on a Collector. I do not believe he recused himself from that vote. In 2012 the Council voted to put a sales tax on the ballot. While the tax was technically for general use, the Council pledged to use it to repair Residential Streets which the 2011 policy vote left unfunded. I believe that Council Members Smith, Glazer, Worth and Severson all lived on Residential Streets. I don't believe the topic of recusing themselves was ever raised. The same was true for the vote to put the 2014 and 2016 road bond measures on the ballot, all of which were dedicated to the 64 miles of Public Residential Streets which most Council Members lived on. Saying that some public official may receive a de minimus benefit along with 20, 30 or 40 percent of the population of which they are a tiny fraction invalidates them from participation, is bogus. What if we were talking civil rights, or women's rights. If a woman might get an equal wage, which is more than she currently is or might someday get, she can't vote to propose such legislation? Seriously?

[Melissa Roeder](#)

, North Orinda · 22 Oct

Laura, good to know! I just saw the second part of your comment above. We already have one councilmember who placed the issue on the agenda more than once - Darlene Gee - and the council itself initially agreed to a task force, but then reversed itself. We basically have a task force or a core of people, much of its research gathered on [orindaroadfacts.info](http://orindaroadfacts.info), but what we are missing is recognition by the city in some form. Without it the city simply will not engage with us in real discussions. The CIOC proposed a nine-member task force to include council, a CIOC, owners of public and private streets, possibly a city staffer. The City chose to let Staff draft, without CIOC input, the new road adoption resolution, which is more restrictive than the one 30 years ago, and to vote down a task force. Again - to your point, Louise - keeping private road titles private but getting tax reduction or other relief is just one possible solution to be considered. Different street situations may call for different solutions but all should be allowed on the table. Roads are a core service of cities.

[Joe Barakeh](#)

, Orinda Oaks · 22 Oct

We need actual legal advice along with more constructive input from the city attorney. Speculation is not helpful.

[Melissa Roeder](#)

, North Orinda · 22 Oct

I respect the Council's resistance to Bart or Cal Trans taking local control. We all benefit from that position and it also maintains the City's authority. That is a different issue from road maintenance. Regarding Amy, she disclosed that her daughter lives on a private road and that the city attorney told her that would not create a conflict of interest sufficient to recuse her from the issue. Kathleen is not on a private road.

[Joel Libove](#)

, Diablo View · 22 Oct

Agreed. The real problem is that Amy Worth repeatedly uses the claim that private roads cannot be adopted unless they provide a public benefit. Well, "private" Canyon View Drive has several

culverts (one of them 48" in diameter) that drain literally millions of gallons of water from (public) Diablo View Drive and the hillside above, providing a huge and vital public benefit. Yet, when a culvert on Diablo View clogged in 1998 causing a literal waterfall over the hillside down to Canyon View drive, the city arrogantly refused to fix it. Two days later, a landslide occurred damaging Canyon View. The city's own geotechnical report acknowledged the cause as the blocked culvert on Diablo View. However, instead of fixing our damage, the City Engineer sent a demand letter to (innocent) residents of Canyon View demanding we fix the hillside above. Only when I threatened to report this bad faith action to the Contra Costa Grand Jury did the city fix the hillside, and install two 24" bypass pipes down the hillside. It is this heavy handed attitude by the City toward "private" property it drains onto that necessitates that the City be responsible for funding the entire drainage system, including that under "private" roads. In the council meeting before its recent vote to basically block all support for private roads, the entire City Council received a letter from me describing the above situation. Yet, the council members (with the exception of Darlene Gee) seemed to completely ignore my letter and others from private road residents - almost as if our letters weren't worthy of consideration. Instead Amy, Inga and Dean relied on an obviously exaggerated and factually incorrect report by Larry Theis, It is Amy's inability (or more likely, refusal) to fairly evaluate technical information that makes her unsuitable to be a City Council member. During her long tenure, Orinda built an obnoxiously expensive, and unnecessarily elaborate city hall while completely ignoring the basic needs of its citizens. The culvert that clogged has, 20 years later, still not been replaced. Instead there are two cones near the culvert on the still decrepit portion of Diablo View Drive. Here's a picture of it I took this week. It is insulting when the City overpays for a city hall and other public structures downtown, and doesn't give one iota about its roads - even its public roads.



[Charles Porges](#)

, North Orinda · 23 Oct

It is my belief that maintaining all private roads will only add a small amount (10%?) to the overall budget for road maintenance as the privately maintained roads are in far better condition than the public roads were in when we voted to repair them. The Council should at least consider surveying the private roads to establish true costs. The cost of such a survey is likely to be \$4-10,000 if done with the biennial public road survey. After this we the citizens of Orinda can decide if we wish to spend a bit more to have all our roads maintained. I also believe that the residents of private roads would be willing to contribute some reasonable amount of money to have their roads become public but the current rules make the required road improvements prohibitively costly as the road has to be made Caltrans perfect. And even then the city has the right to refuse to make it publicly maintained. A more reasonable procedure should be considered that might allow private roads one by one to become public. The purpose of a "task force" is to discuss and explore alternatives and obtain facts. To date only guesses and false facts have been stated by the CIOC, Council and staff. Both the roads and drains are public city infrastructure that need to be considered as a whole system. Ask any city planner. So what do we

want to leave as a legacy to our children and neighbors? Our city council should have the interest of our entire community in mind. So let's at least get a task force going!

[Ghet Shinn](#)

, North Orinda · 23 Oct

I lost my password and can't log into my NextDoor. Can you help?

[Laura Abrams](#)

, Lower El Toyonal · Edited 23 Oct

There are points above that are well taken. I think to work toward some kind of future solution its important to keep things somewhat civil. A lesson I learned when trying to save the theater (ancient history) and then ending up working with the developer to restore and save it. Keep the dialogue going with the council. I personally will do some work to get up to speed on this issue. Thanks again!

[Joel Libove](#)

, Diablo View · 23 Oct

I agree with Charles that maintaining "private" roads would likely only add a small amount to the City's overall budget for road maintenance. Also, I think that most households on "private" roads would be willing to pay a one-time fee of \$1000 to have their road adopted (but with the proviso that the \$1000 would be returned to those residents whose roads the city refuses to adopt). If 1500 households are on private roads, and most of these roads request adoption, this would result in nearly \$1.5MM to the city, which could be a start toward funding the small increase in the city's budget due to the adoption of these roads.

[Laura Abrams](#)

, Lower El Toyonal · 23 Oct

I am guessing, not knowing since I have been off the council for 12 years, the major source of road funding comes from the measures Orindans have voted for and I am also guessing that they cant direct those funds towards private roads as it was written. The smallest source of funding is the gas tax money which doesnt go far to my recollection.

[Steve Cohn](#)

, Ardor/Valley View · 23 Oct

I know I have posted this in the past (and it is this understanding of the facts that makes the creation of a Task Force imperative) but I will state it again. The City has three classes of streets: (1) Major Roads (29 miles of arterials, collectors and school routes which 15% of Orinda lives on); (2) Public Residential Streets (64 miles which 65% of Orinda lives on); and (3) Private Residential Streets (which 20% of Orinda lives on). The City's policy is that all general fund money (State gas tax, County Measure J tax, garbage franchise fees) go to the Major Roads. The Public Residential Streets only get funding if special taxes are passed like the half cent sales tax and the Measure J&L Bonds. When that money runs out, which is projected to be next year, the City will then have no money to maintain the Residential Streets we are spending tens of millions to repair. At that time, by CIOC estimates, we will have to vote in an additional \$2.5 million in perpetuity to maintain the 64 miles of Public Residential Streets. The 1,500 families living on the Private Residential Streets are paying their share (about \$15 million over the next

20 years) of the bonds and sales tax to repair the Public Residential Streets. The majority (70%), never use these streets (with 40% of the Public Residential Streets being cul de sacs used only by the residents living on them and with 50% of the Private Residential Streets feeding directly into the Major Roads bypassing the Public Residential Streets completely). When the new tax is proposed, it is the time for the City to unify its street system, fund maintenance on everyone's street, and ask everyone to vote for that funding. We don't need to balkanize Orinda over this issue. It's not worth it for the few dollars a year that it will cost. More facts available at [www.OrindaRoadFacts.info](http://www.OrindaRoadFacts.info)

[Joel Libove](#)

, Diablo View·23 Oct

Laura, thanks for your consideration of our position. We would like to keep the dialog going with the council, but they (with the exception of Darlene Gee) have firmly shut us out at this point - any discussion with either Council or Staff is futile, except for raising one's blood pressure. Many of us spoke and wrote letters for the two recent council meetings leading up to their vote, and they addressed none of our valid issues, instead praising the factually incorrect report and testimony by Larry Theis and Steve Solomon as if their blatantly exaggerated predictions of doom (if "private" roads were to be adopted) were gospel truth. The recorded videos of the two meetings (available on the city's website) will, I think, educate any citizen about what appears to have been a pre-planned cram-down, coordinated between Staff and Council. It is implausible that a city can ignore its public roads, wrongfully claim that the private roads have less public good than equal or lesser roads they call "public", spout out incorrect technical figures (Inga misleadingly stated that all city roads are 16' in width) and not give citizens a chance to correct them before they voted, totally ignore maintenance of small public roads/culverts which then damage private roads below, refuse to fix the resulting damage to the "private" property, and think that this is somehow OK. While I voted for Amy in the past, our family has experienced firsthand the effects of her inverted priorities on overpriced buildings and downtown sidewalks while leaving our roads and hillsides more vulnerable to landslides and sinkholes which could financially destroy (e.g. bankrupt) "private road" residents. It is very much time for some new council members, with more technical expertise and, more importantly, a better sense of fairness, priorities, and civic duty to equally protect ALL citizens..

[Joe Sensendorf](#)

, Oak Springs·23 Oct

So I have a question: there are 7 council members, right? In order to pass, does a measure need 4 votes, or simply a majority of members who are present and voting? It's sounding like perhaps at least 3 members might have to recuse themselves, which means that unless the remaining 4 all vote the same way, there is no way to pass a measure on this issue. Folks, this is going to wind up being a very expensive lawsuit, unless the city simply does the right thing, namely, pay for ALL the roads that are open to public use!

[Brad McCullough](#)

, Miner Road·23 Oct

5 members on City Council

[Joe Sensendorf](#)

, Oak Springs · 23 Oct

OK, so if 3 recuse, they can't even vote on this issue; so then what? massive lawsuit, that costs more money than what the private roads would have cost to begin with? Get a grip council members!

[Steve Cohn](#)

, Ardor/Valley View · 23 Oct

Responding to Joe Barakeh's post: "We need actual legal advice along with more constructive input from the city attorney. Speculation is not helpful." I agree. Not sure how to get it. I am not a lawyer but the California League of Cities "Conflict of Interest Guide" points to California Code of Regulations, title 2, section 18703(e): Specific Rules for Special Circumstances. "The financial effect on a public official's financial interest is deemed indistinguishable from that of the public generally if the official establishes: (1) Public Services and Utilities. The decision establishes or adjusts assessments, taxes, fees, or rates for water, utility, or other broadly provided public services or facilities that are applied equally, proportionally, or by the same percentage to the official's interest and other businesses, properties, or individuals subject to the assessment, tax, fee, or rate." We are not talking about a fee (or tax) as such, but about the broad use of the tax across all properties that are paying that tax. "(7) Governmental Entities. The decision affects a federal, state, or local governmental entity in which the official has an interest and there is no unique effect on the official's interest." Ms. Phillips has the same interest in the road she lives on as every other homeowner in Orinda. To the extent that her road is maintained the same as others in the City, she gets no more or no less benefit. Even if she owns the property that the road is on (title does not revert to the City) but grants public right of way across it, the maintenance of that road by the public would have no more value to her than if she did not own the property under the road. It sounds like the above "Special Circumstance" would allow an elected official to not only discuss providing a benefit in which she has an interest, but actually voting for it. But we are not even talking about that "next step". We are talking about just discussing what would be involved to provide the same service to everyone: not actually providing it (yet). I continue to think that Ms. Phillips was a bit too eager to walk away from this one. People may be impressed with her actions on other aspects of Orinda Municipal Affairs, but on this one, a basic public service, I believe she gets failing grades.

[Gary Curtis](#)

, Manzanita Miner · 23 Oct

Reflecting back to the Miner Road sinkhole debacle and how the Council rolled over immediately in the face of legal action by one neighbor, giving that neighbor a much more expensive remediation than had been previously planned, not to mention considerable cash to the neighbor (for the second time in a few years). It seems to me that if the Council doesn't take quick action after the elections to reverse the taxpayer-unfriendly "private roads" tax theft, then some of us who live on these "private roads" should immediately engage legal counsel and file legal action. I'm ready to organize that if, regrettably, if the time comes.

[Joe Sensendorf](#)

, Oak Springs·23 Oct  
count me in!

[Louise Benvenue](#)

, Upper El Toyonal·23 Oct

I still don't understand why, on an issue involving public roads versus private roads, that the board members who live on private roads have to recuse themselves, but members who live on public roads, do not. Doesn't this control the outcome?

[Melissa Roeder](#)

, North Orinda·23 Oct

It is not considered a conflict for the council to vote on matters affecting the majority, even when they benefit themselves - such as bond measures J and L- but they can claim conflict where a minority of residents are concerned. It defies common sense but there's the law for you. I think there's a way around that by recognizing the public interest in access to all roads and common tax burden as majority concerns. Steve's post above about Special Circumstance found in the CCR's is one approach.

[Steve Cohn](#)

, Ardor/Valley View·23 Oct

I think the Special Circumstances rule (California Code of Regulations, title 2, section 18703(e)) addresses this. It is not that a minority is seeking a special benefit, they are merely seeking the same benefit as the majority (paragraph (7) "no unique effect on the official's interest"; he/she has the same interest as everyone else). If a private road owner wants to retain ownership and get public financing for his road, I think it can be shown that (1) a road is only an asset to the extent that you get use it as a road (if you have granted right of way benefits to the public) and (2) the benefit to a home owner (property value) who owns the land under the road in front of his house is no greater than the benefit to the homeowner who does not own the property under the road in front of his house. If anything, owning the property under the road is a contingent liability, not an asset. Even if the City agrees to maintain the road, if you own the land, you are one more person a litigious passer-by can sue. We, and Council Member Phillips should be joining us, are fighting not for a special benefit, but the granting of the same benefit as everyone else. It is like asking for the same free public education as everyone else or "how do you spell Selma and Voting Rights?") If you have been beaten up your whole life, are you asking for something special not to be?

[Kim Applegate](#)

, Stein Way·29 Oct

Thanks Melissa for starting this thread. I was wondering about a few things. What is the connection between Nick Kosla , Dennis Fay and Amy Worth? They have sent out flyers that imply they are unified on something, not really clear what that might be. From his LinkedIn profile it looks like Nick Kosla worked for Pulte Homes as a land entitlement principal. The rest of his work history is similar , all related to large home development projects. This is not someone I want deciding the fate of Orinda over the next 4 years. The state is already trying to force us to build more housing at an irresponsible rate and have passed several laws taking away

local control. We need someone that is going to act as a tether to that power grab. Kathleen Jenkins is the only candidate I know of that has committed to working on responsible growth and fighting for local control. I do not know much about Dennis Fay and how he might be aligned with Kosla and Worth on issues other than the private road issue. Anybody have additional information on Dennis Fay and the issues that are important to him beyond the private road issue?

[Steve Cohn](#)

, Ardor/Valley View · 29 Oct

Kim: This is not meant as a response for Melissa but I'll give you my two cents. This thread is about voting for Council Members who are willing to take the issue of segregating out 20% of the City for service-denial seriously. The current Council, with the exception of Darlene Gee, has failed us on this account. You would like the discussion to swerve to the other "hot topic", downtown planning. You obviously know what the connection is between Kosla, Fay and Worth are, they are not anti development. I'm not sure that Phillips and Jenkins are anti-development either; it's just that claims get thrown out that development is all (high rise stack and pack) or nothing. I imagine that all of the candidates are "middle of the road" to some extent. Kosla is a development expert. Does this mean he wants to sell downtown Orinda to Pulte? If he were a criminal defense lawyer, would he want to see all of his clients move in next door? Probably not. Please start your own thread regarding the downtown development issue. This one is about public funding of residential streets.

[Joe Sensendorf](#)

, Oak Springs · Edited 29 Oct

You can argue this all you want, but if Orinda doesn't start paying for those "private" roads, there WILL be a lawsuit, and the resulting legal expenses would almost certainly swamp the cost of the roads.

[Gary Curtis](#)

, Manzanita Miner · 29 Oct

Damn right.

[Nick Waranoff](#)

, Miner Road · 29 Oct

Steve and Kim: Kim is not swerving the discussion any more than you swerved the discussion started by Dan DeBusshere entitled "Orinda council perceived slate of candidates - Dennis Fay, Nick Kosla, and Amy Worth" when you injected a private roads discussion into Dan's post showing that Amy Worth is not part of a slate of candidates and does not endorse Kosla or Fay. Kim asked, "What is the connection between Nick Kosla, Dennis Fay and Amy Worth? They have sent out flyers that imply they are unified on something, not really clear what that might be." The preliminary answer is this: "they" did not send out flyers. The flyers were sent out by a political action committee ("PAC") formed by OrindaVision and WUDO. The PAC advocates extensive residential development in the Village. See my posts entitled "Orinda City Council Candidates and the Issues" and "Proposed Redevelopment of North End of the Village." Steve has not accurately described the positions of the candidates. There is a bright-line difference between them. Jenkins and Phillips are pro-business but want any new development to comply

with the currently-existing height and density limits, and parking requirements. Kosla and Fay will not make that commitment. Nor will Worth. This is addressed in detail in my posts referenced in the preceding paragraph. Steve's analogy to a criminal defense lawyer is unpersuasive. A better analogy would be to a criminal defense lawyer advocating longer, harsher sentences for criminals. Seems unlikely that Kosla would risk alienating the industry group from whom he makes a living.

[Steve Cohn](#)

, Ardor/Valley View · 29 Oct

Nick: Fair enough about past swerving. Mea Culpa.

[Laura Abrams](#)

, Lower El Toyonal · Edited 29 Oct

Kim the flyers that indicate they are a slate are not sent out by Amy Worth. She is running independently. The pro growth folks have tied her into the two they are endorsing but that is not accurate. Please call me if you want to discuss Amy. I worked with her on the council for 8 years so I think I know her pretty well.