

NextDoor.Com Posting by [Charles Porges](#)

[Orinda roads discussion](#)

September 4, 1918

There seems to be confusion about the history and possible future of Orinda's private roads. As things stand private road residents pay for their roads' routine maintenance and carry the risk of catastrophic failures even if the cause originated from a public road or drainage failure. The only recourse is suing the City and your neighbors. Private road residents do not have access to any county, state or federal funds which are available to the City. These often cover most of the cost, see for example the Miner road sinkhole. About a fifth of Orinda lives on private cul de sacs. Another fifth lives on publicly maintained public cul de sacs that are identical to the private cul de sacs. Most of the residents of private roads do not want to remain private and had no part in the decision process that in most cases occurred very many years ago. Although the private road residents usually could restrict access to their street they don't, they are used as if they were public roads. Other than restricting access or putting up a fence without needing a permit, there are no advantages to being a private road. My private road, and many others, has neither an HOA nor a road maintenance agreement since 1984. It was offered to the County, which declined to make it public, in the 1920's. At some unknown point in time the County allowed the lower half of my street to become public. It is true that the heavy garbage trucks cause most of the damage to residential streets, but the garbage impact fees that private road residents pay only go to the maintenance of public residential roads. Until recently all roads except for the major arterial and collectors were allowed to degrade to unacceptable. In contrast the private roads were typically well maintained. In 2014 the voters decided to fund the repairs required on the public residential streets, most of which are cul de sacs, paid for equally by all the residents of both private and public roads. There are currently no funds for their future maintenance nor for the drainage system repairs that are required. So the question to ask is do we want the residential roads to again degrade or do we, as a relatively wealthy community, want all of our residential roads and drains to be in good condition in perpetuity, and how could we accomplish this. One possible alternative, to be more fair to the residents on private roads, could be to exempt them from paying for public residential road maintenance but continue to pay for Arterials and Collectors. This is not about private driveways nor roads that wish to remain private. It is about the quality of life for all of Orinda residents, and about fairness. First though, legal and financial facts must be obtained, then presented to the voters who will decide which course to follow after discussion and deliberations. A group of private street residents suggested forming a "Task Force", to accomplish this, to the Citizens Infrastructure Oversight Committee which supports the idea, and to the City Council which has been told by staff that, in their opinion, the investigation, discussion and adoption of private roads would cost far more than the city could afford. This is both false and not relevant. In a democracy the citizens need to be well informed and then make a decision. The City of Orinda, in the belief that the residents will not want to pay for the maintenance of residential roads has continued to create new private roads in negotiations with developers. The fact that the voters approved a multimillion dollar bond for the express purpose of fixing residential roads suggests otherwise. Do we wish to litigate or do we wish to find a fair way to maintain all of our roads? It seems clear that a community discussion needs to occur and the options explored. It is obvious that maintaining more miles of roads will cost a bit more but I believe the community may decide that this is a small price to pay to be fair, and retain good relationships with our neighbors. Otherwise the private road residents may defeat any additional public road funding,

which requires a two thirds majority. This is a community issue. Please come to the City Council meeting tonight to share your views.

4 Sep 2018 · 36 neighborhoods in [General](#)

[Marc Evans](#)

, Monte Vista · 2d ago

When a person purchases their home they know if their road is private or public. This knowledge is used when making the purchase offer. We live on a private road and we had our road repaved by paying for it by sharing the cost by the neighbors who live on this road (3). City of Orinda should not pay for private road repairs.

[Lisa Dyson](#)

, North Orinda · 2d ago

Forgive me for my ignorance, and for making this sound easier than it is, but why can't the city just re-designate private roads as public roads?

[Charles Porges](#)

, North Orinda · 2d ago

I respect your opinion but disagree. We too went door to door to raise funds. Several neighbors and PGE refused. Given that 20 percent of Orinda is private and that we pay for the public residential streets it would be fair if the funds were available to all. Consider what would happen if your road collapsed or a landslide made it impassable and the bill came to \$500,000 or more. As for the purchase price it depends more on "curb appeal" than the private status. Personally I really didn't know what "private road" implied. And my road is now in rather good condition so I don't think it will get prioritized. Since it's our tax dollars I'd like them spent fairly. The lower half of my street is public for no apparent reason.

[Phil Placier](#)

, North Orinda · 2d ago

Are Wilder roads public or private?

[Charles Porges](#)

, North Orinda · 2d ago

The city council can in fact designate any road it deems to be in the public interest to be public. So far they have not made it possible for ANY road to become public since the city incorporated. There has to be a "conversion" process. At first since no roads were being maintained it didn't matter. Now that we decide to vote for a bond measure there are funds to repair public residential roads that private road residents are paying for. So either don't make us pay or better yet fix all roads (and drains).

[Em MCB](#)

, Lower El Toyonal · 2d ago

All roads in Orinda should be public. I pay taxes like everybody else and shouldn't have to bear the additional burden of annual HOA fees to maintain my road. Marc, it's wonderful that you've achieved that level of cooperation with your neighbors and I'm also fortunate in that regard. We, however, shouldn't have to rely on that. It should be the city's responsibility to maintain all roads.

[Charles Porges](#)

, North Orinda · 2d ago

Phil, except for Wilder road itself all the side streets are private and are required to be permanently open to the public. The Wilder residents are all paying what I consider to be exorbitant amounts for this "privilege" in taxes and HOA dues. This was negotiated between the City and the developer without any residents input. It was done to save the city money. So the city is keeping the taxpayer's money from the taxpayers. If this process continues eventually more than 51% of Orinda roads will be private. Some larger cities have not added any private roads in years. It's a question of city policy and good governance.

[Lisa Dyson](#)

, North Orinda · 2d ago

You're right, Charles. It appears to be a matter of poor governance by the city. Another example of how our elected city representatives are letting us down.

[Charles Porges](#)

, North Orinda · 2d ago

Note: There has been an instance of a public drainage failure which washed out a private road which the city at first refused to pay. When threatened with legal action the City finally paid for much of the damage. This is another example of the City's policies keeping the money from it's citizens.

[Valerie Colber](#)

, Stein Way · 2d ago

Look at your deeds for your property! Show me anyone's deed that is not a recent development that designates their property is on a "private road" or that they are responsible for the maintenance of a street that your deed states anyone can use!

[Chris Flum](#)

, Oak Springs · 2d ago

I live on a private street, we had three homes on our street but after a homeowner on a public street tried adding a garage and driveway over a weekend project and threatened to sue the city without any discussion the City turned two homes with public street addresses change of address to our private court adding more traffic and garbage trucks, the city required them to build a turn around circle big enough for fire trucks... that never happened nor were they punished.. the city does not give a crap about private road owners, when a construction project happens the city makes the owners put a bond on public streets and does not cover private streets where recently a

public street house was developed and the work destroyed our private road and no body is responsible.. the city needs to step up and protect its citizens

[Steve Cohn](#)

, Ardor/Valley View · 2d ago

I will second Valarie's challenge. I know there is nothing on my deed and yet I just paid my share of the \$20,000 it cost us to do work on our street with 12 homes. Nothing on the deed; no HOA; no maintenance agreement; no city staff to do the work; just us under-serviced tax payers asking the City to at least discuss the issue.

[Em MCB](#)

, Lower El Toyonal · 2d ago

I think Steve brings up a good point. We're just asking the city to consider the issue and not pass a resolution that makes it virtually impossible for private roads to ever become public. Even if you're unsure if you want your private road to become public, I think you should at least have the option to consider it at a later date without the city putting roadblocks (Haha) in place to prevent it.

[Paola Cresti](#)

, Lower El Toyonal · 2d ago

Marc Evans, not so, not for everybody. My house is on a "Private Road" and when my family bought it it was our long driveway, but when they expanded Camino Pablo the land was reclaimed and they shortened our driveway and turned the rest into a street accessing it that our neighbors access as well (prior it was just our access). Then when the city and/or PG&E saw that they could make money having cellular antennas planted on what used to be a PG&E tower on our property but now is the city/county's, they gingerly offered them the use of that tower (accessed via our "private road" ) without us being able to oppose it. Then when the road deteriorated they were quick to point out that it was our "private road" and the city was not responsible. Luckily my neighbor is vigilant and knowledgeable so through an injunction to the building permits we got the cellular company to provide for at least of a section (every inch was fought) of the repaving out of their good will/neighborly behavior (they likely could have litigated it away) but not a cent from the city, whom is getting rent money for the cellular installation I would presume... So yeah they just do what they want/is in their interest, not the citizen's at any given time.

[Gina Friedman](#)

, Tahos Area · 2d ago

What time is the meeting tonight?

[Em MCB](#)

, Lower El Toyonal · 2d ago

7 pm. Unfortunately, I can't go, but hope others can represent. I did, however, send an email and hope those who are also opposed will do the same.

[Chris Flum](#)

, Oak Springs · 2d ago

We need to elect public officials who actually care about the community they serve

[Steve Cohn](#)

, Ardor/Valley View · 2d ago

Think about sending an email to the Council c/o the City Clerk [ssmith@cityoforinda.org](mailto:ssmith@cityoforinda.org)

[Valerie Colber](#)

, Stein Way · 2d ago

Chris is correct because for so many past city council members have been real estate professionals who inherently have conflicts of interest and agendas that do not represent the best interests of all property owners.

[Charles Porges](#)

, North Orinda · 2d ago

It is the last item to be discussed so it won't be till after 8:30. Maybe 9:00. I hope everyone can either go or express their views in an email. Thank you all for your interest! Even those who disagree! It is clear that we all need to get together to decide what can and should be done and guide the future direction of our City. This is what we asked the Council to do without success so far. I am proud to live in Orinda and have faith in our community.

[Michael Hawes](#)

, Charles Hill · 2d ago

One of the main jobs of local government is to provide basic infrastructure to the community of taxpayers. Although I live on a public funded street, I think it's just ridiculous that the City of Orinda gets away with this "private road" scam. We as a community should behave like a community, rather than those of us who do benefit telling those who don't to "suck it up".

[Marie Lloyd](#)

, North Orinda · 2d ago

All of Orinda Grove including access to the ball fields is private.... The Orinda Grove Board has wide leeway to establish all sorts of restrictions should they desire.... Some Orinda residents have already experienced the wrath of the association. I say public roads and public access

[Valerie Colber](#)

, Stein Way · 2d ago

It won't come up on the agenda until probably after 9pm

[Charles Porges](#)

, North Orinda · 2d ago

Yes but they could zip through items A to H and surprise us, so don't show up after 8:30! Maybe a bit before.

[Jan Wissmar](#)

, Downtown Orinda · 2d ago

I live next to a private road that services three houses and there are also easement issues regarding maintenance of trees entangled in power lines bordering our property and overhanging our house but on someone's else's property which the city (in my experience) will not deal with. Unfortunately the foresight wasn't there in the beginning so this isn't going to be an easy one to fix.

[Susan Vaile](#)

, Orinda Oaks · 2d ago

And what about gated roads that would accommodate exit to those who have no means of escape in case of fire? Who has the codes besides those behind the gates? Berkeley ave is an excellent example

[Charles Porges](#)

, North Orinda · 2d ago

If there were no private roads there would be no gates and everyone could escape.

[Valerie Colber](#)

, Stein Way · 2d ago

The authority to establish a private road is derived from the power of Eminent Domain and exists only when expressly provided by a statute. A private road can be used by the general public and is open to all who wish to use it, but it primarily benefits those at whose request it was established. But the fact of the matter is, most taxpayers or property owners NEVER requested their street to be a private road!!! They were just told this story by the city when the city didn't want to pay for street maintenance or street failure. And just making or posting a sign that says "private road" doesn't make it so. Just because a story is told for years, or this is the way it was done for years, does not make it right or so. Your property deed has a detailed description of your property, including any easements, right of ways, limitations or restrictions, and responsibilities. Newer developments have responsibilities in each deed about road and street maintenance. However, for those of us whose property dates back to prior to the existence of the city, for the 34 years and counting the City of Orinda has been in existence and Contra Costa County gleefully rid itself of the responsibility of any and all road maintenance as of July 1, 1985, the fact is we have been paying taxes for road maintenance for all those years and not getting what we paid for due to misconceptions, misinformation, poor planning and budgeting on the part of city management. All the deeds of all the properties that the city only declared a "private road" clearly state a right of way not to be exclusive, for use as a roadway for vehicles of all kinds, pedestrians and animals, for water, gas, oil and sewer pipe lines, and for telephone, television service, electric light and power lines, together for the necessary poles or conduits to carry said lines over this land, thereby giving the county of Contra Costa at that time and the City of Orinda since July 1, 1985 the maintenance responsibilities to support all the county and city contracted commercial services to each property. What is not being mentioned is prior to 2014 when Allied Waste Services used less heavy smaller trucks once per week to collect all garbage and recycling, were replaced in 2014 by newer enormously heavier 3 trucks per week to provide the same service, and these newer trucks are so much more heavier, they are literally crushing the few inches of pavement depth that was in good to very good condition, and in just a matter of

months over the first 3 years of the Republic Waste Services trucks created potholes of various sizes and depth on every street in the city. What is not understood and is not being discussed is because of all these heavy vehicles (garbage/recycling trucks, cement mixer trucks, dump trucks, 18 wheeler delivery trucks, 18 wheeler construction/hauling trucks, etc.), on all the city streets requires full depth paving thickness design to last the routine road surface life of 20-30 years, especially on all hilly roads, which is virtually every street in the city. Our city government for decades simply failed to properly maintain all city streets to avoid pavement failure, and hence all the "emergency" bond measures and forcing taxpayers to pay for paving their own streets, without any support or engineering standards nor design, on their own, and negotiate and manage all that work on their own without the required knowledge to do so! Bottom line is the city officials have spent more time and effort attempting to persuade everyone to believe nonsense that city streets/roadways to any property in the city can be divided and segregated such that the city can select which streets it wants to pay maintenance for and which they do not, and attempt to justify this outrageous unfair and unequal use of your tax dollars is somehow preposterously right just because city officials say so.

[Sheri Sudra](#)

, Oak Springs · 2d ago

Where is the meeting being held?

[Susan Vaile](#)

, Orinda Oaks · 2d ago

Rich acres has coded gates

[Valerie Colber](#)

, Stein Way · 2d ago

<http://orindaca.iqm2.com/Citizens/SplitView.aspx?Mode=Video&MeetingID=1406&Format=Agenda>

[Melissa Roeder](#)

, North Orinda · 2d ago

CC meeting 7pm tonight Orinda Library Aud.

[Valerie Colber](#)

, Stein Way · 2d ago

Unfortunately this is the last item on the agenda for the 9/4/2018 that the public can comment on at the meeting, right before the final council routine agenda items before end of meeting. I guess that assures the least public feedback.

[http://orindaca.iqm2.com/Citizens/Detail\\_LegiFile.aspx?Frame=SplitView&MeetingID=1406&MediaPosition=&ID=1596&CssClass=](http://orindaca.iqm2.com/Citizens/Detail_LegiFile.aspx?Frame=SplitView&MeetingID=1406&MediaPosition=&ID=1596&CssClass=) The city manager proposed resolution being voted on tonight is the same old malarkey, where city deemed "private road" property owners have to run the gauntlet of new city requirements that essentially involve designing, negotiating, paying, managing the entire street construction to new city standards, PLUS each property owner has to pay the city a non-refundable \$1000 EACH just for this consideration EVEN if their request is denied! And of course if the street is constructed correctly, the city won't have to "maintain" it for at least a couple of decades! What a deal for the city! Property owners are left to pay the city

staff on top of their 6 figure salaries and benefits just to do their jobs, on top of everything else the property owners have to pay for. Naturally, this will be prohibitively expensive for any property owner, and unless all property owners will be around for another 20-30 years, they will never get the value of paying the city to "accept" the "private road".

[richard rajECKi](#)

, North Orinda · 2d ago

An excellent write up but what are the financial implications. What is the cost to Orinda and therefore the cost each homeowner to change private roads to city roads.

[Steve Cohn](#)

, Ardor/Valley View · 2d ago

Cost could be less than 50 cents per day per household. See OpEd on page 5 of Orinda News.

[Tracy Scrimshaw](#)

, Donald · 2d ago

Thank you for such a great explanation. I would go tonite, but I am chronically ill; worse right now. I love the idea of a task force. I have lived here for 50+ years and have seen the area grow exponentially. Yet the laws remain the same? And didn't Orinda government take our road maintenance tax dollars to build themselves a new building, without being very forthcoming? I inherited my home, worked my way through 2 degrees and 3 certifications so I can help people. I'm frugal: I got myself around the world for only \$10K because retired folk said "Do it while you can!" I've owned my own private business for 18years. My last 2 housemate emotionally and financially abused me using all my hard earned retirement. I believe in equal treatment, rich or poor. I believe in the Golden Rule. Fight the good fight. I'm there in spirit

[April Meagher](#)

, Stein Way · 2d ago

I would just like to request that our neighbors be thoughtful with their expression of opinions in regards to the decisions by the city and its council. Orinda voted down several attempts at raising money for the roads we have. The city of orinda does not have an infinite amount of money to repair the roads it is currently responsible for. While I do not like that we are responsible for maintaining private roads (and yes I live on one and yes I paid to replace it along with my neighbors at my own expense), I understand why our city is hesitant to add a financial responsibility on to itself. I also realize that our city council, while public servants and elected officials, are volunteers. I believe strongly that if we don't like the way things are run, we should step up ourselves and be willing to be part of the solution instead of complaining and expecting others to do the work. I appreciate the choice of someone to bring to light the concern and invite people to attend the city council meeting to express their opinion. I am having a hard time appreciating some of the comments following the post.

[Valerie Colber](#)

, Stein Way · 2d ago

Happening now at the council meeting in record agenda time!

[Valerie Colber](#)

, Stein Way · 2d ago

It's called freedom of speech. We do have the right to complain, especially when expressed courteously and respectfully in a professional manner, and especially when the city management made mistakes, now and in the past.

[April Meagher](#)

, Stein Way · 2d ago

I don't happen to think your comments are courteous or respectful.

[Valerie Colber](#)

, Stein Way · 2d ago

Wow April! In what way were any of my comments not courteous nor respectful?

[Charles Porges](#)

, North Orinda · 2d ago

April, I think everyone is being as courteous and respectful as they can be given the circumstances. There is a lot of pent up frustration. But I wish to clarify one point: the City has no money unless we the citizens decide to trust it with OUR money. We decide. We vote for or against. We should have some say in how our \$ are spent. That's why we need to get around the table with our representatives, and have an open and frank discussion. I consider good roads to be a basic public good that should be available equitably to all citizens, just like schools, water and electricity. Now if for some (good) reason we chose to charge some residents a bit more for this service due to their particular circumstances that's ok. But it is not ok to completely deny them the service, which is the case today. "Government for the people, by the people..." so let's collectively decide what we want for Orinda's future. My children may well live here.

[Richard Colman](#)

, Dalewood Dr · 2d ago

Who are the real owners of private roads? To owners of such roads, what advantages, if any, occur? The owners of private roads might want to consider selling their private roads to some buyer, perhaps the City of Orinda or a private company. However, the new owner might want to charge rent to the people who use the private road. Some vehicles -- like those used by the Postal Service, PG&E, and Comcast -- use private roads. Someone should calculate how many vehicle-miles are used by the owners of private roads and how many miles are used by non-owners (like PG&E). Let's assume that 90 percent of the use of a private road is used by owners. Then let the owners pay for 90 percent of the cost of repairing and maintaining private roads. Having residents who live on public roads pay for all of the maintenance of private roads would constitute a subsidy. Similarly, if Orinda's taxpayers paid for a homeowner's indoor plumbing, that would also constitute a subsidy. What justification could there be for Orinda's taxpayers to fund someone's indoor plumbing?

[Paola Cresti](#)

, Lower El Toyonal · 2d ago

careful with that reasoning, if you want to parse out use of roads to payment of maintenance there are a whole lot of public roads that would qualify as private as they get used only by people

living there. But that's the issue people living on private roads have, as it stands we are paying for repairs on roads we don't and will likely never use, is that subsidy? That's why this is not how it works, otherwise the majority of roads would be left to owners to maintain and it would be a disaster. Also as for the private road I live on the city owns it as they are quick to point out any time they want to sell rental on the PG&E tower that used to be on my property but what taken over by eminent domain when they expanded the highway, but somehow seem to ignore when it needs repairs. The terms "private road" is deceiving, we don't chose this, we are not restricting use of it (not that it ever is restricted) we aren't telling other residents not to use it because it's private, we are just being made to pay for its maintenance by having it named that.

### [Richard Colman](#)

, Dalewood Dr · 1d ago

Think about this: BART is subsidized by a one-half percentage point increase in the Contra Costa County sales tax. BART is also subsidized through the property tax. (By the end of September 2018, Orinda residents will be receiving their 2018-2019 property tax bills. On these bills, look for a line item regarding BART.) People who don't use BART still have to subsidize BART passengers. The BART subsidy may not be fair, but it's the law. Of course, BART could finance itself entirely by using the fare-box. Does anyone favor eliminating subsidies for BART? Perhaps voters should answer this question.

### [Steve Cohn](#)

, Ardor/Valley View · 1d ago

Richard: Thanks for your thoughts. I know that you believe strongly in taxpayer rights so you might consider this issue when writing the Icon. The only net value of any road, public or private, is derived from the fact that it provides a benefit to the people who use it. Take that benefit away and the road is nothing more than a net liability. Therefore, people who live on, and own, private streets, could not sell them as they would have to retain the right to access their homes and all that is left is a net liability and it is hard to sell a net liability. This is why last night the City Council voted to deny the ability of virtually all private roads from ever becoming public. The reason is that as private roads they are literally a net asset to the City. The City collects taxes for road maintenance from the owners of the Private Roads but does not have to spend it on them. It spends it on the roads the City owns reducing its net cost while the benefit, the use of the roads by the people who use them (27 miles of these roads are cul de sacs so the users are only the people living on them) stays constant; thus the net benefit, excluding the residents who live on Private Roads, goes up. But when you include all of Orinda, the net benefit stays the same. The only thing altered by the fact that Private Road residents do not receive public funds to maintain their streets is that the allocation of the net benefit to people who live on public streets increases. While the people who live on private streets do gain some benefit from the proper maintenance of public streets, it is not as great as the cost. Everyone uses the arterials and collectors and our State gas tax and County Measure J sales tax is used to maintain them. And about 30% of public residential streets, which are costing us \$75 million to refurbish after years of neglect, are used by people living on private streets. But the other 70% are not and the money the private street tax payers are paying for that (about \$10 million over the next 20 years) is strictly a transfer of wealth from those living on private streets to those living on public streets with no reciprocal benefit coming the other way. We are not bemoaning the \$10 million even though the City built up that deficit while at the same time we were actually maintaining our

streets, but we are asking that going forward that we all share in the costs and benefits of being able to drive up to our driveways in relative comfort. That's all. No handouts, just a provision of what we consider to be a basic municipal service like police and fire and emergency medical services and free access to the public schools. We are willing to pay for those services just like we have joined in voting for the \$75 million cost of refurbishing the public residential streets. We would just like to see a little fair-play reciprocation from our neighbors on the public streets. Our regard toward the three Council Members, Worth, Miller and Orr, who voted last night to deny any sense of fair play could not be lower. And our opinion of Council Member Phillips, who has recused herself from the entire discussion because she now lives on a private street and considers even discussing the issue an undeserved benefit to herself, is not way up there. If the rest of the Council who lived on decrepit public streets took that attitude, no new taxes would ever have been put on the ballot and the streets would continue to decay.

#### [Andrea Powell](#)

, Meadow Park to Robert Rd · 1d ago

We are sorry we couldn't make it to the meeting last night (we too live on a private road). Can anyone recap what happened?

#### [Steve Cohn](#)

, Ardor/Valley View · 1d ago

Three members of the City Council, Worth (who is up for re-election), Orr (who is retiring) and Miller (who has another two years), threw us under the wheels of the bus, happy to take our money while denying us service. Only Gee stood up for us. Phillips opted out of the conversation with the shaky claim that she might, if we ever voted in more new taxes, benefit from private street residents, of which she is one, being treated equally. It was pretty discouraging.

#### [Michael Hawes](#)

, Charles Hill · 1d ago

Steve Cohn: good summary. It was a disgusting display of government NOT for the people. Most people think that local politics serves their needs, unlike national politics. Turns out there's no difference. Vested interests rule.

#### [Joe Barakeh](#)

, Orinda Oaks · 1d ago

I can understand Phillips' "recusal" , since she would certainly be politically attacked over any perceived conflict of interest come next election. Pro-developer forces have deep pockets and complicit officials. I appreciate Mr. Coleman's points, but these "private" roads seem to occupy a grey area. They appear to be private only in their lack of public support; otherwise, it seems the city can do whatever it wants with them.

#### [Sally Lubben](#)

, Lower El Toyonal · 1d ago

Richard, your view on the value of the land under the private roads is incorrect. The "value" is less than \$0. Our private road was built in the 1920's. After homes were constructed, the developer offered to give the road to the County. They didn't want it. When Orinda was incorporated in 1985, residents asked the City to own the road. They declined. We went to get

permits to construct a retaining wall for our road in 2018. And guess what, no one owns the land under the road. The original developer has been gone for over 50 years. The County needed a land owner to issue the permit and asked Orinda if they wanted the land. They vigorously declined. These private roads are not assets, they're liabilities. The primary argument the City uses to dismiss the private road issue is Orinda can't afford it. They cite the recent Miner Road Repair as an example. Fixing the failed culvert cost \$3.5 million. The City had to use a large portion of their \$5 million reserve. City representatives argue adopting the private roads would bankrupt Orinda. A single slide or culvert repair on the private roads can also cost millions of dollars. How can the City expect a handful of homeowners to afford what the 7,000 Orinda residences can't? To me the private road issue isn't about fairness, it's about community. Is Orinda a community that supports all its residents or not? In addition, there are things the City could do that would help the private road residents that doesn't include adopting the roads. One easy one is don't make us pay the City a "surcharge " fee when getting a permit to repair our road infrastructure. A more meaningful option, but more difficult to implement is to let us deduct our private road maintenance and repair costs from our property taxes. I'm sure there are other options the City could implement that would help maintain our roads. It's very disappointing that the City wouldn't even look into the matter by supporting a focus group. In the long run, supporting the private roads supports the tax basis in the City. After all, a million dollar home with no access has no value and no tax basis.

[Steve Cohn](#)

, Ardor/Valley View · 1d ago

Bravo Sally

[Richard Colman](#)

, Dalewood Dr · 1d ago

Ms. Lubben: I can accept the idea of community. One of Orinda's biggest problems is that the State of California is usurping local control. In the state legislature, consider Senate Bills 827 and 828 and Assembly Bill 2923. If any of these three bills, introduced in 2018, become law, then the state, not Orinda, will dictate land use in Orinda. Assembly Bill 2923 is especially egregious. This bill, if enacted, will give BART the power to build high-rise, high-density housing on BART-owned or BART-controlled land. BART cannot run a transportation system effectively. Why should anyone assume that BART can run a housing program? The first mayor (and city-council member) to support local control vigorously was Eve Phillips, who, in 2017, wrote the state legislature and objected to Senate Bill 35 of 2017. All other city-council members supported Ms. Phillips. The bill would have given the state control over Orinda's land. Gov. Jerry Brown signed the bill into law in September 2017. In February 2018, and twice in June 2018, Mayor (and city council member) Amy Worth wrote the legislature to bemoan the loss of local control. All other city-council members supported Ms. Worth's letters. Among Orindans there should be great concern that the state will want to take over Orinda's excellent schools. Therefore, I recommend that Orindans support Measures E and I, which will provide assistance to the schools. (If these measures pass, property taxes in Orinda will go up.) But imagine what Orinda's homes would be worth if Orinda had bad schools. If more development occurs in Orinda, the schools will become seriously overcrowded. Two candidates for the Orinda City Council, Eve Phillips and Kathleen Jenkins are strongly in favor of local control. If the state, not

Orinda, runs the schools, one can expect Orinda to go into serious decline and property values to drop..

[Michael Hawes](#)

, Charles Hill · 1d ago

Richard Coleman, don't change the topic. Orinda HAS control over this issue and "our representatives" are not acting in the interests of the whole community. Your pet hobby horse has nothing to do with this.

[Paola Cresti](#)

, Lower El Toyonal · 19h ago

think of this: What does BART have to do with the streets discussion?? As you mentioned people can avoid using BART altogether, you cannot avoid using the streets as some streets will have to be used, so they are an issue of communality. My issue is not to much the having to pay for street maintenance, but the having to pay for street maintenance AND having to pay for street maintenance 100% out of pocket to get to my own home, and being denied in perpetuity to possibility of it ever changing. It's just not fair and it's BS that Philips recused themselves for living on a private road, the other members didn't recuse themselves for living on public roads and benefiting from all the private road residents paying for their stretches of road. Think about THAT next time you drive home on your road which most likely not even 1% of the population of Orinda ever has to drive unless it's to visit you (so it still qualifies as your private use), and you don't have to pay out of your own pocket to maintain. Thank you, you're a peach.

[Charlie Brown](#)

, Sleepy Hollow · 8h ago

Mr. Cresti & Mr. Cohn: I understand your frustrations. But one correction. Councilmember Phillips was obligated to recuse herself, and if she did not, and it was disclosed that she lived on a private road, any vote she made with respect to the issue would have been null & void. Further, she could have and probably would have come under sanction for not recusing herself. There are rules for conflicts of interest (COI). I think too that the value of this discussion loses merit when anger and incivility trump what might otherwise be substantive arguments. I do have a question that has been plaguing me since I first started reading this Post and its replies. Where were the residents on private roads when in 2014 the Council put forth a vote for a bond measure to fix Orinda roads with no plan, no project SCOPE, no serious cost analysis? Where were the residents on private roads when in 2016 a second bond measure was put to a vote with no financial accountability for the first bond measure? Where were the residents on private roads when a concerned group of citizens voiced opposition to a process that taxed all citizens without a local survey of WHAT roads should be rehabilitated, when, and how such a project would be professionally managed? That opposition took the form of public speaking at Council meetings and public forums, articles in multiple newspapers, including the Orinda News, and open discussions at Orinda Watch group meetings - to fix ALL Orinda roads with full financial disclosure, a reliable plan process, and performance standards. The measures passed. The opposition lost. So did the invisible and silent residents on private roads. I am sorry for the state of affairs with which residents on private roads now have to contend. And I mean that. But you know that expression "You are a little late to the party"?

[Valerie Colber](#)

, Stein Way · 7h ago

Every bond measure and every paving project for the past 34 years since July 1985 has excluded so called "private roads" and that is why the majority of the property owners voted against all this outrageous inequality and unfairness.

[Herb Brown](#)

, Sleepy Hollow · 2h ago

Which part of the word "private" means public? What is the difference between a private road and a driveway that services 3 homes?

[Steve Cohn](#)

, Ardor/Valley View · 55m ago

Charlie- Thanks for joining the discussion. It is too bad the Council could not see their way to forming a Task Force so that Discussions like this could be official and not carried out in the social media. But we do what we have to. With regards Eve Phillips' recusal, I would like to see a legal opinion on that. She first recused herself in July over the topic of forming a Task Force; a fact finding body. Yes it could then make recommendations to the Council on how they should proceed but the Task Force itself could not bestow any benefits and Ms. Phillips was not obliged to be on the task force herself. The CIOC recommended a Task Force. At least one commissioner lives on a private road. Should he be prosecuted for his participation in the CIOC's discussion of the topic and recommendation to the Council? I think not. Moving forward. Most members of the Council now, and in the past, live on public residential (class) streets. Until recently, those streets were in miserable condition. Those members did not recuse themselves from the discussion and decisions to form an Infrastructure Committee to determine the facts; set a standard for residential street quality (minimum PCI of 50); or to put a sales tax and \$45 million of bond measures on the ballot. Only when it came down to choosing which street to fix which year (the process had been pretty well automated by the CIOC based on PCI (worst first) and usage) did they step away; which was more form than substance as the Council would have to go against its own policies not to repair the street in question. I consider Phillip's stepping away an abrogation of duty which should be remembered at election time. As for "where were the private street residents when?" In the early years of the CIOC I attended most of their meetings as a private citizen. Having a master's degree in transportation engineering, I even applied for membership once but was blackballed by Glazer and Smith because I did not march to their drummer. At many times over the years I have brought up the topic of private streets both publicly and privately to CIOC Commissioners and Council Members. It was always "not now, we have bigger problems, your time will come later." When the bond measures were put on the ballot I created web sites ([RoadToNowhere.org](http://RoadToNowhere.org) and [OrindaRoadFacts.info](http://OrindaRoadFacts.info)) including facts about the private streets. They were ignored. Last year residents of Upper Mira Loma (the "private" half of a street created almost a hundred years ago; this is an OLD problem) contacted me through my OrindaRoadFacts web site and an affinity group was formed. It takes time to right some injustices. You say you understand my frustration and maybe you too have a callus on your forehead from beating it on the municipal wall. But it is never too late. A century ago, after a couple of thousand years of "democracy", women, like Ms. Phillips, got the vote.

[Steve Cohn](#)

, Ardor/Valley View · 43m ago

Herb: when is a driveway a public road? Good question. There are 193 publicly maintained cul-de-sacs. 52 of them, 2.8 miles of streets with 188 homes on them, have 5 or fewer homes. Streets or driveways? Do they provide a public benefit and thus deserving of public funding? Are those 188 families members of the public? Do their streets, small as they be, provide them with a benefit? Do they pay taxes which help provide that benefit? What about the other 141 publicly-maintained cul-de-sacs? Do they "make the cut?" If you go to [www.orindaroadfacts.info/orinda\\_street\\_data](http://www.orindaroadfacts.info/orinda_street_data) you can see the full breakdown and give us your opinion. Maybe the Council should have formed a Task Force to discuss facts like these before they started passing resolutions about such streets.

[Sally Lubben](#)

, Lower El Toyonal · 34m ago

My non-legal definition of the difference between a driveway and a street is simple. I can keep out the general public off my driveway. Our private roads, even if serving a few homes, does not have that right.

[Charles Porges](#)

, North Orinda · 29m ago

My private (half) road abuts 16 lots serves 8 homes and other half is public with about the same number of homes and of the same width and length. We are not talking about driveways. The private roads in question are identical to the public residential roads that are public and being repaired. My half funds the other half. And the public uses my half to get to the park on foot via small trail. It's been that way for 100 years. So what's private about my private road? Nothing. Yet I voted for the road bond because our roads were so awful. I also vote for school bonds because I believe my neighbors kids deserve a good education. I believed that it was better to start by fixing the worst roads, all of which were the unmaintained "public" roads and that eventually (maybe) my road would become officially "public".

[Herb Brown](#)

, Sleepy Hollow · 7 Sep

Sally, with all due respect, a "non-legal" definition on a legal matter is of little value. For those of you on a Private Road, one would think this would be a matter of full disclosure in the sale of real estate. If I am buying a home on a private road and I am required to maintain that road, then that home is not as valuable as a similar home on a public road. This falls into the category of "You can't ask enough questions." Isn't it true that nothing has changed since you bought your home. It is not as if the City, being capricious, decided to do something different that it had heretofore been doing. From the perspective of someone who does not have a dog in this fight, had you made your concerns known at the time the bond issues financing the current repaving were being voted on, you probably had the leverage to do something. Isn't it a little late for the current round of funding? The current bond issue probably specifies "public roads". If this is the case, the City can't put itself in the position of being in breach of a covenant in the bond.

[Steve Cohn](#)

, Ardor/Valley View·7 Sep

Actually Herb, and I know you have been in this "game" for a long time, you can remember back just a couple of years ago, before we voted in \$55 million of new funding, that the publicly maintained streets were in miserable condition and there was no sun on the horizon. Conversely, the privately maintained streets were looking pretty good, most very good, and the homes on them were probably selling at a premium. Full disclosure: after the \$55 million is spent the City has no money, \$0.00, to maintain them. The privately maintained streets are as fully funded as they wish to be and it is a lot easier to get ten people to agree on something that 10,000, especially when you are stiffing 20% of them.

[Herb Brown](#)

, Sleepy Hollow·7 Sep

Steve: Because I do not believe in the democratic method of truth, I think the Task Force is a bad idea. You either have a legal position or you don't. Some ad hoc Task Force is a distraction as is my opinion on material shown on the website you directed me to. Unfortunately, your best recourse is probably suing the City in an action to determine the nature of each private street. I am sure that there is a substantial body of law on the question of public vs. private roads, and who has the obligation of maintenance. The opinions of a lot of people who have no idea what the law is are irrelevant.

[Steve Cohn](#)

, Ardor/Valley View·7 Sep

Herb: We are a community and want to act as one. At one point when residents of private streets were saying that one of the reasons they wanted to become public was that it was difficult to get all the neighbors to pony up when the time came (the scofflaw in question was actually PG&E which owned three parcels on the street), the City Staff's helpful suggestion was ways to sue them. That makes for good relations, and good luck suing PG&E which has a legal department the size of the US Dept of Justice. Our hammer here is obviously the ballot box. The CIOC has told the Council the City still needs \$22mm to finish the Ten Year Plan (mostly for storm drains). That will probably need a bond which will need a 2/3 majority. The last bond, for streets which everyone can see, passed by a couple hundred votes. How about the invisible storm drains? Think the 2,500 voters living on private streets might be able to swing the vote and shoot everyone in the foot? We don't want to do that. We want people to just do what is right and provide what most consider a basic municipal service, street maintenance, to everyone equally. If a "private" street truly wants to remain private and pay for itself and maybe keep others out, that would be its choice. But if a street wanted to join the community and welcome the community to use it, it should be given the option. Will it cost those who have been taking private street tax dollars to maintain their street something? Sure. Will it take much? No.

[Paola Cresti](#)

, Lower El Toyonal·Edited 7 Sep

Dear Mr Brown, allow me to answer your questions while ignoring your judgemental attitude: 2014 I was not living here, unfortunately my house is part of a trust and I was not here at the time. in 2016 I had just moved back and I was still catching up on what was going on here, but I believe I voted it down or at least opposed it in forums. I don't know why you'd assume we've

been going along with this all this time. you see we're used to being ignored, stepped over and pretty much trampled whenever this issue comes up. Secondly I only got a bit testy when I was condescended to. I feel I kept it rather civil in light of all the hostility directed at us people living on private roads as if it's something special, or particular or that it increases our privacy (it does not, the Orinda Police used to park themselves on our "private road" to catch speeders on the highway all the time. I haven't seen them doing it recently but I have seen them there in the past, also as I have mentioned we get service trucks from cellular companies to service the antennas on the tower accessible only through out "private" road) or that we are somehow being fancy by having a private road, it's a misnomer it should really be called "not publicly maintained" as that is the only difference from a public road. Here's a thought what makes your road so public? aren't all the people driving on it either you or your neighbor, or coming to see you or your neighbor? Aren't all Orinda Roads technically private except for a few arteries going from one city to another to going to some school? as far as recusing herself, I don't blame her as a person I understand she had to do it, I just wanted to point out how by that same criteria people living on public road, that stand to benefit of the taxes of people from not publicly maintained roads to fix their own, should have had to recuse themselves also. I don't know how else to say that I feel we aren't getting a fair treatment - so I'm going to check out of this thread, as I'm sure many have already. Thank you all for the open discourse

[Sally Lubben](#)

, Lower El Toyonal·7 Sep

Herb, if you want a legal definition of a road vs a driveway, a road has an easement or right of way for public use, a driveway does not. Your nitpicking on semantics does not help your argument.

[Michael Hawes](#)

, Charles Hill·7 Sep

It's sad. We like to think of Orinda residents as nice, considerate people; the sort of people we'd like to have coffee with. Turns out that a whole lot of them are nasty, selfish, horrible people who have no interest in the welfare of the total community, but are just fixated on not paying for anything that doesn't benefit themselves directly. Sad.

[Eden Hass](#)

, North Orinda·7 Sep

Back to the topic. If our own city council will not listen to their constituents, then can we sign a petition to require a task force or something on the ballot to circumvent our city council?

[G. Y Friedman](#)

, Tahos Area·7 Sep

Agree with Eden ref to signing a petition to circumvent our city council. Our community should come together and be united.

[Steve Cohn](#)

, Ardor/Valley View·7 Sep

There is a petition out there "politely" asking the Council to form a Task Force.

<http://orindaroadfacts.info/-private-streets> So far it "only" has 400 signatures (which they

ignored on Tuesday night). There are over 1,300 families currently living on private streets (1,500 after Wilder is built out) If people would get their neighbors to sign and their HOA Boards (Orindawoods, RHH, Orinda Grove) to put out encouragement for their members to sign, the Council would have a harder time ignoring 1,000 or 2,000 signatures. A ballot measure is difficult. A City Council election, which is coming up, is easier. There are three new candidates; find out how they feel about the issue.

[Charlie Brown](#)

, Sleepy Hollow·7 Sep

Steve: What candidate(s) are you hoping we vote for?

[Steve Cohn](#)

, Ardor/Valley View·7 Sep

Well, we need three and we are not real impressed with the two incumbents. Actually have not spoken with Jenkins or Kosla. Dennis Fay, who is on the CIOC, supports a Task Force but he lives on a private street so he does not know at what point he would have to recuse himself. At some point we will post a recommendation.

[Charlie Brown](#)

, Sleepy Hollow·7 Sep

Steve: First your comparison with Phillips's recusal from voting on a Task Force with the Council members non-recusal when they formed(?) an Infrastructure Committee (CIOC?) isn't sound. The Task Force would have required funding; the CIOC is a "committee" of volunteers. And the standards for residential street quality (PCI 50) did not issue from the CIOC but rather a Bay Area agency that administers a model used to determine street conditions. By the way, wasn't Commissioner and now council candidate Fay on the CIOC when the two bond measures were being considered by Council to be put forth for a vote? Where was his concern for the exclusion of private roads then? Not incidentally, are you aware that the City funds paid to a series of outside consultants would have paid for the Task Force you seek? The last two alone would have paid for more than half the needed amount. With one exception, Phillips, the council members have been profligate with tax payers' money. We need more members like Phillips that puts financial restraint above outside special interests. Second, you share with Councilmember Phillips being blackballed by Glazer & other councilmembers when her MBA from Stanford University and an SB and an M.Eng. in Computer Science from the Massachusetts Institute of Technology did not meet the council's standards for a seat on an Orinda volunteer commission. Outrageous! She had the qualifications alright; she did not share the council's ideological positions or kowtowing to outside special interests. THAT'S WHY SHE GOT ELECTED TO COUNCIL. As I stated heretofore, I share the private road residents' frustration with council members. But this diatribe against councilmember Phillips will not serve your or Orindans' best interests. We need members that put our current residents concerns first and outside interests - that deplete our funds . . . . nowhere in sight.

[Kathy Finch](#)

, Stein Way·7 Sep

Well, it makes no sense to me why any council member, on a private OR public street, would recuse him/herself from voting on the formation of a Task Force to investigate possible ways to

rectify an inequality. It's just a Task Force and not as if it were a vote for or against public maintenance of private streets. It just seems like an easy way out not to vote at all. What's the harm in an investigation?

[Charlie Brown](#)

, Sleepy Hollow·8 Sep

Because Ms. Finch: There is a monetary cost to it. Because there are rules in place. Because the vote would not be counted, but the person with the conflict of interest could be sanctioned. Please read through the explanations provided heretofore.

[Kathy Finch](#)

, Stein Way·8 Sep

But by your reasoning, wouldn't a council member who lives on a public street but endorses Bond issues for maintenance of his/her public street also be in conflict? And the city has many other committees with no standing facilitator (actually, all of them). . The "the rules in place" should apply to both residents of public AND private streets. And then where would we be? You could make a stronger case for someone recusing him/herself on a vote to fund or not to fund, but not merely for the formation of a Task Force to examine possibilities.

[Eden Hass](#)

, North Orinda·8 Sep

Thanks Steve Cohn - my husband and I signed the online petition

[Dayna Sayres](#)

, North Orinda·8 Sep

I signed it as well.

[Michael Hawes](#)

, Charles Hill·8 Sep

Kathy Finch, you're correct of course. But there's no point arguing with the sorts of people who are throwing up these spurious objections, and using oh-so-condescending language to make themselves seem so much more important than the rest of us.

[Tracy Scrimshaw](#)

, Donald·8 Sep

People, I NEED HELP! I am getting railroaded by the Director of Orinda Public Works. This may seem like a different issue, but it dovetails into it. I have lived in this home for 50 years. I pay my fair share of taxes for maintenance of public roads. They just completed the repacking of Keith Drive. My house used to be the end of the street and, thus, a cul-de-sac. Every year til this last week they have paved the circle so I can get mail and so emergency crews can get close to the fire hydrant (I drove one of those trucks in the late nineties) closer = faster and easier. On a walk last night I noticed that every other driveway had a flush (even if it meant a bit extra work) connection to the new road EXCEPT ME! Mr. Theis talked to me on the phone last night and literally said, "will that placate you?" When saying he will talk to the fire department. He is highly resistant (that is where it relates to the blatant disregard for Orindans and "Mea Culpa" attitudes held by city officials. "It would cost too much". Hey. I paid my money to AT LEAST

get a street that will abut my driveway. And when PGE was jackhammering my driveway up TWICE (mind you, without a word or note) they put on a crappy patch and shook cracks into the areas around it: their mistake, their fix. Mr Theis said he'll call Monday and I'm not savvy enough to record it. But more than that, I'm tired of being taken advantage of by these shisters. I only want my due. Put Larry Theis on your NO vote list please.

[James Anthony](#)

, Dalewood Dr·9 Sep

Quick question: Have the owners of homes on these private roads paid less for their homes than those who's homes are on public roads?

[Valerie Colber](#)

, Stein Way·9 Sep

No!

[Steve Cohn](#)

, Ardor/Valley View·9 Sep

In fact, up to a few years ago when most publicly maintained streets were in miserable condition (before we voted in \$75 million in new taxes which we are all going repay over the next 20 years), the homes on the privately maintained roads which were, in general, well maintained, probably sold at a premium. The fact that most homes in Orinda are custom, an apples to apples analysis is probably impossible.

[marty spittler](#)

, Manzanita Miner·9 Sep

Absolutely impossible question. Way too many variables. Location, house size, lot size, year built, architectural style, construction method etc etc

[Valerie Colber](#)

, Stein Way·9 Sep

The answer to the question is no authority discounts the property value or sale price nor actually points out to the buyer that they will be paying taxes for street maintenance but unlike other select property owners, will have to additionally pay for and manage maintenance for the street to their house, whether or not they know what should be done to do that appropriately.

[marty spittler](#)

, Manzanita Miner·9 Sep

Contra Costa has strict disclose rules and they demand the buyer be informed about the private road and any costs, maintenance agreements etc. Very unlikely anyone could purchase without knowing. How much that affects the home price would vary hugely.

[Valerie Colber](#)

, Stein Way·9 Sep

So Marty, let's survey all property owners on so called "private roads" as to whether they were "informed" that as the property owner they would be paying taxes for street maintenance for select city streets, but would be paying out of pocket for and managing the maintenance for the

street to their house, whether or not they know what should be done to do that appropriately. I can attest that we were NOT! Most realtors who guide buyers through a purchase don't know enough about this to inform or explain it to any property purchaser.

[Theresa Slaman](#)

, North Orinda · 9 Sep

We have opened a Pandora's box and its content is shining a light on numerous important issues for which our city council sees as impossible to tackle.



[Tracy Scrimshaw](#)

, Donald · 9 Sep

Nothing is impossible. And who wants a counsel member that thinks so?!?! That's their job. To help make things work

[Phil Placier](#)

, North Orinda · 9 Sep

Some/many, not all, owners of Orinda residences located on private roads purchased the residence not knowing that the price of the residence had a lower market value due to continuing financial obligations related to maintenance of the private road, that they were becoming obligated to meet private street continuing maintenance expenses and that as a result the market value of the residence will always be negatively impacted. It's not credible to assume all owners did not know, or did know, of the financial impacts (market value negative impact and street maintenance obligations) of purchasing a residence on a private road. Owners who were defrauded by sellers and involved real estate agents can explore their legal remedies. City acceptance of financial responsibility for existing negative financial impacts of owners of residences on private streets would be a huge financial benefit to owners of such residences borne by other Orinda residence owners, unless and until private street residence owners and the City reach agreement on an equitable sharing of the negative financial impacts.

[Steve Cohn](#)

, Ardor/Valley View · 9 Sep

Up until a couple of years ago, if you were shown a home on a publicly maintained residential street, the street would have been a nightmare. And no one could tell you when or if it would ever be fixed or what would happen to your taxes if it was fixed. The City obviously did not have the funds to fix it and if the buyer really looked into it he would find out the City actually had a policy to not fix it. If he was then shown a house on a privately maintained street, he would find, in most cases, a well maintained street and, full disclosure, would find out that the HOA fee to keep the street in front of his million dollar home in good shape would be about a dollar a day. All things being equal, which house would he demand a discount on before buying? Not the one on the private street with the HOA fee. Only about 4% of homes sell in Orinda each year so most of us bought back in the bad-old-days when one would not even think about asking for a discount on a private street home because of a dollar-a-day fee that actually did what it was supposed to, maintain the roads that were being neglected in the rest of the city.

[marty spittler](#)

, Manzanita Miner · 10 Sep

Not being informed and having an assessment appear out of nowhere would be awful. Currently the issue is clearly written up as a real estate disclosure item under "Private Roads" in the CoCo County disclaimer and disclosure checklist on page 14.

[https://u.realgeeks.media/ondemandrealty/CCAR\\_Disclaimer\\_Disclosure\\_2016.pdf](https://u.realgeeks.media/ondemandrealty/CCAR_Disclaimer_Disclosure_2016.pdf). My own experience with Orinda Realtors has been uniformly good but anyone who can show they were not informed and are now having problems should probably do some research and look at their legal options. The road taxes we all pay are always going to go to the streets our city maintenance engineers "select" based on standardized industry criteria which balances wear and tear with amount of traffic. The streets they select will never make everyone happy but at least the improvements are getting made.

[Sally Lubben](#)

, Lower El Toyonal · 10 Sep

Let's be specific about what the "modern, strick" disclosures say about buying a home on a private road. The disclosure will say it's a private road and whether there is an HOA in place or not. If there is some type of HOA, it'll disclose the current annual dues, any by-laws, CC&Rs, or policies; any budgets, reserves, or pending legal actions. What it doesn't make clear is that if there is a slide, culvert washout or any other major repair on the road, the cost to repair the road is on you. Orinda will do nothing to help. The HOA may or may not decide to fix the road, may file for bankruptcy if their liabilities are too great, or may take years to restore normal access to your home. While the road access is impeded, you may have no underground utilities to your home; and fire, police, mail and garbage service may cease. I have yet to see any diclosures that come close to the real risks.

[marty spittler](#)

, Manzanita Miner · 10 Sep

Sally pretty much has it right. Civil Code 845 (s) does say that the costs of a shared easement are shared by owners proportional to the use made of the easement. But "shared" is little solace when it's a million dollar repair on a 3 house street. I always wonder if the guy at the end of the street is using more of the street so has a higher "proportion of use" than the guy at the beginning of the street and therefore would owe more of the "proportionally shared" costs. The situation makes a good case for better real estate disclosure by sellers and due diligence by buyers. Also a heavy construction insurance policy could be drawn up for risky roads, premiums might be high but acceptable when "shared proportional to use".

[Steve Cohn](#)

, Ardor/Valley View · 11 Sep

It is not just the realtors, it is our City leaders that need to start understanding full disclosure. They have sold, using Fix Orinda Roads as their mouthpiece, the three road taxes to-date, as impacting everyone so everyone would feel obliged to support them. The Big Lie. These taxes were dedicated to Orinda's Public Residential Streets. 50% of the Private Street residents (10% of the voters) enter the road network using an arterial or collector, thus virtually never use the Public Residential Streets. The same could be said of those living on an Aterial or Collector (about 15% of Orinda) but they have a mutual support pact with the Public Residential Street

residents (its called being a resident of Orinda unless you live on a private street) so all costs and all benefits are shared. And 40% of the Public Residential Streets are cul de sacs so the 50% of Private Street residents that do use the Public Residential Streets to access their streets, only use 60% of them. So why would they vote to pay for reconditioning 100% of them? Needless to say, if 20% of Orinda had been advised of the facts and not sold the “we use all of these streets” lie, the two bonds which passed by a few hundred votes would have failed. Under Steve Glazer’s “art of the possible” mantra, passing those taxes required less than full disclosure of the facts and continued rejection of 30 miles of roads as not really providing public benefit even though they look just like and serve the same purpose as 30 miles of public streets.

[Melissa Roeder](#)

, North Orinda · 16 Sep

To Richard Colman and others: the analogy that everyone funds schools or Bart but may choose not to use them does not hold here. Any resident can use Bart or enroll students in public school if they chose to, whereas the City is barring people from having a service that they pay into for the use of others - and trying to bar it permanently. "Private" is a misnomer for 'not publicly maintained.' The fact that the City won't even allow a full discussion about it or a survey is a clue that don't welcome residents asking too many questions about how they are taxed and treated by their government. The new resolution actually barring all HOA members from ever receiving public road service has got to be illegal discrimination. We all deserve better.

[Melissa Roeder](#)

, North Orinda · 16 Sep

The Bart and schools analogy further does not hold because if those places fail, you the taxpayer do not lose the use of your home. You don't have to personally rebuild those places for untold thousands of dollars out of your own purse. If those places fail, you take alternate transportation and transfer your kid to another public school. Individual owners on private roads cannot obtain the kind of insurance or higher agency emergency funding that public roads and institutions qualify for. Road maintenance is a basic service that cities can manage and individuals can't and why we have city-communities to begin with. The situation is not by choice for most and was not as noticeable a problem until after 2013 when everyone was hit with 2 huge bonds, a sales tax and another garbage impact fee. Enough is enough.

[Steve Cohn](#)

, Ardor/Valley View · 17 Sep

Adding to Melissa's comments, the “private” streets are not private by choice, like Rossmoor or Blackhawk or other gated communities. When developed, the developers, even after constructing roads to the standards required by the County and then the City, were then denied the dedication of these roads to the public domain. In the recent developments (Wilder and Orinda Grove) that denial was actually a condition for development in addition to the condition of full public access. These roads are in all senses public except for the cost of maintenance. And these roads the Council has just put the double whammy (with its new resolutions) on ever receiving public funding. Not only are they not through streets (even though the City is spending millions of our tax dollars on “its” 27 miles of cul de sacs), but they are managed by HOAs, like HOAs are the devil incarnates day thus not deserving of public funding. Something stinks here. This is not how neighbors are supposed to treat neighbors and for three members of the Council to not just

condone but participate and encourage such behavior (and one member to turn a blind eye) is reprehensible. An election is coming up. The Voters can respond.

[Melissa Roeder](#)

, North Orinda · 27 Oct

I reread your post. Your comment that the website is BS is insulting and inaccurate. The website is a way to share dedicated research on one civic issue. It predates the election by at least 2 years and was not created for or with the help of any politician. The issue is longstanding but has become aggravated because of bonds and taxes levied from about 2014. Few were getting road repairs before then so it wasn't as big an issue. Now, everyone pays but 20% get nearly nothing. The flyer suggests some council choices that might allow for policy changes. What you are seeing is grassroots effort by Orinda citizens. You may disagree with proposals but please don't disparage or twist genuine efforts to connect with residents and to hold our government accountable. A discussion group is needed because the council's format does not permit real dialogue, as you would know if you've attended meetings and tried to communicate beyond 3 minutes. Thanks for reading.

[Nick Waranoff](#)

, Miner Road · 27 Oct

On what categories of roads are the bond funds being used?

[Steve Cohn](#)

, Ardor/Valley View · 27 Oct

Only publicly maintained residential streets, not arterials, collectors or school routes. Here is the list of Orinda's private and public residential streets.

[http://orindaroadfacts.info/orinda\\_street\\_data](http://orindaroadfacts.info/orinda_street_data)

[Charles Brotman](#)

, Stein Way · 27 Oct

Website is great. My "private street" is being destroyed by the heavy garbage trucks and city won't repair. I know how I'm voting

[Nick Waranoff](#)

, Miner Road · 27 Oct

What is going to happen with arterial, collectors and school routes?

[Theresa Slaman](#)

, North Orinda · 27 Oct

Is it right to think that our City Council, under Mayor Worth's tenure, has never held any discussion based on facts relative to the history of Orinda's streets thereby opening a dialogue with the citizens of Orinda? Has the issue of roads ever come up to our council members? I've been here for 22 years and never heard anything from the council's members about our roads. Do you mean to say it is only by the sheer will of the 20% that this is/was on any agendas by the council or the city's planning department?

[Lance Cowles](#)

, Upper El Toyonal·27 Oct  
Well said Sally!

[Richard Colman](#)

, Dalewood Dr·27 Oct  
Melissa Roeder: Please contact me.

[Steve Cohn](#)

, Ardor/Valley View·27 Oct  
Nick: a long time ago the CIOC determined that State gas tax & County Measure J (return to source) funds plus the opportunistic grants were sufficient to improve and maintain the arterials, collectors and school routes. There are now also Garbage Franchise Fees (\$350,000?). In 2011 the Council created the policy that those funds would be exclusively for the arterials, collectors and school routes leaving nothing for the residential streets which is why we needed to vote in the sales tax and bonds to repair them. But when that money is gone (next year), there will be nothing to maintain the residential streets with.

[Nick Waranoff](#)

, Miner Road·27 Oct  
Did the issue of private v. Public roads come up in the bond elections?

[Richard Colman](#)

, Dalewood Dr·27 Oct  
I do not recall that that issue (private roads versus public roads) came up in the three elections (2012, 2014, and 2016) to generate the money to fix the roads. Richard Colman

[Joel Libove](#)

, Diablo View·27 Oct  
Over the years, and well before the first bond election, numerous residents of our private road (Canyon View Drive) had made requests to the City to be adopted, but we were told we would need to make the road have a 16' paved width (a requirement many of the "public" roads can't meet either, and are not required to meet). I told Steve Glazer at the time that I was voting against all of the bonds because they did not include moneys to fairly fix all roads, both "public" and "private". BTW, I'm otherwise a supporter of Steve, who I believe is .a superb state senator.

[Steve Cohn](#)

, Ardor/Valley View·28 Oct  
Richard Coleman is correct. The issue if private streets never became an issue in the road financing elections of 1012, 2014 and 2016. That is because, despite the fact I kept discussing it with “the powers that be”, they would merely pat me on the head and say “not now, we need to focus on the bigger issue.” The bigger issue has now been dealt with. We have voted in \$75 million of new taxes which will bring all roads in Orinda up to “good” (PCI over 50) or better condition. But we still need another \$22 million to upgrade the storm drain system (to prevent more “Miner Road” incidents from occurring) and then \$2.5 million annually, in perpetuity, to maintain those streets we are spending \$75 million to bring back to reasonable standards. Will

the voters agree to these additional taxes now that they are driving on nice roads again? Maybe the 1,500 households living on “private” streets (3,000 voters) might have something to say about that. If they agree to continue to support the public roads, the new taxes would probably pass. If they disagree, because they are tired of being the fiscal punching bag, the taxes would fail as will the storm drains and the 64 miles of public residential streets we are spending \$75 million in deferred maintenance. What will it cost the community to be inclusive and maintain everyone’s road, not just the “select” 80%? About \$600,000 a year. Less than \$100 per household / 30 cents a day. Can a community with a median household income of \$200,000 afford this? Probably. The community should advise the Council that being inclusive might be smarter than the exclusive path the current Council is following, believing that excluding 30 miles of streets from the public domain will ultimately save money.

[Chris Flum](#)

, Oak Springs·28 Oct

Sorry you lost me voting for anyone pro growth back when our city council stole our roads funds to build a city hall and they took our old library property and sold it so Steve Glazer's (67 unit w/30 parking spots) "pet project" that is taller than Orinda's 35' height limit , Who was on the city council then? Sorry I won't vote for more stack n pack backers! I see there are only two females who prefer a similar view as I and one female that is pro growth and anti Montessori/24 hour fitness in the old Phairs's building because it would be better as a 55' high building with parking on top and there are a couple of men running that would love to vote along those lines with her and once that project is done they will move to the next block and the next a Safeway, RightAid across the freeway to the Casa to Wells Fargo the small building would be theater sq. hopefully they can add new fire houses with multiple ladder trucks and new schools and of course less parking spaces because we are a transit city and have a BART station that can now remove parking to allow for more high rises... Sorry I went on a rant, I prefer Orinda more open and less congested,, yes it can use a face lift but I can not vote for any more pro growth candidates funded by developers

[Steve Cohn](#)

, Ardor/Valley View·28 Oct

And the nexus to fair funding for street maintenance is.....?

[Steve Cohn](#)

, Ardor/Valley View·28 Oct

Let me tell you why I don't like purple houses. Ok, I won't.

[Charles Porges](#)

, North Orinda·28 Oct

If there are any real estate agents out there can you run comparable houses on private and public roads and inform us whether the price is higher, lower or the same for comparable houses on private and public roads in Orinda over the last few years? My guess (!) is that it really doesn't affect sales price but would really like to know.

[Laura Abrams](#)

, Lower El Toyonal-28 Oct

Chris I agree with you actually on some of those issues but the senior housing project was a response to not meeting our low income housing requirements so we could continue to receive our transportation funds. Unfunded state inflicted mandates is what I would call that. And I think that some of the funds came from Wilder directly this time to provide for affordable housing units. That was not built with city funds to my knowledge. It made sense to place it on the old library site adjacent to the then existing senior low cost housing that was a HUD project built many years ago on Church land. The City hall was partially built with the funds that a former council agreed to as a community contribution for the now Wilder project. I was in on that vote and we had endless public meetings and considered the old Library site for offices but the costs between building, renting and the old library site ended up with the cost effective decision being to build the offices on land that would likely not work for retail use. Some additional funds went to build the Wagner Ranch Gym along with the school district and the New Orinda Library which also had a huge fundraising effort to show support by the community. And the community center remodel was also part of this. The "Heart of Orinda Project". So you cant really say the funds from Wilder were stolen to build the city office building. Those funds were leveraged to provide additional services to the citizens as well.

[Steve Cohn](#)

, Ardor/Valley View-28 Oct

Charles: According to the County Assessor's database, as of 7/1/2018, there were 6,826 residences in Orinda with a total assessed value of \$6.51 billion for an average assessed value of \$954,000 per home. 5,357 of these homes were on publicly maintained roads. These homes had a total assessed value of \$4.93 billion which equates to an average value of \$921,000. The remaining 1,469 homes are not on publicly maintained roads and they had a total assessed value of \$1.58 billion; an average of \$1,076,000 per home; 17% greater than the homes on the publicly maintained roads. So much for the "yes you are getting no benefits but you pay a discount for the house" theory. I think the "we are getting screwed and it is the City Council that is screwing us" theory still holds.

[Nick Waranoff](#)

, Miner Road-28 Oct

Steve: your discussion of average assessed values does not support your point, as i am sure you know. Indeed, your data showing that the homes on private roads have a higher assessed value than those on public roads arguably shows that the homeowners on private roads don't need the help of the other citizens to be able to afford to maintain their private roads. Moreover, the theme of your posts, and of others, is that the private roads are an expense and a liability that you all want to have taken over by the City's other taxpayers in the name of "fairness." Detailed real estate disclosure forms have been required since approximately 1986, and even before that, all material facts had to be disclosed to a buyer. Regardless of whether the homeowners on private roads received a discount when they bought their homes, were the City now to assume responsibility for maintaining all of the private roads (or any of them), the citizens not living on private roads would be conferring a windfall benefit on those who do live on private roads, by relieving them of the expense and liability and increasing the value of their homes. Assuming as i do that most of the folks living on private roads bought their homes with knowledge of the

material facts, i do not agree that it is "unfair" to maintain the status quo. Also, you present figures as "facts," without citing evidence other than your website, [OrindaRoadFacts.info](http://OrindaRoadFacts.info) . I looked at it, and clicked on "Orinda's road system." It is rife with inconsistencies, and is inconsistent with your posts on Nextdoor. For example, your posts repeatedly refer to 27 miles of private roads. By contrast, the pie chart on the website says there are only 22 miles of private roads, yet the text on the same website page says there are 30 miles of private roads. So there are presenting three different figures for the same "fact." Which one should we believe? This inconsistency calls into question the accuracy of your other numbers and percentages as well.

[Joel Libove](#)

, Diablo View · 28 Oct

Nick, It all comes down to the fact that ALL roads of the same type provide similar public benefit, and the ones that the city classifies as private are identical to similar ones it classifies as public. The private road residents pay exactly the same taxes as the 80% who live on identical roads the city classifies as public, and to whom the city provides services for free. The city even directs millions of gallons of storm water from certain "public" roads through culverts under "private" roads downhill. Yet when these "private" culverts wear out or are damaged by drainage from the city roads, the downstream private road residents must pay thousands of dollars for the replacement even when such damage is caused in part by drainage from "public" roads. Whether or not private road residents knew this when they bought is irrelevant - There are many unfair situations that people are apprised of and the solution is to change them to make them fair, not to perpetuate the unfairness. People on roads providing similar public benefit, and being charged identical tax rates deserve identical services and protections. As an example, "private" Canyon View Drive has 6 culverts that drain public roads above (e.g. Diablo View), and yet we bear the entire burden of repairing and replacing these culverts that serve the public. See the attached photo showing how some tiny "public" roads that are 1/6 the size of Canyon View receive maintenance in consideration of their taxes, while "private" Canyon View residents pay the same taxes and receive none, and incur monumental financial risk from landslides caused by failures of the common drainage system, even those caused by the city's lack of maintenance of its public roads (this happened in 1998).

[Valerie Colber](#)

, Stein Way · 28 Oct

Nick, you make several assumptions to come to some pretty incorrect conclusions. I don't think so called "private road" property owners are asking for the "help of the other citizens to be able to afford to maintain their private roads." Private road property owners are asking that the unfair and unequal taxing of some residents be stopped, that all city services paid for by all taxed residents be provided to all taxed residents, and all roadways be maintained equally and managed by the city. Ask any number of realtors and even recent buyers whether "all material facts had to be disclosed to a buyer.", actually were. I know for a fact this is not the case. Many realtors do not even know about so called "private roads", and buyers sure don't. Not true that "homeowners on private roads received a discount when they bought their homes". Again, check with realtors and recent/older buyers. Where was this supposed "discount" suppose to come from? All data is not Steve's nor is he responsible for the creation or maintenance of each sources published data. Maybe you should take that up with the city, county, state, developers, etc., and get them all to

agree, right? Stop trying to pick on people who merely shared the data from sources of any published data. The authority to establish a private road is derived from the power of Eminent Domain and exists only when expressly provided by a statute. A private road can be used by the general public and is open to all who wish to use it, but it primarily benefits those at whose request it was established. But the fact of the matter is, most taxpayers or property owners NEVER requested their street to be a private road!!! They were just told this story by the city when the city didn't want to pay for street maintenance or street failure. And just making or posting a sign that says "private road" doesn't make it so. Just because a story is told for years, or this is the way it was done for years, does not make it right or so. Your property deed has a detailed description of your property, including any easements, right of ways, limitations or restrictions, and responsibilities. Newer developments have responsibilities in each deed about road and street maintenance. However, for those of us whose property dates back to prior to the existence of the city, for the 34 years and counting the City of Orinda has been in existence and Contra Costa County gleefully rid itself of the responsibility of any and all road maintenance as of July 1, 1985, the fact is we have been paying taxes for road maintenance for all those years and not getting what we paid for due to misconceptions, misinformation, poor planning and budgeting on the part of city management. All the deeds of all the properties that the city only declared a "private road" clearly state a right of way not to be exclusive, for use as a roadway for vehicles of all kinds, pedestrians and animals, for water, gas, oil and sewer pipe lines, and for telephone, television service, electric light and power lines, together for the necessary poles or conduits to carry said lines over this land, thereby giving the county of Contra Costa at that time and the City of Orinda since July 1, 1985 the maintenance responsibilities to support all the county and city contracted commercial services to each property. Bottom line is the city officials have spent more time and effort attempting to persuade everyone to believe nonsense that city streets/roadways to any property in the city can be divided and segregated such that the city can select which streets it wants to pay maintenance for and which they do not, and attempt to justify this outrageous unfair and unequal use of your tax dollars is somehow preposterously right just because city officials say so.

[Steve Cohn](#)

, Ardor/Valley View · 28 Oct

Nick, after you spend several hundred hours sifting through data and maps with no help from the city, please get back to me about inconsistent data. My data is good enough that the City Staff used my spreadsheet of what was and what was not a private street (without asking my permission but identifying the source) to present its findings to the Council. This is an evolving dataset. The pie chart with 22 miles is probably several years old. To the best of my knowledge, there are 30 miles of privately maintained streets. 27 miles of those are cul de sacs which the City has specifically "carved out" as not viable for conversion to a public street because they do not add to the City's "traffic flow". The inconsistent logic that there are also 27 miles of publicly maintained cul de sacs and "loop streets" which we have spent tens of millions of dollars to recondition does not seem to bother Council Members Worth, Orr or Miller in their decision to exclude equivalent streets from receiving tax dollars for maintenance. As for the fact that the houses on the private streets are valued higher than the ones on public streets, this merely points out that the suggestion someone made at one point that our houses were less expensive so we could afford to pay our own maintenance is false. It also shows that even though we are receiving no benefit from the repairs made to the public residential streets, we are actually

paying a higher portion of the costs than the people living on the streets being repaired because the taxes are based on assessed values.

[Charles Porges](#)

, North Orinda-29 Oct

Dear Nick, First about the inconsistencies of the data: It has been collected over time and new private roads are added as new developments get built. If we had "staff" we would keep it all updated but we are just a small group of private citizens. Some charts are old. Sorry. Second about disclosure: We agree that the fact that it is a private road has been disclosed since the mid 80s but realtors typically just tell you that it's private not that you and your few neighbors on your street will have to repair it should a catastrophic failure of the road occur. On my street we go hat in hand to collect funds to maintain it and the city has advised us of how to sue our neighbors who are unwilling to contribute. This is not a solution as it will cause endless animosity from them. As for the windfall benefit it seems to me that the public small streets have already incurred a benefit by forcing private streets to fund them. The majority is imposing its will on a large minority which is simply asking for equal treatment. Minority rights have been fought for before. But we were just asking for a discussion. There are many possible solutions. One would be to only tax private road residents for arterials and collectors. Another would be to allocate the garbage impact fees that we pay, to private road maintenance. Yet another would be to allocate some of the taxes we pay into an emergency repair fund for catastrophic private road failures. And clearly the city should have a policy of repairing private damage when caused by a public infrastructure failure. I'm not a lawyer but it does seem to me that the city could legally decide to maintain all roads and refuse to create new private roads. Some cities seem to have such policies. But in the final analysis it is up to the citizens to decide if they wish to fund the maintenance of all Orinda's roads or not. So the question is political. I think that your legal perspective is correct but may be irrelevant. New funds will be needed soon and it seems to me that unless we act as a community our roads may again degenerate to the worst in the county. Surely you can acknowledge that it is unfair to tax all the residents and then deny 20% of them from EVER receiving any benefit. I ask you this as a resident citizen not a lawyer. The city administration seems to forget that they are spending our taxpayer dollars. They talk about the city's money as if it were theirs and have consistently refused to even get data about private roads with which to inform the public. So it's about the administration apparently lacking concern about the 20% of the residents they represent. Nonetheless thank you for your legal perspective. I hope (wish) you would apply your skills to our cause.

[Nick Waranoff](#)

, Miner Road-29 Oct

To be clear, i believe that i understand both sides of the issue. I am sympathetic to the argument that the bonds are being paid for by all of us, while excluding some from the benefit. On the other hand, that was put to a vote, and approved. No one has suggested that the vote was divided along public v. private road residents. And apparently the public v. private issue wasn't raised -- or at least wasn't heavily debated -- during the election. I am not persuaded that the solution is for the City to acquire all of the private roads or to undertake to maintain all of them. I would be happy to see a task force provided it presented both sides of the issue. To be most productive, the task force would need to develop some proposed alternative solutions or remedies. And Steve: (1) data being "good enough that the City Staff" to use, busy as it is, is a low threshold; (2) I

can't defend the cul-de-sac decision or reasoning, but as with the entire policy, can be changed by a later council. And as i have explained in detail in another post, Fay will have to recuse himself. You can disagree, but if he does not, any action he votes on will be subject to challenge; the city won't defend the challenge; you will have to raise money to hire a lawyer to fight the challenge; you will probably lose; and the people opposing the challenge may be required to pay the legal fees of the challengers. So it does not really matter what your view (as a non-lawyer) is on the conflict of interest issue. It follows that a vote for Fay in the belief that he will support the private road owners' views is wasted.

### [Lance Cowles](#)

, Upper El Toyonal·29 Oct

We do ALL benefit by the bond measures. To get to our private roads we must travel on publicly maintained roads. Think about that.

### [Kathy Finch](#)

, Stein Way·29 Oct

I think private road folks are not complaining about funding major roads. I think what upsets us is a bond issue that pays to maintain “public” cul de sacs and residential streets just like our own. Meanwhile, the sanitation trucks keep destroying our “private” streets. We are barred from receiving any of the 350k Orinda gets from Republic. All of those monies, from bonds and from Republic, go to maintain and repair the “public” roads. Private road residents pay the pass-through charges from Republic (7%increase this year) as well as the tax on the bonds and then have to pay to maintain and repair their own streets as well. And fearing a Miner Road catastrophe keeps us awake at night. Orinda is better than this.

### [Valerie Colber](#)

, Stein Way·29 Oct

Lance, there is no difference between the city selected "public" roadways and "private" roadways other than the city selected those roadways that cost the least to maintain. The city cannot selectively pick and choose what roadways to maintain or not, nor can the city declare what roadways are public and what roadways are private. That requires state and federal government process that has never been done. All property owners are paying all kinds of roadway taxes but 20% of the property owners are not getting the services for which they paid for and are being asked to pay for and manage all that on their own, on top of what they are already paying in taxes, without being qualified. None of the city roadways are being maintained to the same standards. The city government did not put budgeting in place to maintain city infrastructure for roadways or anything else that the city is responsible for long term and the city just has a plan to keep asking all residents to pay for whatever is needed when it's needed without saving city revenue for those long term infrastructure obligations (buildings, roadways, etc.), and apparently the city has no qualms about taxing residents and property owners unequally and unfairly.

### [Joel Libove](#)

, Diablo View·29 Oct

Nick, Regarding recusal in a situation in which a minority (20%) are requesting equal public services for equivalent property (and equal taxation) to that received by a majority (80%), where is the actual boundary split which would trigger the need for recusal? In other words, If the

figure had been 49% private and 51% public residents would the councilmembers who lived on private roads still have to recuse themselves? What about the councilmembers who are part of the 51% majority who live on the public roads - Wouldn't they have to recuse themselves in consideration of the risk that their taxes could go up if the city were to cease denying services to "private" road residents? What about civil rights cases (which this may possibly be)? For example, do African American, Jewish, Hispanic or other minority congresspeople have to recuse themselves on civil rights issues? No, they don't, I believe. I realize that in our case, the discrimination we are experiencing is not based on ethnicity or national origin, but it is arbitrary and unfounded nevertheless. And it is economically very serious, especially as private roads serve as integral and inseparable parts of the drainage system for all roads (including "public" ones), as I found all too well in 1998 when ours was damaged by a public road failure and that the city initially refused to accept responsibility for. Is there some specific case law you can point us to that might address these issues: (1) percentage constituting a minority position that would trigger need for recusal, and (2) equal benefits for equal taxation and equal public benefit provided by "private" roads)? Thank, in advance, for any leads to case law you could provide us.

[Steve Cohn](#)

, Ardor/Valley View·29 Oct

Lance: Here are the facts (I don't make these up). 40%, 27 miles, of public residential streets (which is what we are talking about; not the arterials and collectors we all use) are cul de sacs and loop streets. The ONLY people using those are the people living on them. 40% of the \$75 million devoted to repair the public residential streets goes to those streets. With regards the other 60% of residential streets which are through-streets / feeder-streets, only 50% of the people living on "private" streets use those. The other 50% feed directly into the arterials and collectors. So at most, the people living on private streets benefit from 30% of the cost of repairing the public residential streets (50% times 60%.) I say "at most" because the benefit of a nice street is not just that you get to drive on a nice street (and your car does not get shook apart), but there is the "curb appeal" to your house of a nice street in front of it (and possibly an increase in home value). The private road holders who use the public residential streets to access their streets benefit from the former, but not the latter. If they want "curb appeal", they have to pay for it themselves. Further note, and this is just by chance, there are also, almost exactly, 27 miles of privately maintained cul de sacs. For every mile of cul de sac we don't use but pay to maintain, there is one that has to pay for itself and its neighbor. Now if we were "all in this together", we really wouldn't mind paying for streets we don't use, just like (most of us) don't mind paying for schools we don't use or a library or a park we may not use.

[Nick Waranoff](#)

, Miner Road·29 Oct

Joel: i am retired and do not have access to resources that would enable me to do legal research. I do not know the answer to your questions. Steve: have you previously mentioned that 60% of the residential streets are through streets or feeder streets? Have you disputed any of the many posts by folks saying they derived "no" benefit from the bond issue? I don't recall that; i thought you were saying that 100% of the bond money went streets that the folks living on private streets did not use. I am sort of feeling that you persuaded me to drink the kool-aid. What is source of the two percentages in your statement that "With regards the other 60% of residential streets which are through-streets / feeder-streets, only 50% of the people living on "private" streets use those. "

And by the way, how much per year does it cost the average private street homeowner to repair his or her private street?

[Joel Libove](#)

, Diablo View · 29 Oct

The residents of Canyon View Drive each currently pay \$360/house, which allows us to keep our road, and its culverts in good shape and to have built up some reserves for when we next need to replace a culvert (most of whose water carried by which is collected on Diablo View Drive (public) above. However, the reserves would be inadequate to repair a major landslide like the one at Minor, the expense of which could probably make our homes inaccessible and even possibly bankrupt some of our "private" residents. In view of the drainage system shared by all roads, that is why the exposure needs to be shared by all residents. It's part of the reason we have city governments - to share the benefits of the land we occupy and fairly share the expense involved in maintaining a common infrastructure, rather than piling huge risk on some, for the very slight benefit of the majority. If hypothetically it would cost all private road households \$360/year for road maintenance, and if said households comprise 20% of the city, then it would seem that if every household in Orinda paid \$72/year more than we do now, the private roads could be fairly included (assuming the city can do it as efficiently as we do on Canyon View Drive). Of course, if a disaster occurs, there would be added expense, but such cases a City government can often qualify for FEMA and other aid, whereas I don't think private residents can.

[Steve Cohn](#)

, Ardor/Valley View · 29 Oct

Nick: Source of my data: On our web site you will find the list of all 204 private streets and all 257 public residential streets. ([http://orindaroadfacts.info/orinda\\_street\\_data](http://orindaroadfacts.info/orinda_street_data)) You will see that there are 27 miles of public streets that are either cul de sacs or "loops"; streets that only the people that live on them use. The linear footage of each street is listed. This comes from the bi-annual road survey (only public roads may apply) the City does. I am sure you can get a copy from the public works department (or you can trust me). The total mileage of public residential streets is 64 miles. This is generally accepted (can be found on the City web site; Roads and Infrastructure; Roads and Drainage Repairs Plan). The 27 miles is 40% of 64 miles. That is where the 40% came from. As for the 50% of private streets that feed directly into arterials, you either have to take my word for it, or go the City web site / the Roads and Infrastructure section / the CIOC sub-section / and download the "Revised Roads Functional Classification" which is a 30mb file. It lists all of the public streets in Orinda. You can see the list of Arterials, Collectors and School Routes. You can then go through the list of 204 private streets (link above), find each one on Google Maps, and see if it connects to an Arterial, Collector and School Route. Or you can trust me when I say, 50% of the people living on private streets live on a street that connects to a Arterial, Collector and School Route. As for what it costs to maintain a residential street. The City's latest report from the CIOC says they will need \$2.5 million per year to maintain the 64 miles of residential streets. That equates to \$40,000 per mile. Some in the CIOC think that is too high a number. I know of one HOA that is well maintained and had a professional firm do an analysis and that showed about \$20,000 per mile. My street is only about 800 feet long. This is 0.15 mile which, at \$20,000 a year, would cost \$3,000 a year to maintain. I have been in charge of our street maintenance for 25 years. Our street was just patched and seal coated and looks

pretty darn good. Again, you can trust me, we do NOT spend any more than \$3,000 a year. That is a generous estimate. \$40,000 per mile may be needed for streets with slope stability problems, which I am sure some streets do, but I can't believe the average low-volume residential cul de sac (90% of private streets) require that much money. It may be a prudent number for the City to shoot for as there are probably untold drainage issues that have never been addressed. As for the question of do the people who live on private streets derive any benefit from the public residential streets? A little. 50% of us, myself included, receive none (my street feeds into a collector). The other 50% do use 60% (those that are not cul de sacs) of the public residential streets to access their street. They share that with the 4,500 people who live on the public residential streets. Should they pay as much as someone who actually lives on a street just to drive by? Maybe. So the garbage truck comes up the public street serving the homes on that street, which it would have to do even if the private street was not there, and then it turns up the private street. Does it do any more damage to the public street because the private street is there than if the private street was not there? Probably not. So the private street adds no cost to "the system". So the money the private street homeowners pay into the system are "pure gravy" for the rest of the system. Of course the private street should pay something for the access "the system" provides but "full load" is unreasonable. How much? Way too complicated. Much simpler to just include the private street in the system.

[marty spittler](#)

, Manzanita Miner · 29 Oct

The question is not "Do private roads really make up 20% of all Orinda roads by mileage?" The question is "Are private road residents using public roads any less than public road residents" If the road usage is comparable then "Fix Orinda Roads" bond repairs are fair. Road bond money is allocated by standardized industry criteria based on wear factors and amount of traffic so obviously the most heavily used streets - the big arterials feeders and collectors - get the most bond money in order to benefit the largest group of people. Usage is the critical denominator not miles of road. Luckily we currently have the technology to establish who is actually driving on and benefiting from the "Fix Orinda Roads" bond repairs and who is not. Google Maps and our car and cellphone GPS keep track of our every move. This makes it entirely possible to accurately determined how many hours any resident spends yearly driving on either the public roads or his private road. This data allows fair determination of actual traffic usage by Orinda citizens on Orinda roads both public and private. To be totally fair anyone should be allowed to use this data to apply for a "Bond Overpayment Refund" based on their "Annual Private Road Usage vs Public Road Usage Calculation".

[Nick Waranoff](#)

, Miner Road · 29 Oct

Steve: have you previously mentioned that 60% of the residential streets are through streets or feeder streets? Have you disputed any of the many posts by folks saying they derived "no" benefit from the bond issue? I don't recall you saying so or doing so.

[Steve Cohn](#)

, Ardor/Valley View · 29 Oct

Nick. I don't mean to get nasty or demeaning but what part of "750 Orinda households, over 10% of Orinda, access the Orinda road network directly onto Arterials or Collectors, myself

included, COMPLETELY BYPASSING ALL PUBLICLY FUNDED RESIDENTIAL STREETS”, don’t you get? I have not seen 751 posts claiming this. There are 750 households, about 1,500 voting adults, who get NO BENEFIT FROM ORINDA’S BOND MEASURES DEVOTED TO PUBLIC RESIDENTIAL STREETS. please stop asking the same question ten ways from Sunday.

[Nick Waranoff](#)

, Miner Road·Edited 29 Oct

Steve: you are getting nasty and demeaning, and not for the first time. I have done my best to try to follow the discussion. I am not stupid. Earlier today you wrote, "As for the question of do the people who live on private streets derive any benefit from the public residential streets? A little. 50% of us, myself included, receive none (my street feeds into a collector). The other 50% do use 60% (those that are not cul de sacs) of the public residential streets to access their street." Now you write, "over 10% of Orinda, access the Orinda road network directly onto Arterials or Collectors, myself included, COMPLETELY BYPASSING ALL PUBLICLY FUNDED RESIDENTIAL STREETS” In light of your first statement, your second statement is incomplete. It is not the whole picture. I suppose if i think about it enough your second statement is literally true because you reduced the percentage from 20% to 10%, but it is not the whole picture. I am not going to waste my time going through all of your posts. I now know enough to know what i can rely upon. Have a pleasant evening.

[Mike Daugherty](#)

, North Orinda·29 Oct

i live on a "roads of hacienda,inc" street. we pay an annual fee for road maintenance. over the years, our road has been kept up better than city maintained streets. happy with things just as they are. rather rely on my homeowners assoc. than the city.

[Steve Cohn](#)

, Ardor/Valley View·29 Oct

Marty: Not to get hysterical, as I just did with Nick, but there are two classes of Orinda citizens vis-a-vis roads: (1) Those who live on public roads and (2) those who do not. The 80% who live on public roads, and who can call the shots voting in tax dollars to support their roads, are in an “all-for-one-and-one-for-all” love fest. Some one’s roads needS fixing, up to and including a \$2mm sinkhole because they did not get around to improving the storm water drains, no problem, WE all pay. For the 20% who do not live on a public road, we too get to participate in the payments, we do use some of the public roads, but if our roads need fixing, from a pothole caused by a garbage truck (which the City collects franchise fees for but only uses on public roads) to (heaven forbid) a complete washout, we are on our own. Our neighbors, who gladly accept our tax dollars to repair their streets, including the 2,200 families living on publicly financed cul de sacs which only they use, will wring their hands and wonder why we allowed that to happen. No one even tries to figure out who is using what road and allocate the cost accordingly. To do so would be a nightmare. A fool’s errand. So we either keep the patently unfair system we have and wait until the people on “private” streets either take the City to court or undermine any attempt at future road financing (which is coming up because the City has no money to maintain the roads it has spent \$75mm of your/our tax dollars to repair) and we all shoot each other in the foot, or we agree that every road should be publicly funded. The ability to

drive to our homes should be a basic civic service like water, electricity and sanitary sewers. Why the City Council does not get this is beyond me. I've given up trying to explain it to them. We just need new folks who are smart enough to understand the concept of COMMUNITY.

[Steve Cohn](#)

, Ardor/Valley View·29 Oct

Mike: I hear you. My street (12 homes) just spent \$20,000 to bring itself up to top condition. While I am lobbying for public support, I will be in a "trust but verify" mode. The City has screwed up, roadwise, for the vast majority of its existence. It has to prove it is serious about maintaining its streets before it gets our votes for more funding. 1,500 homes. 3,000 voters. How much have the last three road funding measures won by?

[Charles Brotman](#)

, Stein Way·29 Oct

Steve, you are spot on I do not understand why this is contentious. This should be a basic, vital city service not just for cost but for risk assessment. I have no HOA for our "private" road and it's in bad shape due specifically to these heavy garbage trucks. Peace out.

[Steve Cohn](#)

, Ardor/Valley View·29 Oct

Charles: And you have paid, and continue to pay, all the same taxes as those folks on public roads which were also in bad shape, some worse than bad shape, but which got "miraculously" rebuilt "for nothing" thanks to their generous neighbors. It takes a village.

[Charles Porges](#)

, North Orinda·30 Oct

It is obvious that private road residents drive on some public roads to get home and thus derive some benefit from funding public roads. It's the rest of the benefits we don't get at all: "free" road maintenance and state and federal funds in case of catastrophe. The costs and risks being shared by the entire community of which we are paying members but excluded from receiving maintenance or repair funds. We are additionally burdened with potential litigation either between neighbors or the city. All of which could be remedied by some creative solutions that could be explored by a task force. Those of us discussing private road maintenance when the bonds were passed were told "later". And when we objected to raising the garbage impact fees we were completely ignored. The time has come to fix this long standing inequity. The City Council has been non cooperative for the last two years of discussions which we initiated to try to make the private half of our street public. We have been misdirected, misled and given many (subsequently shown to be untrue) excuses. It's time to get a Council that listens to the citizens and is willing to obtain true objective facts. We have suggested that a survey of the private roads be performed at the same time that the public roads are surveyed at a minimal incremental cost (<\$10k) to obtain factual data on their condition (rather than inflated guesses by staff to scare the Council) and have been told in effect that the city doesn't care to obtain that data. I for one, as a community minded person, did vote in favor of the two road repair bond measures, but will never again unless the city addresses this issue. For both the private roads and the future development of Orinda I believe that we the citizens should discuss and decide what should be done. The City Council should encourage our participation rather than prevent it or "outsource"

it. We told the Council that we wanted ALL stakeholders including public street residents and some city officials to get around a table to talk, find alternatives to present to the Council for consideration. We were told that it would be too expensive as a multi-thousand dollar facilitator (which we never asked for) would be needed and they said no to the whole idea, Worth having told us previously otherwise. Orr never was supportive and Miller just kept saying we don't have the money, completely missing the point that it's the taxpayers who provide the money. I could relate more disheartening incidents. The Council, except for Darlene Gee who "gets it", just seems to wish we would go away. And apparently Eve Philips has been silenced on this subject by the city lawyer.

[Charles Porges](#)

, North Orinda·30 Oct

Marty you are incorrect I believe. The arterials and collectors are not funded by the two large bonds. State taxes cover those. The bonds are dedicated to smaller residential streets. And the published criteria emphasize fix the worst first rather than prioritizing by usage (# vehicles). The stated goal is to achieve equal road quality (PCI>50). Thus who uses which roads is not relevant. Who pays and who gets what is.

[Sheila Ruhland](#)

, Lower El Toyonal·30 Oct

I heard that there is disinclination to cover the private roads because of the litigation opportunities if there are slides, etc. because the roads are narrow, etc. I believe all the roads must be public and some clause to eliminate or minimize risk to the city should take care of that. There are so many ways to compromise which in this all or nothing environment seems impossible!

[Steve Cohn](#)

, Ardor/Valley View·30 Oct

I asked the City Clerk to give me all cases of litigation on cul de sacs (which 90% of the private streets are) over the past ten years. There were only three cases. Two involved damage due to failed storm drains (which would not happen if these were properly maintained) and one from a fall on a street which, at the time, was in terrible condition. Again, a preventable suit which would not have happened if the road had been properly maintained. In other words, the fear of law suits, put by Staff to the Council with no backup documentation, was unfounded. The fact that the Council just "sucked it up" shows that they are either incapable of actually forming rational decisions or that the whole "discussion" by the Council was a prearranged dog and pony show to allow the Council to continue to walk away from a long-standing problem and lower the cost to those who do get city-funded streets by charging those who don't. Easier to walk away from an issue than deal with it. That's what they call "proven leadership".

[Joel Libove](#)

, Diablo View·30 Oct

Hi Sheila, The private cul-de-sac roads are no narrower, nor riskier, than similar cul-de-sac roads the city deems "public" and supports and covers disasters on. Attached is an example showing how "private" Canyon View Drive is wider, and 6x longer, and in better condition, than roads the city classifies as "public". These three example "public" roads (Daphne Ct, Oak Flat Court and

Hartford Rd), are all tiny, and do not have the large public-serving drainage system that Canyon View has (which ironically carries storm water that originates from (public) Diablo View and the hillsides above). So much for Amy Worth's repeated stance that private roads cannot be supported if they have no public benefit. Canyon View drive receives no city support, and our residents have to fix the culverts that provide gigantic public benefit. It's a travesty, particularly as the Council (with the exception of Darlene) is so off-base by continuously using this argument. I urge everyone to watch the on-line video or read the transcript for these two Council meetings - they are a lesson in malicious city governance. Of particular note are Larry Theis and Steve Salomon's alarmist reports which the Council accepted without question while basically ignoring all letters and spoken inputs from "private" road citizens. Minutes before the Council voted to essentially bar private roads from future adoption, Inga Miller blurted out the intentionally misleading statements that 1) many private roads are not able to be widened to the 16' required and 2) all city roads are already 16' wide. Then, after hearing grumblings from the audience, she elaborated by making a further misleading statement that even city roads that are under 16' are deemed to be made 16' or wider if the city later chooses to do so. We were not given a chance to correct this misleading monologue before the council voted. In fact "private" Canyon View drive is deemed for a 45' width, and is paved 16' wide along most of its length, except for a couple of places where it goes down to 13'. In contrast, the three "public" roads in the example below are paved 12.5' wide at their widest (one couldn't even physically widen Daphne without tearing down the structures in the photo). Canyon View is in good-to-excellent shape, including its drainage system, which carries millions of gallons of water from "public" roads and which our "private" residents have spent tens of thousands of dollars replacing over the years. "Public" Hartford and Oak Flat roads are in dismal shape (see photo), although in 2019 the City is going to use my tax dollars to fix these roads (which they should, as that is the type of service a city provides its residents in consideration of their taxes), while my family and my neighbors on Canyon have to fix our own road, and possibly lose access to our houses and face millions of dollars of uncovered personal expense if there is ever a landslide on our road (like there was on "public" Minor Road). It is simply unfair and a far more serious problem than most people realize. In my view, It is so unfair that I am voting NO on all current and future city bond measures and parcel taxes, no matter how important they seem, until we are given the same road benefits and protections the majority of Orinda's residents receive.

[Michael Hawes](#)

, Charles Hill·31 Oct

In this post, a number of people who live on “private” streets have complained that they are not getting fair treatment considering that they pay taxes for the 2014 and 2016 Orinda Roads Bonds. On the other hand, some people have commented that they do not want to have the residents of “private” roads receiving a windfall if the City picks up the cost of those roads, and that the residents of these roads knew what they were buying. Others have expressed that the “private” road residents are getting a fair go anyway since they get to use the public roads like the rest of us. If I recall correctly, when the first Orinda Roads Bond was proposed, there was an amount of opposition to the Bond due to the cost. The original proposal was that the Bond would be financed by a Parcel Tax, since all residents use the roads, and their usage is not dependent on their property value. However, it was found that this idea would fail at the vote, so the proposal was changed to be Property Taxes at the rates of 0.015% (for 2014) and 0.0185% (for 2016). The

idea was that by doing this, all of the long-term Orinda residents would essentially pay next to nothing (thanks to Prop 13), and would vote for the measures, which they subsequently did. (Some pedant will probably point out that I have made some errors of detail in the above, and therefore my whole argument here is invalid. Such pedants should be ignored. Irrespective of how we got here, the reality is that we now have a Property Tax, not a Parcel Tax, to finance the Road Bonds). So now, the people who bought houses in Orinda recently, and therefore have higher Property Assessment, are paying for the overwhelming majority of the Roads Bonds (and the Schools' Bonds). Any Orinda resident who bought their house more than 20 years ago is paying less than half (sometimes a LOT less than half) the Road Bond Tax of someone who bought a comparable house in the past few years. Let's all be grateful for the residents of Wilder, who are paying nice big Property Taxes and getting zero benefit from the Roads Bonds! As a newer resident (2012), we have high property assessment and taxes, and because we live on an arterial/collector road, we have no need of the Road Bonds, but we voted for them anyway. This year we are paying \$440 for the Road Bonds, and while I know there will be many people paying more than that, I bet we're paying a lot more than some other people who are whining about the cost. This issue should not be about the money, and I reckon that anyone who bought into Orinda before 1998 has no right to complain about other people getting an unfair or windfall advantage, because they're already getting their advantage. The issue is about being and acting as a community. The concept of "I've got mine, and you can get lost" is no way to run a society, popular as it may be. In our little City, we should treat everyone as part of our community and everyone should get equal access to the services provided by the City, even if that will cost us all a little more. One of the principles of democratic government is that issues should be discussed openly and fully and then decisions made by the elected representatives, for the maximum benefit. Another principle is that the City employees will follow the instructions of the voters' representatives, not vice-versa. In the present case, our elected representatives refused to even allow a full and open consideration of the issue. No doubt, Councilors Worth and Phillips are nice, genuine people, but they have failed to allow the basic process of democracy and they must be kicked out. And then any other Councilors who try to frustrate open, full and clear discussion can be kicked out at the next election.

[Joel Libove](#)

, Diablo View · 31 Oct

Agreed. It is a council's prerogative to disagree with residents, so long as its decision is based on facts, logic and fairness. Normally one would respect the Council's "decision" and move on, but in this case it was too out-of-line to be dismissed - a rationale based on factually incorrect engineering data, alarmist financial estimates, twisted logic and an intentionally short noticing before vote, so as not to give citizens a chance to counter incorrect facts. Amy and Inga's performance during the two Council meetings leading to the vote represent the worst I've seen in city government: 1) Arrogance and 2) ability to ignore (or perhaps not understand) technical data and effectively cram down groups of citizens, not even responding to their valid written and spoken points. But the true bottom line is their demonstrated priorities, favoring niceties and appearances, while selectively and callously ignoring some of the far more important basic needs of residents. While we beautified the downtown sidewalks and built elegant new buildings during Amy's tenure, the same inadequate and partially blocked Diablo View culvert that was overloaded and caused a mudslide that damaged our downslope private street and threatened our

homes in 1998 still hasn't been replaced, 20 years later. Let's give some new council candidates a chance to improve the way Orinda meets its residents' basic needs.

[Laura Abrams](#)

, Lower El Toyonal· 1 Nov

There is a larger discussion here that everyone is missing when the talk negatively about Amy Worth. She worked tirelessly and delivered on the Caldecott Tunnel fourth bore bringing together opposing sides (yes there were... Berkeley was not at the table!! and initially neither was Oakland. I know because I was also at the table when discussions began and the elected officials on the other side saw no benefit to their communities) and has tirelessly worked on many road bonds and library fund raising and has enormous respect from elected officials throughout the county and being the longest serving council member in Orinda ,with very new staff at the City manager level and planning director, has the institutional memory to boot. Many of you feel the council has failed you on the private road issue by not allowing the discussion to continue. I live on a private road. I support Amy for re-election because quite frankly I think we lose an enormous amount of clout both locally and in Sacramento if she is not representing Orinda. I dont think it actually I know it. Please consider more than one issue when you vote !

[Bailey Lee](#)

, Dalewood Dr· 1 Nov

How can we lose "an enormous amount of clout both locally and in Sacramento" when we have none to speak of?

[Laura Abrams](#)

, Lower El Toyonal· 1 Nov

For years we did not meet our affordable housing requirements. I was on the council for 12 years and we never met them. But we kept getting our gas tax money and road funds which could have been held back. That kind of clout. When we were going to be rolled over into a congressional district by the state that put us in then Pombo's district with the valley and removed us from Ellen Tauschers district we went to Sacramento and lobbied effectively to stay in the district. It was during 911 that this was occurring and we were able to talk to national politicians in the bunkers in Washington. Countless chicken dinners and fund raisers and endless small chat builds relationships. The construction of the tunnel and how it would impact us during the build was endlessly debated and we did pretty well during that project. You of course can make your own decision. But I know first hand what Amy has contributed to the city and the county and her relationships with the politicians state wide and she has their respect. Your choice but I thought I should share.

[Richard Colman](#)

, Dalewood Dr· 1 Nov

Dear Laura Abrams: There is more information that needs to be reported about Amy Worth of the Orinda City Council. On July 18-19, 2013, Ms. Worth, as the head of MTC (Metropolitan Transportation Commission) voted for Plan Bay Area, a scheme that has the potential to add high-rise, high-density housing to Orinda and other Bay Area communities. In 2016, Ms, Worth supported Measure X of Contra Costa County. Measure X failed at the polls. Measure X would

have raised the sales tax in Contra Costa County by one-half percentage point. In 2010. Ms. Worth supported the development of the Monteverde/Eden Housing project at 2 Irwin Way (across the street from the Orinda Way firehouse). Ms. Worth, according to the Lamorinda Weekly (April 28, 2010) called Monteverde, ". . .an asset for Orinda." Monteverde violates Orinda's 35-foot height limit. In December 2014, Ms. Worth voted against Council Member Eve Phillips' motion to have a discussion of Orinda's Housing Element (Cycle 5). Voting with Ms. Worth was Council Member Victoria Smith. Other council members, Steve Glazer and Dean Orr, voted to support Ms. Phillips' motion, which carried by a 3-to-2 vote. Ms. Worth was, as you stated, helpful in the development of the Fourth Bore of the Caldecott Tunnel. In February 2018, Ms. Worth, as mayor of Orinda, wrote to the state legislature, expressing opposition to Senate Bill 827. which would have permitted the construction of high-rise, high-density housing within one-quarter mile of a bus station and one-half mile of a train station (like a BART station). Senate Bill 827 did not pass and died in committee. In June 2018, Ms. Worth, again as mayor of Orinda, wrote two letters to the state legislature. Each letter expressed opposition to Assembly Bill 2923. The bill, which passed the legislature and was signed into law by Gov. Jerry Brown in September 2018, gives BART the power to construct housing on BART-owned or BART-controlled land (such as BART parking lots). On October 3, 2018, at the Candidates Forum for candidates for the Orinda City Council, Ms. Worth said she supported local control, not State of California control, over Orinda's land. I am attempting to present a more complete and balanced picture of Ms. Worth actions as a member of the Orinda City Council. In December 1998, Ms. Worth began her five consecutive terms on the council. --Richard Colman, Orinda Downs; TEL (925) 609-2820 ext. 203; E-mail: [rcolman@biocorp.com](mailto:rcolman@biocorp.com)

#### [Laura Abrams](#)

, Lower El Toyonal·Edited 1 Nov

The Monteverde senior housing project that Amy voted to support was the project that provided low cost housing to seniors which helps up to meet our affordable housing requirements along with the second unit ordinance. This is an unfunded state mandate imposed on all the cities in CA.

#### [Joel Libove](#)

, Diablo View·1 Nov

I voted for Amy during her previous campaigns. And the Council has done some excellent work over the years. Amy was one of many key fourth bore advocates (it was initially proposed and spearheaded by dozens of parties - readers can google dot\_27677\_ds1.pdf ), Its \$420MM budget was heavily enabled by \$197MM through the ARRA. As mentioned above, it was not Council's road decision itself that was disturbing, but rather Amy's and Inga's miss-statement and apparent misunderstanding of technical facts and budgetary estimates provided by Staff, and their misleading comments and illogical justifications for their actions. What was most concerning was their unwavering non-realization that many "private" roads DO have a public benefit, as evidenced by "private" road drainage systems that accommodate water from public roads above, and whose residents pick up the \_entire\_ bill for their replacement. And, it was incorrect for the vote to have been called for before citizens were given a a chance to correct the council - The vote could have been tabled for a third meeting. But really it goes to priorities, and it is really the City's lack of attention to its public roads that has made my family realize that we need some enhanced expertise on the Council. Roads and drainage are life-safety issues, and exposing

property owners that are mis-classified as "private" (but which receive often uncontrolled drainage from public roads) to catastrophic financial exposure so as to save the majority of residents \$100/year in taxes, is plain unethical, IMHO. That is not how a City council should behave.. Attached is a another recent view of the present condition of the same section of "public" Diablo View that caused the damage to our "private" road below. It is my personal view that Nick, Dennis and Kathleen are likely to be able to continue, and build on, Amy's excellent liaison with outside agencies, but with a more technical understanding of, and higher prioritization of, our our infrastructure safety issues right here at home.

[Tish Gleason](#)

, North Orinda · 1 Nov

Laura- please speak to the fact that this unfunded state mandate that was imposed on all cities was put into place after they shut RDA. This was not voted on by us. ABAG and the oher group that sprung up after RDA was shut down is made up of developers, city council members and builders, right? Same thing as RDA just under different names.

[Laura Abrams](#)

, Lower El Toyonal · 1 Nov

Tish none of us like these unfunded mandates. I am not supporting the position just trying to explain it.

[Richard Colman](#)

, Dalewood Dr · 1 Nov

Laura Abrams: The core issue is that the State of California. not Orinda, is usurping Orinda's control over the city's use of land. If the State of California wants to take over local government, there is no need for local government. Let Orinda run its own schools, roads, parks, and other city-related matters. Amy Worth has recognized this situation -- at least according to the 2018 letters she wrote to the legislature. And let's not forget Eve Phillips, who, as mayor in 2017, wrote to the state legislature in August 2017, stating that the Orinda City Council opposed Senate Bill 35. This bill, which was signed into law in September 2017 by Gov, Jerry Brown, took land-use power away from Orinda and gave that power to the State of California. It's time that the people of Orinda stopped taking orders from the State of California. The time has come to let the voters of Orinda decide if they want a Housing Element and the Regional Housing Needs Allocation. We Orindans are not paying taxes to have the State of California run -- and ruin -- Orinda. We Orindans can make up our own minds about how Orinda should be run. Any one on the Orinda City Council, should, from now on, oppose the State of California's telling Orindans how to behave. By the way, why does the State of California continually shortchange the Orinda Union School District (OUSD)? State of California money for schools means State of California control over Orinda's schools. Thus, OUSD needs Measures E and I to make up for money the State of California is not providing to Orinda. This school situation is sad and unjust. -- Richard Colman, Resident of Orinda. TEL (925) 609-2820 ext. 203

[Michael Hawes](#)

, Charles Hill · 1 Nov

Richard Coleman: you're certainly adept at trying to change the topic of the conversation.

[Laura Abrams](#)

, Lower El Toyonal·Edited 1 Nov

Richard as you stated Amy did not support this land grab not does anyone on the city council or likely in the community. Lafayette is more at risk as BART owns the land the station is on. Cal Trans owns the land Orinda's station is on. So with Amy being on the regional transportation authority as a Mayors conference appointee is probably a plus for us. I think we all can agree on the state funding issue being unfair and unjust. I have to go to work now. Signing off on this issue. Thanks to everyone for their opinions and information. I wish more folks would be so well informed and involved in the community!

[Charles Porges](#)

, North Orinda·1 Nov

Laura, although mayor Worth expressed an initial agreement to create a “task force” to explore and discuss private road issues she voted against its creation. It would only have been an advisory fact finding body that could have come up with creative solutions and informed the council and the public. More than 400 Orinda residents have signed our petition at <http://orindaroadfacts.info/-private-streets> which urges the council to create such a body. Voting against it is disenfranchising the Orinda voters, so regrettably I can no longer support mayor Worth's candidacy. She justified her vote on the basis of a false need for an expensive facilitator, a function that could have been performed by a Councilmember. We never asked for a facilitator. The CIOC merely suggested it might help, and staff provided inflated cost estimates. The CIOC has unanimously supported its creation and suggested its composition (to include a CIOC and a councilmember). Democracy is dependent on an informed and involved citizenry which was the point of the task force. The task force would have been open to all, including those with opposing views and would have allowed dialog which is not allowed in council meetings. The amount of staff time that such a task force is likely to need would be limited to some specific questions of law. But staff again provided inflated estimates for the cost of staff time which we were never allowed to challenge. Mayor Worth might have discerned this and at least kept the conversation about creating a task force going. She did not. The issues and solutions around private roads are complicated and (still) need to be explored systematically. Let's us the citizens do it. All we need and are asking for is a recognized forum and a room to hold meetings. It seems obvious to me that the council needs to create ways to listen to the citizens (rather than the other way around).

[Tish Gleason](#)

, North Orinda·1 Nov

Thanks Laura.

[Nick Waranoff](#)

, Miner Road·1 Nov

Charles: i will ask you, although others can chime in as well: what is your goal and how do you see it being achieved? A task force obviously is not the end point. Is the goal getting the City to acquire all or some of the private roads? Should the private roads be considered individually? If and when all or some of the private roads becomes public, what do you want to see happen, and where will the money come from to make that happen?

### [Steve Cohn](#)

, Ardor/Valley View·1 Nov

Nick: Their goal is public funding of all Orinda roads for maintenance, upgrading (if required) to City standards, and very importantly "disaster insurance". This includes storm drains. This may or may not require roads to actually "become public" (title of the land under the road reverts to the City). Some roads may be willing to accept a simple annual allocation to be applied toward street maintenance costs which they would take it upon themselves to arrange. In exchange, they would formally grant public access to anyone who wants to travel on the street. Others might literally want to become public roads (transfer of title) with all of the benefits and risks associated with that (the City has allowed its roads to deteriorate in the past; no guarantee it will not do it again - right now they have NO FUNDS to maintain what we are paying \$75 million to repair). What this will cost is what a Task Force would attempt to determine. We do not think it will be that much. We believe that if the City does take on the responsibility of maintaining an additional 30 miles of roads that the County Measure J funding formula may grant some funds back to the City. The fear that "taking on" an additional 30 miles of roads will put the City in financial distress is a Red Herring put forth by the City Staff to scare the Council into inaction. City Policy (adopted in 2011) resolved that no money from the Pavement Management Program, funded by State gas tax and County Measure J funds, would be used for Residential Streets. That is why we needed to vote in the special half cent sales tax and the Measure J and L bonds to repair the Residential Streets. And why we will have to vote in more funds to maintain the Residential Streets. The CIOC has made this very clear in their Ten Year Road and Drainage Plan. The fear that an additional 30 miles of roads will add huge disaster or other liabilities on the shoulders of the City is also groundless. In the past ten years there have only been three incidences of liability on the City's small residential streets (cul de sacs) and all three have been the result of inadequate maintenance of either the road surface or the storm drains. In other words, the City was at fault. So the quid pro quo for the City agreeing to maintain all of its streets would be that the taxpayers would have to agree to pay for that maintenance. Money does not grow on trees. So it really all comes down to us. But the City has to start the process to find out what it needs to ask of us. And so far, only Darlene Gee has been willing to start that process. She is the only one who has what I am looking for in a City leader.

### [Charles Porges](#)

, North Orinda·1 Nov

IF I imagine an "agenda" for the task force the first step is to determine where we are today; which includes who pays what for what service and a determination of what the private roads will actually cost the city to maintain (by surveying them). In addition, some legal advice on what the city policy could be that would discourage the future creation of more and more private roads (with fiscal impact) and what city actions today to rectify the inequity of the current system are legally possible. (Making new residents pay disproportionately more is not equitable IMHO.) This process would create a (possibly long?) list of (partial?) solutions to be discussed (by polling?) with the citizens to see their acceptance level. Among these should be alternative funding mechanisms including Real Estate Transfer Taxes (RETT) or parcel taxes and maybe the reallocation of some garbage impact fees. Also possibly redirecting future taxes paid by private road residents to a private road repair fund or some equivalent. Or maybe excluding them from paying future bonds for small residential street maintenance. BUT I won't be in charge of the

agenda and I expect many creative citizens will suggest things I can't imagine. And I don't have a position on whether the inequity should/could be solved by adopting private roads one by one or in bulk but suspect the former is much more likely to achieve some level of consensus particularly for older roads that have been paying fees and taxes a "long" time. Though the latter should be considered and explored too. If the Orinda community decides that it's a dog eat dog world so be it... but I personally have faith that we will chose to do the right thing(s). And clearly both road AND drain funding will need to be considered as there are insufficient funds to repair and maintain the existing "public" infrastructure. So I would suggest that private drains and roads be included in the discussion about future funding. But clearly the first step is to get ALL the stakeholders around a table. And then listen carefully.

[Nick Waranoff](#)

, Miner Road·1 Nov

steve: you wrote: "the taxpayers would have to agree to pay for that maintenance." How would that happen? A bond issue?

[Steve Cohn](#)

, Ardor/Valley View·1 Nov

The CIOC says that the City will need \$2.5 million per year to maintain the public residential roads. Each year; every year, increasing with inflation. This is not the job for a bond. Extending the sales tax beyond its initial 10 year term can provide \$1 million. The remainder needs to come from a Parcel Tax, a Utility Tax (on PG&E, Cable, Water, etc), or a Real Estate Transfer Tax (or a combination). It needs to be a relatively steady source of income that increases with inflation. If the 30 miles of streets which are currently cut out of the equation are added, it would probably add about a half million dollars to the cost; about 25 cents per day per household.

[Nick Waranoff](#)

, Miner Road·1 Nov

As you know, there are issues with a parcel tax. It is generally regressive, although that can be addressed by basing it on square footage rather than a flat rate per parcel. I'm not sure that a transfer tax would provide a steady source of income. Utility tax might also be regressive.

[Kathy Finch](#)

, Stein Way·1 Nov

Nick, I am not sure that, after years and years of Prop 13, flat parcel taxes are regressive these days. Ad valorem taxes hit new homeowners, which tend to be younger families, very disproportionately. I like your idea of a parcel tax based on square footage. I also think that a RETT is a good idea -- I am sure that there are stats out there to show that enough homes are sold in Orinda to provide a good source of steady income.

[Michael Doherty](#)

, Sleepy Hollow·1 Nov

So many responses but could someone answer a question? If living on one of these unfunded streets is such a detriment was it not figured into the price you paid for your home? I had a major gas line in my previous backyard which I was informed of when I bought my home. I negotiated the price I paid based on this knowledge. When I sold I didn't throw my hands up when the next

buyer did the same nor did I ask for the pipeline to be removed. Did you not get exactly what you bargained for?

[Lance Cowles](#)

, Upper El Toyonal·1 Nov

Your right Michael. It doesn't make a bit of a difference. In our case it's one of the million documents you sign off. (Roads of Hacienda Homes). The fact it's \$500 per year. It's insignificant in the scheme of things.

[Richard Colman](#)

, Dalewood Dr·1 Nov

Let's abolish the property tax. We can replace it with something else. There is no property tax on such possessions as furniture, clothing, or appliances. Yet, the property tax is a levy on an asset while the asset is still in the owner's possession. Normally, a tax on an asset -- like a stock or a business -- occurs at the time of sale. As for regressive taxes, there are two which apply to wage-earners: (1) Social Security and (2) Medicare. Social Security is a 6.2% tax on an employee's wages. The boss must match this 6.2%. Medicare is a 1.45% tax on wages. The boss must match this 1.45%. There are some modifications regarding Social Security and Medicare, but these modifications can be discussed at another time.

[Kathy Finch](#)

, Stein Way·1 Nov

Michael and Lance, there didn't seem to be a difference in price between homes on public or private streets in Orinda when we were looking, and one out of every five homes is on a private street. All the homes in newer developments seem more expensive and their streets are required to be private. To resurface a street costs more than \$500, and coping with a Miner Road situation would probably be beyond the capability of most homeowners.

[Charles Porges](#)

, North Orinda·2 Nov

Michael and Lance If the house was bought after 1985 the realtor was required to (should have) disclosed. If the buyer negotiated he may have gotten a few thousand dollars reduction (though the data doesn't support this). The reduced price might cover a few years of maintenance (what I hear is an average yearly cost of \$300-500 per household for maintenance). There is no way that it would cover the insurance against catastrophic failure. And if the house was bought before 2011 when the bonds to fix similar roads were imposed there wasn't that to factor in as well. I don't think the issue revolves around the house price but rather what kind of community we are and want to be in the future. I don't think the private road residents (and future Orinda private road dwellers) are being treated fairly and believe this can and should be fixed. Despite living on a private road I voted for the bond measures. I hope that public road dwellers also have a strong sense of fairness and are equally community minded.

[Steve Cohn](#)

, Ardor/Valley View·2 Nov

Up until a few years ago, the ONLY money spent on residential street maintenance was private money. Thus, the private streets were much more attractive than the public streets and this is

probably why the average home on a private street is assessed at about 20% more than the average home on a public street. And why the average homeowner on a private street is paying 20% more to repay the bonds used to repair the public streets than the people living on the public streets. No hard feelings though; we voted for those bonds because we thought it was the neighborly thing to do. Can we play in your sandbox now?

[Valerie Colber](#)

, Stein Way·2 Nov

So my newest 2 neighbors were NOT told they live on a "private road", did not receive or know to negotiate any "discounts", and it's hard to say or prove any property is assessed any differently specifically for "private roads". Why? Regardless of any laws, not just Orinda realtors sell properties in Orinda, and not all realtors regardless of where their office is or even the county workers know about "private roads". This supposed and assumed discount is a false assumption and a bunch of nonsense.

[Michael Doherty](#)

, Sleepy Hollow·2 Nov

Steve: I'm trying to understand the issue. My point is we all bought our homes under the conditions at the time and we either accept or deny the risks involved. When your home was assessed at a 20% premium was there any uproar to convert all roads to public? My comment isn't snarky but I do feel it is legitimate.

[Steve Cohn](#)

, Ardor/Valley View·2 Nov

Michael: The extra cost of living on a private street is de minimis. \$300-500 per year. A mortgage on a \$1.5 million home is about \$70,000 a year and property taxes close to \$20,000. It is not about the money unless a million dollar sinkhole appears on my street, like it appeared on Miner Road, and the City says "your problem" even though it was the water coming from the public street above me that caused it. This is a fairness issue. The whole reason to have a City is to work together for some basic things. Being able to drive up to your driveway is one of those basic things. 80% of Orinda gets to do that with the tax dollars we all pay. 20% do not. Why not? Because it has not really been an issue before now because no one had City funded residential street maintenance until recently. Now we do, or at least 80% of us do. Time to include everyone. If I call \$300-500 de minimis, if we all share that (all 7,000 households split the cost that 1,500 are now paying by themselves), it is chump change (about 25 cents a day).

[Michael Doherty](#)

, Sleepy Hollow·2 Nov

Who actually owns the property that make up the private roads?

[Steve Cohn](#)

, Ardor/Valley View·2 Nov

It can be the homeowners fronting the street or in some cases an HOA. Those who want their street to become public would literally deed the property over to the City. Those who just wanted public funding in return for granting a public right of way would do that. In the world of tax, which I am familiar with, if you give away all or virtually all rights of ownership, which is what

granting public right of way is as there is nothing you can really do with the property the street is on other than maintain it, then, for tax purposes, you do not own it (you can't depreciate it). That would be the case here. Technically, the property owners would own the land under the street but it is like the City was leasing the street from them with the right to use it as it wanted to.

Equivalent to the City taking out a 25 year lease on an office building with the obligation to maintain it, insure it, etc. (called a triple net lease) If the office building had less than a 30 year remaining useful life (125% of the lease term) the owner of the building could not depreciate it as he had given up virtually all rights of ownership. The City Staff's argument that the City would gain no public benefit is wrong (and the City Attorney advised them of that).

#### [Michael Doherty](#)

, Sleepy Hollow · 2 Nov

I think if ownership is transferred to the city it begins to make sense from a fairness perspective.

#### [Lance Cowles](#)

, Upper El Toyonal · 2 Nov

In the case of Roads of Hacienda Homes (RHH) yes a disclosure packet informing buyers tells buyers they are buying into a Association. No, RHH owns no property and our property essentially goes to the middle of the street. There is an easement in place for the road of which a small amount in most cases is paved as in ours. Someone mentioned the privately maintained roads would not be used by others than the property owners. Not true, I can think of several roads in our group that are through roads used by others. Our road was once designated an evacuation route by the City? I'm not sure if we still are? I would not say my road is the prettiest of the bunch. We have no sidewalks or streetlights but we do have a board overseeing the maintenance of the roads and they are responsive to our needs. That is a little about our organization. I'm glad we have this in place. It is often hard to get members to serve terms on the board. People can vote themselves out following proper procedures. I for one have seen some of the results of this. It can open nightmares hard to imagine. We do expose ourselves to landslide or water issues but we somehow make it through.

#### [Joel Libove](#)

, Diablo View · 2 Nov

Agreed. And public maintenance of all roads would additionally be the only fair thing because the private roads and their culverts are an inseparable part of the drainage system that also handles water collected from roads and hillsides where "public" residents live that benefit everyone. In 2004, Canyon View Drive residents had to collectively pay \$12,315.50 to replace a 24" culvert that receives most of its water (through two 18" bypass hoses that travel down the hillside) from a culvert on public Diablo View Drive. Private residents should no longer be required to pay the effective double tax they now pay when they have to bear the cost to replace these culverts that 80% of Orinda residents do not need to additionally pay for maintaining their "public" culverts. It would really cost very little to add maintenance of "private" roads. Based on Canyon View Drive's history of charging \$360/year (up from \$240 about a decade ago) per household to repave needed sections and build a reserve for culvert replacements, and on the assumption that private roads make up 20% of the homes, adding coverage for all roads would only increase taxes by \$72 per year per Orinda household. One could likely round this figure to \$100/year to cover the likely higher amount that everything seems to cost when done in the

public sector. But the amount could be much lower as Canyon View is one of the most challenging roads, due to its very steep upslope and downslope hillsides and large number of high-flow culverts. Most streets would likely cost less to maintain, and for the rare landslide, the City may be able qualify for FEMA aid (which we also all pay for), whereas I don't think private residents can.

[Sally Lubben](#)

, Lower El Toyonal-2 Nov

Lance, in my experience, RHH "makes it through" road slides and culvert failures by refusing to repair the road. That happened on La Encinal in the '80s and is currently happening on Alta Vista and Madrone Place.