

NextDoor.Com Posting by [Theresa Slaman](#)
[Fair Use of Orinda Public Road Maintenance Money](#)

February 13, 2019

Dear Friends and Neighbors: This is to advise you of the latest action by our City Council and to ask for your support. The City is planning to extend, or possibly increase the half-cent sales tax scheduled to expire in 2022. This tax generates about one million dollars annually and costs every household - including private road residents - on average \$150 per year. Our City Council and Staff have allocated this money to the repair of the 64 miles of public residential streets. No money has been used to maintain the 30 miles of residential streets that the City has not granted public status to (the "private" streets), nor does there appear to be any discussion of an expansion of its use to include them. Our petition is as follows: We, the undersigned residents of Orinda, support an investigation to determine the factual data and find various possible means to provide fair and inclusive public maintenance funding for all streets in Orinda, both public and private. It is a fundamental principle of fairness that all residents of Orinda should pay for and receive access to the same public services. These services include schools and library, police and emergency medical response teams, street and storm drain maintenance, and utilities related to them. However, even though Orinda citizens pay for these services, not all citizens receive them in fair share. We call upon the leaders of our city to come together to right this wrong. Please go to our web site, www.OrindaRoadFacts.info to sign our petition. Thanks for your support, Citizens for Fair Road Funding

[Robert Guzikowski](#)

, North Orinda · 13 Feb

This is not 'a wrong' as written in the petition request, sorry this mentioned tax doesn't benefit private road residents but you should have understood what a 'private road' means when you purchased your house.

[Theresa Slaman](#)

, North Orinda · 13 Feb

Thanks, Robert. I appreciate your opinion.

[Steve Cohn](#)

, Ardor/Valley View · 13 Feb

Robert: If you purchased your house on a private street before 2011 you would have noticed that your private street was in much better shape than the public streets and you may have paid a premium for it (in fact, the average assessed value of homes on private streets is greater than those on public streets.) If you had full knowledge of every action of the City Council after 2011 (which about zero percent of the population does), you would have known that the Council created a policy which would allocate zero funds to maintain the 64 miles of residential public streets. Therefore, the 65% of Orinda that live on public residential streets received the same public benefit (none) as the 20% that live on private residential streets receive. Again, that seems fair. However, in 2012 the City started to "pull a fast one". They put a series of taxes on the ballot for the benefit of only the public residential streets while forcing everyone to pay them. So far these taxes include a half cent sales tax costing the average family \$150 a year and two bond measures which will cost the average household \$500 per year for the next 20 years. Everyone in

Orinda pays these taxes but only 65% receive the benefits from them. However, since they are the majority, they control the ballot box. The last bond measure, which required a 2/3 majority, passed with 68% of the votes. Yes we live in a system where the majority rules, but that does not make it right, in fact it makes it wrong, for the majority to pass the costs of its benefits onto the minority while denying the minority those same benefits.

[Nick Waranoff](#)

, Miner Road·13 Feb

Steve: I could be wrong, but I thought the sales tax was being spent on the arterial sand collectors.

[Steve Cohn](#)

, Ardor/Valley View·13 Feb

The Sales Tax was put on the ballot in 2012 as a “general” tax (no defined use) which allowed it to be passed with a simple majority (50%) as opposed to the 2/3 majority required for a “dedicated” tax. However, the Council “pledged” to use the tax to repair residential streets and the CIOC has been tracking its use for that purpose.

[Thomas Dale](#)

, Lower El Toyonal·13 Feb

Thanks and signed

[Larry Toy](#)

, Overhill Area·13 Feb

I have a slightly different take on this complex issue. We moved to Orinda in 1976, buying a lot on a private road in 1974. In the following four decades we and our neighbors got together and contributed from time to time for fixing up the road. Our private road has always been OK, sometime better than some of the public roads, and now somewhat worse. We enthusiastically supported the tax initiatives for the Orinda public roads. We use the public streets of Orinda much more than we use our private road when we go out almost every day. It was also for the common good, like supporting our library and public schools, even though we may not use them. One small, but important point. We don't live in a system where the majority rules, we live in a system where for many decisions a vote against is worth two votes for. So it is more difficult to pass bond issues that way. A reasonable solution would be to put another bond issue on the ballot which would pay for the repair of the private roads in Orinda. The people who live on private roads would have a very strong motivation to support such a measure and to urge their friends and neighbors who live on public roads to support it. If the bond issue passes, that will solve the problem. If it doesn't, then we can see whether there are other public or private solutions that are feasible.

[Hal Bain](#)

, North Orinda·13 Feb

Hello All, Very timely for me. Today I mailed my \$491 check for maintenance of the private road system where I live. I would be happy to write several more checks to file a lawsuit against the city of Orinda. The politicians are happy to sit on their hands and take advantage of a historical anomaly of private roads. Since most of them make their living in real estate it must be

an advantage to stick who ever they can with road maintenance, other than the city where it belongs. Cheers, Hal.

[Theresa Slaman](#)

, North Orinda · 13 Feb

Larry. Thanks for your thoughtful reply.

[Steve Cohn](#)

, Ardor/Valley View · 13 Feb

Larry, I completely agree. And we will have our chance as will the people living on public roads who are benefitting from the taxes we all currently pay. To clear up some facts. There are three distinct classes of roads in Orinda. (1) 29 miles of Arterials and Collectors we all use and all pay for with State Gas Tax and County Sales Tax. (2) 64 miles of public residential streets whose repairs have been funded by special taxes: the half cent sales tax and two bond measures. 27 miles of these are cul de sacs only the residents use. 50% of the private streets feed directly into the Arterials and Collectors so the people on these streets never use any of the public residential streets. Thus it is a misunderstanding that we all use the public residential streets as only 50% of us use only 60% of them. (3) 30 miles of "Private" residential streets, 27 miles of which are cul de sacs just like the 27 miles of public cul de sacs and the remaining 3 miles are publicly used through streets. For the most part these streets are "private" because when the City was declaring which new street would get public funding, it granted that benefit to some but not others. The rationale of why one street won and another lost is unknown. The City, after spending \$50 million to bring the public residential streets up to reasonable standards, is now going to come back and ask for \$2.5 million annually to maintain them so they don't fall apart again. Not unreasonable. So it is now the time to also include everyone in the "benefit game" and not just a select 80% since we are all paying the same taxes. And that is what our letter of support requests; that we openly discuss the issues. How much are we talking about? What hurdles are there? How do we raise the money? That is all. No one is looking for a free ride, just equal treatment. Please consider lending your support of an open discussion at www.OrindaRoadFacts.info.

[Joel Libove](#)

, Diablo View · 14 Feb

Also, "private" and "public" road drainage systems are tightly intermeshed, and yet "private" road residents are unfairly being forced to pay for costly replacements of culverts and gutters which drain large amounts of water collected from public roads. The attached diagram shows how the 17 households of "private" Canyon View Drive had to shell out \$12,500 in 2004 to replace a culvert that receives most of its water through City-installed downhill bypass pipes from public Diablo View Drive above. Road drainage systems, both public and "private" should be maintained as a whole by the City, and not continue to be disproportionately funded on the backs of "private" road residents.



[Hal Bain](#)

, North Orinda · 14 Feb

Hello All, The only thing blocking fair treatment of all citizens of Orinda is politicians. Let's RECALL all the politicians that voted to screw the "private" road citizens. Cheers, Hal

[Theresa Slaman](#)

, North Orinda · 16 Feb

Please understand something here. We are all of us citizens of Orinda and we all pay our fair share of taxes. I do believe our elected officials are doing the best they can with what they are given (particularly information from the city staff). We all know that our city attorney, as is most city attorneys, tend to be more conservative, and therefore decisions will reflect so. This post is meant to stir up a conversation between tax payers and our officials. Sadly, the response we should all be prepared for is that the city will not take on anything that involves risk. What does this say about our city?

[Joel Libove](#)

, Diablo View · 16 Feb

What it says is that the city staff and CC members Worth and Miller really don't care about providing basic services fairly to all taxpayers, preferring instead to focus on downtown "beautification" and other frivolities like the marginally useful and expensive collection of proposed ConnectOrinda projects. The other three CC members appear more open-minded, and the best thing we can do is to succinctly and continuously state our case to them, and point out that all drainage, both on "public" and "private" roads is a basic responsibility of a city to provide, so as to prevent landslides and the associated risks to life-safety and property loss. If the city can afford to fund frivolous projects, it can, and must, first fund critical projects like drainage.

[Nick Waranoff](#)

, Miner Road · 16 Feb

Any discussion of "Fair Use of Orinda Public Road Maintenance Money" should begin by defining the meaning of "fair." The unstated definition or premise of those advocating public funding for private roads is that taxes should be based on use of whatever it is that the taxes are spent on. But is that the basis for property taxation? For example, a large number of Orinda residents pay taxes to support the schools, but have no children (and in many cases never had children) in the Orinda public schools, yet all pay the same rate of tax for the schools. In response, some will argue that all property owners benefit from good schools, which raise property values. Although this is true, the property tax rate paid by those without children in schools is the same as that paid by those with one or many children in the public schools. Residents with one child in school pay the same rate as residents with many. The rate is unrelated to the use. Simply put, property taxes are not based on use of the facility or service that the taxes are spent on. Why should roads be treated differently?

[Nick Waranoff](#)

, Miner Road · 16 Feb

Joel: I agree with you insofar as you state that the city staff focuses on frivolities rather than basic services. It is part of the inherent bias for change that leads people to careers in urban

planning, and that is part of the urban planning curriculum. No planner puts on his or her resume that he or she provided basic services; it is much better to have a resume that says you led a team that created a new streetscape plan. And where are the SUBurban planners?

[Steve Cohn](#)

, Ardor/Valley View · 16 Feb

Nick, what the residents (taxpayers) of Orinda need to understand is that these "private" streets are only "private" because "the City" (and before that the County) refused (for no objective reason that we can determine) to allow them from becoming public. If we started today with a new City and there were one hundred roads of equal length, it would be equivalent to putting the names of the roads in a hat and drawing out the first 80 names and providing them with public services; denying those services to the people living on the 20 roads not chosen; but taxing everyone equally for the services provided to the lucky 80. The oppression of the minority by the majority (even though the majority is blissfully unaware that they are oppressors). The fact that the minority are spread across the city means that they cannot "secede" from the union. The City has spread the myth that we all use the public streets that are being funded and thus we should all pay new taxes to support them. This is not true. The public streets include 27 miles of cul de sacs; exactly like the 27 miles of "private" cul de sacs. No one uses these streets other than the residents living on them, their service providers and friends. And yet we all pay to repair and maintain them. And 50% of the "private" streets feed directly into the City's network of Arterials and Collectors, completely avoiding the 64 miles of public Residential streets we have recently voted in \$75 million of new taxes to repair because "we all use them". True we don't all use other public services like the schools or the even the fire department, but if we wanted to or needed to, they are available for our use. The 20% of Orinda which are excluded from enjoying the street maintenance and storm water drainage maintenance services that the rest of Orinda enjoys are excluded even though their streets require these services. But they are not permitted to access them. Stopped at the schoolhouse steps. You are different from "us" and do not deserve to be treated the same as "us".

[Joel Libove](#)

, Diablo View · 16 Feb

You are correct regarding the motivations that cause some city staff to focus on frivolities. However, it is the job of the City Council to rise above this and prioritize projects so all citizens are treated fairly and protected. It is not fair for roads to have been termed "private" based on purported criteria that have since been proven false, such as the recent claims of Council Members Worth and Miller that private roads are narrower (not true - my private road is wider than about half of the public cul-de-sacs I have to pay taxes to support, while not receiving any support in return) or they do not provide public benefit. "Private" Canyon View Drive's culverts drain millions of gallons of water (flow rate actually measured on two culverts) each winter, directly from "public" Diablo View Drive, and yet Canyon View Drive residents had to pay \$12,500 in 2004 to replace one of these public-serving culverts. Private cul de sacs also provide equal or better public benefit to public ones in terms of traffic circulation. Example: Canyon View provides traffic circulation for 17 households, while narrower and much shorter public Daphne Court, Hartford Road and Oak Flat Rd even when all added up together provide circulation to half the total number of houses, and yet I have to pay taxes to support their maintenance and disaster protection. And, rather than correcting this inequity, the City, which

Amy claims doesn't have money to deal with, is now embarking on costly and marginally useful "downtown guilding" projects, such as those in ConnectOrinda. As a cheated citizen, I strongly object to Worth's chronic "Let them eat cake" attitude. Every beautification is being done on the backs of hard-working, taxpaying residents who are simply being screwed - see the diagram attached.



[Joel Libove](#)

, Diablo View · 16 Feb

Clarification - I had meant my post above, as a response to Nick's post.

[Nick Waranoff](#)

, Miner Road · 16 Feb

Joel: please don't interpret my post as implying a defense of any present or former council member. I have been a loud and consistent critic on many issues, including but not limited to the deference to staff. I made a detailed presentation in January that the council was neglecting its basic, core obligations and instead was chasing the "latest shiny object." In fact, this coming Tuesday's strategic planning/priorities council meeting was my idea. I suggested it to Amy and she got it on the agenda. One of the many reasons that I thought and think such a meeting is important is that it gives us residents an opportunity to tell the council what we see as the priorities the council should address, and to try to take over the process of setting the agenda from the staff.

[Joel Libove](#)

, Diablo View · 16 Feb

Nick, I'm not interpreting your post as a defense of any council member, but as an apparent opposition to adoption of private roads (correct me if I'm wrong here). I do concur, however, that the Council, and not the staff should set the agenda and priorities for the city, and I do appreciate your suggesting planning/priorities for the upcoming meeting. I plan to be at the meeting, if I can get through the traffic (from Berkeley) in time..

[Lance Cowles](#)

, Upper El Toyonal·16 Feb

It should be noted that some of Roads of Hacienda privately maintained streets such as the one I live on ARE through streets. In fact our street has been referred to by the city as a evacuation route in an emergency. The truth is people at different times of the year use our street to commute over the hill to Berkeley/Oakland. So, we do play an important role beyond just being a residential endroute. I know of several other streets in our organization which go through and are important ways to get around Orinda.

[Lance Cowles](#)

, Upper El Toyonal·16 Feb

Ours is a group of about #250 members. Originally, before it reorganized to strictly maintain the privately maintained public roads there were more than #1200 members. My understanding was many of the roads were not originally County. As the roads were adopted by the County it was a process of having Supervisors vote them in. I guess if you could get 3 of the 5 council members to go along the same could happen today although unlikely. Personally, I see our \$500 dues as well spent and would rather have it this way. We have a capable board to oversee maintenance and it works well. My biggest concern is liability and the need for the organization to maintain coverage for this.

[Nick Waranoff](#)

, Miner Road·16 Feb

Joel: regarding my position, it is still in the formative stage. As a preliminary matter, i am not sure that "adopt all private roads or none" should be the only two choices. Looking forward, i am not sure that Theresa, who started this post, is correct in terms of the intended use of public funds. It is my understanding from the most recent CIOC report that tax funds (sales tax and other funds) will be used to mainain not only the "residential" streets but also the "arterials and collectors" that everyone uses. I am also unsure about the fiscal impacts and who should bear what costs. Most if not all homeowners living on private roads were not only told this fact when they purchased, but also were told (or should have been) that they would be paying a sum each year for maintenance of the private road. It isn't self evident that the rest of us should now assume a financial obligation that others chose to assume when they bought their homes. In addition, the private road homeowner has control over maintenance of his or her private road, which has been a benefit until now. If i understand the facts that others have presented, 20% of the homes in Orinda are on private streets, and half of those homeowners use "residential" streets (rehabilitated with the half cent add on sales tax and bond money) to access the "arterial and collector" streets. So, if these figures (which i cannot vouch for) are correct, we have 10% of the homeowners who get no direct benefit to the extent their their tax payments are being used to rehabilitate the "residential" streets. Moreover, the amount in question per private road homeowner is relatively small, and more than one private road homeowner has told me that the cost of annual maintenance is not the issue. The big issue that has been raised is a concern about the cost of repair in the event there is a sinkhole on a private road similar to the sinkhole on Miner Road (and maybe also similar to the one in Moraga). The argument that is made is that the city of Orinda was able to seek (and hopefully will eventually obtain) reimbursement from FEMA, whereas there is a concern that private citizens owning a private road could not obtain same. I don't know the answer to that, and i am not an insurance expert. I have done some

cursory research and, so far as i can tell, some FEMA assistance might be available to repair a private road, but it seems limited in amount. <https://coralbaycommunitycouncil.org/hurricane-recovery-2/private-road-assistance-for-residents-from-fema/> There may be other possibilities, such as forming a homeowners association (if you don't already have one) and having the HOA buy insurance (earth movement or flood insurance may or may not provide coverage). Bear in mind that all of us who live in hilly Orinda are potentially subject to uninsured losses such as landslides (unless you purchase earth movement insurance). Earth movement insurance is different from earthquake insurance. Even if you have earth movement insurance for your home, it may not cover landslide damage to your property, including cleanup and removal of fallen trees, dirt and debris, if you are "lucky" enough that your home itself is not damaged. This is a long answer to your short question. In a nutshell, my mind is not made up, but there is more to this issue than differing opinions about what may be "fair."

[Linda Trapp](#)

, Monte Vista·16 Feb

How do roads, gated and closed for public use, get classified as? Yes, the homeowners pay taxes but the general public isn't able to access them. Curious...how they fit into this discussion?

[Lance Cowles](#)

, Upper El Toyonal·16 Feb

Interesting point Linda.

[Ed Jajeh](#)

, Miner Road·16 Feb

We don't pay our fair share of taxes on the roads. It is not fair or equal. The bond measures to repair roads were written as ad valorem taxes. The result is newer residents pay significantly more for the roads than the older ones who consistently voted against measures to fix the roads. Fairer options like a parcel tax were not introduced because polling stated they would not pass. We pay more than many of our neighbors, but unfairly younger newer residents are getting shafted. We also pay to maintain our shared private "road" to get to our property. We knew about our road when we moved in but the unfairness of passing higher taxes for newer residents is the bigger issue that should have been fixed.

[Steve Cohn](#)

, Ardor/Valley View·16 Feb

Linda (and Lance): A road would have to provide public access to receive public funds (that's the law). I think you can count the number of gated roads in Orinda on one hand. There are about 200 non-gated roads.

[Terri Larson](#)

, Glorietta·16 Feb

I haven't been following this issue closely, but as an engineer who formerly worked for a public agency, I'm aware that when private roads are built, they often skirt county (or city) codes — using thinner asphalt, for example, or providing less right of way — so integrating them into a public network can be tricky. Some cities/counties will add them into the public maintenance, but only after the private roads are brought up to city/county standards by the residents.

[Joel Libove](#)

, Diablo View · 16 Feb

Terri, Some private roads (and public roads too) indeed are poorly built, but others, such as Canyon View Drive are extremely well constructed, regularly maintained by professional paving firms, and are in better condition than many public roads. I encourage you to visit Canyon View (private) and compare it to the following crumbling Orinda public roads: 1) Diablo View Drive, 2) Hartford Road and 3) Oak Flat Rd. Or, look at the pictures from my post above of 10 hours ago, and also the pic below of public Diablo View, which shows the still-unfixed (after 21 years), partially occluded. culvert, which clogged in 1998, sending torrents of concentrated water down the hillside and causing a landslide that blocked private Canyon View. The City's own geotechnical report indicated the public road drainage as the landslide cause, and yet the City demanded that the private road residents below fix the problem. Only when we threatened to report their Bad Faith behavior to the Contra Costa Grand Jury did they back off and install permanent downhill bypass pipes and a covered catch basin on private Canyon View Drive. The drainage of private and public roads is too tightly intertwined to have them separately maintained - The entire drainage system provides public benefit, and the City needs to be maintaining them as an integrated unit.



[Steve Cohn](#)

, Ardor/Valley View · 16 Feb

Terri: that is a good point. But it should be noted that before we voted in \$55 million (which is going to cost \$75mm of new taxes to repay) to repair the 64 miles of Public Residential Streets, 75% of them were below City standards (a PCI [Pavement Condition Index] of 50 [on a 0-100 scale with 0 being gravel]). About half of those had to be completely rebuilt, with our tax dollars, from the ground up. Talk about not being built to “standards”. While the City has resisted surveying the 30 miles of “Private” streets, we estimate that over 80% exceed City standards and have been successfully providing access to residences for up to a century. “Not Meeting City Standards” seems to be a test that some roads need to meet before getting public funding while other roads get public funding because they DO NOT meet those same standards. What’s good for the goose is not good for the gander?

[Joel Libove](#)

, Diablo View · 16 Feb

Nick, Your argument that "Most if not all homeowners living on private roads were not only told this fact when they purchased, but also were told (or should have been) that they would be paying a sum each year for maintenance of the private road" might appear valid, were it not for the blatant facts that: 1) The justifications the city (and county) used for classifying many of our roads as private were based on demonstrably bogus facts, such as stated width criteria that were factually incorrect, inconsistent and even paradoxical. 2) The historical negative behavior by the City of Orinda against private road residents has been beyond what any reasonable, and even

highly prudent, buyer of a private property would have ever expected when purchasing on a private road, and is justification for private road residents to currently demand reclassification. The City's negligence (see my above post) actually damaged our private road in 1998, and yet they initially refused to remedy it - They would almost certainly not have behaved this way if our road were public. While deciding whether to purchase my private-road lot in 1989 (I built our house in 1994/95), I talked with city officials (including engineer. Julie Pappas), who explained that Canyon View Drive was classified private because its paved width was under 16' and the city therefore did not adopt it. I accepted this rationale at the time. However, this justification, I recently found, was completely untrue, and the City is still espousing the false premise that all public roads are $\geq 16'$ in width while many privates are not. Even in the video from the Sept 4 2018 Orinda CC meeting at

<http://orindaca.iqm2.com/Citizens/SplitView.aspx?Mode=Video&MeetingID=1406&Format=Minutes> the primary incorrect set of statements starts at 2:02:20 e.g. Inga said "For those of us on public streets the road is already 16' wide ...etc ." This statement, even with her clarification (after hearing audience grumbling) that they are merely deeded to $>16'$ not necessarily paved to $>16'$, is grossly misleading, as many public roads are not physically capable of being widened to 16', and many private roads ARE. Canyon View is deeded with a 45' right-of-way and has paved widths between 13' and 21'. Conversely, public Daphne court is hard limited by structures and cannot be widened past 12'. Completely arbitrary - the City's criteria for classifying roads as private vs public are not based on a true metric, and their metric is continuing to be misrepresented to the public. So, after discovering that we were lied to as to rejection criteria, and watching the City damage our private road with impunity (until threatened with review from a higher authority), and experiencing the City denying me maintenance-unrelated services, and impose taxes on me that are DIRECTLY used to pave public cul de sacs (not just arterials) that are equivalent or inferior to my private road which they refuse to fund at all, and helping foot the \$12,500 bill in 2004 for replacing a culvert that DIRECTLY drains public Diablo View, I feel damn justified in demanding reclassification as the public road that we in fact really are,

[Steve Cohn](#)

, Ardor/Valley View · 17 Feb

Nick: Yesterday you posted "I am not sure that Theresa, who started this post, is correct in terms of the intended use of public funds. It is my understanding from the most recent CIOC report that tax funds (sales tax and other funds) will be used to maintain not only the "residential" streets but also the "arterials and collectors" that everyone uses." This is from the staff report of November 1, 2016 titled "Approval of List of Streets for Pavement Rehabilitation in 2018 and 2019 for the Annual, Measure J and Measure L Pavement Rehabilitation Projects and Status of the City's Road and Drainage Repairs Plan." It states: "The City's Annual Pavement Maintenance Program is funded each year through a combination of Gas Tax and Contra Costa County Sales Tax (CCTA) Return to Source (RTS) funds. The annual scope of work for this program consists of performing as much preventive maintenance as possible, using appropriate types of base failure repairs and reconstructing selected roads based on available funding sources. The streets repaired under this annual program are limited to the higher volume streets, i.e. arterials, collectors and school routes. The Residential Road Pavement/Drainage Rehabilitation (Measure J & L) Program is currently funded each year through a combination of funds from the 2012 Measure L Half-cent Sales Tax Funds (approximately \$1 million annually); the 2014 Measure J \$20 million infrastructure bond; and the recently passed 2016 Measure L \$25 million infrastructure bond." I

think this pretty clearly identifies which funds are used for what. I do believe that the Measure J&L funds can also be used for storm drain projects not associated with Residential Streets but I think those funds will be exhausted by road repairs and more funds will be needed for the storm drains.

[Steve Cohn](#)

, Ardor/Valley View · 17 Feb

Nick: Also, you posted that “Moreover, the amount in question per private road homeowner is relatively small, and more than one private road homeowner has told me that the cost of annual maintenance is not the issue.” If it is so small, then sharing it across all of Orinda (costing each Orindan 1/5 of what it is costing each private street resident) should be so de minimis as to not even be an issue. We estimate that the private streets can be maintained for about \$20,000 per mile annually; \$600,000 per year for all 30 miles. That is \$400 per home for each of the 1,500 homes on private streets (on top of the \$650 we are paying in sales tax and infrastructure bond repayments.) If we shared that \$600,000 across all 7,000 homes, as we are sharing the sales tax and infrastructure bond repayments, that would amount to \$86 per year or 23 cents per day. Does that sound feasible? I agree, it is relatively small if we all look out after each other.

[Nick Waranoff](#)

, Miner Road · 17 Feb

steve: if it is so small, then why are the owners who live on private streets making such a big deal out of it?

[Steve Cohn](#)

, Ardor/Valley View · 17 Feb

Nick: Just send us your check for \$600,000 each year and we'll back off.

[Nick Waranoff](#)

, Miner Road · 17 Feb

steve: regarding current plans for future use of funds, the staff report you cited is over two years old. The Nov. 2018 CIOC minutes reflect that the future use of funds from various sources remains to be determined. The minutes can be found here:

<https://cityoforinda.org/AgendaCenter/Citizens-Infrastructure-Oversight-Commis-6> Note that this link defaults to 2019 and you have to change the date to 2018 where indicated to find the minutes.

[Nick Waranoff](#)

, Miner Road · Edited 17 Feb

Steve: your sarcasm is not warranted or appropriate, just because i disagree with you. More importantly, you have not made a persuasive argument as to why folks who knowingly bought into a situation should now be relieved of the obligations they assumed. I haven't heard anyone say that he or she cannot afford the \$400 per year. That fact that it may be "feasible" to shift that financial obligation to others does not mean that it should be done. If we are going to continue with your logic, we should adjust the portion of the property tax that goes to schools, so that the users of the schools pay in proportion to their use and those without kids in school pay nothing, or pay a lesser amount. Indeed, perhaps we should go farther and redistribute all of our property

tax obligations of Orinda homeowners to correct the inequities of Proposition 13. Also, you wrote in a post a while back that half of the homeowners on private streets use residential streets to get to arterials and collector streets, so your figures should be adjusted to reflect that fact. Finally, i am not asking anyone to "back off." We are all entitled to our opinions. Nextdoor, and Council meetings, are legitimate forums for polite and civil discussion of issues that folks feel are important.

[Steve Cohn](#)

, Ardor/Valley View · 17 Feb

Nick; I apologize for my sarcasm but the “you knew what you were getting into” argument for justifying the Majority taking advantage of the Minority does not sit well with me; nor with others in my “class” of Orinda homeowners. It does not matter whether or not I can afford the \$400 a year it costs me to maintain my street or the \$650 a year I am paying to repair your street (assuming you live on a Publicly Maintained Residential Street). If every time you went to the grocery store they charged you double for a particular item, would you say “that’s OK, I can afford it”? No, even if it were a \$2 item. Now I’m on the hook for the repair of your street for the next 20 years (until the bonds are paid off) and if they raise another tax to maintain your street that bill will come in each year forever. And I don’t like it that I have to pay for your street while you don’t believe that you have to reciprocate because I knew what I was getting into. In fact, the current state of affairs was not the state of things when I moved here. Yes I had to pay for my street but I did not have to pay for your street because the County, and then the City, was paying virtually nothing to maintain your street which is why it ended up in such miserable condition. But instead of telling you to fix it yourself they told me that I had to help you fix it. You might understand why that does not sit too well me and why I get a bit exercised and non-civil. No one likes to be taken for a ride while people living in million dollar plus homes come up with every excuse in the book why they won’t treat their neighbors the way their neighbors are treating them.

[Nick Waranoff](#)

, Miner Road · 17 Feb

Steve: we will have to agree to disagree. While it is true that some of the owners on private roads, apparently including yourself, bought before the bond issues were passed, it was certainly reasonably foreseeable that the City would be maintaining the public streets, and not the private streets. And it was certainly reasonably foreseeable that the cost of maintaining the public streets would be borne by all homeowners. Whether it was by a bond issue, or out of some tax, or the general fund, is just a detail. Regarding your grocery analogy, a better analogy would be this: if i go to Diablo Foods and pay more for something than i would pay at Safeway, i have nothing to complain about; it was my choice. I think the most possibly persuasive argument the private roads advocates might have had would be if the majority that voted for the bonds was comprised only of owners who live on public residential streets, and thus stood to benefit, and they imposed their will on the 10% of owners who live on private streets and do not make any use whatsoever of the streets that the bonds are being used to rehabilitate, and if that entire 10% voted against the bonds. I do not know, however, whether there is any data showing how the 10% who live on private streets, and who do not use public streets at all, voted. But, regardless of any such data, the time to object to the bond has long since passed. And uncivil comments, and statements accusing me (and others) of taking you (and others) "for a ride" and accusing those who disagree

with you of coming up "with every excuse in the book" does not make me (and probably does not make others) sympathetic to your cause. It doesn't "sit too well with me" and causes me "to get a bit exercised" (although i stop short of being uncivil). As i said, we will have to agree to disagree over this, and let the political process play out.

[Steve Cohn](#)

, Ardor/Valley View·18 Feb

Note on who is paying what: Confirmed by a member of the CIOC: 1) The only funding for Publicly Maintained Residential Streets comes from Measures J&L Funds (sales tax and street bonds) 2) To date, J&L Funds are being used exclusively for Publicly Maintained Residential Streets, not Major Streets (Arterials, Collectors, and School Routes). 3) It is unclear if after this year's projects whether there will be any Road Bond Funds remaining. What does this mean to the taxpayer? The total cost over 20 years to repay the bonds (from the City Treasurer) will be \$66 million; an average of \$3.3 million per year. The estimated future cost to maintain the 64 miles of Publicly Maintained Residential Streets (from the latest draft CIOC Ten Year Plan update) is \$2.5 million per year. The total, \$5.8 million per year, equates to \$830 per household for each of Orinda's 7,000 households. The benefit to each of the 4,300 households living on the Publicly Maintained Residential Streets is about \$1,350 per year (they net \$520 per year). For the 750 households (50% of the 1,500 living on Privately Maintained Residential Streets) who access their streets via some of the Publicly Maintained Residential through streets (40% of Publicly Maintained Residential Streets are cul de sacs serving only the residents living on them), there is a minor benefit so the net benefit to the residents of the Publicly Maintained Residential Streets on those streets "shared" by Private Street residents is slightly less than \$1,350 per year, but still significant. The benefit to the 750 Privately Maintained Street households who do use the Publicly Maintained Residential Streets is much less than the \$830 per year they will be paying. There is no benefit at all to the 750 Private Street households who access Orinda's road system directly into its Arterials and Collectors; only a cost of \$830.

[Joel Libove](#)

, Diablo View·18 Feb

Yes, and "private" road residents are required to pay the same full Measure J&L taxes (for funding "public" residential streets and benefiting the residents thereof) while not receiving any corresponding benefits for their own completely equivalent "private misclassified" residential streets. In addition to the Measure J and L taxes private residents pay, they (only the "private" residents) also occasionally pay thousands of dollars to replace drainage culverts that fail, many of which receive over-concentrated water piped downhill from public streets above, further extending the inequity. These are two things that even very intelligent and prudent people could not have reasonably expected when purchasing on private streets decades ago. Below are downhill pipes and a covered catch basin the City built on Canyon View Drive after the 1998 Diablo View-caused landslide (proving the city CAN build structures on private roads, despite the lies CC members propagated in the recent meetings). Still, the "private" Canyon View Drive residents must replace the culverts under its road, as we did in 2004 for the culvert that drains this catch basin. It cost us \$12,500.



[Gary Gallaher](#)

, Heather/Valley Glorietta · 18 Feb

If your roads are "misclassified", blame the developer from many years ago, not the current City Council. If you were not aware of the responsibility for maintaining the private road you purchased, blame your real estate agent, not the current City Council. I suspect that owners of private road do almost all of their driving on city roads that we ALL pay for. We ALL pay for many miles of city roads which we never use.

[Steve Cohn](#)

, Ardor/Valley View · 18 Feb

Gary: You

[Melissa Roeder](#)

, North Orinda · 18 Feb

Gary (and Nick), Thanks for your perspective. What is true is that real estate agents make token disclosures that a road is 'private' but in no universe do they explain or are even capable of explaining how city finance works, eg how city funds make available federal and state emergency funding in the event of a major failure. Nor can they disclose or can anyone reasonably anticipate what would happen in 20 or 30 years. We're in a new ballgame. As years of meeting minutes demonstrate, neither the City Council, its staff nor the CioC could even competently identify the location or condition of Orinda's 'private' streets, let alone a lone buyer new to Orinda. There was no way to know 26 years ago, when I purchased, that there were so many other private streets in the same situation, that there would a climate today of bonds and taxes, where 20% are paying to get nothing and only to the benefit of the 80%. We are giving you, a public road owner, a discount. Drains even more than roads are interconnected and should rationally and fairly be treated as one City system, so that the City cannot unjustly blame its drainage failures on private roads, which they have done numerous times. HOAs and non-HOA residents cannot insure themselves for anywhere near the level that cities can. That's the point. Private road citizens pay double and at the very least deserve their solutions to be heard, and to be exempted from future taxation that does not serve them at all. If you currently live on a public street, it doesn't matter how many streets you drive or don't drive on, you're getting service. And let's be clear - schools and roads are different animals. Schools do not fall down and ruin people financially. You can choose to send a child to school here, even if you don't do so. Same for the Library. But here you pay taxes on a road that you are barred from receiving benefits for. It is too categorical a reason that 'you should have known.' One, as I said above, there are a lot of unknowns at the time of purchase, even to the 'experts.' Two, city finance has [changed.No](#) one in Orinda was getting road service. Now they are doing so on a selective basis and the situation needs to be changed. I hope you will reconsider this issue, and at least be willing to listen to several excellent solutions for inclusion of all residents in this basic city service.

[Steve Cohn](#)

, Ardor/Valley View · 18 Feb

Gary: You need to understand the facts. The money we are talking about is special tax money (the Sales Tax and Road Bonds costing \$75 million) that is dedicated to 64 miles of streets designated as Residential. Not the Major roads (the Arterials and Collectors) that we all use and pay for with State Gas Tax, County Measure J Sales Tax and Garbage Franchise Fees. 50% of private street residents never use the Residential Streets (their streets feed directly into the Arterials and Collectors). The other 50% do access their streets through the Residential Streets but only about half of them. 40% of the Residential Streets (27 miles) are cul de sacs serving only the people living on them. As for the private streets being "misclassified"; nothing of the sort happened. The County, and then the City, found a cash cow and exploited it. Wilder's 4.5 miles of streets are the best streets in Orinda and the homes the most expensive. They are paying 2-3 times the property tax, including repaying the road bonds, as the average Orinda home. The only way the City would allow Wilder to be developed was by foregoing road maintenance benefits. There was no "misclassification". This was perfectly legal highway robbery. The majority preying on the minority.

[Nick Waranoff](#)

, Miner Road · 18 Feb

Steve: is there any evidence that, during the campaigns for not one bond issue but two separate elections (measure J one year and measure L another year), anyone argued that a minority was being preyed upon or taken advantage of by the majority? Or that anyone made arguments about unfairness similar to the arguments you and others are making now?

[Joel Libove](#)

, Diablo View · 18 Feb

Nick, Yes, I, for one, discussed the unfairness of all bonds not including "private" roads that were equivalent to similar public ones. I did so with Steve Glazer and others in the council at the time and with the Staff, including Julie Pappas and others, but to no avail. And the issue was well exposed to the city Staff and Council numerous times before that by other members of our road, as long as I have lived here (!25 years). We were all deflected with the same answer that to be adopted we needed to be 16' wide like public roads. We now see that many public roads are only 12' wide - a flagrant double standard. The matter of private road mistreatment and the need for adoption was discussed heatedly even back in 1998 when a landslide below Diablo View dumped dirt down the hillside blocking Canyon View. The problem, as I see it, is that Orinda prioritizes beautification and new buildings (built at outrageous cost) over providing basic services. BTW, I still very much respect Steve and have since volunteered on his numerous successful campaigns, Just an aside.

[Joel Libove](#)

, Diablo View · 18 Feb

I meant "25 years", although it feels like 125 years.

Steve Cohn

, Ardor/Valley View · 18 Feb

Nick: Yes. WWW.OrindaRoadFacts.info has been in existence for many years. While I have never been on the CIOC (I applied once but Glazer and Smith blackballed me because I would not march to their drummer and despite the fact I have a masters degree in transportation engineering and decades of experience in the finance industry), I attended most of their meetings for years and was close with many of the members. We discussed the issue of including the private streets but I kept being told, "not yet, not yet" because the public residential streets were such a mess while the private ones were not. If you look at <http://orindaroadfacts.info/orinda-> you will see pie charts saying there are only 22 miles of Private Streets. This was before Wilder and Orinda Grove and before I went over the map of Orinda with a fine tooth comb discovering all of the little disenfranchised "Private" streets whose residents did not realize that they comprised 20% of Orinda. It was also before we were paying \$650 a year to repair our neighbors' streets that they had let go to hell while we paid to maintain ours.

Rich Bellows

, Estates · 19 Feb

I'm new to Orinda, and find this conversation very interesting. As a new resident (we purchased our home on a public road 5 months ago), I was aware of the private/public road status when I was looking for a home to buy. A public road was a definite benefit to me. That means I would consider a home on a private road, but it would be worth less to me, perhaps on the order of a kitchen and bathroom that needed updating. Something I could do, but would cost me money. So I paid more for my house on a public road than I would have for the same house on a private road; probably a common experience. I am concerned that a substantial subset (20% ?) of my neighbors feel they are being charged for a benefit they cannot enjoy. I understand the school argument, but feel this is different and they have a valid point. Here are a few thoughts I haven't seen expressed, though perhaps they've been tried and discarded before I got here: option 1. it seems from the conversation that there is a tax that just goes to repair residential roads. What about only taxing the 80% of people who live on these roads for this repair? I would imagine it wouldn't be hard to calculate the average percentage of public residential roads a private road address uses to get home (30%?, 50%?), and tax the private road people that lower average tax. This way they don't feel taxed for a service they don't get (even though they might quibble that their particular address uses less public roads than the average to get home). It seems fairer to me, even though I would "lose" some of their taxes, so costing me more. I'm ok paying more to be fair to all. option 2. It seems obvious that changing a road from private to public increases the value of the homes on that road (see my above comments on buying my home). Why should that increase accrue to the people who paid less to buy a home on a private road? What about having a lien on every house that was on a road that changed from private to public that would be paid into a fund when the house is sold? A guess to start the conversation would be 5% of the sale price. This would cost the current homeowner nothing, the money would come when a sale is made. The extra value of the home would accrue to the community, we would all enjoy a town with nicer roads, and fellow neighbors feeling they were being treated fairly. I would imagine the city could borrow against that fund to make needed road repairs and improvements, and the size of the lien could be large enough to cover the interest until the money came in. Perhaps these aren't good ideas; I'm no city planner. But I would like to see a nice town with neighbors who feel they are being fairly treated. By the way, if "fair" to you is only the option that costs you less

or makes you more money, perhaps you're being selfish, not fair. I think the above options do not cost me less or make me more, so I feel they pass this "fair/selfish" test. Ask yourself if your "fair" solution passes, or are you being selfish?

[Joel Libove](#)

, Diablo View · 19 Feb

The idea that private road residents somehow got a discount for buying on a private road appears to be a myth. The realtors I've talked to over the years have all told me that the pricing of houses they have sold was unrelated to whether the house was on a private or public road. Also I recall that someone who studied the property tax rolls actually showed a slightly higher average valuation for houses on private roads. How about this idea of fairness: People paying equal taxes, and living on physically similar roads whether "public" or "private" should get the same services for the taxes they pay.

[Steve Cohn](#)

, Ardor/Valley View · 19 Feb

Rich: Welcome to Orinda and thank for joining the conversation. I was the one, using the Contra Costa Assessor's data base, who determined that the homes on private streets (about 1,500) had a higher assessed value than those on public streets. Maybe these are fancier or larger homes but the bottom line is there is no substantial discount for living on a private street. In fact, until recently, the public streets were in miserable shape while the private streets were, on the whole, in good shape so there was a disbenefit to living on a public street. Even now, despite the fact the public streets are in much better condition (because we have spent \$50 million repairing them), the City has not identified how it is going to maintain them going forward so they may just fall apart again in the future if we do not vote in more taxes for this (or the road fairy appears). The first option, not charging people on private roads taxes for money spent on public roads, is problematic. The cat is already out of the bag on a big part of the cost (repaying the \$45 million borrowed which is going to cost \$66mm over the next 20 years; \$9,400 per home on average. The repayment is proportionate to assessed values so the homes on private streets, having a higher assessed value, actually pay a premium. Now it may be possible for new taxes (for maintenance) to be "waived" for homes on private streets (via a benefit assessment district for the public streets?), but it would be difficult. Re. the second option, converting private streets to public. As Joel and I have stated, it is not "obvious" that there is a value of being on a public street that would increase the value of a home on a private street. If homes on public streets are now worth more because their streets are now in better condition, that is because we have spent \$50 million making them in better condition and the homes on the private streets are paying 20% of the bill. So if you are right, and there is some benefit, then maybe we deserve it. We calculate that it costs about \$600,000 (\$20,000 per mile for 30 miles of streets) to maintain our private streets. That equates to \$400 per household (1,500 homes on private streets). We are each paying \$9,400 over 20 years (\$470 a year) to pay back the bonds used to repair the public streets. In addition, the CIOC estimates it will cost \$2,5 million to maintain the public streets which amounts to another \$350 per year for each of Orinda's 7,000 households (if we all share the cost). AND we will still be paying 20% of the \$400 it costs to maintain our own streets if we are "invited to the party". So, for our \$400 per year benefit we will be paying $\$470 + \$350 + \$80 = \900 . This is not a net benefit, it is still a net cost. But that is better than paying $\$470 + \$350 = \$820$ with no benefit at all. The other option is the voters in 1,500 households oppose any new

tax (the last tax won by 144 votes) and we all shoot each other in the foot which seems to be the way politics is going in general.

[Rich Bellows](#)

, Estates·21 Feb

thanks for the information, Steve. Your final option is what I was trying to avoid. I don't think looking at the value of houses on private streets vs public streets really answers the question of is there an inherent value to being on a public street. I was just using my own personal sample of one to state that for me, there is value to being on a public street, and was when I was shopping for a new home. Note this is counter to my supposed financial interest in having the private street residents pay to keep my street in good shape. I am hoping somebody will find something that puts all Orinda residents on the same page of working to keep and improve a good town for all of us. It looks like my two ideas aren't getting much approval, which is fine. I really don't think the 80% of Orinda on public streets is just going to take over the maintenance of the private roads, do you? So where does that leave us in trying to find a way forward that can include us all? I was at least trying to propose something that would cost me money but felt fair; I don't see many people in this argument doing that. I still don't think proposing solutions that only benefit the side you are on is a way forward.

[Steve Cohn](#)

, Ardor/Valley View·22 Feb

Rich: Re. your comment / question: "I really don't think the 80% of Orinda on public streets is just going to take over the maintenance of the private roads, do you?" People have to stop thinking of the 20% of Orinda's streets as "Private Roads". A couple might actually have gates and a few more might have No Trespassing signs but for the most part these "private" streets are only "private" because the City has not (yet) made them public. Why they were not made public when they were developed had more to do with economics than any objective criteria. The latest examples are Wilder and Orinda Grove which comprise a total of 5 miles of our 30 miles of "private" streets. They are the best roads in Orinda; fully compliant with current standards. Not only do they not restrict access to the general public (no gates, signs, etc.), they are actually REQUIRED by the City to allow full public access. Why are they not just deemed public roads? Because the City does not want to pay for their maintenance but is more than happy to collect both the sales tax and the Measure J&L Bond taxes from the residents and property owners. For Wilder, since they are brand new and expensive, they are assessed at about 2.5x the average assessed value of Orinda homes so not only don't they use the public residential streets; and don't get their streets maintained; they pay 2.5 times what the average Orinda homeowner pays. On top of that, the City just passed a revised policy controlling how a private street can become public (Resolution 59-18 passed on September 4 by a 3-1 vote with only Gee opposing) which included two provisions: (1) "There shall be a demonstrated need for the incorporation of the road in question into the City's Public Roadway Network for purposes of traffic circulation which provides benefit to the general public." This would exclude all cul de sacs. 90% of all "private" streets (27 miles) are cul de sacs. There are also 27 miles of public streets which are cul de sacs which we are spending tens of millions of dollars to repair. Small cul de sacs define the very nature of Orinda. Wilder, is one big cul de sac, as is Orinda Grove. (2) "Private roads for which a homeowners' association or similar entity was established for subdivision street ownership/maintenance are NOT eligible for acceptance by the City." What was the purpose of

this other than to attempt to exclude even more roads? The City has not maintained 30 miles of roads so some roads banded together for the purpose of maintaining themselves, most notably a group of 22 streets maintained by the Roads of Hacienda Homes HOA. These are not only some of the oldest roads in Orinda, they include four of the nine through streets not already excluded by the “cul de sac” rule. The purpose of this Resolution was simply to maintain the two classes of streets in Orinda, public and “private”, so that 80% of the City’s streets can be maintained by 100% of the City’s residents; lowering the cost to the 80% receiving the services. Why did they pass this Resolution at this time? There was actually an existing resolution, 56-90, that said pretty much the same thing. But The Council wanted to reiterate and strengthen the exclusions. because they are soon going to have to figure out how to pay for the maintenance of the 64 miles of Residential Streets they have talked us into borrowing \$45 million to repair. They are not sure that they can talk us into what it will cost but they know it will be easier than talking us into what it will cost to maintain an additional 30 miles. And they don’t even want to know what that additional 30 miles will cost; they just know it will be more than zero. They don't want to risk that it may only cost slightly more than zero. So back to your question about the 80% being willing to invite the 20% to the party. Why would they? Maybe because more people in Orinda are more decent than the City Council thinks they are. Certainly more decent than last year’s Council which voted in Resolution 59-18 and the Staff that presented it to them. The facts are clear: 1) The \$45 million we have borrowed went to fix 64 miles of residential streets, excluding 30 miles the City has not (yet) deemed to be publicly maintained. 2) It is going to cost \$66 million to repay that loan. 3) Every homeowner (7,000 total) will pay a share of that. Some small percent (about 10%) will be paid by non-residential properties but at least some of that will come back as the cost of services so it is not unreasonable to divide the total by 7,000 (\$9,400 per household) which equates to \$470 per year per homeowner. 4) The CIOC claims it will cost \$2.5 million per year to maintain those 64 miles. We think this number may be too high but accepting it means we need to pay another \$360 per year per household to maintain the streets we have paid \$66 million to repair. That is a total of \$830 per year which all of us, on private and public properties, need to pay to repair and maintain the public residential streets. 5) We believe, based on what HOA’s and other private streets are paying, that a lightly used cul de sac can be maintained for about \$20,000 per mile per year. Thus all 30 miles of private streets can be maintained for about \$600,000 per year. This equates to \$86 per year if the cost is spread across all of Orinda. So “we” (the private street residents) are, or will be, paying \$830 a year to repair and maintain “your” (the public residential street residents) streets, and to support that we are asking “you” to add \$86 to the bill (it is also added to our bill) so “WE” can all support each other and act like a community with common interests and needs. How many people on public residential streets might agree to that? Would you? Do you think the City Council should put that question to the community or just continue to stonewall the issue and create exclusionary policies like Resolution 59-18? If you think the issue should be discussed; cost estimated developed; conditions agreed upon, go to www.OriindaRoadFacts.info and sign the letter of support requesting that the Council create a Task Force to work on the issue.

[Rich Bellows](#)

, Estates-23 Feb

Steve, thanks for your thoughtful reply. I had to study it for awhile, as you covered a lot of ground. I originally started my comments because it seemed what I was reading felt like partisan bickering, with the two sides divided by what would be personally best for them financially.

After reading and considering your points, I think you make a strong case for how to go forward with all residents on the same side of decent streets for us all. I would agree to your proposal in the second to last paragraph. At the very least, let's discuss it: I went to your link and signed the letter requesting the task force. Thanks again; I'm learning a lot as a new Orinda resident.

[Joel Libove](#)

, Diablo View · 23 Feb

Rich, Thanks very much! Indeed streets and drainage maintained by the City as a unified system could, if implemented well, ensure a far more robust system that will help reduce the risks of landslide and other damage to both public and private roads, and will likely economically benefit all residents, public and (hopefully formerly) private, in the long term. Anyway, it is certainly good for all to discuss paths forward together as a community.