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Orinda No-Gaters Prevail Knickerbocker-Stein Way gate to be a distant memory

By Laurie Snyder

"We are not a city of gates," said Orinda City Council Member Dean Orr prior to the council's decision to remove a long-simmering source of neighborhood animosity - an Emergency Vehicle Access (EVA) gate between Knickerbocker Lane and Stein Way. Allegedly vandalized over the years by anti-gate locals, the barrier became a glowing coal of frustration for staff each time pro-gaters requested repairs.

The most recent skirmish began with the Traffic Safety Advisory Committee, ended at a third hearing of the matter before the council and spawned-during the 14 months in between-lengthy analyses by dueling consultants, fire and police safety assessments, a California Environmental Quality Act evaluation, and the threat of a lawsuit by Keith D. Yandell, the pro-gaters' San Francisco-based attorney.

Terming the potential removal "unlawful and unjust" in letters to City Attorney Osa L. Wolff, Yandell stated that his clients had "paid hundreds of thousands of dollars in assessments to fully construct and service Stein Way." They "bought their homes and paid these assessments with the understanding that the EVA Gate would remain, and fear the increased traffic associated with removal ... will decrease their property values and endanger their children." Yandell accused the city of violating Proposition 218 and told Wolff they would sue, saying the city "induced residents to pay for the assessment with the understanding that it would fund the gate." Acknowledging opposing neighbors' public safety fears, Yandell proposed a compromise that could have required the city to expend additional funds to "replace the existing EVA Gate with a new type of traffic flow device that would limit 'normal' traffic, but wouldn't hinder or slow emergency vehicle access."

No-gater Michael Low called council concerns about legal action shortsighted, and warned that "allowing the threat of litigation to subvert the democratic process" would only encourage other disgruntled residents to sue over different matters. He also asserted that the council was given a mandate to take down the gate when Orinda voters chose to re-elect two of its sitting members in November.

Wolff advised that although defending a lawsuit based on the arguments raised by Yandell would be costly for the city, she believes that the city should ultimately prevail. "Assessment District 1-94, which was approved prior to the effective date of Proposition 218, is exempt from Proposition 218 because the proceeds are used exclusively to repay bonded indebtedness and because it funded certain specified improvements. Additionally ... there is no right to prevent improvements funded by assessments from being changed in the public interest. It is also relevant that the original, stated purpose for extending Stein Way and providing a gate was to provide emergency access, not to ensure Stein Way would forever remain a little-traveled, dead-end street akin to a cul-de-sac," stated Wolff.

In authorizing the gate's elimination on a 3-1 vote Feb. 5 - with Mayor Amy Worth out of town and Council Member Steve Glazer opposed-the council declared that the removal would not impact the environment, and said the de-gating promotes emergency access and roadway system efficiency consistent with the General Plan.

The estimated cost is \$1,200 and includes gate removal, signage, and road striping.

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