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## CIOC unanimously approves motion to form private road task force

By Sora O'Doherty

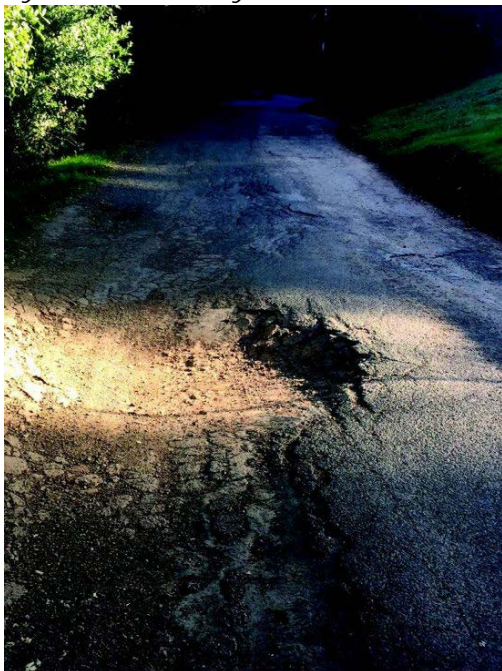


Photo Tod Fierner

The Orinda Citizen's Infrastructure Oversight Commission held a special meeting June 27 to consider whether or not there should be a task force to address the issue of private roads and, if so, what the composition of such a task force should be. The meeting was attended by Public Works Director Larry Theis and Paving Program Project Manager Farah Khorashadi. They opened the meeting by stating that, although the city council requested that the CIOC consider the formation of a task force, the CIOC didn't have to recommend that one be formed.

Theis expressed his concerns about the burden on the city of dealing with the maintenance of private roads. Staff feels that it is important that there be a "do nothing" alternative," he said. The costs for the task force could be very high, he pointed out, adding that the city attorney is very expensive. To properly evaluate a road's condition is also very expensive, he explained. The costs for repairs of any private roads could be very high, Theis added, and "liability is a huge concern." The possibility of sinkholes or trip and fall claims need to be weighed heavily, he concluded. His suggestion, however, did not gain traction with the commissioners.

Theis also suggested that the CIOC consider a pilot program to limit the scope of the task force. Through roads would provide the most public benefit, he said. A

bond would be very difficult from a voter perspective and Theis reiterated that "staff believes there is a huge concern here." In addition, he suggested that the task force, if formed, be fewer than nine members, perhaps three, five, or seven members. He thought it might be difficult to find a sufficient number of people to serve.

In the public forum portion of the meeting, the CIOC heard from a number of Orinda residents. Melissa Roeder said that the city has done a fantastic job on the public roads. "Private roads is a new idea," she said, and submitted a letter of support for forming the task force with nearly 400 signatures. Theis' suggestion of not forming the task force was in bad faith, Roeder said, and, in her opinion, it would not be hard to find nine members willing to serve.

Steven Cohn spoke in an impassioned manner to the commission. "The city council didn't ask you to consider if a task force should be formed," he argued, but asked how a task force should be formed and what it should do. He spoke of alternative ways to finance private road maintenance, including bond measures, real estate transfer taxes, or additional sales taxes. "It's nuts to say it is too expensive to even look at the private streets," he said, adding that many of the private streets, such as Wilder, Orinda Woods, and Orinda Downs are in good shape and don't need much more than maintenance.

Several points were agreed upon by the commissioners during their discussion. While a larger task force was desirable, allowing members with specific expertise, they agreed it might be a problem recruiting nine members. Seven members would be an acceptable alternative, if nine could not be obtained. The suggestion that the task force complete its work in nine months was questioned, and it was decided that nine months should be the goal for completing the mission of the task force, but it could be extended if necessary. It was also agreed that although the meetings of the task force should be publicly noticed and must comply with certain legal requirements, such as the Brown Act, the task force should try for less formal meetings, and staff would not be required to attend except for "as needed." One of the most significant and new recommendations is that the city council fund a professional facilitator, which it was estimated might cost \$5,000 per meeting.

The complex discussion was then translated into the language of a motion, which passed unanimously and was to be presented to the city council at its July 10 meeting. The CIOC recommends that the Private Road Task Force shall consist of up to nine members: three property owners on public roads; three property owners on private roads; two CIOC members; and one member of the city council. Alternatively if a smaller group of seven members is desired, that composition would include only two private and public road property owners.

It was recommended that the Private Road Task Force should meet a minimum of once a month at a publicly noticed meeting, including at least one public outreach or workshop-style meeting shortly after its formation.

The CIOC made a number of additional recommendations regarding what the task force should consider in developing its charter and scope of work, including identification of legal ramifications and the precedence regarding the potential use of public funds to maintain private roads and consideration of the additional liability (financially and legally) of accepting private roads into the public road maintenance system. The CIOC concluded that the task force should also reevaluate the city's current private road acceptance policy and identify financing alternatives, including developing alternative processes for converting private roads to public roads, identifying financing requirements including cost sharing for accepting private roads, and considering financing alternatives to facilitate private road maintenance by the owners of those roads.

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