



Published September 19th, 2018

## Orinda amends private street policy - residents unhappy; Gee votes no

By Sora O'Doherty

The city council adopted a revised policy on accepting private streets on Sept. 4, with Council Member Darlene Gee casting the only negative vote and Council Member Eve Phillips recusing herself as a new homeowner on a private street. Many private street residents spoke at the meeting in opposition to the revised policy and of 34 written submissions, only two supported the revised policy. Director of Public Works Larry Theis and City Manager Steve Salomon recommended the revised policy, which requires, among other things, that the street "be required for traffic circulation which provides benefit to the general public." This would appear to rule out cul-de-sacs, and public speakers questioned how the city could justify its existing 82 public cul-de-sacs but refuse to consider adding any private ones. The policy also requires streets to be brought up to current standards, which in some cases may be impossible and in other cases might be prohibitively expensive.

Vice Mayor Inga Miller returned repeatedly to the concept of "public benefit," suggesting that without it, adopting any private streets would constitute a gift of public funds, but did not address the apparent contradiction in treatment of existing public and private cul-de-sacs. City council members pointed out that private street residents benefitted from the maintenance of public streets, but did not address the fact that while private street residents pay taxes equal to public street residents, including new fees that cover damage garbage trucks do to public roads, residents of public streets enjoy maintenance of their streets and do not bear any liability for events such as sinkholes, while private street residents enjoy no such maintenance and bear full liability.

Theis and Salomon have been promoting the idea of special benefit assessment areas, and provisions for them have been included in the revised policy. This would require 60 percent of property owners on a private street to put up \$1,000 each to have a vote on a special benefit assessment area. If approved by over 50 percent of residents, they would pay additional taxes over a period of from 10 to 30 years to cover the cost of bringing the street up to current standards, and in return the city would accept the street, maintain it and assume the liability for it, if it met all the other criteria in the policy. If the special benefit assessment area is approved, the \$1,000 deposits would be returned to the property owners, but if the special benefit area were not approved, the city would retain the deposits to cover its costs for the public hearings and election on the issue. If adopted, the costs would include an initial engineering study to determine the condition of a road, including any underlying structures such as drains or culverts, and what would be required to bring it up to current standards. Residents objected that the costs of both the study and the actual work have been overestimated by the city.

City staff argue that most cities have both public and private streets, and that residents who live on private streets knowingly accepted all the consequences of that designation when they purchased their homes. Private streets in Orinda fall into different categories. Some, as in more recent developments, were designed to be private and were not offered to the city. Others, mostly in older developments, were offered to the city when the development was completed, but, for whatever reason, the city declined to accept the street. Some of these developments were completed long ago, before the incorporation of the city in 1985. At that time, standards for roads might have been much less stringent, according to Orinda Senior Civil Engineer Jason Chen. However, Valerie Colber, an Orinda resident and property owner for more than 60 years, said that deeds do not state that the street is private. "Most taxpayers never requested that their streets be private," she claimed.

Gee said that while she appreciated staff coming back to the council with the revised policy, it was not what she had expected and she disagreed with the resolution proposed by staff and did not support it. She pointed out that city maintenance and drainage plans for the public streets are not complete. "The community has pulled together," she said, "and the avenues of raising funds are limited while there are no viable resources." Thus the council will probably have to ask the voters to approve additional funds to complete the work on the public roads. Gee pointed out that some 1,500 households of voters in Orinda live on private roads, implying that this could affect the passage of future road measures. Gee supports the formation of a task force to examine potential solutions to the private streets issue, which has been rejected by the council. "I have never found it beneficial," she concluded, "to not listen to people."

Mayor Amy Worth said that she had discussed the matter with Bobbie Landers, who was mayor of Orinda at the time it was incorporated. Most cities have public and private roads, she said, and most cities do not have a policy on accepting private roads. "We would love to be able to accept all of the private streets," she said, but concluded that the city's very small budget made her mindful of taking on any public liability. Several revisions to the revised policy were considered by the council. In the end, they added language that allows the city council to approve exceptions, on a case by case basis, to the rule that excluded private roads subject to homeowners' associations or similar entities from acceptance as public streets.

Reach the reporter at: [sora@lamorindaweekly.com](mailto:sora@lamorindaweekly.com)

[back](#)

Copyright © Lamorinda Weekly, Moraga CA