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## Behind closed doors, Orinda considers fate of 53 Rheem easement

By Sora O'Doherty

The problem of the easement located at 53 Rheem was considered by the city council in closed session Dec. 18. New Mayor Inga Miller reported that the council remains committed to having the trail reopened and had given directions to staff. She added that the matter would return to the city council, but was unable to give further details of the council's closed door session.

Prior to the council adjourning to the closed session, several residents appealed to the council to take action to reopen the trail across the property, which is said to have for decades allowed local residents to walk their children to Glorietta Elementary School, or just to meet friends. Property owners Kent and Dawnell DeSpain installed a locked gate, closing the trail earlier this year.

Allison and John Banisadr, who used to live on Parkway Court, both attended the meeting to speak and submitted written comments. The Banisadrs said that they had attended the 2016 planning commission meeting to voice concern about the trail remaining open, and did not object to the DeSpains' plans because they relied upon their public promise to keep the trail open. Having built their home, the DeSpains placed a locked gate connecting to their neighbors' fence, effectively preventing any access across their land to Parkway Court. The Banisadrs and other commenters said that the current situation is not fair and urged the council to take immediate action.

Before the meeting, Associate Planner Adam Foster had alerted interested residents that the matter would be considered in closed session and invited them to speak before the session began. He has been keeping interested residents apprised of developments regarding the trail, including copies of correspondence from the DeSpains' attorney, Nathan Scheg of the Ironhorse Law Group.

Scheg told city attorney Osa Wolff that the DeSpains relied upon the findings of a survey that, he said, "conclusively determines that the purported 'trail easement' does not correspond with the previously existing (and now permanently closed) path through the DeSpain's private property." Further, he continued, "the rejected trail easement crosses unimproved land that would be treacherous for pedestrian access and use." Scheg warned that any attempt by the city to remove the DeSpain's gate would be "unlawful and prosecuted accordingly."

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