

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

MINUTES CENTRAL FLORIDA EXPRESSWAY AUTHORITY Right of Way Committee Meeting May 22, 2019

Location: CFX Headquarters Boardroom
4974 ORL Tower Road
Orlando, Florida 32807

Committee Members Present:

Jean Jreij, Seminole County, Committee Chairman
Laurie Botts, City of Orlando Representative
Bob Babcock, Orange County Alternative Representative
Todd Hudson, Osceola County Representative
Brian Sheahan, Lake County Representative
John Denninghoff, Brevard County Representative
Christopher Murvin, Citizen Representative

CFX Staff Present at Dais:

Joseph L. Passiatore, General Counsel
Laura Kelley, Executive Director
Linda S. Brehmer Lanosa, Deputy General Counsel
Mala Iley, Recording Secretary

Item 1: CALL TO ORDER

The meeting was called to order at 2:00 p.m. by Chairman Jreij.

Item 2: PUBLIC COMMENT

Chairman Jerji next recognized Mr. Joseph Byrd, City Attorney, and Ms. Pam Richmond from City of Apopka. Mr. Joseph Byrd and Ms. Pam Richmond submitted public comment cards on items 4 and 5. Public comment was delayed and addressed during items 4 and 5.

Item 3: APPROVAL OF MINUTES

A motion was made by Mr. Babcock and seconded by Mr. Hudson to approve the May 22, 2019 Right of Way Committee meeting minutes as presented.

Vote: The motion carried unanimously with seven (7) members present and voting AYE by voice vote.

**Item 4: S.R. 429, WEKIVA PARKWAY PROJECTS 429-202 AND 429-203
RIGHT-OF-WAY TRANSFER OF PORTIONS OF KELLY PARK ROAD, YOTHERS ROAD AND
JOSHUA RIDGE LANE WITH THE CITY OF APOPKA**

Ms. Brehmer Lanosa is requesting the Committee's recommendation for Board approval of a Right of Way Transfer and Continuing Maintenance Agreement between CFX and the City of Apopka ("the City"). Per the agreement, CFX will transfer portions of Kelly Park Road, Yothers Road, and Joshua Ridge Lane to the City, subject to an easement for Expressway Facilities over Kelly Park Road. In return, other portions of Yothers Road will be transferred to CFX.

The City would assume responsibility both now and in the future for maintenance and liability for Kelly Park Road, two Ponds, Yothers Road and Joshua Ridge Lane. The conveyance will be by Quit Claim Deeds for an "as is" conveyance. CFX will reserve limited access rights. The Deeds will include a reverter clause in case the property is not used for public right of way purposes. CFX will receive an easement for the CFX bridge over Kelley Park Road.

Mr. Byrd, City Attorney, has reviewed the Agreement and has no objection. Mr. Bass, City Administrator, and Ms. Richmond, City Planner, were present.

Discussion ensued.

A motion was made by Mr. Hudson and seconded by Mr. Babcock to recommend to the Board approval of a Right-of-Way Transfer and Continuing Maintenance Agreement between CFX and City of Apopka in a form substantially similar to the Agreement in the back-up, subject to confirmation of the legal description, deeds, maintenance functions, and maintenance responsibilities by CFX's General Engineering Consultant and General Counsel or designee.

Vote: The motion carried unanimously with seven (7) members present and voting AYE by voice vote.

**Items 5: S.R. 429, WEKIVA PARKWAY PROJECTS 429-201 AND 429-202
CITY OF APOPKA'S REQUEST FOR ROAD RIGHT-OF-WAY AND PROPERTY NEEDED TO
IMPLEMENT ITS WESTERN GATEWAY TRANSPORTATION MASTER PLAN IMPROVEMENT**

The City of Apopka ("the City") has made an application to CFX to purchase two pieces of property. One parcel is just north of Connector Road and the other parcel is CFX's 1/8th fractional interest in Southfork Drive. The City has a Transportation Master Plan that needs the first parcel for the City's transportation network. The City stated that the parcel was essential to its network.

As consideration, the City will accept the future and ongoing maintenance responsibilities for Connector Road and Southfork Drive via CFX's standard jurisdictional transfer and maintenance agreement. The City will pay

fair market value for both parcels and, as further consideration, the City will agree to only use the property for public right-of-way purposes subject to a reverter clause.

Ms. Brehmer Lanosa is requesting direction from the Committee to proceed with the review and analysis of Apopka's request.

Mr. Sheahan asked if this would come back to the ROW Committee for final approval and Ms. Brehmer Lanosa answered in the affirmative.

Ms. Botts asked if the City would do the appraisal report. Ms. Lanosa stated that the City would pay for the appraisal report and the appraiser would work for CFX, which is CFX's standard process.

Ms. Botts noted that the property had an irregular shape and asked for information about the use of the property. Ms. Lanosa deferred to Ms. Richmond. Ms. Richmond advised that the parcel is needed primarily for the connection between Connector Road and Fudge Road. The City would like to use the property for a gateway feature, such as a water feature, or stormwater ponds. The property will always be in the possession of the City and it will not be used for development in the area.

Ms. Botts recommended that the restrictive covenant not be too restrictive.

A motion was made by Mr. Sheahan and seconded by Ms. Botts to recommend to the Board approval of a directive to staff to proceed with the review and analysis of Apopka's request to purchase property adjacent to Connector Road and CFX's fractional interest in Southfork Drive to be used for public road right-of-way purposes, and the preparation of CFX's standard real estate agreement to sell surplus property, resolutions, jurisdictional transfer and ongoing maintenance agreement as to Connector Road, and other documents.

Vote: The motion carried unanimously with seven (7) members present and voting AYE by voice vote.

**Items 6: S.R. 429, WEKIVA PARKWAY PROJECT 429-202, PARCEL 800 (PARTS A AND B)
FRACTIONAL OWNER: ITAY S. GUY**

Ms. Brehmer Lanosa is seeking the Committee's recommendation for Board approval of an all-inclusive settlement with Itay S. Guy ("Owner" or "Mr. Guy").

Ms. Brehmer Lanosa provided a brief history of the parcel. The Wekiva Parkway also known as S.R. 429 goes over Southfork Drive and required a bridge easement and a utility easement referred to as Parcel 800, Part A and B, consisting of 0.400 acres and 0.081 acres, respectively.

Southfork Drive is a platted right of way. Mr. Guy owns a 1/8 fractional interest in Southfork Drive as a tenant in common. Mr. Guy also owns 4.43-acre residential lot on Southfork Drive improved with a home, a two-car garage, a utility building, and a nine-stall barn.

CFX appraised its easements at \$13,200. Mr. Guy's 1/8 interest has a value of \$1,650.

In contrast, Ms. Zeigler, the Owner's attorney, who is present here today, claimed severance damages in the amount of twenty percent (20%) based upon the argument that the parent tract should be expanded to include Mr. Guy's home on Southfork Drive ("Residential Lot"). Mr. Guy's Residential Lot as improved was valued at \$620,000, resulting in severance damages of \$120,000. In addition, Ms. Ziegler retained experts to prepare an appraisal report and to do engineering studies, incurring expert fees in the amount of \$21,019. Statutory attorney's fees based upon the Owner's theory of the case is \$39,000. The total initial demand from Mr. Guy was \$180,872.

CFX filed a motion for summary judgment and argued that the Owner's definition of the parent tract was incorrect and did not satisfy the unity of ownership test. The trial court agreed and entered an Order Granting CFX's Motion for Summary Judgment. The Owner's attorney indicated that she would move forward with a motion for rehearing and then appeal.

After lengthy discussions, the parties reached a proposed all-inclusive settlement for the sum of Twenty-Eight Thousand Two Hundred Dollars (\$28,200), including statutory interest and all claims related to real estate and business damages, severance damages, tort damages, attorney's fees and litigation costs, expert witness fees, costs, apportionment claims, or other supplemental proceedings. In addition, the Owner agreed to assign to CFX any claim he may have to the previously deposited good faith estimate of value and agreed to waive any apportionment claim that he may have or will have. The Owner also agreed to be fully responsible for any apportionment claim from his ex-wife. Last, the Owner agreed to release all claims against CFX arising from the taking of Parcel 800 (Parts A and B), or any other claims related to or arising from the construction of State Road 429 Project or the Wekiva Parkway Project.

Discussion ensued.

A motion was made by Mr. Sheahan and seconded by Mr. Hudson to recommend to the Board to approve an all-inclusive settlement with Itay S. Guy in the amount of Twenty-Eight Thousand Two Dollars (28,200), as more particularly described in the Settlement Agreement.

Item 7: OTHER BUSINESS

Mr. Jreij advised the Committee that next Right of Way Committee Meeting would be Wednesday, June 26, 2019.

Item 8: ADJOURNMENT

Chairman Jreij adjourned the meeting at approximately 2:20 p.m.

Minutes approved on 08/28/2019.

Pursuant to the Florida Public Records Law and Central Florida Expressway Authority Records and Information Management Program Policy, audio tapes of all Board and applicable Committee meetings are maintained and available upon request to the Custodian of Public Records at (407) 690-5326, publicrecords@CFXWay.com or 4974 ORL Tower Road, Orlando, Florida 32807.