

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

MINUTES CENTRAL FLORIDA EXPRESSWAY AUTHORITY Right of Way Committee Meeting October 23, 2019

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

Committee Members Present:

Christopher Murvin, Citizen Representative, Committee Chairman
Neil Newton, Seminole County, Alternative
Laurie Botts, City of Orlando Representative
Bob Babcock, Orange County Alternative Representative
Todd Hudson, Osceola County Representative
John Denninghoff, Brevard County Representative

Committee Members Not Present:

Brian Sheahan, Lake County Representative

CFX Staff Present at Dais:

Glenn Pressimone, Chief of Infrastructure
Diego "Woody" Rodriguez, General Counsel
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 Christopher Murvin.

Item 2: PUBLIC COMMENT

Chairman Murvin welcomed Mayor Nelson, Pamela Richmond, and Rob Hipler from the City of Apopka.

Chairman Murvin recognized Mr. Chris Wilson, attorney for the Greater Orlando Aviation Authority.

There were no Public Comment Cards.

Item 3: APPROVAL OF MINUTES

A motion was made by Ms. Botts and seconded by Mr. Denninghoff to approve the August 28, 2019 Right of Way Committee meeting minutes as presented.

Vote: The motion carried unanimously with six (6) members present and voting AYE by voice vote.

Item 4: RIGHT-OF-WAY TRANSFER AND CONTINUING MAINTENANCE AGREEMENT

PROJECT: 429-201 & 429-202

PARCEL: CONNECTOR ROAD

Mr. Diego "Woody" Rodriguez is requesting the Committee's recommendation for Board approval of a Right-of-Way Transfer and Continuing Maintenance Agreement with the City of Apopka pertaining to Connector Road and SR 429.

Section 335.0415, Florida Statutes, allows public roads to be transferred by mutual agreement of the affected governmental entities. CFX's General Consulting Engineer agrees with the proposed transfer of Connector Road to the City of Apopka. A proposed right-of-way transfer and continuing maintenance agreement is attached for consideration by the ROW Committee. The agreement results in cost and liability savings for CFX.

A motion was made by Mr. Babcock and seconded by Mr. Hudson to recommend to the Board approval of a Right-of-Way Transfer and Continuing Maintenance Agreement between Central Florida Expressway Authority and City of Apopka in a form substantially similar to the attached agreement, subject to approval of the legal descriptions, deeds, maintenance functions, and maintenance responsibilities by CFX's General Engineering Consultant and General Counsel of their designees.

Vote: The motion carried unanimously with six (6) members present and voting AYE by voice vote.

Items 5: DECLARATION OF SURPLUS PROPERTY AND CITY OF APOPKA'S REQUEST TO PURCHASE THE CONNECTOR ROAD PARCEL

PROJECT: 429-201 & 429-202

PARCEL: CFX'S INTEREST IN THE CONNECTOR ROAD PARCEL

LOCATION: NORTH OF U.S. 441 AND NORTH OF CONNECTOR ROAD

Mr. Rodriguez is requesting the Committee's recommendation for Board approval of two resolutions. The first resolution is to declare CFX's interest in Parcel 106 Part B as surplus property. If the Committee recommends approval of the first resolution, then the Committee should consider the second resolution authorizing the sale of Parcel 106 Part B to the City of Apopka for public road right of way purposes and related public purposes for fair market value plus associated costs.

The City of Apopka made a request to acquire a 2.287-acre, triangular-shaped parcel located north of Connector Road for public right-of-way and other related public purposes as shown by the letter from Mayor Nelson, dated April 12, 2019, in the backup. Apopka has agreed to pay fair market value. An appraisal was obtained which valued the 2.287-acre parcel at \$299,000 or about \$130,700 per acre.

CFX acquired the entire 21-acre parcel by eminent domain in August 2005 for \$272,600 per acre. Key factors impacting the value of the parcel include the shape of the parcel and a reverter clause that limits the use of the parcel by the City for public purposes.

The Committee must first determine if the parcel can and should be declared surplus through the adoption of a resolution. A draft letter from CFX's General Consulting Engineer indicates that the parcel is no longer essential for the current or future operation of the CFX system and may be declared as surplus property.

Upon a showing that the parcel can and should be declared surplus property, the parcel may be sold to the City through the adoption of a Resolution, a copy of which is in the backup. Exhibit B to the Resolution Authorizing the Sale is a proposed real estate agreement for the sale of the Connector Road Parcel to the City of Apopka for the appraised value of \$299,000 plus associated costs.

Discussed ensued.

A motion was made by Ms. Botts and seconded by Mr. Newton to recommend to the Board approval of a resolution declaring CFX's Interest in Parcel 106 Part B as surplus.

Vote: The motion carried unanimously with six (6) members present and voting AYE by voice vote.

A second motion was made by Mr. Babcock and seconded by Mr. Hudson to recommend to the Board approval of a resolution authorizing the sale of Parcel 106 Part B to the City of Apopka for public road right of way purposes and related public purposes for fair market value plus associated costs as described in the Real Estate Sale and Purchase Agreement.

Vote: The motion carried unanimously with six (6) members present and voting AYE by voice vote.

**Item 6: DECLARATION OF SURPLUS PROPERTY AND CITY OF APOPKA'S REQUEST TO PURCHASE SOUTHFORK DRIVE
PROJECT: 429-201 & 429-202
PARCEL: CFX'S FRACTIONAL INTEREST IN SOUTHFORK DRIVE
LOCATION: NORTH OF U.S. 441 RUNNING PERPENDICULAR TO SR 429**

Mr. Rodriguez is requesting the Committee's recommendation for Board approval of two resolutions. The first resolution is to declare CFX's interest in CFX's fractional interest in Southfork Drive as surplus property. If the Committee recommends approval of the first resolution, then the Committee should consider the second resolution authorizing the sale of CFX's interest in Southfork Drive for public road right of way purposes for fair market value plus associated costs.

The City of Apopka made a request to acquire CFX's 1/8 fractional interest in Southfork Drive by letter from Mayor Nelson, dated April 12, 2019. CFX acquired a fractional interest in Southfork Drive as part of the

Wekiva Parkway Project. The City of Apopka has agreed to pay fair market value. An appraisal was obtained which valued CFX's fractional interest in the 1.969-acre parcel known as Southfork Drive at \$41,600.

The ROW Committee must first determine if the parcel can and should be declared surplus through the adoption of a Resolution. A draft letter from CFX's General Consulting Engineer indicates that the disposition of the interest is appropriate if certain easement interests are reserved.

Upon a showing that the parcel can and should be declared surplus property, the parcel may be sold to the City through the adoption of a Resolution, a copy of which is in the backup. Attached as Exhibit B to the Resolution Authorizing the Sale is a proposed real estate agreement for the sale of CFX's fractional interest in Southfork Drive to the City of Apopka for the appraised value of \$41,600 plus associated costs. Included with the real estate agreement is an Easement Agreement over Southfork Drive.

Discussed ensued.

A motion was made by Mr. Newton and seconded by Ms. Botts to recommend to the Board approval of a resolution declaring CFX's interest in Southfork Drive as Surplus Property.

Vote: The motion carried unanimously with six (6) members present and voting AYE by voice vote.

A second motion was made by Mr. Hudson and seconded by Mr. Babcock to recommend Board approval of a Resolution authorizing the sale of CFX's interest in Southfork Drive to the City of Apopka for public road right of way purposes for fair market value plus associated costs as further described in the Real Estate Agreement to Sell and Purchase the Southfork Drive Parcel.

Vote: The motion carried unanimously with six (6) members present and voting AYE by voice vote.

**Item 7: DECLARATION OF SURPLUS PROPERTY AND CITY OF APOPKA'S REQUEST FOR A
GROUND LICENSE FOR A PUBLIC SAFETY RADIO COMMUNICATIONS TOWER
PROJECT: 429-205
PARCEL: 291 PARTIAL
LOCATION: 6578 MT. PLYMOUTH ROAD, APOPKA, FLORIDA**

Mr. Rodriguez is requesting the Committee's recommendation for Board approval of two resolutions. The first resolution is to declare CFX's interest in Parcel 291 Partial as surplus property. If the Committee recommends approval of the first resolution, then the Committee should consider the second resolution authorizing a ground license on Parcel 291 Partial for a public safety radio communications tower.

CFX received a letter from Edward Bass, City Administrator with the City of Apopka, dated October 15, 2019, requesting a Ground License Agreement between CFX and the City of Apopka for a public radio communications tower to be placed on a small portion of Parcel 291 at the southwest corner of SR 429 and

CR 435 a/k/a Mt. Plymouth Road. The proposed tower would be a 300-foot tall, public safety radio communications tower owned by the City. In exchange for the right to place the cell tower on Parcel 291 Partial, Apopka has agreed to pay CFX 50% of any revenues generated from any third-party carriers, to preserve the native vegetation, and to assume full liability and responsibility for any maintenance and management of the site.

CFX also received a letter from Leslie Campione, Chairman, Lake County Board of County Commissioners, requesting permission to locate its communications equipment on the proposed tower. Mr. Rodriguez provided copies of the letter to each Committee member, a copy of which is attached as **Exhibit A**.

CFX acquired Parcel 291, which consisted of 143 acres of a larger parent tract, through a negotiated agreement under the threat of condemnation for a price of \$50,000 per acre in December 2012.

The Committee must first determine if the parcel can and should be declared surplus through the adoption of a resolution. A draft letter from CFX's General Consulting Engineer indicates that the area described is no longer essential for the current or future operation of the CFX system.

Upon a showing that the parcel can and should be declared surplus property, the property can be licensed to the City through the adoption of a Resolution, a copy of which is in the backup. Attached as Exhibit B to the Resolution Authorizing a Ground License is the proposed ground license agreement which would be for a term of 10 years with the ability to renew for 10 successive one-year terms for a potential total of 20 years.

A copy of the proposed agreement has been provided for the ROW Committee's review and consideration.

In response to a question from Chairman Murvin, Mayor Nelson confirmed that the primary function of the tower will provide for public safety communications. He stated that there is a gap in coverage in that area and Apopka and Lake County partnered to address CFX together.

Ms. Botts would like to add that in the event the City is unable to or does not need to build the tower in one year, that the license terminates. The agreement should not remain open for twenty years if the tower is not built.

Mayor Nelson responded and said that Apopka will start construction as soon as it gets the permits, but it needs to get approval from the FAA. Apopka will pull the permits immediately. Apopka paid \$3 million for the tower and it is in a box. Mayor Nelson expressed some reservations about the one-year time constraint.

Ms. Botts suggested a year and a half.

Mayor Nelson said that 18 months gives him a little more comfort. When you deal with the federal government, the process could take some time. Mayor Nelson would like to add a caveat that the time frame can be extended if Apopka is making progress.

Mr. Rodriguez said that there is a termination provision with one year's notice. State that the tower must be built in 18 months, but the time frame can be extended by written agreement approved by both parties.

In response to a question from Chairman Murvin, Mayor Nelson said that it would take eight (8) months to construct after receipt of permits. Motorola has given an 8-month build time.

Discussed ensued.

A motion was made by Mr. Hudson and seconded by Mr. Denninghoff to recommend to the Board approval of a Resolution declaring Parcel 291 Partial as Surplus Property.

Vote: The motion carried unanimously with six (6) members present and voting AYE by voice vote.

A second motion was made by Ms. Botts and seconded by Mr. Babcock to recommend to the Board approval of a Resolution authorizing a ground license with the City of Apopka for a public safety communication tower in return for half of the gross rent received, for a term of ten (10) years with ten successive one (1) year renewals, as more particularly described in the attached Resolution and the Ground License Agreement.

Vote: The motion carried unanimously with six (6) members present and voting AYE by voice vote.

Item 8: OTHER BUSINESS

Mr. Murvin advised the Committee that next Right of Way Committee Meeting would be Wednesday, November 20, 2019.

Item 9: ADJOURNMENT

Chairman Murvin adjourned the meeting at approximately 2:43 p.m.

Minutes approved on 11/20/2019.

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.