

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

MINUTES CENTRAL FLORIDA EXPRESSWAY AUTHORITY Right of Way Committee August 25, 2021

Committee Members Present:

Steven Kane, Osceola County Representative Committee Chairman
Laurie Botts, City of Orlando Representative
Mindy Cummings, Orange County Representative
John Denninghoff, Brevard County Representative
Neil Newton, Seminole County, Representative, Alternative
Christopher Murvin, Citizen Representative
Brian Sheahan, Lake County Representative

CFX Staff Present:

Laura Kelley, Executive Director
Diego "Woody" Rodriguez, General Counsel
Glenn Pressimone, Chief of Infrastructure
Laura Newlin Kelly, Associate General Counsel
Mala Iley, Recording Secretary

Item A: CALL TO ORDER

The meeting was called to order at 2:00 p.m. by Chairman Kane. Recording Secretary Mala Iley called the roll and announced there was a quorum. Chairman Kane provided the Committee with a brief introduction of himself.

Item B: PUBLIC COMMENT

Pamela Richmond from the City of Apopka advised that she is only here for Item D.1 and D.2 should the Committee have any questions.

There was no other public comment.

Item C: APPROVAL OF APRIL 28, 2021 RIGHT OF WAY COMMITTEE MEETING MINUTES

A motion was made by Laurie Botts and seconded by John Denninghoff to approve the April 28, 2021

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

Item D.1.: PARTIAL RELEASE AND REESTABLISHMENT OF RESTRICTION AND PARTIAL RELEASE OF EASEMENT AND MAINTENANCE AGREEMENT BETWEEN THE CITY OF APOPKA AND THE CENTRAL FLORIDA EXPRESSWAY AUTHORITY (HARMON ROAD)
PROJECT NUMBERS: 429-200 AND 429-604
PORTIONS OF PARCELS: 63-117 POND AND 63-125 POND

Associate General Counsel Laura Kelly requested the Committee's recommendation for Board approval of a Partial Release and Reestablishment of Restriction and Partial Release of Easement and Maintenance Agreement between the Central Florida Expressway Authority ("CFX") and the City of Apopka ("City").

Attorney Kelly provided the Committee with a brief history of the project. Attorney Kelly advised that the City desires to convey certain real property, including portions of the real property previously transferred to the City, to Adventist Health for the development, construction, use, and maintenance of the property as a not-for-profit hospital. Another portion of the real property previously transferred to the City will be used by the City for the development, construction, use and maintenance of a fire station. Since the property is subject to a deed restriction for public right-of-way, the deed restriction will need to be released to permit these uses.

CFX and the City have negotiated the terms of a Partial Release and Reestablishment of Restriction and Partial Release of Easement and Maintenance Agreement to effectuate the release of the deed restriction and easement agreement over the previously transferred property. Only that portion of the previously transferred property that will be conveyed to Adventist Health will be released from the terms of the easement agreement.

A motion was made by Mindy Cummings and seconded by Neil Newton to recommend to the Board approval of a Partial Release and Reestablishment of Restriction and Partial Release of Easement and Maintenance between CFX and the City in a form substantially similar to the agreement attached to the Right of Way Committee agenda package, subject to any minor or clerical modifications or revisions approved by the General Counsel or designee.

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

Item D.2.: RIGHT-OF-WAY TRANSFER AND CONTINUING MAINTENANCE AGREEMENT BETWEEN THE CENTRAL FLORIDA EXPRESSWAY AUTHORITY AND CITY OF APOPKA, FLORIDA (HARMON ROAD) PROJECT NUMBERS: 429-200 AND 429-604 PORTION OF PARCEL: 63-117 AND 63-118

Associate General Counsel Laura Kelly requested the Committee's recommendation for Board approval of a Resolution Declaring Property as Surplus Available for Sale, Authorizing the Transfer of Surplus Property with the City and Release and Reestablishment of Limited Access Lines and the Approval of the Right of Way Transfer and Continuing Maintenance Agreement between CFX and the City.

Attorney Kelly provided the Committee with a brief history of the project. Attorney Kelly advised that the City is currently designing and intends to construct improvements to Harmon Road and has requested CFX dedicate a portion of Parcel 63-118 to the CFX in order to complete the improvements.

CFX and the City desire to enter into a Right-of-Way Transfer and Continuing Maintenance Agreement to effectuate the transfer of ownership interest which is necessary for the improvements to Harmon Road. The proposed agreement will further be memorialized and reiterate the maintenance obligation of CFX and the City regarding local infrastructure and expressway system infrastructure.

A motion was made by Mindy Cummings and seconded by Laurie Botts to recommend to the Board approval of a Resolution Declaring Property as Surplus Available for Sale, Authorizing the Transfer of Surplus Property with the City and Release and Reestablishment of Limited Access Lines and the Approval of the Right of Way Transfer and Continuing Maintenance Agreement CFX and the City in a form substantially similar to the agreement attached to the Right of Way Committee agenda package, subject to any minor or clerical modifications or revisions approved by the General Counsel or designee

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

Item D.3.: RIGHT-OF-WAY TRANSFER AND CONTINUING MAINTENANCE AGREEMENT BETWEEN THE CENTRAL FLORIDA EXPRESSWAY AUTHORITY AND ORANGE COUNTY, FLORIDA (WEKIVA PARKWAY) PROJECT NUMBERS: 429-202, 429-203, 429-204, 429-205 PORTIONS OF PARCELS: 132 PART C, 134 PART C, 156 PARTIAL, 157 PARTIAL, 158 PARTIAL, 169 PART B, 869, 170, 185 PART B, 186 PART B, 188 PART B, 207 PARTIAL, 228, 229, 230, 233, 250 PART B, 252 PART B, 258 PARTIAL, 259 PARTIAL, 260 PARTIAL, 261 PARTIAL, 262 PARTIAL, 264 PARTIAL, 265 PARTIAL, 266 PARTIAL, 275 PARTIAL, AND 291 PARTIAL

Associate General Counsel Laura Kelly requested the Committee's recommendation for Board approval of a Resolution Declaring Property as Surplus Property Available for Sale, Authorizing the Transfer of Surplus Property with Orange County and Release and Reestablishment of Limited Access Lines and the Approval of the Right of Way Transfer and Continuing Maintenance Agreement between CFX and Orange County ("County").

Attorney Kelly provided a brief history on the parcels. Attorney Kelly advised that in order to ensure all local road right-of-way and associated facilities are owned by the County and all right-of-way and associated facilities operated as a part of the expressway system are owned and maintained by CFX, CFX and the County desire to enter into the proposed Right-of-Way Transfer and Continuing Maintenance Agreement to effectuate the transfer to certain ownership interests.

A portion of the parcels being transferred to the County by CFX are encumbered with limited access lines held by CFX running along the boundaries of the parcels. With the transfer of the parcels to the County, it is in the best interest of CFX to relocate and reestablish the location of the existing limited access to align with the boundary lines of the parcels.

Discussion ensued. Committee Member Neil Newton asked Staff if CFX conveys fee simple interest and easement rights in the same way as Seminole County does. Glenn Pressimone, Chief of Infrastructure advised that CFX does not approach projects in the same manner.

A motion was made by Brian Sheahan and seconded by John Denninghoff to recommend to the Board approval of Resolution Declaring Property as Surplus Property Available for Sale, Authorizing the Transfer of Surplus Property with Orange County and Release and Reestablishment of Limited Access Lines and the Approval of the Right of Way Transfer and Continuing Maintenance Agreement between CFX and the County in a form substantially similar to the agreement attached to the Right of Way Committee agenda package, subject to any minor or clerical modifications or revisions approved by the General Counsel or designee

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

Item D.4.: RIGHT-OF-WAY TRANSFER AND CONTINUING MAINTENANCE AGREEMENT BETWEEN THE CENTRAL FLORIDA EXPRESSWAY AUTHORITY AND ORANGE COUNTY, FLORIDA (CLARCONA-OCOEE ROAD/WEST ROAD)

PROJECT NUMBERS: 429-603

PARCELS: 62-100, 62-150, PART A AND B, 62-161 PARTIAL 2, 62-171 PART A, 62-172 PART B, 62-174 PART A AND B, 62-175, 62-176

Associate General Counsel Laura Kelly requested the Committee's recommendation for Board approval of a Resolution Declaring Property as Surplus Property Available for Sale, Authorizing the Transfer of Surplus Property with Orange County, and Release and Reestablishment of Limited Access Lines and the Approval of the Right of Way Transfer and Continuing Maintenance Agreement between CFX and the County.

Attorney Kelly provided the Committee with a brief history of the project. Attorney Kelly advised that in order to ensure all local road right-of-way and associated facilities are owned by the County and all right-of-way and associated facilities operated as part of the expressway system are owned and maintained by CFX, CFX and the County desire to enter into the proposed Right-of-Way Transfer and Continuing Maintenance Agreement to effectuate the transfer of certain ownership interests. In exchange for the transfer, the County will agree to undertake the continuing maintenance of the transferred parcels and to transfer to CFX those portions of the right-of-way currently owned by the County identified as Parcel 62-100 for use as a part of CFX's expressway system.

A portion of the parcels being transferred to the County by CFX is encumbered with limited access lines held by CFX running along the boundaries of those parcels. With the transfer of the parcels from CFX to the County, it is in the best interest of CFX to relocate and reestablish the location of the existing limited access lines to along with the boundary lines of the parcels in accordance with the terms of the Agreement.

Discussion ensued. Committee Member Laurie Botts asked Glenn Pressimone, Chief of Infrastructure to confirm that there will be no need in the future for this property. Executive Director, Laura Kelley and Glenn Pressimone, advised that this parcel is local road right-of-way but that the adjacent property designated on

the map as "excess property" is not being declared surplus and will be held for future use such as signage or solar application.

A motion was made by Chris Murvin and seconded by Steven Kane to recommend to the Board approval of a Resolution Declaring Property as Surplus Property Available for Sale, Authorizing the Transfer of Surplus Property with Orange County, and Release and Reestablishment of Limited Access Lines and the Approval of the Right of Way Transfer and Continuing Maintenance Agreement between CFX and the County in a form substantially similar to the agreement attached to the Right of Way Committee agenda package, subject to any minor or clerical modifications or revisions approved by the General Counsel or designee.

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

**Item D.5: AMENDED AND RESTATED RAILROAD REIMBURSEMENT AGREEMENT, GRADE SEPARATION, AND RIGHT OF WAY UTILIZATION AGREEMENT BETWEEN THE CENTRAL FLORIDA EXPRESSWAY AUTHORITY, ORLANDO UTILITIES COMMISSION, AND THE CITY OF ORLANDO
PROJECT NUMBER: 417-150**

Associate General Counsel Laura Kelly requested the Committee's recommendation for Board approval of the Amended and Restated Railroad Reimbursement Agreement, Grade Separation, and Right of Way Utilization Agreement between CFX, Orlando Utilities Commission ("OUC"), and the City of Orlando ("Orlando").

Attorney Kelly advised the prior agreements with OUC and Orlando from needs to be revised to provide for the expansion of SR 417 over of the OUC and Orlando owned rail corridor.

In order to provide for the expansion of the existing bridge improvements, OUC, Orlando and CFX desire to amend and restate the original agreement in accordance with the terms and conditions of the proposed Amended and Restated Railroad Reimbursement Agreement, Grade Separation, and Right of Way Utilization Agreement.

OUC and Orlando are willing to grant perpetual non-exclusive easements to CFX over the portions of the OUC and Orlando right-of-way for air rights, pier foundations, fill slope, and a retaining wall. Additionally, OUC and Orlando will grant CFX licenses over the OUC right-of-way for temporary construction as well as a permanent access license along an existing OUC owned access road. In exchange for the grant of easements and licenses, CFX is required to ensure that all activities conducted by CFX, or its contractors shall comply with the terms and conditions of the amended agreement. CFX will be responsible, for moving and relocating an existing stabilized pad that was previously constructed by OUC on a small portion of CFX owned right-of-way by.

OUC proposed language seeking an annual payment from CFX in the amount of \$5,000.00 per year for the use of their access road. In lieu of the flat fee, OUC and CFX staff negotiated language whereby CFX will

reimburse OUC on a work order basis for any and all expense incurred by OUC for the coordination for the use of OUC's access road by CFX.

Discussion ensued.

A motion was made by Mindy Cummings and seconded by Brian Sheahan to recommend to the Board approval of the Amended and Restated Railroad Reimbursement Agreement, Grade Separation, and Right of Way Utilization Agreement between CFX, OUC and Orlando in a form substantially similar to the agreement attached to the Right of Way Committee agenda package, subject to any minor or clerical modifications or revisions approved by the General Counsel or designee

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

Item E: OTHER BUSINESS

Chairman Kane advised the Committee that the next Right of Way Committee meeting is scheduled for Wednesday, September 22, 2021 at 2:00 p.m. Lake County Committee Member, Brian Sheahan would take over as Chairman.

Item F: ADJOURNMENT

Chairman Kane adjourned the meeting at approximately 2:32 p.m.

Minutes approved on 09/22/2021.

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.