

# CENTRAL FLORIDA EXPRESSWAY AUTHORITY

## MINUTES CENTRAL FLORIDA EXPRESSWAY AUTHORITY Right of Way Committee Meeting November 16, 2022

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### **Committee Members Present:**

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

### **Committee Members Not Present:**

Juan Diaz, Citizen Representative  
Brian Sheahan, Lake County Representative

### **CFX Staff Present:**

Diego "Woody" Rodriguez, General Counsel  
Lisa Lumbar, Chief Financial Officer  
Michelle Maikisch, Chief of Staff (Incoming Executive Director)  
Sandy Kemraj, Recording Secretary

### **Item A: CALL TO ORDER**

The meeting was called to order at 2:00 p.m. by Chairman John Denninghoff. Recording Secretary, Sandy Kemraj, called the roll and announced there was a quorum. Mr. Denninghoff recognized Mayor Nelson of the City of Apopka.

### **Item B: PUBLIC COMMENT**

There was no public comment.

### **Item C: APPROVAL OF SEPTEMBER 21, 2022 RIGHT OF WAY COMMITTEE MEETING MINUTES**

A motion was made by Ms. Cummings and seconded by Ms. Botts to approve the September 21, 2022 minutes as presented.

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

**Item D.1: AGREEMENT REGARDING MODIFICATION OF DRAINAGE EASEMENT BETWEEN CFX AND ELYSIAN LUXURY LIVING, LLC, PROJECT 429-653, STATE ROAD 429, PARCEL 808**

General Counsel Rodriguez provided the Committee with a brief history of the project stating that in order to develop real property encumbered by an existing drainage easement, Elysian Luxury Living, LLC (“Elysian”) desires to relocate the location of CFX’s existing drainage easement in accordance with the terms and conditions of a proposed Agreement Regarding Modification of Drainage Easement (“the Agreement”).

In exchange and in consideration for agreeing to relocate the easement, Elysian will, at no cost or expense to CFX, design, permit, excavate and construct the drainage facilities necessary for CFX’s use and enjoyment of the relocated drainage easement. Upon CFX’s inspection and acceptance of the drainage facilities in the relocated easement, CFX will execute a release of a portion of the Existing Drainage Easement. General Counsel Rodriguez advised that one of the primary differences between the easements is that the current easement is above ground and the new easement will allow for underground drainage. CFX will maintain the new easement location.

General Counsel Rodriguez further advised the Committee that pursuant to CFX’s Property Acquisition, Disposition & Permitting Procedures Manual, CFX’s General Engineering Consultant (“GEC”), along with CFX staff, have examined the proposed Relocated Easement Area and determined that the relocation of a portion of the Existing Drainage Easement would not (1) impede or restrict the operation of the Expressway System; (2) materially affect or interfere with the present or future construction, use, operation, repair or maintenance of any portion of the Expressway System; or (3) otherwise impair traffic operations or public safety. All cost on design and replacement will be borne by property owner and CFX will not release existing easement until such time as the other easement is to CFX’s satisfaction.

**A motion was made by Ms. Cummings and seconded by Mr. Murvin to recommend to the Board, approval of the agreement regarding modification of drainage easement between CFX and Elysian Luxury Living, LLC, subject to any minor or clerical modifications approved by the GEC, General Counsel Rodriguez or Executive Director Kelley.**

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

**Item D.2.: Property Exchange Agreement between the Central Florida Expressway Authority, City of Apopka, Florida, and Bluescope Properties Group LLC, Project: 429-201, Parcel Number: 150**

General Counsel Rodriguez provided the Committee with a brief history of the project. CFX acquired fee simple ownership of that certain real property known as Parcel 150 (“CFX Pond Property”) for the construction, operation and maintenance of a stormwater retention pond serving the needs of State Road 429 (“Existing Pond”). In order to minimize environmental impacts of development to the nearby environmentally sensitive wildlife park and to encourage development of the real property located adjacent to the CFX Pond Property, the City of Apopka (“City”) requested CFX’s consent to the relocation of the Existing Pond to real property located in Orange County contiguous to another current CFX floodplain compensation pond and in close proximity to the CFX Pond.

As consideration for exchanging the CFX Pond Property with the Replacement Pond Property, the developer, Bluescope Properties Group LLC (“Bluescope”), will, at its sole cost and expense, design, permit, engineer, construct and excavate a replacement stormwater retention pond on the Replacement Pond Property (“Replacement Pond”) and adjacent stormwater conveyance facilities conveying the stormwater drainage from State Road 429 to the Replacement Pond in accordance with the terms and conditions of the proposed Property Exchange Agreement (“Agreement”). Pursuant to the terms of the Agreement, upon inspection and acceptance of the Replacement Pond by CFX, Bluescope will convey to the City, and the City will subsequently convey to CFX the Replacement Pond Property.

General Counsel Rodriguez further advised that pursuant to CFX’s Property Acquisition, Disposition & Permitting Procedures Manual, CFX’s General Engineering Consultant (“GEC”), along with CFX Staff, have examined the proposed Replacement Pond Property and determined that the relocation of the Existing Pond and the exchange of the CFX Pond Property for the Replacement Pond Property and the release of the Existing LA Lines in accordance with the terms and conditions of the Agreement would not (1) impede or restrict the operation of the Expressway System; (2) materially affect or interfere with the present or future construction, use, operation, repair or maintenance of any portion of the Expressway System; or (3) otherwise impair traffic operations or public safety.

**A motion was made by Ms. Botts and seconded by Ms. Cummings to recommend to the Board, approval of the agreement regarding property exchange between the Central Florida Expressway Authority, City of Apopka, Florida, and Bluescope Properties Group LLC, subject to any minor or clerical modifications or revisions approved by the General Engineering Consultant, General Counsel or designee.**

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

**Item E1: OTHER BUSINESS**

Graham Wigle with Protiviti presented a review of CFX’s Right of Way Audit Manual. Mr. Graham provided an overview of the Audit plan. He touched on the three prongs of the Audit manual and what governs the manual: the acquisition, disposition and uses of real property. In order to make recommendations as part of his audit, Mr. Graham conducted interviews with other governing entities to compare their policies and procedures with CFX’s existing policy. His finding was that CFX’s current manual was silent about certain procedures and ambiguous about others. The result of his research was to suggest some high-level themes to allow CFX to administer the right level of review on certain transactions and procedures. Certain illustrative examples were provided to the Committee for consideration.

**Item E2: OTHER BUSINESS**

In other business, General Counsel Rodriguez presented the 2023 Right of Way meeting dates to the Committee for informational and scheduling purposes.

Chairman Denninghoff announced that the next Right of Way Committee meeting is scheduled for Wednesday, January 18, 2023 at 2:00 p.m.

**Item F: ADJOURNMENT**

Chairman Denninghoff adjourned the meeting at approximately 2:54 p.m.

**Minutes approved on March 22, 2023.**

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