



**CITY OF BELLE ISLE, FLORIDA  
CITY COUNCIL AGENDA ITEM COVER SHEET**

**Meeting Date:** January 15, 2019

**To:** Honorable Mayor and City Council Members

**From:** B. Francis, City Manager

**Subject:** Update on Cross Lake Park Purchase

**Background:** The City has been attempting to purchase Cross Lake Park from the State. To do so, the Orange County Commissioners, acting as the Lake Conway Navigation District Board, have to provide a recommendation on the City's application to purchase the property. The City received word that until the City and adjacent property owners resolve the concerns of the adjoin property owners, the County staff will not move this issue to the BCC Agenda, even though the Lake Conway Navigation Advisory Board recommended approval of the purchase.

Since there's been a change of leadership at the County Commissioner level, Orange County staff provided Commissioner Uribe on this issue. Commissioner Uribe's office reached out the City last week and wants to convene a meeting with the City and the adjacent property owners in the near future to see if this issue can move forward.

Also last week, the City contacted the attorney for the adjacent property owners for an update. The attorney responded with an email on January 10<sup>th</sup>. On January 11, the City responded to the email, and stated that an update would be provided to the City Council at the January 15, 2019 meeting.

**Staff Recommendation:** Review the information and determine if the Council's wants to change their direction. The current direction of the Council is to outright purchase the Cross Lake Property from the state.

**Suggested Motion:** None needed

**Alternatives:** Provide a different alternative to the purchase as suggested in the attorney's email dated January 10, 2019.

**Fiscal Impact:** \$19,000 to purchase the land from the State.

**Attachments:** Attorney email dated January 10, 2019  
City Response dated January 11, 2019  
Memo from the City Manager to Council regarding the Attorney email



Bob Francis &lt;bfrancis@belleislefl.gov&gt;

**Letter re: land**

2 messages

Carlos Payas &lt;cepayas@payaslaw.com&gt;

Thu, Jan 10, 2019 at 3:13 PM

To: "Bfrancis@belleislefl.gov" &lt;Bfrancis@belleislefl.gov&gt;

Dear Mr. Francis,

I am writing this email in response to our discussion earlier this week. You may recall that I have been involved in this case and have attended multiple meetings with my clients, Mr. Walker, yourself and Counsel for the City. It has been my understanding that the City had intended to work together with the adjoining land owners to come up with a beneficial use for land for all three parties. At the last meeting that I attended with yourself and Counsel we discussed four possibilities.

1. That the land would be vacated to the adjoining land owners.
2. That the land would be purchased as a right of way by the city.
3. That no action be taken by the City, usage would remain the same and my client and Mr. Walker could get easements from the State.
4. The City purchase the land and make it a park. There were also discussions of a blended approach where some portions could be vacated or dedicated for certain types of usage for the park/ROW/private (an example was 1/3, 1/3, 1/3 split).

My clients concerns include, right of access, quiet enjoyment, property value and safety. My clients and I have reviewed sketches and memorandum that the city has provided, along with the minutes from various City Council meetings. My clients have concerns with the park being adjacent to their dock. They continuously have individuals use their dock for boarding boats and personal watercraft without their permission. My clients have concerns with the park being 8ft from the front of their house. Please understand that unlike any other park in Belle Isle, this park is not behind their house or next to their house, it is in front of their house. My clients have concerns over ingress and egress to their property. We do not know where the City intends to place the parking spaces it has proposed on the property. It should be noted that the property is accessed by a single lane dirt road. My clients have complained about individuals parking in their driveway, parking behind their driveway and blocking access to their driveway. My clients have concerns with the land being used as a boat ramp or launch. The City of Belle Isle only owns the land to two of the parks listed on your website. Those parks are the Venetian boat ramp and the Perkins boat ramp. The City does not own the land for any of the other parks that are on the water.

My clients understand the City's desire to have a park and do not intend to prevent the City from having a park. My client's issues are in regards to the size, location and potential use of the park in regards to their home, driveway and community. Members of the City council on record have discussed dedicating portions to the adjacent landowners, having a buffer (I don't recall if buffer was the exact word used) between the adjacent landowners and the park and ensuring that the land will not be used as a boat ramp or launch. I believe that if we can 1. Come to an agreement on a blended approach and 2. Have an ordinance passed with regards to the use of the park to not include a boat launch or access my clients will be satisfied. My clients believe the City may have concerns that my clients want to use the land as a drain field. I can assure you that is not the case. If you look at the City's intended use, my clients and Mr. Walkers issues, this is a simple and easy solution. I believe that we will also have the support of the County with regards to this type of purchase.

If you have any questions, please do not hesitate to contact me.

Very Truly Yours,

Carlos E. Payas, Esq.

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**Bob Francis** <bfrancis@belleislefl.gov>

Fri, Jan 11, 2019 at 9:56 AM

To: cepayas@payaslaw.com

Mr. Peyes: Thank you for the email. Yes, I know you've been involved and yes, it's been the understanding that the City intends to work together with your clients, however your clients have not been forthcoming with their concerns. Working together does not mean the City giving up its right to any or all of the parcel, or to make sacrifices at the expense of the other 6,400 residents of the City who have a right to use that property. You wrote about some "blended" option, yet you have not provided any diagram, sketch or plan as to how this parcel would be divided so that the City would have the park area and access to it without needing an easement. Frankly, I don't see how that can work, but if you can show me with a sketch or diagram, then I will take that to the City Council for their direction. I suggest you do that expeditiously as I plan to discuss this issue, and your email, with the City Council at their meeting on January 15, 2019. The City Council, as a governing body, has made it clear that the City's intent is to purchase the property from the state and continue its use as a passive park. If you have members of Council on record, stating they want to dedicate a portion of the land to the adjacent property owners, then you should produce that record, attend the City Council meeting and address the Council. It is the Council, as a whole, that makes the decision, not one or two individuals, and the last decision that the governing body made was to purchase the property. After the property is purchased by the City, your clients could then request any additional action from Council they wish.

As for your client located at 2211 Cross Lake Road, they knew that Cross Lake Park was being used as a park when they were interested in purchasing the property which I suspect was in 2006. I make this assumption because the records are confidential and the prior owner left the property in that time frame. Up until the time the City put in an application to the State in early 2018, there is no record of your client contacting the City with any of the concerns stated. So now, after 10 years, there are problems with quiet enjoyment, privacy, property value and access; the same concerns that your clients should have considered prior to purchasing their property.

As for the remainder of your email, most of what you stated is either immaterial, in error, or information was already provided to you client. I will discuss your email with the Council at their meeting and then it can be further discussed when we meet with Commissioner Uribe in the near future. I will agree with your statement that if we look at the City's intended use, your clients and Mr. Walkers issues, there is a simple and easy solution. That solution was provided to your clients on many occasions. Thank you.

Sincerely,

*Bob*

Bob Francis, ICMA-CM  
City Manager  
City of Belle Isle, FL



## CITY OF BELLE ISLE, FL

1600 NELA AVENUE, BELLE ISLE, FL 32809 \* TEL 407-851-7730

### MEMORANDUM

From the Desk of Bob Francis, City Manager

**To:** City Council  
**Date:** January 15, 2019  
**Re:** Update on Cross Lake Purchase

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Mayor & Council: In addition to the email response the Mr. Peyes, who represents the owners of 2211 Cross Lake Dr., I am providing the following responses:

After almost a year, Mr. Peyes' clients have documented their concerns with the property. It's been the understanding that the City intended to work together with them, however working together does not mean the City giving up its right to any or all of the parcel, or to make sacrifices at the expense of the other 6,400 residents of the City who have a right to that property. The City Council, as a governing body, has made it clear that the City's intent is to purchase the property from the state and continue its use as a passive park (stated in the City's Comp Plan). Mr. Peyes stated that he has members of Council, on record, stating they want to dedicate a portion of the land to the adjacent property owners. I told him that if so, then he should produce those records, attend a City Council meeting and address the Council. It is the Council, as a whole, that makes the decision, not one or two individuals, and the last decision that the governing body made was to purchase the property. After the property is purchased by the City, his clients could then request any additional action from Council they wish.

As for the four possibilities that were discussed, the Council, as a governing body, elected to purchase the property and make it a park. No discussion on a "blended" approach. In his email, he spoke of a "blended" approach, yet he has not provided any diagram, sketch or plan as to how this parcel would be divided so that the City would have the park area and access to it without needing an easement from his clients. Frankly, I don't see how that can work, but if he can show with a sketch or diagram, then I told him I would take that to the City Council for their direction. I suggested he do that expeditiously as I planned to discuss this issue, and his email, with the City Council at the meeting on January 15, 2019.

As for the City owning land to only two of the parks, he is not correct. Of the parks listed on our website, and whether they are all listed or not, the City owns all of them with the exception of

three, which are permanent drainage easements that belong to the state. Also this statement is immaterial as to how many parks the City owns and where they are located.

I addressed the concern of his client south of the park first. (5210 Oak Island Road) I received a text from him stating that as long as the City does not block his back yard access, then he is OK. I responded to him stating that the City had no plans to do so. Therefore, I consider his issues resolved.

As for your client located at 2211 Cross Lake Road, they knew that Cross Lake Park was being used as a park when they were interested in purchasing the property which I suspect was in 2006. I make this assumption because the records are confidential and the prior owner left the property in that time frame. Up until the time the City put in an application to the State in early 2018, there is no record of your client contacting the City with any of the concerns stated. So now, after 10 years, there are problems with quiet enjoyment, privacy, property value and access; the same concerns that your clients should have considered prior to purchasing their property.

To address the concerns stated in Mr. Peyes' email individually:

- a. The park adjacent to their dock: This is the problem that any lakeside property owner would have. If there is a problem with strangers using their boat dock, then the owners should do what other dock owners do; they call the marine patrol and the patrol will come and have those individuals removed. If it is a constant problem, then the City will work with Orange County and install a chain link fence out in to the water, as far as Orange County will allow, like the City has at other lakeside properties. There is even a possibility that Orange County may allow for a longer extension of the fence since your client is in a high-profile position. A combination of your client calling the marine patrol and the installation of a fence should resolve this concern.
- b. Park being 8 feet from their house and the park is in the front of their house: Unfortunately, the City cannot do anything about this since the house's previous owners built the house that way. Again, however, your client bought the house this way and if he was concerned at that time, then he should have not purchased the home. However, the city code allows a property owner, who is adjacent to a City park, to erect an 8-foot (in height) fence along the property. The front door and parking area of your client's house will abut public right-of-way, once the City purchases the property. Having the front door and driveway abut public right-of-way is what every other house in Belle Isle has.
- c. Ingress and Egress: The City has been clear that once the City owns the property, then the public right-of-way will be extended westward from its current position to the edge of the grass at the park. If need be, depending on the actual layout, this ROW may be extended further. The main point being that the City will extend the public ROW so your client will not have to worry about ingress and egress issues. This has been clearly documented and sketched out for your client on numerous occasions.
- d. Parking spaces: The City plans to install an ADA parking space along the southern fence line to the south. The exact location would be determined later; however it has been made clear to

your client that the final location will in no way affect the ingress or egress to their property. As attorneys, I'm sure they can understand the City's requirements to comply with the Americans with Disabilities Act.

e. Cross Lake is a dirt road: There are other roads in the City that are still dirt. Cross Lake will be paved when the other streets in the area are paved, just as McCawley Court was paved when Pasadena was paved. The City has no record of your clients complaining about parking but they can call the police department when this occurs and the police will take care of it, just like they assist other Belle Isle residents who call about parking.

f. Boat Ramp or Dock: As for the dock, the BIMC would not allow for a dock. The parcel is 50 feet wide. According to the BIMC and new Dock ordinance, public ramps must be 25 feet from the adjacent property line. A dock with a 4 foot access way would not fit on the property. The City would have to request a variance from the P&Z Board which is a public process and they would have to notify the adjoining owners of the variance. The BI Comprehensive Plan also states the Cross Lake is for swimming and passive use. If a dock or ramp were to be put there, the comprehensive plan would have to change which is a lengthy and very public process. As for a ramp, boat ramps are permitted through Orange County, not the City. Orange County would require a public hearing on this so your clients would be notified and be able to provide testimony. The City would not install a ramp or dock if they could because Cross Lake is a passive park and also the parking of additional vehicles with boat trailers would impact the entire neighborhood. An ordinance, as suggested, may not be as effective as these options provided.

g. Drain field: Yes, the City has a concern about this issue; however the City cannot enter on to the property at 2211 Cross Lake as we have no cause to do so.

I believe the City has adequately addressed the concerns of Mr. Peyes' clients and well as preserving the rights of the citizens of Belle Isle to continue to use this property as a park as they have been doing for at least the past 40 years.