

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

MINUTES CENTRAL FLORIDA EXPRESSWAY AUTHORITY BOARD MEETING December 11, 2014

Board Members Present:

Commissioner Welton G. Cadwell, Lake County (Chairman)
Commissioner S. Scott Boyd, Orange County (Vice Chairman)
Commissioner Brenda Carey, Seminole County (Secretary-Treasurer)
Mayor Buddy Dyer, City of Orlando
Commissioner Fred Hawkins, Jr., Osceola County
Mayor Teresa Jacobs, Orange County
Walter A. Ketcham, Jr., Gubernatorial Appointment
Jay Madara, Gubernatorial Appointment ¹

Via Phone:

S. Michael Scheeringa, Gubernatorial Appointment ¹

Non-Voting Advisor Present:

Diane Gutierrez-Scaccetti, Florida's Turnpike Enterprise

Staff Present at Dais:

Joseph A. Berenis, Deputy Executive Director
Joseph L. Passiatore, General Counsel
Darleen Mazzillo, Recording Secretary/Executive Assistant

CALL TO ORDER

The meeting was called to order at 9:00 a.m. by Chairman Welton Cadwell.

PUBLIC COMMENT

- 1) Mr. Bob Hartnett invited everyone to attend the joint TEAMFL/Florida Transportation Commission meeting on January 22 and 23 at the Hyatt Regency Orlando International Airport.
- 2) Mr. Chuck Graham would like to see a percentage of toll money put into dedicated funding of public transportation for disabled and senior citizens. Mayor Jacobs commented that she would like Mr. Graham's support in their efforts to get legislative support for the rental car surcharge, which could generate \$40 million in Orange County alone and ultimately benefit funding for LYNX.

¹ Mr. Madara & Mr. Scheeringa participated in the meeting as observers only, due to qualifying paper requirements.

INTRODUCTION OF NEW BOARD MEMBERS

Chairman Cadwell introduced the two newest Board members appointed by Governor Scott, Jay Madara and S. Michael Scheeringa. Mr. Scheeringa participated by phone for this meeting.

General Counsel Joseph Passiatore stated that in the Governor's appointment letter to Mr. Madara and Mr. Scheeringa there is a requirement that each of the appointees file qualifying papers with the Department of State before they assume their duties on the CFX Board. Those papers have not been received by the appointees, and therefore have not been filed. Mr. Passiatore recommended that Mr. Madara and Mr. Scheeringa refrain from participation at today's meeting. Both Mr. Madara and Mr. Scheeringa agreed that they will participate as observers for today's meeting.

APPROVAL OF MINUTES

A motion was made by Mr. Ketcham and seconded by Mayor Jacobs to approve the minutes of the November 13, 2014 Board Meeting and November 13, 2014 Board Workshop as presented. The motion carried with seven Board members voting AYE by voice vote; Mr. Madara and Mr. Scheeringa did not vote.

APPROVAL OF CONSENT AGENDA

The Consent Agenda was presented for approval (Exhibit A).

CONSTRUCTION & MAINTENANCE

1. Authorization to advertise for bids for S.R. 429/S.R. 414 Systems Interchange Landscape Improvements – Project No. 429-200F
2. Approval for award of contract to Rummel, Klepper & Kahl, Inc. for Construction Engineering and Inspection (CEI) Services for Wekiva Parkway Project No. 429-202 (Contract amount: Not-to-exceed \$4,100,000)
3. Approval of construction contract modifications on the following contract:
 - a) Contract No. 417-110 Masci General Contractor, Inc. \$15,494.17

ENGINEERING

4. Approval for renewal of contract with Atkins North America, Inc. for General Engineering Consultant Services – Contract No. 000820 (Contract amount: Not-to-exceed \$5,125,000)
5. Approval for award of contract to CH2M Hill for I-4/S.R. 408 Interchange Corridor Consultant (Contract award: Not-to-exceed \$5,300,000)

FINANCE/ACCOUNTING

6. Approval for disposal of inventory items

INFORMATION TECHNOLOGY

7. Approval of Purchase Order for Carousel Industries to replace outdated network switches for Local Area Network Communications and Support (Purchase Order amount: \$84,520.20)

LEGAL

8. Approval of final ranking and authorization to enter into fee negotiations with Nabors, Giblin & Nickerson, P.A. for Disclosure Counsel
9. Adoption of Resolution for acquisition of Parcel 249, Wekiva Parkway Project 429-204
10. Adoption of Resolution for acquisition of Parcel 303 (Parts A, B & C) for Wekiva Parkway Project 429-204
11. Approval of settlement agreement with tenants on Parcel 197, Wekiva Parkway Project 429-203
12. Approval of Third Amendment to Contract of Sale and Purchase with Suburban Land Reserve, Inc. and Farmland Reserve, Inc.

TOLL OPERATIONS

13. Authorization to advertise for bids for printing and mailing services for the Toll Operations Department

EXPRESSWAY OPERATIONS

14. Authorization to advertise for design consultant services for Single Line Dynamic Message Sign (DMS) Upgrade – Project 599-525

A motion was made by Commissioner Boyd and seconded by Mayor Jacobs to approve the Consent Agenda as presented. The motion carried with seven Board members voting AYE by voice vote; Mr. Madara and Mr. Scheeringa did not vote.

CHAIRMAN'S REPORT

Chairman Cadwell requested the Board members' direction on whether they want to hold the election of officers at the January meeting. General Counsel Joseph Passiatore stated that the CFX bylaws require annual elections to take place in January, unless the Board chooses to waive the rules. By consensus, the election of officers will be put on the January 8, 2015 agenda.

TREASURER'S REPORT

Commissioner Carey reported that toll revenues for October were \$28,361,664 which is 6% above projections and 8.5% above prior year. The Authority's total revenues were \$29.8 million for the month.

Total OM&A expenses were \$4.3 million for the month and \$14.4 million year-to-date, which is 12.5% under budget.

After debt service the total net revenue was \$13.6 million for October and \$51.5 million year-to-date.

STAFF'S REPORT

Deputy Executive Director Joseph Berenis provided the Staff Report in written form (Exhibit "B").

ACCEPTANCE OF FISCAL YEAR 2014 FINANCIAL STATEMENTS

Dan O'Keefe of Moore Stephens Lovelace explained that his firm was engaged to audit CFX's financial statements for the year ended June 30, 2014. The purpose was to issue an opinion as to whether or not CFX's financial statements are presented fairly, in all material respects, and in conformity with GAAP. He gave a presentation which included management responsibilities, auditor responsibilities, internal controls, compliance, risk-based audit approach, management representations, audit schedule and financial highlights.

Mr. O'Keefe presented the following communications of significant matters:

- There were no audit adjustments made during the course of the audit.
- There were no unreported or unadjusted differences.
- They had no disagreements with management.
- As far as they knew, management did not receive opinions from other accountants.

A motion was made by Commissioner Boyd and seconded by Mayor Jacobs to accept the Fiscal Year 2014 Financial Statements as presented. The motion carried with seven Board members voting AYE by voice vote; Mr. Madara and Mr. Scheeringa did not vote.

ACCEPTANCE OF FISCAL YEAR 2015 CONTRACTS AUDIT

Phil Fretwell of Protiviti reported that the Audit Committee has accepted the FY 2015 Contracts Audit to present to the Board for filing.

In accordance with the 2015 Internal Audit Plan, Protiviti audited two contracts with a combined contract value exceeding \$90,000,000. The objectives of the audit were to: (1) identify and test key processes and controls around project funding and bid authorization, project bidding, bid awards, bid bond requirements, contract renewals and supplemental agreements, (2) test vendor compliance with contract terms and conditions, insurance, bond and permitting requirements and minority and women owned business requirements, and (3) audit the accuracy of items billed to the Authority in accordance with contract terms and conditions.

Mr. Fretwell reported there were no findings identified as a result of this audit.

A motion was made by Mayor Jacobs and seconded by Commissioner Carey to accept the Fiscal Year 2015 Contracts Audit for filing. The motion carried with seven Board members voting AYE by voice vote; Mr. Madara and Mr. Scheeringa did not vote.

ACCEPTANCE OF PAYMENT CARD INDUSTRY (PCI) ASSESSMENT WITH REPORT ON COMPLIANCE

Phil Fretwell of Protiviti reported that the Audit Committee has accepted the PCI Assessment to present to the Board for filing.

He stated that Protiviti has issued an unqualified report on the PCI Assessment.

The PCI Assessment is exempt from public records disclosure pursuant to F.S. 282.318 and shall not be copied or distributed in any manner. Mr. Fretwell offered to meet with any Board member to answer questions.

Mayor Jacobs asked if the exemption issue has been carefully looked into. General Counsel Joseph Passiatore stated that he has analyzed the exemption issue and it is his legal opinion that the internal controls to protect the security of the credit card numbers is privileged.

A motion was made by Commissioner Hawkins and seconded by Mr. Ketcham to accept the Payment Card Industry Assessment for filing. The motion carried with seven Board members voting AYE by voice vote; Mr. Madara and Mr. Scheeringa did not vote.

ADOPTION OF RESOLUTION AMENDING SECTION 5-6.04 OF THE PROPERTY ACQUISITION AND DISPOSITION PROCEDURES MANUAL AND REFERENCING CFX AS THE GOVERNING AUTHORITY

General Counsel Joseph Passiatore reported that on November 24 the Right of Way Committee recommended approval of revisions to the Property Acquisition & Disposition Procedures Manual that included CFX transition revisions and amendments to Section 5-6.04 regarding disposition of surplus parcels.

Mr. Passiatore explained the proposed changes to the Property Acquisition & Disposition Procedures Manual (Exhibit "C"). He recommended adoption of the Resolution and proposed revisions to the Manual.

A motion was made by Commissioner Hawkins and seconded by Commissioner Carey to adopt the Resolution amending the Property Acquisition and Disposition Procedures Manual as presented. The motion carried with seven Board members voting AYE by voice vote; Mr. Madara and Mr. Scheeringa did not vote.

REQUEST FOR DIRECTION REGARDING PENDING REQUEST FOR PROPOSALS FOR CFX ISSUER'S COUNSEL ON FUTURE CFX BOND TRANSACTIONS

Chairman Cadwell recommended that we assign the in-house General Counsel's office fill the role of Issuer's Counsel with the understanding that it may hire public finance legal counsel to assist on an as needed basis.

The current contract with Shutts & Bowen for Issuer's Counsel on the TIFIA loan expires on December 31, 2014. We would need to extend the contract with Shutts & Bowen to continue support for the TIFIA loan.

There was discussion regarding assigning the primary function to in-house General Counsel and allowing it to contract out for specialized legal financial services on an as-needed basis. Mr. Passiatore stated that if the Board decides to outsource the function, it will need to select the firm. If the Board decides to assign the function to General Counsel, that office would retain the discretion to hire a firm on an ad-hoc basis.

The Board members suggested that if we hire a firm for Issuer's Counsel that we contract on an hourly basis rather than a percentage of the bond deal.

A motion was made by Mayor Jacobs and seconded by Commissioner Carey to extend the current contract with Shutts & Bowen through the course of the issuance on the TIFIA loan and associated debt and to bring the Issuer's Counsel item back to the Board at the January meeting. The motion carried with seven Board members voting AYE by voice vote; Mr. Madara and Mr. Scheeringa did not vote.

CONSIDERATION OF ALL ABOARD FLORIDA'S REQUEST TO AMEND AGREEMENTS EXTENDING CERTAIN DATES

General Counsel Joseph Passiatore stated that All Aboard Florida (AAF) is requesting that the Board approve a First Amendment to Document Escrow Agreement and a Third Amendment to Contract for Sale and Purchase of Rail Line Easements. Mr. Passiatore has outlined the agreements in a memo dated December 3, 2014 (memo and agreements attached as Exhibit "D").

Mr. Passiatore recommended approval of the Third Amendment with the deadlines revised per his memo and direction to bring a Fourth Amendment at the March 2015 meeting addressing funding for additional property purchases.

A lengthy discussion took place regarding the proposed agreements and deadlines. Mr. Ken Wright of Shutts & Bowen and Mr. Mike Reininger, President of All Aboard Florida, provided their comments and answered questions.

A motion was made by Commissioner Carey and seconded by Mayor Dyer to accept the Third Amendment to the Contract for Sale and Purchase of Rail Line Easements with the following deadlines:

Inspection Period	March 20, 2015
Outside Closing Date	June 30, 2015
Title Commitment	March 13, 2015
Survey	February 13, 2015
Initial Notice	March 20, 2015

The motion carried with seven Board members voting AYE by voice vote; Mr. Madara and Mr. Scheeringa did not vote.

There was discussion regarding the Lease Agreement, which has expired. **By consensus, the Board agreed to renegotiate the Lease Agreement and Fourth Amendment and bring them to the Board.**

(A short break was taken at this time.)

SELECTION OF EXECUTIVE DIRECTOR FROM SHORTLISTED CANDIDATES

Chairman Cadwell stated that his plan was to bring back 5 or 6 candidates with different management styles and backgrounds for the Board Members to interview. However, the process has not turned out as he envisioned. Currently we only have two candidates from the shortlist of 5 that are still interested. He recommended that we stop the process, take the time to think about it and come back in January to talk about where we go from here.

The Board Members agreed to defer the Executive Director selection until January when we have a full Board to discuss the best strategies going forward.

The question was asked if background checks were done on the candidates. Laura Kelley confirmed that educational and criminal background checks were done on all the shortlisted candidates.

A motion was made by Mayor Jacobs and seconded by Mr. Ketcham to defer a decision until the January meeting and revisit the process. The motion carried with seven Board members voting AYE by voice vote; Mr. Madara and Mr. Scheeringa did not vote.

By consensus, the Board Members recommended that we allow any of the candidates who withdrew to come back into the process.

Mr. Madara requested that he be given the opportunity to interview the two remaining candidates before the January 8th meeting.

BOARD MEMBER COMMENT

- 1) Chairman Cadwell requested and received the Board's approval to send a letter of thanks to the outgoing FDOT Secretary of Transportation, Ananth Prasad.
- 2) Commissioner Hawkins stated that the White House has announced that the last two years of the presidency will be focused on transportation dollars and new and existing infrastructure. He requested that an item be placed on the agenda for the January meeting regarding our federal lobbying efforts. He wants to make sure that we have strong representation to apply for those federal dollars.

ADJOURNMENT

There being no further business to come before the Board, the Chairman adjourned the meeting at 10:52 a.m.

Commissioner Welton G. Cadwell
Chairman
Central Florida Expressway Authority

Darleen Mazzillo
Recording Secretary/Executive Assistant
Central Florida Expressway Authority

Minutes approved on _____, 2014.

Pursuant to the Florida Public Records Law and CFX Records Management Policy, audio tapes of all Board and applicable Committee meetings are maintained and available upon request to the Records Management Liaison Officer at publicrecords@CFXWay.com or 4974 ORL Tower Road, Orlando, FL 32807. Additionally, video tapes of Board meetings commencing July 25, 2012 are available at the CFX website, www.expresswayauthority.com