

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

MINUTES CENTRAL FLORIDA EXPRESSWAY AUTHORITY Right of Way Committee Meeting October 22, 2014

Committee Members Present:

David May, Osceola County Representative, Committee Chair
Brett Blackadar, Seminole County Representative
Laurie Botts, City of Orlando Representative
Sandy Minkoff, Lake County Representative
John Terwilliger, Orange County Representative

OOCEA Staff Present:

Joseph L. Passiatore, General Counsel
Joseph A. Berenis, Deputy Executive Director of Engineering, Operations, Construction & Maintenance
Mimi Lamaute, Paralegal/Recording Secretary
Jeff Marshall Grainger, Sr. Communications Coordinator
Laura Kelley, Deputy Executive Director of Finance & Administration
Linda Brehmer Lanosa, Future CFX Deputy General Counsel
Glenn Pressimone, Director of Engineering

Also Present:

Patti Harker, Lake County
Jere Daniels, Winderweedle, Haines, Ward & Woodman, P.A.
Trippe Cheek, Winderweedle, Haines, Ward & Woodman, P.A.
Rob Simon, Winderweedle, Haines, Ward & Woodman, P.A.
Tracy de Lemos, Winderweedle, Haines, Ward & Woodman, P.A.
Ken Wright, Shutts & Bowen
David Shontz, Shutts & Bowen
Deborah Keeter, Atkins
Deborah Poindexter, Atkins

Item 1: CALL TO ORDER

The meeting was called to order at 2:00 p.m. by Chairman May.

Item 2: PUBLIC COMMENT

There was no public comment.

Item 3: APPROVAL OF MINUTES

A motion was made by Mr. Terwilliger and seconded by Ms. Botts to approve the minutes of the September 4, 2014 Right of Way Committee meeting as presented. The motion carried unanimously with all five committee members present and voting AYE by voice vote.

Mr. Sandy Minkoff requested that an itemization of the settlement be reflected not only in the memorandum from Right of Way Counsel to the Committee but also in future minutes.

Item 4: ORIENTATION ON RIGHT OF WAY COMMITTEE CHARTER / SUNSHINE LAW MEETING REQUIREMENTS

Mr. Passiatore provided the Committee with an overview of the Right of Way Committee Charter. The Committee serves at the pleasure of their respective jurisdictions with a designated substitute. The Chairman is the designated liaison and must attend the monthly CFX Board meetings.

The Committee by consensus agreed that Mr. Minkoff would attend the November Board meeting in Mr. May's absence.

The Authority's General Counsel and Right of Way Counsel serve as advisors to the Committee. The Committee shall conduct business in accordance with the Property Acquisition & Disposition Procedures Manual.

Mr. Passiatore distributed a copy of Florida Statute 286.011 and briefed the Committee on their responsibilities and ethics. Mr. Passiatore advised the Committee that they cannot discuss with any other member any item that is under consideration by the Committee or that might foreseeably come before the Committee for consideration but the Committee can, however, have conversations with their respective Commissioners.

Mr. Minkoff requested that the monthly Committee meeting notices be included in the Committee members' Right of Way Committee Meeting Agenda packages.

Mr. Passiatore inquired of the Committee their disposition on completing and submitting the Potential Conflict Disclosure form. The Committee by consensus agreed that all Committee members would complete and submit the disclosure form before the next Right of Way Committee meeting of November 24th.

This was an informational item. No action was taken.

Item 5: INTRODUCTION OF RIGHT OF WAY COUNSEL, ACQUISITION COORDINATOR AND PROJECT MANAGER FOR THE WEKIVA PARKWAY ACQUISITION AND RELOCATION

Mr. Passiatore introduced the CFX Right of Way Legal Counsel, Winderweedle Haines, Ward & Woodman and Shutts & Bowen, P.A.. Although not in attendance Mr. Passiatore introduced Lowndes, Drosdick, Doster, Kantor & Reed, P.A. Each firm provided a synopsis of their staff, assignments and processes.

Winderweedle provided the following breakdown of parcels assigned to them:

429-202

55 parcels initially (see breakdown below)

20 parcels not impacted or being handled through ROW agent

35 parcels to be acquired (see breakdown below)

5 parcels settled pre-suit (property acquired through transactional closing-conveyance complete)

30 parcels acquired through OT (see breakdown below)

9 parcels settled (Final Judgments acquired)

2 parcels noticed for trial (trial dates pending)

1 parcel set for trial

18 parcels – litigation pending/settlement negotiations ongoing

429-203

NONE – no parcels assigned to WHWW for Project 429-203.

429-204

9 parcels assigned to WHWW (*# only represents parcels assigned to WHWW; refer to breakdown provided by Shutts & Bowen for the total # of parcels in Project 204*)

1 parcel settled pre-suit (property acquired through transactional closing-conveyance complete)

1 parcel acquired through OT (litigation pending/settlement negotiations ongoing)

2 parcels – litigation pending/settlement negotiations ongoing

1 parcel – offer served/eminant domain proceedings to be initiated when pre-suit requirements are met.

4 parcels – offers recently served or pending service/eminant domain proceedings to be initiated when pre-suit requirements are met.

429-205

1 parcel assigned to WHWW (*# only represents parcels assigned to WHWW; refer to breakdown provided by Shutts & Bowen for the total # of parcels in Project 205*)

1 parcel settled – conveyance complete

429-206

NONE – no parcels assigned to WHWW for Project 429-206.

Shutts & Bowen provided the following breakdown of parcels assigned to them:

429-203

61 parcels initially
26 parcels dismissed (not impacted, not needed or to Winderweeple)
35 parcels to be acquired
35 parcels – acquired through OT (including 5 settled parcels which were named in suits)
5 parcels settled
 20 parcels – litigation/negotiation on-going
 10 parcels – noticed for trial
 6 parcels set for trial – 2 in February and 4 in April 2015
 4 parcels pending trial dates

429-204

33 parcels initially
12 parcels dismissed (not impacted, not needed)
21 parcels to be acquired
2 parcels settled
19 parcels to be acquired (litigation or negotiation)

429-205

7 parcels initially
2 parcels dismissed (not impacted, not needed)
5 parcels to be acquired
0 parcels settled
5 parcel to be acquired (litigation or negotiation)

429-206

24 parcels initially
6 parcels dismissed (not impacted, not needed)
18 parcels to be acquired
0 parcels settled
18 parcels to be acquired (litigation or negotiation)

Discussion ensued as to the hiring and the roles of CFX appraisers.

Mr. Passiatore introduced the following personnel:

- Glenn Pressimone, Director of Engineering detailed the Wekiva Parkway Project schedule;
- Deborah Poindexter, Project Manager for the Wekiva Parkway Acquisition and Relocation discussed the relocation process;
- Deborah Keeter, Acquisition Coordinator;
- Joseph A. Berenis, Deputy Executive Director of Engineering, Operations, Construction & Maintenance;
- Laura Kelley, Deputy Executive Director of Finance & Administration; and
- Linda Brehmer Lanosa, Future CFX Deputy General Counsel.

There was discussion on the process of first written offers and global offers.

This was an informational item. No action was taken.

Item 6: WEKIVA PARKWAY PROJECT / PROJECTS 429-202; 429-203; 429-204; 429-205; 429-206 / PINEL & CARPENTER, INC. SECOND ADDENDUM TO AGREEMENT

Mr. Shontz is requesting the Committee's recommendation for Board approval of the Second Addendum to the Agreement for Appraisal services by Pinel & Carpenter. He explained the role of the appraiser as not only providing appraisals but as pre-condemnation consultation services, appraisal services and litigation support services, including testifying at order of taking hearings and trial for the Wekiva Parkway Project. He explained Pinel & Carpenter provided appraisal reports for 18 properties most were larger parcels and with complex appraisal issues. These parcels are currently in litigation and will require testimony by the appraiser in depositions and at trial. They have been assigned to provide appraisal reports for an additional nine (9) properties. These additional properties are larger tracts with complex issues to be evaluated during the appraisal process.

Mr. Minkoff requested that on future requests the cost for appraisal services be provided per parcel.

Lengthy discussion ensued as to the method of compensation for appraisers, hourly versus lump sum.

Committee directed outside legal counsel to, on all future appraisal assignments, negotiate on a flat fee basis unless there are extenuating circumstances unique to certain parcels which justify an hourly rate method of compensation.

Committee further directed staff to bring to the Right of Way Committee and ultimately the Board a full budget on appraisal fees.

A motion was made by Ms. Botts and seconded by Mr. Minkoff to recommend to the Board approval of the proposed Pinel & Carpenter Second Addendum to Agreement for Appraisal Services. The motion carried unanimously with all five committee members present and voting AYE by voice vote.

Item 7: WEKIVA PARKWAY PROJECT / PROJECTS 429-202; 429-203; 429-204; 429-205; 429-206 / CONSORTIUM APPRAISAL, INC. SECOND ADDENDUM TO AGREEMENT

Mr. Shontz requested the approval of the Second Addendum to Agreement for Appraisal Review Services by Consortium Appraisal, Inc.

Committee reiterated the direction given to Staff in the previous item.

A motion was made by Mr. Minkoff and seconded by Ms. Botts to recommend to the Board approval of the proposed Second Addendum to Agreement for Appraisal Services by Consortium Appraisal, Inc. The motion carried unanimously with all five committee members present and voting AYE by voice vote.

Item 8: PROPERTY ACQUISITION & DISPOSITION PROCEDURES MANUAL

Mr. Passiatore described the recommended changes in the manual. He discussed the Board's concerns with Section 5-6.04 Procedure for Disposition (d) Surplus Property Sold to a Public/Non Profit Entity.

Discussion ensued as to the process and alternative language. Each Committee member provided staff with their suggested proposed changes. The Committee directed staff to provide them with proposed language for several sections of the manual.

This item was tabled for further review by the Committee. Staff is directed to provide the Committee with proposed language for consideration by the Committee. This item will be reconsidered at the November's Right of Way Committee meeting.

No action was taken.

Item 9: OTHER BUSINESS

INCENTIVE OFFERS

Mr. Blackadar inquired about the Authority adding incentive amounts to initial offers on parcels. Incentives would be an amount of money above established just and full compensation. Discussion ensued as to the Federal Loan requirements, federal relocation act requirements and meeting schedules of the Committee and Board for item approvals.

Item 10: ADJOURNMENT

Chairman May adjourned the meeting at 4:00 p.m.

Pursuant to the Florida Public Records Law and OCEA 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.