

# CENTRAL FLORIDA EXPRESSWAY AUTHORITY

## MINUTES CENTRAL FLORIDA EXPRESSWAY AUTHORITY Right of Way Committee Meeting January 28, 2015

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### 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:

Linda S. Brehmer-Lanosa, Deputy General Counsel  
Joseph A. Berenis, Deputy Executive Director of Engineering, Operations  
Construction and Maintenance  
Mimi Lamaute, Paralegal/Recording Secretary  
Jeff Marshall, Sr. Communication Coordinator

### Also Present:

Trippe Cheek, Winderwee, Haines, Ward & Woodman, P.A.  
David Shontz, Shutts & Bowen  
Deborah Keeter, Atkins  
Deborah Poindexter, Atkins  
Kent Hipp, Gray Robinson  
V. Nicholas Dancaescu, Gray Robinson

### 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. Minkoff and seconded by Mr. Terwilliger to approve the minutes of the November 24, 2014 Right of Way Committee Meeting as presented. The motion carried unanimously with all five committee members present and voting AYE by voice vote.

Ms. Botts disclosed that she is an employee of the Real Estate Management Division for the City of Orlando, that the Greater Orlando Aviation Authority (GOAA) is affiliated with the City of Orlando, and that she is involved in land acquisitions for the City of Orlando. After conferring with CFX's Deputy General Counsel, Ms. Brehmer Lanosa, who reviewed Florida Statute 112.3143, Ms. Botts did not have a voting conflict because her vote would not inure to her special private gain or loss.

None of the committee members objected to Ms. Botts' participation in the following item.

**Item 4: S.R. 528 / BEELINE IMPROVEMENTS (PROJECT 528-405) PARCEL 7 PROJECT AIRPORT INTERCHANGE**

Ms. Keeter is seeking the Committee's recommendation to declare Parcel 7 surplus and sold to Orange County in accordance with the Authority's policies and procedures.

The Authority needs to acquire certain property from the City of Orlando which is used and controlled by GOAA. In connection with the 528-405 project, GOAA requested the Authority grant them an option to purchase the remainder of Parcel 7 and have now indicated that they will be exercising the option.

This parcel is approximately 5.36 acres and is estimated to have approximately 1.78 acres wetlands and 3 .58 acres of uplands.

The properties have been appraised. The property that CFX is purchasing was appraised at \$480,000. The property GOAA would be receiving had an appraisal prepared estimating the value as \$467,900 at November 2, 2012 (the date of the agreement between the City and the Expressway Authority for the purchase of the 528-405 property.) Ms. Keeter also advised the Committee that since this parcel is part of the Lease Purchase Agreement FDOT will need to be contacted for their concurrence that this parcel is surplus.

Discussion ensued as to the appraisal dates and amounts.

**A motion was made by Mr. Minkoff and seconded by Mr. Blackadar to recommend to the Board approval to declare this parcel surplus and sold in accordance with CFX's policies and procedures. The motion carried unanimously with all five committee members present and voting AYE by voice vote.**

**Item 5: S.R. 429 / PROJECT 653 (PARCEL 209) AND S.R. 408 / PROJECT 3.1 (PARCEL 578)**

Ms. Keeter is seeking the Committee's direction on how to proceed with the County's interest to purchase parcel 578, but refusal to pay for appraisal as provided in the Authority's policies and procedures.

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These are two parcels owned by the Authority and previously declared surplus. As directed by the Right of Way Committee, prior to offering the properties to the general public Orange County was contacted to ascertain if it had a need for the properties. The County has replied that it is interested and requested the asking price.

CFX's procedures for disposition of surplus property requires the purchaser to pay for the appraisal. This can be done in two ways; (1) the Authority can pay for the appraisal upfront and upon the sale of the property can request payment from the purchaser; or (2) CFX can accept offers subject to getting an appraisal stating that the property is not worth more than the contract price.

Neither of these properties has a current appraisal; they were going to be advertised with the requirement that the purchaser would obtain and pay for the appraisal to be prepared by an Authority approved appraiser. The County does not want to pay to have the appraisals prepared.

Ms. Keeter explained the location of the two pieces of parcels. She informed the Committee that there has been a lot of interest by purchasers. She opined as to the value of the parcels based on previous appraisals done in the area.

Mr. Terwilliger explained the County's position with regard to the County's interest in these parcels. Mr. Blackadar explained the procedures used by Seminole County.

Discussion ensued regarding the properties CFX is attempting to acquire from the County for the Wekiva Parkway Project, the prices and the possible exchange of parcels.

Mr. Terwilliger inquired from the Deputy General Counsel, Ms. Brehmer Lanosa whether he should abstain from voting on this matter. Ms. Brehmer Lanosa replied that this issue is similar to the issue raised by Ms. Botts. She explained that at every meeting there may be issues that affect each Committee members' particular jurisdiction. She opined as long as it is disclosed and there is nothing that would insure to his special private gain or loss. There is no voting conflict.

Mr. Minkoff expressed his concerns regarding CFX having the property appraised.

**A motion was made by Ms. Botts and seconded by Mr. Blackadar to approve CFX getting the property appraised by a CFX approved appraiser. The motion carried by a vote of 4 to 1 with AYE by voice vote; Mr. Minkoff voted No.**

**Item 6: S.R. 429 (WEATHERMAN) / WEKIVA PARKWAY PROJECT / PROJECT 429-204 (PARCEL 278)**

Mr. Shontz is seeking the Committee's recommendation for Board approval of the proposed settlement for acquisition of Parcel 278. Parcel 278 is a partial acquisition for a limited access right-of-way. The estimated

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value of taking by CFX's appraiser, Christopher Starkey of Integra Realty, was \$150,000 consisting of \$76,800 Land, \$3,050 Improvements, \$69,050 Incurable Damages and \$782 Cost to Cure.

Ms. Weatherman Doherty and CFX entered into a proposed Purchase Agreement for a total of \$156,800. Additionally, the property owner has not hired an attorney or retained other experts for which CFX would be responsible for as part of the landowner's compensation.

*Itemization of the settlement:*

Proposed settlement is \$156,800.00 in full settlement of all claims for compensation (there are no attorneys' or experts' fees).

A motion was made by Mr. Terwillinger and seconded by Mr. Minkoff to recommend to the Board approval of the proposed Settlement Agreement in the amount of \$156,800 in full settlement of all claims for compensation for the acquisition of Parcel 278. The motion carried unanimously with all five committee members present and voting AYE by voice vote.

**Item 7: S.R. 429 (SHULMAN) / WEKIVA PARKWAY PROJECT / PROJECT 429-203 (PARCEL 188)**

Mr. Shontz is seeking the recommendation of the Right of Way Committee for Board approval of the proposed mediated settlement agreement. This property was acquired through an Order of Taking hearing. There is a post-mediation issue. The settlement remains at \$375,000 as set forth in the memorandum provided to the Committee but a dispute arose regarding a Uniform Relocation Act payment. Mr. Shulman would like to retain the \$20,450 previously paid to him as a replacement housing payment to obtain a replacement dwelling after the taking of his home. This would result in CFX depositing an additional \$124,800 into the court registry (CFX receives a credit of \$250,200 previously deposited).

The subject property is 10.168 acres and is improved with a 2,363 s.f., 3 bedroom, 2 bathroom house built in 1975, which was the residence and homestead of Mr. Shulman. CFX's appraiser was Mr. Durrance who appraised the property at \$250,200. Mr. Shulman's appraisal of the subject property was prepared by Rick Dreggors of Calhoun, Dreggors & Associates, Inc., who appraised the property at \$762,000.00. Mr. Shulman was seeking a total of \$1,058,500.00 for a whole taking of Parcel 188.

Discussion ensued as to why the additional consideration for relocation was not discussed at mediation and the breakdown of the amounts negotiated for the property.

*Itemization of the settlement:*

Proposed settlement is \$375,000.00, additional consideration \$20,450, reduced Statutory attorney's fees for Wilson & Garber, PA \$41,184 and expert's fees and attorney's costs (subject to reduction) \$58,736.14.

A motion was made by Mr. Minkoff and seconded by Mr. Blackadar to recommend to the Board approval of the proposed Mediated Settlement Agreement in the amount of \$375,000 plus the additional consideration of \$20,450 as described above, reduced Statutory attorneys' fees, expert fees, and costs. The motion carried unanimously with all five committee members present and voting AYE by voice vote.

**Item 8: S.R. 429 (HALL) / WEKIVA PARKWAY PROJECT /PROJECT 429-203 PARCEL 186**

Mr. Shontz is seeking the Committee's recommendation for Board approval of the proposed mediated Settlement Agreement. Parcel 186 is a whole taking totaling 10.168 acres and is improved with a 2,264 s.f., four bedroom, two bath manufactured home built in 1998.

CFX's appraisal of the property was prepared by Chad Durrance of Durrance & Associates. Mr. Durrance's total value is \$300,000.00 (\$229,000 land, \$71,000 improvements).

The Hall's appraisal of the property was prepared by Rick Dreggors of Calhoun, Dreggors & Associates, Inc. Mr. Dreggors' total value is \$781,400.00 (\$762,800 land, \$18,600 improvements). The Hall's were seeking a total of \$853,536.00 for the taking of Parcel 186.

The mediated settlement agreement was for \$450,000 plus attorneys' fees and costs. CFX receives a credit of \$300,000 for the amount previously deposited; therefore, an additional \$150,000 would be required.

*Itemization of the settlement:*

Proposed settlement is \$450,000, statutory attorneys' fees \$41,250, experts' fees and attorneys costs incurred \$48,042 (subject to review and potential reduction).

A motion was made by Ms. Botts and seconded by Mr. Terwilliger to recommend to the Board approval of the proposed Mediated Settlement Agreement in the amount of \$450,000 plus Statutory attorneys' fees, expert fees, and costs. The motion carried unanimously with all five committee members present and voting AYE by voice vote.

**Item 9: INCENTIVE OFFERS ON WEKIVA PARKWAY PROJECT PARCELS**

Mr. Shontz explained that at the November 2014 Right of Way Committee meeting Mr. Minkoff requested that Shutts & Bowen review possible use of enhanced first written offers. At that meeting it was determined that the Committee would not recommend incentive offers on the Wekiva Parkway Project. At that time Ms. Long, who is the consultant for CFX and an expert in the Uniform Act, opined that if incentive offers were not given at the beginning of the project they would be deemed not in compliance with the Uniform Act. Enhanced first written offers need to be consistent across the entire project.

Mr. Shontz, after review of FDOT and FHWA's requirements on the use of enhanced first written offers, concurred with Ms. Long's opinion.

*This was an informational item. No action was taken.*

**Item 10: BUSINESS DAMAGE CLAIM OFFERS ON WEKIVA PARKWAY PROJECT PARCELS**

Mr. Shontz is requesting the Right of Way Committee's approval for Right of Way Counsel's ability and authority to be able to tender a counter business damages offer to property owners. Counsel would base the offer on the written business damage analysis provided by the business damage expert. Mr. Shontz explained the process, requirements and time frame for making business damage claim offers.

None of the Committee members objected to Right of Way Counsel having the authority to tender business damages offers based on the analysis of the business damage expert.

Discussion ensued as to whether a policy and/or manual change would be required.

Legal was directed to come back next month with a recommendation on the proper procedure to authorize Right of Way Counsel to tender business damage offers.

**Item 11: OTHER BUSINESS**

*No other business was discussed.*

**Item 12: ADJOURNMENT**

Chairman May adjourned the meeting at 2:58 p.m.

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