

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

MINUTES
CENTRAL FLORIDA EXPRESSWAY AUTHORITY
Right of Way Committee Meeting
June 22, 2016
Location: CFX Boardroom

Committee Members Present:

Sandy Minkoff, Lake County Representative, Chairman
Frank Raymond, Osceola County Representative
Robert Babcock, Orange County Representative Alternate
Laurie Botts, City of Orlando Representative
Christopher Murvin, Citizen Representative
Brendon Dedekind, Citizen Representative
Neil Newton, Seminole County Representative Alternate

CFX Staff Present at Dais:

Joseph L. Passiatore, General Counsel
Laura Kelley, Executive Director
Linda S. Brehmer Lanosa, Deputy General Counsel
Mimi Lamaute, Paralegal/Recording Secretary

Item 1: CALL TO ORDER

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

Item 2: PUBLIC COMMENT

There was no public comment.

Chairman's Comments

Chairman Minkoff reminded the Committee that the Financial Disclosure and Potential Conflict Disclosure forms are due July 1st.

Chairman Minkoff mentioned that in September the chairmanship will rotate to Orange County, in accordance with the Right of Way Committee Charter.

Item 3: APPROVAL OF MINUTES

Action: A motion was made by Mr. Murvin and seconded by Mr. Raymond to approve the May 25, 2016 Right of Way Committee meeting minutes as presented.

Vote: The motion carried unanimously with seven members present and voting AYE by voice vote.

Item 4: S.R. 429 (CRABB) WEKIVA PARKWAY PROJECT (PROJECT 429-204) PARCEL 251

Mr. Shontz is seeking the Committee's recommendation for Board approval of a negotiated settlement with Gregory W. Stoner, Esquire, (the tenant's Attorney) for the attorney's fees and costs incurred in the defense of Richard Crabb's apportionment rights as tenant in Parcel 251.

Mr. Shontz provided the committee with a description and information on the taking of Parcel 251. American Finance, LLC and Richard Crabb engaged in negotiations regarding the vacation of the property by Mr. Crabb as a tenant.

On February 8, 2016, Gregory W. Stoner, Esquire, filed Crabb's Motion to Tax Attorney's Fees and Costs, providing schedules requesting taxation of attorney's fees totaling \$23,440.00 and costs totaling \$112.00. Mr. Shontz explained CFX's rationale for requesting a reduction in the fees and costs requested.

Judge Kest entered an order requiring mediation, expert witness disclosure and report prior to an evidentiary hearing on the motion. Prior to incurring the expert witness costs, mediator costs, and related additional fees, the CFX and Mr. Stoner agreed to resolve the motion for a total of \$15,000.00.

Action: A motion was made by Ms. Botts and seconded by Mr. Raymond to recommend to the Board approval of the negotiated settlement in the amount of \$15,000.00 to resolve all claims by Mr. Stoner for apportionment attorney's fees and costs.

Vote: The motion carried unanimously with seven members present and voting AYE by voice vote.

Item 5: S.R. 429 (VIP PROPERTIES, LLC) WEKIVA PARKWAY PROJECT (PROJECT 429-203) PARCEL 170

Ms. Brehmer Lanosa is seeking the Committee's recommendation for Board approval of the payment of expert fees and costs as to Parcel 170. Ms. Brehmer Lanosa provided the Committee background information.

Benefit is defined as the difference between the final judgment and the last written offer made by the condemning authority before the owner hires an attorney. The monetary benefits is the difference between \$62,000 and \$15,600, or \$46,400. The statutory attorney's fee cannot be negotiated. Applying the statutory formula, the statutory attorney's fee award is \$15,312.

Counsel for the owner provided invoices from its experts, an appraiser, a market analyst, and a planner totaling \$10,820. After reviewing the invoices and the experts' files, the parties were able to reach a proposed resolution in the amount of \$8,464.50.

Action: A motion was made by Ms. Botts and seconded by Mr. Raymond to recommend to the Board approval of the payment in the amount of \$8,464.50 for expert fees and costs as to Parcel 170.

Vote: The motion carried unanimously with seven members present and voting AYE by voice vote.

Item 6: S.R. 429 (KLEPZIG) WEKIVA PARKWAY PROJECT (PROJECT 429-203) PARCELS 195

Ms. Brehmer Lanosa is seeking the Committee's recommendation for Board approval of the proposed negotiated settlement agreement. Ms. Brehmer Lanosa provided the Committee with the construction plans depicting how the construction impacts the property and photos of the structures on the parcel.

CFX's appraisal of the property was prepared by Christopher D. Starkey, MAI. Mr. Starkey opined the total value for the land was \$851,300. The Klepzig Family (the "Owners") retained the appraisal services of Gary M. Pendergast. Mr. Pendergast opined the total value for the land was \$2,399,100. Ms. Brehmer Lanosa explained that the biggest issues in this case involved the value of the land and severance damages.

Statutory attorney's fees based upon the Owner's initial demand is \$379,560. The expert fees and costs submitted by the Owners total \$98,133.37. The Parties at mediation reached an all-inclusive settlement all in the amount of \$1,533,000.

It was asked whether a business damages claim was filed on this Parcel. Ms. Brehmer Lanosa replied that the settlement agreement also includes business damages.

Action: A motion was made by Mr. Raymond and seconded by Ms. Botts to recommend to the Board approval of the proposed mediated all-inclusive settlement in the amount of \$1,533,000, including statutory interest and all claims related to the real estate and business damages, severance damages, attorney's fees and litigation costs, expert fees and costs for Parcel 195.

Vote: The motion carried unanimously with seven members present and voting AYE by voice vote.

Item 7: S.R. 429 (GROSSENBACHER) WEKIVA PARKWAY PROJECT (PROJECT 429-202) PARCEL 104/804

Ms. Haylee O'Dowd with Winderweeple, Haines, Ward & Woodman, P.A. introduced Richard Weinman and requested the Committee's recommendation for Board approval of the proposed settlement with Robert M. Grossenbacher, Scott Grossenbacher and Todd Grossenbacher individually and as co-personal representatives of the Estate of John C. Grossenbacher, Carolyn Ditch, Mary K. Frisbie, and Elizabeth G. Townsend (the "Owners"). Ms. O'Dowd provided the Committee with a description and the background of the parcel.

CFX retained the appraisal services of Richard MacMillan of the Appraisal Group of Central Florida, Inc. Mr. MacMillan opined the total value of the taking is \$338,000, with the Value of the Part Taken at \$243,100, Severance Damages at \$67,000, and Cost to Cure at \$27,900.

The Owners retained the appraisal services of Gary Pendergast, MAI of Florida Real Estate Analysts, Inc. Mr. Pendergast opined the total value of taking is \$732,700 (Value of the Part Taken \$500,400, Severance Damages \$200,700, and Cost to Cure \$31,600).

The Owners have also submitted experts' invoices in the amount of \$45,523. CFX's expert fees in this case totaled \$78,095.

Mediation was conducted on June 3, 2016, which resulted in an all-inclusive proposed settlement of \$616,500. The Settlement Agreement does not allocate the proposed settlement amount among the experts, attorney and landowner.

Action: A motion was made by Mr. Murvin and seconded by Mr. Raymond to recommend to the Board approval of the proposed settlement agreement in the amount of \$616,500 in full settlement of all claims for compensation, including statutory and supplemental attorney's fees and costs, and all experts' fees and costs for Parcels 104/804.

Vote: The motion carried unanimously with seven members present and voting AYE by voice vote.

Item 8: S.R. 429 (HAMPTON) WEKIVA PARKWAY PROJECT (PROJECT 429-202) PARCEL 143 (PARTS A, B & C)

Ms. O'Dowd is requesting the Committee's recommendation for Board approval of a proposed settlement. She provided the Committee with a description and the background of the parcel.

Parcel 143 is considered a "hiatus parcel" and contains an area of 0.322-acres. The owner of record is Paul Hampton. As a hiatus parcel, it was likely intended to be purchased as part of a larger parcel through a Quit Claim transaction from Hang Ju & Ynon Sup Chon on November 21, 1997 for a price of \$200,000. CFX retained the appraisal services of Steven Matonis of Integra Realty. Mr. Matonis concluded a fee simple market value estimate of \$9,660. Mr. Matonis opined that the existing use of the subject parcel as a

right-of-way for Yothers Road encumbers approximately 95% of the fee owner's bundle of rights. Mr. Matonis used the Across-the-Fence methodology to determine the value of the strip.

Negotiations with the landowner have resulted in a proposed settlement of \$1,000. The landowner is not submitting a claim for attorney fees or expert fees in this case and there are no expert fees or cost for this parcel.

Action: A motion was made by Ms. Botts and seconded by Mr. Raymond to recommend to the Board approval of the proposed settlement agreement in the amount of \$1,000 to resolve the fee taking for Parcel 143.

Vote: The motion carried unanimously with seven members present and voting AYE by voice vote.

Item 9: OTHER BUSINESS

No other business was discussed.

Item 10: ADJOURNMENT

Mr. Minkoff adjourned the meeting at approximately 2:27 p.m.

Minutes approved on July 27, 2016.

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.