

# CENTRAL FLORIDA EXPRESSWAY AUTHORITY

MINUTES  
CENTRAL FLORIDA EXPRESSWAY AUTHORITY  
Right of Way Committee Meeting  
March 23, 2016  
Location: CFX Boardroom

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Committee Members Present:

Sandy Minkoff, Lake County Representative, Chairman  
Frank Raymond, Osceola County Representative  
Ann Caswell, Orange County Representative  
Laurie Botts, City of Orlando Representative  
Jean Jreij, Seminole County Representative

CFX Staff Present at Dais:

Laura Kelley, Executive Director  
Joseph L. Passiatore, General Counsel  
Linda 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.

**Item 3: APPROVAL OF MINUTES**

**Action:** A motion was made by Ms. Caswell and seconded by Ms. Botts to approve the February 24, 2016 Right of Way Committee minutes as presented.

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

**Item 4: S.R. 429 (KORUS) WEKIVA PARKWAY PROJECT (PROJECT 429-202) PARCEL 120 (PARTS A & B)**

Mr. Cheek is requesting the Committee's recommendation for Board approval of a proposed settlement of attorney's fees for the business damage claim and expert fees and costs for both the business damage

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and real estate claims with Korus Orchid Corporation. He provided the Committee with a description and background of the property.

Korus qualified for business damages for this case. Korus submitted a business damage claim for \$5,850,000, and CFX filed a statutory counter-offer in the amount of \$3,611,000. Korus accepted CFX's counter-offer. A Stipulated Partial Final Judgment as to business damages in the amount of \$3,611,000 was entered on March 19, 2015. This judgment did not resolve the issue of expert's or attorney's fees and costs, as expert fees and costs are not a required component of a statutory business damage counter-offer. The Partial Final Judgment therefore reserved jurisdiction to determine attorney's fees and expert fees and costs for the business damage claim.

Korus submitted a claim of \$360,427 for expert fees and costs (for both the real estate claim and business damage claim), plus a claim of \$243,026 for attorneys' fees (for the business damage claim, as the real estate attorneys' fees were based on betterment and already resolved), for a total fee request of \$603,453. After negotiations, opposing counsel is willing to accept \$450,000 in total expert fees and costs, and attorney's fees and costs.

Korus was represented by Tom Callan, Esquire. Mr. Callan initially submitted a fee request in the amount of \$243,026.00. After negotiations, Mr. Callan reduced this request to \$229,000. This reduced fee was then subjected to further negotiations and was further reduced.

Korus also submitted expert fees from 14 different experts in the amount of \$360,427. After an initial review these fees were reduced to approximately \$310,000, and after negotiations were further reduced.

The Committee asked several questions, which were answered by Mr. Cheek. The Committee expressed their concern with the invoiced amounts for fees and costs submitted by the Owners. General Counsel's Office indicated that it was in support of the proposed settlement of fees and costs.

Settlement Breakdown:

Expert fees – real estate claim	\$116,000
Expert fees – business damage claim	\$152,000
Attorneys' fees – business damage claim	<u>\$182,000</u>
Total:	\$450,000

**Action:** A motion was made by Ms. Caswell and seconded by Mr. Raymond to recommend to the Board approval of the proposed settlement in the amount of \$450,000 in full settlement of all compensation claims, attorneys' fees, and expert fees.

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

*This item was taken out of order*

**Item 6: S.R. 429 (SMITH) WEKIVA PARKWAY PROJECT (PROJECT 429-204) PARCEL 280**

Ms. Brehmer Lanosa presented the next two items in Mr. Shontz's absence. She provided the Committee with a description and background of the parcel. Parcel 280 is a fee simple acquisition of 10.975 acres, more or less. The remainder is approximately 4.067 acres.

The CFX's appraisal of the property was prepared by Christopher D. Starkey, MAI, of Integra Realty Resources – Orlando. Mr. Starkey estimated the value of the land acquired at \$322,700.

Ms. Brehmer Lanosa explained Mr. Starkey's opinion regarding estimation of the damages.

This case involves the partial taking of property owned by Vernice L. Smith, Trustee of The Smith Family Revocable Living Trust. CFX is acquiring 10.311 acres from a 14.14-acre parent tract, leaving a 3.829-acre remainder with frontage along Boch Road.

The landowner retained the appraisal services of Gary Pendergast, MAI, of Florida Real Estate Analysts, Inc. Mr. Pendergast values the taking at \$1,009,100.

During mediation, the parties were able to reach a settlement in the amount of \$657,000, as full settlement of all claims for compensation by the property owner, plus statutory attorney's fees totaling \$76,197, plus reduced expert fees and costs totaling \$38,696.79.

The Committee asked several questions, which were answered by Ms. Brehmer Lanosa.

**Motion:** A motion was made by Ms. Botts and seconded by Mr. Jreij to recommend to the Board approval of the proposed settlement agreement in the amount of \$771,893.70 in full settlement of all compensation claims, attorneys' fees, and expert fees and costs for Parcel 280.

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

**Item 5: S.R. 429 (BALLINGS) WEKIVA PARKWAY PROJECT (PROJECT 429-205) PARCEL 285**

Ms. Brehmer Lanosa provided the Committee with a description and background on this matter. Parcel 285 is a fee simple acquisition of 2.288 acres, more or less. The remainder property consists of approximately 2.341 acres.

CFX's appraisal of the property was prepared by Christopher D. Starkey, MAI, of Integra Realty Resources - Orlando. Mr. Starkey estimated the value of the taking at \$99,641, rounded to \$99,650, consisting of \$71,650 for the part taken, \$27,450 for damages to the remainder, and \$541 for the cost to cure.

Gary Pendergast, MAI, of Florida Real Estate Analysts, Inc., prepared the appraisal report for the Owner. Mr. Pendergast estimates the compensation due at \$216,000, consisting of \$137,500 for land taken and \$80,300 damages to the remainder.

During mediation, the parties were able to reach a settlement in the amount of \$147,500 as full settlement of all claims for compensation by the property owner, plus statutory attorney's fees totaling \$17,160, plus reduced expert fees and costs totaling \$31,105.86, for a total settlement of \$195,765.86.

The Committee asked several questions, which were answered by Ms. Brehmer Lanosa.

**Action:** A motion was made by Ms. Botts and seconded by Ms. Caswell to recommend to the Board approval of the proposed settlement agreement in the amount of \$195,765.86 in full settlement of all compensation claims, attorneys' fees, and expert fees and costs for Parcel 285.

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

**Item 7: OTHER BUSINESS**

Mr. Passiatore provided a brief preview of an upcoming agenda item on the matter of CFX v. Tuscan Ridge. In an attempt to resolve attorney fees, there was a mediation held on February 12, 2016 in Tallahassee. Mr. Passiatore and Mr. Richard Milian of Broad and Cassel attended the mediation. The settlement will be before the Committee for approval at the April meeting.

**Item 8: ADJOURNMENT**

Mr. Minkoff adjourned the meeting at approximately 2:39 p.m.

Minutes approved on April 27, 2016.

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