

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

MINUTES
CENTRAL FLORIDA EXPRESSWAY AUTHORITY
Right of Way Committee Meeting
January 25, 2017
Location: CFX Boardroom

Committee Members Present:

Bob Babcock, Orange County Representative Alternate, Committee Chairman
Sandy Minkoff, Lake County Representative
Laurie Botts, City of Orlando Representative
Frank Raymond, Osceola County Representative
Jean Jreij, Seminole County Representative

Committee Members Not Present:

Brendon Dedekind, Citizen Representative
Christopher Murvin, Citizen Representative

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 Babcock.

Item 2: PUBLIC COMMENT

Mr. Passiatore announced that the CFX Boardroom has new Audio Visual Equipment which includes microphones and new screens. This meeting is being streamed internally as a test of the new system.

Item 3: APPROVAL OF MINUTES

Action: A motion was made by Ms. Botts and seconded by Mr. Raymond to approve the December 1, 2016 Right of Way Committee meeting minutes as presented.

Vote: The motion carried unanimously with five (5) members present and voting AYE by voice vote. Mr. Dedekind and Mr. Murvin were not present.

Item 4: S.R. 429 (CFX) WESTERN BELTWAY PART C (PROJECT 429-654) PARCELS 107A AND 107B

Mr. Kurt Ardaman, City Attorney for the City of Winter Garden (the "City"), on behalf of the City, is requesting the Committee's recommendation for Board approval for four (4) strips of property from CFX for the widening of C.R. 535 and Stoneybrook West Parkway. The City's widening project will improve the access to and from S.R. 429. Mr. Ardaman provided the Committee with a map depicting the location and sizes of the parcels on a map. The City has recently received the permits needed to proceed with the traffic improvements. This will benefit access to and from S.R. 429. The limited access lines will be relocated to make sure that the rights of CFX and the protection of S.R. 429 remains in place. The CFX General Engineering Consultant (GEC) has reviewed the City's request and determined that the property is not essential for the operation of CFX's system.

Action: A motion was made by Mr. Minkoff and seconded by Ms. Botts to recommend to the Board approval of the Agreement for Right-of-Way Transfer and Continuing Maintenance between CFX and the City of Winter Garden pertaining to County Road 535 and Stoneybrook West Parkway, subject to approval of the legal descriptions and construction plans by CFX staff.

Vote: The motion carried unanimously with five (5) members present and voting AYE by voice vote. Mr. Dedekind and Mr. Murvin were not present.

Item 5: S.R. 429 (DAVIS) WEKIVA PARKWAY PROJECT (PROJECT 429-203) PARCELS 197/897

Mr. Small of Mateer Harbert represents CFX as Right of Way Legal counsel. This item involves a proposed settlement of an apportionment claim by Respondent, Vicki Davis d/b/a Bay Hills Equestrian Center ("Davis"). Davis was the tenant on the parent tract of property owned by Project Orlando, LLC ("Project Orlando").

The parties reached a proposed negotiated all-inclusive settlement of Davis' apportionment claim for \$60,000.00, including interest, expert fees and attorneys' fees, and cost. Davis has also agreed to assign her apportionment claim to CFX which will allow CFX to assert, prosecute, and collect any apportionment claim Davis had against the owner of Parcels 197/897.

The valuation trial regarding Parcels 197/897 is scheduled on the March 2017 trial docket.

The invoices submitted by Davis for attorneys' fees and expert fees totaled \$196,222.00. These fees were substantially reduced for an all-in settlement.

Discussion ensued regarding expert fees, costs, and attorney's fees and the amount of the apportionment claim.

Ms. Botts expressed her concerns regarding the attorney's fees being out of proportion to the claim and Davis' lease agreements being terminable.

Action: A motion was made by Mr. Minkoff and seconded by Mr. Jreij to recommend to the Board approval of the all-inclusive settlement agreement in the amount of \$60,000.00 to settle any and all remaining claims of Davis, including her pending apportionment claim, attorney's fees, expert fees, and costs, provided that Ms. Davis, at counsel for CFX's election, include in the Stipulated Final Judgment an assignment to CFX of Davis' apportionment claim against the owners of Parcels 197/897 and their successors and assigns.

Vote: The motion carried unanimously with five (5) members present and voting AYE by voice vote. Mr. Dedekind and Mr. Murvin were not present.

Item 6: S.R. 429 (REID) WEKIVA PARKWAY PROJECT (PROJECT 429-203) PARCEL 166

Mr. Shontz is requesting the Committee's recommendation for Board approval of a mediated settlement with Darrell D. Reid, Katie J. Reid, his wife, and Darrell Reid (the "Owners"). Mr. Shontz provided the Committee with a description and background on the parcel.

Parcel 166 consists of 4.014 acres from two contiguous parcels with a combined area of 11.57 acres. CFX's appraisal of the property was prepared by Christopher D. Starkey, MAI, of Integra Realty Resources Orlando. Mr. Starkey opined the total compensation due for the taking of Parcel 166 at \$313,675 (\$228,485 for the land, \$83,065 for the contributory value of the building improvements and \$2,125 cost to cure).

The Owners retained the appraisal services of Richard H. Parham of Calhoun, Collister & Parham, Inc., who estimated the value of the taking at \$653,300 (\$220,600 for the land, \$159,800 for improvements taken, \$270,300 for damages, and \$2,600 cost to cure). Mr. Shontz explained the arguments for the value made by the Owners' attorney.

This matter is scheduled for the April 20, 2017 trial docket. During mediation the parties reached a proposed settlement in the amount of \$569,300 (\$471,000 as full settlement of all claims for compensation, including business damages, plus statutory attorney's fees totaling \$82,500, plus expert fees, and costs totaling \$15,800).

Discussion ensued regarding the Owners' rental income. The Committee asked questions which were answered by Mr. Shontz.

Action: A motion was made by Ms. Botts and seconded by Mr. Minkoff to recommend to the Board approval of the mediated settlement agreement in the amount of \$569,300 in full settlement of all pending claims for the taking of Parcel 166, including full compensation for the property, attorney's fees, attorney's costs, expert fees, and expert costs.

Vote: The motion carried unanimously with five (5) members present and voting AYE by voice vote. Mr. Dedekind and Mr. Murvin were not present.

Item 7: S.R. 429 (REID) WEKIVA PARKWAY PROJECT (PROJECT 429-203) PARCEL 167

Mr. Shontz is requesting the Committee's recommendation for Board approval of the proposed mediated settlement with Darnen Reid, (the "Owner"). This parcel is adjacent to the previous presented Parcel 166. The Owner of this Parcel is the son of the Owners of Parcel 166. In the after condition, the remainder consists of two non-contiguous parcels of land, Northern Remainder and Southern Remainder.

CFX retained the appraisal services of Christopher D. Starkey, MAI, of Integra Realty Resources Orlando. Mr. Starkey opined that the total compensation due for the taking of Parcel 167 is \$220,000.

The Owners retained the appraisal services of Richard H. Parham of Calhoun, Collister & Parham, Inc., Mr. Calhoun opined that the total compensation for the taking at \$329,500 (\$118,000 for the land, \$130,000 for the improvements taken, and \$81,500 for severance damages).

This matter is scheduled on the April 10, 2017 trial docket. During the mediation on January 4, 2017 the parties reached a settlement in the amount of \$317,782 (\$274,000 as full settlement of all claims for compensation by the property owner, \$28,347 for attorney's fees and costs, and \$15,435 for expert fees and costs).

Action: A motion was made by Mr. Raymond and seconded by Mr. Jreij to recommend to the Board approval of the mediated settlement agreement in the amount of \$317,782 in full settlement to settle all pending claims for the taking of Parcel 167, including full compensation for the property, attorney's fees, attorney's costs, expert fees, and expert costs.

Vote: The motion carried unanimously with five (5) members present and voting AYE by voice vote. Mr. Dedekind and Mr. Murvin were not present.

Item 8: S.R. 429 (RILEY) WEKIVA PARKWAY PROJECT (PROJECT 429-203) PARCEL 166

Mr. Shontz is requesting the Committee's recommendation for Board approval of the proposed mediated settlement with Howard Riley d/b/a The Rat Guy, (the "Tenant") for the acquisition of leasehold improvements located on Parcel 166. This item represents a claim by the Tenant, the prior item presented to the Committee was by the Owner of Parcel 166.

Howard Riley d/b/a The Rat Guy, was a tenant on Parcel 166. During his approximate 4-year tenancy, the Tenant constructed a rodent-breeding facility consisting of two (2) mobile trailer homes over which was built a wooden frame pole barn. The facility includes dirt floors, open sides and a metal roof, plumbing,

electrical, and contained cages for containment of the rats which were sold as reptile food. The Tenant also had a metal shed used as the actual breeding facility for the rats.

CFX's retained the appraisal services of Christopher D. Starkey, MAI, of Integra Realty Resources Orlando. Mr. Starkey in his appraisal addendum report estimated the value for the pole barn at \$12,700. The Tenant retained the appraisal services of Bradley J. Pierson of Pierson Appraisal Group. Mr. Pierson opined the total value of the entire improvement package by the cost approach of \$74,150. Mr. Shontz explained the valuation used by Mr. Pierson to calculate the valuation.

This matter is scheduled on the April 10, 2017 trial docket. During mediation, the parties reached a settlement in the amount of \$102,000 including all claims related to the improvements and business damages, attorney's fees and costs and experts' fees and costs.

Action: A motion was made by Mr. Raymond and seconded by Ms. Botts to recommend to the Board approval of the mediated settlement agreement in the amount of \$102,000 in full settlement of all claims for compensation in the acquisition of the tenant-owned improvements located on Parcel 166, including all statutory attorney's fees and attorney's costs, and all experts' fees and experts' costs.

Vote: The motion carried unanimously with five (5) members present and voting AYE by voice vote. Mr. Dedekind and Mr. Murvin were not present.

Item 9: S.R. 453 (NEW) WEKIVA PARKWAY PROJECT (PROJECT 429-206) PARCEL 314

Mr. Shontz is requesting the Committee's recommendation for Board approval of the proposed mediated settlement with Deborah New (the "Owner").

CFX retained the appraisal services of Richard K. MacMillan of The Appraisal Group of Central Florida. Mr. MacMillan opined that the total compensation due for the taking of Parcel 314 is \$285,000 (\$152,600 for the land, and \$132,400 for the improvements).

Mr. Kurt Bauerle of Harris Bauerle Ziegler Lopez, P.A. represents the Owners. Although an appraisal has not been completed. Mr. Bauerle argues that settlement of an adjacent parcel of similar size was \$478,000 and, therefore, an appropriate settlement for this parcel due to its similarity.

The parties were able to reach a settlement in the amount of \$417,000 plus attorney's fees in the amount of \$48,510, and attorney's costs in the amount of \$4,750.

Action: A motion was made by Mr. Minkoff and seconded by Mr. Raymond to recommend to the Board approval of the mediated settlement agreement in the amount of \$470,260 in full settlement

to settle all claims for compensation in the acquisition of Parcel 314 including all statutory attorney's fees and attorney's costs.

Vote: The motion carried unanimously with five (5) members present and voting AYE by voice vote. Mr. Dedekind and Mr. Murvin were not present.

Item 10: S.R. 429 (ELLEN S. HARDGROVE AICP PLANNING CONSULTANT, INC.) WEKIVA PARKWAY PROJECT (PROJECT 429-203, 204, 205 AND 206) LAND PLANNING SERVICES

Mr. Shontz is requesting the Committee's recommendation for Board approval of an addendum to the Agreement with Ellen S. Hardgrove AICP Planning Consultant, Inc., ("Land Planning Expert") to perform land planning services and litigation support services for the Wekiva Parkway Project Numbers 429-203, 429-204, 429-205, and 429-206. The Addendum to the Agreement will allow the Land Planning Expert to continue her services in the upcoming trials of several parcels on the Wekiva Parkway.

The Land Planning Expert is currently assigned work on Parcel 219 (Chapman), scheduled for trial in April; Parcel 228 (Tyszko), scheduled for trial in May; and Parcel 287/887 (Morris), scheduled for trial in November. The Addendum to the Agreement includes an upset amount of \$200,000.00.

The Committee asked questions, which were answered by Mr. Shontz.

Action: A motion was made by Ms. Botts and seconded by Mr. Jreij to recommend to the Board approval of the Addendum to the Agreement for Land Planning Expert Witness Consulting Services and authorize execution of the Addendum in the amount of \$200,000.

Vote: The motion carried unanimously with five (5) members present and voting AYE by voice vote. Mr. Dedekind and Mr. Murvin were not present.

Item 11: S.R. 429 (SMALLWOOD SIGN COMPANY) WEKIVA PARKWAY PROJECT (PROJECT 429-206) PARCEL 330 ODA

Ms. Brehmer Lanosa presented this matter to the Committee on behalf of Ms. Driscoll of Shutts & Bowen LLP. She is requesting the Committee's recommendation for Board approval for a negotiated settlement with Smallwood Sign Company, Inc. ("Smallwood").

Parcel 330 ODA comprises a total taking of a double faced outdoor advertising sign owned by Pat Smallwood of Smallwood Sign Company, Inc. Ms. Brehmer Lanosa provided the Committee with a description, pictures and background of the parcel and location.

CFX has retained the appraisal services of Walter N. Carpenter of Pinel & Carpenter, Inc. Mr. Carpenter opined the value for Parcel 330 ODA to be \$13,000.

Smallwood retained the appraisal services of Martin Englemann of Tropical Realty Appraisal Services. Mr. Englemann's appraisal concludes the value of the subject billboard to be \$135,000.

The parties' differing valuation opinions result primarily from two (2) factors. First is the gross income as utilized in the Income Approach. At the time of his analysis, Mr. Carpenter did not have access to the current leases nor to the financial records of Smallwood. That would account for the large difference between the appraisers' conclusions. The second factor relates to the assumption regarding the length of time the billboard would continue to remain on the property but for the taking.

The parties reached a settlement in the amount of \$112,760 in full settlement of all claims (\$80,000 for the land, \$10,650 for the appraisal, \$22,110 for statutory attorney's fees).

Mr. Minkoff stated that 20 plus years ago the Smallwood Sign Company was his client. This is not a legal conflict; however, he wanted to provide full disclosure.

Discussion ensued as the method used by the appraisers for their reports.

Action: A motion was made by Mr. Raymond and seconded by Mr. Jreij to recommend to the Board approval of the settlement agreement in the amount of \$112,760 in full settlement of all claims for compensation in the acquisition of Parcel 330 ODA, including all statutory attorney's fees and attorney's costs, and all experts' fees and experts' costs.

Vote: The motion carried unanimously with five (5) members present and voting AYE by voice vote. Mr. Dedekind and Mr. Murvin were not present.

Item 12: S.R. 429 (ALDERMAN) WEKIVA PARKWAY PROJECT (PROJECT 429-204) PARCEL 241

Ms. Brehmer Lanosa explained that she was the corporate representative at mediation on this matter. Suzanne Driscoll, Esquire, of Shutts & Bowen represented CFX as Legal Counsel. Ms. Brehmer Lanosa is requesting approval of a mediated settlement agreement with Daryl and Laura Alderman (the "Owners") for Parcel 241. She provided the Committee with a PowerPoint Presentation with pictures and description of the parcel.

CFX retained the appraisal services of David Hall, of Bullard, Hall and Adams. Mr. Hall opined the total compensation due for the taking of Parcel 241 is \$1,037,200 (\$754,200 for the land and \$283,000 for the improvements).

The Owners retained the appraisal services of Martin Englemann of Tropical Realty Appraisal Services, who estimated the value of the taking to be \$1,610,000.

The case was successfully mediated on December 22, 2016. The parties have reached a proposed all-inclusive settlement in the amount of \$1,496,175 (\$1,306,000 for the land, \$138,175 for statutory attorney's fees, \$48,000 expert fees and costs, \$4,000 additional sum).

To date, the Owners received the good faith estimate of value in the amount of \$846,200 plus a replacement housing purchase additive ("Purchase Additive") in the amount of \$94,000. The Purchase Additive will be recaptured as part of the proposed settlement. The Owners received some additional relocation benefits for incidental expenses.

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

Action: A motion was made by Mr. Minkoff and seconded by Ms. Botts to recommend to the Board approval of the mediated settlement agreement in the amount of \$1,496,175 in full settlement of all claims for compensation in the acquisition of Parcel 241, including compensation for the property, severance damages, business damages, tort damages, interest, attorney's fees, attorney's costs, expert fees, expert costs, and any other claim, subject to apportionment.

Vote: The motion carried unanimously with five (5) members present and voting AYE by voice vote. Mr. Dedekind and Mr. Murvin were not present.

Item 13: OTHER BUSINESS

Mr. Minkoff expressed his appreciation for the hard work by Counsel in negotiating the above settlements.

Item 14: ADJOURNMENT

Chairman Babcock adjourned the meeting at approximately 3:20 p.m.

Minutes approved on February 22, 2017.

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.