

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

MINUTES CENTRAL FLORIDA EXPRESSWAY AUTHORITY Right of Way Committee Meeting April 26, 2017

Location: CFX Headquarters Boardroom
4974 ORL Tower Road
Orlando, Florida 32807

Committee Members Present:

Bob Babcock, Orange County Representative Alternate, Committee Chairman
Laurie Botts, City of Orlando Representative
Frank Raymond, Osceola County Representative
Neil Newton, Seminole County Representative Alternate
Christopher Murvin, Citizen Representative
Brendon Dedekind, Citizen Representative

Committee Member Not Present:

Sandy Minkoff, Lake County 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

There was no public comment.

Item 3: APPROVAL OF MINUTES

Action: A motion was made by Mr. Raymond and seconded by Mr. Dedekind to approve the February 22, 2017 Right of Way Committee meeting minutes as presented.

Vote: The motion carried unanimously with six (6) members present and voting AYE by voice vote. Mr. Minkoff was not present.

Item 4: S.R. 429 (CFX) (PROJECT 604, 200, 200A) & S.R. 414 (PROJECT 210)

Ms. Keeter with Dewberry, CFX's General Engineering Consultant, is requesting the Committee's direction regarding jurisdictional right of way transfer with the City of Apopka. She provided the Committee with the background of the projects for which CFX purchased these properties; including the realignment of Ocoee Apopka Road as part of the S.R. 429 and S.R. 414.

CFX would like to transfer these portions of road right of way and pond to the City of Apopka to eliminate maintenance and reduce liabilities. The transfers would be subject to easements in favor of CFX for bridge crossings.

The Committee inquired as to reverter rights by CFX. Discussion ensued regarding Orange County owning portions of the property. The City of Apopka cannot convey CFX air rights on portions of the Ocoee Apopka Road that are owned by Orange County. Ms. Keeter explained that Orange County is working with the City of Apopka.

Ms. Botts recommended that approval be subject to the inclusion of additional language reserving future air rights from the City of Apopka.

Action: A motion was made by Ms. Botts and seconded by Mr. Murvin for staff to proceed with preparing the necessary documentation for review and consideration at next month's Committee meeting, subject to the inclusion of air rights in favor of CFX from the City of Apopka when Ocoee Apopka Road is transferred to the City of Apopka.

Vote: The motion carried unanimously with six (6) members present and voting AYE by voice vote. Mr. Minkoff was not present.

Item 5: S.R. 429 (BUCHHEIT) WEKIVA PARKWAY PROJECT (PROJECT 429-205) PARCEL 292

Mr. Shontz with Shutts & Bowen, Right of Way Counsel for CFX, is requesting the Committee's recommendation for Board approval of the proposed mediated settlement with Kimberly Buchheit and Wise Acre Farm, LLC (the "Owners").

Parcel 292 involves a partial taking of 5.127 acres. The property has been annexed into the City of Apopka.

CFX's appraisal of the property was prepared by Chad Durrance with Durrance and Associates. Mr. Durrance opined the value of the taking of Parcel 292 at \$338,100 (\$141,000 for the land taken, \$120,000 for the improvements and \$77,100 for damages and the cost to cure).

The Owners are represented by Edgar Lopez with Harris Harris Bauerle Ziegler Lopez, P.A. The Owners retained the appraisal services of Rick Dreggors with Calhoun, Dreggors & Associates, Inc. Mr. Dreggors opined the total value of compensation at \$770,100 (\$256,400 for the land, \$37,300 for improvements value, \$476,400 for damages). In addition to the property claim, the Owners also asserted a business damage claim in the amount of \$56,275. Mr. Lopez presented experts' invoices totaling \$69,710.27. The Owners' total demand was in the amount of \$896,085.27, excluding attorney's fees and costs.

After numerous mediation conferences, the parties reached a proposed all-inclusive settlement in the amount of \$699,990, including Ms. Buchheit's Written Statement regarding the replacement housing purchase additive and including all statutory interest, all claims related to real estate and business damages, severance damages, tort damages, attorney's fees and litigation costs, expert witness fees, and costs but subject to apportionment claims, if any.

Action: A motion was made by Ms. Botts and seconded by Mr. Murvin to recommend to the Board approval of the proposed mediated settlement agreement in the amount of \$699,990.00 in full settlement of all pending claims related to Parcel 292, including attorney's fees and attorney's costs, and expert fees and expert costs subject to apportionment claims, if any.

Vote: The motion carried unanimously with six (6) members present and voting AYE by voice vote. Mr. Minkoff was not present.

Item 6: S.R. 429 (MAHAFFEY) WEKIVA PARKWAY PROJECT (PROJECT 429-205) PARCEL 288

Mr. Shontz is requesting the Committee's recommendation for Board approval to serve an Offer of Judgment to Thomas Olin Mahaffey, Jr. And Julie Mahaffey (the "Owners") for Parcel 288 in the amount of \$225,000.

CFX retained the appraisal services of Chris Starkey of Integra Realty Resources. Mr. Starkey estimated the total value of compensation for the taking at \$70,692 (\$16,600 for the land, \$580 for improvements, \$52,820 for severance damages and \$692 for the cost to cure). The Owners are represented by Raymer F. Maguire, III. Mr. Maguire has not submitted an appraisal report or provided a proposed settlement offer.

Action: A motion was made by Ms. Botts and seconded by Mr. Murvin to recommend to the Board approval to serve an Offer of Judgment in the amount of \$225,000, plus statutory attorney's fees and experts' fees and experts' costs in full settlement of all claims for compensation in the acquisition of Parcel 288.

Vote: The motion carried unanimously with six (6) members present and voting AYE by voice vote. Mr. Minkoff was not present.

Item 7: S.R. 429 (ANTHONY CARTER) WEKIVA PARKWAY PROJECT (PROJECT 429-204) PARCEL 252

Mr. Shontz is requesting the Committee's recommendation for Board approval to serve an Offer of Judgment to Anthony Randall Carter (the "Owner") for Parcel 252 in the amount of \$338,150.

CFX retained the appraisal services of David Hall of Bullard, Hall & Adams, Inc. Mr. Hall estimated the total value of compensation at \$220,300 (\$20,600 for the land, \$177,600 for damages to the Owner's remainder land and residence, and \$22,100 for the cost to cure).

The Owner is represented by Maguire Lassman, P.A. No expert reports have been received from the Owner. The case is currently set on the January 8, 2018 trial docket and is scheduled for mediation in June 2017.

Action: A motion was made by Ms. Botts and seconded by Mr. Murvin to recommend to the Board approval to serve an Offer of Judgment in the amount of \$338,150, plus statutory attorney's fees and experts' fees and experts' costs in full settlement of all claims for compensation in the acquisition of Parcel 252.

Vote: The motion carried unanimously with six (6) members present and voting AYE by voice vote. Mr. Minkoff was not present.

Item 8: S.R. 429 (ARAN CARTER) WEKIVA PARKWAY PROJECT (PROJECT 429-204) PARCEL 253

Mr. Shontz is requesting the Committee's recommendation for Board approval to serve an Offer of Judgment to Aran Glenn Carter (the "Owner") for Parcel 253 in the amount of \$695,075. Mr. Aran Glenn Carter is the brother of the property owner for Parcel 252 which was just presented.

CFX retained the appraisal services of Chad Durrance of Durrance and Associates. Mr. Durrance estimated the total value of compensation at \$539,000 (\$218,900 for land value, \$225,000 for the improvements and \$95,100 in damages).

The Owner is represented by Maguire Lassman, P.A. No expert reports have been received from the Owner. The case is currently set on the January 8, 2018 trial docket and is scheduled for mediation in June 2017.

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

Action: A motion was made by Mr. Murvin and seconded by Mr. Dedekind to recommend to the Board approval to serve an Offer of Judgment in the amount of \$695,075, plus statutory attorney's fees and experts' fees and experts' costs in full settlement of all claims for compensation in the acquisition of Parcel 253.

Vote: The motion carried unanimously with six (6) members present and voting AYE by voice vote. Mr. Minkoff was not present.

Item 9: **S.R. 429 (PONKIN ROAD PROPERTY) WEKIVA PARKWAY PROJECT (PROJECT 429-202) PARCEL 153**

Mr. Cheek explained Ms. O'Dowd will be presenting this item. Ms. Haylee O'Dowd with Winderweedle Haines Ward & Woodman, P.A., represents CFX as Right of Way Legal Counsel. She is requesting the Committee's recommendation for Board approval of the proposed settlement with Ponkin Road Property, LLC (the "Owners").

CFX's appraisal of the property was prepared by Chad Durrance of Durrance and Associates. Mr. Durrance, in an updated appraisal, estimated the value of the taking of Parcel 153 at \$245,500 (\$241,500 for the land taken, \$1,800 for the improvements and \$2,200 for cost to cure).

The Owners are represented by Kent Hipp of Gray Robinson, P.A. They retained the appraisal services of Rick Dreggors with Calhoun, Dreggors & Associates, Inc. Mr. Dreggors estimated the value of the taking at \$761,200 (\$756,100 for the land, \$3,700 for the improvements and \$1,400 for cost to cure). The Owners have submitted expert invoices in the amount of \$71,545.76.

The parties reached a proposed settlement in the amount of \$573,716 (\$425,000 compensation to the Owners, \$83,750 attorneys' fees and \$64,966 expert fees and costs).

The Committee asked questions, which were answered by Ms. O'Dowd.

Action: A motion was made by Ms. Botts and seconded by Mr. Murvin to recommend to the Board approval of the proposed settlement in the amount of \$573,716 in full settlement of all pending matters related to the taking of Parcel 153, including attorney's fees and attorney's costs, and expert fees and expert costs.

Vote: The motion carried unanimously with six (6) members present and voting AYE by voice vote. Mr. Minkoff was not present.

Item 10: **S.R. 429 (DOVER) WEKIVA PARKWAY PROJECT (PROJECT 429-204) PARCEL 250**

Ms. Brehmer Lanosa is requesting the Committee's recommendation for Board approval of a proposed settlement agreement with Odis and Polly Dover (the "Owners"). Ms. Brehmer Lanosa provided the Committee with photographs, aerials and background information on the parcel.

CFX retained the appraisal services of Chad G. Durrance, MAI. Mr. Durrance estimated the total value of compensation at \$225,000. The Owners retained the appraisal services of Richard C. Dreggors. Mr. Dreggors estimated the total value of compensation at \$390,000.

The parties were able to reach a settlement in the amount of \$356,700 (\$315,000 for the property taken, \$12,000 expert fees and costs and \$29,700 statutory attorney's fees).

Action: A motion was made by Mr. Raymond and seconded by Mr. Dedekind to recommend to the Board approval proposed Settlement Agreement in the amount of \$356,700, resolving all claims for compensation for the taking of Parcels 250, including attorney's fees, attorney's costs, expert fees, expert costs, and any other claim, subject to apportionment, if any.

Vote: The motion carried unanimously with six (6) members present and voting AYE by voice vote. Mr. Minkoff was not present.

Item 11: **OTHER BUSINESS**

No other business was discussed.

Item 12: **ADJOURNMENT**

Chairman Babcock adjourned the meeting at approximately 2:50 p.m.

Minutes approved on June 28, 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.