

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

MINUTES
CENTRAL FLORIDA EXPRESSWAY AUTHORITY
Right of Way Committee Meeting
December 13, 2017

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

Committee Members Present:

Laurie Botts, City of Orlando Representative, Committee Chairman
Paul Sladek, Orange County Representative
Frank Raymond, Osceola County Representative
Neil Newton, Seminole County Representative Alternative for Jean Jreij, Seminole County Representative
John Denninghoff, Brevard County Representative
Brian Sheahan, Lake County Representative

Committee Members Not Present:

Brendon Dedekind, Citizen Representative
Jean Jreij, Seminole County 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
Mala Iley, Recording Secretary

Item 1: CALL TO ORDER

The meeting was called to order at 2:03 p.m. by Chairman Botts.

Item 2: PUBLIC COMMENT

There was no public comment.

Ms. Botts introduced the newly appointed Brevard County representative, Mr. John Dennighoff.

Mr. Dennighoff provided a brief biography of himself.

Item 3: **APPROVAL OF MINUTES**

A motion was made by Mr. Raymond and seconded by Mr. Sladek to approve the October 25, 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.

Item 4: **S.R. 429 (SUMMER LAKE-GRAVE GROVES) WEKIVA PARKWAY PROJECT
(PROJECT 429-206) PARCELS 311/811**

Mr. David Shontz, Esquire, of Shutts & Bowen is requesting the Committee's recommendation for Board approval of the Proposed Settlement of Parcels 311/811 in the amount of \$1,995,000.00, plus statutory attorney's fees of \$303,849.80, attorneys' litigation costs of \$3,351.82, and experts' fees and costs of \$212,859.67 in full settlement of all claims for compensation in the acquisition of Parcels 311/811.

Mr. Shontz detailed the history of the parcels. Mr. Carpenter valued the property at \$825,750, as the owner's appraisers valued the property at \$3,238,900. The Right of Way Committee approved an Offer of Judgment in the amount of \$1,805,000.00, plus statutory attorney's fees, which was tendered to the owner in or around August 2017.

Discussion ensued.

After extensive discovery, the Parties, were able to reached a resolution for \$1,995,000.00, plus statutory attorney's fees of \$303,849.80, the owners and attorney's litigation costs of \$3,351.82 and expert fees total \$212,859.67. Mr. Shontz was able to resolve five of the seven expert fees with a reduction of \$26,000 in expert fees.. The remaining two experts' fees from Juris and Lakemont, have not been resolved.

Mr. Shontz clarified that the experts' fees have been reduced to \$186,638.73, **not** the \$212,859.67.

Mr. Passiatore agreed with Chairman Botts that a not-to-exceed number would be appropriate with authorization to counsel to negotiate the two remaining fees.

A motion was made by Mr. Raymond and seconded by Mr. Sladek to recommend to the Board approval of the Proposed Settlement of Parcels 311/811 in the amount of \$1,995,000.00, plus statutory attorney's fees of \$303,849.80, attorneys' litigation costs of \$3,351.82, and experts' fees and costs not to exceed \$186,638.73 with authorization to counsel to negotiate the two remaining fees. This will be full settlement of all claims for compensation in the acquisition of Parcels 311/811.

Vote: The motion carried unanimously with six (6) members present and voting AYE by voice vote.

**Item 5: S.R. 453 (SECO) WEKIVA PARKWAY PROJECT (PROJECT 429-206)
PARCEL 330 PARTS A, B and C, PARCEL 730, PARCEL 731A AND B; PARCEL 335; and
PARCEL 336**

Mr. Shontz is requesting the Committee's recommendation for Board approval of the Proposed Settlement Agreement regarding Utility Easements with Sumter Electric Cooperative, Inc. ("SECO").

Mr. Shontz explained that SECO owns utility easements over all three of the parcels.

It is reasonable and in the best interest for CFX to resolve this matter claim for the sum of \$1,000 for all three easements plus \$5,000 for attorney's fees and no expert's fees for a total of \$6,000.

A motion was made by Mr. Sheahan and seconded by Mr. Newton to recommend to the Board approval of the proposed total settlement of \$6,000.00 of all claims for compensation related to the three easements.

Vote: The motion carried unanimously with six (6) members present and voting AYE by voice vote.

**Item 6: S.R. 429 (LEE) WEKIVA PARKWAY PROJECT (PROJECTS 429-205) (PROJECTS
429-205) Parcel 890**

Mr. Shontz, is recommending and requesting the Committee's recommendation for Board approval of a proposed mediated settlement agreement with Jung Lee and Rai Sevn Kim (the "Owners").

Mr. Shontz detailed the history of the Parcels.

Kurt Bauerle, Esquire, represents the Owners and did not prepare a formal appraisal of the property in effort to mediate the case without incurring significant expert fees.

Chad Durrance of Durrance & Associates appraised the property on behalf of the Central Florida Expressway Authority at \$51,400.

Mr. Bauerle argued the total compensation due to the Owners was \$372,400 based upon severance damages at 40%. He referenced CFX's damage studies reporting, impacts to residential properties ranging from 0 to 59%.

The parties reached a proposed all-inclusive settlement in the amount of \$171,400 including attorney's fees, experts' fees and apportionment claims for this parcel plus parcels 287/887 and 289.

A motion was made by Mr. Sladek and seconded by Mr. Raymond to recommend to the Board approval of the Proposed Mediated Settlement Agreement in the amount of \$171,400.00 in full settlement of all claims for compensation in the acquisition of Parcel 890, any interest in Parcel 287/887 and Parcel 289, and all attorney's fees and experts' fees and cost.

Vote: The motion carried unanimously with six (6) members present and voting AYE by voice vote.

Item 7: 429 (LANDON, MOREE & ASSOCIATES, INC.) WEKIVA PARKWAY PROJECT (Projects 429-203, 429-204, 429-205, and 429-206)

Mr. Shontz, is recommending and requesting the Committee's recommendation for Board approval of a proposed Modification to the Second Agreement for Engineering Expert Witness Consulting Services by Landon, Moree & Associates, Inc. "(LMA)" to perform engineering expert consulting services. This will allow LMA to continue to provide engineering services and litigation and trial support services, including testifying at trial for approximately one parcel. The Second Agreement was previously approved by the Board at its November 9, 2017 meeting.

Mr. Shontz provided clarification for the modification as it was discovered at the execution of the Second Agreement there was missing hourly information for LMA's Project Manager at \$145.00 per hour and a CAD Technician at \$105.00 per hour. These are the only changes being made to the previously approved agreement. All other terms of the agreement remain the same as previously recommended by the Right of Way Committee and approved by the Board.

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

A motion was made by Mr. Sheehan seconded by Mr. Newton to recommend to the Board approval of the Addendum to the Second Agreement for Engineering Expert Consulting Services by Landon, Moree & Associates in the amount of \$50,000.00.

Vote: The motion carried unanimously with six (6) members present and voting AYE by voice vote.

Item 8: S.R. 429 (EVERLY) WEKIVA PARKWAY PROJECT (PROJECT 429-204) Parcel 242

Ms. Botts advised the Committee that Item 8 and Item 9 would be combined as they relate to the same.

Item 9: S.R. 429 (EVERLY) WEKIVA PARKWAY PROJECT (PROJECT 429-204) Parcel 242

Ms. Brehmer Lanosa presented this item in Ms. Suzanne M. Driscoll's absence. She provided the Committee with a PowerPoint presentation as to the description and background of the parcel.

This case was mediated on August 1, 2017, but the parties were unable to reach a compromise. On or about October 25, 2016, CFX served an offer of Judgment in the amount of \$597,840.00. The parties took a number of depositions, reviewed extensive discovery and reached a settlement in the amount of \$795,000.00.

Following negotiations, the parties reached a resolution on all of the Respondents' expert fees and costs, and litigation expenses with the exception of Juris Corporation.

Discussion ensued.

Ms. Brehmer Lanosa is requesting the Committee's recommendation for Board approval of the proposed settlement agreement in the amount of **\$795,000** to settle all pending claims for the taking of Parcel 242, including full compensation for the property (subject to apportionment), severance damages, business damages, tort damages, interest, plus statutory attorney's fees in the amount of **\$112,775**, plus expert fees in the amount of **\$122,150.00** plus costs in the amount of **\$1,985.61**, exclusive of the fees and costs associated with the invoices from Juris Corporation.

A motion was made by Mr. Sladek and seconded by Mr. Sheahan to recommend to the Board approval of a proposed negotiated settlement between the Respondents and CFX in the amount of \$795,000.00 to settle all pending claims for the taking of Parcel 242, including full compensation for the property (subject to apportionment), severance damages, business damages, tort damages, interest, plus statutory attorney's fees in the amount of \$112,775.00, \$122,150.00 in expert fees and cost plus \$1,985.61 for all Respondents' litigation costs, exclusive of the fees and cost associated with the invoices from Juris Corporation.

Vote: The motion carried unanimously with six (6) members present and voting AYE by voice vote.

Item 10: S.R. 429 (HATCHER) WEKIVA PARKWAY PROJECT (PROJECT 429-202) Parcel 113 (Parts A & B) & 713

Ms. Brehmer Lanosa is requesting the Committee's recommendation for Board approval of the payment of reasonable expert fees and costs as to Parcel 113 (Parts A & B) and 713 in the amount of \$198,976.37

She provided the Committee with a PowerPoint presentation as to the description and background of the parcel. This case was tried before a 12-person jury trial in April 2016. An Offer of Judgment was served in the amount of \$200,000, but the jury verdict was just over that amount.

Discussion ensued.

This resolves all remaining claims whatsoever, including claims of compensation arising from the taking of Parcels 113 (Parts A & B) and 713, severance damages, business damages, tort damages, interest, attorney's fees, attorney's costs, expert fees, expert costs and any other claim.

A motion was made by Mr. Raymond and seconded by Mr. Sladek to recommend to the Board approval of the Payment of expert fees and costs as to Parcels 113 (Part A & B) and 713 in the amount of \$198,976.37.

Vote: The motion carried unanimously with six (6) members present and voting AYE by voice vote.

Item 11: OTHER BUSINESS

Ms. Botts advised the Committee that the items that passed on today's Right of Way agenda would be before the Board on the January 11, 2018 Board meeting.

Mr. Passiatore advised the Committee there is a Request for Proposals for Right of Way Counsel as Shutts & Bowen's contract is expiring in February 2018. Chairman Botts, Linda Brehmer Lanosa, Joe Passiatore and Glenn Pressimone will be serving on the Evaluation Committee. Once the Evaluation Committee has made its recommendation, it will advise the Right of Way Committee.

Mr. Sladek disclosed that prior to his employment with Orange County he was employed with Shutts & Bowen and will abstain from voting if Shutts & Bowen is awarded the new Right of Way Counsel contract.

Item 12: ADJOURNMENT

Chairman Botts adjourned the meeting at approximately 2:53 p.m.

Minutes approved on January 24, 2018.

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.