

# CENTRAL FLORIDA EXPRESSWAY AUTHORITY

MINUTES  
CENTRAL FLORIDA EXPRESSWAY AUTHORITY  
Right of Way Committee Meeting  
February 28, 2018

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

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Committee Members Present:

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

Committee Members Not Present:

Paul Sladek, Orange County Representative  
John Denninghoff, Brevard County 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 2:00 p.m. by Chairman Botts.

**Item 2: PUBLIC COMMENT**

There was no public comment.

Ms. Botts introduced the new right-of-way counsel, Robert Mallet and Richard Milian of Broad and Cassel.

Ms. Botts acknowledged the City of Apopka Administrator, Glenn Irby, City of Apopka Public Service Director, Jay Davoll and Greater Orlando Aviation Authority General Counsel, Christopher Wilson.

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Ms. Botts advised the Committee that Agenda Item 8 (Parcel 800) would be moved to the end due to possible discussion.

**Item 3: APPROVAL OF MINUTES**

A motion was made by Mr. Babcock and seconded by Mr. Murvin to approve the January 24, 2018 Right of Way Committee meeting minutes as presented.

**Vote:** The motion carried unanimously with seven (7) members present and voting AYE by voice vote.

**Item 4: S.R. 429 WEKIVA PARKWAY PROJECT 429-203, PARCEL 197/897  
TENANT: VICKIE DAVIS D/B/A BAY HILLS EQUESTRIAN CENTER**

Mr. Jay Small, Esquire, of Mateer Harbert is requesting the Committee's recommendation for Board approval of the Proposed Settlement Agreement as to supplemental attorney's fees and all other claims of Vickie Davis in the amount of \$2,000.00. This settlement resolves all remaining claims of Vickie Davis.

Mr. Smalls detailed the history of the parcels.

A motion was made by Mr. Murvin and seconded by Mr. Sheehan to recommend to the Board approval of a proposed settlement agreement in the amount of \$2,000.00 to settle the supplemental attorney's fees and all claims for compensation.

**Vote:** The motion carried unanimously with seven (7) members present and voting AYE by voice vote.

**Item 5: S.R. 429 WEKIVA PARKWAY PROJECT 429-203, PARCEL 166  
TENANT: DIANE MAXWELL**

Mr. David Shontz, Esquire, of Shutts & Bowen is requesting the Committee's recommendation for Board approval of the settlement agreement as to claims for compensation and all attorney's fees and litigation costs of Ms. Maxwell's leasehold interest claim in Parcel 166.

Mr. Shontz detailed the history of the parcel and the issues.

It is reasonable and in the best interest for CFX to resolve this matter claim for the sum of \$500.00 for Ms. Maxwell's leasehold claim as to Parcel 166 and \$3,000.00 as to all claims for compensation and all attorney's fees and litigation costs.

A motion was made by Mr. Raymond and seconded by Mr. Newton to recommend to the Board approval of the proposed total settlement of \$3,500.00 as to all claims for compensation and all attorney's fees and litigation costs in the resolution of Ms. Maxwell's leasehold interest claim as to Parcel 166.

Vote: The motion carried unanimously with seven (7) members present and voting AYE by voice vote.

Item 6: **S.R. 429 WEKIVA PARKWAY PROJECT 429-205, PARCEL 289, PLUS ANY CLAIMS OR INTEREST IN PARCELS 287/887 AND 890 OWNERS: LEE AND JENNIFER SHOLLENBERGER**

Mr. David Shontz, Esquire, of Shutts & Bowen is requesting the Committee's recommendation for Board approval of the proposed total mediated settlement agreement of all claims for compensation including all attorneys' fees, litigation costs, and experts' fees and costs for the acquisition of Parcel 328, which is a whole take.

Mr. Shontz detailed the history of the parcels.

Kurt Bauerle, Esquire, represents the owners. Mr. Bauerle did not commission a formal appraisal of the property in an effort to mediate the case without incurring significant expert fees.

David Hall of Bullard, Hall & Adams, Inc., appraised the property on behalf of the Central Florida Expressway Authority at \$556,100.00. In addition to the property valuation, the owners were entitled to a Replacement Housing Payment under the Uniform Act in the amount of \$125,690.19 (based upon the initial appraisal report amount of 543,000.00) for a total of \$668,690.19.

Mr. Bauerle argued the total compensation due to the owners was \$1,700,000.00. CFX's appraisal failed to adequately compensate the owners for the value of the 1,000 s.f. fully handicapped-accessible guest cottage where Mrs. Shollenberger's elderly mother resided. He further argued that the improvements were undervalued by CFX.

The parties reached a proposed all-inclusive settlement in the amount of \$880,692.50, (less the \$543,000.00 previously deposited) including attorney's fees, experts' fees and apportionment claims for this parcel plus parcels 287/887 and 289.

A motion was made by Mr. Sheehan and seconded by Mr. Babcock to recommend to the Board approval of the proposed total settlement of \$880,692.50 in full settlement of all claims for compensation in the acquisition of Parcel 289, any claims or interests in Parcel 287/887 and Parcel 890, and all attorney's fees and litigation costs and experts' fees and costs.

**Vote: The motion carried unanimously with seven (7) members present and voting AYE by voice vote.**

**Item 7: S.R. 429 WEKIVA PARKWAY PROJECT 429-206, PARCEL 328  
OWNER: SOLID, LLC**

Mr. David Shontz, Esquire of Shutts & Bowen is requesting the Committee's recommendation for Board approval of a proposed total settlement of all claims for compensation including all attorney's fees and costs for the acquisition of Parcel 328, which is a whole take, in the amount of \$835,000.00.

CFX retained the appraisal services of Walter Carpenter of Pinel & Carpenter, Inc. Mr. Carpenter opined the market value for the fee simple taking of Parcel 328 to be \$417,000.00.

Raymer Maguire, III, counsel for the owner, retained the appraisal services of Mr. Dreggors with Calhoun, Dreggors & Associates, Inc. Mr. Dreggors' total valuation of the subject property is \$922,900.00.

The case was mediated on January 9, 2018, but the parties were unable to reach a compromise. Following negotiations, the parties reached a resolution in the all-inclusive amount of \$835,000.00 as full compensation for Parcel 328. Invoices submitted by opposing counsel for experts' fees and costs totaled \$128,679.70 and attorney's litigation costs totaled \$2,966.60. The sum of \$367,000.00 was previously deposited.

PNC Bank, had obtained a Final Judgment of Foreclosure on the property but it was never completed however they have not completed the foreclosure sale. Under the terms of the settlement, PNC Bank has now filed a Disclaimer of Interest.

**A motion was made by Mr. Raymond seconded by Mr. Newton to recommend to the Board approval of the proposed total settlement of \$835,000.00 in settlement if all claims for compensation, which includes all attorney's fees and litigation costs, and experts' fees and costs for the acquisition of Parcel 328 this is a total all-inclusive Settlement that PNC Bank agrees with.**

**Vote: The motion carried unanimously with seven (7) members present and voting AYE by voice vote.**

**Item 9: S.R. 429 AND COUNTY ROAD 437A A/K/A OCOEE-APOPKA ROAD  
PROJECTS 429-604, 429-200, 429-200A AND 414-210  
RIGHT OF WAY TRANSFER AND MAINTENANCE AGREEMENT WITH THE CITY OF APOPKA**

Ms. Brehmer Lanosa presented. She provided the Committee with a PowerPoint presentation as to the description and background of a Right-of-Way Transfer and the Maintenance Agreement.

Ms. Brehmer Lanosa is requesting the Committee's recommendation for Board approval of the Right-of-Way Transfer and Maintenance Agreement.

CFX and City of Apopka would like to transfer portions of the road right of way so that local roads and associated facilities are owned and maintained by the City of Apopka and CFX's facilities are owned and maintained by CFX. There is a reverter clause in this agreement. The transfer is by quit claim deed subject to an easement for bridges and CFX's limited access rights.

Mr. Daroll and Mr. Irby from the City of Apopka advised the Committee that they have no changes to the proposed Agreement. This item will be presented at the next City of Apopka meeting next week.

**A motion was made by Mr. Sheahan and seconded by Mr. Babcock to recommend to the Board approval of a Right-of-Way Transfer and Continuing Maintenance Agreement between Central Florida Expressway Authority and City of Apopka in a form substantially similar to the attached agreement, subject to approval of the legal descriptions, maintenance functions, and maintenance responsibilities by CFX's Chief of Infrastructure and General Counsel, or their designees, and CFX's General Engineering Consultant and bond counsel.**

**Vote: The motion carried unanimously with seven (7) members present and voting AYE by voice vote.**

**Item 10: S.R. 528 AND CARGO ROAD, PROJECT 907  
SELLER: GREATER ORLANDO AVIATION AUTHORITY ("GOAA") AND CITY OF ORLANDO  
REAL ESTATE PURCHASE AGREEMENT**

Ms. Brehmer Lanosa presented. She provided the Committee with a PowerPoint presentation as to the description and background of the Real Estate Purchase Agreement between GOAA, City of Orlando, and CFX.

This Agreement was previously approved by the GOAA Board and the City of Orlando. This Agreement will accommodate the rerouting of drainage crossing under S.R. 528 and will be conveyed by Special Warranty Deed.

Ms. Brehmer Lanosa is requesting the Committee's recommendation for Board approval of the Real Estate Purchase Agreement between GOAA, City of Orlando and CFX.

**A motion was made by Mr. Raymond and seconded by Mr. Murvin to recommend to the Board approval of the Real Estate Purchase Agreement between City of Orlando and GOAA.**

**Vote: The motion carried unanimously with seven (7) members present and voting AYE by voice vote.**

**Item 11: S.R. 528, PROJECT 528-1240  
GOAA, CITY OF ORLANDO, CFX, AND ALL ABOARD FLORIDA – OPERATIONS LLC  
PURCHASE AND SALE AGREEMENT**

Ms. Brehmer Lanosa presented. She provided the Committee with a PowerPoint presentation as to the description and background and is requesting the Committee's recommendation for Board approval of the Purchase and Sale Agreement between GOAA, City of Orlando, CFX and All Aboard Florida.

This matter involves the modification of Narcoossee Ramp on State Road 528 to accommodate the intercity passenger rail project of All Aboard Florida ("AAF"). The transaction involves a conveyance from City of Orlando and GOAA to CFX and a separate conveyance from CFX to City and GOAA.

The conveyance will be by special warranty deed. AAF has agreed to pay the difference in the value of the property being exchanged and closing costs. As a condition precedent, CFX would need to approve AAF's final construction plans. The Agreement places an outer limit on the date of closing of December 31, 2018, which date can be extended by written agreement and approval as set forth in the Agreement.

There is one requested modification to the Special Warranty Deed by replacing "together with . . ." "reserving . . ." as described in the backup.

Ms. Deborah Keeter provided the Committee an explanation on why AAF needs to move the ramp. Mr. Christopher Wilson provided the Committee with a general update as to AAF.

**A motion was made by Mr. Raymond and seconded by Mr. Sheahan to recommend to the Board approval of the attached Purchase and Sale Agreement between GOAA, City of Orlando, CFX and All Aboard Florida, subject to minor changes with approval of CFX's Executive Director and General Counsel, or their designees, and CFX's General Engineering Consultant and bond counsel, including the requested modification to the Special Warranty Deed and legal description.**

**Vote: The motion carried unanimously with seven (7) members present and voting AYE by voice vote**

**Item 8: S.R. 429 WEKIVA PARKWAY PROJECT 429-202, PARCEL 800 (Parts A AND B)  
REMAINING OWNERSHIP INTERESTS:**

Ms. Brehmer Lanosa presented and provided the Committee with a PowerPoint presentation as to the description and detailed background of Parcel 800. This case involves the acquisition of an easement interest over a private driveway.

Ms. Brehmer Lanosa is requesting the Committee's consideration of the Reverse Offer of Judgment from Mr. Guy in the amount of \$49,000.00. She recommended a response such as an offer of judgment in the amount of Ten Thousand Dollars (\$10,000.00) to resolve Itay Guy's claims, or some other amount

determined by the Committee to be in the best interest of CFX. In addition, she requested that the Right of Way Committee consider an offer of judgment in the amount of Three Thousand Dollars (3,500.00) to resolve the Wilson's claims and Three Thousand Five Dollars (\$3,500.00) to resolve the Jones' claims, or some other amount determined by the Committee to be the best interest of CFX.

Discussion ensued.

**A motion was made by Mr. Raymond and seconded by Mr. Murvin to recommend to the Board approval of the following: as to Mr. Guy's claims, serve an Offer of Judgment in the amount of \$10,000.00; as to the Wilsons' claims, serve an Offer of Judgment in the amount of \$3,500.00; and as to the Jones' claims, serve an Offer of Judgment in the amount of \$3,500.00.**

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

**Item 12: OTHER BUSINESS**

Ms. Botts advised the Committee that the March 28, 2018 Right of Way Committee Meeting would be cancelled. The next Right of Way Committee Meeting would be Wednesday April 25, 2018.

Ms. Laura Kelley invited the Committee to attend two upcoming CFX's events. A ribbon cutting ceremony of the new State Road 528 Innovation Way/Sunbridge Parkway Interchange will be held on Friday, March 9, 2018 and the Wekiva Parkway, Section 2 Grand Opening 5K run/walk will be held on Saturday, March 31, 2018.

**Item 13: ADJOURNMENT**

Chairman Botts adjourned the meeting at approximately 3:10 p.m.

**Minutes approved on: April 4, 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](mailto:publicrecords@CFXWay.com) or 4974 ORL Tower Road, Orlando, FL 32807.*