

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

MINUTES
Right of Way Committee Meeting
January 24, 2018

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 Alternative Bob Babcock, Orange County Representative
Frank Raymond, Osceola County Representative
Neil Newton, Seminole County Representative
Brian Sheahan, Lake County Representative
Christopher Murvin, Citizen Representative
Jean Jreij, Seminole County Representative

Committee Members Not Present:

Brendon Dedekind, Citizen 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 2:01 p.m. by Chairman Botts.

Item 2: PUBLIC COMMENT

There was no public comment.

Item 3: APPROVAL OF MINUTES

A motion was made by Mr. Raymond and seconded by Mr. Murvin to approve the December 13, 2017 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 429-204, PARCEL 250
TENANT: RENE'S GREENHOUSE, LLC**

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.

The respondent's attorney has presented invoices in the amount of \$10,264.50 for supplemental attorney's fees and is willing to settle for \$2,000.00.

Ms. Brehmer Lanosa is requesting the Committee's recommendation for Board approval of the proposed Settlement of the supplemental attorney's fees and cost in the amount of \$2,000.00. This Settlement resolves all claims of any nature of the Respondent.

A motion was made by Mr. Raymond and seconded by Mr. Murvin to recommend to the Board approval of the Proposed Settlement of Parcel 250 in the amount of \$2,000.00

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

**Item 5: S.R. 429 WEKIVA PARKWAY PROJECT 429-202, PARCELS 112 (A & B), 712
OWNERS: ROBERT AND CYNTHIA HENDERSON**

Ms. Brehmer Lanosa is requesting the Committee's recommendation for Board approval of the payment of reasonable expert fees and costs as to Parcels 112 (Part A & B) and 712 in the amount of \$189,309.92 excluding invoices submitted by Juris Corporation and Power Acoustics. This resolves all remaining claims whatsoever, with the exception of the claims related to the two remaining experts.

She provided the Committee with a PowerPoint presentation as to the description and background of the parcels.

The expert fees total \$272,909.52. The parties were able to settle seven of the expert fees for \$164,343.00 representing a reduction of approximately \$33,000. Compensable firm costs total \$24,966.92. The two remaining expert fees in the sum of \$75,105 can be resolved through either ongoing negotiations or, if necessary, a fee hearing. A fee hearing is set on March 21, 2018.

Discussion ensued.

A motion was made by Mr. Sheahan and seconded by Mr. Murvin to recommend to the Board approval approve the payment of reasonable expert fees and costs as to Parcels 112 (Parts A & B) and 712 in the amount of \$189,309.92, excluding the invoices submitted by Juris Corporation and Power Acoustics.

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

**Item 6: S.R. 429 WEKIVA PARKWAY PROJECT 429-203, PARCEL 218
OWNERS: DONALD AND ANNETTE EMERY**

Ms. Brehmer Lanosa is requesting the Committee's recommendation for Board approval of the all-inclusive settlement in the amount of \$3,130,000.00 resolving all claims for compensation for the taking of Parcel 218.

She provided the Committee with a PowerPoint presentation as to the description and background of the parcels.

Walter Carpenter, MAI, appraised the property for CFX. Mr. Carpenter estimated the value of the Parcel 218 as of June 16, 2014 at \$1.75 per square foot (sf), considering comparable sales ranging from \$1.66 to \$6.48/sf, for a total of \$1,120,000.00.

The Owners hired Heyward Cantrell, who has not yet prepared an appraisal report, but advised the Owners that he would value the property at approximately \$10.50/sf for a total of \$6,719,832. Additionally, counsel for the Owners noted that CFX's potential liability could be over nine million dollars.

After ongoing discussions and additional research, review and analysis, the parties reached a proposed settlement agreement for an all-inclusive settlement of \$3,130,000.00.

Discussion ensued.

A motion was made by Mr. Murvin and seconded by Mr. Babcock to recommend to the Board approval of the Proposed All-inclusive Settlement Agreement in the amount of \$3,130,000.000 in full settlement of all claims for compensation in the acquisition of Parcel 218 including severance damages, business damages, tort damages, interest, attorney's fees, attorney's cost, expert fees, expert costs and any other claim, subject to apportionment .

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

Item 7: OSCEOLA PARKWAY REIMBURSEMENT INTER LOCAL AGREEMENT FOR THIRD PARTY FUNDING

Mr. Joseph L. Passiatore, is recommending and requesting the Committee's recommendation for Board approval of a proposed Osceola Parkway Reimbursement Agreement.

Mr. Passiatore provided the history to the Osceola Parkway Agreements. The agreements were structured in 2014 and 2015 between Florida Department of Transportation, Osceola County, and Osceola County Expressway Authority. Funding was set aside for certain future projects for Osceola County.

FDOT, District V's budget designated \$33 million dollars for a joint planning agreement. Farmland Reserve, Inc. took the \$12 million that CFX paid them for the property for S.R. 528 right-of-way and put it into a private escrow account. In addition, All Aboard Florida agreed to facilitate the sale by placing \$25 million dollars in the private escrow account.

CFX, thru interlocal agreement and by statute, would assume those projects in Osceola County. In addition, the joint planning agreement between the Department and Osceola County commits to reimbursing Osceola County for these acquisitions. Plus, a private developer's agreement and escrow account commits to reimbursing Osceola County for their acquisitions of parcels that are a part of these projects.

In order for CFX to take over the project and access this money, CFX would need to facilitate acquisitions of one or more parcels that fit the parameters of the joint planning agreements between FDOT and Osceola County. This Agreement provides the legal mechanism for deed transfer and reimbursement to CFX.

This is an advance acquisition. CFX will advance the monies to close sales on a parcel by parcel basis. Any property deemed suitable for purchase will come to the ROW Committee for recommendation then on to the CFX Board, then to the Osceola County Board.

Committee Member Murvin suggested that the first parcel be a small one to make sure that the reimbursement process works as intended.

Discussion ensued and the Committee asked questions, which were answered by Mr. Passiatore. The Committee was requested to take action.

This item went from an informational item to a motion.

A motion was made by Mr. Raymond seconded by Mr. Murvin to recommend to the Board approval of the Osceola Parkway Reimbursement Interlocal Agreement for Third Party Funding in a substantially similar form as presented to the Committee.

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

**Item 8: REQUEST FOR PROPOSALS, RIGHT OF WAY COUNSEL SERVICES
CONTRACT NO. 001363**

Mr. Passiatore advised that the Evaluation Committee for Right-of-Way counsel services met this morning. Four law firms applied: Broad & Cassel, Shutts & Bowen, Mateer & Harbert, P.A. and Winderweedle, Haines, Ward and Woodman, P.A.

Broad & Cassel scored 88.25 in technical points and 9.12 in pricing points, totaling 97.37. Shutts & Bowen scored 81.50 in technical points, and 9.73 in pricing points totaling 91.23. In third place was Mateer and Harbert, P.A., followed by Winderweedle, Haines, Ward and Woodman, P.A.

During the course of the Evaluation Committee interview, that Broad and Cassel noted that it may be conflicted out of certain matters.

The Evaluation Committee recommended that the top two firms be awarded the contract. The contract should be funded in the amounts negotiated and work would be assigned by task authorization.

Discussion ensued. The Committee asked several questions, which were answered by Mr. Passiatore. The Committee was requested to take action recommending award to the two highest ranked firms.

A motion was made by Mr. Murvin seconded by Mr. Sheehan to recommend to the Board approval to accept the Committee's ranking and award the contract to the two highest top firms.

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

Item 9: OTHER BUSINESS

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 on Friday March 9, 2018 and the Wekiva Parkway, Section 2 Grand Opening 5K run/walk being held on Saturday March 31, 2018.

Ms. Kelley advised that Staff would continue to meet with the Environmentalists regarding the Osceola Parkway Extension and Split Oak Preserve. As things progress she will update the ROW Committee accordingly.

Item 10: **ADJOURNMENT**

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

Minutes approved on **February 28, 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.