

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

MINUTES CENTRAL FLORIDA EXPRESSWAY AUTHORITY Right of Way Committee Meeting January 23, 2019

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

Committee Members Present:

Neil Newton, Seminole County, Alternative Committee Chairman
Laurie Botts, City of Orlando Representative
Bob Babcock, Orange County Alternative Representative
Todd Hudson, Osceola County Representative
Anita Geraci-Carver, Alternative Lake County Representative
John Denninghoff, Brevard 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 2:00 p.m. by Chairman Newton.

Item 2: PUBLIC COMMENT

There was no public comment.

Item 3: APPROVAL OF MINUTES

Ms. Botts advised the Committee a scrivener's error was made on page 3 and asked that it be corrected. Changing the word from "Differing" to "Deferring".

A motion was made by Ms. Botts and seconded by Mr. Hudson to approve the January 23, 2019 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. 528, WEKIVA PARKWAY PROJECT 429-205, PARCEL 289
OWNER: CENTRAL FLORIDA EXPRESSWAY AUTHORITY
EASEMENT HOLDER: KENNETH AND HARVEY MORRIS

Mr. David Shontz, Esquire, of Shutts & Bowen is seeking the Committee's recommendation for Board approval of a settlement between Kenneth W. Morris and Harvey Lee Morris ("Respondents") and the Central Florida Expressway Authority ("CFX") regarding Parcel 289 for the construction of State Road 429 Wekiva Parkway, Project 429-205.

Mr. Shontz detailed the history of the parcel and the issues. Parcel 289 was a whole take and was originally owned by the Shollenbergers. The Respondents held an easement interest for a nonexclusive ingress/egress. CFX would convey back the 15-foot easement of the south 392.5 feet that the Respondents held in the before although the Shollenberger's property goes further to the north.

After multiple discussions, the parties agreed CFX would convey back the 15-foot easement to the Respondents and pay the fees and cost incurred by counsel for the Respondents.

Respondents incurred fees and costs in the amount of \$34,030.75. Mr. Shontz negotiated the total amount down to \$30,628.00. This includes a full release by the Respondents and extinguishes any apportionment claims as to Parcel 289.

In addition, if the easement is converted to or dedicated as a public road right-of-way, the easement would be vacated and extinguished upon conversion.

A motion was made by Ms. Botts and seconded by Mr. Murvin to recommend to the Board approval of CFX conveying back the easement set forth in the legal description that is attached to the Settlement Agreement. In addition to the Settlement Agreement, compensation for attorney's fees and litigation costs and experts' fees and costs in the amount of \$30,628.00 as to all claims. A full release by the Respondents and a settlement of any and all claims for the Respondent's easement interest in Parcel 289.

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

Items 5: S.R. 453, PROJECT 429-206, PARCELS 314/315
OWNER: MAX ROBERT GARRISON

Mr. David Shontz, Esquire, of Shutts & Bowen is seeking the Committee's recommendation for Board approval of a settlement with Max Robert Garrison ("Garrison") regarding the acquisition of Parcels 314 and 315 and all claims for compensation asserted by Garrison including all attorneys' fees, experts fees and litigation costs incurred with the taking.

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

Garrison was an easement holder encumbering the Parent Tract of Parcel 314 and 315. Counsel for Garrison, Kent Hipp, Esquire, demanded \$35,000 based upon an asserted 10% severance damage to Garrison's property.

After negotiations the Respondent's agreed to waive any claims for apportionment, any claims for compensation for the taking of Parcels 314 and 315, and accepted full payment for all attorneys' fees, experts' fees and costs in the sum of \$18,750. Garrison also executed a general release for all claims he could have asserted connection with the takings of Parcels 314, 315, 316, 318,319, 320/820 and 322/822. The disclaimer and release from the Respondents will extinguish all claims by the Respondents for their interests in Parcels 314 and 315.

Discussion ensued.

A motion was made by Mr. Denninghoff and seconded by Mr. Hudson to recommend to the Board approval of the Proposed Settlement Agreement resolving all claims for compensation and all attorneys' fees, experts' fees and litigation costs in exchange for payment of \$18,750 and acceptance of Garrison's Release for all claims in connection with the takings and constructions along Coronado Summerset Drive.

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

**Items 6: S.R. 429 WEKIVA PARKWAY, project 429-204, PARCEL 242
OWNER: LARRY M. EVERLY, SR**

Mr. David Shontz, Esquire, of Shutts & Bowen is seeking the Committee's recommendation for Board approval of the last outstanding expert fee, as well as the supplemental attorneys' fees and costs between Callan Law Firm, P.A., ("Callan"), Juris Corporation ("Juris") and CFX incurred by Respondents, Larry M. Everly, Sr., et al.

Juris Corp presented invoices in the amount of \$41,375 and Callan presented invoices for supplemental attorney fees totaling \$15,196. A resolution was reached in the amount of \$36,000 for the both Juris' expert fee and Callan's supplemental attorney fees.

A motion was made by Ms. Botts and seconded by Mr. Murvin to recommend to the Board approval to settle the last outstanding expert fee, supplemental attorneys' fees and cost incurred in the connection with the litigation of Parcel 242 in the amount of \$36,000.

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

**Items 7: S.R. 429 WEKIVA PARKWAY, PROJECT 429-202, PARCEL 800, PARTS A AND B
UNDIVIDED FEE INTREST IN SOUTHFORK DRIVE
OWNERS: EARL AND ADELAIDA WILSON (2/8 INTEREST)**

Ms. Brehmer Lanosa is seeking the Committee's recommendation for Board approval of an all-inclusive settlement with Earl and Adelaida Wilson ("the Wilsons").

Ms. Brehmer Lanosa provided a brief history of the parcel.

The Wilsons' own a 2/8 undivided fee interest in Southfork Drive. The Wilsons' property is directly adjacent to the newly constructed S.R. 429. CFX previously acquired an easement interest over their undivided fee interest in Southfork Drive. The easement interest had to be expanded to include the utility easement designated as Parcel 800, Part B and to address the height of the bridge. Since the Wilsons' owned a greenhouse, they pursued compensation for issues related to the impacts from construction activities such as those arising from the removal of trees, damage to plant inventory and damage to a fence.

The deposit is still in the registry of the court.

After lengthy discussions, the parties reached a proposed all-inclusive settlement for the sum of Twelve Thousand Dollars (\$12,000), including statutory interest and all claims related to real estate and business damages, severance damages, tort damages, attorney's fees and litigation costs, expert witness fees, costs, apportionment claims, or other supplemental proceedings. In addition, the Wilsons agreed to assign to CFX any claim they may have to the previously deposited good faith estimate of value and agreed to waive any apportionment claim that they may have or will have. Last, the Wilsons agreed to release all claims against CFX arising from the taking of Parcel 800 (Parts A and B), the taking of Parcel 103, the construction of CFX Project Nos. 429-201 and 429-202, or any other claims related to or arising from the State Road 429 Project or the Wekiva Parkway Project.

A motion was made by Mr. Hudson and seconded by Mr. Babcock to recommend to the Board approval an all-inclusive settlement in the amount of \$12,000 as to all claims related to real estate and business damages, severance damages, tort damages, attorney's fees and litigation costs, expert fees, costs, apportionment claims, other supplemental proceedings, or any other claim.

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

**Items 8: S.R. 429 WEKIVA PARKWAY, PROJECT 429-202, PARCEL 800, PARTS A AND B
UNDIVIDED FEE INTREST IN SOUTHFORK DRIVE
OWNERS: FREDDIE JONES, THE LATE EULA JONES AND SANDRA JONES (1/8 INTEREST)**

Ms. Brehmer Lanosa is requesting the Committee's recommendation for Board approval of the all-inclusive settlement with Freddie Jones, the late Eula Jones, and their daughter, Sandra Jones.

Ms. Brehmer Lanosa provided a brief history of the parcel.

The Jones' own a 1/8 undivided fee interest in Southfork Drive as tenants in common. Unlike most of the other undivided fee owners of Southfork Drive, the Jones' property is directly adjacent to the newly constructed S.R. 429. Since their home is near S.R. 429, the Jones contended that they have been impacted the most.

After lengthy discussions, the parties reached a proposed all-inclusive settlement for the sum of Ten Thousand Dollars (\$10,000), including statutory interest and all claims related to real estate and business damages, severance damages, tort damages, attorney's fees and litigation costs, expert witness fees, costs, apportionment claims, or other supplemental proceedings. In addition, the Jones agreed to assign to CFX any claim they may have to the previously deposited good faith estimate of value and agreed to waive any apportionment claim that they may have or will have. Last, the Jones agreed to release all claims against CFX arising from the taking of Parcel 800 (Parts A and B), the taking of Parcel 103, the construction of CFX Project Nos. 429-201 and 429-202, or any other claims related to or arising from the State Road 429 Project or the Wekiva Parkway Project.

A motion was made by Ms. Botts and seconded by Mr. Hudson to recommend to the Board approval an all-inclusive settlement in the amount of \$10,000 as to all claims related to real estate and business damages, severance damages, tort damages, attorney's fees and litigation costs, expert fees, costs, apportionment claims, other supplemental proceedings, or any other claim.

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

**Item 9: 525 SOUTH MAGNOLIA AVENUE, ORLANDO
LEASE AMENDMENT
OWNER: CENTRAL FLORIDA EXPRESSWAY AUTHORITY
TENANT: WOMEN'S CARE FLORIDA, LLC**

Mr. Passiatore is requesting the Committee's recommendation for Board approval of the proposed Lease Amendment.

On November 18, 2010, CFX's predecessor agency entered into a lease with Women's Care Florida, LLC., d/b/a Delaney OB/GYN for the property located at 525 South Magnolia Avenue, Orlando, Florida. This property previously served as the agency's administration headquarters. The term of the lease was for ten (10) years and was scheduled to terminate on June 15, 2021.

The leased site has been burdened by construction activities from the I-4/S.R. 408 interchange and overpass. The doctors are in the process of relocating and have requested a change to a month to month tenancy with a deadline no later than August 2019 for termination of occupancy.

CFX management and Legal are supportive of this change. The amendment allows the tenant's early departure and a chance for CFX to remarket the property once construction is closer to completion.

A motion was made by Ms. Botts and seconded by Mr. Denninghoff to recommend to the Board approval of the proposed lease amendment.

Item 10: OTHER BUSINESS

Mr. Newton advised the Committee that next Right of Way Committee Meeting would be Wednesday February 27, 2019.

Item 11: ADJOURNMENT

Chairman Newton adjourned the meeting at approximately 2:33 p.m.

Minutes approved on March 27, 2019.

Pursuant to the Florida Public Records Law and Central Florida Expressway Authority Records and Information Management Program Policy, audio tapes of all Board and applicable Committee meetings are maintained and available upon request to the Custodian of Public Records at (407) 690-5326, publicrecords@CFXWay.com or 4974 ORL Tower Road, Orlando, Florida 32807.