

Minutes Outline

POP Committee Workshop, March 26, 2008, 6:00 p.m.
Discussion of Comments Received on VGMC Policies & Procedures
City of Daytona Beach, Room #116, 301 S. Ridgewood Ave., Daytona Beach, FL

In attendance: VGMC Chair Gerald Brandon; POP Committee Chair Robert Pascoe; POP Committee Members Jim Kerr, Tony Cole, John Heaphy & Donna Steinebach; VGMC Legal Staff Paul Chipok; VGMC Planning Staff Barry Wilcox.

Also in attendance: VGMC Members Suzanne Steiner, Karen Hall & Sandra Walters

The group started its review of the individual comments that have been identified as processing issues, beginning with item #1 drafted by VGMC legal counsel, Paul Chipok and concluded the meeting at approximately 8:15 p.m. having discussed processing issues through item #5 submitted by Ron Paradise. Another afternoon workshop will be scheduled.

The committee came to consensus on the following issues:

- 1) Look at posting applications or summary applications online;
- 2) Look at further defining “adjacent” jurisdiction;
- 3) Review what is currently provided at submittal as the “summary application”;
- 4) Applications and other VGMC correspondence should continue to be directed to the local jurisdiction’s planning department;
- 5) Recommending an amendment to Section 90-35(e)(1)a extending staff’s review time to 35 days;
- 6) Recommending an amendment to Section 90-35(e)(1)d(ii) to require responses to RAI’s must be received within 60 days of issuance, with the ability to request two 30-day extensions which can be approved at the staff level, and anything beyond that must be approved by the full commission;
- 7) Recommending an amendment to Section 90-42 to allow an application to be withdrawn without penalty anytime two weeks prior to a scheduled public hearing;
- 8) Recommending an amendment to Section 90-35(e)(3) for clarification purposes as suggested in Mr. Chipok’s proposed language;
- 9) Recommending an amendment to Section 90-35(g) to specifically recognize the tolling of time under the 90-day rule as suggested in Mr. Chipok’s proposed language;
- 10) Recommending an amendment to Section 90-35(g) to reflect that continuances of applications may be granted by the commission chairman for

- one 90-day extension and any further requests for extension will be considered upon application to the full commission at a noticed hearing;
- 11) Amend Section 90-37(i) to correct typographical error which should read certificate of “consistency”;
 - 12) The VGMC should continue to review annexation related comp plan amendments;
 - 13) The VGMC office should continue to maintain a hard copy of all applications with original signatures.

Following is a *cumulative list* of issues the committee has agreed need to be addressed in more detail:

Philosophy Issues –

- 1) Whether or not governmental staff and/or elected officials should be members of the VGMC.


Processing Issues –

- 1) Look at requiring/allowing the jurisdictions to submit application packages electronically/via disc so they can be posted and easily accessed by interested parties and the general public. Discussion to include what defines an official document and what determines official receipt by the VGMC, as well as getting with the County IT staff and local planning managers regarding capabilities;
- 2) Further discuss adding a completeness review process;
- 3) Review the application submittal requirements to clarify what documentation needs to be submitted at application. This includes reviewing the individual consistency criteria to determine if additional analysis should be submitted at application;
- 4) Look at establishing an application submittal checklist to be utilized by the applicant, as well as for a completeness review;
- 5) Look at posting rules and procedures on-line;
- 6) Look at formally recognizing the NRMA map as one of the criteria that is utilized under the environmental impact portion of the consistency review;
- 7) Review the notification requirements for public hearings;
- 8) Further discussion of charging fees for advertising costs of developer generated amendments;
- 9) Look at posting applications or summary applications online;
- 10) Look at further defining “adjacent” jurisdiction;
- 11) Review what is currently provided at submittal as the “summary application”.

Timing Issues –

- 1) Review the RAI process and timeframe in detail and formalize – see the following recommended amendments:
 - a) Amend Section 90-35(e)(1)a to extend staff's review time to 35 days;
 - b) Amend Section 90-35(e)(1)d(ii) to require responses to RAI's must be received within 60 days of issuance, with the ability to request two 30-day extensions which can be approved at the staff level, and anything beyond that must be approved by the full commission;
 - c) Amend Section 90-42 to allow an application to be withdrawn without penalty anytime two weeks prior to a scheduled public hearing;
 - d) Amend Section 90-35(e)(3) for clarification purposes as suggested in Mr. Chipok's proposed language;
 - e) Amend Section 90-35(g) to specifically recognize the tolling of time under the 90-day rule as suggested in Mr. Chipok's proposed language;
 - f) Amend Section 90-35(g) to reflect that continuances of applications may be granted by the commission chairman for one 90-day extension, and any further requests for extension will be considered upon application to the full commission at a noticed hearing
 - g) Amend Section 90-37(i) to correct typographical error which should read certificate of "consistency".

**MINUTES OUTLINE APPROVED BY THE POP COMMITTEE AT THEIR
REGULAR MEETING OF APRIL 23, 2008**


**Robert Pascoe, Chairman
POP Committee**

Minutes Summary Discussion - 3/26/08 POP Workshop

Mr. Pascoe asked if any of the committee members had comments or changes to the draft minutes prepared from the March 6, 2008 workshop. There being none, Mr. Pascoe stated we would schedule them for approval at the next regular meeting of the POP Committee.

The group then began continued discussions of the individual processing related comments, starting with #1 prepared by Paul Chipok.

Item #1 – Comments prepared by VGMC Legal Staff

Mr. Chipok explained his comments and proposed amendments were prepared based on prior comments from the commission members and deal with application notice requirements, RAI timeframes, approval timeframes and a correction for a typographical error. Additionally, he stated, Daniel Langley in item #3 went through and addressed many of the same issues, however, took a different philosophical approach.

Mr. Chipok asked the committee in what form they would like the recommended draft amendments prepared for future review. The group concurred they would like to see the individuals issues broken down similar to how he prepared those in item #1.

With respect to issue #1 relating to notice requirements, Mr. Chipok asked how this is currently handled from a procedural standpoint. The VGMC Coordinator, Merry Smith, explained the applicant jurisdiction currently sends the complete application to VGMC and all adjacent jurisdictions, and they also send a summary notice of the application to all of the other jurisdictions and agencies listed on the application. As discussed in earlier workshops, the committee concurred there should not be a narrowing of the notice requirements, particularly as we move toward electronic filings.

Mr. Chipok asked about the current procedure which states notice of the application is sent to all members of the commission. Ms. Smith stated that notice of application is not currently sent to each of the commission members. Mr. Brandon added that the commission decided some time back not to send out every application to all members due to time and cost issues, adding that many of the members do not read the entire applications. Mr. Pascoe asked if a summary of each application can be prepared and mailed out to all members. Ms. Smith responded it can be done, but also suggested the mailings occur on either a weekly or bi-weekly basis to cut down on the time and costs associated with preparation and distribution. Mr. Brandon suggested instead of mailing out copies, we could look at posting an executive summary of the application on the VGMC website, adding that the complete application is available for review at the VGMC office.

Mr. Chipok stated that if we are moving toward electronic filings, we need to look at what constitutes a filing and we need to specifically define what constitutes a “notice”, I.E. is it email, US mail, etc. The committee also discussed further defining “adjacent”

jurisdiction. Ms. Steinebach suggested defining it as those that are contiguous to the applicant jurisdiction. She added that as per current procedure all other jurisdictions receive a copy of the summary application which allows them to determine if they will be impacted by the proposed amendment. Mr. Wilcox suggested we look at what is specifically provided at submittal as the “summary application” in order for it to be more valuable. The committee members concurred.

Ms. Walters commented that it is difficult and potentially impossible for some members of the public to get to the VGMC office during the regular hours of Monday thru Thursday 9am to 2pm to review an application package, and stated it is important we get the information posted online as early as possible. Ms. Steinebach suggested we require the jurisdictions to submit an electronic copy of the application which could be easily posted. General discussion ensued relating to the best format for submitting an electronic application. Several members suggested it be submitted as one document which was scanned into a pdf file. Mr. Chipok stated as we get to the rules changes, we will need to coordinate with the County IT people, as well as the City Planning Directors, to discuss capabilities and avoid inadvertently forcing some cities into some information technology issues that they are not prepared to address.

Getting back to issue #1, Mr. Chipok stated he will work on the language in 90-35(c), including further determining what constitutes notice, further defining adjacent jurisdiction, and include the concept that we want the application to be submitted in pdf format. Ms. Steinebach suggested we also address specifically to whom notice is to be provided at the jurisdiction level, i.e. should it be the Mayor, City Manager, etc. The commission discussed having the individual jurisdictions advise the VGMC to whom/where they want VGMC correspondence directed. General discussion ensued and there was a consensus that since the VGMC deals with planning issues, the correspondence should be directed to the jurisdiction’s planning department as is currently done by the VGMC office.

Mr. Chipok moved onto issue #2 relating to the timeframe for staff review and clarification of the RAI process. Mr. Chipok explained that under our current procedures, VGMC staff has the same initial 30 day review period as adjacent jurisdictions. By extending staff’s review time to 35 days would allow for the review of input from adjacent jurisdictions and the public prior to issuance of an RAI and request for public hearing. Mr. Chipok then reviewed the proposed additional language to Section 90-35(e)(1)d which is intended to clarify the RAI process, and includes a three month time frame for an applicant jurisdiction to respond to an RAI to avoid cases sitting dormant.

Mr. Wilcox concurred that an additional 5 days for staff review is critical in order to allow the adjacent jurisdictions the full 30 days to comment on an application and allow time for staff to prepare a comprehensive RAI. Additionally, Mr. Wilcox is in favor of establishing a timeframe in which responses to RAI’s must be received, adding that his preference would be 60 days. Following discussion, the committee concurred to recommend that responses to RAI’s must be received within 60 days of issuance, with the

ability to request two 30-day extensions which can be approved at the staff level, and anything beyond that must be approved by the full commission.

Mr. Wilcox raised a question concerning our rule relating to the inability for a jurisdiction to resubmit an amendment application within 12 months. He added that if an application is not in a condition to move forward, we may be better served allowing them to withdraw the application while they work out the issues and then resubmit as a new application. There was general agreement with the committee as this would encourage jurisdictions to work out the issues prior to the public hearing and would reduce the number of conditions which may be associated with an approval. Mr. Chipok reviewed the current rule relating to the waiting period for reapplication (Section 90-42) and asked when the committee felt the 12-month waiting period should commence, adding that he felt it should be prior to a public hearing. Following general discussion, the committee concurred to recommend a change to Section 90-42 which would allow an application to be withdrawn without penalty anytime two weeks prior to a scheduled public hearing (this would be prior to advertisement of the hearing and the associated advertising costs).

Ms. Walters asked why the public only has 21 days to file a petition, while the jurisdictions have 30 days. Mr. Chipok responded that the 30 day comment period for staff and adjacent jurisdictions begins when the application is received, and that the public notice is through the newspaper advertisement which is not published until up to 10 days after receipt of the application, resulting in a concurrent review timeframe. He stated that the intent is to resolve any VGMC issues prior to the 60-day timeframe DCA has for issuing its ORC report and if we extended the public's response time to 30 days, we would essentially be extending the review period to 40 days which could result in going beyond the intended timeframe if a public hearing is necessary.

With respect to Section 90-35(e)(3), Mr. Chipok stated the additional language is being suggested for the purpose of clarifying how this rule has been interpreted. The committee concurred to recommend this change in language.

With respect to issue #3 relating to Section 90-35(g), Mr. Chipok stated the additional language is being suggested for the purpose of specifically recognizing the tolling of time for the 90-day rule in this section. The committee concurred to recommend this change in language. Ms. Smith suggested that they also look at allowing the Chairman to authorize an applicant jurisdiction's request for waiver of the 90-day rule, rather than having to go to public hearing before the full commission. Discussion ensued concerning the reasons a waiver is requested. Mr. Chipok explained in some instances it may be the timing of the regularly scheduled meetings and/or the applicant jurisdiction is still working on issues and not prepared to go to public hearing and a waiver is necessary to avoid having to take final action on an application within the 90-day timeframe. Mr. Chipok added that according to our rules, the commission is obligated to act on an application within 90-days or it is automatically deemed approved. Mr. Pascoe stated that it is costly to the commission to hold a public hearing when the only item of business is a waiver of the 90-day rule.

Mr. Wilcox suggested if we don't get a response to an RAI within 60 days or within the timeframe of any approved extensions, we incorporate into the rules that the application is deemed withdrawn to avoid applications from sitting out there indefinitely. Mr. Chipok stated the way he has the amendments drafted, failure to respond to an RAI in the required timeframe would result in the application moving forward to public hearing, unless the jurisdiction requests a waiver of the 90 day rule. He also suggested putting a time frame on the extent of the waiver. The committee concurred to recommend further modifying Section 90-35(g) to reflect that continuances of applications may be granted by the commission chairman for one 90-day extension and any further requests for extension will be considered upon application to the full commission at a noticed hearing.

General discussion ensued concerning costs associated with re-advertising cases which were previously withdrawn. Several members suggested looking at charging advertising costs for developer initiated amendments. Mr. Chipok stated that our commission does not have any direct privity with the developers and would have to charge it to the local jurisdiction. Ms. Steinebach commented that we are in an era where local governments are looking at real user based fees, as opposed to the tax payers of the County paying the costs associated with private developer initiated comp plan amendments. Mr. Chipok suggested this would be a discussion we would bring up when we are reviewing the rules with the local governments.

With respect to issue #4, Section 90-37(i), Mr. Chipok stated the commission has already addressed this and the language should be corrected to reflect "certificate of consistency".

Item #2 dated 10/24/07 – Comments submitted by Ric Goss, City of Ormond Beach Planning Director

Issue #1 regarding duplication of notice requirements -- The committee determined there is no duplication of efforts concerning notice requirements to other jurisdictions. Currently, the applicant jurisdiction sends the complete application to all adjacent jurisdictions, and a summary notice to non-adjacent jurisdictions. The VGMC sends a letter to the applicant jurisdiction acknowledging receipt of the application including the VGMC case number, a copy of which is sent to all other jurisdictions.

Issue #2 relating to streamlined procedure for countywide amendments – Mr. Chipok suggested that even with a mass amendment such as the public school facilities element, the VGMC still needs to review the individual jurisdiction's amendment to ensure there aren't errors or omissions, adding that there's nothing standard even in the standardize amendments. With respect to the public school facilities element, Mr. Wilcox stated that VGMC staff met with Saralee Morrissey and established an internal/informal process for reviewing and expediting these amendments. Mr. Chipok stated the interlocal agreement is the mechanism used to determine what each of the jurisdictions are supposed to do, however, the VGMC's check is to ensure its being done correctly by the jurisdictions. Ms. Steinebach added that VGMC staff should be at the table anytime there are countywide amendments being worked on.

Issue #3 regarding annexation amendments – Ms. Steinebach commented that just because the annexation is in a city’s water/sewer service area does not necessarily mean that the proposed land use is appropriate. She added there are no identical or exact land use categories going from the county to the cities. Mr. Wilcox commented that if there are no issues or comments concerning the amendments, they are generally certified in approximately 30 days. The committee concurred that VGMC should continue to review annexation related comp plan amendments.

Issue #4 relating to submittal of applications on disc – Mr. Chipok stated the committee has already agreed to further address electronic submittals. The committee concurred and also agreed that we should continue to have one hard copy with original signatures on file in the VGMC office.

Issue #5 regarding posting the rules on the VGMC website – Mr. Chipok stated we are working toward that.

Item #3 dated 10/25/07 – Comments submitted by Daniel Langley for the City of DeBary

Mr. Chipok commented that philosophically, the overall recommendations would shrink the VGMC’s area of jurisdiction and limit the current powers of the commission.

With respect to the first issue dealing with the definition of adjacent jurisdiction, the committee concurred the recommended language is too limiting.

Regarding the comments to Section 90-32, Interpretation of article, the committee concurred that the recommended language is too limiting. Mr. Kerr raised a question concerning “(2) Liberally construed in favor of the commission”. Ms. Steinebach commented that it is typical of regulatory agencies to have that in their interpretation section. Mr. Chipok added that it also has to be tempered with good judgment to avoid being arbitrary.

Regarding Section 90-34, Certificate of plan consistency required, the committee concurred not to include the recommended addition to the rules language.

With respect to Section 90-35 relating to the RAI process on pages 16-18 of the comments book, the committee agreed the recommended changes take a different philosophical and limiting approach to addressing the RAI process and concurred to address that section as earlier discussed.

Beginning with the recommendations on page 19 of the comments book, the committee concurred as follows:

Subsection (3) – this proposes a more restricted time frame and the committee is not in favor of this;

Subsection (4) – we’ve already included the reference to the commission’s professional staff;

Subsection (6) addition – this is limiting and not consistent with the philosophy and direction of the committee;

Page 20, Item (g) – this is inconsistent with the philosophy and direction the committee has already discussed with respect to RAI’s;

Page 21, Item (i) addition – this is inconsistent with the philosophy of the committee;

Page 22, Item (g) – the addition of “timely” is already implied;

Page 23, Item (i) – this is not the direction the committee wishes to go;

Page 24, Sections 90-39 & 90-40 – the committee discussed these during the philosophy discussions and concurred that the suggested language in 90-39 would be a narrowing of the notice requirements and that the change proposed in 90-40 was not necessary as an applicant jurisdiction is already considered a substantially affected and aggrieved local government.

Item #4 dated 11/20/07 – Comments from Paul Chipok relating to those submitted by Ric Goss & Daniel Langley

Mr. Chipok stated these have all been discussed.

Item #5 dated 12/21/07 – Comments submitted by Ron Paradise

Mr. Chipok stated that these comments have been discussed in an earlier workshop and asked the committee how they wanted to handle addressing the issue relating to local government staff members, elected officials or other individuals that serve on local government boards serving on the VGMC. Mr. Chipok stated that in prior discussions, there were good arguments presented on both sides of this issue. He has also sent a letter to Chairman Brandon for commission approval requesting an Attorney General Opinion on the matters relating to dual office holding and abstaining from voting as discussed in the last workshop.

Mr. Chipok communicated that the conflict of interest issue with a staff member serving as a member of the VGMC has already been reviewed by the Commission on Ethics who ruled there is no conflict. Mr. Pascoe asked since the members are appointed by the individual jurisdictions, should the decision be left up to the jurisdictions. Mr. Chipok commented that that is a good point, and we are not trying to dictate policy to the local jurisdictions. Mr. Wilcox stated the matter needs to be addressed to those who have commented in opposition of staff members serving as commission members, adding if no legal basis exists for prohibiting staff members as VGMC members and the decision on appointment is at the local jurisdiction level, the opponents recourse would be through their local representatives. Ms. Walters commented that the VGMC is who is in the hot seat and the public is stating they don’t think our makeup is fair and therefore, our decisions are not fair. Ms. Steinebach stated we would have to inform and educate the public that the makeup of the commission is based upon the individual appointments from each of the jurisdictions, and if they are unhappy with the appointments they need to speak with those governing bodies. She added the VGMC does not pick and choose its

membership. Based on the number of comments from the public pertaining to this issue, Ms. Steinebach commented that she felt the jurisdictions are hearing it and we may see some changes. However, she added that unless it is deemed illegal, she doesn't believe the commission will never see a staff member appointment as some jurisdictions may feel it is in their best interest and the best interest to the functionality of the board to have that technical expertise.


Mr. Chipok stated that the balance of the issues raised in Mr. Paradise's comments were already discussed at a previous workshop.

Chairman Brandon commented that he is scheduling meetings with the individual County Council members and Mr. Dineen to bring them up to date on our progress.

The committee agreed to look at scheduling another afternoon workshop on the west side of the county the week of April 14th if schedules permit, or shortly thereafter. The POP committee will also hold a regular meeting to approve workshop minutes prior to the next regular commission meeting.

The meeting concluded at 8:15 p.m.

**MINUTES SUMMARY DISCUSSION APPROVED BY THE POP COMMITTEE
AT THEIR REGULAR MEETING OF APRIL 23, 2008**


**Robert Pascoe, Chairman
POP Committee**