

Volusia Growth Management Commission

MEETING MINUTES FOR
Wednesday, April 26, 2006

County Council Chambers
Thomas C. Kelly Administration Center
123 W. Indiana Avenue
DeLand, FL

MEMBERS PRESENT

Mark Rakowski, Chairman
Gerald Brandon , Vice Chairman
Joan Lee, Secretary
Robert Pascoe
Jay Erndl
Walter Smith Absent
Rebecca Mendez
Kenneth Hooper Absent
John Heaphy Excused
Ed Blackman
Jiles Smith Absent
James Kerr
Deanna Bennett Absent
Ann Caneer Absent
Donna Steinebach Excused
Joan Spinney Excused
Doug Weaver
Rachel Sieg
Tony Cole
Suzanne Steiner

REPRESENTING

New Smyrna Beach
Ormond Beach
Volusia County
Daytona Beach Shores
DeBary
DeLand
Deltona
Edgewater
Holly Hill
Lake Helen
Oak Hill
Orange City
Pierson
Ponce Inlet
Port Orange
South Daytona
Volusia County
Volusia County
Volusia County
Volusia County

NON-VOTING MEMBERS

Peter Brown (not present)
Sara Lee Morrissey

REPRESENTING

SJRWMD
Volusia Co. School Board

OTHERS PRESENT

Paul Chipok, GrayRobinson, P.A.
Teri Bowley, MSCW
Megan Wimer, MSCW
Merry Chris Smith, VGMC Coordinator

CALL TO ORDER

Chairman Rakowski called the meeting to order at 7:08 p.m.

ROLL CALL

Roll call was taken and it was determined that there was a quorum present.

APPROVAL OF MINUTES

Gerald Brandon moved to approve the minutes of the November 30, 2005 meeting; seconded by Rachel Sieg. Motion carried unanimously.

Chairman Rakowski announced a deviation from the original agenda, moving the New Business item for consideration by the Commission at this time. Mr. Chipok advised that the Resolution before the Commission relates to a modification to the Majority Rule as was discussed at their previous meeting. Mr. Chipok explained this is an internal operating rule and can be amended by Resolution. He further explained that the proposed language would amend the rule to reflect that more than 50% of the weighted vote of the voting members present would be necessary to pass a motion relating to a comprehensive plan amendment. By approving this Resolution, Mr. Chipok advised this would avoid the situation where the vote of commissioners absent from the meeting would be considered a no vote.

Gerald Brandon moved to approve Resolution #2006-03 modifying the majority rule; seconded by Joan Lee. Motion carried unanimously.

PUBLIC HEARING

Chairman Rakowski reminded those individuals planning to speak at the hearing needed to sign in.

- 1) Consideration of VGMC Application 05-034 B, C, D, E, F, G, H & I: City of Deltona Large Scale Amendment Request

Mr. Chipok read the statement of procedures into the record.

Mr. Chipok advised the Commission that notification was received today from the City of Deltona that they would be withdrawing the Chalk (C) and D-Ranch (G) amendments. Don Sikorski, Interim Development Services Director representing the City of Deltona, confirmed that both the Chalk and D-Ranch amendments have been withdrawn.

Mr. Chipok stated there were two requests for intervention, the Stone Island Homeowners Association and Greater Construction, both relating to the D-Ranch amendment. Since that amendment application has been withdrawn, the intervention requests are no longer necessary.

VGMC Coordinator, Merry Chris Smith, administered the oath to all those present who intended to speak.

In lieu of the withdrawal of the Chalk and D-Ranch amendments, Mr. Chipok prepared an addendum sheet and revised resolution, which were distributed to the Commission members at this time. He further added that staff received a request from Jason Searl to increase the density recommendation relating to the Pinder amendment. Mr. Chipok stated the original staff recommendation was to deny the 6 units per acre that was requested in the application, and approve a density of 1 unit per acre. Mr. Searl's request is to increase the density to 2.85 units per acre over the 117 acres of uplands and the addendum sheet reflects that change.

Teri Bowley, MSCW, introduced Megan Wimer of MSCW to the Commission members. Ms. Bowley also pointed out that letters assigned to the individual amendments and reflected on the agenda are not consistent with those addressed in the staff report. Mr. Chipok advised that the proposed Resolution utilizes the letters associated with the staff report and also suggested that the individual amendments be referred to by name for clarification purposes.

Ms. Bowley summarized the individual amendment requests and utilized overhead maps showing the location of each property. She also stated for the record that there were eight requests for additional information resulting from issues raised by intervenors, members of the public, and adjacent jurisdictions, many of which related to the Thornby and D-Ranch amendments. Ms. Bowley commented that the City and adjacent jurisdictions have worked cooperatively together in reviewing concerns.

Ms. Bowley read the criteria for consistency certification into the record, followed by discussion relating to the individual amendment recommendations.

Ms. Bowley reported that with respect to the Howland Boulevard amendment, all outstanding items and concerns have been addressed and/or withdrawn and the staff report recommends this amendment be certified "as is". Additionally, she stated staff is recommending "as is" certification to the Transportation Text changes.

Referring to page 19 of the staff report, Ms. Bowley stated staff is recommending the Doudney and Casey amendments be certified with minor conditions, requiring a developers agreement with the City and Volusia County School Board to address and resolve anticipated impacts. Commissioner Steiner asked if there was any time frame associated with the required agreement. Ms. Bowley responded that staff is

recommending the development agreement be completed prior to any construction. She further stated that typically, developer agreements are established during the rezoning portion of the development process, adding that Saralee Morrissey was present at the meeting and may have additional information.

Ms. Morrissey of the Volusia County School Board stated based on conversations to date, their expectations are that the agreement with the School Board would occur prior to the approval of a PUD development order. She further added that the draft they are currently working on includes a provision within the PUD agreement that references the agreement with the school district, and the final is attached as an appendix to the PUD agreement.

Commissioner Steiner asked if we would be giving approval to something that's not guaranteed. Ms. Morrissey responded that these applicants know the specific expectations of the School Board. She further stated that they receive plans from the City of Deltona and are considered technical staff. Any comments the School Board has with the applicants are reiterated in their staff report to the City, and are typically included in the City's recommendation to their planning and zoning board, and ultimately the City Commission.

Chairman Rakowski asked Ms. Morrissey if she was satisfied with the staff report recommended conditions and she responded affirmatively. Mr. Sikorski also stated for the record that the City of Deltona concurs with Ms. Morrissey's statement regarding development order requirements regarding PUD rezonings.

Ms. Bowley moved onto discussion relating to the Pinder property. Referring to page 6 of the staff report, Ms. Bowley read into the record the chart outlining the development potential before the amendment, and the development potential after the amendment based on the City's request. As a point of clarification, Commissioner Sieg stated that the County does not round up on their dwelling units per acre, and therefore, both the Forestry Resource and Agricultural Resource land uses would each only allow 4 du's per acre.

An aerial map was displayed. Ms. Bowley pointed out areas surrounding the subject property, including a new elementary school site. She added that the School Board has purchased property to provide access to the new elementary site. Pursuant to information submitted to the VGMC, Ms. Bowley reported the City of Deltona will be supplying utilities which will be in place prior to or at the time of construction on the Pinder Property. She further stated the City had provided traffic information which at the time was considering all of the pending amendments along the 415 Corridor. Referring to page 13 and 14 of the staff report, Ms. Bowley read the traffic findings into the record.

Ms. Bowley stated the staff report recommends one dwelling unit per acre because historically that has been a benchmark for other amendments in the area. The property owner has suggested a density of 2.85 dwelling units per acre be permitted on the property. She stated the City has no documentation from adjacent jurisdictions that 2.85 dwelling units per acre would negatively impact them, and based on the information submitted there would be adequate utilities and traffic capacity to handle the request.

Several commission members raised question as to why the original staff report recommended one unit per acre, and has since been revised to recommend 2.85 units per acre. Mr. Chipok stated that the City's lowest land use category of low density residential allows six units per acre, which is too dense for this property. Not having a lower standard to go to, Mr. Chipok stated that staff used one unit per acre as a base minimum in order to establish some form of density to the property. Ms. Bowley added that the property west of the Pinder property is designated low density residential by the City, permitting six units per acre. Allowing 2.85 units per acre on the Pinder property would create a recommended transition as you move east to the unincorporated area of the County.

Ron Paradise, Volusia County Growth Management office, stated that the County has been informed of the recent negotiations to increase the density, and stated that they do not object to the concept of 2.85 gross dwelling units per acre outside of the wetlands. He further stated the idea of transitioning from the City's higher intensity area west of the property, to the County rural areas east of the property, is a sound planning concept and the County supports that as well. Mr. Paradise stated that the County feels confident that the City has design regulations in place to cluster development away from the wetlands.

Discussion ensued regarding the number of actual dwelling units that would be allowed if 2.85 units per acre were approved. Ms. Bowley referred the members to a letter received by VGMC staff today on behalf of the property owner (attached as Exhibit A of these minutes), noting the first line in the last paragraph addresses this.

Commissioner Lee raised concern with the request to increase the density recommendation from one unit to 2.85 units per acre. Ms. Bowley responded that although the City felt that six units per acre was acceptable for this property as originally requested by the property owner, staff recommends creating a smooth transition moving toward the rural unincorporated areas. Following staff's recommendation of one unit per acre, the property owner requested consideration to increase the density to 2.85 units per acre. Ms. Bowley stated they have no documentation that this density would negatively impact adjacent jurisdictions.

Commissioner Mendez stated staff found with the D-Ranch amendment that two dwelling units acres per acre is consistent with the rural character of Osteen, and

added this rationale can be very easily applied to the Pinder amendment which is a more urban type property. Ms. Bowley concurred, stating that these are similar properties and similar locations in terms of the transition going from the City limits to the unincorporated County.

Mr. Sikorski commented that 2.85 dwelling units per acre may in fact be a low transitional density given the intensity of adjacent properties, the presence of a high school and the planned elementary school. He further added that at one time, the Pinder property was either adjacent to or in the County's Urban Growth Boundaries, which if developed in the County's Urban Low Density Residential land use category would allow up to four dwelling units per acre.

Chairman Rakowski asked Mr. Sikorski if the property were to have a land use designation which would allow up to six dwelling units per acre, and the Commission approves a condition limiting the development to 2.85 units, how will the City ensure that years from now the property will not be developed to the comprehensive plan land use designation allowing six units per acre. Mr. Sikorski responded that the condition would be imposed by VGMC Resolution and required as part of the development order. Chairman Rakowski raised concern that this restriction could be overlooked if it was not included in the comprehensive plan.

Commissioner Pascoe asked Mr. Sikorski if the City were to consider establishing a less intensive residential density land use in the future, does he know what that standard may be. Mr. Sikorski responded that he could not state what would officially be adopted, but the City would likely look at amending its low density residential land use category to be consistent with the County's which allows up to four units per acre. He further added that based on the surrounding development and existing infrastructure, four units per acre may be a more adequate density for the Pinder property.

Moving forward to page 20 of the staff report and the resolution addendum sheets, Ms. Bowley advised the recommended conditions of approval for the Pinder property include requiring a developers agreement be entered into between the City, the School Board and the developer, and also that residential development be limited to a maximum of 2.85 dwelling units per acre.

Ms. Bowley then addressed the commission relating to the Leahy amendment. Ms. Bowley reported that the City is proposing a Commercial land use designation with density at .50 floor area ration (FAR) which calculates to 675,180 square feet of non-residential development. She added the City has provided documentation that the utilities and traffic will be accommodated based on a Commercial designation.

Based on the concern of impact on the rural character of SR 415, staff is recommending the FAR be capped at .22 which equates to 297,079 square feet of non-residential development.

Commissioner Steiner raised a question concerning commercial classifications. Ms. Bowley explained that land use designations are typically more general, and the city would apply specific zoning designations.

Commissioner Erndl asked if the applicant was satisfied with the recommended condition. Mr. Sikorski responded affirmatively.

Commissioner Sieg asked if the County is satisfied with the traffic conditions on this road. Ron Paradise responded that the County is satisfied with the FAR limitation of .22. Ms. Sieg further stated the chart on page 16 of the proposed resolution shows a significant increase in traffic from 1,491 to 12,030 average daily trips. Mr. Sikorski responded that information was based on a .50 FAR, and therefore, it would be less than one-half.

General discussion ensued relating to the FAR, as it was proposed by the applicant, utilized in the traffic analysis, recommended by staff, and the FAR requirements at the city level.

Commissioner Erndl clarified that the 12,030 trips listed in the resolution was based on the .17 FAR utilized in the traffic study, so with a .22 FAR it would actually be higher.

Ms. Bowley stated the basis for using .22 was to be consistent with the Village policy proposed in the D-Ranch amendment and to encourage the City to apply the Village policy along the SR 415 corridor.

General discussion ensued relating to a SR 415 study which had been completed for FDOT.

Ms. Bowley concluded the planning staff presentation and also mentioned the two additional standard conditions of approval.

Both Mr. Sikorski and Mr. Paradise indicated they had nothing further to add. There were no others present wishing to speak in support of the proposed amendments.

Chairman Rakowski asked if there was anyone present wishing to speak in opposition.

Sandra Walters, Enterprise, addressed the Commission in opposition of the Pinder amendment. Ms. Walters expressed concern that the Pinder property is located in the

NRMA and also stated that DCA had objections relating to transportation, public facilities coordination and site suitability. Ms. Walters also discussed soil maps. She requested if the Commission should approve the amendment, that a wetlands delineation by the St. Johns River Water Management District should be a condition of approval.

Janet Deyette, 2451 Timbercrest Drive, Deltona, stated she is a City Commissioner in Deltona, although not speaking on behalf of the City Commission. Ms. Deyette commented that the VGMC should not be too trusting of the City of Deltona. She also expressed concern with respect to the density of the Pinder amendment, the presence of wetlands and the overall traffic impact on SR 415.

There was no one else present who spoke in opposition.

Chairman Rakowski asked if a wetlands survey would be required prior to development. Ms. Bowley responded affirmatively, stating that this occurs during the zoning portion of the development process when all regional permitting is required. Mr. Chipok added that a portion of the property is already being designated as Conservation.

Discussion ensued relating to the maximum number of units allowed if it is determined there are wetlands within the 117 acres of proposed uplands. Mr. Chipok commented that the conditions limit the maximum number of dwelling units to 334, however, whether or not they can actually put that many units on the property won't be determined until later in the development stage.

Commissioner Pascoe raised concern over approving 334 units if it is later determined there are a significant amount of wetlands on those 117 acres. He suggested the Commission consider modifying the condition where the maximum units would be based on developable land.

Mr. Chipok commented that the Commission has heard testimony that four units per acre could serve as a transitional density. He also reminded the Commission that we are not at the development stage, but rather at the comprehensive plan stage where we are trying to set the overall boundaries.

Several members of the Commission discussed potential language for the condition which would limit the density cap based on non-wetland acres.

Commissioner Sieg commented that the VGMC is to be looking at impacts on adjacent jurisdictions. She further added that she has serious concerns that poorly drained soil will result in significant runoff in adjacent jurisdictions and also expressed concern regarding impact on County roadways.

Chairman Rakowski stated that we've heard testimony that the amendment as proposed by staff is acceptable to Volusia County. Additionally, he commented that he's observed that the Commission may not feel comfortable with 334 units, or 2.85 units per acre, and perhaps want to look at a lower number. Chairman Rakowski reiterated that the VGMC charge is to make sure one jurisdiction does not negatively impact another, and it appears from the testimony that both jurisdictions agreed on the amendment.

Commissioner Erndl raised a question concerning connected wetland systems. Referring to an overhead map, Mr. Chipok advised that the area connecting the wetlands will be designated as Conservation by the City, so the connections with the other wetlands extending into the County will be maintained. Commissioner Erndl asked if staff feels that VGMC criteria #4 has been satisfied; Ms. Bowley responded affirmatively.

Commissioner Steiner asked Ron Paradise about the County's overall acceptance of the proposed amendment. Mr. Paradise responded that the County does not object.

Mr. Chipok went over the resolution addendum sheet which was earlier distributed to the Commission members.

The public hearing was closed.

Rebecca Mendez made a motion to approved Resolution 2006-02 as presented by staff and as amended by the addendum; seconded by Jim Kerr.

Commissioner Sieg stated she has a problem with the Pinder amendment and asked if the Commission could act separately on that.

Suzanne Steiner made a motion to amend the earlier motion to separate the Pinder amendment; seconded by Rachel Sieg. Motion carried 11-1, Commissioner Weaver voted in opposition.

Mr. Chipok suggested the Commission first take action on the Pinder amendment, then add that back into the original motion and vote on the entire amendment package.

Commissioner Pascoe asked if it was within VGMC's jurisdiction to deny an amendment based on wetland problems. Mr. Chipok responded that the Commission needs to base their decision on the six criteria, along with competent and substantial evidence presented. He further added that their decisions need to be on a sound basis and supported by the testimony and evidence provided.

Mr. Chipok stated that the Commission may want to consider continuing the Pinder amendment to a future meeting to take additional testimony. Mr. Sikorski stated the City would not object to a continuance of the Pinder amendment which would allow them time to provide additional information to address the concerns of the Commission.

Rachel Sieg made a motion to continue the Pinder amendment so that the applicant can bring back more information regarding adverse impacts on surrounding properties relating to wetlands and transportation issues; seconded by Robert Pascoe.

Mr. Chipok clarified that the Pinder amendment is still part of the City's amendment package and same cycle, the Commission would just be deferring action on the Pinder amendment to a later meeting.

Motion to continue the Pinder amendment carried unanimously.

With respect to the original motion to approve Resolution 2006-02 as presented by staff and amended by the addendum, Mr. Chipok clarified with the Commissions subsequent actions, an additional statement will be added that Pinder is specifically not approved by this resolution and will be considered under further action at a subsequent meeting. Motion carried unanimously.

Ms. Bowley stated that tomorrow is the cutoff date for submitting documentation for a May hearing. She asked if it would be appropriate for the Commission to establish another cutoff date for the Pinder amendment and waive the 20 working day rule. Mr. Chipok recommended the Commission waive the 20 working day rule and consider allowing the City until May 10, 2006 to submit additional documentation. He reminded the Commission they may get multiple packages for the May agenda and may also receive with a shorter review time frame.

Mr. Chipok also stated that according to the Coordinator's calculations, the VGMC 90 day rule is scheduled to expire prior to the May meeting. Therefore, it would be necessary for the City to request a waiver of the 90 day rule. Mr. Sikorski verbally requested the waiver from the floor.

Gerald Brandon made a motion to waive the 20 working day rule and accept the City's request for waiver of the 90 day rule; seconded by Joan Lee. Motion carried unanimously.

REMARKS OF INTERESTED CITIZENS

None

REPORTS OF OFFICERS

None at this time.

REPORTS FROM CONSULTANTS

None

REPORTS OF COMMITTEES

- 1) POP Committee – Commissioner Brandon reported that the VGMC office has moved to the Kress Building, Unit #305, and we are in the process of unpacking. He also advised that the committee is moving forward to establish a means of replacing the planning staff.
- 2) Budget Committee – Commissioner Lee reported that we submitted the VGMC budget request to the County, however, we have not seen the budget analyst recommendation yet. She anticipates having that prior to the May meeting and will report further at that time.

UNFINISHED BUSINESS

Mr. Chipok reported that the election of officers is suppose to be done in September, however, it did not occur last year, primarily due to lack of meetings. As a result, the election of officers being held this evening will carry through September of this year, at which time another election will occur. Gerald Brandon made a motion to retain all current VGMC officers; seconded by Robert Pascoe. Motion carried unanimously.

NEW BUSINESS

This scheduled item was moved to earlier in the meeting per the request of the Chairman.

REPORTS AND REQUESTS OF COMMISSION MEMBERS

None

REPORTS AND REQUEST OF COMMISSION CHAIR

Chairman Rakowski advised the Commission that he has sent a letter to the Daytona Beach City Manager encouraging the City to appoint a member to the VGMC.

Chairman Rakowski reported that the Smart Growth Committee is recommending to the Charter Review Commission that a 7 member commission be formed to replace the VGMC. Several members of the Commission expressed concern that not all jurisdictions would be represented under this proposal and discussed forwarding a letter with comments to the CRC. It was a consensus of the Commission for Chairman Rakowski to write a letter on behalf of the VGMC, and he also requested that each member go back to their respective jurisdictions with this information as well.

The Commission discussed their preferences in scheduling a training session for the members. It was a consensus of the Commission that it be scheduled at a normal meeting time when there is a light agenda.

Megan Weimer reported that there may be a public hearing in May for the City of DeLand large scale amendment and also Orange City.

ADJOURNMENT

The meeting was adjourned at 9:27 p.m.

Attest:

Chairman