

CHARTER REVIEW



C O M M I S S I O N

Members

Hyatt Brown
Chair

Glenn Ritchey Sr.
Vice Chair

Dr. T. Wayne Bailey

Frank Bruno Jr.

Frank Darden

Patricia Drago

Ambassador
Stanley Escudero

Dr. Philip Fleuchaus

David Haas

Peter Heebner

James Morris

Patricia Northey

Derek Triplett

Mark Watts

Lisa Ford Williams

CHARTER REVIEW COMMISSION DAYTONA BEACH INTERNATIONAL AIRPORT DENNIS R. MCGEE ROOM

Monday, January 11, 2016
5:30 p.m.

A G E N D A

- I. Call to Order**
- II. Roll Call**
- III. Approval of minutes of December 14, 2015 [Pages 2-195]**
- IV. Correspondence Received [Page 196]**
- V. Public Participation (Limit 3 minutes)**
- VI. Article III – Legislative Branch – County Council [Pages 197-201]**
- VII. Article III A – County Attorney [Page 202]**
- VIII. Article V – Judicial System [Page 203]**
- IX. Article VII – Adjustment, Regulatory and Advisory Boards [Page 204]**
- X. Article VIII – School System [Page 205]**
- XI. Article IX – Elections [Pages 206-207]**
- XII. Report from Subcommittee**
 - A. Determine date and time of next subcommittee meeting**
- XIII. Discussion by Commission of matters not on the agenda**
- XIV. Adjourn – next meeting, February 1, 2016 at 5:30 in the DBIA – Dennis R. McGee Room**

**CHARTER REVIEW COMMISSION
VOLUSIA COUNTY, FLORIDA**

**MINUTES OF THE MEETING OF
December 14, 2015**

CALL TO ORDER

Chair Brown called the meeting to order at 5:33 p.m. in the Volusia Room at the Daytona Beach International Airport, 700 Catalina Drive, Daytona Beach, Florida. Chair Brown made note of some changes to the published agenda and asked any public participation relating to the Volusia Growth Management Commission be moved to Article IX. He reminded speakers of their time limits and asked that questions be saved to the end of presentations. Once the question period has concluded, Chair Brown asked that a list of recommendations be compiled.

ROLL CALL

Members present included Chair Hyatt Brown, Frank Bruno Jr., Patricia Drago, Ambassador Stanley Escudero, Dr. Phillip Fleuchaus, David Haas, Peter Heebner, James Morris, Glenn Ritchey, Derek Triplett, Mark Watts and Lisa Ford Williams. Chair Brown advised that Dr. Bailey was still recovering from illness in a rehabilitation center. Also present were County Attorney Dan Eckert, County Manager Jim Dinneen, county support staff and members of the public.

APPROVAL OF MINUTES

Mark Watts made a motion to approve the minutes of the November 9, 2015 meeting. The motion was seconded by James Morris. The motion was approved unanimously.

FEBRUARY MEETING CHANGE

Chair Brown advised the group that he will be out of the area on February 8, 2016 and asked that the February meeting date be changed to February 1, 2016. Two members advised that they would be unable to attend on that date, but as the majority would be able to accommodate it, the change was made.

CORRESPONDENCE RECEIVED

Chair Brown reminded the group that they had received copies of the correspondence received and were confident that they had read the material.

PUBLIC PARTICIPATION

Chair Brown opened the floor to public participation and asked for any members of the public that wanted to talk about issues other than the Volusia Growth Management Commission to come forward at this time. No one came forward.

CODE OF ORDINANCES DISCUSSION

Chair Brown asked for any discussion from members around the Code of Ordinances. There was no discussion needed.

Article II, Section 202.2 Security of Citizens Property Rights

Chair Brown asked James Morris to review concerns regarding Security of Citizens Property Rights as brought up in the November meeting. Mr. Morris advised that he had a brief discussion of the matter with County Attorney Dan Eckert prior to the meeting and is currently asking for that issue to be waived so that the Commission may move to the Volusia Growth Management Commission topic.

Article II, Section 202.3 Volusia Growth Management Commission

Chair Brown asked that any groups who have brought video/powerpoint presentations present first. He also recapped the allowable time limits for each group which had been given to them in advance.

Gerald Brandon, Volusia Growth Management Commission (VGMC) Vice-Chairman. Mr. Brandon advised that additional members and staff of the VGMC were present including James Wachtel, VGMC Chairman, Merry Chris-Smith, Operations Manager, and Jim Sellen, representing their planning firm VHB, and Paul Chipok, representing their legal firm Gray-Robinson. The VGMC presentation is attached to these minutes as Exhibit A.

Mr. Brandon advised that they were there to give factual information that could be used in the Commission's evaluation. Mr. Brandon gave an overview of the makeup of the VGMC members. Each member is appointed by one of seventeen local governments. Elected officials can not sit as a member of the VGMC as it would constitute dual-office. The St. John's Water Management District, as well as the Volusia County School Board is also represented on the VGMC as ex-officio members. Ninety-five percent of the applications received are certified as consistent without the need to go to public hearing. Without the VGMC, comprehensive plans would need to be amended including inter-local agreements. Mr. Brandon stated that many mis-conceived statements are being circulated regarding the VGMC. He advised that under the present Charter, the VGMC is required to determine consistency. In the past ten years only three public hearings were held where there were no public comments or objections raised by another jurisdiction or party. The present rules do not restrict who can or cannot raise an issue with an application. In 2008 a lengthy process was undertaken to review the rules of citizen/public standing including public hearings. At that time, only seven of the seventeen jurisdictions

supported limiting standing. No policy changes were made. It is clear that some jurisdictions may have now changed their view regarding citizen/public standing.

A history of applications that have gone to hearing in the past ten years has been provided to the Charter Review Commission. The VGMC has received 600 applications in the past ten years and of those, twenty-eight public hearings have been held. The VGMC has three options when reviewing applications, they can be approved, denied, or certified with an amendment. Conditional approval can be viewed as a way to let an application move forward in the process. Mr. Brandon stated that they feel that they have been good stewards of the taxpayers money. There is currently a \$160,000.00 annual budget for the VGMC. Without the existence of the VGMC as the local level, many applications may have ended up in State administrative hearing or in the courts at a higher cost. He stated that the VGMC is a timely process, and the average review time is thirty-two days. In his closing remarks, Mr. Brandon advised that they Charter Review Commission may maintain the status quo, put the fate of the VGMC to the voters, or propose policy/procedure changes without the need of altering the Charter.

Kent Sharples, CEO Business Alliance President. The CEO Business Alliance presentation is attached to these minutes as Exhibit B. Mr. Sharples stated that their goal is to make it easier to be more successful and to create growth and ultimately creating jobs in the area. He advised that they do not support improper growth management and the desire is a balance between proper growth and job creation. Comprehensive plans must be coordinated between local governments. In 1986, Volusia County created the VGMC, and in Mr. Sharples research, was the only County do so in the county charter. Because the VGMC is part of the county charter, it is only reviewed once every ten years. The VGMC is now thirty years old and has only been reviewed twice. The weighted votes of jurisdictions on the VGMC has become a major issue. The VGMC writes it's own rules and procedures. A VGMC vote can override an elected official's decision. The VGMC was created to provide consistency between comprehensive plans. Cities plan their growth within their geographic boundaries. Private sector investment is what creates growth. Local plans have become very sophisticated. The VGMC can only do one of three things with an application, approve, deny, or approve with conditions. If the Charter is reviewed only once in ten years, it must be viewed as a cost of approximately 2.3 million dollars. He added that we are the only county to have taken growth management to this level and we also happen to be one of the poorest counties in terms of average salaries.

Dwight Durant, Team Volusia Secretary. Mr. Durant advised that a white paper has been submitted to the Charter Review Commission (attached as Exhibit C). The group has requested removal of the VGMC. He introduced Clay Irvin, certified planner. Mr. Irvin reviewed the planning process in Florida over time. Each city must analyze their comprehensive plans as part of a statutory requirement. Each plan must have inter-local coordination. He stated that the county has not been able to progress with the VGMC as the State has progressed with their own growth management laws. It is now seen as a redundant and time consuming process. Mr. Irvin asked that we be put back on a level playing field with respect to growth management processes. Mr. Durant stated that he deals with comprehensive plans all the time in his business. The current process can add

32-50 days on average which can be a lifetime in terms of a project. He states that an entire site can be designed in 50 days. We are not on a competitive level with respect to other counties. He stated that the current process is now thirty years old. When the VGMC was created, there were no comprehensive plans in existence. We have those now. Mr. Durant concluded by stating that we need to eliminate this process as it is a type of self-inflicting wound for the area.

Joe Yarbrough, City Manager of South Daytona. Mr. Yarbrough handed out a collection of positions by the cities (attached as Exhibit D). Thirteen cities requests modification or elimination of the VGMC be placed on the next ballot. Six cities want to eliminate the VGMC completely. There is no support to keep the VGMC as it is today by elected officials.

Stephen Kintner, Audubon Society. Mr. Kintner asked to come back at another time as he wanted to speak about environmental minimum standards and not the VGMC.

Deanie Lowe, 1065 N. Halifax Drive, Ormond Beach, handed out a recommendation to the Charter Review Commission (attached as Exhibit E). She spoke about her history as a developer and a member of the county council. She also thanked the Charter Review Commission for their work.

Bruce Teeters, 567 N. Beach Street, Ormond Beach, asked for a show of hands reading the number of people who have had to go before DCA. He stated that he is in favor of simplifying the process. He asked the group to consider whether the VGMC is an important and necessary part of the process. He does not feel that the VGMC is really what we need at this point.

Charlie Faulkner, 139 Palmetto Avenue, Flagler Beach, spoke about his experience with the staff of the VGMC. He stated that he was attempting to fast track a small-medium sized project. The staff was knowledgeable, proficient, efficient, and professional. He asked that it be taken into consideration.

Ted Brown, 200 S. Orange Avenue, Orlando, Holland and Knight Law Firm. He stated that the necessity to resolve conflicts between comprehensive plans is of paramount importance. He asked that the group look at what they could do to improve the working efficiency of the VGMC.

Clay Henderson, Stetson University Institute of Water and Environmental Resources. Mr. Henderson distributed a handout to the Charter Review Commission (attached as Exhibit F). Mr. Henderson spoke about the comprehensive plan process. He was present at the creation of the VGMC. He stated that he has also been involved with some of the toughest hearings. The VGMC forces cooperation early in the process and at the end of the day has lessened the overall cost of litigation. He disagreed with the statement that we were the only county to address growth management in their charter. The Farmington project has been hailed as a model plan throughout the state. He stated that he looked forward to working with the Commission.

Roy Walters, 480 Warrior Trail, Enterprise, spoke about the VGMC process as a member of the public. In 2005 he was part of the Friends of Thornby group who worked to stop a 12 times density increase on Lake Monroe. The VGMC provided a forum when the citizens had no voice in any other venue. They were able to fully participate as a party to the application. He stated that the VGMC could hear from all affected sides and act accordingly. He also stated that we should be proud of what Deanie Lowe and the 1986 Charter Review Commission had crafted.

Peggie Farmer, 4 Allenwood Look, Ormond Beach, stated that she is not affiliated with any organization. She has served previously for four years on the Ormond Beach planning board. The VGMC in the 1990's was for municipal conflicts. She feels that the process is now redundant. She feels that the VGMC should be returned to its original purpose of resolving conflicts only between municipalities.

Saralee Morrissey, 3750 Olson Drive, Daytona Beach, stated that she is a certified planner for the Volusia County School District. She currently sits on the VGMC as a non-voting member. The school district is only concerned with applications that affect development and educational infrastructure. She stated that there is a role for the VGMC as it has helped the school district to provide its services and infrastructure.

Sandra Walters, 480 Warrior Trail, Enterprise, appointed VGMC Member. She stated that she was speaking as an individual and not representing the VGMC. She spoke about a news article regarding the mayor of Oak Hill stating that the city does not have the funds to overturn the VGMC decision. She stated that thousands have been spent to change the VGMC rules to disallow party status to citizens/public. She stated that this is not about growth, but about allowing the public to have equal standing. She feels that groups are now playing the economic development card as they had been previously unsuccessful with changing the rules regarding citizen standing.

Charles Lichtigman, 444 Seabreeze Avenue, Daytona Beach, cautioned the group against eliminating the VGMC completely. His concern is that when this comes before the public for a vote, that if we adopt a provision to eliminate the VGMC, nothing will happen. He states that the VGMC adds another layer of bureaucracy. There is no certain standard, no accountability, and no appeal mechanism. He asks the Commission to consider the political feasibility in this process.

Steven Unatin, 767 S. Nova Road, Ormond Beach, Managing Partner of Oak Hill Partnership. He stated that they have asked for industrial land use to promote development. They have gone through planning boards, DEP, DEO, Department of Transportation, and all agencies responded with no objection. The Audubon Society requested a hearing through the VGMC and the project was delayed. The prospective user went to another county which does not have a VGMC process.

S.K. Patel, PO Box 2676, Daytona Beach, Chair of the Volusia County Association of Responsible Development (VCARD), spoke about a survey taken by VCARD members. Those responses received were distributed to the Commission (attached as Exhibit G).

Ed Kelley, 53 River Ridge Trail, Ormond Beach, Mayor of Ormond Beach stated that their city had provided comments earlier and asked that they be considered when making the decision.

Chris Bowler, 573 Marina Point, Daytona Beach, stated that the important numbers speak for themselves. Of the 600 projects, 28 have had hearings, which is 5%. There has been a \$4.8 million dollar cost to the county over 30 years. That is \$171,000 per hearing. He feels that there should be a more streamlined process as we move into the future.

Scott Simpson, 595 W. Granada Blvd., Suite A, Ormond Beach, responded to Sandra Walters earlier comment regarding Oak Hill. He stated that the main purposed of the VGMC was to provide an effective means to coordinate plans which is now part of state law. He asked if we still need the VGMC review. If all parties are in agreement, we have accomplished the required coordination. He stated that if the VGMC staff disagrees with the local agreements, then they are not facilitating cooperation. He further stated that the objecting party has no burden of proof.

Beth Lemke, 206 N. Beach Street, Suite 205, Daytona Beach, stated that the original intent was top down planning and to avoid costly annexation lawsuits. Since 1986, municipalities have adopted inter-local agreements. The State has become less stringent. None of the other counties in Florida have adopted this mechanism. She feels that it is the opposite of cooperation and it all comes down to having an efficient government. \$4.8 million dollars n resources have been spent on the VGMC. She states that 94.8% of what they did was not necessary. She concluding by stating that it should not be hard to do what is right.

Glenn Storch, 420 S. Nova Road, Port Orange, stated that that the VGMC was created to prevent inefficient annexations. After thirty years things have changed. He feels that the current problem is the provision which allows the VGMC to perform other duties as it deems necessary. He asked that the Charter Review Commission remove that provision and address the issue of standing.

QUESTIONS AND ANSWERS

Chair Brown stated that they would now move to the question and answer portion of the meeting. He started with Derek Triplett.

Mr. Triplett asked if there was a chart that listed the objective of the VGMC next to the State planning process (Community Planning Act) to see if any aspect is redundant.

Chair Brown asked to get that as the Commission currently does not have that information.

David Haas stated that he is on the board of directors of Team Volusia, but had no involvement with the development of the white paper. He also spoke to comments made by Mr. Brandon. He stated that he has yet to go to a local government that did not analyze land use change based upon the maximum amount of use. He stated that time delays have become a negotiating weapon with VGMC. He does not think it should be necessary to negotiate that many times, with that many groups. Elected officials are there to represent their constituents. He also felt that it would be difficult to frame a question with the ballot.

Ambassador Stanley Escudero stated that he had no questions. He felt largely persuaded by Mr. Sharples presentation and the positions of the sixteen cities who could be viewed as the customers of the VGMC. If the customer base feels that it provides no useful function, he felt that the group should not be in disagreement. He also stated that he appreciated Glenn Storch's warning of throwing the baby out with the bath water, but that baby may have grown up and moved out of the area because he could not find an adequate job as a result of lack of growth to the area.

Peter Heebner had no questions at this time.

James Morris' first question was directed to Joe Yarbrough who had already left the meeting.

James Morris' second question was for Clay Henderson. He asked for suggestions to make the VGMC a more efficient entity.

Clay Henderson responded that it would be difficult to do in one minute, but the VGMC was designed to be consistent with the Growth Management Act. He expressed that there is probably a way to expedite changes without a Charter change.

Next James Morris had a question for Ted Brown who also had already left the meeting.

Mark Watts had no questions.

Frank Bruno asked Mayor Kelley if he would provide insight to any changes that the cities may have expressed when submitting their recommendations. Mayor Kelley stated that the other speakers had pointed out many of the desired changes that need to be made. He wondered why projects already in compliance would need to go before the VGMC as it is just an additional layer.

Mr. Bruno stated that he was there at the beginning and that we are in a different situation today. At one point the county was viewed as the 'bad guy' with the municipalities and they did not want to go to the county directly for conflict resolution. He stated that perhaps the VGMC should be kept with a change in rules and oversight. He asked Mayor Kelley if that would be acceptable to the cities. Mayor Kelley responded that it may help, but

currently the language is so open ended. He feels that we do not need a Growth Management Commission that is killing development and economic opportunity.

Glenn Ritchey stated that he was learning a lot on the fly and he will continue to talk to residents and stakeholder regarding any future questions.

Patricia Drago had no questions.

Lisa Ford Willams had no questions.

Dr. Fleuchaus stated that Charles Lichtigman was the most eloquent speaker. During the last Charter Review only one issue passed out of seventeen on the ballot so the wording of any changes for the ballot is very important. He asked how many full time employees are paid by the VGMC. Mr. Brandon stated that there is only one part-time employee. Contracted services are used for the remaining consultants.

Chair Brown asked why the law firm used was not local. Mr. Brandon responded that an out of the area firm was used so as not to have a conflict inside the county. He also stated that an RQS was released, and no local law firms bid.

VOLUSIA GROWTH MANAGEMENT COMMISSION DISCUSSION

Chair Brown advised that they would now make a list of options regarding what they have heard about the VGMC. He also stated that no final decisions would be made during this meeting. He further stated the initial purpose of the VGMC has clearly been expanded. He asked Clay Henderson to rate the sensitivity of the cities in the county regarding the environment and growth management, between one and ten with ten being the best, for both today and also in 1986.

Clay Henderson responded that in 1986 he would rate the county a four, very uneven between cities some were progressive towards conservation but others were not. Now, he rated the area a seven. The bar has been raised for all governments.

Chair Brown asked for the reasoning behind adding additional language to allow the VGMC to perform other duties as deemed necessary. Mr. Henderson stated that the issue that language was trying to be addressed was annexations. The County had no standing to object to those requests.

Chair Brown asked if it had been used for things other than annexation. Mr. Henderson responded that it had.

Chair Brown asked if using it for things other than annexation were part of the original thought process. Mr. Henderson responded that it was absolutely part of the thought process at the time.

Chair Brown asked if it was to give standing to everyone other than the cities and the counties. Mr. Henderson stated that the phrase was a catch all, but that all dynamics to growth management were not quite understood at the time. The issue of standing was added to the county ordinance for affected persons. The standing for an affected party is a higher standard.

Chair Brown asked Dan Eckert if standing is addressed by a county ordinance. County Attorney Eckert replied that it was an accurate statement. It allows parties to be represented when the government is unable or willing to do so.

Chair Brown asked if the ordinance was done after the Charter Amendment. Mr. Eckert replied that it was and the rules of procedure were adopted in 1987.

Chair Brown asked Mr. Henderson if he had suggestions for meeting the middle. Mr. Henderson said that he did. He stated that a lot of the issues could be addressed in the recertification rules and would not require a Charter amendment.

Chair Brown asked for Mr. Henderson to send a memo with suggestions to the Commission.

Mr. Watts asked Mr. Henderson if there would need to be amendments to the procedural requirements. Mr. Henderson replied that they are one in the same.

Chair Brown suggested making a list of options that the Commission could consider. First was eliminate, second was to modify, and third is to do nothing. He asked for ideas around the modify option.

Dr. Fleuchaus stated that he wanted to change the weighted voting as it is cumbersome and leads to poor results. He stated that it may have been drafted when there was a beach authority in place.

A discussion ensued regarding whether it is a procedure or Charter change. It was decided that it would need a Charter revision.

Dr. Fleuchaus also added that he agreed that the VGMC has too much leeway to discuss other matters.

Mrs. Drago suggested that a threshold be put in place to make the VGMC more efficient.

Chair Brown asked Deanie Lowe for her thought regarding a threshold. Mrs. Lowe stated that it was also a suggestion from the DeLand Chamber of Commerce.

Scott Simpson stated that the VGMC regard their duty as looking at every application. Paragraph 1 would need to be amended to establish a level of threshold.

Mr. Henderson suggested that that it could be squared with the Community Planning Act.

Chair Brown asked what the VGMC does that the current state law doesn't require. Mr. Henderson stated that it requires consistency.

A discussion ensued regarding negotiations between municipalities even when not adjoining and how it currently works with the VGMC. Currently, non-adjoining municipalities can object to applications as well as the public.

Further discussion ensued regarding inter-local agreements. A VGMC certificate is required even when the state and inter-local agreements have approved the project.

Chair Brown asked Mr. Morris for his suggestion on what would be needed if the VGMC were eliminated. Mr. Morris responded that he agreed with Dr. Fleuchaus in that an elimination would not be successful with the voters, but if so, inter-local agreements would replace the functions of the VGMC. He also stated that the group should think about the budget language and the mandatory funding requirement.

Mr. Bruno asked if the municipalities currently have inter-local agreements in place. Mr. Morris responded that they all have numerous agreements currently.

Paul Chipok, Law Firm of Gray-Robinson, stated that in the rules of procedure there are six criteria that each application is reviewed by. Rule six refers to existing agreements, such as inter-local agreements.

Mr. Morris asked if Mr. Chipok if he could define a substantially affected party as rule six requires that all substantially affected parties be a signatory to the agreement. Mr. Chipok replied that in a nutshell he could not. The broad definition is the Renard Standard which basically means in close proximity to the property and affected to it in a degree greater than the general public.

Mr. Morris stated that it was a daily broad standard in practice, to which Mr. Chipok agreed.

Mr. Watts agreed that standing needed to be addressed by the Commission. After reading through past Charter Review minutes as well as sub-committee minutes, he feels that the scope of the VGMC has crept over the years.

Chair Brown stated that there is a substantial feeling that some change is definitely needed or necessary.

Ambassador Escudero stated that he objects to an appointed board with no capacity to appeal to, or responsibility to, an elected body. He asked the group to consider the eight changes as outlined in the CEO Business Alliance presentation. He also asked Kent Sharples to submit those eight suggestions in the form of amendments for review by the Commission. Mr. Sharples agreed to do so.

Mr. Heebner stated that he is not convinced that amending would be more effective than eliminating. Amendments may have failed in the past because of the political atmosphere at the time. He feels that the atmosphere has changed since that time. He asked what the abuse is that we are trying to cure. He states that uncertainty is created by the current process.

Dr. Fleuchaus states that there is sometimes too many levels of government. He feels there is a need to have well defined rules for when projects are reviewed by VGMC as well as the appeal process.

Chair Brown relayed a story about his early memories of crabbing and floundering along the Halifax River. A section of the river was dredged causing immediate change. He could no longer go crabbing where he used to. He stated that sometimes it is not whether something is right or wrong, but it has to do with the right time for change. There is a substantial majority in the room that want something substantial to happen with the VGMC. He suggested that they try to come up with a proposal that would be endorsed by all parties to bring everyone together. He stated that an ad-hoc committee would need to convene to discuss a compromise that would be reasonable. He assigned the following members to the committee: Frank Bruno, Glenn Ritchey, Patricia Drago, and Ambassador Stanley Escudero. The group will discuss their recommendations during the next meeting. Chair Brown continues that there is a feeling that there is too much government. He states that he is interested in making this place a better place to live, and can do so by increasing average earning capacity. It is the entire county that will benefit from the discussions that happen now. If it all goes down in a pool of blood, then we are nowhere.

Ambassador Escudero asked if the ad-hoc committee would be subject to the Sunshine Laws. Chair Brown confirmed that the rules would apply.

ADJOURNMENT

Chair Brown thanked all who came. There being no further business for discussion, the meeting was adjourned at 7:58 p.m. The next meeting will take place on January 11, 2016 at 5:30 p.m. in the Volusia Room at the Daytona Beach International Airport, 700 Catalina Drive, Daytona Beach, Florida.

EXHIBIT A

Volusia Growth Management Commission Presentation

Volusia Growth Management Commission (VGMC)

Established 1986

Goals and Objectives

Goals:

To provide an effective means for coordinating the comprehensive plans of municipalities and the County, in order to provide a forum for local governments in Volusia County to coordinate decision making related to land use, the environment and public services for the citizens of Volusia County.

Objective:

Review the comprehensive plans and any plan amendments thereto for each governmental entity in Volusia County to insure intergovernmental coordination and cooperation.

VGMC Creates a Level Playing Field

- **No one comprehensive plan controls over others**
- **Forces cooperation early in the process**
- **Coordination between jurisdictions must be established before comprehensive plan can be amended**
- **All local governments are represented on the commission – 21 voting members: One member appointed by each of the municipalities, and five members appointed by Volusia County -- Voting is weighted based on the population represented by the member**
- **The Volusia County School Board and St. Johns River Water Management District are also represented on the commission as ex-officio members**

Interlocal Agreement with the State

- **An interlocal agreement exists between VGMC, Volusia County and the State in which the State agrees the findings of the VGMC pertaining to matters of intergovernmental coordination and consistency between local government comprehensive plans within Volusia County shall be considered by the State as additional data appropriate in review of intergovernmental coordination element matters.**
- **Most of the local government comprehensive plans policies include the VGMC review as a means of meeting the State required intergovernmental coordination element policies.**
- **VGMC review is not duplicative. The State recognizes a consistency certification as having met the intergovernmental coordination requirement.**

Comments Recently Raised Relating to the VGMC

- **The VGMC intervenes when no local government raises objections and the local governments are in agreement with the amendment**

-- In accordance with the present charter, the VGMC is required to. Section 202.3 in part states: “The commission shall have the power and the duty to determine the consistency of the municipalities and county’s comprehensive plans and any amendments thereto with each other.”

-- In the past 10 years, only 3 public hearings were held when there were no comments or objections raised by another jurisdiction or party.

- The VGMC has become a forum used by opponents to growth and development to delay and frustrate the legislative growth policies adopted by local governmental entities

- In 2009, the VGMC polled the local governments on the issue of citizen standing. Of the 13 responding jurisdictions, 7 supported limiting standing to the local governments.

- Since there was not an overwhelming response from the local governments to eliminate citizens/other interested groups from being an affected party, nor was there a perceived abuse at the time, no policy changes were recommended at that time.

- **The vast majority of public hearings are due to objections filed by other parties**

- **The VGMC has received nearly 600 applications over the past 10 years, and held 28 public hearings.**
- **Approximately 68% of the public hearings held involved applications where comments/objections and/or request for hearing were received from a local government and/or the Volusia County School Board.**
- **When no hearing is held on an application, a certificate of plan consistency letter is issued by the Chairman and is the final administrative action by the commission on the application**

- **The VGMC has gone beyond its scope of authority and issues conditional certifications requiring planned development zoning with VGMC review**
 - *****
- **VGMC is not in the business to deny applications.**
- **The VGMC must, per state statute, measure impacts by maximum development scenario.**
- **Some view conditional certifications as VGMC going beyond their scope of authority and looking at zoning issues. The alternative would be denial of application because impacts cannot be determined at the time of application.**
- **Conditional certification allows an amendment to move forward, even when impacts cannot be accurately measure.**
- **Conditions are often the VGMC's method of ensuring compliance when the local governments agree upon modifications to an amendment after an application is submitted.**
- **In the past 10 years, 22 of all applications reviewed were planned development (PD) applications – one went to public hearing, all others were letter certified.**

- The VGMC is a costly process

VGMC Budget:

**\$160,000 – 5-year average annual cost, averaging 2 public hearings/year
 \$230,000 – 10-year average annual cost, averaging 3 public hearings/year**

- Only once in the past 10 years has VGMC exceeded its requested budget (2008 by \$10,000). In part, the expenses were caused by litigation/appeal of a VGMC resolution conditionally certifying an application.
- Any monies budgeted for the VGMC, but not used for actual expenses, are returned to the County at the end of each year.

- **The VGMC is a timely process**

- **VGMC Review timeline runs concurrently and within the State Review guidelines**
- **VGMC application is filed at the same time the local government sends to FDEO. Local government cannot adopt an amendment for either 30 or 60 days until comments are received from FDEO.**
- **Average VGMC turnaround time from application receipt to final determination:**
 - 5 year average – 32 days**
 - 10 year average – 50 days**
- **95% of VGMC applications are certified by letter without the need for a public hearing.**

VGMC Application and Budget Expense History

Year	Apps Received	Public Hearings*	Average # days from Receipt to Determination	VGMC Budget Request	County Adopted Budget	Amended Budget	Actual Expenses
2015	64 YTD	2	31	\$324,923	\$298,704	---	\$138,608
2014	46	2	34	\$309,352	\$275,949	---	\$170,507
2013	97	1	30	\$291,528	\$286,051	---	\$113,266
2012	33	0	32	\$345,591	\$321,528	---	\$121,418
2011	59	5	35	\$345,839	\$320,841	---	\$256,838
5-Year Average	59	2	32	\$323,447	\$300,615	N/A	\$160,127
2010	34	5	62	\$349,617	\$316,500	\$428,009	\$341,922
2009	26	2	58	\$323,807	\$325,060	---	\$267,861
2008	81	2	50	\$318,493	\$318,493	\$360,192	\$328,456
2007	77	4	76	\$302,102	\$301,193	\$343,943	\$301,343
2006	83	5	88	\$292,930	\$251,592	\$296,592	\$268,835
10-Year Average	60	3	50	\$320,418	\$301,591	N/A	\$230,905

5-year average = 59 applications/year; 32 day avg. turn around

10-year average = 60 applications/year; 50 day avg. turn around

*Does not include administrative public hearings on 1) Requests for extension to comply with prior VGMC resolutions (5), or 2) Requests for waiver of the 90-day rule (8), or 3) Weighted Vote resolutions (10).

Closing Remarks:

- The VGMC provides a forum for the local governments to coordinate their plans and work out inconsistencies early on and at the local level
- All of the local governments have a seat at the table
- Elimination of the VGMC will require all local governments to prepare a new Intergovernmental Coordination Element to meet the provisions of Chapter 163.3177(6)(h), which includes the requirement to establish procedures for establishing Joint Planning Area's and Dispute Resolution. The Statute requires that all local jurisdictions in the County execute interlocal agreements within one year of adoption of the Intergovernmental Coordination Element. The Interlocal Agreement must address how 2 local governments will address intergovernmental coordination issues. So essentially you will be required to establish a process similar to VGMC but sacrificing local control for state oversight.
- Policy or procedural changes can be made without the need for a change to the charter
- If seeking change to policies/procedures, encourage cooperative and coordinated effort to look at amendments to streamline the process without losing local oversight
- Encourage open line of communication between the local governments and their respective appointed commission member(s)

EXHIBIT B

CEO Business Alliance Presentation

The Value of Volusia Growth Management Commission (VGMC)

Volusia Charter Review Meeting
December 14, 2015



CEO BUSINESS ALLIANCE
Reshoring Business to Volusia County, Florida

Growth Management Act of 1985

- The Growth Management Act of 1985 required all local governments to setup procedures to ensure intergovernmental coordination for managing growth.
- Volusia County's response to that state mandate was to create within the County Charter, the independent Volusia Growth Management Commission with the mission of determining "consistency" between the comprehensive land use plans elected local governments (both City and County).
- Growth and its management is and has been a dynamic process. Since VGMC's inception 30 years ago, there have been an overwhelming number of legal and planning changes as a result of state amendments and local ordinances. Because it is dynamic and we have had the VGMC virtually intact since its inception over 30 years ago, it is time to take a fresh look.



CEO BUSINESS ALLIANCE
 Rebuilding Business in Volusia County, Florida

Volusia County Home Rule Charter

Section 202.3

Goals & Objectives as presented 12/14 by VGMC (agenda packet page 132)	Volusia County Home Rule Charter Section 202.3
<p>Goals: To provide an effective means for coordinating the comprehensive plans of municipalities and the County, in order to provide a forum for local governments in Volusia County to coordinate decision making related to land use, the environment and public services for the citizens of Volusia County.</p> <p>Objective: Review the comprehensive plans and any plan amendments thereto for each governmental entity in Volusia County to insure intergovernmental coordination and cooperation.</p>	<ul style="list-style-type: none"> • The commission may perform such other directly related duties as the commission from time to time deems necessary. • No plan, element of a plan, or amendment of a plan adopted after the date this article becomes law shall be valid or effective unless and until such plan, element of a plan, or amendment has been reviewed by the commission... • Each voting member shall have a weighted vote. • Rules of procedure for the commission's consistency review and for the manner in which this section is to be enforced and implemented, and amendments thereto, shall be proposed by the commission and shall not become effective until adopted by ordinance approved by a two-thirds vote of the entire membership of the council. • The commission, by a two-thirds vote, shall adopt an annual budget which may provide for independent staff and which shall be funded by the county.



CEO BUSINESS ALLIANCE

Intended & Unintended CONSEQUENCES

- “The commission may perform such other directly related duties as the commission from ***time to time deems necessary***” - ARTICLE II, CHAPTER 90 AND SECTION 202.3
- VGMC is an independent commission that writes its own rules and can only be reviewed every 10 years through Charter review process;
- There is no provision for required reporting to local government;
- VGMC has a weighted vote which allows larger cities which may not even be contiguous to a proposing smaller city to override the smaller city’s proposed comp plan request.
- Allows individuals or groups who may have motives other than consistency to be granted standing;
- Last court of appeal is the judicial system.



It is REDUNDANT in many of its functions

- *Already*, the State mandates that comprehensive plan changes are reviewed by
 - ▶ FLORIDA DEPT. OF TRANSPORTATION
 - ▶ FLORIDA DEPT. OF ENVIRONMENTAL PROTECTION
 - ▶ FLORIDA DEPT. OF EDUCATION
 - ▶ FLORIDA DEPT. OF ECONOMIC OPPORTUNITY
 - ▶ ST JOHNS RIVER WATER DISTRICT MANAGEMENT
- *Already*, the state requires public input throughout the comp plan amendment process;
- *Already*, each city through its attorneys and planners has established a vetting process where public input is well advertised and sought;
- *Already*, the state has mandated a dispute resolution process “to reconcile differences on planning and growth management issues between local governments, regional agencies, and private interests” (Title XIII Chapter 186.509);



It has been **COSTLY** to the tax payers

- According to Gray Robinson – the VGMC’s legal counsel – it has annual average cost of \$240,000 or over \$2.4 million dollars in the past 10 years;
- This expense is almost entirely for legal and planning counsel contracted by VGMC to Orlando-based companies.

Consider the cost to the taxpayers

GRAY ROBINSON
ATTORNEYS AT LAW

VGMC Application and Budget Expense History

Year	Apps Received	Public Hearings on Amendments	Average # days from Receipt to Determination	VGMC Expenses
2014	46	2	34	\$170,507
2013	97	1	30	\$113,266
2012	33	0	32	\$121,418
2011	59	5	35	\$256,838
2010	34	5	62	\$341,922
5-Year Average	54	3	38	\$200,790
2009	26	2	58	\$267,861
2008	81	2	50	\$328,456
2007	77	5	76	\$301,343
2006	83	5	88	\$268,835
2005	81	5	79	\$244,720
10-Year Average	62	3	54	\$241,517

5-year average = 54 applications/year; 38 day avg. turn around
 10-year average = 62 applications/year; 54 day avg. turn around

*Does not include public hearings on 1) Requests for extension to comply with prior VGMC resolutions, or 2) Requests for waiver of the 90-day rule.

www.gray-robinson.com

There is a potential ECONOMIC LOSS due to delay and uncertainty in the development process

- VGMC is an added layer of bureaucracy which slows down our competitive ability to recruit new companies. There needs to be a balance between proper planned growth and economic development;
- Oak Hill FINALLY received their certificate of consistency without conditions in November (April – Nov). Not the only reason Panther went to Brevard, but certainly one reason.
- It is a lengthy and costly appeal process.



CEO BUSINESS ALLIANCE
Reshoring Business to Volusia County, Florida

SUGGESTIONS

1. Eliminate VGMC
2. **OR Amend Charter:**
 1. Eliminate appointed boards ability to override duly elected sovereign local governments
 2. Limit mission to determination of consistency between adjacent local governments
 3. Eliminate Charter language that gives VGMC limitless authority, "The commission may perform such other directly related duties as the commission from time to time deems necessary."
 4. Require appointed commissions to have backgrounds in related fields i.e. land planners, engineering, land use attorneys.
 5. Eliminate weighted vote. One person – one vote.
 6. Provide for accountability
 7. Eliminate budget-aggrieved" party should engage their own legal counsel and land planners.
 8. Most important: provide for appeal process to elected body and provide for annual review rather than on ten year cycles.



CITY OPINION ON VGMC

RESOLUTION			
ELIMINATE OR LIMIT	ELIMINATE	LIMIT	NEUTRAL
Daytona Beach Shores	Daytona Beach	Holly Hill	Lake Helen
DeLand	DeBary		New Smyrna Beach
Oak Hill	Deltona		Port Orange
Pierson	Edgewater		
Ponce Inlet	Orange City		
Ormond Beach	South Daytona		



CEO BUSINESS ALLIANCE
 Enriching Businesses in Volusia County, Florida

VGMC

1. STATE LEGAL AUTHORITY OF LOCAL COMPREHENSIVE PLAN

1985 Local Government Comprehensive Planning and Land Development Regulation Act Chapter 163 Part II, Florida Statutes – referred to as Growth Management Act, establishes that there is a need for comprehensive land planning and assigns to local government

- a. Planning – local (County) government responsibility Chap 163 Florida Statutes.

Growth Management Act goal is to:

Strengthen “powers of local governments in the establishment and implementation of comprehensive planning programs to guide and control future development”

Section 163.3194(1)(a), Florida Statutes, establishes the legal status of comprehensive plans.
Section 163.3194(1)(a), Florida Statutes, states that

...After a comprehensive plan, or element or portion thereof, has been adopted in conformity with this act, all development undertaken by, and all actions taken in regard to development orders by, governmental agencies in regard to land covered by such plan or element shall be consistent with such plan or element as adopted.

- b. Comprehensive plan includes among other elements

Future Land Use Element (FLUM) – includes Future Land Use Maps

- c. Intergovernmental Coordination

A County’s plan should establish mechanisms (not must) for and facilitate coordination with comprehensive plans of adjacent

1. Counties
2. Municipalities within County & adjacent Counties
3. County School District

- d. General Requirements of a Comprehensive Plan:

Rule 9J-5, Florida Administrative Code, details the specific intergovernmental coordination mechanisms that must now be included in the element. Some of these include:

- Coordination of planning activities mandated by the various elements of the comprehensive plan with other local governments, school boards, other units of local government providing services but not having regulatory authority over the use of land, the region, and the state.
- Resolution of conflicts with other local governments through the regional planning council’s informal mediation process.
- Establishment of procedures to identify and implement joint planning areas for the purposes of annexation, municipal incorporation and joint infrastructure service areas.
- Coordinated management of certain bays, estuaries and harbors that fall under the jurisdiction of more than one local government.
- Recognition of campus master plans.
- Establishment of joint processes for collaborative planning and decision-making with the school board on population projections and the siting of public school facilities.
- Establishment of joint processes for the siting of facilities with county-wide significance, including locally unwanted land uses, such as solid waste disposal facilities.

2. VOLUSIA COUNTY HOME RULE CHARTER – ARTICLE II, CHAPTER 90 AND SECTION 202.3 VOLUSIA GROWTH MANAGEMENT COMMISSION

Volusia Growth Management Commission created by referendum adopted November 4, 1986
 The Commission operates through the Volusia County Council adoption of certification rules as codified in Article II, Chapter 90, Volusia Growth Management Commission Consistency Certification Rules and Organization

“the commission shall have the power and duty to determine consistency of the municipalities and the County’s comprehensive plans and any amendments thereto with each other.”

“THE COMMISSION MAY PERFORM SUCH OTHER DIRECTLY RELATED DUTIES AS THE COMMISSION FROM TIME TO TIME DEEMS NECESSARY”

3. THE PROBLEMS:

The VGMC by Charter defines its own role beyond consistency.

1. The County’s Home Rule Charter under Section 202.3 provides for the commission to “perform such other directly related duties from time to time [it] deems necessary” This provision allows the commission to deviate into other areas, such as zoning, from its primary mission of consistency. See the required submittals required by the commission from the City of Oak Hill 04/13/2015.

Memo to VGMC from VHB, Planning Consultants to the VGMC, dated 04/13/2015

III. Conclusion and Recommendation(s)

Volusia County Code Section 90-37(e) states that “The Commission may deny certification where any applicant has failed to establish, by a preponderance of the evidence, its entitlement under this ordinance to the certificate.” Based upon the preceding information, the VGMC Planning Staff concludes that the proposed amendment may result in significant adverse impacts to the region’s central utility system, transportation system, and natural resources. We further conclude that the proposed amendment could adversely impact adjacent jurisdictions based on the Criteria of Consistency established in Volusia County Code; therefore, staff recommends the VGMC deny the application as submitted.

Should the Volusia Growth Management Commission determine there is a merit for approving VGMC Case No. 15-009, we recommend the following conditions be placed upon the certification of this amendment, such that the application and the comprehensive plan amendments contained therein can be certified consistent. Those condition(s) are as follows:

1. To address the lack of data and analysis available at this time, all development within the Activity Center shall occur as a Planned Development (PD) agreement to be submitted to the VGMC and must receive a certification of consistency before any development additional opportunity to review development of the subject site for specific impacts at the time of rezoning.
2. To address the possible environmental impacts on the water quality of the Indian River Lagoon and the encroachment of wildlife habitat of the National Seashore, a Mitigation Plan must be submitted as part of the PD agreement.
3. Any proposed development shall demonstrate how connection to the nearest central utility line locations will be accomplished.
4. All proposed development uses shall be located towards the center of the subject site, and all building setbacks shall be a minimum of thirty-five (35) feet. Only conservation and agricultural uses shall be allowed towards the edge of the property.
5. Any proposed changes or amendments to be made or adopted to the City’s Comprehensive Plan in response to a compliance agreement pursuant to Florida Statute Section 163.3184(6) or a directive from the Administrative Commission pursuant to Florida Statute Section 163.3184(8) (collectively referred to as “Remedial Amendment”) must be submitted to the Volusia Growth Management Commission as additional information to the original application pursuant to Volusia County Code Section 90-37(i) and the VGMC may “determine in its sole discretion that the additional information changes the facts and circumstances of the prior certification.” If such a determination is made, the VGMC shall hold a noticed public hearing on the Remedial Amendment. If the determination is made that the Remedial Amendment is consistent with the prior certification, no public hearing is required and a letter confirming consistency of the Remedial Amendment shall be issued to the City.
6. Failure to comply with any of the conditions of certification shall result in an automatic revocation of this certification, thereby rendering the amendment to the City’s Comprehensive Plan, which is the subject of this certification, invalid and ineffective.

2. **Intervention Sec 90-38:** While the intent of the enabling legislation and the Charter (Sec. 90-31 and 90-37) is for the VGMC to address issues of consistency between adjacent political subdivisions, the door is open by Charter language (Sec. 90-38) for “persons” to claim to be an aggrieved party and “petition for leave to intervene”.

Persons other than the original parties to a pending complete application under this article who are or may be substantially affected and aggrieved by the outcome of the proceeding may petition the commission for leave to intervene. Petitions for leave to intervene must be filed in writing at least five days before the date of the public hearing, and should, at a minimum, contain the following:

- (1) The name and address of the intervenor, and an explanation of how its substantial interests may be substantially affected by the commission’s determination;
- (2) If the intervenor intends to object to certification of consistency, a statement of all disputed issues of material fact, including specific objections to the pending application;
- (3) A demand for relief to which the intervenor deems itself entitled; and
- (4) Other information which the intervenor contends is material and relevant.

3. The Charter under Section 202.3 Volusia Growth Management Commission requires that the voting members of the commission be appointed, with each municipality having one member and five members from the unincorporated areas of the county. It further defines that the governing body of each respective jurisdiction make the appointment and that member’s votes will be weighted based on percentage of county population.

Consequently, small municipalities elected council can easily be denied a certificate of consistency, including minor amendments by an appointed body, the majority of which are not adjacent political subdivisions.

VGMC ROLL CALL VOTE			
	<u>MEMBER</u>	<u>CITY POP</u>	<u>%</u>
DAYTONA BEACH	RICHARD WALTON	62,622	12.43%
DAYTONA BEACH SHORES	VACANT	4,264	0.85%
DEBARY	SID VIHLEN	19,802	3.93%
DELAND	VACANT	29,467	5.85%
DELTONA	SANDY LOU GALLAGHER	86,360	17.14%
EDGEWATER	ROBERT LOTT	20,748	4.12%
HOLLY HILL	LORETTA ARTHUR	11,661	2.31%
LAKE HELEN	ROGER SONNENFELD	2,616	0.52%
NEW SMYRNA BEACH	ROBERT LOVELACE JR	23,834	4.73%
OAK HILL	VACANT	1,855	0.37%
ORANGE CITY	ROBERT STORKE	11,483	2.28%
ORMOND BEACH	GERALD BRANDON	39,455	7.83%
PIERSON	VACANT	1,688	0.33%
PONCE INLET	DON ROMANIK	3,039	0.60%
PORT ORANGE	DEBBIE CONNORS	57,467	11.40%
SOUTH DAYTONA	RICHARD KANE	12,373	2.46%
UNINCORPORATED AREA		115,117	22.85%
	SANDRA WALTERS		4.57%
	JAMES WACHTEL		4.57%
	DOUGLAS DELEON		4.57%
	WILLIAM POUZAR		4.57%
	GLYM SLAY		4.57%
	TOTAL	503,851	100%

4. Neither the Volusia County Home Rule Charter or the Volusia Growth Management Commission Consistency Certification Rules and Organization provide for an appeal other than filing a petition for Writ of Certiorari which is a Court action following prescribed state appellate rules to the Circuit Court of the County. The burden of proof is on the political jurisdiction requiring the amendment to its Comprehensive Land Use Plan. The resulting cost is usually burdensome, especially to small municipalities.

Additionally, the time delay, especially if VGMC denies consistency is a detriment to potential economic development projects.

Sec. 90-40. Appeals.

(a) Any substantially affected and aggrieved local government or other substantially affected and aggrieved party which has previously timely intervened pursuant to section 90-38 may contest the issuance, denial or revocation of a certificate of consistency by filing a petition for writ of certiorari along with a complete record of the proceeding(s) from which said certificate emanated so certified by the commission's records custodians, in the manner prescribed by the state appellate rules to the circuit court of the county, within 30 days after the date the commission's decision is filed with its secretary. The court shall not conduct a trial de novo. The proceedings before the commission, including the testimony of witnesses, and any exhibits, photographs, maps or other documents filed before them, shall be subject to review by the circuit court. The petition for writ of certiorari shall state how the commission erred and shall include all of the documents, papers, photographs, exhibits and transcripts constituting the record upon which the action appealed from was taken, or properly certified copies thereof in lieu of originals. The petition, along with the record, shall be filed in the circuit court within 30 days after the filing of the decision by the commission to which such petition is addressed. The court may extend the time for filing the record, including the transcript and exhibits, for good cause shown. The person filing the petition for certiorari shall be responsible for filing a true and correct transcript of the complete testimony of the witnesses.

(b) The petition for writ of certiorari shall be furnished to the original applicant, the owner of record of the subject property, to each attorney at law appearing for any person at the hearing before the Volusia Growth Management Commission, and to the Volusia Growth Management Commission. The commission shall suspend the issuance of its permit until the court has ruled upon the petition.

(c) The Volusia Growth Management Commission shall be a necessary and indispensable party to any appeal of its decisions. Any other person including but not limited to an adjacent local government may intervene, pursuant to Florida Rule of Civil Procedure 1.230, as a respondent in the certiorari proceeding authorized by this section.

(Ord. No. 87-24, § 9, 7-23-87; Ord. No. 99-16, § 4, 5-13-99)

5. The VGMC, under authority of the County Charter, and its Rules of Operation can and has given individuals or groups standing to identify themselves as an aggrieved party on issues outside of the primary mission of intergovernmental consistency.

A petition for "leave to intervene" was filed with VGMC by Audubon Florida and the Volusia County Audubon Society. The petition named a resident of New Smyrna Beach who is a member of Audubon as the "aggrieved party" The City raised the question as to the Audubon Society's authority to have standing since it is not an adjacent political subdivision and the City's request was only for a text change to allow for manufacturing on a specific 415 acre site.

EXHIBIT #2**VGMC Application and Budget Expense History**

Year	Apps Received	Public Hearings on Amendments*	Average # days from Receipt to Determination	VGMC Expenses
2014	46	2	34	\$170,507
2013	97	1	30	\$113,266
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EXHIBIT #3

VGMC ROLL CALL VOTE

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	DOUGLAS DELEON		4.57%
	WILLIAM POUZAR		4.57%
	GLYM SLAY		4.57%
	TOTAL	503,851	100%

Examples of Non-Political Jurisdictions Petitioning VGMC

MINUTES	CASE #	APPLICANT	PETITIONER	FOR/AGAINST	GRANTED STANDING	RESOLUTION PASSED
2/23/2011	10-022	Ponce Inlet	Pacetta Group	AGAINST	YES	2011-02
4/22/2015	15-009	Oak Hill	Florida Audubon Society	AGAINST	NO	2015-03
4/22/2015	15-009	Oak Hill	Southeast Volusia Audubon Society	AGAINST	YES	2015-02
4/22/2015	15-009	Oak Hill	David Hall	AGAINST	YES	2015-02
4/22/2015	15-009	Oak Hill	Gerald Heizmann	AGAINST	YES	2015-02
4/22/2015	15-009	Oak Hill	Mamie Huber	AGAINST	YES	2015-02
4/22/2015	15-009	Oak Hill	Jane Andrews	AGAINST	YES	2015-02
9/23/2015	15-031	DeLand	DeLand Neighborhoods, Inc.	AGAINST	YES	2015-03

Volusia Growth Management Commission Meeting

MINUTES FOR
MEETING HELD
Wednesday, April 22, 2015

City of Daytona Beach
City Commission Chambers
301 S. Ridgewood Avenue
Daytona Beach, FL

MEMBERS PRESENT

James Wachtel, Chairman
Gerald Brandon, Vice Chairman
Roger Sonnenfeld, Secretary
Rich Walton
Sid Vihlen, Jr.
Sandy Lou Gallagher
Robert Lott
Loretta Arthur
Robert Lovelace
Mark McGee
Robert Storke
Don Romanik
Debbie Connors
Richard Kane
Glyn Slay
Sandra Walters
William Pouzar

REPRESENTING

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

MEMBERS NOT PRESENT

Douglas deLeon

Volusia County

NON-VOTING MEMBERS

Sara Lee Morrissey (not present)
Steven Fitzgibbons (not present)

Volusia Co. School Board
SJRWMD

OTHERS PRESENT

Paul Chipok, GrayRobinson, VGMC General Counsel
Merry Chris Smith, VGMC Operations Manager
Erika Hughes, VHB, VGMC Planning Consultant
James Sellen, VHB, VGMC Planning Consultant

CALL TO ORDER

VGMC Chairman James Wachtel called the meeting to order at 7:03 p.m.

ROLL CALL

Roll call was taken and it was determined there was a quorum present. Chairman Wachtel welcomed newly appointed member Mark McGee representing the City of Oak Hill.

CITIZEN COMMENTS

There were no citizens present who wished to speak at this time.

Chairman Wachtel moved the Committee Reports up in the agenda schedule and asked the POP and Budget Committee Chairman to provide any update at this time.

POP Committee Report: Gerald Brandon, Chairman of the POP Committee, stated there were no updates at this time.

Budget Committee Report: Roger Sonnenfeld, Chairman of the Budget Committee, reported that the proposed 2015-16 Budget was submitted to the County and no comments have been received back to date. With respect to the 2014-15 year to date expense worksheet provided in the agenda package, Mr. Sonnenfeld reported that additional staff invoices have been submitted which will raise the total contract services YTD expenses to nearly \$26,000. Overall, he stated the budget is in good shape.

There were no questions relating to the budget update.

PUBLIC HEARING

Consideration of VGMC Case No. 15-009, City of Oak Hill Large Scale Amendment Application

Paul Chipok, GrayRobinson, General Counsel to the VGMC addressed the commission. Mr. Chipok read a statement of policies and procedures into the record which will serve as the format for the scheduled public hearing. He also stated the issue of party status for the petitioners will be addressed prior to the VGMC staff report in the presentation. Mr. Chipok discussed Section 202.3 of the Volusia County Code which established the mission of the VGMC, the narrow scope of the VGMC authority, as well as the criteria for determining consistency.

Mr. Chipok then discussed ex parte communications. He stated that ex parte communications are contacts made with commissioners about this matter, outside of the scope of this public hearing, other than those materials received from the VGMC Operations Manager. Mr. Chipok asked any commission members to disclose any ex parte communications on the matter before them at this time.

Commissioner Lovelace disclosed he was contacted by Steve Unatin who provided a brief introduction. He stated he advised Mr. Unatin he hadn't reviewed the agenda package yet and would keep an open mind at the public hearing.

Commissioner Storke stated in a casual conversation at another meeting earlier in the day, a woman who stated she worked for Planning Solutions asked if he had any questions relating to the Oak Hill application and responded that he did not.

Commissioner Connors disclosed she was contacted by Steve Unatin who asked her if she had any questions relating to the project.

Commissioner Brandon disclosed that he was contacted by Steve Unatin in a brief conversation who discussed his background and the background of the property.

Commissioner Walters stated she contacted Dinah Pulver to find out where she got the date for the April 22nd hearing, and also that she reviewed the file at the VGMC office.

Commissioner Walton stated he received a call from the Planning Consultant for the City and was asked if he had read the agenda package and also whether or not he knew if there would be an overhead projector available at tonight's meeting.

Chairman Wachtel disclosed that he had a conversation with Dr. Sharples relating to the project and application. Additionally, he stated he had a brief, general conversation with Rick Karl, the Economic Development Director for Volusia County.

Commissioner Arthur stated she did speak with Beth Lemke who asked if she would be in attendance at the hearing.

Commissioner McGee stated he had been to several community meetings in Oak Hill relating to the Unatin property.

At this time, those in attendance who were planning to give testimony at the hearing were sworn in by the VGMC Operations Manager.

Consideration of Party Status:

Mr. Chipok explained at this time, the commission will consider party status for the SE Volusia and Florida Audubon Societies. He stated the groups have claimed to be a substantially affected party, however, there needs to be some showing of proof that they are a substantially affected party.

Mr. Chipok stated a substantially affected and aggrieved party has the right to participate in the proceeding as a party. Such person or entity may either file a petition for hearing pursuant to Section 90-35(c)(4) as was the case with the two Audubon groups, or file a motion for leave to intervene pursuant to Section 90-38. He stated on April 17, 2015, a petition was timely filed by

numerous individuals petitioning for leave to intervene, which the commission will be considering as well.

Mr. Chipok stated that denial of party status shall not prohibit a person from being heard at the public hearing. He explained the basis test for a substantially affected or aggrieved party is to establish: 1) They are in close proximity to the area under consideration by the amendment; and 2) That they are affected by the amendment to a degree greater than the general public.

Mr. Chipok asked Clay Henderson, counsel to both the Southeast Volusia and Florida Audubon Societies, if he would like to address both groups concurrently, and Mr. Henderson responded affirmatively. Mr. Chipok reminded the commission that they are only considering the issue of standing at this time, and not the substantive matter of the amendment. He also discussed case law under *Renard v. Dade County*, in which the court basically said to be granted standing there needs to be some form of special injury or damage shown by the individual claiming standing different in kind from injury that may be suffered by other residents in the area. Additionally, a second category of standing under *Renard* is that there is a legally recognizable property or other interest affected by the decision that is going to occur. He added that the court went on to state that proximity of the members to the property in question is an important factor when determining standing under this category. Mr. Chipok stated "proximity" is a sliding scale and something for the commission to decide.

With respect to the Audubon groups, Mr. Chipok stated they are trying to get standing for a group. He referenced the case of *O'Donnell v. The Florida Department of Community Affairs*, which stated in general, a group or association has standing to sue on behalf of its members when it can meet a three-prong test: 1) The group's members would otherwise have standing to sue in their own right; 2) Interests the group seeks to protect are germane to the organization's purpose; and 3) Neither the claim asserted nor the relief requested requires participation of individual members in the lawsuit. Mr. Sonnenfeld asked Mr. Chipok if all three items of the three-prong test would have to be met. Mr. Chipok responded affirmatively.

Clay Henderson, 1016 S. Riverside Drive, New Smyrna Beach provided a power point presentation and addressed the commission relating to the issue of standing for the two Audubon societies. Mr. Henderson stated he is a life member of the Florida Audubon Society, and also a member of the Southeast Volusia Audubon Society. He also stated the Audubon Society has never been denied standing in any growth management or comprehensive plan challenge anywhere in the state of Florida.

Mr. Henderson stated they do accept the *Renard* standard for determining standing and believe their interests are substantially affected adversely because of the long time commitment and relationship between the Audubon Society and the resources of the Canaveral National Seashore. He stated the Canaveral National Seashore is an adjacent property to the subject amendment. Mr. Henderson presented testimony relating to a prior court ruling where specifically with a membership organization it is shown that if there is a close nexus between the organization, its mission, and how the members participate in an activity, that is in addition to the rights and interests of the public. He further described the mission, membership and background of the two Audubon groups.

Charles Lee, Director of Advocacy of Audubon Florida, property manager for the Florida Audubon Society and Central Florida representative of Florida Audubon Society, addressed the commission. Mr. Lee discussed his work experience and the history of the Florida Audubon Society. With respect to membership, Mr. Lee stated they have over 1,200 members in Volusia County. He stated at least 250 of those members are in Southeast Volusia County area, and 5 active memberships in the Oak Hill zip code.

Mr. Lee stated the Florida Audubon Society is also a landowner in Volusia County and he discussed various properties and their locations in relationship to the subject amendment. He provided history on past members and their involvement with the Society. He also stated the Audubon has in excess of 500,000 members throughout the United States, and that the Merritt Island National Wildlife Refuge and Canaveral National Seashore are primary destinations for those members to visit.

Mr. Lee expressed concern about industrialization on the shore of the Canaveral National Seashore and stated the proposed amendment is inherently in conflict with the purposes and the future potential for the management of the Canaveral National Seashore and the Merritt Island National Wildlife Refuge.

Scott Simpson, Attorney for the City of Oak Hill, asked Mr. Lee to clarify how many total members they have. Mr. Lee responded that there are approximately 500,000 members in the United States. Mr. Simpson also asked for clarification of the organization's name and principal place of business. Mr. Lee responded that it is the Florida Audubon Society Inc., and the principal office is located in Miami, Florida.

Mr. Lee submitted the following documents into the record: 1) A map depicting the Farmton tract and Volusia/Brevard County lines; 2) A list of properties Audubon owns in Volusia County; 3) A table from the membership records of the Florida Audubon Society with memberships broken down by Chapter within Volusia County; and 4) An aerial photo which locates the closest real property owned by them.

Don Picard, 1530 Queen Palm Drive, Edgewater, President of the Southeast Volusia Audubon Society, addressed the commission. Mr. Picard discussed the history of the Southeast Volusia Audubon Society as well its membership. He also discussed the mission of the Society, the role of the members, and commented that they feel they have standing in this matter.

Mr. Henderson, in closing, stated he believes the Audubon Society's have met the test to be granted standing.

Scott Simpson, attorney for the City of Oak Hill, addressed the commission in opposition of granting standing to the Audubon groups. In reference to the court case previously referenced by Mr. Henderson, Mr. Simpson stated the case basically stated that in order to get above the general interest of the community's well-being, you have to show that the primary purpose of the organization includes protecting the particular issue you are dealing with. In that particular case, Mr. Simpson stated the petitioner was Save the Homosassa River Alliance Inc., the issue was a

development on the Homosassa River, the individuals who organized the Alliance resided on the Homosassa River, and the primary purpose of their organization was to promote the river.

With respect to the matter before the commission, Mr. Simpson state the Florida Audubon Society is headquartered in Miami, and all of the officers are from Miami except one which is Tallahassee. He also stated they have no property ownership in Oak Hill, and the City of Oak Hill objects to the commission granting party status.

Chairman Wachtel opened the floor for questions and discussion of the commission members.

Commissioner Vihlen asked to hear the opinion of the VGMC Attorney, Paul Chipok, with respect to the arguments made on standing.

Mr. Chipok provided the commission with case law he felt would be applicable in this situation, he reiterated the three-prong test he discussed earlier, discussed the Renard standards, and suggested the commission apply the facts they've heard to those standards. He added that the ultimate decision concerning standing lies with the commission.

Commissioner Walton asked if any of the case law Mr. Chipok referred to related to what the role and mission of the VGMC is. Mr. Chipok responded that specifically to the mission of the VGMC, the answer is no. In the broader purpose of being in the context of land use decisions on a comprehensive planning level, the answer is yes. Mr. Chipok added that under the certification rules adopted by Volusia County ordinance, the VGMC function is to look at whether a comprehensive plan amendment as submitted to the commission, is consistent with the adjacent jurisdictions comprehensive plans. In response to a question from Mr. Walton, Mr. Chipok reviewed the three ways a public hearing can be requested under the VGMC rules.

Commissioner Kane commented that the VGMC is here to compare the comp plan amendment with adjacent jurisdictions comprehensive plans, and not to review environmental or zoning issues.

Commission Lott commented that none of the letters from the review agencies, including the Department of Transportation, St. Johns River Water Management District, Department of Economic Opportunity and the Environmental Protection Agency raised an issue with the proposed amendment. He stated he is trying to understand how the Audubon Societies are being injured.

Commissioner Sonnenfeld asked how the VGMC handles the Federal Government in terms of being an adjacent government for purposes of notification. Mr. Chipok responded that the VGMC rules more specifically state adjacent local governments. He further stated that while the Canaveral National Seashore is adjacent, in the context of the VGMC rules for purposes of notice, they are considered more a property owner than a governmental entity.

Mr. Sonnenfeld asked Mr. Henderson if he was speaking on behalf of the Canaveral National Seashore. Mr. Henderson responded that he is not authorized to speak on behalf of the National

Parks Service, but stated the Superintendent of the National Parks is in attendance and prepared to address the commission.

Chairman Wachtel discussed the role of the commission is to determine consistency of one jurisdiction's comprehensive plan to the comprehensive plans of adjacent jurisdictions. He commented that the Audubon Society is a self appointed group that does not have a comprehensive plan, and he felt it would be way too broad to allow standing based on the limited role of the VGMC.

Mr. Vihlen commented that Chairman Wachtel raised a key issue in that the VGMC is to determine consistency of land use between governmental entities, and to address issues raised by adjacent local governments. He added that he felt the Audubon concerns should be directed to the local government and related agencies during the zoning process.

Commissioner Walters stated she disagreed with Chairman Wachtel's earlier comment relating to the Audubon Society and standing.

Sandra Walters made a motion to grant standing for both the Florida Audubon Society and the Southeast Volusia Audubon Society. She stated the motion is based upon the testimony presented, based upon Mr. Chipok's remarks relating to the Renard criteria, and also based upon the precedent the commission has set from VGMC Case No. 05-034A relating to the Thornby property. Glyn Slay seconded the motion.

Commissioner Arthur asked for confirmation that a substantial number of the members have to be directly affected. Mr. Chipok responded that the court case does not provide a specific measurement as to what substantial means. He stated it's not a percentage, but rather a sliding scale for the commission to determine.

With respect to the vote on the motion, Chairman Wachtel explained it is a weighted vote. Mr. Chipok confirmed that in order for a motion to carry, it requires an affirmative vote of more than 50% of the members in attendance at the meeting, and those votes must represent more than 50% of the weighted vote of the members in attendance at the meeting.

Commissioner Romanik asked for clarification as to whether the commission would be voting on both Audubon groups together, or individually.

Sandra Walters amended her motion, and moved to grant standing to the Florida Audubon Society. Glyn Slay seconded the amended motion. Following a roll call vote, the motion failed with an 8-9 vote and 46.21% of the weighted vote.

For the record, Ms. Smith stated that based upon the members present, an affirmative vote of 9 members representing at least 44.21% of the weighted vote would be required to carry a motion.

Sandra Walters made a motion to grant standing to the Southeast Volusia Audubon Society. Glyn Slay seconded the motion. Following a roll call vote, the motion carried with a 9-8 vote and 46.81% of the weighted vote.

Chairman Wachtel called for a brief recess at 8:30 p.m. and the meeting reconvened at 8:40 p.m.

Mr. Chipok addressed the commission relating to the Petition for Leave to Intervene signed by approximately 160 individuals with diverse addresses received on April 17, 2015. He explained that the petition didn't claim they were acting as a cohesive group, and in order to determine standing they would need to be considered individually.

Mr. Chipok stated he broke the names down into several groupings: 1) Oak Hill addresses within 1,000 feet of the subject property; 2) Oak Hill addresses outside 1,000 feet of the subject property; 3) Addresses of individuals outside the City of Oak Hill; and 4) Persons and/or addresses that were either incomplete or illegible. He then restated the Renard standard for the commission's use in determining standing.

For the record, Mr. Chipok read aloud the names of those individuals with an address within 1,000 feet of the subject property.

Chairman Wachtel asked who submitted the petition. Ms. Smith responded that it was received in the VGMC office with a cover letter signed by Jane Andrews. Mr. Wachtel asked if Ms. Andrews wished to speak on the petition. Jane Andrews, 118 & 120 E. Church Street, Oak Hill, addressed the commission relating to the proximity of her property and stated she facilitated the petition. Mr. Henderson asked Ms. Andrews to tell the commission how the petitioners believe they are substantially affected by the proposed amendment. Ms. Andrews stated they believe they are substantially affected parties because their residences surround the subject property.

With proximity being one of the considerations under the Renard standard, Mr. Chipok described how the information was obtained from the Volusia County Property Appraisers website in order to group them in the four categories. He suggested the commission first consider those individuals listed with addresses located within 1,000 feet of the subject property.

Following several questions from Commissioner Lovelace, Mr. Chipok asked any individuals present whose names were read from the list of those addresses located within 1,000 feet of the subject property to stand and identify themselves. The following three individuals stood and identified themselves as present: David Hall, Gerald Heizmann, and Mamie Huber.

Mr. Henderson stated for the record that the Southeast Volusia Audubon Society has no objection to the commission granting standing to those three individuals present, and denying standing to all others on the petition. Mr. Simpson stated the City of Oak Hill concurs with Mr. Henderson.

Mr. Chipok explained to the commission that anyone who is granted standing can participate as a party in the hearing which allows them to present more evidence, cross examine through the Chair other witnesses to a limited degree, and also if the VGMC's decision is appealed through the circuit court, the commission would not object to them claiming to have standing to bring an appeal. Those individuals who are denied standing can participate in the hearing as a member of the public.

Roger Sonnenfeld made a motion to grant standing to David Hall, Gerald Heizmann and Mamie Huber. Motion was seconded by Glyn Slay. Following a roll call vote, the motion carried with a 14-3 vote and 74.35% of the weighted vote.

In order to allow due process, Mr. Chipok suggested the commission hear from any other individuals present who signed the petition that wished to present additional testimony as to why they should be granted standing.

Jane Andrews, 118 & 120 E. Church Street, Oak Hill addressed the commission concerning her interests that would be affected by the proposed amendment. Following brief discussion, Richard Kane made a motion to grant standing to Jane Andrews. Motion was seconded by Sandra Walters. Following a roll call vote, the motion carried with a 13-4 vote and 72.04% of the weighted vote.

Sid Vihlen made a motion to deny standing to all remaining individuals who signed the petition. Motion was seconded by Glyn Slay. Following a roll call vote, the motion carried unanimously.

Public Hearing on the Subject Amendment and Consideration of VGMC Resolution 2015-02:

Erika Hughes, VHB, planning consultant to the VGMC, addressed the commission. Ms. Hughes provided a summary of the amendment request and also presented the planning report, along with a power point presentation. She reviewed the six criteria that are considered when determining consistency as outlined in Section 90-37(c) of the Volusia County Code, along with the findings of staff.

With respect to utilities, Ms. Hughes stated the City did not provide any utility information with the submitted application. She stated VGMC planning staff calculated demand space from the proposed amendments and found there is a small increase in sanitary sewer impacts, however, without any capacity data, the total impact to the area wide utility system cannot be determined. Additionally, she stated the City of Oak Hill does not provide utility services to the area, that it is done through a tri-party agreement with Volusia County and the City of Edgewater.

Ms. Hughes stated that while the original consistency certification to the EAR based amendments to the City's comprehensive plan allowed for residential and commercial development to occur on the subject site, the additional industrial development at an intensity of 1.0 FAR, as well as the uses permitted under the industrial land use designation, raises questions regarding the compatibility of these uses with the adjacent affected community. Specifically, incompatibility as it relates to impacts on water quality and intergovernmental impacts to the National Seashore.

Regarding transportation, Ms. Hughes stated that a traffic impact analysis was not provided with the original application. She stated VGMC planning staff calculated the potential impacts and found there to be a small increase in PM peak hour trips, however, with no capacity data, they cannot determine how much of an impact this would have on the regional transportation system.

With respect to infrastructure, Ms. Hughes stated that the proposed amendment would result in a net decrease in residential entitlements so there are no additional impacts to public schools. However, since Oak Hill does not provide utility service to the area, staff is concerned with the ability to extend utility service to the site since it is not included in the CIP elements for Volusia County, City of Edgewater or the City of Oak Hill.

With respect to natural resource impacts, Ms. Hughes stated the proposed amendment poses significant adverse impacts to natural resources. She stated the Canaveral National Seashore borders the subject site on two sides and is a critical component of the regions eco system. Ms. Hughes stated that no information regarding the impact of the proposed industrial development on natural resources was submitted with the application.

With respect to the final two consistency criteria, Ms. Hughes stated the proposed amendment is not anticipated to result in a duplication of services or competition, and that no interlocal agreement exists.

Ms. Hughes reviewed the planning staff findings and recommendations. She stated the proposed amendment as submitted lacks data and analysis needed to support approval of the application, and may result in significant adverse impacts to the region's central utilities system, transportation system and natural resources. As a result, she stated VGMC planning staff recommends the commission deny the application as submitted. She further added that if the VGMC finds merit for approving the application, staff would recommend issuing the approval with the conditions outlined in the proposed draft Resolution #2015-02.

Ms. Hughes concluded her report and asked if any of the commission members had any questions.

Commissioner Brandon asked why there would be a change in potable water impacts. Ms. Hughes explained that there are two development scenarios, and utilizing the level of service (LOS) standards in the City's comprehensive plan, VGMC staff calculated impacts based upon the current and proposed development scenarios.

Commission Walters commented that the City's comprehensive plan states they will coordinate with the National Parks Service and the County for consistent and coordinated management of marine resources. She asked if that was done in this case. Ms. Hughes stated that based upon the information received with the application, staff cannot determine whether or not that was done. Ms. Hughes responded to several additional questions raised by Ms. Walters relating to the recommendation to locate the industrial development in the center of the site, current allowed uses in the City's conservation land use designation, and building height limits.

Clay Henderson asked Ms. Hughes if the property adjacent to the subject site has a land use designation of Volusia County Conservation with Environmental Core Overlay. Ms. Hughes responded affirmatively. She also responded to a question raised by Mr. Henderson relating to the FAR.

Scott Simpson asked Ms. Hughes to confirm how the impacts were measured. Ms. Hughes responded that the impacts were being measured based upon what is currently adopted in the comprehensive plan to that of the proposed development scenario.

Chairman Wachtel asked the City of Oak Hill to address the commission relating to the proposed amendment.

Scott Simpson, attorney for the City addressed the commission. Mr. Simpson stated that no comments were received from adjacent jurisdictions on the VGMC application. He also commented that all state agencies have reviewed the proposed amendment, the issues have been addressed and all of the state agencies are satisfied. Mr. Simpson then discussed the current and proposed land uses. Under the current land use, he stated the property could be developed 75% residential and 25% commercial. He added that the current land use was previously approved by the VGMC without comments, objections or a public hearing. Under proposed Option #2, Mr. Simpson stated this would allow 30% industrial and 70% conservation. Additionally, he stated the proposed amendment includes a limitation that impacts cannot exceed what is currently allowed, which is why no data and analysis was submitted or necessary. Mr. Simpson also discussed the central location of the industrial land use, buffer requirements, and building height limitations.

Mr. Simpson emphasized that the City cannot increase impacts over what is already allowed on the subject site. He also spoke concerning issues raised by the Southeast Volusia Audubon Society, and commented that he felt much of the opposition is due to concern over a potential launch facility in Brevard County. With respect to infrastructure, Ms. Simpson stated whoever develops the subject site will be required to install water and sewer lines for the City of Oak Hill.

Beth Lemke, Planning Solutions, 206 N. Beach Street, Daytona Beach, City Planner for the City of Oak Hill, addressed the commission. She stated that based upon all of the evidence and information presented relating to the proposed amendment, the commission should issue a clear finding of consistency. In reference to the VGMC staff report, Ms. Lemke clarified that this is not an industrial land use designation, but rather they are proposing an industrial use in an Activity Center future land use designation. She also stated that according to VGMC rules, the commission looks at impacts on adjacent local governments, which in this case are Volusia County and the City of Edgewater, neither of which objected to the amendment. Ms. Lemke stated representatives from both of those jurisdictions are present and asked them to come forward to speak to their position.

Becky Mendez, Senior Planning Manager for Volusia County stated they reviewed the amendment application, identified no impacts, did not request additional information as it was consistent with the County's comprehensive plan, and the County's position is that the commission should issue a finding of consistency without any conditions.

Darren Lear, Development Services Director for the City of Edgewater stated they also reviewed the amendment application, have no objections, it is consistent with the City of Edgewater comprehensive plan, and the City of Edgewater recommends the commission issue a finding of consistency without conditions.

Ms. Lemke read into the record a letter dated April 9, 2015 from the Florida Department of Environmental Protection (FDEP) which states their earlier concerns will be addressed by the City amending the language in Policy 1.1.2.H. as outlined in their letter. She added that FDEP was in consultation with the Canaveral National Seashore during their review of the proposed amendment.

With respect to VGMC consistency certification criteria #1, #2 & #3 relating to public infrastructure impacts, Ms. Lemke stated that these are not applicable because the policy limits impacts. She stated no additional analysis was provided because no additional impacts are allowed. Ms. Lemke also stated that every state agency reviewed the proposed amendment and agreed that it would have no impact, adding that no adjacent local governments had objections.

Referring to criteria #4 relating to natural resource impacts, Ms. Lemke stated this aspect was addressed by the FDEP, adding that the Canaveral National Seashore is not an adjacent local government. She also stated the VGMC staff report cites the St. Johns River Water Management District (SJRWMD) as having authority over those natural resources, and she read from a letter provided by the SJRWMD which indicated they had no comments on the amendment because no adverse impacts to important state resources and facilities were identified. Ms. Lemke stated that the Florida Department of Economic Opportunity raised no objections or issues with the amendment either.

With respect to criteria #5 & #6, Ms. Lemke stated that VGMC staff identified no issues and the City concurs.

Ms. Lemke stated the petitioners did not cite specific inconsistencies between the City of Oak Hill's comprehensive plan and the comprehensive plans of adjacent jurisdictions. She also stated the VGMC staff report repeatedly states that insufficient data and analysis was provided. Ms. Lemke disagreed, adding that VGMC staff did not request any additional information from the City during the 30 day review period. She further stated that the state agencies and adjacent local governments reviewed the amendment based upon the same information and data provided with the VGMC application, and they all supported the amendment.

In closing, Ms. Lemke commented that the proposed amendment is compatible and consistent with each of the VGMC criteria, and the commission should issue a finding of consistency with no conditions.

Mr. Chipok asked Ms. Lemke several questions relating to the date the application was submitted to the VGMC and the date the FDEP added language to the policy to address their earlier concerns. Ms. Lemke stated the original application was submitted to the VGMC on February 24, 2015, and the FDEP issued their letter on April 9, 2015 to added policy language that was not included in the original application submitted to the VGMC. Mr. Chipok also asked Ms. Lemke several questions relating to the proposed land use and any corresponding policies. Ms. Lemke responded that the specific compatible zoning category for the proposed amendment would be Activity Center zoning which would be the standard that would be applied to implement the land use. In response to another question of Mr. Chipok, she also confirmed that the Activity Center

does not currently contain specific standards of how the use is allocated on the property, adding this is done during the design phase.

Commissioner Walters asked Ms. Lemke what is permitted in conservation land use categories in the City's comprehensive plan. Ms. Lemke distributed a map which illustrates the property as currently adopted and also as proposed. She stated the property is currently 68% developable with commercial and residential uses. Under the proposed, she stated the industrial land use will be located near the center of the site to create the buffer around it with conservation/agricultural.

Ms. Walters stated the commission is being asked by the City to approve the amendment without conditions, however, one of the recommended conditions includes locating the industrial category near the center of the site. Ms. Lemke stated she felt the City would be comfortable with that condition since that issue was raised by FDEP, and it is also in the City's zoning requirements they are moving forward for this property.

Commissioner Kane asked Ms. Lemke if she has reviewed the 6 conditions of approval being recommended by the VGMC staff. She responded that condition #4 which addresses the central location of proposed development is acceptable, however, she feels none of the other conditions are valid.

Commissioner Romanik asked if there were any uses on the site prior to the landfill. Steve Unatin, one of the owners of the subject property, responded that the landfill has been closed for a long time and he previously worked with FDEP to monitor the site and they issued him a letter that no further action was required. Mr. Unatin responded to additional questions from Mr. Romanik relating to the landfill and current condition of the subject property.

Mr. Unatin, as the applicant to the City of Oak Hill for the amendment, also addressed the commission in support of the request, adding that all of the review agencies have signed off on it.

Chairman Wachtel called for a brief recess at 10:18 p.m. and the meeting reconvened at 10:25 p.m.

Chairman Wachtel then called forward those individuals who wished to speak in support of the amendment.

Becky Mendez submitted into the record a written letter of support to certify the amendment without conditions from the Volusia County Director of Planning & Development, Palmer Pantan.

The following members of the public spoke in support of the amendment: Ron Engele, 131 Canal Avenue, Oak Hill; Jim Cameron, Senior Vice President of Government Relations, Daytona Regional Chamber of Commerce; Richard Brice, 332 Marsh Landing Loop, Oak Hill; Barbara Weidner, 291 River Road, Oak Hill; Eugene Kowalski, 175 N US Highway, Oak Hill; Mike Arman, Oak Hill; and Doug Gibson, 297 River Road, Oak Hill-Mayor of Oak Hill spoke individually and not on behalf of the City.

With no others else present who wished to speak in favor of the amendment, Chairman Wachtel stated we will now hear from those who are opposed, starting with the parties who were granted standing in this matter.

Clay Henderson, representing the Southeast Volusia Audubon Society addressed the commission in opposition. He provided a power point presentation and discussed issues such as lack of data and analysis provided, burden of proof on the City to demonstrate they affirmatively meet the consistency criteria, the lack of infrastructure to support the proposed use, and the property's proximity to the Canaveral National Seashore. Mr. Henderson stated the subject site is adjacent to property in Volusia County with a land use designation of Conservation with an Environmental Core Overlay.

Mr. Henderson spoke of the role of the Canaveral National Seashore in protecting natural resources, the state agency review process, the lack of coordination with the Canaveral National Seashore, compatibility and consistency issues.

In closing, Mr. Henderson stated the City of Oak Hill has not demonstrated they have met the consistency criteria standards and that he concurs with the VGMC staff analysis. He recommended the commission deny the amendment, but if the commission chose to approve it with the staff recommended conditions, he asked that an additional condition be added requiring the City of Oak Hill to keep the National Parks Service informed and let them comment on what transpires on the subject property.

Mr. Henderson then introduced Myrna Palfrey, Superintendent to the Canaveral National Seashore.

Ms. Palfrey addressed the commission. She clarified that her conversation with Suzanne Ray of FDEP relating to this matter was very brief and not considered a consultation. Ms. Palfrey also discussed the jurisdiction the National Parks Service and other agencies have over the Mosquito Lagoon and she felt they should be considered local governments. She then spoke more specifically on the background and history of the Canaveral National Seashore and the purpose of the National Parks Service. Ms. Palfrey discussed their concerns and stated there is insufficient data to measure the impacts on Canaveral National Seashore resources. If the commission were to approve the amendment subject to the staff recommended conditions, she asked that the City of Oak Hill also be required to provide them notice and opportunity to comment on any development and mitigation plans for the property.

Don Picard, President of the Southeast Volusia Audubon Society, 1530 Queen Palm Drive, Edgewater, stated their primary concern in this process has been the secrecy surrounding it. He stated there have been reports that a rocket parts manufacturing plant may be planned, and it is unknown what types of chemicals or possible explosives may be used in the manufacturing, or potential for toxic spills that could affect the Mosquito Lagoon. Mr. Picard stated that since the process has not been transparent leaving many unknowns, coupled with the proximity of the property to a resource they care about, the Southeast Volusia Audubon Society has issues with the proposed amendment.

Chairman Wachtel then called on the individual residents who were granted standing to address the commission at this time.

Jane Andrews, 118 & 120 E. Church Street, Oak Hill addressed the commission. Ms. Andrews spoke extensively regarding her experience with the amendment review process at the City Commission and planning board level. She stated there presently is no industrial zoning on the east side of US 1 in Oak Hill and to make this change would be precedent setting. Ms. Andrews also spoke of several businesses in the City of Oak Hill and the growth of the City through annexations. She stated she is concerned with the location of the subject site of the amendment and requested the commission deny the application.

Gerald Heizmann, 137 Bills Hill Road, Oak Hill, raised several concerns with the proposed amendment, including: the potential size of an industrial site, noise associated with an industrial use, access to and from the site, building height and the ability for fire services to handle a fire involving a structure of that size, and whether or not hazardous materials would be used on the site. Mr. Heizmann also commented on a map that was printed in a recent News Journal article that inaccurately portrayed the location of the subject site, and also spoke of wildlife on the subject property. In closing, he asked the commission to think about the property, the proposed land use change, and the environmental impacts, and to make an informed decision that commission, the citizens of Oak Hill and Volusia County, and future generations can all live with

Dave Hall, 400 Bills Hill Road, Oak Hill, addressed the commission on behalf of himself and other family members who could not be in attendance. He stated his family has lived on the property adjacent to the subject site for four generations. Mr. Hall spoke about the wildlife on the subject site, as well as the surrounding properties. He stated he feels the change in land use is wrong, will set a precedent and he strongly opposes the change.

Mamie Huber, 245 Sand Avenue, Oak Hill, addressed the commission. She stated her property is immediately adjacent to the subject site. Ms. Huber discussed the rural nature of the area and wildlife. She expressed concerns with the proposed amendment, including: negative impacts on quality of life, lighting and noise impacts, and costs associated with the installation of water and sewer. Ms. Huber also stated the proposed amendment is inconsistent with everything Oak Hill has done in the past. In closing, she felt the proposed amendment has not been thoroughly thought out and the process has not been transparent. Ms. Huber requested the commission deny the amendment.

Chairman Wachtel then called forward those members of the public who wished to speak in opposition of the amendment.

The following members of the public spoke in opposition of the amendment: Claudia Roth, DeLand, President of the League of Women's Voters of Volusia County; Eric West, 3943 S. Peninsula, Wilbur-by-the-Sea; and T. Gray Ames, 124 Randle Avenue, Oak Hill.

There being no further comment from members of the public, Chairman Wachtel closed the public hearing and opened the floor for commission member comments and questions.

Commissioner Gallagher commented that she felt there were too many unanswered questions to move forward with the proposed amendment.

Commissioner McGee stated that he is a life-long resident of Oak Hill and adjacent property owner to the subject site. He commented that he agrees it is a treasure to have the Canaveral National Seashore and Merritt Island Wildlife Refuge just to the south, but added that these would not exist if not for the Kennedy Space Center. Mr. McGee stated the space industry has proven they can co-exist with the wildlife and environmental concerns raised by the Audubon Society, National Parks Services and others.

Commissioner Arthur raised a question regarding any existing industrial land uses in the City of Oak Hill and whether or not the City would allow a rocket launch site within that designation. Ms. Lemke responded that only light industrial exists in the City presently, so there is no place for manufacturing in the City currently. Ms. Arthur then asked if the proposed amendment were allowed and developed as some form of rocket facility, is there an agency that would regulate it to address the environmental and hazardous concerns raised. Ms. Lemke responded that the proposed amendment is for a change in land use only and there is no known user at this time. She stated we are currently at the comprehensive plan review phase and there will be additional levels of review throughout the development process.

Commissioner Arthur commented that based upon the information presented and the criteria for VGMC review, it does not appear there will be increased impacts that extend beyond the jurisdictional boundaries and the proposed amendment should be approved.

Commissioner Romanik commented that we've heard extreme viewpoints at the hearing tonight. He also expressed concern over issues of trust.

Commissioner Connors stated the subject property currently allows 75% residential and 25% commercial development and feels the community will be better protected with the proposed amendment which requires 70% conservation and the industrial development centered on the site. She also commented that the commission was established to determine consistency of comprehensive plans between local jurisdictions, not to review matters of zoning. Ms. Connors stated the proposed amendment is consistent with adjacent local government's comprehensive plans.

Commissioner Brandon asked for clarification relating to the relationship between the Mosquito Lagoon, the Canaveral National Seashore and the Merritt Island Wildlife Refuge, as well as their location and proximity to the subject site. Ms. Palfrey responded that the site borders the Canaveral National Seashore which is part of the National Parks Service. She stated the National Parks Service is an agency separate from the Fish & Wildlife Service, however, they are both under the Department of Interior.

Discussion ensued to determine, on a map, which properties were adjacent and contiguous to the subject site. There were differing statements offered in terms of ownership of the properties immediately contiguous to the subject site. Kohn Evans, City Administrator for the City of Oak

Hill stated the Canaveral National Seashore is not contiguous to the subject site, and that the property pointed out is owned by the Federal Government for the Florida Inland Navigational District (FIND). Mr. Unatin concurred with Ms. Evans, stating that he sold the 94 acres to the immediate east of the property to FIND.

Commissioner Brandon asked for clarification in terms of how the industrial development square footage was determined. Mr. Chipok reminded the commission that we are not looking at this at the site plan level, but rather a comprehensive planning level and assigning a comprehensive plan designation. He stated VGMC planners are obligated to look at the most intense use that is applicable in the proposed land use and base the impacts on that. Mr. Chipok stated if the City is claiming lesser impacts, then there would need to be a VGMC condition that would lock them into the less intense scenario and impacts could be calculated based upon that scenario. At this point in time, Mr. Chipok stated we have to base the impacts on the Activity Center designation with 30% of the property being developed as an industrial type use, which is what staff calculations are based upon.

Jim Sellen, VHB, planning consultant to the VGMC, addressed the commission regarding the difference on impacts to wastewater, transportation, etc. if developed residential or if developed industrial. When reviewing the proposed amendment, he stated staff measured the impacts based upon the types of uses allowed in the City's industrial category, and the impacts are what concerns staff, particularly with respect to the extension of sewer and water to the City. Additionally, Mr. Sellen stated the recommended condition requiring the Planned Development to come back to the VGMC is consistent with actions taken in prior amendments and allows staff to determine impacts based upon the actual intended use of the site. He also commented that the VGMC has always been solution based and these conditions allow the proposed amendment to move forward, while protecting the ability to measure the impacts as development of the site is planned. Mr. Sellen stated for the record that he felt we may have made a mistake approving the original Activity Center amendment which allowed 75% residential and 25% commercial without requiring the extension of sewer and water at that time.

Commissioner Romanik commented that the VGMC is not in the business of denial. He stated the VGMC is responsible for facilitating an acceptable resolution among all of the parties, and we look for an inclusive solution.

Commissioner Vihlen commented on the narrow scope of the VGMC review and the additional review process the City will be subject to after the comprehensive plan amendment is approved. He stated he does not feel it is within VGMC authority to review the City's development plans, and also commented that the adjacent jurisdictions, Volusia County and the City of Edgewater, both went on record to state they have no problem with the proposed amendment.

Commissioner Walton stated the original application submitted by the City to the VGMC contains policy language that does not allow the impacts of scenario 2, which would allow for 30% industrial and 70% conservation, to exceed what is currently allowed. Based upon this policy, he asked VGMC staff if they are still recommending the conditions of approval as contained in the proposed resolution. Mr. Sellen responded yes, the conditions are being recommended because the criteria for impacts on industrial uses are different than impacts on

residential developments. Mr. Chipok stated that adding industrial as a use in the comprehensive plan Activity Center land use designation essentially allows any of the individual ultimate user uses to go in there at the zoning level. He added that the various industrial allowed uses have individual quantitative impacts that are unknown at this time. Mr. Chipok explained at the comprehensive plan level, we have to assume maximum impacts. At this point in time, that is why the conditions are being recommended since we do not know what the impacts are. Mr. Walton commented in disagreement and stated the policy text clearly states that impacts cannot exceed what is currently allowed.

Commissioner Lott commented in agreement with Commissioner Vihlen's comments regarding the role and responsibility of the VGMC. Mr. Lott felt the recommended conditions of approval are zoning related which is outside the authority of the VGMC. He also spoke of existing industrial uses near the Canaveral National Seashore, and commented that we aren't going to lose wildlife because of an industrial use. Mr. Lott stated we are looking tonight at giving the City of Oak Hill the opportunity to bring business into the City. Once they do that, they will be subject to the required agency reviews during the development process.

Commissioner Walters thanked the individuals in attendance for their politeness throughout the meeting. Ms. Walters stated that the role of the VGMC is to determine consistency between comprehensive plans. She stated the role is not to pound square pegs into round holes, it is not to create jobs, and is not to worry about people's quality of life. Ms. Walters stated there are six criteria established to determine consistency and she discussed the findings of staff on each of those criteria. She stated there is too much information lacking and she would not be supporting approval of the amendment.

Commissioner Kane commented in agreement with Commissioner Vihlen's comments regarding the role and responsibility of the VGMC. He stated the commission is here to determine consistency, not to look at matters of zoning.

Commissioner Sonnenfeld stated the only two adjacent jurisdictions are Volusia County and the City of Edgewater and both of those jurisdictions testified that the proposed amendment is consistent with their respective comprehensive plans. Mr. Sonnenfeld stated he thinks with our charge, as the VGMC, we have to move in the direction of approval, although he doesn't necessarily agree with it on a personal level. That being said, Mr. Sonnenfeld stated he does agree with the conditions of approval recommended by staff, as they will provide a level of protection from the current unknown factors.

Chairman Wachtel stated he believed the intent to add industrial use in the Activity Center is consistent, but also felt the conditions recommended by staff are appropriate due to the lack of data and analysis.

Commissioner Brandon commented in agreement with Chairman Wachtel & Commissioner Sonnenfeld. Due to the unknown factors, Mr. Brandon stated he likes that it would come back to the VGMC as a planned development so the impacts can be measured.

Commissioner Vihlen asked the City of Oak Hill if the recommended conditions of approval would unduly delay the City in moving forward. Ms. Lemke responded that condition #4 relating to locating the industrial development to the center of the site is acceptable to the City. With respect to water and sewer, Ms. Lemke stated the thought process throughout has been to have central water and sewer under the industrial development scenario, and the City would not have an issue with that requirement.

Ms. Lemke stated they are also doing a planned development as part of the zoning and a condition requiring it be developed as a planned development is acceptable, however, she does not recommend that the planned development be required to come back to the VGMC. She added that the VGMC is another layer in the process and they need the ability to have a site available as quickly as possible when an economic opportunity for the City of Oak presents itself. Ms. Lemke stated the City needs local control to go through their processes without having the uncertainty of the VGMC. She commented she felt what's happening tonight is that nothing has been gained, we've just postponed the consistency hearing. Chairman Wachtel commented in disagreement with Ms. Lemke. While she indicated the planned development should have local control, Chairman Wachtel stated there was testimony tonight from members of the City's planning board and members of the public that they haven't been informed and things were changed. Additionally, he stated there is concern among some members of the commission to insure that all parties are included in the process.

Chairman Wachtel called for a motion.

Commissioner Lott asked procedurally whether or not there can be multiple votes on the application. Mr. Chipok responded that the end net result at the hearing has to be a resolution that does something. Either: 1) approves the application with no conditions; 2) approves it with conditions; or 3) denies it.

Roger Sonnenfeld made a motion to approved VGMC Resolution #2015-02 as presented; seconded by Glyn Slay.

Commissioner Walters asked if a condition could be added requiring the City to keep the Canaveral National Seashore notified of the planned development.

Following discussion, Commissioner Sonnenfeld amended his motion to approve VGMC Resolution #2015-02 with an additional condition requiring the City of Oak Hill to notify the Canaveral National Seashore at the time the planned development is submitted to the VGMC; Commissioner Slay accepted the amendment to his second.

Commissioner Vihlen commented that he will not be supporting the motion. Specifically, he stated condition #2 regarding submitting a mitigation plan relating to water quality and wildlife is handled during the zoning process and not within the purview of the VGMC. Additionally, condition #4 establishes a 35' setback which he stated is an internal planning matter and also not within the jurisdiction of the VGMC.

Richard Kane made a motion to amend the motion on the floor to strike conditions #1, #2, #3, #5, and #6, and to add a condition that the City must notify the Canaveral National Seashore at the time of the planned development.

Mr. Chipok addressed the commission relating to conditions #5 & #6. He explained that condition #6 is in every VGMC resolution to insure compliance to any conditions of approval. With respect to condition #5, Mr. Chipok explained that if an amendment is appealed at the state level and modifications are made, this condition requires the jurisdiction to bring it back to the VGMC to insure consistency.

Chairman Wachtel asked Commissioner Kane to restate his motion. Richard Kane stated his motion is to amend the motion on the floor to strike conditions #1, #2 & #3, renumber the current conditions #4, #5 & #6 to #1, #2, & #3 respectively, and to add a fourth condition requiring the City to notify the Canaveral National Seashore at the time of the planned development. Motion was seconded by Debbie Connors.

Commissioner Sonnenfeld commented that condition #3 relating to utilities was one that VGMC staff emphasized was most needed. Commissioner Kane responded that different developments may have different utility services that may not connect through a central utility line.

Commissioner Brandon commented that he felt the condition requiring the planned development to come back to the VGMC was necessary and integral in order to measure the impacts that are presently unknown.

Commissioner Arthur commented there is no real benefit to delete a condition that the City has already agreed to. Several other commission members concurred.

Chairman Wachtel called for a roll call vote on the motion made by Richard Kane. Following a roll call vote, the motion failed with a 7-10 vote and 37.02% of the weighted vote.

Chairman Wachtel stated the original motion is now on the floor. He restated the motion is to approve VGMC Resolution #2015-02 as presented with one additional condition requiring the City of Oak Hill to notify the Canaveral National Seashore at the time the planned development is submitted to the VGMC. Following a roll call vote, the motion failed with a 7-10 vote and 20.74% of the weighted vote.

Sid Vihlen made a motion to approve VGMC Resolution #2015-02 with the following amendments: Delete condition #2; and modify condition #4 to delete the language "and all building setbacks shall be a minimum of 35 feet". Motion seconded by Richard Kane.

Chairman Wachtel asked Commissioner Vihlen if his motion included notification to the Canaveral National Seashore. Mr. Vihlen amended his motion to include a condition that the City notify the Canaveral National Seashore at the time the planned development is submitted to the VGMC. Commissioner Kane accepted the amendment to his second.

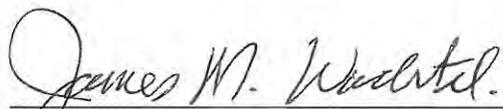
Following a roll call vote, the motion carried with an 11-6 vote and 52.30% of the weighted vote.

ADJOURNMENT

Chairman Wachtel thanked everyone for attending and adjourned the meeting at 12:50 a.m., Thursday, April 23, 2015.



Attest: Secretary



Chairman

NOTE: These minutes were approved at the September 23, 2015 regular meeting of the VGMC with a revision to include reference to the discussion relating to the prior VGMC approval of the existing land use development of 75% residential and 25% commercial. The revision was made on October 6, 2015 and is reflected on pages 11 and 17.

EXHIBIT C

Team Volusia White Paper Endorsements

**Coordination of Comprehensive Plans in Volusia County-
Volusia County Growth Management Commission**

Introduction: The following summarizes recommendations regarding the current regulatory framework for coordination of comprehensive plans in Volusia County. Also summarized are concerns and recommended changes to current process. The proposed changes attempt to implement the following goals:

1. Ensure a coordinated and integrated planning process that does not create additional procedural requirements for amendments to comprehensive plans of local governments.
2. Ensure that cities and Volusia County are competitive in attracting and developing economic opportunities.

Background: The following summarizes the regulatory framework for planning in the Volusia County and the State of Florida:

1. All cities and county have to adopt and implement a comprehensive plan (F.S. Chp. 163, Part II Community Planning Act).
2. There are required elements for comprehensive plans. The intergovernmental coordination element is the element that ensures that local governments' plans are consistent and compatible.
3. In the Community Planning Act there are standards and procedures that establish standing and how an appeal of an amendment to an adopted comprehensive plan will occur.
4. The Volusia County Council adopted ordinance 86-136 and created the Volusia Growth Management Commission (VGMC) to ensure that cities and the county worked together in the development and implementation of the individual local comprehensive plans.
5. The VGMC requirements place an additional level of review regarding the determination as to whether a plan amendment is consistent with the comprehensive plans of adjoining cities and Volusia County.

Issues: The specific concern is whether or not the VGMC certification process has resulted in costly delays of critical economic development opportunities due to its un-authorized expansion of review. The secondary, but equally important concern is that VGMC increases operational costs and actually interferes with the amendment process.

Recommendations: The goal is to have a process that follows statutory requirements for coordination and consistency, and eliminate a costly bureaucracy that puts Volusia County at an economic disadvantage. A review of existing state and local regulations show that the currently adopted regulations and procedures for the VGMC are out of date and create an additional level of review that can be detrimental to the economic vitality of Volusia County. Revisions to the Charter are needed to eliminate the VGMC and allow for local governments in Volusia County to address coordination and consistency as provided by the Community Planning Act.

The following summarizes why the VGMC needs to be sunset:

1. Repetitive and additional layer of bureaucracy.
2. Lack of direct control by elected officials.
3. Allows for local governments, otherwise without standing, to interfere with other local government (e.g. a city on the northeast side can request hearing on a proposed amendment from a city on the southwest side, with minimal, if any proof of inconsistency).
4. The additional layer of government has a direct cost of \$288,225 for FY 2015-2016 and indirect costs due to additional staff time in preparation of VGMC applications and private-sector representation at the VGMC meetings.
5. Counterproductive to local efforts for economic development.
6. Loosely interpreted rules have resulted in an unauthorized expansion of powers.
7. There are only two other counties in Florida with similar planning procedures. The VCGM process places Volusia County at a competitive disadvantage.

Attachment 1.

Excerpts the Volusia County Charter and Florida Statutes

Volusia County

Article II. Powers And Duties Of The County

Section 202.3. Volusia Growth Management Commission.

There is hereby created the Volusia Growth Management Commission (hereafter commission). The commission shall have the power and the duty to determine the consistency of the municipalities' and the county's comprehensive plans and any amendments thereto with each other. The commission may perform such other directly related duties as the commission from time to time deems necessary.

The determination by the commission shall be binding on the submitting government. No plan, element of a plan, or amendment of a plan adopted after the date this article becomes law shall be valid or effective unless and until such plan, element of a plan, or amendment has been reviewed by the commission and has been certified as consistent. The review of any such determination of the commission shall be by certiorari.

Florida Statutes 163.3177 Required and optional elements of comprehensive plan; studies and surveys.—

(2) Coordination of the several elements of the local comprehensive plan shall be a major objective of the planning process. The several elements of the comprehensive plan shall be consistent. Where data is relevant to several elements, consistent data shall be used, including population estimates and projections unless alternative data can be justified for a plan amendment through new supporting data and analysis. Each map depicting future conditions must reflect the principles, guidelines, and standards within all elements and each such map must be contained within the comprehensive plan.

(4)(a) Coordination of the local comprehensive plan with the comprehensive plans of adjacent municipalities, the county, adjacent counties, or the region; with the appropriate water management district's regional water supply plans approved pursuant to s. 373.709; and with adopted rules pertaining to designated areas of critical state concern shall be a major objective of the local comprehensive planning process. To that end, in the preparation of a comprehensive plan or element thereof, and in the comprehensive plan or element as adopted, the governing body shall include a specific policy statement indicating the relationship of the proposed development of the area to the comprehensive plans of adjacent municipalities, the county, adjacent counties, or the region, as the case may require and as such adopted plans or plans in preparation may exist.

(h)1. An intergovernmental coordination element showing relationships and stating principles and guidelines to be used in coordinating the adopted comprehensive plan with the plans of school boards, regional water supply authorities, and other units of local government providing services but not having regulatory authority over the use of land, with the comprehensive plans of adjacent municipalities, the county, adjacent counties, or the region, with the state comprehensive plan and with the applicable regional water supply plan approved pursuant to s. 373.709, as the case may require and as such adopted plans or plans in preparation may exist. This element of the local comprehensive plan must demonstrate consideration of the particular effects of the local plan, when adopted, upon the development of adjacent

municipalities, the county, adjacent counties, or the region, or upon the state comprehensive plan, as the case may require.

a. The intergovernmental coordination element must provide procedures for identifying and implementing joint planning areas, especially for the purpose of annexation, municipal incorporation, and joint infrastructure service areas.

b. The intergovernmental coordination element shall provide for a dispute resolution process, as established pursuant to s. 186.509, for bringing intergovernmental disputes to closure in a timely manner.

c. The intergovernmental coordination element shall provide for interlocal agreements as established pursuant to s. 333.03(1)(b).

2. The intergovernmental coordination element shall also state principles and guidelines to be used in coordinating the adopted comprehensive plan with the plans of school boards and other units of local government providing facilities and services but not having regulatory authority over the use of land. In addition, the intergovernmental coordination element must describe joint processes for collaborative planning and decisionmaking on population projections and public school siting, the location and extension of public facilities subject to concurrency, and siting facilities with countywide significance, including locally unwanted land uses whose nature and identity are established in an agreement.

3. Within 1 year after adopting their intergovernmental coordination elements, each county, all the municipalities within that county, the district school board, and any unit of local government service providers in that county shall establish by interlocal or other formal agreement executed by all affected entities, the joint processes described in this subparagraph consistent with their adopted intergovernmental coordination elements. The agreement must:

a. Ensure that the local government addresses through coordination mechanisms the impacts of development proposed in the local comprehensive plan upon development in adjacent municipalities, the county, adjacent counties, the region, and the state. The area of concern for municipalities shall include adjacent municipalities, the county, and counties adjacent to the municipality. The area of concern for counties shall include all municipalities within the county, adjacent counties, and adjacent municipalities.

b. Ensure coordination in establishing level of service standards for public facilities with any state, regional, or local entity having operational and maintenance responsibility for such facilities.

163.3184 Process for adoption of comprehensive plan or plan amendment.—

(1) DEFINITIONS.—As used in this section, the term:

(a) “Affected person” includes the affected local government; persons owning property, residing, or owning or operating a business within the boundaries of the local government whose plan is the subject of the review; owners of real property abutting real property that is the subject of a proposed change to a future land use map; and adjoining local governments that can demonstrate that the plan or plan amendment will produce substantial impacts on the increased need for publicly funded infrastructure or substantial impacts on areas designated for protection or special treatment within their jurisdiction. Each person, other than an adjoining local government, in order to qualify under this definition, shall also have submitted oral or written comments, recommendations, or objections to the local government during the

period of time beginning with the transmittal hearing for the plan or plan amendment and ending with the adoption of the plan or plan amendment.

(b) "In compliance" means consistent with the requirements of ss. 163.3177, 163.3178, 163.3180, 163.3191, 163.3245, and 163.3248, with the appropriate strategic regional policy plan, and with the principles for guiding development in designated areas of critical state concern and with part III of chapter 369, where applicable.

(c) "Reviewing agencies" means:

1. The state land planning agency;
2. The appropriate regional planning council;
3. The appropriate water management district;
4. The Department of Environmental Protection;
5. The Department of State;
6. The Department of Transportation;
7. In the case of plan amendments relating to public schools, the Department of Education;
8. In the case of plans or plan amendments that affect a military installation listed in s. 163.3175, the commanding officer of the affected military installation;
9. In the case of county plans and plan amendments, the Fish and Wildlife Conservation Commission and the Department of Agriculture and Consumer Services; and
10. In the case of municipal plans and plan amendments, the county in which the municipality is located.

(5) ADMINISTRATIVE CHALLENGES TO PLANS AND PLAN AMENDMENTS.—

(a) Any affected person as defined in paragraph (1)(a) may file a petition with the Division of Administrative Hearings pursuant to ss. 120.569 and 120.57, with a copy served on the affected local government, to request a formal hearing to challenge whether the plan or plan amendments are in compliance as defined in paragraph (1)(b). This petition must be filed with the division within 30 days after the local government adopts the amendment. The state land planning agency may not intervene in a proceeding initiated by an affected person.

AI Group, LLC
AVCON, Inc.
BB&T Bank
Bethune Cookman University
Boulevard Tire Center
Brent Millikan & Co., P.A.
Bruce Rossmeyer's Daytona Harley-Davidson
CareerSource Flagler Volusia
CBC Benchmark
Cobb Cole, PA
Coldwell Banker Commercial AI Group
Commercial Construction, Inc.
Council on Aging
Daytona Beach Kennel Club
Duke Energy
Duvasawko
Embry Riddle
Fairwinds Credit Union
Florida Hospital Volusia/Flagler Market
Florida Power & Light
Florida Public Utilities
Foley & Lardner LLP
Hazen Construction
Homebridge Financial Services
Lamar Outdoor Advertising
Lassiter Transportation Group
Mainstreet Community Bank of Florida
Massey Properties
Michael Jiloty, Marketing & Advertising Consultant
NASCAR
Nova Property Management
Olivari & Associates, CPA's & Consultants
Ormond Chamber of Commerce
Page Insurance Agency
Raydon Corporation
Root Organization
Selby Realty, Inc.
TD Bank
Universal Engineering Services
University of Central Florida
Volusia Flagler Family YMCA
Zev Cohen & Associates
City of DeBary
City of South Daytona

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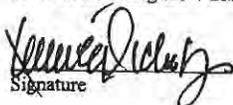
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By signing below, I, as an investor in Team Volusia Economic Development Corporation, offer my support in favor of removing the VGMC from the Volusia County Charter.


Signature

KEVIN E. NICHOLS
Name of Signatory

ADVANTAGE
INSURANCE GROUP LLC
Name of Investor

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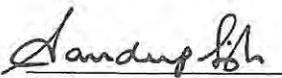
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SANDEEP SINGH
Name of Signatory

AVCON, INC.
Name of Investor

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William V. Capeland
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B B a T
Name of Investor

**Coordination of Comprehensive Plans in Volusia County-
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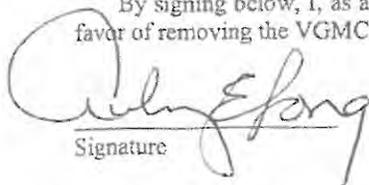
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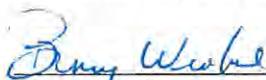
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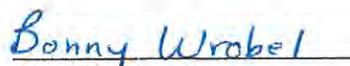
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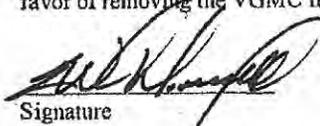
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Boulevard Tire Center
Name of Investor

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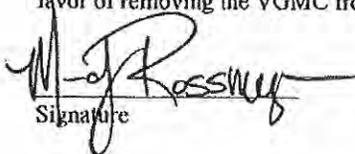
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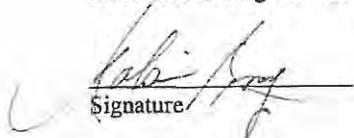
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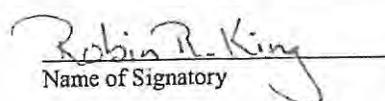
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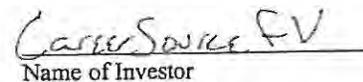
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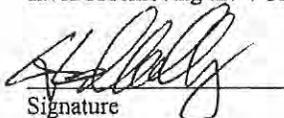
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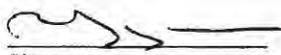
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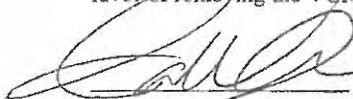
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GARY ROBERTS
Name of Signatory

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Name of Investor
COMMERCIAL CONST. INC.

**Coordination of Comprehensive Plans in Volusia County-
Volusia County Growth Management Commission**

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COUNCIL ON AGING (COA)
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Signature Investor Club

Daniel Francati
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Signature

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Name of Signatory

Duke Energy
Name of Investor

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Charles Duwa, MD
Name of Signatory

Charles Duwa, MD
Name of Investor

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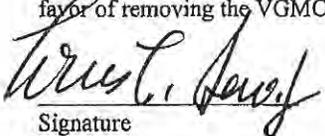
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Louis C. Seno, Jr
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Embry-Riddle Aeronautical
Name of Investor University

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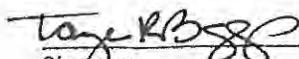
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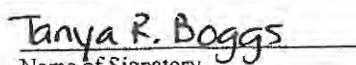
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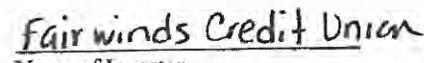
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Name of Signatory


Name of Investor

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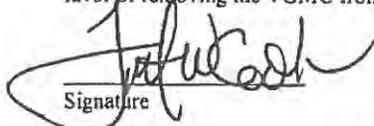
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FLORIDA HOSPITAL
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Mark F. Thompson
Signature

Digitally signed by Mark F. Thompson
DN: cn=Mark F. Thompson, o=Florida Public
Utilities Company, ou=Investor
Signature, email=mark.thompson@fpu.com, c=US

Mark Thompson, BDM Mgr.
Name of Signatory

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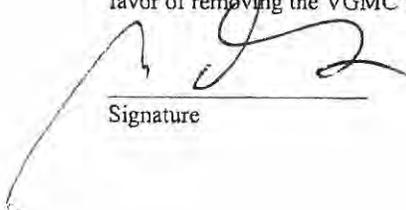
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Gregory D. Snell

Foley & Lardner LLP

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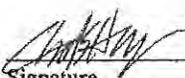
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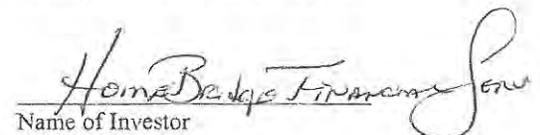
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Digitally signed by R. Sans Lassiter PE
 DN: cn=R Sans Lassiter, PE, o=Lassiter
 Transportation Group, Inc., ou=
 Group, email=rl@lassitertransportati
 on.com, c=US
 Date: 2017.11.13 13:00:19 -0500

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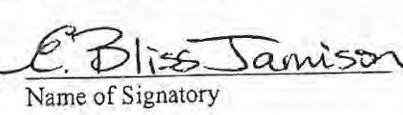
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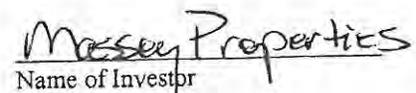
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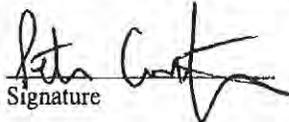
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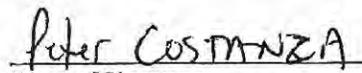
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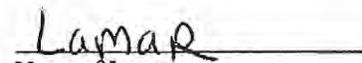
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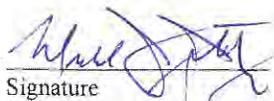
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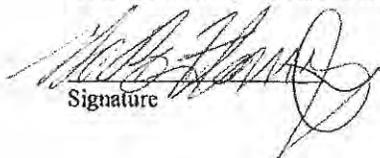
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Mainstreet Community
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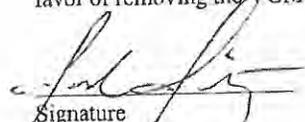
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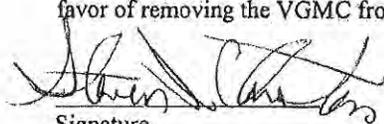
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STEVEN J. LEWATIN
Name of Signatory

NOVA PROPERTY MANAGEMENT
Name of Investor

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Volusia County Growth Management Commission**

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JOHN OLIVARI, CPA
Name of Signatory

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Name of Investor

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CHAMBER OF COMMERCE
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Mike Vollmar
Name of Signatory

RAYDON
Name of Investor

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Name of Signatory

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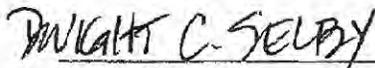
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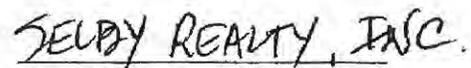
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James E. Weite
Name of Signatory

TD BANK
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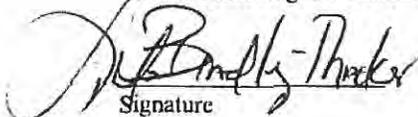
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Linda Bradley-Thacker
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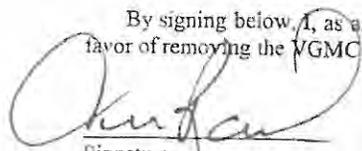
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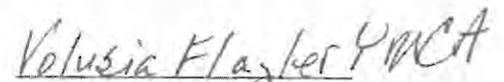
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1. All cities and county have to adopt and implement a comprehensive plan (F.S. Chp. 163, Part II Community Planning Act).
2. There are required elements for comprehensive plans. The intergovernmental coordination element is the element that ensures that local governments' plans are consistent and compatible.
3. In the Community Planning Act there are standards and procedures that establish standing and how an appeal of an amendment to an adopted comprehensive plan will occur.
4. The Volusia County Council adopted ordinance 86-136 and created the Volusia Growth Management Commission (VGMC) to ensure that cities and the county worked together in the development and implementation of the individual local comprehensive plans.
5. The VGMC requirements place an additional level of review regarding the determination as to whether a plan amendment is consistent with the comprehensive plans of adjoining cities and Volusia County.

Issues: The specific concern is whether or not the VGMC certification process has resulted in costly delays of critical economic development opportunities due to its un-authorized expansion of review. The secondary, but equally important concern is that VGMC increases operational costs and actually interferes with the amendment process.

Recommendations: The goal is to have a process that follows statutory requirements for coordination and consistency, and eliminate a costly bureaucracy that puts Volusia County at an economic disadvantage. A review of existing state and local regulations show that the currently adopted regulations and procedures for the VGMC are out of date and create an additional level of review that can be detrimental to the economic vitality of Volusia County. Revisions to the Charter are needed to eliminate the VGMC and allow for local governments in Volusia County to address coordination and consistency as provided by the Community Planning Act.

The following summarizes why the VGMC needs to be sunset:

1. Repetitive and additional layer of bureaucracy.
2. Lack of direct control by elected officials.
3. Allows for local governments, otherwise without standing, to interfere with other local government (e.g. a city on the northeast side can request hearing on a proposed amendment from a city on the southwest side, with minimal, if any proof of inconsistency).
4. The additional layer of government has a direct cost of \$288,225 for FY 2015-2016 and indirect costs due to additional staff time in preparation of VGMC applications and private-sector representation at the VGMC meetings.
5. Counterproductive to local efforts for economic development.
6. Loosely interpreted rules have resulted in an unauthorized expansion of powers.
7. There are only two other counties in Florida with similar planning procedures. The VCGM process places Volusia County at a competitive disadvantage.

By signing below, I, as an investor in Team Volusia Economic Development Corporation, offer my support in favor of removing the VGMC from the Volusia County Charter.


Signature


Name of Signatory


Name of Investor

**Coordination of Comprehensive Plans in Volusia County-
Volusia County Growth Management Commission**

Introduction: The following summarizes recommendations regarding the current regulatory framework for coordination of comprehensive plans in Volusia County. Also summarized are concerns and recommended changes to current process. The proposed changes attempt to implement the following goals:

1. Ensure a coordinated and integrated planning process that does not create additional procedural requirements for amendments to comprehensive plans of local governments.
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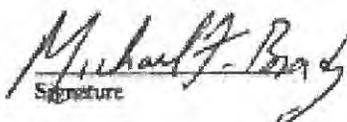
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MICHAEL F. BRADY
Name of Signatory

CITY OF DEBARLY
Name of Investor

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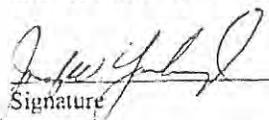
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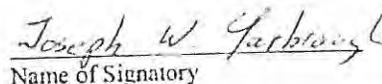
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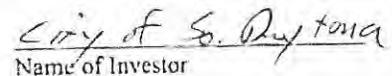

Name of Investor

EXHIBIT D

Joe Yarbrough Handout/Cities Resolutions

Agenda Item III

**CITIES TO ELIMINATE OR LIMIT
VOLUSIA GROWTH MANAGEMENT COMMITTEE**

CITIES FORMAL POSITION	2015 Estimated Population ***	Percentage of County Population ***
Daytona Beach	65,443	12.4%
Daytona Beach Shores	6,253	1.2%
DeBary*	21,450	4.1%
Deland**	30,012	5.7%
Deltona	92,663	17.5%
Edgewater	22,686	4.3%
Holly Hill	13,151	2.5%
Oak Hill	2,290	0.7%
Orange City	11,750	2.2%
Pierson	2,937	0.6%
Ponce Inlet**	3,668	0.7%
Ormond Beach	43,076	8.1%
South Daytona	13,653	2.6%
Total	329,032	62%
Volusia County	529,501	100%

BREAKDOWN

CITIES TO ELIMINATE OR LIMIT	2015 Estimated Population ***	Percentage of County ***
Daytona Beach Shores	6,253	
Deland**	30,012	
Holly Hill	13,151	
Oak Hill	2,290	
Pierson	2,937	
Ponce Inlet**	3,668	
Ormond Beach	43,076	
Total	101,387	19%

CITIES TO ELIMINATE	2015 Estimated Population ***	Percentage of County ***
Daytona Beach	65,443	
DeBary*	21,450	
Deltona	92,663	
Edgewater	22,686	
Orange City	11,750	
South Daytona	13,653	
Total	227,645	43%

* White Paper - Team Volusia

** Letter from Mayor

*** Team Volusia Economic Development Corp.
Population Projections

RESOLUTION NO. 15-279

A RESOLUTION IN SUPPORT OF AN AMENDMENT TO THE VOLUSIA COUNTY CHARTER TO ELIMINATE THE VOLUSIA GROWTH MANAGEMENT COMMISSION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the State legislature adopted the Growth Management Act (the "Act") which requires local governmental entities to adopt comprehensive plans to establish policies for future growth within their jurisdictions; and

WHEREAS, it is the intent of the Act to encourage and ensure cooperation between and among municipalities and counties and to encourage and ensure coordination of planning and development activities of units of local government with the planning activities of regional agencies and state government in accord with applicable provision of law; and

WHEREAS, in addition to the Act, the Volusia County Charter was amended in 1986 to create the Volusia Growth Management Commission (VGMC), and the Charter amendment contained the following language:

There is hereby created the Volusia Growth Management Commission (hereafter commission). The commission shall have the power and the duty to determine the consistency of the municipalities' and the county's comprehensive plans and any amendments thereto with each other.

; and

WHEREAS, to implement the VGMC, Volusia County adopted rules and regulations, including § 90-33(5) of the Volusia County Code of Ordinances which reads as follows:

The main purpose of the commission is to provide an effective means of coordinating the plans of municipalities and the county, in order to provide a forum for the several local governments in the county to cooperate with each other in coordinating the provision of public services to and improvements for the citizens of the county, and create incentives to foster intergovernmental cooperation and coordination.

; and

WHEREAS, these two provisions clearly indicate that the intended purpose of the VCMG is to provide a forum through which local governmental entities could resolve inconsistencies and/or incompatibilities regarding comprehensive plans; and

WHEREAS, the VGMC process requires it to review every proposed Comprehensive Plan amendment in Volusia County; and

WHEREAS, the role of VGMC duplicates the requirement of § 163.3177, Florida Statutes, which requires procedures for local governments to follow where there are inconsistencies and/or incompatibilities with their respective Comprehensive Plan Amendments; and

WHEREAS, the VGMC is not required by State law; and

WHEREAS, the additional VGMC process puts Volusia County at a disadvantage when competing with other jurisdictions who do not have such an added layer of bureaucracy for new development and businesses; and

WHEREAS, each local governmental entity has the sovereign authority to adopt its own growth management policies within the provisions of Florida Law, thereby establishing how that community will develop; and

WHEREAS, it is the opinion of the City Commission that the VGMC should be eliminated; and

WHEREAS, the VGMC is funded by the taxpayers of Volusia County; and

WHEREAS, elimination of the VGMC will not adversely affect the public's right to participate in the adoption of the growth policies of the local governmental entities or to pursue the administrative review provided under State law; and

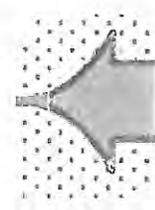
WHEREAS, staff recommends that the City Commission support amendment of the Volusia County Charter for the purpose of eliminating the Volusia Growth Management Commission.

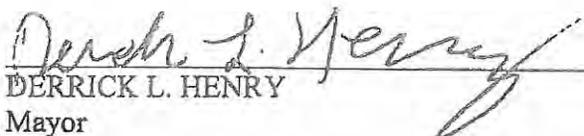
NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF DAYTONA BEACH, FLORIDA:

SECTION 1. The City Commission hereby supports amendment of the Volusia County Charter for the purpose of eliminating the Volusia Growth Management Commission.

SECTION 2. The City Clerk is hereby directed to forward this Resolution to the Volusia Charter Review Commission.

SECTION 3. This Resolution shall take effect immediately upon its adoption.




DERRICK L. HENRY
Mayor

ATTEST:

LETITIA LAMAGNA
City Clerk

Adopted: November 18, 2015

RESOLUTION 2015-12

A RESOLUTION OF THE CITY OF DAYTONA BEACH SHORES, FLORIDA, REQUESTING THE VOLUSIA CHARTER REVIEW COMMISSION TO RECOMMEND AN AMENDMENT TO THE VOLUSIA COUNTY CHARTER EITHER ELIMINATING THE VOLUSIA GROWTH MANAGEMENT COMMISSION OR, ALTERNATIVELY, LIMITING THE JURISDICTION OF THE VOLUSIA GROWTH MANAGEMENT COMMISSION TO ONLY CONDUCT REVIEWS AND HEARINGS OF PROPOSED COMPREHENSIVE PLAN AMENDMENTS OF LOCAL GOVERNMENTAL ENTITIES WHEN AN OBJECTION TO A PROPOSED COMPREHENSIVE PLAN AMENDMENT IS FILED BY ANOTHER LOCAL GOVERNMENTAL ENTITY; PROVIDING FOR IMPLEMENTING ADMINISTRATIVE ACTIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, in 1985 the Florida Legislature enacted the "*Local Government Comprehensive Planning and Land Development Regulation Act*" (commonly referred to as the "*Growth Management Act*" (the "*Act*")) which requires local governmental entities to adopt comprehensive plans to establish policies for the future growth within their jurisdictions¹; and

WHEREAS, furthermore it is the intent of the *Act*² for counties and municipalities to cooperate and coordinate planning with each other, regional agencies and the State and specifically states:

It is the intent of this act to encourage and ensure cooperation between and among municipalities and counties and to encourage and ensure coordination of planning and development activities of units of local government with the planning activities of regional agencies and state government in accord with applicable provisions of law.

; and

WHEREAS, in addition to the Act, in 1986, the *Volusia County Charter* (the "*Charter*") was amended to create the Volusia Growth Management Commission (VGMC) and the Charter amendment contained the following language:

There is hereby created the Volusia Growth Management Commission (hereafter Commission). The Commission shall have

¹ The original laws from which the Act derived was the 1975 *Local Government Comprehensive Planning Act* and the *State Comprehensive Planning Act* which was enacted in 1984, but the *Zoning Enabling Act* was the first land use planning legislation in Florida which was enacted in 1928.

² The Act is codified as Part II, Chapter 163, *Florida Statutes*, and is now known as the "*Community Planning Act*." See, Section 163.3161, *Florida Statutes*.

the power and the duty to determine the consistency of the municipalities' and the County's comprehensive plans and any amendments thereto with each other.

; and

WHEREAS, to implement the VGMC, Volusia County adopted rules and regulations for the VGMC, including Section 90-33(5) of the *Volusia County Code of Ordinances* which reads as follows:

The main purpose of the commission is to provide the effective means for coordinating the plans of municipalities and the county, in order to provide a forum for the several local governments in the county to cooperate with each other in coordinating the provision of public services to and improvements for the citizens of the county, and create incentives to foster intergovernmental cooperation and coordination.

; and

WHEREAS, these two provisions clearly indicate that the main purpose of the VGMC is to provide a forum through which local governmental entities may resolve differences regarding comprehensive plans; and

WHEREAS, if the role of the VGMC was limited to resolving disputes between local governmental entities regarding comprehensive plans, the VGMC would provide a valuable, cost-saving service by avoiding the administrative hearing process provided in State law to resolve such disputes; and

WHEREAS, however, the VGMC has not limited its role to resolving disputes among local governmental entities, but has become a forum that is used by opponents to growth and development to delay and frustrate the legislative growth policies adopted by local governmental entities; and

WHEREAS, the VGMC has interpreted its role to intervene in growth management policy decisions even if all local governmental entities are in agreement as to consistency; and

WHEREAS, the vast majority of the VGMC hearings have not been the result of disputes between local governmental entities, but objections filed by other parties; and

WHEREAS, the VGMC is a costly process funded by the taxpayers of Volusia County as the VGMC reviews every proposed comprehensive plan amendment in Volusia County and hearings are easily requested with such process being used to delay and frustrate growth; and

WHEREAS, the VGMC is not required by controlling State law and Volusia County is the only county in the State with such an added layer of review putting Volusia County at a disadvantage when competing with other jurisdictions for new businesses who do not have such an added layer of bureaucracy; and

WHEREAS, each local governmental entity has the sovereign authority to adopt its own growth management policies thereby establishing how that community will grow and the VGMC was never intended to be a second forum to review and hear objections to growth management policies adopted by local governmental entities with reviews violating the sovereignty of the local government to establish their own growth management policies; and

WHEREAS, the VGMC should only be involved when a local government entity believes that a proposed comprehensive plan amendment of another local governmental entity would have adverse impacts beyond the adopting agencies jurisdiction and negatively impact adjacent local government entities and, if a local governmental entity proposes a comprehensive plan amendment and no local governmental entity raises an objection, there is no need for the VGMC to review the proposed amendment and conduct a hearing; and

WHEREAS, the *Charter* should be amended to either eliminate the VGMC or limit the VGMC involvement to only when an objection to a comprehensive plan amendment is timely filed by another local governmental entity; and

WHEREAS, eliminating the VGMC or limiting the role of the VGMC to its primary purpose will not adversely affect the public's right to participate in the adoption of the growth policies of the local governmental entities and to pursue the administrative review provided under State law.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL FOR THE CITY OF DAYTONA BEACH SHORES, FLORIDA:

Section 1: Recommendation Of The City Council Relative To The VGMC.

The City Council of the City of Daytona Beach Shores hereby requests the Volusia Charter Review Commission to recommend an amendment to the Volusia County Charter which either eliminates the VGMC or, alternatively, limits the jurisdiction of the VGMC to only conduct reviews and hearings of proposed comprehensive plan amendments of local governmental entities when an objection to a proposed comprehensive plan amendment is filed by another local governmental entity.

Section 2. Implementing Actions.

The City Manager is hereby directed to forward this Resolution to the Volusia Charter Review Commission and to such other officials as the City Manager deems appropriate.

Section 3: Severability.

If any section , subsection, sentence, clause, phrase, or portion of this Resolution, or application hereof, is for any reason held invalid or unconstitutional by any Court, such portion or application shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions or application hereof.

Section 4: Conflicts.

All resolutions made in conflict with this Resolution are hereby repealed.

Section 5: Effective Date.

This Resolution shall become effective immediately upon its adoption.

THE CITY OF DAYTONA BEACH SHORES

By: _____
Mayor Harry H. Jennings

ATTEST:

By: _____
City Manager, Michael T. Booker

By: _____
City Clerk, Cheri Schwab

APPROVED AS TO FORM AND LEGALITY:

By: _____
City Attorney, Lonnie Groot

Passed and adopted upon first reading this 10th day of November 2015.

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Volusia County Growth Management Commission**

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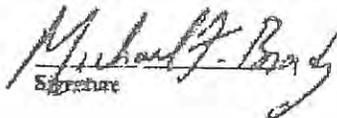
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Recommendation: The goal is to have a process that follows statutory requirements for coordination and consistency, and eliminate a costly bureaucracy that puts Volusia County at an economic disadvantage. A review of existing state and local regulations show that the currently adopted regulations and procedures for the VGMC are out of date and create an additional level of review that can be detrimental to the economic vitality of Volusia County. Revisions to the Charter are needed to eliminate the VGMC and allow for local governments in Volusia County to address coordination and consistency as provided by the Community Planning Act.

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Signature

MICHAEL F. BRADY
Name of Signatory

CITY OF DEBARY
Name of Investor



City of DeLand

"The Athens of Florida"

www.deland.org

120 South Florida Avenue
DeLand, Florida 32720-5481
Telephone: (386) 626-7000
Fax: (386) 626-7140

November 30, 2015

J. Hyatt Brown, Chairman and
Members of the Charter Review Commission
County of Volusia
123 West Indiana Avenue
DeLand, FL 32720

Re: Volusia County Growth Management Commission

Dear Chairman Brown and Members of the Charter Review Commission:

At its November 16th meeting, the DeLand City Commission discussed our thoughts and concerns regarding the future of the Volusia County Growth Management Commission (VGMC). We did not adopt a resolution calling for the abolishment of the VGMC, but we want to share our thoughts and concerns regarding the VGMC for your consideration during your deliberations on Charter recommendations. We do believe that the notion of its elimination merits discussion. If it remains in the charter, we believe VGMC should be substantially modified from its historic practices and procedures.

The City Commission noted that the currently adopted regulations and procedures for the VGMC are out of date, overly burdensome, and put Volusia County at an economic disadvantage for projects requiring timely and efficient review. We suggest that the following thoughts be considered by the Charter Review Commission in evaluating your recommendations regarding VGMC.

We believe the following considerations are reasons to sunset VGMC:

- Since the adoption of the VGMC, there have been significant and substantial changes to the laws affecting DRIs, growth management and comprehensive plans amendments. No longer do all plan amendments require scrutiny by the state. Previously, VGMC review occurred during that state review delay. Today, review by the VGMC causes a delay in moving projects forward by at least several months and often longer for contested matters which is an impediment to economic development.
- VGMC is a costly, somewhat repetitious and an additional layer of review. There is the direct expense of VGMC as well as the indirect costs of participating in the process to the applicant jurisdiction and to the private sector interest desiring the plan amendment of participating in the process.

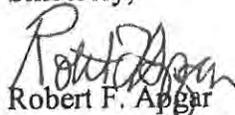
If VGMC remains we suggest the following substantial changes:

- Not all comprehensive plan amendments should be reviewed by the VGMC. Minimum thresholds and significant multi jurisdictional impacts should be established (for example number of acres, dwelling units, square footage or burdens on public services and infrastructure) so that only applications for major plan amendments require review and small applications do not need to be submitted for review.
- Standing should be limited to the governmental units impacted by the application (including the Volusia County School Board). In the past, the VGMC has been used as a “super planning board” especially when citizens have been unhappy with decisions at the local level. Standing should be limited to those directly impacted by the plan amendment.
- Similarly, better rules are needed to determine local government standing so that those jurisdictions that are geographically distant or do not have reasonable proof of inconsistency and affect on its plan do not have standing.
- Weighted voting rules should be reconsidered. As currently written, unaffected local governments could decide the fate of an application that does not impact that jurisdiction in any way.
- A jurisdiction’s representative should serve at will to allow the appointing body to remove their representative from the VGMC should the appointing board determine that its representative is not fulfilling their duties or accurately representing the interests and decisions of the appointing jurisdiction.

We believe you should consider that there may still be a need for a formal mechanism for coordinating the plans of municipalities, the County and the School Board as they relate to changes of comprehensive land use designations that may have a major impact on the provision of public services to residents of an impacted geographic area which span multiple jurisdictions. For example, a jurisdiction that receives water service from another jurisdiction should not be permitted to approve a plan amendment that impacts the capacity of the water provider to service its existing commitments without some discussion and coordination. Sunsetting the VGMC would eliminate one formal means of assuring intergovernmental coordination on review of land use applications of major impact.

Thank you very much for the opportunity to voice our opinion about the Volusia County Growth Management Commission. We respectfully request that our opinions be taken into consideration as you deliberate the need for the VGMC.

Sincerely,



Robert F. Apper
Mayor-Commissioner

cc: DeLand City Commission
Michael Pleus, DeLand City Manager
Dale Arrington, DeLand Assistant City Manager



City of Deltona

November 19, 2015

Mr. John Duckworth
County of Volusia, Charter Review Committee Staff Liaison
Thomas C. Kelly Administration Center
123 W. Indiana Ave.
DeLand, FL 32720

Re: Resolution No. 2015-48; VGMC/Volusia County Charter Review Commission

Dear Mr. Duckworth:

On November 16, 2015, the Deltona City Commission approved Resolution No. 2015-48 (see attached), which supports the abolition of the Volusia Growth Management Commission (VGMC). The resolution approval is in keeping with similar actions taken by local governments within Volusia County concerning the VGMC.

The City of Deltona continues to support intergovernmental coordination and encourages open dialogue between governments. We also recognize the existence of existing regulations afforded through Florida growth management law for governments to proactively work together in a positive manner to achieve land use compatibility, regional infrastructure and resource planning, and mutually supporting economic development goals within Volusia County.

Thank you for the opportunity to provide Resolution No. 2015-48. Please contact me at your convenience, if you have any questions or comments.

Best Regards,


Ms. Jane Shang
City Manager

Cc: Mayor and City Commissioners
Becky Vose, Esq., City Attorney
Dale Baker, Deputy City Manager
Chris Bowley, AICP, Director, Planning & Development Services
File

OFFICE OF THE CITY MANAGER
2345 Providence Boulevard, Deltona, Florida 32725
Deltona City Hall (386) 878-8100 • Fax (386) 878-8851
Webpage: www.deltonafl.gov

Certified

RESOLUTION NO. 2015-48

A RESOLUTION OF THE CITY OF DELTONA, VOLUSIA COUNTY, FLORIDA, REQUESTING THE VOLUSIA CHARTER REVIEW COMMISSION TO RECOMMEND AN AMENDMENT TO THE VOLUSIA COUNTY CHARTER ABOLISHING THE VOLUSIA GROWTH MANAGEMENT COMMISSION; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTING RESOLUTIONS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the State Legislature adopted the Growth Management Act (Act), which requires local governmental entities to adopt comprehensive plans to establish policies for the future growth within their jurisdiction; and

WHEREAS, and furthermore, it is the intent of the Act for counties and municipalities to cooperate and coordinate planning with each other, regional agencies and the State, and specifically states:

It is the intent of this act to encourage and ensure cooperation between and among municipalities and counties and to encourage and ensure coordination of planning and development activities of units of local government with the planning activities of regional agencies and state government in accord with applicable provisions of law; and

WHEREAS, the counties and municipalities include an Intergovernmental Coordination Element, with listed goals, objectives, and policies to encourage and ensure coordination of planning and development activities of units of local government with the planning of regional agencies and State government in accord with applicable provisions of law; and

WHEREAS, in addition to the Act, in 1986 the Volusia County Charter (Charter) was amended to create the Volusia Growth Management Commission (VGMC) and the Charter amendment contained the following language:

There is hereby created the Volusia Growth Management Commission (hereafter commission). The commission shall have the power and the duty to determine the consistency of the municipalities' and county's comprehensive plans and any amendments thereto with each other; and

Certified

WHEREAS, these provisions clearly indicate that the main purpose of the VGMC is to provide a forum through which local governmental entities can resolve differences regarding comprehensive plans; and

WHEREAS, the VGMC has not limited its role to the Charter directive to resolve disputes and provide a form of resolution among local governmental entities. Instead, the VGMC has also been a forum to inhibit intergovernmental coordination and growth and development, which has led to delay of the legislative growth policies adopted by local governmental entities; and

WHEREAS, the VGMC has interpreted its role to intervene in growth management policy decisions, despite when all local governmental entities involved are in agreement as to consistency. This has supported the majority of the VGMC hearings to not be the result of disputes between local governmental entities, but objections filed by other parties; and

WHEREAS, the VGMC has been a costly process that is funded by the taxpayers of Volusia County. The VGMC reviews every proposed comprehensive plan amendment in Volusia County, adding time to the State mandated process, and VGMC hearings are easily requested. Where the VGMC was created to facilitate the process, the process has instead been used to delay growth and development; and

WHEREAS, the VGMC is not required by State law and Volusia County is the only county in the State with this additional layer of application review that places Volusia County at an economic disadvantage when competing with other jurisdictions for new businesses that do not have such additional layer of review and approval; and

WHEREAS, local governments have the sovereign authority from the State to adopt its own growth management policies that are in compliance with the Act, thereby establishing how that community will grow. Such provisions did not include the establishment of a VGMC or an entity that is used beyond its original directive to be used as a method to inhibit, delay, or otherwise all of the laws and provisions for sound intergovernmental coordination practices. The second or more forums to review and hear objections to growth management policies adopted by local governmental entities violate the sovereignty of the local government to establish its own growth management policies; and

WHEREAS, the Volusia County Charter should be amended to abolish the VGMC and instead rely on the existing provisions in the Act and comprehensive plans of counties and municipalities for intergovernmental coordination that established to address such processes; and

Certified

WHEREAS, abolishing the VGMC will not adversely affect the public's right to participate in government, public hearings, due public notice, or the adoption of the growth policies of the local governmental entities to pursue the administrative review provided under State law.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF DELTONA, VOLUSIA COUNTY, FLORIDA AS FOLLOWS:

Section 1. The City Commission of the City of Deltona hereby requests the Volusia Charter Review Commission to recommend an amendment to the Volusia County Charter to abolish the VGMC.

Section 2. The City Manager is hereby directed to forward this Resolution to the Volusia Charter Review Commission.

Section 3. Severability. If any section, subsection, sentence, clause, phrase, or portion of this Resolution, or application hereof, is for any reason held invalid or unconstitutional by any Court, such portion or application shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions or application hereof.

Section 4. Conflicting Resolutions. All resolutions made in conflict with this Resolution are hereby repealed.

Section 5. Effective Date. This Resolution shall take effect upon adoption.

PASSED AND RESOLVED this 10th day of November, 2015, by the City Commission of the City of Deltona, Florida.

BY: John P. Masciarzyk, Jr.
JOHN MASCIARCZYK, JR., Mayor

ATTEST:

Joyce Raftery
JOYCE RAFTERY, City Clerk

Approved as to form and legality for use and reliance of the City of Deltona, Florida:

Gretchen R.H. Vose
GRETCHEN R.H. VOSE, City Attorney

NAME	Yes	No
MERZBERG	✓	
HONAKER	✓	
NABIGHT	✓	
SMITH		✓
SOUKUP	✓	
SOHLFINGER	✓	
MASCIARZYK	✓	

STATE OF FLORIDA
COUNTY OF VOLUSIA
This is to certify that the foregoing is a true and correct copy of Resolution No. 8-18-15 witness my hand and official Seal this 17th day of November 2015
Joyce Raftery
Joyce Raftery, CMO
City Clerk, City of Deltona, Florida

RESOLUTION NO. 2015-R-36

A RESOLUTION OF THE CITY OF EDGEWATER, FLORIDA, REQUESTING THE VOLUSIA CHARTER REVIEW COMMISSION TO RECOMMEND AN AMENDMENT TO THE VOLUSIA COUNTY CHARTER ELIMINATING THE VOLUSIA GROWTH MANAGEMENT COMMISSION; DIRECTING THE CITY CLERK TO FORWARD TO THE VOLUSIA CHARTER REVIEW COMMISSION, REPEALING RESOLUTIONS IN CONFLICT HEREWITH AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the State Legislature adopted the Growth Management Act (Act) which requires local governmental entities to adopt comprehensive plans to establish policies for the future growth within their jurisdictions; and

WHEREAS, furthermore it is the intent of the Act for counties and municipalities to cooperate and coordinate planning with each other, regional agencies and the State and specifically states:

It is the intent of this act to encourage and ensure cooperation between and among municipalities and counties and to encourage and ensure coordination of planning and development activities of units of local government with the planning activities of regional agencies and state government in accord with applicable provisions of law; and

WHEREAS, in addition to the Act, in 1986 the Volusia County Charter (Charter) was amended to create the Volusia Growth Management Commission (VGMC) and the Charter amendment contained the following language:

There is hereby created the Volusia Growth Management Commission (hereafter commission). The commission shall have the power and the duty to determine the consistency of the municipalities' and the county's comprehensive plans and any amendments thereto with each other; and

WHEREAS, to implement the VGMC, Volusia County adopted rules and regulations for the VGMC, including Section 90-33(5) of the Volusia County Code of Ordinances which reads as follows:

The main purpose of the commission is to provide an effective means for coordinating the plans of municipalities and the county,

in order to provide a forum for the several local governments in the county to cooperate with each other in coordinating the provision of public services to and improvements for the citizens of the county, and create incentives to foster intergovernmental cooperation and coordination; and

WHEREAS, these two provisions clearly indicate that the intended purpose of the VGMC was to provide a forum through which local governmental entities could resolve inconsistencies and/or incompatibilities regarding comprehensive plans; and

WHEREAS, the role of the VGMC is inefficient as it duplicates the requirement of Florida Statutes 163.3177 which requires procedures for local governments to follow where there are inconsistencies and/or incompatibilities with their respective Comprehensive Plan Amendments; and

WHEREAS, the role of VGMC has encroached beyond resolving inconsistencies and/or incompatibilities among local government Comprehensive Plan Amendments; and

WHEREAS, the VGMC has previously granted standing to parties other than local governments, and property owners without reasonable standing that has resulted in lengthy delays that is counter to the legislative growth policies adopted by local governmental entities; and

WHEREAS, the VGMC has independently interpreted its role to intervene in growth management policy decisions even if all local governmental entities are in agreement as to Comprehensive Plan consistency and compatibility and would not require a hearing; and

WHEREAS, the vast majority of the VGMC hearings have not been the result of inconsistencies and/or incompatibilities of Comprehensive Plan Amendments submitted by local governmental entities, but rather objections filed by the VGMC staff or other parties without appropriate standing; and

WHEREAS, the VGMC is a process funded by the taxpayers of Volusia County that requires the VGMC to review every proposed comprehensive plan amendment in Volusia County and allows for hearings to be easily requested and such a process has been used to delay and complicate local government's planning efforts; and

WHEREAS, the VGMC is not required by State law, this additional process puts Volusia County at a disadvantage when competing with other jurisdictions for new development and businesses who do not have such an added layer of bureaucracy; and

WHEREAS, each local governmental entity has the sovereign authority to adopt its own growth management policies, within the provisions of Florida Law, thereby establishing how that community will develop. The VGMC was never intended to be an additional forum to review and/or to hear or create objections to growth management policies adopted by local governmental entities. Such process violates the sovereignty of the local government to establish its own growth management policies; and

WHEREAS, the County Charter should be amended to eliminate the VGMC; and

WHEREAS, eliminating the VGMC will not adversely affect the public's right to participate in the adoption of the growth policies of the local governmental entities and/or to pursue the administrative review provided under State law.

NOW, THEREFORE, be it resolved by the City Council of the City of Edgewater, Florida:

Section 1. The City Council of the City of Edgewater does hereby requests the Volusia Charter Review Commission to recommend an amendment to the Volusia County Charter to eliminate the VGMC.

Section 2. The City Clerk is hereby directed to forward this Resolution to the Volusia Charter Review Commission.

Section 3. All resolutions or parts of resolutions in conflict herewith be and the same are hereby repealed.

Section 4. This resolution shall take effect immediately upon adoption.

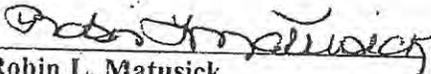
After motion by Councilwoman Bennington and Second by _____

Councilwoman Power the vote on this resolution was as follows:

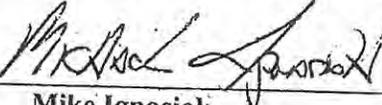
	<u>AYE</u>	<u>NAY</u>
Mayor Michael Ignasiak	✓	_____
Councilwoman Christine Power	✓	_____
Councilwoman Gigi Bennington	✓	_____
Councilman Dan Blazi	✓	_____
Councilman Gary T. Conroy	✓	_____

PASSED AND DULY ADOPTED this 16th day of November, 2015.

ATTEST:


 Robin L. Matusick
 Interim City Clerk/Paralegal

**CITY COUNCIL OF THE
 CITY OF EDGEWATER, FLORIDA**

By: 
 Mike Ignasiak
 Mayor

For the use and reliance only by the City of Edgewater, Florida. Approved as to form and legality by: Aaron R. Wolfe, Esquire
 City Attorney
 Doran, Sims, Wolfe & Ciucchetti

Approved by the City Council of the City of Edgewater at a meeting held on this 16th day of November, 2015 under Agenda Item No 8 7.

RESOLUTION 2015-R-67

A RESOLUTION OF THE CITY OF HOLLY HILL, FLORIDA, REQUESTING THE VOLUSIA CHARTER REVIEW COMMISSION TO RECOMMEND AN AMENDMENT TO THE VOLUSIA COUNTY LIMITING THE JURISDICTION OF THE VOLUSIA GROWTH MANAGEMENT COMMISSION TO ONLY CONDUCT REVIEWS AND HEARINGS OF PROPOSED COMPREHENSIVE PLAN AMENDMENTS OF LOCAL GOVERNMENTAL ENTITIES WHEN AN OBJECTION TO A PROPOSED COMPREHENSIVE PLAN AMENDMENT IS FILED BY ANOTHER LOCAL GOVERNMENTAL ENTITY; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTING RESOLUTIONS; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the State Legislature adopted the Growth Management Act (Act), which requires local governmental entities to adopt comprehensive plans to establish policies for the future growth within their jurisdiction; and

WHEREAS, furthermore it is the intent of the Act for counties and municipalities to cooperate and coordinate planning with each other, regional agencies and the State and specifically states:

It is the intent of this act to encourage and ensure cooperation between and among municipalities and counties and to encourage and ensure coordination of planning and development activities of units of local government with the planning activities of regional agencies and state government in accord with applicable provisions of law.

WHEREAS, in addition to the Act, in 1986 the Volusia County Charter (Charter) was amended to create the Volusia Growth Management Commission (VGMC) and the Charter amendment contained the following language:

There is hereby created the Volusia Growth Management Commission (hereafter commission). The commission shall have the power and the duty to determine the consistency of

the municipalities' and county's comprehensive plans and any amendments thereto with each other.

WHEREAS, these two provisions clearly indicate that the main purpose of the VGMC is to provide a forum through which local governmental entities can resolve differences regarding comprehensive plans; and

WHEREAS, if the role of the VGMC was limited to resolving disputes between local governmental entities regarding comprehensive plans, the VGMC would provide a valuable, cost saving service by avoiding the administrative hearing process provided in State law to resolve such disputes; and

WHEREAS, however, the VGMC has not limited its role to resolving disputes among local governmental entities, but has become a forum that is used by opponents to growth and development to delay and frustrate the legislative growth policies adopted by local governmental entities; and

WHEREAS, the VGMC has interpreted its role to intervene in growth management policy decisions even if all local governmental entities are in agreement as to consistency; and

WHEREAS, the vast majority of the VGMC hearings have not been the result of disputes between local governmental entities, but objections filed by other parties; and

WHEREAS, the VGMC is a costly process funded by the taxpayers of Volusia County. The VGMC reviews every proposed comprehensive plan amendment in Volusia County and hearings are easily requested. Such a process has been used to delay and frustrate growth. The VGMC is not required by State law and Volusia County is the only county in the State with such an added layer of review. This puts Volusia County at a disadvantage when competing with other jurisdictions for new businesses who do not have such an added layer of bureaucracy; and

WHEREAS, each local governmental entity has the sovereign authority to adopt its own growth management policies thereby establishing how that community will grow. The VGMC was never intended to be a second forum to review and hear objections to growth management policies adopted by local governmental entities. Such a review would violate the sovereignty of the local government to establish its own growth management policies. The VGMC should only be involved when a local government entity believes that a proposed comprehensive plan amendment of another local governmental entity would have adverse impacts beyond the adopting agencies jurisdiction and negatively impact adjacent local government entities. If a local governmental entity proposed a comprehensive plan amendment and no local governmental entity raises an objection, there is no need for the VGMC to review the proposed amendment and conduct a hearing; and

WHEREAS, the County Charter should be amended to limit the VGMC involvement to only when an objection to a comprehensive plan amendment is timely filed by another local governmental entity; and

WHEREAS, BY limiting the role of the VGMC to its primary purpose will not adversely affect the public's right to participate in the adoption of the growth policies of the local governmental entities and to pursue the administrative review provided under State law.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF HOLLY HILL, FLORIDA:

Section 1. The City Council of the City of Holly Hill hereby requests the Volusia Charter Review Commission to recommend an amendment to the Volusia County Charter limiting the jurisdiction of the VGMC to only conduct reviews and hearings of proposed comprehensive plan amendments of local governmental entities when an

objection to a proposed comprehensive plan amendment is filed by another local governmental entity.

Section 2. The City Manager is hereby directed to forward this Resolution to the Volusia Charter Review Commission.

Section 3. If any section, subsection, sentence, clause, phrase, or portion of this Resolution, or application hereof, is for any reason held invalid or unconstitutional by any Court, such portion or application shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions or application hereof.

Section 4. All resolutions made in conflict with this Resolution are hereby repealed.

Section 5. This Resolution shall take effect upon adoption.

APPROVED AND AUTHENTICATED THIS 8TH DAY OF DECEMBER, 2015.



City of Lake Helen
Volusia County, Florida

December 11, 2015

Volusia County Charter Review Commission
Attention: Mr. J. Hyatt Brown, Chair
123 W. Indiana Avenue, Room 100
DeLand, FL 32720

Dear Mr. Brown,

The City Commission of the City of Lake Helen received a request to adopt a resolution regarding eliminating or revising the Volusia County Charter at Section 202.3 Volusia Growth Management Commission. The City Commission declined to adopt the resolution as received to eliminate the Volusia Growth Management Commission or limit its current powers expressed in the Volusia County Charter. Since the Volusia County Charter Review Commission will undertake review of this section at its meeting on December 14, 2015, the City Commission writes to express support for a comprehensive historical review and public vetting of this unique provision adopted in 1986 and its implementation over time to evaluate all alternatives prior to any recommendation to the Volusia County Council.

The City Commission extends its deep appreciation for your service to our countywide community.

Sincerely,

A handwritten signature in cursive script that reads "Buddy Snowden".

Buddy Snowden
Mayor

RESOLUTION NO. 2015-14

A RESOLUTION OF THE CITY OF OAK HILL, VOLUSIA COUNTY, FLORIDA, REQUESTING THE VOLUSIA CHARTER REVIEW COMMISSION TO RECOMMEND AN AMENDMENT TO THE VOLUSIA COUNTY CHARTER EITHER ELIMINATING THE VOLUSIA GROWTH MANAGEMENT COMMISSION OR ALTERNATIVELY LIMITING THE JURISDICTION OF THE VOLUSIA GROWTH MANAGEMENT COMMISSION TO ONLY CONDUCT REVIEWS AND HEARINGS OF PROPOSED COMPREHENSIVE PLAN AMENDMENTS OF LOCAL GOVERNMENTAL ENTITIES WHEN AN OBJECTION TO A PROPOSED COMPREHENSIVE PLAN AMENDMENT IS FILED BY ANOTHER LOCAL GOVERNMENTAL ENTITY; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTING RESOLUTIONS; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the State Legislature adopted the Growth Management Act (Act), which requires local governmental entities to adopt comprehensive plans to establish policies for the future growth within their jurisdiction.

WHEREAS, furthermore it is the intent of the Act for counties and municipalities to cooperate and coordinate planning with each other, regional agencies and the State and specifically states:

It is the intent of this act to encourage and ensure cooperation between and among municipalities and counties and to encourage and ensure coordination of planning and development activities of units of local government with the planning activities of regional agencies and state government in accord with applicable provisions of law.

WHEREAS, in addition to the Act, in 1986 the Volusia County Charter (Charter) was amended to create the Volusia Growth Management Commission (VGMC) and the Charter amendment contained the following language:

There is hereby created the Volusia Growth Management Commission (hereafter commission). The commission shall have the power and the duty to determine the consistency of the municipalities' and county's comprehensive plans and any amendments thereto with each other.

WHEREAS, these two provisions clearly indicate that the main purpose of the VGMC is to provide a forum through which local governmental entities can resolve differences regarding comprehensive plans.

WHEREAS, if the role of the VGMC was limited to resolving disputes between local governmental entities regarding comprehensive plans, the VGMC would provide a valuable, cost saving service by avoiding the administrative hearing process provided in State law to resolve such disputes.

WHEREAS, however, the VGMC has not limited its role to resolving disputes among local governmental entities, but has become a forum that is used by opponents to growth and development to delay and frustrate the legislative growth policies adopted by local governmental entities.

WHEREAS, the VGMC has interpreted its role to intervene in growth management policy decisions even if all local governmental entities are in agreement as to consistency.

WHEREAS, the vast majority of the VGMC hearings have not been the result of disputes between local governmental entities, but objections filed by other parties.

WHEREAS, the VGMC is a costly process funded by the taxpayers of Volusia County. The VGMC reviews every proposed comprehensive plan amendment in Volusia County and hearings are easily requested. Such a process has been used to delay and frustrate growth. The VGMC is not required by State law and Volusia County is the only

county in the State with such an added layer of review. This puts Volusia County at a disadvantage when competing with other jurisdictions for new businesses who do not have such an added layer of bureaucracy.

WHEREAS, each local governmental entity has the sovereign authority to adopt its own growth management policies thereby establishing how that community will grow. The VGMC was never intended to be a second forum to review and hear objections to growth management policies adopted by local governmental entities. Such a review would violate the sovereignty of the local government to establish its own growth management policies. The VGMC should only be involved when a local government entity believes that a proposed comprehensive plan amendment of another local governmental entity would have adverse impacts beyond the adopting agencies jurisdiction and negatively impact adjacent local government entities. If a local governmental entity proposed a comprehensive plan amendment and no local governmental entity raises an objection, there is no need for the VGMC to review the proposed amendment and conduct a hearing.

WHEREAS, the County Charter should be amended to either eliminate the VGMC or limit the VGMC involvement to only when an objection to a comprehensive plan amendment is timely filed by another local governmental entity.

WHEREAS, eliminating the VGMC or limiting the role of the VGMC to its primary purpose will not adversely affect the public's right to participate in the adoption of the growth policies of the local governmental entities and to pursue the administrative review provided under State law.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF
THE CITY OF OAK HILL, VOLUSIA COUNTY, FLORIDA AS FOLLOWS:**

Section 1. The City Council of the City of Oak Hill hereby requests the Volusia Charter Review Commission to recommend an amendment to the Volusia County

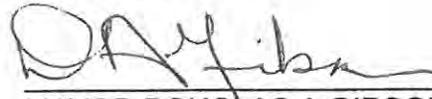
Charter either eliminating the VGMC or alternatively limiting the jurisdiction of the VGMC to only conduct reviews and hearings of proposed comprehensive plan amendments of local governmental entities when an objection to a proposed comprehensive plan amendment is filed by another local governmental entity.

Section 2. The City Manager is hereby directed to forward this Resolution to the Volusia Charter Review Commission.

Section 3. If any section, subsection, sentence, clause, phrase, or portion of this Resolution, or application hereof, is for any reason held invalid or unconstitutional by any Court, such portion or application shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions or application hereof.

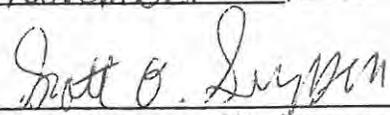
Section 4. All resolutions made in conflict with this Resolution are hereby repealed.

Section 5. This Resolution shall take effect upon adoption.


MAYOR DOUGLAS A GIBSON

ATTEST: 
Kohn Evans, City Administrator/Clerk

Adopted this 9th day of November, 2015.

Reviewed and Approved: 
Scott Simpson, City Attorney

Considered on the floor 12/8/15

RESOLUTION NO. 807-15

A RESOLUTION OF THE CITY OF ORANGE CITY, VOLUSIA COUNTY, FLORIDA, REQUESTING THE VOLUSIA CHARTER REVIEW COMMISSION TO RECOMMEND AN AMENDMENT TO THE VOLUSIA COUNTY CHARTER ~~EITHER ELIMINATING THE VOLUSIA GROWTH MANAGEMENT COMMISSION OR ALTERNATIVELY LIMITING THE JURISDICTION OF THE VOLUSIA GROWTH MANAGEMENT COMMISSION TO ONLY CONDUCT REVIEWS AND HEARINGS OF PROPOSED COMPREHENSIVE PLAN AMENDMENTS OF LOCAL GOVERNMENT ENTITIES WHEN AN OBJECTION TO A PROPOSED COMPREHENSIVE PLAN AMENDMENT IS FILED BY ANOTHER LOCAL GOVERNMENT ENTITY;~~ PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTING RESOLUTIONS; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the State Legislature adopted the Growth Management Act (Act), which requires local governmental entities to adopt comprehensive plans to establish policies for the future growth within their jurisdiction, and

WHEREAS, furthermore it is the intent of the Act for counties and municipalities to cooperate and coordinate planning with each other, regional agencies, and the State, and specifically states:

It is the intent of this act to encourage and ensure cooperation between and among municipalities and counties and to encourage and ensure coordination of planning and development activities of units of local government with the planning activities of regional agencies and state government in accord with applicable provisions of law.

WHEREAS, in addition to the Act, in 1986 the Volusia County Charter (Charter) was amended to create the Volusia Growth Management Commission (VGMC) and the Charter amendment contained the following language:

There is hereby created the Volusia Growth Management Commission (hereafter commission). The commission shall have the power and the duty to determine the consistency of the municipalities' and the county's comprehensive plans and any amendments thereto with each other.

WHEREAS, to implement the VGMC, Volusia County adopted rules and regulations for the VGMC, including Section 90-33(5) of the Volusia County Code of Ordinances which reads as follows:

The main purpose of the commission is to provide an effective means for coordinating the plans of municipalities and the county, in order to provide a forum for the several local governments in the county to cooperate with each other in coordinating the provision of public services to and improvements for the citizens of the county, and create incentives to foster intergovernmental cooperation and coordination.

WHEREAS, these two provisions clearly indicate that the main purpose of the VGMC is to provide a forum through which local government entities can resolve differences regarding comprehensive plans, and

~~**WHEREAS**, if the role of the VGMC was limited to resolving disputes between local government entities regarding comprehensive plans, the VGMC would provide a valuable, cost saving service by avoiding the administrative hearing process provided in State law to resolve such disputes, and~~

Bken

WHEREAS, however, the VGMC has not limited its role to resolving disputes among local government entities, but has become a forum that is used by opponents to growth and development to delay and frustrate the legislative growth policies adopted by local government entities, and

WHEREAS, the VGMC has interpreted its role to intervene in growth management policy decisions even if all local government entities are in agreement as to consistency, and

WHEREAS, the vast majority of the VGMC hearings have not been the result of disputes between local government entities, but objections filed by other parties, and

WHEREAS, the VGMC is a costly process funded by the taxpayers of Volusia County. The VGMC reviews every proposed comprehensive plan amendment in Volusia County and hearings are easily requested. Such a process has been used to delay and frustrate growth. The VGMC is not required by State law and Volusia County is the only county in the State with such an added layer of review. This puts Volusia County at a

disadvantage when competing with other jurisdictions for new businesses who do not have such an added layer of bureaucracy, and

WHEREAS, each local government entity has the sovereign authority to adopt its own growth management policies thereby establishing how that community will grow. The VGMC was never intended to be a second forum to review and hear objections to growth management policies adopted by local government entities. Such a review would violate the sovereignty of the local government to establish its own growth management policies. ~~The VGMC should only be involved when a local government entity believes that a proposed comprehensive plan amendment of another local government entity would have adverse impacts beyond the adopting agencies jurisdiction and negatively impact adjacent local government entities. If a local government entity proposes a comprehensive plan amendment and no local government entity raises an objection, there is no need for the VGMC to review the proposed amendment and conduct a hearing, and~~ *Blaw*

WHEREAS, the County Charter should be amended to either eliminate the VGMC ~~or limit the VGMC involvement to only when an objection to a comprehensive plan amendment is timely filed by another local government entity,~~ *Blaw* and

WHEREAS, eliminating the VGMC ~~or limiting the role of the VGMC to its primary purpose~~ will not adversely affect the public's right to participate in the adoption of the growth policies of the local governmental entities and to pursue the administrative review provided under State law. *Blaw*

NOW, THEREFORE, BE IT RESOLVED AND ENACTED BY THE CITY COUNCIL OF THE CITY OF ORANGE CITY, FLORIDA:

SECTION 1. The City Council of the City of Orange City hereby requests the Volusia Charter Review Commission to recommend an amendment to the Volusia County Charter either eliminating the VGMC ~~or alternatively limiting the jurisdiction of the VGMC to only conduct reviews and hearings of proposed comprehensive plan amendments of local governmental entities when an objection to a proposed comprehensive plan amendment is filed by another local governmental entity.~~ *Blaw*

SECTION 2. The City Manager is hereby directed to forward this Resolution to the Volusia Charter Review Commission.

SECTION 3. If any section, subsection, sentence, clause, phrase, or portion of this Resolution, or application hereof, is for any reason held invalid or

unconstitutional by any Court, such portion or application shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions or application hereof.

SECTION 4. All resolutions made in conflict with this Resolution are hereby repealed.

SECTION 5. This resolution shall take effect immediately upon its adoption by the City Council of the City of Orange City, Florida.

ROLL CALL VOTE AS FOLLOWS (Resolution No. 807-15):

Anthony Pupello	<u>Y</u>	Ronald L. Saylor	<u>Y</u>
Michael G. Wright	<u>Y</u>	Tom Abraham	<u>Y</u>
O. William Crippen	<u>Y</u>	Gary A. Blair, Vice Mayor	<u>Y</u>
Tom Laputka, Mayor	<u>Y</u>		

ADOPTED THIS 8 DAY OF December, 2015.

ATTEST TO:

Deborah J. Renner
Deborah J. Renner, City Clerk
Deputy

Authenticated this _____ day of _____, 2015.

[Signature]
Tom Laputka, Mayor

This Resolution approved as to form and legal sufficiency:

[Signature]
William Reischmann, City Attorney

I Certify this to be a true and correct copy of the record in my office WITNESSETH my hand and official seal of the City of Orange City, Florida, this the 9th day of December 2015
Deborah J. Renner, City Clerk
Deputy

RESOLUTION NO. 2015-227

A RESOLUTION OF THE CITY OF ORMOND BEACH, FLORIDA, REQUESTING THE VOLUSIA CHARTER REVIEW COMMISSION TO RECOMMEND AN AMENDMENT TO THE VOLUSIA COUNTY CHARTER EITHER ELIMINATING THE VOLUSIA GROWTH MANAGEMENT COMMISSION OR ALTERNATIVELY, LIMITING THE JURISDICTION OF THE VOLUSIA GROWTH MANAGEMENT COMMISSION TO ONLY CONDUCT REVIEWS AND COMPREHENSIVE PLAN HEARINGS AMENDMENTS OF PROPOSED OF LOCAL GOVERNMENTAL ENTITIES WHEN AN OBJECTION TO A PROPOSED COMPREHENSIVE PLAN AMENDMENT IS FILED BY ANOTHER LOCAL GOVERNMENTAL ENTITY; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTING RESOLUTIONS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the State Legislature adopted the Growth Management Act (Act) which requires local governmental entities to adopt comprehensive plans to establish policies for the future growth within their jurisdictions, and

WHEREAS, furthermore it is the intent of the Act for counties and municipalities to cooperate and coordinate planning with each other, regional agencies and the State and specifically states:

It is the intent of this act to encourage and ensure cooperation between and among municipalities and counties and to encourage and ensure coordination of planning and development activities of units of local government with the planning activities of regional agencies and state government in accord with applicable provisions of law.

WHEREAS, in addition to the Act, in 1986 the Volusia County Charter (Charter) was amended to create the Volusia Growth Management Commission (VGMC) and the Charter amendment contained the following language:

There is hereby created the Volusia Growth Management Commission (hereafter commission). The commission shall have the power and the duty to determine the consistency of the municipalities' and the county's comprehensive plans and any amendments thereto with each other.

WHEREAS, to implement the VGMC, Volusia County adopted rules and regulations for the VGMC, including Section 90-33(5) of the Volusia County Code of Ordinances which reads as follows:

The main purpose of the commission is to provide an effective means for coordinating the plans of municipalities and the county, in order to provide a forum for the several local governments in the county to cooperate with each other in coordinating the provision of public services to and improvements for the citizens of the county, and create incentives to foster intergovernmental cooperation and coordination.

WHEREAS, these two provisions clearly indicate that the main purpose of the VGMC is to provide a forum through which local governmental entities can resolve differences regarding Comprehensive plans, and

WHEREAS, if the role of the VGMC was limited to resolving disputes between local governmental entities regarding comprehensive plans, the VGMC would provide a valuable, cost saving service by avoiding the administrative hearing process provided in State law to resolve such disputes, and

WHEREAS, however, the VGMC has not limited its role to resolving disputes among local governmental entities, but has become a forum that is used by opponents to growth and development to delay and frustrate the legislative growth policies adopted by local governmental entities, and

WHEREAS, the VGMC has interpreted its role to intervene in growth management policy decisions even if all local governmental entities are in agreement as to consistency, and

WHEREAS, the vast majority of the VGMC hearings have not been the result of disputes between local governmental entities, but objections filed by other parties, and

WHEREAS, the VGMC is a costly process funded by the taxpayers of Volusia County. The VGMC reviews every proposed comprehensive plan amendment in Volusia County and hearings are easily requested. Such a process has been used to delay and frustrate growth. The VGMC is not required by State law and Volusia County is the only County in the State with such an added layer of review. This puts Volusia County at a disadvantage when competing with other jurisdictions for new businesses who do not have such an added layer of bureaucracy, and

WHEREAS, each local governmental entity has the sovereign authority to adopt its own growth management policies thereby establishing how that community will grow. The VGMC was never intended to be a second forum to review and hear objections to growth management policies adopted by local governmental entities. Such a review would violate the sovereignty of the local government to establish its own growth management policies. The VGMC should only be involved when a local government entity believes that a proposed comprehensive plan amendment of another local governmental entity would have adverse impacts beyond the adopting agencies jurisdiction and negatively impact adjacent local government entities. If a

local governmental entity proposes a comprehensive plan amendment and no local governmental entity raises an objection, there is no need for the VGMC to review the proposed amendment and conduct a hearing, and

WHEREAS, the County Charter should be amended to either eliminate the VGMC or limit the VGMC involvement to only when an objection to a comprehensive plan amendment is timely filed by another local governmental entity, and

WHEREAS, eliminating the VGMC or limiting the role of the VGMC to its primary purpose will not adversely affect the public's right to participate in the adoption of the growth policies of the local governmental entities and to pursue the administrative review provided under State law, now therefore,

BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF ORMOND BEACH, FLORIDA, THAT:

SECTION ONE. The City Commission hereby requests the Volusia Charter Review Commission to recommend an amendment to the Volusia County Charter either eliminating the VGMC or alternatively limiting the jurisdiction of the VGMC to only conduct reviews and hearings of proposed comprehensive plan amendments of local governmental entities when an objection to a proposed comprehensive plan amendment is filed by another local governmental entity.

SECTION TWO. The City Manager is hereby directed to forward this Resolution to the Volusia Charter Review Commission.

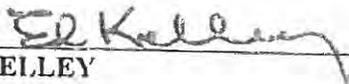
SECTION THREE. If any section, subsection, sentence, clause, phrase, or portion of this resolution, or application hereof, is for any reason held invalid or unconstitutional by any

Court, such portion or application shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions or application hereof.

SECTION FOUR. All resolutions made in conflict with this Resolution are hereby repealed.

SECTION FIVE. This Resolution shall take effect immediately upon its adoption.

APPROVED AND AUTHENTICATED this 1st day of December, 2015.


ED KELLEY
Mayor

ATTEST:


J. SCOTT MCKEE
City Clerk

**Coordination of Comprehensive Plans in Volusia County-
Volusia County Growth Management Commission**

Introduction: The following summarizes recommendations regarding the current regulatory framework for coordination of comprehensive plans in Volusia County. Also summarized are concerns and recommended changes to current process. The proposed changes attempt to implement the following goals:

1. Ensure a coordinated and integrated planning process that does not create additional procedural requirements for amendments to comprehensive plans of local governments.
2. Ensure that cities and Volusia County are competitive in attracting and developing economic opportunities.

Background: The following summarizes the regulatory framework for planning in the Volusia County and the State of Florida:

1. All cities and county have to adopt and implement a comprehensive plan (F.S. Chp. 163, Part II Community Planning Act).
2. There are required elements for comprehensive plans. The intergovernmental coordination element is the element that ensures that local governments' plans are consistent and compatible.
3. In the Community Planning Act there are standards and procedures that establish standing and how an appeal of an amendment to an adopted comprehensive plan will occur.
4. The Volusia County Council adopted ordinance 86-136 and created the Volusia Growth Management Commission (VGMC) to ensure that cities and the county worked together in the development and implementation of the individual local comprehensive plans.
5. The VGMC requirements place an additional level of review regarding the determination as to whether a plan amendment is consistent with the comprehensive plans of adjoining cities and Volusia County.

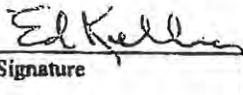
Issues: The specific concern is whether or not the VGMC certification process has resulted in costly delays of critical economic development opportunities due to its un-authorized expansion of review. The secondary, but equally important concern is that VGMC increases operational costs and actually interferes with the amendment process.

Recommendations: The goal is to have a process that follows statutory requirements for coordination and consistency, and eliminate a costly bureaucracy that puts Volusia County at an economic disadvantage. A review of existing state and local regulations show that the currently adopted regulations and procedures for the VGMC are out of date and create an additional level of review that can be detrimental to the economic vitality of Volusia County. Revisions to the Charter are needed to eliminate the VGMC and allow for local governments in Volusia County to address coordination and consistency as provided by the Community Planning Act.

The following summarizes why the VGMC needs to be sunset:

1. Repetitive and additional layer of bureaucracy.
2. Lack of direct control by elected officials.
3. Allows for local governments, otherwise without standing, to interfere with other local government (e.g. a city on the northeast side can request hearing on a proposed amendment from a city on the southwest side, with minimal, if any proof of inconsistency).
4. The additional layer of government has a direct cost of \$288,225 for FY 2015-2016 and indirect costs due to additional staff time in preparation of VGMC applications and private-sector representation at the VGMC meetings.
5. Counterproductive to local efforts for economic development.
6. Loosely interpreted rules have resulted in an unauthorized expansion of powers.
7. There are only two other counties in Florida with similar planning procedures. The VCGM process places Volusia County at a competitive disadvantage.

By signing below, I, as an investor in Team Volusia Economic Development Corporation, offer my support in favor of removing the VGMC from the Volusia County Charter.


Signature

Ed Kelley
Name of Signatory

City of Ormond Beach
Name of Investor

Attachment 1.

Excerpts the Volusia County Charter and Florida Statutes

Volusia County

Article II. Powers And Duties Of The County

Section 202.3. Volusia Growth Management Commission.

There is hereby created the Volusia Growth Management Commission (hereafter commission). The commission shall have the power and the duty to determine the consistency of the municipalities' and the county's comprehensive plans and any amendments thereto with each other. The commission may perform such other directly related duties as the commission from time to time deems necessary.

The determination by the commission shall be binding on the submitting government. No plan, element of a plan, or amendment of a plan adopted after the date this article becomes law shall be valid or effective unless and until such plan, element of a plan, or amendment has been reviewed by the commission and has been certified as consistent. The review of any such determination of the commission shall be by certiorari.

Florida Statutes 163.3177 Required and optional elements of comprehensive plan; studies and surveys.—

(2) Coordination of the several elements of the local comprehensive plan shall be a major objective of the planning process. The several elements of the comprehensive plan shall be consistent. Where data is relevant to several elements, consistent data shall be used, including population estimates and projections unless alternative data can be justified for a plan amendment through new supporting data and analysis. Each map depicting future conditions must reflect the principles, guidelines, and standards within all elements and each such map must be contained within the comprehensive plan.

(4)(a) Coordination of the local comprehensive plan with the comprehensive plans of adjacent municipalities, the county, adjacent counties, or the region; with the appropriate water management district's regional water supply plans approved pursuant to s. 373.709; and with adopted rules pertaining to designated areas of critical state concern shall be a major objective of the local comprehensive planning process. To that end, in the preparation of a comprehensive plan or element thereof, and in the comprehensive plan or element as adopted, the governing body shall include a specific policy statement indicating the relationship of the proposed development of the area to the comprehensive plans of adjacent municipalities, the county, adjacent counties, or the region, as the case may require and as such adopted plans or plans in preparation may exist.

(h)1. An intergovernmental coordination element showing relationships and stating principles and guidelines to be used in coordinating the adopted comprehensive plan with the plans of school boards, regional water supply authorities, and other units of local government providing services but not having regulatory authority over the use of land, with the comprehensive plans of adjacent municipalities, the county, adjacent counties, or the region, with the state comprehensive plan and with the applicable regional water supply plan approved pursuant to s. 373.709, as the case may require and as such adopted plans or plans in preparation may exist. This element of the local comprehensive plan must demonstrate consideration of the particular effects of the local plan, when adopted, upon the development of adjacent

municipalities, the county, adjacent counties, or the region, or upon the state comprehensive plan, as the case may require.

a. The intergovernmental coordination element must provide procedures for identifying and implementing joint planning areas, especially for the purpose of annexation, municipal incorporation, and joint infrastructure service areas.

b. The intergovernmental coordination element shall provide for a dispute resolution process, as established pursuant to s. 186.509, for bringing intergovernmental disputes to closure in a timely manner.

c. The intergovernmental coordination element shall provide for interlocal agreements as established pursuant to s. 333.03(1)(b).

2. The intergovernmental coordination element shall also state principles and guidelines to be used in coordinating the adopted comprehensive plan with the plans of school boards and other units of local government providing facilities and services but not having regulatory authority over the use of land. In addition, the intergovernmental coordination element must describe joint processes for collaborative planning and decisionmaking on population projections and public school siting, the location and extension of public facilities subject to concurrency, and siting facilities with countywide significance, including locally unwanted land uses whose nature and identity are established in an agreement.

3. Within 1 year after adopting their intergovernmental coordination elements, each county, all the municipalities within that county, the district school board, and any unit of local government service providers in that county shall establish by interlocal or other formal agreement executed by all affected entities, the joint processes described in this subparagraph consistent with their adopted intergovernmental coordination elements. The agreement must:

a. Ensure that the local government addresses through coordination mechanisms the impacts of development proposed in the local comprehensive plan upon development in adjacent municipalities, the county, adjacent counties, the region, and the state. The area of concern for municipalities shall include adjacent municipalities, the county, and counties adjacent to the municipality. The area of concern for counties shall include all municipalities within the county, adjacent counties, and adjacent municipalities.

b. Ensure coordination in establishing level of service standards for public facilities with any state, regional, or local entity having operational and maintenance responsibility for such facilities.

163.3184 Process for adoption of comprehensive plan or plan amendment.—

(1) DEFINITIONS.—As used in this section, the term:

(a) "Affected person" includes the affected local government; persons owning property, residing, or owning or operating a business within the boundaries of the local government whose plan is the subject of the review; owners of real property abutting real property that is the subject of a proposed change to a future land use map; and adjoining local governments that can demonstrate that the plan or plan amendment will produce substantial impacts on the increased need for publicly funded infrastructure or substantial impacts on areas designated for protection or special treatment within their jurisdiction. Each person, other than an adjoining local government, in order to qualify under this definition, shall also have submitted oral or written comments, recommendations, or objections to the local government during the

period of time beginning with the transmittal hearing for the plan or plan amendment and ending with the adoption of the plan or plan amendment.

(b) "In compliance" means consistent with the requirements of ss. 163.3177, 163.3178, 163.3180, 163.3191, 163.3245, and 163.3248, with the appropriate strategic regional policy plan, and with the principles for guiding development in designated areas of critical state concern and with part III of chapter 369, where applicable.

(c) "Reviewing agencies" means:

1. The state land planning agency;
2. The appropriate regional planning council;
3. The appropriate water management district;
4. The Department of Environmental Protection;
5. The Department of State;
6. The Department of Transportation;
7. In the case of plan amendments relating to public schools, the Department of Education;
8. In the case of plans or plan amendments that affect a military installation listed in s. 163.3175, the commanding officer of the affected military installation;
9. In the case of county plans and plan amendments, the Fish and Wildlife Conservation Commission and the Department of Agriculture and Consumer Services; and
10. In the case of municipal plans and plan amendments, the county in which the municipality is located.

(5) ADMINISTRATIVE CHALLENGES TO PLANS AND PLAN AMENDMENTS.--

(a) Any affected person as defined in paragraph (1)(a) may file a petition with the Division of Administrative Hearings pursuant to ss. 120.569 and 120.57, with a copy served on the affected local government, to request a formal hearing to challenge whether the plan or plan amendments are in compliance as defined in paragraph (1)(b). This petition must be filed with the division within 30 days after the local government adopts the amendment. The state land planning agency may not intervene in a proceeding initiated by an affected person.

RESOLUTION NO. 2015-22

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF PIERSON OF VOLUSIA COUNTY, FLORIDA, REQUESTING THE VOLUSIA CHARTER REVIEW COMMISSION TO RECOMMEND AN AMENDMENT TO THE VOLUSIA COUNTY CHARTER EITHER ELIMINATING THE VOLUSIA COUNTY GROWTH MANAGEMENT COMMISSION OR ALTERNATIVELY LIMITING THE JURISDICTION OF THE VOLUSIA COUNTY GROWTH MANAGEMENT COMMISSION TO ONLY CONDUCT REVIEWS AND HEARINGS OF PROPOSED COMPREHENSIVE PLAN AMENDMENT IS FILED BY ANOTHER LOCAL GOVERNMENTAL ENTITY; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTING RESOLUTIONS; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the State Legislature adopted the Growth Management Act (Act) which requires local governmental entities to adopt comprehensive plans to establish policies for the future growth within their jurisdictions.

WHEREAS, furthermore it is the intent of the Act for counties and municipalities to cooperate and coordinate planning with each other, regional agencies and the State and specifically states:

It is the intent of this act to encourage and ensure cooperation between and among municipalities and counties and to encourage and ensure coordination of planning and development activities of units of local government with the planning activities of regional agencies and state government in accord with applicable provisions of law.

WHEREAS, in addition to the Act, in 1986 the Volusia County Charter (Charter) was amended to create the Volusia Growth Management Commission (VGMC) and the Charter amendment contained the following language:

There is hereby created the Volusia Growth Management Commission (hereafter commission). The commission shall have the power and the duty to determine the consistency of the municipalities' and the county's comprehensive plans and any amendments thereto with each other.

WHEREAS, to implement the VGMC, Volusia County adopted rules and regulations for the VGMC, including Section 90-33(5) of the Volusia County Code of Ordinances which reads as follows:

The main purpose of the commission is to provide an effective means for coordinating the plans of municipalities and the county, in order to provide a forum for the several local governments in the county to cooperate with each other in coordinating the provision of public services to and improvements for the citizens of the county, and create incentives to foster intergovernmental cooperation and coordination.

WHEREAS, these two provisions clearly indicate that the main purpose of the VGMC is to provide a forum through which local governmental entities can resolve differences regarding comprehensive plans.

WHEREAS, if the role of the VGMC was limited to resolving disputes between local governmental entities regarding comprehensive plans, the VGMC would provide a valuable, cost saving service by avoiding the administrative hearing process provided in State law to resolve such disputes.

WHEREAS, however, the VGMC has not limited its role to resolving disputes among local governmental entities, but has become a forum that is used by opponents to growth and development to delay and frustrate the legislative growth policies adopted by local governmental entities.

WHEREAS, the VGMC has interpreted its role to intervene in growth management policy decisions even if all local governmental entities are in agreement as to consistency.

WHEREAS, the vast majority of the VGMC hearings have not been the result of disputes between local governmental entities, but objections filed by other parties.

WHEREAS, the VGMC is a costly process funded by the taxpayers of Volusia County. The VGMC reviews every proposed comprehensive plan amendment in Volusia County and hearings are easily requested. Such a process has been used to delay and frustrate growth. The VGMC is not required by State law and Volusia County is the only county in the State with such an added layer of review. This puts Volusia County at a disadvantage when competing with other jurisdictions for new businesses who do not have such an added layer of bureaucracy.

WHEREAS, each local governmental entity has the sovereign authority to adopt its own growth management policies thereby establishing how that community will grow. The VGMC was never intended to be a second forum to review and hear objections to growth management policies adopted by local governmental entities. Such a review would violate the sovereignty of the local government to establish its own growth management policies. The VGMC only be involved when a local government entity believes that a proposed comprehensive plan amendment of another local governmental entity would have adverse impacts beyond the adopting agencies jurisdiction and negatively impact adjacent local government entities. If a local governmental entity proposes a comprehensive plan amendment and no local governmental entity raises an objection, there is no need for the VGMC to review the proposed amendment and conduct a hearing.

WHEREAS, the County Charter should be amended to either eliminate the VGMC or limit the VGMC involvement to only when an objection to a comprehensive plan amendment is timely filed by another local governmental entity.

WHEREAS, eliminating the VGMC or limiting the role of the VGMC to its primary purpose will not adversely affect the public's right to participate in the adoption of the growth policies of the local governmental entities and to pursue the administrative review provided under State law.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL FOR THE TOWN OF PIERSON, FLORIDA:

Section 1. The Town Council of the Town of Pierson hereby requests the Volusia Charter Review Commission to recommend an amendment to the Volusia County Charter either eliminating the VGMC or alternatively limiting the jurisdiction of the VGMC to only conduct reviews and hearings of proposed comprehensive plan amendments of local governmental entities when an objection to a proposed comprehensive plan amendment is filed by another local governmental entity.

Section 2. The Town Clerk is hereby directed to forward this Resolution to the Volusia Charter Review Commission.

Section 3. If any section, subsection, sentence, clause, phrase, or portion of this Resolution, or application hereof, is for any reason held invalid or unconstitutional by any Court, such portion or application shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions or application hereof.

Section 4. That all Resolutions made in conflict with this Resolution are hereby repealed.

Section 5. That this Resolution shall become effective immediately upon its adoption.

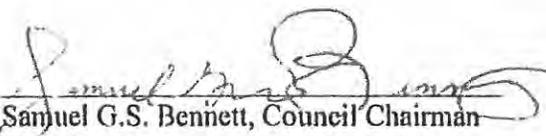
The foregoing Resolution was read before the Town Council of the Town of Pierson, Florida at its meeting held at Pierson Town Hall, on the 8th day of December 2015. It was moved and so carried that said Resolution was duly adopted. It was moved by Council Member Robert F. Greenlund and seconded by Council Member Thomas R. Larrivee said motion resulted as follows:

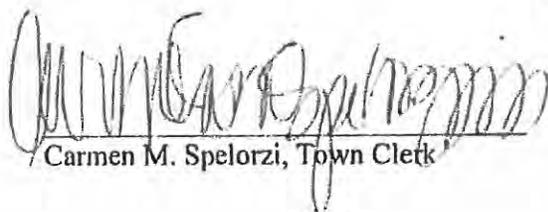
Samuel G.S. Bennett, Chairman	<u> Aye </u>
James T. Peterson, Vice Chairman	<u> Aye </u>
Herbert J. Bennett, Council Member	<u> Aye </u>
Robert F. Greenlund, Council Member	<u> Aye </u>
Thomas R. Larrivee, Council Member	<u> Aye </u>

Be it finally resolved that this Resolution No. 2015-22 shall be made a part of the permanent records of the Town of Pierson, Florida.

Whereupon the Chairman of the Town Council of the Town of Pierson, Florida has hereunto set his official signature, duly attested by the Town Clerk, and has caused the official seal of said Town to be affixed, at Pierson Town Hall, this 8th day of December, 2015 for the purpose of authenticity as is required by law.

ATTEST:


Samuel G.S. Bennett, Council Chairman


Carmen M. Spelorzi, Town Clerk



Town of Ponce Inlet

4300 South Atlantic Avenue
Ponce Inlet, Florida 32127
Phone: (386) 236-2150
Fax: (386) 322-6717
www.ponce-inlet.org

December 1, 2015

Mr. Hyatt Brown, Charter Review Committee Chair
c/o Christine Beccaris
County of Volusia
123 W. Indiana Ave., Room 100
DeLand, FL 32720

Dear Mr. Brown,

As you undertake the important task of reviewing the Volusia County Charter, the Ponce Inlet Town Council was asked to review and offer suggestions regarding that portion pertaining to the Volusia Growth Management Commission.

A few years ago Ponce Inlet had the opportunity to not only present a case before the VGMC but to then have the VGMC's finding appealed to the Circuit Court. In both cases, the ultimate legal determinations favored the Town but the process was expensive, arduous and duplicative of the review procedures established by state statute. The additional cost to the Town was about thirty-five thousand dollars, but did not eliminate the challenger's almost identical administrative hearing review at the state level in which the Town was also successful at an expense of many more thousands of tax payer dollars.

Additionally, VGMC membership requirements create an interesting dichotomy, given that those elected to represent their community are not eligible to serve on the VGMC board. As a result, the Town's appointed representative to VGMC could make decisions that conflict with the community's elected officials. In no other governmental unit may an appointed body override an elected body, as the built-in accountability to the electorate is then lost. The Town of Ponce Inlet has been fortunate to have a dedicated and qualified representative for the past six years. Prior to that however, there have been times when a volunteer could not be found and extended time has gone by without a Town representative.

From the perspective of our own experience, we offer the following for your consideration:

Though the VGMC's original intent appears to have been to settle disputes between adjacent governing bodies locally, the process is not and cannot be a replacement for the state level review. Instead, it has created an additional level of bureaucracy which necessitates additional time and cost for an already expensive and lengthy process. We encourage you to review whether this additional level of bureaucracy, which requires

The Town of Ponce Inlet staff shall be professional, caring, and fair in delivering community excellence while ensuring Ponce Inlet citizens the greatest value for their dollar.

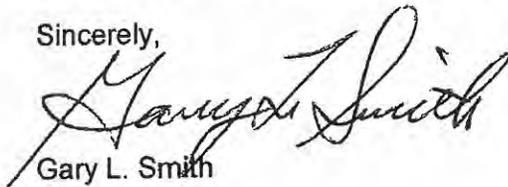
yearlong, tax-payer funding, is accomplishing a distinct goal or is it unnecessarily duplicative of the state required process. It is important to note that the VGMC is the only one of its kind in the State of Florida.

Should you determine that a distinct goal is being met, and the VGMC should remain in place, we encourage you to propose the following changes to the VGMC:

- Limit citizen standing to adjacent municipalities only, to align VGMC's purposes more closely to the original intent upon which this body was created; and
- Allow elected officials to be appointed to represent their municipality on the VGMC and make all appointments subject to serving at the pleasure of the appointing governing body.

We thank you for your consideration of our input on this matter and request that you share this with your fellow members on this committee. Please contact me if you have any questions or need more information. Your service to the citizens of Volusia County on the Charter Review Committee is most greatly appreciated.

Sincerely,



Gary L. Smith
Mayor

C: Ponce Inlet Town Council
Volusia County & Municipalities



CITY OF PORT ORANGE

1000 CITY CENTER CIRCLE
PORT ORANGE, FLORIDA 32129
TELEPHONE 386-506-5500
FAX 386-756-5290
www.Port-Orange.org

December 3, 2014

Mr. Hyatt Brown, Charter Review Committee Chair
c/o Christine Beccaris
County of Volusia
123 W. Indiana Avenue, Room 100
Deland, FL 32720

Dear Mr. Brown:

On Tuesday, December 1, 2015, the City Council of the City of Port Orange carefully considered a resolution to recommend to either eliminate or limit the jurisdiction of the Volusia Growth Management Commission or alternatively limit the jurisdiction of the Volusia Growth Management Commission. The motion to approve this resolution failed with a vote of 1 to 4. Council prefers the Volusia Growth Management Commission remain intact as originally established.

The draft resolution is attached as presented.

Thank you for considering our participation on this decision. The City Council and I appreciate the Charter Review Committee's service to our community.

Sincerely,

Allen Green
Mayor

AG: ckr

"Growing In Beauty and Opportunity"

RESOLUTION NO. 15-77.

A RESOLUTION OF THE CITY OF PORT ORANGE, VOLUSIA COUNTY, FLORIDA, REQUESTING THE VOLUSIA CHARTER REVIEW COMMISSION TO RECOMMEND AN AMENDMENT TO THE VOLUSIA COUNTY CHARTER EITHER ELIMINATING THE VOLUSIA GROWTH MANAGEMENT COMMISSION OR ALTERNATIVELY LIMITING THE JURISDICTION OF THE VOLUSIA GROWTH MANAGEMENT COMMISSION TO ONLY CONDUCT REVIEWS AND HEARINGS OF PROPOSED COMPREHENSIVE PLAN AMENDMENTS OF LOCAL GOVERNMENTAL ENTITIES WHEN AN OBJECTION TO A PROPOSED COMPREHENSIVE PLAN AMENDMENT IS FILED BY ANOTHER LOCAL GOVERNMENTAL ENTITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the State Legislature adopted the Growth Management Act (Act), which requires local governmental entities to adopt comprehensive plans to establish policies for the future growth within their jurisdiction.

WHEREAS, furthermore it is the intent of the Act for counties and municipalities to cooperate and coordinate planning with each other, regional agencies and the State and specifically states:

It is the intent of this act to encourage and ensure cooperation between and among municipalities and counties and to encourage and ensure coordination of planning and development activities of units of local government with the planning activities of regional agencies and state government in accord with applicable provisions of law.

WHEREAS, in addition to the Act, in 1986 the Volusia County Charter (Charter) was amended to create the Volusia Growth Management Commission (VGMC) and the Charter amendment contained the following language:

(RESO. NO. 15-77)

There is hereby created the Volusia Growth Management Commission (hereafter commission). The commission shall have the power and the duty to determine the consistency of the municipalities' and county's comprehensive plans and any amendments thereto with each other.

WHEREAS, these two provisions clearly indicate that the main purpose of the VGMC is to provide a forum through which local governmental entities can resolve differences regarding comprehensive plans.

WHEREAS, if the role of the VGMC was limited to resolving disputes between local governmental entities regarding comprehensive plans, the VGMC would provide a valuable, cost saving service by avoiding the administrative hearing process provided in State law to resolve such disputes.

WHEREAS, however, the VGMC has not limited its role to resolving disputes among local governmental entities, but has become a forum that is used by opponents to growth and development to delay and frustrate the legislative growth policies adopted by local governmental entities.

WHEREAS, the VGMC has interpreted its role to intervene in growth management policy decisions even if all local governmental entities are in agreement as to consistency.

WHEREAS, the vast majority of the VGMC hearings have not been the result of disputes between local governmental entities, but objections filed by other parties.

WHEREAS, the VGMC is a costly process funded by the taxpayers of Volusia County. The VGMC reviews every proposed comprehensive plan amendment in Volusia County and hearings are easily requested. Such a process has been used to delay and frustrate growth. The VGMC is not required by State law and Volusia County is the only

(RESO. NO. 15-77)

county in the State with such an added layer of review. This puts Volusia County at a disadvantage when competing with other jurisdictions for new businesses that do not have such an added layer of bureaucracy.

WHEREAS, each local governmental entity has the sovereign authority to adopt its own growth management policies thereby establishing how that community will grow. The VGMC was never intended to be a second forum to review and hear objections to growth management policies adopted by local governmental entities. Such a review would violate the sovereignty of the local government to establish its own growth management policies. The VGMC should only be involved when a local government entity believes that a proposed comprehensive plan amendment of another local governmental entity would have adverse impacts beyond the adopting agencies jurisdiction and negatively impact adjacent local government entities. If a local governmental entity proposed a comprehensive plan amendment and no local governmental entity raises an objection, there is no need for the VGMC to review the proposed amendment and conduct a hearing.

WHEREAS, the County Charter should be amended to either eliminate the VGMC or limit the VGMC involvement to only when an objection to a comprehensive plan amendment is timely filed by another local governmental entity.

WHEREAS, eliminating the VGMC or limiting the role of the VGMC to its primary purpose will not adversely affect the public's right to participate in the adoption of the growth policies of the local governmental entities and to pursue the administrative review provided under State law.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PORT ORANGE, VOLUSIA COUNTY, FLORIDA AS FOLLOWS:

(RESO. NO. 15-77)

Section 1. The City Council of the City of Port Orange hereby requests the Volusia Charter Review Commission to recommend an amendment to the Volusia County Charter either eliminating the VGMC or alternatively limiting the jurisdiction of the VGMC to only conduct reviews and hearings of proposed comprehensive plan amendments of local governmental entities when an objection to a proposed comprehensive plan amendment is filed by another local governmental entity.

Section 2. The City Manager is hereby directed to forward this Resolution to the Volusia Charter Review Commission.

Section 3. If any section, subsection, sentence, clause, phrase, or portion of this Resolution, or application hereof, is for any reason held invalid or unconstitutional by any Court, such portion or application shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions or application hereof.

Section 4. This Resolution shall take effect upon adoption.

MAYOR ALLEN GREEN

ATTEST:

Robin L. Fenwick, CMC, City Clerk

Adopted this _____ day of _____, 2015.

Reviewed and Approved: _____
Margaret T. Roberts, City Attorney

RESOLUTION NO. 15-21

A RESOLUTION OF THE CITY OF SOUTH DAYTONA, VOLUSIA COUNTY, FLORIDA, REQUESTING THE VOLUSIA CHARTER REVIEW COMMISSION TO RECOMMEND AN AMENDMENT TO THE VOLUSIA COUNTY CHARTER ELIMINATING THE VOLUSIA GROWTH MANAGEMENT COMMISSION; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTING RESOLUTIONS; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the State Legislature adopted the Growth Management Act (Act), which requires local governmental entities to adopt comprehensive plans to establish policies for the future growth within their jurisdiction.

WHEREAS, furthermore it is the intent of the Act for counties and municipalities to cooperate and coordinate planning with each other, regional agencies and the State and specifically states:

It is the intent of this act to encourage and ensure cooperation between and among municipalities and counties and to encourage and ensure coordination of planning and development activities of units of local government with the planning activities of regional agencies and state government in accord with applicable provisions of law.

WHEREAS, in addition to the Act, in 1986 the Volusia County Charter (Charter) was amended to create the Volusia Growth Management Commission (VGMC) and the Charter amendment contained the following language:

There is hereby created the Volusia Growth Management Commission (hereafter commission). The commission shall have the power and the duty to determine the consistency of the municipalities' and county's comprehensive plans and any amendments thereto with each other.

WHEREAS, these two provisions clearly indicate that the main purpose of the VGMC is to provide a forum through which local governmental entities can resolve differences regarding comprehensive plans.

WHEREAS, if the role of the VGMC was limited to resolving disputes between local governmental entities regarding comprehensive plans, the VGMC would provide a valuable, cost saving service by avoiding the administrative hearing process provided in State law to resolve such disputes.

WHEREAS, however, the VGMC has not limited its role to resolving disputes among local governmental entities, but has become a forum that is used by opponents to growth and development to delay and frustrate the legislative growth policies adopted by local governmental entities.

WHEREAS, the VGMC has interpreted its role to intervene in growth management policy decisions even if all local governmental entities are in agreement as to consistency.

WHEREAS, the vast majority of the VGMC hearings have not been the result of disputes between local governmental entities, but objections filed by other parties.

WHEREAS, the VGMC is a costly process funded by the taxpayers of Volusia County. The VGMC reviews every proposed comprehensive plan amendment in Volusia County and hearings are easily requested. Such a process has been used to delay and frustrate growth. The VGMC is not required by State law and Volusia County is the only county in the State with such an added layer of review. This puts Volusia County at a disadvantage when competing with other jurisdictions for new businesses who do not have such an added layer of bureaucracy.

WHEREAS, each local governmental entity has the sovereign authority to adopt its own growth management policies thereby establishing how that community will grow.

The VGMC was never intended to be a second forum to review and hear objections to growth management policies adopted by local governmental entities. Such a review would violate the sovereignty of the local government to establish its own growth management policies. The VGMC should only be involved when a local government entity believes that a proposed comprehensive plan amendment of another local governmental entity would have adverse impacts beyond the adopting agencies jurisdiction and negatively impact adjacent local government entities. If a local governmental entity proposed a comprehensive plan amendment and no local governmental entity raises an objection, there is no need for the VGMC to review the proposed amendment and conduct a hearing.

WHEREAS, the County Charter should be amended to eliminate the VGMC.

WHEREAS, eliminating the VGMC will not adversely affect the public's right to participate in the adoption of the growth policies of the local governmental entities and to pursue the administrative review provided under State law.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF
THE CITY OF SOUTH DAYTONA, VOLUSIA COUNTY, FLORIDA AS FOLLOWS:**

Section 1. The City Council of the City of South Daytona hereby requests the Volusia Charter Review Commission to recommend an amendment to the Volusia County Charter eliminating the VGMC.

Section 2. The City Manager is hereby directed to forward this Resolution to the Volusia Charter Review Commission.

Section 3. If any section, subsection, sentence, clause, phrase, or portion of this Resolution, or application hereof, is for any reason held invalid or unconstitutional by any Court, such portion or application shall be deemed a separate, distinct, and

independent provision, and such holding shall not affect the validity of the remaining portions or application hereof.

Section 4. All resolutions made in conflict with this Resolution are hereby repealed.

Section 5. This Resolution shall take effect upon adoption.

PASSED AND ADOPTED at a meeting of the City Council of the City of South Daytona, Florida on the 10 day of November 2015.

GEORGE F. LOCKE III, MAYOR

ATTEST:

JOSEPH W. YARBROUGH, CITY MANAGER

APPROVED AS TO FORM:

SCOTT E. SIMPSON, ESQUIRE

EXHIBIT E

Deanie Lowe Handout



Volusia Growth Management Commission

TO: Volusia County Charter Review Commission

FROM: Gerald Brandon, Vice Chair Volusia Growth Management Commission

DATE: December 14, 2015

SUBJECT: Volusia Growth Management Commission

The Charter Review Commission (CRC) has three clear choices regarding the Volusia Growth Management Commission (VGMC).

First is to maintain the status quo.

Second is that the CRC puts the fate of the VGMC to the voters.

Third is to explore modifications to the rules and procedures of the VGMC.

My recommendation for exploration of modifications is based on the Deland Area Chamber of Commerce comments at pages 116 and 117 in the Agenda Package. The Chamber suggests reviewing 3 areas of VGMC Rules: 1) Creation of Minimum Thresholds Which Would Require a VGMC Review, 2) Standing, and 3) Review of Voting Rules/Committee Member Appointments. In other words, leave the Charter as is and review the operating Rules.

If the CRC agrees with that suggestion, my recommendation is that a committee of attorneys be appointed to make initial recommendations for Rules changes that could be brought back to the CRC for further review. To be presumptuous, those attorneys should represent the varied interests in the County and be knowledgeable about the VGMC. A suggested list of such attorneys is:

- 1) Rob Merrell - developer attorney
- 2) Glenn Storch - developer attorney
- 3) Scott Simpson - municipal attorney
- 4) Jamie Seaman - county attorney
- 5) James Stowers- developer attorney/city commissioner
- 6) Clay Henderson - developer attorney/public interest attorney
- 7) Paul Chipok - VGMC attorney

EXHIBIT F

Clay Henderson Handout

STETSON UNIVERSITY

December 14, 2015

Hon. Hyatt Brown
Chair Charter Review Commission
123 West Indiana Ave
DeLand, Florida 32720

Re: Volusia Growth Management Commission

Dear Chairman Brown and Commissioners:

We have been asked to provide information for your consideration regarding the Volusia Growth Management Commission (VGMC) as established by Sec. 202.3 Volusia County Charter. This is consistent with our charge to provide policy options to local governments for matters which might affect water and natural resource protection issues. Adoption and amendment of comprehensive plans pursuant to Florida's Community Planning Act is a major aspect of natural resource and water resource protection. The Act requires all local governments adopt comprehensive plans that "ensure the protection of natural and historic resources." Sec. 163.377(6)2 f, Florida Statutes.

The VGMC was submitted to the voters by the 1985-86 Charter Review Commission and ratified in 1986. The Volusia County Council adopted the consistency rules in 1987 as Ord. No. 87-24. These actions came on the heels of enactment of the Local Government Comprehensive Planning and Land Development Regulation Act (Chapter 85-55 Laws of Florida) commonly referred to as the Growth Management Act. The Growth Management Act required all units of local government to adopt a comprehensive plan with required elements, and that all zoning, land development regulations, and development orders be consistent with one another. Enforcement of the Act was through a compliance determination pursuant to Rule 9J-5 Florida Administrative Code by the Department of Community Affairs reviewable through an Administrative Hearing.

Section 163.3171, Fla. Stat. authorized charter counties to exercise authority under the Growth Management Act as "provided for in its charter." Volusia County and other urban charter counties took advantage of that provision by adopting special provisions for review of comprehensive plans within their jurisdiction. Pinellas County's charter provides for county-wide planning authority. Palm Beach County, Hillsborough County, and Broward County adopted county-wide planning agencies. Sarasota County and Miami Dade County have special charter provisions relating to its urban service area. Pursuant to home rule authority and the provisions of the Growth Management Act, Volusia County voters ratified the VGMC.

The VGMC is different from the other county charter provisions in that it focused on simply one narrow requirement of the Growth Management Act. "Consistency" was a major requirement of the Growth Management Act, but the term primarily meant consistency between state, regional, and local government comprehensive plans and consistency with land development orders.

Members of the 1985-86 CRC were concerned that the Act did not spell out means to achieve “consistency” among the county and various local governments within the county. The VGMC was proposed as a means to create a “level playing field” amongst the county and local government for consistency review of comprehensive plans. Their concern was that a city or county could establish levels of service for capital improvements or other substantive provisions which would have an adverse effect on an adjacent jurisdiction. There was also a concern that cities with aggressive annexation policies could essentially invite landowners to annex by lowering planning standards.

Prior to 2011, the comprehensive plan amendment process was lengthy and often tedious. Comprehensive plans could only be amended twice a year and the time for compliance review by the Department of Community Affairs often stretched out many months. The average time for review of a controversial comprehensive plan amendment was eighteen months and many were years in the making.

In 2011, the Legislature passed the Community Planning Act (Chapter 2011-139 Laws of Florida) which substantially re-wrote the process of growth management. Key provisions of the new law were the elimination of the Department of Community Affairs, repeal of Rule 9J-5, limitation of the scope of state review, elimination of the twice per year amendment requirement, and creation of a new “expedited review” process. Under the new process, state agencies have only 30 days to review a plan thus a comprehensive plan amendment can be adopted in roughly the same time period as a zoning application.

While the new law made sweeping changes, there are still fundamental aspects of growth management that remain. All units of local government are required to adopt comprehensive plans within their jurisdiction. Pinellas County’s charter provides for county-wide planning authority. Palm Beach County, Hillsborough County, and Broward County adopted county-wide planning agencies. Sarasota County and Miami Dade County have special charter provisions relating to its urban service area. Pursuant to home rule authority and the provisions of the Growth Management Act, Volusia County voters ratified the VGMC.

The VGMC is different from the other county charter provisions in that it focused on simply one narrow requirement of the Growth Management Act. “Consistency” was a major requirement of the Growth Management Act, but the term primarily meant consistency between state, regional, and local government comprehensive plans and consistency with land development orders. Members of the 1985-86 CRC were concerned that the Act did not spell out means to achieve “consistency” among the county and various local governments within the county. The VGMC was proposed as a means to create a “level playing field” amongst the county and local government for consistency review of comprehensive plans. Their concern was that a city or county could establish levels of service for capital improvements or other substantive provisions which would have an adverse effect on an adjacent jurisdiction. There was also a concern that cities with aggressive annexation policies could essentially invite landowners to annex by lowering planning standards.

While the new law made sweeping changes, there are still fundamental aspects of growth management that remain. All units of local government are required to adopt comprehensive plans and those plans as well as land development regulations and development orders must be consistent. Other key concepts such as data and analysis requirements, levels of service standards, compatibility, suitability, intergovernmental cooperation, and concurrency remain. Perhaps most important to this discussion is that a broadly defined “affected person” may still challenge a comprehensive plan amendment through an administrative hearing. These hearings tend to be very costly and time consuming to all involved.

The materials provided to the CRC make the argument that the VGMC is no longer needed after the passage of the Community Planning Act which expedites the planning process. On the other hand, it can be argued that the VGMC is needed now more than ever. The VGMC provides an opportunity for complex, complicated, or controversial plan amendments to resolve differences and avoid far more costs of an administrative hearing. VGMC provides a neutral third party review and forces early discussion and collaboration when there is a conflict. It gives the county, neighboring cities, and substantially affected persons the opportunity to reign in an overly aggressive applicant or city with its own agenda. Because no one city or the county controls the process it forces parties to seek agreement.

I have participated in VGMC hearings as an applicant, local government representative, or advocate for affected parties for 27 years and have participated in several of the longest and more controversial hearings during that time and have reached several conclusions. First, the VGMC forces parties to the table to discuss their issues and usually reach early agreement. Second, the addition of conditions of approval have made comprehensive plan amendments better for the county as a whole. Third, the process reduces the costs of litigation in the long run. Fourth, the VGMC review is very narrow in scope and the standing requirements are much higher than state law which effectively means only a few controversial cases are actually heard by the VGMC.

The materials presented by the VGMC staff to the CRC includes background on three cases where I have first-hand knowledge:

Restoration DRI. This was a 5000 acre annexation into the City of Edgewater for a development of regional impact at the Indian River Blvd interchange on I-95. Volusia County had significant objections to the annexation and development plans because of its concern that the proposed intense development would compromise its natural resource management area requirements. The county threatened to petition the VGMC for a hearing and the VGMC forced intense discussions between Edgewater, Volusia County, VGMC staff, East Central Florida Regional Planning Council, DCA, and Florida Audubon. The parties came to a settlement and the adopted amendment was hailed as a model of sustainability and smart growth. Though the project was a victim of the recession, it nonetheless has survived as a model for traditional neighborhood design, transect planning, and sustainable development.

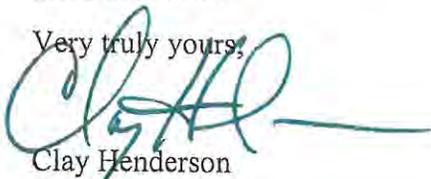
Farmton. The 60,000 acre Farmton Plan was the largest comprehensive plan amendment in Florida’s history. It was also the subject of one of the most protracted administrative hearing challenges under both the Growth Management Act and Community Planning Act. The

Farmton Hearing before the VGMC is remembered to be the longest such hearing and one of the closest votes. VGMC played a critical role in forcing parties to the table, narrowing issues, and pushing the applicant to make concessions which would prove pivotal during the later administrative challenges. VGMC conditions made the project better, more sustainable, more conservation minded, and better focused on infrastructure planning that would impact all of Volusia County. The Farmton Plan was approved by the VGMC, found in compliance by DCA, and sustained by an administrative law judge following an administrative hearing. The Farmton Plan has received numerous planning awards including recognition from the Florida Chapter of the American Planning Association, and Governor's Council for a Sustainable Florida.

Oak Hill. The Oak Hill comprehensive plan case is a prime example of the value of the VGMC to reign in a "rogue city." Oak Hill proposed a plan amendment which would have authorized the largest industrial facility in the county to be placed on a site with no infrastructure and adjacent to sensitive natural resources within a national park. In the interest of expediting economic development, the Mayor and at least one other commissioner signed "confidentiality agreements" while other commissioners met in secret meeting to be briefed about the plan. The comprehensive plan amendment was reviewed and transmitted with minimal public notice, without any supporting data and analysis for the plan, and no plan to provide infrastructure to the site. Substantially affected parties indicated their interest in challenging the amendment and VGMC provided a thorough analysis and recommended conditions for approval. The hearing was lengthy because neighbors to the site were late in learning of the plan amendment due to the minimal amount of notice provided. Even the chair of the city's planning board testified against the plan due to her concerns about public notice and the secretive aspects of the plan. After a lengthy hearing, most of the staff recommended conditions were accepted by the VGMC. Subsequently, Oak Hill adopted the comprehensive plan amendment, but without incorporating the VGMC conditions. An adjoining neighbor filed a petition for a state administrative hearing and faced with the cost and time delay the City and adjoining neighbor settled for acceptance of the VGMC staff conditions. This case was cited by the opponents as reason to eliminate the VGMC but it is case of the VGMC doing its job. Without the staff recommendations that effectively remedied this flawed amendment, the City would have faced a lengthy and costly state administrative hearing.

The Volusia Growth Management Commission has stood the test of time by improving the quality of comprehensive planning in our community. It is a good working example of intergovernmental cooperation and provides substantially affected citizens the opportunity to address planning conflicts locally rather than through the state administrative procedure process. Given the current state of growth management process in Florida, the VGMC is needed now more than ever.

Very truly yours,



Clay Henderson
Executive Director
Institute for Water and Environmental Resilience

EXHIBIT G

Volusia County Association for Responsible Development
(VCARD) Handout



Dec. 14, 2015

To: Members of the Volusia County Charter Review Commission:

The Volusia County Association has not taken a formal stand on the current or future status of the Volusia Growth Management Commission – as there are many of our members who on both sides of the fence regarding this topic.

AND the VCARD leadership felt it would be more in line with our mission as an educational group to forward an objective survey to the membership and present to you the results from members who have a particular interest in this topic.

While we did not receive a large number of written responses, we feel that the responses received provide some valuable insights – and will be beneficial to you in researching this issue. They are being presented to you tonight.

Thank you.

Charles Faulkner (Faulkner & Associates)

VCARD Chair-Elect

Dave Castagnacci

Subject: FW: REMINDER: VCARD member survey regarding VGMC...please read and respond

Dec. 10, 2015

To: All VCARD Members

From: VCARD Chair **Shailesh Patel**

Re: **VCARD Member survey on Volusia Growth Management Commission (VGMC)**

Dear VCARD Member,

As you likely are aware, Volusia County government's **Charter Review Commission** (of appointed citizens) is going through the 10-year review of our county's "constitution" to determine if any changes should be recommended to voters as referendum topics in the November 2016 election.

At the **December 14 meeting**, the Charter Review Commission (CRC) will specifically **address the topic of Volusia Growth Management Commission (VGMC)**. As part of the discussion, CRC members are seeking input from the public – and particularly interested VCARD members. The meeting will be at 5:30 p.m. in the Volusia Room of the Daytona International Airport. ***Should you have any thoughts or suggestions regarding the VGMC***, we encourage you to submit them to VCARD by way of dave@daytonachamber.com AND to also **attend the December 14 meeting of the CRC**.

VGMC BACKGROUND:

The VGMC was incorporated into the Volusia County charter by way of referendum (in November 1986) stemming from that year's 10-year Charter Commission review.

According to the charter:

"The commission shall have the power and the duty to determine the consistency of the municipalities' and the county's comprehensive plans and any amendments thereto with each other. The commission may perform such other directly related duties as the commission from time to time deems necessary.

"The determination by the commission shall be binding on the submitting government. No plan, element of a plan, or amendment of a plan adopted after the date this article becomes law shall be valid or effective unless and until such plan, element of a plan, or amendment has been reviewed by the commission and has been certified as consistent."

The continued existence, elimination or modification of the **VGMC is considered one of the primary discussion topics of this year's Charter Review Commission** . Input from VCARD members that would be helpful:

- Do you think the VGMC should continue its existence and duties as currently structured and chartered?
- Do you think the VGMC should be eliminated?
- Do you think the VGMC should be maintained but modified in structure and powers? And if so, how?
- In your opinion, what are the advantages and / or disadvantages of the VGMC to Volusia County's growth management and intergovernmental cooperation?

All membership input received will be submitted to the Charter Review Commission at the Dec. 14 meeting.

Thank you very much in advance for your support of this important project. *Shailesh.*

To: VCARD

From: Deanie Lowe
 An original & current member of VCARD
 10-year member of Ormond Beach Planning Board
 4-year member of Volusia County Council (chairman 1992)
 12 years as Volusia County Supervisor of Elections

Re: Volusia Growth Management Commission

Thank you for giving members the opportunity to comment on the Volusia Growth Management question. My responses are as follows:

I strongly believe that the VGMC should continue its existence and duties as currently structured and chartered.

Reasons: I served on the 1985/86 Charter Review Commission that developed the ballot language for creating the VGMC. The need for it then, as well as now, is to provide a level playing field among all municipalities and our County government in comprehensive plan matters. No one comp plan takes precedence over another; each is considered equally when determining consistency and intergovernmental coordination. The VGMC allows us to keep that coordination at the *local* level, instead of those decisions being made in Tallahassee. Every city and the County have representation on the VGMC, with weighted votes to reflect the sizes of their populations.

Most (if not all) of our cities use VGMC consistency certification to meet the State's Intergovernmental Coordination Element requirements in their comp plans. Were the VGMC to be abolished, local governments would have to rewrite their elements, to establish a process similar to VGMC, but would sacrifice local control for state oversight.

If the consensus is that VGMC should be modified in structure and/or powers, I think it will be found that such changes can be made with simple amendments to the current County-approved rules and procedures that VGMC follows.

Reasons: The recent push to do something about the VGMC appears primarily to center on the issue of "standing" and what can constitute an "aggrieved party." If VCARD believes this should be limited to adjoining governmental jurisdictions, that definition could be incorporated into the VGMC rules. It would take a recommendation from VGMC to the County Council, where the Council can approve it without having to place a question on the ballot. I believe that, if this

course is recommended by the Charter Review Commission, the VGMC would have no problem with following through on it.

Contrary to some claims, the VGMC does not meddle with a local government's zoning. When a jurisdiction submits a comp plan amendment, if not enough data is included to enable the VGMC to consider impacts on adjoining jurisdictions, the VGMC grants Conditional Certification, allows an amendment to move forward and provides a means to address the impacts later in the development process, when they can be accurately measured. This is the type of approval that was given for the comp plan amendment for Blue Origin in Oak Hill.

In closing, I would like to point out that the VGMC has reviewed nearly 600 applications since 2005, only 28 of which went to public hearings. The rest were approved by administrative letter of consistency being issued, usually within 35 days. That review time runs concurrent with (and well within) review time at the state level. In my opinion, this does not look like a track record that indicates we should suddenly want to abolish the VGMC or render it a toothless tiger.

Dave Castagnacci

Subject: FW: REMINDER: VCARD member survey regarding VGMC...please read and respond

Subject: RE: REMINDER: VCARD member survey regarding VGMC...please read and respond

The VGMC should be maintained, but with standing limited to only the case-specific impacted municipalities and the county. This presupposes such a limit on standing would be permitted under constitutional, statutory and case law.

Citizens and affected parties not having standing can still participate in VGMC hearings and comment as members of the public. Affected and aggrieved parties always have the right to intervene at city/county development review public hearings, but not so at VGMC hearings which should solely resolve inter-governmental comp plan inconsistencies, not the merits or desirability of specific development projects. The Charter should be amended to specifically include this narrowed scope of standing in the rules of procedure, leaving all other rules up to the commission to determine and the council to approve.

Our market based economy is extremely dynamic and is filled with uncertainty and unpredictability. Unnecessary reviews and inconsistent and delayed decisions by government policy makers and boards increases uncertainty and discourages business investment and job creation. We need to wring as much time and uncertainty as possible out of our development review processes while still providing citizens the opportunity to comment and participate. Investment capital goes where it is welcomed, appreciated and well-treated.

Wished to remain anonymous

Dave Castagnacci

Subject: FW: REMINDER: VCARD member survey regarding VGMC...please read and respond

My responses below.....

M. Dwight DuRant, P.E.

President

ZEVCOHEN
ASSOCIATES INC

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 Find us on
Facebook

From: Dave Castagnacci [<mailto:dave@daytonachamber.com>]

Sent: Thursday, December 10, 2015 3:22 PM

To: Dave Castagnacci

Subject: REMINDER: VCARD member survey regarding VGMC...please read and respond

Dec. 10, 2015

To: All VCARD Members

From: VCARD Chair **Shailesh Patel**

Re: **VCARD Member survey on Volusia Growth Management Commission (VGMC)**

Dear VCARD Member,

As you likely are aware, Volusia County government's **Charter Review Commission** (of appointed citizens) is going through the 10-year review of our county's "constitution" to determine if any changes should be recommended to voters as referendum topics in the November 2016 election.

At the **December 14 meeting**, the Charter Review Commission (CRC) will specifically **address the topic of Volusia Growth Management Commission (VGMC)**. As part of the discussion, CRC members are seeking input from the public – and particularly interested VCARD members. The meeting will be at 5:30 p.m. in the Volusia Room of the Daytona International Airport. ***Should you have any thoughts or suggestions regarding the VGMC***, we encourage you to submit them to VCARD by way of dave@daytonachamber.com AND to also **attend the December 14 meeting of the CRC**.

VGMC BACKGROUND:

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According to the charter:

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"The determination by the commission shall be binding on the submitting government. No plan, element of a plan, or amendment of a plan adopted after the date this article becomes law shall be valid or effective unless and until such plan, element of a plan, or amendment has been reviewed by the commission and has been certified as consistent."

The continued existence, elimination or modification of the **VGMC is considered one of the primary discussion topics of this year's Charter Review Commission** . Input from VCARD members that would be helpful:

- Do you think the VGMC should continue its existence and duties as currently structured and chartered? **No**
- Do you think the VGMC should be eliminated? **Yes**
- Do you think the VGMC should be maintained but modified in structure and powers? And if so, how? **If it stays, then yes. It is dated and very contrary to growth management. But, it should be abolished. As long as it exists, then there will be the ability for anyone to hi-jack a project for their own interests. There are other venues to vet the good of a public project.**
- In your opinion, what are the advantages and / or disadvantages of the VGMC to Volusia County's growth management and intergovernmental cooperation? **There are no advantages. It is outdated and no longer serves a purpose. It is a costly bureaucratic process that Volusia County is self-inflicting themselves with. Other Counties don't do this, thus we are at a disadvantage. Here are some critical points:**
 1. **The process is repetitive and does not provide for a "better" plan so it will negatively impact time-sensitive development projects.**
 2. **ALL local plans have to include an interlocal coordination element that mandates coordination and cooperation with surrounding cities, counties, regional planning councils and state agencies' plans.**
 3. **The VGMC has expanded its focus to local zoning, even when adjoining cities and Volusia County have not raised any issues with proposed amendments.**
 4. **The elimination of the VGMC will not result in a shunning of the general public's input into the planning process. There are multiple levels of public outreach throughout the process that affords opportunity to the public to comment and identify issues.**
 5. **There are direct and indirect costs to cities and Volusia County that do not have a corresponding benefit.**

All other levels of government are streamlining their process and requirements, but we have not done anything to reduce the time and expense for this relatively unique planning process

All membership input received will be submitted to the Charter Review Commission at the Dec. 14 meeting.

Thank you very much in advance for your support of this important project. *Shailesh.*

Dave Castagnacci

Subject: FW: REMINDER: VCARD member survey regarding VGMC...please read and respond

From: jesse owens [mailto:jessesamowens@aol.com]

Sent: Thursday, December 10, 2015 4:47 PM

To: Dave Castagnacci <dave@daytonachamber.com>

Subject: Re: REMINDER: VCARD member survey regarding VGMC...please read and respond

I had the dubious distinction of bringing the very first matter before the GMC. My city project was certified to be consistent with both city and county laws, although I remember being very concerned that the vagueness of the consistency requirement, as written, seemed to give almost unlimited discretion to the Commission to find inconsistencies in most any project. I recall mentioning this to the Commission and their Attorney.

The language creating the GMC is so vague that the commission is left in a position to potentially be either a “rubber stamp” board, or a dead end gadfly board failing to find consistency at it’s whim. The famous baseball catcher/announcer, Joe Garagiola often said “Ahhhhhhh, Consistency, thou art a jewel”. Albert Schweitzer, on the other hand, spoke that —“Consistency is the last refuge of the unimaginative”. Another philosopher, whose name i can’t recall, quoted that Consistency is the hobgoblin of small minds. Consistency, as with beauty, is always in the eye of the beholder. There is no place for that term in trying to compare complex environmental and land us laws which vary in terms almost across the board, while being arguably consistent or inconsistent, in effect.

And where does this leave us when a city or a county enacts a requirement that is really, really dumb, and therefore inconsistent with existing smart requirements in other jurisdictions. All projects that follow either the dumb or smart requirements would be held in limbo until the matter is resolved. The inconsistency determination could go for years.

In essence, the GMC was a bad idea originally, has been a bad idea for years, and is a bad idea now. It is one of the most formidable potential tools in the pockets of no growth advocates. We need another bureaucracy like we need a hole in the head. I wish someone would calculate the millions spent by the County for this Commission, its attorneys and staff, and then add to that the millions spent by

parties trying to get their projects approved, their attorneys and consultants and then divide that figure by the good that has been accomplished. What has the Commission accomplished in our county that has not been accomplished by all other jurisdictions that have no such Commission?

I wish that someone would do this. It's really too big for VCARD. Someone would have to wade through history and document the atrocities and the projects that were stopped. I've spoken to the possibility for abuse, and I'm sure that it's happened. Yet, specific examples of harm are so much better, yet involve so much work. Well, that's my opinion for what it's worth. I've advocated from the beginning the elimination of the VGMC. Good luck with that. Sam Owens

Dave Castagnacci

Subject: FW: thank you

From: Alex Ford [<mailto:aford@landispa.com>]

Sent: Thursday, December 10, 2015 6:05 PM

To: Dave Castagnacci <dave@daytonachamber.com>

Subject: RE: REMINDER: VCARD member survey regarding VGMC...please read and respond

We should either eliminate the VGMC or drastically alter it.

My preference would be elimination but, if complete elimination is not politically palatable, there are other possible roles. For example, it could be revised to serve as a facilitator for resolution of intergovernmental comprehensive planning disputes under very specific standards. In no event should it serve as a vehicle for the general public to challenge a comprehensive plan action. Participation should be limited to an affected municipality or, where affected, the county. The standard for determining an affected party should also be specified.

I would also like to suggest that if VGMC remains in place, there should be no review unless an affected city or the county asks for it. If the affected bodies do not object, VGMC should not independently bring up the issue. Also, for your information I have served on the county's charter review commission twice previously. Merry Christmas! Alex

Thanks!

F. A. (Alex) Ford, Jr.

Landis Graham French, P.A.

145 E. Rich Avenue, Suite C

DeLand, FL 32720

Dave Castagnacci

Subject: FW: VCARD member survey regarding VGMC...please read and respond

To: Dave Castagnacci

Subject: VCARD member survey regarding VGMC...please read and respond

Dec. 2, 2015

To: All VCARD Members

From: VCARD Chair **Shailesh Patel**

Re: **VCARD Member survey on Volusia Growth Management Commission (VGMC)**

Dear VCARD Member,

As you likely are aware, Volusia County government's **Charter Review Commission** (of appointed citizens) is going through the 10-year review of our county's "constitution" to determine if any changes should be recommended to voters as referendum topics in the November 2016 election.

At the **December 14 meeting**, the Charter Review Commission (CRC) will specifically **address the topic of Volusia Growth Management Commission (VGMC)**. As part of the discussion, CRC members are seeking input from the public – and particularly interested VCARD members. The meeting will be at 5:30 p.m. in the Volusia Room of the Daytona International Airport. ***Should you have any thoughts or suggestions regarding the VGMC***, we encourage you to submit them to VCARD by way of dave@daytonachamber.com AND to also **attend the December 14 meeting of the CRC**.

VGMC BACKGROUND:

The VGMC was incorporated into the Volusia County charter by way of referendum (in November 1986) stemming from that year's 10-year Charter Commission review.

According to the charter:

"The commission shall have the power and the duty to determine the consistency of the municipalities' and the county's comprehensive plans and any amendments thereto with each other. The commission may perform such other directly related duties as the commission from time to time deems necessary.

"The determination by the commission shall be binding on the submitting government. No plan, element of a plan, or amendment of a plan adopted after the date this article becomes law shall be valid or effective unless and until such plan, element of a plan, or amendment has been reviewed by the commission and has been certified as consistent."

The continued existence, elimination or modification of the **VGMC is considered one of the primary discussion topics of this year's Charter Review Commission** . Input from VCARD members that would be helpful:

- Do you think the VGMC should continue its existence and duties as currently structured and chartered? **No as I do not believe they are reviewing any municipality changes for consistency at all. The purpose seems mostly to review the Charter when required.**
- Do you think the VGMC should be eliminated? **Yes or at least restructured.**
- Do you think the VGMC should be maintained but modified in structure and powers? And if so, how? **Yes, maintained if restructured to serve a purpose to maintain minimum standards throughout the county and work with the cities and not against them. Otherwise, what is the purpose of the charter anymore?**
- In your opinion, what are the advantages and / or disadvantages of the VGMC to Volusia County's growth management and intergovernmental cooperation? **Advantages are to assist to guide and educate the cities on the charter and the minimum standards and review the minimum standards periodically as they may sometimes restrict the economic development of the municipality (but only if this is being done)**
 . **Disadvantages - not enough time to help review comp plan amendments and ordinance changes proposed by the cities and they may slow municipalities progress and restrict independence.**

Based on membership input received from this memorandum, VCARD's leadership will determine our direction in providing input to the Charter Review Commission as an association.

Thank you very much in advance for your support of this important project. *Shailesh.*

WISHED TO REMAIN ANONYMOUS

Dave Castagnacci

Subject: FW: question regarding VCARD survey

Sent: Thursday, December 3, 2015 10:19 AM

To: Dave Castagnacci <dave@daytonachamber.com>

Subject: RE: VCARD member survey regarding VGMC...please read and respond

Eliminate.

Wished to remain anonymous

Dave Castagnacci

Subject: FW: VCARD member survey regarding VGMC...please read and respond

Subject: Re: VCARD member survey regarding VGMC...please read and respond

I believe that VGMC should be eliminated.

Thank you.

Wished to remain anonymous

From: John Duckworth
To: VCCharterReview
Date: 12/14/2015 8:26 AM
Subject: Fwd: VOLUSIA CHARTER REVIEW

>>> Dwight Selby <dselby@selbyrealty.com> 12/11/2015 10:33 PM >>>

Hello Mr. Duckworth, Please forward my comments to the Charter Review Committee for their meeting Monday December 14th.

To: Volusia Charter Review Committee

Please accept these comments in writing. I would be there in person if I did not have a conflict with the Ormond Beach MainStreet Design Committee. I have signed the recommendation to disband the Volusia Growth Management Commission for the following reasons:

- 1.It's REDUNDANT. The current growth management laws accomplish everything the VCMC does.
- 2.It's EXPENSIVE. In excess of \$150,000 per year of taxpayer money.
- 3.The VGMC has given STANDING to persons or entities that should not have standing.
- 4.The representatives are NOT ACCOUNTABLE to the cities they represent.
- 5.Cities that ARE NOT AFFECTED by the action decide the fate of items in other cities.
- 6.The VGMC suffers from MISSION CREEP. It has expanded its focus beyond its original intent.
- 7.If an affected party disagrees with the decision of the VGMC there is NO RECOURSE except a lawsuit. And finally.....
- 8.In the development world, time is money and the VGMC frequently issues RAIs - requests for additional information - which cause LENGTHY, EXPENSIVE & CRITICAL DELAYS.

Thank you for your consideration and for your service to the citizens of Volusia County.

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I'm running for Ormond Beach City Commission Zone 1
Bringing believers together www.MenOfFaithFlorida.com
Cuba Mission Trip Spring 2016

Charter Article III
January 11, 2016

ITEMS OF CONSIDERATION: Staff support for Council members, electing At-Large Council member to serve as Vice-Chair of County Council, term limits, Council member compensation, agenda modifications by County Chair, setting of Council agenda, votes that require 2/3 of Council, voting of agenda items by Council Chair

ARTICLE III. - LEGISLATIVE BRANCH—COUNTY COUNCIL

Sec. 301. - Composition.

The council shall be composed of six members and the county chair. There shall be five council districts. Each district shall elect one council member. One council member shall be elected at large. The county chair shall be elected at large.

(Ch. 70-966, Laws of Florida (Sp. Acts), Art. III, § 301; Res. No. 96-121, Amend. No. 1, 6-20-96; Res. No. 2002-149, § 1, 9-5-02)

Sec. 301.1. - Council districts.

After every decennial census and prior to the next ensuing general election, the council shall prepare a plan for the reapportionment of the five districts to insure division into contiguous territory as nearly equal in population as practicable. The council shall review and adopt the reapportionment plan as an ordinance by a two-thirds vote of the full council. If the council is unable to complete the reapportionment of the council districts within six months after the official publication of the census, the county attorney upon authorization of the council or petition of twenty-five electors of the county shall petition the circuit court having jurisdiction in the county to make such reapportionment.

(Ch. 70-966, Laws of Florida (Sp. Acts), Art. III, § 301.1; Res. No. 96-121, Amend. No. 1, 6-20-96; Res. No. 2002-149, § 1, 9-5-02)

Sec. 302. - Qualifications.

The county chair and members of the county council shall be qualified electors of the county, and shall have been residents of the county for two years immediately preceding the date on which they qualify to run for office. The five members elected from districts shall have resided within the district from which they are elected for at least six months prior to the date on which they qualify to run for office. Any such council member who shall move residency from the district from which elected shall thereupon become disqualified to represent said district as council member and the office of the council member shall be deemed vacant.

AGENDA ITEM VI

(Ch. 70-966, Laws of Florida (Sp. Acts), Art. III, § 302; Res. No. 96-121, Amend. No. 1, 6-20-96; Res. No. 2002-149, § 1, 9-5-02)

Sec. 303. - Terms of office.

Sec. 303.1. - District council members.

Each council member elected from a district shall be elected for a term of four years. Members from even numbered districts shall be elected in years the numbers of which are multiples of four. Members from odd numbered districts shall be elected in years the numbers of which are not multiples of four. As an exception, at the election following a reapportionment, all districts shall elect council members and the districts not otherwise scheduled herein for election shall elect members for two-year terms.

(Ch. 70-966, Laws of Florida (Sp. Acts), Art. III, § 303.1; Res. No. 96-121, Amend. No. 1, 6-20-96; Res. No. 2002-149, § 1, 9-5-02)

Sec. 303.2. - At large member.

The council member elected at large shall be elected for a term of four years in the years the numbers of which are not multiples of four.

(Ch. 70-966, Laws of Florida (Sp. Acts), Art. III, § 303.2; Res. No. 96-121, Amend. No. 1, 6-20-96; Res. No. 2002-149, § 1, 9-5-02)

Sec. 303.3. - County chair.

The county chair shall be elected for a term of four years in which the numbers are multiples of four.

(Res. No. 2002-149, § 1, 9-5-02)

Sec. 303.4. - Terms.

The term of the county chair or a council member shall begin the first day of January after election. The county chair or a council member shall continue in office after the end of the term until a successor is duly elected and qualified.

(Res. No. 2002-149, § 1, 9-5-02)

Sec. 303.5. - Limitation of tenure.

No person may appear on the ballot for re-election as a district council member, at large council member or county chair if by the end of the current term of office, the person will have served (or, but for resignation, would have served) in that office for eight consecutive years.

(Res. No. 2002-149, § 1, 9-5-02)

Sec. 304. - Compensation.

AGENDA ITEM VI

The salary of a council member shall be 50% percent of that prescribed by law for the office of county commissioner. The salary for the county chair shall be 60% percent of that prescribed by law for the office of county commissioner. The salaries shall constitute full compensation for all services and in-county expenses, except that out-of-county expenses, as permitted by law, shall be authorized.

(Ch. 70-966, Laws of Florida (Sp. Acts), Art. III, § 304; Res. No. 84-155, Amend. No. 1, 9-6-84; Res. No. 2002-149, § 1, 9-5-02)

Sec. 305. - Vacancies and suspensions.

Vacancies in the county chair's, any council member's or other elected office under this charter government shall be filled in accordance with the Constitution and laws of Florida. Suspensions from office for cause shall be in accordance with the Constitution of Florida.

(Ch. 70-966, Laws of Florida (Sp. Acts), Art. III, § 305; Res. No. 2002-149, § 1, 9-5-02)

Sec. 306. - Meetings and organization.

The organizational meeting of the council shall be held on the first Thursday after the first Monday of January. The council shall provide for the manner, time and place for holding all regular council meetings. The county manager shall prepare and the county chair may supplement an agenda prior to each meeting. Upon the commencement of the meeting, the agenda is subject to action of the council.

(Ch. 70-966, Laws of Florida (Sp. Acts), Art. III, § 306; Res. No. 96-121, Amend. No. 1, 6-20-96; Res. No. 2002-149, § 1, 9-5-02)

Sec. 306.1. - Special meetings.

Special meetings may be held on call of the chair or two (2) or more members of the council. Upon call for a special meeting, the county manager shall give adequate public notice of the time, place and purpose of the meeting in accordance with the procedures established in the administrative code. Action by the council at a special meeting shall be limited to the purpose for which the special meeting was called.

(Ch. 70-966, Laws of Florida (Sp. Acts), Art. III, § 306.1; Res. No. 96-121, Amend. No. 1, 6-20-96)

Sec. 306.2. - Location of meetings.

The council shall meet at the county seat except that it may determine from time to time, the place or places within the county at which the council shall meet for the purpose of conducting its business, provided that notice of the time and place shall be published in a daily newspaper of general circulation in the county at least one (1) week prior to the holding of any such meeting outside the county seat. Such notice shall contain an agenda of all matters to be acted upon.

(Ch. 70-966, Laws of Florida (Sp. Acts), Art. III, § 306.2; Res. No. 96-121, Amend. No. 1, 6-20-96)

Sec. 307. - Powers.

AGENDA ITEM VI

The council shall have all jurisdiction and powers which are now and which hereafter may be granted to it by the Constitution and laws of Florida provided that such powers shall be exercised in a manner consistent with this charter. The council, in addition to the powers and duties provided in this charter, shall have the specific powers and duties to:

- (1) Appoint by a two-thirds (2/3) vote of the full council and remove by a majority vote of the full council, the county manager.
- (2) Adopt such ordinances as may be necessary to carry out both county and municipal powers and purposes.
- (3) Review the budgetary requests including salaries and make the final budgetary determinations and appropriations for all county governmental operations including, but not limited to county management, all administrative departments of the government, the judicial system, adjustment boards and special authorities and tax districts which request a portion of the millage levied for county purposes under the Constitution of Florida or such other millage as may be levied by the county for municipal service districts excepting the school system.
- (4) Adopt, amend and repeal an administrative code by a two-thirds (2/3) vote of the full council.
- (5) In addition to the state audit provided by law, shall cause an annual independent post-audit by a certified public accountant of any and all government operations of the charter government.
- (6) Adopt and amend a merit system which shall include a salary schedule for all personnel in accordance with the provisions of this charter.
- (7) Adopt by a two-thirds (2/3) vote of the full council such rules of parliamentary procedures as shall be necessary for the orderly transaction of the business of the council.
- (8) The council shall designate which officers and employees shall be bonded and shall fix the amount and approve the form of the bond.
- (9) Appoint by a two-thirds (2/3) vote of the full council and remove by a majority vote of the full council, the county attorney.

(Ch. 70-966, Laws of Florida (Sp. Acts), Art. III, § 307; Res. No. 76-89, Amend. No. 6, 9-16-76; Res. No. 96-121, Amend. No. 4, 6-20-96)

Sec. 307.1. - The county chair.

The office of the county chair shall have all jurisdiction and powers which are now and which hereafter may be granted to it by the Constitution and laws of Florida provided that such powers shall be exercised in a manner consistent with this charter. The county chair, in addition to the powers and duties provided by this charter, shall have the specific powers and duties to:

1. Serve as the official and ceremonial representative of the government.
2. Issue proclamations on behalf of the government, which shall be reported to the county council upon issuance.
3. Preside as chair of and in all other respects participate in the meetings of the county council and have an equal vote on all questions coming before it.
4. Execute ordinances, resolutions and other authorized documents of the government.
5. Serve ex-officio as the county government's representative, and appoint others to serve in the county chair's stead, on other bodies external to county government.
6. Serve as the county council representative, and appoint county council members to serve in the county chair's stead, on other bodies internal to county government.

AGENDA ITEM VI

The county council shall elect at its first meeting in January a council member to serve at its pleasure for a one-year term as vice chair of the county council to preside in the temporary absence, disqualification or disability of the county chair at county council meetings and perform other duties assigned by the county chair.

(Res. No. 2002-149, § 1, 9-5-02)

Sec. 307.2. - Annual report.

The county chair shall report annually to the county council and residents the activities of county government for the previous year and the status of accomplishment of existing goals and objectives. The report shall set forth new and revised goals and objectives for future action. Subsequently, the county council shall meet to consider adoption of a plan of action for implementation of the goals and objectives.

(Res. No. 2002-149, § 1, 9-5-02)

Editor's note— Section 307.2 contained transition provisions relative to the terms and election of council members in 2005. The transition provisions were to be repealed and deleted from the charter January 1, 2005. At the direction of the county the provisions have been removed.

Sec. 308. - Legislative procedures.

The council may take official action only by the adoption of ordinances, resolutions or motions. Except as otherwise provided by this charter, all ordinances, resolutions or motions shall be adopted by majority vote in accordance with the provisions of the Constitution and laws of Florida. A majority of the full council shall constitute a quorum and shall be required to adopt, amend or repeal any ordinance. A majority of those present shall be required to adopt, amend or repeal a resolution or motion under the terms of this provision. All members in attendance, including the chairman or presiding officer, shall vote on all council actions.

(Ch. 70-966, Laws of Florida (Sp. Acts), Art. III, § 308)

Sec. 308.1. - Code of ordinances.

The council shall provide for the authentication and recording in full, in a properly indexed book kept for the purpose, of all minutes of meetings, ordinances and resolutions adopted by the council and the same shall, at all times, be a public record. The council shall further maintain a current codification of all ordinances. Such codification shall be published and made available for distribution on a continuing basis.

(Ch. 70-966, Laws of Florida (Sp. Acts), Art. III, § 308.1)

Sec. 309. - Investigations.

Pursuant to powers granted by this charter, the council may make investigation into the affairs of the county governmental operations, and for this purpose the council shall cause subpoenas to be issued for witnesses, administer oaths, take testimony and require the production of evidence before the council in session. Any person who fails or refuses to obey such subpoena issued in the exercise of those powers by the council, shall be guilty of a misdemeanor upon conviction and punished according to law.

(Ch. 70-966, Laws of Florida (Sp. Acts), Art. III, § 309)

Charter Article III A

January 11, 2016

ITEMS OF CONSIDERATION:

Sec. IIIA.1. - County attorney.

There shall be a county attorney who shall be appointed by the council and who shall serve at the direction and pleasure of the council. The county attorney shall be chosen on the basis of professional training, experience and qualifications. The county attorney shall maintain residence within the county during the period of tenure of office and shall not engage in any other business or occupation.

Sec. IIIA.2. - Compensation.

The council shall establish the salary for the county attorney at a level which is commensurate with the requirements of the position and shall at least annually review the salary.

Sec. IIIA.3. - Temporary absence.

The county attorney may, subject to the approval of the council, appoint one of the assistant county attorneys to serve as the county attorney in the county attorney's absence.

(Res. No. 96-121, Amend. No. 4, 6-20-96)

Charter Article V
January 11, 2016

ITEMS OF CONSIDERATION: Location of County court facilities

ARTICLE V. - JUDICIAL SYSTEM

Sec. 501. - Duties of the county council in respect to courts.

The council shall have the powers and duties with respect to the various courts of the State of Florida provided by the Constitution and laws of Florida and this charter.

(Ch. 70-966, Laws of Florida (Sp. Acts), Art. V, § 502; Res. No. 76-89, Amend. No. 7, 9-16-76; renumbered Res. No. 96-121, Amend. No. 1, 6-20-96)

Sec. 502. - Judicial offices.

The office of the clerk of the circuit court and all other offices of the various courts of the county shall continue, and all laws applicable thereto shall continue in full force and effect except as herein expressly provided to the contrary. The clerk shall qualify, be nominated, elected and serve as is provided by the Constitution and laws of Florida.

(Ch. 70-966, Laws of Florida (Sp. Acts), Art. V, § 503; renumbered Res. No. 96-121, Amend. No. 1, 6-20-96)

ARTICLE VI. - ADMINISTRATIVE DEPARTMENTS OF THE GOVERNMENT

Charter Article VII

January 11, 2016

ITEMS OF CONSIDERATION: Ethics, creation of an ethics board

ARTICLE VII. - ADJUSTMENT, REGULATORY AND ADVISORY BOARDS

Sec. 701. - Initial boards.

The council may create by ordinance, specifying the duties and membership thereof, such adjustment, regulatory and advisory boards as it finds necessary. Members of these boards shall serve without compensation, except for necessary expenses approved by the council. All such boards shall be part of the charter government and shall utilize the services of the department of central services and the department of legal services.

(Ch. 70-966, Laws of Florida (Sp. Acts), Art. VII, § 701)

Charter Article VIII

January 11, 2016

ITEMS OF CONSIDERATION:

ARTICLE VIII. - SCHOOL SYSTEM

Sec. 801. - Relation to the charter government.

All those functions now performed by the board of county commissioners, the tax assessor and tax collector for the district school board after the effective date of this charter, shall be performed by the appropriate department or division of the charter government.

(Ch. 70-966, Laws of Florida (Sp. Acts), Art. VIII, § 801)

Charter Article IX

January 11, 2016

ITEMS OF CONSIDERATION:

ARTICLE IX. - ELECTIONS

Sec. 901. - Commencement of terms.

Sec. 901.1. - Election procedures.

- (1) Except as otherwise provided by this charter, elections for county council members shall be held at the time of the general election in every even year.
- (2) Except as otherwise provided by this charter, candidates for county offices shall qualify in accordance with the laws of Florida.
- (3) In the event that more than two candidates have qualified for any single seat under the chartered government, a primary election shall be held at the time of the first state primary election prior to the general election and providing no candidate receives a majority of the votes cast, the two candidates receiving the highest vote shall be placed on the ballot for election at the time of the general election.

(Ch. 70-967, Laws of Florida (Sp. Acts), § 1)

Editor's note— Subsection 3 was added to § 901.1 by Ch. 70-967, Laws of Florida (Sp. Acts), § 1, which was approved at a referendum election held July 1, 1970.

Sec. 902. - Canvassing board.

In all elections there shall be a canvassing board composed of the supervisor of elections, the chair of the county council and a county judge or their alternates as provided by general law.

(Ch. 70-966, Laws of Florida (Sp. Acts), Art. IX, § 902; Res. No. 96-121, Amend. No. 1, 6-20-96)

Sec. 903. - Conduct of elections.

All elections shall be held and conducted pursuant to the provisions of the laws of Florida, except as otherwise provided in this charter.

(Ch. 70-966, Laws of Florida (Sp. Acts), Art. IX, § 903)

Sec. 904. - Nonpartisan elections.

AGENDA ITEM XI

Elections for all offices shall be on a nonpartisan basis. No candidates shall be required to pay any party assessment or be required to state the party of which they are a member or the manner in which they voted or will vote in any election. All candidates names shall be placed on the ballot without reference to political party affiliation. School board members elected after January 1, 1995 shall be elected on a nonpartisan basis in the manner provided in section 901.1(3) of the charter.

(Ch. 70-967, Laws of Florida (Sp. Acts), § 2, which was approved at a referendum election held July 1, 1970; Res. No. 94-224, 9-15-94)

Editor's note— Resolution No. 94-224 proposed an amendment approved by the voters for nonpartisan election of school board members. The amendment was upheld by the district court of appeal in County of Volusia v. Quinn, 700 So.2d 474 (Fla. 5th DCA 1997), which reversed a circuit court decision that had declared the amendment invalid. During the pending of the litigation, the legislature adopted two special acts which ratified the referendum election on the amendment. Chapter 97-338, Laws of Florida (Sp. Acts) provides for nonpartisan election, but makes no reference to the charter. Chapter 97-353, Laws of Florida (Sp. Acts) is in a form a charter amendment, but deletes the sentence: "All candidates names shall be placed on the ballot without reference to party affiliation." This omission had not been approved by the voters in the referendum which the act ratified. Accordingly, the sentence is not deleted from the text here.