

Volusia Growth Management Commission Meeting

MINUTES FOR MEETING HELD Wednesday, August 23, 2017

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

MEMBERS PRESENT

Debbie Connors, Vice Chair
Sid Vihlen, Jr., Secretary
Rich Walton
Larry Saffer
Mary Swiderski
Sandy Lou Gallagher
Loretta Arthur
Roger Sonnenfeld
Robert Lovelace
Mark McGee
Robert Storke
Harold Briley
Christy Gillis
John Meikle
James Wachtel

REPRESENTING

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

MEMBERS NOT PRESENT

William Pouzar
Glyn Slay

Volusia County
Volusia County

NON-VOTING MEMBERS

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

Volusia Co. School Board
SJRWMD

OTHERS PRESENT

Heather Ramos, GrayRobinson, General Counsel
Chris Dougherty, Littlejohn, Planning Consultant
Merry Chris Smith, VGMC Operations Manager

CALL TO ORDER

VGMC Vice Chair Debbie Connors called the meeting to order at 7:00 p.m. and welcomed everyone in attendance.

ROLL CALL

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

Vice Chair Connors welcomed new member Harold Briley representing the City of Ormond Beach. She also announced several recent member reappointments: Roger Sonnenfeld-Lake Helen, Larry Saffer-Daytona Beach Shores, Loretta Arthur-Holly Hill, Bob Storke-Orange City, and herself representing Port Orange. Mary Swiderski stated she was also recently reappointed by the City of DeLand.

Ms. Connors reported that Don Romanik, Ponce Inlet, opted for retirement over reappointment and Robert Lott, Edgewater, also opted not to be reappointed. She stated we are currently awaiting new appointments from both of those jurisdictions.

CITIZEN COMMENTS

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

APPROVAL OF MINUTES

James Wachtel made a motion to approve the minutes of the February 22, 2017 regular meeting of the commission as presented; seconded by Roger Sonnenfeld. Motion carried unanimously.

PUBLIC HEARING

There were no public hearings scheduled.

REPORT FROM PLANNING CONSULTANT

Chris Dougherty, S&ME, VGMC Planning Consultant provided an update. He reported that it has been relatively busy over the past several months, with approximately 2-3 applications reviewed and reports issued each week. He also provided a summary of VGMC #17-001, a large scale amendment submitted by the City of Edgewater in early 2017. Mr. Dougherty explained when the application was received, there was no analysis included in the amendment package and a request for additional information (RAI) was issued. He stated the response to the RAI was recently received from the city which, in part, included a revised ordinance containing limitations and a joint planning agreement for the adjacent Farnton property, however, there was no additional analysis included. Mr. Dougherty reported the city did coordinate with Volusia County during the review process which is what the VGMC is all about in terms of encouraging intergovernmental coordination, cooperation and consensus.

Mr. Dougherty advised the commission that when the city later submitted the adopted ordinance, one of the conditions included in the proposed ordinance that was submitted with the RAI response was not part of the adoption ordinance. He stated the removal of the condition made a significant difference in how the application is reviewed. Under the new rules, he explained that no further information could be requested by the VGMC. Therefore, the planning report was

prepared and distributed to all units of local government. The report included reference to the difference in materials most recently received from the city to what was submitted with the original RAI response. Mr. Dougherty explained that the mixed use land use category allows for various uses and if impacts were measured based upon maximum development, it could potentially result in significant impacts. He stated the original ordinance provided by the city limited the development potential on the site, however, that limitation was not included in the adoption ordinance.

Commissioner Sonnenfeld asked which jurisdictions are contiguous to the subject property. Mr. Dougherty stated Volusia County is contiguous, however, based upon maximum development potential in the mixed use land category, impacts could potentially be regional.

Vice Chair Connors asked who at the local government level receives the notice of application from the VGMC and how long they have to comment. Ms. Smith responded that the notices are typically sent to the local government planning officials and also posted on the VGMC website. She added that for large scale amendments, the local governments have 28 days to comment/petition for hearing, and 21 days under the small scale/streamlined review process. In response to a further question, Mr. Dougherty stated it is typically the planning departments that are reviewing the applications from the other local governments.

Commissioner Wachtel asked Mr. Dougherty if there was any recourse after receiving the adoption ordinance. Mr. Dougherty responded there was not. The VGMC planning report, which included notice of the change, was issued and the application was certified as consistent. Mr. Dougherty stated the VGMC had the ability to reopen the certification if another unit of local government objected.

General discussion ensued relating to RAI response requirements under the new rules, as well as who is considered an adjacent jurisdiction for purposes of determining whether another jurisdiction would be granted automatic standing or would have to prove standing under the new rules.

With respect specifically to the Edgewater application, Commissioner Lovelace asked if the trip cap in the city's ordinance remained in place and would that effectively become the limiting factor for the property. Mr. Dougherty responded that condition was in the adopting ordinance, however, the limitation is only to a certain point. Once they reach the trip cap, they will have to submit a traffic study to move beyond that.

Commissioner Lovelace asked if there was reason given as to why the density limit condition was removed from the ordinance prior to adoption. Mr. Dougherty responded that it appeared to originally be a city imposed condition and he was informed that further discussion between the city and county determined the condition was not necessary.

Commissioner Walton asked if the city submitted the amendment without analysis to the state agencies. Mr. Dougherty responded affirmatively. Mr. Walton asked if there were any concerns by the state reviewing agencies. Mr. Dougherty stated he obtained a copy of the DEO response letter from the state records and their letter read similar to the VGMC letter. He added that since

the amendment would not impact a state resource, the state would have no recourse. Commissioner Wachtel asked if there is any reason this amendment would come back before the VGMC during the development process. Mr. Dougherty responded that the only way it would come back before the VGMC is if there was a change in the future land use.

Commissioner Sonnefeld asked what verbiage was used in certifying the amendment. Ms. Smith responded that the consistency letter stated the amendment was deemed consistent based upon the lack of objection from another unit of local government.

Commissioner Arthur commented that if information changes on an application during the VGMC review, that it should be resubmitted to all units of local government to provide them the opportunity to review and object based upon the new information. Mr. Dougherty explained that you can reduce impacts during the process, however, you cannot increase impacts without beginning the process over. He stated that the information submitted by the city after the initial application was more limiting than the original application.

There was also concern expressed that under the new rules an application can be certified as consistent without the analysis to measure impacts. Following further discussion, Commissioner Wachtel made a motion to have Mr. Dougherty prepare and distribute a synopsis of this particular application for the commission to review at a future meeting from a procedural perspective. Commissioner Meikle seconded the motion. Motion carried unanimously.

REPORT FROM LEGAL COUNSEL

No report at this time.

REPORT FROM COMMISSION OPERATIONS MANAGER

Ms. Smith reported that she would be submitting the member travel reimbursements of \$35/meeting to the county at the end of the fiscal year, September 30, 2017. She also reminded the members of the VCARD Ice Breaker event which is scheduled for September 28, 2017.

REPORTS OF COMMISSION CHAIRMAN

No report at this time.

REPORTS OF COMMITTEES

POP Committee: POP Committee Chair Debbie Connors stated the committee met immediately prior to this meeting and reviewed the renewal contracts for the VGMC legal and planning consultants. She stated each of the three contracts are consistent with the prior year contracts and the POP Committee is recommending the commission approve the contracts as submitted.

Budget Committee: Sid Vihlen, Chair of the Budget Committee, stated the committee met immediately prior to the regular meeting. He reported the committee reviewed the current YTD expenses through 8/7/17 and we are well within budget with no problems noted.

Commission Wachtel asked if the adoption of the rules changes has affected the consultant staff expenses, adding that our contract services expenses are at only 27% of budget and we are nearing the conclusion of the fiscal year. Ms. Smith responded affirmatively, stating that the change in rules has resulted in cost savings not only in our contract services budget, but other areas as well, such as legal advertising expenses. She added that the level of the planning review has not changed under the new rules, but fewer hearings and meetings adds to the savings.

With respect to the proposed 2017-18 budget, Mr. Vihlen reported that the county has recommended a \$15,571 reduction in the budget approved by the VGMC, which includes the elimination of the \$15,000 litigation contingency. He stated that Ms. Smith and the committee feel the reduction should not impact the ability to operate within the county proposed budget. Mr. Vihlen explained there is no action necessary on the part of the commission, and the County Council will be considering the budget in September.

OLD BUSINESS

There was no old business for discussion.

NEW BUSINESS

- 1) Consider renewal of GrayRobinson legal services contract for 2017-18 FY

Ms. Connors stated the POP Committee recommends the commission approve the contract as presented. The recommendation comes to the commission as a motion and second.

Commissioner Arthur asked about the long distance and fax charges listed in the contract schedule. Ms. Ramos stated there are no longer long distance charges as all calls are routed through the closest GrayRobinson office, nor do they fax.

There being no further discussion, the question was called and the motion to approve the GrayRobinson for the 2017-18 fiscal year carried unanimously.

- 2) Consider renewal of S&ME planning services contract for 2017-18 FY

Ms. Connors stated the POP Committee recommends the commission approve the contract as presented. The recommendation comes to the commission as a motion and second.

Commissioner Walton stated the project manager rate in the VHB planning contract is not consistent with the rate schedule in Exhibit A. Following discussion, Mr. Walton suggested the VHB contract be clarified with respect to the project manager rate.

Ms. Connors asked if there were any questions relating to the S&ME contract. There being no discussion, the question was called and the motion to approve the renewal of the S&ME contract for the 2017-18 fiscal year carried unanimously.

3) Consider renewal of VHB planning services contract for 2017-18 FY

Ms. Connors asked if there was any further discussion relating to approving the renewal of the VHB contract for the 2017-18 fiscal year subject to clarification relating to the project manager rate.

Mr. Wachtel commented that we were previously informed by VHB that when Jim Sellen retires they were not necessarily interested in continuing the contract with the VGMC. He asked if that has changed or is there a plan to initiate an RSQ in the future for this planning contract.

Ms. Smith responded that through discussions with former VGMC Chair Jerry Brandon, VHB is now primarily serving as a back-up planner to the VGMC with S&ME reviewing the majority of all new applications. She added that the POP Committee would need to look at it and determine if an RSQ needs to be initiated.

There being no further discussion, the question was called and the motion to approve the renewal of the VHB contract for the 2017-18 fiscal year subject to clarification relating to the project manager rate carried unanimously.

4) VGMC Overview, Ethics, Government in the Sunshine, and Public Records Law

Ms. Ramos made a presentation to the commission members which provided an overview of the VGMC, and reviewed ethics standards, government in the sunshine and public records law. A copy of the power point presentation is attached as Exhibit A of these minutes. Throughout the presentation, Ms. Ramos responded to questions raised by the commission members.

Commissioner Saffer asked what the process is for reviewing and determining whether or not a unit of local government has standing. Ms. Ramos stated it is a legal process where a unit of local government would have to establish they would be impacted by the proposed amendment. She stated the VGMC makes the determination as to whether or not standing is granted based upon the evidence presented.

Commissioner Sonnenfeld raised a question relating to slide 6 of the first presentation which contained a portion of Section 202.3 of the charter which read: "No comprehensive plan, element of a plan, or amendment of a plan is 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." He asked Mr. Dougherty to explain the review process with respect to the Edgewater application and the issuance of the consistency certification. Mr. Dougherty stated that the application was reviewed by the VGMC planning staff, and the basis for the certification was that there were no objections filed by another unit of local government. Mr. Sonnenfeld commented that he did not feel we met the requirements of the charter if the certification was not based upon the planning review.

Ms. Ramos stated this was largely discussed during the charter review process, and that the application review process was modified during the charter review and codified in the County Code. Mr. Sonnenfeld stated he is concerned that we are not fulfilling the requirements of the

charter. Ms. Ramos suggested the commission may want to look at modifications to the commission's rules of procedure in terms of communications with the local governments.

Ms. Connors commented that during the charter review process there was discussion about putting a referendum on the ballot to eliminate the VGMC altogether. Instead, she stated the rules were streamlined instead of facing the possibility of the VGMC being eliminated in its entirety.

Referring to the Edgewater application, Commissioner Arthur asked if an application was submitted with incomplete information, can the VGMC request it be resubmitted with the information. Ms. Ramos responded that Mr. Dougherty did that through a request for additional information which tolled the time on the application until the response was received. She stated the information provided by the city in response to the RAI differed from what they adopted, and the VGMC planning report called attention to that. Additionally, the report was distributed to all of the units of local government which provided them the opportunity to determine if they had issues with it, and no objections were filed with the VGMC.

Following further discussion, Commissioner Wachtel asked that the commission move on to the next agenda item.

- 5) Resolution #2017-03 recognizing Gerald T. Brandon for 25 years of service to the VGMC

Vice Chair Connors asked if everyone had the opportunity to review Resolution #2017-03. Sandy Lou Gallagher made a motion to approve Resolution #2017-03; seconded by Mary Swiderski. Motion carried unanimously.

Ms. Connors then read the resolution aloud and presented it to Gerald Brandon. The commission members and others present applauded Mr. Brandon. Mr. Brandon thanked the commission for the recognition and stated it has been a privilege for him to serve on the commission for many years. He also thanked each of the commission members for everything they have done throughout the years. Deanie Lowe also addressed the commission and spoke of the various other boards and organizations in which Mr. Brandon has served and all of the time and effort he puts forth. She, too, thanked Mr. Brandon for his service to the community. Ms. Connors invited everyone to stay for cake after the meeting.

- 6) Election of VGMC Chair

Vice Chair Connors stated the office of Chair has been vacated with Mr. Brandon no longer serving on the commission, and the commission members need to elect a new Chair.

Commissioner Vihlen spoke favorably of Ms. Connors service and experience on the VGMC. Mr. Vihlen nominated Debbie Connors to serve as the Chair of the VGMC. There were no further nominations and Ms. Connors was unanimously elected to Chair the commission.

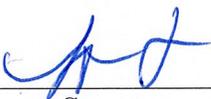
With that, Ms. Connors stated the office of Vice Chair is now vacant. Ms. Connors stated Mr. Vihlen is currently the Secretary of the commission and serves the VGMC very well. Ms. Connors nominated Sid Vihlen to serve as the Vice Chair of the VGMC. There were no further nominations and Mr. Vihlen was unanimously elected Vice Chair of the commission.

This change created a vacancy in the office of Secretary. Mr. Vihlen commented relating to the duties of the Secretary. He stated that while the Secretary also Chair's the Budget Committee, many of the duties are handled by the VGMC administrative staff. Mr. Sonnenfeld commented on Loretta Arthur's experience on the Budget Committee and nominated Ms. Arthur to serve as Secretary of the VGMC. There were no further nominations and Loretta Arthur was unanimously elected Secretary of the commission.

Ms. Smith pointed out that the election of officers is generally scheduled each September. Since the commission just elected a new slate of officers, she asked if the commission wanted to waive the September 2017 election. James Wachtel made a motion to waive the September, 2017 election of officers and retain the officers elected tonight until the next election in September, 2018; motion seconded by Sandy Lou Gallagher. Motion carried unanimously.

ADJOURNMENT

There being no further business, Chair Connors thanked everyone for attending and the meeting was adjourned at 8:38 p.m.



Attest: Secretary



Chair