

**Volusia Growth Management Commission
Personnel, Operations & Procedures Committee Meeting**

MINUTES FOR
MEETING HELD
August 5, 2014

Room #149A
Daytona Beach City Hall
301 S. Ridgewood Avenue
Daytona Beach, FL

The meeting was called to order at 4:00 p.m. by POP Committee Chairman, James Wachtel.

Also present: Sandy Lou Gallagher, Don Romanik, Robert Storke and Richard Walton. Also in attendance were Gerald Brandon, VGMC Chairman, Paul Chipok, VGMC General Counsel and Merry Chris Smith, VGMC Operations Manager.

Introduction of Wesley Hoaglund, Project Manager, Miller Legg

Mr. Wachtel thanked Mr. Hoaglund for attending the meeting and asked him to provide the committee with information relating to his background and experience.

Mr. Hoaglund addressed the committee. He stated his experience has given him the opportunity to understand the development process not only from a government and regulatory standpoint, but also from the other side of the counter from the perspective of the person wanting to make the development happen. Mr. Wachtel asked Mr. Hoaglund to discuss his experience as the Planning Manager for the City of Titusville. Mr. Hoaglund responded he assisted staff with planning, but his focus was redevelopment. He further discussed work he did in redeveloping the downtown riverfront in Titusville, including property acquisition, grants, and the establishment of a foundation.

Mr. Wachtel turned the floor over to the committee for questions.

Mr. Storke asked Mr. Hoaglund if he has any relationships or experience with the Florida Department of Economic Opportunity (DEO), formerly known as the Florida Department of Community Affairs (DCA). Mr. Hoaglund responded that he hasn't had much experience with DEO, however, he has in the past with DCA in terms of complying with their reporting requirements.

In response to a question raised by Mr. Brandon, Mr. Hoaglund discussed his prior work history with the City of Titusville, working at GAI Consultants, and also as an Independent Contractor. Mr. Brandon also asked him how much experience he's had working with comprehensive plans. Mr. Hoaglund responded that although his prior focus was redevelopment, anytime DCA requirements had to be met, he worked along with other staff as a team on comprehensive planning matters. Mr. Brandon discussed the uniqueness of the VGMC and expressed the importance of having staff who has considerable depth and experience with comprehensive planning. Mr. Hoaglund stated that he has been in planning for 35 years and although he may not have been the lead in his previous positions, he has always been involved in the planning aspect.

Mr. Brandon asked if he's had any experience with marinas or water issues. Mr. Hoaglund responded affirmatively and discussed his experience with marinas in the City of Titusville from both a private and public perspective. Mr. Brandon also asked if Mr. Hoaglund would be performing the VGMC work individually, or are there other members of staff that would be working with him. Mr. Hoaglund responded that he could count on support from Miller Legg's professionals in areas of special needs. Mr. Brandon then asked if he felt the support existed with Miller Legg's current staff. Mr. Hoaglund responded that he could not really answer that since he's only been on staff since the preceding Friday. He added that if there was a special report needed such as a traffic study and if Miller Legg did not have the staff to prepare the report, they would rely on the VGMC applicant to provide it and he would review it.

Ms. Gallagher asked what type of hands on experience Mr. Hoaglund has had with comprehensive plans. Mr. Hoaglund responded that it was all hands on. He briefly described the process, adding that in his past he was generally the last person to review reports because his grammar, punctuation and vocabulary are extremely good. Ms. Gallagher then asked how much experience he's had in dealing with conflicts between jurisdictions. Mr. Hoaglund stated the only jurisdictional conflicts he's dealt with was between Port St. John and the City of Titusville which related to annexation issues. Ms. Gallagher asked Mr. Hoaglund who the other members of the Miller Legg planning department were. He responded that he does not yet know since he just started with the firm on Friday.

Mr. Romanik asked if Barry Wilcox was still available to Mr. Hoaglund. He responded that he did not know. Mr. Hoaglund also described the process by which he was brought onto the Miller Legg staff.

Mr. Walton asked Mr. Hoaglund who his back up was at Miller Legg in the event he was not available. Mr. Hoaglund could not answer that. Mr. Walton discussed the time-sensitive nature of the work done by the VGMC and the importance of always having a planner available to reach out to. Mr. Hoaglund stated he's been trained in strategic public sector negotiations.

Mr. Brandon asked if Mr. Hoaglund would be performing the entire analysis on a VGMC application. Mr. Hoaglund responded that would depend. He said, for example, if a traffic study were necessary, he is not qualified to prepare the traffic study, it would be his job to request the study from the applicant and then he would perform the analysis of the study.

Mr. Brandon expressed concern in what appeared to be a lack of depth in the Miller Legg planning department. Mr. Hoaglund stated he was not sure how to answer that since he's not yet familiar with the other staff and their responsibilities.

Mr. Wachtel stated the VGMC is a unique body and the only commission like it in Florida. He explained the primary purpose of the commission is to coordinate the efforts of all affected parties to a proposed comprehensive amendment, to insure consistency amongst the local jurisdictions' comprehensive plans. Mr. Wachtel added the role of the VGMC planner is to review the applications from several different perspectives, which is a little out of the norm from a standard planning role. He stated the VGMC planner is required to review the applications

based upon the established consistency criteria and the commission's scope of review. Mr. Wachtel asked Mr. Hoaglund if any of his prior work experience included tasks similar to the VGMC planner role. Mr. Hoaglund discussed his prior experience and the negotiation skills required.

Mr. Brandon described the membership makeup of the commission and provided a history in terms of the basis for which the commission was originally established. He also discussed the necessary interaction between the VGMC planning, legal and administrative staffs, as well as with the staff members of the local jurisdictions. Mr. Hoaglund commented on the VGMC review and process.

Mr. Chipok joined the meeting.

Mr. Wachtel asked if Miller Legg was currently reviewing and pending applications. Mr. Brandon stated they have two applications under review, one for the City of Edgewater and one for Orange City.

Ms. Smith provided a brief update on the status of the Orange City application that is expected to be scheduled for public hearing at an upcoming VGMC meeting.

Mr. Wachtel asked Mr. Hoaglund if he's ever previously worked with GrayRobinson. Mr. Hoaglund responded that he has not.

There being no further questions for Mr. Hoaglund, Mr. Wachtel thanked him for coming to the meeting and sharing his background and experience with the committee. Mr. Hoaglund thanked the committee for the opportunity and then departed the meeting.

Mr. Wachtel asked if a regular meeting of the commission is expected to be scheduled in August. Ms. Smith responded that at this point there are no scheduled public hearings, however, there are other items of business that are expected to be brought before the commission in August.

Mr. Wachtel summarized the discussion from the previous POP Committee meeting where the committee discussed possibly not automatically renewing the Miller Legg contract for the fiscal year beginning October 1, 2014 and instead, put the contract out for bid through the RSQ process. This would allow Miller Legg, as well as those firms who submitted a proposal in response to the prior planning RSQ and were not selected, the opportunity to submit a proposal under the new RSQ. Mr. Wachtel opened up the floor for discussion in terms of how the committee members wish to move forward.

Mr. Romanik stated that the resignation of Barry Wilcox from Miller Legg opened them up for evaluation. He commented that based upon his prior experience, Mr. Hoaglund is likely capable of handling the work once he is up to speed. He also stated that Miller Legg as a firm appears to be organizationally thin in terms of planning. Mr. Romanik commented from his personal perspective, any decision will be based more on the longer range opinion of Miller Legg as opposed to the opinion of Mr. Hoaglund's capabilities as a single contributor.

Mr. Brandon also expressed concern with the planning depth within the Miller Legg organization, adding that the history of Miller Legg appears to focus more on engineering and other areas of services that are not related to what the VGMC deals with.

Mr. Wachtel commented that in order to get the best result, it's necessary to have depth within an organization so the staff has others to bounce things off of. Additionally, he stated backup planning staff is necessary in case the designated project manager is unavailable for any reason. Mr. Wachtel also expressed concern over the thinness of Miller Legg and stated he is in favor of issuing another RSQ.

If the committee should choose to move forward with another RSQ, Mr. Romanik asked how the termination of the current contract with Miller Legg would be handled. Mr. Chipok discussed the terms of the present contract and suggested the best course of action would be to provide Miller Legg with a 30-day notice of non-renewal of the current contract.

General discussion ensued relating to the terms of the planning contract and the timing and process involved with issuing another RSQ. Mr. Chipok stated as an alternative, the commission could renew the Miller Legg contract for another year to further evaluate them and wait until next year to decide how they wish to proceed. Mr. Brandon was not in favor of automatically renewing the contract for an additional year. He also was not in favor of putting out another RSQ since the committee just went through the process and evaluated/ranked potential firms. Mr. Wachtel asked if we could legally forego another RSQ process. Mr. Chipok responded that from a legal perspective, the safest course of action would be to go through the RSQ process again. The committee members agreed that if another RSQ was initiated, then those firms who previously submitted proposals would have the option to submit a letter of continued interest in lieu of a complete new proposal if they chose to do so.

General discussion ensued regarding the timeline of the RSQ process. The committee agreed that if the Commission voted at the August 27th regular meeting not to automatically renew the Miller Legg contract, then the RSQ should be put out as early as possible thereafter, with a 30 day period for firms to submit. Additionally, they agreed to attempt to fast track the selection process with the anticipation that a recommendation of contract award be brought before the full commission at the October 22, 2014 regular meeting.

Several members of the committee commented in favor of not automatically renewing the Miller Legg contract, but rather putting the contract out for bid. Mr. Storke asked if the two cases presently under review by Miller Legg would be concluded by the end of the current contract, September 30, 2014. Mr. Chipok provided an update on the status of the Orange City application, adding that the City is presently working with the Department of Economic Opportunity (DEO) and it may take some time to resolve.

Robert Storke made a motion to recommend the commission not automatically extend the Miller Legg contract for an additional year and to generate another RSQ for this planning contract; motion seconded by Sandy Gallagher.

Mr. Chipok stated if the motion passes at committee, it will go before the full commission at the August 27, 2014 regular meeting. If the commission approves the recommendation on August 27th, a letter will go out on August 28th notifying Miller Legg that the commission will not be automatically renewing the contract. In addition, we would advise them that an RSQ will be put out and they are welcome to submit a proposal. Within the RSQ document, Mr. Chipok stated that language would be added to allow those firms who previously submitted a proposal in response to the earlier RSQ the ability to submit a letter of continued interest in lieu of a new proposal if they so choose.

Mr. Walton raised concern that the other planning contract with VHB is also currently under consideration and expressed the need for the commission to insure there is at least one planning contract in place.

The committee agreed to table the motion relating to the Miller Legg contract and the initiation of another RSQ until later in the meeting after they have discussed the proposed contract with VHB.

Consideration of Proposed Agreement with VHB for Consultant Planning Services, 2014-15 Fiscal Year

Mr. Brandon stated he had concerns with the fee schedule when the proposed agreement was originally submitted by VHB. He stated he contacted Jim Sellen and they discussed three options:

- 1) Accept the agreement as submitted with Jim Sellen as the Project Manager and proposed fee schedule of \$250/hour for Jim Sellen, \$95/hour for Erika Hughes and \$75/hour for Tyler Johnson.
- 2) Change the Project Manager to Erika Hughes and retain the proposed fee schedule. Mr. Brandon stated that Ms. Hughes has been doing the majority of application reviews over this past year, and that Mr. Sellen would become the Principal while continuing to oversee the applications and staff. In addition, Mr. Brandon stated the billed rate for Ms. Hughes is \$95/hour which is less than the current hourly rate we pay of \$115/hour.
- 3) Change the proposed fee schedule to a blended hourly rate of \$126.25 per hour. This option also proposes to change the Project Manager to Erika Hughes.

Mr. Walton asked how this would fit with respect to an application like Farmton where Mr. Sellen would be the primary planner. Mr. Brandon stated he specifically asked Mr. Sellen about the Farmton amendment and Mr. Sellen did not anticipate Farmton coming back before the Commission in the upcoming year. Mr. Brandon stated the contracts are reviewed on an annual basis and we would have the opportunity to renegotiate the fee schedule at the next fiscal year.

Mr. Wachtel pointed out that in the current fiscal year, and not taking into consideration time billed for Farmton, VHB billed hours were approximately 60% for Ms. Hughes and 40% for Mr. Sellen. In the prior year, it was approximately 55% Mr. Sellen and 45% Ms. Hughes. He stated

the percentage of hours billed for work done by Ms. Hughes seems to be increasing over those that are billed for Mr. Sellen reviewing applications.

Mr. Chipok commented on the collaboration of planning and legal efforts relating to Farmton in the earlier years. He added that if a project of this nature comes before the commission in the future, the commission would still have the ability to rely on Mr. Sellen's experience and expertise.

Mr. Brandon stated his preferred option would be #3 with the blended rate. He also stated Mr. Sellen has recommended option #2. Ms. Smith stated the current blended rate with VHB has been utilized the past two years. Prior to that, VHB was paid based on their standard fee schedule.

Mr. Wachtel stated his concern with the blended rate is if Ms. Hughes will be doing the majority of the work, we would be overpaying by approximately \$30/hour. Mr. Romanik concurred.

Mr. Walton raised a question relating to the potential of Mr. Sellen leaving VHB after his term on the Board of Directors at VHB. Mr. Brandon stated he asked that question of Mr. Sellen previously and he responded that he plans to be at the firm for the next several years.

Following brief discussion, Mr. Storke commented that a few years down the road the problem will be that the VGMC will not have any planning staff that has long term experience with the VGMC. Mr. Walton commented that the language added to the planning contracts in the past couple of years that requires the VGMC to approve the assigned project manager is crucial so the commission is not stuck with any planner a firm may wish to assign.

General discussion ensued relating to the amendment applications the VGMC has reviewed over the past several years, noting that most of them have been non-controversial in nature. The committee also discussed the proposed options with respect to the rate structure, and there was uncertainty expressed in terms of which rate structure would be most cost effective to the VGMC.

There was general agreement to accept the proposed fee schedule which would bill Ms. Hughes and Mr. Johnson at \$95/hour and \$75 respectively, and Mr. Sellen at \$250/hourly. The committee also agreed the rate could be revisited when the contract comes up for renewal next year. If the committee chooses to move forward with this recommendation, Mr. Romanik pointed out the contract would need to be changed to name Erika Hughes as the Project Manager under the direction of James Sellen, Principal.

Sandy Gallagher made a motion to recommend the commission approve the proposed contract with an amendment naming Erika Hughes as the Project Manager with James Sellen as the Principal. Motion seconded by Don Romanik.

Ms. Smith asked if the motion was intended to also include an amendment to the contract that any change in the Project Manager or Principal must be approved in advance by the VGMC.

Ms. Gallagher confirmed that her motion includes that any changes in the Project Manager or Principal will require advance approval by the VGMC.

Following further discussion, Mr. Wachtel restated the motion and second to recommend the commission approve the contract based on the proposed fee schedule, changing the named Project Manager to Erika Hughes with James Sellen as Principal, and including in the contract that any changes in the named Project Manager or Principal will require advance approval by the VGMC. The motion carried unanimously.

Ms. Smith asked if the committee wanted to see the revised contract prior to it being scheduled on the next regular meeting agenda. Mr. Wachtel stated we will request a revised contract from Mr. Sellen, have Mr. Chipok review it and if he finds it to be sufficient based upon the action taken at this meeting, we can go ahead and schedule it for approval by the full commission. The committee concurred with this course of action.

General discussion ensued concerning the historical relationship the VGMC has had with Mr. Sellen's firm.

Going back to the earlier motion relating to Miller Legg, Mr. Wachtel asked Ms. Smith to restate the motion. Ms. Smith stated the motion made by Mr. Storke is to recommend the commission not automatically extend the Miller Legg contract for an additional year and to generate another RSQ for this planning contract.

Having missed the prior meeting, Mr. Walton asked if there were any other options to putting out another RSQ that may expedite the process. Mr. Chipok responded this issue was discussed at great length at the prior meeting and the action being proposed in the motion is the most conservative approach and reduces the risk of litigation to the process being used to the greatest degree possible.

The committee discussed timeframes for notifying Miller Legg and releasing the RSQ if the commission were to approve that course of action at the August 27, 2014 regular meeting. The committee agreed that notification could be sent to Miller Legg on August 28th notifying them of the decision, and the RSQ should be released as early as possible thereafter. In addition, a draft RSQ will be circulated to the POP Committee for review prior to the August 27th meeting and the committee will also meet immediately prior to the August 27th regular meeting to review and approve the RSQ so that it is in final form and ready for release. A letter would also be sent out on August 28th to the firms who responded the earlier RSQ notifying them if they wish to be considered under the new RSQ, they have the option of submitting a letter of continued interest in lieu of a new proposal.

Mr. Wachtel called the question to the motion to recommend the commission not automatically extend the Miller Legg contract for an additional year and to generate another RSQ for that planning contract. The motion carried unanimously.

Consideration of 2014-15 GrayRobinson Legal Contract

Richard Walton made a motion to recommend the commission approve the 2014-15 GrayRobinson contract as submitted; seconded by Robert Storke. Motion carried unanimously.

Mr. Brandon stated the contract will be brought before the full commission at the next regular meeting for approval.

OTHER BUSINESS

Mr. Wachtel stated the committee has discussed reviewing the procedures for any potential updates but suggested it be deferred until after the issue with the Miller Legg planning contract and RSQ is resolved. The committee concurred.

ADJOURNMENT

There being no further business, the meeting was adjourned at 5:37 p.m.


POP Committee Chairman