

Volusia Growth Management Commission

**MEETING MINUTES FOR  
REGULAR MEETING HELD  
Wednesday, January 23, 2013**

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

MEMBERS PRESENT

Gerald Brandon, Chairman  
Jack Hayman, Vice Chairman  
James Wachtel, Secretary  
Richard Walton  
Jack Lenzen  
Sandy Lou Gallagher  
John Heaphy  
Roger Sonnenfeld  
Kenneth Bohannon  
Robert Storke  
Don Romanik  
Debbie Connors  
Joan Spinney  
Kenneth Kuhar  
David Michael Halpin

REPRESENTING

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

MEMBERS NOT PRESENT

Carla Page

Daytona Beach Shores

NON-VOTING MEMBERS

Sara Lee Morrissey (not present)  
Cathy Foerster (not present)

Volusia Co. School Board  
SJRWMD

OTHERS PRESENT

Paul Chipok, GrayRobinson, General Counsel  
Jim Sellen, VHB-MillerSellen  
Merry Chris Smith, VGMC Coordinator

CALL TO ORDER

VGMC Chairman Gerald Brandon called the meeting to order at 7:00 p.m.

### ROLL CALL

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

### CITIZEN COMMENTS

There were no citizens present who wished to speak.

### APPROVAL OF MINUTES

Debbie Connors made a motion to approve the minutes of the regular meeting held on November 28, 2012 as presented; seconded by Kenneth Bohannon. The motion carried unanimously.

### REPORT FROM PLANNING CONSULTANT

Jim Sellen, VHB-MillerSellen, addressed the Commission regarding the Farmton Conservation Management Plan. Mr. Sellen distributed two maps associated with the plan (attached as Exhibit A to these minutes). He reviewed the proposed comprehensive plan amendments and also provided a history relating to the original Farmton amendments dating back to 2009. Mr. Sellen stated he reviewed the current amendments and did not see any impacts to adjacent jurisdictions. As a result, he stated a letter has been sent to the Chairman recommending the application be certified as consistent without the need for public hearing provided there are no objections or petitions for hearing received by other parties within the required timeframe. Mr. Chipok also discussed the transfer of ownership of the Deep Creek Conservation Area to Volusia County, along with a conservation easement granted to the Audubon Society.

Commissioner Walton raised a question relating to the DRI requirements as part of the original VGMC approval. Mr. Chipok responded that the Master DRI has to be completed within five years. Brief discussion ensued relating to DRI requirements. Mr. Chipok also clarified that the area in green on the map was required to be put into conservation easement or conservation covenant within one year of the approval. He stated that date is March 29, 2013 which is the reason they are moving forward with the amendment at this time.

Commissioner Sonnenfeld commented that this was the first time he's seen the maps and hadn't received any written documentation relating to what was discussed by Mr. Sellen. He asked if there was something missing in the agenda package. Mr. Sellen explained the purpose of his report tonight was to make sure the members were aware of what staff was recommending on the application. He also stated if staff had recommended a public hearing, or if another party were to request a public hearing, then a complete staff report would be prepared and presented to the commission members. Mr. Chipok also commented on the amendment review process. Mr. Sonnenfeld stated he would have liked something included in the agenda package relating to this matter.

Commissioner Hayman asked if staff had heard or seen anything relating to the City of Edgewater Restoration project. Mr. Chipok responded that the original amendment was certified by the VGMC and the City is poised to move forward, however, staff had not seen anything recently relating to Restoration.

#### REPORTS FROM LEGAL COUNSEL

Mr. Chipok stated there are no pending VGMC litigation matters. He also stated that a partner of his from their Miami office is working with the City of Daytona Beach on matters relating to communications towers. Mr. Chipok stated the work is not related to comprehensive planning matters, but wanted to make the commission aware that his partner is working with Daytona Beach in that limited capacity.

#### REPORTS OF COMMISSION COORDINATOR

None

#### REPORTS OF COMMISSION CHAIRMAN

Chairman Brandon reported that former Chairman Steve Katz had resigned from the commission and we are currently awaiting a new appointment from the City of DeLand. He also reported he met with staff in DeLand on January 8, 2013 to discuss current procedures, issues and the importance of communication amongst the staff.

#### REPORTS OF COMMITTEES

POP Committee Report: Jack Hayman, Chairman of the POP Committee, reported the committee had met immediately prior to the regular meeting. Mr. Hayman stated the committee looked at several provisions in the present Rules of Procedure, including a lengthy discussion concerning Article VI, Section 5, relating to Committee Authority. He stated the committee is prepared to submit a recommendation to the commission to amend this section for clarity as recommended by Commissioner Bohannon at the November 28, 2012 regular meeting.

Mr. Hayman stated the committee also looked at Article IX, Section 6(i) & (j) relating to reimbursements and billing. He stated the committee discussed the potential need for more specific guidelines. Following discussion, Mr. Hayman stated it was determined the staff contracts also cover billing and reimbursements, and the POP committee found the present language in the Rules of Procedure to be acceptable.

Mr. Hayman stated the committee also looked at Article X, Section 1 relating to the process which requires two consecutive regular meetings for discussion and approval of amendments to the Rules of Procedure. After consideration at their meeting, he advised the POP Committee felt this practice was appropriate in order to allow adequate discussion and consideration prior to adoption of any rules changes.

Mr. Hayman also reported the committee had a lengthy discussion relating to the RSQ for consultant planning services. He stated recommendations were made to correct/change the present draft and that the insurance requirements need to be addressed further. Mr. Hayman stated additional updates will be provided in future reports.

With respect to the VHB-MillerSellen 2012-13 contract, Mr. Hayman stated Jim Sellen changed the term "engineer" to "VHB" on page 2 of the Terms and Conditions Agreement as recommended by the commission at the November 28, 2012 meeting.

Mr. Hayman stated the POP Committee members individually submitted performance evaluations for the VGMC Coordinator during the committee meeting. He stated the committee is recommending performance evaluations also be completed by the Secretary and Chairman since they work so closely with the Coordinator, and that a procedure relating to the performance evaluation process be added to the Rules of Procedure.

Budget Report: Jim Wachtel, Chairman of the Budget Committee, reported the committee met immediately prior to the regular meeting. A copy of the current YTD expenditures was included in the agenda package and he asked if there were any questions relating to it. Mr. Hayman raised a question relating to the rent expenses. Mr. Wachtel explained the office rent is paid on a quarterly basis and the expenses include rent already paid through March, 2013. Ms. Smith added that the rent budget also includes expenses associated with off-site storage. In addition, she stated the communications budget, which is presently at 50%, is for office internet access which is paid quarterly with the office rent.

Mr. Wachtel reviewed the proposed 2013-14 budget, noting several changes from the currently approved 2012-13 budget. Specifically, Mr. Wachtel stated the proposed salary budget was increased to incorporate the Coordinator salary increase which was approved last year. In addition, he stated a \$25,000 litigation contingency is included although the County generally does not approve it, and no funds have been proposed for insurance since we have been advised by the County that the VGMC is covered under the County's insurance policy.

Commissioner Connors raised a question relating to Worker's Compensation (WC) cost and coverage. Ms. Smith explained the County included the addition of \$57 for WC in the currently approved fiscal year budget. She stated this is the first time she's seen funds in the budget for WC and will follow up to determine if she is covered under the County's WC coverage.

Commissioner Bohannon raised a question to staff regarding the proposed contract services budget compared to the actual expenses in the 2011-12 fiscal year. Mr. Chipok stated he utilized an average of historical expenses to calculate an estimate of legal expenses. He also stated last year was an unusual year in that there were fewer comprehensive plan amendments submitted, and additionally there were services not undertaken which ordinarily would have been. Mr. Sellen concurred that projected staff costs should be based on historical trends since the number and complexity of comprehensive plan amendments cannot necessarily be predicted.

## OLD BUSINESS

### Consideration of 2012-13 VHB-MillerSellen Planning Contract:

Mr. Chipok stated the contract was reviewed at the previous regular meeting and a recommendation was made to change the reference to “engineers” on page 2 of the Terms and Conditions Agreement. He stated VHB changed the language as recommended, the POP Committee reviewed the revised contract and recommends the commission approve the 2012-13 VHB-MillerSellen contract. Joan Spinney made a motion to approve the 2012-13 VHB-MillerSellen Planning Contract; seconded by Jack Hayman. Motion carried unanimously.

## NEW BUSINESS

### Consideration of VGMC Resolution #2013-01, Apportionment of Voting Weight:

Mr. Chipok stated the VGMC is required each year to reassess the weighted vote based on population projections and he also reviewed how the weighted vote percentages were calculated.

John Heaphy made a motion to approved VGMC Resolution #2013-01; seconded by Jim Wachtel. Motion carried unanimously.

### Presentation of the VGMC Overview and Sunshine Law:

Paul Chipok presented the commission with the VGMC Overview and Sunshine Law which was included in the agenda package. Commissioner Hayman raised a question regarding members of the public speaking at meetings. Mr. Chipok stated there is a difference between a public meeting and a meeting open to the public. He explained that committee meetings are open to the public, however, members of the public do not necessarily have an absolute right to participate in the discussion since committee meetings are generally internal discussions and not final actions. In matters of final action by the entire commission, such as consideration and vote on a resolution, members of the public do have a right to participate prior to final action by the commission.

Mr. Chipok further discussed notice requirements, member voting requirements, public records and ex parte communications. He explained that any communication received by a member on official VGMC business is considered a public record and should be forwarded to the VGMC Coordinator. Mr. Chipok also stated that ex parte communications are not prohibited, however, if a member does have a conversation on a matter that comes before the commission, they should disclose at the public hearing with whom they spoke to and what was discussed. He added that a member’s decision on a particular issue should be based on the testimony and evidence presented at the public hearing. Commissioner Kuhar raised a question concerning disclosure of email communications sent to the members from outside parties on VGMC matters, whether the email was or was not opened/read by the member. Mr. Chipok stated a member is not obligated to read and consider the email, however if a member opens and reads it, then it should be forwarded to the VGMC Coordinator and the member should also disclose it at the public hearing.

Commissioner Wachtel asked if a member can solicit information from one of the parties associated with an application. Mr. Chipok responded the VGMC staff does that on behalf of the commission when reviewing an application, and the members should only consider evidence presented at the public hearing when making their decision.

Commissioner Sonnenfeld asked if the commission members are protected by insurance. Mr. Chipok stated the commission is covered under the County's general errors and omissions policy which protects the members for actions taken within the scope of the VGMC.

OTHER BUSINESS AND REQUESTS OF COMMISSION MEMBERS

None

ADJOURNMENT

With there being no further business, Chairman Brandon thanked the members for attending and the meeting was adjourned at 8:50 p.m.

  
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Attest: Secretary

  
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Chairman