

Volusia Growth Management Commission Meeting

MINUTES FOR
MEETING HELD

Wednesday, February 24, 2016

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

MEMBERS PRESENT

James Wachtel, Chairman
Gerald Brandon, Vice Chairman
Debbie Connors, Secretary
Rich Walton
Sid Vihlen, Jr.
Robert Lott
Loretta Arthur
Roger Sonnenfeld
Robert Lovelace
Mark McGee
Robert Storke
Don Romanik
Christy Gillis
William Pouzar
Glyn Slay

REPRESENTING

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

MEMBERS NOT PRESENT

Sandy Lou Gallagher
John Meikle
Sandra Walters

Deltona
Volusia County
Volusia County

NON-VOTING MEMBERS

Sara Lee Morrissey Present
Steven Fitzgibbons (not present)

Volusia Co. School Board
SJRWMD

OTHERS PRESENT

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

CALL TO ORDER

VGMC Chairman James Wachtel called the meeting to order at 7:07 p.m. and welcomed everyone in attendance.

ROLL CALL

Roll call was taken and it was determined there was a quorum present. Chairman Wachtel introduced Christy Gillis who was appointed to the commission on February 23, 2016 by the City of South Daytona. He also announced that Volusia County had appointed John Meikle to the commission, however, Mr. Meikle was not present at tonight's meeting.

CITIZEN COMMENTS

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

APPROVAL OF MINUTES

Sid Vihlen made a motion to approve the minutes of the October 28, 2015 regular meeting of the commission as presented; seconded by Debbie Connors. Motion carried unanimously.

PUBLIC HEARING

There were no items scheduled for public hearing.

REPORT FROM PLANNING CONSULTANT

Ms. Hughes stated the applications being reviewed by VHB are moving along through the process. Mr. Dougherty reported that three cases reviewed by Littlejohn were certified last week, three more are pending certification, and two additional cases are presently under review.

REPORT FROM LEGAL COUNSEL

No report at this time.

REPORT FROM COMMISSION OPERATIONS MANAGER

Ms. Smith stated there was a problem with the security at the Daytona Beach City Hall facility following one of the prior VGMC meetings, and asked everyone in attendance not to attempt to leave the building through a door that is locked. Chairman Wachtel added that someone let themselves out through a locked door and the door remained open overnight which created a security issue.

REPORTS OF COMMISSION CHAIRMAN

No report at this time.

REPORTS OF COMMITTEES

POP Committee: Annual performance evaluation of the VGMC Operations Manager -- Gerald Brandon, Chairman of the POP Committee, stated the committee members submitted their evaluations to him at the POP meeting held immediately prior to the regular meeting, however, he did not have the opportunity to review them as of yet.

Budget Committee: Chairman Wachtel stated the VGMC is required to hear the next fiscal budget year recommendation from the Budget Committee on two occasions. At tonight's meeting, the committee will present the proposed budget and gather any comments. At the next meeting, he stated the proposed budget will be scheduled for a vote by the commission.

Debbie Connors, Chair of the Budget Committee, reported that our expenses in the current 2015-16 fiscal year are presently approximately 20% of the approved budget. She also stated the Budget Committee reviewed the preliminary proposed budget information for the 2016-17 fiscal year, including the estimates from VGMC staff, and are comfortable with the information. Mr. Wachtel pointed out that the current and proposed budget information was included in the regular meeting agenda package and asked if anyone had any questions.

Relating to the performance measures in the 2016-17 proposed budget information, Mr. Sonnenfeld asked Ms. Smith how the number of estimated applications for 2016-17 was calculated at 60 when we have already received 31 new applications in the first third of the current fiscal year. Ms. Smith responded that the number of applications received each year varies, and the figure of 60 is based upon the average number of applications received annually over the past 5- and 10-years. Chairman Wachtel asked what our current year to date expenditures are for contract services. Ms. Connors stated approximately \$40,000 which is 19% of the approved contract services budget.

OLD BUSINESS

There was no old business for discussion.

NEW BUSINESS

- 1) Consideration of VGMC Resolution #2016-01, Apportionment of Voting Weight

Mr. Chipok explained that in accordance with the charter, we are required to obtain information relating to population within the county and how it is allocated between the various municipalities and the county. He stated the population statistics are prepared by the Bureau of Economic and Business Research (BEBR) of the University of Florida annually and are utilized to calculate the allocation of weighted vote percentage for each of the jurisdictions.

Rich Walton made a motion to approve VGMC Resolution #2016-01; seconded by Gerald Brandon. Motion carried unanimously.

2) Discussion relating to proposed amendments to the VGMC Consistency Certification Rules based upon Charter Review Commission comments

Chairman Wachtel stated the VGMC is governed by three sets of rules: 1) The County Charter, which can only be changed by the voters of the county; 2) Consistency Certification Rules; and 3) The VGMC Rules of Procedure. He explained the charter language which established the commission is brief and fairly broad as to the duties of the commission. The Consistency Certification Rules are much lengthier and more in depth as to what constitutes the commission's role and procedures. The Rules of Procedure serve as the day-to-day operations of how the commission functions.

Chairman Wachtel stated there has been pressure exerted recently by the community to change the role and duties of the commission, to clarify the role and duties of the commission, or to even eliminate the commission through a charter change. He stated the Charter Review Commission (CRC) has taken the comments very seriously and are considering several options to take to the voters in November. He further stated that the CRC understands the VGMC Consistency Certification Rules can be changed to address some of the issues and streamline the process without necessarily requiring a change to the charter.

Chairman Wachtel stated the CRC has asked the VGMC to consider changes to the rules, in concert with the groups in the community who are asking for changes to the rules and possibly to the charter. He stated the POP Committee has been meeting over the past several months to review the Consistency Certification Rules and the various issues that have been raised by the community. Chairman Wachtel thanked the POP Committee members for the time, energy and intensity they have expended during this process. He also individually thanked Gerald Brandon for the leadership he has provided throughout the process, as well as Deanie Lowe who has served as a champion to the VGMC through the process and provided political guidance throughout.

Chairman Wachtel stated the POP Committee has reviewed the Consistency Certification Rules, together with the various issues that have been recently raised, and have prepared proposed changes to the consistency rules which are being presented tonight. He also explained that in accordance with the charter, any changes to the Consistency Certification Rules are proposed by the VGMC and then require a 2/3 vote of the Volusia County Council. Mr. Wachtel stated the commission member's consideration of the proposed changes being presented tonight is very important. He stated tonight's discussion is intended to be a workshop so that the POP Committee can present the proposed changes to the full commission. He encouraged the members to fully participate, ask any questions, express any objections, etc. so the commission can have an open discussion on each of the issues and proposed changes. Mr. Wachtel stated the discussion tonight is for commission members and is not a public hearing. He emphasized the importance for each commission member to understand what is being proposed for their consideration and to be well informed. He stated a public hearing on proposed rules changes is expected to be scheduled at the March 23, 2016 VGMC meeting for a vote by the commission. Mr. Wachtel then turned it over to Gerald Brandon, Chairman of the POP Committee to present the proposed draft amendments.

Mr. Brandon began by thanking all of the POP Committee members, staff, members of the community who have participated in the process, and specifically Deanie Lowe who is a past Supervisor of Elections, County Council Chair, and a member of the committee involved in originating the ballot language when the commission was established.

Mr. Brandon discussed the multiple meetings of the CRC that he has attended along with staff, other members of the commission and Ms. Lowe to hear what issues have been voiced relating to the VGMC. He stated the CRC established a subcommittee to look specifically at the VGMC and the issues that have been raised. Mr. Brandon stated there have been two subcommittee meetings to date. He has attended those meetings along with Ms. Lowe to provide the subcommittee with updates on the various changes reviewed and the recommendations being made by the POP Committee. The POP Committee has met on three occasions and are also scheduled to meet again on March 3rd.

Mr. Brandon stated there has been a lot of time and discussion that has gone into the recommendations that are being presented to the commission by the POP Committee this evening. He stated the committee hopes to formalize the recommendations after hearing from all of the commission members tonight, and anticipate bringing back a recommendation to the commission in the form of a public hearing and vote by the commission at the March 23rd regular meeting.

Mr. Brandon stated there are basically three options relating to the commission: 1) Eliminate the VGMC; 2) Modify the VGMC and its rules; or 3) Leave the commission as is. He stated there wasn't much support expressed to keep the commission in its present form. As a result, he stated the POP Committee moved forward in reviewing the issues that were raised and come up with amendments to the rules in an attempt to streamline the process and address some of the issues.

Mr. Brandon summarized the primary issues that have been raised as follows, some of which would require a charter amendment, and others that could be addressed through amendments to the rules:

- Standing – The ability for parties other than a local government to petition for hearing and to participate as a party to the application. This appeared to be one of the biggest areas of concern.
- Create minimum thresholds for VGMC Review – Limit what amendments are required to be reviewed by VGMC.
- Membership – Members should serve at the will of their appointing government & there was suggestion that elected officials should be able to serve.
- Burden of Proof/Presumption of Consistency – An application should be presumed consistent as submitted, and the burden of proof to show an application is not consistent should be on the objecting party.
- Appeals – Add a provision that would provide for a local government to appeal a VGMC decision to the Volusia County Council. Mr. Brandon commented that Volusia County is a party in most applications and does not feel it would be appropriate to include a provision that VGMC decisions could be appealed to the county.

- Weighted vote – All of the local governments should have an equal vote.
- The charter language which allows the VGMC to perform “Other Directly Related Duties” as deemed necessary – language is too broad – was referred to as a “catch all” provision for the VGMC to do anything they see fit.

Mr. Brandon stated these are the primary issues the POP Committee focused on, adding there are a couple of items recommended to the CRC that the committee could not agree with. He stated he would like to go over the issues individually and get feedback from the commission members for further evaluation by the POP.

Mr. Brandon stated each member received the proposed draft amendments in their agenda package, along with a summary memo prepared by Mr. Chipok. He asked Mr. Chipok to provide an overview of the amendments as summarized in his February 8, 2016 memo.

Mr. Chipok began by stating he’s drafted the rules amendments based upon the direction from the POP Committee at their meetings, and moved forward in providing an overview of the proposed recommendations.

Mr. Chipok stated that historically there has been very little issue or conflict with small scale amendments, and it makes sense they could be presumed consistent without VGMC review unless an objection is filed by another unit of local government. The applicant jurisdiction would still have the duty to submit notice of the amendment to the VGMC and the other units of local government to provide them the ability to object. Additionally, the time frame to object would be 28 days for all units of local government. If an objection is filed, the VGMC would then perform its review and prepare a staff report for consideration at a public hearing.

Mr. Chipok stated in cases of annexations where the properties are part of a Joint Planning Area (JPA) Agreement, consistency issues relating to matters such as density and infrastructure that the VGMC would look at, are generally agreed to in advance and included in the Interlocal Agreement/JPA. Similar to the small scale amendments, Mr. Chipok stated it makes sense that amendments of this nature, with notice to the VGMC and other units of local government, could also be presumed consistent without VGMC review unless an objection is filed by another unit of local government. Additionally, a copy of the JPA would need to be on file with the VGMC.

On the issue of standing, Mr. Chipok stated the way the rules presently read, any affected member of the public has the right to file an appeal and petition for hearing before the VGMC. He stated this issue is a major bone of contention with the local governments. At the suggestion of the local governments, the POP has recommended limiting standing only to units of local government. Standing would be automatic to adjacent jurisdictions, but other units of local government would still have to prove standing to the VGMC to show they have an interest over and above the general public and affected in a unique manner. As to the definition of “unit of local government”, Mr. Chipok stated it would be limited to the county, municipalities within the county, and the Volusia County School Board.

With respect to notice of application requirements, presently our rules require a legal ad be published in the newspaper which allows members of the public 21 days from the date of

publication to petition for a hearing on an application. Since under the proposed revisions we would be limiting standing to units of local governments, the rules amendments remove the requirement to publish the notice of application in a newspaper, and add a provision that notice would be published on the VGMC website and also provided to all units of local government by the VGMC. Additionally, since there is no direct point of entry for individuals to petition the VGMC for hearing under the proposed revisions, a provision has been added to direct individuals who feel they are adversely impacted by a proposed amendment to contact their local government to raise the issue.

With respect to the time to call for a public hearing, Mr. Chipok explained under our present rules, any affected party has 21 days from the date the notice of application is published to petition for hearing. Adjacent jurisdictions have 28 days from the date an application is received and deemed complete to file objections. Since under the proposed rules we would be limiting standing to units of local government, the time frame for all units of local government to object would be 28 days. Mr. Chipok stated VGMC would still have 30 days to request additional information or a public hearing under the proposed rules amendments.

Mr. Chipok stated an application would be deemed approved within 30 days unless a unit of local government requests a hearing, or VGMC staff determines an application may be inconsistent and requests a public hearing. He stated that is consistent with the VGMC duties, and the standard of review for VGMC staff are the six consistency criteria spelled out in Section 90-37(c).

Mr. Chipok stated if a public hearing is requested, it must occur within 60 days of the request, which is consistent with the current rules. The standard at the hearing is for the VGMC to determine consistency based upon the preponderance of competent substantial evidence presented at the hearing. Mr. Chipok stated the orientation of the VGMC has been not to deny applications, so if an application is not consistent, we look at whether or not conditions can be imposed that would make it consistent.

Mr. Chipok's overview of the proposed changes was concluded and Mr. Brandon stated he would like to go around the dais for questions and comments from the commission members on each of the individual changes proposed by the POP Committee members.

The issue of creating a threshold where all small scale amendments would be deemed consistent without VGMC review unless an objection was raised by a unit of local government was addressed first.

Mr. Sonnenfeld stated he understood we are looking at making changes to the rules to avoid a change to the present charter as it relates to the VGMC. He asked if his understanding is correct. Mr. Brandon responded that the POP Committee is recommending no changes to the charter, but recommending changes to the rules that would not require a question on the ballot. Mr. Sonnenfeld expressed concern that the proposal to create thresholds for small scale and annexation JPA amendments sidesteps the review process and is in conflict with the requirements of the charter as presently written. Additionally, he stated the intent of the threshold is to streamline the process, however, the present VGMC review time runs concurrent

with the other local government review time frame. He asked why VGMC staff should not have the same benefit of reviewing the applications. Mr. Chipok stated the thought process behind creating thresholds for these two categories of amendments was that a 10 year application history showed that approximately 64% of all applications received were small scale or large scale annexation JPA's. Of those, he stated there were only 3 public hearings held. Based on the historical information for the past 10 years in looking at small scale amendments, Mr. Chipok stated the conclusion that staff has reached is that small scale amendments do not warrant reviews by VGMC staff. He stated the nature of the small scale amendments do not generate impacts under the six consistency review criteria. Mr. Sonnenfeld agreed there are a small number of small scale amendments that have caused a public hearing, and stated that those hearings may likely not even called by VGMC staff. However, he feels we should go by what the charter states, particularly since the VGMC is not extending the process since the review is done during the same time frame as the other jurisdictions have to review the applications.

Mr. Chipok discussed the current VGMC process vs. the state process for small scale amendments. Under the current VGMC rules, the local government transmits the application to the VGMC after the local planning board has reviewed it, at which time it goes through the VGMC review process. After 30 days, the application is letter certified if no objections or petitions for hearing have been filed. Under the state process, Mr. Chipok stated the local government can adopt the amendment, send it to the state and it becomes effective 30 days after it is sent to the state, which allows a window of opportunity for someone to file for an administrative hearing. Additionally, by state statute, the state is not permitted to be a participant or to request an administrative hearing on their own. Mr. Chipok stated under the definition of small scale amendment as defined in state statutes, the general presumption is that they are not generating the types of impacts that would require a state review. Using that same logic, together with our historical knowledge and data, similarly small scale amendments don't need VGMC review since the analysis shows they don't generate any further action. Mr. Sonnenfeld commented that he felt that the VGMC review time frame runs concurrent with other agency reviews and does not extend the process. Mr. Chipok stated under the current process, the local government sends it to the VGMC, waits the 30 day review process, then schedules it for adoption at which time they send it to the state and wait another 30 days for it to be effective. Under the proposed revisions, Mr. Chipok stated the local government would send the amendment to the VGMC after adoption, similar to the state process, and the amendment would be deemed certified within 30 days if no units of local government object. If an objection is received, Mr. Chipok stated the amendment would not be effective until the hearing was held and the application was certified. Mr. Sonnenfeld asked if the large scale amendments that were not annexation JPA's would continue to be reviewed by staff as they are under the present rules. Mr. Chipok replied affirmatively.

Mr. Brandon asked the other members of the commission who weren't part of the POP Committee review process to provide comment on the recommendation relating to small scale amendment reviews.

Mr. Pouzar commented that he thought the existing process worked fine for review small scale amendments and felt they should be left as is.

Mr. Slay nodded in opposition of the proposed change.

Ms. Connors stated she agreed with the proposed change and felt streamlining the process was great. Ms. Arthur, Mr. McGee, Mr. Lott and Ms. Gillis all agreed with the proposed change to the small scale review process.

The next item discussed was creating a threshold where all amendments involving annexations that are part of a JPA would be deemed consistent without VGMC review unless an objection was raised by a unit of local government.

Mr. Sonnenfeld stated he agrees with streamlining, however, still has concerns over the language set forth in the charter that requires the VGMC to review “any” amendment. Additionally, he commented that the interest level on behalf of business that is driving this is not so much in the small scale or JPA annexation amendments, but rather the large scale amendments. He questioned if we are weakening our position on maintaining the large scale amendment review process by deeming other amendments consistent without VGMC review. He stated an argument could be raised that if the VGMC doesn’t need to review small scale amendments, then why the need to review large scale amendments if an objection isn’t raised by another unit of local government. Mr. Sonnenfeld stated he’s torn on the issue, but would have to support leaving the rules as they are currently based on current wording within Section 202.3 of the County Charter.

Mr. Pouzar stated he had no comment on the issue.

Mr. Slay supported keeping the rules as they are presently written relating to VGMC review.

Ms. Connors commented that if there is no conflict with a municipality, there is no need for VGMC review.

Ms. Arthur, Mr. McGee and Ms. Gillis all agreed with the proposed change.

Mr. Lott agreed, adding if there is no local conflict, VGMC should not review.

Chairman Wachtel commented that valid points have been raised relating to the present charter language in terms of the VGMC review, and a legal ruling may be necessary at some point during this process. He stated while he agrees with the proposed changes and does not feel they will weaken our position relating to continuing VGMC review of other large scale amendments, he feels a legal challenge to the changes based upon the present charter language could be an issue. Mr. Chipok stated he will look at that to see if there is tweaking that could be made to fully accommodate the JPA and small scale amendment situations.

Mr. Vihlen asked if Mr. Chipok could review the situation to determine if the recommendations from the POP Committee have created a conflict with the charter. He stated some of the concerns raised by the local governments is the need to streamline, simplify and expedite the review process. He also stated the local governments have been very critical of the VGMC and its process. Mr. Vihlen stated the POP recommendations have been developed in an attempt to

address some of these issues, and he asked if the recommendations that have been made would violate any obligation of the VGMC under the charter. Mr. Chipok responded that the intent is not to violate the obligations under the charter, but rather to address the various issues that have been raised to the Charter Review Commission through changes to the rules. He suggested the commission look first at how they wish to amend the rules, then go back and determine if tweaking is necessary in the charter language to implement the rules as necessary.

As a point of clarity, Mr. Sonnenfeld stated for the record that he supports keeping the rules as they are currently written with respect to small scale and annexation JPA amendments based on current wording within Section 202.3 of the County Charter.

The commission then discussed the issue of standing. Mr. Chipok stated this has been a primary issue and is a philosophical question which extends back to the original creation of the VGMC. Under the present rules, anyone can petition for hearing and request standing. The question currently is whether standing should be limited only to units of local government. Based upon the recommendation from the POP Committee, he stated the proposed rules amendments limit standing to units of local government, meaning the county, municipalities within the county, and the school board. Mr. Romanik asked if the charter was silent on the issue of standing. Mr. Chipok responded affirmatively. Mr. Romanik stated the VGMC never has been, and never will be, the only bite at the apple for members of the public to object to a comp plan amendment. He also commented that the issue of standing is probably 99% of the reason why the VGMC has come under the recent scrutiny. Mr. Romanik stated that Ms. Lowe, who served on the committee when the VGMC was originally created, has stated on numerous occasions that individual standing was never the intent. He stated the public has many opportunities to object to an amendment prior to it even reaching the VGMC, and he expressed support for limiting standing to units of local government.

Mr. Romanik also commented in support of the proposed rules revisions relating to small scale and annexation JPA amendments, as well as VGMC continuing to review all other large scale amendments. He also commented on political motivation driving the changes, adding that the VGMC represents everyone equally and has no political axe to grind.

Mr. Pouzar commented that standing should be left as in the current rules, or possibly even expanded.

Mr. Slay voiced strong opposition to limiting standing. He stated it is wrong to shut the people out. They should be given the ability to come before the commission and at least ask for standing. He stated the VGMC should represent the people not the powerful, and that it doesn't hurt us to listen to the individuals who oppose amendments.

Ms. Connors reminded everyone that the VGMC members are not elected officials and she feels citizens should go to their local governments to voice their opinions. She stated the VGMC role is to hear conflicts between local governments.

Ms. Arthur stated she agrees that the VGMC should not review applications unless an objection is raised by another local government. With respect to limiting standing, she raised concern that

a significant land owner in an adjacent jurisdiction whose property abuts an area where an amendment is proposed, should be able to request standing before the VGMC and not have to rely on their local government to do so on their behalf.

Chairman Wachtel reminded the members that there will not be a vote on these issues tonight, it's intended to be discussion to hear from all of the members.

Mr. McGee expressed support for limiting standing to units of local government.

Mr. Lott stated the proposed rules relating to standing will not shut the people out. He stated citizens have the opportunity at the local government level to voice their opinions, and that the local governments need to be able to run their communities and make decisions they deem fit. Mr. Lott stated the VGMC looks at conflicts between local governments and supported the proposed change limiting standing to units of local government.

Ms. Gillis agreed that standing should be limited to units of local government.

Mr. Chipok clarified that the issue of standing does not deal with the ability of staff to request a public hearing. He stated under the proposed rules, VGMC staff will still continue to independently review the other large scale amendments, and if they find an application may be inconsistent, they will have the ability to hold a public hearing before the VGMC.

On the issue of standing, Chairman Wachtel commented that members of the public have multiple opportunities to be heard at the local government level. Mr. Sonnenfeld concurred, stating the local government is the appropriate venue for individuals. He stated the VGMC role is to review the plan amendments of the local governments, and that he supports limiting standing to units of local government.

Brief discussion ensued relating to City of Oak Hill amendment. Mr. Chipok also explained the state transmittal, adoption and appeal process.

The next issue discussed related to notice requirements where it is proposed to eliminate the requirement to notice applications in the newspaper, and instead post them on the VGMC website and also provide direct notice to the units of local government.

Mr. Sonnenfeld stated if standing is being limited to local governments, then it is not necessary to publish notice in the newspaper. However, it is left that members of the public will still be allowed standing, then when we still need to publish the notice in the newspaper. Mr. Brandon concurred that the recommendation on notice requirements is contingent upon the final determination relating to standing.

Mr. Pouzar stated we should continue to notice the applications in the newspaper. All other members supported the proposed notice requirements.

The next issue discussed was the appeal time frame. Mr. Chipok stated the proposed changes relating to the time frame to file an appeal are intended to make the procedures internally

consistent with the other proposed changes. He also explained it is not necessarily a change to the current rules, but rather puts it in perspective with the other assumed changes.

No members of the commission expressed opposition to this issue.

The remaining issues discussed related to large scale applications being approved within 30 days unless a public hearing is called by a unit of local government or VGMC staff, and public hearings must be held within 60 days of the date of the request. Mr. Chipok stated these provisions are consistent with the present rules.

No members of the commission expressed opposition to this issue.

With the review of proposed draft amendments to the rules concluded, Mr. Brandon stated there are a couple of other items the commission needed to discuss. The first deals with language in the charter relating to “other directly related duties”.

Mr. Chipok stated in the first paragraph of the charter there is a provision which reads: “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.” Mr. Chipok stated the business community and some members of the public have expressed concern over what those other directly related duties may be, and have asked the VGMC to define them. He stated to his knowledge, the VGMC has never conducted any independent reports or analysis that weren’t related to a comprehensive plan amendment. Mr. Chipok also added that there are other administrative duties necessary for the operation of the commission.

Mr. Chipok reviewed a proposed change to the charter which would read: “The commission may perform such other directly related analysis to pending applications before the commission, or other administrative duties as the commission from time to time deems necessary.” He stated he believes this is how the language in the charter has historically been implemented and utilized. Mr. Chipok stated it would take away power for the commission to perform a totally independent project such as a My Region or How Shall We Grow study, but that has not been the focus of the VGMC in the past and there are other regional agencies that take on those types of duties.

Chairman Wachtel asked if there was a way to include the proposed language as a definition of “other directly related duties” in the rules, rather than making it a change in the charter. He asked Mr. Chipok to look at that, and also determine if would be legally acceptable to handle it that way. Mr. Chipok agreed to do so.

Ms. Morrissey spoke about a situation years ago when two of the local governments were disputing their utility services, boundaries and future annexations. She stated it was not a comp plan amendment issue, however, it came to the VGMC to mediate and resulted in an interlocal agreement which kept the jurisdictions out of court. Ms. Morrissey stated she does not recall how it specifically came to the commission, but feels the VGMC could serve as a good forum for

situations of this nature. Mr. Sellen discussed the specific situation Ms. Morrissey was referencing.

Mr. Chipok stated we could look at adding language to the “other directly related duties” definition to also include “if we are specifically requested by the impacted local governments to address mediation situations”. Mr. Sellen commented that an example that could come up in the future that a lot of people aren’t going to agree on is the issue of water.

There were no further comments relating to the issue of “other directly related duties”.

Mr. Brandon stated another issue that has come up relates to member appointments and how a member can be removed from the commission. Mr. Chipok stated the charter language states that appointments are made by the individual units of local government, and the term of appointments is established within the rules at four years. He stated there’s been some disagreement amongst the attorneys on this issue and the question has been whether a member has a right to the full term once appointed, or whether they serve at the will of the appointing jurisdiction. The VGMC has historically taken the position that if a local government has an ordinance or rule relating to their board appointments that allows them to remove a member at their will, then the VGMC would honor that. Absent of such an ordinance or rule, then the member is appointed for the full term and may only be removed by the commission for misfeasance or malfeasance. Mr. Chipok stated the County Attorney’s position is that since the terms are set at four years in the rules, the local government has no say in the matter.

Mr. Chipok stated he’s drafted language to the charter to clarify the VGMC’s historical position, but suggested we could look at clarifying it within the rules without the need for a charter change. Mr. Vihlen encouraged the clarification be made in the rules and not proposed it as a change in the charter. There was general agreement from the other commission members.

The last item related to deleting the reference in the charter that there will be a non-voting member appointed by the Volusia County Business Development Corporation since they are no longer in existence. Mr. Chipok stated this was simply for clean-up purposes, and if there are no other changes to the charter being proposed by the VGMC, then we will just leave this alone. There was general agreement of the commission on this matter.

Mr. Brandon stated the POP report and presentation of draft rules amendments has concluded.

Chairman Wachtel thanked Mr. Brandon, the POP Committee and all the members for their input. He stated there’s additional work to be done and a vote is expected to occur at a public hearing at the March regular meeting. Between now and then, he encouraged all of the members to go over the issues, the intention of streamlining the process and to understand the current culture of the community. Mr. Wachtel stated if any of the members have questions on any of the issues, they should contact Ms. Smith and she can raise those to our legal and planning staffs. Mr. Brandon stated the goal is to bring the rules amendments back to the commission in March, however, there are additional meetings of the Charter Review Commission in the meantime and there may be other issues raised, so it’s possible it may need to be pushed to April. He stated he understands the Charter Review Commission has a May deadline for their recommendations

relating to the charter. In response to a question, Ms. Smith stated the March meeting is scheduled for March 23rd in DeLand.

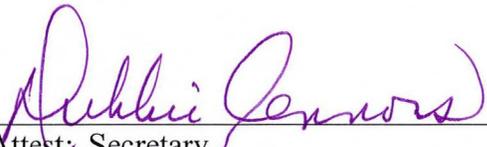
Chairman Wachtel stated Paul Chipok has announced he is leaving GrayRobinson and has taken a position with the Seminole County Attorney's office. He introduced Heather Ramos from GrayRobinson as Mr. Chipok's replacement to the VGMC. Chairman Wachtel thanked Mr. Chipok for his leadership, friendship and the energy he has put forth on behalf of the VGMC over the years. The commission members applauded Mr. Chipok.

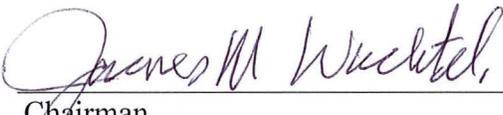
Sid Vihlen made a motion for the VGMC to draft a resolution thanking Mr. Chipok and attesting to his service to the VGMC; motion seconded by Donald Romanik. Motion carried unanimously.

Chairman Wachtel invited everyone to enjoy cake following the meeting to celebrate the work Mr. Chipok has done for the commission.

ADJOURNMENT

There being no further business, the meeting was adjourned at 8:55 p.m.


Attest: Secretary


Chairman