

Volusia Growth Management Commission

MEETING MINUTES FOR
REGULAR MEETING HELD
Wednesday, May 25, 2011

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

MEMBERS PRESENT

Gerald Brandon, Chairman
Steve Katz, Vice Chairman
Dwight Lewis, Secretary
Richard Walton
Stewart Cruz
Danny Allen (Excused)
Sandy Lou Gallagher (Excused)
Jason Floyd
John Heaphy
Roger Sonnenfeld
Rick Tresher
Robert Storke
Alan Redinger (Excused)
Debbie Connors
Joan Spinney
James Wachtel
Kenneth Kuhar
Gary Huttman (Excused)
David Michael Halpin

REPRESENTING

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

NON-VOTING MEMBERS

Sara Lee Morrissey (not present)
Peter Brown (not present)

REPRESENTING

Volusia Co. School Board
SJRWMD

OTHERS PRESENT

Paul Chipok, GrayRobinson, P.A.
Barry Wilcox, VHB Miller Sellen
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.

Commissioner Walton arrived at the meeting.

APPROVAL OF MINUTES

Joan Spinney made a motion to approve the minutes of the regular meeting held on February 23, 2011 as presented; seconded by Robert Storke. Motion carried unanimously.

John Heaphy made a motion to approve the minutes of the regular meeting held on March 23, 2011 as presented; seconded by Joan Spinney. Motion carried unanimously.

Rick Tresher made a motion to approve the minutes of the special meeting held on April 6, 2011 as presented; seconded by Robert Storke. Motion carried unanimously.

PUBLIC HEARINGS

1) Consideration of VGMC Application No. 10-018, City of Orange City large scale amendment application (Proposed Resolution #2011-07)

Mr. Chipok read a statement of public hearing procedure into the record and discussed the commission's scope of authority. Those individuals testifying at the hearing were sworn in by the VGMC Coordinator.

Barry Wilcox, VGMC Planning Consultant, addressed the commission and provided a power point presentation, a copy of which is available in the VGMC office. Mr. Wilcox discussed the EAR review process and provided a summary of the proposed changes. He also reviewed a map which reflected 56 parcels, totaling approximately 144 acres, that would result in land use changes under the proposed amendment. He stated most of the parcels are less than an acre in size and there were no objections raised to the proposed changes.

Mr. Wilcox then reviewed the individual consistency criteria and noted there is adequate potable water and sanitary sewer capacity. With respect to transportation, he stated that the proposed amendments result in a net decrease in trips. In addition, he stated that the Volusia County Schools have stated the proposed amendments would have minimal impact on schools. Mr. Wilcox stated there were no significant adverse impacts to natural resources identified, nor any issues relating to capital improvements.

Mr. Wilcox then discussed the need for compliance with existing conditions of approval on previous applications. He explained that in 2006, the VGMC conditionally approved an amendment for Orange City which required they enter into an interlocal agreement with Volusia County relating to traffic as a result of issues raised by the County at that time. Since then, he stated a considerable amount of work has been done to address that issue and also that Orange City was a key participant in the Southwest Volusia Regional Transportation Study. Mr. Wilcox stated that the City and County continue to work on the outstanding issue, but added that the conditions under which the original interlocal agreement requirement was established have changed considerably. He stated they are very close to arriving at some sort of an agreement with the County to address the previous condition of approval, adding that it may not necessarily be an interlocal agreement. Mr. Wilcox stated that he recommends the commission approve an additional extension to comply with the 2006 condition of approval.

Mr. Wilcox also stated that in the original submittal package, the City proposed removal of their PUD zoning district. He stated that many of the properties in Orange City are designated mixed use, and the VGMC has utilized the PUD to measure the impacts of future development in the mixed use areas. Since the original application transmittal, Mr. Wilcox stated the City has made a number of changes, including leaving the language as is regarding the PUD zoning district.

In summary, Mr. Wilcox stated there have not been any major issues identified with the application package, and he recommends approval with the conditions that the City retain the PUD rezoning district and also that compliance for the 2006 conditional approval be extended to allow the City and County to reach an agreement.

Commissioner Sonnenfeld asked how the proposed amendments could result in a positive impact on schools and utilities, but a negative impact on transportation. Mr. Wilcox explained that it was the nature of the changes, and that residential uses have more water and school impacts while commercial uses have more traffic impacts.

Commissioner Lewis commented that there has already been several extensions granted relating to the previous condition requiring the City to enter into an interlocal agreement with the County. He asked if there are any limits on the number of extensions the VGMC would allow. Mr. Wilcox responded that the initial one year time requirement was a very optimistic time schedule due to the complexity of getting an interlocal agreement in place. In addition, he stated that the Southwest Volusia Regional Transportation Study took several years to complete. Mr. Wilcox commented that the mobility plan which is being incorporated as part of the revisions to the pending amendment may be sufficient to address the previous concerns of the County. General discussion ensued relating to the steps and time involved with an interlocal agreement, as well as the use of a mobility plan.

Alison Stettner, Development Services Director for the City of Orange City, thanked VGMC staff for their work on the amendment package and stated that the City concurs with the staff recommendation.

There being no one else present who wished to speak on the application, Chairman Brandon closed the public hearing.

Commissioner Katz asked Mr. Chipok why it was necessary to have a public hearing if all of the parties agreed. Mr. Chipok responded that there are two conditions of approval proposed which requires a resolution be approved by the full commission at a public hearing. He further explained that there were a number of changes made to the application since it was originally transmitted and the conditions of approval will ensure the changes are adopted by the City. Mr. Katz asked if the City could have resubmitted their application and avoid having to bring it to public hearing. Mr. Chipok responded that they could have, however, under our present rules they would be required to wait one year before resubmitting. Mr. Katz asked if there was something staff could do in situations like this to avoid scheduling a public hearing. Mr. Chipok explained the public hearing is the culmination of a considerable amount of work to get to the point of reaching consensus on the necessary changes, and the resolution is the enforcement mechanism for ensuring the changes are made.

Mr. Chipok then reviewed the proposed conditions of VGMC Resolution 2011-07.

Robert Storke made a motion to approve VGMC Resolution 2011-07 as submitted; seconded by Joan Spinney. Motion carried unanimously.

REMARKS OF INTERESTED CITIZENS

None

REPORTS OF OFFICERS

None

REPORTS FROM CONSULTANTS

Legal Update: Mr. Chipok further responded to Commissioner Katz' prior questions relating to the need for a public hearing, stating that the proposed rules amendments will grant more latitude in situations like this, where staff will have the ability to consider proposed changes to an original application and accept them without the need for a public hearing. Commissioner Sonnenfeld asked the status of the proposed rules revisions. Mr. Chipok stated that the VGMC recently withdrew the original resolution transmitting the rules amendments to the County, and the rules will be going back to the POP committee to consider the comments made by the County Council. He added the concept is that the VGMC would do a bifurcated package so that the simple/non-controversial revisions can go back to the County for consideration, and then continue to look at the more controversial issues in an attempt to try to reach a consensus.

Mr. Chipok updated the commission on the Edgewater Restoration project, stating that this matter is presently on appeal to the 5th DCA. He stated the initial case was dismissed for lack of

standing at the circuit court level. Mr. Chipok reported that all of the legal briefs have been filed and we are currently awaiting a response from the 5th DCA.

With respect to the Farmton amendment, Mr. Chipok stated that the remedial amendments have been adopted by the County and sent back to the Administrative Law Judge and that we are awaiting response. In the interim, he stated that Barbara Herrin, who objected to the first Farmton amendment, and the Sierra Club have filed a new administrative challenge to the adoption of the remedial amendments with the Division of Administrative Hearings. At this point in time, Mr. Chipok stated that Miami Corporation and Volusia County have filed a motion to dismiss the appeal, and the VGMC filed a motion to intervene. In addition, he stated VGMC will file a motion to adopt the Miami Corp. and County motion to dismiss.

Mr. Chipok also provided an update on the Herrin v. VGMC matter which is a challenge in circuit court to the procedures in which the VGMC approved the remedial amendments. He stated that the VGMC, as well as the County and Miami Corporation, have filed motions to dismiss and for summary judgment and a hearing has been scheduled for July 15th.

Mr. Chipok then discussed the Pacetta case relating to the Ponce Inlet EAR Based amendments which was previously approved by the VGMC. At this point in time, he stated that the order to show cause and petition for cert has been issued and the response pleadings from VGMC and Ponce Inlet are due July 8th.

Planning Update: Barry Wilcox advised that since distributing the case update with the agenda package that we've received 19 additional small scale amendment applications, all of which are annexation related. He also reported that we presently have only one large scale amendment application pending.

Mr. Wilcox also introduced his associate, Dallas Austin, also a planner with VHB Miller Sellen, who will serve as his back-up to the VGMC.

Mr. Chipok briefly addressed the commission concerning HB7207 which recently passed. He stated the bill makes significant changes to the Growth Management Act, however, it does not do away with comprehensive planning. Mr. Chipok commented that the ultimate impact is not fully known at this time. He stated the Governor has not signed the bill into law yet, however, it is anticipated he will. Mr. Chipok stated the VGMC is created by the Charter and still has a function under the new system. He stated that he and Mr. Wilcox are reviewing the bill and will prepare an overview for presentation to the VGMC at a future meeting when things become a little more settled. Commissioner Wachtel raised a question concerning how the bill impacts DRIs. Mr. Chipok stated that there were changes to portions of the DRI standards and he briefly discussed several of the changes.

REPORTS OF COMMITTEES

POP Committee: Committee Chairman Steve Katz reported that when the committee meets next, they will be reviewing the three staff contracts for 2011-12 and prepare a recommendation to the full commission. In addition, he stated they will also discuss a plan for bifurcating the rules revisions.

Budget Committee: Committee Chairman Dwight Lewis reported that we are within budget for the current fiscal year and an expense worksheet will be provided with the next agenda.

UNFINISHED BUSINESS

None

NEW BUSINESS

None

REPORTS AND REQUESTS OF COMMISSION MEMBERS

Commissioner Lewis commented on a conversation he recently had with the County Attorney relating to the rules revisions. Mr. Lewis stated he advised Mr. Eckert that the VGMC was not happy with the County trying to unilaterally change the rules since several years of work, including input from VCOG and the jurisdictions, had gone into the proposed amendments. He stated that he and Mr. Eckert disagreed on the County's authority to unilaterally change the VGMC rules, and Mr. Eckert questioned who would fund the VGMC if this matter went to court. Mr. Lewis stated he does not feel we should get into a legal battle with the County at this point in time and that we should get the revisions that everyone agrees one through, and then try to find a way to work out the others.

REPORTS AND REQUEST OF COMMISSION CHAIR

Chairman Brandon announced and congratulated Dwight Lewis on his recent appointment to the Daytona State College Board of Trustees.

ADJOURNMENT

The meeting was adjourned at 7:45 p.m.

Attest:



Chairman