

Volusia Growth Management Commission

**MEETING MINUTES FOR
REGULAR MEETING HELD
Wednesday, August 28, 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
Roger Sonnenfeld
Kenneth Bohannon
Robert Storke
Don Romanik
Debbie Connors
Richard Kane
Kenneth Kuhar
Douglas deLeon

REPRESENTING

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

MEMBERS NOT PRESENT

Sandy Lou Gallagher
John Heaphy

Deltona
Holly Hill

NON-VOTING MEMBERS

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

Volusia Co. School Board
SJRWMD

OTHERS PRESENT

Paul Chipok, GrayRobinson, General Counsel
Merry Chris Smith, VGMC Coordinator

CALL TO ORDER

VGMC Chairman Gerald Brandon called the meeting to order at 7:05 p.m.

ROLL CALL

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

Chairman Brandon welcomed new commission member Douglas deLeon representing Volusia County. In addition, he announced three recent member reappointments: John Heaphy, City of Holly Hill; Sandy Gallagher, City of Deltona; and himself representing the City of Ormond Beach. Mr. Brandon also stated that Michael Halpin resigned from the Commission when his term expired on June 30, 2013.

CITIZEN COMMENTS

There were no citizens present who wished to speak.

APPROVAL OF MINUTES

Kenneth Bohannon made a motion to approve the minutes of the regular meeting held on March 27, 2013 as presented; seconded by Debbie Connors. The motion carried unanimously.

PUBLIC HEARING

1) Consideration of Resolution 2013-02, City of Orange City, acknowledging satisfaction of Condition 2.B.3 of Resolution 2006-06:

Paul Chipok, VGMC General Counsel, addressed the commission. Mr. Chipok explained that in 2006, the VGMC approved an application with the condition that an interlocal agreement between Orange City and Volusia County be entered into to address transportation impacts. Since that time, he stated the Southwest Volusia cities completed the Southwest Volusia Transportation Study. As a result of the study, the Volusia Transportation Impact Analysis (TIA) Guidelines were created and the City of Orange City has incorporated those guidelines into their Transportation Element as policies 1.71 and 1.74 of their comprehensive plan. In addition, through Resolution, the City has adopted the Volusia Transportation Planning Organization's TIA guidelines recognizing standard methodologies. With these actions, Mr. Chipok stated the issue of how to address the transportation impacts has been completed without the need for an interlocal agreement.

Mr. Chipok stated that staff feels the interlocal agreement is no longer necessary. He added that since the City of Orange City incorporated the policies in their comprehensive plan, they must recognize those policies and cannot remove them without an amendment to their comprehensive plan which would have to come back before the VGMC. Mr. Chipok stated staff recommends Resolution #2013-02, recognizing that Condition 2.B.3 of Resolution 2006-06 has been satisfied, be adopted by the VGMC. He also pointed out that Alison Stettner, Orange City Development Services Director, was present to address any questions the commission may have.

Kenneth Bohannon made a motion to approve Resolution #2013-02 as written and proposed; seconded by Robert Storke. Motion carried unanimously.

REPORTS FROM LEGAL COUNSEL

Mr. Chipok discussed recent activities relating to Farmton. He explained that amendments were previously processed which clarified timelines relating to the Farmton Master DRI. In furtherance of that, Mr. Chipok stated Farmton has moved forward with a Farmton Master DRI Agreement, adding this is a process agreement and not a substantive agreement. The Agreement establishes the ground rules on how they will go through the DRI system and what they will need to include in their application. Mr. Chipok stated the documentation has been reviewed by Jim Sellen and he agrees that is the proper methodology to be used for the future application. In addition, he stated through conditions of the prior VGMC approval relating to Farmton, the DRI application will come back before the VGMC for review which will occur at a future date. In the meantime, he stated the process agreement requires the signature of the VGMC Chairman, the Volusia County Council, the Regional Planning Council and Farmton. Mr. Chipok stated the Chairman will be executing the agreement and it will be forwarded on for other required signatures.

Commissioner Walton asked if there are any entitlements allowed while the DRI is being prepared. Mr. Chipok stated this is strictly a processing agreement, not a development order, and the agreement grants them no entitlements. Mr. Chipok's legal update was concluded.

Commissioner Wachtel stated that a question came up in the earlier Budget Committee meeting relating to future projects, such as the Speedway and Hard Rock in Daytona Beach, and if they will involve comprehensive plan amendments requiring VGMC review. Mr. Chipok responded that the original budget estimates submitted by staff are based on historical averages, and the current budget should be sufficient for an uptake of several projects in a particular jurisdiction. Commissioner Walton stated that all the projects mentioned by Mr. Wachtel have been approved under the current comprehensive plan. He then spoke about an amendment that is expected to come forward on the west side of Clyde Morris Boulevard across from the hospital.

REPORTS OF COMMISSION COORDINATOR

Ms. Smith provided an update to the pending case log since its distribution with the agenda package. She noted that the City of Edgewater large scale application (#13-031) has been letter certified, and that no objections or comments had been received to date for the City of DeLand (#13-032) and City of Ormond Beach (#13-033) applications. In addition, she stated four new additional applications have been received.

REPORTS OF COMMISSION CHAIRMAN

Chairman Brandon reported that he had met with Jim Sellen recently and that Jim has proposed making presentation to the VGMC on water issues affecting the County that will likely come before the commission in the future. Mr. Brandon stated the presentation would be in the form of

15-20 minute presentations over three meetings. Mr. Hayman commented that he totally endorses the presentations and stated this is one of the most important issues that the County has to address. He also discussed previous impacts and efforts to address water issues, as well as the need for the VGMC to understand the impact on consistency. There was a general consensus of the commission for Mr. Sellen to present to the commission on this issue. Chairman Brandon asked Ms. Smith to notify Mr. Sellen.

REPORTS OF COMMITTEES

POP Committee Report: Jack Hayman, Chairman of the POP Committee, stated the committee had met immediately prior to the regular meeting. He reported the committee had approved minutes from the previous committee meeting, and also would be recommending approval of both the GrayRobinson & VHB MillerSellen 2013-14 contracts which are scheduled for consideration by the commission under New Business.

Mr. Hayman reported that the committee also discussed the VGMC Coordinator job description & title, and the concern the committee has that this position does not currently receive benefits such as paid personal leave time and health insurance. Mr. Hayman stated the committee agreed the position should be granted personal leave time consistent with the policies of Volusia County, which is also in line with other government agencies. With the tenure of the current Coordinator, this would amount to 114 hours annually. He stated the committee looked at the status of the position dating back to 1996 when this position was provided paid leave time, health insurance, retirement and other benefits. Presently, he stated the only benefits provided to this position are paid holidays as established by Volusia County policy, as well as one floating holiday per year. Mr. Hayman stated at the request of the commission several years ago, Volusia County handles the payroll and worker's compensation premiums for this position. Other than that, there is no other compensation for health insurance, retirement, etc. as enjoyed by other full-time/part-time government employees.

Mr. Hayman stated the POP Committee agreed that he should move forward working with legal counsel to devise a plan of action to address the lack of health insurance and retirement benefits for this position. In addition, he stated the committee is recommending the commission approve changing the position title to Operations Manager, and also approve paid personal leave time totaling 114 hours annually effective October 1, 2013. The recommendation from POP comes in the form of a motion and a second for consideration by the commission.

Commissioner Bohannon stated he would like to see the entire compensation package before voting. Mr. Hayman responded that the POP Committee is asking for approval of a portion of the benefits, to include 114 hours of annual paid personal leave and a change in the position title to Operations Manager. The other benefits, such as health insurance and retirement, need to be further evaluated to determine what is available through the County. Mr. Bohannon stated he understands, however, he would like to see the compensation package come forward in whole, not in separate parts. Mr. Hayman stated this would likely be the only time they would see it fragmented this way, and asked for the support of the commission.

Mr. Wachtel asked for further explanation as to how the 114 hours of paid leave time was arrived at. Chairman Brandon stated according to the Volusia County Employee Handbook, a part-time employee with Ms. Smith's longevity would be entitled to 114 hours. Mr. Brandon also confirmed that paid leave time includes both vacation and sick time. Commissioner Sonnenfeld asked for confirmation that current County policies provide paid personal leave for part time employees. Mr. Brandon responded affirmatively, adding that he felt this benefit is long overdue. Mr. Bohannon raised a question relating to the accrual of leave and also when the remainder of the compensation package would come before the commission. Mr. Brandon stated the accrual would begin October 1, 2013. Mr. Hayman stated it would likely be at least November before the remainder of the compensation package would be ready.

Mr. Chipok addressed the commission concerning the current status of the position. Mr. Bohannon suggested preparing a contract and compensation package for consideration in totality. Mr. Brandon stated the POP committee is recommending moving forward with the change in title and paid personal leave at this time, and then look further into other benefits such as health insurance and retirement.

Commissioner Kane raised a question relating to coverage at the VGMC office when the Coordinator is on leave time. Mr. Hayman stated that issue was also raised by the POP Committee and they will be looking to further address that. Overall, Mr. Hayman stated this is a comprehensive matter that will ultimately come together as one package, and asked for the commission's support in approving the title change and paid personal leave tonight.

Commissioner Wachtel stated that additional funding for paid leave time has not been addressed and recommended the matter be deferred until we have the opportunity to visit with the County to address how to best implement the benefits.

Chairman Brandon called the question to the motion to change the position title to Operations Manager and approve 114 hours of paid personal leave effective October 1, 2013. Motion carried by a 10-3 vote; Commissioners Bohannon, Sonnenfeld and Wachtel voted in opposition.

Mr. Hayman thanked the commission for their support of the POP Committee recommendation. He also stated the concerns raised have been noted and will be addressed when the remainder of the package comes back before the commission.

Budget Report: Jim Wachtel, Chairman of the Budget Committee, reported the committee met immediately prior to the regular meeting. Mr. Wachtel discussed the current fiscal YTD budget expenses, stating that our overall expenses are well below the approved budget which concludes on September 30, 2013.

With respect to the proposed 2013-14 budget which was approved by the VGMC and submitted to the County earlier in the year, Mr. Wachtel stated the County staff made changes to the budget. Specifically, he stated the personnel services budget was increased slightly based upon the County's calculations, they cut the \$25,000 litigation contingency as they have done in the past, and they also cut the contract services budget by \$9,000 (4%). Mr. Wachtel explained it

was unclear as to how the County arrived at the \$9,000 decrease in contract services. He stated the Budget Committee felt there were two options: 1) Go back to the County and request the \$9,000 be added back into the budget; or 2) Reduce the budgeted amounts for VGMC consultant staff by 4%. Mr. Wachtel stated in recent years the VGMC consultant staff expenses have been significantly lower than what has been budgeted, and the Budget Committee is recommending the VGMC accept the County recommended budget and work with the consultants to proportionately reduce their budget/purchase orders for the 2013-14 fiscal year. Commissioner Connors pointed out that \$7,200 of the total contract services budget is for member travel reimbursements.

Mr. Wachtel stated there was also discussion at the Budget Committee meeting regarding the course of action the commission would need to take if there is a shortfall of budgeted funds for contract services. He explained the commission could look to shift funds within the approved budget, or if necessary, go back to the County and request additional funding.

Several members of the commission expressed concern that County staff provided no rationale for the \$9,000 reduction, adding that the commission has been very prudent with expenses over the years.

Mr. Wachtel reiterated the recommendation from the Budget Committee was to accept the County staff recommended budget which serves as a motion and a second. Mr. Hayman commented that he would support the motion, but felt there may be a need for additional funding based upon projects that may come before the VGMC during the 2013-14 fiscal year. Chairman Brandon called the question, and the motion to accept the 2013-14 budget as recommended by County staff carried unanimously.

NEW BUSINESS

Consideration award of contract to Miller Legg for consultant planning services:

Mr. Hayman recognized Barry Wilcox, Planning Manager with Miller Legg in the audience. He stated that Mr. Wilcox worked closely with the POP Committee to stay within budget and at a rate of \$115 per hour. Mr. Hayman stated the committee negotiated an agreement with Miller Legg and it comes before the commission in the form of a motion and second with a recommendation of approval.

Based upon the earlier discussion and action of the commission with respect to the reduced contract services budget, Mr. Wachtel stated the numbers within the proposed contract will need to be adjusted to reflect the budget change.

Mr. Chipok addressed the commission and stated the figures included in the contract(s) are budget estimates. He suggested the commission take the proportionate amount of reduction and deduct it from the three staff contracts for the 2013-14 purchase orders. He further suggested a letter go back to the consultants with the approved contracts which outlines the individual consultant budget based upon the County recommendation. Mr. Wachtel stated the ceiling

amount of budget contained in the staff contract(s) should be consistent with the purchase order(s).

Commissioner Romanik pointed out that the GrayRobinson contract letter does not include a budget amount. Mr. Chipok responded that an earlier budget estimate was provided to the VGMC for use in preparing the proposed 2013-14 budget, and the contract letter scheduled for consideration by the commission tonight describes the scope of services they will provide.

Commissioner Bohannon asked for clarification relating to the POP recommendation. Mr. Hayman stated the POP recommendation is to approve the agreement with Miller Legg for contract planning services for the 2013-14 fiscal year. Discussion ensued pertaining to the proper procedure to approve the agreement with the change in the budgeted/ceiling amount contained in the agreement. It was agreed that the commission needed to vote on the original motion and second from POP to approve the agreement with Miller Legg as presented, and in order to make the change in the ceiling amount contained in the agreement based upon the reduced recommended budget, a new motion and second would be necessary.

Chairman Brandon called the question on the motion and second from POP to approve the agreement with Miller Legg as presented in the agenda package. The motion failed.

Kenneth Bohannon made a motion to approve the agreement with Miller Legg for contract planning services for the 2013-14 fiscal year with a 4% reduction in the ceiling amount. Robert Storke seconded the motion. Ms. Smith pointed out that the County Council will not be taking final action on the budget until late September and the approved budget could change. Mr. Chipok suggested the motion could be amended to approve the agreement with a 4% reduction in the ceiling amount per the County's budget recommendation, subject to further amendment pending final approval of the budget by the Volusia County Council. Mr. Bohannon amended the motion as stated by Mr. Chipok. Mr. Storke accepted the amended motion.

Mr. Hayman stated he would not be supporting the motion. He stated the POP Committee negotiated the agreement based upon the scope of services and estimate of needs. Mr. Hayman further commented on the 4% budget reduction made by County staff without explanation or justification. Commissioner Kane pointed out that earlier in the meeting, the commission voted to accept the budget recommendation of County staff. Commissioner Walton suggested the commission may want to also recommend that Mr. Hayman have a conversation with the appropriate County staff relating to the budget reduction and future impacts. Commissioner Sonnenfeld commented that the commission voluntarily reduced the contract services budget by 10% in the previous fiscal year.

Chairman Brandon called the question to the motion and second to approve the agreement with Miller Legg for contract planning services for the 2013-14 fiscal year with a 4% reduction in the ceiling amount per the County's budget recommendation, subject to further amendment pending final approval of the budget by the Volusia County Council. Motion carried by a 12-1 vote; Commissioner Hayman voted in opposition.

Consideration of 2013-14 GrayRobinson Legal Contract:

Mr. Chipok pointed out that the legal contract does not include a budget/ceiling.

The POP Committee recommended approval of the 2013-14 GrayRobinson contract as submitted which serves as a motion and second. The motion carried unanimously.

Consideration of 2013-14 VHB MillerSellen Planning Contract:

The POP Committee recommended approval of the 2013-14 VHB MillerSellen planning contract as presented which serves as a motion and second. Commissioner Storke pointed out that the contract includes a budget/ceiling amount. Commissioner Kane pointed out that paragraph 24 of the Terms and Conditions of Agreement states the agreement will be governed by the Commonwealth of Massachusetts and it should be the State of Florida.

The motion to approve the 2013-14 VHB MillerSellen planning contract as presented failed with the majority of members voting in opposition.

Kenneth Bohannon made a motion to approve the 2013-14 VHB MillerSellen contract with a 4% reduction in the ceiling amount per the County's budget recommendation, subject to further amendment pending final approval of the budget by the Volusia County Council, and changing paragraph 24 of the Terms and Conditions of Agreement to reflect that the agreement will be governed by the State of Florida. Debbie Connors seconded the motion.

Commissioner Kane commented on paragraph 12 relating to the indemnification of liability concerning asbestos and other hazardous substances. Mr. Chipok stated the scope of services provided by VHB is for reviewing comprehensive plan amendments and there is no physical work involved. He added these are generic terms used by VHB. Mr. Kane also raised a question relating to the hourly rate schedule which goes as high as \$300/hour. Several members pointed out page two of the contract identifies the hourly rate for VGMC to be \$115 and any higher billing rate requires prior authorization. Mr. Chipok added that the provisions in the first part of the contract are specific to the VGMC and override the general part II provisions.

The motion to approve the 2013-14 VHB MillerSellen contract with a 4% reduction in the ceiling amount per the County's budget recommendation, subject to further amendment pending final approval of the budget by the Volusia County Council, and changing paragraph 24 of the Terms and Conditions of Agreement to reflect that the agreement will be governed by the State of Florida carried unanimously.

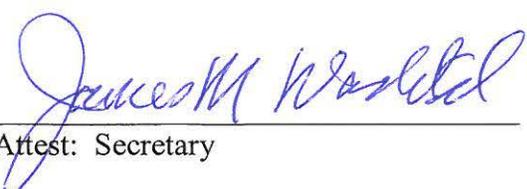
OTHER BUSINESS AND REQUESTS OF COMMISSION MEMBERS

Commissioner Wachtel extended appreciation for the services the consultant staff has provided over the years and apologized for the situation which arose as a result of the budget reduction recommendation by County staff.

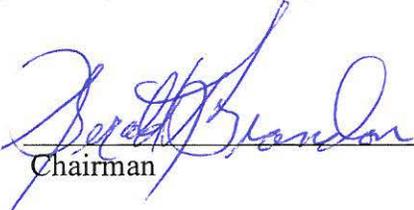
Chairman Brandon thanked the committees and staff for the work they have done.

ADJOURNMENT

There being no further business, the meeting was adjourned at 8:30 p.m.



Attest: Secretary



Chairman