

**CHARTER REVIEW COMMISSION SUBCOMMITTEE  
[VOLUSIA GROWTH MANAGEMENT COMMISSION]  
VOLUSIA COUNTY, FLORIDA**

**MINUTES OF THE MEETING OF  
March 7, 2016**

**CALL TO ORDER**

Subcommittee Chair Glenn Ritchey called the meeting to order at 12:10 p.m. in the Dennis R. McGee Room at the Daytona Beach International Airport, 700 Catalina Drive, Daytona Beach, Florida.

**ROLL CALL**

Members present included Chair Glenn Ritchey Sr., Frank Bruno Jr., Patricia Drago, and Ambassador Stanley Escudero. Charter Review Commission member Mark Watts was also invited and in attendance. Volusia County Attorney Dan Eckert, Tammy Bong, Dona DeMarsh Butler, county support staff and members of the public were also present.

**APPROVAL OF MINUTES**

Frank Bruno made a motion to approve the minutes of the January 25, 2016 meeting. The motion was seconded by Patricia Drago. The motion was approved unanimously.

**VOLUSIA GROWTH MANAGEMENT COMMISSION REPORT**

Gerald Brandon, Volusia Growth Management Commission Vice-Chairman and Chair of the Personnel, Operations, & Procedures (POP) Committee spoke to the subcommittee regarding VGMC actions that have taken place since the last subcommittee meeting on January 25, 2016. The proposed revisions to the VGMC consistency certification rules had been provided to the subcommittee as part of the agenda package.

Mr. Brandon advised that there have been three meetings of the VGMC POP Committee since the subcommittee has met last. These meetings took place on February 4, 2016, February 24, 2016, and March 3, 2016. Several members of the business community as well as local governments were in attendance at these meetings. Deanie Lowe met with business development leaders in order to gain agreement and understanding with the proposed changes. On February 24, 2016 the POP Committee presented the proposed revisions to the VGMC as a whole in order to gather feedback and comments from the commission. Based on that discussion, the amendments were re-drafted into the February 26, 2016 version which was provided to the subcommittee. During the February 24, 2016 meeting, there was more than fifty percent support of both the straight vote and weighted vote for the proposed changes.

Mr. Brandon continued by reiterating that the VGMC does not recommend changes to the charter. They have focused on rules changes to address the issues within the framework of the existing charter. To address threshold concerns, the VGMC proposes limiting standing only to the County of Volusia, local municipalities, and the school board. Notice requirements and review timeframes have been modified and streamlined. Burden of proof guidelines have been revised to be more neutral in nature. Provisions have been added to define the "other related duties" and to clarify that a jurisdiction may remove its appointed member consistent with the local government's ordinances relating to member appointments. During the March 3, 2016 POP Committee meeting, it was proposed that the VGMC staff will continue to review the large scale applications, however, any requests for public hearings must come from a unit of local government, the VGMC could not independently request a public hearing. Staff concerns would need to be routed through a hearing request from a unit of local government. The VGMC planning staff, however, was not in attendance during these meetings and may have additional comment on this process.

Mr. Brandon stated that he had hoped to have a complete draft for the March VGMC meeting, but in order to have the planning staff review it at a POP Committee meeting, it may push the VGMC draft to the April 27, 2016 meeting. Mr. Brandon asked if this would be an issue with any of the involved parties. Chair Ritchey advised that does impact the Charter Review Commission's time schedule. He was also disappointed in the time it has taken to reach consensus as well as he had heard that there may be additional issues. Mr. Brandon stated that there must be time allowed for staff to voice their concerns, although he does not feel that it necessarily means there will be changes to the proposed revisions. Chair Ritchey asked if these changes must go before the full VGMC. Mr. Brandon affirmed that they would need to be, and if any changes were made, there would need to be time to re-draft the amendments to the rules. Mr. Brandon advised that they are very close to having a full package, and asked the subcommittee to bear with them just a bit longer to get everything worked out.

Ms. Drago asked if the outstanding issue is whether or not the VGMC staff would be able to call for a public hearing. Mr. Brandon stated that was correct. Chair Ritchey stated that this is a standing issue as it would take the VGMC out of having standing. Mr. Brandon stated that in the last ten years, staff has only called for a hearing three times.

Mr. Ritchey asked why this provision would be needed. Mr. Brandon advised that he may not have all of the details since he is not a planner, but staff needs the flexibility to be able to call a hearing if needed under specific circumstances. Mr. Watts asked what the three instances of staff calling a hearing were. Mr. Brandon asked Merry Smith, staff operations manager to provide the details. Merry Smith stated that she did not have details, but the one was relating to EAR based amendments submitted by the City of Orange City in 2010, the second was EAR based amendments by the City of Deltona in 2010, and the third was related to the Riverbend Church by the City of Daytona Beach in 2007. Mr. Watts stated that it seemed to him in these instances it should have been the County requesting a hearing as the issues were most likely relating to County

infrastructure impacts. Mr. Brandon stated that he will to clarify with the planners why they are requesting this change regarding VGMC standing.

Ambassador Escudero stated that he was frustrated by the amount of time that had been spent on this endeavor. One of the complaints that the commission had heard was regarding the amount of time it had taken to review and approve applications. Mr. Escudero felt that the VGMC should be acting quickly to provide the requested information. He did not understand why it has taken so long for the VGMC to justify their own existence. Mr. Brandon responded that he did not feel it was a matter of justifying their existence, as it is defined by charter. The VGMC is trying to take enough time to do the proper amount of due diligence to do the job they have been tasked effectively. It has been a challenge because at the beginning of this process, there had been a big difference of opinion between parties. All have put in many hours to reach this point and after one more discussion Mr. Brandon feels that they will be ready.

Deanie Lowe asked if an emergency meeting could be called. Mr. Brandon responded that they could as long as the proper notification timeframe could be observed.

Mr. Bruno asked if the only issue was that of VGMC standing, or if there were a number of additional issues that would need to be considered. Mr. Brandon stated that the only issue was that of VGMC standing.

Mr. Drago asked for clarification of the subcommittee process. As she understood the process, the subcommittee would take these recommendations to the full Charter Commission, if approved, the VGMC votes on the changes, which would then need to go before the County Council for approval. Mr. Eckert reminded that there may be additional changes that the Charter Review Commission makes including possible changes to the charter.

Chair Ritchey stated that even if the rules changes were approved as written currently, there could always be rule amendments in the future to correct any issues. This could cut out a lot of time since there is still much to be done. Mr. Watts concurred. Mr. Brandon stated that it becomes an issue as the council may not approve future changes. Mr. Watts stated that by and large these changes are what all parties have been looking for, and instead of delaying the process believes that they should move forward with what is currently written.

Chair Ritchey asked how long the planner has held the contract with the VGMC. Mr. Brandon advised that it has been almost thirty years, and he is considered one of the best in the business.

Ms. Drago stated that she feels that the standing issues in the past have not been detrimental. She feels that the rule changes have not made the process stronger, perhaps more efficient, but that she is not sure that we are keeping good, strong planning in Volusia County.

## **PUBLIC PARTICIPATION**

Chair Ritchey opened the floor to public participation.

Deanie Lowe, 1065 N. Halifax Drive, Ormond Beach, replied to Ambassador Escudero's concerns regarding the length of time it has taken to reach this point. She stated that it has taken a long time, but there are specific advertising requirements and the internal process requires that they go through the POP Committee in order to make a recommendation to the full VGMC. She stated that the subcommittee is seeing just how complex the process is to change the rules of procedure. She liked Mark's idea of just moving forward with what they currently have, but it would be like a slap in the face of Jim Sellen who has been their planner for 30 years. He has a legitimate concern, but she feels that it can be worked out. She would like to see if an emergency meeting could be called in order to stay within the needed timeframe. In the future the notifications should not be an issue.

Scott Simpson, 595 W. Granada Blvd., Suite A, Ormond Beach, thanked Deanie Lowe for helping to mediate the process. He stated that the POP Committee had addressed one of the fundamental issues that had been raised regarding the true role of the VGMC. Mr. Simpson stated that the role should be to help local governments achieve consistency with their growth plans. If local governments are in agreement that the plans are consistent, then there is no need for the VGMC to intervene. He feels that standing means the ability to call a hearing before the VGMC, and appealing the VGMC's ruling. He does not feel that the staff should be able to call for a hearing when local governments do not feel there is any issue. At that point you are no longer conflict resolution, but conflict creation. Large scale amendments could still be reviewed, but any issues would have to go through one of the affected local governments. Mr. Simpson considers the VGMC standing rule a deal killer. What we currently have addresses the problems, but adding back in VGMC standing does not. The sovereignty of the local governments must be preserved.

Mr. Watts agreed that the proposed standing change may be inconsistent with the VGMC purpose. The changes could be adopted and if there is an issue in the future a rule change could be requested. Mr. Simpson stated that moving forward the process would be, in his understanding, that the POP Committee would make recommendations to the full VGMC. If approved, he believes that the next step would be to present those rules to Mr. Eckert to compare to the charter to make sure the new rules are consistent with the language in the charter. If an amendment is needed, the Charter Commission would need to decide what charter change would be necessary in order to make the rule changes consistent with the charter. After that the rule changes would need to be voted on by County Council. There are deadlines for drafting charter amendments and ballot summaries. Working backward from the election requirements will give a date by which the Charter Review Commission must present the recommendations to the County. He indicated that there might be concerns with getting the information back in time. He encouraged Mr. Brandon to do the emergency meeting which was mentioned. If the rules are not adopted, Mr. Simpson indicated that business leaders would be

coming back to the Charter Review Commission to request a charter change. His concern is that there is not enough time to make last minute changes if the VGMC or the county council does not adopt the proposed changes. He asked for the deadline date. Chair Ritchey responded that the final meeting of the Charter Review Commission is set for May 9, 2016. Mr. Simpson asked about the process for preparing the ballot summary. Mr. Eckert stated that the Charter Review Commission will adopt the proposed charter amendment(s) and ballot summary at the May meeting. Mr. Simpson expressed concern that the county council would not have time to approve the rules before the final Charter Review Commission meeting. Mr. Brandon proposed that instead of calling for a POP Committee meeting, he will put what has been presented to the full VGMC on March 23, 2016. Mr. Simpson asked how long it would take for the rules to be adopted by the county council. Mr. Eckert responded that the ordinance would have to be drafted and that it would likely be the second meeting in April. Mr. Simpson reiterated that the only way it seems to meet existing deadlines is for the VGMC to vote on the amendments at the March 23, 2016 meeting and not delay any further.

Charter Review Commission Chair Brown stated that we need to move on. Initially it was decided that the Charter Review commission did not want individual subcommittees because he wanted everyone to hear what was being discussed. VGMC is such a complex issue that it was decided to have this one subcommittee and they have done an excellent job. He stated that this subject will be placed on the agenda of the full Charter Review Commission for the next meeting and suggested that the planner be invited to present his concerns. Were it not for the Charter Review Commission, nothing would be happening with this topic. Now there is an opportunity to bring about positive change. He stated that he has two problems. First, the VGMC has expanded its scope. Second, we have non-elected people have been given power without a lot of consideration with who they are. He does not want it to be said that the commission does not have the interest of the citizens at mind, because the commission does. This process has had a lot of input, but there will never be one hundred percent of the people who agree. A decision will be made with the full commission. Chair Brown complemented all of the people involved with working to reach an agreement. When it is all done he hopes to have a solution that all will like and feel good about.

Mr. Bruno asked if this would be on the agenda for the March 14, 2016 Charter Review Commission meeting. Chair Brown confirmed that was correct and the planner would be invited to attend.

Dona Butler asked that in order to facilitate discussion that the members put in writing comments or concerns so that others may review them prior to the meeting.

Mr. Brandon stated that he will ask Mr. Sellen to be present at the March 14, 2016 meeting and he will ask him to present a step-by-step process of what happens when an application is received. Chair Brown responded that he wants Mr. Sellen to present the reason why the planner is requesting that the VGMC have standing. He stated that we do not need the process.

Deanie Lowe wanted to confirm that if the rule changes were approved there would not need to be a charter amendment. Mr. Ritchey responded that would be up to the full Charter Review Commission and recommendation from the county attorney whether the changes are consistent with the charter language. Mr. Eckert stated that it will be up to the commission. Ms. Lowe stated that there is a question regarding the charter language that describes the power and duty to perform a review of all plans. Mr. Eckert stated that portions of the charter could be amended, it is up the commission to decide.

Joe Yarborough, City Manager of South Daytona, stated that this process was like trying to turn around an aircraft carrier. He stated that the groups have been wonderful to work with. Comments from municipalities regarding the original proposed changes have been positive. He stated that his group would like work out the issues without adjusting the charter. They have overlooked their issues with the School Board not being bound by VGMC decisions since such good progress has been made. He had told his colleagues that there will be a vote by the VGMC on March 23, 2016 in DeLand. His concern is twofold, first that the changes do not get adopted by the county council, and second, that county legal states that there must be a charter amendment.

Chair Brown asked Mr. Eckert to bring back whether the charter wording describing the power and duty of the commission to review all plans should be changed if the rules were adopted by the county council in order to effectuate the rules.

Chair Ritchey stated that there were several groups involved with making these changes. He asked for a vote to send it forward as a recommendation to the full commission consider these changes for approval. He asked if there were other opinions. Ambassador Escudero remains concerned about the appeal issue. He stated that there is no elected body for which decisions could be appealed. Ms. Drago wants to move it forward but she would like to place her concerns in writing. Mr. Watts reminded that written comments could be provided when the item is moved forward.

Chair Ritchey stated that he would entertain a motion that based on the recommendation of the POP Committee via the last document received dated February 26, 2016, to move the item forward to the full commission with individual comments attached. The motion was made by Mr. Bruno. A second was by Ms. Drago. A vote was taken and the motion passed unanimously.

Ms. Drago asked for the timeframe for written comments. Ms. Butler asked that the comment be sent to Tammy Bong and herself by Wednesday, March 9, 2016. She also asked the VGMC to provide the updated document.

## **ADJOURNMENT**

There being no further business for discussion, the meeting was adjourned at 1:23 p.m. The next meeting date is to be determined.