

Minutes Outline

POP Committee Workshop, February 5, 2008, 11:00 a.m. – 2:25 p.m.
Discussion of Comments Received on VGMC Policies & Procedures
Port Orange Lakeside Community Center, 1999 City Center Circle, Port Orange, FL

In attendance: VGMC Chair Gerald Brandon; POP Committee Chair Robert Pascoe; POP Committee Members Donna Steinebach, Jim Kerr, Tony Cole & John Heaphy; VGMC Legal Staff Paul Chipok; VGMC Planning Staff Barry Wilcox.

Also in attendance: VGMC Members Suzanne Steiner & Sandra Walters; Mike Woods, Attorney with Cobb & Cole; and James Miller with the Daytona Beach News Journal.

The group first categorized the individual comments into three areas: 1) Comments relating to philosophy; 2) Comments relating to timing; and 3) Comments relating to processing. See attached index with categories. Once completed, they began discussing the individual comments relating to philosophy in index order, beginning with #3, Comments from Daniel Langley and having concluded the meeting with discussions through #5, Comments from Ron Paradise. Another workshop will be scheduled in late February or early March to discuss the balance of the comments received, along with any new comments which may be received.

The committee came to a consensus on the following philosophical issues:

- 1) There should be no narrowing of the notice provisions;
- 2) Favored the idea of adding a completeness review and agreed to address in more detail during the process discussions;
- 3) The RAI process needs to be reviewed in detail and formalized during the timing discussions;
- 4) There should be no term limits on membership;
- 5) The issue relating to governmental staff and/or elected officials serving as appointed members of the commission needs to be addressed further;

To date, the following processing issues were identified to be addressed in more detail:

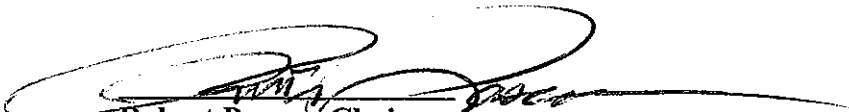
- 1) Look at requiring/allowing the jurisdictions to submit application packages electronically/via disc so they can be posted and easily accessed by interested parties and the general public. Discussion to include what defines an official document and what determines official receipt by the VGMC;
- 2) Further discuss adding a completeness review process;

- 3) Review the application submittal requirements to clarify what documentation needs to be submitted at application. This includes reviewing the individual consistency criteria to determine if additional analysis should be submitted at application;
- 4) Look at establishing an application submittal checklist to be utilized by the applicant, as well as for a completeness review;
- 5) Look at posting rules and procedures on-line.

To date, the following timing issues were identified to be addressed in more detail:

- 1) Review the RAI process and timeframe in detail and formalize.

**MINUTES OUTLINE APPROVED BY THE POP COMMITTEE AT THEIR
REGULAR MEETING OF FEBRUARY 27, 2008**



**Robert Pascoe, Chairman
POP Committee**

Minutes Summary Discussion - 2/5/08 POP Workshop

Following the grouping of which category each of the individual comments most appropriately fit, the group began discussing those comments that related to philosophy, beginning with Item #3, Comments from the City of DeBary.

Item #3 – Comments dated 10/25/07 from Daniel Langley, City of DeBary Legal Staff

Mr. Chipok summarized the comments as suggestions to: 1) Add a 10-day sufficiency review period for determining whether the application is complete; 2) Limit the RAI response to a maximum of 120 days from the date of the original application; and 3) Limit the definition of adjacent jurisdiction to apply only to properties within the applicant jurisdiction that physically touch the adjacent jurisdiction. In general, Mr. Chipok stated these comments are very limiting and restricting to our present rules.

With respect to the suggested change to the definition of adjacent jurisdiction, on page 11 of the comments notebook, under Section 90-31, Mr. Chipok reviewed the current application notice requirements, and also commented that we received a number of other comments opposed to narrowing notice requirements and in some cases suggesting that notice requirements be expanded. Commissioner Steinebach stated there is also an issue of adjacent vs. impacted, adding that you don't necessarily have to be adjacent to be impacted.

Commissioner Pascoe commented that he felt the commission should be more involved in issues that affect the overall County, citing water supply amendments as an example. Commissioner Steinebach commented that the commission's scope is very narrowly limited by the Charter to ensure consistency among comprehensive plans. To date, she stated the process the VGMC has been involved in has been communication amongst the jurisdictions, as they are who process comprehensive plan amendments. Ms. Steinebach stated what she's seeing and hearing is that many want the VGMC to be another public body with full public participation and full range of responsibilities related to growth management, however, she doesn't see where the Charter gives the VGMC this flexibility. Additionally, she stated she was not sure that VGMC could amend their policies and procedures to change philosophy or the legal parameters in which the commission operates.

Chairman Brandon asked Mr. Chipok if the County Council had the ability to approve such a change. Mr. Chipok stated according to the Charter, the primary charge is to determine consistency of comprehensive plans with one another, however added that there is also language in the charter which includes other related duties as necessary. In his opinion, Mr. Chipok stated there would be the ability to broaden the scope somewhat as long as it is directly related to comprehensive plan consistency issues.

General discussion ensued relating to the term "consistency" and varying viewpoints of what it means, along with the criteria established to determine consistency. Mr. Chipok stated that consistency is generally defined as one jurisdiction's comprehensive plan is not causing harm or detriment to the other surrounding jurisdictions' comprehensive plans as determined by the VGMC utilizing the six criteria.

Commissioner Walters stated that she felt the commission had the right and duty to investigate the criteria more strongly than has been done in the past. Commissioner Steinebach stated the commission is a regulatory, not an investigative body, and if we are looking at requiring a specific type of analysis based on certain criteria, we need to clearly define what is required of the applicant. Mr. Wilcox stated if we consider adding a completeness review to our process, we need to clearly define what our application submittal requirements are.

Commissioner Steinebach stated she feels the commission members should have the benefit of receiving the complete application package. Mr. Chipok responded that historically, the general direction provided by the majority of the commission members is for staff to provide them with their recommendation and the supporting documentation needed to base their conclusions, adding that the complete file is available at the VGMC office.

General discussion ensued relating to the wide array of comments, with some comments wanting to see the commission take on a more policy making role, and others wanting to narrow the role of the VGMC. Ms. Steinebach commented that many of the suggestions made in the comments can be addressed and the procedures improved, however, she does not believe that we can change the essence of the commission. Mr. Chipok concurred.

Going back to the first suggestion from the City of DeBary, page 11 of the comments notebook, Mr. Chipok stated he is hearing from the committee that there should be no narrowing of the notice process, which is being suggested by this recommendation. There was a consensus of the committee not to narrow the notice requirements.

The committee generally discussed requiring jurisdictions to submit their application packages electronically so they could be posted and available for viewing on the VGMC website. Mr. Chipok stated we could look at this further during the process review, adding that we'll need to concurrently review the criteria for determining what defines an official document and what determines official receipt by the VGMC.

With respect to the comments on page 12 under Section 90-32, Mr. Chipok stated these recommendations would be a narrowing of the commission's scope. Ms. Steinebach asked Mr. Chipok's opinion on whether there is any legal justification or mandate for VGMC's process to fall within the timeframe suggested in the addition of item #2 on page 12. Mr. Chipok responded that the majority of our applications have been reviewed and certified by VGMC within the 60-day time frame DCA has to review and issue and ORC report.

General discussion ensued relating to the ORC reports issued by DCA and if/how they impact VGMC's review. Several members stated they felt the ORC reports should be part of the information provided and considered for a public hearing. Several others commented that the reviews are independent of each other, with VGMC's review being localized to ensure consistency amongst adjacent jurisdictions, and DCA's comments may or may not have the same issues as identified by VGMC. Mr. Brandon suggested that DCA directly send a copy of the ORC reports to VGMC to ensure that the reports are

being provided. Mr. Chipok stated that under our current rules, the jurisdictions have a continuing affirmative duty to forward the ORC reports to us. Mr. Chipok suggested if the committee wanted to discuss the timing of receipt of the ORC reports, they should do so when they discuss timing issues.

With respect to the comments on page 13 under Section 90-34, there was a consensus of the committee that this language was not necessary.

Regarding the comments on page 16, under section 90-35(e)(i), the committee concurred that a completeness review should be considered for the purpose of providing an objective, cursory review of the items submitted with the application. With that, the committee further discussed the need to modify the application with a check list of items needed for app submission. Ms. Steinebach suggested staff establish threshold standards for determining what will be required at application. The committee agreed to discuss these issues further during the review process.

With respect to the suggested comments relating to RAI's beginning on page 16, Mr. Chipok commented that the language proposed is very narrowing and that he, too, had prepared some suggested changes. From a philosophical standpoint, the committee concurred that the RAI process should be reviewed further and formalized in future timing and/or process discussions.

Regarding the suggested comments on page 23 addressing the issue of the ORC reports, there was a consensus of the committee not to make the suggested changes as they would narrow the scope and also eliminate the ability to reopen and reconsider a case.

With respect to the comments on page 24, Section 90-39 relating to Revocation of Certificate rules, the committee concurred that the suggested language would be a narrowing of the notice requirements. Same page, Section 90-40 relating to Appeals, the committee concurred the change was not necessary as an applicant jurisdiction is already considered a substantially affected and aggrieved local government.

Item #4 – Comments dated 11/20/07 from Paul Chipok relating to those submitted by Ric Goss from the City of Ormond Beach

Beginning on Page 28 -

#1 relating to notification requirements -- The committee already reached a consensus not to narrow notice requirements.

#2 relating to a mass amendment process for those that are common to all jurisdictions within the County such as the public school facilities element -- Mr. Chipok indicated that since each government is revising its own plan independently, an individual review is necessary to ensure compliance. Mr. Wilcox added that processing of the school amendments was streamlined internally.

#3 relating to amendments resulting from annexations – Mr. Chipok stated that these amendments deserve a full analysis since the land use in the jurisdiction the property is

being annexed to is not necessarily consistent with the land use of the jurisdiction it is being annexed from.

#4 relating to submittal requirements and #5 relating to posting rules on the VGMC website will be addressed during the process review.

Item #5 – Comments dated 12/21/07 from Ron Paradise

#1 relating to member nomination process – The committee concluded that the members are local government appointees and the nominations are done at the jurisdictional level. Therefore, no change is recommended.

#2 relating to term limits – Ms. Steiner and Ms. Walters supported term limits, however, the comments of the committee members were that it was not practical due to potential difficulty in filling vacant seats, the time it takes for a new members to become familiar and comfortable with the VGMC role and process, as well as the loss of knowledge and leadership that would occur if terms were limited. There was a general consensus of the committee to not impose member term limits.

#3 relating to member substitutions – Mr. Chipok reported that our rules currently do not allow member substitutions.

#4 relating to local government staff members, elected officials or other individuals that serve on local government boards serving on the VGMC – Mr. Brandon and Mr. Wilcox commented favorably on the knowledge and experience local government planners bring to the table. Mr. Chipok advised they were recently asked to research the issue of elected officials on the board and concluded there to be no prohibition of elected officials serving as members since the VGMC is an independent special district and there is no direct conflict of interest with the jurisdiction they represent and the purpose of the VGMC. Mr. Chipok added that this is a legal conclusion, however, from a philosophical standpoint, the rules can be written differently.

Ms. Steiner commented that she agreed having professionals on the commission is advantageous, however, also believes it is a conflict of interest when staff planners also serve as the VGMC member for the government they are employed by. Additionally, she stated she felt there is a public perception issue with respect to the ability of those members to vote impartially. Ms. Steinebach concurred with Ms. Steiner's comments and suggested that given the number of comments we received and the public perception relating to this matter, that this is a primary issue that needs to be addressed. Ms. Steinebach added that the professional knowledge which would be lost by the removal of governmental planners on the commission will need to be overcome by additional training for members as well as increased burden on staff.

Mr. Wilcox suggested looking at the possibility of requiring governmental planners to abstain from voting on issues relating to their respective jurisdiction. Mr. Chipok stated that the Code of Ethics would not allow a member to abstain from voting unless there is a conflict. He indicated he would research that issue further to determine if it would apply differently to VGMC as an independent special district. Several members commented in

favor of looking at the possibility of abstaining from vote, while several others commented in opposition stating that full participation is necessary. The committee concurred this issue should be addressed further during the process review.

#5 relating to the quasi-judicial process – There was a consensus of the committee that there should be no change in the process in which the meetings are run.

#6 relating to a modification to the consistency criteria – There was a consensus to look at this issue further during the process review when reviewing the individual consistency criteria.

#7 relating to ensuring prior conditions of approval have been met – Mr. Chipok stated this is already built into our procedures as staff reviews prior resolutions when new applications are received to ensure any prior conditions of approval have been met.

#8 relating to a competitive bid process – Mr. Chipok stated this has come up within the past couple of years and there is no legal obligation to bid out, however, it is up to the discretion of the commission. Mr. Brandon reported that within the past couple of years, the commission did go through a planning bid process which ultimately resulted in the addition of Planning Design Group to our planning staff. At that time, the commission decided it would not be wise to put both legal and planning staff out to bid simultaneously. Since then, Mr. Brandon stated he's checked with various legal firms and cannot find any that will perform VGMC legal services at or near what we currently pay GrayRobinson. It was agreed that the commission should take note that we are in the competitive bid process for the long term.

The committee agreed to schedule another workshop to review the balance of the comments, and also agreed to meet one hour prior the February 27, 2008 meeting for general review purposes.

The meeting concluded at 2:25 p.m.

**MINUTES SUMMARY DISCUSSIONS APPROVED BY THE POP COMMITTEE
AT THEIR REGULAR MEETING OF FEBRUARY 27, 2008**



**Robert Pascoe, Chairman
POP Committee**

**VGMC Procedure Review Comments
Received through February 11, 2008**

Comments Submitted By:	Page(s)	*Category
1) Preliminary draft of issues and proposed alternatives prepared by VGMC Staff	#1 through #8	Process
2) Comments dated 10/24/07 from Ric Goss, City of Ormond Beach Planning Director	#9	Process
3) Comments dated 10/25/07 from Daniel Langley, City of DeBary Legal Staff	#10 through #26	Philosophy/ Process
4) Comments dated 11/20/07 from Paul Chipok relating to those submitted by Ric Goss and Daniel Langley in items 2) & 3) above; preliminary review draft outline	#27 through #31	Philosophy/ Process
5) Comments dated 12/21/07 from Ron Paradise	#32 through #33	Philosophy/ Process
6) Comments dated 12/21/07 from Gordon Williamson	#34	Timing
7) Comments dated 12/22/07 from Aiden Magee, Volusia/ Flagler Environmental Action Committee Inc.	#35 through #40	Philosophy
8) Comments dated 12/26/07 from Mark Rakowski relating to comments submitted by Ron Paradise in item 5) above	#41 through #42	Process
9) Comments dated 12/26/07 from Norman Erickson, Citizen and Councilman-Elect, DeBary	#43	Process
10) Comments dated 12/18/07 from Fred Costello, Mayor, City of Ormond Beach	#44 through #45	Philosophy
11) Comments dated 12/27/07 from VGMC Member Sandra Walters	#46 through #60	Primarily process but all three
12) Comments dated 12/21/07 from Joel Ivey submitted via VCARD	#61 through #62	Process
13) Comments dated 12/27/07 from Fred Costello, Mayor of City of Ormond Beach in response to comments submitted by Aiden Magee in item 7) above	#63 through #66	Philosophy
14) Comments dated 12/28/07 from Steve Kintner, Interim Growth and Resource Management Director, Volusia County	#67 through #68	Process
15) Comments dated 12/28/07 from Lenny Marks	#69	Philosophy/ Process
16) Comments dated 12/31/07 from Coleen Chamberlain	#70	Philosophy
17) Comments dated 12/31/07 from Michele Moen	#71 through #76	Philosophy
18) Comments dated 12/31/07 from Janet Deyette	#77	Philosophy

**VGMC Procedure Review Comments
Received through February 11, 2008**

19) Comments dated 12/31/07 from VGMC Member Suzanne Steiner	#78 through #81	Philosophy/ Process
20) Comments dated 12/31/07 from Alexa Ross, Sierra Club Conservation Chair	#82 through #83	Philosophy
21) Comments dated 12/31/07 from Carol & Dave Aymar	#84	Philosophy
22) Comments dated 12/31/07 from Gordon Williamson	#85	Philosophy
23) Comments dated 12/31/07 from Natalie Dix	#86	Philosophy
24) Comments dated 12/21/07 from Chester Murray, Development Services Director, City of Orange City	#87 through #90	Philosophy/ Process
25) Comments dated 1/2/08 from Joseph Yarborough, City Manager, South Daytona	#91 through #92	Process
26) Comments dated 1/2/08 from Betty O'Laughlin, President, Environmental Council of Volusia and Flagler Counties	#93	Philosophy
27) Excerpt from minutes of 10/24/07 VGMC meeting with comments from Saralee Morrissey, Volusia County Schools	#94	Process
28) Comments dated 12/16/07 from Rita Press, City of Ormond Beach Planning Board Chair	#95	Philosophy
29) Comments dated January 29, 2008 from Volusia Council of Governments	#96	Philosophy
30) Comments dated 2/3/08 from Myra Gercken	#97	Philosophy
31) Comments dated 2/4/08 from David Harris	#98	
32) Comments dated 2/6/08 from Michael Disher, Planning & Development Manager, City of Port Orange	#99 thru #100	

*Categories being generally described as:

- 1) **Philosophy** – Those matters relating to the overall goal and mission of the VGMC and the current philosophy of whether or not an amendment is consistent and if not, whether there are conditions which can be imposed to make it consistent.
- 2) **Timing** – Why do we do things when we do them in terms of time.
- 3) **Process** – How the application goes through the process.