

Volusia Growth Management Commission

MEETING MINUTES FOR
REGULAR MEETING HELD
Wednesday, February 25, 2009

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

MEMBERS PRESENT

Joan Spinney, Chair
Gerald Brandon, Vice Chairman
Steve Katz, Secretary
Richard Walton
Stephan Dembinsky Excused
Danny Allen
Sandy Lou Gallagher
Sandy Jones Excused
John Heaphy
Roger Sonnenfeld
Rick Tresher
James Kerr
Billy Carter Absent
Patricia Heller-Jackson Excused
Bobby Ball
Sandra Walters
Rachel Sieg
Dwight Lewis
John Nelson
Kenneth Kuhar

REPRESENTING

South Daytona
Ormond Beach
DeLand
Daytona Beach
Daytona Beach Shores
DeBary
Deltona
Edgewater
Holly Hill
Lake Helen
New Smyrna Beach
Orange City
Pierson
Ponce Inlet
Port Orange
Volusia County
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, MSCW
Merry Chris Smith, VGMC Coordinator

CALL TO ORDER

VGMC Chair Joan Spinney called the meeting to order at 7:04 p.m.

ROLL CALL

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

Chair Spinney welcomed three new members appointed by Volusia County – Kenneth Kuhar, Dwight Lewis and John Nelson.

APPROVAL OF MINUTES

Gerald Brandon made a motion to approve the minutes of the regular meeting held on November 19, 2008; seconded by Richard Walton. Motion carried unanimously.

PUBLIC HEARING

1) Consideration of VGMC Resolution 2009-01, Apportionment of Voting Weight

Paul Chipok, VGMC legal counsel, reported that the charter calls for an annual redistribution of voting percentages based on population and submitted Resolution 2009-01 for the commission's approval.

Commissioner Katz pointed out that the resolution does not reflect the newly appointed Volusia County members. Mr. Chipok stated that the VGMC Coordinator has a corrected copy reflecting the deletion of Suzanne Steiner and Tony Cole, and the addition of Kenneth Kuhar, Dwight Lewis and John Nelson.

Steve Katz made a motion to accept Resolution 2009-01 as amended; seconded by Gerald Brandon. Motion carried unanimously.

1) Request from the City of Orange City for an extension to comply with VGMC Resolution 2006-06

Barry Wilcox, VGMC Planner, reported that this is a request to extend an earlier extension granted by the commission. Mr. Wilcox explained that the transportation study has evolved into a regional study which includes most of the jurisdictions in Southwest Volusia County. He stated that the parties have contracted with Ghyabi & Associates and are moving forward with the study. In the interim, Mr. Wilcox stated the City of Orange City would like to continue to be able to adopt new amendments and not be held up by our criteria.

Commissioner Walton asked if staff had any issues with the request. Mr. Wilcox responded that the only concern was that Volusia County had raised objections in the original case in 2006, however, the County recently provided a letter to the VGMC indicating that the requested extension is acceptable to them.

Dwight Lewis made a motion to approve the City of Orange City's request for an extension to comply with VGMC Resolution 2006-06; seconded by Rick Tresher. Motion carried unanimously.

3) Consideration of Resolution 2009-03, modifying VGMC Rules of Procedure to include a policy relating to committee meeting attendance.

Chair Spinney stated that the proposed change is to bring committee meeting attendance requirements in line with commission meeting attendance requirements, adding that three unexcused absences can result in removal. Mr. Chipok clarified that if a committee member had three unexcused absences from committee meetings, they would be removed from the committee, not the commission. Additionally, he stated that committee meeting absences do not count cumulatively with commission meeting absences. The commission also clarified that this applies to three consecutive unexcused absences.

The POP committee made the recommendation to add this policy, which serves as a motion and a second. Motion carried unanimously.

REMARKS OF INTERESTED CITIZENS

None

REPORTS OF OFFICERS

Gerald Brandon reported that he met with Frank Bruno, Chairman of the Volusia County Council, on Monday to go through and clarify where the VGMC/POP Committee is on the procedural changes. Mr. Brandon stated it was a very positive meeting.

REPORTS FROM CONSULTANTS

Chair Spinney congratulated Barry Wilcox on the recent birth of his daughter.

Case Update: Mr. Wilcox reported that we have been working with the jurisdictions to clear out a number of the cases which have been pending for the past couple of years. He also reported that a number of the water supply plan amendments have been submitted, adding that these have garnered some comments from adjacent jurisdictions.

Legal Update: Mr. Chipok stated that VCOG had earlier sent out a draft resolution to all of the jurisdictions relating to the VGMC procedures and had asked for the jurisdictions to adopt it. On Monday, he stated VCOG met and at that meeting County Councilman Jack Hayman made a motion that VCOG table their particular resolution and their rules amendments, pending the County Attorney, Paul, Scott Simpson on behalf of several cities, any other city attorney who may be interested, and a representative from the School Board to get together and discuss the

VCOG comments in more depth to try and find common area where they could agree on proposed changes.

Mr. Chipok also reported that the Partin v. VGMC matter is still pending before the 5th DCA and at this point in time the parties have moved toward settlement. He stated the court has issued an order for the case to be dismissed based on the representations of the parties. Mr. Chipok advised the City of Daytona Beach Shores filed a motion for clarification and the court has issued an order to the Respondent, Partin, to respond to the motion for clarification. He also reminded the commission that VGMC is participating in this case in a monitoring capacity.

Mr. Chipok discussed a proposed timeline here forward for the procedures review. He stated it is anticipated the POP Committee will reach a consensus on draft amendments to the procedures and it is hoped that this will come back before the full commission at the March meeting. Once the commission collectively votes on the draft amendments, that draft will be distributed back out to the local jurisdictions and other interested parties. Then, Mr. Chipok stated a public workshop will be held to take additional input on that draft, which he stated would hopefully be in April. Based on the comments received from the public workshop, POP will review the draft amendments and bring it back to the full commission to hopefully finalize the changes at the May regular meeting. Once the final draft is completed, Mr. Chipok stated we will forward it to the Volusia County Council who is the authority who adopts the rules changes.

General discussion ensued relating to the timeline.

Commissioner Sieg asked if a member is allowed to comment on the draft changes if contacted by a newspaper reporter. Mr. Chipok stated his opinion is that this is a matter which is pending before the commission for consideration and vote, and outside of the public forum the members should not be discussing comments or considerations that will be coming before them.

Commissioner Walton asked if the POP Committee will be waiting until they see the final VCOG recommendations before making their recommendation to the full VGMC. Mr. Chipok stated that we are going to outreach as much as possible to reach consensus with all of the groups who have raised interest. Commissioner Brandon commented that there has been a considerable amount of comments received and interest raised by various individuals and groups.

Commissioner Tresher asked if the VCOG and VCARD comments were prepared for the benefit of the Commission or were they attempting to circumvent the VGMC. Mr. Chipok stated that VCOG decided to table their draft changes and draft resolution which they had earlier circulated among the local jurisdictions requesting they adopt. He stated that VCOG has taken notice that we are amending our rules and they have concepts they would like incorporated in our changes. Mr. Chipok stated it is hoped that the parties can meet and reach consensus on a lot of the issues.

Commissioner Walters asked Mr. Chipok if he knew why VCOG decided to table it. Mr. Chipok responded that he does not know specifically, however, he sensed there was feeling that it would not serve anyone's best interest to have competing ordinances before the County Council for

consideration, and the idea is to reach consensus on as many issues as possible prior to anything going to the County Council.

Chair Spinney stated that according to the charter, amendments will be sent to the County Council by VGMC, and others should not be leapfrogging over the VGMC and sending amendments directly to the County Council.

Commissioner Katz commented that the VGMC sends the amendment recommendation to the County Council and they either accept or decline it. Mr. Chipok stated that would be his opinion, but hopefully we can go in with a consensus draft so that we don't have to address that issue.

Commissioner Brandon commented that he thinks one of the reasons the matter was tabled by VCOG is that not all jurisdictions have bought into the VCOG draft that was put forward to them. He stated he attended the City of Ormond Beach meeting where it was to be considered and the item died without a motion because they did not agree with everything that was contained in Mr. Simpson's draft. Commissioner Lewis concurred, commenting that he had spoken with the County Attorney and there were a number of the cities who felt they did not have any input into the draft.

The Commission confirmed that they were giving Mr. Chipok a directive to reach out to the VCOG, the County Attorney and the various other attorneys to schedule a meeting to discuss the draft and find out what the issues are.

Commissioner Walters asked if those would be advertised public meetings. Mr. Chipok stated the attorneys meetings would probably not be public meetings, they would be staff meetings. He added that the meetings would form the basis for his recommendations to the POP committee.

Commissioner Brandon encouraged the commission members to get with their respective jurisdictions and be available to them for discussions relating to the rules amendments. Mr. Chipok reminded them as members of the commission, they should not be discussing business outside the scope of the sunshine law with other commissioners. He stated the rules amendments are pending business before the commission, however, in the scope of a public meeting if the members seek direction from their respective jurisdiction, he suggested they contact their jurisdiction and get on an upcoming agenda of their city commission.

REPORTS OF COMMITTEES

Budget Committee: Budget Committee Chairman Steve Katz introduced the Budget Committee members – Rachel Sieg, Danny Allen, Rich Walton, Rick Tresher, Bobby Ball and also Billy Carter who was not in attendance tonight. Mr. Katz reported that the committee had met earlier to review the proposed 2009-10 budget line items and will be proposing one change. In addition, he stated committee member Rick Tresher would be monitoring the legal budget and there was a question concerning that. Referring to the GrayRobinson budget proposal dated

January 8, 2009 from Tom Cloud, Mr. Tresher stated that Mr. Cloud has proposed a budget of \$97,000 for legal representation and on page 2 it recommends including an additional \$25,000 contingency for litigation. Mr. Tresher stated that the proposed budget worksheet appears to include the \$25,000 in the \$97,000 proposed legal budget, but it seems from the letter that the \$25,000 is in addition to the \$97,000 and he asked Mr. Chipok to clarify. Mr. Chipok responded that his understanding is they estimated \$97,000 in legal fees based on the prior years' fees. In those years they estimated lower and due to the amount of activity, it was necessary to go back to the County Council to increase the legal budget mid-year. He added that some of the increases were necessary due to matters of litigation. Mr. Tresher asked Mr. Chipok if he recommends the VGMC add the \$25,000 litigation contingency to the \$97,000 proposed amount, and Mr. Chipok replied affirmatively.

Mr. Katz reported that Rich Walton will be monitoring the two planning contracts for budget purposes. He also stated that most of the other line items are fixed costs for operating the office, with the exception of the member travel reimbursement. Mr. Katz stated that the budget committee is proposing that member travel reimbursement be reduced from \$35 per meeting to \$25 per meeting, which would reduce that item by \$2,170. Commissioner Brandon commented in opposition of reducing the travel reimbursement, adding that the POP committee has met numerous times for three hours or more. Mr. Brandon stated that the members are traveling from all around the county to attend committee meetings and regular meetings, and \$35 per meeting is well deserved. Chair Spinney concurred that once you cut it back, it's difficult to get it again. Mr. Allen stated that \$25 would be about the current average mileage reimbursement based on alternating meetings on both sides of the county.

Mr. Katz stated that prior to the clarification relating to the legal budget, the motion and second from the Budget Committee is to recommend approval of the proposed 2009-10 budget worksheet with an amendment to member travel reimbursement reducing that amount by \$2,170, resulting in a total 2009-10 proposed budget of \$322,447. Mr. Katz asked Budget Committee member Rich Walton if he wished to amend his original motion to address the legal and/or travel reimbursement budget at this time.

Following further discussion, Mr. Walton suggested moving the motion forward tonight as it came out of committee, then the committee can meet again prior to the March regular meeting to further consider amending the proposed budget for legal fees and/or travel reimbursement and present the final recommendation to the full commission at the March regular meeting.

Mr. Katz reiterated that the current motion and second on the floor is to recommend approving the proposed 2009-10 budget with an amendment lowering member travel reimbursement to \$25 per meeting resulting in a reduction of \$2,170 in this line item. Following a roll call vote, the motion carried 13-3 with members Brandon, Spinney & Sieg voting in opposition.

Mr. Katz advised that the Budget Committee will meet prior to the March meeting to further discuss the proposed budget and final recommendation.

UNFINISHED BUSINESS

None

NEW BUSINESS

None

REPORTS AND REQUESTS OF COMMISSION MEMBERS

None

REPORTS AND REQUEST OF COMMISSION CHAIR

None

ADJOURNMENT

The meeting was adjourned at 7:58 p.m.


Attest:


Chairman