


MEMORANDUM

SEP 02 2009 *AB*

TO: Honorable Mayor & City Council Members

FROM: Chester Murray, Interim City Manager 

DATE: September 1, 2009

SUBJECT: **Resolution No. 563-09 – Classification of Surface Waters**

The Florida League of Cities has requested that member cities adopt a resolution supporting the actions by the Florida Department of Environmental Protection and the Environmental Regulation Commission to consider amendments to the designated uses and classification system of surface waters.

The League has published a position paper on this issue (copy attached) which outlines the need for these amendments along with the benefits to local governments.

A resolution formalizing the City's stand on this issue is being presented for your consideration. If adopted, copies of this resolution will be forwarded to the Governor, Florida Speaker of the House, President of the Senate and the Florida Department of Environmental Protection and U.S. Environmental Protection Agency.

Debbie Renner

From: Chester Murray
Sent: Thursday, August 27, 2009 9:37 AM
To: Debbie Renner
Subject: FW: Environmental Regulation Commission - Stormwater
Attachments: FSA-DRAFT-RESOLUTION epa stormwater.pdf

Importance: High

Deb, let's talk about this please...c

From: Mary Swiderski [mailto:mswiderski@co.volusia.fl.us]
Sent: August 26, 2009 3:00 PM
To: Charlene Weaver; Jim Chisholm
Subject: Environmental Regulation Commission - Stormwater
Importance: High

I would be remorse in my duties if I did not bring this to your attention. This will cost your government a great deal of money if implemented. Please consider doing a resolution. Further information can be found on the Florida League of Cities website. I have attached the draft resolution for your convenience. Anything we can do will make a difference.

Mary Swiderski

Florida Stormwater Association files petition with the Environmental Regulation Commission

Source: [Scott Dudley](#)

Decisions on water quality standards have huge fiscal implications for local governments that are responsible for protecting and restoring water bodies. It is vital that water bodies be classified in a way that reflects the actual purpose of the water body. The appropriate classification system will help to ensure that our waterways are protected and that tax dollars are well spent.

On Monday, July 20, the Florida Stormwater Association filed a petition with the Environmental Regulation Commission asking that rulemaking be initiated to revise Florida's system of classifying water bodies and determining their use. [A copy of the petition is available online.](#)

Florida currently has five classes of water bodies, although only four are used. The overwhelming majority of waters fall into the category of Class III recreational waters, the so-called "swimmable and fishable" waters. While this category includes lakes, streams and springs, it also includes concrete-lined ditches, man-made canals and many other urban storm water conveyances. The

same water-quality criteria apply to all Class III waters, resulting in some standards being over-protective (and very costly) and others, like those for springs, not being protective enough.

Florida's system of classifying waters has not been comprehensively examined in 40 years and the need for a comprehensive, science-based review of our system of classifying waters is now more important than ever. The progression of the multi-billion dollar Total Maximum Daily Loads (TMDL) program and Florida's recently-initiated rulemaking efforts to adopt new, numeric water quality criteria for nutrients have heightened the need for a system of classifying waters and determining their use that makes sense, especially in these times of fiscal constraints. In order for local governments to comply with the numeric nutrient criteria being contemplated by the DEP under the existing classification system, they will be required to implement extensive treatment infrastructure and technologies that will impose severe operating costs and challenges. Local governments should not be spending limited resources in a vain effort to bring water bodies such as urban storm ditches into compliance with water quality standards where there is little or no benefit to the natural environment or human uses at the expense of funding for water bodies where the possibility of real improvement exists.

The League supports a scientific revision of Florida's water body classification system. **A draft Resolution in support of the consideration such is found below for your City's consideration.**

Florida Stormwater Association files petition with the Environmental Regulation Commission

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 [Draft resolution](#)

RESOLUTION NO. 563-09

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ORANGE CITY, FLORIDA, SUPPORTING ACTIONS BY THE FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION AND THE ENVIRONMENTAL REGULATION COMMISSION TO CONSIDER REASONABLE, SCIENCE-BASED AMENDMENTS TO THE DESIGNATED USES AND CLASSIFICATION SYSTEM OF SURFACE WATERS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Florida Legislature has granted the Florida Department of Environmental Protection (FDEP) the power and duty to develop a comprehensive program for the prevention, abatement, and control of the pollution of the waters of the state; and

WHEREAS, the City of Orange City shares the goal of preserving water quality with the Department, the US-Environmental Protection Agency (EPA) and all stakeholders; and

WHEREAS, waters that are overloaded with one or more pollutants are listed as "impaired" following EPA requirements and Florida Law; and

WHEREAS, FDEP and the U.S. (EPA) have developed a program to limit pollutant discharges to Impaired Waters to that amount a water body could receive without exceeding water quality standards, known as the Total Maximum Daily Loads (TMDL) program; and

WHEREAS, developing these TMDL pollution limits has proven to be a very complicated, problematic, time-consuming and expensive process; and

WHEREAS, the TMDL development process has been hampered by litigation that has resulted in court-ordered schedules that did not sufficiently consider the complexities involved in the TMDL program; and

WHEREAS, many of the resulting TMDL limits proposed have been criticized as requiring unreasonable and unnecessary limits resulting in costs which are unproductive in terms of improving water quality; and

WHEREAS, neither the Congress of the United States nor the Legislature of the State of Florida have appropriated funds to local governments in amounts sufficient to ensure compliance with the requirements of the TMDL program; and

WHEREAS, there are many competing needs for every local community's financial resources such that due diligence must be used to ensure that the limited funding that is available is effectively applied; and

WHEREAS, failure to use such due diligence actually works against the goal of preserving water quality by wasting limited financial resources; and

WHEREAS, both EPA, FDEP and the National Science Foundation have all recognized the need for refining the system for classifying various waters by their functional use; and

WHEREAS, Florida's system of classification of water bodies has not been re-examined on a comprehensive, scientific basis for more than forty years; and

WHEREAS, the existing classification system forces local governments or other funding entities to allocate scarce financial resources in an attempt to bring many water bodies (such as urban stormwater ditches) into compliance with water quality standards where there will be little or no potential benefit to the natural environment or human uses at the expense of funding for waters where the possibility of real improvements exists; and

WHEREAS, FDEP previously convened an advisory committee of experts known as the Designated Uses and Classification Refinement Policy Advisory Committee (PAC) to study and make recommendations for amending the designated uses and classifications of water bodies; and

WHEREAS, the PAC developed several reports which included a new, science-based system of uses and classifications for water bodies, but did not recommend any revisions to existing waters on a statewide basis; and

WHEREAS, the Florida Stormwater Association has filed a petition requesting that FDEP and the Environmental Regulation Commission initiate rulemaking on the classification and use system based on the recommendations of the PAC.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ORANGE CITY, FLORIDA:

SECTION 1. The City Council of the City of Orange City supports the consideration by FDEP and the Environmental Regulation Commission of reasonable, science-based revisions to Florida's water body use and classification system that are considered in an open, public process.

SECTION 3. The City Council authorizes the City Manager to send a copy of this resolution to the Governor of Florida, Speaker of the Florida House of Representatives, President of the Florida Senate, the Secretary of FDEP, the Administrator of the U.S. Environmental Protection Agency and the Chair of the Volusia County State Legislative Delegation.

SECTION 4. This Resolution shall become effective immediately upon its adoption.

ROLL CALL VOTE AS FOLLOWS:

Jim Mahoney	_____	Donald C. Sherrill	_____
R. Paul Rasch	_____	Tom Abraham	_____
Tom Laputka	_____	Jeff Allebach, Vice Mayor	_____
Harley Strickland, Mayor	_____		

ADOPTED THIS _____ DAY OF _____, 2009.

ATTEST:

AUTHENTICATED:

Deborah J. Renner, CMC, City Clerk

Harley Strickland, Mayor

Approved as to form and legal sufficiency:

William E. Reischmann, Jr., City Attorney