

Meeting Date: 10/12/2010



Agenda Item # 7-A

CITY COUNCIL AGENDA ITEM

Contact Name: Paul Johnson

Department Director: *Paul Johnson*

Department/Contact # 775-5446

City Manager: *Jamie Croteau*

- Type of Item:
- Public Hearing
 - Ordinance First Reading
 - Ordinance Second Reading
 - Resolution
 - Discussion & Action
 - Council Approval

Subject: Resolution 620-10, Opposition to EPA's Numeric Nutrient Standards

BACKGROUND: On January 14, 2009, EPA issued a determination that the State of Florida must implement numeric nutrient standards and their applicability to various water bodies within and surrounding the state in order to comply with the Clean Water Act section 303(c)(4)(B). Although Florida has invested tens of millions of dollars studying the issues and compiling data to establish new or revised standards, EPA has decide that due to the unique characteristics of Florida's water bodies, new standards for lakes and flowing waters must be adopted by January 2011 and for estuaries and coastal waters by January 2012. This "sudden" decision appears to have been prompted by lawsuits filed by several environmental groups against EPA. The State of Florida has worked diligently to establish new or revised standards and due to the many unique water bodies in the state, has been considering that standards be established almost on a case-by-case basis. EPA's call for action will produce "generic" standards for "similar" water bodies that are not necessarily based on scientific research. The proposed regulation is being opposed by many government agencies including the Volusia Council of Governments (VCOG). Council's approval of this resolution will confirm Orange City's opposition to this "rush for judgment".

RECOMMENDATIONS: That City Council adopt Resolution 620-10

ATTACHMENTS: VCOG News Release

FINANCIAL IMPACT: None

Reviewed by City Attorney _____

Reviewed by Finance Dept. _____

Reviewed by: _____

1st Discussion Date: 10/12/2010	2nd Discussion Date: date.	Third Discussion Date: date.	Other Dates: date.
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Paul Johnson

Subject: FW: Volusia Council of Governments opposes the EPA on Numeric Nutrient Water Quality
Attachments: VCOG Resolution 2010-4.pdf; NEWS RELEASE EPA - 9-29-10.pdf

NEWS RELEASE

September 29, 2010

Volusia Council of Governments
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VCOG opposes EPA's proposal to enact new stringent numeric nutrient water quality standards.

The Volusia Council of Governments (VCOG) passed a resolution opposing the Federal Environmental Protection Agency's ("EPA") proposal to enact new stringent numeric nutrient water quality standards that would be applicable for all lakes, flowing waters, class III waters, and coastal waters throughout and adjacent to the state of Florida as an amendment to 40 CFR, part 131.43 and the Clean Water Act, at Sec. 303(c)

VCOG recognizes the critical importance of clean waters and Florida's Total Maximum Daily Loads program that, for nearly 10 years, has spent tens of millions of dollars to scientifically evaluate the quality of Florida's surface waters and promote the mechanisms necessary to clean up pollution. Florida's watershed based process of establishing numeric nutrient criteria is far superior to EPA's generalized and fundamentally flawed approach, which does not take into account the unique characteristics of Florida's many thousands of rivers, streams and estuaries.

VCOG believes the State of Florida has been singled out by the EPA with these imminent deadlines and federal oversight because EPA is reacting to environmental organizations in Florida alleging that the agency had failed to comply with its responsibility under the Clean Water Act to force the State of Florida to expeditiously adopt numeric criteria . The regulations EPA seeks to impose on Florida are extremely restrictive criteria, with no regard for the technical feasibility, the massive costs to the public, or the devastating effects they will create for Florida's struggling economy.

VCOG opposes the proposal of the EPA to enter into a consent order in the federal lawsuit subjecting the State of Florida to federal criteria; and respectfully requests our leaders in Washington, Tallahassee and at the local levels to intervene and demand that statewide numeric nutrient criteria be established through a science-driven process with adequate time to address concerns of regulated communities and with appropriate realistic time-frames for achieving compliance.

Peace be with you,

Mary

Mary J. Swiderski

RESOLUTION NO. 620-10

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ORANGE CITY, FLORIDA, IN OPPOSITION TO THE FEDERAL ENVIRONMENTAL PROTECTION AGENCY'S (EPA) PROPOSAL TO ENACT NEW STRINGENT NUMERIC NUTRIENT WATER QUALITY STANDARDS TO BE APPLICABLE FOR ALL LAKES, FLOWING WATERS, CLASS III WATERS, AND COASTAL WATERS THROUGHOUT AND ADJACENT TO THE STATE OF FLORIDA AS AN AMENDMENT TO 40 CFR, PART 131.43 AND THE CLEAN WATER ACT, AT SEC. 303(c); PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

WHEREAS, the Orange City Council has become aware of proposed new rules dealing with the numeric nutrient content of various classes of waters located in and adjacent to the State of Florida; and

WHEREAS, although the City Council recognizes the critical importance of clean waters, it is believed that the rules currently under review have been proposed in reaction to a lawsuit filed against the EPA administrator by a number of environmental organizations in Florida alleging that the agenda had failed to comply with its responsibility under the Clean Water Act to force the State of Florida to expeditiously adopt numeric criteria; and

WHEREAS, while the City Council acknowledges the necessity of the adoption of new rules to maintain the highest quality of waters throughout the State of Florida, it appears that the deadlines proposed are really litigation driven as opposed to being based on scientific needs or technical procedures; and

WHEREAS, due to the above referenced litigation, the State of Florida is the only state that has been singled out by the EPA with these imminent deadlines and federal oversight; and

WHEREAS, the City Council believes that the extremely restrictive criteria the EPA is proposing will be fiscally impractical to meet, thus resulting in adverse economic impacts to the state's overall economy; and

WHEREAS, the current proposal treats all waters throughout the State of Florida the same even though East Central Florida is significantly different from the rest of Florida; and

WHEREAS, if this current proposal is approved, every major industry will be affected including agriculture, power generation, mining, seaports and even recreational facilities; and

WHEREAS, the City Council believes that the methodology utilized is arbitrary and that the current proposal is not in the best interests of the citizens of the State of Florida.

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

SECTION 1. That the City Council of the City of Orange City hereby opposes the proposal of the EPA to enter into a consent order in the federal lawsuit subjecting the State of Florida to federal criteria; and respectfully request that our leaders in Washington, Tallahassee and at the local levels intervene and demand that statewide numeric nutrient criteria be established through a science-driven process with adequate time to address concerns of regulated communities and with appropriate realistic time-frames for achieving compliance.

SECTION 2. The City Council hereby requests that this resolution be sent directly to the EPA to be considered as public comment.

SECTION 3. This Resolution shall become effective immediately upon its adoption.

ROLL CALL VOTE AS FOLLOWS:

Gary A. Blair	_____	Jeff H. Allebach	_____
O William Crippen	_____	Tom Abraham	_____
Anthony Pupello	_____	Tom Laputka, Vice Mayor	_____
Harley Strickland, Mayor	_____		

PASSED and ADOPTED this _____ day of _____, 2010.

ATTEST:

Deborah J. Renner, CMC, City Clerk

AUTHENTICATED:

Harley Strickland, Mayor

Approved as to form and legal sufficiency:

William E. Reischmann, Jr., City Attorney