

# City of Flagler Beach

P.O. Box 70 • 105 South 2nd Street  
Flagler Beach, Florida 32136

Phone (386) 517-2000 • Fax (386) 517-2008  
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August 31, 2009

Florida Department of Environmental Protection (DEP)  
Secretary Michael W. Sole  
3900 Commonwealth Boulevard M.S. 49  
Tallahassee, Florida 32399

Dear Secretary Sole:

The City of Flagler Beach has adopted Resolution 2009-44 in support of 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 water bodies while protecting the quality of Florida's waters. We are forwarding copies to you to encourage you to support the same.

Sincerely,

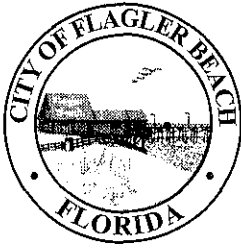
Penny Overstreet  
Deputy City Clerk

CC: Elected Officials  
Interim City Manager

**RECEIVED**

SEP - 3 2009

**DEP SECRETARY**



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## CLERK'S CERTIFICATION

STATE OF FLORIDA  
COUNTY OF FLAGLER  
CITY OF FLAGLER BEACH

I, Penny Overstreet, Deputy City Clerk for the City of Flagler Beach, Florida, do hereby certify the attached copy of Resolution 2009-44 is a true and correct copy made by me of the original documents.

IN WITNESS WHEREOF, I hereunto set my hand and the official seal of the City of Flagler Beach, Florida, on this 31<sup>st</sup> day of August 2009.

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Penny Overstreet, CMC  
Deputy City Clerk

RESOLUTION 2009-44

A RESOLUTION BY THE CITY COMMISSION OF THE CITY OF FLAGLER BEACH, SUPPORTING ACTONS 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 WATERBODIES WHILE PROTECTING THE QUALITY OF FLORIDA'S WATERS; PROVIDING A SEVERABILITY CLAUSE; 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 Commission of the City of Flagler Beach 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 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** 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 40 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 (ERC) initiate rulemaking on the classification and use system based on the recommendations of the PAC;

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF FLAGLER BEACH, THAT:**

#### **SECTION 1**

The Commission of the City of Flagler Beach supports the consideration by FDEP and the ERC of reasonable, science-based revisions to Florida's water body use and classification system that are considered in an open, public process.

#### **SECTION 2**

The Commission of the City of Flagler Beach 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 US Environmental Protection Agency, and the Chair of the Flagler County State Legislative Delegation.

Section 3

All Resolutions or parts thereof in conflict herewith be and the same are hereby repealed

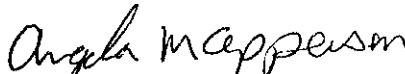
Section 4

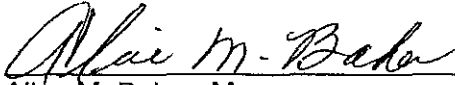
This Resolution shall become effective immediately upon passage as provided by law.

PASSED AND ADOPTED THIS 27th DAY OF August, 2009.

CITY OF FLAGLER BEACH, FLORIDA  
CITY COMMISSION

ATTEST:

  
\_\_\_\_\_  
Angela M. Apperson, City Clerk

  
\_\_\_\_\_  
Alice M. Baker, Mayor