

## RESOLUTION NO. 2009-22

A RESOLUTION OF THE CITY OF WEST MELBOURNE, 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 WATER BODIES WHILE PROTECTING THE QUALITY OF FLORIDA'S WATERS; 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 West Melbourne shares the goal of preserving water quality with the Department, the US-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. Environmental Protection Agency ("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 and 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 waterbodies 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 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 West Melbourne, Brevard County, Florida, as follows:

**Section 1.**

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

**Section 2.**

The City of West Melbourne authorizes the City Clerk 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 Brevard County State Legislative Delegation.

**Section 3.**

This Resolution shall become effective upon adoption.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF WEST  
MELBOURNE, BREVARD COUNTY, FLORIDA, THIS 21<sup>st</sup> DAY OF  
August, 2009.

*Hal Rose*

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HAL J. ROSE, MAYOR

ATTEST:

*Christine D. Pennington*

Christine D. Pennington  
Acting City Clerk

Approved as to form and content

By: \_\_\_\_\_

*James P. Wilson*  
James P. Wilson, City Attorney



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