

ST. PETERSBURG CITY COUNCIL

Consent Agenda

Meeting of August 20, 2009

TO: The Honorable Jeff Danner, Chair, and Members of City Council

SUBJECT: Authorizing the Mayor or his designee to request a public hearing regarding the proposed rule for the total maximum daily loads for Coffee Pot Bayou and Smack's Bayou; and providing for an effective date.

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EXPLANATION: The Clean Water Act, 33 U.S.C. § 1251 et al., requires that the United States Environmental Protection Agency ("USEPA") and the Florida Department of Environmental Protection ("FDEP") establish criteria for evaluating water quality in the state of Florida, and both the Federal Clean Water Act and Florida Statutes require the FDEP to adopt by rule, a science based methodology to identify impaired waters, and adopt water quality criteria that protect the designated use, and such criteria must be based on sound scientific methodologies. The mechanism for monitoring water quality is a Total Maximum Daily Load ("TMDL") which determines the maximum amount of a given pollutant that a surface water body can assimilate and still meet water quality standards.

The City has been issued a NPDES permit for its stormwater system and the FDEP will incorporate compliance requirements for reducing pollutant loads in accordance with the TMDLs into said permit, which represents an unfunded federal mandate.

On June 19, 2009, the FDEP published proposed draft TMDLs for Coffee Pot Bayou and Smack's Bayou. On July 20, 2009, the City provided specific comments regarding the scientific analysis and conclusions reached by the FDEP in developing the draft TMDLs. The City's comments in opposition to the proposed TMDLs for both Coffee Pot and Smack's Bayou and request for additional evaluations prior to adoption were not entirely considered by the FDEP. The scientific principles utilized to develop these TMDLs will influence future TMDLs citywide, and represent significant compliance challenges to the City. On August 6, 2009, the City received a response from the FDEP which did not resolve the City's concerns as to the proposed TMDLs.

The FDEP published notice for a proposed rule on August 7, 2009, which would adopt the TMDLs and their allocations for Coffee Pot Bayou and Smack's Bayou, as well as other waterbodies throughout the Tampa Bay area. A public hearing may be requested in order to provide further comment and testimony to FDEP as to the proposed TMDLs. The date for the public hearing, if requested, is set for September 3, 2009 at the offices of FDEP in Tallahassee. The request for a public hearing must be made no later than August 28, 2009.

It would be beneficial for the City to reiterate and provide further explanation as to the concerns raised in the correspondence of July 20, 2009, for the proposed TMDLs at the public hearing.

RECOMMENDATION: Administration recommends authorizing the Mayor or his designee to request a public hearing on September 3, 2009 in order to provide testimony and further comment as to the proposed TMDLs for Coffee Pot Bayou and Smack's Bayou.

COST/FUNDING/ASSESSMENT INFORMATION: Funding for travel and consultant expenses are available in Stormwater Operating Fund (4011), Stormwater Pavement and Traffic Operations Department, Stormwater Administration (400-1293)

ATTACHMENT: Resolution

APPROVALS:
tg


TBG Administration


Budget

RESOLUTION 2009-

RESOLUTION OF THE CITY OF ST. PETERSBURG, FLORIDA AUTHORIZING THE MAYOR OR HIS DESIGNEE TO REQUEST A PUBLIC HEARING REGARDING THE PROPOSED RULE FOR THE TOTAL MAXIMUM DAILY LOADS FOR COFFEE POT BAYOU AND SMACK'S BAYOU; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Clean Water Act, 33 U.S.C. § 1251 et al., requires that the United States Environmental Protection Agency ("USEPA") and the Florida Department of Environmental Protection ("FDEP") establish criteria for evaluating water quality in the state of Florida; and

WHEREAS, the Federal Clean Water Act and Florida Statutes require the FDEP to adopt by rule, a science based methodology to identify impaired waters, and adopt water quality criteria that protect the designated use, and such criteria must be based on sound scientific methodologies; and

WHEREAS, the mechanism for monitoring water quality is a Total Maximum Daily Load ("TMDL") which determines the maximum amount of a given pollutant that a surface water body can assimilate and still meet water quality standards; and

WHEREAS, the City has been issued a NPDES permit for its stormwater system and the FDEP will incorporate compliance requirements for reducing pollutant loads in accordance with the TMDLs into said permit; and

WHEREAS, the cost to comply with the NPDES permit requirements represents an unfunded federal mandate; and

WHEREAS, on June 19, 2009, the FDEP published proposed draft TMDLs for Coffee Pot Bayou and Smack's Bayou; and

WHEREAS, on July 20, 2009, the City provided specific comments regarding the scientific analysis and conclusions reached by the FDEP in developing the draft TMDLs; and

WHEREAS, the City's comments in opposition to the proposed TMDLs for both Coffee Pot and Smack's Bayou and request for additional evaluations prior to adoption were not entirely considered by the FDEP; and

WHEREAS, the scientific principles utilized to develop these TMDLs will influence future TMDLs citywide, and represent significant compliance challenges to the City; and

WHEREAS, on August 6, 2009, the City received a response from the FDEP which did not resolve the City's concerns as to the proposed TMDLs; and

WHEREAS, the FDEP published notice for a proposed rule on August 7, 2009, which would adopt the TMDLs and their allocations for Coffee Pot Bayou and Smack's Bayou, as well as other waterbodies throughout the Tampa Bay area; and

WHEREAS, a public hearing may be requested in order to provide further comment and testimony to FDEP as to the proposed TMDLs; and

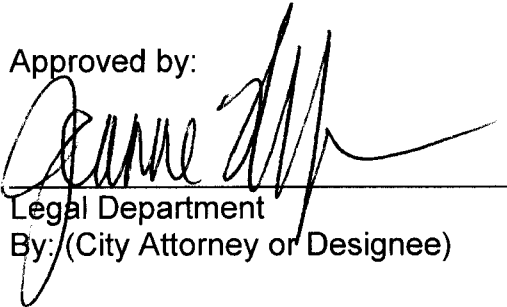
WHEREAS, the date for the public hearing, if requested, is set for September 3, 2009 at the offices of FDEP in Tallahassee; and

WHEREAS, it would be beneficial for the City to reiterate and provide further explanation as to the concerns raised in the correspondence of July 20, 2009, for the proposed TMDLs at the public hearing.

NOW THEREFORE BE IT RESOLVED By the City Council of the City of St. Petersburg, Florida, that the Mayor or his designee is authorized to request a public hearing on September 3, 2009 in order to provide testimony and further comment as to the proposed TMDLs for Coffee Pot Bayou and Smack's Bayou.

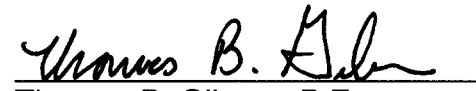
This Resolution shall take effect immediately upon adoption.

Approved by:



Legal Department
By: (City Attorney or Designee)

Approved by:



Thomas B. Gibson, P.E.
Engineering Director