

**ENVIRONMENTAL PROTECTION COMMISSION
OF HILLSBOROUGH COUNTY
COMMISSIONER’S BOARD ROOM
COUNTY CENTER 2ND FLOOR
JUNE 18, 2009
9:00 AM**

**INVOCATION AND PLEDGE OF ALLEGIANCE
APPROVAL OF CHANGES TO THE AGENDA AND REMOVAL OF CONSENT
AGENDA ITEMS FOR DISCUSSION AS REQUESTED BY BOARD MEMBERS.**

I. PUBLIC COMMENT
Three (3) Minutes Are Allowed for Each Speaker

II. CITIZENS’ ENVIRONMENTAL ADVISORY COMMITTEE
Report from the CEAC Chairman – David Jellerson

III. CONSENT AGENDA

A. Approval of Minutes: May 21, 2009	3
B. Monthly Activity Reports	7
C. Pollution Recovery Fund Report	19
D. Gardinier Settlement Trust Fund Report	20
E. Legal Case Summaries	21
F. Request authority to take appropriate legal action against:	27
Ms. Kelly Wishau	

IV. EXECUTIVE DIRECTOR
Budget Update, Response to the County Administrator’s
Recommended Budget.....29

V. ENVIRONMENTAL RESOURCE MANAGEMENT

A. Water Quality and Benthic Data Summary Results of Monitoring Tampa Bay Water Desalination Plant	31
B. Status Report of Nitrogen Management Consortium and the Reasonable Assurance Document	33

VI. LEGAL DEPARTMENT

A. Adopting BOCC Policies and Report on Executive Director Policies	35
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Any person who might wish to appeal any decision made by the Environmental Protection Commission regarding any matter considered at the forthcoming public hearing or meeting is hereby advised that they will need a record of the proceedings, and for such purpose they may need to ensure that a verbatim record of the proceedings is made which will include the testimony and evidence upon which such appeal is to be based.

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MAY 21, 2009 - ENVIRONMENTAL PROTECTION COMMISSION - DRAFT MINUTES

The Environmental Protection Commission (EPC), Hillsborough County, Florida, met in Regular Meeting, scheduled for Thursday, May 21, 2009, at 9:00 a.m., in the Boardroom, Frederick B. Karl County Center, Tampa, Florida.

The following members were present: Chairman Al Higginbotham and Commissioners Kevin Beckner, Rose Ferlita (arrived at 9:06 a.m.), Ken Hagan, and Kevin White.

The following members were absent: Commissioners Jim Norman (schedule conflict) and Mark Sharpe (schedule conflict).

Chairman Higginbotham called the meeting to order at 9:03 a.m. and led in the pledge of allegiance to the flag.

CHANGES TO THE AGENDA

Dr. Richard Garrity, EPC Executive Director, added an executive director item related to seagrass growth.

PUBLIC COMMENT

Mr. Philip Compton, Tampa Bay Group of the Sierra Club, distributed information regarding the Lee County fertilizer ordinance and commented on supporting a strong/effective fertilizer ordinance, opposition to the Florida Department of Environmental Protection (FDEP) model ordinance, Senate Bill (SB) 494 related to fertilizer management, and Manatee/Pinellas Counties ordinance consideration.

Ms. Erica Santella, TruGreen Incorporated, thanked staff for public fertilizer workshops, requested adoption of the FDEP model ordinance as written, and discussed the fertilizer application training certificate, model ordinance components, and best management practices (BMP) manual review.

CONSENT AGENDA

- A. Approval of minutes: April 16, 2009.
- B. Monthly activity reports.
- C. Pollution Recovery Fund (PRF) report.
- D. Gardinier Settlement Trust Fund report.
- E. Legal case summaries.
- F. Total maximum daily loads and Hillsborough River BMP update.

THURSDAY, MAY 21, 2009 - DRAFT MINUTES

Chairman Higginbotham called for a motion to approve the changes/Consent Agenda. **Commissioner Ferlita so moved, seconded by Commissioner Beckner, and carried five to zero.** (Commissioners Norman and Sharpe were absent.)

CITIZENS ENVIRONMENTAL ADVISORY COMMITTEE (CEAC)

Report from the Chairman, David Jellerson - Mr. Jellerson said the May 4, 2009, CEAC meeting included presentations on water supply issues, model fertilizer ordinance development, and EPC budget submittal and highlighted the PRF application process/funds available and Alafia River flow levels.

COMMENDATION FOR MAXIM RABINOVICH

One of 40 National Finalists in the Intel Science Talent Search - Chairman Higginbotham read the commendation.

AIR MANAGEMENT DIVISION

Clean Air Month Photography Contest - Ms. Barbara Motte, EPC, recognized the winners, who received certificates and offered comments; invited everyone to attend the photography art exhibit; and introduced Ms. Phyllis Alexandroff, Hillsborough County School District, who recognized the Blake High School arts coordinator, commented on the contest environmental role, and thanked Ms. Motte for efforts.

EXECUTIVE DIRECTOR

Dr. Garrity reported on historic seagrass acreage trends, recovery goals, and increases and announced former EPC Executive Director Roger Stewart was presented the Sydney and Thalia Potter Civic Leadership Award; T. Terrell Sessums accepted an award for foresight, leadership, and advocacy in creating the Hillsborough County EPC; and former Commissioner Jan Platt received the first annual T. Terrell Sessums Award.

Budget Update - Dr. Garrity provided an update on the budget submittal process, a County Administrator request for a General Fund budget cut of up to 25 percent, total budget figures/reductions, staff reductions, Countywide General Fund portions/increases, and fees/other charges collected. Ms. Joan Ohman, Director, EPC Finance and Administration, responded to queries regarding full-time employee impacts/reductions, fees, and response time impacts. Chairman Higginbotham noted laudatory remarks related to EPC response times. Dr. Garrity reviewed estimated staffing/activity levels from 2000 to 2011, submission of a less than continuation budget, efficiencies/plans for no new programs, efforts to maintain current staff

THURSDAY, MAY 21, 2009 - DRAFT MINUTES

levels, positions and services eliminated/reduced in 2008 and 2009, potential impacts, budget tools used to deal with cuts, the inland protection trust fund, the direct inspection and Brownfields redevelopment programs, and staff goals.

Commissioner Ferlita mentioned minor port work permit delegation to EPC, doing more with less, an energy presentation, and appreciation for EPC staff efforts. Chairman Higginbotham sensed there was a better way to preserve the budget and suggested sending a letter asking the County Administrator to consider a possible oversight in budget planning. **Commissioner Ferlita made that motion.** Chairman Higginbotham clarified the letter would request consideration of fees and other charges in budget planning. **Commissioner Beckner seconded the motion, which carried five to zero.** (Commissioners Norman and Sharpe were absent.) Commissioner White agreed something had to be done to preserve, recommended EPC staff continue looking at cooperative agreements, and commended Brownfield staff efforts on the IKEA project.

ENVIRONMENTAL RESOURCE MANAGEMENT (ERM) DIVISION

Progress Report on Landscape Management Regulation Workshops and Status of the Model Ordinance - Mr. Anthony D'Aquila, Director, EPC ERM Division, reviewed landscape management regulations, SB 494, EPC mission statement/task list, fact-finding team organization, key events chronology, and guidelines; responded to queries regarding pending ordinances; and provided a summary of consensus/nonconsensus issues, workshops held, and stakeholders. In response to queries from Chairman Higginbotham on why compliance/enforcement was not addressed, Mr. D'Aquila said a basic framework was being created. Chairman Higginbotham commented on unfunded mandates and having a County ordinance. Mr. D'Aquila sensed EPC coordination would be easier. Responding to Chairman Higginbotham, EPC General Counsel Richard Tschantz outlined licensing. Mr. D'Aquila perceived rainy season prohibitions were the biggest nonconsensus point and highlighted staff recommendation to authorize EPC to initiate rule making to establish an EPC rule addressing fertilizer management, substantively in conformance with the FDEP model ordinance, while considering additional standards, utilizing all relevant scientific information, including input from FDEP, the University of Florida Institute of Food and Agricultural Sciences, the Florida Department of Agriculture and Consumer Services, and the Tampa Bay Estuary Program, to address fertilizer use as a contributor to water quality degradation. After noting issues with licensing/enforcement and passing the gavel to Vice Chairman Beckner, **Chairman Higginbotham moved to table until the County found out what the Governor would do with SB 494,**

THURSDAY, MAY 21, 2009 - DRAFT MINUTES

seconded by Commissioner Hagan, and carried five to zero. (Commissioners Norman and Sharpe were absent.)

WASTE MANAGEMENT DIVISION

Superfund Update - Ms. Mary Yeargan, EPC, provided an update on the superfund program, including the purpose, State/County involvement, new sites, active/deleted cleanup sites, funding, and a map of County sites.

WETLANDS MANAGEMENT DIVISION

Wetlands Quarterly Audit Report Update - Mr. Bob Stetler, Director, EPC Wetlands Management Division, presented the report contained in background material and responded to queries from Commissioner Beckner regarding Optix access.

LEGAL DEPARTMENT

Legislative Update - Attorney Tschantz reviewed EPC tracked bills, as presented in background material; discussed SB 360, noting a provision to extend environmental permits for two years; and commented on SB 2080 preventing homeowners associations from disallowing Florida friendly landscaping, budget concerns, EPC Waste Management Division budget focus, and efforts to find funding/creative ways to retain staff.

There being no further business, the meeting was adjourned at 10:52 a.m.

READ AND APPROVED: _____
CHAIRMAN OR VICE CHAIRMAN

ATTEST:
PAT FRANK, CLERK

By: _____
Deputy Clerk

kr

**FY 09 - MONTHLY ACTIVITIES REPORT
AIR MANAGEMENT DIVISION**

MAY TOTAL

A. Public Outreach/Education Assistance

1.	Phone calls	164	1,417
2.	Literature Distributed	100	150
3.	Presentations	2	11
4.	Media Contacts	-	22
5.	Internet	62	487
6.	Host/Sponsor Workshops, Meetings, Special Events	1	4

B. Industrial Air Pollution Permitting

1.	Permit Applications received (Counted by Number of Fees Received)		
	a. Operating	2	60
	b. Construction	6	50
	c. Amendments	-	-
	d. Transfers/Extensions	3	13
	e. General	-	-
	f. Title V	7	21
2.	Delegated Permits Issued by EPC and Non-delegated Permits Recommended to DEP for Approval ^1 (Counted by Number of Fees Collected) - ^2 Counted by Number of emission Units affected by the Review)		
	a. Operating ^1	13	62
	b. Construction ^1	15	84
	c. Amendments ^1	-	-
	d. Transfers/Extensions ^1	2	7
	e. Title V Operating ^2	-	58
	f. Permit Determinations ^2	2	10
	g. General	-	14
3.	Intent to Deny Permit Issued	-	-

C. Administrative Enforcement

1.	New cases received	2	10
2.	On-going administrative cases		
	a. Pending	4	4
	b. Active	11	11
	c. Legal	3	3
	d. Tracking compliance (Administrative)	15	15
	e. Inactive/Referred cases	-	-
	TOTAL	33	33
3.	NOIs issued	1	12
4.	Citations issued	-	1
5.	Consent Orders Signed	1	9
6.	Contributions to the Pollution Recovery Fund	\$ 3,751	\$ 26,430
7.	Cases Closed	-	13

**FY 09 - MONTHLY ACTIVITIES REPORT
AIR MANAGEMENT DIVISION**

MAY TOTAL

D. Inspections

1. Industrial Facilities	20	131
2. Air Toxics Facilities		
a. Asbestos Emitters	-	-
b. Area Sources (i.e. Drycleaners, Chrome Platers, etc.)	-	12
c. Major Sources	9	42
3. Asbestos Demolition/Renovation Projects	17	124

E. Open Burning Permits Issued	-	12
F. Number of Division of Forestry Permits Monitored	304	1,341
G. Total Citizen Complaints Received	36	419
H. Total Citizen Complaints Closed	45	422
I. Noise Sources Monitored	1	29
J. Air Program's Input to Development Regional Impacts	1	13
K. Test Reports Reviewed	42	526
L. Compliance		
1. Warning Notices Issued	3	70
2. Warning Notices Resolved	1	42
3. Advisory Letters Issued	2	46
M. AOR's Reviewed	2	47
N. Permits Reviewed for NESHAP Applicability	6	10
O. Planning Documents coordinated for Agency Review	-	10

**FY 09 - MONTHLY ACTIVITIES REPORT
WASTE MANAGEMENT DIVISION**

**MAY FY TO
 DATE**

A. ENFORCEMENT

1.	New cases received	5	5
2.	On-going administrative cases	116	116
	Pending	8	8
	Active	34	34
	Legal	14	14
	Tracking Compliance (Administrative)	48	48
	Inactive/Referred Cases	12	12
3.	NOI's issued	1	8
4.	Citations issued	-	9
5.	Consent Orders and Settlement Letter Signed	1	13
6.	Civil Contributions to the Pollution Recover Fund (\$)	\$ 2,668	\$ 36,421
7.	Enforcement Costs Collected (\$)	\$ 1,963	\$ 14,041
8.	Cases Closed	3	12

B. SOLID AND HAZARDOUS WASTE

1.	FDEP Permits Received	-	7
2.	FDEP Permits Reviewed	1	6
3.	EPC Authorization for Facilities NOT Requiring DEP Permit	-	2
4.	Other Permits and Reports		
	County Permits Received	1	7
	County Permits Reviewed	2	8
	Reports Received	26	255
	Reports Reviewed	20	239
5.	Inspections (Total)	262	3,275
	Complaints	21	145
	Compliance/Reinspections	10	123
	Facility Compliance	30	207
	Small Quantity Generator	200	2,793
	P2 Audits	1	7
6.	Enforcement		
	Complaints Received	23	153
	Complaints Closed	24	136
	Warning Notices Issued	1	9
	Warning Notices Closed	2	20
	Compliance Letters	95	595
	Letters of Agreement	-	4
	Agency Referrals	-	4
7.	Pamphlets, Rules and Material Distributed	181	1,305

**FY 09 - MONTHLY ACTIVITIES REPORT
WASTE MANAGEMENT DIVISION**

**FY TO
MAY DATE**

C. STORAGE TANK COMPLIANCE

1.	Inspections		
	Compliance	139	725
	Installation	9	96
	Closure	11	95
	Compliance Re-Inspections	24	138
2.	Installation Plans Received	6	68
3.	Installation Plans Reviewed	7	69
4.	Closure Plans & Reports		
	Closure Plans Received	11	59
	Closure Plans Reviewed	13	59
	Closure Reports Received	10	59
	Closure Reports Reviewed	12	73
5.	Enforcement		
	Non-Compliance Letters Issued	97	587
	Warning Notices Issued	6	26
	Warning Notices Closed	-	8
	Cases Referred to Enforcement	-	5
	Complaints Received	1	16
	Complaints Investigated	1	14
	Complaints Referred	-	1
6.	Discharge Reporting Forms Received	5	23
7.	Incident Notification Forms Received	15	120
8.	Cleanup Notification Letters Issued	5	23
9.	Public Assistance	-	-

D. STORAGE TANK CLEANUP

1.	Inspections	31	305
2.	Reports Received	91	944
3.	Reports Reviewed	86	931
	Site Assessment Received	7	85
	Site Assessment Reviewed	5	79
	Source Removal Received	3	24
	Source Removal Reviewed	3	23
	Remedial Action Plans (RAP'S) Received	7	84
	Remedial Action Plans (RAP'S) Reviewed	7	80
	Site Rehabilitation Completion Order/No Further Action Rec'd	7	38
	Site Rehabilitation Completion Order/No Further Action Revw'd	8	42
	Active Remediation/Monitoring Received	31	385
	Active Remediation/Monitoring Reviewed	33	382
	Others Received	36	328
	Others Reviewed	30	326

E. RECORD REVIEWS

	15	129
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F. LEGAL PIR'S

	3	43
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G. PUBLIC INFORMATION PROJECTS

	4	13
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**FY 09 - MONTHLY ACTIVITIES REPORT
WATER MANAGEMENT DIVISION**

**MAY FY TO
 DATE**

A. ENFORCEMENT

1.	New Enforcement Cases Received	3	32
2.	Enforcement Cases Closed	3	28
3.	Enforcement Cases Outstanding	49	425
4.	Enforcement Documents Issued	9	46
5.	Recovered Costs to the General Fund	\$ 652	\$ 4,848
6.	Contributions to the Pollution Recovery Fund	\$ 22,875	\$ 59,646

B. PERMITTING/PROJECT REVIEW - DOMESTIC

1.	Permit Applications Received	14	135
	a. Facility Permit	1	23
	(i) Types I and II	-	3
	(ii) Type III	1	20
	b. Collection Systems - General	8	52
	c. Collection systems-Dry Line/Wet Line	5	59
	d. Residuals Disposal	-	1
2.	Permit Applications Approved	10	128
	a. Facility Permit	1	14
	b. Collection Systems - General	4	52
	c. Collection systems-Dry Line/Wet Line	4	61
	d. Residuals Disposal	1	1
3.	Permit Applications Recommended for Disapproval	-	1
	a. Facility Permit	-	-
	b. Collection Systems - General	-	1
	c. Collection systems-Dry Line/Wet Line	-	-
	d. Residuals Disposal	-	-
4.	Permit Applications (Non-Delegated)	-	-
	a. Recommended for Approval	-	-
5.	Permits Withdrawn	-	-
	a. Facility Permit	-	-
	b. Collection Systems - General	-	-
	c. Collection systems-Dry Line/Wet Line	-	-
	d. Residuals Disposal	-	-
6.	Permit Applications Outstanding	40	40
	a. Facility Permit	20	20
	b. Collection Systems - General	8	8
	c. Collection systems-Dry Line/Wet Line	12	12
	d. Residuals Disposal	-	-
7.	Permit Determination	4	19

**FY 09 - MONTHLY ACTIVITIES REPORT
WATER MANAGEMENT DIVISION**

	<u>MAY</u>	<u>FY TO DATE</u>
8. Special Project Reviews	-	1
a. Reuse	-	-
b. Residuals/AUPs	-	1
c. Others	-	-

C. INSPECTIONS - DOMESTIC

1. Compliance Evaluation	8	110
a. Inspection (CEI)	2	45
b. Sampling Inspection (CSI)	6	65
c. Toxics Sampling Inspection (XSI)	-	-
d. Performance Audit Inspection (PAI)	-	-
2. Reconnaissance	43	403
a. Inspection (RI)	10	76
b. Sample Inspection (SRI)	-	5
c. Complaint Inspection (CRI)	32	317
d. Enforcement Inspection (ERI)	1	5
3. Engineering Inspections	29	257
a. Reconnaissance Inspection (RI)	2	9
b. Sample Reconnaissance Inspection (SRI)	-	-
c. Residual Site Inspection (RSI)	1	3
d. Preconstruction Inspection (PCI)	5	32
e. Post Construction Inspection (XCI)	21	213
f. On-site Engineering Evaluation	-	-
g. Enforcement Reconnaissance Inspection (ERI)	-	-

D. PERMITTING/PROJECT REVIEW - INDUSTRIAL

1. Permit Applications Received	3	16
a. Facility Permit	3	11
(i) Types I and II	-	-
(ii) Type III with Groundwater Monitoring	-	-
(iii) Type III w/o Groundwater Monitoring	3	11
b. General Permit	-	1
c. Preliminary Design Report	-	4
(i) Types I and II	-	-
(ii) Type III with Groundwater Monitoring	-	-
(iii) Type III w/o Groundwater Monitoring	-	4
2. Permits Recommended to DEP for Approval	-	-

**FY 09 - MONTHLY ACTIVITIES REPORT
WATER MANAGEMENT DIVISION**

	<u>MAY</u>	<u>FY TO DATE</u>
3. Special Project Reviews	3	13
a. Facility Permit	2	12
b. General Permit	1	1
4. Permitting Determination	-	-
5. Special Project Reviews	24	278
a. Phosphate	4	36
b. Industrial Wastewater	6	105
c. Others	14	137

E. INSPECTIONS - INDUSTRIAL

1. Compliance Evaluation (Total)	9	85
a. Inspection (CEI)	9	85
b. Sampling Inspection (CSI)	-	-
c. Toxics Sampling Inspection (XSI)	-	-
d. Performance Audit Inspection (PAI)	-	-
2. Reconnaissance (Total)	17	106
a. Inspection (RI)	5	51
b. Sample Inspection (SRI)	-	-
c. Complaint Inspection (CRI)	12	55
d. Enforcement Inspection (ERI)	-	-
3. Engineering Inspections (Total)	2	36
a. Compliance Evaluation (CEI)	2	34
b. Sampling Inspection (CSI)	-	-
c. Performance Audit Inspection (PAI)	-	-
d. Complaint Inspection (CRI)	-	2
e. Enforcement Reconnaissance Inspections (ERI)	-	-

F. INVESTIGATION/COMPLIANCE

1. Citizen Complaints	153	461
a. Domestic	135	382
(i) Received	20	154
(ii) Closed	115	228
b. Industrial	18	79
(i) Received	10	39
(ii) Closed	8	40

**FY 09 - MONTHLY ACTIVITIES REPORT
WATER MANAGEMENT DIVISION**

	<u>MAY</u>	<u>FY TO DATE</u>
2. Warning Notices	19	128
a. Domestic	13	106
(i) Received	6	60
(ii) Closed	7	46
b. Industrial	6	22
(i) Received	6	16
(ii) Closed	-	6
3. Non-Compliance Advisory Letters	16	130
4. Environmental Compliance Reviews	179	1,360
a. Industrial	74	429
b. Domestic	105	931
5. Special Project Reviews	-	7

G. RECORD REVIEWS

1. Permitting Determination	5	38
2. Enforcement	1	5

**H. ENVIRONMENTAL SAMPLES ANALYZED/REPORTS
REVIEWED (LAB)**

1. Air division	58	452
2. Waste Division	-	-
3. Water Division	17	149
4. Wetlands Division	-	-
5. ERM Division	125	1,177
6. Biomonitoring Reports	6	42
7. Outside Agency	22	232

I. SPECIAL PROJECT REVIEWS

1. DRIs	2	15
2. ARs	1	8
3. Technical Support	2	31
4. Other	-	5

**FY 09 - MONTHLY ACTIVITIES REPORT
WETLANDS MANAGEMENT DIVISION**

**FY TO
MAY DATE**

ASSESSMENT REPORT

Agriculture Exemption Report

# Agricultural Exemptions Reviews	-	1
# Isolated Wetlands Impacted	-	3
# Acres of Isolated Wetlands Impacted	-	0.34
# Isolated Wetlands qualify for Mitigation Exemption	-	3
# Acres of Wetlands qualify for Mitigation Exemption	-	0.34

PGMD Reviews Performance Report

# of Reviews	50	738
Timeframes Met	100%	100%
Year to Date	99%	99%

Formal Wetland Delineation Surveys

Projects	6	89
Total Acres	71	1,195
Total Wetland Acres	11	234
# Isolated Wetlands < 1/2 Acre	1	26
Isolated Wetland Acreage	0.1	4.6

Construction Plans Approved

Projects	8	137
Total Wetland Acres	103	390
#Isolated Wetlands < 1/2 Acre	2	55
Isolated Wetland Acreage	0.22	12.19
Impacts Approved Acreage	0.31	4.33
Impacts Exempt Acreage	0	4.78

Mitigation Sites in Compliance

Ratio	197/204	197/204
Percentage	97%	97%

Compliance Actions

Acreage of Unauthorized Wetland Impacts	0.90	9.10
Acreage of Wtaer Quality Impacts	0.00	0.00
Acreage Restored	1.40	8.40

General

Telephone Conferences	809	4,685
Scheduled Meetings	178	1,437
Unscheduled Citizen Assistance	172	694

REVIEW TIMES

# of Reviews	241	2,089
% On Time	96%	98%
% Late	4%	2%

**FY 09 - MONTHLY ACTIVITIES REPORT
WETLANDS MANAGEMENT DIVISION**

MAY **FY TO**
DATE

A. General

1.	Telephone conferences	809	5,115
2.	Unscheduled Citizen Assistance	172	739
3.	Scheduled Meetings	178	1,628
4.	Correspondence	1,174	3,888
1/ 5.	Intergency Coordination	44	100
1/ 6.	Trainings	15	41
1/ 7.	Public Outreach/Education	2	4
1/ 8.	Quality Control	18	28

B. Assessment Reviews

1.	Wetland Delineations	17	152
2.	Surveys	12	138
3.	Miscellaneous Activities in Wetland	30	203
4.	Mangrove	2	45
5.	Notice of Exemption	4	23
6.	Impact/Mitigation Proposal	17	137
7.	Tampa Port Authority Permit Applications	32	324
8.	Wastewater Treatment Plants (FDEP)	-	1
9.	Development Regn'l Impact (DRI) Annual Report	1	11
10.	On-Site Visits	81	788
11.	Phosphate Mining	-	17
12.	Comp Plan Amendment (CPA)	2	11
1/ 13.	AG SWM		4
	Sub-Total	198	1,854

Planning and Growth Management Review

14.	Land Alteration/Landscaping	1	14
15.	Land Excavation	-	4
16.	Rezoning Reviews	7	119
17.	Site Development	22	223
18.	Subdivision	9	124
19.	Wetland Setback Encroachment	3	35
20.	Easement/Access-Vacating	-	4
21.	Pre-Applications	11	164
1/ 22.	Agriculture Exemption	2	3
	Sub-Total	55	690
	Total Assessment Review Activities	253	2,544

**FY 09 - MONTHLY ACTIVITIES REPORT
WETLANDS MANAGEMENT DIVISION**

**FY TO
MAY DATE**

C. Investigation and Compliance

1.	Warning Notices Issued	10	67
2.	Warning Notices Closed	11	34
1/ 3.	Complaints Closed	26	71
4.	Complaint Inspections	50	326
5.	Return Compliance Inspections for Open Cases	37	245
6.	Mitigation Monitoring Reports	15	224
7.	Mitigation Compliance Inspections	24	182
8.	Erosion Control Inspections	44	199
9.	MAIW Compliance Site Inspections	20	137
10.	TPA Compliance Site Inspections	-	17
2/ 11.	Mangrove Compliance Site Inspections	-	-
1/ 12.	Conservation Easement Inspection	1	1

D. Enforcement

1.	Active Cases	18	18
2.	Legal Cases	-	-
3.	Number of "Notice of Intent to Initiate Enforcement"	-	11
4.	Number of Citations Issued	-	1
5.	Number of Consent Orders Signed	2	26
6.	Administrative - Civil Cases Closed	1	32
7.	Cases Referred to Legal Department	-	3
8.	Contributions to Pollution Recovery	\$ 2,400	\$ 86,521
9.	Enforcement Costs Collected	\$ 606	\$ 9,272

E. Ombudsman

1.	Agriculture	8	25
2.	Permitting Process & Rule Assistance	3	7
3.	Staff Assistance	3	82
4.	Citizen Assistance	1	6

1/ Reported activity beginning with April 2009.

2/ Reported activity beginning with May 2009.

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**ENVIRONMENTAL PROTECTION COMMISSION
OF HILLSBOROUGH COUNTY
POLLUTION RECOVERY TRUST FUND
AS OF 05/31/09**

	As of 5/31/09
Beginning Fund Balance, 10/01/08	\$ 908,910
Interest Accrued	42,887
Deposits	188,639
Disbursements	(152,767)
Intrafund Budget Transfers to Project Fund	(443,301)
Intrafund Budget Transfers from Project Fund	34,233
Pollution Recovery Fund Balance	\$ 578,601
Encumbrances:	
Pollution Prevention/Waste Reduction (101)	\$ 2,263
Artificial Reef Program	78,212
PRF Project Outreach	49,329
PRF Project Monitoring	13,618
Total Encumbrances	\$ 143,422
Minimum Balance (Reserves)	\$ 120,000
Balance Available 05/31/09	\$ 315,179

PROJECT FUND

	Project Amount	Project Balance
Open Projects		
FY 06 Projects		
COT Parks Dept/Cypress Point (97)	\$ 100,000	\$ 100,000
Bahia Beach Restoration (contract 04-03)	150,000	57,291
Field Measurement for Wave Energy	125,000	9,884
Port of Tampa Stormwater Improvement	45,000	45,000
	\$ 450,000	\$ 212,175
FY 07 Projects		
Tank Removal	\$ 25,000	\$ 2,870
Agriculture Best Management Practice Impl	150,000	100,857
Lake Thonotosassa Assessment	75,000	75,000
Natures Classroom Cap, PH III	188,000	188,000
Pollution Monitoring Appl Pilot Project	45,150	6,773
Seagrass & Longshore Bar Recovery	75,000	30
Seawall Removal Cotanchobee Ft Brooke Park	100,000	100,000
Knights Preserve	35,235	-
Oyster Reef Shore/Stab & Enhance	30,000	35
Nitrogen Emission/Deposition Ratios, Air Pollution	40,906	5,867
Erosion Control/Oyster Bar Habitat Creation	75,000	75,000
Remediation of Illegally Dumped Asbestos	4,486	4,486
	\$ 843,777	\$ 558,918
FY 08 Projects		
Australian Pine Removal E.G. Simmons Park	\$ 80,000	\$ 80,000
Restoration of MOSI	125,000	68,154
Invasive Plant Removal Egmont Key	133,000	12,415
Lake Magdalene Special Disposition District	66,954	37,541
Testing Reduction of TMDL in Surface Water Flow	19,694	13,149
Assessing Bacteria Lake Carroll	101,962	101,962
	\$ 526,610	\$ 313,221
FY 09 Projects		
Agriculture Pesticide Collection & Education Day	\$ 24,000	\$ 24,000
Agriscience, Food & Natural Resources Department	2,275	2,275
Great American Cleanup 2009	12,830	12,830
MacDill Phase 2 Seagrass Transplanting	79,196	79,196
McKay Bay Sediment Quality	55,000	55,000
Mini FARMS BMP Implementation	50,000	50,000
Petrol Mart, Inc Tank Removal	75,000	75,000
Site Assessment & Removal of Contaminated Soils	25,000	25,000
Wetland Restoration on County Owned Lands	120,000	120,000
	\$ 443,301	\$ 443,301

**ENVIRONMENTAL PROTECTION COMMISSION
OF HILLSBOROUGH COUNTY
ANALYSIS OF GARDINIER SETTLEMENT TRUST FUND
AS OF 05/31/09**

Fund Balance as of 10/1/08	\$ 241,187
Interest Accrued	4,599
Disbursements FY 09	-
Fund Balance	<u>\$ 245,786</u>
Encumbrances Against Fund Balance:	
SP634 Cockroach Bay ELAPP Restoration	245,786
Total Encumbrances	<u>\$ 245,786</u>
Fund Balance Available 05/31/09	<u><u>\$ -</u></u>



EPC Agenda Item Cover Sheet

Date of EPC Meeting: June 18, 2009

Subject: Legal Case Summary for June 2009

Consent Agenda X **Regular Agenda** **Public Hearing**

Division: Legal Department

Recommendation: None, informational update.

Brief Summary: The EPC Legal Department provides a monthly list of all its pending civil matters, administrative matters, and cases that parties have asked for additional time to file an administrative challenge.

Financial Impact: No financial impact anticipated; informational update only.

Background: In an effort to provide the Commission a timely list of legal challenges, the EPC staff provides monthly updates. The updates not only can inform the Commission of pending litigation, but may be a tool to check for any conflicts they may have. The summaries generally detail civil and administrative cases where one party has initiated some form of civil or administrative litigation, as opposed to other Legal Department cases that have not risen to that level. There is also a listing of cases where parties have asked for additional time in order to allow them to decide whether they wish to file an administrative challenge to an agency action while we concurrently are attempting to negotiate a settlement.

List of Attachments: **June 2009 EPC Legal Case Summary**

EPC LEGAL DEPARTMENT MONTHLY REPORT
June 2009

A. ADMINISTRATIVE CASES

NEW ADMINISTRATIVE CASES [0]

EXISTING ADMINISTRATIVE CASES [5]

Florida Gas Transmission Co., LLC [LEPC08-029]: On October 31, 2008 Florida Gas Transmission Company, LLC filed an application for an order granting a certificate of public convenience and necessity authorizing the construction and operation of natural gas pipeline and compression facilities and to acquire pipeline facilities. On November 13, 2008 the EPC Board granted the Legal Dept. authority to intervene in the FERC certification process to protect the interests of Hillsborough County's environment. The EPC filed its motion to intervene on November 26, 2008. In the next few months a draft Environmental Impact Statement will be issued by FERC that all interested parties should review and comment on. (RT/RM).

Martini Island Land Co. [LEPC07-023]: On August 29, 2007, the Appellant filed a request for an extension of time to file an appeal to challenge a Citation to Cease and Order to Correct that was issued by the Water Mgmt Division. The request was granted and the Appellant had until September 21, 2007 to file an appeal. On Sept. 21, 2007 the Appellant did file an Appeal challenging the Citation to Cease and Order to Correct. The parties are negotiating and the facility is going through foreclosure. (RM)

Michael and Jemimah Ruhala v. DEP and EPC [LEPC08-012]: On May 16, 2008, the Ruhalas filed Chp. 120 petitions against two wastewater treatment permits the DEP Parks Department requested and received modifications on for an expanded effluent sprayfield system at the Hillsborough River State Park. The parties conducted settlement negotiations twice in June and the DEP is investigating reasonable modifications. The parties placed the case in a brief abeyance in an effort to seek settlement. (RM)

Evelyn Romano [LEPC09-005]: On March 7, 2009 the Appellant filed a request for an extension of time to file a Notice of Appeal to challenge a wetland impact approval and mitigation agreement. The Legal Department granted the request and the Appellant has until April 30, 2009 to file an appeal in this matter. On April 27, 2009 the Appellant filed a Notice of Appeal and the matter has been transferred to a Hearing Officer to conduct an administrative hearing. (AZ)

Vertis, Inc. [LEPC09-009]: On April 22, 2009 Vertis, Inc. filed a Petition for Administrative Hearing to challenge Operating Permit #0570254-022-AF for its facility located at 4646 S. Grady Avenue in Tampa. The parties are negotiating. (RM)

RECENTLY RESOLVED ADMINISTRATIVE CASES [0]

B. CIVIL CASES

NEW CIVIL CASES [1]

U.S. Bankruptcy Court in re Jerry A. Lewis [LEPC09-011]: On May 1, 2009 the U.S. Bankruptcy Court Middle District of Florida filed a Notice of Chapter 13 Bankruptcy Case regarding Jerry A. Lewis. On May 26, 2009, the EPC filed a Proof of Claim with the Court. The EPC's basis for the claim is a recorded judgment lien awarded in Civil Court against Mr. Lewis concerning unauthorized disposal of solid waste. (AZ)

EXISTING CIVIL CASES [17]

Phillips & Munzel Oil Co., Inc. Robert G. Phillips, Individually, and Clyde W. Munzel Individually [LEPC09-003]: On February 19, 2009 the EPC Board granted authority to take legal action against the Respondents for violations of the EPC Act, Chapter 1-7, EPC Rules and Chapter 62-770, FAC. Citations of Violation were issued on June 25, 2008, the Respondents

failed to appeal the citations and they became final orders of the Agency enforceable in Court. The violations have not been corrected. (AZ)

Michael Robilotta [LEPC08-032]: On December 18, 2008 the EPC Board granted authority to take legal action against Respondent Michael Robilotta, owner and operator of the Old Estates Mobile Home Park, for violations of the EPC Act and EPC Rules Chapter 1-1, General Rules and Chapter 1-5, Water Pollution. Respondent failed to respond to the Citation issued on September 15, 2008 and also failed to respond to the Consent Order offered on November 3, 2008. The Citation became final and is enforceable in Circuit Court. On February 18, 2009 the EPC filed a Complaint in Circuit Court for civil penalties and injunctive relief. Due to a Clerk's office error, the EPC re-filed its motion for default on May 6. (RM)

Fuego Churrascaria Steakhouse Corp. [LEPC08-027]: On November 13, 2008, the EPC Board granted authority to take legal action against Respondent Fuego Churrascaria Steakhouse Corp. for violations of the Noise Rule, Chapter 1-10. On March 18, 2008 staff hand delivered a Citation to Cease and Order to Correct Violation. Respondent failed to respond and the Citation became final and is enforceable in Circuit Court. On February 18, 2009 the EPC filed a Complaint in Circuit Court for civil penalties and injunctive relief. On April 24, 2009, the Clerk of Court granted the EPC's motion for default. (RM)

Realty Group, LLC., SRJ Enterprises, LLC and Surinder Joshi [LEPC08-028]: On November 13, 2008, the EPC Board granted authority to take legal action against the Defendants for unresolved violations of several EPC Rules including the Waste Management Rule, Chapter 1-7, the Storage Tank Rule, Chapter 1-12, and the Water Quality Rule, Chapter 1-5 at the 301 Truck Stop. On April 23, 2009, the EPC Legal Department filed a lawsuit seeking all corrective actions as well as assessment of civil penalties and costs in the matter. The parties are in negotiations concerning a settlement of the matter (AZ)

Grace E. Poole and Michael Rissell [LEPC08-015]: Authority to take appropriate legal action against Grace E. Poole and Michael Rissell for failure to properly assess petroleum contamination in accordance with EPC and State regulations was granted on June 19, 2008. The property owner and/or other responsible party are required to initiate a site assessment and submit a Site Assessment Report. They have failed to do the required work and the EPC is attempting to obtain appropriate corrective actions. (AZ)

Letty Cueva and Patricia Vaca (Causeway Station) [LEPC08-005]: Authority to take appropriate legal action against Letty Cueva and Patricia Vaca for failure to comply with the terms of the Consent Order entered on December 21, 2004 was granted on March 20, 2008. The Consent Order required the Defendants to submit and complete a Post Active Remediation Monitoring Plan (PARMP) or to submit and complete a Remedial Action Plan (RAP) and submit a \$500.00 penalty to the EPC. The EPC is attempting to re-negotiate a settlement to resolve the matter. (AZ)

Ecoventure New Port I, LLC [LEPC08-006]: Authority to take appropriate legal action against Ecoventure New Port I, LLC for failure to assess petroleum contamination in accordance with EPC and State regulations was granted on March 20, 2008. The property owner is required to initiate a site assessment and submit a Site Assessment Report. They have failed to do the required work and the EPC is attempting to obtain appropriate corrective actions. (AZ)

Miley's Radiator Shop [LEPC06-011]: Authority was granted on April 20, 2006 to pursue appropriate legal action against Miley's Radiator Shop, Calvin Miley, Jr., Calvin Miley, Sr., and Brenda Joyce Miley Tyner for waste management violations for improper storage and handling of car repair related wastes on the subject property. In addition, a citation was entered against the respondents on October 28, 2005 requiring specific corrective actions. The Respondents have not complied with the citation. The EPC is preparing to file a lawsuit for the referenced violations. (AZ)

Petrol Mart, Inc. [LEPC07-018]: Authority to take appropriate action against Petrol Mart, Inc. to seek corrective action, appropriate penalties and recover administrative costs for improperly abandoned underground storage tanks and failure to address petroleum contamination was granted on June 21, 2007. The owner of the property is insolvent and the corporation inactive; however, the Waste Management Division intends on obtaining a judgment and lien on the property for the appropriate corrective actions. The Legal Department filed a civil lawsuit on September 26, 2007. The defendant was served with the lawsuit on October 12, 2007. The Court entered a default on November 9, 2007 for the Defendant's failure to respond. The EPC Legal Department set this matter for trial on March 26, 2008. The Court ruled in favor of EPC and entered a Default Judgment against the Defendant awarding all corrective actions, penalties of \$116,000 and costs of \$1,780. In the event the corrective actions are not completed the court also authorized the EPC to contract to have the site cleaned and to add those costs to the lien on the property. PRF monies were allocated in November 2008 to assist in remediating the site. (AZ)

Medallion Convenience Stores, Inc. and MDC6, LLC [LEPC07-034]: The Commission granted authority to take appropriate action against Medallion Convenience Stores, Inc. and MDC6, LLC on December 13, 2007 for failure to comply with a consent order. The consent order required the facility to submit a Discharge Report Form for petroleum discharge and submit proof of an N.P.D.E.S. permit for de-watering activities at the site. The EPC is attempting to negotiate a settlement in this matter. (AZ)

Tranzparts, Inc. and Scott Yaslow [LEPC06-012]: Authority was granted on April 20, 2006 to pursue appropriate legal action against Tranzparts, Inc., Scott Yaslow, and Ernesto and Judith Baizan to enforce the agency requirement that various corrective actions and a Preliminary Contamination Assessment Plan be conducted on the property for discharges of oil/transmission fluid to the environment. The EPC entered a judicial settlement (consent final judgment [CFJ]) with Tranzparts and Yaslow only on February 16, 2007. The Defendants have only partially complied with the CFJ, thus the case has been re-opened in the Circuit Court in order to enforce the CFJ and hold the Defendants in contempt. A hearing was held on April 28, 2008, wherein the judge awarded the EPC additional penalties. The Legal Dept. filed a proposed Supplemental Judgment with the Court. The Court entered the Order on May 15, 2008, and the Defendants have yet to pay any supplemental costs or penalties. (RM)

D.J.P. Investments, Inc. [LEPC08-011]: On May 15, 2008 the EPC Board granted authority to take appropriate legal action against Defendant D.J.P. Investments, Inc. for failure to initiate and complete site rehabilitation activities in accordance with EPC and State regulations for petroleum contamination at the facility owned and operated by the Defendant. On May 6, 2009, The EPC Legal Department filed a lawsuit seeking an injunction and recovery of penalties and costs for failure to assess the petroleum contamination. (AZ)

Pedro Olivera [LEPC08-021]: Authority to take appropriate legal action against Pedro Olivera for unauthorized wetland and mangrove impacts was granted on July 17, 2008 at the EPC Board meeting. Subsequently, the parties entered into a consent order which provided for corrective actions as well as payment of appropriate penalties and recovery of staff costs. The Defendant failed to comply with several of the provisions outlined in the Order and on January 16, 2009 the EPC Legal Dept. filed a Complaint against the Defendant in Circuit Court. Although the parties are in negotiations to settle the case, the EPC has not been contacted by Mr. Olivera recently and the EPC Legal Department filed a Motion for Default on April 7, 2009 for failure to timely respond to the civil lawsuit. The parties have agreed to a settlement for payment and the case should be closed soon. (AZ)

Spencer Farms, Inc. [LEPC09-004]: On March 19, 2009 the EPC Board granted authority to take legal action against the Respondent for violations of the EPC Act, Chapter 1-7 EPC Rules and Chapter 62-770, F.A.C. A Citation of Violation was issued on June 27, 2009, the Respondent failed to appeal the citation and it became a final order of the Agency enforceable in Court. The violations have not been corrected. (AZ)

2601 Hillsborough, LLC and Charlie Mavros [LEPC09-006]: On March 19, 2009 the EPC Board granted authority to take legal action against the Respondents for violations of various wastewater regulations in Chapters 62-620, 62-660, and 62-4, F.A.C. A Citation of Violation was issued on November 25, 2008, the Respondents failed to appeal the citation and it became a final order of the Agency enforceable in Court. The violations have not been corrected. (RM)

A-Team Demo, Inc. [LEPC09-007]: On March 19, 2009 the EPC Board granted authority to take legal action against the Respondent for violations of Chapter 1-3, EPC Rules and Chapter 62-204, F.A.C. On September 16, 2008 the Respondent entered into a Consent Order with EPC. Respondent has failed to timely comply with the penalty and cost requirements of the Consent Order. The parties negotiated and executed an amendment to the Consent Order on April 2, 2009. This matter will be closed. (RM)

Hindu Religious Center, Inc. [LEPC09-008] : On April 16, 2009 the EPC Board granted authority to take legal action against the Respondent for violations of the EPC Act and Chapter 1-10, Rules of the EPC. In September 2008 Respondent and EPC staff entered into a Consent Order to address the violations. Respondent has failed to comply with the corrective measures contained therein and, as a result, continues to violate the EPC noise standards. (RM)

RECENTLY RESOLVED CIVIL CASES [0]

C. OTHER OPEN CASES [7]

The following is a list of cases assigned to the EPC Legal Department that are not in litigation, but a party has asked for an extension of time to file for administrative litigation in the hope of negotiating a settlement prior to forwarding the case to a Hearing Officer. The below list may also include waiver or variance requests.

Notice of Intent to Initiate Litigation Against EPC, Billy Williams, Claimant [LEPC05-013]: On April 29, 2005 McCurdy and McCurdy, LLP submitted to EPC a Notice of Intent to Initiate Litigation Against Governmental Entity Re: Hillsborough County Environmental Protection Commission on behalf of Mr. Billy Williams, Claimant, for damages sustained on or about December 15-18, 2003. The Notice alleges that Mr. Williams sustained serious bodily injuries and property damage as the result of EPC's actions and inactions with regard to alleged fugitive emissions released into the air by Coronet Industries. The suit could have been filed October 2005 but has not yet been filed. (RT)

Tandum Holdings Corp. [LEPC08-020]: On July 29, 2008 the Petitioner filed a request for an extension of time to file a Petition for Administrative Hearing to challenge a Notice of Violation (NOV) issued on July 3, 2008 for unauthorized discharge of domestic and industrial wastewater to the ground and failure to comply with monitoring requirements. The Legal Dept. granted the request and the Petitioner has until September 29, 2008 to file a petition in this matter. The Petitioner failed to file a timely petition to challenge the NOV, thus the EPC issued a Final Order on December 5, 2008. The parties are still seeking settlement options. (RM)

Lazzara Yachts of North America, Inc. [LEPC08-025]: On November 3, 2008 the Petitioner filed a request for an extension of time to file a Petition for Administrative Hearing to challenge a draft Air Construction Permit issued to them on October 22, 2008. The Legal Department granted the request for extension of time and the Petitioner was granted until December 22, 2008 to file a petition in this matter. This deadline was extended until January 30, 2009. The Petitioner requested a third extension of time which was granted and the deadline extended to March 16, 2009. The extension passed with no further filing, but the EPC plans to issue an agreeable permit to the applicant. This matter is closed. (RM)

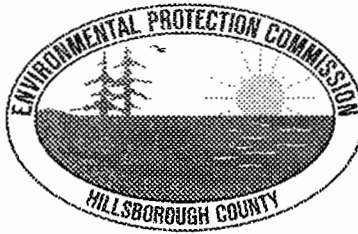
Lazzara Yachts of North America, Inc. [LEPC08-026]: On November 3, 2008 the Petitioner filed a request for an extension of time to file a Petition for Administrative Hearing to challenge a draft Air Operating Permit issued to them on October 22, 2008. The Legal Department granted the request for extension of time and the Petitioner was granted until December 22, 2008 to file a petition in this matter. This deadline was extended until January 30, 2009. The Petitioner requested a third extension of time which was granted and the deadline extended to March 16, 2009. The extension passed with no further filing, but the EPC plans to issue an agreeable permit to the applicant. This matter is closed. (RM)

TRANSFLO Terminal Services, Inc. [LEPC09-001]: On January 22, 2009 the Petitioner filed a request for an extension of time to file a Petition for Administrative Hearing to challenge a draft Air Operating Permit. The Legal Department granted the request and the Petitioner had until March 30, 2009 to file a petition in this matter. On March 30th the Petitioner filed a request for a second extension of time. The Legal Department granted the request and the Petitioner has until May 29, 2009 to file a petition in this matter. (RM)

GI Entertainment & Restaurant Group LLC [LEPC09-002]: On February 13, 2009 the Appellant (Green Iguana) filed a request for an extension of time to file a Notice of Appeal to challenge a Citation to Cease and Order to Correct Violation issued on February 9, 2009, regarding noise violations. The request was denied and the party has until March 26, 2009, to file an appeal. An appeal was filed on March 13, 2009 and the parties are negotiating. (RM)

OneSteel [LEPC09-010]: On April 30, 2009 the Petitioner (OneSteel) filed a request for an extension of time to file a Petition for Administrative Hearing to challenge a draft Air Construction Permit. The request was granted and the Petitioner has until July 14, 2009 to file a petition for administrative hearing. (RM)

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EPC Agenda Item Cover Sheet

Date of EPC Meeting: June 18, 2009

Subject: Request for authority to take appropriate legal action against Ms. Kelly Wishau

Consent Agenda X **Regular Agenda** _____ **Public Hearing** _____

Division: Wetlands Management Division

Recommendation: Grant authority to pursue appropriate legal action and grant Executive Director settlement authority.

Brief Summary: Ms. Wishau owns real property located at 3604 Cork Road, Plant City, Florida. Within the property are jurisdictional wetlands. Ms. Wishau has continued unauthorized wetland impacts on her property, including dredging, filling, disking, and clearing in wetlands. No corrective actions have been completed and the property is not in compliance with the EPC Act and Rules of the EPC, Chapter 1-11.

Financial Impact: There is no immediate financial impact anticipated for this item. Funding is budgeted within the general fund monies. EPC will seek to recover the costs of any litigation.

Background: On May 13, 2005, Ms. Wishau entered into a Settlement Letter with the EPC in resolution of unauthorized wetland impacts on her property. On January 24, 2007, EPC staff issued Warning Notice #2007-2828E for unauthorized fill placement in wetlands. On May 3, and November 14, 2007 additional unauthorized wetland impacts were observed including pond excavation, fill placement, and tree clearing with associated debris placed in wetlands. On February 21st and 28th, 2008, EPC staff observed additional tree clearing within the wetlands. On April 28, 2008, a Citation of Violation and Order to Correct (Citation) was issued to Ms. Wishau for the referenced wetland violations. The Citation has not been timely appealed and is now a final order by operation of law. The violations have not been corrected. On April 28, 2009, EPC staff observed additional unauthorized dredging and soil deposition in wetlands on the property.

List of Attachments: None

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EPC Agenda Item Cover Sheet

Date of EPC Meeting: June 18, 2009

Subject: Budget Update, Response to the County Administrator's Recommended Budget

Consent Agenda _____ **Regular Agenda** X **Public Hearing** _____

Division: Executive Director

Recommendation: Request a Board motion to have BOCC flag EPC's Countywide General Fund FY 10 budget cuts to restore \$670,000 bringing the total budget to \$8,432,375 and; restore an additional \$739,628 to FY 11 bringing the total budget to \$7,716,579.

Brief Summary: The will bring EPC's FY 10 and FY 11 Budget Requests in line with the County's reductions from FY 07 to FY 10 and FY 11 of -20.58% and -27.34%, respectively and close the disparity in reductions between the County and EPC over the last several years.

Financial Impact: The impact of the restoration of the requested funds reduces EPC's FY 10 recommended budget reduction to -14.2%, or \$1,387,388 and an additional -7.5%, or -\$738,234 in FY 11.

Background: At its May 21st meeting, the EPC Board engaged in a discussion regarding the EPC's budget. Subsequently, a motion was made by Commissioner Ferlita and seconded by Commissioner Beckner authorizing the Executive Director to forward a letter to the Administrator requesting consideration of past reductions made by EPC when formulating the FY 10 and FY 11 budget recommendations. The motion passed unanimously (5-0).

Over the last two years the EPC has decreased the Countywide General Fund portion of its budget by 8.65% resulting in a 16% reduction in General Fund supported FTE'S. Over the same time period, the total County Administrator General Fund has increased 5.29%. In addition, during the same time period, the total agency budget (all funding sources) has been reduced by 6% resulting in a total loss of 25 FTE's. EPC staff submitted a less than continuation budget for FY 10 and FY 11.

The Administrator's recommended budget for FY 10 and FY 11 does not consider EPC's past reductions compared to the County's. The County's FY 07 to FY 10 reduction totals -20.58% and EPC's is -26.91%. From FY 07 to FY 11, the County's reduction totals -27.34% and the EPC's is -40.61%.

The requested recommendation will close the disparity in reductions between the County and the EPC.

List of Attachments: None

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EPC Agenda Item Cover Sheet

Date of EPC Meeting: June 18, 2009

Subject: Monitoring Results assessing the impacts of the Desalination facility in the Apollo Beach/ Big Bend area

Consent Agenda _____ **Regular Agenda** XX **Public Hearing** _____

Division: Environmental Resources Management

Recommendation: Informational Report

Brief Summary: To address concerns raised by citizens in the area the EPC Commissioners directed staff to undertake thorough monitoring in the Apollo Beach/ Big Bend area sufficient to quantify the impacts of the DESAL facility to the water quality in the area. The concerns centered on the possibility of increased salinity especially in the north Apollo beach

Financial Impact: No Immediate Financial Impact resulting from this report

Background:

During the permitting process, the developers of the DESAL facility were required to develop and run models to predict the quantity and quality of the facility's brine discharge and its hydrodynamic fate, i.e. how many gallons of brine would be discharged, what would be the concentration of the brine discharge, where the brine would go and how it would interact with the ambient water it encountered.

These models predicted that the salinity in the discharge canal would be increased by less than 2½ percent in a "worst case" scenario, i.e. maximum at production the DESAL facility and minimum cooling water use by the TECO – Big Bend facility for dilution. Since the brine discharge is blended with TECO hot water discharge, the actual salinity increase is dependent on the production rate of the DESAL facility and the production rate of the TECO – Big Bend facility. Further the model predicted that the salinity in the north Apollo beach embayment would not be distinguishable from the background ambient condition.

To address concerns raised by citizens, the EPC Board directed staff to undertake thorough monitoring in the Apollo Beach/ Big Bend area to verify the actuality and the accuracy of the model predictions, especially the concern of a hypersaline zone developing in the north Apollo beach embayment.

The Monitoring strategy included collecting data for a variety of water quality variables, prior to the DESAL facility going on line and then making the same type of measurements subsequent to the facility going into operation, i.e. pre and post operation comparison. Salinity is the primarily water quality variable of concern specific to this type of operation, though dissolved oxygen (DO) and temperature are also of concern.

We made use of two types of monitoring strategies:

1. *Spatial Analysis* utilizing synoptic surveys. - 17 locations in the Apollo Beach/ Big Bend area, all measured within a 5 hour period (staff in a boat). Surveys were made on a monthly schedule.
2. *Temporal Analysis* utilizing two types of continuous measurements recorders – fixed and movable recording instrumentation. Both types of continuous monitoring installations record salinity, DO, Temperature and depth every 15 minutes. We had three fixed continuous monitoring installations; they were located in the intake canal, the discharge canal and the north Apollo Beach embayment. The fixed continuous monitoring instrumentation take both top and bottom measurements and operate around the clock (24/7 – 365). The moveable continuous monitoring units are deployed for 72 hours at a time and make measurements only at the bottom. The instruments were strategically deployed; the locations varied based on informational needs.

The DESAL facility has been in operation for the past 1½ years. So we now have sufficient data to make assessments.

Based on actual quality control measurements, our ability to measure salinity is about 1%. The bottom line is that the empirical data is consistent with the model predictions. We can detect about 1% difference between the intake and the discharge. There is no discernable difference between the north Apollo beach embayment and the ambient conditions we measure in the bay. The data is significant.

List of Attachments: None



EPC Agenda Item Cover Sheet

Date of EPC Meeting: June 18, 2009

Subject: Status Report of Nitrogen Management Consortium and the Reasonable Assurance Document

Consent Agenda _____ **Regular Agenda** XX **Public Hearing** _____

Division: Environmental Resources Management

Recommendation: Informational Report

Brief Summary: Nitrogen Management Consortium is an *ad hoc* committee of the Tampa Bay Estuary Program formed in 1998 to address the issue of nitrogen loading to Tampa Bay. The NMC developed a "Reasonable Assurance" approach to managing nitrogen loading to Tampa Bay. This approach has been accepted by FDEP *in lieu* of listing Tampa Bay as an impaired body of water.

Financial Impact: No Immediate Financial Impact resulting from this report

Background:

In the early 1990s, the Tampa Bay Estuary Program (TBEP) adopted a "hold the line strategy", with respect to nitrogen inputs into the Bay, i.e. the bay was doing OK at 1992-95 nitrogen loading rates, so how do we maintain that level of loading, (prevent additional nitrogen loading to the bay) given that growth in the region is inevitable? To address this very basic management issue, the TBEP initiated formation of Nitrogen Management Consortium (NMC).

The NMC was convened in 1998; it is comprised of government agencies (State and local; regulatory and non-regulatory) and non-governmental entities including phosphate industry, agricultural interests and electric utilities. The NMC accepted responsibility for collectively meeting nitrogen load reduction goals, using a "one for all and all for one" approach. The "hold the line strategy", requires a reduction of 17 ton of nitrogen per year of nitrogen loading throughout the Tampa Bay watershed. Success of the NMC has been measured two ways. First, is the Bay meeting water quality targets for chlorophyll *a* and light penetration sufficient to allow seagrasses to grow and expand coverage? Secondly, an Action Plan Database was setup to account for nitrogen load reduction projects undertaken in the watershed by the NMC members to answer the question: Are we reducing nitrogen loading by 17 tons per year?

This approach was documented in the TBEP Tampa Bay Nitrogen Management Plan and in 2002, presented to Florida Department Environmental Protection (FDEP) as a Reasonable Assurance (RA) Document to meet state water quality criteria. FDEP accepted the RA document and Tampa Bay was removed from the State's Impaired Waters list for 2002-2007. Consequently, a Total Maximum Daily Load (TMDL) was not required for Tampa Bay. Listing of impaired waters is on a five year cycle. In 2007, a new RA Document needed to be submitted to FDEP to cover the period 2007 to 2012, however due to extenuating circumstances (describe below), FDEP has granted an extension to submitting the document to July1, 2009.

EPA has no legal mechanism for accepting an RA document. So by law, EPA established a federal TMDL for Tampa Bay in 2008. The federal TMDL sets nitrogen loading limits consistent with the targets set by the TBEP in the "hold the line strategy". Accordingly, EPA required any new National Pollution Discharge Elimination System (NPDES) permits issued by FDEP to set discharge limits that comply with (support) the federal TMDL – the FDEP accepted Reasonable Assurance Document notwithstanding. The consequence to the EPA action has "morphed" the NMC approach ("one for all and all for one") into a different process that will carve-up the nitrogen loading "pie" among the NMC entities, i.e. a nitrogen loading allocation as part of a permit compliance condition.

Since the fall of 2008, NMC has been engaged in an on-going discussion of how to fairly and equitably allocate the annual nitrogen load as defined by the federal TMDL among the permitted entities. Consensus on the process has been reached and each entity has received a nitrogen load allocation for all their facilities and sources. NPDES permits are issued to point source dischargers, i.e. waste water treatment facility and to non point sources meaning stormwater runoff. The annual allocation to a point source is based on the facilities annual for the period 2003-2007. The nitrogen loading allocation to a non-point source, i.e. MS4 permit holder will be based on the amount land and the type of land use covered under a given MS4 permit. It is important to recognize the RA document has no regulatory authority. The allocations set forth in the RA document are actually only recommendations to FDEP.

Implementation of the provisions and allocations set forth in the RA document is addressed, but compliance is ultimately the responsibility of the FDEP. The NMC is now addressing transferring load allocations among and with entities and how to deal with "new" load sources.

The new RA document is in final draft stages, acceptance by the NMC is scheduled for later this month and submittal to FDEP is on target for the July deadline.

List of Attachments: None



EPC Agenda Item Cover Sheet

Date of EPC Meeting: June 18, 2009

Subject: Adopting BOCC Policies and Report on Executive Director Policies

Consent Agenda _____ **Regular Agenda** X **Public Hearing** _____

Division: Legal Department

Recommendation: Adopt and/or re-adopt certain BOCC Policies as EPC Board Policies and update EPC Board Policy 2007-01.

Brief Summary: Pursuant to BOCC Policy all related boards and councils must adopt applicable BOCC Policies. On March 15, 2007, the EPC Board adopted approximately 84 BOCC Policies. Some of those policies have since been amended and others have been newly created. Thus, the EPC staff recommends the EPC Board adopt and/or re-adopt select BOCC Policies recently adopted or amended. Additionally, the EPC staff is providing a follow-up presentation to the EPC Board regarding policies and procedures. In April the EPC Board was briefed on the EPC's extensive complaint receipt and response data base. This report provides a general summary of the EPC Executive Director Policies and other procedures.

Financial Impact: No Financial Impact

Background:

A. Adoption or Re-adoption of BOCC Policies.

The EPC Board adopted approximately 84 Board of County Commissioner (BOCC) policies on March 15, 2007. This action was required by BOCC Policy No. 01.21.00.00 – "*Policy Requiring Boards and Councils Created by the Board of County Commissioners to Follow BOCC Policies*" (February 7, 2007). The EPC adoption of select BOCC policies is memorialized in EPC Board Policy 2007-01 (attached).

Since March 15, 2007, a few of the EPC-adopted BOCC policies have been amended by the BOCC and a few new BOCC policies have been created by the BOCC. Pursuant to BOCC Policy No. 01.21.00.00, EPC staff recommends that the EPC Board should adopt, re-adopt, and/or rescind the following new, amended, or rescinded BOCC policies:

01.05.01.00 - Policy for Making Citizen Appointments to Boards, Councils, Committees and Authorities (Amended April 23, 2007 and May 12, 2009)

01.05.02.00 - Residency Requirements for Board Appointees (merged with 01.05.01.00 and rescinded on May 12, 2009)

03.01.01.00 - Board of County Commissioners' Policy for Authorization and Reimbursement for Travel (June 20, 2007)

07.02.01.00 - Payroll Deductions for the Board of County Commissioners Payroll (May 2, 2007)

01.21.00.00 - Policy Requiring Boards and Councils Created by the Board of County Commissioners to Follow BOCC Policies. (new - February 7, 2007)

01.22.00.00 - Policy Regarding Action Hillsborough County will take when the United States President Declares a National Day of Mourning (new - February 7, 2007)

01.23.00.00 - Policy establishing Proclamation and Certificate of Commendation Guidelines and Limiting Number of Commissioner-Sponsored Proclamations and Certificates of Commendation Appearing on the Board's Meeting Agenda (new - April 18, 2007, supersedes February 7, 2007)

01.24.00.00 - Expenditure of County Funds for Relocation Related Expenses (new - October 3, 2007)

02.16.00.00 - Fraudulent Misconduct Policy (new - July 16, 2008)

03.05.07.00 - Budget Preparation and Limitations (new - February 7, 2007)

EPC staff does not recommend adopting Policy Nos. # 03.05.08.00 (Recording of Infrastructure Assets), 08.01.01.02 (Disposal of Surplus Fleet Vehicles), 09.19.00.00 (Disposition of Unclaimed Human Bodies and Remains when death occurs in Hillsborough County), and 10.05.00.00 (Active Military Combat Duty and Veterans Disability Grant), as they do not relate to EPC functions. This action will also update EPC Board Policy 2007-01.

B. Informational Report on all EPC Policies.

The Environmental Protection Commission of Hillsborough County (EPC) has 58 **Executive Director Policies** currently in effect for employees of the Executive Director. The policies are maintained in a manual and on the intranet for all staff to access. The policies are designed to accompany and assist the EPC staff in reaching its mission and goals within the administrative framework and standards set forth by the Executive Director of the EPC (e.g. – public records management, use of County property, conflicts of interest, harassment, etc.). On an as needed basis, the Executive Director establishes, amends, or rescinds these policies which reflect the EPC's position on personnel issues, administrative, and other key matters that staff must comply with. All policies which impact the entire EPC are authorized by the Executive Director.

In addition to these Executive Director Policies, but not included in the same manual, are the **Commissioner-approved Board policies** either 1) created specifically for EPC by the EPC Board, or 2) created by the Board of County Commissioners (BOCC) but adopted in whole or

part by the EPC Board. These are also available on the intranet and COIN for staff to review and recent amendments are noted in Section A above.

Finally, the EPC maintains **Standard Operating Procedures** (SOPs) which only apply to one division, not agency wide, and can be developed independently without the Executive Director's review if the issues addressed in the SOP are those that deal with that Division's area of responsibility (e.g. - how to monitor for compliance by an air emissions unit).

It should also be noted that the County Administrator maintains manuals, directives, orders, and policies (collectively referred to as "policies"). These County Administrator policies may be used as advisory material regarding how to address a matter when the EPC does not address that matter in an EPC policy. The Executive Director has adopted the Hillsborough County Administrator's Human Resource Policies, Risk Management Manual, and the Procurement Policy, but whenever another EPC policy, SOP, directive, delegation, memo, or other document conflicts with any of these three County policies/manuals, the EPC guidance shall control as to that issue in conflict.

The EPC Legal Department was tasked with maintaining all EPC Executive Director Policies and all Board Policies. In the past two years, all new and many revised Executive Director policies have being converted to a consistent format, are signed by the Executive Director, and as needed may include a warning that failure to follow the policy may result in discipline.

The EPC has a robust foundation of policies and procedures and provides staff update and training as needed.

List of Attachments: EPC Board Policy 2007-01 (with proposed amendment)

ENVIRONMENTAL PROTECTION COMMISSION OF HILLSBOROUGH COUNTY

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EPC BOARD POLICY – Number 2007-01

SUBJECT: Approval of BOCC Policies

EFFECTIVE DATE: June 18, 2009

SUPERSEDES: March 15, 2007

Purpose: The Environmental Protection Commission of Hillsborough County (EPC) must approve any Hillsborough County Board of County Commissioner (BOCC) policies that they desire to be binding on themselves and the staff of the EPC.

Policy: The Environmental Protection Commission of Hillsborough County (EPC) is an independent government from Hillsborough County, but the EPC Board desires to adopt applicable policies that currently exist and which were created by the Hillsborough County Board of County Commissioners (BOCC). Therefore, the EPC Board must approve any BOCC policies that they desire to be binding on themselves and the staff of the EPC.

The attached list of BOCC policies are now also EPC Board Policies (see attachment 1). The full BOCC policies can be read on COIN and the adopted EPC Board policies can be read on the EPC Intranet. The numbering of the policies shall remain the same. Each BOCC policy adopted shall apply to the Commissioners of the EPC (a.k.a. EPC Board) and EPC staff. Where the intent of the policies are not frustrated, without need for actual revision to the policies in writing, the adopted policies shall be read to substitute "EPC Board" for "BOCC", "EPC" for "Hillsborough County", and "Executive Director" for "Administrator." Thus, if substituting names would impact the policy's effectiveness or intent, then the policy should not be read with the substituted language. For example, the BOCC and County Administrator can only set the holiday schedule (#07.05.01.00), but the EPC will follow that schedule.

Any previously existing EPC Board policies still remain in full effect.

Approved by: EPC Board

Approval date: March 15, 2007; amended on June 18, 2009

EPC BOARD POLICY – Number 2007-01 --- ATTACHMENT 1

Policies & Plans: Board of County Commissioners *

Section Number	Subject
Board of County Commissioners	
<u>01.01.00.00</u>	Rules of Order - Board of County Commissioners
<u>01.02.01.00</u>	Scheduling Of Board Of County Commissioners Regular Meetings
<u>01.02.05.00</u>	Scheduling Public Hearings
<u>01.02.06.00</u>	Scheduling Of Official Meetings, Taking Into Consideration Religious Holiday
<u>01.02.07.00</u>	Use of Boardroom
<u>01.03.01.00</u>	Policy for Making Awards to Appointees by the Board of County Commissioners
<u>01.05.01.00</u>	Policy for Making Citizen Appointments to Boards, Councils, Committees and Authorities
<u>01.05.02.00</u>	Residency Requirements for Board Appointees
<u>01.07.00.00</u>	Requests for Citizen Appearances before the Board of County Commissioners
<u>01.08.00.00</u>	Consultant Firm Appearance at Board Meetings
<u>01.09.00.00</u>	Capital Outlay Expenditure - Board of County Commissioners
<u>01.10.00.00</u>	Anonymous Complaints
<u>01.13.00.00</u>	Displays, Posters, Exhibits and Notices at County Facilities
<u>01.14.00.00</u>	Use of County Center Conference Center
<u>01.16.00.00</u>	Process for the Investigation and Response to Citizen Comments, Complaints and/or Requests for Services Filed with the Board of County Commissioners
<u>01.17.00.00</u>	Commissioner-Aide Contact of Administration Employees
<u>01.18.00.00</u>	Lobbying Ordinance Enforcement
<u>01.19.00.00</u>	Public Awareness, Awards & Sponsorship Activities
<u>01.20.00.00</u>	Travel Approval for the County Administrator, County Attorney and County Internal Performance Auditor & Listing of Travel on the B.O.C.C. Agenda
General	
<u>02.01.00.00</u>	Use of the County Seal
<u>02.02.00.00</u>	Bomb Threat Policy
<u>02.03.00.00</u>	Drug Free Workplace for Agencies Receiving Contractual Funds Through Community Services and Planning Policy
<u>02.04.00.00</u>	Expert Witness Fees as Taxable Costs
<u>02.05.00.00</u>	Board of County Commissioners Abuse Policy
<u>02.06.00.00</u>	Individual Commissioner Requests for the County Administrator
<u>02.07.00.00</u>	Annual Subscription Fee for Board of County Commissioners Agendas
<u>02.09.00.00</u>	BOCC Taking Position on Constitutional Amendments
<u>02.10.00.00</u>	Prohibition of Smoking in County-Owned or Leased Facilities and Vehicles
<u>02.11.00.00</u>	Performance Audit Policy
<u>02.11.02.00</u>	Citizens Advisory Committee Requests for Studies, Performance Audits, or Budget Reviews to be Provided by the Internal Performance Auditor and Events
<u>02.12.00.00</u>	Political Activities of Non-Profits
<u>02.13.00.00</u>	SLAPP Suits
<u>02.14.00.00</u>	Abstention from Selected Recognition and Events

Financial and Fiscal

- 03.00.01.00 Petty Cash and Change Funds
- 03.01.01.00 Board of County Commissioners' Policy for Authorization and Reimbursement for Travel
- 03.01.03.00 Grant Application Tracking
- 03.01.04.00 Acceptance of Credit Cards, Charge Cards, and Debit Cards for Payment of County Fees and Charges for Service
- 03.01.05.00 Purchasing Card Program
- 03.01.06.00 Direct Purchase of Construction Material
- 03.02.01.00 Policy on Bids for Capital Improvement Projects 10% or More In Excess of Estimated Construction Costs
- 03.02.02.00 Policy for Capital Improvement Budget and Five-Year Program
- 03.02.02.01 Budget Submissions
- 03.02.02.03 Earmarking of Funds
- 03.02.02.09 User Fees and Cost Recovery
- 03.02.02.11 Anticipated Revenue Shortfalls
- 03.02.02.13 Pay Comparability with Public and Private Employers
- 03.02.02.14 Performance Pay
- 03.02.02.15 Performance Measurement
- 03.02.02.17 Budgetary Position Control
- 03.02.02.19 Balanced Budget
- 03.02.02.20 Budgetary Control
- 03.02.02.21 Fiscal Year
- 03.02.02.23 Fact Based Decision Making
- 03.02.02.24 Service and Program Delivery
- 03.02.02.25 Budget Adjustment for Turnover Savings
- 03.02.07.00 Minimum Contract Provisions and Filing Requirements
- 03.04.01.05 Reimbursement of Legal Expenses
- 03.04.03.00 Revised Fee Schedule Department of Planning and Growth Management
- 03.04.14.00 Fees for Copies of Public Records
- 03.04.15.00 Fee Schedule for Services Performed by the Environmental Protection Commission
- 03.04.24.00 Guidelines for Use of Phosphate Severance Taxes
- 03.05.02.00 Selection and Contracting for Professional Services

Personnel (Human Resources)

- 07.02.01.00 Payroll Deductions for the Board of County Commissioners Payroll
- 07.04.01.01 Board of County Commissioners - Insurance Committee Organization and Responsibilities
- 07.05.01.00 Holiday Schedule
- 07.09.01.00 Administrative Procedures for The Whistle-Blower Act (8112.3188 (B))
- 07.11.00.00 Productivity Award Program (Formerly Employee Suggestion Program)
- 07.12.00.00 Workplace Violence Prevention Policy
- 07.13.00.00 Anti-Fraternization Policy
- 07.14.00.00 Health Insurance Portability and Accountability Act (HIPAA) Privacy Policy

Property and Equipment

- 08.01.00.01 Policy for Use of County-Owned Real Estate
- 08.01.00.02 Energy Efficiency / Conservation
- 08.01.01.00 Sale of County Owned Surplus Real Property Policy
- 08.01.01.01 Donations of Computer Equipment Declared as Surplus
- 08.02.01.00 Tangible Personal Property Control Policy
- 08.02.02.00 Policy for the Control of Tangible Personal Property Classified as Sensitive Property
- 08.02.04.00 Public Facility/Co-Location Policy
- 08.03.01.00 Filtering Non-Library Internet Access on Hillsborough County-Owned Computer Equipment

Regulatory Services

- 09.03.00.04 Bus Pass Subsidy Program
- 09.09.00.00 Notification of Violations of Tampa Bay Water's Amended and Restated Interlocal Agreement
- 09.13.02.00 Payment for Outside Legal Services and Court Appointed Attorneys
- 09.14.00.00 Proposed Appointments by County Administrator

Other (Miscellaneous)

- 10.03.00.00 Purchase of Bottled Drinking Water
- 10.04.00.00 Recognition of County Contributions to Not-For-Profit Corporations

*All BOCC Policies above were adopted by the EPC Board on March 15, 2007, the remaining unadopted BOCC policies were deleted from the list

The below policies will be amended or adopted and integrated above:

01.05.01.00 - Policy for Making Citizen Appointments to Boards, Councils, Committees and Authorities (Amended April 23, 2007 and May 12, 2009)

01.05.02.00 - Residency Requirements for Board Appointees (merged with 01.05.01.00 and rescinded on May 12, 2009)

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