

MEMORANDUM

TO: Governing Board Members

FROM: Deena Reppen, Deputy Executive Director, Regulatory and Public Affairs

DATE: January 14, 2010

SUBJECT: Proposed Year-Round Landscape Irrigation Conservation Rule

Background: On November 13, 2009, the Governing Board voted to adopt mandatory year-round landscape irrigation conservation measures in order to provide a framework for consistent implementation to ensure the long-term sustainability of the region's water resources, increase water use efficiency, and curtail or prevent wasteful water use practices through regulatory means for landscape irrigation. One of the rules adopted by the Governing Board was Rule 40E-24.301(2), F.A.C. This rule allows local governments to enact more stringent measures "only in response to concerns directly related to the local water supply system."¹

Throughout the course of the rulemaking process, District staff provided copies of the rule text to the JAPC. Previous correspondence from the JAPC did not identify this language as a potential issue. However, on December 15, 2009, the Joint Administrative Procedures Committee ("JAPC") staff transmitted correspondence to the District, inquiring into the legal authority to allow local governments to enact more stringent landscape irrigation conservation measures. District staff informed the JAPC staff that the language is intended to allow local governments some measure of flexibility to address water supply system issues that may affect public health and safety such as infrastructure and facility capacity issues.

The JAPC staff indicated that additional language is needed in the text in order to clarify when a local government may enact more stringent measures. District Staff is currently working with the JAPC staff to resolve these issues in advance of the January Board meeting. Potential avenues to resolve this matter include deleting or amending the particular language at issue.

How this helps meet the District's 10-Year Strategic Plan: The water supply program's strategic plan goal is to ensure an adequate supply of water, and to sustain water resources for future generations. Reducing unnecessary and wasteful use of water helps to advance this goal.

Funding Source: No funding from the District is needed to modify this rule.

This Board item impacts what areas of the District, both resource areas and geography: The year-round landscape irrigation measures have District-wide benefits of conserving water and reducing wasteful and inefficient irrigation practices.

What concerns could this Board item raise? The rule cited by the JAPC was not raised during discussions at any of the rule workshops held prior to the Governing Board's adoption in November 2009.

Why should the Governing Board approve this item? This item will clarify the circumstances under which a local government may enact more stringent landscape irrigation conservation measures. Approval of the amendment should allow JAPC to conclude its review of the rule text and certify to the Department of State that the District has responded to JAPC's concerns and comments.

If you have any questions, please do not hesitate to call me at ext. 6232.

DR/jb

¹ This language was contained in the original Chapter 40E-24, F.A.C., and is identical to language contained in Southwest Florida Water Management District's landscape irrigation conservation measures.