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# Responsible Corporate Environmental Policy: Available in Fantasyland; Coming Soon to Main Street U.S.A. A Glimpse at a Corporate Owned and Operated Special Purpose District and Its Impact on the Environment in Central Florida

Todd William Gretton\*

## I. Introduction

What type of “small town” has 40 citizens,<sup>1</sup> 61 million visitors a year<sup>2</sup> and is owned almost exclusively by one organization? The answer is the type of small town that also houses its own “Small World.” Walt Disney World lies within the Reedy Creek Improvement District, a publicly owned corporation of the state of Florida, containing approximately 18,800 acres in Orange County and 6,200 in Osceola County, and is about twice the size of Manhattan.<sup>3</sup> The Reedy Creek

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The author would also like to extend a special thanks to C. Ray Maxwell for donating his time and expertise on the subject matter.

1. See Statement of Shenk William Sterner, mayor of Lake Buena Vista, Florida. Extracted from article—1995 THE AMERICAN PROSPECT, INC. Volume 6 Issue 21. March 21, 1995 *Hidden Kingdom Disney's Political Blueprint* author: Joshua Wolf. The District actually has about 47 residents.

2. Reedy Creek Improvement District Comprehensive Plan at Page A-4 (printed 6/5/00) available at: <http://www.rcid.org>; click on Comprehensive Plan in the top center of the screen (last visited November 15, 2005).

3. Transcript from Walt's Last Film available at: [http://www.waltopia.com/florida\\_film.html](http://www.waltopia.com/florida_film.html) page 5 Accessed 11-03-05. The District is currently 24,969.4 acres.

Improvement District is now home to four major theme parks,<sup>4</sup> three water parks,<sup>5</sup> and over 25,800 hotel rooms in 26 resorts.<sup>6</sup> These attractions are in addition to golf courses, athletic facilities, countless retail stores, and other entertainment areas.<sup>7</sup> What most people don't realize, however, is that Walt Disney's "World" is much closer to a separate small *world* than they could have dreamed.

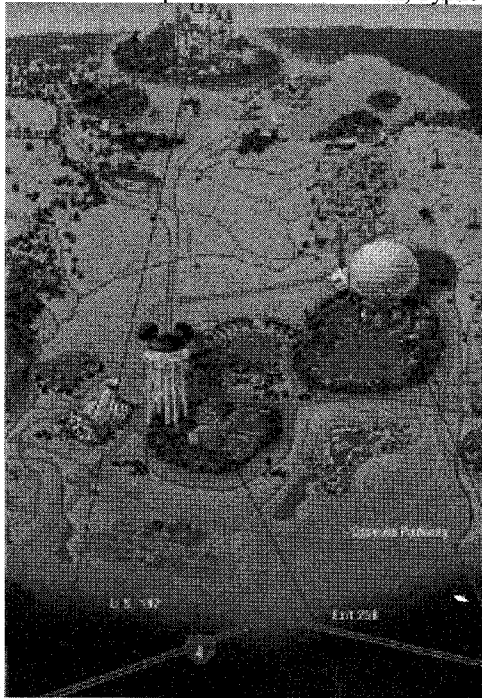
On November 22, 1963,<sup>8</sup> Walter Elias Disney, while searching Central Florida for a park site, flew over what is now Walt Disney World outside of Orlando and made a decision that would affect the lives of

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The Walt Disney Company owns 17,119 acres, the RCID owns 7,191 acres, the state of Florida owns 550.3 acres and other establishments like Planet Hollywood, AMC Movie theaters, etc. own 109.5 acres (in the Downtown Disney retail district). Office of Program Policy Analysis & Government Accountability report No. 04-81, page 2 available at: <http://www.oppaga.state.fl.us/monitor/reports/pdf/0481rpt.pdf> (last visited November 15, 2005).

4. The four major theme parks are the Magic Kingdom, EPCOT, Disney's MGM Studios, and the Animal Kingdom.

5. The three water parks are Blizzard Beach, Typhoon Lagoon, and River Country.



6. This image represents the general layout of the RCID. Cinderella's Castle at the top indicates the Magic Kingdom and the northernmost point of the property. To the left of the image is the present location of the Animal Kingdom and the All-Star Resorts which lie near the southwest border of the property.

7. [http://www.rcid.org/AboutUS\\_History.cfm](http://www.rcid.org/AboutUS_History.cfm) (last visited November 10, 2005).

8. For the sake of historical context, this is also the date of John F. Kennedy's assassination in Dallas TX.

millions. Since that momentous day, the Greater Orlando area of Central Florida has become the most visited tourist destination in the world.

In order to accommodate Mr. Disney and his plan, the Florida legislature created a distinctive legislative exception to entice the company leader and his team. The exception is called the Reedy Creek Improvement District (hereinafter "RCID"); it allows the Walt Disney Company to maintain a local government which is more efficient than a typical local government, but seemingly less democratic.

A special-purpose district or a special district is a government subdivision that addresses a special need for a particular geographic area. School districts are probably the most common example of such a subdivision.<sup>9</sup> These entities generally have the power to tax citizens that live within the district by a property or sales tax.<sup>10</sup> The story behind most special-purpose districts is less than thrilling. Generally, citizens of a certain geographic region encounter special needs with regard to drainage, fire protection, or other common problems. Local governments will then seek legislative and financial assistance from their respective state government to address the problem more efficiently. This creates a defined special-purpose district. However, as uneventful as the stories of most special districts are, the history of this illustrious government-corporate courtship is filled with all of the dramatic trappings of a Disney live-action film.

One intriguing circumstance is that Mr. Disney appeared in what many affectionately call "Walt's Last Film" a few months before his death in 1966. The film was shown to Florida's legislative, civic, and industrial leaders<sup>11</sup> to persuade the community that Walt Disney World, with unparalleled resources and the potential to generate significant revenues, had special needs for building a new innovative city that would transform the rules of urban planning. While Disney's ultimate goal of building an Experimental Prototype Community Of Tomorrow (EPCOT) died with the man on December 15, 1966,<sup>12</sup> the dream immortalized in "Walt's Last Film" was unlike anything 1960's America could have imagined. One can only guess what kind of impact Walt's dream had on the Florida legislature's deliberations in creating the RCID, but such a lofty ambition is just a small part of the legends that are Walter Elias Disney and Walt Disney World.

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9. See [http://www.absoluteastronomy.com/encyclopedia/s/sp/special-purpose\\_district.htm](http://www.absoluteastronomy.com/encyclopedia/s/sp/special-purpose_district.htm) (last visited October 23, 2005).

10. *Id.*

11. [http://www.waltopia.com/press\\_release.html](http://www.waltopia.com/press_release.html) (last visited November 10, 2005). This was the actual press release Disney distributed the day that "Walt's Last Film" was shown to prominent Floridians.

12. [http://en.wikipedia.org/wiki/Walt\\_Disney](http://en.wikipedia.org/wiki/Walt_Disney) (last visited November 10, 2005).

Walt Disney's impact on Orlando's business market is statistically evident. Walt Disney World employs more than 55,000 employees<sup>13</sup> and the population of Orange County more than doubled between 1970 and 1999.<sup>14</sup> But what could this privately operated government composition mean for the surrounding environment? The purpose of this comment is to show what a responsible corporate entity can do with a special purpose charter. It is important to keep in mind that some of the Disney company's other characteristics make for a good fit as well. These include the need for a large landholding, being dependent upon the preservation of its environment, and the fact that the company is dependent upon a favorable public image.

The purpose of this comment is also to demonstrate why that responsibility and necessity for preservation must be carefully scrutinized before such a charter is commissioned to protect the surrounding environment. Finally, this comment will point out some of the ways that governments can more securely set up these special districts for responsible companies and maintain an adequate level of oversight without impeding the corporation's efficient methods.

#### A. *History of the Reedy Creek Improvement District*

Before delving into the world of local government power schemes and their environmental effects, it is important, and even fascinating, to consider the political, social, and commercial context in which the RCID emerged. Richard Fogelson's book, *Married to the Mouse*, outlines<sup>15</sup> the relationship between Orange County, Osceola County, and the

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13. Richard Fogelson, *Married to the Mouse: Walt Disney World and Orlando* xi, Yale University Press 2001. See also Office of Program Policy Analysis & Government Accountability, Report No. 04-81 December 2004 at 15.

14. Fogelson, *supra* note 13, at 4-5; citing U.S. Department of Commerce, Bureau of the Census; University of Florida, Bureau of Economic & Business Research, Florida Population Studies # 117, February 1997.

15. Richard Fogelson's book *MARRIED TO THE MOUSE* catalogs the Walt Disney Corporation's relationship with the Greater Orlando Area. The book begins in St. Louis and traces Disney's partnership with Central Florida metaphorically as a marriage between the two. The nine chapters entitled Serendipity, Seduction, Secrecy, Marriage, Growth, Conflict, Abuse, Negotiation, and Therapy provide a thorough review of the pair's sometimes romantic and sometimes stormy collaboration. Fogelson sums up the work by stating:

The Disney World-Orlando story is not only about growth and power, however. It is also interesting for what it reveals about the metamorphosis of Orlando, from citrus town to world-class tourist destination, and for what it relates about Walt Disney's urban vision, the Disney Co.'s pursuit of that vision after Walt's early death, the transformation of the company under Chairman Michael Eisner, and the company's use and abuse of their governmental powers. It is a story of CIA operatives, dummy corporations, private police powers, secrecy, and chicanery—but also of creative genius and commitment to a dream.

Disney Company. The story begins at a dinner party in St. Louis attended by politicians, businesspersons and local bankers involved in a venture to build an eastern Disneyland along the Mississippi River. A prominent business owner destroyed Missouri's<sup>16</sup> chances of hosting the park by presenting Walter Elias Disney, the father of childhood dreams, the business tycoon, and perhaps one of the most visible faces of the 20<sup>th</sup> Century, with the following challenge: "Any man who thinks he can design an attraction that is going to be a success in this city and not serve beer or liquor, ought to have his head examined."<sup>17</sup> Disney and his team of business and real estate advisors left St. Louis the next morning to find a new site.<sup>18</sup>

What Walt Disney was looking for, and what he would find in Orlando, was a freedom from the type of oversight that had compelled him to leave Missouri in the first place. The following story is about what the Disney Company required and what Orlando was willing to give up, legally and environmentally, to make the partnership work. The following anecdote provides some insight as to why Disney's needs are unique.

One of the essential components of the Disney experience is to plunge guests into a fantasyland far away from the cares and worries of their everyday existence. Walt Disney World employees go through rigorous training wherein they learn the special backstage secrets that designers of the park implemented (such as hidden doors which allow staff and characters to enter a room without guests seeing "backstage"). One of the first secrets of the park revealed to employees is that each of the four parks, the Magic Kingdom, EPCOT, Disney's MGM Studios, and the Animal Kingdom, are designed in such a way that when guests enter, the outside world disappears.<sup>19</sup> Once guests enter any of the parks, they will not see a billboard, a parking lot, an electrical wire, or anything foreign to the Disney experience. Walt Disney once said "I don't want the public to see the real world they live in while they're in the park. . . . I want them to feel they are in another world."<sup>20</sup> This ideal was central to Disney's vision, and political insulation was central to that ideal.<sup>21</sup>

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16. Walt Disney was born and raised in Missouri.

17. Fogelson, *supra* note 13, at 2.

18. *See id.*

19. Phone Interview with Julie N. Campbell, former employee, Walt Disney World, (November 15, 2005).

20. <http://www.waltopia.com/hiddenkingdom.com/html> (last visited November 3, 2005).

21. In fact, in its press release the Disney Corp. stated that "Land clearance, drainage and other construction activities will commence on the 27,400-acre Disney property as soon as the corporation's legislative proposals are passed by the Florida State Legislature. So, it appears that Disney not only required these legislative accommodations in order to

In "Walt's Last Film,"<sup>22</sup> Mr. Disney proposed that while the new "Disney World" would be a wonderful retreat from day to day life, the centerpiece of this venture would be EPCOT.<sup>23</sup>

*B. EPCOT: A Pre-Planned Utopia*

The urban planning innovation, EPCOT, was to be built in a radial design. The community would be shaped like a wheel with roads like the spokes of the wheel running from the center to the outer sections.<sup>24</sup>

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commence construction, but it was also completely confident that its proposals would be accepted by the legislature.

22. The film itself is available at: <http://www.waltopia.com/film.html> in its entirety. It is over 20 minutes long. The film itself was shot only a few months before Walt's death in December 1966.

23. Walt said "... The most exciting and by far the most important part of our Florida project, in fact, the heart of everything we'll be doing in Disney World, will be our Experimental Prototype Community of Tomorrow ... [EPCOT will] take its cue from the new ideas and the new technologies that are now emerging from the creative centers of American industry. It will be a community of tomorrow that will never be completed, but will always be introducing and testing and demonstrating new materials and new systems. And Epcot will always be a showcase to the world for the ingenuity and imagination of American free enterprise. I don't believe there is a challenge anywhere in the world that's more important to people everywhere than finding solutions to the problems of our cities." Transcript of "Walt's Last Film" available at: [http://www.waltopia.com/florida\\_film.html](http://www.waltopia.com/florida_film.html) (last visited November 17, 2005). Although Epcot was not built as planned, the general attitude of constantly developing technologies has remained. When I contacted a Disney employee, Kim Sams, in the press relations office, she corrected my language when I explained that I wanted to write a comment about Disney's compliance with environmental regulations by stating that Disney has never and will never simply comply, they wish to set the bar for corporate environmental policy.

24. *Id.* Magic Kingdom guests may view a model and brief explanation of this plan while exiting the Space Mountain ride in Tomorrowland.

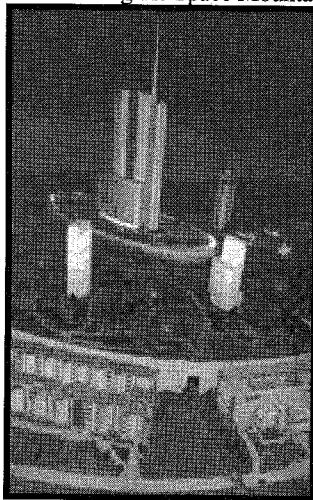


Figure Hand Drawing of Epcot's Business and

From the center the city would consist of a business district surrounded by a high-density housing district; the next layer from the center would be a broad greenbelt and recreation area surrounded by a low-density residential area.<sup>25</sup> Walt provided the following explanation of the business district at the center: "This entire fifty acres of city streets and buildings will be completely enclosed. In this climate-controlled environment, shoppers, theatergoers, and people just out for a stroll will enjoy ideal weather conditions, protected day and night from rain, heat and cold, and humidity."<sup>26</sup> Mr. Disney planned on constructing a glass ceiling high atop the business district. This would allow for convenient pedestrian traffic at all times, even during oppressive weather.

Walt Disney vowed to create a community where the pedestrian would again be king.<sup>27</sup> The inner circle of the community would comprise the urban area, complete with housing shops, entertainment venues, and some office buildings.<sup>28</sup> A set of dual monorails would run in a spoke like formation above the streets where pedestrians would be safeguarded from all motor traffic.<sup>29</sup> A high speed monorail, much like the ones in use today in Walt Disney World, would carry citizens beyond the boundaries of the green district at the center of town to the residential districts beyond the city.<sup>30</sup> A slower local system of monorails, called "people movers," would carry citizens and workers from the faster monorail stations to locations throughout the city.<sup>31</sup> This technology is present today in the Tomorrowland Transit Authority<sup>32</sup> ride in the Magic Kingdom.<sup>33</sup>

Passenger car traffic was to be re-routed underneath the city in one of two tunnel systems.<sup>34</sup> Drivers bypassing the city would travel traffic-light free through EPCOT to the other side of the city.<sup>35</sup> Commuters into EPCOT would be able to park in underground garages and take elevators to the surface.<sup>36</sup> Disney planned to re-route heavy truck traffic to a tunnel beneath the passenger car tunnel so that delivery trucks and passersby could travel into and through the city with ease and

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Shopping Center surrounded by a Greenbelt for Recreation.

25. *Id.*

26. *Id.*

27. *Id.*

28. *Id.*

29. *Id.*

30. *Id.*

31. *Id.*

32. Formerly named the WED Way People Mover.

33. *Id.* This ride was formerly called the W.E.D. Way People Mover. The Acronym stood for Walter Elias Disney.

34. *Id.*

35. *Id.*

36. *Id.*



efficiency.<sup>37</sup>

In addition to his promise of a new type of urban design, Disney also made promises of practical and economical benefits. The governor had ordered an independent study of the economic possibilities for the Disney project. The governor predicted, "During its initial construction phase and first ten years of operation, Disney World will directly generate \$6.6 billion in measurable economic benefits for the state of Florida as a whole."<sup>38</sup>

The Florida legislature, apparently enamored with the Disney Company, made unique concessions to ensure that Disney would make central Florida its new home. Disney's exemptions come in the form of two major legislative devices: 1) a chapter 298 drainage district<sup>39</sup> and 2) Chapter 67-764 of the Laws of Florida which created the RCID<sup>40</sup>.

## II. Structure and Unique Powers of the District

The Chapter 298 Reedy Creek Drainage District (hereinafter "RCDD") was incorporated on May 13, 1966.<sup>41</sup> The RCDD acts as a public corporation and its powers include the authority to condemn and acquire land outside of its geographical borders for public use.<sup>42</sup>

Chapter 67-764 of the Laws of Florida, which created the RCID, has been hailed as possibly the most significant law passed by the Florida state government in the twentieth century.<sup>43</sup> Governor Claude R. Kirk, Jr. officially signed 67-764 into Florida law on May 12, 1967.<sup>44</sup> The enabling legislation bestows upon the RCID many of the responsibilities and duties common to other city and county governments.<sup>45</sup> For example, the RCID is responsible for emergency services, zoning, land use, and water control.<sup>46</sup> The RCID also has to the power to issue general obligation and revenue bonds.<sup>47</sup> The RCID even has authority to erect a nuclear power plant if its board of supervisors decided that the

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37. *Id.*

38. [http://www.waltopia.com/press\\_release.html](http://www.waltopia.com/press_release.html) (last visited November 10, 2005).

39. <http://reedy-creek-improvement-district.biography.ms> (last visited October 23, 2005).

40. See 1967 Fla. Laws at 256; see also 1967 Fla. Laws at 3769.

41. <http://reedy-creek-improvement-district.biography.ms> (last visited October 23, 2005).

42. *Id.*

43. Kent Wetherell, *Florida Law because of and according to Mickey: The "Top 5" Florida Cases and Statutes Involving Walt Disney World*, 4 FL. COASTAL L.J.1 (2002).

44. See <http://www.state.fl.us/rcid/about.html>, (last visited October 18, 2005); see also <http://read-and-go.hopto.org/Walt%2DDisney%2DCompany%2Dsubsidiaries/> (last visited November 5, 2005).

45. [http://www.rcid.org/AboutUS\\_History.cfm](http://www.rcid.org/AboutUS_History.cfm) (last visited September 9, 2005).

46. *Id.*

47. *Florida v. Reedy Creek Improvement District*, 216 So.2d 202 (Fla. 1968).

park should have one.<sup>48</sup>

When the park opened to the public in February 1972, David Brinkley, commentator for NBC, praised Disney's design in and outside of the Magic Kingdom. He went so far as to suggest that existing cities such as New York should surrender their urban planning schemes to Mr. Disney.<sup>49</sup>

*A. Notable District Policies that Show its Commitment to the Environment*

The RCID's approach to environmental and organizational balance is detailed in a "Comprehensive Plan" (hereinafter "Plan"). The Plan includes policies and objectives for future land use, traffic circulation, housing, infrastructure, conservation, recreation and open space, and environmental monitoring and evaluation standards.<sup>50</sup>

Future land development is addressed in the Future Land Use portion of the Plan.<sup>51</sup> "Although the Future Land Use Element is just one of the eight elements that comprise the RCID Comprehensive Plan, it is the element that sets the direction for the other seven."<sup>52</sup> Land use within the District is based not on population increase, but rather on the future demand for leisure and entertainment areas.<sup>53</sup> Consequently, the Plan pledges that its growth will proceed in a manner that ensures congruity with the surrounding natural environment.<sup>54</sup>

A Wildlife Management and Conservation Area (hereinafter "WMCA") is located adjacent to the attractions, stores, restaurants, and recreation areas. The WMCA is a 7,700 acre plot specially zoned for the conservation of wetlands and forest within the RCID.<sup>55</sup> This area constitutes about 30.6% of the District's total land use.<sup>56</sup>

In September 1976 the Florida Department of Environmental Regulation (DER) approved the RCID as a local pollution control

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48. Office of Program Policy Analysis & Government Accountability at 4. *See infra* note 4. The District's powers include but are not limited to: acquire real, personal, or mixed property within or without the territorial limits; adopting, reviewing, amending, or repealing safety and building codes; prohibiting construction, alteration, repair, etc. without first obtaining a permit from the board; providing for the manner in which codes, regulations etc. shall be determined; owning, operating and maintaining water and sewer systems; owning, operating, etc. canals, drains, levees, etc.

49. Fogelson at 78.

50. *See* RCID Comprehensive Plan, generally, available at: [http://www.rcid.org/2008Comp\\_main.cfm](http://www.rcid.org/2008Comp_main.cfm) (last visited January 10, 2006).

51. RCID Comprehensive Plan page 2B-1.

52. *Id.*

53. *Id.* at 2A -4.

54. *Id.*

55. *Id.* at 2B-7.

56. *Id.* at 2B-11.

program pursuant to Section 403.182, Florida Statutes.<sup>57</sup> The RCID has since been allowed to comment on and contest water use permits issued by the DER to parties seeking to use water in a manner that may affect the RCID's riparian rights.<sup>58</sup>

### B. RCID Government Structure and Voting Arrangement

Not everyone agrees that the District's policies are entirely fair. The aspect of the District's enabling legislation that draws the most criticism is the fact that voting in the district is based on acreage and not the traditional one-person one-vote method. Many critics disapprove of the Reedy Creek-Disney voting scheme, saying that its method is undemocratic or even unconstitutional.<sup>59</sup> Nevertheless, Florida has several special-purpose districts with the same voting arrangement.<sup>60</sup> The current District Administrator, Ray Maxwell<sup>61</sup>, explains that this voting arrangement is only logical.<sup>62</sup> When Disney came to Florida in 1966 to discuss plans to build, the creation of the District was a deal-breaker.<sup>63</sup> This is because the local and county governments would simply not have had the revenue to quickly build the roads and other developments that Disney required.<sup>64</sup>

Maxwell explains that the Disney Co. wished to bring its park to Florida without crippling the local citizens with taxes to build roads, drainage systems, and its other infrastructural needs.<sup>65</sup> The Disney Co., through the RCID, has purchased and constructed over \$785 million (dollars) worth of public infrastructure, including utilities and wastewater treatment facilities. These improvements have come "at no cost to the

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57. FLA. STAT. § 403.182 (1976).

58. *Reedy Creek Improvement District v. State of Florida Dept. of Env'tl Reg.*, 486 So. 2d 642, 644 (Fla. App. 1986).

59. See Lisa M. Card, *One Person, No Vote? A participatory Analysis of Voting Rights in Special Purpose Districts*, 27 T. JEFFERSON L. REV. 57, (2004) (analyzing the effects of voting based on land ownership); see also Richard Fogelson *Married to the Mouse: Walt Disney World and Orlando*, WALT DISNEY WORLD AND ORLANDO, Yale University Press 2001; see also William W. Buzbee, *Corporate Law: Accountability Conceptions And Federalism Tales: Disney's Wonderful World? Married to the Mouse: Walt Disney World and Orlando*. 100 MICH. L. REV. 1290, 1305 (2002).

60. Telephone Interview with C. Ray Maxwell, District Administrator, Reedy Creek Improvement District, in Lake Buena Vista, FL. (Nov. 8, 2005).

61. C. Ray Maxwell has served as the District Administrator since 2001. Before that time he was the head of the District's Finance Department. He has worked either for Disney or the District in some capacity for over 35 years.

62. Maxwell, *supra* note 60.

63. See generally RICHARD FOGELSONG MARRIED TO THE MOUSE: WALT DISNEY WORLD AND ORLANDO, 34-54 Yale University Press 2001.

64. Maxwell, *supra* note 60.

65. Maxwell, *supra* note 60.

residents of Central Florida.”<sup>66</sup> This figure includes the over \$200 million spent in road development since construction of the parks began.<sup>67</sup>

The real effect of the establishment of the RCID was to concentrate the area taxed to that of the area that Disney owns. Disney’s goal was to pay its own expenses and not to saddle the residents of Orange and Osceola Counties with its infrastructure costs.<sup>68</sup> Instead of forcing the citizens of the two counties, or any Florida citizens, to shoulder the costs of the park, the District collects taxes from its landowners, the Disney Company, approximately forty residents and a few other business owners.<sup>69</sup> Florida legislators were more than willing to concede governmental authorities upon the corporation in order to generate the significant tax revenues. Such powers, given to a less responsible company may have meant severe environmental dangers for the wildlife and residents of Central Florida.

Likewise, a one-person one-vote system would seem unfair, subjecting the Disney Corp. to the rule of its forty or so citizens by allowing them to single handedly elect the Board of Supervisors (“the Board”). The Disney Corporation is by far the largest taxpayer in the district, contributing \$46,539,050 of the District’s total \$54,071,550 in revenue.<sup>70</sup> While the Board may seem like a figurehead organization put in place to serve Disney’s interests, it is, and always has been, made up of non-Disney employees.<sup>71</sup>

Another major topic of Disney-RCID criticism has been the park’s effect on the environment.<sup>72</sup> One critic, William Buzbee, denounced the Disney Company’s behavior as producing “massive environmental

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66. Office of Program Policy Analysis & Government Accountability Report No. 04-81 completed and published in December 2004, available at: <http://www.oppaga.state.fl.us/monitor/reports/pdf/0481rpt.pdf> (last visited November 15, 2005).

67. Maxwell, *supra* note 60.

68. Maxwell, *supra* note 60.

69. The Disney Corporation owns over 68% of the land within the District and therefore has de facto control over elections of the Board of Supervisors. The Disney Corporation also pays an overwhelming majority of the taxes that the RCID collects each year. Office of Program Policy Analysis & Government Accountability Report, Report 04-81, available at: <http://www.oppaga.state.fl.us/reports/pdf/0481rpt.pdf> (last visited December 5, 2005).

70. *Id.* at 3.

71. Maxwell, *supra* note 60. In fact, one of the first board members was Billy Dial, a prominent Floridian banker and attorney who had served on the Florida State Road Board and helped to plan for Florida’s Route I-4 to run through Orlando.

72. See generally RICHARD FOGELSONG, *MARRIED TO THE MOUSE: WALT DISNEY WORLD AND ORLANDO*, Yale University Press 2001. See also generally William Buzbee, *Accountability Conceptions and Federalism Tales: Disney’s Wonderful World? Married to the Mouse: Walt Disney World and Orlando*, 100 MICH. L. REV. 1290 (2002).

destruction and substantial exportation of the negative externalities.”<sup>73</sup> He goes on to condemn Disney for not complying with stringent federal wetlands protection statutes; the statutes in question, however, didn’t even exist at the time Disney began its project.<sup>74</sup> Aside from the fact that the RCID’s charter expressly grants the power to “adopt a plan of drainage and reclamation of wet and submerged lands within the District . . .”, as recognized by the Supreme Court of Florida,<sup>75</sup> one must only look to the areas immediately surrounding the Disney facilities in Orange County California and Orange County Florida to understand why these critics may have inaccurately characterized the situation.

Visitors of Disney Land in California are subjected to miles of gas stations, highways, and nightclubs on the route to and from their vacation spot. Visitors to the Florida location experience 50 square miles of forests and wetlands strategically incorporated with hotels, parks, and meticulously maintained roads. Disney’s ability to create and preserve a niche for its parks has also provided it with the opportunity to preserve plants, animals, and wetlands, all of which might have otherwise fallen victim to the upsurge of business development that inevitably would have taken place had Disney not been permitted to execute its building plans. Surely, the human and animal populations of Central Florida would not have been better off if the area had been invaded by fast food restaurants and novelty shops. Concurrently, many critics of Disney Environmental Policy and history overlook the federal and state regulations to which the RCID is still subject as demonstrated in the next section.

### III. Dangers of Another Company Taking Over the RCID

Now that we have identified the powers Disney has been given, what benefits it has brought to Florida, and what possibilities there are for the future, it is important to also evaluate the potential for abuse of these powers. There remains the possibility that a company will purchase the publicly-owned Disney Corporation, and thus gain control over the District. That possibility became real in February 2004 when Comcast Chief Executive, Brian L. Roberts, announced plans to bid on the Disney Corporation’s controlling stake.<sup>76</sup>

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73. William Buzbee, *Accountability Conceptions and Federalism Tales: Disney’s Wonderful World? Married to the Mouse: Walt Disney World and Orlando*, 100 MICH. L. REV. 1290, 1303 (2002).

74. *Id.*

75. *Florida v. Reedy Creek Improvement District*, 216 So.2d 202, 204 (Fla. 1968).

76. Geraldine Fabrikant, Laura M. Holson and Andrew Ross Sorkin.; Bill Carter contributed reporting for this article *Cable Giant Bids to Take Over Disney*, N.Y. TIMES, Feb. 12, 2004.

After the dust settled and Comcast withdrew its hostile takeover bid, Florida legislators commissioned a study of the District's powers to determine just what a new owner might have the power to change and what that new owner might have the power to ignore with regard to the District's special privileges and the environment.<sup>77</sup>

The study revealed that a new owner would be subject to federal and state regulations which the RCID must fulfill.<sup>78</sup> Specifically, the RCID is now subject to regulation by federal agencies, such as the Environmental Protection Agency and the Department of Transportation, as well as Florida state agencies, such as the Department of Community Affairs, South Florida Water Management District, etc.<sup>79</sup>

Additionally, the study revealed that upon a change in ownership or rapidly changing District policies, the state legislature would have the power to take steps to limit the District's authority; specifically, the Florida legislature could immediately enact criteria for recalling the District's board members or subject further land development to Chapter 380, Florida Statutes.<sup>80</sup>

The real question for review is this: after thirty nine years of the Reedy Creek experiment, does this arrangement pose a threat to local communities hoping to attract big business? Obviously, the answer to this question will vary from locale to locale. It is my contention, however, that the arrangement has worked for the state government in this particular instance and has succeeded in its mission to attract a large business with large business tax dollars without incurring significant negative environmental consequences to the region.

#### IV. The Disney Corporation's Accomplishments with Uniquely Broad Governmental Powers

The Disney Corporation through the RCID has developed a significant portion of Central Florida while conserving a large sector of that area for environmental preservation. An environmental danger could have arisen had the Florida legislature conceded such broad

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77. Maxwell, *supra* note 60. The study was conducted by the Office of Program Policy Analysis & Government Accountability. The full text of the study is available in pdf format at: <http://www.oppaga.state.fl.us/monitor/reports/pdf/0481rpt.pdf> (last visited November 25, 2005).

78. Office of Program Policy Analysis & Government Accountability Report, *see supra* note 66, at 6.

79. Office of Program Policy Analysis & Government Accountability Report, *see supra* note 66, at 6.

80. Fla. Stat. § 380 Chapter 380 of the Florida Statutes governs environmental land and water management, coastal planning and management, and the Florida Communities Trust. There is however, evidence that the RCID is exempt from the chapter 380 requirements for "a development of regional impact." 1977 Op. Atty Gen. Fla. 91.

powers to a less responsible company with less of a dependence on a specific environmental image. The 24,600 acres of Disney property is a large agricultural area which happens to feature six major theme parks and more than twenty-five hotels. The majority of the landscape is devoid of parking lots and roller coasters, and remains forests and wetlands.<sup>81</sup>

Chapter 67-764 of the Laws of Florida states in relevant part that the objectives of the RCID shall be for, among other things, providing for water and sewer systems, waste collection and disposal facilities, providing for mosquito and other pest control, and to create and maintain conservation areas and wildlife sanctuaries within the District.<sup>82</sup> This language within the statute merely allows the RCID to develop these areas; at most, the language suggests that the RCID should develop them. The language however, does not require that such measures be taken.

When reading Chapter 67-764 of the Laws of Florida, creating the RCID, it is obvious that the Florida legislature was very willing to give the Disney Corporation what it needed to build, and much more. The statute's regulations regarding zoning approval, agreements with private parties for the furnishing of facilities or services, and even subdivision of land, is left within the Board of Supervisors' control.<sup>83</sup> Additionally, the Board of Supervisors has the power to change the boundary lines of the RCID with the written consent of the landowners affected and that of a majority in acreage of all the lands within the District.<sup>84</sup> Because Disney owns considerably more than a majority of the acres within the RCID, the Board of Supervisors could change the boundaries of the District to encompass the land already developed.

Additionally, the City of Reedy Creek, established by Rule of Florida 67-1965,<sup>85</sup> is permitted to acquire mineral leases, acquire title to riparian rights and easements and to control, sell, grant, or otherwise dispose of the same.<sup>86</sup> These expanded grants of power appear to impose no environment-friendly restrictions on the Disney Corporation to preserve lands or even maintain its ownership of them.

While the city of Reedy Creek's charter does give it the power to "designate, set aside and maintain lands and areas within the City as conservation areas or bird and wild-life sanctuaries" or to "protect and preserve the natural beauty thereof; and to do all acts necessary or desirable in order to qualify such lands and areas as conservation areas

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81. Maxwell *supra* note 60.

82. See 1967 Fla. Laws at 262.

83. See *id.* at 309, 311, 315.

84. *Id.* at 352.

85. *Id.* at 3769.

86. *Id.* at 3779, Section 5.

and sanctuaries under any of the laws of the State of Florida or under Federal law,”<sup>87</sup> the charter does not require the city to do so. The charter makes it clear that the legislature wanted the District to be able to:

“undertake the improvements herein provided for, to promote and create favorable conditions for the development and practical application of new and advanced concepts, designs and ideas for a recreation-oriented community and to undertake, and enable enterprises conducted within the District to undertake, a broad and flexible program of experimentation and development.”<sup>88</sup>

The charter provides a framework to support the RCID’s environmental obligations, but, does not impose concrete restrictions on the RCID’s leadership to do anything. Once again we see that the RCID is encouraged to “create favorable conditions” or “undertake a . . . program of experimentation,” but never actually required to do so.

Fortunately for Florida residents and environmentalists, Disney’s own business practices compel the company to carry out these tasks. Walt Disney had wished to insulate his parks from the emergence of “a neon jungle of souvenir shops and fast-food joints,”<sup>89</sup> like the one that enveloped Disney Land in California. This need for a buffer between Disney property and more public areas was, and is, essential to the park’s wholesome image. Critics scrutinizing Disney’s development of the lands within the District overlook what Florida’s environment gained from the arrangement. As is obvious from both the Disney Land and Walt Disney World<sup>90</sup> sites, businesses flock to locations near the guaranteed tourist mecca. By purchasing and maintaining control over this nearly 50 square miles, of which about half is developed, the company has effectively preserved thousands of acres for plants and animals. This is only one of the reasons that the Florida legislature could surrender such broad rights to the Disney Corporation.

Another key to the balance between the corporation and the government was Disney’s need to preserve the lands surrounding its attractions. Disney needs to maintain its wholesome image, but, as has manifested in subsequent failed deals between itself and the government, Disney has also strived to keep its visitors and their money within the limits of its vacation paradise.<sup>91</sup> Disney has the added incentive to keep

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87. *Id.* at 3783, Section 21.

88. *Id.* at 260.

89. Fogelson *supra* note 13 at 46.

90. International Drive, a dense tourist area filled with souvenir shops, restaurants and recreational areas straddles the RCID’s property to the East.

91. In the late 1980’s, Sam Tabuchi, a project coordinator began plans for constructing a mag-lev train that would transport tourists from the Orlando International Airport to parts of Downtown Orlando, International Drive (a tourist hot-spot just outside



major businesses off its RCID property so that tourists will patronize only Disney restaurants, stores, and other attractions. Herein lies yet another example of how the Florida legislature benefited by granting such broad powers to Disney without endangering much of the wildlife and wetlands on RCID property.

A local or state government deciding whether to grant a private entity a special purpose district charter should be most concerned with the company's environmental record of accomplishment. The Disney Corporation's stance on the environment is laid out in its annual "Enviroport." The company's policy is a hybrid of environmental idealism and a concern for the business bottom line.<sup>92</sup> Florida Laws 67-764 and 67-1965 do not place affirmative duties on Disney to be environmentally conscientious.<sup>93</sup> Whether it is for the positive press Disney receives or simply an inherent sense of civic duty, Disney has risen to the challenge of environmental innovation and preservation.

RCID employees constantly monitor the water and air quality throughout the RCID.<sup>94</sup> The RCID property also houses a chemistry lab, a biology lab, a fisheries management program, computer operations and a quality assurance/technical assistance program.<sup>95</sup> None of these facilities is mandated by the RCID's charter; this is another instance in which the Disney Corporation has voluntarily made clean water, clean air, and healthy wildlife, not only an idealistic goal, but also a business priority.

Disney's commitment spreads even to the day to day operations within the parks. For example, Disney custodial employees are split into groups and encouraged, through rewards programs, to recycle more garbage than fellow employee groups.<sup>96</sup> Since the program began, Disney World employees have collected well over 425 tons of plastic bottles<sup>97</sup> and in 2003 alone, the Company recycled more than 69,000 tons of materials altogether.<sup>98</sup>

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of the Disney property), and presumably EPCOT. When the plan was about to come to fruition, Disney presented a site for the high speed train that was not what Tabuchi was hoping for. Because the site at EPCOT had been approved in the summer of 1986 and was later rejected, Richard Fogelson and other Disney critics have theorized that Disney wished to keep its guests from accessing off-site stores, restaurants, and cheaper hotels.

92. See Disney's Enviroport (2004), available at: <http://www.DisneysEnviroport.com> (last visited January 20, 2006).

93. See generally 1967 Fla. Laws at 256; 1967 Fla. Laws at 3769.

94. <http://www.state.fl.us/rcid/about.html> (last visited November 15, 2005).

95. *Id.*

96. Enviroport *supra* note 92 at 7.

97. Enviroport *supra* note 92 at 7.

98. Enviroport *supra* note 92 at 7.

## V. Analyzing the Arrangement as an Example for the Future

A state government faced with a request or need for a special purpose district similar to the RCID should consider these factors prior to awarding a RCID-like grant of local governmental power: the corporation's trustworthiness, the corporation's reliance on the public image, and the rights awarded in the language of the grant.

The first factor, the trustworthiness of the company applying for the legislative exception, may be the hardest to evaluate. Additionally, while this image can be misleading, a company with an already tarnished environmental record may have nothing to lose if given such extensive powers. Researching the transactions that led to the establishment of the RCID reveals little or no evidence that the Florida legislature was greatly concerned with Disney's environmental record; instead, the review was centered mostly on Disney's financial record.<sup>99</sup>

The second trait the government entity must consider is the company's dependence on a positive public image. It is no secret that the Disney Corporation relies on its wholesome family image for repeat business. The RCID began with Walt Disney's idealistic vision in place to protect the fragile wetland and related wildlife ecosystem, but it is very likely that Disney's need to preserve a friendly public image is what has kept that ecosystem relatively undisturbed. In other words, the Disney Corporation would not dare subject itself to the negative press of destroying more wetlands, endangering any species, or taking any actions that would adversely affect its surrounding environment.

Disney's environmental consciousness and responsibility is evident from its goals: being environmentally responsible and achieving business success.<sup>100</sup> Disney's "Environmentality" approach has produced innovations such as collecting and reprocessing cooking oil as biocarburon fuel for its own diesel-powered equipment<sup>101</sup> and switching to energy-saving light bulbs utilized in a popular EPCOT attraction, the GM™ Test Track. This single measure provides a savings of over \$19,000 per year in energy costs for the organization.<sup>102</sup>

Additionally, with three major fireworks shows a night (sometimes more), Imagineers spent five years developing a technology that reduces smoke emissions and provides greater reliability and safety for its

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99. See generally Fogelson *supra* note 13 at 34-77.

100. Enviroport *supra* note 92 at 3.

101. See Enviroport *supra* note 92 at 9; "Recycling Soars Around the World".

102. Enviroport *supra* note 92 at 6 "Environmentality Means Business at the Walt Disney World Resort at 6, "A Letter from Beth." Beth Stevens is the Vice President of Disney's Animal Kingdom and Disney's Animal Programs and the Executive Champion for Environmentality.

pyrotechnicians.<sup>103</sup> An extensive study was made of the parks' many fountains to improve water quality for the safety of guests.<sup>104</sup>

Disney's appreciation of the environment is obvious in many of the theme park attractions throughout the Disney complex. "The Land" attraction<sup>105</sup> in EPCOT features a boat ride showcasing the park's four greenhouses and features concepts and technologies of sustainable agriculture "including intercropping, integrated pest management and specialized irrigation systems that reduce waste and increase crop production."<sup>106</sup> "The Circle of Life," a wide-screen movie, hosted by the stars of "The Lion King" emphasizes the delicate balance of land development and the environment.<sup>107</sup> This method effectively integrates Disney's recognizable characters with a conscientious environmental position commanding the attention of both children and adults.

"The Living Seas" attraction located next to "The Land" in EPCOT educates park visitors on the importance of a symbiotic co-existence with ocean life.<sup>108</sup> The "Universe of Energy" attraction in EPCOT teaches guests about different sources of energy and their use today.<sup>109</sup> The Animal Kingdom features several attractions devoted to educating guests about plant and animal wildlife.

Disney's environmental commitment is exemplary, and although all corporations seeking a special purpose charter could not easily fulfill such a high standard, a community considering granting such rights could surely use the Disney's model as a guideline.

And finally, the government entity should consider the extent of the grant itself. As we have seen, the RCID grants broad powers, conferring almost no limits on the RCID to regulate the environmental consequences of its development. This is evident from the language of Law of Florida 67-764 Section 71, which reads "The provisions of this Act shall be liberally construed to effects its purposes and shall be deemed cumulative, supplemental and alternative authority for the exercise of the powers provided herein."<sup>110</sup> Such broad language could become problematic in the future. For example, that language exempted the RCID impact fees<sup>111</sup> until the late 1980's and also from regional

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103. See *Enviroport supra* note 92 at 13, "Fireworks Launch Cleaner Air."

104. See *Enviroport supra* note 92 at 15.

105. "The Land" is now sponsored by Nestle.

106. [http://allearsnet.com/tp/ed/e\\_land.htm#attr](http://allearsnet.com/tp/ed/e_land.htm#attr).

107. See *id.*

108. [http://allearsnet.com/tp/ep/e\\_seas.htm](http://allearsnet.com/tp/ep/e_seas.htm).

109. [http://allearsnet.com/tp/ep/e\\_energy.htm](http://allearsnet.com/tp/ep/e_energy.htm).

110. 1967 Fla. Laws 358, section 71.

111. Impact fees are taxes collected from a certain taxpayer for the impacts of its existence. In Disney World's case, Orange County began collecting taxes from the District for road deterioration etc. after a deal struck in 1988. Fogelsong *supra* note 13,

planning laws.<sup>112</sup> The Reedy Creek charter states clearly that

The jurisdiction and powers of the Board of Supervisors provided for herein shall also be exclusive of any law now or hereafter enacted providing for land use regulation, zoning or building codes by the State of Florida or any agency or authority of the State, and the provisions of any such law shall not be applicable within the territorial limits of the District.<sup>113</sup>

Perhaps more importantly, the “or any agency or authority of the State,” language would strip a state agency like the Florida Department of Environmental Regulation of its ability to force the RCID to leave a percentage of its land or specific location (like a particular stretch of wetlands) for wildlife or environmental preservation.

The simplest solution for avoiding a problem is for the state granting the special purpose charter to either modify or eliminate this type of language from the Charter altogether. In Disney’s case, the above language may not have been binding except for an advisory opinion which the Attorney General issued in the office’s 1977 Annual Report.<sup>114</sup> The Attorney General issued an opinion which sustained the Florida Division of State Planning’s former ruling that such laws did not apply to the RCID.<sup>115</sup> Without a court ruling on the applicability of the regional planning law to the RCID’s unique place in Florida government, the Attorney General’s opinion trumped all other authority. Accordingly, in the future, the Florida legislature must pass a supplemental law to bring the RCID within the power of regional planning laws before the district is bound to comply.<sup>116</sup>

## VI. Conclusion

This comment has analyzed the advantages and weaknesses of bestowing broad governmental powers on a private corporation. Readers should not forget, however, that the Disney-Orlando arrangement is unique because of each party’s needs and the rewards each sought to gain from the other. Finally, this comment has presented some simple methods for local governments to privatize a limited amount of governmental power without fear of corporate environmental

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at 117-120.

112. *Id.* at 102. Developments of Regional Impact, Applicability of Ch. 380 to Disney World,” 1977 Op. Atty Gen. Fla. 91, 16 May 1977.

113. 1967 Fla. Laws 311 (23)(2).

114. Fogelsong *supra* note 13, at 102, 118-120.

115. *Id.* at 102.

116. Office of Program Policy Analysis & Government Accountability *supra* note, 66.

irresponsibility.

What the Disney Corporation required for a successful business venture was the freedom to build as quickly as economically possible without direct government review and regulations inhibiting officials looking for specific results. Just as vital was Disney's need to keep other businesses at a distance to avoid distraction from the environment it was attempting to create. Most important for Disney however, was the supportive state government with which it collaborated; this government would fully cooperate with the company as long as it continued to generate millions in tax revenue, while promoting Disney's image as a friend of Florida, a friend to its citizens, as well as a friend to the environment.

What Orlando needed for a successful business venture was for a company to create, develop, and build as quickly as economically possible without demanding millions of dollars in infrastructure funding. What resulted from these symbiotic needs has become one of the most successful business ventures in world history.

More than just an interesting story about the world's number-one vacation destination, governments of every level would be well served to examine the story of the Reedy Creek Improvement District. These arrangements (based on the Walt Disney World Model) could be an effective way of attracting businesses with special environmental, zoning, and land use needs. The Disney example, however, is by no means the typical situation.

Seldom has any company anywhere executed its business with the degree of excellence that Disney has shown with the Walt Disney World project. Similarly, one would be hard pressed to find an example of a company so devoted to preserving the surrounding environment. This writer will not overlook the obvious connection, however, between Disney's need for preservation and the economic benefits it reaps from the public's perception of Disney's responsibility. Believing a Fortune 100 Company would commit such resources to environmental protection without any economic reward would truly be a fairy tale.