



**CITY COMMISSION AGENDA
CITY HALL COMMISSION CHAMBERS
300 W. Plant Street**

REGULAR MEETING

NOVEMBER 13, 2008

6:30 P.M.

CALL TO ORDER

Determination of a Quorum

Invocation and Pledge of Allegiance

1. APPROVAL OF MINUTES

Regular Meeting of October 23, 2008 and Special Meeting of November 3, 2008

2. OATHS OF OFFICE

Oaths administered to two new police officers – Police Chief Brennan

3. FIRST AND FINAL READING AND PUBLIC HEARING FOR ADOPTING A PROPOSED ORDINANCE

A. **Ordinance 08-55**: AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA; AMENDING THE CITY OF WINTER GARDEN COMPREHENSIVE PLAN; BY ADOPTING AMENDMENTS TO THE CAPITAL IMPROVEMENTS ELEMENT PURSUANT TO SECTION 163.3177 (3) (b), FLORIDA STATUTES; PROVIDING FOR CONFLICTS, SEVERABILITY, TRANSMITTAL AND EFFECTIVE DATE – Chief Planner Wilson

4. FIRST READING AND PUBLIC HEARINGS OF PROPOSED ORDINANCE

A. **Ordinance 08-56**: AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA, ANNEXING THE KENNY COURT SUBDIVISION AND ADJACENT PROPERTIES LOCATED APPROXIMATELY 175 FEET WEST OF BETHUNE AVENUE, NORTH OF MAPLE STREET AND SOUTH OF THE RAILROAD RIGHT OF WAY, PENDING A REFERENDUM VOTE OF THE REGISTERED ELECTORS OF SAID AREA; DIRECTING A REFERENDUM ON SAID PROPOSED ANNEXATION PURSUANT TO SECTION 171.0413, FLORIDA STATUTES; ESTABLISHING THE DATE OF SAID REFERENDUM; PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE **with the second reading and public hearing being scheduled for December 11, 2008** – Planning Director Williams

5. SECOND READING AND PUBLIC HEARINGS OF PROPOSED ORDINANCES

A. **Ordinance 08-52**: AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA, PROVIDING FOR THE ANNEXATION OF CERTAIN ADDITIONAL LANDS GENERALLY DESCRIBED AS 13.46 ± ACRES LOCATED AT 1006 EAST CROWN POINT ROAD, AND MORE SPECIFICALLY DESCRIBED HEREIN INTO THE CITY OF WINTER GARDEN FLORIDA; REDEFINING THE CITY BOUNDARIES TO GIVE THE CITY JURISDICTION OVER SAID PROPERTY; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE – Planning Director Williams

B. **Ordinance 08-54**: AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA, AMENDING CHAPTER 6 OF THE WINTER GARDEN CITY CODE; PROVIDING FOR SALE AND SERVICE OF ALCOHOLIC BEVERAGES BY BUSINESSES HOLDING STATE ISSUED BEVERAGE LICENSES ON SUNDAYS; EXPANDING THE HOURS OF SALE AND SERVICE OF SUCH BEVERAGES UNTIL 2:00 A.M. FOR SUCH BUSINESSES; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE – City Attorney Ardaman

6. REGULAR BUSINESS

A. Request for open-air vendor and tent permit by Severt Brothers Tree Farm, LLC to sell Christmas trees November 21, 2008 to December 24, 2008 at 14811 W. Colonial Drive (vacant lot just east of Reliable Peat) – Building Official Lukert

B. Recommendation to approve a site plan for Birket Properties, LLC at 152 Daniels Road, with conditions – Planning Director Williams

C. Recommendation to approve a site plan for Bright Horizons at 152 Daniels Road, with conditions – Planning Director Williams

- D. Recommendation to approve and award contract for Dillard Street Stormwater Pond Improvements to Emerald Utilities in the amount of \$226,599.98 (*includes a 10 percent contingency*) – Public Services Director Cochran
- E. **Resolution 08-15**: A RESOLUTION OF THE CITY OF WINTER GARDEN, FLORIDA, APPROVING THE ANNUAL EXTENSION OF THE THREE YEAR AGREEMENT WITH QUALITY VAULTS INC., PROVIDING FOR CONFLICTING RESOLUTIONS AND PROVIDING FOR AN EFFECTIVE DATE – Public Services Director Cochran
- F. **Resolution 08-16**: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WINTER GARDEN, FLORIDA, DECLARING SUPPORT FOR NATIONAL SCENIC BYWAY DESIGNATION FOR THE GREEN MOUNTAIN SCENIC BYWAY; PROVIDING FOR AN EFFECTIVE DATE – City Manager Bollhoefer
- G. Recommendation to approve a contract to purchase 104 S. Lakeview Avenue and 230 W. Plant Street – City Manager Bollhoefer
- H. Appointment to fill the unexpired term until March 1, 2011 Rocco Williams on the Code Enforcement Board – City Clerk Golden
- I. Appointment to the Planning and Zoning Board for expiring term of Mr. Snell (*continued from September 25, October 9, and October 23, 2008*) – Mayor Rees

7. **MATTERS FROM CITIZENS** (*Limited to 3 minutes per speaker*)

8. **MATTERS FROM CITY ATTORNEY** – Kurt Ardaman

9. **MATTERS FROM CITY MANAGER** – Mike Bollhoefer

- A. Presentation on testing golf cart usage on designated city streets

10. **MATTERS FROM MAYOR AND COMMISSIONERS**

ADJOURN to a regular City Commission meeting on December 11, 2008 at 6:30 p.m. in City Hall Commission Chambers, 300 W. Plant Street, 1st floor

Please Note: In accordance with Florida Statutes 286.0105: Any person who desires to appeal any decision at this meeting will need a record of the proceedings and for this purpose may need to ensure that a verbatim record of the proceedings is made which includes the testimony and evidence upon which the appeal is based, which such written record is not provided by the City of Winter Garden.

Also, in accordance with Florida Statute 286.26: Persons with disabilities needing assistance to participate in any of these proceedings should contact the Office of the City Clerk, 300 W. Plant Street, Winter Garden, FL 34787, (407) 656-4111 x 2254 48 hours in advance of the meeting.

ORDINANCE 08-55

AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA; AMENDING THE CITY OF WINTER GARDEN COMPREHENSIVE PLAN; BY ADOPTING AMENDMENTS TO THE CAPITAL IMPROVEMENTS ELEMENT PURSUANT TO SECTION 163.3177 (3) (b), FLORIDA STATUTES; PROVIDING FOR CONFLICTS, SEVERABILITY, TRANSMITTAL AND EFFECTIVE DATE.

WHEREAS, the Florida Legislature signed into law on June 25, 2005, Senate Bill 360, which became effective July 1, 2005; and

WHEREAS, such act amended Chapter 163, Florida Statutes relating to Growth Management; and

WHEREAS, the City is required, pursuant to Chapter 163.3177 3 (b), Florida Statutes to adopt an annual update to the Capital Improvements Element prior to December 1, 2008; and

WHEREAS, on November 3, 2008, the City's Local Planning Agency (LPA), held a public hearing and made recommendations regarding the adoption of the proposed Amendments to the Capital Improvements Element; and

WHEREAS, the City Commission finds that this ordinance is consistent with the provisions in the Florida Statutes, which require the City to provide for adequate public facilities, including adequate public school facilities, to support anticipated growth within the City over the next five (5) years; and

WHEREAS, The City Commission has found that the proposed Capital Improvements Plan as updated this year to be consistent with the City's comprehensive plan and to meet all statutory and regulatory requirements;

WHEREAS, the City Commission finds that this ordinance implements the goals, objectives and policies necessary to achieve the annual update for the City's capital improvements as required by applicable law.

NOW THEREFORE, BE IT ENACTED BY THE CITY OF WINTER GARDEN, FLORIDA, AS FOLLOWS:

Section I: Adoption: The Comprehensive Plan is hereby amended to add the following Capital Improvement Element policies to read as follows:

Policy 1.1: *Public physical improvements including land acquisition, buildings, structures, facilities, equipment, and infrastructure with a unit cost exceeding \$50,000 and a useful life of at least ten years shall be considered capital improvements. For purposes of the Capital Improvements Element, public facilities are defined as those facilities that maintain or improve adopted levels of service for traffic circulation, mass transit, potable water, sanitary sewer, solid waste, recreation and parks stormwater management and Orange County Public Schools (after December 2008).*

Policy 1.2: The City Commission will include all projects that meets the State's Uniform Accounting System Manual's definition of "Improvements Other the Buildings" (63) and "Building Improvements" of the Capital Outlay section as a capital improvement in the CIP. {Amended by Ord 00-67}

Policy 1.3: All proposed capital improvement projects shall be evaluated on a yearly basis and shall be consistent consistency with the Comprehensive Plan and prioritized according to the following criteria:

- Elimination of public hazards;
 - Elimination of existing capacity ~~deficits~~ deficiencies;
 - Impact on the budget of the City and financial feasibility;
 - Location needs based on projected growth patterns;
 - Accommodation of new development and redevelopment facility demands;
 - ~~The projects are financially feasible~~
 - Plans of State agencies, Orange County, and the St. Johns River Water Management District
 - Local priorities
- {Required by 9J-5.016(3)(c)1}{Amended by Ord 00-67}

Policy 1.5: As part of the yearly budget, the City Planner shall ensure each capital project or program is consistent with the City's Comprehensive Plan to include the City's concurrency requirements. The City Planner shall also monitor the development of the adoption and implementation of the CIP for compliance with the City's Comprehensive Plan. {Required by 9J-5.016(5) & .016(4)(b)} {Amended by Ord 00-67}

Policy 1.6: *The City shall update the Capital Improvement Element annually. The Capital Improvement Budget will be based on a multi-year Capital Improvement Program.*

Policy 1.7: Any additional deletion of concurrency related projects in the Capital Improvements Program shall require a plan amendment to the Comprehensive Plan. The deferral or delay of the construction date of any concurrency related projects already in the Capital Improvements Program shall also require a plan amendment to the Comprehensive Plan.

Policy 1.8: Consistent with S163.3177(3)(b)1, F.S., the following changes may be adopted by local ordinance provided they are consistent with the Comprehensive Plan. These include: Corrections and modifications of the cost of a project already in the Capital Improvements Program, corrections and modifications to revenue sources and the acceptance of facilities by dedication.

Policy 2.5 The City of Winter Garden shall consider the planned availability of concurrency-related facilities and the impact on the adopted levels of service when making land use decisions.

Policy 2.6: For any phased, large-scale, future land use amendment, the City shall require the applicant to demonstrate the capacity to provide the necessary infrastructure over the entire build-out period.

Policy 3.3: If a proposed development is consistent with the Land Development Code and the Comprehensive Plan, but one or more concurrency-related facilities is deficient, the applicant may, at his/her expense, improve the level of service of the facility if and when such improvement is consistent with City plans and the City agrees to the improvement.

Policy 3.4: When necessary and appropriate, new developments shall be assessed a pro-rata share of the costs necessary to finance public facility improvements necessitated by development in order to adequately maintain adopted level of serve standards.

Policy 3.35: At the City's discretion, a multi-use development of regional impact ("DRI") meeting the criteria of Section 163.3180(12), Florida Statutes, may use the standards and procedures set forth in that statute to satisfy the City's transportation concurrency requirements and transportation mitigation requirement under Section 380.06, Florida Statutes, by payment of a proportionate share contribution. Any proportionate share contribution for a DRI pursuant to this policy shall be stated in the DRI Development Order and shall be subject to the conditions stated in the Development Order.

Policy 4.3: The City may consider paying for capital improvements for the Capital Improvement Program either as a bond tied to the property tax by referendum or by a non-property tax bond for years two or three of the CIE. If this occurs and the bond is approved, the money generated from the bond will be considered committed revenues.

Policy 4.4: In the event that either a bond that is tied to property tax is not approved by the citizens or a non-property tax bond is not approved by the City Commission, the City is required to identify other revenue sources to ensure financial feasibility of the capital projects or amend the plan to eliminate projects from the Capital Improvements Program.

Policy 5.4 : Five Year CIP : As part of the yearly budgeting process, the City shall develop and maintain a Five Year Capital Improvement Plan to plan for future improvements. This Five Year Plan shall reflect the needs identified in other elements of this comprehensive plan and be financially feasible. ~~This Comprehensive Plan hereby adopts the five year CIP that is in the latest, adopted City Budget. The Chart contained in Exhibit "A", attached hereto and incorporate herein, illustrates the current five (5) year Capital Improvement Plan. {Required by 9J-5.016(3)(c)}~~7}{Amended by Ord 00-67}

Section II: Conflicts: In the event of a conflict or conflicts between this ordinance and any other ordinances, this Ordinance controls.

Section III: Severability: If any portion of this Ordinance is determined to be void, unconstitutional, or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall remain in full force and effect.

Section IV: Codification: It is the intention of the City Commission of the City of Winter Garden that the Comprehensive Plan Amendment proposed by this Ordinance shall ultimately become and be made a part of the Comprehensive Plan of the City of Winter Garden. Goals, objectives, and policies of the Comprehensive Plan may be renumbered or reorganized for editorial and codification purposes and such renumbering or reorganization shall not constitute nor be considered a substantive change to the Comprehensive Plan Amendment as adopted. For solely organizational purposes, the City Clerk is hereby directed to ensure that appropriate numbers are affixed to the Goals, Objectives, and Policies in the Comprehensive Plan prior to Codification of the Comprehensive Plan Amendment.

Section V: Transmittal: Within ten (10) working days after adoption of this Ordinance, the City Planning Department is directed to transmit this Comprehensive Plan Amendment to the Department of Community Affairs in accordance with Section 163.3184 (16), Florida Statutes.

Section VI: Effective Date: Pursuant to Rule 9J-11.011(10), F.A.C., the effective date of this plan amendment shall be the date a final order is issued by the Department of Community Affairs or Administration Commission finding the amendment in compliance in accordance with Section 163.3184 (1)(b), Florida Statutes, whichever is applicable. This amendment shall not be utilized as a basis for approving or issuing any development orders, development permits or land uses before such amendment has become effective. If a final order of noncompliance

is issued by the Administration Commission, this amendment may nevertheless be made effective by adoption of a resolution affirming its effective status, a copy of which resolution shall be sent to the Florida Department of Community Affairs, Division of Community Planning, Plan Processing Team. An adopted amendment whose effective date is delayed by law shall be considered part of the adopted plan until determined to be not in compliance by final order of the Administration Commission. Then, it shall no longer be part of the adopted plan unless the local government adopts a resolution affirming its effectiveness in the manner provided by law.

FIRST READING AND PUBLIC HEARING _____ 2008.

ADOPTED this _____ day of _____, 2008, by the City Commission of the City of Winter Garden, Florida.

APPROVED:

JOHN REES, Mayor/Commissioner

ATTEST:

KATHY GOLDEN, City Clerk

EXHIBIT "A"

Five-Year Schedule of Capital Improvements

Project Number	Project Name	Consistency with Plan Elements (Policy Number)	FY	FY	FY	FY	FY	Total
			2008-09	2009-10	2010-11	2011-12	2012-13	Project Cost
Transportation (Transportation Impact Fees are the Revenue Source)								
08005	Marsh Rd (545 to Hickory Hammock)	-	100,000	3,250,000	-	-	-	4,250,000
06067	CR 545 R.O.W.	Policy 1.14 Trans.	300,000	-	-	-	-	300,000
07018	CR 545 South	Policy 1.14 Trans.	-	9,000,000	-	-	-	9,000,000
07037	Plant St / W Crown Pt Imp	Policy 7.5 Trans.	1,523,648	-	-	-	-	1,523,648
08006	Plant St - 9th to 429	Policy 7.5 Trans.	2,000,000	-	-	-	-	2,000,000
09004	Sessions Rd Improvements (Access Proposal/New Schools)	-	250,000	4,093,150	-	-	-	4,343,150
07066	Concurrency Management SR50	Policy 6.1, 6.2 Trans.	-	-	-	-	-	50,000
09005	SR50 Concurrency	Policy 6.1, 6.2 Trans.	1,000,000	-	-	-	-	1,000,000
07017	E Roper Improvements (Local Road Improvement)	-	-	2,000,000	-	-	-	2,000,000
U/K	SR50 Mast Arm Signals	Policy 6.1, 6.2 Trans.	-	-	-	-	383,500	383,500
U/K	Median Landscp,SR50-CR545-429	-	-	-	-	-	920,000	920,000
Transportation Total			6,123,648	18,343,150	-	-	1,303,500	25,770,298
Water / Sewer (Water and Sewer Impact Fees and Investments are the Revenue Source)								
09007	Stoneybrook Wtr Main Looping	Policy 1.5 Water	185,000	-	-	-	-	185,000
08040	Turnpike/CR535 Util Relocations (Utility Relocations)	-	568,000	-	-	-	-	568,000
08008	Reclaimed Water Phase II	Policy 1.13 SS	3,900,000	-	-	-	-	3,900,000
U/K	Crest Ave/Lulu Crk Crossing	Policy 3.1, 4.1 PFE	-	-	4,700	26,968	-	31,668
U/K	Dillard St-Plant St - Tilden	Policy 3.1, 4.1 PFE	-	16,700	83,400	-	-	100,100
U/K	Dillard St - Tilden -Verna St	Policy 3.1, 4.1 PFE	-	9,000	-	51,290	-	60,290
U/K	Dillard St - Verna St - Division	Policy 3.1, 4.1 PFE	-	8,900	-	-	51,290	60,190
U/K	N. Highland - N. Lakeview - Henderson	Policy 3.1, 4.1 PFE	-	-	70,500	-	-	70,500
U/K	So. Lakeview - Smith - RR Tracks	Policy 3.1, 4.1 PFE	-	6,600	33,100	-	-	39,700
U/K	So. Main - Smith - Tremaine	Policy 3.1, 4.1 PFE	-	6,900	39,330	-	-	46,230
U/K	So. Woodland - Smith - Tremaine	Policy 3.1, 4.1 PFE	-	-	-	7,935	39,445	47,380
U/K	Tremaine St - Main - Dillard	Policy 3.1, 4.1 PFE	-	-	-	8,280	41,400	49,680
U/K	SR50 Util Relocations	Policy 3.1, 4.1 PFE	-	134,763	131,430	-	-	266,193
U/K	Vineland Rd SR50-Palmetto	Policy 3.1, 4.1 PFE	-	19,800	99,100	-	-	118,900
U/K	Hennis Rd Gravity Sewer	Policy 3.1, 4.1 PFE	-	-	26,500	218,960	-	245,460
U/K	SR50 Util Relocations	Policy 3.1, 4.1 PFE	-	-	202,144	226,717	-	428,861
U/K	Vineland Rd SR50-Palmetto	Policy 3.1, 4.1 PFE	-	26,300	131,400	-	-	157,700
U/K	Palm Dr - Regal Place - Division	Policy 3.1, 4.1 PFE	-	-	-	23,115	115,748	138,863
Water / Sewer Total			4,653,000	228,963	821,604	563,265	247,883	6,514,715
Parks / Recreation (Grants and Ad Valorem are the Revenue Sources)								
09001	Lulu Creek Trail	Policy 1.2, 1.5 Rec.	-	301,000	-	-	-	361,000
Parks / Recreation Total			-	301,000	-	-	-	361,000
Total All Categories			10,836,648	18,873,113	821,604	563,265	1,551,383	32,646,013

Legend U/K = Unknown; project number

**Five-Year Schedule of Capital Improvements
 Summary by Functional Category**

Category	FY 2008-09	FY 2009-10	FY 2010-11	FY 2011-12	FY 2012-13	Total
Transportation	6,123,648	18,343,150	-	-	1,303,500	25,770,298
Water / Sewer	4,653,000	228,963	821,604	563,265	247,883	6,514,715
Parks / Rec	60,000	301,000	-	-	-	361,000
Total	10,836,648	18,873,113	821,604	563,265	1,551,383	32,646,013

**Five-Year Schedule of Capital Improvements
 Summary by Revenue Source**

Sources	FY 2008-09	FY 2009-10	FY 2010-11	FY 2011-12	FY 2012-13	Total
Transportation Impact Fees	6,123,648	18,343,150	-	-	1,303,500	25,770,298
Developer Contributions-Avalon & Marsh Road Improvements	3,792,829	-	-	-	-	3,792,829
Water / Sewer Impact Fees	4,293,195	1,899,181	3,884,024	5,238,312	6,822,969	22,137,681
Water / Sewer Investment Revenue	963,000	943,740	924,865	915,617	906,460	4,653,682
Grants	60,000	-	-	-	-	60,000
Ad Valorem	-	301,000	-	-	-	301,000
Total	15,232,672	21,487,071	4,808,889	6,153,929	9,032,929	56,715,490

ORDINANCE 08-56

AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA, ANNEXING THE KENNY COURT SUBDIVISION AND ADJACENT PROPERTIES LOCATED APPROXIMATELY 175 FEET WEST OF BETHUNE AVENUE, NORTH OF MAPLE STREET AND SOUTH OF THE RAILROAD RIGHT OF WAY, PENDING A REFERENDUM VOTE OF THE REGISTERED ELECTORS OF SAID AREA; DIRECTING A REFERENDUM ON SAID PROPOSED ANNEXATION PURSUANT TO SECTION 171.0413, FLORIDA STATUTES; ESTABLISHING THE DATE OF SAID REFERENDUM; PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, lands generally described as approximately 10.13 acres containing the Kenny Court Subdivision and adjacent properties located approximately 175 feet west of Bethune Avenue, north of Maple Street and south of the railroad right of way, and more particularly described as:

BEGIN AT THE NORTHEAST CORNER OF LOT 7, KENNY COURT, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 11, PAGE 35, PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA, THENCE RUN S 00°39'57" W A DISTANCE OF 627.18 FEET TO THE SOUTHEAST CORNER OF SAID KENNY COURT; THENCE RUN N 89°38'30" W ALONG THE NORTH RIGHT OF WAY LINE OF MAPLE STREET A DISTANCE OF 842.62 FEET TO THE WEST LINE OF THE EAST 175.00 FEET OF THE WEST 1/2 OF BLOCK I, OVERSTREET CRATE COMPANY, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK F, PAGE 9, PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA; THENCE RUN NORTH ALONG SAID WEST LINE A DISTANCE OF 670 FEET MORE OR LESS TO A POINT ON THE SOUTH RIGHT OF WAY LINE OF THE S. C. L. RAILROAD; THENCE RUN NORTHEASTERLY ALONG SAID SOUTH RIGHT OF WAY LINE A DISTANCE OF 181 FEET MORE OR LESS TO THE EAST LINE OF AFORESAID WEST 1/2 OF BLOCK I; THENCE RUN SOUTH ALONG SAID EAST LINE TO THE NORTHWEST CORNER OF THE SOUTHEAST 1/4 OF SAID BLOCK I; THENCE RUN S 89°27'47" E ALONG THE NORTH LINE OF SAID SOUTHEAST 1/4 OF BLOCK I, A DISTANCE OF 102.00 FEET; THENCE RUN NORTH TO A POINT ON THE SOUTH RIGHT OF WAY LINE OF THE S. C. L. RAILROAD; THENCE RUN NORTHERLY ALONG SAID RIGHT OF WAY A DISTANCE OF 97.4 FEET; THENCE RUN SOUTH A DISTANCE OF 158.5 FEET MORE OR LESS TO THE NORTH LINE OF AFORESAID SOUTHEAST 1/4 OF BLOCK I; THENCE RUN S 89°27'47" E ALONG THE NORTH LINE OF SAID SOUTHEAST 1/4 OF BLOCK I, A DISTANCE OF 478.31 FEET TO THE POINT OF BEGINNING.

and graphically depicted in ATTACHMENT "A", said ATTACHMENT attached hereto and incorporated herein by this reference, are not within the City of Winter Garden municipal boundaries but are surrounded by the City of Winter Garden on four sides and; and

WHEREAS, the City Commission of the City of Winter Garden desires to annex said lands into the corporate limits of the City of Winter Garden; and

WHEREAS, section 171.0413, F.S., requires the City Commission of the City of winter Garden to pass an ordinance proposing said annexation; and

WHEREAS, said lands proposed to be annexed are found to be compact, contiguous and within the unincorporated territory of Orange County, Florida; and

WHEREAS, pursuant to section 171.042, F.S., the City of Winter Garden has prepared a report setting forth the plans to provide urban services to said areas proposed to be annexed and has filed said report with the Orange County Board of County Commissioners; and

WHEREAS, the City Commission of the City of Winter Garden has determined that said lands proposed to be annexed complies with the prerequisites for annexation identified in section 171.042, F.S.; and

WHEREAS, the City Commission of the City of Winter Garden finds that said lands proposed to be annexed meets the requirements of and the City of Winter Garden has complied with the procedures set forth in section 171.0413, F.S.

THEREFORE BE IT ENACTED BY THE CITY OF WINTER GARDEN, FLORIDA:

SECTION 1: This Ordinance proposing to annex lands, generally described as approximately 10.13 acres containing Kenny Court Subdivision, and adjacent parcels located approximately 175 feet west of Bethune Avenue, north of Maple Street and south of the railroad right of way and specifically defined above, and graphically depicted in ATTACHMENT "A", into the corporate limits of the City of Winter Garden, Florida, shall be submitted to a referendum vote of the registered electors of said lands proposed to be annexed. Said referendum shall be held on

January 27, 2008, and shall be held in conformity with the laws and ordinances relating to elections in Orange County, Florida, and in conformance with the provisions of Chapter 171, Florida Statutes. The ballot will contain the question "Shall the area described in Ordinance 08-56 of the City of Winter Garden be annexed into the City of Winter Garden, Florida?" The ballot used in the referendum shall offer the choice "For annexation of property described in Ordinance 08-56 of the City of Winter Garden" and "Against annexation of property described in Ordinance 08-56 of the City of Winter Garden" in that order. The City Manager and the City Clerk and their respective designees are hereby authorized to take all steps necessary to effect said referendum.

SECTION 2: If there is a majority vote in favor of annexation of said lands generally described as approximately 10.13 acres containing Kenny Court Subdivision, and adjacent parcels located approximately 175 feet west of Bethune Avenue, north of Maple Street and south of the railroad right of way and specifically defined above and graphically depicted in ATTACHMENT "A", this Ordinance shall become effective as provided in Section 6, herein. If there is a majority vote against annexation of said lands generally described as approximately 10.13 acres containing Kenny Court Subdivision, and adjacent parcels located approximately 175 feet west of Bethune Avenue, north of Maple Street and south of the railroad right of way and specifically defined above and graphically depicted in ATTACHMENT "A", this Ordinance shall not become effective, and said lands shall not be the subject of an annexation ordinance by the City of Winter Garden, Florida, for a period of two (2) years from the date of the referendum on annexation.

SECTION 3: Upon the effective date of this ordinance, said lands generally described as approximately 10.13 acres containing Kenny Court Subdivision, and adjacent parcels located approximately 175 feet west of Bethune Avenue, north of Maple Street and south of the railroad right of way and specifically defined above and graphically depicted in ATTACHMENT "A", shall be annexed into the City of Winter Garden, Florida, and the City of Winter Garden, Florida, shall have all of the power, authority, and jurisdiction over and within said lands and of the inhabitants thereof, and property therein, as it does and has over its present corporate limits and all laws, ordinances, and resolutions of said City shall apply and shall have equal force and effect as if all the territory had been part of said City at the time of the passage of such laws, ordinances, and resolutions.

SECTION 4: Upon the effective date of this Ordinance, the area annexed to the City shall be subject to the taxes and debts of the City upon the effective date of the annexation. However, the annexed area shall not be subject to municipal ad valorem taxation for the current year if the effective date of the annexation falls after the City levies such tax.

SECTION 5: Should any portion of this Ordinance be held invalid, then such portions as are not declared invalid shall remain in full force and effect.

SECTION 6: This Ordinance shall become effective on February 6, 2008, provided there is a majority vote in favor of annexation in the referendum of annexation of the property described in this Ordinance by the registered electors of the area proposed to be annexed, as described herein.

-SIGNATURE PAGE TO FOLLOW-

READ FIRST TIME AND PUBLIC HEARING HELD: _____, 2008.

READ SECOND TIME AND PUBLIC HEARING HELD: _____, 2008.

PASSED AND ADOPTED THIS _____ DAY OF _____, 2008.

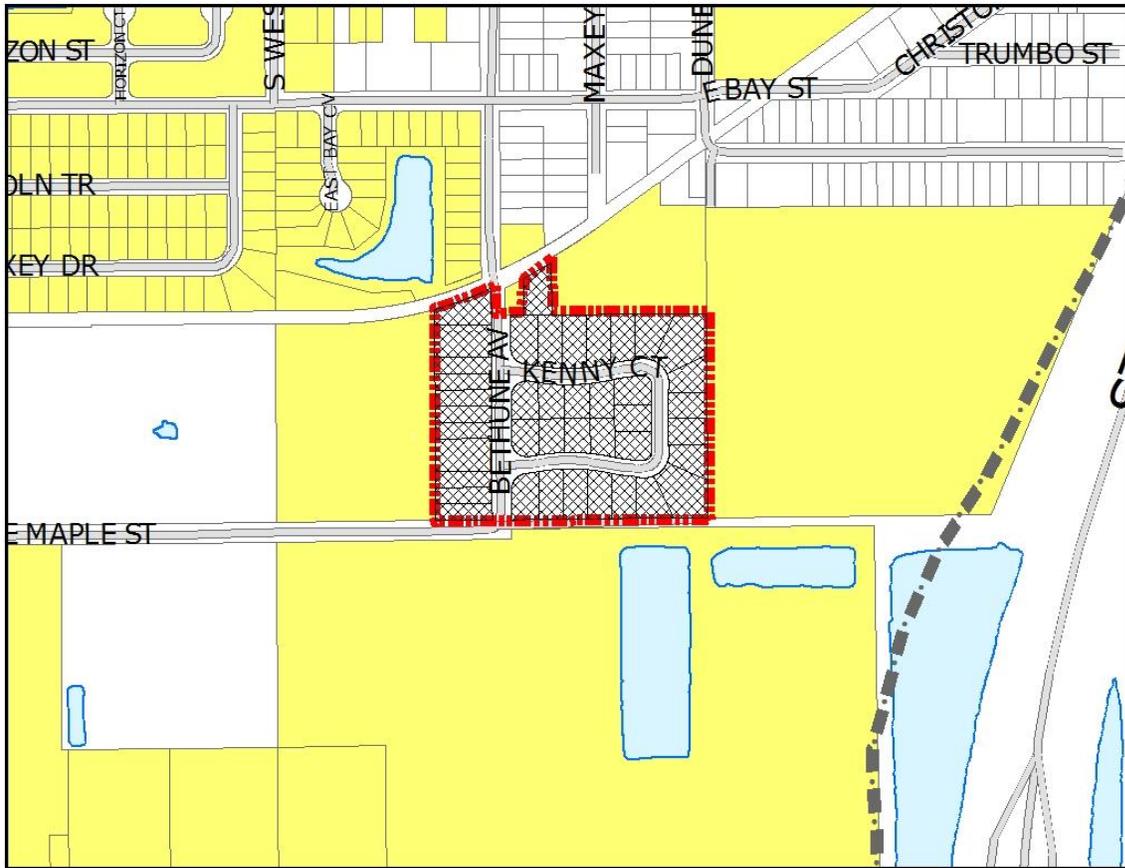
APPROVED:

JOHN REES,
Mayor/Commissioner

ATTEST:

KATHY GOLDEN, City Clerk

ATTACHMENT "A"



ORDINANCE 08-52

AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA, PROVIDING FOR THE ANNEXATION OF CERTAIN ADDITIONAL LANDS GENERALLY DESCRIBED AS 13.46 ± ACRES LOCATED AT 1006 EAST CROWN POINT ROAD, AND MORE SPECIFICALLY DESCRIBED HEREIN INTO THE CITY OF WINTER GARDEN FLORIDA; REDEFINING THE CITY BOUNDARIES TO GIVE THE CITY JURISDICTION OVER SAID PROPERTY; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the owners of the land generally described as 13.46 ± acres located at 1006 East Crown Point Road and legally described in Section 2 of this Ordinance, which land is contiguous to the corporate limits of the City of Winter Garden, Florida, have pursuant to the prerequisites and standards as set forth in Chapter 171, F.S., petitioned the City Commission of the City of Winter Garden for voluntary annexation;

BE IT ENACTED BY THE CITY OF WINTER GARDEN, FLORIDA:

SECTION 1: That the City Commission through its Planning and Zoning Board has conducted an investigation to determine whether the described property meets the prerequisites and standards set forth in Chapter 171, F.S. and has held a public hearing on said petition and made certain findings.

SECTION 2: That, after said public hearing and having found such petition meets said prerequisites and standards, the property legally defined in ATTACHMENT "A" and graphically shown on the attached map shall be annexed into the City of Winter Garden, Florida, and

SECTION 3: That the City of Winter Garden, Florida, shall have all of the power, authority, and jurisdiction over and within the land as described in Section 2 hereof, and of the inhabitants thereof, and property therein, as it does and have over its present corporate limits and all laws, ordinances, and resolutions of said City shall apply and shall have equal force and effect as if all the territory had been part of said City at the time of the passage of such laws, ordinances, and resolutions.

SECTION 4: The area annexed to the City shall be subject to the taxes and debts of the City upon the effective date of the annexation. However, the annexed area shall not be subject to municipal ad valorem taxation for the current year if the effective date of the annexation falls after the City levies such tax.

SECTION 5: Should any portion of this Ordinance be held invalid, then such portions as are not declared invalid shall remain in full force and effect.

SECTION 6: This Ordinance shall become effective upon adoption at its second reading.

READ FIRST TIME: _____, 2008.

READ SECOND TIME AND PUBLIC HEARING HELD: _____, 2008.

APPROVED:

ATTEST:

JOHN REES, Mayor/Commissioner

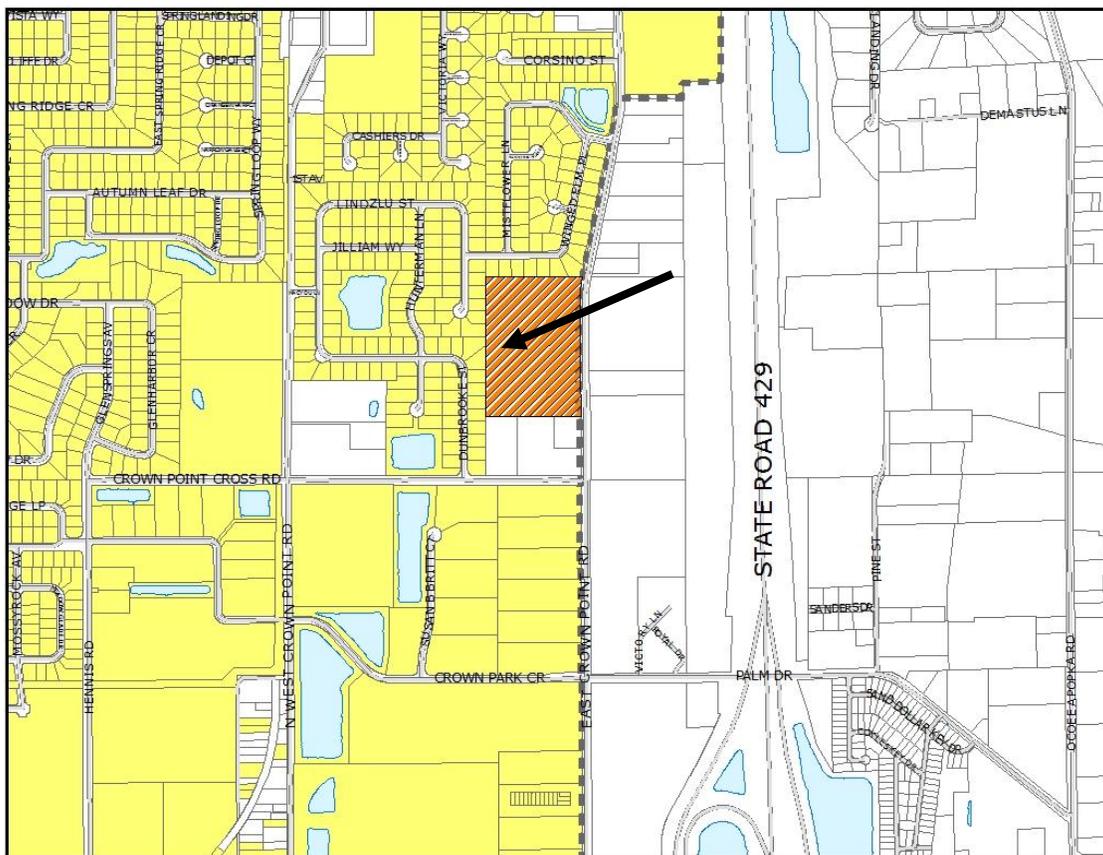
KATHY GOLDEN, City Clerk

Attachment "A"

A PORTION OF THE SOUTHEAST ONE-QUARTER (SE ¼) OF SECTION 12, TOWNSHIP 22 SOUTH, RANGE 27 EAST, ORANGE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHEAST CORNER OF THE SOUTHEAST ONE-QUARTER (SE ¼) OF SECTION 12, TOWNSHIP 22 SOUTH, RANGE 27 EAST; THENCE SOUTH 89°58'29" WEST ALONG THE SOUTH LINE OF THE SOUTHEAST ONE-QUARTER (SE ¼) OF SAID SECTION 12, A DISTANCE OF 690.55 FEET; THENCE NORTH 00°07'59" WEST, 30.00 FEET; THENCE SOUTH 89°58'29" WEST ALONG A LINE 30.00 FEET NORTH OF AND PARALLEL WITH THE SOUTH LINE OF THE SOUTHEAST ONE-QUARTER (SE ¼) OF SAID SECTION 12, A DISTANCE OF 429.63 FEET; THENCE NORTH 00°00'03" WEST, 390.00 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 89°58'29" WEST, 210.00 FEET; THENCE NORTH 00°00'03" WEST ALONG THE EAST BOUNDARY OF CHAPIN STATION, AS RECORDED IN PLAT BOOK 57, PAGE 28, A DISTANCE OF 928.08 FEET; THENCE NORTH 89°39'33" EAST ALONG THE SOUTH BOUNDARY OF TRAILS OF WINTER GARDEN, AS RECORDED IN PLAT BOOK 57, PAGE 109, A DISTANCE OF 644.67 FEET TO A POINT ON THE ARC OF A NON-TANGENT CURVE (RADIAL LINE THROUGH SAID POINT BEARS SOUTH 79°07'59" EAST); THENCE SOUTHERLY ALONG THE ARC OF SAID NON-TANGENT CURVE, BEING CONCAVE TO THE EAST, HAVING A RADIUS OF 985.37 FEET, A CENTRAL ANGLE OF 11°00'00", AN ARC DISTANCE OF 189.17 FEET; THENCE SOUTH 00°07'59" EAST, 364.90 FEET; THENCE SOUTHERLY ALONG THE ARC OF A TANGENT CURVE, BEING CONCAVE TO THE EAST, HAVING A RADIUS OF 8624.11 FEET, A CENTRAL ANGLE OF 01°54'40", AN ARC DISTANCE OF 287.66 FEET; THENCE SOUTH 02°02'39" EAST, 14.13 FEET; THENCE SOUTHERLY ALONG THE ARC OF A TANGENT CURVE, BEING CONCAVE TO THE WEST, HAVING A RADIUS OF 8564.11 FEET, A CENTRAL ANGLE OF 00°30'54", AN ARC DISTANCE OF 77.00 FEET (THE LAST FIVE COURSES DESCRIBED BEING COINCIDENT WITH THE WESTERLY RIGHT-OF-WAY OF EAST CROWN POINT ROAD AS DESCRIBED IN DEED BOOK 995, PAGE 466); THENCE SOUTH 89°58'29" WEST, 426.19 FEET TO THE POINT OF BEGINNING.

SAID LANDS LYING IN ORANGE COUNTY, FLORIDA, CONTAINING 13.446 ACRES, MORE OR LESS.



Ordinance 08-54

AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA, AMENDING CHAPTER 6 OF THE WINTER GARDEN CITY CODE; PROVIDING FOR SALE AND SERVICE OF ALCOHOLIC BEVERAGES BY BUSINESSES HOLDING STATE ISSUED BEVERAGE LICENSES ON SUNDAYS; EXPANDING THE HOURS OF SALE AND SERVICE OF SUCH BEVERAGES UNTIL 2:00 A.M. FOR SUCH BUSINESSES; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Winter Garden (“City”) desires to amend Chapter 6, § 6-4 of the Winter Garden Code in order to allow all businesses holding a state beverage license (“Licensees”) to sell or serve alcoholic beverages until 2:00 A.M. and on Sundays where such activity has been previously prohibited to Licensees;

WHEREAS, the City has been notified that enclaves within the City and nearby jurisdictions such as unincorporated Orange County and the City of Ocoee currently permit the sales of alcoholic beverages by Licensees until 2:00 A.M. each and every day of the week (see § 4-3, Orange County Code; § 38-6, Ocoee Code of Ordinances);

WHEREAS, Licensees and other entertainment venues located within the City limits have indicated that the City’s prohibition of alcohol sales on Sundays and between the hours of midnight and 2:00 a.m. has repeatedly placed them at a competitive disadvantage with nearby Licensees and entertainment venues located outside the City’s jurisdictional boundaries;

WHEREAS, the City desires to aid and encourage the City’s economic vitality and the growth and success of businesses within the City and provide the City’s citizens that choose to obtain alcoholic beverages up until 2:00 a.m. each day of the week with the opportunity to do so within their own City;

WHEREAS, the City believes that given the enclaves and neighboring jurisdictions and venues permitting responsible consumption of alcohol until 2:00 A.M. each day of the week, the City’s prohibition concerning sales and service of alcohol on Sundays and after midnight directs business away from the City to Licensees and venues located in enclaves and adjacent jurisdictions; and

WHEREAS, the City may adjust the times for the service and sale of alcohol pursuant to § 562.14, Fla. Stat.

BE IT ENACTED BY THE CITY OF WINTER GARDEN, FLORIDA:

SECTION I: SECTION 6-4. HOURS OF SALE, Section 6-4 is hereby amended to reflect the following changes (~~struck out~~ text indicates deletions while underlined text indicates additions):

- (a) No alcoholic beverages shall be sold, consumed or served or permitted to be served or consumed in any place holding a state license between the hours of ~~12:00 midnight~~2:00 a.m. and 7:00 a.m. of the same morning, except as provided in this section. ~~No alcoholic beverages shall be sold, consumed or served or permitted to be served or consumed in any place holding a state license between 12:00 midnight Saturday and 7:00 a.m. the following Monday, except as provided in this section.~~
- (b) Within the meaning of this section, a sale shall be regarded as being made if the alcoholic beverage is delivered to any person during prohibited hours, regardless of whether payment therefor is made at some other time. If any such licensed vendor is a corporation, the officers of such corporation shall be regarded as the owner thereof for purposes of enforcement of this section. All vendors holding state licenses to operate places of business shall not keep such places of business open for business during prohibited hours. If any door of such place of business is opened during prohibited hours except to admit the owner or one of his regular employees or if any person other than the owner or one of his regular employees enters into such place of business during prohibited hours, it shall be prima facie evidence that such place is open for business, ~~provided that nothing in this chapter shall be construed to prohibit the operation of a business for purposes other than the sale of alcoholic beverages during the hours between 12:00 midnight Saturday and 7:00 a.m. the following Monday.~~ Any place of business holding a state license, ~~except those places qualifying under subsection (c) of this section,~~ shall, at the hour of ~~12:00 midnight~~2:00 a.m., cause all outside lights on the premises occupied by it to be extinguished and shall cause all entrances and exits to such establishment to be locked, and the entrances and exits shall not be opened during the prohibited hours, except to admit the proprietor of such place of business and his employees to enter and to permit the egress of the proprietor, employees and customers of such place of business from the premises. Customers within the place of business at the hour of ~~12:00 midnight~~2:00 a.m. who have prior thereto purchased any single drink of alcoholic beverage and have not completed the consumption thereof shall be permitted to complete the consumption of such alcoholic beverage and shall be required by the proprietor or his employees to leave the place of business as soon as may be reasonably possible. Nothing contained in this chapter shall be construed so as to permit any place of business to sell or serve or permit alcoholic beverages to be sold or served during prohibited hours.
- ~~(c) In addition to the hours of sale of alcoholic beverages provided in this section, a bar or restaurant exhibiting live entertainment and having a seating capacity of 60 persons or more shall be permitted to sell and serve malt beverages, cocktails and other mixed alcoholic beverages, for consumption on the premises only,~~

~~during the hours from 12:00 midnight to 2:00 a.m. each day except Monday. This subsection shall only apply to sales by vendors holding those specific vendor's licenses permitting the sale of alcoholic beverages regardless of alcoholic content and where consumption on the premises is permitted, as defined in F.S. ch. 561 or within hotels, motels or restaurants holding a special license under F.S. § 561.20.~~

- (~~dc~~) However, licensees for the sale of alcoholic beverages in the city shall, on that date known as New Year's Eve (December 31), be permitted to remain open for such sales for one hour after the regular closing time established by this section. ~~When New Year's Eve (December 31) falls on a Sunday, licensees for the sale of alcoholic beverages in the city shall be allowed to be open between the hours of 6:00 p.m. and to remain open as established by this section.~~
- (~~ed~~) Restaurants shall be permitted to serve alcoholic beverages between the hours of 11:00 a.m. and 2:00 a.m.~~12:00 midnight seven days a week.~~
- (~~fe~~) Upon application for a city occupational license, the licensee must sign an affidavit attesting that the sale of food and nonalcoholic beverages consumed on the licensed premises will exceed 51 percent of the gross revenue of the business. To keep or renew this designation and occupational license, the licensee must file an affidavit verifying that the sale of food and nonalcoholic beverages consumed on the premises for the preceding 12 months exceeded 51 percent of the gross revenue of the business.

The city shall have access and the right to examine all records and source documents used to determine compliance with this rule. Licensees must give the city the means, facilities, and opportunity to verify the accuracy of these records. If a business holding a license to sell alcohol with the State of Florida sells less than 51 percent food for consumption of food on the premises compared with sales of alcohol in any year or in any two months preceding any audit, the business is ineligible to be deemed a restaurant pursuant to this section and may not be deemed a restaurant pursuant to this section until the business meets the definition of a restaurant in this section for 12 consecutive months after examination of the records by the city.

All audits provided by the licensee must conform to the requirements of the State of Florida, Department of Business and Professional Regulation.

SECTION II. INCONSISTENCY. If any Ordinances or parts of Ordinances are in conflict herewith, this Ordinance shall control to the extent of the conflict.

SECTION III. SEVERABILITY. If any portion of this Ordinance is determined to void, unconstitutional, or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall remain in full force and effect.

SECTION IV. CODIFICATION. That Section I and Section II of this Ordinance shall be codified and made a part of the City of Winter Garden Code of Ordinances; that the Sections of this Ordinance may be renumbered or relettered to accomplish such intention; the word "*Ordinance*" may be changed to "*Section*", "*Article*", or other appropriate word.

SECTION V. This Ordinance shall become effective upon approval by the City Commission at its second reading.

FIRST READING: _____ October 9 _____, 2008.

SECOND READING AND PUBLIC HEARING _____ November 13 _____, 2008.

APPROVED:

John Rees, Mayor/Commissioner

ATTEST:

Kathy Golden, City Clerk

RESOLUTION 08-15

A RESOLUTION OF THE CITY OF WINTER GARDEN, FLORIDA, APPROVING THE ANNUAL EXTENSION OF THE THREE YEAR AGREEMENT WITH QUALITY VAULTS INC., PROVIDING FOR CONFLICTING RESOLUTIONS AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, the City of Winter Garden City Commission adopted Resolution 06-20 on December 28, 2006, establishing the cemetery service rates for and closing services and other matters at the Winter Garden Cemetery based upon an approved three-year service contract with Quality Vaults, Inc. approved on December 28, 2006; and

WHEREAS, the City Commission also took action requiring the annual extension of said contract be approved by the City Commission from year to year.

NOW, THEREFORE, BE IT RESOLVED by the City Commission of the City of Winter Garden, Florida:

Section 1: The opening and closing burial space agreement with Quality Vaults, Inc. is hereby extended for one additional year.

Section 2: That all Resolutions or parts thereof that are in conflict with this Resolution are hereby rescinded and repealed to the extent of said conflict.

Section 3: That this Resolution shall take effect December 28, 2008.

PASSED AND ADOPTED by the City Commission of the City of Winter Garden, Florida, this 13th day of November 2008.

APPROVED:

MAYOR JOHN REES

ATTEST:

City Clerk Kathy Golden