



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

**REGULAR MEETING**

**DECEMBER 11, 2008**

**6:30 P.M.**

**CALL TO ORDER**

Determination of a Quorum

Invocation and Pledge of Allegiance

1. **APPROVAL OF MINUTES**

Regular Meeting of November 13, 2008

2. **PRESENTATION**

A. Overview of the City's Reclaimed Water System Master Plan – Public Services Director Cochran

B. Recognition of awards for Economic Development and City Hall design – City Manager Bollhoefer

3. **FIRST READING OF PROPOSED ORDINANCE**

A. **Ordinance 09-01**: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WINTER GARDEN, FLORIDA, AMENDING SECTIONS 38-91, 38-93 and 38-98 THROUGH 38-100 IN DIVISION 3, ARTICLE II, CHAPTER 38 OF THE CODE OF ORDINANCES OF THE CITY OF WINTER GARDEN DEFINING AND REGULATING LOT CLEANING; PROVIDING FOR CODIFICATION; PROVIDING FOR CONTROL; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE **with the second reading and public hearing scheduled for January 8, 2009** – Code Enforcement Director Wilson

4. **SECOND READING AND PUBLIC HEARING 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 – Planning Director Williams

5. **REGULAR BUSINESS**

A. Request by First American Fireworks Company for a temporary open-air vendor from December 27, 2008 to January 1, 2009 (6 days) and tent permit from December 20, 2008 to January 2, 2009 (14 days) at 13275 W. Colonial Drive (K-Mart Shopping Center) – Building Official Lukert

- B. **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 (*postponed November 13, 2008*) – Public Services Director Cochran
- C. Recommendation to approve Request for Qualification ranking and award continuing services contracts for Emergency Debris Management Services to Ceres Environmental Services and Phillips & Jordan, Inc. – Public Services Director Cochran
- D. Recommendation to approve Alternate #2 estimated at \$38,400 to improve stormwater drainage to 1181 W. Crown Point Springs Road – Public Services Director Cochran
- E. Recommendation to approve agreement for acquiring right-of-way on Plant Street and West Crown Point Road from Gil Inc. and Doug Laman – Planning Director Williams
- F. Recommendation to approve site plan for Hope Charter School parking expansion at 1550 East Crown Point Road – Planning Director Williams
- G. Request for reappointment by Mark Griffith to the General Employees Pension Board for an additional two-year term – City Clerk Golden
- H. Appointment to fill the unexpired term of Rocco Williams until March 1, 2011 on the Code Enforcement Board – City Clerk Golden

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

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

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

9. **MATTERS FROM MAYOR AND COMMISSIONERS**

**ADJOURN** to a regular City Commission meeting on January 8, 2009 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 09-01**

**AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WINTER GARDEN, FLORIDA, AMENDING SECTIONS 38-91, 38-93 and 38-98 THROUGH 38-100 IN DIVISION 3, ARTICLE II, CHAPTER 38 OF THE CODE OF ORDINANCES OF THE CITY OF WINTER GARDEN DEFINING AND REGULATING LOT CLEANING; PROVIDING FOR CODIFICATION; PROVIDING FOR CONTROL; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.**

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

**SECTION 1: Authority:** The City of Winter Garden has the authority to adopt this Ordinance pursuant to Article VIII of the Constitution of the State of Florida and Chapter 166, Florida Statutes.

**SECTION 2: Adoption:** Chapter 38, Article II, Division 3, Sections 38-91, 38-93, 38-98, 38-99 and 38-100 of the Winter Garden Code of Ordinances are hereby amended to shall read as follows (words that are ~~stricken out~~ are deletions; words that are underlined are additions):

**Sec. 38-91. Delegation of authority.**

The board of city commissioners hereby designates the Code Enforcement Director, Code Enforcement Division of the City as the Enforcement Official of this article and delegates to the Code Enforcement Division Manager the authority to enforce the provisions of this article, including the authority to cause any violation of this article to be terminated and abated, and the authority to impose a lien, ~~and request the board to impose a special assessment lien~~ upon any lot, tract or parcel of property for the actual cost of terminating and abating such violation.

**Sec. 38-93. Definitions.**

For the purpose of this article, the following words and terms shall have the meanings respectively ascribed:

*Actual cost* shall mean the actual contract amount, as invoiced by an independent contractor, for terminating and abating a violation of this article on any lot, tract or parcel of residential or commercial property pursuant to an order of the zoning director, plus the cost of serving notice, obtaining title information, advertising and recording any liens imposed hereunder.

~~*Building Official* shall mean the Director of Code Enforcement.~~

*Code enforcement Division Manager* shall mean the Manager of the City of Winter Garden Code Enforcement Division, or authorized designee.

*Code enforcement Inspector* shall mean a Code Enforcement Division Inspector of the Code Enforcement Division, and may include the Code Enforcement Division Manager.

*Compost bin* shall mean a container which is designed for the purpose of allowing plant material to decompose for use as fertilizer. For purposes of this article, any such compost bin shall be constructed of wire, wood lattice or other material which allows air to filter through the structure. The maximum permissible capacity for any compost bin shall be sixty-four (64) square feet with a maximum height of five (5) feet.

*Excessive growth* shall mean, grass, weeds or brush that has reached a height of at least eighteen (18) inches.

*Exterior portion of any building* shall mean those portions of a building which are open-sided, such that the open space within such portions of the building may be lawfully viewed by the public or any member thereof from a sidewalk, street, alleyway, parking lot or from any adjoining or neighboring premises. This definition includes such open-sided structures as carports and porches.

*Exterior portion of the property* shall mean those portions of a lot, tract or parcel of land which is either (1) outside of any building erected thereon, or (2) if there is no building erected thereon the entire lot, tract or parcel, regardless of whether such portions are exposed to public view or are surrounded by a fence, wall, hedge or other similar structure. For purposes of this article, the term "exterior portion of the property" shall include the "exterior portion of any building" only where specifically stated.

*Fill* shall mean material such as dirt that is imported and deposited on property by artificial means.

*Garbage container* shall mean a container made of nonabsorbent material provided with a close-fitting cover, side bail handles, and of thirty-two (32) gallons or less gross capacity, capable of receiving and holding waste material without leakage or escape of odors, or a waterproof bag of strength and material capable of receiving and holding waste material without leakage or escape of odors.

*Grass, weeds, or brush* shall mean any grass or weeds, or brush typical of the state which, when allowed to grow in a wild and unkempt manner, will reach a height of eighteen (18) inches or more. This definition does not include bushes, shrubs, trees, vines, flowering plants, or any other living plant life typically used and actually being used for landscaping purposes.

*Imminent public health threat* shall mean the condition of any lot, tract or parcel or land that, because of the accumulation of junk, trash, or debris, such as broken glass, rusted metal, automotive and appliance parts, some of which may contain chemicals, such as Freon, oils, fluids, etc., may cause injury or disease to humans or contaminate the environment, or the condition of any lot, tract or parcel that, because of the excessive growth of grass, weeds, bush or is a harbor for criminal activity.

*Improved property* shall mean any lot, tract or parcel of land in the city used for residential, commercial, professional office or industrial purposes which contains one or more buildings or structures, paving or other improvements, excluding solely underground utilities, pipes, wires, cable culverts, conduits or other similar improvements.

*Mechanical garbage container* shall mean any portable, nonabsorbent container approved by the board of city commissioners which is used to store large volumes of refuse and which is emptied by mechanical means.

*Nonliving plant material* shall mean nonliving vegetation such as leaves, grass cuttings, shrubbery cuttings, tree trimmings and other material attending the care of lawns, shrubs, vines and trees.

*Property* shall mean any lot, tract or parcel of land, or portion thereof, whether improved or unimproved, that is utilized or zoned for residential, commercial, professional office or industrial use, or any lot, tract or parcel of land, or portion thereof, and adjacent right-of-way, whether improved or unimproved, that is zoned agricultural but is being utilized, as determined by the code enforcement division manager, for residential, nonagricultural commercial, professional office or nonagricultural industrial use.

*Trash, junk and debris* shall mean waste material, including, but not limited to, putrescible and nonputrescible waste, combustible and noncombustible waste, and generally all materials such as paper, cardboard, tin cans, lumber, concrete rubble, glass, bedding, crockery, household furnishings, household appliances, dismantled pieces of motor vehicles or other machinery, rubber tires or rusted metal articles of any kind.

*Unimproved property* shall mean any lot, tract or parcel of land in the city used for residential, commercial, professional office or industrial purposes which does not contain any buildings or structures, paving or other improvements, but may include solely underground utilities, pipes, wires, cables, culverts, conduits or other similar improvements.

~~*Separate Offense* shall mean a violation that exist more than 24 hours after proper notice.~~

All other words and terms shall be from the latest edition of Webster Dictionary.

**Sec. 38.98. Enforcement; abatement of nuisance.**

(a) First violation. ~~(1)~~ Whenever a code enforcement Inspector reports to the code enforcement division manager that there appears to be a violation of section 38-94 or 38-95, the code enforcement division manager shall direct that a notice of violation be served upon the owner, and, if applicable, the agent, custodian, lessee or occupant, directing such owner, and, if applicable, the agent, custodian, lessee or occupant, to terminate and abate the violation within ten (10) calendar days of the date such notice is received. For purposes of this Division "notice is received" on the earliest of the day it is hand delivered to the property owner, the date the property is posted with said notice, or five days after said notice is mailed to the property owner, postage prepaid by certified mail, hand delivered or posted. For purposes of this article, the term "notice is received" means the date the owner, agent, custodian, lessee or occupant initials or otherwise indicates his receipt of the notice of violation. However, in the event the notice of violation is not accepted or is returned, the term "notice is received" shall mean ten (10) calendar days after the later of the date the notice of violation was mailed or the property was posted. The code enforcement division manager shall, within five (5) days of the date the notice is mailed, cause a sign to be placed upon the property in a conspicuous and easily visible location. The sign shall be at least eight inches by twelve inches in size and shall include the following information:

a. a sufficient description by address and/or legal description to identify the property upon which the violation exists;

b. a description of the violation to be terminated and abated; ~~and~~

c. a statement that if the described violation is not terminated and abated within ten (10) calendar days after notice is received the code enforcement division manager shall cause the violation to be terminated and abated, ~~and~~

d. ~~that to impose~~ a special assessment lien shall be imposed upon the property for the actual cost of such termination and abatement, plus administrative expenses, and

e. a preliminary nonbinding, minimum estimate of the cost of termination and abatement.

~~For purposes of this Division section "notice is received" on the earliest of the day it is hand delivered to served upon the property owner, or the date the property is posted with said notice, or five (5) days after said notice is mailed to the property owner, postage prepaid. A preliminary nonbinding, minimum estimate of the cost of termination and abatement shall be provided as part of the notice of violation. The estimated cost of termination and abatement shall be based upon the then current rate as may be established by the board of city commissioners.~~

f. ~~(2)~~ The notice of violation shall further state in bold and conspicuous letters that if such violation, within the ten-day period prescribed by subsection (a) of this section:

1a. Has not been terminated and abated; or

2b. Has not been timely appealed in accordance with section 38-99; or

~~3e.~~ Has been timely appealed but the appeal process proves unsuccessful, then the code enforcement division manager shall cause the violation to be terminated and abated, and the actual cost of such termination and abatement, plus administrative fees~~expenses~~, shall constitute a special assessment lien on the property in accordance with section 38-100.

~~(b) Subsequent violation during same calendar year.~~ If weeds, excessive growth of grass or plant material are permitted to grow or accumulate on private property in violation of this article more than one (1) time ~~during the same growing season within one calendar year of, and a prior violation that was terminated and abated pursuant to this Division of this article was set before the code board during such growing season in the manner set forth in section 38-98 of this Code,~~ then the Director of Code Enforcement, or his/her duly authorized agent, may, without further notification, remove such noxious growths in the manner set forth in section 38-98(c) of this Code, and may collect the total cost of such removal in the manner set forth in section 38-98 ~~100~~ of this Code. The Director of Code Enforcement or designee may hire and enter into contracts with independent contractors to destroy or remove such weeds, excessive growth of grass or plant material.

(c) Imminent health threat (first and subsequent violations). In a case involving a condition which poses an imminent public health threat, the code enforcement division manager may, without prior notice, authorize the immediate termination and abatement of the condition.

~~(d) After the fact notice: Whenever the code enforcement division manager proceeds pursuant to sub-section (b) or (c) herein. However,~~ an after-the-fact notice shall be provided not later than five (5) days after the termination or abatement of the condition ~~pursuant to the procedures described in subsection (a) above, where the notice is for a first violation, and the notice shall explain how the code enforcement division manager determined that the property contained a condition which posed an imminent public health threat requiring its immediate termination and abatement, that the property has been cleaned of the condition, and that the aggrieved party may file a notice of appeal to show that the property did not contain such violation,~~ which notice shall include the following:

1. a description of the conditions that were terminated and abated;
2. whether the conditions were terminated and abated without prior notice due to sub-section (b) or (c), herein;
3. the actual cost of the termination and abatement, together with administrative fees, is due to be paid within ten days of the notice;
4. that the failure to pay the actual costs and administrative fees when due will result in imposition of a special assessment lien against the property; and
5. that the property owner may file a notice appeal to show that the property did not contain such violation within ten days of the notice, as provided by Section 38-99.

~~(e) (d)~~ If the owner ~~or owners~~ or other person in control of any property ~~described in section 38-98 of this Code~~ fails to destroy the weeds, excessive growth of grass or other plant material and thereby abate the nuisance within ten (10) days after the notice described in Section 38-98(a) is delivered, the Director of Code Enforcement or designee, shall cause such nuisance to be terminated and abated. ~~weeds, excessive growth of grass or other plant material to be destroyed by one of the methods set forth in section 38-98 of this Code.~~ The Director of Code Enforcement or designee may hire and enter into contracts with independent contractors to destroy or remove such weeds, excessive growth of grass or other plant material.

~~(e) — Upon the completion of the destruction of such noxious growths by the director of public works, or by a person authorized by contract, the director of public works, or his duly authorized agent, shall cause the total cost of such work to be determined and by report certify the same to the city clerk.~~

(f) Upon approval of such report by the Code Enforcement Manager, the Code Enforcement Manager shall endorse the report and shall cause the certified cost to be included in a special tax bill to be collected by the Orange County Tax Collector. The special tax bill shall include a charge of thirty dollars (\$30.00) for each inspection of the property and the giving of notice plus the cost of abatement as determined by the Director of Code Enforcement. In the event the tax collector is unable to collect the certified cost on the special tax bill within ninety (90) days of the due date, the director of code enforcement and Orange County tax collector shall cause the certified cost to be added to the annual real estate tax bill for the property and the certified cost shall be collected in the same manner and procedure for collecting real estate taxes. If the certified cost is not paid when due, the tax bill shall be considered delinquent, and the collection of the delinquent bill shall be governed by the laws governing delinquent and back taxes. The tax bill from the date of its issuance shall be deemed a personal debt against the property owner and shall also be a first lien on the property until paid. In the event a lawsuit is required to enforce the tax bill, the city may charge the property owner costs of collecting the tax bill including attorneys' fees

### **Sec. 38.99. Appeals.**

(a) Within the ten-day (10) period prescribed by subsection 38-98 after notice is received, an aggrieved party may appeal the code enforcement division manager's determination that a notice of violation is warranted for the property in question pursuant to ~~(see subsection 38-98(a),~~ or that the property did not contain a condition authorizing immediate termination and abatement, pursuant to ~~which posed an imminent public health threat (see subsection 38-98 (b) and (c)).~~

(b) An appeal by an aggrieved party shall:

(1) Be accompanied by a filing fee as determined by the board of city commissioners; and

(2) Be addressed to the code enforcement division manager; and

(3) Be either hand-delivered to the code enforcement division manager or postmarked within the ten-day period after notice is received.

(c) Upon receipt of a timely appeal, the code enforcement manager shall schedule a hearing date before the code enforcement board.

(d) At the hearing, the code enforcement board shall allow the code enforcement division manager or designee(s) and the aggrieved party an opportunity to present evidence and to examine and cross-examine witnesses. After considering the evidence and testimony, the hearing Inspector or code enforcement board shall make a factual determination as to whether the property is (or was, with respect to subsection 38-98 in violation of this article. If the hearing Inspector or code enforcement board makes a factual determination that the property is (or was) in violation of this article, he shall affirm the code enforcement division manager's issuance of the notice of violation and, with respect to an appeal brought under subsections 38-98 (a), (b) or (c), ~~99 and 38-100~~ issue an order requiring the aggrieved party to promptly clean the property in order to terminate or abate the violation, or, with respect to an appeal filed under subsection 38-98 (b) or (c) issue an order holding that the conditions allowed constituted an immediate public health threat requiring its immediate termination or abatement. If the aggrieved party has not remedied the violation within five (5) calendar days after the date of the code enforcement board's written order holding that this article has been violated, then the code enforcement division manager may have the property cleaned, and the property owner shall be responsible for such costs and related expenses. If the code enforcement board makes a factual determination that the property is not (or was not, with respect to subsection 38-98(b) or (c) in violation of this Divisionarticle, then the filing fee shall be returned to the aggrieved party, and, with respect to an appeal filed under subsection 38-98(b) or (c) 9 the city shall be responsible for the costs of cleaning the property.

(e) Appeal of the code enforcement board decision, whether it is a first or subsequent offense, or an imminent health threat, shall be filed in a timely manner with the circuit court under the provisions of section 71 of the Winter Garden Code.

**Sec. 38.100. Liens; assessment.**

(a) After causing the nuisance condition to be remedied as provided in section 38-98, the code enforcement division manager shall certify to the city clerk the actual cost incurred in remedying the condition, whereupon such cost, plus a charge equal to 100 percent of such cost to cover city administrative expenses, shall become payable within 10 days, after which a special assessment lien and charge will be made upon the property, which shall be payable with interest at the rate of 12 percent per annum from the date of such certification until paid. The actual cost and administrative expenses of a termination and abatement of a violation of this article when such termination and abatement is accomplished under the direction of the code enforcement division manager shall be levied and constitute a special assessment lien against the property as set forth in subsection (c).

(b) Prior to approving and recording a claim of special assessment lien pursuant to subsection (c), the city shall, by hand or certified mail, return receipt requested, deliver or send a notice of assessment of costs to the last known owner of record of the subject real property. If the assessment is not paid or arrangements satisfactory to the city have not been made to pay such assessment within ~~ten~~<sup>thirty (30)</sup> days after notice is received~~return of the receipt~~, then the claim of special assessment lien may be ~~approved and~~ recorded.

(c) Such lien shall be enforceable in the same manner as a tax lien in favor of the city and may be satisfied at any time by payment thereof, including accrued interest. Notice of such lien may be filed in the office of the clerk of the circuit court and recorded among the public records of the county. After the violation of this article is abated in accordance with this article and complies with the requirements of subsection (b), the city is authorized to approve and record a claim of special assessment lien in the official records of the city. The claim of special assessment lien is subject to the following conditions and requirements as set forth in Section 2-69 in the Winter Garden Code.

(d) The city attorney is authorized and directed to institute such proceedings in the name of the city in any court having jurisdiction over such matters against any property for which a lien has been filed pursuant to this and the property owner shall be liable for all costs, including reasonable attorney's fees, incurred in any such action.

**SECTION 3: Codification:** Section 2 of this Ordinance shall be codified and made part of the City of Winter Garden Code of Ordinances.

**SECTION 4: Control:** In the event of a conflict or conflicts between this ordinance and other ordinances, this ordinance controls.

**SECTION 5: Severability:** It is the intent of the City Commission of the City of Winter Garden, and is hereby provided, that if any section, subsection, sentence, clause, phrase or provision of this Ordinance is held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall be construed as to render invalid or unconstitutional the remaining provisions of this Ordinance.

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

**FIRST READING:** \_\_\_\_\_ December 11 \_\_\_\_\_, 2008.

**SECOND READING AND PUBLIC HEARING:** \_\_\_\_\_ January 8 \_\_\_\_\_, 2009.

**ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_, by the City Commission of the City of Winter Garden, Florida.

City of Winter Garden City Commission  
Regular Meeting Agenda for December 11, 2008

APPROVED:

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John Rees, Mayor/Commissioner

ATTEST:

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KATHY GOLDEN, City Clerk

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**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, 2009, 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, 2009, 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: November 13, 2008.

READ SECOND TIME AND PUBLIC HEARING HELD: December 11, 2008.

**PASSED AND ADOPTED THIS 11th DAY OF December, 2008.**

APPROVED:

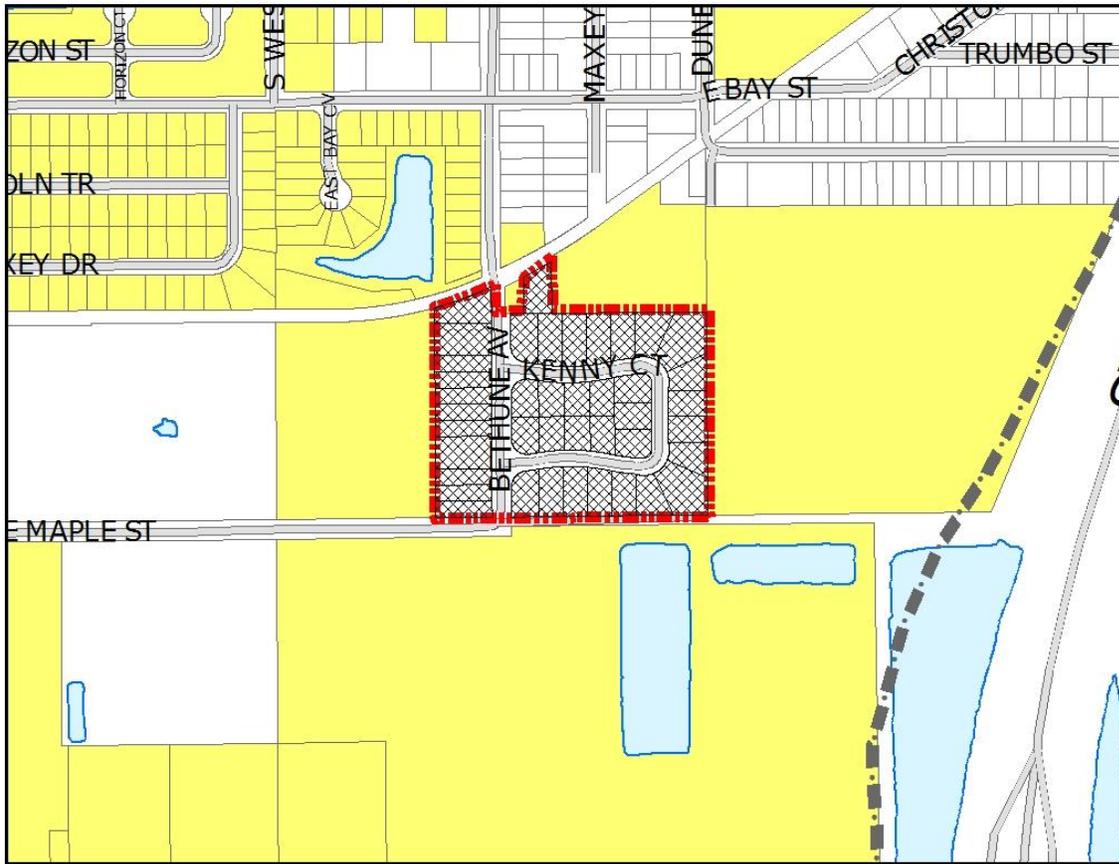
\_\_\_\_\_  
JOHN REES, Mayor/Commissioner

ATTEST:

\_\_\_\_\_  
KATHY GOLDEN, City Clerk

Revised 11/18/08

ATTACHMENT "A"



**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