



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

REGULAR MEETING

FEBRUARY 12, 2009

6:30 P.M.

CALL TO ORDER

Determination of a Quorum

Invocation and Pledge of Allegiance

1. APPROVAL OF MINUTES

Regular Meeting of January 22, 2009

2. SECOND READING AND PUBLIC HEARING OF PROPOSED ORDINANCES

A. **Ordinance 09-04:** AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA, AMENDING SECTION 118-1390 OF THE CITY OF WINTER GARDEN CODE OF ORDINANCES TO REDUCE THE PARKING USER FEE FOR THE DOWNTOWN CORE AND TO AUTHORIZE PAYMENT OF PARKING FEES THROUGH AN OPTIONAL INSTALLMENT PAYMENT; RENUMBERING SECTION 118-1390 TO SECTION 118-1389 TO CONFORM WITH MUNICIPAL CODE CORPORATION'S SEQUENTIAL ORDERING EDIT CONCERNING ORDINANCE NO. 07-02; PROVIDING FOR CONFLICTS, CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE - Planning Director Williams

B. **Ordinance 09-05:** AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA, AMENDING ORDINANCE 08-50, THE CITY OF WINTER GARDEN FISCAL YEAR 2008-2009 BUDGET TO CARRY FORWARD PRIOR YEAR APPROPRIATIONS; PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE – Finance Director Hayes

C. **Ordinance 09-06:** AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA, AMENDING CHAPTER 98, ARTICLE II, SECTION 98-26 OF THE WINTER GARDEN CITY CODE; PROVIDING FOR THE REDUCTION OF TERMS OF OFFICE FOR PLANNING & ZONING BOARD MEMBERS FROM FOUR YEARS TO TWO YEARS; PROVIDING FOR THE ELIMINATION OF THE CITY MANAGER AND CITY ENGINEER AS EX OFFICIO MEMBERS OF THE PLANNING & ZONING BOARD AND PROVIDING FOR THE CITY MANAGER'S PARTICIPATION DURING PLANNING & ZONING BOARD MEETINGS; PROVIDING FOR CODIFICATION, SEVERABILITY, AND AN EFFECTIVE DATE – City Manager Bollhoefer

3. REGULAR BUSINESS

A. Recommendation to affirm the Planning and Zoning Board's denial for a child day care center (Kids R Kids) at 420 Roper Road – Planning Director Williams

B. Recommendation to approve a site plan, with conditions, for Westside Family Worship Center at 12520 Warrior Road – Planning Director Williams

C. **Resolution 09-02:** A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WINTER GARDEN, FLORIDA, DECLARING THE QUALIFYING RESULTS OF THE 2009 GENERAL ELECTION FOR DISTRICTS 2, 3 AND 4; AUTHORIZING ISSUANCE OF

ELECTION CERTIFICATES FOR DISTRICTS 3 AND 4; AND DECLARING THE ELIGIBLE CANDIDATES FOR DISTRICT 2 CITY COMMISSIONER TO BE HELD ON MARCH 10, 2009 – City Clerk Golden

- D. **Resolution 09-03:** A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WINTER GARDEN, FLORIDA, DECLARING THE RESULTS OF THE SPECIAL ANNEXATION REFERENDUM HELD ON JANUARY 27, 2009 AS INITIATED UNDER ORDINANCE 08-05– City Clerk Golden
- E. Appointment of three members to the Code Enforcement / Nuisance Abatement Board for expiring terms of Ms. Wilder, Mr. Skubas and Mr. Lomneck on March 1, 2009 – City Clerk Golden

- 4. **OATH OF OFFICE ADMINISTERED TO UNOPPOSED CITY COMMISSIONERS OF DISTRICTS 3 AND 4** – City Clerk Golden
- 5. **MATTERS FROM CITIZENS** (*Limited to 3 minutes per speaker*)
- 6. **MATTERS FROM CITY ATTORNEY** – Kurt Ardaman
- 7. **MATTERS FROM CITY MANAGER** – Mike Bollhoefer
- 8. **MATTERS FROM MAYOR AND COMMISSIONERS**

ADJOURN to a regular City Commission meeting on February 26, 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 09-04

AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA, AMENDING SECTION 118-1390 OF THE CITY OF WINTER GARDEN CODE OF ORDINANCES TO REDUCE THE PARKING USER FEE FOR THE DOWNTOWN CORE AND TO AUTHORIZE PAYMENT OF PARKING FEES THROUGH AN OPTIONAL INSTALLMENT PAYMENT; RENUMBERING SECTION 118-1390 TO SECTION 118-1389 TO CONFORM WITH MUNICIPAL CODE CORPORATION'S SEQUENTIAL ORDERING EDIT CONCERNING ORDINANCE NO. 07-02; PROVIDING FOR CONFLICTS, CODIFICATION, SEVERBILITY AND AN EFFECTIVE DATE.

WHEREAS, on May 10, 2007, the City adopted Ordinance 07-20 creating an alternative mechanism for Downtown Core properties to meet parking space requirements by giving Downtown Core property owners the option of paying a user fee into the City's Downtown Parking District Trust Fund in lieu of providing on-site parking spaces; and

WHEREAS, the City desires to continue to provide a positive environment for new businesses, expanding businesses, and development in the Downtown Core of the City of Winter Garden, and

WHEREAS, given the current condition of the economy and the desire to continue to spur Downtown Core development and redevelopment, the City has reevaluated the costs of construction of public parking spaces, the user fee established under Ordinance 07-20 and the City's findings set forth in the Downtown Winter Garden Parking Study 2005 referenced in Ordinance 07-20; and

WHEREAS, pursuant to the City's reevaluation of parking space cost, the City Staff has estimated the per parking space cost to be approximately \$15,000.00 (in 2008 dollars); and

WHEREAS, pursuant to the City's reevaluation of parking space shared cost, the City Staff has estimated the per parking space shared cost to be approximately \$5,000.00 (in 2008 dollars); and

WHEREAS, the City desires to renumber Section 118-1390 to Section 118-1389 in accordance with Municipal Code Corporation sequential numbering edit concerning Ordinance 07-20; and

WHEREAS, in order to lessen the hardship on Downtown Core owners of making a significant lump sum payment for parking user fees prior to occupancy of buildings and structures, the City desires to allow the City Manager authority to negotiate installment payment agreements with Downtown Core owners.

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

Section I Section 118-1390 of the City Code shall be renumbered to Section 118-1389 and shall be revised to read as follows (words that are ~~stricken-out~~ are deletions; words that are underlined are additions):

Sec. 118-1389. Parking user fee for the downtown core.

(a) *Purpose and intent.* The intent and purpose of this section is as follows:

(1) To protect the health, safety and general welfare of the citizens and visitors of Winter Garden.

(2) To facilitate orderly development within the downtown core.

(3) To enhance parking level of service within the downtown core and to promote economic well-being within the downtown core and the city as a whole.

(4) To provide adequate parking for the downtown core.

(5) To ensure that new and expanding developments that cannot provide adequate on-site parking shall bear a share of the cost for the provision of new or expanded parking facilities.

(6) To establish a parking trust fund that will be used to maintain existing and future parking spaces as well as to construct new parking spaces.

(7) To establish a downtown parking fee option for new and expanding developments within the downtown core.

(b) *Generally.* As required by section 118-1386, all new and expanding developments and all changes of use of existing buildings and properties within the downtown core must provide adequate parking. At the option of the property owner or business owner, the below parking user fee may be paid in lieu of providing all or some of the required parking.

(c) *Parking calculations.* The number of paved parking spaces for new and expanding developments in the downtown core will be as follows:

- Restaurants - One parking space for each four patron seats.
- Residential - Two parking spaces for each residential unit.
- All other allowable uses - Three parking spaces for each 1,000 square feet of gross space.

(d) *Vesting.* The current number of parking spaces provided by all existing improved properties are vested for their current use, square footage and parking as of the effective date of this section. Any change of use, modification of square footage of structures or increased use such as outdoor cafes or seating will require a determination or assessment of parking need. If the assessment determines additional parking is needed, that parking shall comply with provisions of this section.

(e) Property owner must either provide the required parking on-site, off-site within four hundred feet of the entrance, pay the appropriate amount of the downtown core parking fee or some combination of the three.

(f) The downtown core parking fee shall be ~~\$7,000.00 (in 2007 dollars)~~ \$5,000.00 per space. The fee is based on one-third cost of land and parking to provide a typical space. The downtown core parking fee ~~may shall~~ be increased at any time each year by two and one-half percent per year beginning January 1, 2008 the prior year's fee unless a different adjustment is made by Resolution of the Winter Garden City Commission by Resolution. The downtown core as identified on Exhibit "A" of Ordinance No. 07-20 may be amended by Resolution by the Winter Garden City Commission.

(g) *Downtown parking district trust fund.* The downtown parking district trust fund shall be established at the time of the payment of the first parking user fee. The payment to the trust fund shall be used for the following purposes:

(1) Acquire, construct, or develop on-street and off-street parking and related facilities on interim or long-term basis.

(2) Fund the capital costs associated with new, upgraded, and/or expanded on-street and off-street parking areas serving land uses within the downtown core.

(3) Acquisition of land for future surface parking lots or garage construction.

(4) Maintenance, including but not limited to lighting, landscaping, striping, signage, and resurfacing, of present and future city-owned parking spaces.

(h) *Reserved parking.* Payment into the parking trust fund does not in any way entitle any property or business owner to ownership, use, occupancy or claim to any parking spaces owned by the city. No parking spaces will be reserved for any person or entity and all will remain available for public parking subject to the rules and ordinances of the City of Winter Garden and provided that the city manager may reserve any or all of the parking spaces for emergency, law enforcement, and municipal service purposes, as well as special events and activities.

(i) *Payment.* The downtown core parking fee is due prior to the occupancy of applicable buildings and structures. The city manager shall have the authority to negotiate and enter into agreements with downtown core owners allowing the downtown core parking fee to be made in installment payments; provided that at least twenty-five percent (25%) of the parking fee is paid prior to occupancy and the remaining amount due shall be paid in no more than thirty-six (36) months from occupancy of the applicable buildings and structures.

~~(j)~~ (j) *Administration.* The city manager is authorized to develop any required forms and/or contracts to implement this section. Appeal of staff determination or request for waiver or variance shall be to city manager.

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

Section III Section I of this Ordinance shall be codified and made a part of the City of Winter Garden Code of Ordinances and the provisions of this Ordinance may be renumbered or relettered to accomplish such intention.

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

FIRST READING: January 22 2009.

SECOND READING AND PUBLIC HEARING: February 12 2009.

APPROVED:

John Rees, Mayor/Commissioner

ATTEST:

KATHY GOLDEN, City Clerk

ORDINANCE 09-05

AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA, AMENDING ORDINANCE 08-50, THE CITY OF WINTER GARDEN FISCAL YEAR 2008-2009 BUDGET TO CARRY FORWARD PRIOR YEAR APPROPRIATIONS; PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, on September 25, 2008, the City Commission of the City of Winter Garden, Florida, adopted Ordinance 08-50 appropriating and allocating all revenue and funds of the City of Winter Garden, Florida for the tax year beginning October 1, 2008 and ending September 30, 2009;

WHEREAS, the City Commission has decided to amend the City of Winter Garden, Florida Budget for the tax year beginning October 1, 2008 and ending September 30, 2009 to provide for budget carryovers from the preceding budget year;

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

SECTION 1: That the sum of \$27,239,235 to be appropriated as follows:

REVENUES

General Fund	\$ 1,706,829
Downtown Parking District	681,000
Community Redevelopment Agency	150,000
Local Option Gas Tax Fund	38,970
General Impact Fee Fund	9,424,932
CR 545 Special Benefit	
Impact Fee	4,725,679
General Transportation	
Impact Fee	658,248
New City Hall Fund	282,358
Utilities Operating Fund	4,530
Utilities Impact Fee Fund	8,794,750
Utilities Renewal & Replacement	25,232
Stormwater Fund	702,207
Trailer City Fund	<u>44,500</u>
\$27,239,235	

EXPENSES

General Fund	\$ 1,706,829
Downtown Parking District	681,000
Community Redevelopment Agency	150,000
Local Option Gas Tax Fund	38,970
General Impact Fee Fund	9,424,932
CR 545 Special Benefit	
Impact Fee	4,725,679
General Transportation	
Impact Fee	658,248
New City Hall Fund	282,358
Utilities Operating Fund	4,530
Utilities Impact Fee Fund	8,794,750
Utilities Renewal & Replacement	25,232

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Stormwater Fund	702,207
Trailer City Fund	<u>44,500</u>
	\$27,239,235

SECTION 2: Detail for the aforementioned totals is attached as Exhibit 1, which shall be incorporated in the Ordinance. Should any portion of this Ordinance be held invalid, then such portions as are not declared to be invalid shall remain in full force and effect.

SECTION 3: This Ordinance shall become effective upon its adoption at the second reading and public hearing.

READ FIRST TIME: January 22, 2009

READ SECOND TIME AND PUBLIC HEARING HELD: February 12, 2009

APPROVED:

Mayor/Commissioner John Rees

ATTEST:

Kathy Golden, City Clerk

**City of Winter Garden
 Carry Forward Budget
 Ordinance 09-05**

Exhibit 1

<u>Account Number</u>	<u>Project</u>	<u>Account Description</u>	<u>Amount</u>	Item Description
General Fund				
001-0213-381.99-99		Use of Fund Balance	1,706,829	
		Total Revenues	1,706,829	
Executive:				
001-0213-512.34-01		Contractual Services	382,700	848 E Plant St
001-0213-512.34-01		Contractual Services	98,981	Crown Point Springs Pond
Information Technology:				
001-0225-513.63-00	08001	Improvements Other Than Buildings	64,357	Wireless Connectivity Ph I
Police:				
001-0521-521.62-00	08032	Building	33,000	Re-roof Existing Police Station
001-0521-521.64-00		Machinery and Equipment	164,695	
Fire:				
001-0622-522.62-00	08017	Building	186,974	Fire Dept Headquarters
001-0622-522.64-00		Machinery and Equipment	2,500	CART-24 Roof
001-0622-522.64-00		Machinery and Equipment	3,000	Hose Bed Covers
001-0622-522.64-00		Machinery and Equipment	226,178	Medic 24 - Ambulance and Capital Equipment
001-0622-522.64-00		Machinery and Equipment	7,100	Thermal Imaging Camera
Public Services Admin:				
001-0701-539.63-00	08036	Improvements Other Than Buildings	794	Gate-Outgoing Card Reader
Streets:				
001-0741-541.63-00	06016	Improvements Other Than Buildings	381,400	Tremaine St-Highland to Main
001-0741-541.63-00	08033	Improvements Other Than Buildings	4,505	Downtown Event Power
001-0741-541.63-00	08034	Improvements Other Than Buildings	25,695	Plant St/Park Av Power
Parks and Recreation-Parks:				
001-0775-572.63-00	06064	Improvements Other Than Buildings	123,361	Southside Park @ Cemetery
001-0775-572.63-00	08036	Improvements Other Than Buildings	1,589	Gate-Outgoing Card Reader
		Total Expenditures	1,706,829	
Downtown Parking District Fund				
110-0000-389.99-99		Use of Fund Balance	681,000	
		Total Revenues	681,000	

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110-0741-541.63-00	04003	Improvements Other Than Buildings	681,000	<i>Boyd Street Parking Lot</i>
		Total Expenditures	681,000	
Community Redevelopment Agency Fund				
120-0213-389.99-99		Use of Fund Balance	150,000	
		Total Revenues	150,000	
120-0213-552.63-00	08015	Improvements Other Than Buildings	150,000	<i>Dillard School Drainage Imp</i>
		Total Expenditures	150,000	
Local Option Gas Tax Fund				
160-0741-381.99-99		Use of Fund Balance	38,970	
		Total Revenues	38,970	
160-0741-541.63-00	06016	Improvements Other Than Buildings	38,970	<i>Tremaine St-Highland to Main</i>
		Total Expenditures	38,970	
General Impact Fee Fund				
170-0021-389.99-99		Use of Fund Balance-Police	1,527,432	
170-0022-389.99-99		Use of Fund Balance-Fire	1,406,152	
170-0072-389.99-99		Use of Fund Balance-Recreation	2,609,642	
170-0741-389.99-99		Use of Fund Balance-Streets	3,881,706	
		Total Revenues	9,424,932	
Police:				
170-0021-521.62-00	08019	Building	1,000,000	<i>Purchase of Muni Complex Building</i>
170-0021-521.62-00	08020	Building	317,762	<i>Building Renovations</i>
170-0021-521.64-00		Machinery and Equipment	209,670	
Fire:				
170-0022-522.62-00	06069	Building	927,352	<i>Fire Station 22 - Daniels Rd</i>
170-0022-522.62-00	08017	Building	400,000	<i>Fire Dept (Administration) Headquarters</i>
170-0022-522.64-00		Machinery and Equipment	78,800	
Recreation:				
170-0072-572.62-00	06064	Building	1,494,259	<i>Southside Park @ Cemetery</i>
170-0072-572.62-00	06064	Improvements Other Than Buildings	1,115,383	<i>Southside Park @ Cemetery</i>
Streets:				
170-0741-541.63-00	07037	Improvements Other Than Buildings	3,881,706	<i>Plant St Widen/W Crown Pt</i>
		Total Expenditures	9,424,932	

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CR 545 Special Benefit Impact Fee Fund

173-0741-389.99-99		Use of Fund Balance	4,725,679	
		Total Revenues	4,725,679	

173-0741-541.63-00	07018	Improvements Other Than Buildings	4,725,679	<i>CR 545 S - Special Benefit</i>
		Total Expenditures	4,725,679	

General Transportation Impact Fee Fund

174-0741-389.99-99		Use of Fund Balance	658,248	
		Total Revenues	658,248	

174-0741-541.63-00	08006	Improvements Other Than Buildings	658,248	<i>Plant St - 9th to 429</i>
		Total Expenditures	658,248	

New City Hall Fund

333-0213-389.99-99		Use of Fund Balance	282,358	
		Total Revenues	282,358	

333-0213-513.62-00		Building	100,000	<i>New City Hall</i>
333-0213-513.64-00		Machinery and Equipment	182,358	<i>Machinery and Equipment for New City Hall</i>
		Total Expenditures	282,358	

Utilities Operating Fund

410-2116-389.99-99		Use of Fund Balance	4,530	
		Total Revenues	4,530	

410-2116-533.63-00	08036	Improvements Other Than Buildings	4,530	<i>Gate-Outgoing Card Reader</i>
		Total Expenses	4,530	

Utilities Impact Fee Fund

411-2116-389.99-17		Use of Fund Balance	8,794,750	
		Total Revenues	8,794,750	

411-2117-535.63-00	04037	Improvements Other Than Buildings	45,841	<i>Reuse Master Plan</i>
411-2117-535.63-00	08007	Improvements Other Than Buildings	1,395,569	<i>Sludge Dewatering</i>
411-2126-533.63-00	06016	Improvements Other Than Buildings	69,300	<i>Tremaine St - Highland to Main</i>
411-2127-535.63-00	03014	Improvements Other Than Buildings	2,018,507	<i>Trunk Line C - Phases 3, 4, and 5</i>
411-2127-535.63-00	04014	Improvements Other Than Buildings	764,999	<i>W Crown Pt Rd Force Main</i>
411-2127-535.63-00	05020	Improvements Other Than Buildings	1,679,260	<i>Trunkline C Ph 6*</i>

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411-2127-535.63-00	05076	Improvements Other Than Buildings	632,274	<i>Reuse Water Main (Crest>9th/LDC)</i>
411-2127-535.63-00	08008	Improvements Other Than Buildings	2,189,000	<i>Reclaim Water Storage - 2</i>
		Total Expenses	8,794,750	
 Utilities Renewal & Replacement Fund				
412-2116-389.99-99		Use of Fund Balance	25,232	
		Total Revenues	25,232	
412-2127-535.63-00	06016	Improvements Other Than Buildings	25,232	<i>Tremaine St - Highland to Main</i>
		Total Expenses	25,232	
 Stormwater Fund				
420-2168-389.99-99		Use of Fund Balance	702,207	
		Total Revenues	702,207	
420-2618-538.63-00	06016	Improvements Other Than Buildings	50,700	<i>Tremaine St - Highland to Main</i>
420-2618-538.63-00	07023	Improvements Other Than Buildings	322,141	<i>CR 535 Drainage [Culvert] Improv</i>
420-2618-538.63-00	08015	Improvements Other Than Buildings	329,366	<i>Dillard School Drainage Imp</i>
		Total Expenses	702,207	
 Trailer City Fund				
450-3657-389.99-99		Use of Fund Balance	44,500	
		Total Revenues	44,500	
450-3657-538.62-00	07024	Building	30,000	<i>Trailer City Wash Room</i>
450-3657-538.64-00		Equipment	14,500	<i>Trailer City Laundry Equipment</i>
		Total Expenses	44,500	
		Grand Total	27,239,235	

ORDINANCE 09-06

AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA, AMENDING CHAPTER 98, ARTICLE II, SECTION 98-26 OF THE WINTER GARDEN CITY CODE; PROVIDING FOR THE REDUCTION OF TERMS OF OFFICE FOR PLANNING & ZONING BOARD MEMBERS FROM FOUR YEARS TO TWO YEARS; PROVIDING FOR THE ELIMINATION OF THE CITY MANAGER AND CITY ENGINEER AS EX OFFICIO MEMBERS OF THE PLANNING & ZONING BOARD AND PROVIDING FOR THE CITY MANAGER'S PARTICIPATION DURING PLANNING & ZONING BOARD MEETINGS; PROVIDING FOR CODIFICATION, SEVERABILITY, AND AN EFFECTIVE DATE.

WHEREAS, currently Planning & Zoning Board members are appointed to serve four-year terms, which are terms longer than City Commissioners are elected to serve the citizens of Winter Garden; and

WHEREAS, the City of Winter Garden ("City") desires to amend Article II of Chapter 98 of its Code of Ordinances to change the terms of office of City Planning and Zoning Board members from four to two year terms; and

WHEREAS, in order facilitate expedient implementation of two-year terms for Planning & Zoning Board members without the disruption that may be caused by immediately declaring several current members' terms expired, the City Commission finds it necessary to commence the effectiveness of the two-years terms only on those current board members appointed to new terms of office on or after September 1, 2008; and

WHEREAS, this Ordinance will have the effect of having the terms of the current Planning & Zoning Board members expire in accordance with the spreadsheet attached hereto as **Exhibit "A"**; and

WHEREAS, the City further desires amend Article II of Chapter 98 of its Code of Ordinances to eliminate the position of the City Manager and City Engineer as ex officio members of the Planning and Zoning Board and provide that the City Manager has the right to take part in discussion at planning and zoning board meetings but shall not vote, which is similar to the City Manager's role at City Commission meetings.

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

SECTION I. SECTION 98-26 Creation; composition; appointment terms, removal, compensation of members; filling of vacancies, Section 98-26 is hereby amended to reflect the following changes (~~struckout text~~ indicates deletions while underlined text indicates additions):

SECTION 98-26. Creation; composition; appointment terms, removal, compensation of members; filling of vacancies.

(a) There is created a planning and zoning board which shall consist of seven members who shall be appointed by the city commission. Commencing September 1, 2008, Each member appointment shall be for a term of ~~four~~ two years, each with eligibility for reappointment. Planning and zoning board members appointed by the city commission to serve out the remainder of an unexpired four-year term vacated by a previous board member or who were otherwise appointed by the city commission prior to September 1, 2008 to serve a four-year term, shall continue serve out the remainder of such four-year terms. Expiration of a planning and zoning board member's term does not disqualify such member for reappointment to the board by the city commission.

(b) To ensure multidistrict representation on the board, the city commission shall appoint to the board at least one member from each voting district within the city's boundaries. Furthermore, no more than two members of the planning and zoning board may reside in a single district subject to the following exceptions:

(1) If upon the adoption of this requirement there are more than two members of the planning and zoning board who reside within a single voting district, such members may continue in their respective terms until the earlier of their removal or expiration of their respective terms of office.

(2) If a redistricting of voting districts results in more than two members of the planning and zoning board residing within the same voting district, such members may continue in their respective terms until the earlier of their removal or expiration of their respective terms.

(c) Any vacancy in membership shall be filled for the unexpired term by the city commission who shall have the authority to remove any member for cause upon written charges, and after a public hearing. Absence from three unexcused regular meetings of the board in one year shall operate to vacate the seat of a member, unless such absences are excused by the board by resolution setting forth the fact of such excuse duly entered upon the journal.

(d) All members shall serve without compensation but may be reimbursed for actual expenses incurred in connection with their official duties. ~~The city manager and city engineer shall be ex officio members of the board.~~

~~(e) The city manager shall have the right to take part in discussion at planning and zoning board meetings but shall not vote.~~

SECTION II. 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 III. CODIFICATION. That Section I 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 IV. This Ordinance shall become effective upon approval by the City Commission at its second reading and shall control the terms of office for current planning and zoning board members with the same force and effect as if this ordinance was in place and effective commencing on September 1, 2008.

FIRST READING: January 22, 2009

SECOND READING: February 12, 2009

APPROVED:

John Rees, Mayor/Commissioner

ATTEST:

Kathy Golden, City Clerk

Exhibit "A"

Expiration of P & Z Board Terms under New Ordinance			
<u>P&Z Member</u>	<u>Appointed</u>	<u>Expires</u>	<u>Notes</u>
Rohan Ramlackhan	02-2008	10-2009	Replaced Snell (Appointed Dec. 2005)
Jerry Carris	07-2006	10-2009	Replaced Sharman (Appointed Nov. 2005)
Jim Gentry	11-2008	10-2010	Original Appointment
Kent Horsley	12-2008	10-2010	Original Appointment
Mac McKinney	11-2005	10-2009	Original Appointment
James Balderrama	11-2008	10-2010	Original Appointment
James Dunn	05-2007	10-2009	Replaced Buchanan (Appointed Nov. 2005)

RESOLUTION 09-02

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WINTER GARDEN, FLORIDA, DECLARING THE QUALIFYING RESULTS OF THE 2009 GENERAL ELECTION FOR DISTRICTS 2, 3 AND 4; AUTHORIZING ISSUANCE OF ELECTION CERTIFICATES FOR DISTRICTS 3 AND 4; AND DECLARING THE ELIGIBLE CANDIDATES FOR DISTRICT 2 CITY COMMISSIONER TO BE HELD ON MARCH 10, 2009

WHEREAS, at noon on January 27, 2009, qualifying for the 2009 General Election closed in accordance with the Charter and Ordinances of the City of Winter Garden, and the State of Florida Election Code; and

WHEREAS, City Charter § 41 (d) provides that “in the event there is only one (1) qualified candidate running for office of mayor-commissioner or commissioner, such qualified candidate shall be deemed the winner of the election without the need to hold the district general election for such district;” and

WHEREAS, the City Clerk, as the election registration official for the City of Winter Garden, has declared that at the close of the qualifying period at 12:00 noon on January 27, 2009, the qualified incumbents of City Commission Districts 3 and 4 are unopposed candidates within the meaning of § 41(d) of the City Charter, while two individuals have both qualified as candidates for City Commission District 2: and

WHEREAS, §§ 11(1), 18(2), and 41(d) of the City Charter requires that the unopposed candidates for Commission Districts 3 and 4 are deemed elected and are to be sworn in at the first City Commission Meeting following such election; and

WHEREAS, pursuant to §§ 41 and 43 of the City Charter and § 2-251 of the City Code, an election is to be held on March 10, 2009 to determine the winner of the City Commissioner contest for District 2.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF WINTER GARDEN, FLORIDA:

Section 1. Adoption of Representations. The foregoing “Whereas” clauses are hereby ratified and confirmed as being true and the same are hereby made a specific part of this Resolution.

Section 2. Induction of Unopposed Candidates Deemed Elected. The City Commission further takes notice of and adopts the following findings and authorizes the City Clerk to issue a Certificate of Election to the following individuals for their respective City Commission districts and seats:

- **Harold L. Boulter**, as an unopposed candidate in this election, is duly elected as City Commissioner of District 3 to serve a three-year term; and
- **Colin Sharman**, as an unopposed candidate in this election, is duly elected as City Commissioner of District 4 to serve a three-year term.

Section 3. Authorization of General Election. The City Commission also recognizes and finds that:

- (1) Two (2) persons, **Bob Buchanan** and **Thomas L. Gregory** have timely qualified as candidates for election to the office of City Commissioner for District 2;
- (2) A general election for such office shall be held on Tuesday, March 10, 2009; and the names of such individuals shall appear on such general election ballot for the office of City Commissioner for District 2.

ADOPTED at a regular meeting of the City Commission of the City of Winter Garden, Florida, held on this 12th day of February 2009.

John Rees, Mayor

ATTEST:

Kathy Golden, CMC, City Clerk

RESOLUTION 09-03

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WINTER GARDEN, FLORIDA, DECLARING THE RESULTS OF THE SPECIAL ANNEXATION REFERENDUM HELD ON JANUARY 27, 2009 AS INITIATED UNDER ORDINANCE 08-05

WHEREAS, on December 11, 2008, the City Commission adopted Ordinance 08-56 calling for a special mail ballot annexation referendum for the area 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 the Kenny Court and adjacent unplatted areas, to be conducted on January 27, 2009; and

WHEREAS, the voter Registration Book closing for the special election reflected that the total number of active Registered Voters in said area was 94; and

WHEREAS, the City Clerk for Winter Garden has obtained the results certificate of the Special Annexation Referendum Election from the Orange County Canvassing Board, which is hereby made a part of this Resolution, showing that the turnout was 24 votes cast for a 25.5% turnout.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF WINTER GARDEN, FLORIDA that we acknowledge the special annexation referendum for Kenny Court and adjacent unplatted area referendum **FAILED** based upon the following results:

For annexation 7
Against annexation 17

This Resolution is duly adopted at a regular meeting of the City Commission of the City of Winter Garden, Florida, held on the 12th day of February 2009.

JOHN REES, MAYOR

ATTEST:

Kathy Golden, CMC, City Clerk