



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

REGULAR MEETING

APRIL 9, 2009

6:30 P.M.

CALL TO ORDER

Determination of a Quorum

Invocation and Pledge of Allegiance

1. **APPROVAL OF MINUTES** - Regular Meeting of March 26, 2009

2. **FIRST READING OF PROPOSED ORDINANCE**

A. **Ordinance 09-11:** AN ORDINANCE OF THE CITY COMMISSION OF WINTER GARDEN, FLORIDA, AMENDING CHAPTER 94; ARTICLE IV OF THE WINTER GARDEN CODE OF ORDINANCES AND REPEALING ORDINANCE 94-134 AND CREATING THE FOLLOWING SECTION THEREOF: ORDINANCE NO. 09-11; ARTICLE IV WATER CONSERVATION ORDINANCE FOR LANDSCAPE IRRIGATION, PROVIDING FOR LOCAL IMPLEMENTATION OF THE WATER CONSERVATION RULE FOR LANDSCAPE IRRIGATION OF THE ST. JOHNS RIVER WATER MANAGEMENT DISTRICT; PROVIDING DEFINITIONS; PROVIDING LANDSCAPE IRRIGATION SCHEDULES; PROVIDING EXCEPTIONS TO THE LANDSCAPE IRRIGATION SCHEDULES; PROVIDING FOR VARIANCES FROM THE SPECIFIC DAY OF THE WEEK LIMITATIONS; PROVIDING FOR APPLICABILITY OF THE ORDINANCE; PROVIDING FOR ENFORCEMENT OF THE ORDINANCE; PROVIDING FOR PENALTIES FOR VIOLATION OF THE ORDINANCE; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY AND PROVIDING AN EFFECTIVE DATE **with the second reading and public hearing on April 23, 2009** – Public Services Director Cochran

3. **SECOND READING AND PUBLIC HEARING OF PROPOSED ORDINANCE**

A. **Ordinance 09-07:** AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA, PROVIDING FOR THE ANNEXATION OF CERTAIN ADDITIONAL LANDS GENERALLY DESCRIBED AS 0.459 ± ACRES LOCATED AT 778 SOUTH STREET, 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

4. **PUBLIC HEARING MATTER**

A. Presentation of application for funds from the Edward Byrne Memorial Justice Assistance Grant (JAG) Program - Police Chief Brennan

5. **REGULAR BUSINESS**

- A. **Resolution 09-08:** A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WINTER GARDEN, FLORIDA, INFORMING THE NATIONAL LEAGUE OF CITIES OF ITS INTENT TO PARTICIPATE IN THE NLC PRESCRIPTION DISCOUNT CARD PROGRAM AND WILL WORK WITH NLC AND CVS CAREMARK TO IMPLEMENT THE PROGRAM TO THE BENEFIT OF THE RESIDENTS OF WINTER GARDEN; PROVIDING FOR DELIVERY TO THE NATIONAL LEAGUE OF CITIES; PROVIDING AN EFFECTIVE DATE – Community Relations Manager Vaughn
- B. Recommendation to renew the Combined Operational Assistance and Voluntary Cooperation Mutual Aid Agreement with the Orange County Sheriff's Office – Police Chief Brennan
- C. Recommendation to approve the First Amendment to the Hickory Hammock Developer's Agreement – City Planner Williams
- D. Recommendation to approve towing contracts with Sly's Towing and The Car Store – City Attorney Ardaman
- E. Request authorization to dispose of surplus vehicles and equipment – Human Resources Director Gilbert
- F. Recommendation to approve bids and award a contract for the E. Plant Street Road Widening Project Segment I to DeWitt Excavating, Inc. for \$2,047,228.70 and approve a

20% contingency for a total project allowance of \$2,456,674.44 – Public Services Director Cochran

- G. Discussion and possible action to award a contract for stormwater drainage improvements to property located at 1181 W. Crown Point Springs Road (property owner Sandra Rice) – City Manager Bollhoefer
- H. Discussion and possible action regarding the utility readiness to serve charge – City Manager Bollhoefer

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

7. MATTERS FROM CITY ATTORNEY – Kurt Ardaman

8. MATTERS FROM CITY MANAGER – Mike Bollhoefer

- A. Design presentation of the new Jessie Brock Community Center on Dillard Street – Recreation Director Conn

9. MATTERS FROM MAYOR AND COMMISSIONERS

ADJOURN to a regular City Commission meeting on April 23, 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.

Help for the hearing impaired is available through the Assistive Listening System. Receivers can be obtained at the meeting from the Information Technology Director.

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 NO. 09-11

AN ORDINANCE OF THE CITY COMMISSION OF WINTER GARDEN, FLORIDA, REPEALING AND REPLACING ORDINANCE 01-11 BY AMENDING CHAPTER 94; ARTICLE IV OF THE WINTER GARDEN CODE OF ORDINANCES CREATING ARTICLE IV WATER CONSERVATION FOR LANDSCAPE IRRIGATION, PROVIDING FOR LOCAL IMPLEMENTATION OF THE WATER CONSERVATION RULE FOR LANDSCAPE IRRIGATION OF THE ST. JOHNS RIVER WATER MANAGEMENT DISTRICT; PROVIDING DEFINITIONS; PROVIDING LANDSCAPE IRRIGATION SCHEDULES; PROVIDING EXCEPTIONS TO THE LANDSCAPE IRRIGATION SCHEDULES; PROVIDING FOR VARIANCES FROM THE SPECIFIC DAY OF THE WEEK LIMITATIONS; PROVIDING FOR APPLICABILITY OF THE ORDINANCE; PROVIDING FOR ENFORCEMENT OF THE ORDINANCE; PROVIDING FOR PENALTIES FOR VIOLATION OF THE ORDINANCE; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the St. Johns River Water Management District has responsibility and exclusive authority under Chapter 373, Florida Statutes, for regulating the consumptive use of water; and

WHEREAS, the St. Johns River Water Management District has amended Rule 40C-2.042, F.A.C., its General Consumptive Use Permit by Rule that regulates small irrigation uses below consumptive use permit thresholds in Rule 40C-2.041(1), F.A.C.; and

WHEREAS, Rule 40C-2.042(2)(a), F.A.C., grants a general permit to each person located within the District to use, withdraw or divert water for small landscape irrigation uses, provided that irrigation occurs in accordance with Sections 3 and 5, subject to the exceptions set forth in Section 4; and

WHEREAS, Rule 40C-2.042(2), F.A.C., applies to landscape irrigation regardless of whether the water comes from ground or surface water, from a private well or pump, or from a public or private utility; and

WHEREAS, Rule 40C-2.042(2)(b), F.A.C., strongly encourages a local government to adopt an ordinance to enforce Rule 40C-2.042(2)(a), F.A.C., within its jurisdiction by adopting a landscape irrigation ordinance that incorporates each of the provisions set forth in Rule 40C-2.042(2)(a), F.A.C.; and

WHEREAS, it is the desire of the City Commission of the City of Winter Garden to adopt such an ordinance in accordance with 40C-2.042(2)(a) and (b), F.A.C.; and

WHEREAS, the City Commission of the City of Winter Garden hereby finds and declares that the adoption of this ordinance is appropriate, and in the public interest of the citizens of this community.

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

SECTION 1. The City Commission of 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. Chapter 94 of the City of Winter Garden Code of Ordinances is hereby amended to add Ordinance No. 09-11 to read as follows:

WATER CONSERVATION FOR LANDSCAPE IRRIGATION

Sect. 94-134. INTENT AND PURPOSE.

It is the intent and purpose of this Article to adopt an ordinance to enforce St. Johns River Water Management District Rule 40C-2.042(2)(a), F.A.C. by adopting a landscape irrigation ordinance which applies to landscape irrigation regardless of whether the water comes from ground or surface water, from a private well or pump, or from a public or private utility.

Sect. 94-135. DEFINITIONS.

For the purpose of this Article, the following terms, phrases, words and their derivatives shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural include the singular, and words in the singular include the plural.

- a. "Address" means the house number of a physical location of a specific property. This includes "rural route" numbers but excludes post office box numbers. If a lot number in a mobile home park or similar community is used by the U.S. Postal Service to determine a delivery location, the lot number shall be the property's address. An "even numbered address" means an address ending in the numbers 0, 2, 4, 6, 8 or the letters A-M. An "odd numbered address" means an address ending in the

numbers 1, 3, 5, 7, 9 or the letters N-Z.

- b. "District" means the St. Johns River Water Management District.
- c. "Person" means any person, firm, partnership, association, corporation, company, or organization of any kind.
- d. "Landscape irrigation" means the outside watering of plants in a landscape such as shrubbery, trees, lawns, grass, ground covers, plants, vines, gardens and other such flora that are situated in such diverse locations as residential areas, public, commercial, and industrial establishments, and public medians and rights-of-way. "Landscape irrigation" does not include agricultural crops, nursery plants, cemeteries, golf course greens, tees, fairways, primary roughs, and vegetation associated with recreational areas such as playgrounds, football, baseball and soccer fields.
- e. "Residential landscape irrigation" means the irrigation of landscape associated with any housing unit having sanitary and kitchen facilities designed to accommodate one or more residents, including multiple housing units and mobile homes.
- f. "Non-residential landscape irrigation" means the irrigation of landscape not included within the definition of "residential landscape irrigation," such as that associated with public, commercial and industrial property, including commercial or transient housing units, hotel and motel units, and public medians and rights-of-way.

Sect. 94-136. LANDSCAPE IRRIGATION SCHEDULES.

1. When Daylight Savings Time is in effect, landscape irrigation shall occur only in accordance with the following irrigation schedule:

- a. Residential landscape irrigation at odd numbered addresses or no address may occur only on Wednesday and Saturday and shall not occur between 10:00 a.m. and 4:00 p.m.; and
- b. Residential landscape irrigation at even numbered addresses may occur only on Thursday and Sunday and shall not occur between 10:00 a.m. and 4:00 p.m.; and
- c. Non-residential landscape irrigation may occur only on Tuesday and Friday and shall not occur between 10:00 a.m. and 4:00 p.m.; and
- d. No more than $\frac{3}{4}$ inch of water may be applied per irrigation zone on each day that irrigation occurs, and in no event shall irrigation occur for more than 1 hour per irrigation zone on each day that irrigation occurs.

2. When Eastern Standard Time is in effect, landscape irrigation shall occur only in accordance with the following irrigation schedule:

- a. Residential landscape irrigation at odd numbered addresses or no address may occur only on Saturday and shall not occur between 10:00 a.m. and 4:00 p.m.; and
- b. Residential landscape irrigation at even numbered addresses may occur only on Sunday and shall not occur between 10:00 a.m. and 4:00 p.m.; and
- c. Non-residential landscape irrigation may occur only on Tuesday and shall not occur between 10:00 a.m. and 4:00 p.m.; and
- d. No more than $\frac{3}{4}$ inch of water may be applied per irrigation zone on each day that irrigation occurs, and in no event shall irrigation occur for more than 1 hour per irrigation zone on each day that irrigation occurs.

3. All landscape irrigation shall be limited in amount to only that necessary to meet landscape needs.

Sect. 94-137. EXCEPTIONS TO THE LANDSCAPE IRRIGATION SCHEDULES.

Landscape irrigation shall be subject to the following irrigation schedule exceptions:

- 1. Irrigation using a micro-spray, micro-jet, drip, or bubbler irrigation system is allowed anytime.
- 2. Irrigation of new landscape is allowed at any time of day on any day for the initial 30 days and every other day for the next 30 days for a total of one 60-day period, provided that the irrigation is limited to the minimum amount necessary for such landscape establishment.
- 3. Watering in of chemicals, including insecticides, pesticides, fertilizers, fungicides, and herbicides, when required by law, the manufacturer, or best management practices, is allowed at any time of day on any day within 24 hours of application. Watering in of chemicals shall not exceed $\frac{1}{4}$ inch of water per application

except as otherwise required by law, the manufacturer, or best management practices.

4. Irrigation systems may be operated at any time of day on any day for maintenance and repair purposes not to exceed 20 minutes per hour per zone.
5. Irrigation using a hand-held hose equipped with an automatic shut-off nozzle is allowed at any time of day on any day.
6. Discharge of water from a water-to-air air-conditioning unit or other water-dependent cooling system is not limited.
7. The use of recycled water from wet detention treatment ponds for irrigation is allowed anytime provided the ponds are not augmented from any ground or off-site surface water, or public supply sources.

Sect. 94-138. ADDITIONAL REQUIREMENT.

Any person who irrigates landscape with an automatic lawn sprinkler system installed after May 1, 1991, shall install, maintain and operate a rain sensor device or switch that overrides the irrigation system when adequate rainfall has occurred.

Sect. 94-139. VARIANCE FROM SPECIFIC DAY OF THE WEEK LIMITATIONS.

A variance from the specific landscape irrigation days or day set forth in Section 3 may be granted if strict application of the scheduled days or day would lead to unreasonable or unfair results in particular instances, provided that the applicant demonstrates with particularity that compliance with the scheduled days or day will result in a substantial economic, health or other hardship on the applicant requesting the variance or those served by the applicant. Where a contiguous property is divided into different zones, a variance may be granted hereunder so that each zone may be irrigated on different days or day than other zones of the property. However, in no event shall a variance allow a single zone to be irrigated more than two days per week during Daylight Savings Time or more than one day per week during Eastern Standard Time.

Sect. 94-140. APPLICATION OF ORDINANCE.

The provisions of this Ordinance shall apply to each person located within the City of Winter Garden service area.

Sect. 94-141. ENFORCEMENT OFFICIALS.

Law enforcement officials having jurisdiction in the area governed by this Ordinance are hereby authorized to enforce the provisions of this Ordinance. In addition, the City Manager may also delegate enforcement responsibility for this Ordinance to agencies and departments of the City of Winter Garden government.

Sect. 94-142. PENALTIES.

Violation of any provision of this Ordinance shall be subject to the following penalties:

First Violation:	Written Warning
Second Violation:	\$50.00
Subsequent Violations:	Increased by \$50.00 with each additional violation with fines not to exceed \$500.00.

Each day in violation of this Ordinance shall constitute a separate offense. Enforcement officials shall provide violators with no more than one written warning. In addition to the civil sanctions contained herein, the City of Winter Garden may take other appropriate legal action, including, but not limited to, injunctive action to enforce the provisions of this Article.

SECTION 3. CODIFICATION.

That Section II of this Ordinance shall be codified and made 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 4. CONFLICT.

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

SECTION 5. 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 6. EFFECTIVE DATE.

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

READ FIRST TIME: March 12, 2009

READ SECOND TIME AND PUBLIC HEARING HELD: _____, 2009

PASSED AND ORDAINED this _____ day of _____, 2009,
by the City Commission of the City of Winter Garden, Florida.

**CITY OF WINTER
GARDEN, FLORIDA, a Florida Municipality**

By: _____
JOHN REES, Mayor/Commissioner

ATTEST:

By: _____
KATHY GOLDEN, City Clerk

ORDINANCE 09-07

AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA, PROVIDING FOR THE ANNEXATION OF CERTAIN ADDITIONAL LANDS GENERALLY DESCRIBED AS 0.459 ± ACRES LOCATED AT 778 SOUTH STREET, 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 0.459 ± acres located at 778 South Street 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: March 12, 2009.

READ SECOND TIME AND PUBLIC HEARING HELD: _____, 2009.

APPROVED:

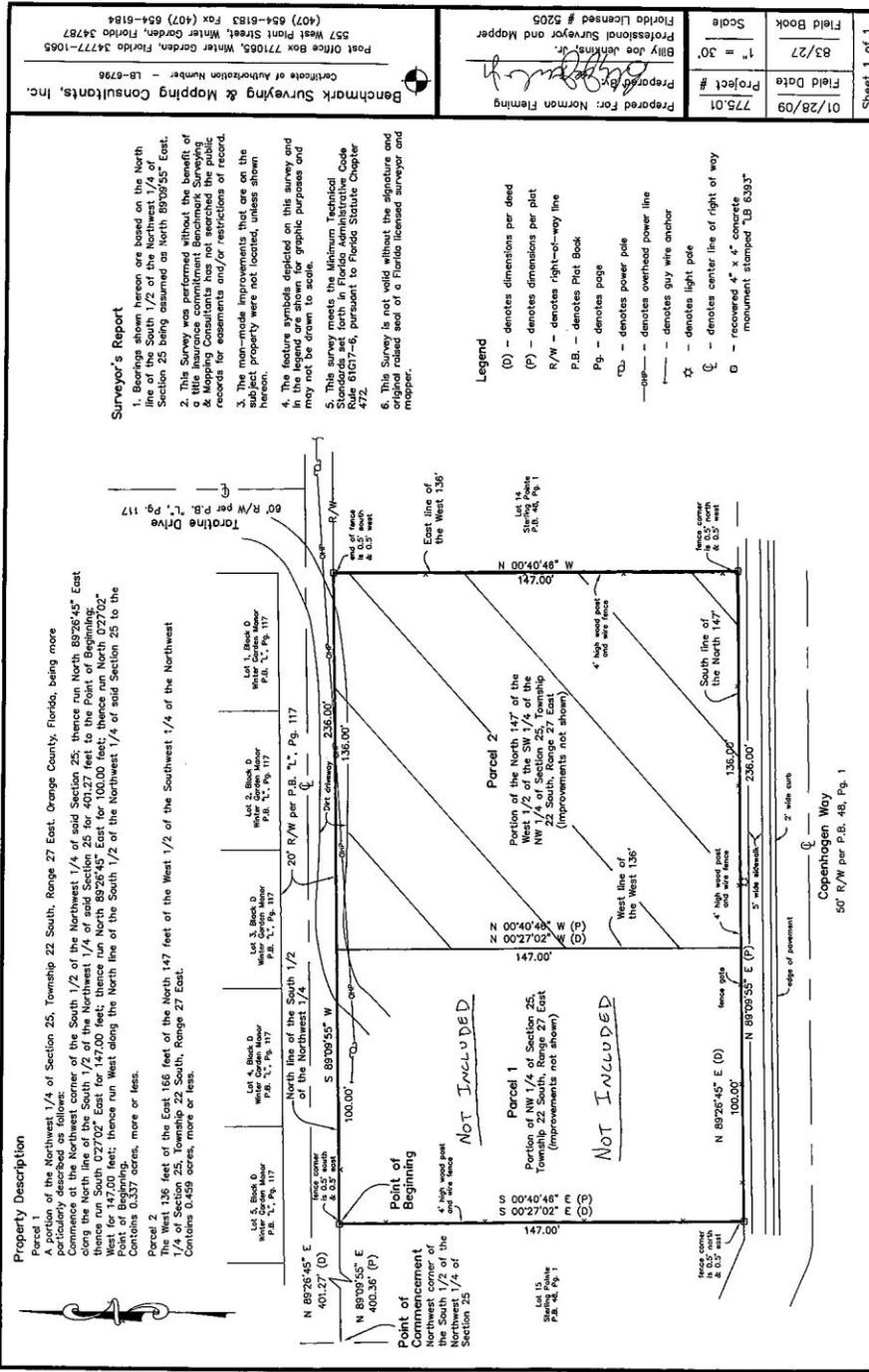
ATTEST:

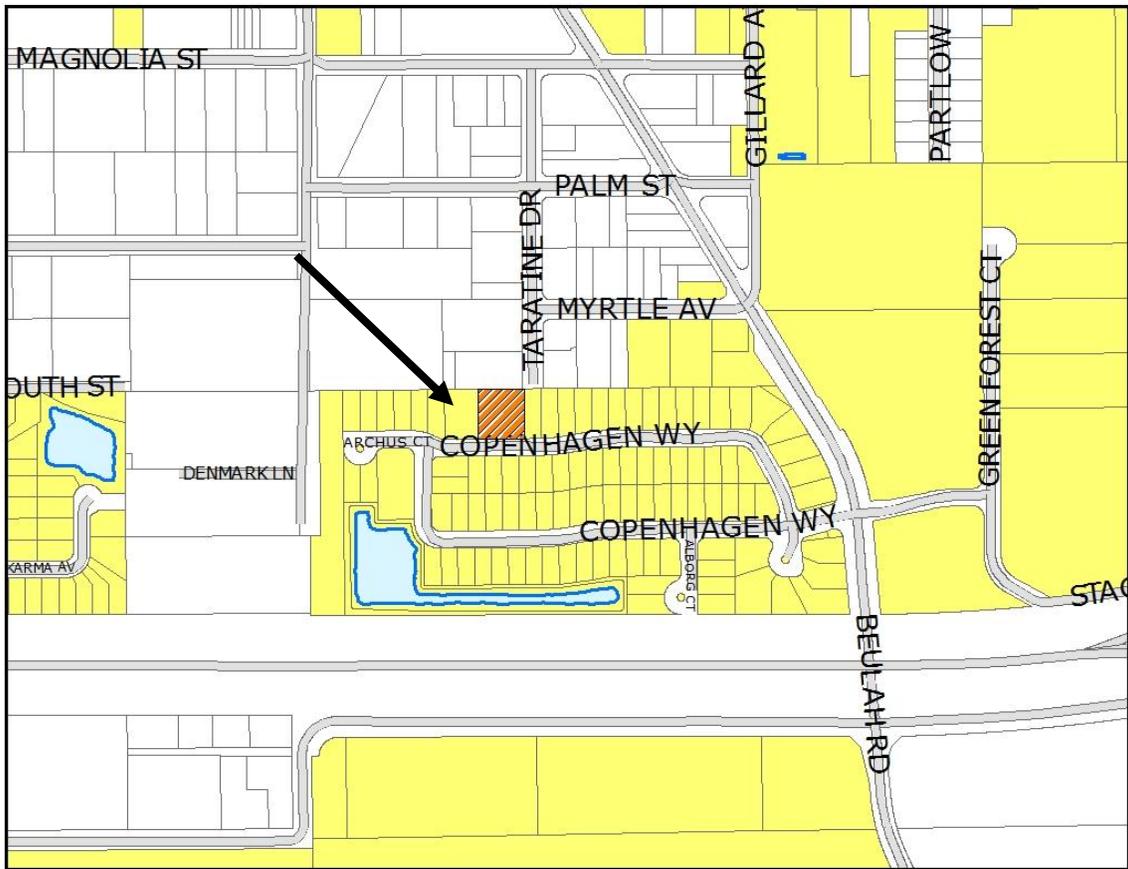
JOHN REES, Mayor/Commissioner

KATHY GOLDEN, City Clerk

Attachment "A"

The West 136 feet of the East 166 feet of the North 147 feet of the West ½ of the Southwest ¼ of the Northwest ¼ of Section 25, Township 22 South, Range 27 East. Contains 0.459 acres, more or less.





RESOLUTION No. 09-08

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WINTER GARDEN, FLORIDA INFORMING THE NATIONAL LEAGUE OF CITIES OF ITS INTENT TO PARTICIPATE IN THE NLC PRESCRIPTION DISCOUNT CARD PROGRAM AND WILL WORK WITH NLC AND CVS CAREMARK TO IMPLEMENT THE PROGRAM TO THE BENEFIT OF THE RESIDENTS OF WINTER GARDEN; PROVIDING FOR DELIVERY TO THE NATIONAL LEAGUE OF CITIES; PROVIDING AN EFFECTIVE DATE.

WHEREAS, many citizens of Winter Garden are among the millions of Americans without health insurance or with limited prescription drug coverage; and

WHEREAS, the National League of Cities is sponsoring a program in collaboration with CVS Caremark to provide relief to city residents around the country from the high cost of prescription drugs; and

WHEREAS, NLC Prescription Discount Card Program will be available to member cities of NLC at no cost to those cities; and

WHEREAS, CVS Caremark will provide participating cities with prescription discount cards, marketing materials and customer support; and

WHEREAS, the discount cards offer an average savings of 20 percent off the retail price of most prescription drugs, has no enrollment form or membership fee, no restrictions based on the resident's age or income level, and may be used by city residents and their families any time their prescriptions are not covered by insurance.

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

Section 1. **Recitals.** The foregoing recitals are hereby affirmed and ratified.

Section 2. **Request Support.** The City of Winter Garden will inform the National League of Cities of its intent to participate in the NLC Prescription Discount Card Program and will work with NLC and CVS Caremark to implement the program to the benefit of the residents of Winter Garden.

Section 3. **Delivery.** Once passed, a copy of this resolution shall be delivered to the National League of Cities.

Section 4. **Effective Date.** This Resolution shall become effective immediately upon adoption.

PASSED AND RESOLVED THIS _____ DAY OF _____, 2009.

BY: _____
John Rees, Mayor/Commissioner

ATTEST:

BY: _____
Kathy Golden, City Clerk