



CITY OF WINTER GARDEN

CITY COMMISSION REGULAR MEETING MINUTES

Corrected

August 27, 2009

A **REGULAR MEETING** of the Winter Garden City Commission was called to order by Mayor Rees at 6:30 p.m. at City Hall, 300 West Plant Street, Winter Garden, Florida. The invocation and Pledge of Allegiance were given.

Present: Mayor John Rees, Commissioners Harold L. Boulter, Bob Buchanan, H. Gerald Jowers and Colin Sharman

Also Present: City Manager Mike Bollhoefer, City Attorney Kurt Ardaman, City Clerk Kathy Golden, Police Chief George Brennan, Fire Chief John Williamson, Finance Director Robin Hayes, Public Services Director Don Cochran, Assistant Public Services Director Mike Kelley, Community Development Director Tim Wilson, Building Official Skip Lukert, Recreation Director Jay Conn, Information Technology Director Bob Reilly, Economic Development Director Dolores Key, Community Relations Manager Andrea Vaughn and West Orange Times Report Michael Laval

1. **APPROVAL OF MINUTES**

Motion by Commissioner Boulter to approve the regular meeting minutes of August 13, 2009 as submitted. Seconded by Commissioner Buchanan and carried unanimously 5-0.

At this time Mayor Rees invited the Bloom N' Grow Garden Society and the Winter Garden Heritage Foundation to come forward and address the City Commission.

Bloom N' Grow 2010 Spring Fever in the Garden Festival

Recreation Director Conn stated that the Bloom N' Grow Garden Society is requesting approval of April 10th and 11th, 2010 for their annual festival. This year will be their tenth festival. He described the many hours of work that goes into this event and presented Sue Crabtree, Chairperson of the festival, with a plaque of appreciation for all of her hard work and dedication.

Mayor Rees expressed his appreciation on behalf of the City for the society's hard work in making this such a great event.

Winter Garden Heritage Foundation

Kay Cappleman stated that they are very interested in applying to have the two railroad depots [1 N. Main Street and 101 S. Boyd Street] listed in the National Registrar of Historic Places. Since the City owns the building, they are asking for the City Commission's approval to proceed with the application process. She explained that they are interested in the designation for recognition and distinction because having additional sites on the national

registry gives the City additional state and national attention. People are seeking out historical areas to visit. Also there is a certain distinction that comes with the designation; having more national register listings gives the City more clout as a historical area. The City currently has three such designations.

Ms. Cappleman advised that the first step in the process is to submit a nomination proposal to the State Historic Preservation office in Tallahassee. If they deem the sites as worthy of a favorable recommendation, then they will be allowed to proceed to the national level.

Ms. Cappleman noted that there is a myth many people have about National Historic Registration in that they believe that once a property is designated, the Federal and State governments can come in and tell you what you can and cannot do with your property. This is not true; the owner can still deal with their property in any way they see fit. If the sites receive State or Federal funding, then they would have to follow certain guidelines.

City Manager Bollhoefer commented that these two buildings are historical and fit the criteria.

Commissioner Buchanan asked if there was any foreseeable reason that State or Federal funding would not be sought in the future. Ms. Cappleman replied that the City could seek the funding; the designation would increase the City's chances. At such time, the guidelines for preservation would have to be followed.

Commissioner Buchanan stated that he thinks it fits in very nicely with the Scenic Byway designation the City is pursuing.

Motion by Commissioner Sharman to permit the Winter Garden Heritage Foundation to submit a nomination proposal to the State for designating both railroad depots as a historical site on the national registry. Seconded by Commissioner Buchanan and carried unanimously 5-0.

2. **FIRST READING OF PROPOSED ORDINANCES**

A. **Ordinance 09-19:** AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WINTER GARDEN, FLORIDA, AMENDING SECTIONS 118-890, 118-893 and 118-989 AND CREATING SECTION 118-829 and 118-830 OF CHAPTER 118 OF THE CODE OF ORDINANCES OF THE CITY OF WINTER GARDEN; AMENDING TIME RESTRICTIONS FOR FILING AND OBTAINING APPROVAL OF FINAL DEVELOPMENT PLANS AND FINAL PLATS FOR PLANNED UNIT DEVELOPMENTS; PROVIDING A PROCESS FOR CITY COMMISSION APPROVAL OF TIME EXTENSIONS FOR PLANNED UNIT DEVELOPMENTS; PROVIDING FOR RETROACTIVE EXTENSION OF EXPIRED PLANNED UNIT DEVELOPMENTS; PROVIDING FOR CODIFICATION; PROVIDING FOR CONTROL IN EVENT OF CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE

City Attorney Ardaman and City Manager Bollhoefer requested that this item be **PULLED** from the agenda for additional adjustments. *No action was taken at this time.*

- B. **Ordinance 09-25:** AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WINTER GARDEN, FLORIDA, AMENDING ARTICLE II OF CHAPTER 22 OF THE CODE OF ORDINANCES OF THE CITY OF WINTER GARDEN CONCERNING PEDDLERS, SOLICITORS, AND ITINERANT VENDORS; REVISING AND CLARIFYING THE DEFINITIONS OF OPEN AIR VENDORS AND PEDDLERS; PROVIDING FOR CODIFICATION; ADDING DEFINITIONS FOR CHIEF OF POLICE, CITY MANAGER, ITINERANT AND STATIONARY MOBILE FOOD VENDORS AND SEASONAL VENDORS; REVISING AND ADDING CRITERIA FOR OBTAINING AN OPEN AIR VENDOR PERMIT; PROVIDING FOR ZONING AND OTHER RESTRICTIONS UPON MOBILE FOOD VENDORS; PROVIDING FOR ZONING AND OTHER RESTRICTIONS UPON SEASONAL VENDORS; PROVIDING FOR EXPIRATION, AMENDMENT, AND RENEWAL OF OPEN AIR VENDOR PERMITS; REQUIRING OPEN AIR VENDORS TO WEAR APPROPRIATE ATTIRE; PROVIDING FOR EXCEPTIONS TO OBTAINING OPEN AIR VENDOR PERMITS; PROVIDING FOR WAIVER OF OPEN AIR VENDOR PERMIT REQUIREMENTS FOR CHARITABLE ORGANIZATIONS; REVISING APPLICATION REQUIREMENTS FOR SOLICITORS AND PEDDLERS; PROVIDING FOR THE ISSUANCE OF OPEN AIR EVENT PERMITS FOR OPEN AIR VENDORS AS WELL AS AMENDMENTS THERETO; CLARIFYING ORDINANCE TO REFLECT THAT ONLY COMMERCIAL PEDDLERS, SOLICITORS, AND AGENTS MUST OBTAIN A SOLICITORS' PERMIT; PROVIDING FOR GENDER NEUTRAL LANGUAGE AND GRAMMATICAL REVISIONS; PROVIDING FOR CODIFICATION; PROVIDING FOR CONTROL IN EVENT OF CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE

City Attorney Ardaman read Ordinance 09-25 by title only. Community Development Director Wilson noted that a workshop was held in May on the issue. The current code contains a process that requires the applicant to come to the City Commission for a special review on a case-by-case basis with no standards. This ordinance defines different categories and creates standards. As long as the applicant meets those standards and requirements, they would be entitled to a permit.

Motion by Commissioner Jowers to approve Ordinance 09-25 with the second reading and public hearing being scheduled for September 9, 2009. Seconded by Commissioner Boulter and carried unanimously 5-0.

- C. **Ordinance 09-53:** AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WINTER GARDEN, FLORIDA, AMENDING ARTICLE I OF CHAPTER 74 OF THE CODE OF ORDINANCES OF THE CITY OF WINTER GARDEN TO CREATE SECTION 74-4; PROVIDING FOR THE APPROVAL OF GOLF CART OPERATION WITHIN SPECIFICALLY IDENTIFIED COMMUNITIES AND/OR ROADWAYS BY RESOLUTION; PROVIDING FOR A PROCEDURES FOR CITY COMMISSION

CONSIDERATION AND APPROVAL OF GOLF CART COMMUNITIES AND ROADWAYS; REQUIRING GOLF CARTS TO BE EQUIPPED WITH STATUTORILY MANDATED SAFETY DEVICES; PROVIDING FOR HOURS OF OPERATION OF GOLF CARTS ON CITY ROADWAYS; PROVIDING FOR REGULATION OF UNLICENSED GOLF CART DRIVERS; PROVIDING FOR ENFORCEMENT; PROVIDING FOR CODIFICATION; PROVIDING FOR CONTROL IN EVENT OF CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE

City Attorney Ardaman read Ordinance 09-53 by title only. Mr. Ardaman stated that there has been a new Florida statute adopted that allows operating golf carts on certain local government streets whenever large vendors need golf carts for delivering services in local governments. That statute helps pave the way for local governments to have a way of making a finding that roads can be used for operating golf carts.

Mr. Ardaman stated that the ordinance gives the City Commission some flexibility. The roadway speed limits, subject to approval for the safe operation of golf carts, are 25 miles per hour. You can even cross roads that have a speed limit up to 35 miles per hour at four-way stop signs or traffic signals. Golf carts cannot be approved on roads unless there is some other authorization or separate resolution for arterials or collector roads, and not on state highways. If the City Commission wishes to make changes to the proposed ordinance, they can be made between now and the second reading.

City Manager Bollhoefer pointed out some important changes to the ordinance since the original draft.

Mr. Ardaman stated that some of the other ordinances around the state have a much more rigid format. He described how this ordinance has been modified in order to give the City Commission some flexibility.

City Manager Bollhoefer addressed the issue of unlicensed drivers referenced in section (g) (2); unlicensed drivers are required to complete a City-approved safety course. He stated that this will be reviewed further and may have to be pulled from the ordinance if no such course exists.

Commissioner Buchanan stated that he has not been a proponent of this plan since the issue was first mentioned. He is still not totally sure that it is something that the City should approve and have our residents deal with. On the other hand, the way the ordinance is written, if the driver is 18 years or older then they are taking their own lives into their own hands. He sought clarification on the provision of sunrise to sunset versus 5:00 a.m. until 10:00 p.m. because there is a big difference based on the time of the year.

Mr. Ardaman replied that the ordinance provides for operation of golf carts between 5:00 a.m. to 10:00 p.m. As long as the vehicle is equipped for night time operation, which is addressed in the statutes, they may be operated after sunset and before sunrise. The

operation under this ordinance will be no earlier than 5:00 a.m. and no later than 10:00 p.m.

Mayor Rees stated that this gives the City a basis to try it and monitor it to see if it is working or not working.

There was discussion on how many Winter Garden roads are marked at 25 miles per hour.

Motion by Commissioner Jowers to approve Ordinance 09-53 with the second reading and public hearing being scheduled for September 21, 2009. Seconded by Commissioner Sharman and carried unanimously 5-0.

- D. **Ordinance 09-54:** AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA, AMENDING CHAPTER 74 OF THE WINTER GARDEN CITY CODE, AND TO CREATE A NEW ARTICLE V, ENTITLED "THE CITY OF WINTER GARDEN TRAFFIC LIGHT SAFETY ACT", INCLUDING NEW SECTIONS 74-200 THROUGH 74-214; PROVIDING FOR INTENT AND DEFINITIONS; ESTABLISHING A RED LIGHT ENFORCEMENT PROGRAM WITHIN THE CITY; AUTHORIZING THE CITY TO PERMIT AND IMPLEMENT THE USE OF UNMANNED CAMERAS/MONITORING DEVICES FOR RED LIGHT VIOLATIONS; PROVIDING ENFORCEMENT PROCEDURES UNDER THE AUTHORITY OF A HEARING OFFICER, INCLUDING NOTICE OF HEARINGS BEFORE THE A CODE ENFORCEMENT HEARING OFFICER, PENALTIES, IMPOSITION OF ADMINISTRATIVE CHARGES INCLUDING ATTORNEYS' FEES, COLLECTION, AND APPEALS; PROVIDING FOR EXCEPTIONS; PROVIDING FOR CODIFICATION, CONFLICTS, SEVERABILITY AND AN EFFECTIVE DATE

City Attorney Ardaman handed out a memorandum from Assistant City Attorney Giffin Chumley which describes some of the legal issues.

City Attorney Ardaman read Ordinance 09-54 by title only.

Police Chief Brennan gave a brief summary of the ordinance. He noted that the cameras are utilized to photograph vehicles that fail to stop for a red light at a signalized intersection. The cameras will only capture the rear end of the vehicle and will not take pictures of the drivers. There will be a 30 day grace period at any intersection where the lights are installed. For the first 30 days only warnings will be issued. The violations will be handled as code violations and no points will be assessed against anyone's driver's license. The violation notices are sent to the registered owner of the vehicle and the registered owner has the option to pay the fine or appeal the violation. Appeals are heard by a hearing officer magistrate. The fine for the first two violations is \$125 each, then \$250 for a third or subsequent violation within a three year period.

City Manager Bollhoefer asked that the City Attorney to cover the recent lawsuits filed on this issue.

Mr. Ardaman stated that there have been a number of lawsuits filed against local governments who have adopted and implemented red light enforcement ordinances. The lawsuits filed have been filed based on the following challenges:

- 1) State statutes preempt to the state, the right to regulate all traffic violation matters
- 2) The State Constitution in Article V states that any local government that tries to use its own Code Enforcement Board, hearing officer, or other local mechanism to impose fines, violates the Constitution because it states you cannot have municipal courts
- 3) Because the camera only takes a picture of the vehicle's license plate, there is no way to determine who is the driver of the vehicle; therefore, the owner may not be the driver of the vehicle
- 4) The violation should be heard by a code enforcement board and not a special master
- 5) Criminal violations are entitled to a speedy trial within 180 days

Mr. Ardaman distributed a memo from the Assistant City Attorney that addresses these items. Mr. Ardaman stated that they think they have reasonable arguments to oppose all five of those claims that are set forth in the lawsuit as follows:

- 1) The bases for imposing and enforcing red light ordinances is addressed under Florida Statute 316.008
- 2) There is clearly a basis for allowing the special master to hear these violations
- 3) The owners of vehicles have been cited in civil matters before and have been held Constitutional; this is a civil, not a criminal violation
- 4) City governments are allowed to enforce their ordinances anyway that they see fit as stated in Florida Statute 162.21(8).
- 5) Speedy trial rule is not applicable to civil violations; only criminal violations.

Mr. Ardaman stated that if the City moves forward with adopting the ordinance, it still would not be implemented until negotiations with a vendor have been completed to install the red light cameras and enforcement mechanisms. He recommended that if the City adopts the ordinance that there be a provision included in the contract that would keep any fines imposed set aside and held until any litigation, the City may be involved in, is resolved or there is legislation that may help the City resolve the litigation.

City Manager Bollhoefer clarified that his suggestion is if the ordinance is approved, any revenue collected be set aside in a separate account until this litigation is settled just in case there are any fines that would have to be repaid. Mayor Rees asked if the funds being set aside would include the City's revenue as well as the vendor's. Mr. Ardaman replied that is what is being asked of a vendor or possibly being bonded.

Mayor Rees asked if the potential liability to the City could be determined if the City were to lose in litigation. Mr. Ardaman stated that is difficult to determine. In a lot of

the class action lawsuits the primary purpose is to recover attorney fees. To determine the City's exposure in attorney's fees, it would require some research.

Commissioner Sharman asked the City Attorney to elaborate on the issue of fining the owner of the vehicle since a picture of the driver will not be taken. Mr. Ardaman responded that it is not a criminal violation, we are not trying to put them in jail, and there are no points against their license. He thinks the ordinance provides enough protection for proving they were not the driver.

Commissioner Boulter questioned those who make a right turn on a light is red while moving slowly and not coming to a complete stop. Mr. Ardaman responded that the vendor has indicated they can adjust the cameras to be triggered at a certain speed. This threshold will need to be determined by the Police Chief and the City Commission.

Commissioner Buchanan asked about the consequences if one chooses not to pay the fine. City Attorney Ardaman stated that it is a civil penalty and fine the City can pursue collection as in any other civil violation.

There was discussion on whether or not this is being proposed for public safety or added revenue.

Commissioner Sharman asked the Police Chief for his view on this issue as to whether he thought it was worthwhile even though there is the potential for lawsuits being filed against the City.

Police Chief Brennan stated that there is a chance of being sued with everything. To him this is an ordinance that has the potential to save lives. He has always questioned why the State does not clearly give the City the authority. The state has given authority for going after toll violators, which is the same thing with the offender receiving a picture of the tag without knowing who was driving. To him this is more a safety issue.

Mayor Rees stated that there is a ways to go on this issue and he hopes there will be a clearer picture by the time we get to a final decision. He agrees there needs to be a fund set up for retaining the fines until the City determines where we are at legally.

Commissioner Buchanan asked if any studies are being done of the pictures being taken of drivers so litigation can be prevented. Chief Brennan stated that he is not aware of anyone in Florida; he not saying that it is not being done.

Motion by Commissioner Sharman to approve Ordinance 09-54 with the second reading and public hearing being scheduled for September 21, 2009. Seconded by Commissioner Boulter and carried unanimously 4-1; opposed Commissioner Jowers.

3. **FIRST READING AND PUBLIC HEARING OF PROPOSED ORDINANCES**
 - A. **Ordinance 09-39:** AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA, PROVIDING FOR THE ANNEXATION OF CERTAIN ADDITIONAL

LANDS GENERALLY DESCRIBED AS 0.46 ± ACRES LOCATED AT 364 NORTH WEST CROWN POINT ROAD, AND MORE SPECIFICALLY DESCRIBED HEREIN INTO THE CITY OF WINTER GARDEN FLORIDA; REDEFINING THE CITY BOUNDARIES TO GIVE THE CITY JURISDICTION OVER SAID PROPERTY; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE

City Attorney Ardaman read Ordinance 09-39 by title only. Community Development Director Wilson stated that this annexation is located at 364 North West Crown Point Road and is just under a half acre. It is a single family residence that will connect to City utilities, which is the reason for the annexation. The next two ordinances are for land use designation of low density residential and rezoning.

Mayor Rees opened the public hearing; hearing and seeing none, he closed the public hearing.

Motion by Commissioner Jowers to approve ordinance 09-39 with the second reading and public hearing being scheduled for September 21, 2009. Seconded by Commissioner Buchanan and carried unanimously 5-0.

- B. **Ordinance 09-40:** AN ORDINANCE AMENDING THE FUTURE LAND USE MAP OF THE CITY OF WINTER GARDEN'S COMPREHENSIVE PLAN BY CHANGING THE DESIGNATION FROM ORANGE COUNTY LOW DENSITY RESIDENTIAL TO CITY LOW DENSITY RESIDENTIAL FOR PROPERTY GENERALLY DESCRIBED AS 0.46 ± ACRES LOCATED AT 364 NORTH WEST CROWN POINT ROAD; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE

City Attorney Ardaman read Ordinance 09-40 by title only.

Mayor Rees opened the public hearing; hearing and seeing none, he closed the public hearing.

Motion by Commissioner Sharman to approve Ordinance 09-40 with the second reading and public hearing being scheduled for September 21, 2009. Seconded by Commissioner Boulter and carried unanimously 5-0.

- C. **Ordinance 09-41:** AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA, REZONING APPROXIMATELY 0.46 ± ACRES OF CERTAIN REAL PROPERTY LOCATED AT 364 NORTH WEST CROWN POINT ROAD FROM ORANGE COUNTY R-2 TO CITY R-1B; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE

City Attorney Ardaman read Ordinance 09-41 by title only.

Mayor Rees opened the public hearing; hearing and seeing none, he closed the public hearing.

Motion by Commissioner Buchanan to approve Ordinance 09-41 with the second reading and public hearing being scheduled for September 21, 2009. Seconded by Commissioner Jowers and carried unanimously 5-0.

- D. **Ordinance 09-42:** AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA, PROVIDING FOR THE ANNEXATION OF CERTAIN ADDITIONAL LANDS GENERALLY DESCRIBED AS 2.95 ± ACRES LOCATED AT THE NORTHWEST CORNER OF EAST CROWN POINT ROAD AND CROWN POINT CROSS ROAD, AND MORE SPECIFICALLY DESCRIBED HEREIN INTO THE CITY OF WINTER GARDEN FLORIDA; REDEFINING THE CITY BOUNDARIES TO GIVE THE CITY JURISDICTION OVER SAID PROPERTY; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE

City Attorney Ardaman read Ordinance 09-42 by title only. Community Development Director Wilson stated that the next three ordinances are on the same property located at 1006 East Crown Point Road. This property is owned by the West Orange Baptist Church, as well as the parcel located to the north which was recently annexed. This property is being brought in to make it contiguous to their other property for future development.

Mayor Rees opened the public hearing; hearing and seeing none, he closed the public hearing.

Motion by Commissioner Sharman to approve Ordinance 09-42 with the second reading and public hearing being scheduled for September 21, 2009. Seconded by Commissioner Buchanan and carried unanimously 5-0.

- E. **Ordinance 09-43:** AN ORDINANCE AMENDING THE FUTURE LAND USE MAP OF THE CITY OF WINTER GARDEN'S COMPREHENSIVE PLAN BY CHANGING THE DESIGNATION FROM ORANGE COUNTY LOW DENSITY RESIDENTIAL TO CITY LOW DENSITY RESIDENTIAL FOR PROPERTY GENERALLY DESCRIBED AS 2.95 ± ACRES LOCATED AT THE NORTHWEST CORNER OF EAST CROWN POINT ROAD AND CROWN POINT CROSS ROAD; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE

City Attorney Ardaman read Ordinance 09-43 by title only.

Mayor Rees opened the public hearing; hearing and seeing none, he closed the public hearing.

Motion by Commissioner Jowers to approve Ordinance 09-43 with the second reading and public hearing being scheduled for September 21, 2009. Seconded by Commissioner Buchanan and carried unanimously 5-0.

- F. **Ordinance 09-44:** AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA, REZONING APPROXIMATELY 2.95 ± ACRES OF CERTAIN REAL PROPERTY LOCATED AT THE NORTHWEST CORNER OF EAST CROWN POINT ROAD AND CROWN POINT CROSS ROAD FROM ORANGE COUNTY A-1 TO CITY R-1; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE

City Attorney Ardaman read Ordinance 09-44 by title only.

Mayor Rees opened the public hearing; hearing and seeing none, he closed the public hearing.

Motion by Commissioner Boulter to approve Ordinance 09-44 with the second reading and public hearing being scheduled for September 21, 2009. Seconded by Commissioner Sharman and carried unanimously 5-0.

- G. **Ordinance 09-45:** AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA, PROVIDING FOR THE ANNEXATION OF CERTAIN ADDITIONAL LANDS GENERALLY DESCRIBED AS 0.54 ± ACRES LOCATED AT 946 AND 948 VINELAND ROAD, AND MORE SPECIFICALLY DESCRIBED HEREIN INTO THE CITY OF WINTER GARDEN FLORIDA; REDEFINING THE CITY BOUNDARIES TO GIVE THE CITY JURISDICTION OVER SAID PROPERTY; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE

City Attorney Ardaman read Ordinance 09-45 by title only. Community Development Director Wilson stated that this property is located on Vineland Road on the north side of West Morgan Street. There is currently a residential duplex unit on the property. This will annex it into the City and establish a low density residential land use with R-2 zoning. Staff recommends approval.

Commissioner Sharman asked about the compelling event for this annexation. Mr. Wilson replied that he speculates that they intend to resale the property for future office use.

Mayor Rees opened the public hearing; hearing and seeing none, he closed the public hearing.

Motion by Commissioner Jowers to approve Ordinance 09-45 with the second reading and public hearing being scheduled for September 21, 2009. Seconded by Commissioner Sharman and carried unanimously 5-0.

- H. **Ordinance 09-46:** AN ORDINANCE AMENDING THE FUTURE LAND USE MAP OF THE CITY OF WINTER GARDEN'S COMPREHENSIVE PLAN BY CHANGING THE DESIGNATION FROM ORANGE COUNTY LOW MEDIUM DENSITY RESIDENTIAL TO CITY LOW DENSITY RESIDENTIAL FOR PROPERTY GENERALLY DESCRIBED AS 0.54 ± ACRES LOCATED AT 946 AND 948

VINELAND ROAD; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE

City Attorney Ardaman read Ordinance 09-46 by title only.

Mayor Rees opened the public hearing; hearing and seeing none, he closed the public hearing.

Motion by Commissioner Boulter to approve Ordinance 09-46 with the second reading and public hearing being scheduled for September 21, 2009. Seconded by Commissioner Sharman and carried unanimously 5-0.

- I. **Ordinance 09-47:** AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA, REZONING APPROXIMATELY 0.54 ± ACRES OF CERTAIN REAL PROPERTY LOCATED AT 946 AND 948 VINELAND ROAD FROM ORANGE COUNTY R-2 TO CITY R-2; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE

City Attorney Ardaman read Ordinance 09-47 by title only.

Mayor Rees opened the public hearing; hearing and seeing none, he closed the public hearing.

Motion by Commissioner Buchanan to approve Ordinance 09-47 with the second reading and public hearing being scheduled for September 21, 2009. Seconded by Commissioner Jowers and carried unanimously 5-0.

4. **SECOND READING AND PUBLIC HEARING OF PROPOSED ORDINANCES**

- A. **Ordinance 09-36:** AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA, PROVIDING FOR THE ANNEXATION OF CERTAIN ADDITIONAL LANDS GENERALLY DESCRIBED AS 1.96 ± ACRES LOCATED AT 1301 EAST BAY STREET AND 1360 EDGEWAY DRIVE, 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

City Attorney Ardaman read Ordinance 09-36 by title only. Community Development Director Wilson stated that this is the Bay Street Church of God. He noted that part of this property is already in the City and this item annexes two of their lots. The intent is to expand the existing King's Academy school. The City is working with the Church and coordinating the effort with the County. The land will come into the City as low density residential and R-4 zoning. Staff recommends approval.

Mayor Rees opened the public hearing; hearing and seeing none, he closed the public hearing.

Motion by Commissioner Jowers to adopt Ordinance 09-36. Seconded by Commissioner Sharman and carried unanimously 5-0.

- B. **Ordinance 09-37**: AN ORDINANCE AMENDING THE FUTURE LAND USE MAP OF THE CITY OF WINTER GARDEN'S COMPREHENSIVE PLAN BY CHANGING THE DESIGNATION FROM ORANGE COUNTY LOW DENSITY RESIDENTIAL TO CITY LOW DENSITY RESIDENTIAL FOR PROPERTY GENERALLY DESCRIBED AS 1.96 ± ACRES LOCATED AT 1301 EAST BAY STREET AND 1360 EDGEWAY DRIVE; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE

City Attorney Ardaman read Ordinance 09-37 by title only.

Mayor Rees opened the public hearing; hearing and seeing none, he closed the public hearing.

Motion by Commissioner Sharman to adopt Ordinance 09-37. Seconded by Commissioner Jowers and carried unanimously 5-0.

- C. **Ordinance 09-38**: AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA, REZONING APPROXIMATELY 1.96 ± ACRES OF CERTAIN REAL PROPERTY LOCATED AT 1301 EAST BAY STREET AND 1360 EDGEWAY DRIVE FROM ORANGE COUNTY R-2 TO CITY R-4; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE

City Attorney Ardaman read Ordinance 09-38 by title only.

Mayor Rees opened the public hearing; hearing and seeing none, he closed the public hearing.

Motion by Commissioner Sharman to adopt Ordinance 09-38. Seconded by Commissioner Bouler and carried unanimously 5-0.

5. **REGULAR BUSINESS**

- A. **Recommendation to approve an Emergency Medical Services Agreement to allow the Fire Rescue Department to receive two Lifepak 15 defibrillators and related equipment through grant funds**

Fire Chief Williamson stated that this agreement is for two defibrillators that the City has received with EMS grants through Orange County and the State of Florida. Each defibrillator costs about \$25,000 for a total of \$50,000. There is no cost share for the City and staff recommends approval. These items are for the City's ALS vehicles which are required as part of the State permit.

Motion by Commissioner Sharman to approve an Emergency Medical Services Agreement to allow the Fire Rescue Department to receive two Lifepak 15

defibrillators and related equipment through grant funds. Seconded by Commissioner Jowers and carried unanimously 5-0.

B. Recommendation to approve distribution of awarded grant funds to replace three analog portable radios

Police Chief Brennan stated that the Edward Byrne Memorial Justice Assistance Grant has earmarked \$594,727 for use by Orange County agencies. Based on the formula, Winter Garden is able to get \$16,449 which he is requesting to be used to purchase three digital portable radios to our replace analog radios, which will assist in our transition.

Motion by Commissioner Sharman to approve distribution of awarded grant funds to replace three analog portable radios. Seconded by Commissioner Jowers and carried unanimously 5-0.

Commissioner Buchanan asked the Police Chief how close is the City to being completely digitalized. Chief Brennan replied that it will be a couple of years. There are 57 analog radios to be replaced. With these funds, other grants and budgeted funds he will be able to replace 45 units. Mayor Rees verified that will leave 12 units to be replaced.

C. Recommendation to approve an amendment to the agreement with the St. Johns River Water Management District for Water Pumping Storage Project - Winter Garden Reclaimed Water Pumping and Transmission Project

Public Services Director Cochran stated that the City has entered into an agreement with the St. Johns River Water Management District on the cost share of the construction of Phase I and Phase II of the reclaimed water storage and pumping stations. Phase I was constructed back in late 2007 to 2008 for which the City received \$540,000. The City has taken bids for Phase II and will be bringing that to the City Commission for which the City can receive up to \$780,000. Staff is asking for a one year extension from St. Johns River Water Management who has approved the extension to September 30, 2010. Phase II should take about six to eight months to complete, so the City will be finished well before the end of the agreement.

Motion by Commissioner Sharman to approve an amendment to the agreement with the St. Johns River Water Management District for water pumping storage project – Winter Garden reclaimed water pumping and transmission project. Seconded by Commissioner Boulter and carried unanimously 5-0.

D. Recommendation to approve blocking Plant Street between City Hall and Dillard Street on November 6, 2009 to accommodate the West Orange High School Homecoming Parade

Recreation Director Conn stated that the West Orange High School has approached the City to hold its homecoming parade on Plant Street on November 6, 2009. This is the fourth consecutive year it will be held downtown. It is a good event and the merchants have shared their approval and staff recommends approval.

There was discussion that fees associated with this event be waived by the City.

Motion by Commissioner Jowers to approve blocking Plant Street between City Hall and Dillard Street on November 6, 2009 to accommodate the West Orange High School Homecoming Parade and waiving any associated staff and permit fees. Seconded by Commissioner Buchanan and carried unanimously 5-0.

E. **Recommendation to approve waiving permit fees and blocking Plant Street between Central Avenue and Woodland Avenue to accommodate the Winter Garden Art Festival on November 21 and 22, 2009**

Recreation Director Conn stated that the Winter Garden Downtown Merchant's Guild has asked to hold their art festival on November 21 and 22, 2009. They have asked permission to block Plant Street, use the City's port-o-lets, sanitation support for trash, the City stage, and Fire Department staff to provide emergency services. In the past it has been a successful festival. The merchants have a new committee working on this event and they are trying hard to expand it. Staff recommends approval.

Motion by Commissioner Buchanan to approve the request as stated to accommodate the Winter Garden Art Festival on November 21 and 22, 2009. Seconded by Commissioner Jowers and carried unanimously 5-0.

F. **Recommendation to approve waiving fees and closing Plant Street April 10 and 11, 2010 to accommodate the Spring Fever in the Garden Festival**

Recreation Director Conn stated that the Spring Fever in the Garden Festival organizers have requested April 10 and 11, 2010 to hold their tenth annual festival. This has become one of Winter Garden's signature events. They are asking for the City's support by allowing staff to assist them and waiving of the permit fees associated with their event. Staff recommends approval.

Motion by Commissioner Boulter to approve April 10 and 11, 2010 for the Spring Fever in the Garden Festival as requested. Seconded by Commissioner Buchanan and carried unanimously 5-0.

G. **Resolution 09-13: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WINTER GARDEN, FLORIDA, ADOPTING POLICIES AND PROCEDURES FOR THE PROCUREMENT OF PRODUCTS AND SERVICES FOR THE CITY OF WINTER GARDEN, FLORIDA AND PROVIDING FOR AN EFFECTIVE DATE**

City Manager Bollhoefer asked that this item be **PULLED** for some additional changes and bring it back. *(No objections were noted.)*

6. **MATTERS FROM CITIZENS** – There were no items

7. **MATTERS FROM CITY ATTORNEY** – There are no items

8. **MATTERS FROM CITY MANAGER**

A. **Update on the calculations for Westside Townhomes**

City Manager Bollhoefer stated that staff is still working on the calculations and he is hoping he can bring them to the next meeting.

B. **Report on homeowner association streetlight reimbursements**

City Manager Bollhoefer stated that at a previous meeting there was a discussion on subdivision upgraded streetlight reimbursements. He explained that the City pays for the difference between the regular streetlights and the HOA upgraded streetlights. The HOA pays the entire bill and then at the end of the year they submit a request for reimbursement to the City. When this item was last discussed, there were several HOA's who had not submitted for reimbursement. Mr. Bollhoefer distributed a copy of an updated reimbursement spreadsheet listed by community. He noted that not all HOA's have submitted their request. In the future, the City will notify the HOA's each year to ensure this does not happen in the future. If the City Commission desires, a vote can be taken on whether or not to pay the HOA's their prior year(s) reimbursements. He stated that the HOA is ultimately required to submit their request for reimbursement, however oftentimes it is the residents who suffer because either their management company or the HOA board fails to submit the request.

Mayor Rees noted the total reimbursement comes to \$36,000+ retroactively.

Commissioner Buchanan verified that the HOA will still need to submit their request for reimbursement. Mr. Bollhoefer replied yes and that the payment will come directly out of the general fund.

Motion by Commissioner Sharman to approve retroactive reimbursement of upgraded streetlights upon submittal by the homeowner associations. Seconded by Commissioner Buchanan and carried unanimously 5-0.

9. **MATTERS FROM MAYOR AND COMMISSIONERS**

Commissioner Boulter thanked the City for its help in the WOKB radio station sponsored event at the Mildred Dixon Center. He stated there was a very good turnout. He is hopeful that residents will attend future events throughout the City as a community.

Commissioner Buchanan stated that the West Orange Chamber of Commerce has asked him to ask the City Commission if anyone else would like to serve on the Board as the City's representative. He stated that if no one volunteers, he would be willing to remain on the Board. (*No one else volunteered.*)

Commissioner Buchanan extended a special thanks to the City and specifically City Manager Bollhoefer for bringing U.S. Senator Alan Grayson to City Hall for people to meet with him and get their concerns heard. He thinks Senator Grayson was helpful in bringing stimulus money to the City for the State Road 50 project. Senator Grayson will have an office in City Hall. Mr. Bollhoefer clarified that his office will have his legislative assistant here on Tuesday afternoons.

Commissioner Buchanan stated that he is still in awe of how many people are on our City streets on the weekend enjoying the City. He likes to see all the upcoming festivals and people asking for the City's help. It was a great honor for Sue Crabtree earlier tonight who has worked very hard on the annual festival.

Commissioner Jowers asked the status on the Sandra Rice project. Mr. Bollhoefer replied that the City has contracted with three contractors to come out and finish the last three items on her punch list. Commissioner Jowers asked if Ms. Rice will need to sign documentation that stipulates that the City has done what it can do. Mr. Bollhoefer stated that he will ask Ms. Rice to sign documentation but there is no way to assure that she will sign.

The meeting adjourned at 7:54 p.m.

APPROVED:

_____/S/_____
MAYOR JOHN REES

ATTEST:

_____/S/_____
City Clerk Kathy Golden, CMC