



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

REGULAR MEETING

JANUARY 28, 2010

6:30 P.M.

CALL TO ORDER

Determination of a Quorum

Invocation and Pledge of Allegiance

1. APPROVAL OF MINUTES

Regular Meeting of January 14, 2010

2. FIRST READING OF PROPOSED ORDINANCE

A. **Ordinance 10-12:** AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WINTER GARDEN, FLORIDA, AMENDING CHAPTER 98 OF THE WINTER GARDEN CODE OF ORDINANCES, ARTICLE VII, SECTION 98-189, CONCERNING THE COMPOSITION AND TERMS OF MEMBERS OF THE ARCHITECTURAL REVIEW AND HISTORIC PRESERVATION BOARD; AMENDING BOARD MEMBERSHIP REQUIREMENTS; PROVIDING FOR UNIFORM COMMENCEMENT, EXPIRATION AND LENGTH OF TERMS OF OFFICE IN JULY; PROVIDING FOR FILLING OF VACANCIES, MONTHLY MEETINGS, QUORUM REQUIREMENTS; PROVIDING FOR CODIFICATION, ENFORCEMENT, SEVERABILITY, AND AN EFFECTIVE DATE **with the second reading and public hearing being scheduled for February 11, 2010** – Community Development Director Wilson

3. SECOND READING AND PUBLIC HEARING OF PROPOSED ORDINANCES

A. **Ordinance 09-59:** AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WINTER GARDEN, FLORIDA AMENDING THE INTERGOVERNMENTAL COORDINATION ELEMENT, FUTURE LAND USE ELEMENT, PUBLIC FACILITIES ELEMENT, AND THE CONSERVATION ELEMENT OF THE COMPREHENSIVE PLAN OF THE CITY OF WINTER GARDEN; PROVIDING FOR COORDINATION WITH THE ST. JOHNS RIVER WATER MANAGEMENT DISTRICT; PROPOSING NEW AND REVISING EXISTING INTERGOVERNMENTAL AGREEMENTS; REQUIRING AVAILABILITY OF ADEQUATE WATER SUPPLIES AND ASSOCIATED PUBLIC FACILITIES TO MEET PROJECTED GROWTH DEMANDS PRIOR TO FUTURE LAND USE MAP AMENDMENTS AND ISSUANCE OF CERTIFICATES OF OCCUPANCY; ENSURING EFFICIENT OPERATION OF THE RECLAIMED WATER SYSTEM; MAINTAINING MEASURES TO CONTROL OR PROHIBIT PACKAGE PLANTS; PROVIDING FOR WATER CONSERVATION BY PROGRESSIVE WATER USEAGE RATE STRUCTURE AND OTHER MEASURES; IMPLEMENTING THE CITY OF WINTER GARDEN WATER, WASTEWATER, AND 2008 RECLAIMED WATER MASTER PLANS; MAINTAIN THE WATER CONSERVATION PROGRAM; ADOPTING THE 2009-2018 10-YEAR WATER SUPPLY AND FACILITY WORK PLAN; PROVIDING FOR CODIFICATION; PROVIDING



FOR CONTROL IN EVENT OF CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE – Community Development Director Wilson

- B. **Ordinance 10-07:** AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA, AMENDING ORDINANCE 09-58, THE CITY OF WINTER GARDEN FISCAL YEAR 2009-2010 BUDGET TO CARRY FORWARD PRIOR YEAR APPROPRIATIONS; PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE – Finance Director Hayes
- C. **Ordinance 10-09:** 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 UNIFORM COMMENCEMENT, EXPIRATION, AND LENGTH OF TERMS OF OFFICE IN OCTOBER; PROVIDING FOR TERM LIMITS; PROVIDING FOR FILLING OF VACANCIES AND TRANSITION OF PREVIOUS TERMS ENDING IN MONTHS OTHER THAN OCTOBER; PROVIDING FOR CODIFICATION, SEVERABILITY, AND AN EFFECTIVE DATE – City Manager Bollhoefer
- D. **Ordinance 10-10:** AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA, AMENDING CHAPTER 2, ARTICLE II, SECTION 2-61 OF THE WINTER GARDEN CITY CODE PERTAINING TO THE COMPOSITION AND APPOINTMENT OF THE CODE ENFORCEMENT BOARD; PROVIDING FOR CODE ENFORCEMENT BOARD TERMS OF THREE YEARS TO BEGIN AND END IN JUNE; PROVIDING FOR CURRENT MEMBERS TO SERVE OUT THE REMAINDER OF THEIR CURRENT TERMS; REQUIRING THE CITY ATTORNEY TO SERVE EITHER AS COUNSEL TO THE CODE ENFORCEMENT BOARD OR PROSECUTOR OF CODE ENFORCEMENT VIOLATIONS; PROVIDING FOR CODIFICATION, SEVERABILITY, AND AN EFFECTIVE DATE – City Manager Bollhoefer
- E. **Ordinance 10-11:** AN ORDINANCE OF THE CITY OF WINTER GARDEN AMENDING CHAPTER 54, PENSIONS AND RETIREMENT, ARTICLE II, PENSION PLAN FOR GENERAL EMPLOYEES, OF THE CODE OF ORDINANCES OF THE CITY OF WINTER GARDEN; AMENDING SECTION 54-27, MEMBERSHIP; AMENDING SECTION 54-29, FINANCES AND FUND MANAGEMENT; PROVIDING FOR SEVERABILITY OF PROVISIONS; REPEALING ALL ORDINANCES IN CONFLICT HERewith AND PROVIDING AN EFFECTIVE DATE – City Manager Bollhoefer

4. **REGULAR BUSINESS**

- A. Recommendation to approve the bids for the Palmetto Water Treatment Plant Generator Improvements Project and awarding the contract to New Florida Industrial Electric, Inc. to include a 10 percent contingency for a total project amount of \$174,980.30 – Public Services Director Cochran

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

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

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

- A. State Road 50 streetlights presentation – Community Development Director Wilson
- B. Update on outstanding items

8. **MATTERS FROM MAYOR AND COMMISSIONERS**



ADJOURN to a regular City Commission meeting on February 11, 2010 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.



AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WINTER GARDEN, FLORIDA, AMENDING CHAPTER 98 OF THE WINTER GARDEN CODE OF ORDINANCES, ARTICLE VII, SECTION 98-189, CONCERNING THE COMPOSITION AND TERMS OF MEMBERS OF THE ARCHITECTURAL REVIEW AND HISTORIC PRESERVATION BOARD; AMENDING BOARD MEMBERSHIP REQUIREMENTS; PROVIDING FOR UNIFORM COMMENCEMENT, EXPIRATION AND LENGTH OF TERMS OF OFFICE IN JULY; PROVIDING FOR FILLING OF VACANCIES, MONTHLY MEETINGS, QUORUM REQUIREMENTS; PROVIDING FOR CODIFICATION, ENFORCEMENT, SEVERABILITY, AND AN EFFECTIVE DATE.

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

SECTION 1: Authority. The City of Winter Garden has the authority to adopt this Ordinance pursuant to Article VIII of the Constitution of the State of Florida, and Chapters 162 and 166, Florida Statutes.

SECTION 2: Adoption. Article VII of Chapter 98 of the City of Winter Garden Code is hereby amended, recodified and incorporated herein as follows:

Sec. 98-189. Architectural Review and Historic Preservation Board (Board).

Reference previously established by Ordinance 08-29 (6-12-2008):

(1) Purpose.

The Architectural Review and Historical Preservation Board “Board” or “ARHPB”_is hereby established for the purpose of protecting historical and cultural resources located within the city limits.

(2) Board membership, officers, etc.

(a) *Membership.*

(1) The Board (“Board or ARHPB”)_shall have seven members appointed by the City Commission. One member of the Board shall be ~~a registered~~ an architect. One member shall be a licensed general contractor, preferably with experience with historical renovations. One member shall be a member of the Winter Garden Heritage Foundation Board. One member shall own commercial property in Winter Garden's Historic ~~d~~Downtown C-1 zoning ~~d~~District. One member shall own property within the district and reside within the City. The remaining ~~three~~ two member appointments shall be City of Winter Garden residents and be made on the basis of civic pride, integrity, experience, and interest in the field of historic preservation.

(2) Each member shall be appointed to serve a three-year term except that, initially in order to establish staggered terms, two members shall be appointed to serve a term of one year, three members shall be appointed to serve a term of two years, and two members shall be appointed to serve a term of three years. No person may serve more than two consecutive three-year terms. Persons disqualified by this provision may be reappointed after one year elapses after the expiration of ~~the~~ his/her last second term of service. Starting January 1, 2010, the City Commission shall appoint or reappoint board members at its first meeting in the month of July to three-year terms ending in the month of July in the third year of each term and upon the reappointment or appointment of a successor member to the board.

(3) Board members appointed or reappointed prior January 1, 2010 shall serve out the remainder of the terms to which they were appointed. Upon the expiration of any such terms, the City



Commission shall reappoint the member or appoint a successor member, whose term shall be for three years ending in July of the last year of such term and upon reappointment or appointment of a successor member.

(34) When a position becomes vacant before the end of the term, the city commission shall appoint a substitute member within 60 days to fill the vacancy for the remainder duration of the vacated term. A member whose term expires may continue to serve on the board until a successor is appointed and qualified.

(45) When a position becomes vacant before the end of the term, the City Commission shall appoint a substitute member within 60 days to fill the vacancy for the duration of the vacated term. A member whose term expires may continue to serve on the Board until a successor is appointed and qualified.

(56) An individual who misses three regularly scheduled meetings during any calendar year without good cause shall be deemed to have resigned that individual's membership on the Board and is not eligible for reappointment to the Board or any other city board for at least one year. In that event, the city clerk shall notify the individual that the individual's position on the Board will be declared vacant by the City Commission at the next regularly scheduled City Commission meeting unless the individual demonstrates good cause for having been absent. The City Commission may at any time terminate the appointment of and remove any Board member for cause including, but not limited to, a member's excessive absences, violation of City Charter or City Code, violation of the Government in the Sunshine Law, malfeasance, misfeasance, neglect of duty, habitual drunkenness or impairment, incompetence, permanent inability to perform duty and conflicts of interest, upon giving notice and an opportunity to be heard. The City Commission shall take any and all action it deems appropriate in its sole discretion.

- (b) *Officers.* The members of the Board shall annually elect a chair and vice chair from among the members and may create and appoint other officers of the Board, as the Board deems necessary.
- (c) *Staffing.* The City shall provide professional and administrative staff as needed and fiscal support subject to budgetary approval by the City Commission.
- (d) *Compensation.* Members shall not be compensated but shall be reimbursed by the city for necessary expenses incurred in connection with their duties
- (e) *Funding.* The City Commission shall appropriate funds to the Board to perform its prescribed functions.
- (f) *Required meetings.* The Board shall endeavor to meet twelve times each year on a monthly basis. ~~a~~All meetings will be appropriately noticed and minutes of each meeting shall be kept. Meetings will be conducted according to rules of procedure adopted by the Board. All meetings of the Board shall be open to the public and shall operate under the provisions of F.S. ch. 286 (The Government in the Sunshine Law).
- (g) *Quorum.* Four (4) members of the Architectural Review and Historical Preservation Board shall constitute a quorum for the purposes of holding meetings and transacting business. However, no action on an item before the board shall be final or binding unless such action is approved or disapproved by a majority of the members of the Board in its entirety.

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

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



SECTION 5: Severability: It is the intent of the City Commission of the City of Winter Garden, and is hereby provided, that if any section, subsection, sentence, clause, phrase or provision of this Ordinance is held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall be not be construed as to render invalid or unconstitutional the remaining provisions of this Ordinance.

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

READ FIRST TIME: _____ January 28 _____, 2010

READ SECOND TIME AND PUBLIC HEARING HELD: _____ February 11 _____, 2010.

APPROVED:

John Rees, Mayor/Commissioner

ATTEST:

Kathy Golden, City Clerk



AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WINTER GARDEN, FLORIDA AMENDING THE INTERGOVERNMENTAL COORDINATION ELEMENT, FUTURE LAND USE ELEMENT, PUBLIC FACILITIES ELEMENT, AND THE CONSERVATION ELEMENT OF THE COMPREHENSIVE PLAN OF THE CITY OF WINTER GARDEN; PROVIDING FOR COORDINATION WITH THE ST. JOHNS RIVER WATER MANAGEMENT DISTRICT; PROPOSING NEW AND REVISING EXISTING INTERGOVERNMENTAL AGREEMENTS; REQUIRING AVAILABILITY OF ADEQUATE WATER SUPPLIES AND ASSOCIATED PUBLIC FACILITIES TO MEET PROJECTED GROWTH DEMANDS PRIOR TO FUTURE LAND USE MAP AMENDMENTS AND ISSUANCE OF CERTIFICATES OF OCCUPANCY; ENSURING EFFICIENT OPERATION OF THE RECLAIMED WATER SYSTEM; MAINTAINING MEASURES TO CONTROL OR PROHIBIT PACKAGE PLANTS; PROVIDING FOR WATER CONSERVATION BY PROGRESSIVE WATER USEAGE RATE STRUCTURE AND OTHER MEASURES; IMPLEMENTING THE CITY OF WINTER GARDEN WATER, WASTEWATER, AND 2008 RECLAIMED WATER MASTER PLANS; MAINTAIN THE WATER CONSERVATION PROGRAM; ADOPTING THE 2009-2018 10-YEAR WATER SUPPLY AND FACILITY WORK PLAN; PROVIDING FOR CODIFICATION; PROVIDING FOR CONTROL IN EVENT OF CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

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

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

WHEREAS, the City is required, pursuant to Chapter 163.3177 (6) (c), Florida Statutes to update the City comprehensive plan to address water supply planning and to adopt related amendments; and

WHEREAS, on September 14, 2009 the City's Local Planning Agency (LPA), held a public hearing and made recommendations regarding the adoption of the proposed amendments to the comprehensive plan; and

WHEREAS, the City Commission finds that this ordinance is consistent with the provisions in the Florida Statutes, which require the City to provide for adequate public facilities, including adequate water supply facilities, to support anticipated growth within the City over the next ten (10) years; and

WHEREAS, The City Commission has found that the proposed 10-Year Water Supply Facilities Work Plan (2009-2018) to be consistent with the City's comprehensive plan and to meet all statutory and regulatory requirements;

WHEREAS, the City Commission finds that this ordinance implements the goals, objectives and policies necessary to enact the 10-Year Water Supply Facilities Work Plan (2009-2018) as required by applicable law.

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

Section I: Adoption: The following Future Land Use Element policies in the City of Winter Garden Comprehensive Plan is hereby amended to read as follows (words that are ~~stricken out~~ are deletions; words that are underlined are additions):



- Policy 1.1(j) Require data and analysis for future land use map amendments demonstrating that adequate water supplies and associated public facilities are available to meet projected growth demands.
- Policy 2.2 Connection Requirements – Existing development shall be required to connect to City water, reclaimed water and sewer service when such service becomes available.
- Policy 2.8 No future land use amendments or changes shall be approved unless adequate water supplies and associated public facilities are available or will be available to meet projected needs.

Section II: Adoption: The following Public Facilities Element policies in the City of Winter Garden Comprehensive Plan is hereby amended read as follows (words that are ~~stricken out~~ are deletions; words that are underlined are additions):

Public Facilities Element - General

- Goal 1 Public facilities including sanitary sewer, solid waste, drainage, potable water, lower quality water sources (such as reclaimed water and surface/stormwater) and natural ground water aquifer recharge shall be provided in a manner which protects orderly compact urban growth.
- Policy 1.4 The City shall issue no development orders or development permits without first consulting with the utility service provider (City of Winter Garden Utilities Department or Orange County) to determine whether adequate water supplies to serve the development will be available no later than the anticipated date of issuance by the City of a certificate of occupancy or its functional equivalent. The City will also ensure that adequate water supplies and facilities are available and in place prior to issuing a certificate of occupancy or its functional equivalent.
- Policy 1.5 To ensure that adequate water supply and capacity allocations for all developments, the City may require any development to use developer's agreements and/or develop in more than one phase.
- Policy 2.3 Connection Plan – ~~By January 2004, the~~ The City shall develop maintain a map identifying the location of parcels not presently served with water and/or waste water and/or reclaimed water. ~~By January 2007, the~~ The City shall develop maintain a strategic plan to connect the properties that are considered feasible for connection.
- Objective 5 Reclaimed Water – To ensure efficient operation of the reclaimed water system.
- Policy 5.1 The City shall adopt regulations to ensure for the efficient operation of the reclaimed water system for the health or safety of the general public or the customer, regarding the following matters:
1. The times of day or night during which the reuse may be used by customers.
 2. The maximum rate of use of the reuse water.
 3. The right to inspect reclaimed water devices, facilities, and terminate service to reclaimed water system found to be in violation of any City ordinance, regulation or procedure.
 4. The right to impose the requirement that upon being connected to the City's reclaimed water system, any existing well on the subject property shall not continue to be used for irrigation and shall be disconnected from the irrigation system (unless otherwise approved by the permitting agency and the City Manager).



5. The right to impose the mandatory payment of fees for the installation and usage of reclaimed water systems. Once service is connected, the user shall pay a minimum monthly charge set by resolution of the City Commission.
6. The right to temporarily discontinue service to any portion of, or the entire, reclaimed water system as deemed necessary by the City.

Potable Water Sub-Element

- Policy 1.7 Irrigation – The City shall continue ~~to evaluate~~ its policy ~~for allowing City water to be metered for irrigation~~ to meter all irrigation water uses, regardless of source.
- Policy 1.13 Water, & Wastewater, and Reclaimed Water Master Plans – The City shall continue to implement the findings and recommendations of the City of Winter Garden’s Water, & Wastewater, and Reclaimed Water Master Plans as amended by the City Commission.
- Policy 1.13.3 The City will maintain and upgrade its 10-Year Water Supply and Facility Work Plan consistent with the updates of the Water Management Districts’ Regional Water Supply Plan. ~~The City is participating in three projects identified in the Regional Water Supply Plan.~~ The Work Plan (Exhibit 1) shall be reviewed annually and shall be updated within 18 months of an update to the water management district’s water supply plan that affects the City or sooner if necessary.
- Policy 1.13.4 ~~The City is participating in the regional study of alternative water supply projects with the Water Management District and will designate a project to participate in before June 2007.~~ The City shall coordinate with the St. Johns River Water Management District, Orange County, and other local governments or private utility providers to develop cost effective and technically feasible water surces that will satisfy and supplement future demands without causing adverse impacts to water quality, wetlands, aquatic systems or the environment. Projects currently being considered include:
 - 1) ~~Yankee Lake serving Western Orange and Lake Counties~~
 - 2) ~~Yankee Lake Serving Western Orange County~~
 - 3) ~~Lower Ocklawaha River serving Western Orange and Lake County~~
 - 4) 1. St Johns River at SR 46 serving Seminole and Eastern Orange County
2. Kissimmee River Basin (Lake Tohopekaliga) Potable Water Supply Project
- Policy 1.13.5 The City has adopted a Territorial Water, and Wastewater and Reclaimed Water Agreement with Orange County, reclaimed water agreement with the City of Ocoee for delivery of reclaimed water to the Forest Lake Golf Course ~~service agreements with Oakland, Ocoee and Apopka~~ and reuse water agreements with Orange County, OUC and Orlando. The City will strive to maintain the excellent relationships it enjoys with those jurisdictions and will revise these agreements or establish new agreements as necessary.
- Policy 2.1 Water Conservation Program – The City shall, ~~by June of 1998 establish~~ maintain an overall water conservation program which will include an educational program, landscape ordinance, water conservation fixture requirements, and other innovative measures.
- Policy 2.2 High Water Users – ~~By January 2005 the City shall consider adopting higher per gallon fees for high water users.~~ The City shall maintain a progressive water rate structure to ensure conservation of potable water source.
- Policy 2.3 Drought – ~~By January 2005~~ December 2009, the City shall ~~develop relations~~ adopt updates to its water shortage ordinance that restrict irrigation during times of drought.



Policy 2.4 ~~Xeriscaping Florida-friendly landscaping - By January 2005~~ December 2010 2009, the City shall develop ~~and adopt an ordinance regulations requiring or encouraging~~ the use of ~~Xeriscaping Florida-friendly landscaping and irrigation to promote the efficient use of water for all new developments and redevelopment.~~

Sanitary Sewer Sub-Element

Policy 1.8 Package Plants – ~~By July 1992, the~~ The City will ~~adopt~~ maintain measures which control or prohibit the use of package treatment plants where City service is available.

Policy 1.13 Water, & Wastewater, and Reclaimed Water Master Plans – The City shall continue to implement the findings and recommendations of the City of Winter Garden’s Water, & Wastewater, and Reclaimed Water Master Plans as amended by the City Commission.

Policy 1.17 The City shall require the installation of dual-lined distribution systems and individually metered connections for all new developments. All new development and redevelopment shall connect to reuse systems. City will identify potential users from existing developed properties and will implement reuse where practicable and financially feasible.

Section III: Adoption: The following Intergovernmental Coordination Element policies in the City of Winter Garden Comprehensive Plan is hereby amended to read as follows (words that are ~~stricken out~~ are deletions; words that are underlined are additions):

Policy 1.5 The City shall coordinate with the St Johns River Water Management District and the South Florida Water Management District during updates to the District’s regional water supply plans to identify potentially feasible water supply projects in the City. The City will update its water supply facilities work plan every five years, within 18 months of the adoption of the latter of the two water management districts’ regional water supply plans.

Section IV: Adoption: The following Conservation Element policies in the City of Winter Garden Comprehensive Plan is hereby amended to read as follows (words that are ~~stricken out~~ are deletions; words that are underlined are additions):

Policy 3.8: ~~The City shall review and implement the following water conservation measures:~~

- ~~(a) Installation of water conserving plumbing fixtures in new construction and retrofitting older construction;~~
- ~~(b) Water reuse for irrigation purposes;~~
- ~~(c) Constant monitoring and correction of water loss in the water distribution system; and~~
- ~~(d) Planting of drought-resistant or native vegetation in landscaping projects.~~

The City shall continue to educate residents on the benefits of water conservation and shall expand water conservation efforts for potable water and lower quality water sources, including reuse and surface/stormwater, in accordance with the City’s Water Conservation Plan. The City will continue to promote the following programs:

1. Landscape demonstrations and seminars
2. Irrigation water audit program



3. Irrigation timer assistance
4. High water use program
5. Website information
6. Public Service Announcements
7. Rain Barrel Program
8. Rain Sensor testing and replacement program
9. HOA Water Conservation presentations
10. Drop Saver Program
11. Employee training
12. Display and distribute water conservation information at community functions
13. Work with developers, civic organizations, home owners associations, community clubs, etc. to promote the importance of water conservation
14. Participate in educational programs with University of Florida/IFAS Florida Yards & Neighborhoods
15. Billing inserts, newspaper articles/press releases and other publications to promote water conservation
16. Water Conservation Month
17. Plumbing retrofit/exchange program
18. Promote Florida-friendly and native plant landscaping

Policy 3.10 Florida-friendly landscaping Xeriscaping – ~~By January 2005-December 2010, the City shall develop and adopt a water conversation ordinance to require Florida-friendly landscaping with appropriate irrigation design establish a requirement for Xeriscaping for new residential non-residential uses.~~

Policy 3.11 ~~Water Rates—The City shall continue to support larger water rates for high per gallon users.~~ The City shall maintain a progressive water rate structure to encourage efficient use of both potable water and lower-quality water sources such as reuse and surface/stormwater.

Policy 3.14 The City shall require working automatic rain sensors shut-offs on all automatic irrigation systems in accordance with state and local requirements.

Policy 3.15 The City shall maintain the following water conservation measures:

1. Constant monitoring and correction of water loss in the distribution system
2. Annual water audits
3. Meter survey and replacement program
4. Provide construction meters to contractors and read monthly

Policy 3.16 The City shall encourage and promote the use of low impact development techniques in both residential and non-residential development and shall make such low impact development techniques eligible for development bonus consideration in the proposed activity centers.

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



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

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

Section IX: Effective Date: Pursuant to Rule 9J-11.011(10), F.A.C., the effective date of this plan amendment shall be the date a final order is issued by the Department of Community Affairs or Administration Commission finding the amendment in compliance in accordance with Section 163.3184 (1)(b), Florida Statutes, whichever is applicable. This amendment shall not be utilized as a basis for approving or issuing any development orders, development permits or land uses before such amendment has become effective. If a final order of noncompliance is issued by the Administration Commission, this amendment may nevertheless be made effective by adoption of a resolution affirming its effective status, a copy of which resolution shall be sent to the Florida Department of Community Affairs, Division of Community Planning, Plan Processing Team. An adopted amendment whose effective date is delayed by law shall be considered part of the adopted plan until determined to be not in compliance by final order of the Administration Commission. Then, it shall no longer be part of the adopted plan unless the local government adopts a resolution affirming its effectiveness in the manner provided by law.

FIRST READING AND PUBLIC HEARING: September 21, 2009

SECOND READING AND PUBLIC HEARING: January 28, 2010

ADOPTED this 28th day of January, 2010, by the City Commission of the City of Winter Garden, Florida.

APPROVED:

JOHN REES, Mayor/Commissioner

ATTEST:

KATHY GOLDEN, City Clerk



AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA, AMENDING ORDINANCE 09-58, THE CITY OF WINTER GARDEN FISCAL YEAR 2009-2010 BUDGET TO CARRY FORWARD PRIOR YEAR APPROPRIATIONS; PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, on September 21, 2009, the City Commission of the City of Winter Garden, Florida, adopted Ordinance 09-58 appropriating and allocating all revenue and funds of the City of Winter Garden, Florida for the tax year beginning October 1, 2009 and ending September 30, 2010;

WHEREAS, the City Commission has decided to amend the City of Winter Garden, Florida Budget for the tax year beginning October 1, 2009 and ending September 30, 2010 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 \$14,292,379 to be appropriated as follows:

REVENUES

General Fund	\$ 2,169,332	
Downtown Parking District	9,929	
Community Redevelopment Agency	-	
Law Enforcement Grants Fund	88,540	
Local Option Gas Tax Fund	237,307	
General Impact Fee Fund	2,943,289	
Transportation Impact Fee-South of Turnpike Fund	832,290	
CR 545 Special Benefit Impact Fee Fund	-	
Transportation Impact Fee Fund	1,340,196	
Utilities Impact Fee Fund	6,068,467	Utilities
Renewal & Replacement	584,286	
Stormwater Fund	-	
Trailer City Fund	18,743	
\$14,292,379	_____	

EXPENSES

General Fund	\$ 2,169,332
Downtown Parking District	9,929
Community Redevelopment Agency	-
Law Enforcement Grants Fund	88,540
Local Option Gas Tax Fund	237,307
General Impact Fee Fund	2,943,289
Transportation Impact Fee-South of Turnpike Fund	832,290
CR 545 Special Benefit Impact Fee Fund	-
Transportation Impact Fee Fund	1,340,196



Utilities Impact Fee Fund	6,068,467	Utilities
Renewal & Replacement	584,286	
Stormwater Fund	-	
Trailer City Fund	<u>18,743</u>	
\$14,292,379		

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 14, 2010

READ SECOND TIME AND PUBLIC HEARING HELD: January 28, 2010

APPROVED:

Mayor/Commissioner John Rees

ATTEST:

Kathy Golden, City Clerk

**City of Winter Garden
Carry Forward Budget
Ordinance 10-07**

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	2,169,332	<i>To balance revenues/expenditures</i>
		Total Revenues	2,169,332	



Executive:				
001-0213-512.81-00		Aids to Government Agencies	511,000	<i>Obligations to Orange County - Magic</i>
City Clerk:				
001-0218-512.47-02		Printing and Binding/Records Mgmt	196,151	<i>Digital Imaging/Scanning</i>
Community Development-Building Division:				
001-0324-524.47-02		Printing and Binding/Records Mgmt	77,505	<i>Digital Imaging/Scanning</i>
Police:				
001-0521-521.62-00	08032	Building	2,824	<i>Re-roof Existing Police Station</i>
001-0521-521.64-00		Machinery and Equipment	5,393	<i>Portable Radios</i>
Streets:				
001-0741-541.63-00	06016	Improvements Other Than Buildings	343,611	<i>Tremaine St-Highland to Main</i>
Parks and Recreation-Recreation:				
001-0872-572.62-00	08018	Buildings	977,213	<i>Jessie Brock Community Center</i>
001-0872-572.63-00	09001	Improvements Other Than Buildings	50,712	<i>Lulu Creek Trail Design</i>
001-0872-572.64-00		Machinery and Equipment	3,023	<i>Ice Machine-Braddock Park</i>
Parks and Recreation-Newton Park Facilities:				
001-3658-575.64-00		Machinery and Equipment	1,900	<i>Commercial Refridgerator for Tanner H</i>
		Total Expenditures	2,169,332	
<u>Downtown Parking District Fund</u>				
110-0000-389.99-99		Use of Fund Balance	9,929	<i>To balance revenues/expenditures</i>
		Total Revenues	9,929	
110-0741-541.63-00	04003	Improvements Other Than Buildings	35,000	<i>Boyd Street Parking Lot</i>
110-0741-590.90-00		Transfer to Fund Balance	(25,071)	<i>To balance revenues/expenditures</i>
		Total Expenditures	9,929	



Community Redevelopment Agency Fund

		Total Revenues	-	
120-0213-552.63-00	09039	Improvements Other Than Buildings	37,000	<i>Downtown Vehicular Wayfinding Signs</i>
120-0213-590.90-00		Transfer to Fund Balance	(37,000)	<i>To balance revenues/expenditures</i>
		Total Expenditures	-	

Law Enforcement Grants Fund

122-0021-331.21-00		Federal Grants	63,824	<i>Grant Funds not yet received</i>
122-0021-389.99-99		Use of Fund Balance-Police	24,716	<i>To balance revenues/expenditures</i>

Total Revenues 88,540

122-0521-521.64-00		Machinery and Equipment	88,540	<i>Grant Funded Machinery and Equipme</i>
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Total Expenditures 88,540

Local Option Gas Tax Fund

160-0741-381.99-99		Use of Fund Balance	237,307	<i>To balance revenues/expenditures</i>
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Total Revenues 237,307

160-0741-541.63-00	06016	Improvements Other Than Buildings	230,067	<i>Tremaine St-Highland to Main</i>
160-0741-541.63-00	09048	Improvements Other Than Buildings	19,647	<i>Lakeview (Lafayette to Palm)</i>
160-0741-541.63-00	09049	Improvements Other Than Buildings	25,307	<i>North Street (Plant to 11th)</i>
160-0741-541.63-00	09050	Improvements Other Than Buildings	108,837	<i>Warrior Road (Beulah to Windermere)</i>
160-0741-590.90-00		Transfer to Fund Balance	(146,551)	<i>To balance revenues/expenditures</i>

Total Expenditures 237,307



General Impact Fee Fund

170-0021-389.99-99		Use of Fund Balance-Police	28,000	<i>To balance revenues/expenditures</i>
170-0741-389.99-99		Use of Fund Balance-Streets	2,915,289	<i>To balance revenues/expenditures</i>

Total Revenues **2,943,289**

Police:

170-0021-521.64-00		Machinery and Equipment	28,000	<i>Lockers</i>
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Streets:

170-0741-541.63-00	07037	Improvements Other Than Buildings	2,871,875	<i>Plant St Widen/W Crown Pt</i>
170-0741-541.63-00	07037A	Improvements Other Than Buildings	238,929	<i>Plant St Widen/E Crown Pt</i>
170-0741-590.90-00		Transfer to Fund Balance	(195,515)	<i>To balance revenues/expenditures</i>

Total Expenditures **2,943,289**

Transportation Impact Fee-South of Turnpike Fund

171-0741-389.99-99		Use of Fund Balance	832,290	<i>To balance revenues/expenditures</i>
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Total Revenues **832,290**

171-0741-541.63-00	08005	Improvements Other Than Buildings	889,214	<i>Marsh Road (CR 545 to Hickory Hammock)</i>
171-0741-541.63-00	09004	Improvements Other Than Buildings	152,803	<i>Sessions Road</i>
171-0741-590.90-00		Transfer to Fund Balance	(209,727)	<i>To balance revenues/expenditures</i>

Total Expenditures **832,290**

CR 545 Special Benefit Impact Fee Fund

Total Revenues **-**

173-0741-541.61-00	06067	Land	295,677	<i>CR 545 S - Special Benefit</i>
173-0741-541.63-00	07018	Improvements Other Than Buildings	500,000	<i>CR 545 S - Special Benefit</i>
173-0741-590.90-00		Transfer to Fund Balance	(795,677)	<i>To balance revenues/expenditures</i>



Total Expenditures -

Transportation Impact Fee Fund

174-0741-389.99-99 Use of Fund Balance 1,340,196 *To balance revenues/expenditures*

Total Revenues **1,340,196**

174-0741-541.63-00 09041 Improvements Other Than Buildings 1,340,196 *State Road 50 Median Landscaping*

Total Expenditures **1,340,196**

Utilities Impact Fee Fund

411-2116-389.99-16 Use of Fund Balance-Water 754,763 *To balance revenues/expenditures*

411-2116-389.99-17 Use of Fund Balance-Sewer 5,313,704 *To balance revenues/expenditures*

Total Revenues **6,068,467**

411-2117-535.63-00 08008 Improvements Other Than Buildings 2,500,000 *Reclaim Water Storage - 2*

411-2117-535.63-00 09046 Improvements Other Than Buildings 48,116 *Dreyfus Line Tie-ins*

411-2117-535.63-00 09052 Improvements Other Than Buildings 150,000 *Conserv II-Reclaim Water Meters*

411-2126-533.63-00 06016 Improvements Other Than Buildings 96,679 *Tremaine St - Highland to Main*

411-2126-533.63-00 07037 Improvements Other Than Buildings 216,735 *Plant St Widen/W Crown Pt*

411-2126-533.63-00 08030 Improvements Other Than Buildings 27,681 *CR 535 Utility Relocates*

411-2126-533.63-00 09007 Improvements Other Than Buildings 180,650 *Stoneybrook Water Main Loop*

411-2126-533.63-00 09053 Improvements Other Than Buildings 233,018 *Palmetto WTP Generator*

411-2127-535.63-00 03014 Improvements Other Than Buildings 800,000 *Trunkline C Phases 3-5*

411-2127-535.63-00 04055 Improvements Other Than Buildings 112 *Utility Line Relocate-SR 50*

411-2127-535.63-00 05020 Improvements Other Than Buildings 1,653,908 *Trunkline C Ph 6**

411-2127-535.63-00 06016 Improvements Other Than Buildings 31,699 *Tremaine St - Highland to Main*

411-2127-535.63-00 07037 Improvements Other Than Buildings 101,038 *Plant St Widen/W Crown Pt*

411-2127-535.63-00 08030 Improvements Other Than Buildings *CR 535 Utility Relocates*



00			28,831	
		Total Expenses		6,068,467

Utilities Renewal & Replacement Fund

412-2116-389.99-99		Use of Fund Balance	584,286	To balance revenues/expenditures
		Total Revenues		584,286
412-2117-535.63-00	09008	Improvements Other Than Buildings	16,780	WWTP Upgrade Mixers, Pumps
412-2117-535.63-00	09010	Improvements Other Than Buildings	9,350	WWTP Control Room Roof
412-2127-535.63-00	06016	Improvements Other Than Buildings	25,232	Tremaine St - Highland to Main
412-2127-535.63-00	09011	Improvements Other Than Buildings	20,000	Lift Station 27 Pump Upgrade
412-2127-535.63-00	09045	Improvements Other Than Buildings	512,924	9th Street WW Main Replacement
		Total Expenses		584,286

Stormwater Fund

		Total Revenues		-
420-2618-538.63-00	06016	Improvements Other Than Buildings	13,937	Tremaine St - Highland to Main
420-2618-538.63-00	07023	Improvements Other Than Buildings	322,931	CR 535 Drainage [Culvert] Improv
420-2618-538.63-00	09013	Improvements Other Than Buildings	53,626	Lake Cove Point Underdrain
420-2618-590.90-00		Transfer to Fund Balance	(390,494)	To balance revenues/expenditures
		Total Expenses		-

Trailer City Fund

450-3657-389.99-99		Use of Fund Balance	18,743	To balance revenues/expenditures
		Total Revenues		18,743
450-3657-539.62-	07024	Building		Trailer City Wash Room



00			30,000	
450-3657-539.64-				
00	Equipment		8,100	<i>Trailer City Laundry Equipment</i>
450-3657-590.90-	Transfer to Fund Balance		(19,357)	<i>To balance revenues/expenditures</i>
00				
	Total Expenses		18,743	
	Grand Total		14,292,379	



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 UNIFORM COMMENCEMENT, EXPIRATION, AND LENGTH OF TERMS OF OFFICE IN OCTOBER; PROVIDING FOR TERM LIMITS; PROVIDING FOR FILLING OF VACANCIES AND TRANSITION OF PREVIOUS TERMS ENDING IN MONTHS OTHER THAN OCTOBER; PROVIDING FOR CODIFICATION, SEVERABILITY, AND AN EFFECTIVE DATE.

WHEREAS, the City of Winter Garden (“City”) desires to provide for uniformity in the appointment dates for members of the Planning and Zoning Board; and

WHEREAS, the City wants all terms to expire in the same month and after general elections of the city commission; and

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):

ARTICLE II. PLANNING AND ZONING BOARD

Sec. 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~~January 1, 2008~~10~~, each member appointment shall be for a term of ~~two~~three years. 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, or who were appointed to serve a two-year term after September 1, 2008, shall continue to serve out the remainder of such four-year those terms to which they were appointed. After January 1, 2010, the City Commission, at its second October meeting, shall appoint planning and zoning board members to open seats for three-year terms, with such terms ending upon the appointment of a successor or reappointment of such member. A member shall not be appointed to the Board for more than two consecutive three year terms, but may be reappointed after the expiration of one year following the end of such member’s second term. 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 until October of the last year ~~offer~~ the unexpired term by the city commission, which 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. Any member appointed to fill a vacancy shall serve until October of the last year remaining in the term of the member being replaced or until reappointment or appointment of a successor member, regardless of which month such term may have been set to expire.
- (d) All members shall serve without compensation but may be reimbursed for actual expenses incurred in connection with their official duties.
- (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. CONTROL. In the event of a conflict or conflicts between this ordinance and other ordinances, this ordinance controls.

SECTION V. EFFECTIVE DATE OF ORDINANCE. This Ordinance shall take effect immediately upon its adoption.

FIRST READING: _____ January 14 _____, 2010

SECOND READING AND PUBLIC HEARING: _____ January 28 _____, 2010

APPROVED:

John Rees, Mayor/Commissioner

ATTEST:

Kathy Golden, City Clerk



AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA, AMENDING CHAPTER 2, ARTICLE II, SECTION 2-61 OF THE WINTER GARDEN CITY CODE PERTAINING TO THE COMPOSITION AND APPOINTMENT OF THE CODE ENFORCEMENT BOARD; PROVIDING FOR CODE ENFORCEMENT BOARD TERMS OF THREE YEARS TO BEGIN AND END IN JUNE; PROVIDING FOR CURRENT MEMBERS TO SERVE OUT THE REMAINDER OF THEIR CURRENT TERMS; REQUIRING THE CITY ATTORNEY TO SERVE EITHER AS COUNSEL TO THE CODE ENFORCEMENT BOARD OR PROSECUTOR OF CODE ENFORCEMENT VIOLATIONS; PROVIDING FOR CODIFICATION, SEVERABILITY, AND AN EFFECTIVE DATE.

WHEREAS, the City desires to establish limits on consecutive terms for Code Enforcement Board members; and

WHEREAS, the City desires to establish uniform terms for its Code Enforcement Board members;

WHEREAS, the City desires to be in conformity with Florida Statute § 162.05 which limits the City's attorney to serve as either the enforcement board attorney or present cases before the enforcement board.

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

SECTION I. SECTION 2-61 ~~Created; composition; terms; removal; organization; officers; quorum; compensation.~~ Section 2-61 is hereby amended to reflect the following changes (~~struckout text~~ indicates deletions while underlined text indicates additions):

SECTION 2-61. Created; composition; terms; removal; organization; officers; quorum; compensation.

- (a) There is created a code enforcement board of the city, which shall consist of seven members appointed by the mayor ~~subject to confirmation by the city commission.~~ Members shall be residents of the city.
- (b) The membership of the code enforcement board shall be made on the basis of experience or interest in the fields of zoning and building control in the sole discretion of the city commission and shall, whenever possible, include an architect, a businessman, an engineer, a general contractor, a subcontractor and a realtor.
- (c) Appointment to the code enforcement board shall be for a term of three years. Any member may be appointed or reappointed by ~~the mayor upon~~ approval of the city commission. No member of the Board shall serve (or, but for resignation would have served) for more than two consecutive 3-year terms. A person who has been appointed to two (2) consecutive three (3) year terms may be reappointed to any vacant seat, provided said candidate does not actually take office for at least a one year period after the end of that candidate's previous two (2) terms. After January 1, 2010, terms of office shall commence and expire in the month of June, and appointments for new or expired terms shall be made at the first City Commission meeting held in June. An ~~Appointments to fill any a~~ vacancy on the code enforcement board shall be effective until June of the last year of the remaining term of office for the remainder of the unexpired term of office and until a successor is appointed.
- (d) Current board members appointed or reappointed prior January 1, 2010 shall serve out the remainder of their term as appointed. Upon the expiration of any such term, the City Commission shall reappoint the member or appoint a successor member to a new three-year term, with such term to be effective until June of the third year or until reappointment or appointment of a successor.



(de) Any member of the code enforcement board who fails to attend two of three successive meetings without cause and without prior approval of the chair shall automatically forfeit his appointment, and the vacancy shall be filled by appointment by the mayor subject to confirmation by the city commission.

(ef) Members of the code enforcement board may be removed from office ~~by the mayor~~ for cause with the approval of the city commission.

(fg) The code enforcement board members shall elect a chair, who shall be a voting member, and a vice-chair. The presence of four or more members shall constitute a quorum for the code enforcement board necessary to take action.

(gh) Members of the board shall serve without compensation, but may be reimbursed for such travel, mileage, and per diem expenses as may be authorized by the city commission.

(hi) The city’s attorney shall either be counsel to an enforcement board or shall represent the city by presenting cases before the enforcement board, but in no case shall the city’s attorney serve in both capacities.

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

SECTION V. EFFECTIVE DATE OF ORDINANCE. This Ordinance shall take effect immediately upon its adoption.

FIRST READING: _____ January 14 _____, 2010

SECOND READING AND PUBLIC HEARING: _____ January 28 _____, 2010

APPROVED:

John Rees, Mayor/Commissioner

ATTEST:

Kathy Golden, City Clerk



ORDINANCE NO. 10-11

AN ORDINANCE OF THE CITY OF WINTER GARDEN AMENDING CHAPTER 54, PENSIONS AND RETIREMENT, ARTICLE II, PENSION PLAN FOR GENERAL EMPLOYEES, OF THE CODE OF ORDINANCES OF THE CITY OF WINTER GARDEN; AMENDING SECTION 54-27, MEMBERSHIP; AMENDING SECTION 54-29, FINANCES AND FUND MANAGEMENT; PROVIDING FOR SEVERABILITY OF PROVISIONS; REPEALING ALL ORDINANCES IN CONFLICT HEREWITH AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1: That Chapter 54, Pensions and Retirement, Article II, Pension Plan for General Employees, of the City of Winter Garden Code of Ordinances, is hereby amended by amending Section 54-27, Membership, subsection (b), *Opt out option*, to read as follows

(b) *Opt out option.* The city has determined that it will provide a defined contribution plan for the following designated positions:

- (1) ~~All department heads~~ Business Analyst
- (2) ~~Assistant Utility Director~~ Assistant City Engineer
- (3) ~~IT Manager~~ Controller
- (4) ~~Network Specialist~~ Assistant Director of Operations
- (5) ~~Assistant Finance Director~~ Capital Improvements Project Administrator
- (6) Accountant
- (7) ~~Assistant Public Works Director~~ IT Specialist
- (8) ~~Senior Planner~~ IT Services Director
- (9) ~~Planner 1~~ Finance Director
- (10) ~~Construction Manager~~
- (11) ~~City Manager~~

Those members who previously opted-out of the system prior to the effective date of this ordinance whose position is no longer on the eligible position list above, may remain opted-out or may re-enter the system as provided for in paragraph (2) below. Those members who entered a previously qualifying position prior to the



effective date of this ordinance and were eligible to opt-out of the system, may do so in accordance with paragraph (1) below.

In the event that any person employed by the city in a designated position elects to participate in the defined contribution plan provided by the city, that person may elect to opt out of the system.

- ~~(1) Current members employed by the city in the above designated positions may, between October 1, 2002 and November 30, 2002, notify the board and the city, in writing, of their election to opt out of the system and transfer to the defined contribution plan. In the event of such election, an amount equal to 100 percent of the present value of the member's current accrued benefit regardless of whether he is vested or not shall be transferred to the member's account in the city defined contribution plan. Thereafter, the employee will remain a participant in the defined contribution plan in accordance with its terms, and shall be eligible to again become a member of this system only as provided in paragraph 3. below.~~
- ~~(2) Future~~ Persons employed in a designated position may, within sixty (60) days of their employment or promotion to a designated position, notify the board and the city, in writing, of their election not to be a member of the system. In the event of such election, any accumulated contributions shall be returned and they shall be barred from participation in the system, except as provided in paragraph ~~(3 2)~~ below.
- ~~(3 2)~~ Any person employed in a designated position who opts out of the system to become a member of the defined contribution plan as provided for in paragraphs (1) ~~or (2)~~ above, may elect, if otherwise eligible for membership in the system, to discontinue participation in the defined contribution plan, if permitted therein, and again become a member of the system. This is a one time irrevocable election. Any such person electing to again become a member of the system may reenter the system only if they first purchase all eligible prior credited service for service with the city as provided for in section 54-51, Prior government service. Any person employed in a designated position who opts out of the system and thereafter is employed by the city in a position other than a designated position, may reenter the system only upon compliance with this paragraph ~~(3 2)~~.
- ~~(4) Any person employed in a designated position who fails to opt out of the system pursuant to paragraphs (1) or (2) above, within the time periods specified, may thereafter irrevocably elect to opt out of the system by notifying the board and the city, in writing, of their election to opt out of the system and become a participant in the defined contribution plan provided by the city. In the event of such election, an amount equal to 100 percent of the present value of the member's current accrued benefit regardless of whether he is vested or not shall be transferred to the member's account in the city defined contribution plan. Thereafter, the employee will remain a participant in the defined contribution plan in accordance with its terms, and shall not be eligible to again become a member of this system.~~
- (3) Any current Business Analyst and the Assistant City Engineer may, within sixty (60) days after the effective date of the ordinance adopting this provision, elect to irrevocably opt-out of the system. Such member shall notify the board and the city, in writing, of their election to opt out of the system and become a participant in the defined contribution plan provided by the city. In the event of such election, an amount equal to seven and one-half percent (7.5%) of the member's salary, excluding bonuses, from the date of employment to the date of election, plus three percent (3%) of such amount, shall be transferred to the member's account in the city defined contribution



plan. Thereafter, the employee will remain a participant in the defined contribution plan in accordance with its terms, and shall not be eligible to again become a member of this system.

SECTION 2: That Chapter 54, Pensions and Retirement, Article II, Pension Plan for General Employees, of the City of Winter Garden Code of Ordinances, is hereby amended by amending Section 54-29, Finances and Fund Management, subsections (6), to read as follows:

- (6) The board shall have the following investment powers and authority:
- a. The board shall be vested with full legal title to said fund, subject, however, and in any event to the authority and power of the city commission to amend or terminate this fund, provided that no amendment or fund termination shall ever result in the use of any assets of this fund except for the payment of regular expenses and benefits under this system, except as otherwise provided herein. All contributions from time to time paid into the fund, and the income thereof, without distinction between principal and income, shall be held and administered by the board or its agent in the fund and the board shall not be required to segregate or invest separately any portion of the fund.
 - b. All monies paid into or held in the fund shall be invested ~~and reinvested in such securities or property wherever situated and whatever kind, as shall be approved by the board, including but not limited to stocks, common or preferred, bonds, other evidences of indebtedness or ownership, and mutual funds, but there shall be no investment in~~ and the investment of all or any part of such funds shall be subject to the following:
 - 1. ~~Margin purchases.~~
 - 2. ~~Commodities.~~
 - 3. ~~Calls or straddles (not including covered call options).~~
 - 4. ~~Warrants or other options, except as part of purchase of another security.~~
 - 5. ~~Venture capital.~~
 - 6. ~~Any investment prohibited by state or federal law.~~
 - 7. ~~Bonds which are rated less than "A" by Standard and Poors and Moodys.~~
 - 8. ~~Real property or real estate in excess of ten percent of the market value of the fund.~~

~~The board shall develop and adopt a written investment policy statement setting forth goals and objectives of investments and setting quality and quantity limitations on investments. The investment policy statement shall be reviewed by the board at least annually.~~

- 1. Notwithstanding any limitation in prior city ordinances to the contrary, all monies paid into or held in the fund may be invested and reinvested in such securities, investment vehicles or property wherever situated and of whatever



kind, as shall be approved by the board, including but not limited to common or preferred stocks, bonds, and other evidences of indebtedness or ownership.

2. The board shall develop and adopt a written investment policy statement setting forth permissible types of investments, goals and objectives of investments and setting quality and quantity limitations on investments in accordance with the recommendations of its investment consultants. The investment policy statement shall be reviewed by the board at least annually.

3. In addition, the board may, upon recommendation by the board's investment consultant, make investments in group trusts meeting the requirements of Internal Revenue Service Revenue Ruling 81-100 or successor rulings or guidance of similar import, and while any portion of the assets of the fund are invested in such a group trust, such group trust is itself adopted as a part of the system or plan.

~~c. Investments shall be further limited as follows:~~

~~1. The board shall not invest more than five percent of its assets in the common stock, capital stock, or convertible securities of any one issuing company, nor shall the aggregate investment in any one issuing company exceed five percent of the outstanding capital stock of that company; nor shall the aggregate of its investments in common stock, capital stock, international equity securities and convertible securities at market exceed 60 percent of the assets of the fund.~~

~~2. No more than 15 percent at cost of the fund assets shall be invested in international securities.~~

~~¶ c.~~ At least once every three years, and more often as determined by the board, the board shall retain a professionally qualified independent consultant to evaluate the performance of all current investment managers and make recommendations regarding the retention of all such investment managers. These recommendations shall be considered by the board at its next regularly scheduled meeting.

~~e d.~~ The board may retain in cash and keep unproductive of income such amount of the fund as it may deem advisable, having regard for the cash requirements of the system.

~~¶ e.~~ Neither the board nor any trustee shall be liable for the making, retention or sale of any investment or reinvestment made as herein provided, nor for any loss or diminishment of the fund, except that due to his or its own negligence, willful misconduct or lack of good faith.

~~¶ f.~~ The board may cause any investment in securities held by it to be registered in or transferred into its name as trustee or into the name of such nominee as it may direct, or it may retain them unregistered and in form permitting transferability, but the books and records shall at all times show that all investments are part of the fund.

~~¶ g.~~ The board is empowered, but is not required, to vote upon any stocks, bonds, or securities of any corporation, association, or trust and to give general or specific proxies or powers



of attorney with or without power of substitution; to participate in mergers, reorganizations, recapitalizations, consolidations, and similar transactions with respect to such securities; to deposit such stock or other securities in any voting trust or any protective or like committee with the trustees or with depositories designated thereby; to amortize or fail to amortize any part or all of the premium or discount resulting from the acquisition or disposition of assets; and generally to exercise any of the powers of an owner with respect to stocks, bonds, or other investments comprising the fund which it may deem to be to the best interest of the fund to exercise.

- ~~i~~ h. The board shall not be required to make any inventory or appraisal or report to any court, nor to secure any order of court for the exercise of any power contained herein.
- ~~j~~ i. Where any action which the board is required to take or any duty or function which it is required to perform either under the terms herein or under the general law applicable to it as trustee under this article, can reasonably be taken or performed only after receipt by it from a member, the city, or any other entity, of specific information, certification, direction or instructions, the board shall be free of liability in failing to take such action or perform such duty or function until such information, certification, direction or instruction has been received by it.
- ~~k~~ j. Any overpayments or underpayments from the fund to a member, retiree or beneficiary caused by errors of computation shall be adjusted with interest at a rate per annum approved by the board in such a manner that the actuarial equivalent of the benefit to which the member, retiree or beneficiary was correctly entitled to, shall be paid. Overpayments shall be charged against payments next succeeding the correction or collected in another manner if prudent. Underpayments shall be made up from the fund in a prudent manner.
- ~~l~~ k. The board shall sustain no liability whatsoever for the sufficiency of the fund to meet the payments and benefits herein provided for.
- ~~m~~ l. In any application to or proceeding or action in the courts, only the board shall be a necessary party, and no member or other person having an interest in the fund shall be entitled to any notice or service of process. Any judgment entered in such a proceeding or action shall be conclusive upon all persons.
- ~~n~~ m. Any of the foregoing powers and functions reposed in the board may be performed or carried out by the board through duly authorized agents, provided that the board at all times maintains continuous supervision over the acts of any such agent; provided further, that legal title to said fund shall always remain in the board.

SECTION 3: If any section, subsection, sentence, clause, phrase of this ordinance, or the particular application thereof shall be held invalid by any court, administrative agency, or other body with appropriate jurisdiction, the remaining section, subsection, sentences, clauses, or phrases under application shall not be affected thereby.

SECTION 4: All Ordinances or parts of Ordinances in conflict herewith be and the same are hereby repealed.

SECTION 5: That this Ordinance shall become effective upon adoption.

FIRST READING HELD: January 14, 2010

SECOND READING AND PUBLIC HEARING HELD: January 28, 2010

APPROVED:

JOHN REES, MAYOR/COMMISSIONER

ATTEST:

KATHY GOLDEN, CITY CLERK