CITY OF OVILLA MINUTES
Monday, April 8, 2024
Regular City Council Meeting
105 S. Cockrell Hill Road, Ovilla, TX 75154

Mayor Dormier called the Regular Council Meeting of the Ovilla City Council to order at 6:30 PM, in the Ovilla Council Chamber Room, 105 S. Cockrell Hill Road Ovilla, TX 75154, with notice of the meeting duly posted.

The following City Council Members were present:

<table>
<thead>
<tr>
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<th>Mayor Pro Tem</th>
<th>Place 1</th>
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<tbody>
<tr>
<td>Kimberly Case</td>
<td>Mayor Pro Tem</td>
<td>Place 1</td>
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<tr>
<td>Dean Oberg</td>
<td>Council Member</td>
<td>Place 2</td>
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<td>David Griffin</td>
<td>Council Member</td>
<td>Place 3</td>
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<tr>
<td>Doug Hunt</td>
<td>Council Member</td>
<td>Place 4</td>
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<td>Brad Piland</td>
<td>Council Member</td>
<td>Place 5</td>
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All council members were in attendance constituting a quorum. The City Manager, Police Chief, Interim Fire Chief, Finance Director, Public Works Director, and Community/EDC Director were also present.

CALL TO ORDER:

Place 3 Griffin led the invocation and Mayor Pro Tem Case led the reciting of the U.S. Pledge of Allegiance and the Pledge to the Texas Flag.

COMMENTS, PRESENTATIONS, ANNOUNCEMENTS, PROCLAMATIONS

The Ovilla Service League presented a check in the amount of $25,500 to the Ovilla Fire and Police Departments and took photos.

Interim Fire Chief Kevin Mooney presented an award to Chad Moore in recognition of his 17 years of service to the Ovilla Fire Department and took photos.

CITY MANAGER UPDATE:

City Manager David Henley updated the council on the following items:

- The annual Bulk/Brush Cleanup Day to be held on Saturday, April 20, 2024, from 8:00 a.m. until noon and the X-Treme Green Event will be on Saturday, April 27, 2024, from 8:00 a.m. until noon.

- Red Oak Creek Road Traffic Calming Devices - speed humps have been ordered and will be installed after receiving them in early May.

- Drainage issues at 608 Green Meadows - staff went to the property before and after recent rains and did not observe standing water or concerns. Public Works Director James Kuykendall and Community/EDC Director Burton Barr both spoke on what they observed at the property and did not note any drainage concerns.

- Annual Financial Audit - auditors are still working to complete the audit and preliminary numbers look really good for the city; the auditors will present the audit at the next regularly scheduled Council meeting.
• Budget Amendments - recently had department head meetings and staff is working on budget amendments for the Council’s consideration at the May meeting.

• 2024-2025 Budget: staff met to discuss the FY 2024-2025 budget and will be bringing back a proposed budget calendar for the Council’s consideration.

• Army Donation Anti-Tank Gun Offer- for years, the city has been trying to attain a piece of retired military equipment to showcase at the Veterans Memorial. The city was contacted and worked quickly to complete paperwork and secure a WWII M# 37mm Anti-Tank Gun for display. The Public Works Department plans to pick the piece up as early as Wednesday in Mississippi.

CITIZEN COMMENTS:

Tana Jimenez, 109 Suburban Drive, Ovilla, Texas 75154, shared comments related to the student enrollment count used in the traffic study at the school and how they differ from the enrollment capacity of the school, sidewalks around the perimeter of the school, access to surrounding neighborhoods, and the screening fence. Ms. Jimenez requested that all speakers disclose if they are affiliated with Red Oak ISD for the record and stated that she had a student enrolled at Shields Elementary.

CONSENT AGENDA:

C1. Financial Transactions over $5,000
C2. Minutes of the Regular Council Meeting March 11, 2024

PL 4 Hunt motioned to approve all consent agenda items.
Mayor Pro Tem Case seconded the motion.

No oppositions, no abstentions.
VOTE: The motion to approve carried unanimously: 5-0

REGULAR AGENDA:

ITEM 1. DISCUSSION/ACTION – Consideration of and action on a final plat request filed by Red Oak Independent School District being a 48.485 Acre Tract of land out of the John S. Patton Survey, Abstract No. 841 Ellis County, Texas, also known as Lot 1 in Block A of Red Oak New Middle School, an addition to the City of Ovilla, Texas.

Community/EDC Director Barr presented a presentation to the Council related to the Red Oak ISD new middle school final plat application.

CITIZENS COMMENTS REGARDING AGENDA ITEM #1

Carol Richtmeier, 925 Red Oak Creek Drive, Ovilla, Texas 75154, shared comments that she appreciated the work that the Council did to protect the residents from noise and light generated from the school and that she is still concerned about the development agreement and making sure the terms of the agreement are being upheld.
John Jenkins, 106 Brookwood Court, Ovilla, Texas 75154, shared comments that he would like to see signage added in the neighborhoods surrounding the school stating that cars cannot park on the streets during drop off and pickup times at the school. Mr. Jenkins also asked who will maintain the screening fence after it is built. He also shared that it would be great if the school, city, and surrounding property owners could work out an agreement to allow access points along the fence to access the neighborhoods from the school.

After Citizens Comments, Mayor Dormier received clarification that sidewalks were being built along Westmoreland Road within the property boundaries of the school property. PL 5 Piland asked if the stormwater from the school would be staying on the eastside or westside of Westmoreland Road and expressed concerns about downstream effects.

City Engineer, Andrew Mata, stated that the stormwater leaving the school property would remain on the east side of the road. PL 5 Piland shared that this flow could be an issue for existing driveways. Mr. Mata stated that the according to the plans that were reviewed post-development flows were actually less than pre-development flows and shared that the existing ditch along the eastside of Westmoreland Road currently does not have the capacity for 100-year flows and recommended that the drainage easement be enlarged to address the existing conditions.

Cheralyn Armijo, Glenn Engineering and Engineer of Record for the project, stated that storm events were analyzed and there is not much capacity on the westside of Westmoreland Road, and that their project would not exceed the current conditions. Mayor Dormier commented that this area is already a drainage concern, and that the city may need to find some CIP funds to get the drainage addressed. PL 5 Piland asked where the temporary water is coming from. Public Works Director Kuykendall shared that a water truck was refilling near the school property.

PL 3 Griffin motioned to approve the final plat application as presented.
PL 2 Oberg seconded the motion.

No oppositions, no abstentions.
VOTE: The motion carried unanimously: 5-0

ITEM 2. DISCUSSION/ACTION – Consideration of and action on Resolution No. R040824-A, a resolution of the City Council of the City of Ovilla, Texas, amending Resolution No. R2023-15 to revise the City of Ovilla Organizational Chart; and providing an effective date.

City Manager Henley shared in the past the front office staff had reported to two different supervisors which has created some issues specifically when requesting time off. The recommended changes would allow one supervisor to oversee supervision and to streamline operations. Mayor Pro Tem Case asked if any of the positions being reorganized had ever reported to the City Secretary. City Manager Henley stated that they may have reported to the City Secretary many years ago, but not during his tenure. PL 5 Piland asked if the Community/EDC Director position was paid in part by the EDC. City Manager Henley shared that the EDC does pay for a portion of that position’s salary. PL 5 Piland stated because the EDC was paying for a portion of the salary, he did not agree with the Community/EDC Director position supervising others, and that that position should report directly to the City Manager. PL 5 Piland asked if the Community/EDC Director had been trained to do the Utility Billing and Court Clerk’s job. City Manager Henley shared that he did not believe that anyone else had been trained to do those jobs. PL 5 Piland stated that he felt like those positions should report directly to the City.

Richard Dormier, Mayor
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Manager if he had the time to supervise them. City Manager Henley shared that he did not have a lot of time and frequently there are customer issues or issues with the automated meters that come up that need to be researched and resolved. PL 5 Piland shared that he still did not agree that the Court Clerk needed to report to the Community/EDC Director. PL 4 Hunt shared that the changes made sense. PL 3 Griffin shared that he trusted the City Manager’s judgement, appeared to be a structured chain of command, and that the structure could always be changed in the future. PL 2 Oberg shared that he agreed. Mayor Pro Tem Case shared that if City Manager Henley felt that this was needed that she supported that, but that if it did not work out, someone would need to let the Council know that it was not working.

PL 2 Oberg motioned to approve Resolution No. R040824 as presented.
PL 4 Hunt seconded the motion.

VOTE: The motion carried: 4-1

ITEM 3. DISCUSSION/ACTION – Consideration of and action on the SB 2038 petition from Alluvium Development, Inc. received on March 7, 2024, and related to an approximate 22.056 acres of land, Ellis County CAD Property ID #181529, for release of the property from the City of Ovilla ETJ pursuant to legislative authority as authorized by Texas Local Government Code Section 42.023 and requirements of Chapter 42.

City Manager Henley presented the location and information regarding the petition to the Council. City Manager Henley also shared information with the Council related to current legislation and ongoing litigation lead by the City of Grand Prairie. PL 5 Piland asked if there was a particular reason the individual was requesting to be released from the city’s ETJ. City Manager Henley shared that we did not know the answer to that because it was not shared in the petition and shared that it might be related to the Loop 9 roadway project. Mayor Dormier and PL 5 Piland noted that the property owner had tried to plat the property in the past but did not want to have to build a bridge to cross the creek onto Westmoreland Road. Mayor Dormier asked what are the reasons that the City Attorney has recommended denial and City Manager Henley shared the three points recommended.

Mayor Dormier called for a short recess and recessed the meeting at 7:17 p.m. Mayor Dormier reconvened the meeting, with all Council members present at 7:22 p.m.

PL 3 Griffin motioned that the Alluvium Development Inc. petition to remove an approximate 22.056 acres of land (Property ID #181529) from the City’s extraterritorial jurisdiction be denied for the following reasons:

1) the petition does not meet the requirements of Chapter 42 of the Texas Local Government Code for an ETJ release petition; and
2) alternatively, Senate Bill 2038, Local Government Code Sections 42.104 and 42.105 are an unconstitutional delegation of legislative authority and conflict with Local Government Code Section 42.023; and
3) the City does not consent to removal of property from its ETJ.

Mayor Pro Tem Case seconded the motion.

Richard Dormier, Mayor
Kimberly Case, Place One
Dean Oberg, Place Two

Doug Hunt, Place Four
David Griffin, Place Three
Brad Piland, Place Five
No oppositions, no abstentions.

**VOTE: The motion carried unanimously: 5-0**

**ITEM 4. DISCUSSION/ACTION** - Consideration of and action on setting the official date for Heritage Day as Saturday, September 28, 2024, and appointing the coordinator and committee for the event.

City Manager Henley shared that in the past, it was custom for Heritage Day to be the fourth Saturday in September and that this year that date would be Saturday, September 28, 2024. City Manager Henley shared that PL 4 Hunt, Jessica Price, and other city staff had been instrumental in planning and organizing the event.

PL 4 Hunt motioned to set the official date for Heritage Day as Saturday, September 28, 2024. PL 2 Oberg seconded the motion.

No oppositions, no abstentions.

**VOTE: The motion carried unanimously: 5-0**

**ITEM 5. DISCUSSION/ACTION** - Discuss calling a special election to determine whether the citizens desire to reduce the amount of sales tax allocated to the Type B EDC and increase the allocation for the maintenance and repair of municipal streets.

City Manager Henley stated that of the 8.25% sales tax collected, 6.25% goes to the State, and the other 2% goes to the city. Of the 2% allocated to the city, 1% is allocated to the General Fund and the other 1% is allocated as the following: \( \frac{1}{2} \) of 1% to the Type B EDC, \( \frac{1}{4} \) of 1% to the Street Improvement Fund, \( \frac{3}{4} \) of 1% to the MDD. This equated to the Type B receiving $240,000, the Street Improvement Fund receiving $120,000, and the MDD receiving $122,000 in this year's budget.

The MDD received a little more due to sales tax revenue collected in the ETJ. City Manager Henley shared that there had been many discussions and complaints regarding the condition of the streets in the city and that the costs of maintaining the streets had risen astronomically over the last few years and the funding for street improvements does not go very far. City Manager Henley shared that the EDC had managed their budget very well and had undertaken several projects over the last couple of years that benefited the city and still had over $1M in fund balance. City Manager Henley shared that because the condition of the streets is something that people see every day, many cities are looking at doing this same thing as a strategy to fund more street maintenance projects.

PL 4 Hunt stated that it made sense. City Manager Henley shared that with the current costs of street improvements, it would take many years to make a difference and that recent estimates received for Johnson Lane and a part of Westmoreland Road exceeded $500,000 for each project. City Manager Henley shared that having additional funds for street maintenance would help immensely to make improvements. He also shared that the Council would not make this decision, but rather the citizens would vote on this matter to decide if this is the direction they would like to move in.

City Manager Henley shared that the special election would take place November 5, 2024, and would
have to be called in August in order to be on the ballot. The reason this has not been done recently is because previously the street maintenance percentage had to be approved by special election and law requires that you wait at least a year before having another special election.

The Council members agreed that the streets do need repair. City Manager Henley shared that the CDBG grant that the city has applied for would provide an inventory and grading of all streets in the city to prioritize the order of repairs.

Mayor Dormier pointed out that the agenda item was listed as “DISCUSSION/ACTION.” City Manager Henley shared that it should have been only “DISCUSSION,” and that a motion and vote was not necessary at this time.

NO VOTE: Discussion Only

**ITEM 6. DISCUSSION** – Discuss solar panel requirements and permitting.

Community/EDC Director Barr provided a presentation to the Council discussing the current permitting requirements for solar energy systems and shared examples of other municipal ordinances and building regulations related to solar panels in communities of similar size to Ovilla.

Mayor Pro Tem Case shared that from an aesthetic perspective, that the city should require solar panels to be placed on the side or back of the house, and that recent guidance from her HOA’s attorney stated that new legislation would not allow the HOA or city to dictate where the panels were placed. Mayor Pro Tem Case shared that their HOA created standards or recommendations for their neighborhood. Mayor Pro Tem Case pointed out that there are setback requirements for ground mounted arrays. PL 3 Griffin pointed out that as he understood it, many insurance companies will not pay to repair solar panels that are mounted on the roof that are damaged by hail more than once, and that the city should allow ground mounted racking systems since many homeowners are unaware of how insurance companies deal with solar panel claims. Mayor Pro Tem Case pointed out that many people are not aware that the sales calls many people get regarding solar panels is probably outdated technology and that new technology for solar looks more like shingles on a roof.

City Manager Henley shared that staff would look into the legal aspects and requirements, and bring this back at a future Council meeting for consideration.

NO VOTE: Discussion Only

**ITEM 7. DISCUSSION/ACTION** – Consideration of any item(s) pulled from the Consent Agenda for individual consideration and action.

No items were removed from the Consent Agenda.

**RECESS INTO EXECUTIVE SESSION:**

The City Council of the City of Ovilla, Texas, reserves the right to meet in a closed session on any item listed on this Agenda should the need arise, pursuant to authorization by Texas Government Code, Sections 551.071 (consultation with attorney), 551.072 (deliberations about real property), 551.073

Richard Dormier, Mayor
Kimberly Case, Place One
Dean Oberg, Place Two

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Doug Hunt, Place Four
David Griffin, Place Three
Brad Piland, Place Five
(deliberations about gifts and donations), 551.074 (personnel matters), 551.076 (deliberations about security devices), 551.087 (economic development), 418.183 (homeland security).

**Section 551.071. Consultation with Attorney: (a) to seek advice from the City attorney regarding: (A) pending or contemplated litigation; or (B) a settlement offer; or (2) on a matter in which the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Board of Texas clearly conflicts the Texas Open Meetings Act, regarding:

- Interlocal Agreements – terms and legal duties
- Pending Personnel Investigation

**Section 551.074. Personnel Matters: (a) To deliberate the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer or employee or to hear a complaint or charge against an officer or employee:

- City Secretary
- Fire Chief
- Finance Director

Mayor Dormier read the provisions of Chapter 551 of the Texas Local Government Code and agenda items related to Executive Session and adjourned the Council into Executive Session at 7:48 p.m.

**RECONVENE INTO REGULAR SESSION**

Reconvene into regular session pursuant to the provisions of Chapter 551 of the Texas Government Code to take any action necessary regarding matters deliberated in executive session.

Mayor Dormier reconvened the meeting into regular session, with all Council members present at 9:10 p.m.

Mayor Dormier asked if there were any motions to be made regarding matters deliberated in executive session.

PL 3 Griffin made a motion to appoint Deputy Fire Chief Kevin Mooney as the Interim Fire Chief and set his temporary assignment pay as $43.71 per hour.

PL 2 Oberg seconded the motion

No oppositions, no abstentions.

**VOTE: The motion to approve carried unanimously: 5-0**

PL 3 Griffin made a motion to give the City Manager the authority to execute a separation agreement with the Finance Director as discussed in Executive Session.

Mayor Pro Tem Case seconded the motion.

No oppositions, no abstentions.

**VOTE: The motion to approve carried unanimously: 5-0**
RECEIVE DEPARTMENTAL REPORTS – NO ACTION OR DISCUSSION

- Departmental Reports
  - Police Department
  - Fire Department
  - Public Works Department
  - Finance Department
  - Municipal Court
  - Development/EDC
  - Police Chief J. Bennett
  - Interim Fire Chief K. Mooney
  - Public Works Director J. Kuykendall
  - Finance Director E. Scott
  - Court Clerk, J. Forcsman
  - Director B. Barr / Chelsea Ellis

REQUESTS FOR FUTURE AGENDA ITEMS AND/OR ANNOUNCEMENTS BY COUNCIL AND STAFF:

No future agenda items or announcements were requested or made by the Council.

ADJOURNMENT:

PL 2 Oberg made a motion to adjourn.
PL 5 Piland seconded the motion.

There being no further business, Mayor Dormier adjourned the meeting at 9:12 p.m.

No oppositions, no abstentions.

VOTE: The motion to approve carried unanimously: 5-0

Richard Dormier, Mayor

ATTEST:  
David D. Henley, City Manager

APPROVED: May 13, 2024