

# City of *O*VILLA, Texas

## City Council

Rachel Huber, Place One

Dean Oberg, Place Two

David Griffin, Place Three, Mayor Pro Tem

Richard Dormier, Mayor

Doug Hunt, Place Four

Michael Myers, Place Five

John R. Dean, Jr. City Manager

105 S. Cockrell Hill Road, Ovilla, TX 75154

Wednesday, August 29, 2018

5:30 P.M.

Council Chamber Room

## AGENDA

### City Council Special Meeting

NOTICE is hereby given of a **Special Meeting** of the City Council of the City of Ovilla, to be held on **Wednesday, August 29, 2018 at 5:30 P.M.** in the Ovilla Municipal Building, Council Chamber Room, 105 S. Cockrell Hill Road, Ovilla, Texas, 75154, for the purpose of considering the following items.

#### **I. CALL TO ORDER**

- Invocation
- US. Pledge of Allegiance and TX Pledge

#### **II. COMMENTS, PRESENTATIONS & REPORTS**

##### ▪ Citizen Comments

*The City Council welcomes comments from Citizens. Those wishing to speak must sign in before the meeting begins. Speakers may speak on any topic, whether on the agenda or not. The City Council cannot act upon, discuss issues raised, or make any decisions at this time. Speakers under citizen's comments must observe a three-minute time limit. Inquiries regarding matters not listed on the Agenda may be referred to Staff for research and possible future action.*

#### **III. PUBLIC HEARING**

Receive public comments on the proposed tax rate for Fiscal Year 2018-19:

**PUBLIC HEARING AND DISCUSSION – A TAX RATE of \$0.660000** per \$100 valuation proposed by the governing body of the City of Ovilla, with a Maintenance and Operation Rate of 0.533417 and a debt rate of 0.126583.

PROPOSED TAX RATE	\$0.660000 PER \$100
PRECEDING YEAR'S TAX RATE	\$0.680399 PER \$100
EFFECTIVE TAX RATE	\$0.621776 PER \$100
ROLLBACK TAX RATE	\$0.662271 PER \$100

#### **IV. REGULAR AGENDA**

- ITEM 1. DISCUSSION/ACTION** – Consideration of and action on staff recommendation to award Community Waste Disposal as the city's franchise provider for solid waste collection and disposable recyclable materials, directing the city manager to conduct negotiations and return to Council to consider an agreement.
- ITEM 2. DISCUSSION/ACTION** – Receive recommendation from the Planning and Zoning Commission to consider and act on a screening wall along Shiloh Road for Bryson Manor Phase II.
- ITEM 3. DISCUSSION/ACTION** – Consideration of and action to clarify Chapter 3, Section 3.06.007 (5) regarding signs placed or affixed to vehicles and direct staff as necessary.

# City of *O*VILLA, Texas

## City Council

Rachel Huber, Place One  
Dean Oberg, Place Two  
David Griffin, Place Three, Mayor Pro Tem

Richard Dormier, Mayor

Doug Hunt, Place Four  
Michael Myers, Place Five  
John R. Dean, Jr. City Manager

### V. 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 (deliberations about gifts and donations), 551.074 (personnel matters), 551.076 (deliberations about security devices), 551.087 (economic development), 418.183 (homeland security).

Closed Meeting called pursuant to Texas Government Code §551.072 – Real Property.

ITEM 1. **DISCUSSION/ACTION** – Closed session called pursuant to Section §551.072 of the Texas Government Code to deliberate the purchase, exchange, lease, or value of real property.

### VI. REQUESTS FOR FUTURE AGENDA ITEMS AND/OR ANNOUNCEMENTS BY COUNCIL AND STAFF

### VII. ADJOURNMENT

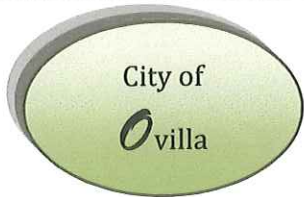
THIS IS TO CERTIFY THAT A COPY OF THE NOTICE OF the August 29, 2018 Special City Council Agenda was posted on the City Hall bulletin board, a place convenient and readily accessible to the general public at all times, and to the City's website, [www.cityofovilla.org](http://www.cityofovilla.org), on the 23 day of August 2018 prior to 5:00 p.m., in compliance with Chapter 551, Texas Government Code.



  
Pamela Woodall, City Secretary

DATE OF POSTING: 08.23.2018 TIME: 3:00 am/pm  
DATE TAKEN DOWN: \_\_\_\_\_ TIME: \_\_\_\_\_ am/pm

This facility is ADA compliant. If you plan to attend this public meeting and have a disability that requires special arrangements, please call 972-617-7262 at least 48 hours in advance. Reasonable accommodation will be made to assist your needs. PLEASE SILENCE ALL PAGERS, CELL PHONES & OTHER ELECTRONIC EQUIPMENT WHILE THE CITY COUNCIL MEETING IS IN SESSION.



# Ovilla City Council

## PUBLIC HEARING

Meeting Date: August 29, 2018

Department: Administration

☐ Discussion ☐ Action

Budgeted Expense: ☐ YES ☐ NO ☒ N/A

Submitted By: John R. Dean, Jr., CM

Amount: \$ N/A

Reviewed By: ☒ City Manager ☒ City Secretary ☒ City Attorney

☒ Accountant

☒ Deputy City Secretary

### Attachments:

1. Notice

### Agenda Item / Topic:

**PUBLIC HEARING AND DISCUSSION – A TAX RATE of \$0.660000** per \$100 valuation proposed by the governing body of the City of Ovilla, with a Maintenance and Operation Rate of 0.533417 and a debt rate of 0.126583.

PROPOSED TAX RATE	\$0.660000 PER \$100
PRECEDING YEAR'S TAX RATE	\$0.680399 PER \$100
EFFECTIVE TAX RATE	\$0.621776 PER \$100
ROLLBACK TAX RATE	\$0.662271 PER \$100

Receive public comments on the proposed tax rate for Fiscal Year 2018-19:

### Discussion / Justification:

### No Motion

The Ovilla City Council will consider and act on this item at their regularly scheduled meeting of September 10, 2018 at 6:30 pm.

# NOTICE OF 2018 TAX YEAR PROPOSED PROPERTY TAX RATE FOR CITY OF OVILLA

A tax rate of \$0.660000 per \$100 valuation has been proposed by the governing body of CITY OF OVILLA. This rate exceeds the lower of the effective or rollback tax rate, and state law requires that two public hearings be held by the governing body before adopting the proposed tax rate.

The governing body of CITY OF OVILLA proposes to use revenue attributable to the tax rate increase for the purpose of street improvements, vehicle replacement for police and park improvements.

- PROPOSED TAX RATE \$0.660000 per \$100
- PRECEDING YEAR'S TAX RATE \$0.680399 per \$100
- EFFECTIVE TAX RATE \$0.621776 per \$100
- ROLLBACK TAX RATE \$0.662271 per \$100

The effective tax rate is the total tax rate needed to raise the same amount of property tax revenue for CITY OF OVILLA from the same properties in both the 2017 tax year and the 2018 tax year.

The rollback tax rate is the highest tax rate that CITY OF OVILLA may adopt before voters are entitled to petition for an election to limit the rate that may be approved to the rollback rate.

YOUR TAXES OWED UNDER ANY OF THE ABOVE RATES CAN BE CALCULATED AS FOLLOWS:

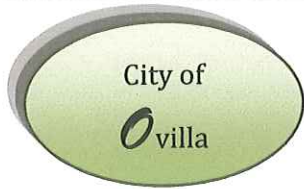
$$\text{property tax amount} = (\text{rate}) \times (\text{taxable value of your property}) / 100$$

For assistance or detailed information about tax calculations, please contact:

John Bridges  
Ellis County Tax Assessor-Collector  
109 S Jackson St, Waxahachie, TX 75165  
972-825-5150  
[john.bridges@co.ellis.tx.us](mailto:john.bridges@co.ellis.tx.us)  
[elliscountytax.com](http://elliscountytax.com)

You are urged to attend and express your views at the following public hearings on proposed tax rate: First Hearing: 08/20/2018 5:30 PM at City Hall, 105 S Cockrell Hill Rd, Ovilla, TX.  
Second Hearing: 08/29/2018 5:30 PM at City Hall, 105 S Cockrell Hill Rd, Ovilla, TX.





# Villa City Council

## AGENDA ITEM REPORT

### Item 1

Meeting Date: August 29, 2018

Department: Administration/Public Works

☒ Discussion ☒ Action

Budgeted Expense: ☐ YES ☐ NO ☒ N/A

Submitted By: John R. Dean, Jr., CM

Amount: \$ N/A

Reviewed By: ☒ City Manager ☒ City Secretary ☐ City Attorney

☐ Accountant

☒ B. Piland

#### Attachments:

1. Solid Waste Bid Tabulation

#### Agenda Item / Topic:

**ITEM 1.** ***DISCUSSION/ACTION*** – Consideration of and action on staff recommendation to award Community Waste Disposal as the city's franchise provider for solid waste collection and disposable recyclable materials, directing the city manager to conduct negotiations and return to Council to consider an agreement.

#### Discussion / Justification:

We received 4 complete proposals in response to the RFP. The responding companies were CWD, Republic, Waste Connections and Waste Management. We received a proposal for Household Hazardous Waste only from HHW Solutions.

The Bid Tab Sheet outlines the costs for residential service including all of the alternates. The apparent low bidder was CWD.

The base bid plus alternates for annual clean-up day totals \$14.28 monthly per residence. The current price is \$13.68 per month per residence.

If awarded CWD would like to pick up 2 cubic yards of bulky was per week instead of the current method of 4 cubic yards being picked up every other week. The would like to make collection in this manner because they intend to use the same vehicles for solid waste, bulky items and brush.

#### Recommendation

Staff recommends awarding the bid to CWD and authorizing the City Manager to negotiate a contract for City Council Approval.

#### Sample Motion(s):

I move to approve/deny to award Community Waste Disposal as the city's franchise provider for solid waste collection and disposable recyclable materials, directing the city manager to conduct negotiations and return to Council to consider an agreement.

# Solid Waste Bid Results

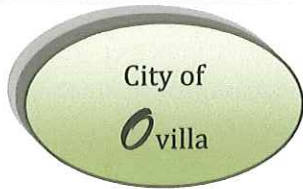
	CWD	Republic	Waste Connections	Waste Management	HHW Solutions
5 Copies	Y	Y	Y	Y	Y
Insurance Minimums	Y	Y	Y	Y	Y
Bid Bond \$25,000	Y	Y	Y	Y	N
BASE BID: A. Residential Solid Waste Collection Once a Week Collection (Diesel Transportation, hauling, disposal costs)	<b>10.20</b>	13.52	12.80	-	-
B. Residential Recycling Collection Every other week recycling collection Bulky pick up TWICE a month	3.26	<b>3.00</b>	4.50	-	-
C. Solid Waste Removal Service \$ NO CHARGE City facilities as listed in Exhibit A, page 27 (This price is for the cost difference to take to compost facility & return with 45 cubic yards of compost.)	-	-	-	-	-
<b>TOTAL RESIDENTIAL BASE BID:</b>	<b>13.46</b>	16.52	17.30	22.95	-
<b>TOTAL RESIDENTIAL BASE BID + Annual Clean-up day alternates:</b>	<b><u>14.28*</u></b>	19.02 + 533.00	18.25	22.95 + 750.00	
<b>Current Contract Cost: \$13.68</b>					
ALTERNATE 1: A. CNG Trucks (refuse only)	-	-	-	-	-
ALTERNATE 2: A: Automated Residential Solid Waste Collection (refuse only) Polycart Containers, 95 gallon capacity	<b>9.78</b> A2+ B = 13.04 Bulk only once a month (4cy)	15.03	16.39	22.95	-
ALTERNATE 3 (on annual clean-up day) A. Household Hazardous Waste Collection & Processing a. Paint Products b. Chemicals c. Tires d. Automotive & household batteries	<b>0.82</b>  Base + = <b><u>14.28*</u></b> A2 + B + A3= <b>13.86</b>	2.50  Base + = 19.02 A2 + B + A3= 17.53	18.25	22.95	1.09 Monthly charge (On-call service)
ALTERNATE 4: (on annual clean-up day) A. E-Waste Collection & Processing a. Computers & technical equipment	Included with A3	533.00	18.25	22.95	-

Solid Waste Bid Results

b. Televisions, radios, CD players, VCR players, telephones					
ALTERNATE 5: (on annual clean-up day) A. Shredding Collection & Processing	Included with A3	No Bid	18.25	725.00	-
ALTERNATE 6: (on annual clean-up day) A. Compost: 180 yards collection (6 roll-offs) of vegetation with 25% (45 yards) volume return from a compost facility. Note: The cost of 6 roll-offs and delivery to landfill included.	0.25	No Bid	No Bid	22.95	-
ALTERNATE 7: A. Extra 4 cubic yards bulky waste pick up once a month a month.	3.07	2.00	18.53	22.95	-
Commercial Rate Schedule	Y	Y	Y	Y	N
Exhibit B	y	N	Y	N	N
Exhibit C	Y	Y	Y	Y	N
Exhibit D	Y	Y	Y	N	N
Exhibit E	Y	Y	Y	N	N

\*Indicates Staff Recommendation





## AGENDA ITEM REPORT

### Item 2

**Meeting Date:** August 29, 2018

**Department:** Administration/Public Works

☒ Discussion ☒ Action

**Budgeted Expense:** ☐ YES ☐ NO ☒ N/A

**Submitted By:** John R. Dean, Jr., CM

**Amount:** \$ N/A

**Reviewed By:** ☒ City Manager ☒ City Secretary ☐ City Attorney

☐ Accountant

☒ B. Piland

#### Attachments:

1. Planning and Zoning recommendation report
2. Site plan drawing
3. Third amendment to Declaration of Covenants, Conditions and Restrictions/Bryson Manor Subdivision.

#### Agenda Item / Topic:

**ITEM 2. DISCUSSION/ACTION** – Receive recommendation from the Planning and Zoning Commission to consider and act on a screening wall along Shiloh Road for Bryson Manor Phase II.

#### Discussion / Justification:

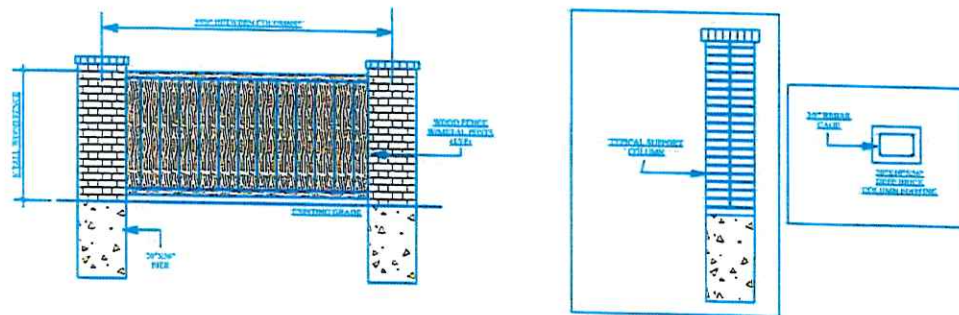
Screening or perimeter fence/walls are required by code for subdivisions greater than two lots along major thoroughfares identified in the thoroughfare plan. The only major thoroughfare identified along Bryson Manor is Shiloh Road. Therefore, the developer has requested the approval of the wall along Shiloh Road so that phase II of the subdivision can begin selling lots and building homes. The developer has requested a design to be approved that is very similar to the one along Cumberland Forest. The HOA will be responsible for the maintenance of the wall. The wall was recommended to be approved by the Planning and Zoning Commission contingent on the HOA putting in the Charter that the HOA will be responsible for the maintenance of the fence/wall.

HOA (Home Owners Association) language has been changed to clarify that the developer is responsible building the fence/wall and the HOA is responsible for maintaining the fence/wall.

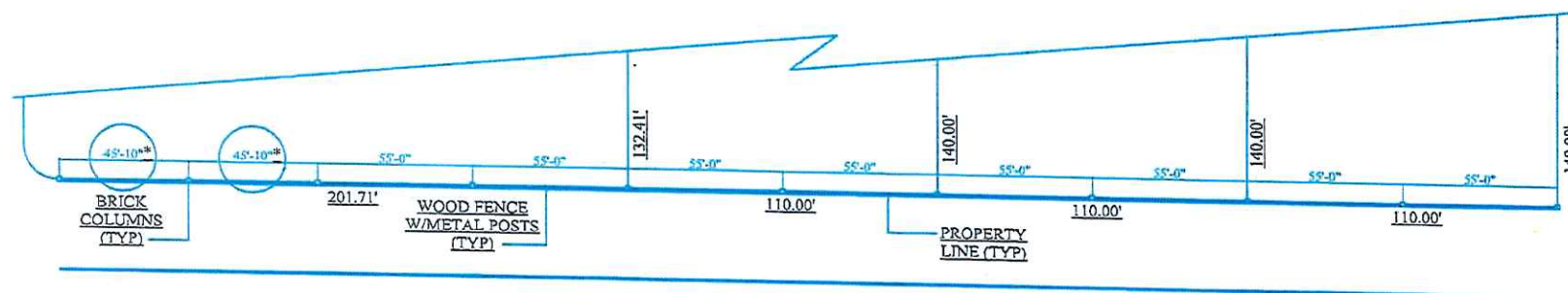
#### Sample Motion(s):

I move to approve/deny the addition to the Bryson Manor Phase II Final Plat for a residential subdivision screening wall to be constructed around the perimeter of Bryson Manor Phase II Subdivision.



[illegible][illegible][illegible]

SCREENING WALL TYPICAL SECTION N.T.S.



SHILOH ROAD

**SITE PLAN**  
SCALE: 1" = 40'-0"



MASSEY SHAW  
CELL #214-803-4932

JULY 6TH, 2018

**BRYSON MANOR**  
MIDLOTHIAN, TX



**130 CHIEFFAIN DRIVE**  
**SUITE 101**  
**WAXAHACHIE, TX 75165**  
**OFFICE# (972)935-9710**  
**WWW.PLAN-MASTER.COM**



**THIRD AMENDMENT TO DECLARATION OF  
COVENANTS, CONDITIONS, AND RESTRICTIONS**

**FOR**

**BRYSON MANOR,  
An Addition to the City of Ovilla, Texas**

THIS THIRD AMENDMENT TO DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS FOR BRYSON MANOR, an Addition to the City of Ovilla, Texas ("Second Amendment") is made effective on the \_\_\_\_ day of July, 2018 (the "Effective Date"), by SHAW DEVELOPMENT GROUP, LLC, a Texas Limited Liability Company ("Declarant"), as follows:

**WITNESSETH**

WHEREAS, Declarant is the owner and developer of certain real property located in the City of Ovilla, Ellis County, Texas (the "City"), as more particularly described in Exhibit "A" (the "Property"), and being more commonly known as Bryson Manor, an addition to the City of Ovilla, Ellis County, Texas (hereafter the "Subdivision"), consisting of an estimated Two Hundred Ten (210) single family residential lots;

WHEREAS, on or about August 5, 2015, Developer filed the Declaration of Covenants, Conditions, and Restrictions for Bryson Manor at Instrument No. 1518470 (the "Original Declaration") in the Official Public Records of Ellis County, Texas ("OPRECT"); and

WHEREAS, on or about May 19, 2017, Developer filed the First Amendment to Declaration of Covenants, Conditions, and Restrictions for Bryson Manor at Instrument No. 1713839 (the "First Amendment") (the Original Declaration and First Amendment being hereafter referred to collectively as the "Declaration") in the OPRECT; and

WHEREAS, on or about September 13, 2017, Developer filed the Second Amendment to Declaration of Covenants, Conditions, and Restrictions for Bryson Manor at Instrument No. 1726144 (the "Third Amendment") (the Original Declaration, First Amendment, and Second Amendment being hereafter referred to collectively as the "Declaration") in the OPRECT; and

WHEREAS, Declarant now desires to make certain corrections, amendments, and modifications to certain provisions of the Declaration to correct, clarify, modify, and

amend provisions relating to various matters, including, without limitation, (a) the construction, care, maintenance, and upkeep of the perimeter screening wall for the Subdivision along Shiloh Road and (b) builder and permit requirements for the construction of retaining walls on Lots 37 and 38 of Block A.

NOW THEREFORE, pursuant to Section 11.02(a) of the Declaration, Declarant hereby makes the following amendments, modifications, corrections, revisions, additions, deletions, and changes to the Declaration:

**Amendments to Article V**

1. Subsection (f) of Section 5.08 of Article VII of the Declaration is hereby deleted in its entirety and the following new Subsection (f) is hereby substituted in its place:

(f) **Fences; Perimeter Screening.**

- (1) **General.** Except for the perimeter screening wall described in subsection (2) below, all fences shall be constructed of materials approved by the City Ordinances. Any wooden fence shall be a minimum of six (6) feet in height and shall be constructed utilizing steel posts on the inside (i.e., yard-side) of such fence.
- (2) **Perimeter Screening Wall.** In accordance with the requirements of the City Code, a perimeter screening wall (the "Perimeter Wall") shall be constructed along the property lines of Lots 35, 36, 37, 38, and 39 of Block A on Shiloh Road from the west side of Bryson Manor Drive to the corner of Shiloh Road and Bryson Lane. Such Perimeter Wall shall be built and in constructed in accordance with the design and specifications approved by the City. No certificates of occupancy for Lots 35, 36, 37, 38, and 39 of Block A shall be issued until the completion of the construction of such Perimeter Wall. The respective owners of Lots 35, 36, 37, 38, and 39 of Block A shall be responsible for the care maintenance and upkeep of the portion of the Perimeter Wall located on their particular lot.

2. Section 5.08 of Article VII of the Declaration is hereby amended by the addition of the following new subsection (j) regarding the requirements for retaining

walls for Lots 37 and 38 of Block A in Phase 2 of the Subdivision:

- (j) Retaining Wall - Lots 37 and 38, Block A. The Owner(s) and/or Builder(s), as applicable, Lots 37 and 38 of Block A, shall be required to construct and install a retaining wall on the east side of their respective Lot in accordance with the requirements of the City Code and the Phase 2 Construction Plans approved for Phase 2 of the Subdivision by the City. Any construction plans submitted by a Builder or Owner with any building permit for the construction of a residence on Lots 37 and 38 shall include the design and construction of such retaining wall.

3. All other terms, conditions, and provisions of the Declaration which are not specifically amended or modified by this Second Amendment shall remain in full force and effect.

4. In the event of any conflict between the terms and provisions of this Second Amendment and the terms and provisions of the Declaration, the terms and provisions of this Second Amendment shall govern and control.

*[Signature Page and Acknowledgment follows on next page.]*



IN WITNESS WHEREOF, Declarant executes this Second Amendment to Declaration of Covenants, Conditions, and Restrictions, effective as of the Effective Date.

SHAW DEVELOPMENT GROUP, LLC,  
a Texas Limited Liability Company

By: \_\_\_\_\_  
MASSOUD SHAHKARAMI  
A/K/A MASSEY SHAW, Manager

ACKNOWLEDGMENT

STATE OF TEXAS       §  
                                  §  
COUNTY OF ELLIS     §

BEFORE ME the undersigned authority, this Second Amendment was acknowledged before me by MASSOUD SHAHKARAMI A/K/A MASSEY SHAW, the Manager and duly-authorized representative of SHAW DEVELOPMENT GROUP, LLC., a Texas Limited Liability Company, on behalf of said company, on the \_\_\_\_\_ day of July, 2018.

\_\_\_\_\_  
Notary Public -- State of Texas

My Commission expires:

UPON RECORDING, RETURN TO:

Bryson Manor Homeowners Association  
c/o Blue Dome Residential Management, LLC  
P.O. Box 2692  
Red Oak, Texas 75154

PREPARED IN THE OFFICES OF:

James P. Moon  
Kaplan & Moon, PLLC  
P. O. Box 2206  
Red Oak, Texas 75154

# CHAPTER 10

## SUBDIVISION REGULATION

### Division 15. Perimeter Screen

**Sec. 10.02.451 Purpose** This division is intended to provide for visual screening along perimeter roadways and thoroughfares and to establish requirements for the installation and maintenance of screening devices to enhance the community's aesthetic qualities and provide sound barriers for residences which abut thoroughfares. (1989 Code, ch. 9, sec. 15.01)

**Sec. 10.02.452 Requirements** (a) All residential subdivisions adjacent to major thoroughfares, as identified on the Ovilla thoroughfare standards design manual, shall be screened from the street. This includes all lots backing or siding on a thoroughfare. A screening wall is also required where an alley is parallel to and adjacent to a public street. (b) Where the sides of lots in a residential subdivision abut on a major thoroughfare, a combination of masonry and wrought iron design may be considered if the non-masonry material does not exceed twenty-five percent (25%) of the surface of the screening wall. If using a combination of wrought iron and masonry, evergreen shrubs, six-foot in height at the time of planting, shall be planted on the interior side of the wrought iron portion of the wall. (1989 Code, ch. 9, sec. 15.02)

**Sec. 10.02.453 Screening wall articulation**

Screening walls adjacent to thoroughfares or collector streets shall be constructed to the following standards:

- (1) Offsets shall be provided every 100 feet or less;
- (2) Offsets shall be designed to be located at lot line intersections;
- (3) Offsets shall be a minimum of three feet in depth and eight feet in length;
- (4) Live plant materials shall be incorporated in the design of the offsets;
- (5) Offset sections of the screening wall may be constructed of alternate non-masonry materials such as ornamental iron;
- (6) A five-foot perimeter screening wall and landscape easement shall be dedicated for the perimeter improvements; and
- (7) Variations in the screening wall design may be approved to preserve existing vegetation and trees. (1989 Code, ch. 9, sec. 15.03; Ordinance adopting Code)

**Sec. 10.02.454 Approval**

(a) The subdivider must submit plans for the screening wall including a section of the wall, elevation of the wall, foundation design, type of materials, color, style and landscape plantings to be installed adjacent to the wall. The design of the perimeter screening wall must be approved by the city council, after review and recommendation from the planning and zoning commission, in conjunction with the final plat approval.

(b) Construction and location details of the required screening wall shall be shown as part of the final plat construction plans for all residential subdivisions containing two or more lots.

(c) The required screening wall shall be constructed prior to any building permits being issued for residential subdivisions.

(1989 Code, ch. 9, sec. 15.04)

**THIRD AMENDMENT TO DECLARATION OF  
COVENANTS, CONDITIONS, AND RESTRICTIONS**

**FOR**

**BRYSON MANOR,  
An Addition to the City of Ovilla, Texas**

THIS THIRD AMENDMENT TO DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS FOR BRYSON MANOR, an Addition to the City of Ovilla, Texas ("Second Amendment") is made effective on the \_\_\_\_ day of August, 2018 (the "Effective Date"), by SHAW DEVELOPMENT GROUP, LLC, a Texas Limited Liability Company ("Declarant"), as follows:

**W I T N E S S E T H**

**WHEREAS**, Declarant is the owner and developer of certain real property located in the City of Ovilla, Ellis County, Texas (the "City"), as more particularly described in Exhibit "A" (the "Property"), and being more commonly known as Bryson Manor, an addition to the City of Ovilla, Ellis County, Texas (hereafter the "Subdivision"), consisting of an estimated Two Hundred Ten (210) single family residential lots;

**WHEREAS**, on or about August 5, 2015, Developer filed the Declaration of Covenants, Conditions, and Restrictions for Bryson Manor at Instrument No. 1518470 (the "Original Declaration") in the Official Public Records of Ellis County, Texas ("OPRECT"); and

**WHEREAS**, on or about May 19, 2017, Developer filed the First Amendment to Declaration of Covenants, Conditions, and Restrictions for Bryson Manor at Instrument No. 1713839 (the "First Amendment") (the Original Declaration and First Amendment being hereafter referred to collectively as the "Declaration") in the OPRECT; and

**WHEREAS**, on or about September 13, 2017, Developer filed the Second Amendment to Declaration of Covenants, Conditions, and Restrictions for Bryson Manor at Instrument No. 1726144 (the "Second Amendment") (the Original Declaration, First Amendment, and Second Amendment being hereafter referred to collectively as the "Declaration") in the OPRECT; and

**WHEREAS**, Declarant now desires to make certain corrections, amendments, and modifications to certain provisions of the Declaration to correct, clarify, modify, and

amend provisions relating to various matters, including, without limitation, (a) the construction, care, maintenance, and upkeep of the perimeter screening wall for the Subdivision along Shiloh Road and (b) builder and permit requirements for the construction of retaining walls on Lots 37 and 38 of Block A.

**NOW THEREFORE**, pursuant to Section 11.02(a) of the Declaration, Declarant hereby makes the following amendments, modifications, corrections, revisions, additions, deletions, and changes to the Declaration:

**Amendments to Article V**

1. Subsection (f) of Section 5.08 of Article VII of the Declaration is hereby deleted in its entirety and the following new Subsection (f) is hereby substituted in its place:

(f) **Fences; Perimeter Screening.**

- (1) General. Except for the perimeter screening wall described in subsection (2) below, all fences shall be constructed of materials approved by the City Ordinances. Any wooden fence shall be a minimum of six (6) feet in height and shall be constructed utilizing steel posts on the inside (i.e., yard-side) of such fence.
- (2) Perimeter Screening Wall. In accordance with the requirements of the City Code, a perimeter screening wall (the "Perimeter Wall") shall be constructed along the property lines of Lots 35, 36, 37, 38, and 39 of Block A on Shiloh Road from the west side of Bryson Manor Drive to the corner of Shiloh Road and Bryson Lane. Declarant shall be responsible for, and shall build, or cause to be built, the Perimeter Wall in question in accordance with the design and specifications approved by the City. No certificates of occupancy for Lots 35, 36, 37, 38, and 39 of Block A shall be issued until the completion of the construction of such Perimeter Wall.
- (3) Maintenance of Perimeter Wall. Upon completion of the construction of the Perimeter Wall, the Association shall be responsible for the care, maintenance, and upkeep of the such Perimeter Wall.



2. Section 5.08 of Article VII of the Declaration is hereby amended by the addition of the following new subsection (j) regarding the requirements for retaining walls for Lots 37 and 38 of Block A in Phase 2 of the Subdivision:

- (j) Retaining Wall - Lots 37 and 38, Block A. The Owner(s) and/or Builder(s), as applicable, Lots 37 and 38 of Block A, shall be required to construct and install a retaining wall on the east side of their respective Lot in accordance with the requirements of the City Code and the Phase 2 Construction Plans approved for Phase 2 of the Subdivision by the City. Any construction plans submitted by a Builder or Owner with any building permit for the construction of a residence on Lots 37 and 38 shall include the design and construction of such retaining wall.

3. All other terms, conditions, and provisions of the Declaration which are not specifically amended or modified by this Second Amendment shall remain in full force and effect.

4. In the event of any conflict between the terms and provisions of this Second Amendment and the terms and provisions of the Declaration, the terms and provisions of this Second Amendment shall govern and control.

*[Signature Page and Acknowledgment follows on next page.]*

IN WITNESS WHEREOF, Declarant executes this Second Amendment to Declaration of Covenants, Conditions, and Restrictions, effective as of the Effective Date.

SHAW DEVELOPMENT GROUP, LLC,  
a Texas Limited Liability Company

By: \_\_\_\_\_  
MASSOUD SHAHKARAMI  
A/K/A MASSEY SHAW, Manager

**ACKNOWLEDGMENT**

STATE OF TEXAS       §  
                                  §  
COUNTY OF ELLIS    §

BEFORE ME the undersigned authority, this Second Amendment was acknowledged before me by MASSOUD SHAHKARAMI A/K/A MASSEY SHAW, the Manager and duly-authorized representative of SHAW DEVELOPMENT GROUP, LLC., a Texas Limited Liability Company, on behalf of said company, on the \_\_\_\_ day of August, 2018.

\_\_\_\_\_  
Notary Public – State of Texas

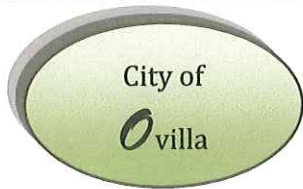
My Commission expires:

**UPON RECORDING, RETURN TO:**

Bryson Manor Homeowners Association  
c/o Blue Dome Residential Management, LLC  
P.O. Box 2692  
Red Oak, Texas 75154

**PREPARED IN THE OFFICES OF:**

James P. Moon  
Kaplan & Moon, PLLC  
P. O. Box 2206  
Red Oak, Texas 75154



## AGENDA ITEM REPORT

### Item 3

Meeting Date: August 29, 2018

Department: Administration/Code

☒ Discussion ☒ Action

Budgeted Expense: ☐ YES ☐ NO ☒ N/A

Submitted By: John R. Dean, Jr., CM

Amount: \$ N/A

Reviewed By: ☒ City Manager ☒ City Secretary ☐ City Attorney

☐ Accountant

☒ M. Dooly

#### Attachments:

N/A

#### Agenda Item / Topic:

**ITEM 3. DISCUSSION/ACTION** – Consideration of and action to clarify Chapter 3, Section 3.06.007 (5) regarding signs placed or affixed to vehicles and direct staff as necessary.

#### Discussion / Justification:

We are requesting City Council clarification on this section of the Code.

#### *Excerpt from the Code of Ordinances:*

##### **Sec. 3.06.007 Prohibited signs**

A person commits an offense if the person installs, constructs, repairs, alters, or relocates a sign described below, except as otherwise permitted in this article:

(5) Signs placed on or affixed to vehicles and/or trailers which are parked on a public right-of-way, public property, or private property so as to be visible from a public right-of-way where the apparent purpose is to advertise a product or direct people to a business or activity located on the same or nearby property. However, this does not prohibit signs placed on vehicles and trailers that are incidental to the primary use or ownership of the vehicle or trailer as transportation.

#### Sample Motion(s):

I move to approve/deny to