



City of Keller

City Council

Meeting Minutes

Tuesday, November 7, 2017

PRE-COUNCIL MEETING 5:00 P.M.

A. CALL TO ORDER - Mayor Pat McGrail called the Pre-Council Meeting to order at 5:04 P.M.

The following City Council Members were present:

Mayor Pat McGrail
Council Member Armin Mizani
Council Member Ed Speakmon
Council Member Eric Schmidt
Council Member Tag Green

Mayor Pro Tem Debbie Bryan and Council Member Chris Whatley arrived at 5:07 P.M.

Administrative personnel present were City Manager Mark Hafner, City Secretary Kelly Ballard, City Attorney Stan Lowry, Director of Administrative Services and Human Resources Carolyn Nivens, Director of Community Services Cody Maberry, Director of Public Services and Economic Development Trina Zais, Director of Public Works Alonzo Liñán, Director of Finance Aaron Rector, Director of Information Technology Sean Vreeland, Police Chief Mike Wilson, and Fire Chief David Jones.

B. DISCUSS AND REVIEW AGENDA ITEMS

The City Council discussed and reviewed the agenda items.

C. EXECUTIVE SESSION

Mayor Pat McGrail adjourned the meeting to Executive Session during the Pre-Council Meeting for the following purposes allowed in Chapter 551 of the Texas Government Code:

1. Section 551.087, Texas Government Code - Deliberation Regarding Economic Development Negotiations.

(1) To discuss or deliberate regarding commercial or financial information that the

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governmental body has received from a business prospect that the governmental body seeks to have locate, stay, or expand in or near the territory of the governmental body and with which the governmental body is conducting economic development negotiations; or

(2) To deliberate the offer of a financial or other incentive to a business prospect described by Subdivision.

a. Natural Grocers.

2. Section 551.071, Texas Government Code - Consultation with attorney to seek advice about pending or contemplated litigation or a settlement offer or 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 Bar of Texas clearly conflicts with this chapter.

a. Johnson Road Coalition, LLC vs. David Hawkins, Planning Manager and City of Keller.

b. Meadows at Bear Creek Homeowners' Association Inc. vs. David Hawkins, Planning Manager and City of Keller.

3. Adjourn into Open Meeting.
4. Action on Executive Session Items 1a, 2a, and 2b if necessary.

Action was taken in the Regular Meeting.

D. WORK SESSION

1. Discuss cancelation of the Tuesday, January 2, 2018 Regular City Council Meeting.

The City Council canceled the January 2, 2018 Regular City Council Meeting.

2. Receive an Economic Update from Retail Coach.

Mr. Aaron Farmer, Senior Vice President, The Retail Coach, gave an update relating to Economic Development. Discussion was held by the City Council.

3. Discuss Flag Lots.

Mayor Pro Tem Debbie Bryan and Council Member Tag Green led a discussion regarding Flag Lots.

E. ADJOURN

Mayor Pat McGrail adjourned the Pre-Council meeting at 7:04 P.M.

REGULAR MEETING 7:00 P.M.

A. CALL TO ORDER – Mayor Pat McGrail called the meeting to order at

7:17 P.M.

B. INVOCATION

Ms. Mitzi Ellington, Chaplain, Texas Health Alliance, and Mr. Steve Morrow, Hillside Community Church, gave the invocations.

C. PLEDGE OF ALLEGIANCE

The Keller High School FFA Students led the pledges to the United States and the Texas flags.

D. PROCLAMATIONS & PRESENTATIONS

1. Presentation - Keller FFA Student Presentation.

The Keller ISD FFA Agricultural Issues Team gave a presentation relating to Lab Grown Meat.

E. PERSONS TO BE HEARD

This is a time for the public to address the City Council on any subject. However, the Texas Open Meetings Act prohibits the City Council from discussing issues which the public has not been given seventy-two (72) hours' notice. Issues raised may be referred to City Staff for research and possible future action.

Mr. Ed Yrisarri, 1445 Melody Lane, expressed his thoughts regarding the Korean War Veterans.

Mr. David Bennett, 5224 Bay View Drive, Fort Worth, TX, 76244, spoke on behalf of Mr. Daniel Bennett regarding a Tarrant Appraisal District Board Member nomination.

F. CONSENT

1. Consider approval of the Minutes of the Tuesday, October 10, 2017 Joint City Council and Parks and Recreation Board Work Session.

A motion was made by Council Member Tag Green, seconded by Council Member Ed Speakmon, to approve the Minutes of the Tuesday, October 10, 2017 Joint City Council and Parks and Recreation Board Work Session. The motion carried unanimously.

2. Consider approval of the Minutes of the Tuesday, October 17, 2017 Regular City Council Meeting.

The minutes of the Tuesday, October 17, 2017 Regular City Council Meeting will be considered at the November 21, 2017 Regular City Council Meeting.

3. Consider a resolution appointing a member to fill a vacancy on the Public Arts Board.

A motion was made by Council Member Tag Green, seconded by Council Member Ed Speakmon, to approve Resolution No. 3939 appointing Dr. Jo-Ann Stankus to serve as Place 7 on the Keller Public Arts Board. The motion carried unanimously.

4. Consider a resolution appointing a member to fill a vacancy on the Keller Parks and Recreation Board.

A motion was made by Council Member Tag Green, seconded by Council Member Ed Speakmon, to approve Resolution No. 3940 appointing Ms. Judy Sether to serve as Place 5 on the Keller Parks and Recreation Board. The motion carried unanimously.

5. Consider a resolution approving the Keller Development Corporation Matching Funds Program Application with Ms. Eva Stack, for the purchase and installation of athletic court lights for the Pickleball Courts at Bear Creek Park, and authorizing the City Manager to execute all purchase documents thereto on behalf of the City of Keller.

A motion was made by Council Member Tag Green, seconded by Council Member Ed Speakmon, to approve Resolution No. 3941 approving the Keller Development Corporation Matching Funds Program Application with Ms. Eva Stack, for the purchase and installation of athletic court lights for the Pickleball Courts at Bear Creek Park, and authorizing the City Manager to execute all purchase documents relating thereto on behalf of the City of Keller. The motion carried unanimously.

6. Consider a resolution authorizing the City Manager to execute an Interlocal Agreement with Keller Independent School District, for the funding of two School Resource Officers, for the Keller Police Department.

A motion was made by Council Member Tag Green, seconded by Council Member Ed Speakmon, to approve Resolution No. 3942 authorizing the City Manager to execute an Interlocal Agreement with Keller Independent School District, for the funding of two School Resource Officers, for the Keller Police Department. The motion carried unanimously.

7. Consider a resolution authorizing the submittal of a grant application to the Office of the Governor Criminal Justice Division for funding under the Rifle-Resistant Body Armor Grant Program; and authorizing the City Manager to execute all required documents.

A motion was made by Council Member Tag Green, seconded by Council Member Ed Speakmon, to approve Resolution No. 3943 authorizing the submittal of a grant application to the Office of the Governor Criminal Justice Division for funding under the Rifle-Resistant Body Armor Grant Program; and authorizing the City Manager to execute all required documents. The motion carried unanimously.

8. Consider a resolution approving the agreement for City Towing and Recovery Service with AA Wrecker Service of Haltom City, Texas, relating to non-consent police tows; and further authorizes the City Manager to execute said contract on behalf of the City of Keller.

A motion was made by Council Member Tag Green, seconded by Council Member Ed Speakmon, to approve Resolution No. 3944 approving the agreement for City Towing and Recovery Service with AA Wrecker Service of Haltom City, Texas, relating to non-consent police tows; and further authorizes the City Manager to execute said contract on behalf of the City of Keller. The motion carried unanimously.

9. Consider a resolution approving the purchase of the Fiscal Year 2018 Miscellaneous Concrete Improvements from Apex Concrete Construction of Keller, Texas, through the Interlocal Agreement with the City of North Richland Hills, dated July 19, 2005, for the Public Works Department, and authorizing the City Manager to execute all purchase documents relating thereto on behalf of the City of Keller.

A motion was made by Council Member Tag Green, seconded by Council Member Ed Speakmon, to approve Resolution No. 3945 approving the purchase of the Fiscal Year 2018 Miscellaneous Concrete Improvements from Apex Concrete Construction of Keller, Texas, through the Interlocal Agreement with the City of North Richland Hills, dated July 19, 2005, for the Public Works Department, and authorizing the City Manager to execute all purchase documents relating thereto on behalf of the City of Keller. The motion carried unanimously.

10. Consider a resolution authorizing the use of the Competitive Sealed Bid method for the Wall Price Keller Road Reconstruction Project as the best value delivery method, other than competitive bidding and delegating authority to the City Manager or his designee and establishing the limits of that authority as allowed by the Texas Government Code Chapter 2269, Subchapter F, to implement the Competitive Sealed Bid method, for the City of Keller.

A motion was made by Council Member Tag Green, seconded by Council Member Ed Speakmon, to approve Resolution No. 3946 authorizing the use of the Competitive Sealed Bid method for the Wall Price Keller Road Reconstruction Project as the best value delivery method, other than competitive bidding and delegating authority to the City Manager or his designee and establishing the limits of that authority as allowed by the Texas Government Code Chapter 2269, Subchapter F, to implement the Competitive Sealed Bid method, for the City of Keller. The motion carried unanimously.

11. Consider a resolution approving the purchase of one (1) Dodge Ram 4500 Heavy-Duty chassis and for the refurbishment and remounting of an existing ambulance module, for the Fire Department, through the Houston-Galveston (H-GAC) Cooperative Purchasing Program, and authorizing the City Manager to execute all purchase documents relating thereto on behalf of the City of Keller.

A motion was made by Council Member Tag Green, seconded by Council Member Ed Speakmon, to approve Resolution No. 3947 approving the purchase of one (1) Dodge Ram 4500 Heavy-Duty chassis and for the refurbishment and remounting of an existing ambulance module, in the total amount of \$149,975.00, for the Fire Department, through the Houston-Galveston (H-GAC) Cooperative Purchasing Program, and authorizing the City Manager to execute all purchase documents

relating thereto on behalf of the City of Keller. The motion carried unanimously.

12. Consider a resolution approving the purchase of one (1) replacement Compact Track Loader and one (1) new Compact Excavator through the BuyBoard Cooperative Purchasing Program, for the Public Works Department, and authorizing the City Manager to execute all purchase documents relating thereto on behalf of the City of Keller, Texas.

A motion was made by Council Member Tag Green, seconded by Council Member Ed Speakmon, to approve Resolution No. 3948 approving the purchase of one (1) replacement Compact Track Loader and one (1) new Compact Excavator through the BuyBoard Cooperative Purchasing Program, in the total amount of \$115,422.11, for the Public Works Department, and authorizing the City Manager to execute all purchase documents relating thereto on behalf of the City of Keller, Texas. The motion carried unanimously.

13. Consider a resolution approving the purchase of four (4) Stryker Power Load Devices for the Emergency Medical Services Division of the Fire Department, and authorizing the City Manager to execute all purchase documents relating thereto on behalf of the City of Keller.

A motion was made by Council Member Tag Green, seconded by Council Member Ed Speakmon, to approve Resolution No. 3949 approving the purchase of four (4) Stryker Power Load Devices, in the total amount of \$99,806.00, for the Emergency Medical Services Division of the Fire Department, and authorizing the City Manager to execute all purchase documents relating thereto on behalf of the City of Keller. The motion carried unanimously.

14. Consider a resolution creating a Future Land Use Plan Task Force, appointing members to said Future Land Use Plan Task Force, and providing an effective date.

A motion was made by Council Member Tag Green, seconded by Council Member Ed Speakmon, to approve Resolution No. 3950 creating a Future Land Use Plan Task Force, appointing the below members to said Future Land Use Plan Task Force, and providing an effective date.

**Tag Green, City Council, FLUP Task Force Chair
Eric Schmidt, City Council, FLUP Task Force Member
Dave Reid, Planning and Zoning Commission, FLUP Task Force Member
Carey Page, Planning and Zoning Commission, FLUP Task Force Member**

The motion carried unanimously.

G. OLD BUSINESS

1. Consider an ordinance approving a zoning change from SF-36 (Single Family-36,000 square-foot minimum) to PD-SF-36 (Planned Development-Single Family-36,000 square foot minimum) for a proposed two (2) lot subdivision, located on an approximately 1.99-acre tract of land, being Lot 16R, Keller Heights North Addition, located on the east side of Bourland Road, approximately 110 feet south of La Vena

Street, at 1117 Bourland Road. Ron Holifield, owner. Karen Mitchell, Karen Mitchell Planning Group, applicant. Texas Surveying, Inc., surveyor. (Z-17-0011)

Mrs. Michele Berry, Senior Planner, gave a presentation relating to a request for an ordinance approving a zoning change from SF-36 (Single Family-36,000 square-foot minimum) to PD-SF-36 (Planned Development-Single Family-36,000 square foot minimum) for a proposed two (2) lot subdivision, located on an approximately 1.99-acre tract of land, being Lot 16R, Keller Heights North Addition, located on the east side of Bourland Road, approximately 110 feet south of La Vena Street, at 1117 Bourland Road.

A motion was made by Council Member Armin Mizani, seconded by Council Member Chris Whatley, to approve a request for an ordinance approving a zoning change from SF-36 (Single Family-36,000 square-foot minimum) to PD-SF-36 (Planned Development-Single Family-36,000 square foot minimum) for a proposed two (2) lot subdivision, located on an approximately 1.99-acre tract of land, being Lot 16R, Keller Heights North Addition, located on the east side of Bourland Road, approximately 110 feet south of La Vena Street, at 1117 Bourland Road. The motion failed by the following vote:

AYE: 3 - Mayor Pat McGrail, Council Member Armin Mizani, and Council Member Chris Whatley.

NAY: 4 - Mayor Pro Tem Debbie Bryan, Council Member Ed Speakmon, Council Member Eric Schmidt, and Council Member Tag Green.

2. Consider a resolution approving a variance to the City of Keller Unified Development Code, Article 8, Zoning/Development Standards, Tree Preservation, Section 8.07, Off-Street Parking and Loading Requirements, to allow front facing garage doors, approximately two hundred fifty-two (252) square feet in total, exceeding the maximum allowed seventy-two (72) square feet of front facing garage door exposure to the street, located on an approximately 0.81-acre tract of land on the north side of Meadowview Drive approximately 900 feet east of the intersection of Meadowview Drive and North Pearson Lane, being Lot 6, Block 1, Timberknoll Southshore Addition, at 2051 Meadowview Lane, and zoned SF-20 (Single-Family - 20,000 square foot minimum). Deborah Ramsay, owner/applicant. (UDC-17-0019)

Mrs. Michele Berry, Senior Planner, gave a presentation relating to a request for a resolution approving a variance to the City of Keller Unified Development Code, Article 8, Zoning/Development Standards, Tree Preservation, Section 8.07, Off-Street Parking and Loading Requirements, to allow front facing garage doors, approximately two hundred fifty-two (252 square feet) in total, exceeding the maximum allowed seventy-two (72) square feet of front facing garage door exposure to the street, located on an approximately 0.81-acre tract of land on the north side of Meadowview Drive approximately 900 feet east of the intersection of Meadowview Drive and North Pearson Lane, being Lot 6, Block 1, Timberknoll Southshore Addition, at 2051 Meadowview Lane.

A motion was made by Council Member Tag Green, seconded by Council Member Armin Mizani, to approve Resolution No. 3951 approving a variance to the City of

Keller Unified Development Code, Article 8, Zoning/Development Standards, Tree Preservation, Section 8.07, Off-Street Parking and Loading Requirements, to allow front facing garage doors, approximately two hundred fifty-two (252 square feet) in total, exceeding the maximum allowed seventy-two (72) square feet of front facing garage door exposure to the street, located on an approximately 0.81-acre tract of land on the north side of Meadowview Drive approximately 900 feet east of the intersection of Meadowview Drive and North Pearson Lane, being Lot 6, Block 1, Timberknoll Southshore Addition, at 2051 Meadowview Lane with the following condition:

1. A variance for the combined square footage of garage doors facing the street on a detached accessory building to exceed seventy-two (72) square-feet, up to two hundred fifty-two (252) square feet shall be allowed.

The motion carried unanimously.

H. NEW BUSINESS

1. Consider a resolution approving a Special Exception to the City of Keller Unified Development Code, Article 8, Zoning Districts, Development Standards, Tree Preservation, Section 8.09 - Attached Wall Signs, for Morris Auto Service, located on approximately 1-acre of land on the west side of North Main Street, approximately 300 feet north of Keller Hicks Road, being Tracts 1E out of the Samuel Needham Survey, Abstract No. 1171, at 421 North Main Street, zoned OTK (Old Town Keller). Donald Morris, Morris Auto Service, owner/applicant. (UDC-17-0018)

Mrs. Michele Berry, Senior Planner, gave a presentation relating to a request for a resolution approving a Special Exception to the City of Keller Unified Development Code, Article 8, Zoning Districts, Development Standards, Tree Preservation, Section 8.09 - Attached Wall Signs, for Morris Auto Service, located on approximately 1-acre of land on the west side of North Main Street, approximately 300 feet north of Keller Hicks Road, being Tracts 1E out of the Samuel Needham Survey, Abstract No. 1171, at 421 North Main Street.

The applicants were present to address the City Council regarding the proposal.

A motion was made by Council Member Armin Mizani, seconded by Mayor Pro Tem Debbie Bryan, to approve Resolution No. 3952 approving a Special Exception to the City of Keller Unified Development Code, Article 8, Zoning Districts, Development Standards, Tree Preservation, Section 8.09 - Attached Wall Signs, for Morris Auto Service, located on approximately 1-acre of land on the west side of North Main Street, approximately 300 feet north of Keller Hicks Road, being Tracts 1E out of the Samuel Needham Survey, Abstract No. 1171, at 421 North Main Street with the following condition:

1. A special exception is allowed for the sign to be taller than the roof, as shown in the staff attachment pictures.
2. A special exception is allowed for the sign to be more than eighteen inches (18") from the wall, as shown in the staff attachment pictures.

3. **A special exception is allowed for the sign to be a maximum of ninety-six (96) square-feet, as shown in the staff attachment pictures.**

The motion carried by the following vote:

AYE: 6 - Mayor Pat McGrail, Mayor Pro Tem Debbie Bryan, Council Member Armin Mizani, Council Member Ed Speakmon, Council Member Eric Schmidt, and Council Member Chris Whatley

NAY: 1 - Council Member Tag Green

2. **PUBLIC HEARING:** Consider an ordinance approving Specific Use Permit (SUP) for an approximately 814 square-foot accessory structure, as the square footage of all accessory buildings would exceed fifty percent (50%) of the total square footage of the primary structure, located on approximately 6.94-acres, on the south side of Johnson Road, approximately 1,000 feet west of North Pearson Lane, at 1876 Johnson Road, being Lot 1R1, Block A, Clark Estates Addition, and zoned SF-36 (Single Family Residential - 36,000 square foot minimum). John Barry Clark, owner/applicant. (SUP-17-0021)

Mrs. Michele Berry, Senior Planner, gave a presentation relating to a request for an ordinance approving Specific Use Permit (SUP) for an approximately 814 square-foot accessory structure, as the square footage of all accessory buildings would exceed fifty percent (50%) of the total square footage of the primary structure, located on approximately 6.94-acres, on the south side of Johnson Road, approximately 1,000 feet west of North Pearson Lane, at 1876 Johnson Road.

Mayor Pat McGrail opened the public hearing. No public comments were received. A motion was made by Council Member Eric Schmidt, seconded by Mayor Pro Tem Debbie Bryan, to close the public hearing. The motion carried unanimously.

A motion was made by Mayor Pro Tem Debbie Bryan, seconded by Council Member Eric Schmidt, to approve Ordinance No. 1869 approving Specific Use Permit (SUP) for an approximately 814 square-foot accessory structure, as the square footage of all accessory buildings would exceed fifty percent (50%) of the total square footage of the primary structure, located on approximately 6.94-acres, on the south side of Johnson Road, approximately 1,000 feet west of North Pearson Lane, at 1876 Johnson Road with the following condition:

1. **The SUP for an 814 square-foot accessory structure with the combined square footage of all accessory buildings exceeding fifty percent (50%) of the total square footage of the primary structure, shall be allowed.**

The motion carried unanimously.

3. **PUBLIC HEARING:** Consider an ordinance approving a Planned Development Amendment from PD-O (Planned Development - Office) to PD-O (Planned Development - Office), amending the Adalina at Bloomfield Planned Development

(Ordinance No. 1353), to allow a reconfiguration of the building layout and to subdivide one (1) lot into six (6) lots, on an approximately 3.31-acre property, being Lot 1, Block C, Adalina at Bloomfield Addition, located on the south side of the Keller Parkway (FM1709), approximately one hundred sixty feet (160') west of the intersection of Keller Parkway (FM1709) and Bloomfield Drive, addressed as 1750 Keller Parkway (FM1709). Ambercrombie Holdings, LLC, owner. Castle Development, applicant. Matt Moore, Claymoore Engineering, engineer. (Z-17-0014)

Mayor Pat McGrail announced that this agenda item will be tabled to the November 21, 2017 Regular City Council Meeting.

A motion was made by Council Member Eric Schmidt, seconded by Council Member Tag Green, to continue the public hearing and table the agenda item to the November 21, 2017 Regular City Council Meeting. The motion carried unanimously.

4. Consider an ordinance approving a Specific Use Permit (SUP) for a 4,272 square foot detached accessory dwelling unit before constructing a new home, located on approximately 3.57-acres, on the north side of Simmons Drive, one thousand four hundred feet (1,400') east of the Simmons Drive and Rufe Snow Drive intersection, at 1021 Simmons Drive, being Lot 13R, Block 1, Rolling Oaks Estates, and zoned SF-36 (Single Family Residential - 36,000 square foot minimum). Trent and Mary Petty, owners. Greg Wright, Providential Land Development, LP, applicant. (SUP-17-0020)

No action was taken on this item.

5. Consider a resolution approving an appeal to the City of Keller Unified Development Code, Article 8, Zoning Districts, Development Standards, and Tree Preservation, Section 8.18, Tree and Natural Feature Preservation and Resolution No. 3769 to allow advanced tree removal and lot grading for residential, Lots 1-4 and Lots 8-18, Block D, Lots 1-3 and Lots 20-18, Block E, and Lots 11-13 and Lots 18-20, Block F, Marshall Ridge Phase 3D, a portion of residential development consisting of forty-eight (48) residential lots, and one (1) open space lot, located on approximately 19.636-acres of land, located on the west side of Marshall Ridge Parkway and, approximately 1,000 feet north of Mount Gilead Road, and zoned as PD-SF-12 (Planned Development-Single Family Residential-12,000 square foot minimum) and PD-SF-15 (Planned Development-Single Family Residential-15,000 square foot minimum). Meritage Homes of Texas, LLC, owner/applicant. (TB-17-0002)

Mrs. Michele Berry, Senior Planner, gave a presentation relating to a request for a resolution approving an appeal to the City of Keller Unified Development Code, Article 8, Zoning Districts, Development Standards, and Tree Preservation, Section 8.18, Tree and Natural Feature Preservation and Amend Resolution No. 3769 to allow advanced tree removal and lot grading for residential, Lots 1-4 and Lots 8-18, Block D, Lots 1-3 and Lots 20-18, Block E, and Lots 11-13 and Lots 18-20, Block F, Marshall Ridge Phase 3D, a portion of residential development consisting of forty-eight (48) residential lots, and one (1) open space lot, located on approximately 19.636-acres of land, located on the west side of Marshall Ridge Parkway and, approximately 1,000 feet north of Mount Gilead Road, and zoned as PD-SF-12 (Planned Development-Single Family Residential-12,000 square foot minimum) and PD-SF-15 (Planned Development-Single Family Residential-15,000 square foot minimum).

Mr. Ryan Joyce, Meritage Homes, addressed the City Council regarding the proposal.

A motion was made by Council Member Armin Mizani, seconded by Council Member Chris Whatley, to approve Resolution No. 3953 approving an appeal to the City of Keller Unified Development Code, Article 8, Zoning Districts, Development Standards, and Tree Preservation, Section 8.18, Tree and Natural Feature Preservation and Amend Resolution No. 3769 to allow advanced tree removal and lot grading for residential, Lots 1-4 and Lots 8-18, Block D, Lots 1-3 and Lots 20-18, Block E, and Lots 11-13 and Lots 18-20, Block F, Marshall Ridge Phase 3D, a portion of residential development consisting of forty-eight (48) residential lots, and one (1) open space lot, located on approximately 19.636-acres of land, located on the west side of Marshall Ridge Parkway and, approximately 1,000 feet north of Mount Gilead Road, and zoned as PD-SF-12 (Planned Development-Single Family Residential-12,000 square foot minimum) and PD-SF-15 (Planned Development-Single Family Residential-15,000 square foot minimum) with the following condition:

- 1. Approve the tree preservation plan as presented with additional planting, upsizing of required trees in the residential lots, escrowing \$56,800.00 with the City to be refunded at the final approval of the 45th lot/ home or when the final caliper inches are planted. Beginning at two (2) years from the effective date of final acceptance of public improvements, five (5) building permits must be pulled within the previous six (6) months and five (5) building permits must be pulled every subsequent six (6) months, or the obligation of the developer will be considered unmet, the escrowed funds would be forfeited to the City's Tree Reforestation Fund, less the mitigated amount (installation of the additional trees) to date in Marshall Ridge Phase 3D. The CC&Rs for Marshall Ridge Phase 3D shall include this recommendation for tree mitigation as approved by the City.**
- 2. The developer shall have a ninety (90) day period from date of approval by City Council to determine how many caliper inches may be planted within the Marshall Ridge subdivision open spaces. An escrow of \$196,750.00 shall be made to the City, a portion of which may be refunded to the applicant in the amount of mitigation trees planted in the open space areas. The remaining amount after completion of installation of mitigation trees in the Marshall Ridge open space areas shall be forfeited to the City's Tree Reforestation Fund.**
- 3. Grading shall be permitted to develop streets, utilities and easement areas, but limited to residential lot prep (including tree removal, earthwork, and retaining walls) up to twenty-one (21) of the forty-eight (48) lots in Sub-Phase 1 as shown on the attached Exhibit "A".**
- 4. Additional erosion control measures as shown in the attached Exhibit "A" shall be installed for those lots prepped in Sub-Phase 1. Staff shall establish a recurring on-site meeting with the developer on a monthly basis to evaluate the effectiveness of the additional erosion control measures installed.**

5. **Eliminate this condition in its entirety: Lots 14-18, Block D shall be excluded from Sub-Phase 2 grading and shall only be graded at time of release of building permits for these lots.**
6. **Allow Sub-Phase II to begin advanced tree removal and lot grading per the approved mitigation and tree protection plans once the additional erosion control measures for Sub-Phase I have been approved by City staff.**

The motion carried by the following vote:

AYE: 4 - Mayor Pat McGrail, Council Member Armin Mizani, Council Member Chris Whatley, and Council Member Tag Green.

NAY: 3 - Mayor Pro Tem Debbie Bryan, Council Member Ed Speakmon, and Council Member Eric Schmidt.

I. DISCUSSION – None

J. EXECUTIVE SESSION

Executive Session was not held during the Regular Meeting.

1. Section 551.087, Texas Government Code - Deliberation Regarding Economic Development Negotiations.

(1) To discuss or deliberate regarding commercial or financial information that the governmental body has received from a business prospect that the governmental body seeks to have locate, stay, or expand in or near the territory of the governmental body and with which the governmental body is conducting economic development negotiations; or

(2) To deliberate the offer of a financial or other incentive to a business prospect described by Subdivision.

b.Natural Grocers.

2. Section 551.071, Texas Government Code - Consultation with attorney to seek advice about pending or contemplated litigation or a settlement offer or 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 Bar of Texas clearly conflicts with this chapter.

a. Johnson Road Coalition, LLC vs. David Hawkins, Planning Manager and City of Keller.

b. Meadows at Bear Creek Homeowners' Association Inc. vs. David Hawkins, Planning Manager and City of Keller.

3. Adjourn into Open Meeting.
4. Action on Executive Session Items 1a, 2a, and 2b if necessary.

Item 1a. A motion was made by Council Member Tag Green, seconded by Mayor Pro Tem Debbie Bryan, to deny a request for an Economic Development Incentive for Natural Grocers. The motion carried unanimously.

Mayor Pat McGrail recessed the City Council meeting so that the Work Session could resume in the Pre-Council Chamber.

K. ADJOURN

A motion was made by Council Member Eric Schmidt, seconded by Council Member Tag Green, to adjourn the meeting at 9:40 P.M. The motion carried unanimously.

Mayor

City Secretary