



Prosper is a place where everyone matters.

MINUTES
Regular Meeting of the
Prosper Town Council
Prosper Municipal Chambers
108 W. Broadway, Prosper, Texas
Tuesday, March 25, 2014

1. Call to Order/Roll Call.

The meeting was called to order at 6:00 p.m.

Council Members Present:

Mayor Ray Smith
Mayor Pro-Tem Meigs Miller
Deputy Mayor Pro-Tem Kenneth Dugger
Councilmember Michael Korbuly
Councilmember Curry Vogelsang, Jr.
Councilmember Danny Wilson
Councilmember Jason Dixon

Staff Members Present:

Harlan Jefferson, Town Manager
Robyn Battle, Town Secretary
Terrence Welch, Town Attorney
Hulon T. Webb, Jr., Executive Director of Development and Community Services
Matt Richardson, Senior Engineer
Baby Raley, Human Resources Director
Kent Austin, Finance Director
January Cook, Purchasing Agent
Ronnie Tucker, Fire Chief
Doug Kowalski, Interim Police Chief
Gary McHone, Assistant Police Chief

2. Invocation, Pledge of Allegiance and Pledge to the Texas Flag.

Pastor Glen Gabbard led the invocation. The pledge of allegiance and the pledge to the Texas flag were recited.

3. Announcements of upcoming events.

Councilmember Dixon made the following announcements:

From March 29 to April 5, the Prosper Fire Department will display eleven hundred blue pinwheels on the lawn of the Fire Station to raise awareness for Child Abuse Prevention Month. The pinwheels are part of the Children's Advocacy Center of Collin County's Pinwheels for Prevention Initiative to elevate the community's mindfulness regarding child abuse and neglect.

The Town is partnering once again with Texas A&M Agri-Life to present an adult education series on water conservation. The series is designed to provide information to help residents improve their home landscapes and gardens, while still conserving water. The classes will be held at 6:30 p.m. each Monday through April 21 at the Prosper Community Library. Information and registration is available on the Town's website.

Senior Citizens are invited to attend Coffee with the Mayor on Friday, April 11, at 9:00 a.m. in Prosper Municipal Chambers. Please RSVP to Kelly Vanaman in Utility Billing.

Also on April 11, Prosper High School will host a Relay for Life to Benefit the American Cancer Society. The Relay will take place at Prosper High School from 6:00 p.m. to midnight. Contact Jan Brown at jbrown@prosper-isd.org for more information.

The Town of Prosper will hold a Centennial Celebration on Saturday, April 26, in the downtown area. The event will include entertainment, storytelling, games and activities for the whole family that will celebrate Prosper's past, present and future. For more information, please contact Town Secretary Robyn Battle.

Councilmember Korbuly congratulated the Prosper High School female lacrosse team on winning their first match recently.

4. CONSENT AGENDA:

(Items placed on the Consent Agenda are considered routine in nature and non-controversial. The Consent Agenda can be acted upon in one motion. Items may be removed from the Consent Agenda by the request of Council Members or staff.)

Councilmember Dixon removed item 4I from the Consent Agenda.

- 4a. Consider and act upon minutes from the following Town Council meeting. (RB)**
 - **Regular Meeting – February 25, 2014**
- 4b. Consider and act upon Resolution No. 14-14 approving the exclusion of land from the boundaries of Prosper Management District No. 1. (RB)**
- 4c. Receive the February 2014 Financial Report. (KA)**
- 4d. Consider and act upon Ordinance No. 14-15 amending Article 12.04 of Chapter 12 of the Code of Ordinances related to concrete trucks and leakage of concrete. (DK)**
- 4e. Consider and act upon Ordinance No. 14-16 amending Article 4.09 of the Code of Ordinances (Special Events and Temporary Outdoor Seasonal Sales). (CC)**
- 4f. Consider and act upon Ordinance No. 14-17 rezoning 0.7± acre from Single Family-15 (SF-15) to Downtown Single Family (DTSF), located on the north side of Third Street, 200± feet west of Church Street (309 E. Third Street). (Z14-0001). (CC)**

- 4g. Consider and act upon Ordinance No. 14-18 rezoning 0.3± acre from Single Family-15 (SF-15) to Downtown Retail (DTR), located on the west side of Coleman Street, 100± feet south of Fifth Street. (Z14-0002). (CC)
- 4h. Consider and act upon Ordinance No. 14-19 rezoning 0.4± acre from Single Family-15 (SF-15) to Downtown Office (DTO), located on the northwest corner of Craig Road and First Street (713 E. First Street). (Z14-0003). (CC)
- 4i. Consider and act upon approving a list of qualified firms to provide professional engineering and related services to the Town of Prosper. (MR)
- 4j. Consider and act upon approving the purchase of lighting and installation services for the Frontier Park Soccer Field Lighting Addition project, from Musco Sports Lighting, LLC, through the Texas Local Government Purchasing Cooperative. (PN)
- 4k. Consider and act upon whether to direct staff to submit a written notice of appeal on behalf of the Town Council to the Development Services Department, pursuant to Chapter 4, Section 1.5(C)(7) and 1.6(B)(7) of the Town's Zoning Ordinance, regarding action taken by the Planning & Zoning Commission on any site plan or preliminary site plan. (CC)

Deputy Mayor Pro-Tem Dugger made a motion and Mayor Pro-Tem Miller seconded the motion to approve all remaining items on the Consent Agenda. The motion was approved by a vote of 7-0.

- 4l. Consider and act upon authorizing the Town Manager to execute a Brokerage Service Agreement between McGriff, Seibels & Williams of Texas, Inc., related to employee benefit management services. (BR)

Baby Raley, Human Resources Director, provided additional information to the Town Council on this item, including proposed revisions to the agreement.

After discussion, Deputy Mayor Pro-Tem Dugger made a motion and Mayor Pro-Tem Miller seconded the motion to approve Item 4l. The motion was approved by a vote of 7-0.

5. CITIZEN COMMENTS:

(The public is invited to address the Council on any topic. However, the Council is unable to discuss or take action on any topic not listed on this agenda. Please complete a "Public Meeting Appearance Card" and present it to the Town Secretary prior to the meeting.)

Mayor Smith recognized the following individuals who requested to speak:

McKenna Shirley and Drew Vogelsang, students at Prosper High School, addressed the Council regarding the upcoming Relay For Life benefitting the American Cancer Society to be held on April 11 at Prosper High School.

There were no other Citizen Comments.

REGULAR AGENDA:

(If you wish to address the Council during the regular agenda portion of the meeting, please fill out a "Public Meeting Appearance Card" and present it to the Town Secretary prior to the meeting. Citizens wishing to address the Council for items listed as public hearings will be recognized by the Mayor. Those wishing to speak on a non-public hearing related item will be recognized on a case-by-case basis, at the discretion of the Mayor and Town Council.)

PUBLIC HEARINGS:

6. **Conduct a Public Hearing, and consider and act upon a request to rezone 357.3± acres, located on the north side of US 380, 3,800± feet west of Dallas Parkway, from Planned Development-14 (PD-14) and Planned Development-43 (PD-43) to Planned Development-Single Family/Retail/Commercial (PD-SF/R/C). (Z13-0011). (CC)**

Mayor Smith opened the Public Hearing.

Hulon Webb, Executive Director of Development and Community Services, presented this item before the Town Council. The proposed zoning request is to rezone the property from PD-14 and PD-43 to PD-Single Family/Retail/Commercial, which conforms to the Future Land Use Plan. The Parks and Recreation Board has recommended approval of the proposed Parkland Dedication, subject to the following conditions:

1. Community Park to be dedicated as shown on Exhibit D. Even though the total dedication is 26.0 acres, only 18.8 acres (15.0 acres outside of 100-year floodplain) of Parkland is allowed to be credited towards the Parkland Dedication requirement per the Town's Subdivision Ordinance.
2. Neighborhood Park to not be accepted as Parkland Dedication, but recommended to be HOA owned and maintained Open Space.
3. The remaining 7.77 acre Parkland Dedication requirement to be fulfilled by money in lieu of land or additional land to be incorporated adjacent to Community Park.

The Planning and Zoning Commission has recommended approval of the request, subject to the following conditions:

1. Revising the proposed PD to reflect the Parks and Recreation Board's recommendation,
2. Adding Type C single family residential lots to Exhibit C, Section 1.6.3.4,
3. Deleting Recycling Collection Point as a permitted use in Exhibit C, Section 2.2, and
4. Deleting Recycling Center; Recycling Collection Point; Antenna and/or Antenna Support Structure, Commercial; and Equipment and Machinery Sales and Rental, Major as permitted uses in Exhibit C, Section 3.2.

The applicant has revised Exhibit C, which is included in the Council packet, to address items 2, 3, and 4 of the Planning & Zoning Commission's recommendation.

Clint Richardson of Greater Texas Land Resources was present, and addressed the Council on behalf of the applicant. Mr. Richardson provided a newly-revised copy of

Exhibit C of the Planned Development Standards regarding Parkland and Amenities and reviewed the details of the revision. The proposed Planned Development Standards will now include the following:

- Twenty percent of the parkland conveyance total for the Community Park may consist of floodplain land.
- Removal of Parkland dedication for a Neighborhood Park; instead, payment of money in lieu of land will be made.
- A minimum of one Amenity Center shall be provided within the proposed residential development, with no specified location or minimum acreage requirement.
- The Town shall have no maintenance responsibilities for any Amenity Center.
- Any Amenity Center shall be completed with the initial phase of residential development.
- Open Space Areas: The Town shall have no responsibilities for the maintenance of any open space areas.

Town staff recommended approval of the request, subject to the recommendations of the Parks and Recreation Board and the Planning and Zoning Commission, and subject to the proposed revisions to Exhibit C of the Planned Development Standards.

The applicant and Mr. Webb responded to questions from the Town Council regarding a potential future park development agreement, and the price-per-acre calculation. There is not currently a school site on the proposed concept plan.

Mayor Smith recognized the following individuals who requested to speak during the Public Hearing:

Jack Dixon, 810 Long Valley Court, Prosper, asked a question regarding the density of the development. Mr. Webb explained the calculation used to determine the proposed density. Mr. Dixon then questioned the Town Council about future plans for water restrictions and the water supply for the Town as the population grows.

With no-one else speaking, Mayor Smith closed the Public Hearing.

Councilmember Dixon made a motion and Councilmember Wilson seconded the motion to approve a request to rezone 357.3± acres, located on the north side of US 380, 3,800± feet west of Dallas Parkway, from Planned Development-14 (PD-14) and Planned Development-43 (PD-43) to Planned Development-Single Family/Retail/Commercial (PD-SF/R/C), subject to recommendations by the Planning and Zoning Commission, the revised Exhibit C submitted by the applicant, and the following amendments to Exhibit C that were read into the record by the Town Attorney:

- 4.4.1 (additional sentence) The Town shall have no maintenance responsibilities for any Amenity Center.
- 4.4.2 Any Amenity Center shall be completed with the initial phase of residential development.
- 4.5 Open Space Areas: The Town shall have no responsibilities for the maintenance of any open space areas.

The motion was approved by a vote of 7-0.

7. Conduct a Public Hearing, and consider and act upon a request to rezone 29.5± acres, located on the southeast corner of Coit Road and Frontier Parkway, from Agricultural (A) to 16.2± acres of Single Family-17.5 (SF-17.5) and 13.3± acres of Retail (R). (Z14-0004). (CC)

Hulon Webb, Executive Director of Development and Community Services, presented this item before the Town Council. The proposed zoning request is to rezone the property from Agricultural to Single Family-17.5, which conforms to the Future Land Use Plan. The Planning and Zoning Commission has approved the request, and Town staff recommends approval as well. Mardy Brown with Texas Development Services addressed the Town Council on behalf of the applicant. Mr. Brown explained some of the details of the zoning request, including accommodations that have been put in place in response to input the applicant has received from the public.

Mayor Smith opened the Public Hearing.

The following individuals requested to speak on this item:

Irwin "Cap" Parry, 850 Kings View Drive, Prosper, expressed his concern regarding Council's approachability, and how the Town Council responds to their constituents' concerns.

Councilmember Dixon responded that he and other Council members have attended previous HOA meetings. Councilmember Wilson responded that the Council continually strives to be available to the residents and listen to their concerns, and encouraged residents to be involved and provide input.

Michael Kays, 1710 Silverleaf Court, Prosper, spoke in opposition to this item, expressing his concerns about increased traffic at what he feels is an already dangerous intersection, especially for students driving to the high school.

David Snyder, 1791 Sand Creek Drive, Prosper, spoke in opposition to this item, noting that the request is not fiscally responsible, and is not consistent with the Comprehensive Plan.

Scott Clayton, 2601 Fair Oaks Lane, Prosper, spoke in opposition to this item, expressing his concern that the proposal is not a Planned Development, and that the Town has no control over the development. He added that the Town is not ready for this type of development.

Scott Stockton, 2700 Fair Oaks Lane, Prosper, spoke in opposition to this item, stating his concern about the direction the Town is heading, and his desire to keep a more open, rural feel to the Town.

Kirby Jones, 1760 Silverleaf Court, Prosper, spoke in opposition to this item, stating that he does not feel this request is a good interpretation of the Comprehensive Plan, and does not want retail development facing his home, which faces Coit Road.

Roger Thedford, 911 Fox Ridge Trail, Prosper, spoke in favor of this item, noting that the Town already has a reputation for being “difficult to work with,” and that without commercial development, the Town will not have the tax base it needs to improve infrastructure.

Jessica Parton, 2700 Fair Oaks Lane, Prosper, spoke in opposition to this item, expressing that being “difficult to work with” is not necessarily a bad thing, because the Town makes sure things are done right, and that developers are not allowed to overrule things. As a local real estate agent, she stated that though growth is inevitable, it must happen at the right time, and the Council should pay attention to what people want.

Shawn Clayton, 1750 Blue Forest, Prosper, spoke in favor of this item, pointing out that his family moved to Prosper for the schools, but the school district is having trailers moved in this summer because the school district cannot afford to sell bonds. He stated that the Town needs retail so the school district can build schools.

Paul Dietz, 2501 Gentle Creek, Prosper, spoke in opposition of this item, noting that he moved to Prosper because of the open feel of the Town.

Jennifer and Mark DeVol, Brenda Jester, and Dana Pelon did not wish to speak, but expressed their opposition to the request.

With no-one else speaking, Mayor Smith closed the Public Hearing.

Mr. Brown returned to the podium and answered questions from the Town Council, and discussed some of the concerns raised during the public hearing. Council discussed the Traffic Impact Analysis, and previous efforts by the Town to improve traffic safety at major intersections. The Council requested that the applicant attempt to reconfigure the zoning request so that more of the retail development is facing Frontier Parkway, rather than Coit Road.

After discussion, Mayor Pro-Tem Miller made a motion and Councilmember Korbuly seconded the motion to table the item to the April 8, 2014, Town Council meeting. The motion was approved by a vote of 7-0.

8. Conduct a Public Hearing, and consider and act upon a request for a variance to the Sign Ordinance, Section 1.09(L), regarding Subdivision Entry Signs, located north of US 380 at Windsong Ranch Parkway. (V14-0001). (CC)

Hulon Webb, Executive Director of Development and Community Services, presented this item before the Town Council. Mr. Webb reviewed the variance request, the criteria considered in determining the validity of a sign variance request, and Town staff’s response to those criteria. Town staff recommended approval of the request.

Mayor Smith opened the Public Hearing.

With no-one speaking, Mayor Smith closed the Public Hearing.

Councilmember Korbuly made a motion and Deputy Mayor Pro-Tem Dugger seconded the motion to approve a request for a variance to the Sign Ordinance, Section 1.09(L),

regarding Subdivision Entry Signs, located north of US 380 at Windsong Ranch Parkway. (V14-0001). The motion was approved by a vote of 7-0.

DEPARTMENT ITEMS:

9. **Consider and act upon authorizing the Town Manager to execute a Standard Form of Agreement between the Town and Pogue Construction Co., L.P., related to Construction Manager-At-Risk services for Prosper Fire Department Station No. 2; an Addendum to the Standard Form of Agreement between the Town and the Construction Manager-At-Risk; and an Addendum to the General Conditions of the Contract for Construction. (JC)**

January Cook, Purchasing Agent, presented this item before the Town Council. Ms. Cook reviewed the criteria and selection process which the evaluation committee used to review the Statements of Qualifications from companies who responded, and the committee and Town staff recommends awarding the contract to Pogue Construction Co., L.P.

After discussion, Councilmember Vogelsang made a motion and Mayor Pro-Tem Miller seconded the motion to authorize the Town Manager to execute a Standard Form of Agreement between the Town and Pogue Construction Co., L.P., related to Construction Manager-At-Risk services for Prosper Fire Department Station No. 2; an Addendum to the Standard Form of Agreement between the Town and the Construction Manager-At-Risk; and an Addendum to the General Conditions of the Contract for Construction. The motion was approved by a vote of 7-0.

10. **Consider and act upon a resolution accepting the Independent Audit Report and Comprehensive Annual Financial Report (CAFR) for the Fiscal Year Ended September 30, 2013, as presented by Cara Hilbrich of Davis Kinard & Co, PC, Certified Public Accountants. (KA)**

Finance Director Kent Austin introduced Jeremy Stevens of Davis Kinard & Co., P.C., Certified Public Accountants, who reviewed the Comprehensive Annual Financial Report for the Town Council. Due to improvements made on Town practices and controls since last fiscal year, the auditors found no conditions meriting a Management Letter for FY 2013.

After discussion, Councilmember Vogelsang made a motion and Deputy Mayor Pro-Tem Dugger seconded the motion to adopt Resolution No. 14-20 accepting the Independent Audit Report and Comprehensive Annual Financial Report (CAFR) for the Fiscal Year Ended September 30, 2013. The motion was approved by a vote of 7-0.

11. **Consider and act upon a resolution declaring the expectation to reimburse expenditures for the design and construction of Coleman Street (Prosper Trail to Prosper High School) and Rhea Mills concrete street improvements with proceeds of future debt, and authorizing the preparation of the documents associated with the issuance, sale, and delivery of the debt obligations; and providing an effective date. (KA)**

Finance Director Kent Austin presented this item before the Town Council. The proposed resolution will allow the Town to pay for the majority of the design and

construction of Coleman Street (Prosper Trail to Prosper High School), as well as the Rhea Mills concrete street improvements, from existing funds now and be reimbursed later when bonds are sold. The remaining costs for the Coleman Street project will be funded from the Drainage Utility Fund and the Water Impact Fee Fund.

After discussion, Deputy Mayor Pro-Tem Dugger made a motion and Councilmember Wilson seconded the motion to adopt Resolution No. 14-21 declaring the expectation to reimburse expenditures for the design and construction of Coleman Street (Prosper Trail to Prosper High School) and Rhea Mills concrete street improvements with proceeds of future debt, and authorized the preparation of the documents associated with the issuance, sale, and delivery of the debt obligations; and providing an effective date. The motion was approved by a vote of 7-0.

12. Consider and act upon authorizing the Town Manager to execute an agreement between Kimley-Horn and Associates, Inc., and the Town of Prosper, Texas, related to the design of Coleman Street (Prosper Trail to Prosper High School). (MR)

Senior Engineer Matt Richardson presented this item before the Town Council. The proposed contract is for the design of two lanes (eastern half) of an ultimate four-lane divided roadway on Coleman Street between Prosper Trail and Prosper High School. It also includes a sidewalk parallel to the roadway, an enclosed drainage system, a new culvert crossing north of Prosper Trail, a 16" water line north of Prosper Trail, and a traffic signal at the intersection of Coleman Street and Prosper Trail. Mr. Richardson answered questions from the Town Council on the timeline of the project, traffic control, and safety concerns during construction.

After discussion, Mayor Pro-Tem Miller made a motion and Councilmember Korbuly seconded the motion to authorize the Town Manager to execute an agreement between Kimley-Horn and Associates, Inc., and the Town of Prosper, Texas, related to the design of Coleman Street (Prosper Trail to Prosper High School). The motion was approved by a vote of 7-0.

13. Consider and act upon awarding Bid No. 2014-32-B to Austin Bridge & Road, LP, related to construction services for the Prosper Road Improvement Project 2014; and authorizing the Town Manager to execute same. (HW)

Hulon Webb, Executive Director of Development and Community Services, presented this item before the Town Council. The Town received four bids for the Prosper Road Improvement Project 2014, which includes Coit Road (First Street to Frontier Parkway), Coleman Street (Prosper Trail to Broadway) and First Street (Coleman Street to the Dallas North Tollway). The contract will replace the existing asphalt pavement with new asphalt pavement, including incidental work on driveways and culverts. Town staff recommends Town Council award the bid to Austin Bridge & Road, L.P.

After discussion, Deputy Mayor Pro-Tem made a motion and Councilmember Wilson seconded the motion to award Bid No. 2014-32-B to Austin Bridge & Road, LP, related to construction services for the Prosper Road Improvement Project 2014; and authorized the Town Manager to execute same. The motion was approved by a vote of 7-0.

14. **EXECUTIVE SESSION:**

Recess into Closed Session in compliance with Section 551.001 et seq. Texas Government Code, as authorized by the Texas Open Meetings Act, to deliberate regarding:

14a. Section 551.087 - To discuss and consider economic development incentives.

14b. Section 551.072 - To discuss and consider purchase, exchange, lease or value of real property for municipal purposes and all matters incident and related thereto.

The Town Council recessed into Executive Session at 9:02 p.m.

15. **Reconvene in Regular Session and take any action necessary as a result of the Closed Session.**

The Regular Session was reconvened at 9:42 p.m.

No action was taken as a result of Executive Session.

16. **Possibly direct Town staff to schedule topic(s) for discussion at a future meeting.**

• **SH 289 Landscape, Lighting and Monument Signage.**

Mr. Webb updated the Town Council on this project, and asked the Council for feedback. Town staff was directed to move forward with the lighting portion of the project, and received direction on landscape enhancements, and the preferred locations for monument signs.

• **Update on Town Hall/Multi-Purpose architectural and engineering services consultant selection.**

Mr. Webb informed the Town Council that the selection committee for this project has decided on an architectural design firm. The Town Council will consider approval of the design firm at the April 8 Town Council meeting. A reimbursement resolution will be used to fund the design for the project.

• **Parkland and Right of Way Maintenance.**

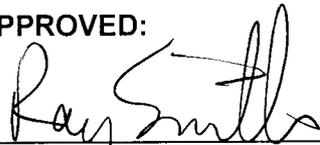
Town staff was given direction regarding the selection of a vendor for Parkland and Right-of-Way Maintenance.

17. **Adjourn.**

The meeting was adjourned at 10:00 p.m., on Tuesday, March 25, 2014.

These minutes approved on the 8th day of April, 2014.

APPROVED:



Ray Smith, Mayor

ATTEST.



Robyn Battle, Town Secretary