



Prosper is a place where everyone matters.

MINUTES
Regular Meeting of the
Prosper Town Council
Prosper Municipal Chambers
108 W. Broadway, Prosper, Texas
Tuesday, July 8, 2014

1. Call to Order/Roll Call.

The meeting was called to order at 5:04 p.m.

Council Members Present:

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

Staff Members Present:

Angela Tucker, Administrative Assistant
Terrence Welch, Town Attorney
Hulon T. Webb, Jr., Executive Director of Development and Community Services
Chris Copple, Development Services Director
Matt Richardson, Senior Engineer
Frank Jaromin, Public Works Director
Kent Austin, Finance Director
January Cook, Purchasing Agent

2. 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:

- 2a. Section 551.087 - To discuss and consider economic development incentives.**
- 2b. 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 5:06 p.m.

The Regular Session was reconvened at 6:46 p.m. No action was taken as a result of Executive Session.

REGULAR MEETING

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

Pastor Kerry Carothers led the invocation. The Pledge of Allegiance and the Pledge to the Texas Flag were recited.

4. Announcements of upcoming events.

Mayor Pro-Tem Miller made the following announcements:

Prosper residents are encouraged to complete an online survey to assist the Town in updating its Parks, Recreation, and Open Space Master Plan. The survey includes questions about resident preferences on park usage, park facilities, and recreational opportunities. The survey is available on the Town's website through Friday, July 11. Please contact Paul Naughton, Landscape Architect, for more information.

Applications for the Town's Boards and Commissions will be accepted through Friday, August 1st. Applications are available at Town Hall, the Community Library, and the Town's website. Descriptions of the various Town Boards and their eligibility requirements are available on the Town's website or by contacting Robyn Battle, Town Secretary.

TxDOT and Mario Sinacola continue to work on completing the necessary items to allow for the opening of the new northbound pavement Thursday night, July 10. Once traffic is switched, those traveling southbound on Preston Road should anticipate minor delays Friday and Saturday as crews begin applying the permanent pavement markings. Motorists are urged to use caution as southbound lanes will be shifted during this time to facilitate the completion of the new striping Saturday evening.

The Town is also working diligently on improvements to many of the Town's existing roadways. First Street, from the Dallas North Tollway to Coleman Road, is anticipated to be complete and opened to two-way traffic by the end of this week. Once complete, the contractor will begin the asphalt improvements on Coleman Road in front of Reynolds Middle School which should take approximately a week to complete. This work will be constructed with the use of a rolling closure instead of the one-way traffic method used on First Street. Flag men will be present to maintain traffic in each direction during construction. Expect delays and try to use alternate routes. Coit Road, from First Street to Frontier Parkway, is making progress. The section from First Street to Prosper Trail is nearing completion of being mixed, compacted and graded for preparation of the final asphalt overlay to be placed next week. The section of Coit Road from Prosper Trail to Frontier Parkway will begin the week of July 21 and take approximately three weeks to complete. First Street, from Church Street to Craig Street, is also under construction and a new concrete surface, which will replace the existing asphalt, will begin being placed next week. This work is expected to be complete by the end of July. And lastly, the repaving in the Rhea Mills subdivision has begun with the removal of the existing concrete pavement. New concrete will replace the existing pavement and the entire project will take approximately four months to complete. Motorists are urged to adhere to the traffic control in place during these projects as many of the roads under construction are one-way during the project.

Councilmember Korbuly congratulated Cedarbrook Media Group, Live & Prosper Magazine, and the Town of Prosper staff for the great success of the "Pride in the Sky" event held on July 3.

5. Proclamations.

- **Presentation of a Proclamation to members of the Town's Parks and Recreation staff declaring July 2014 as *Parks and Recreation Month*.**

Will Mitchell, Parks & Recreation Manager, received the Proclamation on behalf of the Parks & Recreation Staff.

6. 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.)

- 6a. Consider and act upon minutes from the following Town Council meeting. (RB)**

- **Regular Meeting – June 24, 2014**

- 6b. 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)**

- 6c. Consider and act upon approving the Fifth Amendment to the Development and Financing Agreement between the Town of Prosper and Blue Star Land, L.P., 183 Land Corp., and Blue Star Allen Land, L.P. (HW)**

Deputy Mayor Pro-Tem Dugger removed Item 6c from the Consent Agenda.

Deputy Mayor Pro-Tem Dugger made a motion and Mayor Pro-Tem Miller seconded the motion to approve Items 6a and 6b on the Consent Agenda. The motion was approved by a vote of 7-0.

Deputy Mayor Pro-Tem Dugger stated that meetings with the parties involved in the Development Agreement are moving forward and progress is being made. Deputy Mayor Pro-Tem Dugger made a motion and Councilmember Korbuly seconded the motion to approve the Fifth Amendment to the Development and Financing Agreement between the Town of Prosper and Blue Star Land, L.P., 183 Land Corp., and Blue Star Allen Land, L.P. The motion was approved by a vote of 7-0.

7. **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.)

Other Comments by the Public:

There were no 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:

8. **Conduct a Public Hearing, and consider and act upon a request to rezone 33.2± acres, located on the northeast corner of Preston Road and Prosper Trail, from Single Family-15 (SF-15) to Planned Development-Retail (PD-R). (Z14-0007). (CC)**

Chris Copple, Development Services Director, presented this item before the Town Council. This item had been tabled at the June 24, 2014, Town Council meeting, at the request of the applicant. The proposed Planned Development-Retail (PD-R) district allows for the development of a retail shopping center anchored by a big box building. Mr. Copple compared the proposed PD-R to the straight Retail zoning district, and explained the standards that varied from straight zoning. After the Town Council Packet was posted, four letters were submitted from property owners within 200' of the subject property, withdrawing their opposition to the request. The property owners in opposition to the request within 200' of the subject property now represent an area less than 20% of the surrounding land area. The Planning & Zoning Commission recommended the Council deny the request at their June 3 meeting; however, at that time, the request did not conform to the Future Land Use Plan (FLUP). The Town Council approved an amendment to the FLUP on June 10, 2014. The Town's Zoning Ordinance states that a proposal denied by the Planning & Zoning Commission shall not be forwarded to the Town Council unless the applicant requests an appeal, which the applicant has submitted. Town staff recommended approval of the request.

Donald Silverman, the developer for the proposed project, addressed the Council. The project developers have worked with the adjacent residents to address concerns regarding landscaping and architectural features that make the project more appealing. Mr. Silverman reviewed some of the features of the PD, the Planned Development Standards, the building materials, and responded to questions from the Town Council on landscaping and open space. Upon a request from Council, Mr.

Silverman agreed to include one bank in the PD, but allow one additional bank as an Special Use Permit.

Mayor Smith opened the Public Hearing.

John Izatt, 1300 Packsaddle Trail, Prosper, spoke in opposition to this item.

John Harris, 170 N. Preston Road, Suite 10, Prosper, spoke in opposition to this item.

Ken Bloskas, 1080 Broadmoor, Prosper, spoke in opposition to this item.

Brad Burns, 6900 Dallas Parkway, Suite 780, Prosper, spoke in opposition to this item.

Ken Weaver, 1480 Beacon Hill Drive, Prosper, spoke in opposition to this item, and provided notes for the record regarding local, state, and national leadership.

Curt Mooney, 1230 Packsaddle Trail, Prosper, spoke in opposition to this item.

Carla J. Smith, 520 Trailside, Prosper, did not wish to speak, but expressed support for this item.

Ken E. Smith, 520 Trailside, Prosper, did not wish to speak, but expressed support for this item.

Mayor Smith closed the Public Hearing.

Councilmember Dixon made a motion and Councilmember Vogelsang seconded the motion to approve the request to rezone 33.2± acres, located on the northeast corner of Preston Road and Prosper Trail, from Single-Family 15 (SF-15) to Planned Development-Retail (PD-R), subject to the following:

1. All pad sites to have a pitched roof with a minimum 6 in 12 inch slope. A flat roof with a parapet wall and cornice may be permitted subject to Town Council approval of a specific use permit (SUP) for same.
2. A minimum one (1) acre open space area shall be located in an area between Lots 6-9 on Exhibit D to provide a landscaped gathering area that may include benches, patio, public art, outdoor dining and similar features. The open space shall be maintained by the property owners' association.
3. Split faced block, architectural concrete block, and painted/textured concrete tilt wall shall be limited to a maximum of ten percent (10%) of any single elevation on any pad site.
4. The color and style of the metal roof on the gas station canopy shall be consistent with the metal roof on the big box building.
5. The clay-fired brick colors used on the retail building on Lot 5 shall be consistent with the Quik Brik colors used on the big box building.

6. Cart collection areas shall be curbed and shall be fenced using a minimum three-foot (3') ornamental metal fence.
7. Outdoor display areas shall be organized and goods shall be neatly presented in an orderly fashion. Items shall not be stored on wooden crates, in cardboard boxes, in plastic cling wrap, or in a fashion that resembles the open storage of materials.
8. Section II of Exhibit C shall be amended to provide that one (1) bank, savings and loan or credit union (with drive thru facilities) shall be permitted by right and any subsequent bank, savings and loan or credit union (with drive thru facilities) shall be subject to the approval of a specific use permit (SUP).
9. Exhibit C shall be amended to provide that no certificate of occupancy (CO) shall be issued for a pad site for Lots, 3, 4, 6, 7, 8, 9 or 10 prior to the issuance of a certificate of occupancy for the big box on Lot 1.
10. Sections 3.1 and 3.2 of Exhibit C shall be amended to provide that all perimeter berms and landscaping along Preston Road and Prosper Trail shall be installed prior to the issuance of a certificate of occupancy (CO) for the big box on Lot 1.
11. Exhibit C shall be amended to provide that shrubbery shall be placed on top of the berm along Preston Road and shall be identical to the shrubbery on top of the berm along Prosper Trail.

The motion was approved by a vote of 7-0

9. Conduct a Public Hearing, and consider and act upon a request to rezone 80.7± acres, located on the southeast corner of Dallas Parkway and Frontier Parkway, from Single Family-15 (SF-15) to Planned Development-Single Family/Retail (PD-SF/R). (Z14-0006). (CC)

Chris Copple, Development Services Director, presented this item before the Town Council. The property is currently zoned Single Family-15. The proposed Planned Development-Single Family/Retail district would allow for the development of single family residential lots, and retail uses at the southeast corner of Dallas Parkway and Frontier Parkway. Mr. Copple reviewed the standards that vary from straight Single Family-15 zoning. The Planning & Zoning Commission recommended approval of the request subject to revisions to the list of permitted uses, and limiting Single Family-10 lots to within 300 feet of the southern and eastern sides of Tract 2. The applicant has agreed to revise the list of permitted uses only. Town staff recommends approval of the request. Mr. Copple responded to questions regarding density and permitted uses in other areas along the Dallas Tollway area. Frank Abbott with Kimley-Horn, representing the applicant, was present respond to questions from the Town Council. The applicant was generally in agreement with staff's recommendations, but Mr. Abbott further explained their request for the proposed density. The applicant's intent is to provide a variety of lot sizes while maintaining the overall desired density for the location.

Mayor Smith opened the Public Hearing.

Jack Dixon, 810 Long Valley Court, Prosper, spoke in opposition to this item.

Ken Weaver, 1480 Beacon Hill Drive, spoke in opposition to this item.

Mayor Smith closed the Public Hearing.

After further discussion, Councilmember Korbuly made a motion and Mayor Pro-Tem Miller seconded the motion to approve the request to rezone 80.7± acres, located on the southeast corner of Dallas Parkway and Frontier Parkway, from Single Family-15 (SF-15) to Planned Development-Single Family/Retail (PD-SF/R) and that (1) the Single Family Residential component of Exhibit C shall delete Paragraph B in its entirety; and (2) Paragraph D of the Single Family Residential component shall be amended to require a wet detention pond, and the Retail component shall be amended to require a wet detention pond, unless the foregoing wet detention areas conflict with TCEQ regulations or any applicable Town downstream water rights. Further, underground detention shall be permitted for the Retail component of the Planned Development. The motion was approved by a vote of 6-1.

DEPARTMENT ITEMS:

10. **Consider and act upon authorizing the Town Manager to execute a Statement of Work and related documents between Aclara Technologies LLC, a sole source provider, and the Town of Prosper, for the upgrade and expansion of the Town's STAR® Fixed Network automated utility meter reading system. (FJ)**

Frank Jaromin, Public Works Director, presented this item before the Town Council. Due to changes in technology, the Town's utility meter reading system is in need of an upgrade. The meter reading system is comprised of Data Collection Units, the host server, and the software required to collect and process data for the Town's Utility Billing system. Aclara Technologies is the sole source manufacturer of the system the Town is currently utilizing. Town staff recommends approval of this item.

After discussion, Deputy Mayor Pro-Tem Dugger made a motion and Mayor Pro-Tem Miller seconded the motion to authorize the Town Manager to execute a Statement of Work and related documents between Aclara Technologies LLC, a sole source provider, and the Town of Prosper, for the upgrade and expansion of the Town's STAR® Fixed Network automated utility meter reading system. The motion was approved by a vote of 7-0.

11. **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:

- 11a. ***Section 551.087 - To discuss and consider economic development incentives.***
- 11b. ***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 Executive Session was not held.

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

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

- Councilmember Korbuly questioned staff about the possible replacement of electric meters, but staff was unaware of any such replacements.
- Councilmember Dixon questioned staff about the new pavement on Coit Road that was already showing wear. Mr. Jaromin responded that due to the recent extensive rains, portions of the road will need to be repaired by the contractor.
- **Amendment to the Impact Fee Ordinance**

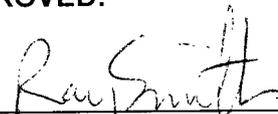
The Town's ordinance requires temporary buildings to pay an impact fee. Council directed staff to bring forward an item at a future meeting to discuss and potentially amend the Town's impact fee ordinance related to temporary buildings.

14. **Adjourn.**

The meeting was adjourned at 9:04 p.m., on Tuesday, July 8, 2014.

These minutes approved on the 22nd day of July, 2014.

APPROVED:



Ray Smith, Mayor

ATTEST:



Robyn Battle, Town Secretary