



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 22, 2014

1. Call to Order/Roll Call.

The meeting was called to order at 6:02 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.

Council Members Absent:

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
Chris Cople, Development Services Director
Alex Glushko, Senior Planner
Bill Elliott, Building Official
Matt Richardson, Senior Engineer
Kent Austin, Finance Director
Ronnie Tucker, Fire Chief
Bryan Ausenbaugh, Fire Marshal

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

David Vestal of Lighthouse Christian Fellowship led the invocation. The Pledge of Allegiance and the Pledge to the Texas Flag were recited.

3. Announcements of upcoming events.

Deputy Mayor Pro-Tem Dugger made the following announcements:

Applications for the Town's Boards and Commissions are now being accepted through Friday, August 1. 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.

The North Central Texas Council of Governments is seeking public input on the Collin County Hazard Mitigation Action Plan. Residents are encouraged to attend a public meeting on July 24, at 10:00 a.m., at the Collin County Administration Building on Bloomdale Road in McKinney.

On August 2, the Community Library will host its Summer Grand Finale from 10:00 a.m.-2:00 p.m. The Library will have face painting and crafts for children, and the Prosper Police Department will offer children's identification kits. This is also the last day to turn in reading challenge logs to get prizes. Contact Library Director, Leslie Scott, for more information.

The Town continues to make progress on improvements to many of the Town's existing roadways. First Street, from the Dallas North Tollway to Coleman Road, is complete, and open to two-way traffic. The contractor is anticipating beginning the asphalt improvements to Coleman Road in front of Reynolds Middle School the second week in August and it should take approximately a week to complete. Coit Road, from First Street to Frontier Parkway, is also making progress. The section from north of Fair Oaks to Frontier Parkway is scheduled to be closed from July 24-30, to allow the contractor to stabilize the subgrade with asphalt to follow. The section from First Street to Prosper Trail is scheduled for asphalt in the next two weeks. Both sections will be complete before school starts. First Street, from Church Street to Craig Street, is also under construction. New concrete pavement on the south side is complete and the Town is waiting for the concrete to cure before excavating the north side, which is planned for the week of August 4. 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 controls in place during these projects as many of the roads under construction are one-way during the projects.

4. **Presentations.**

- **Recognition of Craig Hill with DR Horton Homes as Second Runner-Up, Brian Boyd with Highland Homes as First Runner-Up, and Gary Castleberry with Dave R. Williams Homes as the recipient of the Building Inspection's "2013 Builder of the Year Award." (BE)**

Building Official Bill Elliott and Chief Building Inspector Steve Freeman presented the awards to the recipients.

5. **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.)

Mayor Pro-Tem Miller removed Items 5b, 5h, 5j, 5k, 5l, 5m, 5n, 5o, 5p, 5q, 5r, 5s, and 5t from the Consent Agenda.

Mayor Pro-Tem Miller made a motion and Councilmember Korbuly seconded the motion to approve Items 5a, 5c, 5d, 5e, 5f, 5g, 5i, 5u, 5v, and 5w on the Consent Agenda.

- 5a. Consider and act upon minutes from the following Town Council meeting. (RB)
 - Regular Meeting – July 8, 2014
- 5c. Receive the June 2014 financial report. (KA)
- 5d. Receive the quarterly investment report for June 30, 2014. (KA)
- 5e. Consider and act upon authorizing the Town Manager to execute a Water Improvement Development Agreement between Prosper Partners, LP, and the Town of Prosper, Texas, related to the extension of water lines to serve the Parks at Legacy development. (HW)
- 5f. Consider and act upon authorizing the Town Manager to execute a Thoroughfare Improvement Development Agreement between Prosper Partners, LP, and the Town of Prosper, Texas, related to the extension of roadways to serve the Parks at Legacy development. (HW)
- 5g. Consider and act upon a mailbox design standard for Frontier Estates (Planned Development-15). (AG)
- 5i. Consider and act upon Ordinance No. 14-41 rezoning 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)
- 5u. 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. (AG)
- 5v. Consider and act upon approval of Resolution No. 14-42 concerning the construction of a grade separated crossing on Frontier Parkway over the BNSF Railroad. (HW)
- 5w. Consider and act upon Resolution No. 14-43 concerning the proposed extension of a North Texas Municipal Water District (NTMWD) sanitary sewer line through the Town of Prosper to serve the City of Celina. (HW)

The motion was approved by a vote of 6-0.

Mayor Pro-Tem Miller Made a motion and Councilmember Korbuly seconded the motion to postpone Items 5b, 5h, 5j, 5k, 5l, 5m, 5n, 5o, 5p, 5q, 5r, 5s, and 5t until after the Executive Session. The motion was approved by a vote of 5-1.

6. **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:

7. **Conduct a Public Hearing, and consider and act upon a request to rezone 93.2± acres, located on the northwest corner of Prosper Trail and Coit Road, from Agricultural (A) and Single Family-15 (SF-15) to Planned Development-Single Family-15/Office (PD-SF-15/O). (Z14-0008). (CC)**

Mayor Smith stated that he would abstain from voting on Item 7 due to a conflict of interest, and left the Council bench.

Chris Copple, Director of Development Services, presented this item before the Town Council. The request is to rezone the property from Agricultural and Single Family-15 (SF-15) to SF-15; however, the Future Land Use Plan recommends Low Density Residential for the property, with a maximum of 1.6 dwelling units per acre. The zoning request reflects a density of approximately 2.0 dwelling units per acre; therefore, the zoning request does not conform to the FLUP. Mr. Copple presented an updated map to the Town Council showing the approximate lot sizes of the surrounding residential developments. The Planning and Zoning Commission recommended approval of the request. Town staff recommends denial of the request.

Mayor Pro-Tem Miller opened the Public Hearing.

Tom Beitel, 1501 Cedar Bend Court, Prosper, spoke in opposition of this item.

Mardy Brown of Texas Development Services spoke on behalf of the applicant. The applicant had previously submitted for a Planned Development (PD), but has changed the submittal to straight zoning for SF-15 with the intent to apply for a Special Use Permit for a Montessori school on a portion of the property at a later

date. The Town Council discussed their concerns about the density of the property, and Mr. Brown confirmed that the proposal would follow all of the zoning requirements for SF-15. After discussion, Town staff recommended the Town Council table this item until the August 12 Town Council meeting, and the applicant revise the submittal to a PD for SF-15, with a requirement of 1.6 dwelling units per acre.

Councilmember Vogelsang made a motion and Councilmember Davis seconded the motion to table Item 7 to the August 12, 2014, Town Council meeting, and to close the Public Hearing. The motion was approved by a vote of 5-0.

Mayor Smith returned to the Council bench.

8. Presentation of service plan and first public hearing to consider the involuntary annexation of a 2.3± acre tract of land located on the east side of Dallas Parkway, 500± feet south of First Street. (A14-0001). (AG)

Senior Planner Alex Glushko presented this item before the Town Council. In 2009, the Town entered into multiple five-year agreements with the remaining unincorporated properties within Collin County and the Town's Extraterritorial Jurisdiction (ETJ), and the Town has offered to extend these agreements to all properties that continue to maintain their Agricultural property tax exemption. The subject property no longer meets these requirements, so Town staff recommends an involuntary annexation of the property. State law requires two Public Hearings to be held as part of the annexation process.

Mayor Smith opened the Public Hearing.

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

9. Presentation of service plan and first public hearing to consider the involuntary annexation of an 18.0± acre tract of land located 800± feet south of Prosper Trail, 4,500± feet east of Coit Road. (A14-0002). (AG)

Senior Planner Alex Glushko presented this item before the Town Council. In 2009, the Town entered into multiple five-year agreements with the remaining unincorporated properties within Collin County and the Town's Extraterritorial Jurisdiction (ETJ), and the Town has offered to extend these agreements to all properties that continue to maintain their Agricultural property tax exemption. The owner of the subject property did not respond to the two offer letters from the Town to extend the agreement, so Town staff recommends an involuntary annexation of the property. State law requires two Public Hearings to be held as part of the annexation process.

Mayor Smith opened the Public Hearing.

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

DEPARTMENT ITEMS:

10. **Consider and act upon authorizing the Town Manager to execute a Development Agreement between Triple B. Holding, L.P., and the Town of Prosper, Texas, related to the timing and construction of fencing materials for Warren/Avant Garde Addition, Block A, Lot 1R. (AG)**

Senior Planner Alex Glushko presented this item before the Town Council. At the June 24, 2014, Town Council meeting, the Town Council considered an alternative type of open storage screening for the subject property. The request as proposed by the applicant included allowing the existing chain-linked fencing along the southern property line to remain; however, the applicant agreed to enter into an agreement that would require the chain-linked fencing to be replaced with wrought iron fencing at the time the adjacent thoroughfare, Business Park Drive, is constructed. The proposed Development Agreement outlines the terms and conditions for the replacement of the fence. John Rattan, representing the property owner, responded to questions from the Town Council.

After discussion, Councilmember Vogelsang made a motion and Councilmember Korbuly seconded the motion authorizing the Mayor to execute a Development Agreement between Triple B. Holding, L.P., and the Town of Prosper, Texas, related to the timing and construction of fencing materials for Warren/Avant Garde Addition, Block A, Lot 1R, with Brent Burns being the owner of the property. The motion was approved by a vote of 6-0.

11. **Consider and act upon an alternative type of open storage screening for Warren/Avant Garde Addition, Block A, Lot 1R (The Body Shop), on 2.5± acres, located on the west side of Business Park Drive, 400± feet south of First Street. The property is zoned Commercial (C). (D14-0017). (AG)**

Senior Planner Alex Glushko presented this item before the Town Council. This item was tabled at the June 24, 2014, Town Council meeting to allow the applicant an opportunity to draft the development agreement that was previously approved at this meeting. The applicant is proposing to add an additional open storage area to the property, which is required to be screened. Mr. Glushko reviewed the details of the applicant's request, which must be approved by the Town Council, or comply with one of the other provisions in the Zoning Ordinance. The Planning and Zoning Commission recommended approval of an alternative type of open storage screening for the subject property at its May 20, 2014, meeting, subject to the following:

1. Revising the alternative type of open storage screening along the southern property line to a 6-foot ornamental metal fence.
2. Town Council approval of an alternative type of open storage screening.
3. Town staff approval of the landscape, irrigation, and screening plans.
4. Planning and Zoning Commission approval of a replat of the subject property dedicating all easements necessary for development.
5. Fire Department approval of all fire hydrants, Fire Department connections (FDC), and fire lanes, including widths, radii, and location.
6. Engineering Department approval of all driveways, turn lanes, median openings, street sections, sidewalks, and right-of-way dedications.

Town staff recommended approval of this item.

After discussion, Deputy Mayor Pro-Tem Dugger made a motion and Councilmember Korbuly seconded the motion to approve an alternative type of open storage screening for Warren/Avant Garde Addition, Block A, Lot 1R (The Body Shop), on 2.5± acres, located on the west side of Business Park Drive, 400± feet south of First Street, subject to the Planning and Zoning Commission's recommendations. The motion was approved by a vote of 6-0.

12. Discussion on proposed Military Recognition Programs. (RB)

Town Secretary Robyn Battle presented this item before the Town Council. Town staff is proposing two Military Recognition Programs: the Blue Star Flag Program and the Hometown Heroes Program. The Blue Star Flag Program recognizes family members of military service personnel who are being deployed, or who are currently serving overseas. The Hometown Heroes Program recognizes military service personnel who are returning home from active duty. Both programs would be open to Prosper residents, and presentations would be made at regular Town Council meetings. Town staff was directed to move forward with both programs, to include Town employees, Prosper residents, and families of service personnel who are currently deployed to be eligible to participate in the programs.

Mayor Smith recognized the following individual who requested to speak on this item:

Jack Dixon, 810 Long Valley Court, Prosper, spoke in favor of this item, and also encouraged the Town Council to support a Veterans Memorial in conjunction with these programs.

13. Discussion on School Zone Signs and Markings Policy. (MR)

Senior Engineer Matt Richardson presented this item before the Town Council. Lee Engineering conducted a study of the school zones within the Town of Prosper. Mr. Richardson reviewed the results of the study, and the recommendations for a School Zone Signs and Markings Policy that includes details on speed limits, traffic signs, markings and crosswalks, as well as recommended modifications to school zones for each of the six existing school campuses. Town staff met with Prosper ISD to review the policy and proposed modifications. The Town Council will consider an amendment to the current School Zone Ordinance at the August 12, 2014, Town Council meeting pending Council's direction on the proposed policy. Councilmember Korbuly requested staff to look into the feasibility of increasing the length of the school zone to 500' in areas with speed limits of 45 miles per hour and higher.

Mayor Smith recognized the following individual who requested to speak on this item:

Mike McClung, 1400 Cedar Springs Drive, spoke in opposition to this item, encouraging the Town Council to change the intersection of Buffalo Springs and Cedar Lake from a two-way stop to a four-way stop.

Town staff was directed to extend the school zone to include the full length of Arrowhead Drive, to extend the school zone on Cedar Lake to include the intersection of Buffalo Springs Drive, to extend the school zone on Livingston Drive north of

Salada Drive, and to consider expanding the school zone distance buffer to 500 feet in areas where the speed limit is 45 miles per hour and above.

14. **Consider and act upon ordinances adopting the following codes: 2012 editions of the International Building Code, International Residential Code, International Plumbing Code, International Energy Conservation Code, International Mechanical Code, International Fuel Gas Code, and the 2011 edition of the National Electrical Code. (BE)**

Building Official Bill Elliott presented this item before the Town Council. The International Code Council develops model codes that are updated every three years to provide minimum safe building standards for residential and commercial structures which benefit public safety and support the industry's need for one set of codes without regional limitations. The International Codes are now used in all fifty states and around the world. Town staff recommended the adoption of the 2012 ICC Code series and the 2011 National Electrical Code with the proposed minimal local amendments.

Mayor Smith recognized the following individual who requested to speak:

Anne Lieber, 1190 Crooked Stick, questioned the Council and Mr. Elliott about the necessity of adopting the proposed codes, and the entity that creates and supports adoption of the International Codes at the local level.

After responding to questions, Councilmember Korbuly Made a motion and Deputy Mayor Pro-Tem Dugger seconded the motion to approve ordinances repealing existing respective code provisions and adopting each of the following codes: Ordinance No. 14-44, adopting the the 2012 Edition of the International Building Code (IBC); Ordinance No. 14-45, adopting the 2012 Edition of the International Residential Code (IRC); Ordinance No. 14-46, adopting the 2012 Edition of the International Plumbing Code (IPC); Ordinance No. 14-49, adopting the 2012 Edition of the International Fuel Gas Code (IFGC); Ordinance No. 14-48, adopting the 2012 Edition of the International Mechanical Code (IMC); Ordinance No. 14-47, adopting the 2012 Edition of the International Energy Conservation Code (IECC); and Ordinance No. 14-14-50, adopting the 2011 Edition of the National Electrical Code (NEC), all with respective additions, deletions, and amendments thereto. The motion was approved by a vote of 5-1.

15. **Consider and act upon an ordinance adopting the 2012 edition of the International Fire Code with North Central Texas Council of Governments Recommended Amendments, local amendments, and to repeal certain provisions contained in Ordinance No. 04-98 (existing fire code ordinance) not related to residential fire suppression. (BA)**

Fire Marshall Bryan Ausenbaugh presented this item before the Town Council. The purpose of the 2012 International Fire Code is to establish the minimum requirements consistent with the nationally recognized good practices for providing a reasonable level of life safety and property protection from the hazards of fire, explosion, or dangerous conditions in new and existing buildings and structures, and to provide safety to firefighters and emergency responders during emergency operations.

Mayor Smith recognized the following individual who requested to speak:

Ann Lieber, 1190 Crooked Stick, Prosper, spoke against NCTCOG's proposed effort to regionalize firefighting services between municipalities and counties. She supported the proposed amendments to the Fire Code.

After discussion, Mayor Pro-Tem Miller made a motion and Councilmember Korbuly seconded the motion to adopt Ordinance No. 14-51, adopting the 2012 edition of the International Fire Code, including the North Central Texas Council of Governments recommendations, local amendments, and repealing certain provisions contained in Ordinance No. 04-98 not related to residential fire suppression. The motion was approved by a vote of 6-0.

16. 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:

16a. *Section 551.087 - To discuss and consider economic development incentives.*

16b. *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.*

16c. *Section 551.076 – To discuss and consider security/safety audits.*

16d. *Section 551.074 – To discuss appointments to the Planning & Zoning Commission, Parks & Recreation Board, Prosper Economic Development Corporation Board, Board of Adjustment/Construction Board of Appeals, and Library Board.*

The Town Council recessed into Executive Session at 8:35 p.m.

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

The Regular Session was reconvened at 10:01 pm.

The Town Council took the following action as a result of Executive Session:

Deputy Mayor Pro-Tem Dugger made a motion and Mayor Pro-Tem Miller seconded the motion to authorize the Mayor to execute an Economic Development Incentive Agreement with Kroger Texas, LP, and the Prosper Economic Development Corporation. The motion was approved by a vote of 5-1.

The Town Council took action on the following Items at this time:

- 5b. Consider and act upon Ordinance No. 14-39 repealing the application of the exemption from local sales and use taxes on receipts from the sale of telecommunications services within the Town of Prosper, Texas. (KA)
- 5h. Consider and act upon Ordinance No. 14-40 rezoning 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)
- 5j. Consider and act upon authorizing the Town Manager to execute an Annexation Agreement between Larry J. Bridgefarmer and the Town of Prosper, Texas. (AG)
- 5k. Consider and act upon authorizing the Town Manager to execute an Annexation Agreement between Joe Wayne Chesney and the Town of Prosper, Texas. (AG)
- 5l. Consider and act upon authorizing the Town Manager to execute an Annexation Agreement between Furr Properties Ltd. and the Town of Prosper, Texas. (AG)
- 5m. Consider and act upon authorizing the Town Manager to execute an Annexation Agreement between Paul D. Gentry and the Town of Prosper, Texas. (AG)
- 5n. Consider and act upon authorizing the Town Manager to execute an Annexation Agreement between Raymond and Mary Herrmann and the Town of Prosper, Texas. (AG)
- 5o. Consider and act upon authorizing the Town Manager to execute an Annexation Agreement between William Scott Mays and the Town of Prosper, Texas. (AG)
- 5p. Consider and act upon authorizing the Town Manager to execute an Annexation Agreement between Glen Hobart Miller and the Town of Prosper, Texas. (AG)
- 5q. Consider and act upon authorizing the Town Manager to execute an Annexation Agreement between Harold and Maureen Patin and the Town of Prosper, Texas. (AG)
- 5r. Consider and act upon authorizing the Town Manager to execute an Annexation Agreement between Charles and Cynthia Stuber and the Town of Prosper, Texas. (AG)
- 5s. Consider and act upon authorizing the Town Manager to execute an Annexation Agreement between Stephen and Karla Witt and the Town of Prosper, Texas. (AG)

5t. Consider and act upon authorizing the Town Manager to execute an Annexation Agreement between Y-C Nurseries, Inc., and the Town of Prosper, Texas. (AG)

Deputy Mayor Pro-Tem Dugger made a motion and Councilmember Korbuly seconded the motion to approve Item 5b, adopting Ordinance No. 14-39 repealing the application of the exemption from local sales and use taxes on receipts from the sale of telecommunications services within the Town of Prosper, Texas. The motion was approved by a vote of 4-2.

Deputy Mayor Pro-Tem Dugger made a motions and Councilmember Vogelsang seconded the motion to approve Item 5h, adopting Ordinance No. 14-40 rezoning 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). The motion was approved by a vote of 6-0.

Deputy Mayor Pro-Tem Dugger made a motion and Councilmember Korbuly seconded the motion to approve Items 5j, 5k, 5l, 5m, 5n, 5o, 5p, 5q, 5r, 5s, and 5t. The motion was approved by a vote of 5-1.

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

- **Alternative median landscaping to replace Knockout Roses (HW)**

Town staff was directed to use Dwarf Crepe Myrtles to replace the diseased Knockout Roses in the Town's medians.

- **IESI Bulk Service Collection (KA)**

Town staff was directed to research the number and locations of bulk item collection requests in response to a request from IESI to modify its current contract from one collection date each month to two, due to the increased number of requests for bulk item collection.

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:

16c. Section 551.076 – To discuss and consider security/safety audits.

The Town Council recessed into Executive Session at 10:11 p.m.

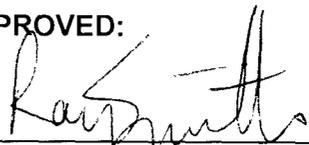
The Regular Session was reconvened at 10:29 p.m. No action was taken as a results of Executive Session.

19. Adjourn.

The meeting was adjourned at 10:29 p.m., on Tuesday, July 22, 2014.

These minutes approved on the 12th day of August, 2014.

APPROVED:



Ray Smith, Mayor

ATTEST:



Robyn Battle, Town Secretary