



*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 14, 2015

**1. Call to Order/Roll Call.**

The meeting was called to order at 6:04 p.m.

**Council Members Present:**

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

**Council Members Absent:**

Councilmember Jason Dixon

**Staff Members Present:**

Harlan Jefferson, Town Manager  
Robyn Battle, Town Secretary  
Terrence Welch, Town Attorney  
John Webb, Director of Development Services  
Alex Glushko, Senior Planner  
Matt Richardson, Senior Engineer  
Cheryl Davenport, Finance Director  
January Cook, Purchasing Agent  
Ronnie Tucker, Fire Chief  
Stuart Blasingame, Assistant Fire Chief  
Gary McHone, Assistant Police Chief

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

Pastor Tony Ellenberg 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.**

Councilmember Korbuly read the following announcements:

Registration is open for several Parks & Recreation Programs including Bricks 4 Kids, Archery, Tennis, and Engineering Camps, adult fitness classes, and much more. Visit the Town of Prosper website for more information on how to register.

The Parks and Recreation Department is holding a "Wild in Prosper" photo contest through July 31. Visit a Town of Prosper park, take a photo, and submit your entry to [recreation@prospertx.gov](mailto:recreation@prospertx.gov). For contest rules, see the Town website.

The Public Works Department will offer a Drip Irrigation Do-It-Yourself Course on August 10 from 6:30-8:30 p.m., at the Public Works Office, located at 601 W. Fifth Street. Contact Tristan Cisco with Public Works for more information.

Prize pickup for the Library's 500 Minute Challenge will be held on August 1. If you have signed up to read 500 minutes over the summer, return your completed log for prizes. The program is open to everyone 13 years of age or younger.

The Town Secretary's Office is accepting applications for the Town's various Boards and Commissions through Friday, August 7. Applications and information are available on the Town's website, or by contacting the Town Secretary, Robyn Battle.

Movoto, an online real estate brokerage firm, has named Prosper among the 10 best Dallas Suburbs. Criteria for this list included monthly housing costs, quality of schools, crime rate, unemployment rate, average commute time to Dallas, and median household income.

Councilmember Korbuly announced that registration for several youth sports organizations is now open.

#### 4. **Presentations.**

- **Presentation to the players, coaches and staff of the Prosper High School Baseball Team for winning the 2015 Class 5A State UIL Baseball Championship. (RB)**

The Town Council presented congratulatory letters to members of the Prosper High School Baseball team, and then presented one of three roadside signs that will be placed at key intersections within the Town declaring the team's 2015 state championship.

#### 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.)**

- 5a. **Consider and act upon minutes from the following Town Council meeting. (RB)**
- **Regular Meeting – June 23, 2015**
  - **Special Meeting – June 30, 2015**
- 5b. **Receive the May 2015 Financial Report. (CD)**

Councilmember Dugger made a motion and Councilmember Korbuly seconded the motion to approve all items on the Consent Agenda. The motion was approved by a vote of 6-0.

**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 amend Chapter 2, Zoning Districts and Chapter 4, Development Requirements of the Zoning Ordinance regarding Alternating Single Family Plan Elevations, Exterior Residential Masonry Construction, Impervious Coverage of Residential Front Yards, Single Family Corner Lot Landscaping, Residential Garage Standards, Residential Driveway Standards, Carports and Size of Garages; and amend Chapter 3, Building Regulations of the Code of Ordinances regarding residential fences and exterior masonry construction. (Z15-0005). (JW)**

Councilmember Vogelsang made a motion and Councilmember Korbuly seconded the motion to table Item 7 to the August 25, 2015, Town Council meeting. The motion was approved by a vote of 6-0.

Mayor Smith opened Items 8 and 9 concurrently.

- 8. Conduct a Public Hearing, and consider and act upon a request to amend the Future Land Use Plan, located on the northwest corner of Prosper Trail and future Shawnee Trail, from Medium Density Residential to Dallas North Tollway District. The property is zoned Single Family-15 (SF-15) and Commercial Corridor (CC). (CA15-0002). [Companion Case Z14-0005] (JW)**
- 9. Conduct a Public Hearing, and consider and act upon a request to rezone 67.7± acres, located on the northwest corner of Prosper Trail and Dallas Parkway, from Single Family-15 (SF-15) and Commercial Corridor (CC) to Planned**

**Development-Single Family/Office/Retail (PD-SF/O/R). (Z14-0005). [Companion case CA15-0002] (JW)**

Development Services Director John Webb presented Items 8 and 9 before the Town Council. These items were tabled at the May 26, 2015, and the June 23, 2015, Town Council meetings to give the applicant an opportunity to modify the proposed PD development standards. The request includes a 7.5-acre tract at the northwest corner of Prosper Trail and future Shawnee Trail that is currently zoned Single Family-15. The applicant desires to rezone this area for Office use, which would require an amendment to the Future Land Use Plan.

The applicant has revised some, but not all, of the requested modifications to the proposed PD development standards. The applicant has addressed the modifications related to carports, landscape buffering along Shawnee Trail and Prosper Trail, the requirement for a Specific Use Permit (SUP) for convenience store with gas pump uses, and for outdoor sales and display uses. The applicant has also relocated the northern drive on Shawnee Trail toward the northern property line, as requested.

The applicant has not met the requested modification for a minimum residential lot size of 15,000 square feet, roof pitch requirements, reconfiguration of the big box orientation, or to include the Town Council as an approval authority for proposed façade plans/architectural character elevations. The Planning & Zoning Commission recommended approval subject to several conditions. Town staff recommended approval, subject to the approval of the Future Land Use Plan, and several conditions related to lot size, approval of façade/architectural character, and limitations on drive-through restaurants.

Kathryn Edwards spoke on behalf of the applicant. She explained that instead of requiring all residential lots to be 15,000 square feet, the proposed residential lots are an average of 15,000 square feet. The applicant would prefer to retain the flexibility of façade/architectural character for the development. She reviewed some additional aspects of the proposed PD. The Town Council requested submission of a concept plan for the PD, and would like to retain approval authority for proposed façade plans and architectural standards. They also requested a minimum residential lot size of 15,000 square feet. Barry Knight, representing the applicant, stated that they would like to return to a future Council meeting with a concept plan, and would consider the requests related to roof pitch and drive-through restaurants.

Mayor Smith opened the Public Hearing.

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

The Council asked if it would be possible to add an access point from Prosper Trail, however, it would require reclamation of a portion of the floodplain.

After discussion, Deputy Mayor Pro-Tem Vogelsang made a motion and Councilmember Dugger seconded the motion to table Item 8 and Item 9 to the August 25, 2015, Town Council meeting. The motion was approved by a vote of 6-0.

**10. Conduct a Public Hearing, and consider and act upon an ordinance amending Specific Use Permit-8 (SUP-8) for a Child Day Care Center, on 1.6± acres, located on the north side of Richland Boulevard, 300± feet west of Coit Road. The property is zoned Office (O). (S15-0005). (JW)**

Development Services Director John Webb presented this item before the Town Council. The applicant is proposing to increase the existing building square footage by greater than 10%, which requires an amendment to the SUP. Mr. Webb reviewed the details of the request, and the criteria staff considered to determine the validity of the request. The Planning & Zoning Commission recommended approval of the request, subject to conditions. The applicant has since revised the proposed conceptual elevation.

Mayor Smith opened the Public Hearing

Pann Sribhen with PSA Engineering spoke on behalf of the applicant. He addressed the Council on the details of the proposed changes to the SUP, including those requested by the Planning & Zoning Commission, which were intended to make the project more compatible with the existing SUP.

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

After discussion, Mayor Pro-Tem Miller made a motion and Councilmember Davis seconded the motion to approve Ordinance No. 15-40 amending Specific Use Permit-8 (SUP-8) for a Child Day Care Center, with the amended conceptual elevation, on 1.6± acres, located on the north side of Richland Boulevard, 300± feet west of Coit Road. The motion was approved by a vote of 6-0.

**11. Conduct a Public Hearing, and consider and act upon an amendment to Planned Development-38 (PD-38), on 83.6± acres, located on the northeast corner of US 380 and Coit Road. (Z15-0008). (JW)**

Development Services Director John Webb presented this item before the Town Council. The owner of the western-most tract of PD-38 desires to deviate from the development plan established by PD-38 in order to develop a CVS Pharmacy at the northeast corner of US 380 and Coit Road. Additionally, Town staff has initiated a zoning change for the remainder of the PD which would require conceptual development plans prior to the development of the remaining tracts. Notice was provided to the other property owners within the PD.

Mayor Smith opened the Public Hearing.

Barry Knight, representing the owner of the subject tract, and the developer of CVS, explained some of the details of the proposed PD, and stated that the original development standards for PD-38 would be retained with the proposed PD amendment and design of the CVS.

Douglas Mousel, 5400 Dallas Parkway, Frisco, spoke in favor of the development, with the condition that the original development standards of the PD be retained. He also inquired about the height restrictions for the development.

The Town Council expressed concern about what the entire development will look like, and wants to make sure that the design is consistent for the entire PD. Concerns were also expressed with the proposed design, which would allow three drive-through restaurants in a row on pad sites facing US 380.

Jim Williams, representing the property owners to the north and northeast, advised against developing the corner site independent of the rest of the PD, and advised a concept plan be submitted for the entire PD.

Matthew Kiran, representing the owner of the current property, stated that the original PD was intended to develop in three phases, from west to east.

Mr. Knight stated that the intent of the proposal was to follow the original development standards of PD-38, however, the site plan varies from the original PD.

The Town Council advised the applicant to return with a concept plan for the entire PD, since the proposed site plan deviates significantly from the original PD. The applicant requested that the item be tabled in order to make modifications to the request.

After discussion, Deputy Mayor Pro-Tem Vogelsang made a motion and Mayor Pro-Tem Miller seconded the motion to table Item 11 to the September 8, 2015, Town Council meeting. The motion was approved by a vote of 6-0.

**12. Conduct a Public Hearing, and consider and act upon a request to rezone 12.3± acres, from Commercial (C) to Planned Development-Retail (PD-R), located on the west side of Custer Road, 200± feet north of US 380. (Z15-0009). (JW)**

Development Services Director John Webb presented this item before the Town Council. Mr. Webb reviewed the proposed elevation, geotechnical study results, and design elements of the proposed PD for a Lowe's Home Improvement Center. Mr. Webb discussed proposed options for outdoor storage and display, as well as landscaping and screening. The Planning & Zoning Commission recommended approval of the request with conditions. Town staff recommended approval, subject to requirements for screening of open storage, foundation plantings, and landscaped parking row islands. Mr. Webb responded to questions related to the tree line and existing zoning on the north side of the property.

Mayor Smith opened the Public Hearing.

Bill Hanks, the owner of the site, spoke in favor of the project, stating that he is happy with how the property is being developed and announced some potential future additional businesses that will develop on the site. He feels comfortable with the level of existing screening on the north side of the property.

Matthew Minton, design engineering director for Lowe's, spoke in favor of the project, and feels the design of the proposed Lowe's on this property is unique, and unlike other Lowe's stores in the area. He emphasized some of the details of the proposal that exceed the Town's minimum development standards. The applicant agreed to the request for landscaped parking row islands, but requested that the Town Council

waive the requirement for screening of open storage on the north side of the building, and the requirement for foundation trees.

Doug Mousel, representing property owners to the north and west of the site, spoke in favor of the item, adding his approval of the screening along Custer Road. He advised Council to require screening on the north side of the building.

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

After discussion, Mayor Pro-Tem Miller made a motion and Councilmember Korbuly seconded the motion to approve a request to rezone 12.3± acres, from Commercial (C) to Planned Development-Retail (PD-R), located on the west side of Custer Road, 200± feet north of US 380, subject to revising the PD to require the parking row islands provide ground cover, grasses, shrubs, boulders, etc. in conjunction with decomposed granite. The motion was approved by a vote of 5-1 with Councilmember Dugger casting the opposing vote.

**DEPARTMENT ITEMS:**

Mayor Smith opened Item 13 and Item 14 concurrently.

13. **Consider all matters incident and related to the issuance and sale of the Town of Prosper, Texas General Obligation Refunding and Improvement Bonds, Series 2015, including the adoption of an ordinance authorizing the issuance of such Bonds, approving an Official Statement, a Bond Purchase Agreement, a Paying Agent/Registrar Agreement, and an engagement letter of Bond Counsel. (CD)**
14. **Consider all matters incident and related to the issuance and sale of the Town of Prosper, Texas Combination Tax and Surplus Revenue Certificates of Obligation, Series 2015, including the adoption of an ordinance authorizing the issuance of such Certificates, approving an Official Statement, a Bond Purchase Agreement, a Paying Agent/Registrar Agreement, and an engagement letter of Bond Counsel. (CD)**

Finance Director Cheryl Davenport introduced Jason Hughes of FirstSouthwest, the Town's Financial Advisor, who reviewed the terms of the sales of the General Obligation Bonds and Certificates of Obligation.

After discussion, Deputy Mayor Pro-Tem Vogelsang made a motion and Councilmember Davis Seconded the motion to adopt all matters incident and related to the issuance and sale of the Town of Prosper, Texas General Obligation Refunding and Improvement Bonds, Series 2015, including the adoption of Ordinance No. 15-41 authorizing the issuance of such Bonds, approving an Official Statement, a Bond Purchase Agreement, a Paying Agent/Registrar Agreement, and an engagement letter of Bond Counsel. The motion was approved by a vote of 6-0.

Councilmember Davis made a motion and Deputy Mayor Pro-Tem Vogelsang seconded the motion to adopt all matters incident and related to the issuance and sale of the Town of Prosper, Texas Combination Tax and Surplus Revenue Certificates of Obligation, Series 2015, including the adoption of Ordinance No. 15-42

authorizing the issuance of such Certificates, approving an Official Statement, a Bond Purchase Agreement, a Paying Agent/Registrar Agreement, and an engagement letter of Bond Counsel. The motion was approved by a vote of 6-0.

- 15. Consider and act upon approving a Guaranteed Maximum Price (GMP) Amendment between Pogue Construction Co., L.P., and the Town of Prosper, related to Construction Manager-At-Risk services for Prosper Fire Department Station No. 2; and authorizing the Town Manager to execute same. (RT)**

Fire Chief Ronnie Tucker presented this item before the Town Council. In March of 2014, the Town Council approved the standard form of agreement and related documents with Pogue Construction Co., LP, for the Construction Manager-At-Risk for Prosper Fire Station No. 2. In an effort to reduce costs, Pogue Construction offered the Town value management options.

Deputy Mayor Pro-Tem Vogelsang made a motion and Councilmember Korbuly seconded the motion to approve a Guaranteed Maximum Price (GMP) Amendment between Pogue Construction Co., L.P., and the Town of Prosper, related to Construction Manager-At-Risk services for Prosper Fire Department Station No. 2; and authorizing the Town Manager to execute same. The motion was approved by a vote of 6-0.

- 16. Consider and act upon an ordinance amending the FY 2014-2015 budget. (CD)**

Finance Director Cheryl Davenport presented this item before the Town Council. The budget amendment will account for a revenue increase associated with a Chapter 380 Agreement with Highland Homes, benefit payouts to the previous Finance Director and Accounting Manager, and funding for the Windsong Ranch Fire Station, and the Coleman Street – Prosper Trail to Preston Road project.

After discussion, Councilmember Korbuly made a motion and Councilmember Dugger seconded the motion to adopt Ordinance No. 15-43 amending the FY 2014-2015 Budget to increase revenues, expenditures, and transfers out in the General Fund, increase revenues and transfers in and out in the Special Revenue Fund (Escrows) and increase revenues, transfers in, and expenditures in the CIP Fund, as outlined in Exhibit "A" to the Budget Amendment Ordinance, amending the revenue for the Chapter 380 Agreement from \$15,000 to \$32,000. The motion was approved by a vote of 6-0.

- 17. Consider and act upon an amendment to the Capital Improvement Plan (CIP). (MR)**

Senior Engineer Matt Richardson presented this item before the Town Council. The CIP Amendment reallocates budgets and funding sources for multiple projects in the CIP. Mr. Richardson reviewed the list of amendments, and responded to the Town Councils' questions about specific projects, particularly related to Frontier Parkway. Town Manager Harlan Jefferson elaborated on some of the reallocated funding sources for the CIP projects, including impact fees and bond funds.

After discussion, Councilmember Dugger made a motion and Councilmember Korbuly seconded the motion to approve an amendment to the Capital Improvement Plan.

The motion was approved by a vote of 5-1, with Councilmember Davis casting the opposing vote.

**18. 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:**

**18a. *Section 551.087 – To discuss and consider economic development incentives.***

**18b. *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 9:36 p.m.

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

The Town Council reconvened the Regular Session at 9:56 p.m.

Mayor Pro-Tem Miller made a motion and Councilmember Dugger seconded the motion to authorize the Town Manager to execute a 380 agreement with Elder Living Partners, subject to the terms and conditions discussed in Executive Session. The motion was approved by a vote of 6-0.

**20. Consider and act upon a resolution of the Town of Prosper, Texas, authorizing the Town Attorney to bring a condemnation action for the purpose of obtaining right-of-way and drainage easements, consisting of approximately 4 acres of property, situated generally in the Spencer Rice Survey, Tract 4, Town of Prosper, Collin County, Texas, necessary for the construction of the Coleman Road, Phase II project, and for other public purposes permitted by law. (MR)**

Senior Engineer Matt Richardson presented this item before the Town Council. Town staff has been unable to reach an agreement with the property owner to acquire the property. The proposed resolution would give the Town authority to pursue eminent domain on any right-of-way and easements not dedicated for the Coleman Street Project. Mr. Richardson responded to questions from the Town Council on the Coleman Street expansion project.

After discussion, Deputy Mayor Pro-Tem Vogelsang made a motion and Councilmember Korbuly seconded the motion to adopt Resolution No. 15-44 authorizing the Town Attorney to bring a condemnation action for the purpose of obtaining right-of-way and drainage easements, consisting of approximately 4 acres of property, situated generally in the Spencer Rice Survey, Tract 4, Town of Prosper, Collin County, Texas, necessary for the construction of the Coleman Road, Phase II project, and for other public purposes permitted by law. The motion was approved by a vote of 6-0.

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

- **CIP Projects (HW)**

Councilmember Korbuly requested regular updates on road projects. Mr. Richardson responded that Town staff is working on improvements to the website that would provide up-to-date information on road closures and road projects.

The Town Council reported that some of the recently-planted trees on Preston Road had fallen down during the recent storms. Staff was directed to follow up to see if the trees can be staked at the time they are planted.

Mr. Jefferson reported that preconstruction meetings for the West Prosper Road Improvements project will be scheduled for July 30 or 31.

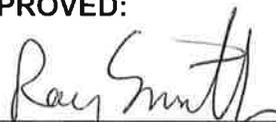
Councilmember Davis requested that an Executive Session item be added to the agenda for the next Council meeting related to the Code of Ethics.

**22. Adjourn.**

The meeting was adjourned at 10:05 p.m.

These minutes approved on the 28th day of July, 2015.

**APPROVED:**

  
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**Ray Smith, Mayor**

**ATTEST:**

  
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**Robyn Battle, Town Secretary**