



MINUTES

Meeting of the Prosper Town Council
Prosper ISD Central Administration Building
605 E. Seventh Street, Prosper, Texas
Tuesday, February 23, 2016

Prosper is a place where everyone matters.

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 Curry Vogelsang, Jr.
Councilmember Michael Korbuly
Councilmember Kenneth Dugger
Councilmember Mike Davis
Councilmember Jason Dixon

Staff Members Present:

Harlan Jefferson, Town Manager
Robyn Battle, Town Secretary
Terrence Welch, Town Attorney
Hulon Webb, Executive Director of Development and Community Services
John Webb, Development Services Director
Leslie Scott, Library Director
Frank Jaromin, Public Works Director
Betty Pamplin, Accounting Manager
Doug Kowalski, Chief of Police
Ronnie Tucker, Fire Chief

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

Pastor John Herring of First Baptist Church of Prosper led the invocation. The Pledge of Allegiance and the Pledge to the Texas Flag were recited.

3. Announcements of recent and upcoming events.

Mayor Pro-Tem Miller read the following announcements:

Mayor Smith is challenging businesses, schools, organizations, churches and residents to participate in the "It's Time Texas Community Challenge" by earning points for Prosper. In the last two weeks, Prosper has moved from fourth place to first place, but there is still time to get involved. To show your support and earn points for Prosper, please register at www.ITTCCommunityChallenge.com. The community that wins the contest will receive a \$1,200 grant for healthy school initiatives, and a banner and trophy for the Town to display. The contest ends March 31.

Early Voting for the Republican and Democratic Primary Election will continue through Friday, February 26. Collin County voters may vote in the Prosper Municipal Chambers

during early voting, and at the Prosper ISD Central Administration Building on Tuesday, March 1. Denton County voters can find polling locations and hours at www.votedenton.com. More information about the upcoming election is available on the Town website.

The seventh annual Fishing Derby is set for Saturday, February 27 at Frontier Park from 9:00-11:00 a.m. Prizes in a variety of categories and age groups will be awarded at the conclusion of the event. To register for this free family event, please visit www.prosperparksandrec.org

The 5th Annual Prosper Spring Clean Up will be held in the parking lots of Main Street Park on Saturday, March 19 from 8:00 a.m.-12:00 p.m. Shredding services, bulk item disposal, cardboard, metal and electronic waste recycling will be available, as well as household hazardous waste vouchers. For more information, call Prosper Town Hall at 972-346-2640.

Councilmember Dugger announced that the Prosper Lions Club will hold a pancake breakfast fundraiser on March 19 in conjunction with the Rogers Middle School fun run and 5k.

Councilmember Dugger congratulated Mayor Smith, Mayor Pro-Tem Miller, and Councilmember Korbuly. Each incumbent will be unopposed in the May 7 General Election and will serve another three-year term.

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.)

- 4a. Consider and act upon minutes from the following Town Council meeting. (RB)**
 - Regular Meeting – February 9, 2016**
- 4b. Receive the Quarterly Investment Report ending December 31, 2015. (BP)**
- 4c. Consider and act upon canceling the March 8, 2016, Regular Meeting. (RB)**
- 4f. Consider and act upon a resolution authorizing the Town Manager to execute an application to the Texas State Library and Archives Commission for the FY 2016- 2017 Impact Grant. (LS)**
- 4g. 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)**

Councilmember Davis removed Item 4d from the Consent Agenda.

Councilmember Dugger removed Item 4e from the Consent Agenda.

Councilmember Dugger made a motion and Councilmember Korbuly seconded the motion to approve all remaining items on the Consent Agenda. The motion was approved by a vote of 7-0.

4d. Consider and act upon authorizing the Town Manager to execute the Playground Joint Use Agreement between the Prosper Independent School District and the Town of Prosper, Texas, related to Windsong Park. (WM)

Councilmember Davis inquired whether there would be limitations on playground access to citizens. Hulon Webb, Executive Director of Development and Community Services, explained that the intent of the agreement was to have the playground open to the public at all times. The Council decided to table the item to allow staff time to clarify the language in the agreement.

Councilmember Davis made a motion and Councilmember Dugger seconded the motion to table Item 4d to the March 22, 2106, Town Council meeting. The motion was approved by a vote of 7-0.

4e. Consider and act upon authorizing the Town Manager to execute a First Amendment to License Agreement between TVG Texas I, LLC, Windsong Ranch Community Association, Inc., and the Town of Prosper, Texas, related to the installation and maintenance obligations of improvements consisting of landscaping, trees, root barriers, irrigation and/or drainage facilities within the right-of-ways of the public roads in Windsong Ranch, Phase 2A and Phase 3B. (DH)

Hulon Webb responded to questions from the Town Council, stating that the original intent of the License Agreement was to enhance the streetscape. The First Amendment adds two phases to the original agreement. The agreement stipulates that individual homeowners must maintain the trees in the right-of-way near their property, or the Homeowner's Association will be required to do so. The Town has no liability for trees in the right-of-way that are subject to the agreement. David Blom, representing Windsong Ranch, stated that specific trees have been approved to be planted, and homeowners are prohibited from planting additional trees in the right-of-way.

Councilmember Dugger made a motion and Councilmember Korbuly seconded the motion to approve Item 4e. 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.

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.

DEPARTMENT ITEMS:

6. **Consider and act upon authorizing the Town Manager to execute a Memorandum of Understanding (MOU) between the Town of Little Elm, Texas, and the Town of Prosper, Texas, related to the physical use and compensation of Prosper Fire Station No. 2 by Little Elm for the purpose of facilitating Automatic Assistance. (RT)**

Fire Chief Ronnie Tucker presented this item before the Town Council. According to the terms of the MOU, the Town of Prosper will provide a paramedic engine and associated staff, and the Town of Little Elm will provide a Medical Intensive Care Unit and associated personnel. The two units will provide mutual assistance to both Towns. Both units will be housed at Prosper's Fire Station No. 2, which is scheduled to be complete by August of 2016.

Mayor Pro-Tem Miller made a motion and Councilmember Korbuly seconded the motion authorizing the Town Manager to execute a Memorandum of Understanding (MOU) between the Town of Little Elm, Texas, and the Town of Prosper, Texas, related to the physical use and compensation of Prosper Fire Station No. 2 by Little Elm for the purpose of facilitating Automatic Assistance. The motion was approved by a vote of 7-0.

7. **Provide an update and project status regarding the development of a Regional Capacity, Management, Operations, and Maintenance (CMOM) Program. (FJ)**

Frank Jaromin, Public Works Director, presented this item before the Town Council. In 2015, the Environmental Protection Agency inspected the North Texas Municipal Water District (NTMWD) and its Member and Customer Cities regarding a possible Clean Water Act enforcement action relating to their respective sanitary sewer collection systems and sanitary sewer overflows. As a result of the inspection, the Town of Prosper received an Administrative Order on December 15, 2015, requiring the submission of a detailed CMOM program. Mr. Jaromin introduced Jena Covington from NTMWD, who provided a detailed presentation on the model CMOM proposed for the Town, which must be implemented by December 31, 2016.

No further action was taken.

8. **Discussion on a proposed ordinance of the Town of Prosper amending Chapter 13, "UTILITIES" of the Code of Ordinances of the Town of Prosper, Texas, by adding a new Article 13.11 "Fats, Oils and Grease (FOG) Outreach Plan" and amending Appendix A "Fee Schedule" to the Code of Ordinances of the Town of Prosper, Texas, by adding a new section XIX, "FOG Outreach and Enforcement Fees." (FJ)**

Frank Jaromin, Public Works Director, presented this item before the Town Council. Following the 2015 Environmental Protection Agency (EPA) inspection, the Town of Prosper has been working with NTMWD Member and Customer Cities to develop a CMOM Program in order to comply with the demands made by the EPA. Under the CMOM Program, the Town is required to develop a written FOG Program Manual and a FOG Public Outreach Program, which will educate applicable customers on the importance of keeping the Wastewater Lines void of FOG and provide guidelines on the installation, cleaning, maintenance, and treatment of grease trap/interceptors.

Mr. Jaromin responded to the Town Council's questions regarding the new staff position proposed for the FOG program. As the Town continues to grow, the need for a dedicated staff position to implement and monitor the FOG program will grow as well. Additional staff and equipment needed for the FOG program will be proposed in the FY 2016-2017 budget. Councilmember Davis requested that in the future, Vehicle and Equipment Replacement Fund purchases, as well as ongoing expenses, be broken down in the budget projections.

No further action was taken.

9. 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:

- 9a. *Section 551.087 – To discuss and consider economic development incentives.***
- 9b. *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.***
- 9c. *Section 551.071 – Consultation with the Town Attorney regarding legal issues associated with annexation agreements in Town ETJ areas, development issues associated with areas subject to annexation agreements, and all matters incident and related thereto.***
- 9d. *Section 551.071 – Consultation with the Town Attorney regarding property repair issues and contractual agreement regarding same.***
- 9e. *Section 551.074 – To discuss appointments to the Board of Adjustment/Construction Board of Appeals, Parks & Recreation Board, Library Board, Prosper Economic Development Corporation Board, and Planning & Zoning Commission.***
- 9f. *Section 551.074 – To discuss and review the Town Manager's performance evaluation.***

The Town Council recessed into Executive Session at 7:11 p.m.

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

The Town Council reconvened the Regular Session at 10:35 p.m.

Councilmember Dugger made a motion and Council member Korbuly seconded the motion to authorize the Town Manager to execute an Amendment to Economic Development Incentive Agreement with Lowe's Home Centers and the Prosper Economic Development Corporation. The motion was approved by a vote of 7-0.

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

- **Human Signs (JW)**

Town staff is in the process of working with the Town Attorney to revise the Town's sign ordinance. One subject of particular concern is the use of human signs, which can only be restricted, not prohibited. Town staff will take new legislation regarding the content of signs into consideration when revising the Town's sign ordinance, which will be brought back to the Town Council for consideration later this year.

Town staff has asked Kroger to remove the "Now Hiring" banner from the property because it is in violation of the Town's sign ordinance. The Council provided direction to allow for this banner and others like it through the use of a temporary permit.

A local property owner has offered to have a home moved from his property to that of a homeowner on Main Street who lost her home in a fire in 2015. Town staff will require an evaluation as to whether the home can be safely moved. The home must also meet all building codes before it can be occupied.

Councilmember Korbuly inquired about the median landscaping on Prosper Trail east of Preston Road. In 2015, the Town Council provided direction to discontinue the use of Weeping Love Grass. Hulon Webb explained that because the Prosper Trail median landscape project was approved in 2014, he authorized the use of Weeping Love Grass on the section east of Preston Road to ensure a consistent look for the project. Hameln Grass will be used in place of Weeping Love Grass on future projects.

Councilmember Davis inquired about the criteria for the Town's Municipal Court to become a court of record. Town Attorney Terry Welch responded that the Town Council would need to appoint a Municipal Judge who is an attorney, and the Town would need to hire a court reporter to record the proceedings.

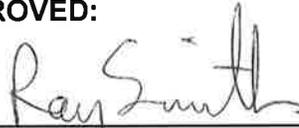
Councilmember Dugger requested a review of the Town Charter.

12. Adjourn.

The meeting was adjourned at 11:06 p.m. on Tuesday, February 23, 2016.

These minutes approved on the 22nd day of March, 2016.

APPROVED:



Ray Smith, Mayor

ATTEST:



Robyn Battle, Town Secretary