



Prosper is a place where everyone matters.

MINUTES
Meeting of the Prosper Town Council
Prosper Municipal Chambers
108 W. Broadway Street
Prosper, TX 75078
Tuesday, April 26, 2016

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

Council Members Absent:

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
Alex Glushko, Senior Planner
Will Mitchell, Parks and Recreation Manager
Paul Naughton, Landscape Architect
January Cook, Purchasing Agent

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

Pastor John Fowler of First Presbyterian 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 Meigs Miller read the following announcements:

Early voting is currently underway for the May 7 Prosper ISD School Board Election. Collin County voters may vote at the Prosper ISD Central Administration Building. Denton County voters can find polling locations and hours at www.votedenton.com.

Residents may dispose of unwanted or expired medications during the Fire Department's Drug Take Back Day on Saturday, April 30. Prescription and non-prescription drugs may be dropped off from 10:00 a.m. – 2:00 p.m. in the collection boxes provided in the entry lobby of the Fire Station.

Prosper's Spring Blood Drive will take place on Saturday, May 14, from 10:00 a.m. – 1:00 p.m. in the parking lot of American Bank of Texas on Preston Road. The Community Library and the Chamber of Commerce have partnered once again with local agencies, and are looking to break last year's record number of units collected. A mini-health fair will take place in conjunction with the blood drive.

The Prosper Police Department will hold its annual Community Safety Initiative (CSI) Event on Saturday, May 14, from 8:00 a.m. - noon at Frontier Park Pavilion. The CSI event kicks off National Police Week, and will showcase various community safety programs and services available to Prosper residents.

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 meetings. (RB)**
- Regular Meeting – April 12, 2016**
- 4b. Consider and act upon Resolution No. 16-26 authorizing the Town Attorney to bring a condemnation action for the purpose of obtaining a sanitary sewer easement, consisting of approximately 0.813 acres of property, situated generally in the Collin County School Land Survey, Abstract No. 147, Town of Prosper, Collin County, Texas, necessary for the extension of a wastewater line to serve the Legacy Estates at Prosper Trail, Legacy Creek Estates, and Star Trail developments, and for other public purposes permitted by law. (HW)**
- 4d. Consider and act upon approving the purchase of two generators for the Public Works Division, from Clifford Power Systems, Inc., through The Interlocal Purchasing System (TIPS/TAPS); and authorizing the Town Manager to execute a proposal for same. (FJ)**
- 4e. Consider and act upon Ordinance No. 16-27 for a Specific Use Permit (SUP) for a Child Day Care Center and Private Athletic Stadium or Field (with no lights) for St. Martin de Porres Catholic Church, on 51.7± acres, located on the north side of US 380, 1,400± feet west of Teel Parkway. This property is zoned Planned Development-40 (PD-40). (S16-0004). (JW)**
- 4f. Consider and act upon Resolution No. 16-28 authorizing the creation of the North Central Texas Regional 9-1-1 Emergency Communications District. (RB)**

Councilmember Davis removed Item 4c from the Consent Agenda.

Councilmember Dugger removed Item 4g from the Consent Agenda.

Councilmember 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 6-0.

- 4c. Consider and act upon authorizing the Town Manager to execute the First Amendment to the Road Improvements and Construction Agreement (“West Prosper Roads”) between TVG Texas I, LLC, M/I Homes of DFW, LLC, Prosper Economic Development Corporation, and the Town of Prosper, Texas, related to the design and construction of the West Prosper Roads project. (HW)**

Hulon Webb, Executive Director of Development and Community Services, responded to questions from the Council on the assignment of agreements. This particular agreement will run with the land, so that if the agreement is assigned, the assignee will still be bound to the terms of the agreement, unless it is later amended.

Councilmember Davis made a motion and Councilmember Dugger seconded the motion to authorize the Town Manager to execute the First Amendment to the Road Improvements and Construction Agreement (“West Prosper Roads”) between TVG Texas I, LLC, M/I Homes of DFW, LLC, Prosper Economic Development Corporation, and the Town of Prosper, Texas, related to the design and construction of the West Prosper Roads project. The motion was approved by a vote of 6-0.

- 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 Dugger stepped down from the Council bench due to a conflict of interest. Mayor Pro-Tem Miller made a motion and Councilmember Korbuly seconded the motion to approve Item 4g. The motion was approved by a vote of 5-0.

Councilmember Dugger rejoined the meeting and took his place at the Council bench.

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.

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:

6. **Conduct a Public Hearing, and consider and act upon a request to rezone 100.0± acres, located on the south side of Prosper Road, 2,100± feet west of Legacy Drive, from Agricultural (A) to Single Family-12.5 (SF-12.5). (Z16-0005). (JW)**

Senior Planner Alex Glushko presented this item before the Town Council. The request is to allow for the development of a single family residential subdivision. A request for a Special Use Permit for private streets within the subdivision will be considered by the Council at the May 10, 2016, Town Council meeting.

Mayor Smith opened the Public Hearing.

Shea Kirkman of Kirkman Engineering, representing the applicant, spoke in favor of the item. He responded to questions from the Council regarding density and lot size, stating that the lot sizes of the subdivision will range from 12,800-15,000 square feet.

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

Councilmember Korbuly made a motion and Councilmember Dugger seconded the motion to approve the request to rezone 100.0± acres, located on the south side of Prosper Road, 2,100± feet west of Legacy Drive, from Agricultural (A) to Single Family-12.5 (SF-12.5). The motion was approved by a vote of 6-0.

7. **Conduct a Public Hearing, and consider and act upon an ordinance amending the Town's Zoning Ordinance No. 05-20, as amended, by amending Subsection 9.8, "Exterior Construction of Main Buildings," of Section 9, "Additional and Supplemental," of Chapter 4, "Development Requirements," by providing for an exception process for exterior facades of multifamily and nonresidential buildings and structures. (Z16-0006). (JW)**

Senior Planner Alex Glushko presented this item before the Town Council. The Town's Zoning Ordinance requires that all exterior facades for a structure in the majority of the Town's zoning districts shall be constructed of one hundred percent masonry. While exterior masonry construction is generally associated with quality and sustainability, it may not necessarily guarantee an aesthetically appealing building. With the Town experiencing an increasing number of non-residential development proposals, it has become apparent that the current masonry standards may be too inflexible. Staff is proposing a process whereby applicants may submit a proposal to the Planning & Zoning Commission and Town Council for consideration of alternate exterior building materials on a case-by-case basis without going through the rezoning process.

Town Attorney Terry Welch responded to Council's questions about the criteria for approving such a request. It is not necessary for the applicant to meet all six criteria. The ordinance is intended to provide some standards, yet allow flexibility for the Planning & Zoning Commission and Town Council. Zoning is a discretionary act; therefore, allowing an alternate exterior material on a case-by-case basis would not grant a precedent.

Mayor Smith opened the Public Hearing.

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

Councilmember Dugger made a motion and Councilmember Korbuly seconded the motion to approve Ordinance No. 16-29 amending Subsection 9.8 of Chapter 4, Development Requirements, of the Zoning Ordinance regarding the consideration of granting exceptions for alternate exterior construction of main buildings. The motion was approved by a vote of 6-0.

DEPARTMENT ITEMS:

8. Consider and act upon the approval of the Frontier Park North Field Improvements Project Preliminary Site Plan. (PN)

Landscape Architect Paul Naughton introduced Philip Neely and Elizabeth McIlrath of Dunaway Associates, who presented an update on the preliminary design for the Frontier Park North Field Improvements. Since the last update was presented to the Town Council, the Prosper Youth Sports Commission has made several recommendations for the project. Ms. McIlrath reviewed the proposed alternatives, and provided a revised conceptual plan for the park improvements. The Town Council provided direction to increase the area of the shade structure so that it will provide adequate shade to the seat wall. After discussion, the Town Council agreed to reinstate the original concept plan with 225-foot foul lines on all three youth ballfields. The Council also provided direction to extend the parking on the west side to include an additional 80 spaces along the pond for a cost of approximately \$200,000, and to add Items D and E [a lacrosse practice area (ball wall) and bull pens in the outfield] for a cost of \$5,000 and \$10,000, respectively.

Councilmember Korbuly made a motion and Councilmember Dugger seconded the motion to approve the Preliminary Site Plan for the Frontier Park North Field Improvements project to include the following additions:

- Items D and E [a lacrosse practice area (wall ball) and bull pens in the outfield] for a cost of \$5,000 and \$10,000, respectively
- Additional parking along the pond for an estimated \$200,000

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

9. Consider and act upon authorizing the Town Manager to execute a Standard Form of Agreement between the Town and Dean Electric, Inc., dba Dean Construction, related to Construction Manager-At-Risk services for Town of Prosper Frontier Park North Field Improvements Project; 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)

Purchasing Agent January Cook presented this item before the Town Council. The Town requested proposals from qualified firms to provide construction manager-at-risk services. Six firms responded and the evaluation committee scored each submittal. Based on the results, Town staff recommends awarding the agreement to Dean Electric, Inc., dba Dean Construction. Upon request, Ms. Cook provided the scoring matrix used to determine the award. Town Attorney Terry Welch confirmed the bond amount was adequate.

After discussion, Councilmember Korbuly made a motion and Councilmember Dugger seconded the motion to authorize the Town Manager to execute a Standard Form of Agreement between the Town and Dean Electric, Inc., dba Dean Construction, related to Construction Manager-At-Risk services for the Town of Prosper Frontier Park North Field Improvements Project; 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 6-0.

10. **Consider and act upon awarding Bid No. 2016-45-B to Pavecon Public Works, L.P., related to construction services for Prosper Road Improvement Project 2016 - Fishtrap Road (Dallas North Tollway to Teel Road) and First Street (Coit Road to Custer Road); and authorizing the Town Manager to execute a construction agreement for same. (FJ)**

Hulon Webb, Executive Director of Development and Community Service, presented this item before the Town Council. This contract will reconstruct Fishtrap Road (Dallas North Tollway to Teel Road) and First Street (Coit Road to Custer Road) with 6" cement stabilized subgrade, 3" of Type B asphalt, 2" of Type D asphalt, and thermoplastic pavement markings the entire length of the new construction. Staff is working on the installation of a signalized intersection at Dallas North Tollway and Fishtrap Road, so on Fishtrap Road, additional turn lanes have been incorporated into this construction.

The contract specifies a substantial completion time of 130 calendar days. Staff anticipates the construction will begin as soon as weather permits on Fishtrap Road; however, First Street construction will not begin until Prosper Independent School District is released for summer break on June 5, 2016. Mr. Webb explained some of the factors related to the cost projections.

Councilmember Dugger made a motion and Councilmember Korbuly seconded the motion to award Bid No. 2016-45-B to Pavecon Public Works, L.P., related to construction services for Prosper Road Improvement Project 2016 - Fishtrap Road (Dallas North Tollway to Teel Road) and First Street (Coit Road to Custer Road); and authorize the Town Manager to execute a construction agreement for same. The motion was approved by a vote of 6-0.

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.***
- 11c. ***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.***

The Town Council recessed into Executive Session at 8:02 p.m.

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

The Town Council reconvened the Regular Session at 8:49 p.m. No action was taken as a result of Executive Session.

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

• **Preston Lakes Playground (HW)**

This item will be discussed at a future meeting.

Councilmember Vogelsang requested that Town staff look into traffic delays at the intersection of Coit Road and Prosper Trail, and determine whether a signal study is warranted. Town Manager Harlan Jefferson responded that improvements to the intersection will be discussed during the June budget work session.

Councilmember Korbuly requested that Town staff also look into traffic delays at the intersection of Willow Ridge and First Street.

Councilmember Dugger asked Town staff to research whether an automobile decal business can be located in the downtown area.

14. Adjourn.

The meeting was adjourned at 8:53 p.m. on Tuesday, April 26, 2016.

These minutes approved on the 10th day of May, 2016.

APPROVED:



Ray Smith, Mayor

ATTEST:



Robyn Battle, Town Secretary