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MINUTES

Meeting of the Prosper Town Council

Prosper Municipal Chambers

108 W. Broadway Street

Prosper, TX 75078

Tuesday, September 27, 2016

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

The meeting was called to order at 6:01 p.m.

Council Members Present:

Mayor Ray Smith

Mayor Pro-Tem Curry Vogelsang, Jr.

Deputy Mayor Pro-Tem Jason Dixon

Councilmember Michael Korbuly

Councilmember Kenneth Dugger

Councilmember Meigs Miller

Councilmember Mike Davis

Staff Members Present:

Harlan Jefferson, Town Manager

Robyn Battle, Town Secretary/Public Information Officer

Terrence Welch, Town Attorney

Hulon Webb, Executive Director of Development and Community Services

John Webb, Development Services Director

Alex Glushko, Senior Planner

Michael Bulla, CIP Project Manager

Doug Kowalski, Chief of Police

Ronnie Tucker, Fire Chief

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

Pastor Doug Kriz of Grace Christian Church led the invocation. The Pledge of Allegiance and the Pledge to the Texas flag were recited.

3. **Announcements of recent and upcoming events.**

On Tuesday, October 4, residents are encouraged to participate in National Night Out by spending the evening outside visiting with neighbors and Prosper's public safety personnel. This annual event was created to heighten awareness, and strengthen participation in local anti-crime efforts. Contact Officer Erin Hubbard for more information or to schedule a block party.

The Prosper Police Department will host "Coffee with a Cop" on Friday, October 7, from 8:00-10:00 a.m. at the Kroger Marketplace on Preston Road. Residents are invited to get to know their local police officers and ask questions about local police efforts in Prosper. Children are welcome to attend.

The 6th Annual Cory Ausenbaugh Memorial 5k and 1 Mile Fun Run will be held on Saturday, October 8, at Windsong Ranch. Proceeds will benefit the Cory Ausenbaugh Memorial Scholarship Foundation for a deserving Prosper High School Senior who is pursuing a degree

in education, and children of fallen firefighters, police officers, and teachers. Contact Assistant Fire Chief Stuart Blasingame for more information.

Tuesday, October 11 is the last day to register to vote or make a change of address effective for the November 8, 2016, Election. Voter registration cards are available in Town Hall. More information is available on the Collin County or Denton County websites.

Residents are invited to join the fun at Prosper's Homecoming Parade, to be held on Wednesday, October 12, starting at 5:30 p.m. Come see a variety of floats representing Prosper's community and school groups at one of the Town's biggest Fall events.

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 – September 13, 2016**
 - **Special Meeting – September 19, 2016**

- 4b. Consider and act upon Resolution No. 16-58 designating *The Prosper Press* as the official newspaper of the Town of Prosper for Fiscal Year 2016-2017. (RB)**

- 4d. Consider and act upon Resolution No. 16-59 calling for a Public Hearing on Tuesday, November 8, 2016 on the Water, Wastewater, & Roadway Impact Fee, Land Use Assumptions, and Capital Improvements Plan. (JW)**

- 4f. 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)**

Deputy Mayor Pro-Tem Dixon removed Item 4c from the Consent Agenda.

Councilmember Korbuly removed Item 4e from the Consent Agenda.

Councilmember Miller made a motion and Mayor Pro-Tem Vogelsang seconded the motion to approve all other items on the Consent Agenda. The motion was approved by a vote of 7-0.

- 4c. Consider and act upon approving a list of qualified firms to provide professional engineering and related services to the Town of Prosper. (HW)**

Hulon Webb, Executive Director of Development and Community Services, responded to questions from the Town Council regarding the process for adding new firms to the approved list. The purpose of the list is to expedite the development process by allowing the staff to choose from a list of firms that has already been pre-approved in various engineering disciplines. The list will be updated every two years, at which time new firms may submit their qualifications.

After discussion, Deputy Mayor Pro-Tem Dixon made a motion and Councilmember Dugger seconded the motion to approve Item 4c. The motion was approved by a vote of 7-0.

4e. Consider and act upon Resolution No. 16-61 adopting the Collin County Hazard Mitigation Action Plan (HazMAP), September 2016. (RT)

Councilmember Korbuly made a motion and Councilmember Dixon seconded the motion to recess into Executive Session to consult with the Town Attorney on this item. The motion was approved by a vote of 6-1, with Councilmember Davis casting the opposing vote.

The Town Council recessed into Executive Session at 6:12 p.m.

The Town Council reconvened the Regular Session at 6:18 p.m.

Chief Tucker responded to questions from the Council, confirming that adoption of the HazMAP Plan does not commit the Town to any expenses, although it does make the Town eligible to apply for grant funds.

After discussion, Councilmember Korbuly made a motion and Councilmember Mike Davis 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.

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 for a Special Purpose Sign District for Windsong Ranch Marketplace, on 46.6± acres, located on the northeast corner of US 380 and Gee Road. (MD16-0002). (JW)

Development Services Director John Webb presented this item before the Town Council. The applicant has requested this item be tabled to the October 25, 2016, Town Council meeting.

Mayor Pro-Tem Vogelsang made a motion and Deputy Mayor Pro-Tem Dixon seconded the motion to table Item 6 to the October 25, 2016, Town Council meeting. The motion was approved by a vote of 7-0.

7. **Conduct a Public Hearing, and consider and act upon a request to rezone a portion of Planned Development-65 (PD-65) and a portion of Planned Development-48 (PD-48), on 198.4± acres, located on the southeast and southwest corners of existing and future Prairie Drive and Legacy Drive, to allow for the development of a single family detached, senior living development and to modify lot type requirements. (Z16-0011). (JW)**

Development Services Director John Webb presented this item before the Town Council. The purpose of the proposed PD amendment is to allow for an age-restricted, senior living single family detached development with smaller homes in Tract 3R, and to allow for an increase in Type A lots between Tracts 3R and 4R, due to the addition of 7.5 acres of land to Tract 3. The Planning & Zoning Commission recommended the Town Council approve the request subject to the following:

1. Conformance to all applicable zoning, design standard, and fencing regulations;
2. The proposed amendments being expressly for a senior living development, restricted to 55 years of age and older; and
3. Requiring a minimum of 50% of age-restricted houses, per phase, to consist of a minimum 80% / 20%, brick / stone composition on all elevations facing public right-of-way.

Town Attorney Terry Welch confirmed that the developer would be responsible for enforcing any age-related deed restrictions. The Town would have no enforcement responsibility.

Mayor Smith opened the Public Hearing.

Clint Richardson, the developer, provided additional information on lot size and type, noting that the age-restricted phase of the development is intended to meet market demand for smaller, one-story homes on smaller lots. He further explained the request for the use of cementitious fiberboard to allow flexibility in architectural style. At this time, only one phase of the development is planned to be age-restricted. The elevations shown in the presentations are not representative of the 60% fiberboard request, so the Council requested new elevations that more accurately depict structures with 30%-60% fiberboard construction.

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

After discussion, Mayor Pro-Tem Vogelsang made a motion and Councilmember Dugger seconded the motion to table Item 7 to the October 25, 2016, Town Council meeting. The motion was approved by a vote of 7-0.

8. **Conduct a Public Hearing, and consider and act upon an ordinance repealing Ordinance No. 06-77, a Specific Use Permit for a Mini-Warehouse/Public Storage Facility (SUP-2), on 3.0± acres, located on the south side of Richland Boulevard, 250± feet east of Prosper Commons Boulevard. This property is zoned Commercial (C) and Specific Use Permit-2 (SUP-2). (S16-0010). (JW)**

Development Services Director John Webb presented this item before the Town Council. The purpose of this request is to repeal Ordinance No. 06-77, a Specific Use Permit-2 (SUP-2), for a Mini-Warehouse/Public Storage Facility, which was adopted by the Town Council in 2006. The subject property, including the western adjacent portion zoned Commercial (C), was recently purchased to allow for the development of a Veterinarian Clinic and/or Kennel.

Per an interpretation of Ordinance No. 06-77 by the Town Attorney, SUP-2 only permits Mini-Warehouse/Public Storage uses, in accordance with the associated exhibits incorporated into the enacting ordinance. If the ordinance was repealed, the subject property would retain the underlying Commercial zoning designation, which would permit all uses within that zoning district, including Veterinarian Clinic and/or Kennel uses.
Mayor Smith opened the Public Hearing.

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

After discussion, Deputy Mayor Pro-Tem Dixon made a motion and Councilmember Davis seconded the motion to approve Ordinance No. 16-60 repealing Ordinance No. 06-77, a Specific Use Permit for a Mini-Warehouse/Public Storage Facility (SUP-2), on 3.0± acres, located on the south side of Richland Boulevard, 250± feet east of Prosper Commons Boulevard. The motion was approved by a vote of 7-0.

DEPARTMENT ITEMS:

9. Discussion on Town Hall/Multi-Purpose Facility. (HW)

Town staff recommended this item be tabled. Councilmember Davis made a motion and Councilmember Dugger seconded the motion to table Item 9. The motion was approved by a vote of 7-0.

10. Discussion on proposed Charter amendments. (RB)

Town Secretary/PIO Robyn Battle presented this item before the Town Council. The Town Charter requires the Town Council to appoint a Charter Review Commission at least once every 10 years. The last Charter amendment election was held on May 14, 2011. Since that time, Town staff has identified provisions in the Charter that are inconsistent with state law, or otherwise require revision. The Town Council appointed the Charter Review Commission on June 14, 2016, for the purpose of reviewing the Charter in its entirety, and recommending amendments.

The members of the Charter Review Commission are:

Councilmember Kenneth Dugger, Chairman

Councilmember Mike Korbuly

Charles Cotten

Bill Beavers

Cameron Reeves

JD Sanders

Robert Griffis

Roger Thedford

Teague Griffin

Tom Aiken

The Commission held five meetings from June-August of 2016, and reviewed the Town Charter in its entirety. Comments on each section of the Charter were solicited from the Town Council, Town staff, and the Town Attorney prior to discussion by the Commission. The Town Secretary maintained a redline version of the Charter which was updated after each meeting, and provided to the Commission and the Town Council regularly throughout the review process.

Upon the Commission's approval of their final recommendations, the Town Attorney condensed the proposed amendments into 10 Propositions. A memo prepared by the Town Attorney, and provided in the Council Packet, contains the actual proposition language that will appear on the ballot, if approved by Council, as well as an explanation of the legal issues associated with each of the proposed amendments. The memo was intended to be read in conjunction with the redline version of the Charter, also contained in the Council Packet, to provide Council, and the voters, with a clear understanding of the intent of each Proposition. Each proposed change on the redline version has been labeled with a corresponding Proposition number. Ms. Battle recommended one additional amendment that was recently identified by Town staff. Section 4.02 of the Town Charter provides that the Town Secretary is hired and terminated by the Town Manager; however, Section 4.06 of the Charter currently provides for the Town Council to conduct the Town Secretary's performance evaluation. Since this provision has been determined by the Town Attorney to be obsolete and inoperative, Town staff recommends removing "Town Secretary" from Section 4.06 (2)(E) of the Charter. The Town Council agreed to the change.

Ms. Battle introduced Mr. Charles Cotten to speak on behalf of the Commission and present the 10 Propositions to the Town Council for consideration. Mr. Cotten responded to questions from Council and explained the rationale of the Commission, specifically related to Proposition 3, the removal of term limits. Mr. Teague Griffin also addressed the Town Council, noting the lengthy discussion by the Commission, and unanimous consensus to recommend the removal of term limits.

Mayor Smith recognized the following individuals who requested to speak:

Ken Weaver, 1480 Beacon Hill Drive, Prosper, spoke in opposition to Propositions 2 and 3. He opposed the removal of term limits, and asked that the Council limit the amount and type of allowable reimbursements.

Brett Peters, 721 Moss Glen Drive, Prosper, spoke in opposition to the removal of term limits.

After discussion, the Town Council directed staff to keep the Propositions as written. The Town Secretary will create a page on the Town website to inform the voters of the Charter Propositions, as recommended by the Commission. The Town Council will consider and act upon an ordinance adopting the Charter Propositions at the February 14, 2017, Town Council meeting, at which time they may call a special election to amend the Charter on May 6, 2017.

No further action was taken.

11. Consider and act upon awarding Bid No. 2016-68-B to North Texas Contracting, Inc., related to construction services for the Town Hall Infrastructure Project; and authorizing the Town Manager to execute a construction agreement for same. (MB)

CIP Project Manager Michael Bulla presented this item before the Town Council. Upon approval, North Texas Contracting, Inc., will construct the necessary water, sewer, and drainage improvements to accommodate the construction of Town Hall. The drainage improvements include a major underground pipeline to accommodate the drainage on Broadway that was previously planned to be located on McKinley. In addition to the utilities, this project includes the reconstruction of Main Street from First Street to Broadway with new paving, concrete curb and underground drainage, and a new fire lane within the alley easement behind the businesses fronting Broadway.

Councilmember Dugger made a motion and Mayor Pro-Tem Vogelsang seconded the motion to award Bid No. 2016-68-B to North Texas Contracting, Inc., related to construction services for the Town Hall Infrastructure Project; and authorize the Town Manager to execute a construction agreement for same. The motion was approved by a vote of 7-0.

12. 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:

12a. Section 551.087 – To discuss and consider economic development incentives.

12b. 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 8:11 p.m.

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

The Town Council reconvened the Regular Session at 8:52 p.m. No action was taken as a result of Executive Session.

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

• Cluster Box Units (CBU). (JW)

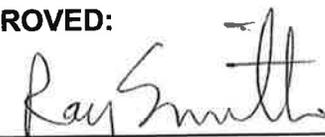
Development Services Director John Webb reported that the U.S. Postal Service is moving towards requiring cluster box units, rather than individual mail boxes at each single-family home. Town staff will monitor the status of this requirement as it is phased in. Additionally, Town staff will work closely with developers to ensure compliance with the post office, and that the CBU's have aesthetic standards that are in line with the Town's development standards.

15. Adjourn.

The meeting was adjourned at 8:57 p.m. on Tuesday, September 27, 2016.

These minutes approved on the 11th day of October, 2016.

APPROVED:



Ray Smith, Mayor

ATTEST:



Robyn Battle, Town Secretary