



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, October 25, 2016

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

The meeting was called to order at 6:05 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

Jonathan Hubbard, Planner

Frank Jaromin, Public Works Director

Tristan Cisco, Water Conservation Coordinator

Dan Heischman, Senior Engineer

Leslie Scott, Library Director

Kelly Neal, Finance Director

January Cook, Purchasing Agent

Doug Kowalski, Chief of Police

Gary McHone, Assistant Police Chief

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

Pastor Jeremy Nottingham of Prestonwood Baptist Church led the invocation. The Pledge of Allegiance and the Pledge to the Texas flag were recited.

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

Early voting for the November 8 election will continue through Friday, November 4. Collin County voters may vote in Prosper Municipal Chambers during Early Voting, and at the PISD Administration Building on Election Day. Denton County voters may vote at any Denton County polling location. More information is available on the Town website, or by contacting the Collin County or Denton County Election Offices.

The Prosper Police and Fire Departments hosted a Drug Take-Back Event on Saturday, October 22. A total of eight boxes of prescription and over-the-counter medications were turned in, plus one box of needles. The initiative, which is sponsored by the DEA, provides a safe, responsible way for residents to help keep unused, expired, or unwanted drugs off the streets and out of our water supply.

The Prosper Friends of the Library will hold its annual book sale on Saturday, November 5, at the Library from 9:00 a.m. – 2:00 p.m. A wide variety of books and DVDs will be available for readers of every age. Proceeds help support learning and literacy in Prosper.

The Library will offer genealogy classes at 6:30 p.m. on November 10, December 8, and January 12. The classes will offer information on research techniques, and developing a family tree outline. Classes are free to the public, and trained researchers will be available for assistance following each class.

The Prosper Municipal Court will celebrate Municipal Court Week with an Open House Reception on Thursday, November 10, from 1:00 – 3:00 p.m. The public is welcome to stop by to meet the court staff and Municipal Judge David Moore.

4. Presentations.

- **Presentation of a TML Municipal Excellence Award for the Town of Prosper Earth-Kind® garden in partnership with Texas A&M AgriLife Extension Office, the Collin County Extension Office, and the Collin County Master Gardeners Association. (TC)**

Tristan Cisco, Water Conservation Coordinator, provided an overview of the award, which was presented at the TML Annual Conference earlier this month for the Public Works category for cities and towns under 25,000 in population. Town staff has been invited to present information on the project at the 2017 TML Elected Officials Conference. Ms. Cisco introduced Dr. Greg Church of the Texas A&M AgriLife Extension Service, who spoke about the research and demonstration gardens which beautify the landscape while allowing for the study of water tolerant plants. Patti Felan of the Collin County Master Gardeners thanked the Town staff and all of the volunteers who helped with the project.

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 meetings. (RB)**
 - **Regular Meeting – October 11, 2016.**
- 5b. Consider and act upon canceling the November 22, 2016, and December 27, 2016, Town Council meetings. (RB)**
- 5c. Consider and act upon Resolution No. 16-62 adopting a Town seal. (RB)**

- 5d. Consider and act upon Resolution No. 16-63 accepting and approving the 2016 Tax Roll. (KN)
- 5e. Consider and act upon Resolution No. 16-64 expressing official intent to reimburse costs of Town capital improvement program projects that may be funded with proceeds of bonds or other obligations, if those costs are paid prior to the issuance of such bonds or other obligations. (KN)
- 5f. Consider and act upon Resolution No. 16-65 authorizing various individuals as signers of specific accounts and certain investment matters. (KN)
- 5g. Consider and act upon authorizing the Town Manager to execute an Interlocal Agreement for the construction of Frontier Park North Field Improvements between the Town of Prosper and Collin County. (PN)
- 5h. 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 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 7-0.

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.

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 an ordinance rezoning 0.3± acre from Downtown Retail (DTR) to Planned Development-Downtown Retail (PD-DTR), located on the southwest corner of Main Street and Broadway Street. (Z16-0021). (JW)

Development Services Director John Webb presented this item before the Town Council. The purpose of this request is to adopt development standards to accommodate a proposed office building which will have a retail/storefront appearance. The office will be a one-story building, totaling 1,907 square feet. To accommodate the development, the applicant is requesting a reduction in the required minimum lot area, width, and depth to

be able to subdivide the original lot into two lots for separate ownership. The existing building to the north will be on a separate lot. The proposed development standards also allow for the elimination of perimeter landscaping which is not needed in this location.

Mayor Smith opened the Public Hearing.

Michael Davidson, the applicant, responded to questions from the Town Council, who expressed concern about the five-foot separation between the two buildings, which the adjacent property owner is using to accommodate an air conditioning unit. Mr. Davidson agreed to screen the space between the buildings, and put a ground cover down to allow for drainage between the buildings.

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

After discussion, Deputy Mayor Pro-Tem Dixon made a motion and Councilmember Dugger seconded the motion to approve Ordinance No. 16-66 rezoning 0.3± acre from Downtown Retail (DTR) to Planned Development-Downtown Retail (PD-DTR), located on the southwest corner of Main Street and Broadway Street. Mr. Dixon further moved that the site plan reflected in Exhibit D be modified to reflect an ornamental gate that does not obstruct view into the spacing between the two (2) lots, and that an impervious cover shall be located between the two (2) structures to facilitate drainage, with no vegetation to be located in said space. The motion was approved by a vote of 7-0.

8. 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 Town's sign ordinance allows for a Special Purpose Sign District (SPSD) wherein Council has the authority to approve or deny signs which may deviate from the Town's sign code regulations. The purpose of this request is to allow:

1. two unified development signs located within 750' of another unified development sign;
2. three unified development signs permitted to encroach into the 1'-0" setback requirement;
3. increased wall sign height for the big box buildings (Kroger and Home Depot);
4. digital fuel pricing on an off-site unified development sign; and
5. digital fuel pricing on the proposed fuel canopy.

Staff recommended approval of the request, with the exception of the off-site development signs and the pricing on the fuel canopy.

Mayor Smith opened the Public Hearing.

Robert Dorazil of United Commercial Development, the developer of the project, responded to the Council's concerns about the off-site signs and the canopy sign. Jackie Kreda with Kroger emphasized the need to advertise fuel prices on the corner, since additional gas stations will eventually develop at the other corners of the same intersection. Tommy Reynolds of Comet Signs commented on the visibility of the signs.

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

The Town Council expressed concern for setting a precedent to allow for off-site signs. Mr. Webb stated that the Town's standard ordinance requires gas stations to be located on the corner of two public streets; however, the existing PD for this development allows for the fuel station to be located mid-block.

After discussion, Mayor Pro-Tem Vogelsang made a motion and Councilmember Korbuly seconded the motion to approve:

1. the request for two unified development signs to be located within 750 feet of another,
 2. the encroachment of the setback, as shown on Exhibit C,
 3. the increased wall sign height for the big box buildings, and
 4. the static digital fuel pricing on the off-site unified development signs, and
- He further moved to deny the digital fuel pricing on the fuel canopy.

The motion was approved by a vote of 7-0.

9. 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. This item was tabled at the August 9, September 13, and September 27, 2016, Town Council meetings. The applicant has revised the request as follows:

- For homes with cementitious fiber board, the maximum percentage of the fiber board has been reduced from 60% to 45%;
- For homes with a dwelling area between 1,600 and 1,800 square feet, this range has been limited to 20% of the homes, per phase, for Type A lots;
- Age-restricted language has been added per a recommendation of the Town Attorney; and
- Staff has added an appeal process to Town Council for instances of discrepancy between the building plans and the conformance to the conceptual elevations.

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.

Mayor Smith opened the Public Hearing.

Clint Richardson, the applicant, addressed the Town Council, noting the revised elevations that have been presented to better reflect the proposed percentages of cementitious fiberboard on the exterior building façades.

Mr. Webb explained the appeal process upon request of the Town Council.

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

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

10. Conduct a Public Hearing, and consider and act upon a request to rezone 1.7± acres from Office (O) and Retail (R) to Planned Development-Retail (PD-R), located on the west side of Hays Road, 2,600± feet north of First Street. (Z16-0020). (JW)

Development Services Director John Webb presented this item before the Town Council. This item was tabled at the October 11, 2016, Town Council meeting. The applicant is requesting to deviate from the minimum standards in the Town's Zoning Ordinance's for outdoor play spaces; therefore, approval of a Planned Development (PD) is required. The proposed PD would allow for development a day care building, which will be a one-story building, totaling 11,120 square feet and will be constructed in a single phase. The facility will accommodate 216 children.

Mayor Smith opened the Public Hearing.

Angela Wolf, the applicant, addressed the Council's questions about fencing material. She indicated that the change from open fencing to wood fencing had been made due to safety and privacy concerns discussed during the Planning & Zoning Commission meeting.

Randy Helmberger, the project architect, addressed Council's question about the direction of the building, and stated that it was not possible to turn the building 90 degrees and still meet the Town's other development standards.

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

After discussion, Councilmember Davis made a motion and Councilmember Dugger seconded the motion to approve the request to rezone 1.7± acres from Office (O) and Retail (R) to Planned Development-Retail (PD-R), located on the west side of Hays Road, 2,600± feet north of First Street, and Exhibit D shall be amended to reflect a wrought iron fence instead of the wooden recommended by the Planning & Zoning Commission. The motion was approved by a vote of 7-0.

DEPARTMENT ITEMS:

11. Consider and act upon a request for a Façade Exception for the Gates of Prosper, Phase 1, Block B, Lot 4 (Chili's), located on the east side of Preston Road, 700± feet north of future Richland Boulevard. (MD16-0014). (JW)

Development Services Director John Webb presented this item before the Town Council. The applicant is seeking a Façade Exception for a 6,046-square-foot restaurant located within the Gates of Prosper, to allow for an increase in secondary materials. The Zoning Ordinance limits secondary materials to 10% of an elevation. As depicted on the revised elevations, the applicant is requesting the exterior of the structure of the proposed Chili's to be constructed primarily of brick and stone as required by the ordinance, but is also requesting the use of tile, metal, and fabric to exceed 10% on each of the elevations. Renu Aron with GHA architecture and Mike Gabriel with Brinker International were present, and provided sample materials for the Council to review.

After discussion, Councilmember Dugger made a motion and Deputy Mayor Pro-Tem Dixon seconded the motion to approve a request for a façade exception for the Gates of Prosper, Phase 1, Block B, Lot 4 (Chili's). The motion was approved by a vote of 7-0.

12. Library Services Department update. (LS)

Library Director Leslie Scott provided an update to the Town Council on the Library's programs and activities from the previous year. Library memberships and patronage continue to rise year after year, and the Library's programs are very well-attended by the public. Ms. Scott thanked the various organizations that have offered to serve as storytime locations, and she thanked the volunteers and Town staff members who have helped make the Library's programs so successful.

13. Consider and act upon a resolution to enter into an exclusive franchise agreement with Progressive Waste Solutions of TX, Inc., dba WC of Texas, for the collection, hauling, recycling and disposal of municipal solid waste, construction and demolition waste, and recyclable materials in the Town of Prosper; and authorizing the Town Manager to execute same. (JC)

Purchasing Agent January Cook presented this item before the Town Council. The Town requested proposals from qualified service providers earlier this year, and as a result, on August 9, 2016, the Town Council authorized staff to negotiate an exclusive franchise agreement with Progressive Waste Solutions of TX, Inc., dba WC of Texas, for the collection, hauling, recycling, and disposal of municipal solid waste, construction and demolition waste, and recyclable materials in the Town. The new exclusive franchise agreement will become effective on February 1, 2017. The initial term of the agreement will be two years, with four optional two-year renewal periods. The new agreement includes several service enhancements, including larger recycling carts, a more convenient bulk trash pick-up day, and performance measures to ensure high customer satisfaction. Elizabeth Combs and Henry Lew, representing Progressive Waste Solutions, were present and responded to questions from the Council regarding the larger polycarts.

After discussion, Councilmember Dugger made a motion and Mayor Pro-Tem Vogelsang seconded the motion to approve Resolution No. 16-67 to enter into an exclusive franchise agreement with Progressive Waste Solutions of TX, Inc., dba WC of Texas, for the collection, hauling, recycling and disposal of municipal solid waste, construction and demolition waste, and recyclable materials in the Town of Prosper; and authorize the Town Manager to execute same. The motion was approved by a vote of 7-0.

14. 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:

14a. Section 551.087 – To discuss and consider economic development incentives.

14b. 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.

14c. Section 551.071 – Consultation with the Town Attorney regarding possible litigation regarding bond issues, and all matters incident and related thereto.

The Town Council recessed into Executive Session at 8:10 p.m.

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

The Town Council reconvened the Regular Session at 9:09 p.m.

Councilmember Dugger made a motion and Mayor Pro-Tem Vogelsang seconded the motion to authorize the Town Manager to execute an agreement with Hillco Partners for the provision of legislative services regarding economic development incentives and services. The motion was approved by a vote of 7-0.

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

- **Single Family Lot Inventory. (JW)**

John Webb reviewed the results of the recent single-lot inventory prepared by Town staff. Results concluded that lot size will predominantly range between 8,000-15,000 square feet through buildout. More demographic and lot size information will be brought forward during the Town Council Strategic Planning Session in January.

- **Stormwater Ordinance. (DH)**

Senior Engineer Dan Heischman updated the Council on the Town's Stormwater Management Program. An ordinance will be brought forward for Council consideration at the December 13, 2016, Town Council meeting.

- **Artificial Turf Discussion. (JC)**

Town Manager Harlan Jefferson briefed the Council on the progress of the Artificial turf bid award for Frontier Park. Additional information will be provided in the Weekly Update, and an item will be brought forward on a future Town Council agenda for Council to consider awarding the bid. Purchasing Agent January Cook responded to questions from Council regarding the warranty and specifications contained in the competitive sealed proposals.

- **Strategic Planning Session Date. (RB)**

Town Secretary Robyn Battle proposed a tentative date of January 25, 2017, as the date for the Council's Strategic Planning Session. The Town Council concurred with the date.

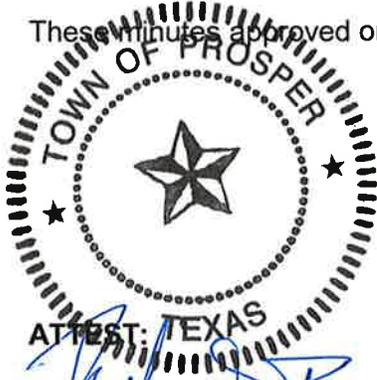
- Ms. Battle informed the Council that the City of McKinney has requested the Council appoint a community representative to the McKinney Airport Master Plan Advisory Committee. Mayor Smith has recommended David Bristol to serve on the Committee. The Council concurred with the recommendation. An

item will be placed on the November 8 Town Council agenda to appoint Mr. Bristol to the committee.

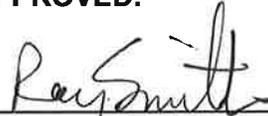
17. Adjourn.

The meeting was adjourned at 9:26 p.m. on Tuesday, October 25, 2016.

These minutes approved on the 8th day of November, 2016.



APPROVED:



Ray Smith, Mayor



Robyn Battle, Town Secretary