



Prosper is a place where everyone matters.

MINUTES
Regular Meeting of the
Prosper Town Council
Prosper Municipal Chambers
108 W. Broadway, Prosper, Texas
Tuesday, September 23, 2014

1. Call to Order/Roll Call.

The meeting was called to order at 5:02 p.m.

Council Members Present:

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

Staff Members Present:

Harlan Jefferson, Town Manager
Robyn Battle, Town Secretary
Terrence Welch, Town Attorney
Pete Smith, Attorney
Hulon T. Webb, Jr., Executive Director of Development and Community Services
John Webb, Director of Development Services
Alex Glushko, Senior Planner
Paul Naughton, Landscape Architect
Matt Richardson, Senior Engineer
Bill Elliott, Building Official
Will Mitchell, Parks & Recreation Manager
Julie Shivers, Recreation Services Coordinator
Kent Austin, Finance Director
Trish Featherston, Accounting Manager
January Cook, Purchasing Manager
Baby Raley, Human Resources Director
Doug Kowalski, Police Chief
Gary McHone, Assistant Police Chief
Ronnie Tucker, Fire Chief
Robert Winningham, Economic Development Corporation Executive Director

2. 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:

2a. *Section 551.087 – To discuss and consider economic development incentives.*

2b. 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 in to Executive Session at 5:02 p.m.

The Town Council reconvened the Regular Meeting at 6:09 p.m. No action was taken as a result of Executive Session.

REGULAR MEETING

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

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

4. Announcements of upcoming events.

Mayor Pro-Tem Miller made the following announcements:

The Prosper Police and Fire Departments are hosting a "Drug Take Back Day" on Saturday, September 27, to provide a safe, convenient way to dispose of over-the-counter or prescription medications. Residents may drop off unwanted or expired drugs at the entry lobby of the Prosper Fire Station from 10:00 a.m.-2:00 p.m.

On Tuesday, October 7, 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 Juan Flores for more information or to schedule a block party.

Senior Citizen residents are invited to attend a Senior Luncheon with the Mayor on Wednesday, October 15th, from 11:30 a.m.-1:00 p.m. at Prosper United Methodist Church. Please RSVP by October 10. Contact Julie Shivers in the Parks & Recreation Department.

The 5th Annual Cory Ausenbaugh Memorial 5k and 1 Mile Fun Run will be held on Saturday, October 18, at Frontier Park. Registration information is available on the Town's website. Proceeds will be donated to a scholarship fund for a deserving Prosper High School Senior who is pursuing a degree in education. Contact Assistant Fire Chief Stuart Blasingame for more information.

Residents are invited to join the fun at Prosper's Homecoming Parade, to be held on Wednesday, October 22, 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.

5. Proclamations.

- **Presentation of a Proclamation to members of the Clothe a Child program declaring October 2014 as *Clothe a Child Month*. (RB)**

Patty Felan, Doug Kriz, and members of the Clothe a Child program accepted the Proclamation.

- **Presentation of a Proclamation to members of the Prosper Police Department declaring October 7, 2014 as *National Night Out*. (RB)**

Police Chief Doug Kowalski, Assistant Police Chief Gary McHone, and Officer Juan Flores accepted the Proclamation.

6. 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.)

Councilmember Vogelsang removed Item 6k from the Consent Agenda.

- 6a. **Consider and act upon minutes from the following Town Council meetings. (RB)**
 - **Regular Meeting – September 9, 2014**
- 6b. **Receive the August 2014 financial report. (KA)**
- 6c. **Consider and act upon the appointment of a Municipal Judge, and authorize the Mayor to execute an agreement for same. (RB)**
- 6d. **Consider and act upon Resolution No. 14-62 designating *The Prosper Press* as the official newspaper of the Town of Prosper for Fiscal Year 2014-2015. (RB)**
- 6e. **Consider and act upon approving an Interlocal Agreement between Collin County and the Town of Prosper, related to child abuse, investigation, and law enforcement services; and authorizing the Town Manager to execute same. (DK)**
- 6f. **Consider and act upon Ordinance No. 14-63 amending Section XIII “Parks and Recreation User Fees” of Appendix A “Fee Schedule” of the Town’s Code of Ordinances by amending subsection (a) Field User Fees. (JS)**
- 6g. **Consider and act upon authorizing the Town Manager to execute a Settlement and Release Agreement between Oncor Electric Delivery Company LLC, and the Town of Prosper, Texas, related to the reimbursement for overbilling of unmetered street lights. (HW)**
- 6h. **Consider and act upon Ordinance No. 14-64 repealing Section 1.04.001 “Time limit for speaking at certain meetings” of Article 1.04 “Boards,**

Commissions and Committees” of Chapter 1 “General Provisions” of the Town’s Code of Ordinances and replacing it with a new Division 1, entitled “Library Board” to provide Library Board’s number of members, terms of office, vacancies, selection of Chair and Vice-Chair, meetings, and power and authority. (HW)

- 6i. Consider and act upon Ordinance No. 14-65 repealing Section 1.09.082 “Number of members,” Section 1.09.085 “Chair/vice-chair/secretary/quorum,” and Section 1.09.088 “Powers and authority” of Division 3 “Parks and Recreation Board” of Article 1.09 “Parks and Recreation” of Chapter 1 “General Provisions” of the Town’s Code of Ordinances and replacing said sections with a new Section 1.09.082 “Number of members,” Section 1.09.085 “Chair/vice-chair/quorum,” and Section 1.09.088 “Powers and authority,” regarding residency requirements for the members of the Parks and Recreation Board, selection of Chair and Vice-Chair, and powers and authority. (WM)
- 6j. Consider and act upon Ordinance No. 14-66 amending Section 3.02.010 “Officers” of Article 3.02 “Construction Board of Appeals” of Chapter 3 “Building Regulations” of the Town’s Code of Ordinances, regarding the composition and appointment of Board members. (AG)

Deputy Mayor Pro-Tem Dugger made a motion and Mayor Pro-Tem Miller seconded the motion to approve Items 6a-6j on the Consent Agenda. The motion was approved by a vote of 7-0.

- 6k. 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)

Senior Planner Alex Glushko responded to questions from the Town Council about this item. Councilmember Vogelsang made a motion and Councilmember Korbuly seconded the motion to approve Item 6k. The motion was approved by a vote of 7-0.

7. **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.)

Mayor Smith moved to Item 14 on the agenda.

14. **Consider and act upon authorizing the Mayor to execute the First Amended and Restated Development and Financing Agreement with Blue Star Land, L.P., Blue Star Allen, L.P., 183 Land Corp., and Prosper Economic Development Corporation, for the reimbursement of the cost of construction of public infrastructure to be constructed within Tax Increment Reinvestment Zone Number One, Town of Prosper. (HJ)**

Town Manager Harlan Jefferson presented this item before the Town Council. The original agreement was executed in 2008 to address the cost of construction of public infrastructure within Tax Increment Reinvestment Zone (TIRZ) No. 1. The amended agreement eliminates the need for the Town to issue any debt for the project, and contains other improvements from the original agreement. Mr. Jefferson introduced attorney Pete Smith, who reviewed the terms of the new agreement compared to the original agreement. The developer is assuming more of the financial risk for the project, dedicating land for municipal purposes, and funding the construction of infrastructure. The Prosper Economic Development Corporation is now a party to the agreement, and Collin County will participate in the project as well.

The Mayor recognized the following individual who requested to speak:

Irwin "Cap" Parry, 850 Kingview Drive, Prosper, addressed the Council on the dedication of land for municipal purposes in the agreement, requesting that any future Town Hall remain in the downtown area, and received clarification from the Town Council that while land is being dedicated for a future fire station within the project, the timing of construction has not yet been determined.

Mayor Pro-Tem Miller made a motion and Councilmember Vogelsang seconded the motion to authorize the Mayor to execute the First Amended and Restated Development and Financing Agreement with Blue Star Land, L.P., Blue Star Allen, L.P., 183 Land Corp., and Prosper Economic Development Corporation, for the reimbursement of the cost of construction of public infrastructure to be constructed within Tax Increment Reinvestment Zone Number One, Town of Prosper. The motion was approved by a vote of 7-0.

PUBLIC HEARINGS:

8. **Conduct a Public Hearing, and consider and act upon a request to rezone 60.9± acres, located 2,000± feet south of First Street, 3,000± feet west of Dallas Parkway, from Planned Development-47 (PD-47) to Planned Development-Single Family-10 (PD-SF-10). (Z14-0013). (AG)**

Senior Planner Alex Glushko presented this item before the Town Council. This item was tabled at the September 9, 2014, Town Council meeting to allow the applicant to revise the application to align the proposed PD-SF-10 development standards with the straight SF-10 district development standards, specifically regarding minimum lot area and side yard setback. Dave Wilcox with Wilco Partners addressed the Town Council and presented a brief PowerPoint presentation reviewing the proposed project.

Mayor Smith opened the Public Hearing.

Jack Dixon, 810 Long Valley Court, Prosper, did not wish to speak, but expressed his support for the new minimum lot size proposed with the item.

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

Deputy Mayor Pro-Tem Dugger made a motion, and Councilmember Korbuly seconded the motion to approve a request to rezone 60.9± acres, located 2,000± feet south of First Street, 3,000± feet west of Dallas Parkway, from Planned Development-47 (PD-47) to Planned Development-Single Family-10 (PD-SF-10). The motion was approved by a vote of 7-0.

9. Conduct a Public Hearing, and consider and act upon a request for a Specific Use Permit (SUP) for a New Automobile Sales/Leasing facility, on 16.1± acres, located on the north side of US 380, 4,000± feet west of Dallas Parkway. The property is zoned Planned Development-43 (PD-43). (S14-0003). (JW)

John Webb, Director of Development Services, presented this item before the Town Council. The request is for a Specific Use Permit (SUP) for a new automobile sales/leasing facility to include a sales and showroom, parts sales, service bays and a car wash. Mr. Webb reviewed the details of the SUP request. The Planning & Zoning Commission approved the request with conditions, which the applicant has addressed in the revised exhibits. The Town has received a zoning reply form in opposition to the request, which will require the Town Council to approve the request with a supermajority vote. Robin Maas and Jeff Carter from Gulf States Toyota addressed the Council and presented a PowerPoint presentation reviewing the proposed project.

Mayor Smith opened the Public Hearing.

Craig Curry, Managing General Partner for Prosper Partners, spoke in opposition to the request, noting that a he had previously proposed a zoning request for automobile uses that was denied. His company is building a residential development on the north side of the proposed project, and he does not feel that automobile uses are now appropriate for the site.

Mike Wadsworth, 627 Creek View Drive, Prosper, spoke in favor of the request, noting that the project will bring tax revenue and jobs to the area.

Chad Buxton, 4008 Bushwell Lane, Plano, is a partner of Mr. Curry, who spoke previously. He spoke in opposition to the request, and does not believe the requested use is appropriate for the property, and expressed concerns about aesthetics and maintenance over time.

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

Mr. Webb responded to additional questions from Council on air conditioning, lighting, and other items in the SUP, which are not currently part of the SUP request. The applicant was agreeable to those items being included in the SUP.

Mayor Pro-Tem Miller made a motion to approve a request for a Specific Use Permit (SUP) for a New Automobile Sales/Leasing facility, on 16.1± acres, located on the

north side of US 380, 4,000± feet west of Dallas Parkway. The property is zoned Planned Development-43 (PD-43). He further moved that the SUP have the following conditions attached to it:

1. No outdoor intercoms, speakers or sound amplification devices shall be utilized on the property;
2. Any structures with a garage or bay shall include an automatic door closing device for such garage or bay; and
3. After-hours reduction of outdoor lighting, at 90% at midnight.

Councilmember Korbuly seconded the motion. The motion was approved by a vote of 6-1.

DEPARTMENT ITEMS:

Mayor Smith opened Items 10 and 11 concurrently.

10. **Consider and act upon Ordinance No. 14-67 adopting the Fiscal Year 2014-2015 Annual Budget for the fiscal year beginning October 1, 2014, and ending September 30, 2015, and approving certain amendments to the Fiscal Year 2013-2014 Annual Budget. (KA)**
11. **Consider and act upon Ordinance No. 14-68 adopting the Town of Prosper 2014 Property Tax Rate. (KA)**

Finance Director Kent Austin presented a brief PowerPoint presentation summarizing the budget and tax rate proposal, and providing historical data on the tax rate for Prosper and the surrounding municipalities.

The Town Council discussed the proposed tax rate and the increased property values of the Town. Questions arose about what factors contribute to calculating the effective tax rate, and Town staff was directed to research this, particularly as it relates to improvements on existing property. Council continued discussion on some Capital Improvement Program items in the budget, the prioritization of public safety, and the issuance of debt to pay for certain projects.

After discussion, Councilmember Korbuly made a motion and Mayor Pro-Tem Miller seconded the motion to adopt the Fiscal Year 2014-2015 Annual Budget for the fiscal year beginning October 1, 2014, and ending September 30, 2015, and approving certain amendments to the Fiscal Year 2013-2014 Annual Budget. Mayor Smith called the roll, and Council Members responded as follows:

Councilmember Korbuly – approved
Mayor Pro-Tem Miller – approved
Mayor Smith – approved
Deputy Mayor Pro-Tem Dugger – approved
Councilmember Vogelsang – approved
Councilmember Davis – opposed
Councilmember Dixon – approved

The motion was approved by a vote of 6-1.

Councilmember Korbuly made a motion and Mayor Pro-Tem seconded the motion to ratify the property tax revenue increase as reflected in the Fiscal year 2014-2015

Adopted Budget. Mayor Smith called the roll, and Council Members responded as follows:

Councilmember Korbuly – approved
Mayor Pro-Tem Miller – approved
Mayor Smith – approved
Deputy Mayor Pro-Tem Dugger – approved
Councilmember Vogelsang – approved
Councilmember Davis – opposed
Councilmember Dixon – approved

The motion was approved by a vote of 6-1.

Finance Director Kent Austin continued the presentation on the proposed tax rate, which is \$0.52 per \$100 assessed valuation.

Mayor Pro-Tem Miller made a motion and Councilmember Korbuly seconded the motion that the property tax rate be increased by the adoption of a tax rate of \$0.52 per \$100 assessed valuation, which is effectively an 11.07 percent increase in the tax rate. Mayor Smith called the roll, and Council Members responded as follows:

Councilmember Korbuly – approved
Mayor Pro-Tem Miller – approved
Mayor Smith – approved
Deputy Mayor Pro-Tem Dugger – approved
Councilmember Vogelsang – approved
Councilmember Davis – opposed
Councilmember Dixon – approved

The motion was approved by a vote of 6-1.

12. Consider and act upon Ordinance No. 14-69 repealing Article 12.09 "Speed Limits" of Chapter 12 "Traffic and Vehicles" of the Town's Code of Ordinances and replacing it with a new Article 12.09 "Speed Limits" to provide for the prima facie speed limits on streets within the Town. (MR)

Matt Richardson, Senior Engineer, presented this item before the Town Council. Changes to the proposed ordinance include eliminating county road number designations, modifying limits to match existing features, and updating text to mirror Section 545 of the Texas Transportation Code. Several changes to existing speed limits are also proposed based on an investigation by the Engineering Department and review by the Police Department. The speed limit changes will become effective after its passage and publication, and the posting of signs reflecting the new speed limit. Council requested that flags be attached to new speed limit signs to attract the attention of drivers that a new speed limit is in place.

After discussion, Councilmember Korbuly made a motion and Deputy Mayor Pro-Tem Dugger seconded the motion to approve an ordinance repealing Article 12.09 "Speed Limits" of Chapter 12 "Traffic and Vehicles" of the Town's Code of Ordinances and replacing it with a new Article 12.09 "Speed Limits" to provide for the prima facie speed limits on streets within the Town. The motion was approved by a vote of 7-0.

13. **Consider and act upon authorizing the Town Manager to execute a Professional Services Agreement between Dunaway Associates, LP, and the Town of Prosper, Texas, related to the Frontier Park North Conceptual Master Plan and Sexton Park Conceptual Master Plan project. (HW)**

Hulon Webb, Executive Director of Development and Community Services, presented this item before the Town Council. This item was tabled at the August 12, 2014, Town Council meeting to allow the consultant and staff to bring examples of the expected deliverables, and to provide more information. Mr. Webb and Elizabeth McIlrath of Dunaway Associates explained the process for the development of the conceptual master plans for Frontier Park North, and Sexton Park, as outlined in the agreement. The Town Council expressed concern about not being involved earlier in the process, and Dunaway agreed to modify the scope of services to include Council involvement earlier in the process.

After discussion, Deputy Mayor Pro-Tem made a motion to authorize the Town Manager to execute a Professional Services Agreement between Dunaway Associates, LP, and the Town of Prosper, Texas, related to the Frontier Park North Conceptual Master Plan and Sexton Park Conceptual Master Plan project. He further moved that the Scope of Services, Exhibit A, be modified for Task A services (programming design) and Task B services (concept alternatives) to specifically include that the Consultant shall meet with the Town Council for data gathering and information purposes. Councilmember Korbuly seconded the motion. The motion was approved by a vote of 6-1.

15. **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:

15a. Section 551.087 – To discuss and consider economic development incentives.

15b. 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 8:50 p.m.

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

The Town Council reconvened the Regular Session at 9:11 p.m. No action was taken as a result of Executive Session.

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

- **Comprehensive Plan Implementation Priorities. (JW)**

John Webb, Director of Development Services, discussed the top five action items by priority with regard to updating the Comprehensive Plan. These include:

1. Update the 2003 Subdivision Ordinance – Freese and Nichols has already submitted drafts for six of the eight proposed sections.
2. Update the Districts and Land Use Charts of the Zoning Ordinance – Town staff has initiated this review.
3. Work with property owners/developers to bring property into conformance with the Comprehensive Plan – this is an on-going process by Town staff.
4. Update non-residential architectural and building material standards, identify standards for major corridors, and consider standards to prohibit strip retail – due to the extensive nature of these projects, they may require the use of consulting services.
5. Update residential development standards with regard to home and subdivision design, amenities, setbacks, garages, etc. – subdivision design standards will be included as part of the updated Subdivision Ordinance. Updates to the standards for residential development will require amendments to the Town's Zoning Ordinance.

Mr. Webb itemized other action items that will be taken to update the Comprehensive Plan.

Town Staff was directed to move the residential standards up on the priority list, and to update these concurrently with the Subdivision Ordinance.

Town staff will also seek feedback from the Council at a future date on required minimum lot size as part of the amendments to the Zoning Ordinance.

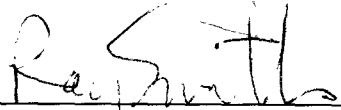
Mr. Jefferson stated that the results of the review of the Comprehensive Plan conducted by MasterPlan would be discussed at the October 14, 2014, Town Council meeting.

18. Adjourn.

The meeting was adjourned at 9:29 p.m.

These minutes approved on the 14th day of October, 2014.

APPROVED:



Ray Smith, Mayor

ATTEST:



Robyn Battle, Town Secretary