



Prosper is a place where everyone matters.

MINUTES

Prosper Town Council Meeting
Council Chambers
Prosper Town Hall
250 W. First Street, Prosper, Texas
Tuesday, August 24, 2021
5:45 PM

Call to Order/ Roll Call.

The meeting was called to order at 5:48 p.m.

Council Members Present:

Mayor Ray Smith
Mayor Pro-Tem Meigs Miller
Deputy Mayor Pro-Tem Craig Andres
Councilmember Marcus E. Ray
Councilmember Jeff Hodges
Councilmember Charles Cotten

Council Member Absent:

Councilmember Amy Bartley

Staff Members Present:

Harlan Jefferson, Town Manager
Terry Welch, Town Attorney
Robyn Battle, Executive Director of Community Services
Leslie Scott, Director of Library Services
Paul Naughton, Parks Planning Manager
Todd Rice, Communications Manager
Rebecca Zook, Executive Director of Development and Infrastructure Services
Hulon Webb, Engineering Services Director
Frank Jaromin, Director of Public Works
Alex Glushko, Planning Manager
Chuck Springer, Executive Director of Administrative Services
Betty Pamplin, Finance Director
Leigh Johnson, IT Director
James Edwards, Human Resources Director
Stuart Blasingame, Fire Chief
Shaw Eft, Assistant Fire Chief
Doug Kowalski, Police Chief
Scott Brewer, Assistant Police Chief

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

Pastor Scott Kay, First Baptist Church of Prosper, led the invocation. The Pledge of Allegiance and the Pledge to the Texas Flag were recited.

Announcements of recent and upcoming events.

Councilmember Cotten read the following announcements:

Prosper Fire Rescue has received the American Heart Association's Mission Lifeline EMS Gold Plus Achievement Award for implementing specific quality improvement measures to treat

patients who suffer severe heart attacks. Each year, more than 250,000 people experience an ST elevation myocardial infarction, the deadliest type of heart attack, caused by a blockage of blood flow to the heart that requires timely treatment. EMS personnel play a vital role in caring for those who have heart attacks by providing critical care and treatment, and alerting hospitals of an incoming heart attack patient. The Town Council congratulates our Fire and EMS personnel for receiving this recognition.

The Town of Prosper is holding an informational Town Hall Budget Meeting regarding the Fiscal Year 2021-2022 Proposed Budget this Thursday, August 26, at 6:00 p.m. at Prosper Town Hall. Residents may also attend via Zoom. Town staff will present highlights from next year's proposed budget and will be available to answer questions.

Prosper Fire Rescue and Prosper ISD will hold a special 9/11 Remembrance Ceremony commemorating the 20th anniversary of 9/11 on Saturday, September 11, at 9:00 a.m. at Children's Health Stadium. Members of the Prosper High School choir, band and staff will join the Town's public safety personnel and local veterans will join A blood drive will be held on September 10 at the Prosper Community Library and on September 11 at Children's Health Stadium as part of our annual Ceremony. More information and a link to sign up for the blood drive are available on the Town Facebook page.

Councilmember Ray wanted thank Jim Bridges and the rest of the Prosper ISD School Board for their support of the Town's Resolution to keep US 380 on 380.

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.

1. Consider and act upon the Minutes from the August 10, 2021, Regular Town Council Meeting. (RB)
2. Consider and act upon the Minutes from the August 14, 2021, Special Called Town Council Meeting. (RB)
3. Consider and act upon Ordinance No. 2021-44 amending Section 12.09.003 "Speed Limits on Specific Streets" of Chapter 12 "Traffic and Vehicles" of the Town's Code of Ordinances by modifying the prima facie speed limits on certain streets. (HW)
4. Consider and act upon authorizing the Town Manager to execute Contract Amendment #2 to the Professional Services Agreement between Teague Nall and Perkins, Inc., and the Town of Prosper, Texas, related to the design of the Fishtrap Road from Stuber Elementary School to the Dallas North Tollway project. (HW)
5. Consider and act upon Ordinance No. 2021-45 amending the Future Land Use Plan from Medium Density Residential to Retail & Neighborhood Services, generally located on the northwest corner of Legacy Drive and Prosper Trail. This is a companion case to Z20-0013. (CA20-0003). (AG)
6. Consider and act upon Ordinance No. 2021-46 rezoning 5.5± acres, from Agriculture (A) to Planned Development-Retail (PD-R), for Legacy Storage, located on the west side of Legacy Drive, north of Prosper Trail. This is a companion case to CA20-0003. (Z20-0013). (AG)

7. **Consider and act upon authorizing the Town Manager to execute a Development Agreement between Legacy Storage Center, LLC, and the Town of Prosper, Texas, related to development on the west side of Legacy Drive, north of Prosper Trail. (AG)**
8. **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 Preliminary Site Plan or Site Plan, including Ladera Prosper, Windsong Ranch Marketplace Drive-Throughs, Gates of Prosper Big Box Retail, La Cima Retail, and Windsong Ranch Maintenance Facility. (AG)**

Mayor Pro-Tem Miller made a motion and Deputy Mayor Pro-Tem Andres seconded the motion to approve all items on the Consent Agenda. The motion was approved by a vote of 6-0.

CITIZEN COMMENTS

Doug Charles, 4360 Mill Branch Dr, commented on the proposed budget, advocating for a 2 to 4-cent reduction in tax rate while still accelerating bond projects and Public Safety projects. He noted that the Town has the ability to give tax rebates similar to what Prosper ISD established at a recent meeting. Mr. Charles feels the Town is oversaving and has the opportunity to give back to the citizens and accelerate the bond program.

Items for Individual Consideration:

9. **Conduct a Public Hearing, and consider and act upon a request for a Sign Waiver for Children's Health, regarding multi-tenant monument signs, located on the northwest corner of US 380 and Dallas Parkway. (MD21-0006). (AG)**

Planning Manager Alex Glushko presented this item before Council. Town staff has received a sign waiver request from the applicant, Children's Health, to allow for two multi-tenant monument signs. This request has two main parts, the first being the location of the sign. The sign ordinance currently requires monument signs to be located on the same lot at the business they are advertising. The current Children's Health Medical Office Building is under construction on Lot 2, however, the applicant would like to place the monument signs closer to US 380 and Dallas Parkway, on Lot 1. The second part of the request is the setback requirement of 15 feet from all property lines. The proposed sign along US 380 is in an area reserved for future US 380 right-of-way dedication; however, according to the Engineering Services Department, the acquisition of that portion of right-of-way is not anticipated in the near future.

Mayor Smith asked for clarification on whether the sign would be located on Children's Health property or TxDOT's property. Mr. Glushko advised it is currently on Children's Health property and if TxDOT eventually requires that portion of the property, it would be TxDOT's responsibility to relocate the sign.

Applicant Matt Wilson, 14201 Sovereign Rd #101, spoke in favor of the request.

Councilmember Ray expressed his concern with the sign being so close to US 380. Mr. Wilson explained the reason for the reduced setback is because of the City of Irving waterline easement requirements.

Mayor Smith opened the Public Hearing. With no one requesting to speak, Mayor Smith closed the Public Hearing.

Mayor Pro-Tem Miller made a motion and Councilmember Cotten seconded the motion to approve the request for a Sign Waiver for Children's Health, regarding multi-tenant monument signs, located on the northwest corner of US 380 and Dallas Parkway, subject to City of Irving approval. The motion was approved by a vote of 6-0.

10. Conduct a Public Hearing, and consider and act upon a request for a Sign Waiver for Gates of Prosper, Phase 2, located on the southwest corner of Preston Road and Richland Boulevard, generally regarding Identity Signage. (MD21-0008). (AG)

Planning Manager Alex Glushko presented this item before the Town Council. Town staff received the waiver request at the Gates of Prosper for an identity sign. The Town's current ordinance does not allow this type of sign, thus the sign waiver request. A request for an identity sign at the the Gates of Prosper was previously approved by the Town Council in 2020 and the request tonight is to amend the previously approved waiver. This new sign will have stone and lettering that is located on top of the wall. Staff does have some concerns regarding the asymmetrical nature of the proposed signage; however, staff is recommending approval of the request.

A representative of the applicant, Nicholas Link with Blue Star Land, spoke in favor of the request. The original concept design for the patio areas off of Preston Road was initially intended for restaurants more than retail and served as more of a retaining wall. The patio areas have been bumped out more and the northwest side does have some retention necessary, which is why it is taller. The southwest corner will have more of an open feel.

Mayor Pro-Tem Miller stated the most common question he receives is why the second phase of Gates of Prosper is so different from the first. Mr. Nicholas replied that the entry to the west of the Gates of Prosper is dynamic and as the development needs evolved, changes had to be made. Councilmember Ray stated he feels this is a good compromise with the issues they have come across during this building process.

Mayor Smith opened the Public Hearing. With no one requesting the speak, Mayor Smith closed the Public Hearing.

Deputy Mayor Pro-Tem Andres made a motion and Councilmember Ray seconded the motion to approve a request for a Sign Waiver for Gates of Prosper, Phase 2, located on the southwest corner of Preston Road and Richland Boulevard, generally regarding Identity Signage. The motion was approved by a vote of 6-0.

11. Conduct a Public Hearing, and consider and act upon a request to rezone 163.2± acres, from Planned Development-90 (PD-90) to Planned Development (PD), to facilitate the development of a single family residential subdivision with private social club, located on the north side of First Street, east of Coit Road. (Z20-0021). (AG)

The applicant has requested to table this item. Mayor Pro-Tem Miller made a motion and Councilmember Cotten seconded the motion to table Item 11 to the September 14, 2021, Town Council meeting. The motion was approved by a vote of 6-0.

12. Conduct a Public Hearing, and consider and act upon a request to rezone 119.4± acres from Planned Development-90 (PD-90), to Planned Development (PD), located on the north side of US 380, east of Coit Road, generally to amend the single-family detached residential and single-family attached (townhome) residential development standards. (Z21-0009). (AG)

Planning Manager Alex Glushko presented this item before the Town Council. The applicant is requesting to rezone 119.4± acres from Planned Development-90 (PD-90) to establish a new Planned Development, consisting of Tracts A and B. PD-90 is currently comprised of approximately 650 acres. The purpose of rezoning a portion of PD-90 is to establish a zoning district corresponding to new ownership of Tract B for the development of a single-family detached residential subdivision, and secondly to modify the development standards for the portion of existing PD-90, located on Tract A. Staff received nineteen letters of correspondence from residents in Lakewood to the north. One was in opposition and the rest were in support of the request. The Planning and Zoning Commission approved the request with by a vote of 3-1.

Zach Schneider, 809 Creekline Way in McKinney Texas, spoke to Council representing the primary homebuilder on Tract B, Tradition Homes. Mr. Schneider was accompanied by his business partner, Bill Darling. There is currently a model home under construction in the development with nine pre-sales in place. Aaron Richards also spoke on behalf of the developers. Mr. Richards showed a map of the development and the surrounding owners and reiterated the support from several of the neighboring property owners.

Responding to a question from Council, Mr. Schneider responded that he would be agreeable to a Development Agreement. Town Attorney Terry Welch confirmed that the building material requirements would only be enforceable through a Development Agreement, which would run with the land. Mr. Schneider confirmed it will be in the \$600-\$700 thousand range.

Mayor Smith opened the Public Hearing. With no one requesting to speak, Mayor Smith closed the Public Hearing.

Councilmember Ray stated that he is not in agreement with the lot width being less than the Town standard.

Councilmember Cotten made a motion and Mayor Pro-Tem Miller seconded the motion to approve the request to rezone 119.4 acres from Planned Development-90 (PD-90), to Planned Development (PD), located on the north side of US 380, east of Coit Road, generally to amend the single-family detached residential and single-family attached (townhome) residential development standards, subject to the approval of Development Agreements on each of the two Tracts A and B. The motion was approved by a vote of 5-1, with Councilmember Ray casting the opposing vote.

13. Conduct a Public Hearing to consider and discuss the FY 2021-2022 Budget as proposed. (BP)

Finance Director, Betty Pamplin, presented this item before the Town Council. Ms. Pamplin thanked the many staff members that have worked hard on the budget process in the past four months. The budget process starts with strategic goals discussed by Council at the beginning of each calendar year. Each budget item is then tied to one of the Council's Strategic Goals. Budget highlights for FY 2021-2022 include the accelerated implementation of the \$210 million bond program and no

property tax rate increase; however, staff is proposing a shift of 2.95 cents from the General Fund tax rate to the Debt Service tax rate. Town staff projects continued growth in property tax and sales tax revenue. The proposed budget has no increase in utility rates, and includes staff additions to Public Safety personnel.

Ms. Pamplin reviewed the General Fund proposed budget revenue and expenses which total approximately with the total at \$37.8 million dollars, with the largest revenue sources from property and sales tax. Nondiscretionary requests in the budget are for items that are necessary for the continuation of current services whereas Discretionary requests are for new services or service enhancements. Ms. Pamplin reviewed some of the major requests from each department.

Director of Engineering Services Hulon Webb continued the presentation to Council with an overview of the CIP portion of the budget. Mr. Webb reviewed the current CIP projects that are either in the design phase or under construction, with several being implemented through partnerships with developers and/or TxDOT. Streets Projects in the amount of \$59 million, Park Projects in the amount of \$6.5 million, Facility Projects in the amount of \$80,000, Water Projects in the amount of \$23.6 million, Wastewater Projects in the amount of \$5 million, and Drainage Projects in the amount of \$985,000 are included in the proposed CIP program for FY 2021-2022.

Mr. Webb reviewed projects related to the Accelerated CIP Program which include design and land acquisition for several road projects, Lakewood Park lighting, and an engine for Fire Station #4. The Accelerated CIP Program will include a \$3.8 million draw-down on the Town's fund balance in FY 2021-2022. Under the accelerated plan, the fund balance will remain between 25%-28% over the next five years.

Ms. Pamplin reviewed the remaining key dates for the adoption of the FY 2021-2022 budget and tax rate. A Public Hearing on the tax rate will be held on September 14, 2021, and the Council will consider the Proposed Budget and Tax Rate on the same date. The new fiscal year begins on October 1, 2021.

Mayor Smith opened the Public Hearing.

Kristi Davis, 4531 Desert Willow Drive, Prosper, did not wish to speak, but expressed her opposition to any budget that doesn't also include at least a 2-cent tax rate reduction.

Paul Rattin, 4451 Liberty Drive, Prosper, did not wish to speak, but expressed his opposing to any budget that does not (1) reduce the tax rate by 2 cents; (2) accelerate projects that relate to improved public safety and infrastructure; (3) reduce over-saving; and, (4) better justify the proposed spending increases.

Jason Dixon, 1050 High Willow, Prosper, encouraged the Council to hold fast to the decisions made by previous Councils and prioritize projects that are shovel-ready.

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

The Council discussed the projected revenues and expenditures in the Proposed FY 2021-2022 budget, and Councilmember Cotten suggested that the Town could still accelerate the CIP projects with a 2-cent reduction in the tax rate.

No further action was taken.

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

No action was taken on this item.

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:

Section 551.087 – To discuss and consider economic development incentives.

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.

Section 551.074 – To discuss and consider personnel matters and all matters incident and related thereto.

Section 551.071 – Consultation with Town Attorney regarding Town of Prosper v. C.W. Young Construction Co., L.P., et al., Cause No. 17-7725-367, pending in the 431st Judicial District Court of Denton County, Texas.

The Town Council recessed into Executive Session at 7:33 p.m.

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

The Town Council reconvened the Regular Session at 8:20 p.m. Councilmember Hodges did not rejoin the meeting after the Executive Session.

Mayor Pro-Tem Miller made a motion and second by Councilmember Cotten to authorize the Town Manager to execute an Amended and Restated Development Agreement between the Town of Prosper and Prosper Residences, LLC, subject to the Town's finalization of engineering exhibits and cost estimates, as well as an estoppel letter related to the notice of sale to Prosper Residences, LLC. The motion was approved by a vote of 5-0.

Mayor Pro-Tem Miller made a motion and Deputy Mayor Pro-Tem Andres seconded the motion to authorize the Town Manager to execute a Compromise Settlement Agreement and General Release of All Claims in the litigation styled *Town of Prosper v. C.W. Young Construction, L.P., et al.*, Cause No. 17-7725-637, pending in the 367th Judicial District Court of Denton County, Texas, and to take all other actions incident and related thereto. The motion was approved by a vote of 5-0.

Adjourn.

The meeting was adjourned at 8:23 p.m. on August 24, 2021.

These minutes approved on the 14th day of September 2021.

APPROVED:

Ray Smith, Mayor

ATTEST:

Robyn Battle, Interim Town Secretary

DRAFT