



MINUTES
Prosper Town Council Meeting
Prosper Town Hall, Council Chambers
250 W. First Street, Prosper, Texas
Tuesday, April 16, 2024

Call to Order/ Roll Call.

The meeting was called to order at 6:15 p.m.

Council Members Present:

Mayor David F. Bristol
Deputy Mayor Pro-Tem Marcus E. Ray
Councilmember Amy Bartley
Councilmember Chris Kern
Councilmember Jeff Hodges
Councilmember Charles Cotten

Council Members Absent:

Mayor Pro-Tem Craig Andres

Staff Members Present:

Mario Canizares, Town Manager
Michelle Lewis Sirianni, Town Secretary
Jeremy Page, Town Attorney
Chuck Ewings, Assistant Town Manager
Mary Ann Moon, Economic Development Director
Leigh Johnson, IT Director
Chris Landrum, Finance Director
Hulon Webb, Director of Engineering Services
David Hoover, Development Services Director
Dan Baker, Parks and Recreation Director
Todd Rice, Communications and Media Relations Manager
Doug Kowalski, Police Chief

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

Jason McConnell with Prosper United Methodist Church led the invocation. The Pledge of Allegiance and the Pledge to the Texas Flag were recited.

Announcements of recent and upcoming events.

Councilmember Kern made the following announcements:

Registration is now open for the upcoming Prosper Citizens Fire Academy. Join us and dive deeper into the world of your local Fire Department. Classes will run for 10 weeks, every Thursday evening from 6:30 to 9:00 p.m., starting August 1. Space is limited, and registration closes on July 11! Visit prospertx.gov/citizensfireacademy to register and for additional information.

Join us on Saturday, April 27 from 9 am to noon for a memorable morning in Downtown Prosper full of tail-wagging excitement, delightful treats, and adorable keepsakes! The Paws on Broadway paw-ty will be filled with family entertainment, laughter, and special moments at every turn. For more information, visit the Special Events page under the Parks and Recreation Department or email events@prospertx.gov.

On Saturday, April 27, residents may dispose of prescription drugs through the National Prescription Drug Take-Back Day at the Central Fire Station located at 911 Safety Way from 10:00 a.m. until 2:00 p.m. This is a safe way to get rid of any prescription pills and controlled substance medications.

Youth Summer Camp Registration is now open. Prosper summer camps will keep your child moving, thinking, and meeting friends. Visit prospertx.gov/programs to register and for additional information such as camp descriptions, dates, times, locations, and rates.

Join us in observing the National Day of Prayer on Thursday, May 2. The gathering begins at 11:30 a.m. on the north side of Town Hall with prayer and worship service beginning at noon.

Join us on Saturday, May 4 for Movie Night featuring the movie Star Wars: The Rise of Skywalker from 6:30 p.m. to 10:30 p.m. The movie will begin at 7:30 p.m. Remember to bring your blanket and chairs. This community event is offered at no charge. For more information, visit the Special Events page under the Parks and Recreation Department or email events@prospertx.gov.

Mr. Canizares congratulated the Prosper High School girls soccer team on their state victory.

Presentations.

- 1. Proclamation recognizing April 14-20, 2024, as National Public Safety Telecommunicators Week. (MLS)**

Mayor Bristol read and presented a Proclamation to members of the Prosper Dispatch and Telecommunicators team.

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 at the request of Council Members or staff.

- 2. Consider and act upon the minutes from the March 26, 2024, Town Council Work Session meeting. (MLS)**
- 3. Consider and act upon the minutes from the March 26, 2024, Town Council Regular meeting. (MLS)**
- 4. Consider and act upon authorizing the Town Manager to enter into a Professional Services Agreement with Burgess and Niple for wastewater line smoke testing services. (CE)**
- 5. Consider and act upon approval of Ordinance 2024-30 amending and adopting the Town of Prosper 2024 Water Conservation Plan and Water Resource and Emergency Management Plan. (CE)**
- 6. Consider and act upon authorizing the Town Manager to enter into an agreement with Fuquay, Inc., to rehabilitate 20 wastewater manholes. (CE)**
- 7. Consider and act upon awarding CSP No. 2024-15-A to The Christmas Light Company, related to annual Christmas Display Services; and authorizing the Town Manager to execute a contract for the same. (DB)**
- 8. Consider and act upon approving a Professional Services Agreement between Parkhill and the Town of Prosper, Texas, for the preparation of plans and**

construction documents for hike & bike trail connections within the Doe Branch Property and authorizing the Town Manager to execute documents for the same. (DB)

9. Consider and act upon approving a Professional Services Agreement between Parkhill and the Town of Prosper, Texas, for the preparation of a conceptual rendering and plans and construction documents for screening elements and trail / sidewalk within the Right of Way along Prosper Trail and authorizing the Town Manager to execute documents for the same. (DB)
10. Consider and act upon approving a Professional Services Agreement between Knight Erosion Control Inc. and the Town of Prosper, Texas, for the design and construction of erosion control improvements in Frontier Park and the Doe Branch Property and authorizing the Town Manager to execute documents for the same. (DB)
11. Consider and act upon authorizing the Town Manager to execute the First Amendment to the Roadway Construction Reimbursement Agreement between MSW Prosper 380 II, LP, and the Town of Prosper, Texas, related to the construction of roadways within the Town's Tax Increment Reinvestment Zone No. 2 (TIRZ No. 2). (HW)
12. Consider and act upon authorizing the Town Manager to execute a Development Agreement between Hunt Wandering Creek Land, LLC, and the Town of Prosper relative to Wandering Creek. (DH)
13. Consider and act upon whether to direct staff to submit a written notice of appeals 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 Preliminary Site Plans and Site Plans. (DH)

Councilmember Kern requested to pull item 9.

Deputy Mayor Pro-Tem Ray requested to pull items 10, 11, and 12.

Councilmember Hodges made a motion to approve consent agenda items 2 through 8, and 13. Councilmember Cotten seconded the motion. Motion carried with a 6-0 vote.

Regarding item 9, Councilmember Kern expressed concern about the timing of the project. Mayor Bristol asked about accelerating the project, and Councilmember Cotten expressed concerns about the budget and funds for the overall cost of the project.

Mr. Baker commented on how the scope of the project has evolved with the addition of the wall with the screening elements. The total cost of the design services is \$157,000 with total project budget funds of \$750,000.

Councilmember Bartely made a motion to approve a Professional Services Agreement between Parkhill and the Town of Prosper, Texas, for the preparation of a conceptual rendering and plans and construction documents for screening elements and trail / sidewalk within the Right of Way along Prosper Trail and authorizing the Town Manager to execute documents for the same. Deputy Mayor Pro-Tem Ray seconded that motion. Motion carried with a 4-2 vote with Councilmembers Kern and Cotten voting in opposition.

Regarding item 10, Deputy Mayor Pro-Tem Ray expressed concerns about costs associated with the two different projects and material being used.

Mr. Baker summarized the details of each project and the costs associated with each.

Deputy Mayor Pro-Tem Ray made a motion to approve a Professional Services Agreement between Knight Erosion Control Inc. and the Town of Prosper, Texas, for the design and construction of erosion control improvements in Frontier Park and the Doe Branch Property and authorizing the Town Manager to execute documents for the same. Councilmember Bartely seconded that motion. Motion carried with a 6-0 vote.

Regarding item 11, Deputy Mayor Pro-Tem Ray questioned the timing sequence of notifications to staff, and if any costs were being incurred. Mr. Canizares verified contract expiration date.

The Town Council discussed penalties with the extension of the contract, project delays, enforcement provisions, and contingency costs.

Councilmember Bartley made a motion to table authorizing the Town Manager to execute the First Amendment to the Roadway Construction Reimbursement Agreement between MSW Prosper 380 II, LP, and the Town of Prosper, Texas, related to the construction of roadways within the Town's Tax Increment Reinvestment Zone No. 2 (TIRZ No. 2) to April 30, 2024. Deputy Mayor Pro-Tem Ray seconded that motion. Motion carried with a 6-0 vote.

Regarding item 12, Deputy Mayor Pro-Tem Ray asked about the materials listed within the Planned Development Ordinance versus the Development Agreement.

Mr. Hoover explained that the original ordinance was approved before the passing of the state law that prohibits municipalities from regulating building materials; therefore, no development agreement was necessary at that time. The proposed Development Agreement addresses the alterations requested by the developer regarding roofing requirements and clarifies some regulations listed in the Planned Development.

Deputy Mayor Pro-Tem Ray made a motion to approve authorizing the Town Manager to execute a Development Agreement between Hunt Wandering Creek Land, LLC, and the Town of Prosper relative to Wandering Creek. Councilmember Bartley seconded that motion. Motion carried with a 6-0 vote.

CITIZEN COMMENTS

No comments were made.

Items for Individual Consideration:

- 14. Conduct a public hearing and consider and act upon a request for a Specific Use Permit (SUP) to allow a Licensed Child-Care Center use, on 2.0± acres, on Barnes Addition, Block A, Lot 1, located on the east side of Parvin Street and 190± feet south of Seventh Street. (ZONE-23-0038) (DH)**

Mr. Hoover stated the purpose of the request and indicated that the applicant plans to convert an existing residential home into the proposed child-care center. Mr. Hoover identified the location, the surrounding zoning, criteria of an SUP, and outlined the applicant's proposal. The applicant is requesting two conditions to be considered. The Planning and Zoning Commission recommended approval subject to conditions of the

landscape easement on the northern boundary shall be a minimum of ten feet, and the screening around the property shall be a six-foot masonry wall. Staff is recommending approval with the listed conditions.

Mr. Oelfke spoke on the applicant's behalf. He stated that the applicants desired to convert the house into a child-care center with classrooms, a barn, and a greenhouse. They would also like to place softer landscaping materials along the fence versus masonry.

Mayor Bristol opened the public hearing.

No comments were made.

Mayor Bristol closed the public hearing.

The Town Council discussed the surrounding land uses and location, fencing materials, the purpose of the barn, and animals.

Councilmember Cotten made a motion to approve a request for a Specific Use Permit (SUP) to allow a Licensed Child-Care Center use, on 2.0± acres, on Barnes Addition, Block A, Lot 1, located on the east side of Parvin Street and 190± feet south of Seventh Street subject to the recommendations from the Planning and Zoning Commission.

Motion fails due to lack of second.

Councilmember Hodges made a motion to deny a request for a Specific Use Permit (SUP) to allow a Licensed Child-Care Center use, on 2.0± acres, on Barnes Addition, Block A, Lot 1, located on the east side of Parvin Street and 190± feet south of Seventh Street. Councilmember Bartley seconded that motion. Motion carried with a 5-1 vote. Councilmember Cotten voting in opposition.

15. Conduct a public hearing and consider and act upon a request to rezone 0.3± acres on Prosper Central Addition, Block 1, Lot 1 from Single Family-15 to Planned Development–Downtown Office to allow multifamily, office, and retail uses, located on the northeast corner of Coleman Street and Sixth Street. (ZONE-23-0029) (DH)

Mr. Hoover stated this item was previously presented to the Town Council at their March 26 meeting. Based on the feedback received, staff went back to the applicant to address their concerns. Mr. Hoover reviewed the request and item noting the Development Agreement, which follows this item addresses the parking conditions, hours of operation, sign restrictions, and extension of the fence. Staff recommends approval.

Mayor Bristol opened the public hearing.

No comments were made.

Mayor Bristol closed the public hearing.

The Town Council discussed further concerns about the garages, parking, and location of the project.

Deputy Mayor Pro-Tem Ray made a motion to deny a request to rezone 0.3± acres on Prosper Central Addition, Block 1, Lot 1 from Single Family-15 to Planned Development–Downtown Office to allow multifamily, office, and retail uses, located on

the northeast corner of Coleman Street and Sixth Street. Councilmember Hodges seconded that motion. Motion failed with a 2-4 vote.

Councilmember Bartley made a motion to approve a request to rezone 0.3± acres on Prosper Central Addition, Block 1, Lot 1 from Single Family-15 to Planned Development–Downtown Office to allow multifamily, office, and retail uses, located on the northeast corner of Coleman Street and Sixth Street. Councilmember Kern seconded that motion. Motion carried with a 4-2 vote. Deputy Mayor Pro-Tem Ray and Councilmember Hodges voting in opposition.

16. Consider and act upon authorizing the Town Manager to execute a Development Agreement between O E 6th, LLC, and the Town of Prosper relative to Prosper Central Addition, Block 1, Lot 1. (DH)

Mr. Hoover stated this is a companion item to agenda item 15. The Development Agreement addresses building materials, fencing, parking areas, Coleman Street façade, signage, and paving of the alleyway. Staff recommends approval.

The Town Council briefly discussed storage within garages and enforcement.

Councilmember Bartley made a motion to approve a Development Agreement between O E 6th, LLC, and the Town of Prosper relative to Prosper Central Addition, Block 1, Lot 1. Councilmember Cotten seconded that motion. Motion carried with a 6-0 vote.

17. Consider and act upon authorizing the Town Manager to execute an Amendment to Participating Member Contract between the Upper Trinity Regional Water District, and the Town of Prosper, Texas, related to subscribing for additional wastewater treatment capacity associated with the expansion of the Doe Branch Water Reclamation Plant. (CE)

Mr. Ewings stated this item was tabled to allow for the Finance and CIP Subcommittees to review the proposed project and costs. Both committees have since met and recommended support for the proposed agreement. Town staff has reviewed options to include a Town constructed treatment plant or constructing additional lift stations and force mains to send flow to the Wilson Creek Plant. Constructing a Town operated plant would have a similar cost and additional lift stations may not provide the needed capacity along with significant maintenance costs. Mr. Ewings reviewed the terms of the contract amendment and the Town's share of estimated costs. Staff is recommending approval.

Councilmember Hodges asked what would happen if the Town did not approve. Mr. Ewings explained the Town is incurring daily surcharges for going over capacity. The Town could build their own and/or expand their current lift station.

Deputy Mayor Pro-Tem Ray made a motion to approve authorizing the Town Manager to execute an Amendment to Participating Member Contract between the Upper Trinity Regional Water District, and the Town of Prosper, Texas, related to subscribing for additional wastewater treatment capacity associated with the expansion of the Doe Branch Water Reclamation Plant. Councilmember Hodges seconded that motion. Motion carried with a 6-0 vote.

18. Discuss and consider Town Council Subcommittee reports. (DFB)

Legislative Subcommittee: Mayor Bristol noted the meeting was rescheduled to next month.

Finance Subcommittee: Deputy Mayor Pro-Tem Ray stated the committee reviewed the Upper Trinity Regional Water District item.

CIP Subcommittee: Councilmember Cotten stated they also reviewed the Upper Trinity Regional Water District item along with the Prosper Trail project. He indicated that they meet again on April 29 to review additional projects.

Downtown Advisory Committee: Councilmember Kern stated the committee met with and interviewed three (3) design firms regarding the arches for Downtown.

Community Engagement Committee: Councilmember Bartley stated the committee is reaching out to HOA's and other entities to be a part of their community events to reach out and engage with residents.

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

No comments were made.

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 and all matters incident and related thereto.

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 - To consult with the Town Attorney regarding legal issues associated with Article 1.09 and Article 8.03 of the Town's Code of Ordinances, and Chapter 214 of the Texas Local Government Code, and all matters incident and related thereto.

The Town Council recessed into Executive Session at 8:15 p.m.

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

The Town Council reconvened into Regular Session at 9:38 p.m.

Deputy Mayor Pro-Tem Ray made a motion to authorize the Town Manager to execute all documentation related to the sale of an approximate 0.165 acre tract of Town property, generally located at the southwest corner of Fishtrap Road and Red Fox Drive, to the Texas Department of Transportation (TxDOT). Councilmember Hodges seconded that motion. Motion carried with a 5-0 vote. Councilmember Cotten was not present during the vote.

Adjourn.

The meeting was adjourned at 9:39 p.m.

These minutes were approved on the 30th day of April 2024.

APPROVED:

David F. Bristol, Mayor

ATTEST:

Michelle Lewis Sirianni, Town Secretary

DRAFT