



## MINUTES

**Prosper Town Council Meeting**  
Prosper Town Hall, Council Chambers  
250 W. First Street, Prosper, Texas  
Tuesday, June 27, 2023

### **Call to Order/ Roll Call.**

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

### **Council Members Present:**

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

### **Staff Members Present:**

Mario Canizares, Town Manager  
Michelle Lewis Sirianni, Town Secretary  
Terry Welch, Town Attorney  
Bob Scott, Deputy Town Manager  
Robyn Battle, Executive Director  
Chuck Ewings, Assistant Town Manager  
Mary Ann Moon, Economic Development Director  
David Hoover, Development Services Director  
Hulon Webb, Director of Engineering  
Pete Anaya, Assistant Director of Engineering  
Frank Jaromin, Public Works Director  
Lindy Higginbotham, Senior Engineer  
Chris Landrum, Finance Director  
Jay Carter, Purchasing Manager  
Dan Baker, Parks & Recreation Director  
Leslie Scott, Library Services Director  
Todd Rice, Communications Manager  
David Soto, Planning Manager  
Jessika Hotchkin, Help Desk Technician  
Kellen Land, Help Desk Technician  
Eric Men, Help Desk Technician  
Doug Kowalski, Police Chief  
Scott Brewer, Assistant Police Chief  
Stuart Blasingame, Fire Chief

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

Matt Lankenau with Gateway 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:

The annual Pride in the Sky Independence Day Celebration held by Cedarbrook Media will take place on Saturday, July 1 at Frontier Park. Festivities begin at 5:00 p.m. and will include live

music, Kid Zones, food, games, and fireworks set to music. Come out for a night of celebration and fun.

A reminder that Town Hall Offices will be closed on Tuesday, July 4 for the Independence Day Holiday. Due to the holiday, residents whose trash service falls on Tuesday will be delayed by one day.

The Discover Downtown series continues Saturday, July 22 with Coffee & Chrome, a car show which will be hosted in the Prosper Town Hall parking lot from 7:30 a.m. to 10:30 a.m. This event will showcase vehicles and exhibits with car-related products and services. All vehicles are welcome and there is no charge to participate. Applications are being accepted for those interested in being part of the event. Visit the Town's website for more information.

Residents can now register for summer camps offered through the Parks and Recreation Department. Visit the Town's website for more information.

The summer season of the Mayor's Fitness Challenge is underway and lasts through August 31. Stay engaged in your commitment to fitness by receiving emails about fun giveaways and promotions from our summer fitness partners. Register now to be included in the first giveaway, a Nutrition Workshop led by Lynne Lenhart. Visit the Parks and Recreation website page to register along with additional information regarding this year's challenge.

Lastly, our Prosper Community Library staff, Sharon Alderton and Leslie Scott presented a poster session at the American Library Association Annual Conference on June 25th. Their poster titled "You can do it! Planning, marketing, and presenting opportunities for children and families with special needs" had over 300 attendees where staff received feedback and had conversations regarding their programs designed specifically for these children and families.

Deputy Mayor Pro-Tem Ray announced the library parade on Thursday.

Mayor Bristol expressed appreciation to the Fire Department for allowing him to spend the day with them and experience being on the ladder truck.

### **Presentations.**

#### **1. Receive an update regarding the road construction project located at First Street and Coit Road. (HW)**

Mr. Webb introduced Brad Missler, Vice President of Operations with Sinacola. Mr. Missler presented an update including an aerial overview of the status of the road project. Mr. Missler ensured the Town Council the accelerated project would be completed by August 8.

Mr. Todd Shirley, Chief of Construction and Design for Prosper ISD stated they were pleased with the work thus far and the appreciation of accelerating this project. The ISD will take ownership of the school on August 1 with school beginning on August 9.

#### **2. Receive an update on Parks and Recreation projects. (DB)**

Mr. Baker provide an update on the following Parks and Recreation projects including Raymond Community Park, the Lakewood Preserve development, Pecan Grove Park, and the Parks and Recreation Department accreditation.

### **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.

3. **Consider and act upon the minutes from the June 13, 2023, Town Council Work Session meeting. (MLS)**
4. **Consider and act upon the minutes from the June 13, 2023, Town Council Regular meeting. (MLS)**
5. **Consider acceptance of the October, November, and December 2022 monthly financial reports and quarterly financial summary. (CL)**
6. **Consider adoption of Resolution 2023-43 directing publication of notice of intention to issue certificates of obligation for the purpose of funding costs associated with the construction of water and wastewater improvements. (CL)**
7. **Consider and act upon approving the purchase of miscellaneous water and wastewater materials from Fortiline Waterworks, utilizing NCPA Contract Number 02-76; and authorizing the Town Manager to execute documents for the same. (FJ)**
8. **Consider and act upon authorizing the Town Manager to execute a Relocation Agreement between Atmos Energy Corporation, and the Town of Prosper, Texas, related to the relocation of approximately 650-feet of 6-inch Steel Gas Pipeline Crossing Gee Road to serve the Gee Road (Fishtrap – Windsong Retail) project. (HW)**
9. **Consider and act upon authorizing the Town Manager to execute a Professional Engineering Services Agreement between Kimley-Horn and Associates, Inc., and the Town of Prosper, Texas, related to the design of the Gee Road (US 380 – FM 1385) project. (HW)**
10. **Consider and act upon authorizing the Town Manager to execute an Interlocal Cooperation Agreement between Denton County, Texas, and the Town of Prosper, Texas, related to the engineering, right-of-way acquisition, utility relocations, inspections, and construction of Gee Road (FM 1385) as a six-lane divided urban roadway between US 380 and FM 1385. (HW)**
11. **Conduct a public hearing and consider and act upon a request for a Specific Use Permit (SUP) for a new Wireless Communications and Support Structure, on .1± acre, located on the south side of Frontier Parkway, west of Talon Lane. (ZONE-23-0008) (DS)**
12. **Conduct a public hearing and consider and act upon a request to rezone 0.3± acres from Single Family-15 (SF-15) to Downtown Retail (DTR), on Lots 3-5, located south of Fifth Street and East of Main Street. (ZONE-23-0001) (DS)**
13. **Consider and act upon Ordinance 2023-39 to rezone 5.7± acres from Office (O) to Planned Development-Office (PD-O), located on the west side of Mahard Parkway, south of Prairie Drive, specifically to allow for a limited-service hotel. (Z22-0002) (DS)**

14. Consider and act upon authorizing the Town Manager to execute a Development Agreement between Prosper Premier Hotel LLC and the Town of Prosper, related to the Prosper Center Development, located on the west side of Mahard Parkway, south of Prairie Drive, specifically to allow for a limited-service hotel. (DEVAGRE-23-0010) (DS)
15. 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 any Preliminary Site Plans and Site Plans including Ladera Phase 2, Richland Parkway Retail Development, Frontier Retail, Toyota Expansion, PISD High School, and One Community Church. (DS)

Staff requested to pull items 13 and 14.

Mayor Bristol requested to pull item 6.

Deputy Mayor Pro-Tem Ray made a motion to approve consent agenda items 3 thru 5, 7 thru 12, and 15. Mayor Pro-Tem Hodges seconded that motion. Motion carried unanimously.

*Mayor Pro-Tem Andres left the dais.*

Councilmember Cotten made a motion to approve consent agenda items 13 and 14. Councilmember Bartley seconded that motion. Motion carried with a 6-0 vote.

*Mayor Pro-Tem Andres returned to the dais.*

Mayor Bristol stated for item 6, he requested to pull the item for transparency since the Town was issuing debt for water and wastewater projects.

Mayor Bristol made a motion to approve consent agenda item 6. Councilmember Hodges seconded that motion. Motion carried unanimously.

### **CITIZEN COMMENTS**

No comments were made.

### **Items for Individual Consideration:**

16. Consider authorizing the Town Manager to enter into a contract with Republic Services including purchase and distribution of carts for the period February 1, 2024 ending January 31, 2031 with an option of three, one-year renewals, declaring an exclusive franchise in the Town for all solid waste services which include residential, commercial, industrial and construction disposal as allowed by state law and to provide for transition services by either its current provider, Republic or both in the intervening period until February 1, 2024. (RBS)

Mr. Scott provided a background of the Town's current contract and the request for proposals that was released. The Town received six proposals with two determined to be non-responsive. A consultant evaluated all proposals with the remaining four proposals being evaluated by a selection committee. Site visits were done with the two finalists. While price to both residential and commercial customers was an

important consideration, other factors including resources pledged and the ability to negotiate a contract were also important. Following the Best and Final Offer, total contract value/estimated cost to both residential and commercial customers was less than 1% different between the two proposers making other factors more important. Republic pledged eight Automated Side Loaders (ASL) to the contract and substantially agreed to liquidated damage provisions (penalties for non-performance) as proposed in the RFP. CWD proposed their current five ASLs and requested substantial changes that weakened the liquidated damage provisions. The additional resources proposed by Republic position them to respond to both rapid growth and unforeseen circumstances such as weather delays or equipment failures. For these reasons, staff recommends award to Republic Services.

Mr. Roemer, President of CWD spoke to the Town Council regarding the partnership and community involvement they have had with the Town, the cost differentials presented, their current equipment and adjustments made on the growth in the Town, and liquidated damages. Mr. Roemer requested the Town Council take these items into account when making their decision.

Cheryl Brock, Municipal Manager with Republic Services, spoke to the liquidated damages, where their current facilities are located, and the quality of service(s) they are able to provide.

The Town Council discussed the purchasing of the carts and what that means for the residents, along with the transition services. The Town Council expressed their appreciation to the current provider for their community involvement.

Councilmember Cotten made a motion to approve authorizing the Town Manager to enter into a contract with Republic Services including purchase and distribution of carts for the period February 1, 2024 ending January 31, 2031 with an option of three, one-year renewals, declaring an exclusive franchise in the Town for all solid waste services which include residential, commercial, industrial and construction disposal as allowed by state law and to provide for transition services by either its current provider, Republic or both in the intervening period until February 1, 2024. Councilmember Bartely seconded that motion. Motion carried unanimously.

- 17. Conduct a public hearing and consider and act upon a request to rezone 69.9± acres from Agriculture (A), a portion of Planned Development-40 (PD-40), and a portion of Single Family-12.5 (SF-12.5) to Planned Development-Single Family (PD-SF), generally to allow for a residential development and retirement housing development, located on the southeast corner of Prosper Trail and Teel Parkway. (Z21-0010) (DS)**

Mr. Soto introduced the item noting the modifications of the request that now reflects one tract versus two and is to include 170 single family detached lots. The request does conform with the Town's Comprehensive Plan. The Planning and Zoning Commission recommended denial with a vote of 3-2 due to the density, lot size average, the amenities, floodplain, and concerns of street access points. Mr. Soto noted that staff received five notices of opposition. Of those, one was withdrawn and the remaining four are from citizens in Artesia. Due to the concerns from the Planning and Zoning Commission, staff has requested the applicant to address all the concerns. The concerns were not addressed at the time of the packet, therefore, staff requested denial. However, a new conceptual plan was submitted day of the meeting. Therefore, staff has not been able to review prior to the meeting.

Bill Aderson, Senior Vice President, representing the applicant presented the revised changes of the plan.

Mayor Bristol opened the public hearing.

Mr. Garza, 2313 Commons Way, stated that he lives in Artesia and is requesting to be kept informed on the project due to the location and proximity to their neighborhood.

Vijay Borra stated he was hired to develop the property and assured the Town Council of the quality of the homes that would be built.

Mayor Bristol closed the public hearing.

The Town Council discussed the density in comparison to neighboring subdivisions, proposed amenities, access points (ingress/egress), concerns of open fencing along trails and major roadway(s), including enhanced landscaping and berming, and setbacks. The Town Council also preferred to have the Planning and Zoning Commission review since they have not seen the revised plan.

Mayor Pro-Tem Andres made a motion to table a request to rezone 69.9± acres from Agriculture (A), a portion of Planned Development-40 (PD-40), and a portion of Single Family-12.5 (SF-12.5) to Planned Development-Single Family (PD-SF), generally to allow for a residential development and retirement housing development, located on the southeast corner of Prosper Trail and Teel Parkway to July 25, 2023. Deputy Mayor Pro-Tem Ray seconded the motion. Motion carried unanimously.

**18. Conduct a public hearing and consider and act upon a request for a Specific Use Permit (SUP) for a new Wireless Communications and Support Structure, on .1± acre, located on the south side of Prosper Trail, west of Preston Country Lane. (ZONE-22-0001) (DS)**

Mr. Soto introduced the item stated the SUP shows four (4) Wireless Communication antennas that would be placed on the structure and their associated lease area. The antennas would be screened and not visible to the surrounding area. The Planning and Zoning Commission approved the request by a vote of 4-0. However, staff did receive one reply form in opposition due to the proximity of the tower. Staff recommends approval.

Bill Bowman, applicant, noted the location of the tower and a comparison of current coverage versus the coverage once the wireless communications are installed.

Mayor Bristol opened the public hearing.

No comments were made.

Mayor Bristol closed the public hearing.

The Town Council discussed the proposed location and questioned if other locations were considered, the type of structure, and any possible alternatives.

Deputy Mayor Pro-Tem Ray made a motion to deny a request for a Specific Use Permit (SUP) for a new Wireless Communications and Support Structure, on .1± acre, located on the south side of Prosper Trail, west of Preston Country Lane. (ZONE-22-0001). Mayor Pro-Tem Andres seconded that motion. Motion carried with a 6-1 vote. Councilmember Hodges voting in opposition.

*The Town Council recessed for a five-minute break.*

**19. Consider and act upon Ordinance 2023-41 establishing a Homestead Tax Exemption. (CL)**

Mr. Landrum introduced the item and provided a timeline of when the Town Council increased their exemption. The current rate of twelve and a half percent (12.5%) was raised for the fiscal year 2022-2023. The Finance staff presented multiple homestead exemption rate options to the Finance Subcommittee with a recommendation of raising the exemption rate to fifteen percent (15%).

Councilmember Cotten made a motion to approve 2023-41 establishing a Homestead Tax Exemption of fifteen percent (15%). Councilmember Hodges seconded the motion. Motion carried unanimously.

**20. Consider all matters incident and related to the issuance and sale of "Town of Prosper, Texas, General Obligation Refunding and Improvement Bonds, Series 2023", including the adoption of an ordinance authorizing the issuance of such bonds and establishing procedures and delegating authority for the sale and delivery of such bonds. (CL)**

Mayor Bristol stated this item is being tabled to a future meeting.

**21. Consider and act upon Resolution 2023-42 of the Town Council of the Town of Prosper, Texas, declaring the public necessity to acquire certain properties for right-of-way, temporary construction easements, drainage easements, and water easement for the construction of the Legacy (Prairie – Fishtrap) – 4 lanes project; determining the public use and necessity for such acquisition; authorizing the acquisition of property rights necessary for said Project; appointing an appraiser and negotiator as necessary; authorizing the Town Manager to establish just compensation for the property rights to be acquired; authorizing the Town Manager to take all steps necessary to acquire the needed property rights in compliance with all applicable laws and resolutions; and authorizing the Town Attorney to institute condemnation proceedings to acquire the property if purchase negotiations are not successful. (HW)**

Mr. Webb stated this item is to allow the Town to proceed if needed if negotiations fail. Mr. Webb reminded the Town Council the item requires a roll call vote.

Mayor Pro-Tem Andres made a motion to approve a Resolution 2023-42 of the Town Council of the Town of Prosper, Texas, declaring the public necessity to acquire certain properties for right-of-way, temporary construction easements, drainage easements, and water easement for the construction of the Legacy (Prairie – Fishtrap) – 4 lanes project; determining the public use and necessity for such acquisition; authorizing the acquisition of property rights necessary for said Project; appointing an appraiser and negotiator as necessary; authorizing the Town Manager to establish just compensation for the property rights to be acquired; authorizing the Town Manager to take all steps necessary to acquire the needed property rights in compliance with all applicable laws and resolutions; and authorizing the Town Attorney to institute condemnation proceedings to acquire the property if purchase negotiations are not successful. Councilmember Cotten seconded the motion.

Councilmember Cotton – In Favor  
Councilmember Hodges – In Favor

Deputy Mayor Pro-Tem Ray – In Favor  
Councilmember Kern – In Favor  
Councilmember Bartley – In Favor  
Mayor Bristol – In Favor

Motion carried unanimously.

**22. Discuss and consider Town Council Subcommittee reports. (DB)**

Councilmember Bartley provided an update on the CPAC Committee. They have been reviewing and received changes of the draft, which is slated to go to the Planning and Zoning Commission in August and to the Town Council in August or September.

**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.*

The Town Council recessed into Executive Session at 9:40 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 10:12 p.m.

Mayor Pro-Tem Andres made a motion approve the LIV Development Agreement and to authorize the Town Manager to execute a Second Amended and Restated Development Agreement between the Town of Prosper, Texas and Prosper Residences. Councilmember Hodges seconded the motion. Motion carried unanimously.

**Adjourn.**

The meeting was adjourned at 10:13 p.m.

These minutes were approved on the 11<sup>th</sup> day of July 2023.

**APPROVED:**

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**David F. Bristol, Mayor**



**ATTEST:**

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**Michelle Lewis Sirianni, Town Secretary**

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