



*Prosper is a place where everyone matters.*

## MINUTES

### Prosper Town Council Meeting

Council Chambers

Prosper Town Hall

250 W. First Street, Prosper, Texas

Tuesday, January 11, 2022

5:45 PM

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

The meeting was called to order at 5:45 p.m.

#### **Council Members Present:**

Mayor Ray Smith

Mayor Pro-Tem Meigs Miller

Deputy Mayor Pro-Tem Craig Andres

Councilmember Marcus E. Ray

Councilmember Charles Cotten

Councilmember Amy Bartley

#### **Council Members Absent:**

Councilmember Jeff Hodges

#### **Staff Members Present:**

Harlan Jefferson, Town Manager

Terry Welch, Town Attorney

Michelle Lewis Sirianni, Town Secretary

Rebecca Zook, Executive Director of Development and Infrastructure Services

Hulon Webb, Engineering Services Director

Khara Dodds, Development Services Director

Leigh Johnson, IT Director

Betty Pamplin, Finance Director

Doug Kowalski, Police Chief

Alex Glushko, Planning Manager

Brady Cudd, Building Official

Lindy Higginbotham, Senior Engineer

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

Mike Martin with Hope Fellowship led the invocation. The Pledge of Allegiance and the Pledge to the Texas Flag were recited.

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

Councilmember Cotten made the following announcements:

Residents are still able to drop off their live Christmas tree through January 14 at the drop-off site located at the Central Fire Station, 1500 E. First Street. Service is open to all Prosper residents and businesses free of charge.

Reminder that Town offices will be closed Monday, January 17 for the Martin Luther King Jr. Holiday. There will be no trash service delays due to the holiday.

Prosper families, get ready to jump start your fitness routine after the holidays with this year's Mayor's Fitness Challenge! For 90 days, residents are encouraged to get back on track with their wellness and fitness routines. If you successfully track an average of 90 minutes per week over the course of the Challenge and turn in a completed tracking sheet you, you will earn a free t-shirt and be entered to win a Fitbit. Any of type of exercise qualifies as trackable minutes and all ages are eligible to participate. The Challenge begins January 18 through April 18. Registration details and tracking sheets will be available soon. For more information, contact the Parks and Recreation Department or check the Town's website for updates.

Join Mayor Ray Smith and Prosper ISD Superintendent Dr. Holly Ferguson at the Prosper ISD Children's Health Stadium Community Room on Thursday, January 20 for a year-end recap and what exciting things are ahead in 2022. This year's State of the Community will revisit moments and milestones of 2021 as well as share the future vision as we move forward into 2022. Opportunities to join virtually or in-person will be available. For those who wish to attend in person, doors will open at 5:30 p.m. and the program will begin at 6 p.m. Thank you to this year's sponsors Texas Health Neighborhood Care & Wellness, CWD, and Linebarger.

#### **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 November 30, 2021, Town Council Special meeting. (MLS)**
- 2. Consider and act upon the minutes from the December 14, 2021, Town Council meeting. (MLS)**
- 3. Receive the November Financial Report. (BP)**
- 4. Consider and act upon Resolution 2022-01 approving an update to the Prosper Community Library Policies. (LS)**
- 5. Consider and act upon approving an agreement for video streaming services with SwagIt Productions, LLC, through the Interlocal Purchasing System (TIPS); and authorizing the Town Manager to execute the same. (RB)**
- 6. Consider and act upon authorizing the Town Manager to execute a Development Agreement between Lucky 7 Retail, LLC, and the Town of Prosper, Texas, related to the Victory at Frontier development. (AG)**
- 7. Consider and act upon Ordinance 2022-02 for a Specific Use Permit (SUP) for a Restaurant with Drive-Through Service, on 1.2± acres, in the Victory at Frontier development, located on the west side of Preston Road, south of Frontier Parkway. The property is zoned Planned Development-10 (PD-10). (S21-0004). (AG)**

Mayor Pro-Tem Miller made a motion to approve consent agenda items 1 thru 7. Deputy Mayor Pro-Tem Andres seconded that motion, and the motion was unanimously approved.

#### **CITIZEN COMMENTS:**

No comments were made.

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

- 8. Conduct a public hearing and consider and act upon a request for a Specific Use Permit (SUP) for a Restaurant with Drive-Through Service in the Shops at Prosper Trail, on 1.1± acres, located on the east side of Preston Road, north of Prosper Trail. The property is zoned Planned Development-68 (PD-68). (S21-0005). (AG)**

Mr. Glushko stated the purpose of this request is to allow for a restaurant with drive-through service, totaling 750 square feet. The site includes adequate parking and stacking. The landscaping meets the minimum standards of the Town's Zoning Ordinance. The Planning and Zoning Commission recommended the Council deny the request by a 6-0 vote, noting concerns with the proposed use and building size. Staff has not received any responses to the request, and four residents expressed opposition to the request. Staff is recommending approval subject to approval of a Development Agreement, including, but not limited to, right-of-way and/or easement dedication, and architectural building materials.

Don Silverman, 4622 Maple Ave, Dallas, Developer, stated the materials and design are consistent with the current development as is the landscape screening. Mr. Silverman indicated there are two lanes proposed for the Drive-Through. One for the to-go orders and the other for pick-up. He stated due to the architectural changes made by the applicant, he is in favor of the request.

David Grates, Real Estate Team for Salad and Go, stated this restaurant is a Drive-Through only establishment that offers a low price point on their food items. Their hours of operation provide an earlier opening than other like establishments, but close by 9:00 p.m. each day. Mr. Grates stated the food is prepared and cooked at a location in Dallas and delivered daily to their locations. Therefore, the location is a prep only location. Their mission is to make each order in 90 seconds or less. Mr. Grates stated that they have worked with the Town to increase screening and altered the Site Plan several times to meet the Town's Standards, and they will continue to work with the Town to ensure that all concerns are addressed.

Mayor Smith opened the public hearing.

Dr. Chibuzor Okeke, 920 Circle Trail, is in opposition to the request.

Curt Mooney, 1230 Packsaddle Trail, stated the residents were assured that a Drive-Through restaurant would not be brought to this area. He expressed concerns of congestion and traffic, especially being off Preston Road. He is not in favor of having Drive-Throughs in the Town and if this one would be approved, it would set a precedent. Therefore, he is in opposition to the request.

David Adams, 1311 Packsaddle Trail, stated he lives directly across the street and expressed concerns of adding more traffic and congestion to this area, as well as future concerns of this location. He is opposed to the request.

Dhruv Soni, 1201 Clipston Drive, echoed comments of increased traffic, congestion, and future concerns of the area. He is opposed to the request.

Mayor Smith closed the public hearing.

Mayor Smith and Mayor Pro-Tem Miller recalled at the time when the development was first approved that the Town Council did not want multiple Drive-Throughs in the development nor next to each other. The Council also discussed the footprint of the building, possible future uses, location of the Drive-Through, and handle time per customer due to the establishment being a prep only location. The Council encouraged taller trees or longer berms on the western side of the lot.

Mayor Pro-Tem Miller made a motion to approve the request for a Specific Use Permit (SUP) for a Restaurant with Drive-Through Service in the Shops at Prosper Trail, subject to approval of a Development Agreement, including, but not limited to, right-of-way and/or easement dedication, and architectural building materials. Councilmember Cotten seconded that motion. Motion passed with a 5-1 vote. Councilmember Bartley opposed.

9. **Consider and act upon approving a Guaranteed Maximum Price (GMP) Amendment between Pogue Construction Co., L.P., and the Town of Prosper, related to the Public Safety Complex Phase 2 (Central Fire Station and Fire Administration) project; and authorizing the Town Manager to execute the same. (SB)**

Chief Blasingame stated that based on the Council's recommendations, they have continued to value engineer the project in order to bring the project in under budget. It was noted that if the item was not approved, the bids would expire, and staff would have to re-bid the project. Current anticipated completion date of the project is between March and May of 2023. Staff is recommending approval.

The Council discussed the contingency allowances within the agreement, Subcontractor Default Insurance (SDI), how and who reviewed the subcontractor bids, and risks of not approving the agreement due to the bids expiring.

Councilmember Ray made a motion to approve a Guaranteed Maximum Price (GMP) Amendment between Pogue Construction Co., L.P., and the Town of Prosper, related to the Public Safety Complex Phase 2 (Central Fire Station and Fire Administration) project; and authorizing the Town Manager to execute the same. Mayor Pro-Tem Miller seconded that motion. The motion passes with a 5-1 vote with Councilmember Cotten voting in opposition.

Mr. Jefferson noted based on the questions raised, he will have staff research and provide an update to the Council.

10. **Consider and act upon the creation of a temporary ad hoc HOA Broadband Committee to develop strategies for bringing fiber-to-the-home broadband service to legacy neighborhoods within the Town of Prosper. (RB)**

Mr. Jefferson stated as a result of a survey and the Broadband Committee's recommendations, the Town has initiated several programs to improve broadband access including educational videos, free portable wi-fi hotspots, and a dedicated Help-Desk concierge staff person to help troubleshoot problems. Data also indicates that approximately 75% of all areas in Prosper either have, or will have, fiber-to-the-home connectivity. The remaining 25% of areas not covered are comprised of approximately 20 legacy neighborhoods. Mr. Jefferson described the proposed scope of the committee and the topics they will review. The first meeting is scheduled for

January 27, 2022. Staff is recommending the Council create a temporary ad hoc committee comprised of representatives from the legacy neighborhoods.

Deputy Mayor Pro-Tem Andres mentioned the extension of Wi-fi in the downtown area to be addressed by the committee.

David Bristol, EDC President, stated that the EDC is pursuing a grant with the EDA to try to bring broadband to the entire region in a more effective way. Therefore, is in support of this committee.

Mayor Pro-Tem Miller made a motion to create a temporary ad hoc HOA Broadband Committee to develop strategies for bringing fiber-to-the-home broadband service to legacy neighborhoods within the Town of Prosper. Councilmember Ray seconded the motion and the motion was approved unanimously.

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

**11. Discuss the Sign Ordinance and Incidental Outdoor Merchandise Display regulations. (AG)**

Mr. Glushko reviewed current Sign Ordinance regulations and proposed changes as it pertains to Downtown Signs, Banner Signs, Development/Broker Signs, Wall Signs, and Incidental Outdoor Merchandise Displays.

The Council discussed the proposed changes, how any of these changes would affect new business owners and improving enforcement of the regulations. The Council requested staff to consult with the Downtown Business Alliance as well as consider tracking banner signs due to the number of times they can be placed out, and current maximum sign size requirements.

**12. Discussion regarding First Street (Coleman - Craig). (LH)**

Ms. Higginbotham presented a proposed view of road improvements based on designing the road to include two 12-foot travel lanes, eight (8) foot of parallel parking lanes on each side, eight (8) foot sidewalks on each side, and setbacks of 25 feet on each side of the road. This would require 60 feet of right-of-way as well as acquisition of right-of-way from several parcels along the roadway.

The Council discussed possible different configurations of the road and if a different configuration could be done using only 50 feet of right-of-way, as well as addressing run-off concerns, where current utilities are located, and traffic flow. The Council requested further design research based on their comments.

**13. Discussion regarding Coleman Street (First Street - Gorgeous). (LH)**

Ms. Higginbotham presented a proposed view of road improvements based on designing the road to include a 16-foot median, two (2) 16-foot travel lanes, eight (8) foot parallel parking lanes on each side, and 10-foot sidewalks on each side of the road. This would require 84 feet of right-of-way as well as acquisition of right-of-way from several parcels along the roadway.

The Council discussed a smaller median and a buffer along the sidewalk on each side. However, they agreed on the roadway being a four-lane divided thoroughfare.

**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 551.074 – To discuss and consider the Town Manager's performance review.*

The Town Council recessed into Executive Session at 8:54 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 11:05 p.m.

No action was taken.

**Adjourn.**

The meeting was adjourned at 11:05 p.m.

These minutes approved on the 25<sup>th</sup> day of January 2022.

**APPROVED:**

  
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Ray Smith, Mayor

**ATTEST:**

  
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Michelle Lewis Sirianni, Town Secretary

