



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 12, 2021

Call to Order/ Roll Call.

The meeting was called to order at 5:46 p.m.

Council Members Present:

Mayor Ray Smith
Mayor Pro-Tem Jason Dixon
Deputy Mayor Pro-Tem Craig Andres
Councilmember Marcus E. Ray
Councilmember Amy Bartley
Councilmember Jeff Hodges
Councilmember Meigs Miller

Staff Members Present:

Harlan Jefferson, Town Manager
Terry Welch, Town Attorney
Melissa Lee, Town Secretary
Robyn Battle, Executive Director of Community Services
Chuck Springer, Executive Director of Administrative Services
Betty Pamplin, Finance Director
January Cook, Purchasing Manager
Rebecca Zook, Executive Director of Development & Infrastructure Services
Hulon Webb, Engineering Services Director
Dan Heischman, Assistant Director of Engineering Services - Development
Alex Glushko, Planning Manager
Frank Jaromin, Director of Public Works
Leigh Johnson, Director of Information Technology
Dudley Raymond, Director of Parks and Recreation
Doug Kowalski, Police Chief
Stuart Blasingame, Fire Chief

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

Police Chaplain John Herring led the invocation. The Pledge of Allegiance and the Pledge to the Texas Flag were recited.

Announcements of recent and upcoming events.

Councilmember Bartley read the announcements.

The Town Council would like to congratulate Lexie Bell and Tommy Wainwright, two young people in Prosper who have fought and won their battle with cancer. Lexie and Tommy both got the chance to ring the bell at their hospital to celebrate that they are now cancer-free. A blood drive honoring Lexie and Tommy will be held in the Prosper Walmart parking lot on February 27 for

those who are able to donate. The Council joins the community in celebrating this wonderful news with Lexie, Tommy and their families.

The Prosper Community Library is offering Giant Games in the Program Room for families to enjoy through the month of January. Oversize versions of checkers, dice and other favorites are available for groups of up to ten to enjoy while visiting the Library. Learn more on the Library page of the Town website. The Library has also launched Dial-A-Story, where patrons may call in for a pre-recorded story read by staff. Call 972-569-1099 to hear a new children's story each week.

Adult fitness programs like tennis, bowling, yoga, and outdoor Zumba are available through the Parks and Recreation Department. Visit prosperparksandrec.org or the Parks & Recreation Facebook page for more information.

Town offices will be closed on Monday, January 18, in observance of Martin Luther King, Jr. Day. Residents are encouraged to Join the annual Mayor's Fitness Challenge and walk or run at least 100 miles or bike at least 300 miles in 90 days. Turn in your completed tracking sheet for a free t-shirt and the opportunity to win a Fitbit. The Mayor's Fitness Challenge begins January 18 and continues through April 18, with tracking sheets due by April 23.

The public is invited to join the Town of Prosper, Prosper ISD, and the Prosper Chamber of Commerce for our virtual State of the Community 2021 event. Prosper ISD Superintendent Dr. Holly Ferguson and Town of Prosper Mayor Ray Smith will discuss the exciting things that are happening in our community via Facebook Live on the Town of Prosper Facebook page at 6:00 p.m. on January 21, 2021. Attendees are encouraged to submit questions prior to the presentation by emailing soc@prospertx.gov. This event is free to watch online; however, donations to the Prosper Education Foundation and the We Prosper Together charitable giving campaign are encouraged. Please visit the Town Facebook page for more information.

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 December 8, 2020, Town Council meeting. (ML)**
2. **Receive the November financial report. (BP)**
4. **Consider and act upon awarding CSP No. 2021-09-B to North Rock Construction, LLC, related to construction services for the Whitley Place Trail Powerline Easement (1926-PK); and authorizing the Town Manager to execute a construction agreement for same. (DR)**
5. **Consider and act upon Ordinance No. 2021-01 for a Specific Use Permit (SUP) for a Day Care Center (Prosper United Methodist Church), on 42.6± acres, located on the northwest corner of Coleman Street and Preston Road. The property is zoned Single Family-12.5 (SF-12.5). (S20-0001). (AG)**

6. **Consider and act to authorize the Town Manager to execute a Development Agreement between Prosper United Methodist Church (UMC) and the Town of Prosper, Texas, related to the Prosper UMC development. (AG)**
7. **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)**

Mayor Pro-Tem Dixon removed Item 3 from the Consent agenda.

Councilmember Hodges made a motion and Councilmember Ray seconded the motion to approve Items 1 – 2 and 4 – 7 on the Consent agenda.

The motion was approved by a vote of 7 – 0.

3. **Consider and act upon approving a contract between NewEdge Services, L.L.C., and the Town of Prosper, Texas, related to Cityworks and ESRI ArcGIS hosting services; and authorizing the Town Manager to execute same. (LJ)**

Mayor Pro-Tem Dixon questioned the annual cost for GIS hosting services of \$25,000.00 and the services included. Leigh Johnson, Director of Information Technology, discussed the services provided by CityWorks under this proposal and confirmed that implementation was included.

Mayor Pro-Tem Dixon made a motion and Councilmember Hodges seconded the motion to approve the contract between NewEdge Services, L.L.C., and the Town of Prosper, Texas, related to Cityworks and ESRI ArcGIS hosting services; and authorizing the Town Manager to execute same.

The motion was approved by a vote of 7 – 0.

CITIZEN COMMENTS

Cary Carroll, 4271 Fisher Rd, addressed the Town Council on Town of Prosper Ordinance enforcement and lot-to-lot drainage issues regarding his lot.

REGULAR AGENDA:

Items for Individual Consideration:

8. **Consider and act to authorize the Town Manager to execute a Development Agreement between Founders Classical Academy of Prosper and the Town of Prosper, Texas, related to the Founders Classic Academy Charter School development on the southwest corner of First Street and Custer Road. (AG)**

Alex Glushko, Planning Manager, provided an overview of the Development Agreement between Founders Classical Academy of Prosper and the Town of Prosper. On June 2, 2020, the Planning & Zoning Commission approved the Site Plan for Founders Classic Academy located on the southwest corner of First Street and Custer Road. The approved Site Plan showed an athletic playing field without field lights west of the proposed school. Following approval, the applicant made a request

to add field lights for evening activities associated with the school. Staff reviewed the request and confirmed with the Town Attorney that the Zoning Ordinance does allow Prosper ISD to have field lights, requires commercial businesses to obtain a Specific Use permit in order to have field lights, but not specifically address charter schools.

The determination was made that a charter school is not considered part of PISD, but it is a school recognized by the State, and further it is not considered a commercial business. To address this matter, Founders Classic Academy agreed to enter into a Development Agreement in order to limit levels generated by the field lights in a manner consistent with the regulations for commercial businesses. In addition, Founders Classic Academy agreed to include the proposed building elevations and architectural standards along with the Agreement. Exhibit B as presented, depicted the proposed Building Elevations and Exhibit C as presented, depicted the proposed photometric plan demonstrating zero (0) light spill over along the northern property line (Whitley Place), southern property line (proposed senior living development), and western property line (future Malabar Hill subdivision).

Although this item is intended to address overspill of lighting from field lights onto adjacent properties, staff would like to inform Council of the building layouts and orientation of the primary entrances to those buildings and building materials as it relates to the approved Site Plan for the Founders Classic Academy (Founders). The site plan consists of an elementary school, a high school, a gym/cafeteria, parking and drive aisles. Building "A" is the Elementary School and is oriented to the South, away from First St. Building "B", is the gym/cafeteria and has doors on the north, the west and the south faces. The last building, "C" (south of the gym/cafeteria), is the High School and the building faces to the West. Staff was informed that the building orientations were intentional and based on the school's operations and desires. Founders wanted the elementary school to face to the south for drop off/pick-up purposes and wanted those functions located as far from First Street as possible. As it relates to the architecture of the 3 buildings, Founders has included masonry on all four sides of each building without the requirement to do so.

The applicant Austin Tull, Senior Project Manager for ResponsiveED, discussed with the Town Council the proposed color palette for building materials and the use of portable buildings at this site. The Town Council discussed their preference of using berms along Custer Road and noted the lack of such with this Development Agreement.

The Town Council was in favor of the proposed field lighting; however, it was requested to table this item to a future meeting date to address possible building façade changes, roof line articulation on the northern side and the addition of portable building language to the Development Agreement.

After discussion, Mayor Pro-Tem Dixon made a motion and Councilmember Ray seconded the motion to table indefinitely the Development Agreement between Founders Classical Academy of Prosper and the Town of Prosper, Texas, related to the Founders Classic Academy Charter School development on the southwest corner of First Street and Custer Road.

The motion was approved by a vote of 7 – 0.

9. Conduct a Public Hearing and consider and act upon Ordinance No. 2021-02 for an extension of a Specific Use Permit (SUP) for a Concrete Batching Plant on 5.0± acres, located on the west side of Dallas Parkway, south of First Street. The property is zoned Planned Development-19-Commercial Corridor (PD-19-CC) and Specific Use Permit-6 (S-6). (S20-0002). (AG)

Alex Glushko, Planning Manager, provided an overview of the extension of a Specific Use Permit (SUP) for a Concrete Batching Plant on 5.0± acres, located on the west side of Dallas Parkway, south of First Street. On December 14, 2004, the Town Council adopted an ordinance rezoning the property to Planned Development-19 (PD-19). PD-19 permitted a Concrete Batching Plant by right, with the condition that an on-site billing office is included on the property and allowed the plant to operate for five years following the adoption date of PD-19. At the end of the five-year period, a SUP was required to allow for the continued operation. In December of 2009, the Town Council granted a SUP with a two-year expiration. In December of 2011, the Town Council extended the SUP for two (2) years. In January of 2014, the Town Council extended the SUP for three (3) years. In May of 2016, the Town Council extended the SUP for two (2) years. In November of 2018, the Town Council extended the SUP for two (2) years.

In November of 2018, the Town Council adopted the current SUP (Ordinance No. 18-97) granting a SUP permitting the Concrete Batching Plant to continue in operation subject to the following conditions:

1. The SUP expires January 14, 2021, two (2) years after the adoption of the ordinance. The applicant may seek a renewal term to the SUP in order to continue the Concrete Batching Plant use.
2. An on-site billing office is required to continue the Concrete Batching Plant use. All concrete deliveries from the physical Prosper location shall be billed as taxable to the Town of Prosper.
3. The Town of Prosper reserves the right to audit books to ensure that Prosper is the primary HUB for tax revenue and upon inspections, if there are any failures to correct errors, the Town of Prosper reserves the right to revoke the SUP.

The Town has received an application for an SUP from Nelson Bros Reay Mix (NBR) requesting a final SUP extension to allow for continued use of the batch plant facility and will cease operations on the property on or before October 1, 2024, and shall remove all operations equipment from the property within 90 days of the date it ceases operations.

This request is consistent with the cessation dates established in the amortization and settlement agreements which were approved by the Town Council on December 8, 2020 with the Lattimore Batch Plant and the Argos/Southern Batch Plant. Staff recommends the Town Council approve the request, subject to the following:

1. Nelson Bros Ready Mix (NBR) shall cease operations on the property on or before October 1, 2024 and shall remove all operations equipment from the property within 90 days of the date it ceases operations.
2. An on-site billing office is required to continue the Concrete Batching Plant use. All concrete deliveries from the physical Prosper location shall be billed as taxable to the Town of Prosper.

3. The Town of Prosper reserves the right to audit books to ensure that Prosper is the primary HUB for tax revenue and upon inspections, if there are any failures to correct errors, the Town of Prosper reserves the right to revoke the SUP.

Mayor Smith opened the public hearing.

Tony Strickland, Senior Vice President for Nelson Bros Ready Mix, addressed the Town Council and confirmed they are in agreement with Town Staff recommendations.

With no one else speaking, Mayor Smith closed the public hearing.

The Town Council discussed zoning ordinance enforcement regarding the cessation of operations on the property.

After discussion, Mayor Pro-Tem Dixon made a motion and Councilmember Miller seconded the motion to approve Ordinance No. 2021-02 for an extension of a Specific Use Permit (SUP) for a Concrete Batching Plant on 5.0± acres, located on the west side of Dallas Parkway, south of First Street subject to the following:

1. Nelson Bros Ready Mix (NBR) shall cease operations on the property on or before October 1, 2024 and shall remove all operations equipment from the property within 90 days of the date it ceases operations.
2. An on-site billing office is required to continue the Concrete Batching Plant use. All concrete deliveries from the physical Prosper location shall be billed as taxable to the Town of Prosper.
3. The Town of Prosper reserves the right to audit books to ensure that Prosper is the primary HUB for tax revenue and upon inspections, if there are any failures to correct errors, the Town of Prosper reserves the right to revoke the SUP.

The motion was approved by a vote of 7 – 0.

10. Consider and act upon Ordinance No. 2021-03 amending Ordinance No. 2020-71 (FY 2020-2021 Annual Budget and Capital Improvement Program). (BP)

Betty Pamplin, Finance Director, provided information on Ordinance No. 2021-03 amending Ordinance No. 2020-71 (FY 2020-2021 Annual Budget and Capital Improvement Program). The proposed budget amendments to include:

Capital Improvement Plan - \$40,000,000

- Added first year of projects approved with the passage of bond election.

General Fund

- Purchase/rehab of real property (Silos) - \$236,000
- Downtown Master Plan - \$95,000
- Fire Station 3 Apparatus - \$1,810,000

CARES Act Fund

- Additional funds awarded by Collin County - \$662,567.23

PO Roll Forward

- Various funds

The General Fund expenditures will increase by \$2,264,263.60; Water-Sewer Utility Fund expenditures will increase by \$184,242.30; Stormwater Drainage Utility Fund expenditures will increase by \$100,000.00; Park Improvement Fund expenditures will

increase by \$456,089.75; Water Impact Fee Fund expenditures will increase by \$54,662.74; East Thoroughfare Impact Fee Fund expenditures will increase by \$475,876.15; Special Revenue Fund expenditures will increase by \$4,157.20; CARES Act Fund expenditures will increase by \$1,288,031.44; and West Thoroughfare Impact Fee Fund expenditures will increase by \$154,185.00 in FY 2020-2021.

Councilmember Miller made a motion and Mayor Pro-Tem Dixon seconded the motion to approve Ordinance No. 2021-03 amending Ordinance No. 2020-71 (FY 2020-2021 Annual Budget and Capital Improvement Program) to provide funding increased expenditures in the General Fund, Water-Sewer Utility Fund, Stormwater Drainage Utility Fund, Park Improvement Fund, Water Impact Fee Fund, East Thoroughfare Impact Fee Fund, Special Revenue Fund, CARES Act Fund, and West Thoroughfare Impact Fee Fund and CIP.

The motion was approved by a vote of 7 – 0.

11. **Consider and act upon Resolution No. 2021-04 expressing official intent to reimburse costs of Town capital improvement program projects that may be funded with proceeds of bonds or other obligations, if those costs are paid prior to the issuance of such bonds or obligations. (BP)**

Betty Pamplin, Finance Director, briefed the Town Council on Resolution No. 2021-04 expressing official intent to reimburse costs of Town capital improvement program projects that may be funded with proceeds of bonds or other obligations, if those costs are paid prior to the issuance of such bonds or obligations. The resolution allows the Town to pay for the projects listed in the Fiscal Year 2020-2021 Amended CIP, which is also on this meeting's agenda. This includes costs associated with the design, planning, acquisition and construction of certain public safety facilities (\$18,000,000), parks and recreational facilities (\$2,200,000) and streets, roads, bridges and intersections (\$19,800,000). These are the first projects planned to be funded from the 2020 Bond Election. Federal law requires that the reimbursement resolution be approved for the full amount currently planned to be issued in the fiscal year regardless of whether the contracts will be let prior to issuance. The Town does not plan to enter into contracts for the construction of Central Fire Station (\$16,400,000) or for the construction of Fishtrap Road (Elem - DNT) (\$17,300,000) prior to the issuance of the bonds. A reimbursement resolution (Resolution No. 2020-76) was passed October 13, 2020, covering the planned issuance of Certificates of Obligation in the amount of \$10,000,000.

Councilmember Hodges made a motion and Deputy Mayor Pro-Tem Andres seconded the motion to approve Resolution No. 2021-04 expressing official intent to reimburse costs of Town capital improvement program projects that may be funded with proceeds of bonds or other obligations, if those costs are paid prior to the issuance of such bonds or obligations.

The motion was approved by a vote of 7 – 0.

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 appointments to the Board of Adjustment/Construction Board of Appeals, Parks & Recreation Board, Library Board, Prosper Economic Development Corporation Board, and Planning & Zoning Commission.

The Town Council recessed into Executive Session at 7:00 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 8:45 p.m.

Councilmember Bartley made a motion and Councilmember Hodges seconded the motion to approve a Real Estate Sales Contract with Blue Star Land, LP, for the purchase of a 2.8738-acre tract of land being a part of Block Nos. 27 and 29, out of Survey No. 12 of Collin County School Lands, Abstract No. 147, Town of Prosper, Collin County, Texas, and authorize the Mayor to execute same and take all necessary actions incident and related thereto.

The motion passed by a vote of 7 – 0.

Councilmember Bartley made a motion and Councilmember Hodges seconded the motion to authorize the Mayor to execute the Fourth Amended Economic Development Incentive Agreement with Northeast 423/380 Ltd. And Northwest 423/380 LP and take all necessary actions incident and related thereto.

The motion passed by a vote of 7 – 0.

Councilmember Bartley made a motion and Councilmember Hodges seconded the motion to authorize the Mayor to execute a Lease Agreement with the Prosper Economic Development Corporate for the lease of property locate at 121 W. Broadway Street, and take all necessary actions incident and related thereto.

The motion passed by a vote of 7 – 0.

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

12. 2021 Town Council Meeting Schedule (RB)

Robyn Battle, Executive Director of Community Services, briefed the Town Council on the 2021 Town Council Meeting Schedule. Staff will present the 2021 Town Council Meeting Schedule for consideration at the January 26, 2021, Town Council meeting.

13. Discuss the Community Engagement Committee. (RB)

Robyn Battle, Executive Director of Community Services, discussed the proposed structure of the Community Engagement Committee. The Council had previously proposed the new Committee for the purpose of providing residents an opportunity to enhance the Town's interaction with the public. The initial committee membership will be comprised of eleven residents who were appointed at the December 8, 2020, Town Council meeting, three Councilmembers (Councilmember Bartley, Councilmember Hodges, and Councilmember Ray), and Ms. Battle, as staff support. Town staff was directed to schedule the first meeting sometime in February. The Committee will discuss the scope of activities, meeting schedule, and desired outcomes at the first meeting.

Councilmember Hodges requested a future agenda item for a traffic study regarding the intersection of Coit Road and First Street and the designation of right turn only lanes on both Coit Road and First Street.

Adjourn.

The meeting was adjourned at 9:33 p.m. on Tuesday, January 12, 2021.

These minutes approved on the 26th day of January 2021.

APPROVED:



Ray Smith, Mayor

ATTEST:



Melissa Lee, Town Secretary

