



*Prosper is a place where everyone matters.*

**Minutes**  
**Prosper Town Council Meeting**  
Council Chambers  
Prosper Town Hall  
250 W. First Street, Prosper, Texas  
Tuesday, September 22, 2020

**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 Curry Vogelsang, Jr.  
Deputy Mayor Pro-Tem Jason Dixon (arrived at 6:12 p.m. via Zoom)  
Councilmember Marcus E. Ray  
Councilmember Craig Andres  
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  
John Webb, Development Services Director  
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.**

Pastor Phil Salee, Prestonwood Baptist Church, led the invocation. The Pledge of Allegiance and the Pledge to the Texas Flag were recited.

**Announcements of recent and upcoming events.**

Councilmember Ray read the announcements.

The Town Council would like to thank the Dallas-based nonprofit group, the Southwest Jewish Congress, for providing lunches to both Prosper Fire Stations. The meal deliveries were part of

their Feeding Heroes and Neighbors program, which provides meals to first responders and others impacted by COVID-19.

Residents are invited to "Light Our Town Blue" in support of the Prosper Police Department. The Town of Prosper, Prosper ISD, and local community groups are showing support for our Police Department through the month of September, and ending on October 6 with the grand opening of the new Prosper Police Station and the Town's annual National Night Out celebration. Prosper Town Hall, the Gateway Monument on Preston Road, and the PISD Football Stadium will be illuminated in blue each night, and we encourage residents to do the same by adding blue light bulbs to your front porch light and/or landscape lighting to show your support.

In October, the Town will continue to honor our public safety personnel by lighting Town Hall and the Gateway Monument in red, in honor of Fire Prevention Month. Residents are encouraged to add red light bulbs to their front porches and landscape lighting.

Thanks to everyone who attended the Prosper Fire Department's annual 9/11 Remembrance Ceremony at Town Hall, and those who donated blood in the annual blood drive. The community donated 102 pints of blood, which exceeded our goal by 22 pints.

Collin County has launched the Collin CARES Small Business Grant Program for businesses located within Collin County. Using CARES Act funds, the County will award up to \$25,000 to eligible businesses that have experienced a revenue loss due to the COVID-19 pandemic. Applications may be submitted through September 25, and awards will be granted on a first-come, first-served basis. More information is available on the Collin County website.

### **Presentations.**

- 1. Presentation of a Proclamation to members of the Prosper Police and Fire Departments declaring October 6, 2020, as National Night Out. (ML)**

Mayor Smith presented the Proclamation to Prosper Police Chief Doug Kowalski declaring October 6, 2020, as National Night Out.

- 2. Presentation of a Proclamation to members of Prosper Fire Rescue declaring October 2020 as Fire Prevention Month. (RB)**

Mayor Smith presented the Proclamation to Prosper Fire Chief Stuart Blasingame declaring October 2020 as Fire Prevention Month.

### **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.

- 3. Consider and act upon the minutes from the September 8, 2020, Town Council Meeting. (ML)**
- 4. Consider and act upon authorizing the Town Manager to execute a Professional Services Agreement between Garver, LLC, and the Town of Prosper, Texas, related to the design of the Frontier Park/Lakes of Prosper Drainage Channel project. (HW)**

5. **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)**

Councilmember Hodges made a motion and Councilmember Ray seconded the motion to approve Items 3 thru 5 on the Consent Agenda.

The motion was approved by a vote of 6-0.

#### **CITIZEN COMMENTS**

There were no citizen comments.

#### **REGULAR AGENDA:**

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

6. **Conduct a Public Hearing and consider and act upon a request to rezone 10.0± acres from Downtown Commercial (DTC) to Planned Development-Multifamily (PD-MF), located on the northeast corner of Fifth Street and the BNSF Railroad. (Z20-0005). (AG)**

Alex Glushko, Planning Manager, provided Council an overview of the request to rezone 10.0± acres from Downtown Commercial (DTC) to Planned Development-Multifamily (PD-MF). The applicant is proposing to construct 300 multifamily units consisting of four multifamily buildings, with two buildings located at the northwest and northeast corners of Fifth Street and the future extension of McKinley Street and two buildings located on either side of the future extension of McKinley Street. The buildings are four stories in height and are "urban-style" meaning they are built up to the street right-of-way with surface parking located behind the buildings.

Councilmember Ray requested that the powerlines be buried and that there be sufficient landscaping along the railroad. Council discussed railroad right-of-way and easement dedication, and if the proposed allowable parking would be enough. Mayor Pro-Tem Vogelsang had questions on the development agreement, requesting that the development agreement and the PD be consistent with one another.

The applicant, Matt Moore with ClayMoore Engineering, discussed parking noting that the developer has conducted research on this subject regarding previous projects. Mr. Moore commented that the forthcoming development agreement speaks to building materials durability. Additionally, Mr. Moore will meet with Oncor to discuss different routing alternatives for electrical lines.

Mayor Smith Opened the Public Hearing.

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

After discussion, Mayor Pro-Tem Vogelsang made a motion and Councilmember Hodges seconded the motion to approve a request to rezone 10.0± acres from Downtown Commercial (DTC) to Planned Development-Multifamily (PD-MF), located on the northeast corner of Fifth Street and the BNSF Railroad, with the provision that

the standards in the development agreement should be in sync with the ordinance provisions, providing for which controls in the event of a conflict.

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

Mayor Smith opened Items 7 and 8 concurrently.

**7. Conduct a Public Hearing and consider and act upon Ordinance No. 2020-74 for a Specific Use Permit for a Wireless Communication and Support Structure at the Town Public Works Facility, on 0.1± acres, located on the west side of the BNSF Railroad, at the terminus of Fifth Street. (S19-0001). (AG)**

Alex Glushko, Planning Manager, provided information on the request to allow for a Wireless Communication & Support Structure at the Public Works facility. The applicant, representing AT&T, is proposing to construct a 125-foot tall, gray galvanized steel cell tower, within a 3,750 square-foot lease area, enclosed by a six-foot chain-linked fence. Access will be provided from Fifth Street, on the west side of the BNSF railroad. The cell tower will consist of six flush-mounted antenna arrays; three of which will be utilized by AT&T, and the remaining three will be utilized by future carriers, yet to be determined.

Mayor Smith Opened the Public Hearing.

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

After discussion Councilmember Andres made a motion and Councilmember Miller seconded the motion to approve Ordinance No. 2020-74 for a Specific Use Permit for a Wireless Communication and Support Structure at the Town Public Works Facility, on 0.1± acres, located on the west side of the BNSF Railroad, at the terminus of Fifth Street. (S19-0001).

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

**8. Consider and act upon authorizing the Town Manager to execute a Tower Site Lease Agreement by and between the Town of Prosper, Texas, and New Cingular Wireless PCS, LLC, for the lease of Town property, generally located at 601 West 5th Street which is the Town's Public Works site, for a cell tower. (CS)**

Chuck Springer, Executive Director of Administrative Services, reviewed the Tower Site Lease Agreement by and between the Town of Prosper, Texas, and New Cingular Wireless PCS, LLC. New Cingular Wireless PCS, LLC approached Town staff to discuss a cell tower at the Town's Public Works site. The Town recommended that they consider a multi-tenant cell tower to avoid multiple cell towers at this location. New Cingular Wireless PCS, LLC (the "Tenant") is proposing to lease an approximately 3,750 (75' by 50') square-foot portion of the property and they will be responsible for building and maintaining the cell tower. This agreement has a six-month option period for one-time payment of \$2,000. The option period will allow the Tenant to perform geological and engineering tests at the site and apply for all required permits. The Tenant has up to six months to exercise the option, at which point the five-year term of the agreement begins. The lease agreement is at a monthly rate of \$2,000 for an initial five-year term with optional renewals of five additional five-year terms. The rental rate of \$2,000 increases annually at a rate of 2.5%. If the tenant

does not exercise the option to lease the property, the Town will retain the \$2,000 option payment and the lease will be cancelled.

Council discussed the inflationary increase of 2.5% regarding the lease agreement and the initial five-year term with optional renewals of five additional five-year terms.

After discussion Councilmember Miller made a motion and Councilmember Hodges seconded the motion to approve the Tower Site Lease Agreement by and between the Town of Prosper, Texas, and New Cingular Wireless PCS, LLC, for the lease of Town property, generally located at 601 West 5th Street which is the Town's Public Works site, for a cell tower.

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

**9. Update on Christmas Festival. (DR)**

Dudley Raymond, Director of Parks and Recreation, updated Council on the annual Prosper Christmas Festival. Based on the State of Texas Governors' guidelines, staff feels that the annual Prosper Christmas Festival can occur, yet in a modified form. Director Raymond reviewed typical elements offered in the past and the proposal for this year's offerings. In all cases, social distancing, mask and hand sanitizing will be strongly encouraged as well as staff/volunteers sanitizing commonly touched items.

Council discussed the possibility of hiring a photographer, utilizing the balconies of Town Hall to allow for social distancing and increasing the sound for the stage. Council agreed to revisit this topic in late October 2020.

**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 legal issues associated with Fifth Circuit opinion in Reagan National Advertising v. City of Austin, and all matters incident and related thereto***

The Town Council recessed into Executive Session at 6:49 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 8:46 p.m.

Councilmember Miller made a motion and Councilmember Hodges seconded the motion to approve Resolution No. 2020-75 terminating the 2012 Development and Financing agreement

between the Town of Prosper, Texas, and MSW Prosper 380 L.P., as amended by the 2018 Amendment to the Development and Financing agreement, effective September 11, 2020.

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

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

**10. Discussion on possible elements of Overlay Districts for properties adjacent to the Dallas North Tollway and US 380. (JW)**

John Webb, Development Services Director, provided highlights on proposed Overlay Districts for properties adjacent to the Dallas North Tollway and US 380. The overlay districts are typically found in two formats; they provide uniform standards along the entire corridor, or some may establish gateways or subdistricts of various standards. Possible additional standards include building orientation, location of parking and the design of parking structures, landscaping and street furnishings.

Mayor Smith commented on the importance of having a variety of uses in all four corners and requested to review existing PDs within this area at a future meeting. Mayor Pro-Tem Vogelsang noted the importance of strategically planning this area and that the overlay districts would allow for more development control. Mayor Pro-Tem Vogelsang requested staff to inform Council of what hurdles would be involved in the implementation of overly districts.

**11. Competitive Sealed Proposal Legislation and Legislative Agenda. (RB)**

Robyn Battle, Executive Director of Community Services, briefed Council on the Competitive Sealed Proposal Legislation and Legislative Agenda. The competitive sealed proposal (CSP) method of bidding is an alternative to traditional competitive bidding. CSP is beneficial for municipalities in terms of time, cost, and quality. The advantage to CSP is the ability to negotiate terms to obtain the best value for the Town, rather than simply go with the lowest bid. The second advantage is that if negotiations with the top-ranked bidder fail, the Town can continue negotiations with the second-ranked bidder, rather than rejecting all bids and rebidding the project. The Local Government Code currently places a \$1.5 million cap on "horizontal" projects for municipal governments. Staff is proposing to draft legislation and identify a potential sponsor for the bill to repeal the Local Government Code provision.

Council discussed the Towns previous use of CSP and the costs related to repealing the provision. Council was in favor of staff drafting legislation and identifying a potential sponsor for the bill.

Mrs. Battle then discussed with Council developing an overall legislative agenda for the Town. This was identified by Council as a major initiative in the 2020 Annual Strategic Planning Session. Council identified building materials legislation as one of their top priorities. Staff will develop a draft legislative agenda and present to Council this fall.

**12. Strategic Planning Discussion. (RB)**

Mrs. Battle provided Council future quarterly meeting dates, with the Annual Strategic Planning Session occurring on February 13, 2021. Mrs. Battle requested feedback on meeting topics, format, facilitation and outcomes.

Council provided feedback on the Strategic Planning Session including narrowing the scope of the meeting and not using a facilitator. Mrs. Battle will follow up with Council for additional feedback.

Councilmember Andres requested a future meeting topic on a lighting ordinance. Councilmember Ray requested a future meeting topic regarding neighborhood drainage.

**Adjourn.**

The meeting was adjourned at 9:25 p.m. on Tuesday, September 22, 2020.


These minutes approved on the 13th day of October 2020.

**APPROVED:**



\_\_\_\_\_  
Ray Smith, Mayor

**ATTEST:**



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Melissa Lee, Town Secretary

