

**FRUITA CITY COUNCIL
IN PERSON AND VIRTUAL MEETING
MARCH 21, 2023
7:00 P.M.**

1. CALL TO ORDER AND ROLL CALL

Mayor Kincaid called the regular meeting of the Fruita City Council to order at 7:00 p.m. The meeting was held both in person and with virtual access provided through Zoom.

Present:

Mayor Joel Kincaid
Mayor Pro Tem Matthew Breman
City Councilor Jeannine Purser
City Councilor James Williams
City Councilor Ken Kreie
City Councilor Amy Miller

Excused Absent:

City Councilor Aaron Hancey

City staff present:

City Manager Mike Bennett
Assistant to the City Manager Shannon Vassen
City Clerk/Finance Director Margaret Sell
Deputy City Clerk Deb Woods
Planning and Development Director Dan Caris
City Attorney Mary Elizabeth Geiger (virtually)

Also present:

Members of the public (in-person and virtually)

2. MOMENT OF SILENCE AND PLEDGE OF ALLEGIANCE

Mayor Kincaid called for a moment of silence for all faiths and beliefs to have the opportunity for a silent prayer. He then led in the Pledge of Allegiance.

3. AGENDA – ADOPT/AMEND

- **COUNCILOR KREIE MOVED TO APPROVE THE AGENDA AS PRESENTED. COUNCILOR BREMAN SECONDED THE MOTION. THE MOTION PASSED WITH FIVE YES VOTES.**

4. PROCLAMATIONS AND PRESENTATIONS

There were no Proclamations or Presentations on the agenda.

5. PUBLIC PARTICIPATION

There were no comments from the public.

6. CONSENT AGENDA

- A. MINUTES – A REQUEST TO APPROVE THE MINUTES OF THE FEBRUARY 7, 2023 REGULAR CITY COUNCIL MEETING**
- B. MINUTES – A REQUEST TO APPROVE THE MINUTES OF THE FEBRUARY 21, 2023 REGULAR CITY COUNCIL MEETING**
- C. MINUTES – A REQUEST TO APPROVE THE MINUTES OF THE FEBRUARY 28, 2023 CITY COUNCIL WORKSHOP MEETING**
- D. MINUTES – A REQUEST TO APPROVE THE MINUTES OF THE MARCH 7, 2023 REGULAR CITY COUNCIL MEETING**
- E. LIQUOR LICENSE RENEWAL – A REQUEST TO APPROVE THE RENEWAL OF A FERMENTED MALT BEVERAGE AND WINE (OFF PREMISES) LIQUOR LICENSE FOR THE FRUITA CONSUMERS COOPERATIVE LOCATED AT 1650 HIGHWAY 6 & 50**
- F. LIQUOR LICENSE RENEWAL – A REQUEST TO APPROVE THE RENEWAL OF A HOTEL AND RESTAURANT LIQUOR LICENSE – MALT, VINOUS & SPIRITUOUS FOR COLORADO SUMMIT, LLC DBA ASPEN STREET COFFEE LOCATED AT 136 E. ASPEN AVE.**
- G. FINANCIAL REPORTS – A REQUEST TO APPROVE THE FEBRUARY 2023 FINANCIAL REPORTS**
- H. ORDINANCE 2023-02 – FIRST READING – AN INTRODUCTION OF AN ORDINANCE ANNEXING APPROXIMATELY 3.4 ACRES OF PROPERTY LOCATED AT 1806 J 3/10 ROAD INTO THE CITY OF FRUITA FOR PUBLIC HEARING ON APRIL 18, 2023 (*BERG ANNEXATION*)**
- I. ORDINANCE 2023-03 – FIRST READING – AN INTRODUCTION OF AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF FRUITA BY ZONING APPROXIMATELY 3.4 ACRES OF PROPERTY LOCATED AT THE NORTHEAST CORNER OF THE INTERSECTION OF J 3/10 ROAD AND J 2/10 ROAD TO A COMMUNITY RESIDENTIAL ZONE FOR PUBLIC HEARING ON APRIL 18, 2023 (*BERG ZONING*)**
- J. LETTERS OF SUPPORT FOR CONGRESSIONAL DIRECTED SPENDING REQUESTS – A REQUEST TO AUTHORIZE THE MAYOR TO SIGN LETTERS OF SUPPORT FOR PROJECTS TO BE SUBMITTED TO CONGRESSWOMAN LAUREN BOEBERT**
- K. LETTERS OF SUPPORT FOR MESA COUNTY – A REQUEST TO AUTHORIZE THE MAYOR TO SIGN A LETTER OF SUPPORT FOR MESA COUNTY'S CONGRESSIONAL DIRECTED SPENDING REQUEST**

Mayor Kincaid asked if there were any requests to remove any item(s) removed from the Consent agenda for further discussion. There were no such requests. Mayor Kincaid asked the same question of the City Council and there were no such requests.

- **COUNCILOR PURSER MOVED TO APPROVE THE CONSENT AGENDA AS PRESENTED. COUNCILOR MILLER SECONDED THE MOTION. THE MOTION PASSED WITH FIVE YES VOTES.**

7. PUBLIC HEARINGS

A. QUASI-JUDICIAL HEARINGS

- 1) **SPECIAL EVENT LIQUOR PERMIT APPLICATION – A REQUEST TO APPROVE AN APPLICATION FROM THE FRUITA AREA CHAMBER OF COMMERCE TO SERVE ALCOHOL BEVERAGES – MALT, VINOUS AND SPIRITUOUS AT THE FRUITA AREA CHAMBER OF COMMERCE ANNUAL BANQUET TO BE HELD ON SATURDAY, APRIL 15, 2023 FROM 5:00 TO 11:00 PM AT THE FRUITA COMMUNITY CENTER LOCATED AT 324 N. COULSON STREET – *DEPUTY CITY CLERK DEB WOODS***

Deputy City Clerk gave staff's presentation to the City Council, which consisted of summary of the Fruita Area Chamber of Commerce's narrative for the event that detailed information such as how the Chamber will control the alcohol within the proposed licensed premises and how attendees at the event will present photo identification to receive a wristband that will allow them to consume alcohol.

Ms. Woods noted that the diagram included in the Council packet illustrates the licensed premises, which consists of the gymnasium at the Fruita Community Center.

Ms. Woods also noted that Fruita Chief of Police Dave Krouse reviewed the Chamber's application for the Special Event Liquor Permit and submitted his memorandum stating that there was nothing that would prohibit the issuance of the license being requested. Therefore, it was staff's recommendation that the Council approve the application subject to the following conditions:

1. Applicant will discontinue serving alcohol at 10:30 pm on Saturday, April 15, 2023 to allow patrons 30 minutes to finish their beverages and leave the area
2. All alcohol will be secured and removed by 11:00 pm.
3. The entrances and exits shall be monitored closely and continuously by event staff in order to prevent alcoholic beverages from going into or out of the area.
4. The licensee needs to be aware that they are solely responsible for control of the licensed premises in regard to alcohol possession, consumption and adherence to state and municipal laws.

Ms. Woods stated that Hillary Daniels with the Fruita Area Chamber of Commerce was present at the meeting virtually. She asked Ms. Daniels if there was anything she would like to add as the applicant's representative.

Ms. Daniels noted that the Chamber has hired private security firm Hydra Security to secure the premises (indoors and outdoors), that last call will be at 10:00 p.m. and that at 10:30, there will be no more alcohol served. She thanked the Council for their time.

Mayor Kincaid opened the public hearing. Hearing no comments, he closed the public hearing and referred the matter to the City Council.

- **COUNCILOR PURSER MOVED TO APPROVE THE APPLICATION FOR A SPECIAL EVENTS LIQUOR PERMIT FOR THE FRUITA AREA CHAMBER OF COMMERCE TO SERVE ALCOHOL BEVERAGES – MALT, VINOUS AND SPIRITUOUS DURING THE FRUITA AREA CHAMBER OF COMMERCE ANNUAL BANQUET ON SATURDAY, APRIL 15, 2023 FROM 5:00 TO 11:00 PM AT THE FRUITA COMMUNITY CENTER LOCATED AT 324 N. COULSON STEET SUBJECT TO THE CONDITIONS STATED BY STAFF.**

Councilor Purser asked if the Special Event Liquor Permit was proposed to end at 11:00 or 10:30, since both times were mentioned. Ms. Daniels responded that 10:00 would be last call and at 10:30, no more alcohol would be served.

COUNCILOR WILLIAMS SECONDED THE MOTION. THE MOTION PASSED WITH FIVE YES VOTES.

B. LEGISLATIVE HEARINGS

- 1) **RESOLUTION 2023-07 – PUBLIC HEARING – AMENDING THE 2023 BUDGET WITH SUPPLEMENTAL APPROPRIATIONS FOR SPECIAL PROJECTS, CAPITAL PROJECTS, THE PURCHASE OF REAL PROPERTY, AND FOR CAPITAL EQUIPMENT; A SUPPLEMENTAL APPROPRIATION FOR FUNDS FOR COMPLETION OF CAPITAL PROJECTS, SPECIAL PROJECTS AND CAPITAL EQUIPMENT INITIALLY INCLUDED IN THE 2022 ANNUAL BUDGET, AND A REDUCTION OF APPROPRIATIONS FOR RIGHT-OF-WAY ACQUISITION AND THE PURCHASE OF PARKS EQUIPMENT – ASSISTANT CITY MANAGER SHANNON VASSEN**

Assistant City Manager Shannon Vassen provided staff's presentation on Resolution 2023-07, noting that the Resolution was a supplemental budget amendment to the 2023 Budget. He explained that each year at the beginning of the year, staff has to roll over funds that were budgeted in the prior year but the projects were not completed or a piece of equipment was not purchased in that year, so those funds need to be rolled over into the next Budget year (2023).

Mr. Vassen noted that the City has projects that may have been budgeted for in the 2022 Budget but were not yet completed and also that there were several new appropriations for the 2023 Budget.

In addition, the Resolution included two reductions in appropriations for the 2023 Budget. Mr. Vassen explained that after the Council adopted the 2023 Budget in December of last year, staff ended up with expenses for specific projects (even though the budget was already adopted) due to some invoices arriving late and that this is the reason for the reductions in appropriations.

Mr. Vassen noted that he had provided a table in the Council packet that outlines all of the changes to the budget. He highlighted some of the larger ones such as:

- Supplemental appropriation for \$635,000 for the purchase of property in Fruita
- Almost \$40,000 being appropriated to the Marketing and Promotion Fund for a grant that the City received from the Office of Economic Development and International Trade (OEDIT) to create a Gravel Adventure Guide with the Town of Palisade
- \$160,000 in the Capital Projects Fund for a grant the City received from the Multi-Modal and Mitigations Option Fund (MMOF) to help fund the design of the Highway 340 trail connection
- Other projects include:
 - About \$1.3 million that is being appropriated to the Pine Street Bridge replacement project
 - \$400,000 remodel to Fruita Civic Center
 - Small decrease in appropriations in the Capital Projects Fund for Prospector Park improvements. Staff ordered the equipment and anticipated it would be delivered in 2023, but was actually delivered in 2022 and installed in 2023. The equipment was purchased in 2022 and staff will pay for the installation in 2023.
 - \$15,000 contribution to the Fruita Housing Authority out of the Economic Development Fund

Mr. Vassen noted that the Fruita Housing Authority has a proposed Budget before them and must adopt it at one of their future meetings. The \$15,000 is the City of Fruita's agency contribution to the Fruita Housing Authority. Staff chose the Economic Development Fund because the Housing Authority has only \$10,000 in expenses set aside for 2023 out of \$100,000 budgeted. This will increase the expenses for the Economic Development Fund to \$25,000 with the Grand Junction Economic Partnership (GJEP) and Housing Authority contributions. This concluded Mr. Vassen's presentation.

Mayor Kincaid opened the public hearing. Hearing no comments from the public hearing, he closed the public hearing and referred the issue to the City Council.

- **COUNCILOR KREIE MOVED TO ADOPT RESOLUTION 2023-07 AMENDING THE 2023 BUDGET TO APPROPRIATE FUNDS IN THE GENERAL FUND, ECONOMIC DEVELOPMENT FUND, MARKETING AND PROMOTION FUND AND CAPITAL PROJECTS FUND FOR SPECIAL PROJECTS, CAPITAL PROJECTS AND THE PURCHASE OF REAL PROPERTY, AND REAPPROPRIATING FUNDS IN THE GENERAL FUND, CAPITAL PROJECTS FUND AND SEWER FUND FOR**

CAPITAL PROJECTS AND CAPITAL EQUIPMENT ORIGINALLY INCLUDED IN THE 2022 ANNUAL BUDGET, AND A REDUCTION IN APPROPRIATION FOR THE PURCHASE OF PARKS EQUIPMENT IN THE CONSERVATION TRUST FUND. COUNCILOR MILLER SECONDED THE MOTION. THE MOTION PASSED WITH FIVE YES VOTES.

Councilor Williams thanked Mr. Vassen for the way he laid out the appropriations in a table. He said it made a lot of sense and demonstrated clearly where and why funds were going to and coming from.

8. ADMINISTRATIVE AGENDA

There were no Administrative agenda items.

9. CITY MANAGER'S REPORT

City Manager Mike Bennett reported on the following:

- Two changes are necessary to the Boards and Commission tentative schedule that Mike sent out to the City Council. Staff had not contemplated that the Fruita Tourism Advisory Council (FTAC) would need to meet before presenting to the City Council. The next meeting of the FTAC is scheduled for April 20th, so Mike said staff will schedule them to present to the Council after that meeting (the FTAC was initially scheduled to present to the Council at this meeting of March 21, 2023).
- In addition, the Parks and Recreation Advisory Board (PRAB) was going to give an update to the City Council on April 4, 2023, but that night is already going to be pretty full with a Housing Authority meeting, joint Housing Authority and City Council meeting and regular City Council meeting. Staff will work with the PRAB to reschedule their presentation to a future meeting. Mike noted that the plan was to have both boards give the Council an update at regular meetings and then the Council will have workshop discussions with the boards afterwards. He said the rest of his proposed schedule should stay the same but he would send the Council updates via email when things get rescheduled.
- Mike reviewed the agenda items for the Council workshop meeting on March 28, 2023 and requested feedback concerning whether some item(s) should be rescheduled because the agenda will be too full. These agenda items include:
 - ✓ Discussion about the Downtown Advisory Board (DAB) and then with the DAB members
 - ✓ Discussion about Boards and Commissions in general and further discussion about Liaison roles
 - ✓ Update on gaming establishments (written interpretation from the Planning and Development Director Dan Caris)
 - ✓ Donation toward the Fruita Bark Park with a request to change the name of the park and the City's policy and process for the request
 - ✓ Mesa County RSVP 50th Anniversary Proclamation request

Mike announced that staff has scheduled a “Spring Cleanup” for April 29, 2023 where residents can dispose of yard debris and larger items, but not electronics.

Councilor Aaron Hancey brought forth his idea of making staff’s list of upcoming Council agenda items available to the City Council members.

Mike asked if Aaron’s suggestion was something the other Council members were interested in. There was some discussion about having a live link to the pending agenda items within the Council packets, but City Attorney Mary Elizabeth Geiger cautioned against doing that because the list is “work product” and things would be changing on it all the time, likely causing the public to get confused. She added that it was fine for the Council members to see the list, but that it needs to be separate from the packet so that there’s a distinction between the two. Mike said staff will figure out the best way to get the list to the Council on a regular basis.

10. COUNCIL REPORTS AND ACTIONS

A. DISCUSSION CONCERNING AN INCREASE IN CITY ATTORNEY LEGAL FEES

City Attorney Mary Elizabeth Geiger explained that for whatever reason, the City of Fruita has been paying \$5 less per hour for legal services than all their other municipal clients since the City first engaged Garfield & Hecht, P.C. in 2018. She noted that pursuant to the Rules of Professional Conduct, her law firm can increase rates by 10% each year and it gets a little confusing for billing purposes that Fruita is paying a different rate.

Ms. Geiger requested a rate increase of \$5 more per hour so that moving forward, Fruita is at the same municipal rate as Garfield & Hecht’s other municipal clients. She further explained that if the Council agreed to it, it would appear on the next City Council meeting agenda for approval. Joel asked if it would require an amendment to the agreement between the City and the law firm and Ms. Geiger responded that the whole contract wouldn’t need to be revised, but the firm would need to have it in writing that the rate has changed and that the City of Fruita approved it.

Joel asked Mike if the rate increase would affect the 2023 Budget. Mike responded that staff figures their best estimate for all of the City’s legal fees for the year, but that the fees were already definitely running higher than normal so far in 2023 considering the housing and water matters. He added that if it becomes necessary to amend the Budget, then staff will bring that before Council.

Councilor Breman asked how many hours were billed to the City last year and Councilor Williams said he was curious about that, too. Mary Elizabeth said she could easily get that information from her firm’s bookkeeper and would get it to Mike so the Council could see. She agreed with Mike that there has definitely been a difference since the end of last year in the amount of legal services the City has needed.

The Council indicated that they were okay with the rate increase moving forward.

B. COUNCIL REPORTS AND ACTIONS

MAYOR PRO TEM MATTHEW BREMAN

Matthew announced the Chamber of Commerce's Banquet coming up on April 15th as evidenced by the Special Event Liquor Permit the Council just approved. The Chamber board is thrilled that the gym floor resurfacing project is done in time and Matthew said it looks great. A lot of the discussion at the Chamber board meeting was concerning the role of the Chamber Foundation. The board also spent some time looking at the Annual Report, which just became public earlier in the day. Matthew urged the other Council members to take a look at it. He said the Chamber board spent a fair amount of time talking about the Financials.

Matthew also reported that at the Grand Junction Economic Partnership (GJEP) meeting the previous week, the bulk of the meeting was about board structure and board involvement. They sent out a board survey and half the board responded to it. Matthew said it was an indication that the board needs to have more discussion about board engagement.

Matthew noted that he had sent Mike an email about how very well done the City Link was in the previous Friday's Weekly Information Update. He said it captured the savoir-faire of Fruita.

Matthew asked if staff had an update on the status of the Housing Authority email addresses. Mike stated that two domains had been purchased for them (so that someone couldn't buy anything similar) and that the contracted IT firm had probably gotten the email addresses set up, but he would follow up it and report back. The domain names are fruitahousing.org and fruitahousingauthority.org.

COUNCILOR JEANNINE PURSER

Jeannine reported that the Arts and Culture Board had their Coco Vino event. The tickets sold out and only 15 people didn't show up, so there was a tremendous turnout. Jeannine said the music was fantastic and everyone seemed to have a great time. The board will likely go over the event at their next meeting and talk about a few things to tweak for next year.

Jeannine reported that the Downtown Advisory Board decided to meet at the City Council Workshop meeting on March 28, 2023 instead having their regular meeting.

Jeannine also reported that the Livability Commission met the previous week and the board is continuing to narrow down what they want their goals to be. They have three focus areas, but are also looking forward to what the Council will have to say at the City Council Workshop meeting in April.

COUNCILOR KEN KREIE

Ken mentioned that he would be attending a Strategic Planning meeting with the Colorado National Monument Association (CNMA) over the weekend at the Fire Station. The Monument is running out of space and housing for people and they are contemplating taking over some of the housing up there for their Administration staff. Ken said their housing problem is going to get worse, so CNMA is going to begin looking at creative ways such as grant writing to try to tackle the housing crisis that the group is having. He also said that Johanna might be reaching out to Mike to see if there are potential partnering options that he might know of.

Ken also reported that the Grand Valley Regional Transportation Committee (GVRTC) had a meeting to agree to a Letter of Support the previous week.

COUNCILOR AMY MILLER

Amy reported that at the Planning Commission meeting they only had a very simple annexation and rezone request to go over.

Amy also reported that she got some awesome feedback about the City's new Building Department from a couple of builders and agents. She added that she hasn't heard anything negative yet.

Amy also reported that she attended the City Engagement event earlier in the day and wants the opportunity to engage with the senior community again.

James asked if they were upset because they felt like the event was interfering with what they were doing or if that had serious stuff they were talking about.

Mike said they just like it extremely quiet when they play pinochle.

COUNCILOR JEANNINE PURSER

Jeannine said she remembered something else. Her husband Cullen told her a story about two Fruita citizens who were climbing a mountain in Ecuador the other day and ran into some people that said they love Fruita and everyone they know wants to move there but they can't afford it. She said the friends aren't even from Colorado and it's just proof that Fruita is cool.

MAYOR JOEL KINCAID

Joel noted that Mike had sent the Council members an email about the Rocky Mountain PBS Open House on Wednesday, April 5th and said if anybody could make it to the event, that would be great.

Joel stated that every quarter, Mesa County invites all the Mayors to an informal Mayors' luncheon where they update each other on what is going on and he wanted to know if there was anything anybody wanted him to bring up. He said he was sure the big discussion would be from Greg on the fiber issue. Amy suggested that he talk about how amazing the Fruita Building Department is.

C. EXECUTIVE SESSION – TO CONVENE IN EXECUTIVE SESSION FOR DETERMINING POSITIONS RELATIVE TO MATTERS THAT MAY BE SUBJECT TO NEGOTIATIONS; DEVELOPING STRATEGY FOR NEGOTIATIONS; AND INSTRUCTING NEGOTIATORS PURSUANT TO C.R.S. SECTION 24-6-402(4)(E) WITH REGARD TO A REQUEST FROM INDIBUILD, LLC/FRUITA MEWS AND RECEIVING LEGAL ADVICE FROM THE CITY ATTORNEY AND SPECIAL COUNSEL PURSUANT TO C.R.S. SECTION 24-6-402(4)(B) REGARDING THE SAME

- **COUNCILOR BREMAN MOVED TO MEET IN EXECUTIVE SESSION FOR DETERMINING POSITIONS RELATIVE TO MATTERS THAT MAY**

BE SUBJECT TO NEGOTIATIONS; DEVELOPING STRATEGY FOR NEGOTIATIONS; AND INSTRUCTING NEGOTIATORS PURSUANT TO C.R.S. SECTION 24-6-402(4)(E) WITH REGARD TO A REQUEST FROM INDIBUILD, LLC/FRUITA MEWS AND RECEIVING LEGAL ADVICE FROM THE CITY ATTORNEY AND SPECIAL COUNSEL PURSUANT TO C.R.S. SECTION 24-6-402(4)(B) REGARDING THE SAME. COUNCILOR MILLER SECONDED THE MOTION. THE MOTION PASSED WITH FIVE YES VOTES.

The City Council took a four-minute break at 7:45 p.m. and then convened in Executive Session at 7:49 p.m. The Executive Session concluded at 9:22 p.m.

- D. EXECUTIVE SESSION – DISCUSSION AND POSSIBLE ACTION TO CONSIDER A MOTION TO CONVENE IN EXECUTIVE SESSION FOR DETERMINING POSITIONS RELATIVE TO MATTERS THAT MAY BE SUBJECT TO NEGOTIATIONS; DEVELOPING STRATEGY FOR NEGOTIATIONS; AND INSTRUCTING NEGOTIATORS PURSUANT TO C.R.S. SECTION 24-6-402(4)(E) WITH REGARD TO POTENTIAL SALE OF ENOCH’S LAKE; AND WITH REGARD TO AMENDING THE AGREEMENT BETWEEN THE CITY OF FRUITA AND UTE WATER CONSERVANCY DISTRICT AND RECEIVING LEGAL ADVICE FROM THE CITY ATTORNEY PURSUANT TO C.R.S. SECTION 24-6-402(4)(B) REGARDING THE SAME**

- COUNCILOR KREIE MOVED TO MEET IN EXECUTIVE SESSION FOR DETERMINING POSITIONS RELATIVE TO MATTERS THAT MAY BE SUBJECT TO NEGOTIATIONS; DEVELOPING STRATEGY FOR NEGOTIATIONS; AND INSTRUCTING NEGOTIATORS PURSUANT TO C.R.S. SECTION 24-6-402(4)(E) WITH REGARD TO POTENTIAL SALE OF ENOCH’S LAKE; AND WITH REGARD TO AMENDING THE AGREEMENT BETWEEN THE CITY OF FRUITA AND UTE WATER CONSERVANCY DISTRICT AND RECEIVING LEGAL ADVICE FROM THE CITY ATTORNEY PURSUANT TO C.R.S. SECTION 24-6-402(4)(B) REGARDING THE SAME. COUNCILOR BREMAN SECONDED THE MOTION. THE MOTION PASSED WITH FIVE YES VOTES.**

The City Council convened in Executive Session at 9:28 p.m. The regular meeting of the City Council reconvened at 9:46 p.m.

11. ADJOURN

With no further business before the Council, Mayor Kincaid adjourned the meeting at 9:46 p.m.

Respectfully submitted,

Debra Woods
Deputy City Clerk
City of Fruita