



FRUITA
COLORADO

AGENDA ITEM COVER SHEET

TO: Fruita City Council and Mayor

FROM: Kimberly Bullen, Public Works Director
Mary Elizabeth Geiger, City Attorney

DATE: December 19, 2023

AGENDA TEXT: ORDINANCE 2023-17, SECOND READING, An Ordinance authorizing the conveyance of water rights and real property of the City referred to as Enoch's Lake located on Pinon Mesa – *Public Works Director Kimberly Bullen and City Attorney Mary Elizabeth Geiger*

BACKGROUND

The history of Enoch's Lake and the Fruita Mountain Properties has been presented and discussed at numerous City Council meetings and is available on the City's website at <https://www.fruita.org/publicworks/page/fruita-mountain-water-properties>.

At the September 19, 2023 Regular City Council meeting, City Council discussed the sale process for Enoch's Lake and directed staff to work with Lori Chesnick the City's realtor to list Enoch's Lake property on the MLS until November 8, 2023 at the appraised value of \$425,000. The listing included information that the property is encumbered by the Ute Water Right of First Refusal (ROFR) and the 2013 Agreement with Tipping for repayment of the non-monetary obligation (which requires the release of water from the lake for use by Tipping) as well as an agreement with Stan Muhr for water. It also included information that the dam is a jurisdictional dam, subject to State Dam inspector rules and regulations. Finally, it stated that ultimately any sale would have to be approved by City Council through the ordinance process as identified in the City Charter.

The MLS listing was posted on October 1, 2023 with all offers due at the close of business on November 8, 2023. The city received one offer that is included in the Council packet as well as the summary provided by the city's realtor Lori Chesnick.

At the November 13, 2023 City Council Special Meeting, City Council was presented with the only offer received. This offer was made by Stan Muhr, Rodney C. Power and Ronald E. Tipping for a purchase price of \$500,000 and forgiveness of \$145,393.35 of non-monetary obligation to Mr. Tipping per the 2013 Agreement between the City of Fruita and Mr. Tipping. The total offer amount is \$645,393.36.

FISCAL IMPACT

The conveyance of real property will result in a cash payment of \$500,000 and non-monetary obligation forgiveness of an additional \$145,393.36 the city owes to Mr. Ron Tipping for work he performed on several dams owned by the city. In addition, the City will no longer have operating or capital expenses associated with Enoch's Lake.

APPLICABILITY TO CITY GOALS AND OBJECTIVES

The City of Fruita's primary goal is to provide necessary core services to residents and businesses within the city limits. As an organization, the city is focused on aligning resources, time, and talent to provide high-quality services while impacting and increasing the quality of place, economic health, and lifestyle of the Fruita community. The Fruita Mountain Water Properties have provided necessary services to Fruita in the past but are no longer considered core services for the City of Fruita as they can no longer be used within the city limits.

OPTIONS AVAILABLE TO THE COUNCIL

1. Adopt Ordinance 2023-17, SECOND READING, An Ordinance authorizing the conveyance of real property of the City referred to as Enoch's Lake located on Pinon Mesa.
2. Deny Ordinance 2023-17.

RECOMMENDATION

It is the recommendation of Staff that the Council by motion:

- **ADOPT ORDINANCE 2023-17, SECOND READING, AN ORDINANCE AUTHORIZING THE CITY MANAGER TO EXECUTE AN AGREEMENT BETWEEN THE CITY OF FRUITA AND RONALD TIPPING, RODNEY POWER AND STAN MUHR FOR THEIR PURCHASE OF 51.41 ACRES KNOWN AS ENOCH LAKE AND THE WATER RIGHTS KNOWN AS MIRROR DITCH NO. 1, MIRROR LAKE RESERVOIR NO. 1 (aka Enoch's Lake) and SPRINGS R AND N and AUTHORIZING THE CONVEYANCE THEREOF.**