

**FRUITA CITY COUNCIL MEETING
SEPTEMBER 5, 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 Aaron Hancey

Excused Absent:

City Councilor Amy Miller

City staff present:

City Manager Mike Bennett
Deputy City Clerk Deb Woods
Assistant City Manager Shannon Vassen
Communications and Engagement Specialist Ciara DePinto
City Clerk/Finance Director Margaret Sell
Planning and Development Director Dan Caris
City Attorney Mary Elizabeth Geiger
Neighborhood Services Coordinator Matt Carson

Also present:

Special Counsel to the Fruita Housing Authority Dee Wisor with Butler
Snow (virtually)
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

Deputy City Clerk Deb Woods noted that changes to the agenda included the removal of Item 4.C - A Presentation by Dalida Bollig of the Business Incubator Center as she was ill and needed to reschedule her presentation to the City Council. In addition, Ms. Woods added a Section at the end of the Consent Agenda to give the Mayor an opportunity to thank and acknowledge the individuals who were appointed to the City's various Boards and Commissions on the Consent Agenda.

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

4. PROCLAMATIONS AND PRESENTATIONS

A. PROCLAMATION – PROCLAIMING SEPTEMBER 2023 AS “SUICIDE PREVENTION MONTH” IN THE CITY OF FRUITA TO BE ACCEPTED BY ABBY LANDMEIER WITH THE MESA COUNTY SUICIDE PREVENTION COALITION

Councilor Kreie read the Proclamation, which was accepted by Jennifer Daniels, who serves on the Mesa County Suicide Prevention Coalition. She explained that her organization is a coalition working to create a community where everyone feels supported in preventing and responding to suicide.

Ms. Daniels stated that the Suicide Prevention Coalition wants to invite everyone in the Grand Valley to be part of the #BeThe1to campaign, which teaches five simple actions:

1. Be the one to ask
2. Be there
3. Help keep them safe
4. Help them connect
5. Follow up

Mayor Kincaid requested that Ms. Daniels get the information concerning the Coalition’s events to the City’s Communications and Engagement Specialist, Ciara DePinto, who will help to make those known to the residents of Fruita.

B. PRESENTATION – CHIEF EXECUTIVE OFFICER OF MIND SPRINGS JOHN SHEEHAN GIVES THE CITY COUNCIL A PRESENTATION ABOUT MIND SPRINGS HEALTH

Mr. John Sheehan, Chief Executive Officer of Mind Springs Health provided the Council with a presentation that included what Mind Springs Health has been doing since he took his position there on August 2, 2022.

Mr. Sheehan stated that one of the things that he really felt strongly about when he first started with Mind Springs was that the organization needed to fundamentally change the way that they operate by not utilizing the old 1960s mental health model and instead looking at the landscape of mental health, substance abuse treatment and the idea of mind, body and spirit.

Mr. Sheehan explained that previously, Mind Springs had a very complicated governance structure that included four different operating boards with all different members who rarely talked to each other. He said one of the things he and his staff did immediately was put into place one group of people to oversee all of the operations of the five different corporations that include:

- West Springs Hospital
- Mind Springs Health
- Mind Springs Asset Management Company
- HUD housing (Bookcliff Apartments)
- Mind Springs Foundation

Mr. Sheehan said one of the things that he’s most proud of is that Mind Springs was able to open a psychiatric emergency room, which is actually the only freestanding psychiatric emergency room in

the State of Colorado. He noted that they have been seeing around 250 patients per month through this facility.

Mr. Sheehan stated that they've also recruited an entirely new Executive Team and have increased the number of quality employees related to compliance. He said to him, though, what is important is not compliance with what the state requires, but instead setting a quality standard that is state-of-the-art and is providing excellent care to every patient that they serve.

Mr. Sheehan noted that the Mind Springs Hospital is now in full compliance and added that they've got some bench strength in terms of how they are training their nurses and making sure they have good, quality practices. He added that outpatient services are now also in full compliance with all state regulations and the state came out and said they had no concerns with those.

Mr. Sheehan listed other successes at Mind Springs as follows:

- Two (2) child Tele-Psychiatrists
- Ability to provide an appointment same-day
- Upgrading all withdrawal management facilities from 3.2 to 3.7 (which means they have a more robust medical model)
- 16 new men's beds for residential substance abuse treatment
- Looking to hire more LPNs to support hospital operations
- Looking at the opening of the new Withdrawal Center in Glenwood Springs (six beds with a 3.7 level of care)
- New Vision Statement: *We create healing breakthroughs in brain, body and spiritual wellbeing for the individual, family and community.*
- Want to be a model of excellence across the continuum of care (not just meeting the minimum for compliance) such as evidence-based care, care to children, prevention, linking that care into a continuum, making sure that they don't get disengaged patients in a fragmented system and then lose them
- Committed to becoming a breakthrough community partner with law enforcement, hospitals, community partners to improve the access and quality of the care that's received by children, adults and families in all the counties they serve on the Western Slope of Colorado
- Employer of Choice
- Behavioral Health Overlays such as consults in the hospital
- Coordination and Call Centers

Mr. Sheehan assured the Council that the previous "fires" at Mind Springs had all been put out, but now it's about the hard work of putting a culture in place and rebuilding the organization so that it is trusted and seen as a community resource.

Councilor Purser asked how many people Mind Springs is having to turn away considering there are eight (8) beds in the hospital. Mr. Sheehan responded that Mind Springs actually has 48 beds total plus the eight Psych ER beds at the hospital and right now, they are staffed and operating at about 32 beds. He added that they usually fluctuate between 28 and 32 patients, but he would like to get to 43 (which is 90% occupancy) by October/November because they are gradually opening the hospital up. He stated that the Psych ER is not full and isn't on a regular basis, so a lot of the conversations he has been having recently is about the ability to do Psych ER transfers. Mr. Sheehan noted that the other piece that's starting to catch on is that law enforcement can just pull up and drop off patients.

Councilor Purser asked if Mind Springs has criteria for the Psych ER. Mr. Sheehan responded that if someone is having a mental health emergency or if it's a substance abuse issue or a little of both, he would recommend that someone bring them in to the Psych ER to be assessed. He added that potential patients will also be evaluated for the need of detox (which is just down the hall) and will never be discharged without a "warm" handoff.

Councilor Purser asked about the criteria for a non-emergency bed. Mr. Sheehan said anyone can come to the Psych ER and be evaluated. If it is a voluntary admission, they take those as well, although that is not the norm.

Councilor Purser asked for confirmation from Mr. Sheehan that Mind Springs is not having to turn away a lot of people who (for example) have been persuaded to come in by a family member. Mr. Sheehan said they would probably be able to take them and certainly wouldn't let them leave until they had been evaluated and either admitted to the Mind Springs facility or another facility. He said he really tries to reduce the amount of folks that have to go the Front Range for care, particularly children.

Councilor Breman recalled when a person in high school was having some issues and he remembered that it was up to 20 days before that person could see somebody. He asked Mr. Sheehan to confirm his earlier statement that people can make same-day appointments. Mr. Sheehan confirmed this to be true and added that if someone is in crisis, they need to come to the Psych ER.

Councilor Hancey asked what Mind Springs is doing to help Fruita specifically. Mr. Sheehan said he didn't know that Mind Springs has been very targeted on Fruita specifically, but he thinks there's obviously a great need in Fruita just like there is everywhere else. He said his question would be what can Mind Springs do better for the Fruita community than they have in the past? Councilor Hancey said could see value in Mind Springs reaching out to Family Health West to see what they could do about in-person care so that Fruita residents don't have to go to Grand Junction or things of that nature. Mr. Sheehan said he has met with Dr. Korrey Klein (President/CEO of Family Health West) probably three times in the last month about that very subject and he would be open to having some form of partnership.

Councilor Purser suggested that an information booth at a Farmers Market or other event would be a good way to share information, especially about the same-day appointment aspect.

Councilor Breman commented that it would be an uphill battle considering the rollercoaster of the past but that consistent messaging within the Fruita community would be beneficial. Mr. Sheehan said he was leaving some of his business cards with the Council members and requested that they pass along any specific feedback and contact information for whomever may be having trouble.

C. PRESENTATION – EXECUTIVE DIRECTOR OF THE FRUITA AREA CHAMBER OF COMMERCE KAYLA BOWERS WILL GIVE THE CITY COUNCIL AN UPDATE

Mrs. Kayla Bowers, Executive Director of the Fruita Area Chamber of Commerce, provided the City Council with a presentation about the Fruita Chamber. She listed Fruita Chamber efforts as follows:

- Looking for ways to better support local businesses
- Continuing to be a trusted community resource

- Collaborated with other organizations like the Business Incubator Center to provide educational opportunities such as “Coffee Club”
- Hosted workshops which provide guidance and access to programs and development services that help businesses thrive
- Helped support community engagement by hosting events such as the Fruita Fall Festival and Fruita Farmers Market
- Facilitates partnerships between business and local organizations which enhances the quality of life and creates a sense of pride and belonging among residents
- Funded scholarships for youth in the community
- Passed the Scholarship Fund to the Fruita Area Chamber Foundation, which was able to increase scholarships to \$1,000 for each student
- Honored a local FFA student, a business major student and a student services student, all of whom graduated from Fruita Monument High School and will be continuing to pursue higher education at Colorado Mesa University
- Continue to foster “Kids in Business,” which is an opportunity for young entrepreneurs in the Fruita community to learn the fundamentals of running a business
- Currently have 29 “Kids in Businesses” who have participated in the Fruita Farmers Market this year
- Has strong partnerships with Fruita Boards and Commissions. Last year, the Chamber helped recruit sponsorship dollars to help pay for the printing of 5,000 copies the Fruita History Coloring & Activity Book to be distributed to local businesses and in Fruita schools
- Advocacy and representation – Government Affairs Committee made up by Chamber member businesses for its member businesses which advocates in the interest of businesses at the local, regional and sometimes even the national level.
- 617 bills were passed in the Colorado General Assembly this year and more than 78% of those bills were actually passed. These bills not only affect Fruita’s local businesses, but also the community. The Chamber’s Governmental Affairs Committee monitored 42 of those bills and took position on 32.
- The Committee is non-partisan and serves as the voice of business in advocating for policies and programs which create an environment in which businesses can thrive and expand.
- Next month, the Colorado Economic Development Council is hosting its Annual Conference in Mesa County. The Fruita Chamber is hosting a tour in Fruita that will showcase some of Fruita’s downtown revitalization projects, outdoor recreation and community culture, all of which promotes the City of Fruita on a state-wide level.
- The Chamber often engages in marketing and branding efforts that promote the City as a great place to live, work and do business. These efforts enhance the City’s reputation and attract new residents and businesses due to the community culture the Chamber helps cultivate.

Mrs. Bowers stated that her commitment to the City Council is to provide more data that will help support the important work that the Chamber is doing and the direct impact it has on the City of Fruita. The Chamber is currently developing its Strategic Plan in the upcoming months and part of those efforts will be to create a Vision and Traction Organizer to help the Chamber stay on track to achieving its Core Focus, One-Year Plan, Three-Year Picture and Ten-Year Target. These are all strategies that the Chamber has learned from the EOS Model, which was a workshop the Chamber hosted earlier this year at Coffee Club.

Mrs. Bowers said she would also like to include data surrounding support for tourism the Chamber provides as well as analytics for the economic impact events like Fruita Fall Festival have on the City of Fruita.

Mrs. Bowers said she hoped the Council members had had an opportunity to look over the Annual Report the Chamber did for 2022. She added that thanks to the continued partnership of the City of Fruita and the Fruita Chamber, the Chamber was able to accomplish some major milestones over the past year. She said while the Chamber is now a non-profit organization, they must still operate as a business, so the Chamber has launched innovative partnerships to help stretch its dollars further in the community, like the partnership the Chamber has with the Palisade Chamber of Commerce.

Mrs. Bowers stated that she wanted to send the Council a copy of the Chamber's 2022 Balance Sheet and Profit & Loss Statements so they have a better understanding of the small budget the Chamber must work with and the big accomplishments they've achieved under it. She pointed out that inflation has significantly impacted Fruita's local businesses and the Chamber is not exempt from that. In 2022, the Chamber's event expenses increased 36.5% while its income only increased by about 19%, which resulted in a financial loss for 2022. The Chamber's membership dues also decreased from 2021 to 2022 by 11% due in part to the financial setbacks that local businesses have been facing since the pandemic.

Mrs. Bowers also stated that the Council members should have received a copy of the Chamber's 2023 Financial Statement year-to-date. She said the Chamber is committed to increasing its revenue and looking at creative ways to do that without putting that burden back on the local businesses. She added that the Chamber is fortunate to have several community partners like the City of Fruita, who also invest in the Chamber to help keep resources and educational opportunities low- or no-cost to the local businesses. The Chamber also seeks sponsor dollars to help fund small scholarships for students to attend educational events like the Women's Conference that the Chamber hosted earlier this year at Colorado Mesa University.

Mrs. Bowers said that the large community events that the Chamber hosts provide a great deal of value and sense of belonging to the Fruita community and without the Chamber here to host those events, that responsibility could fall on the City of Fruita. She said hiring an event planner alone to coordinate events like the Farmers Market, Fall Festival and Parade of Lights could cost somewhere on the low end of \$65,000 for a full-time position and paid benefits. Mrs. Bowers explained that the Chamber continues to host these events in addition to everything else that they do for half of that cost.

Mrs. Bowers continued that partnerships between Chambers and their local municipalities aren't uncommon and that by continuing to foster strong partnerships with the City of Fruita and the Fruita Area Chamber, it directly supports the culture the Chamber has worked so hard to create in Fruita. She stated that not everything the Chamber does is profitable, but they continue to support the families and the children in the Fruita community and build that family-friendly culture that Fruita has worked so hard to achieve. She said the Chamber exists to grow a prosperous and sustainable community with the vision of being a trusted advocate and resource to the community.

As part of her closing remarks, Mrs. Bowers asked the City Council to consider the continued partnership investment of \$30,000 for 2024. She said the partnership between the City of Fruita and the Fruita Area Chamber of Commerce isn't just an alliance; it's an investment in shared futures. She added that the return on investment with the Chamber is felt in the growth of Fruita's local businesses,

the strength in the economy, the sense of belonging in the community and the overall wellbeing of Fruita residents. Mrs. Bowers said the Chamber is honored to be a part of that.

Mayor Kincaid thanked Mrs. Bowers for the presentation and acknowledged how hard the employees of the Chamber work. He noted that he hears a lot of positive feedback on the Chamber's momentum and where they are going.

Councilor Purser asked Mrs. Bowers if she had an idea of the percentage of the number of Fruita businesses are Chamber members out of all of the businesses. Mrs. Bowers said she did not have that statistic but would pull that data and send it to the City Council.

5. PUBLIC PARTICIPATION

There were no comments from the public.

6. CONSENT AGENDA

- A. MINUTES - A REQUEST TO APPROVE THE MINUTES OF THE JULY 25, 2023 CITY COUNCIL WORKSHOP MEETING**
- B. BOARDS AND COMMISSIONS REAPPOINTMENT – A REQUEST TO APPROVE THE REAPPOINTMENT OF DEREK BIDDLE TO THE PLANNING COMMISSION AS A REGULAR MEMBER FOR A THREE-YEAR TERM TO EXPIRE IN SEPTEMBER OF 2026**
- C. BOARDS AND COMMISSIONS APPOINTMENT – A REQUEST TO APPROVE THE APPOINTMENT OF JAMIE VAVRA TO THE LIVABILITY COMMISSION FOR A THREE-YEAR TERM TO EXPIRE IN SEPTEMBER OF 2026**
- D. BOARDS AND COMMISSIONS APPOINTMENT – A REQUEST TO APPROVE THE APPOINTMENT OF TIFFANY O'BRIEN TO THE DOWNTOWN ADVISORY BOARD FOR A THREE-YEAR TERM TO EXPIRE IN SEPTEMBER OF 2026**
- E. BOARDS AND COMMISSIONS APPOINTMENT – A REQUEST TO APPROVE THE APPOINTMENT OF BRADLEY REIST TO THE POLICE COMMISSION AS A REGULAR MEMBER TO FULFILL AN UNEXPIRED TERM PLUS AN ADDITIONAL THREE-YEAR TERM TO EXPIRE IN MAY OF 2027**
- F. BOARDS AND COMMISSIONS APPOINTMENT – A REQUEST TO APPROVE THE REAPPOINTMENT OF JOSH MCGUIRE TO THE PLANNING COMMISSION AS AN ALTERNATE MEMBER FOR A THREE-YEAR TERM TO EXPIRE IN SEPTEMBER OF 2026**
- G. RESOLUTION 2023-26 – A REQUEST TO APPROVE A RESOLUTION AMENDING THE 2023 BUDGET AND TRANSFERRING FUNDS FROM THE GENERAL FUND AND MARKETING AND PROMOTION CONTINGENCY ACCOUNTS FOR ENTERTAINMENT EXPENSES AND SHORT-TERM RENTAL COMPLIANCE SOFTWARE**

H. AUDIT SERVICES CONTRACT – A REQUEST FOR APPROVAL OF A FOUR-YEAR CONTRACT WITH MCMAHAN AND ASSOCIATES, LLC FOR PERFORMANCE OF THE CITY’S ANNUAL AUDIT FOR FISCAL YEARS 2023 THROUGH 2026 WITH AN OPTION FOR ONE FOUR-YEAR EXTENSION

Mayor Kincaid asked if there were any requests from the public to remove any item(s) removed from the Consent agenda for further discussion. There were no such requests.

Mayor Kincaid asked the City Council if they had any item(s) they would like removed from the Consent agenda for further discussion. There were no such requests.

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

7. ACKNOWLEDGMENT OF THE APPOINTMENTS OF BOARDS AND COMMISSIONS MEMBERS

Mayor Kincaid recognized that five people had just been appointed to the City’s various Boards and Commissions and that some were fulfilling terms that had not yet expired. He stated that it was great to see people in the community applying for those positions and expressed the Council’s appreciation. He thanked the new board members in advance for providing their insight to the Fruita City Council.

8. PUBLIC HEARINGS

A. QUASI-JUDICIAL HEARINGS

- 1) **SPECIAL EVENT LIQUOR PERMIT APPLICATION – A REQUEST TO APPROVE A SPECIAL EVENT LIQUOR PERMIT APPLICATION FROM THE FRUITA AREA CHAMBER OF COMMERCE TO SELL AND SERVE BEER AND/OR CIDER AT THE FRUITA FALL FESTIVAL “BEER FEST” TO BE HELD ON FRIDAY, SEPTEMBER 22, 2023 FROM 5:00 TO 10:00 PM AT CIVIC CENTER MEMORIAL PARK LOCATED AT 325 E. ASPEN AVE. – DEPUTY CITY CLERK DEB WOODS**

Deputy City Clerk Deb Woods gave staff’s presentation. She summarized the application and noted that Fruita Chief of Police Dave Krouse submitted his statement that after his review of the application, he saw nothing that would prohibit the issuance of the Special Event Liquor Permit being requested. Ms. Woods then provided staff’s recommendation of approval of the Special Event Liquor Permit subject to the following conditions:

- 1) The entrance and exit shall be monitored closely and continuously by event staff in order to prevent alcoholic beverages from going into or out of the area.
- 2) 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.
- 3) All other procedures presented by the Chamber will be followed.

Ms. Woods advised that Executive Director of the Fruita Area Chamber of Commerce Kayla Bowers was present in the audience as the applicant's representative and invited her to provide any additional comments she may have.

Mrs. Bowers said she wanted to add that the Chamber had hired security to help monitor the beer garden as they do every year and that the Chamber had requested that monitor each of the entry and exit points so that that burden does not fall on volunteers. She explained that in the past, the Chamber had incidents where individuals tried to take their beer out of the beer garden and the volunteers didn't feel very comfortable when those issues arose, so the Chamber made sure this year to have security that will be stationed at all of the entry and exit points. Mrs. Bowers added that anybody that does get a wristband will be the only ones will be served by the breweries who will be pouring all the alcohol.

Mayor Kincaid opened the public hearing on the Fruita Area Chamber of Commerce's application for a Special Event Liquor Permit. Hearing no comments, he closed the public hearing and brought the matter back to the City Council, who also had no comments.

- **COUNCILOR WILLIAMS MOVED TO APPROVE THE APPLICATION FOR A SPECIAL EVENT LIQUOR PERMIT FOR THE FRUITA AREA CHAMBER OF COMMERCE TO SELL AND SERVE BEER AND/OR CIDER AT THE FRUITA FALL FESTIVAL "BEER FEST" TO BE HELD ON FRIDAY, SEPTEMBER 22, 2023 FROM 5:00 TO 10:00 PM AT CIVIC CENTER MEMORIAL PARK SUBJECT TO THE CONDITIONS STATED BY STAFF. COUNCILOR PURSER SECONDED THE MOTION. THE MOTION PASSED WITH FIVE YES VOTES.**

- 2) **SPECIAL EVENT LIQUOR PERMIT APPLICATION – A REQUEST TO APPROVE A SPECIAL EVENT LIQUOR PERMIT APPLICATION FROM THE FRUITA ROTARY CLUB TO SELL AND SERVE BEER AT FRUITA FALL FESTIVAL ON SATURDAY, SEPTEMBER 23, 2023 FROM 10:00 AM TO 10:00 PM AT CIVIC CENTER MEMORIAL PARK LOCATED AT 325 E. ASPEN AVE. – DEPUTY CITY CLERK DEB WOODS**

Deputy City Clerk Deb Woods gave staff's presentation. She summarized the application and noted that Fruita Chief of Police Dave Krouse submitted his statement that after his review of the application, he saw nothing that would prohibit the issuance of the Special Event Liquor Permit being requested. Ms. Woods then provided staff's recommendation of approval of the Special Event Liquor Permit subject to the following conditions:

- 1) The applicant will discontinue serving alcohol at 9:30 p.m. to allow patrons 30 minutes to finish their beverages and leave the licensed area.
- 2) 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.
- 3) All other procedures presented by the Fruita Rotary Club will be followed.

Ms. Woods advised that Fruita Rotary Club Event Manager Lou Mudd was present in the audience as the applicant's representative and invited him to provide any additional comments he may have.

Mr. Mudd explained that approximately 80% of the money that the Rotary Club earns goes back to the Fruita community. He said the Rotary is looking at some international projects this year in Guatemala and a few other places because the Rotary is an international organization.

Mr. Mudd said the Rotary Club appreciates all the approvals of all of their previous beer applications. He made the comment that the other Rotary clubs in the Valley are envious of Fruita's because 13 out of 15 members of the Fruita Rotary Club have attended a Alcohol Server Responsibility Training in Grand Junction so that they are trained and experienced at alcohol serving. Mr. Mudd added that the Rotary Club knows what to watch for and what their liability is relative to the serving of alcohol.

Mayor Kincaid opened the public hearing on the Fruita Rotary Club's application for a Special Event Liquor Permit. Hearing no comments, he closed the public hearing and brought the matter back to the City Council.

Councilor Purser stated that 10:00 a.m. seems early to her for the beer garden to open and asked if there was a specific reason for it. She pointed out that 10:00 a.m. is the same time as the parade. Mr. Mudd responded that the Rotary needs time to set everything up and make sure that all the taps are pouring properly. He added that the Rotary usually doesn't get much businesses of any kind until after the parade, but once the parade is over, people start pouring into the beer garden, so the Rotary put 10:00 a.m. down as a buffer in order to be ready for patrons. He said sometimes there will be a few people who want to order a beer, but it's never a line of people at that point. Councilor Purser said it always just rings funny to her when she sees it, so she just wanted to ask if there was a specific reason.

- **COUNCILOR KREIE MOVED TO APPROVE THE APPLICATION FOR A SPECIAL EVENT LIQUOR PERMIT FOR THE FRUITA ROTARY CLUB TO SELL AND SERVE BEER AT THE 2023 FRUITA FALL FESTIVAL TO BE HELD ON SATURDAY, SEPTEMBER 23, 2023 FROM 10:00 AM TO 10:00 PM AT CIVIC CENTER MEMORIAL PARK SUBJECT TO THE CONDITIONS STATED BY STAFF. COUNCILOR HANCEY SECONDED THE MOTION. THE MOTION PASSED WITH FIVE YES VOTES.**

B. LEGISLATIVE HEARINGS

There were no Legislative public hearings on the agenda.

9. ADMINISTRATIVE AGENDA

There were no Administrative items on the agenda.

10. CITY MANAGER'S REPORT

City Manager Mike Bennett provided the following updates to the Council:

- What is happening with the two vacant lots north of the Hot Tomato – there is a large lot there and it's often been requested of the City (even though the City doesn't own it) that people be allowed to park there. Mike explained that it's privately owned and staff hasn't been able to come to an agreement with the property owner to buy the property because their asking price has been either \$2 million or \$3 million over the years, which staff

cannot justify purchasing. He said staff broached the subject with the landowner concerning the possibility of the City leasing the property for downtown overflow parking and has been able to verbally agree on a price with the owner. Mike said the reason he was bringing it up now was because the owner agreed to a month-to-month lease for the remainder of the year when Fruita is going to get much busier within the next few weeks. The annual lease was proposed by the owner at \$9,000 per year (or about \$750 per month) and Mike said he wanted to know what the Council's thoughts were. He said it would be great if the City could use it for overflow parking, but if in the future someone else purchases the property, that could be a problem because people would be used to parking there.

Mike added that the City's lease agreement would include a provision for First-Right-of-Refusal (which the property owner agreed to) and in addition, the City would make an annual payment for the year. If there were to be any sale that the City refused, the City would receive a pro-rated amount back based upon which month the sale occurred. If leased by the City, there would be no improvements made on the property because the owner is not willing to agree to that (which is understandable) and there would be Building Code requirements that would kick in that would not be part of what the owner is willing to agree to. Mike said that staff could put forth a monthly contract for the Council's approval for the remainder of this year in time for Fruita Fall Festival and that essentially, there would be a sign marking the property as "Temporary Overflow Public Parking" unless the Council wasn't interested in it. Mike noted that the City does have the funds to lease the property for the rest of the year. There was consensus among the Council for staff to move forward on the lease agreement with the property owner and to ensure that the signage for the lot prohibits large trucks, campers and overnight camping.

- Staff sent out an email which was forwarded from the Mesa County Public Health Department about their Suicide Awareness Campaign. Mike asked if the Council had any questions or felt any discomfort with participating in the campaign after noting that there are many opportunities for the Council members to do that. There was consensus among the Council members for staff to proceed with taking part in the campaign. Fruita's Communications and Engagement Specialist Ciara DePinto said that Sara Spaulding with the City of Grand Junction was working with KKCO on some news stories and that if the Fruita City Council was interested, she could facilitate that for Fruita as well. Mayor Kincaid said that would be great and the Council members agreed.
- A follow up on the transaction of the City purchasing the "The Beach" property from Mesa County: City Attorney Mary Elizabeth Geiger recalled how the City Council authorized the City Manager to sign a contract to be able to move forward with the closing. Mesa County has an unwritten policy that states that they only convey title to property via Quit Claim Deed. She said initially, that gave her a lot of heartache because it was uncertain or not whether Fruita was going to get title insurance. She added that title insurance will be available and the City will be covered. Ms. Geiger noted that the City has been a beneficial owner of that property even though it hasn't held the title. She added that there isn't anything in the title work, so the county is signing an affidavit that they haven't done anything that would cause there to be any issues, which is acceptable by the underwriters.

- Regarding “Friends of Enoch’s Lake,” Ms. Geiger noted that the group sent a request to City of Fruita staff to be allowed to start doing work at the lake and potentially get some keys and other access from Public Works in order to get in. She explained that just like when the City has any contractor doing work, staff must have them under contract and they must be fully insured. Mrs. Geiger stated that this was something to keep in mind for the future, but the short answer is that staff will be responding to the “Friend of Enoch’s Lake” that until or unless the City enters into a contract with them, they are not allowed to do any work at the lake on behalf of the City of Fruita. Mayor Kincaid said he wanted to be clear that at the next regular meeting of the Council on September 15, 2023, Council and staff would be discussing the process for conveying all mountain water properties owned by the City; not just Enoch’s Lake. Ms. Geiger noted that “Friends of Enoch’s Lake requested to be put on the agenda, but that is not how the City handles requests like that and that staff would not be putting that discussion on as a specific agenda item for dialogue that night at all; that on September 19th, the discussion was going to be about the process in general for selling the property at Enoch’s Lake.

Mike said he was going to send an e-mail response to the “Friends of Enoch’s Lake” and would copy in the Mayor and City Council that the meeting of September 19th had a discussion that is *not* a public hearing; it’s a discussion to talk about *process* and the fact that the City has to have its workers under contract and they must have proof of liability insurance.

Councilor Breman asked if the expectation for September 19th was that the Council will sort of brainstorm “from scratch” or was it possible for the Council to have some documentation such as different ways of thinking about it? Mayor Kincaid advised that if a majority of the Council wanted to give that direction to staff, they could. Councilor Breman suggested that staff bring examples of how some other communities have handled situations like this just so the Council could have a framework to get started. Mike said that typically, staff can find examples from other communities but that examples of this situation might be more difficult to find and that if it was okay, he would rather spend more time on establishing the process for putting up the property for sale for some period of time while still meeting the requirements of the Ordinance process. He said staff could easily bring some examples of what that would look like.

There was discussion about whether the agenda item on September 19th should be concerning a process for the sale/conveyance of *any* City property or if it was for Enoch’s Lake specifically. Ms. Geiger pointed out that the City Charter says that in order to sell property, the City has to go through the Ordinance process and that is all it says; it doesn’t say anything about putting up a “For Sale” sign or anything else. She recognized that the Council was concerned about the perception of transparency specifically for Enoch’s Lake, so she suggested that the Council focus on Enoch’s Lake at the upcoming meeting as it is unique for a variety of reasons. Ms. Geiger added that at a later time when the pressure is off, the Council could discuss setting a policy to address the sale of other City properties. Councilor Breman disagreed, saying that it just felt awkward to him to set a policy for one property because the Council would be setting a precedent that should apply to all the mountain properties. There was discussion among staff and the Council members and the consensus was that on September 19th, the conversation would have a hyper-focus on the process for Enoch’s Lake with a more broad focus on the process for the other mountain properties.

11. COUNCIL REPORTS AND ACTIONS

A. COUNCIL REPORTS AND ACTIONS

COUNCILOR KEN KREIE

Ken stated that downtown Fruita is becoming more vibrant in the evening and that there tends to be a lot of live music going on, which is great, but he wondered how loud the music actually is and if any of the neighbors downtown are annoyed by it. He said he didn't think the City should enact any enforcement measures, but that a communication campaign may be in order to figure out what everyone was thinking and whether there is an issue than might require setting noise volumes or providing noise mitigation. He said he has heard murmurs and that he didn't know if it's an issue because he doesn't have a decibel meter. He added that he has been disrupted. Mike pointed out that there is a state noise Ordinance and a City of Fruita one that addresses the time of night. Deputy City Clerk Deb Woods described the Noise Amplification Permit and the process for it. Ken pointed out that the state's regulations allow 55 decibels from 7:00 a.m. to 7:00 p.m. and then 50 decibels after 7:00 p.m. that's measured from the property line to 25 feet. He said he would like to avoid going there; he would rather have a conversation with the people who can control the noise levels before they become a problem. Councilor Purser said she's also been hearing multiple murmurs about it. Mike suggested that staff look into the noise regulations in the Municipal Code and get back to the Council with potential options.

COUNCILOR AARON HANCEY

Aaron said he wanted to give everyone a heads up that Executive Director Kaia Michaelis with the Museums of Western Colorado (MWC) has chosen to leave, so currently the position is open. Her contract expires at the end of September and the MWC is accepting applications right now to replace her. Aaron said the MWC has quite a few qualified candidates. The Assistant Executive Director will be heading things up until the MWC finds a new Executive Director.

COUNCILOR JAMES WILLIAMS

James said he had reached out to Mike a few weeks ago after noticing that Fruita Middle School had posted online that they need picnic tables. He asked Mike if the City had any left over from the COVID-19 pandemic, but it was thought that the City already gave those tables to the school last year. James said he also reached out to School District #51 to see if they had any and the Chief Operating Officer (COO) got back to him and wanted to set up a meeting to talk about it. James said he tried to contact Principal Johnston to determine the school's exact need first and left him a voicemail, but never heard back from him. James said that he saw a bunch of picnic tables at the school on the way to the Council meeting and Mike said the tables were already there and that he took photos of them the day James originally approached him about it.

James reported that the Fruita Tourism Advisory Council (FTAC) meeting was canceled due to lack of a quorum.

MAYOR PRO TEM MATTHEW BREMAN

Matthew said he was excited to represent the City of Fruita on September 14th at the Trade & Export Summit featuring the Consul-Generals from Japan, the UK, Mexico, Canada and Taiwan. Apparently,

the State of Colorado has new grant opportunities for municipalities wishing to bring live music into their community. Matthew said Representative Soper thinks Fruita is an excellent candidate for the funding and that Fruita should take advantage of the opportunity. James suggested that staff look into it as soon as possible because it was probably a matter of first come, first serve.

COUNCILOR JEANNINE PURSER

Jeannine thanked staff for forwarding the presentation on Dark Skies that the Council received at a prior meeting and said she was interested in knowing more about what the City can or cannot do in that regard. She asked if the other Council members felt the same. Ken pointed out that the City's Land Use Code addresses it and Mike confirmed that it does on all new construction. Jeannine wondered if the City could implement some kind of an incentive program, maybe phasing in a program to change out existing lighting that causes light pollution or even hearing what that might look like such as whether it could ever be a possibility for consideration. Joel recalled when the City received a complaint from a resident about her neighbor's bright light that shone into her bedroom and he said he liked the idea of an incentive for the City's sidewalks. James noted that the previous night it was so dark around 10:30 p.m. that the Milky Way could easily be seen and that he was cognizant of it due to receiving the Dark Skies presentation. Joel thought it might be a good Budget discussion. Aaron thought there might not be enough time to get it into next year's Budget. Ken thought there could also be an educational campaign such as an article in the City Link newsletter. James said it would be good to know what the City already has in place and Mike agreed, saying that staff could start there. Jeannine said that would be great.

Jeannine reported that she heard a concern about whether the City lets the Fruita United Methodist Church know when streets are going to be closed during special events because during Fall Festival or any of the bike races, the events might be on Saturday, but the streets are still blocked off on Sunday. She said the church hasn't been alerted to when those things are happening and she wondered if they were forgotten by staff. Mike explained it is a requirement in the City's permit process that the organizers of special events notify affected residents and businesses. This could include the City, Chamber or other outside entity and they have to notify those located within a certain radius of the event of its date and time. Joel asked if staff helps the other entities with a mailing list or anything and Mike said the notifications are typically done in person aside from all the City's other communications to the public.

Jeannine also reported that the "HeArt of Fruita" reception would be held on Saturday, September 13th, the same night as the Community Hospital childcare facility groundbreaking.

COUNCILOR AARON HANCEY

Aaron reported that he would be attending the Early Childhood Education Center groundbreaking at Community Hospital on September 13th and he wondered if any of the other Council members were also attending. None responded that they were.

CITY MANAGER MIKE BENNETT

Mike recalled that he wasn't at the City Council meeting when there was a discussion about the drones Ordinance but there was direction from Council for staff to bring forward a First Reading of the Ordinance along with another presentation from staff. He said he was informed that there were a lot of questions related to removing proposed language in the draft of the Ordinance and the Fruita Police

Department told him that what they would be able to enforce would be minimal under the new draft language. Mike asked what the direction was from Council that night. Jeannine recalled that there was a certain part that the Council decided could be taken out and she specifically asked Lt. Peck if there were still enough “teeth” in the Ordinance language and he said, “yes.”

Planning & Development Director Dan Caris recalled that there was a lot of conversation about how people could be in violation of the law immediately if they flew a drone on a trail or in a park where people could say they felt harassed by that but staff wouldn’t be able to prove that intent. Dan said he thought that was Aaron’s consternation around the Ordinance in general when the intent of the Ordinance originally was really just to protect people’s private property.

Dan recalled discussing a hypothetical situation where a kid at Prospector Park flies his drone over the fence line. He would be in violation of the City’s regulations, but he would already be in violation of the FAA regulations because it’s against the law to lose line of sight of your drone. He said he felt that staff got good direction on what the Council wanted them to do, but he didn’t know if there was total consensus around the language that would make everyone happy.

James said he thought the majority of the Council landed on wanting kids to be able to go to a park and fly their drones but not in a residential area over their neighbor’s homes (except in the case of realtors who have this permission). He recalled that that was what he wanted, anyway.

Dan said that staff could write an Ordinance that would prohibit drones from flying in residential areas unless a person had permission, such as in the case of a commercial enterprise. He added that this would really be the only way that the City could regulate the behavior through fines. Mayor Kincaid noted that it would be complaint-based.

Councilor Kreie said it was his understanding that something was supposed to happen in September of 2023 where all drones would now have to emit an identification that would identify their owners. He said he suspected that new code may be generated for drones and laws would be more enforceable after that, so it may be best to hold off.

Dan said he didn’t think the City should confuse civil complaints with criminal complaints because outside of vehicles and public right-of-way, the Police Department is usually involved in criminal cases and not civil. He added that he thought part of the confusion could be that some of the terminology being used by staff and the Council was being used interchangeably when it shouldn’t be. He said instead of going to District Court, the enforcement would come through the threat of fines or other means in a civil case.

After more discussion, Jeannine located and read the following draft Ordinance language from the last time staff and the Council discussed regulations for drones:

“No person shall enter, hover, land or otherwise operate an unmanned aircraft system on or over another person’s private property without the prior consent of the property owner. Such unauthorized entry onto another’s property shall be deemed a trespass.”

Dan reviewed paragraphs A through G of the draft Ordinance language, noting that the Council had previously discussed allowing drones to be flown in City parks, condensing the paragraphs into one paragraph and/or eliminating paragraph E.

There was consensus among the Council that the paragraph read by Jeannine most closely reflected the regulations that the Council wanted. Mike suggested letting staff amend the draft language again and bring it before Council at another meeting to see if it still needed more amendments. There was consensus for staff to do that for the First Reading of the Ordinance and have staff prepare another presentation (not put it on the Consent Agenda).

MAYOR JOEL KINCAID

Joel recalled when he sat in the back of the room at the August 29, 2023 Special Meeting that was presided over by Mayor Pro Tem Matthew Breman. He said he wanted feedback from the Council on the following:

- Joel thought that requesting that audience members not clap, etc. before the meeting was awesome and that the clapping after the meeting was inappropriate because it felt like a celebration of the Council voting “No.” He said the time for people to clap and the Council to reward people should only be during Proclamations and Presentations, and not during a public hearing. He recalled when the audience clapped and cheered after all the Councilors voted “No” except for Matthew, who voted “Yes,” it seemed like Matthew’s vote didn’t count and it set a poor tone as a Council. Ken agreed that the Council could relay its expectations for common decency, but he didn’t know that he wanted to tell people they couldn’t be happy. City Attorney Mary Elizabeth Geiger recalled how one Council member had said (after the vote) to the audience, “okay, you guys can celebrate now,” and she agreed that it kind of harms the process of a public hearing because there aren’t “winners” and “losers,” that’s not the point of a public hearing. It is the Council making a decision on something that is in front of them. Ken said he understood.
- Joel said he also wanted to mention how the Fruita City Council addresses audience members at Council meetings. He said everything is a learning experience and that the Council has done a great job of addressing the public and listening to them, but that the Council also needs to be aware that they need to be portrayed to the audience as having one voice. Joel added that the Fruita City Council is more unified than most other groups in the Valley and he wanted to share that with Council because he feels like if Fruita steps up, it will be the best City in the Valley. Joel also noted that these two things were what he noticed as he sat in the audience as an “outsider.”

Ken said there were parts of the meeting towards the end when the Council was having a conversation with staff and the audience wanted more information, so he feels like he didn’t know if the Council could anticipate that enough to know ahead of time.

Matthew said he felt like some of the challenges at certain times was that the Council was addressing the audience members, which opened up a dialogue.

Aaron said he thought it was part of the decorum where the Council was having discussions and of course, the Council feels that the audience and community need to hear that. He called it a natural law to address them and said that the public hearing in question was a special kind of experience that doesn’t happen very often.

Jeannine said Joel was spot on and that moving forward, the Council members would take his feedback, but that it was very unnatural to not want to engage with the audience and let them know they'd been heard.

Joel said he wanted to leave the seat of Mayor in a better condition than when he started and that is his goal. He pointed out that he'd only be around another seven (approximately) months and said he has learned so much over the years.

B. EXECUTIVE SESSION – DISCUSSION AND POSSIBLE ACTION TO CONSIDER A MOTION TO CONVENE IN EXECUTIVE SESSION REGARDING PERSONNEL ISSUES UNDER C.R.S. SECTION 24-6-402(4)(F) FOR THE CITY ATTORNEY'S ANNUAL FORMAL REVIEW

- **COUNCILOR HANCEY MOVED TO CONVENE IN EXECUTIVE SESSION FOR DISCUSSION OF A PERSONNEL MATTER UNDER C.R.S. SECTION 24-6-402(4)(F) AND NOT INVOLVING:**
 - 1. ANY SPECIFIC EMPLOYEES WHO HAVE REQUESTED DISCUSSION OF THE MATTER IN OPEN SESSION,**
 - 2. ANY MEMBER OF THIS BODY OR AND ELECTED OFFICIAL,**
 - 3. THE APPOINTMENT OF ANY PERSON TO FILL AN OFFICE OF THIS BODY OR**
 - 4. AN ELECTED OFFICIAL OR PERSONNEL POLICIES THAT DO NOT REQUIRE THE DISCUSSION OF MATTERS PERSONAL TO PARTICULAR EMPLOYEES (THE CITY ATTORNEY'S FORMAL REVIEW). COUNCILOR PURSER SECONDED THE MOTION. THE MOTION PASSED WITH FIVE YES VOTES.**

The City Council took a five-minute break followed by the Executive Session at 9:21 p.m.

12. ADJOURN

With no further business before the Council, Mayor Kincaid adjourned the meeting at 9:45 p.m.

Respectfully submitted,

Debra Woods
Deputy City Clerk
City of Fruita