

**FRUITA CITY COUNCIL SPECIAL MEETING
AUGUST 29, 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
City Councilor Aaron Hancey

Excused Absent:

(None)

City staff present:

City Manager Mike Bennett
Assistant City Manager Shannon Vassen
Deputy City Clerk Deb Woods
Public Works Director Kimberly Bullen
Parks and Recreation Director Marc Mancuso
Fruita Chief of Police Dave Krouse
Fruita Lieutenant Nick Peck
City Attorney Mary Elizabeth Geiger

Also present:

Members of the public (in-person and virtually)

Prior to the Moment of Silence and Pledge of Allegiance, Mayor Kincaid addressed the audience and explained that he was absent from the July 18, 2023 City Council meeting when the public hearings on the mountain water properties were on the agenda. At that meeting, the public hearings on second reading of Ordinance Nos. 2023-07 and 2023-08 concerning City-owned properties on Pinon Mesa known as Enoch's Lake and a 2-acre parcel were continued by a vote of the City Council to this Special Meeting of August 29, 2023.

Mayor Kincaid requested that audience members be respectful to both Council and other audience members by refraining from clapping, cheering or blurting out comments.

Mayor Kincaid also explained that Mayor Pro Tem Matthew Breman would be presiding over the public hearings for Enoch's Lake and the 2-acre parcel since he was the one who presided over the original public hearings at the July 18, 2023 Regular City Council meeting.

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 staff had no changes to the agenda but clarified for the record that all written public comment concerning the City's mountain water properties received by staff after the Council packet had gone out the previous Friday had been emailed to all Council members, made part of the official record and hard copies of those comments were provided to the Council on the dais.

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

4. PUBLIC PARTICIPATION

There were no comments from the public.

5. LEGISLATIVE PUBLIC HEARINGS

- A. **CONTINUANCE OF ORDINANCE 2023-07 – 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 (CONTINUED FROM THE JULY 18, 2023 REGULAR CITY COUNCIL MEETING)**

Mayor Kincaid excused himself from the dais and turned the public hearing over to Mayor Pro Tem Matthew Breman.

Public Works Director Kimberly Bullen explained that because this was a continuance, she was not going to repeat the presentation that she had already given at the July 18, 2023 Council meeting. She stated that at that time, the Council did ask for clarification on the following two matters:

- How the Glade Park Pipeline Water Users Association (GPPWUA) makes decisions
- Information regarding the county road and trails near the City's water mountain properties

Ms. Bullen stated that the GPPWUA is governed by bylaws and has an annual meeting each year where four officers are elected to fill the seats of President, Vice-President, Secretary and Treasurer and three members at large. The GPPWUA also holds monthly meetings on the second Monday of each month during the water season, which is typically between May and September. These monthly meetings are chaired by the President and generally, the decisions of the board are reached as a consensus item, but oftentimes, they will take a vote to make a decision and move it forward. Any relevant information or action taken by the GPPWUA is presented to the City of Fruita, who does not have any representation on their board nor attends their meetings.

With regard to the decision to disconnect the Enoch Lake line from the Glade Park line, the City of Fruita believes the GPPWUA made that decision as a board. The GPPWUA contacted the City for permission for the disconnect and City staff then contacted the water users on the Enoch's Lake side. Everybody was in agreement that it was okay to disconnect the lines primarily so that the GPPWUA could make repairs on the Glade Park Pipeline in order to obtain water for the summer months this year, which Glade Park has received.

Concerning 18 Mile Road and access to Enoch's Lake, City staff reached out to the Mesa County Road and Bridge Director as well as the Mesa County Surveyor and they said that it has been maintained by the county for many years with maintenance records dating back to 1977. Mesa County will continue to maintain the road even if the sale of Enoch's Lake goes through because that is not a basis for the county to not continue maintaining a road that has been utilized by property owners south of Enoch's Lake and provides access to some of the federal lands. The Mesa County Surveyor also confirmed that South 18 Road is shown on the Mesa County GIS as a valid, petitioned right-of-way.

Staff also contacted the Bureau of Land Management (BLM) to talk about any trails that they might manage in the area and they indicated through their Realty Specialist that there are no BLM trails in the area of Enoch's Lake and the closest trails that they do manage are about 2.5 miles away.

Staff also contacted the US Forest Service and the Acting District Ranger who responded that there's a total of six (6) trails on the forest accessed by 18 Mile Road. Ridge ATV Trail 646 and Black Pine Trail 647 are both accessed from the 18 Mile Road. The trailhead for Trail 646 is actually located on private property, for which the USFS has obtained an easement to have the trailhead located there. These trails can also be accessed from the west side of the forest, but as the Forest Service indicated, if closure of 18 Mile Road were to occur, it would severely limit the loop experience that people have come to enjoy in that area, therefore it would be highly unlikely that the US Forest Service would approve or support any closure of that road.

This concluded Ms. Bullen's update to the Council on access to Enoch's Lake and the question about how the GPPWUA makes decisions.

City Attorney Mary Elizabeth Geiger added that in order to have the 18 Mile Road vacated as a public county right-of-way, it would require that all of the owners of property who utilize the road come forward with a petition to Mesa County to do that. This would include the US Forest Service (which is not likely going to happen), so closure of the road wasn't something that just one property owner could accomplish on their own and additionally, it would require a vote of the Board of County Commissioners.

Prior to opening the public hearing, Mayor Pro Tem Breman thanked the audience members for coming to the meeting. He explained the process for having them provide public comment that involved a signup process with staff in the room.

Mayor Pro Tem Breman also explained that this was a continuation of the same public hearing that was held on July 18, 2023, meaning that all comments made at that meeting were still valid. He noted that staff's presentation consisted of updates only regarding questions that the City Council had asked on July 18th and added that typically, the Council does not allow members of the public to speak twice during the same public hearing. He asked that anyone who spoke on July 18th and desired to speak again keep their comments in response to the additional information that was provided by staff and not be a repeat of what they already said on July 18th. Mayor Pro Tem Breman also requested that those speaking state their full name and full address before providing comments and reiterated what Mayor Kincaid said earlier about no clapping, cheering or jeering in order to maintain decorum and respect for all who were speaking no matter their views.

Mayor Pro Tem Breman opened the public hearing on Ordinance 2023-07.

PUBLIC COMMENT:

Jim Cook, 2331 S. 15 Road, Glade Park, thanked the Council for continuing the public hearing. He said he wanted everyone to know that it wasn't an "us versus them" battle and that hopefully, decisions could be made that would benefit both parties. Mr. Cook noted that he had spoken with the potential buyers of the properties and while decisions were not made, they were able to come to an agreement on several things.

Mr. Cook stated that the "Friends of Enoch's Lake" group had set up a website at www.enochslake.org and also came up with a proposal to stall, do away with or postpone the sale of Enoch's Lake. He said there have been over 1,000 views on the group's website, almost 400 individuals signed up and over 200 people offered to volunteer in the group's effort. He added that 42 individuals wrote emails to the City Council. The group is in the process of setting up a 501(c)(3) non-profit organization so that they can receive donations and the process should be complete within the next month.

Mr. Cook also stated that there are volunteers in place to monitor the lake and campsite until the end of October and that it could be extended beyond that so that there is a presence of somebody at the lake on a more permanent basis.

Mr. Cook said that many members of the group have reached out to multiple organizations and some said they were interested in helping, but others would not even consider it. They also had one person step up and offer to purchase the property, but that offer fell through. Mr. Cook stated that in less than a month's time, the "Friends of Enoch's Lake" has done a lot of work to try to make things happen.

Mr. Cook continued that if the sale of the lake doesn't go through, "Friends of Enoch's Lake" will be in touch with the Sheriff's Department to set up a line of communication to deal with emergencies or enforcement of the law, which is something the surrounding property owners have said is lacking.

Mr. Cook said his group would continue to try to come up with partnering organizations, but what they were asking the City of Fruita to do is assume the liability that it currently has just for access to the lake. He said he was not referring to water usage or existing contracts that are in place. The group just wants access to the lake and Mr. Cook suggested that the "Friends of Enoch's Lake" sit down with the City Council and staff to come up with a Memorandum of Understanding or some other type of agreement. He noted that for any of that to happen, the group needs to stall the sale of the lake. He added that he saw that the City had received other offers on some of the other properties, but that is not his group's issue.

Mr. Cook concluded by saying that the "Friends of Enoch's Lake" would like to turn a liability into an asset and be partners with the potential buyers so that the public can access Enoch's Lake.

Vera Mulder, 983 E. Pabor Ave., Fruita, said she was going to offer her personal opinion and that she hoped she didn't offend anyone, but that she has been so proud of all the City employees at the Public Works and Parks and Recreation Departments and other personnel that Fruita has managed to hire. She asked the Council not to be offended but said that sometimes she wonders about who gets elected to Fruita City Councils.

Mrs. Mulder said her question was why any entity would sell off water rights when water rights now are "gold." She asked why the City would sell 240 acres of prime land which houses wildlife when the wildlife (in the past) was dying from the lack of water and fodder, etc. She asked why the City would sell 240 acres for the price of a house in Fruita and added that she couldn't buy her neighbor's house for \$500,000. She said she didn't get it.

Mrs. Mulder also said that the City Council sits at the dais for four years and after that, they are gone, but the history of Enoch's Lake goes from 1950 on; that is when the City obtained the lake. She asked why Fruita was going to stash history just because all of a sudden the City hasn't learned the value of water. Mrs. Mulder added that she was also told that the City had its mind made up before any of the public hearings happened and asked why there hadn't been a referendum where the citizens of the City of Fruita and Glade Park could vote on it.

Mrs. Mulder said she knows that surrounding property owners are the people that want to buy Enoch's Lake and that she is not very trustful. She asked why the City is going to give the lake to private entities and forget about the public using it. She asked if the pipeline was going to be restored so that "there will be an outlet."

Mrs. Mulder said she heard a rumor earlier in the day that the people who want to buy Enoch's Lake threatened to drain the lake if they didn't get their way. She concluded by saying she hopes to God that the City Council decides what is right and that it's not right to sell.

Kathleen Morrison, 909 Prince Ct., Fruita, stated that she has lived at her current address for 15 years and often goes to Enoch's Lake just to get out of the heat and because it's such a beautiful place. She noted that she was also in attendance on July 18th but wasn't going to say the same things she said last time.

Ms. Morrison said that she read all of the emails and attachments to the agenda and something that bothered her was in the memorandum between the Public Works Director and City Attorney that said it was inefficient for the City of Fruita to maintain Enoch's Lake because it is of no value to the City. She contended that the lake is of value to the people of Fruita but wasn't of value to the City because the City doesn't get income from it. She stated that the City also doesn't get income from Snooks Bottom and yet the City cleans the port-a-potties and picks up the trash there, so it is a public space.

Ms. Morrison stated that the other thing that bothered her was the email from the proposed owners threatening to drain Enoch's Lake if the City didn't sell it to them. She asked what kind of upstanding citizens the City was dealing with and called it shocking to her. She added that perhaps it was in the heat of the moment, she didn't know, but to put that out there was shocking.

Ms. Morrison pled with the City Council to not accept the offer to buy Enoch's Lake, but rather give "The Friends of Enoch's Lake" about one year, and if they can't perform, then the City could put it up for public auction at that time while making it as open and transparent as possible.

Teresa Wilcox, 651 E. Carolina Ave., Fruita, stated that she has been a resident of Fruita for twelve years and has lived on the Western Slope of Colorado for almost her entire life. She said she wanted to let the Council know that she is extremely opposed to the sale of Enoch's Lake and the water rights. She stated that everyone should know by now that the most precious resource there is in this part of the country is water.

Ms. Wilcox said she hears a lot about how the City needs to attract businesses to Fruita and wants the City to grow, but argued that with growth comes the need for water. She asked how easy it would be for the City to get the water rights back once they are sold and the City needs them again in 20 or 30 years. She thought that it would be next to impossible and at great cost.

Ms. Wilcox also argued that the water is an investment in Fruita's future and as with all investments, there may be a period of time where it costs money before the rewards can be reaped. She asked how the City would look at someone who ended their 401K before retirement because it was costing too much money. She said she would consider that person to be very shortsighted and that is what she considers this move; very shortsighted.

Ms. Wilcox continued that one of the things that she has always thought is that she would rather have something and not need it than to need it and not have it. She said she has worked extremely hard to have a nice yard; she has planted trees, bushes and grass so that she can enhance the value of her house and she does not want to see that literally dry up in the future due to lack of water.

Ms. Wilcox stated that if the issue is that the City needs money, she had a couple of suggestions: 1) why not rent or lease the land and water rights but retain ownership? and 2) (addressing a different issue she wished to speak to) how about placing patrol officers on East Carolina and Maple and some of the other residential streets in that general area and ticketing anyone who goes over 10 mph above the speed limit? She said she thinks the City would have plenty of money in very short order. Ms. Wilcox maintained that there are people who routinely drive motorcycles and cars through these residential areas at 50 mph or more. She said she saw someone recently going at about 70 mph and that it feels rather unsafe for her to walk her dog on the street when cars are going that fast. She said if that is allowed to continue, the quality of life in Fruita will begin to degrade but by enforcing the law, the City could generate more revenue and alleviate the need to sell Fruita's very precious water rights.

Steve Cook, 231 E. Pabor Ave., Fruita, said he has been in Fruita since about 1976 and that he has not read any of the emails or other documents, but he knows that Enoch's Lake is a part of Fruita and has been since he was a kid. He stated that as a river guide, the City is already "writing checks that we can't cash" as far as water goes. He added that he didn't know if the City will use the water rights or not but agreed with the others that water is precious.

Mr. Cook continued that Enoch's Lake is a piece of Fruita and the City can't get rid of it, but if it does, he thinks it would only be fair if the City puts it up to a vote of the people who live here and have been going to the lake since the 60s and 70s. He said it is a place that's been very dear to a lot of people and that for the size of the property, the City should ask a little bit more than \$500,000.

Mariel Steele, 14390 Bs Road, Glade Park, thanked the City Council for allowing her the opportunity to speak today as well as at the last meeting on July 18th. She said she almost felt like an intruder at the last meeting since she is not a Fruita resident but noted that Enoch's Lake is open to all and that the Council's decision will affect all in the area.

Ms. Steele stated that on July 18th, many members of the public spoke about their desire to keep Enoch's Lake open to public use and that far more were against the sale than were for it. She said she is grateful that the Council listened to the public input at that meeting while giving the audience members more time to organize amongst themselves. Ms. Steele said she was happy to announce that as a community, the audience members have done just that; they have held meetings in Glade Park, Fruita and Grand Junction and from those discussions emerged the grassroots organization that Jim Cook spoke of earlier. She said she is part of that group "Friends of Enoch's Lake" and that they are in the process of becoming a 501(c)(3) nonprofit that has created a website that allows volunteers to sign up. Pending approval, the IRS will allow them to accept donations as well.

Ms. Steele reported that the group has members working on grant applications and other members who have started the process of collaborating with other groups such as Colorado Land Trust who have shown interest in Enoch's Lake as a public easement in order to maintain the public access on the property for years to come. She said the group members are willing and able to step up as stewards of the land. They have submitted a written proposal of their plan by the August 15th deadline, created online groups that have news articles to help spread awareness, and are growing in numbers still.

Ms. Steele said "Friends of Enoch's Lake" has accomplished all this in 40 days since the July 18th meeting and asked the City Council to imagine what they could accomplish in six months or even a year. She said she completely understands why, as a City, Fruita wants out of the responsibility of Enoch's Lake and knows that some of the Council members spoke about their own memories of the lake just like the rest of the audience members did. She said everyone can allow generations to come the same opportunities to create memories.

Ms. Steele stated that there are other options beyond the sale to Tipping, Powers and Muhr, but in order for "Friends of Enoch's Lake" to proceed with those other options, they need the City Council to decline or again postpone the current offer on the table. She asked with great sincerity that the Council do just that.

George Mosher, 849 S. 16 ½ Road, Glade Park, stated that he is on the Board of Directors for the GPPWUA. He said he wanted to add a little bit of information concerning the water line being discontinued. He stated that Glade Park has not received water out of Enoch's Lake for 12 years and that the water line is in very bad condition, which is the reason they are not using it. He said that the reason it was taken offline is because there was a break in the road section of the line, so they took it apart and sealed it off so that it would not flood the road.

Mr. Mosher went on to say that he heard people say that it was one person's idea to discontinue the line, but it wasn't; it was a Board of Directors idea and the board contacted the City of Fruita, who agreed that shutting down the line was the best fix for the problem. He said the water line from Enoch's Lake to the GPPWUA line is not usable, period, not without a bunch of money to replace almost all of the line, anyway. Mr. Mosher concluded by saying he wanted the Council to understand that situation.

Jerry Martinez, 317 W. Ottley Ave., Fruita, also thanked the Council for postponing the sale of Enoch's Lake and said he was in agreement with a lot of the people who spoke prior to him. He said it seemed like there were a lot more options than there were at the initial meeting, which is what everyone wanted. He said the City has done such a good job on innovation and making recreation a part of Fruita and it should continue. He stated that Enoch's Lake is a great resource to Fruita and asked why the City couldn't incorporate a trail system from the lake all the way out to 18 Road.

Mr. Martinez stated that people want to volunteer and establish a non-profit, so there are many options on the table right now. He said he would pay extra if he could have some of the lake's water coming down into Fruita because it is the best water available and no one else is on the line.

Mr. Martinez requested that the Council give the residents of Fruita a chance to vote on the issue because it's everybody's water and asked the Council to consider not selling Enoch's Lake.

Debra Moorland, 254 N. Mulberry St. #3, stated that she spoke previously at the July 18th public hearing, but wanted to again urge the Council to give it more time. She said she was speaking as a City of Fruita

citizen and she knows that making the decision was over and above what a City Council or City staff should have to do.

Ms. Moorland continued that Enoch's Lake is historically something that Fruita has hung onto for this long and that for as long as it has gone on, to not give the decision some time to develop would be a shame.

Ms. Moorland said that the citizens of Fruita are the City Council's constituents and asked the Council if they have a "good feel" for how the citizens of Fruita actually feel about this issue. She accused some of the Council members of thinking it wasn't a big deal and stated that she feels it should be put to the citizens in a referendum to find out whether they feel the lake is an important resource to hang onto or whether they feel like the best business decision is for the City to definitely get rid of Enoch's Lake so it could focus on its core issues.

Ms. Moorland stated that she thinks it is going to take a little more time for everything to play out and that it wasn't the only offer the City is going to get, so if the potential buyers are really interested, and it turns out that the City will entertain another offer later on, perhaps a public auction would be an option. She said the current offer didn't seem to reflect the value of the water and the property, so she didn't think the Council had to rush to a decision. She again requested that the Council give it some time.

Frank Cardoza, 1379 17 ½ Rd., Fruita, said he didn't envy the spot the Council was in but as a teacher, he kind of gets it because he gets a lot of angry looks at 8:00 a.m. in the morning. He said he was born in Fruita, went to school in the Civic Center building and remembers going to Enoch's Lake and other lakes around the area as a child, which provided him with irreplaceable memories.

Mr. Cardoza stated that if he had kids, he would be wanting to take them to Enoch's Lake because it isn't just some little pond somewhere that people can't get to; it's a beautiful lake and if the City gets rid of it, he wondered if Fruita Reservoirs #1 and #2 were next. He asked how many other Fruita assets the City is going to get rid of.

Melanie Martinez, 508 E. Pabor Ave., Fruita, said that she spoke at the last meeting on July 18th and she wanted to thank Councilor Miller for answering her questions in a very well-written email. She said she also bumped into her in the community and they had a great conversation. She acknowledged that the City Council had a very tough decision in front of them but added that the work that Mr. Cook had done alone would warrant more time for a decision to be made.

Ms. Martinez said she had no intentions of speaking at this meeting until she heard the word "transparency," and although Councilor Miller did a great job answering her questions, the one she still didn't have an answer to was when the open meetings were because everything that she saw was in Executive Session. She said she was sent a link and when she clicked on it and watched the videos, every time Enoch's Lake came up, the video paused. Ms. Martinez stated that the Council had the best outcome that she's heard at a City Council meeting in quite some time, so she thinks it would be really important for the community if the Council could give the public more time to see who else will come out in support of Enoch's Lake remaining public.

Everett Sedillo, 210 S. Sycamore St., Fruita, stated that he has two properties in Fruita and one up at Glade Park and he, just like everybody else, pays a lot of taxes. He said that he would be willing, as a taxpayer, to pay an assessment as one means to pay for maintenance of Enoch's Lake and he doesn't say that lightly. He said that's how important it is.

Mr. Sedillo thanked the City Council for having the meeting and said he firmly believes that the Council has a really big decision that he was sure weighs on the Council members. He suggested putting it up for a referendum and let the citizens of Fruita decide. He said he applauds all the ideas of volunteerism and that through the years and even now, he goes up to Enoch's Lake and picks up trash left by people without very good ethics, unfortunately. He pointed out that there are a lot of people like himself who go out of their way to pick up trash but haven't said anything about it.

Liberty Martinez, 231 Palo Verde Ct., Fruita, recalled that at the July 18th meeting, there was discussion about how much it costs the City to maintain Enoch's Lake but after that, she thought there were two more open sessions about the lake and the other Pinon Mesa properties that Fruita owns and the sale of those. She said if the City was looking at options to have money for Enoch's Lake, she thought there were a lot of options presented at this meeting and different ways to be able to keep the lake open to the public, at least for a little longer than 40 days. Ms. Martinez asked the Council to keep all the options and everyone's thoughts in mind.

There were no further comments from the public, so Mayor Pro Tem Breman closed the public hearing and referred the matter to the City Council.

Councilor Kreie noted that some of the comments had been about transparency and he just wanted to say that on Tuesday nights, the Council room has mostly been occupied by the Council and staff only and that there have been many discussions about the City's mountain water properties. He pointed out that it is hard to engage people even though staff sends out lots of messaging.

Councilor Kreie explained that every City Council prior to the current one has not been able to resolve the City's issues with the mountain properties when they knew they needed dealt with but wouldn't do it because they knew there was a lot of public sentiment about the lake. He said a lot of people have accused the City Council of accepting a "backdoor" offer that they didn't talk to anybody about, but it wasn't true because the City has been talking about these mountain properties for years.

Councilor Kreie continued that the mountain properties are a liability that a lot of people do not want to take on and that it doesn't make a lot of sense for most people to buy a lake like that, so it made sense for the Council to consider the offer that was extended after talking about the mountain properties all those years. He again assured the audience that none of the Council members had any intentions to take a sneaky, "backdoor" offer and sell the Enochs Lake property without talking to anybody; instead, they were trying to solve a problem that the City of Fruita has had for a very long time and that leaders have been avoiding.

Councilor Kreie said he still felt bad that the City didn't go through a normal process of putting the properties up for sale and that had been weighing on his mind since the last meeting.

Mayor Pro Tem Breman asked City Attorney Mary Elizabeth Geiger to refresh his memory about the water rights and what the City of Fruita has in terms of senior or junior water rights and what those terms mean.

Ms. Geiger explained that the City of Fruita owns Enoch's Lake and Fruita Reservoirs #1, #2 and #3 up on Pinon Mesa and that Reservoir #2 has been under a no-fill order for years now because the dam is in such disrepair that it can't be filled. Those water rights were not enough water to provide potable water to the City of Fruita by 1983 and at that point, the City's population was just under 3,600.

There had been a pipeline constructed from Fruita Reservoirs #1, #2 and #3 down to the City of Fruita through the Colorado National Monument back in the early 1900s and that pipeline doesn't exist anymore. Ms. Geiger said she didn't work for the federal government so she couldn't 100% positively speak to it, but she does know from working with the federal government that it's pretty much an impossibility to reconstruct the pipeline because the cost would be astronomical and the amount of water available is not enough to take care of a City that is now at a population of approximately 14,000.

Ms. Geiger said it was her understanding that Enoch's Lake was constructed before the water rights were decreed in the 1940s for domestic, livestock watering and irrigation uses. She stated that water rights are decreed for very specific uses and the State of Colorado holds owners of the rights to those uses. If someone wanted to expand or change the use on a water right, that person would have to go to water court to do so. Ms. Geiger said the Enoch's Lake water rights were not adjudicated until the 1940s, which means that the water rights are pretty "junior," which is another thing to factor in as far as the value of the water rights.

Ms. Geiger stated that when the City of Fruita stopped being the potable water provider for the City, it entered into an agreement with the Ute Water Conservancy District to be that potable water provider in 1983. Ute Water Conservancy District holds a Right of First Refusal on all of Fruita water rights, meaning that if Fruita gets an offer, the City has to first give it to Ute Water to decide if they want to purchase it or not. The Ute Water Board received a copy of the offer for Enoch's Lake but did not want to purchase it because they can't use the water, either.

Ms. Geiger acknowledged that water rights are super important (she's a water attorney when not acting as the City Attorney to the City of Fruita) but said that sometimes water rights might not be valuable to the owner of those rights (the City of Fruita in this case) for a use beyond recreation, for which, in all honesty, Enoch's Lake's water rights are not even decreed.

Mayor Pro Tem Breman asked Ms. Geiger to confirm that the City of Fruita has "junior" and not "senior" water rights, so in case of a drought, the City would not get the first call even if the City could get the water down from Pinon Mesa. Ms. Geiger responded that the call would go to the more "senior" priority water rights first. She further explained that there's water that's stored in the reservoir that is the size of 240-acre feet and then there's a water right that fills the reservoir, so that water right that fills the reservoir would be stopped so that whatever was in the "bucket" at that time could be used and no more water could be put in.

Councilor Purser said she was curious about the City's current liability as owners of the property at Enoch's Lake in the event of a humanly caused fire or someone drowned in the lake. Ms. Geiger said there could arguably be liability to the City, which does fall under the Governmental Immunity Act that provides some protection; however, if the City is negligent in its maintenance of the lake which then causes an accident, that protection can go away.

Councilor Miller asked Ms. Geiger to speak to who is using the water from Enoch's Lake and how the City is compensated for that. Ms. Geiger explained that Ron Tipping entered into an agreement with the City of Fruita in 2013 because the Enoch's Lake dam as well as the dam at Reservoir #1 needed repair and Mr. Tipping provided assistance in getting those repairs done. In exchange, the City has a non-monetary obligation to Mr. Tipping to "repay" that work and as part of the agreement, he is entitled to up to 100-acre feet of water per year out of Enoch's Lake. In addition, Stan Muhr has an agreement with the City of Fruita whereby if he wants to use water out of the lake, he pays per acre foot of it.

Councilor Miller asked whether it would drain the lake if Mr. Tipping and Mr. Muhr used all their water rights and Ms. Geiger stated that it would not. She said she believes that the public comment that referred to that was inaccurate based upon the agreements that the City has. Public Works Director Kimberly Bullen confirmed that what Ms. Geiger had said was correct and added that the water that feeds the Glade Park Pipeline is City water that the City of Fruita is not compensated for, but the GPPWUA has a structure in place where if someone wants a new tap, it goes to the GPPWUA so that they can reinvest that in maintenance and providing water. She added that the GPPWUA maintains some of the pipeline while the City of Fruita maintains the reservoirs.

Councilor Miller noted that there had previously been mention of converting Enoch's Lake into a place where people would pay to access the lake and also the campground. She asked how many campsites were set up originally and how many were possible at the lake. City Manager Mike Bennett answered that he thought there were eight (8).

Councilor Miller pointed out for the audience members that Colorado was the first state in the country to enact anti-discrimination laws for potential homebuyers based on their race, gender, socioeconomic standing among many other protected classes.

Mayor Pro Tem Breman asked Councilor Miller to confirm that if he wanted to put an offer on any piece of property, he could do that at any given time with contingencies on it that he would eventually have his financing, insurance and/or other requirements in place. Councilor Miller confirmed this to be true, but said it wouldn't make for a very strong offer, however.

Councilor Purser asked for clarification on the number of acres at Enoch's Lake. Ms. Geiger stated that there are 51 acres of land and 240 acre feet of water at Enoch's Lake.

Councilor Miller asked if there were any buildable sites not located on the floodplain. Ms. Geiger said she didn't have the answer to that question but that Mesa County would, and although she's been up to Enoch's Lake, she doesn't know where the property line is on the far side of the lake. She said there's not a lot of land on the side closest to the road. Councilor Miller said it had been suggested by a few individuals that there might be plans to put a lot of buildings up there and she didn't see that being possible.

Councilor Hancey asked Councilor Kreie to expound on his feeling bad about the City's process of considering the offer on Enoch's Lake. Councilor Kreie clarified that he sort of feels bad about the way the whole thing unfolded and that nobody intended for it to unfold that way because it looks like the City didn't offer the properties to anybody. Councilor Purser pointed out that any member of the public could have made the same offer or offers to the City at any time since the beginning, but the City didn't put up a sign or anything that the (specifically Enoch's Lake) property was for sale. Councilor Kreie confirmed that was what it was and added that if he could have gone back and done it that way, he would have.

Councilor Hancey said he wanted to make sure the public knows that the City followed legal processes and that if the City sells property in the future, the staff and the Council might do it differently due to this experience. Mayor Pro Tem Breman requested that Councilor Hancey refrain from discussing things outside of the Ordinance that was before the City Council concerning Enoch's Lake and the potential sale thereof.

City Attorney Mary Elizabeth Geiger advised that the Fruita City Charter allows the City to sell or convey property by Ordinance, so the process as it happened in this instance was that an offer was received, and because it involved water, it first went to the Ute Water Conservancy District for them to say whether or

not they wanted to purchase the property and if they had said they wanted to purchase it, the current conversation would not even be happening. Ute Water decided they did not want to purchase the property, so then staff held the First Reading of the Ordinance at a City Council meeting in June and subsequently published the Second Reading of the Ordinance for July 18th, which had then been continued to this meeting.

Councilor Miller asked for clarification concerning the comment from the public about how the video of the meeting was paused when Enoch's Lake came up. Ms. Geiger said she hadn't ever gone back to watch a meeting to understand if it happens, but if there is an Executive Session on an agenda, because it is not public, the video is paused. After any Executive Session and once the regular meeting has been reconvened, there can be open discussion about the subject that was discussed in Executive Session and sometimes that happens, sometimes it doesn't. She added that it depends on the reasons for the Executive Session and that no decisions can be made in Executive Session, such as decisions to sell or convey property.

Councilor Hancey asked if the water rights at Enoch's Lake were for non-potable water and Ms. Geiger explained that the water rights were decreed for domestic use (in addition to livestock watering and irrigation), but the water would have to be treated before it could be used. Councilor Hancey said he thinks the fact that they are junior water rights is secondary to the issue of the insurmountable cost that would be required to deliver the water to Fruita city limits. Ms. Geiger said she believes there are three issues:

1. Even with all of the reservoirs on Pinon Mesa, it is not enough water to serve the City of Fruita.
2. The exorbitant price plus the potential legal roadblocks to getting the water through the Colorado National Monument.
3. They are junior water rights.

Mayor Pro Tem Breman pointed that for the past decade or more, the people at Mesa County, BLM and the US Forest Service have known that the City of Fruita does not want to hold onto these mountain water properties and also that he knows there have been conversations and opportunities in the past, but no one has ever stepped up to say that they'd like to purchase any of them in over a decade.

Councilor Miller asked Ms. Bullen how often the City's vac truck is being sent up to Pinon Mesa. Ms. Bullen responded that it varies and added that there was an arrangement with the US Forest Service whereby they would haul trash while the City pumped the toilets, but that has somewhat waned over the years. She said that the truck goes up there at least once towards the end of the season, but there are times when staff learns that the toilets need to be pumped out, so they will send it up there.

City Manager Mike Bennett clarified that the Forest Service agreed to do trash many years ago and the City of Fruita agreed to send the vac truck up to suck out the toilets and within a year of that agreement over a decade ago, the Forest Service said that they just couldn't do the trash anymore, so Fruita continued to do both trash and the toilets after that. He explained that the vac truck is over a half million-dollar piece of equipment that is being used every day on the sewer system in town and is not necessarily meant be taken that far out of town on those roads to clean out port-a-potties. In addition, the Forest Service even recommended pulling the toilets out of Enoch's Lake but the City left them there anyway. Ms. Bullen added that years previous, staff went up to Enoch's Lake three times per week to service the port-a-potties and past Councils had suggested minimizing the amount of staff time spent up there on maintenance, so that is why it has declined over the years.

Councilor Miller asked how often staff was sent up to empty the trash. Ms. Bullen said it was probably once per month and staff takes readings and does observations of the reservoirs and the dams and then takes the trash out. Mr. Bennett said it significantly decreased when the City changed from overnight camping to day use only. The last year when overnight camping was allowed, there were continuous complaints that the City was not keeping up with the trash even though staff were going up three times per week to dump it at that time.

Councilor Hancey asked staff if they had received any other offers on City owned property on Pinon Mesa. Mr. Bennett confirmed that since the last public hearing on July 18th, staff did receive Open Records Requests for detailed information from at least one attorney's office that was representing somebody interested in purchasing property and staff provided all the records to the requestor, but it is not known who the attorney is representing. He explained that pursuant to state law, staff must respond to Open Records Requests within three (3) days. He added that staff has not received any additional offers, though.

Councilor Miller asked what a partnership between the "Friends of Enoch's Lake" and the City of Fruita might look like typically. Mr. Bennett used the example of GPPWUA, with whom he thinks the City has a great partnership. He added that in 2017, the City held a public Open House leading into the Mike the Headless Chicken Festival and many people from Glade Park and quite a few Fruita residents attended. Staff had timelines of everything that's gone on with all the mountain water properties and between six and eight staff members were there to answer questions. The invitation let people know (just like people were informed over the years) that the goal of the Open House was to brainstorm on what to do about the properties because the original purpose was no longer and would never be again. Mr. Bennett stated that this caused a little bit of fear on the GPPWUA board, who stepped up and requested that they be allowed to do more maintenance on the water line. At that time, the City was trying to spend less on maintenance, so Mr. Bennett called it a very successful partnership.

Mr. Bennett continued that he thinks it's wonderful what Jim Cook had done and added that staff is impressed with the website and all the volunteers, but it doesn't take away any of the City's liability from the standpoint of what the City is held liable for as a City. He stated volunteers can't replace that, but they can definitely help with putting more eyes on the property and/or some of the maintenance.

Mr. Bennett assured the Council and tried to assure the audience as well that the issue wasn't about money. He said that the process has been completely transparent because the only process there is when the City is contemplating an offer is the Ordinance process, which is what staff did. He added that even if staff put a "For Sale" sign on the property at Enoch's Lake, if the City Council wants to consider the first offer that comes in, it is through the Ordinance process because that is the only way the Council can publicly discuss it and make decisions.

Mr. Bennett said he thought what has been confusing are some of the comments about money and what the value of the property is, but it's actually about the liability and the burden on staff and the City as an organization in the future. He added that when jurisdictional dams have failures like Reservoir #2, those are multi-million dollar expenses and the City is already wrestling with what to do with that reservoir. He also noted that dam failures have happened in the past at Enoch's Lake and Reservoirs #1 and #3 because they just happen over time and are in addition to any other liability, which is why the City has liability insurance. Mr. Bennett stated that there could be wonderful help from volunteers for certain things, but that the City can't rely on them to meet the City's obligations.

Ms. Bullen said the only thing she would add is that like the City Manager said, it's not the money (other than the required maintenance and ongoing expenses of taking care of the properties) and investing

minimal amounts just means those properties aren't being taken care of at the level they probably need to be. She further explained that they are also taking resources out of the core of the City for employees that have plenty of work in the City to provide services to the community. She added that it's an hour drive just to get there and when staff was doing daily monitoring for Reservoir #2, it was an everyday trip that took one or two Public Works employees away from providing City services in town, so it is a staffing issue and currently, the Public Works Department is understaffed because the City can't fill positions. Ms. Bullen called them ongoing challenges.

Mr. Bennett said it was worth noting that the City has talked about what to do with the mountain water properties for many, many years and going back in history, that very issue has been included in the goals of City Council for the entire time. He also clarified that the City is in a contract with Ute Water to have the amount of water the City will need as the City grows to full capacity, just like how Fruita is at half-capacity with its sewer system. Mr. Bennett explained that growth cannot be approved if a municipality does not already have all that infrastructure at play. It is built and secured ahead of time; otherwise, the City is not able to approve that type of growth.

Mr. Bennett pointed out that Fruita is different than Glade Park, which is included in Mesa County's future planning documents as "overutilized water," meaning there's not enough water, but they continue to allow development. He explained that the City of Fruita cannot rely on the mountain water because it is not possible to bring the water to the City and the water the City does receive from Ute is from the Grand Mesa and is first-use water (so it's not used by anybody else before it comes to Fruita).

Mr. Bennett said he understands that people have concerns that there won't be enough water in the future, but added that the water in the City of Fruita is covered in a different way through Ute Water Conservancy District.

Mayor Pro Tem Breman noted that the "Friends of Enoch's Lake" were putting together a 501(c)(3) and asked what would happen liability-wise if the City of Fruita were to enter into a partnership with the group and one of the volunteers (God forbid) drowns or suffers any type of injury. Ms. Geiger responded that she knows that a lot of work has been done by folks to come up with proposals, but that the public hearing was on the Ordinance that was before the City Council only and whether or not the Council is going to adopt it. She advised that if the Council chooses not to (adopt the Ordinance), the City will move to the next stage of where to go next. In answer to Mayor Pro Tem Breman's questions, Ms. Geiger said it would depend on what the partnership agreement says because that would be something that the City would want to address within the agreement.

Mr. Bennett added that when the City of Fruita partners with groups, the City requires a minimum level of insurance that the partner must hold whether it is an instructor for a class at the Community Center or even a contractor doing construction for the City.

Ms. Geiger explained that there are so many levels of agreements and insurance, so it would be really hard to opine on what that agreement would look like.

Mr. Bennett noted that over the years, there have been articles about the City's situation with its mountain water properties in the City Link, which he explained for the audience is a quarterly newsletter that is mailed to all Fruita residents in hard copy. He recalled that there was such an article as recently as at the end of last year. There is also information on the City's website. He added that at least in the nine years since he has worked for the City of Fruita, there have been numerous conversations with the US Forest Service, Colorado Parks and Wildlife and BLM. He noted that just recently, he and Mayor Pro Tem

Breman had a conversation with county representatives because anything the City does with all the properties has an impact on Mesa County residents that are outside of the City of Fruita. He said county staff has never put anything before the Board of County Commissioners about Enoch's Lake, so Fruita City staff couldn't speak for them, but there's never been an interest to go to that level. Mr. Bennett added that the Enoch's Lake property has been much more difficult with all the agencies he mentioned because it is surrounded by private land and while there's an interest in seeing the lake stay public, nobody wants to take on the liability for it to remain as such. He said Fruita has even offered to donate its properties to the other agencies so that they could take them on and maintain them, but there still have been no takers. Mr. Bennett further explained that the City has sought numerous grants for Reservoir #2 because the dam needs repaired.

Councilor Kreie asked if the Ordinance process for the City would have been the same if staff had listed the property for sale and received offers. Mr. Bennett confirmed that to be true because the only way the Council can consider an offer is to have the First Reading of an Ordinance and a public hearing at Second Reading of the Ordinance. This process allows the public to participate and the Council to make a decision. He added that when someone makes an offer, it is contingent upon due diligence prior to going under contract.

Ms. Geiger advised that if there is any offer that involves City water rights, it first has to go to Ute Water Conservancy District. She noted that she spoke to Ute Water's attorney and if the Council decided not to move forward with this Ordinance but receives another offer on Enoch's Lake that is higher, Ute Water has stated that they would want to see the offer to see if they wanted to purchase it at that time.

Councilor Kreie asked if the City had ever talked to Ute Water in the past to see if they would take the mountain water properties. Mr. Bennett confirmed that the City had and that it has been quite a few years ago, but staff specifically met with Ute Water knowing that they have First Right of Refusal and know how to manage dams and many lakes like Enoch's. Staff had actually hoped that Ute Water would take them, but they don't have a meaningful way to get the water to where they would need it for their systems, so they have not had any interest.

Mr. Bennett also pointed out that in all this time, the City has spoken about all the mountain water properties together and not separately until the City received this offer on Enoch's Lake. He added that it was important for the audience to hear and understand that the only way the Council can discuss and consider an offer is by going through the public hearing process, whether they want to accept the offer or not. They can hold an Executive Session to receive legal advice from the City Attorney on what to do, but the Council members cannot meet outside of a public hearing to even talk about it.

Councilor Kreie stated that he has a lot of nuanced opinions about Enoch's Lake, but he still is convinced that the City has no place in the far-away-lake business and that Fruita couldn't continue down the road owning the mountain water properties because it is a no-win situation for the City.

Councilor Purser stated that it is her personality in general to try to find a balance, but this was a topic that was causing her to be torn. She said she sees the logic concerning all the difficulties that these mountain properties have caused the City of Fruita over the years and why it makes a lot of sense to not own them any longer. On the flip side, she said all of the audience members' opinions were super important and valuable and she heard many valid points that need to be considered. She then pointed out that the actual people that the Council heard from is a very small percentage of the entire population of the citizens of Fruita, who voted for them to make these difficult decisions. Lastly, Councilor Purser stated that she also

hesitates to make a decision on something when there are really invested citizens who might be able to come up with creative solutions that the Council hadn't yet been able to think of.

Councilor Kreie noted that some of the people who spoke mentioned the idea of putting the matter to a vote of the people of Fruita, but he personally thought that would not solve the City's problem because if he were just a citizen and hadn't sat in the same meetings that he has and hadn't read about and talked about the issues the City has, he would also say no, don't get rid of the water rights; that's silly.

Councilor Miller said the City has its systems in place for a reason and the Council was taking the prescribed path that had been set forth before them. She agreed with Councilor Purser that there was an emotional pull that was very hard but added that she has learned so much and loved to see people participating. She thanked everyone in the audience for coming to the meeting but pointed out that in the end, even though many people from Glade Park came to the meetings and will be impacted, the City Council's burden of responsibility falls with the citizens of Fruita inside the City limits.

Councilor Williams stated that he didn't want to sway anybody's vote because he wanted them to vote the way they want to. He said his heart has been really heavy on it the past few months and felt that people really stepped up to do what the Council asked them to do.

Mayor Pro Tem Breman acknowledged that the Council did not have an easy decision to make and he had no idea which way it was going to go, but that clearly, the Council members have put a lot of thought into it. He thanked City Attorney Mary Elizabeth Geiger for getting the Council the answers they asked for very quickly and City Manager Mike Bennett and his entire staff for also getting answers and communicating to the public. He also thanked everyone in the audience for coming to the meeting, noting that it was a very passionate topic and wanted to convey how appreciative he was in terms of how everybody handled themselves with respect.

Mayor Pro Tem Breman noted that the Council had a couple of options: approve the Ordinance, do nothing and let the Ordinance die for lack of a motion or move to continue the public hearing again. Ms. Geiger suggested that if there was a motion for a continuance, there should be a purpose for the continuance such as requesting additional information like the last time. It would also need to be continued to a date certain and she provided the next upcoming regular City Council meeting dates.

Councilor Hancey noted that the offer before the Council had an acceptance deadline of August 31, 2023. Ms. Geiger confirmed that and said if the Council were to continue the public hearing, the City would need to request that the proposed buyer agree to extend the acceptance deadline. Mayor Pro Tem Breman asked if there had been any indication from the potential buyer that they would agree to that and Ms. Geiger responded that she had not spoken to the buyers, so she didn't know. She advised that there was a risk that the offer would just be withdrawn by the potential buyer with no further offers extended.

- **COUNCILOR KREIE MOVED TO APPROVE ORDINANCE 2023-07 – 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'S 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. COUNCILOR WILLIAMS SECONDED THE MOTION.**

Councilor Kreie stated that the only hesitancy he had is that online and in person, a lot of people had expressed concern that they didn't even know the properties were for sale and perhaps somebody else would've like to put in an offer, even though no one had. He added that otherwise, he was in favor of taking care of the City's problem.

Councilor Miller said she felt the same way and added that she would love to give people more time to figure out how (now that they understand) to get the properties off the City's books, which is a priority, and giving other entities an opportunity to purchase and manage Enoch's Lake.

Councilor Hancey pointed out that, in effect, the offer was actually \$640,000 when combined with the forgiveness of the City's remaining non-monetary performance obligation to Mr. Tipping and the City could lose out on a real option of financial impact to the community besides just decreasing the City's current expenses and the liabilities associated with them. He added that he, too, was appreciative of all the public comments.

Mayor Pro Tem Breman stated that like the others, he, too, was torn in the matter but he was looking at how it was an issue for the City spanning 30 plus years. He said he was impressed with the amount of work that had been done by the people in such a short period of time but added that the City had something real on the table and he wondered if there could have been another offer because he thought that would have had an influence on the Council's decision making process, at least from his standpoint.

- **THE MOTION FAILED WITH FIVE NO VOTES AND ONE YES VOTE. COUNCILOR BREMAN VOTED YES.**

Councilor Williams said that the only reason he voted no was because the people in the audience stepped up and did what the Council asked them to do. He added that if the audience members don't do anything in the next year, he will then happily vote yes because the Council needs to do what is wise for the Fruita community.

City Attorney Mary Elizabeth Geiger announced that there will need to be another City Council meeting to decide the next steps, so she asked that everyone not make any assumptions in the meantime. She advised the members of the public that the City would be advertising future discussions on the City's website and urged them to pay attention to Council agendas so they will know when future discussions concerning Enoch's Lake will take place.

Mayor Pro Tem Breman called for a five-minute break at 8:50 p.m. The meeting reconvened at 8:55 p.m.

B. CONTINUANCE OF ORDINANCE 2023-08 – SECOND READING – AN ORDINANCE AUTHORIZING THE CONVEYANCE OF REAL PROPERTY OF THE CITY REFERRED TO AS 2-ACRE PARCEL LOCATED ON PINON MESA – PUBLIC WORKS DIRECTOR KIMBERLY BULLEN AND CITY ATTORNEY MARY ELIZABETH GEIGER (CONTINUED FROM THE JULY 18, 2023 REGULAR CITY COUNCIL MEETING)

Public Works Director Kimberly Bullen explained that this was a continuance of Ordinance 2023-08 and that the only question the Council had from the last meeting on July 18th was again concerning road access for the public. Staff reached out to the Mesa County Public Works Director, Road and Bridge Director and the County Surveyor, who basically said that the road is maintained as a public access road. It wouldn't change the maintenance of the road if this 2-acre parcel was sold; it would remain open because it accesses

property to the south as well as US Forest Service property. Staff also reached out to the BLM and the Forest Service and BLM said they don't have any trails, with the closest route being 2.5 miles away. The US Forest Service indicated that Ridge ATV Trail 646 and Blackpine Trail 647 are both accessed from the road and that the trailhead for 646 is located on private property adjacent to the 18 Mile Road. Ms. Bullen pointed out that the trails may also be accessed from the west side of the forest, but if the county road were ever closed, it would severely limit the ability to have a loop experience, which is what people have come to know. Ms. Bullen stated it was highly unlikely that the Forest Service would support a request to close the road.

City Attorney Mary Elizabeth Geiger stated that it couldn't be just one landowner requesting that the road be closed; there would need to be a petition from all the people who have access off that road including the Forest Service and a vote of the County Commissioners. She agreed with Ms. Bullen that this was an unlikely scenario and added that there hasn't been any indication or request for the road to be closed at this point and that it would be completely out of the City of Fruita's control.

Mayor Pro Tem Breman asked if anyone else had signed up to speak and Deputy City Clerk Deb Woods confirmed that no one had. He opened the public hearing on Ordinance 2023-08.

Mariel Steele, 14390 Bs Road, said that in the discussions amongst themselves within the group of "Friends of Enoch's Lake," the members have spoken about their interest in the 2-acre parcel as well for future projects like storage or possibly hosting a camp supervisor to do maintenance and things like that, so the group was asking that the Council would either say no at this time to the potential buyers or postpone as well.

Jim Cook, 2331 S. 15 Road, Glade Park, stated that he knew the City Council received another offer on the 2-acre parcel for a better price, but requested that the Council hold off on that for a little bit because the "Friends of Enoch's Lake" would like to use that for a staging area for the campgrounds in the event they are able to develop some campsites. He said it could be a place to store their materials and noted that the group actually got an offer for a temporary storage shed that could be brought up to the site.

After hearing no further comments from the public, Mayor Pro Tem Breman closed the public hearing and referred the matter to the City Council.

Councilor Williams asked staff to pull up a map of the 2-acre parcel for the Council's reference.

Ms. Geiger reminded the City Council that they did receive an offer from a third party on the parcel and in addition, a revised offer from Mr. Powers and that these were included in the Council packet. Councilor Hancey noted that the original offer from Powers was \$16,000 and the revised offer from him was for \$50,000. He asked what the offer was from the third party and Ms. Geiger responded that it was for \$32,000. She advised that the Ordinance could be amended to reflect Mr. Powers revised offer.

Councilor Hancey asked how far away the 2-acre parcel was from Enoch's Lake. Ms. Geiger estimated that it was about ¼ of a mile. Ms. Bullen agreed that it was in close proximity but that there was still some distance between the two parcels. Ms. Geiger pointed out that the 2-acre parcel is not contiguous to Enoch's Lake parcel, but it does have access to 18 Mile Road. She added that Mr. Powers owns the property that surrounds the 2-acre parcel on the other side and that the 2-acre parcel does not have any water rights associated with it, so the City did not have to go to Ute Water for the First Right of Refusal.

Councilor Kreie stated that his issue with this Ordinance was the same as the issue he had with Enoch's Lake. He clarified that he thinks staff and the Council did everything right, but because people got involved at the end of the process and the City didn't go through the process of putting up a "For Sale" sign, there was a perception of nontransparency on the part of the City.

Councilor Hancey stated that he was leaning toward accepting Mr. Powers' revised offer.

- **COUNCILOR WILLIAMS MOVED TO AMEND ORDINANCE 2023-08 – SECOND READING – TO ACCEPT THE REVISED OFFER FROM MR. ROD POWERS OF \$50,000 AND AUTHORIZING THE CONVEYANCE OF REAL PROPERTY OF THE CITY REFERRED TO AS 2-ACRE PARCEL LOCATED ON PINON MESA. COUNCILOR HANCEY SECONDED THE MOTION. THE MOTION PASSED WITH FIVE YES VOTES AND ONE NO VOTE. COUNCILOR KREIE VOTED NO.**

Mayor Pro Tem Breman asked Mayor Kincaid to rejoin the meeting and preside over the remainder of it.

6. CITY MANAGER'S REPORT

Mike provided the following updates to the Council:

- A reminder to RSVP with staff for the many invitations to various meetings and events from other agencies that Mike emailed to the Council previously
- A request to know if Council members were available to schedule a Fruita Housing Authority Meeting prior to the Council meeting on September 5th from 6:00 to 7:00. There is a second grant request from the Fruita Mews development that needs to be considered by the Housing Authority. Mayor Kincaid asked the Deputy City Clerk if there were any Boards and Commission interviews scheduled for that evening and Deb replied that there were not. Matthew pointed out that that was Dog Daze in the Fruita pool from 4:00 to 6:00 p.m. Amy reported that she would not be able to attend either the Housing Authority meeting or Dog Daze. All the other Council members confirmed that they could make it to the Housing Authority Meeting.

7. COUNCIL REPORTS AND ACTIONS

COUNCILOR KEN KREIE

Ken reported that he attended a Grand Valley Regional Transportation Committee (GVRTC) meeting the previous day but there was really nothing of note to report except they are working on a new facility.

COUNCILOR AMY MILLER

Amy reported that the Lower Valley Heritage Room at the Civic Center is in need of Fruita Monument High School yearbooks for years 2000 forward and a few other specific years that she could email out to the Council members. She noted that the Historic Preservation Board is going to put out a Call to Action for them. Councilor Kreie suggested that Amy reach out to the Yearbook Committee at the high school. Amy said the Yearbook Committee only keeps one copy of each year for their own collection and the library also gets a copy. She stated that the Historic Preservation Board is going to purchase a subscription

of FMHS yearbooks for their records going forward into the future, but they would like to find copies of the previous years' books as well.

Amy also reported that she got some feedback that the Boards and Commissions Mixer event was very much appreciated; however, it was too loud. Amy agreed and said that the people at her table were having a hard time hearing one another, so perhaps next year, staff could try to figure out how to resolve that. She added that they loved the format and want to see that happen again, but they just couldn't hear what was being said, which was the point of the whole thing.

Amy stated that there's been a lot of traffic on the link for developers, but there is no pin on the map for the Fruita Mews and she thought it was the only one missing. Mike said he would make sure it is added to the map.

Amy announced that she would be attending the Home Builders' Association (HBA) Governmental Affairs luncheon the following day and would report back at the next Council meeting.

MAYOR JOEL KINCAID

Joel reported that Fruita will be hosting a Mesa County Town Hall event in November and they will be implementing the same roundtable format as the one at the Boards and Commissions Mixer. They are considering having it at the Fruita Community Center. Mike confirmed that they are holding the event at the Community Center. The Council thought it might have been the music playing in the background at the Boards and Commissions Mixer that made it so hard for everyone to hear. Matthew suggested that the tables be spread further apart and wondered if the food could be moved into the kitchen. Joel said there wouldn't be food at the Town Hall and Mike noted that there will be much fewer tables at the Town Hall, too.

Joel also reported that he and Amy interviewed applicants for the Fruita Planning Commission and he asked Mike what the timeline was for updating the membership guidelines for the Commission. Mike explained that staff had slated two items for the September workshop meeting and one of the items is the first draft of the 2024 Budget and the second is to recap all of the update meetings with each Board and Commission. He stated that never was there any feedback from the Council related to any changes to the Planning Commission during that process except for the recommendation of the City Attorney to make the change through an Ordinance process to remove a Council Liaison position on the Planning Commission. He said that staff will be scheduling the First Reading of an Ordinance at an upcoming meeting and in the meantime, as Joel and Amy are interviewing applicants, they can recommend the appointment of an alternate member to the Planning Commission. Joel asked for confirmation from the Council that they were in favor of moving forward with the Ordinance and the Council confirmed they were.

Matthew said that he would like a hard copy of the draft Budget after the initial presentation and asked Aaron when he would like his hard copy. Mike explained that after the first draft of the recommended Budget, there is a lot that gets built throughout the remainder of the upcoming discussions, so it could change four or five times over the course of the next three months. Matthew said he still preferred to have a hard copy to begin with but will be fine with an electronic copy after it gets adopted. Mike said staff could print out any draft at any point. Aaron decided he wanted a hard copy at the beginning of the process as well. Joel asked if there would be links in the electronic copy from the start like there are in the final document.

Joel asked when the Council could discuss procedures and future steps for selling and conveying the City's Mountain Properties and water rights. The Council came to a consensus to add the discussion to the September 19th Regular City Council meeting under the Council Reports and Actions section of the agenda.

8. ADJOURN

With no further business before the Council, Mayor Kincaid adjourned the meeting at 9:30 p.m.

Respectfully submitted,

Debra Woods
Deputy City Clerk
City of Fruita