

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

**1. CALL TO ORDER AND ROLL CALL**

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

**Present:** Mayor Joel Kincaid  
Mayor Pro Tem Matthew Breman  
City Councilor Jeannine Purser  
City Councilor James Williams  
City Councilor Ken Kreie  
City Councilor Amy Miller  
City Councilor Aaron Hancey

**Excused Absent:** (None)

**City staff present:** City Manager Mike Bennett  
Deputy City Clerk Deb Woods  
Communications and Engagement Specialist Ciara DePinto  
Public Works Director Kimberly Bullen  
City Attorney Mary Elizabeth Geiger (virtually)

**Also present:** Members of the public (in-person and virtually)

**2. MOMENT OF SILENCE AND PLEDGE OF ALLEGIANCE**

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

**3. AGENDA – ADOPT/AMEND**

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

**4. PROCLAMATIONS AND PRESENTATIONS**

There were no Proclamations or Presentations on the agenda.

**5. PUBLIC PARTICIPATION**

There were no comments from the public.

## **6. CONSENT AGENDA**

- A. MINUTES – A REQUEST TO APPROVE THE MINUTES OF THE JANUARY 17, 2023 REGULAR CITY COUNCIL MEETING**
- B. LIQUOR LICENSE RENEWAL – A REQUEST TO APPROVE THE RENEWAL OF A RETAIL LIQUOR STORE – MALT, VINOUS & SPIRITUOUS LIQUOR LICENSE FOR FRUITA LIQUOR MART LOCATED AT 423 E. HIGHWAY 6 & 50**
- C. BOARDS AND COMMISSIONS REAPPOINTMENT – A REQUEST TO APPROVE THE REAPPOINTMENT OF TERRI POTENTE TO THE LIVABILITY COMMISSION FOR A THREE-YEAR TERM TO EXPIRE IN FEBRUARY OF 2026**
- D. FINANCIAL REPORTS – A REQUEST TO APPROVE THE JANUARY 2023 FINANCIAL REPORTS**
- E. PUBLIC DISCLOSURE OF NOTICE OF AWARD – AWARD TO RHEMA MUSIC AND CLOTHING FOR 2023 CONCERT PRODUCTION SERVICES**

Mayor Kincaid opened the Consent Agenda to public comments. Hearing none, he referred the matter to the City Council. Councilor Williams recused himself from Consent Agenda Item 6(E) Public Disclosure of Notice Award to Rhema Music and Clothing for 2023 Concert Production Services as he is the owner of Rhema Music and Clothing.

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

## **7. PUBLIC HEARINGS**

### **A. QUASI-JUDICIAL HEARINGS**

- 1) SPECIAL EVENT LIQUOR PERMIT APPLICATION – A REQUEST TO APPROVE AN APPLICATION FROM THE FRUITA ARTS AND CULTURE BOARD TO SERVE WINE AT THE COCO VINO FUNDRAISER TO BE HELD ON FRIDAY, MARCH 10, 2023 FROM 3:00 TO 10:00 PM AT THE “OUR LADY OF PERPETUAL MOTION” BUILDING LOCATED AT 503 E. ASPEN AVE.**

Deputy City Clerk Deb Woods gave staff’s presentation. She reviewed the application as it appeared in the Council packet, noting that Fruita Chief of Police Dave Krouse has submitted his memorandum stating that there was nothing that would prohibit the issuance of the license being requested. Ms. Woods requested that the Council approve the Special Event Liquor Permit subject to the following conditions:

- 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 licensed area.
- The licensee needs to be aware that they are solely responsible for control of the licensed premises in regards to alcohol possession, consumption and adherence to state and municipal laws; and
- All other procedures presented by the Fruita Arts and Culture Board will be followed.

Ms. Woods stated that Chair of the Arts and Culture Board Nancy Patterson was present in the audience as the applicant's representative.

Ms. Patterson stated that the fundraising event was specifically for the "Heart of Fruita" rotating art sculpture program, which the Arts and Culture Board hopes to enact in the fall.

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

- **COUNCILOR PURSER MOVED TO APPROVE THE APPLICATION FOR A SPECIAL EVENT LIQUOR PERMIT APPLICATION FOR THE FRUITA ARTS AND CULTURE BOARD TO SERVE WINE DURING THE COCO VINO FUNDRAISER ON FRIDAY, MARCH 10, 2023 FROM 3:00 TO 10:00 PM AT THE "LADY OF PERPETUAL MOTION" LOCATED AT 503 E. ASPEN AVENUE SUBJECT TO THE CONDITIONS STATED BY STAFF. COUNCILOR WILLIAMS SECONDED THE MOTION. THE MOTION PASSED WITH SIX YES VOTES.**
- 2) **MODIFICATION OF LICENSED PREMISES – A REQUEST TO APPROVE A PERMANENT MODIFICATION OF LICENSED PREMISES FOR DILLON COMPANIES, LLC DBA CITY MARKET #13 LOCATED AT 135 S. PLUM STREET ON A FERMENTED MALT BEVERAGE (FMB) (OFF PREMISES) LIQUOR LICENSE TO DESIGNATE ADDITIONAL ALCOHOL BEVERAGE DISPLAY AREAS IN ANTICIPATION OF ADDING WINE PRODUCTS ON MARCH 1, 2023**

Deputy City Clerk presented the application for a Modification of a Licensed Premises on a Fermented Malt Beverage (FMB) (Off Premises) Liquor License for Dillon Companies, LLC dba City Market #13 located at 135 S. Plum Street in Fruita. She explained that at the November 8, 2022 midterm elections in Colorado, Proposition 125 passed by a slim margin to allow wine to be sold for Off Premises consumption at retail establishments who currently hold a FMB Off Premise liquor license. The law goes into effect on March 1, 2023.

Ms. Woods stated that she received the application from the law firm of Dill Dill Carr Stonbraker & Hutchings, P.C. on behalf of the Fruita City Market, who would like to take advantage of the new

legislation that will allow them to sell wine in addition to beer. This will require them to expand their alcohol beverage storage and display areas from a total of 20 linear feet to a total of 46 linear feet.

Ms. Woods provided the dates of the notices to the public of the public hearing both in the Daily Sentinel and physically posted on the site of the existing licensed premises. She also noted that Fruita Police Chief Dave Krouse reviewed the application for the modification of licensed premises and reported that he had no concerns that would prohibit the issuance of the modification being requested.

Ms. Woods stated that it was staff's recommendation to the City Council that they approve the application for the Modification of Licensed Premises for Dillon Companies, LLC dba Fruita City Market #13 located at 135 S. Plum Street in Fruita.

Adam Stapen with the law firm of Dill Dill Carr Stonbraker & Hutchings, P.C. was present virtually as the applicant's representative. He explained that the City Market is looking to expand the permanent display of alcohol in the store but not to alter the ingress or egress, license any outside area nor to change the character of the establishment with the exception of expanding out the permanent display by 26 linear feet inside the store.

Mr. Stapen explained that with the passage of the legislation to allow wine where previously only beer (fermented malt beverage) has been allowed for off-premises consumption, there is an automatic conversion of Fermented Malt Beverage (FMB) liquor licenses to a FMB *and* Wine liquor license. He noted that Dillon Companies' employee liquor training remains the same, although there may be some added security provided at the store. Mr. Stapen offered to answer any questions the Council may have about the application.

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

- **COUNCILOR BREMAN MOVED TO APPROVE THE PERMANENT MODIFICATION OF LICENSED PREMISES ON A FERMENTED MALT BEVERAGE (FMB) (OFF-PREMISES) AND WINE RETAILER AFTER MARCH 1, 2023 FOR DILLON COMPANIES, LLC DBA CITY MARKET #13 LOCATED AT 135 S. PLUM STREET FOR AN INCREASE OF THE RETAIL DISPLAY FROM 20 LINEAR FEET TO 46 LINEAR FEET. COUNCILOR WILLIAMS SECONDED THE MOTION. THE MOTION PASSED WITH SIX YES VOTES.**

## **B. LEGISLATIVE HEARINGS**

There were no legislative public hearing items on the agenda.

## **8. ADMINISTRATIVE AGENDA**

There were no administrative items on the agenda.

## **9. CITY MANAGER'S REPORT**

City Manager Mike Bennett reported on the following:

- Mike recognized a number of students from his Public Administration Class at CMU: Kendall, Jimmy, Katie, Trevor and Taylor that were present in the audience.
- Mike had the opportunity to participate with School District #51 hiring panel for the Assistant Superintendent position the previous Friday. He said it was himself, someone from CMU and many staff members from the District's Administration Offices. Mike said they had some great candidates and hopefully will be able to fill the position in the near future.
- Mike said today was the first official workday of the City's new Building Department, who was busy and hit the ground running.
- This Thursday, Mike said he would be attending the St. Mary's second Community Quarterly Partnership meeting.
- At the February Council workshop meeting, there will be two items for sure on the agenda: 1) a guest speaker from United Way that Mayor Pro Tem Breman invited to discuss community services such as the 211 program and 2) an overview of the City's mountain water properties and water rights.
- Mike asked the Council if they wanted to have only the two discussions above or if they wanted to also jump into the first part of the discussion about the City's Boards and Commissions including a quick overview of how each board was established, the purpose of each one and the roles of Council and staff Liaisons. Mike said the Council could also discuss a schedule of which boards need to be discussed at future workshop meetings in light of the Downtown Advisory Board looking for the Council's direction concerning their next phase of projects for the board to work on. The Council came to a consensus to add the initial discussion regarding Boards and Commissions to the February workshop agenda.
- Reminder about upcoming events including:
  - Arts and Culture Board's Coco Vino Fundraiser on March 10<sup>th</sup>
  - Fruita Area Chamber Annual Banquet on April 15<sup>th</sup>
  - GJEP Western Colorado Economic Summit on April 27<sup>th</sup>
  - CML Annual Conference June 25<sup>th</sup> – 28<sup>th</sup> in Aurora
- Mike asked if the Council would like to cancel the June workshop meeting since the CML Conference will be taking place then.
  - **COUNCILOR BREMAN MOVED TO CANCEL THE JUNE 27, 2023 COUNCIL WORKSHOP MEETING. COUNCILOR MILLER SECONDED THE MOTION. THE MOTION PASSED WITH SIX YES VOTES.**

## **10. COUNCIL REPORTS AND ACTIONS**

### **A. COUNCIL REPORTS AND ACTIONS**

#### COUNCILOR AMY MILLER

Amy announced that the FMHS girls' basketball team won their game 59 to 55. She also reported that she attended the Meet and Greet for the City's new Building Department and it went really well with an awesome turnout that was very positive.

#### COUNCILOR KEN KREIE

Ken noted that he would be out of town the following week, so he would be unable to attend the Grand Valley Regional Transportation Committee (GVRTC) meeting, but Public Works Director Kimberly Bullen was going to cover for him.

Ken also stated that he would be absent for the Council workshop meeting on February 28<sup>th</sup>, but that there was a possibility that he could remote in. He reported that someone had reached out to him about renewing the Inclusivity Proclamation that the City Council issued a few years ago, so he was hoping it could be discussed at the workshop meeting. Amy said she would also be absent from the Council's February workshop meeting. There was consensus among the Council members to go ahead and reissue the Inclusivity Proclamation at a future Council meeting. Ken said he would be reaching out to someone to see when they could come accept the Proclamation.

#### COUNCILOR JAMES WILLIAMS

James noted that he would be attending the Tourism Advisory Council meeting in the morning. He reported that he has already finished the lineup of music guests for Fruita Fall Festival and Hazel Miller will be the headliner this year.

#### COUNCILOR JEANNINE PURSER

Jeannine reported that the Arts and Culture Board had their meeting in the dark because the power went out and emergency lights and alarms were going off the entire time, but they persevered to be able to get ready for Coco Vino.

Jeannine also reported that she attended the Livability Commission meeting the previous week and the board is working on focusing on some new things as they are another board who has accomplished their original goals. She said there are two or three things that they would like to talk to the City Council about pursuing.

Jeannine announced that the Downtown Advisory Board meeting was postponed to the following evening (February 22, 2023) because of the roads and weather conditions.

Jeannine said she thought she recalled when the Council had discussed the parking for the North Mulberry outdoor space, that the Council was okay with having two parking spaces on the south end but had decided it was going to be difficult to have two spaces on the north end due to space needed

for cars to back out. She asked for clarification because one of the downtown business owners had heard something about it and they weren't happy. Mike said he was having a hard time remembering what the Council decided so he would go back and read the minutes for that meeting and let them know what he found out.

#### COUNCILOR MATTHEW BREMAN

Matthew announced that the Grand Junction Economic Partnership (GJEP) meeting was canceled due to the snow.

Matthew reported that at the Fruita Area Chamber of Commerce meeting, there was a lot of discussion around the budget and the balances between events, staffing and programs offered. This will be an ongoing discussion for the board. Upcoming Chamber events include Women in Business on March 9<sup>th</sup> at CMU at 8:00 a.m. and the Annual Banquet on April 15<sup>th</sup>.

#### MAYOR JOEL KINCAID

Joel said he hadn't had any other recent board meetings, but he wanted to mention the email he had sent the rest of the Council members concerning the cell phone numbers that are attached to the Council iPads. He noted that Aaron had asked about it, but it was determined that the cell numbers cannot be used as phone numbers. Joel said there might be other options for Council members that want a City phone number instead of using their personal phone numbers. Joel, Jeannine, Amy and Ken all said they did not need or want a separate phone number for city business. Joel asked that any Council members who want to change their contact information that appears on the bottom banner of the first page of the City Link or on the City's website, to let Mike know.

City Attorney Mary Elizabeth Geiger cautioned Council members not to use their personal cell phones for text messaging with the public about city business because those are subject to the Colorado Open Records Act. She advised that they use their City email address for any written communications and that their cell phones be used for phone calls only. Mike added that open records are not based off the format (e.g., device) of the record, but rather the subject matter of the communication itself. Amy noted that she has been contacted about city business through Facebook, so she reasoned that she would need to respond by asking whomever is contacting her to instead send an email to her [fruita.org](mailto:fruita.org) email address. Ms. Geiger confirmed that this is what she and all the City Councilors should do.

Discussion continued regarding the parking spaces at the North Mulberry outdoor space after Communications and Engagement Specialist Ciara DePinto was able to find the meeting minutes when the Council previously discussed them. Originally, there were going to be three parking spaces on the north end and three on the south, but the minutes show that the final spaces agreed upon by all were two on each end.

Mike remembered the discussion about how awkward parking might be on the north end because the spaces weren't designed to be at angles, but rather straight in and straight out. He said it may be too late to change that on the south end, but that it probably wasn't too late to change it on the north end if the Council wanted to.

Jeannine stated that the feedback she received from the downtown business owner was that it was going to be horrible to have the two parking spaces on the north end because of the bike rack being right there and people on bikes being where vehicles will be trying to back out.

The Council and staff discussed having staff check to see what stage the project is in right now, but for now keeping the design as it was engineered for the two parking spaces on each end of the outdoor space.

Mary Elizabeth Geiger advised the Council that if the Council wanted to discuss the issue further in depth, she would prefer the discussion be placed on a workshop or regular City Council agenda as a stand-alone item because it was getting pretty far away from Council Reports and Actions and more into the nuts and bolts of what is happening with the project. The Council directed Mike to provide the Council an update on the status of the project at an upcoming workshop meeting.

**B. EXECUTIVE SESSION – TO CONVENE IN EXECUTIVE SESSION WITH THE CITY ATTORNEY FOR DETERMINING POSITIONS RELATIVE TO MATTERS THAT MAY BE SUBJECT TO NEGOTIATIONS; DEVELOPING STRATEGY FOR NEGOTIATIONS; AND INSTRUCTING NEGOTIATORS PURSUANT TO C.R.S. SECTION 24-6-402(4)(E) WITH REGARD TO THE AGREEMENT WITH THE UTE WATER CONSERVANCY DISTRICT AND RECEIVING LEGAL ADVICE FROM THE CITY ATTORNEY PURSUANT TO C.R.S. SECTION 24-6-402(4)(B) REGARDING THE SAME**

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

*The City Council took a five-minute break at 7:50 p.m. and then convened in Executive Session at 7:55 p.m. City Attorney Mary Elizabeth Geiger stated that she was leaving the regular meeting and would join the Executive Session using Zoom video conferencing. The regular meeting of the City Council reconvened at 8:24 p.m.*

## **11. ADJOURN**

With no further business before the Council, Mayor Kincaid adjourned the meeting at 8:24 p.m.

Respectfully submitted,



Debra Woods  
Deputy City Clerk  
City of Fruita