

**FRUITA CITY COUNCIL
IN PERSON AND VIRTUAL MEETING
MARCH 7, 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 to the City Manager Shannon Vassen
City Clerk/Finance Director Margaret Sell
Deputy City Clerk Deb Woods
Communications and Engagement Specialist Ciara DePinto
Planning and Development Director Dan Caris
City Planner Henry Hemphill
City Attorney Mary Elizabeth Geiger

Also present:

Fruita Middle School teachers, students and families
Family Health West CEO Korrey Klein
Pastor Travis Schroeder
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 since the time the Council packet had been originally posted to the City's website and sent out via email the previous Friday, there had been two additions to the agenda:

1. Minutes of the January 24, 2023 Council workshop meeting (Consent Agenda); and

2. An additional Executive Session (Council Reports and Actions) at the request of City Attorney Mary Elizabeth Geiger for the purpose of determining matters that may be subject to negotiation, developing strategy for negotiations and instructing negotiators regarding a proposal for the City's lagoon property redevelopment and the City's use and development of property it may purchase and receiving legal advice from the City Attorney regarding the same.

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

4. PROCLAMATIONS AND PRESENTATIONS

A. PRESENTATION – STUDENTS AND TEACHERS OF THE MONTH FOR MARCH 2023: FRUITA MIDDLE SCHOOL

Mayor Kincaid presented certificates to students and teachers that were chosen by the Principal of Fruita Middle School to be recognized as March 2023's Students and Teachers of the Month. Each student and teacher also received a day pass to the Fruita Community Center and an "I-Heart-Fruita" button. Afterwards, audience and family members took photos of the students and teachers with the Fruita City Council members.

B. PRESENTATION – FAMILY HEALTH WEST COMMUNITY UPDATE BY CEO DR. KORREY KLEIN

Family Health West (FHW) CEO Dr. Korrey Klein provided the Council with a PowerPoint presentation as an update on their operations, demographics and other highlights.

One item of note is that FHW is opening an Urgent Care facility on April 10th at the request of the community at 401 Kokopelli Blvd., Unit #3, which is next door to the FHW Primary Care offices that recently relocated there from their previous location on North Plum Street. This will be a walk-in facility only (not by appointment), but the After Hours Care clinic in the Redlands is still available.

Councilor Hancey asked Dr. Klein what FHW's plans were for the property at 805 W. Ottley (previously The Oaks Assisted Living Center). Dr. Klein responded that over the last three or four months, FHW was exploring options to potentially expand daycare in Fruita, but as of the end of last September, that deal expired, so FHW is back to exploring options. He said FHW currently does not have any plans for the property.

5. PUBLIC PARTICIPATION

Pastor Travis Schroeder, 226 Narrow Leaf Drive and Pastor at the Bethel Assembly of God in Grand Junction, offered his prayers for the City Council, their meetings, the Fruita community, businesses, schools and teachers.

There were no further comments from the public.

6. CONSENT AGENDA

- A. **LIQUOR LICENSE RENEWAL – A REQUEST TO APPROVE THE RENEWAL OF A HOTEL AND RESTAURANT – MALT, VINOUS & SPIRITUOUS LIQUOR LICENSE FOR MIKE’S FAMOUS CHICKEN LOCATED AT 233 E. ASPEN AVE.**
- B. **LIQUOR LICENSE RENEWAL – A REQUEST TO APPROVE THE RENEWAL OF A TAVERN LIQUOR LICENSE – MALT, VINOUS & SPIRITUOUS FOR KOKO’S LOCATED AT 152 S. MESA ST.**
- C. **BOARDS AND COMMISSIONS REAPPOINTMENT – A REQUEST TO APPROVE THE REAPPOINTMENT OF ANDREA STOLARCZYK TO THE ARTS AND CULTURE BOARD FOR ANOTHER THREE-YEAR TERM TO EXPIRE IN MARCH OF 2026**
- D. **BOARDS AND COMMISSIONS REAPPOINTMENT – A REQUEST TO APPROVE THE REAPPOINTMENT OF LISA WENCE CONNORS TO THE BOARD OF ADJUSTMENT FOR ANOTHER THREE-YEAR TERM TO EXPIRE IN MARCH OF 2026**
- E. **BOARDS AND COMMISSIONS REAPPOINTMENTS – A REQUEST TO APPROVE THE REAPPOINTMENTS OF KAYLA BOWERS (BROWN) TO THE FRUITA TOURISM ADVISORY COUNCIL (FTAC) AS THE FRUITA AREA CHAMBER OF COMMERCE LIAISON TO THE BOARD FOR ANOTHER THREE-YEAR TERM TO EXPIRE IN MARCH OF 2026 AND KRISTY DRIVER FOR ANOTHER THREE-YEAR TERM TO EXPIRE IN MARCH OF 2026**
- F. **BOARDS AND COMMISSIONS APPOINTMENT – A REQUEST TO APPROVE THE APPOINTMENT OF TODD KUMRO TO THE DOWNTOWN ADVISORY BOARD FOR A THREE-YEAR TERM TO EXPIRE IN MARCH OF 2026**
- G. **OPIOID SETTLEMENT PARTICIPATION – AUTHORIZING THE CITY MANAGER TO EXECUTE THE OPIOID SETTLEMENT PARTICIPATION FORMS WITH TEVRA, ALLERGAN, WALMART, CVS AND WALGREENS**
- H. **LETTER OF SUPPORT FOR FAMILY HEALTH WEST – A REQUEST TO AUTHORIZE THE MAYOR TO SIGN A LETTER OF SUPPORT FOR FAMILY HEALTH WEST’S CONGRESSIONAL DIRECTED SPENDING REQUEST**
- I. **RESOLUTION 2023-06 – A REQUEST TO AUTHORIZE CITY STAFF AND THE CITY ATTORNEY TO PURSUE THE FILING OF THE DILIGENCE APPLICATION WITH THE DIVISION 5 WATER COURT BY MARCH 31, 2023**
- J. **MINUTES – A REQUEST TO APPROVE THE MINUTES OF THE CITY COUNCIL JANUARY 24, 2023 WORKSHOP MEETING (*ADDED TO THE AGENDA*)**

Mayor Kincaid opened the Consent Agenda to public comments. Hearing none, he referred the matter to the City Council.

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

7. PUBLIC HEARINGS

A. QUASI-JUDICIAL HEARINGS

- 1) **ORDINANCE 2023-01 – SECOND READING – AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF FRUITA BY ZONING APPROXIMATELY 9.1 ACRES OF PROPERTY LOCATED AT THE INTERSECTION OF 18 & K ROADS TO A COMMUNITY RESIDENTIAL (CR) ZONE – *CITY PLANNER HENRY HEMPHILL***

City Planner Henry Hemphill provided staff's presentation, which consisted of the following:

- Application details (name of property owner, location, application type, name of applicant's representative)
- Legal notice (of public hearings) dates, methods and illustration of buffer area of those people that must be notified via a postcard from the Planning Department
- Property history (property originally set aside for commercial uses)
- Future Land Use Map from Fruita's 2001 Community Plan
- Aerial photo of entire Vista Valley PUD with Filings in chronological color-coded stages of development
- Review criteria to consider pursuant to Fruita Land Use Code
- Community Residential (CR) Zone requirements for density, minimum lot size and setbacks
- Available Density Bonus criteria for density over six (6) dwelling units/acre
- Vista Valley Planned Unit Development (PUD) lot size averages and typical setbacks for Filings 1 and 2 (subject property previously referred to as Phase 3 of the original Vista Valley PUD development)
- Review comments: No reviewer concerns
- Public comments: No written comments received by staff, neighborhood meeting took place prior to the application submittal
- Planning Commission recommendation of approval (public comments were made at this meeting that were included in minutes in Council packet)
- Future expectations (all subdivision requests require a pre-application meeting with Planning staff)
- Staff's recommendation of approval of Ordinance 2023-01 to zone 9.1 acres of property to a Community Residential (CR) Zone

Mr. Hemphill pointed out that the subject property has been vacant and for sale for quite some time and he believes it is the intention of the property owners to move on and away from a commercial use of the property by proposing something that's more in alignment with the City's current Comprehensive Plan, which supports residential uses.

Mr. Hemphill also noted that the primary consideration for the Council in approving the rezone is compatibility. He pointed out that the subject property is surrounded by residential neighborhoods on all sides except for the northwest corner.

Mr. Hemphill provided staff's recommendation of approval of Ordinance 2023-01.

Mr. Ty Johnson with Kaart Planning was present as the property owner/applicant representative. He spoke to the motivation behind the rezone request, saying that the property owner has had the property on the market for quite some time without any success and has no intention of developing it. The rezone request is to make the property more compatible with surrounding land uses and hopefully make it more marketable.

Mr. Johnson noted that he did host a neighborhood meeting in early December at the Fruita Community Center and approximately 25 participants attended. He said the discussion was largely productive relating to the existing zoning, the proposed zoning and the development process in general.

This concluded the applicant's presentation.

Mayor Kincaid opened the public hearing.

Leroy Reeder, 361 Arches Drive, stated that his property backs up to the subject property. He said he wasn't so thrilled about the 15-foot setback in the rear because that could eliminate his privacy. He theorized that if a two-story house is built on it, people would be able to look down right into his yard. Mr. Reeder also accused the City of wanting to make money off the rezone. He added that he had heard there could be 81 houses on the property and that he thinks 54 houses is more reasonable, although he'd like to see even less than that.

Sean Darr, 424 Hawthorne Street, stated that he is in favor of the rezone and that he would rather have residential land uses than mixed-use commercial. He understood the concern about setbacks, but he feels that it is a case of the "lesser of two evils." Mr. Darr added that he did enjoy seeing the horses on the property, though.

Hearing no further comments from the public, Mayor Kincaid closed the public hearing. He gave the applicant's representative, Ty Johnson with Kaart Planning, the opportunity to address comments made by the public.

Mr. Johnson stated that the Community Residential (CR) Zone allows 4 to 6 dwelling units per acre as a use by right, which would equate to 54 units per acre. He continued that a developer could potentially go up to 72 units through the Density Bonus program; however, there are a lot of requirements that would have to be demonstrated by a developer in order to do that.

Mr. Johnson also noted that there would be a 15-foot minimum rear setback, but that it would be hard to say where the setbacks would end up because at this point in time, there is no development on the table.

Mayor Kincaid referred the matter to the City Council.

Councilor Breman noted that he lives within the buffer area of the residents who received the postcard notifications of the public hearing and asked if that constituted a conflict with voting on the application. City Attorney Mary Elizabeth Geiger advised that best practice would be for Councilor Breman to recuse himself from voting. Councilor Breman subsequently recused himself as advised.

City Manager Mike Bennett addressed one of the comments made by a member of the audience that “the City wants to make money” off of the rezone. He clarified that the City does not own the property, nor would the City make any money off the rezone of the property because it is owned by a private citizen and only they could sell it. Mr. Bennett added that the City’s Planning Department’s role is to review an application to see if it meets the laws of the Land Use Code and then makes a recommendation to the City Council.

- **COUNCILOR MILLER MOVED TO APPROVE THE ZONE REQUEST TO ZONE THE SUBJECT PROPERTY TO A COMMUNITY RESIDENTIAL ZONE WITH NO CONDITIONS TO THE FRUITA CITY COUNCIL. COUNCILOR KREIE SECONDED THE MOTION. THE MOTION PASSED WITH FIVE YES VOTES.**

B. LEGISLATIVE HEARINGS

There were no legislative public hearing items on the agenda.

8. ADMINISTRATIVE AGENDA

A. PRESENTATION – OVERVIEW OF THE FRUITA ACADEMY – *COMMUNICATIONS AND ENGAGEMENT SPECIALIST CIARA DEPINTO*

The City’s Communications and Engagement Specialist, Ciara DePinto, stated that the City will have a new program that will fit into the larger communications strategy, which is to connect and strengthen the relationship between the residents of Fruita and the City of Fruita.

The program is called the “Fruita Academy” and will be a four-week in-person class whose goal is to give residents the opportunity to develop an understanding of local government while also connecting with leadership at the City face to face.

The class will be held every Thursday beginning on July 13th through August 2nd from 3:00 to 5:00 p.m. Each department Director will give a presentation to the participants. There will be two presentations for each class session and presentations will be no more than 20 minutes long to allow enough time for Q & A and discussion about all the services the City provides.

Ciara said staff is really trying to make the program interactive, so participants will have the opportunity to go on two different tours: one at the Wastewater Treatment (Reclamation) Facility and one at the Fruita Community Center.

At the end of the program, all participants will be recognized at an upcoming City Council meeting.

Ciara also presented the Fruita Academy schedule as was outlined in the Council packet. She invited the City Council members and Mayor to the first session, which will cover “Elected Officials” and “Administration” on Thursday, July 13, 2023 from 3:00 to 5:00 p.m. Other sessions will feature presentations by the Police Department and Parks and Recreation, Public Works and Engineering, and Planning and Building Inspections.

Councilor Purser said she had a concern about the time of day the classes are scheduled for because she feels it limits severely the demographic that can attend. Ciara responded that 3:00 to 5:00 p.m. is what is being proposed for the first class, but that after that, the times will rotate; they may be held during the lunch hour or in the evening in order to meet a wider range of schedules for people.

City Manager Mike Bennett stated that staff did receive feedback during the Engagement Series that evening hours don’t work for a lot of people just as well, so staff plans to schedule the sessions at different times to accommodate various peoples’ schedules.

Ciara also noted that the Fruita Academy is going to start off on an annual basis and then staff will reevaluate to see if the program should be extended to twice per year. Staff will begin promoting the Fruita Academy in April when the application form to participate will be made available. The classes are free and spots may be limited to no more than 20 people.

Councilor Breman asked Ciara to send the City Council a meeting invitation for the first class on July 13th. He urged the other Council members to participate as much as possible.

Ciara also noted that the landing page for the “For the Love of Fruita” campaign is done and she will be sending out email reminders to Co-Creators about the program. She has letter templates for the Co-Creators that are participating right now and Ciara is hoping to catch all the City’s Boards and Commissions members at their upcoming meetings next month to expand participation even more.

9. CITY MANAGER’S REPORT

City Manager Mike Bennett reported on the following:

- Today marks two weeks exactly that the City started its new Building Department after transitioning from contracting through Mesa County. Mike provided the following points of interest:
 - ✓ 94 applications for building permits have been received
 - ✓ 1/3 of the applications for the building permits have already been paid out at a total of \$22,540
 - ✓ 54 permits have been issued (staff is awaiting payment on 21 of those)

Mike stated that the Building Department is doing a great job; they’ve had quite a few accolades right off the bat about the software. The majority of people have not even had to come in person to the City to apply because the process is digitally available online. When the first inspection is done, staff will bring the physical permit with them to save the applicant a trip. Mike said there has been a lot of enthusiasm about the quick response time, customer service level and convenience.

- There is about a week left for the gym floor at the Fruita Community Center to be completed and the Parks and Recreation Department will announce the day it will officially open back up. Final sealant coats are being applied and Mike said it looks great with the new colors.
- The fencing at the dog park should start getting installed at Bark Park very soon. A water fountain for the dogs will be installed the week of April 3rd and will be located between the large dog and small dog areas. Mike said staff is considering having a “soft opening” after the fencing is done but that he would keep the Council up to date on that.
- Mike sent a follow up via email to the Mayor and Council members about a proposed schedule for the Boards and Commissions presentations and/or discussions at upcoming meetings. He asked the Council if there were any concerns about the proposed schedule. Secondly, he asked if the Council preferred to have the Fruita Tourism Advisory Council (FTAC) give a presentation or would they rather have a presentation from the City’s contracted marketing firm, Colvita Creative? The Council had no concerns about Mike’s proposed schedule. Council Liaison to the FTAC James Williams stated that he wanted to hear from the board members themselves to start with because he is sensing a lot of frustration from them. There was consensus to schedule a presentation from the FTAC board to the City Council prior to seeing a presentation from Colvita.

10. COUNCIL REPORTS AND ACTIONS

A. COUNCIL REPORTS AND ACTIONS

COUNCILOR AARON HANCEY

Aaron said he missed the last Parks and Recreation Advisory Board (PRAB) meeting, but he was told that Parks and Recreation Director Marc Mancuso discussed with the board members how the Council will be checking in with all the City’s Boards and Commissions to review their purposes and provide direction where needed. Marc said the PRAB was very happy to hear it.

Aaron said he was thinking the other day about the \$0.10 per plastic bag that people are being charged at grocery and convenience stores and he wondered if the Council should look into taking the portion of the money that the City receives and using it for something that is beneficial to the community if the funds haven’t already been allocated for something else in the budget. He said he thinks the money should be used towards something related to recycling such as a community recycling clean-up or the City could have a place for people to drop off items for the Fruita Thrift Store.

Councilor James Williams suggested that the City purchase reusable bags with the City’s logo on them to give out to people.

Aaron asked how much the City has received so far.

City Clerk/Finance Director Margaret Sell explained that the law states that retailers don't have to begin remitting the funds to the City until April of 2024. There is a belief that that was a typographical error in the original legislation, but that is what the legislation says. Margaret continued that the information that staff sent to retailers is that they can certainly voluntarily remit the funds prior to that date if they choose, and remittance forms have been posted to the City's website for them to do that, however, nothing has been remitted to date.

Margaret continued that the funds can only be used for specific purposes that are of an environmental nature and that the ideas about reusable bags with the logo and spring clean-ups are all good and permitted uses of the funds.

Margaret also noted that effective January 1, 2024, no plastic bags are permitted whatsoever, so she didn't know what that would do to the revenue that the City actually receives in April of 2024.

There was continued discussion about the law being based on the size of the business and Margaret stated that there are very few businesses in Fruita that are subject to the fee because the law mainly applies to the big chains. She said the law says that if a business doesn't have three locations within the state of Colorado, then they don't have to collect the fee; however, she has noticed that many of the stores are collecting the fee anyway, so it will be interesting to see how it all pans out.

Joel said the Council could look forward to talking about it more around April of 2024.

COUNCILOR JEANNINE PURSER

Jeannine reported that all of her other board meetings were upcoming, but she reminded everyone that Coco Vino is being held on Friday. After discussion with staff and other Council members, it was determined that the tickets were sold out and Jeannine noted that originally, there were a total of 130 tickets that were available.

COUNCILOR KEN KREIE

Ken noted that the Grand Valley Regional Transportation Committee (GVRTC) met but he did not attend; Public Works Director Kimberly Bullen went in his place. The board passed an amendment to the Transportation Improvement Program, which sets the priority of which transportation projects Mesa County will focus on.

Ken also reported that the GVRTC supported the Colorado Department of Transportation (CDOT) in a grant application for Glenwood Canyon improvements and the GVRTC went back to mostly full-day schedules on Saturday.

COUNCILOR JAMES WILLIAMS

James reported that he had an impromptu Associated Governments of Northwest Colorado (AGNC) virtual meeting earlier in the day and the board is very concerned about the firearm bills that are being voted on in the House. He said the AGNC is very much opposed to all of the bills and had several reasons why, but they wanted to gauge everyone's take on it to see if the AGNC should take a stand as

a united front on the issue. James said he had the links if anyone wanted to testify during the hearings scheduled for tomorrow.

James also reported that he attended the Fruita Tourism Advisory Council (FTAC) meeting, but that he had already brought up what he had to say about it during Mike's City Manager's Report.

Joel cautioned that if any of the Council members wanted to testify as a City Councilor at the hearings that James had mentioned, then there needed to be agreement from all the Council members before doing so. Matthew said he would not be comfortable testifying because he has not read all the actual bill language. James said he had the links to all of it and Matthew asked him to forward those to him via email.

Joel reminded Council members that if they wanted to comment on the firearm bills, they would have to do so as individuals and not as Council members.

James stated that he did not say anything one way or the other at the AGNC and that they were very good about asking whether anyone was opposed to the position they wanted to take.

Joel requested that James forward the links concerning the firearm bills to all the Council members and not just one.

MAYOR JOEL KINCAID

Joel said he hadn't had any other board meetings. He asked when the broadband meeting would be held and Mike said it was scheduled for Thursday. Joel asked Mike if he was going to send an email to all the Council members after the meeting and Mike said he would send an update regardless of the outcome of the meeting. Joel said there would be a decision to make about whether or not to sign a letter.

B. EXECUTIVE SESSION – TO CONVENE IN EXECUTIVE SESSION FOR DETERMINING POSITIONS RELATIVE TO MATTERS THAT MAY BE SUBJECT TO NEGOTIATIONS; DEVELOPING STRATEGY FOR NEGOTIATIONS; AND INSTRUCTING NEGOTIATORS PURSUANT TO C.R.S. SECTION 24-6-402(4)(E) WITH REGARD TO A PROPOSAL FOR THE CITY'S LAGOON PROPERTY REDEVELOPMENT AND THE CITY'S USE AND DEVELOPMENT OF PROPERTY IT MAY PURCHASE AND RECEIVING LEGAL ADVICE FROM THE CITY ATTORNEY PURSUANT TO C.R.S. SECTION 24-6-402(4)(B) REGARDING THE SAME *(ADDED TO THE AGENDA)*

- **COUNCILOR KREIE MOVED TO MEET IN EXECUTIVE SESSION FOR DETERMINING POSITIONS RELATIVE TO MATTERS THAT MAY BE SUBJECT TO NEGOTIATIONS; DEVELOPING STRATEGY FOR NEGOTIATIONS; AND INSTRUCTING NEGOTIATORS PURSUANT TO C.R.S. SECTION 24-6-402(4)(E) WITH REGARD TO A PROPOSAL FOR THE CITY'S LAGOON PROPERTY REDEVELOPMENT AND THE CITY'S USE AND DEVELOPMENT OF PROPERTY IT MAY PURCHASE AND RECEIVING LEGAL ADVICE FROM THE CITY ATTORNEY**

PURSUANT TO C.R.S. SECTION 24-6-402(4)(B) REGARDING THE SAME. COUNCILOR PURSER SECONDED THE MOTION. THE MOTION PASSED WITH SIX YES VOTES.

The City Council took a five-minute break at 8:20 p.m. and then convened in Executive Session at 8:24 p.m. The topic of this Executive Session of the City Council concluded at 9:20 p.m.

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

The City Council remained in Executive Session and began discussion on this topic at 9:22 p.m. The regular meeting of the City Council reconvened at 9:53 p.m.

11. ADJOURN

With no further business before the Council, Mayor Kincaid adjourned the meeting at 9:53 p.m.

Respectfully submitted,

Debra Woods
Deputy City Clerk
City of Fruita