



**FRUITA**  
COLORADO

## AGENDA ITEM COVER SHEET

---

**TO:** Fruita City Council and Mayor

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

**DATE:** November 21, 2023

**AGENDA TEXT:** ORDINANCE 2023-17, FIRST READING, An introduction of an Ordinance authorizing the conveyance of water rights and real property of the City referred to as Enoch's Lake located on Pinon Mesa for publication of public hearing on December 19, 2023 – *Public Works Director Kimberly Bullen and City Attorney Mary Elizabeth Geiger*

---

### BACKGROUND

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

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

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

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

determine if it wanted to exercise its ROFR and directed Staff to go ahead and set Ordinance 23-17 for First Reading on November 21, 2023.

Staff has already heard back from the District that it does not want to exercise its ROFR; therefore the city can move forward with the Ordinance. Staff has confirmed that the balance on this debt is actually \$127,420.55. At the public hearing on the 2<sup>nd</sup> Reading of the Ordinance, if the Council is moving to adopt the ordinance, this change should be made.

## **FISCAL IMPACT**

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

## **APPLICABILITY TO CITY GOALS AND OBJECTIVES**

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

## **OPTIONS AVAILABLE TO THE COUNCIL**

1. Publish a synopsis of Ordinance 2023-17, FIRST READING, Introduction of an Ordinance authorizing the conveyance of real property of the City referred to as Enoch's Lake located on Pinon Mesa for public hearing on December 19, 2023.
2. Take no action regarding Ordinance 2023-17.

## **RECOMMENDATION**

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

- **PUBLISH A SYNOPSIS OF ORDINANCE 2023-17, FIRST READING, INTRODUCTION OF AN ORDINANCE AUTHORIZING THE CITY MANAGER TO EXECUTE AN AGREEMENT BETWEEN THE CITY OF FRUITA AND RONALD TIPPING, RODNEY POWER AND STAN MUHR FOR THEIR PURCHASE OF 51.41 ACRES KNOWN AS ENOCH LAKE AND THE WATER RIGHTS KNOWN AS MIRROR DITCH NO. 1, MIRROR LAKE RESERVOIR NO. 1 (aka Enoch's Lake) and SPRINGS R AND N and AUTHORIZING THE CONVEYANCE THEREOF FOR PUBLIC HEARING ON DECEMBER 19, 2023.**