

**FRUITA CITY COUNCIL
VIRTUAL MEETING
AUGUST 3, 2021
7:00 P.M.**

1. CALL TO ORDER AND ROLL CALL

Mayor Joel 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 Lori Buck
City Councilor Karen Leonhart
City Councilor Kyle Harvey
City Councilor Ken Kreie
City Councilor Heather O'Brien
City Councilor Matthew Breman

Excused Absent: City Manager Mike Bennett

Also present: Assistant to the City Manager Shannon Vassen
Deputy City Clerk Deb Woods
City Planner Henry Hemphill
Grand Valley Interfaith Network Representative Carlene Goldthwaite
Public Works Director Kimberly Bullen
Water Services Sector Leader with SGM Engineering Angie Fowler
Manager of the Mesa County Regulatory Program Carrie Gudorf
Fruita Rotary Club Event Manager Lou Mudd
Members of the public (in person and remotely)

2. PLEDGE OF ALLEGIANCE

Mayor Kincaid led in the recital of the Pledge of Allegiance.

3. AGENDA – ADOPT/AMEND

Mayor Kincaid added an item to the Consent Agenda. He and Councilor O'Brien had conducted an interview with applicant Julie Lynch for a vacant seat on the Planning Commission before the meeting and subsequently decided to recommend her appointment. Deputy City Clerk Deb Woods noted the change for the record and confirmed that there were no other changes to the agenda.

- **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. PROCLAMATION – PROCLAIMING AUGUST 2 – 8, 2021 AS THE “4TH ANNUAL INTERFAITH AWARENESS WEEK” TO BE ACCEPTED BY CARLENE GOLDTHWAITE, REPRESENTATIVE FOR GRAND VALLEY INTERFAITH NETWORK

Councilor O’Brien read the Proclamation, which was accepted by Dr. Carla Ryan, President of the Grand Valley Interfaith Network (GVIN). After making a statement about all the different faiths available in the Grand Valley having similarities and upon receiving the Proclamation, she shook the hands of the Mayor and Council.

B. PRESENTATION – SGM ENGINEERING, CONSULTING & SURVEYING, INC. AND MESA COUNTY WILL GIVE A PRESENTATION ON THE TOTAL MAXIMUM DAILY LOAD (TMDL) ASSESSMENT FOR COLORADO RIVER TRIBUTARIES IN THE GRAND VALLEY

Public Works Director Kimberly Bullen stated that Carrie Gudorf, Manager of the Mesa County Regulatory Program (which manages the City of Fruita’s MS4 Permit for stormwater) was in attendance to provide her part of the presentation. Angie Fowler, Water Services Sector Leader with SGM Engineering, joined the meeting remotely to provide her portion of the presentation.

Ms. Gudorf provided a recap of where Mesa County stands concerning Total Maximum Daily Loads (TMDLs) for the valley’s streams and river segments of the Colorado River and what has changed about them.

Ms. Fowler announced that the final TMDL (water quality information document) will be issued to Mesa County on August 10, 2021 and that it will highlight a lot of permitting actions. She said she didn’t have any information regarding whether anything had changed from the draft TMDL that was received by Mesa County on July 30th.

Ms. Fowler provided a lot of information about water quality standards, impairments, TDMLs, plans to alleviate contaminations, regulatory obligations, loading allocations and other technical aspects of stormwater management. She also spoke about primary concerns regarding how the state assessed the sources of the contamination that is occurring and how they distributed responsibility by where those contamination sources were coming from. Ms. Fowler went into further details about the process and other specific concerns related to it.

Ms. Fowler concluded by saying that it is very difficult to understand who is responsible for what and if she could have one request, it would be to delay the final implementation of the TMDL because it will go to the EPA. Once the TMDL is issued, Mesa County will have 30 days to comment, and the state may or may not integrate them. After the TMDL is sent to the EPA, permits will be changed to accommodate that information.

Ms. Gudorf said she thought the biggest takeaway is that if the change can be made now to get better data and understand the TMDL better, the valley will be much better off. She said that once a permit has been issued, it is very difficult to get it changed to accommodate different information. Councilor O’Brien requested that Mesa County or SGM Engineering follow up with the Council concerning the results of the final report. Ms. Gudorf said she would be happy to do that and Ms.

Fowler responded that SGM will continue to feed information to Public Works Director Kimberly Bullen, who has been very involved, but that she could also come back before the Council should she need to.

5. PUBLIC PARTICIPATION

CLERK'S NOTE: A written public comment was submitted by David and C.C. McElfresh, Monument Glen Subdivision, Fruita, CO **via email on Tuesday, August 3, 2021 at 6:41 pm.**

The subject line of the email read as follows: *"Sidewalk Replacement Program, Fruita Municipal Code, Section 12.04.030 and Ordinance 432, S2 (1980)."*

The email expressed concerns about spiderweb cracking in the sidewalks of the Monument Glen subdivision and how the contractor who poured the concrete should be held liable. Mr. and Mrs. McElfresh asked what the City is doing to ensure the highest quality workmanship and then stated that the City should hold contractors responsible past the current two-year warranty period for work completed and approved by the City. The full text of the mail is attached to the end of these minutes.

Matt Barber, 334 Crystal Court, thanked the Council members for the service and time that they contribute to the Fruita City Council. He delivered a prayer for the community, Council members and their families.

Kelly Hamlyn, 1222 Periwinkle Lane, stated that it would be really nice if the City had a cell phone tower in the area around K and L Roads because since she moved here last fall, she constantly experiences dropped calls and bad reception. She said she heard that Fruita was recently awarded an "Economic Development Grant" and wondered if perhaps the City could incentivize cellular providers, even if most of them are likely privately-owned.

Mark Young, 2942 Erika Road in Grand Junction, Colorado, said that he came before the Council as a concerned citizen of Mesa County and then thanked them for allowing him the opportunity to pray. He recited Bible verse John 3:16 and then said a prayer.

Hearing no further comments from the public, Mayor Kincaid closed the Public Participation section of the agenda.

6. CONSENT AGENDA

- A. MINUTES - A REQUEST TO APPROVE THE MINUTES OF THE JULY 20, 2021 REGULAR CITY COUNCIL MEETING**
- B. MINUTES - A REQUEST TO APPROVE THE MINUTES OF THE JULY 27, 2021 CITY COUNCIL WORKSHOP MEETING**
- C. LIQUOR LICENSE RENEWAL – A REQUEST TO APPROVE THE RENEWAL OF A FERMENTED MALT BEVERAGE (FMB) LIQUOR**

**LICENSE FOR DILLON COMPANIES DBA CITY MARKET #13 LOCATED
135 S. PLUM STREET**

- D. BOARDS AND COMMISSIONS APPOINTMENT – A REQUEST TO APPROVE THE APPOINTMENT OF JULIE LYNCH TO THE PLANNING COMMISSION TO FULFILL AN UNEXPIRED TERM PLUS AN ADDITIONAL THREE-YEAR TERM TO EXPIRE IN OCTOBER OF 2025 (ADDED TO THE AGENDA BY MAYOR KINCAID)**

Mayor Kincaid opened the Consent Agenda to public comments. Hearing none, he closed the public hearing and referred the Consent Agenda to the Council.

- COUNCILOR LEONHART MOVED TO APPROVE THE CONSENT AGENDA AS AMENDED WITH THE ADDITION OF APPOINTING JULIE LYNCH TO THE PLANNING COMMISSION. COUNCILOR O'BRIEN 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 ROTARY CLUB TO SERVE BEER AT THE MIKE THE HEADLESS CHICKEN FESTIVAL IN CIVIC CENTER MEMORIAL PARK ON FRIDAY, AUGUST 27, 2021 FROM 3:00 PM TO 10:00 PM AND ON SATURDAY, AUGUST 28, 2021 FROM 10:00 AM TO 10:00 PM – DEPUTY CITY CLERK DEB WOODS**

Deputy City Clerk Deb Woods provided staff's presentation on the Rotary's Special Event Liquor Permit Application for a beer garden at the Mike the Headless Chicken Festival, which included the dates and times of the permits being requested and a diagram of the beer garden at Civic Center Memorial Park. The licensed premises will be enclosed with metal fencing and Rotarians will monitor the four entrances/exits marked on the diagram to make sure no alcohol enters or leaves the area. IDs will be checked by Rotarians and patrons over the age of 21 will receive a wristband indicating that they have been IDed and that they are of legal age.

The Fruita Chief of Police Dave Krouse issued a statement that there was nothing in the Rotary's application that would prohibit the issuance of the license being requested, so Ms. Woods stated that it was staff's recommendation that the Special Event Liquor Permit be approved by the Council subject to the following conditions:

1. The Fruita Rotary Club will be solely responsible for the enforcement of liquor laws; and
2. All other procedures presented by the Rotary will be followed.

Ms. Woods noted that Event Manager for the Fruita Rotary Club Lou Mudd was present in the audience and asked if he had anything to add to the presentation.

Mr. Mudd, 126 South Maple Street, noted that he has been obtaining the liquor permits for the Mike the Headless Chicken Festival for many, many years. He stated that the Fruita Rotary has a good track record of safety and service and that he does not anticipate any incidences at the Mike the Headless Chicken Festival. He added that the beer sales help to provide worthwhile needs in the community.

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

Councilor Lenhart recused herself from the vote of the Council because she is a Rotarian.

- **COUNCILOR BREMAN MOVED TO APPROVE THE SPECIAL EVENT LIQUOR PERMIT APPLICATION FROM THE FRUITA ROTARY CLUB TO SERVE BEER AT THE MIKE THE HEADLESS CHICKEN FESTIVAL IN CIVIC CENTER MEMORIAL PARK ON FRIDAY, AUGUST 27, 2021 FROM 3:00 PM TO 10:00 PM AND ON SATURDAY, AUGUST 28, 2021 FROM 10:00 AM TO 10:00 PM. COUNCILOR O'BRIEN SECONDED THE MOTION. THE MOTION PASSED WITH SIX YES VOTES.**

2) RED CLIFFS III PRELIMINARY PLANNED UNIT DEVELOPMENT (PUD) PLAN – *HENRY HEMPHILL, CITY PLANNER*

City Planner Henry Hemphill gave staff's (PowerPoint) presentation after entering it into the official record. The presentation contained:

- Project description (request for a Preliminary Planned Unit Development (PUD) Plan for eight single-family lots on approximately 1.1 acres)
- Legal notice dates and methods (posted well within the 15-day minimum requirement set forth by Section 17.01.130)
- Buffer map
- Project location (east side of Highway 340 in the Red Cliffs Mobile Home Subdivision and just north of the Fruita bike park)
- Zoning map
- Preliminary layout of the landscape plan that illustrates a common parking area on the southeast side of approximately 22 spaces, eight lots in total and additional landscaping to serve as a buffer between the street and the dwelling units
- Fifteen criteria from the Fruita Land Use Code that must be considered and met for Planned Unit Developments (staff report goes into more detail about the criteria)
- Approval criteria that shall be met if the City Council and Planning Commission are satisfied that the Plan does not deviate from specific health, safety and welfare standards set forth in the Fruita Municipal Code
- Staff's position that the building height shall remain no more than 25 feet (a shorter height would be supported as well).
- No written public comments have been received by staff at this time.

- The Planning Commission recommended approval by five to zero at their July 13, 2021 public hearing (still no written public comments received by staff).
- Staff's recommendation of approval of the proposed Red Cliffs III Preliminary PUD Plan with the condition that all review comments and issues identified in the staff report be adequately resolved

Mr. Kevin Bray, applicant for the project, stated that he is looking forward to doing something innovative with this piece of property but that he didn't have anything else to add to Mr. Hemphill's presentation.

Mayor Kincaid opened the public hearing. After hearing no comments, he referred the matter to the City Council.

Councilor Buck asked who is going to be responsible for the parking lot; was it HOA-maintained? Mr. Bray responded that there will be a sub-HOA that will be responsible for the parking lot and also for the landscaping that is within the boundaries of sight.

Councilor Kreie asked Mr. Bray whether he had plans to turn any of the units into short-term rentals and Mr. Bray responded that the buyers will have the option of whether or not to turn them into short-term rentals.

Councilor O'Brien asked if this had been presented to the Red Cliffs HOA that currently exists for approval. Mr. Bray responded that the Preliminary Plan was proposed at an annual HOA meeting; they discussed the project and later did get the board's "blessings."

- **COUNCILOR BUCK MOVED TO APPROVE THE PROPOSED RED CLIFFS III PRELIMINARY PLANNED UNIT DEVELOPMENT (PUD) PLAN WITH THE CONDITION THAT ALL REVIEW COMMENTS AND ISSUES IDENTIFIED BE ADEQUATELY RESOLVED WITH THE FINAL PLAT APPLICATION. COUNCILOR BREMAN SECONDED THE MOTION. THE MOTION PASSED WITH SIX YES VOTES.**

8. ADMINISTRATIVE AGENDA

There were no Administrative Agenda Items on the Agenda.

9. CITY MANAGER'S REPORT

City Manager Mike Bennett was excused absent from the meeting. Finance Director/City Clerk Margaret Sell had been named as Acting City Manager in Mike's absence, but she had nothing to report for the Council as she was on vacation the previous week.

10. COUNCIL REPORTS AND ACTIONS

COUNCILOR MATTHEW BREMAN

Matthew said that former Executive Director of the Grand Junction Economic Partnership (GJEP) Robin Brown has tendered her letter of resignation and will be moving over to Colorado Mesa University as the President of the CMU Foundation. He anticipates that GJEP will be having a lot more discussion about what they will be doing moving forward.

COUNCILOR HEATHER O'BRIEN

Heather announced that the Parks and Recreation Advisory Board meeting was canceled. She also said that she and the Mayor had just interviewed and want to appoint Julie Lynch to the Planning Commission as she seems wonderfully informed and will be a great addition to the board.

COUNCILOR KYLE HARVEY

Kyle reported that the previous Thursday, he had the honor and privilege of presenting on the Wellspring Project and the Fruita Arts and Culture Board in general at the Colorado City & County Management Association's (CCCMA's) Summer Camp.

Kyle said he got to sit in on a presentation from CSU's Director of the Center for Public Deliberation Martín Carcasson and that he was very inspiring, Kyle would like to have him present to the Council either in person or via Zoom sometime if other Council members are interested. The presentation focused on building a sense of trust with community and presenting a forum for more intentional deliberation about community projects or any issue that comes up.

Kyle also reported that the Historic Preservation Board met the previous day and the board is continuing to plan on participating at Fruita Fall Festival with some historical displays at Cavalcade and also looking at partnering with Moon Farm in some way about history in the lower valley.

COUNCILOR KAREN LEONHART

Karen reported that there was a great presentation at the Museum of Western Colorado Board of Directors' meeting from the Collections Manager. The financials look good for the MWC, even after the pandemic.

MAYOR PRO TEM LORI BUCK

Lori reported that the Grand Valley Regional Transportation Committee (GVRTC) will be meeting on Tuesday (August 10th) and City Manager Mike Bennett will be covering it for her. She added that it is possible that she will not be in attendance at the next Council meeting on August 17th.

MAYOR JOEL KINCAID

Joel said his meetings were forthcoming and therefore, he had nothing to report.

With no further business before the Council, Mayor Kincaid adjourned the meeting at 7:58 p.m.

Respectfully submitted,

Debra Woods
Deputy City Clerk
City of Fruita