

**FRUITA CITY COUNCIL  
VIRTUAL MEETING  
JULY 20, 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 Ken Kreie  
City Councilor Kyle Harvey  
City Councilor Heather O'Brien  
City Councilor Matthew Breman

**Excused Absent:** (None)

**Also present:** City Manager Mike Bennett  
Assistant to the City Manager Shannon Vassen  
City Clerk/Finance Director Margaret Sell  
Deputy City Clerk Deb Woods  
Planning & Development Director Dan Caris  
Fruita Area Chamber of Commerce Executive Director Kayla Brown  
Chadwick, Steinkirchner, Davis & Co., P.C. Audit Manager/CPA Nathan Oberle  
Members of the public (remotely)

**2. PLEDGE OF ALLEGIANCE**

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

**3. AGENDA – ADOPT/AMEND**

Mayor Kincaid asked if there were any changes to the agenda. Deputy City Clerk Deb Woods confirmed that there were no changes to the agenda, but the supporting renewal documents attached in the Council packet for Bestslope Coffee Co. (Consent Agenda) were the incorrect renewal documents (for Dragon Treasure instead of Bestslope), but that she had provided the Council and Mayor with a hard copy of the correct renewal documents for Bestslope on the dais just prior to the start of the meeting (*there were no concerns from staff with the Bestslope liquor license renewal and the Deputy City Clerk made the correction to the Council packet documents the day following this meeting*).

- **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**

There were no Proclamations or Presentations on the agenda.

#### **5. PUBLIC PARTICIPATION**

Wendy Wood, 1891 J 6/10 Road in Fruita said she came to the meeting to open it up with prayer and then she prayed for the Council and Mayor and the decisions they would make for the City.

Mark Young, 2942 Erika Road in Grand Junction stated that he came before the Council as a concerned citizen of Mesa County. He referenced two verses from the Book of Proverbs in the Bible and also offered his prayers.

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 6, 2021 REGULAR CITY COUNCIL MEETING**
- B. LIQUOR LICENSE RENEWAL – A REQUEST TO APPROVE THE RENEWAL OF A HOTEL AND RESTAURANT – MALT, VINOUS AND SPIRITUOUS LIQUOR LICENSE FOR DRAGON TREASURE LOCATED AT 576 KOKOPELLI BLVD.**
- C. LIQUOR LICENSE RENEWAL – A REQUEST TO APPROVE THE RENEWAL OF A BEER AND WINE – MALT AND VINOUS LIQUOR LICENSE FOR BESTSLOPE COFFEE CO. LOCATED AT 129 N. PEACH ST.**
- D. BOARDS AND COMMISSIONS REAPPOINTMENT – A REQUEST TO APPROVE THE REAPPOINTMENT OF SALLY EDGINTON D’AGOSTINO TO THE ARTS & CULTURE BOARD FOR ANOTHER THREE-YEAR TERM TO EXPIRE IN JULY OF 2024**
- E. BOARDS AND COMMISSIONS REAPPOINTMENT – A REQUEST TO APPROVE THE REAPPOINTMENT OF MARIAN HEESAKER TO THE ARTS AND CULTURE BOARD FOR ANOTHER THREE-YEAR TERM TO EXPIRE IN AUGUST OF 2024**
- F. ONE RIVERFRONT COMMISSION APPOINTMENTS – A REQUEST TO APPROVE THE APPOINTMENTS OF DAVID VARNER, JOANNA**

**WOODRUFF AND JAMIE PORTA TO THE ONE RIVERFRONT COMMISSION FOR THREE-YEAR TERMS EACH AND JESSICA PARIS-MANROE AS AN ALTERNATE MEMBER IN CASE OF A MID-TERM VACANCY**

- G. FINANCIAL REPORTS – A REQUEST TO APPROVE THE JUNE 2021 FINANCIAL REPORTS**
- H. RESOLUTION 2021-18 – A REQUEST TO APPROVE A RESOLUTION AMENDING THE 2021 BUDGET AND TRANSFERRING FUNDS FROM THE SEWER FUND CONTINGENCY TO THE WASTEWATER TREATMENT PROGRAM FOR EMERGENCY REPAIRS**

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 O'BRIEN MOVED TO APPROVE THE CONSENT AGENDA AS PRESENTED. COUNCILOR HARVEY 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 A SPECIAL EVENT LIQUOR PERMIT FROM THE FRUITA AREA CHAMBER OF COMMERCE TO SERVE ALCOHOL AT THE FRUITA CHAMBER ANNUAL BANQUET ON JULY 31, 2021 FROM 5:00 TO 10:00 PM AT THE FRUITA COMMUNITY CENTER LOCATED AT 324 N COULSON ST – *DEB WOODS, DEPUTY CITY CLERK***

Deputy City Clerk Deb Woods gave staff's presentation. The appropriate documentation of the application paperwork and fees paid by the Chamber was acknowledged by Ms. Woods, as was the memorandum from Fruita Chief of Police Dave Krouse indicating that saw nothing in his review of the application that would prohibit the issuance of the Special Event Liquor Permit. She also stated that it was staff's recommendation that the Council approve the permit subject to the following conditions:

1. All alcohol will be secured and removed by 10:00 p.m.
2. No alcohol shall be brought into or out of the licensed premises
3. That the licensee is solely responsible for control of the licensed premises regarding alcohol possession, consumption and adherence to state and municipal laws.

Fruita Chamber Executive Director Kayla Brown noted that Fisher's Liquor Barn was hired to bartend for the Annual Banquet as they are licensed and familiar with liquor laws and that Citadel Security had

also been hired to help ensure control of the licensed premises. Additionally, the Chamber will have Sunshine Rides on call in the event attendees are in need of taxi service.

Mayor Kincaid opened the public hearing. Hearing no comments, he closed the public hearing and brought the request back to the Council for their questions, comments or a motion.

- **COUNCILOR KREIE MOVED TO APPROVE THE SPECIAL EVENT LIQUOR PERMIT APPLICATION FOR THE FRUITA AREA CHAMBER OF COMMERCE TO SERVE ALCOHOLIC BEVERAGES DURING THE CHAMBER ANNUAL BANQUET ON SATURDAY, JULY 31<sup>ST</sup> AT THE FRUITA COMMUNITY CENTER SUBJECT TO THE CONDITIONS PRESENTED BY STAFF. COUNCILOR HARVEY SECONDED THE MOTION. THE MOTION PASSED WITH SIX YES VOTES.**

## **8. ADMINISTRATIVE AGENDA**

### **A. FINANCIAL UPDATE AND AUDITOR'S REPORT – FISCAL YEAR ENDING DECEMBER 31, 2020 – MARGARET SELL, FINANCE DIRECTOR/CITY CLERK AND AUDIT MANAGER/CPA NATHAN OBERLE WITH CHADWICK, STEINKIRCHNER, DAVIS & CO., P.C.**

Finance Director/City Clerk Margaret Sell gave staff's presentation on the 2020 Financial Statements. She noted that the Council and staff can utilize the Financial Statements to help to guide in decision making and review of budget requests in the 2022 Budget season. Her presentation included summaries of the following:

- Government Wide Statements
- Statement of Net Position – Government Wide
- Components of Net Position
- Changes in Net Position
- Fund Balances – Governmental Funds (\$17.8 million)
- Changes in Fund Balances
- Assigned Fund Balances
- Restricted Fund Balances
- Fund Balance by Fund
- General Fund Revenues and Expenses Budget to Actual (positive variance of \$2.8 million)
- Community Center Fund Revenues and Expenses Budget to Actual (positive variance of \$282,600)
- Sewer Fund Revenues and Expenses Budget to Actual (positive variance of \$1.1 million)
- Capital Asset Additions
- Long-term Debt (\$27.4 million)

Significant changes since the 2020 Financial Statements include:

- Lodger's tax increase from 3% to 6% for public places and economic development

- Lessening of negative impacts related to the pandemic with respect to the Fruita Community Center and Lodging tax revenues
- American Rescue Plan award of \$3.4 million payable in equal installments in 2021 and 2022 of \$1.7 million each year
- Continued accelerated growth in city sales tax revenues of a 20% year-to-date increase through the first six months of the year
- Inflationary increases in cost of supplies, commodity shortages, labor shortages
- Refunding of the bonds underlying the WWRF loan resulting in annual savings in loan payments of approximately \$160,000

Councilor Breman asked when the City might be receiving more guidance from the federal government concerning funding assistance. City Manager Mike Bennett explained that there was a public comment period that ended on July 16<sup>th</sup>, so it should be fairly soon that the federal government will take the feedback they received and will answer questions before going into further detail. He added that staff is aware of some broad categories for the funding such as sewer and broadband and that the deadline for spending the funds will go through the end of year 2024. Mr. Bennett also pointed out that by the time staff receives the guidance, it will be about the right timeframe in the budget process to match the funds with the highest priority projects that will qualify.

Mrs. Sell noted that the Financial Statements included in the Council packet were audited by an outside firm (Chadwick, Steinkirchner, Davis & Co., P.C.) to make sure that staff is representing the actual financial condition of the City. She introduced Audit Manager with the firm, Nathan Oberle, who was present (in person) to give the auditor's report.

Mr. Oberle stated that Margaret Sell and her staff did a tremendous job in assisting with the audit. He explained how there are really two distinct audits; first, there is the financial audit that the City goes through every year. Mr. Oberle informed the Council that the Financial Statements and footnotes are materially correct and complete, the footnotes are neutral and understandable and that they appropriately represent the position of the City. The other audit was a Single Audit, which was required because of the CARES Act funding that the City received during the year. There are two components to this audit; the compliance portion (whether the rules were followed) and a control portion (whether the City has the controls in place to make sure that the rules were being followed).

In both the Financial Audit and the Single Audit, there was an unmodified opinion, which informally means that they were "clean" audit opinions (the best possible outcomes the City could have). There were no issues, audit findings, or difficulties encountered during the audit and there were also no identified misstatements or disagreements with management.

Mr. Oberle again concluded that it was a very clean audit and that there was nothing found that merits any kind of attention, which, again, is really the best possible outcome the City could have had. He mentioned that the City will probably be subject to a Single Audit again next year due to the new federal funding and also potentially for a number of years going forward until the funds are fully expended.

- **COUNCILOR BUCK MOVED TO APPROVE THE 2020 FINANCIAL STATEMENTS FOR THE CITY OF FRUITA AND ACCEPT THE AUDITOR'S**

**REPORT OF THE FINANCIAL STATEMENTS. COUNCILOR O'BRIEN  
SECONDED THE MOTION. THE MOTION PASSED WITH SIX YES VOTES.**

**9. CITY MANAGER'S REPORT**

City Manager Mike Bennett provided the following updates:

1. In preparation for the Council workshops concerning affordable housing on July 27<sup>th</sup> and August 24<sup>th</sup>, he and Planning & Development Director Dan Caris have had meetings with the Grand Junction Housing Authority to learn more about their operations, objectives and processes and it turns out that the Grand Junction Housing Authority is not currently set up to function within the City of Fruita.

Mike continued that state statute allows housing authorities to work with neighboring communities if those communities have a housing authority as well as an Interlocal Agreement. The GJ Housing Authority was established by the City of Grand Junction, who does have an Interlocal Agreement with Mesa County that allows them to function in unincorporated areas of Mesa County. Mike said there are other possible ways that haven't been fully vetted but that staff is still looking into concerning the legal ramifications of how housing authorities in Colorado have functioned with neighboring communities that may not have had a housing authority. Staff continues to research all the different types of ways that the Colorado Housing and Finance Authority (CHFA) works with income-restricted housing in various communities and what the mechanisms, models and pros/cons are prior to the Council workshop discussions.

2. There is a business that has located in the space where Judy's Restaurant used to be that is called Lucky Charm Skilled Gaming & Arcade and they submitted an application for a business license to the City recently, but the specific use for the business is not explicitly addressed in Fruita's Land Use Code to be either an approved or denied use. Mike said that when that occurs, there is a process built into the Land Use Code where the City Planning & Development Director (Dan Caris) has to go through a detailed process of review and subsequently issue a written interpretation before a business license can be issued. Lucky Charm was provided with a letter from the Planning & Development Director explaining the process. Mr. Caris is working with City Attorney Paul Wisor on the details of the matter. Mike added that when those written interpretations are finalized, they can still be appealed to the City Council if an applicant disagrees with the outcome of the written interpretation. Mike informed the Council that the applicant recently began operations regardless, so staff from the Fruita PD and the Code Compliance Officer visited the business and reminded them that the process is not complete and therefore, they are not able to operate until it is and a business license is issued. The applicant was willing to comply at that point.
3. The City's Parks and Recreation Director job opening was just posted earlier in the day and staff will be accepting applications until the position is filled. The first review will be held on August 20, 2021. The job posting will appear in multiple, nationwide professional and state associations related to local government and Parks and Recreation professionals.
4. Local governments are forming working groups to develop a framework for allocation, use, governance and oversight structure for opioid settlement funds, which are estimated at

\$450,000 per year for up to 18 years for Mesa County (counties throughout Colorado will receive varying amounts of the funds). Mesa County has established a governance structure working group that has very specific requirements for representatives from local governments and the health care industry in the Valley. The City of Fruita has one voting member seat, and Mike is currently listed as Fruita's representative and he said he is happy to continue to serve in that capacity, but he wanted to give Council members the opportunity to serve on the board instead. The group had a kick-off meeting last week and currently plans to meet on the third Thursday of each month. Mike said he plans on going to the next meeting and will keep the Council updated moving forward.

5. Mike reminded the Council that the Fruita Chamber Annual Banquet will be held on Saturday, July 31<sup>st</sup> at 5:00 p.m. at the Fruita Community Center. The City of Fruita (as a high-level member of the Chamber) has a complimentary table that seats eight people, but Mike said he will be unable to attend. Staff needs to inform the Chamber how many Council members and guests will be attending by the end of the week, so Mike requested that they let Deb know. Councilors Buck and Breman said they planned to attend with their spouses. The seats will also be offered to Department Directors if no other Council members can attend.
6. Mike also reported that the City's Transportation Active Circulation Plan continues to be in the works, as does the Fremont Street design at Highway 6 & 50. There will be two Open Houses coming up and staff is encouraging as many residents as possible to attend them. One of the Open Houses will be held at Civic Center Memorial Park on July 30, 2021 from 5:30 to 8:00 p.m. and the other one will be held at the Fruita Farmers Market at Reed Park on July 31<sup>st</sup> from 8:30 a.m. to 12:00 p.m. The goal is to gather feedback from the community on the design of both Fremont Street and on the study for the Active Circulation Plan.

Councilor Leonhart mentioned that Thursday, August 5<sup>th</sup> is when Back-to-School Night will be held at Rimrock Elementary, so that might be an idea for another Open House for the Active Circulation Plan. Mike noted that Shelledy Elementary was doing a "Fun Bash" later in the week for their Back-to-School Night as well.

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

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

#### **COUNCILOR MATTHEW BREMAN**

Matthew noted that the Grand Junction Economic Partnership (GJEP) will meet the following morning. They have two new board members: John Marshall and Jamie Hamilton. At the meeting, the board will review all the businesses that are on que for moving into town and Matthew said he would report in further detail after the meeting.

#### **COUNCILOR HEATHER O'BRIEN**

Heather reported that the Parks and Recreation Advisory Council hasn't met yet and she did not know if they would be meeting again until the Department has a new Director.

COUNCILOR KEN KREIE

Ken reported that the Downtown Advisory Board met the previous week and discussed a lot of the events that are either coming up or are currently happening such as the Fruita Farmers Market, Food Truck Fridays and other festivals. The board reappointed Jeannine Purser as the Chair.

Ken also reported that the Associated Governments of Northwestern Colorado (AGNC) will meet the following day. Last month, they had a very healthy discussion about broadband; Region 10 (who has done a great job in building a broadband network) spoke at that meeting and Ken said it doesn't sound like the AGNC is going to try to tackle anything as a big group.

Ken also reported that he has been appointed as the Chair on the Colorado National Monument Association Board of Directors.

COUNCILOR KAREN LEONHART

Karen reported that the Police Commission meeting's July meeting had been canceled and that the Museum of Western Colorado Board of Directors will be meeting the following week.

She also noted that the Livability Commission had a very interesting and passionate discussion concerning water issues at their last meeting. There was also a Ute Water External Marketing person at that meeting, but the discussion began to lean towards irrigation issues, which she said is a hot topic right now. Karen said everyone needs to get serious about the irrigation water issues.

Mike pointed out that the City of Fruita is one of the largest customers of Ute Water. He said that it was great to have them to speak at the Livability Commission, but it would also probably be a good idea for them to come to speak at a Council meeting and to give an update at a future meeting. Mike thought if a Ute Water representative came to speak at a Council meeting, that it would likely be less about the services and operations of Ute Water and more about the current status of water delivery to the City of Fruita.

Mayor Kincaid noted the Council members reached a consensus to have Ute Water come to speak at a Council meeting.

COUNCILOR/MAYOR PRO TEM LORI BUCK

Lori said she didn't have anything to report concerning boards, but that she was not super happy with the "feathering" piece in the Land Use Code, so she asked Mr. (Dan) Caris to think about how it could be incorporated into the actual Land Use Code. Lori requested that there be continued discussion about it because she feels like the City needs to protect the people who are adjacent to high-density development and she feels that there are ways to incorporate "feathering" into the Code.

Mike said that likely in August, there will be more discussion after feedback is received from one of the Land Use Code meetings.

MAYOR JOEL KINCAID



Joel reported that the Chamber Board of Directors met the previous week and discussed working on Fruita Fall Festival, which will be held over two days this year instead of three. Chamber staff is still looking for vendors because they currently only have 35 and want about 70. Many vendors are not committing yet because they are just not sure about a two-day event.

Joel also reported that he and Mike met with Julie Lynch regarding grocery stores and Mike gave her a lot of good information. He noted that he and Heather will be interviewing her for the vacancy on the Planning Commission right before the Council meeting of August 3<sup>rd</sup>.

## **B. DISCUSSION AND REVIEW OF POLICIES AND PROCEDURES FOR SUPPORT OF OUTSIDE AGENCIES AND GROUPS**

Mayor Kincaid recalled how at their Retreat, the Council briefly discussed what the City's policies and procedures are for outside agencies and groups to obtain the City's support.

Mr. Bennett recalled a recent discussion about the current process of a group making a presentation to the City Council; they ask for support of one kind or another and then the Council has a discussion and makes a decision. The purpose of this agenda item is to further discuss whether or not the Council may want to build more formality into that process.

Mr. Bennett said it was staff's suggestion that using something similar to the new process for requesting a Proclamation may be a good way for groups to request the City's support that would articulate how and why the City is supporting it/them. That way, there would be a formal record should others ask about the support that the City has granted.

Concerning Proclamation requests, the Council directed staff to place the requests for a Proclamation on a workshop agenda for the Council to discuss and then they would be placed on a Regular Meeting agenda for a vote of the Council to either approve or deny the request under Council Reports and Actions.

There was a lengthy discussion about potentially establishing a process for agencies and groups to request the support and various ways to do that.

It was pointed out that an issue arose when an outside group that has a few Council members in it had an article about the group published in the City's quarterly newsletter, the *City Link*. After that, some Fruita residents showed up at Council meetings because the perception is that the City used government resources to promote a specific ideology that the residents do not agree with.

Mr. Bennett suggested that rather than creating a whole application process, if someone wants to request the support of the City, they could do so in writing to include specific information about exactly the type of support they are requesting and staff would then bring the request to the Council, who could either direct staff to get more information or take a vote on whether or not to approve it.

It was also discussed how this was the only time over many, many years that an issue like this occurred, so it really was a bit of an anomaly.

City Clerk/Margaret Sell pointed out that the Code of Ethics states, “No City Official shall grant special treatment to any group or individual that they wouldn’t grant to the public at large.” She added that she thought it was a mistake (supporting an outside group in the *City Link*) that was made that could be chalked up as a learning experience and that she didn’t think that a whole new process needs to be developed to keep it from happening again. There was consensus among the Council to move forward as per Mrs. Sell’s suggestion.

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

- **COUNCILOR O’BRIEN MOVED TO CONVENE IN EXECUTIVE SESSION FOR DISCUSSION AND POSSIBLE ACTION REGARDING PERSONNEL ISSUES UNDER C.R.S. SECTION 24-6-402(4)(F) IN ORDER TO DISCUSS THE CITY MANAGER’S INFORMAL REVIEW. COUNCILOR BREMAN SECONDED THE MOTION. THE MOTION PASSED WITH SIX YES VOTES.**

*The City Council convened into Executive Session at 8:41 p.m. The Regular Meeting of the City Council was reconvened at 9:07.*

With no further business before the Council, Mayor Kincaid adjourned the meeting at 9:07 p.m.

Respectfully submitted,

Debra Woods  
Deputy City Clerk  
City of Fruita