

**FRUITA CITY COUNCIL
VIRTUAL MEETING
JULY 6, 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 7:01 p.m. The meeting was held both in person and with virtual access provided through Zoom.

Present:

Mayor Joel Kincaid
City Councilor Kyle Harvey
City Councilor Matthew Breman
City Councilor Heather O'Brien (remotely via phone)
City Councilor Karen Leonhart (remotely via Zoom)

Excused Absent:

City Councilor Ken Kreie
Mayor Pro Tem Lori Buck (absent at time of roll call, arrived at 7:20 p.m.)

Also present:

City Manager Mike Bennett
Assistant to the City Manager Shannon Vassen
Deputy City Clerk Deb Woods
City Planner Henry Hemphill
Planning & Development Director Dan Caris
Vortex Engineering Senior Planner Ty Johnson
Design Workshop Community Planner Jessica Garrow (remotely)
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 additions or changes to the agenda. Deputy City Clerk Deb Woods confirmed that there were none.

- **COUNCILOR BREMAN MOVED TO APPROVE THE AGENDA AS PRESENTED. COUNCILOR HARVEY SECONDED THE MOTION. THE MOTION PASSED WITH FOUR YES VOTES.**

4. PROCLAMATIONS AND PRESENTATIONS

There were no Proclamations or Presentations on the agenda.

5. PUBLIC PARTICIPATION

Pastor at Beit Lechem Ministries Church Matt Barber, 334 Crystal Court, stated that it had recently come to his attention that the Fruita City Council no longer opens their meetings in prayer (invocation) as it once did and because he and so many others believe strongly that Fruita and its leaders should be guided by God's leading, he delivered a prayer for the Council and their efforts.

Archie Lopez, 1681 Ruby Lee Drive, stated that he believes biblical values need to be heard and followed and also provided a prayer for the meeting and City Council.

Wendy Wood, 1891 J 6/10 Road, stated that she is also a Pastor at Beit Lechem and also offered up her prayers.

Jerry Wood, 1891 J 6/10 Road, echoed what the others before him had just said about our country and City being founded on Godly principles. He added that it was a shame that the Council set aside having the invocation (prayer) at the beginning of meetings but has since seemed to embrace Fruita for Equality, which he called racially dividing. He closed his comments in prayer.

Mark Young, 2942 Erica Road, Grand Junction, stated that prayer is very important, for we are all, "One nation, under God, indivisible, with liberty and justice for all." He also offered up his prayers.

Hearing no further comments or prayers, Mayor Kincaid closed the Public Participation section of the agenda.

6. CONSENT AGENDA

- A. MINUTES – A REQUEST TO APPROVE THE MINUTES OF THE JUNE 15, 2021 REGULAR CITY COUNCIL MEETING**
- B. LIQUOR LICENSE RENEWAL – A REQUEST TO APPROVE THE RENEWAL OF A RETAIL LIQUOR STORE – MALT, VINOUS AND SPIRITUOUS, WAREHOUSE STORAGE PERMIT AND TASTINGS PERMIT FOR IN THE MIDDLE LIQUORS LOCATED AT 303 HIGHWAY 6 & 50**
- C. BOARDS AND COMMISSIONS REAPPOINTMENT – A REQUEST TO APPROVE THE REAPPOINTMENT OF CULLEN PURSER TO THE BOARD OF ADJUSTMENT FOR ANOTHER THREE-YEAR TERM TO EXPIRE IN JULY OF 2024**
- D. BOARDS AND COMMISSIONS REAPPOINTMENT – A REQUEST TO APPROVE THE REAPPOINTMENT OF SONDRAL TALLON TO THE POLICE COMMISSION FOR ANOTHER THREE-YEAR TERM TO EXPIRE IN JULY OF 2024**

- E. ORDINANCE 2021-16 – FIRST READING – AN INTRODUCTION OF AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF FRUITA BY ZONING APPROXIMATELY 13.25 ACRES OF PROPERTY LOCATED AT 960 STONE MOUNTAIN DRIVE TO A SOUTH FRUITA RESIDENTIAL ZONE FOR PUBLICATION OF PUBLIC HEARING ON AUGUST 17, 2021**
- F. RESOLUTION 2021-16 – SETTING A HEARING DATE OF AUGUST 17, 2021 TO DETERMINE THE ELIGIBILITY OF APPROXIMATELY 16.21 ACRES OF PROPERTY LOCATED AT 1930 HIGHWAY 6 & 50 TO BE ANNEXED INTO THE CITY OF FRUITA AND TO CONSIDER THE INITIATION OF ANNEXATION PROCEDURES (*1930 HIGHWAY 6 & 50 ANNEXATION*)**
- G. RESOLUTION 2021-17– SETTING A HEARING DATE OF AUGUST 17, 2021 TO DETERMINE THE ELIGIBILITY OF APPROXIMATELY 25.96 ACRES OF PROPERTY LOCATED AT 954 19 ROAD TO BE ANNEXED INTO THE CITY OF FRUITA AND TO CONSIDER THE INITIATION OF ANNEXATION PROCEDURES (*FRUITA COPPER CREEK ANNEXATION*)**

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 HARVEY MOVED TO APPROVE THE CONSENT AGENDA AS PRESENTED. COUNCILOR O'BRIEN SECONDED THE MOTION. THE MOTION PASSED WITH FOUR YES VOTES.**

7. PUBLIC HEARINGS

A. QUASI-JUDICIAL HEARINGS

- 1) ORDINANCE 2021-14 – SECOND READING – A REQUEST TO APPROVE AN ORDINANCE ANNEXING APPROXIMATELY 15.17 ACRES OF PROPERTY LOCATED AT 1123 19 ROAD INTO THE CITY OF FRUITA (PATRON ANNEXATION) – *CITY PLANNER HENRY HEMPHILL***

City Planner Henry Hemphill gave staff's PowerPoint presentation. He reviewed all aspects of the application such as the property owner's name, applicant's representative, project location and current zoning, legal notice methods and dates as set forth in the Fruita Land Use Code as well as state statute, the Resolutions setting the hearing date and finding the property eligible for annexation, an aerial photograph of the subject property, future Land Use Map and the nine (9) Land Code criteria that must be considered by the Council in approving an annexation request.

Mr. Hemphill pointed out that although there were no written comments, there were verbal comments made at the May 11, 2021 Planning Commission Public Hearing regarding what the development of the subject property is going to look like (unknown until the property is developed in the future). The

Planning Commission voted six to zero to recommend approval of the application to the City Council. No reviewer expressed any concerns with the application.

Councilor/Mayor Pro Tem Lori Buck arrived at the meeting at approximately 7:20 p.m.

Mr. Hemphill stated that it was staff's recommendation that Ordinance 2021-14 be approved with the following conditions:

- Zoning of said property shall be established by future public hearing, which will be held within ninety (90) days of the effective day of this Ordinance,
- Ottley Avenue will have a total of 35 feet from the section line,
- 19 Road to have a total of 50 feet from the section line, and
- Dedication of a 14-foot multi-purpose easement adjacent to all right-of-way adjoining the subject property

Ty Johnson, Senior Planner with Vortex Engineering and the property owners' representative, provided a PowerPoint presentation of the annexation and zoning requests. The presentation included:

- Aerial photograph of subject property
- Future Land Use Map
- Fruita Zoning Map
- Fruita Land Use Code sections containing the applicable criteria for approval
- All review agency comments have been addressed or will be addressed through the subdivision process at the time of development
- Request to annex and rezone the property meets the goals and policies of the Comprehensive Plan and all applicable sections of the Fruita Land Use Code

Mayor Kincaid opened the public hearing. After hearing no comments, he closed the public hearing and referred the agenda item to the City Council.

Councilor Harvey stated that he knows there has been a lot of chatter about the increase in traffic at the intersection of 19 and K Roads and asked if the City had a plan to address it once the property has been annexed into the City.

City Planner Henry Hemphill responded that the hope would be that at the time of development, the intersection changes would be made in ways to make it a bit safer for pedestrians. He added that incorporating some off-site improvements such as a four-way stop will help provide more safety.

Councilor Harvey said there has been a lot of worry in the community and he would hate for the City to annex the property and then have it sit for a long time while more accidents happen because there have been a lot of them there already.

Planning & Development Director Dan Caris explained that the City does need a proposed plan for development for the property in order to require a traffic study that would include the number of units proposed to justify the improvements and that it is difficult to estimate what that would be. He added that it is staff's expectation that the City will be furnished with a subdivision application at some point

in the not-too-distant future and that the Traffic Study will be required as a part of that application. Staff will then know exactly what those safety-related improvements are going to be, as well as any other improvements that will be required.

- **COUNCILOR HARVEY MOVED TO ADOPT ORDINANCE 2021-14 – SECOND READING - ANNEXING APPROXIMATELY 15.17 ACRES OF PROPERTY LOCATED AT 1123 19 ROAD INTO THE CITY OF FRUITA (PATRON ANNEXATION). COUNCILOR LEONHART SECONDED THE MOTION. THE MOTION PASSED WITH FIVE YES VOTES.**

2) ORDINANCE 2021-15 – SECOND READING – A REQUEST TO APPROVE AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF FRUITA BY ZONING APPROXIMATELY 15.17 ACRES OF PROPERTY LOCATED AT 1123 19 ROAD TO A COMMUNITY RESIDENTIAL ZONE (PATRON ZONING) – CITY PLANNER HENRY HEMPHILL

City Planner Henry Hemphill gave staff's presentation on the zoning request located at 1123 19 Road that is currently zoned AFT, which is a Mesa County designation. The request to rezone approximately 15.17 acres to a Community Residential Zone.

Mr. Hemphill's presentation included the following:

- Legal notice methods and dates (required at least 15 days prior to the Planning Commission public hearing setting for the hearing dates for both the Planning Commission and the City Council)
- Aerial photograph of the subject property
- Zoning Map of the Fruita city limits
- Future Land Use Map (in the City's Comprehensive Plan) showing the Urban Growth Boundary and location of the subject property
- Review criteria as set forth in Section 17.13.060 of the Fruita Land Code

Mr. Hemphill stated that the current zoning map does support Community Residential for the subject property and it is also supported by the Comprehensive Plan and will be consistent with the City's goals and policies. No written public comments were received by staff and no review agencies expressed any concerns with the application. The Planning Commission recommended approval by a vote of six to zero at their May 11, 2021 public hearing and Mr. Hemphill stated that it was staff's recommendation that the Council approve the zoning request with no conditions.

Mayor Kincaid opened the public hearing. After hearing no comments, he brought the matter back to the Council.

- **COUNCILOR HARVEY MOVED TO APPROVE ORDINANCE 2021-15 – SECOND READING - AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF FRUITA BY ZONING APPROXIMATELY 15.17 ACRES OF PROPERTY LOCATED AT 1123 19 ROAD TO A COMMUNITY RESIDENTIAL ZONE**

(PATRON ZONING). COUNCILOR O'BRIEN SECONDED THE MOTION. THE MOTION PASSED WITH FIVE YES VOTES.

8. ADMINISTRATIVE AGENDA

A. DISCUSSION OF UPCOMING LAND USE CODE UPDATES – PLANNING & DEVELOPMENT DIRECTOR DAN CARIS

Mr. Caris noted that Jessica Garrow, Community Planner with Design Workshop, was present remotely to update the Council on the next amendments to the Land Use Code that will better align with the City's Comprehensive Plan (adopted by the Council in 2020) and to answer any questions that the Council might have.

Ms. Garrow reviewed the proposed changes to the City's Municipal Code.

There was discussion between staff and the Council concerning proposed changes regarding land development applications going through the public hearing process as opposed to those that would be approved administratively. Mr. Caris explained that if an application for a subdivision was just conventional in a community residential zone with no Planned Unit Development (PUD) or Density Bonuses being requested, the proposed changes would require only administrative approval but that any requested variances from that would require the public hearing process.

Councilor Buck said she thought it was important to give the public a chance to hear and comment on proposed development. Councilor Breman agreed that if the public hearing process concerning an application was taken out, people are going to feel like they are not being heard at all.

There was more discussion between staff and the Council about the changes to the Code concerning when public hearing processes should be required and when proposed development could be administratively approved.

Ms. Garrow advised that if a developer is going through an administrative review, some communities have an option of referring an application to the Planning Commission and City Council at the Community Developer's discretion once some kind of threshold(s) are met.

The other option Ms. Garrow said that she has seen (that has resulted in mixed success but that she thought might actually work for Fruita) is what is called a "call-up option," where the Community Development Director approves an application, and a required notice goes to City Council as a regular meeting agenda item but is really just a notification that an application has met all of the requirements and therefore, has been approved, but there is still an opportunity for neighbors to come and provide comments. This would include notifications to the public, and the Council could then choose if they wanted to "call the application up" to review staff's decision.

Mr. Caris stated that staff would then need to work on what the threshold(s) would be for a "call-up," which could become difficult for staff to adjudicate. He suggested putting together a few procedural examples for the Council to consider before having another thoughtful discussion about it.

Mayor Kincaid said he also thought something that needed to be resolved is what the appropriate density for a minor subdivision is, or that it should at least be reviewed. Mr. Caris pointed out the following for the Council to keep in mind:

- 25 dwelling units in a subdivision requires a secondary access
- There are some design-related aspects specific to the City's engineering specifications where, as projects get bigger, developers will have to put in more infrastructure. He suggested bringing City Engineer Sam Atkins into the discussion for his perspective.

Ms. Garrow also reviewed:

- The addition of a new Chapter in the Land Use Code that combines hardship variances that the Board of Adjustment hears with some allowances for administrative modifications in the permitting and construction processes
- Changes to the review authority and updated standards for PUDs
- Review of Preliminary Plans
- Updates to the Annexations Chapter to clarify the role of Planning Commission as a recommending body to City Council and to ensure that state laws are being adequately met, review criteria for annexations, focus on meeting policies of the Comprehensive Plan, having adequate infrastructure service and being within an area that's been identified for annexation
- The reorganization of the Historic Preservation Chapter with the addition of some purpose statements, addressing general best practices that include language about balancing preservation of historic property with private property rights and additional definitions to create clarity about terms that are specific to Historic Preservation and reflect the Secretary of Interior standards
- Minor changes to definitions to consolidate and delete terms that are redundant
- Updates to definitions concerning affordable housing
- Update to the duplex definition to allow a side-by-side or an over/under configuration in a duplex
- Changes to improve general clarity on floor area measurements

Mr. Caris noted that staff and the Council would be having more discussion (likely at a workshop meeting) about the next steps and the City's policies, but he also said that any feedback that Council members had now would help staff and Design Workshop be prepared for that workshop discussion.

Mr. Bennett stated that at the July Council workshop meeting, staff is hoping to get feedback from the Council on preparing for the August workshop meeting, which is when the City will have guest speakers from CHFA, DOLA and possibly the Grand Junction Housing Authority. At that workshop, staff will also be giving the Council updates on discussions that they are having or have had with the GJ Housing Authority and how the City of Fruita works with them when projects are applying to the state, since they are the only authority in the Valley.

Ms. Garrow noted that Design Workshop's next steps moving forward would be for them to do some "deep dive" work to create one, brand-new draft of the Land Use Code that compiles all of the changes into one location prior to adoption.

9. CITY MANAGER'S REPORT

City Manager Mike Bennett reported on the following:

1. The installation of the microphones in the Council Chambers had to be rescheduled after a failure of the audio system that is used to communicate with patrons at the outdoor pool at the Fruita Community Center. The sound technicians will hopefully have the new mics installed in the Council room before the next Council meeting on July 20th.

Mayor Kincaid remembered that he wanted to schedule an Administrative Agenda item at the next meeting for the Council to discuss community support and the City's "communication policy" as far as what the criteria are for outside agencies to get the Council's and the City's support.

2. Mike also reported that the City welcomed a new employee earlier in the day; Jesse Hess is the new Code Compliance Officer and Neighborhood Services Coordinator. He began his career as a Police Officer and transitioned into Code Compliance and Enforcement with the City of Grand Junction and later served strictly as Code Compliance in Lincoln County. Jesse just moved to Fruita and bought a home here.
3. Ture Nycum will be leaving the City of Fruita as the Director of the Parks and Recreation Department. He is headed to Durango to be their new Parks and Recreation Director.

10. COUNCIL REPORTS AND ACTIONS

COUNCILOR LORI BUCK

Lori reported that the Grand Valley Regional Transportation Committee met on Monday and discussed a grant that will very likely be awarded for a mobility hub, which will hopefully tie in Amtrak, GVT buses and possibly even bikes and trails. There is much that is undetermined at this point, and the planning grant was skipped in favor of the construction grant because the project will be combined with some things that might be happening along I-70 eastbound. It is a \$10 million grant and transportation officials will be working hard on design and location of the building and more importantly, who will be responsible for it because that is still up in the air.

COUNCILOR MATTHEW BREMAN

Matthew reported that the Grand Junction Economic Partnership (GJEP) meeting for July was canceled and the next meeting will be a group retreat. He added that he is also on the Colorado Women's Alliance Board and on July 17th, they are doing a free workshop for women that are interested in getting involved in public office.

MAYOR JOEL KINCAID

Joel said that Lori had just appeared in the Daily Sentinel. He asked if she is now the new Chair for the Colorado Mesa University Executive Committee. Lori explained that she has been appointed Treasurer of the board. Joel congratulated Lori for the appointment.

With no further business before the Council, Mayor Kincaid adjourned the meeting at 8:55 p.m.

Respectfully submitted,

Debra Woods
Deputy City Clerk
City of Fruita