

**FRUITA CITY COUNCIL MEETING
JULY 18, 2023
7:00 P.M.**

1. CALL TO ORDER AND ROLL CALL

Mayor Pro Tem Matthew Breman called the regular meeting of the Fruita City Council to order at 7:00 p.m. He noted that he would be presiding over the meeting in the absence of Mayor Joel Kincaid. The meeting was held in person and with virtual access provided through Zoom.

Present:

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:

Mayor Joel Kincaid

City staff present:

City Manager Mike Bennett
Assistant City Manager Shannon Vassen
Communications and Engagement Specialist Ciara DePinto
City Clerk/Finance Director Margaret Sell
Deputy City Clerk Deb Woods
Planning & Development Director Dan Caris
Public Works Director Kimberly Bullen
City Attorney Mary Elizabeth Geiger

Also present:

Members of the public (in-person and virtually)

2. MOMENT OF SILENCE AND PLEDGE OF ALLEGIANCE

Mayor Pro Tem Breman called for a moment of silence for all faiths and beliefs to have the opportunity for a silent prayer and then led in the Pledge of Allegiance.

3. AGENDA – ADOPT/AMEND

Councilor Kreie asked if anyone present in the audience was expecting to hear a recital of Fruita's Inclusivity Proclamation. He explained that it had been advertised in a few places that it would be on the agenda for this meeting of July 18th, but it actually had already been recited at the June 6th Council meeting, so there was some miscommunication. He added he would discuss it further during Council Reports and Actions later in the meeting.

Deputy City Clerk Deb Woods noted that staff had received one additional TABOR Review Committee application from Karen Leonhart after the Council packet had gone out the previous Friday. She entered Ms. Leonhart's application into the official record of the meeting.

- **COUNCILOR KREIE MOVED TO APPROVE THE AGENDA AS AMENDED. COUNCILOR PURSER 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

There were no comments from the public concerning any item that did not otherwise already appear on the agenda.

6. CONSENT AGENDA

- A. MINUTES – A REQUEST TO APPROVE THE MINUTES OF THE JUNE 6, 2023 SPECIAL MEETING (CITY COUNCIL REFRESHER TRAINING)**
- B. MINUTES – A REQUEST TO APPROVE THE MINUTES OF THE JUNE 6, 2023 REGULAR CITY COUNCIL MEETING**
- C. MINUTES – A REQUEST TO APPROVE THE MINUTES OF THE JUNE 20, 2023 REGULAR CITY COUNCIL MEETING**
- D. LIQUOR LICENSE RENEWAL – A REQUEST TO APPROVE THE RENEWAL OF A RETAIL LIQUOR STORE LICENSE – MALT, VINOUS AND SPIRITUOUS, RETAIL WAREHOUSE STORAGE PERMIT AND TASTINGS PERMIT FOR IN THE MIDDLE LIQUORS LOCATED AT 303 HIGHWAY 6 & 50**
- E. LIQUOR LICENSE RENEWAL – A REQUEST TO APPROVE THE RENEWAL OF A HOTEL AND RESTAURANT LIQUOR LICENSE – MALT, VINOUS AND SPIRITUOUS FOR ONNIE & ZHONG, INC. DBA DRAGON TREASURE LOCATED AT 576 KOKOPELLI BLVD.**
- F. LIQUOR LICENSE RENEWAL – A REQUEST TO APPROVE THE RENEWAL OF A BREW PUB LIQUOR LICENSE – MALT, VINOUS AND SPIRITUOUS (CITY) FOR BASE CAMP PROVISIONS LOCATED AT 155 N. MULBERRY ST.**
- G. LIQUOR LICENSE RENEWAL – A REQUEST TO APPROVE THE RENEWAL OF A BEER AND WINE LIQUOR LICENSE – MALT AND VINOUS (CITY) FOR BESTSLOPE COFFEE CO. LOCATED AT 129 N. PEACH ST.**
- H. LIQUOR PERMIT RENEWAL – A REQUEST TO APPROVE THE RENEWAL OF AN ART GALLERY LIQUOR PERMIT FOR ORBIT ARTSPACE LOCATED AT 138 S. PARK SQUARE**

- I. AMENDMENT TO BYLAWS – DOWNTOWN ADVISORY BOARD (*REMOVED FROM CONSENT AGENDA BY COUNCILORS PURSER AND WILLIAMS*)**
- J. RESOLUTION 2023-24 – A REQUEST TO APPROVE A RESOLUTION AMENDING THE 2023 BUDGET AND TRANSFERRING FUNDS FROM THE GENERAL FUND CONTINGENCY ACCOUNT TO UPGRADE THE CITY OF FRUITA’S FINANCE AND ACCOUNTING SOFTWARE**
- K. 2022 FINANCIAL STATEMENTS: A REQUEST FOR APPROVAL OF THE 2022 FINANCIAL STATEMENTS AND ACCEPTANCE OF THE AUDITORS’ REPORT**
- L. FINANCIAL REPORTS – A REQUEST TO APPROVE THE JUNE 2023 FINANCIAL REPORTS**

Mayor Pro Tem Breman asked if there were any requests from the public to remove any item(s) removed from the Consent agenda for further discussion. There were no such requests.

Mayor Pro Tem Breman asked the City Council if they had any item(s) they would like removed from the Consent agenda for further discussion. Regarding Consent Agenda Item 6.I (Amendment to the Downtown Advisory Board Bylaws), Councilor Purser stated that she was under the impression that the Council was going to discuss the City’s Boards and Commissions as a whole before moving toward taking any action to change anything. Councilor Williams stated that he would like to remove that item from the Consent Agenda as well. Mayor Pro Tem Breman said it would be placed at the end of the agenda for further discussion.

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

7. PUBLIC HEARINGS

A. QUASI-JUDICIAL HEARINGS

There were no Quasi-Judicial Public Hearings on the agenda.

A. LEGISLATIVE HEARINGS

- 1) ORDINANCE 2023-07, SECOND READING – AN ORDINANCE AUTHORIZING THE CONVEYANCE OF WATER RIGHTS AND REAL PROPERTY OF THE CITY REFERRED TO AS ENOCH’S LAKE LOCATED ON PINON MESA – *PUBLIC WORKS DIRECTOR KIMBERLY BULLEN AND CITY ATTORNEY MARY ELIZABETH GEIGER***

Mayor Pro Tem Breman noted that staff had a signup sheet for people who wanted to provide public input on these agenda items during the public hearing and explained that each speaker would be limited to three (3) minutes.

Public Works Director Kimberly Bullen provided staff's PowerPoint presentation on the above Ordinances consisting of 29 slides that included an in-depth timeline of the history of the Mountain Water Properties (Reservoirs #1, #2 and #3 and infrastructure).

The timeline included an occasion in 2007 when the City of Fruita entered into an agreement with Mr. Ron Tipping to make improvements to the City-owned Enoch's Reservoir (\$360,000) and Mr. Tipping contributed \$124,233 worth of materials for Reservoir #1 repairs. This was a non-monetary obligation for the City, which provided water for Mr. Tipping's use as "payment."

The timeline also included Resolutions of the Fruita City Council in 2016, 2017 and 2018 banning overnight camping at Enoch's Lake due to challenges the City was facing with the property.

The presentation included a map that illustrated all the private property and names of their owners surrounding Enoch's Lake.

Ms. Bullen reviewed the City process for sale or conveyance of City property through enactment of an Ordinance. She also listed Mountain Water Capital Projects of the City totaling \$1,339,181 not including salaries of City staff for project management or expenses incurred by the Army National Guard on Reservoir #1. She then outlined the historical expenses of City staffing and maintenance between years 2004 and 2022 that ranged anywhere from \$19,000 (2021) to \$79,000 (2014).

The presentation included a list of challenges for the City of Fruita at Enoch's Lake over the years as follows:

- Illegal camping
- Damage to private property
- Safety – Lack of cell service to call 9-1-1
- Fires outside of fire pits
- Discharging firearms

There are public lands nearby that allow camping on the Fruita Division of the Grand Mesa National Forest including Haypress Campground and Mud Springs Campground.

Ms. Bullen also provided an overview of all the community outreach since 2017 to educate the public about Mountain Water rights and properties and gather input from Fruita residents on these assets owned by the City. These included Open Houses, presentations to City Council, articles in the City Link newsletter (which is mailed to every residence in Fruita and several businesses), and postings on social media and the City's website.

The presentation included a listing of recent activities involving Enoch's Lake (Tract 1), a 2-acre parcel (Tract 3) and a 4.05-acre parcel (Tract 2) including cash offers the City received for its Mountain Water Properties and the fact that Ute Water Conservancy District Board of Directors decided not to exercise its Right of First Refusal for the sale of Enoch's Lake and Mirror Ditch No. 1 water rights. The City engaged Arnie Butler & Associates to appraise 51.41 acres and water rights for Enoch's Lake and the appraised value came in at \$425,000. The City received a \$500,000 cash offer to buy the 51.41-acre parcel and water rights plus satisfaction of the \$140,000 non-monetary performance obligation remaining under a 2013 Agreement with Mr. Tipping.

Ms. Bullen reviewed the date of the First Readings of City Ordinances 2023-07, 2023-08 and 2023-09, at which time, no public comments were received by staff. She noted that staff had received one written comment on the Ordinances just after 5:00 p.m. earlier in the day.

Ms. Bullen stated that it was staff's recommendation that the Council approve the three (3) Ordinances involving Mountain Water Properties and water rights.

Mayor Pro Tem Breman opened the public hearing for public comments.

Kaitlynn Downer, 1136 Powell Street, Fruita, plead with the City Council not to sell Enoch's Lake. She said Fruita natives never get a choice; that cyclists get all the extra funding in the City. She stated that water is scarce and feels that the Council is just giving it away. She does not want to live in a concrete and asphalt city and she wants her kids and many generations to enjoy Enoch's Lake as well. Kaitlynn asked if the City has looked into grants or history funding. She added that if the City Council sells Enoch's, they will be taking years of memories, hard work, history and tradition away. Kaitlynn asked why the City is stocking the fish if it is just going to sell the lake.

Kaitlynn shared her family history, saying her great grandparents utilized the water from the reservoir and her grandparents did the same. They took countless family trips there, she and her husband went on countless dates up there and even got married there. She said when they started their family, Enoch's was the first place they took their kids after they were born.

Kaitlynn said, "money isn't everything, but water, water rights, history, tradition, family; that is what really matters."

Harv Heiny, 334 N. Apple Street, Fruita, stated that he grew up in Fruita and has been here for 76 years. He said he went up to Pinon Mesa with his grandparents and parents and took his kids and grandkids up there to fish at Enoch's. He said we live in a desert and he can't believe the City is selling water rights because water is like gold, especially with as many people as there are moving here. Harv said he wonders how long it's going to take to get "Private Property" and "No Trespassing" signs up around Enoch's Lake and if they get Enoch's, they are going to go after Reservoir #1 and #2; they will try to get them all and pretty soon, there'll be no place to go.

Harv asked if the City was going to put the question on a ballot so people could vote on it. He concluded by saying he was against the sale of Enoch's Lake.

Alan Workman, Grand Junction, said he was probably in the minority. He stated that he has lived here all his life and thanked the City for all the fine things that it is doing. Alan said he supports the sale of the property to the three businessmen, who he said have worked hard all of their life for what they have, and they need the water very much. Alan said the buyers will maintain the property, which is something he thought the City of Fruita and others have not been able to do over the years.

Alan also spoke about crime, trash, people living in buses and campers and violating the time period (day camping only) at Enoch's Lake. He said the City of Fruita and Mesa County Sheriff's Department don't want to have anything to do with it and that it is a shame for those of us who have lived here and have swum and fished at Enoch's Lake.

Alan stated that this important decision for the Fruita City Council is the appropriate thing to do and that the buyers will be good neighbors if others are good neighbors to them. He added that they are paying good money for the lake; a fair price above and beyond what Mr. Tipping has delivered to help the City of Fruita with the Fruita reservoirs.

Laurinda Conrad, 20510 Red Cliff Rd., Glade Park, stated that she has been a resident of the area her whole entire life and has enjoyed Enoch's Lake from the time she was little. She said she understands that the "big, powerful men" have land around it and deserve the water, but everyone else deserves it, too. She added that the City of Fruita didn't give an opportunity to anyone else in Fruita, Glade Park or the entire United States who would like to own a little piece of Colorado.

Laurinda continued that she has a cabin on 80 acres on Pinon Mesa, enjoys going to Enoch's Lake and riding her four-wheeler or side-by-side. She said that the City is selling all the properties for nothing and that she would pay the City \$40,000 for the four-acre parcel. She added that Arnie Butler is incorrect; there's land, cabins and a lake and she can't believe the City is selling for \$500,000. She suggested that everyone present in the audience come together and buy Enoch's Lake or people could buy it individually. Laurinda stated that the City didn't offer it to anyone and when the City ever brought up things that say, "Mountain Water," people don't know what that means or where it's at. She continued that she didn't see anything on social media, in newsprint, on a billboard or on radio explaining that Enoch's Lake was going to be sold to three powerful men.

Laurinda stated that no one had a chance to stop the closure of South 21 ½ Road and that she fought them after the fact because it was done during a budget meeting that wasn't open to the public. She said they did not want people going up there and said the same thing about the property being destroyed and vandalized. Laurinda said she uses that road and there was no trash; there was nothing like what they said. She added that there's always a chance that any place is going to be vandalized or broken into; that everyone's had that happen. Laurinda said they drove by Enoch's Lake, so they knew about the vans and shooting was going on and that it wasn't okay, but it wasn't something that lasted years because it was shut down immediately.

Laurinda said she went up there on the Fourth of July and there's families fishing, having picnics and having a great time and that the City is taking that all away to give it to men that own property surrounding the lake. She stated that Collins, Muhr, Rod Powers and Ron Tipping (whom they know) have talked to Mesa County and have said that as soon as they get the properties, they will close that road. She spoke about a loop at the end of the road called the Ridge Trail, which is a four-wheeling road that mountain bikers, horses, four-wheelers and motorcycles ride and that it loops back into the Fruita Reservoirs and that it will be shut down, which shuts off public access to Grand Mesa National Forest. She said that's not right and that she would like an opportunity to purchase the property as well.

Hollis Lyman, 1301 N 16 ½ Rd., Glade Park, said she was the original poster of the feed on the Fruita Facebook Message Board which later blew up onto the Glade Park page and that she was present to represent Glade Park, where she lives. She said she noticed that Glade Park was never mentioned in the information that was handed at the door of the meeting. She stated that Glade Park specifically benefits from Enoch's Lake and that it was previously connected to their pipeline and added that the City was actively not considering the community who benefits from Enoch's Lake.

Ms. Hollis continued that the original settlers in Glade Park died because there was no access to water or ability to grow food. Ms. Hollis stated that she is a grant writer who has worked on multimillion-dollar grants and been awarded them and offered her help to the Glade Park Pipeline Water Users Association (GPPWUA) to apply for grants, but they said that the City of Fruita was working on it. She said she knows there are grants out there from the state of Colorado, not just for repair, but also for conservation and active use of water. She added she thinks those should be looked into and that Enoch's Lake is more valuable than \$500,000, which is a one-time payment of \$37 for all Fruita citizens.

Ms. Hollis added that "Honor the Past, Envision the Future" is a really beautiful Fruita statement, but she is not sure how Fruita is envisioning the future without water.

Joe Dyk, 1649 17 Rd., Loma, stated that he has been to Glade Park many times, but has never been to Enoch's Lake. He said he sure hates that somebody is going to buy it and shut out the public, because even if he hasn't been there, many people have. He added that once the City sells the lake, there would never be the opportunity to buy it back.

Mr. Dyk accused the City of using this opportunity to make a profit, get rid of the responsibility and shut off the public access. He said there happens to be people who live in Fruita that go up to Enoch's Lake that pay their taxes and comply with the City's garbage laws and it makes him wonder who was behind shutting down the overnight camping because he could guarantee it was Ron Tipping and Stan Muhr and the people that live up there that don't want any neighbors at night. Mr. Dyk stated that they have "had their toe in the door" for a long time and have been coaxing the City into being buddies by taking care of the property. He wondered if any of the Council members knew the history.

Mr. Dyk complained that the City didn't even sell Enoch's Lake to the highest bidder because there was no bidding and that the City didn't give anybody else the opportunity. He added that nobody advertised that it was for sale.

Melanie Pierce Martinez, 1508 E. Pabor Ave., Fruita, stated that she is a fourth generation Fruita native who is emotionally attached to Enoch's Lake because it is a place where she spent a lot of her youth with her Dad, who is no longer alive. She said she heard about the sale of the properties on the Fruita Facebook Message Board, and if the City was referring to that as the social media it uses for things like this, that is a problem.

Melanie continued that she is a teacher here in the School District and her kids write about Enoch's Lake and she wanted everyone present to know that. She presented a list of 14 questions to the City Council in a handout after verbalizing each of them as follows:

1. What is the explanation for the \$500,000 dollar price point? This is a 51.5-acre parcel on Pinon Mesa with a lake on it. You can buy a trailer with a very small lot in Holly Park for \$300,000? This would mean that the going rate for an acre on Pinon Mesa is going for less than \$10,000 an acre. These numbers don't add up?

2. Who has the rights to buy this land? If Ute Water had the first right of refusal and didn't want it? What gives the three gentlemen the next rights to buy it? I understand that their land attaches to it, but does the law state that would then make them next in line?
3. Was Enoch put on the market for anybody else to buy?
4. What steps has the City of Fruita taken to protect this land?
5. Is anybody on the Fruita City Council related to any of the individuals buying the land?
6. What do the new owners have planned for the lake?
7. Does the City make the decision on who buys the lake?
8. Why aren't there any other buyers?
9. Did any of the City Council members utilize the land growing up or spend time at Enoch's Lake with their families for generations?
10. And if so, why aren't you advocating for the preservation of this area for our community?
11. An appraisal done on the property was not disclosed by the City in response to a CORA request. My understanding is that the City decided to reference a state statute that allows governments to withhold documents if they think publishing them would be contrary to the public interest.
12. Who deemed Enoch's Lake contrary to the public interest?
13. What were the dates that this matter was discussed publicly and not in an executive session?
14. When were the two ordinance readings that would be required for something like this to pass take place?

Melanie requested that the Council and/or staff respond to her questions via email. Mayor Pro Tem Breman requested that Melanie provide a copy of her questions to the City Manager, Mike Bennett, which she did.

Deb Moorland, 254 N. Mulberry St. #3, Fruita, stated that she is a Fruita resident right now, but grew up on a ranch on Glade Park, so she is really familiar with the Glade Park people, the challenges that are up there, the water shortages and the cooperative agreement that has been made with Fruita. She said she wanted to thank Fruita for all it has done in taking care of the lakes, making them accessible to the public and stocking them using City of Fruita resources. She said she thinks water rights are important and that she really wished there were some kind of a cooperative agreement that could make the people of Glade Park end up with those water rights because they are the ones who can utilize them and really need them.

Deb asked for the Council to call a halt to the sale of the properties and start working on some kind of partnership, look for grants or look for ways that are a good deal for Fruita, which she said the

current one wasn't. She stated that a small municipality really doesn't have any business (except for historically) operating lakes on a mountain top. Deb said she knows the City has worked with a lot of different entities such as the Army Corp of Engineers, who helped to repair a dam and the Forest Service and it seems to her like a committee ought to be formed to continue working on it.

Deb thanked the City of Fruita for all it has done to maintain Enoch's Lake and the mountain properties for the sake of the public good and added that from a business standpoint and as a citizen, she can understand how that ties up resources that should be dedicated to Fruita.

Deb again suggested that a committee be formed to find some responsible solutions to the issue and give the Glade Park residents an opportunity to end up with their water, because in her opinion, the water does belong to Glade Park.

Roger Dingman, P. O. Box 185, Glade Park, said that the sale of the lake seemed to be a very good deal for the buyers (who would get the lake) and the City (whose debt to Ron Tipping would be erased), but not the public. He said that he had researched past issues of the Daily Sentinel concerning Enoch's Lake and found that various groups such as the Boy Scouts and the YMCA have been enjoying the lake going back as far as 1912.

Roger said his point was that because the public has enjoyed continued access to Enoch's Lake, the City has established a public right to continuing access to the lake. He said that the property owners who have made the offers on the properties made false allegations about all the people up there being druggies and homeless people and that he has been up there many times and there was none of that.

Roger reiterated that the public has the right to access the lake and because the City is a public entity, it should not be quashing the rights of the people.

David Hilgenfeld, 1979 L Rd., Fruita, said there had been a lot of comments prior to his about the historic use of Enoch's Lake and the water rights and that he was on board with all of those, but he wanted to approach it from a little different perspective. He asked why there was not an RFP (Request for Proposal) so that the public would have an opportunity to make an offer or be involved. He agreed with the other comments that \$500,000 would not get much in western Colorado anymore.

Monique Ramirez, 16 ½ Road, Glade Park, stated that she is a direct recipient of the irrigation water and that Enoch's Lake is actually named on the agreement with the City of Fruita that says she can access water from the lake. She said it now makes more sense that she hasn't been able to access water; that the City has other agreements with other individual landowners that says they will get the water rights before she could and that they get the overflow. Monique said it's already the middle of July and she is having to monitor the amount of water that can go through her property because she doesn't have those rights yet and everybody else has those rights.

Monique continued that she grew up in Fruita and is now honored to live on Glade Park to cherish the memories of Enoch's Lake. She said nobody heard a word about the sale of the properties until there was a small article in the newspaper, which nobody saw. She said she was able to see the information because other individuals stumbled upon it and posted it on the Facebook page. Monique said she didn't see anything on the City's website and doesn't know how the City does its communications, but something didn't "smell right." She said nobody else got the right to be able to

make an offer and that the word on the street is that the sale was already done and not to bother coming to the meeting. Monique agreed with the suggestion of putting together a committee to really look at the impact. She added that there were individuals in the audience who could help apply for grants that are extremely passionate about making sure that Enoch's Lake is not sold to just three individuals and that people are allowed to keep the history.

Monique repeated the statement made by others that water is a precious commodity and added that if the Council takes it away, it would remove all opportunities for future family members to be able to experience Enoch's Lake as well as all of the homestead capabilities on Glade Park.

Monique plead with the Council to put a halt on the sale of Enoch's Lake and look at what was truly best for the community and not just three individuals.

Bill Osborn, 820 E. Aspen Ave, Fruita, said he has lived in Fruita for 73½ years. He said his great grandparents and grandparents were homesteaders in Fruita and they helped to draft the original filing of the water on Glade Park that they now own.

Bill said he didn't think it was fair that the City did what it did and that his Dad sat on the Fruita Town Council and would have never given the water away. Bill said that water belongs to Fruita and it needs to stay here because if the City gets in a pinch, it might not be enough water, but it would be something to help out.

Jim Cook, 2331 S. 15 Rd, Glade Park, said he lived in Fruita for a lot of years; he raised his kids and grandkids here and then moved up to Glade Park and he loves it up there. Jim said he was just at Enoch's Lake earlier in the day and caught about a dozen trout. He said the water is full and that it's the fullest he's ever seen it.

Jim said that when he first started going to Enoch's Lake in the 70s; all of Glade Park was pretty remote; there were only ranchers. He continued that Glade Park is seeing an extreme increase in the number of people visiting such as mountain bikers who do the Ridge Trail and he would hate to lose public access. He requested that the City Council table the Ordinance approving the sale of Enoch's Lake and said that he would serve on a committee if needed. Jim said everything just went too fast and now there are a lot of people who are interested in it, and he would like it to be resolved so that there would still be public access. He expressed concern that the road access to the Ridge Trail would be closed, as well as the old JS Road that goes to the old Mason Mood gate.

Jim said he understood that the mountain water properties were an albatross for the City of Fruita, but if people could work together as a committee, they could make it happen.

Merritt Sixbey, 2339 Promontory Ct., Grand Junction, stated that his family owns property on Glade Park and they are fortunate to have water on their property because there's very little water up there. He said he respects Alan Workman (who spoke earlier in support of selling Enoch's Lake), but he had to disagree with him on this matter. He said the appraisal was wrong and everything that was being done was wrong.

Merritt asked the City Council not to sell the water rights because they are “liquid gold.” He stressed that he is the fourth generation in this area and that his family have fished at Enoch’s Lake all their lives. He said he still does a lot of fishing, camping and four-wheeling on Glade Park.

Merritt continued that shutting down the road at JS and 18 Road was wrong because that’s like landlocking the forest property, which he said is right there. He added that the reservoirs need to be maintained and asked why the City couldn’t go after grants to do so. Merritt called the issue black and white and said that Enoch’s is the public’s reservoir.

Merritt asked the City Council members when the last time they went to Enoch’s Lake was or even if they even ever had. He said that just because some people ruined it for everybody, the Sheriff of Mesa County will still send officers up there and doesn’t have a problem with it because it is their obligation to serve the taxpayers, who pay them to do it. Merritt said he thinks there is a lot of miscommunication.

He added that it wasn’t the City Council’s right to take away Enoch’s Lake from the public and that he thinks everyone present was willing to fight for it.

Merritt also said that if the access to the lake was taken away, it would cause a decrease in Glade Park landowners’ property values and that as someone who buys property all the time, the appraisal of Enoch’s Lake was totally wrong.

Burdette Marquis (address not given) stated that she lived on Glade Park for many years and enjoyed Enoch’s Lake, but she has since moved to the valley. She said she wanted to know if the sale of the property was a “done deal,” making the meeting a moot point. City Attorney Mary Elizabeth Geiger explained that no, that is what the public hearing was about; whether or not to sell Enoch’s Lake. Ms. Marquis said she would like to offer the City \$100,000 more than what the standing offer was.

Nolana Wilhelm, South Trail Canyon Drive, Glade Park, said that she has a different perspective. She said as a native Coloradoan with farming and ranching in her background, she understands the importance of water rights. She said she and her husband had just moved to Glade Park a year ago after the first time he went there and fell in love with it and the first time he went to Enoch’s Lake, he caught four trout and had the biggest smile on his face.

Nolana stated that both she and her husband are passionate about saving the Glade Park area for the people that want to be a part of nature and she believes that Enoch’s Lake and the surrounding lands should not be sold; that residents should have the right to be able to go up there and be in God’s country.

Rachel Kolb, 20201 Red Cliff Rd, Glade Park, stated that she grew up in Michigan, so she knows that nobody can buy a lake of that size for that amount of money, even in the depressed state of Michigan; it can’t be done. She accused the City of working behind the scenes and said that this matter impacts thousands of people.

Jerry Martinez, 317 W. Ottley, Fruita, said he wished he owned land on Glade Park or lived up there and that what was so great as a fourth generation Fruita boy was having the opportunity and

access to take his children to Enoch's Lake. He continued that there are always monetary values for things, but also values that are instilled by teaching a kid how to drive when they are about 13, how to cast a line, how to pick up after yourself and take care of the land.

Jerry continued that he has been going up to Enoch's Lake for a long time, his family has already been up there this year and he is looking forward to going up there real soon if anything "goes south." He said it sounded like Fruita and Glade Park folks just need to get together and come to a group decision about what the best use of the water is, who really needs it and get it to those people while keeping the lake public. He said that when people are going through 30 to 40 days of 100-degree heat, there's only one place to go if you are in Fruita and that's up to Glade Park. Jerry added that Mud Springs is wonderful, but there's no water; you can't take a dip or put your toes in the water to cool down. He said he thinks the City will be doing a real injustice if it pursues the sale and doesn't look at it longer with more feedback from the town. Jerry noted that he was present to represent other folks who couldn't come to the meeting.

Randi Bettis, 15901 Holloway Lane, Glade Park, said she has been a Colorado native for 42 years. She said her business went through Eminent Domain in 2013, so she knows what it feels like and that this did not "feel right."

Ms. Bettis said that she cares for somebody who absolutely loves going to Enoch's Lake and that it takes exactly 32 minutes to get there from her doorstep. She said she is not a geographical person, but the lake should be accessed. She reiterated how she went through Eminent Domain and had no choice at that time, but now, there are choices and that it just takes time. She referred to the grants people had mentioned and added that there are a lot of options. Bettis begged the Council not to shut Enoch's Lake down and make a decision without the public knowing.

Mariel Steele, 14390 Bs Road, Glade Park, stated that she and her husband moved here from Florida in 2020 and that the draw of living here is that they love the outdoors, hiking, running, cycling and fishing. She said conservation has always been very important to her and her husband and she wants Enoch's Lake to remain open to the public.

Mariel continued that it's been her personal belief that recreation spaces are very important and vital to community, so she wanted to show gratitude to the City of Fruita for maintaining Enoch's Lake while it is very impractical for the City to do so. She also agreed with previous speakers from Glade Park about the possibility of establishing a committee and said she fully supports that.

Mariel said there's really nothing of more value to her than keeping public land for public use, so she was respectfully asking for the City Council to hold off on the sale until all options have been considered.

Liberty Martinez, (address not given), said she is a Fruita Monument High School graduate and she wanted to read the vision for Fruita that is on the City's website:

"The City of Fruita values Quality of Place. It's an inclusive City with a small-town feel and vibrant downtown, surrounded by public lands. People love to live, work and play in Fruita because the City facilitates community, safe neighborhoods, family-friendly events, and walking and biking. The City governs in a way that's responsive to its citizens and prioritizes

high-impact services and projects. Fruita fosters a fun and funky ambiance around the arts, agriculture and recreation."

Liberty said her question was how that could be Fruita's vision when the City was contradicting itself in this meeting.

Kandy Wentz, (address not given), stated that she has lived on Glade Park for 20 years. She said that when the pioneers first came out here, they had lots of water, so they sold their water rights thinking they wouldn't have to worry about it. Then the droughts hit and those people had to "belly-up" go back east or further west because the bigger guy was buying their water rights. She said that is part of the history of Mesa County.

Kandy went on to say that she was offering the City Council some solutions. She said the Glade Park volunteer Fire Department couples used to go up every Friday night when they were having the movies and would drive around all three reservoirs and come back down, calling it "date night." Kandy said they would put out the fires left by campers and probably policed it for ten years. She added that she doesn't know if they are still doing that because she's not on the Fire Department anymore.

Kandy said there's the Glade Park community, Fire Department, Glade Park School, the (unintelligible) committees and volunteers and urged the City Council to consider those on Glade Park and what they would do in order to preserve Enoch's Lake before selling it to just three people.

Hearing no further comments from the public, Mayor Pro Tem Matthew Breman closed the hearing for public participation and referred the matter to the City Council.

Councilor Kreie pointed out that the Council had heard from a lot of people from Glade Park that have water concerns and that he understands the need for water on Glade Park. He asked how the sale of Enoch's Lake and the properties would impact the agreements that are in place between the City of Fruita and the Glade Park Pipeline Water Users Association (GPPWUA).

City Attorney Mary Elizabeth Geiger responded that the pipeline is fed by Reservoirs #1, #2 and #3, although Reservoir #2 is actually not functional right now because the dam has been requisitioned by the state for needing a lot of repair. Therefore, Reservoirs #1 and #3 feed into the pipeline and that water will continue to be delivered under the agreement between the City of Fruita and GPPWUA, which will be in place until 2027. The City reconsiders the agreement every five years along with the Glade Park water users to make any amendments that may be necessary and as such, they will be reconsidering the agreement in 2027.

Councilor Williams asked if any of the water from Enoch's Lake is actually supplying Glade Park water users. Public Works Director Kimberly Bullen confirmed that it is not and added that with the availability of water over the past couple of years, there has not been enough water to actually reach the pipeline. She further explained that recently, there was a leak on the pipeline to the Glade Park water users where Enoch's Lake ties into the line, and the Glade Park water users actually asked the City of Fruita if it would be okay to sever that and make the repair, to which the City of Fruita agreed.

Mayor Pro Tem Breman had to remind the audience that public participation had been closed after several members of the audience continued to make comments from their seats.

Councilor Kreie stated that he has been on the City Council the longest and pointed out that the Council and staff have been talking about the City's mountain water properties that whole time and was doing so even before he was elected to a seat on the City Council. He added that as part of those discussions and the City's work consisting of hundreds of hours looking into the matter, the City knows that keeping the lakes public is important; however, as a City, Fruita doesn't need to be managing far away lakes.

Councilor Kreie explained that the City has an obligation to the citizens to provide core services. He assured everyone that the Council understands, noting that he used to fish at Enoch's Lake with his friend Bob and his Uncle Steve, both of whom are no longer with us. He said he's been to weddings there. He stated that if the Council makes the decision to sell, it's going to hurt him as well.

Councilor Kreie added that the City of Fruita has talked to the Forest Service and the other entities that are in the public lands business, such as the BLM. He asked staff to speak to those conversations.

City Attorney Mary Elizabeth Geiger explained that there is a distinction between Reservoirs #1, #2 and #3, which do sit on U.S. Forest Service property and are surrounded by Public Lands. She said Enoch's was different in that it is surrounded by private property. She also defined "Public Land" as federally owned land, which is not under Fruita's control to close off.

Ms. Geiger went on to say that Enoch's Lake is accessed by a county road (as a lot of folks had pointed out), and is also surrounded by private property, so she understands their concerns. She added that discussions about those could certainly be had at a Mesa County Commissioners' Meeting.

Ms. Geiger stated that staff had met recently with the US. Forest Service and the BLM and they are not interested in Enoch's Lake because again, it is surrounded by private property and is expensive to maintain. She pointed out that the City of Fruita has been pursuing grant funds for the Reservoir #2 dam and other funding, but it is a multi-million dollar fix and so far, nothing has turned up and the City is still waiting to hear from another federal entity about that. Ms. Geiger stated that the City of Fruita has certainly not sat on its heels and not looked for solutions to try to find money to fix and maintain all the reservoirs.

Councilor Kreie noted that he has an environmental background; he went to school for environmental studies at Mesa State College (now Colorado Mesa University), so he also knows a little about the water business and understands that water rights are important. He went on to say that the characteristics of Enoch's Lake water rights were different and that they shouldn't be placed in that same category.

Ms. Geiger noted that along with being the City Attorney for Fruita, her specialty is being a Water Attorney. She said that Fruita is unique because it hasn't operated its own water system since 1983 and it would be legally impossible to get water to the City of Fruita using the pipeline at this point because there's no way the federal government will allow the City to cross through the Colorado

National Monument anymore and she didn't think the City would financially be able to handle that even if it was allowed.

Ms. Geiger continued that Enoch's Lake came into the City's Water Right Portfolio late in comparison to the water rights decreed to the pipeline and to Reservoirs #1, #2 and #3. It was originally decreed by the Beard Family for domestic irrigation and livestock watering, but not for municipal use. She said she could spend hours "getting in the weeds" on all of it, but basically, it wasn't part of that pipeline that used to serve the City and it actually wasn't constructed until the 1950s. The other reservoirs were constructed earlier in terms of information, history and tales of people going up and visiting Reservoirs #1, #2 and #3.

Ms. Geiger added that the Ute Water Conservancy District had the right of first refusal to purchase those water rights and that they are in the business of looking at water rights, valuing them and determining what is needed. When they looked at Enoch's Lake water rights, they said they were of no value to them because they couldn't get the water where they needed it to go and so in this instance, the water rights aren't of much value to them or the City of Fruita, except for recreational use. Ms. Geiger assured the people in the audience that she, staff and the Council do understand the value of the public use.

Councilor Kreie asked if the Enoch's Lake water rights are junior to other water rights that would be utilized if there came to be a terrible situation where water became scarce. Ms. Geiger explained that Colorado operates under the Prior Appropriation System, meaning first in time, first in right, so if there were to be a shortage, the senior water rights get to operate and take all the water to the detriment of junior water users. She said the Enoch's Lake water rights were not decreed until the late 1930s and not constructed until the 1950s, so they are very much so junior water rights. They are junior to the Colorado River Compact and pretty much a lot of things, so if there were a severe drought, Enoch's would be unable to fill.

Councilor Hancey said he appreciated everyone coming to the meeting and expressing themselves. He asked if Mesa County had been approached to see if they have an interest in taking over any of the mountain water properties.

City Manager Mike Bennett responded that Mesa County has not shown any interest in obtaining Enoch's Lake in any way. He explained that staff has reached out to Mesa County and the City of Grand Junction as well as entities such as the BLM, Ute Water, the U.S. Forest Service and Colorado Parks and Wildlife multiple times at least over the last 8 ½ years he has been in Fruita, but they have not shown interest in Enoch's Lake. Staff does, however, hope to have some upcoming conversations regarding Reservoirs #1, #2 and #3 with Mesa County because those are the ones that are tied to unincorporated Mesa County residents and the City of Fruita has had a long-running agreement with the Glade Park Pipeline Water Users Association (GPPWUA). Mr. Bennett stated that the City has not seen any interest in Enoch's Lake from any of those organizations he had just mentioned.

Councilor Hancey asked if staff had talked with any of them since receiving the offer from the property owner(s). Mr. Bennett responded staff had just asked those entities if they had any interest (whether it's the rights for the properties on the mountain water or interest in rights that the City has from the Colorado River).

Councilor Hancey said he appreciated the concern of those in the audience that felt like the City was doing something “behind closed doors” but that he wanted to convey that the discussions the Council and staff have had have been held through a legal process that has been established through the City Charter. He added that no “back-door deals” have been done; it was his understanding that the City received an offer and through the Charter, the City is allowed to entertain that offer without having to go through a bid process or an RFP process because the City is selling something and not trying to receive a service from someone, which does require a bid process. City Attorney Mary Elizabeth Geiger confirmed this to be correct.

Councilor Hancey also explained that the deal was not done. Ms. Geiger concurred, saying that there’s been an offer, but there has not been an acceptance and there is no signed contract.

Councilor Williams had to ask the audience members to allow the Council to deliberate on the matter because they were shouting statements from their seats in the room. He added that the Council understands that some audience members want to buy Enoch’s Lake and that the Council heard what they were saying.

Councilor Hancey asked why staff chose the individual they did to do the appraisal and what gives credence to his professional opinion that the value of Enoch’s Lake was only \$425,000. Ms. Geiger said she wanted to clarify to someone in the audience who made a comment earlier about the appraisal itself being withheld as being “contrary to public interest.” She said that actually, under the Open Records Act, appraisal documentation is not to be disclosed until after a deal has closed. The legislature wrote it that way and that’s why the document was not disclosed. Ms. Geiger continued that she contacted three or four appraisers in the valley to find somebody who would appraise water rights and that Arnie Butler’s office was the only one that would do it. She stated that in the appraisal, she thinks that some of the issues that were highlighted in Ms. Bullen’s presentation affected the appraised price such as Enoch’s Lake being surrounded by private property and the fact that there isn’t a lot of land around the lake itself. She said she was not an appraiser herself and that’s why she and staff hired an expert.

Councilor Hancey stated that as a municipality, Enoch’s Lake is not part of the City’s core services that the City offers even though the Council understands there is a recreational value in it. He asked which accesses (whether they are certain roads or trails) in particular would be cut off if the properties were sold. Ms. Geiger said she wouldn’t be able to answer that and that that would be a discussion and decision for the county since Enoch’s Lake is accessed by a public county road. She added that there would have to be a process if there was going to be any road closure and that it would not be up to the City of Fruita.

Councilor Purser pointed out that there was nothing within the proposed sale that would cut off or shut down a road.

Councilor Williams said he thought the audience members were talking about a trail access that is probably built around the property and is not an official road. Ms. Geiger said she didn’t know about that but she did know that there’s not a road that’s part of the proposed transaction. Councilor Williams called it a definite concern.

Councilor Hancey asked Mr. Bennett to provide an overview of why the City started off in Executive Session, which was when the Colorado Open Records Act (CORA) request came in and then it was determined to go to a public hearing after following the statutes with regard to the first and second readings of the Ordinances.

Mr. Bennett said that state statute allows municipalities to go into Executive Session for only a few purposes such as “for matters of negotiation” and “to receive legal advice” from the City Attorney. Ms. Geiger said that another reason is “for discussion of the potential sale of City property” and that staff does have to actually list in the public notice what property the City is talking about. She explained that just because there’s something in Executive Session, any action has to be taken in public (open) session, so people should still come to Council meetings because there could be something that has to be discussed after the Executive Session regarding that subject matter.

Mr. Bennett explained that in open session, the City Council directed staff to proceed with the process of selling the properties. He said the public had asked what the process was for the City to sell land and that this is the process; pursuant to the City Charter, conveyance of land has to be completed through an Ordinance process, which has two Readings. He added that there is a public notice that goes in the newspaper and on the City’s website. He also said that a First Reading of an Ordinance is simply to set the public hearing, which is where everyone was at right now.

Mayor Pro Tem Breman asked for verification that the City received an unsolicited offer for Enoch’s Lake. Mr. Bennett confirmed that the City received an offer and added that anybody can make offers at any point in time and then the Council determines whether to consider them or not, which has to be done through an Ordinance process in public hearings. The Council then has the opportunity to decide whether to convey the property or not in that setting.

Councilor Miller said the topic of this public hearing was very emotional for her; she is a fourth generation Fruita resident who spent a lot of time camping at Enoch’s Lake with her grandparents and cousins. She said they saw some of the reason for the camping restrictions in 2016 and that her brother was actually involved in a head-on collision with a very intoxicated man who was pulling his meth camper up to Enoch’s Lake. Councilor Miller assured everyone that this subject was not easy to talk or make a decision about and she didn’t want the audience members to think that the Council was not taking it seriously. She continued that she understands how other residents who have lived here for many generations feel and that she also took her kids to Enoch’s fishing and camping. Councilor Miller recalled how her Dad was very involved in discussions 30 years ago about what was going to happen with the mountain properties. She said she appreciated the passion that the audience members brought and hearing the stories that they shared.

Councilor Kreie asked what options the Council has at this point; could they decline an offer, look at other offers, put it out to bid? Ms. Geiger advised that the Council had the Second Reading of an Ordinance before them and they could either adopt the Ordinance, continue the Ordinance to a date certain (continue it) or not act on it at all, which results in the failure of the Ordinance.

Councilor Williams asked if there was anything stopping other people from putting in an offer if the Council did not adopt the Ordinance. Ms. Geiger confirmed that to be correct. She added that all offers to purchase real property (which includes water rights) have to be in writing.

Councilor Hancey asked if the original offer could be rescinded or left on table if the Council decided to table the matter. Ms. Geiger said she couldn't give the potential buyers advice, but if the Council were to continue the hearing, then the Ordinance is still active and available to be acted upon. She explained that to do this, the Council would move to continue the public hearing to the first meeting in September (for example) and then that means that the process is still open because a decision has not yet been made. Otherwise, if the Council just didn't act on the Ordinance, then it would die for lack of a motion.

Public Works Director Kimberly Bullen pointed out that in the purchase agreement, there was a provision that if the agreement is not executed by August 31st, then it becomes null and void. Ms. Geiger advised that the potential buyers would need to amend the agreement to extend the acceptance deadline, but that would be up to them.

Mayor Pro Tem Breman suggested that the Council meet sooner than August 31st.

Councilor Purser said she wanted to clarify that the amount still owed to Mr. Tipping was \$140,000. Mayor Pro Tem Breman confirmed that it was a total value of \$640,000 including the \$500,000. Councilor Purser thanked all the audience members for attending and said their words, thoughts and emotions mean something to the City Council. She said they are there to represent the citizens of Fruita and even those who are not from Fruita, that the Council hears them and understands the importance of history.

Councilor Purser asked Ms. Bullen to confirm that the City has spent over \$1 million for maintaining the mountain properties since 2004 and Ms. Bullen confirmed that Capital Projects costs to the City totaled over \$1 million not including staffing and maintenance expenses. Mr. Bennett noted that was for all mountain water properties and that numbers for Enoch's Lake alone were not available.

Councilor Hancey noted that the whole experience was over \$2 million in Capital Projects, labor and supplies since the mid-2000s to current for all the properties.

Ms. Bullen stated that the maintenance on Enoch's Lake has required staff over the years to go up there three times per week to haul trash out and restrooms were always a disaster. Staff actually had to take the City's vac truck up there (which is about \$.5 million piece of equipment that is used for the sewer system) to pump out the facilities and bring it back to the City of Fruita. There was concern about taking a vehicle that is not designed for that type of terrain there and in addition, a fully loaded vehicle is then traveling down the Colorado National Monument that could put City staff at risk.

Councilor Purser clarified that the City did not go pursue the sale of Enoch's Lake; it was an offer that just came to the City. She noted that previous Fruita City Councils and staff have talked about the issues of the mountain water properties for many years and that information is available to the public. Ms. Geiger noted that because the offer includes the purchase of water rights, pursuant to the agreement with Ute Water Conservation District, the offer had to be presented to the Ute Water board at a public meeting for them to decide whether or not to exercise their right of first refusal. She said in the event the City were to either table the Ordinance or let it not go forward and the City receives another offer, it will have to go back to Ute Water Conservancy District again as the right of first refusal would still be in effect.

Councilor Purser asked for confirmation that the irrigation water for Glade Park does not come from Enoch's Lake. Ms. Bullen confirmed that that was correct; the irrigation water for Glade Park comes from Reservoirs #1, #2 and #3, but #2 is not operable. Ms. Geiger added that it's basically the water rights that were for the original Fruita pipeline to the town. It actually wasn't until 1983 that the City of Fruita went to water court to specifically get the water right to create it for irrigation use by non-city residents.

Mayor Pro Tem reiterated his thanks to everyone who came to the meeting to speak and let their voices be heard. He urged them to understand that the City did not solicit the offer; it was received and is the Council's obligation to do full due diligence on any offer presented to them.

Councilor Purser noted for the record that the initial article in the Daily Sentinel went out about the offer and the appraisal was not included in the article for legal reasons. At a later date, the appraisal amount was released to the public and was included in Council minutes that are available to the public at any time.

Councilor Williams said he understands that it's a very heated topic, but that it's the job of the City Council to do what's best for our City, and realistically and financially, it hurts the City to have the mountain water properties. He continued that immediately after receiving the offer, the Council members had the same concerns the audience members had such as losing water rights and making sure the people in Glade Park have water. He said there was definitely not any nefarious, behind the scene actions on behalf of staff or the Council and people were even accusing the City of making money off the deal, which is just not the reality.

Councilor Williams continued that the Council's job is to look at what was presented to them and decide what is the smartest decision moving forward. He said that these water rights are not as valuable as someone might think because the City can't use them. He said he did like the idea of Glade Park taking some ownership on the maintenance if the City were to keep the properties and that should be a part of the conversation in the future.

Mayor Pro Tem Breman said he wanted to float the idea out to his fellow Council members of doing a continuance on the Enoch's Lake Ordinance to talk about concerns such as access issues and to allow time for other unsolicited offers.

Councilor Kreie reminded all there is the possibility of the City losing the offer it has. It could also receive an offer for less than the offer it has now. All Council members said they understood the risk.

Councilor Hancey stated that he'd rather see Enoch's Lake stay public and that he did have concerns with access. He agreed with Councilor Williams that he wanted the members of the audience to be given a chance to present ideas and help out. He added that the Council needed to do more due diligence and look at other options to keep the lake public.

Mayor Pro Tem Breman said he was more comfortable with continuing the Ordinance to a specific date so the City doesn't have to potentially start over.

Councilor Williams suggested continuing the Ordinance until the 5th Tuesday in August, or August 29th and for the regular meeting of August 15th, have an agenda item for the Glade Park community to approach the Council with their proposal unless some of them want to offer to buy the property in the meantime. Ms. Geiger advised that if anyone had a proposal for the Council, they should submit it ahead of time prior to the meeting.

Ms. Geiger pointed out that Enoch's Lake is a jurisdictional dam, which means it is regulated by the state and has to meet state standards through inspections that are completed every six years. She said it wasn't a high hazard dam, so there would be fewer requirements than the one at Reservoir #2, but it still is a dam and there was close to \$500,000 worth of repairs done pursuant to the agreement with Ron Tipping. She said she wanted people to understand that if they were considering making an offer to buy it, they would be getting a dam.

Councilor Kreie pointed out that the City has been trying to think of a creative approach. He said the landowners surrounding Enoch's Lake know it's a burden on the City and that the City has been talking for years and years about what to do with it. He added that the groups that could have taken the mountain water properties off the City's hands have known about them for years and the City just now got an offer. Councilor Kreie said he would hate to close off access to something that people have used historically and he would like more information about that, so he would be in favor of continuing the Ordinance to whatever date makes sense.

Mayor Pro Tem Breman said he wanted to manage expectations by letting people know that the City wants out of the obligation and liability of the mountain water properties and currently has a way to get there which is concrete and actionable.

Councilor Kreie thought maybe the City could talk to the potential buyers about maintaining public access. Ms. Geiger explained that if a road is a county road, then it requires county action to close it through a public process. She said currently, the City only controls a little connection to what may be a county road, and she didn't know what kind of trails were there, so staff could certainly get more information about that.

- **COUNCILOR HANCEY MOVED TO CONTINUE ORDINANCE 2023-07, SECOND READING – AN ORDINANCE AUTHORIZING THE CONVEYANCE OF WATER RIGHTS AND REAL PROPERTY OF THE CITY REFERRED TO AS ENOCH'S LAKE LOCATED ON PINON MESA TO A SPECIAL CITY COUNCIL MEETING ON AUGUST 29, 2023. COUNCILOR PURSER SECONDED THE MOTION. THE MOTION PASSED WITH SIX YES VOTES.**

The Council directed staff to gather more information about public access to Enoch's Lake.

Mayor Pro Tem Breman called for a five-minute break at 9:24 p.m. The meeting reconvened at 9:34 p.m.

- 2) **ORDINANCE 2023-08, SECOND READING – AN ORDINANCE AUTHORIZING THE CONVEYANCE OF REAL PROPERTY OF THE CITY REFERRED TO AS 2-ACRE PARCEL LOCATED ON PINON MESA –**

***PUBLIC WORKS DIRECTOR KIMBERLY BULLEN AND CITY ATTORNEY
MARY ELIZABETH GEIGER***

Mayor Pro Tem Breman confirmed that Public Works Director Kimberly Bullen had already given staff's presentation prior to Ordinance 2023-07 but had put the map of the mountain water properties on the overhead screen for reference for Ordinance 2023-08. He also noted that City Attorney Mary Elizabeth Geiger was present.

Mayor Pro Tem Breman opened the public hearing.

Jerry Martinez, 317 W. Ottley, Fruita, stated that the mountain water properties are so important to him and a lot of Fruita residents like himself who want to ensure access to the area for the public. He admitted that he really wasn't sure what the two other parcels are but added that what he had heard at this meeting was some audience members asking for the option to buy the mountain properties. Jerry requested that the Council consider accepting other offers.

Jerry also said that Fruita is different than it's ever been; it's richer, stronger, bigger and there are a lot of opportunities for a lot of people with great ideas. He continued that mountain area properties are being so sought after nationally and statewide and that everybody wants them. He stated that it was his opinion that the current offers the City has are just "totally out of whack."

Monique Ramirez, 3970 S. 16th ½ Road, Glade Park, said that she doesn't have a lot of information about the two parcels, asked why the City is interested in getting rid of them, and what they were costing the City. She asked why the properties couldn't remain recreational areas for the public and asked staff to "paint her a picture" of why it would be valuable for the City to get rid of the two properties. She added that to her, it just seems like it would only benefit the individuals that were making the offers. She asked staff and the Council to shed light on the matter.

Deb Moorland, 254 N. Mulberry St. #3, Fruita and former Glade Park resident, stated that the public was asleep at the wheel and that there are so many issues going on right now that it's hard it's hard to keep in touch with everything.

Deb stated that now that there's awareness, it would be nice to have some more time to look at other solutions and as a citizen of Fruita, she wants to be sure, although she could really see the logic and the business end of things why the City wants to get rid of the properties, but that it would be nice to have some extra time for public examination and to be sure that the appraisals are realistic in the present market. She requested again that the Council delay taking any action on the Ordinance.

Liberty Martinez, Pabor Street, Fruita, said she just wanted to put another voice out there and that she agrees that Ordinances 2023-08 and 2023-09 are just kind of following the same decision as Ordinance 2023-07 (Enoch's Lake) because she heard people voicing that they weren't getting the information that they needed online. She added that giving extra time and information (especially for the Glade Park area) are just really important.

Mayor Pro Tem Breman asked if there were any more public comments and hearing none, he closed the public hearing and referred the matter back to the City Council.

City Attorney Mary Elisabeth Geiger informed those left in the audience that people can sign up on the City's website or contact Deb to receive copies of the City Council packets when they are emailed out on Fridays. This is the way the City puts out the information as to what is going to happen at a Council meeting.

City Manager Mike Bennett added that he also puts out a Weekly Update every Friday that is sent to the City Council and is posted on the City's website at fruta.org and quite a few people are subscribed to that. He also explained that anyone can go on the website, click on City Council Meetings (or any of the City's boards and commissions meetings) and see all the agendas and minutes of meetings.

Mayor Pro Tem Breman asked for some clarification on where the two properties are on the map by having staff point them out. Public Works Director Kimberly Bullen pointed out the properties and named their owners.

Councilor Williams asked Ms. Bullen what the City is doing with the 2-acre parcel. Ms. Bullen responded that the City doesn't do anything with it. Councilor Miller asked if the property had any public use. City Attorney Mary Elisabeth Geiger said she didn't know that people can tell where the boundary line is as there's no signage and there are no water rights associated with it.

Councilor Kreie asked for confirmation that the City is still responsible for the property if there became an obnoxious weed infestation, wildfire or other emergency. He noted that someone had asked why the City wouldn't hold onto all the properties and the reason is because they are a liability to the City.

City Attorney Geiger noted that there is no public access to the 4.05-acre parcel (Ordinance 2023-09).

Councilor Kreie said he would be in favor of continuing all three Ordinances to the August 29th Special City Council meeting.

Councilor Miller asked if the acceptance deadline for the 2-acre parcel was also August 31st, and City Attorney Mary Elisabeth Geiger confirmed that it was.

Councilor Purser said she was curious if there had been any communication to Glade Park residents from the City of Fruita. Mr. Bennett explained that the City has an agreement with the Glade Park Pipeline Water Users (GPPWUA), which relates to the water coming from Reservoirs #1, #2 and #3 and it serves about 55 residences for irrigation water. In 2017, the City of Fruita invited the GPPWUA to an Open House for the purpose of having staff report that the City is really trying to find solutions. The majority of the people who attended that Open House were from Glade Park and the event led to improving the agreement whereby GPPWUA will do more maintenance on the line (but not the dams) that serves the water.

Councilor Purser stated that she recognizes that it is way out of the City's scope and not an obligation, but that Fruita should be good neighbors to Glade Park residents. She added that she was also in favor of continuing the Ordinance under the premise of letting Glade Park residents be more

informed and said that she felt somewhat responsible for getting the information to the people in the area. She called it “going above and beyond” and said it was just a thought.

- **COUNCILOR KREIE MOVED TO CONTINUE ORDINANCE 2023-08, SECOND READING – AN ORDINANCE AUTHORIZING THE CONVEYANCE OF REAL PROPERTY OF THE CITY REFERRED TO AS 2-ACRE PARCEL LOCATED ON PINON MESA TO A SPECIAL CITY COUNCIL MEETING ON AUGUST 29, 2023. COUNCILOR MILLER SECONDED THE MOTION. THE MOTION PASSED WITH SIX YES VOTES.**

3) ORDINANCE 2023-09, SECOND READING – AN ORDINANCE AUTHORIZING THE CONVEYANCE OF REAL PROPERTY OF THE CITY REFERRED TO AS 4.05-ACRE PARCEL LOCATED ON PINON MESA

Mayor Pro Tem Breman reiterated that Public Works Director Kimberly Bullen and City Attorney Mary Elizabeth Geiger had already given staff’s presentation prior to Ordinance 2023-07 but had the map of the mountain water properties on the overhead screen for reference for Ordinance 2023-09.

Mayor Pro Tem Breman opened the public hearing.

Jerry Martinez, 317 W. Ottley, Fruita, said his comments were the same as they were for the two previous Ordinances and because this was one of the premiere hunting grounds in all of Colorado for which people pay \$10,000 to \$30,000 to go up and hunt one elk. He said if someone owned any of the three pieces of property on Pinon Mesa, they would have that entitlement and he believes that would then require a much more substantial offer than what the City received.

Monique Ramirez, 3970 S. 16 ½ Rd, Glade Park, requested a motion to continue the public hearing so Glade Park residents can see what type of an effect the sale would have collectively. She added that the City doesn’t know for sure how to access the 4.05-acre parcel and then recalled that the City Attorney stated there was no public access. She said it would be interesting for someone to find out what type of an impact it would actually have to Glade Park residents as well as the rest of Mesa County.

Deb Moorland, 254 N. Mulberry St. #3, Fruita, also requested that the Council continue this Ordinance along with the previous two Ordinances because it might be less complicated that way.

Hearing no further public comments, Mayor Pro Tem Breman closed the public hearing and referred the matter to the City Council.

Councilor Hancey noted that this property is completely surrounded with property owned by the person that was proposing to buy it. He asked what access there was to the property and City Attorney Geiger said it was “zero” and added that there were no water rights associated with it. She noted that the property surrounding this property is owned by the Collins family and was not one of the parties that has made an offer on Enoch’s Lake. She added that she has not done any title work on his property to find out how the City’s property came to be.

Councilor Hancey said because this property has zero access, he was more inclined to approve the Ordinance.

Ms. Geiger said the only thing she could figure concerning access was potentially that at the time it was conveyed to the City, the county road was in a different location.

Councilor Purser said she felt that the majority of the concerns from people was losing access that they currently have, but that is not the case with this property.

Councilor Kreie asked if there had been an appraisal done on this parcel and Ms. Geiger said there had not.

Councilor Kreie said he would still be in favor of continuing the Ordinance along with the other two.

- **COUNCILOR HARVEY MOVED TO APPROVE ORDINANCE 2023-09, SECOND READING – AN ORDINANCE AUTHORIZING THE CONVEYANCE OF REAL PROPERTY OF THE CITY REFERRED TO AS 4.05-ACRE PARCEL LOCATED ON PINON MESA. THE MOTION DIED FOR LACK OF A SECOND.**

Councilor Miller pointed out that there were a lot of comments about how people didn't have the opportunity to submit offers to the City of Fruita.

- **COUNCILOR KREIE MOVED TO CONTINUE ORDINANCE 2023-09, SECOND READING – AN ORDINANCE AUTHORIZING THE CONVEYANCE OF REAL PROPERTY OF THE CITY REFERRED TO AS 4.05-ACRE PARCEL LOCATED ON PINON MESA UNTIL THE SPECIAL MEETING OF AUGUST 29, 2023. COUNCILOR MILLER SECONDED THE MOTION. THE MOTION FAILED TWO TO FOUR WITH COUNCILORS HANCEY, PURSER, WILLIAMS AND BREMAN VOTING NO.**
- **COUNCILOR KREIE MOVED TO APPROVE ORDINANCE 2023-09, SECOND READING – AN ORDINANCE AUTHORIZING THE CONVEYANCE OF REAL PROPERTY OF THE CITY REFERRED TO AS 4.05-ACRE PARCEL LOCATED ON PINON MESA UNTIL THE SPECIAL MEETING OF AUGUST 29, 2023. COUNCILOR MILLER SECONDED THE MOTION. THE MOTION FAILED TWO TO FOUR WITH COUNCILORS HANCEY, PURSER, WILLIAMS AND BREMAN VOTING NO.**

Councilor Purser asked for reasons from Councilors Kreie and Miller as to why they wanted to continue the Ordinance. Councilor Kreie stated that the property is landlocked, so it's worth something only to the person that can access it or there is a way that people can get access to it and it's more valuable to them. He continued that it just seemed to him that it would be "cleaner" if the Council dealt with the three Ordinances all together.

Councilor Purser asked if the information Councilor Kreie was looking for was the access to the property. Councilor Kreie said he didn't necessarily need the access information. Councilor Miller said she thought Councilor Kreie was keeping opportunities open for the group of people, some of whom said they would make an offer. Councilor Miller said she knows how hard it is to get easements to properties and thinks selling it to the Collins' made sense, but, in the spirit of the conversations that the Council had just been having, she was having a hard time changing her mind on this one.

Councilor Hancey said he thought it was very clear; it is landlocked with no access, so it definitely falls into a different "bucket" than the prior two Ordinances. He added that it would be nice to get one of the Ordinances dealt with.

Councilor Williams pointed out that the buyers were not the same people as the other two Ordinances.

Councilor Purser added that the item was on the agenda, was clear and people that were in the audience had the option to stay, but didn't, so she didn't think there was the same, abundant passion and cry out as there was with the Enoch's Lake Ordinance.

Councilor Kreie supposed that by approving this Ordinance, it would sort of let people know that the City intends to get out of the "business" of owning and maintaining the mountain water properties.

- **COUNCILOR HANCEY MOVED TO APPROVE ORDINANCE 2023-09, SECOND READING – AN ORDINANCE AUTHORIZING THE CONVEYANCE OF REAL PROPERTY OF THE CITY REFERRED TO AS 4.05-ACRE PARCEL LOCATED ON PINON MESA. COUNCILOR PURSER SECONDED THE MOTION. THE MOTION PASSED WITH SIX YES VOTES.**

4) ORDINANCE 2023-06, SECOND READING – AN ORDINANCE AMENDING CERTAIN SECTION OF CHAPTER 17.47 OF THE FRUITA LAND USE CODE CONCERNING IMPACT FEES – *PLANNING AND DEVELOPMENT* DIRECTOR DAN CARIS

Planning and Development Director Dan Caris gave staff's presentation. He explained that the Council had seen this Ordinance previously as it was presented on First Reading at the June 6, 2023 Council meeting and subsequently, there has been somewhat of a lengthy public process where there have been opportunities for people to participate, but more specifically, staff had sort of "vetted" the Ordinance with the development community at a number of different meetings. He stated that his plan was to present this Ordinance in the same presentation as the next Ordinance on the agenda: Ordinance 2023-11 – Second Reading – Amending certain sections of the Fruita Land Use Code regarding the Subdivision Review process.

Mr. Caris described how Ordinance 2023-06 concerning Impact Fees takes into consideration the timing of the payment of the Impact Fees. He noted that the draft of the First Reading of the Ordinance was discussed at the April 25, 2023 Council Workshop Meeting, during which a number of different redlines were examined such as the inflationary indexes for both the Parks, Health,

Recreation, Open Space and Trails (PHROST) Impact Fee and the Transportation Impact Fee. He recalled that on June 1st, he and other staff members attended the Associated Members of Growth and Development (AMGD) meeting and presented these changes for the timing of payment to:

- Residential – due at Planning Clearance approval for a building permit
- Commercial – due at Certificate of Occupancy (CO)
- Accessory Dwelling Units (ADUs) excluded from Impact Fees

For the PHROST Impact Fee, the fee is currently \$1,860. A TischlerBise Study contemplated the single-family going from \$1,860 to \$3,179 and for multi-family, going to \$2,154. Mr. Caris explained that the way that it works is that if approved, the Ordinance would codify what the base rates are, but a Resolution would also be put before the Council at the August 1, 2023 Council meeting to set the fee schedule. He said that is important because everyone had discussed phasing the residential fee, which would “go live” in 30 days if this Ordinance were approved by Council and again during the Budget cycle, the fees would be set to the rate of \$3,179 that was before the Council.

Mr. Caris continued that it was important to note that presently in the Land Use Code, the TischlerBise Study contemplates parkland and improvements and excludes some other things that were mentioned in the previous fee schedule, which were open space and trail connectivity. There is existing language in the Code that for Fruita’s regional trails (Big Salt Wash, Little Salt Wash and Adobe Creek), the City would still credit against the Impact Fees since those are connecting to those regional sources and things that are contemplated in the TischlerBise Study.

Mr. Caris said the changes included in Ordinance 2023-06 will mean that in order to get amenities constructed separately, they would be constructed if a subdivision has frontage that is coming before the City Council.

Mr. Caris stated that staff used the *Engineering News* record as the inflationary index and a slightly different index for the Transportation Impact Fees (the Colorado Department of Transportation (CDOT) Index). He said staff was proposing to codify a ten-year rolling average for the Transportation Impact Fee, which was raised from \$6,763 at the beginning of this year to \$8,335 currently. Mr. Caris said in 30 days, the fee will retroactively contemplate both the inflationary indexes that were experienced with the start of 2023 and the previous nine years. He added that that number will change; it will go down.

Mr. Caris noted that the Planning Commission recommended approval of the proposed Ordinance to the City Council at their June 13, 2023 meeting because they thought it makes good sense for the development community as far as consistency is concerned. He provided staff’s suggested motion, but noted he was going to present the Ordinance concerning the Subdivision Review process first and then the Council could open public hearings for each of them separately.

**5) ORDINANCE 2023-11, SECOND READING – AN ORDINANCE AMENDING CERTAIN SECTIONS OF THE FRUITA LAND USE CODE REGARDING THE SUBDIVISION REVIEW PROCESS - PLANNING AND DEVELOPMENT
DIRECTOR DAN CARIS**

Planning and Development Director Dan Caris provided staff’s presentation. He noted that this Ordinance contained changes for the Land Use Code Chapters:

- Chapter 21 – Subdivisions
- Chapter 7 - Standard Review Procedures and
- Chapter 9 – Specific Review Procedures.

Mr. Caris noted that there are no changes to the review criteria for subdivision applications. He said that the City Council discussed these Code amendments at the City Council workshop meeting of April 25, 2023 and the First Reading of the Ordinance was at the June 20, 2023 regular Council meeting. He said it was important to note that staff did not present the Ordinance at the regular Council meeting; that was only for the Impact Fees Ordinance. In addition, staff took the proposed amendments to the June 1, 2023 AMGD meeting, where it was widely supported because it will accelerate the length of time that applications are processed by the City.

Mr. Caris stated that right now, a “Minor Subdivision” is 10 or fewer lots and a “Major Subdivision” is 11 + lots. The Minor Subdivision considers Consolidation Plats and Condo Plats of no more than three lots and the Minor Subdivision process would essentially be eliminated so staff would just create a subdivision process that would not have any limitations on the number of lots that would be able to go through that process. He added that the review procedures would be similar for the Minor Subdivision today but the public hearing process would not be the test for those applications that would have over 10 lots.

Mr. Caris outlined the Standard Review Procedures (that are spelled out in Ordinance 2023-11) as follows:

- Pre-Application/Consultation process
- Summary of Procedures
- Legal Noticing standards
- Neighborhood meeting

Mr. Caris outlined the Specific Review Procedures as follows:

- Density Bonus Section
 - Changes allow Community Development Director to approve, deny or approve with conditions.
 - Planned Unit Developments would still need Planning Commission and City Council review and approval.
 - No changes to approval criteria

Mr. Caris noted that at the Planning Commission meeting of June 13, 2023, there was a fruitful discussion that mirrors what happened when staff went through the whole Land Use Code update and there was a provision at that time (because staff was pursuing going Administrative for Major Subdivisions) that there would be a “call-up” option, which would grant the Community Development Director the opportunity to say when there is a lot of public comment received with a particular application or there are a lot of nuances that Planning staff would feel would add a lot of value if staff inserted some public process into it. This would totally be at the discretion of the

Community Development Director to “call it up,” but it would set forth the review procedures that would then go to the Planning Commission and City Council.

Mr. Caris said he thought this was an ingenious idea because it allows for the ability to not force appeals if there were to be a lot of consternation concerning a subdivision application. It would be sort of an intermediate step where it would get “called-up” to the City Council. He

At their meeting of June 13, 2023, the Fruita Planning Commission recommended approval of Ordinance 2023-11 to the City Council with additional recommendations of utilizing a call-up process for subdivisions and additional neighborhood meetings as necessary.

Mayor Pro Tem opened the public hearing.

Jerry Martinez, 317 W. Ottley, Fruita, said that currently, there is a debate on which Elementary Schools the District is going to keep open and the reason why is that small families cannot continue to afford all the extra fees and charges. He said if the City raises rates for homeowners in Fruita, there will only be a very, very elite group of people living in Fruita and the City will lose its diversity.

Jerry continued that if the City doesn’t try to stabilize some of its fees to come into alignment with other places in the valley, there won’t be a Fruita later on; it will turn into a bunch of Airbnbs. He said his wife is a teacher and the City just got done spending a ton of money building an extra Elementary School and now they are talking about taking one away. He asked if the Community Development Director is an elected position versus being appointed, whether that person knows what’s going on and whether they are local. Jerry stated that Fruita is going to be approving a lot of small subdivisions and if there’s not some kind of oversight, even on the ones that are less than 11, it seems like Fruita is losing a lot of what the community really wants to see as far as how Fruita grows and continues to grow in the future.

Hearing no further public comments, Mayor Pro Tem Breman closed the public hearing and brought the matter back to Council. Mr. Bennett reminded the Council that they needed to act on each of the two previous agenda items separately. Mayor Pro Tem Breman requested that the Council have discussion concerning the Impact Fees first.

Councilor Miller explained for the audience’s sake that she is a realtor and that she has conversations about affordable and attainable housing and hears the needs of Fruita’s residents specifically because Fruita is her pride and joy. She further explained that the Impact Fees Ordinance lowers the cost in some ways for developers because they can get started building houses faster, puts development on a more predictable schedule and allows them to plan for things better than the City’s previous structure. Councilor Miller said this is why she is in support of the Ordinance.

Councilor Williams asked if developers could come to the City and ask for waiver of Impact Fees in lieu of specific things. Mr. Caris responded in the affirmative, saying that if a project is an affordable housing development, statutorily, the City doesn’t have to backfill with any revenue credits, but the Council still has the authority to waive Impact Fees; they just have to backfill the dollar amount with the revenue credit from the General Fund. He added that that would come to the Council in the form of an exception.

Mayor Pro Tem Breman asked for confirmation that because the City will be shortening the timeframe, it would ultimately lower carrying costs. Mr. Caris confirmed this to be true and added that it's part of the momentum around the concept of taking zoning authority serious and allowing developers to have a quicker procedural process, which will lower the cost for the interest on development loans.

City Manager Mike Bennett pointed out for the audience's sake and for the record that currently, when subdivisions come to City Council, if developers meet the Code, the City cannot deny the application without having any basis to do so. He said the Council must rely on professional staff to make sure that those applications meet the Code (or not). Staff cannot approve any application that doesn't meet the Code and if an exception is being requested by a developer, that request has to come before the City Council.

Mr. Bennett also explained that Impact Fees are not fees to residents of Fruita but rather fees to developers per household being built because of the impact of development to parks, recreation and streets. The City then takes those Impact Fees to help (for example) widen roads that lead into a subdivision. He conceded that any increase in cost also impacts the end user and Councilor Miller agreed that developers definitely build it into the cost.

Councilor Kreie added that the City Council has a lot of the same motivations as Mr. Martinez; wanting their kids to be able to live in Fruita and other people to be able to afford it as well, and the Ordinance would actually make it easier to get more housing inventory out there, which will be one part of making houses more affordable. He said that making a development pay for its impacts is how municipalities everywhere do it and adopting the Ordinance will help developers be more flexible and nimble in how they build.

Councilor Hancey asked if TischlerBise supported a higher fee than \$3,179 for the PHROST Impact Fee for single-family homes. Mr. Caris responded that they did. Mr. Bennett explained that in one of TischlerBise's original drafts, they based the fee on the impact cost for certain things such as parks and recreation, trails and open space and in addition, they had impacts that were beyond regional impacts, so staff performed some analysis to determine what the City of Fruita uses those fees for and removed those items for which the City does not use the fees. He said the first numbers were just a draft and the only recommendation was the one of \$3,179 that was now before the Council.

Councilor Hancey said the reason he brought it up was because the City hired TischlerBise was because he wanted to make the point that the PHROST Impact Fee of \$1,860 had been in place since 2008/2009, but now it is going to be set to a new standard that will ride appropriately with economic conditions. Mayor Pro Tem Breman added that it provides predictability.

Planning and Development Director Dan Caris pointed out that while the PHROST Impact Fees are going up, the Transportation Impact Fees are going down and that both will have indexes to cover inflation.

Councilor Miller emphasized that there were a lot of conversations with the development community and the stakeholders that are going to be most impacted by the changes and she really appreciated how Mr. Bennett and Mr. Caris were available for those conversations. She added that the valley has a very active and vocal group of developers and that they had a voice in the changes.

4) COUNCILOR MILLER MOVED TO ADOPT ORDINANCE 2023-06, SECOND READING – AN ORDINANCE AMENDING CERTAIN SECTION OF CHAPTER 17.47 OF THE FRUITA LAND USE CODE CONCERNING IMPACT FEES. COUNCILOR PURSER SECONDED THE MOTION. THE MOTION PASSED WITH SIX YES VOTES.

Mayor Pro Tem Breman noted that the Council had already received staff's presentation of Ordinance 2023-11 concerning amending the Land Use Code concerning the subdivision review process. He opened the public hearing. Hearing none, he referred the matter to the City Council.

Councilor Kreie recalled that there had been a question earlier from an audience member about the Community Development Director position and whether it was an elected or appointed/hired position. He clarified that the City Manager hires all Department Director positions for the City of Fruita (with the Council's approval) pursuant to the City Charter, including the Planning and Development Director. The Directors report to City Manager Mike Bennett, who reports to the City Council and Mayor.

Councilor Kreie continued that he likes predictability for developers. He recalled that when he was running for Council, he heard complaints that Fruita was harder to build in than other places. He called Ordinance 2023-11 an experiment that the Council is putting forward and said if it is successful, good, and if the Council sees problems, he feels that the Council will be able to again amend the Land Use Code with another Ordinance.

Councilor Miller agreed, saying that the Council still has some built-in oversight with the call-up provision. She said she also loves being able to give builders predictability and saving them up to three months of time during the review process, which can be very expensive for them. She concluded that she was in favor of approving the Ordinance.

Councilor Hancey asked Mr. Caris if he anticipates saving three months of time for the review process. Mr. Caris said the best comparison would be Site Plan applications that are already administratively approved. He said they seem to come in very complete because they know the review criteria and can work with staff through the issues rather than having a reluctance or fear of going through the public hearing process. He said he thought 90 days was pretty accurate for the amount of time that will be saved.

Councilor Hancey asked how staff has looked at how it impacts the Planning Commission since they would only be looking at Planned Unit Developments and call-ups. Mr. Caris said they will also have annexations and zoning, Conditional Use Permits and Land Use Code amendments. Councilor Hancey asked if the Planning Commission will still need to meet monthly and Mr. Bennett said they will still meet monthly.

Mr. Caris noted that staff made a commitment to provide the Planning Commission with a list of all development applications for the first six months or so regardless of whether or not they will go to a public hearing to make sure they are aware of projects happening in the City.

- **COUNCILOR PURSER MOVED TO ADOPT ORDINANCE 2023-11, SECOND READING – AN ORDINANCE AMENDING CERTAIN SECTIONS OF THE FRUITA LAND USE CODE REGARDING THE SUBDIVISION REVIEW PROCESS. COUNCILOR HANCEY SECONDED THE MOTION. THE MOTION PASSED WITH SIX YES VOTES.**

6) RESOLUTION 2023-23 – PUBLIC HEARING – AMENDING THE 2023 BUDGET WITH SUPPLEMENTAL APPROPRIATIONS OF FUNDS FOR THE PURCHASE OF REAL PROPERTY NEAR THE FRUITA LAGOONS - DAN CARIS, PLANNING AND DEVELOPMENT DIRECTOR AND SHANNON VASSEN, ASSISTANT CITY MANAGER

Planning and Development Director Dan Caris stated that at the June 20, 2023 City Council meeting, the City Council approved a Memorandum of Understanding (MOU) with 2 Forks Ventures for development of lagoon property and surrounding property. He noted that 2 Forks Ventures representatives were in attendance in the audience.

Mr. Caris explained that the Budget Amendment before the Council included the use of \$450,000 of Fund Balance for the purchase of property near the old Fruita lagoons and \$75,000 of Fund Balance to complete the due diligence and environmental assessments related to the property and the old Fruita lagoons. The property consists of four parcels that surround the lagoon property and make approximately 40 acres contiguous with one another. They are owned by the following three entities with the following ownership interests:

60%	Mesa County
30%	The City of Fruita
10%	The One Riverfront Foundation

Mr. Caris advised that the appraised value of the real estate is \$450,000. The City of Fruita is going to pay itself back at closing and there is a possibility that the One Riverfront Foundation will be a partner with the City going forward. Mr. Caris said there is likely going to be the desire to keep that money for the City's efforts to develop the riverfront in that location and then the City of Fruita will essentially be buying Mesa County's 60% ownership interest through a subsequent and separate agreement. He added that the \$75,000 will be set aside to go toward the work associated with the due diligence that will live with the property in perpetuity. The City of Fruita will also enter into a partnership agreement with developer 2 Forks Ventures in order to make sure development is feasible and a lengthy public process will follow.

City Manager Mike Bennett added for the record that the land was originally purchased by the three entities for the purpose of building the Little Salt Wash Trail and Mesa County currently owns it in fee, so they actually hold title and to resolve the title, the City of Fruita has to have the full amount of \$450,000. It will be broken down so that Fruita is only paying 70% of that amount including the One Riverfront Foundation's 10%; however, the One Riverfront Foundation is currently working the City's realtor because the One Riverfront is contemplating not receiving their interest and instead putting it back into the project, which will help them avoid any tax implications. Mr. Bennett explained that the City of Fruita will not be out the full \$450,000 because although Mesa County has the property in fee, Fruita has a Memorandum of Understanding that shows how it is broken down. It

has been anticipated that the City of Fruita would eventually purchase the property because the City has the zoning regulation of it and owns 25 acres adjacent to it, which is the only way to access it. Mr. Bennett noted that the City has willing partners in Mesa County and the One Riverfront so the City can move forward. He added that there has been extensive public participation in the project through the Comprehensive Plan process that took place in 2019 and even prior to that when the City did the Lagoon Concept Plan in 2016.

2 Forks Ventures President Gavin Brooke introduced himself and Operations and Project Manager, Sarah Wood. He presented each of their backgrounds and said that what brought him to Fruita was doing the FARM building project in downtown Fruita and added that he and Sarah are totally excited about this new opportunity for development of the old lagoons property.

Mr. Brooke noted that at FARM, there is only vacant space in the southeast corner and there is a waiting list for the studios. The building was originally 13,200 square feet, but some square footage was added so that now it is 15,800 square feet. Currently, there are 18 art studios and 5 retail spaces and between 30 and 35 people work out of FARM.

Mr. Brooke explained that FARM builds on a history of revitalizing vacant or underused warehouses. He spoke about his firm's successes via entering into public/private partnerships. He shared photos of other developments and their related information that 2 Forks has completed in other locations such as Carbondale, Lake Tahoe and the Roaring Fork Valley.

Mr. Brooke referred to the due diligence budget that 2 Forks Ventures completed and was included in the Council packet. He explained that a feasibility study would be the first step and following that, he would put together a proposal for the property that will meet the City of Fruita's goals, public improvements that the City has previously contemplated, other public improvements and private development that might subsidize and/or pay for those improvements.

Mayor Pro Tem Breman opened the public hearing on Resolution 2023-23.

Liberty Martinez, Pabor Street, Fruita, asked if this agenda item had already been passed or if this was the first time the public was hearing about it and where the City is with the entire process. Mr. Bennett responded that the City of Fruita is already in a partnership with 2 Forks Ventures and this agenda item was a Budget Amendment to cover the costs of the reason for the partnership such as the due diligence studies that need to be done prior to developing City-owned property. He added that the community has provided much input in the past for open space, river access, commercial, multi-family residential and a mixture of all of those. He said part of the due diligence is to determine what can be developed and where, but also noted there is a lot that still needs to be done.

Ms. Martinez said that for ten years, she has been following a group of bald eagles that actually live in that area by the wake park and they go all the way across the river towards the McInnes Canyon area and she hopes the City will keep the area as natural as possible.

Jerry Martinez, 317 W. Ottley, Fruita, recalled how earlier, everyone was talking about how a developer has to pay all these extra fees and asked why the City was taking on some of those costs for development. Mr. Bennett explained that the City is the owner of this development and earlier, the discussion was about developers who are developing property they own.

Hearing no further comments from the public, Mayor Pro Tem Breman closed the public hearing and brought the matter back to the City Council.

Councilor Kreie made the comment that public/private partnerships are an awesome tool to get a really unique project completed and the City of Fruita has had that hope for the lagoon properties for several years. He said he thinks the City has great partners now and is very excited about this property, which he's been talking about since long before he even got on the City Council.

Councilor Miller said she is also excited and has talked about this particular piece of property in the past. She added that she loves what 2 Forks has done with FARM and she wishes there were more spaces because she knows people who are dying to get in there.

Councilor Purser echoed the previous comments and said she cannot wait.

Councilor Williams said he was impressed with 2 Forks presentation and what they've done with previous projects, so he can't wait to see what they come up with.

- **COUNCILOR KREIE MOVED TO ADOPT RESOLUTION 2023-23 – AMENDING THE 2023 BUDGET TO APPROPRIATE FUNDS IN THE GENERAL FUND FOR THE PURCHASE OF REAL PROPERTY NEAR THE FRUITA LAGOONS. COUNCILOR PURSER SECONDED THE MOTION. THE MOTION PASSED WITH SIX YES VOTES.**

8. ADMINISTRATIVE AGENDA

A. RESOLUTION 2023-20 – A RESOLUTION OF THE FRUITA CITY COUNCIL AMENDING THE FUTURE LAND USE MAP REGARDING THE DOWNTOWN MIXED-USE AREA – CITY PLANNER HENRY HEMPHILL

City Planner Henry Hemphill explained that this Resolution was for proposed amendments to the City's Future Land Use Map (FLUM) concerning the Downtown Mixed Use (DMU) zone. The proposed amendments will expand Fruita's downtown core to the north to include the Fruita Community Center/Family Health West Hospital and extends south towards Highway 6 & 50 to include Reed Park. The application to amend the FLUM does not automatically rezone any properties; it just simply allows and acknowledges that the City's DMU area, in accordance with the Master Plan, has been modified to include some business opportunities in the future.

Mr. Hemphill noted that this agenda item went to a City Council Workshop Meeting on April 25, 2023 and staff received direction from the Council to move forward with the amendments to include certain areas of the City of Fruita that staff sees has great opportunities for not only beautification, but also redevelopment areas to include residential and commercial mixed use.

The Planning Commission heard this application at their meeting of June 13, 2023 and the FLUM amendments were also proposed at the Associated Members of Growth and Development (AMGD) meeting of June 1, 2023.

Mr. Hemphill provided the illustrations of both Fruita's current Land Use Map and the FLUM if the amendments were to be approved and explained where the differences are. Any property within these new areas entering a petition for a rezone will still have to meet certain review criteria in the Land Use Code.

The Planning Commission recommended approval of the proposed amendments to the FLUM only regarding the DMU core. Mr. Hemphill reiterated that the amendments do not change any of the zoning and that rezone applications will still follow the normal process of legal notices to the public, neighborhood meetings and public hearings in front of both the Fruita Planning Commission and City Council.

Mr. Hemphill gave staff's recommendation of approval of Resolution 2023-20. Councilor Miller commented that the Resolution makes sense because Fruita has the shortest two-block downtown in America. She continued that small businesses want to come to downtown and currently, they really don't have anywhere to do that. She added that she loves seeing businesses like Chesnick Realty because they help maintain the Fruita "feel." Councilor Miller also stated that she is in favor of property owners having more of a voice in what they want to do with their property.

- **COUNCILOR HANCEY MOVED TO ADOPT RESOLUTION 2023-20 – A RESOLUTION AMENDING THE FUTURE LAND USE MAP REGARDING THE DOWNTOWN MIXED-USE AREA. COUNCILOR MILLER SECONDED THE MOTION. THE MOTION PASSED WITH SIX YES VOTES.**

9. CITY MANAGER'S REPORT

City Manager Mike Bennett requested direction from the Council to clarify what expectations of staff that City Council has between now and the Special Meeting of August 29th for the continuance of the public hearings on Ordinances 2023-07 and 2023-08 (conveyance of Enoch's Lake property and a two-acre parcel on Pinon Mesa) aside from staff completing due diligence on public access to the properties and making sure to convey those results to the Glade Park Pipeline Water Users Association (GPPWUA) and the continuance of the public hearings.

Councilor Miller asked for more clarification regarding the comment made by one of the speakers during the public hearing regarding how the GPPWUA makes decisions. Specifically, she mentioned that the person who spoke said that only one person made a decision and asked that staff follow up on it. Mike confirmed that staff would.

Councilor Williams requested that Mike keep the Council updated if he hears anything in the meantime.

Mayor Pro Tem Breman asked to add the continued public hearings as a discussion item at the July workshop.

Councilor Hancey wondered if the City should issue a Press Release or social media post to communicate what happened at this Council meeting and what the next steps are. Mayor Pro Tem Breman asked if it should be included in the Friday Weekly Information Update. Councilor Miller

suggested adding it to the Mountain Water Properties link on the City's website because many have been doing a pretty good job of sharing and promoting the link, where everything is in one place and clearly outlined. Mike noted that the article that originated the webpage went to every resident in the City Link newsletter and staff has been sharing it through the City's social media posts, so it has been a running record for quite some time now. He added that staff will keep that up, of course.

Jeannine wondered if anyone else on the Council felt the same way as she about communicating with the Glade Park residents in some way since the Council's decisions will affect them in addition to Fruita residents. Mike said staff has been fielding calls from Glade Park residents over the last two to three weeks, so word has spread pretty fast. He added that it's not that staff doesn't care, but they don't have a way of contacting every Glade Park resident. He said staff will now have some addresses from those that spoke at this meeting (in addition to contacting the GPPWUA) and can certainly look for other ways to communicate.

Mike clarified with Council and they agreed that the next steps for staff were to:

- Follow-up on access and road/trail questions asked about Enoch's Lake
- Follow-up on GPPWUA decision making
- Keep the Council updated on any new information
- Strive to communicate with Glade Park residents and other interested parties regarding the August 29, 2023 Special City Council meeting

10. COUNCIL REPORTS AND ACTIONS

A. TABOR CITIZEN REVIEW COMMITTEE – APPOINTMENT OF APPLICANTS TO THE TABOR CITIZEN REVIEW COMMITTEE

Mayor Pro Tem Breman noted that staff had received some applications for appointment to the TABOR Review Committee and that it was his understanding that in the past, the Mayor and a Council member have volunteered to read through the applications and conduct interviews, followed by coming back to City Council with recommendations. He asked if any of the Council members would volunteer to help Mayor Kincaid with that process and Councilor Miller said she would be happy to participate in that. Mike said the Deputy City Clerk could contact the applicants to schedule the interviews prior to the Council's next discussion concerning the committee on August 1, 2023. The Council directed staff to extend the application deadline and continue soliciting applications, since only five have been received.

B. COUNCIL REPORTS AND ACTIONS

COUNCILOR JAMES WILLIAMS

James stated that at the Colorado Municipal League (CML) Conference, he talked to the owner of a company that does playgrounds and dog parks that gave him some information that he said he would give to Mike to pass on to Fruita's Parks and Recreation Director, Marc Mancuso.

Matthew asked if the Council would have time to discuss the CML Conference at the July workshop meeting. Mike ran through the scheduled agenda items for that meeting. He said the big discussion

would be the City Charter review discussion, on which the Council had said they wanted to devote the majority of their time. He noted that staff would add the follow-up discussion about Enoch's Lake and a CML Conference discussion.

James reported that in the City of Minturn, there is a really cool little amphitheater called "The Little Beach Amphitheater" and that he and Ken had brought this up to Mike in passing because the City is currently looking at the lagoons property. He added that he would at some point love to discuss it further with the rest of the Council if staff could look at what it took to make that amphitheater happen because it's pretty phenomenal. James played there on the Fourth of July to about 800 people and said it was a really cool, easily built place right on the river, which is why he was thinking about the lagoons property.

COUNCILOR KEN KREIE

Ken reported that his meetings are forthcoming. He did mention that he was really bummed about the Inclusivity Proclamation because he had communicated a date and staff set a different date, so he missed it, but the positive side was that the people who asked for the City to issue it again wants the Council to consider doing it annually. There was consensus among the Council members to add it to the list of Proclamations the Council has approved for annual issuance. Mike asked Ken to get the contact information to Deb so she has it, and Ken said he didn't really know anything about the group but that he could ask them to contact Deb directly.

Ken also stated that there had been several very engaged, great people at the Council meeting for the public hearings on the mountain water properties and he thought it would be great to encourage them to run for office in April.

COUNCILOR AMY MILLER

Amy reported that at the Historic Preservation Board meeting, the gentleman in charge of Mesa County Oral History gave the board a presentation. The board has been trying to work on how it can be done for the City of Fruita. She encouraged the other Council members to look into it because it was incredible and very extensive. She said the links can be found online on the Mesa County Library's website. Amy also reported that the Historic Preservation Board is really excited to come before the City Council to present and talk about what they are doing.

COUNCILOR AARON HANCEY

Aaron said he appreciated the community for coming to the City Council meeting, calling it a "night to remember" with the Council doing a good job of coming together and understanding new issues as they were in the middle of things.

Aaron added that he had been recently contracted to be the interim CFO for Mind Springs and thinks there are opportunities for the Council to invite them to a Council meeting to give a presentation on their services. He said he has wondered if there were a way to get them in Fruita because there are not enough mental/behavioral health providers and he feels it needs to be destigmatized. Aaron said he would reach out to them to get in contact with staff if the Council was okay with that. There was consensus for Aaron to do that, but Mayor Pro Tem Breman said it would be important for them to

address what has happened in the past and how they are moving forward to better the relationship and trust within the community.

COUNCILOR JEANNINE PURSER

Jeannine said she attended the Livability Commission earlier in the day and didn't really have anything to report but wanted to say that they were a very impressive and enjoyable group of action-minded members who keep their meetings on schedule.

Jeannine announced that the Arts and Culture Board will be selecting artists for the 1st Annual HeArt of Fruita program on August 9th and installation of their art along Aspen Avenue will begin on September 7th.

MAYOR PRO TEM BREMAN

Matthew reported that the Fruita Area Chamber of Commerce received a presentation from the Fruita Rotary Club concerning Fruita Fall Festival and he didn't know the final word, but thought it came to a final resolution that he understood to be a "win/win."

Matthew also reported that the Chamber's new outdoor sign is ready; however, there is an issue because it weighs 1,400 lbs and will require concrete at its base. It is being worked on right now.

Matthew noted that he and Mike had a meeting in 7.5 hours in downtown Grand Junction with the Grand Junction Economic Partnership (GJEP). Mike said he would not be attending, however.

Matthew said he was proud of the City Council and pointed out that there are openings on other Boards and Commissions of the City, who is always looking for people who have the kind of passion the Council witnessed at this meeting.

I. AMENDMENT TO BYLAWS – DOWNTOWN ADVISORY BOARD (*REMOVED FROM CONSENT AGENDA BY COUNCILORS PURSER AND WILLIAMS, BUT WAS NOT DISCUSSED DUE TO THE LATENESS OF THE HOUR*)

11. ADJOURN

With no further business before the Council, Mayor Kincaid adjourned the meeting at 11:30 p.m.

Respectfully submitted,

Debra Woods
Deputy City Clerk
City of Fruita