

**FRUITA CITY COUNCIL
IN PERSON AND VIRTUAL MEETING
APRIL 18, 2023
7:00 P.M.**

1. CALL TO ORDER AND ROLL CALL

Mayor Kincaid called the regular meeting of the Fruita City Council to order at 7:00 p.m. The meeting was held both in person and with virtual access provided through Zoom.

Present:

Mayor Joel Kincaid
Mayor Pro Tem Matthew Breman
City Councilor Jeannine Purser
City Councilor James Williams
City Councilor Amy Miller
City Councilor Aaron Hancey

Excused Absent:

City Councilor Ken Kreie

City staff present:

City Manager Mike Bennett
Assistant City Manager Shannon Vassen
Communications and Engagement Specialist Ciara DePinto
Deputy City Clerk Deb Woods
Planning & Development Director Dan Caris
City Planner Henry Hemphill
Parks and Recreation Director Marc Mancuso
City Attorney Mary Elizabeth Geiger (virtually)

Also present:

Members of the Historic Preservation Board
Fruita Area Chamber of Commerce Executive Director Kayla Bowers
Ute Water Conservancy Board Nominee Ken Henry
Members of the public (in-person and virtually)

2. MOMENT OF SILENCE AND PLEDGE OF ALLEGIANCE

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

3. AGENDA – ADOPT/AMEND

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

4. PROCLAMATIONS AND PRESENTATIONS

A. PRESENTATION – FRUITA TEACHERS/STUDENTS OF THE MONTH FOR APRIL 2023: FRUITA 8/9 SCHOOL

Mayor Kincaid acknowledged Fruita 8/9 School orchestra student Samantha Ross and Orchestra Conductor, Rachel Lavadie, who were chosen by the Principal as being those that represented their school's core values during the previous month.

Ms. Ross and Ms. Lavadie received a Certificate of Recognition, a Fruita sticker and a day pass to the Fruita Community Center.

Assistant Principal Alicia Wuster provided remarks about both Ms. Ross and Ms. Lavadie, who were commended by the Assistant Principal in many ways.

B. PROCLAMATION – CELEBRATING AND IN RECOGNITION OF THE 50TH ANNIVERSARY OF MESA COUNTY, RSVP, INC. AND THE VOLUNTEERS OF THE GRAND VALLEY TO BE ACCEPTED BY DAVE CARLO, EXECUTIVE DIRECTOR OF MESA COUNTY RSVP, INC.

Councilor Hancey read the Proclamation, which was accepted by Dave Carlo. Mr. Carlo explained that Grand Valley RSVP, Inc. could not survive as non-profits if people in the valley didn't help them out. Mr. Carlo also stated that the majority of the volunteers are aged 70 years and older and do a great job. He noted that a fellow board member, Dorrie Handley, had joined in the meeting and he thanked her for coming.

C. PROCLAMATION – PROCLAIMING APRIL 29, 2023 AS “HIGH SCHOOL MILITARY COMMITMENT RECOGNITION DAY” IN THE CITY OF FRUITA TO BE ACCEPTED BY KRISTY HALE AND FELLOW BOARD MEMBERS OF WESTERN SLOPE BLUE STAR MOTHERS

Councilor Miller read the Proclamation, which was accepted by Alison Recor, the first Vice President of Western Slope Blue Star Moms, which is a national organization made up of mothers who have children in active-duty service in the military.

Ms. Recor said it was their goal to get the same recognition that communities give to their athletes and scholars to high school graduates choosing military service. Ms. Recor stated that the first ever “High School Military Recognition Day” event would be held in Fruita at the Vietnam War Veterans Memorial and that it will include a recognition ceremony for Western Slope grads who are coming from Rifle, Glenwood Springs, Montrose and Olathe to be recognized in front of their communities. Families will gather for a picnic and start making valuable connections that military parents need. She invited the Council to the event, at which the Proclamation would be read again and thanked them for the recognition.

Mayor Kincaid requested that the Council take note of the date (April 29th) and time (11:00 a.m.) of the event so that someone from the City Council could be there.

D. PROCLAMATION – PROCLAIMING APRIL 28, 2023 AS “ARBOR DAY” IN THE CITY OF FRUITA TO BE ACCEPTED BY PARKS AND RECREATION DIRECTOR MARC MANCUSO

Councilor Williams read the Proclamation, which was accepted by the City’s Parks and Recreation Director, Marc Mancuso. Mr. Mancuso noted that all four regional elementary schools (Monument Ridge, Rim Rock, Loma and Shelledy) participated in a poster contest and the overall winner was Addie Ono from Ms. Darr’s class at Monument Ridge Elementary.

As the winner, Addie gets a tree planted at his school, Monument Ridge, on April 28th at 9:30 a.m. Addie’s winning poster will be submitted to the state competition and he will have the opportunity to win a \$500 scholarship. The posters are hanging at the Fruita Community Center in the Rec Rats windows and Marc said there are some great artists out there.

Mr. Mancuso added that the City of Fruita just received its “Tree City U.S.A.” designation for the 30th year.

E. PRESENTATION – HISTORIC PRESERVATION BOARD UPDATE BY CITY PLANNER HENRY HEMPHILL

Staff Liaison to the Historic Preservation Board Henry Hemphill introduced Chris Endreson, Chairperson of the board who provided the update to the Council. Mr. Hemphill gave each of the City Council members a historic coloring book that the board had produced, as well as a Walking Tour brochure.

Mr. Endreson said that he was joined by a couple other board members who were sitting in the audience; Dorrie Handley and Peggy Vertiz. The board currently has nine members.

Mr. Endreson stated that the Historic Preservation Board’s primary goal is education. He listed accomplishments including:

- Ongoing History Fair that first started off on “Pabor Day” but later transitioned to be a part of Fruita Fall Festival.
- Historical coloring book was republished through many partnerships in the community. Nearly half of the 5,000 that were reprinted have been distributed around the City.
- The board also reprinted their Walking Tour brochures.

Mr. Endreson said that the Historic Preservation Board has been working on partnerships with the following:

- Fruita Area Chamber of Commerce
- Fruita Rotary Club
- Other local businesses
- Other boards including:

- Arts and Culture Board
- Fruita Tourism Advisory Council
- Downtown Advisory Board
- Museums of Western Colorado.

Mr. Endresen also listed other activities of the Historic Preservation Board such as:

- The Heritage Room (reorganized into a different space in the Civic Center)
- Currently working on a redesign of the historic plaques that are placed around downtown
- Rebranding
- Participating in the Mesa County History Fair on April 29th at the Old Loma School
- Continued research
- Goal of trying to partner with the Oral History Program, which is getting revamped by the Museums of Western Colorado and Mesa County Libraries

Mayor Kincaid asked if the Historic Preservation Board was putting together a budget to bring to the Council to help with the board's projects. Mr. Endresen responded that the board does not have a budget and that fundraising has been mainly for the coloring books. He said the reprinting of the Walking Tour brochures was paid for through a partnership with the Tourism Advisory Council, which was very helpful, but the board hasn't talked about going to any specific entities to ask for funding. He added that the board would like to find a sustainable means to cover the cost of printing the coloring books because they are so popular. One idea has been to partner with the local schools for that funding.

Mr. Endresen noted that he is partnering with the Rotary (he's also a member of the Rotary Club) to distribute the remaining coloring books next week at the Literacy Program for the first-grade book distribution in the Fruita schools.

Mr. Endresen stated that the board does want to tackle some tangible, physical things that do cost money, so funding is an issue, but the board will work through it one project at a time.

Councilor Miller noted that the community really did step up to help pay for the coloring books once the board reached out to the Fruita Area Chamber of Commerce.

Councilor Williams noted that all the restaurants in Fruita seem to have them now. Mr. Endresen confirmed that every major business in Fruita has them at this point and said the Walking Tour brochures are still being distributed on a smaller scale. The board hopes to digitize the brochure in the future into a Google maps format of some kind, which would tie in really well with the re-plaquing.

Mr. Endresen added that another project the board has discussed is putting more interpretive signs downtown of historic information regarding businesses or how downtown functioned at one time.

5. PUBLIC PARTICIPATION

There were no comments from the public.

6. CONSENT AGENDA

- A. MINUTES – A REQUEST TO APPROVE THE MINUTES OF THE MARCH 28, 2023 CITY COUNCIL WORKSHOP MEETING**
- B. MINUTES – A REQUEST TO APPROVE THE MINUTES OF THE APRIL 4, 2023 REGULAR CITY COUNCIL MEETING**
- C. LIQUOR LICENSE RENEWAL – A REQUEST TO APPROVE THE RENEWAL OF A RETAIL LIQUOR STORE – MALT, VINOUS & SPIRITUOUS LIQUOR LICENSE FOR SOENG, LLC DBA JACKALOPE LIQUORS LOCATED AT 404 JURASSIC AVE., UNIT B**
- D. RESOLUTION 2023-09 – SETTING A HEARING DATE FOR JUNE 6, 2023 TO DETERMINE THE ELIGIBILITY OF ANNEXING APPROXIMATELY 6.6 ACRES OF PROPERTY LOCATED AT 1824 J 2/10 ROAD TO BE ANNEXED INTO CITY LIMITS AND CONSIDER INITIATION OF ANNEXATION PROCEDURES**
- E. ORDINANCE 2023-04 – FIRST READING – AN INTRODUCTION OF AN ORDINANCE ANNEXING APPROXIMATELY 6.6 ACRES OF PROPERTY LOCATED AT 1824 J 2/10 ROAD INTO THE CITY OF FRUITA FOR PUBLIC HEARING ON JUNE 6, 2023 (*1824 J 2/10 ROAD ANNEXATION*)**
- F. ORDINANCE 2023-05 – FIRST READING – AN INTRODUCTION OF AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF FRUITA BY ZONING APPROXIMATELY 6.6 ACRES OF PROPERTY LOCATED AT 1824 J 2/10 ROAD TO A COMMUNITY RESIDENTIAL ZONE FOR PUBLIC HEARING ON JUNE 6, 2023 (*1824 J 2/10 ROAD ZONING*)**
- G. CITY ATTORNEY ENGAGEMENT LETTER – A REQUEST TO APPROVE A REVISED ENGAGEMENT LETTER WITH GARFIELD AND HECHT AS THE CITY ATTORNEY**
- H. FINANCIAL REPORTS – A REQUEST TO APPROVE THE MARCH 2023 FINANCIAL REPORTS**

Mayor Kincaid asked if there were any requests to remove any item(s) removed from the Consent agenda for further discussion. There were no such requests. Mayor Kincaid asked the same question of the City Council and there also were no such requests.

- COUNCILOR HANCEY MOVED TO APPROVE THE CONSENT AGENDA AS PRESENTED. COUNCILOR PURSER SECONDED THE MOTION. THE MOTION PASSED WITH FIVE YES VOTES.**

7. PUBLIC HEARINGS

A. QUASI-JUDICIAL HEARINGS

1) SPECIAL EVENT LIQUOR PERMIT APPLICATION – A REQUEST TO APPROVE A SPECIAL EVENT LIQUOR PERMIT FROM THE FRUITA AREA CHAMBER OF COMMERCE TO PROVIDE A BEER GARDEN AT THE LOWER VALLEY FIRE CORNHOLE TOURNAMENT FUNDRAISER TO BE HELD ON SATURDAY, APRIL 22, 2023 FROM 2:00 TO 6:00 PM AT THE FRUITA CIVIC CENTER MEMORIAL PARK LOCATED AT 325 E. ASPEN AVE. – DEPUTY CITY CLERK DEB WOODS

Deputy City Clerk Deb Woods provided staff's presentation. She explained that the proceeds from this fundraising event will go towards firefighters' physical and mental wellness.

Ms. Woods reviewed the application submitted by the Fruita Area Chamber of Commerce including items addressed in the narrative for the event concerning the control of alcohol as well as steps the Chamber will take to ensure that liquor laws (such as selling to a minor) will be adhered to. She also noted that Fruita Chief of Police Dave Krouse had reviewed the application and submitted his memorandum that there was nothing to prohibit the issuance of the license requested.

Ms. Woods submitted staff's recommendation that the Council approve the application for the Special Event Liquor Permit subject to the following conditions:

1. Applicant will discontinue serving alcohol at 5:30 pm on Saturday, April 22, 2023 to allow patrons 30 minutes to finish beverages and leave the area.
2. All alcohol will be secured and removed by 6:00 pm.
3. The licensee is solely responsible for control of the licensed premises in regards to alcohol possession, consumption and adherence to state and municipal liquor laws.

Fruita Area Chamber of Commerce Executive Director Kayla Bowers was present virtually as the applicant's representative. She said it was the first time the Chamber has partnered with the Lower Valley Fire Department for this event, but that it was not the first time the Chamber has conducted a beer garden. Ms. Bowers added that Chamber staff and volunteers will work with the Lower Valley Fire professionals to monitor the only entrance and exit point to ensure that no alcohol comes in or leaves the licensed, fenced area.

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

Councilor Hancey said it looked like food trucks would be taking over handicapped parking and asked if there was a plan to have other handicapped parking spots available. Ms. Bowers said she spoke with the Lower Valley Fire Department earlier in the day to verify how many food trucks they were going to have and she learned that there should only be two food trucks. She said they did discuss moving the food trucks over so that way, they can be closer to the fencing, and therefore, shouldn't be blocking any of the handicapped parking spaces.

- **COUNCILOR PURSER MOVED TO APPROVE THE APPLICATION FOR A SPECIAL EVENT LIQUOR PERMIT FOR THE FRUITA AREA CHAMBER OF COMMERCE TO SELL AND SERVE BEER DURING THE**

LOWER VALLEY FIRE CORNHOLE TOURNAMENT FUNDRAISER ON SATURDAY, APRIL 22, 2023 FROM 2:00 TO 6:00 PM AT THE FRUITA CIVIC CENTER MEMORIAL PARK LOCATED AT 325 E. ASPEN AVE. SUBJECT TO THE CONDITIONS STATED BY STAFF. COUNCILOR MILLER SECONDED THE MOTION. THE MOTION PASSED WITH FIVE YES VOTES.

- 2) SPECIAL EVENT LIQUOR PERMIT APPLICATION – A REQUEST TO APPROVE A SPECIAL EVENT LIQUOR PERMIT FROM THE FRUITA AREA CHAMBER OF COMMERCE TO SELL AND SERVE BEER AND WINE AT FRUITA FOURTH FRIDAYS TO BE HELD ON APRIL 28, 2023, MAY 26, 2023, JUNE 23, 2023 AND JULY 28, 2023 FROM 5:00 TO 9:00 PM ON ALL FOUR NIGHTS AT FARM LOCATED AT 160 S. PARK SQUARE – *DEPUTY CITY CLERK DEB WOODS***

Deputy City Clerk Deb Woods provided staff's presentation. She reviewed the application that was submitted by the Fruita Area Chamber of Commerce for approval of Special Event Liquor Permits on four dates of Fruita Fourth Fridays starting in April and ending in July. The event is proposed to be held in the parking lot of the FARM building located at 160 S. Park Square.

Ms. Woods noted that the Chamber and its volunteers will be onsite selling tickets, checking photo identifications and monitoring the licensed area of the beer and wine garden. The proposed fenced-in premises were illustrated in a diagram that was included in the Council packet and Fruita Chief of Police Dave Krouse stated in his memorandum that there was nothing that would prohibit the issuance of the license being requested.

It was staff's recommendation that the application for the Special Events Liquor Permits for the fourth Fridays in April, May, June and July be approved subject to the following conditions:

1. Applicant will discontinue serving alcohol at 8:30 pm on all four dates to allow patrons 30 minutes to finish beverages and leave the area.
2. All alcohol will be secured and removed by 9:00 pm.
3. The licensee is solely responsible for control of the licensed premises in regards to alcohol possession, consumption and adherence to state and municipal liquor laws.

Executive Director for the Fruita Chamber Kayla Bowers stated that the Fruita Chamber is looking forward to partnering with Fruita Fourth Fridays and that all of the proceeds that will be raised at the beer/wine garden are going to go directly towards the Fruita Area Chamber Foundation, which helps support a lot of the community's scholarship initiatives.

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

- **COUNCILOR MILLER MOVED TO APPROVE THE APPLICATION FOR A SPECIAL EVENT LIQUOR PERMIT FOR THE FRUITA AREA CHAMBER OF COMMERCE TO SELL AND SERVE BEER AND WINE**

DURING FRUITA FOURTH FRIDAYS ON SATURDAY, APRIL 28, MAY 26, JUNE 23 AND JULY 28, 2023 FROM 5:00 TO 9:00 ON ALL FOUR NIGHTS AT FARM LOCATED AT 160 S. PARK SQUARE SUBJECT TO THE CONDITIONS STATED BY STAFF. COUNCILOR HANCEY SECONDED THE MOTION. THE MOTION PASSED WITH FIVE YES VOTES.

3) RESOLUTION 2023-08 – A RESOLUTION OF THE FRUITA CITY COUNCIL FINDING APPROXIMATELY 3.4 ACRES OF PROPERTY LOCATED AT 1806 J 3/10 ROAD ELIGIBLE TO BE ANNEXED INTO THE CITY OF FRUITA (*BERG ANNEXATION*) (*CITY PLANNER HENRY HEMPHILL*)

City Planner Henry Hemphill gave staff's presentation. He noted that the first requirement in an annexation is to adopt a Resolution to set a hearing date to determine the eligibility of annexation, which was accomplished a few months prior. Staff has sent out legal notice initiating the public hearing in accordance with local and state laws.

Mr. Hemphill noted that included in the Council packet were copies of an Annexation Impact Report, which is required by the Fruita Land Use Code (contained within the Fruita Municipal Code) to ensure that the property that is petitioning to be annexed can be served with City services. This was accomplished even before staff began the annexation process.

In order for property to be eligible for annexation, there must be 1/6 of the perimeter of the subject property that is contiguous with existing city limits and Mr. Hemphill confirmed that the Berg property has the required contiguity. He also reviewed the methods and dates of the notices to the public about the public hearing to find the Berg property eligible for annexation.

Mr. Hemphill said it was staff's recommendation that the Council approve Resolution 2023-08, finding the Berg property eligible for annexation.

Applicant Kim Kerk with Kerk Land Consulting and Development was present as the applicant's representative. She stated that the application meets all the requirements and she was happy to answer any questions the Council might have.

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

Councilor Purser asked for confirmation on how the property is currently zoned. Mr. Hemphill responded that it is zoned EFT, which is a Mesa County zoning designation.

- **COUNCILOR HANCEY MOVED TO APPROVE RESOLUTION 2023-08 – A RESOLUTION OF THE FRUITA CITY COUNCIL FINDING APPROXIMATELY 3.4 ACRES OF PROPERTY LOCATED AT 1806 J 3/10 ROAD ELIGIBLE TO BE ANNEXED INTO THE CITY OF FRUITA. COUNCILOR BREMAN SECONDED THE MOTION. THE MOTION PASSED WITH FIVE YES VOTES.**

4) ORDINANCE 2023-02 – SECOND READING – ANNEXING APPROXIMATELY 3.4 ACRES OF PROPERTY LOCATED AT 1806 J 3/10 ROAD INTO THE CITY OF FRUITA (BERG ANNEXATION) (CITY PLANNER HENRY HEMPHILL)

City Planner Henry Hemphill gave staff's presentation on the Second Reading of Ordinance 2023-02 to annex the Berg property into the City of Fruita. His presentation included the following:

- Dates and methods of (legal) notices to the public of the public hearings
- Photograph evidence of physical posting of notice on subject property
- Illustration of legal notice buffer area (350' radius around the subject property)
- Aerial map of subject property located at 1806 J 3/10 Road
- Future Land Use Map (guiding document contained in Fruita's Comprehensive Plan)
- List of nine (9) review criteria found in the Fruita Land Use Code Section 17.17.050(a)
- No review expressed concerns with the annexation.
- No written public comments were received by staff to date.
- Staff's recommendation of approval of Ordinance 2023-02 – Annexing approximately 3.4 acres of property located at 1806 J 3/10 Road into the City of Fruita

Mr. Hemphill noted that the Future Land Use Map does support the subject property being within the Fruita city limits. After reviewing the nine review criteria found in the Fruita Land Use Code, Mr. Hemphill stated that the property meets or can meet all the criteria.

It was staff's recommendation that the City Council adopt Ordinance 2023-02 – Annexing the subject property into the City limits.

Kim Kerk stated that she was still present in the audience if there were any questions or concerns the Council may have.

Mayor Kincaid opened the public hearing. Hearing no comments either in person or online, the Mayor closed the public hearing and referred the matter to the City Council.

- **COUNCILOR BREMAN MOVED TO ADOPT ORDINANCE 2023-02 – ANNEXING APPROXIMATELY 3.4 ACRES OF PROPERTY LOCATED AT 1806 J 3/10 ROAD INTO THE CITY OF FRUITA. COUNCILOR WILLIAMS SECONDED THE MOTION. THE MOTION PASSED WITH FIVE YES VOTES.**

5) ORDINANCE 2023-03 – SECOND READING – AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF FRUITA BY ZONING APPROXIMATELY 3.4 ACRES OF PROPERTY LOCATED AT THE NORTHEAST CORNER OF THE INTERSECTION OF J 3/10 ROAD AND J 2/10 ROAD TO A COMMUNITY RESIDENTIAL ZONE (BERG REZONE) (CITY PLANNER HENRY HEMPHILL)

City Planner Henry Hemphill noted that because each of the matters above require separate motions, he was presenting them separately. He apologized for any redundancy.

Mr. Hemphill provided staff's presentation on the Berg property zoning petition of approximately 3.4 acres located at 1806 J 3/10 Road to a Community Residential Zone after he pointed out that the Council had just approved the annexation ordinance. Highlights of the presentation include:

- All legal notice requirements were accomplished within the required local laws (15 days prior to the Planning Commission meeting)
- Photo of the physical posting of the public hearings on the property
- Graphic of 350' radius around the subject property illustrating the recipients of postcard legal notices of public hearings
- Future Land Use Map showing that the subject property is recommended to be zoned Community Residential (same as the applicant's request)
- Zoning to Community Residential is supported by staff, the Planning Commission and Fruita's Comprehensive Plan (guiding document)
- Five (5) criteria for the Council to consider, but main ones include:
 - Is it consistent with the Master Plan (yes)
 - Is the zoning compatible with surrounding land uses (either existing or supported in the Future Land Use Code Map) (yes)
 - Is the zoning incidental to the annexation (running with the annexation) (staff supports Community Residential Zone for the area)
- No reviewer expressed any concerns with the zoning request
- No written public comments were received by staff, nor were there any comments received at the Planning Commission meeting.
- Staff's recommendation of adopting the zoning Ordinance for the Berg property

As the applicant's representative, Kim Kerk with Kerk Land Consulting in Grand Junction stated that her firm had met the requirements of the annexation and zoning processes. She had nothing further to add.

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

- **COUNCILOR WILLIAMS MOVED TO ADOPT ORDINANCE 2023-03 – AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF FRUITA BY ZONING APPROXIMATELY 3.4 ACRES OF PROPERTY LOCATED AT 1806 J 3/10 ROAD TO A COMMUNITY RESIDENTIAL ZONE. COUNCILOR MILLER SECONDED THE MOTION. THE MOTION PASSED WITH FIVE YES VOTES.**

B. LEGISLATIVE HEARINGS

There were no Legislative Public Hearings on the agenda.

8. ADMINISTRATIVE AGENDA

There were no Administrative agenda items.

9. CITY MANAGER'S REPORT

City Manager Mike Bennett said he did not have any updates.

10. COUNCIL REPORTS AND ACTIONS

A. UTE WATER BOARD – RECOMMENDATION TO THE DISTRICT COURT ON APPOINTMENT OF FRUITA REPRESENTATIVE TO THE UTE WATER BOARD

City Manager Mike Bennett explained that pursuant to the City of Fruita's 1983 agreement with Ute Water, the City has the right to nominate a board member to the Board of Directors for the Ute Water Conservancy District for a four-year term.

The City of Fruita's current board member that the City Council nominated about four years ago is former Mayor Ken Henry, who was present in the audience. Mr. Henry has served five terms on the Ute Water Conservancy District Board of Directors.

Mr. Bennett recalled that the Ute Water agreement City is currently undergoing the process of being updated and said it was possible that Fruita's right to nominate a board member in the future may not be included in the amended contract because pursuant Ute Water's Charter, it is a Judge appointment.

Ute Water accepted applications during a period of time that was posted and noticed to the public, and one application was received from Ken Henry to serve another four-year term. Mr. Bennett stated that staff's recommendation to the Council was to approve the nomination of Ken Henry for appointment to the Ute Water Conservancy District Board after any discussion or questions the Council may have.

Mayor Kincaid clarified that the Fruita City Council does not appoint members to the Ute Water Board; the District Court does and Fruita just gives a recommendation. He asked Mr. Henry why he felt like he was the best candidate.

Mr. Henry commended Planning staff for doing an excellent job with the Berg annexation and zoning applications. He also thanked the Fruita City Council for their service and consideration of recommending his appointment to the Ute Water Board as a representative for Subdivision 3. He said he was first appointed in 2009 to complete the remaining term of Wally Downer, a local farmer.

Mr. Henry said that members are appointed for four-year terms by the Mesa County District Court, which means candidates don't have to run in an election. He stated that if appointed, it would be his fifth term and that currently, he is the second oldest board member in terms of both age and time on the board.

Mr. Henry provided some history of how Fruita residents received their domestic water. He said that Ute Water is rated as some of the highest quality and cleanest water in the entire United States, adding that the water delivered to Fruita residents' taps is water that's never been used before, which is something that very few water delivery organizations can claim.

Mr. Henry added that he would like to share with the City Council at a future Council meeting more history of Fruita water going back to the time when water was delivered from the Colorado National Monument to the town, some of the problems that occurred with that, and how the Antiquities Act helped the City's decision to switch to Ute Water. He thanked the Council for their consideration of the recommendation of his appointment to the Ute Water Conservancy Board of Directors.

Councilor Breman thanked Mr. Henry for the thorough application, saying he learned a lot from it.

- **COUNCILOR PURSER MOVED TO APPROVE THE NOMINATION OF KEN HENRY FOR APPOINTMENT TO THE UTE WATER CONSERVANCY DISTRICT BOARD. COUNCILOR WILLIAMS SECONDED THE MOTION. THE MOTION PASSED WITH FIVE YES VOTES.**

B. RESOLUTION 2023-10 – A RESOLUTION OF THE CITY OF FRUITA IN OPPOSITION TO STATEWIDE LAND USE AND ZONING PREEMPTIONS IN SENATE BILL 23-213

City Manager Mike Bennett recalled that the Council had already had previous discussions concerning Senate Bill 23-213 and that at the last meeting during Council Reports and Actions, the Council made the decision to sign onto the Colorado Municipal League (CML) online forum of opposition to the bill. He said many other communities in Colorado are adopting a Resolution or issuing a statement such as the one that was included in the Council packet, so staff felt comfortable voicing the opposition by adding a Resolution to the agenda for the Council's consideration.

Mr. Bennett noted that the reason for Fruita's opposition to the bill is that it takes planning and zoning decisions away from local control and the professionals who are hired by the local jurisdiction to make those decisions.

Mr. Bennett stated that staff's recommendation was to approve Resolution 2023-10 and added that if approved, staff would add it to CML's list of the other Colorado communities who are also in opposition of SB 23-213. That list will be submitted by CML to the legislators who will be considering the bill in the Legislative Session.

Councilor Hancey asked if there had been any updates on various amendments to SB 23-213. Mr. Bennett responded that there had been no major changes that staff is aware of since the last time staff discussed it with the Council.

Councilor Hancey asked if there were any communities who were in favor of the bill. Mr. Bennett said he didn't have the exact data, but he knew that opposition to the bill had to be very close to unanimous across the entire state. He continued that the only update he has heard (that staff may have discussed with Council previously) was concerningssss the possibility of exempting some of the ski resort communities.

Councilor Breman noted that he has been on email chains from different real estate organization groups and he has not seen anyone that was in favor of SB 23-213.

Mr. Bennett noted that earlier in the day, he sent a link to the Council members individually to CML's virtual Town Hall where they can sign up and see opportunities to learn more.

Councilor Hancey asked Mr. Bennett to look into getting a summary of who is in favor of the bill. Mr. Bennett said he would check on it and send what he finds to the Council members.

- **COUNCILOR MILLER EMPHATICALLY MOVED TO ADOPT RESOLUTION 2023-10 – A RESOLUTION OF THE CITY OF FRUITA IN OPPOSITION TO STATEWIDE LAND USE AND ZONING PREEMPTIONS IN SENATE BILL 23-213. COUNCILOR HANCEY SECONDED THE MOTION. THE MOTION PASSED WITH FIVE YES VOTES.**

C. COUNCIL REPORTS AND ACTIONS

COUNCILOR JEANNINE PURSER

Jeannine asked if it was true that people over the age of 62 get a discount on their utility bill in Fruita. Deputy City Clerk Deb Woods responded that there is a discounted rate for individuals who meet both age (62 and over) and income requirements and that the income eligibility has a threshold for both single and married people. The criteria for these rates is derived from a certain percentage of the federal poverty level. Jeannine asked if the information could be communicated more broadly than on the City's website because a citizen brought the question to her who has lived in Fruita for a really long time but only just heard about it. The resident even suggested the information be included on the utility bills that are mailed out. Mr. Bennett offered to have staff include it in the City Link newsletter.

Councilor Miller added that the local title companies are very good at letting newcomers to Fruita know about the senior discount at the time of closing.

Councilor Williams asked if the information could be included as a link in the Weekly Information Update.

Jeannine also said another thing was brought to her attention from a dog lover and dog owner who is requesting that certain places be dog-free. His suggestion was at Little Salt Wash Park. Jeannine said this resident's main concern was about how people don't keep their dogs on leashes even where there's a leash law and the dogs run up to people.

Mayor (Joel) Kincaid and Councilor (James) Williams said they also talked to the same resident. Joel talked to Mike and Marc Mancuso, the Parks and Recreation Director about more leash-law signage, but he didn't know what else could be done. Mike noted that the issue came up from an incident(s) at Little Salt Park (where dogs are required to be on leashes) and said the City can't have someone there 24/7 to enforce the law. Mike added that staff is going to reevaluate the signage at Little Salt Wash Park to make sure it is noticeable and will work with the City's Animal Control Officer on thoughts and ideas related to the matter. He explained that there has also been a separate challenge where people are using the baseball fields to play with their dogs and there is a lot that goes into keeping the fields ready for each game. Mike said unfortunately, it is getting to the point where the Little League and Parks staff are going to have to lock some facilities while they are not being used.

Mike offered staff doing research on how other communities have dealt with having dog-free zones, which is not something Fruita has explored in the past or has come up with the development of the Parks, Health, Recreation, Open Space and Trails (PHROST) Master Plan. He reiterated that the challenge will be enforcement, but there definitely could be some things to help with education of where dogs need to be on a leash. Mike added that the only places where dogs are not required to be on a leash is Snooks Bottom and the new dog park. Councilor (Aaron) Hancey thought it would be nice to hear some proactive options on how the City could possibly manage it.

Jeannine finished her report by saying that at the Arts and Culture Board meeting the previous week, most of the discussion was recapping the Coco Vino event and identifying the things that went well and things that the board might need to change a little bit. The board is also getting ready to put guidelines together for Calls for Artists on the rotating sculpture project.

COUNCILOR AARON HANCEY

Aaron expressed frustration about the access to the Civic Center building and parking lot being blocked off during the Desert Rats Trail Running Festival with a big tent where the handicapped parking is. He said they took over highly utilized parking spots for the Department of Motor Vehicles on Tuesdays and Thursdays, which a lot of people use. Aaron said he also noticed that there was temporary handicapped parking on the north side, but his observations were that they were full of City employee parked cars and City vehicles in ADA-restricted parking spots. He asked what the City could do to ensure that there is adequate parking and what the liabilities might be of the City failing to comply with ADA laws.

Mike responded that for some reason, with the Desert Rats event (unlike all the other events where the temporary handicapped parking is created), the situation was that the handicapped parking was blocked off for construction, and that was compounded with the variables of the event's many moving pieces. He assured Aaron that it wasn't something that is going to continue to happen and added that in this case, the City's Neighborhood Services Coordinator, Matt Carson, had spoken with the event organizers, who did move their tents, booths and vehicles upon request. Mike acknowledged that the plan for parking/access was not executed well for this particular event. Councilor (James) Williams said that Kathy with Cardinal Events does a lot of the setup for these kind of events and if she is made aware of issues, she may be able to help. Mike said that staff knows the requirements.

Aaron said his big concern was the temporary ADA parking on the north side of the building being full of staff/City vehicles because it wasn't appropriate and doesn't look good. Mike said that some of the handicapped signs were put up when the City vehicles were already there and then people starting moving them. He noted that there was a miscommunication from the standpoint of accessing the building during setup. Aaron added that he heard comments from community members who voiced their frustration about accessing the building and oftentimes, it is people coming to the DMV that are utilizing the ADA parking spots.

MAYOR PRO TEM MATTHEW BREMAN

Matthew pointed out that the Western Colorado Economic Summit is scheduled to be held on April 27th and said he hoped to see other Council members there. He said he would email Mike the questions for help and backup as a panelist.

Matthew congratulated James for being awarded the “Member Business of the Year” by the Fruita Area Chamber of Commerce at the Chamber’s Annual Banquet the previous Saturday. He added that a lot of the proceeds from the event went to the Chamber Foundation and three university scholarships for Fruita residents.

Matthew announced that on Friday, April 28th, he will be fortunate enough to be a judge at CMU for a marketing event.

Matthew also announced that he had a Grand Junction Economic Partnership (GJEP) Board meeting bright and early in the morning.

COUNCILOR AMY MILLER

Amy reported that apparently, people are interpreting Aspen Avenue signage to mean that “large vehicles park on the north side” and not “large vehicles park on the south side,” which a couple of downtown business owners attested to. So, instead of directing them to the Civic Center, they are interpreting it as directing them to Aspen Avenue. Mike said staff would definitely look into it. James agreed it was the sign on the corner that has the arrow with the words, “large vehicles” that was confusing and suggested that it instead read something like, “oversized lot.” Mike noted that since the sign went up, there has been an uptick of large vehicles in the Civic Center parking lot, but it was good to know that some people are getting confused.

COUNCILOR JAMES WILLIAMS

James spoke about the Grand Opening of the Bark Park dog park, calling it very successful. He commended staff for doing a phenomenal job on everything and said there were a lot of happy people at the event.

James reported that he had a Tourism Advisory Council (FTAC) meeting coming up on Thursday and the board will be getting ready for their presentation to the Council the following week.

MAYOR JOEL KINCAID

Joel reported that he and Matthew will have the opportunity to present in a few weeks to a Boy Scout Troop so they can get their merit badges for learning about municipal government.

Joel also reported that Bernie Robinson called him earlier in the day about a speeding problem on East Pabor Avenue. He noted that Bernie was in the audience and Joel said he thought Bernie was going to speak during the Public Participation Section of the agenda, but because he didn’t, it was only the Council who could discuss it.

Joel said Bernie told him that some people are going 50 to 60 miles per hour on East Pabor heading west from Pine Street. Mike said staff has been working on the issue with Bernie since last October. The police have been doing extra patrols on Pabor and have quite a few statistics on the number of people they have pulled over and either given warnings or tickets. Staff also put cables on the road for a long while that measures and documents the speed of cars when they go over it. Mike explained that the road section in question has a 25 mph speed limit, although a lot of people think it is 35 mph and

there were a lot of people caught doing that. He explained that technically, if the City were to follow traffic standards, the speed limit there should be raised to 35 mph, but staff has not wanted to do that because it would make the speeding problem worse. Mike added that he could provide the statistics to the Council if they wanted to see them.

The Council and staff discussed:

- Because it is such a wide road, people tend to drive faster.
- There is a speed limit sign at Pabor and Pine.
- Speed bumps are not an option for a travel corridor like Pabor Ave.
- Staff relooked at signage to make sure it is visible.
- Staff feels the best option right now is a consistent presence of enforcement.
- The challenge is, people adjust how they drive when they see a patrol car and that is why staff went with the cable option to get a better picture of what is occurring over a period of time.
- Bernie offered his porch for the Police Officers to watch the traffic.
- Mike said there are a few other areas like Pabor in Fruita and the Police Department has been enforcing the speed limits a lot more than they used to.
- High traffic counts on Pabor Ave. usually happen in the morning, after school and in the evening after work. The weekends are busy, as well, so patrol cars have been focusing on enforcing the speed limit at those times.
- There are a few officers in particular who have taken it upon themselves to focus on the area (Pabor Ave. heading west from Pine Street), among a few other areas that are similar in nature.
- Joel noted that there is a canal in the area and wondered if something like bulb outs could be used to calm the traffic.
- Mike said that staff has looked at the option Joel just mentioned, but hasn't identified a spot for the bulb outs; typically they are put in where trails are crossing the road.
- Bulb outs must be engineered to be installed in the right place.
- Joel requested that staff continue looking into the bulb outs option and Mike said staff would.
- James asked the City has access to a radar trailer and Mike said the City has one, but it still is always going to be a challenge since technically, the stats show that the speed limit should be 35 mph on Pabor.
- Because it is a residential area, staff has kept the speed limit at 25 mph.
- Mike said the matter is not being ignored by the City and that staff is constantly working on it.
- Jeannine wondered if new lighted mph signs like the ones on I-70 would help because it would be a different kind of alert and would be noticed more.
- Mike said he thought many people don't know that the speed limit is 25 mph on that section of Pabor because it does feel like it should be 35.
- Mike said he would challenge the Traffic Committee to come up with creative ways to help people see that the speed limit is 25 mph.
- Joel mentioned painting the speed limit on the actual pavement as a potential option like they do in California.
- Joel assured Bernie that staff would continue to look into solutions.

Mayor Kincaid announced for the record that staff and the Council would be convening into two Executive Sessions with the City Attorney and would not reconvene the regular open meeting afterwards.

C. EXECUTIVE SESSION – TO CONVENE IN EXECUTIVE SESSION FOR DETERMINING POSITIONS RELATIVE TO MATTERS THAT MAY BE SUBJECT TO NEGOTIATIONS; DEVELOPING STRATEGY FOR NEGOTIATIONS; AND INSTRUCTING NEGOTIATORS PURSUANT TO CRS SEC. 24-6-402(4)(E) WITH REGARD TO THE AMENDED AND RESTATED CONTRACT WITH UTE WATER CONSERVANCY DISTRICT AND RECEIVING LEGAL ADVICE FROM THE CITY ATTORNEY PURSUANT TO CRS SEC. 24-6-402(4)(B) REGARDING THE SAME

- **COUNCILOR HANCEY MOVED TO CONVENE IN EXECUTIVE SESSION FOR DETERMINING POSITIONS RELATIVE TO MATTERS THAT MAY BE SUBJECT TO NEGOTIATIONS; DEVELOPING STRATEGY FOR NEGOTIATIONS; AND INSTRUCTING NEGOTIATORS PURSUANT TO CRS SEC. 24-6-402(4)(E) WITH REGARD TO THE AMENDED AND RESTATED CONTRACT WITH UTE WATER CONSERVANCY DISTRICT AND RECEIVING LEGAL ADVICE FROM THE CITY ATTORNEY PURSUANT TO CRS SEC. 24-6-402(4)(B) REGARDING THE SAME. COUNCILOR PURSER SECONDED THE MOTION. THE MOTION PASSED WITH FIVE YES VOTES.**

The City Council convened in Executive Session at 9:02 p.m.

The City Council ended the Executive Session at 9:15 p.m.

D. EXECUTIVE SESSION - TO CONVENE IN EXECUTIVE SESSION FOR DETERMINING POSITIONS RELATIVE TO MATTERS THAT MAY BE SUBJECT TO NEGOTIATIONS; DEVELOPING STRATEGY FOR NEGOTIATIONS; AND INSTRUCTING NEGOTIATORS PURSUANT TO CRS SEC. 24-6-402(4)(E) WITH REGARD TO QUIET TITLE ACTION ENTITLED MAPLE ACQUISITION LLC V. THE ESTATE OF MRS. J.A. WAID, ET AL., MESA COUNTY DISTRICT COURT CASE NO. 23CV30055 AND RECEIVING LEGAL ADVICE FROM THE CITY ATTORNEY PURSUANT TO CRS SEC. 24-6-402(4)(B) REGARDING THE SAME

- **COUNCILOR PURSER MOVED TO CONVENE IN EXECUTIVE SESSION FOR DETERMINING POSITIONS RELATIVE TO MATTERS THAT MAY BE SUBJECT TO NEGOTIATIONS; DEVELOPING STRATEGY FOR NEGOTIATIONS; AND INSTRUCTING NEGOTIATORS PURSUANT TO CRS SEC. 24-6-402(4)(E) WITH REGARD TO THE AMENDED AND RESTATED CONTRACT WITH UTE WATER CONSERVANCY DISTRICT AND RECEIVING LEGAL ADVICE FROM THE CITY ATTORNEY PURSUANT TO CRS SEC. 24-6-402(4)(B) REGARDING THE**

SAME. COUNCILOR MILLER SECONDED THE MOTION. THE MOTION PASSED WITH FIVE YES VOTES.

The City Council convened in Executive Session at 9:17 p.m.

The City Council ended the Executive Session at 9:25 p.m.

11. ADJOURN

With no further business before the Council, Mayor Kincaid adjourned the meeting at 9:25 p.m.

Respectfully submitted,

Debra Woods
Deputy City Clerk
City of Fruita