

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

**1. CALL TO ORDER AND ROLL CALL**

Mayor Joel Kincaid called the regular meeting of the Fruita City Council to order at 7:00 p.m. The meeting was held both in person and with virtual access provided through Zoom. There were initially audio difficulties with the remote connection to Councilor Karen Leonhart.

**Present:** Mayor Joel Kincaid  
City Councilor Karen Leonhart (virtually)  
City Councilor Kyle Harvey  
City Councilor Ken Kreie  
City Councilor Heather O'Brien  
City Councilor Matthew Breman

**Excused Absent:** Mayor Pro Tem Lori Buck

**City staff present:** City Manager Mike Bennett  
Assistant to the City Manager Shannon Vassen  
City Clerk/Finance Director Margaret Sell  
Deputy City Clerk Deb Woods  
City Planner Henry Hemphill  
Parks and Recreation Director Marc Mancuso  
City Attorney Mary Elizabeth Geiger (virtually)

**Also present:** Kim Kerk, owner of Kim Kerk Land Consulting & Development  
Members of the public (in-person and virtually)

**2. PLEDGE OF ALLEGIANCE**

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

**3. AGENDA – ADOPT/AMEND**

Mayor Kincaid noted that Monument Ridge Elementary requested to reschedule the presentation for the Teacher(s) and Student(s) of the month for December 2021 to a later date. There were no other changes to the agenda.

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

When the vote was begin taken on the above motion, Councilor Leonhart couldn't hear her name being called due to audio difficulties, so no vote was recorded for her.

#### **4. PROCLAMATIONS AND PRESENTATIONS**

There were no Proclamations or presentations on the agenda (due to the request of Monument Ridge Elementary that the Teacher(s) and Student(s) of the month presentation be rescheduled to a later date).

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

1. Matt Barber, 334 Crystal Court, thanked the Council for their leadership and service. He prayed for the town, the meeting and the Council members.
2. Janet Wyatt, 235 Drumlin Circle, voiced her concerns about the Highway 6/Fremont Street two-way street project to Ottley Avenue. These included:
  - An increase in noise and exhaust from vehicles
  - She said she voiced her concerns at the Fruita Farmers Market but didn't know if the negative feedback was even recorded.
  - Mrs. Wyatt's neighbor's husband is disabled and the neighbor is concerned that emergency vehicles won't be able to get to him easily.
  - Mrs. Wyatt's neighbor said the City Engineer told her that maybe she should sell their home and Mrs. Wyatt was appalled.
  - Mrs. Wyatt added that two homes were sold this summer; one being the neighbors' and the other one sold because of concerns about raising a baby on what would become a major artery (street)
  - Ms. Wyatt said the project may have been planned twenty years ago, but that the times have changed and now we have climate change and species and habitat loss.
  - She finds it criminal to cut down 100-year old cottonwood trees that provide beautiful shade and cover for many birds and there will be extra heat radiating off the additional pavement.
  - Ms. Wyatt stated that if Fruita is the bike-friendly town in purports to be, the City should be encouraging more students to ride to school.

Ms. Wyatt said her suggestion was to follow the traffic onto J.2 Road up to Pine Street and not through her neighborhood. She asked the Council to use more scrutiny when approving developments.

#### **6. CONSENT AGENDA**

- A. **MINUTES – A REQUEST TO APPROVE THE MINUTES OF THE NOVEMBER 2, 2021 REGULAR CITY COUNCIL MEETING**
- B. **LIQUOR LICENSE RENEWAL – A REQUEST TO APPROVE THE RENEWAL OF AN OPTIONAL PREMISES LIQUOR LICENSE – MALT, VINOUS AND SPIRITUOUS FOR ADOBE CREEK NATIONAL GOLF COURSE LOCATED AT 876 18 ½ ROAD**

- C. LIQUOR LICENSE RENEWAL – A REQUEST TO APPROVE THE RENEWAL OF A BREW PUB LIQUOR LICENSE – MALT, VINOUS AND SPIRITUOUS FOR SUDS BROTHERS BREWERY LOCATED AT 127 E. ASPEN AVENUE**
- D. RESOLUTION 2021-37 – A REQUEST TO APPROVE A RESOLUTION AMENDING THE 2021 BUDGET AND TRANSFERRING FUNDS FROM THE SEWER FUND CONTINGENCY ACCOUNT FOR ELECTRICAL REPAIRS TO THE WASTEWATER TREATMENT FACILITY**
- E. ORDINANCE 2022-06 – FIRST READING – AN INTRODUCTION OF AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF FRUITA BY ZONING APPROXIMATELY 5.09 ACRES OF PROPERTY LOCATED AT 1136 17 ½ ROAD TO A PLANNED UNIT DEVELOPMENT (PUD) ZONE FOR PUBLICATION OF PUBLIC HEARING ON JANUARY 18, 2022**
- F. RESOLUTION 2021-34 – A REQUEST TO AUTHORIZE THE CITY MANAGER TO SIGN A PROFESSIONAL SERVICES AGREEMENT FOR ADVERTISING AND PROMOTION SERVICES WITH COLVITA CREATIVE, LLC**

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

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

## **7. PUBLIC HEARINGS**

### **A. QUASI-JUDICIAL HEARINGS**

#### **1) CIDER MILL ESTATES PRELIMINARY PLAN**

City Planner Henry Hemphill provided staff's PowerPoint presentation consisting of:

- Project description (47 single-family lots on 13.25 acres – 3.5 dwelling units/acre)
- Zoning map showing that the subject property is in the South Fruita Residential Zone
- Access from Apple Lane, Stone Mountain Drive and South Maple Street
- Review of a list of seven (7) Land Use Code requirements that must be met pursuant to Chapter 17.15 (Application can meet all requirements with adequate response to review comments at Final Plat application)
- Legal notice methods, dates and physical locations that included photos of public hearing signs that were posted in three separate locations surrounding the subject property
- No written public comments were received
- Comments received at the Planning Commission meeting involved concerns about drainage from one neighboring property owner.
- All review comments received were included in the Staff Report materials.

- Planning Commission recommended approval by a vote of 4 to 0 at their November 9, 2021 public hearing.
- Staff recommends approval of the Cider Mill Estates Preliminary Plan with the condition that all review comments and all issues identified in the Staff Report are adequately resolved with the Final Plat application.

Kim Kerk, owner of Kerkland Consulting, addressed the Council as the project manager and applicant's representative. She summarized the project and stated that it either has or will meet all the requirements through working with the Planning and Engineering Departments of the City. Ms. Kerk stated that a few of the review comments that will be addressed include:

- Concerning CDOT access permits, the fees have already been paid and applications are in process
- Can meet all stormwater requirements, in the process of obtaining all the stormwater permits state and county-wide
- Working on shared utilities (detention pond and/or irrigation facilities) via an agreement between Garden Estates and Cider Mill Estates and CC & Rs
- Can or will meet all other requirements of Planning and Engineering Departments

Ms. Kerk stated that the one difficulty on the project would be to have a lot of modifications, but she didn't see that happening. She said she is committed to working diligently through all the details.

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

- **COUNCILOR BREMAN MOVED TO APPROVE THE PROPOSED CIDER MILL ESTATES PRELIMINARY PLAN WITH THE CONDITION THAT ALL REVIEW COMMENTS AND ISSUES IDENTIFIED BE ADEQUATELY RESOLVED WITH THE FINAL PLAT APPLICATION. COUNCILOR HARVEY SECONDED THE MOTION. THE MOTION PASSED WITH FIVE YES VOTES.**

## **B. LEGISLATIVE HEARINGS**

### **1) ADOPTION OF THE 2022 ANNUAL BUDGET FOR THE CITY OF FRUITA – CITY CLERK, FINANCE DIRECTOR MARGARET SELL**

#### **A. RESOLUTION 2021-39 – A REQUEST TO APPROVE A RESOLUTION ESTABLISHING FEES AND CHARGES FOR THE 2022 BUDGET YEAR**

Mrs. Sell noted that this was the continuation of the public hearing from the last Council meeting on November 16<sup>th</sup> pending the final adoption of mill levies. Items of note concerning this Resolution to establish the City's fees and charges for next year are as follows:

- Utility charges include a \$2.00 per month increase in residential sewer charges

- 4% increase on all the related sewer charges for commercial property (consumption/volume-based charges)
- Increase in trash service (pass-through from trash collection provider Waste Management) of \$0.55 to \$15.30 total per month
- Related increased for 96-gallon tote trash service and senior trash charges
- Establishment of a new 96-gallon charge of \$6.70 per month
- Increase of \$10 per year for annual irrigation (City maintained and operated system only)
- Increase from \$500 to \$750 for irrigation taps (has not been increased in forty years)
- Change in criteria for senior citizen rate – based on poverty level, which is adjusted every year
- Increase of 6% in Drainage Impact Fee (based on calculations in Land Use Code to guide the fee)
- Increase from \$730 to \$920 for School Land Dedication Fee
- Use Tax on building materials remains at 3%
- Business license fee increase from \$25 to \$30 (not effective until January 1, 2023, also has not been increased in forty years)

Mayor Kincaid noted that he was going to open one public hearing for all four Resolutions to adopt the 2022 Budget.

**B. RESOLUTION 2021-40 – A REQUEST TO APPROVE A RESOLUTION ADOPTING THE 2022 ANNUAL BUDGET**

Mrs. Sell explained that the 2022 Annual Budget has an overall impact of \$38 million including current year revenues of \$25.3 million, transfers from other funds of \$8 million and use of Fund Balance (the City's savings account) of \$4.7 million. Staff and the Council have spent the last couple of months going over each individual component of the budget, but Mrs. Sell said she'd be happy to answer any questions if the Council had them.

**C. RESOLUTION 2021-41 – A REQUEST TO APPROVE A RESOLUTION APPROPRIATING FUNDS FOR THE 2022 FISCAL YEAR**

Mrs. Sell explained that it is a statutory requirement that once the City adopts a Budget, the Council has to legally appropriate the funds in order to actually spend them and that this was the purpose of Resolution 2021-41. The Resolution also breaks down the Annual Budget by operating expenses, capital project expenses and transfers and equipment.

**D. RESOLUTION 2021-42 – A REQUEST TO APPROVE A RESOLUTION ESTABLISHING THE MILL LEVY AT 10.146 MILLS FOR COLLECTION IN 2022**

Mrs. Sell stated that the Mill Levy proposed for next year has not changed from the current year. She did receive the final assessed values from the Mesa County Assessor's Office the previous Wednesday and the number reflects the current assessments of property values within the City of Fruita.

Mayor Kincaid opened the public hearing on Resolutions 2021-39, 2021-40, 2021-41 and 2021-42. Hearing no comments, he brought them back before the Council.

- **COUNCILOR KREIE MOVED TO APPROVE RESOLUTION 2021-39 – ESTABLISHING THE FEES AND CHARGES FOR THE 2022 BUDGET YEAR. COUNCILOR HARVEY SECONDED THE MOTION. THE MOTION PASSED WITH FIVE YES VOTES.**
  - **COUNCILOR O'BRIEN MOVED TO ADOPT RESOLUTION 2021-40 – ADOPTING THE 2022 ANNUAL BUDGET. COUNCILOR BREMAN SECONDED THE MOTION. THE MOTION PASSED WITH FIVE YES VOTES.**
  - **COUNCILOR BREMAN MOVED TO ADOPT RESOLUTION 2021-41– APPROPRIATING FUNDS FOR THE 2022 FISCAL YEAR IN ACCORDANCE WITH THE ADOPTED 2022 ANNUAL BUDGET. COUNCILOR LEONHART SECONDED THE MOTION. THE MOTION PASSED WITH FIVE YES VOTES.**
  - **COUNCILOR BREMAN MOVED TO APPROVE RESOLUTION 2021-42 – ESTABLISHING THE PROPERTY TAX MILL LEVY FOR THE 2022 BUDGET YEAR AT 10.146 MILLS FOR GENERAL OPERATIONS AND AUTHORIZING THE CITY CLERK TO CERTIFY THE MILL LEVY TO THE MESA COUNTY COMMISSIONERS. COUNCILOR HARVEY SECONDED THE MOTION. THE MOTION PASSED WITH FIVE YES VOTES.**
- 2) **RESOLUTION 2021-38 – A REQUEST TO APPROVE A RESOLUTION AMENDING THE 2021 BUDGET WITH SUPPLEMENTAL APPROPRIATIONS FOR TRASH COLLECTION CHARGES, WILDLIFE SURVEY, BILLBOARD REPAIR AND FENCE REPAIR**

Mrs. Sell explained that this Resolution cleans up a variety of different areas in the Budget including:

- General Fund: There were fence damages at the Police Department due to an auto accident, so the supplemental appropriation covers the cost of the repairs. The funds will be recouped from the driver's insurance company.
- Marketing and Promotion Fund: \$2,300 of repair expenses for the I-70 billboard were in excess of amounts budgeted. Lodging tax revenues are higher than budget, so they are available to offset these expenses.
- Public Places Fund: The City received a contribution of \$1,850 to assist with higher-than-budgeted expenses for the North Fruita Desert Wildlife Survey, so contribution funds are available to offset the cost of the survey.
- Trash Fund: Mrs. Sell said she was tidying up actual revenues and expenses based on increased usage and adjustments to estimates included in the Budget. Revenues of \$23,000 are available from monthly charges to offset the increased expense of trash service.

Mrs. Sell summarized that available funds for additional expenses as listed in Resolution 2021-38 keeps the City within budget for the remainder of the year.

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

Councilor Breman asked if staff knew what the cost of the Community Clean-Up Day was. Mrs. Sell responded that there were labor costs of approximately 16 - 20 hours by the Public Works Department and it was around \$200 - \$300 for the roll-off dumpster. Councilor Breman called the costs minimal.

Councilor Harvey thanked Mrs. Sell, Department Directors and staff and for all the work put into the budget over the last couple of months.

- **COUNCILOR KREIE MOVED TO ADOPT RESOLUTION 2021-38 – AMENDING THE 2021 BUDGET TO APPROPRIATE ADDITIONAL FUNDS IN THE VARIOUS FUNDS FROM THE SOURCES NOTED FOR UNANTICIPATED EXPENSES. COUNCILOR O'BRIEN SECONDED THE MOTION. THE MOTION PASSED WITH FIVE YES VOTES.**

## **8. ADMINISTRATIVE AGENDA**

There were no Administrative items on the agenda.

## **9. CITY MANAGER'S REPORT**

City Manager Mike Bennett echoed thanks and expressed appreciation for all the work on the 2022 Budget, saying he was very proud because it is highly focused on results of the 2021 Community Survey as well as the significant amount of community engagement that went into the City's newly adopted Comprehensive Master Plan and Land Use Code Update.

Mike also provided the following updates:

- Reminder of the Parade of Lights to be held on Saturday, December 11<sup>th</sup> at 5:30 p.m. (hosted by the Fruita Area Chamber of Commerce)
- Introduction of Marc Mancuso, new Parks and Recreation Department Director

Mr. Mancuso said he was very excited to be working with the Fruita staff, Council and community.

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

### **A. CANCELLATION OF UPCOMING CITY COUNCIL WORKSHOP MEETING**

Mayor Kincaid asked for and received confirmation from Mr. Bennett that there were no items that need to be addressed on a December workshop agenda.

- **COUNCILOR HARVEY MOVED TO APPROVE THE CANCELLATION OF THE TUESDAY, DECEMBER 28, 2021 WORKSHOP MEETING OF THE**

**FRUITA CITY COUNCIL. COUNCILOR LEONHART SECONDED THE MOTION. THE MOTION PASSED WITH FIVE YES VOTES.**

**B. COUNCIL REPORTS AND ACTIONS**

COUNCILOR MATTHEW BREMAN

Matthew mentioned that the gentleman who was offered the Executive Director position at the Grand Junction Economic Partnership (GJEP) has since declined, so Steve Jozefczyk is still the Acting Director for now.

COUNCILOR HEATHER O'BRIEN

Heather stated that she had a Planning Commission meeting coming up the following Tuesday and she missed the first Parks and Recreation Advisory Board meeting with new Director Marc Mancuso because she had other obligations with the School District.

COUNCILOR KEN KREIE

Ken reported that he has had no meetings as of late and both December meetings he had have been canceled.

Kyle stated that the Arts and Culture Board will be presenting at the next Council meeting and one of the items they want to propose is a grant program. The board is still working on the details, but a grant could be a possibility for the Cavalcade. Ken said Cavalcade could use the help with expenses like rent, heat and water.

COUNCILOR KAREN LEONHART

Karen reported that the Museum of Western Colorado (MWC) had a meeting and discussed the good prospects for board members that are being interviewed. She added that the MWC is actually in a pretty good state financially, which is different from years past.

Karen also commented about fast-moving traffic and the pedestrian crossings on 18 Road and Pabor Avenue (or near there) and Ottley Avenue and the trail (where there is a crossing sign). She said that there have been some close calls and she is wondering about the possibility of getting flags like the ones they have in Utah where pedestrians pick up a flag to walk across an intersection and put it on the opposite side. Mike said staff would look into that.

MAYOR JOEL KINCAID

Joel reported receiving a phone call about whether the City could assist in fundraising for Cavalcade, as they are currently struggling with expenses. City Manager Mike Bennett answered that there are several new funding mechanisms available and definitely some in the arts category that staff can research. He said staff will bring back that information to both Cavalcade and the Council.



Joel asked about rescheduling the Monument Ridge Elementary School “Teachers and Students of the Month” presentation and Mike said that staff would work with Principal Larsen to reschedule it for one of the second meetings in either December or January (when another school is not scheduled to appear).

Joel noted that he had a Fruita Area Chamber of Commerce Board of Directors meeting the following morning and that the Tourism Advisory Council meeting for the month had been canceled.

Joel noted that he had previously sent an email to Council members concerning the topic of potentially reimplementing a prayer (invocation) before Council meetings. He recalled when there used to be an invocation prior to at least one Council meeting per month when Ken Henry was the Mayor. Joel stated that he firmly believes that there should again be an invocation before at least one Council meeting per month and a moment of silence at the other meeting because it had been impressed upon his heart that it is important and the right thing to do.

Joel opened up the topic for discussion.

Each Council member took a turn expressing their thoughts on the matter and after an open but difficult and lengthy conversation, the consensus was that prayer should not be a part of Council meetings; however, the direction received by staff was to add a moment of silence prior to the Pledge of Allegiance on the agendas of regular (not including workshop) meetings of the Fruita City Council.

With no further business before the Council, Mayor Kincaid adjourned the meeting at 8:36 p.m.

Respectfully submitted,

Debra Woods  
Deputy City Clerk  
City of Fruita