

**FRUITA CITY COUNCIL
REGULAR MEETING
FEBRUARY 18, 2020**

1. INVOCATION AND PLEDGE OF ALLEGIANCE

A moment of silence was observed in lieu of the Invocation and the Pledge of Allegiance was recited.

2. CALL TO ORDER AND ROLL CALL

Council members present were Ken Kreie, Karen Leonhart, Amanda Ewing, Kyle Harvey and Dave Karisny. Councilor Lori Buck was excused absent. Mayor Kincaid called the meeting to order at 7:00 p.m.

3. AGENDA – ADOPT/AMEND

Mayor Kincaid asked if there were any changes to the agenda. Deputy City Clerk Deb Woods stated that there were none.

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

4. PROCLAMATIONS AND PRESENTATIONS

There were no Proclamations or presentations on the agenda.

5. PUBLIC PARTICIPATION

Mr. Bruce Bonar, 968 17 ¼ Road, Fruita, said he was present to talk to the Council about Snooks Bottom. He recalled that when he was on the Fruita City Council some time ago, he thought it was Councilor Lori Buck who brought to the Council a request from a number of people in the community who wanted a dog park in Fruita. He said the Council, City Manager and staff had a long discussion about it and staff presented some arguments about why they did not want to have a designated, titled “dog park” in the City, and as a compromise, the City came up with the idea of just having Snooks Bottom open space as a designated off-leash area for dogs. Staff and the Council talked about what that meant and Chief Judy Macy weighed in on it by saying instead of requiring dogs to be on a leash, owners must have their dogs “under control,” and that voice commands would qualify for being “under control” as long as the dog listens to its owner. If the dog doesn’t obey its owner’s commands, it would need to be put on a leash. Mr. Bonar said everyone seemed to be happy with the outcome at the time and this is how it has been at Snooks Bottom for quite a while.

Mr. Bonar continued that the signs changed this winter at Snooks Bottom; the signs now say, “Please keep dog on a leash.” He said he went to the City of Fruita’s website regarding Snooks

Bottom and it says that “dogs are allowed, but must be on a leash.” Mr. Bonar said this is not the way Snooks Bottom has been managed by the City in the past and so he did a little bit more digging and found that Fruita Municipal Code Section 6.04.010(D) defines “at large” as a dog that is off-leash and is off the owner’s property.

Mr. Bonar added that Section 6.08.010(C) says that no dogs at large are allowed anywhere in the City, particularly in county parks, *unless permission is posted by county or public authorities allowing dogs at large*. He concluded that there is an issue because the signs at Snooks Bottom and the City’s website create the impression that a leash law will be enforced, which he said is not what the Council and staff had intended Snooks Bottom to be.

Mr. Bonar asked the City Council if they had a change of heart so that Snooks Bottom is no longer going to be the off-leash area for Fruita dogs. He said if they have not, then the City needs to clean up the language on the website and on the signs. He suggested that the language be amended to say, “For dogs at large, please keep your dog under control” and this would be the easy fix for everything.

Mr. Bonar continued that if the Council wanted to change the way Snooks Bottom is managed, he warned them that because people have been running dogs at large at Snooks for decades, the Council and City would not have a good time enforcing the leash requirement.

Mr. Bonar added that the signs don’t say anything about dogs at large on Opal Hill, which adjoins the Snooks Bottom property but without any clear boundaries, so dogs at large on Opal Hill should be okay, which creates another difficulty.

Mr. Bonar asked the City Council to direct staff to add some corrective language to the signs and to the website so that people can continue to walk their dogs at Snooks without the potential of putting City law enforcement in a difficult position of having to arrest someone.

There were no further comments from the public.

6. CONSENT AGENDA

- A. MINUTES - A REQUEST TO APPROVE THE MINUTES OF THE FEBRUARY 4, 2020 CITY COUNCIL MEETING**
- B. LIQUOR LICENSE RENEWAL – A REQUEST TO APPROVE THE RENEWAL OF A RETAIL LIQUOR STORE LICENSE FOR CENTER TOWN LIQUORS LOCATED AT 136 S. MESA STREET**
- C. RESOLUTION 2020-10 – APPROVING A ONE-YEAR LEASE OF PROPERTY LOCATED AT 432 E. ASPEN AVE. TO THE FRUITA CHAMBER OF COMMERCE**

D. RESOLUTION 2020-12 – A REQUEST TO AMEND THE 2020 BUDGET AND TRANSFER FUNDS FROM THE GENERAL FUND CONTINGENCY TO THE ELECTIONS PROGRAM FOR THE 2020 REGULAR MUNICIPAL ELECTION

Mayor Kincaid opened the public hearing on the consent agenda. Hearing no comments, he closed the public hearing and brought the matter back to the Council.

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

7. PUBLIC HEARINGS

A. LEGISLATIVE HEARINGS

- 1) **RESOLUTION 2020-11 – A REQUEST TO APPROVE A RESOLUTION AMENDING THE 2020 ANNUAL BUDGET WITH A SUPPLEMENTAL APPROPRIATION OF FUNDS FOR COMPLETION OF PROJECTS INITIALLY BUDGETED FOR IN THE 2019 ANNUAL BUDGET**

Finance Director/Margaret Sell stated that the Resolution before the Council amends the Budget by appropriating funds that were budgeted for projects in 2019 but not spent by the end of the year for various reasons such as timing considerations and weather. Mrs. Sell explained that Resolution 2020-11 re-appropriates those funds for expenditure in 2020.

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

Councilor Leonhart said she didn't recall the Council reaching consensus and finalizing the re-appropriation of \$20,000 to the Big Salt Wash (re-stabilization) project. Mr. Bennett stated that staff received direction on all the other Capital Projects at the February 4, 2020 Council meeting, but that Public Works Director Ken Haley had said that he would go back and look at the numbers to see if there was enough money in the budget to cover the Big Salt Wash project as well and there was, so it was included in the Resolution. Mr. Bennett added that the project is not a result of improper construction; the wash has widened over time due to natural causes which in turn, caused the concrete to break.

- **COUNCILOR KARISNY MOVED TO ADOPT RESOLUTION 2020-11 – AMENDING THE 2020 ANNUAL BUDGET TO APPROPRIATE FUNDS IN THE GENERAL FUND CAPITAL PROJECT AND FUND THE DEVIL'S CANYON CENTER FUND AND SEWER FUND FOR COMPLETION OF CAPITAL PROJECTS ORIGINALLY INCLUDED IN THE 2019 ANNUAL BUDGET AND REDUCTION OF APPROPRIATIONS IN THE CAPITAL PROJECTS FUND AND SEWER FUND TO REFLECT THE REVISED SCOPE OF PROJECTS TO OFFSET GRANT FUNDS INCLUDED IN THE**

2020 BUDGET BUT NOT AWARDED. COUNCILOR EWING SECONDED THE MOTION. THE MOTION PASSED WITH FIVE YES VOTES.

8. ADMINISTRATIVE AGENDA

A. FINANCIAL REPORTS – A REQUEST TO APPROVE THE FINANCIAL REPORTS FOR JANUARY 2020

Finance Director/City Clerk Margaret Sell explained that there were some 2019 year-end numbers for sales taxes and other components, so she wanted to review the additional detail that was included in the January 2020 Financial Reports that isn't normally included in the summaries.

Mrs. Sell pointed out that as illustrated on the coversheet, tax revenues for city sales tax, use tax on motor vehicles, county sales tax and public safety tax were all ahead of 2019 actuals and budget while use tax on building materials and lodger's tax were below last year's revenues. She added that all tax revenues were in excess of the amounts budgeted and that the amounts show that the City had a really good year sales tax-wise. Amounts were over last year by about \$400,000 and over budget by about \$700,000. Mrs. Sell also provided a breakdown of increases and declines and positive and negative growth areas in various sales tax revenues sorted by North America Industry Classification System (NAICS) categories over the last five years.

Mrs. Sell noted that there is some needed follow-up by staff concerning the City's lodging tax revenues because the sales tax reported by the Colorado Department of Revenue shows an increase of 7% over the prior year and a 35% increase over the five-year period while the City-collected Lodger's Tax (the additional 3% lodging tax that is in addition to regular sales tax) was down by about 1% from 2018 to 2019. She said this is an indication that there are either some non-reporting/non-compliance lodging establishments in the City or there are incorrect classifications that were done by the state. Staff will be focusing on this issue over the next couple of months to resolve it.

Mrs. Sell also noted that there is a 63% increase in retail over the last five years, particularly in 2018 to 2019 when the Wayfair decision was ruled that instituted the collection of sales tax on internet (remote vendors) sales. There was a 15% increase in sales tax in 2019 over 2018 and about half of that is attributed to the remote online sellers. Mrs. Sell anticipates that this increase will level off so that there will not be such a huge jump in one year over the next, but it might take a year before that happens.

Councilor Karisny asked if internet sales tax is included with all other sales tax reported by the state. Mrs. Sell explained that the Department of Revenue has a column within their data that identifies which amounts are collected from remote sellers and she recalled that somewhere between \$137,000 and \$170,000 in remote sales was collected in 2019. Mrs. Sell said she would research it further to verify that amount and will forward the information to the Council.

Mrs. Sell surmised that the internet sales in 2019 had resulted in about half of the increase in retail sales tax for the City and that the other half was due to the local economy, which has notably improved over 2018.

Additional highlights of Mrs. Sell's presentation include:

- Sales tax on food increased 47% over the last five years
- Manufacturing and wholesale trade sales were up 295% from one year to the next and 650% over the five-year period. Overall, these only represent about 3% of the City's total sales and use tax collections and a significant part of the increases can be attributed to remote online (wholesale) sales.
- Use tax on vehicles increased 25% over the last five years and represents a moderate growth rate. This is the second largest generator of sales and use tax revenues for the City of Fruita.
- Sales tax on utilities increased about 6% over the last five years.
- Sales tax on communications increased 13% over the last five years and Mrs. Sell believes this is due to people relying on alternative forms of energy such as solar and/or more energy conservation measures and methods being available now.
- Miscellaneous sales tax revenues represent about 2% of the overall collections and have increased 54% over the last five years.

Mrs. Sell concluded by saying that the big fluctuations in sales tax revenues are related to oil and gas activity, but most of the remaining categories either show flat, slight, moderate or even significant increases from 2018 to 2019.

Mr. Bennett added that at the last and recent City/County Managers Association Conference, he had the opportunity to listen to Dr. Wobbekind from Colorado University Boulder, who is renowned in Colorado for giving an economic forecast of the state as a whole. He also had the opportunity to attend the local Economic Forecast with Dr. Perry from Colorado Mesa University. Mr. Bennett noted that he would be receiving copies of the presentations and will share them with the City Council, but he summarized that neither of the forecasters have seen any indicators that signal the beginning of a recession. There is, however, a little bit of slowing in some industries on both state and local levels such as oil and gas, which can affect the Department of Local Affairs' (DOLA's) grant funds.

Mr. Bennett continued that in the Grand Valley, medical and construction are leading the charge. He added that over the last five and a half years of attending Economic Forecast sessions, 2019 and 2020 have definitely been more positive than what is typical for Mesa County.

Councilor Leonhart asked if there is a way to separate out the sales tax revenues for the City's Vacation Rentals by Owner (VRBOs) from the regular hotels in the Financial Reports. Mrs. Sell responded that staff could probably analyze and categorize the VRBOs as one tax revenue source and the big hotels as another but cannot share that data with the public because lodging tax revenues are confidential by law. She added that she would provide the Council with a summary of total amounts paid by each category in next month's Financial Report.

- **COUNCILOR EWING MOVED TO ACCEPT THE JANUARY 2020 FINANCIAL REPORTS AS PRESENTED. COUNCILOR KARISNY SECONDED THE MOTION. THE MOTION PASSED WITH FIVE YES VOTES.**

9. CITY MANAGER'S REPORT

City Manager Mike Bennett reminded the Council that during the week, the City will be officially kicking off public engagement for the Parks, Health, Recreation, Open Space and Trails (PHROST) Master Plan. The first Steering Committee meeting for the PHROST Plan is scheduled for Wednesday, February 19th from 5:30 to 7:30 p.m. at the City Shops (900 E. Kiefer) and Mike informed the Council and Mayor that they are all invited to attend. On Thursday, February 20th, there will be a community Open House open to all the public at the Cavalcade from 5:00 to 6:30 p.m.

Mike said he wanted the Council to be aware that the PHROST Steering Committee will be meeting with multiple stakeholder groups who are the City's partners in recreation. The City's health care partners will be attending this meeting as well.

Mike reported that the City is kicking off the update to the Land Use Code with an internal staff meeting to help the hired consultant begin to research the current Code. Staff will start preparing for future Steering Committee meetings/

Mike also reported that the following week, there will be a Grand Valley Regional Transit Committee (GVRTC) meeting and the board is due to receive recommendations for multi-modal funding. There are two projects in Fruita for which staff has requested funding and are being recommended to the board for approval: the Circulation Study and the South Fremont Street design. Staff is hopeful that both projects will be awarded some grant funding.

Mike announced that next week, staff will be meeting with the owners of the Fruita Business Park, Wenke and Phillippe, and there is a full schedule for them to meet with prospective businesses that are interested in locating in the park. There has been a bit of a surge in interest as the City currently has eight fairly promising prospective businesses that are looking to relocate in Fruita and almost half of them are returns from discussions held three or more years ago. Staff is pairing some of these up with locals who are already in the process of doing expansions, construction or erection of buildings locally.

Mike added that staff is also meeting with some other prospects that are not part of the Business Park.

Mike also announced that on Wednesday, February 26th from 4:30 to 6:00 pm at the Fruita Community Center, the Great Outdoors Colorado (GOCO) will be doing their Strategic Plan Listening Tour at the FCC.

Mike explained that at the Council workshop meeting of February 25th, the artist and landscape architect will present three different alternatives for the roundabouts project and will discuss the next steps for funding.

Mike noted that the Mayor would like to have some time for some policy discussions at the February workshop session.

10. COUNCIL REPORTS AND ACTIONS

A. COUNCIL REPORTS AND ACTIONS

MAYOR JOEL KINCAID

Mayor Joel Kincaid reported that he attended the Fruita Area Chamber of Commerce board meeting the previous week and the board has just recently made an offer to someone for the new Executive Director position at the Chamber.

Joel stated that he wanted to add a policy discussion to the February workshop agenda to talk about Council Reports and a policy regarding lengthy topics that take more than three minutes to report and having those go to a future agenda for further discussion. He said he wants every Council member to be aware of what's going on, to move in a positive direction and to make wise decisions without having to jump to any quick decisions. He asked the Council members to be thinking of any other policies that the Council might need to grow, work to be efficient and help staff by giving clear direction. He used the example of how at the last meeting during the sidewalk discussion, no one on the Council wanted to make a decision and his concern is that it is the job of the Council to make decisions and give staff direction they need. Joel said the same thing happened when Councilor Dave Karisny brought up potential Grand Valley Regional Transportation funding and putting Fruita projects into the Coordinated Public Transit and Human Services Plan of the 2045 Mesa County Comprehensive Plan.

COUNCILOR KEN KREIE

Councilor Ken Kreie reported that the Downtown Advisory Board (DAB) had met the previous week and the board is currently planning for Pabor Day to be held on Saturday, May 9th. The board is also planning the Fruita Fourth Fridays theme nights for this year and are coordinating some of those with the Fruita Tourism Advisory Council and the Parks and Recreation Advisory Board. The Director of the Fruita library came to the DAB meeting and there was good discussion about coordinating in participating in downtown Fruita events. Ken noted that the library is able to bring a mobile library where library cards can be issued and books may be checked out.

Ken also stated that the Parks and Recreation Special Event Application form may not be designed for the City's boards to use and asked staff to look at it to see if boards should be using a different form. Mr. Bennett responded that staff is looking at special events as a whole during the PHROST process and is already internally starting to look through the application because there are a lot of sections that don't apply to different situations.

COUNCILOR HARVEY

Councilor Kyle Harvey said he didn't have anything to report on, but he was wondering when and how the City could plan to address the dogs at Snooks Bottom issue brought up by Bruce Bonar at the beginning of the meeting. He said he remembers the discussion the first time around with Lori and Bruce and everybody else that was on the Council at that time and it was agreed upon that the City was going to continue to allow dogs to run and play in the water and things like that and that a lot of people including himself do that, so he would like to see the discussion take place. Mr. Bennett said that staff could add the discussion to the February workshop agenda. He added that he previously had the opportunity to talk with Bruce and the Parks and Recreation Department and

the short of it was that nothing ever officially changed and no one had intended to start regulating Snooks Bottom differently.

COUNCILOR DAVE KARISNY

Dave continued with the discussion the Council had a few weeks prior regarding the Mesa County 2045 Plan. He said there was an initial discussion about a circulation route in Fruita that would be different than what Grand Valley Transit (GVT) is doing right now. That discussion took place a couple of years ago and included questions about how it would work and how it could get funded. Dave stated that in the 2045 Plan, it indicates that if an organization is going to request 5310 Funds (funds to be used for seniors, disabled or the poor), then the circulation route would have to be included in the 2045 Plan. Dave noted that this is not what is in Fruita's current Community Plan because the City wasn't certain it wanted the route. He said he sent out information from Mesa County Transportation Engineer Dana Brosig about it to all Fruita City Council members and subsequently, there was a discussion about whether the City wants to be involved to pursue 5310 Funds. If so, the City would need to provide some additional information including population data and the exact route, but since the City of Fruita is not ready to do that, Dave indicated to Dana Brosig that Fruita is not interested at this time.

Dave said he wanted to point out that in the 2045 Grand Valley Plan, there are maps that illustrate the Fruita area and through Mesa County's public outreach, there is a lot of interest in creating more transit opportunities. He continued that in addition, the City of Fruita's Community Plan has some goals for transit and that is why he suggested that the discussion continue among the Council; possibly as part of the Circulation Plan or perhaps as a topic that would be best addressed by Fruita's Livability Commission.

Dave stated that Dana Brosig took Fruita out of the 2045 Plan so now 5310 Funds will not be available to the City. Dana did include a statement in the Plan that says:

“The dash represents unique strategy for expansion of fixed route services based on partnering with organizations that directly benefit. This strategy adds more funding stakeholders to the GVT and may serve as a model strategy for expansion of services elsewhere in the transit system. GVT will explore opportunities to expand services through partnerships where available.”

Dave explained that the dash represents the service that is in Grand Junction. The Downtown Development Authority of Grand Junction got together with Colorado Mesa University and created a bus service that runs on Thursday, Friday and Saturday from 4:00 p.m. to midnight. This route is in addition to the eleven existing routes that GVT has right now.

Dave continued that being part of the 2045 Plan does not obligate the City of Fruita to any expansion of bus services, but it provides the opportunity for the City to pursue 5310 Funds or 5307 Funds, which could provide money to purchase the vehicle or offset the operating expenses.

Dave said he also felt he needed to explain about his decision to not run for another term on the City Council. He pointed out that he has been off and on (but mostly on) the City's Planning Commission since 1995 and that this is his 12th year as a City Councilor off and on. He said his

intent all along was to serve for one term even though he has changed his mind many times. Dave added that he didn't like leaving the race uncontested because he thinks that Councilors should be voted in and not just appointed.

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

- **COUNCILOR KREIE MOVED TO MEET IN EXECUTIVE SESSION TO DISCUSS PERSONNEL ISSUES UNDERSTANDING THAT DISCUSSIONS OF SUCH ISSUES IN EXECUTIVE SESSION ARE SPECIFICALLY PERMITTED BY THE STATE'S OPEN MEETING LAW C.R.S. SECTION 24-6-402(4)(F). COUNCILOR EWING SECONDED THE MOTION. THE MOTION PASSED WITH FIVE YES VOTES.**

The Council convened into Executive Session at 7:46 p.m. The regular meeting convened at 8:40 p.m.

11. ADJOURN

With no further business before the Council, the meeting was adjourned at 8:40 p.m.

Respectfully submitted,

Debra Woods
Deputy City Clerk
City of Fruita