1. INVOCATION AND PLEDGE OF ALLEGIANCE

2. CALL TO ORDER AND ROLL CALL

3. AGENDA - ADOPT/AMEND

4. PROCLAMATIONS AND PRESENTATIONS

5. PUBLIC PARTICIPATION
   This section is set aside for the City Council to LISTEN to comments by the public regarding items that do not otherwise appear on this agenda. Generally, the City Council will not discuss the issue and will not take an official action under this section of the agenda. Please limit comments to a five-minute period.

A. PRESENTATION - STUDENT/TEACHER OF THE MONTH for Shelledy Elementary School:
   - Kindergarten - Paige Thompson
   - 1st Grade - Kylie Harden
   - 2nd Grade - Kristopher Davidson
   - 3rd Grade - Teagyn Stewart
   - 4th Grade - Emmy Lehmann
   - 5th Grade - Logan Steel
   - PE Teacher - David Hassler

6. CONSENT AGENDA
   These are items where all conditions or requirements have been agreed to or met prior to the time they come before the Council for final action. These items will be approved by a single motion of the Council. Members of the Council may ask that an item be removed from the consent section and fully discussed. All items not removed from the consent section will then be approved. A member of the Council may vote no on specific items without asking that they be removed from the consent section for full discussion. Any item that is removed from the consent agenda will be placed at the end of the regular agenda.

A. MINUTES – A request to approve the minutes of the February 18, 2020 City Council meeting

B. LIQUOR LICENSE RENEWAL – A request to approve the renewal of a Hotel and Restaurant – Malt, Vinous & Spirituous for TMPTF8 Deux, Inc. dba Rib City Grill located at 455 Kokopelli Blvd.
C. BOARDS AND COMMISSIONS APPOINTMENT – A request to approve the appointment of Fred Martinez to the Downtown Advisory Board for a three-year term to expire in March of 2023

D. RESOLUTION 2020-15 - Approving the Final Release of the Subdivision Improvements Agreement for the Village at Country Creek Filing #4 Subdivision

E. RESOLUTION 2020-16 - Approving the Final Release of the Subdivision Improvements Agreement for the Harrison Townhomes

7. PUBLIC HEARINGS

Public hearings are held to obtain input from the public on various items. Public hearings are either Legislative in nature or Quasi-Judicial in nature. Each is described as follows:

- LEGISLATIVE – Legislative public hearings are held when the City Council is considering an item that establishes legislation such as an ordinance amending or establishing laws of the city. Interactions by members of the public with the City Council or individual members is permissible on items of a legislative nature.

- ORDINANCES – SECOND READING. After introduction of an Ordinance (First Reading), a public hearing date is set and notice of the hearing is published in the newspaper. Staff presents the ordinance and the hearing is opened to the public for comment. After comment from the public, the Mayor will close the hearing to the public and bring the Ordinance back to the City Council for discussion and potential action. The Council will make a motion to approve the Ordinance or take no action. In the event the ordinance is approved, it will become effective 30 days after adoption.

- QUASI-JUDICIAL – Quasi-judicial public hearings are held when the City Council is acting in a judicial or judge like manner and a person with a legitimate interest is entitled to an impartial decision made on the basis of information presented and laws in effect. Quasi-judicial hearings are commonly held for land use hearings and liquor license hearings. Since the City Council is acting in a fair and impartial manner, it is NOT permissible for City Council members to have any ex-parte communication (contact between the applicant, members of the public, or among other members of the City Council) outside of the Public Hearings and meetings on the subject application. The City Council must limit its consideration to matters which are placed into evidence and are part of the public record. Quasi-judicial hearings are held in the following manner:

1) Staff presentation (15 minutes max) Staff will present the comments and reports received from review agencies and offer a recommendation.
2) Applicant Presentation (15 minutes max) The petitioner is asked to present the proposal. Presentations should be brief and to the point and cover all of the main points of the project.
3) Public Input (limit of 5 minutes per person. If two people in the audience are willing to cede their time to the speaker, that speaker may receive a total of 10 minutes, referred to as banking time). People speaking should step up to the microphone and state their name and address. Speakers should be to the point and try not to repeat the points others have made.
4) The public hearing is closed to public comments.
5) Questions from the Council. After a Council member is recognized by the Mayor, they may ask questions of the staff, the applicant, or the public.
6) Make a motion. A member of the City Council will make a motion on the issue.
7) Discussion on the motion. The City Council may discuss the motion.
8) Vote. The City Council will then vote on the motion.

A. QUASI-JUDICIAL HEARINGS

1) NEW LIQUOR LICENSE APPLICATION – A request to approve an Optional Premises – Malt, Vinous and Spirituous Liquor License for Imondi Wakezone, LLC located at 1583 Cipolla Road

2) RESOLUTION 2020-13 – Approving a Conditional Use Permit to operate a Vacation Rental by Owner (Bed & Breakfast) in a Community Residential zone located at 496 Logan Lane (Black Bear House)

3) RESOLUTION 2020-14 – Approving a Conditional Use Permit to operate a Vacation Rental by Owner (Bed & Breakfast) in a Community Residential zone located at 402 S. Pine Street (Christmas Farm)
8. ADMINISTRATIVE AGENDA

A. RESOLUTION 2020-18 – Approving an Intergovernmental Agreement (IGA) with Mesa County for stormwater compliance services - Public Works Director Ken Haley

B. RESOLUTION 2020-17 - Supporting a grant application to the Mesa County Federal Mineral Lease District requesting grant funds for the repair and widening of the 16 Road Railroad crossing of Union Pacific Railroad - City Engineer Sam Atkins

9. CITY MANAGER’S REPORT

10. COUNCIL REPORTS AND ACTIONS

A. Council Reports and Actions

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 Manager formal review)

11. ADJOURN
**BACKGROUND**

At the direction of the Fruita City Council, the City of Fruita began recognizing students and teachers in Fruita’s schools as “Students of the Month” or “Teachers of the Month” at the first City Council meeting of the month beginning in February of 2019. The students and teachers are chosen by the Principal of each of the schools as being those that represented their school’s core values during the previous month.

The Students/Teachers of the Month recognition schedule is as follows:

<table>
<thead>
<tr>
<th>SCHOOL</th>
<th>RECOGNITION MONTH</th>
<th>CITY COUNCIL MEETING DATE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fruita 8/9 School</td>
<td>February 2020</td>
<td>February 4, 2020</td>
</tr>
<tr>
<td>Shelledy Elementary School</td>
<td>March 2020</td>
<td>March 3, 2020</td>
</tr>
<tr>
<td>Fruita Middle School</td>
<td>April 2020</td>
<td>April 7, 2020</td>
</tr>
<tr>
<td>Rim Rock Elementary School</td>
<td>May 2020</td>
<td>May 5, 2020</td>
</tr>
<tr>
<td>Fruita Monument High School</td>
<td>September 2020</td>
<td>September 1, 2020</td>
</tr>
<tr>
<td>Monument Ridge Elementary School</td>
<td>October 2020</td>
<td>October 6, 2020</td>
</tr>
</tbody>
</table>

The Mayor will acknowledge each student and one teacher from Shelledy Elementary School for the month of March (listed on the agenda) and will present them with a certificate and a gift from the City of Fruita.

No action from the Council is necessary.
CITY OF FRUITA’S STUDENT OF THE MONTH
FOR MARCH 2020

This Certifies That

Paige Thompson

Of

Shelledy Elementary School, Kindergarten

Is being recognized by The Fruita City Council for outstanding academic achievement and excellence.

Keep up the great work!

March 3, 2020

Joel Kincaid, Mayor
CITY OF FRUITA’S STUDENT OF THE MONTH
FOR MARCH 2020

This Certifies That

Kylie Harden

Of

Shelledy Elementary School, 1st Grade

Is being recognized by The Fruita City Council for outstanding academic achievement and excellence.

Keep up the great work!

March 3, 2020

Joel Kincaid, Mayor
CITY OF FRUITA’S STUDENT OF THE MONTH
FOR MARCH 2020

This Certifies That
Kristopher Davidson

Of
Shelledy Elementary School, 2nd Grade

Is being recognized by The Fruita City Council for outstanding academic achievement and excellence.

Keep up the great work!

March 3, 2020

Joel Kincaid, Mayor
CITY OF FRUITA’S STUDENT OF THE MONTH
FOR MARCH 2020

This Certifies That

Teagyn Stewart

Of

Shelledy Elementary School, 3rd Grade

Is being recognized by The Fruita City Council for outstanding academic achievement and excellence.

Keep up the great work!

March 3, 2020

Joel Kincaid, Mayor
CITY OF FRUITA’S STUDENT OF THE MONTH
FOR MARCH 2020

This Certifies That

Emmy Lehmann

Of

Shelledy Elementary School, 4th Grade

Is being recognized by The Fruita City Council for outstanding academic achievement and excellence.

Keep up the great work!

March 3, 2020

Joel Kincaid, Mayor
CITY OF FRUITA’S STUDENT OF THE MONTH
FOR MARCH 2020

This Certifies That

Logan Steel

Of

Sheckedy Elementary School, 5th Grade

Is being recognized by The Fruita City Council for outstanding
academic achievement and excellence.

Keep up the great work!

March 3, 2020

Joel Kincaid, Mayor
CITY OF FRUITA’S TEACHER OF THE MONTH

MARCH 2020

This certificate is presented to

David Hassler

Of

Shelledy Elementary School, P.E. Teacher

In recognition of your dedication, passion and hard work. Thanks for all you do!

March 3, 2020

Joel Kincaid, Mayor
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 for Snooks Bottom.

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 warned the Council that because people have been running dogs at large at Snooks for decades, if they want to change the way Snooks Bottom is being managed, the City would have a hard 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. He said that there aren’t 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 PROJECTS FUND, 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 new Financial Report 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 ruled on the institution of 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.
Addition al 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.
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 (GVRCT) 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 that are being recommended to the board for approval: the Circulation Study and the South Fremont Street design project. 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 Phillipe, 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 or construction of new 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, 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.
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 a candidate 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 implementing a policy regarding lengthy topics that take more than three minutes to report under Council Reports and Actions. He said that these discussions need to go to a future workshop agenda for further discussion. He added that while he does want every Council member to be aware of what’s going on, he also wants the Council to move in a positive direction and be able to make good judgments without having to jump to any quick decisions.

Joel asked the Council members to be thinking of any other policies that the Council might need to implement to grow, work to be efficient and help staff by giving clear direction. He used the recent examples of the discussions concerning the K.4 Road sidewalk and the Mesa County 2045 Comprehensive Plan when the Council had a difficult time giving staff direction in one way or another.

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 branch library came to the DAB meeting and there was good discussion about coordinating and participating in downtown Fruita events. Ken noted that the branch is able to bring a mobile library where library cards can be issued and books may be checked out during events in the City.

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 in different situations.

COUNCILOR HARVEY

Councilor Kyle Harvey said he didn’t have anything to report, 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 at Snooks Bottom and that a lot of people including himself do that, so he would like to see the discussion take place soon. Mr. Bennett said that the discussion could be added to the February workshop agenda. He pointed out
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; 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.

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 (also off and on). He said his intent all along was to serve for one more term on the Council 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
BACKGROUND

The Hotel/Restaurant Liquor License For Rib City Grill located at 455 Kokopelli Blvd is up for renewal. Their current license expires on March 21, 2020. The City Clerk’s office has not been advised of any issues or concerns related to the liquor license during the past year. The Police Department report indicates that there have not been any violations or incidents reported to them in the last year and there is nothing unusual or of concern that would hinder renewal of the license. There are no current TIPS certificates on file at the City Clerk’s Office.

The following information is provided as background on the liquor license renewal process:

Pursuant to State Statutes, the local licensing authority (City Council) may cause a hearing on the application for renewal to be held. No renewal hearing shall be held until a notice of hearing has been conspicuously posted on the licensed premises for a period of ten days and notice of the hearing has been provided the applicant at least ten days prior to the hearing. The licensing authority may refuse to renew any license for good cause, subject to judicial review.

This item is placed on the Consent agenda for the Council to determine if there is any cause for a hearing to be held on the renewal of the liquor license. If there is no cause for a hearing, the City Council should approve the renewal of the existing license. If there is cause for a hearing, the City Council should set a date to hold a quasi-judicial hearing to determine if there are sufficient grounds for suspension or revocation of the liquor license. The City Council may also temporarily suspend any license, without notice, pending any prosecution, investigation or public hearing. No such suspension shall be for a period of more than 15 days.

FISCAL IMPACT

None.

APPLICABILITY TO CITY GOALS AND OBJECTIVES
The City of Fruita is charged with protection of the public health, safety and welfare. The review and renewal of liquor licenses ensures that licensed establishments are operating by the rules and regulations adopted by the City and State concerning the sale or service of beer and alcoholic beverages.

**OPTIONS AVAILABLE TO THE COUNCIL**

1. Renewal of the Hotel/Restaurant Liquor License.

2. Schedule a hearing date to determine if there is good cause for the license to be suspended or revoked.

It is the recommendation of staff that the Council move to:

**RENEW THE HOTEL AND RESTAURANT LIQUOR LICENSE FOR RIB CITY GRILL LOCATED AT 455 KOKOPELLI BLVD.**
Submit to Local Licensing Authority

Retail Liquor or Fermented Malt Beverage License Renewal Application

Please verify & update all information below

<table>
<thead>
<tr>
<th>Licensee Name</th>
<th>TMPTF8 DUEX INC</th>
<th>Doing Business As Name (DBA)</th>
<th>RIB CITY GRILL</th>
</tr>
</thead>
<tbody>
<tr>
<td>Liquor License #</td>
<td>41978490000</td>
<td></td>
<td></td>
</tr>
<tr>
<td>License Type</td>
<td>Hotel &amp; Restaurant (city)</td>
<td>Sales Tax License #</td>
<td>41978490000</td>
</tr>
<tr>
<td>Expiration Date</td>
<td>03/21/2020</td>
<td>Due Date</td>
<td>02/04/2020</td>
</tr>
<tr>
<td>Business Address</td>
<td>455 KOKOPELLI BLVD, FRUITA CO 81521</td>
<td>Phone Number</td>
<td>(970) 255-7330</td>
</tr>
<tr>
<td>Mailing Address</td>
<td>720 GLENWOOD AVE, GRAND JUNCTION CO 81501</td>
<td>Email</td>
<td><a href="mailto:accounting@rcgwest.com">accounting@rcgwest.com</a></td>
</tr>
<tr>
<td>Operating Manager</td>
<td>MICHAEL SPRADLIN</td>
<td>Date of Birth</td>
<td>08/24/1960</td>
</tr>
<tr>
<td>Home Address</td>
<td>365 WEST RIDGES BLVD, GRAND JET, CO 81501</td>
<td>Phone Number</td>
<td>(970) 985-0052</td>
</tr>
</tbody>
</table>

1. Do you have legal possession of the premises at the street address above? ☐ Yes  ☒ No
   Are the premises owned or rented? ☐ Owned  ☒ Rented*  *If rented, expiration date of lease 06/30/2022

2. Are you renewing a storage permit, additional optional premises, sidewalk service area, or related facility? If yes, please see the table in upper right hand corner and include all fees due. ☐ Yes  ☒ No

3a. Since the date of filing of the last application, has the applicant, including its manager, partners, officer, directors, stockholders, members (LLC), managing members (LLC), or any other person with a 10% or greater financial interest in the applicant, been found in final order of a tax agency to be delinquent in the payment of any state or local taxes, penalties, or interest related to a business? ☐ Yes  ☒ No

3b. Since the date of filing of the last application, has the applicant, including its manager, partners, officer, directors, stockholders, members (LLC), managing members (LLC), or any other person with a 10% or greater financial interest in the applicant failed to pay any fees or surcharges imposed pursuant to section 44-3-503, C.R.S.? ☐ Yes  ☒ No

4. Since the date of filing of the last application, has there been any change in financial interest (new notes, loans, owners, etc.) or organizational structure (addition or deletion of officers, directors, managing members or general partners)? If yes, explain in detail and attach a listing of all liquor businesses in which these new lenders, owners (other than licensed financial institutions), officers, directors, managing members, or general partners are materially interested. ☐ Yes  ☒ No

5. Since the date of filing of the last application, has the applicant or any of its agents, owners, managers, partners or lenders (other than licensed financial institutions) been convicted of a crime? If yes, attach a detailed explanation. ☐ Yes  ☒ No

6. Since the date of filing of the last application, has the applicant or any of its agents, owners, managers, partners or lenders (other than licensed financial institutions) been denied an alcohol beverage license, had an alcohol beverage license suspended or revoked, or had interest in any entity that had an alcohol beverage license denied, suspended or revoked? If yes, attach a detailed explanation. ☐ Yes  ☒ No

7. Does the applicant or any of its agents, owners, managers, partners or lenders (other than licensed financial institutions) have a direct or indirect interest in any other Colorado liquor license, including loans to or from any licensee or interest in a loan to any licensee? If yes, attach a detailed explanation. ☒ Yes  ☐ No
**Affirmation & Consent**
I declare under penalty of perjury in the second degree that this application and all attachments are true, correct and complete to the best of my knowledge.

<table>
<thead>
<tr>
<th>Type or Print Name of Applicant/Authorized Agent of Business</th>
<th>Title</th>
</tr>
</thead>
<tbody>
<tr>
<td>MICHAEL SPRADLIN</td>
<td>OWNER</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Signature</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>02/10/2020</td>
</tr>
</tbody>
</table>

**Report & Approval of City or County Licensing Authority**
The foregoing application has been examined and the premises, business conducted and character of the applicant are satisfactory, and we do hereby report that such license, if granted, will comply with the provisions of Title 44, Articles 4 and 3, C.R.S., and Liquor Rules. **Therefore this application is approved.**

<table>
<thead>
<tr>
<th>Local Licensing Authority For</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>The City of Fruita</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Signature</th>
<th>Title</th>
<th>Attest</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>JOEL KINCAID, MAYOR</td>
<td></td>
</tr>
</tbody>
</table>
CITY OF FRUITA
MEMORANDUM

TO: FRUITA POLICE DEPARTMENT
FROM: DEBRA WOODS, DEPUTY CITY CLERK
DATE: FEBRUARY 20, 2020
RE: HOTEL/RESTAURANT LIQUOR LICENSE RENEWAL

<table>
<thead>
<tr>
<th>License Information</th>
</tr>
</thead>
<tbody>
<tr>
<td>Licensee:</td>
</tr>
<tr>
<td>Location:</td>
</tr>
<tr>
<td>Type of License:</td>
</tr>
<tr>
<td>Expiration Date of Current License:</td>
</tr>
<tr>
<td>City Council Hearing Date:</td>
</tr>
<tr>
<td>DUE DATE FOR POLICE REPORT:</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Tips certificates on File</th>
</tr>
</thead>
<tbody>
<tr>
<td>Employee:</td>
</tr>
<tr>
<td>(None current)</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Report of Fruita Police Department</th>
</tr>
</thead>
<tbody>
<tr>
<td>A) Have there been any reported violation(s) of the Liquor or Beer Code in the last year?</td>
</tr>
<tr>
<td>B) Have there been any incidents reported to the Police Dept in the last year that would pertain to the liquor license and the establishment’s control of alcoholic beverages and their patrons?</td>
</tr>
<tr>
<td>C) Are there other concerns that need to be brought to the attention of the City Council?</td>
</tr>
</tbody>
</table>

Please attach documentation to support the above noted violation(s), incidents or comments.

Signed [Signature] Date 2-20-20

Fax: 858-0210 e-mail: dwoods@fruita.org
AGENDA ITEM COVER SHEET

TO: FRUITA CITY COUNCIL

FROM: DEPUTY CITY CLERK DEBRA WOODS FOR MAYOR KINCAID AND COUNCILOR KREIE

DATE: MARCH 3, 2020

RE: BOARDS AND COMMISSIONS APPOINTMENT – A REQUEST TO APPROVE THE APPOINTMENT OF FRED MARTINEZ TO THE DOWNTOWN ADVISORY BOARD FOR A THREE-YEAR TERM TO EXPIRE IN MARCH OF 2023

BACKGROUND

The membership composition of the Downtown Advisory Board calls for a minimum of seven members and a maximum of twelve. Currently, there are ten (10) members on the board, therefore, there are potentially up to two (2) more vacancies.

On February 13, 2020, Fred Martinez (co-owner of Suds Brothers Brewery) submitted his application for appointment to the Downtown Advisory Board.

If Fred Martinez is appointed, there will be one (1) potential remaining vacancy on the Downtown Advisory Board.

FISCAL IMPACT

N/A

APPLICABILITY TO CITY GOALS AND OBJECTIVES

Boards and Commissions provide valuable input to the City and help establish goals and objectives. They provide a link between citizens of Fruita and city government.

OPTIONS AVAILABLE TO THE COUNCIL

1. Appoint Fred Martinez to the Downtown Advisory Board for a three-year term to expire in March of 2023
2. Instruct staff to publish a notice of vacancy and repeat the interview process.

**RECOMMENDATION**

It is the recommendation of Mayor Kincaid and Councilor Kreie that the following appointment be made:

Fred Martinez to the Downtown Advisory Board for a three-year term to expire in March of 2023
CITY OF FRUITA
BOARDS AND COMMISSIONS
MEMBERSHIP APPLICATION

BOARD OR COMMISSION: Downtown Advisory Board

NAME: Fred Martinez

MAILING ADDRESS: 807 San Luis Ct. Fruita CO 81521

RESIDENCE ADDRESS: Same City State Zip

PHONE NUMBER: Cell 970-712-0693 Home Work

E-MAIL ADDRESS: Fredsvsb@tethero.com

How long have you been a resident of Fruita? 11 years

Occupation/Employer: Sue's Brothers Brewery Co. Owner

List any volunteer and/or work experience:
MULTITUDE OF FUNDRAISERS CHARITABLE EVENTS

Are you presently serving on a board or commission? If so, which one(s)? No

Why do you want to be a member of this board or commission?
WOULD LIKE TO BE A PART OF AN ORGANIZATION THAT WILL INCULCATE POSITIVITY & ENTHUSIASM DOWNTOWN FRUITA

List any abilities, skills, or interests which are applicable to the board or commission for which you are applying.
COMMUNICATION SKILLS, ORGANIZED, EVENT EXPERIENCE
Are you committed to attending meetings?  √ Yes  □ No
Are you committed to serving an entire term?  √ Yes  □ No

Please specify any activities which might create serious conflict of interest if you should be appointed to a particular board or commission. (If unsure, please call the City Manager's office at 858-3663)

N/A

List any licenses, certificates or other specialized training applicable to the board or commission for which you are applying.

N/A

Additional information or references you believe may be helpful in considering your application.

I AM FRIENDLY, ABLE TO GET ALONG WITH ASSORTED ARRAY OF PEOPLE/PERSONALITIES

Signature __________________________ Date 2-10-20

All applicants are strongly encouraged to attend a regularly scheduled meeting of the board or commission for which they are applying. Frequent non-attendance may result in termination of the appointment.

ATTACHMENTS TO APPLICATION MUST BE LIMITED TO TWO PAGES

Please feel free to submit a resume along with this application. Application and any attachments should be returned to the Fruita City Council c/o the City Clerk, 325 E. Aspen, Fruita, CO 81521. Although we have indicated the best time to apply for a particular board, we accept applications for any of the boards year-round. Thank you.
BACKGROUND:

This is a request for a final release of the Subdivision Improvements Agreement (SIA) for the Village at Country Creek Filing #4 Subdivision. The SIA was approved by City Council on October 6, 2015 and a 1st Release was approved by Council on August 2, 2016.

SIA Approved – Resolution #2015-26 on October 6, 2015.

The warranty period has expired for the SIA and the required improvements have been inspected by city staff and the improvements appear to have been completed as required by the subdivision approval and the SIA. The improvements have been found to be free of defects in materials and workmanship as required.

FISCAL IMPACT

The city took the responsibility for maintenance of public facilities and began to provide city services when the 1st release of the SIA was approved. There should be no additional fiscal impact to the city created with the final release of the SIA as long as the improvements are free from defects or other problems. There does not appear to be any problems with the improvements.
APPLICABILITY TO CITY GOALS AND OBJECTIVES

The process of approving and releasing an SIA ensures that the city’s policy of requiring development to pay its own way is met and that residents and taxpayers of the city are not subsidizing growth.

OPTIONS AVAILABLE TO COUNCIL


2. Direct staff to research any area of the improvements on which Council has concerns or questions.

RECOMMENDATION

Staff recommends that the City Council by motion:

ADOPT RESOLUTION 2020-15, A RESOLUTION OF THE FRUITA CITY COUNCIL APPROVING THE FINAL RELEASE OF THE SUBDIVISION IMPROVEMENTS AGREEMENT FOR THE VILLAGE AT COUNTRY CREEK FILING #4 SUBDIVISION.
RESOLUTION 2020-15

A RESOLUTION OF THE FRUITA CITY COUNCIL APPROVING THE FINAL
RELEASE OF THE SUBDIVISION IMPROVEMENTS AGREEMENT FOR THE
VILLAGE AT COUNTRY CREEK FILING #4 SUBDIVISION.

WHEREAS, the developer of the Village at Country Creek Filing #4 Subdivision
entered into a Subdivision Improvements Agreement recorded in the records of the Mesa County
Clerk and Recorder (reception #2751818) to guarantee that required improvements would be
completed within a certain time period, and

WHEREAS, the 1ST release of the funding guarantee for the required improvements and
the start of the required two-year warranty period was approved by the City Council on August
2, 2016, and

WHEREAS, the two-year warranty period has lapsed since acceptance of the
improvements and they have been found by city staff to be free of defects in materials and
workmanship or other problems.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF
FRUITA, COLORADO:

THAT the Village at Country Creek Filing #4 Subdivision is released from the Subdivision
Improvements Agreement including the two-year warranty period.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF FRUITA,
COLORADO THIS 3RD DAY OF MARCH, 2020.

ATTEST: City of Fruita

Margaret Sell, City Clerk

Joel Kincaid, Mayor
TO: FRUITA CITY COUNCIL AND MAYOR  
FROM: PLANNING & DEVELOPMENT DEPARTMENT  
DATE: MARCH 3, 2020  
RE: RESOLUTION 2020 - 16, A RESOLUTION OF THE FRUITA CITY COUNCIL APPROVING THE FINAL RELEASE OF THE SUBDIVISION IMPROVEMENTS AGREEMENT FOR THE HARRISON TOWNHOMES.

BACKGROUND:

This is a request for a final release of the Subdivision Improvements Agreement (SIA) for the Harrison Townhomes Subdivision. The SIA was approved by City Council on October 3, 2017 and a 1st Release was approved by Council on March 6, 2018.


The warranty period has expired for the SIA and the required improvements have been inspected by city staff and the improvements appear to have been completed as required by the subdivision approval and the SIA. The improvements have been found to be free of defects in materials and workmanship as required.

FISCAL IMPACT

The city took the responsibility for maintenance of public facilities and began to provide city services when the 1st release of the SIA was approved. There should be no additional fiscal impact to the city created with the final release of the SIA as long as the improvements are free from defects or other problems. There does not appear to be any problems with the improvements.
APPLICABILITY TO CITY GOALS AND OBJECTIVES

The process of approving and releasing an SIA ensures that the city’s policy of requiring development to pay its own way is met and that residents and taxpayers of the city are not subsidizing growth.

OPTIONS AVAILABLE TO COUNCIL


2. Direct staff to research any area of the improvements on which Council has concerns or questions.

RECOMMENDATION

Staff recommends that the City Council by motion:

ADOPT RESOLUTION 2020-16, A RESOLUTION OF THE FRUITA CITY COUNCIL APPROVING THE FINAL RELEASE OF THE SUBDIVISION IMPROVEMENTS AGREEMENT FOR THE HARRISON TOWNHOMES SUBDIVISION.
RESOLUTION 2020-16

A RESOLUTION OF THE FRUITA CITY COUNCIL APPROVING THE FINAL RELEASE OF THE SUBDIVISION IMPROVEMENTS AGREEMENT FOR THE HARRISON TOWNHOMES SUBDIVISION.

WHEREAS, the developer of the Harrison Townhomes Subdivision entered into a Subdivision Improvements Agreement recorded in the records of the Mesa County Clerk and Recorder (recording #2820986) to guarantee that required improvements would be completed within a certain time period, and

WHEREAS, the 1st release of the funding guarantee for the required improvements and the start of the required two-year warranty period was approved by the City Council on March 6, 2018, and

WHEREAS, the two-year warranty period has lapsed since acceptance of the improvements and they have been found by city staff to be free of defects in materials and workmanship or other problems.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FRUITA, COLORADO:

THAT the Harrison Townhomes Subdivision is released from the Subdivision Improvements Agreement including the two-year warranty period.


ATTEST: City of Fruita

______________________________ ____________________________________
Margaret Sell, City Clerk   Joel Kincaid, Mayor
AGENDA ITEM COVER SHEET

TO: FRUITA CITY COUNCIL AND MAYOR
FROM: DEBRA WOODS, DEPUTY CITY CLERK
DATE: MARCH 3, 2020
RE: A REQUEST TO APPROVE A NEW OPTIONAL PREMISES – MALT, VINOUS AND SPIRITUOUS LIQUOR LICENSE APPLICATION FOR IMONDI WAKE ZONE, LLC LOCATED AT 1583 CIPOLLA ROAD

BACKGROUND

In January of 2020, Imondi Wake Zone, LLC (Imondi) submitted an application and all of the necessary paperwork and fees with the City Clerk’s Office to be granted an Optional Premises Liquor License at 1583 Cipolla Road. C.R.S. Section 44-3-103 of the Colorado Liquor Code defines “Optional Premises” as:

“The premises specified in an application for an optional premises license located on an applicant's outdoor sports and recreational facility. (b) For purposes of this subsection (33), "outdoor sports and recreational facility" means a facility that charges a fee for the use of such facility.”

Imondi entered into a lease agreement with IWZ, LLC (the leaseholder for private property owned by Mesa Grand, LLC) for approximately 2.0 acres of property for parking, restrooms and a sales office (Pro Shop) for a cable wakeboard park. This property encompasses the premises for which the Optional Premises License is being requested.

In addition, Imondi’s also lease the city-owned lake which is not part of the Optional Premises. The lease for the lake property prohibits the sale, storage or service of alcoholic beverages. The licensed premises cannot extend onto the city-owned lake parcel and the fence must have adequate separation from the trail and drain pipe. Attached is a drawing showing the alignment of the trail and pipe in relation to the property lines. It appears that the fence will need to be north of the pipe that is being installed, which is roughly where the north bank of the existing ditch is.

Criminal history background checks were conducted with the Colorado Bureau of Investigation, Mesa County Sheriff’s Department, Grand Junction Police Department, Fruita Police Department and San Diego Police Department. None of these law enforcement agencies found anything of concern that would hinder the issuance of the license.

The Colorado Liquor License Application, Needs of the Neighborhood Survey, Project Narrative,
Preliminary Findings Report, law enforcement agencies’ background results and a summary of review comments from the local review agencies and departments are attached hereto.

The following guidelines are provided to aid the Council in the decision-making process to determine if the liquor license should be approved. These guidelines are from both the Colorado State Statutes and the Fruita Municipal Code.

C.R.S. SECTION 44-3-310 OPTIONAL PREMISES LICENSE - LOCAL OPTION.

1. No Optional Premises license, as defined in section 44-3-103 (33)(a), shall be issued within any municipality unless the governing body of the municipality has adopted by ordinance, specific standards for the issuance of Optional Premises licenses.

2. In addition to all other standards applicable to the issuance of licenses, the governing body may adopt additional standards for the issuance of Optional Premises licenses that may include:

   (a) The specific types of outdoor sports and recreational facilities that are eligible to apply for an Optional Premises license;

   (b) Restrictions on the number of Optional Premises that any one licensee may have on an outdoor sports or recreational facility;

   (c) A restriction on the minimum size of any applicant's outdoor sports or recreational facility that would be eligible for the issuance of an Optional Premises license;

   (d) Any other requirements necessary to ensure the control of the premises and the ease of enforcement.

FRUITA MUNICIPAL CODE SECTION 5.20.080 OPTIONAL PREMISES LICENSES.

A. An annually renewable optional premises license for the sale or service of alcoholic beverages may be issued by the City Council for any outdoor sports and recreational facility which charges a fee for the use of such facility. Any optional premises license issued shall permit the licensee to sell or serve alcoholic beverages only on the optional premises specified in the license. No alcoholic beverages may be sold, served, or consumed outside the designated areas.

B. It shall be unlawful for any person to sell or dispense alcoholic beverages at an outdoor sports and recreational facility without having first obtained a valid optional premises license to do so as provided by this section, or in violation of any provision, restriction or limitation of the license if one has been issued.

C. Nothing contained in this section shall preclude the City Council, in its discretion, from denying an application for an optional premises license or imposing conditions, restrictions or limitations on any optional premises license in order to serve the public health, safety and welfare. Any such conditions may be imposed when the license is initially issued or should any specific event or use of the optional premises so warrant.

D. The following standards for the issuance of optional premises licenses are adopted pursuant to
section 12-47-135.5 CRS, as amended. The standards adopted herein shall be considered in addition to all other standards applicable to the issuance of licenses under the Colorado Liquor Code for an optional premises license.

E. Submittal Requirements. When submitting a request for the approval of an optional premises license, an applicant shall also submit the following information:

1. A detailed diagram of the outdoor sports or recreational facility indicating:
   a. the location of the facility;
   b. the location of all proposed optional premises;
   c. the proposed locations of any permanent, temporary or moveable structure or vehicle located on an optional premises and used to dispense alcoholic beverages;
   d. seating, if any;
   e. restroom facilities, if any;
   f. restrictions, if any, to access to the optional premises; and
   g. location of secured area(s) for use in storing malt, vinous and spirituous liquors for future use on the optional premises.

2. A written statement setting forth what will be done to secure the optional premises and storage area(s) and the reason why the City Council should grant the license.

3. Such other information as may be reasonably required to satisfy the City Council that the control of the optional premises will be assured, and that the health, safety and welfare of the neighborhood and facility users will not be adversely affected should the license be issued.

In addition to the above guidelines for approving an Optional Premises Liquor License, the Colorado Liquor Code contains the following regulations for what the City Council must consider when approving any type of new liquor license:

**C.R.S. Section 44-3-301. Licensing in general.**

(2) (a) Before granting any license, all licensing authorities shall consider, except where this article 3 and article 4 of this title 44 specifically provide otherwise, the reasonable requirements of the neighborhood, the desires of the adult inhabitants as evidenced by petitions, remonstrances, or otherwise, and all other reasonable restrictions that are or may be placed upon the neighborhood by the local licensing authority.

**Regulation 47-310 Application – General Provisions**

E. A licensing authority (the City Council in this case) is required to make a determination as to the character, record and reputation of the applicants for new licenses. The City Council may consider the following factors when assessing the character of the applicants, which may include but not be limited to the following:

1. The applicant or licensee has submitted false applications, made willful misrepresentations and/or committed fraudulent acts:
2. The application or licensee has a criminal history of crimes of moral turpitude. By way of example, crimes of moral turpitude shall include but not be limited to, murder, burglary, robbery, arson, kidnapping, sexual assault, illegal drugs or narcotics convictions;

3. The applicant or licensee has had previous alcohol beverage licenses denied, suspended or revoked as a result of violations of law;

4. The applicant or licensee has been found to be delinquent in the payment of any state or local taxes, and record of such tax delinquency has been filed in a court having jurisdiction, or has been made a public record by some other lawful means;

5. The applicant or licensee has committed statutory violations resulting in the suspension, revocation or denial or any other professional license. For purpose of this section, the suspension or revocation or a state-issued driver's license shall not be considered.

F. Pursuant to 24-5-101, C.R.S., when making a determination as to the character, record or reputation of a licensee or applicant as required by Title 12, Article 46, 47 and 48, the licensing authority shall also consider evidence of rehabilitation. Such evidence may include, but not be limited to, evidence of no criminal history record information, educational achievements, financial solvency, community standing, lack of additional arrests or convictions, or the lack of parole or probation violations since the date of last conviction.

**ISSUANCE OF A NEW LIQUOR LICENSE**

No license shall be issued to or held by:

1. Any person until the annual fee therefore has been paid;

2. Any person who is not of good moral character;

3. Any partnership, association, or company any of whose officers, or any of whose members holding ten percent or more interest therein, are not of good moral character;

4. Any person unless such person’s character, record, and reputation are satisfactory to the respective licensing authority;

5. Any natural person under twenty-one years of age.

**FISCAL IMPACT**

No significant impact.

**APPLICABILITY TO CITY GOALS AND OBJECTIVES**

The City of Fruita is charged with protection of the public health, safety and welfare. The consideration of the issuance of a new Optional Premises Liquor License by the City Council ensures that the applicant has demonstrated control of the premises and the ease of enforcement, that the proposed establishment is desired in the neighborhood and that the applicant is of good moral character.

**OPTIONS AVAILABLE TO THE COUNCIL**
Pursuant to the FMC, nothing contained in this section shall preclude the City Council, in its discretion, from denying an application for an optional premises license or imposing conditions, restrictions or limitations on any optional premises license in order to serve the public health, safety and welfare. Any such conditions may be imposed when the license is initially issued or should any specific event or use of the optional premises so warrant.

1. Approve the Optional Premises – Malt, Vinous and Spirituous Liquor License for Imondi Wake Zone, LLC at 1583 Cipolla Road as proposed

2. Approve the Optional Premises – Malt, Vinous and Spirituous Liquor License for Imondi Wake Zone, LLC at 1583 Cipolla Road with additional requirements

3. Deny the issuance based on the character of the applicant.

**RECOMMENDATION**

It is the recommendation of the staff that Council, by motion:

- APPROVE THE ISSUANCE OF AN OPTIONAL PREMISES – MALT, VINOUS AND SPIRITUOUS LIQUOR LICENSE TO IMONDI WAKE ZONE LOCATED AT 1583 CIPOLLA ROAD WITH THE CONDITION THAT ALL REVIEW COMMENTS BE ADEQUATELY RESOLVED BEFORE ANY ALCOHOL IS SOLD AND SERVED ON THE LICENSED PREMISES.
Colorado Liquor
Retail License Application

☐ New License  ☐ New-Concurrent  ☐ Transfer of Ownership  ☐ State Property Only

• All answers must be printed in black ink or typewritten
• Applicant must check the appropriate box(es)
• Applicant should obtain a copy of the Colorado Liquor and Beer Code: www.colorado.gov/enforcement/liquor

1. Applicant is applying as an ☐ Individual  ☑ Limited Liability Company  ☐ Association or Other
☐ Corporation  ☐ Partnership (includes Limited Liability and Husband and Wife Partnerships)

I'monoz Wake Zone, LLC
2a. Trade Name of Establishment (DBA)
State Sales Tax Number
35065S010-0000
Business Telephone
970-639-0327

2b. FEIN Number
82-0952874

3. Address of Premises (specify exact location of premises, include suite/unit numbers)
1583 Capella RD
City
Fruita
County
Mesa
City or Town
SAME
State
CO
ZIP Code
81521

4. Mailing Address (Number and Street)

5. Email Address
I'monoz.Wake.Zone@gmail.com

6. If the premises currently has a liquor or beer license, you must answer the following questions

<table>
<thead>
<tr>
<th>Present Trade Name of Establishment (DBA)</th>
<th>Present State License Number</th>
<th>Present Class of License</th>
<th>Present Expiration Date</th>
</tr>
</thead>
</table>

Section A

☒ Application Fee for New License $1,550.00
☐ Application Fee for New License w/Concurrent Review $1,650.00
☒ Application Fee for Transfer $1,550.00

Section B (Cont.)

☐ Liquor-Licensed Drugstore (County)...
☐ Lodging & Entertainment - L&E (City)...
☐ Lodging & Entertainment - L&E (County)...
☐ Manager Registration - H & R...
☐ Manager Registration - Tavern...
☐ Manager Registration - Lodging & Entertainment...
☐ Manager Registration - Campus Liquor Complex...
☒ Optional Premises License (City)...
☐ Optional Premises License (County)...
☐ Racetrack License (City)...
☐ Racetrack License (County)...
☐ Resort Complex License (City)...
☐ Resort Complex License (County)...
☐ Related Facility - Campus Liquor Complex (City)...
☐ Related Facility - Campus Liquor Complex (County)...
☐ Related Facility - Campus Liquor Complex (State)...
☒ Retail Gaming Tavern License (City)...
☐ Retail Gaming Tavern License (County)...
☐ Retail Liquor Store License - Additional (City)...
☐ Retail Liquor Store License - Additional (County)...
☐ Retail Liquor Store (City)...
☐ Retail Liquor Store (County)...
☐ Tavern License (City)...
☐ Tavern License (County)...
☐ Vintners Restaurant License (City)...
☐ Vintners Restaurant License (County)...

Questions? Visit: www.colorado.gov/enforcement/liquor for more information

Liability Information

<table>
<thead>
<tr>
<th>License Account Number</th>
<th>Liability Date</th>
<th>License Issued Through (Expiration Date)</th>
<th>Total</th>
</tr>
</thead>
</table>

Do not write in this space - For Department of Revenue use only
**Application Documents Checklist and Worksheet**

**Instructions:** This checklist should be utilized to assist applicants with filing all required documents for licensure. All documents must be properly signed and correspond with the name of the applicant exactly. All documents must be typed or legibly printed. Upon final State approval the license will be mailed to the local licensing authority. Application fees are nonrefundable. Questions? Visit: [www.colorado.gov/enforcement/liquor](http://www.colorado.gov/enforcement/liquor) for more information

<table>
<thead>
<tr>
<th>Items submitted, please check all appropriate boxes completed or documents submitted</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>I. Applicant Information</strong></td>
</tr>
<tr>
<td>A. Applicant/Licensee identified</td>
</tr>
<tr>
<td>B. State sales tax license number listed or applied for at time of application</td>
</tr>
<tr>
<td>C. License type or other transaction identified</td>
</tr>
<tr>
<td>D. Return originals to local authority (additional items may be required by the local licensing authority)</td>
</tr>
<tr>
<td>E. All sections of the application need to be completed</td>
</tr>
<tr>
<td><strong>II. Diagram of the premises</strong></td>
</tr>
<tr>
<td>A. No larger than 8 1/2&quot; X 11&quot;</td>
</tr>
<tr>
<td>B. Dimensions included (does not have to be to scale). Exterior areas should show type of control (fences, walls, entry/exit points, etc.)</td>
</tr>
<tr>
<td>C. Separate diagram for each floor (if multiple levels)</td>
</tr>
<tr>
<td>D. Kitchen - identified if Hotel and Restaurant</td>
</tr>
<tr>
<td>E. Bold/Outlined Licensed Premises</td>
</tr>
<tr>
<td><strong>III. Proof of property possession (One Year Needed)</strong></td>
</tr>
<tr>
<td>A. Deed in name of the applicant (or) (matching question #2) date stamped / filed with County Clerk</td>
</tr>
<tr>
<td>B. Lease in the name of the applicant (or) (matching question #2)</td>
</tr>
<tr>
<td>C. Lease assignment in the name of the applicant with proper consent from the landlord and acceptance by the applicant</td>
</tr>
<tr>
<td>D. Other agreement if not deed or lease. (matching question #2)</td>
</tr>
<tr>
<td><strong>IV. Background information (DR 8404-I) and financial documents</strong></td>
</tr>
<tr>
<td>A. Complete DR 8404-I for each principal (individuals with more than 10% ownership, officers, directors, partners, members)</td>
</tr>
<tr>
<td>B. Fingerprints taken and submitted to the appropriate Local Licensing Authority through an approved state vendor. Do not complete fingerprint cards prior to submitting your application. The Vendors are as follows:</td>
</tr>
<tr>
<td>IdentoGO – <a href="https://uenroll.identogo.com/">https://uenroll.identogo.com/</a></td>
</tr>
<tr>
<td>Phone: 844-539-5539 (toll-free)</td>
</tr>
<tr>
<td>IdentoGO FAQs: <a href="https://www.colorado.gov/pacific/cbi/identification-faqs">https://www.colorado.gov/pacific/cbi/identification-faqs</a></td>
</tr>
<tr>
<td>Appointment Scheduling Website: <a href="http://www.coloradofingerprinting.com/cabs/">http://www.coloradofingerprinting.com/cabs/</a></td>
</tr>
<tr>
<td>Phone: 720-292-2722 Toll Free: 833-224-2227</td>
</tr>
<tr>
<td>C. Purchase agreement, stock transfer agreement, and/or authorization to transfer license</td>
</tr>
<tr>
<td>D. List of all notes and loans (Copies to also be attached)</td>
</tr>
<tr>
<td><strong>V. Sole proprietor/husband and wife partnership (if applicable)</strong></td>
</tr>
<tr>
<td>A. Form DR 4679</td>
</tr>
<tr>
<td>B. Copy of State issued Driver's License or Colorado Identification Card for each applicant</td>
</tr>
<tr>
<td><strong>VI. Corporate applicant information (if applicable)</strong></td>
</tr>
<tr>
<td>A. Certificate of Incorporation</td>
</tr>
<tr>
<td>B. Certificate of Good Standing</td>
</tr>
<tr>
<td>C. Certificate of Authorization if foreign corporation (out of state applicants only)</td>
</tr>
<tr>
<td><strong>VII. Partnership applicant Information (if applicable)</strong></td>
</tr>
<tr>
<td>A. Partnership Agreement (general or limited).</td>
</tr>
<tr>
<td>B. Certificate of Good Standing</td>
</tr>
<tr>
<td><strong>VIII. Limited Liability Company applicant information (If applicable)</strong></td>
</tr>
<tr>
<td>A. Copy of articles of organization</td>
</tr>
<tr>
<td>B. Certificate of Good Standing</td>
</tr>
<tr>
<td>C. Copy of Operating Agreement (if applicable)</td>
</tr>
<tr>
<td>D. Certificate of Authority if foreign LLC (out of state applicants only)</td>
</tr>
<tr>
<td><strong>IX. Manager registration for Hotel and Restaurant, Tavern, Lodging &amp; Entertainment, and Campus Liquor Complex licenses when included with this application</strong></td>
</tr>
<tr>
<td>A. $75.00 fee</td>
</tr>
<tr>
<td>B. Individual History Record (DR 8404-I)</td>
</tr>
<tr>
<td>C. If owner is managing, no fee required</td>
</tr>
<tr>
<td>Name</td>
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<td>16.</td>
</tr>
<tr>
<td>Last Name</td>
</tr>
<tr>
<td>Last Name</td>
</tr>
<tr>
<td>Attach copies of all notes and security instruments and any written agreement or details of any oral agreement, by which any person (including partnerships, corporations, limited liability companies, etc.) will share in the profit or gross proceeds of this establishment, and any agreement relating to the business which is contingent or conditional in any way by volume, profit, sales, giving of advice or consultation.</td>
</tr>
<tr>
<td>17.</td>
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<td></td>
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<tr>
<td>18.</td>
</tr>
<tr>
<td>19.</td>
</tr>
<tr>
<td>Name</td>
</tr>
<tr>
<td>--------------</td>
</tr>
</tbody>
</table>

20. Club Liquor License applicants answer the following: **Attach a copy of applicable documentation**
   a. Is the applicant organization operated solely for a national, social, fraternal, patriotic, political or athletic purpose and not for pecuniary gain? [ ] [ ]
   b. Is the applicant organization a regularly chartered branch, lodge or chapter of a national organization which is operated solely for the object of a fraternal or fraternal organization or society, but not for pecuniary gain? [ ] [ ]
   c. How long has the club been incorporated? [ ] [ ]
   d. Has applicant occupied an establishment for three years (three years required) that was operated solely for the reasons stated above? [ ] [ ]

21. Brew-Pub, Distillery Pub or Vintner’s Restaurant applicants answer the following:
   a. Has the applicant received or applied for a Federal Permit? (Copy of permit or application must be attached) [ ] [ ]

22. Campus Liquor Complex applicants answer the following:
   a. Is the applicant an institution of higher education? [ ] [ ]
   b. Is the applicant a person who contracts with the institution of higher education to provide food services? [ ] [ ]
   If "yes" please provide a copy of the contract with the institution of higher education to provide food services.

23. For all on-premises applicants:
   a. Hotel and Restaurant, Lodging and Entertainment, Tavern License and Campus Liquor Complex, the Registered Manager must also submit an Individual History Record - DR 8404-1 and fingerprint submitted to approved State Vendor through the Vendor’s website. See application checklist, Section IV, for details.
   b. For all Liquor Licensed Drugstores (LLDS) the Permitted Manager must also submit an Manager Permit Application - DR 8000 and fingerprints.

<table>
<thead>
<tr>
<th>Last Name of Manager</th>
<th>First Name of Manager</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>IMONDES</strong></td>
<td><strong>VICTOR</strong></td>
</tr>
</tbody>
</table>

24. Does this manager act as the manager of, or have a financial interest in, any other liquor licensed establishment in the State of Colorado? If yes, please provide name, type of license and account number. [ ] [ ]

25. Related Facility - Campus Liquor Complex applicants answer the following:
   a. Is the related facility located within the boundaries of the Campus Liquor Complex? [ ] [ ]
   If yes, please provide a map of the geographical location within the Campus Liquor Complex.
   If no, this license type is not available for issues outside the geographical location of the Campus Liquor Complex.
   b. Designated Manager for Related Facility - Campus Liquor Complex

26. Tax Information.
   a. Has the applicant, including its manager, partners, officer, directors, stockholders, members (LLC), managing members (LLC), or any other person with a 10% or greater financial interest in the applicant, been found in final order of a tax agency to be delinquent in the payment of any state or local taxes, penalties, or interest related to a business? [ ] [ ]
   b. Has the applicant, including its manager, partners, officer, directors, stockholders, members (LLC), managing members (LLC), or any other person with a 10% or greater financial interest in the applicant failed to pay any fees or surcharges imposed pursuant to section 44-3-503, C.R.S.? [ ] [ ]

27. If applicant is a corporation, partnership, association or limited liability company, applicant must list all Officers, Directors, General Partners, and Managing Members. In addition, applicant must list any stockholders, partners, or members with ownership of 10% or more in the applicant. All persons listed below must also attach form DR 8404-1 (Individual History Record), and make an appointment with an approved State Vendor through their website. See application checklist, Section IV, for details.

<table>
<thead>
<tr>
<th>Name</th>
<th>Home Address, City &amp; State</th>
<th>DOB</th>
<th>Position</th>
<th>% Owned</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>VICTOR IMONDES</strong></td>
<td>691 GRANITE DR, FRUITA, CO</td>
<td>[Redacted]</td>
<td>MEMBER/PAID</td>
<td>50</td>
</tr>
<tr>
<td><strong>KOOS IMONDES</strong></td>
<td>691 GRANITE DR, FRUITA, CO</td>
<td>[Redacted]</td>
<td>MGR/VP</td>
<td>50</td>
</tr>
<tr>
<td>Name</td>
<td>Home Address, City &amp; State</td>
<td>DOB</td>
<td>Position</td>
<td>% Owned</td>
</tr>
<tr>
<td>Name</td>
<td>Home Address, City &amp; State</td>
<td>DOB</td>
<td>Position</td>
<td>% Owned</td>
</tr>
<tr>
<td>Name</td>
<td>Home Address, City &amp; State</td>
<td>DOB</td>
<td>Position</td>
<td>% Owned</td>
</tr>
<tr>
<td>Name</td>
<td>Home Address, City &amp; State</td>
<td>DOB</td>
<td>Position</td>
<td>% Owned</td>
</tr>
</tbody>
</table>

**If applicant is owned 100% by a parent company, please list the designated principal officer on above.**
**Corporations - the President, Vice-President, Secretary and Treasurer must be accounted for above (Include ownership percentage if applicable)**
**If total ownership percentage disclosed here does not total 100%, applicant must check this box:**
[ ] Applicant affirms that no individual other than those disclosed herein owns 10% or more of the applicant and does not have financial interest in a prohibited liquor license pursuant to Article 3 or 5, C.R.S.
**Oath Of Applicant**

I declare under penalty of perjury in the second degree that this application and all attachments are true, correct, and complete to the best of my knowledge. I also acknowledge that it is my responsibility and the responsibility of my agents and employees to comply with the provisions of the Colorado Liquor or Beer Code which affect my license.

<table>
<thead>
<tr>
<th>Authorized Signature</th>
<th>Printed Name and Title</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>[Signature]</td>
<td>Victor Immoni, President</td>
<td>1/22/20</td>
</tr>
</tbody>
</table>

**Report and Approval of Local Licensing Authority (City/County)**

<table>
<thead>
<tr>
<th>Date application filed with local authority</th>
<th>Date of local authority hearing (for new license applicants; cannot be less than 30 days from date of application)</th>
</tr>
</thead>
<tbody>
<tr>
<td>JAN 27, 2020</td>
<td>MARCH 5, 2020</td>
</tr>
</tbody>
</table>

The Local Licensing Authority Hereby Affirms that each person required to file DR 8404-I (Individual History Record) or a DR 8000 (Manager Permit) has been:

- [ ] Fingerprinted
- [ ] Subject to background investigation, including NCIC/CCIC check for outstanding warrants

That the local authority has conducted, or intends to conduct, an inspection of the proposed premises to ensure that the applicant is in compliance with and aware of, liquor code provisions affecting their class of license.

(Decision)

- [ ] Date of inspection or anticipated date
- [ ] Will conduct inspection upon approval of state licensing authority

- [ ] Is the Liquor Licensed Drugstore (LLDS) or Retail Liquor Store (RLS) within 1,500 feet of another retail liquor license for off-premises sales in a jurisdiction with a population of > 10,0000?
- [ ] Is the Liquor Licensed Drugstore(MLDS) or Retail Liquor Store (RLS) within 3,000 feet of another retail liquor license for off-premises sales in a jurisdiction with a population of < 10,0000?

**NOTE:** The distance shall be determined by a radius measurement that begins at the principal doorway of the LLDS/RLS premises for which the application is being made and ends at the principal doorway of the Licensed LLDS/RLS.

- [ ] Does the Liquor-Licensed Drugstore (LLDS) have at least twenty percent (20%) of the applicant's gross annual income derived from the sale of food, during the prior twelve (12) month period?

The foregoing application has been examined; and the premises, business to be conducted, and character of the applicant are satisfactory. We do report that such license, if granted, will meet the reasonable requirements of the neighborhood and the desires of the adult inhabitants, and will comply with the provisions of Title 44, Article 4 or 3, C.R.S., and Liquor Rules. Therefore, this application is approved.

**Local Licensing Authority for The City of Fruita**

<table>
<thead>
<tr>
<th>Telephone Number</th>
<th>Town, City</th>
<th>County</th>
</tr>
</thead>
<tbody>
<tr>
<td>(970)858-3663</td>
<td>☑</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Signature</th>
<th>Print</th>
<th>Title</th>
</tr>
</thead>
<tbody>
<tr>
<td>[Signature]</td>
<td>JOEL KINCAID</td>
<td>MANGR</td>
</tr>
</tbody>
</table>

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<tr>
<th>Signature</th>
<th>Print</th>
<th>Title</th>
</tr>
</thead>
<tbody>
<tr>
<td>[Signature]</td>
<td>MARGARET SELL</td>
<td>CITY CLERK</td>
</tr>
</tbody>
</table>

Date
Tax Check Authorization, Waiver, and Request to Release Information

I, Victor Imonde, am signing this Tax Check Authorization, Waiver and Request to Release Information (hereinafter “Waiver”) on behalf of Imonde Wines, LLC (the “Applicant/Licensor”) to permit the Colorado Department of Revenue and any other state or local taxing authority to release information and documentation that may otherwise be confidential, as provided below. If I am signing this Waiver for someone other than myself, including on behalf of a business entity, I certify that I have the authority to execute this Waiver on behalf of the Applicant/Licensor.

The Executive Director of the Colorado Department of Revenue is the State Licensing Authority, and oversees the Colorado Liquor Enforcement Division as his or her agents, clerks, and employees. The information and documentation obtained pursuant to this Waiver may be used in connection with the Applicant/Licensor’s liquor license application and ongoing licensure by the state and local licensing authorities. The Colorado Liquor Code, section 44-3-101. et seq. (“Liquor Code”), and the Colorado Liquor Rules, 1 CCR 203-2 (“Liquor Rules”), require compliance with certain tax obligations, and set forth the investigative, disciplinary and licensure actions the state and local licensing authorities may take for violations of the Liquor Code and Liquor Rules, including failure to meet tax reporting and payment obligations.

The Waiver is made pursuant to section 39-21-113(4), C.R.S., and any other law, regulation, resolution or ordinance concerning the confidentiality of tax information, or any document, report or return filed in connection with state or local taxes. This Waiver shall be valid until the expiration or revocation of a license, or until both the state and local licensing authorities take final action to approve or deny any application(s) for the renewal of the license, whichever is later. Applicant/Licensor agrees to execute a new waiver for each subsequent licensing period in connection with the renewal of any license, if requested.

By signing below, Applicant/Licensor requests that the Colorado Department of Revenue and any other state or local taxing authority or agency in the possession of tax documents or information, release information and documentation to the Colorado Liquor Enforcement Division, and is duly authorized employees, to act as the Applicant’s/Licensor’s duly authorized representative under section 39-21-113(4), C.R.S., solely to allow the state and local licensing authorities, and their duly authorized employees, to investigate compliance with the Liquor Code and Liquor Rules. Applicant/Licensor authorizes the state and local licensing authorities, their duly authorized employees, and their legal representatives, to use the information and documentation obtained using this Waiver in any administrative or judicial action regarding the application or license.

Name (Individual/Business)  
Imonde Wines, LLC

Social Security Number/Tax Identification Number  
82-095-2814

Address  
1533 Cipolla Rd

City  
Fruita

State  
CO

Zip  
81521

Home Phone Number  
970-261-4710

Business/Work Phone Number  
970-685-0327

Printed name of person signing on behalf of the Applicant/Licensor  
VICTOR IMONDE

Applicant/Licensor’s Signature (Signature authorizing the disclosure of confidential tax information)  
[Signature]

Date signed  
11/23/20

Privacy Act Statement  
Providing your Social Security Number is voluntary and no right, benefit or privilege provided by law will be denied as a result of refusal to disclose it. § 7 of Privacy Act, 5 USCS § 552a (note).
An application has been filed with the City of Fruita for a liquor license. In its consideration of this application, the Fruita City Council must consider the reasonable requirements of the neighborhood and the desires of the inhabitants. An "inhabitant" is an individual who resides in a given neighborhood or community for more than six months each year. The "neighborhood" is defined generally as the area between L Road to the North and the Colorado National Monument to the South, and between 15 1/2 Road to the West and 20 Road to the East. A public hearing will be advertised and held on this application in the Council Chambers at the Fruita Civic Center, 325 E. Aspen, Fruita, Colorado on the first and third Tuesdays of the month at 7:00 pm.

**Do not sign this survey unless you are 21 years or older and reside within the area bounded on the north by L Road, on the south by Colorado National Monument, on the west by 15 1/2 Road, and on the 20 Road to the East.**

As an owner of property in the neighborhood, an employee or business lessee of property in the neighborhood and/or an inhabitant who resides in the neighborhood for more than six months each year:

**Question 1.** I believe the reasonable requirements of the neighborhood are already being met by other existing outlets. (Yes or No)

As an inhabitant who resides in the neighborhood for more than six months each year:

**Question 2.** It is my desire that the license be issued. (Yes or No or Not Applicable (N/A))

<table>
<thead>
<tr>
<th>Name/Signature</th>
<th>Address</th>
<th>Business (B)</th>
<th>Residence (R)</th>
<th>Question 1</th>
<th>Question 2</th>
<th>N/A</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mr. Trent</td>
<td>491 Oakwood Ave</td>
<td>R</td>
<td></td>
<td>X</td>
<td></td>
<td></td>
<td>01/22/20</td>
</tr>
<tr>
<td>S. Stodd</td>
<td>1107 Fremont St</td>
<td>R</td>
<td></td>
<td></td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>J. Robinson</td>
<td>417 Goldrush Dr</td>
<td>R</td>
<td></td>
<td></td>
<td></td>
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<td>1/22/20</td>
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<tr>
<td></td>
<td>1740 W Rd, Mack</td>
<td>R</td>
<td></td>
<td>X</td>
<td>X</td>
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<td>11/22/20</td>
</tr>
<tr>
<td></td>
<td>880 Sd Mack, 8125</td>
<td>R</td>
<td></td>
<td>X</td>
<td></td>
<td></td>
<td>1/23/20</td>
</tr>
<tr>
<td>W. Smith</td>
<td>217 S Aspen Ave</td>
<td>B</td>
<td></td>
<td>X</td>
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<td></td>
<td>1/23/20</td>
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<tr>
<td></td>
<td>285 Vista Valley Dr</td>
<td>R</td>
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<td>X</td>
<td>X</td>
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</tbody>
</table>
AFFIDAVIT OF CIRCULATOR

I, Kodi Imamdi, who resides at 691 Granite De Fruit, 081521

(print name) (print address)

do hereby certify that:

I circulated the foregoing survey for a Liquor License

(print type of license)

Liquor license application within the area described as the neighborhood, on the date(s) of

Jan 22-23, 2020, and that;

I personally witnessed each signature appearing on the petition.

To the best of my knowledge and belief, each of the person signing was, at the time of signing, an owner of the property in the neighborhood, an employee or business lessee of property in the neighborhood for more than six (6) months each year, and;

Each person who signed the petition represented him/herself to be 21 years of age or older and;

Each person who signed the petition were not paid and will not be paid, directly or indirectly, any money or other thing of value for the purpose of inducing or causing signature of this survey. I also hereby affirm that no promises, threats, or inducements were employed whatsoever in connection with the presentation of this petition and that every signature appearing hereon was completely free and voluntarily given.

Kodi Imamdi
Circulator

STATE OF COLORADO )
) SS.
COUNTY OF MESA )

Subscribed and sworn to before me this 28th day of January, 2020.

Dela (Good S)
Notary Public

My commission expires
Date: February 12, 2020

Prepared by:
Victor and Kodi Imondi
1583 Cipolla Rd.
Fruita, CO 81521
Purpose/Description

The purpose of this document is to explain Imondi Wake Zone, LLC’s plan to control alcohol sales within its premises.

Area:
The area we are requesting to be licensed is highlighted below. All alcohol sales will be performed within this area, either inside the Pro Shop, or from a small mobile bar shown by the X.
4’ Pipe and Welded Wire Fence:
The yellow perimeter of the area will be secured by a 4’ Pipe and Welded Wire Fence. Posts will be no more than 15’ apart. The southern side of the fence will border the 1583 Cipolla Rd. property line. Imondi Wake Zone will work with Ken Haley and the City of Fruita to establish this location after the new path is completed. The North Western section of the licensed area will be marked by the Pro Shop and relocating an onsite storage conex, as shown in the photos above.
**Signage:**
When entering the park, “No Outside Alcohol Permitted” signs will be present (8”x12”)

![NO OUTSIDE ALCOHOL PERMITTED](image)

**Exits:**
Two exits from the licensed area will be present, as shown above. 8”x12” signs will be present on the fence posts at these locations.

![NO ALCOHOL BEYOND THIS POINT](image)

**Beverages Available:**
Inside the Pro Shop, canned beer and wine beverages will be displayed in the refrigerator. Behind the counter, a Frozen Drink Machine will dispense frozen drinks containing alcohol (Pina Colada, Strawberry Daquiri, etc.) into clear plastic cups. These drinks will be available during all normal business hours.

Outside the Pro Shop, we would like to have the option to have a “Mobile Bar” during weekends and special events. This would be a full-service bar.
Controlling alcohol from entering and exiting park:
All employees will be trained to monitor the exits at all times. Employees who will be serving drinks will be required to take a TIPS class through The Fruita Police Department.

During all business hours, a manager over the age of 21 will be present in the Pro Shop. While inside the Pro Shop, the manager has clear views of both exits through the large windows. One of the manager’s tasks is to regularly check the premises to ensure cleanliness. During these walks, they will also monitor the area to ensure nobody has brought liquor in or out of the designated area.

We will also have an operator present in the Full System Operator Stand during all business hours. During busy times, a second operator will be present on the Two Tower Operator Stand, as shown below. These operators will be trained to monitor the south exit to ensure migration of alcohol does not occur with the bike path.

Controlling alcohol and participation:
Our staff will check ID of all purchasers of alcohol to ensure proper age. Once ID’d, participants will receive a stamp on their right hand. This will bring extra attention to visitors who have purchased drinks. All staff will be trained to recognize signs of intoxication and a manager will be notified immediately to address the situation.

Participants will have a wristband associated with the activity they are doing. We will allow one drink per hour for participants. To monitor this, we will use a hole punch to place a hole on the participant’s wristband every time a drink is purchased. For example, a person with a 2-hour wakeboard pass will be allowed two drinks. Once the participant receives two punches in their wristband, they will not be able to purchase another drink unless they forfeit their wristband.
We will also have non-alcoholic frozen drinks. To differentiate between the two, clear plastic cups will be used to easily see the contents. We will not match a frozen alcoholic drink color with a non-alcoholic drink color. For example, we will not have an alcoholic and non-alcoholic drink that are both red. Our staff will be trained to ensure that visitors without stamps do not have alcoholic drinks. Our staff will be notified of the alcoholic colors every day during our morning meeting.

**Pro Shop**
Because most liquor sales will be performed inside the Pro Shop, we would like to license the entire shop. Patrons will purchase their drinks inside and then exit the shop. See Floor Plan below.

All unopened alcohol will be stored in the Alcohol Storage area shown below. This will be a locked cabinet that can only be accessed by a manager.
PRELIMINARY FINDINGS AND REPORT UPON APPLICATION FOR A BEER AND WINE LIQUOR LICENSE

IN RE:  Imondi Wake Zone, LLC
        1583 Cipolla Road
        Fruita, CO  81521

TO THE APPLICANT NAMED ABOVE AND OTHER INTERESTED PARTIES:

You are hereby advised that with regards to your application for an Optional Premises – Malt, Vinous and Spirituous Liquor License, an investigation has been made and based on the results thereof, the following has been determined:

1. That the application was filed on January 23, 2020.

2. That the Notices of Public Hearing on this matter were posted by the applicant on February 21, 2020, and publication was made in the Daily Sentinel on February 22, 2020 for the hearing date of March 3, 2020.

3. There has not been, within two years preceding the date of your application, a denial of an application by the County Commissioners of Mesa County, the State Licensing Authority, or the Local Licensing Authority of the City of Fruita for an Optional Premises Liquor License at the location for which you make application for the reason that the reasonable requirements of the neighborhood and the desires of the inhabitants have been satisfied by the existing outlets.

4. It appears from the evidence submitted by you that you will be entitled to possession of the premises where you propose to exercise the license applied for.

5. Employees serving alcohol shall attend a Training Intervention Procedures (TIPS) class. This is a four-hour class on Colorado laws pertaining to but not limited to: serving alcohol, identifying intoxicated persons, and how to identify those of age to drink alcoholic beverages. All employees that serve alcohol should be trained either prior to beginning employment or within 30 days of employment. You may contact the Fruita Police Department, Officer John Coughran at 858-3008. Proof of attendance by employees selling alcohol must be submitted to the City Clerk’s office and will be kept on file.

6. The proposed establishment is located in an Industrial zone. Food service (including alcohol) is an allowed use in this zone. A certificate of occupancy, a food establishment permit and any other applicable licenses and permits must be issued prior to commencement of operations
including Planning Clearances from the City of Fruita Planning Department.

7. The building and grounds where you propose to exercise the privilege of serving alcohol do not appear to be within 500 feet from any public or parochial school or the principal campus of any college, university or seminary.

8. Within a one-mile radius from the building and grounds where you propose to sell malt vinous and spirituous liquors on the premises, there are the following Optional Premises License establishments: (None)

9. The following criminal history information has been brought to the attention of the authority:

   Applicant (including partners, officers, directors over 10% shareholders)

   Co-owner: Victor Imondi: ALL CLEAR
   Co-owner: Kodi Imondi: ALL CLEAR

   Source of information:

   Colorado Bureau of Investigation (Exhibit A: 2 pages)
   Mesa County Sheriff’s Office (Exhibit B: 2 pages)
   Grand Junction Police Department (Exhibit C: 1 page)
   Fruita Police Department (Exhibit D: 1 page)
   San Diego Police Department (Exhibit E: 1 page)

10. The public hearing on your application will be held on March 3, 2020 at 7:00 p.m. in the Council Chambers at the Fruita City Hall, 325 E Aspen, Fruita, CO. At said hearing, you shall have the opportunity to be heard regarding all matters related to your application, including all matters set forth herein.

11. At the public hearing, and pursuant to CRS 12-46-108, as amended, you have the burden of proving that you are qualified to hold the license applied for and that your character, record and reputation are satisfactory; that the neighborhood needs this license and that the residents of the neighborhood desire that this license be granted.

12. A copy of the “Order of Hearing” procedures used by the Local Licensing Authority of the City of Fruita for use and guidance in holding hearings on liquor license applications is attached for your information and review. (Exhibit F)

Dated this 28th day of February, 2020.

________________________________________________________________________

Debra Woods, Deputy City Clerk
for the Local Licensing Authority
No Colorado Record of arrest has been located based on information provided.

The Colorado Bureau of Investigation’s database contains detailed information of arrest records based upon fingerprints provided by Colorado law enforcement agencies. Arrests, which are not supported by fingerprints, will not be included in this database. On occasion the Colorado criminal history will contain disposition information provided by the Colorado Judicial system. Additionally, warrant information, sealed records, and juvenile records are not available to the public.

The results attached are based on a name search which may or may not be the subject of this inquiry. This search does not include a fingerprint comparison, which is the only means of positive identification. Since an arrest record may be established after this inquiry, an arrest record is only valid at the time of the current request. To ensure the most current available information in regards to subsequent arrest after an initial inquiry, it is recommended another query be made.

Falsifying or altering this document with the intent to misrepresent the contents of the record is prohibited by law, and may be punishable as a felony when done with intent to injure or defraud any person.

Sincerely,
John Camper, Director
Colorado Bureau of Investigation
CITY OF FRUITA  
325 E ASPEN  
FRUITA, CO  81521

Date: 02/24/2020 11:55:24(MT)

RE: IMONDI, KODI  
DOB: [REDACTED]  
SOC: [REDACTED]

No Colorado Record of arrest has been located based on information provided.

The Colorado Bureau of Investigation's database contains detailed information of arrest records based upon fingerprints provided by Colorado law enforcement agencies. Arrests, which are not supported by fingerprints, will not be included in this database. On occasion the Colorado criminal history will contain disposition information provided by the Colorado Judicial system. Additionally, warrant information, sealed records, and juvenile records are not available to the public.

The results attached are based on a name search which may or may not be the subject of this inquiry. This search does not include a fingerprint comparison, which is the only means of positive identification. Since an arrest record may be established after this inquiry, an arrest record is only valid at the time of the current request. To ensure the most current available information in regards to subsequent arrest after an initial inquiry, it is recommended another query be made.

Falsifying or altering this document with the intent to misrepresent the contents of the record is prohibited by law, and may be punishable as a felony when done with intent to injure or defraud any person.

Sincerely,
John Camper, Director
Colorado Bureau of Investigation
Date: February 24, 2020

To Whom It May Concern:

Name: IMONDI, Victor Joseph
DOB: [Redacted]

The Mesa County Sheriff's Office has checked for arrest record information on the above referenced individual and has found the following:

( X ) No record of arrest with this agency.

(   ) Record of arrest with this agency as noted (see attached):

(   ) This person did not present any personal identification. This person may or may not be the person holding this document.

This background check does not include any contacts made for Civil Process. For Civil Process information please contact our Civil Unit at 970-244-3521.

Lorene Hernandez
Law Enforcement Specialist
Mesa County Sheriff's Office
(970) 244-3505
Date: February 24, 2020

To Whom It May Concern:

Name: IMONDI, Kodi Ann
DOB:  

The Mesa County Sheriff’s Office has checked for arrest record information on the above referenced individual and has found the following:

( X ) No record of arrest with this agency.

( ) Record of arrest with this agency as noted (see attached):

( ) This person did not present any personal identification. This person may or may not be the person holding this document.

This background check does not include any contacts made for Civil Process. For Civil Process information please contact our Civil Unit at 970-244-3521.

Lorene Hernandez
Law Enforcement Specialist
Mesa County Sheriff’s Office
(970) 244-3505
Debra Woods

From: PDRecords <PDRecords@gjcity.org>
Sent: Monday, February 24, 2020 1:24 PM
To: Debra Woods
Subject: Re: Background checks request - TIME SENSITIVE

Debra-

Neither individual has a record of arrest with our agency. Please let me know if you need anything else.

Thank you,

Amber

Grand Junction Police Records
555 Ute Ave
Grand Junction, CO 81501
phone: 970-549-5000
fax: 970-549-5002
email: pdrecords@gjcity.org

WARNING: This electronic mail transmission, to include any attached document, is from the Records & Data Management Unit of the Grand Junction Police, Grand Junction, Colorado. The information contained in this message may be privileged and/or confidential, and protected by law. The privileges are not waived by virtue of this message being sent to you in error. If the person receiving this message or any other reader of the message is not the intended recipient, please note that disclosure, copying, distribution or use of the information contained in the message is prohibited. For questions regarding this information or additional help, please call (970) 549-5000.

From: Debra Woods <dwoods@fruita.org>
Sent: Monday, February 24, 2020 11:18 AM
To: PDRecords <PDRecords@gjcity.org>
Subject: Background checks request - TIME SENSITIVE

** - EXTERNAL SENDER. Only open links and attachments from known senders. DO NOT provide sensitive information. Check email for threats per risk training. - **

Please see my attached request for background checks on two individuals applying for a liquor license in Fruita. I apologize for the short notice, but is it possible to have the results back by no later than this Friday? They are scheduled to go before our City Council next Tuesday. Thanks much!

Debra Woods
City of Fruita
325 E. Aspen Ave.
MEMO

To: Deb Woods
From: Paula Rajewich
Date: February 25, 2020
Re: Background Check

The following background information check was completed through local computer records with the Fruita Police Department and the results will be information based on the listed parties provided below.

In checking the local Records Management System there are incidents involving the two individuals, but no criminal charges were filed in the incidents.

Victor Joseph Imondi
691 Granite Dr.
Fruita, CO 81521

Kodi Ann Imondi
691 Granite Dr.
Fruita, CO 81521

Thank you,

Paula Rajewich
February 24, 2020

San Diego Police Department
Fax (619) 233-4206

RE: Records check on an individual for an Optional Premises – Malt, Vinous and Spirituous Liquor License application for Imondi Wake Zone, LLC located at 1583 Cipolla Rd., Fruita, Colorado

The City of Fruita has received an application for an Optional Premises – Malt, Vinous & Spirituous Liquor License for Imondi Wake Zone, LLC located at 1583 Cipolla Road in Fruita, Colorado.

Please conduct a records check and let me know of any items that would reflect the applicant’s character. The background check will assist the Fruita City Council in determining whether the applicant is of “Good Moral Character.” You can fax or e-mail the information back to me at 858-0210 or dwoods@fruita.org.

Co-Owner: Victor Joseph Imondi
Current Address
691 Granite Dr.
Fruita, CO 81521
(2017 to present)

Previous Address
Solar Turbines, Inc.
2200 Pacific Highway
San Diego, CA 92101
11/2009 to present

Date of Birth: SSN#

Thank you for your assistance in this matter.

Sincerely,
Debra Woods
Deputy City Clerk
QUASI-JUDICIAL – Quasi-judicial public hearings are held when the City Council is acting in a judicial or judge-like manner and a person with a legitimate interest is entitled to an impartial decision made on the basis of information presented and laws in effect. Quasi-judicial hearings are commonly held for land use hearings and liquor license hearings. Since the City Council is acting in a fair and impartial manner, it is NOT permissible for City Council members to have any ex-parte communication (contact between the applicant, members of the public, or among other members of the City Council) outside of the Public Hearings and meetings on the subject application. The City Council must limit its consideration to matters which are placed into evidence and are part of the public record. Quasi-judicial hearings are held in the following manner:

1) **Staff presentation** (15 minutes max) Staff will present the comments and reports received from review agencies and offer a recommendation.

2) **Applicant Presentation** (15 minutes max) The petitioner is asked to present the proposal. Presentations should be brief and to the point and cover all of the main points of the project.

3) **Public Input** (limit of 5 minutes per person. If two people in the audience are willing to cede their time to the speaker, that speaker may receive a total of 10 minutes, referred to as banking time). People speaking should step up to the microphone and state their name and address. Speakers should be to the point and try not to repeat the points others have made.

4) **Applicant or staff may need time for rebuttal.**

5) The public hearing is closed to public comments.

6) **Questions from the Council.** After a Council member is recognized by the Mayor, they may ask questions of the staff, the applicant, or the public.

7) **Make a motion.** A member of the City Council will make a motion on the issue.

8) **Discussion on the motion.** The City Council may discuss the motion.

9) **Vote.** The City Council will then vote on the motion.
<table>
<thead>
<tr>
<th>Date</th>
<th>Agency</th>
<th>E-mailed Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>2/19/20</td>
<td>NARRATIVE SENT TO LVFD, FRUITA PD, PLANNING &amp; DEVELOPMENT</td>
<td>The type of proposed fencing (post and cable) is inadequate for proper ingress/egress control for the licensed area. Something more immovable (can’t be stepped over or climbed under) would be necessary. I would be interested in plans for employee observation of the licensed area to ensure alcohol is not entering or leaving.</td>
</tr>
<tr>
<td>2/19/20</td>
<td>Fruita Police Dept. (Chief Dave Krouse)</td>
<td></td>
</tr>
<tr>
<td>2/20/20</td>
<td>Lower Valley Fire District (LVFD) (Fire Marshal Dick Pippenger)</td>
<td>Just a reminder that for Group A-2 Assembly and other occupancies that are fenced or enclosed require a second exit that is alarmed and has panic hardware. IFC reference is section 1006.2.2.7 of the 2018 code as amended.</td>
</tr>
<tr>
<td>2/25/20</td>
<td>REVISED NARRATIVE RECEIVED BY STAFF</td>
<td>PD has no concerns with the revisions, and they appear to have adequately addressed our previous comments.</td>
</tr>
<tr>
<td>2/25/20</td>
<td>Fruita Police Dept. (Chief Dave Krouse)</td>
<td>No concerns with PD comment. Openings need to be 3 feet in width. If gates are installed, they need to have panic hardware. Ref: Section 1006.2.2.7 of the IFC.</td>
</tr>
<tr>
<td>2/25/20</td>
<td>LVFD (Fire Marshal Dick Pippenger)</td>
<td>The entrances to the area are 6’ wide and will not be gated. We should be ok!</td>
</tr>
<tr>
<td>2/25/20</td>
<td>IMONDI WAKE ZONE</td>
<td>Planning has no issues or concerns with the revisions.</td>
</tr>
<tr>
<td>2/25/20</td>
<td>Planning &amp; Development (Director Dan Caris)</td>
<td>Deb, if you go to the LVFD web site and look under Contractors and Fire Prevention you will find a copy of the adopted code. Under Section 1006 you will find the amended text for outdoor patios. Note: Section 1006 states: “All Group A-2 Assembly and other occupancies that have a fenced or enclosed outdoor patio shall have an alarmed second exit equipped with panic hardware direct to the exterior.”</td>
</tr>
<tr>
<td>2/26/20</td>
<td>LVFD (Fire Marshal Dick Pippenger)</td>
<td></td>
</tr>
<tr>
<td>Date</td>
<td>Sender</td>
<td>Text</td>
</tr>
<tr>
<td>------</td>
<td>--------</td>
<td>------</td>
</tr>
<tr>
<td>2/26/20</td>
<td>LVFD (Fire Marshal Dick Pippenger)</td>
<td>When this was originally written the PD wanted gates installed for control of the alcohol. If the PD does not require gates the LVFD has no issue because from a life safety standpoint it is safer and easier to evacuate an area with no gates. If the PD wants gates installed, then the gates need to comply with Section 1006 as amended.</td>
</tr>
<tr>
<td>2/26/20</td>
<td>Fruita Public Works Department (Ken Haley)</td>
<td>It would be my preference that the liquor sales for Imondi remain on the private parcel north of the ditch and the fenced liquor area not extend onto the leased City property/GVDD easement. If they do, further coordination will be required to make sure appropriate clearance from the trail and separation from the new GVDD Pipe are achievable.</td>
</tr>
<tr>
<td>2/28/20</td>
<td>IMONDI WAKE ZONE</td>
<td>I spoke with Ken Haley in regards to the location of the southern fence. He said that we can work together as the path is completed to find a location for the fence that works for both parties. However, the licensed area will be contained to 1583 Cipolla Rd. and will not extend onto the City of Fruita property. I included these details in the Narrative under the fence section.</td>
</tr>
<tr>
<td>2/28/20</td>
<td>Fruita Public Works Department (Ken Haley)</td>
<td>As discussed yesterday, the licensed liquor area cannot extend onto the city-owned lake parcel and the fence must have adequate separation from the trail and drain pipe. I have attached a drawing showing the alignment of the trail and pipe in relation to the property lines for your reference. It appears that the fence will need to be north of the pipe that is being installed, which is roughly where the north bank of the existing ditch is for the area you were proposing. If you need a further reference point on the ground, please contact Sam Atkins in our Engineering Dept (970-858-8377) as they are the ones coordinating with the contractor installing the trail/pipe. Please let us know if you have any concerns with this prior to the hearing on Tuesday evening.</td>
</tr>
</tbody>
</table>
BACKGROUND

This is Land Development Application #2020-01, the Black Bear House. The subject property contains a 2,371 square foot detached single-family dwelling unit on an approximately .24-acre lot located on the southeast corner of Logan Lane and J 2/10 Road. The property owner has requested a Conditional Use Permit (CUP) to use the property for a vacation rental by owner.

The applicant is proposing to rent, on a less than month-to-month basis the entire dwelling unit which is made up of 4 bedrooms and 3 bathrooms. The Land Use Code defines this type of use as a Bed & Breakfast which requires a CUP in the Community Residential (CR) zone.

This CUP meets or can meet all approval criteria and standards that must be considered for CUP’s.

At their February 11, 2020 public hearing, the Planning Commission recommended approval of this application to the City Council by a vote of 7-0.

Conditions of approval before the business becomes operational:

1. Lodger’s tax be paid to the City of Fruita pursuant to Chapter 3.18 of the Fruita Municipal Code.
2. Maintain a current City of Fruita business license.
3. Limited to 4 bedrooms.
4. All bedrooms shall contain fire and carbon monoxide alarms.
5. Annual review of the Conditional Use Permit by the Fruita Code Compliance Officer.
6. Compliance with all laws and regulations as applicable.

FISCAL IMPACT

The proposed CUP should have a positive fiscal impact on the city. The use appears to be
compatible with the surrounding area and should generate sales and lodger’s taxes which are used to market and promote the city.

**APPLICABILITY TO CITY GOALS AND OBJECTIVES**

This CUP application meets or can meet all approval criteria and standards of Fruita’s Land Use Code. The Land Use Code (along with other regulatory documents such as Fruita’s Design Criteria and Construction Specifications Manual) implement the city’s goals and policies as outlined in the city’s Master Plan including the Fruita Community Plan.

**OPTIONS AVAILABLE TO THE COUNCIL:**

1. Approve the proposed Conditional Use Permit.
2. Deny the proposed Conditional Use Permit.

**RECOMMENDATION:**

It is the recommendation of staff that the Council by motion:

```
APPROVE RESOLUTION 2020-13, A CONDITIONAL USE PERMIT TO OPERATE A VACATION RENTAL BY OWNER (BED & BREAKFAST) IN A COMMUNITY RESIDENTIAL ZONE LOCATED AT 496 LOGAN LANE.
```
RESOLUTION 2020-13

A RESOLUTION APPROVING A CONDITIONAL USE PERMIT TO OPERATE A VACATION RENTAL BY OWNER (BED & BREAKFAST) IN A COMMUNITY RESIDENTIAL ZONE LOCATED AT 496 LOGAN LANE.

WHEREAS, the property owner at 496 Logan Lane has submitted an application for a Conditional Use Permit to operate a Vacation Rental by Owner (Bed & Breakfast) in a Community Residential zone, and

WHEREAS, the City of Fruita requires a Conditional Use Permit to operate a vacation rental by owner (Bed & Breakfast) in a Community Residential zone, and

WHEREAS, the Fruita Planning Commission held a public hearing on February 11, 2020 and recommended approval to the Fruita City Council of the Conditional Use Permit with conditions.

NOW, THEREFORE, BE IT RESOLVED BY THE FRUITA CITY COUNCIL:

A. The Conditional Use Permit to operate a Vacation Rental by Owner at 496 Logan Lane is hereby approved subject to the following conditions:

1. Lodger’s tax be paid to the City of Fruita pursuant to Chapter 3.18 of the Fruita Municipal Code.
2. Maintain a current City of Fruita business license.
3. Limited to 4 bedrooms.
4. All bedrooms shall contain fire and carbon monoxide alarms.
5. Annual review of the Conditional Use Permit by the Fruita Code Compliance Officer.
6. Compliance with all laws and regulations as applicable.

B. The City Clerk shall record this Resolution with the Mesa County Clerk & Recorder’s Office.

C. If the Conditional Use is inactive for a period of 1 year or more the permit will be automatically revoked.

PASSED AND ADOPTED BY THE FRUITA CITY COUNCIL

THIS 3RD DAY OF MARCH, 2020.

ATTEST: City of Fruita

______________________________ ____________________________________
Margaret Sell, City Clerk Joel Kincaid, Mayor
Application #: 2020-01
Application Name: Black Bear House
Application Type: Conditional Use Permit
Property Owner: Mike & Kristy Driver
Location: 496 Logan Lane
Zone: Community Residential
Description: This is a request for approval of a Conditional Use Permit for a Vacation Rental by Owner (Bed And Breakfast). The Fruita Land Use Code requires a Conditional Use Permit to operate a Bed and Breakfast in a Community Residential zone.

Project Description:

The subject property contains a 2,371 square foot detached single-family dwelling unit on an approximately .24-acre lot located on the southeast corner of Logan Lane and J 2/10 Road. The property owner has requested a Conditional Use Permit (CUP) to use the property for a vacation rental by owner.

The applicant is proposing to rent, on a less than month-to-month basis the entire dwelling unit which is made up of 4 bedrooms and 3 bathrooms. The Land Use Code defines this type of use as a Bed & Breakfast which requires a CUP in the Community Residential (CR) zone.

Surrounding Land Uses and Zoning:

Surrounding zoning consists mostly of Community Residential and is surrounded by Unincorporated Mesa County properties. Most land uses surrounding the subject property are single family detached dwellings. There are similar types of uses (Bed & Breakfasts or Short-Term Rentals) nearby.
Review of Applicable Land Use Code Requirements:

Table 17.07.060(F) of the Land Use Code requires a Conditional Use Permit (CUP) for Bed & Breakfast type of land use in the Community Residential zone. The Land Use Code defines a Bed & Breakfast as a facility of residential character that provides
sleeping accommodations with or without meals for hire on a day-to-day basis with no more than four guest rooms. It is not required to be owner occupied.

Section 17.07.070, Supplemental Zoning Regulations and Standards, Section A, identifies conditions and standards that must be met for a Bed & Breakfast use:

1. **Where the applicable zoning district allows bed and breakfast uses as a Conditional Use, the use must be a residential dwelling that contains no more than four (4) guest bedrooms where overnight lodging, with or without meals, is provided for compensation. Bed and Breakfast uses with more than four (4) guest bedrooms are considered hotels or motels;**

   The entire dwelling unit is intended to be used as the Bed and Breakfast. According to the Mesa County Assessor, this house contains 4 bedrooms and 3 bathrooms. This criterion has been met.

2. **Kitchen and dining facilities in bed and breakfast dwellings may serve only residents and guests and shall not be operated or used for any commercial activity other than that necessary for bed and breakfast purposes;**

   The applicants are aware that the kitchen and dining facilities may only serve the guests even though this is not directly expressed in the project narrative. This criterion can be met.

3. **The bed and breakfast use shall not change the residential character of the dwelling if located in a residential zone or area;**

   Staff believes that the residential character of this property will not change because the application doesn’t propose any changes to the residential character of the dwelling unit. The project narrative states that “the property will be perfectly maintained to attract high-end vacationing families including lawn, bushes, trees, and other curb appeal landscaping.” This criterion can be met.

4. **In residential zones (including residential developments in the CMU zone), there shall be no advertising display or other indication of the bed and breakfast use on the premises other than a sign that is in compliance with the provisions of Chapter 17.41;**

   Chapter 17.41 of the Land Use Code permits an Address or Identification Sign, identifying the address and/or the occupants of a dwelling unit or of an establishment, with a maximum size of two square feet and a maximum height of four feet for a sign in this zone. No illumination of this sign is permitted. There are no signs on the subject property at this time.
The Sign Code requires that signs be reviewed in conjunction with the Conditional Use Permit. There was no indication from the applicant in the submittal documents that would indicate a proposed sign. Thus, no signage is being proposed. If a sign were to be proposed, there would need to be an amendment to this Conditional Use Permit. Amendments to CUP’s require hearings by both the Planning Commission and City Council. This criterion is not applicable because no sign is being proposed at this time.

5. A minimum of one parking space per guest bedroom and resident bedroom shall be required. Screening may also be required;

It appears that this property has at least 4 off street parking spaces. The project narrative states that guests are provided off-street parking and will be asked not to park on the street. No screening is recommended by Staff. This criterion has been met.

6. The bed and breakfast facility shall comply with all Building Codes adopted by the city;

The dwelling unit was originally constructed in 2014 according to the Mesa County Assessors website. The subject property does not appear to have any outstanding building permits. This criterion has been met at this time.

7. It shall be the responsibility of the applicant to demonstrate that the relevant subdivision’s declarations, covenants, conditions or restrictions allow for a bed and breakfast use and/or associated signing; and

The subject property is in Grand Valley Estates. The applicants have submitted a letter of support from the HOA’s Vice-President stating that this type of use did not violate their covenants. This criterion has been met.

8. Where a bed and breakfast use is subject to Conditional Use Permit approval, any existing or proposed uses in addition to that of a dwelling unit (e.g. home occupation, accessory dwelling unit, etc.) are considered as part of the conditional use review.

Staff is unaware of any other existing or intended use of this property other than as a dwelling unit and/or as a short-term rental as proposed by this CUP request.

Based on this information, this CUP request for a Bed & Breakfast meets or can meet the supplemental zoning regulations and standards of the Land Use Code.

Chapter 13 of the Land Use Code identifies the approval criteria that must be considered for Conditional Use Permit (CUP) requests. The Code defines a CUP as a use which, because of its unique or varying characteristics, cannot be properly classified as an
allowed use in a particular zone district. After due consideration, as provided for in Section 17.13.040 of the Land Use Code, of the impact upon neighboring land and of the public need for the particular use at a particular location, such conditional use may or may not be approved.

According to Section 17.13.40.C of the Land Use Code, a Conditional Use Permit may be granted for a conditional use in a particular zone provided the City Council finds as follows:

Section 17.13.040, Conditional Uses, of the Land Development Code requires that a conditional use be approved after considering the following:

1. The proposed use is consistent with the provisions and purposes of this Title, with the purposes of the zone in which it is located, and with the city's Master Plan;

   Based on this review, the proposed conditional use can be consistent with the provisions and purposes of this Title (the Land Use Code), which is to promote the health, safety and welfare of the present and future inhabitants of the community, and with the purposes of the Community Residential zone, which is to allow for moderate density single-family neighborhoods. If the supplemental zoning regulations and standards (identified above) are met along with the approval criteria for CUPs, this criterion can be met. The Land Use Code is one of the main documents used to implement the goals and policies of the City's Master Plan.

2. The proposed use is compatible with existing and allowed uses surrounding or affected by the proposed use, pursuant to the criteria in Section 17.07.080;

   Section 17.07.080 requires that a proposed development be compatible with adjacent properties, considering both existing and potential land uses on adjacent properties. For all land uses, “compatibility” is provided when a proposed land use can coexist with other existing uses in the vicinity without one use having a disproportionate or severe impact on the other use(s). The city decision-making body may consider other uses existing and approved and may consider all potential impacts relative to what customarily occurs in the applicable zone and those which are foreseeable, given the range of land uses allowed in the zone. The review authority may require conditions of approval to promote compatibility between a proposed use and existing uses in the vicinity to ensure compatibility.

   Although there are short term rentals nearby, it appears that this proposed vacation rental can be compatible with surrounding land uses. Compliance with the regulations for vacation rentals should allow this business to coexist with other existing houses in the area without having a disproportionate or severe impact on the neighborhood. This criterion can be met.
3. The proposed use will not materially endanger the public health or safety; and

The use of the single-family dwelling unit for a vacation rental is not expected to endanger the public health or safety. Staff recommends that all guest bedrooms contain carbon monoxide and smoke alarms. This criterion can be met.

4. Public services and facilities including, but not limited to, transportation systems, wastewater disposal and treatment, domestic water, fire protection, police protection, and storm drainage facilities are adequate to serve the proposed use.

Public services and facilities have been available to this property and will continue to be available to this property while it is used as a vacation rental. The impacts are not expected to be any greater than those generated by a single-family residence. This criterion has been met.

Based on this information, this requested Conditional Use Permit meets or can meet all approval criteria for Conditional Use Permits and all supplemental zoning standards.

Legal Notice:

Y   N   DATE

Postcards ☒  ☐  01/23/2020
Paper ☒  ☐  01/26/2020
Property ☒  ☐  01/23/2020

NOTICE OF PUBLIC HEARING

The Fruita Planning Commission will hold a public hearing Tuesday, February 11, 2020 at 7:00 p.m. at the Fruita Civic Center, 2nd Floor Council Chambers, 325 E. Aspen Avenue. The following item will be presented at the public hearings. The Planning Commission will formulate a recommendation, which will be forwarded to the Fruita City Council. If the item listed below is acted on by the Planning Commission, the Fruita City Council will hold a public hearing on this same item on Tuesday, March 3, 2020 at 7:00 p.m. at the Fruita Civic Center, 2nd Floor Council Chambers. If you have an interest on the item please call 858-0786 or come to the Planning & Development Department office located at 325 E. Aspen Avenue to review the information in the file. Your appearance at both hearings is encouraged to ensure your concerns are accurately represented or you can write a letter outlining your concerns and submit it to the Planning & Development Department.

Application # 2020-01
Application Name Black Bear House
Application Type Conditional Use Permit
Location 496 Logan Lane
Zone Community Residential (CR)
Description This is a request for approval of a Conditional Use Permit for a Vacation Rental by Owner (Bed And Breakfast) in a Community Residential zone.

Physically disadvantaged persons who wish to obtain information or need assistance in attending the Public Hearing, may call (970) 858-0786, the hearing impaired may call Relay Colorado at 1-800-659-2656, or visit our website: www.fruita.org
**Review Comments:**

- No reviewer expressed concerns over the proposed application.
- **Conditions of approval by Staff:**
  1. Lodger’s tax be paid to the City of Fruita pursuant to Chapter 3.18 of the Fruita Municipal Code.
  2. Maintain a current City of Fruita business license.
  3. Limited to 4 bedrooms.
  4. All bedrooms shall contain fire and carbon monoxide alarms.
  5. Annual review of the Conditional Use Permit by the Fruita Code Compliance Officer.
  6. Compliance with all laws and regulations as applicable.

**Public Comments:**

No written public comments have been received regarding this application at this time.

**Staff Recommendation:**

Because all of the approval criteria for Conditional Use Permits and all supplemental zoning standards and regulations either are or can be met, staff recommends approval of the proposed Bed & Breakfast with the condition that all review comments are met before the business becomes operational.

| **Fruita Planning Commission:** | February 11, 2020. |
| **Fruita City Council:**       | March 3, 2020.     |
January 16, 2020
Fruita Planning Department
325 E. Aspen Avenue
Fruita, CO 81521

Re: Comments for 2020-01 Black Bear House

1. Fire extinguisher, carbon monoxide detector and smoke detectors must be in place and operational.

2. Second story escape window(s) and escape ladders need to be checked by MCBD.

Richard Pippenger
Fire Marshal
Kelli McLean

From: Darrell Bay <darrell.bay@mesacounty.us>
Sent: Tuesday, January 14, 2020 11:39 AM
To: Kelli McLean
Subject: Re: 2020-01 Black Bear House

Follow Up Flag: Follow up
Flag Status: Flagged

Kelli,
MCBD has no objections.
If inspections are required a permit must be obtained and only life safety items will be checked.
Thanks

Darrell Bay
Building Official
970-244-1651

On Thu, Jan 9, 2020 at 1:27 PM Kelli McLean <kmclean@fruita.org> wrote:

Hello,

Please send us your review comments for project 2020-01 Black Bear House by Thursday, January 30, 2020. I have included a link to the project below for your convenience. Thank you!

https://www.fruita.org/cd/page/2020-01-black-bear-house

KELLI MCLEAN
PLANNING TECHNICIAN
CITY OF FRUITA
970-858-0786
LAND DEVELOPMENT APPLICATION

Project Name: Black Bear House
Project Location: 496 Logan Ln, Fruita, CO 81521
Current Zoning District: Single Family Residence
Requested Zone: Number of Acres: .23
Tax Parcel Number(s): 2694-1143-47a-001
Project Type: Short-Term Rental

Property Owner: Mike Driver
Property Owner: Kristy Driver
Address: 496 Logan Ln
City/State/Zip: Fruita, CO 81521
Phone: 970-639-0015 Fax: Kristy@visitfruta.com
E-mail: Kristy@visitfruta.com

Property Owner: Mike Driver
Property Owner: Kristy Driver
Address: 496 Logan Ln
City/State/Zip: Fruita, CO 81521
Phone: 970-639-0015 Fax: Kristy@visitfruta.com
E-mail: Kristy@visitfruta.com

Please designate a representative as the coordinator for this application. The representative should attend all conferences/hearings, will receive all correspondence, and communicate all information to the property owners.

Owner Rep: Conrad Galloob
Contact:
Address: 787 22nd St
City/State/Zip: Fruita, CO 81505
Phone: 970-639-0280 Fax: Kristy@visitfruta.com
E-mail: Conrad@visitfruta.com

Engineer:
Contact:
Address:
City/State/Zip:
Phone: Fax:
E-mail:

This Notarized application authorizes the owner’s representative, if designated, to act on behalf of the property owners regarding this application.

The above information is correct and accurate to the best of my knowledge.

Kristy Driver
Name of Legal Owner
Signature
Date 12/27/2019

Name of Legal Owner
Signature
Date

Name of Legal Owner
Signature
Date

STATE OF COLORADO) ss.
COUNTY OF MESA )

The foregoing instrument was acknowledged before me this 27 day of DEC., 20.
My Commission expires: 1/15/23 Notary Public

TIA PERSHALL
NOTARY PUBLIC - STATE OF COLORADO
NOTARY ID 20194026426
MY COMMISSION EXPIRES JUL 15, 2023
City of Fruita Conditional Use Permit
496 Logan Lane, Fruita, CO 81521
“The Black Bear House” Vacation Rental

Project Narrative

**Goal:** To enhance the small town atmosphere of the Fruita community, while providing an upscale vacation rental for our visitors. [www.VisitFruita.com](http://www.VisitFruita.com) is committed to the premier guest experience.

**Project Description:** Short Term Vacation Home at 496 Logan Lane, Fruita. Rentals will range from 3 to 90 days.

**Project Compliance, Compatibility and Impact:**
- This home is approximately 2,371 Square Foot, Single Family Home on .23 acres. We will allow families a unique place to vacation in the downtown area.
- The house consists of 2 floors with 4 bedrooms and 3 full bathrooms. Maximum occupancy will be 8 adults.
- Low to Normal use of residential utilities used including cable, water, sewer and weekly trash pick up. This is typically less than full time residential use.
- The property exterior will be perfectly maintained to attract high-end vacationing families including lawn, bushes, trees and other curb appeal landscaping.
- Downtown rental properties provide vacationers close proximity to restaurants, bars, shopping and events without driving. This also prevents additional parking problems during large events and more attendance to City activities.

**Guest Management:**
- The Management and Owners of the property are local residents of Fruita, Mike and Kristy Driver.
- Maintenance and daily guest contact is provided by our Local Fruita Team of 4 people plus the owners. Response time for any guest or neighbor of any issue is handled within 20 minutes.
- Management will notify all neighboring homeowners of how to contact us in case of any issues.
- Rentals are limited to those over the age of 25 and must have a valid credit card to book the home. This home will not be available for parties or events.
- Guests are provided off-street parking and will be asked to NOT to park on the street.
Safety and Compliance:
- Guests are notified in their “Rental Agreement” of the City of Fruita compliance rules upon booking.
- Most regulations in the Fruita Municipal Code Compliance pertaining to a guests stay including Pets, Parking, Noise, RV’s and Trailers are presented to each guest in digital and written Guest Welcome Book.
- All safety features are updated and checked regularly, including fire extinguishers, carbon monoxide detectors, and second story egress ladders

Promoting Tourism to Fruita:
We want to keep the guest focus solely on Fruita. This past year, VisitFruita.com invested in our Hospitality App. The application allows us to electronically communicate and provide information to, and receive requests from our guests. As a guest reservation is confirmed, our hospitality app contains everything they need to know about local area restaurants, events, outdoor recreation, etc. Additionally, we have partnered with select media platforms which has resulted in the following economic impacts:

- In 2018, VisitFruita.com spent a total of $50,000 on several marketing channels to bring guests to Fruita. In 2020 we are increasing our budget 10%.
- In 2019, VisitFruita.com has accommodated 8176 Guest Stays.
  - This resulted in the following to the City of Fruita (in addition to lodging):
    - Approximately $1 Million spent by guests during their stay in Local Fruita business, restaurants, pubs, groceries, activities providers and festivals
    - Generating approximately $30,000 Retail Sales Tax Revenue.
    - And approximately $6,000 Lodging Tax Revenue.
Grand Valley Estates Homeowners Association

P.O. Box 211

Fruita, CO 81521

December 13, 2019

Re: 496 Logan Lane - Mike and Kristy Driver, VisitFruita.com

City of Fruita Planning Department,

My name is Matt McCurry. I am the Vice-President of the homeowners association for Grand Valley Estates. It is my understanding that Mike and Kristy Driver have purchased 496 Logan Lane, and intend to make it another short term rental rental.

They currently have three short term rentals in our neighborhood. I am pleased to report that there have not been any problems or any complaints in regards to their properties. Their properties are very well maintained and the people that they attract have been very respectable. Also, this type of use does not violate our covenants.

In addition to being a neighbor, Mike & Kristy volunteer for our boards and committees. They are a part of our community!

If you have any questions or would like to speak to me directly my number is 970-778-5423

Thank you,

Matt McCurry, Vice President
Grand Valley Estates HOA
496 Logan Lane, Fruita, CO 81521
“The Black Bear House” Site Plan

Home Features: 4 Bedrooms and Bathrooms
- Residential Home with similar styled homes in the neighborhood
- Vacation Rental Home will be set up for Families with rentals from 3-days to 3-months.

Overhead View: Private Lot
- Large yard in the back that is fully fenced
- Large double car garage and driveway. There will be no on street parking allowed

Interior Building Specifications and Parcel Map
- First Floor: Garage, front and back Porches, Kitchen, 2 Full Bathrooms, 3 Bedrooms, Laundry Room/Mud Room, Dining and Living Space
- Second Floor: Bedroom and Full Bathroom

Overview of Neighborhood:
Approved Vacation Rental Properties
- 1437 Catalina Ave: Hawk House
- 1494 Catalina Ave: Juniper House
- 1477 Satterfield Ave: Velo House
A. CALL TO ORDER

Seven Planning Commissioners were in attendance. (Justin Gollob, Jesse Fabula, Mel Mulder, Doug Van Etten, JP Nisley, Dave Karisny, Whitney Rink were present).

B. PLEDGE OF ALLEGIANCE

The petitioners led the Pledge of Allegiance.

C. AMENDMENTS TO THE AGENDA

There was a typographical error on the Agenda. The Approval of the Minutes was modified to read January 14, 2020 instead of January 14, 2019.

D. APPROVAL OF THE AGENDA

COMMISSIONER MULDER MOVED TO APPROVE THE AGENDA WITH THE AMENDMENT TO THE MINUTES

COMMISSIONER KARISNY SECONDED THE MOTION

MOTION PASSES 7-0

E. WITHDRAWN ITEMS

None

F. CONTINUED ITEMS

None

G. CONSENT ITEMS

<table>
<thead>
<tr>
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<td>Christmas Farm Short Term Rental</td>
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<tr>
<td>Application Type</td>
<td>Conditional Use Permit</td>
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<tr>
<td>Location</td>
<td>402 S. Pine Street</td>
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<tr>
<td>Zone</td>
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<tr>
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APPROVAL OF MINUTES

January 14, 2020 Planning Commission meeting

Commissioner Gollob disclosed that the owner rep Conrad Gollob for 2020-01 Black Bear House is his brother. He said he did not feel that he had any information about the application or applicant that was not available to other commissioners by virtue of the application and hearing process. He said that he did not prejudge the application and his decision would be based on the code, the supporting documents and information presented in this hearing. He also noted for the purpose of the city code of ethics that he would not realize any monetary gain by virtue of his decision.

Commissioner Van Etten thanked him for his disclosure and asked if anyone had a problem with Commissioner Gollob voting on the Consent Agenda?

There were no problems expressed.

Commissioner Van Etten asked for a motion to approve the Consent Agenda.

COMMISSIONER MULDER MADE A MOTION TO APPROVE THE CONSENT AGENDA.
COMMISSIONER KARISNY SECONDED THE MOTION

MOTION PASSED 7-0 IN FAVOR TO APPROVE THE CONSENT AGENDA AND 5-0 IN FAVOR OF APPROVAL OF THE MINUTES. COMMISSIONER NISLEY AND COMMISSIONER RINK ABSTAINED FROM VOTING ON APPROVAL OF THE MINUTES DUE TO THEIR ABSENCE AT THE LAST MEETING.

H. HEARING ITEMS

None

I. OTHER BUSINESS

Mr. Dan Caris said that there is a subdivision application that will be going before the Planning Commission on March 10. He also mentioned that at the February 3 Council meeting the Fruita in Motion Plan Like a Local Comprehensive Plan was adopted. He said that the consultant Design Workshop will be helping with the Land Use Code update and that this will be a little different from the Comprehensive Plan update with a rolling adoption format. There was discussion about Planning Commissioner involvement with the Land Use Code update.

Adjournment 7:13 pm

Respectfully submitted,

Kelli McLean

Planning Technician, City of Fruita
BACKGROUND

This is Land Development Application #2020-02, Christmas Farm Short Term Rental. The subject property contains a 1,152 square foot detached single-family dwelling unit on an approximately .49-acre lot located on South Pine Street. The property owner has requested a Conditional Use Permit (CUP) to use the property for a vacation rental by owner.

The applicant is proposing to rent, on a less than month-to-month basis the entire dwelling unit which is made up of 2 bedrooms and 1 3/4 bathrooms. The Land Use Code defines this type of use as a Bed & Breakfast which requires a CUP in the Community Residential (CR) zone. This CUP meets or can meet all approval criteria and standards that must be considered for CUP’s.

At their February 11, 2020 public hearing, the Planning Commission recommended approval of this application to the City Council by a vote of 7-0.

Conditions of approval before the business becomes operational:

1. Lodger’s tax be paid to the City of Fruita pursuant to Chapter 3.18 of the Fruita Municipal Code.
2. Maintain a current City of Fruita business license.
3. Limited to 2 bedrooms.
4. All bedrooms shall contain fire and carbon monoxide alarms.
5. Annual review of the Conditional Use Permit by the Fruita Code Compliance Officer.
6. Compliance with all laws and regulations as applicable.

FISCAL IMPACT

The proposed CUP should have a positive fiscal impact on the city. The use appears to be
compatible with the surrounding area and should generate sales and lodger’s taxes which are used to market and promote the city.

**APPLICABILITY TO CITY GOALS AND OBJECTIVES**

This CUP application meets or can meet all approval criteria and standards of Fruita’s Land Use Code. The Land Use Code (along with other regulatory documents such as Fruita’s Design Criteria and Construction Specifications Manual) implement the city’s goals and policies as outlined in the city’s Master Plan including the Fruita Community Plan.

**OPTIONS AVAILABLE TO THE COUNCIL:**

1. Approve the proposed Conditional Use Permit.
2. Deny the proposed Conditional Use Permit.

**RECOMMENDATION:**

It is the recommendation of staff that the Council by motion:

APPROVE RESOLUTION 2020-14, A CONDITIONAL USE PERMIT TO OPERATE A VACATION RENTAL BY OWNER (BED & BREAKFAST) IN A COMMUNITY RESIDENTIAL ZONE LOCATED AT 402 SOUTH PINE STREET.
RESOLUTION 2020-14

A RESOLUTION APPROVING A CONDITIONAL USE PERMIT TO OPERATE A VACATION RENTAL BY OWNER (BED & BREAKFAST) IN A COMMUNITY RESIDENTIAL ZONE LOCATED AT 402 SOUTH PINE STREET.

WHEREAS, the property owner at 402 South Pine Street has submitted an application for a Conditional Use Permit to operate a Vacation Rental by Owner (Bed & Breakfast) in a Community Residential zone, and

WHEREAS, the City of Fruita requires a Conditional Use Permit to operate a vacation rental by owner (Bed & Breakfast) in a Community Residential zone, and

WHEREAS, the Fruita Planning Commission held a public hearing on February 11, 2020 and recommended approval to the Fruita City Council of the Conditional Use Permit with conditions.

NOW, THEREFORE, BE IT RESOLVED BY THE FRUITA CITY COUNCIL:

A. The Conditional Use Permit to operate a Vacation Rental by Owner at 402 South Pine Street is hereby approved subject to the following conditions:

   1. Lodger’s tax be paid to the City of Fruita pursuant to Chapter 3.18 of the Fruita Municipal Code.
   2. Maintain a current City of Fruita business license.
   3. Limited to 2 bedrooms.
   4. All bedrooms shall contain fire and carbon monoxide alarms.
   5. Annual review of the Conditional Use Permit by the Fruita Code Compliance Officer.
   6. Compliance with all laws and regulations as applicable.

B. The City Clerk shall record this Resolution with the Mesa County Clerk & Recorder’s Office.

C. If the Conditional Use is inactive for a period of 1 year or more the permit will be automatically revoked.

PASSED AND ADOPTED BY THE FRUITA CITY COUNCIL

THIS 3RD DAY OF MARCH, 2020.

ATTEST:                               City of Fruita

Margaret Sell, City Clerk            Joel Kincaid, Mayor
Planning & Development Department
Staff Report
February 4, 2020

Application #: 2020-02
Application Name: Christmas Farm Short Term Rental
Application Type: Conditional Use Permit
Property Owner: Amelia Bornert
Location: 402 South Pine Street
Zone: Community Residential
Description: This is a request for approval of a Conditional Use Permit for a Vacation Rental by Owner (Bed And Breakfast). The Fruita Land Use Code requires a Conditional Use Permit to operate a Bed and Breakfast in a Community Residential zone.

Project Description:

The subject property contains a 1,152 square foot detached single-family dwelling unit on an approximately .49-acre lot located on South Pine Street. The property owner has requested a Conditional Use Permit (CUP) to use the property for a vacation rental by owner.

The applicant is proposing to rent, on a less than month-to-month basis the entire dwelling unit which is made up of 2 bedrooms and 1 3/4 bathrooms. The Land Use Code defines this type of use as a Bed & Breakfast which requires a CUP in the Community Residential (CR) zone.

Surrounding Land Uses and Zoning:

Surrounding zoning consists mostly of Community Residential, Unincorporated Mesa County, the East Carolina Condos and Windsor Park PUD properties. Land uses surrounding the subject property include single family detached and multi-family dwelling units.
Review of Applicable Land Use Code Requirements:

Table 17.07.060(F) of the Land Use Code requires a Conditional Use Permit (CUP) for Bed & Breakfast type of land use in the Community Residential zone. The Land Use Code defines a Bed & Breakfast as a facility of residential character that provides sleeping accommodations with or without meals for hire on a day-to-day basis with no more than four guest rooms. It is not required to be owner occupied.

Section 17.07.070, Supplemental Zoning Regulations and Standards, Section A, identifies conditions and standards that must be met for a Bed & Breakfast use:

1. Where the applicable zoning district allows bed and breakfast uses as a Conditional Use, the use must be a residential dwelling that contains no more than four (4) guest bedrooms where overnight lodging, with or without meals, is provided for compensation. Bed and Breakfast uses with more than four (4) guest bedrooms are considered hotels or motels;

   The entire dwelling unit is intended to be used as the Bed and Breakfast. According to the Mesa County Assessor, this house contains 2 bedrooms and 1 3/4 bathrooms. This criteria has been met.

2. Kitchen and dining facilities in bed and breakfast dwellings may serve only residents and guests and shall not be operated or used for any commercial activity other than that necessary for bed and breakfast purposes;

   The applicants are aware that the kitchen and dining facilities may only serve the guests. The project narrative addresses this criteria stating “all food preparation will be for guests only and no commercial food services or food preparation for any other purpose will be allowed.” This criterion can be met.

3. The bed and breakfast use shall not change the residential character of the dwelling if located in a residential zone or area;

   This criterion was addressed in the project narrative. The applicant specifically included in the project narrative that the residential character of the property and building will remain the same. This criterion can be met.

4. In residential zones (including residential developments in the CMU zone), there shall be no advertising display or other indication of the bed and breakfast use on the premises other than a sign that is in compliance with the provisions of Chapter 17.41;

   Chapter 17.41 of the Land Use Code permits an Address or Identification Sign, identifying the address and/or the occupants of a dwelling unit or of an establishment, with a maximum size of two square feet and a maximum height of
four feet for a sign in this zone. No illumination of this sign is permitted. There are no signs on the subject property at this time.

The Sign Code requires that signs be reviewed in conjunction with the Conditional Use Permit. There was no indication from the applicant in the submittal documents that would indicate a proposed sign. Thus, no signage is being proposed. If a sign were to be proposed, there would need to be an amendment to this Conditional Use Permit. Amendments to CUP’s require hearings by both the Planning Commission and City Council. This criteria is not applicable because no sign is being proposed at this time.

5. **A minimum of one parking space per guest bedroom and resident bedroom shall be required. Screening may also be required;**

It appears that this property has at least 2 off street parking spaces. The project narrative says that there is a detached garage with ample parking on the property. It also states that this will easily accommodate all parking needs for the maximum number of guests that are allowed. No screening is recommended by Staff. This criterion has been met.

6. **The bed and breakfast facility shall comply with all Building Codes adopted by the city;**

The dwelling unit was originally constructed in 1922 according to the Mesa County Assessors website. The subject property does not appear to have any outstanding building permits. This criterion has been met at this time.

7. **It shall be the responsibility of the applicant to demonstrate that the relevant subdivision's declarations, covenants, conditions or restrictions allow for a bed and breakfast use and/or associated signing; and**

The subject property does not have affiliations with any HOA’s. This criterion has been met.

8. **Where a bed and breakfast use is subject to Conditional Use Permit approval, any existing or proposed uses in addition to that of a dwelling unit (e.g. home occupation, accessory dwelling unit, etc.) are considered as part of the conditional use review.**

Staff is unaware of any other existing or intended use of this property other than as a dwelling unit and/or as a short-term rental as proposed by this CUP request.

Based on this information, this CUP request for a Bed & Breakfast meets or can meet the supplemental zoning regulations and standards of the Land Use Code.
Chapter 13 of the Land Use Code identifies the approval criteria that must be considered for Conditional Use Permit (CUP) requests. The Code defines a CUP as a use which, because of its unique or varying characteristics, cannot be properly classified as an allowed use in a particular zone district. After due consideration, as provided for in Section 17.13.040 of the Land Use Code, of the impact upon neighboring land and of the public need for the particular use at a particular location, such conditional use may or may not be approved.

According to Section 17.13.40.C of the Land Use Code, a Conditional Use Permit may be granted for a conditional use in a particular zone provided the City Council finds as follows:

Section 17.13.040, Conditional Uses, of the Land Development Code requires that a conditional use be approved after considering the following:

1. The proposed use is consistent with the provisions and purposes of this Title, with the purposes of the zone in which it is located, and with the city's Master Plan;

   Based on this review, the proposed conditional use can be consistent with the provisions and purposes of this Title (the Land Use Code), which is to promote the health, safety and welfare of the present and future inhabitants of the community, and with the purposes of the Community Residential zone, which is to allow for moderate density single-family neighborhoods. If the supplemental zoning regulations and standards (identified above) are met along with the approval criteria for CUPs, this criterion can be met. The Land Use Code is one of the main documents used to implement the goals and policies of the City's Master Plan.

2. The proposed use is compatible with existing and allowed uses surrounding or affected by the proposed use, pursuant to the criteria in Section 17.07.080;

   Section 17.07.080 requires that a proposed development be compatible with adjacent properties, considering both existing and potential land uses on adjacent properties. For all land uses, “compatibility” is provided when a proposed land use can coexist with other existing uses in the vicinity without one use having a disproportionate or severe impact on the other use(s). The city decision-making body may consider other uses existing and approved and may consider all potential impacts relative to what customarily occurs in the applicable zone and those which are foreseeable, given the range of land uses allowed in the zone. The review authority may require conditions of approval to promote compatibility between a proposed use and existing uses in the vicinity to ensure compatibility.

   It appears that this proposed vacation rental can be compatible with surrounding land uses. Compliance with the regulations for vacation rentals should allow this
use to coexist with other existing houses in the area without having a disproportionate or severe impact on the neighborhood. This criterion can be met.

3. **The proposed use will not materially endanger the public health or safety; and**

Use of the single-family dwelling unit for a vacation rental is not expected to endanger the public health or safety. Staff recommends that all guest bedrooms contain carbon monoxide and smoke alarms. This criterion can be met.

4. **Public services and facilities including, but not limited to, transportation systems, wastewater disposal and treatment, domestic water, fire protection, police protection, and storm drainage facilities are adequate to serve the proposed use.**

Public services and facilities have been available to this property and will continue to be available to this property while it is used as a vacation rental. The impacts are not expected to be any greater than those generated by a single-family residence. This criterion has been met.

Based on this information, this requested Conditional Use Permit meets or can meet all approval criteria for Conditional Use Permits and all supplemental zoning standards.

**Legal Notice:**

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**NOTICE OF PUBLIC HEARING**

The Fruita Planning Commission will hold a public hearing **Tuesday, February 11, 2020** at **7:00 p.m.** at the Fruita Civic Center, 2nd Floor Council Chambers, 325 E. Aspen Avenue. The following item will be presented at the public hearings. The Planning Commission will formulate a recommendation, which will be forwarded to the Fruita City Council. If the item listed below is acted on by the Planning Commission, the Fruita City Council will hold a public hearing on this same item on **Tuesday, March 3, 2020** at **7:00 p.m.** at the Fruita Civic Center, 2nd Floor Council Chambers. If you have an interest on the item please call 858-0786 or come to the Planning & Development Department office located at 325 E. Aspen Avenue to review the information in the file. Your appearance at both hearings is encouraged to ensure your concerns are accurately represented or you can write a letter outlining your concerns and submit it to the Planning & Development Department.

**Application #** 2020-02
**Application Name** Christmas Farm Short Term Rental
**Application Type** Conditional Use Permit
**Location** 402 S. Pine Street
**Zone** Community Residential (CR)
**Description** This is a request for approval of a Conditional Use Permit for a Vacation Rental by Owner (Bed And Breakfast) in a Community Residential zone.

Physically disadvantaged persons who wish to obtain information or need assistance in attending the Public Hearing, may call (970) 858-0786, the hearing impaired may call Relay Colorado at 1-800-659-2656, or visit our website: www.fruita.org
Review Comments:

- No reviewer expressed concerns over the proposed application.

- Conditions of approval by Staff:
  1. Lodger’s tax be paid to the City of Fruita pursuant to Chapter 3.18 of the Fruita Municipal Code.
  2. Maintain a current City of Fruita business license.
  3. Limited to 2 bedrooms.
  4. All bedrooms shall contain fire and carbon monoxide alarms.
  5. Annual review of the Conditional Use Permit by the Fruita Code Compliance Officer.
  6. Compliance with all laws and regulations as applicable.

Public Comments:

No written public comments have been received regarding this application at this time.

Staff Recommendation:

Because all of the approval criteria for Conditional Use Permits and all supplemental zoning standards and regulations either are or can be met, staff recommends approval of the proposed Bed & Breakfast with the condition that all review comments are met before the business becomes operational.

Mesa County Building Department

MCBD has no objections.

If inspections are required a permit must first be obtained and our office will check for life safety items only.

Lower Valley Fire District

Re: Comments for 2020-02 Christmas Farm VRBO

1. Fire extinguisher and carbon monoxide detector must be in place.
2. Smoke detectors are required in all bedrooms and hallways per the IRC, Section R314 and Appendix J.
LAND DEVELOPMENT APPLICATION

Project Name: Bornert/Christmas Farm - Short Term Vacation Rental
Project Location: 402 S. Pine St. Fruita, CO 81521
Current Zoning District: Requested Zone:
Tax Parcel Number(s): Number of Acres:
Project Type: Conditional Use Permit

Property Owner: Amelia Bornert
Property Owner: Developer:
Address: 402 S. Pine St
Contact: Address:
City/State/Zip: Fruita, CO 81521
City/State/Zip: 
Phone: 970-270-3431 Fax:
Phone: Fax:
E-mail: asbornert22@gmail.com E-mail:

Please designate a representative as the coordinator for this application. The representative should attend all conferences/hearings, will receive all correspondence, and communicate all information to the property owners.

Owner Rep: Amelia Bornert Engineer:
Contact: Contact:
Address: 402 S. Pine St.
Address: 
City/State/Zip: Fruita, CO 81521 City/State/Zip: 
Phone: 970-270-3431 Fax:
Phone: Fax:
E-mail: asbornert22@gmail.com E-mail:

This Notarized application authorizes the owner’s representative, if designated, to act on behalf of the property owners regarding this application.

The above information is correct and accurate to the best of my knowledge.

Amelia Bornert 1/13/20
Name of Legal Owner Signature Date

Amelia Bornert
Date

Name of Legal Owner
Signature

Name of Legal Owner
Signature

STATE OF COLORADO)
COUNTY OF MESA ) ss.

Kelli McLean
Notary Public - State of Colorado
Notary ID 20144019506
My Commission Expires May 12, 2022

The foregoing instrument was acknowledged before me this 13th day of January, 2020,
My Commission expires: May 12, 2022 Notary Public
Project:
Bormett/Christmas Farm- Short Term Vacation Rental
402 S. Pine St.
Fruita, CO  81521

Owner:
Amelia Bormett
402 S. Pine St.
Fruita, CO  81521

- I am requesting approval for a Conditional Use Permit for a Vacation Rental (often referred to as an Air B & B or a VRBO) in a community residential zone. The room(s) is located within a short walking distance to Fruita's historic downtown and mixed use zone. Occupancy is approximate and projected for 6-12 months out of the year depending on the availability and as the seasons demands and allows.

- All development on the property is complete with the exception of future improvements on both the house and grounds for aesthetic appeal.

- The location of the property allows vacationers to stay in a quiet and private home environment rather than a hotel. The property will offer accessibility to all the amenities that Fruita and the surrounding area has to offer. In hopes of bringing revenue to the town of Fruita, and enrichment to the diversity of the community. The added appeal of being within walking distance of downtown's festivals, farmers markets, and all of our wonderful local businesses make this location ideal. We hope this will be a unique option to encourage more vacationers to stay and play in our wonderful town. This vacation rental property will be a direct, financial benefit for the City of Fruita, providing additional lodging taxes and increase sales taxes as guests shop & eat.

- This property is in compliance with all existing rules and regulations that are outlined in 17.01.080 in the operations of a Bed and Breakfast. The property will offer 2 guest rooms that will accommodate 2 guests in each room. This meets the criteria for having no more than 4 bedrooms to operate as a Bed and Breakfast. There is a detached garage with ample parking on the property. This will easily accommodate all parking needs for the maximum number of guests that are allowed. All food preparation will be for guests only and no commercial food services or food preparation for any other purpose will be allowed.

- The residential character of the property and building will remain the same.

- The current dwelling was built in 1922 and there are no known current building code violations.
A. CALL TO ORDER

Seven Planning Commissioners were in attendance. (Justin Gollob, Jesse Fabula, Mel Mulder, Doug Van Etten, JP Nisley, Dave Karisny, Whitney Rink were present).

B. PLEDGE OF ALLEGIANCE

The petitioners led the Pledge of Allegiance.

C. AMENDMENTS TO THE AGENDA

There was a typographical error on the Agenda. The Approval of the Minutes was modified to read January 14, 2020 instead of January 14, 2019.

D. APPROVAL OF THE AGENDA

COMMISSIONER MULDER MOVED TO APPROVE THE AGENDA WITH THE AMENDMENT TO THE MINUTES

COMMISSIONER KARISNY SECONDED THE MOTION

MOTION PASSES 7-0

E. WITHDRAWN ITEMS

None

F. CONTINUED ITEMS

None

G. CONSENT ITEMS

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<td>Location</td>
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<td>Zone</td>
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APPROVAL OF MINUTES

January 14, 2020 Planning Commission meeting

Commissioner Gollob disclosed that the owner rep Conrad Gollob for 2020-01 Black Bear House is his brother. He said he did not feel that he had any information about the application or applicant that was not available to other commissioners by virtue of the application and hearing process. He said that he did not prejudge the application and his decision would be based on the code, the supporting documents and information presented in this hearing. He also noted for the purpose of the city code of ethics that he would not realize any monetary gain by virtue of his decision.

Commissioner Van Etten thanked him for his disclosure and asked if anyone had a problem with Commissioner Gollob voting on the Consent Agenda?

There were no problems expressed.

Commissioner Van Etten asked for a motion to approve the Consent Agenda.

COMMISSIONER MULDER MADE A MOTION TO APPROVE THE CONSENT AGENDA.

COMMISSIONER KARISNY SECONDED THE MOTION

MOTION PASSED 7-0 IN FAVOR TO APPROVE THE CONSENT AGENDA AND 5-0 IN FAVOR OF APPROVAL OF THE MINUTES. COMMISSIONER NISLEY AND COMMISSIONER RINK ABSTAINED FROM VOTING ON APPROVAL OF THE MINUTES DUE TO THEIR ABSENCE AT THE LAST MEETING.

H. HEARING ITEMS

None

I. OTHER BUSINESS

Mr. Dan Caris said that there is a subdivision application that will be going before the Planning Commission on March 10. He also mentioned that at the February 3 Council meeting the Fruita in Motion Plan Like a Local Comprehensive Plan was adopted. He said that the consultant Design Workshop will be helping with the Land Use Code update and that this will be a little different from the Comprehensive Plan update with a rolling adoption format. There was discussion about Planning Commissioner involvement with the Land Use Code update.

Adjournment 7:13 pm

Respectfully submitted,

Kelli McLean
Planning Technician, City of Fruita
BACKGROUND
The Fruita City Council approved Resolution 2019-70 on December 17, 2019 to terminate the intergovernmental agreement that formed the 5-2-1 Drainage Authority. As part of that action, Council directed staff to work with Mesa County to provide stormwater compliance services moving forward. The Fruita City Council then approved a letter of commitment to Mesa County on February 4, 2020 that formally requested that these services be contracted. Staff has been working with Mesa County to refine the scope of these services and review the necessary agreements to implement the desired approach. A draft Intergovernmental Agreement (IGA) is being presented to Council for consideration that defines the scope and fees associated with providing the regulatory stormwater compliance services only and does not include any services that will address any stormwater quantity (flooding) or stormwater maintenance issues.

If the IGA is approved, staff will continue to assist the partners in transition of the stormwater permit from the 5-2-1 Drainage Authority to Mesa County, which is anticipated to occur within the next month or so.

FISCAL IMPACT
The proposed IGA establishes an annual fee of $39,000 based on additional costs anticipated by Mesa County to provide these services for Fruita city limits and is less expensive than if Fruita were to provide these services independently. This amount is within the amount budgeted by Fruita for 2020 and expected to adjust in future years based on actual costs and level of development.

It should be noted that the costs of implementing this program through Mesa County is expected to include additional upfront costs that are not included in the annual fee and are being requested from the balance of funds held by the 5-2-1 Drainage Authority rather than each additional partnering agency.

APPLICABILITY TO CITY GOALS AND OBJECTIVES
Providing stormwater quality compliance services is mandated by the State and is a core service of the local agency in order to protect the environment from pollutants. The City strives to
provide these services as cost effective as possible. Staff believes that contracting directly with Mesa County to provide stormwater compliance services is the most cost effective alternative and will provide the most customer-friendly solution as stormwater permitting will be centrally located in the same office as building permits.

OPTIONS AVAILABLE TO COUNCIL

1. APPROVE RESOLUTION 2020-18 APPROVING AN INTERGOVERNMENTAL AGREEMENT WITH MESA COUNTY FOR STORMWATER COMPLIANCE SERVICES AS DRAFTED.

2. DIRECT STAFF TO WORK WITH MESA COUNTY TO AMEND THE INTERGOVERNMENTAL AGREEMENT WITH FOR STORMWATER COMPLIANCE SERVICES.

3. DIRECT STAFF TO INVESTIGATE OTHER ALTERNATIVES TO PROVIDING STORMWATER COMPLIANCE SERVICES FOR THE CITY.

RECOMMENDATION

It is the recommendation of staff that Council:

APPROVE RESOLUTION 2020-18 APPROVING AN INTERGOVERNMENTAL AGREEMENT WITH MESA COUNTY FOR STORMWATER COMPLIANCE SERVICES AS DRAFTED.
RESOLUTION 2020-18

A RESOLUTION TO APPROVE AN INTERGOVERNMENTAL AGREEMENT WITH MESA COUNTY FOR STORMWATER COMPLIANCE SERVICES

WHEREAS, Colorado law mandates the City of Fruita provide stormwater quality services in compliance with Stormwater Phase II requirements of the Municipal Separate Storm Sewer System (MS4) regulations; and

WHEREAS, the City of Fruita has a history of partnering with Mesa County and MS4 entities to provide consolidated stormwater compliance services for the urbanized areas; and

WHEREAS, the City of Fruita and Mesa County desire to continue to provide stormwater compliance services in a cost-effective manner with a high level of customer service to permit holders; and

WHEREAS, Colorado law allows Mesa County to accept responsibility for compliance with Stormwater Phase II permits and procedures with the jurisdictional boundaries of Mesa County; and

WHEREAS, Mesa County has submitted a Permit Application to the Colorado Department of Health and Environment for a consolidated, MS4 permit to be held by Mesa County and under which the 5-2-1 Drainage Authority will be terminating the responsibility, administration, and management of the existing consolidated MS4 permit.

NOW, THEREFORE BE IT RESOLVED, that the City of Fruita hereby authorizes the Mayor to enter into an Intergovernmental Agreement with Mesa County for stormwater compliance services.


CITY OF FRUITA

________________________________________
Joel Kincaid, Mayor

ATTEST:

________________________________________
Margaret Sell, City Clerk
INTERGOVERNMENTAL AGREEMENT
FOR PROVISION OF COLORADO DISCHARGE PERMIT SYSTEM (“CDPS”)
MUNICIPAL SEPARATE STORM SEWER SYSTEM (“MS4”)
STORMWATER PHASE II PERMIT SERVICES

THIS INTERGOVERNMENTAL AGREEMENT (“Agreement”) is made and entered into effective the _______ day of _____, 2020 by and between the CITY OF FRUITA, COLORADO, a Colorado municipal corporation (“Fruita”), and MESA COUNTY, COLORADO, a political subdivision of the State of Colorado (the “County”), and provides as follows:

RECIPTS:

WHEREAS, Colorado law allows the County to accept responsibility for compliance with State Stormwater Phase II permits and procedures; and

WHEREAS, the County desires to provide consolidated CDPS, MS4, and related stormwater permitting services to entities within its jurisdictional boundaries that are necessary for compliance with CDPS MS4 Stormwater Phase II regulations; and

WHEREAS, all of the areas subject to CDPS MS4 Stormwater Phase II discharge permitting are within the jurisdictional boundaries of the County; and

WHEREAS, Fruita has placed a high priority on functional stormwater management and stormwater quality and is desirous of entering into this Agreement with the County to obtain consolidated CDPS MS4 Stormwater Phase II Discharge Permit Services; and

WHEREAS, the County has submitted a Permit Application to CDPHE for a consolidated, MS4 permit to be held by the County and under which the County will obtain and receive future MS4 permit coverage, and the 5-2-1 Drainage Authority will be terminating the responsibility, administration, and management of the existing MS4 permit held by the City of Grand Junction.

NOW, THEREFORE, in consideration of the recitals, terms, conditions, and promises contained in this Agreement, Fruita and the County agree as follows:

1. Duties of the County. The County shall provide CDPS MS4 Stormwater Phase II permit services on behalf of Fruita upon terms and conditions hereinafter set forth. The County will provide for Fruita the Services stated in the scope of work attached hereto as Exhibit A and incorporated herein. On the effective date of the CDPS MS4 Permit issued to County by CDPHE, County shall exercise full responsibility for the administration and management of CDPS MS4 Program compliance for Fruita as an entity covered under the MS4 Permit. The County and Fruita agree they have mutual and individual obligations
under the Agreement to initiate and perform enforcement activities in order to maintain compliance with the CDPS MS4 permit provisions.

2. **Duties of Fruita**

   A. Fruita agrees to reasonably assist the County with the performance of the County’s duties as described in Exhibit A of this Agreement and as listed in this subparagraph A:

   i. Authorizing the County to issue a Notice of Violation (“NOV”) to a Stormwater Construction Permit holder and/or property owner for violation of the Mesa County/Grand Junction Stormwater Management Manual, as may be amended from time to time, and/or Colorado Law, concerning CDPS MS4 permit requirements, pursuant to the County’s duties under Section A.iii., A.iv., and A.v. of Exhibit A.

   B. Fruita agrees to reasonably provide current and historic documentation such as previous permit program descriptions and annual reports, current resolutions, current construction and post-construction permit files, and other technical data necessary for the County to maintain an MS4 permit.

   C. Fruita shall inform the County, and provide a duplicate copy of, any permit related correspondence with regulatory agencies which may affect the County’s performance of its duties under Section 1 of this Agreement.

   D. Fruita agrees to take no intentional actions or perform any activity that can reasonably be foreseen to jeopardize the compliance status of the County’s MS4 permit with CDPHE.

      i. Fruita agrees that if the County is found to be in violation of the County’s CDPS MS4 Permit by CDPHE, and the violation can be attributed to an action on the part of Fruita, then Fruita shall be liable for any associated fee, fine, compliance order or penalty incurred by the County and shall assist the County in addressing, mitigating, or responding to the violation.

      ii. The County and Fruita acknowledge that the City of Grand Junction retains liability for findings by CDPHE of non-compliance against the CDPS MS4 Permit previously held by the City of Grand Junction (COR–090077), and any associated fee, fine, compliance order, or penalty charged thereto.

3. **Term.** The County and Fruita agree that their respective duties under this Agreement shall commence on the effective date of the transfer of the 5-2-1 Authority’s CDPS MS4 Phase II Stormwater Permit to the County, and continue for a period concurrent with the life of the County’s CDPS MS4 Phase II Stormwater Permit, subject to the following:

   A. Beginning on the effective date of the County’s CDPS MS4 Permit, the County shall administer all remaining permit activities, including inspections and eventual permit inactivation for all remaining active construction sites originally permitted by the City of Grand Junction.
B. Either party may initiate a review and negotiated modification of this agreement on a yearly basis, beginning no sooner than October 1st of each calendar year, to take effect January 1st of the subsequent year. Amendments or modifications of this Agreement shall require written agreement executed by the parties hereto.

C. Notwithstanding any provision herein contained, either party may terminate the Agreement without cause upon written notification of intent to terminate to the remaining party One Hundred Twenty (120) calendar days in advance of such termination date. Upon receipt of a notice of intent to terminate, both parties are individually responsible for informing the State of Colorado of the future change in permit coverage. Upon termination or expiration of this Agreement, The County shall immediately cease service work, and deliver to Fruita all documents, keys, papers, calculations, notes, reports, drawings, or other technical papers prepared by or provided to the County under the terms of this Agreement.

D. The expenditure of public funds by either party hereto shall be subject to the requirement of an annual appropriation.

4. Fee for Service. For the services provided by the County pursuant to this Agreement, Fruita shall pay an annual fee of $39,000. The fee may be adjusted from time to time by written agreement of the parties. The annual rate is contemplated for the agreement being in full effect a full calendar year, payable when the agreement is put into effect, or within 30 days thereafter. If the agreement is not in effect for a full calendar year, the fee will be prorated to reflect the time that the agreement was in effect. If the contracting party decides to not continue with services, they will not be entitled to any return of funds. The IGA is for the operations budget, and any remaining fund balance from Fruita’s share of the 5-2-1 Drainage Authority fund balance will be transferred to Mesa County for start up cost.

5. Relationship between Parties. The County is contracted only for the purpose and to the extent set forth in this Agreement, and its relationship to Fruita shall be that of an independent contractor.

6. Assumption of Risk and Governmental Immunity. The parties to this Agreement agree that each party shall bear responsibility for its own negligence and neither shall be responsible for indemnifying the other pertaining to the subject matter of this Agreement. Nothing herein shall be construed or interpreted as a waiver of any provision of the Colorado Governmental Immunity Act ("CGIA") as it now exists, or as it may be hereafter amended, as pertains to limits on liability by governmental entities for claims or injuries to persons or property. Liability for damages for activities conducted by either party via this Agreement shall be controlled and limited in accordance with the CGIA notwithstanding any contrary provision of this Agreement.
7. **Assignment.** Neither party shall assign such party’s rights or interest under this Agreement without the prior written consent of the other.

8. **Entire Agreement.** This Agreement shall constitute the entire agreement between Fruita and the County. Any prior understanding or representation of any kind preceding the effective date of this Agreement shall not be binding on either party except to the extent incorporated in this Agreement.

9. **Amendment.** Any modification of this Agreement or additional obligation assumed by either party in connection with this Agreement shall be binding only if in writing signed by each party.

10. **Non-Waiver.** The failure of either party to this Agreement to insist on the performance of any of the terms and conditions of this Agreement or the waiver of any breach of any of the terms and conditions of this agreement shall not be construed as thereafter waiving any such terms and conditions, but the same shall continue and remain in full force and effect as if no such forbearance or waiver had occurred.

11. **Venue.** This Agreement is formed in accordance with laws of the State of Colorado and venue for any action hereunder shall be in the State District Court in Mesa County, Colorado.

12. **Standard of Care.** The County shall fully and faithfully perform the work required under this Agreement in accordance with the appropriate standards of care, skill, training, diligence, and judgment provided by contractors who perform work of a similar nature to the work described in this Agreement.

13. **Dispute Resolution.** Disputes arising under, out of, or related to this Agreement or the work which is the subject of this Agreement shall be first addressed by informal means by and among technical staff and management of the parties to the Agreement. If informal means are unsuccessful, disputes shall be mediated using an independent third party. If both informal means and mediation are unsuccessful, the parties expressly reserve the right to arbitrate or file a cause of action pursuant to the Colorado Rules of Civil Procedure under C.R.S. §13-22-201, *et seq.*, or pursue any other remedy available pursuant to Colorado Law. The parties hereto agree that attempts at informal resolution through mediation shall be a precondition to other action being taken.

14. **Cooperation with Fruita.** In providing services in regards to the subject matter of this agreement, the technical staff of the County shall work cooperatively and in good faith with Fruita.

15. **Agreement Provisions Severable.** If any of the provisions of this Agreement are deemed to be invalid or unenforceable, such provisions shall be deemed severable from the remainder of this Agreement and shall not cause the invalidity or unenforceability of the
remainder of this Agreement. If any provisions are deemed invalid because of its scope, this provision shall be deemed valid to the extent of the scope permitted by law.

{SIGNATURES ON FOLLOWING PAGE}

AGREED TO EFFECTIVE THE DATE FIRST WRITTEN ABOVE.

MESA COUNTY

By ______________________________
Scott McInnis, Chair of Board of County Commissioners

ATTEST:

__________________________________
Tina Peters, Clerk and Recorder

CITY OF FRUITA

By __________________________
Mike Bennett, City Manager

STATE OF COLORADO )
 )SS
COUNTY OF MESA )

The foregoing instrument was acknowledged before me this __________ day of ________________, 2020, by Mike Bennett.

Witness my hand and official seal.
My commission expires: ______________.

____________________________________
Notary Public
EXHIBIT A
SCOPE OF WORK

A. Beginning on the effective date of the transfer of the 5-2-1 Drainage Authority’s CDPS MS4 Phase II Stormwater Management Permit, subject to the specific terms of this Agreement, the County shall budget for, administer, coordinate, and perform all the following program elements shown as Minimum Control Measures identified below.

i. All Public Education and Outreach activities described in the CDPS MS4 Phase II Stormwater Management Permit, as assisted by Fruita.

ii. All Public Participation and Involvement activities described in the CDPS MS4 Phase II Stormwater Management Permit as approved by CDPHE.

iii. Construction program activities as described in the CDPS MS4 Phase II Stormwater Management Permit, specifically including review and approval of Construction Site Stormwater Management Plans (CSWMPs), issuance of Construction Stormwater Permits, and associated construction related inspection and auditing activities, as assisted by Fruita.

iv. Fruita will identify the County as an external review agency for Fruita’s project which are subject to the County’s Construction Stormwater Management Plan review and Stormwater Construction Permit activities.

v. The County will require capital projects disturbing equal to or greater than 1 acre within the County’s MS4 Permit jurisdiction to be subject to the County’s Construction Stormwater Management Plan review and Stormwater Construction Permit provisions, as assisted by Fruita.

vi. Post-Construction program activities as described in the CDPS MS4 Phase II Stormwater Management Permit, including but not limited to: review and approval of Post Construction Stormwater Control Measure Requirements contained within Final Drainage Reports or other applicable documents; associated post-construction inspection and auditing activities, as assisted by Fruita.

vii. The County shall work directly to advise developers and/or property owners of sites that require Stormwater Construction Permits and Post-Construction Stormwater Control Measures to maintain sites in compliance with stormwater quality requirements contained within the CDPS MS4 Stormwater Phase II discharge permit, without the involvement of Fruita. If continued non-compliance or blatant disregard of stormwater requirements is documented by the County, or work is being done without appropriate approvals and permits and enforcement actions are necessary, then it shall be the County’s responsibility to initiate enforcement actions pursuant to the authority granted to the County’s staff as described under Section 2, Paragraph A of the Agreement. Upon initiation of enforcement activities, the County shall provide documentation, field support, testimony, or other support as needed, for legal actions initiated by the County.
B. To the extent allowed by law, the County shall budget for, administer, coordinate, and perform the following tasks associated with program elements shown as Minimum Control Measures ("MCM"s) within Mesa County’s CDPS MS4 Phase II Stormwater Management Program Description.

i. Illicit Discharge Detection and Elimination ("IDDE") activities specifically identified below and described in the County’s Phase II Program Description.
   a. Operation of a stormwater hotline.
   b. Coordination and performance of storm drain system mapping efforts. Provide accurate records, files, mapping, mailing list and other documents and information necessary to establish the jurisdictional boundaries, type and ownership of properties within the jurisdictional boundaries and physical facilities of Fruita for which the County will be providing services, and shall reasonably provide any updates or changes to this information as necessary, as assisted by Fruita.
   c. Continuation of pollution awareness efforts, such as the billboard campaign, and distributing items such as brochures pencils, magnets, and stickers with the Hotline phone number.
   d. The County will provide Fruita technical staff assistance, for enforcement activities associated with issuing NOV’s for Stormwater Construction violations as outlined in Section 2A.i.
   e. Coordinate training activities for field staff and audits of Fruita facilities, as assisted by Fruita.
   f. Maintain an effective IDDE Program for facilities owned and operated by Fruita and compliance with CDPHE regulations and the County’s CDPS MS4 Program Description, as assisted by Fruita.
   g. Maintaining an effective Pollution Prevention and Good Housekeeping Practices for Municipal Operations Program for facilities owned and operated by Fruita, compliant with CDPHE regulations and the County’s CDPS MS4 Program Description, as assisted by Fruita.

ii. The County shall audit Fruita’s IDDE program on an annual basis to ensure Fruita is maintaining an effective program in compliance with the County’s CDPS MS4 Permit Program Description.

iii. Pollution Prevention and Good Housekeeping for Municipal Operations activities specifically identified below and described in the County’s Phase II Program Description.
   a. Coordinate training activities for Fruita’s staff to ensure compliance with the County’s Program Description, as assisted by Fruita.
b. The County shall audit Fruita’s Pollution Prevention and Good Housekeeping for Municipal Operations program on an annual basis to ensure Fruita’s is maintaining an effective program in compliance with the County’s CDPS Permit and Program Description.

C. The County shall inform Fruita of any permit related correspondence with regulatory agencies which may affect Fruita’s operations or Fruita’s performance of its duties pursuant to this Agreement, and provide Fruita a duplicate copy.

D. The County shall diligently maintain the CDPS MS4 Phase II Stormwater Permit consistent with State of Colorado regulations and approval criteria to ensure continued coverage of Fruita as an entity covered under said Permit. The County shall coordinate with CDPHE on the type and extent of any submittals required, accumulate documents, and/or prepare or coordinate creation of new documents as required for the submittals.
   i. The County shall administer, maintain, prepare annual reports for, and renew the Phase II permit.
   ii. The County may pursue CDPHE approval and/or designation as a qualified local program for the construction permitting program for implementation within the Permit Area.
   iii. Nothing in this section is intended to force the County to continue to hold a CPDS MS4 Stormwater Phase II Permit on behalf of Fruita in violation of CDPHE approval criteria or in violation of applicable law. It is understood that CDPHE retains the right to rescind the County’s ability to hold the CPDS MS4 permit on behalf of Fruita if future conditions so warrant.

E. The County shall maintain a Technical Advisory Committee (“TAC”), chaired by the County’s Stormwater Manager, and comprised of a staff representative from each of the parties with which the County has agreed to provide administrative and managerial services related to the CDPS MS4 matters contemplated by this Agreement. Staff representatives to the TAC shall be determined solely by their respective entities and shall be the primary conduit for communicating information to their organization. The general role of the TAC is to provide recommendations and advice to the County’s Stormwater Manager on technical, strategic planning, and permit compliance issues, in order to assist the County in performing its duties identified in the respective agreements.
   i. The County’s Stormwater Manager shall hold TAC meetings as necessary as determined by the TAC members.
   ii. The County’s Stormwater Manager is responsible for ensuring the County’s Engineering Division Director is kept informed of issues being discussed by the TAC, transmitting recommendations and advice from the
TAC to the Engineering Division Director, and for transmitting information from the Engineering Division Director to the TAC.

iii. The County’s Stormwater Manager shall consult with TAC members and seek recommendations prior to making decisions or implementing activities directly associated with the CDPS MS4 permit compliance commitments of the contracting parties.

END OF EXHIBIT A
BACKGROUND
The City of Fruita has prioritized development in the industrial park and has made improvements over the years to make the industrial park more appealing for businesses to locate there. Most recently, the city paved an overlay on 16 Road to just south of the Union Pacific Railroad. The condition of the crossing is rough between the end of the overlay and the Highway 6 pavement including the southern rail crossing as it is just a 32-ft timber crossing of which the City has been receiving complaints about the poor condition. The northern rail crossing is a 32-ft concrete panel crossing.

With the desire to make this entrance into the industrial park more inviting, functional and safe, we proposed to replace the timber crossing with concrete panels and widen both crossings to 48-ft along with complete the paving to the full street width.

Staff is seeking approval from Council to submit a grant application to the Mesa County Federal Mineral Lease District for partial funding of this project. The grant requires a minimum 30% local match. The total of funds available for this cycle is around $200,000.

FISCAL IMPACT
This project is estimated to cost $200,000. Staff proposes that we request $50,000 in grant funding with a 75% match coming from Transportation Impact Fees collected from development in the industrial park.

APPLICABILITY TO CITY GOALS AND OBJECTIVES
This project meets a wide variety of goals established and has been specifically prioritized by the City Staff.

OPTIONS AVAILABLE TO COUNCIL
The City Council is required to take formal action as a requirement of the grant application. The City Council has the following options:
1. APPROVE RESOLUTION 2020-17 TO SUPPORT A GRANT APPLICATION TO THE MESA COUNTY FEDERAL MINERAL LEASE DISTRICT REQUESTING GRANT FUNDS FOR THE REPAIR AND WIDENING OF THE 16 ROAD RAIL CROSSING OF UNION PACIFIC RAILROAD

2. DENY RESOLUTION 2020-17 TO SUPPORT A GRANT APPLICATION TO THE MESA COUNTY FEDERAL MINERAL LEASE DISTRICT REQUESTING GRANT FUNDS FOR THE REPAIR AND WIDENING OF THE 16 ROAD RAIL CROSSING OF UNION PACIFIC RAILROAD

RECOMMENDATION

It is the recommendation of staff that Council:

APPROVE RESOLUTION 2020-17 TO SUPPORT A GRANT APPLICATION TO THE MESA COUNTY FEDERAL MINERAL LEASE DISTRICT REQUESTING GRANT FUNDS FOR THE REPAIR AND WIDENING OF THE 16 ROAD RAIL CROSSING OF UNION PACIFIC RAILROAD
RESOLUTION 2020-17
A RESOLUTION TO SUPPORT AN APPLICATION TO MESA COUNTY FEDERAL MINERAL LEASE DISTRICT REQUESTING GRANT FUNDS FOR THE REPAIR AND WIDENING OF THE 16 ROAD RAIL CROSSING OF UNION PACIFIC RAILROAD

WHEREAS, the City of Fruita is eligible to apply for Mesa County Federal Mineral Lease District Funds, and

WHEREAS, the City of Fruita has prioritized projects to enhance the industrial park by making it more appealing for businesses to locate in the industrial park; and

WHEREAS, the City of Fruita has prioritized the completion of improvements to the industrial park and access to it; and

WHEREAS, the City of Fruita intends to submit a grant application to Mesa County Federal Mineral Lease District for improving the Union Pacific Railroad crossing at 16 Road which is a connection to the Kokopelli Section of the Colorado Riverfront Trail as well as entrance to Fruita’s industrial park in accordance with the City Council’s goals; and

WHEREAS, the Fruita City Council fully supports the completion of the project if a grant were to be awarded by the Mesa County Federal Mineral Lease District.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL, THAT THE CITY COUNCIL HEREBY STRONGLY ENDORSES THIS GRANT APPLICATION AND FURTHER RESOLVES THAT:

1. The recitals above are hereby incorporated as findings by the Fruita City Council.
2. The Fruita city Council strongly supports the grant application submitted by the City of Fruita.
3. If grants are awarded, the Fruita City Council strongly supports the completion of the project.
4. The City Council of the City of Fruita authorizes the expenditure of funds necessary to meet the terms and obligations of any grant awarded pursuant to a grant agreement with the Mesa County Federal Mineral Lease District.
5. If a grant is awarded, the Fruita City Council hereby authorizes the City Manager to sign a grant agreement with the Mesa County Federal Mineral Lease District.
PASSED AND ADOPTED BY THE FRUITA CITY COUNCIL

CITY OF FRUITA, COLORADO

___________________________
Joel Kincaid, Mayor

ATTEST:

______________________________
Margaret Sell, City Clerk
TO: FRUITA CITY COUNCIL AND MAYOR
FROM: DEBRA WOODS, DEPUTY CITY CLERK
DATE: MARCH 3, 2020
RE: 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 MANAGER INFORMAL REVIEW)

BACKGROUND
The City Council has reason to convene in Executive Session to discuss a personnel matter. To convene in executive session, state law requires that a motion with specific language requesting the executive session be passed with 2/3 of the governing body voting in the affirmative for said motion.

FISCAL IMPACT
N/A

APPLICABILITY TO CITY GOALS AND OBJECTIVES
N/A

OPTIONS AVAILABLE TO THE COUNCIL
N/A

RECOMMENDATION
It is the recommendation of the Fruita City Staff that the Council:

MOVE 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 CRS 24-6-402(4)(F).
ANNOUNCEMENT NO. 1

ANNOUNCEMENT TO BE MADE BY CHAIRMAN
AT THE BEGINNING OF THE EXECUTIVE SESSION
(MAKE SURE THE TAPE RECORDER IS TURNED ON;
DO NOT TURN IT OFF DURING THE EXECUTIVE SESSION
UNLESS SO ADVISED BY LEGAL COUNSEL.)

It's March 3, 2020 and the time is ______________. For the record, I am the Mayor, Joel Kincaid. As required by the Open Meetings Law, this executive session is being electronically recorded.

Also present at this executive session are the following persons:

__________________________________________________________.

This is an executive session for the following purpose:

To discuss issues related to personnel matters understanding that discussions of such issues in Executive Session are specifically permitted by the State’s Open Meeting Law CRS 24-6-402(4)(F).

I caution each participant to confine all discussion to the stated purpose of the executive session, and that no formal action may occur in the executive session.

If at any point in the executive session any participant believes that the discussion is going outside the proper scope of the executive session, please interrupt the discussion and make an objection.
ANNOUNCEMENT NO. 2

ANNOUNCEMENT TO BE MADE BY THE CHAIRMAN
BEFORE CONCLUDING THE EXECUTIVE SESSION
(WHILE THE TAPE RECORDER IS STILL ON)

I hereby attest that this recording reflects the actual contents of the
discussion at the executive session and has been made in lieu of any written
minutes to satisfy the recording requirements of the Open Meetings Law.

_____  I will have the Deputy City Clerk retain the recording for a 90-
day period.

**OR**

*(if Executive Director was the
subject of the session and
was not present at the session)*

_____  I will retain the tape in my possession for a 90-day period.

The time is now ________________, and we now conclude the executive
session and return to the open meeting.

*(turn off tape and return to open meeting)*