FRUITA CITY COUNCIL
REGULAR MEETING
MARCH 17, 2020

1. INVOCATION AND PLEDGE OF ALLEGIANCE

Mayor Kincaid excluded from the agenda the moment of silence that is normally observed in lieu of the Invocation at the beginning of the second Council meeting of each month.

2. CALL TO ORDER AND ROLL CALL

Council members present in person were Karen Leonhart, Amanda Ewing, Kyle Harvey, Dave Karisny and Lori Buck. Councilor Ken Kreie and City Manager Mike Bennett were video- and audio-conferenced into the meeting. Mayor Kincaid called the meeting to order at 6:58 p.m.

3. AGENDA – ADOPT/AMEND

Mayor Kincaid asked if there were any changes to the agenda. City Clerk/Finance Director Margaret Sell noted that there had been a change earlier in the day to the agenda and that the new agenda and packet had previously been sent to the City Council and all other subscribers to them on the City’s website.

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

4. PROCLAMATIONS AND PRESENTATIONS

There were no Proclamations or Presentations on the agenda.

5. PUBLIC PARTICIPATION

There were no comments from the public.

6. CONSENT AGENDA

A. MINUTES - A REQUEST TO APPROVE THE MINUTES OF THE MARCH 3, 2020 CITY COUNCIL MEETING

B. LIQUOR LICENSE RENEWAL – A REQUEST TO APPROVE THE RENEWAL OF A RETAIL LIQUOR STORE LICENSE – MALT, VINOUS AND SPIRITUOUS FOR BEST BOYS, LLC DBA FRUITA LIQUOR MART LOCATED AT 423 E. HIGHWAY 6 & 50

C. SPECIAL EVENTS LIQUOR PERMIT APPLICATION – A REQUEST TO APPROVE A SPECIAL EVENTS LIQUOR PERMIT FOR THE COLORADO
PLATEAU MOUNTAIN BIKE TRAIL ASSOCIATION (COPMOBA) TO SELL BEER AT THE GRAND VALLEY BIKE SWAP TO BE HELD ON SATURDAY, APRIL 25, 2020 FROM 11:00 AM TO 4:00 PM AT CIVIC CENTER MEMORIAL PARK

D. BOARDS AND COMMISSIONS APPOINTMENT – A REQUEST TO APPROVE THE APPOINTMENT OF KRISTY DRIVER TO THE FRUITA TOURISM ADVISORY COUNCIL FOR A THREE-YEAR TERM TO EXPIRE IN MARCH OF 2023

E. BOARDS AND COMMISSIONS APPOINTMENT – A REQUEST TO APPROVE THE APPOINTMENT OF LISA WENCE CONNORS AS A REGULAR MEMBER (FROM THAT OF AN ALTERNATE) TO THE BOARD OF ADJUSTMENT FOR A THREE-YEAR TERM TO EXPIRE IN MARCH OF 2023

F. MINI-GRA nt AWARDS – A REQUEST TO APPROVE A RECOMMENDATION FROM THE FRUITA TOURISM ADVISORY COUNCIL (FTAC) FOR TWO MINI-GRA nt AWARDS TO OVER THE EDGE SPORTS, LTD. FOR THE TRAILS SUMMIT CONFERENCE AND TO THE DOWNTOWN ADVISORY BOARD FOR THE OKTOBERFEST BEER EVENT

G. FINANCIAL REPORTS – A REQUEST TO APPROVE THE FEBRUARY 2020 FINANCIAL REPORTS

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 EWING MOVED TO APPROVE THE CONSENT AGENDA AS PRESENTED. COUNCILOR KARISNY SECONDED THE MOTION. THE MOTION PASSED WITH SIX YES VOTES.

7. PUBLIC HEARINGS

There were no public hearings on the agenda.

8. ADMINISTRATIVE AGENDA

A. PLANNING & DEVELOPMENT DIRECTOR DAN CARIS

1) REQUEST TO AUTHORIZE THE MAYOR TO SIGN A LETTER TO THE DEPARTMENT OF LOCAL AFFAIRS (DOLA) REQUESTING AN EXTENSION FOR THE LAND USE CODE UPDATE GRANT UNTIL DECEMBER 31, 2021

City Clerk/Finance Director Margaret Sell explained that there were two reasons for the request to authorize the Mayor to sign a letter to DOLA requesting an extension of time for the grant: one
is that the original timeline is very short with the deadline of May 20th and the second is that staff is anticipating further delays with the COVID-19 climate and the challenges of conducting public meetings.

- COUNCILOR KARISNY MOVED TO AUTHORIZE THE MAYOR TO SIGN A LETTER TO THE DEPARTMENT OF LOCAL AFFAIRS (DOLA) REQUESTING AN EXTENSION FOR THE LAND USE CODE UPDATE GRANT UNTIL DECEMBER 31, 2021. COUNCILOR HARVEY SECONDED THE MOTION. THE MOTION PASSED WITH SIX YES VOTES.

9. CITY MANAGER'S REPORT

A. COVID-19 UPDATE – UPDATE ON THE STATUS OF CITY OPERATIONS AS THEY RELATE TO COVID-19 PANDEMIC

City Manager Mike Bennett stated that he didn’t have many other further updates outside of the e-mails he had already sent out. He noted that the Fruita Police Department and City Shops facilities would be closing to the public the following day because they don’t get many walk-ins, although staff would still be working there.

10. COUNCIL REPORTS AND ACTIONS

A. RESOLUTION 2020-19 – ADOPTING AN ELECTRONIC PARTICIPATION POLICY FOR PUBLIC MEETINGS FOR USE IN THE EVENT OF A LOCAL EMERGENCY DECLARATION

City Manager Mike Bennett stated that City Attorney Paul Wisor drafted Resolution 2020-19 as a formal action of the Council that many other cities across the state of Colorado are taking. The Resolution needs to be adopted formally by the Council for the City of Fruita to have the ability to conduct remote meetings using Zoom Video Conferencing (or other similar products) while making sure that the public is given the opportunity to participate.

Mr. Bennett continued that another part of this discussion would be to potentially move to one meeting of the Council per month (during the COVID-19 pandemic) by consolidating agenda items. Mr. Bennett pointed out that if the Council needs to schedule an emergency meeting, they could do so providing the City gives the public 24-hours’ notice prior to the emergency meeting.

Mr. Bennett added that the only other aspect of the discussion is that depending on how things progress, he may have to issue a Declaration of Emergency, although the City of Fruita is not at that point currently. Mesa County has clarified that a “state of emergency” is when there is a mass spread of the corona virus throughout the county and that is what they are waiting on.

Mr. Bennett continued that he has the authority to declare a state of emergency, but then a Council meeting would need to be scheduled so the Council could ratify it.
Mr. Bennett said that the above three items are what the Council needs to consider before approving the Resolution to have remote meetings.

Councilor Leonhart said that she saw on the news that Montrose declared a state of emergency to have the ability to apply for funds/grant opportunities although there are no cases of the coronavirus there. She said she wondered about that.

Mr. Bennett responded that he had a phone conversation with the Mesa County Emergency Manager and all the nearby City Managers and some of the cities are starting to consider declaring a state of emergency later in the week or next week potentially. He added that the declaration by the governor and the declaration by the president would cover all communities whether they declared a state of emergency or not and there could be other types of funding through the Department of Local Affairs (DOLA). Mr. Bennett stated that one of the considerations for not declaring a state of emergency too soon is the fact that it could cause panic.

Mayor Kincaid asked what the trigger point would be for declaring a state of emergency and whether Mesa County has announced what their trigger point is for doing so.

Mr. Bennett responded that Mesa County’s trigger point would be having multiple cases of the virus in the county that would be spreading from person to person.

Councilor Karisny pointed out that the motion recommended by staff indicates that the Council, by motion, should “adopt Resolution 2020-19 – Adopting an electronic participation policy for use in the event of a local emergency declaration.” He asked if the Resolution could be passed by the Council before the City declares an emergency.

City Clerk/Finance Director Margaret Sell stated that she thought the Resolution requires an Emergency Declaration before electronic meetings can be held. She added that if the Council cancelled the Council workshop scheduled for March 24, 2020 and the April 7, 2020 regular Council meeting, that there shouldn’t be a need to have a potential electronic meeting until the second meeting in April (April 21, 2020) when the new Council would be sworn in and take their seats. She pointed out that it was possible that that meeting would be held in person.

After Mayor Kincaid said he was not comfortable declaring an emergency in the City of Fruita because it could cause panic. Staff and the Council then discussed potential language for a motion to adopt the Resolution without having to declare a local emergency and also how to deal with the one Concept Plan public hearing on the April 7th agenda being moved to another date even though the public notice has already been posted. Mrs. Sell said she thought staff could publish a notice in the Daily Sentinel and send out notices advising the neighboring public that the public hearing has been either been rescheduled or postponed.

Councilor Karisny suggested that the motion contain only language that the City of Fruita was adopting the Resolution to approve a policy that would allow electronic meetings to be held (and not include any wording about declaring a local emergency). Then, staff could talk to the City Attorney to see if the City would indeed need to declare an emergency before it could hold electronic meetings.
Mr. Bennett tried to contact the City Attorney on his cell phone but was unsuccessful.

Mayor Kincaid said he wanted the Council to know what the triggers would be for declaring a local emergency and what the justification for it would be if the Council had to do that. Mr. Bennett responded that there are two triggers at this point in time: 1) Mesa County was declaring an emergency that would require it’s municipalities to do the same if the virus is spreading throughout the county in multiple locations and is being spread from person to person and 2) there is funding for municipalities coming through DOLA or some other source that would require a municipality to declare an emergency in order to access funds that wouldn’t already be contained in a state or federal declaration.

Mr. Bennett added that there are two types of funding for disasters; there is response funding (which is not currently the situation in Fruita or Mesa County but could possibly be needed in the future) or economic incentives for residents and businesses. He said he was most concerned about the latter and that it would most likely be the reason he would declare an emergency quickly that the Council would later ratify. Otherwise, there would be no real reason to declare one without one or both of those triggers and Mr. Bennett said that the City is more about focusing on precautionary measures at this time.

Mr. Bennett stated that City Attorney Paul Wisor had just advised (in a text message on his phone) that the Council could reword the Resolution to approve remote meetings without having an emergency declaration because the City isn’t required to declare a local emergency in order to adopt a policy allowing electronic meetings. Mr. Bennett also suggested that the Council include the City’s other Boards and Commissions meetings in case remote meetings were necessary for them as well, especially the Planning Commission.

- COUNCILOR KARISNY MOVED TO ADOPT RESOLUTION 2020-19 – ADOPTING AN ELECTRONIC PARTICIPATION POLICY. COUNCILOR BUCK SECONDED THE MOTION. THE MOTION PASSED WITH SIX YES VOTES.

- COUNCILOR KARISNY MOVED TO ADOPT AN ELECTRONIC PARTICIPATION POLICY FOR THE CITY COUNCIL AND BOARDS AND COMMISSIONS. COUNCILOR BUCK SECONDED THE MOTION. THE MOTION PASSED WITH SIX YES VOTES.

- COUNCILOR KARISNY MOVED TO ALLOW THE CITY MANAGER TO DECLARE AN EMERGENCY DECLARATION. COUNCILOR HARVEY SECONDED THE MOTION. THE MOTION PASSED WITH SIX YES VOTES.

B. COUNCIL REPORTS AND ACTIONS

COUNCILOR KAREN LEONHART

Karen asked if the City Council needed to do anything about Fruita’s Election Day. Mayor Kincaid said that they didn’t, but he requested that any information received by Council members (that requires input) in the next three or four weeks be shared with all Council members.

11. ADJOURN

With no further business before the Council, the meeting was adjourned at 7:28 p.m.

Respectfully submitted,

Debra Woods
Deputy City Clerk
City of Fruita