

**FRUITA CITY COUNCIL
VIRTUAL MEETING
AUGUST 4, 2020
7:00 P.M.**

1. CALL TO ORDER AND ROLL CALL

Mayor Kincaid called the Regular Meeting of the Fruita City Council to order at 7:00 p.m. The meeting was held with virtual access provided through Zoom.

2. PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was recited.

Present via teleconference:

Mayor Joel Kincaid
Mayor Pro Tem Lori Buck
City Councilor Heather O'Brien
City Councilor Kyle Harvey
City Councilor Matthew Breman
City Councilor Karen Leonhart

Note: Councilor Ken Kreie experienced technical difficulties logging in to the Zoom meeting at 7:00 p.m. but was successful at joining the meeting at 7:02 p.m.

Excused Absent:

City Manager Mike Bennett

Also present via teleconference:

City Clerk/Finance Director Margaret Sell
Deputy City Clerk Deb Woods
Management Analyst Shannon Vassen
Planning & Development Director Dan Caris
Code Enforcement Officer David Oliver
City Planner Henry Hemphill
City Attorney Paul Wisor
Grand Valley Interfaith Network President Rev. Dr. Carla Ryan
Create Real Growth President Carlene Goldthwaite
JJW Holdings, LLC Managing Member Jeremiah Windscheffel (506 E. Pabor and 221 N. Elm Vacation Rentals by Owner)
Members of the public

3. AGENDA – ADOPT/AMEND

Mayor Kincaid asked if there had been any additions or changes to the agenda. Deputy City Clerk Deb Woods confirmed that there had been none.

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

4. PROCLAMATIONS AND PRESENTATIONS

- A. **PROCLAMATION – PROCLAIMING AUGUST 3 – 9, 2020 AS THE “3RD ANNUAL INTERFAITH AWARENESS WEEK” IN THE CITY OF FRUITA TO BE ACCEPTED BY GRAND VALLEY INTERFAITH NETWORK (GVIN) PRESIDENT, REVEREND DR. CARLA RYAN AND CREATE REAL GROWTH PRESIDENT, CARLENE GOLDTHWAITE**

Councilor Harvey read the Proclamation. Carlene Goldthwaite is a member of the Grand Valley Interfaith Network (GVIN) and thanked Councilor Harvey for being instrumental in bringing the Proclamation to the Fruita City Council. She acknowledged Reverend Dr. Carla Ryan, the President of the organization who was also present as a panelist in the meeting. Carla accepted the Proclamation on behalf of the GVIN and made a statement about the importance of religious freedoms for all.

5. PUBLIC PARTICIPATION

Mayor Kincaid gave attendees who had joined the meeting virtually instructions on how to submit public comments. Shannon Vassen confirmed that there were no comments from the public.

6. CONSENT AGENDA

- A. **MINUTES - A REQUEST TO APPROVE THE MINUTES OF THE JULY 21, 2020 REGULAR CITY COUNCIL MEETING**
- B. **LIQUOR LICENSE RENEWAL – A REQUEST TO APPROVE THE RENEWAL OF A FERMENTED MALT BEVERAGE (FMB) LIQUOR LICENSE FOR CITY MARKET #13 LOCATED AT 135 S PLUM ST.**
- C. **LIQUOR LICENSE RENEWAL – A REQUEST TO APPROVE THE RENEWAL OF A BEER AND WINE – MALT AND VINOUS LIQUOR LICENSE FOR MUNCHIES PIZZA & DELI, LLC LOCATED AT 550 KOKOPELLI BLVD.**
- D. **ONE RIVERFRONT APPOINTMENTS – A REQUEST TO APPROVE THE APPOINTMENTS OF J. FRED BARBERO, RONDO BUECHELER, JOEL SHOLTES AND JENNIFER REYES TO THE ONE RIVERFRONT FOR THREE-YEAR TERMS EACH TO EXPIRE IN 2023 AND THE**

APPOINTMENT OF DAVID DEKEYSER TO A MID-YEAR TERM (IN THE EVENT A VACANCY OCCURS BEFORE A TERM EXPIRES)

E. RESOLUTION 2020-29 – APPROVING THE FINAL RELEASE OF THE SUBDIVISION IMPROVEMENTS AGREEMENT FOR THE BRANDON ESTATES FILING 3, PHASE 2D SUBDIVISION

Mayor Kincaid opened the public hearing on the Consent Agenda. Mr. Vassen confirmed that he did not see any members of the public asking to comment. Mayor Kincaid closed the public hearing and invited the Council to ask questions, comment, remove Consent items for further discussion or make a motion to approve.

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

7. PUBLIC HEARINGS

A. LEGISLATIVE HEARINGS

1) ORDINANCE 2020-02 – SECOND READING – AMENDING CHAPTER 28 OF TITLE 2 AND CHAPTER 11 OF TITLE 9 OF THE FRUITA MUNICIPAL CODE TO PROVIDE FOR MORE EFFICIENT ENFORCEMENT OF AND MONETARY PENALTIES RELATED TO PUBLIC NUISANCE VIOLATIONS – DAN CARIS, PLANNING AND DEVELOPMENT DIRECTOR

Planning and Development Director Dan Caris introduced Code Enforcement Officer Dave Oliver, who gave staff's PowerPoint presentation on Ordinance 2020-02.

Mr. Oliver outlined the current Civil Summons Complaint process that staff must go through to resolve public nuisance issues pertaining to junk and weeds in the City, which can take up to eight weeks or more and is costly to the City in attorney fees and court costs. Many issues also require approval of the City Council before staff can proceed. For these reasons, staff is proposing Ordinance 2020-02, which will enact a process that will incorporate potential fines and billing homeowners for clean-up. The Ordinance will also allow the City to ultimately file a tax lien on a property that is non-compliant.

Mr. Oliver explained how the proposed amendments to the Code will provide for more efficient and less costly enforcement of public nuisance issues involving weeds and junk and will still allow a homeowner to have their right to be heard in court should there be any kind of disagreement between the parties involved.

City Attorney Paul Wisor advised that the City would not be taking away anyone's property rights as the Ordinance fully counts for that; it simply accelerates the administrative process from a month or two down to around fifteen days and gets rid of the provision that the Council needs to take

action before staff can be proactive on a week or junk issue. He added that the Ordinance will also identify weeds as a public nuisance as they currently are not listed as such in the existing Municipal Code. Mr. Wisor concluded that from a legal standpoint, the proposed process contained in Ordinance 2020-02 is far more efficient and in line with what many other communities are doing today.

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

- **COUNCILOR LEONHART MOVED TO APPROVE ORDINANCE 2020-02 – SECOND READING - AMENDING CHAPTER 28 OF TITLE 2 AND CHAPTER 11 OF TITLE 9 OF THE FRUITA MUNICIPAL CODE TO PROVIDE FOR MORE EFFICIENT ENFORCEMENT OF AND MONETARY PENALTIES RELATED TO PUBLIC NUISANCE VIOLATIONS. COUNCILOR BUCK SECONDED THE MOTION. THE MOTION PASSED WITH SIX YES VOTES.**

2) RESOLUTION 2020-33 – APPROVING A SUPPLEMENTAL BUDGET APPROPRIATION FOR THE 2020 BUDGET TO APPROPRIATE ADDITIONAL FUNDS FOR THE NORTH FRUITA DESERT SURVEY WORK AND FOR COVID-19 PANDEMIC RELATED EXPENSES – MARGARET SELL, FINANCE DIRECTOR

Finance Director/City Clerk Margaret Sell explained that the proposed Budget Amendment would appropriate funds for the 2020 Budget for the following purposes:

- 1) The City has been awarded a grant from Colorado Parks and Wildlife in the amount of \$20,065 to perform cultural and paleontological survey work in the North Fruita Desert. These funds are matched with \$1,400 from the City in existing budgeted funds, and \$7,200 from the Bureau of Land Management of matching funds for the paleontological survey work (including consultation, field work and final report) for a total project cost of \$28,665.
- 2) The City of Fruita has received a grant administered through the Department of Local Affairs of \$1,162,000 for reimbursement of expenses related to facilitating compliance with COVID-19-related health measures which are necessary expenditures incurred due to the public health emergency with respect to COVID-19 and were not accounted for in the budget approved as of March 27, 2020 and expended between March 1 and December 30, 2020. Expenses incurred and anticipated to be spent prior to the end of the year include expenses for:
 - (a) Additional disinfection, cleaning and other health and safety measures for city operations during the COVID pandemic for the purpose of protecting the health and safety of city employees and the general public
 - (b) Information technology equipment to facilitate remote operations to conduct city business
 - (c) Project expenses. Potential projects include:

- (i) Assisting local businesses with common areas/community spaces that maintain social distancing for businesses and food services
- (ii) Grant programs to assist with additional expenses incurred due to COVID requirements
- (iii) Assisting schools with social distancing requirements
- (iv) Food supplies for members of the public who have been adversely impacted by the pandemic
- (v) Enhanced communications regarding COVID and health and safety measures

Mayor Kincaid opened the public hearing. Hearing no comments from the public, he referred the agenda item to the Council.

- **COUNCILOR KREIE MOVED TO ADOPT RESOLUTION 2020-33 – PROVIDING FOR A SUPPLEMENTAL APPROPRIATION FOR THE 2020 BUDGET TO APPROPRIATE ADDITIONAL FUNDS FOR COVID-19 PANDEMIC-RELATED EXPENSES AND THE NORTH FRUITA DESERT SURVEY WORK. COUNCILOR BUCK SECONDED THE MOTION. THE MOTION PASSED WITH SIX YES VOTES.**

B. QUASI-JUDICIAL HEARINGS

- 1) **RESOLUTION 2020-30 – APPROVING A CONDITIONAL USE PERMIT TO OPERATE A VACATION RENTAL BY OWNER (BED & BREAKFAST) IN A COMMUNITY RESIDENTIAL ZONE LOCATED AT 506 E PABOR AVENUE – HENRY HEMPHILL, CITY PLANNER**

City Planner Henry Hemphill gave staff's PowerPoint presentation on Resolution 2020-30, which included a project overview, review of Land Use Code requirements pursuant to Section 17.07.070(A) Supplemental Zoning Regulations and Standards and Section 17.13.040 Conditional Uses and legal notice details.

Staff received no written comments regarding the application and the Planning Commission recommended approval to the City Council on the Consent Agenda by a vote of five to zero at their meeting of July 14, 2020.

Conditions of approval by Staff include:

- Lodger's tax be paid to the City of Fruita pursuant to Chapter 3.18 of the Fruita Municipal Code
- Maintain a current City of Fruita business license
- Limited to two (2) bedrooms (the number of bedrooms that the dwelling unit contains)
- All bedrooms shall contain fire and carbon monoxide alarms
- Annual review of the Conditional Use Permit (CUP) by the Fruita Code Compliance Officer
- Compliance with all laws and regulations as applicable

Staff recommends approval of Resolution 2020-30 as all approval criteria for Conditional Use Permits and Supplemental Zoning Standards and Regulations either are or can be met.

Property owner and applicant Jeremiah Windscheffel, 1880 L Road in Fruita, was present as the applicant's representative for the proposal for the CUP. He noted that this would be his second VRBO in Fruita; he currently has one at 282 N. Mulberry Street, which began operations in February of this year but had to shut down until just recently due to the COVID-19 pandemic.

Mr. Windscheffel stated that his application has met all the criteria in the City's Land Use Code and therefore, he was requesting approval by the City Council.

Mayor Kincaid opened the public hearing. Hearing no comments, he closed the public hearing.

Mayor Kincaid pointed out that Staff's presentation illustrated that the legal notice was posted on July 24, 2020 and Mr. Hemphill corrected it, stating that this was a typo that should have read, "June 24, 2020."

Mayor Kincaid referred the agenda item to the Council for their questions or comments.

Councilor Leonhart pointed out that if this and the next agenda item were approved by the Council, that would mean that Mr. Windscheffel would then have three (3) VRBOs in Fruita. She asked him to provide a little more information about himself to the Council.

Mr. Windscheffel stated that he was trying to invest in Fruita by buying properties that are somewhat distressed and fixing them up. He said that he and his wife love Fruita, and even though they live just outside of city limits, they want to promote Fruita to visitors, keep their money here and be able to manage their properties from nearby.

Councilor Leonhart asked Mr. Windscheffel if he had considered providing affordable long-term rentals in the City and Mr. Windscheffel responded that he had just spoken with the Planning Department about another project to do that; but he wasn't able to come to an agreement on that property.

Mr. Windscheffel said he is in communication with the neighbors of his VRBOs; that they all seem to be happy with what he is doing and that he has received no complaints.

- **COUNCILOR KREIE MOVED TO APPROVE RESOLUTION 2020-30 - A CONDITIONAL USE PERMIT TO OPERATE A VACATION RENTAL BY OWNER (BED & BREAKFAST) IN A COMMUNITY RESIDENTIAL ZONE LOCATED AT 506 E PABOR AVENUE. COUNCILOR BREMAN SECONDED THE MOTION. THE MOTION PASSED WITH SIX YES VOTES.**

- 2) **RESOLUTION 2020-31 – APPROVING A CONDITIONAL USE PERMIT TO OPERATE A VACATION RENTAL BY OWNER (BED & BREAKFAST) IN A COMMUNITY RESIDENTIAL ZONE LOCATED AT 221 N ELM STREET – HENRY HEMPHILL, CITY PLANNER**

City Planner Henry Hemphill gave staff's PowerPoint presentation on Resolution 2020-31, which included a project overview, review of Land Use Code requirements pursuant to Section 17.07.070(A) Supplemental Zoning Regulations and Standards and Section 17.13.040 Conditional Uses and legal notice details.

Staff received no written comments regarding the application and the Planning Commission recommended approval to the City Council on the Consent Agenda by a vote of five to zero at their meeting of July 14, 2020.

Conditions of approval by Staff include:

- Lodger's tax be paid to the City of Fruita pursuant to Chapter 3.18 of the Fruita Municipal Code
- Maintain a current City of Fruita business license
- Limited to two (2) bedrooms (the number of bedrooms that the dwelling unit contains)
- All bedrooms shall contain fire and carbon monoxide alarms
- Annual review of the Conditional Use Permit (CUP) by the Fruita Code Compliance Officer
- Compliance with all laws and regulations as applicable
- Certificate of Occupancy be issued before the business becomes operational

Mr. Hemphill explained that there was one difference between this application and the previous one - staff is placing an additional condition on this application that due to the house currently undergoing a remodel, the property cannot be rented out until a Certificate of Occupancy has been issued by the City of Fruita and the Mesa County Building Department. After the interior remodel is complete, Fruita City Staff gives the okay and then the Mesa County Building Department will do an inspection to make sure it is safe to occupy.

Staff recommends approval of Resolution 2020-31 as all approval criteria for Conditional Use Permits and Supplemental Zoning Standards and Regulations either are or can be met.

Mr. Jeremiah Windscheffel, property owner and applicant, stated that his earlier comments for the previous application would apply to this property as well; this is also a distressed property that has been sitting for quite a while with a "for sale" sign out front and Mr. Windscheffel said that he is fixing up things in the neighborhood that have previously been an eyesore with the purpose of turning it into a Vacation Rental by Owner.

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

Councilor O'Brien wondered about concerns of neighbors in residential areas that have VRBOs such as loud partying or illegal/illicit activities and what the process would be for those neighbors.

Mayor Kincaid explained that if it were a noise or other nuisance complaint, the initial contact would be the Fruita Police Department. He added that part of the normal process for VRBOs is to make sure the applicant/property owner has a way for neighbors to contact them in case of a problem or emergency.

Mr. Windscheffel affirmed that he has regulations posted at his short-term rentals that include (but are not limited to) no parking on the street, no smoking, music out back only and when “quiet times” need to be observed. He said these rules are also listed on his website under each property listed and that his neighbors know how to get in touch with him should they need to, citing a recent example of when an irrigation leak prompted a neighbor to call him.

- **COUNCILOR BREMAN MOVED TO APPROVE RESOLUTION 2020-31 - APPROVING A CONDITIONAL USE PERMIT TO OPERATE A VACATION RENTAL BY OWNER (BED & BREAKFAST) IN A COMMUNITY RESIDENTIAL ZONE LOCATED AT 221 N ELM STREET. COUNCILOR BUCK SECONDED THE MOTION. THE MOTION PASSED WITH SIX YES VOTES.**

8. ADMINISTRATIVE AGENDA

There were no Administrative Agenda items on the Agenda.

9. CITY MANAGER’S REPORT

As Acting City Manager in Mike Bennett’s absence, Margaret Sell had nothing to report.

10. COUNCIL REPORTS AND ACTIONS

- A. RESOLUTION 2020-32 – ADOPTING A BOARDS AND COMMISSIONS POLICY TO PROVIDE GENERAL GUIDANCE AND UNIFORMITY FOR BOARDS AND COMMISSIONS OF THE CITY – MARGARET SELL, CITY CLERK/FINANCE DIRECTOR**

City Clerk/Finance Director and Acting City Manager Margaret Sell noted that at the Council workshop the previous week, there was considerable discussion about various provisions relating to the appointment of Boards and Commissions members and that she had tried to tie all the Council’s comments together in the draft policy document that was included in the Council packet.

Mrs. Sell noted that the policy addresses term limits that would apply to anyone appointed after August 1, 2020, meaning that if someone was appointed prior to August 1st and has served in excess of six years (two three-year terms), they would still have the option to serve two more (three-year) terms.

The new policy’s provisions also address nepotism, serving on multiple Boards and Commissions and details concerning the advertisement of vacancies.

Mrs. Sell asked the Council to provide her with direction on whether or not the draft policy contained the provisions that the Council wanted. She mentioned that because there are some aspects that vary from board to board such as whether an interview is required or whether a board member must be a resident of Fruita, staff would be working on compiling a *Boards and Commissions Handbook* next year that would contain that sort of information as well as each board’s purpose, by-laws and membership requirements, among other things.

Staff and the City Council had extensive discussion about some of the Boards and Commissions policies such as:

- City employees and their relatives cannot serve on Boards and Commissions of the City (Councilor Breman was in opposition of this while Councilors Buck, Leonhart, Kreie, O'Brien and Harvey were in favor of it)
- Whether or not interviews should be required for all applicants of all Boards and Commissions (Mayor Kincaid and Councilor Buck stated that they felt that the Mayor and Council Liaison should have the flexibility to decide whether or not an interview would be required while Councilor Breman wanted the same rules to apply to all applicants of all boards)
- The City should encourage applicants to attend a board meeting prior to submitting an application (Mrs. Sell stated she would add language in the policy to address this).

Mrs. Sell outlined the changes she would make to the Boards and Commissions Policy pursuant to the City Council's direction as follows:

- Under **Section A. General Provisions**, she would add language that applicants are encouraged to attend a meeting of the board for which they are applying prior to submitting an application for appointment.
- Under **Section A. General Provisions**, she would add language that interviews *may* be required (because some boards require them while others do not).
- Under **Section G. City Council Liaison**, she would add language that candidates would be interviewed based on the requirements of each Board and Commission.
- **COUNCILOR O'BRIEN MOVED TO APPROVE RESOLUTION 2020-32 WITH THE AMENDMENTS MENTIONED BY CITY CLERK/FINANCE DIRECTOR MARGARET SELL. COUNCILOR LEONHART SECONDED THE MOTION. THE MOTION PASSED WITH SIX YES VOTES.**

B. COUNCIL REPORTS AND ACTIONS

COUNCILOR MATTHEW BREMAN

Matthew stated that the Grand Junction Economic Partnership (GJEP) would not be meeting until the following week so he did not have anything to report yet.

COUNCILOR KAREN LEONHART

Karen reported that the "Fruita for Equality" group is moving ahead with their event on September 12, 2020 and she would have more information about this later.

COUNCILOR KEN KREIE

Ken reported that the Downtown Advisory Board would be meeting the following week and that he has not been able to attend an Associated Governments of Northwestern Colorado (AGNC) meeting.

COUNCILOR HEATHER O'BRIEN

Heather noted that the Planning Commission would be meeting on August 11, 2020, but reported that she attended a Parks and Recreation Advisory Board meeting the previous night and the members discussed how much revenues are down at the Fruita Community Center (FCC) and for the Recreation Department. They are working on the 2021 Budget and applying for a Colorado Department of Transportation (CDOT) grant for wayfinding improvements. Palisade, Grand Junction and Fruita are all competing for the same grant at the same time. The Parks and Recreation Department was thinking of closing the indoor pool on September 7th for re-plastering, but now wants to instead schedule it for August 17th to coordinate with the date that kids are going back to school. Once the indoor pool is completely re-plastered, Staff will reopen the indoor pool and close the outdoor pool.

Heather also reported that the Youth Action Council started back up and there are about 20 kids that are signed up to participate.

MAYOR PRO TEM LORI BUCK

Lori reported that at the Grand Valley Regional Transportation Committee (GVRTC) meeting, they had a board orientation and she thinks Mike (Bennett) forwarded all the information about it to the Mayor and Council. She said there were some interesting statistics at the end of it.

COUNCILOR KYLE HARVEY

Kyle reported that his meetings are forthcoming.

MAYOR JOEL KINCAID

Joel stated that his meetings are also coming up. He did report that he and the Council Liaisons to Boards and Commissions would be conducting interviews of several applicants over the next couple of weeks to fill vacancies. Heather thanked the Mayor for spending the time to conduct the interviews.

With no further business before the Council, the meeting was adjourned at 8:24 p.m.

Respectfully submitted,

Debra Woods
Deputy City Clerk
City of Fruita