



**FRUITA CITY COUNCIL  
SEPTEMBER 1, 2020  
7:00 P.M.**

**Public Link to Meeting**

When: September 1, 2020 7:00 PM Mountain Time (US and Canada)

Topic: City Council Meeting – 9/1/2020

The link to join the meeting electronically will be posted on 9/1/20 prior to the meeting at [www.fruita.org/covid19](http://www.fruita.org/covid19) under City Council meetings. You may also contact the City of Fruita at (970) 858-3663 for information to connect to the meeting.

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

**2. PLEDGE OF ALLEGIANCE**

**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 three-minute period.**

**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 August 18, 2020 Regular City Council Meeting (Virtual)

**B. RESOLUTION 2020-34** - Approving the First Release of the Subdivision Improvements Agreement for the Brandon Residential Planned Unit Development (PUD) Subdivision

## 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. **Public Input** is limited to 3 minutes per person. 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. 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** - 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 on Second Reading and the hearing is opened to the public for public input. After comments from the public, the Mayor will close the hearing 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 3 minutes per person) Speakers must 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. LEGISLATIVE HEARINGS

### B. QUASI-JUDICIAL HEARINGS

## 8. ADMINISTRATIVE AGENDA

- A. Update on Status of Projects and Efforts Associate with the Expenditure of Coronavirus Relief Funds – *Mike Bennett, City Manager and Dan Caris, Planning & Development Director*

## 9. CITY MANAGER’S REPORT

## 10. COUNCIL REPORTS AND ACTIONS

## 11. ADJOURN

**FRUITA CITY COUNCIL  
VIRTUAL MEETING  
AUGUST 18, 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 American Flag was displayed on the screen and 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

**Excused Absent:**

None

**Also present via teleconference:**

City Manager Mike Bennett  
City Clerk/Finance Director Margaret Sell  
Deputy City Clerk Deb Woods  
Management Analyst Shannon Vassen  
Family Health West President and CEO Dr. Korrey Klein, M.D.  
City Attorney Paul Wisor  
Members of the public

**3. AGENDA – ADOPT/AMEND**

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

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

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

##### **A. PRESENTATION – FAMILY HEALTH WEST PRESIDENT AND CEO DR. KORRY KLEIN, MD, WILL PRESENT AN UPDATE**

Dr. Klein updated the City Council on the many Family Health West (FHW) developments in 2020; what the organization has done in response to the COVID-19 pandemic and what they are preparing for in the fall.

Dr. Klein asserted that FHW was among leaders in the state who employed significant and drastic measures early on in response to the coronavirus by restricting visitors and employees from going inside FHW facilities unless they had critical business there.

Dr. Klein also acknowledged FHW for likely being the first in the state to allow outdoor visitation in their therapy courtyard. In fact, the state used some of FHW's policies and procedures as examples for other facilities on how to increase visitation without increasing risk inside health care facilities.

Dr. Klein recounted how even though they were not required, FHW tested everyone in the FHW family for COVID-19 and in addition, offered testing to volunteers, first responders, board members and anyone who works with FHW in any capacity. They sampled approximately 650 people and had three COVID-positive results, although none of these three had any symptoms.

Dr. Klein also provided details on the following:

- Surge planning completed by FHW
- Status of and plans for Personal Protective Equipment (PPE), quantities of available beds, supplies and other resources
- Plans for testing family members of FHW employees and then members of the community (it is anticipated that testing will be available to the community within a few weeks)
- Data and plans for antibody tests
- Antigen testing that will be available soon
- Turnaround times for testing
- Resources that are “at the ready”
- Financial impact of the pandemic to FHW
- No FHW employees were laid off or furloughed.
- No cases of COVID were found in FHW's long-term care.
- No cases of person-to-person spread inside FHW facilities.
- Addition of a new non-surgical podiatrist that can treat diabetes and provide routine foot care
- Addition of orthopedic surgeon Dr. Christopher Copeland, who contributes joint replacements and general orthopedics
- Will be adding six new family medicine providers this year, some D.O.s, some M.D.s
- New services will be available in Fruita such as colonoscopies and advanced diabetes care.
- By the first of September, Western Valley Family Practice will have twelve physicians, one nurse practitioner and three physicians' assistants.

- By the end of the year, there will be 19 family medicine providers to serve the City of Fruita at FHW.
- A Board-Certified Behavior Analyst (BCBA) therapist was hired and FHW is trying to hire another one because there is a waiting list of almost two months after FHW took over Strive's autism services.
- Began "Shift to Independence" driving evaluation and rehabilitation program in 2020 (FHW has the only Occupational Therapist in Western Colorado that is certified to do cognitive safety driving evaluations and assessments and modification recommendations for adaptive equipment in vehicles).

City Manager Mike Bennett noted that FHW has progressed with so many additional services since he moved here six years ago and thanked Dr. Klein for his leadership and commitment to the community.

Dr. Klein echoed the sentiment toward the City of Fruita. He recalled how two weekends ago, there was a fire behind the Fruita Community Center and he was not only impressed with the Lower Valley Fire District, but also the lifeguards at the pool who were ready to take the hands of elderly, demented patients and lead them away from the Willows if it became unsafe. He thanked the City and everyone who was involved that day.

## **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 AUGUST 4, 2020 REGULAR CITY COUNCIL MEETING**
- B. BOARDS AND COMMISSIONS APPOINTMENTS –**
  - 1) PLANNING COMMISSION APPOINTMENTS:**
    - A) A REQUEST TO APPOINT JP NISLEY AS A REGULAR MEMBER FROM THAT OF AN ALTERNATE MEMBER TO THE PLANNING COMMISSION TO FULFILL AN UNEXPIRED TERM PLUS AN ADDITIONAL THREE-YEAR TERM TO EXPIRE IN APRIL OF 2024**
    - B) A REQUEST TO APPROVE THE APPOINTMENT OF LAURA SIMCIK AS AN ALTERNATE MEMBER TO THE PLANNING COMMISSION TO FULFILL AN UNEXPIRED TERM PLUS AN ADDITIONAL THREE-YEAR TERM TO EXPIRE IN JUNE OF 2025**

**C) A REQUEST TO APPROVE THE APPOINTMENT OF CHELSEE URIGUEN TO THE PLANNING COMMISSION FOR A THREE-YEAR TERM TO EXPIRE IN AUGUST OF 2023**

**2. POLICE COMMISSION APPOINTMENT:**

**A) A REQUEST TO APPROVE THE APPOINTMENT OF JAMES JACKSON TO THE POLICE COMMISSION TO FULFILL AN UNEXPIRED TERM PLUS AN ADDITIONAL THREE-YEAR TERM TO EXPIRE IN DECEMBER OF 2023**

**3. DOWNTOWN ADVISORY BOARD APPOINTMENT:**

**A) A REQUEST TO APPOINT ASHLEY ROGERS TO THE DOWNTOWN ADVISORY BOARD TO FULFILL AN UNEXPIRED TERM PLUS AN ADDITIONAL THREE-YEAR TERM TO EXPIRE IN FEBRUARY OF 2024**

**4. HISTORIC PRESERVATION BOARD APPOINTMENTS:**

**A) A REQUEST TO APPOINT BRIAN LOCHLAER TO THE HISTORIC PRESERVATION BOARD FOR A THREE-YEAR TERM TO EXPIRE IN AUGUST OF 2023**

**B) A REQUEST TO APPOINT ANDREA WITHROW TO THE HISTORIC PRESERVATION BOARD TO FULFILL AN UNEXPIRED TERM PLUS AN ADDITIONAL THREE-YEAR TERM TO EXPIRE IN SEPTEMBER OF 2024**

**5. ARTS AND CULTURE BOARD APPOINTMENT:**

**A) A REQUEST TO APPOINT GISELLE GENOVA TO THE ARTS AND CULTURE BOARD TO FULFILL AN UNEXPIRED TERM PLUS AN ADDITIONAL THREE-YEAR TERM TO EXPIRE IN NOVEMBER OF 2024**

**C. FINANCIAL REPORT – A REQUEST TO APPROVE THE JULY 2020 FINANCIAL REPORT**

Mayor Kincaid opened the public hearing on the Consent Agenda. Mr. Vassen noted that Brian Lochlaer had raised his hand to speak.

Mr. Brian Lochlaer said he wanted to go on record that he was the one who tied up the Mayor's Zoom meeting when the Mayor and Council Liaison were conducting interviews of applicants. He said he didn't know he needed to do anything at the end of his interview to end the meeting and apologized, adding that he just wanted to be transparent about that. The Mayor said it was okay

and that the technology was a learning situation for everyone. He welcomed Brian to the board for which he was about to be appointed, the Historic Preservation Board.

Shannon Vassen stated that he did not see any other 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.

*At approximately 7:22 p.m., City Manager Mike Bennett noted that Councilor Leonhart had to leave the meeting for a family emergency.*

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

## **7. PUBLIC HEARINGS**

There were no public hearings on the agenda.

## **8. ADMINISTRATIVE AGENDA**

### **A. GALLAGHER AMENDMENT STABILIZATION BALLOT QUESTION DISCUSSION – PAUL WISOR, CITY ATTORNEY**

City Attorney Paul Wisor gave a detailed history and explanation of the Gallagher Amendment, the Gallagher Amendment's impact on the City of Fruita's finances and the impact on the City if a predicted decrease in the residential assessment rate comes to fruition.

The memorandum in Mr. Wisor's presentation also set forth a proposed ballot question that would diminish the impact of the Gallagher Amendment by allowing the City to increase or decrease its mill rate in order to effectively achieve a permanent residential assessment rate of 7.15%, the rate currently imposed on residential properties in City and throughout the State of Colorado.

### **Background**

The Gallagher Amendment was adopted in 1982 in response to ongoing concern about ever-increasing residential property taxes. The Gallagher Amendment divides the state's total property tax burden between residential and nonresidential property. Gallagher requires that 45% of the total amount of state property tax collected must come from residential property and the remaining 55% must come from commercial property. Gallagher goes on to provide the assessment rate for commercial properties is permanently fixed at 29%.

Given the assessment rate for commercial properties is set at 29%, the General Assembly must set the residential assessment rate (the "RAR") every odd year in order to maintain the 45%/55% allocation between residential and commercial taxes mandated by Gallagher. In 1982, the RAR was at 21%, but due to significant growth in the residential real estate market in the last forty years

the RAR has decreased significantly over time, and the RAR was most recently set at 7.15% in 2019.

### **Gallagher Impact**

As a general matter, an individual's property tax bill, and the amount ultimately received by the City, is calculated using the following formula:

$$\text{Property Tax} = (\text{Market Value of Property}) \times (\text{RAR}) \times (\text{City of Fruita Mill Rate})$$

The City of Fruita is only able to control one of these factors, the mill rate, but, even control of this factor is limited by Art. X, Section 20 of the Colorado Constitution ("TABOR").

In good economic times increased residential property values should result in an increase in property tax revenues to the City; however, because increases in residential property values have historically outpaced increases in commercial property values in Colorado, the RAR has decreased. As a result, any significant increase in revenues that could be realized by the City is diminished or otherwise eliminated. Of course, this is good news from a property owner's perspective as their property taxes ultimately do not reflect the true value of their property.

While this general approach would seem not to have a particularly significant impact on the City, it is important to remember Gallagher, and the RAR in particular, are focused on Colorado as a whole rather than regionally or locally. As such, it is often the case that residential property values outside the Denver metro area do not rise as quickly or as significantly as residential properties in and around the Denver metro area. Consequently, the decrease in the RAR is often disproportionately lower than the increase in property values in mountain and rural communities throughout Colorado. Municipalities in mountain and rural communities therefore lose out on tax revenue as compared to their Front Range counterparts.

### **2021 Reassessment**

As required by Gallagher, the General Assembly will again set the RAR in 2021. As is traditionally the case, several weeks ago the State Property Tax Administrator released an estimate of the RAR for 2021. Given the robust residential real estate market over the last two years, it is currently estimated the 2021 RAR will be set 5.88%, an 18% decrease from the RAR set in 2019. It is estimated this decrease in the RAR would result in a roughly \$150,000 decrease in City revenues beginning in 2022.

The impact of the RAR decrease on the City could be augmented due to the COVID-19 pandemic. While residential property sales have slowed, it appears residential properties are retaining their value at the moment. However, it is possible the residential real estate market will experience a downturn at some point in 2021. If a downturn were to occur, the RAR would decrease along with a decrease in property values, thus compounding the overall impact on City revenues.

### **TABOR**

The impact of the 2021 RAR could further be exacerbated by TABOR. In the event of a loss of revenue, most local jurisdictions throughout the country could offset such a loss with a mill levy increase. However, TABOR requires the City to seek voter approval prior to any tax increase, including a mill rate increase. If residential property values are falling, it is likely the overall economy is suffering as well, and it is unlikely a future ballot question seeking a mill rate increase would be approved.

### **2020 Statewide Ballot Question**

Over the last several years many special districts, including special districts in Mesa County, whose budgets are disproportionately dependent on property tax revenues have asked voters for permission to “de-Gallagherize.” That is, they have asked for permission for their mill levies to fluctuate so that the effective RAR is 7.15% no matter the level at which the General Assembly sets the RAR pursuant to Gallagher.

Taking note of this trend, a significant number of lawmakers, business leaders and community members from both sides of the political aisle have come to the conclusion that Gallagher has outlived its usefulness. As such, the General Assembly voted to refer a ballot question to the voters in November 2020 asking to repeal Gallagher. Were the repeal to occur, the state would then be able to set assessment rates for both residential and commercial properties at any level they deemed fit in the future.

Were the statewide ballot proposal to pass, neither the City nor any other Colorado jurisdiction, would need to worry about the 2021 RAR as set forth above. Though, under this scenario the RAR in any given year would be an open question and hotly debated topic and the General Assembly.

### **Proposed Ballot Question**

The 2021 RAR presents a significant challenge to the City under current law. The outcome of the statewide ballot question is murky at best, so relief from Gallagher is not guaranteed. As such, the City could follow the lead of other special districts, and ask Fruita residents to essentially freeze the RAR at its current level of 7.15%, which would require a ballot question be placed before voters at the November 2020 election. Mr. Wisor provided a draft of a proposed ballot question:

### **Council Action**

A formal election resolution would need to be approved by the Council in order for the question to be placed on the ballot. In order for the question to be included on the November 3, 2020 ballot, the ballot language needs to be submitted to the County Clerk no later than September 4, 2020. As such, the Council has some time, though not a lot, to consider the issue.

### **Conclusion**

The 2021 RAR could have a significant impact on City revenues. The City could choose to follow the lead of many special districts throughout the state and ask the voters to allow the City to increase or decrease its mill levy such that the revenues collected reflect an effective RAR of 7.15%. It is

possible, however, the proposed ballot question will be unnecessary as a statewide vote may eliminate Gallagher in its entirety this November.

While the ballot question would certainly save money, it may not have widespread approval. Homeowners will effectively save 18% on their next property tax bill. While this is not money in their pocket now, it is money they will be foregoing. Thus, although the question is not a property tax, it could easily be perceived as one. Though the City may benefit, now may not be the time for such a ballot question.

Mr. Wisor continued that if the Council had interest in discussing it further, he could provide some draft language in a Resolution at the next meeting. He pointed out that time is short; per state statute, the Council only has until September 4<sup>th</sup> to certify its ballot content for the November ballot. He said the Council could discuss it further if they wanted, at either the August 25<sup>th</sup> workshop or the regular meeting on September 1, 2020.

Councilor Breman wondered about having two ballot questions concerning Gallagher in front of voters at the same time because of the possibility that voters might just vote no on both because it is such a complex issue. He asked when the General Assembly would be setting the Residential Assessment Rate and whether the City of Fruita would have time to get the issue on the ballot or not.

Mr. Wisor thought it could be argued that the City would need to consider a ballot measure at a November Special Election or a regular election, but he would be cautious about doing it next April.

City Clerk/Finance Director Margaret Sell pointed out that the issue would be a TABOR ballot question, so there would be additional costs associated and the timing would be regulated by TABOR.

Councilor Breman asked for clarification that the City would not have time to wait to see what happens with Proposition B but still needs to make a decision based on that outcome about whether or not the City wants to put the question to the voters. Mr. Wisor confirmed this to be correct.

City Manager Mike Bennett suggested that the Council continue the discussion at the next workshop on August 25<sup>th</sup>.

Mr. Wisor emphasized that the question being discussed and potentially put before the voters is *not* a tax increase; nobody's taxes will be increased by virtue of the measure. Instead, residential property owners will forego a tax savings were the measure to be put in place.

Councilor Kreie asked if any other entities in the valley would be putting something like this on a ballot and Mr. Wisor responded that he did not think anyone else is doing it yet and he strongly suspects Mesa County is not going to, but if they were, then he would strongly encourage that the city and county questions look identical because things would get very confusing otherwise.

Mr. Wisor added that he had a conversation with a very well-respected municipal attorney on the Front Range who represents a couple of mountain communities who are considering the ballot

question in their jurisdictions. The attorney indicated that Front Range communities are not doing it because there is concern that if these questions appear on too many ballots, people are going to be induced to vote no on Proposition B. Mr. Wisor said he was not going to weigh in on whether Proposition B should be voted for or against, but that has been the rationale for not pursuing this question by some municipalities.

The Council, Mayor and staff concluded that the discussion would be continued at the August 25, 2020 workshop meeting.

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

City Manager Mike Bennett reported that the Governor of Colorado referenced the Pine Gulch fire earlier in the day as one of four fires in the state currently and the only fire of the four that was started naturally (by lightning). There is a new fire ban statewide that was just announced by Executive Order.

Mike continued that he heard from some of Fruita's public lands partners that the fire is over by Hunter Gulch, which is within a couple of miles of the 18 Road recreation area. Fortunately, the fire is staying on the east side and not heading west over the gulch. Mike said he would be meeting one-on-one with Chief Frank Cavaliere the following day. The Lower Valley Fire District is not the point of contact on the fire, but they are assisting in the response.

Mike also reported that he and Mayor Kincaid participated in the annual "State of the Valley" hosted by the Grand Junction Chamber earlier in the day. It was also attended by elected officials of Mesa County, Grand Junction, and Palisade. Much of the discussion was focused on how everyone is dealing with the pandemic, the result of Fruita's Comprehensive Plan and continued Master Planning and how CARES Act funding is being spent.

Mike noted that for the relief funds, progress is being made on the following:

- Staff reached out to all the school principals to offer up to three outdoor classrooms per school (as a starting point).
- Mike and Dan (Caris) will be coordinating with all Fruita principals and School District leaders to discuss more details about the outdoor classrooms.
- FCI will begin construction in two weeks on the downtown outdoor public spaces.
- Staff is in the process of ordering all the materials to build the outdoor classrooms and public spaces.
- Staff is obtaining the information from Food Bank of the Rockies about what their additional needs are.
- Staff continues to write up the eligibility requirements for the next round of relief funds for businesses and non-profits.

Mayor Kincaid asked if there would be a Press Release for the construction of the outdoor spaces in downtown Fruita so that people are aware of what is going on. Mike responded that staff is working on a message to inform the media about the entire scope of how relief funds are being spent on:

- Operational expenses
- Educational assistance
- Social and Economic Recovery
- Outdoor spaces

Mike added that staff is also working with Slate Communications on part of the City's communications campaign "Be Well, Be Fruita," which is a positive message about how the City is responding to the COVID-19 pandemic. Slate has taken over the Colorado Tourism Office Instagram account, which is featuring Fruita this week with beautiful pictures and video that they captured during a recent visit.

Mike also pointed out that the City continues to trend upward in sales tax revenues (25% up through June over last year). He said that June 2020 was the first month that Fruita's food-based businesses were up over June of the previous year, which were 40% to 50% down during the first few months of the pandemic. Mike said the outdoor spaces will provide the restaurants and breweries with even more options for their customers to dine downtown in a safe way.

Mike noted that the City is still hurting when it comes to recreation program revenue and Fruita Community Center pass revenue, especially after the Governor's mandatory mask mandate because it is hard for people to work out with a mask on. The decline in these revenues is significant and use tax on motor vehicles and lodging tax are down as well. Mike said that staff will continue to monitor these numbers and provide updates to the Council.

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

### **A. COUNCIL REPORTS AND ACTIONS**

#### **COUNCILOR KEN KREIE**

Ken stated that he was absent from the Downtown Advisory Board meeting, but they did discuss Fruita Fourth Fridays, which are officially being cancelled for the remainder of the year. The board talked about the improvements to downtown and reappointed Mike Durden as the Chair. The board also received an update from Shanachie Carroll of the Fruita Branch Mesa County Library.

Ken reported that the Associated Governments of Northwestern Colorado (AGNC) would be meeting the following day at the Ute Water building but the meeting will also be online through Zoom. The board will receive an update from Region 10 (Montrose, Ouray, etc.), who has been working on a broadband project. AGNC will then have their usual legislative updates. Ken offered to forward the link to the Zoom meeting if anyone else wanted to attend as he will not be able to.

#### **COUNCILOR MATTHEW BREMAN**

Matthew said that he misspoke at the last meeting when he said that the Grand Junction Economic Partnership (GJEP) meeting was being held last week; it is actually being held in the morning (Wednesday, August 19<sup>th</sup>) at 7:30 a.m. and he would report back afterwards.

COUNCILOR KYLE HARVEY

Kyle reported that Fruita was hosting the Grand Valley Task Force meeting on Thursday (August 20<sup>th</sup>) night at the Fruita Community Center. The group decided to keep the working name of “Grand Valley Task Force” for the time being, although there was some concern that the name was too vague. The group spent most of the last meeting brainstorming objectives and developing working subgroups for those objectives. The next meeting will be held on Thursday, August 27, 2020 at the Clifton Community Center and the group plans on electing an Executive Committee, which will keep the Task Force focused, ensure meetings are happening and navigate through the hoops to form a non-profit. They are accepting nominations through the end of the current week.

COUNCILOR HEATHER O’BRIEN

Heather reported that the Planning Commission had very healthy conversations about various amendments to sections of the Land Use Code and the prospect of limiting the number of vacation rentals by owner (VRBOs) in the City. The Planning Commission will be bringing these before the City Council in the not too distant future.

Councilor Kreie recalled that the Council has had discussions about potentially limiting the number of VRBOs and asked if staff was making applicants aware that the City is looking at that possibility when they come in to apply. Mike responded that it was hard to speculate what may or may not happen, but that Ken was correct in that previous discussions of amendments included looking at how the City wants to manage vacation rentals. He reminded the Council that a special joint workshop of the Council and Planning Commission is scheduled for September 8<sup>th</sup>. The Planning Commission will meet an hour earlier at 6:00 p.m. and then the joint workshop will follow at approximately 7:00 p.m. The Director of the Vail Housing Authority, George Ruther, will be joining everyone as a special guest to talk about VRBOs. Mike said that while Fruita is not yet in a crisis situation with VRBOs, the City is headed in that direction, just like many other Colorado communities are or have been.

Heather stated that the Land Use Code consultant has expressed that the City is at a good, yet critical point for making some decisions. She said that being new (on the Council), she wasn’t really sure what the Council’s desires are, so she is hoping that all members will be very vocal about what they are thinking so she knows how to represent the Council moving forward.

MAYOR JOEL KINCAID

Joel reported that he attended the Fruita Area Chamber of Commerce Board of Directors meeting the previous week and the Chamber is looking at putting on two or three smaller events to replace Fall Festival that will stay within the Mesa County Public Health (MCPH) guidelines such as a cornhole tournament or an event at Imondi Wake Zone. Chamber Director Kayla Brown is working with MCPH Executive Director Jeff Kuhr to get approval for the events.

Joel also reported that the Farmers’ Market has had a good response including a lot of positive feedback.

Joel noted that Fruita, Mesa County, the City of Grand Junction and the Town of Palisade all chipped in to purchase 10,000 masks bearing the Colorado Mesa University (CMU) logo that are being handed out to local businesses to support them. He added that he and Mike conducted a two-hour tour to meet with local media outlets such as the Daily Sentinel and several radio and television channels to promote the City's partnerships with the other entities in the Grand Valley.

**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)) FOR THE CITY  
ATTORNEY INFORMAL REVIEW**

Mayor Kincaid prompted the Council to make a motion to move into Executive Session by reading the above text and noted that the review of the City Attorney review was to be informal because the formal review had already occurred earlier in the year.

- **COUNCILOR KREIE MOVED TO MEET IN EXECUTIVE SESSION REGARDING PERSONNEL ISSUES UNDER C.R.S. SECTION 24-6-402(4(F)) FOR THE CITY ATTORNEY INFORMAL REVIEW. COUNCILOR O'BRIEN SECONDED THE MOTION. THE MOTION PASSED WITH FIVE YES VOTES.**

*The Council took a four-minute break at 8:06 and then convened into Executive Session at 8:10 p.m. They did not return to the open meeting to take any action.*

With no further business before the Council, the meeting was adjourned at 8:20 p.m.

Respectfully submitted,

Debra Woods  
Deputy City Clerk  
City of Fruita



# FRUITA

COLORADO

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## AGENDA ITEM COVER SHEET

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**TO: FRUITA CITY COUNCIL AND MAYOR**

**FROM: PLANNING & DEVELOPMENT DEPARTMENT**

**DATE: SEPTEMBER 1, 2020**

**RE: RESOLUTION 2020-34, A RESOLUTION OF THE FRUITA CITY COUNCIL APPROVING THE FIRST RELEASE OF THE SUBDIVISION IMPROVEMENTS AGREEMENT FOR THE BRANDON RESIDENTIAL PUD SUBDIVISION.**

### **BACKGROUND**

This is a request for a 1<sup>st</sup> Release of the Subdivision Improvements Agreement (SIA) for the Brandon Residential PUD Subdivision. On October 15, 2019 the Fruita City Council approved the SIA. The developer has requested a 1<sup>st</sup> Release of the SIA to allow for the Plat to be recorded and has recently completed all the necessary improvements required other than landscaping of the common space and the installation of the perimeter fencing. The Land Use Code allows the 1<sup>st</sup> Release of the SIA to happen without these improvements being completed with the condition that only 20% of the Planning Clearances for the specific development be released. Furthermore, Staff will place a Certificate of Occupancy hold (CO Hold) on all Planning Clearances until all landscaping and perimeter fencing have been installed, inspected, and approved by the City.

The SIA requires that upon the 1<sup>st</sup> Release, the developer retain ten percent (\$18,860.90) of the cost of the required improvements for the subdivision for the required two-year warranty period. The two years allows the public improvements to go through at least one freeze-thaw cycle. After the two-year warranty period is complete, City Staff will conduct a final walk-through of the subdivision. The purpose of this walk-through is to ensure that all public improvements are free from defects in materials and workmanship.

### **FISCAL IMPACT**

Approving a first release of a subdivision improvements agreement has a fiscal impact on the city because the city would then be responsible for maintenance of the public improvements. Ten percent of the costs of all improvements in the subdivision is held by the city for two years to ensure defects in materials and workmanship for the improvements will be corrected. Within the two-year warranty period, the city will inspect the improvements and if found to be free from defects in materials and workmanship, a final release of the funding guarantee can be requested.

Additionally, impact fees will be collected at the time of Planning Clearance approval for each individual dwelling unit to help offset the costs of development.

### **APPLICABILITY TO CITY GOALS AND OBJECTIVES**

The process of approving and releasing subdivision improvements agreements helps ensure that the city's goal 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 THE COUNCIL:**

1. Approve Resolution 2020-34
2. Deny Resolution 2020-34
3. Direct Staff to research any area of the improvements on which the Council has concerns or questions.

### **RECOMMENDATION:**

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

**ADOPT RESOLUTION 2020-34, A RESOLUTION OF THE FRUITA CITY COUNCIL APPROVING THE FIRST RELEASE OF THE SUBDIVISION IMPROVEMENTS AGREEMENT FOR BRANDON RESIDENTIAL PUD SUBDIVISION.**

**RESOLUTION 2020-34**

**A RESOLUTION OF THE FRUITA CITY COUNCIL APPROVING THE FIRST  
RELEASE OF THE SUBDIVISION IMPROVEMENTS AGREEMENT FOR THE  
BRANDON RESIDENTIAL PUD SUBDIVISION**

**WHEREAS**, the developer of the Brandon Residential PUD Subdivision entered into a subdivision improvements agreement recorded in the records of the Mesa County Clerk and Recorder at Reception #2905329 to guarantee that required improvements would be completed within a certain time period, and

**WHEREAS**, the developer has requested a 1<sup>st</sup> release of the performance guarantee and to start the two-year warranty period for the subdivision improvements, and

**WHEREAS**, improvements required by the subdivision improvements agreement for the Brandon Residential PUD Subdivision have been completed and inspected and appear to have been completed as required with the exception of landscaping of all common areas and installation of the perimeter fencing, and

**WHEREAS**, a bill of sale for the required public improvements that will belong to the City of Fruita must be provided by the developer.

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

**Section 1.** The required subdivision improvements for the Brandon Residential PUD Subdivision are approved for 1<sup>st</sup> release of the Subdivision Improvements Agreement, subject to 10% of the total cost of improvements being retained for the required two-year warranty period as required by the subdivision improvements agreement.

**Section 2.** This Resolution shall become effective upon the delivery of a fully executed Bill of Sale, satisfactory to the City of Fruita.

**PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF FRUITA,  
COLORADO THIS 1<sup>st</sup> DAY OF SEPTEMBER, 2020.**

ATTEST:

City of Fruita

\_\_\_\_\_  
Margaret Sell, City Clerk

\_\_\_\_\_  
Joel Kincaid, Mayor



# FRUITA

COLORADO

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## AGENDA ITEM COVER SHEET

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**TO: FRUITA CITY COUNCIL AND MAYOR**

**FROM: MIKE BENNETT, CITY MANAGER**

**DATE: SEPTEMBER 1, 2020**

**RE: UPDATE ON STATUS OF PROJECTS AND EFFORTS ASSOCIATE WITH THE EXPENDITURE OF CORONAVIRUS RELIEF FUNDS**

### **BACKGROUND**

This item is placed on the agenda to provide City Council with continued updates on the status of the various expenditures and associated projects and efforts utilizing Federal Coronavirus Relief Funds (CVRF). We continue to make progress on eligible operational expenses, outdoor dining spaces, shade areas, outdoor programming space, outdoor classrooms, evaluating possible assistance for food banks, technology upgrades and a Be Well Be Fruita public outreach campaign. We will provide updates and answer any questions Council may have related to these efforts.

As we have reported to Council in public meetings and through the weekly public update and various public webinars, the City of Fruita is eligible for reimbursement of up to \$1,162,373 of CVRFs for expenditures that were unbudgeted and related directly to COVID-19. Eligibility criteria is established by the US Treasury and guidance continues to be updated weekly and almost daily. Expenses must be incurred between April 1, 2020 and December 31, 2020.

### **FISCAL IMPACT**

Expenses are tied to the Federal Coronavirus Relief Funds of \$1,162,373, which must adhere to strict eligibility requirements by the US Treasury.

### **APPLICABILITY TO CITY GOALS AND OBJECTIVES**

In efforts to align all resources, time and efforts to quality core services and positively impacting the quality of place, economic health and lifestyle of Fruita, a key priority this year is managing, responding and assisting the community to safely and successfully progress amidst the global COVID-19 pandemic utilizing CVRFs.

### **RECOMMENDATION**

This is an update with no action requested.