

**FRUITA CITY COUNCIL MEETING
MARCH 5, 2024
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 both in person and with virtual access provided through Zoom.

Present: Mayor Joel Kincaid
Mayor Pro Tem Matthew Breman
City Councilor Jeannine Purser
City Councilor James Williams
City Councilor Ken Kreie
City Councilor Amy Miller
City Councilor Aaron Hancey

Excused Absent: (None)

City staff present: City Manager Mike Bennett
Assistant City Manager Shannon Vassen
Finance Director/City Clerk Margaret Sell
Deputy City Clerk Deb Woods
Communications and Engagement Specialist Ciara DePinto
Parks and Recreation Director Marc Mancuso
Planning and Development Director Dan Caris
City Planner Henry Hemphill
Chief of Police Dave Krouse

Also present: Members of the public (in-person and virtually)

2. MOMENT OF SILENCE AND PLEDGE OF ALLEGIANCE

Mayor Kincaid called for a moment of silence for all faiths and beliefs to have the opportunity for a silent prayer. He then led in the Pledge of Allegiance.

3. AGENDA – ADOPT/AMEND

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

4. PROCLAMATIONS AND PRESENTATIONS

- A. PRESENTATION – FRUITA TEACHERS AND STUDENTS OF THE MONTH FOR MARCH 2024: FRUITA 8/9 SCHOOL**

Mayor Kincaid read the names of the student and teacher chosen by Principal Jason Plantiko as the “Student of the Month” and “Teacher of the Month.” There was one student and one teacher who were nominated. The student and teacher received a Certificate of Recognition, an “I-Heart-Fruita” pin, and a day pass to the Fruita Community Center. Photos were taken of the student with the City Council.

B. PRESENTATION – BIENNIAL UPDATE FROM THE FRUITA AREA CHAMBER OF COMMERCE

Kayla Bowers, Fruita Area Chamber of Commerce Director, gave an update on what they are hearing from local business owners. She wanted to address the recent closures of some of the businesses in the community. Ms. Bowers said that she spoke to some of the businesses that were closing or relocating outside of Fruita to gain some insight on why or what was causing them to leave. She said the businesses she spoke with had been in business from anywhere from three to eight years. The most significant reason that businesses were leaving was due to an increase in rent. Between rising costs and declining revenue, they could not maintain a profitable business. Competition was not a factor in closing. Work force, high labor burden, and online sales also affected their decisions. The Chamber is committed to continuing ongoing outreach and engagement by completing “Business Retention Surveys.’ The Chamber has completed four or five of the surveys before tonight’s meeting. The businesses have been in operation for five and fifteen years, began in Fruita, and have no plan to move out of Fruita. They reported that their sales are stable or increasing. The businesses did express concerns about hiring, specifically with the lack of interested candidates who live in Fruita or who can afford to live in Fruita. Also, commuting to and from Fruita for work is expensive. Several businesses indicated that their main source of business was from visitors. When asked about community factors affecting their business they said availability of skilled labor, high wage requirements, and employee health care costs were the top three. Some positives were the community attitude towards business, the Chamber of Commerce, and visitors. Ms. Bowers explained that this survey helped indicate what the top issues are for businesses. She said that as far as the labor force and high wages, the Chamber has partnerships with CMU tech and the Business Incubator Center which offer upscale and rescale opportunities at little to no cost. Also, there is the Work Experience Program through the Workforce Center which allows business to bring on interns who meet certain criteria so that the individuals may get on the job training. Ms. Bowers said that one of the Chamber’s top priorities was advocacy and advocating for pro-business legislation. She explained that there is a Government Affairs Committee, and they review legislation and act on those that are pro-business and opposing those that are not. She invited the City Council to attend the Government Affairs Committee. The Chamber looks forward to continuing their partnership with the City of Fruita. Ms. Bowers then took questions.

Councilor Hancey thanked Ms. Bowers for presenting and said that he thought the surveys were a great way to stay informed and he hoped that she would share the data as she garners it.

Ms. Bowers also handed out invitations to all City Council members for their annual banquet.

C. PRESENTATION – THE FRUITA YOUTH ACTION COUNCIL WILL PRESENT 2023 HIGHLIGHTS AND 2024 GOALS

Abby Talley, member of the Fruita Youth Action Council and a sophomore at Fruita Monument High, has been part of the Council since its inception five years ago. The Fruita Youth Action Council is a group of youth in the City who strive to improve our district through community sanctioned events,

volunteer work, and services. They provide input on important issues in their lives, promote health and wellness within the community, and act as a voice of the youth.

Senior at Caprock Academy, Cassie Smith, is in her second year on the Fruita Youth Action Council. She gave an overview of past service projects and volunteer work that the Council has done. Ms. Smith talked about the basketball tournament that they are promoting and trying to get youth in the valley to take part in. She went on to talk about the Angel Tree at the Fruita Community Center. She said that it was something that she participated in with her family and thought it would be something that would be a great idea for the community. She said it was very successful. Ms. Smith covered some of the other successes of the group. She said many of their projects have been very successful and have brought many youths into the Rec Center. She said that the Splash Bash is one of the events that is put on every year that has had a lot of success. Ms. Smith said they were changing it up a bit and trying to gear it toward older teens.

Ben Romero spoke next. He explained that he is a new member to the Fruita Youth Action Council, and he joined because he is on a mission to empower the youth. He said that he would like youth to be inspired to be more involved in the community. He said some future plans for the Council are to gain a larger social media presence. He also explained that there is room to grow their community involvement by creating and painting more murals or building statues around the City of Fruita.

Mayor Kincaid asked if the City Council had any questions.

Councilor Purser thanked each of the members for their presentation. She then asked each one of the members what they would like the City Council to support them in. Miss Talley explained that she would like to see more youth involved in the community because they are the future of the community and to promote things to make them interested in community events. Mr. Romero said that he would like the City Council to approach them with volunteer or service-related opportunities. Miss Smith explained that she thought it was important for the youth to be involved in community government and Boards. She said that she sits in on the Parks and Recreation Board meetings, and she thinks that it is important for youth to learn how to speak in a more formal manner.

Councilor Miller asked how many members were on the Fruita Youth Action Council. Mr. Romero said that there are 19 members, and they are trying to recruit more.

Mayor Kincaid asked how they offered the basketball tournament at no charge. Miss Smith said that they have a budget. Miranda Carrithers spoke and said they do have a budget that they can utilize to be able to provide small prizes, gain interest, and involve everyone. Mayor Kincaid encouraged the Fruita Youth Action Council to come to Council and request more funding if they wanted to think bigger and needed extra funding for something in particular.

5. PUBLIC PARTICIPATION

There were no comments from the public.

6. CONSENT AGENDA

A. LIQUOR LICENSE RENEWAL – A REQUEST TO APPROVE THE RENEWAL OF A HOTEL AND RESTAURANT – MALT, VINOUS & SPIRITOUS LIQUOR

LICENSE FOR COLORADO SUMMIT, LLC DBA ASPEN STREET COFFEE LOCATED AT 136 E. ASPEN AVE.

- B. LIQUOR LICENSE RENEWAL – A REQUEST TO APPROVE THE RENEWAL OF A HOTEL LIQUOR LICENSE – MALT, VINOUS AND SPIRITOUS FOR KARMA KITCHEN LOCATED AT 229 E. ASPEN AVE.**
- C. BOARDS AND COMMISSIONS APPOINTMENTS – A REQUEST TO APPROVE MULTIPLE APPOINTMENTS OF PERSON TO THE CITY’S VARIOUS BOARDS AND COMMISSIONS FOR THEREE-YEAR TERMS AS SPECIFIED BY MAYOR KINCAID AND WITH THE APPROVAL OF MAYOR PRO TEM BREMAN AND COUNCILORS MILLER AND HANCEY**
- D. LETTER OF SUPPORT FOR CITY OF FRUITA – A REQUEST TO AUTORIZE THE MAYOR TO SIRN LETTERS OF SUPPORT FO RTH CITY OF FRUITA’S CONGRESSIONAL DIRECTED SPENDING REQUEST**
- E. RESOLUTION 2024-07 – A REQUEST TO APPROVE A PROFESSIONAL SERVICES AGREEMENT BETWEEN THE CITY OF FRUITA AND ZABELLI FIREWORKS FOR FIREWORK PRODUCTION SERVICES AND AUTHORIZE THE CITY MANAGER TO EXECUTE THE AGREEMENT**
- F. ORDINANACE 2024-05 – 1ST READING – AMENDING SECTION 3.18.240 OF THE FRUITA MUNICIPAL CODE CONCERNING MEMBERSHIP REQUIREMENTS FOR THE TOURISM ADVISORY COUNCIL**

Mayor Kincaid opened the public hearing on the Consent Agenda. Hearing no comments from the public, he directed it to the City Council.

- **COUNCILOR KREIE MOVED TO APPROVE THE CONSENT AGENDA AS PRESENTED. COUNCILOR MILLER SECONDED THE MOTION. THE MOTION PASSED WITH SIX YES VOTES. COUNCILOR WILLIAMS VOTED YES ON ALL ITEMS WITH THE EXCEPTION OF ITEM F.**

7. ACKNOWLEDGMENT OF NEWLY APPOINTED BOARDS AND COMMISSIONS MEMBERS

Mayor Kincaid acknowledged all newly appointed Boards and Commissions members and thanked them for their service. All City Councilors gave them a round of applause.

8. PUBLIC HEARINGS

A. LEGISLATIVE HEARINGS

- 1) RESOLUTION 2024-06 – PUBLIC HEARING – AMENDING THE 2024 BUDGET WITH SUPPLEMENTAL APPROPRIATIONS OF FUNDS FOR CAPITAL PROJECTS AND CAPITAL EQUIPMENT INITIALLY INCLUDED IN THE 2023 ANNUAL BUDGET – ASSISTANT CITY MANAGER SHANNON VASSEN**

Assistant City Manager, Shannon Vassen, presented to the City Council Resolution 2024-06 regarding supplemental budget appropriations for capital projects and equipment initially included in the 2023 Budget. Mr. Vassen explained that all this funding is not new spending but needs to be reappropriated for 2024. He explained that he would not cover all the projects and equipment that are listed, but he would highlight some of the larger ones. He said \$135,000 for two new Police Interceptors needs to be reappropriated. He explained that the vehicles were budgeted for 2023, ordered in February 2024, and will be delivered in December 2025. He went on to explain that there are a lot of Capital Projects being rolled forward. Two of the big ones are Fremont Street ROW acquisition funding of \$384,875 and 19 Road ROW acquisition funding of \$304,225. Mr. Vassen explained that the ROW acquisition had begun at 19 Road and that the City was anticipating it being completed in the next couple of months. The next reappropriation of funding is the funding for Reed Park, which includes construction of the playground and shelter, totaling \$2,455,875. Mr. Vassen explained that there were a few more projects at the Wastewater Treatment facility that were almost completed in 2023. These projects include the bearing assembly unit for \$191,625, H2S Sewer Line and Manhole Replacements for \$400,000, and the Aeration Project for \$16,000. Mr. Vassen then took questions.

Mayor Kincaid opened the public hearing on Resolution 2024-06. Hearing no comments from the public, he directed it to the City Council.

Councilor Breman asked for some clarification about the replacement of the failed bearing. He asked if it that was the one failed prematurely. Mr. Vassen said yes, they noticed that it was failing so they called someone to come and refurbish it, however they couldn't fix it, so they had new ones installed. He explained that this was not initially a capital project, but they came to City Council in May or June for funds to replace/fix these.

- **COUNCILOR HANCEY MOVED TO APPROVE RESOLUTION 2024-06 AMENDING THE 2024 BUDGET WITH SUPPLEMENTAL APPROPRIATIONS OF FUNDS FROM THE GENERAL FUND, CONSERVATION TRUST FUND, CAPITAL PROJECTS FUND, AND SEWER FUND FOR CAPITAL PROJECTS AND CAPITAL EQUIPMENT INITIALLY INCLUDED IN THE 2023 ANNUAL BUDGET. COUNCILOR PURSER SECONDED THE MOTION. THE MOTION PASSED WITH 6 YES VOTES.**

2) ORDINANCE 2024-09 – SECOND READING – AN ORDINANCE APPROVING A LEASE AGREEMENT BETWEEN CITY OF FRUITA AND REGION 10 FOR THE USE AND MANAGEMENT OF THE FRUITA CARRIER NEUTRAL LOCATION AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT – ASSISTANT CITY MANAGER SHANNON VASSEN

Mr. Vassen presented to the City Council Ordinance 2024-09 which is an Ordinance approving a lease agreement between the City of Fruita and Region 10 for the use and management of the Fruita carrier neutral location and authorizing the City Manager to execute the agreement. Mr. Vassen explained that over the last couple of years, Mesa County and Garfield County have been working to complete significant fiber internet upgrades. He went on to say that Fruita's project brought a lateral connection along I-70 into a carrier neutral location within Fruita. He said the City's portion is almost done. He explained that the next step will be to enter into this lease agreement with Region 10 to manage the space. He also said that the City is in the process of purchasing the equipment to outfit

the space so that other providers can come in. Mr. Vassen stated that this will be a large internet network serving Colorado, Utah, and New Mexico. Mr. Vassen then took questions. He also explained that he had Corey Bryndal from Region 10 on the call as well to help answer any questions.

Mayor Kincaid opened the public hearing on Resolution 2024-09. Hearing no comments from the public, he directed it to the City Council.

Mr. Bryndal said that Region 10 is in the western part of the state. He said that they are expanding up towards Denver and down to Durango, stating that the project Mr. Vassen is speaking of is part of the I-70 build. He explained that their goals are to reach better sources of internet access, provide support for ISPs in the area, make sure that services stay up, have ample capacity, and the costs come down.

Mayor Kincaid asked what the timeline was for it to be active. Mr. Bryndal explained that they were hoping for March 31, 2024, but he said they had to reprogram a Federal grant that cost them several months' worth of time. He is now hoping by mid-summer. Mr. Vassen spoke up and said Clear Networxs is building out in Fruita, which is a separate project. He explained that they are about 90% complete on the north side of Fruita and the south side may take a little bit longer, as it's very rocky and harder to dig. He also said that Clear Networxs will use the cnl as well.

Councilor Kreie gave kudos to Region 10 for their success on this project and what they have accomplished.

Councilor Hancey asked when the fiber going out to all the residents is going to be complete. Mr. Vassen explained they are almost 90% complete on the north side and a little longer on the south side. Mr. Vassen said that multiple providers have expressed interest in utilizing fiber to offer less expensive internet. Councilor Hancey said that it should create competition for the consumer and hopefully less expensively.

Mr. Bryndal explained that he is a Middle Mile component, and the private companies do the Last Mile, which is the build out to the residents.

- **COUNCILOR BREMAN MOVED TO APPROVE RESOLUTION 2024-09 AN ORDINANCE APPROVING A LEASE AGREEMENT BETWEEN CITY OF FRUITA AND REGION 10 FOR THE USE AND MANAGEMENT OF THE FRUITA CARRIER NEUTRAL LOCATION AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT. COUNCILOR MILLER SECONDED THE MOTION. THE MOTION PASSED WITH SIX YES VOTES.**

- 3) **ORDINANCE 2024-08 – SECOND READING – AN ORDINANCE AUTHORIZIN THE CITY MANAGER TO EXECUTE A CONTRACT WITH FARM, LLC FOR ITS PURCHASE OF CITY PROPERTY KNOWN AS 169 S. MULBERRY STREET, FRUITA, COLORADO AND TO EXECUTE ALL DOCUMENTS TO PERFECT THE SALE - (KIM CRAWFORD, SPECIAL COUNSEL & MARY ELIZABETH GEIGER, CITY ATTORNEY)**

Special Counsel from Butler Snow, Kim Crawford, gave an overview of the development agreement, including key terms and risks. She explained that Farm LLC has proposed to buy and improve the property located at 169 S. Mulberry Street, including parking and future retail or studio space. The

City's goals are to create a pedestrian oriented commercial area, remediate blight, support arts, and make a social hub. Ms. Crawford went on to explain the key terms of the development agreement. They include all terms and conditions. The buyer needs to obtain a letter of credit that can be drawn upon by the City at any time if the buyer defaults, new metal roof, replacement of skylights, new garage doors, new exterior lighting, paint, 20 parking spaces, totaling \$640,000 comprised of cash and nonmonetary contributions. Ms. Crawford explained that there are two risks. One being that the buyer will back out of the project and the other is that they would be unable to meet their contractual obligations to redevelop the property. Ms. Crawford then took questions. Ms. Geiger wanted the Council to know that the parking agreement has also been drafted, which includes the designated 20 parking spaces. City Manager, Mike Bennett, explained that by acting on the Ordinance tonight, it allows for the City Manager to close on the property and upon closing the two agreements, whose terms have been covered by the two attorneys', will be executed.

Mayor Kincaid opened the public hearing on Ordinance 2024-08. Hearing no comments from the public, he directed it to the City Council

Councilor Hancey asked what the investment from the City had been. Mr. Bennett said the City had purchased the property for the same amount that it is being sold for. Mr. Bennett also asked Planning Director, Dan Caris, to elaborate on the environmental studies that had been conducted. Councilor Hancey asked what the community was getting back from the sale of the property. He then reiterated that what the City was getting was remediated blight, parking spaces, and improvement to current facilities, but wanted to know what else the City would be getting. Mr. Bennett explained that due to the zoning for the space, the type of commercial development that the City would like to see, and the ability to work with a developer on how this is property is developed are also things that the City are getting from the sale. Councilor Hancey then asked how large is the letter of credit that the Buyer is getting. Mr. Bennett explained that it is for \$230,000, which is the estimated amount needed to cover the renovations to the building to bring it up to code. Mr. Bennett then told the City Council that the cost of the property was \$620,000 plus an additional \$20,000 in due diligence costs (environmental studies) for a total of \$640,000. Councilor Hancey thought that this was a huge win for the community.

Councilor Purser asked for a line-item breakdown in the nonmonetary contribution of \$409,885. Mr. Bennett said the buyer was present at the meeting and asked if they could break it down for the City Council. Gavin Brooke, representative from FARM, LLC, explained that there are three components to the purchase. One is cash, one is \$227,000 in exterior improvements, and the third piece is the value of land for 20 parking spaces, valued at \$182,857 which is directly proportionate to the amount of land needed to put 20 parking spaces and the \$640,000 purchase price.

- **COUNCILOR HANCEY MADE A MOTION TO APPROVE ORDINANCE 2024-08 AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT WITH FARM, LLC FOR ITS PURCHASE OF CITY PROPERTY KNOWN AS 169 S. MULBERRY STREET, FRUITA, COLORADO AND TO EXECUTE ALL DOCUMENTS TO PERFECT THE SALE. COUNCILOR PURSER SECONDED THE MOTION. THE MOTION PASSED WITH SIX YES VOTES.**

B. QUASI-JUDICIAL HEARINGS

- 1) NEW LIQUOR LICENSE APPLICATION – A REQUEST TO APPROVE A NEW HOTEL AND RESTAURANT – MALT, VINOUS AND SPIRITOUS**

**LIQUOR LICENSE FOR BLUE LOTUS VIETNAMESE RESTAURANT, LLC
DBA BLUE LOTUS VIETNAMESE RESTAURANT LOCATED AT 152 S.
MESA STREET (FORMERLY KOKO'S) – DEPUTY CITY CLERK DEB
WOODS**

Deputy City Clerk, Deb Woods, provided staff's presentation of an application for a new Hotel and Restaurant liquor license for the Blue Lotus Vietnamese Restaurant located at 152 S. Mesa Street.

Ms. Woods stated that the applicant submitted all the required paperwork and fees for the new liquor license on January 29, 2024. She pointed out that the Notice of Public Hearing was posted at the site on February 16, 2024, and a notice was published in the Daily Sentinel on February 24, 2024, notifying the public of tonight's Public Hearing.

Ms. Woods explained that for new liquor licenses there are only two things that the City Council must consider when approving the liquor licenses, one is the character of the applicant and the other being the needs of the neighborhood. Ms. Woods stated that staff did background checks concerning the applicant through the Federal Bureau of Investigation, Colorado Bureau of Investigation, Mesa County Sheriff's Office, Cities of Grand Junction and Fruita Police Departments, the Washington State Patrol, the Pennington County, South Dakota Sheriff's Office, and the Rapid City, South Dakota Police Department. All these background checks came back clear so there are no grounds for Council to deny the application based on the character of the applicant. Concerning the needs of the neighborhood, the applicant submitted a survey of 14 individuals who were all in favor of the liquor license being issued. Those surveyed also expressed that they didn't feel that the needs of the neighborhood had already been met by existing liquor establishments. Ms. Woods said that based on those two items it is staff's recommendation that City Council approve a Hotel and Restaurant – Malt, Vinous, and Spiritous Liquor License for the Blue Lotus Vietnamese Restaurant. The applicants, Linfan Tang and Jerry, owner of Dragon Treasure Restaurant, were in the audience to answer questions.

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

- **COUNCILOR MILLER MOVED TO APPROVE A REQUEST FOR A NEW HOTEL AND RESTAURANT - MALT, VINOUS AND SPIRITOUS LIQUOR LICENSE FOR BLUE LOTUS VIETNAMESE RESTAURANT, LLC DBA BLUE LOTUS VIETNAMESE RESTAURANT LOCATED AT 152 S. MESA STREET. COUNCILOR WILLIAMS SECONDED THE MOTION. THE MOTION PASSED WITH SIX YES VOTES.**

- 2) **ORDINANCE 2024-07, SECOND READING, AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF FRUITA BY ZONING APPROXIMATELY 5.07 ACRES OF PROPERTY LOCATED AT 614 RAPTOR ROAD TO A PLANNED UNIT DEVELOPMENT ZONE (GEODE FLATS PUD) – CITY PLANNER HENRY HEMPHILL**

City Planner, Henry Hemphill, gave the staff presentation of Ordinance 2024-07 amending the zoning map of the City of Fruita by zoning 5.07 acres of property located at 614 Raptor Road to a Planned Unit Development (Geode Flats PUD).

Mr. Hemphill explained that this is a second reading. He pointed out an error on the previous agenda item inaccurately setting the public hearing date for the second reading as February 20, 2024, instead of March 5, 2024. Mr. Hemphill also explained that they resent public notice postcards notifying property owners near the development of the date change, as well as the legal notice that is required.

Mr. Hemphill stated that PUDs are unique developments within a community that cannot otherwise be realized through strict adherence to the code.

On January 24, 2023, the Planning Commission and City Council held a joint workshop in which discussions and decisions are non-binding. Next, the preliminary PUD plan is presented, and the Planning Commission makes a recommendation to City Council and enacts an ordinance zoning the property to PUD. Lastly, the final PUD plan has the application being reviewed administratively in accordance with agencies and City Councils' decision on the preliminary PUD Plan.

Mr. Hemphill explained that all legal notices had gone out. He then went over an aerial view of the property that is being discussed. He said that it is currently zoned Commercial 2 (C-2) and is near a motel, Starbucks, dental office, and McDonalds.

Mr. Hemphill told City Council that the concept plan included public benefit of childcare vs. parks, trails, and open space. He explained that the Lagoon property is nearby and had plenty of parks, trails, and open space. If a new application was submitted, a parking study needed to be submitted and it was included in the packet. He went on to say that the architecture needed to be in line with the geologic features such as the Bookcliffs and the Monument and not take away from the beauty of the State Patrol building. Lastly, there was a discussion around the proposed density, and it was not a concern.

Mr. Hemphill explained that this is application 2023-37 and the applicant, TWG Raptor LP, is in the audience to explain the project and answer questions. Mr. Hemphill gave an overview of the development plain. It includes:

- 4 Multi-Family Buildings to be rented at either the affordable housing or market rate.
- Maximum height of 4 stories tall
- Will include 1 Clubhouse.
- Parking will include:
 - 1.32 parking spaces per unit x 180 units = 238 spaces
- Listed Code Requirements, falls within the comprehensive plan, offers flexibility, and is compatible with the surrounding area uses.
- The applicant requested some deviations from the City design standards. There was some discussion around the design standards and they have been met and agreed upon.
- No review comments from a public agency are required.
- No public comments have been received.
- Planning Commission recommended approval with conditions listed in the Staff Report and included the reverter clause of being able to convert back to C-2 zoning and passed with a vote of 5-0.

Conditions and Recommendations as required by the Planning Commission:

- Remove all commercial land uses from PUD Guide with a reverter clause so that property can be reverted to C-2 if affordable or market rate rental housing is not constructed.

- \$100k childcare cash in lieu fee be collected at Site Plan approval.
- Design Standards be met as written in the Land Use Code.
- Unless major modifications are made in the application, Site Design Review will be completed administratively.

Mr. Hemphill stated that it is Staff's recommendation to approve the application because it meets all of the requirements of Section 17.19.030(A)(1) (a-d) and Section 17.19.030(B)(1) (a-e) of the Fruita Land Use Code with the condition that the applicant adequately resolve all review comments and conditions in the Staff Report with either the zoning ordinance or the Final PUD application.

Regional Development Director for TWG Development, LLC, Megan Adams, said that while Mr. Hemphill had covered all the technical information, she wanted to cover some of the other points. She explained that she focuses on affordable housing and workforce housing.

Ms. Adams said that TWG does own the land. She said that when they originally came to the City Council, they had applied for some grant funding that they didn't end up receiving. She explained that what she is going forth with now is essentially their plan B and it aligns well with Prop 123. She showed a graphic of the concept plan, which included the three- and four-story elevations. She spoke to the childcare center and the \$100,000 dedicated for the center to be built. She went on to discuss parking and how they are asking for a blended rate because they don't know how many apartments will be offered at the affordable rate and how many will be offered at market rate. She said there are some traffic improvements they will make. Ms. Adams went on to say that they always provide on-site amenities and while the PUD specifies two, she said they usually do four. She then showed a graphic of what they are doing in Durango. They are converting an old hotel and then adding new units to the back. Ms. Adams talked about the Planning Commission discussions and how the development will be a good fit for Fruita, promotes sustainability, enhances opportunity for increased childcare businesses, requested Prairie Dog resettlement, and requested a funky color palette. Ms. Adams explained that she felt that their plan is in conformance with Fruita in Motion and the Fruita Land Use Code. Ms. Adams said that one thing that is a little different is the reverter clause that they asked for. She said that if they get rid of all of the C-2 zoning, they may not be able to sell it if Prop 123 runs out of funding. She stated that they are trying to get Prop 123 funding and part of it is Reporting and Tenant Equity Vehicle (TEV). She explained that the tenants will have some sort of equity in the development, so that as it makes money, the tenants will receive some sort of compensation. She then took questions.

Mayor Kincaid opened the public hearing. He asked that the person state their name and address for the record and limit their comments to three minutes.

Dustin Patrick, 532 Raptor Road Unit B, said that he was curious about the \$100,000 for a childcare center, stating that he didn't understand it.

Mayor Kincaid closed the public hearing and referred the matter to the City Council.

Councilor Miller said that she had the same question as Mr. Patrick. Mr. Bennett said that a developer can propose a way to benefit the community as part of the PUD. The way that TWG, LLC has chosen to do this is by putting \$100,000 towards the availability of additional seats in a childcare center. Planning Director Dan Caris said that originally, he and Ms. Adams had applied for the Stronger Communities Infrastructure Grant and one of the stipulations for the grant is that there be a community benefit. Mr. Caris said that they went after the whole amount of \$4 million and were

unsuccessful. However, Mr. Caris and Ms. Adams still found merit in providing the \$100,000 for a new childcare center.

Councilor Breman asked if the \$100k was a requirement for the rezone to a PUD. Mr. Caris said no, it is not a requirement.

Councilor Williams asked if it was an exchange for an open space or trail. Councilor Breman said that it was in lieu of a childcare facility on site. Mr. Caris explained that typically, with the grant requirements, the developer would be required to build a childcare center on site. He said that based on what the developer was trying to do and the number of units that they wanted to construct, there wasn't room for the childcare facility onsite, so it was to be built within a quarter mile of the development.

Councilor Williams asked if a childcare facility would still be built within a quarter mile of the development. Mr. Caris explained that because the project wasn't chosen to receive the stronger Communities grant, the distance requirement is now not as important, but the childcare facility will still be built within Fruita.

Councilor Miller asked if there were other grant opportunities that the developer and the City could try to obtain. Mr. Bennett explained that they were working with Prop 123 which is a Proposition that has a community commit to building a certain number of affordable housing units within a certain period. By opting into Prop 123 there are certain types of funding through the State to offset the costs.

Councilor Purser asked if the childcare facility that would be receiving the \$100,000 was an existing business. Mr. Bennett explained that they had been working with a particular childcare center when they were trying to receive the Stronger Communities Infrastructure grant. He explained that because the City didn't receive those funds, now they need to look at how the funds will help within the community.

Councilor Kreie asked if the \$100,000 comes into the City and if the City works with an entity to show the expansion. Mr. Caris said yes, that is correct.

Councilor Breman said that he was uncomfortable with the City being responsible for choosing an existing business or picking a new business to benefit from the \$100,000. He would feel better if the developer built the day care center. He felt like it was outside the role of local municipal government.

Councilor Kreie said that he thought it would turn into a project. He said he was worried about the \$100,000 disappearing if the City isn't involved because the private market isn't working.

Councilor Breman said that the private market would be assisted by the developer.

Councilor Hancey suggested that a committee be developed to help the childcare facility that receives the \$100,000 and oversee the spending.

Councilor Breman thinks that the money for the childcare facility was a great idea, but he didn't think it was fiscally responsible to give one business \$100,000.

Mayor Kincaid asked Mr. Bennett if there was a way to have a partnership similar to others that the City has formed in the past for grant monies. He thought the process of choosing the facility and spending the money was the challenge. Mr. Bennett said that from a staff perspective it isn't in the City's interest to pick who receives it and apply it. He said that once they receive their site plan, that is when the money goes to someone the developer is working with for childcare. Mr. Bennett said that if they weren't in works with someone at that time, the City would work with a group like the Business Incubator in order to use pass-through grants. He explained that the hope is that a partner is identified, and the developer works directly with them.

Mayor Kincaid asked if Mr. Bennett was referencing the revolving loan fund. Mr. Bennett said that was correct. Mayor Kincaid said that the City would need to contact the Business Incubator to be able to manage the funds. Councilor Breman said the City could be the fiduciary agent of the funds, but they wouldn't oversee how the money was spent. Mayor Kincaid explained that the money could end up being divided between multiple agencies. Councilor Breman and Councilor Williams liked this idea.

City Attorney Mary Elizabeth Geiger asked for clarification. She said from what she understood, the \$100,000 will be given by the developer to the City at site-plan approval for a childcare facility unless the developer has formed a partnership with a childcare facility, at which point the funds will be given to them for expansion. Mr. Bennett said that was correct. Mr. Caris said that neither the City nor the developer want to be in the childcare business.

Mayor Kincaid said that once the PUD is set there is no way to see the \$100,000 come through because there are no mechanisms in place to see how the money is spent. Mr. Bennett said yes, but the PUD process is not dependent on receiving the funds. Staff would still be recommending approval as the development meets all the requirements for a PUD. Mr. Bennett said that the City Council can approve and state that the City would be the fiduciary as a condition.

Ms. Geiger asked Mr. Caris if the resolution needed to be reworded to reflect the cash in lieu. Mayor Kincaid asked during a normal PUD process the City can add in specific things that the City required. Mr. Caris said that the developer is asking for deviation from the PUD and he thought that the monies could be deployed prior to site-plan approved or used as a passthrough where the City is not a fiduciary of the \$100,000.

Councilor Kreie didn't think it was in the City's best interest to spend time making sure that the daycare facility is the right one, have the most public benefit, or even be in business in a year. He didn't think the City really had a vote in how well this is done.

Councilor Breman wants to make sure that this will benefit the most community benefit.

Councilor Purser said that, because of the way it is worded, there is no guarantee that more daycare spaces will be available as daycare facilities could use the funds for supplies or other needed items. Councilor Kreie thought that when they first talked about it, this money was just the beginning.

Councilor Miller said that there was a childcare desert, and it is on the radar across Colorado right now. She felt like the City Council could do more with \$100,000, rather than the developer just writing a check.

Councilor Kreie asked if the money could be put in a fund and the City think about how to use the money over the next few months.

Councilor Breman asked if a workshop could be scheduled to discuss the \$100,000. He said that there were some differences of opinions about what needs to happen.

Mayor Kincaid asked Ms. Geiger what the options were going forward. Ms. Geiger said that the condition needed to be reworded to reflect having the funds be directed to the Council and then they can act as a fiduciary and select how it is spent. She also said that the hearing can be continued. Mayor Kincaid stated that if it is approved tonight, then the site-plan doesn't come back before the Council but just goes to staff. Mr. Bennett stated that that was correct.

Councilor Hancey wants the City Council to stay out of daycare facilities, but he would like to facilitate the use of the dollars in the community.

Councilor Breman said that he would like the City to be the fiduciary, but they will work with outside groups to find the greatest benefit to the community.

Councilor Williams worded the resolution so that it reflects the PUD with stipulations around the \$100,000 and then the group can discuss how they would like to handle the funds. Mr. Bennett said that he agreed with Councilor Williams and that he thought they should approve the PUD and then discuss the funds later at a workshop.

Councilor Breman asked about the flat surface of 800 sq. ft vs. the deviation 2400 sq. ft. Mr. Hemphill explained that there need to be design standards and preventing blank wall space is one of the things they must do. Councilor Breman asked if this was a standard deviation or unreasonable. Mr. Hemphill said that it was a standard deviation especially based on the size of the building.

Councilor Hancey asked for a summary of all variances. Mr. Hemphill explained that the deviations include:

- Flat surface area changing from 800 sq. ft. vs. 2400 sq. ft.
- Setbacks
- Building heights

Mr. Bennett explained to the Council that in the packet that they were provided, beginning on page 8, there is a breakdown of each area of design and breaks down the deviations.

Ms. Greiger asked for a wording change on Mr. Hemphill's slide show from "agency" to "partnership." There was also a wording change from "could" to "will".

- **COUNCILOR BREMAN MOVED TO APPROVE AN ORDINANCE 2024-07, SECOND READING, AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF FRUITA BY ZONING APPROXIMATELY 5.07 ACRES OF PROPERTY LOCATED AT 614 RAPTOR ROAD TO A PLANNED UNIT DEVELOPMENT ZONE (GEODE FLATS PUD) WITH THE NOTED CONDITIONS:**

- 1) REMOVE ALL COMMERCIAL LAND USES FROM THE PUD GUIDE**

- 2) **A REVERTER CLAUSE BE USED TO REVERT BACK TO THE C-2 ZONE IF AFFORDABLE HOUSING OR MARKET RATE RENTAL HOUSING IS NOT CONSTRUCTED.**
- 3) **\$100K CHILDCARE CASH IN LIEU FEE BE COLLECTED AT SITE PLAN APPROVAL SO THE CITY WILL ACT AS THE FIDUCIARY AGENT AND WORK WITH AN OUTSIDE THIRD-PARTY ON THE DISTRIBUTION OF THE FUNDS, AS AMENDED.**
- 4) **DESIGN STANDARDS CONTAINED IN SECITON 17.13.060 (B)(1) BE MET AS WRITTEN IN THE LAND USE CODE.**
- 5) **IF THIS PUD GUIDE IS APPROVED WITH THESE CONDITIONS BY STAFF AND FULLY MET, THEN A FUTURE SITE DESIGN REVIEW APPLICATION BE REVIEWED ADMINISTRATIVELY UNLESS THERE IS A MAJOR MODIFICAITON CHANGE IN THE APPLICATION DEEMED BY THE COMMUNITY DEVELOPMENT DIRECTOR.**

THE MOTION WAS SECONDED BY COUNCILOR WILLIAMS. THE MOTION PASSED WITH SIX YES VOTES.

9. ADMINISTRATIVE AGENDA

- A. RESOLUTION 2024-08 A RESOLUTION OF THE CITY COUNCIL AUTHORIZING THE CITY MANAGER TO EXECUTE THE COOP TOWER FAÇADE LEASE AGREEMENT AND ALL DOCUMENTS NECESSARY TO EFFECTUATE THE LEASE. (CITY ATTORNEY, MARY ELIZABETH GEIGER)**

City Attorney Mary Elizabeth Geiger, presented to the City Council regarding the lease of the East and West facades of the abandoned grain towers of the COOP Towers. She explained that the annual lease was \$24,000 or \$2,000/per month paid to Sparks Fly. Ms. Geiger went on to say that the lease is a year-to-year lease, and the City can terminate at any time with ninety days' notice. Mr. Bennett let the City Council know that Tim Navin, owner of Sparks Fly, was present this evening and would like to address the Council.

Tim Navin, owner of Sparks Fly, wanted to let the City Council know that the intention of allowing the banners is just to promote the City, no agenda's, just Fruita as a Community.

- COUNCILOR MILLER MOVED TO ADOPT RESOLUTION 2024-08 A RESOLUTION OF THE CITY COUNCIL AUTHORIZING THE CITY MANAGER TO EXECUTE THE COOP TOWER FAÇADE LEASE AGREEMENT AND ALL DOCUMENTS NECESSARY TO EFFECTUATE THE LEASE. COUNCILOR PURSER SECONDED THE MOTION. THE MOTION PASSED WITH SIX YES VOTES.**

10. CITY MANAGER'S REPORT

City Manager Mike Bennett reminded the Council that on Thursday night from 5-6:30 pm they will be having a naming party for the riverfront property often referred to as "The Lagoons." He said

come with all your ideas. He said the Planning Commission, City Council and Council Candidates, past City Councilors, and the Leadership Team are all invited to have dinner and brainstorm a name.

Mr. Bennett talked to the Fruita Area Chamber of Commerce about the interviews and wanted to know if the City Council would like to move their bi-annual review to quarterly reviews so that the Chamber can present those results more frequently to the City Council. The City Council said that they would like that.

Mr. Bennett went on to talk about the new businesses coming to the City. FARM, LLC has celebrated it's one year anniversary. There are 23 new businesses, with ten being completely new businesses. A new restaurant is coming as well as new spaces at 169 S. Mulberry St, and the expansion of Sparks Fly.

11. COUNCIL REPORTS AND ACTIONS

A. COUNCIL REPORTS AND ACTIONS

COUNCILOR KEN KREIE

Councilor Kreie said his next meeting with GRVTC is after he has left the City Council, so they will need a new liaison. And the Fruita Youth Action Council presented tonight. He had no further updates.

COUNCILOR AMY MILLER

Councilor Miller asked if, in celebration of the one-year anniversary of the Building Department, there could be a brief review of the year. Mr. Bennett said that was a great idea.

Councilor Miller also asked for a Proclamation for the Fruita Monument Boys Basketball Team for their amazing season, bringing the community together, and embracing the Fruita spirit.

COUNCILOR AARON HANCEY

Councilor Hancey had no updates.

MAYOR PRO TEM BREMAN

Councilor Breman said the Colorado Capital Conference is June 11 – June 13 and is done through CMU. He said there is an application process but if selected, a person goes to Washington DC and learns how a few things work. He said that it was his understanding that no one from Fruita had ever gone, but he thought it would be of value to have a presence there and was important to build those relationships at the Federal level. Councilor Breman thought that both he and Mr. Bennett would be the best choices to go. He explained that if chosen, the cost is \$1000 per person plus hotel and airfare.

Councilor Breman brought up the utility line strikes. He asked if the City Council was okay in asking Mr. Bennett and Staff to work with the new vendor to be extra safe and cautious. Mr. Bennett explained that it is not always the locate company, but sometimes there are additional lines that they are unaware of. Mr. Bennett said the City was going to speak to Xcel about the recent utility line strikes. Councilor Breman asked if it would be inappropriate to ask Xcel to come and present to City

Council about their plan to stop the utility line strikes. Mr. Bennett said that it was completely appropriate. He went on to say that Clearnetworx has stopped working in the area until they have more direction from Xcel. Councilor Kreie said that Clearnetworx came to his house and asked how he wanted his wires run, through conduit or not. He told Clearnetworx to come back and bury it in conduit, but he thought there is some information that needs to be sent out to homeowners about how they get their wire run.

COUNCILOR JEANNINE PURSER

Councilor Purser had no updates.

COUNCILOR JAMES WILLIAMS

Councilor Williams had no updates.

MAYOR JOEL KINCAID

Mayor Kincaid had no updates.

B. EXECUTIVE SESSION – TO CONVENE IN EXECUTIVE SESSION FOR THE PURPOSE OF DETERMINING POSITIONS RELATIVE TO MATTERS THAT MAY BE SUBJECT TO NEGOTIATIONS; DEVELOPING STRATEGY FOR NEGOTIANS AND INSTRUCTING NEGOTIATORS PURSUANT TO C.R.S. SECTION 24-6-402(4)(e) WITH REGARD TO DEVELOPMENT AGREEMENTS AND CONTRACTS WITH 2FORKS VENTURES FOR THE REDEVELOPMENT OF THE LAGOON PROPERTY AREA SOMETIMES REFERRED TO AS “THE BEACH”

- **COUNCILOR KREIE MOVED TO CONVENE IN EXECUTIVE SESSION FOR THE PURPOSE OF DETERMINING POSITIONS RELATIVE TO MATTERS THAT MAY BE SUBJECT TO NEGOTIATIONS; DEVELOPING STRATEGY FOR NEGOTIANS AND INSTRUCTING NEGOTIATORS PURSUANT TO C.R.S. SECTION 24-6-402(4)(e) WITH REGARD TO DEVELOPMENT AGREEMENTS AND CONTRACTS WITH 2FORKS VENTURES FOR THE REDEVELOPMENT OF THE LAGOON PROPERTY AREA SOMETIMES REFERRED TO AS “THE BEACH.” COUNCILOR PURSER SECONDED THE MOTION.**

Mayor Kincaid asked for questions or comments. Hearing none he asked the Deputy City Clerk to poll the City Council.

THE MOTION PASSED WITH SIX YES VOTES.

12. ADJOURN

With no further business before the Council, Mayor Kincaid adjourned the meeting at 9:50 p.m.

Respectfully submitted,

Jennifer Cupp
Executive Assistant
City of Fruita