

**FRUITA CITY COUNCIL
REGULAR MEETING
JANUARY 17, 2017**

1. INVOCATION AND PLEDGE OF ALLEGIANCE

The Invocation was given and the Pledge of Allegiance was recited.

2. CALL TO ORDER AND ROLL CALL

Council members present were Bruce Bonar, Dave Karisny, Kyle Harvey, Ken Kreie, Joel Kincaid and Lou Brackett. Mayor Buck was excused absent. Mayor Pro Tem Bruce Bonar called the meeting to order at 7:00 p.m.

3. AGENDA – ADOPT/AMEND

Mayor Pro Tem Bonar stated that agenda item 10.C – Executive Session (City Manager Review as per contract) needed to be cancelled because the City Manager was excused absent. He asked if there were any other changes to the agenda and City Clerk/Finance Director Margaret Sell stated that there were not.

- **COUNCILOR KINCAID MOVED TO APPROVE THE AGENDA AS AMENDED. COUNCILOR BRACKETT SECONDED THE MOTION. THE MOTION PASSED WITH SIX YES VOTES.**

4. PROCLAMATIONS AND PRESENTATIONS

- A. PROCLAMATION – JANUARY 2017 AS “NATIONAL CRIME STOPPERS MONTH IN THE CITY OF FRUITA TO BE ACCEPTED BY CRIME STOPPERS OF MESA COUNTY**

Councilor Harvey read the Proclamation, which was accepted by Kathy Daniels with Crime Stoppers of Mesa County. Ms. Daniels noted that she had brought a few students with her to the meeting. She said that Crime Stoppers of Mesa County was in its 33rd year. She provided the Council with the organization’s statistics of averages per year such as weapons (5) recovered, property recovered (valued at \$274,000), number of arrests (53), tips (572) and payout of rewards (over \$8,700). Crime Stoppers also averages 48 cases cleared per year.

Ms. Daniels introduced three students from Fruita Middle School and the Fruita 8/9 School. This quarter, the students started “the Kindness Revolution” program which is an initiative that was founded in 2007 to bring back the values of dignity, respect and kindness in the workplace, schools and community. She challenged Council and staff to “embrace kindness to all” by giving someone a wrist band (these were handed out to Council members and staff by the students) when they recognize exemplary behavior and to wear the wristband until they could give it away in order to “pay it forward.”

Ms. Daniels also presented a sign created by the students for Fruita Police Chief Judy Macy, who recently announced her retirement.

Lieutenant Dave Krouse said he wanted to publicly thank Crime Stoppers on behalf of the Fruita Police Department, the Chief and law enforcement all throughout the valley. He said he has been fortunate enough to be involved in Crime Stoppers in one way or another for around 20 years and has seen all the good things that they have done. Lt. Krouse added that the local board of Crime Stoppers has moved the beyond the traditional mission of solving crimes to that of crime prevention, getting involved in local schools (including Colorado Mesa University), hosting events such as National Night Out and other important programs that have had an impact that is difficult to measure but affects the quality of life in the valley.

Ms. Daniels said Crime Stoppers has been very honored to have presented CMU with three different \$1,000 scholarships: one for the Deputy Derek Geer Memorial, one for a student athlete in Criminal Justice and one for the school's normal bachelor's degree in Criminal Justice. These scholarships were made possible by donations from the community.

5. PUBLIC PARTICIPATION

There were no comments from the public.

6. CONSENT AGENDA

- A. MINUTES – A REQUEST TO APPROVE THE MINUTES FROM THE NOVEMBER 1, 2016 CITY COUNCIL MEETING**
- B. ASSOCIATE MUNICIPAL COURT JUDGE – A REQUEST TO APPROVE THE APPOINTMENT OF AN ASSOCIATE MUNICIPAL COURT JUDGE AND APPROVAL OF CONTRACT**
- C. RESOLUTION 2017-02 – A REQUEST TO APPROVE A RESOLUTION DESIGNATING THE OFFICIAL POSTING PLACE FOR NOTICES OF MEETINGS**
- D. RESOLUTION 2017-03 – A REQUEST TO APPROVE A RESOLUTION SETTING A HEARING DATE TO DETERMINE THE ELIGIBILITY OF APPROXIMATELY 1.59 ACRES OF PROPERTY LOCATED AT 1024 18 ROAD TO BE ANNEXED INTO THE CITY OF FRUITA AND TO CONSIDER INITIATION OF ANNEXATION PROCEDURES**
- E. COLORADO RIVERFRONT TRAIL:**
 - 1) RESOLUTION 2017-04 – ACCEPTING A TRAIL EASEMENT LOCATED WEST OF 15 ROAD AND NORTH OF THE COLORADO RIVER**

2) ORDINANCE 2017-01 – FIRST READING – AN INTRODUCTION OF AN ORDINANCE ACCEPTING RIGHT-OF-WAY FOR THE WEST SIDE OF 15 ROAD SOUTH OF THE RAILROAD TRACKS FOR PUBLICATION OF PUBLIC HEARING ON FEBRUARY 7, 2017

F. ORDINANCE 2017-02 – FIRST READING – AN INTRODUCTION OF AN ORDINANCE ACCEPTING RIGHT-OF-WAY FOR FUTURE PUBLIC STREET AND PUBLIC UTILITY PURPOSES FOR PUBLICATION OF PUBLIC HEARING ON FEBRUARY 7, 2017

G. PRELIMINARY DECEMBER 2016 FINANCIAL REPORTS – A REQUEST TO APPROVE THE PRELIMINARY DECEMBER 2016 FINANCIAL REPORTS

Mayor Pro Tem Bonar opened the public hearing on the Consent Agenda. Hearing no comments from the public, he referred to the City Council.

- **COUNCILOR KINCAID MOVED TO APPROVE THE CONSENT AGENDA AS PRESENTED. COUNCILOR BRACKETT SECONDED THE MOTION. THE MOTION PASSED WITH SIX YES VOTES.**

7. PUBLIC HEARINGS

There were no public hearings on the agenda.

8. ADMINISTRATIVE AGENDA

A. CITY ENGINEER SAM ATKINS

1) GATEWAY ENHANCEMENT CONCEPTUAL DESIGN PLAN APPROVAL

City Engineer Sam Atkins noted that the Gateway Enhancement Conceptual Design Plan was previously presented to the City Council in December of 2016 and the Arts and Culture Board in January of 2017. Staff received comments from both boards and provided those to consultants Ciavonne & Associates for revisions to be made to the plan.

Mr. Atkins stated that the comments included:

- Having bronze statues of people pointing to the Colorado National Monument
- Ensuring that the long-term maintenance of any improvements is low cost or minimized
- Not eliminating the line of sight in the roundabouts
- Establishing some way-finding features coming from the east
- Focusing on something that the City could tackle now that would not be a big cost item
- Including the Arts and Culture Board on the planning and designs for the roundabouts
- The initial improvements could start with the roundabouts such as putting in treatments on the walls and art inside the roundabouts

Mr. Atkins continued that regarding art in the roundabouts, he thought it could be anything, but major ideas included bikes and dinosaurs. He said that it was very important to keep the art to scale (not having something too small within the roundabouts).

Mr. Atkins said that in regards to long-term maintenance, there are a lot of rock and xeriscape options in the plan that would help with keeping maintenance costs down.

In regards to the line of sight in the roundabouts, Mr. Atkins stated that whether there is landscaping or art, there might be some blocking of the line of sight over the top of these, but the thought is that people should be looking toward the left while driving through the roundabouts and not focusing on what is in them.

Mr. Atkins stated that he was absolutely in favor of having the Arts and Culture Board involved in the designs for the roundabouts and that staff would move forward with that, as well as focusing on wall treatments and flat rock art inside the roundabouts, which makes sense as being one of the initial low-cost items that the City could start with.

Mr. Atkins said that as far as changing the plan, the drawings really didn't change; what did change was the summary, which now includes a statement about how Fruita has a strong association with paleontology and recreation, but notes that it is also a place for families. The summary also states: "Be it dinosaurs, bike riders or laughing children, the "icon" will be strongest via the large art that will be within the roundabouts."

Mr. Atkins noted that the parts of the Concept Plan dealing with bigger, high cost items such as the bridge (over I-70) were great for the future, but the direction he received from the Council was to focus on things the City could potentially do now, or the "low hanging fruit."

He noted how the summary in the Concept Plan mentions a Call for Art. The summary states that "The Call for Art is a relatively inexpensive process, but the commitment to the funding of the desired large art can be quite expensive and must be in place to move forward with the Call for Art. In the meantime, the City may want to consider some sort of interim (possibly disposable) landscape treatment with the medians, possibly through the use of large boulders, on-loan sculpture, flags or living landscape. These unfinished roundabout areas are quite large in size, and so scale and visibility should be a priority, even with temporary solutions."

Mr. Atkins stated that the summary also states that "One of the more subtle, yet important means of consistency and compatibility is the modifications of the existing roundabout walls with scoring, lettering and a capstone. This is one of the more affordable and quickly attainable tasks that improves the appearance of the roundabouts, provides a level of way-finding and sets a design basis that can be carried into the future forthcoming way-finding components."

Mr. Atkins said that he had put some numbers together for costs just to give the Council an idea. He said that he thought the direction from the Council was to put some sort of rock art within the roundabouts, but that the consultant would likely try to steer away from that because of the visibility issue. He added that the consultant had recommended some kind of interim or disposable solution.

Mr. Atkins said that the wall enhancements for both roundabouts including scoring, cap rock and lettering came to about \$33,000, including a 20% contingency.

Mr. Atkins noted he previously had given an estimate of \$4.00 per square foot for the artistic landscape rock treatment, but the price would actually be \$2.25 per square foot (he was looking at the wrong line item before).

Mr. Atkins pointed out that the immediate question before the Council was to either approve or deny the Gateway Enhancements Conceptual Design Plan, or approve the Plan with modifications.

Councilor Brackett said he thought the first consideration should be for traffic safety in the roundabouts. He said that it should also be something that the City can afford or maybe something that could be implemented in phases and that there shouldn't be a lot of revamping or remodeling involved.

Councilor Kreie stated that the Downtown Advisory Board also wishes to be involved in the implementation of the Gateway Enhancement Plan.

Councilor Harvey stated that the Arts and Culture Board met the previous evening and would be attending the January Council workshop session to discuss the Plan. The board has recently been focusing their efforts on the Evening of Art Gala, which is a fundraiser for art in the roundabouts. Councilor Harvey said the board has \$3,000 to \$3,500 already saved up now and their goal for the upcoming Gala is \$10,000. He said that the board has been hitting it hard and is receiving a lot of donation and sponsorships.

Councilor Harvey continued that the Arts and Culture Board is also looking at holding a golf tournament or some other event to raise more money later in the year, so there could be some substantial funds that could be used to go after matching grant funds.

Councilor Harvey proposed that there could be a less expensive way to do the lettering on the bridge such as using rusty metal letters, which he thought could be pretty affordable aside from the labor to install them, and that this could be an interim solution instead of spending the money to chisel and hammer the lettering. Mr. Atkins explained that the lettering would be going into the concrete walls for the roundabouts and not on the bridge. Councilor Harvey said it still might work in the roundabouts.

Councilor Kincaid stated that the whole plan included other things besides the roundabouts (such as the bridge) and that he was all for it, but his concern was the price tag: \$4.3 million on the high side and \$3.4 million on the low side. He asked if the long-term goal was even realistic.

Mr. Atkins responded that his view was that if the City doesn't have something to guide it, then improvements could be completed in a "hodge-podge" way that wouldn't have a theme that carries on from the completed improvements in the downtown such as the stone caps on the walls. He continued that the theme didn't have to be exactly the same throughout, but the idea was to have a guideline.

Councilor Kincaid said he thought the Concept Plan was great, but realistically, he wondered if it would be a 10, 15 or 20-year plan. He added that in looking at 2017's Budget, it would probably be a 20 or 25-year plan. Councilor Kincaid said he agreed that the City should start with improvements to the roundabouts soon because that is the main focus of people currently.

Councilor Karisny stated that on Page 4 of the Plan, it shows the proposed sequence of projects, which were just suggestions within the Design Plan, and added that the City is already looking at the roundabouts first, just as the Plan recommends.

Mr. Atkins pointed out that the illustration on Page 4 was actually a "View Impact" map and not necessarily a project priority list. He further explained that this was to show where the most impact areas in the City are, regardless of price, and the area having the most impact is the bridge (over I-70), which is also the most expensive part of the plan.

Councilor Karisny asked for confirmation that the examples were just ideas and the City would be addressing opportunities as they come along. Mr. Atkins agreed and said that an example, on Page 10 of the Plan, there are several examples of the entry signage that would go on the northwest corner of the westbound ramp. As people are coming in westbound, the sign would be sitting on the right and it would have way-finding features pointing to the Southside Marketplace and downtown Fruita. He noted that there were various examples of the signs in different colors and made of materials as well as examples of having the chain rings included or not. Mr. Atkins said he believes the plan has flexibility and it just gives the City a direction towards which to move.

Councilor Karisny referred to some of the sources for future funding, stating that there is a CDOT road that goes through Highway 340 and that in the past, there were some CDOT funds for Highway 6 & 50 that the City had used for sidewalk & beautification, so he wondered if CDOT was still a potential source for future grant funds for the Gateway Enhancement Project. Mr. Atkins responded that there definitely could be, but he wasn't familiar with all the available grant funds at this point.

Councilor Karisny asked if the part of the right-of-way on the interstate would be considered a state highway also and how funding for it would work. Mr. Atkins said that the area is all within CDOT right-of-way, but he didn't see any state or federal transportation agencies (CDOT or FHWA) participating because they are not interested in beauty; they are only interested in the functionality of the highway system.

Public Works Director Ken Haley added that he thought Councilor Karisny was referring to the City's previous trail projects where there were beautification grants available that Fruita used for trail and landscaping along the highway. He continued that those beautification grants have been locked into what is now the *Transportation Alternative Program*, which in large part is funding for many of the City's trail projects and that beautification projects also would qualify under the *Transportation Alternative Program*. Mr. Haley continued that most of the improvements that Mr. Atkins had been showing in his presentation would be in the roundabouts along the Highway 340 corridor and Fruita could potentially be eligible for funding at (typically) a 20% match requirement.

Councilor Karisny stated that he would be supportive of the Concept Plan.

Councilor Bonar stated that he was dwelling heavily on the Councilor Kincaid's point that the funding for most of the Plan is not readily apparent and probably would not be spent while the current Council members are serving. He said he wondered how bound future Fruita City Councils would be to the plan if the current Council approved it.

Mr. Atkins responded that he was assuming that the plan could either be amended (or even thrown out, for that matter) down the road through Council action. He said that in 25 or 30 years, many aspects such as architecture would probably have changed over time, so the plan could or would likely be revisited and amended in the future with a redirect or refocus.

Councilor Bonar stated that he sees the merit in having a plan and a direction to move in, but he feels less than comfortable about binding the hands of people who will make the decisions to spend money that the City doesn't currently have. He added that it is a grand plan that has a lot of merits and asked if it would make sense to include some perspective phasing.

Councilor Bonar said he thought everyone on the Council agreed that the "low-hanging fruit" is some sort of improvement to the appearance of the roundabouts and this was probably as close as the City could come in the foreseeable future and that perhaps the directional signage at the top of the westbound I-70 exit would be the next logical place that the City could get their "bang for the buck."

Councilor Bonar reiterated his question of whether the plan should include some aspects of phasing or if the Council should just adopt the plan and improvise from here on.

Mr. Atkins responded that the phasing aspect was implied by the prioritization of the areas, but that if an opportunity for one item comes up before a previously listed one, the City probably wouldn't insist on doing them in a certain order.

Councilor Bonar asked Mr. Atkins to confirm that the plan has a great deal of flexibility built into it as to the execution of the concept. Mr. Atkins confirmed that this was true.

Councilor Bonar stated that because of the flexibility, he felt comfortable with the plan.

Councilor Harvey said he thought the downside to not approving the plan would be the money and efforts that have gone into it thus far. Mr. Atkins agreed that not approving the plan would take away the direction that the plan provides.

Councilor Harvey said he thought everyone probably agrees that flexibility is the key.

Councilor Brackett referred to the physical features of the roundabouts; saying that he thought there should be consideration for consistency and uniformity with the present signage that currently exists in Fruita and that the improvements in one of the roundabouts could include the word "Fruita" with directional arrows that would be visible to travelers but also small enough not to cause any safety concerns.

Mr. Atkins noted that the directional signs in the Concept Plan (he thought) were already fairly similar to existing signs at Fruita parks.

Mayor Pro Tem/Councilor Bonar asked if anyone on the Council had any concern about the Conceptual Design as proposed (with the understanding that there is some built-in flexibility as to the phasing and execution of the plan). No one expressed any concerns, but Councilor Kincaid said it would be important to include the Downtown Advisory and Arts and Culture Boards. Councilor Bonar asked if those boards wanted to be included in the execution of aspects of the plan or if they wanted to help decide whether certain projects should be completed or not.

Councilor Harvey asked if each step in the process (such as what the signs would look like or other details) would be brought to the Council for approval, even if informal. Mr. Atkins said that staff will be bringing those details to the Council for approval because of the importance and significance of everything involved.

Mayor Pro Tem/Councilor Bonar said it seemed to him that the Council was in favor of the Gateway Enhancement Conceptual Design Plan without amendment to it.

Councilor Brackett said the motion should include options of flexibility with the costs and money that is or is not available.

Finance Director/Margaret Sell said the Conceptual Design is just that; it is conceptual and can be modified to change as the City goes through the process and as times change. She added that it is not a limiting document, it is a starting point.

- **COUNCILOR KREIE MOVED TO APPROVE THE GATEWAY ENHANCEMENT CONCEPTUAL DESIGN. COUNCILOR KARISNY SECONDED THE MOTION. THE MOTION PASSED WITH SIX YES VOTES.**

B. PUBLIC WORKS DIRECTOR KEN HALEY

1) LAGOON PROPERTY CONCEPTUAL DESIGN PLAN APPROVAL

Public Works Director Ken Haley gave staff's presentation. He said there are a number of stakeholders and a lot of public feedback involved in the Lagoon Property Conceptual Design Plan, which was discussed with the City Council in November. Modifications have been made since then, so staff wanted to bring those back before the Council.

Mr. Haley noted that the lagoon property encompasses 25 acres and that the City of Fruita also owns some adjacent properties in partnership with Mesa County and the Riverfront Foundation, which were purchased for the purpose of open space and the Riverfront Trail. The section of that trail (the Little Salt Wash Trail) has been constructed down along the Little Salt Wash south to the Colorado State Park. Mr. Haley said that the plan looks at not only the 25 acres but also the entire 40 acres of all pieces of involved property together to make sure that they are compatible in a plan that will best utilize all the properties.

Mr. Haley said that staff completed a community survey and it really supported a lot of mixed uses at the site including open space and recreation (the most desirable use on the property) and commercial development (the second most supported choice). Concepts were designed to depict what this means in different mixes; some with a lot of commercial uses and some with a little less.

Mr. Haley stated that the process has identified a lot of challenges as well as advantages at the site. The biggest advantages are the location: visibility from I-70 and easy access from the interstate, as well as direct access to the Riverfront Trail. He added that the property has great views looking across the river and into the State Park and already has a lot of utilities on site. Mr. Haley said the properties have potential for great connectivity with the Riverfront Trail and connecting commercial areas with the newly constructed Little Salt Wash Trail, the State Park, Greenway Business Park and even into downtown Fruita.

Mr. Haley said that since the property is City-owned, the City has a little more say in what goes on there rather than just zoning it and waiting for a developer or private property owner to propose something.

Mr. Haley stated that the biggest challenges with the property include costs. For the past five years, there have been a lot of discussions about how to fill the lagoons back to a flat grade to restore them to a buildable lot. He said it would likely cost over \$2 million to fill the ponds and compact them with materials suitable for development.

Mr. Haley added that being close to the river, the properties do have fish and floodplain impacts depending on how development is done. Of the four ponds, the one in the southwest corner of the property is entirely within the 100-year floodplain, so if that property were to redevelop with buildings and structures, it would have to be filled and raised above the floodplain.

Mr. Haley said that one of the opportunities for the site that has resonated and stuck throughout the design process is maintaining some bodies of water and creating lakefront-type properties. This is a benefit to commercial properties and will significantly reduce the development costs of filling in the holes.

Mr. Haley said that staff has heard from the Parks and Recreation Advisory Board, the State Parks, the Southside Marketplace business owners, the Planning Commission and all agreed that the property should not be commercialized right up against the Riverfront Trail; that an open space buffer should be provided. He said the Colorado River itself is a huge amenity to the community and staff wants to make sure to enhance it as much as possible.

Mr. Haley continued that the Parks and Recreation Advisory Board and other groups are really excited about the expanded programming and event opportunities at the site such as potentially expanding the Fourth of July Fireworks Celebration and adding concerts and festivals. Staff also wants to maintain the natural setting and views.

Mr. Haley said that some other recreation ideas included having indoor space as well for classrooms, climbing walls, and indoor sports fields. He noted that the Concept Plan shows an indoor Field House for these kinds of opportunities.

Mr. Haley noted that staff had previously heard from the Council that they want to keep the Concept Plan flexible so that there would be lots of opportunities for different types of businesses and funding sources. The Concept Plan includes a report with language regarding this. The document also notes that the site would not be best suited for any industrial uses and very few people said they would support residential uses at the site. Mr. Haley said staff agrees that residential on its own probably would not be a sustainable or best use of the property.

Mr. Haley continued that staff shared a few alternatives for the Concept Plans in November with the Council, but he was presenting the Council with one Concept Plan that includes all the key factors in the feedback received from stakeholders. The factors include incorporating family-friendly parkland, mobility for motorized vehicles as well as bikes and pedestrians, land for developing public gathering spaces, taking advantage of the views on the site both to the west and to the south and providing an entrance from Raptor Road so that people actually know that the property is there.

Mr. Haley showed the Concept drawing of the Plan on the overhead projector. He noted that the Council previously showed support for an anchor store on the south side of the property. One thing in the plan that did change was the layout of the traffic circulation and parking. Staff showed two Concepts to the Council in November; one having a dead-end system and one having a looped road system. Mr. Haley stated that one of the concerns from the Council was that a looped road system would create a “racetrack” and wouldn’t be pedestrian or bicycle friendly, so the plan he was presenting tries to incorporate the two together by providing a looped system that traverses through pedestrian friendly and parking-type areas so that it would be more like a developed shopping center with crosswalks and traffic calming benefits.

Mr. Haley stated that one of the other comments from the Council (Councilor Karisny) was regarding the left turn out movements from the development being problematic, especially during large events. He pointed out that the Concept Plan rendering shows a roundabout at the entrance/exit intersection, which would help substantially with circulation. He added that even if the intersection were a standard “t” type intersection, the amount of traffic and stacking distances that would be generated from the parking lot would be pretty minimal. Mr. Haley said that the City would probably have to work out some shuttling opportunities during large events anyway.

Mr. Haley said that staff also looked at some opportunities to incorporate a one-way loop for traffic circulation, which he said would actually create more traffic backups because there would only be one way in and one way out. He said that the other way, the traffic would be dispersed a little better and would slow it down to where it would be more friendly for bikes and pedestrians.

Mr. Haley said that there were also some discussions with the Parks and Recreation Advisory Board regarding the sports field that was depicted in a previously shown concept design. At that time, the idea was to have an open space and park area near the river and a separate, dedicated sports field that could even have a synthetic surface that could be used year around. The Parks and Recreation Advisory Board decided, however, that it might be better to have the space flexible and incorporated into a larger turf area. Mr. Haley referred to it on the plan as the “multi-use” turf area, which would be the size of a full-size soccer field. This side of the property is what is currently in the floodplain, so it would be best for open space and park areas.

Mr. Haley said the Parks and Recreation Advisory Board also discussed the size of the field house and so staff did some further investigation on types of indoor sports fields and the sizes of them. He noted that the size of the facility on the amended plan had been changed to accommodate an indoor sports field.

Mr. Haley stated that there was a section in the report that talks about implementation, which will be the hard part. He added that the intent of the whole Concept process was to come up with a foundation that could be used as the City begins discussions with potential developers or opportunities for grant funds or other partnerships.

Mr. Haley noted that City staff already has had a few discussions with developers that are interested and that they get excited when they see the Concept Plan. He added that it was not part of the City's Master Plan or any regulatory documents for the City, so it did not require an official resolution to adopt.

Councilor Brackett asked if there would be proper circulation of the water on the property to prevent stagnation.

Mr. Haley responded that all three bodies of water in the Concept Plan are intended to be hydraulically connected. The City does own a considerable amount of water rights off the Colorado River that could be pumped into the lakes, where it would be circulated and then drained back out to the Little Salt Wash. He continued that the body of water directly to the north of the field house in the rendering (which is the smallest of the three) was specifically put there to have access to the field house and would be more suited for fishing tournaments and ice skating and the like. This pond would be a little bit more shallow and Mr. Haley agreed that circulation would be key to ensure odors are reduced, that algae is dealt with and to make sure that the bodies of water are an amenity and not a liability.

Councilor Kincaid said the biggest concern he has heard is regarding the odor that comes from the property and he asked if there was going to be a way to handle it.

Mr. Haley said that he was really excited to have a Concept Plan because in the short-term, it does provide staff with some guidance. For example, if the City were to receive some fill material, staff would then know where to put it rather than just filling in a pond and later realizing that it shouldn't have been filled.

Mr. Haley continued that widening the entrance road and filling the southwest pond would be a priority for any fill material receiving should the plan be adopted. One of the issues staff currently has is the elevation of the ponds where there is only about a foot of groundwater because it can't be circulated real well. Algae grows and then dies and smells any time it is stirred up, even by the wind. Mr. Haley said the City would have opportunities to either drain the ponds to reconfigure them or consolidate the water to one pond versus having it spread over four bodies of water. He said chemicals can be used also, but staff tries to avoid using too many of these, especially those that may have a residual effect on the property. He said staff is taking steps and will continue to do so to minimize the odors as much as possible.

Councilor Kreie said he was assuming that when it is all said and done, the properties may look completely different from the Concept Plan but that there would be some key elements that would remain. Mr. Haley agreed that depending on who the City may partner with or what opportunities arise, the property may look entirely different when the actual development is completed.

Mr. Haley recalled that the original Concept Plans for the Fruita Community Center (FCC) looked nothing like the facility that was actually built, and as design phases and logistics were worked out, many aspects of the plan changed such as the original idea of putting the basketball court on the west side and the pool on the north side of the building. Mr. Haley said the resulting facility was still based upon the Concept Design, however.

Councilor Kreie asked if the Council would be presented with any public/private partnerships that could be formed. Mr. Haley assured the Council that staff would make sure the Council was as comfortable as possible with the forming of any such partnerships. He added that although partnerships can include risks, there are huge benefits to working together to make development a reality. Mr. Haley said to his knowledge, the City of Fruita has never entered into any public/private partnerships on any development of this scale.

Councilor Harvey said he thought the Concept Plan for the lagoon properties looked great and he didn't have any real concerns with the concept at all.

Councilor Karisny noted that one of the Planning Commissioners, Whitney Rink, was present in the audience and asked if she had any comments. He said that when the three concept plans came before the Planning Commission a number of months ago, the Commission was very excited about the plans and spent a lot of time looking at all three in order to choose one. Councilor Karisny said the most recent comment from a Planning Commission member was from Doug Van Etten, who was talking about the opportunities for ice skating (which are described in the plan on Page 14). He continued that he thought some of the Planning Commissioners have a sense that the Concept Plan is a plan much like the Gateway Enhancement Plan in that it is a guide for development.

Councilor Karisny said he recalled in the presentation to the Planning Commission that it was discussed how the City doesn't have the money to implement the plan, how public/private partnerships could provide a way of making things happen and that the Plan is a long-term (25 – 30 years) endeavor.

Councilor Karisny asked if the Concept Plan addresses the 15 acres of property jointly owned with BLM land that has a footbridge to the north. Mr. Haley responded that the BLM wishes to maintain everything on the west side of the washes as open space. He said that it has been discussed as to what uses might be appropriate there, and the BLM does not want the area developed or commercialized in any way.

Mr. Haley said the bridge could ideally provide not only pedestrian access, but perhaps also vehicular access since access is limited on that side of the wash.

Councilor Karisny asked if the City is currently using any part of the properties besides the existing tree farm. Mr. Haley showed where the current .5 acre tree farm is located on the Concept drawing

and pointed out that on the south side of one of the bodies of water, there is a long storage yard for extra manholes, bulk gravel and other materials that take up about 2.5 acres. Staff will eventually have to find an alternate location for this storage.

Councilor Karisny said the plan seems to incorporate the ideas that have been discussed over the last couple of months.

Councilor Bonar asked if the other Planning Commissioner member present (Whitney Rink) had anything to share that hadn't already been covered.

Ms. Rink said only had a lot of questions about the Gateway Enhancement Concept Design, but that the Lagoon Properties Plan was in line for the appropriate development of the area.

Councilor Bonar said he felt that staff had quite successfully incorporated the comments they heard from the Council, so now the City just needs to find someone to help make it work.

Mr. Haley commented that the City already has had some prospective interests in the property. One prospect actually wanted to give the Council a presentation, but this may or may not happen. He said it is nice to know that talking about the plan does open up a lot of discussions and gets people interested.

Councilor Bonar asked if staff had any ballpark figures for the cost of lining the ponds as was mentioned in the plan as a possibility. Mr. Haley responded that staff did not have an estimate yet, but that once the plan was adopted, could provide that to the Council.

Councilor Bonar asked about the feasibility of moving forward with excavating the lakes to a deeper depth so that there could be more water to help control the odor, perhaps then lining the ponds and getting that done as a start on the infrastructure. He also asked what kind of lining for the ponds the plan was referring to.

Mr. Haley responded that it depends; if the primary goal is just to retain water before it is lost to percolation, the City could use a bentonite expansive type soil material. If the purpose of lining would be to hold in even more water and keep it at a set level all the time, some type of polymer or heavier-duty liner would be required. Mr. Haley added that the City has plenty of water rights on the Colorado River, but there would also be electrical costs for the pumping and circulating of the water. Mr. Haley said there are many alternatives that would need to be evaluated.

- **COUNCILOR KARISNY MOVED THAT THE CITY COUNCIL APPROVE THE LAGOON SITE REDEVELOPMENT CONCEPT PLAN. COUNCILOR KREIE SECONDED THE MOTION. THE MOTION PASSED WITH SIX YES VOTES.**

C. CITY MANAGER MIKE BENNETT

1) CITY LOGO LICENSE AGREEMENT

Human Resources Director Odette Brach gave staff's presentation. She stated that after the adoption and roll-out of the new City logo during 2016, a variety of local businesses have expressed an interest in being able to gain permission from the City to sell merchandise that displays the City logo. During discussions with City staff and City Council, it has been determined to be in the best interest of the City to allow willing businesses to sell suitable merchandise displaying the logo via a trademark license agreement with no fee owed to the City, with the exception of applicable sales tax on the merchandise.

Mrs. Brach noted that a trademark license agreement that had been reviewed and edited by the City Attorney was included in the Council packet. The agreement provides license of the City's logo to businesses with agreed upon uses of the logo and quality control. The agreement also provides provisions for Indemnity, Enforcement, Default & Termination and a three-year term of the agreement that may be renewed.

The licensee is required to detail an exhaustive list of potential products and services being contemplated to incorporate the logo, request any anticipated manner of incorporating the logo into their own design or logo and identifies the locations of where products and services will be sold or advertised.

Under the direction of the City Manager, staff will manage the advertising of, review of and administration of the logo trademark license agreement. Staff is currently working on a web-based application process to simplify the procedure.

Mrs. Brach explained that the process would include a business filling out the online agreement, which would be forwarded to her for approval. An e-mail is then sent back to the businesses advising them of the status of the approval.

Councilor Karisny asked if the trademark on the City logo had to be registered with the Trademark Office before the City would approve a trademark license agreement with Fruita businesses. Mrs. Brach responded that she is working on the application to register the City's trademark, but that would not hold up and requests from businesses requesting to use the logo.

Councilor Kincaid explained that from its creation, any piece of artwork is copyrighted, so the City's logo is under a copyright. He said that a trademark is just a higher level of a copyright.

Councilor Kreie asked for confirmation that the City has an agreement with the female student that originally designed the logo. Mrs. Brach confirmed that the City does.

Councilor Bonar referred to Page 8 of the agreement, which lists the items that would be excluded from the agreement (may not be used on products) such as alcohol, tobacco and smoking products, food products, sexually oriented goods and others. He pointed out that there was no mention of cannabis products and asked if that meant that the agreement would allow that. Mrs. Brach said cannabis wasn't specifically spelled out unless someone wanted to interpret "smoking products" as cannabis products.

City Clerk/Finance Director Margaret Sell stated that cannabis products could be easily added to the agreement. Mrs. Brach said this was likely an oversight and wasn't intentional.

Councilor Bonar asked if staff could deny an application requesting to use the City logo on cannabis products. Mrs. Brach responded that she would assume that staff could deny that application. Councilor Bonar asked what staff would use as a justification for denying the application should the applicant complain. Mrs. Brach said that she thought it would probably be safest to just add cannabis products to the list of those products that are excluded if that is what the Council wanted.

Councilor Bonar said it wasn't his intention to advocate that cannabis be added to the list of excluded items; he was just pointing out that it wasn't there.

Mrs. Sell said it was her guess that the agreement was taken from a template that wasn't very current.

Councilor Karisny said that Councilor Bonar had a good point and that there could be other things that haven't been thought of. He asked if the agreement could include a mechanism that would allow items to be added to the list if staff is presented with something that is questionable. He also asked if staff could deny an application for an item that wasn't included on the list.

Mrs. Brach responded that she thought there was some language that could be added to the agreement that the list is not an exhaustive one.

Councilor Bonar suggested that there also be some sort of language for an appeal process to appeal a staff decision, the same as there are appeals processes for many staff decisions.

He asked if staff could come to the Council at a future Council meeting with an amendment to the language or if that was the right approach.

Mrs. Sell responded that she thought that staff could just add the language.

Councilor Bonar said he would like to give staff the authority to make decisions about things that aren't specifically listed in the agreement, but he would also like a process to be in place in case someone complains. He also said he also didn't want to spend a lot of time right then trying to figure out a place to insert the language in the document.

Mrs. Brach said she was confident that staff could craft some appropriate language.

Councilor Bonar stated that he was comfortable with the license agreement with the understanding that staff would be amending it to cover the shortcomings.

- **COUNCILOR KINCAID MOVED TO APPROVE THE USE OF THE ATTACHED LOGO TRADEMARK LICENSE AGREEMENT WITH THE SPECIFIC MODIFICATIONS THAT THERE BE A SECTION RELATING TO STAFF APPROVAL OTHER ITEMS. COUNCILOR BRACKETT SECONDED THE MOTION. THE MOTION PASSED WITH SIX YES VOTES.**

9. CITY MANAGER'S REPORT

City Clerk/Finance Director Margaret Sell said that the City Manager had sent out an e-mail to the Mayor and Council about the Grand Valley Momentum Initiative meeting on January 27th. She requested that anyone wishing to attend RSVP by Friday with the Deputy City Clerk.

10. COUNCIL REPORTS AND ACTIONS

A. SANDS LAW OFFICE, LLC – A REQUEST TO AUTHORIZE THE MAYOR TO SIGN THE LEGAL REPRESENTATION AND FEE AGREEMENT WITH SANDS LAW OFFICE, LLC

Mayor Pro Tem Bonar asked if the Council members wanted to have any discussion about the agreement with Sands Law Office, LLC.

Councilor Kincaid said it had been discussed previously that the Council was supposed to be conducting a review of the City Attorney and he would like to see that scheduled because that was one of the responsibilities of the Council, just like the appointment of the Municipal Court Judge is.

Mrs. Sell said that staff could certainly schedule a review of the City Attorney on a future Council agenda.

Councilor Bonar asked if there needed to be language regarding a review in the agreement that was before the Council for consideration. Mrs. Sell responded that the agreement really only deals with compensation and language regarding the Council's ability to terminate the agreement within 30 to 90 days. She added that the Municipal Court Judge's agreement can go for a year or two before termination. Mrs. Sell also said that the City Attorney's fees have not increased in a number of years and that the 2017 Budget took into account the increase in the proposed agreement.

Councilor Kincaid said that his point was still that if the Council hasn't done a review of the City Attorney, then perhaps an increase should not be warranted. He said that in a normal review of contract employees, there are set responsibilities and that the Council has never looked at that for the City Attorney.

Councilor Bonar said he recalled a discussion but couldn't remember if the Council talked about an annual or twice per year review. Councilor Kincaid said that the Council discussed it several times and needed to schedule the review, whether it be formal or informal.

Councilor Bonar pointed out that asking Mr. Sands to come to Fruita costs the City about \$500, so that was something to consider.

Councilor Kincaid said it was still the Council's responsibility to review the City Attorney.

Councilor Kreie said that the Council should make sure that they are communicating with staff about how the City Attorney is doing because staff are the ones that are working with him.

Councilor Harvey agreed and said that the staff recommendation was to authorize the Mayor to sign the agreement. He asked Mrs. Sell if she had any concerns with the agreement.

Mrs. Sell said that staff does not have concerns with the fee and that staff has discussed the City's legal needs and challenges that are faced, although not necessarily the performance of the City Attorney. She said she believes that the City's legal needs might be a good discussion for staff to have as part of the review process.

Mrs. Sell said she wasn't sure if the fee increase proposed by the City Attorney was all that unreasonable compared to what the City pays for legal fees for Water Attorneys and Prosecuting Attorneys. She added that there may a larger question for the Council besides the Attorney Ed Sands.

Councilor Kincaid said he disagrees with getting input from staff because the Council is ultimately responsible for hiring and firing of the position of City Attorney. He said staff's input would be what he would call a "third-party opinion," which would be good to have, but ultimately it was the Council who was responsible. He said perhaps there should be a conversation with Mr. Sands regarding whether he would charge the City for the Council to do a review. Councilor Kincaid added that the Council should be reviewing the City Attorney at least once per year.

Councilor Harvey said he agrees with reviewing the City Attorney, but he has no experience in the court system at all, so he didn't know how he would be able to judge the attorney's performance.

Councilor Kincaid said his concern was that the position was the responsibility of the City Council.

Councilor Harvey said he definitely thinks the City Attorney should be giving the Council a report of some sort.

Councilor Kincaid said the Council has been lax in staying on top of the positions that the Council is responsible for, such as the Municipal Court Judge and he didn't want to see any repercussions from it. He said he personally thinks Mr. Sands is doing a great job from what he has heard, but Council really hasn't had an opportunity to chat with him face-to-face.

Councilor Harvey said he thinks he has only seen Mr. Sands once since he has been on the Council (almost three years).

Councilor Kincaid said he wants to make sure that the Council is doing its job and doesn't keep putting it off to a later date.

Mrs. Sell said that Councilor Kincaid's point was well taken and that if the other Council members agreed, a review process could be scheduled, but she thought the situation was different from that of the Municipal Court Judge because the Judge had a two-year contract.

Councilor Kincaid said he wasn't disagreeing with the fee agreement and that his issue was different.

Mrs. Sell suggested that the Council discuss how they want to approach a review process (whether formal or informal) at a workshop session.

Councilor Karisny said he thought that was a great idea.

Councilor Bonar said he agreed with Councilor Kincaid that the Council is responsible for hiring the City Attorney and that the Council should be able to show that they have reviewed the attorney's performance on a regular basis. He said he didn't know what the best mechanism for doing that would be, so he would support figuring out how to do it and stop putting it off. He said the discussion should be scheduled for the next workshop meeting and asked the Council if they had any other comments about the proposed fee agreement.

- **COUNCILOR KARISNY MOVED TO AUTHORIZE THE MAYOR TO SIGN THE LEGAL REPRESENTATION AND FEE AGREEMENT WITH SANDS LAW OFFICE, LLC. COUNCILOR BRACKETT SECONDED THE MOTION. THE MOTION PASSED WITH SIX YES VOTES.**

B. COUNCIL REPORTS AND ACTIONS

COUNCILOR BRACKETT

Councilor Brackett reported that the Parks and Recreation Advisory Board meeting was cancelled due to inclement weather. He also reported that he would be attending the Police Commission meeting the following evening and would report to the Council about that at the next Council meeting.

COUNCILOR KINCAID

Councilor Kincaid reported that the Fruita Chamber Board of Directors met the previous week and appointed a new Executive Board. The new appointments are as follows:

- President: Derek Biddle, Family Health West
- Vice President: Andrea Gatley, Alpha Dog Systems
- Treasurer: Dustin Wells, Grand Valley Bank
- Secretary: Tyler Dixon, Attorney at Law

Councilor Kincaid continued that the Chamber Board also discussed the Bikes, Beers and BBQ event which will be held on May 20th (in place of the July 3rd event) at the Kokopelli/Southside Marketplace. The Chamber aims to make this an annual event around the Memorial Day holiday.

The Chamber's Annual Awards Banquet will be held on February 11th at the Fruita Community Center and the theme is #iheartfruita. The Chamber is still looking for auction items.

Councilor Kincaid said that the Chamber also discussed some recreation businesses in Utah that are looking at alternative locations besides Utah because it is not as outdoor recreation friendly.

COUNCILOR KREIE

Councilor Kreie reported that the Associated Governments of Northwestern Colorado (AGNC) has been on a holiday break and their first meeting will be held on February 14th in Fruita. He recommended that the other Council members attend if possible. AGNC is focusing on proposed laws.

Councilor Kreie also reported that the Downtown Advisory Board also met and discussed plans for later in the year.

COUNCILOR HARVEY

Councilor Harvey reported that the Arts and Culture Board is thrilled to have the opportunity to talk to the City Council.

Councilor Harvey said the Riverfront Commission will be meeting every other month, so he wouldn't have an update from them until the third Tuesday in February.

Councilor Harvey said he attended the Martin Luther King, Jr. March in downtown Grand Junction with this family.

Councilor Harvey noted that there is a current series of events called the "Western Colorado Days of Action," which are events in support of cultural diversity. He encouraged anyone interested to check out their Facebook page. There are also posters around Fruita advertising the different things going on such as the Women's March on Saturday, a film and discussion about immigration and poetry readings in support of the Women's March at the Lithic Bookstore and Gallery.

COUNCILOR KARISNY

Councilor Karisny reported that the Planning Commission meeting consisted of more training. Community Development Director Dahna Raugh explained the process that she sees when someone comes to the City with an application for development. She covered annexations, rezoning, conditional use permits, concepts/sketch plans, preliminary plans, vacation right-of-ways, the variance process and the difference between what the Planning Commission sees and what she sees from the administrative side.

Councilor Karisny said that there was good attendance at the meeting and lots of questions. One of the things discussed was that the Planning Commission members would like to meet at 6:30 p.m. rather than 7:00 p.m. and it was the board's understanding that this would require Council approval. Mrs. Sell said she would have to look at the Fruita Municipal Code to see if it stipulates the Planning Commission's meeting time. If it does, an Ordinance would be required to change it.

Councilor Karisny said that the Planning Commission will meet at 7:00 p.m. in February because there have already been legal notices and postings of the hearings. At this meeting, the Planning Commission will see the application for the RV Park.

Councilor Karisny stated that a few months ago at the Planning Commission meeting, there was a discussion about Robert's Rules of Order and making a motion in the positive. He said he wasn't sure where the board landed with it, but the idea of it is that even if a Commissioner feels that he/she may deny something, they should make a motion in the positive; then it is clear when somebody says no and then they give a reason why. He said this was supposed to help make the process clear.

Councilor Bonar said in all of his experience, he has never been in a hearing process where the intent was to disapprove of the application, and so the motion was made to approve it and everyone voted no. He says that seems nuts.

Councilor Karisny said that is what he thought, but the Council may see the written Planning Commission minutes and wonder what it was about.

Councilor Karisny said that he is a frequent user of the Riverfront Trail and he feels that the City of Fruita does a great job of plowing the snow all the way up to the golf course (18 ½ Road), but it isn't plowed beyond that until about 19 ½ Road and then it is clear again. He asked if there was some discrepancy between the county and the City of Fruita on who is responsible for plowing that section of the trail.

Public Works Director Ken Haley responded that the City of Fruita has a Memorandum of Understanding (MOU) with Mesa County that stipulates that whatever parts of the Riverfront Trail that are in the City of Fruita limits, the City of Fruita maintains, and everything outside the city limits, the county maintains. He continued that this has been discussed in the past and in that area, there is kind of a patchwork of annexations, but the demarcation is 18 ½ Road. Mr. Haley said he would touch base with Mesa County to make sure there isn't a gap in maintaining the trail.

COUNCILOR BONAR

Councilor Bonar reported that the Historic Preservation Board rescheduled their meeting in January from the 2nd to the 9th because of the holiday and then cancelled on January 9th because of the weather.

Councilor Bonar said he has observed a number of seniors with walkers using the Little Salt Trail that are probably coming from Independence Village. He said it is a really great thing that the City was able to provide this trail resource to people who otherwise might not get out and about. Councilor Bonar said it should be realized that the trail is a really good benefit for people who don't necessarily fit the general demographic profile that most people think of for the Riverfront Trail.

C. EXECUTIVE SESSION – DISCUSSION AND POSSIBLE ACTION TO CONSIDER A MOTION TO CONVENE IN EXECUTIVE SESSION REGARDING PERSONNEL ISSUES UNDER C.R.S. SECTION 24-6-402(4)(F) (CITY MANAGER REVIEW AS PER CONTRACT)

The Executive Session was removed from the agenda due to the City Manager's absence.

11. ADJOURN

With no further business before the Council, the meeting was adjourned at 9:00 p.m.

Respectfully submitted,

Debra Woods
Deputy City Clerk
City of Fruita