

**FRUITA CITY COUNCIL MEETING
NOVEMBER 21, 2023
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 7:02 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

Excused Absent: City Councilor Aaron Hancey

City staff present: City Manager Mike Bennett
Communications and Engagement Specialist Ciara DePinto
Deputy City Clerk Deb Woods
Parks and Recreation Director Marc Mancuso
Planning and Development Director Dan Caris
Public Works Director Kimberly Bullen
City Attorney Mary Elizabeth Geiger

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 MILLER MOVED TO ADOPT THE AGENDA AS PRESENTED. COUNCILOR BREMAN SECONDED THE MOTION. THE MOTION PASSED WITH FIVE YES VOTES.**

4. PROCLAMATIONS AND PRESENTATIONS

- A. PRESENTATION – PRESENTATION AND CONSIDERATION OF A MEMORANDUM OF UNDERSTANDING (MOU) BETWEEN THE CITY OF FRUITA AND THE WESTERN COLORADO BUSINESS DEVELOPMENT CORP. DBA BUSINESS INCUBATOR CENTER (BIC) – CITY MANAGER MIKE BENNETT AND BIC EXECUTIVE DIRECTOR DALIDA BOLLIG**

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

5. PUBLIC PARTICIPATION

There were no comments from the public.

6. CONSENT AGENDA

- A. MINUTES - A REQUEST TO APPROVE THE MINUTES OF THE OCTOBER 3, 2023 REGULAR CITY COUNCIL MEETING**
- B. BOARDS AND COMMISSIONS APPOINTMENT – A REQUEST TO APPROVE THE APPOINTMENT OF CARLEE BURNETT TO THE ARTS AND CULTURE BOARD TO FULFILL AN UNEXPIRED TERM PLUS AN ADDITIONAL THREE-YEAR TERM TO EXPIRE IN DECEMBER OF 2026**
- C. RESOLUTION 2023-33 – A REQUEST TO APPROVE RESOLUTION 2023-33 – AUTHORIZING THE CITY MANAGER TO SIGN A MULTIYEAR PROFESSIONAL SERVICES AGREEMENT BETWEEN THE CITY OF FRUITA AND RHEMA MUSIC AND CLOTHING (COUNCILOR WILLIAMS) FOR CONCERT PRODUCTION SERVICES AND PROVIDE PUBLIC DISCLOSURE OF THE AWARD**
- D. RESOLUTION 2023-36 – A REQUEST TO APPROVE A RESOLUTION OF THE FRUITA CITY COUNCIL SETTING A HEARING DATE FOR JANUARY 16, 2024 TO DETERMINE THE ELIGIBILITY OF ANNEXATION OF APPROXIMATELY 14.52 ACRES OF PROPERTY LOCATED AT 1873 K ROAD TO BE ANNEXED INTO THE CITY LIMITS AND CONSIDER INITIATION OF ANNEXATION PROCEDURES (*1873 K ROAD ANNEXATION*)**
- E. ORDINANCE 2023-15 – FIRST READING – INTRODUCTION OF AN ORDINANCE AMENDING CHAPTER 3.18 OF THE FRUITA MUNICIPAL CODE CONCERNING EXCLUSIONS FOR THE SALE OR PURCHASE OF LODGING AND AMENDING THE DEFINITION OF LODGING FOR PUBLIC HEARING ON DECEMBER 19, 2023**
- F. ORDINANCE 2023-17 – FIRST READING – AN INTRODUCTION OF AN ORDINANCE AUTHORIZING THE CONVEYANCE OF WATER RIGHTS AND REAL PROPERTY OF THE CITY REFERRED TO AS ENOCH’S LAKE LOCATED ON PINON MESA FOR PUBLIC HEARING ON DECEMBER 19, 2023**
- G. FINANCIAL REPORTS – A REQUEST TO APPROVE THE OCTOBER 2023 FINANCIAL REPORTS**

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

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

7. ACKNOWLEDGMENT OF NEWLY APPOINTED OR REAPPOINTED BOARDS AND COMMISSIONS MEMBERS

Mayor Kincaid acknowledged Carlee Burnett (not present in the audience), who was appointed to the Arts & Culture Board on the Consent Agenda.

8. PUBLIC HEARINGS

A. QUASI-JUDICIAL HEARINGS

There were no Quasi-Judicial Hearings on the agenda.

B. LEGISLATIVE HEARINGS

1) RESOLUTION 2023-35 – PUBLIC HEARING – AMENDING THE 2023 BUDGET WITH SUPPLEMENTAL APPROPRIATIONS OF FUNDS FOR CAPITAL PROJECTS, EQUIPMENT, PURCHASED SERVICES AND SPECIAL PROJECTS – ASSISTANT CITY MANAGER SHANNON VASSEN

Assistant City Manager explained that Resolution 2023-35 is a 2023 Budget Amendment request to provide supplemental appropriations of funds in the General Fund, Conservation Trust Fund, Capital Projects Fund and the Trash Fund. He referred to the table included in the Council packet that outlines all the changes to the budget as part of the resolution and reviewed each of them individually for the City Council.

Mayor Kincaid opened the public hearing on Resolution 2023-35. Hearing no comments from the public, he closed the public hearing and referred the matter to the City Council.

- **COUNCILOR WILLIAMS MOVED TO ADOPT RESOLUTION 2023-35 – AMENDING THE 2023 BUDGET TO APPROPRIATE FUNDS IN THE GENERAL FUND, CONSERVATION TRUST FUND, CAPITAL PROJECTS FUND AND THE TRASH FUND FOR THE CAPITAL PROJECTS, EQUIPMENT, PURCHASED SERVICES AND SPECIAL PROJECTS. COUNCILOR MILLER SECONDED THE MOTION. THE MOTION PASSED WITH FIVE YES VOTES.**

2) 2024 ANNUAL BUDGET – PUBLIC HEARING AND PRESENTATIONS – ASSISTANT CITY MANAGER SHANNON VASSEN

Assistant City Manager Shannon Vassen stated that this presentation was the fourth and final budget presentation on the 2024 draft budget. He pointed out that in the Council packet, he included a document with the coversheet listing all budget changes following the first draft of the budget. Mr. Vassen stated that most of these changes were minor, but one of the bigger changes was the addition of \$165,000 to the Engineering line item of Mountain Water Properties to go under contract for the design and planning of the breach of Reservoir #2. There were also some significant increases in the

City's Liability and Property Insurance in the Non-Departmental Budget due to the City paying \$243,000 next year for insurance, which is up from \$175,000 from last year.

As part of the public hearing, Mr. Vassen provided budget presentations on highlights from the following sections of the 2024 Budget:

- Budget Overview & All Funds Summary
- Economic Health and Development Overview
 - Community Development
 - Economic Development Fund
 - Marketing and Promotion Fund
 - Housing Authority Fund

Mr. Vassen noted that after the Colorado state legislature went into a special session over the weekend to address property taxes, rental assistance and a few other items, what resulted were a few changes in the City's normal budget process. At the special legislative session, the deadline for the County Assessor to provide assessed valuations to the City was extended to January 3rd. As is required pursuant to state Budget Law, the City must submit the mill levy to the County Commissioners by December 15th for certification. Therefore, the City is now required to adopt a Budget and certify the mill levy afterwards instead of at the same time.

Mr. Vassen further explained that the bill that was passed was similar to Proposition HH with a few slight changes such as an increase of the exemption on assessed valuations for calculations, a decrease in the residential assessment rate from .0765% to .76% and the elimination of any backfill that local governments receive if they have an assessed valuation change of year over year of over 15%. The City of Fruita will not be getting any backfill as a result of the action of the legislature, but it will reduce property taxes for residents next year.

Mr. Vassen said that for the City, it is a little unclear how staff should move forward with the new dates that are into the new fiscal year and staff won't know what the property tax will be until the mill levy certification is received, which may or may not be in January or late December. He added that he contacted the County Assessor's office earlier in the day, but could not reach the new Assessor. He did speak with their Management Analyst and she said the Assessor was mostly with the County Commissioners because their revenue is mainly based on property tax whereas the City's is just one line item.

Mr. Vassen explained that the options were to adopt the Budget as is, estimate what the property tax revenues will be and then certify the mill levy after staff receives the assessed valuations from the Assessor or the public hearing can be continued to December 19th with the hope that the valuations are received by then. If they are not, then a special meeting will need to be scheduled in January.

City Manager Mike Bennett noted that some cities have already adopted their Budget and some have scheduled their final hearings, but staff was recommending that the Council continue the public hearing on the Budget until December 5th (and not schedule a special meeting in January of 2024). He added that if the Budget is approved on December 5th and staff receives the new valuation revenue numbers and they are slightly different, then the Council would need to take official action sometime next year that would be similar to a Budget amendment. Mr. Bennett pointed out that the mill levy rate hasn't changed in at least 45 years and with the change, the City will receive more revenue than

anticipated in the Budget but staff does not know by how much. Mr. Vassen said he purposely budgeted lower revenues because he was anticipating that Proposition HH may pass and that anything above and beyond that will just offset what the City is spending out of Fund Balance.

Mr. Bennett added that a second option for the Council (besides continuing the public hearing to December 5th) would be to continue the public hearing to December 19th when staff will hopefully have the new values. Mr. Vassen said it was a possibility that staff would have more information at the November workshop meeting of the Council.

Mr. Vassen finished delivering his Budget presentations.

Mayor Kincaid opened the public hearing on the 2024 Annual Budget. Hearing no public comment, he closed the public hearing and referred the matter to the City Council.

There was discussion about how the Housing Authority will also need to adopt their Budget after the City Council adopts theirs and the Council decided to add it as an agenda item at the next City Council meeting. The procedure will be to adjourn as the City Council and move into a Housing Authority meeting to adopt the Housing Authority Budget, after which they will adjourn that meeting and return to the regular Council meeting.

Councilor Williams asked how successful staff would measure the City's new Building Department compared to years before when Fruita contracted those services through Mesa County. Mr. Bennett explained that Fruita never received any of those revenues prior to issuing building permits in-house but since then, revenues are double what staff estimated them to be and Fruita is far ahead of Mesa County in turnaround time.

Mr. Vassen also provided a quick summary of all Funds as follows:

Excluding transfers, the overall 2024 Budget is \$33.8 million, which is an increase of 12% over the prior year with all going towards Capital Projects and Capital Equipment. Revenues are \$27.3 million overall, which is a slight decrease over the prior year, mostly due to the completion of Capital Projects including a number of them at the Wastewater Reclamation Facility. Sales tax revenues and miscellaneous revenues are all up and charges for services are estimated to increase overall.

For two years now, the City has been trying to spend into the Fund Balance but hasn't been able to for miscellaneous reasons. Mr. Vassen stated that in 2024, the City will be spending \$6 million to \$7 million if all goes well.

Sales tax is trending well ahead of the City's 2022 collections by 10% overall with good gains in retail, food and beverages and utilities. County sales tax is estimated to remain relatively flat.

\$13.9 million of the \$27.3 million comes from tax revenues, which is an increase of 2% from the prior year.

Intergovernmental revenues (such as grant revenues) are expected to decrease overall. \$2.7 million is set aside in grant revenue for projects next year, which include S. Mesa Street improvements, Kingsview Lift Stations and downtown sewer improvements.

Charges for services (sewer, trash, irrigation water and Fruita Community Center (FCC) fees) are expected to increase 5%, which is a combination of actual rate changes and anticipated growth. The sewer fee will increase from \$51 to \$52.55 per month and trash will increase from \$17.70 to \$18.90 per month. There is also a \$1 increase on daily admissions in FCC fees.

On the expense side, 55% of the Budget goes towards operations (salaries, benefits, supplies, purchased professional services and purchased property services) and 39% goes toward Capital. There is \$2 million in Debt for the FFC and the Wastewater Reclamation Facility.

Operating expenses of \$18.4 million are budgeted to increase 11% over the Budget and 14% over estimated actuals. The biggest portion of operating expenses is personnel at \$10.6 million and including capital expenses and transfers, the City is at less than 50% for ratio of actual personnel expenses to total Budget, which Mr. Vassen called fairly lean considering some cities are at between 50% to 80% for personnel. Other operating expenses include supplies (utilities, tools and equipment) at \$1.9 million and special projects of \$287,000, which includes increases to the fireworks display, downtown artwork (murals at the N. Mulberry St. space and additions to the “HeArt of Fruita”) and contingencies, which are any unexpected expense that may come up during the year.

There is \$13.2 million overall budgeted for Capital and out of that, \$1.2 million is for equipment and \$12 million is for Capital Projects, which includes \$6 million for 19 Road construction, \$2 million for the South Mesa Street improvements, \$700,000 for FCC improvements and other various projects.

Mr. Vassen stated that the City is intentionally spending into the red for a number of Funds. There are Budget policies that the City has to follow, the first and most important being that the City has to adopt a balanced Budget but at the same time, the City can spend excess revenues on Capital Projects and Capital Equipment.

Councilor Breman asked how many full-time employees work for the City of Fruita. Mr. Vassen said he thought it was right at 82, but with the changes next year, it will be 86. Two of those will be conversions of existing part-time employee positions. Mr. Bennett explained that these numbers were not for full-time equivalent numbers, which now includes typical part-time employees and officials and is at 127.31 based upon hours and a normal calendar year.

- **COUNCILOR BREMAN MOVED TO CONTINUE THE PUBLIC HEARING ON THE 2024 ANNUAL BUDGET UNTIL THE DECEMBER 19, 2023 CITY COUNCIL MEETING. COUNCILOR PURSER SECONDED THE MOTION. THE MOTION PASSED WITH FIVE YES VOTES.**

9. ADMINISTRATIVE AGENDA

There were no Administrative Agenda items.

10. CITY MANAGER’S REPORT

City Manager Mike Bennett reported the following:

11. COUNCIL REPORTS AND ACTIONS

A. ESTABLISHING A COMMITTEE TO REVIEW POSSIBLE “LOCALISM” BOARD

The Fruita City Council reviewed seven applications during the November 7, 2023 Council meeting from interested community members to serve on the Localism Committee, which is tasked with evaluating the creation of possible “Localism” Board to replace the Downtown Advisory Board for individuals with a vested interest in Fruita including both business owners and residents. The City Council reviewed those seven applications during the November 7, 2023 Council Meeting and since then, staff has received one more application to be considered from Allie Daniel.

It was staff’s recommendation that the Council also appoint Ms. Daniel to the Localism Board.

- **COUNCILOR MILLER MOVED TO APPROVE THE APPOINTMENT OF ALLIE DANIEL AS A MEMBER TO THE CITY OF FRUITA’S LOCALISM COMMITTEE. COUNCILOR WILLIAMS SECONDED THE MOTION. THE MOTION PASSED WITH FIVE YES VOTES.**

The Council noted that with the appointment of Ms. Daniel, there are currently eight (8) members of the Committee. The Council came to a consensus that no more members need to be appointed.

Councilor Williams asked if there was a timeline for the committee to bring their ideas to the Council. Councilor Purser responded that the estimation was for a total of four committee meetings, the first one of which has already been held.

B. COUNCIL REPORTS AND ACTIONS**COUNCILOR JEANNINE PURSER**

Jeannine reiterated that the Localism Committee did have their first meeting right after the Downtown Advisory Board (DAB) meeting the previous Wednesday and called it, “fantastic” because they had such great discussions. She commended Communications and Engagement Specialist Ciara DePinto for doing such a great job in leading the meeting, which she said went into all sorts of unexpected directions with everyone’s ideas. Jeannine said it will be very interesting and cool to see how the Committee sifts it all out and brings back the City Council.

Jeannine also reported that Ciara had invited all City Council members and the Mayor to the Holiday Lighting event/Small Business Saturday at 5:30 p.m. at Circle Park. She asked that everyone be very careful about crossing the street to the circle. Jeannine added that the Council and Mayor do have the opportunity to help serve hot chocolate at the event, although she didn’t have any idea of how many people would be bringing their own instead. James said he would help with that. She noted that the Holiday Lighting Event/Small Town Business Saturday will be the Downtown Advisory Board’s final hurrah and reminded everyone that she at some point wants to acknowledge all DAB members, past and present.

Jeannine also reported that she attended a great Arts and Culture Board meeting. The board is talking about possibilities for things to do next year and there were a lot of great ideas.

Jeannine added that the Livability Commission meeting was fantastic and that they are just always a great group of people.

Jeannine stated that she is now on three boards besides City Council and that it has come to the point to where she needs to pass one along, so she asked Amy about taking on the Livability Commission as a Council Liaison since Amy is no longer on the Planning Commission. She said Amy agreed to it beginning in January.

- **COUNCILOR WILLIAMS MOVED TO HAVE AMY MILLER TAKE OVER AS THE COUNCIL LIAISON TO THE FRUITA LIVABILITY COMMISSION STARTING IN JANUARY OF 2024. COUNCILOR MILLER SECONDED THE MOTION. THE MOTION PASSED WITH FIVE YES VOTES.**

Councilor Purser said she would make her last appearance at the Livability Commission's December meeting and would explain to the board that Amy was the new Council Liaison beginning in January of 2024.

COUNCILOR JAMES WILLIAMS

James said he didn't have anything to report, but he wanted to take a minute to acknowledge a City employee. He said he has been watching Tina Hancock in the Parks Department over the last four or five years just give her heart and soul to take care of the City's plants and flowers (especially the downtown) and wanted to commend her for being a fantastic team member who does phenomenal work. Joel pointed out that James could nominate Tina for a "Geared Up" Award that employees can receive. Mike responded that staff could help facilitate that.

COUNCILOR KEN KREIE

Ken reported that his meetings are forthcoming, but he wanted to acknowledge Amy (Councilor Miller), who he said does an amazing job of positively engaging with people who are naysayers on the online Facebook community group and Amy is able to turn those negative comments around to get people to understand many local issues. He and the other Council members thanked her.

MAYOR JOEL KINCAID

Joel said he wanted to thank Mike for looking into any potential options for Fruita as a City when it comes to the matter of the train horns after a citizen complained to him about the noise. Amy responded that the reason the train blows its horn so loud is because there have previously been horrific accidents on a certain section of the tracks and she doesn't think the City is going to be able to get rid of the noise. Mike stated that it is definitely a law that the railroad has to abide by and that the City of Fruita cannot change. He added that the railroad has had some programs in the past at a high dollar expense to cities where the infrastructure of the railroad can be changed pursuant to their guidelines. Mike added that it is a "tall" ask and that the noise is a safety feature, but staff is still going to look at it the process the City of Grand Junction went through concerning their noise complaints with the railroad. Joel said he would appreciate more information so that he could get back with the resident even if there was nothing the City can do about the matter. Amy said she is okay with horns as she lived about a block away from the last really, really bad accident.

Joel said listening to the Fruita community is part of the Council's job, as is educating people in a positive kind of way.

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) FOR THE MUNICIPAL COURT JUDGE’S ANNUAL FORMAL REVIEW

- **COUNCILOR KREIE MOVED TO CONVENE IN EXECUTIVE SESSION FOR DISCUSSION OF A PERSONNEL MATTER UNDER C.R.S. SECTION 24-6-402(4)(F) AND NOT INVOLVING:**
 1. **ANY SPECIFIC EMPLOYEES WHO HAVE REQUESTED DISCUSSION OF THE MATTER IN OPEN SESSION,**
 2. **ANY MEMBER OF THIS BODY OR ANY ELECTED OFFICIAL,**
 3. **THE APPOINTMENT OF ANY PERSON TO FILL AN OFFICE OF THIS BODY, OR**
 4. **AN ELECTED OFFICIAL OR PERSONNEL POLICIES THAT DO NOT REQUIRE THE DISCUSSION OF MATTERS PERSONAL TO PARTICULAR EMPLOYEES (THE MUNICIPAL COURT JUDGE’S FORMAL REVIEW)**

COUNCILOR MILLER SECONDED THE MOTION. THE MOTION PASSED WITH FIVE YES VOTES.

The Fruita City Council convened in Executive Session at 8:41 p.m. The regular meeting was reconvened at 9:11 p.m.

- **COUNCILOR PURSER MOVED TO APPROVE THE TWO-YEAR PERSONAL SERVICE AGREEMENT AND REAPPOINTMENT OF DANIEL ROBINSON AS MUNICIPAL JUDGE FOR THE CITY OF FRUITA. COUNCILOR MILLER SECONDED THE MOTION. THE MOTION PASSED WITH FIVE YES VOTES.**

D. EXECUTIVE SESSION – DISCUSSION AND POSSIBLE ACTION TO CONSIDER A MOTION TO CONVENE IN EXECUTIVE SESSION REGARDING PERSONNEL ISSUES UNDER C.R.S. SECTION 24-6-402(4)(F) FOR THE CITY MANAGER’S ANNUAL FORMAL REVIEW (WITHOUT THE CITY MANAGER)

- **COUNCILOR WILLIAMS MOVED TO CONVENE IN EXECUTIVE SESSION REGARDING PERSONNEL ISSUES UNDER C.R.S. SECTION 24-6-402(4)(F) FOR THE CITY MANAGER’S ANNUAL FORMAL REVUE. COUNCILOR KREIE SECONDED THE MOTION. THE MOTION PASSED WITH FIVE YES VOTES.**

The Fruita City Council convened in Executive Session at 9:14 p.m. The regular meeting was reconvened at 9:28 p.m.

12. ADJOURN

With no further business before the Council, Mayor Kincaid adjourned the meeting at 9:30 p.m.

Respectfully submitted,

Debra Woods
Deputy City Clerk
City of Fruita