AGENDA

The link to join the meeting electronically will be posted prior to the meeting at https://www.fruita.org/citycouncil/page/council-meeting-information. You may also contact the City of Fruita at (970) 858-3663 for information to connect to the meeting. This agenda is for informational purposes only and items may be added or deleted at the discretion of the City Council. An executive session may be requested for any item appearing on the agenda.

1. CALL TO ORDER AND ROLL CALL
2. MOMENT OF SILENCE AND PLEDGE OF ALLEGIANCE
3. AGENDA - ADOPT/AMEND
4. PROCLAMATIONS AND PRESENTATIONS
   A. PRESENTATION – Fruita Teachers/Students of the Month for April 2023: Fruita 8/9 School
   B. PROCLAMATION - Celebrating and in recognition of the 50th Anniversary of Mesa County Retired & Senior Volunteer Program (RSVP), Inc. and the volunteers of the Grand Valley to be accepted by Dave Carlo, Executive Director of Mesa County RSVP, Inc.
   C. PROCLAMATION - Proclaiming April 29, 2023 as "High School Military Commitment Recognition Day" in the City of Fruita to be accepted by Kristy Hale and fellow board members of Western Slope Blue Star Mothers
   D. PROCLAMATION - Proclaiming April 28, 2023 as "Arbor Day" in the City of Fruita to be accepted by Parks and Recreation Director Marc Mancuso
   E. PRESENTATION - Historic Preservation Board Update by City Planner Henry Hemphill
5. PUBLIC PARTICIPATION
   This section is set aside for the City Council to LISTEN to comments by the public regarding items that do not otherwise appear on this agenda. Generally, the City Council will not discuss the issue and will not take an official action under this section of the agenda. Please limit comments to a three-minute period.
6. CONSENT AGENDA
   These are items where all conditions or requirements have been agreed to or met prior to the time they come before the Council for final action. These items will be approved by a single motion of the
Council. Members of the Council may ask that an item be removed from the consent section and fully discussed. All items not removed from the consent section will then be approved. A member of the Council may vote no on specific items without asking that they be removed from the consent section for full discussion. Any item that is removed from the consent agenda will be placed at the end of the regular agenda.

A. MINUTES - A request to approve the minutes of the March 28, 2023 City Council Workshop Meeting

B. MINUTES - A request to approve the minutes of the April 4, 2023 Regular City Council meeting

C. LIQUOR LICENSE RENEWAL – A request to approve the renewal of a Retail Liquor Store License – Malt, Vinous & Spirituous for Soeng, LLC dba Jackalope Liquors located at 404 Jurassic Ave, Unit B

D. RESOLUTION 2023-09, A Resolution of the Fruita City Council setting a hearing date for June 6, 2023, to determine the eligibility of annexation of approximately 6.6 acres of property located at 1824 J 2/10 Road to be annexed into the city limits and consider initiation of annexation procedures (1824 J 2/10 Road Annexation)

E. ORDINANCE 2023-04 - FIRST READING - An introduction of an Ordinance annexing approximately 6.6 acres of property located at 1824 J 2/10 Road into the City of Fruita for public hearing on June 6, 2023 (1824 J 2/10 Road Annexation)

F. ORDINANCE 2023-05 - FIRST READING - An introduction of an Ordinance amending the Official Zoning Map of the City of Fruita by zoning approximately 6.6 acres of property located 1824 J 2/10 Road to a Community Residential zone for public hearing on June 6, 2023 (1824 J 2/10 Road Rezone) - City Planner Henry Hemphill

G. CITY ATTORNEY ENGAGEMENT LETTER – A request to approve a revised engagement letter with Garfield and Hecht as the City Attorney

H. FINANCIAL REPORTS – A request to approve the March 2023 Financial Reports

7. PUBLIC HEARINGS

Public hearings are held to obtain input from the public on various items. Public hearings are either Legislative in nature or Quasi-Judicial in nature. Public Input is limited to 3 minutes per person. People speaking should step up to the microphone and state their name and address. Speakers should be to the point and try not to repeat the points others have made. Each is described as follows:

LEGISLATIVE – Legislative public hearings are held when the City Council is considering an item that establishes legislation such as an ordinance amending or establishing laws of the city. Interactions by members of the public with the City Council or individual members is permissible on items of a legislative nature.

ORDINANCES - After introduction of an Ordinance (First Reading), a public hearing date is set and notice of the hearing is published in the newspaper. Staff presents the ordinance on Second Reading and the hearing is opened to the public for public input. After comments from the public, the Mayor will close the hearing and bring the Ordinance back to the City Council for discussion and potential action. The Council will make a motion to approve the Ordinance or take no action. In the event the ordinance is approved, it will become effective 30 days after adoption.
QUASI-JUDICIAL – Quasi-judicial public hearings are held when the City Council is acting in a judicial or judge like manner and a person with a legitimate interest is entitled to an impartial decision made on the basis of information presented and laws in effect. Quasi-judicial hearings are commonly held for land use hearings and liquor license hearings. Since the City Council is acting in a fair and impartial manner, it is NOT permissible for City Council members to have any ex-parte communication (contact between the applicant, members of the public, or among other members of the City Council) outside of the Public Hearings and meetings on the subject application. The City Council must limit its consideration to matters which are placed into evidence and are part of the public record. Quasi-judicial hearings are held in the following manner:

1. Staff presentation - Staff will present the comments and reports received from review agencies and offer a recommendation.
2. Applicant Presentation - The petitioner is asked to present the proposal. Presentations should be brief and to the point and cover all of the main points of the project.
3. Public Input (limit of 3 minutes per person) Speakers must step up to the microphone and state their name and address. Speakers should be to the point and try not to repeat the points others have made.
4. The public hearing is closed to public comments.
5. Questions from the Council. After a Council member is recognized by the Mayor, they may ask questions of the staff, the applicant, or the public.
6. Make a motion. A member of the City Council will make a motion on the issue.
7. Discussion on the motion. The City Council may discuss the motion.
8. Vote. The City Council will then vote on the motion.

A. QUASI-JUDICIAL HEARINGS

1) SPECIAL EVENT LIQUOR PERMIT APPLICATION – A request to approve an application from the Fruita Area Chamber of Commerce to provide a beer garden at the Lower Valley Fire Cornhole Tournament fundraiser to be held on Saturday, April 22, 2023 from 2:00 to 6:00 p.m. at the Fruita Civic Center Memorial Park located at 325 E. Aspen Ave. - Deputy City Clerk Deb Woods

2) SPECIAL EVENT LIQUOR PERMIT APPLICATION – A request to approve an application from the Fruita Area Chamber of Commerce to sell and serve beer and wine at Fruita Fourth Fridays to be held on April 28, 2023, May 26, 2023, June 23, 2023 and July 28, 2023 from 5:00 to 9:00 p.m. on all four nights at FARM located at 160 S. Park Square - Deputy City Clerk Deb Woods

3) RESOLUTION 2023-08 - A Resolution of the Fruita City Council finding approximately 3.4 acres of property located at 1806 J 3/10 Road eligible to be annexed into the City of Fruita (Berg Annexation) – City Planner Henry Hemphill

4) ORDINANCE 2023-02 – Second Reading - Annexing approximately 3.4 acres of property located at 1806 J 3/10 Road into the City of Fruita (Berg Annexation) – City Planner Henry Hemphill

5) ORDINANCE 2023-03 - Second Reading - Amending the Official Zoning Map of the City of Fruita by zoning approximately 3.4 acres of property located at the northeast corner of the intersection of J 3/10 Road and J 2/10 Road to a Community Residential zone (Berg Rezone) – City Planner Henry Hemphill

B. LEGISLATIVE HEARINGS

8. ADMINISTRATIVE AGENDA
9. CITY MANAGER’S REPORT

10. COUNCIL REPORTS AND ACTIONS

   A. UTE WATER BOARD - Recommendation to the District Court on appointment of Fruita representative to the Ute Water Board

   B. RESOLUTION 2023-10 - A Resolution of the City of Fruita in opposition to statewide land use and zoning preemptions in Senate Bill 23-213

   C. EXECUTIVE SESSION – To convene in Executive Session for determining positions relative to matters that may be subject to negotiations; developing strategy for negotiations; and instructing negotiators pursuant to CRS Sec. 24-6-402(4)(e) with regard to the amended and restated contract with Ute Water Conservancy District and receiving legal advice from the City attorney pursuant to CRS Sec. 24-6-402(4)(b) regarding the same

   D. EXECUTIVE SESSION – To convene in Executive Session for determining positions relative to matters that may be subject to negotiations; developing strategy for negotiations; and instructing negotiators pursuant to CRS Sec. 24-6-402(4)(e) with regard to quiet title action entitled Maple Acquisition LLC v. The Estate of Mrs. J.A. Waid, et al., Mesa County District Court Case No. 23CV30055 and receiving legal advice from the City attorney pursuant to CRS Sec. 24-6-402(4)(b) regarding the same

11. ADJOURN

An executive session may be called for any item on the agenda.

In accordance with the Americans with Disabilities Act, persons who need accommodation in order to attend or participate in this meeting should contact the City Clerk’s Office at 970-858-3663 within 48 hours prior to the meeting in order to request such assistance.
AGENDA TEXT: Presentation – Fruita Teachers/Students of the Month for April 2023: Fruita 8/9 School

BACKGROUND

At the direction of the Fruita City Council, the City of Fruita began recognizing students and teachers in Fruita’s schools as “Students of the Month” or “Teachers of the Month” at the first City Council meeting of the month beginning in February of 2019 (this particular presentation was rescheduled to the second meeting of the month). The students and teachers are chosen by the Principal of each of the schools as being those that represented their school’s core values during the previous month.

For the month of April 2023, Fruita 8/9 School Principal Jason Plantiko selected one student and one teacher to be recognized:

- Samantha Ross: Orchestra student
- Rachel Lavadie: Orchestra conductor

Mayor Kincaid will present the Student and Teacher of the Month with a certificate and day pass to the Fruita Community Center.

Assistant Principal Alicia Wuster from the Fruita 8/9 School will be in attendance at the Fruita City Council meeting along with student Samantha Ross and Orchestra conductor Rachel Lavadie.
CITY OF FRUITA'S STUDENT OF THE MONTH

FOR APRIL 2023

This Certifies That

Samantha Ross

Of

The Fruita 8/9 School

Is being recognized by The Fruita City Council for outstanding musical achievement and excellence.

Keep up the great work!

April 18, 2023

Joel Kincaid, Mayor
CITY OF FRUITA’S TEACHER OF THE MONTH

APRIL 2023

This certificate is presented to:

Rachel Lavadie

Orchestra Conductor at the Fruita 8/9 School

In recognition of your dedication, passion and hard work. Thanks for all you do!

April 18, 2023

Joel Kincaid, Mayor
Proclamation

Celebrating and in recognition of the 50th Anniversary of

Mesa County, RSVP, Inc. and the volunteers of the Grand Valley

WHEREAS, RSVP was started in 1973; and

WHEREAS, RSVP’s 600+ volunteers contribute thousands of hours and expertise to nonprofits around the Grand Valley; and

WHEREAS, this contribution of labor equates to well over $2,000,000.00 in labor every year; and

WHEREAS, April is nationally recognized as volunteer month; and

WHEREAS, Volunteerism is one of the factors that makes Fruita and the rest of the Grand Valley such a wonderful place to live and work;

NOW, THEREFORE, BE IT RESOLVED THAT THE

FRUITA CITY COUNCIL,

on behalf of all Fruita residents, would like to recognize and sincerely thank Mesa County RSVP, Inc. and the hundreds of volunteers that devote their time to the service of others and for helping to build the sense of community and family that helps make the city of Fruita great and wishes this organization another 50 years of success.

IN WITNESS WHEREOF, I hereunto set my hand and cause to be affixed the official seal of the City of Fruita this 18th day of April, 2023.

__________________________
Joel Kincaid, Mayor
Proclamation

Proclaiming April 29th, 2023 as:
“High School Military Commitment Recognition Day”

WHEREAS, the freedom and security that the citizens of the United States enjoy are the direct result of the continued vigilance given by the United States Armed Forces,

WHEREAS, the sacrifices that that such members of the United States Armed Forces and the family members than support them preserve the liberties that have enriched this nation,

WHEREAS, the City of Fruita recognizes and honors high school seniors who have chosen to serve in the United States Armed Forces following high school graduation; and provides community support to families as their son or daughter transitions into military service; and

WHEREAS, the Fruita City Council recognizes the value and importance of the selfless act of service committed to by these brave young men and women

NOW THEREFORE, BE IT RESOLVED THAT THE FRUITA CITY COUNCIL DOES HEREBY PROCLAIM SATURDAY, APRIL 29, 2023 AS:

“High School Military Commitment Recognition Day”

In the City of Fruita encourages all citizens to observe this day with appropriate activities and programs that encourage gratitude and support for these young men and women.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the official Seal of the City of Fruita this 18th day of April, 2023.

Joel Kincaid, Mayor, City of Fruita
Arbor Day Proclamation

WHEREAS, In 1872, J. Sterling Morton proposed to the Nebraska Board of Agriculture that a special day be set aside for the planting of trees; and

WHEREAS, the holiday, called Arbor Day, was first observed with the planting of more than a million trees in Nebraska; and

WHEREAS, Arbor Day is now observed throughout the nation and the world; and

WHEREAS, trees can reduce the erosion of our precious topsoil by wind and water, lower our heating and cooling costs, moderate the temperature, clean the air, produce oxygen and provide habitat for wildlife; and

WHEREAS, trees are a renewable resource giving us paper, wood for our homes, fuel for our fires and countless other wood products; and

WHEREAS, trees in our city increase property values, enhance the economic vitality of business areas, and beautify our community; and

WHEREAS, trees, wherever they are planted, are a source of joy and spiritual renewal.

NOW, THEREFORE, I, JOEL KINCAID, MAYOR OF FRUITA, DO HEREBY PROCLAIM FRIDAY, APRIL 28, 2023 AS:

ARBOR DAY

In the City of Fruita and I urge all citizens to celebrate Arbor Day and to support efforts to protect our trees and woodlands, and

Further, I urge all citizens to plant and care for trees to gladden the heart and promote the well-being of this and future generations.

Dated this 18th day of April, 2023.

Joel Kincaid, Mayor of the City of Fruita
TO: Fruita City Council and Mayor  
FROM: Planning & Development Department  
DATE: April 18, 2023  
AGENDA TEXT: Historic Preservation Board Update

BACKGROUND

The purpose of this Coversheet is to provide the City Council with a brief overview of the Historic Preservation Board’s recent accomplishments, current efforts, and goals. The Historic Preservation Board has been active these past few years and is comprised of a 9-member board with the purpose of protecting and preserving the city’s architectural, historic and cultural heritage, encouraging the sustainable reuse of historic structures, and providing educational opportunities to increase public appreciation of Fruita’s unique heritage.

Recent accomplishments:

1. Coloring Books reprinted (5,000)  
2. Walking Tour Brochures reprinted (1,000)  
3. Local partnerships. (Fruita Chamber, Fruita Rotary, local businesses…)  
4. Growing Community partners  
   a. Arts and Culture Board  
   b. Fruita Tourism Advisory Board  
   c. Downtown Advisory Board  
   d. Museum of Western Colorado  
   e. Lower Valley Heritage Room  
   f. Mesa County Historical Society

Current efforts:

1. Coloring Book and Walking Tour distribution to:  
   a. Schools, Businesses, groups, etc..  
2. Plaque Program  
   a. Discussing a redesign of the current plaques on historic buildings.  
3. Rebranding.  
4. Discussing joint effort with Arts and Culture Board and the Fruita Rotary for school outreach.  
5. History Fair in conjunction with the Fruita Fall Festival.  
6. Mesa County Historical Society – April 29th 10am-4pm – Old Loma Elementary School
Goals:

1. Get more homes/properties on the local register.
   a. Workshop/work session to invite the public on how to research the history of properties.
2. Explore partnerships with others to join in on the History Fair.
3. Modify/change the displays in the Civic Center.
   a. Add displays in the Library as well.
4. Explore the old records in the Civic Center.
5. Build up the Historic Preservation Board website.
6. Update the plaques and the plaque program.
7. In-person ceremony for new and updated plaques.
8. Inventory the existing plaques.
   a. Partner with Museum of Western Colorado.
10. Continued assistance with the Lower Valley Heritage Room.
11. Capture oral history.

This agenda item is for informational purposes only and requires no action from the City Council.
CALL TO ORDER AND ROLL CALL

The workshop of the Fruita City Council was called to order at 6:34 p.m. by Mayor Kincaid. City Council members present were Mayor Pro Tem Matthew Breman and City Councilors Jeannine Purser, James Williams, Ken Kreie, Amy Miller and Aaron Hancey.

City Staff present were City Manager Mike Bennett, Assistant City Manager Shannon Vassen, Deputy City Clerk Deb Woods, Communications and Engagement Specialist Ciara DePinto, Planning and Development Director Dan Caris, Police Chief Dave Krouse and Parks and Recreation Director Marc Mancuso.

Also in attendance were Chair of the Downtown Advisory Board (DAB) Jared Prochnow and fellow board members Ethan Noah and Justin Weaver.

AGENDA ITEMS

1. DOWNTOWN ADVISORY BOARD DISCUSSION (6:30 – 7:30 PM)

City Manager Mike Bennett briefly reviewed the history of the Downtown Advisory Board (DAB) and spoke of the City’s need to revisit what the Council’s strategies and goals are for this board, as well as some of the City’s other Boards and Commissions.

Current Council Liaison to the DAB Jeannine Purser and former Council Liaison Ken Kreie spoke about the board’s background. The DAB was originally established by Resolution of the Fruita City Council as part of an effort to see whether the City wanted to participate in the Department of Local Affairs’ Main Street Program, which offers support for community-led downtown revitalization.

After an in-depth review, the City decided against becoming a part of the Main Street Program because at the time, many of the things that were a part of the program had already been accomplished in Fruita with the promotion of the Cavalcade and a few downtown improvements the City was able to make with grant funds such as bulb outs on Peach and Mulberry to create a more pedestrian feel and expanded outdoor dining.

There was discussion about how the downtown started to became much more vibrant than it used to be, although some of the southside businesses were feeling left out. Councilor Purser listed accomplishments of the DAB as follows:

- 81521 Thursdays for locals (downtown businesses choose how they want to participate)
- Fruita Fourth Fridays initiated by former City Councilor Kyle Harvey and whose purpose was for downtown businesses to stay open later and show off art (Arts and Culture Board/Allie Daniels is organizing now)
- Came up with the City’s F-gear logo and submitted it to City
- Worked with Historic Preservation Board on Pabor Day, informational plaques downtown
- Cups for a Cure chili contest (Fruita Chamber is doing it now)
• Partnered with the Fruita Chamber last year on the start of the Parade of Lights

Points of discussion included:

• The DAB is not working to become independent of the City of Fruita at this time.
• One of the most urgent and current goals of the DAB is to recruit more members.
• The point of the 81521 Thursdays events is not to get businesses to give discounts to locals, it is to highlight those businesses and help people become aware of what is downtown.
• The DAB would like to help the Fruita Chamber with Trick or Treat Street and will look for sponsorships to fund the marketing of it.
• Because the downtown is the “heartbeat” of Fruita, the board should focus on downtown businesses for now while looking out for ways expand to southside businesses in the future.
• Some areas of focus for the DAB should include the continued promotion of a strong downtown that begins to be more oriented toward locals within the community (localism) than with tourism (marketing to outsiders) and should align with the goals and strategies of the Fruita Comprehensive Plan.
• Some of the ideas brought up were micro-events and more things for kids to do.
• Another goal for the DAB could be to find out the best way the board can communicate with the downtown businesses.
• Fruita is not yet large enough to be looking at forming a Downtown Development Authority (DDA), which is a complicated process.
• The DAB will look for opportunities to partner with other Boards and Commissions of the City.
• The DAB should mainly come up with its own ideas for events and programs and the City Council’s role is to provide whatever support it can.
• The DAB could propose a budget and ask the City Council for funding. This could extend to other City boards as well.
• Staff Liaison to the DAB Ciara DePinto will work with the DAB members to draft a new Resolution to restate the board’s new vision/goals since the original intent of the board has been met.
• The DAB can then begin to focus on whether there are updates needed to the board’s by-laws.

2. GAMING ESTABLISHMENTS DISCUSSION (7:30 – 8:00 PM)

So that the Council is aware, Fruita Chief of Police Dave Krouse described a recent trend of “gaming establishments,” which are gaming businesses that are popping up throughout the state that claim they are not illegal gambling and for which many municipalities are rushing to institute moratoriums. He further explained that these businesses are not regulated and the Colorado Gaming Commission must be able to prove they are gambling, which can be difficult. There is one line of code in the gaming machines that try to make it look like it isn’t gambling when actually, the business is operating like a traditional casino.

Chief Krouse further detailed how these gaming establishments are a public safety issue due to their clientele, which bring more of a criminal element (including drug dealing) to neighborhoods. Oftentimes, the gaming establishments are discovered by law enforcement strictly due to complaints filed by neighbors.

Mesa County and the City of Grand Junction have instituted moratoriums on gaming establishments and are exploring avenues like criminal ordinances against their owners. City Manager Mike Bennett
explained how the City of Fruita is positioned a lot better to deal with these businesses because of provisions in its Municipal Code, which require that all businesses within City limits obtain a City business license (this requirement doesn’t exist in the other jurisdictions). The Fruita Land Use Code (contained within the Municipal Code) also gives Planning and Development Director Dan Caris the authority to interpret land use applications when applied to specific provisions in the Code and to render his professional opinion on them. The City would have the ability to shut down a gaming establishment based on them operating without a license and the license does serve as a means to communicate with the owner; however, the City can’t just outright disallow businesses; there has to be something in the Municipal Code to point to such as a “nuisance ordinance” (bothering neighbors).

Mr. Bennett also explained that moratoriums are good for 180 days, at which time, they can be extended once and can only be applied to new businesses (not existing ones). City staff does not feel that a moratorium is necessary in the City of Fruita because of the business license requirement and other provisions in the Municipal Code.

Staff plans look at the ordinance language that Mesa County and the City of Grand Junction come up with in the event Fruita decides to adopt something similar in the future. Staff is also looking into a possibility of looking at requiring background checks on business owners. Chief Krouse stated that although the Chiefs’ Association has lobbied against gaming establishments, it is as if the state just really doesn’t care.

Councilor Breman asked about SB23-213 Land Use, which attempts to remove local controls and home rule authority from elected leaders and planning staff and puts those decisions into the hands of developer interests and unelected third parties. Mr. Bennett stated that the Colorado Municipal League (CML) is fighting hard on the bill and that he would keep the City Council updated on the issue.

3. CITY’S PARKS, OPEN SPACE AND TRAILS NAMING AND RENAMING PROCEDURE (8:00 – 8:30 PM)

Councilor Breman was contacted by a resident of Fruita who is requesting the City consider receiving a donation for Fruita’s new dog park with an “in Memoriam” naming tied to the request.

City Manager Mike Bennett pointed out that the City has a clearly defined process for naming Fruita’s parks, trails, open space areas and associated structures or facilities with the Council’s adoption of Resolution 2011-03, a copy of which was included in the Council packet.

Highlights of the discussion include:

- It is not uncommon for alternative options for donations to be made available.
- Remaining expenses (not including signage) for the dog park include fencing, benches, water features, maintenance and supplies (e.g., dog waste bags)
- Strategy for moving forward is for Councilor Breman to give the donor two options:
  1) Have donor complete renaming request process that is outlined in Resolution 2011-03 for the entire park, which requires many steps and is time consuming and lengthy; or
  2) Offer donor an “in memoriam” naming on features/amenities/sections of the park (instead of for the entire park)
- Parks and Recreation Director Marc Mancuso brought several photo examples of dog park features (such as water features)
- The City does not want to set a precedent that a monetary donation can buy the name of a park.
Fruita City Council Minutes

March 28, 2023

- The dog park will be keeping its native trees, but staff will be using a skid loader to remove weeds and brush (dead bushes).
- There is no money in the project’s budget for a sign.
- Total expenses to date total $49,444.68.
- The City will likely work with Jeff Bates on a bench(es) if it is determined that the donation funds will be used for them.

4. PROCLAMATION REQUEST: 50TH ANNIVERSARY OF THE MESA COUNTY RETIRED & SENIOR VOLUNTEER PROGRAM (RSVP) AND THE VOLUNTEERS OF THE GRAND VALLEY (8:30 – 8:45 PM)

The City Council was in favor of issuing the Proclamation.

5. PROCLAMATION REQUEST: PROCLAIMING APRIL 29, 2023 AS “HIGH SCHOOL MILITARY COMMITMENT RECOGNITION DAY”

The City Council was in favor of issuing the Proclamation.

6. PROCLAMATION REQUEST: “DAYS OF REMEMBRANCE” IN MEMORY OF VICTIMS OF THE HOLOCAUST APRIL 16TH THRU APRIL 23, 2023

The City Council was in favor of issuing the Proclamation.

BOARDS AND COMMISSIONS DISCUSSION

Mr. Bennett made a suggestion that each of the applicable City’s Boards and Commissions meet with the City Council in a luncheon-type or retreat-style setting where the boards can present on a semi-regular basis the things they are working on, similar to the Fruita Area Chamber of Commerce’s Coffee Club Network.

Discussion points and ideas were as follows:

- The City’s boards could meet with the City Council on an annual basis (unless something special comes up) and have their budget requests for the following year. It would be best to schedule these before staff and Council begin the City’s Annual Budget process.
- The boards could also present accomplishments, current projects and goals.
- The City’s Annual Budget has a Boards and Commissions line item of approximately $3,000 that is usually spent on appreciation gifts for boards and commissions.
- Because the City has so many Boards and Commissions, a possibility could be to have more than one board at time give their presentations to the Council.
- It will be important that the Council knows what any funding granted to boards is for.
- Council members should be careful in their board Liaison roles that they do not lead discussions or provide direction or opinions on behalf of the entire City Council if the Council does not know anything about it.
- The City Council can decide not to have Council Liaison positions; it is their choice.
- City Attorney Mary Elizabeth Geiger has concerns with having a Council member as a Planning Commission member, but she will look further into it.
Councilor Hancey had the following points he wanted to make:

- There is benefit to providing board members with some training
- Would be nice to have a guidebook to give members that includes establishing powers of each board
- Annual report to City Council during the year
- What culture are we trying to establish? Don’t want members to fizzle out.
- Supports idea that some boards have Liaisons, some don’t
- Feels like the Parks and Recreation Department Director (Marc Mancuso) has it handled and that Aaron should just get out of the board’s way and only participate when it’s necessary.
- If the City has a culture of empowered boards, perhaps Council Liaison positions are not necessary, but the Council might need to evaluate some boards.
- Board members do need to understand that they can’t just do something on their own.

Mayor Kincaid requested annual training for Council members that are sitting on non-City boards. He also noted that some boards seem to have had vacancies for a long time and maybe some direction from the Council to those boards will help.

Councilor Breman thought it would be important to identify boards’ impacts for people to rally behind.

Councilor Miller said it feels awkward to her when applicants that are getting appointed to a board or commission attend the City Council meeting and the appointment is on the Consent Agenda (Staff does send applicants an email prior to the appointment explaining how the Consent Agenda works). She requested that staff ask applicants if they plan on attending and if they are, the appointment should be pulled off the Consent Agenda.

**OTHER DISCUSSION**

Councilor Breman mentioned that Council members still need their passwords for their Housing Authority email addresses.

Councilor Breman also recalled how he had previously brought up the fact that there have been no pay increases in City Council payroll since 1986. He asked if the Council wanted to discuss it or if they were fine leaving it as is.

Mr. Bennett stated that it was brought up with the previous Council and at the time, they didn’t want to make any changes. He explained that any pay increase would only affect future elected officials and that it would be a part of the budgeting process for the following year. Mr. Bennett said he would pull the information from the Colorado Municipal League (CML) concerning Council/Trustee pay plans for other municipalities in the state and would report back to the Fruita City Council.

Mr. Bennett noted that he would be sending the Council the list of agenda items for a Joint Housing Authority and City Council meeting of April 4, 2023 as well as the regular City Council meeting that will follow on that same night. The Housing Authority will first meet to approve the March 7, 2023 minutes and the 2023 Housing Authority Budget. Then, the Housing Authority will open the Joint Board meeting with the Fruita City Council. He also noted that after receiving a presentation from Indibuild, LLC, the Fruita Housing Authority/Fruita City Council will meet in a joint Executive Session to get some legal advice. The Joint meeting will need to wrap up by 7:30 for the regular Council meeting’s Call to Order.
Mr. Bennett stated that there are some things that are outdated in the City of Fruita’s Charter and that a Committee will be appointed to work on it.

Assistant City Manager Shannon Vassen noted that there will be a TABOR issue on the ballot for next year’s Municipal Election. Every six years, the City asks voters if they want to authorize the City to receive and expend all grants and to collect, retain and expend all revenues generated in excess of the revenue and expenditure limitations established under the TABOR Amendment to the Colorado Constitution for the purpose of implementing the City’s capital improvement plan (including the maintenance of capital improvements).

There was a short discussion about food trucks participating in the Thursday Night Concerts hosted by the City. Mr. Bennett explained that a previous Council had a conversation about it and didn’t want to include food trucks because it is the one event in Fruita that doesn’t have vendors and the Council wanted to keep it that way.

Councilor Williams said that the lineup for the Thursday Night Concerts is amazing, but that he couldn’t announce it yet.

**ADJOURN**

With no further business before the Council, Mayor Kincaid adjourned the meeting at 9:53 p.m.

Respectfully submitted,

Deb Woods
Deputy City Clerk
FRUITA CITY COUNCIL
IN PERSON AND VIRTUAL MEETING
APRIL 4, 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 7:36 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 (stepped out of the room momentarily)

Excused Absent: (None)

City staff present: City Manager Mike Bennett
Assistant City Manager Shannon Vassen
Deputy City Clerk Deb Woods
Communications and Engagement Specialist Ciara DePinto
City Clerk/Finance Director Margaret Sell
Planning & Development Director Dan Caris
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 BREMAN MOVED TO APPROVE THE AGENDA AS PRESENTED. COUNCILOR MILLER SECONDED THE MOTION. THE MOTION PASSED WITH FIVE YES VOTES (COUNCILOR HANCEY STEPPED OUT OF THE ROOM FOR A BRIEF MOMENT).

4. PROCLAMATIONS AND PRESENTATIONS

HONOR OF THE SURVIVORS, AS WELL AS THE RESCUERS AND LIBERATORS TO BE ACCEPTED BY JOHN AINSLIE

Mayor Kincaid read the Proclamation, which was accepted by John Ainslie, retired Assessor from Michigan and whose uncle was a liberator at one of the concentration camps.

5. PUBLIC PARTICIPATION

Lane Good, 181 Arches Drive, spoke in opposition of the Fruita Mews housing project, which had just been previously discussed in a joint meeting of the Fruita City Council and Fruita Housing Authority. He cited crime statistics, stating that the number one indicator of crime rates is poverty. Mr. Good expressed concerns about crime and the potential of the new development (Fruita Mews) bringing and spreading crime into and throughout the City of Fruita. He also said that he plans on leaving Fruita in the next ten years because he does not like what is happening to Fruita concerning its growth.

Councilor Aaron Hancey returned to the Council Chambers at approximately 7:48 p.m.

6. CONSENT AGENDA

A. MINUTES – A REQUEST TO APPROVE THE MINUTES OF THE MARCH 21, 2023 REGULAR CITY COUNCIL MEETING

B. LIQUOR LICENSE RENEWAL – A REQUEST TO APPROVE THE RENEWAL OF A HOTEL AND RESTAURANT – MALT, VINOUS & SPIRITUOUS LIQUOR LICENSE FOR KARMA KITCHEN LOCATED AT 229 E. ASPEN AVE.

C. LIQUOR LICENSE RENEWAL – A REQUEST TO APPROVE THE RENEWAL OF A BEER AND WINE – MALT AND VINOUS LIQUOR LICENSE FOR LEAP ENTERPRISE, LLC DBA PABLO’S PIZZA OF FRUITA LOCATED AT 456 KOKOPELLI BLVD., UNIT C

Mayor Kincaid asked if there were any requests to remove any item(s) removed from the Consent agenda for further discussion. There were no such requests. Mayor Kincaid asked the same question of the City Council and there also were no such requests.

- COUNCILOR KREIE MOVED TO APPROVE THE CONSENT AGENDA AS PRESENTED. COUNCILOR PURSER SECONDED THE MOTION. THE MOTION PASSED WITH SIX YES VOTES.

7. PUBLIC HEARINGS

A. QUASI-JUDICIAL HEARINGS

There were no Quasi-Judicial Public Hearings on the agenda.

B. LEGISLATIVE HEARINGS
There were no Legislative Public Hearings on the agenda.

8. ADMINISTRATIVE AGENDA

There were no Administrative agenda items.

9. CITY MANAGER’S REPORT

Planning and Development Director sat in for City Manager Mike Bennett and reported on the following:

- City Manager Mike Bennett had forwarded an email from the Colorado Municipal League (CML) to the Mayor and City Council members concerning SB23-213, which would take land use and zoning decisions out of the hands of local municipalities in Colorado. The email provided a link where individuals can sign their name and title in opposition of the proposed bill by no later than Wednesday, April 5, 2023. The City Council members (including the Mayor) were in agreement that they wanted to and would sign the letter in opposition to the bill.

There was some discussion about when City Councilors can take a position on an issue as a City Councilor versus as an individual. Mayor Kincaid reminded everyone that in order to sign their name and title to something as a City Councilor, they must have the approval of the entire Council. Otherwise, they can only sign as an individual.

Councilor Breman pointed out that the same would be true of the Housing Authority Commissioners. Mayor Kincaid suggested that the Housing Authority agree to that policy, as did the City Council in the past.

Councilor Breman disclosed that he had made a donation to a candidate, that the donation was made from himself as an individual, and that his title of “Fruita City Councilor” was in no way associated with the donation, although the Daily Sentinel still reported it as such.

Communications and Engagement Specialist Ciara DePinto gave the Council an update on the next “State of the City” video project she is working on and asked if they had 30 minutes to meet before either one of the two next upcoming Council meetings on April 18th or April 25th. The Council came to a consensus to meet in the Council Chambers at the Fruita Civic Center on April 25, 2023 at 6:00 p.m. (before the Council workshop meeting, which starts at 6:30 p.m.). Ciara said she would email the Mayor and Council members a meeting invitation so they would have it on their calendars.

10. COUNCIL REPORTS AND ACTIONS

COUNCILOR AMY MILLER

Amy reported that she attended a “Lunch-and-Learn” hosted by one of the local lenders with speaker Andrea Haitz the previous week for an in-depth look at school closures and reconfigurations. She asked if the City of Fruita would be hosting another “Bike to School or Work” event. Ciara explained that Fruita’s Parks and Recreation Department usually collaborates with Mobile Mesa County on it and that
she would look into it to provide the Council with an update. Amy said it was Mesa County who had posted an event flyer, but that she hadn’t seen anything yet in Fruita.

James noted that there would be an Open House concerning school closures and reconfigurations and asked if the City could help get the word out about it. He said that nobody knew about the last meeting that Amy was referring to. Amy said she only received a week’s notice on that last one and that there are two Town Hall meetings coming up. James urged Ciara to include the information for the upcoming dates in staff’s updates.

MAYOR PRO TEM MATTHEW BREMAN

Matthew asked if everyone was planning to attend the Fruita Area Chamber of Commerce’s Annual Banquet on April 15th at 5:00 p.m. All Council members and the Mayor said they would be attending plus one.

Matthew also asked if any of the other Council members were going to the VIP After Party at Timberline Bank following the Grand Junction Economic Partnership (GJEP) Western Colorado Economic Summit (at which he will be speaking) scheduled for Thursday, April 27, 2023. Councilors Williams and Hancey said they would like to attend and Mayor Kincaid said he may attend as well, but he wasn’t sure yet.

Matthew also reported that he is still having issues with getting his Housing Authority email to work on correctly through Apple Mail and requested help from staff.

Aaron stated that he talked to Shannon and they both wanted Housing Authority emails to go through Apple Mail.

COUNCILOR AARON HANCEY

Aaron reported that the Parks and Recreation Advisory Board is excited for the opportunity to present an update to the City Council and meet with them concerning the board’s purpose and current and future goals at a workshop meeting. He noted that the board received an estimate of $0.25 million dollars for lighting at one of the baseball fields at the Little Salt Wash Park.

MAYOR JOEL KINCAID

Joel announced that he would be attending the ribbon-cutting ceremony for Bark Park, the City’s new dog park on Monday, April 17, 2023 at 4:00 p.m. James will be attending the event as well and will be cutting the ribbon.

11. ADJOURN

With no further business before the Council, Mayor Kincaid adjourned the meeting at 7:59 p.m.

Respectfully submitted,
Section 6, Item B.
AGENDA TEXT: LIQUOR LICENSE RENEWAL – A request to approve the renewal of a Retail Liquor Store License – Malt, Vinous & Spirituous for Soeng, LLC dba Jackalope Liquors located at 404 Jurassic Ave, Unit B

BACKGROUND

The Retail Liquor Store License – Malt, Vinous, and Spirituous for Jackalope Liquors located at 404 Jurassic Ave., Unit B is up for renewal. Their current license expires on June 19, 2022.

The Police Department report shows there is nothing unusual or of concern that would prohibit the issuance of license. The City Clerk’s office has no current TIPS certificate on file for Jackalope Liquors.

The following information is provided as background on the liquor license renewal process:

This item is placed on the agenda for the Council to determine if there is any cause for a hearing to be held on the renewal of the liquor license. If there is no cause for a hearing, the City Council should approve the renewal of the existing license. If there is cause for a hearing, the City Council should set a date to hold a quasi-judicial hearing to determine if there are sufficient grounds for suspension or revocation of the liquor license. The City Council may also temporarily suspend any license, without notice, pending any prosecution, investigation or public hearing. No such suspension shall be for a period of more than 15 days.

FISCAL IMPACT

None.

APPLICABILITY TO CITY GOALS AND OBJECTIVES

The City of Fruita is charged with protection of the public health, safety and welfare. The review and renewal of liquor licenses ensures that licensed establishments are operating by the rules and regulations adopted by the City and State concerning the sale or service of beer and alcoholic beverages.

OPTIONS AVAILABLE TO THE COUNCIL

- Renew the Retail Liquor Store License for Jackalope Liquors located at 404 Jurassic Ave., Unit B.
• Schedule a hearing date to determine if there is good cause for the license to be suspended or revoked.

RECOMMENDATION

It is the recommendation of staff that the Council move to:

• **RENEW THE RETAIL LIQUOR STORE LICENSE FOR SOENG, LLC DBA JACKALOPE LIQUORS LOCATED AT 440 JURASSIC AVE., UNIT B**
Submit to Local Licensing Authority

JACKALOPE LIQUORS
209 VISTA HILL DRIVE
Grand Junction CO 81503

Colorado Beer and Wine License Renewal Application

Please verify & update all information below

<table>
<thead>
<tr>
<th>Licensee Name</th>
<th>SOENG LLC</th>
</tr>
</thead>
<tbody>
<tr>
<td>Liquor License #</td>
<td>03-08367</td>
</tr>
<tr>
<td>Sales Tax License Number</td>
<td>33316069</td>
</tr>
<tr>
<td>Business Address</td>
<td>404 JURASSIC AVENUE UNIT B Fruita CO 81521</td>
</tr>
<tr>
<td>Mailing Address</td>
<td>209 VISTA HILL DRIVE Grand Junction CO 81503</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Operating Manager</th>
<th>Date of Birth</th>
<th>Home Address</th>
<th>Phone Number</th>
</tr>
</thead>
</table>

**Fees Due**

<table>
<thead>
<tr>
<th></th>
<th>Section 6, Item C.</th>
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</thead>
<tbody>
<tr>
<td>Renewal Fee</td>
<td>$77.50</td>
</tr>
<tr>
<td>Storage Permit</td>
<td>$100 X</td>
</tr>
<tr>
<td>Sidewalk Service Area</td>
<td>$75.00</td>
</tr>
<tr>
<td>Additional Optional Premise Hotel &amp; Restaurant</td>
<td>$100 X</td>
</tr>
<tr>
<td>Related Facility-Campus Liquor Complex</td>
<td>$160.00 per facility</td>
</tr>
<tr>
<td>Amount Due/Paid</td>
<td>$</td>
</tr>
</tbody>
</table>

Make check payable to Colorado Department of Revenue. The State may convert your check to an onetime electronic banking transaction. Your bank account may be debited as early as the same day received by the State. If converted, your check will not be returned. If your check is rejected due to insufficient or uncollected funds, the Department may collect the payment amount directly from your banking account electronically.

1. Do you have legal possession of the premises at the street address above? [ ] Yes [ ] No
   Are the premises owned or rented? [ ] Owned [x] Rented* If rented, expiration date of lease [05.01.2027]

2. Are you renewing a storage permit, additional optional premises, sidewalk service area, or related facility? If yes, please see the table in upper right hand corner and include all fees due. [ ] Yes [x] No

3a. Are you renewing a takeout and/or delivery permit? (Note: must hold a qualifying license type and be authorized for takeout and/or delivery license privileges) [ ] Yes [x] No

3b. If so, which are you renewing? [ ] Delivery [ ] Takeout [ ] Both Takeout and Delivery

4a. Since the date of filing of the last application, has the applicant, including its manager, partners, officer, directors, stockholders, members (LLC), managing members (LLC), or any other person with a 10% or greater financial interest in the applicant, been found in final order of a tax agency to be delinquent in the payment of any state or local taxes, penalties, or interest related to a business? [ ] Yes [x] No

4b. Since the date of filing of the last application, has the applicant, including its manager, partners, officer, directors, stockholders, members (LLC), managing members (LLC), or any other person with a 10% or greater financial interest in the applicant failed to pay any fees or surcharges imposed pursuant to section 44.3-503, C.R.S.? [ ] Yes [x] No

5. Since the date of filing of the last application, has there been any change in financial interest (new notes, loans, owners, etc.) or organizational structure (addition or deletion of officers, directors, managing members or general partners)? If yes, explain in detail and attach a listing of all liquor businesses in which these new lenders, owners (other than licensed financial institutions), officers, directors, managing members, or general partners are materially interested. [ ] Yes [x] No

6. Since the date of filing of the last application, has the applicant or any of its agents, owners, managers, partners or lenders (other than licensed financial institutions) been convicted of a crime? If yes, attach a detailed explanation. [ ] Yes [x] No
7. Since the date of filing of the last application, has the applicant or any of its agents, owners, managers, partners or lenders (other than licensed financial institutions) been denied an alcohol beverage license, had an alcohol beverage license suspended or revoked, or had interest in any entity that had an alcohol beverage license denied, suspended or revoked? If yes, attach a detailed explanation. □ Yes □ No

8. Does the applicant or any of its agents, owners, managers, partners or lenders (other than licensed financial institutions) have a direct or indirect interest in any other Colorado liquor license, including loans to or from any licensee or interest in a loan to any licensee? If yes, attach a detailed explanation. □ Yes □ No

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**Affirmation & Consent**

I declare under penalty of perjury in the second degree that this application and all attachments are true, correct and complete to the best of my knowledge.

<table>
<thead>
<tr>
<th>Type or Print Name of Applicant/Authorized Agent of Business</th>
<th>Title</th>
</tr>
</thead>
<tbody>
<tr>
<td>Kim Suwon Soeng</td>
<td>Owner</td>
</tr>
</tbody>
</table>

Date: 04-03-2023

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**Report & Approval of City or County Licensing Authority**

The foregoing application has been examined and the premises, business conducted and character of the applicant are satisfactory, and we do hereby report that such license, if granted, will comply with the provisions of Title 44, Articles 4 and 3, C R.S., and Liquor Rules. Therefore this application is approved.

<table>
<thead>
<tr>
<th>Local Licensing Authority For</th>
<th>Date</th>
</tr>
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<tbody>
<tr>
<td>The City of Fruita</td>
<td></td>
</tr>
</tbody>
</table>

Signature: __________________________  Signature: __________________________

Title: JOEL KINCAID, MAYOR  Title: 

Attest: __________________________

Date: 04-03-2023
Tax Check Authorization, Waiver, and Request to Release Information

Kim Suann Soeng am signing this Tax Check Authorization, Waiver and Request to Release Information (hereinafter "Waiver") on behalf of Jackalope Liquors ("Applicant/Licensee") to permit the Colorado Department of Revenue and any other state or local taxing authority to release information and documentation that may otherwise be confidential, as provided below. If I am signing this Waiver for someone other than myself, including on behalf of a business entity, I certify that I have the authority to execute this Waiver on behalf of the Applicant/Licensee.

The Executive Director of the Colorado Department of Revenue is the State Licensing Authority, and oversees the Colorado Liquor Enforcement Division as his or her agents, clerks, and employees. The information and documentation obtained pursuant to this Waiver may be used in connection with the Applicant/Licensee’s liquor license application and ongoing licensure by the state and local licensing authorities. The Colorado Liquor Code, section 44-3-101. et seq. ("Liquor Code"), and the Colorado Liquor Rules, 1 CCR 203-2 ("Liquor Rules"), require compliance with certain tax obligations, and set forth the investigative, disciplinary and licensure actions the state and local licensing authorities may take for violations of the Liquor Code and Liquor Rules, including failure to meet tax reporting and payment obligations.

The Waiver is made pursuant to section 39-21-113(4), C.R.S., and any other law, regulation, resolution or ordinance concerning the confidentiality of tax information, or any document, report or return filed in connection with state or local taxes. This Waiver shall be valid until the expiration or revocation of a license, or until both the state and local licensing authorities take final action to approve or deny any application(s) for the renewal of the license, whichever is later. Applicant/Licensee agrees to execute a new waiver for each subsequent licensing period in connection with the renewal of any license, if requested.

By signing below, Applicant/Licensee requests that the Colorado Department of Revenue and any other state or local taxing authority or agency in the possession of tax documents or information, release information and documentation to the Colorado Liquor Enforcement Division, and is duly authorized employees, to act as the Applicant’s/Licensee’s duly authorized representative under section 39-21-113(4), C.R.S., solely to allow the state and local licensing authorities, and their duly authorized employees, to investigate compliance with the Liquor Code and Liquor Rules. Applicant/Licensee authorizes the state and local licensing authorities, their duly authorized employees, and their legal representatives, to use the information and documentation obtained using this Waiver in any administrative or judicial action regarding the applicant or license.

<table>
<thead>
<tr>
<th>Name (Individual/Business)</th>
<th>Social Security Number/Tax Identification Number</th>
</tr>
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<tbody>
<tr>
<td>Jackalope Liquors</td>
<td>713-14-4469</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Address</th>
<th>209 Vista Hills Drive</th>
</tr>
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<table>
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<tr>
<th>City</th>
<th>Grand Junction</th>
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<table>
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<tr>
<th>Home Phone Number</th>
<th>717-383-6093</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>Business/Work Phone Number</th>
<th>970-858-2071</th>
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<table>
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<tr>
<th>Printed name of person signing on behalf of the Applicant/Licensee</th>
<th>Kim Suann Soeng</th>
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</table>

<table>
<thead>
<tr>
<th>Applicant/Licensee’s Signature (Signature authorizing the disclosure of confidential tax information)</th>
<th>Date signed</th>
</tr>
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<tr>
<td></td>
<td>04.02.2023</td>
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Privacy Act Statement

Providing your Social Security Number is voluntary and no right, benefit or privilege provided by law will be denied as a result of refusal to disclose it. § 7 of Privacy Act, 5 USCS § 552a (note).
CITY OF FRUITA
MEMORANDUM

TO: FRUITA POLICE DEPARTMENT

FROM: DEBRA WOODS, DEPUTY CITY CLERK

DATE: APRIL 4, 2022

RE: RETAIL LIQUOR LICENSE RENEWAL

License Information
Licensee: Jackalope Liquors
Location: 404 Jurassic Ave. #B
Type of license: Retail Liquor Store - Malt Vinous and Spirituous Liquor License
Expiration date of current license: June 19, 2023
City council hearing date: April 18, 2023
Due date for police report: April 14, 2023

Tips certificates on File

Employee: (None)

Report of Fruita Police Department
A) Have there been any reported violation(s) of the Liquor or Beer Code in the last year? Yes ☐ No ☐
B) Have there been any incidents reported to the Police Dept in the last year that would pertain to the liquor license and the establishment’s control of alcoholic beverages and their patrons? Yes ☐ No ☐
C) Are there other concerns that need to be brought to the attention of the City Council? Yes ☐ No ☐

Please attach documentation to support the above noted violation(s), incidents or comments.

Signature [Signature] Date 4-4-23

Fax: 858-0210 e-mail: dwoods@fruita.org
RESOLUTION 2023-09, A Resolution of the Fruita City Council setting a hearing date for June 6, 2023, to determine the eligibility of annexation of approximately 6.6 acres of property located at 1824 J 2/10 Road to be annexed into the city limits and consider initiation of annexation procedures.

(1824 J 2/10 Road Annexation)

BACKGROUND

The property owners of 1824 J 2/10 Road have submitted an application to annex and zone the property. Staff has reviewed this annexation request and finds that the property meets the city and state laws that must be met to find a property eligible for annexation.

The property has at least 1/6th of its perimeter contiguous with existing city limits and it is within the city's Urban Growth Boundary. Urban development exists on the west side of the property and is identified for urban development by the city's Master Plan.

The Planning Commission will be considering this annexation application at their May 9, 2023, public hearing and will formulate their recommendation to the City Council for their June 6, 2023, public hearing.

FISCAL IMPACT

Annexation of property requires that the city provide it with city services (such as police protection and sewer service). The cost of providing services varies with each annexation. This Resolution is to set a hearing date to find the property eligible for annexation which does not create a fiscal impact.

APPLICABILITY TO CITY GOALS AND OBJECTIVES

The city’s primary goal is to protect the health, safety and welfare of the city’s residents. Annexation ensures that the city has some control over development which might otherwise occur outside the city limits and drain city resources and infrastructure. This step in the annexation process simply finds the property eligible or ineligible for annexation.

Staff is continuing to review this annexation request to determine more clearly whether or not the annexation meets all of the city’s goals and objectives.
OPTIONS AVAILABLE TO THE COUNCIL

1. Approve Resolution 2023-09, A Resolution of the Fruita City Council setting a hearing date for June 6, 2023, to determine the eligibility of annexation of approximately 6.6 acres of property located at 1824 J 2/10 Road to be annexed into the City of Fruita and to consider initiation of annexation procedures.

2. Deny the Resolution.

RECOMMENDATION

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

APPROVE RESOLUTION 2023-09, A RESOLUTION OF THE FRUITA CITY COUNCIL SETTING A HEARING DATE FOR JUNE 6, 2023, TO DETERMINE THE ELIGIBILITY OF ANNEXATION OF APPROXIMATELY 6.6 ACRES OF PROPERTY LOCATED AT 1824 J 2/10 ROAD TO BE ANNEXED INTO THE CITY OF FRUITA AND TO CONSIDER INITIATION OF ANNEXATION PROCEDURES.
RESOLUTION 2023-09

A RESOLUTION OF THE FRUITA CITY COUNCIL SETTING A HEARING DATE FOR JUNE 6, 2023, TO DETERMINE THE ELIGIBILITY OF ANNEXATION OF APPROXIMATELY 6.6 ACRES OF PROPERTY LOCATED AT 1824 J 2/10 ROAD TO BE ANNEXED INTO THE CITY OF FRUITA AND TO CONSIDER INITIATION OF ANNEXATION PROCEDURES.

WHEREAS, the City of Fruita has received a petition for annexation of property into the city limits of Fruita which is signed by 100% of the property owners of the property requested to be annexed, and

WHEREAS, the property to be annexed is described and shown on attached Exhibit A.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL to hold a public hearing on June 6, 2023, at 7:00 p.m., to determine if the real property described and shown on Exhibit A complies with Colorado Revised Statues 31-12-104, 105 and 106 and is eligible for annexation and to consider the adoption of a Resolution to initiate procedures to annex said real property to the City of Fruita.

PASSED AND ADOPTED BY THE FRUITA CITY COUNCIL
THIS 18TH DAY OF APRIL 2023.

ATTEST:  City of Fruita

______________________________  ________________________________
Margaret Sell, City Clerk        Joel Kincaid, Mayor
AGENDA TEXT: ORDINANCE 2023-04, FIRST READING, An introduction of an Ordinance annexing approximately 6.6 acres of property located at 1824 J 2/10 Road into the City of Fruita for publication of public hearing on June 6, 2023.

(1824 J 2/10 Road Annexation)

BACKGROUND

The property owners of 1824 J 2/10 Road have submitted an application to annex and zone the property. Staff has reviewed this annexation request and finds that the property meets the city and state laws that must be met to find a property eligible for annexation.

The property has at least $\frac{1}{6}$ of its perimeter contiguous with existing city limits and it is within the city's Urban Growth Boundary. Urban development exists on the west side of the property and is identified for urban development by the city's Master Plan.

The Planning Commission will be considering this annexation request at their May 9, 2023 public meeting and formulate a recommendation to the City Council for their public meeting on June 6, 2023.

FISCAL IMPACT

Annexation of property requires that the city provide it with city services (such as police protection and sewer service). The cost of providing services varies with each annexation.

There will be services extended with this annexation. Conditions of approval are explained in the Staff Report.

APPLICABILITY TO CITY GOALS AND OBJECTIVES

The city’s primary goal is to protect the health, safety and welfare of the city’s residents. Annexation ensures that the city has some control over development which might otherwise occur outside the city limits and drain city resources and infrastructure. This step in the annexation process simply finds the property eligible or ineligible for annexation.
OPTIONS AVAILABLE TO THE COUNCIL

1. Publish a synopsis of Ordinance 2023-04, An introduction of an Ordinance annexing approximately 6.6 acres of property located at 1824 J 2/10 Road into the City of Fruita for publication of public hearing on June 6, 2023.

2. Deny Ordinance 2023-04.

RECOMMENDATION

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

PUBLISH A SYNOPSIS OF ORDINANCE 2023-04 ANNEXING APPROXIMATELY 6.6 ACRES OF PROPERTY LOCATED AT 1824 J 2/10 ROAD INTO THE CITY OF FRUITA FOR PUBLICATION OF PUBLIC HEARING ON JUNE 6, 2023.
ORDINANCE 2023-04

AN ORDINANCE ANNEXING APPROXIMATELY 6.6 ACRES OF PROPERTY LOCATED AT 1824 J 2/10 ROAD INTO THE CITY OF FRUITA

WHEREAS, the Fruita City Council finds that it is necessary to annex certain real property contiguous to the City of Fruita in order to:

1. Promote the public health, safety, and welfare of the community;
2. Insure efficient provision of municipal services and fair and equitable distribution of cost amongst those who use services provided by the community; and,
3. Provide for orderly growth of the community; and,

WHEREAS, the City Council adopted a Resolution finding that the real property described and shown on Exhibit A is eligible for annexation pursuant to C.R.S. 31-12-104 and 105, stating their intent to annex same and initiating the annexation procedures.

NOW THEREFORE, BE IT HEREBY ORDAINED BY THE CITY COUNCIL OF THE CITY OF FRUITA COLORADO AS FOLLOWS:

Section 1: The Fruita City Council, having reviewed a properly constituted petition of all the owners of real property in the area proposed for annexation, hereby annexes the property as described and shown in Exhibit A, and the Fruita City limits are hereby modified to reflect said annexation.

Section 2: Conditions of said annexation include:

1. Dedication of a 14-foot multipurpose easement adjacent to all the right of way adjoining the subject property.


AS ATTESTED:

City of Fruita:

________________________
Margaret Sell, City Clerk

________________________
Joel Kincaid, Mayor
TO: Fruita City Council and Mayor
FROM: Planning & Development Department
DATE: April 18, 2023

AGENDA TEXT: ORDINANCE 2023-05, FIRST READING, An introduction of an Ordinance amending the Official Zoning Map of the City of Fruita by zoning approximately 6.6 acres of property located 1824 J 2/10 Road to a Community Residential zone for publication of public hearing on June 6, 2023.

(1824 J 2/10 Road Rezone)

BACKGROUND

This is a request for approval to zone approximately 6.6 acres of property to Community Residential (CR). The subject property is currently zoned Agricultural, Forestry and Transitional (AFT), which is a Mesa County zoning designation.

In addition to this rezoning application, the property owner has also submitted an annexation application. Typically, annexation applications are accompanied by a rezone application and can run concurrently through the public hearing process.

The applicants are requesting a Community Residential (CR) zone. The first step in the process to zone a property outside the city limits, is annexation. Once the subject property has been annexed into the City Limits, zoning the property must take place within 90 days in accordance with Section 17.17.080 of the Land Use Code and Colorado Revised Statutes (CRS) Section 31-12-115 (2).

The CR zone is primarily a single-family residential zone. The density (4-8 dwelling units per acre) associated with this zone district should be compatible with future residential development as supported by the Future Land Use Map and supporting documents within the Comprehensive Plan.

The Planning Commission will be considering this zoning application at their May 9, 2023, public hearing and will formulate their recommendation to the City Council for their June 6, 2023, public hearing.

FISCAL IMPACT

There is no fiscal impact to the City of Fruita for zoning property.
APPLICABILITY TO CITY GOALS AND OBJECTIVES

This property is within the Urban Growth Boundary and is recommended through the Future Land Use Map contained in the Fruita Comprehensive Plan (The City’s Master Plan) as being zoned Community Residential (CR).

OPTIONS AVAILABLE TO THE COUNCIL

1. Publish a synopsis of Ordinance 2023-05, An introduction of an Ordinance amending the official zoning map of the City of Fruita by zoning approximately 6.6 acres of property located at 1824 J 2/10 Road to a Community Residential zone for publication of public hearing on June 6, 2023.

2. Deny Ordinance 2023-05.

RECOMMENDATION

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

PUBLISH A SYNOPSIS OF ORDINANCE 2023-05 AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF FRUITA BY ZONING APPROXIMATELY 6.6 ACRES OF PROPERTY LOCATED AT 1824 J 2/10 ROAD TO A COMMUNITY RESIDENTIAL ZONE FOR PUBLICATION OF PUBLIC HEARING ON JUNE 6, 2023.
ORDINANCE 2023-05

AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF FRUITA BY ZONING APPROXIMATELY 6.6 ACRES OF PROPERTY LOCATED AT 1824 J 2/10 ROAD TO A COMMUNITY RESIDENTIAL ZONE

WHEREAS, the subject property is shown and described in attached Exhibit A which was recently annexed to the City of Fruita by Ordinance, and

WHEREAS, a public hearing will be held by the City Council on April 18, 2023, for the zoning request, and

WHEREAS, the requested zone is consistent with the city's goals and policies including the city's Master Plan.

WHEREAS, the requested zone meets the approval criteria of Section 17.09.070 of the Fruita Land Use Code that must be considered for an Amendment to the Official Zoning Map (rezone).

NOW THEREFORE, BE IT HEREBY ORDAINED BY THE CITY COUNCIL OF THE CITY OF FRUITA COLORADO AS FOLLOWS:

THAT the Official Zoning Map adopted pursuant to Section 17.03.030 of the Fruita Land Use Code is hereby amended and that the subject property shown and described on the attached Exhibit A, containing approximately 6.6 acres, is hereby zoned Community Residential (CR).


ATTEST: City of Fruita:

__________________________
Margaret Sell, City Clerk
____________________________
Joel Kincaid, Mayor
Legal Description

The East 7 acres of the South half of the Northwest quarter of the Southwest quarter of Section 16, Township 1 North, Range 2 West of the Ute Meridian, County of Mesa, State of Colorado, EXCEPT a strip of land 30 feet wide for roadway, utilities and all other public purposes the Southern line of which is the North line of the Southwest quarter of the Southwest quarter of Section 16, Township 1 North, Range 2 West of the Ute Meridian, being part of the land described in book 3066 and at page 658 in the office of the County clerk and recorder of the County of Mesa, State of Colorado.
BACKGROUND

The attached engagement letter replaces the engagement letter dated October 27, 2022 with Garfield and Hecht, PC. The new engagement letter reflects the annual increase of 10% permitted pursuant to the engagement letter plus a minor adjustment amount of $5 per hour to be consistent with rates charged by Garfield and Hecht to other municipal clients (see attached letter from Mary Elizabeth Geiger). In addition, the hourly rate of $110 for paralegal services has been added to the engagement letter.

FISCAL IMPACT

The fiscal impact of the engagement letter is an increase of approximately 10% in legal fees. It is anticipated that the existing budgeted funds will be sufficient to cover this increase.

<table>
<thead>
<tr>
<th>Garfield &amp; Hecht Legal Fees</th>
<th>2022</th>
<th>2023</th>
</tr>
</thead>
<tbody>
<tr>
<td>City Attorney/Mart Elizabeth Geiger</td>
<td>$225.00</td>
<td>$250.00</td>
</tr>
<tr>
<td>Associates</td>
<td>$205.00</td>
<td>$230.00</td>
</tr>
<tr>
<td>Reimbursables</td>
<td>$285.00</td>
<td>$310.00</td>
</tr>
<tr>
<td>Reimbursables - Associates</td>
<td>$265.00</td>
<td>$290.00</td>
</tr>
<tr>
<td>Paralegals</td>
<td></td>
<td>$110.00</td>
</tr>
<tr>
<td>Travel time*</td>
<td>$112.50</td>
<td>$125.00</td>
</tr>
</tbody>
</table>

*No charge for travel time to attend one regular CICO meeting per month
1/2 rate charge for additional travel time plus mileage
Rate changes effective in April or May of each year.

APPLICABILITY TO CITY GOALS AND OBJECTIVES

The Fruita City Charter requires the appointment of an attorney (or firm of attorneys) to perform duties as determined by the City Council. Legal services provided by a City Attorney are part of the Core Services of the City and has an impact on all of the City’s strategic outcomes for Quality of Place, Economic Health and Lifestyle.

OPTIONS AVAILABLE TO THE COUNCIL
Approve the engagement letter with Garfield & Hecht for legal services

Request that staff solicit proposals for legal services for the City

RECOMMENDATION
It is the recommendation of the Fruita City Staff that the Council move to:

APPROVE THE ENGAGEMENT LETTER WITH GARFIELD & HECHT TO PROVIDE GENERAL LEGAL SERVICES TO THE CITY AND AUTHORIZE THE CITY MANAGER TO EXECUTE THE ENGAGEMENT LETTER WITH GARFIELD & HECHT, P.C.
TO: Mayor Joel Kincaid, City of Fruita
    City of Fruita City Council
    Mike Bennett, City Manager – City of Fruita

FROM: Mary Elizabeth Geiger, Esq.

RE: Increase in Garfield & Hecht, P.C. hourly rate to match other municipal clients

When the City of Fruita initially engaged Paul Wisor and this firm as the City Attorney, the hourly rate charged by Garfield & Hecht, P.C. to the City was set at $5.00 less per hour than our regular municipal rate. Therefore, currently, we charge the City $225/hour (other municipalities are at $230/hour) unless it is a developer reimbursable matter and then we charge $285/hour (other municipalities are at $290/hour). The Rules of Professional Conduct allow us to raise our rates by 10% each year, automatically, but this still keeps the City at $5.00 less per hour than our other municipal clients. Therefore, I am requesting that Council approve this year’s increase to go just above a 10% change to bring the City to $250/hour (rather than $245/hour) to match our other municipal clients, and $310 per hour (instead of $305/hour) for developer reimbursable matters.
April 4, 2023

VIA EMAIL
City of Fruita – City Council
Attn: Michael Bennett, City Manager
325 E. Aspen Avenue
Fruita, Colorado 81521
mbennett@fruita.org

Re: UPDATED LEGAL REPRESENTATION AND FEE AGREEMENT

Dear Mayor, City Council and Mr. Bennett:

1. **Scope of Engagement; You Hire Us To Act As Your Attorney:** Thank you for the opportunity to continue to represent the City of Fruita (the “City”) as its City Attorney, covering all departments and legal matters, including water law matters. This agreement updates our prior representation and fee agreement with the City executed in 2018 and the recent updated fee agreement from October 2022. Please note we are not business or investment advisers and do not make decisions or give advice as to whether or not it would be advantageous, profitable or otherwise in your best interests to engage in any particular transaction. Where we represent the City in connection with the purchase, sale, financing, lease or any other transaction involving property, such representation does not extend to identifying physical or environmental defects or conditions; our review of title matters is circumscribed by those items listed and produced as exceptions to and requirements of title by the particular title company selected by the parties to the transaction and we may rely, without further inquiry, on reports, studies or investigations provided by third party professionals, such as surveyors, home inspectors or title companies. Where our representation arises through a referral from another attorney, we assume no responsibility for acts or omissions on the part of such prior attorney. After completion of this engagement, changes may occur in the applicable laws or regulations that may impact your future rights or liabilities. Unless the City specifically engages us to provide additional services after the completion of this engagement, we do not undertake to advise it with respect to future legal developments relating to this engagement.

2. **Fees and Staffing; We Bill By The Hour:** We will continue to bill the City on a tiered structure. Mary Elizabeth Geiger and Shareholders within the firm will bill the City for City work at a rate of $250 per hour and Associates will bill the City at a rate of $230 per hour. For all work provided on behalf of the City subject to reimbursement to the City by developers or other third parties, Ms. Geiger and Shareholders within the firm will bill at a rate of $310.00 per hour and Associates will bill at a rate of $290.00. From time to time, we may assign other lawyers, primarily associates, or paralegals for discrete tasks. The paralegal rate is $110.00 per hour. We agree to keep records of all time spent. Unless otherwise advised, the City will be billed monthly. Unless otherwise agreed, the City will be billed for
professionals’ time at increments of 1/10th hour. Our rates and fees are based on factors set forth in Rule 1.5(a) of the Colorado Rules of Professional Conduct, applicable to all Colorado attorneys. We periodically review and adjust the hourly rates of our attorneys, paralegals or other timekeepers in response to rising costs, market conditions or other factors law firms typically take into account. By this letter you approve adjustments that do not exceed annually ten percent (10%) over the hourly rate initially quoted to the City. Where we represent the City in connection with the sale or purchase of real estate or other transaction where a settlement statement may be utilized, the City authorize us to add a line item for the balance of our legal fees to be paid out of the closing. However, such payment does not always constitute full payment of our legal fees. At the time of closing it may not be possible to have accounted for all our legal fees, especially if incurred a couple of days before or on day of closing or in attending to post-closing matters. The City agrees to remain responsible for all such fees. Nothing herein shall be construed as to constitute a multiple fiscal year obligation of the City under Article X, Section XX of the Colorado Constitution or any other provision of Colorado law.

3. **Expenses; The City Will Reimburse Us For Expenditures On Its Behalf:** The City agrees to pay promptly for such legal services and to pay all expenses incurred in connection therewith, such as long distance, court reporters, data compilation and management, office copying service, postage, Federal Express or other overnight carriers, filing, recording fees, secretarial overtime, and the like allocated to the City. We may also incur travel, mileage, lodging and subsistence expenses for the City which the City is also responsible; provided, however, we would not charge for travel time to attend one regular City Council meeting per month and would charge at half the regular rate for additional travel if needed. In certain matters, we will need to retain consultants, vendors and experts on the City’s behalf. The City authorize us to incur costs on its behalf, but we are not required to do so. We will attempt to obtain the City’s consent before incurring costs in excess of $500.00, but you understand that circumstances may make it impractical to obtain the City’s consent before incurring such costs. The City agrees that it is solely responsible for any costs incurred on its behalf. In lieu of advancing costs, we may request funds from you for the payment of anticipated costs, which will be kept in our COLTAF account until the costs are incurred. These payments or requested funds for payment must be paid promptly.

4. **Litigation; We Cannot Guarantee Success:** If our representation of the City involves a contested or adversarial matter, we intend to assert the City’s position vigorously and efficiently. However, you must understand that, in representing any client in a contested or adversarial matter, we cannot promise or guarantee the ultimate success of the City’s position, whether in a lawsuit, arbitration or any other forum. Our performance also depends, in large part, upon the City’s cooperation and particularly upon prompt receipt of information and instructions from the City from time to time as the matter progresses. Further, the level of activity may, in large measure, depend on the steps the other parties may take and their willingness, if any, to resolve the City’s dispute without a full-scale trial. We hereby advise the City of the existence of alternative forms of dispute resolution which might reasonably be pursued to attempt to resolve the legal dispute or to reach the legal objective sought.

6. **Payment; We Charge Interest On Late Payment:** If the City is billed for any legal services or expenses, you agree that payment must be made within 30 days of the date of any such bill. The City will be charged compounded interest at a periodic monthly rate of 1.5% (this is an annual percentage rate of 18%) on any balance unpaid after 30 days, but in no event less than a 1.5% periodic
monthly rate. In the event that the City does not pay an invoice within forty-five (45) days and no information is brought to our attention regarding a dispute as to the amount owed, we may elect to take legal action including a collection lawsuit to recover our unpaid legal fees and costs and accrued interest. Under such circumstances the City agrees to pay our reasonable legal fees and costs incurred in such collection activity and the City further agrees to submit to the jurisdiction of the County or District Court in Colorado of the county in which our office is located where the primary legal services were provided as reasonably determined by us.

7. Withdrawal; We Reserve The Right To Withdraw, You May Always Terminate Us: By written notice, we may withdraw as the City’s counsel for reasons including, but not limited to, failure to pay fees or expenses, failure to cooperate with the firm, conflicting communications where there is more than one client and those mandated by the Colorado Rules of Professional Conduct or otherwise provided in this agreement. If permission for withdrawal from employment is required by court rules, the firm shall withdraw upon receiving permission from the court; and the City agrees to pay all legal fees until such permission is obtained or otherwise incurred incident to the winding up and conclusion of your representation. Upon withdrawal, the City shall immediately pay any remaining balance owed on the City’s account. The City may also terminate our employment by notifying us in writing. The firm reserves its right to assert a retaining lien or charging lien, as appropriate, on any unpaid balance.

8. Privacy; The City’s Assurance Of Confidentiality, When Disclosures Are Permitted: Subject to professional and ethical standards, all communications between us are protected by the attorney-client privilege. This privilege may be waived by the City if it shares the communications or advice with third parties. We advise the City not to share or disclose attorney-client communications to any third parties without first consulting us. Additionally, we advise that the City avoid posting any information related to the scope of our representation on social media, as this may result in a waiver of the attorney-client privilege. Any information that the City posts on social media may be discoverable by adverse parties; we advise the City to avoid posting any information related to the scope of our representation or the City’s underlying legal matters on social media. Confidential information may be shared by us with other attorneys, paralegals, contract attorneys or legal assistants and outside consultants retained on the City’s behalf whose services are necessary in the course of our representation. Confidential information may also be disclosed by us to third parties where such disclosure is implied from the legal services the City has requested us to provide such as our outside ethics counsel or our IT provider. We protect all such information with physical, electronic, and procedural safeguards that comply with our professional standards.

9. Insurance; We Are Not Responsible For Insurance the City May Have: It is possible the City may have insurance policies relating to the matters wherein the City has requested our assistance. The City should carefully check all policies and, if coverage may be available, notify the insurance company about matters that may be covered as soon as possible. We do not undertake any responsibility to advise the City as to the existence, applicability or availability of any insurance coverage or to give notice or tender any claims to any insurance company for any of the matters being handled by this firm. If any insurance company undertakes the payment of any portion of our billing statements, the City will still remain responsible for any amounts not paid by the insurance company. Finally, if there is insurance involved in any transaction where we represent the City, it is your responsibility to determine whether or
not the underwriter has adequate resources to pay any claim. We are not financial analysts, and we do not have the expertise to advise the City as to the financial condition of any underwriter or insurance agent.

10. **Conflicts of Interest; Conflict Checks; Conflicts That May Arise Later and Waivers:** To protect both of us and to comply with our professional obligations, our representation is subject to clearance of any conflicts of interest with present or former clients of our firm, as well as approval by the firm’s management which reviews all new matters. Conflicts of interest may also arise at some later date. If a conflict arises through no fault of our law firm, for example, new issues that may come up between the City and a private third party, the City agrees that such circumstances will not be a basis to disqualify us in this or any other matter. If a conflict arises because a particular lawyer joins our firm, the City agrees that it will be a sufficient remedy to screen such lawyer or lawyers from our engagement(s) for you, including any relevant documents. This firm represents many companies and individuals. It is possible that during the time we are representing the City, some of our current or future clients will have disputes or transactions with the City. The City agrees that we may continue to represent or undertake in the future to represent existing or new clients in any matter, including litigation, even if the interests of such other clients in such other matters are directly adverse to the City’s, so long as those matters are not substantially related to our work for the City.

11. **File Retention Policy; When the City’s Files May Be Disposed Of:** The firm reserves the right to dispose of any file four (4) years after the legal matters described therein have been resolved or four (4) years after the last work on the matter has been performed, whichever is first. If the City wishes to obtain its files, it must do so by written request within said four (4) year period. The City agrees to be responsible for the shipping and handling charges incurred in forwarding these files to the City or to any third party it may designate.

12. **Dispute Resolution: We Will Try To Resolve Disputes By Mediation And If Not Successful Then By Arbitration:** In the event of any dispute, controversy or claim (a “Dispute”) arising from or relating to (1) this agreement or breach thereof, including a dispute as to the amount owed for legal fees or (2) any representation or services provided by the firm including possible malpractice where the Dispute cannot be resolved by direct discussions between the parties, the City and this firm agree to first endeavor to resolve the Dispute by mediation before resorting to arbitration. Mediation may be initiated by written notice by either party who has authority to resolve the Dispute. If the Dispute is not resolved within sixty (60) days after the beginning of mediation then, upon written notice by either party to the other, the dispute shall be finally resolved by binding arbitration conducted by, and in accordance with the rules of the Judicial Arbiter Group, Inc., or, if such entity is no longer functioning, its successor or such other entity most nearly performing the same function in Colorado as we may reasonably determine. BY AGREEING TO ARBITRATION THIS FIRM AND YOU AGREE TO WAIVE ANY RIGHT TO A TRIAL BY JURY. On balance we believe arbitration is a worthwhile way to resolve Disputes because it can be done expeditiously and with less expense than litigation. The place of mediation and arbitration shall be in the county in Colorado in which our office is located where the primary legal services were provided as reasonably determined by us. Except as may be required by law, a party, mediator or arbitrator may not, with respect to a Dispute, disclose the existence, content or results of any discussions, mediation, or arbitration hereunder without the prior written consent of both parties, and the process of discussions, mediation, if necessary, and arbitration, if necessary, shall, to the fullest
extent allowed by law, be the sole means of resolving any Disputes. If we prevail in the arbitration, you agree to pay our reasonable attorney fees and costs incurred. As to non-payment of legal fees only, and provided neither party has requested mediation or arbitration, we reserve the right to file a collection lawsuit. If we have commenced a collection lawsuit for legal fees owed and in the course of that litigation the City raises any matters that are required to be resolved in accordance with the dispute resolution procedures set forth herein, we shall dismiss or stay the litigation and submit the dispute to these resolution procedures.

13. **City Council Review.** Beginning in March 2023, the City Council may conduct an informal review of Ms. Geiger every March and a formal review of Ms. Geiger every September. Such reviews shall be conducted for the purpose of providing Ms. Geiger with feedback regarding her work product, interaction with City Council members and staff as well as her overall performance, including identifying areas of improvement.

14. **E-Mail Alerts; Website:** If the City has provided us with contact e-mail or mailing address, we may periodically send to the City via e-mail or regular mail alerts involving firm news or changes in laws. If the City does not wish to receive these alerts, please let us know, and we will omit your name from our distribution list. Sending such alerts is solely a courtesy to our clients and does not give rise to any duty on our part to keep the City informed of changes in laws or constitute legal advice. Documents we send the City by e-mail (whether or not containing confidential information) will not be encrypted unless you request us, in writing, to encrypt outgoing e-mail and we are able, without significant additional cost, to agree with the City and implement mutually-acceptable encryption standards and protocols. We make reasonable attempts to exclude from our e-mails and any attachments any virus or other defect that might affect any computer or information technology system. However, it is the City’s responsibility to put in place measures to protect its computer system against any such virus or defect, and we do not accept any liability for any loss or damage that may arise from the receipt or use of electronic communication from us. If you are a corporation or other form of entity, your signature below constitutes a consent to include the City’s name in the Representative Client listing appearing on our website. We never post the names of individuals on the list. If the City does not wish to have your name appearing on the listing, please let us know.

Please acknowledge the City’s acceptance of the terms set forth herein by executing this letter and returning it to the undersigned, or send it back in electronic format. We understand that you, as City Manager, have been authorized by City Council to sign this agreement and will be our main point of contact with the City. We look forward to continue our working relationship with the City of Fruita.

Very truly yours,
GARFIELD & HECHT, P.C.

By: Mary Elizabeth Geiger
Mary Elizabeth Geiger
AGREED TO:

_______________________________
Michael Bennett
City of Fruita

If a different billing address is not provided below the address at the beginning of this engagement letter will be used for billing purposes. You may also elect to have the City’s billing emailed to you. Please select your preferred method of delivery below and if other City employees should receive copies of billing please provide their information.

☐ Billing Mailing Address: ☐E-Mail – Billing E-mail Address:

__________________________________
__________________________________

Section 6, Item G.
TO: Fruita City Council and Mayor

FROM: Margaret Sell, Finance Director/City Clerk

DATE: April 18, 2023

AGENDA TEXT: FINANCIAL REPORTS – A request to approve the March 2023 Financial Reports

BACKGROUND

*Sales and Use Tax Revenues – February 2023*

The following table provides is a summary of sales and use tax revenues for the month compared to the same period in 2022. Total tax revenues are up $109,035 from the prior year and ahead of budgeted amounts by $175,201. Historical and current year charts for each category of sales and use tax revenue are attached.

<table>
<thead>
<tr>
<th>Type</th>
<th>Percent (%) Change</th>
<th>Dollar ($) Change</th>
<th>From prior year - YTD</th>
<th>Between actual and budget - YTD</th>
</tr>
</thead>
<tbody>
<tr>
<td>City Sales Tax (2%)</td>
<td>Feb-23</td>
<td>7% 14%</td>
<td>$66,077</td>
<td>$86,461</td>
</tr>
<tr>
<td>Use tax on Motor Vehicles (2%)</td>
<td>Feb-23</td>
<td>31% 18%</td>
<td>$16,831</td>
<td>$23,479</td>
</tr>
<tr>
<td>Use tax on Building Materials (2%)</td>
<td>Feb-23</td>
<td>66% 25%</td>
<td>$13,857</td>
<td>$24,733</td>
</tr>
<tr>
<td>Lodging Tax (3%)</td>
<td>Feb-23</td>
<td>35% 16%</td>
<td>$1,589</td>
<td>$3,281</td>
</tr>
<tr>
<td>County Sales Tax</td>
<td>Feb-23</td>
<td>1% 2%</td>
<td>$9,501</td>
<td>$32,529</td>
</tr>
<tr>
<td>Public Safety Tax</td>
<td>Feb-23</td>
<td>0% 2%</td>
<td>$1,180</td>
<td>$4,718</td>
</tr>
</tbody>
</table>

The following table shows a monthly comparison between February 2022 and 2023 city sales tax collections by NAICS category. Remote retailers represent 12% of the sales tax revenues for the month and increased 13% from the prior year.
A table showing year-to-date totals and chart of the top 3 categories is attached. Retail trade continues its growth trend with a 4% increase over the prior year.

**Community Center Fund Charges for Services –February 2023**

February 2023 charges for services (pass fees and recreation programs) were down 4% from the prior year.

---

**Sales Tax Revenues by Category (3%)**

<table>
<thead>
<tr>
<th>Description</th>
<th>2021</th>
<th>2022</th>
<th>2023</th>
<th>1 yr % Chg</th>
<th>1 yr $ Chg</th>
</tr>
</thead>
<tbody>
<tr>
<td>Retail Trade</td>
<td>169,635</td>
<td>192,220</td>
<td>190,705</td>
<td>-1%</td>
<td>(1,515)</td>
</tr>
<tr>
<td>Food</td>
<td>49,422</td>
<td>58,356</td>
<td>65,049</td>
<td>11%</td>
<td>6,693</td>
</tr>
<tr>
<td>Other Miscellaneous</td>
<td>7,405</td>
<td>11,910</td>
<td>14,391</td>
<td>21%</td>
<td>2,481</td>
</tr>
<tr>
<td>Utilities</td>
<td>28,034</td>
<td>35,804</td>
<td>50,170</td>
<td>40%</td>
<td>14,366</td>
</tr>
<tr>
<td>Manufacturing</td>
<td>7,114</td>
<td>10,368</td>
<td>11,767</td>
<td>13%</td>
<td>1,399</td>
</tr>
<tr>
<td>Rental and Leasing</td>
<td>6,362</td>
<td>7,586</td>
<td>7,975</td>
<td>5%</td>
<td>389</td>
</tr>
<tr>
<td>Other Services</td>
<td>4,357</td>
<td>8,263</td>
<td>6,091</td>
<td>-26%</td>
<td>(2,172)</td>
</tr>
<tr>
<td>Lodging</td>
<td>7,600</td>
<td>8,155</td>
<td>8,465</td>
<td>4%</td>
<td>310</td>
</tr>
<tr>
<td>Wholesale Trade</td>
<td>10,422</td>
<td>14,061</td>
<td>17,460</td>
<td>24%</td>
<td>3,399</td>
</tr>
<tr>
<td>Communications</td>
<td>11,207</td>
<td>13,945</td>
<td>13,275</td>
<td>-5%</td>
<td>(670)</td>
</tr>
<tr>
<td>Oil and Gas</td>
<td>311</td>
<td>897</td>
<td>604</td>
<td>-33%</td>
<td>(293)</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>301,869</td>
<td>361,565</td>
<td>385,952</td>
<td>7%</td>
<td>24,387</td>
</tr>
</tbody>
</table>

**Remote retailers**

<table>
<thead>
<tr>
<th>Description</th>
<th>2021</th>
<th>2022</th>
<th>2023</th>
<th>1 yr % Chg</th>
<th>1 yr $ Chg</th>
</tr>
</thead>
<tbody>
<tr>
<td>Remote retailers</td>
<td>30,951</td>
<td>39,422</td>
<td>44,739</td>
<td>13%</td>
<td>5,317</td>
</tr>
</tbody>
</table>

**Actual vs Budget Report –March 2023.** The attached Actual vs Budget report presents comparison information on budgeted vs actual revenues and expenses by fund and department for all funds. The following is a summary of the report by fund.
FISCAL IMPACT
None.

APPLICABILITY TO CITY GOALS AND OBJECTIVES
These reports provide financial information to the Council to monitor the City’s financial position and may be used as a tool to hold staff accountable for accomplishing goals and objectives set forth in the Budget.

OPTIONS AVAILABLE TO THE COUNCIL
Approval of Financial Reports
Approval of Financial Reports with clarification on specific items

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

ACCEPT THE MARCH 2023 FINANCIAL REPORTS AS PRESENTED
<table>
<thead>
<tr>
<th>City Sales Tax - 2% General Fund (110-3131)</th>
<th>2019</th>
<th>2020</th>
<th>2021</th>
<th>2022</th>
<th>2023</th>
<th>$ Variance</th>
<th>% Variance</th>
</tr>
</thead>
<tbody>
<tr>
<td>Jan</td>
<td>124,973.08</td>
<td>190,392.44</td>
<td>204,830.52</td>
<td>222,224.08</td>
<td>272,043.95</td>
<td>49,819.87</td>
<td>22.42%</td>
</tr>
<tr>
<td>Feb</td>
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<td>201,246.04</td>
<td>241,043.51</td>
<td>257,301.07</td>
<td>16,257.56</td>
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<td>242,722.52</td>
<td>274,325.31</td>
<td>241,256.77</td>
<td>275,116.14</td>
<td>31,860.37</td>
<td>11.61%</td>
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<td>191,027.30</td>
<td>229,082.70</td>
<td>280,881.50</td>
<td>315,464.89</td>
<td>321,372.15</td>
<td>16,917.36</td>
<td>5.31%</td>
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<td>198,826.37</td>
<td>236,158.52</td>
<td>299,751.07</td>
<td>315,266.10</td>
<td>321,372.15</td>
<td>16,116.08</td>
<td>5.20%</td>
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<tr>
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<td>197,471.05</td>
<td>229,082.70</td>
<td>280,881.50</td>
<td>315,464.89</td>
<td>321,372.15</td>
<td>16,890.37</td>
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<td>Jul</td>
<td>190,974.84</td>
<td>280,361.25</td>
<td>268,022.29</td>
<td>291,773.52</td>
<td>321,372.15</td>
<td>16,570.57</td>
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<td>321,372.15</td>
<td>321,372.15</td>
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<td>0.00%</td>
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<tr>
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<td>275,116.14</td>
<td>321,372.15</td>
<td>321,372.15</td>
<td>321,372.15</td>
<td>0.00%</td>
<td>0.00%</td>
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<tr>
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<td>321,372.15</td>
<td>321,372.15</td>
<td>321,372.15</td>
<td>321,372.15</td>
<td>0.00%</td>
<td>0.00%</td>
</tr>
<tr>
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<td>192,966.14</td>
<td>321,372.15</td>
<td>321,372.15</td>
<td>321,372.15</td>
<td>321,372.15</td>
<td>0.00%</td>
<td>0.00%</td>
</tr>
<tr>
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<td>321,372.15</td>
<td>321,372.15</td>
<td>321,372.15</td>
<td>321,372.15</td>
<td>0.00%</td>
<td>0.00%</td>
</tr>
<tr>
<td>TOTAL</td>
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<td>2,738,080.93</td>
<td>3,139,138.97</td>
<td>3,451,733.17</td>
<td>3,451,733.17</td>
<td>529,345.02</td>
<td>15.26%</td>
</tr>
<tr>
<td>%</td>
<td>15.26%</td>
<td>23.68%</td>
<td>14.65%</td>
<td>9.96%</td>
<td>-84.66%</td>
<td></td>
<td></td>
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</table>

2023 Budget = $3,300,000, 4.4% decrease from 2022 Actual Revenues

| Feb | 269,073.73 | 358,142.30 | 406,076.56 | 463,267.59 | 529,345.02 | 66,077.43  | 14.26%     |
| %   | 3% | 403,610.60 | 537,213.45 | 609,114.84 | 694,901.39 | 800,517.53 | 99,116.15  | 14.26%     |

<table>
<thead>
<tr>
<th>Use Tax on Motor Vehicles - 2% General Fund (110-3132)</th>
<th>2019</th>
<th>2020</th>
<th>2021</th>
<th>2022</th>
<th>2023</th>
<th>$ Variance</th>
<th>% Change</th>
</tr>
</thead>
<tbody>
<tr>
<td>JAN</td>
<td>59,067.65</td>
<td>44,776.20</td>
<td>59,327.64</td>
<td>47,309.36</td>
<td>49,751.32</td>
<td>2,441.96</td>
<td>5.16%</td>
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<td>35,431.97</td>
<td>59,554.07</td>
<td>38,721.90</td>
<td>46,447.50</td>
<td>60,836.73</td>
<td>14,389.23</td>
<td>30.98%</td>
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<tr>
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<td>56,995.69</td>
<td>35,122.84</td>
<td>73,577.89</td>
<td>94,600.69</td>
<td>94,600.69</td>
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<td>0.00%</td>
</tr>
<tr>
<td>APR</td>
<td>58,679.47</td>
<td>56,918.15</td>
<td>79,197.84</td>
<td>64,357.92</td>
<td>64,357.92</td>
<td>0.00%</td>
<td>0.00%</td>
</tr>
<tr>
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<td>57,077.89</td>
<td>94,600.69</td>
<td>94,600.69</td>
<td>94,600.69</td>
<td>0.00%</td>
<td>0.00%</td>
</tr>
<tr>
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<td>52,822.10</td>
<td>72,285.02</td>
<td>73,099.93</td>
<td>64,357.92</td>
<td>64,357.92</td>
<td>0.00%</td>
<td>0.00%</td>
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<tr>
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<td>67,463.71</td>
<td>89,038.90</td>
<td>79,197.84</td>
<td>64,357.92</td>
<td>64,357.92</td>
<td>0.00%</td>
<td>0.00%</td>
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<td>73,161.03</td>
<td>111,272.20</td>
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<td>83,056.00</td>
<td>0.00%</td>
<td>0.00%</td>
</tr>
<tr>
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<td>69,374.11</td>
<td>55,871.85</td>
<td>71,679.10</td>
<td>71,679.10</td>
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<td>0.00%</td>
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<td>67,505.07</td>
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<td>80,815.93</td>
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<td>0.00%</td>
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<tr>
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<td>58,715.01</td>
<td>70,219.53</td>
<td>70,219.53</td>
<td>25,246.79</td>
<td>25,246.79</td>
<td>0.00%</td>
<td>0.00%</td>
</tr>
<tr>
<td>DEC</td>
<td>46,583.89</td>
<td>46,448.46</td>
<td>46,448.46</td>
<td>46,448.46</td>
<td>46,448.46</td>
<td>0.00%</td>
<td>0.00%</td>
</tr>
<tr>
<td>YTD</td>
<td>690,747.13</td>
<td>700,678.96</td>
<td>842,223.02</td>
<td>856,733.30</td>
<td>110,588.05</td>
<td>16,831.19</td>
<td>17.95%</td>
</tr>
<tr>
<td>%</td>
<td>9.88%</td>
<td>1.44%</td>
<td>20.20%</td>
<td>1.73%</td>
<td>1.73%</td>
<td>0.00%</td>
<td>0.00%</td>
</tr>
</tbody>
</table>

2023 Budget = $800,000 - 7.09% decrease from 2022 Actual Revenues

| Feb | 94,499.62 | 104,330.27 | 98,049.54 | 93,756.86 | 110,588.05 | 16,831.19  | 17.95%     |
| %   | 3% | 141,749.43 | 156,495.41 | 147,074.31| 140,635.29 | 80,815.93  | 25,246.79  | 17.95% for chart only |
## SALES AND USE TAX REPORTS

### Use Tax on Building Materials - 2% General Fund (110-3133)

<table>
<thead>
<tr>
<th></th>
<th>2019</th>
<th>2020</th>
<th>2021</th>
<th>2022</th>
<th>2023</th>
<th>$ Variance</th>
<th>% Change</th>
</tr>
</thead>
<tbody>
<tr>
<td>JAN</td>
<td>19,357.85</td>
<td>14,922.55</td>
<td>16,599.65</td>
<td>22,964.41</td>
<td>16,208.89</td>
<td>-6,755.52</td>
<td>-29.42%</td>
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<td>10,930.68</td>
<td>27,922.86</td>
<td>31,415.26</td>
<td>52,028.31</td>
<td>20,613.05</td>
<td>65.61%</td>
</tr>
<tr>
<td>MAR</td>
<td>9,936.56</td>
<td>41,435.81</td>
<td>32,453.39</td>
<td>58,817.72</td>
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<td></td>
</tr>
<tr>
<td>APR</td>
<td>24,173.95</td>
<td>10,766.83</td>
<td>27,295.09</td>
<td>44,288.18</td>
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</tr>
<tr>
<td>MAY</td>
<td>32,410.86</td>
<td>38,491.01</td>
<td>17,464.96</td>
<td>37,933.25</td>
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</tr>
<tr>
<td>JUN</td>
<td>26,190.88</td>
<td>17,591.28</td>
<td>33,914.75</td>
<td>38,355.04</td>
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<tr>
<td>JUL</td>
<td>16,836.31</td>
<td>37,279.04</td>
<td>24,039.63</td>
<td>18,894.10</td>
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<tr>
<td>AUG</td>
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<td>10,941.09</td>
<td>19,619.37</td>
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<tr>
<td>SEP</td>
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<td>23,043.51</td>
<td>15,065.96</td>
<td>30,588.98</td>
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</tr>
<tr>
<td>OCT</td>
<td>44,522.51</td>
<td>66,783.77</td>
<td>12,266.06</td>
<td>19,234.44</td>
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<td></td>
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<tr>
<td>NOV</td>
<td>12,122.45</td>
<td>32,902.26</td>
<td>19,098.82</td>
<td>19,923.44</td>
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<td>19,073.22</td>
<td>30,253.24</td>
<td>26,525.37</td>
<td>18,289.07</td>
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<tr>
<td>YTD</td>
<td>208,425.91</td>
<td>298,768.38</td>
<td>292,637.09</td>
<td>375,375.65</td>
<td>68,237.20</td>
<td>13,857.53</td>
<td>25.48%</td>
</tr>
</tbody>
</table>

%: -42.35% 43.35% -2.05% 28.27%

2023 Budget = $300,000 - 20% decrease from 2022 Actual revenues

Feb 38,414.56 25,853.23 44,522.51 54,379.67 68,237.20 13,857.53 25.48%

### City Lodging Tax - 3% (125-3134)

<table>
<thead>
<tr>
<th></th>
<th>2019</th>
<th>2020</th>
<th>2021</th>
<th>2022</th>
<th>2023</th>
<th>$ Variance</th>
<th>% Change</th>
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<tbody>
<tr>
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<td>2,611.13</td>
<td>3,573.20</td>
<td>3,452.69</td>
<td>4,465.16</td>
<td>4,145.44</td>
<td>-319.72</td>
<td>-7.16%</td>
</tr>
<tr>
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<td>3,774.09</td>
<td>4,018.26</td>
<td>4,145.37</td>
<td>5,490.69</td>
<td>7,399.14</td>
<td>1,908.45</td>
<td>34.76%</td>
</tr>
<tr>
<td>Mar</td>
<td>8,249.09</td>
<td>4,677.20</td>
<td>10,961.79</td>
<td>12,266.06</td>
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</tr>
<tr>
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<td>8,046.43</td>
<td>2,305.15</td>
<td>16,557.26</td>
<td>14,353.42</td>
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<td>15,242.71</td>
<td>5,512.69</td>
<td>19,501.69</td>
<td>27,925.85</td>
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<td></td>
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</tr>
<tr>
<td>Jun</td>
<td>22,312.67</td>
<td>8,463.77</td>
<td>23,011.89</td>
<td>24,010.29</td>
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<tr>
<td>Jul</td>
<td>15,335.70</td>
<td>11,150.71</td>
<td>19,979.13</td>
<td>14,726.50</td>
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</tr>
<tr>
<td>Aug</td>
<td>12,712.49</td>
<td>11,047.44</td>
<td>16,446.92</td>
<td>13,107.77</td>
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<tr>
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<td>21,282.81</td>
<td>20,312.24</td>
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</tr>
<tr>
<td>Oct</td>
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<td>18,243.68</td>
<td>27,831.93</td>
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<tr>
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</tr>
<tr>
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<td>6,475.52</td>
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<tr>
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<td>89,501.92</td>
<td>171,919.54</td>
<td>181,460.06</td>
<td>11,544.58</td>
<td>1,588.73</td>
<td>15.96%</td>
</tr>
</tbody>
</table>

%: -1.29% -29.56% 92.08% 5.55%

2023 Budget = $150,000 - 17% decrease from 2022 actual revenues

Feb 6,385.22 7,591.46 7,598.06 9,955.85 11,544.58 1,588.73 15.96%
## SALES AND USE TAX REPORTS

### County Sales Tax - 2% (110-3130)

<table>
<thead>
<tr>
<th></th>
<th>2019</th>
<th>2020</th>
<th>2021</th>
<th>2022</th>
<th>2023</th>
<th>$ Variance</th>
<th>% Variance</th>
</tr>
</thead>
<tbody>
<tr>
<td>Jan</td>
<td>168,991.80</td>
<td>178,526.13</td>
<td>199,569.41</td>
<td>227,801.34</td>
<td>235,100.74</td>
<td>7,299.40</td>
<td>3.20%</td>
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<tr>
<td>Feb</td>
<td>161,231.36</td>
<td>181,438.93</td>
<td>200,816.29</td>
<td>232,761.64</td>
<td>234,963.31</td>
<td>2,201.67</td>
<td>0.95%</td>
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<tr>
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<td>198,980.47</td>
<td>188,855.08</td>
<td>268,529.43</td>
<td>283,096.69</td>
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<td></td>
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</tr>
<tr>
<td>Apr</td>
<td>197,897.18</td>
<td>187,855.58</td>
<td>270,209.01</td>
<td>279,500.97</td>
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</tr>
<tr>
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<td>220,166.38</td>
<td>264,407.19</td>
<td>283,763.03</td>
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<tr>
<td>Jun</td>
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<td>233,449.26</td>
<td>281,089.81</td>
<td>304,783.41</td>
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<tr>
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<td>264,075.93</td>
<td>308,357.00</td>
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</tr>
<tr>
<td>Aug</td>
<td>216,142.51</td>
<td>223,314.16</td>
<td>259,705.93</td>
<td>308,357.00</td>
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<tr>
<td>Sep</td>
<td>206,870.89</td>
<td>230,820.91</td>
<td>274,282.88</td>
<td>304,783.41</td>
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<td></td>
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</tr>
<tr>
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<td>210,951.31</td>
<td>228,020.45</td>
<td>263,951.60</td>
<td>278,430.83</td>
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<tr>
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<td>252,758.87</td>
<td>275,219.04</td>
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<tr>
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<td>316,028.45</td>
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<tr>
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<td><strong>3,098,608.13</strong></td>
<td><strong>3,380,154.27</strong></td>
<td><strong>470,064.05</strong></td>
<td><strong>9,501.07</strong></td>
<td><strong>2.06%</strong></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th></th>
<th>%</th>
<th>%</th>
<th>%</th>
<th>%</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>Jan</td>
<td>6.99%</td>
<td>5.23%</td>
<td>21.07%</td>
<td>9.09%</td>
<td></td>
</tr>
<tr>
<td>Feb</td>
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<td></td>
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</table>

2023 Budget=$3,210,000 5.0% decrease from 2022 actual revenue

### County Sales Tax - 0.37% Public Safety Tax (110-3129)

<table>
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<tr>
<th></th>
<th>2019</th>
<th>2020</th>
<th>2021</th>
<th>2022</th>
<th>2023</th>
<th>$ Variance</th>
<th>% Variance</th>
</tr>
</thead>
<tbody>
<tr>
<td>Jan</td>
<td>25,508.99</td>
<td>26,762.07</td>
<td>29,794.36</td>
<td>34,330.68</td>
<td>35,660.02</td>
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<td>34,870.95</td>
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<td>41,095.99</td>
<td>42,371.66</td>
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<tr>
<td>Apr</td>
<td>30,643.86</td>
<td>27,635.27</td>
<td>40,485.69</td>
<td>41,898.53</td>
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<tr>
<td>May</td>
<td>32,085.32</td>
<td>32,800.08</td>
<td>39,900.10</td>
<td>43,792.01</td>
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<tr>
<td>Jun</td>
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<td>42,158.45</td>
<td>45,827.75</td>
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<td>Jul</td>
<td>31,495.72</td>
<td>34,219.03</td>
<td>39,786.84</td>
<td>42,639.68</td>
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<td>32,200.79</td>
<td>33,414.60</td>
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<td>40,801.66</td>
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<tr>
<td>Dec</td>
<td>35,263.78</td>
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<td>47,219.60</td>
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<td><strong>TOTAL</strong></td>
<td><strong>367,421.02</strong></td>
<td><strong>379,914.22</strong></td>
<td><strong>465,218.03</strong></td>
<td><strong>506,155.45</strong></td>
<td><strong>70,530.97</strong></td>
<td><strong>1,180.78</strong></td>
<td><strong>1.70%</strong></td>
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</table>

| %     | 9.41%      | 3.40%      | 22.45%     | 8.80%      |            |

2023 Budget=$480,000 5.1% decrease from 2022 actual revenue

### Diagrams

- **County Sales Tax - YTD vs Feb**
  - 2019: 330,223.16
  - 2020: 359,965.06
  - 2021: 400,385.70
  - 2022: 460,562.98
  - 2023: 470,064.05

- **County Sales Tax - Public Safety - YTD vs Feb**
  - 2019: 54,970.06
  - 2020: 53,507.10
  - 2021: 60,317.10
  - 2022: 69,350.19
  - 2023: 70,530.97

### Footnotes

- Section 6, Item H.
### 2023 City Lodging Tax - Marketing Fund 3% (125-3134)

<table>
<thead>
<tr>
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<th>Hotels &amp; Campgrounds</th>
<th>VRBO'S</th>
<th>Monthly Total</th>
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<td>% of Total</td>
<td>Revenue</td>
<td>% of Total</td>
</tr>
<tr>
<td>Jan</td>
<td>3,157</td>
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<td>988</td>
</tr>
<tr>
<td>Feb</td>
<td>6,406</td>
<td>87%</td>
<td>993</td>
</tr>
<tr>
<td>Mar</td>
<td>-</td>
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<tr>
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<td>May</td>
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<tr>
<td>Jun</td>
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<td>-</td>
</tr>
<tr>
<td>Sep</td>
<td>-</td>
<td>-</td>
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</tr>
<tr>
<td>Oct</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Nov</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Dec</td>
<td>-</td>
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<tr>
<td><strong>TOTAL</strong></td>
<td>9,563</td>
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### 2023 City Lodging Tax - Other Funds 3%

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<td>Revenue</td>
<td>% of Total</td>
</tr>
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<td>1,382</td>
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<tr>
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<td>4,932</td>
<td>67%</td>
<td>2,473</td>
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<tr>
<td>Mar</td>
<td>-</td>
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<tr>
<td>Apr</td>
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<tr>
<td>May</td>
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<tr>
<td>Jun</td>
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<td>Jul</td>
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<td>Sep</td>
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<td>-</td>
</tr>
<tr>
<td>Oct</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Nov</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Dec</td>
<td>-</td>
<td>-</td>
<td>-</td>
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<tr>
<td><strong>TOTAL</strong></td>
<td>7,695</td>
<td>67%</td>
<td>3,855</td>
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</table>
### Sales and Use Tax Revenues by Category (3%)
#### January-February

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<th>2019</th>
<th>2020</th>
<th>2021</th>
<th>2022</th>
<th>2023</th>
<th>1 yr % Chg</th>
<th>1 yr $ Chg</th>
<th>% of 2023 Total</th>
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<td></td>
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<tr>
<td>Other Services</td>
<td>6,635</td>
<td>8,024</td>
<td>9,918</td>
<td>10,818</td>
<td>12,113</td>
<td>12%</td>
<td>1,295</td>
<td>1%</td>
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<td>Other Miscellaneous</td>
<td>6,213</td>
<td>14,760</td>
<td>14,398</td>
<td>21,297</td>
<td>25,690</td>
<td>21%</td>
<td>4,393</td>
<td>2%</td>
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<td>Manufacturing</td>
<td>7,068</td>
<td>12,583</td>
<td>15,658</td>
<td>17,712</td>
<td>25,903</td>
<td>46%</td>
<td>8,191</td>
<td>2%</td>
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<td>Wholesale Trade</td>
<td>6,495</td>
<td>17,407</td>
<td>20,776</td>
<td>23,579</td>
<td>63,374</td>
<td>169%</td>
<td>39,795</td>
<td>6%</td>
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<td>Rental and Leasing</td>
<td>21,304</td>
<td>19,298</td>
<td>13,987</td>
<td>12,612</td>
<td>16,552</td>
<td>31%</td>
<td>3,940</td>
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<td>Communications</td>
<td>25,361</td>
<td>23,224</td>
<td>23,266</td>
<td>29,432</td>
<td>27,652</td>
<td>-6%</td>
<td>(1,780)</td>
<td>3%</td>
</tr>
<tr>
<td>Oil and Gas</td>
<td>15,414</td>
<td>16,031</td>
<td>1,963</td>
<td>1,658</td>
<td>6,213</td>
<td>275%</td>
<td>4,555</td>
<td>1%</td>
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<td>Utilities</td>
<td>66,997</td>
<td>56,799</td>
<td>66,577</td>
<td>79,051</td>
<td>105,638</td>
<td>34%</td>
<td>26,587</td>
<td>10%</td>
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<td>Lodging</td>
<td>7,862</td>
<td>14,689</td>
<td>13,463</td>
<td>13,913</td>
<td>16,993</td>
<td>22%</td>
<td>3,080</td>
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<td>Food</td>
<td>81,905</td>
<td>89,825</td>
<td>99,616</td>
<td>115,943</td>
<td>112,068</td>
<td>-3%</td>
<td>(3,875)</td>
<td>11%</td>
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<td>Retail Trade</td>
<td>158,357</td>
<td>264,573</td>
<td>329,493</td>
<td>368,886</td>
<td>381,822</td>
<td>4%</td>
<td>12,936</td>
<td>36%</td>
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<td><strong>Subtotal</strong></td>
<td>403,611</td>
<td>537,213</td>
<td>609,115</td>
<td>694,901</td>
<td>794,018</td>
<td>14%</td>
<td>99,117</td>
<td>75%</td>
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<td><strong>Use taxes</strong></td>
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<td></td>
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<tr>
<td>Vehicles</td>
<td>141,749</td>
<td>156,495</td>
<td>147,074</td>
<td>140,635</td>
<td>165,882</td>
<td>18%</td>
<td>25,247</td>
<td>16%</td>
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<tr>
<td>Building materials</td>
<td>57,622</td>
<td>38,780</td>
<td>66,784</td>
<td>81,570</td>
<td>102,356</td>
<td>25%</td>
<td>20,786</td>
<td>10%</td>
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<tr>
<td><strong>Subtotal</strong></td>
<td>199,371</td>
<td>195,275</td>
<td>213,858</td>
<td>222,205</td>
<td>268,238</td>
<td>21%</td>
<td>46,033</td>
<td>25%</td>
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<tr>
<td><strong>Total</strong></td>
<td>602,982</td>
<td>732,488</td>
<td>822,973</td>
<td>917,106</td>
<td>1,062,256</td>
<td>16%</td>
<td>145,150</td>
<td>100%</td>
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<td><strong>Online sales</strong></td>
<td>14,041</td>
<td>44,732</td>
<td>64,823</td>
<td>73,221</td>
<td>84,054</td>
<td>15%</td>
<td>10,833</td>
<td>8%</td>
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## 2023 COMMUNITY CENTER FUND REVENUES

### 2023 Tax Revenues

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<th>Month</th>
<th>2020</th>
<th>2021</th>
<th>2022</th>
<th>2023</th>
<th>$ Change</th>
<th>% Chg</th>
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<td>125,046</td>
<td>140,379</td>
<td>146,249</td>
<td>136,022</td>
<td>22,753</td>
<td>16%</td>
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<td>February</td>
<td>119,117</td>
<td>133,945</td>
<td>159,453</td>
<td>164,055</td>
<td>4,601</td>
<td>3%</td>
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<td>March</td>
<td>168,889</td>
<td>188,406</td>
<td>187,521</td>
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<td>179,665</td>
<td>215,952</td>
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<td>195,397</td>
<td>222,077</td>
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<td>159,543</td>
<td>194,253</td>
<td>209,085</td>
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<td>203,340</td>
<td>185,630</td>
<td>186,956</td>
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<td>August</td>
<td>161,339</td>
<td>190,947</td>
<td>212,024</td>
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<tr>
<td>September</td>
<td>166,085</td>
<td>176,120</td>
<td>203,049</td>
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<td>October</td>
<td>163,108</td>
<td>194,373</td>
<td>211,059</td>
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<td>November</td>
<td>147,398</td>
<td>175,424</td>
<td>184,863</td>
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<td>December</td>
<td>170,423</td>
<td>186,215</td>
<td>203,642</td>
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<tr>
<td><strong>TOTAL</strong></td>
<td>1,868,764</td>
<td>2,140,753</td>
<td>2,341,931</td>
<td>264,673</td>
<td>333,056</td>
<td>9%</td>
</tr>
</tbody>
</table>

**% Change** | 20.06% | 14.55% | 9.40% |

| 2023 Budget | 1,650,000 | 400,000 | 150,000 | 2,200,000 |
| % of Budget | 16.04% | 13.82% | 8.73% | 15.14% |
### General Ledger

#### Actual vs Budget Report

**User:** msell  
**Printed:** 04/14/23 09:02:33  
**Period:** 03 - 03  
**Fiscal Year:** 2023

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<th>End Bal</th>
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<tr>
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<td>General Fund</td>
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<td>R05 Fines and forfeitures</td>
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<td>-50,000.00</td>
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GL - Actual vs Budget Report (04/14/2023 - 9:02 AM)
### General Ledger
### Actual vs Budget Report

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**Printed:** 04/14/23 09:02:33  
**Period:** 03 - 03  
**Fiscal Year:** 2023

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## General Ledger

### Actual vs Budget Report

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- **Printed:** 04/14/23 09:02:33
- **Period:** 03 - 03
- **Fiscal Year:** 2023

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## General Ledger
### Actual vs Budget Report

- **User:** msell
- **Printed:** 04/14/23 09:02:33
- **Period:** 03 - 03
- **Fiscal Year:** 2023

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GL - Actual vs Budget Report (04/14/2023 - 9:02 AM)
## General Ledger
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## General Ledger
### Actual vs Budget Report

**User:** msell  
**Printed:** 04/14/23 09:02:33  
**Period:** 03 - 03  
**Fiscal Year:** 2023

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Printed: 04/14/23 09:02:33
Period 03 - 03
Fiscal Year 2023

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Section 6, Item H.
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Expense Total: $375,451.60, End Bal: $809,803.79, Budget: $8,067,700.00, Variance: $7,257,896.21, %: 0.1004

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## General Ledger
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**Printed:** 04/14/23 09:02:33  
**Period:** 03 - 03  
**Fiscal Year:** 2023

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Section 6, Item H.
### General Ledger
#### Actual vs Budget Report

**User:** msell  
**Printed:** 04/14/23 09:02:33  
**Period:** 03 - 03  
**Fiscal Year:** 2023

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<th>Variance</th>
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<td>000</td>
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## General Ledger
### Actual vs Budget Report

**User:** msell  
**Printed:** 04/14/23 09:02:33  
**Period:** 03 - 03  
**Fiscal Year:** 2023

### Sort Level  Description  Period Amt  End Bal  Budget  Variance  % Expend/Collect

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**Revenue Total**  
-412,400.00  -412,400.00  -412,400.00  0.00  -1.0000

**Expense Total**  
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### Section 6, Item H.
## General Ledger
### Actual vs Budget Report

**User:** msell  
**Printed:** 04/14/23 09:02:33  
**Period:** 03 - 03  
**Fiscal Year:** 2023

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<th>Sort Level</th>
<th>Description</th>
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<th>Budget</th>
<th>Variance</th>
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GL - Actual vs Budget Report (04/14/2023 - 9:02 AM)
AGENDA ITEM COVER SHEET

TO: FRUITA CITY COUNCIL AND MAYOR

FROM: DEBRA WOODS, DEPUTY CITY CLERK

DATE: APRIL 18, 2023

AGENDA TEXT: SPECIAL EVENT LIQUOR PERMIT APPLICATION – A request to approve an application from the Fruita Area Chamber of Commerce to provide a beer garden at the Lower Valley Fire Cornhole Tournament fundraiser to be held on Saturday, April 22, 2023 from 2:00 to 6:00 p.m. at the Fruita Civic Center Memorial Park located at 325 E. Aspen Ave.

BACKGROUND

The Fruita Area Chamber of Commerce has filed an application for a Special Events Liquor Permit to provide a beer garden at the Lower Valley Fire Cornhole Tournament fundraiser to be held on Saturday, April 22, 2023 from 2:00 to 6:00 p.m. at Fruita Civic Center Memorial Park located at 325 E. Aspen Ave. State law allows any municipality, county, or special district to apply for a Special Events Liquor Permit, and the Fruita City Council adopted Resolution 2011-32, which authorizes the Local Licensing Authority to issue Special Events Liquor Permits to qualifying organizations and political candidates without sending the application to the State Authority for approval.

The City of Fruita requires that the applicant submit a narrative addressing specific issues related to the Special Events Permit. The application, narrative, diagram, permission from the City of Fruita Parks and Recreation Department, Fruita Police Department Memorandum and Certificate of Liability Insurance are attached.

The diagram of the licensed premises submitted with the application controls the area in which alcohol may be sold or consumed and should be strictly adhered to.

FISCAL IMPACT

None.

APPLICABILITY TO CITY GOALS AND OBJECTIVES

N/A

OPTIONS AVAILABLE TO THE COUNCIL

1. Approval of the special events permit for the Lower Valley Fire Cornhole Tournament fundraiser
2. Denial of the special events permit

RECOMMENDATION

IT IS THE RECOMMENDATION OF STAFF THAT THE COUNCIL BY MOTION:

- APPROVE THE APPLICATION FOR A SPECIAL EVENTS PERMIT FOR THE FRUITA AREA CHAMBER OF COMMERCE TO SELL AND SERVE BEER DURING THE LOWER VALLEY FIRE CORNHOLE TOURNAMENT FUNDRAISER ON SATURDAY, APRIL 22, 2023 FROM 2:00 TO 6:00 PM AT THE FRUITA CIVIC CENTER MEMORIAL PARK LOCATED AT 325 E. ASPEN AVE. SUBJECT TO THE FOLLOWING CONDITIONS:

1. APPLICANT WILL DISCONTINUE SERVING ALCOHOL AT 5:30 PM ON SATURDAY, APRIL 22, 2023 TO ALLOW PATRONS 30 MINUTES TO FINISH BEVERAGES AND LEAVE THE AREA

2. ALL ALCOHOL WILL SECURED AND REMOVED BY 6:00 PM

3. NO ALCOHOL SHALL BE BROUGHT INTO OR OUT OF THE LICENSED PREMISES

4. THE LICENSEE IS SOLELY RESPONSIBLE FOR CONTROL OF THE LICENSED PREMISES IN REGARDS TO ALCOHOL POSSESSION, CONSUMPTION AND ADHERENCE TO STATE AND MUNICIPAL LIQUOR LAWS

RECOMMENDED MOTION:

- APPROVE THE APPLICATION FOR A SPECIAL EVENTS PERMIT FOR THE FRUITA AREA CHAMBER OF COMMERCE TO SELL AND SERVE BEER DURING THE LOWER VALLEY FIRE CORNHOLE TOURNAMENT FUNDRAISER ON SATURDAY, APRIL 22, 2023 FROM 2:00 TO 6:00 PM AT THE FRUITA CIVIC CENTER MEMORIAL PARK LOCATED AT 325 E. ASPEN AVE. SUBJECT TO THE CONDITIONS STATED BY STAFF
**APPLICATION FOR A SPECIAL EVENTS PERMIT**

**IN ORDER TO QUALIFY FOR A SPECIAL EVENTS PERMIT, YOU MUST BE NONPROFIT AND ONE OF THE FOLLOWING (See back for details):**

- [ ] SOCIAL
- [ ] ATHLETIC
- [ ] FRATERNAL
- [ ] CHARTERED BRANCH, LODGE OR CHAPTER
- [ ] PATRIOTIC
- [ ] OF A NATIONAL ORGANIZATION OR SOCIETY
- [ ] POLITICAL
- [ ] RELIGIOUS INSTITUTION
- [ ] PHILANTHROPIC INSTITUTION
- [ ] POLITICAL CANDIDATE
- [ ] MUNICIPALITY OWNING ARTS FACILITIES

**LIAB TYPE OF SPECIAL EVENT APPLICANT IS APPLYING FOR:**

<table>
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<tr>
<th>Code</th>
<th>Description</th>
<th>Charge Per Day</th>
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<td>2110</td>
<td>MALT, VINOUS AND SPIRITUOUS LIQUOR</td>
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<tr>
<td>2170</td>
<td>FERMENTED MALT BEVERAGE (3.2 Beer)</td>
<td>$10.00</td>
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</tbody>
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1. **NAME OF APPLICANT ORGANIZATION OR POLITICAL CANDIDATE**
   - Fruita Area Chamber of Commerce

2. **MAILING ADDRESS OF ORGANIZATION OR POLITICAL CANDIDATE**
   - 432 E Aspen Ave, Fruita, CO 81521

3. **ADDRESS OF PLACE TO HAVE SPECIAL EVENT**
   - 325 E Aspen Ave, Fruita, CO 81521

4. **PRES./SECY OF ORG. or POLITICAL CANDIDATE**
   - Kayla Brown
   - DATE OF BIRTH: 7-7-1991
   - HOME ADDRESS: 1748 10 Rd, Mack, CO 81521
   - PHONE NUMBER: 970-858-3894

5. **EVENT MANAGER**
   - Hillary Daniels
   - DATE OF BIRTH: 10/7/1991
   - HOME ADDRESS: 832 E Pabor Ave, Fruita CO 81521
   - PHONE NUMBER: 970-858-3894

6. **HAS APPLICANT ORGANIZATION OR POLITICAL CANDIDATE BEEN ISSUED A SPECIAL EVENT PERMIT THIS CALENDAR YEAR?**
   - [ ] NO
   - [x] YES
   - HOW MANY DAYS?

7. **IS PREMISES NOW LICENSED UNDER STATE LIQUOR OR BEER CODE?**
   - [ ] NO
   - [x] YES
   - TO WHOM?

8. **LIST BELOW THE EXACT DATES FOR WHICH APPLICATION IS BEING MADE FOR PERMIT**
   - **Date:** 4-22-2023
   - **Hours:** From 2:00 pm. To 6:00 pm.

**OATH OF APPLICANT**

I declare under penalty of perjury in the second degree that I have read the foregoing application and all attachments thereto, and that all information therein is true, correct, and complete to the best of my knowledge.

**SIGNATURE**

**TITLE**

**DATE**

3-7-2023

**REPORT AND APPROVAL OF LOCAL LICENSING AUTHORITY (CITY OR COUNTY)**

The foregoing application has been examined and the premises, business conducted and character of the applicant is satisfactory, and we do report that such permit, if granted, will comply with the provisions of Title 12, Article 48, C.R.S., as amended.

**THEREFORE, THIS APPLICATION IS APPROVED.**

**LOCAL LICENSING AUTHORITY (CITY OR COUNTY)**

- [x] CITY
- [ ] COUNTY

**TELEPHONE NUMBER OF CITY/COUNTY CLERK**

- 970-858-3663

**SIGNATURE**

**DATE**

**DO NOT WRITE IN THIS SPACE - FOR DEPARTMENT OF REVENUE USE ONLY**

**LIABILITY INFORMATION**

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<th>Liability Date</th>
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(Instructions on Reverse Side)
Special Event Liquor Narrative

Lower Valley Fire Cornhole Tournament

The Lower Valley Firefighters are hosting a cornhole tournament on April 22, 2023 from 2:00 pm to 6:00 pm. The Fruita Area Chamber of Commerce will be hosting the beer garden for this event. Alcohol served will include beer from local breweries and will be served by volunteers. Volunteers and Chamber staff will be on site selling tickets for beer as well as checking IDs prior to ticket sales. Volunteers will be monitoring the entrance and exit points to ensure no outside alcohol enters the premises and no alcohol leaves the licensed premises. There will be mesh fencing with wood stakes to indicate the licensed permit (see the event diagram) around Civic Center Park and stage to keep all alcohol contained to one area. There will only be one entrance/exit on the northwest side of civic center park near the parking lot. Portable restrooms will be on site in the southwest corner of civic center park (see event diagram). This will also include portable handwash stations. Proper signage will be placed at the entrance of the event to say ‘no outside alcohol is permitted’ and ‘no alcohol beyond this point.’ There will be 3-4 food trucks on site offering food for patrons and attendees. Volunteers, Chamber staff and the Lower Valley Firefighters will all contribute to clean up during and after the event.
Parks & Trails Permit

You must apply for use of a City park or trail, even if you are not formally setting up in the park, but expect crowds from your event to overflow into a park or onto a trail.

The applicant requests use of the following City of Fruita park:

- Circle Park
- Civic Center Pavilion
- Olga Anson Park
- FCC Back Yard
- Reed Park
- Dan Williams Memorial Park
- Riverfront Park/Disc Golf Park

- Heritage Park
- Little Salt Wash Park
- Prospector Park
- Raptor Skate Park
- Triangle Park
- Snooks Bottom Park

Trail:

Shelter Rental fees are $25.00 for the first two hours, $10.00 each additional hours. If the applicant requests fields at Little Salt Wash Park, they are available for an hourly fee of $25.00 per field per hour in addition to shelter rentals.

Please attach an event site plan sketch to this application that shows what areas of the park will be in use and for what purpose. "If you only need use of a park pavilion for a private event, call the Parks and Recreation Department at 970-858-0360."

Set up will begin at: 10:00 am

Tear down will be complete at: 4:00 pm

The applicant requests the following City services if they are available at the site:

- Electric outlets
- Potable water
- Restroom facilities

Other: ____________________________

The event-holder must provide:

- Additional portable restrooms:
- Trash removal and cleanup of site at end of event
- Trash receptacles and on site dumpsters:
- Special fencing (note where on site diagram)
- Hand washing facilities (note where on site diagram)
- Supplemental electricity generator as necessary

Qty: 6

Qty: 10

The City of Fruita will automatically turn off park sprinkler systems for permitted special events. The curfew in all City parks is 10 p.m., and this applies to special event holders. Crowds spilling over from parks cannot block access to public streets that have not been closed by permit through the City of Fruita.

Event-holders who fail to return City parks to the condition in which they were prior to the event will be charged for trash removal and cleanup of the site, and may forfeit their chances of obtaining future event approval. All event apparatus must be removed by 5 p.m. the day after the event.

I have read, understand and agree to the requirements concerning the use of City of Fruita Parks. Facsimile, electronic, typed, and counterpart signatures are binding as originals.

Applicant Signature: ____________________________

Date: 1/30/23
Parking Plan

For the parking plan, we plan on coning off the remaining parking lot on the west side of the civic center that is not being utilized by construction. We will use our own cones and would like to cone it off at 0600 on Saturday, April 22nd to allow for three food trucks to be included in the fenced area for the event.

We do not plan on utilizing any traffic control companies or providing shuttles of any sort. I believe this will only take away 6 parking spots from the downtown area with the remainder of the lot already closed for construction. We do not plan on closing any of the streets or using any of the street accessible parking for the event and those will all remain open to the public.

We may intermittently have emergency apparatus around the event (Ambulance/Fire Truck) but they will stay out of the general traffic flow and will not take up any parking spots.
To: Debra Woods  
From: Dave Krouse, Chief of Police  
Date: March 24, 2023  
Re: 2023 LV Firefighter Fundraiser Special Event Liquor Permit  

The application and narrative have been reviewed. There is nothing which would prohibit the issuance of the license requested.  

The licensee needs to be aware they are solely responsible for control of the licensed premises in regard to alcohol possession, consumption and adherence to state and municipal laws.
## CERTIFICATE OF LIABILITY INSURANCE

**THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFER NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRM ANY CONTRACT, END EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.**

**IMPORTANT:** If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

### PRODUCER

Foresite Sports, Inc.  
DBA: Eventsured  
24 S. Newtown Street Road  
Newtown Square, PA 19073

### INSURED

Lower Valley Professional Firefighters Local 5265  
Thomas Creel  
171 Chelsea Court  
Fruita, CO 81521

### COVERSAGES

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### WORKERS COMPENSATION AND EMPLOYERS' LIABILITY

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**DESCRIPTION OF OPERATIONS below**

Additional Insureds must be venue managers or municipalities and are added with respect to our insureds operations only. Waiver of Subrogation (WOS) and Primary & Non-Contributory (PNC) wording applies only when coverage is purchased by the insured, required by written contract and as indicated below. This coverage is with respect to the Corn Hole Tournament/Event to be held on 04/22/2023 - 04/22/2023 with 200 attendees at City of Fruita Civic Center 325 Aspen Ave Fruita, CO 81521. Additional Insureds include: City of Fruita Civic Center 325 Aspen Ave Fruita, CO 81521;

### CERTIFICATE HOLDER

City of Fruita Civic Center  
325 Aspen Ave  
Fruita CO, 81521

### CANCELLATION

**SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.**

### AUTHORIZED REPRESENTATIVE

[Signature]

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CONTRACTUAL LIABILITY APPLIES PER POLICY TERMS AND CONDITIONS

General Liability:
Additional Insured status applies only to the extent provided in form CG2026F (4-13) when required by written contract and when scheduled.

Excess Liability:
Excess Liability policy is on a follow form basis for the following underlying insurance coverages: General Liability, Automobile Liability, and Employers Liability.

IMPORTANT:
The policy forms referenced will be sent via email only. To obtain copies, please send your request with the email address to certrequestgj@moodyins.com
TO: FRUITA CITY COUNCIL AND MAYOR
FROM: DEBRA WOODS, DEPUTY CITY CLERK
DATE: APRIL 18, 2023

AGENDA TEXT: SPECIAL EVENT LIQUOR PERMIT APPLICATION – A request to approve an application from the Fruita Area Chamber of Commerce to sell and serve beer and wine at Fruita Fourth Fridays to be held on April 28, 2023, May 26, 2023, June 23, 2023 and July 28, 2023 from 5:00 to 9:00 p.m. on all four nights at FARM located at 160 S. Park Square

BACKGROUND

The Fruita Area Chamber of Commerce has filed an application for a Special Events Liquor Permit to sell and serve beer and wine during Fruita Fourth Fridays to be held on April 28, 2023, May 26, 2023, June 23, 2023 and July 28, 2023 from 5:00 to 9:00 p.m. on all four nights at FARM located at 160 S. Park Square in Fruita. State law allows any municipality, county, or special district to apply for a Special Events Liquor Permit, and the Fruita City Council adopted Resolution 2011-32, which authorizes the Local Licensing Authority to issue Special Events Liquor Permits to qualifying organizations and political candidates without sending the application to the State Authority for approval.

The City of Fruita requires that the applicant submit a narrative addressing specific issues related to the Special Events Permit. The application, narrative, diagram, permission from Property Manager Sarah Wood, Fruita Police Department Memorandum and Certificate of Liability Insurance are attached.

The diagram of the licensed premises submitted with the application controls the area in which alcohol may be sold or consumed and should be strictly adhered to.

FISCAL IMPACT

None.

APPLICABILITY TO CITY GOALS AND OBJECTIVES

N/A

OPTIONS AVAILABLE TO THE COUNCIL

1. Approval of the special events permit for Fruita Fourth Fridays
2. Denial of the special events permit
RECOMMENDATION

IT IS THE RECOMMENDATION OF STAFF THAT THE COUNCIL BY MOTION:

- APPROVE THE APPLICATION FOR A SPECIAL EVENTS PERMIT FOR THE FRUITA AREA CHAMBER OF COMMERCE TO SELL AND SERVE BEER AND WINE DURING FRUITA FOURTH FRIDAYS ON APRIL 28, 2023, MAY 26, 2023, JUNE 23, 2023 AND JULY 28, 2023 FROM 5:00 TO 9:00 PM ON ALL FOUR NIGHTS LOCATED AT FARM AT 160 S. PARK SQUARE SUBJECT TO THE FOLLOWING CONDITIONS:

1. APPLICANT WILL DISCONTINUE SERVING ALCOHOL AT 8:30 PM ON ALL FOUR NIGHTS TO ALLOW PATRONS 30 MINUTES TO FINISH BEVERAGES AND LEAVE THE AREA
2. ALL ALCOHOL WILL SECURED AND REMOVED BY 9:00 PM
3. NO ALCOHOL SHALL BE BROUGHT INTO OR OUT OF THE LICENSED PREMISES
4. THE LICENSEE IS SOLELY RESPONSIBLE FOR CONTROL OF THE LICENSED PREMISES IN REGARDS TO ALCOHOL POSSESSION, CONSUMPTION AND ADHERENCE TO STATE AND MUNICIPAL LIQUOR LAWS

RECOMMENDED MOTION:

- APPROVE THE APPLICATION FOR A SPECIAL EVENTS LIQUOR PERMIT FOR THE FRUITA AREA CHAMBER OF COMMERCE TO SELL AND SERVE BEER AND WINE DURING FRUITA FOURTH FRIDAYS ON APRIL 28, 2023, MAY 26, 2023, JUNE 23, 2023 AND JULY 28, 2023 FROM 5:00 TO 9:00 PM ON ALL FOUR NIGHTS AT FARM LOCATED AT 160 S. PARK SQUARE SUBJECT TO THE CONDITIONS STATED BY STAFF.
Application for a Special Events Permit

In order to qualify for a Special Events Permit, You Must Be a Qualifying Organization Per 44-5-102 C.R.S.
and One of the Following (see back for details.)

☐ Social  ☐ Athlete  ☐ Philanthropic Institution
☐ Fraternal  ☐ Charitable Branch, Lodge or Chapter  ☐ Political Candidate
☐ Patronage  ☐ National Organization or Society  ☐ Municipality Owned Arts Facilities
☐ Political  ☐ Religious Institution

LIAB Type of Special Event Applicant is Applying for:

☐ 2110 ☑ Mail, Vino And Spirituous Liquor  ☑ $25.00 Per Day
☐ 2170 ☐ Fermented Malt Beverage  ☑ $10.00 Per Day

Liquor Permit Number

1. Name of Applicant Organization or Political Candidate

Frutie Area Chamber of Commerce

2. Mailing Address of Organization or Political Candidate

(Include street, city/town, and ZIP)

432 E Aspen Ave Frutie, CO 81521

3. Address of Place to Have Special Event

(Include street, city/town and ZIP)

160 S Park Sq., Frutie, CO 81521

4. Authorized Representative of Qualifying Organization or Political Candidate

Kayla Brown

Date of Birth: 07/07/19  Phone Number: 970-858-3684

Authorized Representative’s Mailing Address (if different than address provided in Question 2.)

1748 10 Rd. Mack, CO 81521

5. Event Manager

Hillary Daniels

Date of Birth: 10/07/19  Phone Number: 970-858-3684

Event Manager Home Address (Street, City, State, ZIP)

832 E Pabor Ave Frutie, CO 81521

Email Address of Event Manager

events@frutiechamber.org

6. Has Applicant Organization or Political Candidate been issued a Special Event Permit this Calendar Year?

☐ No ☑ Yes How many days?

7. Is the premises for which your event is to be held currently licensed under the Colorado Liquor or Beer codes?

☐ No ☑ Yes License Number:

8. Does the Applicant Have Possession or Written Permission for the Use of Premises to be Licensed?

☐ Yes ☑ No

List Below the Exact Date(s) for Which Application is Being Made for Permit

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<tr>
<th>Date</th>
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<th>Hours To</th>
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Oath of Applicant

I declare under penalty of perjury in the second degree that I have read the foregoing application and all attachments thereunto, and that all information therein is true, correct, and complete to the best of my knowledge.

Signature

Title

Executive Director

Date 03/23/23

Report and Approval of Local Licensing Authority (City or County)

The foregoing application has been examined and the premises, business conducted and character of the applicant is satisfactory, and we do report that such permit, if granted, will comply with the provisions of Title 44, Article 5, C.R.S., as amended.

THEREFORE, THIS APPLICATION IS APPROVED.

Local Licensing Authority (City or County)

☐ City ☐ County

Telephone Number of City/County Clerk

(970) 639-4200

Signature

Title

Date

Joel Kincard

Mayor

DO NOT WRITE IN THIS SPACE - FOR DEPARTMENT OF REVENUE USE ONLY

License Account Number

Liability Date

State

Total

-750 (999) $
Special Event Liquor Narrative

Fruita Fourth Friday

The Fruita Fourth Fridays are hosting a special event downtown starting on April 28th, 2023 from 5:00 pm to 9:00 pm. The event will take place every fourth Friday until July 28th, 2023. The Fruita Area Chamber of Commerce will be hosting the beer garden for this event. Alcohol served will include beer and wine from local businesses and will be served by volunteers. Volunteers and Chamber staff will be on site selling tickets for beer as well as checking IDs prior to ticket sales. Volunteers will be monitoring the entrance and exit points to ensure no outside alcohol enters the premises and no alcohol leaves the licensed premises. There will be wooden fencing provided from the City of Fruita to indicate the licensed permit (see the event diagram) in the FARM parking lot to keep all alcohol contained to one area. There will only be one entrance/exit. Restrooms will be on site inside the FARM building (see event diagram). Proper signage will be placed at the entrance of the event to say ‘no outside alcohol is permitted’ and ‘no alcohol beyond this point.’ There will be 1 food trucks on site offering food for patrons and attendees. Volunteers and Chamber staff will all contribute to clean up during and after the event.
To: Debra Woods  
From: Dave Krouse, Chief of Police  
Date: March 24, 2023  
Re: 2023 LV Firefighter Fundraiser Special Event Liquor Permit

The application and narrative have been reviewed. There is nothing which would prohibit the issuance of the license requested.

The licensee needs to be aware they are solely responsible for control of the licensed premises in regard to alcohol possession, consumption and adherence to state and municipal laws.
# Certificate of Liability Insurance

**Producer:**
Mountain West Insurance - Glenwood
201 Centennial St 4th Floor
Glenwood Springs, CO 81601

**Insured:**
FARM LLC
PO BOX 781
Carbondale, CO 81623

**Contact:**
Autumn Williamson

**Phone:**
(970) 569-0582

**Email:**
autumnw@mtnwst.com

**Insurers Affecting Coverage:**

- Insurer A: Travelers Casualty Insurance Company of America
  - NAIC #: 19046

**Coverages: Certificate Number:**

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**Limits:**

- EACH OCCURRENCE DAMAGE TO RENTED PREMISES (For皱照人) $1,000,000
- MED EXP (Per incident) $5,000
- PERSONAL & ADJ LIABILITY $1,000,000
- GENERAL AGGREGATE $2,000,000
- PRODUCTS - COMMERCE AGG $2,000,000
- COMBINED SINGLE LIMIT $5

**Automobile Liability:**

- ANY AUTO
  - OWNED, AUTOS ONLY
  - NORTHERN AUTOS ONLY
- NON-OWNED AUTOS ONLY

**Workers Compensation and Employers Liability:**

- NO PROFESSIONAL/EXECUTIVE
- No description under DESCRIPTION OF OPERATIONS below

**Description of Operations / Locations / Vehicles (ACORD 101):**

Fourth Friday: 04/28/23, 06/23/23, 07/28/23
City of Fruita is included as additional insured for General Liability. Host liquor liability included.

**Certificate Holder:**
City of Fruita
325 E. Aspen Ave
Fruita, CO 81521

**Cancellation:**

**Authorized Representative:**

© 1988-2015 ACORD CORPORATION. All rights reserved.
RESOLUTION 2023-08 - A Resolution of the Fruita City Council finding approximately 3.4 acres of property located at 1806 J 3/10 Road eligible to be annexed into the City of Fruita (Berg Annexation) – City Planner Henry Hemphill

BACKGROUND

The property owners of 1806 J 3/10 Road have submitted an application to annex and zone the property. Staff has reviewed this annexation request and finds that the property meets the city and state laws that must be met to find a property eligible for annexation.

The property has at least 1/6th of its perimeter contiguous with existing city limits and it is within the city's Urban Growth Boundary. Urban development exists on the west side of the property and is identified for urban development by the city's Master Plan.

At their March 14, 2023, public meeting the Planning Commission recommended approval of the annexation by a vote of 5-0 to the Fruita City Council. No public comments have been received nor were there any public comments made at the Planning Commission meeting.

FISCAL IMPACT

Annexation of property requires that the city provide it with city services (such as police protection and sewer service). The cost of providing services varies with each annexation.

There will be services extended with this annexation. Conditions of approval are explained in the Staff Report.

APPLICABILITY TO CITY GOALS AND OBJECTIVES

The city’s primary goal is to protect the health, safety and welfare of the city’s residents. Annexation ensures that the city has some control over development which might otherwise occur outside the city limits and drain city resources and infrastructure. This step in the annexation process simply finds the property eligible or ineligible for annexation.

OPTIONS AVAILABLE TO THE COUNCIL

1. Approve Resolution 2023-08, finding the property eligible for annexation.
2. Deny Resolution 2023-08

RECOMMENDATION

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

APPROVE RESOLUTION 2023-08, A RESOLUTION OF THE FRUITA CITY COUNCIL FINDING APPROXIMATELY 3.4 ACRES OF PROPERTY LOCATED AT 1806 J 3/10 ROAD ELIGIBLE TO BE ANNEXED INTO THE CITY OF FRUITA.
RESOLUTION 2023-08

A RESOLUTION OF THE FRUITA CITY COUNCIL FINDING APPROXIMATELY 3.4 ACRES OF PROPERTY LOCATED AT 1806 J 3/10 ROAD ELIGIBLE TO BE ANNEXED INTO THE CITY OF FRUITA.

WHEREAS, the City of Fruita has received a petition to annex property which is described and shown on the attached Exhibit A, and

WHEREAS, the Planning Commission recommended approval of the annexation petition at their March 14, 2023 public meeting.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FRUITA, COLORADO, THAT THE CITY COUNCIL FINDS AND DETERMINES:

THAT a properly constituted petition signed by 100% of the owners of the real property described and shown on Exhibit A has been submitted to the City of Fruita and an election is not required under C.R.S. 31-12-107, and

THAT the real property described on Exhibit A has at least 1/6 of its perimeter contiguous to existing city limits of the City of Fruita, and

THAT annexation of the property complies with all pertinent requirements of C.R.S. 31-12-104, 105 & 106 to be eligible for annexation, and

THAT all special districts encompassing the subject property were noticed as required under C.R.S. 31-12-108, and

THAT a notice of the public hearing was properly advertised having appeared once per week for four consecutive weeks in a local publication, and

THAT the property shown and described on Exhibit A is eligible for annexation into the City of Fruita.

BE IT FURTHER RESOLVED BY THE FRUITA CITY COUNCIL, that based on the above findings, it is the intent of the City of Fruita to annex the real property described and shown in Exhibit A.

PASSED AND ADOPTED BY THE FRUITA CITY COUNCIL
THIS 18th DAY OF APRIL 2023.

ATTEST: City of Fruita

__________________________________________
Margaret Sell, City Clerk

__________________________________________
Joel Kincaid, Mayor
BERG ANNEXATION SURVEY
OF PARCEL NO. 2697-163-00-139
LOCATED IN THE NW¼ SW¼, SECTION 16, TIN, R2W, UTE MERIDIAN
MESA COUNTY, COLORADO

LEGAL DESCRIPTION AND CERTIFICATION OF OWNERSHIP

The undersigned, and successors in interest, the owners of the parcel of land described below, do hereby certify that they are the current owners of the parcel of land described and that they are legally entitled to the use and enjoyment of said parcel of land.

[Diagram of parcel with legal boundaries and landmarks labeled]

[Signature and certification statement]

SIGNED this ___ day of __________, 20___.

[Owner's signature]

[Notary public or official seal]

[Date]

[County Seal/Stamp]

[County Clerk]

[Notary Public]

[County Seal/Stamp]

[County Clerk]

[Notary Public]

[County Seal/Stamp]

[County Clerk]
Application #: 2023-03
Project Name: Berg
Application: Annexation
Property Owner: Willie and Neomi Berg
Representative: Kim Kerk Land Consulting & Development
Location: 1806 J 3/10 Road
Zone: Currently zoned Agricultural, Forestry and Transitional (AFT-County zoning)
Request: This is a request for approval of the annexation of approximately 3.4 acres into the Fruita City Limits.

PROJECT DESCRIPTION:

The property owners of 1806 J 3/10 Road have applied to annex the property. The subject property is approximately 3.4 acres and is located north of the intersection of J 3/10 Road and J 2/10 Road. The property currently contains a single-family dwelling unit on the southwest corner.

FUTURE LAND USE MAP (FLUM)
Annexation Location
SURROUNDING LAND USES AND ZONING:

Surrounding land uses are primarily single family detached residential. The majority of the surrounding properties are within the city limits. There are a few properties to the east that are still in Unincorporated Mesa County. The map below identifies the various zones in this area.

LOCATION AND ZONING MAP
REVIEW OF APPLICABLE LAND USE CODE REQUIREMENTS:

ANNEXATION

Section 17.17.050 (A) - If the subject property is located within the city’s Urban Growth Boundary (UGB) as defined by the Fruita Community Plan, annexation may be approved only after considering the following criteria:

1. The annexation meets the requirements of the applicable State Statutes;
This annexation request meets the requirements of state laws. The property has the required 1/6th contiguity with existing city limits which is required per Section 31-12-104 of the Colorado Revised Statutes (CRS).

In accordance with CRS 31-12-104 (1)(a), the subject property has achieved the required 1/6 contiguity with the existing city limits. This section states that “Contiguity shall not be affected by the existence of a platted street or alley, a public or private right-of-way, a public or private transportation right-of-way or area, public lands, whether owned by the state, the United States, or an agency thereof, except county-owned open space, or a lake, reservoir, stream, or other natural or artificial waterway between the annexing municipality and the land proposed to be annexed.” The city limits border this property on the west side by approximately 515 feet according to the annexation map submitted with the application. The property to the west was annexed in 2017 (Ordinance 2017-03).

Additionally, the Fruita Comprehensive Plan supports this area to be incorporated within the city limits as referenced in the above map. This criterion has been met.

2. The area is or can be efficiently served by city utilities and capital investments, including water, sewer, parks, drainage systems and streets;

Annexation of the subject property will not trigger an extension of city utility services. The subject property is currently being served with sanitary sewer and Ute Water. If the subject property were to develop, there would be adequate review of additional utilities and infrastructure associated with residential development.

In addition to this annexation, the city will be annexing adjacent rights-of-ways (J 3/10 Road and J 2/10 Road).

This criterion can be met as the city has planned for the subject property to be incorporated into the city limits within the Comprehensive Plan.

3. The area is contiguous with existing urban development;

The subject property is somewhat contiguous with existing urban development, with the Legacy PUD Subdivision to the south and the Grace Park residential subdivision to the north. The remaining properties nearby that are undeveloped and/or remain in Unincorporated Mesa County are supported for residential development within the City of Fruita.

This criterion has been met.
4. **The area is or can be efficiently served by police and other municipal services;**

The subject property is within the service area for the Fruita Police Department, the Lower Valley Fire District. Since the subject property is already being served by these services, this criterion **has been met.**

5. **The development is consistent with community goals, principles, and policies as expressed in the Fruita Comprehensive Plan;**

Annexation within the Comprehensive Plan states that the city should, “Approve annexation of parcels within the UGB (Urban Growth Boundary) at the desired densities as described in the FLUM (Future Land Use Map). Annexation should help ensure that new development at the edge of the city is consistent with the goals and policies of this plan.”

Additionally, the city should “Ensure that new development pays its own way and does not burden the existing community with additional capital or operating costs. Ensure that new annexations at the city’s edge share appropriately in the costs of connecting all utility, park, drainage, pedestrian, and road systems.”

Furthermore, the city should “Avoid ‘leapfrog’ developments that leave discontinuous street and utility systems. Consider annexation proposals on the basis of the logical and cost-effective extension of utilities, pedestrian connections, parks, drainage, and road systems. Also consider the fiscal burden of the annexation in terms of major capital investments that would be needed by the City (wastewater, roads).”

Annexation of the subject property has been considered as meeting the intents and purposes of the basis of logical and cost-effective extensions of utilities and road systems.

Annexation of the property is consistent with the Fruita Comprehensive Plan. These approval criteria are intended to implement the goals and policies of the Fruita Comprehensive Plan regarding annexations. It appears that the approval criteria either have been met or can be met, therefore, this annexation **is consistent** with the Fruita Comprehensive Plan.

6. **The annexation is supported by local residents and landowners;**

The Fruita Comprehensive Plan (Fruita In Motion: Plan Like A Local) was adopted by the Fruita City Council on February 4, 2020 (Resolution 2020-09). Fruita in Motion: Plan like a Local speaks to the community’s significant role in the planning process. Residents helped shape every element of the plan, from
sharing what they valued about Fruita and identifying issues for the plan to address, to reviewing drafts, and providing feedback on goals and policies. The process reached a large swath of the community, through traditional outreach (open houses, an advisory committee) and meeting people where they are, with booths at farmers markets, the art stroll, and other city events and the draft plan tour, where City staff met with HOAs and other local groups to share the plan and hear input from the community.

With regards to the subject property, 79 landowners were noticed of this annexation application. The number of property owners noticed of this application is set forth with the legal notice requirements contained in the Land Use Code. Staff has not received written public comments regarding this application.

The annexation is supported by the landowner and the landowner has signed the annexation petition. This is in accordance with C.R.S 31-12-107.

This criterion has been met.

7. **Water and ditch rights can be provided, as applicable, in accordance with city policies;**

   The city standard is 1 – 1.5 irrigation shares per irrigated acre.

   This application was sent to Grand Valley Irrigation Company (GVIC) for review and no review comments have been received at this time.

   Additionally, this application was sent to Ute Water and review comments indicate no objections.

   This criterion can be met.

8. **The area will have a logical social and economic association with the city, and;**

   Annexation of the subject property will not provide much with respect to an economic association with the city at this time. Once the subject property is developed, the additional dwelling units should provide for a logical social impact to the city. This criterion can be met.

9. **The area meets or can meet the existing infrastructure standards set forth by the city.**
Staff recommends approval of the annexation petition with the condition that there will be dedication of additional multi-purpose easements as follows:

1. Dedication of a 14-foot multipurpose easement adjacent to all the right of way adjoining the subject property.

This criterion can be met.

Based on this information, the annexation of the subject property meets or can meet the approval criteria that must be considered for annexations.

REVIEW COMMENTS:

No reviewer expressed any issues with the proposed annexation.

PUBLIC COMMENTS:

No written public comments have been received by Staff at this time.

LEGAL NOTICE

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<th>Legal Notice (minimum of 15 days prior to Planning Commission)</th>
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</table>
STAFF RECOMMENDATION:

Staff recommends **approval** of the annexation petition with the condition that there will be dedication of a 14-ft multipurpose easement adjacent to the right of way.

SUGGESTED PLANNING COMMISSION MOTION:

Mr. Chair, I move that we recommend **approval** to City Council, of application #2023-03, the Berg Annexation with the condition that all review comments and issues identified in the Staff Report be adequately addressed or included with the Annexation Ordinance.

ANNEXATION SCHEDULE:

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B. The City of Fruita's anticipated financing of the extension of services;

The City of Fruita will not be financing the extension of services (water, sewer, gas, etc.) to the subject property at this time. However, there is a sewer recapture fee for the subject property when it develops. (required to be paid to the city in accordance with the Recapture Agreement adopted by Resolution #2019-44)

C. The special districts included in the territory to be annexed;

No special districts are included within the territory to be annexed. Below are the agencies or entities that have taxing authority over the territory to be annexed. These agencies will be notified of the annexation application.

1. Lower Valley Fire Protection District.
2. Mesa County School District 51.
4. Grand Valley Mosquito Control District.
5. Mesa County Public Library District.
7. Colorado River Water District.
8. Library District.
9. Mesa County Social Services.

D. The effect of annexation on the public school district system including the estimated number of students generated and capital construction required to educate each student;

The school district boundaries for the recently constructed Monument Ridge Elementary School, Fruita Middle School, Fruita 8/9, and Fruita Monument High School already include the subject property. This implies that no new impacts on the school system would be generated from this annexation application. The impacts to the school district system will be evaluated by the Mesa County Valley School District when this property develops. The School District has been made aware of this annexation.

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Impacts on these facilities shouldn’t change with the annexation itself. When the property develops, necessary regulations from review agencies will be reviewed with a land development application.
G. Other relevant information as required by the Community Development Department.

Review Agencies:

1. Xcel Energy
2. Grand Valley Power Company
3. Charter Communications
4. Century Link
5. Ute Water
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10. Mesa County Surveyor
11. Mesa County Valley School District (School District 51)
12. 5-2-1 Drainage Authority
13. Lower Valley Fire Protection District
14. Grand River Mosquito District
Map Exhibits:

Present City boundary

Community Residential (CR)

Planned Unit Development (PUD)
Proposed City Boundary set forth in the Future Land Use Map (FLUM)

Source: City of Fruita
Comprehensive Plan Fruita
In Motion: Plan Like A Local. Chapter 3, Page 29.
Approved by Resolution 2020-09

Note:
The urban growth boundary may be amended for parcels that petition to develop on the eastern side of I-70 Road on a case by case basis.
TO: Fruita City Council and Mayor

FROM: Planning & Development Department

DATE: April 18, 2023

AGENDA TEXT: ORDINANCE 2023-02 – Second Reading - Annexing approximately 3.4 acres of property located at 1806 J 3/10 Road into the City of Fruita (Berg Annexation) – City Planner Henry Hemphill

BACKGROUND

The property owners of 1806 J 3/10 Road have submitted an application to annex and zone the property. Staff has reviewed this annexation request and finds that the property meets the city and state laws that must be met to find a property eligible for annexation.

The property has at least 1/6th of its perimeter contiguous with existing city limits and it is within the city's Urban Growth Boundary. Urban development exists on the west side of the property and is identified for urban development by the city's Master Plan. The City Council approved Resolution 2023-05 on February 7, 2023, which set a public hearing date to determine the eligibility for this application. This Resolution is required by section 31-12-107 of the Colorado Revised Statutes.

At their March 14, 2023, public meeting the Planning Commission recommended approval of the annexation petition by a vote of 5-0 to the Fruita City Council. No public comments have been received nor were there any public comments made at the Planning Commission meeting.

FISCAL IMPACT

Annexation of property requires that the city provide it with city services (such as police protection and sewer service). The cost of providing services varies with each annexation.

There will be services extended with this annexation. Conditions of approval are explained in the Staff Report.

APPLICABILITY TO CITY GOALS AND OBJECTIVES

The city’s primary goal is to protect the health, safety and welfare of the city’s residents. Annexation ensures that the city has some control over development which might otherwise occur outside the city limits and drain city resources and infrastructure. This step in the annexation process simply finds the property eligible or ineligible for annexation.
OPTIONS AVAILABLE TO THE COUNCIL

1. Adopt Ordinance 2023-02, an Ordinance annexing approximately 3.4 acres of property located at 1806 J 3/10 Road into the City of Fruita.

2. Deny Ordinance 2023-02.

RECOMMENDATION

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

ADOPT ORDINANCE 2023-02 ANNEXING APPROXIMATELY 3.4 ACRES OF PROPERTY LOCATED AT 1806 J 3/10 ROAD INTO THE CITY OF FRUITA.
ORDINANCE 2023-02

AN ORDINANCE ANNEXING APPROXIMATELY 3.4 ACRES OF PROPERTY LOCATED AT 1806 J 3/10 ROAD INTO THE CITY OF FRUITA

WHEREAS, the Fruita City Council finds that it is necessary to annex certain real property contiguous to the City of Fruita in order to:

1. Promote the public health, safety, and welfare of the community;

2. Insure efficient provision of municipal services and fair and equitable distribution of cost amongst those who use services provided by the community; and,

3. Provide for orderly growth of the community; and,

WHEREAS, the City Council adopted a Resolution finding that the real property described and shown on Exhibit A is eligible for annexation pursuant to C.R.S. 31-12-104 and 105, stating their intent to annex same and initiating the annexation procedures.

NOW THEREFORE, BE IT HEREBY ORDAINED BY THE CITY COUNCIL OF THE CITY OF FRUITA COLORADO AS FOLLOWS:

Section 1: The Fruita City Council, having reviewed a properly constituted petition of all the owners of real property in the area proposed for annexation, hereby annexes the property as described and shown in Exhibit A, and the Fruita City limits are hereby modified to reflect said annexation.

Section 2: Conditions of said annexation include:

1. Dedication of a 14-foot multipurpose easement adjacent to all the right of way adjoining the subject property.

PASSED AND ADOPTED BY THE FRUITA CITY COUNCIL, THIS 18th DAY OF APRIL 2023.

ATTEST:

City of Fruita:

Margaret Sell, City Clerk

Joel Kincaid, Mayor
Application #: 2023-03
Project Name: Berg
Application: Annexation
Property Owner: Willie and Neomi Berg
Representative: Kim Kerk Land Consulting & Development
Location: 1806 J 3/10 Road
Zone: Currently zoned Agricultural, Forestry and Transitional (AFT-County zoning)
Request: This is a request for approval of the annexation of approximately 3.4 acres into the Fruita City Limits.

PROJECT DESCRIPTION:

The property owners of 1806 J 3/10 Road have applied to annex the property. The subject property is approximately 3.4 acres and is located north of the intersection of J 3/10 Road and J 2/10 Road. The property currently contains a single-family dwelling unit on the southwest corner.

FUTURE LAND USE MAP (FLUM)
Annexation Location
SURROUNDING LAND USES AND ZONING:

Surrounding land uses are primarily single family detached residential. The majority of the surrounding properties are within the city limits. There are a few properties to the east that are still in Unincorporated Mesa County. The map below identifies the various zones in this area.

LOCATION AND ZONING MAP
REVIEW OF APPLICABLE LAND USE CODE REQUIREMENTS:

ANNEXATION

Section 17.17.050 (A) - If the subject property is located within the city’s Urban Growth Boundary (UGB) as defined by the Fruita Community Plan, annexation may be approved only after considering the following criteria:

1. The annexation meets the requirements of the applicable State Statutes;
This annexation request meets the requirements of state laws. The property has the required 1/6th contiguity with existing city limits which is required per Section 31-12-104 of the Colorado Revised Statutes (CRS).

In accordance with CRS 31-12-104 (1)(a), the subject property has achieved the required 1/6 contiguity with the existing city limits. This section states that “Contiguity shall not be affected by the existence of a platted street or alley, a public or private right-of-way, a public or private transportation right-of-way or area, public lands, whether owned by the state, the United States, or an agency thereof, except county-owned open space, or a lake, reservoir, stream, or other natural or artificial waterway between the annexing municipality and the land proposed to be annexed.” The city limits border this property on the west side by approximately 515 feet according to the annexation map submitted with the application. The property to the west was annexed in 2017 (Ordinance 2017-03).

Additionally, the Fruita Comprehensive Plan supports this area to be incorporated within the city limits as referenced in the above map. This criterion has been met.

2. The area is or can be efficiently served by city utilities and capital investments, including water, sewer, parks, drainage systems and streets;

Annexation of the subject property will not trigger an extension of city utility services. The subject property is currently being served with sanitary sewer and Ute Water. If the subject property were to develop, there would be adequate review of additional utilities and infrastructure associated with residential development.

In addition to this annexation, the city will be annexing adjacent rights-of-ways (J 3/10 Road and J 2/10 Road).

This criterion can be met as the city has planned for the subject property to be incorporated into the city limits within the Comprehensive Plan.

3. The area is contiguous with existing urban development;

The subject property is somewhat contiguous with existing urban development, with the Legacy PUD Subdivision to the south and the Grace Park residential subdivision to the north. The remaining properties nearby that are undeveloped and/or remain in Unincorporated Mesa County are supported for residential development within the City of Fruita.

This criterion has been met.
4. The area is or can be efficiently served by police and other municipal services;

   The subject property is within the service area for the Fruita Police Department, the Lower Valley Fire District. Since the subject property is already being served by these services, this criterion has been met.

5. The development is consistent with community goals, principles, and policies as expressed in the Fruita Comprehensive Plan;

   Annexation within the Comprehensive Plan states that the city should, “Approve annexation of parcels within the UGB (Urban Growth Boundary) at the desired densities as described in the FLUM (Future Land Use Map). Annexation should help ensure that new development at the edge of the city is consistent with the goals and policies of this plan.”

   Additionally, the city should “Ensure that new development pays its own way and does not burden the existing community with additional capital or operating costs. Ensure that new annexations at the city’s edge share appropriately in the costs of connecting all utility, park, drainage, pedestrian, and road systems.”

   Furthermore, the city should “Avoid ‘leapfrog’ developments that leave discontinuous street and utility systems. Consider annexation proposals on the basis of the logical and cost-effective extension of utilities, pedestrian connections, parks, drainage, and road systems. Also consider the fiscal burden of the annexation in terms of major capital investments that would be needed by the City (wastewater, roads).”

   Annexation of the subject property has been considered as meeting the intents and purposes of the basis of logical and cost-effective extensions of utilities and road systems.

   Annexation of the property is consistent with the Fruita Comprehensive Plan. These approval criteria are intended to implement the goals and policies of the Fruita Comprehensive Plan regarding annexations. It appears that the approval criteria either have been met or can be met, therefore, this annexation is consistent with the Fruita Comprehensive Plan.

6. The annexation is supported by local residents and landowners;

   The Fruita Comprehensive Plan (Fruita In Motion: Plan Like A Local) was adopted by the Fruita City Council on February 4, 2020 (Resolution 2020-09). Fruita in Motion: Plan like a Local speaks to the community’s significant role in the planning process. Residents helped shape every element of the plan, from
sharing what they valued about Fruita and identifying issues for the plan to address, to reviewing drafts, and providing feedback on goals and policies. The process reached a large swath of the community, through traditional outreach (open houses, an advisory committee) and meeting people where they are, with booths at farmers markets, the art stroll, and other city events and the draft plan tour, where City staff met with HOAs and other local groups to share the plan and hear input from the community.

With regards to the subject property, 79 landowners were noticed of this annexation application. The number of property owners noticed of this application is set forth with the legal notice requirements contained in the Land Use Code. Staff has not received written public comments regarding this application.

The annexation is supported by the landowner and the landowner has signed the annexation petition. This is in accordance with C.R.S 31-12-107.

This criterion has been met.

7. Water and ditch rights can be provided, as applicable, in accordance with city policies;

The city standard is 1 – 1.5 irrigation shares per irrigated acre.

This application was sent to Grand Valley Irrigation Company (GVIC) for review and no review comments have been received at this time.

Additionally, this application was sent to Ute Water and review comments indicate no objections.

This criterion can be met.

8. The area will have a logical social and economic association with the city, and;

Annexation of the subject property will not provide much with respect to an economic association with the city at this time. Once the subject property is developed, the additional dwelling units should provide for a logical social impact to the city. This criterion can be met.

9. The area meets or can meet the existing infrastructure standards set forth by the city.
Staff recommends approval of the annexation petition with the condition that there will be dedication of additional multi-purpose easements as follows:

1. Dedication of a 14-foot multipurpose easement adjacent to all the right of way adjoining the subject property.

This criterion can be met.

Based on this information, the annexation of the subject property meets or can meet the approval criteria that must be considered for annexations.

REVIEW COMMENTS:

No reviewer expressed any issues with the proposed annexation.

PUBLIC COMMENTS:

No written public comments have been received by Staff at this time.

LEGAL NOTICE

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SUGGESTED PLANNING COMMISSION MOTION:

Mr. Chair, I move that we recommend approval to City Council, of application #2023-03, the Berg Annexation with the condition that all review comments and issues identified in the Staff Report be adequately addressed or included with the Annexation Ordinance.

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GVDD
GVDD has no comment or objection to the Annexation or rezone.

GVP
GVP Comments
1. The project is in the Grand Valley Power (GVP) service area.
2. Underground single-phase power is available for this project, on-site along J 3/10 Road.
3. Service to 1024 18 Road is underground crossing J 3/10 Road. Service to 1806 J3/10 Is underground from the street to a pole north of the house. Then it is overhead from that pole to the house.
4. For new projects, some electrical equipment (transformers, metering, etc.) may have an ordering lead time exceeding twelve months. Please plan accordingly.

LVFD
The Lower Valley Fire Dist. Has no issues with the Annexation of the Berg property. With future growth and possible development of this site, fire flow will be required that meets IFC 2018 specifications with either hydrants or residential sprinkler systems that meet NFPA 13D.

MC Planning
I see that the parcel is in an enclave already. Just wondering why the City does not annex the whole enclave. The annexation boundary appears to bisect the parcel annexing in only the vacant portion of the parcel and not the residence. This will create a host of problems for the City and the owner when subdivision of the annexed portion is attempted. Mesa County recommends the entire parcel and the adjoining roadway be annexed as one action to avoid future confusion in road maintenance, zoning and subdivision of the parcel.

MC Transportation
The legal description noted on the Berg Annexation Survey does not appear to match the annexation area shown. The short portion of J 2/10 Road shown on the survey is mislabeled as J 3/10 Road. Mesa County encourages annexation of J 3/10 Road (as well as other roadways enclaved entirely within the limits of the City of Fruita that have not yet been annexed).
Thanks!
Daniel Larkin, P.E.
Transportation Engineer
Mesa County Engineering
(970) 254-4151

RTPO

See RTPO comments below.

*RTPO has no concerns. The site is near GVT Route 8, which runs along Pine St.*

Ute Water

- No objection.
- **ALL FEES AND POLICIES IN EFFECT AT TIME OF APPLICATION WILL APPLY.**
- If you have any questions concerning any of this, please feel free to contact Ute Water.

MC Engineering

Please see comments below for Mesa County Development Engineering. Aside from comments from other County Departments Mesa County Development Engineering has no additional comments to add on this annexation.

Thank you,

Teddy Martinez

Mesa County Department of Public Works
Development Engineer
970.255.5035

GVIC

We know the Berg property well along our Independent Ranchman Canal.

Looking at the Berg's deed description it calls "along the Lateral No. Three". Don't see this often however it is the Independent Ranchman's Canal (IRC)

The Black property adjoining to the North also uses "along the #3 Canal" (AKA Independent Ranchman's Canal). The term "along" presumably is the center of the canal in both Berg and Black deeds and as shown in a Boundary Survey Bart Black, Land Survey Deposit Book 1 page168 #5674-18

Properties on the east side of the IRC call to the "Easterly fence and R.O.W. Grand Valley Irrigation Canal". We see a mix match of deeds along our 200 miles of canal ROW's.

I will reach out to Willie Berg soon. Thank You

Respectfully,

Charles D. Guenther
Assistant Superintendent
Grand Valley Irrigation Co.
688 26 Road
Grand Junction, CO 81506

Office 970-242-2762
Fax 970-242-2770
Cell 970-260-1928
ANNEXATION IMPACT REPORT
CITY OF FRUITA
FEBRUARY 7, 2023

Application #: 2023-03
Project Name: Berg Annexation
Application: Annexation
Property Owner: Willie and Neomi Berg
Representative: Kim Kerk Land Consulting & Development
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Proposed City Boundary set forth in the Future Land Use Map (FLUM)

Source: City of Fruita
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In Motion: Plan Like A Local. Chapter 3, Page 29.
Approved by Resolution 2020-09

Note:
The urban growth boundary may be amended by petition that petition to develop on the eastern side of I-70 Road on a case by case basis.
LAND DEVELOPMENT APPLICATION

Project Name: Annexation of 1806 J-3/10 Road
Project Location: 1806 J 3/10 Road Fruita Co 81521
Current Zoning District: AFT Requested Zone: R-4
Tax Parcel Number(s): 2697-163-00-039 Number of Acres: 3.4
Project Type: Minor Subdivision

Property Owner: Willie Berg & Neomi M Berg
Property Owner: Willie Berg & Neomi M Berg
Address: 1806 J 3/10 Road
City/State/Zip: Fruita, Co 81521
Phone: 
Fax: 
E-mail: 

Developer:
Contact:
Address:
City/State/Zip:
Phone: 
Fax: 
E-mail:

Owner Rep: Kim Kerk Land Consulting & Development
Contact: Kim Kerk
Address: 2829 North Ave #105
City/State/Zip: Grand Junction, Co 81501
Phone: 970-640-6913
Fax: 
E-mail: kimk355@outlook.com

Contact:
Address:
City/State/Zip:
Phone: 
Fax: 
E-mail:

Please designate a representative as the coordinator for this application. The representative should attend all conferences/hearings, will receive all correspondence, and communicate all information to the property owners.

This Notarized application authorizes the owner’s representative, if designated, to act on behalf of the property owners regarding this application.

The above information is correct and accurate to the best of my knowledge.

Willie Berg
Name of Legal Owner
Signature
Date 9-8-27

Willie Berg
Name of Legal Owner
Signature
Date 9-8-22

Neomi M Berg
Name of Legal Owner
Signature
Date

Name of Legal Owner
Signature
Date

STATE OF COLORADO)
) ss.
COUNTY OF MESA )

The foregoing instrument was acknowledged before me this 8 day of September, 2022

My Commission expires: 2/12/2024

ISABEL G. FLADELAND
Notary Public
State of Colorado
Notary ID # 20024033005
My Commission Expires 02-12-2024
PETITION FOR ANNEXATION

WE, THE UNDERSIGNED, in accordance with the Municipal Annexation Act of 1965, Part 1, Article 12, Title 31, Colorado Revised Statutes, as amended, hereby petition the City Council of the City of Fruita, Colorado, for the annexation of the unincorporated area located in the County of Mesa, State of Colorado, as described on attached Exhibit A.

In support of this Petition, the Petitioners state:

1. It is desirable and necessary that the above-described area be annexed to the City of Fruita, Colorado.

2. The requirements of Section 31-12-104, C.R.S., as amended, exist or have been met, to wit:
   a. Not less than one-sixth of the perimeter of the area proposed to be annexed is contiguous with the City of Fruita;
   b. A community interest exists between the area proposed to be annexed and the City of Fruita;
   c. The area proposed to be annexed is urban or will be urbanized in the near future; and
   d. The area proposed to be annexed is integrated with or is capable of being integrated with the City of Fruita.

3. The requirements of Section 31-12-105 C.R.S., as amended, exist or have been met, to wit:
   a. In establishing the boundaries of the territory to be annexed, no land held in identical ownership, whether consisting of one tract or parcel of real estate or two or more contiguous tracts or parcels of real estate, has been divided into separate parts or parcels without the written consent of the landowners thereof unless such tracts or parcels are separated by a dedicated street, road, or other public way;
   b. In establishing the boundaries of the area proposed to be annexed, no land held in identical ownership, whether consisting of one tract or parcel of real estate or two or more contiguous tracts or parcels of real estate, comprising twenty acres or more (which, together, with the buildings and improvements situated thereon) has a valuation for assessment in excess of two hundred thousand dollars for ad valorem tax purposes for the year.
next preceding the annexation is included within the area proposed to be annexed without the written consent of the landowner or landowners;

c. No annexation proceedings have been commenced for the annexation of part or all of the subject property to another municipality;

d. The annexation of the area proposed to be annexed will not result in the detachment of the area from any school district and the attachment of same to another school district;

e. The annexation of the area proposed to be annexed will not have the effect of extending the boundary of the City of Fruita more than three miles in any direction from any point of the City's boundary in any one year;

f. If any portion of the platted street or alley is to be annexed, the entire width of said street or alley is included within the area to be annexed; and

g. Reasonable access shall not be denied to landowners, owners of easements, or the owners of franchises, adjoining any platted street or alley to be annexed that will not be bordered on both sides by the City of Fruita.

4. The Petitioners are the landowners of more than fifty percent (50%) of the area sought to be annexed, exclusive of streets and alleys.

5. This Petition for Annexation satisfies the requirements of Article II, Section 30, of the Colorado Constitution in that it is signed by persons comprising more than fifty percent (50%) of the landowners in the area proposed to be annexed who own more than fifty percent (50%) of said area, excluding public streets and alleys and any land owned by the City of Fruita.

6. Attached hereto and incorporated by reference is an Annexation Map showing:

a. The boundary of the area proposed to be annexed including a legal description of the area to be annexed:

b. The location of each ownership tract in unplatted land and the boundaries and the plat numbers of plots or of lots and blocks; and

c. The contiguous boundary of the City of Fruita abutting the area proposed to be annexed.
7. All of the petitioners signed this Petition for Annexation no more than 180 days prior to the date of the filing of this Petition for Annexation.

WHEREFORE, the Petitioners request that the Fruita City Council approve the annexation of the area proposed to be annexed.

Dated this 30th day of November, 2022

Willie Berg
Property Owner

Neomi M. Berg
Property Owner

County of Mesa )
) ss.
State of Colorado )

Subscribed and sworn to before me this 30th day of November, 2022 by
Willie Berg & Neomi M. Berg

Witness my hand and official seal.

Anne Compton
Notary Public

My commission expires: Oct. 11, 2024

Mailing address of each property owner:

________________________________________________________________________

________________________________________________________________________

________________________________________________________________________

________________________________________________________________________

________________________________________________________________________

________________________________________________________________________
AFFIDAVIT OF CIRCULATOR

The undersigned, being of lawful age, being first duly sworn upon oath, deposes and says:

That he/she was the circulator of the foregoing Petition for Annexation consisting of _____ pages, including this page and that each signature thereon was witnessed by your affidavit and is the true signature of the person whose name it purports to be.

[Signature]
Circulator

State of Colorado    )
       ) ss.
County of Mesa      )

The foregoing Affidavit of Circulator was subscribed and sworn to before me this 30th day of November, 2022 by Harold Kenneth Henry.

Witness my hand and official seal.

[Signature]
Notary Public

My commission expires: Oct. 11, 2026

G:\planning\FormsExamples\Templates\Handouts\Henry\Annexation\Petition for Annexation.doc
General Project Report- Annexation & Rezone

Berg Estate

1806 J 3/10 Road

Fruita, Co 81521

Date: January 05, 2023

Prepared by: Kim Kerk, Project Manager

Submitted to: City of Fruita-City Planning and Development

325 E Aspen Ave

Fruita, Co 81521

Attn: Kelli McLean and Henry Hemphill

Project: Annexation & Rezone

Property Address: 1806 J 3/10 Road

Tax Schedule No.: 2697-163-00-039
Project Applicant: Kim Kerk Land Consulting & Development

Property Owner: Willie Berg & Naomi Berg
Project Narrative for Rezone and Annexation
Berg’s
1806 J 3/10 Road
Fruita, Co 81521

Berg Project Overview:
Kim Kerk Land Consulting & Development is the representative for the property owners, Willie and Naomi Berg. This annexation and rezone request is submitted on behalf of the Berg’s. The subject property containing 3.4 acres +/- is located on J 3/10 Road Fruita, CO 81521. The address is 1806 J 3/10 Road, the parcel number is 2697-163-00-039 and the zoning is AFT.

Petitioner’s Intent:
The Petitioner's Intent is to Rezone and Annex the property into the city limits of Fruita.

Current Land Use:
4.1.2 | AFT Agricultural, Forestry, Transitional District
The AFT, Agricultural, Forestry, Transitional District is primarily intended to accommodate agricultural operations and very low-density single-family residential development within the Rural Planning Area.

Future Land Use:
Community Residential (CR). The purpose of the CR zone is to allow for moderate density detached single-family residential neighborhoods with the inclusion of other housing types such as attached dwelling units (e.g. apartments and townhouses). Innovative neighborhood design is encouraged in this zone district to provide opportunities for housing diversity. This area is served by public utility infrastructure and is appropriate for density of 4-8 du per acre.
Project Narrative: Annexation

This property is within the City's Urban Growth Area and the annexation meets the requirements of State law (Title 31, Article 12). The area to be annexed can be efficiently served by urban services and facilities including police and fire protection, sanitary sewer service, potable water, irrigation water, drainage structures, streets and trails, etc..

New impacts to urban services and facilities will not be created as the existing lot has all services in place.

-The area to be annexed is contiguous with existing urban development boundary and is consistent with the City's Master Plan. The annexation is supported by local residents and landowners. After 84 invitations mailed to the neighbors, a neighborhood meeting was conducted on 9-22-2022 and no residents attended. The annexation will have a logical social and economic association with the City of Fruita.
A. CALL TO ORDER

Five Planning Commissioners were in attendance. (Jessica Hearns, Jesse Fabula, Derek Biddle, Amy Miller, and Patrick Hummel were present.)

B. PLEDGE OF ALLEGIANCE

Commissioner Biddle led the Pledge of Allegiance.

C. AMENDMENTS TO THE AGENDA

None

D. APPROVAL OF THE AGENDA

COMMISSIONER MILLER MOVED TO APPROVE THE AGENDA

COMMISSIONER FABULA SECONDED THE MOTION

MOTION PASSED 5-0

E. WITHDRAWN ITEMS

None

F. CONTINUED ITEMS

None

G. CONSENT ITEMS

APPROVAL OF MINUTES

January 10, 2023, Planning Commission Meeting.

COMMISSIONER HEARNS MOVED TO APPROVE THE MINUTES

COMMISSIONER MILLER SECONDED THE MOTION

MOTION PASSED 5-0

H. HEARING ITEMS

Application #  2023-03
Application Name: Berg
Application Type: Annexation
Location: 1806 J 3/10 Road
Current Zone: Mesa County Zoning AFT
Description: This is a request to annex approximately 3.4 acre into the city limits.

Staff Presentation: Henry Hemphill

Application #  2023-04
Application Name: Berg
Application Type: Rezone
Location: 1806 J 3/10 Road
Current Zone: Mesa County Zoning AFT
Description: This is a request to rezone approximately 3.4 acres from Mesa County Zoning AFT to Community Residential (CR).

Staff Presentation: Henry Hemphill

Commissioner Hearns brought it to the attention of the Planning Commission that the Hearing items were linked and asked for one combined presentation. It was deemed appropriate. Mr. Hemphill stated that they would need to follow protocol and look at, discuss, and vote on each application separately.

Mr. Henry Hemphill, City of Fruita Planner, gave the Staff presentation.

Slide 1 – Introduction

Slide 2 – Application Details

Application #: 2023-03
Project Name: Berg
Application: Annexation
Representative: Kim Kerk Land Consulting
Location: 1806 J 3/10 Road
Current Zone: AFT (County)

Slide 3 – Legal Notice

- All Legal Notice accomplished in accordance with local and state law.
  - Post Cards – February 22, 2023
  - Sign Posting – February 22, 2023
  - Newspaper – February 22, 2023

Mr. Hemphill gave a breakdown of required legal notice.

Slide 4 – Buffer Map and Site Posting Picture

Mr. Hemphill showed where the subject property was located.

Slide 5 – Zoning Map and Aerial Photo

Mr. Hemphill talked about the type of uses that surrounded the subject property.

Slide 6 – Future Land Use Map
Mr. Hemphill explained that the Future Land Use Map helped them have conversations with the public and property owners looking to annex and zone. He added that the map was used to make zoning recommendations.

Slide 7 – Zoning Map and Future Land Use Table

Mr. Hemphill gave an overview of the zoning type recommended by the Future Land Use Map. He informed the Planning Commissioners that Residential 4-8 du/acre and Community Residential are used interchangeably and mean the same thing.

Slide 8 – Review Criteria

- **Section 17.17.050 (A)**
- 9 criteria to consider.
  - Must meet the requirements of State Statutes -1/6th contiguity.
  - Must be within the UGB.
  - Can be served with police and other municipal services.
  - The area meets or can meet the existing infrastructure standards set forth by the City.

Mr. Hemphill stated that the review criteria needed to be considered. He added that if the subject property never met the requirements of State Statute it would not have come before the Planning Commission. He added that the subject property could be served with City services.

Slide 9 – Review Comments & Public Comments

- **REVIEW COMMENTS:**
  - No reviewer expressed concerns with this annexation.
- **PUBLIC COMMENTS:**
  - No written public comments have been received by Staff at this time.

Slide 10 – Suggested Motion

- Mr. Chair, I move we recommend **approval** of application 2023-03, the Berg Annexation, to the Fruita City Council with the condition that a 14-foot multipurpose easement be dedicated along all rights-of-ways to the City of Fruita.

Slide 11 – Next Steps

- Following Planning Commission
  - City Council 1st Reading of the Annexation Ordinance – March 21, 2023
  - City Council 2nd Reading of the Annexation Ordinance – April 18, 2023 (public hearing)
  - City Council – action to find the property eligible for Annexation (Resolution required by State Statute)
  - If approved by City Council.
Mr. Hemphill gave details about the steps needed for an annexation.

**Slide 13 – Application Details**

- Application #: 2023-04
- Project Name: Berg
- Application: Rezone
- Representative: Kim Kerk Land Consulting
- Location: 1806 J 3/10 Road
- Current Zone: AFT (County)
- Zone Request: Community Residential

**Slide 14 – Legal Notice**

- All Legal Notice accomplished in accordance with local law.
- Post Cards – February 22, 2023
- Sign Posting – February 22, 2023
- Newspaper – February 22, 2023

**Slide 15 – Site Posting and Legal Notice Buffer Zone Map**

**Slide 16 – Zoning Map and Aerial Photo**

**Slide 17 – Future Land Use Map**

**Slide 18 – Zoning Map and Future Land Use Zoning Table**

Mr. Hemphill explained why Residential 4-8 du/acre or Community Residential (CR) zoning fit this property.

**Slide 19 – Review Criteria**

- Section 17.09.070
- 5 criteria to consider.
  - Zoning Compatibility with surrounding land uses.
  - Consistent with the Master Plan.
  - Is incidental to an annexation application.

Mr. Hemphill talked about compatibility and said this criterion had been met. He added that zoning was incidental to the annexation. He explained that it was more efficient to both annexation and rezone applications through the process together.
Slide 20 – Review Comments & Public Comments

- **REVIEW COMMENTS:**
  - No reviewer expressed concerns with the zone request.
- **PUBLIC COMMENTS:**
  - No written public comments have been received by Staff at this time.

Slide 21 – Suggested Motion

- Mr. Chair, I move we recommend **approval** of application 2023-04, the Berg Rezone, zoning the property to Community Residential to the Fruita City Council.

Slide 22 – Next Steps

- Following Planning Commission
  - City Council 1st Reading of the Zoning Ordinance – March 21, 2023
  - City Council 2nd Reading of the Zoning Ordinance – April 18, 2023 (public hearing)
  - If approved by City Council.
  - Zoning is effective 30 days after Ordinance to Zone is adopted (May 18, 2023)

Mr. Hemphill concluded his presentation.

Commissioner Biddle thanked him.

Kim Kerk from Kerk Land Consulting & Development in Grand Junction went up to speak. She stated that she was the representative for the Bergs. She said that the annexation and rezone did meet all the Code requirements and Future Land Use for the property. She thanked them.

Commissioner Biddle thanked her. He opened the meeting up for public participation. There was no one. He closed the public comment portion for the hearing item.

Commissioner Biddle asked about Mesa County Transportation’s comments. He said it appeared that there was some confusion.

Mr. Hemphill stated that there were no concerns. He said that the original annexation map that was submitted looked like a subdivision plat where it was suggesting that the City annex the north 2 ½ acres and not the entire property as was mentioned in the project narrative. The annexation map in the packet has the whole property being annexed and not just a portion of it.

Commissioner Hearns asked what an enclave was.

Mr. Hemphill clarified that an enclave means that it is fully surrounded by the city limits. He stated that there are some county properties east of the subject property there is contiguity for all those properties. He added that they all should be within the city limits. There were some properties that may or may not have elected to petition for annexation. The City of Fruita has...
taken the stance that it does not force annexation unless there is a public health issue which would mostly be related to failing septic systems or transportation issues. He continued that there was a list of reasons why someone would have an enclave and a list of reasons someone would want to annex.

Commissioner Hearns pointed out that criteria #3 for the annexation hearing says that the area is contiguous with existing development. In the Staff report it says that subject property is somewhat contiguous. She felt that it was contiguous. She asked Mr. Hemphill if he meant in terms of somewhat contiguous that some of the properties were undeveloped.

Mr. Hemphill said that she was correct.

Commissioner Hearns disagreed with the word somewhat because the criterion is with existing development. She added that considering things that were undeveloped made the word inaccurate in her opinion.

Commissioner Miller agreed with her. She felt that the annexation made perfect sense.

Commissioner Hummel asked about the 1/6 contiguity. He asked if 1/6 of the perimeter of the property is surrounded by the city?

Mr. Hemphill clarified that 1/6 of the property needed to touch existing city limits. He said that the criteria called out a specific code section in the Colorado Revised Statutes that says that it can jump platted right of way. They don’t have to have the right of way to have the connection. If it is public right of way, which it is, it works. He added that they have a legal description for J 3/10 Road to include it in the City limits.

Commissioner Hummel asked about Mesa County’s comments about confusion over road maintenance. He asked if it was an issue or just a comment that may have been taken out of context.

Mr. Hemphill said that the City of Fruita did a transportation improvement along J 2/10 Road about 8-9 years ago. Part of that was that the City of Fruita would do a Master Plan Annexation Plan of right of way. There is no surveyor on staff that could go out and survey all right of ways. The confusion came about with the Annexation map that showed a portion of the property being annexed. He added that there has been a great working relationship with Mesa County’s Transportation Department with regard to joint road maintenance within the city limits and within the Urban Growth Boundary. He added that these are right of ways that need to be acquired and Mesa County would like the City to have and it makes sense for us to include it in the city limits.

Commissioner Hummel asked about the easements. He asked if that was part of the recommendation and he pointed out where they were.

Mr. Hemphill said it was suggested to have an easement along all right of ways. He said that it could do a legal description with an exhibit that shows where those easements are.
Commissioner Hearns asked about criteria #5. She said it talks about making sure that all the utilities along the city’s edge will share appropriately in the costs. She asked if when a development plan and there are no utilities there, it was her understanding that the developer/applicant pays for those. She asked if this was correct.

Mr. Hemphill confirmed that she was correct.

Commissioner Hearns continued; she said it mentioned in the Staff report that there was a resolution of a recapture agreement that pays for those things. She asked about the mechanism for making those things for the City. She asked if there needs to be a condition added to the proposed resolution to make sure that those costs are done at the time of the development or is it fine without it?

Mr. Hemphill stated that there were a number of different land use code sections that did require developers to pay their own way. The City should not have to subsidize development. To incentivize future developments they have a clear Transportation Impact fee credit section that states that any improvements that benefit that property and others are eligible for Transportation Impact fee credits. He added that they have a full road section that is built out for J 3/10 Road, they are missing the connection of the sidewalk from the north to the south. Upon a review of a minor or major subdivision, that is when the decision can be made from the city engineering staff and the planning staff on whether or not those impact fee credits would apply for the construction of those improvements based on the level of those improvements. He talked about the recapture agreement. He said that those have been done in the past, they have one right now for everything south of J 2/10 Road and 19 Road. The recapture agreement is to be paid back to the City of Fruita for its extension of Highway 6 & 50 interceptor line that goes by the railroad, under the railroad, under 6 & 50 to Iron Wheel and then to 19 Road and up north. There are some developments that are starting to utilize that and they will have to pay that back. For this property sanitary sewer service is nearby.

Commissioner Hearns summarized. She stated that the necessary part of the annexation would have mechanisms somewhere else down the line in a development plan so they did not have to have a condition in the approval.

Mr. Hemphill said that the subdivision standards would take care of it.

Commissioner Hearns commented that on the Kerk Land documents that are attached Neomi was spelled incorrectly. She asked if this could be fixed? She said it was misspelled as Naomi instead of Neomi.

Commissioner Hearns said that as she was getting used to how resolutions were written in Fruita, she talked about the suggested motion and the verbiage specifically said “the condition that all review comments and issues identified are adequately addressed” but these were not sub-bulleted out and she felt that there is not a lot of clarity. She asked if they had a list of what each of those issues that were identified in the staff report that needed to be adequately addressed would be included in the condition.
Mr. Hemphill stated that the 14’ multipurpose easement. He also mentioned that the approval was a catch all in case the City of Fruita Staff is working through the Staff report and drafting up a recommended motion that it captures everything. He said that there are a lot of criteria for major subdivisions and a lot of discussions. He said that at their request, for annexations they could try to make it easier for the Planning Commission to understand what conditions Staff is recommending that the Planning Commission pass onto the City Council. In this case, the Staff recommendation is for the dedication of a 14’ multipurpose easement adjacent to the right of ways. He said that if they read the suggested motion it would give Staff, the minutes and City Council enough direction to know what they meant.

Commissioner Fabula talked about why this makes sense for a more complex application.

Commissioner Fabula said that he did not have any comments.

Commissioner Biddle stated that he did not have any other questions. He felt it was a good plan and he was in favor of it.

Commissioner Miller agreed. She said that it was straight forward.

COMMISSIONER HUMMEL MOVED TO RECOMMEND APPROVAL OF APPLICATION #2023-03, THE BERG ANNEXATION, TO THE FRUITA CITY COUNCIL WITH THE CONDITION THAT A 14-FOOT MULTIPURPOSE EASEMENT BE DEDICATED ALONG ALL RIGHTS-OF-WAYS TO THE CITY OF FRUITA.

COMMISSIONER HEARNS SECONDED THE MOTION.

MOTION PASSED 5-0.

Commissioner Biddle opened the Berg Rezone to public comment.

There was none.

Commissioner Biddle closed the public comment portion of the hearing item and opened it to Commissioner discussion.

Commissioner Fabula stated that the questions he had were already answered in the previous discussion and he was comfortable to move forward.

Commissioner Biddle said he had the same opinion.

Commissioner Miller had no questions or comments.

Commissioner Hummel said he felt it was a great addition and mentioned the proximity to schools and public transportation. He was in favor.
Commissioner Hearns that she felt similarly to Commissioner Fabula. She said that the presentation answered her question. She said that in reading the Staff report she was disappointed that the maps only say what the zone districts are nearby. She added that the Planned Unit Development does include commercial and can be free form and different. She said that maybe they could list the land uses are there because criteria #1 isn’t written that it needs to be compatible with existing zoning it has to be compatible with surrounding land uses.

Commissioner Biddle closed the discussion and asked for a motion on the rezone application.

COMMISSIONER MILLER MOVED TO RECOMMEND APPROVAL OF THE ZONE REQUEST TO ZONE THE PROPERTY TO COMMUNITY RESIDENTIAL WITH NO CONDITIONS TO THE FRUITA CITY COUNCIL.

COMMISSIONER HEARNS SECONDED THE MOTION.

MOTION PASSED 5-0.

I. OTHER BUSINESS

1. Community Development Updates

Mr. Hemphill spoke about the upcoming development projects which included Rose Creek at 19 Road and Ottley, Copper Creek West on 19 Road east of Iron Wheel Subdivision, Weston Estates at 19 Road and J Road, a development at J.2 Road on the east side of 19 Road, West Aspen Apartments, The Residences at Fruita on Raptor Road, and The Fruita Mews. There was discussion about the future traffic plans for the 19 Road corridor, the new Fruita Building Division, and the new software program.

2. Visitors and Guests

None

3. Other Business

Mr. Hemphill let the Planning Commissioners know that a Conditional Use Permit application would be heard at the next Planning Commission meeting in April.

Adjournment 7:02 pm

Respectfully submitted,

Kelli McLean
Planning Technician, City of Fruita
AGENDA TEXT: ORDINANCE 2023-03 - Second Reading - Amending the Official Zoning Map of the City of Fruita by zoning approximately 3.4 acres of property located at the northeast corner of the intersection of J 3/10 Road and J 2/10 Road to a Community Residential zone (Berg Rezone) – City Planner Henry Hemphill

BACKGROUND

This is a request for approval to zone approximately 3.4 acres of property to Community Residential (CR). The subject property is currently zoned Agricultural, Forestry and Transitional (AFT), which is a Mesa County zoning designation.

In addition to this rezoning application, the property owner has also submitted an annexation application. Typically, annexation applications are accompanied by a rezone application and can run concurrently through the public hearing process.

The applicants are requesting a Community Residential (CR) zone. The first step in the process to zone a property outside the city limits, is annexation. Once the subject property has been annexed into the City Limits, zoning the property must take place within 90 days in accordance with Section 17.17.080 of the Land Use Code and Colorado Revised Statutes (CRS) Section 31-12-115 (2).

The CR zone is primarily a single-family residential zone. The density (4-8 dwelling units per acre) associated with this zone district should be compatible with future residential development as supported by the Future Land Use Map and supporting documents within the Comprehensive Plan.

At their March 14, 2023, public meeting the Planning Commission recommended approval of the zoning request by a vote of 5-0 to the Fruita City Council. No public comments have been received nor were there any public comments made at the Planning Commission meeting.

FISCAL IMPACT

There is no fiscal impact to the City of Fruita for zoning property.
APPLICABILITY TO CITY GOALS AND OBJECTIVES

This property is within the Urban Growth Boundary and is recommended through the Future Land Use Map contained in the Fruita Comprehensive Plan (The City’s Master Plan) as being zoned Community Residential (CR).

OPTIONS AVAILABLE TO THE COUNCIL

1. Adopt Ordinance 2023-03, an Ordinance amending the official zoning map of the City of Fruita by zoning approximately 3.4 acres of property located at 1806 J 3/10 Road to a Community Residential zone.

2. Deny Ordinance 2023-03.

RECOMMENDATION

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

ADOPT ORDINANCE 2023-03 AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF FRUITA BY ZONING APPROXIMATELY 3.4 ACRES OF PROPERTY LOCATED AT 1806 J 3/10 ROAD TO A COMMUNITY RESIDENTIAL ZONE.
ORDINANCE 2023-03

AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF FRUITA BY ZONING APPROXIMATELY 3.4 ACRES OF PROPERTY LOCATED AT 1806 J 3/10 ROAD TO A COMMUNITY RESIDENTIAL ZONE

WHEREAS, the subject property is shown and described in attached Exhibit A which was recently annexed to the City of Fruita by Ordinance, and

WHEREAS, a public hearing will be held by the City Council on April 18, 2023, for the zoning request, and

WHEREAS, the requested zone is consistent with the city's goals and policies including the city's Master Plan.

WHEREAS, the requested zone meets the approval criteria of Section 17.09.070 of the Fruita Land Use Code that must be considered for an Amendment to the Official Zoning Map (rezone).

NOW THEREFORE, BE IT HEREBY ORDAINED BY THE CITY COUNCIL OF THE CITY OF FRUITA COLORADO AS FOLLOWS:

THAT the Official Zoning Map adopted pursuant to Section 17.03.030 of the Fruita Land Use Code is hereby amended and that the subject property shown and described on the attached Exhibit A, containing approximately 3.4 acres, is hereby zoned Community Residential (CR).

PASSED AND ADOPTED BY THE FRUITA CITY COUNCIL, THIS 18th DAY OF APRIL 2023.

ATTEST: City of Fruita:

__________________________
Margaret Sell, City Clerk

__________________________
Joel Kincaid, Mayor
EXHIBIT A

BEG INTERS OF DN D + LTL 3 IN S2NW4SW4 SEC 16 1N 2W UM SELY ALG LTL 3 TO INTERS WI HWY NWLY ALG HWY 660FT TO INTERS WI DN D ELY 400FT TO BEG EXC RD ROW ON S AS DESC IN B-5802 P-97 MESA CO RECDS - 3.37AC PER ACAD
Application #: 2023-04
Project Name: Berg
Application: Rezone
Property Owner: Willie and Neomi Berg
Representative: Kim Kerk Land Consulting & Development
Location: 1806 J 3/10 Road
Zone: Currently zoned Agricultural, Forestry and Transitional (AFT-County zoning)
Request: This is a request for approval to zone of approximately 3.4 acres to Community Residential (CR).

PROJECT DESCRIPTION:

This is a request for approval to zone approximately 3.4 acres of property to Community Residential (CR). The subject property is currently zoned Agricultural, Forestry and Transitional (AFT), which is a Mesa County zoning designation.

In addition to this rezoning application, the property owner has also submitted an annexation application. Typically, annexation applications are accompanied by a rezone application and can run concurrently through the public hearing process.

The applicants are requesting a Community Residential (CR) zone. The first step in the process to zone a property outside the city limits, is annexation. Once the subject property has been annexed into the City Limits, zoning the property must take place within 90 days in accordance with Section 17.17.080 of the Land Use Code and Colorado Revised Statutes (CRS) Section 31-12-115 (2).

The area in which the subject property is located is supported to have a Community Residential zoning classification as shown on the Future Land Use Map within the City’s Fruita In Motion: Plan Like a Local Comprehensive Plan (Master Plan). The Land Use Code states that the “The purpose of the CR zone is to allow for moderate density detached single-family residential neighborhoods with the inclusion of other housing types such as attached dwelling units (e.g., apartments and townhouses). Innovative neighborhood design is encouraged in this zone district to provide opportunities for housing diversity. This area is served by public utility infrastructure and is appropriate for density of 4-8 du per acre.”
SURROUNDING LAND USES AND ZONING:

Surrounding land uses are primarily single family detached residential. The map below identifies the various zones in this area.
FUTURE LAND USE MAP (FLUM)
REVIEW OF APPLICABLE LAND USE CODE REQUIREMENTS:

SECTION 17.09.070 AMENDMENT TO OFFICIAL ZONING MAP (REZONING)

A. **Applicability and Procedures.** The City Council may amend the number, shape, or boundaries of any zone, removing any property from one zone and adding it to another zone, only after recommendation of the Planning
Commission. An amendment to the Official Zoning Map may be initiated by the owner of any property for which a rezoning is sought, or upon application of City Council.

B. Approval Criteria. The Official Zoning Map may be amended when the following findings are made:

1. The proposed amendment is compatible with surrounding land uses, pursuant to Section 17.05.080 (C), and is consistent with the city's goals, policies and Master Plan; and

The purpose of this Section is to provide a fair and consistent manner in which to consider compatibility within the overall context of the Fruita Master Plan, existing adjacent land uses, applicable zoning district requirements, and other city codes and regulations. Nothing in this Section shall prevent the City of Fruita from denying a land use application based on relevant Code requirements or taking enforcement action against a property owner where a nuisance or other Code violation occurs.

For all land uses, “compatibility” is provided when a proposed land use can coexist with other existing uses in the vicinity without one use having a disproportionate or severe impact on the other use(s). The city decision-making body may consider other uses existing and approved and may consider all potential impacts relative to what customarily occurs in the applicable zone and those which are foreseeable, given the range of land uses allowed in the zone. The review authority may require conditions of approval to promote compatibility between uses.

With regards to compatibility, the zoning of the subject property and anticipated development from a land use perspective should be compatible with foreseeable allowed land uses in the area. This takes into consideration that if surrounding properties were to be incorporated into the city limits, the allowed uses for those parcels would be compatible with the residential land uses.

The Community Residential (CR) zone allows for a density range between 4 and 8 dwelling units per gross acre. The CR zone is also the city’s primary residential zoning district. Below is a table of Land Uses contained in Section 17.05.090 and shows uses that are allowed (A), conditionally allowed (C), and not allowed (*).
The Fruita Comprehensive Plan (a major portion of the city's Master Plan) recommends Community Residential (CR) type zoning for this area. The CR zone is primarily a single-family residential zone. The density (4-8 dwelling units per acre) associated with this zone district should be compatible with future residential development as supported by the Future Land Use Map and supporting documents within the Comprehensive Plan. The Community Residential zone allows 4-6 dwelling units per acre by right. Density Bonuses may be used to increase the density up to 8 dwelling units per acre. Additional features throughout the subdivision (open space, trails, alley access, mix of housing types) would be required through Density Bonuses in order for the density to be increased.

This criterion has been met.

2. The land to be rezoned was previously zoned in error or the existing zoning is inconsistent with the city's goals, policies and Master Plan; or

This criterion is not applicable because it has not been given a city zoning designation prior to this request.

3. The area for which the amendment is requested has changed substantially such that the proposed zoning better meets the needs of the community; or

Although there have been changes in the area, this criterion is not applicable because the land is not yet in the Fruita city limits.
4. The amendment is incidental to a comprehensive revision of the city's Official Zoning Map which recognizes a change in conditions; or

The Future Land Use Map and associated Comprehensive Plan was recently amended in early 2020. Although this amendment includes this area, the area had been included in past Master Plans and future land use maps. The city has planned for this area to be included in the city limits. This criterion is not applicable because there is no comprehensive revision of the Official Zoning Map for this area.

5. The zoning amendment is incidental to the annexation of the subject property.

The requested zoning amendment is incidental to the annexation and, as explained above, the requested CR zone is consistent with the city's goals and policies as expressed in the Master Plan.

Based on this information, the requested CR zone meets the approval criteria that must be considered for a rezone (Official Zoning Map amendment).

REVIEW COMMENTS:

No reviewer expressed any issues with the proposed zoning request.

PUBLIC COMMENTS:

No written public comments have been received by Staff at this time.

LEGAL NOTICE (17.07.040 (E)):

<table>
<thead>
<tr>
<th>Legal Notice (minimum of 15 days prior to Planning Commission)</th>
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<tbody>
<tr>
<td>February 22, 2023</td>
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<tr>
<td>February 22, 2023</td>
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<td>February 22, 2023</td>
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</table>
NOTICE OF PUBLIC HEARING

The Fruita Planning Commission will hold a public hearing Tuesday, March 14, 2023 at 6:00 p.m. This meeting may be held in person subject to public health orders or by City Council direction. Details on how to access this meeting will be found at www.fruita.org. If the meeting is held in person, the virtual link will remain open for public participation. The following item will be presented at the public hearings. The Planning Commission will formulate a recommendation, which will be forwarded to the Fruita City Council. If the item listed below is acted on by the Planning Commission, the Fruita City Council will hold a public hearing on this same item on Tuesday, April 18, 2023 at 7:00 p.m. Please check www.fruita.org for more details. If you have an interest on the item please call 858-0786 or come to the Planning & Development Department office located at 325 E. Aspen Avenue to review the information in the file. Your appearance at both hearings is encouraged to ensure your concerns are accurately represented or you can write a letter outlining your concerns and submit it to the Planning & Development Department.

Application # 2023-04
Application Name Berg
Application Type Rezone
Location 1806 J 3/10 Road
Current Zone: Mesa County Zoning AFT
Description This is a request to rezone approximately 3.4 acres from Mesa County Zoning AFT to Community Residential (CR).

Physically disadvantaged persons who wish to obtain information or need assistance in attending the Public Hearing, may call (970) 858-0786, the hearing impaired may call Relay Colorado at 1-800-659-2556, or visit our website: www.fruita.org
STAFF RECOMMENDATION:

Staff recommends that the subject property be zoned Community Residential.

SUGGESTED MOTION (PLANNING COMMISSION):

Mr. Chair, I move to recommend approval of the zone request to zone the subject property to Community Residential with no conditions to the Fruita City Council.

FRUITA PLANNING COMMISSION: March 14, 2023
FRUITA CITY COUNCIL: April 18, 2023
LAND DEVELOPMENT APPLICATION

Project Name: Rezone of 1806 J 3/10 Road
Project Location: 1806 J 3/10 Road
Current Zoning District: AFT
Tax Parcel Number(s): 2697-163-00-039
Requested Zone: R-4
Number of Acres: 3.4
Project Type: Minor Subdivision

Property Owner: Willie Berg
Property Owner: Neomi M Berg
Address: 1806 J 3/10 Road
City/State/Zip: Fruita, Co 81521
Phone: 970-640-8913
E-mail: kmk355@outlook.com

Please designate a representative as the coordinator for this application. The representative should attend all conferences/hearings, will receive all correspondence, and communicate all information to the property owners.

Owner Rep: Kim Kerk Land Consulting & Development
Contact: Kim Kerk
Address: 2829 North Ave #105
City/State/Zip: Grand Junction, Co 81501
Phone: 970-640-8913
E-mail: kmk355@outlook.com

This Notarized application authorizes the owner's representative, if designated, to act on behalf of the property owners regarding this application.

The above information is correct and accurate to the best of my knowledge.

Name of Legal Owner: Willie Berg
Signature
Date: 9-8-22

Name of Legal Owner: Neomi M Berg
Signature
Date: 9-8-22

Name of Legal Owner
Signature
Date

STATE OF COLORADO)
COUNTY OF MESA ) ss.
The foregoing instrument was acknowledged before me this 8 day of September, 2023
My Commission expires: 2/13/2024

ISABEL G. FLADELAND
Notary Public
State of Colorado
Notary ID # 20024033805
My Commission Expires 02-12-2024
General Project Report- Annexation & Rezone

Berg Estate

1806 J 3/10 Road

Fruita, Co 81521

Date: January 05, 2023

Prepared by: Kim Kerk, Project Manager

Submitted to: City of Fruita-City Planning and Development

325 E Aspen Ave

Fruita, Co 81521

Attn: Kelli McLean and Henry Hemphill

Project: Annexation & Rezone

Property Address: 1806 J 3/10 Road

Tax Schedule No.: 2697-163-00-039
Project Applicant: Kim Kerk Land Consulting & Development

Property Owner: Willie Berg & Naomi Berg
Project Narrative for Rezone and Annexation
Berg’s
1806 J 3/10 Road
Fruita, Co 81521

Berg Project Overview:
Kim Kerk Land Consulting & Development is the representative for the property owners, Willie and Naomi Berg. This annexation and rezone request is submitted on behalf of the Berg’s. The subject property containing 3.4 acres +/- is located on J 3/10 Road Fruita, CO 81521. The address is 1806 J 3/10 Road, the parcel number is 2697-163-00-039 and the zoning is AFT.

Petitioner’s Intent:
The Petitioner's Intent is to Rezone and Annex the property into the city limits of Fruita.

Current Land Use:

4.1.2 | AFT Agricultural, Forestry, Transitional District
The AFT, Agricultural, Forestry, Transitional District is primarily intended to accommodate agricultural operations and very low-density single-family residential development within the Rural Planning Area.

Future Land Use:

Community Residential (CR). The purpose of the CR zone is to allow for moderate density detached single-family residential neighborhoods with the inclusion of other housing types such as attached dwelling units (e.g. apartments and townhouses). Innovative neighborhood design is encouraged in this zone district to provide opportunities for housing diversity. This area is served by public utility infrastructure and is appropriate for density of 4-8 du per acre.
**Project Narrative: Annexation**

This property is within the City’s Urban Growth Area and the annexation meets the requirements of State law (Title 31, Article 12). The area to be annexed can be efficiently served by urban services and facilities including police and fire protection, sanitary sewer service, potable water, irrigation water, drainage structures, streets and trails, etc..

New impacts to urban services and facilities will not be created as the existing lot has all services in place.

- The area to be annexed is contiguous with existing urban development boundary and is consistent with the City’s Master Plan. The annexation is supported by local residents and landowners. After 84 invitations mailed to the neighbors, a neighborhood meeting was conducted on 9-22-2022 and no residents attended. The annexation will have a logical social and economic association with the City of Fruita.
AGENDA TEXT: UTE WATER BOARD - Recommendation to the District Court on appointment of Fruita representative to the Ute Water Board

BACKGROUND
Pursuant to the City’s 1983 agreement with Ute Water, the City of Fruita has the right to nominate a board member for the Board of Directors of the Ute Water Conservancy District for a 4 year term. The nominee will be determined by the City Council and Ute agrees to have its attorney present the nominee so chosen to the District Judge for his approval. Ute Water has advertised for applications from interested individuals to serve on the Board. The District has received one application from Ken Henry for the director position. Ken Henry is currently serving on the Board as the representative for the Fruita area (subdivision 3).

A copy of the published notice for applications and the application received is attached for your information and review.

FISCAL IMPACT
N/A

APPLICABILITY TO CITY GOALS AND OBJECTIVES
Representation of the City on regional boards and commission help to promote the City’s interests and concerns and provides a link between these agencies and the City of Fruita.

OPTIONS AVAILABLE TO THE COUNCIL
Recommend an individual for appointment to the Ute Water Conservancy District Board of Directors

RECOMMENDATION
It is the recommendation of the Mayor that the Council by motion:

APPROVE THE NOMINATION OF KEN HENRY FOR APPOINTMENT TO THE UTE WATER CONSERVANCY DISTRICT BOARD
PUBLIC NOTICE

The Ute Water Conservancy District (“District”) hereby gives notice that the term of office for a director of the District will expire on May 13, 2023. The director whose term is expiring is from Subdivision No. 3.

The District further gives notice that applications for appointment as a director from Subdivision No. 3 will be accepted by the Mesa County District Court until April 13, 2023. The term for appointment in Subdivision No. 3 will extend to May 13, 2027. Application forms may be obtained at the District office, 2190 H 1/4 Road, Grand Junction, CO 81505 or on the District’s website (www.utewater.org). Completed applications may be mailed to the Mesa County District Court, P.O. Box 20,000-5030, Grand Junction, CO 81502 or delivered to the Mesa County District Court, 125 N. Spruce Street, Grand Junction, Colorado.

An applicant for director from the subdivision whose director’s term is expiring or vacant must live in and be the owner of real property within that subdivision, must have resided within the District boundaries for a period of not less than one year, and must have a background reflecting agricultural, municipal, industrial, or other interests in the beneficial use of water and water matters within the District.

The boundary of Subdivision 3 of the District are described as the following:

Subdivision No. 3: that territory within the District north of the Colorado River bounded on the west by the Colorado State and Utah State line and bounded on the east by the centerline of 23 Road.

Ute Water Conservancy District
Briana Board, Secretary
Published: March 14, 2023
Applicants must reside within a subdivision of the Ute Water Conservancy District which has an opening for a Board member. Applicants must also own real property within the District, have resided within the District for at least one year, and be knowledgeable in water matters.

All Board members are appointed by a Mesa County District Court judge. Applications may be mailed to the court at the following address: Mesa County District Court, P.O. Box 20,000-5030, Grand Junction, CO 81502, or delivered to the Mesa County District Court, 125 N. Spruce Street, Grand Junction, Colorado. Applications must be received by April 13, 2023.

Board Member Application  
Ute Water Conservancy District  
Mesa County District Court Case No. 2010CV10213

**APPLICATION FOR:**  
SUBDIVISION NO. 3

<table>
<thead>
<tr>
<th>Applicant Information</th>
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</thead>
<tbody>
<tr>
<td><strong>Full Name:</strong> Henry Kenneth</td>
</tr>
</tbody>
</table>
| **Last:** Henry  
**First:** Kenneth |
| **Address:** 968 17 ½ Road  
**Street Address:**  
**City:** Fruita  
**County:** CO  
**ZIP Code:** 81521 |
| **Phone:** (970-260-4080)  
**E-mail Address:** Kenneth.Henry42@gmail.com |

Length of time Applicant has resided in the Ute Water Conservancy District: 80 years

Address or Assessor Parcel No. of real property owned by Applicant: 968 17 ½ Road, Fruita, CO 81521

**References**

*Please list three references.*

<table>
<thead>
<tr>
<th>Full Name</th>
<th>Relationship</th>
<th>Business acquaintance</th>
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<tr>
<td>William F Byers</td>
<td>Phone: (970) 858-7900</td>
<td></td>
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<tr>
<td>Retired from Grand Valley Power</td>
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<tr>
<td>1797 I ½ Road, Fruita, CO 81521</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Elaine Mason</td>
<td>Phone: (970) 858-1309</td>
<td></td>
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<tr>
<td>Business Acquaintance</td>
<td></td>
<td></td>
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<tr>
<td>124 N Mesa, Fruita, CO 81521</td>
<td></td>
<td></td>
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<tr>
<td>Mark Williams</td>
<td>Phone: (970) 242-2111</td>
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<tr>
<td>Business Acquaintence</td>
<td></td>
<td></td>
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<tr>
<td>2754 Compass Drive, Grand Junction, CO 81505</td>
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Section 10, Item A.

Employment History

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<tr>
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<th>H. Kenneth Henry, Realtor</th>
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<tr>
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<td>Real estate listings and sales</td>
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<td>Job Title</td>
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<td>Still employed as Broker Associate</td>
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Reasons for Applying and Qualifications

Board members are required by statute to have “backgrounds reflecting the agricultural, municipal, industrial and other interests in the beneficial use of water within the district” and to be “knowledgeable in water matters.” Please state your reasons for applying to serve on Ute Water’s Board of Directors and your qualifications for serving as a Board member. Attach additional sheets if needed.

See attached

Do you have any relatives employed by Ute Water? If so, please list names and relationship. NONE

Disclaimer and Signature

I certify that my answers are true and complete to the best of my knowledge.

I authorize investigation of all statements contained in this application. I also understand this application is for
Subdivision No. 3 within Ute Water Conservancy District.

Signature:  Kenneth Henry

Date:  March 29, 2023
Board Member Application for Subdivision NO. 3

I was first appointed to the Ute Water Board in May, 2009 to complete the term of Wally Downer who had passed away. At the time Ute Water assumed the debt and domestic water system of the City of Fruita, this Board position was created to represent the interests of the City of Fruita.

Having been raised on a farm on 17 ½ Road, formerly known as Highway 340, along which the former Fruita water line ran, I vividly remember when rain would fall on Glade Park and the subsequent red water in our domestic water. In addition I well remember the times during which the Fruita reservoirs were short and the need to conserve water. And the days in which the old Fruita treatment facility could not produce sufficient water to meet the demands of the citizens of Fruita.

At the time the original water line was run through what was then the land governed by the US Government Land Office, there was no easement prepared nor an agreement providing Fruita with access for maintenance and repair of the water line. This proved to be a major issue when later, after the Colorado National Monument was created, the various interpretation's of Fruita’s rights and responsibilities to make repairs limited legal access. Basically the Antiquities act effectively prevented Fruita’s access to the water line and then imposed a $10,000 per day fine when the water line developed a leak which allowed water to run down one of the canyons.

Further complicating the matter, Fruita would have to obtain an temporary air easement allowing for the transport of backhoes and repair materials, by helicopter, from the FFA plus approval for a temporary easement from the National Monument for completing the repairs. It was recognized with the water line being first installed in 1907, it was deteriorating and was evident the water line would continue to break placing Fruita in an untenable situation. Then of having the legal responsibility of immediately repairing any breaks but confronted with time constraints required to obtain the necessary permits, to access the water line, during which time the City was subject to a $10,000 per day fine, it was obvious another source for Fruita’s domestic water had to be obtained. It was during this time I worked with the then City Mayor to work out a solution.

Subsequently, Fruita and Ute Water entered into an agreement wherein Ute Water would service a debt relating to Fruita providing water to the Kings View Subdivision and assume the responsibility of providing domestic water for the Fruita service area.

A part of that agreement was a new Ute Water Board seat would be created and that the City of Fruita would provide recommendations for that Board member.

As a former city councilman and two term Fruita Mayor I can speak to the most positive benefit Fruita has enjoyed with Ute Water providing the domestic water.

Since being appointed to the Ute Water Board I have served three terms as the Corporate Secretary and two terms as president of the organization. In addition I have served on the Water and Construction Committee, Legislative Committee, the Wage and Benefit Committee and various other committees as the need developed.

Finally, over the past two years there has been over a 50% turnover of Board members with practically all new Board members having no institutional knowledge and experience that I bring to the Board of Directors.
BACKGROUND

At the April 4, 2023, regular meeting, the City Council discussed Senate Bill 23-213 (the statewide land-use and zoning preemptions bill), and individually signing on to a statewide letter (provided by the Colorado Municipal League) in opposition of the bill. This resolution collectively confirms that opposition from the City of Fruita. SB 23-213 represents the most sweeping attempt in recent Colorado history to remove local control and home rule authority from elected leaders, professional planning staff, and the people of Colorado. SB 23-213 has been characterized as an attempt to provide affordable housing, while actually, it is an attack on local decision making-authority on important local matters such as land use authority and development. The bill dramatically expands state authority by imposing top-down zoning and land use standards on municipalities, and it puts those decisions into the hands of developer interests and unelected third parties. SB23-213 does not recognize that local governments are best suited to address the needs of their communities.

APPLICABILITY TO CITY GOALS AND OBJECTIVES

As a home-rule municipality, the City of Fruita strives to provide fair and transparent land uses and land use practices throughout that best represent the on-going development patterns and growth potential that the City’s Comprehensive Plan supports.

OPTIONS AVAILABLE TO THE COUNCIL

1. Adopt Resolution 2023-10, A Resolution of the City of Fruita in opposition to statewide land use and zoning preemptions in Senate Bill 23-213.

2. Deny the Resolution and support Senate Bill 23-213.

RECOMMENDATION

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

ADOPT RESOLUTION 2023-10, A RESOLUTION OF THE CITY OF FRUITA IN OPPOSITION TO STATEWIDE LAND USE AND ZONING PREEMPTIONS IN SENATE BILL 23-213.
RESOLUTION 2023-10:
A RESOLUTION OF THE CITY OF FRUITA IN OPPOSITION
TO STATEWIDE LAND USE AND ZONING PREEMPTIONS
IN SENATE BILL 23-213

WHEREAS, for a century, the State of Colorado has committed both in statute and in the state constitution to the local control of land use planning and zoning because local governments are closest to the land and to the people that occupy it, and

WHEREAS, zoning and land use cannot be viewed separately from the impacts of proposed uses of land on surrounding properties and a community as a whole, including the ability to ensure adequate water and utilities; to provide enough public safety services, schools, and recreational services; to make sure that sufficient and safe infrastructure is available to handle increased population or more intense uses; to align development with the community’s economic goals; to prevent displacement of existing people; to preserve important historical sites; and to protect open space and the environment in general, and

WHEREAS, Senate Bill 23-213 would place statewide mandates on hyper local land use matters and substitute the judgment of legislators and state regulators who lack the understanding needed to make the right decisions for our community, and

WHEREAS, Senate Bill 23-213 will undermine long-range planning efforts and will severely limit our ability to maintain reasonable zoning regulations to ensure a high quality of life and sound economic environment for our current and future residents, workers, and business owners, and

WHEREAS, Senate Bill 23-213 silences the voices of our residents by taking away the right to be heard at public hearings on zoning matters or to use their constitutional rights of initiative or referendum to address zoning and land use matters, and

WHEREAS, the City of Fruita, through recent changes in the City’s Land Use Code and Comprehensive Plan, is already seeing significant investments in the community which have resulted in a diversity of housing types for residents, and

WHEREAS, the City of Fruita has been working on comprehensive housing strategies to address housing attainability in Fruita, including encouraging accessory dwelling units in allowable zones and workforce housing, and

WHEREAS, local housing strategies are the solution to addressing affordability and attainability throughout the state, not through statewide mandates and the removal of local control.

NOW, THEREFORE, be it resolved by the Fruita City Council that:

Section 1: It is the position of the City of Fruita that municipalities are best suited to determine appropriate zoning laws for their communities and that collaboration and cooperation – not top-down statewide mandates and giveaways to special interests – are the solution to Colorado’s affordable housing problem;

Section 2: The City of Fruita opposes Senate Bill 23-213 and strongly urges its legislators to vote NO on this unprecedented and irresponsible preemption.
PASSED AND ADOPTED BY THE FRUITA CITY COUNCIL
THIS 18TH DAY OF APRIL 2023.

City of Fruita

__________________________
Joel Kincaid, Mayor

ATTEST:

__________________________
Margaret Sell, City Clerk
AGENDA ITEM COVER SHEET

TO: FRUITA CITY COUNCIL AND MAYOR
FROM: DEBRA WOODS, DEPUTY CITY CLERK
DATE: APRIL 18, 2023

AGENDA TEXT: EXECUTIVE SESSION – To convene in Executive Session for determining positions relative to matters that may be subject to negotiations; developing strategy for negotiations; and instructing negotiators pursuant to CRS Sec. 24-6-402(4)(e) with regard to the amended and restated contract with Ute Water Conservancy District and receiving legal advice from the City attorney pursuant to CRS Sec. 24-6-402(4)(b) regarding the same.

BACKGROUND

The City Council has reason to convene in Executive Session for determining positions relative to matters that may be subject to negotiations; developing strategy for negotiations; and instructing negotiators pursuant to CRS Sec. 24-6-402(4)(e) with regard to the amended and restated contract with Ute Water Conservancy District and receiving legal advice from the City attorney pursuant to CRS Sec. 24-6-402(4)(b) regarding the same. To convene in executive session, state law requires that a motion with specific language requesting the executive session be passed with 2/3 of the governing body voting in the affirmative for said motion.

FISCAL IMPACT

N/A

APPLICABILITY TO CITY GOALS AND OBJECTIVES

N/A

OPTIONS AVAILABLE TO THE COUNCIL

N/A

RECOMMENDATION

It is the recommendation of the Fruita City Staff that the Council:

- FOR DETERMINING POSITIONS RELATIVE TO MATTERS THAT MAY BE SUBJECT TO NEGOTIATIONS; DEVELOPING STRATEGY FOR NEGOTIATIONS; AND INSTRUCTING NEGOTIATORS PURSUANT TO CRS SEC. 24-6-402(4)(E) WITH REGARD TO THE AMENDED AND RESTATED CONTRACT WITH UTE WATER CONSERVANCY DISTRICT AND RECEIVING LEGAL ADVICE FROM THE CITY ATTORNEY PURSUANT TO CRS SEC. 24-6-402(4)(B) REGARDING THE SAME.
ANNOUNCEMENT NO. 1

ANNOUNCEMENT TO BE MADE BY MAYOR
AT THE BEGINNING OF THE EXECUTIVE SESSION
(MAKE SURE THE TAPE RECORDER IS TURNED ON;
DO NOT TURN IT OFF DURING THE EXECUTIVE SESSION
UNLESS SO ADVISED BY LEGAL COUNSEL.)

It's April 18, 2023 and the time is ______________. For the record, I am the Mayor, Joel Kincaid. As required by the Open Meetings Law, this executive session is being electronically recorded.

Also present at this executive session are the following persons:

_____________________________________________________.

This is an executive session for the following purposes:

For a conference with City staff for the purpose of determining positions relative to matters that may be subject to negotiations; and instructing negotiators pursuant to C.R.S. Section 24-6-402(4)(e) with regard to the amended and restated contract with Ute Water Conservancy District and receiving legal advice from the City Attorney pursuant to C.R.S. Section 24-6-402(4)(b) regarding the same

I caution each participant to confine all discussion to the stated purposes of the executive session, and that no formal action may occur in the executive session.

If at any point in the executive session any participant believes that the discussion is going outside the proper scope of the executive session, please interrupt the discussion and make an objection.
ANNOUNCEMENT NO. 2

ANNOUNCEMENT TO BE MADE BY THE MAYOR
BEFORE CONCLUDING THE EXECUTIVE SESSION
(WHILE THE SESSION IS STILL BEING RECORDED)

I hereby attest that this recording reflects the actual contents of the
discussion at the executive session and has been made in lieu of any written
minutes to satisfy the recording requirements of the Open Meetings Law.

_____ I will have the Deputy City Clerk retain the recording for a 90-
day period.

OR

(if City personnel was the
subject of the session and
was not present at the session)

_____ I will retain the tape in my possession for a 90-day period.

The time is now ________________, and we now conclude the executive
session and return to the open meeting.

(stop recording and return to open meeting)
AGENDA ITEM COVER SHEET

TO: FRUITA CITY COUNCIL AND MAYOR
FROM: DEBRA WOODS, DEPUTY CITY CLERK
DATE: APRIL 18, 2023

AGENDA TEXT: EXECUTIVE SESSION – To convene in Executive Session for determining positions relative to matters that may be subject to negotiations; developing strategy for negotiations; and instructing negotiators pursuant to CRS Sec. 24-6-402(4)(e) with regard to quiet title action entitled Maple Acquisition LLC v. The Estate of Mrs. J.A. Waid, et al., Mesa County District Court Case No. 23CV30055 and receiving legal advice from the City attorney pursuant to CRS Sec. 24-6-402(4)(b) regarding the same.

BACKGROUND

The City Council has reason to convene in Executive Session for determining positions relative to matters that may be subject to negotiations; developing strategy for negotiations; and instructing negotiators pursuant to CRS Sec. 24-6-402(4)(e) with regard to quiet title action entitled Maple Acquisition LLC v. The Estate of Mrs. J.A. Waid, et al., Mesa County District Court Case No. 23CV30055 and receiving legal advice from the City attorney pursuant to CRS Sec. 24-6-402(4)(b) regarding the same. To convene in executive session, state law requires that a motion with specific language requesting the executive session be passed with 2/3 of the governing body voting in the affirmative for said motion.

FISCAL IMPACT
N/A

APPLICABILITY TO CITY GOALS AND OBJECTIVES
N/A

OPTIONS AVAILABLE TO THE COUNCIL
N/A

RECOMMENDATION

It is the recommendation of the Fruita City Staff that the Council:

- FOR DETERMINING POSITIONS RELATIVE TO MATTERS THAT MAY BE SUBJECT TO NEGOTIATIONS; DEVELOPING STRATEGY FOR NEGOTIATIONS; AND INSTRUCTING NEGOTIATORS PURSUANT TO CRS SEC. 24-6-402(4)(E) WITH REGARD TO QUIET TITLE ACTION ENTITLED MAPLE ACQUISITION LLC V. THE ESTATE OF MRS. J.A. WAID, ET AL., MESA COUNTY DISTRICT COURT CASE NO. 23CV30055 AND RECEIVING LEGAL ADVICE FROM THE CITY ATTORNEY PURSUANT TO CRS SEC. 24-6-402(4)(B) REGARDING THE SAME
ANNOUNCEMENT NO. 1

ANNOUNCEMENT TO BE MADE BY MAYOR
AT THE BEGINNING OF THE EXECUTIVE SESSION
(MAKE SURE THE TAPE RECORDER IS TURNED ON;
DO NOT TURN IT OFF DURING THE EXECUTIVE SESSION
UNLESS SO ADVISED BY LEGAL COUNSEL.)

It's April 18, 2023 and the time is ______________. For the record, I am the Mayor, Joel Kincaid. As required by the Open Meetings Law, this executive session is being electronically recorded.

Also present at this executive session are the following persons:

______________________________________________________________

This is an executive session for the following purposes:

For a conference with City staff for the purpose of determining positions relative to matters that may be subject to negotiations; and instructing negotiators pursuant to C.R.S. Section 24-6-402(4)(e) with regard to quiet title action entitled Maple Acquisition LLC v. The Estate of Mrs. J.A. Waid, et al., Mesa County District Court Case No. 23CV30055 and receiving legal advice from the City Attorney pursuant to C.R.S. Section 24-6-402(4)(b) regarding the same

I caution each participant to confine all discussion to the stated purposes of the executive session, and that no formal action may occur in the executive session.

If at any point in the executive session any participant believes that the discussion is going outside the proper scope of the executive session, please interrupt the discussion and make an objection.
ANNOUNCEMENT NO. 2

ANNOUNCEMENT TO BE MADE BY THE MAYOR
BEFORE CONCLUDING THE EXECUTIVE SESSION
(WHILE THE SESSION IS STILL BEING RECORDED)

I hereby attest that this recording reflects the actual contents of the discussion at the executive session and has been made in lieu of any written minutes to satisfy the recording requirements of the Open Meetings Law.

_____ I will have the Deputy City Clerk retain the recording for a 90-day period.

OR
(if City personnel was the subject of the session and was not present at the session)

_____ I will retain the tape in my possession for a 90-day period.

The time is now _________________, and we now conclude the executive session and return to the open meeting.

(stop recording and return to open meeting)