

**OURAY CITY COUNCIL MEETING
SUMMARIZED MINUTES
MONDAY, JULY 20, 2020
COUNCIL WILL MEET IN PERSON at the Massard Auditorium Ouray Community Center
VIRTUAL MEETING FOR PUBLIC**

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Meeting ID: 947 9652 0829
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- Electronic copies of the Council Packet are available on the City website at www.cityofouray.com. A hard copy of the Packet is also available at the Administrative Office for interested citizens.
- Action may be taken on any agenda item
- Notice is hereby given that a majority or quorum of the Planning Commission, Community Development Committee, Beautification Committee, and/or Parks and Recreation Committee may be present at the above noticed City Council meeting to discuss any or all of the matters on the agenda below for Council consideration

1. CALL TO ORDER

Mayor Nelson called the meeting to order at 1:00 pm.

2. ROLL CALL

Mayor Greg Nelson - present
Mayor Pro Tem John Wood - present
Councilor Glenn Boyd - present
Councilor Ethan Funk - present
Councilor Peggy Lindsey - present

Also present were Acting City Administrator Melissa Drake, City Resources Director Rick Noll, Public Works Director Joe Coleman, Community Development Coordinator Aja Tibbs, Police Chief Jeff Wood, Administrative Accounting Clerk Julie Lancaster and City Attorney Carol Viner.

3. The PLEDGE OF ALLEGIANCE was recited.

4. CEREMONIAL/INFORMATIONAL – Update on the Ouray Via Ferrata

Mark Iuppenlatz gave an update of how many people have visited the Via Ferrata since opening on Memorial Day weekend. Over 3000 have visited while rangers are on site to take a headcount (8 am to 4 pm), but people can come before or after that aren't counted. Signs have been changed around as confusion has come up with guests. Medallions have been put up for emergency purposes, such as "a person needs help between marker 5 and 6". A new alternate exit is being added halfway through.

5. CITIZENS' COMMUNICATION

Jeremy from the Matterhorn Inn – suggestion for an adjustment on city right of way, since people are parking in the entrance of the hotel and causing disruptions. Jeremy suggested painting no parking signs on the spaces. Jeremy was instructed to follow up with Ms. Drake.

6. CITY COUNCIL REPORTS/INFORMATION

- a. **Glenn Boyd** – MAC meeting on July 15th. Policy group meeting on July 16th, consideration of outdoor mandatory mask zones. Policy group meeting scheduled for July 23rd to discuss again.
- b. **Ethan Funk** – Nothing to report
- c. **Peggy Lindsey** – Beautification Committee meeting scheduled on July 21st
- d. **John Wood** – CEDC met on July 9th, working on Main Street program, and coordinating with OCRA on Google Project still. Working on Census as well. IPAT finishing up mediation with guide companies to present to OIPI. Operations manual will be presented later in the meeting.
- e. **Greg Nelson** – Same as Glenn's reports

7. DEPARTMENT REPORTS

a. Acting City Administrator – Director of Finance and Administration

Box Canon is very busy. Pool is still limited to 50 people at a time, but has opened a 4th window of time. Nothing from the state on the requested variance. Visitor center open 7 days a week. Two open positions currently: Building Inspector and Box Canon Customer Service Associate. Workers' Comp audit completed, resulted in \$10k refund. Pool website has been updated, Ms. Drake thanked the people involved in that. City Administrator job posted, list of locations where posted in packet.

Sales tax revenue is down 23% from this month last year, but still up year-to-date over 2019 year-to-date. June financials are really good overall. Refuse & Recycle fund will be negative all year because of a misinterpretation of the contract with Waste Management. Discussion of pool financials. Councilor Boyd reminded the audience that the variance for the pool was sent in over a month ago and the state is still reviewing, and there is a two week delay in the state granting any variances. Mayor Pro Tem Wood put together some pool revenue and expenses together in a chart that he shared with the audience. The chart showed the YTD revenue for 2018, 2019 and 2020, revealing that 2020 was significantly below budgeted revenues and below prior years as well. Council discussed a trigger point for closing the pool down to cut dramatic losses of reserve money. Councilor Funk said the trigger should only be if the losses of running it exceed the losses that would be expected if the pool was closed. Mayor Nelson asked if the OTO audit has been received from the auditor yet. Ms. Drake confirmed it has not been received, and that the auditor received the financial information after the audit was due to the City. Mayor Nelson asked if the Cascade Park and Rotary Park restroom projects had been started yet. Ms. Drake said they had not been started.

b. Community Development Coordinator

Very active working on temporary encroachment permits and building permits. Working on draft of community plan. Accessory Dwelling Unit Ordinance is being reworked and will be brought to council at a later date. Working with CDPHE and Public Works on backflow prevention systems.

8. CONSENT AGENDA - None

9. ACTION ITEMS

a. Reconsideration of Application for a Special Noise Permit – Goldbelt Restaurant

The owner has asked for a less restrictive permit.

Justin Clark called in to request that the noise distance restriction be re-evaluated, saying the restrictions are impossible to meet. Mr. Clark read a prepared statement asking the city to work with them to come to a compromise.

Dave Mensch is a musician who performs at the Goldbelt and said he has been working to be within compliance, and would also like to work with the city to keep the live music going. Patrons on the patio do not have to lean in to hear each other talk, so the volume seems reasonable at the Goldbelt. Mr. Mensch described the ways he's worked to mitigate the noise beyond the restaurant boundaries. Councilor Lindsey asked if swearing is a part of his show, and Mr. Mensch said it occasionally is, but he could remove that from his to comply with the city.

Cindy Carothers said her house is 402 feet away and the music can be heard very clearly and would like to find a compromise with the volume of the music.

Chief Wood said the volume at different locations is variable with the acoustics of the canyon, and people in 2nd or 3rd floor apartments may be able to hear more clearly than the police can on the street level when they evaluate the volume level. Chief Wood also said the decibel meter has been found, and the department is working on getting the officers certified to use it in case anything goes to court, so Chief Wood recommends an ordinance where a decibel level is explicitly stated.

Mr. Mensch said he did not play the last shows he was hired for because he and the Goldbelt wanted to attend this council meeting first, and asked for leniency as they shift speaker positions to find the best placement acoustically.

Mr. Clark said he has been circulating a petition in the neighborhood to allow the music because he feels that the Goldbelt got "the short end of the stick" with the badly written ordinance.

Councilor Boyd suggested setting a decibel level at the perimeter of the property, possibly even taking all council members out on location and reading the decibel levels and deciding what is appropriate.

Councilor Funk said the noise ordinance is not written well, since if the music was unamplified, the rules would not apply, no matter how loud it got. The language needs to be reworked in preparation for the next summer season.

As the permit was originally issued, there are only 2 more days left, and council was not in favor of changing the current permit for only 2 performance days.

Mr. Mensch said acoustic/acapella is not feasible with the road noise since he plays and sings outdoors, and it would be hard on his vocal cords to sustain.

Lora Slawitschka reminded council that this ordinance would affect more than just the Goldbelt.

Justin Clark concluded by saying that other events, businesses and vehicles are breaking the noise ordinance as it is written, and the Goldbelt is trying to work within the rules.

Councilor Funk motion to make no changes to the noise permit at this time. Mayor Pro Tem Wood seconded the motion.

Council Member	For	Against	Abstain	Absent
Mayor Nelson	X			
Mayor Pro Tem Wood	X			

Councilor Boyd	X			
Councilor Funk	X			
Councilor Lindsey	X			

The motion passed on unanimous roll call.

Council will work with staff to rewrite a noise ordinance in time for next summer season that will be easily enforceable and clear to all parties. Councilor Boyd noted there is a difference between types of events that should be taken into account when rewriting the ordinance.

b. Permanent Encroachment Application for 212 & 220 9th Ave

Ms. Tibbs presented the proposal from the Risch's in lieu of an encroachment permit. The Risch's are proposing to purchase pieces of property next to their property at fair market value to improve and to connect pieces of sidewalk along 9th Ave.

Bob Risch said this began last fall with a request from council after it was discovered that personal possessions were on city land. Mr. Risch pointed out that the fee for the permanent encroachment permit in Telluride would be \$1,200, and \$1,000 in Aspen, but in Ouray it is around \$36,000 (fair market value of the land), which was a standard set years ago by the City Council when it was accepted in lieu of a permanent encroachment permit.

Mayor Nelson would like to separate the two pieces of land into different discussions. First to be discussed was the small piece of property in front of 220 9th Ave for a sidewalk.

Mr. Risch said in winter it's a health and safety risk to not have sidewalks, and would like to help complete it. Mayor Nelson asked for clarification on the proposed sidewalk installment shown on the map at the west edge of his property that was not a part of the encroachment application. Mr. Risch said when the rest of their sidewalk was installed, their neighbor on that side was looking at pouring a driveway, and the plan was to pour that portion of the sidewalk at the same time, but the driveway never happened. The encroachment area currently has a rock retaining wall built in that space for drainage purposes to protect the house, which is why it was created on city right of way in the first place. Councilor Funk was in favor of granting the fixed encroachment permit since the situation was unusual and was a reasonable course of action to take at the time.

Mr. Risch suggested that instead of paying for the property that the City would accept in-kind work for the cost of the installation of the sidewalk as payment for the property, including the temporary asphalt sidewalk proposed that would extend to Main Street. Council was not in favor of an asphalt sidewalk installed in the City since no others existed in the City.

Mayor Pro Tem Wood made a motion to grant the encroachment permit for the sidewalk for \$5,854.80, without a barter or in-kind deal. Councilor Lindsey seconded the motion. Mayor Pro Tem Wood amended the motion to include a deadline of Dec 31, 2020. Councilor Lindsey seconded the amendment.

Council Member	For	Against	Abstain	Absent
Mayor Nelson	X			
Mayor Pro Tem Wood	X			
Councilor Boyd	X			
Councilor Funk	X			
Councilor Lindsey	X			

The motion passed on unanimous roll call vote.

Council moved to the discussion of the property behind the house at 212 9th Ave.

Mayor Pro Tem Wood asked what the nature of the improvements on the land is, Ms. Tibbs said there is a fence and some gardening/landscaping.

The adjoining city land is currently used as snow storage and overflow parking. The land in question could be part of an affordable housing development by the City, so for future development, Council was against letting the piece in question come under control of the Risch's in perpetuity.

Councilor Boyd made a motion to not issue an encroachment permit for the land behind 212 9th Ave. Councilor Boyd added to the motion for any personal property to be removed from city land by the end of the year. Councilor Funk seconded the motion and the amendment.

Council Member	For	Against	Abstain	Absent
Mayor Nelson	X			
Mayor Pro Tem Wood	X			
Councilor Boyd	X			
Councilor Funk	X			
Councilor Lindsey	X			

The motion passed on unanimous roll call vote.

c. Ice Park Operations Manual

Frank Robertson presented the Operations Manual and Risk Mitigation Protocol that was delivered to the City as prescribed by the Management Contract with the City.

Councilor Funk said it was very clear and concise, and thanked Mr. Robertson.

Mayor Nelson asked about the size of the vault for the valves to ensure it wasn't defined as a confined space by OSHA; according to Mr. Robertson's approximation it would not be. Mayor Nelson also asked about erosion around the anchor pads. Mr. Robertson said the anchors are held in place by their own weight, and the Ice Park is looking at the erosion issue this summer.

Mayor Pro Tem Wood would like a valve map and schedule available in case Ice Park employees are not available. Councilors Funk and Boyd said the map should not be included in document so the operations manual doesn't have to come in front of Council every time the map changes, but should be an annex to the document, which would allow it to be changed as needed without Council approval.

Councilor Boyd made a motion to approve the manual, and direct the Ice Park to create the annexes as directed by October 15, 2020. Mayor Pro Tem Wood seconded the motion.

Council Member	For	Against	Abstain	Absent
Mayor Nelson	X			
Mayor Pro Tem Wood	X			
Councilor Boyd	X			
Councilor Funk	X			
Councilor Lindsey	X			

Motion passed on unanimous roll call vote.

d. Appoint Tourism Advisory Council

Mayor Nelson would like to thank everyone who applied.

Two seats did not have any applicants, and several others only had one applicant. Some applicants could fill multiple seats.

Councilor Boyd made a motion to appoint the 3 seats that only had one applicant each: Mary Carkin to the Retail seat, Logan Tyler to the Outdoor Recreation seat and Jennifer Norvell to the Arts/Culture/Historical seat. Councilor Funk seconded the motion.

Council Member	For	Against	Abstain	Absent
Mayor Nelson	X			
Mayor Pro Tem Wood	X			
Councilor Boyd	X			
Councilor Funk	X			
Councilor Lindsey	X			

The motion passed on unanimous roll call vote.

Council discussed the Event Planning/Coordination seat, which received no applicants, and whether moving a citizen applicant to that category was appropriate.

Mayor Pro Tem Wood made a motion to appoint Jason Perkins to the Lodging seat, Councilor Lindsey seconded the motion. Discussion of Mr. Perkins' ability to fill either the Restaurant/Bar or Lodging seat. Councilor Boyd stated the other Lodging candidate is Ryan Hein who could also fill the Restaurant/Bar, Event Planning/Coordination or Lodging seats, but Mayor Nelson has serious reservations about appointing Mr. Hein after his declaration that he is "going to war with the city". Mayor Pro Tem Wood also pointed out that Mr. Hein is the vice president of OCRA, which has been removed from this role. His hotel, Twin Peaks Lodge is one of the biggest in the industry in town, which may cause smaller lodging establishments to feel overshadowed if Mr. Hein was appointed to represent Lodging.

Council Member	For	Against	Abstain	Absent
Mayor Nelson	X			
Mayor Pro Tem Wood	X			
Councilor Boyd		X		
Councilor Funk		X		
Councilor Lindsey	X			

The motion carried on a 3-2 vote, with Councilors Funk and Boyd voting no.

Councilor Boyd made a motion to appoint Alexandra Durham to the citizen seat. Mayor Pro Tem Wood seconded the motion.

Council Member	For	Against	Abstain	Absent
Mayor Nelson	X			
Mayor Pro Tem Wood	X			
Councilor Boyd	X			
Councilor Funk	X			
Councilor Lindsey	X			

The motion passed on unanimous roll call vote.

The city will pursue new candidates for the Restaurants/Bars and Event Planning/Coordination seats.

e. Release of Subdivision Improvements Agreement with J&E Investment Corporation

Councilor Boyd made a motion to approve the release, Councilor Funk seconded the motion.

Council Member	For	Against	Abstain	Absent
Mayor Nelson	X			
Mayor Pro Tem Wood	X			
Councilor Boyd	X			
Councilor Funk	X			
Councilor Lindsey	X			

The motion carried on unanimous roll call vote.

f. Define Outdoor Areas Within the City to Designate as Mandatory Mask Zones

Councilor Boyd said the new statewide mask order makes this discussion premature. Councilor Funk disagreed, since this will be a recommendation for the staff to give to the county and not an action taken right now.

Council debated the area to define and the efficacy and usefulness of such a designation.

Mayor Pro Tem Wood made a motion recommendation to policy group that a zonal mask order would be on Main Street between 4th Ave and 9th Ave. Funk seconded.

Council Member	For	Against	Abstain	Absent
Mayor Nelson		X		
Mayor Pro Tem Wood	X			
Councilor Boyd		X		
Councilor Funk	X			
Councilor Lindsey	X			

10. DISCUSSION - Future Agenda Items

Next meeting must have a flume tax discussion.

Councilor Lindsey wants to draft a ballot measure for a tourist sewer tax to raise funds for sewer plant improvements. Item will be added as a discussion item to another agenda.

Councilor Boyd made a statement about complaints made on Facebook that are not actually getting presented to City Council. The way to have action taken is to bring the issue to the City Administrator to have it brought before the Council, otherwise it will just be seen as “venting”.

11. ADJOURNMENT

Councilor Boyd made a motion to adjourn at 4:23 pm. Councilor Lindsey seconded. The motion passed on unanimous vote.

ATTEST:


Greg Nelson, Mayor

9/11/2020
Date


Melissa M. Drake, City Clerk

CERTIFICATION

I, Melissa M. Drake, do hereby certify that I am the City Clerk of the City of Ouray, Ouray County, State of Colorado, and that the above minutes are a true and correct summary of the meeting of the Ouray City Council held on July 20, 2020. I further certify that the meeting was duly called and held, and that a quorum was present.

Dated this 30th day of July, 2020.


Melissa M. Drake, City Clerk