

**OURAY CITY COUNCIL
SUMMARIZED MINUTES
MONDAY, AUGUST 2, 2021, 6 PM
320 6th Ave – Massard Room**

Zoom Meeting for Non-participants:

<https://zoom.us/j/9349389230>

Meeting ID: 934 938 9230

Passcode: 491878 or by phone: +1 408-638-0968 +1 669-900-6833

- 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 6:00 pm.

2. ROLL CALL

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

Also present were City Administrator Silas Clarke, Finance and Administration Director Melissa Drake, City Resources Director Rick Noll, Public Works Director Joe Coleman, Community Development Coordinator Lily Oswald, Police Chief Jeff Wood, and City Attorney Carol Viner.

3. The PLEDGE OF ALLEGIANCE was recited

4. PUBLIC HEARING – none

5. CEREMONIAL/INFORMATIONAL - none

6. APPROVAL OF MINUTES – July 6, 16 and 19, 2021

Mayor Pro Tem Wood made a motion to approve the minutes. Councilor Lindsey seconded the motion.

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

The motion passed on unanimous roll call vote.

7. CITIZENS' COMMUNICATION

Mayor Nelson opened the floor for public comment.

Tamara Gulde read a prepared statement admonishing the most recently elected council members for what she considered unprofessional behavior. She also stated that Council should have the visitor center open for more hours all year round and that they should perform better tourism management.

Mayor Nelson closed the floor.

8. CITY COUNCIL REPORTS/INFORMATION

- a. **Ethan Funk** – Nothing to report
- b. **Peggy Lindsey** – Mulch was delivered and spread at Rotary Park on Friday. Councilor Lindsey asked for community support on the River Walk Trail Maintenance Event on August 17th from 7-9 am.
- c. **John Wood** – Nothing to report
- d. **Greg Nelson** – Nothing to report

City Administrator Mr. Clarke announced that Councilor Glenn Boyd was at a mandatory work training event out of town and could not attend the meeting.

9. DEPARTMENT REPORTS

a. **City Administrator – Silas Clarke**

The RFP for tourism phone application is included in packet. The Geothermal line project is being put out to bid by Friday. The City has multiple job openings, including Maintenance Operators for both Public Works and Parks, Communications and Community Engagement Coordinator, and Lifeguard and Customer Service Associates at the Hot Springs Pool. DOLA \$25,000 matching grant requested for subdivision and zoning code updates. Ouray Workforce housing correspondence included in packet. City has received 1 RV workforce housing application. Planning a Visitor Center open house for August 13th from 5-7 pm.

Finance and Administration Director Melissa Drake reminded Council and citizens that there are two candidate information meetings scheduled for those interested in running for council office. Candidates should attend one of the two sessions.

b. **Police Chief – Jeff Wood**

Chief Wood presented service calls for month of July. National Night Out is August 3rd at 4:30 in Fellin Park.

c. **Fire Chief – Adam Kunz**

Update in packet.

d. **Public Works Director – Joe Coleman**

Mr. Coleman noted date corrections in his report in the packet. Idarado crew completed work on Red Mountain Ditch, good water flow now.

e. City Resources Director – Rick Noll

Nothing to add to packet.

10. CONSENT AGENDA

a. Special Events Permit Application – Ouray Highgraders, Highgraders Holidays, Aug 20-22, 2021

b. Special Events Permit Application – Ouray Climbers Alliance, OuROCK! Fest, September 19, 2021

Councilor Funk made a motion to approve the consent agenda, Mayor Pro Tem Wood seconded the motion.

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

The motion passed on unanimous roll call vote.

11. ACTION ITEMS

a. Discussion and Possible Action on Excise Tax for Short-Term Rentals to Create a Housing Fund

Mayor Pro Tem Wood stated that setting a fee schedule is the preferred way to go, even if it isn't implemented quite as fast as a tax would be if voted for, because it could be changed as needed as the program unfolds. Councilor Funk believes that it should go to the voters as an excise tax to be straightforward in how the money is collected and used, believing the fees would raise more money than just covering administrative costs and may not appear to be above board. Mayor Pro Tem Wood argued that the fee would cover the cost of hiring a new employee to manage the program instead of adding work to existing employees. A fee schedule requires a study to justify the fee rates, while a tax is wholly decided by the voters. Councilor Lindsey suggested putting both in place, since the goal is to raise revenue to take care of immediate housing needs. The fee could be used to fund the full time position overseeing short-term rentals, and the tax could raise the money to fund attainable housing. Councilors Funk and Lindsey both felt a 15% excise tax was appropriate. Council discussed having the tax cover upcoming infrastructure project debt in addition to funding the housing fund, and decided to split the tax half and half for the first 10 years, then have it all go to the housing fund.

Council moved to item c on the agenda to table that discussion before returning to current agenda item, since Council was not interested in pursuing a GID at this time.

Mayor Nelson opened the floor for public comment.

Mark Luppenlatz spoke about the importance of prioritizing infrastructure concerns over affordable housing construction.

Dolgio Nergui cautioned that if the combined tax rate of a short-term rental is 27.95% as proposed, the City could lose short-term rentals and the sales and lodging tax revenue from them, and suggested that large employers in town contribute to the proposed affordable housing fund, like larger resort communities would do. Ms. Nergui also suggested eliminating short-term rentals or making the cap very small to have more places operate as B&Bs with primary residents in the home and a commercial property tax rate.

Jay Lauderdale said the City needs to tax second homeowners like himself too.

Mark Iuppenlatz noted that the City would get better interest rates on their State revolving fund loans if the revenue is built in for the entire 20 years of the loan instead of just the first 10, so the split shouldn't sunset before the tax sunsets completely. Mayor Pro Tem Wood agreed and said the excise tax should be split in its entirety.

Councilor Funk made a motion to write a ballot question for this year's election that would ask the voters to create an excise tax on short-term rentals in the City with a 15% tax rate, which can be lowered as desired, being split 50/50 between a housing fund and funding critical water infrastructure. Administrator Clarke requested that the tax rate should not be decrease-able by council. Councilor Funk withdrew his motion to rephrase.

Councilor Funk made a motion to write a ballot question for this year's election that would ask the voters to create an excise tax on short-term rentals in the City with a 15% tax rate, half of the money to be used to fund an affordable housing fund, the other half to be used to fund wastewater and potable water infrastructure projects, allocating as needed, sunsetting in 20 years without ability to reduce taxes. Councilor Lindsey seconded the motion.

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

The motion passed on unanimous roll call vote.

b. Discussion and Possible Action Concerning Cap and/or Cap and Trade Policy for Short-Term Rentals

Mayor Pro Tem Wood suggested a cap that can only be exceeded if four units are developed and three are proven to be long-term rentals (or two long-term rentals and one owner-occupancy), then one unit can be issued a short-term rental license above the cap. Mayor Pro Tem Wood suggested a cap of 110, which includes all active licenses, all licenses in the process of being renewed, all new applicants, and the "condotel" units that had previously been told not to license, which would be around 15% of total housing stock.

Ms. Viner said she would research how the City currently defines a hotel, since some single family dwellings are being used as hotel overflow, thus skirting the short-term rental license process, and help re-define to avoid confusion from "condotel" units.

Mayor Pro Tem Wood also suggested adding a set renewal period starting in February 1 for everyone. Community Development Coordinator Lily Oswald said not all applications would be completed in one month, but each would be due by February 1st, and staff would process until all applications were completed. Councilor Lindsey asked about capping the licenses at 125 for people who are in the process of closing on property with the intention of short-term renting it, but cannot start the application process until it closes.

Councilor Funk asked what happened if a license opened up below the cap, how would the City decide who gets it. The Council decided a lottery was appropriate, with possible weighting for time spent on the list.

Cindy Carothers thinks the City should cap the number of licenses, without the cap and trade.

Susie Mayfield, Ouray County Assessor, stated some County licenses are being applied for but not currently being used, possibly as an incentive to potential buyers, since the County allows transfers within 30 days of sale, and citizens could potentially get licenses and not use them in the City too, although the licenses are not transferrable.

Mark Iuppenlatz asked to clarify how 125 was arrived at for a proposed cap.

Dolgio Nergui wanted to advocate for operating legitimate bed and breakfasts, and keeping the cap more conservative with that in mind.

John Nixon asked why the trade piece is being proposed. Mayor Pro Tem Wood explained it was an incentive to develop where it otherwise wouldn't be financially feasible. Mr. Nixon also asked why spots were being given to people in escrow intending to short-term rent, but Mayor Pro Tem Wood clarified that it wasn't held specifically for them, but a general buffer meant to include them.

Jay Lauderdale said since the City intends to put the excise tax to a vote in November, the council should wait until after that is decided to make a decision on a possible cap. Mr. Lauderdale also believes that someone interested in owning a short-term rental would not be interested in owning a four-plex.

Councilor Funk stated that if the council sets the cap at the current amount, there wouldn't be the market to pursue the trade portion, but, if the cap was lower than the current amount, there would be incentive to get back up to the current number by the building of long term rentals along with the short-term rentals. In that vein, he proposed a cap of 70, grandfather in currently licensed units, but do not reissue as licenses fall off.

Mayor Nelson would like to see an automatic review by Council of the short-term rental situation.

Mayor Pro Tem Wood made a motion to direct staff to write a cap and trade ordinance with a cap at 120, and a 3-to-1 trade ratio of new long term (6+ month lease) rental units (or owner-occupied as primary residence) for each short-term rental license, and sunset in five years unless Council takes action, creating a lottery for available licenses. Councilor Funk seconded the motion.

Mayor Pro Tem Wood amended the motion as follows: Cap at 120, 3-to-1 trade, sunsets in 5 years unless action is taken, lottery for open licenses. 110 licenses are dedicated to specific properties, the actively licensed properties and other specific properties, so long as they activate their license by renewal (expired licenses) or application ("condotels") by November 1st, 2021. Annual renewal in February, licenses that would expire before then can continue to operate to get everyone on same renewal schedule. For the trade, the 3 units must have 6+ month leases at time of application, or owner-occupied with primary residence there, checked by voter registration. Councilor Funk seconded the amendments.

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

The motion passed on unanimous roll call vote.

c. Discussion and Possible Action on Future General Improvement District (GID) for Short-term Rentals

Councilor Lindsey made a motion to table the GID discussion to January 2022. Mayor Pro Tem Wood seconded the motion.

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

The motion passed on unanimous roll call vote.

d. Review and Direction Regarding Draft Ordinance 5, Series 2021 (Not First Reading) – Amending Municipal Code related to Accessory Dwelling Units

Mayor Pro Tem Wood made a motion to table the discussion to the next regularly scheduled meeting. Councilor Lindsey seconded the motion.

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

The motion passed on unanimous roll call vote.

e. Rescission of Local Disaster Emergency Declaration Related to COVID-19

Councilor Lindsey made a motion to approve the rescission. Councilor Funk seconded the motion.

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

The motion passed on unanimous roll call vote.

f. Emergency Ordinance 6, Series 2021 – Extending for One Additional Year, Upon Rescission of Local Disaster Declaration, Ordinance 2020-06 for temporary sidewalk food service and 2020-08 for suspending the prohibition of Public Consumption of Alcoholic Beverages with Limited Areas

Mayor Pro Tem Wood made a motion to approve the ordinance. Councilor Funk seconded the motion.

Council Member	For	Against	Abstain	Absent
Mayor Nelson	X			

Councilor Boyd				X
Councilor Funk	X			
Councilor Lindsey	X			
Mayor Pro Tem Wood	X			

The motion passed on unanimous roll call vote.

g. Ratification of Mayor’s Decision to Rescind Stage 1 Fire Restrictions

Mayor Pro Tem Wood made a motion to ratify the decision. Councilor Lindsey seconded the motion.

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

The motion passed on unanimous roll call vote.

h. Resolution 9, Series 2021 – Approving Intergovernmental Agreement with Ouray County for Election Services for November 2, 2021 Coordinated Election and Naming the City Clerk as the Designated Election Official for the City

Councilor Lindsey made a motion to approve the resolution. Mayor Pro Tem Wood seconded the motion.

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

The motion passed on unanimous roll call vote.

i. Consideration of Construction Manager-at-Risk Agreement with Moltz Construction, Inc. for Design of the Water Treatment Facility.

Contractor and contract are the same as the Wastewater Treatment Facility engineering.

Mayor Pro Tem Wood made a motion to approve the agreement. Councilor Funk seconded the motion.

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

The motion passed on unanimous roll call vote.

12. DISCUSSION ITEMS – Future Agenda Items

- a. Short-Term Rental Violator Penalty Ordinance (Per Resolution 8, 2021 no violators allowed a permit)**
- b. Formalize Public Hearing Process (Joint Meeting with Planning Commission)**
- c. Formalize Tourism Advisory Committee by Ordinance**

13. ADJOURNMENT

Councilor Lindsey made a motion to adjourn at 8:38 pm, Mayor Pro Tem Wood seconded the motion. The motion passed on unanimous vote.

ATTEST:



Greg Nelson, Mayor

09/29/2021

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 August 2, 2021. I further certify that the meeting was duly called and held, and that a quorum was present.

Dated this 2nd day of September, 2021.



Melissa M. Drake, City Clerk