

AGENDA  
OURAY CITY COUNCIL

MONDAY, August 3, 2020

**COUNCIL WILL MEET IN PERSON at the Massard Auditorium  
Ouray Community Center, 320 6<sup>th</sup> Ave.**

**VIRTUAL MEETING FOR PUBLIC**

- Electronic copies of the Council Packet are available on the City website at [www.cityofouray.com](http://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

**Work Session – 5pm and Regular Meeting – 6pm**

Join Zoom Meeting

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

Meeting ID: 934 938 9230      Passcode: 491878      Or by phone: +1 408-638-0968 +1 669-900-6833

**Work Session – 5pm**

Possible Ballot Question Regarding Continuing the Flume Tax Page 2

**Regular Meeting – 6pm**

1. CALL TO ORDER
2. ROLL CALL
3. PLEDGE OF ALLEGIANCE
4. PUBLIC HEARING – Ordinance 9, Series 2020 – Removing the OCRA Seat on the CEDC Page 35
5. CEREMONIAL/INFORMATIONAL
  - a. Uncompahgre Watershed Partnership Presentation
  - b. JVA – Solids Handling
6. CITIZENS' COMMUNICATION
7. APPROVAL OF MINUTES – July 7, 20, and 24 Page 9
8. CITY COUNCIL REPORTS/INFORMATION - Glenn Boyd, Ethan Funk, Peggy Lindsey, John Wood, and Greg Nelson
9. DEPARTMENT REPORTS
  - a. Acting City Administrator – Director of Finance and Administration Page 26
  - b. Public Works Director Page 29
  - c. City Resources Director Page 30
  - d. Chief of Police Page 32
10. CONSENT AGENDA - None
11. ACTION ITEMS Page 33
  - a. Ratify Mayor's Decision to Rescind his Declaration of Fire Ban on July 30, 2020
  - b. Ordinance 9, Series 2020 – Removing the OCRA Seat on the CEDC – Second Reading Page 35
  - c. PSA with Colorado Code Consulting for Building Inspection Services Page 37
  - d. Appoint 2 Council Members to the Tourism Advisory Committee
12. DISCUSSION ITEMS
  - a. Possible New Tax on Lodging to Fund Utility Improvements
  - b. Future Agenda Items
13. EXECUTIVE SESSION - Executive Session under C.R.S. 24-6-402(4)(b) and (e) for a conference with the City attorney for the purpose of receiving legal advice and determining positions relative to matters that may be subject to negotiations regarding City Agreements with Mineral Farms Water Users Association (MFWUA) and Bachelor Switch Water Users Association (BSWUA)
14. ADJOURNMENT

## **RESOLUTION 2020-xx**

### **A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OURAY, URGING OURAY CITIZENS TO VOTE "YES" ON REFERRED BALLOT MEASURE A ON THE NOVEMBER 3, 2020 COORDINATED ELECTION BALLOT REGARDING EXTENDING THE CITY'S CURRENT FLUME TAX FOR AN ADDITIONAL TWENTY YEARS, WITHOUT RAISING TAXES OR ANY CHANGE TO THE PROGRAM.**

**WHEREAS** the Ouray City Council has submitted to the qualified electors of Ouray, a ballot question on the November 3, 2020 Coordinated Election Ballot seeking to extend its flume tax for an additional ten years; and

**WHEREAS** in 1982, the City experienced a significant flooding event that caused much damage to property within the City resulting in a federal review of flood zones;

**WHEREAS** it was determined that the City's two flumes, Cascade and Portland, were not adequately constructed to provide the level of protection necessary to protect against even relatively minor flooding;

**WHEREAS** the Council decided that the best way to ensure both City and private property would be protected from flood events and to avoid the requirement the private property owners purchase expensive flood insurance, was to significantly enlarge the City flumes;

**WHEREAS** to pay for the flume improvements and ongoing maintenance and repairs, the voters approved a 2.477 mill levy on ad valorem property taxes and the tax was extended, without increasing taxes, by the voters in the 1999 coordinated election for an additional twenty years ending on December 31, 2020;

**WHEREAS** the Council finds that extending this flume tax for an additional twenty years will allow the City to continue maintaining the flumes and to perform additional necessary capital improvements, resulting in significant benefits for Ouray in the form adequate flood control with no federal mandates that private property owners purchase expensive flood insurance, and

**WHEREAS** the Council finds extending this flume tax without any tax increase will allow the City to leverage both flume infrastructures for the benefit of its citizens and businesses.

**NOW THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF OURAY, COLORADO:**

#### **Section 1**

For the reasons stated above, the Ouray City Council supports Referred Measure A on the November 3, 2020 Coordinated Election regarding whether the current flume tax may be extended for an additional twenty years, without increasing taxes and making no changes to the program.

#### **Section 2**

The City Council urges Ouray citizens fully to inform themselves about said ballot question before

voting.

DRAFT

**Section 3**

The City Council urges Ouray citizens to vote "YES" on the ballot question.

ADOPTED this \_\_ day of August 2020, by the Ouray City Council.

CITY OF OURAY, COLORADO

\_\_\_\_\_  
Greg Nelson, Mayor

ATTEST:

\_\_\_\_\_  
Melissa Drake, City Clerk

**RESOLUTION 2020-xx**

**A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF OURAY  
SUBMITTING TO THE REGISTERED ELECTORS OF THE CITY OF  
OURAY AT THE NOVEMBER 3, 2020 GENERAL ELECTION TO BE  
HELD WITH A COORDINATED ELECTION, A BALLOT QUESTION  
REGARDING EXTENDING ITS FLUME TAX FOR AN  
ADDITIONAL TWENTY YEARS.**

**Whereas**, the City has two flumes, Cascade and Portland, to divert water flowing from the mountains above the City down the flumes to protect against property damage from flooding;

**Whereas**, these flumes were inadequate to protect property from even relatively minor flooding and a major flooding event occurred in 1982 resulting in significant property damage within the City;

**Whereas**, after the major flood event, the City was required to significantly enlarge the two flumes to provide adequate protection to property within the City such that private property owners would not be required to purchase flood insurance under federal law;

**Whereas**, the enlargement project and subsequent ongoing maintenance costs and capital improvements necessitated the City to ask voters for an initial ad valorem property tax of a mill levy of 2.477 (Flume Tax) which would allow the City to pay down the debt service for the enlargement project;

**Whereas**, in 1999 City voters allowed the Flume tax extended until 2021 for flume and drainage repairs and improvements and street surfacing;

**Whereas**, the City has spent \_\_\_\_\_ of Flume tax money since 1999 with some major projects being \_\_\_\_\_; and

**Whereas**, the ballot question must be approved by a majority vote before becoming effective.

**NOW THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF OURAY,  
COLORADO:**

The following ballot question and title shall be submitted to the electors at the November 3, 2020 municipal election to be held with a coordinated election:

**“WITHOUT RAISING ADDITIONAL TAXES, SHALL THE EXISTING AD VALOREM PROPERTY TAX OF 2.411 MILLS FOR FLUME, DRAINAGE AND FLOOD CONTROL REPAIRS AND IMPROVEMENTS, INCLUDING ANY RELATED ROAD AND BRIDGE REPAIRS, EXPIRING ON DECEMBER 31, 2020, BE EXTENDED FOR AN ADDITIONAL TWENTY YEARS AS A VOTER-APPROVED REVENUE CHANGE, THE ABOVE CONSTITUTING NO CHANGES TO THE PROGRAM”**

YES \_\_\_\_  
NO \_\_\_\_

**BE IT FURTHER RESOLVED** that said election shall be a general election with the County of Ouray administering the mail ballot election.

**BE IT FURTHER RESOLVED** The City Clerk and acting City Administrator are hereby authorized and directed to take all necessary and appropriate action with respect to the submission of Ballot Question [---] to the electors and the holding of the special municipal election to be held with a coordinated election of November 3, 2020.

**ADOPTED** this \_\_\_\_ day of August 2020, by the Ouray City Council.

**CITY OF OURAY, COLORADO**

By: \_\_\_\_\_  
Greg Nelson, Mayor

Attest:  
\_\_\_\_\_  
Melissa Drake, City Clerk

P.O. Box 468  
320 Sixth Avenue  
Ouray, Colorado 81427



970.325.7211  
Fax 970.325.7212  
www.cityofouray.com

---

## **ACTION ITEMS (August 3, 2020):**

### **Ratify Mayor's Decision to Rescind his Declaration of Fire Ban on July 30, 2020**

**Action Requested** – *Will City Council ratify rescinding Stage 1 Fire Restrictions?*

**Background** – Mayor Nelson declared Stage 1 Fire Restrictions on July 1, 2020 due to dry conditions in the area and to replicate restrictions in surrounding entities and forests. Mayor rescinded the declaration at 12:01am on July 30, 2020 to coincide with the surrounding entities and forests.

**Recommendation** – Staff recommends ratification

### **Ordinance 9, Series 2020 – Removing the OCRA Seat on the CEDC – Second Reading**

**Action Requested** – *Will City Council approve Ordinance 9 removing the OCRA seat on the CEDC?*

**Background** – Currently, one seat on the CEDC is assigned to be filled by OCRA. Since the City of Ouray has formally terminated its relationship with OCRA/OTO, it was suggested that this change be made. The seat was previously filled by the OCRA/OTO Executive Director and has been vacant since she resigned.

**Recommendation** – Council decision

### **Professional Services Agreement (PSA) with Colorado Code Consulting (CCC) for Building Inspection Services**

**Action Requested** – *Will City Council approve the PSA with CCC for building inspection services?*

**Background** – The Building Inspector for the City of Ouray resigned effective July 24<sup>th</sup>. We have posted the open position and plan to hire someone as soon as possible. We currently have a

very active building season and cannot go without these services while in the hiring process. CCC is willing to work with us as needed until we have someone in place.

**Recommendation** – Staff recommends approval

#### **Appoint 2 Council Members to the Tourism Advisory Committee (TAC)**

**Action Requested** – *Which council members will City Council appoint to the TAC?*

**Background** – Council created the TAC and defined that the committee should have 2 council members as part of the committee.

**Recommendation** – Council decision

#### **DISCUSSION ITEMS:**

**Possible New Tax on Lodging to Fund Utility Improvements** – this item was requested by Councilor Peggy Lindsey

**Future Agenda Items**



**OURAY CITY COUNCIL VIRTUAL MEETING  
SUMMARIZED MINUTES  
TUESDAY, JULY 7, 2020**

Join Zoom Meeting  
<https://zoom.us/j/97036077739>

Meeting ID: 970 3607 7739  
Password: 555597

Or by phone:  
+1 346 248 7799  
+1 408 638 0968  
+1 669 900 6833  
+1 253 215 8782

- Electronic copies of the Council Packet are available on the City website at [www.cityofouray.com](http://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 6:01 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, 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. CEREMONIAL/INFORMATIONAL – Digital Messaging Update – Markus Van Meter**

Mr. Van Meter has been working on the website for 60 days and made a report of visitors to the website [ouraycolorado.com](http://ouraycolorado.com). Website loads slowly, software needs to be update. Facebook page views and interactions are up dramatically since before Mr. Van Meter took over. Instagram is starting to dominate social media over Facebook and is also up dramatically. Currently campaigning the hashtags #roadtripouray and #careforouray. Mr. Van Meter recommends the city stops using Agency Tourism Marketing for website hosting and using WordPress instead. Councilor Lindsey asked what it would cost to build a new website. Mr. Van Meter said it would run around \$150 a month, and the re-design would cost around \$7,500 - \$10,000. Mayor Nelson asked if that price included integrating Box Canon and the Hot Springs, Mr. Van Meter said they were included. Councilor Boyd wanted website design to be a future council meeting discussion item.

**4. CITIZENS' COMMUNICATION**

Mayor Nelson made a statement about the confederate flag in one of the unofficial parades on the 4<sup>th</sup> of July.

Jen Donovan asked if the stopping of traffic for the parade was sanctioned.

Jackie Lauderdale commented on the noise permit conditions not being followed through as it was granted last council meeting.

Dawn Glanc asked why the Box Canon is opening at 10:00 am and not earlier.

Don Fehd wanted to know why the noise ordinance isn't being enforced at the Goldbelt.

## 5. APPROVAL OF MINUTES – June 1, 11, 15, 25, 29, 30 #1, and 30 #2

Councilor Boyd wanted to thank staff for the time they took in making the minutes.

Councilor Lindsey made a motion to approve the minutes, Councilor 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			

The motion passed on unanimous roll call vote.

## 6. CITY COUNCIL REPORTS/INFORMATION

- a. **Glenn Boyd** – policy group meeting soon, reviewing “Protect your neighbor”, the next phase of opening, need to decide if we want to move forward with that plan, and apply for it like a variance as a region. Massive piece of mining equipment going up Hwy 361 possibly closing roads on Friday.
- b. **Ethan Funk** – Update from Mt. Sneffels Energy Board: Funding reductions means the program will be business only. 50 light bulb limit. City Buildings are eligible. ROCC is interested in helping the City purchase new bulbs. Mayor Nelson directed Councilor Funk to pursue that with ROCC.
- c. **Peggy Lindsey** – Councilor Lindsey would like to thank Cindy McCord and Lori Leo for the coordination of the flower planting, as well as the volunteers.
- d. **John Wood** – CEDC meeting coming up soon. Still working on Main Street Program. Google trainings are online and available. Application for an open CEDC seat later in the meeting. IPAT met, discussed allocation of guide days. Guide companies are being asked to determine their own allocations.
- e. **Greg Nelson** – visitor center staffed by volunteers 7 days a week. Regional marketing group meeting to cross-promote the area. OIPI meeting for water line planning. CAST Mayors’ meeting talked about mask orders and enforcement.

## 7. DEPARTMENT REPORTS

### a. Acting City Administrator – Director of Finance and Administration

Ms. Drake thanked Public Works for their help with the flowers on Main St. Ms. Drake also addressed the Box Canon hours, saying they changed their hours on June 27<sup>th</sup> to 8 am to 8 pm daily.

**b. Public Works Director**

Info in packet was covered in Work Session. State may require the City to increase water treatment because of influence of surface water. Mayor Nelson asked about the backflow prevention program. Mr. Coleman said he and Ms. Tibbs are picking up where former employees left off to figure out our current compliance rate.

**c. City Resources Director**

Mr. Noll was working at the pool during this meeting to handle a water pump emergency replacement at the pool. Ms. Drake wanted to publicly thank everyone in the City Resources Department for their efforts this past month. Mayor Pro Tem Wood had previously asked Ms. Drake for the revenue and expenses for the pool since reopening, since the limited attendance is limiting the revenue. When looking at wages only vs. revenue, the city is making about \$68 a day on average. Councilor Boyd reminded council that the "Protect Your Neighbor" would allow many more guests in the pool, eliminating the issue.

**d. Chief of Police**

City Attorney is working with police to update trespassing rules for the flumes. Chief Wood affirmed that the Police Department did close down Hwy 550 for the first parade at 9 am in order to expedite the parade and reopen the road, but that he did not know about the second parade beforehand. Chief Wood said the Police Department did respond to the Goldbelt about a noise complaint, and gave advice about reducing the noise level in the street.

Myrna Spaulding said there are no consequences being enforced for breaking the noise ordinance, and asked the Police for ramifications for violating the noise ordinance

Dawn Glanc asked about the firework activity on the 4<sup>th</sup> and what the police response was. Chief Wood said warnings were given since the fire ban was so recent. Some people ran away before the police arrived on the scene, and others were unaware of the fire ban and were setting off fireworks that are normally allowed.

Jackie Lauderdale reiterated that the time window was not honored on the noise permit.

Chief Wood said people should call dispatch to get an officer to the scene right away.

Councilor Boyd said the Police Officers worked tirelessly on calls on the 4<sup>th</sup> and would like to commend them.

**e. Community Development Coordinator - Brief Update on Accessory Dwelling Unit Code Changes**

Ordinance going to Planning Commission on July 14 and will come before council as soon as possible.

**8. CONSENT AGENDA - None**

**9. ACTION ITEMS**

**a. Unbudgeted Expense for Title/Survey Search Regarding 300 & 302 Oak Street**

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

Councilor Funk wanted to clarify that this is about the vault and any easements on the property. Mayor Pro Tem Wood amended the motion to use staff recommendation for title company choice. Councilor Lindsey accepted the amendment.

John Nixon said City staff have never talked to him about the property, but he has paperwork that would help with this matter. Peter Howell also has documents that would be helpful for this matter as well.

Ms. Drake said that both parties should email any documents they are willing to share to her to share with Council.

Mayor Pro Tem Wood further amended the motion to review the documents from Mr. Nixon and Mr. Howell first, and then if still needed, allow the unbudgeted expense of the title search.

Councilor Funk suggested putting this action item on a future agenda, and if the documents are satisfactory, it can be struck from the agenda at that time.

Mayor Pro Tem Wood withdrew his motion, and Councilor Lindsey withdrew her second.

**b. IGA with WestCO Dispatch**

This is a standard agreement for dispatch services. Councilor Funk pointed out a mistake on page 121 referring to the year 2019 instead of 2020.

Councilor Boyd made a motion to approve the agreement, Councilor Lindsey seconded.

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. Appoint Police Chief Jeff Wood as Board Member for WestCO Dispatch**

Councilor Boyd made a motion to appoint Chief Wood. Councilor Funk seconded. Councilor Boyd said it was very fitting for the police chief to be in this seat.

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.

**d. Ordinance 9, Series 2020 – Removing the OCRA Seat on the CEDC – First Reading**

Councilor Funk believes the seat was never appropriate in the first place.

Mayor Pro Tem Wood made a motion to approve Ordinance 9, Councilor Lindsey seconded.

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.

**e. Application for CEDC Membership – Thomas Fedel**

Councilor Boyd asked if this seat was the one being vacated by Ordinance 9, Mayor Pro Tem Wood said it is not. Ms. Drake pointed out that this would make an even number of individuals on the committee and he could not immediately be a voting member since the committee is required to have an odd number of members

Ms. Tibbs said current CEDC members have reviewed and approve of Mr. Fedel's application.

Ms. Viner suggested that council could remove the sentence from Ordinance 9 from agenda item (d) above that requires an odd number of people on the council to allow Mr. Fedel to be a full member from the beginning.

Councilor Funk made a motion to amend Ordinance 9 to remove the phrase requiring the committee to have an odd number. Mayor Pro Tem Wood seconded.

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.

Mayor Pro Tem Wood motion to approve, Councilor Lindsey seconded. Mayor Pro Tem amended the motion to appoint Mr. Fedel once Ordinance 9 with the updated language from the previous motion is passed so he can be a full member with an even number of committee members. 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.

**f. Geothermal Line Project**

Window for completing project is getting smaller before winter. Council needs to decide whether to continue this year with the entire project, just the engineering costs, or delay the project until next year. Council discussed including the project back in the budget or not for this budget year since that was one of the COVID-19 budget cuts made. Councilor Lindsey was in favor of delaying the project because of the pandemic, Councilor Funk said this needs to be done anyway, so the City should continue with this project. This project affects pool temperatures in the winter especially.

Mr. Coleman said pool temperatures also depend on pool operators who know what they are doing, and right now we have a knowledgeable maintenance supervisor.

Mayor Pro Tem Wood made a motion to defer the project to the 2021 budget. Councilor Lindsey 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 carries 4-1 with Councilor Funk dissenting.

**10. DISCUSSION ITEMS - Future Agenda Items**

Send to Ms. Drake by next Monday.

**11. EXECUTIVE SESSION - Executive session with City attorney for the purpose of determining positions relative to matters that may be subject to negotiations, developing strategy for negotiations, and/or instructing negotiators, under C.R.S. 24-6-402(4)(e), regarding Ouray District Court case 2020CV30002.**

Councilor Funk made a motion to move into executive session at 8:23 pm, Councilor Lindsey seconded.

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.

**12. ADJOURNMENT**

Executive session concluded at 8:39 pm.

Councilor Boyd made a motion to adjourn at 8:40 pm. Councilor Lindsey seconded the motion. The motion passed on unanimous vote.

ATTEST:

\_\_\_\_\_  
Greg Nelson, Mayor

\_\_\_\_\_  
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 7, 2020. I further certify that the meeting was duly called and held, and that a quorum was present.

Dated this 30<sup>th</sup> day of July, 2020.

\_\_\_\_\_  
Melissa M. Drake, City Clerk

**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**

Join Zoom Meeting  
<https://zoom.us/j/94796520829>

Meeting ID: 947 9652 0829  
Password: 760535

Phone:      +1 669 900 6833      +1 253 215 8782

- Electronic copies of the Council Packet are available on the City website at [www.cityofouray.com](http://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 Luppenlatz 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 15<sup>th</sup>. Policy group meeting on July 16<sup>th</sup>, consideration of outdoor mandatory mask zones. Policy group meeting scheduled for July 23<sup>rd</sup> to discuss again.
- b. **Ethan Funk** – Nothing to report
- c. **Peggy Lindsey** – Beautification Committee meeting scheduled on July 21<sup>st</sup>
- d. **John Wood** – CEDC met on July 9<sup>th</sup>, 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 4<sup>th</sup> 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 2<sup>nd</sup> or 3<sup>rd</sup> 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 9<sup>th</sup> 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 9<sup>th</sup> 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 9<sup>th</sup> 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 9<sup>th</sup> 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 4<sup>th</sup> Ave and 9<sup>th</sup> 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

\_\_\_\_\_  
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 30<sup>th</sup> day of July, 2020.

\_\_\_\_\_  
Melissa M. Drake, City Clerk

**OURAY CITY COUNCIL SPECIAL MEETING  
SUMMARIZED MINUTES  
FRIDAY JULY 24, 2020, 1:30 P.M.  
MASSARD AUDITORIUM**

**1. CALL TO ORDER**

Mayor Nelson called the meeting to order at 1:30 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 Acting City Administrator Melissa Drake and City Attorney Carol Viner.

**3. EXECUTIVE SESSION**

Executive session, pursuant to C.R.S. 24-6-402(4)(b), for a conference with the City Attorney for the purpose of receiving legal advice concerning the City's water rights; City Agreements with Mineral Farms Water Users Association (MFWUA) and Bachelor Switch Water Users Association (BSWUA); and City Agreements with JVA concerning expansion or replacement of the City's waste water treatment plant.

Councilor Funk made a motion to go to executive session at 1:36 pm. Mayor Pro Tem Wood seconded the motion. The motion passed on unanimous vote.

**4. ADJOURNMENT**

The executive session concluded at 4:37 pm.

Mayor Pro Tem Wood made a motion to adjourn at 4:38 pm, Councilor Lindsey seconded the motion. The motion passed unanimously.

ATTEST:

---

Greg Nelson, Mayor

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 24, 2020. I further certify that the meeting was duly called and held, and that a quorum was present.

Dated this 30<sup>th</sup> day of July, 2020.

---

Melissa M. Drake, City Clerk

320 6<sup>th</sup> Avenue  
PO Box 468  
Ouray, Colorado 81427



970.325.7211  
Fax 970.325.7212  
www.cityofouray.com

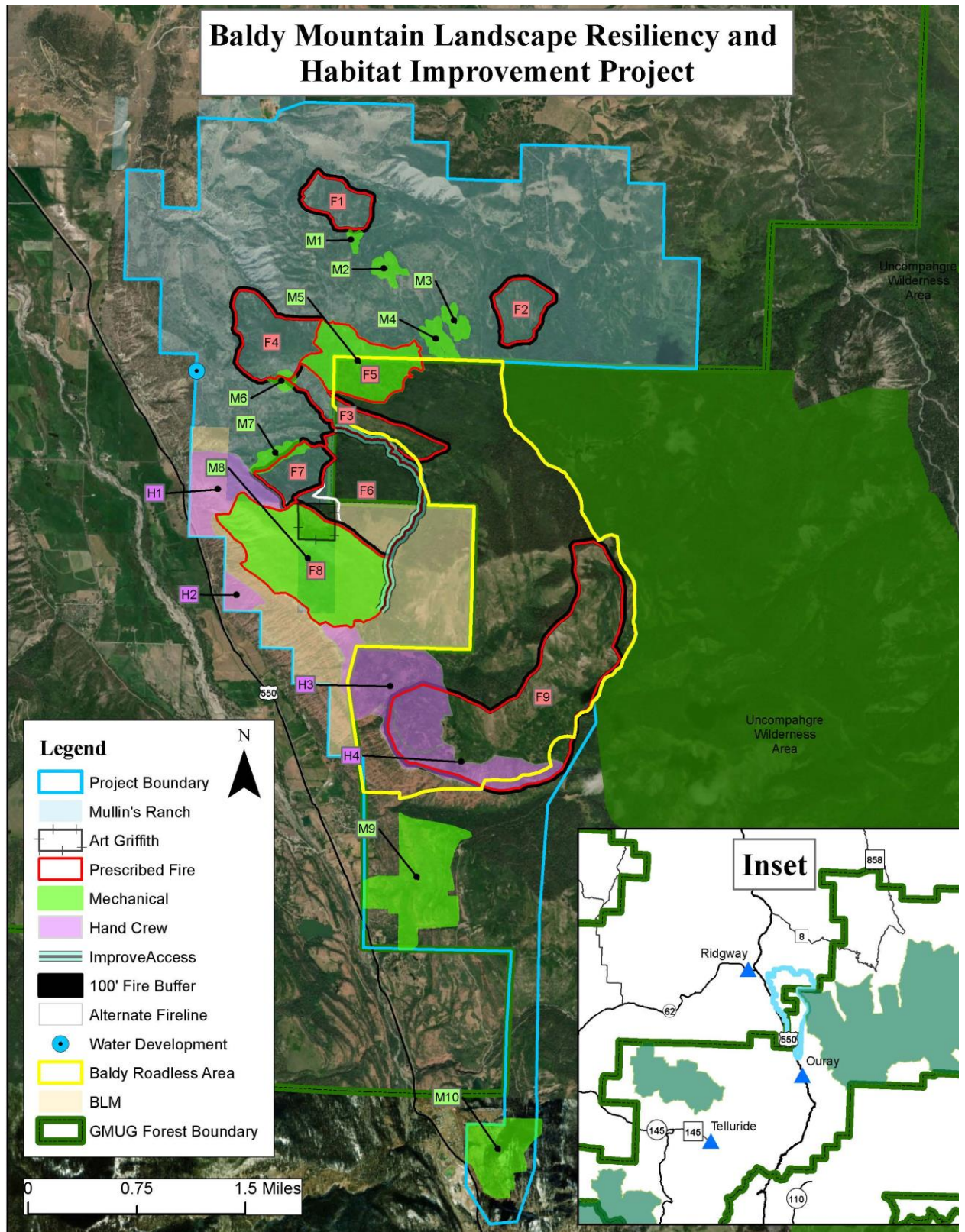
The Outdoor Recreation Capital of Colorado

---

**Acting City Administrator and Director of Finance and Administration**  
**Report for 8/03/2020 Council Meeting**  
**Last 2 Weeks**

- **COVID-19 Pandemic Emergency** – I have sent you updates throughout the weeks.
  - The Ouray County variance request regarding hot springs pools was denied on July 28<sup>th</sup>. We have requested the Ouray County Public Health Director to modify the request to allow up to 50% capacity or 200 people, whichever is less. We hope to have an answer the week of August 3<sup>rd</sup>. In the meantime, we are still limited to 50 patrons at a time in the Ouray Hot Springs Pool by Governor's orders.
  - Box Cañon Falls is still very busy with an average of over 800 visitors per day.
- **2019 Financial Audit** – Blair and Associates will be on site at City Hall August 4-5 to continue work on our 2019 financial audit.
- **Administrator Hire** –KRW has reposted the position with a deadline to apply of August 17<sup>th</sup>. For this new posting, as of 7/29/20, there have been a total of 24 applicants. Several applicants from the first round have reapplied. There have been several thousand hits on advertisements.
- **CDOT** - On Monday, July 27, work began on US Highway 550 at mile point 90, just two miles south of Ouray. Work items and the final anticipated schedule for the final site include:  
**US 550 South of Ouray (MP 90): Late July into October 2020**
  - For two days, while crews mobilize, motorists will encounter travel impacts on Monday and Tuesday, July 27-28, from 7 a.m. to 7 p.m.
  - Beginning Wednesday, July 29, a concrete barrier will be in place, and daytime single-lane traffic will be controlled by flaggers; nighttime traffic will be controlled by a temporary traffic signal
  - **For the entire duration of the project, motorists will encounter single-lane, alternating travel and a 10-foot width restriction, 24/7**
  - Work involves retaining wall removal and replacement of two failing roadway sections with a crib wall system; follow-up highway surface repair and installation of a new inlet and drainage culvert
- **US Forest Service** – I was notified by the USFS of a proposed project involving USFS, BLM, and Mullins Ranch. This Baldy Mountain Project will be northeast of Ouray and would involve prescribed burns as well as mechanical vegetation removal. If approved and funded, it will involve 3,845 acres and will reduce potential wildfire fuels as well as increase habitat for bighorn

sheep, deer, and elk. They hope to have the NEPA complete by December with the project beginning in the spring of 2021.





- **San Miguel Power Association** – I was notified by SMPA that preliminary work on their project to replace and potentially reroute transmission lines over Red Mountain Pass along highway 550 will be beginning mid-August with most work occurring in September and October. This preliminary phase will include vegetation removal and may include helicopter work in addition to trucks. There should be no effect to travel on Highway 550 during this phase except for possible brief interruptions to allow trucks to enter the highway. The bulk of this project, as presented to Council earlier this year, is scheduled to occur in 2021.
- **COP Refinancing** – Our financial advisor is still actively working on options for the City.
- **Ouray Volunteer Fire Department Command Vehicle** – We purchased a used 2019 4x4 Dodge Ram to be used as the OVFD Command Vehicle:



## **Public Works June Update**

### **Water**

- Water Usage Numbers for **June**:
  - Influent (Water from spring) – 69,837,696 Gallons
  - Effluent (Water to town) – 26,042,810 Gallons
  - Micro Hydro Plant – 23,066,318 Gallons
  - Mineral Farms – 345,100 Gallons
- Completed several water turn on/turn off requests.
- Completed multiple locate requests called into the 811 system.
- Fixed an issue with the starter in the control panel at the Micro Hydro Plant.
- Completed an MPA. We should have results back by mid-August.
- Had an onsite meeting with an inspector for CDPHE (Colorado Department of Public Health and Environment) to discuss the City's backflow program. He was very helpful in pointing the City in the right direction to start meeting compliance.

### **Sewer**

- Completed all DMR (Discharge Monitoring Report) corrections and they have been submitted to CDPHE.
- Attended a webinar on permitting put on by CDPHE.
- Mowing, weed eating and general grounds maintenance at the Wastewater Treatment Facility.
- Cleaning the bar screen manually 4-5 times a day now with the current influx of people visiting town.
- Continue to skim the lagoons of debris as needed.

### **Streets**

- Graded and removed 100 yards of material from Cascade Falls parking area.
- Completed over 400 feet of metal fencing along the flume in the Cascade Falls area.
- Onsite meeting and walk through with Deeply Digital and Black Hills Energy to go over boring project between 6<sup>th</sup> Ave and 8<sup>th</sup> Ave.
- Spot grading throughout town as needed.

### **City Resources**

- Continued geothermal monitoring.
- MWAT (Maximum Weekly Average Temperature) spread sheet for upstream conductivity probe. Having issues downloading the data, IT has been informed of the issue.
- Replaced water heater at the Community Center.
- Replaced metal flashing on an exterior window at City Hall.
- Replaced light fixture that shines on flags on top of City Hall. Thank you to Bumper Williams for operating the ladder truck and thank you to Scott Schroeder for installing the new light fixture.
- Continued cleaning public restrooms three times a day seven days a week.
- Continued trash collection once a day seven days a week from Main St, Box Canyon Park, Rotary Park, Cascade Falls, Dog Park and the River Trail.

## **City Resources Department**

August 3, 2020

The Southwest Youth Conservation Corps (SWYCC) repaired the intersection of the Perimeter Trail and the Box Canon Falls High Bridge Trail. This improvement is much safer, properly directs water run-off, and it is now easier for hikers to follow the proper trail. The SWYCC also assisted black swift researchers with the nest observation project, cut back brush that was overhanging the High Bridge Trail, and painted one of the gazebo shelters that had been marred by graffiti. This crew's work is greatly appreciated.

Black swifts are nesting and rearing young. Fewer black swifts returned to their summer nesting area at the Box Canon Falls than have been recorded in previous years.

The primary pump delivering hot water to the swimming pools failed in early July. The pump was replaced with a rebuilt pump that is maintained by Hot Springs Pool staff as a back-up. A member of the Public Works crew assisted in the replacement. During the removal and replacement, which took several hours, water temperatures in the pools dropped only a few degrees and there were no complaints from patrons. Temperatures returned to normal once the replacement pump was in place late that evening. The broken pump is being rebuilt and will be maintained as a spare.

Repainting of the letters on the Ouray Hot Springs Park sign, located across from the Visitor Center, has been completed. The sign border will be re-stained soon.

The Hot Springs Pool is currently open for four 2-hour sessions seven days per week. Capacity remains limited by Health Department orders to 50 people. Lap swimming is available Monday, Wednesday, and Friday. Plans are being discussed with Pool staff for changes that would be needed in lifeguard rotations, cleaning schedules, and need for additional staff if the facility is granted a waiver that allows for increased capacity.

An Aquatic Examiner from the American Red Cross visited the Hot Springs Pool July 29 for an unannounced safety assessment. The assessment included incognito observations of lifeguard rotations, lifeguard scanning, interviews with staff, in-water rescue drills, water quality, facility inspection, and record review. Lifeguards are well trained and proficient in their skills. Record keeping is all in good order, training is up to date. The examiner offered suggestions of ways to further improve proficiency but noted very few deficiencies and the few that were observed were minor.

Hot Springs Pool maintenance personnel have modified operations to reduce chemical use. Some of the strategies include; covering lap lanes to reduce sunlight degradation, balancing and stabilizing water chemistry in unused activity pool. Additional strategies are being developed to further reduce costs in the autumn and winter months.

With the departure of several summer seasonal employees in mid-August the Hot Springs Pool is recruiting aquatic staff. Ads are placed in local papers and social media sites. An employee resigned at the Box Canon Falls, also. During the interim while employees are being recruited other employees are taking extra shifts and working extra hours to keep these facilities open.

Daily admissions at the Box Canon Falls are slightly higher compared to the same days of operation in 2019.

Small events are starting to be held at the City's parks and Community Center. Most events, and all large events, have been cancelled or postponed until 2021.

## **City of Ouray Police Department**

### **July 2020 Chief's Report**

During the month of July the OUPD conducted approximately:

- 189 Patrol Checks
- 56 Traffic Complaints (includes speeding, parking and accidents) 243% increase from last month
- 10 VIN Certifications
- 5 Bear Calls

These numbers are accurate as of 07/27/2020 at 1300 hours.

We recently posted on Facebook the city ordinances prohibiting the use of vehicle on certain sidewalks in town. This ordinance is fairly clear, however questions arose as to the use of vehicles, specifically low powered electric vehicles on the River Walk. This is not addressed in the city ordinances but is found in the 1999 Deed of Conservation Easement. Motorized vehicles are not allowed. However Colorado Vehicle Law specifically exempts electric bikes and scooters from the definition of "Motor Vehicle", therefore they would be allowed as it stands. We have concerns about impacts with these vehicles with pedestrians as some can travel approximately 20 mph. We recommend Council consider whether these conveyances should be continued to be allowed to operate on the River Walk and if so should a speed limit be imposed.



P.O. Box 468  
320 Sixth Avenue  
Ouray, Colorado 81427



970.325.7211  
Fax 970.325.7212  
www.cityofouray.com

---

## **ACTION ITEMS (August 3, 2020):**

### **Ratify Mayor's Decision to Rescind his Declaration of Fire Ban on July 30, 2020**

**Action Requested** – *Will City Council ratify rescinding Stage 1 Fire Restrictions?*

**Background** – Mayor Nelson declared Stage 1 Fire Restrictions on July 1, 2020 due to dry conditions in the area and to replicate restrictions in surrounding entities and forests. Mayor rescinded the declaration at 12:01am on July 30, 2020 to coincide with the surrounding entities and forests.

**Recommendation** – Staff recommends ratification

### **Ordinance 9, Series 2020 – Removing the OCRA Seat on the CEDC – Second Reading**

**Action Requested** – *Will City Council approve Ordinance 9 removing the OCRA seat on the CEDC?*

**Background** – Currently, one seat on the CEDC is assigned to be filled by OCRA. Since the City of Ouray has formally terminated its relationship with OCRA/OTO, it was suggested that this change be made. The seat was previously filled by the OCRA/OTO Executive Director and has been vacant since she resigned.

**Recommendation** – Council decision

### **Professional Services Agreement (PSA) with Colorado Code Consulting (CCC) for Building Inspection Services**

**Action Requested** – *Will City Council approve the PSA with CCC for building inspection services?*

**Background** – The Building Inspector for the City of Ouray resigned effective July 24<sup>th</sup>. We have posted the open position and plan to hire someone as soon as possible. We currently have a

very active building season and cannot go without these services while in the hiring process. CCC is willing to work with us as needed until we have someone in place.

**Recommendation** – Staff recommends approval

### **Appoint 2 Council Members to the Tourism Advisory Committee (TAC)**

**Action Requested** – *Which council members will City Council appoint to the TAC?*

**Background** – Council created the TAC and defined that the committee should have 2 council members as part of the committee.

**Recommendation** – Council decision

## **DISCUSSION ITEMS:**

**Possible New Tax on Lodging to Fund Utility Improvements** – this item was requested by Councilor Peggy Lindsey

**Future Agenda Items**

## **ORDINANCE NO. 9 (Series No. 2020)**

**AN ORDINANCE OF THE CITY OF OURAY, COLORADO, REPEALING AND REPLACING OURAY MUNICIPAL CODE SECTION 2-14-A TO REMOVE THE OURAY CHAMBER RESORT ASSOCIATION (OCRA) AS A MEMBER OF THE COMMUNITY ECONOMIC DEVELOPMENT COMMITTEE (CEDC).**

**WHEREAS**, the City of Ouray Council (City) finds it necessary to remove Ouray Chamber Resort Association as a member of the CEDC; and

**WHEREAS**, the Council has the power to act by ordinance pursuant to City of Ouray Home Rule Charter, Article 3.5.

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF OURAY, COLORADO**, as follows:

### **SECTION 1:**

Chapter 2, Section 14, Subsection A, of the Code of the City of Ouray, Colorado, is repealed and replaced as follows:

- A. At its first meeting in January, City Council shall appoint a minimum of five (5) and a maximum of nine (9) members to the Community Economic and Development Committee (CEDC) for three (3) year staggered terms. The CEDC shall not have an even number of members. One (1) member shall be from City management, four (4) members shall be residents of the City of Ouray, and a maximum of three (3) members shall be residents or business owners in the area served by the City of Ouray telephone prefix.

### **SECTION 2: Effective Date**

The provisions of this Ordinance shall become effective thirty (30) days following publication.

### **SECTION 4: Savings Clause**

The repeal and amendment of various provisions of the Ouray Municipal Code by this ordinance shall not affect any offense or act committed, any penalty incurred, any contract, right, or duty established or accruing before the effective date of this ordinance.

### **SECTION 5: Severability**

If any clause, sentence, paragraph, or part of this ordinance or the application thereof to any person or circumstances shall for any reason be adjudged by a court of competent jurisdiction invalid, such judgment shall not affect application to other persons or circumstances.

INTRODUCED, READ, APPROVED AS INTRODUCED AND ORDERED  
PUBLISHED on first reading by \_\_\_\_\_ vote of the Ouray City Council, this 6th day of July 2020.

CITY OF OURAY, COLORADO

By \_\_\_\_\_  
Greg Nelson, Mayor

ATTEST:

\_\_\_\_\_  
Melissa M. Drake, City Clerk

INTRODUCED, READ, AND ADOPTED on second reading by \_\_\_\_\_ vote of the Ouray City Council, this \_\_\_\_ day of \_\_\_\_\_, 2020.

CITY OF OURAY, COLORADO

By \_\_\_\_\_  
Greg Nelson, Mayor

ATTEST:

\_\_\_\_\_  
Melissa M. Drake, City Clerk

CERTIFICATE OF ATTESTATION

I, Melissa M. Drake, Ouray City Clerk, hereby certify that Ordinance No. 9 (Series No. 2020), was introduced, read, passed on first reading on \_\_\_\_\_, 2020. The Ordinance was published, by title and summary, in the *Ouray County Plaindealer* on \_\_\_\_\_, 2020, and thereafter introduced, read, and adopted by the Ouray City Council on \_\_\_\_\_, 2020, and thereafter published in the *Ouray County Plaindealer* as required by law.

\_\_\_\_\_  
Melissa M. Drake, City Clerk

## CITY OF OURAY

### Professional Service Agreement

THIS AGREEMENT is entered into effective this 3rd day of August 2020 by and between:

The City of Ouray, a Colorado municipal corporation (the City); and,

Colorado Code Consulting, LLC, a Colorado limited liability company with its principal place of business located at 4610 S. Ulster, Ste 150, Denver, CO 80237, (the Contractor).

NOW THEREFORE, in consideration of the mutual representations, promises and conditions contained herein, the parties agree as follows.

1. SCOPE OF CONTRACTOR SERVICES. The Contractor agrees to provide services in accordance with the Scope of Contractor Services attached and incorporated as Exhibit A.
2. TERM OF AGREEMENT. The term of this agreement shall begin on the effective date above and continue until either party terminates this agreement.
3. FEES FOR SERVICES. In consideration of the services to be performed pursuant to this agreement the City will pay the Contractor pursuant to the fees set forth in Exhibit A, except that any reimbursed expenses shall be pre-approved by the City in writing and mileage is included in travel time fees.
4. PAYMENT FOR SERVICES. The Contractor shall submit a detailed invoice to the City describing the professional services rendered. The invoice shall document the hours spent on the project identifying by work category and subcategory the work performed for the period, the hours worked by employee, and the hourly rate charged for that work. The City shall have access to backup payroll documentation identifying individual employee, date, and hours worked. The City shall pay the invoice within thirty (30) days of receipt unless the work or the documentation therefore is unsatisfactory. Payments made after thirty (30) days may be assessed an

interest charge of one percent (1%) per month unless the delay in payment resulted from unsatisfactory work or documentation.

5. CITY REPRESENTATIVE. The City designates the Acting City Administrator as its representative and authorizes her to make all necessary and proper decisions with reference to this agreement. All requests for contract interpretations, changes, clarifications or instructions shall be directed to the City representative.
6. INDEPENDENT CONTRACTOR. The services to be performed by the Contractor are those of an independent contractor and not as an employee of the City. Nothing in this agreement shall constitute or be construed as a creation of a partnership or joint venture between the City and the Contractor, or their successors or assigns. No agent or employee of the Contractor shall be or shall be deemed to be the employee or agent of the City. The City is interested only in the results obtained under this agreement; the manner and means of conducting the work are under the sole control of the Contractor. None of the benefits provided by the City to its employees, including, but not limited to, worker compensation insurance and unemployment compensation insurance, are available from the City to the employees of the Contractor. The Contractor will be solely and entirely responsible for its acts and for the acts of its agents, employees, and subcontractors during the performance of this agreement. The Contractor will pay all federal and state income tax on any moneys paid pursuant to this agreement.
7. INSURANCE. The Contractor agrees to procure and maintain, at its own cost, a policy or policies of insurance as called for in this agreement. Insurance shall be procured and maintained with forms and insurers acceptable to the City. All coverages shall be continuously maintained during the term of this agreement. Each shall be primary insurance and any insurance carried by the City, its officers, or its employees, shall be excess and not contributory insurance to that provided by the Contractor. The Contractor shall provide the City with certificates of insurance, or other acceptable evidence, showing the required coverages. The City reserves the right to request and receive a certified copy of any policy.

- a. The Contractor shall procure and maintain the minimum insurance coverages listed below.
    - i. Workers' compensation insurance to cover obligations imposed by the Workers' Compensation Act of Colorado and any other applicable laws for any employee of the Contractor engaged in the performance of work under this agreement.
    - ii. Professional liability errors and omissions or general liability coverage, as appropriate, with minimum limit of Two Million Dollars (\$2,000,000.00).
  - b. The Contractor shall not be relieved of any liability, claims, demands, or other obligations assumed pursuant to this agreement by reason of its failure to procure or maintain insurance, or by reason of its failure to procure or maintain insurance in sufficient amounts, duration, or types.
  - c. Failure on the part of the Contractor to procure or maintain policies providing the required coverages, conditions, and minimum limits shall constitute a material breach of contract upon which the City may immediately terminate this contract, or at its discretion the City may procure or renew any such policy or any extended reporting period thereto and may pay any and all premiums in connection therewith, and all monies so paid by the City shall be repaid by the Contractor upon demand, or the City may offset the cost of the premiums against any monies due to the Contractor.
  - d. The Contractor shall be responsible for any deductible under any policy required above.
8. GOVERNMENTAL IMMUNITY. The Contractor understands and acknowledges that the City relies on and does not waive or intend to waive by any portion of this agreement any provision of the Colorado Governmental Immunity Act, C.R.S. § 24-10-101, *et seq.*

9. INDEMNIFICATION. To the fullest extent permitted by law, the Contractor agrees to indemnify and hold harmless the City, its officers, employees, insurers, and self-insurance pool, from and against liability for damage, including attorney fees and costs, arising out of death or bodily injury to persons or damage to property, caused by the negligence or fault of the Contractor or any third party under the control or supervision of the Contractor, but not for any amounts that are greater than that represented by the degree or percentage of negligence or fault attributable to the Contractor or the Contractor's agents, representatives, subcontractors, or suppliers.
10. EMPLOYMENT OF ILLEGAL ALIENS. Pursuant to COLO. REV. STAT. § 8-17.5-101, *et seq*, the Contractor certifies the following:
  - a. Contractor shall not knowingly employ or contract with an illegal alien to perform work under this Contract.
  - b. Contractor shall not enter into a contract with a subcontractor that fails to certify to the Contractor that the subcontractor shall not knowingly employ or contract with an illegal alien to perform work under this Contract.
  - c. The Contractor has confirmed the employment eligibility of all employees who are newly hired for employment to perform work under this Contract through participation in either (a) the E-Verify Program, (the electronic employment verification program jointly administered by the U.S. Department of Homeland Security and the Social Security Administration, or its successor program) or (b) the Department Program (the employment verification program established pursuant to C.R.S. § 8-17.5-102(5)(c).
  - d. The Contractor shall not use the E-Verify Program or the Department Program procedures to undertake pre-employment screening of job applicants while this Contract is being performed.
  - e. If the Contractor obtains actual knowledge that a subcontractor performing work under this Contract knowingly employs or



contracts with an illegal alien, the Contractor shall be required to: (a) notify the Subcontractor and the City within three (3) days that the Contractor has actual knowledge that the subcontractor is employing or contracting with an illegal alien; and (b) terminate the subcontract with the subcontractor if within three (3) days of receiving the notice, the subcontractor does not stop employing or contracting with the illegal alien; except that the Contractor shall not terminate the contract with the subcontractor if during such three (3) days the subcontractor provides information to establish that the subcontractor has not knowingly employed or contracted with an illegal alien.

- f. The Contractor shall comply with any reasonable request by the Department of Labor and Employment in the course of an investigation that the Department undertakes pursuant to C.R.S. § 8-17.5-102(5).
  - g. If the Contractor violates these illegal alien provisions, the City may terminate this Contract for a breach of contract. If this Contract is so terminated, the Contractor shall be liable for actual and consequential damages to the City. The City will notify the Office of the Secretary of State if the Contractor violates these provisions and the City terminates this Contract for that reason.
  - h. The Contractor shall notify the City of participation in the Department Program and shall within twenty (20) days after hiring an employee who is newly hired for employment to perform work under this Contract affirm that the Contractor has examined the legal work status of such employee, retained file copies of the documents required by 8 USC § 1324a, and not altered or falsified the identification documents for such employee. Contractor shall provide a written, notarized copy of the affirmation to the City.
11. ASSIGNMENT. The Contractor shall neither assign any responsibilities nor delegate any duties arising under this agreement without the prior written consent of the City.

12. PAYMENTS BY CITY. Any and all payments of money by the City pursuant to this agreement shall be subject to the annual appropriations of money.
13. LEGAL COMPLIANCE. The Contractor shall comply with all laws, ordinances, rules and regulations relating to the performance of this agreement, use of public places and safety of persons and property.
14. FURTHER ASSURANCES. Each party agrees to take such actions and sign such documents, certificates and instruments reasonably requested by the other party in order to complete the transactions contemplated by this agreement and to enable the requesting party to enjoy the full benefits conferred upon such party by this agreement.
15. ENTIRE AGREEMENT. This instrument contains the entire agreement between the parties, and no statements, promises, or inducements made by either party or agent of either party that are not contained in this written contract shall be valid or binding. This contract may not be enlarged, modified, or altered except in writing signed by the parties and endorsed on this agreement. Each person signing the contract warrants that they have authority to bind the City or Contractor.
16. BINDING EFFECT. This agreement shall inure to the benefit of and be binding on the parties, their heirs, executors, administrators, assignees, and successors.
17. SEVERABILITY. If any part, term, or provision of this contract is held by the courts to be illegal or in conflict with any law of the State of Colorado, the validity of the remaining portions or provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the contract did not contain the particular part, term or provision held to be invalid.
18. GOVERNING LAW. This agreement shall be governed by the laws of the State of Colorado, both as to interpretation and performance. The courts of the State of Colorado shall have exclusive jurisdiction to resolve any disputes arising out of this agreement and venue shall be in Ouray County, Colorado.

19. WAIVER. No waiver of any breach of this agreement shall be held to be a waiver of any other or subsequent breach. All remedies afforded in this contract shall be taken and construed as cumulative, that is, in addition to every other remedy provided therein or by law.
20. COUNTERPARTS. This agreement may be executed in any number of counterparts, each of which shall be deemed to be an original, but all of which together shall constitute but one and the same instrument.
21. FACSIMILE SIGNATURES. For the convenience of the parties, signatures to this agreement may be provided through facsimile transmission. The signature of a party to this agreement supplied by facsimile transmission shall be as binding as an original.
22. PRONOUNS. Wherever in this agreement, words, including pronouns, are used in the masculine, they shall be read and construed in the feminine or neuter whenever they would so apply, and wherever in this agreement, words, including pronouns, are used in the singular or plural, they shall be read and construed in the plural or singular, respectively, wherever they would so apply.

IN WITNESS WHEREOF, the City and the Contractor have signed this agreement effective the day and year first written above.

*Signatures on Following Page*

CITY OF OURAY:

---

Greg Nelson, Mayor

Attest:

---

Melissa Drake, Clerk

CONTRACTOR:

A handwritten signature in black ink, appearing to read 'S. L. Thomas', written over a horizontal line.

---

Stephen L. Thomas, President

## **EXHIBIT A**

### Scope of Contractor Services



## Colorado Code Consulting, LLC

### Main Office

4610 S Ulster, Ste. 150  
Denver, CO 80237  
(303) 400-6564  
Fax: (303) 693-0630

### Southern Office

17890 Woodhaven Dr.  
Colorado Springs, CO 80908  
303-895-9988

---

July 21, 2020

Ms. Aja Tibbs  
Community Development Coordinator  
City of Ouray  
P.O. Box 468 / 320 6th Ave.  
Ouray, CO 81427

Re: Request for Proposal  
Building Department Services

Dear Ms. Tibbs:

I am pleased to submit the attached proposal for building department services for your consideration. At Colorado Code Consulting, we believe that being consistent and fair in enforcing codes provides the best means of maintaining control of construction throughout your community. We believe that the code should be used to its fullest and can provide direction regarding the applicable codes used in the review or design of a building ensuring each structure is in compliance with adopted codes.

Colorado Code Consulting, LLC is a code consulting firm based in Denver, Colorado with satellite offices in Colorado Springs, Montrose and Leadville, Colorado. CCC has been providing building department services to local jurisdictions across the state in the form of plan review, inspection and administration of building codes for over seventeen years. Several of our staff conduct building code training seminars across the United States. We also provide design assistance and consulting to design professionals on building code related issues. The staff at CCC is also very involved in the development of construction codes in the country. We understand the intent and purpose of the code because we have been so involved in this process. This provides your City with the expertise to work with design professionals and contractors to insure reasonable compliance with your adopted codes.

We look forward to meeting with you to discuss our proposal. If you have any questions, please feel free to call me.

Sincerely,

Stephen L. Thomas, CBO, CBCO, CHCO  
President

## Introduction

The staff at Colorado Code Consulting, LLC (CCC) is highly qualified in the areas of building department administration, plan review and inspections possessing more than 100 combined years of experience in construction code compliance and enforcement. Our staff consists of fourteen full-time and thirteen part-time employees. We possess a strong resume of mixed use, multi-level and complex projects throughout the state. With our high-level plan review/inspection process, there is no project too large or complex that we cannot handle.

CCC was founded by Stephen Thomas in April of 1999. Mr. Thomas served as the building official for the City of Glendale for 18 years prior to starting the firm. He started the firm to address the need for quality code consulting services in the State of Colorado. The firm has grown to a point where we now serve jurisdictions in four states. We also provide building code consulting and education across the country for building departments, design professionals and contractors.

Our staff members are experts in their fields and can address most any type of issue that may arise. We are a fully qualified company that takes great pride in the quality of service we provide to numerous entities throughout Colorado. We are excited about this opportunity to work with the City of Ouray and look forward to continuing our long relationship with you. Colorado Code Consulting prides itself on the long-lasting relationships we have built over the years. Our clients have come to trust our consistent, fair and loyal service that differentiates us from the rest.

## Building Department Related Services

Colorado Code Consulting provides all levels of building department services. We provide plan review, inspection, administration and consulting services for several jurisdictions as noted above. Our plans analysts are qualified and able to handle any type of plan that is submitted. Every new building is reviewed by multiple staff members having expertise in each of the different disciplines. The structural portion of the building is always reviewed by a structural engineer. All other portions of the plans are reviewed by International Code Council (ICC) certified plans examiners. Plans are reviewed in a timely manner and a report will be generated and delivered to the applicant outlining any code issues that are found on the drawings. When corrected drawings are submitted, we will turn the drawings around as quickly as we can to get a permit issued.

Inspections are all conducted by ICC certified inspectors. Our policy is that inspections will be completed within one business day from the time we receive the request. We believe in being service oriented and not the building police. We will work with the contractors to bring a building into compliance with the applicable code whenever we can. Our inspectors provide their cell phone numbers to the contractors if a question arises in the field. We pride ourselves on being problem solvers and not problem makers.

Our staff will also work with the City to create an efficient program to administer the code. The easier we make the process for the community, the easier it is to get compliance with

codes. Many people refrain from getting permits for work in their home because they are afraid of the bureaucracy they perceive at City hall. We try to help people understand the importance of a building permit and why they need to do the work in compliance with the adopted codes. We will provide helpful handouts for the most common type of projects that people do in their homes. We are always willing to meet with homeowners, developers, design professionals and contractors to discuss projects and resolve issues on a project as soon as possible.

Our staff are experts in their field. We have been providing these types of services for over eighteen years and have earned the reputation of being fair and knowledgeable in our enforcement of the code. We have provided resumes of our key people for your review. If you desire, we can provide you with resumes and references for your use. We also carry a full complement insurance including liability, workers compensation and automobile insurance. We can provide a Certificate of Insurance if you would like.

## Billing Information

Colorado Code Consulting will provide building department services to the City of Ouray. The scope of services will include, but are not limited to:

- CCC will provide plan review services for all new construction, remodels, additions, decks and other miscellaneous projects as needed.
- CCC will provide building inspections as requested by the City on any type of project as needed.
- CCC will provide building department administration services including consultations with property owners, architects and developers as needed.

Our proposed fees for the above work are shown in the table below. If the City needs additional services outside of the normal plan review and inspections, hourly rates have been provided. For projects that are not charged a permit or plan review fee, the hourly rate will be charged to the City. We invoice our clients on a monthly basis. Invoices are due within thirty (30) days of the invoice date.

### Proposed Fees

Service	Fee
Plan review services	\$135.00 per hour of review time, minimum one-hour
Inspections	\$125.00 per hour minimum one-hour
Travel Time	\$62.50 per hour each way
Billing rates for other services not outlined above	\$125.00 per hour, minimum one-hour
Reimbursed expenses	At Cost

Colorado Code Consulting would like to thank you for considering us for the opportunity to serve the City of Ouray. We are confident in our ability to act as the building department



for the City and look forward to hearing back from you soon. If you have any questions, please feel free to contact me. If the Scope of Services and Proposed Fee Structure prove acceptable, please sign the agreement below, retain the original for your files and return a copy to me.

Sincerely,



Stephen L. Thomas, CBO  
President

**ACCEPTED AND AGREED**

By: \_\_\_\_\_ Date: \_\_\_\_\_

Print Name: \_\_\_\_\_