

**CITY OF COLUMBIA FALLS
CITY COUNCIL REGULAR MEETING MINUTES
HELD FEBRUARY 20, 2024**

Mayor Barnhart called the meeting to order at 7:00 p.m.

ROLL CALL: Councilor King, Councilor Lovering, Councilor Piper, Councilor Price via zoom, Councilor Robinson, Councilor Shepard and Mayor Barnhart.

Also present: City Manager Nicosia, City Clerk Staland, City Attorney Breck and Police Chief Peters.

PLEDGE OF ALLEGIANCE

APPROVAL OF AGENDA: Councilor Lovering made motion to approve the agenda, seconded by Councilor Robinson and the motion carried.

CONSENT AGENDA: Councilor Piper motioned to approve the consent agenda noting all claims appeared to be in order, seconded by Councilor Robinson with council voting as follows. Ayes: Robinson, Shepard, King, Lovering, Piper, Price and Barnhart.

Approval of Claims - February 20, 2024 - \$93,208.85

Approval of Payroll Claims - February 16, 2024 - \$165,861.21

Approval of Regular Meeting Minutes - February 5, 2024

Approval of Request to Connect to City Sewer - Meadow Lake Development Corp, 1030 Best Way, Lot 1 Homestead Industrial Park, Section 7, T 30N, Range 20 W

VISITORS/PUBLIC COMMENT (Items not on agenda)

Dave Petersen, 201 4th Ave E. said he spoke with Shirley Folkwein about CFAC and his initial comment was that train has already left the station. Petersen said it sounds like the group has some momentum with many signatures on a petition. Petersen asked what is wrong with making some noise to haul the material away.

Gary Hall, Columbia Falls, said he would like to know if everything that happens out of the city limits goes through the Flathead County Planning Board for review. Hall requested clarification on a property that is initially in the county then annexed into the city. Mayor Barnhart said if the property owner wants city services they would request to be annexed into the city. With annexation into the city, the property would then fall under the City Planning Commission.

NOTICE OF PUBLIC HEARINGS/PUBLIC HEARINGS:

Public Hearing - Amend Title 13 - Water/Sewer Utility Account Provisions:

Mayor Barnhart read the notice of hearing and asked City Manager Nicosia to present.

On Tuesday, February 20, 2024, during the 7:00 p.m. Regular City Council meeting, the City Council of the City of Columbia Falls, shall conduct a public hearing for the purpose of reviewing and revising the water/sewer customer provisions, specifically Chapter 13.04.020 Definitions, 13.04.050 Service-Application, and 13.04.090 Deposits – Generally, and 13.08.060 Service Deposits, all of which are related to allowing customer accounts to be transferred out of the owner’s name and established in the name of a renter.

CITY OF COLUMBIA FALLS CITY COUNCIL REGULAR MEETING MINUTES HELD ON FEBRUARY 20, 2024

The City Council is proposing revising these provisions to require the water/sewer utility account to remain in the name of the owner and not be transferred to a renter thereby eliminating excessive paperwork, deposits, multiple meter reads and duplicative billing and notices.

City Manager Nicosia said the request has come forward from the Public Works Department and Finance Department to once again review the water/sewer utility account holders. The City last reviewed the provisions in 2014 and while the Landlord Agreement was updated, the process left in place was to change the account with every new tenant or back to the property owner when a new tenant is not available. The City gave written notice to 380 property owners that have tenants according to the most recent Utility Billing records and notification was posted on the city website and published in the newspaper as required by state law.

Nicosia said it is encouraging to see public comments that have been included in the council packet and have public interest this evening. Currently with the landlord agreement the water account can be transferred out of the owners' name and into the tenant's name. Ultimately, the owner is always responsible for the bill, the past due notice will go to the owner and the tenant. There is extra work with the bills not getting paid and the city trying to collect the outstanding balance. When a tenant moves out the city does not always get notified from the owner or the tenant. In City Code, the owner should be paying the bill, but the owner is waiting for the tenant to pay the final bill and when the tenant does not pay the city is trying to locate them to collect money. The work involved for both the Utility Billing Clerk and Water operators when the bill is in the tenant's name is doubled.

The proposal is to change Title 13 to send the water bill to the owner. This code change would delete the landlord agreement and the \$250 water deposit. There are 116 landlords that have asked for the \$250 water deposit to be held by the City, said Nicosia.

Councilor King asked if the city can send someone to collections for not paying their water bill. Nicosia said the last resort is to go to collections due to the lengthy time to collect and the loss of revenue to the city utility. The city does not report to credit agencies on delinquent water bills. King said basically in the end it's up to the owner to satisfy the bill. City Attorney Breck said if the tenant doesn't pay and the owner chooses not to pay, the city has to recover what is due. King asked if the water is turned off and the pipes break is that the owner's responsibility. Nicosia replied that is correct.

Councilor Robinson asked City Manager Nicosia when looking at excessive paperwork, meter reads, deposits, and notices etc. how much staff time it involves. City Manager Nicosia said it takes hours between the Utility Billing Clerk, Water Operator and Cashier, at least doubling the paperwork, if not more for some properties. If the water account does not leave the owners name, we are just maintaining one account which will save staff time.

Councilor Shepard said the city is basically doing the landlords work in collecting water payments. City Manager Nicosia replied yes. Shepard asked if the city has increased the water rates to cover the time it takes. Nicosia replied no the city has not.

Councilor Lovering asked how many other cities our size keeps the water bill in the property owner's name. Nicosia said in polling other cities they do not put the water bill in the tenants name. There has been an

CITY OF COLUMBIA FALLS CITY COUNCIL REGULAR MEETING MINUTES HELD ON FEBRUARY 20, 2024

increase in move in move outs, in one month we had two tenants and one owner on one water account. Lovering asked how much staff we have working on this. Nicosia said a water operator, utility billing clerk, and cashier and on some occasions the Finance Director. Lovering asked if this is a staff burden or financial burden or both. Nicosia replied both.

Councilor Piper asked if the meters are still being read by the city. Nicosia said yes.

Councilor King asked if delinquencies are more so in multifamily or single family homes. Nicosia said the multifamily buildings tend to have one meter and stay in the owner's name, the delinquencies are with the individual single-family homes or properties.

Councilor King asked if it could be entertained to have a 3 month or 6 month lease. Nicosia stated the city is not a party to a lease agreement.

Councilor Robinson asked if State Statute allows utility bills to be applied to taxes. Nicosia said that is correct, but only in September of each year.

Councilor Price said she is in support of keeping the water bill in the owner's name.

Mayor Barnhart asked in the last ten years how many more rentals are we looking at. Nicosia said we have added 150 rentals. Mayor Barnhart asked if we could change to a fee schedule. Nicosia replied we can look at rate code.

Mayor Barnhart opened the public hearing at 7:49 p.m.

James Livingston, 175 4th Ave. EN. said he has rentals and has not had any problems. He would like to know if a water bill will go to the owner and the tenant. Nicosia said it would go to the property owner and the property owner could get it to the tenant.

Paula Johnson-Gilchrist said she and her husband own rentals in Columbia Falls, Whitefish and Kalispell and pride themselves on having nice houses to rent. Ms. Gilchrist said to do what you are suggesting would have an impact on them as their office is in Whitefish, and they would have to get the bill to the tenant which could be multiple transactions. The tenant should be responsible for paying their utilities. Gilchrist believes it would punish them as landlords to not let tenants continue with what they already have in place.

Steve Haymond, 321 Hope Court, said when he first received the notice he called Finance Director Bates and he was able to put him at ease. The city can e-bill property owners and property owners can forward the email to the tenant; this will save on postage and time plus the tenant can pay the bill directly to the city. Mr. Haymond asked what the fees are to have the water turned on or off for non-payment? Nicosia said there is a \$5 door hanger, and if we have to shut the water off it is \$25.

Cindy Shaw, 3328 Columbia Falls Stage Road, believes the city should not be collecting a water deposit on behalf of the tenant, but believes her tenants should receive their water bill directly. One of the tenants noticed the sound of water and called immediately, they may not have been so alert if the water bill was not in their name. Her suggestion would be on the first notice of non-payment send a copy to the owner. Nicosia

CITY OF COLUMBIA FALLS CITY COUNCIL REGULAR MEETING MINUTES HELD ON FEBRUARY 20, 2024

said that procedure is already in place. Shaw suggested a \$25 application fee for a tenant. Shaw asked how the city would notify a tenant of water contamination. Nicosia said if there was a boil order the city would notify television, radio, newspaper, city website and the Police Dept. Facebook page.

Tracy Ziess, 3 Diane Rd. said she is here representing property owners in Columbia Falls, her owners believe that water is a business providing a service and they should be billing and collecting payment for such service. The city let one bill get \$500 past due and they never received a notice and had to pay the bill said Ziess. She asked if the owner can pass the bill on to the tenant. Nicosia said yes, they can pass on the bill to the tenant and the tenant can pay at the city.

Matt Hutcheson, 227 7th Street E. said he is opposed to changing to the responsibility to the owner. The electric and telephone companies are not doing this.

Megan Tabor owns 6 rentals in Columbia Falls and stated as the community grows and technology changes we have to adapt. Tabor suggested instead of mailing water bills perhaps the city can email the water bills. City staff noted that e-bills are already available.

Tim Deardurff, 370 Chubb Lane, Columbia Falls asked how much property tax is going towards water and sewer. Mr. Deardurff said the tenant should be responsible for their water bill and receive the bill. Mr. Deardurff said he is thinking of purchasing another parcel to put rentals on and is wondering where he could dump sewage. Mayor Barnhart replied the city does not accept RV dumping; you could talk to the Public Works Director. City Manager Nicosia added you could reach out to Flathead County Environmental Health for advice as his property is several miles outside of the city limits.

Mayor Barnhart closed the Public Hearing at 8:24 p.m.

Councilor Robinson motioned to have the City Manager bring forward an ordinance amending Title 13 – Water/Sewer Utility Account Provisions, seconded by Councilor Shepard.

Councilor Shepard said he did not know he could get an e-bill. Nicosia replied you have to sign up for e-billing. Councilor Piper asked if the issues are with multifamily units or single family units. Nicosia replied the multifamily units are not the problem it is primarily the single family dwellings.

Councilor Lovering said it seemed pretty cut and dry but is now not so sure. She would like to see further discussion and is concerned we may be short-staffed. Councilor Piper concurs with Lovering.

City Manager Nicosia said she is confident city staff and City Attorney can address a lot of public comment and an ordinance be brought forward to the March 4, 2024 council meeting.

Councilor Robinson asked if technology is limiting staff, is it possible to text message notices or bills. Nicosia said there would be a special change in city software to add a program to text residents. We can take the comments and work on a compromise. The City can receive comments on a first reading of an ordinance said Nicosia. City Attorney Breck said we can make an amendment and continue the public hearing to the next meeting instead of closing the Public Hearing.

Ayes: Lovering, Piper, Price, Robinson, Shepard and Barnhart. Noes: King.

Mayor Barnhart reopened the Public Hearing, continuing the hearing to March 4, 2024.

ORDINANCES / RESOLUTIONS:

Resolution # 1914:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COLUMBIA FALLS, MONTANA, CALLING FOR AN ELECTION ON THE QUESTION OF CONDUCTING A LOCAL GOVERNMENT REVIEW AND ESTABLISHING A STUDY COMMISSION.

City Manager Nicosia said this review is required every ten years pursuant to the Constitution of the State of Montana. The City Council must conduct an election asking our electorate if they want to undertake the local government review. At the last meeting the council decided to have three Study Commissioners. Nicosia reviewed the procedures and dates. Election expenses have increased exponentially and with other costs will potentially be \$55,000. This resolution will include the newer language, noting that the \$55,000 is funded with a permissive levy, above and beyond the general levy set in 15-10-420, MCA.

Councilor Shepard motioned to approve Resolution #1914, seconded by Councilor Lovering with council voting as follows. Ayes: King, Lovering, Piper, Price, Robinson, Shepard and Barnhart.

REPORTS / BUSINESS FROM MAYOR & COUNCIL

Councilor Lovering said the Parks Committee met with an Eagle Scout who has a proposal for a children's memorial park. Lovering said she will keep the council updated on progress.

Councilor Shepard said in regard to CFAC, the more they dig into the soil the more contaminants will seep into the river. There is some material that will have to be removed said Shepard. We have worked on this for 8 years; the frustration is the Commissioners and the Governor have been absent.

Councilor Piper said he does not believe this council has ever squashed anything with CFAC, we have done our due diligence. If the new group wants to proceed that is great and he wishes them well. Mayor Barnhart added they have done a lot of work, and he too wishes the group luck.

Mayor Barnhart inquired about applicants for the City Manager position. City Manager Nicosia replied at this time we have seven applicants.

CITY MANAGER REPORT

Project Update - ARPA Wastewater Phase 2

City Manager Nicosia said initially the ARPA Wastewater Phase 2 project was estimated to be \$3.5 million, on February 7th the city finally received an estimate from the engineers at \$7.5 million. At that time, we asked them to go back to review it, thinking there must be an error in their calculations. Today, we received new numbers and now the project estimate is at \$8 million, which is a 131% increase since the application and funding approval. Nicosia noted that we could not call for bids until we determine the accuracy of the estimates and how we can proceed if the bids come in significantly higher than our available funding. Councilor Shepard asked if the increase was in building material costs. Mayor Barnhart said what we are presenting to the bid is their design and not their numbers. If the city went ahead and called for bids, we would find out what those numbers would be. Could we then take that number to the DNRC? Nicosia replied we will have that conversation with the project manager but most likely that is the best scenario. Mayor

CITY OF COLUMBIA FALLS CITY COUNCIL REGULAR MEETING MINUTES HELD ON FEBRUARY 20, 2024

Barnhart asked how many other cities are in the same situation with the same engineer. Nicosia said she is unsure.

Nicosia noted that the RAISE grant is still at OST and as of today has not gotten the final signature and the City is working on the RTP grant for the Skatepark.

MISCELLANEOUS REPORT

Chief Peters said starting February 25th the Police Department has one more Patrolman on staff.

MISCELLANEOUS

Correspondence

ADJOURN

Councilor Lovering made motion to adjourn, seconded by Councilor Shepard and the meeting was adjourned at 9:17 p.m.

Mayor

City Clerk