

CITY OF COLUMBIA FALLS
CITY COUNCIL REGULAR MEETING MINUTES
HELD FEBRUARY 05, 2024

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

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

Others present: City Manager Nicosia, City Clerk Staaland, City Attorney Breck, and Police Chief Peters.

PLEDGE OF ALLEGIANCE

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

CONSENT AGENDA: Councilor Robinson motioned to approve the consent agenda noting there was a change on the claims amount to \$119,556.56. All other claims appear to be in order, seconded by Councilor Piper with Council voting as follows. Ayes: King, Lovering, Piper, Robinson, and Barnhart.

Approval of Claims - February 5, 2024 - \$119,545.58

Approval of Payroll Claims - January 19, 2024 - \$171,132.34

Approval of Payroll - February 2, 2024 - \$115,467.03

Approval of Regular Meeting Minutes - January 16, 2024

Approval of Manager Excess Vacation Carryover and Compensation

Approval of Change Order # 4 - NCC Neumann Construction Co - Sewer Main/LS #5 Rehab - \$11,100 and Authorize City Manager to Execute

Approval of Change Order #5 - NCC Neumann Construction Co - Sewer Main/LS #5 - \$14,920 and Authorize City Manager to Execute

Approval of FY 2023 Audit Contract - Doyle & Associates, P.C. - \$18,200

VISITORS/PUBLIC COMMENT: Peter Metcalf, 234 1st Ave E. is a representative of The Coalition for a Clean CFAC. They are a growing group of community residents that are concerned about the proposed clean up at the CFAC site. Mr. Metcalf said they need the EPA to pause its process and evaluate what the removal of the toxic waste would cost. They would like the Council to submit another letter to the EPA requesting further evaluation of the site cleanup. The EPA is expected to make a decision in late March and once the decision is issued the opportunity to change the cleanup process is over, according to Mr. Metcalf. The Coalition would like the opportunity to weigh in and look at what cleanup would allow for robust and expansive use of the site, said Mr. Metcalf.

Phil Matson, 1037 Raven Lane, believes the EPA report is inaccurate, misleading and inconsistent to effectively inform the public. Mr. Matson said former CFAC employee Steve Wright said the landfills that leak cyanide and fluoride into the ground water also contaminated the soil directly below and downgrade to the landfills. Just excavating the landfills will not remove all contamination between the landfills and the Flathead River. It is time to start the remediation process and ultimately remove CFAC from the Superfund CERCLA list. Former owner ARCO also noticed numerous flaws in the remedial investigation on which the cleanup is based,

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including the lack of sufficient information about the nature and extent of contamination and conditions at the CFAC site. The record of decision depends on state acceptance and Mr. Matson urges the council to demand a pause.

Ron Gerson, 9 4th Ave. E., Kalispell said the entire Flathead Valley and watershed are counting on the City Council to get some reasoning to resolve the situation.

Mike Burr, 560 Talbot Road said he would like to reiterate what the other speakers have said before him. It was a lot of work getting CFAC on the cleanup list, but it is also time to pump the brakes to make sure we are doing the right thing. Mr. Burr is hopeful that the council will send another letter to do a better cleanup of the site.

Erin Sexton, 250 Kickbusch Lane Coram, said she sat on the Community Liaison Panel for the CFAC site from day one and it was a big disappointment that they did not do a community visioning process for the site. Ms. Sexton urges the council to take action on what has already been spoken on this evening.

Darin Fisher, 303 3rd E. asked City Attorney Breck if a person books a short-term rental for a couple days and they refuse to leave the short-term rental, would it take the landlord 30 – 60 days for an eviction process?

NOTICE OF PUBLIC HEARINGS/PUBLIC HEARINGS:

Mayor Barnhart read the notice of hearing and asked City Manager Nicosia for a report:

Notice of Public Hearing - February 20, 2024 - Amend Title 13 - Water/Sewer Utility Account Provisions:

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.

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.

The proposed changes are available for review at the office of the City Clerk; City of Columbia Falls Persons may contact the City Manager at 406-892-4391 or 130 6th Street West, Columbia Falls, MT for more information about the hearing.

City Manager Nicosia said as discussed at the January 16, 2024, meeting, it has been ten years since the City Council last reviewed this item. Nicosia said there are significantly more rental units than the City had ten years ago, and it creates a lot of work for both the finance utility billing staff and the water department. The revision would eliminate excessive paperwork, deposits, multiple meter reads, and duplicative billing and notices. Staff are seeing more tenant turnover, recently there were 3 names associated with one account in the same month. This would save time in utility billing and the water department. The proposed changes will require a public hearing and two readings of an ordinance amending the applicable sections of Title 13.

UNFINISHED BUSINESS:

Consideration of City Planning Commission Candidates

Mayor Barnhart said the Council has received 4 letters of interest from city residents for the City Planning Commission. The Council passed a resolution at the previous meeting requiring that the Board members be residents of the city. The Board will essentially oversee Planning and Zoning inside the city limits, said Mayor Barnhart. City Clerk Staland listed the city residents that submitted a letter of interest: Darin Fisher, Justin Ping, Sam Kavanagh and Mark Johnson. City Manager Nicosia said the Department of Commerce Community of Technical Assistance Program will set up workshops in the Flathead Valley for the new Planning Commission. Mayor Barnhart said it is his recommendation to appoint the four individuals that have submitted a letter of interest and look at appointing a 5th member at a later date.

Councilor King motioned to appoint Darin Fisher, Justin Ping, Sam Kavanagh and Mark Johnson to the City Planning Commission and appoint a fifth member upon receipt of additional letters of interest, seconded by Councilor Lovering. The motion carried unanimously.

City Park Property - Housing Development Proposal

City Manager Nicosia said the Planning Department reviewed the possibility of a housing development at the ballpark on Railroad Street. The city received interest from Northwest Community Land Trust, whom we are already partnering with as well as Habitat for Humanity. The lot is 1.3 acres, and to the west is approximately another .5 acre that is undeveloped roadway. The property is currently zoned CB-2, and the process council would have to go through to consider housing is to amend the Growth Policy to Urban Residential Development with a zone change. This would allow Habitat Humanity to propose an 8-unit development on the property. Nicosia discussed parking, sidewalks, sewer and water on the said property.

Councilor Piper motioned to proceed with the possible Growth Policy and zone change at the ballpark on Railroad Street, seconded by Councilor Robinson.

Mayor Barnhart said the field is used for little guy baseball and a neighborhood park, and he cannot support the housing development proposal until he knows where the kids are going to be placed. City Manager Nicosia said we will work with the baseball association; they have not been using this field due to the harder surface. The half-acre would be developed as a playground that will be open to the public. Councilor Robinson asked how many ball parks the city owns. Nicosia replied that two ball fields including this one and the others are privately owned. Piper believes there are opportunities out there to place a ballpark for the younger children.

Councilor Piper retracted his motion to proceed with the Growth Policy and zone change until we have an alternative ball field for the kids, Councilor Robinson also retracted her second, noting her concern that it takes so long to get something moving if we choose to not move forward. The council voted in favor of tabling action until February 20, 2024.

NEW BUSINESS:

Local Government Review - Section 9, Article XI of the Constitution of the State of Montana

City Manager Nicosia said the State constitution requires that the council adopt a resolution and call for the question of local government review every ten years. The resolution has to call for the election designating the number of commissions, no fewer than 3, as well as establishing the permissive dollar amount to fund the commission's work for the review. Staff will bring the resolution to the council for consideration on February

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20th; the election department has to have it no later than March 12th. In June, the Local government Review will appear on the primary ballot. If it passes with a majority voting yes, then July-August 2024 citizens file with county election administrator to be a Study Commission candidate. If there are no candidates or not enough candidates, council can appoint said Nicosia. The city could put on a workshop to explain the City's form of government, 30 years as a commission/manager form, as well as the other forms or questions that can be reviewed such as charters or self-governing powers. If passed in June, the Study Commission candidates are elected in November, go to training in December and begin the process in January. Nicosia said the question for council this evening is how many Study Commission members to designate in the resolution. Mayor Barnhart said the City had three in 2014, in addition to the Mayor who was the council liaison.

Councilor King motioned to establish the Study Commission with three commissioners, seconded by Councilor Lovering and the motion carried unanimously.

REPORTS / BUSINESS FROM MAYOR & COUNCIL

Mayor Barnhart said after the last Council meeting, the City Manager contacted representatives from Glencore to see if we could get some of the public comment questions answered. Barnhart and Nicosia met with John Stroiazzo and Cheryl Driscoll, and they provided answers to some of the questions as well as the future development map that was presented in summer of 2023. CFAC currently owns 2,400 acres and the EPA study area is approximately 1,300 acres, and 800 acres was already sold to the state of Montana, The former operational area is 500 acres. The map shows that property redevelopment includes residential, recreation, commercial and industrial use; 16% of their total acreage will be for industrial use.

Mayor Barnhart said one comment was that future businesses will not be able to use the ground water. They responded that you could drill a well as long as it isn't within the approximate 200 acres of commercial industrial land that will have deed restrictions on groundwater. The residential use areas are not contaminated and have adequate ground water available. Mayor Barnhart noted that the city has a 16-inch water main that feeds all water to the city that passes through their property as well as natural gas, electrical and the railroad tracks.

The industrial site has been fenced for decades but the proposal for remediation by EPA would only require approximately 8% of the area for the landfills themselves to be fenced; the overall fencing area will be reduced said Barnhart.

Regarding the question of toxins seeping into the river. They replied no seeps have been detected in the river for the last four years. The proposal for the remediation plan will reduce if not eliminate the flow contamination to groundwater.

They want to see the land utilized as quickly as possible. They noted that once the record of decision is rendered they can put forth a plan for reuse of the area.

Nicosia said this information and the maps were presented to the EPA and DEQ at the community meeting this summer.

Peter Metcalf, 234 1st Ave E. said the information is inconsistent with the information they have put out. In the proposed plan they made no mention of residential or recreational use. The information they received from the EPA on how these processes work is off their website. Whatever the record of decision is will dictate what the future uses can be on the site. It is in their interest to have the record of decision come through very quickly, and then they can continue having controlling conversations about what future sites can look like. Mr.

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Metcalf said for him it doesn't change anything, it just shows the urgency of an evaluation and removal of the waste on site.

Mayor Barnhart said the representatives indicated that they will not have a redevelopment plan until they have the record of decision.

Shirley Folkwein, 285 Shooting Star Drive said in looking at all the testing they have done, they have been checking test wells for ten years which does not seem like a long time. Will it continue after the clean up? Mayor Barnhart said we asked who will be responsible for testing and maintenance and the answer we received back from them was they would be held responsible by EPA to continue testing and responding to any further contamination that comes up. Ms. Folkwein said they are looking at 100-200 years, she believes they are not going to be out there testing it for that long. Folkwein said what they are asking is the EPA taking a timeout to do an independent study of a cost analysis. She agrees with Mr. Metcalf on the inconsistencies. Mayor Barnhart said we have been hearing this information from the very beginning, there is not a whole lot we can do at this point as we have already sent a letter and they know where the City Council stands.

Phil Matson asked if the City can't do anything, who we can ask for help. Mayor Barnhart replied the EPA, Senator Tester, and Flathead County Commissioners may be of assistance to you.

Councilor Lovering asked for a status update on the cut through trail from Cedar Point to 3rd. Ave. W. City Manager Nicosia replied there is a platted area intended for city use that is problematic due to its location adjacent to a shared driveway. The path would cut across a yard unless it can be adjusted. Lovering inquired on a timeline to get it resolved. Nicosia said we have been working on it for a couple years; it is not a good design and is not sure the City can make it functional and will have the City Attorney review it.

Councilor Lovering said the council did a parking workshop a few months ago and we talked about curbs and gutters along with a few other things brought up such as signs stating do not block driveways. We also talked about where folks could park in the downtown area, and she asked where the City is at with the parking. City Manager said council is far into this project and has issued a contract for more than \$700,000 in construction to install curb gutter and sidewalks. When curb, gutter and sidewalks are installed the requisite is the curb is painted yellow. Signage is expensive to add. We did check with MMIA, and they do not recommend putting signage on private property regarding parking. When the project is complete, parking and public safety will be exponentially improved. Councilor Lovering asked where the sidewalks and curbs are being installed. Nicosia replied a block off Nucleus Ave on the major city streets. Nicosia said she can include a project can map with the next agenda. Councilor Lovering asked about 2-hour parking signs on Nucleus Avenue. Nicosia said they are pretty much unenforceable, and the City would spend considerable funds to do so. Police Chief Peters added currently they can park for 48 hours in a single spot, and it is complaint driven. Chief Peters said after 48 hours the Police department will sticker the vehicle to get it moved. Most nights there might be one car parked on Nucleus Avenue, said Peters.

CITY MANAGER REPORT:

Project Updates - including HB 355, RAISE, ARPA, New Funding

HB 355 – the city has quotes out on projects that are less than 80K and are prepping a call for bids.

The RAISE Grant is at the office of Secretary of Transportation in Washington D.C. Nicosia said we have shuffled numbers between preliminary and final engineering with the same dollar amount just different categories. We are still waiting for the final signature.

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ARPA - still working on wastewater project Phase 2, at the treatment plant. The engineers were supposed to have a project dollar amount before January 1st, but we have yet to receive it. The city will call for bids at the next meeting on February 20th. Nicosia said the state has notified MLCT that there are left over ARPA funds. There are 10 cities implementing HB 382 and the League suggested giving those cities each 100k. We are waiting to hear back to see what they are going to do with the funds.

Water Testing Results - Including Specific Tests Ordered by City

The City Council has directed staff to test the City's wells for those items that could be contributed to the Aluminum Plant. In October 2020 the City tested for aluminum, cyanide, mercury, vanadium and zinc and has done the same testing this year, with no detects. The results will appear in the City's 2023 water confidence report. It is important to see a non-detect on the report. Staff recommend another test in two years unless the council prefers it done annually.

FY 2022 Audit

The 2022 Fiscal Year Audit Report has been issued and a copy provided to each council member. As the 2023 fiscal audit is currently being completed and as a single audit report will be issued by March 2024, Nicosia recommended having the formal exit conference upon the issuance of the 2023 Fiscal Year audit. The 2022 FY report has no findings.

CITY ATTORNEY REPORT

City Attorney Breck answered Darin Fisher's earlier question on how the landlord tenant act treats short term rentals versus long term rentals and how long the eviction process takes. Breck noted that in his private practice, his firm handles quite a few evictions on behalf of landlords but has not had any cases directly apply to short term rentals and does not know how the court would apply it. Breck noted the remedy for landlords if a tenant stays longer, it is called holding over. Breck discussed the regular hearing process and dates in those situations noting that from start to finish, it takes approximately 60 days to remove a tenant.

Miscellaneous Reports

Chief Peters reported that the department is close to completing the hiring process for another patrolman, filling the vacancy created upon Stufflebeem's promotion to sergeant.

MISCELLANEOUS

Correspondence

Fire Department - January Activity

ADJOURN

Councilor Lovering motioned to adjourn, seconded by Councilor Robinson and the meeting adjourned at 8:29 p.m.

Mayor

City Clerk