

**CITY OF COLUMBIA FALLS  
MINUTES OF THE REGULAR MEETING  
HELD DECEMBER 7, 2015**

**Regular Meeting - Transact Routine Business**

Mayor Barnhart called the meeting to order at 7:00 p.m. with roll call as follows:

PRESENT: Mayor Barnhart  
COUNCIL: Karper, Petersen, Shepard, Fisher and Lovering  
ABSENT: Plevel

**ROLL CALL**

Also present were City Manager Nicosia, City Clerk Staland, City Attorney Breck, Police Chief Perry and City Planner Mulcahy.

Pledge of Allegiance

**PLEDGE**

**APPROVAL OF AGENDA:**

Mayor Barnhart requested a motion to approve the agenda. Councilman Fisher moved to approve the agenda, second by Councilman Shepard and the motion carried unanimously.

**AGENDA  
APPROVAL**

**CONSENT AGENDA:**

Councilman Shepard moved to approve the consent agenda noting that all claims appeared to be in order, second by Councilman Fisher. Motion carried with Council voting as follows: AYES: Fisher, Karper, Lovering, Petersen, Shepard and Barnhart NOES: None. ABSENT: Plevel

**CONSENT  
AGENDA  
APPROVAL**

- A. Approval of Claims - \$ 180,690.77 - December 7, 2015
- B. Approval of Payroll Claims - \$60,385.01 - November 20, 2015
- Approval of Payroll Claims - \$87,729.83 - December 3, 2015
- C. Approval of Regular Meeting Minutes - November 15, 2015
- D. Approval of MOU with Flathead County EMS and authorize City Manager to sign.
- E. Approval of Ambulance Services Agreements with Three Rivers EMS and authorize City Manager to sign.
- F. Approval of City Attorney Contract Renewal - January 1, 2016 - December 31, 2017 and authorize City Manager to sign.
- G. Approval of BNSF Easement for Sewer Main Extension (Columbia Falls Industrial Park) and authorize City Manager and City Attorney to execute documents on behalf of the City.

**VISITOR/PUBLIC COMMENT:**

Ron Role, 218 North Hilltop said he was in attendance to discuss Resolution #1471 concerning Lew Bonitz rifle business conditional use permit. Mr. Role said he has tried unsuccessfully to get Mr. Bonitz to comply with the road maintenance condition. Mr. Role said in April he saw Mr. Bonitz and asked him to get something done on the road. Mr. Bonitz told him that he picks up

**VISITOR/PUBLIC  
COMMENT**

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his supplies at Super 1 Foods and delivery trucks do not use the roadway. Mr. Role said he spoke to the City Manager three months ago and didn't hear back from her. He reported that he came in last week and City Manager Nicosia said she called and left a message, which Mr. Role said he never received. Mr. Role feels all he gets are excuses on why the road maintenance is not complete. Mayor Barnhart said it sounds like you are inquiring about Condition 7 of Exhibit "A". City Manager Nicosia said she reviewed the road maintenance conditions in 2011 with the City Planner, Mr. Bonitz and Mr. Patterson. In 2006 Resolution 1471 was adopted by council approving the Conditional Use Permit with 7 conditions. A CUP was required as it exceeded the allowance for non-family employees and space. If a business generates more than 8 vehicle trips per day that would trigger a Conditional Use Permit. Mr. Bonitz planned on having three non-family employees as well as using the entire shop for his business in 2006. In 2011 Mr. Bonitz had laid off his last employee and inquired about alternate dust abatement provisions. Nicosia and Mulcahy reviewed the CUP requirements including talking to Mr. Patterson, the owner of the road and the adjacent land owner. Mr. Bonitz met the delivery trucks at Super 1, no longer had any employees, and did not have customers visiting his property thus his business use of the roadway did not exceed that of a typical residential use. Nicosia reported that Mr. Role came in this summer shortly after the City approved the Patterson's CUP to discuss road maintenance, noting increased traffic but he had no problem with Patterson's use of the road without dust abatement requirements. Nicosia reported that before Mr. Patterson passed away, he and Mr. Bonitz worked together on dust mitigation which included road oil applications along with watering. She noted that while Mr. Bonitz has not completely closed down his gun shop you would not even know there was a business there; they have no more traffic than a single family residence and he has used alternative dust abatement measures for the last four years. Mayor Barnhart asked how the City can change the conditions that were adopted with the original conditional use permit. Nicosia said the conditional use was based on three non-family employees, deliveries and additional business traffic. In addition to the use changing drastically, Mr. Bonitz applied alternative dust abatement practices by stopping the delivery trucks from using the road; thereby changing the original use in the conditional use permit.

Mr. Role stated Len Patterson gave Mr. Bonitz \$20,000 to pave the road and it was never done. City Planner Mulcahy said in looking at the home occupation standards there are two triggers that require a conditional use permit. 1. If they exceed more than one employee outside of the home or exceed ¼ of the area of the home. 2. If there was significant traffic to the home they would have to comply with paving or dust abatement. Essentially as the zoning administrator we can review it for compliance said Mulcahy. Mulcahy said he worked with Clayton Patterson on his CUP and he has one non-family

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employee and very few, if any, customers coming to the shop as they use mail orders. Mulcahy said we can go out and take a look at Mr. Bonitz's shop for an additional compliance review but he is not going to make somebody pave a ¼ mile of a road if they do not impact the roadway more than a typical home occupation or residential use.

Councilman Shepard asked Mr. Role if there was a lot of ATV use on the road. Mr. Role said no there was not much. Mr. Role said he was here to protect his family. Mayor Barnhart thanked Mr. Role for bringing his concern to Council attention.

**PUBLIC HEARINGS/NOTICES:**

**A. HEARINGS:**

A. The Columbia Falls City-County Planning Board held a public hearing for the following items at their regular meeting on Tuesday, November 10<sup>th</sup> at 6:30 p.m. at the Council Chambers of City Hall, 130 6th Street West, Columbia Falls, Montana. The Columbia Falls City Council will hold a subsequent hearing on December 7<sup>th</sup>, 2015 starting at 7:00 p.m. in the same location.

**PUBLIC  
HEARINGS**

**Columbia Falls Zoning Regulations - Title 18 (Zoning Text Amendment):**

A request by the City of Columbia Falls to amend certain portions of the text of the Columbia Falls Zoning Regulations (Title 18 of the Columbia Falls Municipal Code). The City proposes changes to 18.410.030.A(G) (Accessory Building Height in the CR zoning) and increase the building height for a detached garage from 15-feet to 22-feet. Amend Chapter 18.324.040(H) - Building Height increasing the existing 30-feet to 35-feet height to match all of the other residential zoning districts. Adding a new provision for Clustering in the SAG zones enabling a property owner to use the density provisions of the zone to create smaller lots in exchange for open space or agriculture easements. Explore the possibilities of creating off-premise signage and other sign provisions for the downtown CB-4 (Central Business District). Propose other amendments to the Sign Chapter 18.438 to comply with recent US Supreme Court decisions.

**Title 18 Zoning Text  
Amendments**

City Planner Mulcahy presented staff report CZTA-15-02. Mulcahy discussed the Accessory building height going from 15 feet to 22 for boat and camper storage. The Columbia Falls Board of Adjustment has approved several variances for accessory building height in the last two years due to the increased height of vehicles, boats and campers. Mulcahy is also recommending increasing the building height from the existing 30 feet to 35 feet in all residential districts. The signage text amendments are a result of a recent US Supreme Court opinion requiring sign regulations to be content neutral while still regulating time, place and manner of signage. The Cluster

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development provisions had been looked at by the City in 2008 but not adopted. A recent Board of Adjustment variance would not have been necessary had the Cluster Development provision been in place. The text amendments were approved by the Planning Board in November. The Board voted to amend the proposed regulations by changing the set back from the high water mark from 50 feet to 100.

Councilman Peterson asked if all signs can be 20 square feet. Mulcahy said we are not saying that all signs are equal but we are making a distinction between temporary signs and permanent signs. Councilman Shepard asked Mulcahy when political signs need to be taken down. Mulcahy replied it comes down to freedom of speech, the courts have said we are treading on thin ice if we tell people they have to take them down which is why the text amendment strikes the language referring to length of time. Councilman Fisher asked if on page 79, item 3 should read 20 sq. feet. Nicosia said yes that is correct. Councilman Shepard said technically we can enforce the signs within the zoning district that are in bad shape.

Mayor Barnhart opened the Public Hearing at 7:42 p.m.

City Manager Nicosia said there was public comment from Bill Dakin on the proposed text amendments. City Planner Mulcahy said he had corresponded with Mr. Dakin via email on the said topic.

With no further comments Mayor Barnhart closed the Public Hearing at 7:44 p.m.

Councilman Fisher moved to adopt staff report CZTA-15-02 as findings of fact, second by Councilman Karper with Council voting as follows. AYES: Karper, Lovering, Petersen, Shepard, Fisher and Barnhart. NOES: None. ABSENT: Plevel.

Councilman Shepard motioned to approve the Text Amendments and direct City Manager and City Attorney to prepare applicable documents for the next regular council meeting, second by Councilman Fisher with Council voting as follows. AYES: Lovering, Petersen, Shepard, Fisher, Karper and Barnhart. NOES: None. ABSENT: Plevel.

B. On November 2, 2015, the City of Columbia Falls Council approved a Resolution of Intent to Annex certain wholly surrounded lands in accordance with the authority granted in Title 7, Part 45, M.C.A. Resolution 1715 includes Parcel A on Certificate of Survey No. 19988, Records of Flathead County, Montana.

**Intent to Annex  
Wholly Surrounded  
Property**

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The City of Columbia Falls Council will meet on Monday, December 7, 2015 at 7:00 p.m. in the Council Chambers at City Hall, 130-6<sup>th</sup> Street West, Columbia Falls, Montana. At that time, the Council will hold a public hearing on this annexation and a vote on a resolution to annex Parcel A of Certificate of Survey No. 19988.

City Manager Nicosia said on November 2, 2015 Council approved a Resolution of Intent to Annex Parcel "A" as wholly surrounded property. The County initially showed the parcel as in the City after its creation but it was not officially annexed. This was the only wholly surrounded lot that is not annexed. The property owner was notified by regular mail and certified mail. The City has not received any public comments and City staff recommends approval of the annexation.

Mayor Barnhart opened and closed the Public Hearing at 7:47 p.m. with no public comment.

Councilman Shepard made motion to approve the annexation and direct City Manager and City attorney to prepare applicable documents for the December 21, 2015 council meeting, second by Councilman Lovering with Council voting as follows. AYES: Petersen, Shepard, Fisher, Karper, Lovering and Barnhart. NOES: None. ABSENT: Plevel.

C. NOTICE IS HEREBY GIVEN to all persons that a petition has been filed with the City Council of the City of Columbia Falls, Montana, requesting the abandonment, discontinuance and vacating of certain public way in the City of Columbia Falls, Montana, more particularly described as follows:

**STREET  
ABANDONMENT-  
10' of 8<sup>th</sup> St. E.**

A 10' strip of Eighth Street East adjacent to Lot 1, Block 61. Abandonment of the 10' strip of street right-of-way will allow the adjacent property owner to build a retaining wall to accommodate the slope of the lot. The abandonment will be subject to the rights of the City or any other public utility to access, operate and maintain any public utilities currently located within the right of way.

City Manager Nicosia said abandoning the 10' will allow for a deck and retaining wall. Nicosia said there was no written public comment received and City staff recommends Council approval.

Mayor Barnhart opened and closed the Public Hearing at 7:50 p.m.

Councilman Shepard motioned to approve the abandonment of the 10' on 8<sup>th</sup> street and direct City Manager and City Attorney to prepare applicable

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documents for the next regular meeting second by Fisher, with Council voting as follows. AYES: Shepard, Fisher, Karper, Lovering, Petersen and Barnhart. NOES: None. ABSENT: Plevel.

**UNFINISHED BUSINESS**

**A. CFAC – EPA Alternative Cleanup Process**

Mayor Barnhart said at this point the EPA and CFAC have signed an Administrative Order of Consent to begin testing. The EPA did not list the project under the Superfund listing in November and at this point, the City Council does not have to take any action. The next meeting regarding the CFAC site is January 21, 2016, Columbia Falls High School Cafeteria at 6:00 p.m.

**UNFINISHED  
BUSINESS**

**NEW BUSINESS:**

**A. Arbor Day Proclamation**

Mayor Barnhart read aloud the Arbor Day Proclamation and proclaimed May 6, 2016 as Arbor Day.

**NEW BUSINESS  
Arbor Day  
Proclamation**

**B. Board appointments (Board of Adjustment, Tree Board and Columbia Falls City-County Planning Board):**

Councilman Shepard motioned to approve the following Board positions:

Board of Adjustment: Roger Newman, Steve Marquesen and Alida Wright.

Tree Board: Darin Fisher

City-County Planning Board/Zoning Commission City Appointments:

Courtney Nolan and Steve Duffy

Motion seconded by Councilman Petersen and the motion carried with all members voting in favor, Plevel absent.

**BOARD  
APPOINTMENTS**

**REPORTS/BUSINESS FROM MAYOR & COUNCIL:**

Councilman Fisher said he noticed the new mural being put up on Nucleus Ave. (The Nord Building owned by Councilman Petersen).

Councilman Lovering said the sidewalk in front of Hungry Horse News is covered with debris and realizes it is not City property. Nicosia said it is Department of Transportation property and she will contact them. Lovering asked who owns the retaining wall by the sidewalk and the barriers. Nicosia stated that the wall is probably owned by the adjacent business but the City placed the concrete barriers after the road was closed and abandoned.

Councilman Shepard said some folks in the Heights were concerned with the dust from the demolition of the rodmill at CFAC. Shepard said he made informational copies of asbestos and Environmental Health in the Aluminum Industry for council review. There was not any water put on to mitigate the dust. How are they going to get a safe route through town? Nicosia said to clarify she spoke with Mike Cirian, EPA, today and Calbag has a demolition permit from DEQ. Mayor asked about the Flathead County Health

**REPORTS FROM  
MAYOR AND  
COUNCIL**

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Department and air monitoring, noting that there are a lot of concerned citizens.

Councilman Shepard said Mark from FWP will be up to discuss the pond at River's Edge Park.

Councilman Petersen asked about parking at Coffee Traders, he thought there was going to be trees along the parking area. Nicosia said she reminded Xanterra of that and will follow up after the holidays.

Petersen asked are we going to get the agreement from the State on the intersection. Nicosia said she has calls into DOT as the Planning Office said they will not put the ROW under the City's control. Mayor Barnhart asked if we can we get Dee Brown on this.

Councilman Karper confirmed that there was not a Tree Board meeting scheduled for Tuesday, December 8<sup>th</sup>.

Mayor Barnhart said the new format of the council packet on the city website is nice. Mayor said The Night of Lights parade was huge and there were a lot of people in attendance. Mayor asked Nicosia if she had the meeting with Plum Creek on the Pit to Park. Nicosia said no she had not. Mayor said he walked home from the parade and mentioned we really need to do something about the sidewalks. Nicosia said that was part of the reason we listed it as a need in the Urban Renewal Plan.

Mayor reminded Nicosia that it is a city priority to get people hooked up to city sewer. Nicosia said she is working with Public Works Director Jenkins on this issue.

Councilman Shepard commented on the Columbia Falls Night of Lights Parade and the respect shown by the public when the American Legion Post presented the flags; it is not the same in other parades.

Councilman Karper reported that Mr. Nolan has done a good job on putting a fence up for his horses and in making the property real nice.

**REPORTS/BUSINESS FROM CITY ATTORNEY:**

None.

**REPORT FROM  
CITY ATTORNEY**

**CITY MANAGER:**

Nicosia said she was asked to testify at the Revenue and Transportation Committee meeting in Helena. She recommended having a standing Local Government Funding Committee due the complexity of the local government funding sources and the state entitlement program. She reported that it was a productive meeting. Nicosia also reported on the MLCT meetings that will occur in our area in February and the goal of inviting local legislatures to participate.

**CITY MANAGER  
REPORT**

Nicosia reported that FEC sent an easement document to the City for the hotel/conference center that includes a service line across the City's park that

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the City had specified in writing that it could not be placed on city property. Schellinger Construction installed the service line under the direction of the construction supervisor even though the City had advised them not to place it at that location. The City's notification that the line was placed on City property anyway came from FEC's easement document. Council direction was the line should be moved.

FEC could not get the power in at the train before Night of Lights but it should be in soon and the train will be lit for the holiday season.

**A. INFORMATIONAL CORRESPONDENCE** - List available for Review

**CORRES-  
PONDENCE**

B. Reports:

a. Finance - November Reports

**ADJOURN**: Upon motion duly made by Councilman Karper and seconded by Councilman Shepard the meeting adjourned at 9:06 p.m.

**ADJOURN**

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

APPROVED BY COUNCIL ACTION: December 21, 2015