

**CITY OF COLUMBIA FALLS  
MINUTES OF THE REGULAR MEETING  
HELD NOVEMBER 20, 2017**

**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, Shepard, Fisher and Piper  
ABSENT: Lovering and Petersen

**ROLL CALL**

Also present were City Manager Nicosia, City Clerk Staland, City Planner Mulcahy and Fire Chief Hagen.

Pledge of Allegiance

**PLEDGE**

**APPROVAL OF AGENDA:**

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

**AGENDA  
APPROVAL**

**CONSENT AGENDA:**

Councilman Karper 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: YES: Fisher, Karper, Shepard, Piper and Barnhart. NOES: None. ABSENT: Lovering and Petersen

**CONSENT  
AGENDA  
APPROVAL**

- A. Approval of Claims - \$ 45,691.46 - November 20, 2017
- B. Approval of Payroll Claims - \$ 1,596.77 - November 9, 2017  
Approval of Payroll Claims - \$64,161.36 - November 17, 2017
- C. Approval of Regular Meeting Minutes - November 6, 2017
- D. Approval of Encroachment Permit with Mobilitie, LLC and authorize City Manager to sign.

**VISITOR/PUBLIC COMMENT:** (Items not on agenda)

A. CFAC Demolition Update - Cliff Boyd, Calbag  
Mr. Boyd delivered an update on demolition progress at the CFAC site. Boyd said this is a short summary but they are half way done, noting all hazardous waste has been removed. Mr. Boyd presented Council with a slide show showing the progress.

**VISITOR/PUBLIC  
COMMENT-CFAC  
Update**

**APPOINTMENTS:**

A. Appointment - Probationary Volunteer Fireman Colby Willcut  
Fire Chief Hagen said Mr. Willcut was with the Fire Department for almost 4 years then moved out of the district. Willcut has recently moved

**APPOINTMENTS-  
Volunteer  
Firefighter Willcut**

**CITY OF COLUMBIA FALLS  
MINUTES OF THE REGULAR MEETING  
HELD NOVEMBER 20, 2017**

back to the district and has gone through the process to be approved to return as a Probationary Volunteer Fireman.

Councilman Piper motioned to appoint Mr. Willcut to Probationary Volunteer Fireman, second by Fisher and the motion carried.

City Clerk Staland gave the oath of office to Willcut.

**PUBLIC HEARINGS/NOTICES:**

**A. PUBLIC HEARING:** Mayor Barnhart read aloud the following Notice of Public Hearing:

**PUBLIC  
HEARINGS-CUP  
Columbia Mortuary**

**Request for a Conditional Use Permit in the Columbia Falls Zoning Jurisdiction:**

A request by Columbia Mortuary for a Conditional Use Permit (CUP) to add a small 884 square foot addition to the mortuary. The addition will function as a garage and crematory. The addition is located on the south side of the existing mortuary and will access from the alley. The property is located at 1010 4<sup>th</sup> Avenue West, Columbia Falls and is described as the Amended Plat of Lots 6, 7, 8, 9, & 10; Block 6 of Hoerner Addition to Columbia Falls in Section 17, Township 30 North, Range 20 West, P.M.M., Flathead County.

Mayor Barnhart asked for the staff report.

City Planner Mulcahy presented staff report CCU-17-02, as revised, reviewing the request and evaluation criteria. Mulcahy stated the property is zoned CB-2. The applicants have been operating the crematorium for both communities at the Austin Funeral Home in Whitefish across from Don K Chevrolet and would like to move it to Columbia Falls. The current location is leased from Don K and they are not renewing the lease. The applicants want to expand the current use at Columbia Mortuary by constructing a small 884 square foot addition that will provide enclosed parking and crematory. Mulcahy reiterated Columbia Falls does not regulate health and safety issues, such as ground water or air quality; those are all regulated through the City County Health Department and/or MDEQ. The Department of Labor, State Board of Funeral Service regulates and licenses funeral homes, cemeteries and crematories. Mulcahy provided the email from Lucy Richards who works for the State Funeral Service that included the check list of items inspected. Pursuant to the CUP, the applicant would be required to supply all needed licenses and permits before operating the facility. The Planning Board voted four for and two against, to approve the Conditional Use Permit at their November 14, 2017 meeting.

**CITY OF COLUMBIA FALLS  
MINUTES OF THE REGULAR MEETING  
HELD NOVEMBER 20, 2017**

Mayor Barnhart asked council if they had any questions for staff. Mayor Barnhart asked if Immediate Neighborhood Impact on page 7 is the appropriate place to consider decreasing home valuation. Mulcahy said that was not currently considered in the staff report but that would be the appropriate for the Council to consider.

Mayor Barnhart asked if the applicants wished to make a presentation to the Council.

Mark Buckwalter, Attorney for Columbia Mortuary, representing the applicant. Mr. Buckwalter said there appears to be concern expressed with mercury. He reported that Columbia Mortuary is trying to provide a service to the community. Crematoriums are heavily regulated by Montana Department of Labor and Industry, OSHA, MDEQ and also require proper licensing. At this location it is estimated there will be less than 120 cremations performed annually. The actual operation time will be less than 240 hours a year which is essentially 10 days a year of operation. Mr. Buckwalter handed out detailed information about Mercury emissions from cremation. There are 27 Matthews's crematoriums in the state of Montana. Mr. Buckwalter said the residents will not even know when it will be in operation. This crematorium operates automatically. There is a crematory across the street from St. Matthews School that has not received concerns. Buckwalter said what they really want to express tonight is they are here to provide a service to the community. In 2017 nearly 80% of residents in Columbia Falls chose cremation. The location of the crematory in the garage allows discretion for residents and loved ones. Mr. Buckwalter also provided an example of a house sale in Kalispell that was within 2 blocks of the Johnson Golschat Funeral Home and Crematory.

Troy Knutson, Managing partner at Columbia Mortuary. Mr. Knutson said they are here to serve families, providing care for loved ones throughout the whole process, maintaining full custody of the deceased. It is easy for people to get misinformation and that is why they have provided information from the EPA. They want to continue providing cremation services with 80% of families in Columbia Falls that want cremation locally. Mr. Knutson said in regards to the concerns about the smoke and odor and noise, he has been working in funeral homes for 26 years and has never once had an employee say it was loud. The crematory is self-contained adjusting temperatures with different chambers that burn over 1800 degrees. With the building plan, the stack is fully enclosed and covered, and it will not be noticeable if it is running or not running. Knutson said they will have the privacy to pull into a garage which they do not have now.

**CITY OF COLUMBIA FALLS  
MINUTES OF THE REGULAR MEETING  
HELD NOVEMBER 20, 2017**

Mayor Barnhart asked council if they had any questions for the applicant.

Councilman Shepard asked Mr. Knutson about the 27 crematories in small towns in Montana. Mr. Knutson said of this brand that is correct. Knutson said there are four crematories in the valley. Knutson said some of the misinformation that has been going around is that the crematory was denied the opportunity to relocate in Whitefish, which is inaccurate as it was never brought it up and they did not apply for a permit.

Mayor Barnhart opened the Public Hearing 7:41 p.m.

Monika Paris, 917 3<sup>rd</sup> Ave E. said she has done a lot of reading and in 2005 the EPA decided not to regulate crematoriums. Paris said dentists are changing their way of doing fillings and are not using as much mercury. Paris believes if kids breathe the air in they can get problems with the mercury poisoning. There were people in Detroit getting sick including elderly and children. There are a lot of people that could be impacted by the emissions.

Jana Price, 522 9<sup>th</sup> Street W, representing NiteOwl/Backroom/JJS, read her letter that was submitted to council prior to the meeting expressing concern about the crematory having a direct negative impact on the property they own including the restaurants and Honey Bear School. Price reported that the mortuary uses the Honey Bear School driveway even when kids were just feet away. She reported that the location is close to restaurants and pool. Price said she went to a crematory last week and saw a puff of smoke, heat waves and could smell an odor. It was obvious to her that the unit was in operation. Price said she was told by a different local crematory owner that when you burn human remains there would always be an odor and would have the noise of a generator. He also indicated to her that the unit that Austin Mortuary uses is at least 9 years old. Price said the long term health effects of crematories in close proximity are not clear. The crematory on Highway 2 is not near a residential area. Price stated they do not have anything against the Mortuary but do not want a crematory.

Crystal Hutchisson, owner of Honey Bear Preschool, said her number one concern is the health and safety of the children. She reported that she has to protect children from vehicles zooming through the driveway. Hutchisson said she did listen to a crematory that was in use and it was noisy. Our community stakeholders are investing millions of dollars in our area. Even if everything was true that we wouldn't smell or hear the

**CITY OF COLUMBIA FALLS  
MINUTES OF THE REGULAR MEETING  
HELD NOVEMBER 20, 2017**

crematory in operation, there is still the factor of perception. Hutchisson contacted a local realtor who said property value will decrease due to perception but could not say by what amount. Hutchisson asked Council to take the City's mission statement into consideration before approving the crematory.

Katherine Troiano, 1211 Falcon Acres Loop, Columbia Falls, said one of her concerns is traffic with one door in the alley next door to the crematory. Troiano does not want the children see the bodies being transported as the window from the daycare faces the Mortuary.

Terri Luce, 1811 Tamarack Lane, said her daughter goes to the Honey Bear Preschool. Luce believes this is the wrong location to have the crematory, particularly transporting the deceased in the alleyway. Luce believes that the studies haven't presented enough information and if there are any doubts that this is not 100% safe, she urged Council to discourage the crematory.

Renee Mattingly, 425 11<sup>th</sup> Street W. said it makes her uncomfortable not knowing all the facts. Mattingly said it is discouraging to make the community uncertain and asks Council to please look at the families that may be affected.

Sheena Pate, 1116 4<sup>th</sup> Ave W., concerned with home values decreasing along with the possible health effects. Pate said crematories produce dangerous pollutants linked to serious health problems, especially for children. Pollutants include mercury, dioxins, dibenzofurans, sulfur dioxide, nitrogen oxide and hydrogen chloride. Cremations are trending and are more affordable and will increase through the years. Pate appreciates Columbia Mortuary wanting to bring business to Columbia Falls but believes the crematorium should be outside the city limits.

Kay Parkinson, 1125 5<sup>th</sup> Ave W. said she lived next to a mortuary in another community and has many concerns. If the crematorium is allowed you will not want to open you windows at night as most of them run at night. Parkinson believes those individuals with breathing difficulty and children will be most impacted. This should not be allowed in a residential area and may impact our property values.

Gail Mclean, 329 4<sup>th</sup> Ave W, stated there have been positive improvements in the community. She doesn't think the community wants a crematory in the middle of town. This corporation is not showing respect or

**CITY OF COLUMBIA FALLS  
MINUTES OF THE REGULAR MEETING  
HELD NOVEMBER 20, 2017**

consideration for people that live here. Mclean said she is not opposed to the crematory in the proper place. Mclean would like to encourage city council to vote against the crematory in the city limits.

Laurie Panasuk, 333 9<sup>th</sup> Street W., said we are all going to be their customers someday and that these guys are great guys. Panasuk said it is a matter of perception for her, wouldn't want an odor. She believes the crematory would be the wrong area and is opposed to it.

Joel Hewitt, 835 4<sup>th</sup> Ave E., said he grew up in Kalispell and when they bought their home in Columbia Falls they were looking close to the post office, schools and such. The perception and reality is that nobody wants to live next door to a crematory. He believes cities build around crematories as opposed to crematories built in the city.

Mayor Barnhart closed the public hearing at 8:22 p.m. and asked the applicant if they had anything further to add.

The applicant, Troy Knutson said he appreciates everyone's concerns and wanted to add that the resident who lives closest to the proposed crematory is in full support of the crematory and they included a letter from her in their packet.

Councilman Shepard asked about the driveway problem that people are reporting. Knutson said there is an alley down the backside of the property. They try to protect neighbors of not seeing what they do. He said he has not witnessed speeding down the road and would not participate in that. Being able to pull into a garage will be private and give the opportunity to unload without being seen. Knutson said the crematory in Whitefish is not going to stay there as the lease on the Whitefish property was not renewed.

Mayor Barnhart asked where transfers are made currently. Mr. Knutson said on the backside of the building in the alleyway. Mayor asked if the transfers are currently done in public view. Mr. Knutson responded affirmatively.

Councilman Piper asked where the Whitefish facilities will be when you move. Troy said they are relocating the funeral home in Whitefish.

Council Shepard asked if the alley was a regular city alley. City Manager Nicosia said yes, it is platted at 12' and there are setback requirements when CB-2 abuts residential. Mulcahy said the proposed addition would

**CITY OF COLUMBIA FALLS  
MINUTES OF THE REGULAR MEETING  
HELD NOVEMBER 20, 2017**

be 27 feet from the property line. Mayor Barnhart remarked how close Honey Bear Preschool is to the property line. Mulcahy noted that is non-conforming and has been grandfathered.

Councilman Shepard reported that he researched mercury emissions and in 2006 with the amount of forest fires in the valley, there were 2 tons of mercury emissions in the air. Shepard said he has a friend that runs a crematory and has owned it for 43 years. The closest house is 4 feet away and has not had one complaint. He assured him there is a lot of junk science out there. Shepard said he would not agree to bring something unhealthy into the city.

Councilman Fisher said perhaps Council could amend the findings of facts to recognize the discussion.

Councilman Karper said concerning mercury if you look at the science the levels are low enough to not affect the children. He would not approve anything that will harm city residents. The thing that bothers him is on page 7, section D of the staff report, we may want to rephrase that section. What people have to realize is we can't arbitrarily say no we don't want it there, we need to have a reason to say no or we can get into trouble. The company has a right to do business here. Is it considered a detrimental impact to the immediate neighborhood?

Councilman Piper believes it does come down to perception but we have to promote businesses expanding and growing. This has been a good neighbor since 1966 but does not know if a crematory expansion will fit the fabric of the neighborhood.

Mayor Barnhart said he researched and listened to what folks are saying. He has not seen proven facts that there is a health risk from mercury emissions but he believes this is detrimental to the neighborhood. Council legislates on facts. Mayor Barnhart believes there will be a negative impact on property values.

Councilman Fisher motioned to amend Staff Report CCU-17-02, second by Councilman Shepard.

Councilman Karper suggested amending the paragraph on page 7 item d. as follows: The proposed use will ~~not~~ likely be detrimental to abutting properties in particular and the neighborhood in general. The City Council is concerned about decreased property values and neighborhood compatibility.

**CITY OF COLUMBIA FALLS  
MINUTES OF THE REGULAR MEETING  
HELD NOVEMBER 20, 2017**

Councilman Karper moved to approve the amendment to item d as stated, second by Councilman Piper and the motion passed unanimously.

Councilman Fisher motioned to amend item D. section iv, Smoke, Fumes, Gas, or Odors: The proposed crematory will not generate smoke or fumes that are noticeable by the public but will have generate standard crematory emissions including but not limited to mercury, sulfur dioxide and nitrogen oxide. Second by Councilman Karper and the motion carried.

Councilman Karper motioned to approve Staff Report CCU-17-02 as amended, second by Councilman Piper with Council voting as follows. AYES: Piper, Shepard, Fisher, Karper and Barnhart. NOES: None. ABSENT: Lovering and Petersen.

Councilman Karper made motion to deny the Conditional Use Permit based on the amended staff report and testimony provided by the public and the applicant, second by Councilman Shepard with Council voting as follows. AYES: Shepard, Fisher, Karper, Piper and Barnhart. NOES: None. ABSENT: Lovering and Petersen.

Mayor Barnhart suggested a 5 minute recess.

**UNFINISHED BUSINESS**

None.

**UNFINISHED  
BUSINESS**

**NEW BUSINESS:**

**A. Disposition of Surplus Property**

City Manager Nicosia said pursuant to State Statute, the City Council must declare their intent to sell or dispose of surplus assets, providing for a 15 day public comment period. Public Works is requesting disposal of a 1978 GMC Truck/Sander.

**NEW BUSINESS-  
Surplus Property**

Councilman Piper motioned to approve the declaration of intent to dispose of the 1978 GMC Truck/Sander as surplus property, second by Councilman Shepard and the motion passed.

**ORDINANCE/RESOLUTIONS:**

A. Resolution # 1764 - A Resolution of the City Council of the City of Columbia Falls, Montana, Designating the Planners of the Night Of Lights 2017 and Designating Night Of Lights 2017 Parade as an Official Activity of the City of Columbia Falls.

**RESOLUTION  
#1764-Night of  
Lights**

Councilman Karper motioned to approve Resolution #1764, second by Councilman Fisher with Council voting as follows. AYES: Fisher, Karper, Piper, Shepard and Barnhart. NOES: None. ABSENT: Lovering and Petersen.

**CITY OF COLUMBIA FALLS  
MINUTES OF THE REGULAR MEETING  
HELD NOVEMBER 20, 2017**

**REPORTS FROM  
MAYOR AND  
COUNCIL**

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

Councilman Karper asked about the proposed entrance to Nucleus Avenue.

Nicosia presented the diagrams that were given to the City by O'Brien Byrd and Mark Johnson.

Karper said his neighborhood was looking a little rough due to seeding not being completed. Nicosia noted that the landscaping completion is a punch list item that will be completed next spring.

Councilman Shepard asked who is going to plow the sidewalks on Hwy 2.

Nicosia said it will be up to the property owner per city code. The City will send out letters to the adjacent property owners in the next week or so.

Councilman Fisher noticed on the claims report that the City paid for Horine park pavilion and he wondered when it would be done. Nicosia said that was the claim for the engineering, the next step will to get proposals to build the pavilion.

Mayor Barnhart said the decals on the city trucks are fading and he would recommend having them upgraded very soon.

Mayor Barnhart asked where we are on the wayfinding signs. Nicosia said MT DOT will not approve the encroachment permit until after the Hwy 2 project is completed.

Mayor Barnhart followed up on the request for a Public Safety Committee meeting. Nicosia said Judge Gordon has an Attorney General opinion she would like to discuss with the council. Mayor Barnhart requested that the manager schedule a meeting with the City Attorney and Judge Gordon to discuss the issue.

**REPORT FROM  
CITY ATTORNEY**

**REPORTS/BUSINESS FROM CITY ATTORNEY:**

None.

**CITY MANAGER:**

Nicosia reported on the Special Legislative session actions that included revenue transfers and budget reductions that may have an impact on the City.

**CITY MANAGER  
REPORT**

The Columbia Falls Baseball Assn. has been given the green light by DNRC to begin the stadium replacement. Nicosia noted that the City will contribute \$1,000 of the bldg. permit fee pursuant to resolution.

Nicosia reported that she has approached Calbag about using the pond excavation for fill at the CFAC site. Cliff had indicated that they did not have the equipment to haul it. FVCC will excavate and haul for the price of fuel. Mayor Barnhart asked if they are going to do that in the winter. Nicosia replied that was the plan. They also need to coordinate with EPA/DEQ.

Casey Malmquist will present his SmartLam power point presentation to

**CITY OF COLUMBIA FALLS  
MINUTES OF THE REGULAR MEETING  
HELD NOVEMBER 20, 2017**

Council on Monday, Dec. 4<sup>th</sup> The City will be working with Columbia Rising LLC and SmartLam in the coming months on a platted industrial park at the former Weyerhaeuser site.

- A. INFORMATIONAL CORRESPONDENCE** - List available for Review
- A. INFORMATIONAL CORRESPONDENCE - List available for Review
- B. REPORTS:
  - a. Finance - October 2017
  - b. Police - October activity

**CORRESPONDEN  
CE/REPORTS**

**ADJOURN**: Upon motion duly made by Councilman Fisher and seconded by Councilman Shepard the meeting adjourned at 9:36 p.m.

**ADJOURN**

\_\_\_\_\_  
Mayor

ATTEST:

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

APPROVED BY COUNCIL ACTION: December 4, 2017