

# Canal Winchester

*City Hall  
Council Chambers  
45 East Waterloo Street  
Canal Winchester, OH 43110*



## Meeting Minutes - FINAL

May 15, 2023

7:00 PM

### City Council

*Chuck Milliken - President*

*Bob Clark - Vice President*

*Laurie Amick*

*Jill Amos*

*Steve Buskirk*

*Patrick Shea*

*Mike Walker*

- A. Call To Order            *Milliken called the meeting to order at 7:02 p.m.*
- B. Pledge of Allegiance *Shea*
- C. Roll Call                *Present 7 – Amick, Amos, Buskirk, Clark, Milliken, Shea, Walker*
- D. Approval of Minutes

[MIN-23-018](#)

May 1, 2023 Public Hearing Minutes

*A motion was made by Buskirk, seconded by Amos to approve MIN-23-018. The motion carried with the following vote:*

*Yes 6 – Buskirk, Amos, Milliken, Shea, Walker, Amick*

*Abstain 1 – Clark*

[MIN-23-019](#)

May 1, 2023 Work Session Minutes

*A motion was made by Amos, seconded by Buskirk to approve MIN-23-019. The motion carried with the following vote:*

*Yes 6 – Amos, Buskirk, Milliken, Shea, Walker, Amick*

*Abstain 1 – Clark*

[MIN-23-020](#)

May 1, 2023 City Council Meeting Minutes

*A motion was made by Amick, seconded by Buskirk to approve MIN-23-020. The motion carried with the following vote:*

*Yes 6 – Amick, Buskirk, Milliken, Shea, Walker, Amos*

*Abstain 1 – Clark*

E. Communications & Petitions

[COM-23-006](#)

Madison Township Police Statistics April 2023

[COM-23-007](#)

National Public Works Week Proclamation

*Whereas: Public works professionals focus on infrastructure, facilities and services that are of vital important to sustainable and resilient communities and to the public health, high quality of life and well-being of the people of Canal Winchester; and Whereas these infrastructure, facilities and service could not be provided without the dedicated efforts of public works professionals, who are engineers, managers and employees at all levels of government and the private sector, who are responsible for rebuilding, improving and protecting our nation's transportation, water supply, water treatment and solid waste systems, public buildings and other structures and facilities essential for our citizens; and Whereas, it is in the public interest for the citizens, civic leaders and children in Canal Winchester to gain knowledge of and to maintain an ongoing interest and understanding of the importance of public works and public works programs in their respective communities; and Whereas, the year 2023 marks the 63<sup>rd</sup> annual National Public Works Week sponsored by the American Public Works Association/Canadian Public Works Association be it now, Resolved, I,*

*Michael L. Ebert, Mayor of the City of Canal Winchester proclaim the week May 21-27, 2023 as Nation Public Works Week. I urge all of our citizens to join with representatives of the American Public Works Association and government agencies in activities, events and ceremonies designed to pay tribute to our public works professionals, engineers, managers, and employees and to recognize the substantial contributions they make to protecting our national health, safety and quality of life.*

**COM-23-008**

Columbus Metropolitan Library Letter

**F. Public Comments - Three Minute Limit Per Person**

**G. Reports of City Officials and Staff**

*Mayor's Report*

**Discussion started at 1:04:42 on YouTube Channel**

*Ebert – I really don't have anything else in addition to my report. I do want to remind everybody that this Wednesday is the spaghetti dinner from 5:00 p.m. to 7:30 p.m. Friday night begins the first Music in the Park of the year from 6:00 p.m. to 9:00 p.m. In the first week of June, we have Fishing Day, which is a new event, and that's going to be June 3<sup>rd</sup> from 11:00 a.m. to 3:00 p.m. at Howe Pond, which is in the Canal Pointe Industrial Park.*

**April 2023 Mayor's Court Report**

***A motion was made by Amos, seconded by Shea to approve the April 2023 Mayor's Court Report. The motion carried with the following vote:***

***Yes 7 – Amos, Shea, Walker, Amick, Buskirk, Clark, Milliken***

*Fairfield County Sheriff*

**Discussion started at 1:06:05 on YouTube Channel**

*Sgt. Walker – I do not have a written report for you this evening, but I'd be happy to take questions if you have any.*

*Shea – Who patrols Lithopolis Road right in front of the middle school? Is that you guys, or is that Madison Township?*

*Sgt. Walker – Us.*

*Shea – I saw that there were 12 parking tickets on here. I just want to say thank you because the residents over there at the condominiums do appreciate the efforts that we're making to keep diesels from idling next to their homes.*

*Sgt. Walker – Sure thing.*

*Law Director*

**Discussion started at 1:06:44 on YouTube Channel**

*Boggs – I did have a written law director's report this week referring to the setting of a hearing on approval of a joint economic development district contract. In that case, the request is for council to set a public hearing on that contract for June 19<sup>th</sup> at 5:30 p.m., which would be before your work session on that evening. This is to comply with a 30-day notice period operating under the JEDD statutes. I'm happy to*

answer any questions you may have about that, but otherwise, I would request that council move to set that hearing date for June 19<sup>th</sup> at 5:30 p.m., and we will get the newspaper publication out.

**A motion was made by Shea, seconded by Amos, to set a Public Hearing for a JEDD contract on June 19<sup>th</sup> at 5:30 p.m. at City Hall. The motion carried with the following vote:**

**Yes 7 – Shea, Amos, Buskirk, Clark, Milliken, Walker, Amick**

Finance Director

**Discussion started at 1:08:15 on YouTube Channel**

Jackson – Along those same lines, we are required to have a public hearing for the tax budget. I would like to do the tax budget public hearing at your next meeting. This is where I give my presentation to you, so if council agrees, we'd like to do that at 5:30 p.m. on Monday, June 5<sup>th</sup>. I just wanted to very briefly touch on the fact that we've held two of our four pool membership open houses, and they've gone very well. We have another one scheduled for tomorrow night from 5:00 p.m. to 7:00 p.m. and this Sunday from 3:30 p.m. to 5:30 p.m. After those open houses, people will be required to come into our office during normal business hours in order to complete their membership. I highly encourage anyone who can make it to these next two drives to do so. We will get you in and out as quickly as possible. You will have your picture taken. You will have your cards, and as soon as the pool opens next Friday, you'll be able to scan yourself in and have a grand old time. We are also doing one tomorrow during the day at senior lunch to help out those who may be interested in purchasing a senior membership. I'd be happy to answer any questions.

Amos – Thank you for having hours that are convenient for families.

Jackson – We try to do different days of the week at different times to accommodate as many people as we possibly can.

**A motion was made by Amick, seconded by Buskirk, to set a Public Hearing for the 2024 Tax Budget on June 5<sup>th</sup> at 5:30 p.m. at City Hall. The motion carried with the following vote:**

**Yes 7 – Amick, Buskirk, Clark, Milliken, Shea, Walker, Amos**

Public Service Director

**Discussion started at 1:10:19 on YouTube Channel**

Peoples – Just a couple of items to add to my written report: this weekend there was a tire drive in partnership with Madison Township and Franklin County Public Health. There were 130 people in the line and approximately 800 tires that were taken from the Madison Township area. Last weekend, the Lions Club cleaned up the interchange. They picked up 12 bags. We've been working with the VFW on a Hometown Heroes Banner Program. Last Thursday night at their meeting, they approved the design, so we're working with Mrs. Woodruff on getting some of those materials.

Development Director

**Discussion started at 1:11:20 on YouTube Channel**

Haire – I wanted to note that KDC/One, which operated on Winchester Boulevard, has seized operations there. They lost their contract with the entity they were providing services for, so that makes 60,000 square feet available again for sublease. They've completely cleared that out. They had about 100 employees in that operation. Most of those were absorbed back into their locations in either Groveport or New Albany. It wasn't an employee loss as a result of that, but we are looking for another tenant in that area. Turbo Wash has notified us that they're going to proceed with construction. They've paid for the

*permits and picked them up. It's going next to Panera, so they should break ground here in the next few weeks. I'd be happy to answer any questions you all have.*

*Amick – KDC/One—was that the facility that we visited that did the Tide Pods for P&G and sort of described themselves as an innovation test bed for packaging?*

*Haire – Yes.*

*Amick – If I recall correctly, there isn't a ton of automation already in that building.*

*Haire – Correct. They've basically cleared out any of the equipment that they had in that facility, so it's just a shell again. They're offering that for sublease.*

*Clark – With the Turbo Wash going in next to Panera, are there any outparcels left?*

*Haire – There is one additional outparcel that will be between the car wash and the Wright-Patt Credit Union.*

*Amick – Is there any update from Ohio Health on their recent acquisition?*

*Haire – No. The mayor and I have a call scheduled with them for late this month.*

## H. Resolutions

### RES-23-016

*Council*

*Sponsor: Shea*

A RESOLUTION ESTABLISHING THE COMPENSATION FOR THE OFFICE OF THE MAYOR OF THE CITY OF CANAL WINCHESTER FOR THE PERIOD OF JANUARY 1, 2024 THROUGH DECEMBER 31, 2025

*- Adoption*

*A motion was made by Shea, seconded by Amos, to amend RES-23-016 (A. 40,000) to remove the eligibility for family coverage. The motion carried with the following vote:*

*Yes 4 – Shea, Amos, Walker, Amick*

*No 3 – Buskirk, Clark, Milliken*

*A motion was made by Shea, seconded by Amos, to adopt RES-23-016 (A. \$40,000). The motion carried with the following vote:*

*Yes 5 – Shea, Amos, Clark, Walker, Amick*

*No 2 – Buskirk, Milliken*

A. Amend Mayor's Salary with City Administrator to \$40,000 per year

*Discussion started at 1:13:56 on YouTube Channel*

*Shea – I would like to vote on A. for \$40,000.*

Amos – Just to confirm, you’re leaving the car allowance as written at \$500 a month. Family or single coverage for insurance? The rest of us get single coverage, that’s why I said single.

Shea – I’ll do single.

Amos – Just for our purposes, \$40,000 in salary, \$6,000 in car allowance, and single coverage equals \$63,200 in compensation.

#### I. Ordinances

**Tabled**

**Third Reading - NONE**

**Second Reading - NONE**

**First Reading - NONE**

#### J. Council Reports

Committee of the Whole - Tuesday, May 30, 2023 at 6:00 p.m.

Public Hearing - Monday, June 5, 2023 at 5:30 p.m.

2024 Tax Budget

Work Session/Council - Monday, June 5, 2023 at 6:00 p.m.

CW Human Services - Walker

**Discussion started at 1:19:33 on YouTube Channel**

Walker – For the month of April, Human Services served 430 people and provided 6,450 meals. They are continually serving new clients each day. They foresee the numbers increasing all year and are looking to hire a seventh driver to help accommodate the increase in their senior transportation program. They’re very thankful for the city’s support and funding to make the service free and possible for our residents. The senior prom was such a huge success and well attended. The theme was Cinco de Mayo this year, and there was a meal and dessert to go along with the theme. They’re asking if you could share a bit of what you experienced. That would be great. The Canal Winchester Student Council and Spanish Club did a wonderful job, and they provided transportation to several seniors so they could attend the prom. For events and fundraisers every Tuesday for the month of June, Loose Rail will be donating 10% of its profits to Canal Winchester Human Services. The Brock Walk will take place on June 8<sup>th</sup> and 9<sup>th</sup>, and bags will go out on the 8<sup>th</sup> and be collected on the 9<sup>th</sup>. This is from Aletha Mullins, the Director of Human Services.

CWICC - Amick

**Discussion started at 1:21:14 on YouTube Channel**

Amick – I have nothing new to report. Our next meeting is June 29<sup>th</sup> at 11:30 a.m. here in Council Chambers.

CWJRD - Amos/Shea

**Discussion started at 1:21:25 on YouTube Channel**

Amos – Mr. Shea and I will be hosting CWJRD Thursday night, May 18<sup>th</sup>, at 7:00 p.m. at Town Hall. I did ask Greg to come to the next meeting just to give the council an update. If anybody has any specific questions they want answered, please don’t hesitate to email me, and I will make sure he gets them answered at the next meeting.

*Destination: Canal Winchester - Milliken*

**Discussion started at 1:21:55 on YouTube Channel**

*Milliken – The Art on the Canal Stroll is this Saturday from noon to 6:00 p.m. I saw the alert go out for the road closures, so that’s good. There’s a large variety of artists, music, and dancing, as well as food trucks. The first farmers market will be next Saturday, May 27th, from 9:00 a.m. to noon. For a list of the vendors that will be setting up each Saturday, follow the Canal Winchester Farmers Market Facebook page. Vendors are listed each Friday.*

*Chamber of Commerce - Buskirk*

**Discussion started at 1:22:30 on YouTube Channel**

*Buskirk – Our membership is holding strong at 164. They recently had eight new members. They’re continuing to reach 10 non-members each week, trying to gain memberships. On Friday, May 12th, we had our golf outing. We had about 75 people in attendance for that. There were 16 different companies and their representatives at the golf outing. The next event we have coming up is June 15<sup>th</sup>; it’s a networking night, and that’ll be held here at the community center.*

*Milliken – I think each time you’ve reported those numbers, they keep going up.*

*Buskirk – The memberships are really close, but we gain a few members and lose a couple, but they are going up slowly. I am pleased that they’re reaching out to new members each week and trying to increase that number. They are trying to make improvements.*

## **K. Old/New Business**

**OTH-23-008**

Deliberation and Vote on Appeal

**Discussion started at 1:23:34 on YouTube Channel**

*Milliken – At this time, the chair would like to recognize Mrs. Tammy Elliott and her husband, David.*

*Elliott – I don’t think we have much more to say. I do want to say that whatever your decision is, I respect it. As a long-time realtor and a resident of Canal Winchester, I do take a lot of pride in this community, as you obviously do. I still feel that, as my husband said, some of the comments that were made to us were degrading, and originally, when I spoke to Andrew Moore when we began this process, he made a comment to me that, based upon what you paid for the property years ago, it shouldn’t matter what you need to spend. That was just so inappropriate. Whatever your vote is, we will respect that because that’s just the way that we are. However, one thing I would love to find out from Mr. Boggs is, as a homeowner, and I’m not referring to us, but as a homeowner, I sell homes in Canal Winchester, and if I am ever asked, what are the legal ramifications if we choose to do what we want? Again, I’m not talking about us in particular, but any homeowner that lives in the old town district that did not go through the process that we went through. What are the legal ramifications? We’ve already been told that Landmarks does not monitor this. It’s not their job to monitor. That’s a question that I feel should be public information. What can the city legally do? Is it a fine? Is it a lien on your property? What if somebody goes and puts \$25,000 in their home, and then the Landmarks Commission finds out that they didn’t get all this approved? I know Mr. Lynch made the comment that they work with people to get it approved. Well, how many people would have the money to tear off \$25,000 of work and then put another \$35,000 into it? What would you do to them legally? I feel it’s very unfair, and I know life is unfair. I just want your eyes open. I’m fighting more for change than saving money in our pockets. Yes, it’s an investment property, but that may be our personal home someday. Regardless of whether we’re an LLC or we live in it that had nothing to do with*

*what we wanted to do. We wanted to improve the property. There are many other homes in that neighborhood that need improving, and maybe if they were removed from the preservation district like it's been talked about, more people would improve their properties. Very few people can afford to do the style of remodeling that Mr. Lynch does. Maybe we can open your eyes. They aren't monitoring this. It's not fair. It's not fair that people like us come and follow the process and do what's right. It really leaves a very bad taste in my mouth to represent and sell this community. Just like all of you, I want this to remain the lovely community it is. Things have to change. The comments that were made were not fair. Again, I would like to know what the ramifications are for anyone who is a homeowner. The council needs to stick to it, and they need to do it.*

*Amos – I don't know if Mr. Haire can comment on some of the questions. I know that when I've asked Mr. Moore in the past, I've had him explain some of this to me.*

*Haire – I'm not qualified to speak on the legal ramifications of a pending case before us. I would defer to Mr. Boggs on any of that.*

*Boggs – I can address both the current appeal and, generally, the remedies that are available to the city for zoning-type issues, which is ultimately what this would be. On the appeal is the question of whether to affirm or reverse what the Landmarks Commission determined on Elliott's appeal. If you were to affirm the Landmarks Commission, the Elliott's would have the right to appeal that determination to either the Franklin County Environmental Division or the Franklin County Court of Common Pleas. It would go through an administrative appeal process there. If you were to reverse the Landmarks Commission, then other property owners theoretically could appeal that, but because no one who was a grievated party, I believe, showed up and testified against it in the public hearing, there'd be no appeal route if you reversed the Landmarks Commission and granted their certificate of appropriateness. That's the legal process in this particular appeal process. As a general matter, if somebody does work without getting the certificate of appropriateness in the historic districts, the city can file complaints in the mayor's court, which are punishable as misdemeanor offenses. Those can include fines and potentially even jail time; I believe they are fourth-degree misdemeanors. It's a fine of up to \$250 and up to 30 days in jail. That jail time can be suspended, and the court would order as a condition of suspending that jail time that remedies be made to the property to bring it into compliance. The other option that would be available to the city would be to file a civil action in the Franklin County Environmental Court, and through that action, the city could ask the court to order that property be brought into compliance. It could be something as drastic as tearing off work that was done without the required permits. It could be setting a timeline for people to do that and, if they fail to do it, finding them in contempt of court. It can kind of really go from there in environmental court.*

*Milliken – Is there any statute of limitations on any violations?*

*Boggs – For the mayor's court, the way that the code is written is that every continuing day of non-compliance is a new violation. For the civil injunction, that's a little bit of a different question because it operates under a different set of legal principles and a different statute of limitations.*

*Amos – Is there any statute of limitations on the other end for somebody who's done it and then somebody reports them? Is there a time frame?*



*Boggs – In theory, a mayor’s court complaint could be filed on a violation that occurred five years ago, like a shed that was put in the yard without the required permits. Five years ago, ten years ago, every day that it remains there is a violation, a separate violation. Honestly, as to the civil case, from a practical perspective, we could probably move forward with that as well. It’s just that the analysis is a little different, so I’d have to look at it on a case-by-case basis.*

*Haire – We did fully examine that neighborhood in terms of who has applied for Landmarks improvements, what improvements have been made in the last 20 years, and what we had through photographic evidence back to 2007. It looks like there were five Landmarks cases that were approved in that area. Of those five, two were adding vinyl siding. They also had a case where it was denied. There are four cases that were identified where people did not receive a certificate of appropriateness. Everything from adding a section of vinyl fencing to someone adding shutters to their home without approval, as well as an applicant adding vinyl siding to a garage. There’s a home sometime between November of 2019 and May of 2020, so right at the beginning of COVID, there was an applicant that replaced the siding on their home. It’s approximately across the street from the applicant’s home. They did not receive a permit to do so.*

*Elliott – I think it was last fall when our neighbor put all new windows in.*

*Haire – You can’t determine that from photos. You wouldn’t be able to determine windows unless there was a major change.*

*Shea – Well, it sounds like we’ve got a problem with consistency in enforcement.*

*Milliken – I hope that you picked up on that from our discussion regarding the Committee of the Whole meeting coming up. The whole topic of that meeting is birthed from this. This isn’t the first case that we’ve had before us. I personally would like to remedy it. It is not fair.*

*Boggs – I think before going on to say what is or isn’t fair for purposes of this current appeal, I want to make sure that we’re understanding council in one sense with respect to the Elliott’s appeal, which is sitting as a tribunal, a quasi-judicial body. On the other hand, you act as policymakers with regard to the Landmarks Commission’s boundaries, their criteria for approval, etc. Right now, this is on your agenda for deliberation on the appeal and potentially a vote on the appeal. If you are in that mode, I would encourage you to stick to that mode and the public hearing testimony you took in last week, as well as the criteria in your code to evaluate Landmark’s Commission’s decision. If you want to continue that discussion until, for example, June 5<sup>th</sup> after the Committee of the Whole, you could do that and still be within 60 days.*

*Amos – What is our time frame for casting a vote?*

*Boggs – Under your code, which is your own code, you could waive the timing requirements if you wanted to. You have 60 days from the filing of the notice of appeal from the Landmarks Commission to issue a decision. The appeal was filed on April 6<sup>th</sup>, so 60 days from April 6<sup>th</sup> would be June 5<sup>th</sup>.*

*Milliken – Do we push it back, or do we do this tonight?*

*Amick – I personally would like to leave it on and not vote on it this evening until we have our Committee of the Whole meeting.*

*Shea – I would agree with Mrs. Amick. There are several things here. First, we have a code that was written by previous councils, but it is still the code and the law of the city that we're supposed to follow. I do understand their perspective as the property owner. I mean, I'd be fit to be tied if somebody told me I couldn't do something to my property. I've lived in neighborhoods with homeowner associations. I don't live in those anymore. I try to pick where I live so I don't have that kind of restriction, but unfortunately, they have an investment property that's in that area. We've got inconsistencies in the application of the code, and I think it would be better to wait until we have that discussion. I think you might be more satisfied with the results if you can be patient with us.*

*Elliott – We do appreciate it, and I think it's opened your eyes to the fact that there are issues.*

*Amick – I, for one, very much appreciate your willingness to try to do the right thing and follow the process.*

*Elliott – I'm a fighter. I believe in what I believe in.*

*Amos – I agree with Mrs. Amick. We've all said over the past couple of years that there are several questions that we need to get answered and things we want to look at. I would appreciate your patience. I realize it's not what you prefer right now.*

*Milliken – I just have one question. I'm not against delaying it. I would like to know why. Nothing coming from that Committee of the Whole meeting is going to change any circumstances immediately that are going to benefit their situation. I guess I just want to understand the reasoning behind waiting until after that meeting.*

*Shea – Because we might be able to change the code.*

*Milliken – None of that would happen immediately.*

*Amos – Mr. Boggs said we can override our own rule and extend the 60 days out in order for us to make accommodations should we feel that's the appropriate step, and we can modify it to give ourselves a little extra time to modify anything we felt needed changed overall.*

*Shea – I think the bigger issue is the unequal application of the code in the old town district areas.*

*Boggs – I just want to be really careful about, you know, all due respect to Mr. Shea's comment about the unequal application of the code. There's a difference between an equal application of the code and enforcement of this or any other code based upon the resources that are available and assigned at any time, so just because prior non-compliance with the code was not immediately identified or the city may choose not to pursue it given the passage of time does not mean from a legal perspective that the code is not being equally applied. Everybody is being treated on legally fair and equal terms, but there are resource constraints with regard to monitoring and enforcement that are just realities that the law accepts.*

*Milliken – Understood.*

L. Adjourn to Executive Session (if necessary)

M. Adjournment @ 7:47 p.m.

*A motion was made by Shea, seconded by Buskirk to adjourn. The motion carried with the following vote:  
Yes 7 – Shea, Buskirk, Clark, Milliken, Walker, Amick, Amos*