

Canal Winchester

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



Meeting Minutes - FINAL

June 5, 2023

6:00 PM

Council Work Session

*Bob Clark - Chair
Laurie Amick
Jill Amos
Steve Buskirk
Chuck Milliken
Patrick Shea
Mike Walker*

A. Call To Order

Clark called the meeting to order at 6:15 p.m.

B. Roll Call

Present 6 – Amick, Buskirk, Clark, Milliken, Shea, Walker

A motion was made by Amick, seconded by Shea to excuse Mrs. Amos from the Work Session meeting. The motion carried with the following vote:

Yes 6 – Amick, Shea, Walker, Buskirk, Clark, Milliken

C. Also In Attendance

Mayor Ebert, Matt Peoples, Lucas Haire, Amanda Jackson

D. Request for Council Action**RES-23-015**

Council

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

- Tabled

A motion was made by Shea, seconded by Buskirk to untable RES-23-015. The motion carried with the following vote:

Yes 6 – Shea, Buskirk, Clark, Milliken, Walker, Amick

A motion was made by Shea, seconded by Buskirk to move RES-23-015 to Full Council. The motion carried with the following vote:

Yes 4 – Shea, Buskirk, Clark, Amick

No 2 – Milliken, Walker

Discussion started at 47:27 on YouTube Channel

Clark – Do you want to talk about the letter you received?

Boggs – As we had previously discussed, the issue of an interim pay increase for members, which is provided for in the charter, raised a potential issue under the Ohio Ethics Law, as did the notion of conditioning the increase for the second year of the biennium upon employees receiving a cost-of-living adjustment for that year as well. I submitted on behalf of the city a request for an opinion from the Ohio Ethics Commission to make sure that those issues were in the clear and to determine whether they were permissible or not under ethics law. The Ohio Ethics Commission returned its opinion stating that that is not permissible, so the way that the ordinance is currently written, it is conservatively written, assuming that the Ohio Ethics Commission may come out that way. There's no need to revise the legislation that is before you this evening. If it is adopted, then members who are elected to new terms at this year's November election will receive the increased salary that is contemplated, and it would be a lockstep increase for the second year of the biennium regardless of whether a cost-of-living adjustment is initiated for employees in that year.

Clark – So, we'll have council members making different amounts of money. Some will get the increase, and some will have to wait.

Boggs – Right.

Clark – At the same time, in those two years, there might be another resolution for another pay increase,

which would then affect the other batch of members. Am I understanding correctly?

Boggs – Yes. It is conceivable that in 2025, a pay increase would be passed that would affect only those members who were elected and took office in January 2026. They may then leapfrog the people who were elected in November of this year, but because of the way this opinion came out and the way council sets its salary under the charter and has to do so every two years, I don't know that there is a way to avoid that.

Clark – They could vote for it; they're just realizing they wouldn't get it.

Boggs – Exactly. Even if they abstained from it, they would not be able to receive it.

Clark – If four people abstained and three voted for it, would it pass?

Boggs – It has to have four votes to pass council. Everybody can vote on it; it's just that the people who will be incumbents staying on into the new year won't be able to get that raise. The intervening election, whether that's for the at-large term or for the balance of the unexpired term, cuts off so whoever's elected would be able to get the increase.

Clark – How many people have you seen follow this?

Boggs – I have not really done a survey, but I suppose there are times when people increase their compensation without having an intervening election. The only complicating factor here was the charter and the charter language, which specifically said that there may be an interim pay increase. Even under state law, the county commissioner wouldn't have that, so there's no circumstance I can think of where a county commissioner should be able to vote for his or her own pay increase without there being some intervening election.

Clark – Mrs. Jackson, do you know if we've increased pay in past years that people have taken before they were up for election? The pay has never increased since I've been on council.

Jackson – I'd have to go back many years because the city council has not taken a raise in recent memory, but I can look for you.

Boggs – When I drafted the letter to the ethics commission asking for the advisory opinion, I went back to... I can't remember if it was 2013 or 2015, and it hadn't been raised at least since then. I was happy to be able to say that no current members of council, at any rate, had their pay increased in term.

Amick – This is applicable to both a straight-out pay increase and the cost-of-living increase, correct? It applies to both.

Boggs – The question that was posed was whether council could make their second year increase contingent upon them approving a budget that would have a cost-of-living increase for employees. The commission said no to that because, in exercising council's discretion over the cost-of-living increase for employees, they may be more influenced by the extra few hundred dollar raise that they would get than the welfare of the city, but council is not prevented from, at this point, building in the second-year increase. It would take effect regardless of whether a budget approves the cost-of-living adjustment for employees because those council members who would receive it wouldn't be exercising discretion at that time. That discretion is being exercised on their behalf now.

Milliken – *Forgive me if I make you repeat yourself; I just want to be absolutely clear: right now, there's basically no reason for anybody to have to abstain from this vote.*

Boggs – *Correct.*

Milliken – *And this opinion you received from the ethics commission is part of the public record?*

Boggs – *Yes.*

Milliken – *We do this every two years, correct?*

Boggs – *Correct.*

Milliken – *Would it be possible, Miss. Pearce, for the next time we do this, to make yourself a note two years from now to include that opinion in this discussion? Is that possible? Would you be able to remember that?*

Pearce – *I can make note of it, yes.*

Milliken – *Hopefully we'll remember, but I think it would be beneficial the next time we talk about that.*

Boggs – *It would also be relevant for the 2025 charter review commission because the charter is in conflict with what this opinion now says.*

RES-23-021
Development

A RESOLUTION TO AUTHORIZE THE MAYOR TO ENTER INTO A ROAD
MAINTENANCE AGREEMENT WITH DILEY RIDGE MEDICAL CENTER, LLC
- Request to move to full Council

A motion was made by Buskirk, seconded by Walker to move RES-23-021 to full Council. The motion carried with the following vote:

Yes 6 – Buskirk, Walker, Amick, Clark, Milliken, Shea

Discussion started at 58:43 on YouTube Channel

Haire – *This would allow the city to enter into this roadway maintenance agreement. This would be for the Diley Ridge plat that we considered last fall. There are the loop roadways there, the utilities that were installed, and the easements associated with those. We approved accepting that plat last year, and with the acceptance of that plat, we're requiring that the Diley Ridge Medical Center maintain those improvements. This agreement lays out the terms for their maintenance of those. That is during the period that the TIF is in effect, so this agreement goes back to 2008, when the TIF was initially adopted. It's taken us that long to get to the point where they were comfortable doing this, and they've had a lot of change in leadership that's happened since then. This would be for an additional 15 years that they would maintain that. They would be able to take out funds from the TIF to pay for maintenance if they had to repave roadways and things like that. It would be an eligible cost from the TIF for reimbursement, and that's laid out in this agreement.*

Shea – *Do we have to approve the reimbursement as a council, or since it's contractually obligated, it's just a boom-boom?*

Boggs – They have to present documentation.

Haire – It'd be prevailing-wage work and meet all the terms that are required.

Shea – We'd have inspectors out there inspecting it and knowing that the work's being done properly.

Haire – Yes. It is a public roadway, so once it's turned over via plat, it's a public roadway. They're just required to maintain it during that TIF period.

Shea – After the TIF period, it falls to us.

Haire – Correct.

Shea – So, we need to make sure that they're taking good care of it while they have it, so we don't get handed a pile of stuff.

Amick – Are there any checks and balances for that? To make sure that they are doing the general care so that when it is turned over, it's not a mess.

Haire – We would be inspecting it, and obviously if there are major issues, they have to maintain it in a passable condition and all of those things.

RES-23-022

Development

A RESOLUTION RELATIVE TO ENTERING A MEMORANDUM OF UNDERSTANDING CONCERNING THE ACQUISITION AND DISPOSITION OF REAL PROPERTY PRESENTLY WITHIN A RIGHT OF WAY EASEMENT

- Request to move to full Council

A motion was made by Amick, seconded by Buskirk to move RES-23-022 to full Council. The motion carried with the following vote:

Yes 5 – Amick, Buskirk, Clark, Milliken, Walker

Abstain 1 – Shea

Discussion started at 1:01:58 on YouTube Channel

Haire – This would allow the mayor to enter into a memorandum of understanding with the CWICC and with the Gale Taylor revocable trust in regards to a property that's adjacent to Taylor and Son's. Some of you may recall when we did a similar action with the property adjacent to Aldi where Smoothie King ultimately built. There's a parcel that's owned by a deceased gentleman, and it's wholly within the highway easement for former state Route 674. That was ultimately turned over by ODOT to the City of Canal Winchester when that was incorporated, and now we'd like to clean up that area. This is an area where there was a salt barn for ODOT, it's an oddly shaped piece of property that's left over right-of-way. What we'd like to do is file proceedings to take that right-of-way and then ultimately turn a portion of it over to the property owner to allow for further development of that property.

Amick – It's primarily what you would see as gravel, correct? Like where the salt barn used to be and the gravel plaza in front of that.

Haire – Correct. There's a triangular piece that would lead to the salt barn, it's a portion of that area. The

parcel that Taylor and Son's is on is an oddly shaped parcel; it's very narrow, which makes it extremely narrow and hard to redevelop. This would allow us to allow a larger width of the parcel, which would impact building setbacks and all that when you're looking at a redevelopment scenario. This memorandum of understanding would cover all the costs associated with basically filing these proceedings, doing surveys, and everything else that would be needed there.

Amick – Can you remind me what the CWICC's role in this transaction is?

Haire – The CWICC allows the city to basically enter into this type of agreement without going through a public bidding process on the property.

Shea – I'm looking at this survey; is this the .376-acre piece?

Haire – Highlighted in red?

Shea – No above the red. It says within the highway right-of-way. Is that what we're talking about, or is it the red piece?

Haire – It's basically a 0.383-acre piece.

Boggs – The 0.376 is referring to a triangular piece that is on Taylor and Son's north of the red piece.

Haire – I apologize; actually, that's not the parcel we'll be talking about. The parcel we're talking about is owned by Robert S. Wood, who is the fee owner of the property, so it's the entire parcel in red. It would be a portion of that parcel in the future, which is an underdetermined amount at this point. It's going to be less than three tenths of an acre. It's basically where it says Winchester Road; it's that small triangle that covers about the "W" and "I" in that Winchester Road of that triangle.

Shea – I see what you're talking about. Is that actually Waterloo Street, though? I can't tell where the street is on this survey.

Haire – Right. You can't tell where the street is on the survey. The street is significantly outside that boundary. The road curves here in this area, and so you have an area that's probably up to 30-feet off of the trail that's there.

Shea – They're seeking to redevelop this site, right?

Haire – Yes. It's for sale currently.

Shea – Can't we give them the variance they need and still maintain ownership of that land so that the city can get part of the deal when it goes forward?

Haire – It'd be difficult to do. We have to go through a takeover proceeding to get title to it. We don't own this property currently.

Shea – That's the difference then.

Haire – The fee owner is Robert Wood, who is deceased.

Shea – It never got transferred?

Haire – No. We found this in multiple occasions around the city. There are more.

Boggs – There are in many places, as is the case here, because before this area was incorporated as part of the city, there was just a highway easement overlaying fee title to the underlying ground. When a city is incorporated, it gets those easements, but typically, a city will want to own its right-of-way fee. As you annex outward, you get these strips of roadway-occupied land that are still held in fee by often long-gone owners.

Haire – This has a significant number of utilities that travel through that area, so you wouldn't necessarily be able to build a building on that site, but you could use it for a driveway or parking. It wouldn't affect your building setbacks. It basically helps clean it up so that it can be redeveloped at some point in the future. It's not a short process. This will probably take us more than a year to complete.

Shea – So, you're asking us to just give up the right-of-way?

Haire – At some point in the future, we would be asking to do that, correct?

Boggs – Only that sort of barb that sticks off the curve of the right-of-way. That would create a smooth right-of-way that encompasses what's needed for the roadbed and utilities. That barb area, as Lucas said, is basically where the "W" and "I" in Winchester Road are. It could then be transferred to the adjacent property owners, and then you have a developable site that is cleaner from a zoning perspective, which will help with financing and attracting a redevelopment of that site.

Shea – Do you need this right now?

Haire – It'd be helpful if we could start. Like I said, it's about a year-long process for us to go through. We're talking about an area that's probably somewhere in the order of magnitude of a tenth of an acre or less.

Buskirk – Mr. Shea, I've got a map pulled up that shows that, if you want to see it.

ORD-23-022

Finance

AN ORDINANCE TO AMEND THE 2023 APPROPRIATION ORDINANCE #22-041, AMENDMENT #4

- Request to move to full Council

A motion was made by Amick, seconded by Shea to move ORD-23-022 to full Council. The motion carried with the following vote:

Yes 6 – Amick, Shea, Walker, Buskirk, Clark, Milliken

Discussion started at 1:11:09 on YouTube Channel

Jackson – This appropriation amendment serves three purposes in the general fund. We're asking for \$125,300 of the unappropriated monies; \$125,000 of that will be used for the covered bridge roof replacement that needs to occur. Then the \$300—yes, it's a very small dollar amount—was a donation received from the BrockStrong Foundation for our community fishing day that was held this past weekend. Hannah had enough money in her budget to cover the costs, but this is to kind of reimburse her for what she had spent out of her original budget and was again donated by the BrockStrong Foundation. The last thing this appropriation amendment serves to do is appropriate \$1,373,000 from the Diley Road TIF fund.

This is directly related to what Mr. Haire was discussing earlier about the Diley Ridge Medical Center, the plat that was originally passed by council, and the maintenance agreement we just discussed. Part of the original agreement from 2008 with the developers of that area was that we would reimburse them for certain public improvements. It has taken this long to get back to actually paying them for those public improvements. We are now at a point where we believe we will be ready to hand that money over, so that's why we were asking to appropriate these funds. I do want to point out that the Diley Road TIF fund has a current balance of just over \$2.2 million. This payment will leave just under a million; however, we will be receiving more funds into this fund prior to the end of the year. We should end 2023 with about a million dollars in this fund, regardless of this payment.

Shea – Were we able to look at any kind of historical grant from the state to do the roof on the covered bridge?

Peoples – Yes. We had actually received a grant previously for storm windows on Town Hall, 10 North High Street; it is a very difficult process to do. We got \$25,000 back then on a project that was, I think, \$75,000, so a very substantial amount of money. Our project was a large one for them; it was more of a construction type of thing that they don't get into, and it made the administration of the grant very difficult. It's a very long process. We decided it was not worth it.

Shea – You would think that our county commissioners would want to kick in for that since it's the only covered bridge in Franklin County. It is still a county road, isn't it?

Peoples – It's a closed road. If it were an active roadway, it would be more viable with some funds from entities, but considering that it's basically a pedestrian path at this point, we don't feel that it's a candidate.

E. Old/New Business

Discussion started at 1:16:14 on YouTube Channel

Shea – I have a couple questions about the pool. I noticed the diving board got replaced. Thank you. What's going on with the wall?

Peoples – It should be shipped this week. We ordered a new wall in December. The owner actually called Shawn Starcher last week and begged for forgiveness. He was working with a second company, and this is typically not how they do business. We're actually getting a free set of panels and still getting the original ones that we purchased. We'll have a spare set when we're done with this. We don't know what really happened other than the manufacturing side of things that they get their product from.

Shea – Things happen. Also, health department issues?

Peoples – They came in on Friday. It was a bad day at the pool. Something happened to our hot water heater. They had to shut down the concession stand because we didn't have hot water, so they couldn't wash their hands after going to the restroom in hot water, so they couldn't serve food. I think it was about an hour before we had it back up and running. We had a plumber come in. It's hot water now, that's for sure. It is a new hot water heater. Its two years old. It's a very large one that costs a lot of money, and it better be working. Unfortunately, it was one of the hottest days, so not being able to serve drinks out of there was not convenient, but for the rest of the day, there were at least four people in the concession stand keeping up with the line.

Shea – Is there a diving block that's stuck in the ground?

Peoples – Not that I'm aware of.

Shea – There was at one point. I don't know if it got removed then.

Peoples – The swim team was there today. It was their first practice.

Shea – No, this one had been stuck in the ground by one of the diving boards for a minute. I think it was there all winter.

Milliken – I have a pool question. Within a span of about two hours at the pool yesterday, the white paint that marks the depth that's all around there, I saw like maybe five or six kids slip. Granted, they shouldn't be running; I understand that, but they would be fine until they got to that spot. I didn't know if there was another kind of textured paint or something else we could do.

Peoples – We just painted those this year. The Columbus Pool Management typically puts sand in there, so I'm not sure why.

Milliken – Maybe it was just the one sitting in front of me; I don't know.

Shea – That pool was built before I got here in 2003.

Peoples – 1996.

Shea – It was built when I was a senior in high school. The population of this town in 1996 was probably 2,000–2,500 people.

Peoples – I think we were about 4,000.

Shea – We're about double now. We've had an open-door policy with the pool, but at some point, with it being one of the only pools on the southeast side of town, I think we need to look at it for the benefit of residents only or the school district. I know there's pushback on that because there's sensitivity to it, but it is a city pool, and kids can bring guests. I just think it's something to consider going forward. It doesn't have to be now, but as our population grows, we only have so much space in that pool. Primarily, we should be serving the residents of the city before we're serving everybody else.

Peoples – Trying to find out who's who and where they live is a challenge. We mess around with membership eligibility every year, trying to figure out the right combination to be able to do that.

Shea – I think you had a great system this year because it seems like it went pretty smoothly. It was a very nice experience when the pool opened the first week because it was members-only.

Peoples – It was a nice, easy transition. Columbus Pool Management was very appreciative of us allowing that to happen. It gives members a little bit of a benefit as well. I know day passes exploded on Friday and Saturday.

Jackson – It was also very hot.

Peoples – We do have two aquatic supervisors over there now. Both of them are school teachers, so it really worked out well. We haven't had any reports of problems on either Friday or Saturday. I mean, it is something we always think about every year. Groveport and Pickerington have lower prices. We get calls from people from South Bloomfield that beg us not to do residents only, so we are drawing people from different areas.

Jackson – It's my understanding, and I have not done any research on this, but I was told by several adults on Friday that Groveport has changed the rules for their pool, and they were extremely appreciative to be able to bring their grandchildren to our pool. I'm not exactly sure how they changed those rules, but they did tell me that because they were not the guardians of their grandchild, Groveport would not let them and their grandchild into the pool. It is a challenge to balance that, but we did have a lot of very appreciative people when we were open for day passes on Friday.

Amick – Has there ever been any 15-20-year or sooner look at what point we'll think we've outgrown our pool? We might need to take some interim measures. Has there ever been discussion about when we reach a certain population and might need to think about it?

Peoples – There's not.

Amick – I know it's very expensive.

F. Adjournment @ 6:55 p.m.

***A motion was made by Shea, seconded by Buskirk to adjourn. The motion carried with the following vote:
Yes 6 – Shea, Buskirk, Clark, Milliken, Walker, Amick***