

# Canal Winchester

*Town Hall  
10 North High Street  
Canal Winchester, OH 43110*



## Meeting Minutes - FINAL

July 2, 2018

7:00 PM

### City Council

*Bruce Jarvis – President  
Mike Walker – Vice President  
Jill Amos  
Will Bennett  
Bob Clark  
Mike Coolman  
Patrick Lynch*

- A. Call To Order *Jarvis called the meeting to order at 7:06 p.m.*
- B. Pledge of Allegiance – *Walker*
- C. Roll Call *Present 7 – Amos, Bennett, Clark, Coolman, Jarvis, Lynch, Walker*
- D. Approval of Minutes

<a href="#"><u>MIN-18-029</u></a>	6-18-18 Council Work Session Minutes
<a href="#"><u>MIN-18-030</u></a>	6-18-18 Public Hearing Minutes
<a href="#"><u>MIN-18-031</u></a>	6-18-18 Council Meeting Minutes

***A motion was made by Lynch, seconded by Coolman to approve the minutes.  
The motion carried by the following vote:***

***Yes 7 – Lynch, Coolman, Amos, Bennett, Clark, Jarvis, Walker***

- E. Communications & Petitions - *None*
- F. Public Comments - **Five Minute Limit Per Person**

*Denise Mathias, 10151 Fairfield Farms Drive, Canal Winchester, OH 43110: My name is Denise – my name is Denise Mathias; for those of you that know me, I’m a very passionate, loud, action-oriented individual; I apologize, because that also makes me annoying, and I stick my foot in my mouth on a regular basis; I recognize that right up front, and I hope that you’ll take this honest conversation with the spirit that it’s intended; I come to these council meetings about every other month to see what’s going on; I haven’t been in a while, I read the meeting minutes from the last meeting; quite frankly, I felt compelled to come here tonight and talk, based on those meeting minutes; a lot of talk about an invocation, a lot of talk about the growth article that was in the newspaper, recycling, and can we get our materials earlier; believe it or not, I walked away with ‘wow, that was the content of our city council meeting, wouldn’t it be great if we had bigger, badder problems to solve?’ instead of talking about those things, and spending the time on them that we did; my message tonight is a message of inclusion – when I think about the invocation, I don’t have a problem one way or the other; I personally could skip it, I don’t have a problem with people having it; it’s a very, very slippery slope; you’re going to have residents who aren’t going to feel as if they’re being addressed; you’re going to have churches or organizations that aren’t being addressed, and then it’s going to turn into an administrative nightmare about whose turn it is next, and ‘did we give everybody the equal opportunity?’; oh by the way, there are people who live here, but go to church in a different area; it’s just an administrative nightmare; I don’t want my city council spending their time on that; I wish you well, and a quick resolution; I don’t want to tell you what the answer is, but I’m fairly certain some portion of my tax dollars go to this; I know I don’t live in the village, I live in Fairfield County, Bloom Township; I’m pretty sure I can’t vote for you guys, but I know that my taxes are 30% more – my property taxes than the people across the street who go to Bloom-Carroll Schools; I’m fairly certain some of my money is here at work; if someone wants to educate me on that, you can take me out to lunch – I’ll buy maybe; back to inclusion – why hasn’t the map been redrawn to include everybody in Canal Winchester? There are a lot of people here who send their kids to school here, who eat and dine and all these businesses you talk about, and we have no say as to what goes on in this city; I’d like to know why the city council or the city isn’t working on that plan; when you get that part of inclusion*

*right, then start expanding to other things that take place in a city council meeting; what about businesses? I came here, I want to open my business here – I've lived here for 20 years; I'm ready to open my business here someday, if I can get it built; the first thing I did was join the Chamber of Commerce; I'd ask how many of you have been to a Chamber of Commerce event? There's a couple of you, but in general – this is a part of what you all talk about; businesses that come here, and why they want to come here; I would ask you at city council meetings how inclusive are you to the businesses that aren't just at this intersection; there's a whole bunch of us in Canal Winchester, and we'd like to have your support; there's a lot going on – do I join Destination Canal, do I support the Art Guild, do I support the Historical Society? Where's the leadership and inclusion in pulling those groups together, and have them stop fighting for the same resources and dollars, and pull Canal Winchester together? Jarvis: I hate to cut you short, but we are at our time limit here; thank you for sharing with us.*

*Jim Bohnlein, 6320 Rossmore Lane: 2 things – first of all, the ordinance you're going to be discussing tonight – 18-024, are there any surprises, pleasant surprises on the plat for the additional section in Villages of Westchester? For example, wider sidewalks than the 3-foot ones that we have in most of the area; if we don't have 6-foot sidewalks, did anybody ask them to put in 6-foot sidewalks to make it more community friendly, family friendly? I think everybody sees how much this nice sidewalk on Dietz, and on Thrush, how well they get used, and they get used by families rather than just single person, because there's room for families to walk on 6-foot wide, or 8-foot wide; next, what happened to the proposed vet clinic, and can we get the grass cut? I guess that's it, thank you for your time; Jarvis: Thank you Mr. Bohnlein – just a little quick incident feedback, is there a property maintenance issue with that parcel? Haire: That's the one we talked about at the committee meeting an hour ago.*

*Richard Brown, 7559 Bruns Court: We've lived in the city since 1996, I'm also a lawyer, I work here; I've worked here downtown since 2010; I'm also the state representative for the 20<sup>th</sup> district, which includes Canal Winchester; I want to say just a few words about the invocation issue; I've heard about it, and seen reports in the media; I'm not here to espouse a particular position, I just want to put this in a historical context that may help you in your deliberations on this specific issue; in Philadelphia, 1787 at the Constitutional Convention, they met for 3-4 weeks without any prayer being part of the sessions; this went on for several weeks until Benjamin Franklin suggested that maybe things would go better if they had prayer; they did not adopt his suggestion, however, as our country developed and time went on through the centuries, it has become a historical tradition for city governments throughout the country to begin sessions with prayer; this has become a tradition in our country, however it wasn't until 2014 that the United States Supreme Court rendered a decision in the case of Town of Greece vs. Galloway a 5-4 decision; they held that it is legally permissible to commence a government meeting, a public meeting, with a Christian prayer; it is acceptable, as long as you don't go too far in one direction; Justice Kenny, the one who just resigned, stated in that case that as long as the prayer does not denigrate non-believers or religious minorities, threaten damnation or preach conversion, then it is lawfully constitutional, and passes constitutional muster; as long as you don't cross the line, it's perfectly acceptable if you choose to do so, to begin this meeting, or any public meeting with a prayer; I might point out that in the Ohio House, before every session, we have a*

*public prayer that is performed by a visiting religious person of various faiths; also, in various committee meetings, depending on who the committee chair is, some of them start the meeting with a prayer; it's the personal choice of the chairperson; I believe that this is one of the topics that can inspire people to strong positions, one or the other; I just wanted to put it in the historical context of our country; it is legal under the United States Supreme Court 2014 decision; it is a historical tradition in our country, as old as the country; those who argue that the founding fathers in the constitutional convention signaled that it wasn't appropriate by not having a prayer, that is not necessarily historically accurate; I just wanted to throw that out for your consideration as you deliberate, and think about this issue; that's all I wanted to say, thank you; Jarvis: Thank you State Representative Brown.*

### G. Resolutions

**RES-18-010**

*Mayor*

A Resolution Authorizing The Labor Day Festival Committee To Operate The Annual "Canal Winchester Labor Day Festival" On The Various Streets And Sidewalks Of The City Of Canal Winchester

*- Adoption*

***A motion was made by Bennett, seconded by Amos to adopt this resolution.***

***The motion carried by the following vote:***

***Yes 7 – Bennett, Amos, Clark, Coolman, Jarvis, Lynch, Walker***

### H. Ordinances

*Tabled*

**ORD-18-017**

*Development*

*Sponsor: Coolman*

An Ordinance To Create Chapter 188 In Part One Of The Codified Ordinances Of Canal Winchester Enacting An Admissions Tax

*- Tabled at Third Reading*

*Jarvis: Mr. Hollins and I had kind of traded some emails, but never really connected to refine it; he did take initiative to bring copies of the revised version, or a revised version of the revised ordinance based on the comments that we had made in meeting, also in email in an attempt to collaborate on this; he will be handing those out during the old or new business section; so there's no reason to un-table it this evening.*

*Third Reading*

**ORD-18-021**

*Finance*

*Sponsor: Clark*

An Ordinance Approving And Adopting The 2019 Tax Budget ([Ex. A](#))

*- Adoption*

***A motion was made by Clark, seconded by Bennett to adopt this ordinance.***

***The motion carried by the following vote:***

***Yes 7 – Clark, Bennett, Amos, Coolman, Jarvis, Lynch, Walker***

*Second Reading***ORD-18-023***Finance**Sponsor: Amos*An Ordinance To Adopt Amendments To The Council Rules ([Ex. A](#))*- Second Reading Only***ORD-18-024***Development**Sponsor: Clark*

An Ordinance Authorizing The Mayor And Clerk To Accept And Execute The Plat For The Villages At Westchester Section 10, Part 2

*- Second Reading Only**First Reading***ORD-18-025***Development*

An Ordinance Amending Section 1161.04 Of The Codified Ordinances Regarding Old Town Commercial Zoning District

*- First Reading Only***ORD-18-026***Finance*

An Ordinance To Amend The 2018 Appropriations Ordinance 17-049, Amendment #3

*- Request waiver of second/third readings and adoption****A motion was made by Bennett, seconded by Coolman to suspend the rules requiring second and third reading. The motion carried by the following vote:******Yes 7 – Bennett, Coolman, Amos, Clark, Jarvis, Lynch, Walker******A motion was made by Bennett, seconded by Coolman to adopt this ordinance. The motion carried by the following vote:******Yes 7 – Bennett, Coolman, Amos, Clark, Jarvis, Lynch, Walker*****H. Reports***Mayor's Report - None**Fairfield County Sheriff - None**Law Director**Hollins: We can come back and discuss this in more depth during old and new business; I'm passing – here's a couple extra – passing around what is a new version of the admissions tax ordinance; the starting point would be the clean version that was distributed on May 21<sup>st</sup>, and then you'll see changes from that starting point, and we can go through those in some depth during old or new business; other than that, unless you have questions, I have no further report this evening; Jarvis: Will there be any requirement for executive session? Hollins: No, I am not aware of any need for executive session.**Finance Director***18-071***Finance Director's Report**Jackson: I do not have anything in addition to our discussions at work session this evening.*

*Public Service Director*[18-072](#)

Public Service Director's Project Update

[18-074](#)

Construction Services Administrator's Report

*Peoples: Nothing to add to my written report or work session discussions; Jarvis: Congratulations again for getting through that Gender Road closing, that was a little hairy I'm sure; Peoples: Thank you, the contractor did a great job.*

*Development Director*[18-073](#)

Development Director's Report

*Haire: Nothing beyond the work session report.*

**I. Council Reports***Council Recess**No meeting Monday, July 16, 2018**Committee of the Whole**Monday, July 30, 2018 at 6:00 p.m. - TENTATIVE**Work Session/Council**Monday, August 6, 2018 at 5:45 p.m.**Public Hearing – Middletown Farms**Monday, August 6, 2018 at 6:15 p.m.**Work Session/Council**Monday, August 20, 2018 at 6:00 p.m.*

*Jarvis: We have council recess this month, which means we will not have a meeting on the third Monday, which is the 16<sup>th</sup>; we do have a tentative Committee of the Whole meeting scheduled for the July 30<sup>th</sup> meeting; Ms. Jackson, do you know if we have any topics at this stage? Jackson: I do not have anything; Jarvis: If anyone on council has something that needs to be addressed, this is an opportunity, and I wouldn't force it just to force it; if you do have something, it's a good venue for discussion coming up at the end of this month; we have a work session council meeting session on August 6<sup>th</sup> at 5:45pm; Jackson: Yes, we're anticipating the public hearing being a little bit longer, so we are starting the public hearing at 6:15; we want to allow adequate time for the work session; Jarvis: The public hearing is on Middletown Farms at 6:15; the second meeting in August will be on Monday, August 20<sup>th</sup>, starting at 6pm.*

*CW Human Services**Mr. Lynch*

*Lynch: Nothing new to report.*

*CWICC**Mr. Clark*

*Clark: Next meeting will be August 29<sup>th</sup>, 11:30 at the Interurban Building.*

*CWJRD**Mr. Bennett/Mrs. Amos*

*Bennett: Not much other than our next executive board meeting will be Thursday, July 19<sup>th</sup> at 7pm, Town Hall.*

*Destination: Canal Winchester**Mr. Walker*

*Walker: The Blues & Ribs Fest is coming along very smoothly, and the farmers market as well; the next meeting will be July 24<sup>th</sup>.*

**J. Old/New Business**

*Jarvis: I guess we haven't had a chance really to divest what you handed out; Hollins: Tell you what, let me just give you a preview and then, feel free – we're not going to take any action tonight*

anyway; I want to thank Mr. Jarvis for going through the May 21<sup>st</sup> minutes, and highlighting each of the concerns that we believe was raised by a council member, and hopefully addressed in this latest draft; by my count, there were at least 5 discrete issues, whether a business that collects the admissions tax could remit it quarterly, rather than monthly; that was a BrewDog concern, BrewDog also expressed clarifying that it did not include events where the charge – like a \$60 charge really is a charge for food and beverage, not really for admission; prepaying for food and beverage – that was their second request; in terms of additional requests from council, there was no reference to parking fees, which sometimes act as the admission fee; we also had a good bit of discussion about certain events, and whether we needed a participant count cutoff, like 150 or so; that was the fourth of the concerns; lastly, my last draft, although Amanda had circulated the language – my last draft did not contain about dedication of the funds for street and park capital outlays first; just in terms of a preview, what you'll see in this version, in the definition of admission charge, we've tried when parking acts as the admission charge; adding some language there, and also trying to address the concern about prepaid food and beverage, as long as it is with a reservation, would be excluded from the definition of admission charge; with respect to the golf course, I think this is probably not directly one of those concerns that was raised; we keep trying to figure out how – for instance with a golf outing that may be for some reason a for-profit entity; what we think is workable is whether golfers in the golf outing pay an additional amount to the organization, we're actually just going to apply the admissions tax to the actual greens fees paid by each individual golfer; it could be directly, which is just you or I going out, playing at the golf course, or it could be indirectly – the organization will collect up everybody's money, and then pay everybody's greens fees at one time; we're not going to charge the admissions tax on the increased amount paid to the organization, we're just going to charge it on the flat going rate for the actual greens fees; even if it's paid indirectly by an organization sponsoring an outing; I wasn't still able really to get drilled down on the 150 cutoff; what I would tell you is, I think – because this is limited by places – a charge to enter, the right or privilege to enter a place; the place, wherever that would raise the issue, the outdoor event venue, where a charge is made for admissions; what I did is added some language there; 'an event venue where a restricted area is designated as the event grounds, and then a charge is made for admission to those event grounds'; you'd have to have a restricted area, and somebody would have to be in the business of charging admission to get within that restricted area; I don't think there are too many events like that; that would be for really small crowds; the admissions charge doesn't really apply necessarily to any other place on here, where we would have a gathering that would raise the issue of 'do we need a cutoff?'; I think because it's driven by place, unless you see that place on our list of 1-15, we're not going to collect the admissions charge anyway; the one that seems that we would have a number that may vary I think is 14; as long as we make it clear to those folks – if you want to do an outdoor venue, a restricted area; whether a tent, a fence or a gate, and you're collecting a charge for admission into that area, we expect you to collect this fee, the admission charge as well, regardless of the number of people; I don't know that it's going to be capturing too many small events anyway; I welcome and invite comment on that; Jarvis: Can we run a scenario through that, and say that over at Shade's there's a seriously ill little girl, her parents are having a fundraiser to pay for medical costs, and they're charging \$15 a head for people to come in and have hot dogs; is that ?; Hollins: Right now I'd say it's still out, because we're talking about outdoor venues on 14; we're not talking restaurants;

*it all starts with the place, if you don't see a place on here, we're not going to charge it; Jarvis: I was thinking it was maybe loosely considered a nightclub; Hollins: That we left in there because of the idea that sometimes there is a cover charge for a band; we may – I think, from what I've heard so far, the intention was that we would collect an admission charge on the cover charge for the band; again, all this – look at your list of 1-15 – all this is driven by that, if it's something that's too de minimus, if it's too much to worry about, we can take it off the list; Haire: We already said that that would be excluded in the admission charge in the definition, because it would be prepaid food and beverage; if they're paying to have food and beverage there, it would be excluded; Hollins: Just like the BrewDog tastings – if that \$15 is for hors d'oeuvres and beverages, prepaid, then it wouldn't apply; Amos: Mr. Hollins, speaking of BrewDog – I realize we're just getting that tonight, but are you planning to share this? Okay, thank you; Hollins: It helped to go back through the minutes, we did indicate that we would share it with them; Lynch: 2 questions - #5, golf courses: if I'm in a charity outing, it's a not-for-profit charity outing, does the golf course still collect tax for their greens fees, even though it's a nonprofit charity outing? Hollins: You're still collecting greens fees for a for-profit business, yeah; I think the fundraising for the non-profit is over and above the greens fees, that increment; Lynch: But we still look at the greens fee as a for-profit business, so it's taxable; Hollins: Exactly, we'd still expect the golf course itself to collect it as the greens fees are paid, because they're for profit; Coolman: So it's because of the place; Hollins: Yes, exactly; Lynch: And for #12, outdoor amusements – when we have the Labor Day here, and the carnies come in and they setup and everything, they're taxable? Hollins: Yeah, and it's really more 13 I guess, outdoor amusement parks; I can't see a Kings Island ever showing up here, but you never know; they just proposed that 2 billion dollar thing up in Delaware County, one never knows; maybe Delaware County will throw them out and they'll want to come down here; Jackson: Mr. Lynch, I don't think Labor Day would apply because they're not being charged to come to the event, which is what this is really implying; Clark: There's no admission tax to come to the Labor Day festival; Lynch: Okay, so the individual tickets aren't taxed; Haire: Even if it were to be, it would be a nonprofit entity; there wouldn't be taxes associated with it, because all of the benefits from the ticket sales would go to the nonprofit.*

*Jarvis: I would recommend taking this home, and running everything you think you can run through it, and perhaps if Mr. Hollins, if you wouldn't mind fielding any of those questions; I think it's getting fairly close, I can see how something like this might work; I think no matter how much love we put into this, it's probably going to be something we haven't thought of; Coolman: Can I ask one more question? Mr. Lynch brought up a good point – Mr. Hollins, what if a nonprofit decides to have a fundraiser, and chooses a golf course? It's their rules that are saying 'if you want to participate in this fundraiser, it's \$20 to come and take a shot at a hole'; it's a hole-in-one shootout, but it's a nonprofit that's driving it, it's not the golf course that's promoting it; is that still taxable? Hollins: Once again, when that organization hands the check – I suppose they'll probably hand one big check for 80 golfers to the golf course, that's the only thing we're collecting on – the greens fees; Coolman: Because it's the fees that the course is charging for that; Hollins: Any type of revenue for anything else is not going to be subject to the tax; Lynch: It's a for-profit; the golf course itself is a for-profit organization, versus the group coming in to organize their own event, they're nonprofit, so two separate entities; that's what I'm wondering, too – even with the Labor Day; you have carnies selling tickets for these rides;*

*Labor Day is a nonprofit, but the carnies collecting – they're a for-profit, so in other words, the logic still applies to them, same as the golf course; Hollins: Same thing, and it's easier to administer, because they sell tickets, and they're going to collect the tax when they sell tickets; the rest of the activities is nonprofit, and we don't touch that; Lynch: But it's two separate things, the Labor Day as a whole is one - Hollins: But the carnie part of it is for-profit; Lynch: Correct, so they would be subject to that tax; Hollins: You got it.*

*Jarvis: Thank you Gene, for pulling that together; I think you managed to capture in so many words the concerns that everybody shared a few weeks back; is there any other old or new business?  
Walker: Yes, if you'll indulge me for a moment; back at the Committee of the Whole, when I brought invocation – prayer as a possibility to have before each council meeting, we discussed, again, I'd like to thank State Representative Mr. Brown for sharing his comments with us, and we know 435 are in the House of Representatives in the lower chamber open up with prayer; 100 in the Senate open up with prayer every meeting; Congress opens up since 1774; it is the very fabric of our society, and a few of the things that had come up about a moment of silence; everywhere I look up 'moment of silence' that's been suggested – here is one 'a moment of silence is an expression used for a period of silent contemplation, reflection, meditation or prayer the person conducting the funeral service may ask those gathered to observe a moment of silence as a gesture of respect, or to reflect on their memories of the deceased'; here's another one, it's from Webster: 'a moment of silence is a period of silent contemplation, praying, reflection or meditation, similar to flying a flag at half-mast. A moment of silence is often a gesture of respect – particularly mourning those who have died recently as part of a tragic, historical event'; I don't want to redefine a moment of silence, or a moment of silent reflection; if you look up a moment of silent reflection, it comes back to a moment of silence; this is how it is defined over and over again; the prayer invocation that I'm talking about; the Congress, the Senate and the very history of our country is praying for God's guidance for the living, for us, for the city of Canal Winchester; on making decisions, voting on these ordinances, resolutions that are very important for generations to come in our city; this is what I was asking; now, one of the things came up that this may be tough, hard to do, hard to organize; I reached out again with wisdom – not only to Mr. Hollins, but to Mr. Jarvis; Mr. Jarvis had got me an example here, from Newport Beach City council; if you'll again indulge me with this; it's just kind of guidelines for invocations; number one was to solemnize proceedings of the city council boards commission and committees; it is the policy of the city council to allow for invocational prayer to be offered at its meeting for the benefit of the city council board members, commission members, committee members and community; #2: No member of city council, member of city board commission, committee or city employee, or any other person in attendance of the meeting shall be required to participate in any prayer that is offered; #3: The prayer shall be voluntarily delivered by a clergy, religious leader or other person in the City of Newport Beach, where these guidelines were; to ensure that such person – invocational speaker is selected from a wide pool of its city leaders on a rotating base; invocational speakers shall be selected according to the following procedure; here I highlighted – just for instance, I believe in Canal Winchester we have approximately 22 churches; in November, this is what they do: if you put out a letter to all of our clergy, if you are willing to assist the city in this regard, please send a written via email, fax, or email to the city clerk; invocations are scheduled on a first come, first serve, or other*

*random basis; the dates of the city council scheduled meetings for this upcoming year are listed on the following attached page; please note meetings of the city board's commission committees are held throughout the year – in our case, it would be council meetings; this could be put out once a year to our – I believe 22 churches, to be put on a list – first come, first serve; they send them back to our city, to our clerk, they've got the dates filled in, and we have invocation given by our clergy from each church on a rotating basis; one, not to overlap before we get through the rotation; we'd have to get through the rotation before we start over again; if clergy didn't show, we could always refer back to a council member to give it – if a minister or a priest were sick, or any other church in our city – open up to all churches, to all; this is what I was proposing when I brought this to the attention of council; we can certainly see the definition – you know, a truck is a truck defined – a car is a car defined; invocation is defined; a moment of silence is defined; we can't really change those definitions; just asking that we begin and think hard on this; we're all here to use our own conscience on how we vote on this, and just pray for this city of 8,000+ people; this is all I intended for this to be; thank you.*

**K. Adjourn to Executive Session (if necessary) - None**

**L. Adjournment at 7:49 p.m.**

***A motion was made by Bennett, seconded by Clark to adjourn. The motion carried with the following vote:***

***Yes 7 – Bennett, Clark, Amos, Coolman, Jarvis, Lynch, Walker***