

6:59pm-The Lord's Prayer & Moment of Silence

Shelby City Council Agenda
Monday, August 20, 2018
COUNCIL CHAMBERS
29 MACK AVENUE
Shelby, Ohio
7:00 p.m.

Call to Order and Pledge of Allegiance

Roll Call:

Mr. Roub _____ Mr. Roberts _____ Mr. Gates _____ Mr. Martin _____ Mr. McLaughlin _____

Dispense with Reading of Journal from August 6, 2018

Moved _____ 2ND _____
Mr. Roberts _____ Mr. Gates _____ Mr. Martin _____ Mr. McLaughlin _____ Mr. Roub _____

Public Comment

Reports from Standing and Special Committees

Finance & Personnel Committee—Garland John Gates

Utilities & Streets Committee—Nathan Martin

Reports of City Officials

Steven L. Schag—Mayor

MOTION TO REQUEST A LIQUOR HEARING FOR MAELOWE CORPORATION INC DBA WEBERS BAR 51 WEST MAIN STREET

Moved _____ 2ND _____
Mr. Roberts _____ Mr. Gates _____ Mr. Martin _____ Mr. McLaughlin _____ Mr. Roub _____

MOTION TO CONFIRM THE APPOINTMENT OF DUSTIN VOUSDEN TO THE PLANNING COMMISSION TO FILL AN UNEXPIRED TERM ENDING 12/31/2020

Moved _____ 2ND _____
Mr. Roberts _____ Mr. Gates _____ Mr. Martin _____ Mr. McLaughlin _____ Mr. Roub _____

**MOTION TO CONFIRM THE APPOINTMENT OF TODD SCHROEDER TO THE
FLOODPLAIN MANAGEMENT COMMISSION TO FILL AN UNEXPIRED TERM ENDING
12/31/2019**

Moved _____ 2ND _____
Mr. Roberts _____ Mr. Gates _____ Mr. Martin _____ Mr. McLaughlin _____ Mr. Roub _____

Steven T. Lifer—Director of Finance

Gordon M. Eyster—Law Director

Joe Gies—Project Coordinator

New Business

Unfinished Business

Future Use of Present Fire Station

West Main Street Sewer Project

State Street Bridge

Legislation

ORDINANCE NO 14-2018

**ENACTING CHAPTER 1054 (RIGHT OF WAY
OCCUPANCY PERMIT) OF THE CODIFIED
ORDINANCES OF THE CITY OF SHELBY, OHIO**

2ND READING

Moved _____ 2ND _____
Mr. Roberts _____ Mr. Gates _____ Mr. Martin _____ Mr. McLaughlin _____ Mr. Roub _____

ORDINANCE NO 16-2018

AMENDING SECTION 1042.05 (PERMIT; FEE; BOND) OF CHAPTER 1042 (SEWER REGULATIONS) OF THE CODIFIED ORDINANCES OF THE CITY OF SHELBY, OHIO

2ND READING

Moved 2ND
Mr. Roberts Mr. Gates Mr. Martin Mr. McLaughlin Mr. Roub

ORDINANCE NO 17-2018

APPROVING THE EDITING AND INCLUSION OF CERTAIN ORDINANCES AS PARTS OF THE VARIOUS COMPONENT CODES OF THE CODIFIED ORDINANCES; APPROVING, ADOPTING AND ENACTING NEW MATTER IN THE UPDATED AND REVISED CODIFIED ORDINANCES; REPEALING ORDINANCES IN CONFLICT THEREWITH AND DECLARING AN EMERGENCY

Motion that the rule requiring that an ordinance be read on three separate occasions be suspended

Moved 2ND
Mr. Roberts Mr. Gates Mr. Martin Mr. McLaughlin Mr. Roub

PASSAGE OF ORDINANCE

Moved 2ND
Mr. Roberts Mr. Gates Mr. Martin Mr. McLaughlin Mr. Roub

ORDINANCE NO 18-2018

DETERMINING TO PROCEED WITH THE IMPROVEMENT OF A PORTION OF WEST MAIN STREET WITH A SANITARY SEWER, INCLUDING THE CONSTRUCTION AND INSTALLATION OF SANITARY SEWER LINES, A FORCE MAIN AND LIFT STATION AND SERVICE CONNECTIONS IN THE RIGHT-OF-WAY AND ON CITY PROPERTY AND EASEMENTS, TOGETHER WITH NECESSARY APPURTENANCES AND WORK INCIDENTAL THERETO; LEVYING SPECIAL ASSESSMENTS FOR THAT IMPROVEMENT; AND DECLARING AN EMERGENCY

Motion that the rule requiring that an ordinance be read on three separate occasions be suspended

Moved 2ND
Mr. Roberts Mr. Gates Mr. Martin Mr. McLaughlin Mr. Roub

PASSAGE OF ORDINANCE

Moved 2ND
Mr. Roberts Mr. Gates Mr. Martin Mr. McLaughlin Mr. Roub

RESOLUTION NO 35-2018

AUTHORIZING THE MAYOR AS DIRECTOR OF PUBLIC SERVICE TO ENTER INTO A CONTRACT WITH ZIMMERMAN'S METAL AND LUMBER FOR THE CONSTRUCTION OF A SLUDGE DRYING AND CONTAINMENT BUILDING AT THE WASTE WATER TREATMENT PLANT

Moved _____ 2ND _____
Mr. Roberts _____ Mr. Gates _____ Mr. Martin _____ Mr. McLaughlin _____ Mr. Roub _____

Miscellaneous Business

Adjournment at _____ p.m.
Moved _____ 2ND _____
Mr. Roberts _____ Mr. Gates _____ Mr. Martin _____ Mr. McLaughlin _____ Mr. Roub _____

1st Reading
8/6/2018

ORDINANCE NO. 14-2018
(Sponsor: Councilmember Martin and Gates)

**ENACTING CHAPTER 1054 (RIGHT OF WAY OCCUPANCY PERMIT) OF THE
CODIFIED ORDINANCES OF THE CITY OF SHELBY, OHIO.**

WHEREAS, Ohio House Bill 478 allowed for measures and ends of a legal challenge as concerning claims filed against the State of Ohio regarding right of way utility permits; and

WHEREAS, State of Ohio has passed certain laws which allow for municipalities to charge fees for the occupancy of facilities in the right of way owned by the City of Shelby for purposes of small cell wireless; and

WHEREAS, small cell wireless companies will have the ability to install equipment, goods, furnishings and facilities along City owned right of ways without the approval of the City unless legislation is adopted.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF SHELBY, OHIO, A MAJORITY ELECTED THERETO CONCURRING:

Section 1: That Chapter 1054 of the Codified Ordinances of the City of Shelby be and is hereby enacted as set forth in Exhibit A, attached hereto and incorporated by reference herein.

Section 2: That all meetings and hearings concerning the adoption of this Ordinance have been in compliance with Codified Ordinance 220.01, Ohio Revised Code Section 121.22, and the Charter of the City of Shelby, Ohio.

Section 3: That this Ordinance shall be in full force and effect from and after its passage, approval by the Mayor, and the earliest period allowed by law.

PASSED: _____

Steven D. McLaughlin
Vice President of Council

APPROVED:

ATTEST: _____

Steven T. Lifer
Director of Finance

Steven L. Schag
Mayor

Prepared by:

Gordon M. Eyster
Director of Law

1st Reading
8/6/2018

ORDINANCE NO. 16 -2018
(Sponsor: Councilmember Martin)

AMENDING SECTION 1042.05 (PERMIT; FEE; BOND) OF CHAPTER 1042 (SEWER REGULATIONS) OF THE CODIFIED ORDINANCES OF THE CITY OF SHELBY, OHIO.

WHEREAS, it is necessary to modify Chapter 1042 (Sewer Regulations) to provide uniformity when an owner of premises is requesting a permit for sanitary sewer; and

WHEREAS, an owner of premises will be able to apply for a sewer tap permit at the Municipal Utilities Office instead of City Hall; and

WHEREAS, current fees and costs for the above have changed; and

WHEREAS, it is in the interest of the public health, safety, morals, and general welfare of the citizens of the City of Shelby that Chapter 1042 (Sewer Regulations), Section 1042.05 (Permit; Fee; Bond) be amended to allow an owner of premises to apply for a sewer permit at the Municipal Utilities Office.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF SHELBY, OHIO, A MAJORITY ELECTED THERETO CONCURRING:

Section 1: That Chapter 1042 (Sewer Regulations), Sections 1042.05(a) & (b) (Permit; Fee; Bond) of the Codified Ordinances of the City of Shelby be amended to read as follows:

§ 1042.05 PERMIT; FEE; BOND.

(a) The owner of each premises desiring a connection into the sanitary sewer system shall first make application for a sewer tap connection permit in the office of the Director of Utilities located in the Shelby Municipal Utilities Office. A separate permit is required for each home, building or structure desiring a connection. The applicant shall furnish house number, lot number and such other information as may be required to properly identify the exact location of the property.

(b) Each application for a sewer tap connection permit shall be accompanied by a payment of \$75 for each unit of a residential property and \$150 for any other building used for commercial or industrial use. This payment is not refundable and shall defray, in part, the cost of issuing the permit and inspecting the tap connection during construction.

Section 2: That all other sections of Chapter 1042 (Sewer Regulations) of the Codified Ordinances of the City of Shelby and 1042.05 (not modified herein) shall remain in full force and effect.

Section 3: That all meetings and hearings concerning the adoption of this Ordinance have been in compliance with Codified Ordinance 220.01, Ohio Revised Code Section 121.22, and the Charter of the City of Shelby, Ohio.

Section 4: That this Ordinance shall be in full force and effect from and after its passage, approval by the Mayor, and the earliest period allowed by law.

PASSED: _____

Steven McLaughlin
Vice President of Council

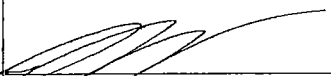
APPROVED:

ATTEST: _____

Steven T. Lifer
Director of Finance

Steven L. Schag
Mayor

Prepared by:


Gordon M. Eyster
Director of Law

ORDINANCE NO. 17-2018
(Sponsor: Councilmember McLaughlin)

AN ORDINANCE APPROVING THE EDITING AND INCLUSION OF CERTAIN ORDINANCES AS PARTS OF THE VARIOUS COMPONENT CODES OF THE CODIFIED ORDINANCES; APPROVING, ADOPTING AND ENACTING NEW MATTER IN THE UPDATED AND REVISED CODIFIED ORDINANCES; REPEALING ORDINANCES IN CONFLICT THEREWITH AND DECLARING AN EMERGENCY.

WHEREAS, American Legal Publishing Corporation has completed its annual updating and revision of the Codified Ordinances of the City; and

WHEREAS, various ordinances of a general and permanent nature have been passed by Council since the date of the previous updating and revision of the Codified Ordinances (June 20, 2016) and have been included in the Codified Ordinances of the City; and

WHEREAS, certain changes were made in the Codified Ordinances to bring City law into conformity with State Law.

NOW, THEREFORE, BE IT ORDAINED BY COUNCIL OF THE CITY OF SHELBY, A TWO-THIRDS (2/3) MAJORITY ELECTED THERETO CONCURRING:

Section 1: That the editing, arrangement and numbering or renumbering of the following Ordinances and parts of Ordinances are hereby approved as parts of the various component codes of the Codified Ordinances of the City, so as to conform to the classification and numbering system of the Codified Ordinances:

<u>Ord. No.</u>	<u>Date</u>	<u>C.O. Section</u>
1-2016	2-1-2016	222.02
2-2016	3-7-2016	234.09
3-2016	3-7-2016	214.03
4-2016	2-1-2016	TSO VI
5-2016	4-18-2016	1276.03
6-2016	4-4-2016	1042.02
7-2016	4-4-2016	234.10
8-2016	4-4-2016	230.07
10-2016	5-16-2016	240.06
15-2016	7-5-2016	276.04
16-2016	7-18-2016	224.01 – 224.15
17-2016	7-18-2016	278.04
19-2016	8-15-2016	1062.07
20-2016	10-3-2016	1292.02
24-2016	10-3-2016	238.04
25-2016	10-3-2016	1050.06, 1050.07
27-2016	12-5-2016	276.04
28-2016	12-5-2016	1040.04
29-2016	12-5-2016	1044.08
30-2016	12-5-2016	1050.04
34-2016	12-19-2016	881.04, 881.05
35-2016	1-17-2017	TSO V
2-2017	2-6-2017	258.01
3-2017	2-21-2017	260.09
4-2017	2-21-2017	276.04
6-2017	4-3-2017	276.04
7-2017	4-17-2017	TSO III
9-2017	5-15-2017	1050.02
11-2017	6-19-2017	1044.07
14-2017	6-19-2017	1040.04
16-2017	9-5-2017	TSO V
17-2017	7-3-2017	TSO V
18-2017	8-7-2017	278.04
19-2017	8-7-2017	608.20
20-2017	8-7-2017	608.21
22-2017	8-7-2017	238.01
25-2017	10-16-2017	276.04-276.09

Section 2: That pursuant to Section 17 of the City Charter and Ohio R.C. 731.23, the Clerk of Council shall publish a copy of this ordinance, together with a summary of the new matter contained in the Codified Ordinances hereby approved, adopted and enacted. Such publication shall be made within ten (10) days of the adoption of this ordinance and shall be made in a newspaper of general circulation in the City or published in the official municipal bulletin located on the City's website.

Section 3: That all ordinances and resolutions or parts thereof which are in conflict or inconsistent with any provision of the new matter adopted in this ordinance are hereby repealed as of the effective date of this ordinance except as follows:

- (a) The enactment of such sections and subsections shall not be construed to affect a right or liability accrued or incurred under any legislative provision prior to the effective date of such enactment, or an action or proceeding for the enforcement of such right or liability. Such enactment shall not be construed to relieve any person from punishment for an act committed in violation of any such legislative provision, nor to affect an indictment or prosecution therefor. For such purposes, any such legislative provision shall continue in full force notwithstanding its repeal for the purpose of revision and recodification.
- (b) The repeal provided above shall not affect any legislation enacted subsequent to June 20, 2016.

Section 4: That all meetings and hearings concerning the adoption of this ordinance have been in compliance with Section 220.01 of the Codified Ordinances, Ohio R.C. 121.22 and the City Charter.

Section 5: That this ordinance is hereby deemed to be an emergency measure necessary for the maintenance of the public health, safety, morals and general welfare of all citizens of Shelby and for the additional reason that it is immediately necessary to have an up-to-date Code of Ordinances, one which is consistent with State law, as required by the Ohio Constitution, with which to administer the affairs of the City and enforce law and order, wherefore this ordinance, and the Codified Ordinances hereby approved, adopted and enacted, shall be in full force and effect immediately from and after its passage and approval by the Mayor and the earliest period allowed by law.

PASSED: _____

Steven D. McLaughlin
Vice President of Council

APPROVED:

ATTEST: _____

Steven T. Lifer
Clerk of Council

Steven L. Schag
Mayor

Prepared by:

Gordon M. Eyster
Director of Law

ORDINANCE NO. 18 -2018
(Sponsor- Councilmember Gates)

DETERMINING TO PROCEED WITH THE IMPROVEMENT OF A PORTION OF WEST MAIN STREET WITH A SANITARY SEWER, INCLUDING THE CONSTRUCTION AND INSTALLATION OF SANITARY SEWER LINES, A FORCE MAIN AND LIFT STATION AND SERVICE CONNECTIONS IN THE RIGHT-OF-WAY AND ON CITY PROPERTY AND EASEMENTS, TOGETHER WITH NECESSARY APPURTENANCES AND WORK INCIDENTAL THERETO; LEVYING SPECIAL ASSESSMENTS FOR THAT IMPROVEMENT; AND DECLARING AN EMERGENCY.

WHEREAS, on March 19, 2018, this Council duly adopted Resolution No. 18-2018 declaring the necessity of the Project described in Section 1 (the "Resolution of Necessity"); and

WHEREAS, pursuant to Section 78 of the Charter of the City (the "Charter"), the Director of Finance and Public Record (the "Finance Director") did proceed to make an assessment report (the "Assessment Report") reflecting the lots and lands to be assessed as a result of the Project (the "Affected Properties"), the amount of the proposed special assessment as to each and the number of semi-annual installments in which such assessment would be paid; and

WHEREAS, pursuant to the Charter, notice (the "Notice of Assessment") was duly given to the owner or owners of the agent or agents of the owner or owners of Affected Property of the character of the Project, the fact that the Assessment Report had been filed with this Council, the rate of the proposed assessments, the number of installments and the time and place of a meeting at which complaints and claims could be heard by the Board of Revision of Assessments; and

WHEREAS, on May 3, 2018, the Board of Revisions of Assessments held a meeting which was recessed by unanimous vote, and, on August 6, 2018, the Board of Revision of Assessments reconvened their meeting and conducted a hearing pursuant to Section 81 of the Charter; and

WHEREAS, no written claims, complaints nor objections with respect to the Project or to the special assessments for the Project or the allocation of those assessments have been received and no such claims, complaints nor objections were raised at the meeting of the Board of Revision of Assessments; and

WHEREAS, the Board of Revision of Assessments has recommended to this Council no changes to the Assessment Report be made, and has reported its findings to this Council that the Project is necessary.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF SHELBY, OHIO, A TWO-THIRDS (2/3) MAJORITY ELECTED THERETO CONCURRING:

Section 1: It is determined to proceed with the improvement of a portion of West Main Street with a sanitary sewer (the "Project"). The Project will include the construction and installation of sanitary sewer lines, a force main and lift station and service connections in the right-of-way and on City property and easements, together with necessary appurtenances and work incidental thereto, required to serve properties on West Main Street beginning at a point 675 feet west of the intersection of Stambaugh Street and ending at a point 1,440 feet east of the intersection of Funk Road.

Section 2: The Project shall be constructed in accordance with the provisions of the Resolution of Necessity and with the plans, specifications, estimates and profiles, which are hereby approved and now on file in the office of the Mayor.

Section 3: Any claims for damages resulting from the Project that have been or may be legally filed shall be inquired into after completion of the Project, and the Director of Law is authorized and directed to institute legal proceedings in a court of competent jurisdiction to inquire into those claims.

Section 4: In accordance with the Resolution of Necessity, the whole cost of the Project, less (i) two (2%) thereof, (ii) the cost of intersections, (iii) the whole cost of "oversized" utilities (those costs incurred over and above the cost of "regular sized" utilities, (iv) the whole cost of and related

to a lift station and related force main, (v) the whole cost of engineering, and (vi) the whole costs of property and easement acquisition, shall be assessed by proportion to the benefits which may result from the Project upon the following Affected Properties:

Richland County Parcel ID Nos.

0460819818000	0460819614000	0460815310000	0460822012000
0460819512000	0460819614001	0460815511002	0460815401000
0460820218000	0460816417000	0460815511001	0460802617000
0460819608000	0460802308000	0460815512002	0460806214000
0460804308000	0460810210000	0460821911000	0460804118000
0460806810000	0460820215002	0460813001000	0460813614000

Section 5: The Mayor is hereby authorized and directed to make and sign a contract or contracts for the Project with the lowest and best bidder after advertising according to law, and the Project shall be financed as provided in the Resolution of Necessity or by a loan or loans that may be obtained by the City from a governmental authority for the same purpose.

Section 6: The estimated special assessments for the cost and expense of the Project, amounting in the aggregate to \$560,000, which were filed and are on file in the office of the Clerk of Council, are adopted and confirmed. In accordance with Section 83 of the Charter, those special assessments are hereby levied and assessed upon the lots and lands provided for in the Resolution of Necessity in the respective amounts set forth in the Assessment Report on file, which special assessments are in proportion to the special benefits and are not in excess of any statutory limitation; provided, however, that those special assessments shall be subject to adjustment upon completion of the Project and determination of the final costs thereof.

Section 7: The Finance Director is hereby authorized to certify the special assessments hereby levied to the Richland County Auditor; provided, however, that he shall not provide such certification until the Project is completed and its final costs have been determined, and this Council has made any necessary adjustments to the assessments to reflect those final costs or has confirmed that no such adjustments are necessary.

Section 8: Upon determination of the final costs of the Project and the adjustment or confirmation of the special assessments by this Council, the total assessment against each Affected Property shall be payable in cash to the Finance Director within thirty (30) days after the passage of an ordinance of this Council reflecting any such adjustment or confirmation or, at the option of the property owner assessed, in twenty (20) semiannual installments with interest at the same rate as is borne by the securities issued or the loan or loans incurred by the City in anticipation of the collection of such assessments. All assessments and installments thereof which have not been paid at the expiration of said 30-day period shall be certified by the Clerk of Council to the Richland County Auditor to be placed by him on the tax duplicate and collected at the same time in the same manner as other taxes are collected, as provided by law.

Section 9: The Clerk of this Council is hereby authorized and directed to cause notice of the passage of this Ordinance, and of the passage of an ordinance adjusting or confirming the special assessments following the determination of the final cost of the Project, to be published once in a newspaper of general circulation in the City and delivered to the owner or owners or the agent or agents of the owner or owners of the Affected Properties by first class mail.

Section 10: The Clerk of this Council shall be and is hereby authorized and directed to keep said assessments and any subsequent adjustments on file in his office for so long as any of them remain unpaid.

Section 11: All meetings and hearings concerning the adoption of this Ordinance have been in compliance with Ohio Revised Code Section 121.22, the Charter and Codified Ordinance 220.01 of the City of Shelby, Ohio.

Section 12: This Ordinance is declared to be an emergency measure necessary for the immediate preservation of the public peace, health and safety of this City and for the further reason that this Ordinance is required to be immediately effective to proceed timely with the construction of the Project, which is needed to eliminate and avoid potential hazards to public health and the

environment; wherefore, this Ordinance shall be in full force and effect from and after its passage, approval by the Mayor.

PASSED: _____

Steven McLaughlin
Vice President of Council

APPROVED:

ATTEST: _____

Steven T. Lifer
Clerk of Council

Steven L. Schag
Mayor

Prepared by: _____

Gordon M. Eyster
Director of Law

RESOLUTION NO. 35 - 2018

(Sponsor: Councilmember Martin)

AUTHORIZING THE MAYOR AS DIRECTOR OF PUBLIC SERVICE TO ENTER INTO A CONTRACT WITH ZIMMERMAN'S METAL AND LUMBER FOR THE CONSTRUCTION OF A SLUDGE DRYING AND CONTAINMENT BUILDING AT THE WASTE WATER TREATMENT PLANT.

WHEREAS, the Shelby Waste Water Treatment Plant is desirous of a sludge drying and containment building; and

WHEREAS, a sludge drying and containment building will allow pressed sludge to be contained and free from precipitation that increase disposal cost and create adverse safety conditions; and

WHEREAS, Zimmerman's Metal and Lumber had the best quote for providing same; and

WHEREAS, it is in the interest of the public health, safety, morals, and general welfare of the citizens of the City of Shelby that the Mayor as Director of Public Service be authorized to approve a quote for the construction of a sludge drying and containment building at the Waste Water Treatment Plant.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF SHELBY, OHIO, A TWO-THIRDS (2/3) MAJORITY ELECTED THERETO CONCURRING:

Section 1: That the Mayor as Director of Public Service is hereby authorized to enter into a contract with Zimmerman's Metal and Lumber to construct a sludge drying and containment building at the Waste Water Treatment Plant.

Section 2: That all meetings and hearings concerning the adoption of this Resolution have been in compliance with Codified Ordinance 220.01, Ohio Revised Code Section 121.22, and the Charter of the City of Shelby, Ohio.

Section 3: That this Resolution shall be in full force and effect from and after its passage, approval by the Mayor, and the earliest period allowed by law.

PASSED: _____

Steven McLaughlin
Vice President of Council

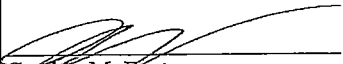
APPROVED:

ATTEST: _____

Steven T. Lifer
Clerk of Council

Steven L. Schag
Mayor

Prepared by:



Gordon M. Eyster
Director of Law