

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

AMENDED
Shelby City Council Agenda
Monday, December 17, 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 December 3, 2018

Moved _____ 2ND _____

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

Public Comment

Reports from Standing and Special Committees

Finance & Personnel Committee—Garland John Gates

Safety Committee—Derrin Roberts

Utilities & Streets Committee—Nathan Martin

Reports of City Officials

Steven L. Schag—Mayor

**MOTION TO REQUEST A LIQUOR HEARING FOR TAVERN AT BLACKFORK LLC DBA
TAVERN AT BLACKFORK 15 EAST WHITNEY AVENUE**

Moved _____ 2ND _____

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

**MOTION TO CONFIRM THE APPOINTMENT OF DAVE KEINATH TO THE BOARD OF
PARK COMMISSIONERS FOR A TERM ENDING 12/31/2022**

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

Steven T. Lifer—Director of Finance

Gordon M. Eyster—Law Director

Joe Gies—Project Coordinator

New Business

Unfinished Business

Future Use of Main Street Fire Station

West Main Street Sewer Project-Now in legislation form

Legislation

ORDINANCE NO 31-2018

**ENACTING CHAPTER 625 OF THE CODIFIED
ORDINANCES OF THE CITY OF SHELBY (PROHIBITION
OF MEDICAL MARIJUANA PROCESSING, CULTIVATION,
AND RETAIL DISTRIBUTION WITHIN THE CITY OF
SHELBY)**

3RD READING

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

PASSAGE OF ORDINANCE

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

ORDINANCE NO 32-2018

ENACTING SECTION 1296.17 OF THE ORDINANCES OF THE CITY OF SHELBY (PROHIBITION OF MEDICAL MARIJUANA PROCESSING, CULTIVATION, AND RETAIL DISTRIBUTION WITHIN THE CITY OF SHELBY)

2ND READING

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

ORDINANCE NO 35-2018

AMENDING SECTION 1028.01 (PETITION REQUIRED; FILING FEE) OF CHAPTER 1028 (VACATION OF STREETS AND ALLEYS) OF THE CODIFIED ORDINANCES OF THE CITY OF SHELBY

1ST READING

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

ORDINANCE NO 37-2018

AMENDING ORDINANCE NO 4-2018 (ANNUAL APPROPRIATIONS), AND DECLARING AN EMERGENCY

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

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

PASSAGE OF ORDINANCE

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

Miscellaneous Business

MOTION TO GO INTO EXECUTIVE SESSION FOR THE FOLLOWING PURPOSES:

Moved _____ 2ND _____

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

TO CONSIDER THE PURCHASE OF PROPERTY FOR PUBLIC PURPOSES, OR FOR THE SALE OF PROPERTY AT COMPETITIVE BIDDING, IF PREMATURE DISCLOSURE OF INFORMATION WOULD GIVE AN UNFAIR COMPETITIVE OR BARGAINING ADVANTAGE TO A PERSON WHOSE PERSONAL, PRIVATE INTEREST IS ADVERSE TO THE GENERAL PUBLIC INTEREST

PREPARING FOR, CONDUCTING, OR REVIEWING NEGOTIATIONS OR BARGAINING SESSIONS WITH PUBLIC EMPLOYEES CONCERNING THEIR COMPENSATION OR OTHER TERMS AND CONDITIONS OF THEIR EMPLOYMENT

Adjournment at _____ p.m.

Moved _____ 2ND _____

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

11/19/2018
2nd Reading
12/3/2018

ORDINANCE NO. 31 -2018

(Sponsors: Councilmen Roub, McLaughlin, Martin, Gates and Roberts)

ENACTING CHAPTER 625 OF THE CODIFIED ORDINANCES OF THE CITY OF SHELBY (PROHIBITION OF MEDICAL MARIJUANA PROCESSING, CULTIVATION, AND RETAIL DISTRIBUTION WITHIN THE CITY OF SHELBY)

WHEREAS, Substitute H. B. 523 was signed into law by Governor Kasich and became effective on September 8, 2016; and

WHEREAS, pursuant to Home Rule authority found in Article XVIII of the Constitution of the State of Ohio, the city Charter, and the Ohio Revised Code, municipalities have the inherent power to enact among others, zoning, and business regulations that further the health, safety and peace of its citizens by restricting, prohibiting and/or regulating certain businesses; and

WHEREAS, it has been affirmed by ORC 3796.29 that municipalities may adopt restrictions including prohibition against cultivators, processors, and distributors of medical marijuana within their jurisdictions, or limiting the number thereof; and

WHEREAS, marijuana (cannabis) remains classified as a Schedule I controlled substance under the Federal Controlled Substances Act, making it a violation of federal law to possess, manufacture, or distribute marijuana; and

WHEREAS, because the manufacture, possession, and distribution of marijuana are prohibited under federal law, banks, and other financial service providers are prohibited from conducting business from known marijuana enterprises; and

WHEREAS, the inability to bank the large amounts of cash resulting from sales, and the large amounts of cash carried by customers invites the opportunity for crimes such as robbery, burglary, theft, money laundering, tax evasion, and other crimes; and

WHEREAS, due to the above threats to the public health, safety, and the general welfare of the citizens of the City of Shelby, Ohio, and the continued federal classification as a Schedule I drug the cultivation, processing, and retail dispensing of marijuana for medical purposes shall not be permitted within the City of Shelby.

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

Section 1: That Chapter 625 of the Codified Ordinances of the City of Shelby be enacted to read as follows:

“625.01 DEFINITIONS.

- (a) “Academic medical center” has the same meaning as in section 4731.297 of the Ohio Revised Code.
- (b) “Marijuana” has the same meaning as defined in section 3719.01 of the Ohio Revised Code.
- (c) “Medical marijuana” means marijuana that is cultivated, processed, dispensed, tested, possessed, or used for a medical purpose.
- (d) “State university” has the same means as in section 3345.011 of the Ohio Revised Code.

625.02 CULTIVATION, PROCESSING, OR RETAIL DISPENSING OF MEDICAL MARIJUANA PROHIBITED.

- (a) The cultivation, processing, or retail dispensing of medical marijuana within the City of Shelby is prohibited.

(b) This section does not prohibit research related to marijuana at a state university, academic medical center, or private research and development organizations as part of a research protocol as approved by an institutional review board or equivalent entity, if otherwise permitted by State law or rule, or local ordinance.

(c) Whoever violates section (a) is guilty of a misdemeanor of the fourth degree. Each day of violation shall constitute a separate offense.”

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 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

12/3/2018

ORDINANCE NO. 32 -2018

(Sponsors: Councilmen Roub, McLaughlin, Martin, Gates and Roberts)

ENACTING SECTION 1296.17 OF THE ORDINANCES OF THE CITY OF SHELBY (PROHIBITION OF MEDICAL MARIJUANA PROCESSING, CULTIVATION, AND RETAIL DISTRIBUTION WITHIN THE CITY OF SHELBY)

WHEREAS, Substitute H. B. 523 was signed into law by Governor Kasich and became effective on September 8, 2016; and

WHEREAS, pursuant to Home Rule authority found in Article XVIII of the Constitution of the State of Ohio, the city Charter, and the Ohio Revised Code, municipalities have the inherent power to enact among others, zoning, and business regulations that further the health, safety and peace of its citizens by restricting, prohibiting and/or regulating certain businesses; and

WHEREAS, it has been affirmed by ORC 3796.29 that municipalities may adopt restrictions including prohibition against cultivators, processors, and distributors of medical marijuana within their jurisdictions, or limiting the number thereof; and

WHEREAS, marijuana (cannabis) remains classified as a Schedule I controlled substance under the Federal Controlled Substances Act, making it a violation of federal law to possess, manufacture, or distribute marijuana; and

WHEREAS, because the manufacture, possession, and distribution of marijuana are prohibited under federal law, banks, and other financial service providers are prohibited from conducting business from known marijuana enterprises; and

WHEREAS, the inability to bank the large amounts of cash resulting from sales, and the large amounts of cash carried by customers invites the opportunity for crimes such as robbery, burglary, theft, money laundering, tax evasion, and other crimes; and

WHEREAS, due to the above threats to the public health, safety, and the general welfare of the citizens of the City of Shelby, Ohio, and the continued federal classification as a Schedule I drug the cultivation, processing, and retail dispensing of marijuana for medical purposes shall not be permitted within the City of Shelby.

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

Section 1: That Section 1296.17 of the Codified Ordinances of the City of Shelby be enacted to read as follows:

“ 1296.17 CULTIVATION, PROCESSING, OR RETAIL DISPENSING OF MEDICAL MARIJUANA IS PROHIBITED IN ALL ZONING DISTRICTS.

- (a) The cultivation, processing, or retail dispensing of medical marijuana shall be a prohibited use in all zoning districts of the City of Shelby.
- (b) Use of property in violation of this section shall constitute a nuisance.
- (c) In addition to other penalties provided by law, the Director of Law shall be authorized to institute civil proceedings in a court of competent jurisdiction to enjoin violations of this Section; for monetary damages arising from violations of this Section; and to take all actions necessary to secure enforcement of any injunction and collect upon any award, judgment, or fine in contempt levied in relation to a violation of this Section.”

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 McLaughlin
Vice President of Council


APPROVED:

ATTEST: _____

Steven T. Lifer
Clerk of Council

Steven L. Schag
Mayor

Prepared by:



Gordon M. Byster
Director of Law

ORDINANCE NO. 35 -2018
(Sponsor -- Councilmember Gates)

AMENDING SECTION 1028.01 (PETITION REQUIRED; FILING FEE) OF CHAPTER 1028 (VACATION OF STREETS AND ALLEYS) OF THE CODIFIED ORDINANCES OF THE CITY OF SHELBY.

WHEREAS, at present, the expense of a plat and description regarding the vacation of a street or alley is borne by the City of Shelby's General Fund; and

WHEREAS, it is in the interest of the public health, safety, morals, and general welfare that said expense be borne by the petitioner(s) requesting said vacation.

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

Section 1: That Section 1028.01 of the Codified Ordinances of the City of Shelby be amended to read as follows:

1028.01 PETITION REQUIRED; FILING FEE.

(a) Any adjoining property owner who desires the vacation of a street or alley shall file with the Clerk of Council a petition requesting the same. This petition shall read substantially as follows:

PETITION TO VACATE STREET OR ALLEY

To the Council of the City of Shelby, Ohio:

We, the undersigned owners of lots in the City of Shelby, Richland County, Ohio, abutting on the street or alley hereinafter described, to wit: *(insert an adequate description of the street or alley proposed to be vacated and attach a plat and description prepared by a registered surveyor showing the street or alley)*

respectfully petition that the street or alley be vacated between the points aforesaid for the following reason(s):

We state that the vacation will not be detrimental to the general interests of the citizens of the City of Shelby. We acknowledge that the vacation will be subject to the provisions of Ohio R.C. Section 723.041, wherein a permanent easement in the vacated street or alley will be retained by and for the benefit of the city and other public utilities.

WARNING!

Sign only your own name upon this petition. Signing another person's name constitutes a violation of law and may invalidate this petition. If you have the legal authority to sign on behalf of another, such as a guardianship or a power of attorney, attach a copy of your legal authority to this petition.

NAME ADDRESS PHONE LOT NUMBER(S)

CIRCULATOR'S STATEMENT

I, _____, declare under penalty of law that I reside at the address appearing below my signature hereto; that I am the circulator of the foregoing petition containing _____ (number) signatures; that I witnessed the affixing of every signature; that all signers are to the best of my knowledge qualified to sign; and that every signature is to the best of my knowledge and belief the signature of the person whose signature it purports to be.

(signature of circulator)

(residence address of circulator)

CERTIFICATE OF VALIDITY

I, the undersigned, being the duly elected and qualified Director of Finance and Public Record, and ex officio Clerk of Council, do hereby certify to the Council of the City of Shelby that I have reviewed and examined the foregoing petition and find the same to be sufficient and valid.

Director of Finance and Public Record

(b) The petition shall contain the signatures of not less than 51% of the adjoining property owners. A filing fee of \$150 to cover the costs of notification, publication, recording and other direct costs shall accompany the petition and shall be deposited into the General Fund. The Clerk of Council shall determine the validity and sufficiency of the petition and shall certify the same to City Council in writing no later than the second regular Council meeting after its filing.

Section 2: That all other sections of Chapter 1028 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.

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 Lifer
Clerk of Council

Steven L. Schag
Mayor

Prepared by:



Gordon M. Eyster
Director of Law

ORDINANCE NO: 37 -2018
(Sponsors: Councilmembers Gates and Martin)

**AMENDING ORDINANCE NO.: 4-2018 (ANNUAL APPROPRIATIONS), AND
DECLARING AN EMERGENCY.**

WHEREAS, on March 19, 2018, the Council of the City of Shelby passed its Annual Appropriations Ordinance as required by the Ohio Revised Code Section 5705.38; and

WHEREAS, it is necessary to increase line items within the 2018 budget and to fund said line item with previously unappropriated monies; 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 these additional appropriations be made effective so as to balance the books for the calendar year 2018 and so as to fund necessary expenditure and/or projects.

**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: The Ordinance No. 4-2018 (Annual Appropriations) is hereby amended as follows:

THE PURPOSE OF THIS ORDINANCE IS TO INCREASE EXPENDITURES

220 - TRS - 446	Transfer - General Fund	\$100,000.00
220 - TRS - 447	Transfer - Capital Improvement	\$2,000.00
220 - TRS - 466	Transfer - Streets	\$12,000.00
220 - TRS - 447	Transfer - Police/Court	\$25,000.00
400 - MFG - 400	Wages	\$7,000.00
500 - DIS - 400	Wages	\$13,000.00
502 - WCI - 536	Construction	\$22,000.00
600 - DCP - 572	System Upgrades	\$11,000.00

Section 2: That all other portions of Ordinance No.: 4-2018, not modified expressly 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 220.21, Ohio Revised Code Section 121.22, and the Charter of the City of Shelby, Ohio.

Section 4: That this Ordinance is hereby deemed an emergency so as to meet the ongoing contractual and/or monetary obligations of the City of Shelby, Ohio and, therefore, 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 Lifer
Clerk of Council

Steven L. Schag
Mayor

Prepared by: