

**Shelby City Council Agenda**  
**Monday, December 19, 2016**  
**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 5, 2016**

Moved \_\_\_\_\_ 2<sup>ND</sup> \_\_\_\_\_  
Mr. Gates \_\_\_\_\_ Mr. Martin \_\_\_\_\_ Mr. McLaughlin \_\_\_\_\_ Mr. Roub \_\_\_\_\_ Mr. Roberts \_\_\_\_\_

**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 CONFIRM THE APPOINTMENT OF JONATHON C. ELGIN TO THE CIVIL SERVICE COMMISSION TO FILL AN UNEXPIRED TERM ENDING 12/31/2020**

Moved \_\_\_\_\_ 2<sup>ND</sup> \_\_\_\_\_  
Mr. Gates \_\_\_\_\_ Mr. Martin \_\_\_\_\_ Mr. McLaughlin \_\_\_\_\_ Mr. Roub \_\_\_\_\_ Mr. Roberts \_\_\_\_\_

Steven T. Lifer—Director of Finance

Gordon M. Eyster—Law Director

Joe Gies—Project Coordinator

**New Business**  
Liquor Permit Renewals

**Unfinished Business**  
Mohican Street—Junk Yard

**Legislation**

**ORDINANCE NO 34-2016**                      **AMENDING SECTIONS 881.04(B)(1)(a), 881.04(B)(1)(b), AND 881.05(I) OF THE CODIFIED ORDINANCES OF THE CITY OF SHELBY AND DECLARING AN EMERGENCY**

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

Moved \_\_\_\_\_ 2<sup>ND</sup> \_\_\_\_\_  
Mr. Gates \_\_\_\_\_ Mr. Martin \_\_\_\_\_ Mr. McLaughlin \_\_\_\_\_ Mr. Roub \_\_\_\_\_ Mr. Roberts \_\_\_\_\_

**PASSAGE OF ORDINANCE**

Moved \_\_\_\_\_ 2<sup>ND</sup> \_\_\_\_\_  
Mr. Gates \_\_\_\_\_ Mr. Martin \_\_\_\_\_ Mr. McLaughlin \_\_\_\_\_ Mr. Roub \_\_\_\_\_ Mr. Roberts \_\_\_\_\_

**ORDINANCE NO 35-2016**                      **AUTHORIZING THE SALE OF REAL ESTATE THAT IS NO LONGER NEEDED FOR ANY MUNICIPAL PURPOSE**

**1ST READING**

Moved \_\_\_\_\_ 2<sup>ND</sup> \_\_\_\_\_  
Mr. Gates \_\_\_\_\_ Mr. Martin \_\_\_\_\_ Mr. McLaughlin \_\_\_\_\_ Mr. Roub \_\_\_\_\_ Mr. Roberts \_\_\_\_\_

**ORDINANCE NO 36-2016                      TRANSFERRING APPROPRIATIONS FOR THE YEAR 2016  
AND DECLARING AN EMERGENCY**

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

Moved       2<sup>ND</sup>        
Mr. Gates \_\_\_\_\_ Mr. Martin \_\_\_\_\_ Mr. McLaughlin \_\_\_\_\_ Mr. Roub \_\_\_\_\_ Mr. Roberts \_\_\_\_\_

**PASSAGE OF ORDINANCE**

Moved       2<sup>ND</sup>        
Mr. Gates \_\_\_\_\_ Mr. Martin \_\_\_\_\_ Mr. McLaughlin \_\_\_\_\_ Mr. Roub \_\_\_\_\_ Mr. Roberts \_\_\_\_\_

**ORDINANCE NO 37-2016                      AMENDING ORDINANCE NO 9-2016 (ANNUAL  
APPROPRIATIONS), AND DECLARING AN EMERGENCY**

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

Moved       2<sup>ND</sup>        
Mr. Gates \_\_\_\_\_ Mr. Martin \_\_\_\_\_ Mr. McLaughlin \_\_\_\_\_ Mr. Roub \_\_\_\_\_ Mr. Roberts \_\_\_\_\_

**PASSAGE OF ORDINANCE**

Moved       2<sup>ND</sup>        
Mr. Gates \_\_\_\_\_ Mr. Martin \_\_\_\_\_ Mr. McLaughlin \_\_\_\_\_ Mr. Roub \_\_\_\_\_ Mr. Roberts \_\_\_\_\_

**RESOLUTION NO 75-2016                      AUTHORIZING THE MAYOR AS DIRECTOR OF PUBLIC  
SERVICE TO ENTER INTO A CONTRACT CHANGE  
ORDER WITH DIRT DAWG EXCAVATING, LLC FOR THE  
HARTMAN-BARGAHEISER TRUNK SEWER PROJECT IN  
THE AMOUNT OF SIX THOUSAND FOUR HUNDRED  
THIRTY-TWO AND 70/100 DOLLARS (\$6,432.70) AS AN  
INCREASE AND DECLARING AN EMERGENCY**

Moved       2<sup>ND</sup>        
Mr. Gates \_\_\_\_\_ Mr. Martin \_\_\_\_\_ Mr. McLaughlin \_\_\_\_\_ Mr. Roub \_\_\_\_\_ Mr. Roberts \_\_\_\_\_

**Miscellaneous Business**

**Adjournment at \_\_\_\_\_ p.m.**

Moved       2<sup>ND</sup>        
Mr. Gates \_\_\_\_\_ Mr. Martin \_\_\_\_\_ Mr. McLaughlin \_\_\_\_\_ Mr. Roub \_\_\_\_\_ Mr. Roberts \_\_\_\_\_

**ORDINANCE NO: 34-2016**  
(Sponsor: Councilmember McLaughlin)

**AMENDING SECTIONS 881.04(B)(1)(a), 881.04(B)(1)(b), AND 881.05(I) OF THE CODIFIED ORDINANCES OF THE CITY OF SHELBY AND DECLARING AN EMERGENCY.**

WHEREAS, The General Assembly comprehensively reviewed and amended Chapter 718 of the Ohio Revised Code by enacting H.B.5 in December 2014, and mandated that municipal income tax codes be amended by January 1, 2016 such that any income or withholding tax is "levied in accordance with the provisions and limitations specified in [Chapter 718]"; and

WHEREAS, the General Assembly again amended Chapter 718 of the Ohio Revised Code enacting Senate Bill 172, effective September 14, 2016; and

WHEREAS, upon a detailed review of S.B. 172, and the Codified Ordinance of the City of Shelby, this Ordinance is found and determined by this Council to enact the amendments required to be in accord with the limitations specified in Chapter 718 of the Revised Code.

**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: That Sections 881.04(B)(1)(a) and 881.04(B)(1)(b) of the Codified Ordinances of the City of Shelby are amended to read as follows:

**SECTION 881.04 COLLECTION AT SOURCE.**

(B)(1) Except as provided in division (B)(2) of this section, an employer, agent of an employer, or other payer shall remit to the Tax Administrator of Shelby the greater of the income taxes deducted and withheld or the income taxes required to be deducted and withheld by the employer, agent, or other payer according to the following schedule:

(a) Taxes required to be deducted and withheld shall be remitted monthly to the Tax Administrator if the total taxes deducted and withheld or required to be deducted and withheld by the employer, agent, or other payer on behalf of Shelby in the preceding calendar year exceeded \$2,399, or if the total amount of taxes deducted and withheld or required to be deducted and withheld on behalf of Shelby in any month of the preceding calendar quarter exceeded \$200.

Payment under division (B)(1)(a) of this section shall be made so that the payment is postmarked to the Tax Administrator not later than 15 days after the last day of each month for which the tax was withheld.

(b) Any employer, agent of an employer, or other payer not required to make payments under division (B)(1)(a) of this section of taxes required to be deducted and withheld shall make quarterly payments to the Tax Administrator not later than the last day of the month following the last day of each calendar quarter.

Section 2: That Section 881.05(1) of the Codified Ordinances of the City of Shelby is amended to read as follows:

**SECTION 881.05 ANNUAL RETURN; FILING.**

- (I) If a payment is required to be made by electronic funds transfer, the payment is considered to be made on the date of the timestamp assigned by the electronic system receiving that payment. This division shall not apply to payments required to be made under division (B)(1)(a) of Section 881.04 or provisions for semi-monthly withholding.

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 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.

ORDINANCE NO: 35 -2016  
(Sponsor: Councilmember Gates)

**AUTHORIZING THE SALE OF REAL ESTATE THAT IS NO LONGER NEEDED FOR ANY MUNICIPAL PURPOSE.**

WHEREAS, the City of Shelby by and through its Council has the special power to sell its real estate when such real estate is no longer needed for any municipal purpose; and

WHEREAS, the Mayor as Director of Public Service has determined that the site at 2-8 Mohican Street is no longer needed for any municipal purpose; 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 this parcel of real estate be sold by 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 the following described real estate belonging to the City of Shelby is no longer needed for any municipal purpose, to wit:

Being Lot 588 and parts of Lot 245 in Samuel Sutters & Others Addition, Plat Volume 3, Page 27, in the City of Shelby, Richland County, Ohio, and being more particularly described as follows:

Commencing for the same at a drill hole and cross set in a concrete sidewalk at the southeast corner of Lot 533, said point also being on the north right-of-way line of Main Street (State Routes 39 and 96 – 60 feet in width) and the west right-of-way line of Mohican Street (29 feet in width); thence N00°00'00"W, along the east line of Lot 533 and the west right-of-way line of Mohican Street, a distance of 90.00 feet to a drill hole and cross set in a concrete sidewalk at the southeast corner of Lot 588 (northeast corner of Lot 533), said point being the real point of beginning for the parcel herein described; thence S89°14'45"W, along the south line of Lot 588 (north line of Lot 533) and passing for reference an iron pin set at 50.00 feet, a total distance of 91.54 feet to the southwest corner of Lot 588 (northwest corner of Lot 533), said point also being in the Black Fork of the Mohican River; thence N07°18'59"W, along the west lines of Lot 588 and Lot 245 in the Black Fork of the Mohican River, a distance of 83.54 feet to a point on the west line of Lot 245; thence N89°14'45"E, passing for reference an iron pin set at 52.18 feet, a total distance of 102.18 feet to a drill hole and cross set in a concrete sidewalk on the east line of Lot 245, said point also being on the west right-of-way line of Mohican Street; thence S00°00'00"E, along the east lines of Lots 245 and 588 and the west right-of-way line of Mohican Street, a distance of 83.00 feet to the real point of beginning, and containing 0.185 acre (8,038 square feet), {0.120 acre (5,228 square feet) in Lot 588, 0.049 acre (2,117 square feet) in S.D. 6 being part of Lot 245, and 0.016 acre (693 square feet) in S.D. 7 being part of Lot 245}, more or less, but subject to all legal easements and public rights-of-way now on record. All iron pins set are 3/4" diameter, 30" long with caps stamped "KROCKA & ASSOC." Bearings are based on the west right-of-way line of Mohican Street as being N00°00'00"W, per a survey by Charles A. Kerg dated August 10, 1990.

Section 2: That the Mayor as Director of Public Service be and is hereby authorized to sell said real estate to the highest bidder(s) according to law, with a reserve of Three Thousand (\$3,000.00) Dollars, and further authorized to convey said real estate by quitclaim deed to such highest bidder(s) according to law.

Section 3: That the City of Shelby shall reserve unto itself sufficient utility easements as may be required.

Section 4: That the Director of Finance and Public Record shall deposit the proceeds of the sale of real estate described in Section 1 to the credit of the General Fund.

Section 5: 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 6: 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.

ORDINANCE NO.: 36 -2016  
(Sponsor: Councilmember Gates)

**TRANSFERRING APPROPRIATIONS FOR THE YEAR 2016 AND DECLARING AN EMERGENCY.**

WHEREAS, it is necessary to transfer funds from one line item to another within the existing 2016 budget; and

WHEREAS, these transfers be made effective so as to balance the books for the calendar year 2016 and so as to fund necessary expenditures and/or projects; 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 funds be transferred.

**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: That the Director of Finance shall be and is hereby authorized and directed to make the following transfers:

FROM	200 - STR - 418	Hospitalization	\$7,000.00
TO	200 - STR - 400	Wages	\$7,000.00
FROM	500 - DIS - 400	Wages	\$23,000.00
FROM	500 - MFG - 418	Hospitalization	\$6,000.00
TO	500 - MFG - 400	Wages	\$29,000.00

Section 2: That all other portions of Ordinance No. 9 - 2016, 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 is hereby deemed to be 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:

\_\_\_\_\_  
Gordon M. Eyster  
Director of Law

ORDINANCE NO: 37 -2016  
(Sponsor: Councilmember McLaughlin)

AMENDING ORDINANCE NO: 9-2016 (ANNUAL APPROPRIATIONS), AND  
DECLARING AN EMERGENCY.

WHEREAS, on March 21, 2016, 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 2016 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 2016 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. 9-2016 (Annual Appropriations) is hereby amended as follows:

THE PURPOSE OF THIS ORDINANCE IS TO INCREASE EXPENDITURES

236 - IDA - 531	MISCELLANEOUS	\$1,000.00
400 - MTN - 520	SLUDGE REMOVAL	\$23,000.00

Section 2: That all other portions of Ordinance No.: 9-2016, 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:

\_\_\_\_\_  
Gordon M. Eyster  
Director of Law

RESOLUTION NO: 75 -2016  
(Sponsor: Councilmember Martin)

**AUTHORIZING THE MAYOR AS DIRECTOR OF PUBLIC SERVICE TO ENTER INTO A CONTRACT CHANGE ORDER WITH DIRT DAWG EXCAVATING, LLC FOR THE HARTMAN-BARGAHEISER TRUNK SEWER PROJECT IN THE AMOUNT OF SIX THOUSAND FOUR HUNDRED THIRTY-TWO AND 70/100 DOLLARS (\$6,432.70) AS AN INCREASE AND DECLARING AN EMERGENCY.**

WHEREAS, the City of Shelby has entered into a contract with Dirt Dawg Excavating, LLC. for the Hartman-Bargaheiser Trunk Sewer Project, and said contract provides for a written change order; 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 this change order be approved.

**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 shall be and is hereby authorized to enter into Contract Change Order with Dirt Dawg Excavating, LLC. for the total amount of Six Thousand Four Hundred Thirty-two and 70/100 Dollars (\$6,432.70) as an increase.

Section 2: That all meetings and hearings concerning the adoption of this Resolution have been 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 is hereby deemed to be an emergency, 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: \_\_\_\_\_

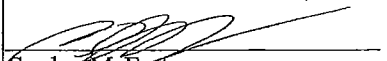
\_\_\_\_\_  
Steven McLaughlin  
Vice President of Council

APPROVED:

ATTEST: \_\_\_\_\_  
Steven Lifer  
Clerk of Council

\_\_\_\_\_  
Steven L. Schag  
Mayor

Prepared by:

  
\_\_\_\_\_  
Gordon M. Eyster  
Director of Law