

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

Shelby City Council Agenda
Monday, December 3, 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 November 19, 2018

Moved _____ 2ND _____

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

Public Comment

Reports from Standing and Special Committees

Community & Economic Development Committee—Steve McLaughlin

Public Works & General Operation Committee—Charlie Roub

Reports of City Officials

Steven L. Schag—Mayor

MOTION TO CONFIRM THE APPOINTMENT OF CHRISTINA DRAIN TO THE SHELBY HISTORIC PRESERVATION COMMISSION FOR A FIVE-YEAR TERM ENDING 12/31/2023

Moved _____ 2ND _____

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

MOTION TO REQUEST A LIQUOR HEARING FOR H GILBERT ENTERPRISES INC DBA AJS DRIVE THRU 115 SOUTH GAMBLE STREET

Moved _____ 2ND _____

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

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

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

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-Now in legislation form

Legislation

**ORDINANCE NO 26-2018 CORRECTING AN ERROR ON THE SHELBY ZONING
DISTRICTS MAP**

3RD READING

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

PASSAGE OF ORDINANCE

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

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)**

2ND READING

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

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

ORDINANCE NO 33-2018

**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. Martin Mr. McLaughlin Mr. Roub Mr. Roberts Mr. Gates

PASSAGE OF ORDINANCE

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

ORDINANCE NO 34-2018

**CREATING TEMPORARY APPROPRIATIONS FOR THE
YEAR 2019 AND DECLARING AN EMERGENCY**

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

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

PASSAGE OF ORDINANCE

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

RESOLUTION NO 58-2018

**APPROVING THE PLANS AND AUTHORIZING THE
MAYOR AS DIRECTOR OF PUBLIC SERVICE TO
ADVERTISE FOR BIDS AND ENTER INTO A CONTRACT
FOR THE CITY OF SHELBY RIC-61-6.38 GAMBLE STREET
PROJECT**

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

Miscellaneous Business

MOTION TO GO INTO EXECUTIVE SESSION FOR THE FOLLOWING PURPOSE:

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

1st Reading
10/15/2018
2nd Reading
11/5/2018
Referred to
Planning Comm
11/19/2018

ORDINANCE NO. 26-2018
(Sponsor: Councilmember Gates)

CORRECTING AN ERROR ON THE SHELBY ZONING DISTRICTS MAP.

WHEREAS, the official Zoning Districts Map of the City of Shelby contains an error in that it places the property at 100 North Gamble Street in the R-2 Residential District; however, said property has been used for commercial purposes since circa 1960; 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 said error be corrected.

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

Section 1: That the official Zoning Districts Map of the City of Shelby be corrected to place the property located at 100 North Gamble Street (Richland County Parcel Numbers: 046-08-104-13-000 and 046-08-104-12-000) in the B-3 Highway Service Business District.

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

11/19/2018

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

11/19/2018
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

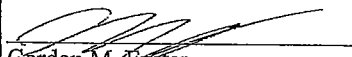
APPROVED:

ATTEST: _____

Steven T. Lifer
Clerk of Council

Steven L. Schag
Mayor

Prepared by:



Gordon M. Byster
Director of Law

ORDINANCE NO: 33 -2018
(Sponsor: Councilmember McLaughlin)

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

101 - ENG - 500	Engineering	\$21,000.00
101 - MIS - 624	Revenue Sharing	\$5,000.00
400 - MTN - 520	Sludge Removal	\$20,000.00
600 - CAP - 507	Maintenance Building/Grounds	\$8,000.00
600 - DIS - 486	Maintenance Equipment	\$22,000.00

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:

Gordon M. Byster
Director of Law

ORDINANCE NO.: 34 -2018
 (Sponsors: Councilmember McLaughlin and Gates)

CREATING TEMPORARY APPROPRIATIONS FOR THE YEAR 2019 AND DECLARING AN EMERGENCY.

WHEREAS, Ohio Revised Code §5705.38 requires that “the taxing authority of each subdivision or other taxing unit shall pass an appropriation measure ... no later than the first day of April of the current year”; and

WHEREAS, so as to provide funding for the operation of the city government prior to the passage of the final appropriations, it is necessary to create temporary appropriations; 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 said Temporary Appropriations Ordinance be adopted as prepared so as to provide for the efficient operation of the City government and in anticipation of the creation and passage of the Final Appropriations Ordinance no later than the first day of April, 2019.

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 temporary appropriations are hereby made and authorized for the year 2019, the same to be in full force and effect from and after approval, as and for the temporary general appropriations for the City of Shelby for the year 2019.

Section 2: That City Council does hereby temporarily appropriate, for the year 2019 the following sums, to wit:

	ACCT. NO.	APPROPRIATION EXPENSE
GENERAL FUND	101	\$1,800,000.00
 <u>SPECIAL FUNDS</u>		
Street	200	\$140,000.00
State Highway	205	\$25,000.00
Street Sales Tax	210	\$48,000.00
Income Tax	220	\$1,250,000.00
Health	225	\$150,000.00
Park	230	\$230,000.00
Playscape Trust	231	\$0.00
Rehab Escrow CDBG	232	\$30,000.00
Court Probation	233	\$5,000.00
BMV Reimbursement	234	\$2,000.00
Law Enforcement Trust	235	\$5,000.00
Court IDAT	236	\$15,000.00
Court Enforce. & Education	237	\$2,000.00
Dare	238	\$2,000.00
Unclaimed Monies	240	\$1,000.00
Court IDAM	242	\$5,000.00
CDBG General	250	\$150,000.00
Home Program	251	\$200,000.00
Fire Damage	253	\$4,000.00
City Admin. & Bldg.	650	\$5,000.00
Police Pension	700	\$100,000.00
Fire Pension	701	\$100,000.00
Shade Tree Trust	705	\$2,000.00

Fema	815	\$0.00
Bicentennial Trust	800	\$0.00
Total Special Revenue Funds		\$ 2,471,000.00

DEBT SERVICE FUNDS

Special Bond	275	\$0.00
General Bond SSE	281	\$0.00
Light Debt Reserve	602	\$15,000.00
Total Debt Service		\$15,000.00

CAPITAL PROJECT FUNDS

Court Computer	239	\$5,000.00
Police Computer	241	\$3,000.00
Capital Improvement	300	\$60,000.00
Court Capital Improvement	304	\$10,000.00
Sidewalks 2%	352	\$20,000.00
Streets, Alleys Sidewalks	353	\$750,000.00
Police/court construction	354	\$120,000.00
Police Equipment	702	\$25,000.00
Fire Equipment	703	\$100,000.00
Total Capital Projects		\$1,093,000.00

ENTERPRISE FUNDS

Sewer	400	\$500,000.00
San. Sewer Capital Improvements	401	\$3,800,000.00
Waste Water Capital Improvements	402	\$460,000.00
Water	500	\$600,000.00
Water Facilities	501	\$250,000.00
Water Improvement Fund	502	\$440,000.00
Electric	600	\$4,300,000.00
Total Enterprise Funds		\$10,350,000.00

INTERNAL SERVICE FUND

Hospitalization	715	\$700,000.00
		\$700,000.00

PERMANENT FUND

Mini Park Trust	710	\$500.00
Total Non-Expendable Fund		\$500.00

AGENCY FUNDS

Customer Deposit Fund	601	\$50,000.00
Sharing Fund	706	\$18,000.00
Total Agency Funds		\$68,000.00

TOTAL APPROPRIATIONS

ALL FUNDS		\$16,497,500.00
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Section 3: That the Director of Finance and Public Records is hereby authorized to draw warrants on the City Treasury for the amounts appropriate in this Ordinance whenever claims are presented, properly approved by the head of the department, for which the indebtedness was incurred.

Section 4: That all meetings and hearings concerning the adoptions 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 5: That this Ordinance is hereby deemed to be an emergency so as to meet the ongoing contractual obligation 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. 58 -2018
(Sponsor: Councilmember Roub)

APPROVING THE PLANS AND AUTHORIZING THE MAYOR AS DIRECTOR OF PUBLIC SERVICE TO ADVERTISE FOR BIDS AND ENTER INTO A CONTRACT FOR THE CITY OF SHELBY RIC-61-6.38 GAMBLE STREET PROJECT.

WHEREAS, the City of Shelby has entered into an agreement with the Ohio Department of Transportation to serve as the lead agency for the Gamble Street Project; and

WHEREAS, plans and specifications have been prepared for said project; 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 advertise for bids and enter into a contract for the improvements herein above described.

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

Section 1: That the plans and specifications for the City of Shelby RIC-61-6.38 Gamble Street Project are hereby approved.

Section 2: That the Mayor as Director of Public Service is hereby authorized to advertise for bids and enter into a contract for the City of Shelby RIC-61-6.38 Gamble Street Project.

Section 3: 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 4: 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 D. McLaughlin
Vice President of Council

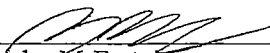
APPROVED:

ATTEST: _____

Steven Lifer
Clerk of Council

Steven L. Schag
Mayor

Prepared by:



Gordon M. Byster
Director of Law