

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

Shelby City Council Agenda
Monday, November 19, 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 5, 2018

Moved _____ 2ND _____
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

Proclamation of Appreciation

Steven T. Lifer—Director of Finance

Gordon M. Eyster—Law Director

Joe Gies—Project Coordinator

New Business
Liquor Permit Renewals

Unfinished Business
Future Use of Present Fire Station

West Main Street Sewer Project-Now in legislation form

Legislation

ORDINANCE NO 25-2018

**VACATING AN ALLEY RUNNING PERPENDICULAR OF
POWELL STREET BETWEEN LOTS 523, 524, 525, AND 526
IN THE CITY OF SHELBY, OHIO**

3RD READING

Moved _____ 2ND _____

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

PASSAGE OF ORDINANCE

Moved _____ 2ND _____

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

ORDINANCE NO 26-2018

**CORRECTING AN ERROR ON THE SHELBY ZONING
DISTRICTS MAP**

3RD READING

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

PASSAGE OF ORDINANCE

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

SUBSTITUTE ORDINANCE NO 28-2018

**AMENDING SECTION 881.06 (CREDIT FOR
TAX PAID TO OTHER MUNICIPALITIES) OF
CHAPTER 881 (EARNED INCOME TAX) OF
THE CODIFIED ORDINANCES OF THE CITY
OF SHELBY**

3RD READING

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

PASSAGE OF ORDINANCE

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

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)**

1ST READING

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

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)**

1ST READING

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

RESOLUTION NO 56-2018

**AUTHORIZING AND DIRECTING THE DIRECTOR OF
FINANCE AND PUBLIC RECORD AS TAX
ADMINISTRATOR TO IMPLEMENT THE PAYMENT OF
CITY INCOME TAXES BY CREDIT CARD**

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

RESOLUTION NO 57-2018

**ACCEPTING THE TRANSFER OF REAL PROPERTY AND
DECLARING AN EMERGENCY**

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

Miscellaneous Business

Adjournment at _____ p.m.

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

1st Reading
10/15/2018
2nd Reading
11/5/2018

ORDINANCE NO. 25-2018
(Sponsor: Councilmember Gates)

**VACATING AN ALLEY RUNNING PERPENDICULAR OF POWELL STREET
BETWEEN LOTS 523, 524, 525, AND 526 IN THE CITY OF SHELBY, OHIO.**

WHEREAS, on the 4th day of September, 2018, the Council of the City of Shelby adopted Resolution No. 41-2018 and in so doing declared its intent to vacate an alley running perpendicular of Powell Street within the City of Shelby, Ohio; and

WHEREAS, notice of adoption of the above Resolution has been provided to the owners of property abutting said alley thereby notifying said property owners of the time and place at which objections could be presented to the Board of Revision of Assessments (pursuant to Section 105 of the Charter of the City of Shelby); and

WHEREAS, the Board of Revision of Assessments met on September 27, 2018; (said meeting procedure being in accordance with provisions of Section 105 of the charter of the City of Shelby) and voted to approve and recommend the vacation of an alley running perpendicular of Powell Street between lots 523, 524, 525, and 526 within the City of Shelby, Ohio; and

WHEREAS, the Council of the City of Shelby is satisfied that there is good cause for vacating said alley which is hereinafter described and that said vacation will not be detrimental to the general interest and public welfare.

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

Section 1: That an alley running perpendicular of Powell Street within the City of Shelby, Ohio and as set forth in the legal description as prepared by F.E. Krocka & Associates, Inc.- Nathan W. Sautter, registered surveyor, on August 17, 2018 and designated as the plat of vacation of a 16-foot alley adjacent to Lots 523, 524, 525 & 526, Richland County Recorder Plat Volume 2#3, Page 15 of the records of the City of Shelby, Richland County, Ohio is hereby vacated.

Section 2: That in accordance with Section 105 of the Charter of the City of Shelby, Ohio, the City shall retain any and all easements necessary for the maintenance of utilities currently located within said alley

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
Clerk of Council

Steven L. Schag
Mayor

Prepared by:

Gordon M. Eyster
Director of Law

1st Reading
10/15/2018
2nd Reading
11/5/2018

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. Byster
Director of Law

1st Reading
10/15/2018
2nd Reading
11/5/2018

SUBSTITUTE ORDINANCE NO. 28-2018
(Sponsor: Councilmember Gates and Martin)

AMENDING SECTION 881.06 (CREDIT FOR TAX PAID TO OTHER MUNICIPALITIES) OF CHAPTER 881 (EARNED INCOME TAX) OF THE CODIFIED ORDINANCES OF THE CITY OF SHELBY.

WHEREAS, since 2016 there has been a steady increase in the annual amount of carryover from year to year in the General Fund; and

WHEREAS, income tax levies for the construction of the Justice Center (began collection in 2012 for 25 years at 0.3%) and maintenance of streets, alleys, and sidewalks (began collection in 2014 for 5 years at 0.2%) were approved by voters and are not subject to a tax credit; and

WHEREAS, the residents who live and work in the city and those non-residents who are employed in the city pay the current full income tax rate of 1.5%; and

WHEREAS, increasing the tax credit to 75% from the current 67% will reduce the collection by approximately \$40,000 per year.

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

Section 1: That Section 881.06 (Credit for Tax Paid to Other Municipalities) of Chapter 881 (Earned Income Tax) of the codified Ordinances of the City of Shelby be amended to read as follows:

881.06 CREDIT FOR TAX PAID TO OTHER MUNICIPALITIES.

(a) For income earned until and including December 31, 2018, every individual taxpayer domiciled in Shelby who is required to and does pay, or has acknowledged liability for, a municipal tax to another municipality on or measured by the same income, qualifying wages, commissions, net profits or other compensation taxable under this chapter, may claim a nonrefundable credit against the tax imposed by this chapter upon satisfactory evidence that tax has been paid to another municipality. Subject to division (c) of this section, the credit shall not exceed 67% of the amount obtained by multiplying the income, qualifying wages, commissions, net profits or other compensation subject to tax in the other municipality, or 67% of the amount subject to tax by Shelby, whichever is the lesser.

(b) For income earned on and after January 1, 2019, every individual taxpayer domiciled in Shelby who is required to and does pay, or has acknowledged liability for, a municipal tax to another municipality on or measured by the same income, qualifying wages, commissions, net profits or other compensation taxable under this chapter, may claim a nonrefundable credit against the tax imposed by this chapter upon satisfactory evidence that tax has been paid to another municipality. Subject to division (c) of this section, the credit shall not exceed 75% of the amount obtained by multiplying the income, qualifying wages, commissions, net profits or other compensation subject to tax in the other municipality, or 75% of the amount subject to tax by Shelby, whichever is the lesser.

(c) Shelby shall grant a credit against its tax on income to a resident of Shelby who works in a joint economic development zone created under R.C. § 715.691 or a joint economic development district created under R.C. § 715.70, 715.71, or 715.72 to the same extent that it grants a credit against its tax on income to its residents who are employed in another municipal corporation.

(d) If the amount of tax withheld or paid to the other municipality is less than the amount of tax required to be withheld or paid to the other municipality, then for purposes of division (a) of this section, "the income, qualifying wages, commissions, net profits or other compensation" subject to tax in the other municipality shall be limited to the amount computed by dividing the tax withheld or paid to the other municipality by the tax rate for that municipality.

Section 2: That all other Sections of Chapter 881 (Earned Income Tax) of the Codified Ordinances of the City of Shelby shall remain in full force and effort.

Section 3: 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 4: That this Ordinance shall be in full force and effort 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

ORDINANCE NO. 31 -2018

(Sponsors: Councilmen Roub, McLaughlin, Martin 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 9, 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

ORDINANCE NO. 32 -2018

(Sponsors: Councilmen Roub, McLaughlin, Martin 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 9, 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

RESOLUTION NO. 56 -2018
(Sponsors: Councilmembers Gates & Martin)

AUTHORIZING AND DIRECTING THE DIRECTOR OF FINANCE AND PUBLIC RECORD AS TAX ADMINISTRATOR TO IMPLEMENT THE PAYMENT OF CITY INCOME TAXES BY CREDIT CARD.

WHEREAS, the payment of City Income Taxes by credit card will be more convenient to a segment of local taxpayers; and

WHEREAS, Council wishes to make available the convenience of this option of payment; 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 Tax Administrator implement credit card payment for City Income Taxes.

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

Section 1: That the Director of Finance and Public Record as Tax Administrator shall be and is hereby authorized and directed, pursuant to Codified Ordinance Section 881.22, to implement the payment of City Income Taxes by credit card.

Section 2: That any fee charged for the payment of City income taxes by credit card shall be borne by the payor.

Section 3: Said implementation shall be completed within thirty (30) days from the effective date of this Resolution.

Section 4: 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 5: 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

RESOLUTION NO. 57 -2018
(Sponsors: Councilmembers Gates, Roub & Martin)

ACCEPTING THE TRANSFER OF REAL PROPERTY AND DECLARING AN EMERGENCY.

WHEREAS, Mr. Grant Milliron, Sr. has generously paid for the construction of a new, state-of-the-art fire station as a munificent gift to the City of Shelby; and

WHEREAS, the magnitude of Mr. Milliron's gift is beyond description as is, too, the gratitude of the people of this municipality; 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 transfer of real property upon which the new Shelby Fire Station is located be accepted.

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

Section 1: That the Council accept from Grant Milliron, Sr. the transfer of a certain 4.3613 acre parcel of real property designated as Permanent Parcel No. 046-08-186-13-002 and located at 40 High School Avenue.

Section 2: That, on behalf of a grateful citizenry, the Council express its humble thanks and deepest appreciation to Mr. Milliron for the modern edifice which will house the Shelby Fire Department for generations to come.

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 is hereby deemed to be an emergency in order for the City to immediately take possession and occupy said real property 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 T. Lifer
Clerk of Council

Steven L. Schag
Mayor

Prepared by:

Gordon M. Byster
Director of Law