

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

Shelby City Council Agenda
Monday, November 21, 2022
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 7, 2022

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

Public Comment

Reports from Standing and Special Committees

Finance & Personnel Committee—Councilmember Gates

MOTION THAT THE COMBINED FINANCIAL STATEMENT AND THE CASH/INVESTMENT RECONCILIATION STATEMENT BOTH DATED _____ BE RECEIVED, PLACED ON FILE, AND POSTED TO THE CITY WEBSITE.

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

Utilities & Streets Committee—Councilmember Martin

Reports of City Officials

Steven L. Schag—Mayor

MOTION TO CONFIRM THE APPOINTMENT OF DAVID KEINATH TO THE BOARD OF PARK COMMISSIONERS

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

MOTION TO CONFIRM THE APPOINTMENT OF BETH TERMAN TO THE BOAD OF ZONING APPEALS

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

MOTION TO CONFIRM THE APPOINTMENT OF JOE GIES TO THE COMMUNITY IMPROVEMENT CORPORATION

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

MOTION TO CONFIRM THE APPOINTMENT OF NATHAN MARTIN TO THE COMMUNITY IMPROVEMENT CORPORATION

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

MOTION TO CONFIRM THE APPOINTMENT OF JOHN ENSMAN TO THE COMMUNITY IMPROVEMENT CORPORATION

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

MOTION TO CONFIRM THE APPOINTMENT OF LANCE COMBS TO THE COMMUNITY IMPROVEMENT CORPORATION

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

Brian A. Crum—Director of Finance

Gordon M. Eyster—Law Director

Joe Gies—Project Coordinator

New Business

Election of two members to the Volunteer Fire Fighters Dependents Fund Board for 2023

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

Election of two members to the Peace Officers Dependents Fund Board for 2023

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

Unfinished Business

Former Ice Plant Property

Future Use of Main Street Fire Station

Legislation

AMENDED ORDINANCE NO 24-2022 AMENDING SECTION 1026.03 (TRIMMING OF TREES REQUIRED) OF CHAPTER 1026 (STREET TREES) OF THE CODIFIED ORDINANCES OF 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 25-2022

DECLARING THE NECESSITY FOR THE CONTINUATION OF A LEVY OF TWO-TENTHS (.2%) PERCENT INCOME TAX FOR THE PURPOSE OF MAINTAINING ROADWAY AND SIDEWALK IMPROVEMENT AND REPAIR

2ND READING

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

AMENDED ORDINANCE NO 26-2022 AMENDING CHAPTER 1044 (SEWER CHARGES), SECTION 1044.02 (CONDITIONS OF SERVICE; RATE SCHEDULE), (e) RATE ADJUSTMENT PROVISION OF THE CODIFIED ORDINANCES OF THE CITY OF SHELBY, OHIO

2ND READING

Moved _____ 2ND _____

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

AMENDED ORDINANCE NO 27-2022 AMENDING CHAPTER 1040 (WATER), SECTION 1040.04 (RULES, REGULATIONS AND FIXED CHARGES FOR MUNICIPAL WATER SYSTEM), RULE 43 OF THE CODIFIED ORDINANCES OF THE CITY OF SHELBY, OHIO

2ND READING

Moved _____ 2ND _____

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

ORDINANCE NO 28-2022 DETERMINING THAT CERTAIN REAL PROPERTY OWNED BY THE CITY OF SHELBY BE SOLD AND DESIGNATING THE COMMUNITY IMPROVEMENT CORPORATION OF SHELBY, OHIO, INC., AS THE CITY'S AGENT IN THE SALE OF SAID REAL PROPERTY AND DECLARING AN EMERGENCY

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

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 _____

Miscellaneous Business

Adjournment at _____ p.m.

Moved _____ 2ND _____

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

1st Reading

10/17/2022

2nd Reading

11/7/2022

**AMENDED ORDINANCE NO. 24-2022
(Sponsor: Councilmember Martin)**

AMENDING SECTION 1026.03 (TRIMMING OF TREES REQUIRED) OF CHAPTER 1026 (STREET TREES) OF THE CODIFIED ORDINANCES OF THE CITY OF SHELBY, OHIO.

WHEREAS, it is necessary to amend Section 1026.03 (Trimming of Trees Required) of Chapter 1026 (Street Trees) to list the responsible city officials for informing residents of a violation of the law as stated within the said section and chapter; 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 Section 1026.03 (Trimming of Trees Required) of Chapter 1026 (Street Trees) be amended to establish the responsible city officials to provide the notice to residences in violation of the language set forth with the law.

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

Section 1: That the amended language in Section 1026.03 (Trimming of Trees Required) in Chapter 1026 (Street Trees) shall read as follows:

§ 1026.03 TRIMMING OF TREES REQUIRED.

No person, being the owner or agent of the owner of any lot or parcel of land fronting on any street, avenue or public ground of the city, in front of which trees are planted and growing, shall fail to keep the trees so trimmed as not to obstruct the passage of light from any street lamp in the vicinity thereof. No owner or agent shall fail to keep all trees in front of his or her lots and lands so trimmed that all branches overhanging streets and pavements are clear, not less than eight feet above the surface of the streets, avenues, alleys or public grounds, nor shall the branches be permitted to extend over any street, highway, alley or sidewalk in the city in such manner as to obstruct the free use of the same, nor to the annoyance and inconvenience of any resident. If any such owner or agent, after being notified by the Service Department Superintendent, the Code Enforcement Officer, or a Designee to trim the trees, refuses or neglects to do the same as ordered within five days, the same shall be done or caused to be done by the Service Department Superintendent, the Code Enforcement Officer, or the Designee shall certify the cost and expense thereof and the same together with an administrative fee of 25% of the cost and expense shall be assessed against the lots or lands. The remedy shall be in addition to the penalty provided in § 1026.99.

Section 2: That all other sections of Chapter 1026 (Street Trees) of the Codified Ordinances of the City of Shelby 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: _____

Brian Crum
Clerk of Council

Steven L. Schag
Mayor

Prepared by:

Gordon Eyster
Director of Law

A handwritten signature in black ink, appearing to read 'Gordon Eyster', is written over a horizontal line. The signature is stylized and cursive.

1st Reading
11/7/2022

ORDINANCE NO. 25-2022
(Sponsor: Councilmember Martin)

DECLARING THE NECESSITY FOR THE CONTINUATION OF A LEVY OF TWO-TENTHS (.2%) PERCENT INCOME TAX FOR THE PURPOSE OF MAINTAINING ROADWAY AND SIDEWALK IMPROVEMENT AND REPAIR.

WHEREAS, the City of Shelby needs to maintain roadways and sidewalks so as to keep them passable and to promote free travel and commerce within the boundaries of the City of Shelby; and

WHEREAS, the voters of the City of Shelby approved an income tax levy on May 8, 2018 for roadway improvements and sidewalk replacement; and

WHEREAS, it has been determined by the Council of the City of Shelby that it is necessary to maintain roadways and sidewalks and that it be funded by continuing a levy of two-tenths (.2%) percent income tax and that the proceeds of that said tax be used for roadway improvements and repair (97%) and sidewalk replacement (3%).

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

Section 1: That it is necessary to continue a levy of two-tenths (.2%) percent income tax upon income taxable by the City of Shelby for the benefit of the citizens of the City of Shelby and for the specific purpose of roadway and sidewalk improvements and repair. A "Roadway" includes all appurtenances to the roadway including but not limited to, bridges, viaducts, culverts, and approaches on or to such roadway.

Section 2: That such two-tenths (.2%) percent income tax shall be expended for roadway improvements and repair (97%) and sidewalk replacement (3%).

Section 3: That such two-tenths (.2%) percent income tax for roadway and sidewalk improvements and repair shall be imposed upon all income taxable by the City of Shelby only if approved by the majority of electors of the City of Shelby pursuant to Section 718.01 of the Ohio Revised Code.

Section 4: That if the two-tenths (.2%) percent income tax is approved by the electors of the City of Shelby, said two-tenths (.2%) percent shall be levied upon income taxable by the City of Shelby for a period of five (5) years from January 1, 2024 through December 31, 2028.

Section 5: That the question to levy a two-tenths (.2%) percent income tax shall be submitted to the electors of the City of Shelby at the primary election to be held at the designated voting places within said City of Shelby on the 2nd day of May, 2023.

Section 6: That if the continued (.2%) tax is approved by the electors of the City of Shelby, then and in that event, said (.2%) percent continued tax shall not be subject to the credit provisions as contained within Section 881.06 of the Codified Ordinances of the City of Shelby.

Section 7: That the Clerk of this Council be and hereby is directed to certify a true copy of the Ordinance to the Board of Elections, Richland County, Ohio as provided by the Ohio Revised Code Section 718.01 and that he shall do so at least 90 days before the primary election herein mentioned.

Section 8: That the ballot shall be substantially in the following form or similar form as approved by the appropriate election authorities to express the intent and purpose hereof.

PROPOSED MUNICIPAL INCOME TAX
CITY OF SHELBY
A Majority Affirmative Voted is Necessary for Passage

Shall the Ordinance providing for the continuation of a two-tenths (.2%) levy on income for a period of five (5) years, commencing on January 1, 2024 and ending on December 31, 2028, for roadway improvement and repair (97%) and sidewalk replacement (3%), be passed.

FOR THE INCOME TAX

AGAINST THE INCOME TAX

Section 9: 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 10: That the Richland County Board of Elections and the Mayor, Clerk of Council, and Director of Law of the City of Shelby are hereby directed and authorized to take all action necessary to submit the above question to the electors of the City at the election held on May 2, 2023.

Section 11: That the Clerk of Council is hereby directed to certify a copy of this Ordinance to the Richland County Board of Elections no later than 4:00 p.m. on the ninetieth day prior to the date of election.

Section 12: That said Ordinance, if approved by the electors, shall become effective on January 1, 2024.

Section 13: 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

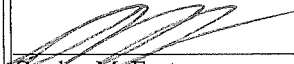
APPROVED:

ATTEST: _____

Brian Crum
Clerk of Council

Steven L. Schag
Mayor

Prepared by:



Gordon M. Eyster
Director of Law

1st Reading
11/7/2022

**AMENDED ORDINANCE NO. 26-2022
(Sponsor: Councilmember Martin)**

AMENDING CHAPTER 1044 (SEWER CHARGES), SECTION 1044.02 (CONDITIONS OF SERVICE; RATE SCHEDULE), (e) RATE ADJUSTMENT PROVISION OF THE CODIFIED ORDINANCES OF THE CITY OF SHELBY, OHIO.

WHEREAS, the current language in Chapter 1044 (Sewer Charges), Section 1044.02 (Conditions of Service; Rate Schedule) (e) Rate Adjustment Provision limits the Consumer Price Index upward adjustment to a maximum of 3% in any one year; and

WHEREAS, the Consumer Price Index (CPI) is a measurement of the average change over time for prices paid by urban consumers for goods and services; and

WHEREAS, it is necessary to establish the CPI percentage to be adjusted annually of the said rate adjustment provision to collect the appropriate revenue to recover operating expenses for the sewer utility; 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 1044 (Sewer Charges), Section 1044.02 (Conditions of Service; Rate Schedule), (e) Rate Adjustment Provision be amended to establish the consumer price index maximum adjustment.

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

Section 1: That Chapter 1044 (Sewer Charges), Section 1044.02 (Conditions of Service; Rate Schedule), (e) Rate Adjustment Provision be amended to establish the consumer price index maximum adjustment for the Base amount and the Project Equipment Rider (PER).

Section 2: That (e) Rate Adjustment Provision shall read as follows:

(e) *Rate adjustment provision.* Beginning January 1, 2010, and on every January 1 thereafter, the Base and Project and Equipment Rider (PER) of the usage charge shall be adjusted upwards by a factor equal to 100% of the most current Core Consumer Price Index (CPI) as determined by the Government of the United States, if the number is positive (+). If the CPI is negative (-), then the effective rates as stated above shall be adjusted downward by a factor equal to 100% of the CPI. The effective annual CPI percentage shall have an upward adjustment of no more than 5%. Any additional authorized percentage above the 5% in any one year shall be presented to Council no later than the second regular meeting in February of the adjustment year.

Section 3: That all other provisions in Chapter 1044 (Sewer Charges), Section 1044.02 (Conditions of Service; Rate Schedule) of the Codified Ordinances of the City of Shelby shall remain in full force and effect.

Section 4: 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 5: 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:

Brian Crum
Clerk of Council

Steven L. Schag
Mayor

Prepared by:

Gordon Eyster
Director of Law

1st Reading
11/7/2022

AMENDED ORDINANCE NO. 27-2022
(Sponsor: Council Member Martin)

AMENDING CHAPTER 1040 (WATER), SECTION 1040.04 (RULES, REGULATIONS AND FIXED CHARGES FOR MUNICIPAL WATER SYSTEM), RULE 43 OF THE CODIFIED ORDINANCES OF THE CITY OF SHELBY, OHIO.

WHEREAS, the current language in Chapter 1040 (Water), Section 1040.04 (Rules, Regulations and Fixed Charges for Municipal Water System), Rule 43, limits the Consumer Price Index upward adjustment to a maximum of 3% in any one year; and

WHEREAS, the Consumer Price Index is a measurement of the average change over time for prices paid by urban consumers for goods and services; and

WHEREAS, it is necessary to establish the CPI percentage to be adjusted annually of the said rule to collect the appropriate revenue to recover operating expenses for the water utility; 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 1040 (Water), Section 1040.04 (Rules, Regulations and Fixed Charges for Municipal Water System), Rule 43 be amended to establish the consumer price index maximum adjustment for Rule 34, Rule 35, Rule 36, Rule 37, Rule 38, Rule 39, Rule 41 and the Base amount.

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

Section 1: That Chapter 1040 (Water), Section 1040.04 (Rules, Regulations and Fixed Charges for Municipal Water System), Rule 43 be amended to establish the consumer price index maximum adjustment for Rule 34, Rule 35, Rule 36, Rule 37, Rule 38, Rule 39, Rule 41 and the Base amount.

Section 2: That Rule 43 shall read as follows:

Rule 43

Beginning January 1, 2008, and on every January 1 thereafter, Rule 34, Rule 35, Rule 36, Rule 37, Rule 38, Rule 39, Rule 41 and the Base, shall be adjusted upwards by a factor equal to 100% of the most current Core Consumer Price Index (CPI) as determined by the government of the United States, if the number is positive (+). If the CPI is negative (-), then the effective rates as stated above shall be adjusted downward by a factor equal to 100% of the CPI. The effective annual CPI percentage shall have an upward adjustment of no more than 5%. Any additional authorized percentage above the 5% in any one year shall be presented to Council no later than second regular meeting in February of the adjustment year.

Section 3: That all other provisions in Chapter 1040 (Water) and Section 1040.04 (Rules, Regulations and Fixed Charges for Municipal Water Service) of the Codified Ordinances of the City of Shelby shall remain in full force and effect.

Section 4: 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 5: 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: _____
Brian Crum
Clerk of Council

Steven L. Schag
Mayor

Prepared by:



Gordon Eyster
Director of Law

ORDINANCE NO: 28 -2022
(Sponsor: Councilmember Gates)

DETERMINING THAT CERTAIN REAL PROPERTY OWNED BY THE CITY OF SHELBY BE SOLD AND DESIGNATING THE COMMUNITY IMPROVEMENT CORPORATION OF SHELBY, OHIO, INC., AS THE CITY'S AGENT IN THE SALE OF SAID REAL PROPERTY AND DECLARING AN EMERGENCY.

WHEREAS, in 1979, the City of Shelby purchased from Shelby Ice & Fuel Company a parcel of real estate now designated as Permanent Parcel Number 046-08-160-04-000; and

WHEREAS, on June 1, 2017, the Director of Public Service certified to the Council of the City of Shelby that said parcel is not needed for any municipal purpose; and

WHEREAS, Section 1 of the Charter of the City of Shelby provides that the City may acquire property in fee simple or lesser interest and may sell, convey, lease, hold, manage, and control such property; and

WHEREAS, Ohio Revised Code Section 1724.10 authorizes the Council to designate the Community Improvement Corporation as its agent for the sale of lands which have been determined not to be required by the City for its purposes and allows for the sale of real property that will promote the welfare of the people of the City of Shelby; and

WHEREAS, the sale or transfer of the property described in the attached Exhibit 1 will promote the welfare of the people of the political subdivision; 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 be sold and that the Community Improvement Corporation of Shelby, Ohio, Inc. be designated the agent of the City for the sale of the parcel of land reflected in the attached Exhibit 1.

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

Section 1: That a 0.8684 acre parcel of real estate (surveyed by F. E. Krocka & Associates, Inc., Nathan W. Sautter, Ohio Registered Surveyor No. 8252 on May 19, 2021, and noted as Exhibit 1 attached hereto) be sold.

Section 2: That the City designate the Community Improvement Corporation of Shelby, Ohio, Inc. (CIC) as its agent in the sale of the above-described real property in accordance with Ohio Revised Code 1724.10 (B), subject to the following conditions:

- a. Said real property be in contract to sell within three (3) months of the effective date of this Ordinance.
- b. The CIC have the exclusive right to sell said real property within three (3) months of the effective date of this Ordinance.
- c. The CIC retain a sum not greater than six percent (6%) of the sale price, after the deduction of all appraisal fees and all costs related to the sale of the property.
- d. A quit claim shall be used to transfer said real property.
- e. Said real property be sold "as is – where is" with no warranties whatsoever, either expressed or implied.
- f. That the City of Shelby reserve unto itself sufficient utility easements as may be required.

Section 3: That the Director of Finance and Public Record deposit the net proceeds from the sale of said real property into the Electric and Communications Fund.

Section 4: That all meetings and hearings concerning the adoption of this Ordinance have been in compliance with the Codified Ordinance 220.01, Ohio Revised Code Section 121.22, and the Charter of the City of Shelby.

Section 5: 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.

PASSED: _____

Steven McLaughlin
Vice President of Council

APPROVED:

ATTEST: _____

Brian Crum
Clerk of Council

Steven L. Schag
Mayor

Prepared by:



Gordon Eyster
Director of Law