

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

**Shelby City Council Agenda
Monday, November 7, 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 October 17, 2022

Moved _____ 2ND _____

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

Public Comment

Reports from Standing and Special Committees

Community & Economic Development Committee—Councilmember McLaughlin—No Meeting

Public Works & General Operation Committee—Councilmember Roub

Parking Committee—Councilmember Roberts—No Meeting

Safety Committee—Councilmember Roberts

Reports of City Officials

Steven L. Schag—Mayor

MOTION TO CONFIRM THE APPOINTMENT OF BRAD EUBANK TO THE CIVIL SERVICE COMMISSION

Moved _____ 2ND _____

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

**MOTION TO CONFIRM THE APPOINTMENT OF STACEY GUNDER TO THE
COMMUNITY IMPROVEMENT CORPORATION**

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

**MOTION TO CONFIRM THE APPOINTMENT OF LINDA CLINE TO THE HEALTH
DEPARTMENT ADVISORY BOARD**

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

**MOTION TO CONFIRM THE APPOINTMENT OF JEANEEN PERRY TO THE HEALTH
DEPARTMENT ADVISORY BOARD**

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

Brian A. Crum—Director of Finance

Gordon M. Eyster—Law Director

Joe Gies—Project Coordinator

New Business

Unfinished Business

Former Ice Plant Property

Future Use of Main Street Fire Station

Legislation

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

2ND READING

Moved _____ 2ND _____

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

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

1ST READING

Moved _____ 2ND _____

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

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

1ST READING

Moved _____ 2ND _____

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

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

1ST READING

Moved _____ 2ND _____

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

RESOLUTION NO 63-2022

IDENTIFYING THE PARTNER AND GRANTEE TO THE PY 2022 SHELBY COMMUNITY HOUSING IMPACT AND PRESERVATION (CHIP) PROGRAM AND ACKNOWLEDGING GRANTEE'S RESPONSIBILITY FOR AND AUTHORITY OVER THE CHIP PROGRAM AND DECLARING AN EMERGENCY

Moved _____ 2ND _____

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

RESOLUTION NO 64-2022

AUTHORIZING THE MAYOR TO ISSUE A REVOCABLE PERMIT TO OCCUPY THE RIGHT-OF-WAY ON WEST MAIN STREET

Moved _____ 2ND _____

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

Miscellaneous Business

MOTION TO GO INTO EXECUTIVE SESSION FOR THE FOLLOWING PURPOSE:

Moved _____ 2ND _____

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

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

Adjournment at _____ p.m.

Moved _____ 2ND _____

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

1st Reading
10/17/2022

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 a penalty 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

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, 2023 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, 2023.

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

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 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

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 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

RESOLUTION NO. 43-2022
(Sponsor: Councilmember McLaughlin)

IDENTIFYING THE PARTNER AND GRANTEE TO THE PY 2022 SHELBY COMMUNITY HOUSING IMPACT AND PRESERVATION (CHIP) PROGRAM AND ACKNOWLEDGING GRANTEE'S RESPONSIBILITY FOR AND AUTHORITY OVER THE CHIP PROGRAM AND DECLARING AN EMERGENCY.

WHEREAS, earlier this year, the City of Shelby, (Grantee), applied for \$700,000 in PY 2022 Community Housing Impact and Preservation Program (CHIP) funding from the State of Ohio, Department of Development, Office of Community Development (OCD) for the purpose of addressing local housing needs; and

WHEREAS, earlier this year, the City of Shelby (Grantee) entered into a partnership agreement with Richland County (Partner) for the administration of the PY 2022 Community Housing Impact and Preservation Program (CHIP); and

WHEREAS, the City of Shelby, has received preliminary notification that it has been selected to receive the PY 2022 Community Housing Impact and Preservation (CHIP) funding; and

WHEREAS, the City of Shelby, understands, acknowledges and agrees that as Grantee, it has sole responsibility and authority over the entire PY 2022 CHIP Program; and

WHEREAS, this Resolution must be returned to the State of Ohio, Department of Development, Office of Community Development (OCD) prior to November 11, 2022, to comply with conditions for receipt of the funding, thereby creating the necessity for this Resolution being declared an Emergency; and

WHEREAS, it is the interest of the public health, safety, morals, and general welfare of the citizens of the City of Shelby that said identification be made.

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 Council of the City of Shelby identifies The City of Shelby as Grantee and Richland County as Partner for the PY 2022 Community Housing Impact and Preservation Program (CHIP).

Section 2: That the City of Shelby, as Grantee, accepts the role, responsibility and authority over the PY 2022 CHIP Program.

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 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

RESOLUTION NO. 64 -2022
(Sponsor: Councilmember Roub)

AUTHORIZING THE MAYOR TO ISSUE A REVOCABLE PERMIT TO OCCUPY THE RIGHT-OF-WAY ON WEST MAIN STREET.

WHEREAS, Section 102 of the Charter of the City of Shelby reads as follows: "The council shall provide for the care, supervision, control and improvement of public highways, streets, avenues, alleys, sidewalks, public grounds, bridges, aqueducts, and viaducts, within the city, and shall cause them to be kept open, in repair and free from nuisance; and

WHEREAS, Tamara Armintrout is desirous of installing an awning on the front of her building at 55 West Main Street; and

WHEREAS, it is in the interest of public health, safety, morals, and general welfare of the citizens of the City of Shelby that said encroachment be permitted.

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

Section 1: That the Mayor shall be and is hereby authorized to issue a revocable Permit to Occupy the Right-of-Way as shown on Exhibit 1.

Section 2: That should the owner as noted in Section 1 fail to accept the terms and conditions of said permit, the Director of Law shall be and is hereby directed to initiate action to remove said encroachment pursuant to Section 33 of the Charter of the City of Shelby.

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.

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: _____

Brian Crum
Clerk of Council

Steven L. Schag
Mayor

Prepared by:



Gordon M. Eyster
Director Law