The City of Nelsonville City Council met in a special session Wednesday, June 02, 2021, at 6:30 pm. Due to COVID-19 Pandemic the public may not attend the meeting in person. The meeting will be live streamed from the City of Nelsonville Facebook page (City of Nelsonville, Ohio, @nelsonvillecity).

Mr. Dunfee called the meeting to order. All present stood and recited the Pledge of Allegiance. Mr. Taylor offered the opening prayer.

ROLL CALL: All Council members were present except Ms. Grant. Also present were Kent Hushion of Reminger Co., L.P.A., Attorney for the City of Nelsonville during these proceedings, Councilman Greg Smith and his attorney Daniel Klos. The purpose of the meeting is to hold removal proceedings for Councilmember Gregory Smith.

Mr. Hushion gave opening remarks to explain the process of tonight's meeting. The City will present their evidence, and Mr. Smith and Mr. Klos will have the opportunity to present their evidence. There will then be a vote as it relates to residency requirements under the Nelsonville City Charter. The Charter requires Council members to maintain continuous residency within the City of Nelsonville. Mr. Sherman and the Council have provided probable cause that Mr. Smith has not maintained continual residence in the City of Nelsonville.

Mr. Sherman was the sworn as the charging official. He stated his name, Daniel L. Sherman and he has served on Council for about four years and has served as both President and Vice President of Council during that time. Mr. Klos had several motions he present including the fact he does not believe Mr. Hushion was properly appointed by Council vote. There was a discussion of the Resolution appointing Mr. Hushion. He said he was appointed special prosecutor, and the City would move forward with their evidence.

Mr. Sherman as the charging official presented six exhibits.

Exhibit #1 Notice to Mr. Smith informing he was subject to removal proceedings under the Nelsonville City Charter, May 24 special meeting and a special meeting notice for a June 2, 2021, for removal proceedings.

Mr. Sherman said the first page shows him as the charging official meaning he had probable cause to charge Mr. Smith with a Charter violation of not maintaining continuous residency in the City of Nelsonville per Charter section 4.02. Mr. Sherman explained there has always been speculation that Mr. Smith lives in Belpre with his girlfriend and he looked into it. Mr. Sherman stated he has driven by 238 Adams Street at all hours of the day and night and had never seen Mr. Smith's car there. Nelsonville residents began coming forward with statements about Mr. Smith's residency. There were searches on Google, and Mr. Smith was mentioned in the obituary of Beth Tyson's father where he was referred to as her friend.

Exhibit #2 Statement from Tiege Fisk concerning Mr. Smith's residency.
Mr. Sherman read the statement into the record.

Exhibit #3 Statement from Nathan and Brittany Tyson (Beth Tyson's daughter and son-in-law)

It was stated when Ms. Tyson left her husband, Mr. Smith moved in with her and her daughter and son-in-law. They gave dates and other addresses where they all lived. Mr. Sherman said when he read this it was further evidence that Mr. Smith was living with Ms. Tyson and not maintaining a continuous residence in Nelsonville.

Exhibit #4 Google searches
Mr. Sherman read the Google search information containing potential addresses and names of the residents of 608 Elm Street in Belpre, OH., showing three occupants, Greg Smith, Charlotte Mathison, and Beth Tyson. Page two showed the same information with phone numbers.
During Mr. Klos cross examination of Mr. Sherman, he asked about the one phone number on the white pages document. Mr. Sherman said at the time he checked Mr. Smith's cell phone number and it was the same, but he has since lost some of his contacts. Mr. Klos questioned Mr. Sherman on the information in the white page document, i.e., the phone numbers, if Mr. Smith has a middle initial "A", and do we know if the name, Gregory A. Smith, and Greg Smith are the same person.

Exhibit #5 Obituary of Carl Harold Tyson
It lists family members with Beth Tyson and friend, Greg Smith among them .

Mr. Sherman said all this evidence together made him believe Mr. Smith is not maintaining a continuous residence in the City of Nelsonville and in violation of the Nelsonville City Charter.

Exhibit #6 Affidavit of Cpt. Brian Rhodes of the Washington County Sheriff's Office
Cpt. Rhodes, a 20-year veteran of the Washington County Sheriff's Office was asked to serve a probable cause notice to Mr. Smith at 1690 Clark Hill Rd, Waterford, OH., by Nelsonville Police Chief, Scott Fitch. Cpt. Rhodes knocked at the door of the residence and when Mr. Smith came to the door, he refused to take the paper and closed the door. Cpt. Rhodes left the notice on the railing at the side door of the residence.

Mr. Hushion said the evidence presented conclusive proof that Mr. Smith is not maintaining a continuous residence in the City of Nelsonville per Nelsonville City Charter requirements and, at the very least, lives part-time and more than likely full-time in Belpre, OH., or the Waterford Township, OH address. The evidence presented is conclusive of this fact and asked that Council vote in the affirmative to remove him from City Council because he has failed to maintain continuous residency in the City of Nelsonville.
During Mr. Klos' cross examination of Mr. Sherman, he asked where this statement was taken. He answered no. Mr. Hushion asked how this was relevant. Mr. Klos said you have to identify the county in which the affidavit was taken. There were more questions concerning Cpt. Rhodes. This evidence did not form the basis of the probable cause statement. Mr. Klos asked if Mr. Sherman agreed that Cpt Rhodes offered no facts that Mr. Gregory Smith was a resident of 1690 Clark Hill Rd. Mr. Sherman said he did not question an officer of the law. There were more questions.

Mr. Smith's attorney, Daniel Klos presented 21 exhibits and began with questions to Mr. Sherman, the charging officer.

Exhibit #1 Agenda of May 24, 2021, special meeting
Exhibit #1A Minutes of May 24, 2021, special meeting

Exhibit #2 5/22/21 Fwd Special meeting agenda for special meeting May 24, 2021

Mr. Klos moved to Exhibit #2, which is a forward from the Clerk of Council of the agenda for the May 24 meeting. Mr. Klos then went to Exhibit 1 showing Resolution 2243 being passed and said it looked like the Resolution 2243 was adopted prior to the May 24 meeting. Mr. Sherman said it must have been a clerical error. Mr. Hushion objected to the line of questioning as it has no bearing on

Mr. Smith's residency, which is the purpose of the meeting. Mr. Dunfee sustained the objection.

Exhibit #3 Removal Notice of Greg Smith
Mr. Klos said this is an undated document signed by Mr. Dunfee and Mr. Sherman and on City of Nelsonville letterhead. The document charges that Mr. Smith has not maintained continuous residency in the City of Nelsonville under City Charter 4.02. He argued that how could Mr. Smith be a qualified elector but not a resident. Mr. Sherman said the charge is that he is not a continuous resident.
Mr. Klos challenged the Jurisdiction of the prosecutor to prosecute this action. Mr. Hushion objected to the challenge and preserve it for the record. Mr. Klos objected to Mr. Hushion's appointment, but it had nothing to do with jurisdiction. They discussed 11.08 of the Charter. Mr. Klos returned to Resolution 2243 and said it was passed with only one reading. Mr. Hushion again objected as the question has nothing to do with Mr. Smith's residency. Mr. Dunfee sustained the objection.
Mr. Klos asked Mr. Sherman if the charging party's documents have been in his possession since May 12, 2021. Mr. Sherman answered some of the documents were not received until the morning of the May 24 special meeting. There was extensive questioning regarding the dates the charging party's exhibits were received. Mr. Klos also questioned why several of the statements were on Nelsonville Police Department forms. Mr. Sherman said it was probably statement paper. Mr. Klos had extensive of questions of Tiege Fisk's statement of to determine if she was biased.
During Mr. Klos cross examination of Mr. Sherman, he noted that the statement was on Nelsonville Police Department Voluntary Statement form. In answer to a question Mr. Sherman said it was not taken by a Policeman, but by another Council member. When it was asked if it was under oath Mr. Sherman replied there was a video attached to it. Mr. Klos said he was trying to determine the credibility of the statement and the witnesses.

Exhibit #4 Affidavit of Melanie R. Smith
This regards the residency of Greg Smith.

Exhibit #5 Email from Angela Bach 2/15/21
This regards the residency of Greg Smith.

Exhibit #6 Greg & Melanie Smith auto insurance sheet at 238 Adams St.
Policies are subject to Ohio law, truthfulness and accuracy of information and subject to penalties for falsification.

Exhibit #7 Athens County Tax 2020 Record, 238 Adams Street, Nelsonville
Greg and Melanie R. Smith
This goes to residency.

Exhibit #8 Athens County Voter Registration Gregory Smith to 11/3/2020
This was compiled by the Board of Elections of Athens County indicating 238 Adams St. as being the continuous residence of Gregory Smith from November 3, 2020, back to May 6, 2003, continuously.

Exhibit #9 Greg & Melanie R. Smith United Bank Statement, Nelsonville branch
Joint account

Exhibit #10 Gregory Smith Columbia Gas Bill 1/27/21
Residency

Exhibit #11 Brittany Tyson Criminal Plea and Statute
This goes to the credibility of Brittany Tyson. She has a criminal history. Mr. Klos feels this is potentially a falsification

Exhibit #12 Nathan Tyson criminal history sheet and current indictments
This goes to the credibility of Nathan Tyson. He has a criminal record. Mr. Hushion said Mr. Sherman has no personal knowledge of either Brittany or Nathan Tyson.

Exhibit #13 Request for Subpoena by Charged Party Council
Mr. Klos asked Mr. Sherman if as the charging party, does he have the authority to request subpoenas, which he can. He asked if Mr. Sherman received his email of May 19 and May 28 with his request for subpoena, to which Mr. Sherman said he did not. Mr. Klos said he did not because the address on the website was incorrect. Mr. Sherman said he missed the one on May 28, he did not recall seeing it.

Exhibit #14 Hunter opinion on qualified elector definition for enforcement of section 4.01 Nelsonville Charter
Mr. Klos asked Mr. Sherman if he had seen this document prior to today, and it is a document from Mr. Hunter with a decision on Mr. Sherman’s eligibility for Council. When asked what it means to him, Mr. Sherman replied it means he was a qualified elector. Mr. Klos argued how could Mr. Smith be a qualified elector without being a continuous resident. There was a discussion of what a qualified elector and continuous resident is. Mr. Sherman said he based his claim of not being a continuous resident on the exhibits he presented. Mr. Hushion objected, and Mr. Dunfee sustained the objection. Mr. Klos continued to ask what his definition of continuous residence is. Mr. Sherman answered when other statements come in saying Mr. Smith is living somewhere else, that is not continuous.
Mr. Klos asked what the lookback time for a Charter 4.02 violation. Mr. Dunfee said he wanted to move the proceedings along, and he wanted Mr. Klos to present his evidence from his exhibits. Mr. Klos asked when Mr. Smith was last elected to office, which was 2019. He asked if anyone at that time challenged Mr. Smith being a qualified elector or question any action to the Board of Election with regard to his residency. Mr. Sherman said no. Mr. Hushion objected. Mr. Sherman said there was always speculation about his residency, but he did not look into it until our previous hearing.

Exhibit #15 Page 1 Decision of Council 2/22/21
Mr. Klos discussed paragraph four of the document. Mr. Sherman said Council voted that Mr. Smith was not a continuous resident of the City of Nelsonville. Mr. Klos continued to question Mr. Sherman and asked the President of Council to instruct Mr. Sherman to answer yes or no and stop engaging in prolonged narratives, which he did. Mr. Sherman said Council did vote yes on the document. Mr. Klos referred to Exhibit 14 and continued to discuss

qualified elector. Mr. Hushion objected and was sustained. Mr. Sherman said it sounded like double talk. Mr. Dunfee asked what this has to do with residency.
Mr. Klos asked Mr. Sherman if there is anyone who believes he/she was intimidated by Mr. Smith who refused to testify since February 19, 2020. Mr. Hushion objected and was sustained but Mr. Sherman said he did not know of any. Mr. Klos asked Mr. Smith if anyone has contacted him that gave favorable information regarding Mr. Smith's residency. Mr. Sherman replied no. Mr. Klos verified that the notice of the hearing was received by the public at 5:57 pm the night before.

Exhibit #16 Affidavit of Beth A. Tyson
Mr. Klos asked this affidavit be accepted into the record regarding Mr. Smith's residency in Nelsonville. Mr. Sherman said he did not contact Ms. Tyson, but a witness that testified in the February hearing said Ms. Tyson was introduced to him by Mr. Smith as his girlfriend. Mr. Klos asked if Mr. Sherman had any evidence tonight that Mr. Smith has engaged in any threatening or intimidating behavior since the last hearing or was he aware of a statement in the Athens Messenger regarding Mr. Smith's reign of terror. Mr. Sherman said no.

Exhibit #17 ORC 3503.02 and ORC 3503.24
Evidence as to the authority for the Board of Elections and State Law.

Exhibit #18 Letterhead, business card and mailing envelope for Greg Smith, Ohio Rural Letter Carriers Association at 238 Adams St.
Mr. Klos presented this exhibit to the Clerk.

Exhibit #19 Request for Public Hearing email from Greg Smith
Mr. Klos asked Mr. Sherman if he was aware that Mr. Smith asked for a Public Hearing on this matter. Mr. Sherman said no. Mr. Klos said there is a requirement in section 11.08 that notice of a hearing be given one week in advance of a hearing. Mr. Klos said notice was given one day prior to the hearing.
Mr. Dunfee interrupted saying we are moving on. From now on he wants only evidence that Mr. Smith lives in Nelsonville.

Exhibit #20 Ohio Revised Code 3501.11 Board Duties

Mr. Klos moved for a dismissal on the basis that the charging party has failed to provide reliable, probative, and substantial evidence that Mr. Smith does not reside anywhere else besides 238 Adams Street. He also moved to dismiss on the basis of failure to publish the meeting notice at least one week prior to the meeting. Mr. Smith is entitled to that. Mr. Taylor challenged that. The City attorneys were not provided that information and our special council had already been voted on and should have already been appointed. Mr. Klos asked to rebut. He asked Mr. Taylor if he voted on Resolution 2243, which he did. Mr. Klos then asked if he voted to suspend the rules. Mr. Taylor did not recall, but after Mr. Klos presented Exhibit 1A Mr. Taylor said he assumes the minutes are correct. Ms. Jones volunteered the Charter specifically addresses enactment of Ordinances and Resolutions. Resolutions do not require suspension of the rules, Ordinances do per Charter 410. Ms. Jones said Council conferred at the meeting and decided they did not need a suspension of the rules because it was a Resolution. Mr. Klos then asked Mr. Dunfee to put Ms. Jones under oath as she was an unsolicited witness so he could continue to question her. Mr. Hushion said this is outside the bounds of the notice

and Mr. Dunfee denied the request. Mr. Klos motioned to strike her testimony, which as done.

Mr. Klos asked to question the witnesses provided in his request for subpoena. Mr. Dunfee denied the request. Mr. Hushion objected saying this has gone on for an hour and 45 minutes and Mr. Klos has had ample time to question those witnesses who are present. Mr. Hushion said we are not going to question other witnesses when Mr. Klos' questions continually ignored the sole purpose of the meeting, the residency of Mr. Smith. A heated discussion continued.
Mr. Dunfee called for a discussion of the evidence. Mr. Sherman said he believes the evidence has proved what it needed to prove,

Ms. Jones asked to call the question and made a motion to remove Mr. Smith from Council due to his lack of continuous residency in the City of Nelsonville. Mr. Sherman seconded the motion. There was no further discussion. ROLL CALL: All Council members voted yea. Motion passed.

Mr. Taylor made a motion to adjourn. Mr. Sherman seconded the motion. ROLL CALL: All Council members voted yea.

NELSONVILLE CITY COUNCIL

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President of Council

_____
Clerk of Council