The City of Nelsonville City Council met in a special session Thursday, September 2, 2021, at 6:30 pm.

Mr. Dunfee called the meeting to order. All present stood and recited the Pledge of Allegiance. Mr. Dunfee offered an opening prayer. ROLL CALL: All Council members were present except Ms. Jones. She was absent due to a scheduling conflict. Also present were Patrick Kasson of Reminger Co., L.P.A.., L.P.A., acting a special prosecutor 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. Kasson gave opening remarks to explain the meeting in respect to charges brought under Nelsonville City Charter Section 4.02. Mr. Klos addressed Mr. Kasson saying he had sent Mr. Kasson an email regarding the inability of the recording system to silence the microphones and he and his client were overhead in discussion during the previous meeting. Mr. Kasson said they could ask for a recess and discuss items in the hallway.

Mr. Taylor was sworn in as the charging official. He stated his name, Cory Ward Taylor and gave his address. He has lived in Nelsonville since 1995 and has worked in Nelsonville since 2000. Mr. Taylor said the charges were brough against Mr. Smith for failure to maintain continuous residence in the City of Nelsonville which he believes should be maintained.
Mr. Kasson introduced Exhibits 1-4, 14 and 21 from the previous hearing, and asked Mr. Taylor to explain what each exhibit contained and asked clarifying questions, which Mr. Taylor answered. After discussing the exhibits Mr. Kasson asked how many times Mr. Smith was served and where. Mr. Taylor said three times, once in Council Chambers and twice at the Waterford, OH address. Mr. Sherman served the papers the third time and Mr. Smith slammed the door in his face. The papers were left on a car in the driveway.
Exhibit 14 was a sworn affidavit from Melanie R. Smith, Mr. Smith’s wife, which was introduced by Mr. Kloss at the first hearing. Mr. Taylor said he found it somewhat odd and evasive, and the wording did not actually prove continuous residency. In Mr. Taylor’s opinion Mr. Smith does not reside in Nelsonville.

Mr. Klos addressed Exhibit 14. The affidavit was duly sworn, and she must tell the truth. There was no indication that Mr. Smith resides anywhere else to which Mr. Taylor agreed. Mr. Klos continued to ask questions of Mr. Taylor regarding charging party’s exhibits and charged party’s exhibits for 90 minutes, including questions regarding who lives in Mr. Smith’s residence and where his daughter lives, the reliability of Ms. Teige Fisk testimony, and the credibility of Brittany Tyson as a witness, who authored Exhibit 3 to which there were numerous objections by Mr. Kasson, when was Reminger Co., L.P.A. was hired which Mr. Kasson objected to as to relevance. Taylor said it was prior to August 23, 2021, when the county prosecutor was asked to prosecute Mr. Smith removal and when Mr. Taylor was told the county prosecutor was not going to prosecute the proceedings, which were all objected to by Mr. Kasson. He asked for the removal request to the prosecutor for the August 23 meeting. Mr. Taylor said he did not remember dismissing Reminger Co., L.P.A.. Mr. Taylor said he did not recall if there was a resolution requesting the county prosecutor prosecute these proceedings. Mr. Klos asked if there was a conference of council members prior to the August 23 meeting to which Mr. Taylor said there was not. Mr. Klos asked if there was a contract to pay Reminger Co., L.P.A.. a fee to prosecute this action. Objection as to relevance. Mr. Klos said a resolution is required when there is an action of indebtedness. The fifth vote on the resolution was done electronically which is no longer allowed and so these proceedings are illegal. Mr. Klos returned to charging parties Exhibit 3. Mr. Taylor said the sole charge is that Mr. Smith is

not a continuous resident of the City, not that he is a qualified elector. There was a discussion of what it means to be a continuous resident and law dictionaries, and how much time must a councilperson be away from town before he would not be considered a continuous resident. Mr. Kasson objected that he is asking for a legal conclusion. Mr. Klos asked if Mr. Smith has been blocked from receiving City emails or if he was sent an email notice to be here tonight. Mr. Taylor said he received notice in the newspaper and from the City's Public Information Officer's emails.

Mr. Kasson said a lot of leeway has been given and he may request a limit be placed on the plaintiffs' time.

Mr. Klos entered Exhibits 1-24 into the record.

Mr. Kasson addressed charged parties Exhibit 9 which was a bank statement for the Smith's at 238 Adams Street and it contained Mr. Smith's daughter, Andrea M. Thompson, on the statement.

Mr. Klos called Candace Parker to testify. Ms. Parker was sworn in. She supplied an affidavit, Exhibit 22. She has known Mr. Smith for as long as she can remember. She testified that she has been to the Smith's residence at 238 Adams Street a lot over the past six years to visit with them. They have both been there when she has visited. The house is not vacant. They socialize together. Ms. Parker said the Smith's daughter lived there at one time while going through a divorce, but she no longer resides with them. She does not think Mr. Smith lives anywhere else. Ms. Parker knows Teige Fisk and has seen her drive by when she visited the Smiths. In Ms. Parker's opinion Mr. Smith resides on Adams Street.
Mr. Kasson asked if Ms. Parker works for Mr. Smith. She said she did not and has never worked for him, but they are extremely close friends. She has not received money from him except for the possibility of gas money. She said she signed the affidavit knowing his residency in Nelsonville was an issue, but she did not include information about it as she was not asked to give additional information. She knows his interests and the jobs he has had. Mr. Kasson asked if Mr. Smith has ever had training or a job caring for disabled children prior to his relationship with Ms. Tyson. Ms. Parker said she had been gone for a number of years and had no idea.
Mr. Klos objected for relevancy. Mr. Kasson said the relevance is that Ms. Tysons affidavit states Mr. Smith is there to take care of a disabled child, although he has no experience, no training or interest in the disabled. Mr. Klos said the affidavit did not speak to that subject and he can't cross examine her on something that does not exist. Mr. Kasson said it was addressed in Ms. Tysons affidavit that Mr. Smith was there to take care of a disabled child. Mr. Kasson asked Ms. Parker if she knew anything of Mr. Smith taking care of disabled people in his entire career or being involved with any charity concerning disabled people. She said she did not.
Mr. Klos redirected and asked Ms. Parker if she considered Mr. Smith to be a kind, caring person who cared about the welfare of others. Would she be surprised that he would devote himself to a disabled person to which she said no. He cares and is concerned for others.

Closing arguments
Mr. Kasson said a credibility evaluation needs to be made here. In doing so you it is look at the evidence presented but you can also look at the evidence that is not there. The glaring piece of evidence is that there is no testimony under oath from Mr. Smith. Two people have presented affidavits that they know where he resides at night and stays permanently. Brittany's affidavit says that it is outside of the jurisdiction, which is consistent with the white pages, what the neighbor has said and what is generally known. The only person who knows for sure and did not testify is Mr. Smith. Mrs. Smith's affidavit is a dodge.

Mr. Smith’s decision not to testify was not considered because he has decided to allow the law to take its step. The burden of proof is on the charging official. None of the individuals who submitted affidavits on the charging party’s side have been subpoenaed. Brittany Tyson is a convicted felon and the evidence presented by Brittany and Nathan Tyson was not taken under oath. Closing arguments are not evidence. Ms. Parker who has known Mr. Smith for here entire life has testified to where he lives
The presumption of being under oath is that the information is true. They maintain their house together and he always intends to return. The evidence shows that Mr. Smith is a resident at 238 Adams Street for the purposes of this hearing. No one has established that he lives anywhere else. The standard of residency has not been established.

Council discussion of the evidence
Mr. Booth said he knows Teige Fisk. She is a business owner, and he has never known her to be untruthful.
Mr. Sherman said it seems that all the affidavits presented are untrue except those testifying for Mr. Smith. The discussion during the entire hearing was terminology. Mr. Smith’s residency was not discussed, it was all about terminology. He does not discredit any of the affidavits. The wording in Mrs. Smith’s affidavit was ambiguous, and he has driven past the residence many times and not seen Mr. Smiths. He did see him at the Waterford residence. Mr. Klos objected that it was testimony but was overruled because the hearing was closed, and this was an open discussion.
As to the testimony of Nathan and Brittany Tyson Mr. Booth did not see a reason that it should be discredited as it supports the evidence.

Mr. Sherman made a motion to remove Mr. Smith from Council for lack of having a continuous residence in the City of Nelsonville. Mr. Booth seconded the motion. There was no further discussion. ROLL CALL: All Council members voted yea. Motion passed.

Mr. Dunfee made a motion to hold a special meeting on Wednesday, September 8 at 7 pm for a resolution to support tonight’s vote of Council. Mr. Sherman seconded the motion. There was no further discussion. ROLL CALL: All Council members voted yea. Motion passed.

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

NELSONVILLE CITY COUNCIL

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President of Council

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Clerk of Council