

IN THE COURT OF COMMON PLEAS
ATHENS COUNTY, OHIO
CIVIL DIVISION

State Ex Rel.

GREGORY SMITH
238 ADAMS STREET
NELSONVILLE, OHIO

and

VICKI LYNN MCDONALD
46 HARPER WAY
NELSONVILLE, OHIO
Relators,

vs.

GREG CLEMENT, MEMBER OF
NELSONVILLE CITY COUNCIL,
211 LAKE HOPE DRIVE
NELSONVILLE, OHIO 45764

and

JUSTIN BOOTH, MEMBER OF
NELSONVILLE CITY COUNCIL
211 LAKE HOPE DRIVE
NELSONVILLE, OHIO

and

CORY TAYLOR, MEMBER OF
NELSONVILLE CITY COUNCIL
211 LAKE HOPE DRIVE
NELSONVILLE, OHIO

and

NANCY SONIC, MEMBER OF

Case No.

PETITION FOR MANDAMUS

JUDGE:

NELSONVILLE CITY COUNCIL
211 LAKE HOPE DRIVE
NELSONVILLE, OHIO 45764

and

ANTHONY DUNFEE, UNOFFICIAL
MEMBER OF NELSONVILLE CITY
COUNCIL
211 LAKE HOPE DRIVE
NELSONVILLE, OHIO 45764

and

OPHA LAWSON, UNOFFICIAL MEMBER
OF NELSONVILLE COUNCIL
211 LAKE HOPE DRIVE
NELSONVILLE, OHIO 45764

and

JONATHAN FLOWERS, MEMBER OF
NELSONVILLE CITY COUNCIL
211 LAKE HOPE DRIVE
NELSONVILLE, OHIO 45764

and

CITY OF NELSONVILLE, OHIO
211 LAKE HOPE DRIVE
NELSONVILLE OH 45764

Respondents.

PETITION

Relators come now before this Court and respectfully requests this Court, pursuant to the Ohio Constitution Art XVIII, §§ 5, 8, 9, and 14, Ohio Revised Code Athens and the Nelsonville City Charter to issue a Writ of Mandamus to compel the members of Nelsonville City Council to comply with the provisions of Article 10 of the Nelsonville Ohio City Charter and to order Nelsonville Council, to submit an initiative petition to the Athens County Ohio Board of Elections to be placed on the November 5, 2024 ballot for the consideration of the Citizens of Nelsonville. Upon clear failure of Nelsonville Council to complete an act required by the Nelsonville City Council, Relators request the court to order the initiative to be submitted to the Athens County Board of elections to be placed on the ballot for the November 5, 2024, general election.

PARTIES

1. Relators are residents of the State of Ohio, City of Nelsonville, County of Athens. Relator McDonald is a member of the petitioners committee on the initiative petition.
2. Respondents were, or are at all times, relevant members of the Nelsonville City Council and subject to the provision and rules of the Nelsonville City Charter.

JURISDICTION AND VENUE

3. Because the Respondents are officials of the City of Nelsonville Ohio, Athens County Ohio, and are charged with upholding the mandates of the Nelsonville City Charter and the relator is attempting to seek compliance with the Nelsonville Charter this court has jurisdiction and venue.

FACTUAL ALLIGATIONS COUNT ONE

4. Respondent City of Nelsonville is a municipal corporation with a City Charter and political subdivision of the State of Ohio that is bound to operate under the Articles of the Nelsonville City Charter.

5. Respondents Gregg Clement, Cory Taylor, Jonathan Flowers, Justin Booth, Nancy Sonic, Anothony Dunfee, and Opha Lawson are current members of the Nelsonville City Council with a duty under oath to uphold the Nelsonville City Charter.

6. On May 28, 2024, Relator Vicki McDonald, pursuant to Nelsonville City Charter Article 10:02, served both the Clerk of the Nelsonville City Council and the City Auditor a notice of commencing an initiative petition and paid the required fifty dollars to commence a petition to return the City of Nelsonville to the form of government it had before adopting the Nelsonville City Charter. The notice provided the full language of the proposed initiative measure, which was attached and made part of all the petitions circulated. (EXHIBIT 1)

7. On June 24, 2024, Relator McDonald filed part - petitions with the Nelsonville Clerk of Council which all contained the full and complete language of the proposed initiative with 207 signatures. (EXHIBIT 2)

8. On June 27, 2024, the Athens County Board of Elections provided a verification letter to Susan Harmony, Nelsonville Council Clerk, stating that the number of required signatures for the initiative petition to abolish Nelsonville City Charter is 136 valid signatures and the part petitions contained 180 valid signatures. (EXIBIT 3)

9. On June 28, 2024, Susan Harmony phoned Relator McDonald and told her that the board found 180 valid signatures.

10. Pursuant to Nelsonville City Charter Article 10:02 (B) requires “Within ten (10) days of receipt of a petition, the Clerk of Council shall determine its sufficiency and advise the petitioners' committee and Council of such findings.”

11. On July 5, 2024, Relator Greg Smith, a valid signer of the initiative petition, telephoned Susan Harmony, Nelsonville Council Clerk to ensure Nelsonville Council would have an ordinance at the July 8th, 2024, regular meeting as required by Nelsonville Charter. The Clerk told Smith that she would try to get the ordinance on the agenda for the July 8, 2024, meeting.

12. On July 8, 2024, Relator McDonald, during a regular meeting of Nelsonville City Council, inquired of Council why they did not have legislation at that meeting to send the initiative petitions to the Athens County Board of Elections to be put on the ballot for the general election. The question was referred to Jonathan Robe, Law Director who stated the city's position was that Article 10 of the Nelsonville Charter did not pertain to initiatives which abolished the charter and that Nelsonville City Council had memorialized this policy in 2015 by ordinance 32-15.

13. Nelsonville Ordinance 32:15 ordained as follows:

NOW THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF NELSONVILLE, ATHENS COUNTY, OHIO AS FOLLOWS: 1. The City of Nelsonville, Ohio hereby declares the initiative petitions attached hereto and incorporated herein by reference, to be invalid for failure to contain in the initiative petitions a reasonable transition period and procedure for returning to a statutory form of government. (EXIBIT 4)

14. The petition presented to Nelsonville Council in 2015 did not have a transition plan, nor did it allow needed time to elect the required office holders and would have rendered

the City of Nelsonville unable to operate, therefore Council rejected it. Relator McDonald was involved in that petition but did not choose at that time to seek redress in the courts.

15. A reading of the full language of the proposed initiative in (EXIBIT 1) which was attached to every part-petition, clearly provides a transition plan and allows time for the election of city officers before taking effect on January 1, 2026. Therefore, Nelsonville City Ordinance 32-15 does not set policy for future initiatives and is not factually the same as the current initiative.

16. Ohio Revised Code 731.48 states Sections [731.28](#) to [731.41](#), inclusive, of the Revised Code do not apply to any municipal corporation which adopts its own charter containing an initiative and referendum provision for its own ordinances and other legislative measures.

17. The Ohio Supreme Court opined in EX REL. HUEBNER, APPELLANT, v. WEST JEFFERSON VILLAGE COUNCIL ET. 75 Ohio St. 3d 381 (Ohio 1995) that a municipal legislative authority such as a city or village council lacks authority to consider substantive errors in reviewing the sufficiency of petitions and is instead limited to reviewing the form of the petition. *State ex rel. Polcyn v. Burkhart* (1973), [33 Ohio St.2d 7, 11-12, 62 O.O.2d 202, 204, 292 N.E.2d 883, 886](#); *State ex rel. Concerned Citizens for More Professional Govt. v. Zanesville City Council* (1994), [70 Ohio St.3d 455, 457-458, 639 N.E.2d 421, 423](#); *State ex rel. Citizens for a Better Portsmouth v. Sydnor* (1991), [61 Ohio St.3d 49, 572 N.E.2d 649](#).

18. Nelsonville City Charter Article 10:02 (B) grants the sole power to determine the sufficiency of an initiative petition to the Clerk of Council. Susan Harmony, the Clerk of Council, sought guidance from the Athens County Board of Elections that found the petitions sufficient and certified the sufficiency to Harmony. The Board of Elections also determined that 136 valid signatures were required for the initiative to be placed on the ballot, and the part petitions contained 180 valid signatures.

19. Nelsonville City Charter Art. 10:02(B) states: If the petition is found to be sufficient, Council shall pass an ordinance at its next regular meeting that the issue be placed on the ballot in accordance with Ohio law.

20. The Ohio Supreme Court also opined in *Huebner v. Village of West Jefferson*, 75 Ohio St. 3d 381, 385 (Ohio, 1995) that “Where a municipal legislative authority erroneously either fails to submit a charter amendment when it is presented with a legally sufficient petition or fails to make a prompt determination on the sufficiency of the petition within the constitutional time period, this court has issued writs of mandamus to order placement on the next regular election ballot. *Morris v. Macedonia City Council* (1994), [71 Ohio St.3d 52, 641 N.E.2d 1075](#); *State ex rel. Citizens for a Better Portsmouth v. Sydnor*, *supra*; *State ex rel. Jurcisin v. Cotner* (1984), [10 Ohio St.3d 171, 10 OBR 503, 462 N.E.2d 381](#).”

21. The initiative petition which has been properly examined by the Nelsonville, Ohio Clerk of Council and the Athens County Board of Elections must be submitted to the board of elections by August 7, 2024, to be placed on the ballot for the November 5, 2024, general election.

22. On July 16, 2024, Relator McDonald filed certified copies of the initiative petitions with the Athens County Board of Elections. Board director Tony Brooks stated to Relator McDonald that he would take the filing, but it was unlikely that he could put it on the ballot because of the Nelsonville Charter. Respondents have placed the Citizens of Nelsonville in the impossible position of trying to gain the initiative rights granted by the Ohio Constitution. Ohio Revised Code §731.41 mandates following a charter in an initiative process and the City of Nelsonville Council, by and through advice from its law director is refusing to follow the Charter, stating that the initiative process in the charter is not valid for the matters concerning a Charter.

(EXHIBIT 5)

23. The law director's opinion on this matter has been completely eviscerated by the Ohio Supreme Court in *Ex Rel, Huebner v Village of West Jefferson*. The Law director makes the totally unsupported legal argument that the Nelsonville Charter can be amended by an ordinance (32-15) of Nelsonville Council.

CLAIMS FOR RELIEF

Claim One: Writ Of Mandamus Directed to Respondents.

24. The allegations set forth in paragraphs 1 through 23 are incorporated herein by reference.

25. Pursuant to the Ohio Constitution, Ohio Revised Code §731.41 and Article 10 of the Nelsonville City Charter Relator is entitled to a Writ of Mandamus from this court and an injunction to compel the members of the Nelsonville City Council to comply with its provisions of the Ohio Constitution and Article 10 of the Nelsonville City Charter.

26. Pursuant to Ohio Constitution Relator is entitled to a Writ of Mandamus ordering the initiative petition submitted to the Athens County Board of Elections for placement on the November 5 general election.

Claim Two: Monetary Damages

27. The allegations set forth in paragraphs 1 through 26 are incorporated herein by reference.

28. Relators are entitled to damages as in a civil action which includes costs, expenses and reasonable attorney fees for this action and any other relief as the court deems just and proper pursuant to Ohio Revised Code §2731.11.

PRAYER FOR RELIEF

WHEREFORE, Relator respectfully prays that this Court:

1. To expedite this request for mandamus because of the August 7, 2024, deadline for submitting initiative petitions.
2. Issue a Writ of Mandamus and injunction to be served upon the Respondents personally, by copy, by the sheriff or by a person specially authorized by the court or judge issuing the writ, ordering the Nelsonville City Council to comply with the Nelsonville City Charter Article 10:02 (B) by submitting the initiative petition to the Athens County Ohio Election Board.
3. Issue a Writ of Mandamus ordering placement of the initiative petition on the November 5, 2024, general election.
4. Award Relators damages as in a civil action to includes costs, expenses and reasonable attorney fees for this action and any other relief as the court deems just and proper pursuant to Ohio Revised Code §2731.11.

Respectfully submitted,



Daniel H. Klos (0031294)
1911 Country Place
Lancaster, Ohio 43130
Voice (614) 261-9581
Fax (614) 262-5732
Email klosdhesq@aol.com
Attorney for Relator

**NOTICE TO CLERK OF NELSONVILLE CITY COUNCIL AND
NELSONVILLE CITY AUDITOR**

THE FOLLOWING FIVE QUALIFIED VOTERS ARE COMMENCING A INITIATIVE DEFINED IN FULL BELOW AND WILL CONSTITUTE THE PETITIONER'S COMMITTEE THAT WILL BE RESPONSIBLE FOR CIRCULATING AND FILING THE PETITIONS IN PROPER FORM AND COMPLIANCE WITH THE LAWS OF THE STATE OF OHIO. THE ADDRESS OF THE COMMITTEE SHALL BE 46 HARPER WAY, NELSONVILLE, OHIO 45764 IN CARE OF VICKI MCDONALD.

MCDONALD, VICKI LYNN 46 HARPER WAY, NELSONVILLE OH 45764
BISHOP, BARBARA LYNN 1080 BURR OAK BLVD, NELSONVILLE OH 45764
POTTS, LEEANNA JOE 1038 POPLAR ST, NELSONVILLE OH 45764
MCDONALD, WILMA J 373 POPLAR ST, NELSONVILLE OH 45764
MACCOMBS, PATRICIA ANN 1040 WALNUT ST, NELSONVILLE OH 45764

FULL PROPOSED INITIATIVE

AN INITIATIVE OF THE ELECTORS OF THE CITY OF NELSONVILLE, OHIO TO BE SUBMITTED TO THE ATHENS COUNTY OHIO BOARD OF ELECTIONS FOR NOVEMBER 5, 2024, GENERAL ELECTION IN ATHENS COUNTY OHIO.

"Shall the Charter of the City of Nelsonville, Ohio, submitted to the Electors of the City of Nelsonville on November 8, 1994, which became effective January 1, 1995, and it's subsequent amendments, be abolished and return to the same form of government as it had prior to and up to January 1, 1995, to be effective on Jan 1, 2026?

Upon approval of this initiative submitted to the electors of the City of Nelsonville at the general elections on November 5, 2024, the election of all city offices which were required by the form of government of Nelsonville Ohio prior to January 1, 1995, shall be elected during the municipal elections of 2025. Those elected shall take office on January 1, 2026.

CERTIFICATION

EXHIBIT 1

PAGE 1 OF 3

This notice of initiative was served by personal service to Taylor Sappington, Nelsonville Auditor, on the 28th day of May, 2024

Signed Vicki McDonald

Received _____

MAY 28 2024

Check No. _____

RECEIPT DATE 5-28-2024 No. 687907

RECEIVED FROM Vicki McDonald \$ 50 ⁰⁰/₁₀₀

Fifty Ten DOLLARS

FOR RENT
 FOR Proposed Invoice

CASH
 CHECK
 MONEY ORDER
 CREDIT CARD

AMOUNT		
PAYMENT	<u>50</u>	<u>00</u>
BAL. DUE		

FROM _____ TO _____

BY [Signature]

EXHIBIT 1

PAGE 2 OF 3

**NOTICE TO CLERK OF NELSONVILLE CITY COUNCIL AND
NELSONVILLE CITY AUDITOR**

THE FOLLOWING FIVE QUALIFIED VOTERS ARE COMMENCING A
INITIATIVE DEFINED IN FULL BELOW AND WILL CONSTITUTE THE
PETITIONER'S COMMITTEE THAT WILL BE RESPONSIBLE FOR
CIRCULATING AND FILING THE PETITIONS IN PROPER FORM AND
COMPLIANCE WITH THE LAWS OF THE STATE OF OHIO. THE
ADDRESS OF THE COMMITTEE SHALL BE 46 HARPER WAY,
NELSONVILLE, OHIO 45764 IN CARE OF VICKI MCDONALD.

MCDONALD, VICKI LYNN 46 HARPER WAY, NELSONVILLE OH 45764
BISHOP, BARBARA LYNN 1080 BURR OAK BLVD, NELSONVILLE OH 45764
POTTS, LEEANNA JOE 1038 POPLAR ST, NELSONVILLE OH 45764
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AN INITIATIVE OF THE ELECTORS OF THE CITY OF NELSONVILLE, OHIO TO BE
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2025. Those elected shall take office on January 1, 2026.

EXHIBIT 1

CERTIFICATION

PAGE 3 OF 3

This notice of initiative was served by personal service to Susan Harmony,
Nelsonville Clerk of Council on the 28th day of May, 2024

Signed Vicki L McDonald

To: Nelsonville Ohio Council Clerk,

Pursuant to Article 10.02B of the Nelsonville City Charter the petitioner's committee is filing the below listed Petitions to allow you to check the sufficiency of the signed petitions.

If the petitions are found to be sufficient, or if you find some deficiently, please contact committee member Vicki McDermid at 740-752-4544.

I have received 8 petitions with a total of 207 signatures

Susan Harmony Date June 24, 2024

Susan Harmony,

Clerk of Nelsonville, Ohio Council

EXHIBIT 2

PAGE 1 OF 1

Sky Petrey
Chair

Debra L. Quirey
Director

Tony L. Brooks, II
Deputy Director

Athens County Board of Elections
15 South Court St., Room 130
Athens, Ohio 45701
(740) 592-3201
Fax (740) 592-3262
<https://www.boc.ohio.gov/athens/>

Andrea S. Carpenter-Cohm
Member

Kate McGuirk
Member

Gary Van Meter
Member

June 27, 2024

To: Nelsonville City Clerk of Council Susan Harmony

From: Athens County Board of Elections

Re: Petition Verification Results

EXHIBIT 3

PAGE 1 OF 1

On behalf of the Athens County Board of Elections, I hereby certify that the board has examined the enclosed part-petitions. The number of required signatures for the Initiative Petition – abolishing the City Nelsonville Charter is 130 valid Signatures.

	Petitions	Signatures
1. Number of Valid Part-Petitions	<u>8</u>	
Number of Valid Signatures		<u>180</u>
Number of Invalid Signatures		<u>27</u>
2. Number of Invalid Part-Petitions	<u>0</u>	
Number of Signatures on Invalid Part-Petitions		<u>0</u>
3. Total number of Part-Petitions received (Valid and Invalid)	<u>8</u>	
4. Total number of Signatures on Part-Petitions (Valid and Invalid)		<u>207</u>

Tony L. Brooks II
Deputy Director

06-27-2024
Date

Ordinance No: 32-15

Passed May 26, 2015

ORDINANCE 32-15

AN ORDINANCE DECLARING THE INITIATIVE PETITIONS TO ABOLISH THE NELSONVILLE CHARTER AND RETURN TO A STATUTORY FORM OF GOVERNMENT EFFECTIVE DECEMBER 31, 2015 TO BE INVALID FOR FAILURE OF THE PETITIONS TO HAVE A REASONABLE TRANSITION PERIOD AND PROCEDURE AND RETURNING THE PETITIONS TO THE PETITIONERS.

WHEREAS, on May 11, 2015, Vicki McDonald, Ed Mash, and Robert Warren filed with the Clerk of Council an Initiative Petitions seeking to abolish the Nelsonville City Charter and to return effective December 31, 2015 to a statutory form of government;

WHEREAS, the Initiative Petitions contained one hundred sixty-six (166) signatures;

WHEREAS, the Board of Elections has determined that one hundred fifty (150) signatures are valid;

WHEREAS, Nelsonville City Charter Section 10.03 provides: Number of signatures. Initiative, referendum and recall petitions must be signed by qualified electors of the City in number to at least fifteen percent (15%) of the total number of the votes cast within the City in the last gubernatorial election.

WHEREAS, Nelsonville City Charter Section 10.03 pertains to initiative, referendum, and recall petitions other than the abolishment of a charter;

WHEREAS, the creation and abolishment of a city charter is authorized and regulated by the Ohio Constitution;

WHEREAS, Ohio Constitution Article XVIII, Section 3 states that, "Municipalities shall have authority to exercise all powers of local self-government and to adopt and enforce within their limits such local police, sanitary and other similar regulations, as are not in conflict with general laws";

WHEREAS, Ohio Constitution Article XVIII, Section 9, states: Amendments to any charter framed and adopted as herein provided may be submitted to the electors of a municipality by a two-thirds vote of the legislative authority thereof, and, upon petitions signed by ten per centum of the electors of the municipality setting forth any such proposed amendment, shall be submitted by such legislative authority;

WHEREAS, Ohio Constitution Article XVII, Section 15 provides: All elections and submissions of questions provided for in this article shall be conducted by the election authorities prescribed by general law. The percentage of electors required to sign any petition provided for herein shall be based upon the total votes cast at the last preceding general municipal election;

WHEREAS, both of these provisions of the Ohio Constitution are still in effect even though the provisions are inconsistent with each other. Section 9 provision requires ten per centum of the electors of Nelsonville, while Section 14 requires ten per centum of the total votes cast at the last preceding general election;

WHEREAS, the Ohio Supreme Court has opined on this matter, however, the decision does not settle the issue. In *State ex rel. Huebner v. West Jefferson Village Council*, 1991 Ohio 103, 72 Ohio St.3d 589, 651 N.E.2d 1001, 1991 Ohio

165

RECORD OF ORDINANCES EXHIBIT 4

8221

Under Paragraph 2, (c)(1), Separable Code

Ordinance No. 32-15

Passed May 26, 2015

LEXIS 1465 (Ohio 1995), the Ohio Supreme Court ruled that, Ohio Constitution art. XVIII, § 9 requires that petitions for a proposed charter amendment be signed by ten per cent of all registered voters, not just of those electors who voted in the last general election. However, upon reconsideration, the Ohio Supreme Court ruled that, (1) In determining the number of valid petition signatures necessary to establish a right to the placement of a proposed amendment of a municipal charter before the voters, Ohio Const. art XVIII, §§ 5, 8, 9, and 14 must be construed in pari materia. Accordingly, the percentage of electors required to sign such petitions is ten percent of the electors of the municipality based upon the total number of votes cast at the last preceding general municipal election; State ex rel. Huebner v. West Jefferson Village Council, 75 Ohio St. 3d 381, 662 N.E.2d 339, 1995 Ohio LEXIS 2653 (Ohio 1995). This decision was a 4-3 decision leaving it unsettled how the matter would be resolved in a future case since the make up of the court is different.

WHEREAS, the Athens County Board of Elections has indicated the total number of registered voters in Nelsonville for the General Election held on November 4, 2014 was 2563, the total number of registered voters for the May primary held on Nelsonville in the May 5, 2015 primary was 2580 and the total number of votes cast on November 4, 2014 was 798. If Ohio Constitution Article XVIII, Section 9 controls, the signatures needed is 258. If Ohio Constitution Article XVIII, Section 14 controls, the signatures needed is 80. If Nelsonville City Charter 10.33 controls, the signatures needed is 120. There are one hundred fifty (150) valid signatures. The Board of Elections needs to decide which number of signatures is needed to place the issue on the ballot.

WHEREAS, switching from a statutory form of government to a charter form of government took about a year and one half;

WHEREAS, the Initiative petition mandates Nelsonville switch back from a charter form of government to a statutory form of government is less than two months;

WHEREAS, all council members by the Charter are elected on non-partisan ballots; in a statutory form of government, all elected officials are elected on a partisan ballot;

WHEREAS, Article XVII, Section 1 of the Ohio Constitution provides that all municipal officials are elected on the first Tuesday after the first Monday in November in odd numbered years;

WHEREAS, the next opportunity for this to happen would be at the General Election in 2017;

WHEREAS, the Initiative Petition needs to contain a reasonable transition period and procedure for transition just as the Charter initiative did when it was adopted.

NOW THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF NELSONVILLE, ATHENS COUNTY, OHIO AS FOLLOWS:

1. The City of Nelsonville, Ohio hereby declares the initiative petitions attached hereto and incorporated herein by reference, to be invalid for failure to contain in the initiative petitions a reasonable transition period and procedure for returning to a statutory form of government.
2. This Ordinance shall be in full force and effect at the earliest

RECORD OF ORDINANCES

169

FORM 100015, PUBLISHED 03/01/05, REV. 01/05

FORM 5700


Ordinance No. 32-15

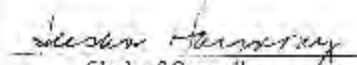
Passed May 26, 2015

minutes permitted by law.

Duly enacted by Council on first reading under suspension of the rules on the 26th day of May, 2015.

NELSONVILLE CITY COUNCIL


President of Council


Clerk of Council

First Reading: 05/26/15 Under Suspension of the Rules

EXHIBIT 4

PAGE 3 OF 3

Receipt for Cash, Petitions or Resolution

№ 0347

Office of the Board of Elections, Athens County, Ohio July 15, 2024

Received of Wicki McDonald

- Declaration of Candidacy Petitions for the Office of _____ of the _____ County
- Nominating Petitions for the office of _____
- Local Option Petition
- Referendum Petition
- Initiative Petition

EXHIBIT 5

PAGE 1 OF 1

Filing Fee Paid \$ _____ Cash Check # _____

Subdivision: Nelsonville City

Number of Signatures: 207 (108 valid) Number of Part-Petitions: 8

DESCRIPTION: PURPOSE, RATE, DATE OF ELECTION, ETC.

- TAX Levy - PURPOSE _____

 MILEAGE _____ TYPE _____ LENGTH OF TIME _____
 COMMENCING _____ CALENDAR YEAR _____
- BOND ISSUE _____
- CHARTER AMENDMENT _____
- OTHER _____

OTHER CASH RECEIVED \$ _____ FOR _____

Cash Check # _____

ATHENS CO BOARD OF ELECTIONS, By [Signature]

(SIGNED)

OFFICE USE: BOYCOTT _____ BOLDEN _____

DEPOSIT DATE: _____ BATCH NUMBER: _____

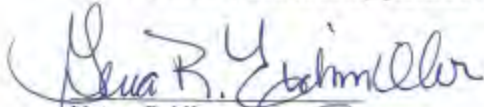
**ATHENS COUNTY COMMON PLEAS COURT
ATHENS, OHIO
CIVIL DIVISION**

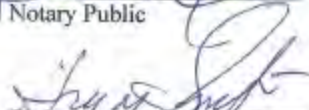
AFFIDAVIT OF GREGORY SMITH

STATE OF OHIO :
: ss.
COUNTY OF ATHENS :

1. I, Gregory Smith, being first duly sworn, depose and state the following as true based on my personal knowledge;
2. I am over 18 years of age and competent to give testimony in a court of law;
3. I am the Relator in the attached Petition for Mandamus as filed in this Court.
4. I have reviewed the foregoing Petition for Mandamus in its entirety;
5. I know and verify that all the averments recited therein for which I have personal knowledge are true to the best of my knowledge;
6. I believe and verify the remaining averments that I do not have personal knowledge of are true and are based on specific information, documents, or both, as attached hereto and recited therein.

Sworn to and subscribed in my presence this 17th day of July 2024


Notary Public


Gregory Smith, Affiant



Gena R. Eichmiller
Notary Public, State of Ohio
Commission Number: 2019-RE-762784
My Commission Expires January 23, 2029

ATHENS COUNTY COMMON PLEAS COURT
ATHENS, OHIO
CIVIL DIVISION

AFFIDAVIT OF VICKI L MCDONALD

STATE OF OHIO

ss.

COUNTY OF ATHENS

1. I, Vicki L. McDonald, being first duly sworn, depose and state the following as true based on my personal knowledge;
2. I am over 18 years of age and competent to give testimony in a court of law;
3. I am the the Relator in the attached Petition for Mandamus as filed in this Court.
4. I have reviewed the foregoing Petition for Mandamus in its entirety;
5. I know and verify that all the averments recited therein for which I have personal knowledge are true to the best of my knowledge;
6. I believe and verify the remaining averments that I do not have personal knowledge of are true and are based on specific information, documents, or both, as attached hereto and recited therein.

Sworn to and subscribed in my presence this 18th day of July 2024


Notary Public


Vicki L. McDonald, Affiant



BARBARA L. CARTER
Notary Public, State of Ohio
My Commission Expires
September 17, 2024