

**IN THE FOURTH DISTRICT COURT OF APPEALS
ATHENS COUNTY, OHIO**

**STATE OF OHIO, ex rel. Jonathan R.
Flowers, *et al.*,**

Relators,

v.

City of Nelsonville, Ohio, *et al.*,

Respondents.

Case No. 26CA0003

Panel Not Yet Assigned

AFFIDAVIT OF DANETTE I. MILLER

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**EXHIBIT
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AFFIDAVIT OF DANETTE I. MILLER

STATE OF OHIO)
)
COUNTY OF ATHENS) ss.

Danette I. Miller, being first duly sworn, according to law, and states the following:

1. I am over the age of eighteen (18) and have personal knowledge of the matters contained within this Affidavit.
2. I am a named Respondent, in my official capacity, in the action styled *State of Ohio ex rel. Jonathan R. Flowers, et al. v. City of Nelsonville, Ohio, et al.*, Fourth District Court of Appeals (Athens County), Case No. 26CA0003.
3. I currently serve as the **City Manager for the City of Nelsonville, Ohio**. The Office of the City Manager was established and is governed by the Nelsonville City Charter. I have served as City Manager since **January 12, 2026**, when I was appointed pursuant to the Nelsonville City Charter by the Nelsonville City Council.
4. Among my duties, as set forth in the Nelsonville City Charter, are to serve as **“the chief executive and administrative officer of the City,”** to **“be responsible to the Council for the administration of all City affairs placed in my charge by law,”** and to **“see that all laws, provisions of the Charter, and ordinances and resolutions of the Council, subject to enforcement by me or by officers subject to my direction and supervision, are faithfully executed.”**

5. I am from Athens County, although not directly from Nelsonville. When I interviewed for the position of City Manager, I was very open about the fact that I remain politically neutral. Throughout my professional career, I have maintained political neutrality, which has allowed me to focus on following the law and established procedures rather than taking sides.
6. Prior to accepting this position, I did not know any employees of the City of Nelsonville, nor any individuals who previously served on City Council or who currently serve on Council. I came to the position as a new and independent administrator with no personal obligations or relationships influencing my work.
7. My professional career has focused on upholding the law, following applicable governmental regulations, and adhering to the procedures established by the entities I serve. This approach protects both the employees under my supervision and the public we serve.
8. At present, the government recognized by the courts for the City of Nelsonville is the Charter-based City Council. I take my duties seriously and will continue to perform them to the best of my ability in accordance with the law.
9. Although not specifically stated in the Charter, I understand that, as a Respondent in this action, I have a duty to submit to the jurisdiction of this Court. I do so willingly, and I believe my conduct as City Manager reflects my commitment to the rule of law.
10. Currently, the seven members of Nelsonville City Council are: **Cameron Austing Peck (President of Council), Amy Lynn Hollenbaugh (Vice President of Council), Charlotte Beach, Gregory J. Clement, McCray Anthony Powell, Nicole A. Joseph Saul, and Nancy Sonick**, all of whom are Respondents in this action.
11. For clarity, I will refer to the Nelsonville City Council recognized under the Charter as the **"Charter Council,"** and to the council claimed by the Relators to be the lawful governing body as the **"Statutory Council."** I believe this terminology provides a neutral way to distinguish between the two competing groups.
12. I accepted the appointment as City Manager because the residents of Nelsonville deserve essential government services to be provided in an orderly, timely, efficient, and lawful manner. I believe I possess the professional skills necessary to oversee and ensure the delivery of those services.
13. I am not an attorney and cannot offer legal opinions. However, it is my understanding that my appointment as City Manager was lawful because **Ordinance 54-25** lawfully abolished **Issue 23**, which had been passed by voters in November 2024.

14. The dispute over the lawful form of government for Nelsonville affects my responsibilities as City Manager on a daily basis. As I understand the legal issue in this case, it concerns whether Ordinance 54-25 validly repealed Issue 23. My understanding is that Ordinance 54-25 did validly repeal Issue 23, and therefore the Nelsonville City Charter remains in full force and effect as the lawful basis for the City's form of government.
15. I accepted the January 12th appointment by the Charter Council to serve as City Manager of the City of Nelsonville because I take the call to public service very seriously and believe that citizens should answer that call when the opportunity arises.
16. My understanding was, and remains, that the current dispute regarding the proper form of government for the City of Nelsonville has discouraged many capable and qualified individuals from accepting appointments or positions in city government.
17. Based upon my conversations with various city officials since my appointment, the difficulty in recruiting and retaining qualified individuals to serve in city government has been an ongoing issue for the City of Nelsonville for some time.
18. Beginning at the end of December, the City of Nelsonville lost several city employees due to the ongoing conflict between the Charter Council and the Statutory Council.
19. I was informed that certain city employees left their positions because they feared being sued, or otherwise subjected to adverse action, by members of or individuals associated with the Statutory Council if they remained in their positions.
20. Over the past several months, physical intimidation has become a legitimate concern for city employees.
21. Former employees who have resigned, current employees who remain, and prospective employees whom I have attempted to recruit have expressed fear for their personal safety and for the safety of their families due to threats of intimidation and potential legal action if they accept or continue employment with the City of Nelsonville.
22. This environment has made it extremely difficult to recruit qualified candidates to fill vacant city positions.
23. As a result, the current staff has been required to work diligently to cover multiple vacant positions in order to keep the City of Nelsonville operating.

24. Certain city employees have also been told that they will lose their jobs if the courts ultimately determine that the Statutory Council will become the governing authority for the City of Nelsonville.
25. Because of this concern, I have been working to identify lawful methods that may allow current city employees, who have worked diligently to maintain city operations, to retain their employment should the courts determine that the Statutory Council becomes the governing authority. I hope to ensure that the employees who have diligently continued to work for the City will not be unfairly penalized for doing so.
26. The City of Nelsonville functions because of the dedicated employees who report to work each day and perform the duties necessary to maintain city services for the benefit of its citizens.
27. These employees have continued to serve despite the difficult and uncertain circumstances surrounding the ongoing dispute regarding the city's governance.
28. As City Manager, I have asked a great deal of these employees, and they have consistently responded with professionalism, diligence, and dedication to public service. I respect their commitment and dedication.
29. As City Manager, I also have a duty to protect the physical well-being and safety of all City of Nelsonville employees.
30. I take that responsibility very seriously.
31. When reports of misconduct, intimidation, or inappropriate behavior come to my attention, I have a duty to investigate those reports, determine the facts, and take appropriate action to protect city employees.
32. In my experience and based upon what I have personally seen and heard, the actions of individuals associated with the Statutory Council appear to prioritize their own objectives rather than the operational needs of the City of Nelsonville.
33. Since the filing of this action, some actions taken by certain Relators have disrupted the status quo and made it more difficult for City employees to provide essential government services in an orderly and efficient manner. I provide several examples below.
34. The first example occurred on **January 12, 2026**, when individuals associated with the Relators entered an open council meeting and demanded that keys to the City Building and access to all of City Hall be turned over to them. The City Law Director, **Matthew Sommers**, informed them that the keys would not be provided and that

access to City Hall would not be granted. After they left the building, I ordered exterior locks changed because it was unclear who all possessed keys to the building. This action was taken for security purposes.

35. A second incident occurred Monday **February 16, 2026** or **Tuesday 17, 2026** when **Daniel Sherman** entered City Hall and demanded keys to the Council Clerk's office so that he could access the locked bulletin board containing recently passed ordinances. My Administrative Assistant, **Michele Preece**, informed him that she did not have the keys. He then demanded that **Judy Smith**, the Deputy Auditor, provide them.
36. Ms. Judy Smith declined to interact with Mr. Sherman due to prior incidents in which she felt physically intimidated by him. Mr. Sherman then requested to speak with me; however, I was outside on the public square with Fire Chief **Barber** receiving updates regarding a structural failure incident.
37. Mr. Sherman subsequently approached me on the public square and demanded the keys to the bulletin board. I informed him that I did not possess the keys and did not know where they were located. He stated that he was told by his attorneys that the ordinances passed by the Statutory Council had the right to be displayed in City Hall.
38. I explained that the locked bulletin board contained ordinances passed by the Charter Council. After this interaction, I returned to City Hall. Due to the concerns raised by the incident, I requested that the Chief of Police, **Devon Tolliver**, explore the possibility of installing panic buttons near the public service windows at City Hall so staff could quickly contact law enforcement if necessary.
39. The existence of two groups claiming to act as City Council has created confusion for both employees and citizens. Documents posted by the Statutory Council that conflict with those issued by the Charter Council have created uncertainty regarding which directives should be followed.
40. As a result, some citizens have declined to obtain permits, comply with FEMA-related requirements, or work with the City's contracted building inspectors after receiving contrary advice from individuals associated with the Statutory Council.
41. On **March 4, 2026**, **Austin Kelley**, the City's Code Enforcement Officer, contacted **Rick Dostal** with the **Southeastern Ohio Building Department (SEOBD)** regarding FEMA-related questions. SEOBD is the company responsible for handling building permits and inspections for the City.

42. Mr. Dostal responded by asking why the City Council had cancelled the City's Memorandum of Agreement with SEOB. Mr. Kelley immediately brought this to my attention. I informed Mr. Kelley that the City had not cancelled the contract.
43. I then personally contacted Mr. Dostal and asked who had informed him that the contract had been cancelled. He advised that he had received an email from **Mr. Sherman** stating that the contract had been cancelled and attaching an ordinance purportedly passed by the Statutory Council. This is when I learned that the Relators' claimed President of Council, **Mr. Sherman**, had personally contacted a city vendor through email and attempted to cancel Memoranda of Agreement or contracts by sending them ordinances purportedly passed during meetings of the Statutory Council. Neither I nor any other City employee had prior knowledge of these communications.
44. Based on that communication, Mr. Dostal had already emailed Mr. Sherman accepting the cancellation. I explained the entire situation to Mr. Dostal and informed him that Mr. Sherman had no legal authority to cancel City contracts.
45. I assured Mr. Dostal that the contract with SEOB remained in effect and that if the City ever had concerns regarding their services, I would personally contact him to discuss the matter. Mr. Dostal accepted my explanation and forwarded the emails he had received from Mr. Sherman for our records.
46. After notifying the Charter Council and all attorneys involved in this matter, I attempted to contact other important vendors to determine whether similar communications had been sent to them, particularly vendors associated with the City's **911 emergency services contracts**.
47. This situation caused significant disruption in City operations and required an entire day of effort to address, diverting my attention from other responsibilities as City Manager. The situation created confusion and concern regarding whether additional unauthorized communications had been sent to City vendors.
48. Under the City's governmental structure, Council members pass legislation and have policy authority. In a lawful council structure, it would be the City Manager, who has the executive/administrative authority—not a member of Council—that would contact vendors regarding contract cancellations or modifications.
49. On that same day, I was working in an office across the City building with **Jason Coen**, the City's Utility Service Director. This office is located near the front entrance of the City building.

50. The front door of the City building was opened from the outside, and Mr. Sherman entered the building. Upon seeing me, he again demanded the key to the Council Clerk's office.
51. I again informed him, more emphatically this time, that I would not provide him with the key. He then demanded the key to the locked bulletin board, and I again refused.
52. Fortunately, Mr. Coen was present with me at the time. Due to prior incidents involving physical intimidation, Mr. Coen's presence provided a barrier between myself and Mr. Sherman. Mr. Sherman then walked toward the public restrooms and eventually exited the building without further interaction.
53. There's another incident involving Mr. Sherman I need to make the Court aware of.
54. On March 1, 2026, I received an email from Mr. Gary Silcott of DLZ. A true and accurate copy of Mr. Silcott's email (including attachment) is attached as **Attachment 1**.
55. DLZ is the engineering firm which currently serves as the City Engineer and therefore provides engineering services to the City, particularly for critical infrastructure projects. DLZ has served as the City Engineer for a number of years. I believe it's been for more than 5 years but I'm not sure exactly how long because DLZ first became the City Engineer years before I became City Manager.
56. On March 9, 2025, Mr. Silcott forwarded to me an email thread between DLZ representatives and Respondents. A true and accurate copy of the email thread is attached as **Attachment 2**.
57. Mr. Silcott's email informed me that the Respondents are, either collectively or individually, unilaterally reaching out to various third parties with which the City has contracts for professional services and holding themselves out as not just the lawful government officials of the City but also the government officials of the City actually exercising authority as a matter of fact.
58. There may be other third parties or vendors that Respondents have or are contacting in similar fashion, but I'm not personally aware of any others at this time.
59. What I can say is that my observation is that the people of Nelsonville recognize City Hall (located at 211 Lake Hope Drive, Nelsonville, Ohio) to be the true and lawful seat of government. City Hall is where the City's seal is kept. City Hall is where the City's public records are stored. City Hall is where the City's financial records are stored. City Hall is where the City's police and fire departments are housed. City Hall is where citizens go to petition the government. City Hall is where folks go to submit permit applications. I understand this lawsuit is about which council has

authority and power over City Hall. But that doesn't change the fact that the public understands and recognizes that City Hall is the true and lawful seat of government. Even while this lawsuit continues, critical government services must still be provided to the citizens and businesses of the City. I'm absolutely committed to providing those services in a clear, orderly, and lawful manner while this case continues.

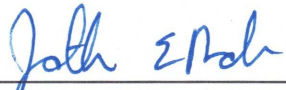
60. I may have additional testimony as this litigation proceeds. I appreciate the Court's attention to this matter because adherence to the rule of law is essential for the citizens of Nelsonville to achieve certainty regarding the lawful form of their municipal government.

Further Affiant sayeth naught.



DANETTE I. MILLER

Sworn to before me and subscribed in my presence this 12th day of March, 2026.



NOTARY PUBLIC



Jonathan Edward Robe
Attorney At Law
Notary Public, State of Ohio
My commission has no expiration date
Sec. 147.03 R.C.



FW: updated response

From Gary Silcott <gsilcott@dlz.com>
Date Mon 3/9/2026 12:25 PM
To Danette Miller <citymanager@cityofnelsonville.com>
Cc Michael Betts <mbetts@dlz.com>

Dannette please see the below email that was sent earlier. I inadvertently mistyped your email address so wanted to make sure you got it.

Any questions let Michael know.

Thanks

From: Gary Silcott
Sent: Monday, March 9, 2026 11:58 AM
To: Daniel Sherman <councilmansherman@gmail.com>
Cc: Garry Hunter <ghunter@hunterlawoffices.us>; mayorflowers1@gmail.com; citymanger@cityofnelsonville.com; cpeck@cityofnelsonville.com; Michael Betts <mbetts@dlz.com>
Subject: RE: updated response

Mr. Sherman: We have spent some time pondering your email and understand your position. We do however still feel we're in a precarious position with the possibility of being directed differently by two different entities. We are open to attending your council meeting, similar to what we do currently now where go quarterly as needed but we can only take direction from one body which will hopefully not be an issue. Also, in every attempt to be transparent we have copied the current City Manger and Charter Council President.

Michael will be at your meeting next Monday, March 16th at 7:00, can you please provide an agenda of items you would like him to prepare to discuss.

Thank You

From: Daniel Sherman <councilmansherman@gmail.com>
Sent: Thursday, March 5, 2026 5:50 PM
To: Gary Silcott <gsilcott@dlz.com>
Cc: Garry Hunter <ghunter@hunterlawoffices.us>; mayorflowers1@gmail.com
Subject: updated response

You don't often get email from councilmansherman@gmail.com. [Learn why this is important](#)

EXTERNAL: Message origin is from an external network. Use proper judgment and caution when opening attachments, clicking links, or responding to this email.

Dear Mr. Silcott,

I am writing in response to your March 1, 2026 correspondence addressed to Mayor Jonathan Flowers regarding DLZ Ohio, Inc.'s position on representation at the March 2 meeting.

As an elected member of Nelsonville City Council, I must respectfully express concern regarding DLZ's decision not to appear before the duly elected legislative body of the City. While I appreciate DLZ's stated intention to remain neutral during the pending litigation concerning the structure of municipal governance, declining to meet with the elected council creates the appearance of selective recognition and, consequently, an unintended alignment within the dispute.

Your letter acknowledges that DLZ's contractual relationship is with the City of Nelsonville. At present, the individuals serving on the elected council were elected by the citizens of Nelsonville and continue to discharge legislative responsibilities on behalf of the municipality. Until a court of competent jurisdiction issues a final ruling determining otherwise, that elected body maintains its authority and obligation to conduct City business.

It is also noteworthy that other entities serving the City, including its insurance carrier, have met with representatives of both governing bodies in order to maintain neutrality and ensure continuity of service. We believe a similar approach by DLZ would best reflect your stated commitment to serving the citizens without taking a position in the underlying governance dispute.

Our request for attendance was not intended to place DLZ in a political position, but rather to allow council members to receive updates, ask questions regarding ongoing projects, and exercise appropriate oversight of contracts entered into on behalf of the City. Transparency and communication are essential, particularly given the significant grant funding and public resources involved.

We respectfully request that DLZ reconsider its position and agree to meet with the elected council at our next council meeting March 16th at Hocking Lodge @7pm. Doing so would demonstrate your continued commitment to serving Nelsonville as a whole and to operating in a manner consistent with public accountability.

Thank you for your attention to this matter. I look forward to your response.

Sincerely,

--

Nelsonville City
Council President
Daniel Sherman



DLZ Meeting Attendance Request

From Gary Silcott <gsilcott@dlz.com>

Date Sun 3/1/2026 8:17 PM

To mayorflowers1@gmail.com <mayorflowers1@gmail.com>

Cc Cameron Peck <cpeck@cityofnelsonville.com>; Danette Miller <citymanager@cityofnelsonville.com>; Barry Lubow <blubow@dlz.com>; Michael Betts <mbetts@dlz.com>

 1 attachment (819 KB)

ltr_flowers meeting follow up.pdf;

Mr. Flowers: Please find attached a letter response to your request to have Michael Betts attend your meeting tomorrow night. We stand firm in our support of the City of Nelsonville but with the legal proceedings over the current form of government we find ourselves in the difficult position of knowing how to best represent the City. We intend to represent the City as we have always done and will work with whoever is deemed the legal form of government but feel we're in a difficult position at this time with what actual form of government is in charge.

Thank you in advance for your understanding our current dilemma.



Gary Silcott | Vice President

p: 740.380.2828 **m:** 614.374.0117

e: gsilcott@dlz.com





Connect. Build. Thrive.

March 1, 2026

Jonathan Flowers
Mayor, Nelsonville Statutory Council
182 E. Canal Street
Nelsonville, OH 45764

RE: DLZ Ohio, Inc. Services for the City of Nelsonville Ohio

Dear Mr. Flowers,

Thank you for inviting DLZ Ohio, Inc. Division Manager Michael Betts to your March 2 meeting at the Lodge at Hocking College. After careful consideration, DLZ cannot provide a DLZ representative at Monday's meeting.

DLZ's priority is, and will remain, providing dedicated service to the citizens of Nelsonville, represented by any form of government the City has in place. DLZ's contracts are with the City of Nelsonville. Yet, there remains confusion about whether the charter council or the statutory government properly represents the City. That precise issue is being litigated. No court ruling has established whether the charter council or statutory government governs or obligates the City.

As we deliver our services, we continue to keep the citizens' best interest as our priority. We have secured millions in grant funding for the ongoing projects, and we know that affordability is of paramount importance.

Please understand that we are not taking sides in the ongoing dispute. It is not our place to decide which governing body is legitimate. We anticipate court clarification, and we look forward to working with the appropriate City representatives. We will continue to follow the laws within the State of Ohio and to serve the citizens of Nelsonville accordingly.

Sincerely,



Gary D. Silcott, Jr., P.E.
Vice President

CC: Barry Labow, Vice President, General Counsel DLZ
Cameron Peck, Council President, City of Nelsonville
Danette Miller, City Manager, City of Nelsonville

Document1