

**CITY OF ROCK ISLAND ELECTORAL BOARD
MINUTES**

**HEARING/ELECTION CHALLENGE
DECEMBER 10, 2020**

On Thursday, December 10, 2020, at 1:30 p.m., a hearing was held by the City of Rock Island Electoral Board at City Hall, 1528 Third Avenue, in Council Chambers, 3rd Floor. Present were members Chairman Mayor Mike Thoms, member Alderman James Spurgetis, and member Interim City Clerk Linda Mohr. Also present were City Attorney Dave Morrison, Objector Judith Higgins Gilbert, and Respondent-Candidate Jeffrey D. Westerfield. Court Reporter Vickie Fickel was also present.

The hearing was called to order at 1:30 p.m. by Chairman Thoms. Chairman Thoms opened the hearing by reading a statement regarding the purpose of the hearing, the timeliness of the filing of the objection, introduction of members of the Electoral Board and legal advisor Dave Morrison, declaration of a quorum, and the rules and procedure for the hearing.

Member/Clerk Mohr called the roll. Present: Thoms, Spurgetis, and Mohr.

MOTION by Spurgetis that the Electoral Board adopt the rules of procedure of a relaxed hearing; Mohr seconded. VOTE: Motion passed on a 3-0 voice vote.

Mr. Morrison clarified that relaxed rules of evidence indicates that hearsay is allowed, but evidence will not be presented as it would be in a court setting. Mayor Thoms requested that evidence from objector Judith Higgins Gilbert be admitted.

MOTION by Spurgetis to enter the documents into record; Mohr seconded. VOTE: Motion passed on a 3-0 voice vote.

Ms. Gilbert presented her Objector's Petition against candidate Westerfield. She said candidate qualification requires that they be a qualified voter at certain address within their municipality stated on their Statement of Candidacy form. She added candidate Westerfield is not a registered voter at 1414 32nd Avenue within the City of Rock Island at the time of the signing of his Statement of Candidacy. She said the 1414 32nd Avenue address was listed as a rental property by the South Rock Island Township office. She said the address of 8501 Ridgewood Road listed on Mr. Westerfield's voter registration is in the 2nd Ward of the City and thus he is ineligible to run for office in the 3rd Ward.

Because she argued Westerfield is not a qualified candidate for the office of 3rd Ward alderman of Rock Island, she requests that Westerfield be disqualified and his name not be placed on the ballot. Gilbert argued that mailing address is not determinative of residency, but property tax bills are, and that Westerfield's tax bill listed him as a resident at his second ward address and not at his third ward address. She stated that his third ward address is a rental property and is not owner occupied. Gilbert claimed Westerfield is not a registered voter in the third ward for 2017-2020.

Gilbert further argued (objection two) that Westerfield should be disqualified because two of his petition sheets showed the circulator Westerfield certified his address was in the 2nd Ward.

Gilbert further argued (objection three) that four of Westerfield's petition sheets should be disqualified because he was the circulator with his third ward address, and that after those sheets are disqualified, the remaining number of signatures was not sufficient, which would disqualify him as a candidate.

Gilbert further argued (objection four) that signatures of Westerfield as circulator do not match his statement of candidacy. As such, the signature of such petition sheets should be disqualified, and that after those sheets are disqualified, the remaining number of signatures was not sufficient, which would disqualify him as a candidate.

Gilbert claimed (objection 5) that several signatures are not those of registered voters at the address as signed, including Respondent-Candidate Westerfield, who, she stated is not a registered voter at his third ward address. She said the objection should be sustained and the petition sheet disqualified.

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Gilbert further argued (objection 6) that petition sheet 2 line 2 shows unregistered voter Dustin Korshot. She said the objection should be sustained and the petition sheet disqualified.

Gilbert stated (objection 7) that petition sheet 2 line 10 shows unregistered voter Kurt Love. She said the objection should be sustained and the petition sheet disqualified.

Gilbert stated (objection 8) that petition sheet 3 line 5 shows unregistered voter Stephanie Tubbs. She said the objection should be sustained and the petition sheet disqualified.

Gilbert stated (objection 9) that petition sheet 5 line 9 shows unregistered voter Annamaria Rosha. She said the objection should be sustained and the petition sheet disqualified.

Gilbert stated (objection 10) that petition sheet 9 line 7 shows unregistered voter Cody Johnson. She said the objection should be sustained and the petition sheet disqualified.

Gilbert stated (objection 11) that petition sheet 9 line 10 shows unregistered voter Donald Sagas. She said the objection should be sustained and the petition sheet disqualified.

Gilbert stated (objection 12) that petition sheet 10 line 5 shows unregistered voter 'Susan'. She said the objection should be sustained and the petition sheet disqualified, as there are no registered voters at that address.

Gilbert claimed (objection 13) that Westerfield did not meet the requirement for candidacy to reside in the Ward for at least one year.

Gilbert claimed (objection 14) that Westerfield did not meet the requirement for candidacy in that Westerfield filed for the April 6, 2021 election on his statement of candidacy rather than the February 25, 2021 election. Gilbert moved for the admission of her exhibits into evidence. Gilbert noted that if Westerfield was represented by counsel, she had not been given notice. Gilbert indicated the Rock Island County Clerk had advised her Westerfield changed his voter registration December 7, 2020. Gilbert indicated that local election official Nick Camlin had indicated that filing for the correct election date was a mandatory requirement.

Attorney for Mr. Westerfield, Bill Stengel, presented as an offer of proof Galen Westerfield, the father of Jeffrey D. Westerfield. Regarding the address, Jeffrey D. Westerfield built a home at 1414 32nd Avenue, Rock Island and lived there continuously for three years. He noted this home did not have a mailing address during construction, and consequently the other address in the 2nd Ward was used, but that this was changed November 16, 2020 prior to his statement of candidacy. The evidence will show the clerk was not finding a particular mailing address, so the application was not processed for several days, but the change of registered voter was effective on the date of application. The petitions were circulated by four people: Jeffrey D. Westerfield, his son, Jeffrey T. Westerfield, Randy Hurt, and Galen Westerfield. Each of those nominating petitions were properly presented and notarized, and the person who circulated did sign, and was properly notarized.

As to the specific names called out as not being registered at a particular address, seven names were conceded by Westerfield (objections 6,7,8,9,10,11,and 12) to be not registered at the address signed. Stengel argued that Westerfield had sufficient signatures, and argued that although there will be a primary in February, the fact of the primary election date being sooner does not abrogate that he properly registered for the April 2021 election. He said evidence would show that Westerfield resided permanently and continuously in the 3rd Ward, and properly changed his registration prior to signing the Statement of Candidacy.

Jeffrey D. Westerfield was sworn as a witness and offered testimony. He stated there was no fraudulent activity on his behalf and that he fulfilled every obligation of candidacy for 3rd Ward Alderman, including switching his voter

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registration prior to signing the oath of candidacy. Westerfield testified his son, age 30, also served as a circulator, and was notarized. Westerfield offered mail delivered to his 3rd Ward address, including items from the Secretary of State and his insurance for home and automobiles. He said he built the home himself and never had intention to use it as a rental property. He changed his address on November 16, 2020 and is an eligible candidate.

Alderman Spurgetis offered a full disclosure statement prior to the filing of petitions and challenging of petitions that he was asked to sign Gilbert's petition and did so. He added he would have done the same for Westerfield. He said he had no prejudice politically or personally, and according to the regulations his recusal would not be appropriate. Spurgetis asked if Westerfield has changed his driver's license address. Westerfield testified he could not obtain a duplicate license due to Covid-19, but did change his address with the state and City before signing his Statement of Candidacy.

Westerfield introduced evidence including documentation of the change of voter registration, and a letter indicating why that was not processed immediately, a MidAmerican utility bill for November 2020, different documents including bills he pays for insurance, documents from the State of Illinois on the renewal of his tollway pass, and the deed to the property. Westerfield testified that he has resided at the 1414 32nd Avenue, Rock Island address continuously and had never rented the property. Westerfield testified that his vehicles were registered at the 1414 32nd Avenue Rock Island address. Westerfield's Statement of Candidacy was signed November 19, 2020.

Gilbert inquired as to the full legal name of Westerfield's son, which is Jeffrey Tyler Westerfield. Gilbert indicated that the name of the circulator was printed as Jeffrey D. Westerfield. Westerfield testified this was printed by the notary. Gilbert asked where Jeffrey T. Westerfield was a registered voter. Westerfield did not know. Gilbert noted that a circulator must be a registered voter.

Gilbert claimed that Westerfield did not return a call from the voter registration change within five days, and this resulted in the processing delay until December 7, 2020, which was after the Statement of Candidacy. Gilbert requested that the board subpoena witnesses because she was advised that his electronic request was defective. Thoms noted that the exhibit shows his change of registration was effective November 16, 2020. Mohr noted that it states on the bottom of the petition sheets that the circulator must be 18 years of age and a qualified voter in Illinois and that it says nothing about being a registered voter. Westerfield testified that Jeffrey T. Westerfield is age 30, and to his knowledge is a registered voter who voted in the November 2020 general election.

Gilbert claimed that she heard from the Assessor's Office that they had been out to the property several times and had verified it as a rental property. Westerfield testified that this is the house he resides in. Thoms noted that a person must reside in the ward but that the property need not be owner-occupied; a candidate may rent a home in the ward. Mohr challenged that a rental property is not distinguishable from the outside from an owner-occupied property. Gilbert indicated that she was just repeating what she was told, and that hearsay was allowed. A deed for 1414 32nd Avenue and a photo of that property were entered into evidence as Exhibits 8 and 9.

Chairman Thoms asked if Jeffrey Westerfield, circulator, is listed as a resident of Ridgewood Road. Westerfield confirmed that to his understanding the notary printed the name of Westerfield's son as circulator as either Jeffrey D. or T. Westerfield. Mohr noted that Westerfield's son's certification satisfied that he is of legal age to be a circulator.

Galen Westerfield was sworn and testified he is the father of Jeffrey D. Westerfield. His grandson, Jeffrey T. Westerfield lives with him, and he was on the opposite side of the street from Jeffrey T. Westerfield while he was acquiring signatures and was present for the notarization of Jeffrey T. Westerfield. Galen testified that Jeffrey D. Westerfield has resided at 1414 32nd Avenue, Rock Island continuously for approximately two years. Galen has visited that address for family functions and dinners many times, and has observed Westerfield to reside there with all of his belongings.

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Chairman Thoms asked Alderman Spurgetis if he had any questions at that time. He had none. Mr. Morrison asked Ms. Gilbert if she had additional questions for Mr. Westerfield. She had none.

Mr. Morrison reviewed the group exhibits as follows:

Group 1: 4 pages or four items. Electronic voter registration application details.

Group 2: Midamerican Energy bill for November 2020.

Group 3: Bill from Illinois iPass, State Farm insurance letter to Mr. Westerfield, and an Illinois Registration Identification.

Mr. Morrison said there was no Exhibit 4.

Ex. 5 Subaru Motorsport Finance letter.

Ex. 6 State Farm auto insurance renewal form.

Ex. 7 Illinois identification registration.

Ex. 8 Deed for the ward 3 property.

Ex. 9 Photograph of the residence at that location.

Mr. Morrison asked Ms. Gilbert if she had a chance to review these documents. She said yes. Mr. Stengel asked that these be made part of the record.

MOTION by Spurgetis that the evidence be admitted into the record; Mohr seconded. VOTE: Motion passed on a 3-0 voice vote.

This concluded Mr. Stengel's offer of proof.

Chairman Thoms asked if there was additional discussion from the Electoral Board. Mr. Morrison said both the objector and candidate did a great job of parsing the issues. He said he felt the issues were with Objection 1 and who was registered at the address on the date the paperwork is signed, and the November 19, 2020 date is what the board would be looking at. He said with regards to signature sheets signed by Jeffrey Westerfield, board must determine by preponderance of the evidence who signed them and did they meet the requirements mentioned by Board Member Mohr. He added that with regard to objection 3, the distinct issue was similar to issue 1, and will hinge on whether or not the voter registration was changed on November 19, 2020 and whether or not one must be registered at that address when the petition is signed.

Mr. Morrison said with regard to objection 4, it has to do with who the circulator was, and the board had discussed that clearly. He added there was a statement by candidate's attorney that a number of the signatures that were stipulated to, that they were not in fact valid, and the argument was even if those were stricken individually, there would be more than enough signatures to qualify for candidacy. He thought the Board would want to look at the 5% minimum number of signatures.

Mr. Morrison said with regard to the issue of residency, there were a number of cases that deal with that as well. Rahm Emanuel was in Washington, D.C. for a number of years, and upon return for a run for Mayor of Chicago, there was a discussion of the relevant factors of what to look for residency. He said these are items that should be looked at by the board, but it was ultimately the Board's decision. He added there are also a number of cases regarding petitions for

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candidacy that discuss the difference between mandatory and substantial compliance. He said the Board must consider if a question is mandatory, and if not mandatory, but directory, substantial compliance is sufficient. The board should then consider the factors of voter confusion, fraudulent intent, and cases that construe these factors.

Chairman Thoms asked Alderman Spurgetis and Board Member Mohr if they had comments or discussion. Neither had comments. Chairman Thoms said the signature petition language at the top of previous forms said "consolidated primary election", but these petition forms reviewed in the hearing says only "election". He added that this is ambiguous as to whether it requests a date for a primary or general election, and what he read in the manuals is that one cannot mislead the voters of what election it refers to. He said the other is to determine whether one has a residence versus homestead, and your residence is where you live. He added that asking one to reside in the ward for a year does not require one to claim a homestead property tax exemption, and the question was whether or not it was his residence.

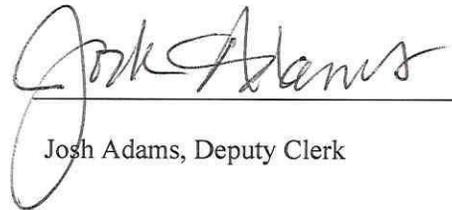
Mayor Thoms asked if there was further discussion from the Board or the public. There was none. Mr. Westerfield stated that in regard to voter registration, it was a time when the county building was closed and he had to do it online. Mr. Morrison reminded Mr. Westerfield that public comment is not part of the record. No other members of the public commented.

MOTION by Spurgetis to adjourn and reconvene on December 16, 2020 at 3:30 p.m. for more discussion and a written finding; Mohr seconded. VOTE: Motion passed on a 3-0 voice vote.

The hearing was adjourned at 3:06 p.m.



Mayor Mike Thoms, Chairman



Josh Adams, Deputy Clerk



Linda Mohr, Member, Interim City Clerk



James Spurgetis, Member, Alderman