

**CITY OF ROCK ISLAND ELECTORAL BOARD
MINUTES**

**HEARING/ELECTION CHALLENGE
DECEMBER 16, 2020**

On Wednesday, December 16, 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.

Chairman Thoms opened by saying that since there was some confusion on the subpoena, additional evidence would be allowed. Mr. Morrison clarified that this was not an evidentiary hearing, but an Offer of Proof could still be made to have the Board consider when a decision is made.

Attorney Michael Meloy, representing Objector Gilbert came up to speak. Mr. Morrison asked if Mr. Meloy if he was licensed in Iowa and Illinois. Mr. Meloy replied he was licensed in Iowa only. He said his first Offer of Proof would be the testimony of Judith Gilbert. Ms. Gilbert was sworn in by Ms. Fickel. Mr. Meloy said at the December 10, 2020 first Electoral Board hearing Judith Gilbert requested that the Board issue subpoenas regarding the voter election records of Mr. Westerfield. He asked the Board to confirm that they had not done so, and Chairman Thoms confirmed that was correct. Ms. Mohr stated she did not remember or recall Ms. Gilbert requesting a subpoena. Ms. Gilbert stated that the request was in the audio recording. Mr. Meloy said since the previous hearing date, they obtained additional information about the voting records and asked Ms. Gilbert what she did on this Monday December 13, 2020.

Ms. Gilbert stated she went to the County Clerk's office to examine Mr. Westerfield's voting records. She said the pre-election voter list on the Rock Island County Clerk's website showed Mr. Westerfield voting from the 8501 Ridgewood Road address for the November 3rd, 2020 election. She had asked them for certified copies of the vote by mail application. She said on Monday, December 14, 2020 she obtained a certified copy of the vote by mail application for Mr. Westerfield, which showed him voting from Blackhawk Township in the 2nd Ward. Mr. Meloy presented a certified copy of the vote by mail registration to the Board.

Mr. Meloy discussed the information that was found on the vote by mail application. He stated that Mr. Westerfield had to read the certification above it before he signed that it was true and correct. Mr. Morrison asked if the application said reside or otherwise, as the language was obstructed on the form. Mr. Meloy said it says either reside or resided, and it reads that a candidate resides at the address specified in the State, Precinct, and County, and have lived at such address for 30 days or more preceding the election. He summarized additional necessary steps Mr. Westerfield took to complete his application, and said a comparison of Mr. Westerfield's signatures on exhibit A and exhibit C show a match as to how he signed his name on each certification. Mr. Meloy added that his Statement of Candidacy was notarized by Nichole Parker of South Rock Island Township on November 19th, 2020.

Mr. Meloy said the Board did not have this information regarding Mr Westerfield's vote by mail application before the original hearing, and wanted to ensure that the record showed Mr, Westerfield submitted two different residencies to two different applications under oath. He noted the first one on was on August 1st, 2020 for his vote by mail application in the general election, and the second in November 2020 for his statement of candidacy for 3rd Ward Alderman in the City of Rock Island. Mr. Meloy said there is a conflict where Mr. Westerfield showed via vote by

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mail application that he lived at one address, and his Statement of Candidacy showed another. He asked the Board to consider which version was the truth, as the vote by mail application affirms that he was living in the 2nd Ward on November 3rd, 2020, as he voted in the general election that day. He claimed that if Mr. Westerfield moved on November 4th, 2020 and submitted his Statement of Candidacy of November 19th, 2020 he could have at most only resided at 1414 32nd Avenue in the 3rd Ward for a maximum of 15 days.

Mr. Meloy introduced exhibit 3 discussing the Illinois State Law for holding municipal office, which states that a person is not eligible for the office of Alderman of a ward unless that person had resided in the ward in which that person seeks to represent. He offered that none of the exceptions to the law apply in this case, and a situation exists where a person who is claiming to have complied with the election laws of the State of Illinois has not. He said that was directly contradicted by exhibits C and A, and Mr. Westerfield cannot run for the office of Alderman in the 3rd Ward. He stated that this is new information for the board and Mr. Morrison, and requested that the board reconsider their proposed decision in the case and find Mr. Westerfield ineligible to run for 3rd Ward Alderman. He asked the Board if there were questions for himself or Objector Gilbert. Mr. Morrison asked Mr. Meloy if that concluded his offer of proof. Mr. Meloy asked to make it clear that the offer of proof included exhibits A, B, and C as well as the testimony of Ms. Gilbert.

Mr. Morrison opined that the Board could consider accepting the evidence, and if so, it would be proper to allow the candidates to respond if they desire. Chairman Thoms said the Statement of Candidacy was already introduced into evidence and was not a new item. He provided a description of additional new evidence for Spurgetis, as he was participating remotely. Mr. Morrison interjected that if the new information ended up being correct, there could be concern that someone would be placed on the ballot that was ineligible to run. He offered that it could cause problems for the City if an ineligible candidate were to win their election and then have their win redacted.

Chairman Thoms clarified his interpretation of what the law said, specifically that there is conjecture as to whether or not the law is referring to specific wards, or the municipality as a whole. He added that to him, the law states that the person has to live in the city for one year but not as a resident of the specific ward. Mr. Morrison said it would be appropriate for Objector Gilbert's attorney to speak on her behalf if she had additional information to share. He referenced the case of Henderson v Miller, which stated that the municipal code requires only that a candidate reside within the ward for which they are elected, and a qualified elector for the municipality does not require that the candidate to be a voter in his place of residence.

Chairman Thoms summarized Mr. Morrison's comments on the case that someone was eligible even though they did not live in the ward for a year. Mr. Morrison clarified that the case was not completely similar in nature to this matter. Chairman Thoms further offered his interpretation of the municipal code involving residency. Mr. Morrison said that is one possible interpretation, but he has not seen a case such as that.

Mr. Morrison said it would be prudent to adjourn and see if a case exists that would be more applicable. Mohr said she would like to see the exceptions listed under subsections A and C that were referenced by Mr. Meloy in order to see whether or not they would be relevant. Mr. Morrison said it would also be prudent to allow Mr. Westerfield to have his attorney present to respond if desired, and also so a fully formed decision by the Board could be made. Chairman Thoms said it would be difficult to reconsider a decision as Mr. Meloy requested because none had been ruled at this time.

Mr. Morrison said he would be reluctant to have someone speak who is represented by counsel when the counsel was not present, as allegations of wrongdoing had been made. Mr. Westerfield said he was unaware that the Board would be accepting additional testimony, as he expected a ruling to be given at this hearing. Chairman Thoms recommended that the Board not accept the new evidence. Mohr offered that Mr. Westerfield deserved to have his attorney present for the opportunity to respond.

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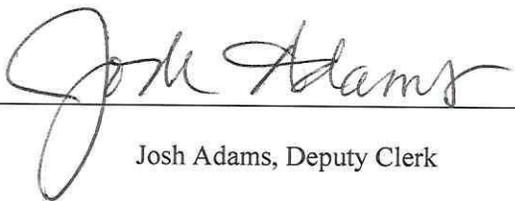
Chairman Thoms said he preferred to wait to get more information before a decision was made. Spurgetis said he recommended waiting as well, but if a decision were to be made now, he would want to accept the offer of proof. He added there was already some evidence entered in the previous meeting by Mr. Westerfield's attorney.

Mr. Morrison said the Board should make a motion to adjourn to a later date that would allow Mr. Westerfield to respond with his attorney present. Chairman Thoms suggested adjourning to a later date, considering the upcoming holiday week. Westerfield said he would not be available the following week, but his attorney could be available. Mr. Morrison chose to call Westerfield's attorney Stengel to check on availability, and reminded Westerfield that he could join remotely as well. Westerfield agreed to join remotely. Mohr suggested meeting the following Tuesday, December 22nd, after 1:30 p.m.

Mayor Thoms asked if there was further comment or discussion from the Board or the public. There was none.

MOTION by Thoms to adjourn and reconvene on December 22, 2020 at 1:30 p.m. for more discussion and a written finding; Mohr seconded. VOTE: Motion passed on a 3-0 voice vote.

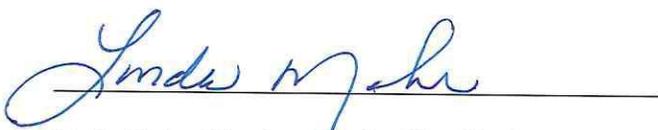
The hearing was adjourned at 3:06 p.m.



Josh Adams, Deputy Clerk



Mayor Mike Thoms, Electoral Board Chairman



Linda Mohr, Member, Interim City Clerk



James Spurgetis, Member, Alderman