

Glen Kuhlemier called a meeting of the Municipal Officers Electoral Board for the City of Rock Falls to order at 3:00 pm. Roll call. Present: Lee Folsom, Pamela Erby and Glen Kuhlemier.

Kuhlemier set forth rules that no interruptions take place during these proceedings, vocally or mechanically.

Lee Folsom made a motion to designate Ward, Murray, Pace & Johnson, P.C. as attorney to the board for these proceedings; seconded by Pamela Erby. Voting: Ayes – Folsom, Erby, and Kuhlemier. Nays – None. Motion carried.

Jim Reese, with Ward, Murray, Pace & Johnson, P.C., explained the Electoral Board is a public body and is subject to the Open Meetings Act so nothing will be discussed behind closed doors. The Board is a judicial panel whose duty is to hear and determine validity of objections based on law. Three cases are being heard today. For clarification the case of Searing vs. Boseneiler will be referred to as Case No. 2013-1, Boseneiler vs. Blanton will be referred to as Case No. 2013-2, and Boseneiler vs. Wescott will be referred to as Case No. 2013-3.

Actions may not be complete today. The meeting may be recessed to a later time to meet with the County Clerk's office or a different time to deliberate a decision. A second hearing will be necessary to adopt written findings.

Attorney Reese stated the first action is to consider the rules and procedures submitted to the board, objectors, and candidates. Folsom made a motion to adopt the rules as presented; seconded by Erby. Voting: Ayes – Folsom, Erby, and Kuhlemier. Nays – None. Motion carried.

Attorney Reese explained the Electoral Board consists of the Mayor, Clerk, and the longest serving Board member (Glen Kuhlemier). Because the Mayor and Clerk have petitions involved, the second longest serving board member (Lee Folsom) joins the Electoral Board. The third member is appointed by the Chief Judge of the Judicial Circuit Court for Whiteside County. Chief Judge Jeffrey O'Connor appointed Pamela Erby, a citizen with previous Council experience.

Attorney Reese noted the original documents have been given to Glen Kuhlemier, Chairman of the Electoral Board. Reese explained that each objector and candidate was served with documents to appear for this hearing. The documents proving service from the Whiteside County Sheriff were given to Kuhlemier to file as a permanent record of these proceedings.

Case 2013-1 Searing vs. Boseneiler. Attorney Reese explained the Objector must establish and sustain information to grant the Board striking the candidate's name from the ballot. Findings must be probably more true than not true. If the board is not presented proof, they can deny the objection. Attorney Reese asked the Candidate if he had any motion to make regarding the objection. Boseneiler asked about the rules of the board. Attorney Reese reminded Boseneiler this is not the time to discuss the rules and asked again for a motion regarding the objection. Boseneiler asked about subpoenas being delivered. Reese reminded everyone that timeliness is important for names to appear on the ballot; therefore, subpoenas would be delivered and not mailed, if necessary.

Kuhlemier noted that Boseneiler filed no motion to the objection.

Mark Searing was sworn in by the court reporter. Searing noted the petitioner's signature was struck on Pages 2, 3, 4, 5, 6, and 7 and no certifications of deletion were filed. Searing submitted the certificate of deletion with the court reporter. Boseneiler asked for a copy of the papers. Reese explained that unless it is evidence there is no need for Boseneiler to receive a copy. Searing stated that he wanted it submitted as evidence. The document was labeled "Exhibit 1" and a copy was provided to Boseneiler. Boseneiler objected because no reasonable candidate would be aware of the deletion form.

Boseneiler began to quote a newspaper article. Kuhlemier stated it has no relevance to this hearing.

Boseneiler objected to the document on the basis that he is not sure if it is a true and accurate statute. Attorney Reese reviewed the documents and reported that the first page was prepared by Searing for comments. Page 1 was removed but Pages 2 and 3 are pertinent to the Certificates of Deletion and are properly admissible.

Searing presented objections to petitioner's signatures. Searing noted signatures on Page 1: Line 4; Page 1: Line 7; Page 4: Line 9; and Page 6: Line 5; are non-residents of Rock Falls. Searing continued by noting petitioners signing on Page 3: Line 7; Page 7: Line 2; Page 8: Line 4; and Page 8: Line 7 are not registered voters. Searing continued by objecting to petition forms being incomplete. The date and name of election are not on all pages of the petitions.

Searing's next objection is supported by State Statute 5 ILC 5/3.1-10-5 that stated no candidate may be in arrears. Boseneiler had outstanding fines due at the time his petition was filed. The CAD entry from the Police Department shows fines were paid at 4:30 pm on December 26. Searing presented documents showing the fines and time stamps of when they were paid.

Boseneiler objected to these documents being supplied because they are contrary to fact. Attorney Reese asked on what basis. Boseneiler reported the cases are held up in court proceedings. Attorney Reese accepted these documents into evidence and reiterated the status that a candidate cannot owe money to a municipality where he is running for office. Boseneiler objected. Kuhlemier overruled the objection.

Searing reported Boseneiler has been running a second hand store without a license since May 1, 2012. A license was denied on June 18, 2012. The store is not in compliance with City codes. Boseneiler objected to Searing's objections because he has no standing; he is the Building Inspector. Attorney Reese stated this is not the appropriate time for an objection. Boseneiler stated there is no reason for this license because he simply runs a laundromat. Boseneiler commented that the letter shows no proof of mailing and has no connection to this matter. Attorney Reese states there may not be sufficient cause. Kuhlemier overruled Boseneiler's objection for Attorney Reese to review for legal bearing.

Boseneiler asked to be addressed as Citizen Boseneiler because his beliefs are that the title of Mister is something that is earned. Boseneiler noted that Searing is not a candidate and should have no involvement in this hearing. Boseneiler feels that Searing is not consistent with inspections and has targeted him; therefore, Searing has a conflict.

Searing stated he has been a building inspector for seven years. He was previously an Alderman. Searing prepared a Freedom of Information Act (FOIA) request for a copy of the petitions filed by Boseneiler. After reviewing the documents, Searing filed the objection.

Attorney Reese asked when the fines were paid. Searing stated all fines were paid at 4:30 pm on December 26, 2012. Boseneiler does not believe that all fines could have been paid at the same time to different locations. Searing reported the fines were paid and entered into the CAD system at 4:30 pm.

Boseneiler asked about the watcher at this proceeding. Attorney Reese explained the watcher is not necessary at this meeting; it only pertains to the case if the County Clerk is asked to verify voters' signatures.

Boseneiler stated that only a handful of names are in question on his petition which would leave more than enough signatures to complete his requirement. Boseneiler takes pride in how accurate his petitions are. He believes the monies owed to the City are not factual, in fact, he probably overpaid because they are in the appeals process. His petitions are substantially compliant with requirements. Signatures and completeness of forms are moot points. Fines were paid.

Attorney Reese asked when the fines were paid. Boseneiler cannot remember. Reese pointed out that Boseneiler's petitions were filed at 10:26 am on December 26, 2012, as stamped on the documents. Fines were paid at 4:30 pm on December 26, 2012. Boseneiler reported fines were paid before the end of the filing period. He admitted fines were only paid so his papers would be valid.

Following legal research, Attorney Reese offered his views. Although a certificate of deletion should have been filed where signatures were struck; there is no legal precedent on any penalties for not filing deletion certificates. Petitioners' names being eliminated for non-residency or non-registered voters would not eliminate enough signatures to disqualify petitions. The date and name of election may prove confusing to some signators but there is no specific case citing this as a cause to reject petitions. Reese noted the outstanding fines at the time of the filing does have precedence. In 2008, Community of Stickney vs. Cinkus, shows money owed at time of filing can be cause for papers being rejected. The certificate of candidacy states they are eligible for office. With outstanding fines, that is not the case. With the operation of a second hand store there may be another obligation of money owed to the City.

Kuhlemier ruled that no further comments would be heard so the board could deliberate. The Board reviewed the petitions submitted by Boseneiler.

Kuhlemier asked Police Chief Kuelper about the actual time stamp verifying when Boseneiler's fines were paid. Chief Kuelper was sworn in. Kuelper reviewed the documents submitted by Searing. Kuelper stated the CAD entry shows the fines were paid at 4:31 pm on December 26, 2012. Boseneiler asked if the CAD entry may have been done at a later time. Kuelper stated that that could happen but there were three more witnesses that noted the time of payment, including himself.

Kuhlemier noted payments were received at 4:31 pm on December 26, 2012. Boseneiler's candidacy papers were filed at 10:26 am on December 26, 2012; therefore the fines were outstanding at the time of his filing.

Erby made a motion to deny the placement of Boseneiler's petition on the ballot and directed Attorney Reese to draft the findings into a written statement for presentation at the next meeting; seconded by Folsom. Voting: Ayes – Folsom, Erby, and Kuhlemier. Nays – None. Motion carried.

Attorney Reese advised the reconvened meeting be held no earlier than Wednesday, January 16, 2013, so findings could be drafted and reviewed. Kuhlemier made a motion to reconvene this meeting until Wednesday, January 16, 2013, at 3:00 pm; seconded by Erby. Voting: Ayes – Folsom, Erby, and Kuhlemier. Nays – None. Motion carried.

A five minute recess was granted; proceedings will resume at 4:45 pm.

The meeting resumed at 4:45 pm.

Case 2013-2 – Boseneiler versus Blanton. Kuhlemier asked for a motion from Dave Blanton. Dave Blanton asked for dismissal based on 735 ILCS 5/2-615. Blanton stated that his petitions were filed properly and according to statutes. Attorney Reese explained dismissal can be accepted if the board desires or the candidate's petitions can be reviewed. There is no sufficient information to have stricken. An objection contains specific items to review, such as Sheet 3, line 7; the voter is outside City limits or not registered. Boseneiler wanted the board to verify. The board does not do the fact finding. The only way to handle this objection is to recess to the County Clerk's office. The remainder of objections that petitions were not signed in the circulator's presence has no case law. There is not really a specific objection acknowledged from Boseneiler.

Boseneiler's does not agree with Counsel's challenge to determine if nomination petitions were signed in the candidate's presence or if petitions were circulated 90 days prior to filing. Boseneiler asked if petitions were notarized privately and if signatures were obtained on City time or property.

Attorney Reese explained that Boseneiler needs to adequately advise of deficiencies, his objection has no particularity. It is not the Board's job to investigate but judge the validity. Boseneiler needs evidence that the petitions are copies versus originals and they were not personally circulated by the candidate.

Kuhlemier stated Boseneiler's objections are nebulous and does not specifically state an objection. Folsom made a motion to dismiss Boseneiler's objections and direct Attorney Reese to prepare a written statement for the recessed meeting on January 16. Motion seconded by Erby. Voting: Ayes – Folsom, Erby, and Kuhlemier. Nays – None. Motion carried.

Case 2013-3 – Boseneiler versus Wescott. Wescott submitted a written motion to dismiss based 735 ILCS 5/2-615 . The objection was not properly drafted.

Boseneiler's response was that he has the highest regard for Bill Wescott. The Clerk is a management position and doesn't know how Wescott will deal with the challenges and leadership of the Mayor's position. Boseneiler acknowledged he filed the objections after Searing challenged his petition.

Kuhlemier asked Boseneiler to stick to the objection. Boseneiler protested that he had little time to file the objection and was not able to review Wescott's petition. Attorney Reese reminded Boseneiler he had time to review the petition because it was filed on December 17 and the objection was filed January 3. There was time to file a FOIA request and review the papers.

Boseneiler protested that he did not have time and FOIA requests take time. His objection was in response to the objection filed by Searing.

Boseneiler wanted to be sure that Wescott's papers were complete and compliant with State statutes. He wanted to assure that no signatures were obtained 90 days before filing, that they were notarized privately, that they were signed in front of the circulator, that the petitions were not circulated on City time or property, and that the Statement of Economic Interest was filed.

Kuhlemier noted that the Statement of Economic Interest receipt was included in Wescott's papers.

Attorney Reese stated there is no reason not to dismiss these objections. There is no validity to the objections. The Board does not set out on a fishing expedition to find something wrong with Wescott's papers. Attorney Reese stated that Wescott's motion was very well drafted and is in proper form.

Erby made a motion to dismiss the objection from Boseneiler and draft the written findings for the January 16 meeting; seconded by Folsom. Voting: Ayes – Folsom, Erby, and Kuhlemier. Nays – None. Motion carried.

Folsom made a motion to close the meeting and reconvene to Wednesday, January 16, 2013 at 3:00 pm; seconded by Erby. Voting: Ayes – Folsom, Erby, and Kuhlemier. Nays – None. Motion carried.

Meeting adjourned at 5:20 pm.

Marie Rombouts
Recording Secretary