

Minutes of the Village of Flossmoor Electoral Board on January 22, 2019

Village of Flossmoor

VILLAGE HALL

JANUARY 22, 2019

7:00 PM

Mayor Braun called the meeting to order at 7:00 PM. He asked the Electoral Board members to state their presence.

Present: Mayor Paul Braun, Village Clerk Joni Bradley-Scott, Trustee Phil Minga

Also present: Village Attorney Kathi Orr, Village Manager Bridget Wachtel, Assistant Village Manager Allison Deitch, Candidate David Bruni, Objector Perry Hoag

Mayor Braun referred to item #3 on the agenda: Presentation and Acceptance of Final Decision.

Mayor Braun asked Attorney Orr to read the written findings and decision as presented, whereupon, Attorney Orr read the following into the record:

Findings and Decision of the Electoral Board of the Village of Flossmoor. A meeting of the Electoral Board for the Village of Flossmoor, was convened on the 2nd day of January, 2019, at approximately 10:00 a.m.(the “Initial Hearing”) at the Flossmoor Village Hall, 2800 Flossmoor Road, Flossmoor, Illinois pursuant to a call of the Mayor of the Village of Flossmoor and service upon the members of the Electoral Board, the Objectors and Candidate, said parties being served by the office of the Sheriff of Cook County and by certified U.S. mail in accordance with the Election Code of the State of Illinois, 10 ILCS 5/1-1 et seq. (the “Election Code”). The meeting of the Electoral Board was reconvened on Friday, January 18, 2019, at 9:00 a.m. at the Flossmoor Village Hall after notice to the parties (the “Reconvened Hearing”).

The purpose of the meetings was to conduct a hearing on the objections, timely filed with the office of the Village Clerk, on the Independent Candidate Petitions (the “Nomination Papers”) of David Bruni for the office of Village Trustee to be elected at the Consolidated Election to be held on April 2, 2019.

In attendance were Paul Braun, Mayor of the Village of Flossmoor serving as the Chairman of the Electoral Board, Village Clerk Joni Bradley-Scott, Trustee Philip Minga constituting the members of the Electoral Board and Kathleen Field Orr, Legal Counsel to the Electoral Board.

Also present were the Objectors Perry Hoag and James Mitros (the “Objectors”) and Candidate David Bruni (the “Candidate”) represented by Patrick J. Keating, Attorney.

Rules of Procedure for the hearing and passing upon objections to the nomination papers of candidates were read into the record by Ms. Orr and thereafter adopted by the Electoral Board at the Initial Hearing.

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At the Initial Hearing, Mr. Keating raised two jurisdictional objections based upon lack of notice of the date, time and place of the meeting of the Electoral Board and the composition of the Electoral Board. Based upon the presence of the Candidates and the Candidates' legal counsel and receipts from the Sheriff of Cook County dated December 27, 2018, for service to the Electoral Board, the Candidate and the Objectors and receipts for U.S. registered mail to said parties being entered into the record, the Electoral Board overruled the objection on notice. Regarding the objection questioning the residency of Trustee Minga, each member entered into the record their primary residence being in Flossmoor, whereupon the Electoral Board overruled this objection.

Thereupon the Electoral Board heard and determined the Objections to the Nomination Papers of Candidate David Bruni making the following findings:

- 1. The Objections of Objector Mitros and Objector Hoag were determined to be the same and deemed consolidated for the purpose of the hearings.*
- 2. Objection I challenged eleven (11) signators to the Candidate's Nomination Papers as invalid. At the Initial Hearing, the Electoral Board ordered a record check of these voters be performed with the Clerk of Cook County, which occurred January 8, 2019.*
- 3. The Electoral Board found that, following the completion of the records examination which overruled five (5) of the eleven (11) contested signatures, the minimum number of valid signatures required for placement for the office of Trustee of 131 was met and overruled Objection I at the Reconvened Hearing.*
- 4. Objection II alleged that the Nomination Papers of the Candidate were unnumbered as mandated by the Election Code. Despite several decisions of Illinois Appellate Courts, in particular that of Hogan v. Stone (277 Ill.App.3d 388) which determined that numbering of the Nomination Papers is mandatory, the Electoral Board overruled Objection II at the Initial Hearing. On motion of Objector Perry Hoag at the Reconvened Hearing, the Electoral Board was requested to reconsider its decision on Objection II. Chairman Braun read portions of the cases of Hogen v. Stone (277 Ill.App.3d 388) and Wollan v. Jacoby (274 Ill.App.3rd 388) which found the numbering of pages of petitions to be mandatory under the law. Mr. Keating objected citing the case of Samuelson v. Cook County Offices Electoral Board (969 N.E.2d 468) where it was found that the candidates' petitions substantially complied with the Election Code, although not correctly numbered. Ms. Orr responded that at issue in the Samuelson case, cited by Mr. Keating at the Initial Hearing, was the incorrect inclusion of one page of 428 pages submitted by the Candidate. Chairman Braun reminded the Electoral Board that none of the Candidates' Nomination Papers had been numbered. A motion to reconsider the Objection was made by Trustee Minga, seconded by Village Clerk Bradley-Scott and passed unanimously. On Motion by Trustee Minga and seconded by Village Clerk Bradley-Scott, Objection II was unanimously sustained.*

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5. *Objection III alleged that the Nomination Papers of the Candidate were not bound as required by the Election Code. Upon inquiry of the Candidate, admission was made that the papers were not bound in any way.*
6. *A review of the relevant case law, in particular Jakstas v. Koske (352 Ill.App.3rd 861) found that petitions are required to be securely bound. The Candidate's legal counsel argued that the electoral integrity of the process was not compromised by any tampering which the rule was designed to prevent. At the Initial Hearing, the Electoral Board sustained Objection III finding that the binding of the Nomination Papers is mandatory under the Election Code, which finding was not reconsidered at the Reconvened Hearing.*
7. *Objection IV alleged that the Nomination Papers inadequately described the Election by describing it as "General" as opposed to "Consolidated". At the Initial Hearing, Ms. Orr advised the Electoral Board that given the fact that the Nomination Papers state the date of the election, the incorrect description of the election has been deemed to be irrelevant. The Electoral Board overruled Objection IV which finding was not reconsidered at the Reconvened Hearing.*
8. *Objection V alleges that the Candidate failed to provide his residential address in the space provided on each petition, putting only his zip code. Section 10-4 of the Illinois Election Code requires that each petition sheet contain the candidate's "place of residence".*
9. *At the Initial Hearing, the Electoral Board questioned the Candidate for his failure to write in his residence and he stated that since he circulated each petition, his address appeared at the bottom of each sheet. Numerous electoral board decisions have addressed the failure on the part of a candidate to state the city of residence where required however no direction could be found where the candidate gave no street address but only included a zip code. The Electoral Board determined that the failure of the Candidate to state his address is not fatal and overruled Objection V which finding was not reconsidered at the Reconvened Hearing.*

Having sustained Objection II and Objection III finding that the numbering and binding of the Nomination Papers are mandatory under the Election Code, the Electoral Board of the Village of Flossmoor, Cook County, Illinois, hereby finds that the Nomination Papers of David Bruni for the office of Trustee of the Village of Flossmoor, Cook County, Illinois, are invalid and therefore are not sufficient to place David Bruni on the ballot for the Consolidated election to be held on April 2, 2019.

Mayor Braun called for a motion to accept the findings and decision as read into the record. Village Clerk Bradley-Scott so moved; Trustee Minga seconded. Motion passed by a roll call vote.

AYES: Mayor Braun, Trustee Minga, Village Clerk Bradley-Scott

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NO: None

ABSTAIN: None

Mayor Braun stated that the foregoing Findings and Decision of the Village of Flossmoor, Cook County, Cook County, Illinois having been read at an open meeting and approved this 22nd day of January, 2019, he would sign as chair of the Village of Flossmoor Electoral Board. He said that written copies would be available at Village Hall to pick up and would be a written record for inspection at Village Hall from this point forward.

Mayor Braun called for a motion to adjourn. So moved by Trustee Minga; seconded by Village Clerk Bradley-Scott. Motion passed by a voice vote.

The meeting was adjourned at 7:14 p.m.

Respectfully submitted,

Allison Deitch

Deputy Village Clerk/Assistant Village Manager