

# ST. JOSEPH COUNTY ELECTION BOARD

101 S. MAIN ST.  
SOUTH BEND, IN 46601

CHARLES LEONE, DEMOCRATIC CHAIR  
BEN HORVATH, REPUBLICAN MEMBER  
RITA L. GLENN, SECRETARY

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August 12, 2022

St. Joseph County  
Election Board Meeting  
10:00 AM

## 1. Call to order

It being the appointed date and time, Chairman Charles Leone calls the St. Joseph County Election Board Meeting to order. Present are Ben Horvath, Republican Member and Ex-Officio Clerk of the Circuit Court, Rita L. Glenn, also present are:

Barbara Jewell – Citizen  
Julie Osberger – Citizen  
Mike McManus – Citizen  
Ted Booker – Candidate  
Judy Bradford – League of Women Voters  
Val Medich – Citizen  
Michael Castellon – Candidate  
Brian Schuler – Citizen  
Sheri Roberts – Citizen  
Heather Fite – Citizen  
Steve Dorbin – Citizen  
Lynda Wilson – Citizen  
Cherie DeFreese – Citizen  
Mike Bellovich – Citizen  
Pat Shafer – Citizen  
Lori Intlekofer – Citizen  
Jennifer Bybee – Deputy Clerk  
David Koppana – Citizen  
Shelba Cararace – Clerk  
Albi Jleoualer – Citizen  
Amy Rolfes – Candidate  
Gerry Brown, Citizen, North Liberty  
Mike Kruk – Citizen  
Dan Schaetzle – Citizen  
Jakob Lazzoro – WVPE

Megan Unlanif – SJC GOP  
Kim Riskovitch - Citizen  
Mike Misch-County Attorney  
Debbie Ladyga-Block-Democratic Party Liaison  
Diana Hess-Democratic Party Chair  
Susan Baxmeyer-Republican Party Vice-Chair  
Amanda Govaert Konrath-Dem. Member Voter Reg.  
Trisha Carrico-Rep. Member Voter Reg.  
Terry Rethlake-Chief Deputy Clerk  
Lana Cleary-Deputy Clerk  
Penny Stratton-Election Clerk

2. Pledge of Allegiance

3. Candidate challenge.

The Board is having a hearing today to hear the challenge brought by Ted Booker against Mike Castellon. The challenge is based on the allegation that Mr. Castellon has not met residency requirements to run for county office as set by Indiana code. These proceedings will be recorded and available. Motion to dismiss the case by Jim Masters is denied at this time, without prejudice. Chuck wants to hear from parties or board members any procedural objections to the proceedings to date. No procedural objections by Mr. Booker, Mr. Masters (on behalf of Mr. Castellon) and members of the Election Board. Both parties have submitted evidentiary materials, some are public records, some are social media and personal documents. These items are entered in as evidence. No objection from Ted Booker on the exhibits submitted for this proceeding. Jim Masters objects to exhibits A and B. Objection overruled by Chuck Leone. Objection preserved. Mr. Booker is sworn in. Mr. Booker states he filed a legal challenge because it doesn't appear that Mr. Castellon meets the residency standards set by the Indiana Code to qualify as a candidate and hold elected office. He raises the question where Mr. Castellon resides. Mr. Booker submits documents from Charlotte County showing Mr. Castellon and Ms. Fite purchased a home in Port Charlotte, FL and Ms. Fite applied for a homestead exemption in Charlotte County FL.

Mr. Booker presents his case.

Masters presents his case. Mike Castellon sworn in.

The Election Board questions Mr. Castellon and Mr. Booker.

Meeting recess at 11:30 AM. Election Board Meeting resumes at 11:44 AM. The Board asks the county attorney, Mike Misch to explain the process of burden of proof in this case. Mr. Misch explains Indiana law states since Mr. Castellon signed under oath that he is a resident of Indiana there is a presumption that must be overcome by Mr. Booker. The Board must now weigh out whether Mr. Booker has overcome that presumption that Mr. Castellon does not actually live in the State of Indiana. This deliberation by the Board will be weighing out this evidence and Mr. Booker has met his burden of proof.

Ben asks if according to Indiana law, is there a certain amount of time you must spend in the jurisdiction. Misch says Chuck alluded to the fact there is a multi-factor test when it comes to that domicile. Not necessarily the factor, but a factor the Board will take into consideration. Chuck states that the Board will need to consider the documents, actions, and behavior of parties with respect to residency. Also, the intent of Mr. Castellon's residency. Board will look at statements, testimony, consistency and how the evidence compares. Chuck asks all three Election Board members for comments on how they see the evidence before they take a vote. Ben states that Mr. Booker has the burden of proof. Law is clear that it is a two-prong analysis intent and conduct. Ben believes Mr. Castellon has shown he wishes to remain a resident of Indiana. Ben states he is not sure by the reason that Mr. Booker sided against Mr. Castellon that Mr. Booker meets all the requirements to run for this office. Ben doesn't believe Mr. Booker has completed the burden of owning property himself in this county. Ben believes that Mr. Castellon has fulfilled the duties of his current office. Ben noted Mr. Booker is Mr. Castellon's opponent in the fall election and this burden shouldn't be hanging over Mr. Castellon's head. Ben believes there should be a swift resolution to this issue. Rita states she is not legal, she believes it would be inappropriate to make any type of comment that pertains to the law. She says acceptance of any candidacy requirements are given to the Clerk's office by the State. We accept those and anyone who challenges has the burden of proof. Clerk's office is there to accept the filings only. Chuck is a little concerned on statutory provisions as they relate to residency. Chuck states his perception that there is clearly evidence on both sides. Chuck states Mr. Castellon has spent a good deal of time in both states but couldn't get a good feel for it. Chuck states the job can be done remotely or in person. He believes the job is done more effectively in person. There are no rules for vacation for elected officials, especially during covid. There is an entire chapter on standards to determine residency. It starts with a presumption of residency. From there it must be sufficient evidence that is not the case. There are several sections that talk about the residency of their immediate family. Chuck says Mr. Castellon's wife declared she is a resident of state of Florida. That is why her name is brought in some many times. Chuck states the question is since Mr. Castellon's wife is a resident of Florida, is he? Chuck believes there is sufficient evidence that Mr. Castellon resides in St. Joseph County, and he doesn't believe presumption has been rebutted. Motion to deny petition of candidacy challenge by Ted Booker. So moved by Ben Horvath. Seconded by Rita Glenn. All three Board members agree.

#### New Business

4. Ballot procedure review updates. The board received a summary of ballot procedures from Penny. State has several new procedures and the Board reviewed procedures and statutory procedures. Chuck states he wants this on the next meeting's agenda and the Board should start thinking about setting policies and procedures as set by the State. Modifications can be made down the road if need be.
5. Status of video recording. Ben made request as a private individual, not election board member. Ben states he has narrowed it down to the day the ballots started to be accepted to Primary Election Day. The state sent an email to the Election Board and county attorney that stated that the video recordings are not election records. The issue then

becomes who is responsible for the video? The clerks who received the grant for the cameras or the commissioners who own the building. Mike states that the county is in the process of tying all the computers and video equipment together to streamline. Now that Ben has narrowed down his request, Richard Warfield (from County IT) is preparing the video and will be sending it to Mike Misch who will then in turn share it with Ben Horvath. Chuck states that the video recordings are no longer an election issue. Ben states the key issue should be resolved before the fall and who has access to the keys.

6. Ballot room keys. Rita reads for the Board Indiana Code 3-11-10-10. The summary of this code is as follows: Two locks, one for each member of the board. If an appointed member cannot be there to unlock the door, they must designate someone else to open the door. Chuck says the statute does not give enough direction and that the Board needs to develop practices. Chuck states that county engineer has keys to the room in case of emergencies (i.e., floods, fires). Rita spoke to other clerks from around the state and their process is stated in the law. Rita's stance is she has a duty to perform and secure the integrity of the election. She states that the clerk has the responsibility to candidates and to the voters. She says law doesn't say she can't open the door. Chuck would like to put in place procedures and policies in writing so that it is a clear policy for the clerk's office and the commissioners. as the commissioners have an invested interest in this room. Chuck wants to make sure the room is safe, and the integrity of this process is worked on.

Public Comment

None

Next meeting is scheduled for August 26, 2022, at 9 AM.

Motion to adjourn the meeting at 12:10 pm. So moved by Ben Horvath. Seconded by Rita Glenn.

Respectfully submitted,



Rita L. Glenn, Secretary  
St. Joseph County Election Board

rlg/lrc