

# Alton Election Board holds hearing for Rauschkolb candidacy

by Cory Davenport, Contributing Writer  
January 22 2017 3:48 PM



**ALTON** - The **Alton Electoral Board** held a hearing on the morning of Friday, Jan. 20, 2017, in regards to the candidacy of **Dan Rauschkolb** for the upcoming April 4, 2017, Alton mayoral election.

Rauschkolb's candidacy was challenged by fellow mayoral candidate **Joshua Young**, who is running as a Progressive Democrat write-in candidate, and **Patrick Schwarte**, who described himself as a "concerned citizen" during the hearing. Both Young and Schwarte objected to Rauschkolb's candidacy based on Rauschkolb's "party switching" from his decision to run as a Democrat to his current affiliation as an Independent. Young and Schwarte filed petitions against Rauschkolb's candidacy with **Alton City Clerk Mary Boulds** prior to the petition filing deadline of Dec. 27, 2016. Rauschkolb attended Friday's hearing with his attorney, **Shari L. Murphy** of Wood River.



Alton's Electoral Board, which only exists as needed and is composed of Alderpersons **Charlie Brake** and **Gary Fleming** as well as Boulds with counsel from **Alton's Corporate Counselor Jim Schrempf**, only heard arguments from the interested parties in regards to the objections raised. No ruling was made at this time, but a ruling is expected to be made when the board reconvenes on Thursday, January 26, 2017, in **Alton City Council Chambers**.

The objection to Rauschkolb's candidacy by Young was issued to Boulds on Dec. 27, 2016. A motion raised by Murphy on behalf of Rauschkolb to have Young's objection stricken was upheld by the board due to Young's failure to provide his address with his

objection - a fact Young confirmed at Friday's hearing. Young's original objection reads as follows:

*This letter serves as a formal objection to the Dan Rauschkolb's filing as an independent candidate for mayor of Alton, Illinois on the grounds that his filing as an independent candidate is specifically prohibited by Illinois election law, 10 ILCS 5/7-43, section (i), which reads, in part: "A person who filed a statement of candidacy for a partisan office as a qualified voter of an established political party may not file a statement of candidacy as a candidate of a different established political party or as an independent candidate for a partisan office to be filled at the general election."*

*This law has also been tried in court (**Rudd v. Lake County Electoral Board 2016 IL App (2d) 160649**) and confirmed on appeal, which can be found at <http://www.illinoiscourts.gov/opinions/AppellateCourt/2016/2ndDistrict/2160649.pdf>*

*Striking Dan Rauschkolb's name from the ballot is necessary in order to preserve the integrity and lawfulness of the ballot.*

Murphy's objections to Young's objections were provided to Riverbender.com by Murphy. In her objections, she states Young failed to state his residence address on his objection, a fact Young confirmed at the hearing. That failure is against 10 ILCS 5/10-8, which states the following:

*The objector's petition shall give the objector's name and residence address, and shall state fully the nature of the objections to the certificate of nomination or nomination papers or petitions in question, and shall state the interest of the objector and shall state what relief is requested of the electoral board.*

A case of **Pochie v. Cook County Officers Electoral Board** stated the "residence address" is a requirement of the election code and is mandatory and not directory.

The Alton Electoral Board upheld Murphy's motion to strike and dismiss Young's objection based on his failure to provide his residence at the time of the objection.

Schwarte's objection to Rauschkolb's candidacy was also met by Murphy with a motion to strike or dismiss it from the record. The board did not move to strike or dismiss Schwarte's motion, instead choosing to hear arguments from him regarding his objection.

That objection, which also cites *Rudd v. Lake County Electoral Board 2016*, was also filed with Boulds on Dec. 27, 2016, and reads as follows:



*Dear Madam Clerk,*

*The intent of this letter is to register my protest regarding the inclusion of Dan Rauschkolb on the April 2017 ballot for Mayor of Alton, Illinois based on precedence set in the case of Rudd v. Lake County Electoral Board, 2016 IL App (2d) 160649.*

*Reference Paragraph 6 of the Illinois Official Report:*

*As the **United States Supreme Court** noted in **Storer v Brown**, 415 U.S. 724 (1974): "[A disqualification law] protects the direct primary process by refusing to recognize independent candidates who do not make early plans to leave a party and take the alternative course to the ballot. It works against independent candidacies prompted by short-range political goals, pique, or personal quarrel. It is also a substantial barrier to a party fielding an 'independent' candidate to capture and bleed off votes in the general election that might well go to another party." Id. at 735.*

*I ask that you and the City Attorney evaluate the grounds for my protest and act upon removing Rauschkolb from the ballot if appropriate.*



During the hearing, Murphy objected to Schwarte's objection, stating he did not make a statement of interest or properly articulate what he wanted the board to do. She also challenged Schwarte based on his lack of stated interest, and said Schwarte did not properly articulate what he expected from the board. Schrempf said it was his opinion Schwarte did properly articulate what he expected from the board.

In his defense, Schwarte said he was not an attorney and was only acting as a private citizen. Murphy said Schwarte should be expected to provide to the board both Rauschkolb's statement of candidacy as a Democrat and his most recent statement of candidacy as an Independent. The board agreed the burden of proof should be levied upon Schwarte. Schwarte was only able to provide a copy of Rauschkolb's statement of candidacy to run as a Democrat in a potential primary against Young, which never occurred due to filing errors. Rauschkolb confirmed to the board he was in fact seeking to run as an independent.

While Schwarte's objection was not stricken from the record during Friday's hearing, the board has yet to make a final ruling regarding Rauschkolb's candidacy. Schrempf said the board will take several pieces of evidence from both Schwarte and Murphy (on behalf of Rauschkolb) from the hearing before reconvening for its decision on Jan. 26.

If he is not included on the ballot, Rauchkolb has previously told Riverbender.com he would continue his campaign, even if it meant being a write-in candidate. Young is currently running as such. Current **Alton Mayor Brant Walker** won his position through write-in votes during the previous mayoral election.

The Alton Electoral Board is subject to the **Illinois Open Meetings Act**, and can therefore not meet with each other to discuss the situation. Schrempf said he could meet with members of the board individually and assist them in reducing their opinions on the matter into writing. A discussion, debate and possibly resolution is expected from the board during the Jan. 26 hearing, which is open to the public.