



## AGENDA

Municipal Officers Electoral Board  
Village of Arlington Heights  
Village Board Room

33 S. Arlington Heights Road, AH 60005  
Arlington Heights Village Hall  
33 S. Arlington Heights Road  
Arlington Heights, IL 60005  
January 3, 2023  
4:00 PM

- I. CALL TO ORDER**
- II. ROLL CALL**
- III. REMARKS BY BOARD CHAIR**
- IV. REVIEW OF LEGAL AND PROCEDURAL ISSUE**
- V. ADOPTION OF ELECTORAL BOARDS RULE OF PROCEDURE**
  - A. Proposed Rules of Procedure
- VI. HEARINGS REGARDING OBJECTIONS**
  - A. Scott Shirley v Martin Bauer, Case No. 22 MOEB 1
  - B. Thomas Drake v Martin Bauer, Case No. 22 MOEB 02
  - C. Keith Moens v Martin Bauer, Case No 22 MOEB 03
- VII. CITIZENS TO BE HEARD**
- VIII. ADJOURN OR RECESS**



**Municipal Officers Electoral Board  
1/3/2023**

**Item:** Rules of Procedure

**Department:** Village Clerk

**ATTACHMENTS:**

**Description**

Rules of Procedure

**Type**

Exhibits

**RULES OF PROCEDURE ADOPTED BY THE MUNICIPAL OFFICERS ELECTORAL BOARD OF THE VILLAGE OF ARLINGTON HEIGHTS FOR THE HEARING AND PASSING UPON OF OBJECTIONS TO THE NOMINATION PAPERS OF CANDIDATES FOR MUNICIPAL OFFICERS OF THE VILLAGE OF ARLINGTON HEIGHTS, COUNTY OF COOK, STATE OF ILLINOIS**

**Rule 1 Appearance.**

Appearance by an objector or by a candidate at the hearing on objections, or proponents or opponents of referendum petitions, may be in person or by counsel. A candidate or objector may appear before the Municipal Officers Electoral Board ("**Board**") in person or by an attorney at law admitted to the bar of the Supreme Court of Illinois. All parties appearing before the Board must file a completed Appearance form. Every party or their legal counsel must provide an e-mail address and must consent to be served with papers and notices via the e-mail address, unless the Board makes a finding of good cause for waiver of this e-mail requirement. Copies of the Appearance must also be served on all parties who have appeared in the case.

The parties must make themselves reasonably available by telephone and e-mail during the day and at least until 7:00 P.M. for receipt of notice from the Board or from opposing parties during the course of the Board's proceedings. If the Board has made reasonable attempts to contact a party by telephone or by e-mail at the number(s) or address(es) provided by that party and the party cannot be contacted or fails to respond to such contacts, the party will be deemed to have waived notice of the proceedings and the proceedings may go forward without the presence of that party.

**Rule 2 Hearings.**

On the date(s) set for the hearing of objections, both the objector and the candidate are required to be present in person or by counsel and be ready for the initial hearing or scheduling of their case, unless otherwise ordered in writing by the Board. The Board may waive the need for the parties to appear at the hearing on the initial day of the Board's sessions. Generally, no continuances or resetting of scheduled hearings will be granted. Continuances will be granted only upon a showing of good cause and when the interests of justice require it. The Board may consolidate hearings on objections when it determines that consolidation is appropriate given the similarity or nature of the objections, for the sake of economy of its limited resources, for convenience, or other such causes.

**Rule 3 Scope of Authority.**

The Board will hear and pass upon objectors' petitions described in Section 10-8 of the Election Code coming within its jurisdiction.

The Board will conduct and preside over all hearings and take necessary action to avoid delay, maintain order, ensure compliance with all notice requirements, and ensure the development of a clear and complete record. The Board has all the powers necessary to conduct a fair and impartial hearing, including, but not limited to, the following:

- (a) administer oaths and affirmations;
- (b) regulate the course of hearings, set the time and place for continued hearings, set times for

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filing of documents, provide for the taking of testimony by evidence deposition if necessary, and in general conduct proceedings according to the recognized principles of administrative law and these rules;

- (c) examine the witnesses and direct the witnesses to testify, limit the number of times any witness may testify, limit repetitive testimony, and set reasonable limits to the amount of time that each witness may testify; the Board members and the Board's attorney may also examine witnesses;
- (d) rule on offers of proof and receive relevant evidence;
- (e) direct parties to appear and confer for the settlement or simplification of issues and otherwise conduct prehearing conferences;
- (f) dispose of procedural requests or similar matters;
- (g) require the parties to prepare written briefs and proposed findings of fact and conclusions of law;
- (h) consider and rule on all motions presented in the course of the proceedings;
- (i) consider such evidence as may be submitted, including, but not limited to, documentary evidence, affidavits, and oral testimony;
- (j) prepare a record of its proceedings; the Village Clerk, or their designee, will serve as *ex officio* Clerk of the Board and keep minutes of the Board's proceedings; and
- (k) enter any order that further carries out the purpose of these rules.

A Board member may attend a meeting by remote participation when a quorum is physically present, subject to the limitations in Section 7 of the Illinois Open Meetings Act ("OMA"). Alternatively, pursuant to Public Act 101-0640, in compliance with Subsection 7(e) of the OMA (5 ILCS 120/7(e)), and due to the Governor's issuance of a disaster declaration related to public health concerns caused by the ongoing novel coronavirus and COVID-19 pandemic, the Chair may direct that Board meetings be held by audio or video conference without the physical presence of a quorum of its members.

### **Rule 4 Defaults.**

If a *candidate* or *proponent of a question of public policy* fails to appear for any hearing at which their appearance is required, the Board may, in its sole discretion, enter a decision in the nature of a default judgment, and the objections contained in the objector's petition shall be confessed against the candidate, but only upon a determination by the Board that the objector's petition sets forth valid grounds and makes a colorable claim for the removal of the candidate's name from the ballot.

If an *objector* fails to appear for any hearing at which appearance is required, the Board may, in its sole discretion, default the objector and dismiss the objection. The Board has the sole discretion to grant or deny a motion to withdraw an objection or objections. The Board may require

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a preliminary showing of proof on the validity of any objection or may order a partial check of some portion of the allegations of an objection.

### **Rule 5 Order of Presentation.**

The Board will first determine whether it will hear preliminary motions in the nature of a motion to dismiss under Section 2-615 of the Illinois Code of Civil Procedure, which motions may be referred to herein as a motion to strike and dismiss. The Board may, in its discretion, reserve rulings on such motions pending further hearings.

Preliminary motions to strike and dismiss must be filed by 5:00 P.M. on the first business day after the initial hearing on the objections before the Board; responses must be filed by 5:00 P.M. on the second business day after the initial hearing on the objections before the Board; and any reply, in the discretion of the Board, must be filed by 5:00 P.M. on the third business day after the initial hearing of the objections.

If sufficient objections to an objector's petition are sustained, the objector's petition will be overruled and the nomination papers held valid. If objections to a portion of an objector's petition are sustained, that part of the objector's petition will be overruled.

The objector may present their case-in-chief after the consideration of any preliminary motions. The objector bears the burden of presenting evidence sufficient to support a decision sustaining the objection. With regard to the substance of the objection, generally the objector must bear the burden of proving by operation of law and by a preponderance of the relevant and admissible evidence ("*the burden of proof*") that the objections are true and that the candidate's nomination papers or the petition to submit a public question is invalid. If fraud is alleged, it must be proved by clear and convincing evidence. The Board, in its discretion, may entertain a motion for a directed finding at the close of the objector's case-in-chief. After the conclusion of the objector's case-in-chief, the candidate may present their case-in-chief.

At the close of the candidate's case-in-chief, if any, the objector may offer a case in rebuttal. Matters in rebuttal will be strictly limited to matters raised by the issues then before the Board. Surrebuttal is disfavored and may be allowed by the Board only upon showing of compelling grounds.

In the interest of brevity, the Board may terminate evidence or argument on repetitive matters or matters plainly beyond the scope of the case. The Board may refuse to hear, with or without an objection of a party, evidence or argument it determines not germane to the electoral board hearing.

The objector need not adduce proof that the objector is a registered voter within the political subdivision at issue. The candidate may raise the lack of the objector's standing or eligibility as an affirmative defense in their own case-in-chief. The objector's motivation or personal knowledge of the factual basis for the objections is not relevant to the Board and shall not be considered.

The Board may alter the order of proof in order to expedite the hearing.

The Board may make its findings, in a form and manner consistent with these Rules, at any time after the close of the objector's rebuttal, if any, unless the Board has previously dismissed the objector's petition for any reason. If the candidate does not offer a case-in-chief as allowed in

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these Rules, the Board may make its findings, in a form and manner consistent with these Rules, after the close of the objector's case-in-chief.

Under the Illinois Election Code and established case law, candidates must submit signatures of qualified registered voters, registered to vote at their place of residence in the political subdivision in which the candidate seeks elected office, in order to be counted as a valid signature on a candidate's nomination papers. If a candidate is subject to a maximum signature requirement and such candidate files nomination papers containing signatures in excess of said statutory maximum, the Board will disregard all signature lines filed in excess of the maximum. To determine when the maximum number of signatures is reached, the Board will begin by counting each signature in the order presented in the petition, counting each line on which a signature appears, except for such lines where a proper deletion of the signature as set forth on an accompanying certificate of deletions as required by law is recorded, until signatures on lines reaching the maximum number are reached.

### **Rule 6 Evidence.**

The Board will consider such other evidence as may be submitted, including, without limitation, other documentary evidence, affidavits, and oral testimony. Because the Board must consider objections within a limited time, extended examination and cross-examination of witnesses will be subject to curtailment at the discretion of the Board. The Board will, when practicable and appropriate, follow (but will not be bound by) rules of evidence that prevail in Illinois courts of law. The Chair, with the assistance of the Board's attorney, will make all necessary evidentiary rulings, subject to appeal to the entire Board. The Board may overrule the Chair's rulings on such evidentiary matters by a majority vote of the Board.

With respect to the presentation of witnesses, unless evidence may be accepted by affidavit, the proponent of evidence is under a duty to exercise good faith and reasonable diligence to secure the presence of witnesses at the date and time of hearing and shall be otherwise prepared to proceed with the presentation of evidence and argument at such scheduled hearing. Continuances or re-scheduled hearings are strongly disfavored.

No witness may be compelled to testify if any portion of his or her testimony is to be broadcast or televised or if any motion picture or videotape is to be taken of him or her while he or she is testifying. However, this rule does not excuse any witness from attending hearings conducted by audio or video conferencing.

### **Rule 7 Record Examinations.**

The Board, in its discretion and when applicable, may order a record examination to be conducted by the Cook County Clerk's Office ("*Election Authority*"). The record examination will be used to determine the validity of challenges to the petition sheets the candidate filed with their nomination papers. At the record examination, election documents and objections will be compared with the permanent voter registration records of the local Election Authority by employees of the Election Authority acting under the direction and supervision of this Board, if possible, and if not, then by the Board or its agent(s) or designee(s). If the records of the Election Authority are stored on a computer database, the records examination may utilize the computerized records in lieu of or in addition to the originals. The parties are expected to follow all rules adopted by the Election Authority for the conduct of record examinations.

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The objector and candidate have the right to have an attorney and one designated representative present at the record examination. The comparison will commence at the time specified by the Election Authority or the Board, as the case may be, and the failure of the candidate, objector or their duly authorized representatives to timely appear for the comparison will neither delay nor in any way affect the validity of the comparison.

The Board may, in its discretion, order that a partial or sample records examination be conducted in order to test the validity of certain objections in the objector's petition when it appears possible, viewing the face of the objections or upon other known facts, that the objections may not have been made as the result of a reasonable inquiry or investigation of the facts or were not made in good faith. The weight to be given to the results of such a partial or sample records examination will be within the discretion of the Board.

The findings of the record examiners are final and reviewable only by the Board upon the timely written filing of a motion in accordance with Rule 9.

The Board's case file and its contents may be examined at any time after the conclusion of the records examination and any party may request a copy of any report in the case file, except that no copies will be made or provided of any report, printout or record containing a registered voter's signature or a computer-stored image of such signature, unless expressly permitted by the Election Authority.

### **Rule 8 Record Examination Objections.**

Representatives of the objector or candidate may object to the findings of the records examiner. In no case will a review of the result of the examination of an individual record or the presentation of additional evidence as to that record be permitted when no objection to the finding was made and recorded at the time of the comparison.

It is the responsibility of the candidate and the objector or their representatives to ensure that any objection is recorded and preserved. If the candidate or objector does not ensure that an objection is recorded and preserved, any future review of the record examiner's finding is waived.

### **Rule 9 Review of Record Examination Objections.**

Following the records examination, any candidate or objector who has made timely objections to the findings of the record examiners, and who requests so in writing, may have a further hearing as to the results of the records examination at a time fixed by the Board, before the Board rules on the findings from the examination on the record. This request in writing will be styled a "Rule 9 Motion."

The Rule 9 Motion must specify, for each finding objected to, the sheet, line, name and address of the petition signer, and other information as is appropriate including the basis of the objection to the finding. The information required in the Rule 9 Motion must be set forth in the in writing and not by way of reference to, or incorporation of, any other document.

The Rule 9 Motion must be delivered to the opposing party or parties and the Board within 24 hours after the completion of the records examination, without any additional action by the Board,

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an Election Authority, or the parties. At the hearing on the Rule 9 Motion, the parties may present evidence including, but not limited to, affidavits as to the genuineness of signatures and live testimony. Affidavits presented to the Board must be sworn to, signed and notarized before a notary public. Verifications under Section 1-109 of the Code of Civil Procedure are NOT acceptable.

### **Rule 9A Subpoenas.**

Subpoenas and subpoenas *duces tecum* may be issued under the authority of the Board, in its discretion, only upon a vote of a majority of its members. A party must submit a written motion, either at a hearing or by email, for any subpoena, setting forth the particulars of the requested subpoena, justification for its issue and a copy of the requested subpoena. If presented at a hearing, the motion must be served on the opposing party at the hearing. If presented by email, the motion must be served on the opposing party by email simultaneously. The opposing party has 24 hours to file an objection to the motion by e-mail with the Board and the opposite party. A motion not objected to will be granted as a matter of course, through the process set out below, unless the Board determines otherwise in its discretion.

If an objection to a request for subpoena is received, the Board will, at a meeting of the Board, hear any argument concerning a request for subpoena and will, upon a majority vote of the Board, approve or deny, in whole or in part, the request for subpoena. If two or more members of the Board determine that the motion be granted, the Chair will be authorized to issue the subpoena.

### **Rule 10 Scope of the Case.**

Within the parameters of the law, the Board will only consider written objections and the written specifications of such objections to the original nomination papers, as set forth in the objector's petition as initially filed. The objector's petition may not be amended. No answer or response to the objector's petition need be filed, unless specifically required by the Board.

### **Rule 11 Case Parameters.**

All arguments of the parties and evidence must be confined to the points raised by the objections, if any, to the objector's petition, and by the objector's petition to the nomination papers. Where appropriate, citations to legal authority, including ordinances, statutes, and case law, must be provided to the Board for consideration on any argument. The parties will be limited to 15 minutes each for the argument of their case after conclusion of evidentiary proceedings, unless the Board extends the period of presentation.

### **Rule 12 Decisions.**

If the objections to the nomination papers, or sufficient part of those objections are sustained, the nomination papers will be held invalid, and the Board will state its findings in a written decision, noting the objections which it has sustained. A decision may be executed by members of the Board in counterparts. If the objections, or a sufficient part of the objections are overruled, the nomination papers will be held valid, and the Board will state its findings in a written decision. The written decision of the Board will be served upon the parties pursuant to Section 10-10 of the Election Code, subject to any waivers of statutory service by the candidate and objector. In the event the Board is sitting with only two members, and the two members do not agree as to the

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validity of any objection, that objection will not be considered sustained.

**Rule 13 General Procedures.**

After the Board convenes, it will be in session continuously until all objections have been considered and ruled upon; provided, however, the Board may recess from time to time.

For matters not covered herein, the Board will generally follow rules of practice that prevail in the Circuit Court of Cook County and the Illinois Code of Civil Procedure. Because of the nature of these proceedings, the Board is not and will not be bound by such rules in all particulars. Mandatory discovery is not permitted. The Board's rules of order shall be ROBERT'S RULES OF ORDER NEWLY REVISED, 11th ed. (2011).

The Board will ensure that an audible intelligible verbatim recording of all proceedings of the Board is made, but not for record or master/computer file checks. The Board may waive this requirement at any time without notice. The Board will not cause a transcript to be prepared unless it needs a transcript for a particular purpose. If a petition for judicial review of the Board's decision is filed, the Board will provide a record to the Court as provided by the Election Code. Any party may purchase a transcript from the court reporter at their own expense.

The Board designates the Village Attorney of the Village of Arlington Heights or their designees as its attorney. The Board's attorney is authorized and directed to defend the Board's decision at the Circuit Court level if a petition for judicial review is filed and to defend the Board in any litigation that may arise.

Honorable Thomas W. Hayes, Mayor of the Village of Arlington Heights  
Honorable Rebecca Hume, Village Clerk  
Honorable John Scaletta, Village Trustee  
MUNICIPAL OFFICERS ELECTORAL BOARD OF THE VILLAGE OF ARLINGTON  
HEIGHTS

Adopted January 3, 2023



**Municipal Officers Electoral Board  
1/3/2023**

**Item:** Scott Shirley

**Department:** Village Clerk

**ATTACHMENTS:**

**Description**

MOEB 1

**Type**

Exhibits



CALL

TO: HONORABLE MAYOR THOMAS W. HAYES, Mayor of the Village of Arlington Heights  
HONORABLE REBECCA HUME, Village Clerk of the Village of Arlington Heights  
HONORABLE JOHN SCALETTA, Village Trustee of the Village of Arlington Heights

constituting the MUNICIPAL OFFICERS ELECTORAL BOARD OF THE VILLAGE OF ARLINGTON HEIGHTS for the hearing and passing upon of objections to nomination papers of candidates for municipal officers of the Village of Arlington Heights, County of Cook and State of Illinois, to be voted upon by the electors of said municipality.

OBJECTION OF: )  
)  
SCOTT SHIRLEY TO THE NOMINATION )  
PAPERS OF MARTIN BAUER AS CANDIDATE )  
FOR THE OFFICE OF TRUSTEE OF THE VILLAGE ) Case No. 22 MOEB 1  
OF ARLINGTON HEIGHTS TO BE VOTED UPON AT )  
THE APRIL 4, 2023 CONSOLIDATED ELECTION. )

YOU ARE HEREBY NOTIFIED that the above designated MUNICIPAL OFFICERS ELECTORAL BOARD is required by law to meet and pass upon objections to the nomination papers of candidates for officers of the Village of Arlington Heights in Cook County, to be voted upon at the Consolidated Election to be held on the 4<sup>th</sup> of April, 2023.

YOU ARE FURTHER NOTIFIED that the above designated MUNICIPAL OFFICERS ELECTORAL BOARD shall meet on Tuesday January 3, 2023 at 4:00 PM in the Village Board Room at 33 South Arlington Heights Road, in the Village of Arlington Heights, County of Cook and State of Illinois, for the purpose of hearing and passing upon said objections to said nomination papers designated above, and that a Call has been made, by said MUNICIPAL OFFICERS ELECTORAL BOARD for said meeting to be held at the time and place, and for the purpose as aforesaid.

YOU ARE ALSO NOTIFIED that the date and time of subsequent meetings of the MUNICIPAL OFFICERS ELECTORAL BOARD will be posted on the Village of Arlington Heights website at <https://www.vah.com/>.

DATED this 30th day of December 2022.

  
\_\_\_\_\_  
Thomas W. Hayes, Chair  
Mayor of the Village of Arlington Heights



**Municipal Officers Electoral Board  
1/3/2023**

**Item:** Thomas Drake

**Department:** Village Clerk

**ATTACHMENTS:**

**Description**  
Thomas Drake

**Type**  
Exhibits



CALL

TO: HONORABLE MAYOR THOMAS W. HAYES, Mayor of the Village of Arlington Heights  
HONORABLE REBECCA HUME, Village Clerk of the Village of Arlington Heights  
HONORABLE JOHN SCALETTA, Village Trustee of the Village of Arlington Heights

constituting the MUNICIPAL OFFICERS ELECTORAL BOARD OF THE VILLAGE OF ARLINGTON HEIGHTS for the hearing and passing upon of objections to nomination papers of candidates for municipal officers of the Village of Arlington Heights, County of Cook and State of Illinois, to be voted upon by the electors of said municipality.

OBJECTION OF: )  
)  
THOMAS DRAKE TO THE NOMINATION )  
PAPERS OF MARTIN BAUER AS CANDIDATE )  
FOR THE OFFICE OF TRUSTEE OF THE VILLAGE ) Case No. 22 MOEB 2  
OF ARLINGTON HEIGHTS TO BE VOTED UPON AT )  
THE APRIL 4, 2023 CONSOLIDATED ELECTION. )

YOU ARE HEREBY NOTIFIED that the above designated MUNICIPAL OFFICERS ELECTORAL BOARD is required by law to meet and pass upon objections to the nomination papers of candidates for officers of the Village of Arlington Heights in Cook County, to be voted upon at the Consolidated Election to be held on the 4<sup>th</sup> of April, 2023.

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DATED this 30th day of December 2022.

  
\_\_\_\_\_  
Thomas W. Hayes, Chair  
Mayor of the Village of Arlington Heights



**Municipal Officers Electoral Board  
1/3/2023**

**Item:** Keith Moens

**Department:** Village Clerk

**ATTACHMENTS:**

**Description**

Keith Moens

**Type**

Exhibits



CALL

TO: HONORABLE MAYOR THOMAS W. HAYES, Mayor of the Village of Arlington Heights  
HONORABLE REBECCA HUME, Village Clerk of the Village of Arlington Heights  
HONORABLE JOHN SCALETTA, Village Trustee of the Village of Arlington Heights

constituting the MUNICIPAL OFFICERS ELECTORAL BOARD OF THE VILLAGE OF ARLINGTON HEIGHTS for the hearing and passing upon of objections to nomination papers of candidates for municipal officers of the Village of Arlington Heights, County of Cook and State of Illinois, to be voted upon by the electors of said municipality.

OBJECTION OF: )  
)  
KEITH MOENS TO THE NOMINATION )  
PAPERS OF MARTIN BAUER AS CANDIDATE )  
FOR THE OFFICE OF TRUSTEE OF THE VILLAGE ) Case No. 22 MOEB 3  
OF ARLINGTON HEIGHTS TO BE VOTED UPON AT )  
THE APRIL 4, 2023 CONSOLIDATED ELECTION. )

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DATED this 30th day of December 2022.

  
\_\_\_\_\_  
Thomas W. Hayes, Chair  
Mayor of the Village of Arlington Heights