

CITY OF CRANSTON
BOARD OF CANVASSERS
Regular Meeting of January 23, 2018 – APPROVED MINUTES

The Cranston Board of Canvassers met on January 23, 2018, in a meeting advertised in accordance with the Rhode Island Open Meetings Act on January 17, 2018. The meeting was called to order by the Chairperson, Randall Jackvony, at 3:36 p.m. It was held in the Canvassing Office at Cranston City Hall, Room 100.

MEMBERS PRESENT: Randall Jackvony, Gary Vierra, Fred Joslyn

MEMBERS ABSENT: None

NON-MEMBERS PRESENT: Nicholas Lima (Registrar), Theresa Bucci (Canvassing Aide), Maria Madonna (Data Entry and Maintenance Specialist), David Iglizzi (Assistant City Solicitor)

Mr. Jackvony, who was reappointed by the City Council to a new term on Nov. 27, 2017, was sworn in by the Registrar prior to the start of the meeting.

The chair declared a quorum present.

AGENDA

- I. CALL TO ORDER
- II. APPROVAL OF THE AGENDA
- III. APPROVAL OF MINUTES – 9-25-17
- IV. PUBLIC COMMENT
- V. CHAIRPERSON'S ANNOUNCEMENTS – RANDALL JACKVONY
- VI. UPDATES AND REMARKS
 - A. REGISTRAR – NICHOLAS LIMA
- VII. OLD BUSINESS
 - A. VOTERS REGISTERED AT COMMERCIAL PROPERTY
 - B. PROVIDENCE/CRANSTON BOUNDARY PROJECT
 - C. WARD 2 POLLING LOCATION FOR PRECINCT 0704
- VIII. NEW BUSINESS
 - A. 2018 ELECTIONS LEGISLATION
- IX. COMMENTS OF BOARD MEMBERS
- X. ADJOURNMENT

APPROVAL OF THE AGENDA

Mr. Jackvony asked if any of the Board members had questions regarding the agenda.

MOTION: By Mr. Vierra and seconded by Mr. Jackvony to approve the agenda as posted.
PASSED ROLL CALL VOTE – 3-0

APPROVAL OF MINUTES

Mr. Jackvony reviewed the minutes and asked if Mr. Joslyn, who was not yet appointed to the Board, had any questions regarding what was discussed at the meeting. Mr. Vierra asked about the level of detail presented in the minutes, and Mr. Lima clarified to the Board that it is his practice to keep detailed minutes for transparency purposes, and because future boards dealing with similar issues could find it useful to review what transpired in the past, as Mr. Lima did when he took office and reviewed past records. Mr. Iglizzi clarified that detailed minutes are not required from a legal standpoint, but it is up to the Board.

MOTION: By Mr. Vierra and seconded by Mr. Joslyn to approve the meeting minutes of 9-25-17.

PASSED ROLL CALL VOTE – 3-0

Mr. Joslyn asked if the commercial property issues had come up at the previous meeting. Mr. Lima said the Board of Elections staff members at the meeting informed the Board of Canvassers that Cranston was ahead of other cities and towns in the process of identifying and contacting voters suspected to be registered at commercial property, and indicated they felt Cranston was doing a good job in cleaning up the voter rolls.

PUBLIC COMMENT

There were no members of the public present who appeared to speak.

CHAIRPERSON'S ANNOUNCEMENTS

CHAIRPERSON – Randy Jackvony

Mr. Jackvony mentioned the passing of long-time Board of Canvassers member and former Chairman Edmond Lemoi, who died on Oct. 4, 2017, a few days after the Board's most recent meeting. Mr. Jackvony said he had spent a lot of long nights and days in the Canvassing Office with Ed during past elections, and he will be missed for not only his knowledge, but also his presence on the Board.

UPDATES AND REMARKS

REGISTRAR – Nicholas Lima

Mr. Lima said he will continue to send periodic email updates to the Board members regarding the activities of the Canvassing Department. He said he expects the election calendar to be released by the Department of State before the end of next month, and noted that some traditional deadlines are likely to be adjusted due to this year's Wednesday primary, which has been moved ahead a day to Sept. 12 due to the Rosh Hashanah holiday.

Mr. Lima said that e-pollbooks will be implemented statewide in 2018 after being tested in 2016 and 2017. He noted the pollpads will eliminate the need to scan in thousands of

ballot applications following each election, significantly improving workflow for the Canvassing Department in the post-election reconciliation process. Another benefit, Mr. Lima said, was the ability for canvassing staff to access real-time turnout data, which can be useful for assigning pollworkers or identifying problems at precincts. Mr. Joslyn asked if the pollpads had been tried out in Cranston, and Mr. Lima said they were used successfully in select precincts in 2016 within the city. Ms. Bucci said they were not tested in the primary election in Cranston, so 2018 will be the first time Cranston uses them for that purpose.

Mr. Jackvony said he found the pollpads moved the check-in lines faster, and eliminated the necessity of having different voter last name lines for different letters of the alphabet. Mr. Vierra asked how the verification process works, as the paper ballot applications involved voters signing their name. Mr. Jackvony said the e-pollbooks still record the voter's signature when they check-in, and overall made the process smoother and quicker by allowing the voter's driver's license to be scanned. Mr. Joslyn asked if the voter has a different address on their license, if the voter will be allowed to check-in. Ms. Bucci said the process is only checking the voter's name and photo ID; she said if the voter is inactive because of a wrong address, the system will automatically compel them to fill out an affirmation form.

Mr. Lima said he has not heard of any dates for trainings for which Board members are invited to, but he does expect some to take place this spring and summer, and when he receives word, he will pass the information on to the Board. He said that risk-limiting audit legislation was passed in 2017, and he expects new rules and regulations to come from the state Board of Elections regarding how to implement the audit process, and what role local boards will play. Mr. Lima said that the state Board is also working on an updated and improved voter registration form. He was informed that among the corrections should be a separation of the "U.S. citizen and resident of Rhode Island" yes or no question, which Mr. Lima said could have been a factor in some of the 2016 voter fraud cases investigated by the Cranston Police, and which Ms. Bucci added was also an issue regarding college students who were U.S. citizens but technically out-of-state residents.

Mr. Lima brought up an issue regarding guidance received from the Attorney General's office that apparently mandates all local boards, committees, and commissions to meet, at most, once every 35 days, even if there is no other public business to discuss, for the sole purpose of approving final minutes of the previous meeting. The issue stems from an update made to the Open Meetings Act in 2016, in which language was not made clear that draft minutes could suffice until a meeting was necessary and final minutes could be approved. Mr. Iglizzi said he was surprised this issue is not being addressed, as it affects hundreds of small boards that do not need to meet monthly. Mr. Joslyn asked if the city was a member of the Rhode Island League of Cities and Towns, and Mr. Lima said it is, and that he will be attending the League's convention later in the week and discuss this issue with his peers.

Mr. Lima said, effectively, with this meeting, the Board would now have to meet monthly in perpetuity in order to comply with the statute, which went into effect on Jan. 1, 2018, even if the only business to conduct is to approve the minutes of the previous meeting. Mr. Joslyn postulated whether suspending or recessing an in-progress meeting to a

future date could temporarily negate the need to file minutes, until it was necessary to meet again. Mr. Lima said that was a creative and intriguing idea, although it may not be advisable as it could circumvent the act's intent.

Mr. Jackvony stated that, particularly during slow periods of the elections calendar, it is simply not necessary for a body like the Board of Canvassers to be meeting monthly, and it is an unnecessary expense and burden. He said he will send a letter to Speaker Mattiello outlining the issue and request that the legislature institute some sort of change in the law, given this consideration.

OLD BUSINESS

A. VOTERS REGISTERED AT COMMERCIAL PROPERTY

Mr. Jackvony recapped the status of the project to date for Mr. Joslyn. Mr. Lima said he wanted some final guidance from the Board on what the ultimate goal of this project should be. He said of over 50 voters that were initially contacted, a significant portion have corrected their voter registrations, and of the remainder that were not false positives, the office has sent out several dozen certified letters. Of the letters that were not returned undeliverable, and the voters who did not respond to the multiple mailings, Mr. Lima said there are 13 remaining voters on the list who, in accordance with the process laid out by the Board at previous meetings, are now subject to a formal challenge.

Mr. Lima said that, as far as the city had been able to determine after taking multiple steps of investigation, the remaining properties on the list are not valid residential addresses and clearly appear to be commercial property. Mr. Lima asked the Board if, given the evidence the Canvassing Department has amassed, the Board would like Mr. Lima to proceed with filing challenge affidavits against the remaining 13 voters.

Mr. Vierra asked if the voters had recent voting histories, and Mr. Lima said the majority did not, although some had voted in the 2016 elections. Mr. Jackvony asked what the challenge process would entail, and Mr. Lima said that, after consulting with Mr. Iglizzi, it involves the filing of a formal, notarized affidavit on a standard Board of Elections form to the Canvassing Office; a certified letter sent to the voter who has been challenged with a copy of the information in the affidavit and alerting them to the challenge hearing; and the hearing itself held by the Board. At the meeting, if the voter does not appear, the Board may vote to make the voter inactive; the voter could also correct their registration in advance by contacting the office; or, they could appear at the hearing and dispute the challenge via testimony and evidence. If the voter disagrees with the Board's findings, the voter retains the right to appeal the decision to the state Board of Elections.

Mr. Vierra and Mr. Joslyn asked if this was an extraordinary effort for the office to undertake while preparing for the 2018 elections. Mr. Lima said it would not be onerous, and he would be able to compile all of the affidavits and notification letters within a day. Mr. Joslyn asked if any certified mailings were returned undeliverable. Mr. Lima said that, in some cases, when a second address was available for a voter, such as a different DMV address, one of the letters was returned undeliverable, and one was

delivered and signed for. He said that information will be included on the affidavit. He said that, under the initial, non-certified mailing, if mail sent to voters at all available addresses was returned undeliverable, they were removed from the list, as the voter could therefore not be appropriately contacted and was unreachable. Mr. Lima said that the majority of those voters had no voter history, or recent DMV or registration activity, and as such they likely no longer resided in the city, or possibly the state.

Mr. Lima added that, as a matter of practice, the office has taken a voter's word for it when the voter receives a communication and subsequently states, or reaffirms, that they live in a residential unit at an otherwise commercial property, such as in an RV on site, or an otherwise undisclosed apartment. Mr. Lima said the burden is on the voter when filling out their voter registration, and they run the risk of perjury if they are lying; in any event, the office does not have the capacity or resources to investigate and confirm a voter's claims beyond what has already been done. Mr. Lima said that, unless there is quite obviously a deficit in the voter's assertion that they live at the property, or convincing evidence to the contrary in hand, he has no reason to believe otherwise once the voter has been made aware of the serious penalties via the letters and still asserted that they actually live there.

Mr. Joslyn asked if Mr. Lima had checked with the tax assessor and automobile roll. Mr. Lima and Ms. Bucci said that the CVRS has a direct link to the DMV system that is kept up-to-date in real-time, providing reasonably accurate address information.

MOTION: By Mr. Joslyn and seconded by Mr. Jackvony to pursue the commercial property project to its finality, consistent with the law.

Mr. Lima distributed a copy of the challenge process outlined in R.I.G.L. § 17-19.1-28 to the Board for their information. He said that the Board has subpoena power for witnesses and evidence, and is authorized by the statute with a wide latitude to question any witness sworn before it in matters of voter registration challenges.

Mr. Joslyn asked if the tax rolls can be used, and Mr. Lima said the question was not whether the person was paying taxes, but whether or not they were living at the address in which they are registered. An attachment will be made to each affidavit stating that city assessor records show no residential unit at the address, but this is only supporting documentation, and not a deciding factor. He said that regardless of whether the residence was known, legal, or taxable, state and federal law give broad deference to a voter to register from an address as long as it is their actual, established domicile.

Mr. Lima also distributed to the Board the rules and regulations promulgated by the Board of Elections regarding challenges to voter registrations.

PASSED ROLL CALL VOTE – 3-0

B. PROVIDENCE/CRANSTON BOUNDARY PROJECT

Mr. Lima said this was on the agenda for an update on the project, and said significant progress has been made over the last two weeks. Of 34 streets determined by the Canvassing Department to have issues with wrong-city voters or street range overlaps,

or both, more than half of the problems have now been resolved. Alto St, Edgewood Ave, Hillwood St, Sinclair Ave, and Union Ave remain among the issues to be corrected, and, following the process the Board decided to follow last summer, no actions can be taken until the Providence Board has an opportunity to review Cranston's findings and come to a mutual agreement on how to move forward.

Mr. Lima said a further 10 streets should be completed upon collaboration with Providence's canvassing department in February, leaving only the most complex of issues, where city boundary lines intersect multiple residential structures, left to resolve. He said these issues have persisted for years or decades, and either went unnoticed in the past or a workable solution could not be found to correct them.

Mr. Vierra asked if the voters who have been moved between cities who were previously found to be in the wrong city due to clerical error had been alerted or contacted the office. Ms. Bucci said, as voters were moved between cities, they were mailed or, as some had just been processed, will soon be mailed appropriate explanatory acknowledgement letters, and of those who have been contacted to date, no one has contacted the office with any concerns.

Mr. Lima said the process has slowed over the fall and winter while he was waiting for Providence to agree with and take action on issues forwarded last year, in part due to key personnel being out of the office or retiring, but collaboration to fix issues has picked up recently. Mr. Joslyn said that in his previous stint on the Board, Providence was at times slow to respond to similar issues. Mr. Lima said that, in the last 10 years, there has been a lot of changeover in Providence, and in his meetings with Kathy Placencia they have accomplished a lot working together.

Mr. Joslyn asked about the boundary with other communities, and Mr. Lima said he has a small list of street range reductions to make with Warwick, West Warwick, Johnston and Scituate to eliminate overlap. Mr. Lima said Scituate also has some longstanding boundary, voter, and mailing issues in the Hope/Fiskeville area, which the Canvassing Department is reviewing and working to correct with the postmaster and Scituate Town Clerk's Office. Mr. Lima added that Cranston has a small boundary with Coventry, as well, although he found no street issues there that require attention.

Mr. Jackvony said the office has done a great job on these issues in trying to do right by the voters by correcting clerical and address errors and having people vote where they are supposed to be, and he appreciates all the hard work the Canvassing Department staff has put in towards this end.

C. WARD 2 POLLING LOCATION FOR PRECINCT 0704

Mr. Lima said he was instructed by the Board of Elections to move the polling location for Precinct 0704, the Senior Enrichment Center, because it is being named for a sitting elected official who may run for reelection. Mr. Lima also found that the Senior Center itself is not the nearest available polling location for a majority of the small precinct's residents. After bringing the matter to the Board at a previous meeting, and investigating options in the area, Mr. Lima determined the William R. Dutemple Elementary School,

located at 32 Garden St, was the best available polling location for the precinct's 556 voters.

Mr. Lima showed the Board a map of the precinct and the approximate driving distances from the geographic center of the precinct to both the Senior Center and Dutemple School. Mr. Lima also distributed a copy of a letter he sent to the state Board of Elections requesting the change and outlining the process used to select a new location, and a copy of the approval he received from the state authorizing selection of the site. Mr. Lima and the state Board inspected the Dutemple School, as well as the only other nearby option, the Cranston Public Schools Early Childhood Center at 45 Sprague Ave. The Center was ruled out, as it had numerous deficiencies and, due to a remodel of the building's interior since it was last used as a polling place, no room large enough for voting to take place.

In terms of distance traveled, Mr. Lima said even the longest driving distance for a Precinct 0704 voter to travel to the Dutemple School is still shorter than the average distance all voters in the district previously had to travel to get to the Senior Center. The issue with Precinct 0704 is that it is very small, offers no viable options within the precinct for a polling place, and other nearby options outside of the precinct are already in use as polling places; changing any of these would cause further disruption. Mr. Lima said, by law, the Cranston Board of Canvassers must vote unanimously to authorize any out-of-district polling place change, and as the state Board of Elections has already authorized the change, this would be the final step in the process.

MOTION: By Mr. Jackvony and seconded by Mr. Vierra to officially approve the move of Precinct 0704 from the Cranston Senior Enrichment Center to the William R. Dutemple Elementary School, and for the Canvassing Department to notify voters accordingly at a time at the discretion of the staff in the office.

Ms. Bucci said, at the latest, the letter notifying voters of the change should be mailed before June, and will most likely be sent out in the month of March.

MOTION: By Mr. Joslyn to make a friendly amendment to the original motion, that all state and local elected officials impacted by this change be sent a letter well in advance of the voter notification letter so that they can be aware.
ACCEPTED WITH UNANIMOUS CONSENT

MAIN MOTION PASSED, AS AMENDED, ROLL CALL VOTE – 3-0

NEW BUSINESS

A. 2018 ELECTIONS LEGISLATION

Mr. Lima said that, to date, he has monitored about a dozen elections bills that have been introduced in the General Assembly. He said last year, over 90 were introduced between the House and the Senate over the course of the session. He expects a lot more activity over the next several weeks. Mr. Lima said he is attending the Rhode Island Town and City Clerks Association meeting this week, and will take an active role in the association's Elections Committee.

Mr. Lima said one bill that failed in 2017 was the Secretary of State's early voting legislation. He said a similar bill has been introduced this session, but it is not from the Secretary of State, and that the Secretary's bill will likely be introduced in the next several weeks.

Mr. Lima asked for guidance from the Board as to what the Board's objectives are for the 2018 legislative session. He said that, in 2017, as a new registrar working with a Board that was in transition between older and newer members, he decided not to take a role in actively supporting or expressing concerns about elections legislation, as he did not want to speak for the Board if in fact the Board had a differing opinion on any bills. Mr. Lima asked how much of a role the new Board would like to have in monitoring and possibly taking stances on legislation affecting Rhode Island elections.

Mr. Jackvony said that if there's an issue that the Board is very strongly in support of, it would be appropriate to have Mr. Lima support that legislation and testify in favor of it. Mr. Lima said an additional option available is to ask the Cranston City Council, via resolution, to support a particular bill that the Board finds favorable, and the Board itself can likewise pass resolutions. Mr. Lima said one option could be for him to periodically bring elections bills to the Board, and the Board can decide if it wants to take a formal position, or remain neutral, on specific legislative initiatives.

Mr. Joslyn asked if any efforts were being introduced that weakened the voter ID law. Mr. Lima said there were no bills at present, although, historically, some General Assembly members do submit a bill annually to attempt to repeal the law, which does not gain much traction. Mr. Joslyn, Mr. Vierra, and Mr. Jackvony each said they were strongly in favor of Rhode Island's current ID law, and Mr. Jackvony said it makes the check-in process smoother and more orderly in general, reducing wait times, and is especially useful now that the state is switching to e-pollbooks, which scan IDs to check in voters. Mr. Lima said from his review of voter ID laws in other states, Rhode Island has one of the most voter-friendly iterations, offering free IDs to any voter who requests one from the Secretary of State, and allowing any voter who fails to produce an ID to still cast a provisional ballot.

COMMENTS OF BOARD MEMBERS

Mr. Joslyn said a previous Ward 2 Council race was decided on just a handful of votes. He said some write-in votes were struck at the time because they wrote-in names that already appeared on the ballot, and a state statute specifically prevents those votes from being counted. He asked if that statute has been amended in recent years since he was last on the Board, and Mr. Lima said, to his knowledge, it is still in effect.

Mr. Lima added that the Board of Elections may consider resubmitting an unrelated bill that would change write-in counting procedures so that local boards no longer have to tally frivolous write-in votes for candidates who have not declared an intent to run, such as fictional characters; the bill did not gain traction in 2017. Discussion ensued.

Mr. Joslyn asked about reports in the news media regarding voters who lack personally identifying information under HAVA, such as the last four digits of a social security

number. Mr. Lima said the state Board was meeting that night to discuss a new regulation related to the issue, and after it is eventually adopted, he expects some guidance from the state on the matter.

ADJOURNMENT

MOTION: By Mr. Joslyn and seconded by Mr. Vierra to adjourn.
PASSED UNANIMOUSLY – VOICE VOTE

The meeting was adjourned at 4:40 p.m.

Respectfully Submitted,

Nicholas J. Lima
Registrar
Cranston Board of Canvassers

APPROVED by the Cranston Board of Canvassers: February 15, 2018