

CITY OF CRANSTON
BOARD OF CANVASSERS
Regular Meeting of February 15, 2018 – APPROVED MINUTES

The Cranston Board of Canvassers met on February 15, 2018, in a meeting advertised in accordance with the Rhode Island Open Meetings Act on February 12, 2018. The meeting was called to order by the Chairperson, Randall Jackvony, at 3:30 p.m. It was held in the Canvassing Office at Cranston City Hall, Room 100.

MEMBERS PRESENT: Randall Jackvony, Gary Vierra

MEMBERS ABSENT: Fred Joslyn

NON-MEMBERS PRESENT: Nicholas Lima (Registrar), Theresa Bucci (Canvassing Aide)

The chair declared a quorum present.

AGENDA

- I. CALL TO ORDER
- II. APPROVAL OF THE AGENDA
- III. APPROVAL OF MINUTES – 1-23-18
- 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. 2018 ELECTIONS LEGISLATION DISCUSSION AND POSSIBLE SUPPORT
- VIII. NEW BUSINESS
 - A. DISPOSITION OF TWO (2) VOTER REGISTRATION MATTERS INVOLVING INVESTIGATION OF MISCONDUCT
 - B. POSSIBLE EXECUTIVE SESSION PURSUANT TO R.I.G.L. § 42-46-5(A)(4) REGARDING DISPOSITION OF TWO (2) VOTER REGISTRATION MATTERS INVOLVING INVESTIGATION OF MISCONDUCT
- IX. COMMENTS OF BOARD MEMBERS
- X. ADJOURNMENT

APPROVAL OF THE AGENDA

Mr. Jackvony asked for a motion to approve the agenda.

MOTION: By Mr. Vierra and seconded by Mr. Jackvony to approve the agenda as posted.
PASSED ROLL CALL VOTE – 2-0

APPROVAL OF MINUTES

MOTION: By Mr. Vierra and seconded by Mr. Jackvony to approve the meeting minutes of 1-23-18.
PASSED ROLL CALL VOTE – 2-0

PUBLIC COMMENT

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

CHAIRPERSON'S ANNOUNCEMENTS

CHAIRPERSON – Randy Jackvony

Mr. Lima noted during the quorum call that Mr. Joslyn was absent with advanced notice provided to the Board, due to scheduled out of state travel. Mr. Jackvony had no further announcements.

UPDATES AND REMARKS

REGISTRAR – Nicholas Lima

Mr. Lima said he will have affidavits complete for the voters to be challenged at commercial property as soon as the supporting statements, indicating the known non-residential nature of the properties in question, can be compiled by the Assessor's office, which are presently being worked on.

Mr. Lima asked the Board members to select a date for the next meeting where the affidavits can be submitted, and received, to start the notification process for the voters. Mr. Vierra and Mr. Jackvony said it would be best if the Board met again on Tuesday, March 6 at 3:30 p.m.

Mr. Lima alerted the Board that he was just today made aware of a scheduling issue, due to the Wednesday, Sept. 12 primary, regarding the use of Precinct 0706's polling location, the Cranston Christian Fellowship Church. The building hosts a large group on Wednesday mornings, and the room used for the election may not be available for the primary.

Mr. Lima said he has asked the staff at the facility if consideration can be given to the nature of the building's civic use as a polling place in terms of scheduling for the day. He said the building does have a smaller room that may be suitable, but it will need to be reviewed by the state Board of Elections before being considered. Mr. Lima said the alternative would be to find another polling location in Ward 4, which could include the possibility of combining the polling place for the primary only, or moving it to an existing location that has a second large public space available, or finding a new location entirely.

Mr. Lima clarified that the Canvassing Office was just informed of the scheduling problem today, and he will be meeting with the facility's staff next week to view the alternative

room and discuss options. The Board members and Ms. Bucci noted that it is a large precinct, with over 2500 voters and a consistently high turnout, and careful consideration and diligence should be undertaken before any final determination is made.

Mr. Lima said the Canvassing Department received its FY 2019 budget packet last night, and will spend the next two weeks reviewing budgets from past election years, anticipated costs increases, and possible savings. The department's request is due to the Finance Department on March 2. Mr. Lima said he has reached out to the Cranston Police Department regarding anticipated costs for Election Day security, and he does anticipate requesting an increase in the part-time staff line item to compensate for the increased activity in the office during the emergency ballot period.

Mr. Jackvony asked what Mr. Lima's concerns are regarding staffing in relation to early voting, and Mr. Lima clarified that the currently proposed legislation wouldn't put early voting in effect until 2019; however, he noted the problems the office had in conducting emergency balloting during the 2016 election cycle, and expected that the volume of voters attempting to cast an early emergency ballot is widely anticipated to increase this year. Ms. Bucci and Mr. Jackvony each said that emergency balloting during the 2016 elections took a toll on the office and said efforts should be made to mitigate the issue as much as possible.

Mr. Lima said he and Cranston GIS Manager Maria Giarrusso met this week with Kim Brace from Election Data Services regarding problematic voter addresses on the boundaries with other cities, and the discussion primarily revolved around the ongoing boundary project Cranston has been working on since mid-2017. The meeting resulted in another factor being discovered regarding the project, in that its importance relates directly to the accuracy of the 2020 Census, as the Census Bureau needs precise data to know which people should be counted in which city. Mr. Lima said he appreciated the additional resources and advice Mr. Brace offered to help complete the project in collaboration with Providence and other communities where there are questions regarding voters on the borderlines. He said the results of the meeting and follow-up communications since have been promising, and he will be meeting with Providence's canvassing department again towards the end of this month.

OLD BUSINESS

A. VOTERS REGISTERED AT COMMERCIAL PROPERTY

Mr. Lima said that the Assessor's Office is working on the supporting documentation that will be used in the challenges of voters still registered from non-residential addresses who have yet to respond. He said one commercial address with a registered voter, currently a vacant lot, has been removed from the list after the Assessor's Office informed him the property caught fire several years ago but, prior to that, had a residential apartment above it. That information is more than enough to remove it from the review. Mr. Lima summarized the process ahead for the remaining addresses that are in the scope of the project, and expected to have more information regarding filed challenges at the next Board meeting in March.

B. 2018 ELECTIONS LEGISLATION DISCUSSION AND POSSIBLE SUPPORT

Mr. Lima discussed the proposal by the Secretary of State to move the September statewide primary election to August effective in 2020, a proposal currently under consideration by the General Assembly. Ms. Bucci said that after thought, she had some concerns about the proposal in terms of its potential effect on the office's pre-election operations, including the possibility of it being more difficult to find and train pollworkers in the middle of summer.

Mr. Lima said that some factors related to the introduction of the proposal are that Rhode Island has one of the latest – and in 2018, the latest – primaries in the nation, and that during discussion regarding early voting proposals in 2017, a point was raised about it shortening the campaign season to the detriment of candidates with fewer resources to get their message out; ostensibly, moving the primary back would mitigate those concerns by allowing primary winners more time to reach voters ahead of the November general election. Mr. Lima said that, while other states have figured out how to implement primaries in the summer months, it would necessitate a cultural change in Rhode Island for voters, candidates, and election officials alike in order to be effective. Mr. Lima said the additional time given to elections officials to prepare between the primary and general election is an important consideration.

Ms. Bucci said it would be difficult to gauge any unintended consequences of this proposal until it was put into effect, and advised that it should be studied carefully first. Mr. Jackvony asked what the likelihood of this proposal passing this year is, and Mr. Lima said it is part of the Secretary of State's legislative package, which gives it some traction; however, it has only just recently been introduced, so it is difficult to measure how much support or opposition it will receive in the legislature. Mr. Lima said that he has discussed the issue briefly with other members of the Rhode Island Town and City Clerks Association's Elections Committee, which is comprised of his peers in other communities, and they were mostly ambivalent about it at first glance, noting, for example, the possible difficulty of finding and training pollworkers earlier in the summer, but that the extended timeframe between elections would be welcome. Mr. Lima said school departments would be supportive of removing the disruption of losing a day of classes early in the academic calendar. No official position has been taken to date by the Clerks Association, although the state Board of Elections endorsed the Secretary's proposal at a recent meeting that Mr. Lima attended.

Mr. Lima said there might be some drawbacks we have not even considered yet, and there likewise may be some benefits we are not yet aware of, either. If implemented, he feels it would be a dramatic change in how elections are conducted going forward, and everyone involved in the process will have to adjust accordingly.

Mr. Vierra and Mr. Jackvony each stated that more information would be needed before the Board takes a formal position on this issue, as there are both concerns and benefits that have yet to be fully vetted. Mr. Lima said another result of the proposal would move the declaration period back to early June, which likewise pulls the time period for nomination papers back with it, so the Canvassing Department would ultimately be doing all of the same work, just over a timeframe expanded by a few weeks. Ms. Bucci said that having more time would be great, but if it's not a substantial amount of time,

the potential unintended consequences or variables added in by the change could make it not really worth it.

Mr. Jackvony said he does not feel strongly either way, and for now, asked Mr. Lima to keep an eye on it and report back with any new information.

Mr. Lima briefly summarized other elections bills introduced to date in the General Assembly. He said much of the legislation is perennial in nature, and it is difficult to foresee which bills will gain traction in a particular year; he said many of the bills change broader election laws that would have little real effect on the daily operations of the Canvassing Department.

NEW BUSINESS

A. DISPOSITION OF TWO (2) VOTER REGISTRATION MATTERS INVOLVING INVESTIGATION OF MISCONDUCT

Mr. Jackvony asked Mr. Lima to review the matters in question. Mr. Lima asked if the Board wished to go into executive session, as neither individual has been publicly identified to date. Mr. Lima reviewed email correspondence he received from the state Board of Elections with the Board members regarding how to address the matters, and Mr. Jackvony noted the individuals were not named in the emails, so it was not necessary to enter executive session at this time if the individuals were not directly identified.

Mr. Lima said the two cases stem from the 2017 criminal investigation of voter irregularities related to the 2016 elections. While the criminal inquiry has ended with no charges filed by the Attorney General, two of the matters involve voters who were found to be falsely registered during the course of the investigation; the remaining irregularities involved issues such as double voting within Cranston, and therefore the persons who were alleged to have cast multiple ballots are otherwise still legitimately registered.

This puts the Board in an odd position, as the Canvassing Department is now aware of two individuals who, based on the information available, should not be registered voters, but no criminal charges were filed against them, and the individuals have not since come forward to correct their voter record.

Mr. Lima said he reached out to the state Board regarding how to handle these two matters in October, and only just heard back with an answer two weeks ago. The state Board said the determination must be made by Cranston, and advised to consult with the city solicitor and review the voter registration challenge statute, both of which Mr. Lima had already done.

Mr. Vierra asked if one of the individuals was not a citizen at the time they voted, and asked if those circumstances have since changed. Mr. Lima said that the individual self-identified as not being a citizen at the time they registered and voted, and he has not been made aware of any change in that person's citizenship status in the intervening time since. Mr. Lima said he spoke with the detective who investigated the case, who

confirmed that, at the time of the investigation, the person was not a citizen. Mr. Lima noted, however, that even if the person has achieved citizenship since, they should file a new voter registration form, as both forms the person filed previously were done so under false pretenses when the person was not a citizen, and there is no newer record on file.

Mr. Jackvony said if someone was discovered to not be a citizen and voted illegally, regardless of the outcome of the criminal proceedings, the Board should take steps to remove that person from the voter rolls if they have themselves failed to do so. Mr. Vierra asked whether formal proceedings would even be needed, and Mr. Lima said, in accordance with the state Board's guidance, that the challenge statute specifically illustrates procedures to follow to challenge the voter registration of an individual who is not believed to be a citizen. Mr. Lima said that, legally, in order to cancel the voter's registration in the CVRS, there has to be a valid reason to do so, and in this case the apparent procedure to follow is through the voter challenge statute.

Mr. Lima said he could file the challenge himself as a voter in Cranston and in his official capacity as Registrar, similar to the commercial property challenges. Mr. Lima said that the challenge notice sent to the voter could include a clear statement that the challenge would be withdrawn if the voter cancels their registration in the interim before a hearing, and that if the voter has since become a U.S. citizen, they should file a new voter registration. Mr. Jackvony said Mr. Lima should challenge the voter outright and include that information in the challenge letter so the voter receives it, and the process is not unduly delayed.

Mr. Lima said that, upon the filing of the challenge, the challenge document and the voter's name would thereafter be identified as a matter of public record.

MOTION: By Mr. Jackvony and seconded by Mr. Vierra to direct the Registrar to initiate challenge proceedings against the voter in question in accordance with R.I.G.L. § 17-9.1-28.
PASSED ROLL CALL VOTE – 2-0

Mr. Lima said the second case involves an individual who also has not been publicly identified. Mr. Lima said that the voter was discovered during the post-election reconciliation of ballot applications to have voted twice, on two separate occasions, under slightly different names in both the April 2016 Presidential Preference Primary and at the 2016 General Election. The person cast ballots in both Providence and Cranston, however, the Attorney General declined to prosecute the case. Mr. Lima said he has spoken with the Cranston detective who investigated the case, and, at the time of the investigation, the person was a Cranston resident, and former Providence resident, who now remains on the voter rolls in both cities.

Mr. Lima said that finding duplicate registrations is a common administrative task, particularly as a result of clerical errors or voters changing their names; however, while in a normal circumstance, the records would simply be merged upon discovery, based on the most recent activity on the record, in this case, that person's most recent activity – the person having voted in November 2016 – occurred on the same day in two separate municipalities. This is why Mr. Lima is relying on the Cranston Police's

information from the time of the investigation that the person was, at the most recent timeframe available, a Cranston resident, because otherwise they would be a resident of “both” cities and unable to be merged.

Based on that information, and unless the voter has since moved or updates their own record accordingly, the voter should be cancelled in Providence, and that record merged into the Cranston record. This may create a problem in the CVRS, considering both records have ballot history, which will have to be dealt with by the state on a technical level if the merge produces an error.

Mr. Jackvony said we technically should not remove a legitimate voter from the Cranston rolls, so if the best information available is that the voter has most recently lived in Cranston, the matter should be referred to Providence so the voter can be cancelled there. He asked if the voter can be contacted to determine where they actually live. Mr. Lima said this is a very strange situation, and wished he had more specific guidance from the state regarding how to handle it, as we’re now left to figure out procedures on our own.

Mr. Lima said he can send a letter to the voter stating that the criminal investigation has concluded, and that now the voter needs to establish where they actually live for voting purposes, so that one of their registrations can be cancelled.

MOTION: By Mr. Jackvony and seconded by Mr. Vierra to instruct the Registrar to send a letter to the voter stating the need for the voter to attempt to verify their residence in Cranston, and absent a response within 30 days, the Registrar will coordinate with the Providence Board of Canvassers to see to it that the voter is removed from the voter rolls there, based on the best information available.

Mr. Vierra said it is important that the letter state the background of why it is being sent so it is clear to the voter that they need to take action. Mr. Jackvony said the voter should be given 30 days to respond, and otherwise the matter will be forwarded to Providence for the record to be cancelled there.

PASSED ROLL CALL VOTE – 2-0

**B. POSSIBLE EXECUTIVE SESSION PURSUANT TO R.I.G.L. § 42-46-5(A)(4)
REGARDING DISPOSITION OF TWO (2) VOTER REGISTRATION MATTERS
INVOLVING INVESTIGATION OF MISCONDUCT**

Mr. Jackvony noted the Board was able to address both matters without the need to go into executive session.

COMMENTS OF BOARD MEMBERS

Mr. Jackvony said he has sent an email to Speaker Mattiello regarding changes to the Open Meetings Act that, per guidance from the Attorney General, now requires boards like the Cranston Board of Canvassers to meet, at minimum, on a monthly basis, even if the only pending business is the approval of minutes from the previous meeting, in

order to maintain compliance with the provisions of the amended law enacted on Jan. 1, 2018.

He hasn't received a response as of yet, but will be following up with the Speaker's office to see if this issue will be addressed, as it doesn't make sense for the Board to be meeting monthly in non-election years when it otherwise doesn't have business to conduct, solely for approving and posting final minutes of the previous month's meeting.

ADJOURNMENT

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

The meeting was adjourned at 4:12 p.m.

Respectfully Submitted,

Nicholas J. Lima
Registrar
Cranston Board of Canvassers

APPROVED by the Cranston Board of Canvassers: March 6, 2018