

CITY OF CRANSTON
BOARD OF CANVASSERS
Regular Meeting of April 5, 2018 – APPROVED MINUTES

The Cranston Board of Canvassers met on April 5, 2018, in a meeting advertised in accordance with the Rhode Island Open Meetings Act on March 30, 2018. The meeting was called to order by the Chairperson, Randall Jackvony, at 7:01 p.m. It was held in the Third Floor Conference Room at Cranston City Hall.

MEMBERS PRESENT: Randall Jackvony, Gary Vierra, Fred Joslyn

MEMBERS ABSENT: None

NON-MEMBERS PRESENT: Nicholas Lima (Registrar), Stephen Angell (Assistant City Solicitor), Ron Ronzio (Stenotypist)

The chair declared a quorum present.

AGENDA

- I. CALL TO ORDER
- II. APPROVAL OF THE AGENDA
- III. APPROVAL OF MINUTES – 3-6-18
- IV. CHAIRPERSON'S ANNOUNCEMENTS – RANDALL JACKVONY
- V. NEW BUSINESS
 - A. CHALLENGE HEARINGS PURSUANT TO R.I.G.L. § 17-9.1-28
 1. 2018-01 AZRIEL A ARCE
 2. 2018-02 RUSSEL F CUCINO
 3. 2018-03 EVELYN R GONZALEZ
 4. 2018-04 BACHAR KATTAN
 5. 2018-05 RAYNA LYNCH
 6. 2018-06 JANICE MARTIN
 7. 2018-07 WILLIAM EDWARD O'CONNOR JR
 8. 2018-08 ROBERT J PITOCCO
 9. 2018-09 SHERRI L RUGGIERI
 10. 2018-10 MICHAEL D SQUILLACE
 11. 2018-11 ISRAR A SYED
 12. 2018-12 KAREN I CHUMBIRAY
- VI. PUBLIC COMMENT
- VII. UPDATES AND REMARKS
 - A. REGISTRAR – NICHOLAS LIMA
- VIII. COMMENTS OF BOARD MEMBERS
- IX. ADJOURNMENT

APPROVAL OF THE AGENDA

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

MOTION: By Mr. Vierra and seconded by Mr. Joslyn to approve the agenda as posted.

PASSED ROLL CALL VOTE – 3-0

APPROVAL OF MINUTES

Mr. Jackvony said the March 6 minutes are located in the Board members' packets and asked if the members had a chance to review the minutes.

MOTION: By Mr. Vierra and seconded by Mr. Joslyn to approve the meeting minutes of 3-6-18.

PASSED ROLL CALL VOTE – 3-0

CHAIRPERSON'S ANNOUNCEMENTS

CHAIRPERSON – Randy Jackvony

Mr. Jackvony said he would like Mr. Lima to discuss the overall process of the voter challenges and commercial property review the Canvassing Department has undertaken before proceeding with the individual hearings.

NEW BUSINESS

A. CHALLENGE HEARINGS PURSUANT TO R.I.G.L. § 17-9.1-28

Mr. Jackvony asked Mr. Lima to explain the process to date.

Mr. Lima said the process began May 1, 2017, when the Canvassing Department received an email from the state Board of Elections that included the names of several voters who were suspected to be registered at non-residential addresses that were not their actual place of residence, and who had voted in the 2016 elections. The state Board asked the Canvassing Department to review the voters and send a letter to the voters alerting them that the Department was aware that they were improperly registered, and asking them to change their registration.

In the summer, a follow-up email was received from the state Board of Elections that added additional names of voters who had not voted in 2016 but were also believed to be registered from properties that were not their actual place of residence. After reviewing the list for false-positives, the Canvassing Department sent letters to the voters.

In July 2017, the Department of State Elections Division of the Rhode Island Secretary of State sent the Canvassing Department an extensive list of addresses, determined via E-911 site data, that were believed to contain voters registered at commercial and otherwise invalid, non-residential addresses, and asked the list be reviewed for false-positives and the voters contacted. Mr. Lima said over 40 voters at these addresses were contacted from this list.

In taking the overall project to the Cranston Board of Canvassers at Board meetings in 2017, a process was developed by the Board to first send a letter to the voter's registered address, and, absent a response within 30 days, send a second, return-

receipt certified letter to the voter's registered address and, if different, their address of record with the DMV. If there was still no response after an additional 30 days, the voter was subject to challenge by the Registrar, following a final attempt to contact the voter via phone or email, if listed on their record. As an attachment to the filed challenge, a letter from the city assessor's office was included that stated there was no record of the property in question containing a residential unit. Mr. Lima said that, as of the first week of March 2018, there were 11 remaining voters who were reachable, in that at least some letters were not returned as undeliverable, but had not responded or not updated their voter registration since being contacted. Mr. Lima said a 12th challenged voter dated back to February 2017, who was believed to not be a U.S. citizen, and was challenged on those grounds.

Mr. Lima noted that certified letters were sent to the registered address of all 12 voters notifying them of the challenge hearing. In cases where the voter had a different address of record with the DMV and their registered address was previously unreachable, a second certified letter was sent to the voter at their DMV address, as an added step, to ensure every effort was made to inform the voter of the challenge hearing. Mr. Lima said three of the commercial property voters responded to the hearing notice by updating their voter registration; two to out-of-city addresses, and one to an in-city address in another voting district within Cranston. He said the voter believed to not be a citizen responded to the notice by appearing in person in the office and submitting a written request to cancel her registration, which was processed accordingly.

Mr. Jackvony said he wanted to make clear that this was an extensive process over the course of the last year, and thanked the Registrar for his work on this. He said that multiple letters, phone calls, and certified letters sent to these voters has constituted sufficient effort to provide voters with every possible opportunity to correct their registration prior to the challenge hearing. He said tonight's challenge hearing's goal is to ensure voters are properly registered and actually eligible to vote as residents of the City of Cranston.

Mr. Angell said he had reviewed the process, and he noted it has been an extensive, detailed process to date. He advised that each challenged voter should have a separate vote taken individually by the Board.

No voters who were challenged appeared at the hearing.

1. 2018-01 AZRIEL A ARCE

Mr. Jackvony introduced the case, and Mr. Lima said he had a brief timeline of dates for this and each other voter, which included when the matter was discovered, when letters were sent, when certified cards or undeliverable mail was returned to the Canvassing Office, when the voter was challenged, and any other relevant milestones in the process of contacting the voter prior to tonight's challenge hearing.

Mr. Lima reviewed the voter's address, dates of attempted contact, and circumstances leading to the challenge hearing. He said records of all attempted means of contact are included in the voter's challenge file.

Mr. Jackvony asked for clarification on what the appropriate motion to make would be given that the voters were not present. Mr. Lima said the statute is limited, and only permits the Board to vote to initiate the confirmation process. Mr. Lima said the challenge procedure statute is included in the Board members' packets. The Board reviewed the statute.

Mr. Angell said the general inclination would be that failing to respond or appear at a challenge hearing would be sufficient cause to remove a voter, however, he noted that the statute prohibits taking such action unless the voter appears in person. Mr. Lima said if the Board votes to initiate the confirmation process for voters who do not appear, the voters will be made inactive, and will be sent another notice informing them as such. If the voter does not vote and remains inactive for two federal elections, they may then be removed from the voter list. Mr. Lima noted that while the voters cannot be immediately removed from the voter rolls despite evidence that they are improperly registered, there is extensive documentation on file now, including signed certified mailing cards, that demonstrates the voters were informed that registering and voting from an address that is not their residence is a felony. As such, if the voters ignore the prior mailings and warnings and, while inactive, still appear at a polling place and attempt to vote in the 2018 elections while registered from invalid addresses, the Board could choose to forward the matters to law enforcement at that time. Mr. Lima did note that the majority of the eight voters who remain do not have any recent voting history.

Mr. Vierra clarified that the votes tonight would make the voters inactive by virtue of initiating the confirmation process. Mr. Joslyn asked how the voter, Azriel A. Arce, was registered, and if it came through the DMV. Mr. Lima said the voter has a voter registration card completed by hand, with a notation that it was received third party, so it is not a DMV registration. Mr. Joslyn asked if the Canvassing Department can incorporate into its procedures a way to check addresses being valid residences when processing registrations. Mr. Lima said that, since last year, the staff have been doing just that, and in several instances have sent a preemptive letter to voters. He said the staff is aware of numerous non-residential addresses in the city and by practice monitors all incoming registrations for these addresses as an initial step to prevent voters from, often inadvertently, becoming improperly registered.

MOTION: By Mr. Jackvony and seconded by Mr. Joslyn to initiate the confirmation process under R.I.G.L. § 17-9.1-26 for Azriel A. Arce.
PASSED ROLL CALL VOTE – 3-0

2. 2018-02 RUSSEL F CUCINO

Mr. Lima said the voter changed their address in-city as a result of the hearing notice, and it would be prudent to have a formal motion to withdraw the challenge. Mr. Lima said that, as the person who filed the challenge, he has no objection to it being withdrawn on those grounds.

MOTION: By Mr. Jackvony and seconded by Mr. Vierra to dismiss the challenge for Russel F. Cucino.

Mr. Joslyn asked if the motion should be made with or without prejudice, and Mr. Angell advised it should be withdrawn with prejudice.

Mr. Jackvony proposed a friendly amendment to his motion to add “with prejudice” to the end of the motion.

ACCEPTED AS FRIENDLY WITH UNANIMOUS CONSENT

MOTION: By Mr. Jackvony and seconded by Mr. Vierra to dismiss the challenge for Russel F. Cucino, with prejudice.

Mr. Angell clarified that, by withdrawing the challenge with prejudice, it dismisses the matter permanently unless a new and separate challenge is filed.

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

3. 2018-03 EVELYN R GONZALEZ

Mr. Lima reviewed the voter’s address, dates of attempted contact, and circumstances leading to the challenge hearing.

Mr. Jackvony asked the Board members if there were any questions, and noted it was a similar case timeline to the first discussed.

MOTION: By Mr. Jackvony and seconded by Mr. Vierra to initiate the confirmation process under R.I.G.L. § 17-9.1-26 for Evelyn R. Gonzalez.
PASSED ROLL CALL VOTE – 3-0

4. 2018-04 BACHAR KATTAN

Mr. Lima reviewed the voter’s address, dates of attempted contact, and circumstances leading to the challenge hearing.

MOTION: By Mr. Vierra and seconded by Mr. Joslyn to initiate the confirmation process under R.I.G.L. § 17-9.1-26 for Bachar Kattan.
PASSED ROLL CALL VOTE – 3-0

5. 2018-05 RAYNA LYNCH

Mr. Lima reviewed the voter’s address, dates of attempted contact, and circumstances leading to the challenge hearing.

MOTION: By Mr. Joslyn and seconded by Mr. Jackvony to initiate the confirmation process under R.I.G.L. § 17-9.1-26 for Rayna Lynch.
PASSED ROLL CALL VOTE – 3-0

6. 2018-06 JANICE MARTIN

Mr. Lima reviewed the voter’s address, dates of attempted contact, and circumstances leading to the challenge hearing.

MOTION: By Mr. Joslyn and seconded by Mr. Vierra to initiate the confirmation process under R.I.G.L. § 17-9.1-26 for Janice Martin.
PASSED ROLL CALL VOTE – 3-0

7. 2018-07 WILLIAM EDWARD O'CONNOR JR

Mr. Lima reviewed the voter's address, dates of attempted contact, and circumstances leading to the challenge hearing.

MOTION: By Mr. Vierra and seconded by Mr. Jackvony to initiate the confirmation process under R.I.G.L. § 17-9.1-26 for William Edward O'Connor Jr.
PASSED ROLL CALL VOTE – 3-0

8. 2018-08 ROBERT J PITOCOCO

Mr. Lima reviewed the voter's address, dates of attempted contact, and circumstances leading to the challenge hearing.

Mr. Jackvony asked if a second letter was sent to the voter's different DMV address. Mr. Lima said that a previous certified letter sent to that address was returned undeliverable, whereas the voter's registered address was delivered; as the statute only states a letter to their registered address is required, Mr. Lima said it was not necessary to send a second certified letter to the voter's DMV address only to have it returned.

MOTION: By Mr. Jackvony and seconded by Mr. Joslyn to initiate the confirmation process under R.I.G.L. § 17-9.1-26 for Robert J. Pitocco.
PASSED ROLL CALL VOTE – 3-0

9. 2018-09 SHERRI L RUGGIERI

Mr. Jackvony noted that the voter is one which Mr. Lima indicated earlier had updated her address following receipt of the challenge hearing notice.

MOTION: By Mr. Jackvony and seconded by Mr. Vierra to dismiss the challenge for Sherri L. Ruggieri, with prejudice.
PASSED ROLL CALL VOTE – 3-0

10. 2018-10 MICHAEL D SQUILLACE

Mr. Jackvony noted that the voter is one which Mr. Lima indicated earlier had updated his address following receipt of the challenge hearing notice.

Mr. Lima said the change had just come over today and that the voter changed their registered address from Cranston to Scituate.

MOTION: By Mr. Jackvony and seconded by Mr. Joslyn to dismiss the challenge for Michael D. Squillace, with prejudice.
PASSED ROLL CALL VOTE – 3-0

11. 2018-11 ISRAR A SYED

Mr. Lima reviewed the voter's address, dates of attempted contact, and circumstances leading to the challenge hearing. He noted that this is the second challenged voter registered from 589 Reservoir Ave. Mr. Lima said, due to a clerical error, the supporting assessor's letter for the wrong address was attached to the challenge file. The Board inspected the file. Mr. Lima said the assessor's letter was specific to the property being non-residential, but not specific to the voters registered at the property.

Mr. Vierra asked the solicitor's opinion, and Mr. Angell said the file needs to be corrected prior to proceeding with the challenge hearing. He advised the Board should table the matter out of an abundance of caution. Discussion ensued, and it was determined the voter should be contacted to attend a continuation of the challenge hearing.

MOTION: By Mr. Jackvony and seconded by Mr. Joslyn to table the challenge for Israr A. Syed with notice to the voter of the continued hearing date.
PASSED ROLL CALL VOTE – 3-0

12. 2018-12 KAREN I CHUMBIRAY

Mr. Jackvony said he believes the final challenge can be dismissed with prejudice based on the fact that the voter has cancelled her registration.

MOTION: By Mr. Jackvony and seconded by Mr. Vierra to dismiss the challenge for Karen I. Chumbiray, with prejudice.
PASSED ROLL CALL VOTE – 3-0

PUBLIC COMMENT

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

UPDATES AND REMARKS

REGISTRAR – Nicholas Lima

Mr. Lima apologized for having the wrong assessor's statement stapled to the challenge documentation for case 2018-11. Mr. Jackvony said the error was understandable considering the number of voters the office has processed.

Mr. Lima said the Canvassing Department's FY19 budget request would be heard by the City Council Finance Committee next Monday night. Mr. Jackvony said he plans to attend along with Mr. Lima to answer any questions the Council has.

Mr. Lima said he sent correspondence to the Board members regarding support of legislation to streamline and improve the write-in process for Rhode Island elections.

COMMENTS OF BOARD MEMBERS

Mr. Joslyn asked if a copy of the notice for this meeting could be made part of the official record. Mr. Lima said it is already his standard practice to attach an original public notice, which is timestamped and sealed, to the official copy of the minutes of that meeting, for all Board meetings. Mr. Angell said that should be sufficient. Mr. Lima said that, in addition to the hard copy of the notice on file in the Board of Canvassers minutes book in the office, he also electronically files the notice and records a copy of that electronic filing.

Mr. Jackvony said he had emailed Speaker Mattiello regarding a recent change to open meetings laws that requires all boards, including the Board of Canvassers, to meet at minimum every 35 days, even if there is no other business to discuss, for the purpose of approving "official" minutes of the previous meeting. Mr. Jackvony said the Speaker declined to support a change in the law, so the Board will be meeting monthly now in perpetuity regardless of whether or not there is canvassing business to discuss.

Mr. Joslyn asked what other boards are doing in regards to the new law. Mr. Lima said the guidance from the Attorney General's office was clear, however, he would be seeing several of his elections counterparts at an upcoming cybersecurity briefing by the Secretary of State, and at a Rhode Island Town and City Clerks Association meeting, and he plans to ask them what other boards are doing to comply. Mr. Lima noted in reviewing filed meeting notices around the state that at least some other boards are not currently complying with the new law. He said the Cranston Board of Canvassers should continue to comply with the Attorney General's guidance until either the law is changed, or a new directive is received, out of an abundance of caution.

ADJOURNMENT

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

The meeting was adjourned at 7:50 p.m.

Respectfully Submitted,

Nicholas J. Lima
Registrar
Cranston Board of Canvassers

A stenographic record of the meeting in its entirety was taken by Ron Ronzio, Allied Court Reporters.

APPROVED by the Cranston Board of Canvassers: May 8, 2018