

CITY OF CRANSTON
BOARD OF CANVASSERS
Regular Meeting of May 8, 2018 – APPROVED MINUTES

The Cranston Board of Canvassers met on May 8, 2018, in a meeting advertised in accordance with the Rhode Island Open Meetings Act on May 2, 2018. The meeting was called to order by the Chairperson, Randall Jackvony, at 5:31 p.m. It was held in the Third Floor Conference Room at Cranston City Hall.

MEMBERS PRESENT: Randall Jackvony, Gary Vierra (arrived late), Fred Joslyn

MEMBERS ABSENT: None

NON-MEMBERS PRESENT: Nicholas Lima (Registrar), David Igliazzi (Assistant City Solicitor), Tracy Shepherd (Court Reporter)

Mr. Vierra was delayed by traffic, and as a result was not present for roll call and the early portion of the meeting.

The chair declared a quorum present.

AGENDA

- I. CALL TO ORDER
- II. APPROVAL OF THE AGENDA
- III. APPROVAL OF MINUTES – 4-5-18
- IV. PUBLIC COMMENT
- V. CHAIRPERSON'S ANNOUNCEMENTS – RANDALL JACKVONY
- VI. OLD BUSINESS
 - A. CHALLENGE HEARINGS PURSUANT TO R.I.G.L. § 17-9.1-28
 1. 2018-11 ISRAR A SYED
- VII. NEW BUSINESS
 - A. POSSIBLE SUPPORT OF LEGISLATION H-7729 AND S-2757
- VIII. UPDATES AND REMARKS
 - A. REGISTRAR – NICHOLAS LIMA
- IX. COMMENTS OF BOARD MEMBERS
- X. ADJOURNMENT

APPROVAL OF THE AGENDA

Mr. Jackvony looked over the meeting agenda.

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

PASSED ROLL CALL VOTE – 2-0 – Mr. Vierra was absent.

APPROVAL OF MINUTES

Mr. Jackvony reviewed the minutes from the April 5, 2018 meeting.

MOTION: By Mr. Joslyn and seconded by Mr. Jackvony to approve the meeting minutes of 4-5-18.

PASSED ROLL CALL VOTE – 2-0 – Mr. Vierra was absent.

PUBLIC COMMENT

Mr. Jackvony noted there were no members of the public present.

CHAIRPERSON'S ANNOUNCEMENTS

CHAIRPERSON – Randy Jackvony

Mr. Jackvony asked Mr. Lima what his findings were from other canvassing boards in how they are complying with the new law regarding approval of minutes and having to meet monthly. Mr. Lima said he took an informal survey of several boards, and found that not all are meeting monthly. He noted that many boards across the state had not yet met in 2018, and as such, had no minutes that were required to be filed under the new law that went into effect in January.

Mr. Lima said that staff members from other boards noted to him their feelings regarding the absurdity of the law, in that it requires a meeting to be held by all public bodies at least every 35 days, even if there is no other public business to be conducted, for the single purpose of approving the previous meeting's minutes. Confusing language in the law does not permit unofficial minutes to suffice in the interim, per guidance from the Attorney General. Mr. Lima said he was surprised that the issue was not a discussion point in the public sphere, nor had a bill been introduced to date in the 2018 General Assembly session to correct the clearly unintentional language.

Mr. Lima surmised the reason was that most public entities that citizens, the media, and advocacy groups pay attention to already meet monthly or twice per month, and as such were not affected by the law; it is only smaller boards, committees, commissions, and task forces that meet less often than monthly that are affected. He noted that there are likely many small boards across the state that are currently non-compliant, but advised the Board of Canvassers that they should continue to comply out of an abundance of caution. Mr. Joslyn asked Mr. Lima for a copy of the Attorney General's opinion, and Mr. Lima said he would print Mr. Joslyn a copy to review.

OLD BUSINESS

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

Mr. Jackvony introduced the challenge hearing that was tabled from the April 5, 2018 meeting, and asked Mr. Lima to review the details of the challenge.

1. 2018-11 ISRAR A SYED

Mr. Lima said copies of the challenge documentation are included in the Board's agenda packets. He said Page 1 is the challenge affidavit; Page 2 is the supplemental

materials filed by Mr. Lima with the affidavit; and Page 3 is the supplemental letter from the city tax assessor's office filed with the affidavit that states there is no city record of a residential unit at the voter's property in question. Mr. Lima said at the April 5 hearing, when preparing copies of documents for the 12 voters challenged, the wrong Page 3 assessor's statement was inadvertently stapled to the 2018-11 challenge file for Mr. Syed. Although the correct assessor's statement was immediately available, out of an abundance of caution, the matter was continued by the Board at the challenge hearing on April 5 so the file could be corrected, and the proper assessor's statement affixed to the copies presented to the Board.

Mr. Lima reviewed the timeline of attempted contact with the voter and nature of the challenge. He said a certified letter was again sent to the voter's address to alert the voter to the rescheduled challenge hearing. To date, Mr. Lima said there has been no response to any of the letters that the voter has received, nor has the voter taken any action to update their registration to a non-commercial address.

Mr. Jackvony thanked Mr. Lima for his thorough review. He said it is clear that the voter has been given a number of opportunities to be informed of the situation.

MOTION: By Mr. Jackvony and seconded by Mr. Joslyn to initiate the confirmation process under R.I.G.L. § 17-9.1-26 for Israr A. Syed.
PASSED ROLL CALL VOTE – 2-0 – Mr. Vierra was absent.

Mr. Lima said this dispensed matter concludes the commercial property inquiry begun by the Canvassing Department in May of 2017, as the matters of all 54 voters who were contacted have been concluded to the furthest possible steps under the parameters established by the Board.

He said the office has continued to maintain a watchful eye for new commercial property registrations, and send any new voters who attempt to register from invalid or non-residential addresses a letter as they come in. He noted there are three such registrations currently on file, all which came in as a result of changes filed at the DMV; Mr. Lima said one matter had already been resolved, and the remaining two will be sent certified letters if they do not contact the office or correct their address before early June. Mr. Lima said that, due to the proximity of the 2018 elections, he doubted there would be time to complete the challenge hearing process, if any voters eventually reach that level, this summer. Mr. Lima said state law further restricts the outcomes of the challenge process in the 90-day window prior to any election.

Mr. Jackvony said a voter who is improperly registered could then still vote in the 2018 elections. Mr. Lima said he would seek to clarify with the state Board of Elections what options were left to the Board of Canvassers in dealing with any new commercial property voters this summer, although he expects the restrictiveness of the state challenge law to provide few, if any, options for improperly registered voters who fail to respond.

NEW BUSINESS

A. POSSIBLE SUPPORT OF LEGISLATION H-7729 AND S-2757

Mr. Jackvony asked Mr. Lima to review the legislation he brought to the Board's attention. Mr. Lima said the proposals to rework Rhode Island's write-in candidate system have been in discussion for some time, and that the current bills under consideration by the General Assembly are similar to bills that failed last year. He said the bills correct multiple errors in the write-in process by providing a mechanism for write-in candidates to declare themselves, and removing the requirement for local boards and the state Board to tabulate write-ins of a frivolous nature for candidates who are fictional characters, historical figures, or otherwise are ineligible to hold office. Mr. Lima said passage of the bill would remove the time-consuming post-election process for local boards counting write-ins, but add transparency by requiring scanned copies of all write-ins be uploaded for public inspection on the state Board's website. He said the DS-200 voting machines currently scan an image of every write-in vote cast.

Mr. Vierra arrived at 5:44 p.m.

Mr. Lima said the legislation introduced in the House and Senate on behalf of the state Board of Elections is also supported by the Rhode Island Town and City Clerks Association's Elections Committee, and provided copies of a letter of support from the Elections Committee to the Board of Canvassers. Mr. Lima also read a supporting email from Miguel Nunez, deputy director of elections for the state Board, that detailed the bill's goals and positive outcomes. Mr. Lima noted the proposal would limit the need to hand-count write-in votes to only those cast for declared write-in candidates, and that adding a declaration process for those candidates would allow local Boards to know who is actually running a write-in campaign for office, and for those candidates to be contacted by the state Board to ensure they comply with campaign finance laws.

Mr. Lima said while last year's bill did not gain traction because it was restrictive on when a candidate could declare, the new bill has been corrected to promote wider access to permit a write-in candidate to declare up until 4 p.m. on the day prior to the election. Mr. Lima said 31 other states require a declaration process for write-ins to be qualified, but Rhode Island's laws are considerably lacking. Mr. Lima asked the Board of Canvassers if they were willing to endorse the initiative.

Mr. Joslyn asked what would happen to votes cast for candidates who had not declared themselves as write-ins, such as those for fictional characters. Mr. Lima said all scanned write-ins would be put online in an electronic file for public inspection, increasing transparency. Mr. Joslyn said mail-in ballot voters could feel disenfranchised if they submitted their ballot early, but a write-in candidate declared themselves on the day prior to the election. Mr. Lima disagreed, and said that in existing law, that same mail-ballot voter would not have any knowledge of or opportunity to vote for a late-declaring write-in candidate as things stand presently.

Mr. Vierra asked if the bill applied to primary elections and special elections. Mr. Lima said that because primaries are a party function, there are no write-ins for regular primary elections in Rhode Island, and the bill would only apply to the general election, special elections, and the presidential preference primary. Mr. Vierra asked if voters could be disenfranchised by the new law, as their write-in votes would not be counted for candidates who did not declare themselves.

Mr. Lima said the votes are still cast, but are just not tabulated by the local and state boards; he said that all write-in votes would be publicly accessible on the state Board's website. Mr. Jackvony said unless a write-in candidate has an organized campaign, they would not have any chance of winning, so obscure or fictional names are not currently viable. Mr. Lima said names that receive less than five votes are not even tallied in official count books under current law.

Mr. Vierra asked if the new law could be challenged in the courts if it passed. Mr. Joslyn said it could always be challenged; the question would be whether a challenge would be meritorious and successful. Mr. Iglizzi said the legislature in each state has broad discretion to develop the rules for its own elections process, and he thought a challenge would not ultimately be successful. Mr. Lima reiterated that there are presently 31 states that have similar, or more restrictive, laws governing write-in candidate eligibility and counting. Discussion ensued.

Some of the Board members expressed concerns about whether mail ballot voters would potentially lose the right to vote for late-declaring write-in candidates. Mr. Iglizzi wondered if the bill was amended to move back the deadline for declaring as a write-in candidate to be more in line with mail ballot voting if those concerns would be allayed. Mr. Lima said that was the thought of a previous version of this bill that died last session; he said the deadline was changed in this year's bill in order to be less restrictive and account for last-minute, unexpected occurrences in campaigns that could necessitate a late-filing write-in candidacy, to give voters more options.

Mr. Vierra was concerned that a write-in candidate who failed to declare under the new law could theoretically receive the most votes but lose the election. Mr. Lima said those undeclared write-in candidates are not known to local boards, may not be qualified to hold the office, and are not being tracked by the campaign finance system, unlike all other candidates seeking election, constituting a significant loophole in the law. A discussion ensued about whether the campaign finance argument has merit, as it was questioned whether, under existing law, a write-in candidate needs to file reports. Mr. Lima said he believes any candidate who accepts contributions or expends funds is required to file reports, regardless of declaration, although he said he was not as familiar with the campaign finance side of the election laws.

Mr. Lima said another consideration is the amount of time the local boards currently spend tabulating frivolous write-ins immediately after the election; he said local boards will have a role in the important, new risk-limiting post-election audit process starting in 2018, and that could further monopolize the time between the election and certification of final results.

Mr. Jackvony said the Board does not have to take a position if the members have reservations. He said the Board will continue to monitor the progress of the legislation and thanked Mr. Lima for the information on the proposal.

UPDATES AND REMARKS

REGISTRAR – Nicholas Lima

Mr. Joslyn said he spoke with the office staff, who combined have decades of experience with the city, and that they didn't have an opinion on projected turnout for the September primary. He summarized an article from *The Wall Street Journal* that described an unusually high turnout in a recent primary in Texas, and wondered if the Canvassing Department should take any measures to prepare for a higher than usual turnout in Cranston if that trend continues across the country.

Mr. Lima said his departmental budget request factored in the maximum number of polling locations, pollworkers, advertising, city personnel costs, and police detail costs for both the primary and general, essentially requesting equal funds for both elections, in the event the primary experiences a turnout similar to the general. He also said the office would be bringing on two part-time staff members this summer to assist the office staff with all aspects of elections administration and helping voters.

Mr. Joslyn said he read that the Public Works Committee of the City Council is meeting to discuss a street name change on Marion Ave. to Marion Ave. South, and asked if Mr. Lima was aware. Mr. Lima said this was on his list of updates for the Board tonight, and that he had filed the petition to change the name of the street, and would be in attendance at the hearing to speak on it. He said that last year, Marion Ave. was one of 34 street issues that existed between Providence and Cranston that were brought to the Board.

Mr. Lima said he and Kathy Placencia, from the Providence Canvassing Department, in cooperation with the Providence Postmaster's office of USPS, were able to determine a workable solution for Marion Ave. by changing the name of the street in both cities. The issue dates back many years, but involves both streets being in the same ZIP code, 02905, with numerous duplicate addresses on both otherwise unrelated Marion Avenues. Providence changing the name to Marion Ave. North and Cranston changing to Marion Ave. South will resolve some of the past voter address mailing issues faced by residents on both streets, some of which caused voters to be registered in the wrong city or have their registrations cancelled due to undeliverable mail.

Mr. Lima said he has been appointed to the HAVA Task Force appointed by the Secretary of State, a workgroup that met to discuss ideas for best utilizing \$3 million in federal funds to improve elections infrastructure and cybersecurity in Rhode Island. He said he stressed at the meeting that, if even a small portion, such as 5 or 10 percent, of the funds could be set aside for local boards to request support, that money could make a significant impact to improve the equipment, security, and technology in use at the local level. He said local boards should be recognized as a partner in elections, and while they don't need any capital items like voting machines, which are provided by the state, even a small amount of funding could go a long way to improving how elections are administered in the 39 cities and towns.

Mr. Lima said the majority of the discussion centered around bigger-ticket items desired by the state Board of Elections and Secretary of State, including a long-needed upgrade or overhaul of the Central Voter Registration System. He said that Secretary Gorbea, as the state's chief elections official, is ultimately in charge of allocating the funds, but that the Secretary wanted input from all elections stakeholders first, hence the creation of the diverse Task Force. He said it is scheduled for a final meeting in about a week.

Mr. Lima said the Marion Ave. proposal will be heard on May 17 by the Public Works Committee, and that a letter to residents and abutters was recently sent out by the City Clerk. He said he has not heard of any feedback or response from the letter.

Mr. Lima said the department's final budget is subject to approval by the City Council this Thursday night, and that he will attend in case there are any last-minute questions on or amendments to the Canvassing Department's FY19 request.

Mr. Lima said he has been working on a new project with the USPS that relates, in part, to address corrections and data used by the U.S. Census Bureau in the ongoing 2018 test. He said some residents had contacted City Hall with concerns they were going to be counted in Providence, because their Census test mailing used Providence as a postal city. Mr. Lima worked with Maria Giarrusso, GIS Manager for the city, to determine that the Census utilizes separate data for bulk mailing, and noting what municipality an address is in, allaying concerns of a miscount. Still, through the project, Mr. Lima said he discovered several streets that are incorrectly coded as Providence in the USPS Address Management System, and he is working with USPS to correct them.

Mr. Lima said the part-time staff members are due to start the week of June 4, at the earliest, and that he is monitoring about 90 bills in the General Assembly that could affect elections or the operation of the office in some way.

COMMENTS OF BOARD MEMBERS

Mr. Joslyn said Mr. Lima had done a very thorough job.

ADJOURNMENT

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

The meeting was adjourned at 6:16 p.m.

Respectfully Submitted,

Nicholas J. Lima
Registrar
Cranston Board of Canvassers

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

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