

CITY OF CRANSTON
BOARD OF CANVASSERS
Special Meeting of November 6, 2024 – OFFICIAL MINUTES

The Cranston Board of Canvassers met on November 6, 2024, in a meeting advertised in accordance with the Rhode Island Open Meetings Act on September 24, 2024. The meeting was called to order by the Chairperson, Kirk McDonough, at 9:20 a.m. It was held in the Canvassing Authority Office, Room 100, at Cranston City Hall.

MEMBERS PRESENT: Steven Piscopiello, Quilcia Moronta, Kirk McDonough

MEMBERS ABSENT: None

NON-MEMBERS PRESENT: Peter Rivelli (Board Alternate), Justin Erickson (Board Alternate), Nicholas Lima (Registrar / Director of Elections), Theresa Bucci (Deputy Registrar), Maria Madonna (Election Operations Coordinator), Emerson Brito (Bilingual Elections Specialist); present for provisional ballot adjudication later in the day were Chris Orton (Assistant City Solicitor, via speakerphone), Mark Hartmann (Legal Counsel for Maria Bucci), Robert Murray (Legal Counsel for Chris Paplauskas), Maria Bucci (Rep. Dist. 15 Candidate), Christopher Paplauskas (Rep. Dist. 15 Candidate)

The chair declared a quorum present.

AGENDA

- I. CALL TO ORDER (NO VOTES TAKEN)
- II. OLD BUSINESS
 - A. THE BOARD MAY HEAR AND CONSIDER ANY ELECTION MATTER THAT REQUIRES AN IMMEDIATE RULING OR DETERMINATION RELATED TO THE NOVEMBER 5, 2024 RHODE ISLAND GENERAL ELECTION (VOTES MAY BE TAKEN)
- III. NEW BUSINESS
 - A. THE BOARD MAY CONVENE FOR THE PURPOSE OF DETERMINING THE DISPOSITION OF PROVISIONAL BALLOTS CAST DURING THE RHODE ISLAND GENERAL ELECTION OF NOVEMBER 5, 2024, IN ACCORDANCE WITH R.I. GEN. LAWS § 17-19-24.3 AND 410-RICR-20-00-13 (VOTES MAY BE TAKEN)
 - B. THE BOARD MAY TABULATE WRITE-IN VOTES CAST DURING THE RHODE ISLAND GENERAL ELECTION OF NOVEMBER 5, 2024, IN ACCORDANCE WITH R.I. GEN. LAWS § 17-19-31 (VOTES MAY BE TAKEN)
 - C. DISCUSSION AND REVIEW OF THE CONDUCT OF THE NOVEMBER 5, 2024 RHODE ISLAND GENERAL ELECTION (VOTES MAY BE TAKEN)
- IV. ADJOURNMENT (VOTE MAY BE TAKEN)

OLD BUSINESS

A. THE BOARD MAY HEAR AND CONSIDER ANY ELECTION MATTER THAT REQUIRES AN IMMEDIATE RULING OR DETERMINATION RELATED TO THE NOVEMBER 5, 2024 RHODE ISLAND GENERAL ELECTION (VOTES MAY BE TAKEN)

There were no outstanding matters that require an immediate ruling or determination from the Nov. 5, 2024 General Election.

NEW BUSINESS

A. THE BOARD MAY CONVENE FOR THE PURPOSE OF DETERMINING THE DISPOSITION OF PROVISIONAL BALLOTS CAST DURING THE RHODE ISLAND GENERAL ELECTION OF NOVEMBER 5, 2024, IN ACCORDANCE WITH R.I. GEN. LAWS § 17-19-24.3 AND 410-RICR-20-00-13 (VOTES MAY BE TAKEN)

While Ms. T. Bucci and Ms. Madonna worked on reviewing provisional ballots to be presented later in the day to the Board, the Board members began write-in tabulation.

B. THE BOARD MAY TABULATE WRITE-IN VOTES CAST DURING THE RHODE ISLAND GENERAL ELECTION OF NOVEMBER 5, 2024, IN ACCORDANCE WITH R.I. GEN. LAWS § 17-19-31 (VOTES MAY BE TAKEN)

The Board reviewed the write-in results tapes that were provided by Mr. Lima. Several tapes did not correctly print on Election Night. Mr. Lima contacted the state Board of Elections to have them reprinted, and Mr. Rivelli picked them up later in the day while the Board worked through what was on hand. The Board members publicly determined the write-in results with the assistance of the alternate members cross-checking tally sheets.

MOTION: By Mr. Piscopiello and seconded by Ms. Moronta to tabulate and approve all write-in votes by unanimous consent, and transmit the final tallies to the state Board of Elections.

PASSED ROLL CALL VOTE – 3-0 – Mr. Piscopiello, Ms. Moronta, and Mr. McDonough voting aye.

The Board continued write-in tallying throughout the day.

MOTION: By Mr. Piscopiello and seconded by Ms. Moronta to recess at 12:35 p.m.
PASSED ROLL CALL VOTE – 3-0 – Mr. Piscopiello, Ms. Moronta, and Mr. McDonough voting aye.

A. THE BOARD MAY CONVENE FOR THE PURPOSE OF DETERMINING THE DISPOSITION OF PROVISIONAL BALLOTS CAST DURING THE RHODE ISLAND GENERAL ELECTION OF NOVEMBER 5, 2024, IN ACCORDANCE WITH R.I. GEN. LAWS § 17-19-24.3 AND 410-RICR-20-00-13 (VOTES MAY BE TAKEN)
(CONTINUED)

The Board resumed from recess at 2:03 p.m. to proceed with write-in tabulation and provisional ballots. The members chose to adjudicate provisional ballots for Precinct 0701 first, and to then proceed with adjudicating provisionals for any precincts related to Representative District 15 because members of the public and candidates were present for those in particular. The Board would then go back to Precinct 0702 and proceed from there.

The Board reviewed a total of 327 provisional ballots over the next two days. Of those, the Board qualified 60 provisional ballots as full, 10 as federal offices only, 21 as qualified pending no mail ballot being received by the BOE, and disqualified 147 provisionals. The Board also qualified 78 President Only provisional ballots, and disqualified 11 for President Only. Total provisionals ranged from 89 President Only in 0729 and 24 in Precinct 0724, down to just one at Precinct 0710.

Mr. Lima asked the Board to provide discretion to the staff to correct any ministerial issues related to the provisional ballot adjudications which will be verified by our staff and transmitted to the state Board of Elections along with our returns after the Board finishes provisional adjudication tomorrow.

MOTION: By Mr. Piscopiello and seconded by Ms. Moronta to qualify or disqualify all provisional ballots adjudicated by unanimous consent.
PASSED ROLL CALL VOTE – 3-0 – Mr. Piscopiello, Ms. Moronta, and Mr. McDonough voting aye.

MOTION: By Mr. Piscopiello and seconded by Ms. Moronta to authorize the Canvassing Authority staff to make ministerial corrections to the adjudication of provisional ballots that are pending mail ballot receipt determination or have other minor deficiencies or pending items that affect their final disposition, but are unknown at this time.
PASSED ROLL CALL VOTE – 3-0 – Mr. Piscopiello, Ms. Moronta, and Mr. McDonough voting aye.

Mr. McDonough read off each provisional ballot in sequence, and explained the circumstances for each voter. Ms. T. Bucci and Ms. Madonna reviewed each of the provisional ballots with the Board and explained the situations and facts pertaining to each provisional before the Board coming to a determination. If any determinations were not unanimous, the Board would take a formal motion and roll call vote on the individual provisional ballot in question.

Mr. McDonough reviewed the election certificate and discrepancy report for each precinct with the Board and verified the total number of provisionals cast at the precinct prior to adjudicating any provisional ballots for that precinct.

Upon completing provisionals for 0701, the Board moved on to Precincts 0704, 0705, 0709, 0710, and 0711 which were part of Representative District 15 and subject to a likely recount. Maria Bucci and Christopher Paplauskas, the two candidates in the contest, were present. Attorney Mark Hartmann entered himself into the record as

representing Maria Bucci, and attorney Robert Murray entered himself into the record as representing Christopher Paplauskas. Mr. McDonough provided deference to both candidates and their attorneys to allow them to ask questions to the Board throughout the provisional review process.

Mr. Murray asked how many provisionals were in Rep. 15, and Mr. Lima said there were about 43 between the five precincts.

A provisional ballot voter in Precinct 0704, Beth Davis, was listed as having not presented valid photo ID. The Board reviewed the signature on file for the voter, however, Mr. Lima noted there is a note on the discrepancy report regarding this provisional. Discussion ensued. Mr. Lima informed the Board that if the signature on file matches, the Board should approve the provisional. He noted the voter also has until 4 p.m. today to present a valid photo ID in the Canvassing Authority which would qualify their provisional regardless of the Board's action on the signature, per state law and regulations.

Mr. Murray presented an argument to the Board that, in his opinion, a voter who fails to present photo ID and fails to appear by 4 p.m. should be disqualified no matter what. Mr. Lima contended this argument is incorrect, and is counter to how provisional ballots involving photo ID have been adjudicated by local boards of canvassers for years around the state. Mr. Lima argued that the voter has the right to have their provisional ballot counted if they either show photo ID or if the Board believes the signature on file matches the signature on the provisional. Mr. Murray presented a counterargument. Mr. Piscopiello felt there may be extenuating circumstances around this voter that could qualify their provisional. Mr. Murray asked if he could have the ballot ID number for ballots whose disposition was approved based on signature match.

Mr. Lima noted that Board legal counsel Asst. Solicitor David Iglizzi was unable to be present for today's meeting, however he can try to contact another solicitor in the city to advise the Board. Mr. McDonough continued to review other provisional ballots with the Board while Mr. Lima contacted a solicitor.

Mr. Lima provided copies of the Title 17 statute, BOE regulation, and Board of Canvassers provisional ballot adjudication guide to the Board members and both attorneys present. The Board and attendees present reviewed the law and regulation. Mr. Lima read the regulation aloud for provisional ballots lacking photo ID. Mr. Murray argued that if the voter does not have a HAVA ID they should not be allowed to vote. Mr. Lima said he believes Mr. Murray is conflating a HAVA ID with Rhode Island's voter ID statute, which are two separate voter identification processes; Mr. Lima noted the federal law relates to providing a HAVA-compliant ID for registration purposes, and these voters already have provided a HAVA ID, while the state's voter ID statute has different standards related to voting on Election Day that are unrelated to HAVA ID requirements. Mr. Murray said he believes the Board should not count a ballot unless the voter presents a HAVA ID by 4 p.m. the following day. Mr. Hartmann disagreed with this interpretation and argued that if the signature matches, the vote should count, agreeing with Mr. Lima's interpretation.

Mr. McDonough said he appreciated the opinions expressed by both attorneys, however he will await advice from the Board's legal counsel. Mr. Lima and Mr. McDonough discussed the statute, regulation, and guidance and were in agreement on their interpretation.

Mr. Lima was able to reach Asst. Solicitor Christopher Orton via phone. Mr. Orton listened on speakerphone to Mr. McDonough frame the discussion and legal question at hand. Mr. Orton listened to the Board members, Mr. Lima, and to argument presented by both attorneys present representing the two candidates, Mr. Murray and Mr. Hartmann, while Mr. Orton reviewed the statute. A lengthy discussion ensued.

Mr. Hartmann directed Mr. Orton to the BOE regulation on provisional ballots and presented his argument on how he felt it should be interpreted, including factors that may distort signatures. Mr. McDonough noted the guidance document from the state BOE supports Mr. Lima's argument as to the Board's authority to approve a provisional ballot based on signature match.

Mr. Lima noted we also have an affidavit of voter requiring assistance on file for this voter from Election Day, which allows a voter at a polling place who is unable to sign their name or hand-mark a ballot due to a disability have an assistant or bipartisan pair help them. Mr. Lima said in his opinion, that supports the argument that this voter's signature should be accepted and the ballot counted, as the existence of the affidavit establishes the voter has an inconsistent signature. Mr. Murray argued that comparison of signatures should not be allowed in this case because the voter did not present ID.

Ms. T. Bucci said the voter does have a HAVA ID on file. Mr. Lima said that is sufficient to match the voter's signature on file as this voter has provided a HAVA ID. Mr. Murray disagreed. Mr. Lima contended that HAVA refers to voter ID upon a voter's first time registering to vote, whereas the RI voter ID statute is about Election Day in-person voting, and while the two laws may be read in concert, he believes Mr. Murray is conflating the two processes and interpreting them incorrectly. Mr. Lima said he believes the black-and-white letter of the law empowers the Board to decide whether or not to qualify a provisional ballot based on its judgement of whether or not the signatures match.

Mr. Lima argued that for any voter who does not have a valid photo ID, they have a right to cast a provisional ballot under federal law, and they have a right to have that ballot counted as a full ballot under state law if the Board determines that their signature matches their signature on file, which is well-established. Mr. Lima added that he believes the Board has the ability to approve the provisional ballot as well based on the fact that the voter completed an affidavit of voter requiring assistance.

Mr. Orton asked for some time to review the statute and regulation. Mr. Lima noted the Board will continue reviewing other provisionals this afternoon and tomorrow, so we have time for Mr. Orton to conduct legal research and get back to us later to provide the Board with legal advice. Mr. Lima noted adjudications will continue throughout the day tomorrow.

Mr. Hartmann and Mr. Murray asked to see the affidavit of voter requiring assistance, and it was provided for their inspection. Mr. McDonough continued adjudicating provisional ballots with the Board for several precincts.

Mr. Murray noted he may challenge the Board's decision to qualify provisional ballots based on signature match if the voter failed to provide a photo ID by 4 p.m. today. Mr. Lima said if that argument were true, every civic voter group in the state would be up in arms, and in his opinion the state BOE would not support it, as it directly conflicts with the established guidance we've had over the last decade.

Ms. T. Bucci provided the instructions the state BOE provides to voters who fail to provide voter ID at the polling place to Mr. Lima, who shared it with the Board and both attorneys for the candidates present. Mr. Lima noted the instructions as written by the state and provided to provisional voters support his position and not Mr. Murray's.

Mr. Murray noted respectfully that sometimes legal arguments such as this have the potential to make new law. Mr. Hartmann said he believes the regulations are clear and the Board does have discretion. The Board listened to the arguments presented and continued adjudicating provisional ballots and completed those for Rep. Dist. 15, with the exception of Beth Davis which was held until the meeting the following day when the Board receives advice from its legal counsel.

Mr. Lima said the Board will be in session for the next few hours. He informed the two candidates and their legal counsel that the Board's meeting is posted to resume at 9 a.m. tomorrow morning, however, it is likely we won't resume discussion and adjudication of the Rep. Dist. 15 provisional ballots until the afternoon, in order to provide enough time for Board legal counsel to research and respond. He said he has everyone's phone number and will call them once he knows approximately what time tomorrow afternoon we will resume with the outstanding Dist. 15 provisional so they can plan to attend accordingly.

Ms. M. Bucci asked how many Rep. Dist. 15 provisional ballots have been qualified thus far, and Mr. Piscopiello and Mr. Lima confirmed the number was 10. Mr. Lima added that because provisional ballots are secret, we do not know and will never know prior to tabulation by the state BOE how many of those ballots may have votes for Rep. Dist 15, as they could be undervotes or overvotes, however HAVA strictly requires that provisional ballots remain secret while under adjudication to protect the voter's right to cast a secret ballot and so that the knowledge of a vote cast or not cast for a particular candidate cannot influence the adjudication process.

Mr. Murray asked when these are tabulated. Mr. Lima said after the Board completes adjudication tomorrow, Ms. T. Bucci has to enter the dispositions into the system which takes a considerable amount of time, though afterwards, we will transport these to the state BOE where they may be immediately separated from their applications if qualified, and tabulated. Mr. Lima said our deadline to do so is noon on Friday although it may be before or after.

Mr. Murray asked about the process from here. Mr. Lima noted there is no objection process for provisional ballots, although the Board allowed significant leeway to both

legal counsels to participate and ask questions. Mr. Lima said there is an appeal process for decisions of local boards to the state BOE, however given the strict timeline and deadlines for adjudicating provisional ballots, that process may not necessarily apply, as it would require an immediate ruling or stay from the state BOE.

Mr. Murray asked if a recount has been filed. Mr. Lima said he has not been made aware of one yet but he would expect one given the close margin in the contest, and that all Rep. Dist. 15 ballot cases are sealed and stored securely in the vault in that eventuality, kept under chain of custody. He invited the attorneys and candidates present to view the ballots stored in the vault if they chose to. Mr. Murray asked how many there are, and Mr. Lima said there are 30 sealed cases, including 11 from Election Day and 19 from early voting.

Ms. M. Bucci asked why the ballots are here and not at the state BOE. Mr. Lima said that ballots cast at polling locations and early voting are always stored locally, unless requested by the state BOE for a recount or audit. In that case, Mr. Lima said we would utilize a police escort to transfer the sealed cases to the BOE. Upon answering questions from the attorneys and candidates, they all departed the meeting and the Board continued adjudicating provisional ballots for other precincts that would not likely be subject to a recount and did not involve Rep. Dist. 15.

C. DISCUSSION AND REVIEW OF THE CONDUCT OF THE NOVEMBER 5, 2024 RHODE ISLAND GENERAL ELECTION (VOTES MAY BE TAKEN)

The Board held no discussion take place on this agenda item. Ms. Moronta and Mr. Rivelli each had another engagement and needed to leave the meeting a few minutes before adjournment.

ADJOURNMENT (VOTES MAY BE TAKEN)

MOTION: By Mr. Piscopiello and seconded by Mr. McDonough to adjourn.
PASSED UNANIMOUSLY – VOICE VOTE

The meeting was adjourned at 5:06 p.m.

Respectfully Submitted,

Nicholas J. Lima
Registrar / Director of Elections
Cranston Board of Canvassers

APPROVED by the Cranston Board of Canvassers: December 5, 2024