

**R. I. STATE BOARD OF ELECTIONS**  
**MINUTES OF MEETING**  
**April 19, 2012**

The Rhode Island State Board of Elections convened at 3:45 PM at the Rhode Island Board of Elections, a quorum included, Chairman Frank Rego, Commissioners Richard Dubois, William West, and Susan Farmer. Executive Director Robert Kando and Board legal counsel Raymond Marcaccio were also in attendance.

First order of business: Commissioner Farmer moved to approve the minutes for Board of Elections meeting dated 4/3/12 seconded by Commissioner DuBois and passed unanimously.

Next order of business: Appeal filed by Maria Bucci and Michael Sepe, in his capacity as Chair of the Cranston Democratic Party from the Cranston Board of Canvassers decision regarding the residency of Robert Pelletier and its order of March 29, 2012 declaring that he had vacated Cranston Ward 4 as of June 22, 2011.

Mr. Pelletier testified that in 2010, he was elected to the Cranston City Council from Cranston's 4<sup>th</sup> ward, began serving his two year term on January 3, 2011 and resigned his council seat on February 6, 2012. He also testified, that on June 22, 2011 he sold his 4<sup>th</sup> ward home on Laconia Road, but when he could not find affordable housing in the 4<sup>th</sup> ward, moved outside the 4<sup>th</sup> ward to 825 Pontiac Ave, Cranston and then on December 29, 2011 moved to 120 Hope Road, in Cranston's 4<sup>th</sup> ward and filed a new voter registration form, changing his voting address from Laconia Road to Hope Road, and testified that he had always intended to return to the 4<sup>th</sup> ward.

Attorney Brandon Bell requested permission to intervene on behalf of Bruce Saccoccio a ward 4 voter. The Board granted Mr. Bell's request, noting that in a Superior Court action pending before Trial Justice Taft Carter, Mr. Saccoccio was found to have standing. Mr. Bell cross-examined Mr. Pelletier, who acknowledged that he had moved out of the 4<sup>th</sup> ward, and did not actually live in the 4<sup>th</sup> ward on a temporary basis, beginning June 22, 2011, which was less than six months from the date Mr. Pelletier's 2 year city council term began and that the Cranston City Charter declares an office vacant when a ward councilman actually moves out the voting district.

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Attorney Cynthia Fogarty, representing Michael Sepe and Maria Bucci, who was appointed by the Cranston City Council to fill the 4<sup>th</sup> ward council seat after the February, 2012 resignation of Councilman Pelletier, under the charter provision that if a vacancy occurs after six months of the start of a two-year term, the council fills the vacancy inquired about Mr. Pelletier's efforts to find housing after he sold his Laconia Road house and the reason for the sale.

After hearing arguments from the respective parties relating to the language of the Cranston City Charter that requires elected officials to maintain their actual residence in the voting district that they represent, the Board of Elections Attorney Raymond Marcaccio, advised the Board that both the city charter and state law should be read harmoniously whenever possible, but that state law would prevail over any conflicting charter provisions.

Mr. Marcaccio also stated that if the Board considered the charter provision of actual residence to equate with voting domicile, there would be no conflict between charter and state law. He further advised, that the Rhode Island case of Finn v. Bd. Of Canvassers of Central Falls addressed a temporary absence from a voting domicile, similar to Mr. Pelletier's temporary absence from the 4<sup>th</sup> ward, and that the court ruled that a voting domicile is the place to which a person intends to return after a temporary absence.

Commissioner West moved that Mr. Pelletier's voting domicile is in Cranston's 4<sup>th</sup> ward and that his temporary absence did not change his voting domicile, since he intended to return to the 4<sup>th</sup> ward, seconded by Commissioner Farmer and passed unanimously.

At 4:55 PM Commissioner West motion to adjourn was seconded by Commissioner Farmer and passed unanimously.

Andreza Skipworth