Meeting
Board of Election Commissioners
Thursday, September 20, 2012
Levi Lincoln Chamber, City Hall
6:00 p.m.

1. Call to order
2. Pledge of Allegiance
3. Roll Call
4. Acceptance of the minutes of the September 10, 2012 meeting.
5. Old Business:
    a. Secretary of State's response regarding use of recording equipment that may capture private voter data, such as bank account information or social security numbers that may appear on documents used to prove residency.
    b. Scheduling of mandatory poll worker training sessions prior to the election including training stipends, and training expenses and any additional funding requirements.
    c. Status of handicap ramp at 5-3.
6. New Business:
    a. Communication from Clayton L. Williamson, Jr. to the Board of Election Commissioners.
    b. Discussion regarding communication received from City Solicitor regarding roles, responsibility and authority of various entities involved in conducting elections; and rules and regulations regarding conduct in polling places.
    c. Clarification/simplification of, and communication to, the press and to the public regarding rules and regulations surrounding elections with the goal of eliminating confusion at the polls.
    d. Establishing rules, in addition to those set by the Commonwealth, regarding the identification and behavior of observers at polling locations.
    e. Mandatory in-service training of police officers working the elections.
    f. Discussion of ways to improve voter communication regarding how/why a voter becomes "inactive" and how to correct the "inactive" status PRIOR to the election.
    g. Use of checklists and logs by the commissioners and their designees when visiting polling locations and when manning the telephones at the Election Commission office.
    h. Discussion regarding additional Election office staffing for Election Day and long term.
    i. Discussion regarding hiring of additional "back up" wardens and clerks for Election Day.
    j. Discussion regarding possibility of Worcester Police Department conducting formal investigation into specific allegations of voter intimidation at the September 6 primary.

7. Adjournment:

Minutes of Worcester Board of Election Commissioners meeting September 10, 2012

Call to order by Chair Mohieldin at 5:35 p.m.

Pledge of Allegiance

Roll Call

Commissioners present:

Chairperson Diane Mohieldin
Commissioner Mary Anne Dube
Commissioner John Goggins
Commissioner David LaPierre
Commissioner Robert Winant

Commissioners absent:

The first order of business was acceptance of the minutes from July 9, 2012. Commissioner Dube motioned for acceptance and Commissioner Winant seconded the motion. The minutes were unanimously approved.

Old Business:

The first order of old business was a follow up on training of the poll workers. A request was made for clarification of the policy on breaks for poll workers. Mr. Rushford responded that the policy would be clarified in the reminder for the November 6 election.

Another query was made regarding the state the machines used during training. Commissioner Dube and Chair Mohieldin had attended separate training sessions and both affirmed there were no problems with the machines used.

There were no questions from the audience..

New Business:

The first order of new business concerned the role of the city committees in the placement of poll workers. Mr. Rushford was asked to explain the roles. He explained that city committees throughout the Commonwealth have the right to provide lists of potential poll workers in their respective communities. He expressed appreciation for receiving a new list from one of the city committees. Due to the response, there is presently an overabundance of workers available. The

2 city committees will be contacted after the first of the year for new lists to recruit poll workers from.

Because a list had been received from the Republican City Committee, many workers, some of long-standing, had been replaced due to the need to meet statutory requirements for a balance between Democrat and Republican poll workers. Mr. Rushford emphasized that, to the best of his knowledge, all of the workers who were replaced were offered the opportunity to work elsewhere.

Mr. Scott of Worcester addressed the board to inquire why the different parties were allowed to provide workers in polling locations. Mr. Rushford explained that having members of different parties working the polls is to provide balance in the effort to ensure transparency at the polls.

Paul Franco, chair of the Worcester Republican City Committee then addressed the board. He inquired about his responsibilities if people on the list he submitted choose not to serve or are not able to fulfill the duties of a poll worker for one reason or another. Mr. Rushford noted that there is a one-month period prior to the election where substitutions can be made by the city committees. In addition, the committees are welcome to submit more names up to and including election day in case the scheduled workers are unavailable for some reason, such as illness or unexpected situations that come up. Mr. Franco expressed a desire to obtain a master list to help determine what is missing in terms of balance between Democrats and Republicans. He also expressed the desire to include Inspectors in the training.

After Mr. Franco left, an inquiry was made about the feasibility of providing the type of list Mr. Franco had requested as well as including Inspectors in the training. Mr. Rushford responded that both committees had requested such a list and that such lists were a matter of payroll records, which they are not entitled to receive. He does continue to encourage the committees to submit as many names as possible so they can be used for recruiting new workers. As for including Inspectors in the training, they are not required to attend training, while Wardens and Clerks are required to by statute. However, online training in the use of the machines as well as the duties of the Inspectors is available, both from a remote location and at the Election Commission office.

The next item of New Business concerned the possible intimidation of voters by observers during the Primary held on September 6, 2012. City leaders and members of the public were provided the opportunity to speak regarding this issue. The City leaders who spoke were:

1. Mayor Joseph Petty
2. City Manager Michael O'Brien
3. Councilor William Eddy
4. Councilor Sarai Rivera

5. Councilor Frederick Rushton
6. Councilor Philip Palmieri

All the speakers expressed their deep concerns about the allegations of voter intimidations and requested rapid action by the Board to address the allegations and prevent such behavior. City Manager O'Brien offered to provide whatever resources are necessary to help address the issues and has received assurances from the Secretary of State's office they will provide any assistance necessary. Councilor Rivera noted specific incidents that she was directly involved in regarding voter assistance, challenges, and alleged audio recording.

The members of the public who spoke were:

1. Gordon Davis of Worcester
2. Francisco Ojeda of Worcester
3. Sharon Williamson of Worcester
4. Tina Hood of Worcester
5. Donna Winant of Worcester
6. Mannie Gines of Worcester
7. Chris Robarge of Worcester
8. Mary Francois of Worcester
9. David LeBoeuf of Worcester
10. Gloria Zayas of Worcester
11. Kevin Ksen of Worcester
12. David Coyne of Worcester
13. James Savage of Worcester

The speakers focused on the allegations of improper behavior and expressed their concerns regarding such behavior. Specific behaviors cited include:

1. A voter being asked for identification before being asked for an address.
2. Possible intimidation of an observer.
3. An observer photographing a private conversation.
4. Observers interacting with voters and inspectors, using cell phones, and checking IDs.
5. People stationed outside of a polling location telling voters they may need to show identification.
6. Alleged audio recording.
7. Fliers seen around polling locations stating IDs may be required.
8. People being issued provisional ballots when they should have been issued challenge ballots.

In addition there was testimony disputing some of the alleged behavior.

Mr. Robarge also specifically requested the Board entertain the following proposals:

1. Provide enhanced training of poll workers as well as training of Police officers as to their duties and responsibilities.
2. Election officials receive training on rules and regulations.
3. The Election Commission authorize the placement of 2 large signs at polling locations stating the following:
    a. All Eligible Voters Have the Right to Vote Today
    b. A list of all items that are considered proof of residency
4. The names of anyone removed from a polling location by a Police Officer or the City Clerk be submitted by the City of Worcester to the Attorney General's Civil Rights Commission and the City Solicitor's Office to be reviewed and recommended for further action if necessary.

Mr. Savage also provided an affidavit regarding his observations as a poll worker at 50 Murray Avenue. That affidavit is attached.

The next item of new business concerned a discussion regarding handicapped access to the polling location for Ward 5 Precinct 3. Scott Ricker of Worcester spoke to the Board regarding this. He observed that the handicap access ramp is not in compliance with both State and Federal regulations. Mr. Rushford told the Board he was aware of the situation and had been under the impression that the building was undergoing renovation and a new compliant ramp would be a part of that renovation. However, he discovered that the renovation had not taken place as expected. He assured the Board that there would be a compliant ramp at that location for the November election.

The next order of new business concerned clarification of the rules regarding photography in a polling location. Mr. Meduna provided a summary of the rules as follows:

1. Photography is allowed behind the rail as long at it does not take place while the voter is marking the ballot.
2. Videos are permitted as long as there is no audio being recorded with the video.
3. Audio recording is strictly prohibited.

The next order of new business was a discussion of possible parking issues at the Belmont Towers, the polling location for Ward 4 Precinct 3 and Ward 3 Precinct 2. The concern was expressed that there was inadequate parking to handle the expected turnout for the November election. Mr. Rushford noted that a request will be made for an additional officer at that location for the November election to help facilitate traffic movement. Chair Mohieldin also noted that parking is available behind the building and suggested notification be provided to the voters. Mr. Rushford has proposed sending postcards notifying the voters at that location of the various parking options.

Tina Hood, the Warden at 4-3 also noted that there was inadequate signage for the location and several voters had difficulty finding it. Mr. Rushford assured the Board that he would follow up on Ms. Hood's concerns and make sure that adequate signage would be available for the November election.

A concern was raised from a member of the audience (no identification made) regarding parking issues at 50 Murray Avenue. Mr. Rushford assured the Board that the Police Department has provided additional officers to assure adequate movement of cars in and out of the available parking locations.

Commissioner Goggins requested information regarding the rules and regulations for observers. Mr. Rushford provided information regarding what observers are allowed and not allowed to do. Chair Mohieldin requested further information on the correct procedure for an observer to challenge a voter. Mr. Rushford noted that a challenge can only be made for cause, meaning challenges can only be made on the basis of specific criteria and cited an example of a voter stating he/she is a certain person and the observer believes that person is deceased, which is valid grounds for a challenge.

Commissioner Goggins inquired about rules and regulations regarding the possibility of close up photography of documents from a distance, which today's technology allows. His major concern is the possibility of proof of residency being presented by an inactive voter having private confidential information that might be photographed. Mr. Rushford noted the technology has most likely outstripped the laws and regulations and the Secretary of State's office is reviewing the current laws to determine the best way to approach this issue and the Secretary of State's office will be contacted regarding this. Commissioner Goggins requested the Secretary of State's office be contacted to provide a ruling on what level of detail on proof of residence may be photographed from behind the rail. He also requested this ruling be made available prior to the November 6 election to allow enough time to make the poll workers aware of the regulations.

Commissioner LaPierre noted that the major concern appears that enhanced training for the poll workers is necessary and that the City Manager and City Council are willing to step forward with the necessary resources to provide additional training prior to the November election. After a brief discussion Commissioner LaPierre presented the following motion:

There will be 2 mandated training sessions prior to the November 6 election for Wardens, Clerks, and Inspectors with a course outline provided by the Secretary of State to be included and that such training be mandatory for Wardens. Commissioner Winant seconded the motion and it was unanimously approved.

Commissoner Goggins presented a motion that the Commission will not stand for any voter intimidation. Commissioner Dube seconded the motion and it was unanimously accepted.

Commissioner LaPierre presented a motion that all email correspondence regarding the issues brought forth at the meeting between the members of the City Clerk's office, the City Manager's office, City Councilors, and the Secretary of State's office be CC'd to the Board to provide a comprehensive trail of the steps being taken. After some discussion, it was determined there may be a possibility that such action has the potential to violate the Open Meeting Law and Commissioner LaPierre subsequently withdrew the motion.

The discussion then turned to the next meeting. There will be two meetings prior to the November 6 election. The first of the two meetings will be held on September 20, 2012 at 6:00 p.m.

Commissioner Dube made a motion for adjournment and Commissioner LaPierre seconded. The meeting adjourned at 8:10 p.m.

Voter Protection Network

Rcd in EC 9-10-12.

The Voter Protection Network, a coalition of Worcester County organizations, is making the following requests in response to the Election Day events at several polling locations.

1. Request that the Election Commission and the City of Worcester continue to prioritize the pressing need for greater training of poll workers as well as for police officers who work at polling locations.

2. Request that the Election Commission place 2 large signs in the same languages as the ballots at all polling locations stating; "ALL ELEGIBLE VOTERS HAVE A RIGHT TO VOTE TODAY" and a second of the City's official list of acceptable proof of residency.

3. Request the names of anyone that was removed from polling locations by the Worcester Police Department, or asked to leave by the Worcester City Clerk, be submitted by the City of Worcester to the Attorney General's Civil Rights Commission and the City Solicitors Office to be reviewed and recommended for potential sanctions.

Our next meeting:

Voter Protection Network
6:15pm, Wednesday, Sept. 26th
YWCA, 1 Salem Square, Worcester

More Info:

Chris Robarge
ACLU of Massachusetts
crobarge@aclum.org 508/444.2258

In re: Affidavit of James C. Savage III concerning Election of Sept 6, 2012

Rec'd EC 9-12.

Affidavit of James C. Savage III, Election Official Precinct 10-5, Primary Election September 6, 2012

This is my first statement concerning my experiences and the events of the Primary Day. No one has yet read it before you and while my first draft may obviously contain needed grammar type corrections with better sentence structure, it represents the facts with some clear opinions as I saw such. I make this statement with no intention to cause harm to the City Clerk but as an effort to clarify the facts for the Commission and public hereafter. Should I have made a mistake in my vision and hearing I apologize and can be corrected. I have not previously made any public comments although I did speak to one of the Election Commissioners who visited the poll at the end of the day. I have also not written any comments in the Telegram Online news although I have had the opportunity to read most comments seemed to be about an event that did not occur at our polls. As such I will make this statement to report what I saw and heard to the best of my ability and swear such to be true under penalty of perjury.

A few weeks ago I volunteered to serve as an election official and had received the City Clerk/ City Election Official's class the Saturday before the election. In addition, I have taken the opportunity to read the Secretary of State's Election Day Legal Summary along with the applicable statutes and regulations that clearly prescribe the expected conduct for Mass. Elections. This was my first time serving as an Election Official. At the time of the Election I was an Unenrolled voter but previously had been registered as a Republican and before that as a Democrat. It was my understanding that the City was seeking individuals from different parties to be election officials. Regardless of the reports in the paper, I found the day to be very rewarding in seeing people exercise their right to vote.

Several references have been made that such and such is illegal, e.g., it is illegal to take a picture of poll, that video recordings are illegal, etc. One thing I know about pictures is that no one should take a picture of the actual completed ballot. If illegal actions occurred at a poll, then the best evidence would be testimony with video showing the improper actions. The Center for Public Media of Stanford Law School has completed a study of the State Laws concerning Polling Place Photography and notes that they can vary. However, their points were clear in regards to Massachusetts and I note that there is nothing in the Mass. General Laws or Regulations that prohibit the use of video equipment at polling places and further comment that practically everyone has seen videos of people (especially candidates) at the polls.

Their questions with answers answered in regards to Massachusetts are as follows: (1) Question (Q) Can you photograph or video your vote inside the polling station–either a paper ballot or electronic screen? Answer (A) Not after marked: A Massachusetts voter shall not "allow the marking of [his or her] ballot to be seen by any person for any purpose not authorized by law." MA ST 56-25 (available at http://www.mass.gov/legis/laws/mgl/56-25.htm).
(2) (Q) Can you photograph or video yourself voting inside the polling station? (A) Probably: Although a voter is restricted from disclosing the contents of his or her marked ballot, photographing or videotaping the ballot before marking a vote, or the voting process generally does not appear to be restricted. (3) (Q) Can you photograph or video others voting or the working of the polling station from within it? (A) Probably: You may not "hinder, delay or interfere with" a voter, be disorderly, or restrict open and unobstructed access to the polling station, there does not appear to be a restriction on photographing or videotaping the working of a polling station. MA ST 56-29 (http://www.mass.gov/legis/laws/mgl/56-29.htm), MA ST 56-46

(http://www.mass.gov/legis/laws/mgl/56-46.htm), MA ST 54-71 (available at http://www.mass.gov/legis/laws/mgl/54-71.htm). (4) (Q) Can you photograph or video the polling station from outside it? (A) Yes: There does not appear to be any restriction on photography or videotaping a polling place from outside the actual building? (5) (Q) Can you photograph or video people leaving the voting station? (A) Yes: Without delving into rights of publicity, there doesn't appear to be any restriction on photographing or videotaping people leaving the polling place. (6) (Q) Can you ask people questions leaving the polling station and can you video or blog their answers? (A) Yes: There does not appear to be any restriction on interviewing voters as they leave a polling station. Earlier that morning I had reported to work at Precinct 10-2 where I vote and was requested to report to 10-5 which needed additional poll workers. Upon arrival at 10-5, I met the other poll workers including the Warden and Clerk. We were still short one person but learned that she would arrive later. I was assigned duties as an Inspector and we opened the poll at the Murray Avenue City Apartments at the scheduled time. Additionally we learned that there would also be present two (2) observers whom were not introduced to us. One person was Ms. Bonnie Johnson from the Republican Party and the other person I did not know but heard that he was an attorney from the ACLU. The room where voting took place also included Precinct 10-3 on the left side of the room. We were not introduced to those workers and the observers were placed in a position where they could observe both precincts. Our warden assigned Ms. Johnson and the ACLU a central location at the entry of the polls from which they could observe both precincts.

During the day I worked both at the receiving the voters and completed vote stations. I can state that overall the day was overall peaceful and that everyone got to vote at my precinct. I estimate that approximately 75% or greater number of the voters did not speak English but spoke Spanish. Being married to a Hispanic but not speaking Spanish, communications seemed to be smooth to me. At times I worked with Ruthie, a Hispanic lady who spoke fluent Spanish, in receiving the voters. It seemed that almost 99% of the time, we did not have to ask for identification since the voters walked up to us showing us their drivers' licenses. While we did not require a driver's license for identify purposes but could receive it or other documents such their utility bills, I must add that their identification cards assisted me significantly since the spelling on the ID could be matched with the voter's list. In that the accents in pronouncing the names of many voters were not easily understood, the written document made it easy to identify them at either the entry or exit inspection points. In only a couple of instances were any ballots challenged because of lack of identification. Everyone got to vote and in the challenged instances, the Clerk wrote the reasons of the challenge on the back of the ballot before it was casted.

Several legislative candidates had visited the polls to see how things were going and to find out how many voters had showed up. There were no guardrails that kept non-voting people out of the voting area but some people visited the ballot box very briefly. Either the warden did not object or they walked past him. Other than their being in the voting area, I did not witness anything objectionable. Everything seemed friendly.

Sometime prior to lunch, there seemed to be an issue at the entry of our polling area with respect to the other precinct. Since much of that discussion was in Spanish I cannot state precisely what the specific

issues dealt with but it seemed to me that Neighbor to Neighbor volunteers wanted to mark the ballot for one of the Hispanic ladies and there was a question whether the Hispanic lady had properly identified herself for the purpose of receiving a ballot.

Just prior to that Mr. David Rushford, the clerk, had walked into our area and told Ms. Johnson that she had to sit on the other side of me at the Voter Receiving Station. He seemed to be angry and I did not see him speak with our warden prior to that event. He said that she should not be at the entry point for the voters and so she moved. There were a few words between the parties who seemed to have had a prior history. However, I raised my eyebrows when the ACLU observer continued to be at the entry point and was not moved and who had used his cell phone numerous times during the day.

Since the poll workers were told not to communicate with the observers or to use their mobile votes to communicate in the voting area, I did see what I thought was Ms. Johnson using her cell phone camera to take some snapshots when the disturbance between the Neighbor to Neighbor volunteers and the Precinct 10-3 poll workers was taking place. I could tell that Ms. Johnson who was sitting beside me was concerned and wanted to object to something. I told her that she needed to see the warden in that I could not handle that situation. When she went to that point about ten feet from where she had been sitting, there was a crowd congregating with several from Neighbor to Neighbor volunteers (identified by their T-Shirts).

Shortly after that Mr. Rushford came back in with some police and obviously he was angry at Ms. Johnson and she had replied back to him complying and referring to such respectfully as "Sir." That apparently made Mr. Rushford more angry which resulted in Ms. Johnson replying back to him as "Sir." When he came to where she was sitting he was close (perhaps in her space) He wanted her cell phone camera and accused her of taking pictures (for which I understand is permitted in polling places). He then ordered the police to take the phone from her but they did not. She left to go outside apparently very distressed and did not return until a couple of hours later.

I have known Mr. Rushford several years to be a well-respected city officer and presumed that he was a Democrat. Even if he is guilty of the conduct that I state herein, he will still have my respect and understanding along with an agreement that our elections must be above board. We all have a right to be concerned with election fraud and to be ticked off about such if we believe it occurred. What I am saying herein is that the one in charge should first conduct an impartial investigation and then take action. Who are the individuals that reported to him that voters were being kept from voting? What did they say and was it hearsay or rumor or were they eyewitnesses who can swear that their allegations is the truth because of their person knowledge?

Mr. Rushford should have realized that his actions were intended to cause apprehension of harmful or offensive contact to Ms. Johnson. When he got into the personal space of Ms. Johnson and was accusing and threatening her in a very angry manner,--that was not right. When she left the polling location, she was obviously under distress. With such an insulting, abusive and threatening language communication coming from a high official of our government, it was uncomfortable for even us poll workers to witness that action.

This type of conduct did not seem to be representative of Mr. Rushford's reputed character and position of authority. I feel that he owes Ms. Johnson at least an apology for such a confrontational, demeaning and unprofessional personal attack. He clearly made it known that he had already determined the facts in that Ms. Johnson had done some things wrong such as intimidating voters and taking their pictures. I don't know where the City Clerk got his information but he did not ask any of the Election Officers on our side about any facts. Further to the best of my knowledge he did not go through our Chief Election Officer Warden Ruberto (? last name) to resolve any issues.

In my opinion his effort to intimidate Ms. Johnson seemed to be an effort to send her a message that she should not interfere with the way that he had been running elections. While we all share the concern that people should not be intimidated when they seek to vote, I believe that in a public poll that the City Clerk should treat a voting observer with respect, no matter how annoyed he may be based on the wrong information. Nobody likes to be lectured to in front of other citizens especially when they have done nothing wrong. Even if we feel impassioned about a cause, there are ways to go about it. The way the events became disclosed to the public seemed to only attract attention on some facts that were not true. There are ways to go about resolving problems to get things corrected or improved. I was shocked by the tone and the rudeness toward a citizen exercising her right to witness a clean election where eligible people voted and proper assistance was delivered to those requiring help to vote. The way Ms. Johnson was treated by Mr. Rushford who was really angry was that he was going to get his pound of flesh from her while he had a chance. Mr. Rushford may be a great person but it appears that he needs some anger management training and patience to investigate first before flying off the handle.

I can say this without reservation that much of the information reported in inaccurate hearsay. As to allegations of the distribution of fliers encouraging voters not to vote or the purchase of voters is outside my knowledge. If such exists, then the illegal actions should be documented and proper action taken.

Sworn to be true and accurate under penalty of perjury this 10th day of September 2012.

James C. Savage III