

**Board of Election Commissioners Meeting  
Friday, October 25, 2019  
6:00 p.m.  
Levi Lincoln Chamber, City Hall**

**Call to Order by the Chairperson**

**Pledge of Allegiance**

**Roll Call**

**Approval of the Minutes of the September 25<sup>th</sup> Meeting**

**New Business**

- 1. Certifying Donna M. Colorio of 10 Homer Street as a new member of the School Committee for the term expiring December 31, 2019.**
- 2. Discussion regarding a notification to voters about the death of School Committee member Brian A. O'Connell.**
- 3. Communication from the City Solicitor regarding a tie-vote in Municipal Elections.**
- 4. Discussion regarding certification of elections results by the City Clerk.**

**Adjournment:**

**Next Meeting Date:**

Board of Election Commissioners Meeting  
Wednesday, September 25, 2019  
6:30 p.m.  
Levi Lincoln Chamber, City Hall

**Call to Order by the Chairperson VanderSpek**

**Pledge of Allegiance**

**Roll Call**

Present : Commissioner Dufy, Commissioner, McCallum, Commissioner Octave,  
Commissioner Stewart, and Commissioner

**Approval of the Minutes of the August 8<sup>th</sup> Meeting**

**New Business**

1. Drawing of lots for ballot placement in the November 5<sup>th</sup>, 2019 Municipal Election: Mayor,  
City Councilor At-Large, District Councilor and School Committee.

**The following represents the ballot placement for the November 2019, municipal election:**

**MAYOR (1)**

DONNA M. COLORIO – 10 Homer St

OWURAKWAKU POKU SARKODIEH – 32 Randall St

JOSEPH M. PETTY\* – 2 Grove Heights Dr

BILL COLEMAN – 11 Wall St

**COUNCILOR-AT-LARGE (6)**

BILL COLEMAN – 11 Wall St

DONNA M. COLORIO – 10 Homer St

ETEL HAXHIAJ – 4 Englewood Ave

TONY J. ECONOMOU – 69 Darnell Rd

KHRYSTIAN E. KING\* – 9 Victoria Ave

JOSEPH M. PETTY\* – 2 Grove Heights Dr

JESSE G. GIBSON – 36 Gates St

KATE TOOMEY\* – 50 Ideal Rd

GARY ROSEN\* – 11 Herbert Rd

OWURAKWAKU POKU SARKODIEH – 32 Randall St

MORRIS A. BERGMAN\* – 11 Kensington Heights

EVAN CORRIGAN – 11 Arbutus Rd

RALPH A. TISCIONE, JR – 267 Salisbury St

**DISTRICT 1 COUNCILOR (1)**

SEAN M. ROSE\* – 14 Dubiel Dr

**DISTRICT 2 COUNCILOR (1)**

CANDY F. MERO-CARLSON\* – 42 Benedict Rd

**DISTRICT 3 COUNCILOR (1)**

GEORGE J. RUSSELL\* – 30 Dolly Dr

**DISTRICT 4 COUNCILOR (1)**

SARAI RIVERA\* – 7 Lucian St

**DISTRICT 5 COUNCILOR (1)**

MATTHEW E. WALLY\* – 61 Berwick St

JOHNHAYNES BECKLES HONEYCUTT, SR – 54 Parsons Hill Rd

**SCHOOL COMMITTEE (6)**

CHANTEL BETHEA – 2 Meade St

JACK L. FOLEY\* – 6 Winter Hill Dr

JOHN F. MONFREDO\* – 8 Cherokee Rd

MOLLY O. MCCULLOUGH\* – 5 Hockanum Way

DIANNA L. BIANCHERIA\* – 8 Ventura Rd

CARA LISA BERG-POWERS – 18 Townsend St

LAURA CLANCEY – 2 Westport Cir

BRIAN A. O'CONNELL\* – 54 Providence St

MARIAH LIZMARI MARTINEZ – 54 Parsons Hill Rd

TRACY O'CONNELL NOVICK – 135 Olean St

JOHN A. TROBAUGH – 15 Westland St

JERMOH V. KAMARA – 10 Roath St

**\* CANDIDATE FOR RE-ELECTION**

**2. Feedback from the September 10<sup>th</sup> Municipal Preliminary Election.**

There was discussion about worked well during the preliminary election. The turnout was about 8.7% according to Assistant Clerk Vangjeli. iPads seemed to help in terms of limiting calls to the Election Office to assist in identifying voter polling locations. A concern was raised about

poll workers calling in or not showing on the day of the election. A request was made to develop a waiting lists. According to Assistant Clerk, there is a waiting list; however, those on the list are not able to be reached. Additionally, some of the cancellations occur last minute. With that, the Assistant City indicated that efforts will be made to use the list as needed. It was also suggested that the city track call outs and that poll workers with a pattern of absenteeism be prevented from working future elections. According to Assistant City Clerk Vangjeli, the city does typically track poll worker attendance.

There was a discussion regarding the fact there was a tie in the At-Large race which resulted in thirteen candidates making it on the ballot for the November 5<sup>th</sup> election. As there was nothing in the city charter to address a tie, the Clerk's office in conjunction with the City Solicitor, deferred to Massachusetts General Law. A concern was raised regarding the fact that there is no process in place that would address a tie between candidates in elections other than preliminary elections. Reportedly, candidates would need to request a recount as there is no automatic recount in Massachusetts, according to Assistant Clerk Vangjeli. A motion was made to request feedback from the City Solicitor concerning what advice might he offer to the Board of Election Commissioners and the City Clerk in the event of a tie between two candidates in the November election.

**Roll Call: Commissioner Duffy (Yes), Commissioner McCallum (Yes), Commissioner Octave (Yes), Commissioner Stewart (Yes), Commissioner VanderSpek (Yes) –Motion Passes**

There was a concern that the handling of the tie during the preliminary election was settled without input from the Board. There was also a concern that the Board was not involved in the process in which the election results were certified—and that there was no meeting scheduled close enough to the election that would allow for the Board to certify the results. Assistant Clerk Vangjeli agreed to keep this concern in mind going forward and is agreeable to a meeting being held prior to certification. At the same time, there are reported timeframes by which election results need to be certified.

There was additional discussion concerning whether certification of election results is a function of the Clerk's office or a function of the Board of Election Commissioners. In response to this concern, City Clerk Ledoux reported the Clerk's office is agreeable to allowing the Board to involve itself in the certification process. However, City Clerk Ledoux reported the Board would require assistance from Clerk's office and that the timing might be problematic with deadlines around open meeting laws. There is a worry that the certification could be pushed back too far. Assistant City Clerk Vangjeli reported that according to Massachusetts General Law, the City Clerk's signature reflects the official certification of the election results. However, at least one member of the Board did not believe that to be the case and requested documentation to that effect. Assistant City Clerk Vangjeli agreed to provide this to the Board at the next scheduled meeting.

### **3. Feedback from the use of poll pads for voter search and inactive voter procedure on September 10th .**

We had a full roll out if iPads for voter lookup. It seems that overall the use of the iPads was quite effective and should serve the city well in future elections.

### **4. Discussion concerning poll worker training and preparations for the November 5<sup>th</sup> Municipal Election.**

The training for poll workers has been scheduled and was provided. Assistant Clerk Vangieli will be meeting with the vendor to discuss the ballot design and the ballot will go out for printing.

**Next Meeting Date Scheduled: October 23<sup>rd</sup> @ 6:30**

**Adjournment:**

SUMMARY REPORT

CITY OF WORCESTER, MA  
MUNICIPAL ELECTION 11/07/2017  
OFFICIAL RESULTS

RUN DATE:11/14/17 10:28 AM

	VOTES	PERCENT
PRECINCTS COUNTED (OF 50)	50	100.00
REGISTERED VOTERS - TOTAL	106,939	
BALLOTS CAST - TOTAL	16,323	
BALLOTS CAST - BLANK	3	.02
VOTER TURNOUT - TOTAL		15.26
VOTER TURNOUT - BLANK		

**MAYOR**  
(VOTE FOR) 1

JOSEPH M. PETTY	11,119	70.56
KONSTANTINA B. LUKES	4,640	29.44
Total	15,759	
Blank Votes	564	

**COUNCILOR AT LARGE**  
(VOTE FOR) 6

JOSEPH M. PETTY	10,041	16.06
KATE TOOMEY	9,562	15.29
GARY ROSEN	8,977	14.35
KHRYSTIAN E. KING	8,703	13.92
MORRIS A. BERGMAN	8,210	13.13
KONSTANTINA B. LUKES	7,103	11.36
BENJAMIN R. STRAIGHT	5,344	8.55
MICHAEL T. GAFFNEY	4,597	7.35
Total	62,537	
Blank Votes	35,401	

**COUNCILOR DISTRICT 1**  
(VOTE FOR) 1

SEAN M. ROSE	2,576	51.85
EDWARD L. HOYNIHAN	2,392	48.15
Total	4,968	
Blank Votes	301	

**COUNCILOR DISTRICT 2**  
(VOTE FOR) 1

CANDY F. MERO-CARLSON	1,370	100.00
Total	1,370	
Blank Votes	657	

**COUNCILOR DISTRICT 3**  
(VOTE FOR) 1

GEORGE J. RUSSELL	1,802	72.63
DAVIS KWABENA ASARE	679	27.37
Total	2,481	
Blank Votes	185	

**COUNCILOR DISTRICT 4**  
(VOTE FOR) 1

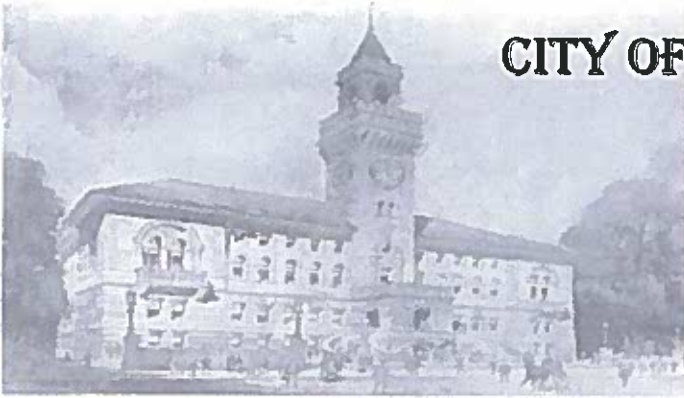
SARAI RIVERA	1,091	77.38
COREEN A. GAFFNEY	319	22.62
Total	1,410	
Blank Votes	70	

**COUNCILOR DISTRICT 5**  
(VOTE FOR) 1

MATTHEW E. WALLY	2,698	58.44
PAUL J. FRANCO	1,919	41.56
Total	4,617	
Blank Votes	264	

**SCHOOL COMMITTEE MEMBER**  
(VOTE FOR) 6

BRIAN A. O'CONNELL	9,097	15.79
JACK L. FOLEY	8,628	14.98
JOHN F. MONFREDO	8,504	14.76
MOLLY O. MCCULLOUGH	8,105	14.07
DANTE A. COMPARETTO	7,906	13.73
DIANNA L. BIANCHERIA	7,824	13.58
DONNA H. COLDRIO	7,534	13.08
Total	57,598	
Blank Votes	40,340	



**CITY OF WORCESTER, MASSACHUSETTS  
CITY CLERK DEPARTMENT**

**Susan M. Ledoux, City Clerk**

**Stephen A.J. Pottle, Assistant City Clerk**

**Niko Vangjeli, Assistant City Clerk**

**NOV. 5<sup>TH</sup> MUNICIPAL ELECTION  
DECEASED CANDIDATE NOTICE**

Please be advised that the following candidate is  
deceased:

**BRIAN A. O'CONNELL  
54 PROVIDENCE ST  
SCHOOL COMMITTEE**

Please note that the name of the deceased candidate is  
on the ballot and cannot be removed. Any votes cast for  
the candidate will be considered a tribute vote.

The candidate cannot be elected.

Any voter who has already cast an absentee ballot may  
request a new one by making a written request to the  
Worcester Election Commission.

If you have any questions please contact the  
Worcester Election Office at 508-799-1134 or  
[elections@worcesterma.gov](mailto:elections@worcesterma.gov).



**CITY OF WORCESTER, MASSACHUSETTS**  
Law Department

David M. Moore  
City Solicitor

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**To:** Board of Election Commissioners  
**From:** David M. Moore, City Solicitor  
**Date:** October 11, 2019  
**Re:** Request of the Election Commission – Tied Vote

In response to the request of the Commission for a legal opinion addressing the issue of tie-votes, please be advised as follows.

In particular, the Commission expressed concern about the possibility that two or more candidates receiving an equal number of votes Board in a final election. Even though this occurrence is a statistical rarity, in the September 10<sup>th</sup> preliminary election two candidates for nomination to the councilor-at-large ballot did receive an equal number of votes. However, that result produced a tie-vote for the twelfth and last place on the nomination ballot. That tie-vote was resolved under a General Law that applies only to tie-votes for the last qualifying spot for nomination to an office that contains multiple at-large positions, see G.L. c. 43 § 44(f). The tie-vote in the preliminary election raises the concern about the procedure the Commission might follow in the event of a tie-vote in the general election next month.

The usual legal sources, the city charter and state election law, fail to provide any guidance on this issue. The city charter simply does not address this possibility. A state election law, G.L. c.50 § 2, in describing the results of elections, says only that “persons receiving the same number of votes shall not be deemed to be elected.” How to break the tie and determine who *is* deemed elected is left unstated. This statute indicates only that the Election Commission has no legal authority to issue a certificate of election (see city charter § 9-7) to multiple candidates who received an equal number of votes for one office.

This leads to the conclusion that either the city charter or state election laws could be amended so as to include some method for breaking tie-votes. A review of the laws of other states provides some alternative methods of breaking tie-votes. Those methods include: 1) mandatory recounts; 2) drawing lots or a coin toss; 3) a run-off election; and, 4) empowering a state or city official or body to decide.



1. **Mandatory Recount.** Although it nearly a certainty that each candidate joined by the tie votes would request a recount, in the event neither did so, then the Commission should have legal authority to initiate a recount in order to break a tie. This procedure is used in Alaska. See Dodge v. Meyer, 444 P.3d 159 n.2 (2019). AS 15.15.460 provides: “If two or more candidates tie in having the highest number of votes ... [t]he director shall immediately proceed with the recount of votes ....”

2. **By Chance (Drawing lots or a coin toss).**

When the election commission, after a recount, declared that two candidates for the final at-large city council seat received the same number of votes, “the chairman of the board of elections **flipped a coin** to break the tie and declared Taft the winner.” Taft v. Cuyahoga County Board of Elections, 110 Ohio St.3d 471 (2006). Ohio law provides: “such tie shall be resolved by lot by the chairman of the board.” Ohio Revised Code §3505.33. In Illinois, see also Graham v. Reid, 334 Ill.App.3d 1017 (2002)(The state board of elections broke the tie by lot.”). In Pennsylvania, see Dayhoff v. Weaver, 808 A.2d 1002 (2002).

3. **Hold a run-off election with only the names of the two tied candidates**

Missouri, Reed v. Brown, 706 S.W.2d 866 (1986)(runoff election ordered by judge pursuant to state statute). Unsuccessful candidate for city council petitioned court for recount after tie had been declared and city council had chosen winner. Recount showed candidates had received equal numbers of votes. The lower court entered judgment ordering special runoff election to be held, and candidate chosen by the city council appealed. The Missouri Supreme Court held that statute providing for resolution of ties by vote of the city council had been repealed by implication of special election statute.

4. **Empower a state or city official or body to decide.** Several states At least one state, Ohio, requires an election commission, once they determine that there is a tie vote, to “submit to the secretary of state to break the tie and decide the question.” Ohio R.C. 3501.11(X). Ohio law states that the decision of the secretary “shall be final.” However, the Ohio Supreme Court has recently ruled that the secretary’s decision is subject to judicial review “to determine whether the Secretary of State engaged in fraud, corruption, abuse of discretion, or clear disregard of statutes or applicable legal provisions.” State ex rel. Emhoff v. Medina Cty. Bd. of Elections, 153 Ohio St.3d 313 (2018).

This is not an exhaustive list generated from a survey of every state. It is intended to provide examples of the various methods of breaking ties in elections actually used among the several states.

Lastly, it should be kept in mind that these options all require legislation from the General Court. This is important, not only to give legal authority to implement any particular tie-breaking method, but also to recognize that legislative action is generally time-consuming, especially if the proposed law would apply statewide.

Sincerely,

A handwritten signature in black ink that reads "David M. Moore". The signature is written in a cursive style with a large, stylized initial "D".

David M. Moore  
City Solicitor

cc: Edward M. Augustus, Jr., City Manager

**The Commonwealth of Massachusetts  
William Francis Galvin, Secretary of the Commonwealth  
Elections Division**

Return of Votes - STATE ELECTION November 06, 2018

**WORCESTER**

Total Number of Persons Who Voted in the  
STATE ELECTION 49715

\*\*\*\*\* ATTENTION CLERK : SIGN AND RETURN AT ONCE \*\*\*\*\*  
\*\*\*\*\*

I certify that all ballots cast for candidates  
in the STATE ELECTION held on November 06, 2018  
have been counted and recorded in accordance with the law,  
and that the following return of votes is correct

Clerk: 

\*\*\*\*\* METHOD OF RECORDING VOTES \*\*\*\*\*  
\*\*\*\*\*

Record the number of votes for each listed candidate and for each write-in or sticker candidate. The space between the last candidate's name and the designation 'All Others' is to be used to record the names, addresses (if known) and votes of any write-ins. Also, record the number of votes for No Preference and Blanks. The total vote for each office is the sum of votes for listed candidates, write-ins and blanks. The total vote should be equal to the number of people who voted in the STATE ELECTION  
Do not send results of ward or town committee candidates to this office.

\*\*\*\*\* IMPORTANT : DO NOT SEPARATE SHEETS \*\*\*\*\*  
\*\*\*\*\*

THE COMMONWEALTH OF MASSACHUSETTS

OFFICE OF THE SECRETARY

TOWN OFFICERS ELECTED

City  
~~Town~~ of Worcester

*full copy*

In accordance with the requirements of the General Laws, I certify that the following persons were elected to town officers at the annual town election held on November 3, 1987  
(date of election)

Town Clerk

Return immediately after town election to the Executive Secretary to Election Comsn. Division, Room 1705, McCormack Building, 1 Ashburton Place, Boston, MA 02108.

OFFICE	NAME	TERM EXPIRES
Mayor	Jordan Levy	December 31, 1989
Councillor At Large	Jordan Levy	"
"	Thomas J. Early	"
"	John B. Anderson	"
"	Timothy J. Cooney, Jr.	"
"	Arthur E. Chase	"
"	Raymond V. Mariano	"
District Councillor #1	David P. Forsberg	"
District Councillor #2	Richard A. Bonofiglio	"
District Councillor #3	Paul P. Clancy, Jr.	"
District Councillor #4	Janice L. Nadeau	"
District Councillor #5	Raymond F. McGrath	"
School Committee Member	John F. Doherty	"
"	James M. Rafferty 3rd	"
"	Brian A. O'Connell	"
"	Edmund J. Tierney	"
"	S. Gary Rosen	"
"	Stephen E. Mills	"

The Commonwealth of Massachusetts  
Office of the Secretary of State

NUMBER OF REGISTERED VOTERS

~~Town~~ of Worcester  
City

In accordance with the requirements of the General Laws, we certify that  
at the close of registration on October 14, 1987, the  
date of close of registration

number of registered voters was as follows:

Precinct	Registered Voters	Precinct	Registered Voters
1-1	1539	1-2	1962
1-3	1148	1-4	1966
1-5	1561	2-1	869
2-2	1203	2-3	1032
2-4	910	2-5	989
2-6	1067	2-7	930
2-8	1174	3-1	647
3-2	790	3-3	1063
3-4	926	3-5	721
3-6	798	3-7	259
<del>Total</del> 3-8	1105	4-1	1135

*[Handwritten Signature]*  
Town Clerk  
of Worcester

The Commonwealth of Massachusetts  
Office of the Secretary of State

NUMBER OF REGISTERED VOTERS

~~Town~~ of Worcester  
City

In accordance with the requirements of the General Laws, we certify that  
at the close of registration on October 14, 1987, the  
date of close of registration

number of registered voters was as follows:

Precinct	Registered Voters	Precinct	Registered Voters
4-2	1673	4-3	788
4-4	1743	4-5	1864
5-1	956	5-2	962
5-3	1226	5-4	1186
5-5	1041	5-6	843
5-7	1130	6-1	1464
6-2	1065	6-3	1144
6-4	761	6-5	1566
7-1	811	7-2	776
7-3	1046	7-4	930
<del>XXXXX</del> 7-5	1210	7-6	1083

~~Town Clerk~~ *[Signature]*  
of *[Signature]*

The Commonwealth of Massachusetts  
Office of the Secretary of State

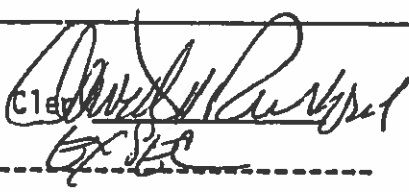
NUMBER OF REGISTERED VOTERS

~~Town~~ of WORCESTER  
City

In accordance with the requirements of the General Laws, we certify that  
at the close of registration on October 14, 1987, the  
date of close of registration

number of registered voters was as follows:

Precinct	Registered Voters	Precinct	Registered Voters
7-7	961	7-8	937
8-1	418	8-2	510
8-3	710	8-4	899
8-5	536	8-6	734
8-7	280	8-8	1092
9-1	766	9-2	1076
9-3	982	9-4	978
9-5	884	9-6	884
9-7	1145	9-8	1020
9-9	1155	10-1	747
<del>9-10</del> 10-2	636	10-3	531

Town Clerk 



THE COMMONWEALTH OF MASSACHUSETTS  
Office of the Secretary of State

NUMBER OF PEOPLE WHO VOTED

~~Town~~ of Worcester  
City

In accordance with the requirements of the General Laws, I  
certify that the number of people who voted in the Town/State  
election held on November 3, 1987 was as follows:  
(date of election)

TOTAL NUMBER OF PEOPLE WHO VOTED IN EACH PRECINCT

precinct	NUMBER OF VOTERS	Precinct	NUMBER OF VOTERS
1-1	897	1-2	1238
1-3	725	1-4	1225
1-5	880	2-1	445
2-2	645	2-3	576
2-4	468	2-5	566
2-6	577	2-7	469
2-8	678	3-1	297
3-2	338	3-3	674
3-4	472	3-5	322
3-6	336	3-7	40
3-8	611	4-1	640
total 4-2	957	4-3	320

Town Clerk of David R. Ruffalo  
ESB

Please return within 15 days after the local election to the Secretary of State, Elections  
Division, Room 1705, 1 Ashburton Place, Boston, MA 02108.

THE COMMONWEALTH OF MASSACHUSETTS  
Office of the Secretary of State

NUMBER OF PEOPLE WHO VOTED

Town of Worcester  
City

In accordance with the requirements of the General Laws, I  
certify that the number of people who voted in the Town/State  
election held on November 3, 1987 was as follows:  
(date of election)

TOTAL NUMBER OF PEOPLE WHO VOTED IN EACH PRECINCT

Precinct	NUMBER OF VOTERS	Precinct	NUMBER OF VOTERS
4-4	966	4-5	1035
5-1	541	5-2	542
5-3	724	5-4	667
5-5	566	5-6	464
5-7	672	6-1	721
6-2	538	6-3	584
6-4	380	6-5	894
7-1	430	7-2	427
7-3	592	7-4	559
7-5	717	7-6	704
7-7	547	7-8	427
Total 8-1	160	8-2	236

Town Clerk of David R. Quigley  
EP Sec

Please return within 15 days after the local election to the Secretary of State, Elections  
Division, Room 1705, 1 Ashburton Place, Boston, MA 02108.

Office of the Secretary of State

NUMBER OF PEOPLE WHO VOTED

Town of Worcester  
~~City~~

In accordance with the requirements of the General Laws, I  
 certify that the number of people who voted in the Town/State  
 election held on November 3, 1987 was as follows:  
 (date of election)

TOTAL NUMBER OF PEOPLE WHO VOTED IN EACH PRECINCT

precinct	NUMBER OF VOTERS	Precinct	NUMBER OF VOTERS
8-3	402	8-4	480
8-5	300	8-6	395
8-7	135	8-8	668
9-1	466	9-2	637
9-3	674	9-4	642
9-5	527	9-6	533
9-7	752	9-8	669
9-9	749	10-1	327
10-2	330	10-3	212
10-4	319	10-5	278
10-6	321	10-7	363
<del>total</del>		Total	38,668

Town Clerk of David R. [Signature]  
 [Signature]

Please return within 15 days after the local election to the Secretary of State, Elections  
 Division, Room 1705, 1 Ashburton Place, Boston, MA 02108.

The Commonwealth of Massachusetts  
Office of the Secretary of State

NUMBER OF REGISTERED VOTERS

~~Town~~ of Worcester

City

In accordance with the requirements of the General Laws, we certify that  
at the close of registration on October 14, 1987, the  
date of close of registration, the

number of registered voters was as follows:

Precinct	Registered Voters	Precinct	Registered Voters
10-4	744	10-5	524
10-6	617	10-7	661
<b>Total</b>		All Precincts	69,489

Town Clerk