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**BOARD OF REGISTRARS OF VOTERS  
OF THE CITY OF BEVERLY**

2022 SEP 27 A 9:35

Recount of September 6, 2022 Election for Representative in General Court, Sixth Essex District  
City Hall, City Council Chambers – September 16, 2022 10:30 a.m.

Present: Michael M. Murphy, Robert L. Pierce, Jr., and David J. Lang (collectively, the “Board”); also present City Clerk Lisa Kent; Assistant City Clerk Christine Dixon; Assistant City Solicitor Beth Oldmixon; Special Counsel Lauren Goldberg and Devan Braun, KP Law, P.C.; Petitioner Ty Vitale, his Attorney Michael Walsh, and observers; recount workers; Police Captain Devlin; and observers.

Absent: None.

Opening and Procedures: Prior to opening the meeting, at approximately 10:32 a.m., all necessary parties go to the vault to bring the ballots out to the recount area, including Attorney Walsh, Special Counsel, Registrar Murphy, Assistant City Solicitor, and Police Captain. The Police Captain and a recount worker transport the ballots to the recount area. After being brought to the area, the Registrars (and Attorney Walsh) confirm the seal numbers on the ballot boxes for Ward 4, Precinct 1 (“4-1”) and Ward 4, Precinct 2 (“4-2”).

At approximately 10:37 a.m., the meeting is called to order and the City Clerk swears in all election recount workers.

Special Counsel Lauren Goldberg, KP Law, explains the process for the recount. Ballots would be distributed from the two precincts to the three tables of tally clerks for counting, with one recount worker being the reader and one recount worker being the recorder. The observers would stand in one place and could object to the vote as called at the table, which would be brought up to the registrars for a decision. The observers could not ask questions of the recount workers, but could raise their hands and object if there was an issue. The runner would bring the tally sheets and block of envelopes up to the Assistant City Clerk inputting the total tallies, who would keep track of all votes for the precincts and blocks in a master spreadsheet. The legal standard being applied was whether the reader could ascertain with reasonable certainty the will of the voter, and the vote would be recorded as such, unless there was an objection. For write-ins, it was explained that not writing an address with the name of the candidate would not invalidate the write-in vote. The process for protesting ballots before the registrars was also explained. Special Counsel affords an opportunity for questions from the petitioner and his observers, recount workers, and the general public.

The seals from the three precinct ballot boxes are broken (4-1: Seal #0717493 and #0717494; 4-1: Seal #0717451 and #0717452), and the ballots from each precinct are counted into blocks of 50. The election workers began sorting the ballot envelop blocks by precinct in the presence of the petitioners and observers. No objections to the process are made.

Prior to the counting of ballots, Attorney Walsh addresses the Board. He explains that he intends to make a standing objection to an entire category of ballots in which the bubble next to the write-in candidate's name was filled in, but no name was written next to it, on the basis that the sticker with the write-in candidate's name may have fallen off in the machine. Although the law does not currently allow the counting of such ballots, he would like to preserve the objections for court.

Registrar Murphy indicates that he would like to see each ballot, and the entire Board agrees. For efficiency purposes, it is agreed that if there are several categories of these objected-to ballots, they can go at the back of the ballot pile and be argued at one time before the Board, with them seeing each individual ballot and ruling on each one. Because there was not a significant number of these ballots, however, it was determined that each individual ballot may be brought up unless the counting is slowed down. No objections were made.

Counting of Ballots: At 11:30 a.m., the recounting of the ballots begins.

***Objection #1: 4-1, Block 1 ballot was called as a blank at the table.***

***Objection # 2: 4-1, Block 1 ballot was called as a blank at the table.***

As to both ballots (which had the oval filled in but no name written-in), Attorney Walsh argues that a voter who wants to throw away their vote knows how to do so – by writing in a fictitious candidate like Fred Flintstone or Darth Vader. But someone who would like to vote and capture the attention of the machine would fill in the bubble. It is their position that the sticker was next to the bubble but fell off in the machine, because Candidate Ty Vitale had approximately 500 stickers out there. For all such reasons, the ballots should be counted as a vote for Vitale.

Registrar Murphy moves to count the two ballots as a blank; seconded. Vote: 3-0-0.

The ballots are further protested by Attorney Walsh.

***Objection # 3: 4-2, Block 2 ballot was called as a write-in for Vin Taylor.***

Attorney Walsh argues that if a voter was outside the polls and asking someone who they should vote for and the individual said Ty Vitale in passing, and the voter went into the polls and was trying to remember the name, they may have stated Vin Taylor. The names sound sufficiently similar and the voter may have miswrote it but intended to vote for Ty Vitale, so the vote should be counted for Vitale.

Registrars deliberate stating that it is clearly written as a vote for Vin Taylor, and move to record it as a write-in for Vin Taylor; seconded. Vote: 3-0-0.

The ballot is further protested by Attorney Walsh.

***Objections #4-7: 4-1, Block 2 (four ballots)***

These four ballots had the oval filled in but no name written-in next to it. Attorney Walsh incorporates by reference his prior argument regarding the stickers and the ovals filled in as being counted for Ty Vitale.

Registrars discuss counting the ballots in a consistent manner as before, and Registrar Murphy moves to record the votes as blanks; seconded. Vote: 3-0-0.

The ballots are further protested by Attorney Walsh.

***Objections #8-9: 4-2, Block 4 (two ballots)***

These ballots had the oval filled in but no name written-in next to it. Attorney Walsh incorporates by reference his prior argument regarding the stickers and the ovals filled in as being counted for Ty Vitale.

Registrars move to record the ballots in the same manner, as blanks; seconded. Vote: 3-0-0.

The ballots are further protested by Attorney Walsh.

***Objections #10-18: 4-2, Block 2 (nine ballots)***

These ballots had the oval filled in but no name written-in next to it. Attorney Walsh incorporates by reference his prior argument regarding the stickers and the ovals filled in as being counted for Ty Vitale.

Registrars move to record the ballots in the same manner, as blanks; seconded. Vote: 3-0-0.

The ballots are further protested by Attorney Walsh.

Other election materials: After the ballots are recounted, Special Counsel explains the next steps in the process, including the opportunity to examine ballots rejected as defective and various other election materials. The City Clerk would explain the reasons as to why certain ballots were rejected as defective, and the Board would vote to uphold or reverse the City Clerk Office's decisions on those ballots.

1. Ballots Rejected as Defective: For 4-1, one ballot was rejected because it had no inner envelope and was a loose ballot, while two were rejected because they were returned after the election, for a total of three ballots rejected as defective. For 4-2, two ballots were received too late and four were rejected because the voters did not sign the inner envelope.

The Board moved to confirm the actions taken by the City Clerk with respect to all ballots rejected as defective for the reasons stated by the City Clerk; seconded. Vote:

3-0-0. The rejected ballots were then signed with a statement of the reasons for rejection by the Board.

Special Counsel asks if the petitioner would like to see any other election materials. Petitioner declines.

The master tally sheet is updated by the Assistant City Clerk and the results are read into the record by the Board. The Board certifies the results of the election for Ward 4, Precincts 1 and 2, as determined at the recount dated September 16, 2022, as follows:

**September 6, 2022 STATE PRIMARY RECOUNT**

**TALLY SHEET - REPUBLICAN**

REPRESENTATIVE IN GENERAL COURT SIXTH ESSEX DISTRICT	4-1 Block 1 Total	4-1 Block 2 Total	4-1 Total	4-2 Block 1 Total	4-2 Block 2 Total	4-2 Block 3 Total	4-2 Block 4 Total	4-2 Total	Vote Total
Ty Vitale	5		5			8	4	12	17
Blank	43	31	74	50	49	40	14	153	227
WI-Todd Martyn	1		1					0	1
WI-Thomas Loverro	1		1					0	1
WI-Vin Taylor			0		1			1	1
WI-Sharlyne Woodbary			0			1		1	1
WI-Jerald Parisella			0			1		1	1
WI-			0					0	0
WI-			0					0	0
WI-			0					0	0
WI-			0					0	0
WI-			0					0	0
WI-			0					0	0
WI-			0					0	0
WI-			0					0	0
WI-			0					0	0
WI-			0					0	0
WI-			0					0	0
WI-			0					0	0
WI-			0					0	0
WI-			0					0	0
WI-			0					0	0
WI-			0					0	0
TOTAL	50	31	81	50	50	50	18	168	249

The Board moved to dissolve the meeting; seconded; all in favor. The ballot boxes are resealed by the City Clerk, in the presence of Special Counsel and the Police Captain, and transported to the vault (4-1: Seal #0717444 and #0717447; 4-2: Seal #0717445 and #0717448). The protested ballots are sealed separately in the same manner, signed by the City Clerk and the Police Captain (Seal #0717454), and are stored in the Clerk’s office in a secure location.