

TOWN OF PROVINCETOWN

Board of Registrars

MEETING MINUTES OF

July 29, 2014

MEETING HELD IN THE JUDGE WELSH ROOM

TOWN HALL

260 COMMERCIAL STREET

Members Present: Doug Johnstone, Olive Ahmuty, Marianne Clements, Dick Caouette.

Members Absent: None.

Doug Johnstone called the meeting to order at 4:30 pm, and noted that the sole purpose of today's meeting was to hold a hearing on a sworn complaint filed by Mr. Stephen McGovern pursuant to the provisions of G.L. c.51, §§48 stating that he has reason to believe and does believe that Mr. Mark Hatch has been illegally or incorrectly registered in the Town of Provincetown, Massachusetts, and giving the reasons for such belief.

Johnstone noted those in attendance at the hearing: the Board of Registrars, the Complainant Stephen McGovern, the Respondent Mark Hatch, and Attorney Brian Reilly from the law firm of Kopelman & Paige, Town Counsel.

Johnstone reviewed the provisions of MGL Chapter 51, sections 47, 48, highlighting that the purpose of the meeting is to hold a hearing on a sworn complaint alleging that a voter is illegally or incorrectly registered, and examine evidence to determine if that person is properly registered and a qualified voter, and reviewed the process for voter registration challenges, highlighting the following sections from the Residence for Voting Purposes, produced by the Elections Division in 1997 and created as a guide for registrars:

- Residence is defined as the "center of social, civil and domestic life" for the individual;
- There is no satisfactory brief definition of 'residence'. The concept of 'residence' is dependent upon facts of each particular case;
- To prove that they are residents for the purposes of voter registration the citizens need only swear to the fact by signing an affidavit of registration. Officials may ask no further questions at the time of registration;
- The challenger bears the burden to prove that the voter is not properly registered.

As such, the role of the Board of Registrars is to simply review and weigh the evidence presented in order to make a determination. The complainant and the person complained of may be represented by counsel, and all witnesses may be cross examined. Johnstone reminded the Registrars that their role is an important one and not to be taken lightly since voting is a civil right guaranteed by the U.S. Constitution and we, as Registrars, may be held individually liable if found that we stripped someone of their voting rights arbitrarily or without merit.

The Complainant, Stephen McGovern is sworn in.

The Respondent, Mark Hatch is sworn in.

The sworn complaint by Stephen McGovern, received on June 26, 2014, and additional information submitted by Stephen McGovern on July 3, 2014 was reviewed by the Registrars prior to the testimony of the Complainant. Evidence in the complaint consisted of the following: a copy of the voter's Facebook page listing his residence as Lynn, Massachusetts; a copy of the property record card from the Assessor's Office for the voter's Provincetown property address with a mailing address of Lynn, Massachusetts; property record information on several properties in Lynn, Massachusetts; an obituary for the voter's father, who died in 2010; a copy of the voter's Lynn, Massachusetts voter registration status; and a copy of the voter's Lynn, Massachusetts property tax records.

Complainant Stephen McGovern read from a prepared statement citing his reasons for submitting his complaint, which in summary included the voter's Facebook page listing Lynn, Massachusetts as his residence, the fact that the voter teaches at North Shore Community College, is the owner of a tattoo business in Salem, Massachusetts, and that the property record card for the voter's Provincetown address at 30A Bangs Street has a mailing address to property owned by the voter in Lynn, Massachusetts. Complainant maintains that any address provided on voter motor vehicle information by the voter should not be a factor in consideration of where the voter actually resides, and stated that he felt the only reason the voter changed his voter registration from Lynn, Massachusetts to Provincetown was to become a member of the Provincetown Finance Committee. Complainant claims that Lynn, Massachusetts is the center of the voter's social, civil and domestic life based on the evidence he has submitted.

The Board of Registrars reviewed evidence provided in advance of the hearing by Mark Hatch, the respondent, and prior to his testimony. Johnstone noted to the Registrars that the Respondent was under no obligation to respond to the initial complaint but was forthcoming in providing evidence of his residence here in Provincetown at the time he received the initial complaint against him, which consisted of the following: a copy of the Respondent's 2013 Federal Income Tax filing with his Provincetown address; a copy of his Driver's License with his Provincetown address; a copy of his car registration showing his Provincetown address; a copy of a credit card bill with his Provincetown address; a letter from Provincetown Parking Clerk Patricia Benatti stating that he received a Provincetown Resident Parking Permit in accordance with Provincetown Parking Regulations; a statement prepared by the Town Clerk showing attendance at all three nights of the April 2014 Special and Annual Town Meetings; a letter from Charter Enforcement Commission Chair Julia Perry stating that he was an appointed member of the Commission in good standing; a letter from the Town Manager Search Committee Chair stating that he was member in good standing on the Committee; a memo from the Finance Committee Chair stating that he is a member in good standing on the Committee; a copy of his original voter registration form to become registered in Provincetown; and a copy of a Facebook dialogue thread between the Complainant and others in regard to the Respondents residency.

Respondent Mark Hatch claimed that the complaint is politically motivated and not based on correct facts. The respondent testified that he became a registered voter in the Town of Provincetown in October 2013, and in the month of October 2013 he was appointed to the Charter Enforcement Commission. In January 2014 he was appointed to the Town Manager

Search Committee, and was not appointed to the Finance Committee until May, 2014, to show that he did not change his voter registration from Lynn, Massachusetts to Provincetown to become a member of the Finance Committee as was claimed by the Complainant. The Respondent stated that as his life changed his priorities changed and as he slowly absorbed into the life of the Town he became more active both socially and with issues facing the Town and decided to make Provincetown his home and become more involved in the community as evidenced by his willingness to serve on Town Boards. The Respondent stated that his business is in actuality a virtual company, with an address in Cambridge, Massachusetts which is shared office space so that a physical mailing and delivery address is available when needed for business purposes, and that proximity is not a factor for his work and that he can work from any location. The Respondent testified that he has been a professor at North Shore Community College for several decades and his teaching schedule is confined to Thursday evening classes and some summer sessions. Based on his years at the college the Respondent stated that is able to set his own schedule, minimizing his time away, and that he maintains ties to the College because he cares about their mission and feels he still has much to offer. The Respondent testified that he purchased a Tattoo shop in Salem to take advantage of tax advantages for opening new businesses available at the time of purchase, that he purchased the business for his boyfriend, who is a tattoo artist, and that his involvement in the business is financial only in that he provided the capital, but that he is not involved in day to day operations. The Respondent stated that his life is centered in Provincetown, as further evidenced by his involvement in three Town Boards since becoming a registered voter in October 2013. The Respondent also cited frequent attendance at Provincetown Board of Selectmen meetings, and speaking to specific warrant articles and attending all three nights of Town Meeting held in April 2014. The Respondent also stated that he is interested in purchasing another property in Provincetown. The Respondent did not feel including his father's obituary notice as evidence by the Complainant was relevant since his father died in 2010 and only reveals the facts as they existed at that time in 2010 and are not pertinent to his situation now. The Respondent addressed the property he owns in Lynn, Massachusetts and stated that the house his mother lives in is a legal two family home with his aunt living in one unit to care for her sister, the Respondents mother, and the other property, which he has owned for many years, he keeps vacant to use as needed when traveling or visiting family as he finds it convenient to do so given its proximity to Logan Airport and other family members in the area. The Respondent concluded his testimony by stating that he cares deeply about Provincetown and that it is his home.

The Complainant was afforded the opportunity to question the Respondent. The Complainant did not have any questions for the Respondent, but wanted to clarify that he submitted the obituary from 2010 for the Respondent's father in order to show that the Respondent had family ties to Lynn, Massachusetts.

The Respondent had no questions for the Complainant.

The Board of Registrars then asked the Respondent to explain why he had a Lynn, Massachusetts mailing address on his current 30B Bangs Street, Provincetown Property Record Card on file in the Provincetown Assessor's Office. Respondent explained that he didn't realize he had to make the change of address in the Assessor's Office until he saw his property card as evidence in the complaint. He said he considered making the address change in the Assessor's Office prior to

today's hearing but thought that may be considered suspect if done after receiving the complaint and prior to today's hearing.

The Board had no further questions and closed the hearing and voted to begin deliberation.

Registrar Johnstone expressed that he did not feel the evidence revealed that the Respondent was incorrectly registered. He felt the Respondent's answer to why there was a Lynn, Massachusetts mailing address on his Provincetown property record card was plausible and relayed anecdotal information in his position as Town Clerk that it is not an uncommon occurrence for newly register voters to believe that their change in voter registration address is conveyed throughout all offices in Town government when in fact the Town Clerk can only effect voter registration information.

Registrar Clements expressed that the Respondent's explanation that proximity to his work was not a factor and his testimony on how his life and priorities changed over time that led to his decision to declare Provincetown his home mirrored in many ways her own experience, as she was able to reorient her own work schedule based on advancing technologies and ultimately became more involved in the Town, herself now a member of several Town Boards.

Registrar Caouette felt that neither the Complainant nor Respondent made a clear case for domicile. Town Counsel offered that there was no clear definition or one definitive piece of evidence and that the issue was a murky one necessitating a weighing of the evidence presented.

Registrar Johnstone moved to find that Mark Bruce Hatch is a qualified voter in the Town of Provincetown, at 30B Bangs Street in Provincetown based upon the facts introduced at the hearing, but not limited to:

- a copy of the Respondent's 2013 Federal Income Tax filing with his Provincetown address;
- a copy of his Driver's License with his Provincetown address;
- a copy of his car registration showing Provincetown address;
- a copy of a credit card bill with his Provincetown address;
- a letter from Provincetown Parking Clerk Patricia Benatti stating that he received a Provincetown Resident Parking Permit in accordance with Provincetown Parking Regulations;
- a statement prepared by the Town Clerk showing attendance at all three nights of the April 2014 Special and Annual Town Meetings;
- a letter from Charter Enforcement Commission Chair Julia Perry stating that he was an appointed member of the Commission in good standing;
- a letter from the Town Manager Search Committee Chair stating that he was member in good standing on the Committee;
- a memo from the Finance Committee Chair stating that he is a member in good standing on the Committee;
- Explanation of work responsibilities off-Cape;
- Explanation of Provincetown Property Record Card information on file in the Provincetown Assessor's Office;

- Explanation of uses for properties located in Lynn, Massachusetts.

Motion Passed Unanimously 4-0-0.

The Board voted unanimously to adjourn the meeting at 5:30 p.m.