



**TOWN OF HULL
OFFICE OF THE TOWN CLERK**

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Lori West MME/CME

May 24, 2023

Town Clerk Update on the 2023 Annual Town Election

Today, the Town of Hull filed a second emergency motion with the Plymouth County Superior Court providing additional information to the Court describing the processes used to notify voters of the public safety emergency and extension of polling hours. The motion asks the Court to allow all votes cast in good faith at the May 15, 2023 Annual Town Election, meaning all the votes cast between 7:00 a.m. and 10:00 p.m., to be counted, and, in turn, to allow the 2023 Annual Election to be certified.

We believe this option is the least possible disruption to the normal process of elections to finalize the 2023 Annual Town Election as well as protecting the rights of all voters. Additionally, it should be noted that the Secretary of the Commonwealth Election Division supports this option and strongly recommends against throwing out the over 2400 votes cast that day and holding another election.

In the event that the Judge does not agree with our request and out of respect for his decision, we have also proposed for his consideration re-opening the polls for a limited period to allow those voters that were affected by the road closure and/or delay cast their vote. If the Court believes this is what is required, only those who did not cast a ballot on May 15, 2023 would be eligible to participate. The Elections Division does not recommend this course of action, however.

Attached is the filing made today. As this matter is before the Court, there will be no further comment until a hearing is held and the Court has had an opportunity to fully consider the Town's request.

I thank everyone for their patience and understanding. This matter was the result of unforeseen circumstances and required immediate action. As Town Clerk, I work to protect the integrity of the voting process while constantly striving to create transparent, fair and inclusive elections. I am confident we all share the same goal. Thank you.

Town Clerk Lori West

COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, SS.

SUPERIOR COURT
C.A. NO. 2383CV00390

In Re: TOWN OF HULL MAY 15, 2023
ELECTION

SECOND EMERGENCY MOTION FOR
INJUNCTIVE RELIEF AND REQUEST FOR
EXPEDITED HEARING

Now comes the Petitioner, the Town of Hull, acting by and through its Chief Elections Official, Town Clerk Lori West, and hereby renews, based on additional information, its request that the Court issue an order approving the extension of voting hours for the Town's May 15, 2023 Annual Town Election *nunc pro trunc*, requiring that the ballots cast between 8:00 p.m. and 10:00 p.m. on that date be counted, and authorizing the Town Clerk to certify the results of the election based on the ballots already cast. In the alternative, the Town requests that the Court issue an order authorizing the Town to re-open the polls for a limited time only for those who have not yet voted. Given the extremely time sensitive nature of the relief requested, the Town respectfully requests an expedited hearing at the Court's earliest opportunity.

As grounds for this request, which is "strongly" supported by the Elections Division of the Commonwealth, the Town asserts that the facts and legal analysis presented herein demonstrates that the public interest requires that the approximately **2,480** votes properly cast in this election be counted because any other resolution will disenfranchise those voters, compromise the results of the election, and create voter confusion and frustration. The public interest also requires that the Court endorse the narrowly tailored remedy chosen by the Town to address the unexpected emergency that arose on election day because it furthers the important

public interest in the orderly administration of elections and the preservation of scarce public resources, facilitates the smooth and orderly transition of Town governance, and avoids duplication of administrative time, effort and expense, which could cost the taxpayers of the Town in excess of \$20,000.

As further grounds for this Motion, the Town relies on the following Statement of Reasons.

STATEMENT OF REASONS

I. FACTUAL BACKGROUND

In support of this Motion, the Town relies on the detailed facts set forth in the Affidavit of Town Clerk Lori West (Exhibit 1); the Affidavit of the Director of the State Elections Division Michelle K. Tasinari (Exhibit 2); the Affidavit of Deputy Police Chief Neill Reilly (Exhibit 3); and the exhibits attached to said affidavits. For the Court's convenience, a brief summary of the facts is contained herein.

The date of the Annual Election in the Town of Hull is set by bylaw and was scheduled to occur on May 15, 2023, with the polls opening at 7:00 a.m. and closing at 8:00 p.m. (West Affidavit, ¶3). The election polling place, Hull High School, 180 Main Street, Hull, Massachusetts, was properly approved by the Select Board as required by G.L. c. 51, §24, and elections for all precincts of the Town have been held in this location for three years, since the COVID-19 emergency (West Affidavit, ¶6). Prior to the election, the Election Warrant was posted in five public places in accordance with State law and the date, times and location of the election was extensively advertised through local media outlets, reverse 911 calls, and signage posted throughout the Town (West Affidavit, ¶7, 8).

Prior to approximately 5:30 pm on election day, voter turn-out had been stronger than usual due to several contested races being on the ballot. At approximately 5:40 p.m., typically the time when persons returning to Town or getting off of work would come to vote, two of the three police officers stationed at the polls were called to respond to a multi-alarm fire at 5 Q Street which runs off of Nantasket Avenue (West Affidavit, ¶9). The polling place at Hull High School is located at the very end of the Hull peninsula, with limited access from the rest of the Town. Nantasket Avenue is the only main thoroughfare between the peninsula and the rest of the Town, although those travelling from the Boston ferry landing site, Pemberton Pier, have easier access to the polling place (West Affidavit, ¶10; Exhibit D (map)).

Upon learning of the fire, the Town Clerk immediately began consulting with the Town Manager and Town Counsel about how it might impact the election (West Affidavit, ¶12). The third police officer stayed at the polling place, monitored the emergency response and kept the Town Clerk updated (West Affidavit, ¶13). The Town Clerk met with the candidates and their supporters, who were campaigning outside of the polling location, several times to update them on the situation. Several of the candidates and their supporters shared their concerns that specific voters had reported to them that they were not able to get to the polls and that other voters might not be able to get to the polls, and/or that road closures and delays, etc. might cause them to completely avoid trying to get to the polling place (West Affidavit, ¶14).

The Town Clerk proactively began considering options to ensure that all who wanted to vote could do so. She communicated with Town Counsel who, on her behalf, contacted the State Elections Division in the office of the Secretary of the Commonwealth. The Secretary is the Chief Election Official for the Commonwealth, and the Director assists cities and towns throughout the commonwealth with administering elections (West Affidavit, ¶19; Tasinari

Affidavit, ¶2-4). In consultation with Town Counsel and the Secretary, it was determined that it would be reasonable to keep the polls open from 8:00 p.m. until 10:00 p.m., the approximate amount of time that it was difficult to get to the polls, either with the permission of a Superior Court judge or that the Town seek approval for such action after the fact (West Affidavit, ¶20; Tasinari Affidavit, ¶3).

After reaching the decision to extend polling hours, the Town Clerk immediately informed the candidates and their supporters at the polling place, and none of them objected. In fact, a significant majority of people in attendance applauded (West Affidavit, ¶22). She provided public notification of the extended voting hours by posting a notice on the Town's social media pages, advertising on local cable television, and reporting on the Hull Times' social media site. She advised staff working in her office of the new hours so that they could inform anyone who called. The Town Clerk requested through Town Counsel that the Police Department send an automatic message on her behalf to all participating households via the Town's Community Notification System and the School Superintendent sent a similar message to all families signed-up for notifications from the School Department (West Affidavit, ¶23). The notification sent by the Police Department was received by more than 5,500 households (Reilly Affidavit, ¶12).

As of 8:00 pm, 2,398 ballots had been cast and processed by the voting machines (West Affidavit, ¶4). Between 8:00 pm and 10:00 pm, the extended voting hours, 80 additional votes were cast. Many of the 80 voters who appeared to vote between 8:00 p.m. and 10:00 p.m. thanked the Town Clerk and the election staff for keeping the polls open and giving them the opportunity to vote (West Affidavit, ¶24). That evening, after the extended hours were noticed through the means set forth above, not one person called, e-mailed or messaged the Town Clerk

or otherwise spoke directly to her to complain about the extended polling hours (West Affidavit, ¶25).

At the conclusion of the election, the Town Clerk segregated and did not process the ballots cast during the extended hours because she believed a court order was necessary to include them in the vote totals (West Affidavit, ¶26). The “unofficial” machine totals of ballots cast between 7:00 a.m. and 8:00 p.m. were then read aloud and posted after 8:00 p.m., as required by law. The unofficial machine tally posted did not, nor does it ever, include votes cast on ballots that could not be read by the machine and had to be counted by hand (West Affidavit, ¶28). Before reading the tally tape totals out loud, the Town Clerk let the candidates and supporters present know that she would not be processing the ballots received from 8:00 pm until 10:00 pm until she secured a court order (West Affidavit, ¶27). It appeared, from the machine totals that two races were relatively close. In fact, the margin between the two closest races was less than the total number of ballots not yet processed or added to the machine totals (West Affidavit, ¶29).

The Town Clerk completed a verification the next day and Town Counsel filed a petition for relief on May 16, 2023. On May 17, 2023, the Court rejected the requested relief (West Affidavit, ¶31). Since that time, the Town Clerk, in consultation with the Elections Division, Town Counsel, Special Counsel and the Town Manager have worked diligently to develop a plan to finalize the results of this election. On May 20, 2023, the Town Clerk released a public statement concerning her request to renew the request for relief allowing the result of the election to be certified based on the votes already cast, including those cast during the extended hours (West Affidavit, ¶32). Since the date of the Annual Town Election the Town Clerk has been contacted numerous times by voters casting ballots from 8:00 p.m. to 10:00 p.m. who are very concerned that their votes will be disregarded (West Affidavit, ¶44).

II. ARGUMENT

A. The Superior Court has Jurisdiction Over this Matter

Pursuant to G.L. c. 214, §1, the Superior Court has original jurisdiction in all cases and matters of equity cognizable under the general principles of equity jurisprudence. In the context of elections, the Supreme Judicial Court has held that the Court's general equity jurisdiction allows the Court to fashion injunctive relief necessary to preserve the sanctity of elections and the right of vote. Goldstein v. Secretary of the Commonwealth, 484 Mass. 516, 527 (2020). In such circumstances, the Court has discretion to fashion an appropriate remedy to further the public interest; provided that the Court's order should be "no more intrusive than it ought reasonably be to ensure the accomplishment of the legally justified result." Goldstein, 484 Mass. at 528 (quoting, Perez v. Boston Housing Authority, 379 Mass. 703, 730 (1980)).

Injunctive relief is appropriate when the moving party has no adequate remedy at law. Packaging Industries Group, Inc. v. Cheney, 380 Mass. 609, 616-617 (1980). In addition, when it is a public entity that is requesting injunctive relief, an injunction is appropriate when it furthers the public interest. Commonwealth v. MassCRINC, 392 Mass. 79, 89 (1984). In this matter, as will be described in detail below, the standard for injunctive relief is met where the Town has no adequate remedy at law and the public interest strongly favors a full and complete resolution of the election.

B. The Town Has No Adequate Remedy At Law

Pursuant to G.L. c. 54, §64, the Town is normally not permitted to keep the polls open beyond 8:00 pm. Unlike in some other states that authorize election officials to extend voting

hours in the case of emergency¹, Massachusetts statutes provide no such authorization.

Therefore, the Town has no adequate remedy at law and the results of the election cannot be certified unless and until the Court issues an order directing the Town how to proceed.

C. The Public Interest Supports the Extension of Voting Hours and Counting of Ballots Already Cast

In this case, where approximately **2,400** ballots were properly cast before the emergency occurred, and an additional **80** ballots were cast during the extended polling hours offered by the Town, the public interest strongly demands that all of those votes be counted. “The object of election laws is to secure the rights of duly qualified electors and not to defeat them.” McCavitt v. Registrars of Voters of Brockton, 385 Mass. 833, 837 (1982) (internal quotation and citation omitted). See also Fyntrilakis v. City of Springfield, 47 Mass. App. Ct. 464, 469 (1999) (quoting, Swift v. Registrars of Voters of Quincy, 281 Mass. 271, 276 (1932) (“The object of elections is to ascertain the popular will and not to thwart it”)). “This must be borne in mind in the construction of such statutes, and the presumption is that they are enacted to prevent fraud and to secure freedom of choice, and not by technical obstructions to make the right of voting insecure.” McCavitt, supra at 837 (internal quotation and citation omitted). The court should “resolv[e] voting disputes, where at all possible, in favor of the voter.” Id.

“It is a fundamental principle that a voter who has cast his ballot in good faith should not be disenfranchised ‘because of the failure of a ministerial officer to perform some duty imposed

¹ For example, South Dakota law provides that “the county auditor may, upon request of the superintendent of an election precinct, if an emergency exists by reason of mechanical failure of a voting machine or an unanticipated shortage of ballots or like unforeseen event warrants it, extend the polling hours for that precinct until the emergency situation has been resolved. If the emergency situation is not resolved within two hours, except for a primary or general election, the polling place shall remain closed for one week and reopen at the time of the closure of the polling place.” S.D. Codified Laws, §12-2-4.

upon him by law’’. See, Fyntrilakis, 47 Mass. App. Ct. at 469 (quoting, McCavitt, 385 Mass. at 841-842). The Court, therefore, has a duty to use its equitable powers to fashion a remedy that will promote the public's interest in ensuring that all properly cast votes will be counted and that the results of the election will not be marred by "the possibility of voter confusion caused by obfuscation." Koussa v. Attorney General, 489 Mass. 823, 829 (2022) (discussing the certification requirements for voter initiative petitions).

Here, at approximately 5:40 p.m. a large fire disrupted travel and eventually resulted in the closure of a portion of the main thoroughfare to the polling place. Despite this interference with voter access to the polls, approximately **2,400** votes were cast by the statutory closing time of 8:00 pm. In consultation with the Elections Division of the Office of the Secretary of the Commonwealth, public safety officials, and Town Counsel, the decision was made to leave the polling place open for an additional two hours to allow voters who may have been delayed or derailed by the fire to vote.

The Town immediately took steps to notify voters of the extended hours, including: an automated call to all households signed up for the Town’s and School Department’s Community Notification services; posting on the Town Clerk social media page, running a notification banner on the local cable television station; and posting on the local newspaper’s social media site. It is evident that the notice provided by the Town reached voters as 80 voters cast their ballots between 8:00 p.m. and 10:00 p.m.

It is well-settled that voters who cast their ballots in good faith should not be disenfranchised based on circumstances beyond their control. Colten v. Haverhill, 409 Mass. 55 (1991). In this matter, if the Town is not able to certify the result of the election based on the ballots already cast, all of the **2,480** voters who voted in the election will be disenfranchised.

This is a result that must be avoided, particularly where, as here, a reasonable resolution was identified and immediately implemented by the Town. In fact, in 2022, the Suffolk Superior Court allowed the polls to remain open in the Town of Barnstable until midnight during the September 6, 2022 State Primary election when voting was delayed due to a faulty lock on the Town Clerk's vault². Courts in other jurisdictions have also endorsed extended voting hours when unexpected emergencies arise during an election³. See, e.g. St. Louis County Board of Election Commissioners v. McShane, 492 S.W.3d 177 (Mo. 2016) (Court granted emergency writ of mandamus to extend voting for two hours due to emergency that occurred when polling place ran out of ballots); League of Women Voters of Ohio v. LaRuse, 2020 WL 6115006 at *5 (S.D. Ohio 2020) (acknowledging validity of election modification when everything that transpired before an emergency arose was valid and additional methods and time for voting was implemented).

Despite the fire, voter turn-out for this election was strong, 35% higher than any other election in the past five years (Tasinari Affidavit, ¶8). Many of the candidates for election, present in the polling place as the events of the night played out, as well as other observers, clapped when informed that the polls would be open for two additional hours. There is no evidence to suggest that any candidate will be prejudiced, or will have an unfair advantage, if the remaining 80 votes are counted and the results certified based on all the ballots already cast. To the contrary, the candidates appearing on the ballot at the Annual Town Election are in the same

² See, William Francis Galvin, as he is the Secretary of the Commonwealth v. Town of Barnstable, Suffolk Superior Court, C.A. No. 2284CV02035, Order date September 6, 2022 (Docket and Order attached hereto as "Exhibit 4"; See, also, Tasinari Affidavit, ¶6.

³ Please also refer to the list of examples in the Town's Supplemental filing in support of its original motion.

position as if the 80 voters had voted at the polls prior to 8:00 p.m., as there is no opportunity for candidates to try to “get out the vote” to alter the results – only ballots already cast would be counted.

The election modification (extended voting hours) implemented by the Town is narrowly tailored to address the emergency that arose, provided sufficient opportunity for those unable to access the polls during the emergency to cast their votes, and is “strongly” supported by the State Elections Division (Tasinari Affidavit, ¶10)⁴. It is never the case that all persons who want to vote in an election are able to, plans change, work and life obligations arise, and traffic or other hurdles make it impossible to get to the polling place before it closes. Rather than excluding eligible voters from the process for reasons beyond their control, or the control of the Town, voters were properly notified of the extended polling hours and opportunity to cast a ballot, and 80 of them did. Under these circumstances, an order authorizing the Town’s chosen remedy strongly supports numerous public interests with respect to the conduct of elections and brings this unfortunate period of uncertainty to a close. Therefore, the Town’s request for injunctive relief should be allowed.

D. A New Election is Not in the Public Interest

While the Court suggested that a new election might be an appropriate remedy, with respect, it is the Town’s position that a new election is not in the public interest. Voters who cast their ballots in good faith should not be disenfranchised by circumstances beyond their control.

⁴ As the agency charged with administration, enforcement and interpretation of the election laws of the Commonwealth, the remedy endorsed by the Elections Division is entitled to deference by this Court. Peterborough Oil Co., LLC v. Dep’t of Env’tl. Protection, 474 Mass. 443, 449 (2016); Town of Middleborough v. Housing Appeals Comm., 449 Mass. 514, 524 (2007).

As the court stated in Arras v. Reg'l Sch. Dist. No. 14, 319 Conn. 245, 257-258 (2015), “[t]he ordering of a new and different election in effect disfranchises all of those who voted at the first election because their validly cast votes no longer count, and the second election can never duplicate the complex combination of conditions under which they cast their ballots.” The Supreme Judicial Court has also recognized that “[e]ven a special election may be said to disenfranchise the prior voters to some extent in favor of those voting in the later one.” McSweeney v. City of Cambridge, 422 Mass. 648, 655-656 (1996).

In this matter, there has been no allegation, let alone evidence provided, suggesting that any irregularity or other problem occurred with the Annual Town Election prior to the emergency. The Town responded in a limited and timely manner to secure voting rights for the greatest number of people possible. No allegations of fraud or other irregularity have been made, and, as such, no compelling reason exists to invalidate the 80 votes cast during the extended polling hours, let alone the 2,400 cast between 7:00 a.m. and 8:00 p.m.

In such circumstances, courts are reluctant to order new elections. See, e.g. Matter of Protest of Election Returns and Absentee Ballots, Miami, Fla., 707 So.2d 1170 (1998) (court order voiding all votes and ordering a new election vacated by appellate court where problems only occurred with absentee ballots and there was no evidence of problems with in-person ballots). In addition, if a new election is held, it will likely cause voter confusion and frustration, particularly among those who voted before the emergency occurred. Making over 2,400 voters come out to vote again will also potentially discourage future participation in what could be viewed as an “unreliable” election process.

Ordering a new election also punishes the 80 persons, prevented from reaching the polls earlier in the day, for exercising their right to vote that evening. These people, who clearly

received the extended hours notice⁵, made their way back to the polls to vote on a Monday night after 8:00 p.m., at the Town's invitation, to participate in the election of their local officials. These voters placed their confidence in the integrity of the Town election process under the supervision of the Town Clerk, and acted like, and assumed they were, voters just like all other voters who cast ballots that day.

Finally, there is a significant public interest in the finality of elections and the preservation of scarce public resources. As to the first interest, the certification of the election results has already been delayed by nine days and counting. If the polls must reopen, whether because the entire process must be redone, or even if only for a few hours, finalization of the election will be further delayed. If a brand new election were ordered, the results would be delayed by at least two months (See, West Affidavit, ¶¶35-43, detailing the difficulties with holding a new election). Objectively, this result prevents Town officials from being able to complete important public business in a timely fashion.

If the election results cannot be certified without further delay, disputes and ambiguity are likely to arise as incumbents, some of whom would have been replaced at the election, continue to participate as holdovers in the positions they held prior to election day. For example, the Select Board is in the process of selecting a new Town Manager. It was expected that the newly seated Select Board would complete that process. The delay in the certifying that vote could further delay and politicize this process, a result that is not in the public's best interests (West Affidavit, ¶¶42-43).

⁵ In fact, according to the records of the Police Department, more than 5,500 households received the message (Reilly Affidavit, ¶12).

As to the second interest, a new election will impose steep financial and administrative costs. An election costs approximately \$20,000 (West Affidavit, ¶35). This would make the current election two times as expensive as it would be normally. Starting the election process from the start will also significantly perpetuate voter confusion and misunderstanding. A new election would require that nomination papers be made available no later than 64 days prior to the election. Even if a new election was ordered today, it could not be held until at least July 27, 2023 (West Affidavit, ¶36). The nomination process, wherein the candidates circulate nomination papers for signatures of registered voters, would occur during a time when schools are closing for the summer and people are heading out of Town on vacation (West Affidavit, ¶37). Because the election date would be almost exactly halfway through the summer, the use of early and absentee ballots would likely be high, creating additional pressures on the Town Clerk (West Affidavit, ¶38). Moreover, with the election being held in the middle of the summer, there will be significantly more traffic due to the thousands of visitors who travel to Hull during that time of year to use its beaches and other amenities. It can, therefore, be expected that voter turnout for an election in the middle of the summer will be significantly lower than the turnout for the election that was already held (West Affidavit, ¶39-40).

Of course, a new election does not just impact voters and the responsibilities of the Town Clerk's office, as holding an election requires coordination with many departments of the Town. The Department of Public Works must deliver ballot boxes and set up the polling place (West Affidavit, ¶41). A police detail must be approved to be present at the election location. Perhaps most problematically, the Town's polling place is in a school and requires the cooperation and approval of the Superintendent and assistance from school custodians and staff, many of whom will be on summer break (West Affidavit, ¶41).

Because the events leading to this point were not caused by, or the fault of, the Town or any public official, it would be unreasonable and a waste of limited human and financial resources to require a new election. This is particularly the case as a more reasonable and just remedy was devised and implemented immediately which would bring this election to an expedient and accurate conclusion. No party will be prejudiced if the Town's remedy is approved, are on equal footing with respect to the remedy chosen. Therefore, because the issuance of an order validating the election results, including the 80 ballots cast between 8:00 p.m. and 10:00 p.m. on election day, is plainly in the public interest, reinforces the community's confidence in elections, and preserves the intent of all 2,480 voters who cast ballots at the Annual Town Election in good faith, the order requested by the Town should be granted.

E. Another Alternative Exists

The Town asserts that the result most favorable to the public interest is to allow the Town to count all the ballots already cast in the Annual Town Election, and then to certify the results. This is also the result "strongly" encouraged by Secretary of the Commonwealth (Tasinari Affidavit, ¶10). However, an order from this court is necessary to bring this election to a close. Goldstein, 484 Mass. at 527 (when legislature does not provide a remedy to address loss of voting rights "the judiciary must provide such a remedy"). Based upon issues raised by the Court in its May 17, 2023 ruling, the Town is aware that concern may exist that not all voters who wanted to vote in the Annual Town Election were able to do so.

To address the Court's concern, the Town has considered an alternative that protects the rights of the voters who already cast their ballots in the Annual Town Election, although this alternative is not favored by the Town Clerk or the Director of the State Elections Division (Tasinari Affidavit, ¶9). In short, rather than throwing out the properly cast votes of 2,480

voters, the Town could, with an order from this Court, open a polling place for approximately two hours, the amount of time the fire impacted access to the polls, to afford an opportunity for those who did not already to vote.

While this procedure has some of the same disadvantages of holding a new election, it is less costly than a new election, it protects the votes cast by qualified voters, and allows a relatively speedy resolution to finalize the election. Rather than needing 64 days to start the election process from scratch, the Town would need approximately 14 days to open the polls in this limited manner. Voters who might be out of town on the date the polls will be opened would still be eligible to request, receive, vote and return their absentee ballots to the Town in a timely fashion. Further, as with all elections, persons could also cast an absentee ballot at the office of the Town Clerk up until noon on the day before the additional polling hours.

Such action would be narrowly tailored to address one issue – the fact that it was difficult to get to the polls for a period of time during normal voting hours. It would also avoid the voter confusion and frustration resulting from disenfranchisement of the 2,480 properly registered voters who cast a vote in the Annual Town Election.

III. CONCLUSION

For the foregoing reasons, the Town of Hull respectfully requests that this Honorable Court issue an order affirming the extended voting hours for the Town's May 15, 2023 Annual Town Election *nunc pro tunc*, allowing the ballots cast on that date between 8:00 p.m. and 10:00 p.m. to be counted, and authorizing the Town to certify the results of the election based on all the ballots already cast. In the alternative, the Town requests that the Court affirm the extended polling hours, allow the ballots cast on election day to be counted, and issue an order

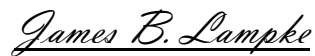
authorizing the Town to re-open the polls for a brief period only for those who have not yet voted.

Respectfully Submitted,
TOWN OF HULL
By its attorneys,



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Respectfully submitted,
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EXHIBIT 1

COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, SS.

SUPERIOR COURT
C.A. NO. 2383CV00390

In Re: TOWN OF HULL MAY 15, 2023
ELECTION

AFFIDAVIT OF LORI WEST

I, Lori West, upon personal knowledge and documents and information available to me in my official capacity as the Town Clerk for the Town of Hull, do hereby swear to the truth of the following assertions:

1. I am the duly elected Town Clerk for the Town of Hull, a position I have held since 2016.
2. In my capacity as Town Clerk, I am the Chief Elections Officer of the Town. Since becoming the Town Clerk, I have administered 21 elections, including five elections complicated by the impacts of COVID-19.
3. The date of the Annual Election is set by bylaw and was scheduled to occur on May 15, 2023, with the polls opening at 7:00 a.m. and closing at 8:00 p.m.
4. As of 8:00 p.m. that evening, 2,398 ballots had been processed by the voting machines.
5. The machine totals, which have been released to the public and are available on the Town website are as set forth in Exhibit A.
6. The election polling place, Hull High School, 180 Main Street, Hull, Massachusetts, was properly approved by the Select Board as required by G.L. c. 51, §24, and elections for all precincts of the Town have been held in this location for three years, since the COVID-19 emergency.

7. Prior to the election, consistent with my normal practice, I had a constable post the Election Warrant in five public places in accordance with State law and I advertised the date, times and location in the local newspaper, the Hull Times, Town website, Hull TV, and on the Town's social media sites, including but not limited to the Town Clerk's Facebook page. This year, an automatic call was placed to all households who opted in to the Town's Community Notification System, aka CodeRed, reminding them of the election and reiterating polling location and hours. Notification of the election was posted by the Police Chief using electronic signs in two public locations starting approximately two weeks prior to the election. Examples of these notices are included as Exhibit B.
8. I have also attached here, as Exhibit C copies of information printed or posted in the local newspaper; in particular, the Hull Times, providing significant coverage of the then-upcoming election. Information about the election was also made available through the Chamber of Commerce concerning a heavily advertised scheduled candidate's forum which also included a significant amount of information about each candidate.
9. At approximately 5:40 p.m., typically the time when persons returning to Town or getting off of work would come to vote, two of the three police officers stationed at the polls were called to respond to a multi-alarm fire at 5 Q Street which runs off of Nantasket Avenue.
10. The polling place at Hull High School is located at the very end of the Hull peninsula, with limited access from the rest of the Town. Nantasket Avenue is the only main thoroughfare between the peninsula and the rest of the Town, although those travelling

from the Boston ferry landing site, Pemberton Pier, have easier access to the polling place.

11. Because of the location of the fire, this event was of immediate and significant concern to me and the candidates present at the polling place. Attached as Exhibit D is a map showing the location of the polling place, the site of the multiple alarm fire and where on Nantasket Avenue traffic was halted.
12. Upon learning of the fire, I immediately began consulting with the Town Manager and Town Counsel about how it might impact the election.
13. The third police officer stayed at the polling place, monitored the emergency response and kept me updated.
14. I met with the candidates and their supporters, who were campaigning outside of the polling location, several times to update them on the situation. Several of the candidates and their supporters shared their concerns that specific voters had reported to them that they were not able to get to the polls and that other voters might not be able to get to the polls, and/or that road closures and delays, etc. might cause them to completely avoid trying to get to the polling place.
15. Several other voters and candidates asked me about extending polling hours due to the circumstances, and I also received telephone calls, , and other messages.
16. During the period between 6:00pm and 7:00 pm, I observed fewer voters had checked-in at the polling location than was expected at that time.
17. There was a brief influx of voter activity with the arrival of the 6:00 pm ferry. Voters from the ferry, and from approximately half of Precinct 1, are past the portion of the road that was impacted by the fire, and they were still able to vote during that time.

18. The officer at the polling place informed me that a portion of Nantasket Avenue in the vicinity of the fire was closed to traffic in both directions. Heightening my concerns about access, I proactively began considering options to ensure that all who wanted to vote could do so.
19. I communicated with Town Counsel who, on my behalf, contacted the State Elections Division in the office of the Secretary of the Commonwealth. The Secretary is the Chief Election Official for the Commonwealth, and the Director assists cities and towns throughout the commonwealth with administering elections.
20. Although it was not during regular “work” hours, Town Counsel was able to connect with the Director of the State Elections Division. Town Counsel reported to me that based on all the information available to them at that time, they determined that it would be reasonable to keep the polls open from 8:00 p.m. until 10:00 p.m., the approximate amount of time that it was difficult to get to the polls, either with the permission of a Superior Court judge or that the Town seek approval for such action after the fact.
21. After Town Counsel reported this discussion to me, I agreed that this was an appropriate remedy. Town Counsel informed me he simultaneously began to seek a court order to ratify the extended hours but, ultimately, and unfortunately, was unable to locate a judge with jurisdiction that could accommodate the request.
22. After reaching the decision to extend polling hours, I immediately informed the candidates and their supporters at the polling place, and none of them objected. In fact, a significant majority of people in attendance applauded.
23. I provided public notification of the extended voting hours by posting a notice on the Town’s social media pages, advertising on local cable television, and reporting on the

Hull Times' social media site. I advised staff working in my office of the new hours so that they could inform anyone who called. I requested through Town Counsel that the Police Department send an automatic message on my behalf to all participating households via the Town's Community Notification System and the School Superintendent sent a similar message to all families signed-up for notifications from the School Department. Examples of these notices are included as Exhibit E.

24. Many of the 80 voters who appeared to vote between 8:00 p.m. and 10:00 p.m. thanked me and the election staff for keeping the polls open and giving them the opportunity to vote.
25. That evening, after the extended hours were noticed through the means set forth above, not one person called, e-mailed or messaged me or otherwise spoke directly to me to complain about the extended polling hours.
26. At the conclusion of the election, I segregated and did not process the ballots cast during the extended hours because I believed a court order was necessary to include them in the vote totals.
27. Before reading the tally tape totals out loud, I let the candidates and supporters present know that I would not be processing the ballots received from 8:00 p.m. until 10:00 p.m. I received several compliments at that time on how the election was run and there was applause for me and my staff.
28. The "unofficial" machine totals of ballots cast between 7:00 a.m. and 8:00 p.m. were then read aloud and posted after 8:00 p.m., as required by law. The unofficial machine tally posted did not, nor does it ever, include votes cast on ballots that could not be read by the machine and had to be counted by hand.

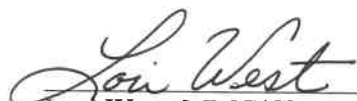
29. It appeared, from the machine totals that two races were relatively close. I did not and have not processed the 80 ballots cast during extended voting hours and did not add any of the hand count or write-in votes to the tally tape results. The margin between the two closest races was less than the total number of ballots not yet processed or added to the machine totals.
30. Importantly, therefore, even though the initial machine tally was released, no one, including me, the poll workers at the High School, the public or the candidates, knows the actual results of the election.
31. I completed a verification the next day and Town Counsel filed a petition for relief on May 16, 2023. On May 17, 2023, the Court rejected the requested relief and a copy of the decision is attached as Exhibit F.
32. Since that time, I have issued a statement, attached as Exhibit G, concerning my intention, and the Town's, in extending the polling hours.
33. Many people have expressed to me since the election that extending the hours was the fair thing to do and the right decision was made.
34. I believed, and still believe, that extending polling hours on May 15, 2023 was the most protective of the rights of registered voters in the Town to vote, and, further, that the rights of all those who cast their ballots in good faith at the Annual Town Election should be counted.
35. It costs the Town approximately \$20,000 to conduct an election.
36. Because of the statutory procedures and filing deadlines for conducting elections, it is expected that even if a totally new election were called or ordered, that new election could not be held before July 27, 2023.

37. A totally new election would require that nomination papers be made available no later than 64 days prior to the election. The nomination process, wherein the candidates circulate nomination papers for signatures of registered voters, would occur during a time when schools are closing for the summer and people are heading out of Town on vacation.
38. Because the new election date would be almost exactly halfway through the summer, the use of early and absentee ballots would likely be high, creating additional pressures on and work for the Town Clerk's office.
39. A totally new election would require any candidate who wished to run to circulate and submit nomination papers and run a campaign, including those candidates that had already gone through the appropriate process to appear on the May 15th ballot. I believe that certain of the same candidates may not even want to run again, because of the additional time, money and human resources needed to run a second campaign.
40. Should a totally new election be held on or after July 26, 2023, the middle of the summer, based upon my recollection of prior Hull summers, there will be significantly more vehicle traffic in Town due to the thousands of visitors who travel to Hull during that time of year to use its beaches and other amenities. It can, therefore, be expected that voter turnout for a Town election in the middle of the summer will be significantly lower than the turnout for the May 15, 2023 Annual Town Election.
41. A new election does not just impact voters and the responsibilities of the Town Clerk's office, as holding an election requires coordination with many departments of the Town. The Department of Public Works must deliver ballot boxes and set up the polling place. Consistent with our normal practice, no less than two police details must be approved to

be present at the election location. Perhaps most problematically, the Town's polling place is in a school and requires the cooperation and approval of the Superintendent and assistance from school custodians and staff, many of whom will be on summer break.

42. Amongst several ongoing matters of great importance to the residents of Hull is the selection of a new Town Manager, for which the Town has already appointed a preliminary screening committee, hired a recruiter, and is at the final stages of the appointment process.
43. The Select Board is in the process of selecting a new Town Manager. It was expected that the newly seated Select Board would complete that process. The delay in the certifying that vote could further delay and politicize the selection of the new Town Manager.
44. Since the date of the Annual Town Election I have been contacted numerous times by voters casting ballots from 8:00 p.m. to 10:00 p.m. who are very concerned that their votes will be disregarded.

SIGNED UNDER THE PAINS AND PENALTIES OF PERJURY THIS 24th DAY OF MAY, 2023.



Lori West, MMC/CMMC
Town Clerk
Town of Hull

EXHIBIT A

**ANNUAL TOWN ELECTION, MAY 15, 2023
UNOFFICIAL ELECTION RESULTS**

OFFICE	PREC 1	PREC 2	PREC 3	TOTAL
SELECT BOARD - 3 YR VOTE FOR TWO				
DONNA M. PURSEL	180	142	180	502
KATHLEEN ANN BARCLAY	154	91	137	382
PHILIP JOSEPH BELLONE	68	62	86	216
DAVID E. GIBBONS	219	195	164	578
JASON P. McCANN	561	314	332	1207
MORAIBA J. REYES	146	91	92	329
JERRY TAVERNA	315	273	256	844
WRITE-INS/ALL OTHERS	4	2	3	9
BLANKS	327	200	202	729
TOTAL	1974	1370	1452	4796

SELECT BOARD - 2 YR VOTE FOR ONE				
STEVEN M. GREENBERG	209	150	144	503
JAMES M. IANIRI	327	169	235	731
BRIAN S. McCARTHY	397	339	329	1065
WRITE-INS/ALL OTHERS	2	1	0	3
BLANKS	52	26	18	96
TOTAL	987	685	726	2398

ASSESSOR - 3 YR VOTE FOR TWO				
MARIO PETER GRIECO	621	415	424	1460
PAMELA SINTON-COFFMAN	500	372	435	1307
WRITE-INS/ALL OTHERS	2	4	7	13
BLANKS	851	579	586	2016
TOTAL	1974	1370	1452	4796

HOUSING AUTHORITY - 5 YR VOTE FOR ONE				
JAMES A. RICHMAN JR.	632	458	488	1578
WRITE-INS	6	1	9	16
BLANKS	349	226	229	804
TOTAL	987	685	726	2398

MUNICIPAL LIGHT BOARD - 3 YR VOTE FOR TWO				
PATRICK FRANCIS CANNON	606	397	451	1454
JACOB M. VAILLANCOURT	555	357	420	1332
WRITE-INS/ALL OTHERS	4	12	3	19
BLANKS	809	604	578	1991
TOTAL	1974	1370	1452	4796

PLANNING BOARD - 5 YR VOTE FOR TWO				
HARRY CLAUDE HIBBARD JR.	491	325	387	1203
NANCY BOYCE	539	398	424	1361
WRITE-INS	3	3	8	14
BLANKS	941	644	633	2218
TOTAL	1974	1370	1452	4796

PLANNING BOARD - 2 YR VOTE FOR ONE				
JAMES LEWIS PITROLO	576	413	457	1446
WRITE-INS/ALL OTHERS	2	2	3	7

BLANKS	409	270	266	945
TOTAL	987	685	726	2398

REDEVELOPMENT AUTHORITY - 5 YR VOTE FOR ONE				
PATRICK M. FINN	444	329	302	1075
DANIEL C. KERNAN	422	282	356	1060
WRITE-INS/ALL OTHERS	1	0	2	3
BLANKS	120	74	66	260
TOTAL	987	685	726	2398

REDEVELOPMENT AUTHORITY - 3 YR VOTE FOR ONE				
ADRIENNE V. R. PAQUIN	544	353	459	1356
EDWIN R. PARSONS	289	223	194	706
WRITE-INS/ALL OTHERS	0	2	2	4
BLANKS	154	107	71	332
TOTAL	987	685	726	2398

SCHOOL COMMITTEE - 3 YR VOTE FOR TWO				
ERNEST MINELLI IV	385	292	355	1032
FAY M. FERENCY	386	243	282	911
COLBY A. MAHONEY	233	169	187	589
WRITE-INS/ALL OTHERS	414	293	233	940
BLANKS	556	373	395	1324
TOTAL	1974	1370	1452	4796

TRUSTEES OF PUBLIC LIBRARY - 3 YR VOTE FOR TWO				
CELIA GRACE NOLAN	622	427	478	1527
DUNCAN McCOLGAN STONE	458	335	369	1162
WRITE-INS/ALL OTHERS	5	2	5	12
BLANKS	889	606	600	2095
TOTAL	1974	1370	1452	4796

TRUSTEES OF PUBLIC LIBRARY - 2 YR VOTE FOR ONE				
EMILY REBECCA GARR	445	312	360	1117
SASHA ROLAND GREEN	230	167	172	569
WRITE-INS/ALL OTHERS	1	1	1	3
BLANKS	311	205	193	709
TOTAL	987	685	726	2398

TRUSTEES OF PUBLIC LIBRARY - 1 YR VOTE FOR ONE				
JAMES CURTIS MILLER III	628	436	498	1562
WRITE-INS	3	2	4	9
BLANKS	356	247	224	827
TOTAL	987	685	726	2398

OFFICE	PREC 1	PREC 2	PREC 3	TOTAL
--------	--------	--------	--------	-------

**ANNUAL TOWN ELECTION, MAY 15, 2023
UNOFFICIAL ELECTION RESULTS**

EXHIBIT B

ROBO CALLED SENT OUT
ON 5/14/23
@ 6:00 PM

**GOOD EVENING, THIS IS TOWN
CLERK, LORI WEST CALLING TO
REMIND ALL REGISTERED
VOTERS THAT THE ANNUAL
TOWN ELECTION WILL BE HELD
TOMORROW, MONDAY,
MAY 15TH AT THE
HULL HIGH SCHOOL
LOCATED AT 180 MAIN STREET.
POLLS WILL BE OPEN FROM 7 AM
UNTIL 8 PM.
THANK YOU AND HAVE A GOOD
EVENING.**



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Nomination Papers Available for Town Election

POSTED ON: FEBRUARY 23, 2023 - 12:55PM



**NOMINATION
PAPERS
FOR
ANNUAL TOWN
ELECTION
AVAILABLE**

Important Announcement! The Town Clerk is pleased to announce that nomination papers for the May 15, 2023 Annual Town Election are now available in the Town Clerk's office until Thursday, March 23th at 5:00 p.m. Fifty (50) signatures of registered voters are required for nomination. For a list of elected offices available and other important dates please see the Town Clerk's page on the Town of Hull website at: <https://www.town.hull.ma.us/town-clerk>

Office Hours: Mon-Thurs: 7:45 am - 5:00 pm. Questions? Please contact the Town Hull Town Clerks Office at 781-925-2000.

▼ Create Content



Published on *Hull MA* (<https://www.town.hull.ma.us>)

[Home](#) > Nomination Papers Available for Town Election

Nomination Papers Available for Town Election



Important Announcement! The Town Clerk is pleased to announce that nomination papers for the May 15, 2023 Annual Town Election are now available in the Town Clerk's office until Thursday, March 23th at 5:00 p.m. Fifty (50) signatures of registered voters are required for nomination. For a list of elected offices available and other important dates please see the Town Clerk's page on the Town of Hull website at: <https://www.town.hull.ma.us/town-clerk>

Office Hours: Mon-Thurs: 7:45 am - 5:00 pm. Questions? Please contact the Town Hull Town Clerks Office at 781-925-2000.

Source URL: <https://www.town.hull.ma.us/home/news/nomination-papers-available-town-election>



Hull Town Clerk

February 21 · 🌐



Important Announcement! The Town Clerk is pleased to announce that nomination papers for the May 15, 2023 Annual Town Election are now available in the Town Clerk's office until Thursday, March 23th at 5:00 p.m. Fifty (50) signatures of registered voters are required for nomination. For a list of elected offices available and other important dates please see the Town Clerk's page on the Town of Hull website at: <https://www.town.hull.ma.us/town-clerk>

Office Hours: Mon-Thurs: ... [See more](#)

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**EARLY / ABSENTEE
OFFICIAL BALLOT
ANNUAL TOWN ELECTION
HULL, MASSACHUSETTS
MAY 15, 2023**

Lori West
TOWN CLERK

INSTRUCTIONS TO VOTERS

- A. TO VOTE, completely fill in the OVAL to the RIGHT of your choice(s) like this: ●
 B. Follow directions as to the number of candidates to be marked for each office.
 C. To vote for a person whose name is not printed on the ballot, write the candidate's name and address on the line provided and completely fill in the OVAL.

SELECT BOARD For Three Years VOTE FOR NOT MORE THAN TWO	MUNICIPAL LIGHT BOARD For Three Years VOTE FOR NOT MORE THAN TWO	SCHOOL COMMITTEE For Three Years VOTE FOR NOT MORE THAN TWO	
DONNA M. PURSEL 55 Whitelroad Avenue Candidate for Re-Election <input type="radio"/>	PATRICK FRANCIS CANNON 18 Seaport Terrace Candidate for Re-Election <input type="radio"/>	ERNEST MINELLI, IV 28 Pond Street Candidate for Re-Election <input type="radio"/>	
KATHLEEN ANN BARCLAY 26 Central Avenue <input type="radio"/>	JACOB M. VAILLANCOURT 23 A Street Candidate for Re-Election <input type="radio"/>	FAYM. FERENCY 148 Manomet Avenue <input type="radio"/>	
PHILIP J. BELLONE 42 Bay Street <input type="radio"/>	(Write-in) <input type="radio"/>	COLBY A. MAHONEY 532 Nantasket Avenue <input type="radio"/>	
DAVID E. GIBBONS 17 D Street <input type="radio"/>	(Write-in) <input type="radio"/>	(Write-in) <input type="radio"/>	
JASON P. McCANN 53 Highland Avenue <input type="radio"/>	PLANNING BOARD VOTE FOR NOT MORE THAN TWO		
MORAIBA J. REYES 17 G Street <input type="radio"/>	For Five Years	TRUSTEES OF PUBLIC LIBRARY VOTE FOR NOT MORE THAN TWO	
JERRY TAVERNA 6 7th Street <input type="radio"/>	HARRY CLAUDE HIBBARD, JR. 65 Bay Street Candidate for Re-Election <input type="radio"/>	For Three Years	
(Write-in) <input type="radio"/>	NANCY BOYCE 53 M Street <input type="radio"/>	CELIA GRACE NOLAN 26 Alanda Road Candidate for Re-Election <input type="radio"/>	
(Write-in) <input type="radio"/>	(Write-in) <input type="radio"/>	DUNCAN McCOLGAN STONE 5 Standish Road <input type="radio"/>	
SELECT BOARD For Two Years Unexpired Vacancy VOTE FOR ONE		(Write-in) <input type="radio"/>	
STEVEN M. GREENBERG 23 T Street <input type="radio"/>	PLANNING BOARD For Two Years Unexpired Vacancy VOTE FOR ONE		
JAMES M. IANIRI 8 Kanton Avenue <input type="radio"/>	JAMES LEWIS PITROLO 301 Nantasket Avenue <input type="radio"/>	(Write-in) <input type="radio"/>	
BRIAN S. McCARTHY 23 Gumrock Avenue <input type="radio"/>	(Write-in) <input type="radio"/>	TRUSTEES OF PUBLIC LIBRARY For Two Years Unexpired Vacancy VOTE FOR ONE	
(Write-in) <input type="radio"/>	REDEVELOPMENT AUTHORITY For Five Years VOTE FOR ONE		
ASSESSOR VOTE FOR NOT MORE THAN TWO		EMILY REBECCA GARR 43 D Street <input type="radio"/>	
For Three Years	MARIO PETER GRIECO 65 Holbrook Avenue Candidate for Re-Election <input type="radio"/>	SASHA ROLAND GREEN 59 B Street <input type="radio"/>	
PAMELA SINTON-COFFMAN 41 Valley Beach Avenue Candidate for Re-Election <input type="radio"/>	DANIEL C. KERNAN 77 Hampton Circle <input type="radio"/>	(Write-in) <input type="radio"/>	
(Write-in) <input type="radio"/>	(Write-in) <input type="radio"/>	TRUSTEES OF PUBLIC LIBRARY For One Year Unexpired Vacancy VOTE FOR ONE	
(Write-in) <input type="radio"/>	REDEVELOPMENT AUTHORITY For Three Years Unexpired Vacancy VOTE FOR ONE		
HOUSING AUTHORITY For Five Years VOTE FOR ONE		JAMES CURTIS MILLER, III 24 Main Street <input type="radio"/>	
JAMES A. RICHMAN, JR. 55 A Street Candidate for Re-Election <input type="radio"/>	ADRIENNE V. R. PAQUIN 43 Edgewater Road <input type="radio"/>	(Write-in) <input type="radio"/>	
(Write-in) <input type="radio"/>	EDWIN R. PARSONS 103 Nantasket Avenue <input type="radio"/>		
	(Write-in) <input type="radio"/>		



Hull Town Clerk

April 29 at 9:29 AM · 🌐



Vote By Mail Ballots are now available in the Hull Town Clerk's Office for all Hull registered voters wishing to vote by mail in the Annual Town Election. The Annual Election will be held Monday, May 15th at Hull High School (7:00 AM - 8:00 PM). VBM applications can be mailed, faxed, emailed or dropped off at the Town Clerk's office, 253 Atlantic Avenue.

VBM Application: https://www.town.hull.ma.us/.../uploads/hull_vbm_2023_3.pdf

View Annual Town Ballot sample: https://www.town.hull.ma.us/.../may_15_2023_ate_draft...

To check your voter status: www.registertovotema.com

Town Clerk Email: townclerk@town.hull.ma.us

Any questions please contact the Town Clerk's office at 781-925-2000. **See less**

Edit

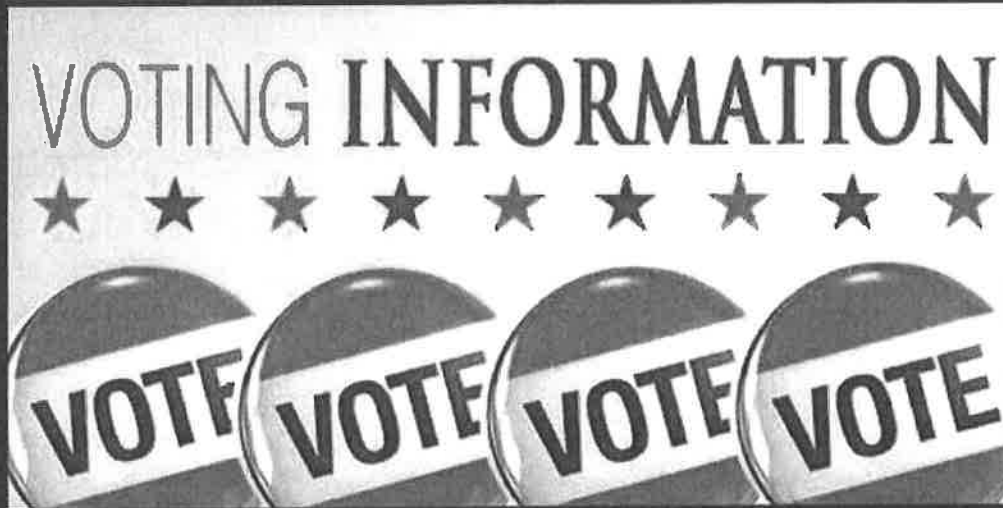
👍 6

2 shares



Write a comment...





Hull Town Clerk

May 5 at 8:50 AM · 🌐



HULL VOTERS! TODAY, Friday, May 5th is the Last Day to Register for the May 15, 2023 Annual Town Election. (APPLIES TO FIRST TIME VOTERS OR RESIDENTS NEW RESIDENTS ONLY). You may register to vote, check your voter status (active vs. inactive) or change your address online at: www.registertovotema.com (Special arrangements have been made to register in person at the Hull Police Dept. 1 School Street until 5:00 pm).

Vote by Mail Deadline: Monday, May 8th by 5 PM.

Applications: https://www.town.hull.ma.us/.../uploads/hull_vbm_2023_3.pdf or apply online

<https://www.sec.state.ma.us/MailInReque.../MailInBallot.aspx>

In person: Hull Town Clerk's office (during normal business hours)

Sample ballot: https://www.town.hull.ma.us/.../may_15_2023_ate_draft...

If you have any questions, please feel free to contact the Town Clerk's Office at 781-925-2262. See less

Edit



3 Write a comment...



EXHIBIT C



Learn More

**EARLY / ABSENTEE
OFFICIAL BALLOT
ANNUAL TOWN ELECTION
HULL, MASSACHUSETTS
MAY 15, 2023**

INSTRUCTIONS TO VOTERS

- A. TO VOTE, completely fill in the OVAL to the RIGHT of your choice(s) like this: ○
- B. Follow directions as to the number of candidates to be marked for each office.
- C. To vote for a person whose name is not printed on the ballot, write the candidate's name and address on the line provided and completely fill in the OVAL.

SELECT BOARD For Three Years VOTE FOR NOT MORE THAN TWO	MUNICIPAL LIGHT BOARD For Three Years VOTE FOR NOT MORE THAN TWO	SCHOOL COMMITTEE For Three Years VOTE FOR NOT MORE THAN TWO
DONNA M. PURSEL 16 Woodland Avenue Candidate for Re-Election	PATRICK FRANCIS CANNON 81 Ashcroft Avenue Candidate for Re-Election	ERNEST MINELLI IV 20 North Street Candidate for Re-Election
KATHLEEN ANN BARCLAY 25 Central Avenue Candidate for Re-Election	JACOB M. VAILLANCOURT 21A Street Candidate for Re-Election	FAYM. FERENCY 144 Memorial Avenue Candidate for Re-Election
PHILIP J. BELLONE 45 Elm Street	(Write-in)	COLBY A. MAHONEY 475 Massachusetts Avenue Candidate for Re-Election
DAVID E. GIBBONS 170 Street	(Write-in)	(Write-in)
JASON P. McCANN 25 Woodland Avenue	PLANNING BOARD	
MORAIBA J. REYES 17 1/2 Street	For Five Years VOTE FOR NOT MORE THAN TWO	TRUSTEES OF PUBLIC LIBRARY
JERRY TAVERNA 87th Street	HARRY CLAUDE HIBBARD, JR. 36 Elm Street Candidate for Re-Election	For Three Years VOTE FOR NOT MORE THAN TWO
(Write-in)	NANCY BOYCE 38 B Street	CELIA GRACE NOLAN 28 Loring Street Candidate for Re-Election
(Write-in)	(Write-in)	DUNCAN McCOLGAN STONE 2 Randolph Street
SELECT BOARD	PLANNING BOARD	(Write-in)
For Two Years Unexpired Vacancy VOTE FOR ONE	For Two Years Unexpired Vacancy VOTE FOR ONE	(Write-in)
STEVEN M. GREENBERG 70 1/2 Street	JAMES LEWIS PITROLO 205 Woodland Avenue	TRUSTEES OF PUBLIC LIBRARY
JAMES M. IANIRI 8 Loring Avenue	(Write-in)	For Two Years Unexpired Vacancy VOTE FOR ONE
BRIAN S. McCARTHY 27 Quaker Avenue	REDEVELOPMENT AUTHORITY	EMILY REBECCA GARR 41 1/2 Street
(Write-in)	For Five Years VOTE FOR ONE	SASHA ROLAND GREEN 80 B Street
ASSESSOR	PATRICK M. FINN 1 Tyrone Avenue	(Write-in)
For Three Years VOTE FOR NOT MORE THAN TWO	DANIEL C. KIERNAN 27 Summer Dale	TRUSTEES OF PUBLIC LIBRARY
MARIO PETER GRIECO 44 Memorial Avenue Candidate for Re-Election	(Write-in)	For One Year Unexpired Vacancy VOTE FOR ONE
PAMELA SINTON-COFFMAN 41 North Park Avenue Candidate for Re-Election	REDEVELOPMENT AUTHORITY	JAMES CURTIS MILLER, III 24 Main Street
(Write-in)	For Three Years Unexpired Vacancy VOTE FOR ONE	(Write-in)
(Write-in)	ADRIENNE V. R. PAQUIN 475 Massachusetts Avenue	
HOUSING AUTHORITY	EDWIN R. PARSONS 281 Woodland Avenue	
For Five Years VOTE FOR ONE		
JAMES A. RICHMAN, JR. 56 A Street Candidate for Re-Election		
(Write-in)		

Learn More

May 15 at 11:00 AM

May 15 4:00 PM
HULL TIMES

May 15 at 6:00 AM

TODAY'S THE DAY! Be sure to get to the polls to vote at Hull High School between 7 a.m. and 8 p.m. To find out more about the candidates, check this link from the Hull Nantasket Chamber of Commerce: <https://hullchamber.com/2023-hull-ma-election-candidates/>

3

Learn More

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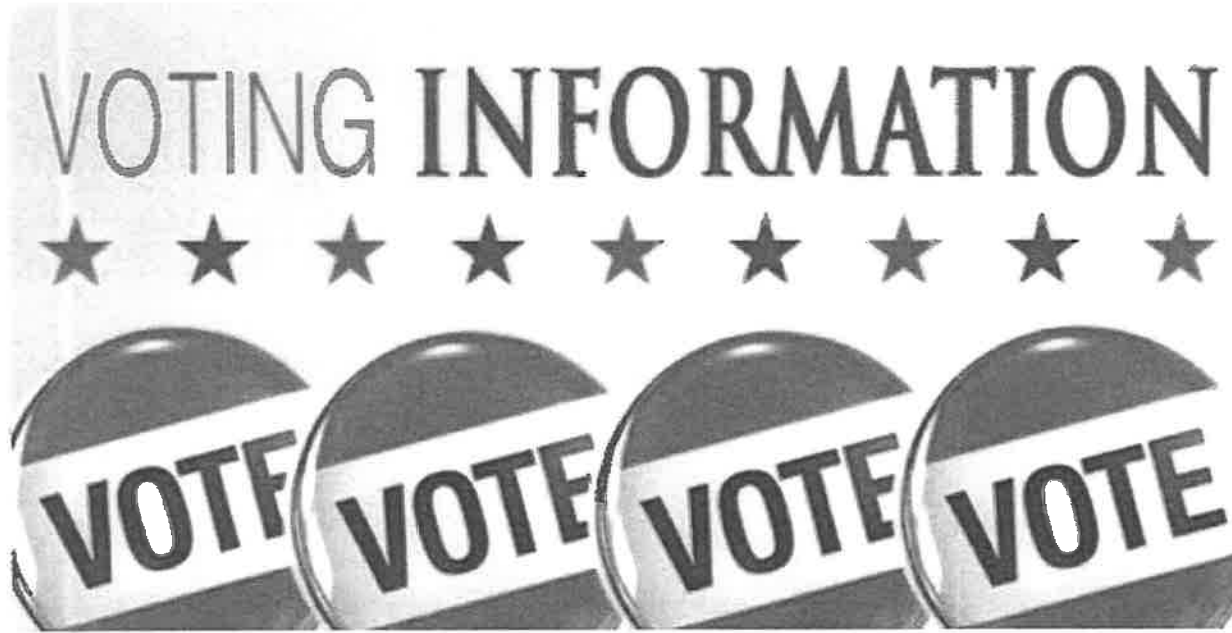


Hull Times

May 5 at 9:45 AM · 🌐



If you're not in, you're out... if you are a first-time voter or new to Hull, today is the last day to register to vote in the May 15 election. Details below!



Hull Town Clerk

May 5 at 8:50 AM · 🌐

HULL VOTERS! TODAY, Friday, May 5th is the Last Day to Register for the May 15, 2023 Annual Town Election. (APPLIES TO FIRST TIME VOTERS OR RESIDENTS NEW RESID... See more

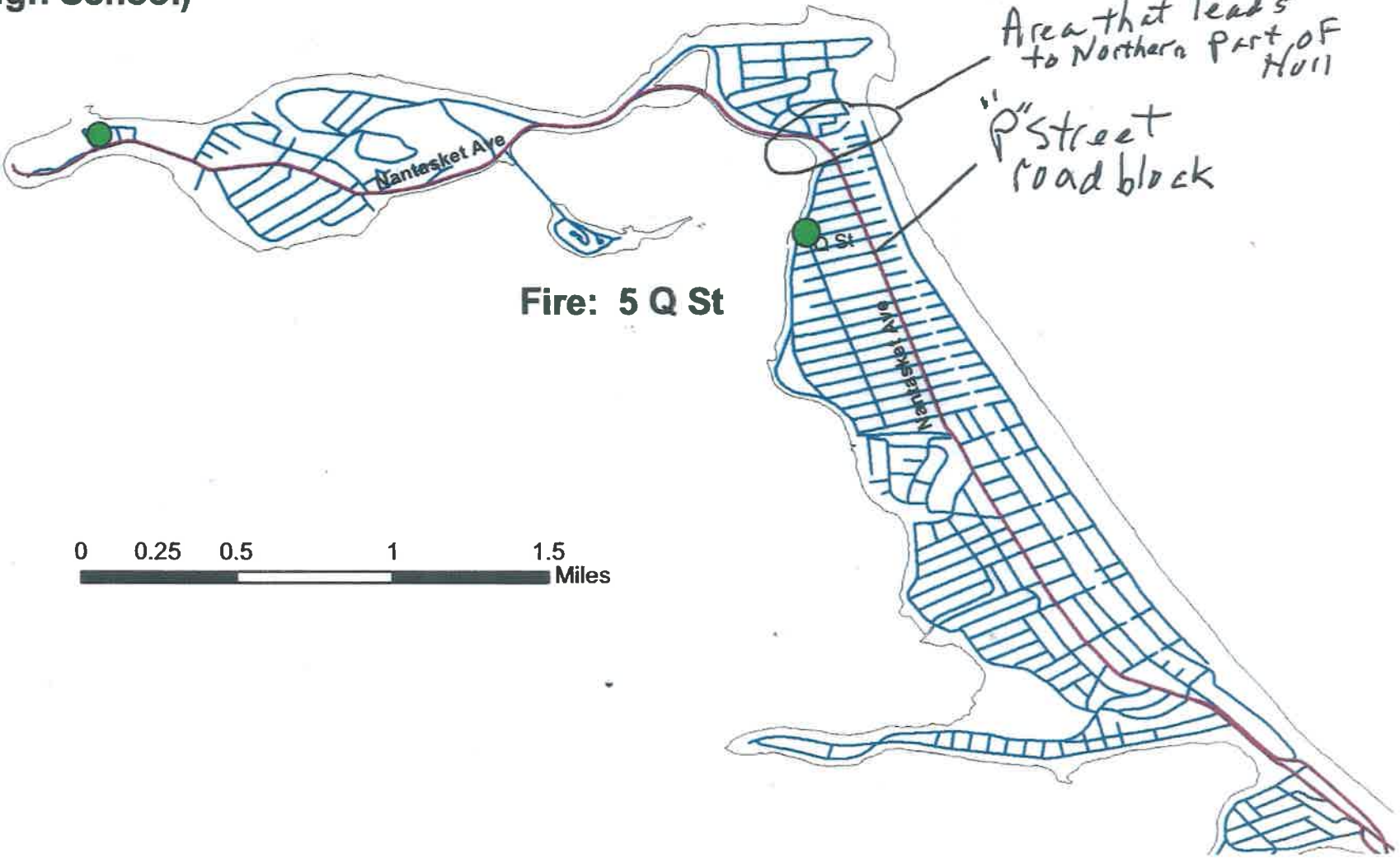


EXHIBIT D

Locus Map Town of Hull



**Polling Place: 180 Main St
(Hull High School)**



Fire: 5 Q St



EXHIBIT E



Today in Hull, MA



Jen Bogdan Olivieri · May 15 at 7:39 PM ·




**The roads are open
and there is still time
to vote!**



1 comment



Moraiba Reyes

May 15 at 8:04 PM · 



Polls will remain open until 10pm....



5

1 share



Like



Comment



Share



Hull Happenings 2.0

 Public group · 7.7K members



[Community home](#)



Hull Happenings

Private group · 7.3K members



Community home



THE
**HULL
TIMES**


Hull Times

6.1K likes • 6.6K followers



Today in Hull, MA

Private group · 14.4K members

 Joined ▼



Community home




Events



Hull Town Clerk



May 15 at 8:26 PM · 

Due to the delay caused by the fire, the voting polls at the gymnasium at Hull High School, 180 Main Street, are remaining open until 10 p.m.

[See insights and ads](#)

[Boost post](#)



8

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EXHIBIT F

COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, ss.

BROCKTON DIVISION SUPERIOR COURT
CIVIL ACTION NUMBER 2383CV00390

TOWN OF HULL, petitioner

**MEMORANDUM OF DECISION AND ORDER ON
VERIFIED EMERGENCY MOTION TO EXTEND VOTING
HOURS NUNC PRO TUNC AND TO PERMIT COUNTING
OF BALLOTS CAST ON MONDAY, MAY 15, 2023 BETWEEN
8:00 P.M. AND 10:00 P.M.**

The Town of Hull filed this action seeking equitable relief relating to a Town election held on May 15, 2023. For the reasons discussed below, the Town's Verified Emergency Motion to Extend Voting Hours Nunc Pro Tunc and to Permit Counting of Ballots Cast on Monday, May 15, 2023 Between 8:00 P.M. and 10:00 P.M. is **DENIED**.

BACKGROUND

The following facts are taken from the Town's complaint, which is verified by Town Clerk Lori West, and representations made by Town Counsel in open court. Hull's annual election of Town officers was held on May 15, 2023. The official ballot reveals that there were several competitive races.

The polls were scheduled to be open from 7 a.m. to 8 p.m. The only polling place in the Town is Hull High School, located at 180 Main Street, at the very end of the peninsula of Hull. The only way to access Hull High School is via Nantasket Avenue, the main road that runs the length of the peninsula.

Around 5:38 p.m. on May 15, a six-alarm fire broke out at 5 Q Street in Hull. The police and fire departments were forced to close Nantasket Avenue to traffic at P Street. A short

distance to the north of P Street is a stretch of road which must be traveled to access the road leading to Hull High School. After the emergency shutdown, there was no alternative route to reach the polling place by car. There was confusion because some voters attempting to travel to Hull High School were told by police or other public safety officials at the scene that the road was closed and they "were not going to be able to vote." Accordingly, some people left not realizing that they eventually would be allowed to pass through to the High School.

Town Clerk Lori West and Town Counsel James Lampke communicated with Michelle Tassinari, the Director of the State Elections Division of the Secretary of the Commonwealth, about the fact that voters temporarily were unable to drive to the polls. Tassinari informed Town Counsel that the Secretary could not authorize an extension of voting hours, but a judge may be able to do so.

Town Counsel attempted to call the courthouse but received no answer because it was after regular court hours. Town Counsel learned about the Judicial Response System and attempted, through the State Police, to contact the judge on emergency call that evening. However, the judge on call was a judge of the Juvenile Court. Town Counsel was under the impression that such a judge had authority to issue Chapter 209A restraining orders but not general equitable relief.

The road was reopened around 7:00 p.m. Town Counsel and the Town Clerk decided that the best course of action was to extend the voting hours from 8:00 p.m. to 10:00 p.m. to give a voting opportunity to those residents who could not drive to the polls between 5:38 and 7:00 p.m.

The Town made a good faith effort to notify Town residents about the extended voting hours. The Town used its reverse 911 notification system to send a robocall to residents

informing them of the extended hours. This robocall went out only to those residents who previously had signed up for emergency notifications. However, Town Counsel believes that most residents of Hull have signed up for notifications from this system, which includes things such as routine road closures and emergency weather alerts. The Town also posted the extended voting hours on the Police Department website and the Town website and announced it on the local cable television channel. In addition, individual citizens spread the word on private social media groups for Town residents.

It is unclear whether there is any resident of Hull who was prevented from voting when the road was closed between 5:38 p.m. and 7:00 p.m. and either did not learn about the extension of voting hours or was unable to vote during those hours. It is certainly possible that some residents were disenfranchised due to the temporary emergency road closure.

When the polls closed at 10:00 p.m. on May 15, the Town Clerk tallied those ballots cast during the regular voting hours of 7:00 a.m. to 8:00 p.m. and issued an unofficial tabulation based on the electronic voting machines. The Town Clerk segregated and secured all ballots cast between 8:00 p.m. and 10:00 p.m. and has not yet examined those ballots. There are approximately 80 such ballots.

Until the issue of how to treat those 80 ballots is resolved, the Town Clerk cannot finalize and certify the election results and cannot administer the oath of office to some of the candidates where the race was too close to call. Accordingly, on May 16, 2023, the Town filed this Verified Emergency Motion.

DISCUSSION

The Town requests that the Court issue an emergency order extending the hours of voting, nunc pro tunc, in the Town of Hull Annual Election held on Monday, May 15, 2023 from 8:00 p.m. to 10:00 p.m. The Town further requests that the Court issue an emergency order permitting the counting of those ballots cast between 8:00 p.m. and 10:00 p.m.

The Town invokes G.L. c. 56, § 59, which provides in relevant part:

The supreme judicial court and the superior court department of the trial court shall have jurisdiction of civil actions to enforce the provisions of chapters fifty to fifty-six, inclusive,¹ and may award relief formerly available in equity or by mandamus.

This statute authorizes the Superior Court to award equitable relief “to enforce the provisions” of the election laws. See *Wheatley v. Secretary of the Commonwealth*, 439 Mass. 849, 853 (2003) (G.L. c. 56, § 59 gives court power to enforce laws regulating the conduct of elections and power to grant equitable relief to those injured by violations of those laws). See also *Dane v. Board of Registrars of Voters of Concord*, 374 Mass. 152, 158 (1978); *Lay v. Lowell*, 101 Mass. App. Ct. 15, 21 (2022) (statute gives court “broad power to enforce the election laws”). See, e.g., *Hurst v. State Ballot Law Comm’n*, 428 Mass. 116, 122 (1998) (G.L. c. 56, § 59 gave court independent jurisdiction to enforce statutory requirements of ballot laws).

The Town has failed to identify any specific statutory provision which it seeks to enforce. Cf. *Attorney Gen. v. Board of Aldermen of Everett*, 351 Mass. 193, 197 (1966) (bill in equity seeking to have election declared invalid was not proper where plaintiff failed to request

¹The following chapters appear to be wholly inapplicable to this matter: Chapter 51, governing the qualifications of voters; Chapter 52, governing political committees; Chapter 53, governing nominations, initiatives and referendums, primaries, and caucuses; Chapter 55, governing the disclosure and regulation of campaign expenditures and contributions; Chapter 55B, governing the State Ballot Law Commission, Chapter 55C, governing public campaign financing; and Chapter 56, governing violations of the election laws.

enforcement of some specific election provision under G.L. c. 56, § 59). Nonetheless, the following provision arguably is implicated by the Town's request that the Court authorize, nunc pro tunc, the extension of voting hours until 10:00 p.m. General Laws c. 54, § 64 provides in relevant part:

Notices or warrants . . . for the election of town officers in towns where official ballots are used shall specify . . . the time when the polls will be opened, and . . . in towns when not voting by precincts, when they may be closed.

The polls shall in no case be kept open after eight o'clock in the evening. At state elections the polls shall not be closed before eight o'clock in the evening.

...

In towns, at the election of town officers, the polls may be opened as early as fifteen minutes before six o'clock in the forenoon, and shall be opened as early as twelve o'clock, noon, and shall be kept open at least four hours, and until the time specified in the warrant when they may or will be closed; and in towns not voting by precincts they may be kept open for such longer time as the meeting shall direct.

In addition, the following provision arguably is implicated by the Town's request to authorize the Town Clerk to include the 80 ballots in the final tally. General Laws c. 50, § 2 provides in relevant part:

In elections, the person receiving the highest number of votes for an office shall be deemed and declared to be elected to such office; and if two or more are to be elected to the same office, the several persons, to the number to be chosen to such office, receiving the highest number of votes, shall be deemed and declared to be elected; but persons receiving the same number of votes shall not be deemed to be elected if thereby a greater number would be elected than are to be chosen.

See also G.L. c. 54, § 105 (setting forth procedures at close of polls for counting votes and announcing results).

This Court, in its discretion, declines to order the requested equitable relief. The judiciary's power to remedy election irregularities was recognized even before the enactment of

G.L. c. 56, § 59. *Wheatley v. Secretary of the Commonwealth*, 439 Mass. at 853.² In the view of the Court, the May 15, 2023 election was not valid. The Court recognizes that not every deviation from a statutory provision automatically upsets the result of an election. See *Citizens for Referendum Vote v. Worcester*, 375 Mass. 218, 219 (1978). However, Town Counsel represented at oral argument that the margin of victory for at least one race was only 15 votes, such that the counting of the additional 80 ballots may well affect the outcome. Cf. *id.* (absent official misconduct, election was not invalid due to hour and twenty-minute delay in opening polling place, where there was no showing that enough votes were involved to affect outcome). Thus, at least one Town race was close enough to be impacted by the blocking of the road to the polling place.

More importantly, when the temporary road closure occurred, citizens attempting to travel to the High School to vote were informed by public safety officials that they would not be able to vote due to the emergency but were not informed at that time that there would be remedial action to ensure residents' right to vote. There is no information before the Court as to how many voters were so affected or their identities. Although the Town made a good faith effort to notify Town residents about the extension of voting hours, there is no guarantee that those citizens who were initially prevented from voting: 1) received this information and 2) were able to avail themselves of the additional opportunity to vote. Accordingly, there exists a very real likelihood that citizens were disenfranchised during the May 15, 2023 Town election. See

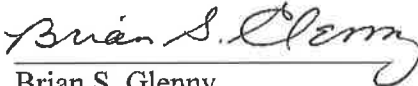
²The Court's power is limited only by constitutional provisions. See *Wheatley v. Secretary of the Commonwealth*, 439 Mass. at 853-854 (Superior Court judge erred in ordering new election for House representative based on irregularities, including one voting place running out of ballots causing a thirty-minute delay during which three dozen people left voting area, because Massachusetts Constitution Part II, c. 1, § 3, art. 10 provides that the House of Representatives shall be the judge of the returns, elections, and qualifications of its own members; House's decision to seat particular member therefore was unreviewable by court).

McCavitt v. Registrars of Voters of Brockton, 385 Mass. 833, 837 (1982) (the object of election laws is to secure the rights of duly qualified voters and not to defeat them). See also Mass. Declaration of Rights Pt. 1, Art. IX (“all inhabitants of this Commonwealth, having such qualifications as they shall establish by their frame of government, have an equal right to elect officers and to be elected, for public employments.”); *Swift v. Registrars of Voters of Quincy*, 281 Mass. 271, 277 (1932) (emphasizing that the right to vote is a sacred privilege).

Thus, the Court cannot in good conscience grant the Town the requested relief of validating, nunc pro tunc, the extension of voting hours and authorizing the counting of the 80 ballots cast during those extended hours. In the view of the Court, a new election is the only just remedy for the unfortunate circumstances of May 15, 2023.

ORDER

For the foregoing reasons, it is hereby **ORDERED** that the Town’s Verified Emergency Motion to Extend Voting Hours Nunc Pro Tunc and to Permit Counting of Ballots Cast on Monday, May 15, 2023 Between 8:00 P.M. and 10:00 P.M. be **DENIED**.


Brian S. Glenny
Justice of the Superior Court

DATED: May 17, 2023

EXHIBIT G



TOWN OF HULL
OFFICE OF THE TOWN CLERK
253 Atlantic Avenue
Hull, MA 02045
Telephone: 781-773-3803

May 20, 2023

Statement on May 15, 2023
Hull Town Election

I have received many inquiries concerning our Monday, May 15th Annual Town Election. Approximately 2,400 Hull voters turned out to vote at the Annual Election, one of the largest turnouts in the past several years. However, the election was not without significant challenges.

As most Hull residents are aware, at approximately 5:30 p.m. on May 15th, a major fire caused significant traffic disruption and delay, including the closure of a portion of Nantasket Avenue for some period of time. It is reported, that as a result some voters may have been unable to reach the polls due to heavy traffic and/or concern that they would not arrive before the close of polls at 8:00 p.m.

My responsibility as Town Clerk and as the Chief Election Official is to enfranchise all voters who wish to participate in choosing their local representatives. Learning about the road closure heightened my already significant concern that this public safety event was impeding access to the polls. I immediately consulted with Town public safety officials, the Town Manager, Town Counsel, and the state Elections Division concerning possible responses to this complicated issue. The rights of voters to cast ballots overshadowed the lateness of the hour and resolved any doubts I had about a proper resolution.

I made the decision to extend polling hours from 8:00 p.m. to 10:00 p.m. to provide the opportunity for those who had not yet voted to cast their votes. A public notification was made forthwith in several ways calculated to reach the greatest number of voters, including a Town-wide phone message, social media and, Hull Cable TV. Approximately 80 additional voters were able to cast ballots.

Because state law establishes that the longest time the polls may be open is from 7:00 a.m. through 8:00 p.m., the Town simultaneously sought to contact a Superior Court judge to receive appropriate guidance. Unfortunately, the Court was closed at that time and although all efforts were made it was not possible to locate another judge with authority to address the Town's requests. On Tuesday, May 16, 2023, Hull Town Counsel filed a petition with the Plymouth Superior Court to ratify the extended hours and authorize the Town to count the approximately 80 votes cast during that period. The next day, the Superior Court issued its ruling rejecting both of the Town's requests. The Court, although raising questions about whether voters may have been excluded, did not declare the election invalid or mandate a new election.

The unusual and unanticipated circumstances on election night could not have been anticipated. Regardless, regularity and integrity of elections are essential to people's confidence in elections and election officials. For that reason, the Town cannot simply ignore the current circumstances and the law. Together with appropriate Town officials, I am working with legal counsel to develop a plan to finalize this election, which will include filing another motion with the Superior Court to ask for additional guidance and clarification on possible resolutions. I will post the Town's papers on the website immediately after filing and will directly provide all candidates with a courtesy copy.

Additionally, under the law, the general rule is that an elected officer of the Town serves until their successor is elected and sworn, or "qualified". This result is for the convenience and continuity of government. As the Annual Town Election results are not yet final, persons appearing on the ballot have not yet been elected, and therefore, cannot be sworn. The elected incumbents of those offices, regardless of whether they ran for re-election, remain in office as hold over officials with all the same powers and duties they exercised prior to the date of the election.

This is a highly unusual situation with few historic examples to follow. I will continue to try to balance the interests of the candidates and the voters of the Town who did and did not cast ballots, to ensure a fair, equitable, and transparent 2023 election process in the Town of Hull.

Thank you.

Lori West
Hull Town Clerk

EXHIBIT 2

COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, ss.

SUPERIOR COURT
NO. 2383 CV 00390

TOWN OF HULL,
PETITIONER

AFFIDAVIT OF MICHELLE K. TASSINARI

I, Michelle K. Tassinari, hereby depose and say upon oath as follows:

1. I am Director and Legal Counsel to the Elections Division for the Secretary of the Commonwealth and as such have personal knowledge of the matters set forth herein. I started working in the Elections Division 1998 as assistant legal counsel, and was named legal counsel in April 2000 and director in 2005.

2. On Monday, May 15, 2023, Attorney James Lampke emailed me at approximately 6:30 p.m. regarding a fire that was disrupting the voting in the Town of Hull and inquiring about extending the polling hours. I called Attorney Lampke and we discussed the unique geography of Hull and that fire safety equipment was blocking the only road to the polling place. I recommended that he seek a court order to extend the polling hours for the same duration as the road to the polling place was unavailable.

3. I suggested that if he were unable to appear before a judge before the polls were scheduled to close at 8 p.m., another option would be to extend the polling hours and seek a court order afterwards to validate those actions. I recommended that any ballots cast after 8 p.m. be issued as provisional ballots or at least be segregated from those cast during the scheduled polling hours. I further recommended that the Town

advertise whatever actions were being taken, including using a reverse 9-1-1 call to residents, using social media and posting on the town website.

4. After our telephone call, I replied to Attorney Lampke's email to confirm our conversation. A copy of that email is attached hereto as Exhibit A.

5. On Tuesday, May 16, 2023, I contacted Attorney Lampke regarding the previous day's issues. He informed me that the Town had kept the polls open until 10 p.m. but that any ballots cast between 8 p.m. and 10 p.m. had been segregated and not yet counted. Any ballots cast before 8 p.m. were counted in the normal course and unofficial results from those ballots had been announced. To advertise the extended hours, the Town had done a robo-call, posted on the Town website and spread word through various Facebook groups in the Town. Attorney Lampke advised me that approximately 80 ballots were voted on between 8 p.m. and 10 p.m.

6. I believe that the Town had an obligation to extend the polling hours to provide voters with the opportunity to vote since the polling place was inaccessible for a period of time during the scheduled polling hours. There is no state law that authorizes this Office to approve an extension or delay in polling hours once they are scheduled and instead court action is necessary. This is the same process utilized during the September 6, 2022 State Primary in the Town of Barnstable, whose polls did not open on time because the door to the vault in which the ballots were stored would not open. In that instance, the Secretary's Office initiated litigation against the Town, but without opposition, to seek a court order to extend the voting time, which was granted. In that case, ballots were not segregated since the court order granted before the polls were scheduled to close.


7. In this case, there are approximately 80 ballots to be counted and thus why the Town is seeking court approval.

8. Information on the Town website shows that the voter turnout for the 2023 municipal election in Hull was 35% higher than in the past 5 years.¹

9. It is my opinion that opening the polls for an additional period of time is unnecessary and recommended that the Town not propose that as an alternative solution to simply counting the ballots already cast.

10. This Office strongly believes the best solution is to allow the counting of the ballots cast between 8 p.m. and 10 p.m., by hand, after notice to all candidates, and in the public view.

Signed under the pains and penalties of perjury this 23rd day of May, 2023.



Michelle K. Tassinari

¹ 2023 Unofficial results:

https://www.town.hull.ma.us/sites/g/files/vyhlf3286/f/uploads/unofficial_results_may_15_2023_0.pdf

2022 Official results:

https://www.town.hull.ma.us/sites/g/files/vyhlf3286/f/uploads/hull_official_results_may_16_2022_final_1.pdf

2021 Official results:

https://www.town.hull.ma.us/sites/g/files/vyhlf3286/f/uploads/hull_official_results_may_22_2021.pdf

2020 Official results:

https://www.town.hull.ma.us/sites/g/files/vyhlf3286/f/uploads/june_23_2020_town_of_hull_annual_town_election_official_results_1_with_write-in_info_updated_6282020.pdf

2019 Official results:

https://www.town.hull.ma.us/sites/g/files/vyhlf3286/f/uploads/hull_official_results_may_20_2019_write-ins.pdf

2018 Official results:

https://www.town.hull.ma.us/sites/g/files/vyhlf3286/f/uploads/official_results_may_21_2018.pdf

From: [Jim Lampke](#)
To: [Tassinari, Michelle \(SEC\)](#)
Subject: Re: 6 ALARM FIRE PREVENTING ACCESS TO POLLS
Date: Monday, May 15, 2023 8:21:55 PM

CAUTION: This email originated from a sender outside of the Commonwealth of Massachusetts mail system. Do not click on links or open attachments unless you recognize the sender and know the content is safe.

Thanks Michelle for your call and this email. We are doing just that. After much effort I was not able to get a judge who felt he had the power- he was a juvenile judge and said he checked with his boos and they said no power.

So we are getting the word out on our emergency call system and social media, etc.

We are doing the best we can do. Perhaps in the future the law can be changed to provide a mechanism for this being dealt with by a vote of ____.

I appreciate your reaching out.

Best,

Jim

James B. Lampke, Esq.

Lampke & Lampke

115 North Street, Hingham, MA 02043

p: 781-749-9922 | c: 617-285-4561 [cell best] | f: 781-749-9923

james.lampke@lampkelaw.com

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On Mon, May 15, 2023 at 7:39 PM Tassinari, Michelle (SEC)

<michelle.tassinari@state.ma.us> wrote:

Hi Jim-

As we discussed, you'll need a court order to extend the polling hours.

If you're unable to get a judge before 8, you could extend and seek another order to validate. But, you should segregate those ballots or just issue provisional ballots.

In either scenario, you should be sure to publicize what actions are being taken.

Michelle

Sent from my Verizon, Samsung Galaxy smartphone
Get [Outlook for Android](#)

From: Jim Lampke <james.lampke@lampkelaw.com>
Sent: Monday, May 15, 2023 6:37:01 PM
To: Tassinari, Michelle (SEC) <michelle.tassinari@sec.state.ma.us>
Subject: 6 ALARM FIRE PREVENTING ACCESS TO POLLS

CAUTION: This email originated from a sender outside of the Commonwealth of Massachusetts mail system. Do not click on links or open attachments unless you recognize the sender and know the content is safe.

Hello Michelle-

Local election ends at 8 p.m.

6 Alarm fire is causing a major disruption in local traffic and may be preventing people getting to the polls.

How does one get an emergency extension on voting hours?

Any advice you can give is appreciated.

Thanks

Jim
c- 617-285-4561

James B. Lampke, Esq.
Lampke & Lampke
115 North Street, Hingham, MA 02043
p: 781-749-9922 | c: 617-285-4561 [cell best] | f: 781-749-9923
james.lampke@lampkelaw.com

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EXHIBIT 3

COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, SS.

SUPERIOR COURT
C.A. NO. 2383CV00390

In Re: TOWN OF HULL MAY 15, 2023
ELECTION

AFFIDAVIT OF DEPUTY POLICE CHIEF NEIL REILLY

I, Neil Reilly, hereby state on oath as follows:

1. I have been a member of the Hill Police Department since 1999, serving as a Patrolman from 1999 to 2006 a Sergeant from 2006 to 2018 and as Deputy Chief from 2018 to present.
2. On May 15, 2023 the Town was having its Annual Election from 8:00 a.m. to 10:00 p.m. at the Hull High School, 180 Main Street, Hull.
3. Hull is a peninsula and the location of Hull High School is at the very end of the peninsula.
4. At around 5:38 p.m. a fire was called in on the 911 emergency line about a house fire at 5 Q Street, which shortly thereafter turned into a major multi-alarm fire.
5. I was called at my home about the fire just before 6:00 pm. As did other public safety personnel, I responded to the scene to give assistance, arriving shortly after 6:00 p.m.
6. Upon arrival, I spoke with the on scene Sergeant who had already spoken with the Police Chief who was also on the scene.
7. Sometime close to 8:00 p.m. I received a call from Town Counsel James B. Lampke. He explained that he had been trying for some time to reach a Superior Court Judge to request approval for extending the voting time due to the voting delay caused by the roadblock but could not reach anyone with that authority.

8. He asked me to send out a Code Red telephone alert to the residents that the voting was being extended to 10:00 p.m. due to the delay some voters may have faced in trying to get to the polls due to the road closure.
9. Town Counsel Lampke asked me to go to the Police Station and send out the message.
10. After extracting my vehicle from the tight parking situation, I returned to the Police Station and proceeded to take steps to send out the Code Red message.
11. Under the Code Red system, an automatic phone message can be sent to people who have registered their phone numbers with the Town.
12. Presently there are 14,986 phone numbers in the system; many people enter more than one number. The system sends out the calls two times, the second time to those whose phones were not answered the first time. Between those two calls, 5,517 calls were received out of the 14,986 calls made.
13. I have more information about this situation but believe this affidavit should be sufficient for present purposes.

Signed under the pains and penalties of perjury this 22 day of May, 2023.

 1034

Neil Reilly

Deputy Police Chief

Town of Hull



Transcription

"Good evening this is deputy police chief Neil Riley due to the delay caused by the fire the voting polls at the gymnasium at

_____ 180 Main
_____ open until 10 PM

EXHIBIT 4

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

SUPERIOR COURT
NO. 22-2035 H

WILLIAM FRANCIS GALVIN, as he is
SECRETARY OF THE COMMONWEALTH,

NOTICE IN HAND
09.06.22
COMM OF MA

Plaintiff,

(LAT)

v.

TOWN OF BARNSTABLE,

Defendant.


Robt
~~ORDER~~ ORDER

The Court, after hearing and based on the Secretary's Verified Complaint and the representations of the parties, finds that (1) an actual controversy has arisen between the parties regarding the defendant Town's election official's authority and duty with respect to election-related deadlines; and (2) injunctive relief is necessary in order to prevent irreparable harm, including infringement on the voting rights of voters in the defendant Town, disruption of governmental processes, and waste of municipal resources. The Court therefore directs that judgment be entered as follows:

1. An actual controversy has arisen between the parties regarding state laws that impose election deadlines. Local election officials are uncertain how and when they are authorized or required to proceed. The controversy must be resolved immediately to ensure smooth administration of today's state and local election and avoid infringement of voters' rights. *See Grossman v. Sec'y of the*

Commonwealth, 485 Mass. 541, 546 (2020) (“The right to vote, expressly provided by both art. 3 of the Amendments to the Massachusetts Constitution and art. 9 of the Massachusetts Declaration of Rights, is fundamental.”)

2. It is hereby ordered that polls in the Town of Barnstable may and should remain open until midnight tonight, September 6, 2022.


Patrick M. Haggerty, J.
Associate Justice
Superior Court

Date: September 6, 2022

2284CV02035 William Francis Galvin, as he is Secretary of the Commonwealth vs. Town of Barnstable

- Case Type:
- Equitable Remedies
- Case Status:
- Open
- File Date
- 09/06/2022
- DCM Track:
- F - Fast Track
- Initiating Action:
- Injunction
- Status Date:
- 09/06/2022
- Case Judge:
-
- Next Event:
-

[All Information](#) [Party](#) [Event](#) [Tickler](#) [Docket](#) [Disposition](#)

Party Information

William Francis Galvin, as he is Secretary of the Commonwealth
- Plaintiff

Alias

Party Attorney

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[More Party Information](#)

Town of Barnstable
- Defendant

Alias

Party Attorney

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[More Party Information](#)

Winslow, Elisha Freeman
- Other interested party

Alias

Party Attorney

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[More Party Information](#)

Gibson, Jamie
- Other interested party

Alias

Party Attorney

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- (617)573-9400

[More Party Information](#)

Ramos, Arthur P
- Other interested party

Alias

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[More Party Information](#)**Events**

Date	Session	Location	Type	Event Judge	Result
09/07/2022 02:00 PM	Civil H	BOS-10th FL, CR 1015 (SC)	Hearing on Preliminary Injunction	Haggan, Hon. Patrick	Held as Scheduled

Ticklers

Tickler	Start Date	Due Date	Days Due	Completed Date
Service	09/06/2022	12/05/2022	90	
Answer	09/06/2022	01/04/2023	120	
Rule 12/19/20 Served By	09/06/2022	01/04/2023	120	09/14/2022
Rule 12/19/20 Filed By	09/06/2022	02/03/2023	150	09/14/2022
Rule 12/19/20 Heard By	09/06/2022	03/06/2023	181	09/14/2022
Rule 15 Served By	09/06/2022	01/04/2023	120	09/14/2022
Rule 15 Filed By	09/06/2022	02/03/2023	150	09/14/2022
Rule 15 Heard By	09/06/2022	03/06/2023	181	09/14/2022
Discovery	09/06/2022	07/03/2023	300	09/14/2022
Rule 56 Served By	09/06/2022	08/02/2023	330	09/14/2022
Rule 56 Filed By	09/06/2022	09/01/2023	360	09/14/2022
Final Pre-Trial Conference	09/06/2022	01/01/2024	482	09/14/2022
Judgment	09/06/2022	09/05/2024	730	09/14/2022

Docket Information

Docket Date	Docket Text	File Ref Nbr.	Image Avail.
09/06/2022	Attorney appearance On this date Anne Lisa Sterman, Esq. added for Plaintiff William Francis Galvin, as he is Secretary of the Commonwealth		
09/06/2022	Attorney appearance On this date Adam Hornstine, Esq. added for Plaintiff William Francis Galvin, as he is Secretary of the Commonwealth		
09/06/2022	Attorney appearance On this date Kathleen E Connolly, Esq. added for Defendant Town of Barnstable		
09/06/2022	Attorney appearance On this date Charles S McLaughlin, Jr., Esq. added for Defendant Town of Barnstable		
09/06/2022	Case assigned to: DCM Track F - Fast Track was added on 09/06/2022		
09/06/2022	Original civil complaint filed.	1	Image
09/06/2022	Civil action cover sheet filed.	2	Image
09/06/2022	Plaintiff William Francis Galvin, as he is Secretary of the Commonwealth's Assented to Motion for Preliminary Injunction	3	Image
09/06/2022	Affidavit of Michelle K. Tassinari	4	Image
09/06/2022	Service Returned for Defendant Town of Barnstable: Service accepted by counsel;	5	Image

<u>Docket Date</u>	<u>Docket Text</u>	<u>File Ref Nbr.</u>	<u>Image Avail.</u>
09/06/2022	ORDER: See p.6 for full Order. (dated 9/6/2022) Notice in hand 9/6/2022	6	Image
09/06/2022	Endorsement on Motion for Preliminary Injunction (#3.0): ALLOWED After review, by agreement of the parties, and in consideration of the time-sensitive and unique situation affecting an important right (to vote), the Motion is ALLOWED. (dated 9/6/2022) Notice in hand 9/6/2022		Image
09/07/2022	Event Result:: Hearing on Preliminary Injunction scheduled on: 09/07/2022 02:00 PM Has been: Held as Scheduled Hon. Patrick Haggan, Presiding Staff: John E Powers, III, Assistant Clerk Magistrate		
09/08/2022	Other Interested Party Elisha Freeman Winslow, Jamie Gibson, Arthur P Ramos's EMERGENCY Motion to intervene (filed 9/7/22) - MOOT. Dated: 9/7/22 Notice sent 9/8/22 Judge: Haggan, Hon. Patrick	7	
09/08/2022	Attorney appearance On this date Michael J Sullivan, Esq. added for Other interested party Elisha Freeman Winslow		
09/08/2022	Attorney appearance On this date Joseph C Amrhein, Jr., Esq. added for Other interested party Elisha Freeman Winslow		
09/08/2022	Attorney appearance On this date Michael J Sullivan, Esq. added for Other interested party Jamie Gibson		
09/08/2022	Attorney appearance On this date Joseph C Amrhein, Jr., Esq. added for Other interested party Jamie Gibson		
09/08/2022	Attorney appearance On this date Michael J Sullivan, Esq. added for Other interested party Arthur P Ramos		
09/08/2022	Attorney appearance On this date Joseph C Amrhein, Jr., Esq. added for Other interested party Arthur P Ramos		
09/08/2022	Plaintiff(s) William Francis Galvin, as he is Secretary of the Commonwealth's Assented to Motion for a Preliminary Injunction (filed 9/7/22) - After review and hearing, the motion is ALLOWED. Dated: 8/7/22 Notice sent 9/8/2	8	
09/08/2022	Affidavit of Michelle K. Tassinari (filed 9/7/22) (Second Affidavit)	9	
09/08/2022	ORDER: In addition, it is hereby ORDERED that the Secretary has the authority to expand the court order to any municipality whose local election official certifies ballots were not completely counted on September 6, 2022 which shall follow the same process as described above. Dated: September 7, 2022 Notice sent 9/7/22 and on 9/8/22 (See P#10 for complete order) Judge: Haggan, Hon. Patrick	10	
09/14/2022	Plaintiff William Francis Galvin, as he is Secretary of the Commonwealth's Notice of Voluntary Dismissal without prejudice	11	Image

Case Disposition

<u>Disposition</u>	<u>Date</u>	<u>Case Judge</u>
Voluntary Dismissal	09/14/2022	