

## Election Committee Minutes from the Meeting on November 30, 2023

The 2024 VMA Election Committee held its fifth meeting on November 30, 2023, by Zoom.

In attendance: Council liaison Katie Howard and Council chair Arthur Alexander. Committee members Naomi Naierman, John Sharrow, Paul Weller, and Marty Langelan; Jennifer Bergeron was on travel.

Marty, the Committee chair, called the meeting to order at 7:46 pm. She thanked Katie for providing the community election comments from the 2023 VMA survey, and for her very helpful summary of the review of the draft election documents by Ron Bolt, the VMA attorney. Marty thanked Arthur for being the Zoom-master for this meeting, and invited both Arthur and Katie to participate in the Committee's discussions.

The Committee voted to approve the minutes from the November 13 meeting. In light of the upcoming Council meeting on December 14, the Committee scheduled our next meetings for December 6 and 18. John agreed to draft the minutes for this meeting.

The Committee discussed the comments about elections from the 2023 VMA survey. There were only a few comments, and there was no clear pattern to them, but the Committee noted that the comments included some strong support for mail-vote elections.

The Committee discussed the distribution of the RFP for the contractor to help verify the 2024 VMA voter roll. Marty reported that the Maryland Municipal League RFP announcement board is out of commission and unable to post anything until January, but that Michael Silliman, the Village Manager, is sending the RFP to his contacts. The Maryland Director of Common Cause also agreed to distribute the RFP to their network of election specialists and trained election observers. Marty reported that Michael had contacted Electec, the mail-vote contractor that VMA has used in recent years, and Electec said they might submit a response to the RFP. Marty reported that Electec plans to send Michael its estimate for the regular 2024 mail-vote election work in a few weeks.

The Committee then turned to Ron's comments on the two draft election documents to be reviewed at this meeting: the consolidated rules and procedures, and the voter roll verification procedure that will be attached as Appendix A.

The Committee agreed to incorporate both of Ron's suggestions on the voter roll verification document. The Committee will revise the 2024 draft accordingly.

Regarding the rules and procedures document, the Committee and the Council members who were present discussed whether it should be an ordinance or merely a policy resolution. All agreed that it is harder to change an ordinance than a resolution; the Committee members said that making this an ordinance would help to stabilize the election process. In response to Ron's comment that the election document might be too detailed to be an ordinance, the Committee noted that the state election ordinances are extremely detailed about the state-wide administrative election regulations, and that VMA does have a number of other ordinances that contain detailed administrative provisions, such as the building code and tree ordinance. The Committee added that the 2024 procedures document is based on the election rules that the Council already approved in 2023, and that the amount of time the Council and the community had to spend on the VMA election regulations in the past few years was substantial. The Committee voted unanimously to recommend that the Council adopt the 2024 document as a stable, long-term ordinance.

The Committee then discussed Ron's comment about whether the Election Committee "conducts" the VMA elections or "manages" them. The Committee said "conducts" is more accurate. The concern was that the

word “manages” is not as clear, and could allow some confusion about the role of the staff here. Paul, who was one of the authors of the Village Charter, noted the potential conflicts of interest. (The incumbent candidates have a self-interest in the election results, and the staff are “at will” employees who serve at the direction of the Council members; the staff can provide basic government data like the Village Office List of residents or the County voter roll, but neither the Council members nor staff should be involved in issuing the ballots or running any part of the operational election process.)

Paul said the intent of the Charter language about “managing” the elections was to explicitly assign the Committee the authority to conduct the elections. He said that it is essential to have a clear operational boundary – a “firewall” – to separate the Council and VMA staff from the election process. Marty added that VMA has had a many-decades-long history of independent elections, with the Council and staff not intervening or obstructing in any way as the Committee carried out the process. She noted that the clear “bright-line” boundary got blurred by the 2020-2021 election rules, but the subsequent Councils carefully reviewed the regulations line by line in 2022 and 2023 and voted to re-establish the independent election boundary. Naomi and John said that the Committee conducts the elections. The Committee addressed the need to be clear about this, to meet the basic principle of election fairness and the specific intent of the Charter. The Committee voted unanimously to keep the term “conducts the elections” in the 2024 procedures document.

With respect to Ron’s comment about the election contractor reporting to the Committee, the Committee noted that there is a difference between contract administration and performance supervision. The Village Manager does supervise the VMA contractors’ work on trash removal, snow plowing, and other aspects of Village operations that are within his authority, but he does not manage the VMA attorney or auditors, for example. The Council has generally had the attorney, the audit firm, the forensic accounting and cyber-security specialists and similar contractors report directly to the Council. The Village Manager administers their contracts and pays their invoices but he does not assign their duties or manage their work. Marty mentioned that that is the normal two-part structure for all of her firm’s government contracts (e.g., the federal agency’s Contracts Office administers the paperwork and payroll for her company’s contracts, but her project team reports to the Director of the agency). The Committee voted unanimously that the Election Committee is the appropriate government body to supervise the work of the VMA election contractor.

The Committee also discussed the need for the Committee to have some managerial flexibility to handle unexpected situations, like the election contractor’s failure to provide postage-paid return envelopes. Committee members said that being able to provide “additional instructions for the contractor as necessary to ensure a fair, inclusive, and accurate election” gives the Committee the ability to resolve problems within the framework of the approved ordinance. It does not give the Committee the authority to alter the ordinance. The Committee agreed to clarify this point in the 2024 document. The Committee noted that if the Committee is instructing the contractor to help remedy the company’s own errors, at its own expense, that does not raise budgetary or contractual issues for VMA.

The Committee also discussed Ron’s other comments, and voted unanimously as follows:

1. Keep the long-standing practice of having the Committee certify the voter roll. That is an election “best practice” and makes it clear that the Committee, not the VMA staff, is responsible for the accuracy of the voter roll. That provision is not new; the Committee chairs have been doing it for years and the Council explicitly approved the certification process in the Voter Roll Verification Procedures Policy the Council adopted in 2022. The Committee said the need for local certification was clear after the erroneous ballots in 2021.

2. Adopt Arthur’s suggestion that the Committee will exercise “good judgment and managerial discretion” in the unlikely event that there is a question about accepting a nomination. The nomination process is straightforward in the 2024 document; the Committee made it simpler this year than last year.
3. Keep the information about recounts and referendums in the 2024 document, but as Ron suggested, delete the references to Maryland election law and just state the VMA versions. The VMA recount and referendum provisions here are a simplified version of the state law. The Committee will ask the Council to decide if the simplified language the Committee recommends is acceptable.
4. Ask the Council to decide how long a “temporary absence” can be for a non-resident owner, under the new definition of “qualified voters” that the Council adopted in September 2023. The Committee incorporated the new definition in the 2024 election procedures document, as required by the Council, and has recommended by Committee vote that a “temporary absence” be no more than 7 consecutive years.
5. Adopt Ron’s suggestion to further clarify the voter roll language from last year about voters who are on the County voter roll and voters who are on the VMA supplemental voter roll. The Committee will revise the 2024 document accordingly.
6. Keep the provision from 2023 that the elections will be held by mail. The Committee said voting by mail is not only more efficient, but produces higher participation rates, is far more ADA-accessible, is more voter-friendly (easier for young families, elders, and people with demanding jobs), provides better ballot security, is fairer in terms of civil rights, and imposes a significantly lower workload burden for VMA than voting in person. In response to Ron’s comment, the Committee also noted that a mail-vote envelope drop-box is a normal component of mail-in elections.
7. Adopt Ron’s suggestion to specify how the Committee will notify voters to give them a chance to cure non-conforming ballot envelopes. The Committee will revise the 2024 document accordingly.
8. Adopt Ron’s suggestion to delete the reference to Maryland state law about election interference and just state the VMA version of the same requirement. The Committee noted that small municipal governments are not automatically required to comply with some state laws, but there is nothing to preclude us from adopting VMA regulations that are consistent with the state law. The Committee chair expressed the view that it’s generally a good idea for VMA’s election regulations to follow the Maryland state election laws, especially on basic requirements like this. The Committee agreed. The Committee will revise the 2024 document accordingly.

The Committee also discussed Ron’s comments about holding the election open for ballot curing. The Committee said:

- The 5-day curing period specified in the 2024 document shortens the time period during which the election can be held open. Last year the final election results were announced two weeks after the initial vote counting.
- There is no way for voters to change their votes during the curing period. The election contractor has the ballot envelope, unopened. If the voter provides the Committee with a corrected affidavit within 5 days, the Committee just instructs the contractor to open the existing envelope and include those votes in the final tally.

- Ron suggested in his comment that the contractor could be required to notify the Committee about non-conforming ballot envelopes sometime before the vote counting session. The Committee noted that (a) VMA has not required the contractor to do that in previous years, (b) it may not be operationally feasible, and (c) the Committee's adjudication of the non-conforming envelopes should take place in public during the vote counting session.

The Committee then voted on a motion to approve the rules and procedures document, as amended at this meeting, and to approve the voter roll verification document, as amended here, and attach it as Appendix A. The vote was unanimous in favor of the motion. Marty will provide the updated consolidated election document for the December 6 Committee meeting. The Committee thanked Katie for providing us with the summary of Ron's comments on the drafts, and asked her to convey our appreciation to Ron.

The Committee briefly discussed how to write the "ordinance explanation" document for the December 14 Council meeting, per the Council's SOP for introducing ordinances, and Arthur provided helpful guidance about what it should include.

The next Election Committee meeting will be at 7:45 pm on December 6.

The Committee voted to adjourn the meeting at 9:14 pm.

[APPROVED by the Committee at its public meeting on December 6, 2023.](#)