

## **Election Committee Report for the VMA Council Meeting 9/19/2019**

The VMA Election Committee marks the loss of Council Chair Richard Krajeck with great sadness. We are so grateful for all his work to ensure that VMA has good ethical government and clean elections. He made a tremendous difference, and we miss him very much. It is so sad to have to turn now to filling his vacant seat on the Council.

Charter section 409 stipulates the 3-seat / 2-seat structure for VMA elections. If Richard had lived one year longer, or if his Council seat had been in the 3-person election group instead of the twosome, the existing vacancy procedures would work just fine. But because of the timing of Richard's passing, VMA now faces the problem of having four seats up for election next May (the three incumbents whose terms will be up, plus Richard's seat). Since Charter section 602 says that everyone gets a 2-year term, we'd be stuck with a 4-1 electoral imbalance from then on.

We all agree that it's important to keep the 3-seat / 2-seat structure. It's a bedrock provision in the VMA Charter, and it's good democratic practice to elect half of the Council each year -- it makes the governing officials more responsive to the community.

The Election Committee explored a number of possible remedies. There are two main ways to go:

(A) The Council could amend Charter section 408 to allow VMA to fill the vacancy for the remainder of Richard's term;

or

(B) The Council could take the avenue Frank Correl suggested on the listserv: Amend section 602, fill the vacancy only until the next election (per the current language in section 408) and then put a 1-year term on the ballot in the May 2020 village election, to elect someone at that point to complete the second year of Richard's term.

There are several good reasons why we do not recommend option B.

1. There is no precedent for having a 1-year term on the ballot. Section 602 of the village Charter specifies 2-year terms.
2. There is no time advantage to option B -- it wouldn't speed up the process of filling the vacancy. Before we could proceed down that path, the Council would have to revise section 602 to allow VMA to put a 1-year term on the ballot. The process for any Charter amendment generally takes at least two months. That's true no matter which section you're amending.
3. To do option B, we'd also have to amend the VMA election ordinance. There is nothing in our current election regulations that would permit a 1-year term. Would we have two sets of candidates, some running for 2-year terms and some running for the 1-year term? We'd have to write some new election procedures to explain how people would do that. Would we require every candidate to identify which term he/she is running for? How would we enforce that requirement? If candidates did not specify a term, would we exclude them from the ballot? Disqualifying a candidate would be lousy. And just as a practical matter, yes, we do have smart, dedicated people on the Election Committee, but it takes time for any volunteer committee to write good, careful new regulations and submit them for Council approval. That process could take even longer than the Charter amendment.

4. Having people run for a 1-year term would also make for a pretty complicated ballot format in May 2020. We'd have one group of candidates running for the three regular 2-year terms, plus the section for write-ins there, and then a second set of candidates listed for the 1-year term, plus a second write-in section for that part. That would certainly confuse folks. As you know, it's good electoral practice to keep ballot formats as simple as possible. The Election Committee does pay attention to things like ballot format and has worked to make VMA's ballots clear and easy to read. This past May, we had a really simple ballot -- just two open seats and three candidates. We put the "Vote for two" instructions in bold print right there on the ballot. But six residents still screwed it up by voting for three people. How many more ballots would be invalidated by voter error next May if we had a much more confusing format with two different sets of candidates running for two different terms?

5. Administrative feasibility matters. If we have four seats up for election next May and 260+ voters (the number we had this year), the Election Committee will have more than 1000 votes to count. That's a lot for any late-night manual vote-count. If we add another layer of complexity to that, with some of the candidates running for 2-year slots and some for a 1-year slot, the mechanics become truly problematic. The combination of sheer volume plus complexity would impose a difficult workload burden, and the complexity would multiply the possibility of human error, no matter how carefully we work to get all the vote-counts right. Accurate vote-counting matters. And the vote-counters could face all kinds of conundrums. Suppose someone writes-in a 1-year candidate's name for a 2-year seat? Would you disqualify that vote?

On the other hand, there is plenty of precedent for option A -- having the person who fills the vacancy serve out the unexpired term. The Town of Chevy Chase does that, and we understand from our village attorney that many other local jurisdictions do, too.

Option A is the simplest way to restore the 3-seat / 2-seat electoral balance. It requires no amendment to the 2-year Council terms in section 602, no new election ordinance regulations, no complicated ballot formats, and no extra-complicated workload for the people doing the vote-counting. Clean and simple is better, in our book.

Frank Correl was concerned about a "denial of democratic expression" if we go with option A. Yes, thankfully, most of the time our Council members are elected directly by our residents. But when we have a Council vacancy, there is nothing undemocratic about having the duly elected Council members elect, by their own majority vote, someone to fill the vacancy from a list of interested residents who've stepped forward, willing to serve. VMA's combination of an open community solicitation and Council majority-vote is a standard method for handling vacancies -- a simple, efficient, and democratic way to fill the seat. It's not a denial of democracy to have our elected Council representatives vote to fill a term that's less than two years long.

The Election Committee evaluated all the various possible remedies and is unanimous in recommending that the Council adopt option A to revise section 408 and fill the vacancy for the remainder of the term. We have provided the Council with a mark-up showing the proposed amendment to section 408. Thank you.

Respectfully submitted by the VMA Election Committee, September 2019.