

Election Committee Meeting

The Election Committee will meet this **Thursday, February 2, 2023 at 7:00 PM.**

Agenda

- Call to Order
- Approval of Minutes
- Resident Comments
- Administrative Issues
- Timeline Review
- Communications Calendar
- Election Service Provider Contract Planning
- Resident Comments
- Closing

This meeting will be held remotely via Zoom. Below is the information for those residents who wish to join remotely:

Dial-In Option

- Call: 1 301 715 8592
- When prompted, enter the Meeting ID: **897 3193 5548#** (you must enter the "#")
- Passcode: **876670**

Web/Video Option:

- Go to the Zoom meeting link:
<https://us02web.zoom.us/j/89731935548?pwd=ZEloQUd3UWRqMFFVRHNrZm1CZDVhQT09>
- Meeting ID: **897 3193 5548#**
- Passcode: **876670**

1 VMA Election Committee Meeting Minutes

2 December 13, 2022

3 Members: Paul Weller; George McAleese; Eric Shaw;

4 7:01: Opening

- 5 • Paul Weller called the meeting to order.

6 7:02: Welcome

- 7 • Paul Weller provided comments on the scope and purpose of the Election Committee,
8 along with summarizing the election plan development process.

9 7:03: Introductions

- 10 • Paul Weller introduced the members of the Election Committee & provided an overview
11 of the agenda.

12 7:04: Election of a Committee Chair

- 13 • Eric nominated George as Chair. George seconded that nomination.
14 ○ **Committee APPROVES George as Chair (Vote 3-0)**

15 7:06: Discussion of Draft Election Plan

- 16 • Paul summarized the Election Plan that was sent to the Council
17 ○ It was pulled together from a number of sources
18 ○ Some changes from last year, and it is a totally mail-in election, but has a ballot
19 drop-box option.
20 ○ Paul described the difficulties because the Committee lacked sufficient members
21 to have a meeting on this plan.
22 • George thanked Paul for the work he did in putting together the plan submitted to the
23 Council.

24 7:10: Discussion of potential changes relating to the election plan, including changes between the
25 2022 and 2023 plans.

- 26 • Vote-by-Mail and Ballot Drop Box Procedures
27 ○ George raised issue of changing language to allow for more flexibility to work
28 with Election Vendor to update Election Day processes if it is possible for
29 residents wishing to vote in-person to have their mailed ballot control numbers
30 voided and a replacement ballot issued at the table to vote.
31 ○ Discussion of possible concerns and benefits of mail-in voting.
32 ○ Discussion of return of Celebration on the Sidewalk.
33 • Paul asked Committee their position on how many members the Committee should have.
34 ○ Resident comment from Jean Sperling relating to Celebration on the Sidewalk.

- 35
- Vote-by-Mail and Ballot Drop Box Procedures
 - George asked for comments on changing language about the vendor “shall mail” replacement ballots to instead say the vendor shall “void existing ballots and shall issue” replacement ballots.
 - George motioned to update language about the vendor “shall mail” replacement ballots to instead say the vendor shall “void existing ballots and shall issue” replacement ballots. Eric seconded that motion.
 - **Committee APPROVES change (Vote 3-0)**
 - Eric raised question relating to interaction between Committee, Village, and the Vendor/Election Service Provider.
 - Nominations Deadline
 - George raised point relating to deadline for nominations and deadline for submission of candidate materials (including conflicts of interest form and candidate statement).
 - Discussion of timeline for allowing candidates to submit nominations materials.
 - Eric raised issue of impact on scheduling of Candidate Forum and printing of packets.
 - George discussed timeline adjustment to allow for starting work on ballot packets and election packets.
 - Eric discussed public access to information relating to submission of materials.
 - Paul raised question on input from the public on the draft plan and preliminary timeline.
 - George described public input process and Council introduction and consideration of draft plan, along with encouraging residents to send comments to Election Committee inbox.
 - Paul described 5 week period for public comment between introduction of draft plan and final vote on election plan at January meeting.
 - Nominations Deadline
 - George motioned to make it a one-week period for declared candidates to submit their supporting candidate materials after the nominations deadline. Paul seconded that motion.
 - **Committee APPROVES change (Vote 3-0)**
 - Establishment of “No Electioneering Zone” on Election Day
 - George thanked Paul for catching that the “No Electioneering Zone” language was not included in the final version of last year’s plan.
 - Discussion of Election Timeline and Key Dates
 - George asked Paul to walk through timeline in his draft and the process used to set dates
 - George walked through timeline and the process used in his draft.
 - Paul described that dates are not set in concrete, but weren’t set in a Committee meeting because we didn’t have a full Committee
 - George summarized the key dates in the draft plan he shared with the Committee.
 - Discussion of the setting of Election Day
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- 77 ▪ Discussion of keeping May 10th as Election Day. Committee approved.
- 78 ○ Discussion of moving “Call for Nominations” and due dates from a Friday to
- 79 another day during the week
- 80 ▪ George pointed out his experience with Fridays presenting minor
- 81 administrative or communications challenges
- 82 ▪ Paul pointed out newsletter deadlines during the election season to help
- 83 inform the timeline.
- 84 ○ George motioned that we keep May 10th as Election Day and update the plan to
- 85 make the nominations close deadline whatever Wednesday immediately precedes
- 86 45 days from Election Day and the nominations open deadline 75 days preceding
- 87 Election Day. Eric seconds.
- 88 ▪ **Committee APPROVES change (Vote 3-0)**
- 89 ● Discussion of Draft Language Relating to Sequence of Events in Election Period.
- 90 ○ George discussed his proposed language relating to order of key events such as
- 91 mailing of ballot packets, mailing of election packet, scheduling of Candidate
- 92 Forum.
- 93 ○ George discussed his proposed language to get ballot packages to voters shortly
- 94 after the Forum, along with language changes relating to getting ballots to voters
- 95 who are not at their mailing address during the election period.
- 96 ○ George proposed using the draft he circulated to the Committee as the baseline for
- 97 edits and incorporating the changes voted on and discussed at this meeting to send
- 98 to the Council.
- 99 ▪ Paul and Eric approve.
- 100 ○ George said he would circulate updated draft (with track changes and changes
- 101 highlighted) to Committee for approval that changes reflect the Committee’s
- 102 agreements.
- 103 ○ George motioned that he will take the draft he sent to Committee and use that as
- 104 the baseline, incorporate changes discussed and approved during this meeting, and
- 105 then circulate the updated draft for sign-off by Committee before transmitting to
- 106 the Council. Paul seconds.
- 107 ▪ **Committee APPROVES steps and actions (Vote 3-0)**
- 108 ○ Discussion of timeline for adjudicating edits, getting Committee administrative
- 109 approval, and transmission to Council for sharing.
- 110 ▪ George expressed hope that changes could be adjudicated by the following
- 111 day and sent to the Council for inclusion in Council’s next meeting packet.
- 112 ▪ Paul noted that Council should have first opportunity to see the document.

113 7:50: Determine Next Steps

- 114 ● George discussed next steps including updates to the Election Plan and sharing with the
- 115 Council; working with Village Manager on getting information relating to timeline for
- 116 RFP for Election Service Provider (ESP).

- 117 • Eric discussed desire for reporting back in our public meeting relating to the contract with
118 the ESP and any negotiations or process on RFP items.
119 • Paul discussed that he will review edits sent by George.
120 • George discussed the Committee inbox and said the Committee will aggregate comments
121 received in the Committee inbox are shared with or visible to the Council to help their
122 deliberations.

123 7:54: Resident Comments

- 124 • Peter Kahn commented on the draft Election Plan and the Committee’s procedures.
125 • Larry Wasson commented and offered questions about the timeline of the draft Election
126 Plan and the Committee’s procedures.
127 • Peter Kahn commented on the timeline for the development and implementation of the
128 Election Plan
129 • Marty Langelan commented on the draft Election Plan and the Committee’s procedures
130 and asked questions relating to the draft Election Plan.
131 • Susan Kahn commented on the projected timeline of the election process and procedures
132 relating to the voter roll and election plan.
133 ○ Susan asked about the chat function on the Committee meetings and why it was
134 not available during this meeting.
135 • Elizabeth Goldberg commented on the draft Election Plan and the timeline of the election
136 procedures.
137 ○ She commented on the size of the Committee membership.
138 • Larry Wasson commented on the Committee’s procedures.
139 • Peter Kahn offered a question relating to the draft Election Plan drafting process.
140 • Marty Langelan expressed a question relating to the voter roll procedures and about
141 ballot curing.

142 8:44: Scheduling Next Meeting

- 143 • George proposed a meeting first or second week of January for next meeting.

144 8:45: Additional Resident Comments

- 145 • Peter Kahn asked if residents would review the draft Election Plan prior to
146 submission to the Council and offered comment on the Committee’s procedures.
147 ○ Arthur Alexander provided information relating to the process and timeline
148 for introduction, public comment, and consideration by the Council.

149 8:52: Closing

- 150 • Eric moved to adjourn. Paul seconded.
151 ○ **Committee APPROVES motion to adjourn (Vote 3-0)**

1 2023 Election Rules and Procedures
2 As adopted 1-19-2023
3

4 The Village of Martin’s Additions (“VMA”) is governed by a municipal Charter that provides for a
5 five-member elected Council to appoint an Election Committee (“Committee”) that operates
6 according to rules and procedures adopted by the Council, pursuant to Section 602 of the Village
7 Charter. The Committee verifies and certifies the voter roll, accepts nominations of candidates for
8 the Village Council (“Council”) and oversees the annual election.
9

10 The purpose of these rules and procedures is to provide for free and fair elections in the Village of
11 Martin’s Additions and to ensure that all qualified voters are able to freely exercise their right to
12 vote.
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14 **Village Council Election Process**

15 The election of Village Council members takes place on a date determined from year to year in
16 accordance with Section 602 of the Charter. Council members are elected to terms of two years. The
17 number of seats open on the Council alternates between two and three seats every other year;
18 vacancies are filled per Section 408 of the Charter. All elections are managed by the Committee. The
19 Committee consists of a minimum of three, but preferably no fewer than five, qualified voter¹
20 volunteers appointed by the Council. The Council may appoint additional qualified voters as short-
21 term assistant Election Committee members, as needed. Committee members shall complete an Oath
22 and a Conflicts of Interest form, as provided by the Village, consistent with Village Policy.

23 Each year the details of the election cycle for that year are published in the Village newsletter and in
24 the standard Village election information packet that is mailed to all Village households. The
25 following rules and procedures apply:

26 1. Consistent with the Village Charter, no later than sixty (60) days prior to Election Day, the
27 Committee will open the nominations period and request that declarations of candidacy and
28 nominations of candidates be submitted in writing to the Committee. Any qualified voter may
29 declare their candidacy or be nominated by another qualified voter according to the election
30 rules and procedures. Qualified voters who nominate someone other than themselves must
31 include an email or signed written statement from the proposed candidate expressing his/her
32 consent to be nominated. Anonymous nominations are not permitted. All nominations must be
33 received in the Committee inbox by the deadline set by the Committee.

34 2. All nominated candidates shall submit (a) a statement of interest and qualifications, and (b) a
35 conflict of interest disclosure statement, in a form provided by the Village. The Election
36 Committee may specify standard formatting for the candidate statements and any standard
37 questions to which all candidates are requested to respond.

38 3. Qualified voters may submit their nominations and candidate filing materials at least forty-
39 five (45) days prior to the election for the candidate to be placed on the official ballot. No
40 nominations or candidate submissions will be accepted by the Committee if received later than
41 that deadline.

42 4. The Committee shall establish a format, date, and time for a Candidate Forum for qualified
43 voters and residents to hear from the candidates and ask questions. The forum shall be
44 moderated by the Committee. Qualified voters are encouraged to send proposed questions to the
45 Committee via email (VMAElections@martinsadditions.org) by the Committee-specified

¹ Pursuant to the Village Charter, a qualified voter is “any person who owns property or any resident of Martin’s Additions who is eighteen years of age or over.”

46 deadline or be prepared to ask them if/when called upon during the forum. The Committee may
47 receive questions via phone or otherwise.

48 5. No later than two (2) weeks after the candidate filing date, the Committee shall publish
49 and mail the official Village election information packet with the written statements of the
50 candidates for office, the official election notice and forum notice, and general voting
51 instructions.

52 6. Pursuant to the Charter and these rules and procedures, each qualified voter may cast a
53 mail-in ballot provided by the Committee, subject to the schedule publicly announced by the
54 Committee.

55 7. Blank lines will be placed on the ballot for the purpose of adding write-in candidates at the
56 time of the election. A successful write-in candidate shall be required to submit a Conflicts of
57 Interest disclosure statement no later than seven (7) business days following the election.

58 8. In the event that two or more candidates receive the same number of votes where only one can
59 be elected, there shall be a runoff election within two weeks of the date when votes are tabulated
60 and recorded. In this election, runoffs shall be held by mail.

61 9. Each candidate may designate one person as an official observer to be present when the
62 ballots are being counted. Other qualified voters may also observe, although no observer
63 may participate in or otherwise disrupt the counting of the ballots. Specific vote counting
64 procedures will be recommended by the Committee and adopted by the Council each year,
65 as appropriate.

66 **Who Can Vote?**

67 Pursuant to the Charter Section 301, a qualified voter is “any person who owns property or any
68 resident of Martin’s Additions who is eighteen years of age or over.” In the case of students, such as
69 college or boarding school students, a student who resides elsewhere during the school year but who
70 maintains a permanent address in Martin’s Additions is deemed a resident and entitled to vote in the
71 Village Council election. Voters in Martin’s Additions need not be registered to vote in Montgomery
72 County or in the State of Maryland and need not be U.S. citizens. The Committee shall utilize the
73 most recent electronically available Village resident contact information and other appropriate
74 sources to confirm voters’ names and addresses. The Committee shall develop, verify, and certify
75 the voter roll with the assistance of the Village staff. The Committee shall confirm that the verified
76 voter rolls are used in operating the Election. New voters may request to be added to the voter roll
77 up to 8:00 PM on Election Day. To be eligible to receive a mail ballot, new voters should be
78 prepared to show a driver’s license, a utility bill, or other documentation acceptable to the
79 Committee in its sole discretion, showing the voter’s Martin’s Additions address.

80 **Plan for the 2023 VMA Election**

81 VMA’s 2023 election will be held entirely by mail. There will be no in-person voting. To protect
82 election security, the election service provider will mail the ballots directly to the voters. Voters
83 will mail their completed ballots back to the election service provider in the postage-paid
84 envelopes issued by the provider. On Election Day, May 10, the Committee will also provide an
85 opportunity for voters to drop off completed ballot envelopes in a secure ballot drop-box directly
86 supervised by the Committee with a secure Committee procedure to convey those completed ballot
87 envelopes to the election service provider for counting.

88 Traditional absentee ballots will not be necessary, because every person on VMA’s voting roll will

89 automatically receive a ballot by mail.

90 If a voter is planning not to be at their VMA address during the voting process, they may elect to
91 receive a ballot by mail at a different location by so informing the Committee no later than 8:00 PM
92 on May 10. No one may vote two ballots at two different addresses. If a voter has lost or damaged
93 their ballot or ballot return envelope, they may contact the Committee no later than 8:00 PM on May
94 18 to request a replacement ballot. On receipt of such requests, the Committee will instruct the service
95 provider in writing, by email, to void the previous ballot sent to that voter before mailing the
96 replacement ballot.

97 A voter can also notify the Committee if they will not be able to receive a ballot by mail during the
98 regular voting period. The Committee will make reasonable efforts to provide those voters with
99 opportunities to cast their ballots.

100 All completed ballot envelopes must be received by the service provider by 5:00PM on May 23, 2023.

101 Nominations

102
103 The Committee will issue a call for candidates on **February 20, 2023**. Any qualified voter may run
104 for office. Qualified voters may nominate themselves or be nominated by another qualified voter, in
105 writing. Nominations may be made only by qualified voters; anonymous nominations are not
106 permitted. Qualified voters who nominate themselves must submit an affirmative statement or email
107 stating that they wish to run for office. Qualified voters who nominate someone other than
108 themselves must include an email or signed written statement from the proposed candidate
109 expressing his or her consent to be nominated. The nominations period will open on **February 20**
110 and close on **March 22, 2023, at 6:00 pm. Nominations must be received by the Committee no**
111 **later than that deadline.** A thirty-minute grace period will be allowed for email nominations to
112 arrive in the Committee's email inbox.

113 To be placed on the official ballot, all candidates must submit by email to the Election
114 Committee (a) a brief Candidate Statement of up to approximately 700 words, including their
115 qualifications as well as any other information they deem relevant, and (b) their signed and
116 completed Conflicts of Interest Disclosure form. The Election Committee will specify the form
117 of both documents when the nomination period opens. In order to appear on the ballot, within
118 seven (7) days from the close of the nominations period, candidates must submit their completed
119 documents to the Committee. A thirty-minute grace period will be allowed for email
120 submissions to arrive in the Committee's email inbox. The Committee will maintain a record of
121 the date and time when nominations and supporting materials were received.

122 The Committee will review the submissions and identify any nomination materials that are
123 incomplete. The Committee will notify the candidate, and the candidate will have 24 hours to
124 submit an updated form addressing the issue. Submission of updated materials will not be
125 subject to the deadline above for submissions.

126 Candidate Announcements and Candidate Forum

127 The Committee will promptly notify the Village of the candidates for office and publish the
128 election information and candidate statements by email, by posting on the Village's website, and in
129 the official Village election information packet that is mailed to all VMA households. Information
130 will also be included in the Village's Friday wrap-up emails and newsletters and will be available
131 for review in the Village Office throughout the election period.

132 The Committee will host a Candidate Forum on a date agreed upon by the Committee and

133 candidates during the last fifteen (15) days of April to allow qualified voters and residents to hear
134 from candidates and ask the candidates questions. Candidates and qualified voters will be afforded
135 the ability to attend and participate remotely. The Committee shall provide a mechanism for
136 qualified voters and residents to submit forum questions anonymously. The Committee shall
137 moderate the forum in an impartial manner. This includes: (a) the forum must cover a broad range
138 of issues with questions applicable to all candidates; (b) candidates must have equal time to present
139 their views; and (c) the moderator must remain neutral and in no way indicate or imply approval or
140 disapproval of the candidates.

141 At the discretion of the moderator, qualified voters and residents may ask questions directly at the
142 forum when called on and are encouraged to send their questions for the candidates to the
143 Committee by any means that is convenient for the residents. The Committee shall send the Village
144 election packet containing the candidate information and statements to voters in time to be received
145 before the forum.

146 Election Procedures

147 Pursuant to the Charter and these rules and procedures, each qualified voter may cast a ballot,
148 according to the following vote-by-mail procedures.

- 149 1) The election service provider will mail via first class post (a) a ballot, (b) voting
150 instructions prepared by the committee in consultation with the election service provider,
151 and (c) a postage-paid return ballot envelope to each voter listed on the voter roll at their
152 address of record.
 - 153 a. The Committee shall instruct the election service provider to deliver the ballot
154 packets to the voters shortly after the Candidate Forum.
 - 155 b. Both the incoming ballot packets and the ballot return envelopes shall have postal
156 tracking codes to ensure that delivery can be traced.
 - 157 c. The Committee will work with the election service provider to identify projected
158 dates when ballots will begin arriving and shall provide notice to the Village.
- 159 2) Ballot envelopes will bear on their exterior a service-provider-issued control number and
160 an affidavit in accordance with Maryland law requiring the voter to attest to the voter's
161 identity and eligibility. The affidavit must be signed by the voter.
- 162 3) All ballot envelopes must be received by the election service provider no later than **5:00**
163 **p.m. on May 23, 2023**. Ballots received after that time shall be rejected and not included
164 in the ballot counting. The VMA Election Committee shall post reminders for all qualified
165 voters to return ballots by mail sufficiently early to ensure the ballot envelopes arrive at
166 the offices of the election service provider by that date.
 - 167 a. Ballots must be returned in the service-provider-issued return envelope.
 - 168 b. Ballot return envelopes must be sealed.
 - 169 c. Ballot return envelopes must bear a valid control number that has not been
170 canceled or voided.
 - 171 d. Voters must write their full name as it appears on the front of the incoming ballot
172 packet as well as the house number and street name of their address in the Village
173 on the form on the back of the issued return envelope.
 - 174 e. If voters from the same household use each other's envelopes, those ballot return
175 envelopes shall be accepted as valid.
- 176 4) For voters' convenience, the Election Committee will also provide a secure ballot drop-
177 box, supervised by the Committee, to collect completed ballot envelopes on the evening of
178 **Election Day, May 10, 2023**. Voters may deposit their sealed ballot envelopes containing
179 a voted ballot and bearing a completed affidavit in the Election Committee ballot drop-box
180 between the hours of **5:00 p.m. and 8:00 p.m. on May 10**. Promptly after 8:00 p.m., the
181 Election Committee shall open the ballot drop-box, count the number of ballot return
182 envelopes in the box, and then securely convey the ballot envelopes to the service

- 183 provider. The election service provider shall hold all ballots received until the date for
184 ballot counting, **May 24, 2023**.
- 185 5) Between the hours of 5:00 p.m. and 8:00 p.m. on May 10, the Election Committee will
186 also provide an opportunity for qualified voters whose ballots have been lost, damaged,
187 spoiled, or are otherwise unable to be voted, to request that their existing ballot be voided
188 and a new ballot be issued to them by the election service provider.
- 189 a. The Committee shall send all replacement ballot instructions to the election
190 service provider in writing, via email, in order to keep a complete VMA election
191 record that can be audited and verified. The service provider cannot issue ballots
192 without the Committee’s written instructions.
- 193 b. The election service provide shall void the original ballot before the second ballot
194 is issued.
- 195 c. The service provider shall then send the replacement ballot to the voter, and shall
196 keep a complete record of all ballots issued, all ballots voided, all replacement
197 ballots sent, and all Committee emails received, to maintain a complete record that
198 can be audited and verified.
- 199 6) The service provider shall count the votes on the ballots on **May 24** and ensure that the
200 Election Committee and candidate observers can clearly observe the counting process.
- 201 7) On May 24, the election service provider shall examine the ballot envelopes without
202 opening them and identify non-confirming envelopes. The provider shall then display
203 each such non-confirming envelope to the committee members, who will then
204 decide, based on a majority vote, whether each such envelope has the potential to be
205 ‘cured’ or corrected of any discrepancies or deficiencies. If so, the Committee must
206 make a prompt, reasonable and meaningful attempt to contact the voter identified by
207 the control number on that envelope to cure the defect and have the ballot be counted
208 in accordance with the county and state election regulations.
- 209 8) Candidates or their designated representative(s) — only one per candidate — may observe
210 the tallying, review, and adjudication process. Candidates or their designated observers
211 may raise objections during the counting process. The candidate or observer must identify
212 the challenge at the time of vote counting. Other qualified voters may also observe the
213 process, but they may not raise objections.
- 214 9) At the vote counting session, the service provider shall tally all votes cast, including the
215 write-in votes. The service provider shall deliver a complete, certified Official Count of
216 Ballot Report to the Election Committee by email within 24 hours.
- 217 10) The Committee shall review the Report, address any remaining ballot or vote issues, and
218 certify the election by Committee vote. The Committee shall announce the election results
219 as soon as practicable.
- 220 11) The election service provider shall return all ballots, ballot return envelopes, and other
221 election materials to the Village Office by mail or courier, for preservation according to
222 the Village’s state-approved Document Retention policy.
- 223 12) In the event that two (2) or more candidates receive the same number of votes where only
224 one can be elected, there shall be a runoff election within two (2) weeks of the May 24
225 date when votes are tabulated and recorded. The Committee shall conduct any runoff
226 election by mail-in ballot consistent with relevant provisions of the Charter.

227 **Records**

228 All election records, including nominations, candidate statements, ballots, envelopes, and all
229 materials pertaining to voter rolls and the voting process, shall be securely stored at the Village
230 Office, in accordance with the Village’s Document Retention Schedule.

231 **Electioneering**

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- 1) Residents may distribute candidates' information to Village residents, provided that such distribution complies with applicable laws, including Sections 7-208 and 9-106 of the Village Code and the United States postal service regulations (for example, no unstamped non-postal material may be placed in residents' mailboxes).
 - 2) All candidates' brochures and election materials must prominently state that they have been paid for by, or on behalf of, the candidates.
 - 3) Use of the Village logo and/or letterhead on election campaign materials is prohibited. Candidates' materials shall not imply, suggest, or give the impression of any official endorsement by the Village of Martin's Additions.
 - 4) Candidates' campaigns may give residents token gifts that display candidate information, provided that such gifts do not exceed \$1 in fair market value.
 - 5) On Election Day, the Committee shall set and enforce a reasonable "No Electioneering Zone" around the election table where voters may place their ballots in the Election Committee ballot drop-box. That zone shall prohibit electioneering within 50 feet but no greater than a 100-foot radius of the election table. Sound amplification systems such as bullhorns will not be permitted.