



Ms. Madelaine Eppenstein
Chair of the Procedure Committee
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also sent via email to: meppenstein@eppenstein.com

November 1, 2018

Dear Ms. Eppenstein,

The League of Women Voters of Scarsdale (“League”) thanks you for your voluntary service as chair of the Scarsdale Procedure Committee (“PC”) and for presenting in person on October 22, 2018, at our general membership information meeting concerning the proposed amendments to the Non-Partisan Resolution (“Resolution”), the document that governs the Village’s Non-Partisan Election System. The amendments contemplate significant changes to the composition of the PC and the Citizens Nominating Committee (“CNC”) and confer on the publicly-elected CNC voting members the primary authority for selecting both its own and the PC’s future leadership. The League commends you for your time, for your thoroughness in addressing the items listed on the agenda, and for answering all questions posed by the audience after the presentation.

Immediately following our information session, the League held a consensus meeting of its members. The League commends the PC for its courageous and thoughtful decision to propose major institutional revisions to the Resolution in response to recent challenges to the CNC-nominated slate and public criticism of the system itself. At a time described as a “critical inflection point,” such undertaking demanded historical insight, reflection, introspection, and attention to detail to move forward with wholesale structural changes to the Village’s Non-Partisan System. The League fully endorses each of the twelve proposed amendments and urges all qualified voters to vote “yes” on each amendment.

1. OVERALL PROCESS FOR PROPOSING AMENDMENTS TO THE NON-PARTISAN RESOLUTION

The League commends the entire PC, especially its chairs and drafting subcommittee, for the process by which the amendments to the Resolution were proposed, the degree to which the community’s input was solicited and incorporated, and the substantial time and effort taken to initiate significant changes to the Non-Partisan Resolution.

As reported at the information session, the PC and/or its drafting subcommittee met in

person a total of 7 times (with each meeting lasting over 2 hours) plus one phone conference to discuss, propose, and draft amendments. It prepared multiple press releases for the local print and online media and the PC's website where it announced changes and/or solicited feedback. Drawing from past League statements, public discourse in the last few contested Village elections, the counterpart resolution governing the School Board Nominating Committee, the collective knowledge and experience of past PC and CNC members, and utilizing a shared spreadsheet to track recommendations, observations, and proposed amendments, the PC worked diligently throughout April and May to draft and publicize proposed revisions for its mandated 90-day public comment period beginning on June 1 and then reconvened to finalize the changes that will appear on the November 13, 2018 ballot. The PC also wrote and disseminated an FAQ sheet about the Village's Non-Partisan System, a one-page synopsis about the first draft and then an amended one-page synopsis to cover the final version of the proposed amendments.

We acknowledge that the Resolution does not require the PC or the CNC to hold a public forum to explain the rationales for any proposed changes and solicit community feedback prior to the referendum. However, the League does believe that providing a meeting open to the public, like the League's October 22, 2018 information session, is another means of engaging and educating the community about the changes and to field questions and comments.

The League encourages the PC to continue its exemplary, extensive efforts to educate the community about the proposed amendments through written materials to be made available online and at the polls.

2. PROPOSED AMENDMENTS TO THE RESOLUTION

The League supports the proposed amendments to the Non-Partisan Resolution as a whole and encourages all qualified voters to vote "yes" on EACH of the twelve individual amendments that will appear on the ballot, not yet available at the time of the consensus meeting.

The League recognizes and appreciates that many of the proposed amendments reflect suggestions and recommendations made in the League's prior statements which are posted on the [Stand on Issues](#) page of the League's website, including the League's 2012 consensus statement and separate report following its study of the Village's Non-Partisan System, and the League's annual CNC election consensus statements. The League has the following comments regarding specific amendments as follows:

- a. Amendment #1/7 (Article V, Section 2(B)/Title and Whereas Clause):
Amendment #1 eliminates the responsibility of the Town and Village Civic Club and Scarsdale Neighborhood Association Presidents to fill the four non-voting positions on the CNC. The amendment also clarifies the term of office of CNC members and the administrative role of CNC non-voting members. Amendment #7 confirms the NPR is administered by the Procedure Committee, not by the Town and Village Civic Club.

The League fully supports the proposal to eliminate TVCC and SNAP appointees from the four non-voting leadership positions on the CNC and the proposed new process for the election of the following year's CNC leadership from among the outgoing CNC class by majority vote of the democratically-elected CNC members. The League has long advocated for such changes for the rationale provided by the PC at the information session and as expressed previously in League consensus. Namely, the selection of chairs by the CNC from among those who have just completed their service on the CNC, comparable to the process set forth in the School Board Nominating Committee Resolution for selecting the leadership of the SBNC, promotes greater continuity and smoother transfer of procedural and historical knowledge, ensures that the CNC leadership possesses recent CNC experience, preserves the appearance of impartiality, integrity, and neutrality in the process, and makes certain that the incoming leadership will bear the indicia of approval of their CNC peers.

The League's concerns with the existing system of TVCC appointment originated from the fact that the TVCC is a separate civic organization; neither its membership nor its leadership is chosen by the Scarsdale electorate. And, although the CNC chair and vice chair are not voting members, they occupy leadership positions and can influence the committee on its operations and selection of candidates. The League has also previously noted that the president and first vice president of the TVCC, who simultaneously serve as president and first vice president of the Forum, do not necessarily possess any CNC experience.

The League commends the PC for including provisions in this amendment to account for unanticipated vacancies in office, and endorses the decision to give preference to those with prior CNC and/or PC experience when seeking replacements for the CNC chair and vice chair positions.

The League does have reservations about the Resolution's silence concerning the responsibility for the formation of a campaign committee to fund the publicity surrounding the Village election and to file the required State of New York Board of Elections Disclosure Statement with the Village Clerk. By tradition, though not through any formal writing, the TVCC vice president, having just completed service as the CNC vice chair, then historically chairs an ad hoc campaign committee to carry out these responsibilities, along with other volunteers from the TVCC. As explained in the League's 2012 report, "[t]he campaign committee is an independent body that is neither governed by nor included in the Resolution." Nevertheless, it has assumed full responsibility for all publicity pertaining to the Scarsdale Citizens' Non-Partisan Party's slate of nominees, "includ[ing] advertising, producing brochures, and organizing a phone campaign whether or not the election is contested" Although the Resolution has never included any provisions to address the formation of the campaign committee and, as indicated at the information session, the PC considered this issue to be outside the scope of the PC's study, the elimination of the TVCC's role in the CNC potentially creates an organizational void.

As a nonpartisan organization, the League makes no specific recommendations as to what process should be implemented. However, the League recommends that the PC consider whether the strength of the Village Non-Partisan Election System necessitates formalizing and

codifying a procedure by which the the campaign committee of the Scarsdale Citizens' Non-Partisan Party is formed to support the slate of candidates nominated by the CNC.

b. Amendment #2 (Article V, Section 3):

Amendment #2 clarifies the independent status of CNC voting members, the scope of CNC confidentiality obligations, and the administrative duties of CNC non-voting members.

The League fully supports the proposal to add the CNC members' confidentiality obligations into the Resolution, recognizing that such obligations have long been part of the CNC's internal Rules of Procedure. As the PC chair explained during the information session, confidentiality has been a central tenet and hallmark of the Village's Non-Partisan System. It is a means of ensuring the integrity of the system in that the CNC members can obtain reliable information through accountable due diligence and engage in candid professional discussion while vetting potential nominees. Confidentiality is also important for the potential nominees who, absent such privacy protections, might not otherwise apply.

For the reasons expressed by the PC chair, the League has consistently reaffirmed its longstanding position that CNC deliberations on candidates for village office should remain confidential. The League has also taken the position, since its 2012 consensus statement and report, that the CNC should not publicize the names of potential nominees for Village office. Codification of the confidentiality requirements into the Resolution serves to emphasize the importance of that duty while precluding future CNCs from eliminating such a critical facet of the Non-Partisan System by omitting it from its annually revised and adopted Rules of Procedure.

c. Amendment #5 (Article II, Section 1):

Amendment #5 revises procedures for the appointment of members of the Procedure Committee, increases the number of its appointed members, and extends its term.

The League fully supports the proposal to replace the TVCC appointed PC leadership with a process by which the PC chair and vice chair are elected by majority vote of the CNC voting members, with preference given to those with prior CNC service. The League commends the PC for proposing a more democratic process for selecting PC leadership and for including provisions to ensure that such incoming PC leadership is in place before either the sitting CNC or the sitting PC disbands.

The same rationales proffered to support the proposed changes to the selection of incoming CNC leadership apply equally to the proposed changes for the selection of PC leadership. As the League has mentioned in one of its prior statements, although the chair and vice chair are non-voting members of the PC, they are nonetheless in leadership positions and can influence the committee on its operations, recruitment of CNC candidates, and the appointment of CNC candidates to the ballot when an election district does not have a full slate of two candidates per open position. They are also in a position to impact recommendations on proposed amendments to the Non-Partisan Resolution. By giving priority to those with prior

CNC experience, the pool favors those who have previously won the popular vote in the CNC election and therefore bear the indicia of approval of the qualified voters in their neighborhood. The selection of chairs from those with CNC experience also encourages greater continuity and transference of procedural and historical knowledge concerning the functioning of the PC.

The League also commends the PC for including provisions in this amendment to account for unanticipated vacancies in office, and endorses the decision to give preference to those with prior CNC and/or PC experience when seeking replacements for the PC chair and vice chair positions.

The League applauds the PC for clarifying the term of office of the PC members in response to the League's frequent criticism that the PC disbands long before the following year's PC leadership is in place. As the League has noted previously, that gap has contributed to a system in which the PC wheel appears to be reinvented annually. This proposed amendment directly addresses the League's recommendation that steps be taken to preserve the institutional memory and promote systematic, comprehensive transfer of knowledge, experience, and documentation from one year to the next, and creates a structure to address the chronic problems caused by leadership turnover.

Despite the elimination of the TVCC appointment power to fill the majority of seats on the PC and the elimination of the TVCC and SNAP appointees from the CNC leadership, the League encourages the PC to continue to include both the TVCC and SNAP, among many other civic and volunteer organizations, in its outreach for recruitment of PC members, CNC candidates, and publicity efforts.

In light of comments made during the information session, the League questions whether the PC intended for the individuals chosen from the outgoing CNC class to serve as the incoming chair and vice chair of the CNC to be exempt from service on the PC. Although the PC chair indicated that such exemption was implicit, the proposed amendments to the Resolution continue to state that the PC is comprised of, among other individuals, "the most recently retiring class of voting members of the Citizens Nominating Committee," without providing for any exception. In light of the extended PC term and the fact that this is now a period of transition, we recommend that the Resolution make its intention explicit to ensure that those accepting the role of CNC chair and vice chair have a clear understanding of their commitment and that those serving on the PC understand how many members it includes. Furthermore, the League recommends that the Resolution make explicit that neither the incoming CNC chair nor vice chair is permitted to simultaneously serve as either the PC chair or vice chair.

d. Amendment #9 (Article III, Section 2):

Amendment #9 changes the day of week of the Citizens Nominating Committee Unit Elections from the second Wednesday to the second Tuesday of November.

Given the rationale of avoiding voter confusion caused by holding elections on a non-traditional day of the week, the League supports the proposed amendment to change the CNC election day to Tuesday rather than Wednesday.

The PC has reported that, in past years, the mailing of the election brochure has been timed to avoid overlap with campaign and other mailings relating to the federal and state elections. The change of the election date from Wednesday to Tuesday results in one fewer business day for the mailing and receipt of the CNC election brochures. As such, the PC may need to reconsider the timing of the mailing of the brochures to ensure that they are received in a timely fashion.

The League also notes that the PC has used the lobby of Village Hall as the polling location for most but not all of the CNC elections in recent years. With the change of the day of the election, the PC's election day plans should account for the possibility that the election will coincide with a regularly-scheduled evening Village Board of Trustees meeting venued at Village Hall.

e. Amendment #12 (Article II, Section 3):

Amendment #12 clarifies that the Non-Partisan System and CNC election are financed entirely by community support.

The League endorses the proposed amendment which formalizes existing practice and notes that it had previously recommended an amendment to that codify how the PC and the CNC fund their expenses. The League has consistently advocated that such expenses be financed through public contributions, consistent with the proposed amendment.

3. RECOMMENDATIONS FOR FUTURE CONSIDERATION

The League encourages the PC to consider further amendments to the Resolution in the immediate future. As noted above in Section 2.c., the League recommends that the campaign committee's formation and responsibilities be codified in writing and that the Resolution be more explicit about the role of the CNC chair and vice chair, if any, on the PC.

In addition, the League urges the PC to give future serious consideration as to whether the Non-Partisan Resolution is undermined when CNC members publicly endorse non-CNC candidates and/or campaign against the CNC nominated slate. The League understands from the information session that the PC considered and tabled the question of whether to incorporate language into the Resolution to address this matter. The League suggests that the complicated issues raised in PC discussions be recorded and transmitted to next year's PC for further consideration.

In support of the League's suggestion above, the League notes that the primary purpose of the Non-Partisan Resolution "is to establish procedures for the nomination of a single qualified candidate for election" to the offices of Mayor, Village and Town Board of Trustees, and Village Justice, by a CNC elected by the voters (Article I, section 1). The League further notes that Article V, section 6 provides a process for a democratic majority vote for selection of the CNC-nominated slate.

Recognizing that longstanding community norms may need to be formalized if they are to be understood and followed, the League urges the PC to keep the discussion going about the CNC members' duty to uphold the principles underlying the Village's Non-Partisan System, i.e., to nominate democratically a single candidate per office vacancy.

4. CONCLUSION

The League again thanks the members of this year's PC and especially its chair and vice chair for heeding the call to amend the Non-Partisan Resolution. The League commends them for their considerable undertaking and endorses the PC's proposed changes to the Non-Partisan Resolution.

The League urges all qualified voters to vote "yes" on each of the twelve proposed amendments and to exercise their civic duty to cast their ballot in the upcoming CNC election on Tuesday, November 13, 2018.

Sincerely,



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League of Women Voters of Scarsdale



Linda Doucette-Ashman and Janice Starr
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