

Wednesday, August 3, 2011
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Interview with Donna Conkling, Village Clerk

1. What are the regulations from the Westchester Board of Elections regarding elections for village officials: setting the election date, how to get on the ballot, ballot design, absentee ballots, write-in ballots, electioneering, Election Law , etc.?

New York State Election Law governs the Village Election date. Getting on the ballot, ballot design, absentee ballots, write-in ballot, and electioneering are all set forth by New York State Election Law – in particular, Article 15, Village Election Law. In order to be listed on the ballot a petition must be filed with the Village Clerk by a prescribed date prior to the election. The Clerk accepts the petition and files it. The clerk does not check for petition irregularities. Should a petition be challenged, the petition is sent to the Westchester Board of Elections for a determination. The petitions are available to be inspected by the public. The Village Clerk designs the absentee ballots and makes them available to registered voters upon request as set forth in Election Law. Absentee ballots are received by the clerk and kept sealed and stored until the polls close on Election Day. The Village Clerk delivers the sealed absentee ballots to the election inspectors. After the polls close the absentee ballot names and addresses on the sealed envelopes are verified using both registration lists and the list of those who voted on Election Day. Valid ballots are then separated from their envelopes and placed in a pile to be counted by the election inspector. During the canvass after the polls close, the election inspectors tally the ballots and poll watchers and candidates may be present in the room. No later than 8 PM on the day after the election a majority of the Village Trustees must certify the election.

2. What are the responsibilities of the Village Clerk in the election: getting poll workers, election machines, monitoring activities, registering voters, maintaining registration lists, etc.? Were you able to fulfill your duties for this job this year? Without interference?

FYI - See below excerpt from NYS Election Law, Village Elections:

§ 15–124. Duties of village clerk

1. In addition to any duties of the village clerk specified in this chapter and the village law, the village clerk shall be the election officer of the village and shall have the responsibility for the general conduct of all village elections and shall have vested in him all authority, consistent with this chapter which may be reasonable and necessary to provide for the proper and orderly conduct of such elections and the proceedings preliminary and subsequent thereto.
2. The police department and the officers and members of such police department, if any, the office of the sheriff in a county in which a village or part of a village is located or any

police agency or department charged with the responsibility of law enforcement in any county in which a village or part of a village is located shall, whenever called upon by the village clerk, render to such village clerk all practicable assistance in the enforcement of this chapter. Such assistance shall be rendered to the village clerk at no charge to the village. Such assistance shall include, but not be limited to:

- a. the police telephone service;
- b. the investigation of any registrant or any applicant for an absentee ballot to determine his qualifications to be registered or vote, and
- c. the maintenance of order, regulation of traffic and the control of crowds on any day or days designated for voter registration and voting.

(L.1976, c. 233, § 1.)

The Village Clerk is the election officer for the Village and has the responsibility and authority to perform all functions to conduct an orderly and fair election. The Village Clerk obtains election inspectors for the election from a list of certified election inspectors maintained by Westchester County. For uncontested Village elections the clerk hires four election inspectors. In a contested election where additional voting machines are required, additional election inspectors are hired. The venue for uncontested elections is customarily at Village Hall. If additional voting machines are necessary (e.g. a contested election), the venue, which is established by Board resolution, would be at the Scarsdale Library. Certified election inspectors may assist voters in the process of voting but may not discuss particular candidates or propositions. Poll watchers must be qualified voters and must be certified by their political party. There may be no more than three poll watchers from each political party at the election place at any one time. A candidate for office may serve as a poll watcher. Only one poll watcher from each political party may be within ten feet of the election table and election machines. Poll watchers may in no way disrupt the election process. Poll watchers may not:

- Tell an election inspector what to do or how to do their job
- Sit at the table with the inspectors
- Put their hands on the machine, supplies and/or bags
- Electioneer within the 100-foot marker

Poll watchers may:

- Be present at the polls from fifteen minutes before opening and may stay until after the signing of the inspector's report and the results are called out, after the closing of the polls
- View the unlocking of the voting machine, if any, before the opening of the polls
- Challenge persons whom they believe are not qualified to vote

This year, the Village Clerk noted that

- She was not aware that this might be a contested election via 'write-in' votes and hence did not have adequate voting services available – e.g. additional election inspectors, larger venue for polling location, additional voting machine(s). The Clerk always has a 'spare' voting

machine prepared in advance in case of emergencies and this additional machine was brought into service at that time.

- There were poll watchers at the election site who were challenging the election inspectors necessitating numerous calls to the Board of Elections, to affirm the Village Clerk's decisions. The election inspectors felt intimidated when trying to explain to voters how to write in a candidate, although this is their duty to do so upon a voter's request. Reginald Lafayette, Democratic Commissioner of the Westchester County Board of Elections recommended to the Village Clerk that the Scarsdale Police be called to maintain order at the polls because no one may interfere with the election inspectors during the course of his or her duties. The police arrived and helped the Village Clerk maintain order. Noncertified poll watchers were asked to leave and, as per NYS Election Law, and as advised by Commissioner LaFayette, a ten-foot marker from the voting area was placed for certified poll watchers.
 - Police were needed at the time of poll closing to halt the line to voters who arrived after closing time.
 - Electioneering was occurring within 100 feet of the polling site. The police enforced the 100-foot rule.
 - At the close of the polls one election inspector stayed to tally the votes. The absentee ballot envelopes were examined to be sure that none had voted in person and the voters were on the registration lists. The ballots were removed and separated from their envelopes. Poll watchers had an attorney present and were challenging the write-in ballots in a manner that intimidated the election inspectors. The Village Clerk asked the Village Attorney to remain until all votes were counted. Although the Clerk usually allows the press to stay in the room as the votes are tallied to ensure transparency, this year she asked them to leave because of the contentious environment. This was also a recommendation of Commissioner LaFayette.
3. Who owns the voting machines, where are they stored, who maintains them, who pays for all of this, what happens if there is a breakdown of a machine, who tallies the votes, etc.?

Although the voting machines were originally purchased and owned by the Village/Town of Scarsdale, when the New York State Election Law was recently updated, the lever voting machines became the property of Westchester County. To date, the County has not taken possession of the voting machines because they do not have the facilities to store them. They are stored in a locked room in the basement of the firehouse attached to Village Hall. Only the Village Clerk and the machine technician have a key to this room. The machines are locked and sealed. The machine technician employed by the Village maintains the machines. Votes are tallied by the certified election inspectors. The numbers are checked with the machines, sign-in sheets, etc. to verify count accuracy. The election result is then certified by a majority of the Village Trustees. The Village, although not required by law, pays election inspectors at the same rate as Westchester County. An uncontested Village election currently costs about \$1,000 while a contested election costs approximately \$4,500. The Village funds the election.

4. What, if any, are the prohibitions for people at the polls, what is the roll of a poll watcher, election worker, who has the final say?

The roles of the election inspector and poll watcher are described above. If the determination of the Village Clerk is challenged and a conflict occurs, the Westchester County Board of Elections is called to adjudicate.

5. Are there any NY State laws regarding the responsibilities of the mayor and/or trustees with regards to the election?

There is no role for the mayor in the election. A majority of the Village Trustees must certify the election.

In addition to responding to questions, Donna Conkling provided the following materials:

- Handbook for Village Registration and Election Day, January 2010
- 2011 Calendar of Dates for Village Elections
- NYS Election Law, pp.391-421
- Poll Worker and Poll Watcher prohibitions
- Scarsdale Village Manager/Council Government Structure
- Code re Village Manager's responsibilities

The governing role of the mayor includes performing wedding ceremonies and appointing members of boards and councils. Some appointments require approval by the trustees; some appointments do not. Trustees approve budgets, contracts, salaries and local laws.