

MEMORANDUM

TO: Town Clerks
FROM: Kathleen S. DeWolfe, Director of Elections
DATE: June 11, 2004
SUBJECT: **Nomination of Justices of the Peace**

The biennial task of nominating Justices of the Peace is upon us again. This memo reviews the options available to town committees for major and minor parties and also reviews the process for running for Justice of the Peace as an independent. We have enclosed nomination forms for use by party caucuses and party committees and petitions for use by independent candidates.

The **political parties** are responsible for instructing their town party chairs about the nominating process. I have sent a copy of this memo and the nomination forms to the executive directors or state chairs of all major and minor parties so that they can put a cover memo on it and send it out to their town party chairs. I review the process for you because invariably there will be some town party chairs who will call the town clerk instead of the party leaders for information.

Nomination by party caucus

On or before September 7, 2004 (first Tuesday in September), the town committee may call a caucus by posting notice in at least three public places in town at least seven days prior to the meeting. In towns with a population greater than 1000, notice of the caucus must also be published in a newspaper having general circulation in the town not less than 3 days before the date of the caucus. The notices must state the time, place and purpose of the caucus.
17 V.S.A. §2413.

At the meeting, the caucus nominates candidates for JP. Nomination requires a majority of those present and voting. If no candidate receives a majority after two ballots, the candidate with the lowest number of votes in the second round of voting and each succeeding round is eliminated until one of the remaining candidates receives a majority. 17 V.S.A. §2384.

When the candidates have been nominated, the enclosed nomination by party caucus form must be filled out and signed by the chair and secretary. A **copy of the notice that was posted for the caucus** must be filed along with the statement of nomination in the office of the town clerk by 5:00 p.m. or close of the clerk 's office on Friday, September 17, 2002. 17 V.S.A. §2385(c).

Nominees for the office of Justice of the Peace do not need to file a consent form. However, before filing the statement of nomination the chair or secretary of the town committee must check with each nominee to confirm the nominee's consent to have his or her name appear on the ballot and his or her willingness to serve. 17 V.S.A. §2385(e). You should also confirm the spelling of the candidate's name and how he or she wishes it to appear on the ballot.

Nomination by party committee

If a caucus is not held prior to September 7, 2004, the town committee may meet to nominate candidates for the office of Justice of the Peace. The chair or any three members if the chair has not called a meeting, sets a date, time and place for a committee meeting. **Written notice** must be given to all committee members not less than five days prior to the meeting and the **notice must include the offices for which nominations will be made**. 17 V.S.A. §§2383, 2413. (There are no posting/newspaper requirements for party committee meetings.)

At the meeting, the town party committee nominates candidates. Nomination requires a majority of those present and voting. If no candidate receives a majority after two ballots, the candidate with the lowest number of votes in the second round of voting and each succeeding round is eliminated until one of the remaining candidates receives a majority. 17 V.S.A. §2384

When the candidates have been nominated, the enclosed nomination by party committee form must be filled out and signed by the chair and secretary. **A copy of the notice** that was sent to all committee members shall be filed along with the statement of nomination in the office of the town clerk by 5:00 p.m. on Friday, September 17, 2004. 17 V.S.A. §2385(c)

Nominees for the office of Justice of the Peace need not file a consent form. However, before filing the statement of nomination the chair or secretary must check with each nominee to confirm the nominee's consent to have his or her name appear on the ballot and his or her willingness to serve. 17 V.S.A. §2385(e) You should also confirm the spelling of the candidate's name and how he or she wishes it to appear on the ballot.

Independent Justices of the Peace

Vermont law allows individuals to run as independents for the office of Justice of the Peace. Prospective independent justices must file petitions, containing the signatures of at least thirty voters or one percent of the town's voters, whichever is less, as well as a consent form, with the town clerk no later than 5 p.m. or the close of the clerk ' s office on Friday, September 17, 2004. The signatures on the petition must be verified by the town clerk. 17 V.S.A. §§ 2401, 2402(b)(4)

Frequently Asked Questions

1. If our town population increased in the 2000 census, can we elect more JPs?

Chapter II, §52 of the Vermont Constitution provides that towns may elect JPs as follows: less than 1,000 population, town may elect up to 5 JPs; 1,000 but less than 2, 000 population, town may elect up to 7 JPs; 2,000 but less than 3,000 population, town may elect up to 10 JPs; 3,000 but less than 5,000 population, town may elect up to 12 JPs; 5,000 or more population, town may elect 15 JPs. If your population increase moved your town up to the next category, **your Town must include an article at Town Meeting to vote to increase the number of Justices of the Peace in your Town before you can elect more Justices**. The Constitutional language is permissive so there must be an affirmative act by the Town in order to increase the number of Justices. You cannot increase the number of nominations in 2004, unless your Town has already voted at an annual or special town meeting to increase the number of Justices of the Peace.

2. Our town party chairmen have traditionally agreed that each major party would only nominate half of the number of Justices, but now it appears that the other party is going to nominate the full number of Justices. What can we do?

Nominate a full slate of JPs for your party. There has never been anything in the law to encourage or approve of this common practice. Now that more minor parties are becoming active, and more citizens are seeking to run for the office of Justice of the Peace by independent petition, the practice of each major party only nominating one-half of the number of justices is generally falling by the wayside. The law allows any major or minor party to nominate up to the full number of Justices that can be elected in your town. There is no limit to the number of citizens that may choose to run for JP as an independent.

For Town Clerks only: Ballot Preparation Information for Justices of the Peace

In **paper ballot** (hand count) towns, the Town Clerk must make all arrangements to have the ballot printed for the election of Justices of the Peace to be available by October 4, 2004 (30 days before the general election). **We strongly suggest that you ask at least two folks outside your office to proofread your ballot carefully before printing.** It is easy to gloss over an error when those of us who are so familiar with the names and party designations do proofreading. Names must be listed in alphabetical order and include party designation or independent.

There is no need to use a professional printer. You can create your own ballot easily in Microsoft Word and just update it every two years. Make copies for the ballots on colored paper NOT white paper.

Towns that use **vote tabulating machines** must submit the names and party designations of all JP candidates to our office on or before 5 p.m. Monday, September 20, 2004 if you want us to include your JPs on the November General Election machine count ballots. Type the list of names, first name middle initial or name if any and last name in ALL CAPITAL LETTERS in one field with the party designation in the next field in an excel file or type in columns in Word and send it as an attachment to mjacobs@sec.state.vt.us. We will provide the Justices of the Peace names and party designations to the printers electronically to avoid proofreading errors.

Please proofread the information carefully before sending it to us. If there are errors in your information, we will charge your town for any reprinting of ballots that is necessary.