

KENDALL, WALTON & BURROWS
Interoffice Memorandum

TO: Town Board

FROM: KWB

DATE: May 23, 2023

RE: Town of Lyme 45930.0001

(1) What happens if a petition is in all respects sufficient? [*See*, Town Law § 91].

- Should it be determined that a petition is in all respects sufficient, a special Town election shall be held not less than ninety (90) nor more than one hundred and five (105) days after the petition is filed with the Town Clerk.

(2) How to know where and when the special election will be held? [*See*, Town Law § 82].

- The Town Board shall adopt a resolution at least twenty (20) days before a special town election which designates the hours of opening and closing the polls, the place where the election will be held, and setting forth the matter to be voted upon. The Town Clerk must provide notice of the special election through publication and posting.

(3) How long do the polls need to remain open? [*See*, Town Law § 82].

- The polls must remain open for at least six (6) consecutive hours between eight o'clock in the morning and eight o'clock in the evening.

(4) How is the voting at a special election done? [*See*, Town Law § 82].

- The voting must be done by ballot.

(5) Who is eligible to vote in the special election? [*See*, Opinion of State Comptroller Opinion 92-39].

- In order to vote in the special election, an individual must be a citizen of the United States, be eighteen (18) years of age or older, and own property within the

proposed district.

(6) Is absentee voting available? [*See*, 1966 NY Ops Atty Gen April 20].

- No statute permits absentee voting at an election under Town Law Article 12-A where the subject Town has not adopted personal registration for special elections.

(7) Is absentee voting available for individuals who live in Town seasonally? [*See*, 1966 NY Ops Atty Gen April 20].

- No. There is no existing statutory authority which authorizes a town to issue absentee ballots to seasonal property owners for a special election.

(8) Are unregistered voters, who are otherwise qualified, able to vote in a special election? [*See*, 1958 NY Ops Atty Gen May 14].

- An unregistered voter, otherwise qualified, may vote on a proposition submitted at a special town election.

(9) What if an individual is eligible to vote and: (1) owns more than one (1) parcel of property within the proposed district area; (2) owns property with another person; (3) rents property; (4) or owns property through a partnership or corporation? [*See*, Opinion of State Comptroller Opinion 92-39].

- Persons who do not own taxable real property located in a proposed water district are not entitled to a vote in a special election.
- Partnerships and corporations owning taxable real property located in a proposed water district are only entitled to a single vote.
- Any person or entity owning more than one (1) parcel within the proposed district is only entitled to a single vote.
- Each tenant by the entirety, tenant in common, and joint tenant owning taxable real property located in a proposed water district is entitled to a vote, meaning if a parcel is owned by more than one person (such as a married couple), each person would be entitled to their own vote.
- Tenants are not entitled to a vote.