

Daniel Boccardo

From: John Salisbury
Sent: Monday, November 23, 2015 1:11 PM
To: Gene Dinsmore
Cc: Daniel Boccardo; John Salisbury
Subject: RE: Supplemental Laborer/Wingman

I will put this on the work session and agenda for the November 30, 2015 Town Board Meeting.

John A. Salisbury
Supervisor Town of Lysander
8220 Loop Rd
Baldwinsville NY 13027
(315) 857-0281
(315) 635-1515 Fax
supervisor@townoflysander.org

From: Gene Dinsmore
Sent: Monday, November 23, 2015 12:12 PM
To: John Salisbury
Subject: Supplemental Laborer/Wingman

MEMO

November 23, 2015

To: Supervisor John Salisbury and the Lysander Town Board

From: Gene Dinsmore, Highway Superintendent

Subject: Supplemental Laborer/Wingman

Five of our ten part time supplemental employees currently have other employment which makes their availability tenuous at best for our snow removal operations. With your approval, we need to advertise for at least one additional person to protect our ability to clear the roads when it snows. No additional expense is involved, just insuring our position.

Thank you,

Daniel Boccardo

From: John Salisbury
Sent: Tuesday, November 24, 2015 10:39 AM
To: Daniel Boccardo
Subject: FW: Surplus Millings

Please put on Work Session. I sent a copy of this Email to the Board.

John A. Salisbury
Supervisor Town of Lysander
8220 Loop Rd
Baldwinsville NY 13027
(315) 857-0281
(315) 635-1515 Fax
supervisor@townoflysander.org

From: Gene Dinsmore
Sent: Tuesday, November 24, 2015 9:59 AM
To: John Salisbury
Cc: David Rahrle
Subject: Surplus Millings

MEMO

November 24, 2015

To: Supervisor John Salisbury and the Lysander Town Board

From: Gene Dinsmore, Highway Superintendent

Subject: Surplus Road Millings

We received a check for \$816.00 today from CNY Crops for 408 tons of road millings. We will not have more available until our 2016 roadwork season commences.

Thank you,

**TOWN OF LYSANDER
PROPOSED LAMSON ROAD WATER DISTRICT
SCHEDULE OF EVENTS WHICH MAY OCCUR**

- 1. Accept Map Plan Report (attached) at the November 30, 2015 meeting**
- 2. Set Public Hearing on the Map Plan Report for Monday, December 28, 2015 meeting**
- 3. Decide after the public hearing, at the December 28, 2015 meeting, on whether or not to form the District under Article 12A requiring a mandatory referendum**
- 4. If the District is formed, set the mandatory referendum, at the December 28, 2015, meeting for Monday, January 25, 2016 to be held at the Lysander Town Hall Auditorium from 12noon until 9:00pm.**

Provided by Town
Attorney

Opns St Comp, 1986 No. 86-17, 1986 WL 31707 (N.Y.St.Cptr.)

New York State Comptroller

NYCPTR Opn No.

86

-
17

March 17, 1986

TO: CORNELIUS F. HEALY
DEPUTY STATE COMPTROLLER

State Constitution, Article II, § 2

Town Law, § 209-e

1. SEWER DISTRICT—REFERENDUM—ELIGIBILITY TO VOTE
2. SEWER DISTRICT—REFERENDUM ABSENTEE VOTING
3. ELECTIONS—IMPROVEMENT DISTRICT—ELIGIBILITY TO VOTE
4. ELECTIONS—IMPROVEMENT DISTRICT VOTING BY ABSENTEE BALLOT
5. CONSTITUTIONAL LAW—ELECTIONS—ABSENTEE VOTING

Each tenant by the entirety, tenant in common and joint tenant owning taxable real property within a proposed district or extension are entitled to vote on a referendum under Town Law, § 209-e. However, partnerships and corporations owning such property are only entitled to a single vote. Where any such person or entity owns more than one parcel within the proposed district, they are nonetheless entitled to a single vote. A town is not authorized to adopt a local law authorizing absentee voting in special district elections. 1983 Opns St Comp No. 83-231, p 303 is hereby superseded.

We have been asked several questions about voting in a special election for the establishment or extension of improvement districts conducted pursuant to Town Law, § 209-e. This section provides, in part, as follows:

“the [town] board may adopt a resolution approving the establishment or extension of the district as the boundaries shall be finally determined and the construction of the improvement or providing the service therein, which resolution shall be subject to permissive referendum in the manner provided in article seven of this chapter, except as hereinafter provided. The proposition must be approved by the affirmative vote of a majority of the owners of taxable real property situate in the proposed district *** as shown upon the latest completed assessment-roll of the town, voting on such proposition. *** For purposes of this section, a corporate owner of such taxable real property shall be considered one owner for the purposes of a petition requesting a referendum and shall be entitled to one vote to be cast by an officer or agent of the corporation

or other duly authorized person designated by appropriate resolution of such corporation.” (Town Law, § 209-e[3]).

Specifically, we were asked how many votes may be cast on behalf of a parcel of land within the proposed district or extension when one or more individuals have an interest in the property by reason of its being owned by tenants by the entirety, tenants in common, joint tenants or a partnership. We were also asked whether a person who owns more than one parcel of property within the proposed district or extension is entitled to more than one vote. Finally, we were asked whether a town can authorize absentee voting on such referenda.

In *Kristel v Steinberg*, 188 Misc 455, 69 NYS2d 476, the Court stated:

“The term 'ownership of land' involves the idea of rights in some particular person or persons to use the land according to his or their pleasure. Under this concept, one does not own the land but rather an estate in the land, that is, the rights of possession, present and future” (69 NYS2d 476, 490).

*2 Estates Powers and Trust Law, § 6-1.1 defines the types of estates which may be owned in property, including a fee simple absolute. Section 6-2.2 of that statute provides, in effect, that such estates in property may be owned by one or more persons in severality or as joint tenants, tenants in common or tenants by the entirety. In our opinion, therefore, each of the persons who owns the fee to real property as a joint tenant, tenant in common or as a tenant by the entirety has an ownership interest in the property which entitles that individual to vote on a proposition submitted pursuant to Town Law, § 209-e (see *Reister v Town Board of the Town of Fleming*, 18 NY2d 92, 271 NYS2d 965).

Real property owned in the name of a partnership, however, creates interests in the individual partners which differ markedly from those of the three tenancies discussed above. Members of a partnership acquire an interest in personalty, i.e., their shares are in the partnership rather than in the real property itself (*Fairchild v Fairchild*, 64 NY 472; *LaRusso v Paladino*, 109 NYS2d 627, affd 280 App Div 988, 116 NYS2d 617). It has long been the law of this State that:

“Real estate used in the business of a copartnership, although the right and title is in the name of the individual members of the copartnership, may be just as much copartnership property as personal property, and for all co-partnership purposes, *** is treated as personal property. When purchased by partnership funds in the partnership business, and actually appropriated to and used in the partnership business, it becomes copartnership property, although the real title be in the names of the individual members of such copartnership, or one of them.” (*MACFARLANE v MACFARLANE*, 82 Hun 238, 31 NYS 272, 273 [Emphasis added]).

A partnership, as a property owner, would, therefore, be entitled to a single vote in an election conducted pursuant to Town Law, § 209-e, regardless of the number of partners therein.

With regard to whether the owner of multiple parcels within the proposed district or extension is entitled to more than one vote, Town Law, § 209-e provides that, if a proposition on the establishment or extension is required to be submitted to the voters, it must be approved by a majority of the owners of taxable real property in the proposed district or extension, voting on the proposition. It does not provide that an owner of real property be given a vote for each parcel he owns. Accordingly, it is our opinion that an owner of real property within a proposed district or extension is only entitled to a single vote under section 209-e even if he owns multiple parcels (*cf. Salyer Land Co. v Tulare Water District*, 410 US 719, 93 S Ct 1224, 35 L Ed 2d 659).

Finally, it is our opinion that a town may not authorize voting by absentee ballots in a referendum conducted pursuant to section 209-e. Section 2 of Article II of the New York State Constitution provides that:

*3 “The Legislature may, by general law, provide a manner in which, and the time and place at which, qualified voters, who, on the occurrence of any election, may be absent from the county of their residence ***

may vote for the return and canvass of their votes." [Emphasis added]. Thus, if absentee voting is to be authorized in an election, it must be granted by the State Legislature through the enactment of a general law (*Savage v Board of Education, City of Glen Cove School District*, 215 NYS2d 682; *Eber v Board of Elections of Westchester County*, 80 Misc 2d 334, 362 NYS2d 304).

The Legislature by general statute has authorized absentee voting in "any primary election, special election called by the Governor, general or New York city community school board district or city of Buffalo school district election" (Election Law, § 8-400[1]) and in union free and common school district elections (Education Law, § 2018-a). A recently enacted general statute, Town Law, § 213-b (L 1985, ch 400), empowers the board of commissioners of any town improvement district in which the commissioners are elected to provide by resolution "for absentee ballots for the election of the commission" (Town Law, § 213-b[1]). No general statute, however, extends absentee balloting to town special elections (1983 Opns Atty Gen [Inf] 1018; *Matter of Ghent*, 102 Misc 259, 168 NYS 804). Therefore, inasmuch as there is no State statute authorizing a town to adopt a local law permitting absentee balloting in special district elections, a town is without authority to adopt such a local law since it would be inconsistent with section 2 of Article II of the New York State Constitution (Municipal Home Rule Law, § 10[1][ii]).

We note that Town Law, § 84(5) does not constitute authority for the adoption of a local law authorizing absentee voting in town special elections. The purpose of that statute is to provide a method, in towns of the first class which have enacted a local law requiring personal registration for town special elections, by which absentees can become eligible voters without personally appearing for registration. This section was apparently enacted to ensure compliance with Article II, section 5 of the New York State Constitution, which exempts certain voters from the requirements of personal registration (see memorandum of Office for Local Government in support of L 1963, ch 248 which enacted Town Law, § 84[5]; 1966 Opns Atty Gen [Inf] 80). Thus, section 84(5) does not extend absentee voting to town elections of any type.

In short, we conclude that each tenant by the entirety, tenant in common and joint tenant owning taxable real property within a proposed district or extension is entitled to vote in an election conducted pursuant to Town Law, § 209-e. However, partnerships and corporations owning such property are only entitled to a single vote. It is also our opinion that, where any such person or entity owns more than one parcel within the proposed district, they are nonetheless still only entitled to a single vote. Finally, we conclude that a town is not authorized to adopt a local law authorizing absentee voting in special district elections. 1983 Opns St Comp No. 83-231, p 303, is hereby superseded.

Opns St Comp, 1986 No. 86-17, 1986 WL 31707 (N.Y.St.Cptr.)

END OF DOCUMENT

THIS AGREEMENT, made this 1st day of January, 2016, by and between the Town of Lysander a municipal corporation in the State of New York, hereinafter called the "MUNICIPALTY" and the CENTRAL NEW YORK SOCIETY FOR THE PREVENTION OF CRUELTY TO ANIMALS", a charitable corporation organized and existing under the laws of the State of New York, having it's office and principal place of business at 5878 East Molloy Road, in the Town of Dewitt, County of Onondaga, and State of New York, hereinafter called "CNYSPCA"

WITNESSETH

The CNYSPCA in consideration of the payment to it by the Municipality of certain sums of money to be paid in the manner and at the times hereinafter particularly described, hereby covenants and agrees that:

The CNYSPCA shall promptly respond to, investigate violations of and enforce provisions of Article 26 of the Agriculture and Markets Law of the State of New York which are reported to it by the Municipality and which are occurring within the boundaries of the Municipality. Such services will include as necessary seizure of, removal and shelter of any animal found to be the subject of a violation of the above referenced law.

The CNYSPCA shall bill the Municipality on an annual basis for services rendered herein.

The Parties agree that the total amount to be paid by the Town of Lysander for all services of the CNYSPCA to be provided under this agreement on an annual basis of \$1958.31. Payment shall be due in 30 days of sign agreement.

The CNYSPCA shall have the absolute right to terminate this agreement and such action shall not be deemed a breach of contract. The CNYSPCA may terminate this agreement with 30 days noticed delivered or mailed to the Municipality.

The CNYSPCA is insured for acts or omissions of its employees with proof of insurance to be provided upon the execution of this contract.

IN WITNESS WHEREOF, the parties have caused their seals to be affixed hereunto and this Agreement to be signed by their duly authorized officers the day and year first written below.

DATED: _____

Town of Lysander

By: _____

Title: _____

DATED: _____

**CENTRAL NEW YORK SOCIETY FOR
THE PREVENTION OF CRUELTY TO
ANIMALS**

By: _____

Paul Morgan/ Executive Director

THIS AGREEMENT, made this _____ day of _____, 2016, by and between the Town of Lysander, NY a municipal corporation in the State of New York, hereinafter called the "MUNICIPALTY" and the CENTRAL NEW YORK SOCIETY FOR THE PREVENTION OF CRUELTY TO ANIMALS", a charitable corporation organized and existing under the laws of the State of New York, having it's office and principal place of business at 5878 East Molloy Road, in the Town of Dewitt, County of Onondaga, and State of New York, hereinafter called "CNYSPCA"

WITNESSETH

The CNYSPCA in consideration of the payment to it by the Municipality of certain sums of money to be paid in the manner and at the times hereinafter particularly described, hereby covenants and agrees that:

1. That the CNYSPCA will provide and maintain a pound or shelter for animals seized by the dog control officers of the Municipality. It will properly shelter, feed and water such animals during the redemption periods provided in Section 118 of Article 7 of the Agriculture and Markets Law or as established by the Municipality pursuant to such section, and at the end of such redemption periods will make available for adoption or euthanize and cremate unredeemed animals, as provided in said Section. In no event shall the CNYSPCA accept dogs for a redemption period of less than 5 days.
2. All dogs brought to the shelter by a dog control officer shall be accompanied by Form approved by the NY State Department of Agriculture and Markets entitled "Seizing Officer's Report of Seizure and Disposition of any Dog".
3. The redemption periods specified in Paragraph 1 will commence from the date of delivery of the dog to the CNYSPCA by a duly appointed dog control officer of the Municipality.
4. All animals shall be vaccinated, if warranted, upon arrival at the shelter, the costs of which are covered by the "monthly" charge as provided in paragraph 8.
All animals shall be spayed or neutered, if warranted, after the legally prescribed redemption period or prior to adoption. The municipality shall not be responsible for the spaying or neutering costs.
5. The shelter shall at all times during the term of this agreement be under the care of a competent employee and shall be open to the public Monday, Tuesday, Wednesday and Saturday from 10:00 AM to 4:00PM; Thursdays and Friday from 10:00 AM to 5:00 PM, except for legal holidays at which time the shelter will be closed.

6. In addition to the dogs, the CNYSPCA will accept any other animals which shall be delivered by a dog control officer or other authorized officer or employee of the Municipality for such disposition as shall be required.

7. The Municipality shall pay the sum of \$150.00 per animal surrendered to the CNYSPCA. This charge shall include the Veterinary examination, Kennel cough vaccination, Distemper/parvo virus vaccination, Rabies vaccination, Deworming, Flea treatment and Parvo virus testing (for animal under 6 mos.) if such services are deemed necessary.

The CNYSPCA shall bill the Municipality on a monthly basis for services rendered herein.

8. As a separate and distinct charge the following shall apply in addition to the per animal charge provided in paragraph 8:

Rabies-Board and observation

All animals (per day) \$25

**Euthanization and Cremation
(If warranted or directed)**

Extra large dogs (81 lbs and over)	\$100
Large dogs (51 to 80 lbs)	\$85
Medium dogs (26 to 50 lbs)	\$70
Small dogs (up to 25 lbs)	\$60
Cats and other small animals	\$55

9. CRUELTY SEIZURES:

In the event that the municipality through it's representative(s) causes an animal to be placed with the CNYSPCA due to a seizure emanating from a cruelty complaint, with or without the assistance of the Cruelty Officers of the CNYSPCA, it shall be charged the sum of \$25 for each day the animal is held by the CNYSPCA pending final adjudication. Any medical costs will be in addition to the seizure boarding costs.

10. As a further separate and distinct charge, the Municipality shall pay the sum of up to \$500 representing reimbursement to the CNYSPCA for charges incurred by them from the security service employed by the CNYSPCA for the answering the security alarm if it is determined that the employee of the Municipality is responsible for the activation of the alarm.

11. This agreement shall commence on January 1, 2016 and shall continue to and including December 31, 2016.

IN WITNESS WHEREOF, the parties have caused their seals to be affixed hereunto and this Agreement to be signed by their duly authorized officers the day and year first written below.

DATED: _____

Town of Lysander

By: _____

Title: _____

DATED: _____

**CENTRAL NEW YORK SOCIETY FOR
THE PREVENTION OF CRUELTY TO
ANIMALS**

By: _____

Paul Morgan/ Executive Director