

Hearing on Winsted suit delayed

9/21/93 By WILL TACY
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WINSTED — A Litchfield Superior Court hearing on the merits of a 1991 lawsuit against the town was delayed again yesterday as the presiding judge set Oct. 4 as the date for a hearing on the town's request for a summary judgment.

The hearing was initially to be held on Aug. 30, but was delayed two weeks when the attorneys involved were unable to agree on a stipulation of facts — a document detailing the established facts of the case. A second postponement came at the decision of presiding Litchfield Superior Court Judge Walter M. Pickett Jr.

This latest delay has been caused by the town's motion for summary judgment, which challenges the case, filed by Community Lawyer Charlene LaVoie on behalf of a town resident, on a technical matter. The Oct. 4 hearing will deal only

with that motion and the validity of the technical challenge.

The lawsuit itself challenges the Board of Selectmen's 1991 decision to grant retiring police officer Francis J. O'Neill, who is now a selectman, a supplemental retirement payment. The suit was filed by LaVoie on behalf of resident Patricia Mills. Former town attorney Stephen O. Allaire is representing the town in the case.

One portion of the suit, asking for a court order restricting selectmen from paying non-contracted bonuses, compensation, benefits or other types of payments to any municipal employee was thrown out by Pickett in 1992. What remains in litigation is a request for a court order directing town officials to honor a 1991 petition for a town meeting on the controversial payment to O'Neill.

A 300-signature petition calling for a town meeting to consider the selectmen's

decision to grant O'Neill a \$10,000 retirement payment was circulated and filed at the town clerk's office.

However, that petition was never certified by Town Clerk William T. Riiska. And it is this fact that Allaire's motion for summary judgment is built around. If there is no certified petition, there is nothing for the court to order the selectmen to honor, he is arguing.

LaVoie questioned yesterday why the motion is being filed now.

"It's kind of suspect that it's so late in the game," she said. "What's he been doing for two years? If he's known about this, why wait two years to file a motion for summary judgment?"

Pickett has also ordered that Riiska attend a deposition at LaVoie's office tomorrow. LaVoie said she had sought to have that deposition take place nearly

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Judge sets date for judgment

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two weeks ago but was blocked by Riiska's unwillingness to take part.

LaVoie personally declined to comment on whether Riiska had certified the petition or not, saying she will wait until the deposition is completed. In an affidavit filed with the case, Riiska said he had not certified the petition.

"That's a pretty outrageous thing to swear to in a legal document. And I think it's outrageous that the town is putting the citizens in this position," she said. "And I think the citizens should be enraged that the

mere failure of a clerk to do a simple clerical task should defeat the citizens' right to petition."

Riiska has responded that he handled the O'Neill petition just as he does all others. He said he made a copy of it and faxed it to then-town attorney Allaire for an opinion. Riiska said Allaire advised him not to file the document.

In a related matter, selectmen last night locked horns briefly over Allaire's bill to the town for work on the case. The \$7,898 bill is based on a \$110 per hour rate. Selectmen questioned why the rate is so much higher than the rate Allaire worked for

while town attorney.

"I have a problem here. When Steve was working for the town, he was charging us at a rate of \$55 an hour. Now I'm looking at this bill and I see it's costing us more than \$100 an hour," Selectman Walter D. Miller said. "To me, this is an outrageous bill."

Allaire, who attended the meeting, explained that he was charging the town the normal rate he charges municipalities. And he reminded selectmen that he is no longer the town attorney but has been hired as a special counsel to deal specifically with the one case.