

Old matter brought up again

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Now, LaVoie is asking the situation be remedied, and the petition be certified.

When asked whether this would set in motion a town meeting on the O'Neill payout, LaVoie said, "Perhaps."

Town Attorney Kevin F. Nelligan will issue an opinion Monday on the correct procedure for the handling of petitions. Nelligan was asked to prepare a legal opinion by Town Manager David A. Maynard, who did so after consultation with Gauger, according to a Nov. 17 letter written by Maynard.

"It is intended that this opinion be so solid as to lay to the procedural issue to rest. What other actions are required to lay the specific case issue to rest will become clear once your opinion is delivered," Maynard wrote. Maynard could not be reached for comment yesterday.

Riiska stated last night he did not certify the petition based on the town attorney's advice. Stephen O. Allaire was town attorney at the time. Allaire said the petition was not valid and not an appropriate item for a referendum, Riiska said.

"It was my own opinion too, but (Allaire) said it wasn't a valid

petition," Riiska said.

LaVoie said as town clerk, Riiska should know better. The charter is clear about how a petition should be handled, LaVoie said. According to the charter, the town clerk must determine within 15 days of receipt whether the petition and the affidavits are sufficient by comparing the signatures with the voting list.

Gauger yesterday said the issue concerns Riiska as an elected official and not the board.

"The board can't make Mr. Riiska do anything. He can take the advice of the attorney or he can incur the wrath of whatever party is out there," Gauger said. The letter, which was labeled "confidential," was in the Board of Selectmen's Nov. 22 packet. Gauger did not say whether he marked the letter confidential, or the town manager did. He said he did not see the copy of the letter included in selectmen's packets.

Former selectman Walter D. Miller, who had called for Riiska's firing over the petition debacle, promised a referendum vote on the payout, if Nelligan states the petition should be certified. If he decides against certification, Miller vowed a civil rights suit would be filed against Riiska.

"This thing is not dead. Riiska

is going to have to pay the price," Miller said.

In her letter, LaVoie wrote that Riiska's failure to act on the petition usurps the selectmen's authority. It is selectmen, and not the town clerk, who decide whether an action by the board is exempt from challenge, LaVoie wrote.

"The board should be disturbed the town clerk is going to make these decisions on their behalf," LaVoie said yesterday. By not certifying the petition, Riiska disenfranchised votes from exercising their right to vote on an issue involving the appropriation of town funds, she said.

LaVoie also wrote Riiska's refusal to certify the petition "prevents citizens who signed that petition from exercising their right to challenge the Board of Selectmen as the (town) charter provides."

"Mr. Riiska's failure to certify the petition is a violation of the procedural requirements of the charter and override the authority of the Board of Selectmen and the town meeting. Worst of all, Mr. Riiska's behavior damages the most fundamental element of idealism that people have — that we are a government of laws," LaVoie wrote.