Winsted attorney rules petition was too late 2-5-92

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WINSTED — The 1991 petition calling for a townwide vote on a $10,000 retirement benefit for Capt. Francis J. O'Neill was filed too late in 1991 to require a town meeting, according to an opinion written by Town Attorney Kevin F. Nelligan.

"The petition was filed too late so (selectmen) are not required to call a referendum," Nelligan said Friday.

The petition, originally filed June 28, 1991, was only certified by Town Clerk William T. Riiska last month. When the petition originally was filed in his office, Riiska did not certify it because he was told by then town attorney Stephen O. Allaire it was not a valid subject for a town meeting. Riiska's failure to certify the document resulted in the dismissal of a lawsuit against the town over the payment to O'Neill.

After Riiska certified the petition in January, selectmen asked Nelligan to render an opinion on whether the board should call a town meeting on the petition.

But according to Nelligan, selectmen do not have to act on the petition.

Nelligan contends the town entered into a contract with O'Neill June 25 to pay him the retirement benefit. June 25 was the effective date of the agreement, Nelligan said. The petition was filed June 28.

According to the town charter, voters will have the power to approve or reject a resolution by the Board of Selectmen before the effective date of a resolution.

"By the time the petition was filed, a valid contract had been entered into, binding the Town of Winchester and exposing it to damages if it breaches the con-

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Petition too late

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tract," Nelligan wrote in a Feb. 3 opinion letter.

Former selectman Walter D. Miller, who threatened to sue the town if Riiska did not certify the original petition, said Friday he wants to discuss the issue with community lawyer Charlene LaVoie. LaVoie, acting on behalf of resident Patricia Mills, challenged the payment to O'Neill through the courts. Her case was dismissed because Riiska did not certify the petition.

Miller predicted there will probably be a lawsuit against the town.