

# Court ruling disappoints Winsted's LaVoie

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WINSTED - Community Law-  
yer Charlene LaVoie yesterday  
d she was disappointed with a  
Winfield Superior Court judge's  
decision to dismiss a 1991 lawsuit  
her office brought against the se-  
lectmen.

But LaVoie, who prepared and  
presented the suit on behalf of  
town resident Patricia Mills, said  
she does not feel the judge's de-  
cision in any way clears the air.  
The suit challenged the Board of  
Selectmen's 1991 decision to grant  
retiring police officer Francis J.  
O'Neill, a current selectman, a  
supplemental retirement pay-  
ment.

Superior Court Judge Walter M.  
Pickett Jr. last week granted the  
town's request for a summary  
judgment on the case. The grant-  
ing of a summary judgment  
means the case is dismissed  
without having gone to trial.  
Therefore, LaVoie pointed out, the  
merits of the case were never  
heard.

The town's legal counsel in the  
matter, former Town Attorney  
Stephen O. Allaire, filed the mo-  
tion for summary judgment last  
month, challenging the case on a  
technical matter. A hearing on  
the motion and the validity of the  
technical challenge was held Oct.  
4. Pickett's decision was delivered  
three days later.

"My client and I are certainly  
disappointed in the decision,"  
LaVoie said. "And we're even  
more disappointed that the town  
government chooses to operate in  
this way: that is, the (town) clerk  
(William Riiska) not doing his  
clearly stated duty to allow the  
people to petition."

One portion of the suit, asking  
for a court order restricting se-  
lectmen from paying non-  
contracted bonuses, compensa-  
tion, benefits or other types of  
payments to any municipal em-  
ployee was dismissed by Pickett  
in 1992. What remained in litiga-  
tion was 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 360-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 in 1991.

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

honor, the motion argued.  
Riiska has been criticized for  
failing to certify the petition. And  
LaVoie yesterday said she will

have to consider whether there is  
action to be brought on that issue  
alone.

"The court didn't address  
whether the clerk should have  
done what he did. That question  
will have to be addressed in an-  
other manner," LaVoie said.  
"There was no way we imagined  
for a moment that an elected  
town official would not do his job  
as stated in the charter. I'm going  
to review the options and decide."

The portion of the charter  
LaVoie cites states:  
"The petition shall be filed with  
the Town Clerk, who shall within  
fifteen (15) days or within such

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time period as may be set by the  
Connecticut General Statutes de-  
termine whether the petition and  
affidavits to be sufficient by  
comparing the names of the elec-  
tors appearing thereon with the  
latest effective official list of the  
Registrar of Voters." The charter  
goes on to state: "If the Town  
Clerk determines the petition and  
the affidavits to be sufficient, said  
Town Clerk shall so certify said  
petition to the Board of Selectmen  
at its next regular meeting."

Riiska has consistently said he  
treated the 1991 petition as he has  
all others - calling the town at-  
torney to get an opinion before  
taking any action. Riiska said he  
contacted the town attorney, All-

aire, and was told not to certify  
the petition.

Pickett's ruling was delivered  
without a memorandum of deci-  
sion, which would have detailed  
the judge's reasons for dismissing  
the case. Even if a written deci-  
sion had been released, it would  
not have been concerned with ei-  
ther the merits of the case or the  
question of whether Riiska acted  
properly in declining to certify the  
petition.

LaVoie yesterday said there are  
"several ways" to address both  
issues. Beyond saying that she  
would consider the options and  
discuss them with her client and  
other interested parties, LaVoie  
declined to say whether she would  
initiate any further action."