

**TOWN OF DIGHTON  
BOARDS OF SELECTMEN/HEALTH  
OCTOBER 2, 2012**

Dean V. Cronin called the meeting to order at 9:05 AM.

Present: Dean V. Cronin, Thomas J. Pires and Susana Medeiros, Town Clerk

Review/Discuss/Act: Meet with Town Clerk re: Letter of Resignation

Town Clerk, Susana Medeiros, appeared before the Board to discuss the course of action relative to holding a special election after receiving a letter of resignation from Chairman of the Board of Selectmen E. Bud Whalon effective October 1, 2012. Mrs. Medeiros presented the legal opinion of Town Counsel David Gay (Exhibit A), noting that under MGL Chapter 41, Section 10 regarding the filling of a vacancy in the office of selectmen, the remaining selectmen *may* call a special election to fill such vacancy or *shall* call such an election upon the request in writing of two hundred registered voters of the town. Provided, however, that the request is filed no less than one hundred days prior to the date of the next annual election. Alternatively, in the absence of a special election, the vacancy shall remain open until the next regularly scheduled election.

It was noted that the earliest date for a special election could be in December and that the estimated cost to hold said special election would be \$4,000 - \$5,000. Mrs. Medeiros also noted, that she is requesting monies from free cash at the next Special Town Meeting to recover costs associated with the recently held election relative to the new police station building. Should a special election take place, a revised request will need to be made. The Board discussed the matter and determined they will not expend the taxpayers money for a special election and will continue to run the Board with a vacancy. Motion: Dean V. Cronin, seconded: Thomas J. Pires VOTED not to hold a special election to fill the Boards vacancy.

Vote: UNANIMOUS

At the Regular Meeting of the Board of Selectmen/Health scheduled for October 3, 2012, the Board will accept the letter of resignation then reorganize the Board(s).

Due to Mr. Whalon's resignation, the issue as to whether or not contract negotiations with the Police Department can begin. Although there is an established conflict of interest between the Police Department and Dean V. Cronin it is the opinion of Attorney Gay (Exhibit B) that the Board should not deter contract negotiations with the Police Department, as long as, Thomas J. Pires represents the town at such negotiation sessions. It was further noted that the Agreement cannot be executed until the vacancy on the Board has been filled.

Motion: Dean V. Cronin, seconded: Thomas J. Pires VOTED to adjourn at 9:25 AM.

Vote: UNANIMOUS

Respectfully submitted,  
Boards of Selectmen/Health  
Kerrie J Easterday, Administrative Assistant

Approved by:  
 10/12

Exhibit A

**GAY & GAY, P.C.**

73 Washington Street  
P.O. Box 988  
Taunton, Massachusetts 02780

David T. Gay  
Thomas P. Gay  
John L. Holgerson  
Matthew J. Costa  
Leo M. Spano

Peter B. Gay  
1915-2010  
Tel. (508) 822-2071  
Fax (508) 880-2602

October 1, 2012

Town of Dighton  
Sue Medeiros, Town Clerk  
Town Hall  
979 Somerset Avenue  
Dighton, MA 02715

**RE: Vacancy on Board of Selectmen**

Dear Ms. Medeiros:

Pursuant to our telephone conference today, this letter is to confirm that your interpretation of Massachusetts General Laws chapter 41, section 10, regarding the filling of a vacancy in the office of selectmen, is correct. That chapter and section specifically provides that, when a vacancy in the office of selectmen occurs, the remaining selectmen *may* call a special election to fill such vacancy and they *shall* call such an election upon the request in writing of two hundred registered voters of the town, or twenty percent (20%) of the total number of registered voters of the town, whichever number is less. Provided, however, that the request is filed with the remaining members of the board not less than one hundred days prior to the date of the next annual election. Alternatively, in the absence of either such a call for a special election by either the remaining selectmen or the necessary number of registered voters, the vacancy shall remain open until the next regularly scheduled election.

Please note that chapter 41, section 10 also declares:

No election shall be held for any office pursuant to this section unless the selectmen file with the town clerk notice of an election for such office not less than fifteen days before the last day to submit nomination papers to the registrars of voters for certification, before the election or any preceding primary, caucus, or preliminary election.

Should you have any questions or concerns, please do not hesitate to contact us.

Respectfully,

Gay & Gay, P.C.

  
David T. Gay

*Exhibit B***GAY & GAY, P.C.**

73 Washington Street

P.O. Box 988

Taunton, Massachusetts 02780

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October 1, 2012

Town of Dighton  
Sue Medeiros, Town Clerk  
Town Hall  
979 Somerset Avenue  
Dighton, MA 02715

**RE: Vacancy on Board of Selectmen and Police Contract Negotiations**

Dear Ms. Medeiros:

In light of Mr. Whalon's resignation from the Board of Selectmen, the issue as to whether or not contract negotiations with the police department can begin has arisen. This letter is to state our opinion that such negotiations may indeed begin.

While Selectmen Cronin cannot directly participate in such negotiations due to an already established conflict of interest, he can agree with Mr. Pires that Mr. Pires shall continue to represent the town at such negotiation sessions. If necessary, Mr. Pires may continue to negotiate with the police department until such time as the vacancy on the Board is filled. Should the negotiations result in a tentative agreement between the police department and the town prior to the filling of the vacancy, that agreement cannot be consummated until the vacancy on the Board has been filled. Consequently, it is our opinion that the resignation of Mr. Whalon from the Board should not deter contract negotiations with the police department.

Should you have any questions or concerns, please do not hesitate to contact us.

Respectfully,

**Gay & Gay, P.C.**  
David T. Gay