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Town of Danville  
Board of Selectmen  
October 27, 2015  
7:00 pm

Meeting televised

Selectmen Present: Chairman Shawn O'Neil, Kimberly Farah, Joshua Horns, Sheila Johannesen

Others present: AG's office: Tom Donovan, Terry Knowles; Carsten Springer, MaryAnn Distefano, George Manos, Dottie Billbrough, John Russo, Carol Baird, Walter Baird, Robert Griffin, Jan and Ken Danisevich

I. Parsonage Fund:

The board, audience, Tom Donovan, and Terry Knowles discussed the history of the Old Meeting House, the former Parsonage Fund, and the groups that have worked together to care for this building. Terry and Tom commended Carol for her research and the information on the building's history.

It was explained that to update and/or change a trust through the Cy Pres process, one must remain as close as possible to the original intent/purpose of the funds. The Cy Pres will need to be narrow and focused. It was suggested that the Old Home Day service continue with funds available to pay for this ministry and the funds continue to support the maintenance and upkeep of the building. Terry said that this premise could be used for the town's Cy Pres. She asked that the Board have Peter contact her office to discuss these options for Danville.

Carol suggested a Stewardship plan be developed as the Heritage Commission did for their oversight of the Webster Stage Stop and Red School House for the Board. Terry strongly suggested the Old Meeting House Committee file the short form for a 501 (c ).

At 9:15pm Horns made and Farah seconded a **motion to adjourn**. The motion **passed** unanimously.

Respectfully submitted,

Patricia Shogren  
Selectmen's Administrator

Additional notes – 10/27/15 BOS meeting:

Attorney Knowles noted that the parsonage Committee was controlling the parsonage fund until 1992 when the trustee of trust funds became the holder of the funds. Attorney Knowles noted The Old Meeting House Association is not recognized by the IRS as a non-profit organization though they are receiving monies from a variety of sources including trusts and private donations. Under the MS-9 for the Town of Danville, there are two other funds that were given for the care of the Old Meeting House (Selena Sanborn and Mary Sanborn). Private donations for the care of the Old Meeting House are also under the control of the trustee of trust funds. There have been grants from the NH Charitable Funds for the OMH. She pointed out that we are not just looking at money from sale of timber but also money from other sources. Any charitable donations must be used as the donor intended. Who has money, what the money is for, who is spending the money, and who has the control of the building are questions that need to be answered. It was noted that the OMH is owned by the town. The OMH association began in around 1911 and was incorporated in 1992 but it is not a 501c(3). Attorney Knowles recommended that the OMH association apply for 501c (3). Even though the OMH association doesn't own the building, they consult with the town regarding the upkeep of the OMH. Do we have a contract with the contractors or does the OMHA? When something is done to the building, is it approved by the BOS? Attorney Knowles suggested we need to check with PRIMEX if we are having someone do work on the building. Is this covered by general liability insurance? Discussion followed as to the possibility of carrying out the original intent of the fund. Is it impossible to carry out the original intent of the fund? The town will need to prove to the court it is impossible or obsolete to carry out the intent of the fund. Could the argument be made the meeting house is no longer used for worship and that the intent of the fund is defunct? This could be handled through a cy pres or petition for instruction.

The Attorneys stated they would have to look at the current cy pres again. If the AG office agrees with the cy pres, it is an assent to opinion. There are many new judges so that doesn't mean it would necessarily go through the court without a change.

Attorney Knowles asked if the town's general liability covers thing liking painting on the OMH. Is the OMH association are they a taxable organization? There are some basic questions that aren't being answered. All the parties are not coordinated. Attorney Knowles asked who owns the building. There is a recorded deed to the town. Parsonage committee was part of the town government and this is evidence of the town's ownership. Ms. Baird stated that only recently did OMHA have money to pay for repair. Prior to that, the OMHA would come to town. The parsonage committee was dissolved in 1992 per warrant (warrant #5). From the meeting minutes, there was a motion made to ratify the action of the selectmen to turn over the parsonage funds to the trustee of trust funds and the interest would be spent annually. Carol Baird said that the motion was not recorded correctly and that the money was to be spent on the old meeting house. Further there is a letter from the chair of trustee of trust funds to chair of BOS in 1991. This confirmed a meeting in May 1991 where the trustee of trusts explained to the BOS what the intent was for the use of the funds and that it should be paid annually to OMH, Baptist Church, Union Church and any other church.

If there is a disagreement as to whether or not this is a charitable trust the town could go for a Cy Pres or file a petition for instruction. We could do the latter and ask the court if it is a charitable trust. If we ask for instruction the court will determine if it is a charitable trust. If it is a charitable trust and we can use the money for maintenance, we need to determine who spends the money and who has oversight. A non-profit organization is not a part of government.

When there is a charitable trust there is a contract formed between the donor and recipients so even though the town has used the monies in the past to use the monies for maintenance, that doesn't mean the purpose of the fund was changed. We could have an attachment to petition where we define what is ministry? What is preaching? What do we mean by that?

If the fund is going to be used for ministerial funds, then the town would have to determine what is considered to be a church. Some towns have done this. Some brand new living room churches have sprung up that say they are a church. This may be an issue moving forward. Attorney Knowles stated that the AG Division of Charitable Trusts has to continue to look out for the interest of the fund.

Mr. Griffin from the Union Religious Society petitioned for years to the Parsonage Committee for the Sunday summer services. When turned over to the Trustee of Trust Funds the same was done. As of late, a trust was donated so that they take the money from their own funds. Mr. Griffin stated that the Society hasn't had to petition to use the funds but would like it there in case they needs the fund. The Union Religious Society has gotten money since 1992 from the trustee of trust funds. If the warrant for distribution of the funds didn't designate someone to make a determination, it will fall to the trustee of trust funds.

There have been some instances where there have been petitions to intervene. At that point, there will have to be hearings on the issue. At some point, the town will need to reach agreement before we move to court. The Wilton case was mentioned. That dealt with specific grant funds. This is not the same in Danville. It was a land swap. It was an intentional decision to have land to support ministry.

Attorney Donovan mentioned that there was a list of churches that the money was given to. He raised the question as to whether this could be maintained or not.

Attorney Knowles again stated that the town needs to determine who has control over the building and who has the authority to say what happens to it. There has to be accountability and oversight.

Attorneys Donovan and Knowles stated that it would make sense for them to have another conversation on some issues with our town counsel. They need the towns to give them permission to contact them. Attorney Donovan said the board needs to discuss what it would look like to return to how things were being handled to 1992. If not workable, why is it not workable? The discussion needs to be communicated to Peter. Could we go back before 1992 and have some allocation of money to various congregations in town. Could that work? What positives and negatives that would create? Terry suggested that once a year you might pay a clergy \$100 to give a church service. If you think original intent was to have someone preaching in that building. Have someone who is not government; decide who will preach that Sunday. That would be a way to separate church and state. The remainder of the money for could be used for maintenance.

If a court order is issued in regards to the fund it is a new trust instrument. At that point there would be an implementation plan.

(additional notes contributed by Kimberly Farah)