

MEMORANDUM

To: Windham Selectboard
From: Robert M. Fisher, Esq.
Date: April 8, 2019
Re: Windham meeting House

The purpose of this memorandum is to outline the ownership status of the Windham Meetinghouse and to outline the procedural steps necessary for any potential transfer of the Meetinghouse to the Town of Windham.

Based on my review of historical documents provided to me by various individuals, the legal status of the Meetinghouse is that it is co-owned by the Town of Windham and the Windham Congregational Church, Inc. The sequence of how that came to be is as follows. In 1801, at the annual town meeting, the voters voted to hear the report of the committee that had been appointed to lay out the meeting house and to take any other measures necessary to forward the building of the meeting house. Windham Town Records Vol. 1, page 14. In 1803, the town meeting took up the issue of disposing of "part of the Ministerial land by the Meetinghouse and act thereon as they Shall Se[e] fit." [Quoting from email from Jonathan Stevens, and reference is to Windham, Vt., Town Records, 1: 22] In 1808, the Town voted to hold its annual meetings at the Meetinghouse [Windham, Vt., Town Records, 1: 39] and thereafter held the meetings there since 1809. The Town's involvement at the Meetinghouse continued, even though the ownership of the Meetinghouse was vested in the Proprietors of the Windham Centre Meeting House. In 1845, town meeting considered whether to pay the expense of shingling the Meetinghouse, but that article was "dismissed." [Windham, Vt., Town Records, 3: 175]

In 1851, the Town set up a committee to negotiate with the Proprietors to buy the room adjoining the vestry in the west part of the basement story of the Meetinghouse. Upon report of that committee, the Town voted buy that room and in the land records at Volume 7, page 141, the Proprietors of the Windham Centre Meeting House conveyed to the Town of Windham the "west half of the basement story in said Meeting House excepting the lobby, said premises being 22 by fifty one feet." This is the first official ownership by the Town in the Meetinghouse, at least by deed, other than ownership interest in the "minister lot" as set forth on the original lot layout of the town. Thus, after 1851, the Town and the Society each had legal ownership interests in the property.

I am told that the Proprietors of the Windham Centre Meeting House eventually became the Centre Congregational Society. I have not verified this merger/succession, but it appears plausible. (It is a fact that we should verify.) Then, in 1921, the Centre Congregational Society incorporated as the Windham Congregational Church, Inc. [Articles of Association dated March 31, 1921 and filed with Sec'y of State on April 11, 1921]. Over the years of the twentieth century, the two entities had certain agreements, among them one agreeing to rebuild in the event of a fire or destruction of the building. During the latter part of the twentieth century, a group formed the Friends of the Meeting House" and eventually created a 501(c)(3) organization with the purpose of raising funds for the repairs needed at the Meetinghouse. This organization still exists, but may be in jeopardy of losing its tax exempt status unless it files its back tax returns for the last few years by August, 2019.

At present, the status is that the Windham Congregational Church, Inc. does not possess the necessary funds to adequately maintain the Meetinghouse and the desire is to convey the property to the Town of Windham.

The issues are:

1. What procedural votes are required for the Town to accept the property?
 2. What votes are required if the purchase has a bona fide purchase price to it?
 3. Will the Town be voting to approve bonds/notes for the purpose of either buying the Meetinghouse or making capital improvements thereto?
 4. What agreements, post-closing, need to be accomplished for the continued use by the Church and Friends of the Meetinghouse?
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1. If the Town and Church are the sole entities with title to the lands and building where the Meeting House is located, then a quit claim deed from the Church would vest all of the rights of ownership with the Town for the property. So long as the quit-claim is for no consideration, the Selectboard can accept the gift on behalf of the town.
 2. If the conveyance is going to be for more than a nominal amount, then the authority to purchase rests with the voters because the funds for the acquisition are not currently part of the FY20 budget. Thus, a Special Town Meeting would need to be called for the purpose of authorizing the purchase of the capital purchase and the raising and appropriating of the necessary funds for the acquisition. This Special Town Meeting could also provide for the borrowing of funds for the acquisition and or bonding for the acquisition if that is required.
 3. If the answer to the above question is yes, then as stated above, there will need to be a Special Town Meeting to authorize the purchase and the authorization of the bonds. Such a vote has to be by Australian ballot and we can get into the details of that if that becomes the case. This all depends on whether the purchase price is anything other than nominal and on whether there is a need for immediate capital improvements for which the Town would want to borrow.
 4. Post-Closing, assuming a conveyance to the Town, the Town will need to do a myriad of tasks: set up Meetinghouse use policies; set appropriate usage fees for the Meetinghouse; create a lease to the Church if that is desired and approved by the Town (might need to look at separation of Church and State issues if such is the intent); set a capital improvement plan for the building; and create agreements with the Friends of the Meetinghouse as to partnering for improvements to the building.

My understanding is that a committee is being set up to research and study issues set forth above. Understandings as to the purchase price, if any, the costs for capital repairs and improvements, and the costs necessary to sustain the building are imperative before final decisions are made. Our office is happy to assist in any way in order to accomplish the Town's goals. Please let me know how you wish us to proceed.