

Minutes
CONWAY SELECT BOARD
Town Office, 32 Main Street
April 25, 2017, 4:00 p.m.

Select Board members present: John Rourke, Robert Baker, Bob Armstrong

Others present: Tom Hutcheson, Town Administrator; Lisa Turowsky, Assistant to the TA; John Fitz-Gibbon, Town Counsel; Sarah Williams, Historical Commission; Carl Darrow, Historical Commission; Malcolm Corse, Historical Commission

John O'Rourke called the meeting to order at 4PM.

Minutes *None.*

Meetings Attended by Selectboard Members *None.*

Citizens' Concerns

Old Business

Tornado business: UCC church

Attorney Allison, who represents the UCC church, called Town Counsel John Fitz-Gibbon about language in historic preservation restriction in Par. 10 requiring that the church have full insurance coverage for damage. The church didn't get that; instead they got coverage for 80% of damage. They are considering reducing the size of the church building. Attorney Fitz-Gibbon believes the church intends to repay the Town the \$100,000 which would end the historic preservation restriction. Paragraphs 23 & 24 of the restriction document specify that the grantor of the restriction shall pay \$100,000 to the Town in the event of partial or total destruction of the property, thus ending the restriction. The question of whether this provision overrides the CPA was asked. Attorney Fitz-Gibbon and others said it looks like there's some language missing between the end of p.1 and beginning of p.2. A letter from DOR indicates that they recognize "something like this could be done" as a practical matter. The intention of the restriction was that the Town wouldn't lose \$100,000 according to Carl Darrow. If the Town were to give the church the money, it would have to be done on Town Meeting floor, suggested Carl Darrow. Attorney Fitz-Gibbon said there had been some discussion about the church being a meeting house/community center, thus qualifying it for CPA money. The church said they hoped the Town would "give them a break." Attorney Fitz-Gibbon told Attorney Allison he would be meeting with the Select Board. There was a discussion of how a CPA grant was given to the church, a non-public building. An anti-aid amendment to Mass Constitution bans public money for non-public use, according to Sarah Williams. Recipients of CPA money need to be primarily for public use. There is no requirement that such recipient buildings be listed in the Historic Register, however. Permanent restrictions need to be approved by the Massachusetts Historical Society.

John O'Rourke recalled that there were two main purposes for giving the church money; it functioned as a community center, and it has historical significance. The public purpose related to the interior use of the building, said Sarah Williams, while the historical significance related to the building's exterior. John O'Rourke said the issue of the Town granting the historic preservation restriction went before Town Meeting to see if residents believed the church served a public purpose. Sarah Williams said a permanent restriction is itself a public purpose. It was noted that only Main Street is considered a historic district. Attorney Fitz-Gibbon said he hopes this will work out if the church continues to serve a public use. The Town has the right of first refusal even if the church repays the money. Other options are rewriting section 5 re: community access language, getting rid of the loan language, public purpose use.

Robert Baker said he heard that the church is still waiting for a final number from their insurance company. Carl Darrow asked what the physical condition of the church is at this point; Robert Baker said the structural engineer reported that the bell tower is totally unattached to the building, and highly recommended putting up fencing which was done. The structural report hasn't been completed yet. In order for a full assessment of the damage to the church, all the sheet rock inside the building will need to be removed, as well as the organ, according to Robert Baker. It could cost \$400,000 to \$500,000 just to assess the damage. The church might be taken down to one level. The bell tower is totally unsafe. The total cost of

repairing the building could be as much as 1 to 2 million. The church may be hiring a lawyer to defend against their insurance company, said Robert Baker, and might ask the Town to join as a party. Either option being looked at – demolishing the building or replacing it with something much smaller – would not be in compliance with the restriction.

The check from the church’s insurance company for \$50,000 is in escrow. Attorney Fitz-Gibbon talked to the Town Treasurer about joint signatory vs. joint account. There is some language about the Town allowing the money to be repaid at its discretion. John O’Rourke would want it to go to Town Meeting. Robert Baker said the church approached him asking if the congregation could use the building; he stressed that this would not be allowed. Robert Baker asked Attorney Fitz-Gibbon if the church has to pay Town back the \$100,000 before making repairs etc. Attorney Fitz-Gibbon said they do not; they have 90 days to make emergency repairs to the exterior using the \$50,000 from their insurance company. The Select Board needs to see the damage report from the church’s attorney. Tom Hutcheson will check with the bank about the proper arrangement for \$50,000. If money gets repaid it should go back to CPA, according to Attorney Fitz-Gibbon.

New Business – *None.*

Items Not Anticipated 48 Hours in Advance of the Meeting *None.*

Town Administrator Update *None.*

Concerns of the Selectmen *None.*

Mail *None.*

Announcements *None.*

Documents and Other Exhibits Used at the Meeting

Historic Preservation Restriction and Right of First Refusal

Delegation of authority to Historical Committee to review/approve proposed restoration/reconstruction of exterior of church building

United Congregation Church Exterior Preservation Restriction Analysis

Letter from Mass DOR re: Use of CPA Funds for Historic Preservation Loan

Next meeting scheduled for Monday, May 1, 2017 at 6:00 p.m. at the Town Office, 32 Main Street

- **On a motion from John O’Rourke, seconded by Robert Baker, the meeting was adjourned at 4:55PM.**

Respectfully submitted,

Robert Baker, Clerk