

**RELEASE DATE: July 2, 2019**

**OLD YORK HISTORICAL SOCIETY DOES NOT SUPPORT  
THE TOWN OF YORK / FIRST PARISH CHURCH LAND AGREEMENT**

York, Maine—The board of selectmen of the Town of York and First Parish Church of York (the Church) have privately negotiated an agreement that grants ownership of the majority of disputed land in York Village to First Parish Church. According to the agreement, the Town of York retains two parcels, and one parcel is offered to the Old York Historical Society (OYHS).

OYHS was not consulted or during the negotiation, and does not accept ownership of the parcel of land located at the corner of York Street and Lindsay Road. The Board of OYHS believes that this is public land belonging to York's citizens, and that the agreement is a disservice to the long-term public good. A State of Maine statute enacted in 1824 and remaining in effect in 2019 determines that such public land once granted to support religious ministry belongs to the inhabitants of a town and not to a particular parish church. (See Maine Revised Statutes, 2018, Title 13, Part 2, Chapter 93, Subchapter 5: Ministerial and School Lands.)

As illustrated in the following history, York's selectmen have negotiated the gift of up to 60 acres of public land to First Parish Church in exchange for the Town Hall and Old Gaol parcels the people of York already own. We believe a more equitable agreement can be reached for the benefit of the entire community.

**HISTORICAL BACKGROUND**

In 2018, real estate attorneys hired by the Town of York performed a thorough search of historical deeds at the York County Courthouse. Independently, OYHS performed an exhaustive search of historical documents, and all materials uncovered by OYHS were conveyed to the Town of York in 2018. Neither group located any deeds, or any reference to town votes deeding the land in question to the First Parish Church. A chain-of-title prepared by the attorneys shows the land descending from a grant of King Charles I of England to Proprietor Ferdinando Gorges, then to Edward Godfrey, and finally to the inhabitants of the Town of York.

Before U.S. Independence, official churches in New England were owned and funded by local taxpayers. In the 1660s York's selectmen appropriated income from the lease of public "commons" land to support the salary for York's minister. At the time, York's selectmen did not formally deed this land to the Church because the Church essentially was a town department, owned by York's taxpayers. In addition, under Massachusetts law, public churches could not receive property before 1754.

Following the ratification of the Constitution of the United States in 1789, and the First Amendment in 1791 forbidding the government from establishing religion, New England began withdrawing public tax support for local churches.

In consequence of Maine Statehood, an 1824 statute clearly resolved the issue of ownership and income from Maine's public lands formerly granted to support the salaries of local ministers. This statute made Maine law consistent with the Establishment Clause of the Constitution's First Amendment concerning the public lands in question: *"Where lands have been granted, or reserved, for the use of the ministry, and where the fee in such lands has not been vested in some particular parish...the fee and estate in such lands shall be, and hereby is declared to be, vested in the inhabitants of such town, and not in any particular parish there, for the use and support of the gospel ministry in such town."*

In other words, where the rental income from public lands has not been deeded to a parish, the income and ownership of the land belong to the inhabitants of the town. This statute remains in effect in 2019.

York's selectmen last surveyed the public land that supported the ministry in 1723. Ironically, York's selectmen neglected to register deeds for public lands and as time passed, the assessors of First Parish Church repeatedly have asserted ownership claims of public land parcels.

This happened in 1833 when the Church claimed it owned York's Town Hall after York County abandoned use of the building as a courthouse. Church assessors sent a letter to the county demanding that the building be turned over to the Church, since, as they reasoned, the building stood on Church land. In response, York's selectmen appointed a committee to research the land ownership.

The committee's report, submitted Sept. 9, 1833, and accepted by voters at the town meeting the same day states: *"It is very evident that neither the Parish nor settled minister, have any claim to any part of the land which is now called Parsonage land by virtue of any title derived from a vote of the Town of York, and if they have a title to any part of the Parsonage lot, such title has been derived solely from possession."*

In addition, since the Church did not have a deed, or possession of the courthouse / town hall parcel, the committee wrote: *"Not a shadow of doubt exists on the minds of your Committee, that the right of the soil under and around the Court House is in the Town of York."*

The vote accepting the report that York's "Parsonage" and Town Hall land never were deeded to First Parish Church has not been rescinded by subsequent vote, nor did the voters of First Parish challenge the determination after Town of York voters approved the report in 1833. The conclusions of the report are still valid.

The fact that in the proposed agreement, the Church will receive Fee Simple Deeds for the majority of disputed land is a tacit admission that the Church does not have deeds to those lands. According to the Establishment Clause of the First Amendment of the Constitution of the United States, and the 1824 Maine State Statute, First Parish Church is not entitled to own those public lands.

## **COMPREHENSIVE SURVEY/HISTORY NEEDED FOR THE LAND PARCELS**

- York's Town Hall parcel was determined in 1833 by Town report and acceptance vote to be public land and not owned by the Church. The Town could begin constructing an addition to Town Hall immediately if it so chose, without First Parish Church permission, or transferring public land to the Church. Why is this parcel included in the agreement, and why, according to the agreement would this land be given to First Parish Church if the Town of York no longer has a use for it? York's selectmen have negotiated the gift of up to 60 acres of public land to First Parish Church in exchange for the Town Hall parcel the people of York clearly own.
- Since 1652 when the Town of York was organized, there is no evidence that the town or York County have ever paid lease fees to the Church for the half-acre Gaol Hill. Gaol Hill also was not included in the 1723 survey of public land reserved for church income. Why is this land included in the agreement, and why does the agreement convey ownership to First Parish Church if the town no longer has a use for the property?
- First Parish Church claims ownership of the Old Burying Ground, but has not maintained the cemetery for more than a century. Why would this cemetery be given to the Church when it has not accepted responsibility for its care in living memory, and taxpayers are paying for maintenance?
- On April 10, 1837, First Parish (all voters in the geographic region of the parish, not just church members) voted that the new First Parish Cemetery was to be a public cemetery, established "without expense to the Parish." Why would this land be given to the Church when Parish voters set the land aside as a public cemetery?
- The remaining First Parish Cemetery land is owned by a private not-for-profit, the First Parish Cemetery Board. Why would any cemetery land be given to First Parish Church when the First Parish Cemetery Board owns and cares for the remaining cemetery land in York Village?
- The forty acre former pasture land, First Parish Woodlands, which in 1833 the voters of the Town of York determined had not been deeded to First Parish Church, is a community treasure. Why are York's selectmen agreeing to deed this land, which abuts both Coastal Ridge Elementary School and the Davis Property, to a religious organization?

**CONTACT:** Joel Lefever  
Executive Director and Chief Curator  
Old York Historical Society  
P.O. Box 312 / 394 Southside Road  
York, Maine 03909  
207 363-4974  
director@oldyork.org