

**PRESBYTERY OF YUKON
ADJOURNED MEETING
October 29, 2013**

CONVENE

The Presbytery of Yukon met in adjourned session via teleconference at 7:00 pm. Presbytery moderator Rev. Duke Morrow led in the opening prayer.

APPOINTMENT OF MODERATOR PRO TEM

Due to a prior commitment, the moderator appointed Rev. Henry Woodall as moderator *pro tem* for the remainder of the meeting. There were no objections from the body.

ESTABLISH ROLL

Teaching Elder Members Present: Piper Cartland, David Jeong, Ellen Johnson-Price, Curt Karns, Dan Ketchum, Susan Knight, Sigurd Kristiansen, Duke Morrow (briefly), Israel Nelson, and Henry Woodall

Ruling Elder (RE) Commissioners Present: Donna Davidson (Eagle River), Ann Geise (Delta PC), Cathy Johnson (New Hope Church), Lee Huskey (Trinity PC);

Commissioned Ruling Elders Present: CREs Marjorie Poggas (Jewel Lake Parish) and Sandra Wagenius (United Protestant Church);

Other Voting Members Present: RE Dennis Berry (Leadership Team), RE Molly Pederson (Leadership Team), RE Mark Wartes (Leadership Team), stated clerk RE Sharon Rayt

Teaching Elder Members Excused: Isaac Akootchook, Linda Baggett, Trent Baggett, Patrick Bracken, Richard Carpenter, Leisa Carrick, Tim Carrick, Sandy Faison, Phillip Gilbert, Alice Green, Henry Guinotte, Britt Johnston, Luke Jones, Dean Knapp, Tammy Letts, Tom Letts, Peter Loughman, Ian MacInnes-Green, Kim MacInnes-Green, Ted McGovern, James Nageak, William Ng, Dianne O'Connell, Youl Rhee, Murray Richmond, Matthew Schultz, Ken Smith, Mary Ann Warden

Churches not represented by an elder commissioner: Anchor PC, Atqasuk Chapel, Chapel in the Mountains, Fairbanks Korean, First Anchorage PC, 1st Korean Anchorage PC, 1st Wasilla PC, Gambell PC, Immanuel PC, Jewel Lake Parish, Kaktovik PC, Kuukpik PC, Nome PC, Olgonik PC, Savoonga PC, United Protestant Church, University Community PC; Utqiagvik PC

Other Voting Members Excused: CRE George Agnasagga (Olgonik PC), CRE Lucy Apatiki (Gambell), CRE Paul Bodfish (Atqasuk Chapel), CRE LeeAnn Crumbley (serving Presbytery), CRE Leah Hathaway (Jewel Lake Parish), CRE Virginia Kasak (Kuukpik PC), RE Merle Apassingok (Leadership Team), Arlayne Knox (Leadership Team), RE Beulah Nowpakahok (Gambell), RE Mary Charlotte McCall (Leadership Team), RE Fenton Rexford, RE Ida Olemaun (moderator, Nominating Committee), RE Paula Long (moderator, Committee on Representation)

DECLARATION OF QUORUM

A quorum was present in accordance with the requirement in G-3.0304, that ruling elders representing at least three churches and three teaching elders constitute a quorum.

AGENDA

Remaining business from the October 11-12,, 2013 Stated Meeting of Presbytery constituted the agenda.

- Presentation and adoption of consent agenda: As no items were pulled for separate consideration, Presbytery **ADOPTED** the consent agenda, as presented (Appendix A)

- Committee on Ministry recommendation:
Increase the 2014 minimum effective salary for teaching elders in installed positions from \$55,994 to \$57,400 for full time work. Presbytery **VOTED** to approve the motion from the Committee on Ministry.

- Administrative Commission to close the Nome Presbyterian Church:
The stated clerk recommended amending the previously approved motion “to appoint Rev. Curt Karns, Rev. Leisa Carrick, Rev. Sig Kristiansen, and ruling elder Beulah Nowpakahok to an Administrative Commission to close the Nome Presbyterian Church”, as adopted on October 12, 2013, to bring the size of the Administrative Commission (AC) in conformity with presbytery policy. Policy requires a minimum of five members (or three members for an AC to install), with the number of ruling elders and teaching elders as nearly equal as possible. Presbytery **VOTED** to amend the motion by inserting after Nowpakahok, “and other ruling elders as appointed by the Committee on Ministry”, on the condition that the commission keep travel costs down while doing its work.

- Board of Trustees
President RE Dennis Berry highlighted activities in an oral report:
 - The sale of the University Community’s old log church to the Greater New Hope Church of God in Christ was completed in May, 2013.

 - Presbytery has recently received \$56,785.58 from the Covenant Presbyterian Insurance Company (CPIP) bankruptcy settlement. In an effort to recoup funds paid by the Presbytery and the Delta PC to cover the self-insured claim costs which should have been paid by CPIP, the trustees filed a claim with the California bankruptcy court. The trustees have yet to determine how to divide the settlement amount between the Delta PC and Presbytery.

 - Trustees purchased two Toyo stoves for the Gambell church after the boiler went out.

 - The Gambell new church building committee is moving forward to make the Gambell building project happen. The committee hopes that construction can begin next season on the foundation. Despite having nearly \$900,000 in hand, three times that amount will be needed to complete the project. Much fund raising still needs to be done, especially out-of-state. The village has designated a new site for the building, which necessitates a building redesign to accommodate the new site.

 - Kaktovik PC: As a carpentry training project, Arctic Slope Regional Corporation’s holding company donated labor and materials to replace the church’s front exterior landing, stairs and handrails and for a privacy partition for the restroom.

ADJOURN

The meeting adjourned at 7:30 pm with Rev. Henry Woodall leading in the closing prayer.

Sharon Rayt
Stated Clerk

PRESBYTERY OF YUKON
CONSENT AGENDA
 Fall 2013 Stated Meeting/Adjourned Meeting

The consent agenda allows presbytery to receive information and approve motions, without putting motions to a formal vote. Any member of presbytery may request that an item be pulled from the agenda for separate consideration. Presbytery **ADOPTED** the consent agenda as presented.

REPORT OF THE STATED CLERK

Action Items:

1. Approve the minutes of the February 22-23, 2013 stated presbytery meeting
2. Approve the minutes of the April 13, 2013 and June 6, 2013 special presbytery meetings.
3. Receive the resignation of Interpretation and Stewardship Committee co-moderator Rev. Tim Carrick, with regret.
4. To dismiss with thanks, the administrative commission to install Rev. Duke Morrow. Rev. Morrow was installed as pastor on April 7, 2013 at Utqiagvik Presbyterian Church in Barrow. Members appointed to the administrative commission include Rev. Mary Ann Warden, RE Mark Wartes (Utqiagvik), CRE Paul Bodfish (Atqasuk Chapel).

Information: (for reporting purposes)

• **Session Records' review**

1. **First Presbyterian Church Wasilla**, for the period 1/12/12 – 7/21/13
 Minutes were approved without exception, but with comment.
 - The session is working to complete a 2012 financial review.
 Church Register was approved with exception.
 - The membership roll did always reflect changes in membership

2. **First Korean Presbyterian Church in Anchorage**, for the period 2/13/11 – 10/14/12
 Minutes were approved with exception:
 - Members absent/excused and declaration of quorum was not noted
 - Annual budget was approved – by the congregation. Budget approval falls under the purview of the session.
 - Session did not review membership rolls annually
 - Documentation missing from the minutes included: annual statistical report, annual financial review report (a review was done, but the report was omitted), insurance coverage, summary report of the commissioner to presbytery, and budget.
 - Motions were not properly recorded.
 - There was no record that the Lord's Supper was observed.
 - Minutes do not show newly elected officers were instructed and examined by session.
 Church Register: The church does not maintain a church register

3. **Delta Presbyterian Church**, for the period 3/27/11 – 6/23/13
 Minutes were approved with exception:
 - Documentation missing from the minutes included: Summary report of the commissioner to presbytery, insurance coverage, and annual financial review report.
 Church register: Rolls have not been updated for some time.

4. **New Hope Church**, for the period 1/9/11 – 6/9/13
 Minutes were approved with exception.
 - Documentation missing from the minutes included: annual statistical report, financial review report, insurance coverage, and budget.

➤ Budget was approved by the congregation, rather than the church council.
Church register – rolls have not been updated since 1993.

5. **University Community Presbyterian Church** for the period 9/15/11 – 6/17/13

Minutes were approved with exception:

- Session did not review the membership rolls in 2012.
- Quorum was not always declared in congregational meetings.
- Annual budget was approved but not included in minutes.
- Documentation missing from the minutes include: annual statistical report, annual financial review report, and insurance coverage.
- Terms of call were not included in the congregational minutes.

Church register was approved with exception:

- Church rolls/register did not accurately reflect changes

• **Correspondence Received:**

1. Board of Pensions

“At the June 29 Board of Pensions Board Meeting, the directors, mindful of both the difficult economic circumstances faced by many PC(USA) congregations and the importance of ensuring the continuity of Medical Plan protection to those who serve the Church, voted to:

Continue to base dues for enrollment in Traditional Program coverage on a percentage of the member’s medical participation basis;

maintain for another year, the current medical dues model, in which employing organizations pay the entire bill for Benefits Plan coverage, and increase medical dues from 21 percent to 23 percent of the member’s medical participation basis, beginning January 1, 2014; and

Implement, effective January 1, 2015, a new medical dues model from the Traditional Program, with medical dues set at 24.5 percent for members with covered partners and/or dependent children and 23 percent for member-only coverage. Employers will have the ability to share with the member none, some, or all of the additional 1.5 percent dues charges for coverage of eligible family members, subject to any guidance or terms set by the presbytery.

Other changes to the Medical Plan were approved, including increases in the minimum medical participation basis for 2014 and 2015; an increase in generic drug copays for 2014; and an increase in annual healthcare deductibles for 2014, which members will have the opportunity to reduce by completing certain health actions under a soon-to-be-launched program named “Call to Health.”

2. The Insurance Board

“The Insurance Board is moving its annual renewal date from October 1st to January 1st. This is being done to move the date out of hurricane season, which will allow our property underwriters greater freedom to provide the most advantageous renewal terms and pricing. To accomplish this change, the policy period from October 1, 2012 to October 1, 2013 is being extended to January 1, 2014.”

3. Robert MacDonald, Controller of the Synod’s Mission Development Certificate Program

Re: Presbytery of Yukon 2012 Financial Review

“We have reviewed the statement of financial position of Presbytery of Yukon as of December 31, 2012, and the related statement of activities and cash flows for the year then ended. . .

Areas where prior year recommendations have been implemented: It was noted in the prior review in 2009 that the Treasurer does all of the bookkeeping as well as being the main check signer. It was recommended that all check signing be designated to another individual. Since that review, the treasurer has reduced significantly the number of checks that are issued. There are now 4 signers on the account.

Comments and recommendations of current financial review: All of the records selected for review were accurate and tied to the source documentation. Most invoices are paid via online bill payment. Few checks are issued. The Treasurer has made every effort to make sure the financial records are accurate and well organized.”

- **Electronic voting results** (since February 2013 stated meeting). Presbytery voted to **APPROVE** the following recommendations:
 1. At the request of the Olgonik session, the Committee on Ministry recommended that Commissioned Ruling Elder (CRE) George Agnasagga be re-commissioned for another three years, with a change in commission. George has requested that his commission be amended, to remove him as moderator of the Atqasuk session. Under this change in commission, George is granted the authority to perform the following functions:
 - Lead worship and preach the gospel
 - Watch over the people and provide for their nurture and service
 - Administer the sacraments of Baptism and the Lord’s Supper
 - Perform a service of Christian marriage when invited by session.
 - Have voice and vote in meetings of Presbytery.
 2. At the request of honorably retired Rev. Claude Klaver, the Committee on Ministry recommended that Claude be dismissed from the Presbytery of Yukon and the PCUSA. A number of members of Presbytery voted to dismiss Claude with deep regrets. Rev. Klaver has continually served in ministry within the bounds of Presbytery since the 1970’s. Claude was received as a member of the Presbytery of the Pacific, Evangelical Presbyterian Church on October 10, 2013.
- **Overtures to the 221st General Assembly**

In light of the adoption of new wording in G-3.0302d of the *Book of Order*, for an overture to be considered by the next General Assembly, it must have the concurrence of at least one other presbytery. This change became effective on July 7, 2013. All overtures received **on** or **after** July 7th must have the concurrence of at least one other presbytery or synod before it will be considered by the General Assembly. Deadlines for submitting overtures or concurring with overtures for consideration of the 221st General Assembly is as follows:

February 14, 2014	(amendment to/interpretation of the <i>Book of Order</i> , concurrences to overtures)
April 15, 2014	(for overtures with financial implications)
April 30, 2014	(all other overtures)

Seventeen overtures have been submitted to the Office of the General Assembly. Overtures may be accessed through the PCUSA’s pc-biz webpage:
[https://pc-biz.org/MeetingPapers/\(S\(vn1ctje2i34zzfcvv13k54tw\)\)/Explorer.aspx](https://pc-biz.org/MeetingPapers/(S(vn1ctje2i34zzfcvv13k54tw))/Explorer.aspx)
It is not necessary to log on to access the overtures. A click on the search button will bring up a list of overtures.
- **Receive the Committee of Counsel report** (attached).

The final report has been signed by members of the committee. Complainant Rev. Dean Knapp concurs with the content of the report.
- **Report of the Presbytery Leadership Team (LT)**
 1. April 12-14, 2013 Leadership Team retreat
 - a. The LT voted to use the presbytery events line item to fund conflict management workshop expenses not covered by registrant fees. Workshops were held in the Fairbanks and Anchorage areas.
 - b. Personnel Committee Appointments: The Central Fairbanks area position remains vacant. The Leadership voted to reappoint Anchorage area member Rev. Tom Letts, to the class of 2015.
 - c. The LT voted to dismiss the Missional Task Force, with thanks.
 - d. The LT voted to schedule the Acts 16:5 ‘Culture of Generosity’ training workshop in conjunction with the upcoming fall presbytery meeting.

- e. The LT voted to appoint RE Arlayne Knox, Rev. Henry Woodall, RE Fenton Rexford to a task force to review and propose changes to presbytery's Standing Rules and Manual of Administrative Procedures and Operations. The stated clerk will serve as ex-officio member and provide assistance as needed.
 - F. Project Y.E.S. (Youth Exploring Service): By unanimous consent, the LT approved a motion to seek an Extra Commitment Opportunity (ECO) listing for Project Y.E.S., as a way to raise funds for the ministry on the North Slope.
2. May 29, 2013 special meeting:
- a. General Assembly moderator Rev. Neal Presa has accepted an invitation to attend the fall stated meeting of Presbytery. Rev. Presa and family will fly to Barrow late Saturday after adjournment.
 - b. The Leadership Team voted to approve the following recommendations pertaining to the 2013 fall stated meeting:
 - Switch the location of the fall 2013 presbytery meeting from Fairbanks to Anchorage.
 - Split the four-hour "Stewardship and Generosity" training into two sessions: Thursday (Oct 10) and Friday (Oct. 11) evenings from 7 – 9 pm.
 - Switch the Communion worship service from Friday evening to Saturday morning.
 - The regular, face-to-face LT meeting usually scheduled on the evening prior to Presbytery, will convene via teleconference at another time.
 - In the absence of a Thursday evening Leadership Team meeting, the Leadership Team grants the presbytery moderator and stated clerk the authority to finalize the presbytery docket.
 - c. An ice jam caused flooding in Galena, Circle, and several other villages along the river last spring. Galena was evacuated. University Community PC (UCPC) was one of several designated shelters in Fairbanks housing evacuees. Other organizations are providing additional shelter, food, and clothing.

Rev. Sandy Faison, a member of the Presbyterian Disaster Assistance (PDA) Response Team, recommended that Presbytery seek a \$7,500 initial grant from PDA, a team including a hospitality specialist, and perhaps a \$5,000 Long Term Recovery grant. The PDA team will help support UCPC's volunteers, other Presbyterian volunteers and the Long Term Recovery Group. By unanimous consent, The Leadership Team approved the recommendation to seek PDA assistance.

3. July 20, 2013 LT summer stated meeting:
- a. I Peter 4:8-10 was designated as the theme verse:

"Above all, maintain constant love for one another, for love covers a multitude of sins. Be hospitable to one another without complaining. Like good stewards of the manifold grace of God, serve one another with whatever gift each of you has received."
 - b. In light of the theme verse, the LT recommended that elder commissioners answer the following question in their report: *"What are the gifts your church has to serve the community?"*
4. August 20, 2013 LT special meeting:
- a. Budgeting process: It has been suggested that changing Presbytery's fiscal year from a calendar year basis to one that runs from February to February, would give the churches more time to turn in mission pledges. Currently, the information we receive from the sessions is minimal.

A new timeline was proposed: Committee moderators were directed to turn in 2014 budget request figures by September 15th, 2013. The Budget and Finance Committee would cast a vision for the 2014 budget at the fall Presbytery meeting; no time would be docketed for discussion and vote. The succeeding 3-4 months would be used to interpret this vision to the churches; face-to-face contact with sessions would be crucial. The 2014 budget would be subsequently adopted at the presbytery meeting in February, 2014.

- b. Alaska Presbytery, with less than the minimum required number of churches necessary to maintain a presbytery, is considering its options and has until the October Synod meeting to make a recommendation. Alaska Presbytery’s leadership has been in conversation with North Puget Sound Presbytery about a possible partnership, but Yukon’s exec has heard from some folks in Alaska Presbytery interested in partnering with Yukon. By unanimous consent, the Leadership Team agreed that we need to keep the door open and encourage Alaska Presbytery no matter what direction they decide to go.
 - c. The Leadership Team voted to use money in the Earl Jackman Fund to send RE Sara Johnston to the September 16-17, 2013 National Evangelism and Church Growth Conference in St. Petersburg, FL
5. October 3, 2013 regular LT meeting
- a. By a vote of 17 to 4, Alaska Presbytery voted to pursue a partnership with North Puget Sound Presbytery.
 - b. The LT reviewed the proposed October Presbytery docket and by unanimous consent approved an amended docket.
 - c. A proposed 2014 dream budget was reviewed for presentation at the fall meeting of Presbytery.

• **Committee on Ministry actions**

1. COM voted to approve the agreement for interim service between Rev. Ellen Johnson-Price and Good Shepherd Lutheran Church, on a full time basis from August 25, 2013 to December 31, 2013. Terms of compensation:

Salary	2,467.00	monthly
Housing Allowance	2,200	monthly
Social Security Allowance	7.65%	per pay period
BOP benefits: pension, medical, disability	Paid	
Dental	32.73	monthly
Travel allowance	400	monthly

Ellen has requested the ability to work from home for a portion of her work week. Good Shepherd is in agreement, with the expectation of her being in the office 2 days per week plus Sundays.

2. COM voted to approve the covenant for interim service between Revs. Linda and Trent Baggett and the University Community Presbyterian Church session, on a part-time basis (1,560 hours/annually). The Baggetts will provide a shared ministry to the church for the period July 1, 2013 – June 30, 2014. The covenant is subject to renewal.

Combined Effective Annual Salary	\$55,000	
Automobile expense	\$1000	
Continuing Education	\$1200	interim training
Moving Costs	up to \$2000	
Vacation Leave	4 weeks	
Continuing Education Leave	1 week	
Workers Compensation Insurance	Required	

3. COM voted to approve the covenant for 3/4 time temporary pastoral services between Revs. Trent and Linda Baggett and the New Hope Church Council for the period of July 1, 2013 through June 30, 2014. The covenant is subject to renewal

Combined Effective Salary (Salary + Housing)	\$55,000
Reimbursed Expenses (Voucher)	
Continuing Education	\$1,500
Moving Costs	up to \$ 2,000
Pension/medical insurance	N/A
Life/disability insurance	N/A
Vacation Leave	4 weeks
Continuing Education Leave	2 weeks
Worker's Compensation Insurance	Required

4. COM voted to approve the agreement between Rev. Woo S. (David) Jeong and the Fairbanks Korean Presbyterian Church session. Rev. Jeong will provide full time services as a stated supply for the period of August 18, 2013 – August 17, 2014. The agreement is subject to renewal.

Effective Salary	
Cash Salary	\$43,072
Rental Value of Manse	\$12,922
Reimbursable Expenses	
Continuing Education (by voucher)	\$1,500/yr
Moving Costs: residence to Fairbanks	\$10,000*
Other:	
Condo fess include cost of utilities	Paid by church
Board of Pensions core benefits	Paid by church
Use of church vehicle for church related activities	
Vacation Leave	4 weeks
Continuing Education Leave	2 weeks
Workers' Compensation Insurance	Paid by church

* If pastor stays less than a year, he will be expected to reimburse the church for the \$10,000 moving costs to Fairbanks, and the church will not pay return moving expenses to Seattle. (In accordance with Presbytery of Yukon policy, moving expenses may be prorated for less than 3 years of service.)

5. COM voted to approve the agreement for interim service between Rev. Jin Hoon Kim and First Korean Presbyterian Church, Anchorage session, on a full time basis for the period 9/20/13 – 9/19/14. The contract is subject to renewal.

Cash Salary	\$30,000	annually
Fair market value of manse	\$2,200	month
Unrestricted use of 2008 Toyota Highlander - owned by the church		
Housing allowance - utilities are paid by the church		
Continuing education leave	2 weeks	
Interim transitional training – tuition, travel (coach class) and room and board		
Pension/medical coverage	paid	
Vacation leave –	4 weeks/year	
2 weeks shall not be taken until after 6 mos of service;		
The remaining 2 weeks may be taken after 10 months of service.		
Days off – Saturday and Monday		

Workers' Compensation

Moving expenses: Up to 3,000 household goods and 2,000 books, plus coach air transportation for pastor and his spouse from Atlanta, GA to Anchorage. At the end of the contract, coach air transportation for pastor and his spouse to Atlanta, GA. Transportation of up to 3,000 household goods and 2,000 books.

6. COM voted to grant Rev. Dianne O’Connell the authority to labor outside the bounds of the Presbytery of Yukon to serve as interim pastor at First Congregational Church in Maltby, WA.
7. Ruling Elder Howard Burger (United Protestant Church) was appointed as the fifth member of the Administrative Commission appointed to resolve difficulties at the First Korean Presbyterian Church in Anchorage.
8. Moderator Appointments
 - a. Chapel in the Mountains: COM voted to dismiss moderator CRE LeeAnn Crumbley with extreme gratitude for her many years of service to the church. COM appointed RE Mark Wartes as moderator and granted him the authority to lead elder training.
 - b. Gambell PC: COM voted to dismiss acting moderator Rev. Leisa Carrick with thanks and re-appointed CRE Lucy Apatiki, as moderator. Lucy has returned from a year-long sabbatical
 - c. First Korean Anchorage PC – COM voted to appoint Rev. Tim Carrick as acting moderator. Interim Rev. Jin Hoon Kim, a member of Cherokee Presbytery is laboring within the bounds of the Presbytery of Yukon and requested that he not be appointed moderator.
 - d. University Community PC – COM voted to dismiss acting moderator RE Mark Wartes with thanks. COM appointed co-interim pastors Rev. Trent and Linda Baggett to serve as moderator.
 - e. Delta Presbyterian Church – COM voted to dismiss moderator RE Mark Wartes with thanks, when the way is clear to appoint Richard Mauer. Richard has been serving as pastor this past year and will be commissioned as a CRE at the Delta church on December 15, 2013.

9. Vacant Church Report:

Church	Status	PNC	Moderator
Chapel in the Mtns	Not actively seeking a pastor	-	Mark Wartes
1 st Korean Anchorage	Interim Rev. Jin Hoon Kim	Approval granted	Rev. Tim Carrick
Kaktovik PC	Not actively seeking a pastor	-	Rev. Curt Karns
New Hope Church	Interims Rev. Linda and Trent Baggett	Active	New Hope ruling elder
Nome PC	Church to close in November	-	Rev. Leisa Carrick
Savoonga	Not seeking a pastor	-	Rev. Leisa Carrick
University Community PC	Interims Rev. Linda and Trent Baggett	-	Revs. Trent and Linda Baggett

REPORT OF COMMITTEE OF COUNSEL

Dean Knapp vs. Presbytery of the Yukon

A Committee of Counsel (“CoC”) was appointed on or about November 30, 2012, by Lee Jordan, Moderator of Presbytery of Yukon, to represent the Presbytery of Yukon in the remedial case of *Dean Knapp vs. Presbytery of the Yukon*, filed before the Permanent Judicial Commission of the Synod of Alaska-Northwest (“SPJC”), Case No. R-2012-03. The Complaint was filed November 9, 2012, essentially alleging the Presbytery dismissed First Presbyterian Church of Fairbanks (“FPCF”) to the Evangelical Presbyterian Church (“EPC”) without “appropriate consideration” of the trust interest of Presbyterian Church (U.S.A.) in the property of FPCF, citing ¶ G-4.0203 of the Book of Order, Authoritative Interpretation of the Book of Order (Request 9-88), and *Tom, et al. vs. Presbytery of San Francisco* (GAPJC Remedial Case 221-03).

The SPJC issued a Stay of Enforcement staying “any action relating to the dismissal of [FPCF] . . . including, without limitation, any transfer, sale or encumbrance of the real and personal property thereof.” The Stay of Enforcement was certified, mailed and electronically delivered to the parties by the Stated Clerk of the Synod on November 21, 2012, however the EPC Presbytery of the Pacific had already received FPCF on November 20, 2012. On May 9, 2013, the SPJC, “with great sorrow and reluctance,” granted the Presbytery’s Motion to Dismiss for Mootness, and the remedial case was dismissed. A copy of the SPJC’s Decision and Order is attached.

BACKGROUND

FPCF was incorporated under the laws of the state of Alaska on April 15, 1966. FPCF requested dismissal from Presbyterian Church (U.S.A.) to the EPC in the spring of 2012. Pursuant to the Presbytery’s Discernment Process (May 2012), the Presbytery formed a Discernment Team to consider the dismissal. The Discernment Team consisted of nine members, two-thirds appointed by FPCF and one-third by the Presbytery.

On or about August 5, 2012, FPCF sent out 260 ballots to its active members: 182 (70%) were returned (or postmarked) by the August 17, 2012, deadline; 138 (76%) members voted for dismissal, 41 (23%) voted against dismissal and 3 (1%) abstained.

FPCF owns substantial property (approximately .92 acres and buildings) in downtown Fairbanks, Alaska, generally described as Block 92, Fairbanks Townsite. Title to the property is held in the name of Fairbanks Presbyterian Church, Inc. of Fairbanks, an Alaska nonprofit corporation, and the property is free and clear of deeds of trust or mortgages.

- a. FPCF listed its buildings and business personal property at \$3,191,700 for insurance purposes (June 21, 2011).
- b. FPCF’s compiled Financial Statements as of December 31, 2011 and 2010 list its total land, buildings and equipment at \$4,050,573.
- c. FPCF estimated the value of its real and personal property at \$4,000,000 on its 2012 Biennial Report filed with the State of Alaska (July 2, 2012).

The Discernment Team considered the fair market value of FPCF's property and concluded "\$500,000 would be a more realistic value [of FPCF's property] in today's market [summer/fall 2012]," Letter dated January 10, 2013, addressed to Dennis Berry, chair of Trustees:

The Discernment Team utilized two pieces of information to determine the value of the church property located at 547 7th Ave.; a) the replacement cost of the building determined by the insured value of the property; and b) the fair market value based upon the recent sales of two comparable commercial properties in downtown Fairbanks. Specifically, the Chena Building, leased by University of Alaska, after several million dollars' worth of renovations was eventually sold by the city of Fairbanks for \$450,000. A second property was also considered. The old Nazarene Church at 402 11th Ave., which consisted of an entire city block, sold for \$500,000 to the Masons.

We also spoke to several real estate agents, one of whom commented that the commercial real estate market in Fairbanks is extremely depressed and it would be difficult to determine the actual fair market value of FPC due to the uniqueness of church architecture/design use. The First Pres Church, Inc. of Fairbanks is insured for 3 million dollars, but \$500,000 would be a more realistic value in today's market. All these factors were relied upon during the negotiation process.

On August 30, 2012, the Discernment Team opened negotiations with the FPCF session regarding dismissal, including transfer of FPCF's assets. Jack Schnurr, on behalf of session, offered "payment of the fair share amount (based on the average percentage of budget) to the Presbytery for the next two years in exchange for retaining FPC's assets." Rev. Duke Morrow responded "Technically, the property belongs to the Presbytery. We would like to make a fair distribution of the assets." Rev. Andy Ekblad asked "Do you think what Jack suggested is fair?" After discussion of FPCF's fair share and per capita contributions in 2010 through 2012, Duke stated "So we are talking about \$100,000.00 approximately over the next two years. What is the real value of the property?" He asked for the declared value of FPCF's property on its insurance policy.

On September 13, 2012, the Discernment Team prepared a proposed counteroffer (to Jack's offer of August 30, 2012) and presented it to the Presbytery's Leadership Team for its review. The counteroffer included payment to the Presbytery of \$118,084 as an approximation of FPCF's fair share and per capita contribution as a declining percentage (7% for year 1; 5.5% for year 2; 4% for year 3; and 2.5% for year 4) of FPCF's 2012 budget (\$605,564). Further, the counteroffer provided "Presbytery will give up all claims to both real and personal property [of FPCF]."

The Leadership Team approved the counteroffer: "There was a **CONSENSUS** [except as to FPCF's retention of its name] that the Discernment Team was moving in the right direction, in regards to the terms of negotiation [emphasis in original]." Minutes of Leadership Team meeting held September 13, 2012.

The Discernment Team met on September 15, 2012. It approved the same counteroffer as approved by the Leadership Team. After apparent discussion of FPCF's insurance policy, it was noted "there is a substantial difference between the market value and the replacement value of FPC's assets."

The counteroffer was presented to the FPCF session on September 17, 2012, and agreement was apparently reached. An attorney retained by the Presbytery reviewed the agreement on September 18, 2012, and that same evening the Discernment Team and FPCF signed a Dismissal Agreement. The Dismissal Agreement provides, in part:

- a. "[FPCF] is to be dismissed . . . under the terms of agreement laid out below."

- b. A “final agreement” is to be drafted by counsel retained by FPCF.
- c. FPCF shall pay the Presbytery \$115,000 over four years.
- d. “[The Presbytery] will give up all claims to both real and personal property of [FPCF].”
- e. “Dismissal will be effective on the reception of the church by Evangelical Presbyterian Church Presbytery of the Pacific.”

At its stated meeting held October 12 – 13, 2012, at the University Community Presbyterian Church in Fairbanks, Alaska, the Presbytery approved the following resolution:

That First Presbyterian Church Fairbanks, a member of the Presbytery of Yukon and the Presbyterian Church (USA), be dismissed to the Presbytery of the Pacific of the Evangelical Presbyterian Church, according to the [Dismissal Agreement]. Dismissal will be effective upon reception of the church by the Evangelical Presbyterian Church, expected to take place February 8-9, 2013.

The resolution was approved by 26 votes in favor, 20 votes opposed and 2 abstentions.

LESSONS LEARNED

I. Lessons abound for all in this episode.

A. First, the Discernment Team. It did a fine job in guiding the dismissal of FPCF “as graciously as possible” under the existing Dismissal Process and time constraints allowed. In particular, the Discernment Team:

1. Conducted a financial analysis of FPCF’s real property (if not also its personal property), concluding its current market value to be \$500,000.
2. Secured approval of the Discernment Team’s counteroffer by the Leadership Team before giving it to FPCF’s session.

While the foregoing analysis may have been “fully within the boundaries of Presbytery of Yukon’s Discernment Process,” lessons can be learned:

1. The Discernment Team reviewed the insured (replacement) value of FPCF’s property, considered two “recent sales of . . . comparable commercial properties in downtown Fairbanks,” and it spoke with “several real estate agents.” While noting the “substantial difference” between the \$3 million replacement value and \$500,000 market value, it concluded:

The First Pres Church, Inc. of Fairbanks is insured for 3 million dollars, but \$500,000 would be a more realistic value in today’s market.

Rather than simply noting a “substantial difference” in values, the *Tom* decision suggests a more rigorous financial analysis is required in order to reconcile the difference:

[I]t is the responsibility of the presbytery to fulfill its fiduciary duty under the Trust Clause. This fiduciary duty requires that the presbytery exercise due diligence regarding the value of the property of the congregation seeking dismissal. Due diligence, of necessity, includes not only an evaluation of the spiritual needs of the congregation and

its circumstances but also financial analysis of the value of the property at state. Payments for per capita or mission obligations are not satisfactory substitutes for the separate evaluation of the value of the property held in trust.

2. The Discernment Process contemplates the need for “specialized expertise” in legal matters. With such a “substantial difference” between replacement value and market value of FPCF’s property, “specialized expertise,” such as a real estate appraiser, would have been appropriate in order to reconcile that difference.

B. Second, the Presbytery.

1. The Discernment Process requires the Discernment Team to report to the Committee on Ministry at least twice, once after the congregational vote and a second time after “a negotiated settlement [agreement] is reached between the Discernment Team and the session.” The Committee on Ministry needs to be diligent in requiring at least these two reports, if not more frequent communication with the Discernment Team.

2. The Leadership Team should have required a financial analysis of FPCF’s real and personal property before approving any settlement with FPCF’s session.

In *Tom v. Pby of San Francisco*, the [Permanent Judicial Commission of the General Assembly] stated that [the Trust Clause] would include exercising due diligence regarding the value of the property of the congregation seeking dismissal which would include doing a financial analysis of the value of the property. The presbytery must be informed of this financial analysis before it votes on a dismissal. Providing this information gives the presbytery and congregation the information needed to make an informed decision regarding dismissal of the congregation.

Frequently Asked Questions Gracious dismissal Policies after Tom v. Pby of San Francisco (updated November 2012) (“Frequently Asked Questions”).

3. According to the Discernment Team’s financial analysis, the market value of FPCF’s property was at least \$500,000, yet the Leadership Team approved the Discernment Team’s counterproposal to “give up all claims to both real and personal property [of FPCF].”

The presbytery must also consider a congregation’s financial position and valuation of property and take into consideration the PC(USA)’s use and benefit of the property in every decision concerning disposition of property.

Frequently Asked Questions. How was the \$500,000 taken into consideration, if at all, in its decision to “give up all claims” to FPCF’s property? This is not to suggest the Presbytery should necessarily have required FPCF to pay \$500,000 for its property; a number of factors are enumerated in the concurring opinion of the *Tom* decision to be considered in any “gracious” dismissal of a congregation.

C. The Discernment Process can be improved.

1. The Discernment Process acknowledges the Trust Clause and the Presbytery’s responsibilities to preserve the congregation property. It states the “leaving parties do not receive the building

and assets but may possibly negotiate the purchase of the building and assets . . . according to the *Book of Order/Form of Government*.” In Appendix 3, “[t]he PCUSA holds all property in Trust for the denomination,” but the Discernment Process goes on to provide that “[r]elease of church property to a specific congregation is negotiated by the Discernment Team and is subject to ratification by a vote of Presbytery.” This suggests there *will* be a transfer of property to the congregation, as opposed to there *may* be such a transfer; further, it gives no guidance on the terms and conditions of any transfer.

The CoC recommends:

- a. On the first page of the Discernment Process (under the heading “Presbytery of Yukon Discernment Process”), there needs to be an express recognition of the Presbytery’s fiduciary duties under the Trust Clause, ¶ G-4.0203 and *Tom vs. Presbytery of San Francisco*, GAPJC Remedial Case 221-03. See also *Frequently Asked Questions*.
- b. On page 3 (under the heading “Process after Polling”), specify that the Discernment Team shall retain “specialized expertise” in property and legal matters relating to any transfer of the building and assets used by the congregation.
- c. In Appendix 2 (under the “Material to be Gathered”), specify reliable evidence of the market value of real property and significant items of personal property, preferably by appraisals performed by MAI appraisers or other qualified and experienced appraisers. Tax assessments are not sufficient.
- d. Appendix 3, paragraph 11, needs a more accurate disclosure of the consequences of the Trust Clause. As a suggestion, paragraph 11 could be replaced with the following:

The congregation needs to understand that its property, real and personal, however titled, is held in trust for the use and benefit of the PCUSA. The Presbytery shall take into account the value of the property and consider PC USA’s use and benefit of the property in every decision concerning any disposition of the property.

2. The Presbytery has the “responsibility and power to . . . dismiss . . . congregations in consultation with their members.” ¶ G-3.0301a. It should not cede that power or responsibility to a Discernment Team.

The Discernment Process contains a telling provision: The Discernment Team is to report to the Committee on Ministry “[o]nce a negotiated settlement is reached between the Discernment Team and the session.” Note, also, that the Dismissal Agreement was signed by the Discernment Team. This suggests the Discernment Team has the authority to “reach” a binding settlement agreement with session.

The CoC recommends the Discernment Policy be amended to specify that final authority for dismissal of any congregation rests with the Presbytery. The Discernment Team should have advisory powers only. Any agreement or other obligation binding upon the Presbytery must be approved by the Leadership Team and/or Committee on Ministry before presentation to the Presbytery membership for final approval; any such agreement or obligation must be signed by the Presbytery, not the Discernment Team.

3. While the Discernment Process is designed to “move forward as graciously as possible,” the Trust Clause requires the Presbytery to consider the broader church “as a communion of saints across time, with responsibilities both to those who came before and those who will follow,” *Tom* decision.

A presbytery has broad discretionary authority to determine the mission of Jesus Christ in its district and may take into account many issues such as the spiritual needs of the congregation and community as well as the Marks, Notes and Great Ends of the Church.

Frequently Asked Questions.

Such broad fiduciary responsibilities would be better represented by a Discernment Team with two-thirds appointed by the Presbytery and one-third appointed by the church being dismissed.

4. As an alternative to restructuring the Dismissal Team as provided in paragraph 3, above (two-thirds appointed by the Presbytery and one-third appointed by the church being dismissed), the Dismissal Team, as currently constituted by the Dismissal Process, could answer all the questions and gather all the information addressed in Appendix 2, meet with the congregation of the church being dismissed as provided in the Dismissal Process, and poll that congregation. If the vote of the congregation is to leave PC USA, a separate Negotiation Team should be created with two-thirds of its members appointed by the Presbytery (one of whom will be a current member of the Presbytery’s board of trustees) and one-third appointed by the church being dismissed. The Negotiating Team would have authority to negotiate the terms and conditions of dismissal with session of the church being dismissed, SUBJECT TO approval of the Leadership Team and/or the Board of Trustees, and FURTHER SUBJECT TO approval of the Presbytery at a stated or special meeting of the Presbytery.

5. Dismissal of a church from PC USA substantially affects at least two constituencies: First, the church being dismissed, and second the remaining churches in the Presbytery of Yukon. The Dismissal Process should be amended as follows:

a. Notice of the terms and conditions of dismissal of any church from the denomination should be given to all remaining churches within the Presbytery, with a copy of the dismissal agreement (or detailed summary thereof) attached to the notice; and

b. The Presbytery will not vote upon the dismissal or dismissal agreement at a stated or special meeting of Presbytery until not less than sixty (60) days after such notice to the remaining churches.

This will allow an opportunity for considered review and comment on the dismissal prior to any vote thereon. Dismissal from PC USA is a major decision; it should not be rushed without full consideration of its impact on both of the aforementioned constituencies.

6. Changes to the Dismissal Process should be reviewed by the CoC prior to final approval to ensure compliance with its recommendations herein.

II. Reach out to dissenting FPCF members.

What has become of the 41 members of FPCF who voted against dismissal (and those who are otherwise no longer active members of FPCF)? While the Dismissal Agreement allows them (“New Church Development”) to use FPCF’s church property for two years (2013 and 2014), they have essentially been left without a church home.

On September 9, 2012, the Discernment Team met with about 20 of the 41 members, however there was no talk of starting a new church (“New Church Development”). In its report to the Presbytery on September 13, 2013, the Discernment Team thought it was a “good first meeting [but] stressed that Presbytery needs to provide intentional follow up.” At the September 15, 2012, meeting of the Discernment Team, it advised the FPCF session that it is “waiting for any further comments, questions, or concerns from members who wish to stay with PC USA.”

The Committee of Counsel concurs that the Presbytery needs to provide “intentional follow up.” It needs to follow up with FPCF as to a list of the 41 members together with their contact information. The Presbytery then needs to support these people as they seek a new church home, *see* ¶ G-3.0301c.

III. Reach “final agreement” with FPCF.

The parties have yet to reach “final agreement” as required by the Dismissal Agreement; specifically, FPCF is to retain counsel to draft the “final agreement” and reimburse the Presbytery up to \$2,000 for legal review of that agreement. One of the critical items of unfinished business is to explore how “[FPCF] will endeavor to continue to partner with Yukon Presbytery in ministry.” For instance, FPCF could partner with the Presbytery in rebuilding the church in Gambell or in a host of other Presbytery missions in rural Alaska.

The SPJC acknowledged “the importance and ministry of Yukon Presbytery in its on-going mission work with the people of Fairbanks and the native villages of Northern Alaska”; the SPJC dismissed the remedial case, in part recognizing that a “continuation of an atmosphere of disagreement and contention will only serve to damage this mission.” With the remedial case now behind us, it is up to the Presbytery to enlist FPCF as its partner in its “mission work.”

DATED: July ___, 2013

Dennis Berry

Ralph Duerre

Israel Nelson

CONCUR:

Rev. Dean Knapp