

CM - Note 1 - Dissolution of a Congregation

December 17, 1996

One of the painful responsibilities of a presbytery is the closure of a congregation. We are often asked for advice on the subject and offer the following as our best outline on the issues and responsibilities.

- I. **We believe that it is normally best for a presbytery to create an Administrative Commission to aid with the process. We suggest this approach since many of the legal consequences and processes will require action by the presbytery and we believe it best for all if the same group can stay with the process from beginning to end.**
 - A. It is most often helpful if an elder from the dissolving congregation can be made a member of this commission to assure input from the remaining members throughout the process. If there is a minister of the presbytery who is in some way related, we would include her/him as well.

- II. **We believe a careful, specific motion creating such a Commission is essential to a "successful" dissolution.**
 - A. Any such motion should include at least the following provisions:
 1. Presbytery approves the dissolution of the _____ Presbyterian Church, effective __/__/__.
 2. Assign Commission to assist the pastor and/or session to wind up the affairs of the church, transfer of remaining members, plan worship, thanks to God for the ministry of the congregation.
 3. Authorize the Commission (or Stated Clerk) to receive Session Records (list all the records), retain records to wind up affairs, deposit with the Stated Clerk of the Presbytery, who will then forward to Department of History.
 4. Authorize the Commission (or Stated Clerk) to grant letters of dismissal to members whose names are still on the roll. We would limit this to a one year grant to encourage movement in finding new church homes.
 5. RECITE: Under Form of Government, Chapter VII, Section 2 and Section 4 (G-8.0200, and G-8.0400) all property of the _____ Presbyterian Church is held in trust for the Presbyterian Church (U.S.A.). The Administrative Commission of _____ presbytery, appointed __/__/__, is authorized to take possession of all real and personal property, financial records, inventories of equipment, (list other assets if there are

others) and arrange for transfer of title to the Presbytery of all accounts and real property known to be in the possession of _____ Presbyterian Church.

6. Authorize the Commission to consult with the session regarding requests the congregation may have relating to the disposition of equipment and memorials and other property of the _____ Presbyterian Church, and from the date of the action to approve the disposition of property or to arrange for its retention and storage for future use at the direction of the presbytery.
7. Authorize the Commission (and/or Board of Trustees - if the presbytery has one) to assert claim of the presbytery to any property of the _____ Presbyterian Church not known at this time or property which may come to the _____ Presbyterian Church as the beneficiary of a will or trust not known at this time.

The reason we recite so much of the text from the *Book of Order* is to make it absolutely clear that the claim of authority over the property of a dissolved church was based on the Presbyterian Church (U.S.A.) Constitution and that this was understood by those who made these decisions.

III. Once formed, we urge the Commission to tend to pastoral issues first.

- A. Normally, we favor allowing the session to retain control over as much of the day-to-day responsibilities as they are willing and able to do.
 1. We believe Commissions should normally defer to the session on deciding on a workable time-line for closure.
 2. We believe the Commission should encourage the session to continue to have responsibility for worship for as much of this period as the session is willing.
 3. As noted above, we favor the Commission deferring to the session as to where particular pieces of personal property should go.
 4. We believe the Commission, as one of its first acts if no pastor is present, should help the session provide for pastoral care of the remaining members such as funerals, weddings, baptisms, hospital visits, counseling.
 5. The Commission should encourage the session to transfer members to other area churches. (In the best of all possible worlds this can be done before session dissolves.)

6. The session should be primarily responsible for deciding on the type of closure service that will be most meaningful for the remaining members. The Commission should provide assistance and presbytery support in this. The Commission should encourage the session to plan a service of celebration, if at all appropriate. The Commission needs to balance the remaining members' need to have some private time "for us" with presbytery at large's participation in such services.
- B. In all the above steps, the Commission should work WITH the session, helping when requested or necessary.

IV. Once the pastoral issues are dealt with, then the Commission needs to work on the legal issues surrounding a dissolution.

- A. The Commission will normally hold the final church roll (those who have not found new congregations by dissolution date). Sometimes it will be the Stated Clerk who keeps this roll, and who will surely be the responsible party if such members are still on the roll when the Commission is dissolved.
- B. Dissolving the Corporation (except in Virginia or West Virginia). This is normally done by filing Articles of Dissolution with the State Secretary of State or comparable state official. (Consult a local attorney to determine process for dissolving not-for-profit corporations in the state the church is in.)
- C. Deciding what to do with the real estate.
 1. If sold to third party, it is the Commission that normally signs the deed and handles the sale (including hiring professionals - attorney, real estate persons, appraisers, etc.)
 2. If the real estate is going to be retained by the presbytery (i.e. NCD folks think may someday be good site to start a new congregation - for instance if cause of dissolution is endless conflict and need new start) the commission needs to see that the title to the property is put in the presbytery's name. It is probably better to have the session do this as one of its final acts. However if that doesn't happen, the Commission can do it, so long as it has been given the power.
- D. The Commission will need to make sure that all the congregation's personal property not distributed by the session is transferred to the presbytery's name. (bank accounts, stocks, trusts, etc.)
 1. The Commission needs to take care that some asset (most often a trust) does not lapse if the corporation is ended. If a congregation has such an asset (used to be common in trusts arising out of wills), the Commission

may then want to transfer the Corporation into the presbytery, naming presbytery officers (usually Board of Trustees) the Corporate officers.

- E. The Commission needs to make sure that the presbytery is the successor in interest to any and all present and future assets. The clause described in II.A.7. above should be executed.
- F. The Commission should make sure that the presbytery's insurance policy will cover the assets of the dissolving church. The Commission needs to beware of a lapse in coverage from the congregation's policy to the presbytery's.

V. As its final act the Commission needs to draw up a final report on the dissolution.

- A. We think it is often helpful for the Commission to briefly recite the congregation's history, lifting up the highlights and giving thanks for the ministry.
- B. Next the report needs to describe the process and actions the Commission has taken (including the action making the presbytery the "successor in interest" to the congregation.)
- C. Finally the report needs to give a full accounting of the transfer of members (and listing those remaining on the roll so Stated Clerk can thereafter keep the roll) and of the distribution of the assets.

NOTE: The above is only an outline of issues to be considered. It is likely wise for each presbytery to adopt a policy on this subject. We have seen two very detailed policies (Kiskiminetas and Western New York). We suspect both presbyteries might be willing to share them. But care is necessary to assure that such a policy will comply with the requirements of each presbytery's state. Sorry, you'll need to consult the presbytery attorney on that one.