



## Presbytery of Genesee Valley

1049 WEGMAN ROAD • ROCHESTER, NEW YORK 14624 • (585) 242-0080

WEBSITE: [www.pygenval.org](http://www.pygenval.org)

A Special Meeting of the Presbytery of Genesee Valley was held electronically via Zoom on Tuesday, March 29, 2022. Presbyters were invited to attend a pre-meeting open conversation at 6:00 pm concerning the dissolution of Mendon Church 's relationship with Presbytery.

### CONSTITUTION

Moderator Elder Lea Kone (Downtown) called the meeting to order at 7:00 pm with prayer. She declared a quorum was present.

CONGREGATION	MINISTER	COMMISSIONER(S)	CONGREGATION	MINISTER	COMMISSIONER(S)
Albion, First	Sue Thaine		Lyndonville	CP Martha Mitchell	
Attica, First	CP Brad Smith		Medina, First		
Avon, Central	Carin Farmer		Mendon	---	Kevin Koek
Barre Center	---		Mt. Morris, United	---	
Batavia, First	Roula Alkhouri		Mumford, First		Susan Csizmadia
Bethany	Robert Spratt		North Bergen		
Brockport, First		Kristen Gerling	Nunda, Trinity		
Byron, First	James Renfrew	Ruth Andes	Ogden	Elaine Borduin VanDerzwan	Pat Everett
Caledonia, First		Lisa Morrill	Ossian, First	---	
Chili, First	Brandi Wooten		Parkminster	---	
Christ Clarion	CP Mark McDaniel		Penfield	Twyla Boyer	Melinda Shaffer
Corfu United	EX -Evan Wildhack	Patti Miles	Perinton		Mark Stevens
Covington United			Perry, Brick	EX- CP Lynn Burdick	
Dansville	Marcia Reiff		Pike Community		
Downtown	Laurie Tiberi	Sam King	Pittsford, First (2)	Aaron Neff Erin Jacobson	Barbara Smith Judith Van Dorn
East Avon, First	Michelle Allen	Chris Hollinger Jessica White	Roch. Korean (2)	Young Kim	
East Bethany	---		Scottsville, Union	Kevin Hershey	
Elba, First	EX -Barbara Tipton		South	Deb Swift	Nancy Rice
Gates	EX- Laura Bachmann	Tom Brewer	Sparta, First	---	
Geneseo, Central	EX -Nancy Lowmaster	Holly Harvey	Stone, Bergen		Deborah Godlove
Groveland Fed.			Summerville	Elaine Loggi	Mary Haverfield
Holley, First	---	Don Welch	Third (3)	Tedd Pullano	
Honeoye Falls	EX- Kirk Baker	Martha Kumler	Trinity Emmanuel (2)		Roger Miller Sarah Fraiser
Irondequoit	Deb Swift		Tuscarora, First		
John Calvin		Ellen Best	Twelve Corners	CM Janice Fitzgerald	Katherine Iuli
John Knox	CM Alan Dailey	Pricilla Thomas	Victor, First		
LeRoy, First	David Pepper		Warsaw United	---	
Lima	David Kilgore	Carolyn Fleming	Webster	CM Philip Davis	Anita Brocker
Livonia	---	Kenneth Schoonover	York, United	Michelle Sumption	

**CONGREGATIONS: MINISTERS & COMMISSIONERS (CM = Corresponding Member; CP = Commissioned Pastor)**

**MINISTERS IN VALIDATED MINISTRIES / MINISTERS AT LARGE / MINISTERS HONORABLY RETIRED**  
(VM = Validated AL = At-large HR = Honorably Retired IA =Inactive)

**Present:**

Louise Armstrong (HR)	Carolyn Grohman (HR)	Gail Ricciuti (HR)
Steven Becker (HR)	Judy Hay (HR)	Charles Roberts (HR)
Bruce Boak (HR)	Harry Heintz (HR)	Stephanie Sauve (VM)
Philip Benier (AL)	Hodong Hwang (AL)	Tom Taylor (HR)
Viktoria Berlik(AL)	Robert Kaiser (HR)	James Tyrrell (HR)
Bruce Boak (HR)	Lisa Lancaster (HR)	Anne Waasdorp (HR)
Jeff Falter (AL)	Ray Lindquist (HR)	Marsha Wenhold (VM)
Rod Frohman (HR)	Carson Mouser (HR)	Pat Youngdahl (HR)
Val Fowler (HR)	Laurel Nelson (VM)	

**Excused:**

Elizabeth Beckhusen (HR)	Nathan Mochizuki (AL)
Ernest Krug (HR)	Carol Anne Strawbridge (HR)

**ADDITIONAL ELDER COMMISSIONERS / CERTIFIED CHRISTIAN EDUCATORS** (Appointed by Presbytery to correct elder-clergy imbalance)

Linda Badger Becker (Gates)	Barbara James (Summerville)	Karen Pryor (Third)
Lewis Becker (Pittsford)	Peter Judd (Perinton)	Hezekiah Simmons (Pittsford)
Kathy Coons (Gates)	Lea Kone (Downtown)	Nancy Sprenkle (Pittsford)
Fred Denson (Webster)	Bob Mecredy (Pittsford)	Sue Tedesco (CoW)
Betty Iwan (Third)	Susan Orr (Trinity Emmanuel)	

**CORRESPONDING MEMBERS ENROLLED FOR THIS MEETING (others noted under "Congregations"):**

None

**REGISTERED VISITORS including PRESBYTERY STAFF and COMMISSIONED PASTORS Not Serving Churches:**

Cheryl Battaglia (Staff)	Joyce Burwell-Miller (Trinity Emmanuel)	Michael Torpey (Mendon)
Lisa Bennett (Staff)	Connie Kellogg (Mendon)	

SUMMARIES OF 2022 MEETING	Jan 25	Mar 29			
Total Minister Members of Presbytery	108	110			
Total Minister Commissioners Present	48	47			
Total Elder Commissioners Present	52	49			
Parity (expressed in terms of Elders, + or -)	+4	+3			
Total Churches Unrepresented by Elders	29	32			
Total Churches Unrepresented by Elders & Pastors	18	18			
Total Registered Visitors	11	5			
TOTAL REGISTERED ATTENDANCE - 2022	111	101			

### **LAND ACKNOWLEDGEMENT**

Rev. Michelle Sumption (York) read the Land Acknowledgement statement in which we pay respects to the indigenous people on whose traditional land this meeting was collectively being held today. She encouraged all to work toward partnership with our indigenous sisters and brothers.

### **INTRODUCTORY BUSINESS**

#### **Privilege of the Floor**

The Presbytery **VOTED** by poll vote to grant privilege of voice to non-commissioners for the purpose of participating in reports.

#### **Approval of Docket**

Upon motion, the Presbytery **VOTED** by poll vote to approve the docket for the meeting, as amended to correct the address of Mendon Church, as follows:

6 p.m.		<b>Pre-meeting: Conversation with Mendon Discernment Team</b>	<b>Mendon Discernment Team</b>
6:55 p.m.		<b>Announcements</b>	<b>Lea Kone</b>
7 p.m.		<b>Call to Order and Opening Prayer</b> <ul style="list-style-type: none"><li>▪ Land Acknowledgement</li></ul>	<b>Lea Kone</b>
		<b>Introductory Business</b> <ul style="list-style-type: none"><li>▪ Declaration of Quorum</li><li>▪ Privilege of the Floor</li><li>▪ Approval of Docket</li></ul>	<b>Lea Kone</b>
7:05 p.m.		<b>Report of the Committee on Ministry and the Board of Trustees</b> <ul style="list-style-type: none"><li>▪ Motion to Dissolve the Relationship between the Presbytery of Genesee Valley and Mendon Church and related motions</li></ul>	<b>Marcia Reiff Barbara James Mike Torpey Karen Pryor Laurel Nelson Susan Orr</b>
8 p.m.		<b>Worship</b>	<b>Mendon Discernment Team</b>
8:15 p.m.		<b>Adjourn with Benediction</b>	

### **REPORT OF COMMITTEE ON MINISTRY AND BOARD OF TRUSTEES**

Rev. Marcia Reiff (Dansville) reported the Big Picture Team (BPT), Presbytery Trustees and Committee on Ministry (COM) have reviewed the recommendations of the COM Discernment Team regarding the request of Mendon Church to dissolve its relationship with the Presbytery. A copy of the Discernment Team report was included in the Docket as Appendix A. Their review included the following:

#### **1. What are Mendon Church's hopes for use of the property?**

Answer: Michael Torpey, chair of the Discernment Team, indicated the mission of Mendon Church will remain the same. The church will continue to operate as an independent non-denominational community church. They will begin a search for a pastor and use pulpit supply during the search process. Their intention is to grow the church.

2. The chair of the Discernment Team is not a member of Mendon Church. Is this a problem?

Answer: Elder Karen Pryor (Third), a member of COM, reported that the COM "Guidelines and Procedures for Reconciliation or Dismissal of its Member Congregation" (Appendix D to the Docket) do not require members of a discernment team to be members of the church. Michael Torpey has been active in Mendon Church for over 14 years, and he is highly respected by the congregation. COM concluded he did not have undue influence on the decision.

3. Is the settlement amount reasonable based on the value of the real property?

Answer: Elder Barbara James (Summerville), chair of Presbytery Trustees, indicated per New York state law and the Book of Order church property is held in trust for the use and benefit of the Presbytery. The Trustees determined the terms of the proposed Settlement Agreement (Appendix B to the Docket) are reasonable. The Agreement provides for payment to the Presbytery of the sum of \$113,000 in consideration of the retention by Mendon Church of its property, free of the trust provisions of New York Law and the Book of Order. Also, the Presbytery did not fund the building of the church. This was funded by the congregation.

4. What happens if the vision of Mendon Church does not come to fruition?

Answer: Elder Barbara James explained that New York State law requires assets must be used by a not for profit and cannot go to individual members.

5. Are there concerns this will create a precedence other congregations may follow?

Answer: Rev. Laurel Nelson (VM) reported that love and faithfulness were evident throughout the discernment process with Mendon Church. Unfortunately for some at the church this was the first positive experience working with the Presbytery. COM hopes that leaders of churches would communicate their concerns before arriving at discussion of dissolution. COM also has hope that liaisons to congregations at this meeting will take back to the churches information that there are resources available before making final decisions.

6. What if the request of Mendon Church is not approved at this meeting?

Answer: Elder Susan Orr (Trinity Emmanuel) referred to the COM "Guidelines and Procedures for Reconciliation or Dismissal of its Member Congregation" (page 17). The options would be: (a) Mendon Church could bring a remedial action to the Synod against the Presbytery for unconstitutional actions, or (b) the case could go to civil court. The Discernment Team has completed its work and would no longer be involved. Any changes in terms would need to back to the congregation for approval.

After discussion, the Presbytery **VOTED** by poll to approve the following recommendations of the Committee on Ministry as submitted by the Mendon Discernment Team, with concurrence of the Board of Trustees and the Big Picture Team:

[Note: A duly called meeting of the congregation and Corporation was held on February 13, 2022, moderated by Rev. Bruce Boak (HR)]

1. **Enter** into a Separation Agreement with the Church in the form attached to this Motion, providing for the dissolution of the Church and the transfer of its property, in accordance with the terms and conditions set forth in such Agreement, including the payment by the Church to the Presbytery of the sum of \$113,000; *Motion was passed by a 99% vote.*

2. **Convey, quit claim and release** to a new religious corporation to be formed, in consideration of the payment of the sum of \$113,000 and performance of the other terms and conditions of the Dismissal Agreement, any and all interests and claims which the Presbytery may have in and to the following property:

- a. Real property located at 936 Cheese Factory Road, Town of Mendon, New York, tax account 223.02-1-18.111, and any other real property owned by the Church;
- b. Any fund, account, investment or certificate of deposit of the Church, subject to such conditions and restrictions as to investment and use as may have heretofore existed;
- c. Any other property, asset, right, or interest of the Church, of any nature, real or personal or otherwise.

*Motion was passed with a 90% vote.*

3. **Authorize** the Chair of the Presbytery Board of Trustees or Stated Clerk, individually or such of them as may be necessary and appropriate, to prepare and file such documents and take such actions, separately or in cooperation with representatives of the Church as may be required to effect the legal dissolution of the affiliation of the Church with Presbytery and the Presbyterian Church USA and the vesting of real and personal property with the Church, as provided in the Separation Agreement, the costs of such actions to be paid by the Church, subject to the approval by a New York State Supreme Court Justice of the conveyance of the Presbytery's interest in real property to the Church.

*Motion was passed unanimously*

#### **WORSHIP**

Elder Lea Kone offered a prayer and the members of the Discernment Team led a litany of Sadness and Gratitude.

#### **ADJOURNMENT**

The meeting adjourned with prayer led by Rev. Marcia Reiff at 8:00 pm.

ATTEST: \_\_\_\_\_  
Kathleen L Coons, Journal Clerk

Appendix: Docket for March 29, 2022 Special Meeting of Presbytery

## APPENDIX



### Presbytery of Genesee Valley SPECIAL MEETING March 29, 2022 – 7 p.m. *Electronic Meeting via Zoom*



Elder Lea Kone, *Moderator*  
Rev. Michelle Sumption, *Moderator-Elect*  
Elder Susan Orr, *Stated Clerk*  
Elder Peter Judd, *Treasurer*

## DOCKET

### *Special Meeting re: Mendon Discernment Team*

#### **PRE MEETING – 6 p.m.** Conversation with the Mendon Discernment Team (no advance registration required)

- ☐ Presbyters are STRONGLY encouraged to attend
- ☐ Members of the Discernment Team, COM, Trustees, and Big Picture Team (BPT) will all be present to respond to comments and questions regarding the motions and accompanying materials ☐ Link to pre-meeting conversation: [Join Zoom Meeting](#)

Meeting ID: 870 9807 8953 Passcode: 825121

#### **SPECIAL MEETING – 7 p.m. (Log onto Zoom any time after 6:30 p.m.)**

Please [register in advance using this registration link](#). NOTE: Registration is required to attend the SPECIAL meeting.

After registering you will receive a confirmation email containing the necessary information for joining the SPECIAL meeting. Be sure you save that confirmation message for ready access to the meeting on March 29.

**New Commissioners:** Please review the [Welcome to Presbytery resource booklet](#).

**Minutes** of previous Presbytery meetings are available [on the web site at this link](#).

**Attendance:** Since ministers and elder commissioners are required to attend Presbytery meetings, presbyters who do not request excuses will be marked absent. Corrections to attendance from previous meetings will be made in the permanent record.

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**Next STATED meeting: Tuesday, April 26, 2021, 6 p.m. via Zoom**

## AGENDA

SPECIAL Presbytery Meeting			March 29, 2022		
DOCKET					
For the SPECIAL Meeting of the Presbytery of Genesee Valley					
Tuesday, March 29, 2022			Electronic Meeting via Zoom		
SPECIAL Meeting					Rochester, New York
Page Reference					
6 p.m.			Pre-meeting: Conversation with Mendon Discernment Team		Mendon Discernment Team
6:55 p.m.			Announcements		Lea Kone
7 p.m.			Call to Order and Opening Prayer □ Land Acknowledgement		Lea Kone
			Introductory Business □ Declaration of Quorum □ Privilege of the Floor □ Approval of Docket		Lea Kone
7:05 p.m.		p. 3	Report of the Committee on Ministry and the Board of Trustees □ Motion to Dissolve the Relationship between the Presbytery of Genesee Valley and Mendon Church, and related motions		Marcia Reiff Barbara James Mike Torpey Karen Pryor Laurel Nelson Susan Orr
8 p.m.			Worship		Mendon Discernment Team
8:15 p.m.			Adjourn with Benediction		

## REPORT OF COMMITTEE ON MINISTRY and BOARD OF TRUSTEES RE: DISSOLUTION OF MENDON CHURCH

### Items for Presbytery ACTION

The Committee on Ministry, with concurrence from the Board of Trustees and the Big Picture Team, recommends that the Presbytery:

1. **Dissolve** the relationship between the Presbytery of Genesee Valley and Mendon Church effective on or about June 30, 2022.
2. **Accept** the terms of dissolution of \$113,000 from Mendon Church in exchange for the transfer of the real property located at 386 Cheese Factory Road, Town of Mendon, New York and release by Presbytery of all claims of assets or other liabilities that may be owed by Mendon Church to the Presbytery.
3. **Enter** into a Separation Agreement (the "Agreement") with the Church in the form attached to this motion as Appendix B, providing for the dissolution of the Church and the transfer of its property, in accordance with the terms and conditions set forth in the Agreement, including the payment by the Church to the Presbytery of the sum of \$113,000.
4. **Convey**, quit claim and release to a new religious corporation to be formed, in consideration of the payment of the sum of \$113,000 and performance of the other terms and conditions of the Agreement, any and all interests and claims which the Presbytery may have in and to the following property:
  - a. Real property located at 386 Cheese Factory Road, Town of Mendon, New York, tax account 223.02-1-18.111, and any other real property owned by the Church;

- b. Any fund, account, investment or certificate of deposit of the Church, subject to such conditions and restrictions as to investment and use as may have heretofore existed; and
  - c. Any other property, asset, right, or interest of the Church, of any nature, real or personal or otherwise.
5. **Authorize** the Chair of the Presbytery Board of Trustees or the Stated Clerk, individually or such of them as may be necessary and appropriate, to prepare and file such documents and take such actions, separately or in cooperation with representatives of the Church as may be required to effect the legal dissolution of the affiliation of the Church with Presbytery and the Presbyterian Church USA and the vesting of real and personal property with the Church, as provided in the Separation Agreement, the costs of such actions to be paid by the Church, subject to the approval by a New York State Supreme Court Justice of the conveyance of the Presbytery's interest in real property to the Church.

### *COM Rationale*

The Committee on Ministry received and approved recommendations of the Mendon Discernment Team subject to clarification of the membership of the chairperson of the Discernment Team. There was concern since the chairperson was a non-member of Mendon Church. The COM Leadership Team subsequently met with the Presbytery members of the Discernment Team to discuss this concern.

Following this discussion, the COM Leadership Team members were satisfied that the Discernment Team followed the "COM Guidelines and Procedures for Reconciliation or Dismissal of its Member Congregation" (Appendix D) which do not require that members of the discernment team be members of the church, that the chairperson was significantly engaged with and a respected leader in the life of the congregation, and that the chairperson did not have undue influence on the discernment process.

### **Appendices**

Appendix A – COM Discernment Report dated February 28, 2022

Appendix B – Separation Agreement

Appendix C – Recommendations of Big Picture Team

Appendix D – COM Guidelines and Procedures for Reconciliation or Dismissal of its Member Congregation

## APPENDICES for COMMITTEE ON MINISTRY and TRUSTEES

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### **Appendix A**

#### **Report of the Discernment Team for Mendon Church**

*February 28, 2022*

On June 17, 2021, a Discernment Team was organized to assist the Mendon Church session and congregants as they formally explored the options for ending their relationship with PC (USA).

The Discernment Team (hereafter referred to as DT) was comprised of the following individuals:

- Mike Torpey, Mendon Church non-member (Chair)
- Rev. Dr. Ernest Krug, HR, Trustee, Presbytery of Genesee Valley (PGV)—co-clerk
- Rev. Carin Farmer (Avon Presbyterian Church)—co-clerk
- Rev. Dr. Stephanie Sauve, PGV
- Elder Kevin Koek, Mendon Church, Clerk of Session
- Deacon Connie Kellogg, Mendon Church

### SUMMARY OF THE DISCERNMENT TEAM PROCESS

- Between July and August 2021: DT hosted listening sessions with pastor, session and Mendon Church congregants. All discussions were facilitated by Stephanie Sauve.
  - July 15: DT met with Pastor Ho Dong
  - Aug 12: DT met with Session
  - Aug: 26: DT met with Mendon Church congregants



- On September 9, the DT met to review the listening Session input and aligned that separation from PGV is appropriate for Mendon Church and supported by pastor, session and congregants. The process to create a motion for dissolution was initiated.
- From November to January a financial settlement was brokered between Mendon Church session and the PGV Trustees. Ernest Krug acted as intermediary. A settlement amount of \$113k was proposed by PGV Trustees on January 13 and agreed to by Mendon Church Session on January 17.
- On Sunday February 13, a special meeting of the Mendon Church Congregation was held to vote on two items: dissolution and the financial settlement with PGV. Both were approved by unanimous consent of all members present (33 of 42 members present at the vote. The meeting was moderated by Reverend Dr. Bruce Boak with all members of DT and Susan Orr in attendance.
- Mendon Church has retained an attorney and is in-process of reincorporating as Mendon Community Church.
- The DT requests a special called meeting of the presbytery following approvals by COM, Trustees, and the Big Picture Team.

### Background Information

#### Mendon Church Timeline

- 1816 Founded as a Community Church
- 1822 Joined Presbytery
- 1990 Merged into PC(USA)
- 2000 Removed "Presbyterian" from the name of the church and became "Mendon Church"
- 2005 Capital campaign for proposed new church, raised ~\$900K; no loans, grants or financial assistance was requested from the PC(USA) or PGV.
- 2006 Moved into current building on Cheese Factory Road  
Sold historical PGV asset in Hamlet of Mendon for \$250K with the approval of the presbytery.
- March 2021 Congregation consensus to pursue separation from PC(USA)
- December 2021 Assessment of Mendon Church at 936 Cheese Factory Road reduced the estimate of property value from book value of \$1815k to market value of \$890k
- February 13, 2022 Congregation voted to approve dissolution from PGV and reincorporation as Mendon Community Church. Congregation approved the financial settlement amount of \$113k.

#### Pastoral support:

- Reverend David Smith from 1992 until February 2014 when Reverend Smith retired.
- Pulpit supply and Interim Pastors for approximately 2 years from February 2014 – December 2015.
- Reverend Janet Hufford's call began in January 2016 and the relationship was dissolved in September 2016. The process and settlement surrounding the dissolution of the pastoral relationship was significantly damaging to the relationship between Mendon Church and PGV.
- The Reverend Ho Dong Hwang was in the pulpit from December 2016, first as a Stated Supply Pastor, and then a Designated Pastor beginning in April of 2018. Pastor Ho Dong departed at the end of 2021.
- Mendon Church is currently relying on pulpit supply from PGV (Merle Wilson), support from a long-time member who is a theologically trained hospital chaplain (Clif Genge), and support from several Rochester-based churches; supply is set through mid-2022 with no concern about finding pulpit supply on an ongoing basis.

#### Membership:

- Membership peaked at 213 members in 2010. Membership is currently 43 members.
- With the retirement of Reverend David Smith and the subsequent pastoral succession process, Mendon Church experience a very significant drop in membership.
- When COVID-19 drove Mendon Church to on-line only services, the remaining young families stopped attending and have not returned.

Options considered and ongoing:

- 2018: Session conducted a survey to consider long-term options for growing Mendon Church, including the potential for separation from PC(USA). The church decided not to pursue separation from PC(USA) largely due to the desire to retain Reverend Ho Dong Hwang.
- October 2020: Session, with congregation approval, mailed a partnership inquiry to 14 area churches: 5 Presbyterian, 2 other denomination, 7 community.
  - No response from 8 of 14 churches
  - “No interest” responses received from 4 churches
  - Northfield Community Church submitted a proposal, which was not accepted by Mendon Church due to significant differences in theology and proposed leadership
  - Browncroft Community Church (BCC) expressed desire to begin a conversation but not make any formal agreements until after the separation from PC(USA) is complete
- June & July 2021: the Discernment Team discussed the potential for Mendon Church to receive “consulting services” from PGV. As PGV does not provide this type of support to member churches, the discussion was not pursued any further.
- Partnership opportunities: Mendon Church has ongoing discussions with 3 Rochester-based churches who have offered and have been providing support. All three have growing membership with significant youth representation.
  - Both Browncroft Community Church and Grace Road Community Church have offered advice, coaching and pulpit supply. No formal partnership agreements have been created or seriously discussed though this could be an option with either church. Both have high interest in Mendon and the surrounding communities due to a significant number of current attendees that come from Mendon and the surrounding communities.
  - Centerway Church (Assemblies of God) has offered to provide advice, coaching and pulpit supply. Their lead pastor has been in rotation for pulpit supply since January 2022. Centerway does not currently have a permanent facility and is using Mendon Church for small group gatherings. No formal partnership agreements have been created or seriously discussed though this could be an option.

**Motion for Dissolution**

**Mission Statement**

As a body of believers, we, the men, women, and children of Mendon Church, seek to follow Christ, growing spiritually in His love. We are committed to a three-fold vision of the Christian Community consisting of:

- Inviting all people to discover Jesus Christ and become believers, beginning a lifelong journey of faith as they develop a personal relationship with the Living Lord.
- Nurturing believers into disciples through Biblical study, worship, education, fellowship and spiritual growth. We teach His word, we sing His praise, and we share in the joys and sorrows of our church family.
- Demonstrating the kingdom of God through life—service to others. We reach out in love with our time, talents, hearts, hands, and prayers.

**Motion to Dissolve**

Following many years of reflection, the Session and congregants of Mendon Church have concluded we remain committed to our mission. We believe Mendon Church will be more successful if we dissolve from PC(USA) and reincorporate as an independent community church. The need for Mendon Church to dissolve from the PC(USA) is driven by three primary reasons: the need to partner with a church organization that has proven success in growth, pastoral succession, and the political stance of PC (USA).

**Partnering for Growth:** Mendon Church wants to thrive and fulfill our mission in service of God and the communities in which we live and work. As it stands Mendon Church is fighting for survival and has concluded we don’t have the resources, knowledge, or size to transform without outside help. Within the Rochester community, there are multiple churches that are thriving, and partnership with one of these growing churches will best lead Mendon Church to success. A prerequisite to partnering is for Mendon Church to dissolve from PC(USA) and reincorporate as an independent community church.

**Pastoral Search:** Mendon Church is again facing an upcoming pastoral search for the third time in less than 10 years. We believe local self-determination will best enable Mendon Church to manage pastoral selection and succession planning.

**Political stance of PC(USA):** The PC(USA) maintains a progressive stance on multiple social and political issues including abortion legislation, Israel and various issues related to the LGBTQ community. Within the body of Mendon Church, we find congregants who are very aligned to the political positions of PC (USA) and those who are adamantly opposed. While we recognize that PC (USA) has not forced any congregation to publicly advertise a progressive stance, we also know that the public stance has contributed to many attendees departing. Mendon Church believes we can best serve our congregants and communities through local self-determination on these and other social issues.

In conclusion, Mendon Church is requesting dissolution from Presbytery of Genesee Valley / PC (USA) so we may reincorporate as an independent community church. Mendon Church is offering \$113,000 for PGV/PC(USA) to release all claims of assets and other liabilities that may be owed from Mendon Church to PGV / PC(USA).

#### **Financial Settlement** Updated January 18, 2022

Mendon Church would like to provide guidance on how we arrived at the agreed upon settlement offer of \$113,000. In doing so we considered the input of the PGV, through the discernment team, the input and needs of the local congregation, and are seeking to achieve gracious separation.

Initial guidance from Presbytery of Genesee Valley: Range of \$225,000 - \$250,000

- There is no formula and the top objective is graceful separation  
Recommend a tithe of assets
  - At time of recommendation book value of Mendon Church was \$1,815,000 which was based on the build costs. An assessment in December 2021 reset the market value to \$890k
  - Mendon Church also has assets in the "Frasier Fund."
- Per capita: past due, current year and future year (through 2023)

Proposed settlement from Mendon Church to PGV Trustees: \$75,000

- \$20,000 Per Capita, back due plus 2022 and 2023
- \$25,000 Tithe on historical PGV assets (facility in Hamlet of Mendon)
- \$30,000 Goodwill to ensure "Gracious separation"

Trustees reviewed the proposal on January 13, 2022 and proposed a counteroffer to which the Mendon Church Session has aligned.

Negotiated settlement from Mendon Church to PGV: \$113,000

- 23,000 per capita past due plus 2022 and 2023
- 90,000 tithe of market value of Mendon Church

#### **Mendon Church Timeline**

1816	Founded as a Community Church
1822	Joined Presbytery
1990	Merged into PC (USA)
2000	Removed "Presbyterian" from the name of the church and became "Mendon Church"
2005	Capital campaign for proposed new church, raised ~\$900K; no loans, grants or financial assistance from the PC(USA) or local Presbytery
2006	Moved into current building on Cheese Factory Sold historical Presbytery asset in Hamlet of Mendon for ~\$250K
2021	Congregation voted to pursue separation from PC (USA)
2021	Assessment of Mendon Church at 936 Cheese Factory Road reduced the estimate of property value from book value of \$1815k to market value of \$890k

### Reflection on assets at 936 Cheese Factory Road

Mendon Church is proposing to base the estimate of a tithe on the historical assets in Hamlet of Mendon, which Mendon Church sold in 2006 for approximately \$250k.

Within this current generation, Mendon Church decided to distance itself from the PC(USA), e.g. removed "Presbyterian" from its name, committed itself to build a new facility, and recently decided to pursue formal separation from the PC(USA). Of our current membership, a majority have been members throughout these 3 milestone events.

Of the 43 current members of Mendon Church:

- 24 (56%) were members when Mendon Church decided to drop "Presbyterian" and distance from PC (USA)
- 27 (63%) were members who made significant personal sacrifices to move Mendon Church to the current facility at 936 Cheese Factory Road and these individuals have expressed concern about being asked to pay the building a second time
- 19 (44%) have joined in the years when the relationship between Mendon Church and PC (USA) was minimal.

The book value of Mendon Church, based on historical construction costs, is recorded as \$1,815k. At the request of Discernment Team, Mendon Church commissioned an appraisal which was prepared by Bruckner, Tillett, Rossi, Cahill & Associates. The Market Value Estimate of Mendon Church, prepared in December 2021, is currently \$890k.

### Reflections on the James H. Frasier Revokable Trust, aka "Frasier Fund"

On September 18, 2008, James H. Frasier made the final updates to the James H. Frasier Revokable Trust which governed the distribution of his assets. Within his estate documents, Mr. Frasier was clear how he wanted the funds divided between two organizations:

- 85% Mendon Church on Cheese Factory Road
- 15% Rochester Presbyterian Home

Based on the guidance provided by Mr. Frasier we are not considering the "Frasier Fund" as part of the tithe.

Of the 85% distributed to Mendon Church the remaining "Frasier Fund" balance is approximately \$600k. Per Mr. Frasier's instructions, "with the request that such sum be applied to the new church building (including, at the direction of Session, application against any mortgage which may then be outstanding with respect to the construction of the new church facility.)" At the discretion of Session, the trust was used to retire the remaining mortgage and the balance has been held for the future construction of a sanctuary. The direction of Mendon Church remains unchanged, first return to growth and then build the sanctuary.

## Key meetings and dates

Meeting date	High level topic	Topic / Event
October & November 2020	Session	Explored potential merger or partnership with other area churches. Mailing to 14: 5 presbyterian, 2 other denominations, 7 community. <ul style="list-style-type: none"><li>• 8 no response</li><li>• 4 no interest</li><li>• 2 interested (Northfield Community Church and Browncroft Community Church)</li></ul>
December 2020 & January 2021	Session 9 congregational vote	Reviewed proposal from Northfield Community Church and decided not to proceed; agreed by congregational vote

December 2020 / ongoing	Session 9 Long-Range Planning Committee (LRPC)	Exploratory discussion with Browncroft Community Church (BCC)  Willingness to provide coaching / limited support Interest in discussing merger after separation from PGV
January 2021	Formation of Long-Range Planning Committee (LRPC)	Committee formed with 9 members: Session: Kevin Koek, Sherry Thomasson, Greg Miller, Jim Shoots & Phil Kellogg Other: Connie Kellogg, King Beck, John Thomason and Mike Torpey
February & March 2021	Congregational survey	Congregational decision to request separation from PGV 42 in favor, 2 no, 2 abstain
March 2021	Session 9 PGV	Letter from Mendon Church Session to PGV request initiation of the "Reconciliation or Dismissal process"
April & May 2021	Session 9 PGV	Mendon Church DT members selected / approved PGV DT members selected / approved
June 17	Discernment Team (DT) kickoff	Moderated by Kirk Baker DT members and roles <ul style="list-style-type: none"> <li>• Chair: Mike Torpey – chair</li> <li>• Clerks: Ernest Krug and Carin Farmer</li> <li>• Additional Members: Kevin Koek, Connie Kellogg and Stephanie Sauve</li> </ul> Discussion on resources that PGV could provide to help Mendon Church return to growth, confirmed that PGV does not have programs to support struggling churches.
July 8	DT	Review input from Mendon Church LRPC Covenant of confidentiality Approach for meetings with pastor, session and congregants discussed Aligned on questions for use in meetings with pastor, session, and church membership
July 15 (rescheduled from July 22)	Discernment team met with Pastor Ho Dong  Discussion led by Stephanie	See PGV website for exit interviews for Pastor <a href="https://pbygenval.org/committees/committee-on-ministry/stage-1/">https://pbygenval.org/committees/committee-on-ministry/stage-1/</a>  Questions proposed by Stephanie: a. What do I feel good or positive about? b. What do I feel bad or sad about? c. Where or how is God revealed in this for me?
August 12	Discernment team met with Mendon Church Session and LRPC  Discussion led by Stephanie	See PGV website for exit interviews for session  <a href="https://pbygenval.org/committees/committee-on-ministry/stage-1/">https://pbygenval.org/committees/committee-on-ministry/stage-1/</a>
August 26	Discernment team met with Mendon Church congregation  Discussion led by Stephanie	In-person with option to attend via Zoom

September 9	Discernment Team	Discussion of input from meetings with pastor, session and Mendon Church congregation. Decision to proceed with recommendation of dissolution. Outlined plan for congregational vote on dissolution from Presbytery and Mendon Church
September 23	Discernment Team	Review draft 1 of Motion for Dissolution
October 28	Discernment Team Define plan for dissolution	Discussion on path / timeline Review updated draft of Motion for Dissolution Financial settlement - Request to obtain property assessment
December 19	LRPC	Review property assessment (received December 14)
December 30	Discernment Team	Review documents prior to upcoming trustee meeting <ul style="list-style-type: none"> <li>• Motion for dissolution</li> <li>• Financial settlement rationale document Review Property assessment</li> </ul>
January 12, 2022	Discernment Team and Session	Review motions, agree to proceed with trustee meeting (Jan 13) and member vote (Jan 23, backup of Feb 13) Approved a settlement offer of \$75k
January 13	PGV Trustees	Proposed a counter-offer of \$113k
January 17	LRPC and Session	Approved trustee counter-offer of \$113k  Agreed to distribute documents to MC members prior to vote <ul style="list-style-type: none"> <li>• Motion for dissolution</li> <li>• Financial settlement rationale document</li> </ul>
January 23	Discernment Team and Mendon Church members	Congregational vote scheduled but delayed due to increasing Covid restrictions. Back-up date publicized as February 13
February 13	Discernment Team, Long-range planning committee and Mendon Church members	Moderator: Bruce Boak Clerk: Kevin Koek Vote counting: Mike Torpey & Stephanie Sauve 33 of 42 active members in attendance.  Following presentation and discussion an anonymous vote was held by paper ballot.  Motion on dissolution: 33 for, 0 against Motion on financial settlement: 33 for, 0 against

Additional meetings:

- Long Range Planning Committee (LRPC), formed in January 2021, has been meeting approximately biweekly. All members of Session are also member of the LRPC
- Session provided status updates to the Mendon Church congregants approximately bi-monthly.

## Per Capita History

Year	Church	Membership	Apportionment			Total Apportionment	Payments			Total Paid	Unpaid PC
			Presbytery	Synod	GA		Presbytery	Synod	GA		
1997	MENDON		1,273.51	558.67	750.26	<b>2,582.44</b>	1,273.51	558.67	750.26	<b>2,582.44</b>	<b>0.00</b>
1998	MENDON	176	1,499.52	621.28	839.52	<b>2,960.32</b>	1,499.52	621.28	839.52	<b>2,960.32</b>	<b>0.00</b>
1999	MENDON	189	1,619.73	667.17	901.53	<b>3,188.43</b>	1,619.73	667.17	901.53	<b>3,188.43</b>	<b>0.00</b>
2000	MENDON	190	1,854.40	670.70	940.50	<b>3,465.60</b>	1,854.40	670.70	940.50	<b>3,465.60</b>	<b>0.00</b>

MINUTES OF SPECIAL PRESBYTERY MEETING  
March 29, 2022 at 7:00 pm

Electronic Meeting via Zoom  
Rochester NY

2001	MENDON	185	1,811.15	662.30	921.30	<b>3,394.75</b>	1,811.15	662.30	921.30	<b>3,394.75</b>	<b>0.00</b>
2002	MENDON	209	2,194.50	764.94	1,097.25	<b>4,056.69</b>	2,194.50	764.94	1,097.25	<b>4,056.69</b>	<b>0.00</b>
2003	MENDON	199	2,276.56	736.60	1,082.56	<b>4,095.72</b>	2,276.56	736.60	1,082.56	<b>4,095.72</b>	<b>0.00</b>
2004	MENDON	219	2,652.09	823.44	1,206.69	<b>4,682.22</b>	2,652.09	823.44	1,206.69	<b>4,682.22</b>	<b>0.00</b>
2005	MENDON	222	2,954.82	834.72	1,236.54	<b>5,026.08</b>	2,954.82	834.72	1,236.54	<b>5,026.08</b>	<b>0.00</b>
2006	MENDON	222	3,048.06	821.40	1,236.54	<b>5,106.00</b>	2,773.14	66.60	100.26	<b>2,940.00</b>	<b>(2,166.00)</b>
2007	MENDON	222	3,381.06	821.40	1,285.38	<b>5,487.84</b>	1,835.44	440.30	689.01	<b>2,964.75</b>	<b>(2,523.09)</b>
2008	MENDON	160	2,528.00	592.00	926.40	<b>4,046.40</b>	1,585.58	366.30	572.92	<b>2,524.80</b>	<b>(1,521.60)</b>
2009	MENDON	172	2,717.60	646.72	1,057.80	<b>4,422.12</b>	1,841.35	428.64	701.10	<b>2,971.09</b>	<b>(1,451.03)</b>
2010	MENDON	163	2,578.66	627.55	1,002.45	<b>4,208.66</b>	1,451.06	350.35	559.51	<b>2,360.92</b>	<b>(1,847.74)</b>
2011	MENDON	156	2,538.12	616.20	1,014.00	<b>4,168.32</b>	2,538.12	616.20	1,014.00	<b>4,168.32</b>	<b>0.00</b>
2012	MENDON	170	2,864.50	671.50	1,127.10	<b>4,663.10</b>	1,551.23	351.55	590.07	<b>2,492.85</b>	<b>(2,170.25)</b>
2013	MENDON	157	2,678.42	612.30	1,078.59	<b>4,369.31</b>	1,699.30	382.20	673.26	<b>2,754.76</b>	<b>(1,614.55)</b>
2014	MENDON	154	2,819.74	608.30	1,081.08	<b>4,509.12</b>	1,833.99	391.05	694.98	<b>2,920.02</b>	<b>(1,589.10)</b>
2015	MENDON	137	2,508.47	548.00	968.59	<b>4,025.06</b>	1,174.21	252.00	445.51	<b>1,871.72</b>	<b>(2,153.34)</b>
2016	MENDON	144	2,694.47	574.36	1,022.37	<b>4,291.20</b>	2,694.47	574.36	1,022.37	<b>4,291.20</b>	<b>0.00</b>
2017	MENDON	141	2,686.05	578.10	1,057.50	<b>4,321.65</b>	2,686.05	578.10	1,057.50	<b>4,321.65</b>	<b>0.00</b>
2018	MENDON	137	2,661.91	561.70	1,059.01	<b>4,282.62</b>	2,661.91	561.70	1,059.01	<b>4,282.62</b>	<b>0.00</b>
2019	MENDON	137	2,822.20	561.70	1,226.15	<b>4,610.05</b>	2,822.20	561.70	1,226.15	<b>4,610.05</b>	<b>0.00</b>
2020	MENDON	68	1,470.84	278.80	608.60	<b>2,358.24</b>	1,470.84	278.80	608.60	<b>2,358.24</b>	<b>0.00</b>
2021	MENDON	61	1,345.66	250.10	547.78	<b>2,143.54</b>				<b>0.00</b>	<b>(2,143.54)</b>
	<b>Totals</b>		<b>59,480.04</b>	<b>15,709.95</b>	<b>25,275.49</b>	<b>100,465.48</b>	<b>48,755.17</b>	<b>12,539.67</b>	<b>19,990.40</b>	<b>81,285.24</b>	<b>(19,180.24)</b>

## Appendix B

### SEPARATION AGREEMENT

THIS AGREEMENT is made by and between the PRESBYTERY OF GENESEE VALLEY, IC. ("Presbytery"), with offices at 1049 Wegman Road, Rochester, NY 14624, a constituent presbytery of the Presbyterian Church USA ("PCUSA") and MENDON PRESBYTERIAN CHURCH, INC. having offices and a place of worship at 936 Cheese Factory Road, Honeoye Falls, New York (the "Church").

WHEREAS in March, 2021 the Church initiated a request to engage in a process of discernment pursuant to the Presbytery's *Guidelines and Procedures for Reconciliation or Dismissal of its Member Congregations* and the Committee on Ministry appointed a Discernment Team on May 4, 2021 to work with the Church in a process of discernment; and

WHEREAS the discernment process, including several Congregational Meetings and votes at various points in the process, and discussion and negotiations with the Board of Trustees, has been completed; and

WHEREAS a duly called meeting of the Congregation and Corporation of the Church was held February 13, 2022, the required quorum of members being present and such Congregation and Corporation voted to seek to dissolve its relationship with the PCUSA and the Presbytery and to pursue incorporation as a separate community religious corporation under the New York Religious Corporation Law; and

WHEREAS the Presbytery and the Church acknowledge and recognize that under New York law and under the constitution and Book of Order of the PCUSA all property held by or for the Church as a congregation and corporation affiliated with the PCUSA is held in trust for the use and benefit of the PCUSA and the Presbytery; and

WHEREAS a duly called meeting of the Congregation and the Corporation of the Church was held February 13, 2022 and the required quorum of members was present, and such Congregation and Corporation unanimously voted to approve the proposed settlement package providing for payment to the Presbytery of the sum of \$113,000 in



consideration of the retention by the Church of its property, free of the trust provisions of New York Law and the Book of Order.

NOW THEREFORE, in consideration of the mutual promises and covenants in this Agreement, the parties covenant and agree as follows:

1. Immediately upon the signing of this Agreement, the Church and the Presbytery agree to prepare and file with the New York State Supreme Court a joint Petition requesting authorization for the reincorporation of the Church as a non-denominational church under the New York Religious Corporation Law, and for approval of the transfer of title of real and personal property to the reincorporated religious corporation.
2. Upon receipt of an Order including the authorization for reincorporation as described in paragraph 1, the Church shall file a restated or amended certificate of incorporation with the Monroe County, New York Clerk's Office, providing that the Church be a religious corporation under the Religious Corporation Law.
3. Upon the filing of such certificate of reincorporation and upon receipt of the consideration set forth in paragraph 4 below, Presbytery shall deliver to the Church a Quit Claim deed conveying, quitclaiming and releasing to the Church any and all interests and claims which the Presbytery may have in and to real properties in the Town of Mendon, Monroe County, New York, known as 936 Cheese Factory Road in the Town of Mendon, Monroe County, New York account 223.02-1-18.111, and any other real property owned by the Church.
4. Contemporaneously with the delivery of such Quit Claim Deed the Church shall pay to the Presbytery the sum of One Hundred Thirteen Thousand Dollars (\$113,000) in the form of certified check or attorney's trust check.
5. The consideration set forth in paragraph 4 paid by the Church to the Presbytery shall be in full satisfaction of any and all interests and claims which the Presbytery may have with regard to the Church under the Trust Clause of New York Religious Corporation Law, the Book of Order, or otherwise, and in consideration thereof the Presbytery shall convey, quit claim and release to the Church any and all interests and claims which the Presbytery may have in and to any fund, account, investment or certificate of deposit of the Church, subject to such conditions or restrictions as to investment and use as may have previously existed, and in and to any other property, asset, right or interest of the Church of any nature real or personal or otherwise.
6. The Church hereby assumes and covenants to pay as due any debt, loan, obligation, mortgage, liability or other claim incurred in the name of the Church, and hereby agrees to indemnify, hold harmless and release the Presbytery and the PCUSA with regard to any claim relating to any such debt, loan, obligation, mortgage, liability or other claim.
7. In addition to the foregoing, the Church agrees to be responsible for and pay as due any costs associated with the separation and transfer of property, including but not limited to property appraisals, filing fees and court costs, and the reasonable attorney's fees of both the Church and the Presbytery.
8. The Church acknowledges that certain records of the Church are property of the PCUSA and agrees to cooperate and work with the Presbytery so as to provide the Presbytery, for the benefit of the Presbytery and the PCUSA, either the originals or copies of (a) records relevant to the founding and establishment of the Church as a Presbyterian congregation, (b) Session minutes since establishment as a Presbyterian Church, and (c) Church rolls (the full register of pastors, officers, members, marriages, deaths, baptized members, inactive members, etc.) since establishment as a Presbyterian Church. If the original records are provided to the Presbytery, the Church may, at its own expense, make copies of such records. If the Church chooses to retain the original records, it shall be responsible for the expense of making copies of such records (one set) to be stored at the archives of the Presbyterian Historical Society in Philadelphia, Pennsylvania. The Church covenants and agrees that the foregoing submission of records shall be completed within six months of the date of its separation from the Presbytery and the PCUSA.
9. Each party to this Agreement acknowledges and represents that it has received and relied upon independent advice from professionals of their own choice as to any legal, tax, financial or other consequences of any kind arising out of this Agreement, and that the terms of this Agreement are fully understood and voluntarily accepted.



10. Each party agrees to cooperate fully with the other and to execute any and all additional documents and to take such additional actions as may be necessary or appropriate to effectuate and give full force and effect to the terms and intent of this Agreement.

This Agreement is effective as of the date that both the Presbytery and the Church have signed below.

Mendon Presbyterian Church, Inc.

By: \_\_\_\_\_ Date \_\_\_\_\_

Presbytery of Genesee Valley, Inc.

By: \_\_\_\_\_  
Stated Clerk \_\_\_\_\_ Date: \_\_\_\_\_

STATE OF NEW YORK  
COUNTY OF MONROE

On this day of \_\_\_\_\_, 2022, before me, the undersigned, a notary public and for the State of New York, personally appeared \_\_\_\_\_ personally known to me or provide to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that s/he executed the same in his/her capacity and that by his/her signature on the instrument the individual or person on behalf of which the individual acted, executed the instrument

Notary Public

STATE OF NEW YORK  
COUNTY OF MONROE

On this day of \_\_\_\_\_, 2022, before me, the undersigned, a notary public and for the State of New York, personally appeared SUSAN ORR, personally known to me or provide to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that s/he executed the same in his/her capacity and that by his/her signature on the instrument the individual or person on behalf of which the individual acted, executed the instrument

Notary Public

## Appendix C

### *BIG PICTURE TEAM (BPT) RECOMMENDATION TO PRESBYTERY*

The Big Picture Team (BPT) recommends that the Presbytery concur with the recommendations of Committee on Ministry and the Board of Trustees to dissolve the relationship between the Presbytery of Genesee Valley and Mendon Church and accept the terms of dissolution as outlined in the Mendon Discernment Team Report dated February 28, 2022.

### *Rationale of BPT*

BPT believes the Committee on Ministry (COM) did its due diligence in calling the Discernment Team, walking with the Team through the process, and approving the Team's recommendations. The Trustees were in negotiations with Mendon Church throughout the discernment period and concurred with the COM recommendations.

BPT members had significant conversation about the COM recommendations and unanimously concurred. Although the BPT approval was unanimous, the discussions spurred some challenging and reflective comments on aspects of the request, including recognizing the following:

- There has been long-term distancing by the Mendon Church from PC(USA) and some members expressed regret at the lack of effort to reconcile these differences earlier.
- There is a gap between the financial settlement of \$113,000 and the assessed book value of Mendon Church. [NOTE: An assessment in December 2021 reset the market value to \$890k.] BPT recognized that the congregation received no assistance from Presbyterian sources in erecting their Cheese Factory Road building and that the cost was solely borne by membership.
- Some members of Mendon Church expressed frustration that the Presbytery does not have programs to support struggling churches. BPT believes Presbytery continually offered participation in Vital Congregations and other programs which have been great assistance to other congregations.
- BPT has concerns about the challenges of PC(USA)'s stance on social issues and how the future ministry of Mendon Church might respond, including the lack of inclusive welcome for members of the LGBTQ+ community.
- At this time, Mendon Church's membership is low. There was concern about legal ramifications if, going forward, they cannot support their ministry. Trustees advised that New York State Religious Corporation law requires any dissolving 501(c)(3) organization to relinquish all assets to another 501(c)(3) organization.

## Appendix D

### PRESBYTERY OF GENESEE VALLEY COMMITTEE ON MINISTRY

#### *Guidelines and Procedures for Reconciliation or Dismissal of Its Member Congregations*

##### Introduction

The 218<sup>th</sup> General Assembly (2008) of the Presbyterian Church (USA) urged that presbyteries and synods develop and make available to lower governing bodies and local congregations a process that exercises the responsibility and power of "dismissing or dissolving" churches in consultation with their members" (*Book of Order, G-3.0301a*) It urges congregations considering whether or not to leave the denomination, presbyteries and synods to implement a process that makes use of the following principles:

*Consistency:* The local authority delegated to presbyteries is guided and shaped by our shared faith, service, and witness to Jesus Christ.

*Pastoral Responsibility:* The requirement in G-3.0301a to consult with the members of a church seeking dismissal highlights the presbytery's pastoral responsibility, which must not be submerged beneath other responsibilities.

*Accountability:* For a governing body, accountability rightly dictates fiduciary and connectional concerns, raising general issues of property (G-4.02) and specific issues of schism within a congregation (G-4.0207). But, full accountability also requires preeminent concern with "caring for the flock."

*Gracious Witness:* Scripture and the Holy Spirit require a gracious witness from us rather than a harsh legalism.

*Openness and Transparency:* Early, open communication and transparency about principles and process of dismissal serve truth, order, and goodness, and work against seeking civil litigation as a solution.

The Presbytery believes that trying to exercise this responsibility and power through litigation is detrimental to the cause of Christ. It affects the local church, other parts of the Body of Christ, ecumenical relationships, and our witness to Christ in the world around us.

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Therefore, as requested, after study and meeting, we, the appointed Ministry Team of the Presbytery of Genesee Valley, recommend that the following process with its particular guidelines and procedures be followed by the Presbytery of Genesee Valley. This process would apply when any particular member congregation believes it is no longer able to remain faithful to its calling as a Church of Jesus Christ within the PC(USA) denomination and is considering and or is actively seeking dismissal from the PC(USA).

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### **Belief and Affirmation**

The Presbytery of Genesee Valley desires to be in faithful communion with all the pastors, sessions and congregations committed to its care. We recognize however our unity in Christ is being tested, and our ability to work together in mission is being tried. We covenant that even in times of disagreements and conflict we will seek to uphold one another, build up one another, respect one another and love one another to the end that Christ Jesus is honored and His mission is fulfilled. In all such contexts the Presbytery is committed to seeking reconciliation. We will celebrate and rejoice when such is achieved. If however, such efforts do not succeed and a congregation chooses to seek dismissal from the Presbyterian Church (USA), the Presbytery is committed to providing a faithful and equitable process through which a member congregation with or without its property may be dismissed graciously as a reformed witness in its community.

Our Book of Order clearly states a principle of our Presbyterian beliefs:

“The power that Jesus Christ has vested in his Church...is one for building up the body of Christ, not for destroying it...so that the Great Ends of the Church may be achieved, that all children of God may be presented faultless in the day of Christ.”  
(D-1.0102)

We believe and we affirm that the Church is characterized by pure preaching of the gospel in accordance with the apostolic witness of Scripture, right administration of the sacraments, and gentle church discipline, bound and loosed. We believe that our unity, purpose, and mission are in Jesus Christ and nowhere else.

We believe and we affirm that the Great Ends of the Church found in *F-1.0304* of our Book of Order summarize the mission of our presbytery and its member congregations.

**Profession...** Borrowing (adapting) language from the Book of Order ...

We profess that the Church is the body of Christ, both in its corporate life and in the lives of its individual members.

We profess that the Church of Jesus Christ is the provisional demonstration of what God intends for all of humanity.

We profess that the Church is called to be a witness to the world of the new reality that God has made available to people in Jesus Christ.

We profess that the new reality revealed in Jesus Christ is the new humanity, a new creation, a new beginning for human life in the world:

We profess that

Sin is forgiven.

Reconciliation is accomplished.

The dividing walls of hostility are torn down.

We profess that the Church is called to give shape and substance to this truth.

We profess that the Church is further called to undertake this mission even at the risk of losing its life, trusting in God alone as the author and giver of life, sharing the gospel, and doing those deeds in the world that point beyond themselves to the new reality in Christ.

**Lamentation...**

From its beginning the Church has experienced controversy and division. Men and women of good will and sincere faith disagreed. Paul and Barnabas had to separate for a season in order to continue their respective ministries (*Acts 15:39*). The church of Jesus Christ divided into three great traditions: Protestant, Catholic and Orthodox. The Protestant tradition again divided into Anglican, Lutheran, Reformed (Presbyterian), Anabaptist communions and certain others.

We lament that the Church, as we know it, experiences and struggles with divisiveness, animosity and mistrust.

**In the midst of the despair of division, and with the hope of reconciliation...**

We believe and we affirm that the particular churches of our Presbytery have the authority to make their own decisions concerning how they are called to accomplish the Great Ends of the Church. This includes but is not limited to decisions about their programs and ministries, the use of their finances and property, their style of worship and education and their denominational affiliation. Except for the provisions of the Book of Order that commend oversight, we affirm that these guidelines and procedures are not to interfere with such authority and decision-making.

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We acknowledge that the distribution of property or assets is a particular concern when a congregation is considering or is actively seeking dismissal from the PC(USA). We affirm that decisions affecting ownership of property are subordinate to, and should support our spiritual unity in Christ, and that whenever particular churches pursue the Great Ends of the Church they are in fact using their property to the glory of God and for the benefit of this Presbytery, of the PC(USA) and of the Church Universal.

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Mindful of its obligations under Chapter G-4 of the Book of Order, the Presbytery resolves and agrees that, as the party empowered to administer the trust provisions set forth in G-4.0203, we will seek to resolve issues relating to the disposition of property by all means possible before taking any action in civil courts to enforce such trust provisions as to any property, real or personal, held by a particular church. In any discussions or negotiations relating to the disposition of property subject to such trust provisions, consideration shall be given to whether or not there is any outstanding indebtedness by the particular church to the Presbytery; whether the Presbytery is a surety or guarantor with respect to any outstanding loan or obligation incurred by that church; and the history of "investment" by the Presbytery in the development and growth of the church.

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As a Presbytery, we recognize that Chapters 3.0301a, 4.0204 and 4.0205 of the Book of Order provide that congregations may be dismissed from the denomination and that the presbytery may transfer or sell the property to the congregation upon its dismissal. We affirm to each Congregation their right to seek dismissal and we ask all of our congregations to act with love, forbearance, dignity and discretion in pursuing this right. Specifically, in light of the Presbytery's above mentioned affirmations, we ask our congregations to defer any action in secular courts.

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In the Spirit of the Apostle Paul, we seek first to arbitrate disagreements as brothers and sisters in Christ before seeking civil remedies afforded by law in the State of New York.

We affirm that it is our policy not to take any action to remove a pastor or session as a result of a decision to withdraw or seek dismissal in order to gain more control of the outcome of the situation. Such action would only be taken if there is clear and unequivocal evidence that the pastor(s) and or session are acting in manners or making decisions that are clearly contrary to the will of the congregation or accepted

procedures and protocols of our Book of Order. If any action is found to be contrary to or in violation of our PC(USA) Constitution by any person or committee, we hereby covenant and agree to seek discipline of that person or persons according to the disciplinary rules and process of the PC(USA).

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At all times and in all circumstances it is incumbent upon the Presbytery and its congregations to treat each other respectfully and pastorally and thus represent and give witness to the Love of Christ that we each profess.

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## Procedure

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It is the will of this Presbytery to create a gracious context and procedure in which the will of God is sought for the life, ministry, and calling of the particular congregation. The Presbytery commits itself and invites all of its congregations to pursue a broad understanding of God's mission with graciousness befitting those who claim Jesus as Lord. And acting together we seek to further the peace, unity and purity of the Church, minimizing confrontation while we seek to discern and follow the will of Christ.

In all matters relating to this subject, the following questions will be deemed paramount:

- ☐ Is God leading this particular congregation toward restoration of fellowship with the Presbyterian Church (USA) or to seek dismissal from the denomination? And
- ☐ If God is leading this congregation toward restoration of fellowship with the Presbyterian Church (USA), how can that be accomplished in a way that honors Jesus Christ and strengthens both the Congregation and the Presbytery?
- ☐ If God is leading this congregation to seek dismissal from the Presbyterian Church (USA), how can that be accomplished in a way that honors Jesus Christ and strengthens both the Congregation and the Presbytery?

The Presbytery asks any session seeking or considering dismissal from the denomination to covenant with the Presbytery to enter into a defined process of mutual discernment. To seek such discernment adequately will require significant time and energy. We believe that a matter of this magnitude deserves such attention and prayer. We believe the Presbytery and the Congregation will benefit from this time of discernment regardless of the specific outcome.

This process is based on the willingness of all parties to join together in discernment of God's will and to work towards a mutually agreeable implementation of what they determine God's will to be. This process will require a high level of trust, communication, openness, and love. It will be this atmosphere of mutual respect, deep conversation and prayer that forms the basis of a two-phase procedure between the Presbytery and the Congregation for their discernment work. The two phases are a time of listening and a time of resolution. The entire process should take no less than four months and no more than one year. This process will begin upon the full formation and training of the Discernment Team. At the conclusion of the process, the Discernment Team will report to the Presbytery and the Congregation on reconciliation, or will make a recommendation to the Presbytery to honor the request for dismissal or dissolution. Such recommendation will need to be ratified by vote of the Congregation and the Presbytery.

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In light of these beliefs and affirmations The Presbytery of Genesee Valley will use the following procedure regarding particular congregations who for reasons of conscience and faith are considering or are actively seeking dismissal from the PC(USA).

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### Initiation of the Procedure

When the leadership of the Presbytery becomes aware (either through contact with the pastor(s), the session, or members of the congregation) that a congregation or its leadership is seriously questioning their

continued relationship with the Presbytery or the PC(USA), the Committee on Ministry will initiate the discernment process.

**Formation of the Discernment Team:**

The Committee on Ministry, in consultation with the Presbytery Council and the Moderator of the Presbytery, will appoint a team of 5-7 members to be known as the "Discernment Team". Team size and membership will vary according to the situation and will depend on the number of people or groups with which the Team will be meeting. The Committee on Ministry will supervise the work of the Discernment Team.

**Functions of the Discernment Team:** The Discernment Team will ....

work with all parties in the situation through a two-phase discernment process of listening and resolution.  
participate in open discussions on the issues and exploring possible options with the intent of promoting peace and harmony.

first meet with the Pastor(s) and the Session, and then with members of the Congregation, as appropriate, offering respect and sensitivity in the discernment process and encouraging openness to the guidance of the Holy Spirit.

offer pastoral care, both to those members who believe themselves called to seek dismissal and those who believe themselves called to remain.

keep all parties (Pastor(s), Session, and Team members) informed in writing, (i.e., electronic or hard copy) of the issues and concerns raised in the discussions.

be present with voice during any interactions of the Congregation (including, but not limited to, congregational meetings, town hall meetings, and gatherings of any nature) when the agenda of such interactions includes topics specifically related to reconciliation or moving toward dismissal from the PC(USA).

keep an accurate record of all its proceedings and its progress with the Congregation and report such periodically to the Committee on Ministry, who has oversight of its work on behalf of the Presbytery.

As mentioned, the discernment process will consist of two phases: listening and resolution. A brief description of each phase follows.

**Listening Phase:**

Once the Discernment Team has been formed, it will engage the Pastor(s), Session and Congregation in a time of prayer and discernment aimed at listening to the concerns of the leaders and congregation, understanding the conflict, expressing the Presbytery's concerns and identifying possible steps toward reconciliation. Our desire is to develop a process for mutual discernment of God's leading that involves the pastor(s), session, the congregation and the Presbytery in this phase. An important goal of this phase is to ensure that all voices are heard, including the smallest of minorities. During this phase the Discernment Team will encourage a special congregational meeting be called in order to keep the Congregation informed on the issues and to provide open and honest discussion on the issues. While the quorum for congregational meetings is set by rule of the congregation (G-1.0501), it is expected that at least fifty percent of the active members will participate in any special congregational meeting called for the purposes covered by this policy. Further, it is expected that any vote taken be done by secret ballot. A 2/3 majority vote of the members of the congregation that are present shall be needed for approval of the request for dismissal or dissolution and terms thereof. The Discernment Team will ensure a safe forum, free from pressure and intimidation, for all to express their thoughts and feelings. It is hoped that during this Listening Phase reconciliation and restoration to fellowship will be accomplished. When that is the case the following are suggestions for celebrating that reconciliation:

- ☐ Conducting a public service of worship and recommitment to shared fellowship and ministry, with participation from Presbytery and the Congregation.
- ☐ Sharing of story and testimony from members of the Discernment Team and Congregation at the congregational and presbytery level (and beyond, if appropriate).
- ☐ Blessing and commissioning of any minority that leaves the local congregation (to the extent possible), in the hope of maintaining bonds of peace.

**Resolution Phase:**

Following a time of listening, there may be a situation where a Session and Congregation (or some group of members thereof) do accurately understand the policies and stances of the Presbytery and PC(USA) and simply disagree with them and decide that they cannot in good conscience remain in the denomination. At that time the discussion will move to a Resolution Phase.

This phase will clarify the needs/choices of the members of the Congregation and the ramifications/consequences of such choices and will help the congregation identify and resolve all issues requiring attention in order to move forward in the chosen direction. The Discernment Team will request that a second congregational meeting be called in order to keep the congregation informed on the progress of the discussions, and provide information to the congregation in order to assist it to make prayerful and informed decisions relative to its future ministry.

The process of gracious separation will be guided by the additional following principles based upon our Presbyterian polity:

- ☐ The unity we have in Christ and the relational nature of our polity require dialogue between and among governing bodies, congregations, pastors, and members, and the nature of dialogue requires faithful participation by all concerned. This faithful dialogue must be based on trust and love (G-1.0102)
- ☐ The mission of the Kingdom of God and not the maintenance of any particular institution is our highest calling.
- ☐ The particular institution of the PC(USA) embodies important principles and structures which have furthered and continue to further the Kingdom of God and should not be cast aside lightly.
- ☐ The local congregation is the primary mission unit of the Presbytery, and issues of property and assets are always secondary to people and mission.
- ☐ All decisions regarding property and finance will not be abdicated to the local congregation.
- ☐ Property is maintained and administered locally by the congregation on behalf of the denomination.
- ☐ Accountability and connection shall be maintained by shared, representative leadership and oversight.
- ☐ Regarding issues of conscience, all parties must be willing to confront difficult realities, confront perceived breaches of mistrust, and consider the ongoing health and viability of the other.
- ☐ Property and asset issues will be approached in such a way as not to constrain local congregations in their ability to do mission and ministry.
- ☐ Property and asset issues will be approached in such a way as not to constrain the Presbytery's ability to do mission and ministry in any given locality under its jurisdiction.
- ☐ Dismissal is the process to another Reformed body and dissolution is the only process to independence, for example, to be a "community church".

After such time has been allowed for all of the aforementioned questions and issues are dealt with, a third congregational meeting shall be called in order to officially request the Presbytery to approve all the changes previously proposed. After the congregational meeting, and the congregation's approval of passing the request to Presbytery, the Discernment Team and representatives of the Congregation seeking dismissal shall present to the Presbytery through the Committee on Ministry a formal request for dismissal or dissolution and the motions needed to accomplish a gracious separation.

The dismissal or dissolution of a congregation will be a significant event. It behooves the parties involved through our mutual calling of respect and compassion for one another in Christ that each party consider the appropriate support and services rendered to each other in previous years of their relationship when making the request.

This request shall:

- ☐ Specify how the separation will affect all the assets, liabilities, debt liquidations, pension issues, preservation of church records, corporate and other interests of all the parties involved, and the steps taken (or to be taken) to properly handle them, and
- ☐ Specify the pastoral care offered to any pastor(s) and/or any staff who choose not to be dismissed from the Presbytery and the PC(USA), and

- Specify that financially, to care for any pastor(s) and any staff who choose not to be dismissed from the Presbytery and the PC(USA), the Congregation being dismissed has committed itself to continue the salary, benefits, and allowances of such person(s) for a period of at least six (6) months following the date of dismissal by the Presbytery, unless a given contract would expire under its terms within that six month window of time. and
- State the civil processes and/or ecclesiastical processes and procedures required for the church to join another Reformed body or to become a non-affiliated Reformed witness in its geographical community.

Please refer to Appendix A for some legal and civil considerations that will need to be addressed as a result of dismissing or dissolving a congregation. The document has been compiled by the attorney for the Presbytery of Genesee Valley as an aid. The document should not be considered as all inclusive, but should be the starting point for necessary legal steps to be taken by those involved in such actions. Specific situations may involve unique requirements for legal actions.

In the event that any congregation is approved for dismissal or dissolved under the terms of this policy, the Presbytery and the Congregation shall take all steps possible in order to provide for the pastoral care and congregational life of those members who do not wish to depart the Presbyterian Church (USA). Their protection and nurture shall be a matter of paramount concern to both the departing congregation and the Presbytery.

In the event that any congregation's request for dismissal or dissolution is approved under the terms of this policy, the Presbytery shall, in conjunction with the Congregation, hold a final worship service to celebrate our common life in Jesus Christ and to pray for the effectiveness and well-being of both the Congregation and the Presbytery.

## **APPENDIX A**

*(from Guidelines and Procedures for Reconciliation or Dismissal of Its Member Congregations)*

### **LEGAL AND CIVIL CONSIDERATIONS IN SEPARATION OF CHURCHES FROM PRESBYTERY OF GENESEE VALLEY AND PC(USA)**

The process of discernment and resolution, and the action by the Presbytery approving the separation of a particular Church or Congregation from the Presbytery and the PC(USA), necessarily should consider applicable corporate and property issues under New York State Law. The action of Presbytery, in voting to dissolve or dismiss a particular church does not affect any change in the corporate documents, in applicable statutory provisions, or in title (as reflected in recorded Deeds). It is important that these issues be addressed, as failure to do so would adversely affect a church's ability to sell, mortgage or otherwise deal with its property.

## **Corporate Organization Issues**

### **Statutory Background.**

In New York State, Presbyterian Churches associated with the PC(USA) are incorporated under Article 4 (§§ 60 – 70) of the Religious Corporations Law (abbreviated as "RCL"). Section 60 of that law provides that the Article applies "only to a Presbyterian church in connection with the General Assembly of the Presbyterian Church (U.S.A.)." The initial incorporation process requires the filing of a certificate of incorporation in the Office of the Clerk for the County in which the church is located, and that certificate recites, for a Presbyterian church, that the church is being incorporated under Article 4 of the Religious Corporations Law.

The provisions of Article 4 and other "General Provisions" of the RCL "mirror" the trust clause and other property provisions of Chapter G-4 of the Book of Order, including:



- Section 69, paragraph 3, provides that the Trustees of an incorporated Presbyterian Church “...shall have the custody and control of all the temporalities and property belonging to the corporation and of the revenues from such property and shall administer the same in accordance with the constitution of the Presbyterian Church (U.S.A.), and with the provisions of law relating thereto.” (Emphasis supplied.)
- Section 12 of the RCL (in Article 2, General Provisions) relates to the sale, mortgage or lease of the real property of a church. Paragraph 1 of that section provides that:  
“A religious corporation shall not sell, mortgage or lease for a term exceeding five years any of its real property without applying for and obtaining leave of the court therefor ...

And Paragraph 5-a of that section then states:

“The trustees of an incorporated Presbyterian church in connection with the General Assembly of the Presbyterian Church (U.S.A.) shall not make application to the court for leave to mortgage, lease or sell any of its real property without the consent in writing of the particular Presbytery with which said church is connected.” (Emphasis supplied)

- Section 17-b of the RCL relates to the disposition of property of an “extinct” or dissolved Presbyterian church and states in relevant part:  
“Whenever the presbytery having jurisdiction over a particular church in connection with the General Assembly of the Presbyterian Church (U.S.A.) dissolves or declares extinct the particular church, upon petition by the presbytery to the supreme or county court and upon satisfactory proof of the facts leading to said dissolution, the court shall have jurisdiction to grant an order to the effect that all property of whatever kind which may have belonged to, or have been held by, said church shall vest in the presbytery of jurisdiction in as full and ample a manner as the same shall theretofore have been vested in the church so declared to be dissolved and extinct.”

There are numerous other Articles of the RCL which specifically relate to incorporation of churches of other denominations – for example, Protestant Episcopal (Article 3); Roman Catholic (Article 5); Reformed Dutch, Reformed Presbyterian and Lutheran Churches (Article 6); Baptist (Article 7); and Churches of the Holy Ukrainian Autocephalic Orthodox Church in Exile (Article 8-B). And there are two Article which apply to “other” churches – “Independent” churches (Article 8 - Churches of the United Church of Christ, Congregational Christian and Independent Churches) and Other Denominations (Article 10).<sup>1</sup>

Interestingly, there are no provisions in the RCL which refer to or which would in any way provide for “dismissal” of a church by the Presbytery to another denomination, nor are there any provisions relating to the “amendment” of a certificate of incorporation so as to change the Article of the RCL under which a church operates as a corporate entity. It thus would appear that a Presbyterian church could not unilaterally simply amend its Certificate of Incorporation, and thereby become an “independent” or “community” church, or even, by such an amendment, “connect” themselves with another denomination. A few years ago, the Oakfield Church attempted to amend its Certificate of Incorporation, and thus claim that the Presbytery no longer had any jurisdiction over it, and the Court found that such an amendment was not proper and declared the amendment to be null and void.

#### Suggested Process

There would appear to be two different approaches which could be taken in order to accomplish a “re-incorporation” of the church, depending upon the nature of the agreed separation:

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<sup>1</sup> Section 172 in Article 8 states that: “This article applies only to churches of the United Church of Christ, Congregational Christian churches, whether or not part of the United Church of Christ, and Independent churches.” Article 10 of the RCL specifically provides that it “is not applicable to ... a Presbyterian church in connection with the General Assembly of the Presbyterian Church in the United States of America.”

- A. Incorporation of new religious corporation. The heart of this process would be the incorporation of a new religious corporation under the applicable Article of the Religious Corporations Law and, contemporaneously, dissolution of the old “Presbyterian” corporation.<sup>2</sup> Typically, this would be the relevant process when a Church is not being “dismissed” to another denomination but is either becoming an independent or “community” church, or is proposing to associate with a denomination to which “dismissal” is not authorized under the Book of Order.

1. The incorporation process itself is fairly simple and does not require any Court approval or other judicial action. The specific process and requirements, contents of certificate of

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incorporation, etc., are spelled out in either Article 8 (“Independent” churches) or Article 10 (“Other Denominations”) of the RCL, or in the specific Article applicable to the denomination with which the church proposes to associate. The certificate of incorporation is filed with the Clerk of the County in which the Church is located. Costs are minimal.

2. The old “Presbyterian” Church is then dissolved pursuant to Section 17-b of the RCL (see above). This does require a Petition to Supreme Court, and the costs are more significant – attorney time for preparation of Petition and Order, filing fees, etc.

Note that incorporation of the new Church and dissolution of the old one does not affect any transfer of title to real property. See the next section for a description of that process.<sup>3</sup>

- B. Court Approval of Change to Certificate of Incorporation (Dismissal). Where the agreed separation involves the “dismissal” of a church to another denomination, as authorized by the Book of Order, Court approval of the change is recommended. This would probably involve a “joint” Petition by both the Presbytery and the Church, and the resulting Order could specifically authorize the filing of an amended or restated Certificate of Incorporation, under the applicable Article of the RCL. (For example, Article 6 of the RCL, if dismissal is to the Reformed Presbyterian Church.) Because the system of government for each denomination can vary considerably – particularly with regard to the title of the governing body (the Session, in PCUSA churches, but the “deacons” in other denominations) and trustees (which may or not be a separately elected body) – it is recommended that an attorney be consulted to ensure that all necessary changes are identified and then addressed in the Court Order and proposed amended or re-stated Certificate, and that any “transition” issues are addressed.<sup>4</sup>

## Real Property Transfer Issues

### Statutory Background.

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<sup>2</sup> It is possible, however, that there could be a circumstance in which the existing Presbyterian church could continue as a corporate entity if, for example, there was a group of members who wished to continue as Presbyterian.

<sup>3</sup> This process – the incorporation of a new religious corporation and dissolution of the old one – is essentially what occurred with the Canaseraga Church. Although that was a “federated church” - a “troika” comprised of a Presbyterian church, a Methodist church and a Baptist church - the real property was still titled in the name of the First Presbyterian Church of Canaseraga. The congregation determined that it wanted to be a true “community” church, not associated with any of the three denominations. A new religious corporation was then formed and the Presbyterian church was dissolved. The ultimate outcome to the Oakfield situation also involved the incorporation of a new church and dissolution of the old one.

<sup>4</sup> This process – joint Petition by the Presbytery and the Church, and a resulting Order providing for the corporate change – is essentially what occurred with the Parsells Avenue Church. That was also a “federated” church (Baptist and Presbyterian), but there the congregation wished to remain in connection only with the Baptist denomination. The joint Petition, reciting the agreement of separation between the parties, resulted in a Court Order terminating the “Covenant of Union” and dissolving the affiliation with the Presbytery and the Presbyterian Church (USA).

As discussed above, Section 12 of the RCL, and specifically Paragraph 5-a, provides that any mortgage, lease (for more than 5 years) or sale of real property by a Presbyterian church requires Presbytery consent, as a pre-condition to Court approval. This requirement has been interpreted broadly to include any transfer or conveyance of an interest in real property, including such things as easements. Section 17-b of the RCL, also discussed above, provides that any real property of an “extinct” or dissolved Presbyterian church “vests” in the Presbytery, upon “satisfactory proof” of the facts leading to dissolution, and a Court order.

A change in the “corporate structure” of a church which is separating, as outlined above, does not effect a change in property title. Given the statutory provisions set out above, Court approval is required in order for such any change in title to take place. However, in the case of a separation in which there is a “dismissal” and court approval of the corporate change, it should be possible to consolidate, in one Petition, the request for the corporate change and any request for approval of the

transfer of real property. Likewise, in the same Petition the Presbytery could request that the Court approve the dissolution and vesting of property title in Presbytery, and the conveyance of the property to the new church corporation.

#### Suggested Process

The following is the suggested process for accomplishing a change in title of real property in accordance with an agreed separation:

- A. Where Incorporation of new religious corporation. In the case of the incorporation of a new religious corporation, and an agreed plan of separation that provides for retention by the church of real property, the following are the necessary steps:
  1. The Presbytery will need to apply to the Court for (i) dissolution of the old Presbyterian church (which vests the property in Presbytery); and then (ii) conveyance of the real property to the new church corporation for the agreed consideration (if any). This can be accomplished in one Petition and Order.
  2. The Order is recorded in the County Clerk’s Office, in the Book of Deeds, so that there is a permanent record as to the Court approval.
  3. A Deed conveying the real property will be executed by the Presbytery (typically by the Chair of Trustees) and delivered to the new church, and recorded in the County Clerk’s Office.
- B. Where Court Approval of Change to Certificate of Incorporation (Dismissal). In the case of “dismissal” of a church, in accordance with an agreed plan of separation, and change to the certificate of incorporation by Court Order, the request for approval of the transfer of title of real property to the dismissed church can be included in the joint Petition requesting approval of the change in corporate structure. As in “A” above, the Court Order would be recorded in the Book of Deeds, and a Quit Claim Deed from the Presbytery to the Church would also be recorded, making a permanent record of the fact that the Presbytery no longer had any interest of any kind in the property.

## **Other Related Issues**

As part of this transfer process, consideration must be given to any other issues which could affect the real property of the church or the Presbytery’s interest in such property, including such things as:

- A. Outstanding obligations of the church to the Presbytery (such as loans from the Revolving Loan Fund). Given the trust clause in the Book of Order, and the New York State statutory provisions discussed above, loans have generally been made from the Revolving Loan Fund without any requirement for a mortgage. If the Presbytery no longer has any interest of any kind in the property, consideration will need to be given either to payoff of the outstanding loan, or the execution and recording of a mortgage to the Presbytery as security for the loan.
- B. Guarantees by Presbytery of loans to the church. Loans from the General Assembly loan program (PILP) or the Synod loan program, generally require a Presbytery guarantee, and occasionally commercial loans may involve such a guarantee. The terms of the GA and Synod loan programs may require that any outstanding balance be paid off, if the church is no longer connected to the PC(USA), but if not, a release of the Presbytery guarantee should be obtained.
- C. Commercial mortgages. If a new religious corporation is formed, transfer of the property to the new church corporation may trigger a "due on sale" clause in the mortgage document, requiring that the outstanding balance be paid off immediately. Discussion with the lender, prior to any action, would be highly recommended. Although a change in the corporate structure per Court order may not have the same effect, consultation with the lender would be recommended, to avoid unnecessary problems.
- D. Insurance. Most churches in this Presbytery are covered by a Master Policy issued in the name of the Presbytery, which is predicated on all of the covered churches being part of Presbytery and subject to the statutory provisions discussed above. Separation from Presbytery will terminate eligibility for coverage, and new coverage should be arranged as early as possible.
- E. Restrictive covenants or conditions. Gifts to the church – including bequests of money or stock, or conveyances of real property – may include conditions or requirements that restrict the use of such gifts to a particular purpose that is specific to the "\_\_\_\_\_ Presbyterian Church." Any documents relating to such gifts – Wills, Trust Agreements, Deeds, letters of instruction or intent – should be reviewed, as continued use of such gifts by the church may require, or make it advisable, that a "release" of such conditions, and approval of the "new" use, be obtained, either from the donor or even by Court Order, which may also require notice to and approval by the Office of the Attorney General.
- F. The Presbytery retains ownership of all historical records of its congregations and may request the records' return from congregations seeking dismissal, with written authorization of the Stated Clerk.

Researchers who want to use any records less than 50 years old will need the written permission of the Stated Clerk. The Presbytery of Genesee Valley grants the Clerk of Session of the congregation seeking dismissal standing permission to read, review, and request reproduction of those records, including but not limited to, those from the last 50 years. This permission cannot be revoked.

*(Item "F" added per Big Picture Team on April 23, 2018)*

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October 2011

Approved by Committee on Ministry 10/31/11  
Approved by the Presbytery of Genesee Valley 11/29/11