

#### 4 ADDITIONAL ITEMS FOR MAY 3 MEETING OF THE PRESBYTERY

##### Under COM (2 items)

**7. At the request of the session of King Hill, COM recommends to Boise Presbytery that they reactivate the commission of Randy Marshal to serve as CLP for the King Hill congregation in order to moderate their session.**

8. COM recommendation regarding approval of a restorative justice meeting/circle.

Background: In early 2000, a 17-year-old girl who was a member of a church in our Presbytery reported to a pastor while attending a church youth camp that she had been inappropriately touched by her youth minister, a clergy member of the Presbytery of Boise ("POB"). The pastor reported the "accusation" to the Stated Clerk of the POB and an investigative committee ("IC") was formed by the POB. The youth minister was immediately placed on administrative leave. Upon investigation, which included multiple interviews of the victim and the youth minister, the IC determined that the accusation had some measure of merit. The IC attempted to resolve the matter through "an alternative Form of Resolution" (D-2.0103) with the youth minister. An agreement was drawn up which contained action steps that needed to be taken by youth minister to be reinstated into full active membership in the POB ("Reconciliation Agreement"). Part of the Reconciliation Agreement required the youth minister to undergo a psychological evaluation by an agreed-upon psychologist and attend counseling. If, and only if, the youth minister complied with the terms of the Reconciliation Agreement, then the IC would forego formal charges pursuant to the Book of Order, Rules of Discipline. Beginning on the date of the allegation, the youth minister was placed on administrative leave and was not permitted to seek a call in the PCUSA. The Reconciliation Agreement was signed by the youth minister, the victim and IC. The Committee on Ministry ("COM"), the POB staff and IC worked with the youth minister to encourage him to fulfill the terms of the Reconciliation Agreement, but the youth pastor was largely uncooperative and did not complete certain terms of the agreement.

The church which previously employed the youth minister terminated the youth minister position very soon after the allegations came out. The former youth minister moved to California which complicated further communications with him regarding his compliance with the Reconciliation Agreement. Because the former minister was not living up to his side of the agreement, the IC decided to file formal charges. The case went to trial in November 2005. Ultimately, the charges were dismissed because of a procedural error; specifically, the IC minutes did not confirm whether they had advised the accused that he had a right to have counsel present each time they met. Pursuant to the Book of Order, Rules of Discipline, this required dismissal of the charges. As the Presbytery is aware, the POB was not at liberty to disclose the allegations to any other churches, PCUSA or otherwise. In fact, the POB was never asked about the allegations by any other person or entity.

For several years, the minister asked to be restored to active membership. Although the charges were dismissed, he separately failed to meet the requirements and take the restorative actions required for full reinstatement of active membership within the POB. Since 2000, the POB restricted the minister from serving as a Minister of Word and Sacrament in a PCUSA congregation or any other PCUSA body, and he never did serve in that capacity. He was not permitted to take a call with any PCUSA

congregation or body. On August 21, 2010, the minister “renounced the jurisdiction of the PCUSA” and the entire POB body voted to formally remove him as a Minister of Word and Sacrament very soon thereafter. Since then, and unbeknownst to the POB until late 2021, the accused has reportedly done some pulpit supply in non-Presbyterian churches, as well as one PCUSA church of which we are aware.

In May of 2020, the stated clerk of POB received an email from the Ada County prosecutor saying he had been contacted by the victim. The victim asked whether charges could be filed against the accused and perhaps the POB. The prosecutor stated from the very beginning that he was not interested in pursuing any charges against the POB and did not believe there was a valid basis for criminal charges against it. Subsequently, the stated clerk received a Grand Jury Subpoena requesting documents from the POB/IC’s investigation and handling of the case. The purpose of the subpoena was for the prosecutor to determine whether charges could be filed against the youth minister, not the POB. At that point, the COM retained an attorney to assist in responding to the subpoena and to handle communications with the prosecutor. Following the response to the subpoena and production of documents (which were redacted as appropriate) the prosecutor sent our attorney a letter advising that the State would not be bringing charges against the youth minister or the POB. However, the prosecutor recommended that we enter a “restorative justice process or circle” with the victim because she had requested to “talk with the Presbytery.”

The purpose of the restorative justice process/circle is to facilitate a face-to-face meeting with the victim and members of the POB to hear the victim’s story and the pain associated with the alleged misconduct, to offer compassion and understanding on both sides, to answer questions about the “disciplinary process” that the POB took in the case, and finally to move toward reconciliation with the victim and the POB.

In the interest of the victim and her wellbeing, the COM agreed to enter the restorative justice meeting/circle so long as all parties sign a “Confidentiality Agreement and Wavier of Liability” (“Confidentiality Agreement”). This agreement would prevent both parties from disclosing information obtained or discovered during this process and any subsequent meeting. It would also prohibit the victim from using any of the information against the POB, synod or PCUSA in a criminal, civil or administrative action. There have been some ups and downs in working toward a meeting, specifically due to the prior facilitator’s discomfort with the Confidentiality Agreement. However, the facilitator’s involvement has been terminated and we are now in a situation where it seems a reconciliation meeting could go forward with all parties signing the Confidentiality Agreement. Our legal counsel has advised the COM throughout this process and has been our communication link with the victim, her advisors, and the county prosecutor.

**Therefore, COM recommends that Presbytery approve the following:**

- 1. That upon signature of the “Confidentiality Agreement and Wavier of Liability” by the POB , and the victim the Presbytery of Boise enter a restorative justice process/circle or similar reconciliation meeting (probably just a one-day meeting) with the victim and her advisor, and our Presbytery’s members of the circle be appointed by the moderator in consultation with our attorney, Stated Clerk, Executive and the COM. (Note: Two members of our current COM were involved in the investigation and the trial.)**
- 2. The Cost estimate: For the meeting itself - \$2,000.00 from the Presbytery’s Judicial line item (airfare for the victim and her advisor who live out of state, lodging for one or two nights).**

**This does not include legal fees for the preparation of documents and the counsel of our lawyer throughout the process. The COM also feels it is appropriate to offer to pay for counseling for the victim for an amount up to \$1,000, as well as a reasonable expense to pay for the facilitator of the meeting.**

Under Stated Clerk's Report (2 items)

8. Annual Reading of Session Records Report – add the following:

Under: the following were approved without exception:

Covenant, Boise

Under: the following was approved with exception:

First Presbyterian, Homedale