

**VALLEY UNITED PRESBYTERIAN CHURCH** [#11A]  
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Athens Presbyterian Church	Sayre Presbyterian Church	Waverly Presbyterian Church
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October 25, 2013

To members of Susquehanna Valley Presbytery re: Consolidation of the First Presbyterian Churches of Waverly, NY, and Athens & Sayre, PA, into one congregation.

**Motion**

That the Presbytery of Susquehanna Valley concur with the actions of the Session and Congregation of the First Presbyterian Church of Waverly to consolidate with the congregations of the First Presbyterian Church of Athens and the First Presbyterian Church of Sayre in consolidating into one new congregation, The Valley United Presbyterian Church effective January 1, 2014. Further that the plan for consolidation outlined in the recommendations below be followed in effecting the consolidation and in the transition to the new congregation.

Presbytery Assembly allow Presbytery Council to act on its behalf instead of calling a special meeting of Presbytery, if necessary.

**Background**

We are in the process of creating a new congregation as a result of merging three existing congregations. Two of the congregations are in Lackawanna Presbytery (Synod of the Trinity) and the other is in Susquehanna Valley Presbytery (Synod of the Northeast).

This process is a direct result of our participation in the New Beginnings process. Both Presbyteries have been very supportive of our approach and have each provided an experienced person to work with us on this journey. David Johnson, currently Interim Pastor at Cortland United, and Barbara Smith, currently Executive Presbyter of Lackawanna Presbytery. For the near future (now and for up to 3-5 years) the new church will likely hold property in both states, be affiliated with both Presbyteries, and be worshiping and doing ministry in both states. Clergy and non-clergy employees may be located in both states. "Valley United Presbyterian Church" is a name we are using informally while we conduct a 'name the church' contest.

Discussions about sharing ministry opportunities have been under way in the three congregations since April, 2012. This led to the Athens and Waverly congregations participating simultaneously but independently in the New Beginnings process beginning in the fall of 2012 and completing the small group process in the spring of 2013. The Sayre congregation conducted a discernment process which was very similar. The results in all three congregations was a desire to merge so that we could do more ministry in the valley than we were doing as individual congregations. A sample of the process used and results attained can be seen on a temporary Waverly web site ([www.musicforthespirit.org](http://www.musicforthespirit.org)). A Transition Team (TT) was formed from the previous discussion group and authorized by all three sessions to proceed with plans for merging. Three simultaneous congregational meetings were held on July 14 to vote on our intention to merge. The secret ballot vote was nearly unanimous (total count of 100 yes, 3 no).

Since the merger vote, we have been proceeding with plans and functioning as a merged congregation when possible. Our new web site will indicate our progress [www.valleypresby.org](http://www.valleypresby.org) We are grateful to the two presbyteries for supporting us in these efforts and providing special leadership in addition to our regular COM liaisons. The TT has been meeting every two weeks in guiding the merger efforts and leading us in becoming one congregation. We have been worshiping together since mid-June and have been merging committees so that we are ready for the coming year. We have formed a PNC which has finalized the MIF which went on line in October. They are currently reviewing PIF's and self referrals. The TT has also been considering what we think a good relationship with the 2 presbyteries would look like. We are geographically at the outside border of both. We have received encouragement and support from both and see many advantages to continuing our relationship with both as we move forward. The TT sees many expanded opportunities for ministry and service for our congregation if we can participate in the life of both presbyteries. Because of this we are making the following recommendation.

### **Recommendation for Presbytery/church connection**

Our current recommendation is to organize ourselves as follows:

- 1 - Have the Valley United Presbyterian congregation be a member of one presbytery and a corresponding member of the other (possibly by having elder commissioners received as corresponding members);
- 2 - Have the pastor also be a member of one presbytery and a corresponding member of the other.
- 3 - Have the presbytery of membership to be different for congregation and pastor.
- 4 - We would plan to pay per capita to each presbytery (and also Synod) based upon the state in each member's legal address. For members who live in other than PA or NY, we would pay based on predecessor church membership.
- 5 - We would anticipate this relationship lasting for a minimum period of 3-5 years while the Valley United Presbyterian Church grew into its ministry and mission. Toward the end of that time the congregation and presbyteries could re-evaluate the relationship and make any desirable changes.
- 6 - We would see both congregation and pastor as being under the authority of both presbyteries for normal relationships and under the authority of the body of membership for any legal/judicial matters.
- 7 - We would expect both pastor and congregation to be active participants in the ministry of both presbyteries.

### **Rationale for above recommendation**

Our valley is somewhat unique in the area as it straddles the NY-PA border and is relatively isolated from other areas in both presbyteries. We are about equally removed from the center of activities in both presbyteries. The Athens and Waverly churches are 3.7 miles apart and the Sayre church is about half way between them. While we have been working toward this merger we have discovered each presbytery offers programs in which many of our members would like to participate. We are finding as well that the two presbyteries are cooperating with each other through us in positive ways. An example would be that Athens became involved in the New Beginnings through the program being offered in SVP.

We feel that as physical boundaries become less significant in our lives, we can offer a positive prototype for cooperation across boundaries for the church with the idea that more productive presbytery mission and ministry will be possible. We offer ourselves as a model of

such cooperation and feel that our experience might be very useful to the church at large. Each of the presbyteries can benefit as well from the presence of a strong excited congregation in their midst.

Also as we begin this new church journey we do not know whether our ministry will focus in only one state. Our current local ministry and mission is in both states and uses property in both states. We are also seeking God's guidance in selecting our primary worship space. That discernment process is one which will continue and be directed by our new pastor. There are compelling reasons at this time for many different choices, nearly all of which include some cross-border solution.

We realize that the Form of Government does not specifically delineate this type of relationship, but we also note that it does not specifically prohibit it. There are some similarities which might be found in the section on Joint Congregational Witness (G-5.05) which provides for such a framework. This is where we looked in trying to work out some of the details which are in our recommendation.

As some of us have been involved in financial planning on the presbytery level, we are also aware that it can be disruptive to the sometimes fragile finances of a presbytery for a congregation to leave. Our proposal provides a per capita and mission support solution which minimizes the impact on both presbyteries.

We feel that a mutually discerned approach that provides each presbytery to be strengthened and the relationship between the congregation and presbyteries begin on a positive mutually supportive basis is a real example of the reason for the new Book of Order offering more flexibility in dealing with new 21<sup>st</sup> century situations.

Note that the approval of the Presbyteries is necessary in the process of incorporating, which is a major reason for bringing the motion at this time.

### **Progress toward incorporation**

Under Not-for-Profit Corporations Law § 910 and Pennsylvania Consolidated Statute § 5925, one or more corporations formed under New York's Religious Corporations Law and one or more corporations formed for religious purposes can merge or consolidate. Consolidation under the Religious Corporations Law does not appear to apply because the relevant sections specifically contemplate only the consolidation of churches formed under the Religious Corporations Law, and do not address consolidation or mergers between or among foreign (e.g., Pennsylvania) and domestic (e.g., New York) churches. Below I outline the process by which the churches can merge or consolidate pursuant to N-PCL 910 and PCS 5925. Note that things may change slightly, depending upon which entity is the survivor, or if a consolidation of entities is being undertaken.

Merger/consolidation under the N-PCL and PCS:

1. Gain authorization for Pennsylvania corporations to do business in New York before proceeding.
2. Pursuant to NFPCL 906(b) and PCS 5925, the New York church must comply with the N-PCL, while the Pennsylvania churches must comply with Pennsylvania law.
  - a. New York church process:
    - i. The board must prepare and adopt a plan of merger or consolidation, which must contain the following:
      1. Name of each constituent corporation (and, if it's ever changed, the original name) and name of the surviving corporation

2. For each constituent corporation, a description of the membership, including their number, classification and voting rights, if any
3. Terms and conditions of the merger or consolidation, including the manner and basis of converting membership in each corporation into membership of the survivor
4. A statement of any amendments or changes in the certificate of incorporation of the survivor
  - ii. The adopted plan must be presented to a vote of the members, to be held as follows:
    1. Notice must be given to each member, whether or not entitled to vote. Notice must include a copy of the plan or an outline of the plan's material features
    2. Plan of merger must be approved by a two-thirds vote of those present at the meeting, provided that the affirmative votes cast at least equals the quorum requirement (see section 613[c])
  - iii. An order approving the merger or consolidation must be obtained from the supreme court, as follows:
    1. Each corporation must apply jointly, and set forth by affidavit the following:
      - a. The plan
      - b. The approvals required by section 903 or 906(b)
      - c. The objects and purposes of each corporation promoted by the consolidation
      - d. A statement of all property, how it is held, and all liabilities and the amount and sources of annual income
      - e. Whether any votes against the plan were cast
      - f. Facts showing the consolidation is authorized by the laws of the jurisdictions under which each of the corporations is incorporated
    2. The court fixes a hearing date, and directs that notice be given to all interested persons, including the attorney general
    3. If it appears to the court that all provisions have been complied with, and the interests of the corporations and the public will not be adversely affected by the merger, then it will approve the merger
  - iv. Certificate of merger must be executed by each corporation, and filed in the county clerk's office
    - b. Pennsylvania church process:
      - i. The boards must prepare and adopt a plan of merger or consolidation, which must contain the following:
        1. The terms and conditions of the merger or consolidation
        2. Other provisions as are deemed desirable
      - ii. The adopted plan must be presented to a vote of the members, to be held as follows:
        1. Notice must be given to each member, whether or not entitled to vote. Notice must include a copy of the plan or a summary thereof. Notice must state that a copy of the bylaws of the survivor will be furnished without cost, if requested.
        2. Plan must be approved by a majority vote of all members present and entitled to cast votes
      - iii. Certificate of merger must be executed by each corporation, and filed in the Department of State

Additional background information: This is the basic information we have submitted to attorneys in both PA and NY to provide us with direction in moving forward. Both attorneys have handled church mergers, but not across state and ecclesiastical boundaries. That seems to be relatively new territory.

## Legal Questions needed for **Valley United Presbyterian Church**

### Incorporation Questions

1. New church will own property and be conducting church business in both New York and Pennsylvania. Is there any advantage to incorporating in one state or the other?
2. Would it be best to allow the corporations of the three congregations to remain while the new corporation is established? If so, when should assets be transferred ?
3. What suggestions would you have for transferring assets (investments, real estate, other real property, memorials, etc.)? Any particular safeguards needed?
4. Is the new corporation able to hold property and do business in the other state (and maybe eventually exclusively in the other state)?
5. Is there any requirement of a congregation incorporating in the state of presbytery membership?
6. What financial considerations (audits or reviews etc.) should be considered at transition time?
7. What are the major areas of concern to include in new by-laws? Anything state specific?
8. What legal steps are needed? By current congregations/sessions? By new congregation/session?
9. Any differences in 'mandated reporting' type issues?
10. Should we consolidate staff (particularly non-clergy) in one state or the other?
11. Are there any particular difficulties with the transition time music & video licenses?

### Presbytery/church connections questions

1. Our current predisposition is to have the Valley Presbyterian congregation be a member of one presbytery and a corresponding member of the other; to have the pastor also be a member of one presbytery and a corresponding member of the other. We would want the presbytery of membership to be different for congregation and pastor. We would plan to pay per capita to each presbytery (and also Synod) based upon the state in each member's legal address. We would anticipate this relationship lasting for a period of 3-5 years while the Valley United Presbyterian Church grew into its ministry and mission. We would see both congregation and pastor as being under the authority of both presbyteries and we would expect both pastor and congregation to be active in the ministry of both presbyteries. What, if any, are the difficulties we can anticipate with this type arrangement?
2. What is needed to get new congregation PIN? **This is done. Temporary Pin # 74935 to identify a Presbytery level open without a congregation. Check out the MIF on the opportunity list at 74395.AA0 and refer it to colleagues who might be interested.**
3. Any particular problems with getting MIF on line? **They have been resolved.**
4. Is there a requirement for a congregation approving a merger transition plan or can that be handled by sessions? **We have decided that congregations will affirm the plan, even if not required.**

We are working on a merger plan. It has not yet reached a draft stage, but the following framework in no particular sequence is being used:

1. Currently we are functioning as one congregation through 12/31/13
  - all scheduled activities are open to whole new congregation (VPC),
  - each session continues to meet and deal with particular matters pertaining to only that congregation (adding and deleting members, issues of property, etc)
  - the transition team (TT) is meeting every 2 weeks to:
    - coordinate all combined activities such as worship schedule,
    - authorizing new merged committees to begin their work (CE and finance are functioning particularly well - others are beginning to work),
    - establish the structure and procedures for the VPC
  - During this time the PNC elected 7/14/13 at the 3 simultaneous congregational meetings will be working and with advice from David Johnson and Barbara Smith will create and post the MIF on the GA web site, will receive a pin number, and begin the process of interviewing candidates for the pastor position.
    - the MIF has been posted in the past couple weeks
    - it is also available on our web site ([www.valleypresby.org](http://www.valleypresby.org))
  
2. There may be a transition period beginning 1/1/14 until the consolidation for both ecclesiastical and corporate matters. The following will include if needed:
  - Each session will accept resignations at the end of the year to reach a size of 4 members. Those four will continue to handle congregation specific items and will collectively take over from the existing TT on 1/1/14 to handle VPC matters and to function as the session of the VPC,
  - each church nominating committee will nominate the four serving elders to be the founding session of the VPC (we expect to largely be the 4 mentioned above). Also 4 members from each church will be nominated to a VPC Board of Deacons
  - the VPC will convene a congregational meeting early in 2014 to elect and install the new elder class and new Board of Deacons
  - all of the above will be done essentially 'if the way be clear' while awaiting formal approval of ecclesiastical councils (Presbyteries, Synods and GA)
  - the new session will function as the trustees of the VPC corporation using one or more of the existing corporate entities until the final approval of the VPC corporation
  
3. If we have need in early 2014, we will by agreement pool all the liquid assets of the three churches into the financial accounts of one of them and will function financially under that umbrella until we can establish VPC accounts.
  
4. The agreement we are currently working under is that at year end all of everything owned in whole or in trust by the three congregations will be transferred to VPC while respecting any legal restrictions (there are not any we are aware of but are continuing research) which may be in place
  
5. The Sayre congregation has voted to put their church building up for sale (final vote 21 yes, 0 no). There have not been any other decisions about buildings although there is a growing consensus that we will want a main building different from any of our current

ones. The issue of buildings does not seem at this time to be one which will create a lot of difficulty.

<b>Statement of Financial Position</b>			<b>[#18]</b>
	<b>Sep 30, 13</b>	<b>Dec 31, 12</b>	<b>\$ Change</b>
<b>ASSETS</b>			
<b>Current Assets</b>			
<b>Checking/Savings</b>			
100100 · Petty Cash	0.00	53.32	-53.32
100101 · NBT Checking	0.00	0.00	0.00
100110 · M&T Checking	43,941.58	62,213.83	18,272.25
100205 · M&T Savings	281,102.18	311,822.37	30,720.19
100400 · INVESTMENTS - New Covenant	211,821.60	197,876.50	13,945.10
<b>Total Checking/Savings</b>	<b>536,865.36</b>	<b>571,966.02</b>	<b>35,100.66</b>
<b>Other Current Assets</b>			
100225 · Revolving Loans Receivable	54,954.46	18,692.23	36,262.23
<b>Total Other Current Assets</b>	<b>54,954.46</b>	<b>18,692.23</b>	<b>36,262.23</b>
<b>Total Current Assets</b>	<b>591,819.82</b>	<b>590,658.25</b>	<b>1,161.57</b>
<b>Fixed Assets</b>			
100120 · Furniture and Equipment	11,591.03	11,591.03	0.00
100121 · Building - 12 Whitney Way	712,631.97	712,631.97	0.00
100122 · Building Value Contra Account	-422,440.00	-422,440.00	0.00
100123 · Land - Lot#7	26,950.07	26,950.07	0.00
<b>Total Fixed Assets</b>	<b>328,733.07</b>	<b>328,733.07</b>	<b>0.00</b>
<b>TOTAL ASSETS</b>	<b>920,552.89</b>	<b>919,391.32</b>	<b>1,161.57</b>
<b>Liabilities</b>			
<b>Current Liabilities</b>			
200111 · Federal Withholding	474.00	483.00	-9.00
200112 · FICA SSI Payable	380.69	277.30	103.39
200113 · FICA MED Payable	89.04	95.74	-6.70
200114 · NYS Withholding	181.86	183.33	-1.47
200115 · Accrued Payroll Liabilities	-48.69	49.86	-98.55
200270 · Go-To-Meeting	0.00	50.00	-50.00
200280 · Audit	1,000.00	1,000.00	0.00
200300 · Disaster Relief Grants	10,000.00	10,000.00	0.00
200310 · Triennium	0.00	4,000.00	-4,000.00
24000 · Payroll Liabilities	573.31	547.09	26.22
<b>Total Other Current Liabilities</b>	<b>12,650.21</b>	<b>16,686.32</b>	<b>-4,036.11</b>
<b>Total Current Liabilities</b>	<b>12,650.21</b>	<b>16,686.32</b>	<b>-4,036.11</b>
<b>Total Liabilities</b>	<b>12,650.21</b>	<b>16,686.32</b>	<b>-4,036.11</b>
<b>Equity</b>			
30000 · General Fund Balance	18,050.15	18,050.15	0.00
30002 · Reserve Fund	72,686.51	72,686.51	0.00
30003 · Creative Ministries Fund Balanc	72,382.00	72,382.00	0.00
30004 · Revolving Loan Fund Balance	172,865.57	172,865.57	0.00
30005 · New Mission/Outreach Fund Balan	24,632.64	24,632.64	0.00
30006 · Pastor Emergency Fund Balance	7,964.24	7,964.24	0.00
30007 · Pastor's Scholarship Find Balan	2,820.72	2,820.72	0.00
30008 · Clergy Care Fund Balance	4,655.59	4,655.59	0.00