

MINUTES OF THE GENERAL ASSEMBLY

explaining and defending its actions is to follow the procedure of *BCO* 40-5 and *BCO* 40-6. It is for this reason that we mandate the amends noted above.

The opinion was written by TE Howell Burkhalter, TE Paul Fowler, TE Stephen Clark, TE Dewey Roberts, RE Frederick Neikirk, RE Steven O'Ban and RE Tom Leopard, October 19, 2007.

The vote on SJC 2006-02 was:

TE Dominic A. Aquila, Concur	TE John M. McArthur Jr., Concur
TE Howell A. Burkhalter, Concur	RE J. Grant McCabe, Absent
TE Alton Craig Chapman, Concur	TE Charles E. McGowan, Concur
TE Stephen M. Clark, Concur	TE D. Steven Meyerhoff, Concur
RE M. C. (Cub) Culbertson, Concur	RE Frederick (Jay) Neikirk, Concur
RE Perry Denniston, Concur	RE Steven T. O'Ban, Concur
RE J. Howard Donahoe, Recused	RE Calvin Poole, Concur
RE Samuel J. (Sam) Duncan, Concur	TE G. Dewey Roberts, Concur
TE Paul B. Fowler, Concur	TE Michael F. Ross, Recused
TE William W. Harrell Jr., Absent	RE Olin L. Stubbs, Concur
RE Thomas F. Leopard, Concur	RE John Tolson, Concur
TE William Lyle, Concur	RE John B. White Jr., Concur

20- Qualified; 2 -Absent; 2 -Recused; 0-Disqualified

**COMPLAINTS OF TE ELIOT LEE & RE SAE H. HAN
VS.
KOREAN EASTERN PRESBYTERY
CASES 2007-1, 2007-6 & 2007-7**

I. SUMMARY OF THE FACTS

- 07-10-05 Hudson Korean Presbyterian Church (HKPC) Congregational Meeting, re: TE Lee selected as "interim pastor candidate to serve until all the matters of the church [are] resolved..."
- 10-04-05 68th Stated Meeting of Korean Eastern Presbytery (KEP), re: approved HKPC request for TE Lee to be "interim pastor for next 12 months, and until the [TE Peter B. Kim] litigation in the civil court can be resolved."
- 09-20-06 HKPC Session requests KEP to "extend the term of the interim pastor until the permanent pastor [can] be installed."

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- 10-03-06 71st Stated Meeting of KEP, re: while considering the request from the HKPC Session, KEP discussed its prior action (approval of TE Lee for "one year or until all matters are resolved") and how this action conflicts with *BCO* 22-6, i.e. temporary pastoral relationships (stated supply) are limited to a period of time no longer than one year and must be renewed annually by the Presbytery; the argument was made that the provision (until all matters are resolved) was inconsistent with the *BCO* and that TE Lee's term as temporary pastor of HKPC was over; a motion to extend the term of TE Lee with the condition that HKPC not withdraw from KEP was defeated; and KEP designated TE Jisup Kim to be temporary moderator of HKPC Session.
- 10-30-06 TE Lee filed complaint (2007-1) with KEP concerning the 71st Stated Meeting on 10-03-06, re: Dissolution of Interim Pastor TE Lee's relationship with HKPC and sending a temporary moderator, based on lack of a quorum.
- 11-08-06 TE Peter B. Kim civil litigation is dismissed with prejudice.
- 11-12-06 HKPC Session withdraws request to extend TE Lee's term as Stated Supply.
- 11-19-06 HKPC Session Minutes, re: "all matters were not resolved," i.e. issues regarding TE Peter B. Kim.
- 11-20-06 Called Meeting of KEP - KEP [denied] TE Lee's complaint (2007-1) by reaffirming TE Lee's status as stated supply and that his one-year term had expired.
- 12-15-06 Called Meeting of KEP - KEP determined that there was no quorum at the 71st Stated Meeting on 10-03-06 during its consideration of the HKPC Session's request to extend the term of TE Lee as Stated Supply and that its decision relating thereto was invalid; KEP Stated Clerk announced that the HKPC request could now be "rediscussed," but since the HKPC request had been withdrawn, it was no longer on the floor for discussion; TE Lee's complaint (2007-1) was invalid; the 11-20-06 Called Meeting of KEP was invalid (not properly called); TE Lee argues that he went to HKPC as the interim pastor, not as stated supply, and that an interim pastor is the same as the a senior pastor, just with a set term, i.e. his term does not end until all the matters with TE Peter B. Kim are resolved; KEP approved a motion that TE Lee went to HKPC as stated supply (with a term of one (1) year), pursuant to *BCO* 22-6; KEP Stated Clerk reported that since there is no

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pending request from HKPC to extend TE Lee's Stated Supply relationship, then TE Lee's term as Stated Supply ended in October, 2006; KEP's Moderator then declared that the pulpit of HKPC was vacant; KEP approved a motion that the legal matter with TE Peter B. Kim is closed; KEP approved a motion creating a Pulpit Stated Supply Approval Commission (requests for stated supply must come from Session); and KEP approved a motion creating a judicial commission to deal with a charge against TE Lee.

- 12-20-06 TE Lee filed complaint (2007-1) with GA/Stated Clerk.
12-28-06 TE Lee filed copy of complaint (2007-1) with KEP.
01-13-07 Two (2) complaints filed with KEP (2007-6 {TE Lee} & 2007-7 {Re Han}) concerning the December 15, 2006 Called Meeting of KEP, re: KEP prematurely dissolved the interim pastoral relations; KEP arbitrarily interpreted the term of the interim pastor as stated supply; Judicial Commission did not meet requirements of *BCO* 15-2; and Pulpit (Stated Supply Approval) Commission is not allowed by the *BCO*.
01-26-07 Called Meeting of KEP, re: discussed HKPC and it was alleged that the HKPC Session was not able to act and that the HKPC was divided and KEP approved a motion authorizing the Pulpit (Stated Supply Approval) Commission to act on behalf of HKPC Session. Note: the only two (2) Ruling Elders from the HKPC Session were in attendance and did not request assistance from KEP.
02-13-07 72nd Stated Meeting of KEP, re: HKPC called TE Lee as Pastor in a 04-16-06 Congregational Meeting (*BCO* 20); KEP denied the Call and set forth sufficient reasons for denying the Call; and KEP denied two (2) complaints (2007-6 [TE Lee] & 2007-7 [Re Han]).
03-13-07 Two (2) complaints filed with GA/Stated Clerk and KEP (2007-6 [TE Lee] & 2007-7 [Re Han])

2007-6 TE Lee complains:

- 1) 10-03-06 Stated Meeting of KEP - no quorum;
- 2) KEP Clerk refused to show signatures of men who called the 11-20-06 meeting;
- 3) KEP prematurely dissolved the interim pastor relation;
- 4) KEP interpreted interim pastor as stated supply; and
- 5) Judicial Commission did not follow *BCO* 15-2.

2007-7 RE Han complains:

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- 1) KEP prematurely dissolved the interim pastor relationship;
- 2) KEP contradicted previous decisions;
- 3) KEP improperly appointed a "pulpit commission."

II. STATEMENT OF THE ISSUES

1. Did KEP err when it determined that only those actions at the 71st Stated Meeting on 10-03-06 dealing with HKPC were invalid?
2. Did KEP err when it clarified that TE Lee's call as "interim pastor" for one (1) year or "until the [TE Peter B. Kim] litigation in the civil court can be resolved" was that of stated supply and limited to one (1) year, unless renewed by the Session and Presbytery, pursuant to *BCO* 22-6?
3. Did KEP err when it appointed its Pulpit (Stated Supply Approval) Commission?
4. Did KEP err when it appointed its Judicial Commission?

III. JUDGMENT

1. It is moot since all actions taken at the 71st Stated Meeting of KEP on October 3, 2006, are null and void.
2. No. Interim pastor and stated supply are the same and limited by *BCO* 22-6 to one (1) year, unless renewed by Presbytery. Further, since HKPC withdrew its request to extend the stated supply term of TE Lee, there is no such request pending, and TE Lee's term as Stated Supply ended on or about October 3, 2006. Accordingly, the HKPC pulpit has been vacant since that time.
3. No.
4. No.

In regard to judgments 3 and 4, the Standing Judicial Commission is only ruling that the Commissions were properly appointed. There are complaints presently pending with KEP concerning actions taken after these Commissions were appointed. These complaints have not been considered by the Standing Judicial Commission at the time this Decision was rendered, and this Decision should in no way be deemed an approval or disapproval of those actions by the Standing Judicial Commission.

IV. REASONING AND OPINION

- A. Case 2007-1, Complaint of TE Eliot Lee vs. Korean Eastern Presbytery, is moot, and all actions taken at the 71st Stated Meeting of KEP on October 3, 2006 are found to have been taken in the absence of a quorum, and therefore, are null and void. (Robert's Rules of Order p. 336, lines 25ff: "In the absence of a quorum, any business transacted ... is null and void." Robert's Rules of Order p. 337, lines 34ff: "Before the presiding officer calls a meeting to order it is his duty to determine that a quorum is present. If a quorum is not present, the chair waits until there is one ..." "When the chair has called a meeting to order after finding that a quorum is present, the continued presence of a quorum is presumed unless the chair or a member notices that a quorum is no longer present.")

In this case, the minutes of the meeting reflect "At the time of the roll call, there were 27 teaching elders and 2 ruling elders [present]. [A quorum would require at least three (3) ruling elder commissioners.] After getting a phone confirmation from an Emmanuel Church ruling elder about his imminent arrival, the Presbytery approved to open the meeting." Yet, the declaration of a quorum does not appear in the minutes, and further, a statement from RE Marcus Yoo advises that he subsequently left the meeting. The presence of a quorum, therefore, cannot be determined from the minutes and cannot be presumed. KEP acknowledged this fact at its Called Meeting of December 15, 2006 and declared "invalid" certain actions at the 71st Stated Meeting related to HKPC. Since the minutes indicate the meeting was begun without a quorum and do not specify when a quorum was achieved, all actions taken at the 71st Stated Meeting are therefore suspect, i.e. null and void.

- B. Case 2007-6, Complaint of TE Eliot Lee vs. Korean Eastern Presbytery, is denied, and KEP's decision is affirmed.

TE Lee's concerns relating to the 71st Stated Meeting of KEP on October 3, 2006 were addressed above.

TE Lee's concerns relating to the November 20, 2006 Called Meeting, as being not properly called, are moot based on KEP's declaring said meeting to be invalid.

TE Lee's concerns relating to the premature dissolution of the interim pastor relationship and an improper interpretation of interim pastor as stated supply are not well taken, and his complaint relating to the same is denied and KEP's decision in regard thereto is affirmed for the following reasons.

TE Lee argues that at the 68th Stated Meeting of KEP on October 4, 2005, the action of KEP in approving TE Lee to be "interim pastor for next 12 months, and until the [TE Peter B. Kim] litigation in the civil court can be resolved" is tantamount to being approved to be pastor under Chapter 20 of the *BCO*, which would require the dissolution of pastoral relations in accord with *BCO* 23. TE Lee appears to contend that since the pastoral relationship has not been dissolved by KEP in accord with *BCO* 23, then he remains the pastor of HKPC. TE Lee further argues that since his selection was by a congregational meeting, his status was more than just interim.

This argument fails for numerous reasons. First, the Record of the Case does not indicate a call as pastor, with terms, as required by *BCO* 20-6, was extended or approved by HKPC and/or submitted to KEP for approval at the 68th Stated Meeting of KEP on October 4, 2005. Second, KEP never installed TE Lee as pastor of HKPC, as required by *BCO* 21-9 and 21-10. Third, the HKPC Session, by requesting the extension/renewal of the term of its interim pastor [TE Lee], has acted in accord with *BCO* 22-6, i.e. stated supply relationships may not exceed one (1) year, but can be renewed at the request of the Session; so that HKPC's Session's actions show that it understood its prior action and KEP's action to be the approval of a stated supply relationship (*BCO* 22), not a pastor (*BCO* 21).

There are four (4) types of pastors recognized by *BCO* 22, to wit: pastor, associate pastor, assistant pastor, and stated supply. The only reference in the *BCO* to interim pastor is found in the index, which has a cross reference to stated supply. Accordingly, TE Lee's argument that an interim pastor is essentially the same as a pastor must fail, as the approval of TE Lee as interim pastor must be interpreted as approval to be Stated Supply.

TE Lee also argues that KEP prematurely dissolved the pastoral relationship between himself and HKPC. This contention is based primarily on KEP's December 15, 2006 action that it had made an error on October 4, 2005 in approving TE Lee to be "interim pastor for next 12 months, and until the [TE Peter B. Kim] litigation in the civil court can be resolved." KEP recognized this error and clarified its decision by ruling that TE Lee went to HKPC as stated supply (with a term of one (1) year), pursuant to *BCO* 22-6. KEP tacitly held that the second part of the prior action, i.e. "until the [TE Peter B. Kim] litigation in the civil court can be resolved," was improper and corrected its prior action by deleting the same.

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What was the status at this stage of the proceedings? HKPC had made a request to renew TE Lee's Stated Supply relationship, HKPC had withdrawn this request, KEP clarified a prior decision and ruled that TE Lee was stated supply at HKPC, with a term of one (1) year. KEP's Stated Clerk correctly reported that since there is no pending request from HKPC to extend TE Lee's Stated Supply relationship, then TE Lee's term as Stated Supply ended in October, 2006. KEP's Moderator then correctly declared that the pulpit of HKPC was vacant.

TE Lee's concerns relating to the appointment of a Judicial Commission in violation of *BCO* 15-2 are not well taken, and his complaint relating to the same is denied and KEP's decision in regard thereto is affirmed for the following reasons.

TE Lee argues that the Judicial Commission was not formed correctly and that a quorum was not established. In regard to the formation of the Judicial Commission, it appears that there were at least two (2) teaching elders and two (2) ruling elders appointed. Also, *BCO* 15-2 does provide that a quorum for such a commission shall not be less than two (2) teaching elders and two (2) ruling elders. Accordingly, TE Lee's argument that the Judicial Commission was not appointed properly fails.

- C. Case 2007-7, Complaint of RE S. Han vs. Korean Eastern Presbytery, is denied, and KEP's decision is affirmed for the following reasons.

RE Han's concerns relating to the premature dissolution of the pastoral relationship and KEP contradicting itself (by clarifying a prior action) are addressed above.

RE Han's concerns relating to the appointment of a Pulpit (Stated Supply Approval) Commission are not well taken, and his complaint relating to the same is denied and KEP's decision in regard thereto is affirmed. RE Han argues that the *BCO* does not provide for such a commission. This argument fails because *BCO* 15-2 provides that presbyteries may appoint commissions to ordain and install ministers. Certainly, approving a request from a Session to approve a person as stated supply fails within the type of matter that can properly be assigned by a Presbytery to a commission.

- D. It should be noted that the primary issue raised in Case 2007-7 case is the appointment of the Pulpit (Stated Supply Approval) Commission. As set forth above, KEP has not erred in the appointment of this commission, as well as the scope of the matters that were entrusted to it when it was formed, i.e. receiving requests from the Session of HKPC to establish temporary relationships and approve stated supply pastors.

JOURNAL

The Facts, Issues, and Judgments were written by Samuel J. Duncan. The Reasoning and Opinion was written by Samuel J. Duncan and John B. White Jr.

The vote on SJC 2007-1, 2007-6, and 2007-7 was:

TE Dominic A. Aquila, Concur	TE John M. McArthur Jr., Concur
TE Howell A. Burkhalter, Concur	RE J. Grant McCabe, Absent
TE Alton Craig Chapman, Concur	TE Charles E. McGowan, Concur
TE Stephen M. Clark, Concur	TE D. Steven Meyerhoff, Concur
RE M. C. (Cub) Culbertson, Concur	RE Frederick (Jay) Neikirk, Concur
RE Perry Denniston, Disqualified	RE Steven T. O’Ban, Disqualified
RE J. Howard Donahoe, Concur	RE Calvin Poole, Concur
RE Samuel J. (Sam) Duncan, Concur	TE G. Dewey Roberts, Absent
TE Paul B. Fowler, Concur	TE Michael F. Ross, Concur
TE William W. Harrell Jr., Concur	RE Olin L. Stubbs, Concur
RE Thomas F. Leopard, Concur	RE John Tolson, Disqualified
TE William R. (Bill) Lyle, Concur	RE John B. White Jr., Concur

19- Concur; 2 -Absent; 3-Disqualified

**COMPLAINT OF TE PATRICK MALONE
VS.
METROPOLITAN NEW YORK PRESBYTERY
SJC 2007-02**

TE Malone brought this Complaint pursuant to *BCO* 38-1 against a judgment and censure rendered against him without process by a commission of Metropolitan New York Presbytery. The action of the commission was approved by the presbytery and gave rise to the complaint.

I. SUMMARY OF THE FACTS

1. On May 13, 2006, at a Stated Meeting of Metropolitan New York Presbytery (“Presbytery”) the Session of Redeemer Montclair Presbyterian Church (“Session”) brought a motion before Presbytery to dissolve its call to TE Patrick Malone as an assistant pastor. (ROC 45). In support of this motion, the session provided Presbytery with a five-page summary of alleged misconduct by TE Malone. (ROC 46-50).
2. Presbytery voted to dissolve the call to TE Malone and further voted to “give the Chairman of the Shepherding Team, TE Ellis, the power