



CRAIN | SCHUETTE ATTORNEYS

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THE HEALTHY CHURCH INITIATIVE STATEMENT ON CHURCH GOVERNANCE: A BIBLICALLY-INFORMED LEGAL PERSPECTIVE

INTRODUCTION

At Crain|Schuette Attorneys (“CSA”), we seek to provide legal guidance from a Biblically-informed perspective. We are lawyers and do not purport to be theologians, but we do take seriously the obligation of all believers to “rightly handl[e] the word of truth.”¹ What follows is a description of how we serve churches, a statement of our views on what the Bible says about how the New Testament church is to be governed, and an explanation of the models of governance we recommend.

THE CHURCHES WE SERVE

Our approach is designed to meet the needs of locally-governed, non-hierarchical churches. Many of the churches we advise are organized as state-chartered not-for-profit corporations.² We have worked with churches all over the United States.

At CSA, we regard our commitment to what we term our “Healthy Church Initiative” to be among the most critical of all the services we provide. The Healthy Church Initiative is born out of the lessons we have learned as attorneys representing churches experiencing internal conflict. Regrettably, we have witnessed firsthand the devastating effects of inadequate organizational structures.

Without careful and proactive planning, congregational church governance can lead to deadlock between rival factions vying for authority. Strong organizational structures that reflect the Biblical principles for church governance allocate authority so as to reduce the likelihood that a dispute will cripple or destroy a ministry. Hence, autonomous, congregational churches stand to benefit the most from Biblically-informed legal guidance in this vital area.

OUR CONVICTIONS

Everyone has a point of view and we believe that it is important to be upfront about ours. We hold traditional, orthodox Christian beliefs. We believe that salvation is by grace alone, through

¹ 2 Timothy 2:15.

² A few of our member churches have obtained 501(c)(3) status under the Internal Revenue Code. As a general rule, we advise against this practice because it is unnecessary to achieve tax-exempt status and carries with it obligations that can be cumbersome.

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faith alone, in Christ alone. We believe in the plenary, verbal inspiration of the sixty-six canonical books of the Bible. We believe that while times change, the Word of God is unchanging and absolutely authoritative.

We consider it both a privilege and a calling to work with Bible-believing churches that are committed to spreading the Good News of the Gospel of Jesus Christ. In short, we love Jesus and delight in serving His body, the Church.

OUR APPROACH TO CHURCH GOVERNANCE

THE FOUNDATION OF OUR APPROACH

We look to the following New Testament passages to inform our understanding of the principles of Biblical church governance. Our starting point is the books of Acts, which describes the early church as follows:

Now in these days when the disciples were increasing in number, a complaint by the Hellenists arose against the Hebrews because their widows were being neglected in the daily distribution. And the twelve summoned the full number of the disciples and said, "It is not right that we should give up preaching the word of God to serve tables. Therefore, brothers, pick out from among you seven men of good repute, full of the Spirit and of wisdom, whom we will appoint to this duty. But we will devote ourselves to prayer and to the ministry of the word." And what they said pleased the whole gathering, and they chose Stephen, a man full of faith and of the Holy Spirit, and Philip, and Prochorus, and Nicanor, and Timon, and Parmenas, and Nicolaus, a proselyte of Antioch. These they set before the apostles, and they prayed and laid their hands on them. And the word of God continued to increase, and the number of the disciples multiplied greatly in Jerusalem, and a great many of the priests became obedient to the faith. (Acts 6:1-7 ESV)

ELDER LEADERSHIP³

The Bible clearly contemplates that elders operate with a certain degree of authority within the local church. This is demonstrated by Paul's statement that, "elders who rule well [should] be considered worthy of double honor[.]"

Let the elders who rule well be considered worthy of double honor, especially those who labor in preaching and teaching. For the Scripture says, "You shall not muzzle an ox when it treads out the grain," and, "The laborer deserves his wages." Do not admit a charge against an elder except on the evidence of two or three witnesses. As for those who persist in sin, rebuke them in the presence of all, so that the rest may stand in fear. (1 Timothy 5:17-20 ESV)

With great authority comes great responsibility. This is best exemplified by Jesus, who described himself as "gentle and humble in heart." (Matthew 11:29 NASB) In I Peter, we learn that leaders are admonished to emulate Jesus by exercising their authority with great humility:

³ We recognize that many of our member churches follow a single-elder model with the senior pastor acting as the sole Elder, supported by a deacon body. While we believe that the offices of elder and deacon are distinct, we accommodate those churches who follow this model. It has been our observation in working with many churches that many church leaders who carry the title of deacon actually function more like elders.

So I exhort the elders among you, as a fellow elder and a witness of the sufferings of Christ, as well as a partaker in the glory that is going to be revealed: shepherd the flock of God that is among you, exercising oversight, not under compulsion, but willingly, as God would have you; not for shameful gain, but eagerly; not domineering over those in your charge, but being examples to the flock. And when the chief Shepherd appears, you will receive the unfading crown of glory. Likewise, you who are younger, be subject to the elders. Clothe yourselves, all of you, with humility toward one another, for “God opposes the proud but gives grace to the humble.” (1 Peter 5:1-5 ESV)

Paul’s letter to his protégé, Titus, provides further insight into the importance of structure and order as well as the demands placed upon church leaders:

This is why I left you in Crete, so that you might put what remained into order, and appoint elders in every town as I directed you— if anyone is above reproach, the husband of one wife, and his children are believers and not open to the charge of debauchery or insubordination. For an overseer, as God’s steward, must be above reproach. He must not be arrogant or quick-tempered or a drunkard or violent or greedy for gain, but hospitable, a lover of good, self-controlled, upright, holy, and disciplined. He must hold firm to the trustworthy word as taught, so that he may be able to give instruction in sound doctrine and also to rebuke those who contradict it. (Titus 1:5-9 ESV)

In his letter to the church at Thessalonica, Paul urges respect for the leaders who serve the church:

We ask you, brothers, to respect those who labor among you and are over you in the Lord and admonish you, and to esteem them very highly in love because of their work. Be at peace among yourselves. (1 Thessalonians 5:12, 13 ESV)

QUALIFICATIONS FOR ELDERS/OVERSEERS

The spiritual health and vitality of a church is always a reflection of the health of its leaders. For this reason, it is important that churches appoint and empower leaders who are both qualified and capable. I Timothy identifies the criteria for choosing elders to lead and serve churches:

The saying is trustworthy: If anyone aspires to the office of overseer, he desires a noble task. Therefore an overseer must be above reproach, the husband of one wife, soberminded, self-controlled, respectable, hospitable, able to teach, not a drunkard, not violent but gentle, not quarrelsome, not a lover of money. He must manage his own household well, with all dignity keeping his children submissive, for if someone does not know how to manage his own household, how will he care for God’s church? He must not be a recent convert, or he may become puffed up with conceit and fall into the condemnation of the devil. Moreover, he must be well thought of by outsiders, so that he may not fall into disgrace, into a snare of the devil. (1 Timothy 3:1-7 ESV)

QUALIFICATIONS FOR DEACONS

Under the Biblical model, elders lead while deacons serve. After laying out the qualifications for elders, Paul goes on to describe the qualifications for deacons:

Deacons likewise must be dignified, not double-tongued, not addicted to much wine, not greedy for dishonest gain. They must hold the mystery of the faith with a clear conscience. And let them also be tested first; then let them serve as deacons if they prove themselves blameless. Their wives likewise must be dignified, not slanderers, but sober minded, faithful in all things. Let

deacons each be the husband of one wife, managing their children and their own households well. For those who serve well as deacons gain a good standing for themselves and also great confidence in the faith that is in Christ Jesus. (1 Timothy 3:8-13 ESV)

Regardless of whether your churches follows an Elder model or a Deacon model, scripture is clear about the relationship between church leaders and church members:

Obey your leaders and submit to them, for they are keeping watch over your souls, as those who will have to give an account. Let them do this with joy and not with groaning, for that would be of no advantage to you. (Hebrews 13:17 ESV)

7 PRINCIPLES DERIVED FROM THIS FOUNDATION

From these passages, we discern the following principles regarding governance of the New Testament church:

1. **Christ is the head of the church and is preeminent in all aspects of church ministry including its governance. (Ephesians 4:15; Matthew 23:8-11; 1 Timothy 2:5; Revelation 1:6)**

This truth is, of course, the key distinguishing characteristic of the Church. An individual church's legal documents should reflect this spiritual reality.

[11] And he gave the apostles, the prophets, the evangelists, the shepherds and teachers, [12] to equip the saints for the work of ministry, for building up the body of Christ, [13] until we all attain to the unity of the faith and of the knowledge of the Son of God, to mature manhood, to the measure of the stature of the fullness of Christ, [14] so that we may no longer be children, tossed to and fro by the waves and carried about by every wind of doctrine, by human cunning, by craftiness in deceitful schemes. [15] Rather, speaking the truth in love, we are to grow up in every way into him who is the head, into Christ, [16] from whom the whole body, joined and held together by every joint with which it is equipped, when each part is working properly, makes the body grow so that it builds itself up in love. (Ephesians 4:11-16 ESV)

[11] The greatest among you shall be your servant. (Matthew 23:11 ESV)

[5] For there is one God, and there is one mediator between God and men, the man Christ Jesus, [6] who gave himself as a ransom for all, which is the testimony given at the proper time. [7] For this I was appointed a preacher and an apostle (I am telling the truth, I am not lying), a teacher of the Gentiles in faith and truth. (1 Timothy 2:5-7 ESV)

2. **The New Testament church is neither a democracy nor a dictatorship. Rather, it is an organization led primarily by spiritually qualified leaders with a high level of accountability to and participation by the members. (1 Timothy 3:1-13; Titus 1:5-9; Romans 12:6-8; Acts 20:28)**

Many churches follow a tradition of purely democratic governance. We believe that this is a departure from the Biblical principle of church governance because it strips authority away from

those who have the greatest spiritual responsibility for the well-being of church members. From a legal standpoint, it is an inherently unstable way to operate a church. Both those in authority and those under authority should operate in accordance with the following admonition:

[3] For by the grace given to me I say to everyone among you not to think of himself more highly than he ought to think, but to think with sober judgment, each according to the measure of faith that God has assigned. [4] For as in one body we have many members, and the members do not all have the same function, [5] so we, though many, are one body in Christ, and individually members one of another. [6] Having gifts that differ according to the grace given to us, let us use them: if prophecy, in proportion to our faith; [7] if service, in our serving; the one who teaches, in his teaching; [8] the one who exhorts, in his exhortation; the one who contributes, in generosity; the one who leads, with zeal; the one who does acts of mercy, with cheerfulness. (Romans 12:3-8 ESV)

3. **Under the headship of Christ, the authority in the New Testament church is distributed among three distinct groups: (1) pastoral leaders, (2) church leaders (elders and/or deacons) and (3) members. (Ephesians 4:11-12; Acts 14:23; Philippians 1:1; 1 Timothy 5:17)**

Organizational authority should be commensurate with spiritual responsibility. We recommend bylaw provisions that clearly define the role of each leader within a church. We also recommend a process that assures broad participation and careful qualification. It is difficult to overstate the importance of how carefully leaders should be selected or how deeply they must be committed to serving the Lord.

[23] And when they had appointed elders for them in every church, with prayer and fasting they committed them to the Lord in whom they had believed. (Acts 14:23 ESV)

4. **Pastoral leaders, as the shepherds or overseers, should exercise authority with humility, integrity, and accountability to the non-pastoral church leaders and members. 1 Peter 5:1-3; Matthew 20:25-28; John 10:3-4, 11; 1 Corinthians 2:9-13)**

Pastoral leaders are worthy of double honor.⁴ With double honor comes a heavy burden or responsibility and accountability.⁵ It is a sad reality that too many churches treat their pastors leaders more like chaplains than spiritual leaders. Our approach to drafting legal documents for churches seeks to remedy this common problem.

5. **Non-pastoral church leaders (elders and/or deacons) should serve as a resource of support and wise counsel to the pastor in his shepherding role and should exercise their authority over the members with humility, integrity and accountability. (1 Timothy 3:8-13)**

Leadership is never a matter of personal privilege in a church setting. Rather, it is always a matter service. Jesus was the ultimate servant-leader, the Good Shepherd who laid down His life for

⁴ 1 Timothy 5:17.

⁵ James 3:1.

his sheep. As He demonstrated in a profound way, leadership is mostly about doing hard things. Leaders who do not reflect an understanding of this important principle are ill-suited for leadership.

6. **The members should demonstrate a strong commitment to participation in the life of the church, submission to church leaders, and unity within the body of Christ. (1 Thessalonians 5:12-13; Hebrews 13:7;17)**

We approach this issue through several bylaw provisions, including provisions that clearly defines who is an Active Member of a church and the rights and responsibilities of membership. We also have a suggested bylaw that seeks to promote unity within the church by stating that unity is a core value and encouraging accountability of leaders and members to cultivate a culture of peacemaking.

7. **Above all, pastors, church leaders and members should exhibit the love of Christ in all things. (1 Corinthians 10:31; Ephesians 4:15)**

Perhaps the greatest challenge that any of us face is that of exhibiting the love of Christ in what we do. In spite of how difficult it is to do, we must strive to respond to other in love. For this reason, we recommend including bylaw language that stresses the importance of a loving attitude in church interactions.

APPLICATION OF THESE 7 PRINCIPLES TO CHURCH GOVERNANCE

We apply these principles of church governance in the following manner:

CHOICE OF ENTITY⁶

We strongly recommend that our member churches choose a nonprofit corporation as their legal entity. These corporations are formed under the laws of each state. The benefits of incorporation include:

- Limitation of liability for church leaders;
- An established legal framework for operation of the church; and
- Organizational continuity.

We discuss each of these points below.

LIMITED LIABILITY FOR CHURCH LEADERS

Without the legal protection of the corporate form, church leaders such as the pastor(s), elders, deacons, trustees and committee members may, under certain circumstances, face personal liability for debts and liabilities of the church. For example, some courts have imposed liabilities on trustees for a church's default on a bank loan. However, if a church has incorporated, it is a recognized legal entity separate and distinct from its members and leaders. If successfully sued, the corporation rather than the church leadership will be liable.

⁶ Some states have adopted the Uniform Unincorporated Nonprofit Association Act (UUNAA), which provides protections that are substantially identical to those of incorporating.

A LEGAL FRAMEWORK FOR THE OPERATION OF CHURCHES

Adopting the corporate form requires a church as a legal entity to identify its decision makers. This is accomplished by appointing a board of directors that serves under the leadership of the pastor and with a high level of accountability to members. The corporate structure eliminates ambiguity with regard to who in the church has the legal authority to act on its behalf. In contrast, an unincorporated church is treated as an association; and it can sometimes be difficult to identify lines of authority in an unincorporated association.

ORGANIZATIONAL CONTINUITY

Most corporations, including the nonprofit corporate form we recommend, are formed with a “perpetual” duration. This simply means that the corporation is intended to continue indefinitely. We do appreciate the irony of calling a temporal corporate organization “perpetual” when it is in fact the church—the Bride of Christ—that is everlasting. This legal principle reflects a deeper spiritual truth—perhaps quite accidentally! Pastors, church leaders and members come and go. The corporate form allows the church to maintain its formal, legal existence across generations.

PURPOSE STATEMENT

While the general purpose of any New Testament church is to further the Kingdom of Christ by sharing the Good News of the Gospel, there is special legal and organizational significance to stating the specific purpose of a church. The purpose statement, which should be supported by scripture, lays claim to strong protections under the United States Constitution by differentiating the church from other nonprofit organizations.

INTERNAL GOVERNING STRUCTURES

First and foremost, it is our belief that such a model best insulates the church from the risks of division inherent in a fully democratized form of church government. The single gravest threat to the institutional integrity of the congregational church is factionalism. When a congregation must make decisions that call for the exercise of spiritual discernment, opportunities for division arise. That is not to say that the congregation—as a body—should have no role in spiritual decisions. Indeed, many scripture passages support the practice of a church-wide, congregational vote on certain decisions, such as: a) whether to impose church discipline; b) the selection or removal of a pastor, elder, or other key leader; c) the ratification or modification of church bylaws; and d) the decision to receive new members.

Second, the elder-led model of church governance places the responsibility for spiritual leadership on the shoulders of those who are most qualified according to scriptural mandate.

Third, there is no Biblical precedent for a purely congregational model of church governance. Vesting plenary authority for all decisions in a majority of members present at a business meeting is a cumbersome and ineffectual method of management. Questions, and even legal challenges, can often arise concerning the validity of the vote or the eligibility of those participating in such an election. Most problematic is that the fact that majority-vote-governance dilutes the role of the pastor and elders or deacons. We believe this is unwise.

Finally, CSA respects the freedom of any congregation to choose its form of government as it sees fit; however, for the foregoing reasons we choose not to draft bylaws or governing documents that vest ultimate decision-making authority solely with the congregation or solely with the senior pastor. We feel privileged to come alongside those churches that strive to have maximum Gospel impact and seek to follow the whole counsel of God.⁷

For more information about our Healthy Church Initiative, visit the Church Law practice section of our website (<http://www.csafirm.com/what-we-do/church-law/>).

⁷ Acts 20:27.