

PACIFICA FOUNDATION RADIO
PACIFICA NATIONAL BOARD SPECIAL MEETING
From Various Locations via Telephone Conference
DRAFT AGENDA
OPEN SESSION
Thursday, APRIL 17, 2014 8:30PM

I. Call to Order

Roll Call / Establish Quorum. Excused absence. Establish Time Keeper

II. Agenda Approval (10 min)

III. PNB Committee Elections, Taskforce Selections, & Identification of Convenors (15 min)

IV. Next Meeting Date (10 min)

V. Approval of minutes (20 min)

VI. Unfinished business

A. Motion re. Recording of PNB Executive Sessions (currently tabled)

Director Lydia Brazon moves that: PNB records its Executive Sessions.

B. Motion for an audit of the 2014 PNB permanent chair position election (20 min)

Directors Janet Kobren and Richard Uzzell move that:

Whereas the election process for the 2014 PNB pro-tem chair position on Friday, February 7, 2014 and the permanent 2014 PNB chair position on Saturday, February 8, 2014 were both contested;

Whereas the ballot was not appropriate for an IRV election, which the bylaws required;

Whereas the the determination of the winner was based on the marking on the ballot of their fifth ranking, an irregular ranking considering there were only two candidates, and the intention of that director's fifth ranking could not be determined for certain;

Whereas at least one director announced that she voted for the same candidate for all five rankings and there were no third rankings announced or counted by the vote tabulators;

And whereas several other directors have said they had entered third ranked votes and these too were not announced or counted and should have been counted before the determining fifth ranking vote was counted:

Be it resolved that:

There be an immediate audit of the 2014 PNB permanent chair position election process;

That the audit include that the chain of custody of the envelope that contained the directors' ballots for the permanent 2014 PNB chair last sealed with grey masking tape and held by pro-tem election chair C. Roberts be documented;

That the audit include the names or initials of the directors that signed the sealed envelope;

That if the sealed ballot envelope is still in the custody of the 2014 PNB pro-tem election chair, C. Roberts, that as soon as it is possible, said envelope be delivered to the Pacifica Foundation Radio national office;

That the audit include an inspection of the contents of the sealed envelope by directors and also observers from both factions coordinated by one of the national office staff;

That the audit include a retabulation of the IRV/STV vote counts based on Article Nine, Officers of the Foundation, Section 2: Election of Officers; Term of the Foundation bylaws;

That the results of the IRV/STV counts tabulation for each round of voting be documented as is done by the national election supervisor for local station board elections;

That the audit results, including the tabulation of each round of voting be reported out to the public;

And that if any irregularity is identified by the audit a revote take place and be chaired by the then 2014 pro-tem election chair C.

Roberts.

C. Motion re. Official Statements regarding PNB Action (5 min)

Directors Adriana Casenave moves:

That the Executive Director confer with the PNB Chair prior to publishing any official statement(s) to the public related to PNB action. Any disagreement(s) shall be resolved by the PNB before any official statement(s) is published to the public.

D. Motion re. Payment for Secretarial Services (5 min)

Director Richard Uzzell moves that:

Whereas, the Pacifica Foundation Radio corporation is suffering from great financial problems, and

Whereas, that corporation is very near bankruptcy, and

Whereas, that corporation is behind on payments to various vendors, and

Whereas, that corporation is behind on various rents and leases, and

Whereas, that corporation was represented in 2013 by a Board Secretary who took, prepared and posted all Meeting Minutes for the entire year at no cost to that corporation;

Be it resolved that, no fee of any kind shall be paid to anyone, for those or any like secretarial services.

E. Motion re. Hiring of General Managers (10 min)

Director Hank Lamb moves:

Move that the Executive Director present to the Pacifica Radio National Board the purposed GM candidate to be hired AT ANY STATION from the pool of candidates submitted by the Local Station Board no later than 30 days from LSB submission of candidates pool. In the case of KPFA this shall be done no later than 15 days from now.

F. Motion re. Expeditious Handling of Personnel Requests (5 min)

Director Jose Luis Fuentes moves:

That the PNB will agree to handle personnel requests from the ED as expeditiously as possible including scheduling special meetings if necessary.

G. Motion re. Strategic Planning (10 min)

Director George Reiter moves that:

The PNB will conduct a strategic planning session as a quasi committee of the whole. All members who have provided a written statement of their vision for Pacifica will have 5 minutes to present their ideas at the beginning of the meeting, after which the floor will be open to all members. (1.5 hrs.)

H. Motion re: meeting schedule (10 min)

Director Kim Kaufman moves that at the next meeting after the 3/13 meeting we schedule the PNB meetings for the rest of the year.

I. Submitted by Governance Committee Chair, George Reiter (15 min)

The 2014 PNB approved Timeline for Bylaws Amendments shall be posted on all Pacifica websites by April 17, 2014. All properly proposed Bylaws amendments shall be held until June 3, 2014 which is 45 days before the earliest of the voting dates, July 17, 2014 of the Board and of the Delegates.

On the Notice date, JUNE 3, 2013, the proposed amendment(s) to the Bylaws shall be posted on the Foundation's website and the Foundation's radio stations shall broadcast an announcement three times a day - twice between 6:00 AM and 11:00 PM and once between 11:00 PM and 6:00 AM for a period of 45 days, to July 17, 2014, the end of the "Notice Period" regarding the existence of the proposed amendment(s) on the Foundation's website for review and the upcoming vote by the Board and Delegates regarding said amendment(s). The results of said voting by the Board and the Delegates on the proposed amendment(s) shall be reported within 15 days of the Board and Delegates meetings to vote on these amendments.

The Delegates shall vote on the proposed amendment(s) within the 60 day period beginning with the voting date of the PNB.

Motion approved without objection.

J. Motion to Take Previous Motion Off the Table (Roberts)

MOTION ON TRANSPARENCY OF LMA/PSOA DECISION-MAKING

Whereas the Pacifica National Board's pending decision on whether to grant an Local Marketing Agreement (LMA)/Public Service Operating Agreement (PSOA) to an outside entity to operate WBAI, and if so, to which entity, is crucial to the future of serving the listener community, and

Whereas openness of board decision-making is a key requirement of Pacifica's bylaws,

Resolved, that the Pacifica National Board (PNB) directs the Executive Director to:

1) contact as soon as possible all the applicants currently under PNB consideration for a LMA/PSOA at WBAI to request their written authorization for Pacifica to publicly release:

- a) publicly release the name of their organization; and
- b) publicly release a summary of the key provisions of their application, excluding details of the financial offer, if any; and

2) upon receiving any such authorizations, publicly release, as soon as possible, all information authorized by the applicants to be released.

Further resolved that all further PNB discussion and decisions about the WBAI PSOA/LMA, except for details of any financial arrangements, shall be done in open session.

K. Motion re: hiring general counsel (15 min)

Director Birden moves: Whereas, approval of a candidate by a two-thirds majority of the PNB could ensure a candidate acceptable to enough of the board so that counsel could be assured of ongoing support; and

Whereas it is the responsibility of the entire board to interview, select, and approve the hiring of independent counsel without conflicts of interest or affiliations that would exacerbate existing frictions on the board; and

Whereas it is imperative that the Board consider carefully and that members exercise their duty of care as well as their fiduciary responsibility and the duty of loyalty in the matter of the hiring of any counsel going forward; and

Whereas no one officer or director should be (and is not) empowered to unilaterally engage or hire legal counsel for the Board whom the Board members have not properly met and whose credentials the Board has not approved of,

THEREFORE BE IT RESOLVED THAT

The PNB shall elect four members, using Single Transferrable Voting, to an ad hoc committee to solicit and accept applications to the position of Foundation Counsel for Pacifica Foundation Radio, with the solicitation to be posted on the Pacifica website and other appropriate venues within 5 days from when the committee is elected,

Resumes and inquiries should be directed to a member of the committee, which shall report to the PNB as soon as at least 3 resumes have been received, with all resumes distributed to the entire board. At least two-thirds of the entire board must agree to consider a candidate for an interview for the position, at a meeting at least 4 days following the receipt and distribution of at least 3 resumes. Furthermore,

Interviews of agreed-upon candidates (at least 3, interviewed by the entire board) shall be scheduled for a PNB meeting noticed at least 5 days in advance and scheduled so as not to conflict with a PNB committee or task force or LSB meeting.

Candidates must receive votes from two-thirds of the members of the PNB in order to be hired as Foundation Counsel.

Letters of reference for the agreed-upon candidates shall be distributed to the board four days before the interview of each.

L. Pacifica Policy Discussions (90 min)

To include:

• Integrated Website Planning.

• Premium Processing & Premium Cost.

• Copyright and Plugola.

VII. Motions carried over from 2013

A. PNB Vote for Proposed Bylaws Amendments. Amendment #6 and #7, Postponed on Jan. 20, 2014 for legal opinion; are to be considered. [12-19-13]

B. Motion by Saba: Establishing Bequest/ Donor Policy Work Group(10 min)

Whereas, Pacifica having surpassed 60 years of existence, and

Whereas, it's long-time listeners and supporters are at an age where they could consider to bequest/donate part or all of their assets to Pacifica and/or its member stations,

Be it resolved, that PNB establishes a working group to draft a well-defined policy and procedure to identify and approach donors and ensure that all bequests are managed and earmarked in accordance with the wishes of donors and in compliance with the laws and mission of Pacifica Foundation. [Added9-26-13]

C. Motion by Diaz re: Copy of GM Contract to LSB (10 min.)

Whereas, the WPFW-LSB is currently in the process of preparing a performance evaluation of its GM;

Whereas, the WPFW-LSB considers, amongst several factors, the terms of employment of the particular employee to be evaluated as a part of that evaluation process;

Whereas, the WPFW-LSB has not, throughout the current general manager's three year tenure, been able to secure a copy of his

employment contract;

Be It Resolved, that the PNB directs the iED to provide the chair of the WPFW-LSB with a copy of such contract for use by the LSB's MASC (Management Assessment And Search Committee) particularly, and the LSB generally, by close of business on Thursday, 9/19/13. [Added 9-26-13]

PACIFICA FOUNDATION RADIO BOARD

D. Motion by Hentschel re: Task Force to Restructure Pacifica (10 min.)

Hentschel moves that the PNB authorize and establish a Task Force to explore restructuring Pacifica in a manner that will strengthen Pacifica and offer real support and independence (responsibility) to each station. [Added 9-26-13]

E. SCA (SIDEBAND) MOTION. From the WBAI LSB. (10 min.)

Be it hereby resolved, that the WBAI Local Station Board recommends to the Pacifica National Board (PNB) that it approve a policy that ninety-nine percent (99%) of SCA* rental fees due as of October 1, 2013 for use of any station's sidebands shall be credited, retroactively if necessary, to that station's current Central Services accounts and one percent (1%) to the National Office with copies of all existing contracts being submitted to the respective General Manager and Local Station Board (LSB), and to the PNB within 21 days of its passage of this motion, and

That an accounting of all SCA related income and expenses, since January 2009, including billing and payment of legal and collection fees, and maintenance and upgrade costs, and any other expense, be submitted to the respective General Manager and LSB, and to the PNB within 45 days of its passage of this motion, and further

That pending and future contracts are to be signed by both national and local management with adequate and reasonable submission to the respective LSB and to the PNB for advance review and feedback. [Added 10-24-13]

F. Motion for GM Evaluation at WBAI. (10 min)

Birden moves that the PNB instruct the WBAI LSB to complete ASAP a GM Evaluation, as required by the Bylaws. [Added 11-25-13]

VIII. Committee Reports carried forward from 2013

A. Elections Committee. (3 Motions) Each (10 min.)

1. Whereas, the Pacifica Bylaws, as adopted in 2003 and revised in 2007, lay out a calendar for Local Station Board elections including specific dates or periods for establishing membership and candidacy, and for the mailing and return of ballots, and Whereas, the Bylaws limit the ability of the Pacifica National Board to affect the schedule, and in no way gives an Executive Director authority to change any of those dates or periods, or to do anything beyond appointing the National Election Supervisor (NES), approving the NES' choices of Local Election Supervisors, and facilitating the work of the NES, Be it hereby resolved, that the Committee reaffirms and recommends to the PNB that it re-assert to the Interim Executive Director that it is the national board that is in effect "the Foundation" and that she be accordingly guided in all future actions.

2. The Elections Committee is requesting an update from the I.E.D. on the status of the reports by Local Election Supervisors on the conduct of the 2012 elections. We have only seen the reports by the WBAI and WPFW supervisors, which were forwarded to us by the National Election Supervisor. Have the remaining three been received? If not, were the final paychecks withheld from those LES's as specified in their contracts?

3. The EC requests a status update from the PNB regarding implementation by management of the motions sent to the PNB by the EC and passed by the PNB at its July 11 meeting (regarding directing the iED to have the GMs do mailings and clean up the membership lists, directing the iED to post the opening for the NES forthwith and mandating that the 2013 elections for LSB go forward in some form). The EC also requests a status update on research carried out by directors on e-voting providers, which the PNB set as due back by May 9. If further work is needed to implement the e-voting, such as drafting an RFP, the EC and its working group are available. [Added 8-22-13]

B. Coordinating Committee. (1 Motion) Each (10 min.)

1. Whereas, the Pacifica National Board (PNB) and its committees and taskforces work primarily or exclusively via teleconference calls that each month last dozens of hours, Be it hereby resolved, that the Chief Financial Officer shall have his staff compare the cost and services of various providers and include in the report that is to be provided to the PNB within 60 days, the comparative cost of using a toll number versus a toll-free number and whether parties using toll number and parties using toll-free number can be on the same call. [Added 6-27-13]

2. Motion that the PNB closely observe the 12:00 am (Mid-night) (ET) Limit to PNB Mtgs. [8-22-13]

C. Governance Committee. (5 Motions) Each (10 min.)

1. The governance committee recommends to the PNB that the 2013 election go forward with no later than the 60 day delay allowed by the CA Corporations Code.

2. Move that the PNB shall request the iED to provide, as soon as possible, a detailed cost accounting of the 2012 Pacifica LSB-elections to the PNB, to the Governance and Elections committees, and to the five LSBs.

3. Move to establish the following Timeline for the 2013 Pacifica Delegates Election:

Request that the PNB meet to approve and announce the 2 month postponement in open session immediately. [From: <http://kewg.org/bylaws/art4sec5.html>, with new dates] Article Four, Delegates, Section 5: Election Time Frame.

In a Delegate election year, the nominations period for seats being vacated shall open on June 1 [September 1] and remain open for thirty (30) days, closing on June 30 [September 30]. The national and local election supervisors shall thereafter prepare the written ballots for each radio station, listing all of the candidates and setting forth all other information required by these Bylaws. Ballots shall be mailed, or otherwise made available, to the Members on August 15 [November 15] (or the following day if August 15 [November 15] is a mail holiday). To be counted a ballot must be received on or before September 30 [December 30] (the "Election Close Date").

All ballots shall be held sealed until the Election Close Date. If the required quorum of ballots is not received by the Elections Close Date, then the Elections Close Date shall be extended by up to four additional weeks until closed by the National Election Supervisor. The national and local elections supervisors shall have up to 15 days after the Election Close Date to count the ballots and to certify the results to the LSBs, the Board, and the Members, which results must be reported by October 15 [January 15, 2014] or, if the Election Close Date was extended, by 15 days after the extended Election Close Date, and shall be posted on the Foundation's and the radio stations' websites. If no quorum of ballots is obtained by the extended date, then those Delegates whose terms would have expired upon the election of new Delegates shall remain in office until the next regularly scheduled Delegate election.

4. Move that the salaries of all Pacifica employees and all payments to consultants shall be disclosed to each LSB prior to the beginning of the budget process. The GM and/or the Treasurer of each LSB shall forward this information prior to May 1st. [Added 8-22-13]

5. Move that the Governance Committee wishes to inform the PNB that the motion it passed directing the IED to set up Program Councils at each station has not been acted on. [Added 8-22-13]

D. Affiliate Task Force. (2 motions) Each (10 min)

1) Motion that Ursula Ruedenberg be invited to the PNB to speak about the Affiliate Program and the impact due to the potential loss of Al Jazeera English and FSRN. [Added 9-26-13]

2) Motion for verification that the PNB's priority and intention is to fund FSRN and solidify the Pacifica Foundation's commitment to continue the FSRN program. [Added 9-26-13]

E. Audit Committee. (10 min)

The Audit committee recommends the retention of Arminino LLP for the 2013 Pacifica Audit and urges the PNB do this as soon as possible. Further the Audit committee wishes to remind the PNB that it is highly recommended to have a CFO in place for the audit. [Added 12-19-13]

F. Finance Committee. 2 motions Each (10 min)

1. Motion that the PNB direct that all station General Managers shall report to the NFC quarterly about the performance of their station's current Budget, and if the Budget becomes unbalanced into the 'red' that the general Manager shall propose immediate changes that will bring the Budget back into balance. [Added 1-23-14]

2. Motion that there be a notation on the Errors and Omissions insurance policy that if the insurance has lapsed for non-payment of premiums that the insurance company must notice the five Directors on the NFC about it. [Added 1-23-14]

IX. Motions Carried Over from 2012.

A. Elections Committee. 5 motions each (10 min)

1) Revision of Election Timeline.

Whereas, the Pacifica Bylaws, as adopted in 2003 and revised in 2007, lay out a calendar for Local Station Board elections including specific dates or periods for establishing membership and candidacy, and for the mailing and return of ballots, and Whereas, the Bylaws limit the ability of the Pacifica National Board to affect the schedule, and in no way gives an Executive Director authority to change any of those dates or periods, or to do anything beyond appointing the National Election Supervisor (NES), approving the NES' choices of Local Election Supervisors, and facilitating the work of the NES,

Be it hereby resolved, that the Committee reaffirms and recommends to the PNB that it re-assert to the Interim Executive Director that it is the national board that is in effect "the Foundation" and that she be accordingly guided in all future actions.

2) Procedures for Processing Complaints about Alleged Violations of Fair Campaign Provisions.

Move that in order to ensure fair, timely and properly publicized decisions on complaints alleging violations of the Fair Campaign Provisions; that the National Election Supervisor establishes and publicize the following process:

- a. The LES or NES should acknowledge all complaints by email within 48 hours, whenever feasible.
- b. If the LES or NES determines that the complaint warrants investigation, the LES or NES should as quickly as possible forward a copy of the complaint to the party alleged to have violated the FCP, with instructions on how and by when that person can file her/his response. If the complaint is being handled by the LES, both the complainant and the person complained against should be notified of their right to appeal any decision to the NES, and any procedure and deadline for doing so. If the complaint appears without merit, the subject shall be provided a copy and both subject and complainant shall be notified that no action will be taken.
- c. If the LES or NES finds that a rule was broken, s/he should cite the rule and explain specifically in what way it was broken. Copies of the written ruling should be sent to both the complainant and the subject.
- d. All decisions on complaints found to be valid should be rendered as quickly as reasonably possible, however no later than ten days after receipt.
- e. All decisions on complaints found to be valid should be posted on the Pacifica elections website (to provide guidance to candidates and staff at all stations) and the affected stations elections.

3) Adequate Time for On-Air Candidate Forums.

Whereas Article 4, Section 6 of the Pacifica bylaws states, in part: "All candidates for election as a Listener-Sponsor Delegate shall be given equal opportunity for equal air time, which air time shall include time for a statement by candidate and a question and answer period with call-in listeners." And

Whereas, the PNB's 2009 LSB Election Policy set a standard for on-air LSB candidate forums to be one hour in length for each 5 candidates, and

Whereas, many LSB candidate forums before and since have followed a similar formula, and

Whereas, in at least one signal area (WBAI), the recently announced forums will require 10 candidates to share one hour, and

Whereas, it is critical that all candidates have adequate time to explain their positions and that listener-members have adequate time to pose questions via phone and hear answers from all the candidates then on the air,

Resolved, that the PNB Elections Committee strongly urges the managers at the 5 stations to ensure that in all signal areas, on-air listener candidate debates allocate at least one hour for each five candidates. In addition, the Committee recommends that archives of on-air forums be posted on each station's website in a visible location.

4) Term Limits and Election Results

Whereas the National Election Supervisor adopted a policy in the 2012 WPFW elections to award only a one-year Delegate seat to anyone whose term-limited tenure would preclude them from serving a full three-year term, regardless of whether their vote total would have otherwise led to them to obtain a three-year term, and

Whereas in the 2007 election, the National Election Supervisor ruled that any candidates who would be term-limited before the end of another three-year term could nonetheless run for said term, provided that they resigned when they reached their six-year mark, and any candidates in a disparate manner that awards one candidate a shorter term than another who won fewer votes,

Resolved, that the Pacifica National Board Elections Committee strongly urges the National Election Supervisor to change the policy for the 2012 WPFW elections so as to uphold the cornerstone standard that candidates are awarded three-year or shorter terms based solely on their relative ranking in the final vote count, and

Further, that the Committee recommends that the Pacifica National Board adopt a policy for future elections that in any Delegate election in which more than the customary half of seats in either the

Listener Member or Staff Member category are vacant, three-year-terms shall be awarded to the highest vote-getters up to the number of seats usually available in that year's election, and one- or two-year-terms dependent on the election year cycle to the next highest vote-getters for the remaining available seats. This shall include any candidate who would become term-limited during the upcoming one-, two- or

three-year term, although said person shall be required to resign as a Delegate as soon as they have completed six consecutive years of Delegate service.

5) Counting of Blank Ballots.

Move that the Pacifica National Board adopt a policy that, in keeping with longstanding practice, in all elections held in Pacifica, blank ballots shall be counted toward quorum.

B. Audit Committee.

Provide Audit Reports and Management Letters.

(10 min.)

Move that the Pacifica CFO be directed immediately via email by the Chair of the Audit Committee to provide the members of the Committee for their reference and consideration immediately with complete copies of both the Pacifica Audit Reports of the past five years and the confidential Management Letters that corresponds to each of them.

C. Other Motions.

1) Requesting Legal Counsel. Aaron Motion (currently sponsored by Rosenberg). (10 min.)

Whereas, there is a potential for irresponsible abuse of the Director's privilege to seek counsel thereby incurring financial obligations for the Foundation without regard to cost; such approval will specify a cost limit and time limit for the fulfillment of the request. This applies, but is not limited to advice, review, reports, evaluations and filings. This does not apply to normal work done in relation to ongoing legal actions or projects already approved by the PNB. Nothing in this resolution alters or affects Management's rights and duties to hire counsel as needed in accordance with the bylaws.

2) Notice to Rescind Motion on Members Not in Good Standing as Delegate Candidates.
Sponsored by Brazon. (Motion to be reconsidered listed below) (10 min.)

Whereas the Pacifica Foundation should be able to protect itself from individuals who have a documented record of harmful or malicious behavior toward the Foundation or any of its members,

Be it resolved that:

The following categories of people are not members in good standing of the Pacifica Foundation as defined in Article 4, Section 2A and Article 3 Section 8A of the Pacifica Foundation Bylaws:

1. Individuals whose actions have been declared by a court of law to be breaches of fiduciary duty, or breaches of the duty of loyalty or the duty of care.
2. Individuals who have been separated involuntarily from foundation employment for cause.
3. Individuals who have been banned from station premises due to threatening behavior or creating an unsafe environment for others. These definitions of restrictions shall be publicized on the Pacifica web site. The Foundation shall make an effort annually to inform the membership of these defined restrictions on good standing through a combination of email, broadcasts and mailings.

Any member of the foundation may identify another member whose actions have caused the loss of good standing by giving notice to the National Elections Supervisor. Any individual whose good standing is questioned per these restrictions shall be provided with full due process rights to be notified of the decision and to appeal it. The initial determination shall be made by the National Election Supervisor overseeing the foundation's election process.

If a determination is made that a member is not in good standing, the individual in question must be notified 15 days prior to the determination taking effect. Notice required under this section may be given by any method reasonably calculated to provide actual notice. Any notice given by mail must be given by first-class or registered mail sent to the last address of the member shown in the foundation's records. The right to request a hearing and procedure for requesting it shall be included in the notice.

The Pacifica National Board will provide an evidentiary appeal hearing upon request being made before the determination takes effect. The current sitting board officers (defined in the Pacifica Foundation Bylaws as the board chair, vice-chair, secretary and the CFO) will appoint a 3-member panel to hear the appeal. The board officers may schedule an appeal by whatever method of communication seems reasonable, including a telephone or video conference. If the panel upholds the initial determination, that decision may be appealed to an arbitrator provided the individual pursuing the appeal waives their right to pursue legal remedies in court. Pacifica is under no obligation to provide an arbitrator for a 2nd appeal if a waiver of legal remedies is not signed. In the event an appeal is successful, good standing status for said individual will be reinstated.

This policy does not apply prior to the adoption date of this policy, unless an individual commits a new act that brings them under the provisions.

X. Adjournment.

10:30 pm (ET)