

Approved Minutes  
Pacifica National Board Special Call-In Meeting  
Open/Public Session,  
Monday December 28, 2017 – 8:30 PM ET

Audio of the meeting are archived at:  
<https://kpftx.org/archives/pnb/pnb171228/pnb171228a.mp3>

### **1. Open/Public Session Call to Order.**

Chair Jonathan Alexander called the meeting to order.  
Secretary Akio Tanaka called the roll.

#### A. Roll call

**Present:** Grace Aaron, Jonathan Alexander, \*David Beaton, Jim Brown, Adriana Casenave, Bill Crosier, Kathryn Davis, \*Benito Diaz, \*Rhonda Garner, Jan Goodman, Sabrina Jacobs, \*Ken Laufer, Cerene Roberts, Mansoor Sabbagh, \*TM Scruggs, \*Nancy Sorden, Alex Steinberg, Akio Tanaka, \*Themba Tshibanda, \*Maskeelah Washington

**Absent:** Andrea Turner

[Present: 20]

\*Arrived after the Roll Call

B. Identify Timekeepers – Mansoor Sabbagh, Akio Tanaka

C. Excused Absences

### **2. Agenda Approval**

**Point of Order** by Cerene Roberts

Notice sent on 12/26/17 is not included in the Agenda.

Notice is hereby given to rescind the vote that sought to deprive the representative of Affiliate Station WMXP from being considered for a seat on the 2018 Pacifica National Board.

This notice is also intended to halt the election process for affiliate members until some modicum of respect and fairness can be re-introduced to the process.

A motion will be brought in open session at the PNB's meeting on Thursday, January 4, 2017. No Pacifica station will have conducted its Director nominations by that date, so while inconvenient, our Affiliate Director candidates will be not be disadvantaged.

**Action:**

Chair requests the Secretary to include the Notice to Rescind in the Agenda.

**Motion: Move Item 4, Bankruptcy Authorization to closed session**

**Yes:** Grace Aaron, Jim Brown, Adriana Casenave, Kathryn Davis, Benito Diaz, Ken Laufer, Cerene Roberts, Nancy Sorden, Alex Steinberg, Themba Tshibanda, Maskeelah Washington

**No:** Jonathan Alexander, David Beaton, Bill Crosier, Sabrina Jacobs, Mansoor Sabbagh, TM Scruggs, Akio Tanaka,

**Abstain:** Jan Goodman

[11Y – 7N – 1A: Motion passes]

#### **Agenda Approval**

**Yes:** Grace Aaron, Jim Brown, Adriana Casenave, Kathryn Davis, Benito Diaz, Masoor Sabbagh, Nancy Sorden, Alex Steinberg, Themba Tshibanda, Maskeelah Washington

**No:** Jonathan Alexander, David Beaton, Bill Crosier, TM Scruggs, Akio Tanaka,

**Abstain:** Rhonda Garner, Jan Goodman, Sabrina Jacobs, Ken Laufer, Cerene Roberts

[10Y – 5N – 5A: Agenda approved as amended]

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**Point of Order by Adriana Casenave**

POINT OF ORDER: To ask the Chair to stop the violation of the Pacifica Foundation Bylaws and the California Corporations Code by using a telephonic system of communication that prevents to comply with:  
Article Six, Meetings of the Board of Directors, Section 3: Telephonic Meetings  
[Amended December 14, 2015]

The Board may hold regular and special meetings by telephone conference, video screen communication or other communications equipment, provided, however, that telephone appearance at meetings scheduled as "in-person" meetings is not permitted. Participation in a telephonic meeting under this Section shall constitute presence at the meeting if all of the following apply:

- A. Each Director participating in the meeting can communicate concurrently with all other Directors.
- B. Each Director is provided the means of participating in all matters for the Board, including the capacity to propose, or to interpose an objection to, a specific action to be taken by the Foundation.
- C. The Board has a means of verifying that the person participating at the meeting is a Director and that all votes cast during said meeting are cast only by Directors.

CORPORATIONS CODE - CORP

TITLE 1. CORPORATIONS [100 - 14631] ( Title 1 enacted by Stats. 1947, Ch. 1038. )

DIVISION 2. NONPROFIT CORPORATION LAW [5000 - 10841] ( Heading of Division 2 amended by Stats. 1978, Ch. 567. )

PART 2. NONPROFIT PUBLIC BENEFIT CORPORATIONS [5110 - 6910] ( Part 2 added by Stats. 1978, Ch. 567. )

CHAPTER 2. Directors and Management [5210 - 5260] ( Chapter 2 added by Stats. 1978, Ch. 567. )

ARTICLE 1. General Provisions [5210 - 5215] ( Article 1 added by Stats. 1978, Ch. 567. )  
5211.

(a)Unless otherwise provided in the articles or in the bylaws, all of the following apply: ...6) Directors may participate in a meeting through use of conference telephone, electronic video screen communication or electronic transmission by and to the corporation (Sections 20 and 21). Participation in a meeting through use of conference telephone or electronic video screen communication pursuant to this subdivision constitutes presence in person at that meeting as long as all directors participating in the meeting are able to hear one another. Participation in a meeting through use of electronic transmission by and to the corporation, other than conference telephone and electronic video screen communication, pursuant to this subdivision constitutes presence in person at that meeting if both of the following apply: (A) Each director participating in the meeting can communicate with all of the other directors concurrently. (B) Each director is provided the means of participating in all matters before the board, including, without limitation, the capacity to propose, or to interpose an objection to, a specific action to be taken by the corporation."

#### **Action Taken**

Chair: ruled that we will continue as we have been doing.

Adriana Casenave: challenged the ruling of the chair, but won't take-up any more time on this tonight, and simply request that this Point Of Order, in its entirety, be included in the minutes.

Chair: instructed the Secretary to include the Point Of Order in the minutes in its entirety.

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#### **Point of Order by Benito Diaz**

Revised (12/28/17) Point Of Order On Contempt Of Court

Today, Thursday, 12/28/17, is the 10th consecutive time that Sharon Brown has not been included in the roll call, whereas Mansoor Sabbagh continues to be included in the roll call as a member of this PNB. As we all know, on 10/26/17, a court in California ruled that Sharon Brown is to be returned as a member of her Los Angeles LSB, and as a member of this PNB; and that Mansoor Sabbagh is to be taken off this PNB and Ismael Parra taken off the KPFK LSB.

The PNB is hereby ordered by the court. If this PNB doesn't want to be held in contempt of court, it would be wise to reseal Sharon Brown and unseat Mansoor Sabbagh. Accordingly, Mansoor's name is to be taken off of the roll and substituted with that of Sharon.

I know that our IED, Mr. Crosier, and a Pacifica lawyer, Mr. Greene, decided to appeal the court's decision. However, let me make clear to those who don't already know it that in the 2011 Bernstein case, the court ruled that an appeal doesn't stay the execution of a court order. Several of the members of this current PNB were also on the PNB at that time and are well aware of this court ruling. The rest of you can follow their lead if you want to, but you do so at your own risk.

Furthermore, let me also remind this PNB that Mr. Crosier and Mr. Greene had no authority to file this appeal since the PNB wasn't even made aware that they wanted to take such action; much less did we vote to approve it.

In addition, Article 11, Sections 1, 2 and 9 of the Pacifica Bylaws make crystal clear that directors will not be indemnified if they willfully violate a court order. I sent you the wording of these 3 Bylaw sections shortly before the 11/2/17 OPEN meeting. Here is the wording again:

Article Eleven, Indemnification of Directors, Officers, Delegates, Employees and Other Agents, Section 1: Non-Liability of Directors, Officers & Delegates

Directors, Officers and Delegates shall not be personally liable for the debts, liabilities, or other obligations of the Foundation and private property of such individuals shall be exempt from Foundation debts or liabilities, subject to the applicable provisions of California's Corporation Code, unless said debts, liabilities or other obligations are the direct result of intentional misconduct by a Director, Officer or Delegate. The personal liability of Directors, Delegates and Officers shall be eliminated to the fullest extent permitted by California law.

Article Eleven, Indemnification of Directors, Officers, Delegates, Employees and Other Agents, Section 2: Definitions: Agents, Proceedings, and Expenses

For the purposes of this Article 11, "agent" means any person who is or was a Director, Officer, Delegate, employee or agent of this Foundation; "proceeding" means any threatened, pending or completed action or proceeding, whether civil, criminal, administrative, or investigative; and "expenses" includes, without limitation, attorneys' fees and any expenses of establishing a right to indemnification under Section 3 or Section 4 of this Article.

Article Eleven, Indemnification of Directors, Officers, Delegates, Employees and Other Agents, Section 9: Limitations

No indemnification shall be made hereunder, except as provided in Section 5 and Section 6(B) of this Article, or as otherwise required by law, in any circumstance where it appears: A. That it would be inconsistent with a provision of the Articles of Incorporation, the Bylaws, or an agreement in effect at the time of the accrual of the alleged cause of action asserted in the proceeding in which the expenses were incurred or other amounts were paid which prohibits or otherwise limits indemnification; or B. That it would be inconsistent with any condition expressly imposed by a court in approving a settlement."

B. That it would be inconsistent with any condition expressly imposed by a court in approving a settlement."

Therefore, unless you want to be held in contempt of court, and/or risk jail time, I suggest that this PNB obey the court order. I will furthermore remind the PNB that if there is any doubt as to the accuracy of this Point of Order they should review what happened to Summer Reese and Carolyn Birden in the case of Dan Siegel a few years ago.

Finally, I request that the Secretary provide Ms. Brown with the appropriate call-in information; that Mansoor be instructed to get off the call and his contact discontinued; and that we recess this meeting while we wait for Sharon to join us on the call.

#### **Action Taken**

Chair: ruled that we will continue as we have been doing.

Benito Diaz: challenged the ruling of the chair, but won't take-up any more time on this tonight, and simply request that this Point Of Order, in its entirety, be included in the minutes.

Chair: instructed the Secretary to include the Point Of Order in the minutes in its entirety.

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### **3. Minutes Approval 12-21-17**

#### **Motion: Table the Minutes**

**Yes:** Grace Aaron, Jim Brown, Adriana Casenave, Benito Diaz, Ken Laufer, Cerene Roberts, Nancy Sorden, Themba Tshibanda, Maskeelah Washington

**No:** Jonathan Alexander, David Beaton, Bill Crosier, Rhonda Garner, Sabrina Jacobs, Mansoor Sabbagh, TM Scruggs, Akio Tanaka,

**Abstain:** Kathryn Davis, Jan Goodman, Alex Steinberg

[9Y – 8N – 3A: Minutes tabled]

**Motion: Extend Meeting Time 15 min** by Grace Aaron

**Yes:** Grace Aaron, Jim Brown, Adriana Casenave, Kathryn Davis, Benito Diaz, Jan Goodman, Ken Laufer, Cerene Roberts, Mansoor Sabbagh, Nancy Sorden, Alex Steinberg, Themba Tshibanda, Maskeelah Washington

**No:** Jonathan Alexander, David Beaton, Bill Crosier, Rhonda Garner, Sabrina Jacobs, TM Scruggs, Akio Tanaka,  
[13Y – 7N: Motion fails 2/3]

**Motion: Extend Time 50 min** by Cerene Roberts

**Yes:** Jim Brown, Adriana Casenave, Kathryn Davis, Benito Diaz, Jan Goodman, Ken Laufer, Cerene Roberts, Nancy Sorden, Alex Steinberg, Themba Tshibanda, Maskeelah Washington

**No:** Grace Aaron, Jonathan Alexander, David Beaton, Bill Crosier, Rhonda Garner, Sabrina Jacobs, Mansoor Sabbagh, TM Scruggs, Akio Tanaka,  
[11Y – 9N: Motion fails 2/3]

#### **4. Motion: Loan Authorization** by Nancy Sorden

Whereas; the Empire State Realty Trust is in the process of court filed collection efforts for \$2 million, and

Whereas there is an imminent need for forbearance or its equivalent from ESRT while a \$2-3 million 5 year loan is negotiated and completed and,

Whereas it could jeopardize or delay the progress on the \$2-3 million loan negotiations in progress should this smaller loan be secured by the same property as the larger loan, and

Whereas we may have private supporters of Pacifica who agree to such a loan,

Move that the Pacifica National Board authorizes pursuing a loan of not less than \$500,000 but not to exceed \$800,000 secured by a note on a Pacifica real estate property located at 1921 and 1925 Martin Luther King Way, Berkeley, CA. 94704 for 6-12 months.

That the Pacifica National Board shall review loan documents and once approved by the majority vote of the Board, shall direct the interim Executive Director to sign said documents.

The negotiating terms of the loan shall be:

1. Amount: \$5-800,000
2. Terms: 12 months at no more than 8% interest
3. No payments for the first 6 months
4. Loan Repayment due in full at the end of 12 months.
5. Late payment charge of 10%, after 10 days of delinquency,
6. Loan secured by the Pacifica Foundation's properties located at 1921 and 1925 Martin Luther King Way, Berkeley, CA 94704
7. All funds solicited or collected for the purpose of paying the ESRT judgment debt, shall be placed in a Pacifica Foundation restricted account.
8. All solicitations on behalf of the Pacifica Foundation in this regard shall be deposited exclusively in the Pacifica Foundation restricted account. The Pacifica Foundation may not offer a tax deductible acknowledgement to any entity solicited to or deposited and held outside of its official bank accounts.

9. Should the \$500,000 to \$800,000 loan be offered by a Pacifica Board director, spouse, relative or other interested person as defined in Pacifica's bylaws Article 13, a conflict of interest hearing or process shall be conducted prior to accepting such an offer. Should such a hearing and process conclude there is no conflict of interest the reasoning for its decision shall be reflected in the minutes. Or, should the Board conclude there is a conflict but is mitigated by the circumstances the reasoning for its conclusion shall also be reflected in the minutes.

**Yes:** Grace Aaron, Jim Brown, Adriana Casenave, Kathryn Davis, Benito Diaz, Ken Laufer, Nancy Sorden, Alex Steinberg, Themba Tshibanda, Maskeelah Washington

**No:** Jonathan Alexander, David Beaton, Bill Crosier, Sabrina Jacobs, TM Scruggs, Akio Tanaka,

**Abstain:** Jan Goodman, Cerene Roberts

[10Y – 6N – 2A: Motion passes]

## **5. Adjourn**

Adjourned to closed session at 9:35 PM ET.

Akio Tanaka – 12/29/17

PNB Secretary