

**Approved Agenda  
PNB Special Call-in Meeting  
Open/Public session  
January 18, 2018 8:30 pm ET**

Item #	Item	Time
1	Call to Order Roll Call Identify Timekeepers Excused absences	10 min
	Thank the retiring 2017 Board Members	10 min
2	Agenda Approval	10 min
3	Minutes Approval 12-21-17, 12-28-17, 1-04-18, 1-11-18	10 min
4	Amendment of Minutes 12-18-17	10 min
5	Chair's Report	10 min
6	Motion: KPFA Delegate Replacement – PNB Director	15 min
7	Motion: Bankruptcy Authorization	15 min
8	Communications Motion # 2 Board-Attorney/Consultant	15 min
9	Communications Motion # 3 Executive Session Declassifi.	15 min
10	Motion: Sexual Harassment Training	15 min
11	Adjourn to Closed 10:15 PM ET Time Certain	

<p><b>KPFA:</b> Sabrina Jacobs TM Scruggs Aki Tanaka Andrea Turner</p> <p><b>KPFAK:</b> Grace Aaron Jonathan Alexander Jan Goodman Mansoor Sabbagh</p>	<p><b>KPFT:</b> Adriana Casenave Bill Crosier Rhonda Garner</p> <p><b>WBAI:</b> Kathryn Davis Ken Laufer Cerene Roberts Alex Steinberg</p>	<p><b>WPFW:</b> Jim Brown Benito Diaz Nancy Sorden Maskeelah Washington</p> <p><b>Affiliates:</b> David Beaton Themba Tshibanda</p>
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Cerene Roberts notice 12/13/17

She will be introducing a motion to rescind the KPFT LSB Motion that the PNB approved at its meeting on 12/07/17.

**Motion regarding the KPFA Delegate replacement and PNB Listener Directors election** by Alex Steinberg

Resolved that the PNB does not recognize the process (or lack thereof) used on Saturday, January 6, 2018 for appointing Susan da Silva to a KPFA Listener seat vacated by Yuri Gottesman and considers the seat vacant. Be it also resolved that the KPFA LSB shall contact candidates on the recount runners up list, including the write-in candidates, to find the first one who is available and willing to serve and seat

that individual. Be it further resolved that if no runner up candidates are available, a call should go out to the KPFA membership on KPFA's website and on the air inviting listener members to apply for the vacancy and giving a deadline, that the applicants shall be interviewed by the Delegates at an LSB meeting, and the LSB shall conduct an IRV vote to determine the winner of the seat.

Furthermore, given that KPFA has four current Directors on the PNB until January 25, 2018 when the 2018 PNB is seated, and given that all Delegates who were elected in the KPFA Directors elections on January 6, 2018 are actually Directors-elect and become full-fledged Directors on January 25, 2018 when they are seated, when Bill Campisi "resigned" immediately following the announcement of the results of the Listener Directors election he was not actually resigning as a Director for which Article 5, Section 8 of the bylaws would apply but rather he was withdrawing his acceptance as a Director-elect for which a Director replacement election per the above bylaw would be out of order. Therefore be it resolved that the third KPFA Listener Director-elect position goes to the fourth place candidate Tom Voorhees who shall be seated on the 2018 PNB on January 25, 2018.

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**Motion: Bankruptcy Authorization** by Bill Crosier and Sabrina Jacobs

WHEREAS, on October 4, 2017, the Honorable Gerald Lebovits of the Supreme Court of the State of New York, granted summary judgment in the amount of \$1,819,687.52 with interest and reserving attorney's fees and court costs, in favor of plaintiff, in ESRT Empire State Building (Empire State) L.L.C. v. Pacifica Foundation, Inc., Case No. 656145/16, for the failure of Station WBAI to stay current on its lease payments for its broadcast antennae located on the Empire State Building in New York, New York;

WHEREAS, on November 16, 2017, the Clerk issued Judgment ("Judgment") in the amount of \$1,839,586.19 in ESRT Empire State Building L.L.C. v. Pacifica Foundation, Inc., reserving attorney's fees and interest;

WHEREAS, on December 7, 2017, Empire State filed its Application for Entry of Judgment on Sister State Judgment in Los Angeles County Superior Court, Case No. BS 171750 and on December 12, 2017, personally served the same on Pacifica Foundation's National Office, 1925 Martin Luther King Way, Berkeley, California ("National Office");

WHEREAS, on December 7, 2017, Empire State served on the National Office and filed its Request to File Foreign Judgment in Superior Court of the District of Columbia, Case No. 17-0008138, in the amount of \$1,839,586.19 at the rate of 9% interest;

WHEREAS, on December 11, 2017, Empire State served on the National Office and filed the Notice of Filing of Foreign Judgment in the District Court of Harris County, State of Texas, Case No. 2017-80997, in the amount of \$1,839,586.19;

WHEREAS, Empire State has taken the steps necessary to start to execute its \$1,839,586.19 Judgment in the states of New York, California, Texas and Washington D.C.;

WHEREAS, Pacifica Foundation owns real property free and clear and five broadcast licenses, but does not have sufficient operating capital and reserves to pay the Judgment;

WHEREAS, Pacifica Foundation maintains real property and bank accounts in the states of New York, California, Texas and Washington D.C. which are at risk for being levied upon, liened against and seized;

WHEREAS, Empire State may execute its Judgment on bank accounts owned by Pacifica Foundation at any time;

WHEREAS, Empire State can record an Abstract of Judgment in California on Monday, January

8, 2018, which will become effective against real property in California;

WHEREAS, if Pacifica Foundation fails to file a petition for bankruptcy reorganization pursuant to Chapter 11 of the U.S. Bankruptcy Code on or before Friday, January 5, 2018, in California, and Empire State records an Abstract of Judgment on Monday, January 8, 2018, it will create a Judgment Lien which will become effective as against real property Pacifica Foundation owns and unnecessarily and unduly compromise Pacifica Foundation's position in bankruptcy court;

WHEREAS, the recordation of an Abstract of Judgment in California will trigger the creation of a Judgment Lien that will entitle Empire State to add interest and attorney's fees to its Judgment Lien and otherwise improve its position and damage Pacifica's assets;

WHEREAS, for close to six months Pacifica Foundation has requested Empire State to sign a Forbearance Agreement in writing whereby Empire State would promise for a time certain not to execute its judgment and otherwise increase its legal advantage over the Pacifica Foundation by promising not to record an Abstract of Judgment or take any other steps to perfect a Judgment Lien or enforce the Judgment for the forbearance period, and Empire State has refused and continues to refuse to do so;

WHEREAS, Pacifica Foundation has failed to make any further monthly antennae lease payments to Empire State since May 2017 and will continue such failure into the foreseeable future;

WHEREAS, as of December 1, 2017, Pacifica Foundation's monthly payment to Empire State is \$60,991.16 and will continue to increase in amount every month thereafter until the lease expires in 2020;

WHEREAS, Pacifica Foundation cannot afford to make the ongoing and continuing monthly Empire State lease payments for the location of the WBAI broadcast antennae;

WHEREAS, Pacifica Foundation has failed to fund the retirement plan for its employees since FY2015 and owes said plan approximately \$750,000

WHEREAS, due to Pacifica Foundation's lack of compliance in funding its retirement plan for its employees, on December 12, 2017, the Newport Group, Inc., the manager of the plan "disengaged" effective immediately;

WHEREAS, Pacifica Foundation has mismanaged its fiscal responsibilities for a period of many years that has resulted in the accumulation of millions of dollars of debt;

WHEREAS, Pacifica's Foundation's credit rating is damaged, flawed and poor such that it can become eligible for cash loans only on the riskiest and most harsh terms for which it has no articulated plan for repayment and which necessarily would be secured by real property that Pacifica owns;

WHEREAS, the Pacifica Foundation has an ongoing duty to submit yearly independent financial audits to the California Attorney General Charitable Trusts Division on a timely basis;

WHEREAS, the failure of Pacifica Foundation to timely submit yearly independent financial audits to the California Attorney General Charitable Trusts Division will result in the revocation of its tax-exempt status;

WHEREAS, the Pacifica Foundation cannot operate without remaining a non-profit corporation with a valid tax-exemption in good standing in the State of California;

WHEREAS, on May 22, 2017, the California Franchise Tax Board revoked the Pacifica

Foundation's tax exemption for failing to timely submit yearly independent financial audits, which status was subsequently reinstated when Pacifica Foundation submitted its independent financial audit for FY2015 to the California Attorney General Charitable Trusts Division in August 2017;

WHEREAS, Pacifica Foundation has a fiduciary duty to protect its assets, not to expose its assets to undue and unnecessary risk and to exercise sound fiscal management looking into the future;

WHEREAS, the Pacifica Foundation has no other present means by which to protect its assets from imminent levy, lien and seizure;

WHEREAS, the most effective way for the Pacifica Foundation to effectively protect its assets is by filing a petition for bankruptcy reorganization pursuant to Chapter 11 of the U.S. Bankruptcy Code on or before Friday, January 5, 2018;

WHEREAS, in order to file a petition in bankruptcy and to successfully do the work that is necessary to a successful use of bankruptcy protection, the National Office in Berkeley, California must gather information from the member radio stations in New York, Washington D.C., Texas and California;

WHEREAS, the National Office and bankruptcy counsel will have to work in close and continuing cooperation and that physical proximity best facilitates such ongoing cooperation;

WHEREAS, bankruptcy specialists, Reno F.R. Fernandez III, Philip E. Strok, and Pacifica General Counsel Ford Greene continue to advise and recommend Pacifica Foundation to file a petition for bankruptcy reorganization pursuant to Chapter 11 of the U.S. Bankruptcy Code on or before Friday, January 5, 2018;

WHEREAS, in order to accomplish the continuing work that submitting yearly independent financial audits requires, to continue to exercise accountable fiscal responsibility across the Pacifica Foundation's radio network and to gather the foundational documents, records and financial data that maintaining a bankruptcy filing will require, Pacifica Foundation must authorize the hiring of additional employees to assist CFO Sam Agarwal;

NOW THEREFORE, it is hereby moved that the Pacifica National Board authorize its Executive Director William G. Crosier and/or Chief Financial Officer Sam Agarwal to employ the law firm of MacDonald Fernandez LLP to file a petition for bankruptcy reorganization pursuant to Chapter 11 of the U.S. Bankruptcy Code on or before Friday, January 5, 2018;

NOW THEREFORE, it is hereby moved that the Pacifica National Board authorizes Chief Financial Officer Sam Agarwal to employ two contractors to assist in discharging the tasks set forth hereinabove.

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**Agenda Item 8: Amend Communications w/ Consultants (Roberts)**

Whereas, the PNB had sought to improve the flow of information to the deciders by creating a policy where consultants and attorneys working with the foundation through this period of heightened anxiety would include 2 of 4 particular directors in telephone conversations. And for that to work, written communication needed to be sent to the 4 directors so that all could be prepared; and

Whereas, this hasn't been happening consistently and it appears to complicate things for our agents; therefore,

Effective immediately, all correspondence from foundation attorneys shall be addressed to the IED and CFO at their usual Pacifica addresses, and copied to the full board at PNB at pacifica.org

Our email discussions shall not include the attorneys and/or consultants as it would severely tax our finances if we had to pay them to field multiple responses and it would certainly tax their patience and sanity. The 4 directors previously identified shall provide organized feedback to our outside workers.

PREVIOUS MOTION

\*Thursday, December 7, 2017, 10Y 3N

I move that Nancy Sorden (back-up Adriana Casenave) and Jan Goodman (back-up Grace Aaron) also be briefed by Sam Himmelstein, Greg Guy, and Marc Hand when Bill Crosier and/or Sam Agarwal communicates with them so that we are getting a multiplicity of direct reports from others on these crucial matters in addition to hearing from Bill Crosier.

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**Agenda Item 9: Communications Motion #3: Declassification (Roberts)**

Whereas staff has been sending information they label "Confidential", legal opinions, proprietary information, material from executive sessions to persons who are not members of governance, and members of governance have been distributing materials provided in executive session and not part of the Boards approved "Report Out"; be it hereby resolved,

That by February 1st each year, and as updated, the Secretary shall provide to the Executive Director, a list of current members of PNB members for distribution to national office staff, consultants, attorneys, and unit heads; and

That the PNB tasks its Governance Committee with recommending a process by March 30, 2018, through which the Board can "declassify" executive session material.

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**Motion: Sexual Harassment Training** by Grace Aaron

Whereas, discrimination and sexual harassment lawsuits have cost the Pacifica Foundation hundreds of thousands of dollars in the past,

And, Whereas, it is the law in California that sexual harassment training needs to be done every 2 years by supervisory personnel and within 6 months for any person newly hired,

And, Whereas, almost every staff member, both paid and unpaid, has some supervisor responsibilities,

Be it Resolved that all staff of Pacifica complete online sexual harassment training within 3 months if they have not completed such training in the last 2 years.

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