

# FINAL REPORT

on the Pacifica 2007 Elections

*by Casey Peters*

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*“Pacifica doesn’t need elections.  
It needs conflict resolution.”*

--Attieno Davis, 2006 WBAI  
Local Election Supervisor

*“My time working on Pacifica’s elections was not entirely pleasant, and while there are many individuals involved with the foundation that I have great respect for, it is not a goal of mine to intersect with Foundation internal squabbling in the future. I have been the neutral third party administrator of dozens of highly contested elections since my involvement in Pacifica, several of which have in fact been challenged to the Department of Labor, but none has left me with the sense of brutalization that Pacifica left me with.”*

Kenny Mostern,  
2004 National Election Supervisor  
December 16, 2007

**[IF]**

If you can keep your head when all about you  
Are losing theirs and blaming it on you,  
If you can trust yourself when all else doubt you  
But make allowance for their doubting too,

If you can wait and not be tired by waiting,  
Or being lied about: don't deal in lies,  
Or being hated: don't give way to hating,  
And yet don't look too good, nor talk too wise.

If you can dream -- and not make dreams your master,  
If you can think -- and not make thoughts your aim;  
If you can meet with Triumph and Disaster  
And treat those two impostors just the same;

If you can bear to hear the truth you've spoken  
Twisted by knaves to make a trap for fools,  
Or watch the things you gave your life to, broken,  
And stoop and build 'em up with worn-out tools.

If you can make one heap of all your winnings  
And risk it all on one turn of pitch-and-toss,  
And lose; and start again at your beginnings  
And never breath a word about your loss.

If you can force your heart and nerve and sinew  
To serve your turn long after they are gone;  
And so hold on when there is nothing in you  
Except the Will which says to them: "Hold on!"

If you can talk with crowds and keep your virtue,  
Or walk with queens -- nor lose the common touch,  
If neither foes nor loving friends can hurt you;  
If all folks count with you, but none too much.

If you can fill the unforgiving minute  
With sixty seconds' worth of distance run,  
Yours is the Earth and everything that's in it,  
And -- which is more -- you'll be Pacifican!

- *adapted from Rudyard Kipling*

## **Overview**

The Pacifica Foundation is an invaluable resource for the American people and now, through the internet and satellite broadcasting, to listeners around the world. In striving to fulfill its Mission Statement, Pacifica's radio stations and affiliates provide a brilliant range of programming that is unavailable elsewhere. As an avenue for facilitating Free Speech through allowing access to broadcasting

facilities to a wide variety of cultural and public affairs programmers, Pacifica is unique and irreplaceable.

In the 1990s, the governing bodies of the foundation drifted away from the original intent of Lewis Hill and his fellow pioneers who brought this resource to us with inspiration, toil and tenaciousness. That drift toward corporate control was resisted and reversed by the rank-and-file membership whose volunteer labor and grassroots funding keeps our radio stations noncommercial. Struggle from street demonstrations to courtroom litigation resulted in adoption of a new set of Bylaws that established a more democratic model of governance.

In 2003, the first national implementation of the election of Pacifica's Local Station Boards revealed both the promise and the problems associated with a representative process for the governance of a nonprofit corporation. Unlike most nonprofits, the Pacifica Foundation is not dedicated to a relatively narrow focus. Pacifica is a major media outlet serving audiences potentially in the millions. As such, with its broad range of programs appealing to diverse populations, Pacifica Foundation's membership reflects many sectors of society. In terms of governance elections, that means candidates whose dedication to the foundation is unshakable but whose differences amongst themselves are extremely divisive.

The level of acrimony expressed between competing candidates and slates is quite alarming and not at all in keeping with the Pacifica Mission. Competition in the form of elections seems to exacerbate tensions rather than resolve them. These tensions may carry over onto the workings of the Local Station Boards and interfere with their ability to function amicably and effectively.

The election process itself, from 2003 to the present, has been fraught with unforeseen difficulties. First and foremost, the timeline mandated in the Bylaws was logistically unworkable. Every one of my predecessors as National Elections Supervisor has lamented this timeline in their Final Reports and has asked that it be corrected. One of the reasons I accepted this position was to push through a Bylaws amendment to improve the timeline, and I am happy to report that this

effort was successful. My successors should have an easier time of handling the preparation and distribution of ballots and ballot pamphlets in 2009 and beyond.

The other primary concern in the conduct of Pacifica elections is the problem of preparing accurate mailing lists of qualified voting members. There are two lists required per station, one for Listener Sponsors and one for Staff. The Bylaws do not assign the responsibility of compiling these lists to the National or Local Elections Supervisors, or for that matter to anyone else.

In this vacuum is born considerable confusion and conflict. To the casual observer, it might seem that this is a straightforward matter that should settle itself in a logical way. But the complexity of preparing proper databases is beyond reasonable expectations. The five stations each must produce two lists of voters with members assigned to their appropriate class. These lists are produced from other lists compiled for different purposes: subscriptions, volunteers, unpaid staff, paid staff, and management. Apparently none of these lists at any station is kept up to date. They are rife with inaccuracies, duplications, overlaps between lists, outdated information and exclusion of current members. One station had four different lists of paid staff (presumably the smallest and simplest list to maintain) and none of those matched the National Office's list of paid staff for that station. The least of the trouble is that there is no way to enforce Article Three Section 3, limiting membership to a single station. I will address database problems in detail within this report.

Related to the question of mailing lists is the matter of providing ballots to members who report they have not received them or may have misplaced them. Many requests for replacement ballots come from people who did not qualify during the year in which membership is required in order to vote. In doing the ballot replacement work, Elections Supervisors do not always have ready access to the MEMSYS database at a given station to provide confirmation that someone requesting a ballot is actually a qualified voter. Although there is a turnaround time of six weeks between the Voting Membership Close Date and the mailing of the ballots, experience in every election cycle shows us that the mailing lists are

not up to date when ballots are mailed. Reliance on the mailing lists for checking qualification for replacement ballots leads to understandable consternation on the part of those who were inadvertently excluded from those lists.

Another mailing list concern is the phenomenon of private slate mailers sent by well-funded groups hoping to influence the outcome of Pacifica elections. This practice, limited in past elections to KPFA and WBAI, spread to KPFK in 2007. Specific problems associated with this cycle's slate mailers will be addressed in the body of the report, but a cautionary note is sounded here. The influence of money in selecting the governing bodies of Pacifica leaves us wide open to hostile takeover by pseudo-religious fundamentalists or other anti-democratic forces. As it stands now, a determined effort by outsiders could easily result in the purchase of our half billion dollar broadcast network for far less than a penny on the dollar. We can protect ourselves to some degree by amending our Bylaws to require LSB candidates to choose either private support or access to foundation resources.

The work of coordinating all aspects of an election for Local Station Board is truly overwhelming, with a very steep learning curve and innumerable obstacles. The people hired as Local Election Supervisors are nearly always new to this kind of work. People with election administration experience are rare, and will not put in such long hours for such low pay. The position is misleadingly advertised as part-time when in reality the LES is a job requiring well over 40 hours per week with lots of evenings and weekends included. LES applicants are interviewed and hired by telephone, and may not meet the National Election Supervisor until the vote count. The Local Election Supervisors are often attacked for their lack of experience and for their inability to control factors that are beyond their reach and that have proven problematic in Pacifica's previous election cycles.

Considering the breadth of the tasks they have to tackle, the lack of time and money for training, the temporary nature of the job, and the tumultuous atmosphere in which they must work, Pacifica's Local Election Supervisors have performed remarkably well. However, in each election cycle some have dropped out or had nervous breakdowns. Lack of support from management and

expressions of unbridled hostility from mindless partisans contribute to the stress experienced by our LESs. This is no way to treat the people who facilitate our democratic procedures for an elected governance structure, especially in a progressive community of thoughtful and enlightened activists.

Adding to the overall picture of the anti-Pacifica context in which elections are conducted is the litigious nature of self-important individuals and groups who put their private concerns above those of the Pacifica Foundation. Several times during this election cycle, the Foundation and its Elections Supervisors have been threatened with lawsuits or actually sued by persons who seem to feel that the rules that apply to other members should not apply to themselves. These actions have put the very existence of the election process at risk and have cost Pacifica tens of thousands of dollars. Details are available later in this report.

If this overview sounds dismal, that is not my intent. Pacifica holds the promise of great potential. We must recognize that most of that potential goes unfulfilled, and that it will continue so until we learn to overcome our differences and work together. We must realize that our broadcasting network functions to give expression to a broad range of viewpoints and multicultural offerings. None of us will like everything we hear on Pacifica Radio. But all of us should honor the diversity of perspectives made manifest by the efforts of thousands of volunteers and the funding of tens of thousands of supporting listeners.

Many refer to the elections that have chosen our Local Station Boards from 2003 to the present as an “experiment.” This important process must **not** be viewed as something that may be temporary. Rather, we find ourselves in the beginning stages of democratic governance. Much devoted work will be needed to assure the proper functioning of this process in years to come.

It is vitally important to address the many difficulties that have plagued these elections from the adoption of the 2003 Bylaws. It is incumbent upon the Pacifica National Board, whether through its Elections Committee or by the empanelling of an independent Elections Task Force, to thoroughly examine what does and does not work about our initial attempts to achieve some semblance of

democratic governance. In doing so, it must be kept in mind that our decision making processes should not be a one-way street where elected delegates blithely do their own thing. Rather, feedback mechanisms must be implemented to allow ongoing interaction between Pacifica members and the representatives they have chosen.

Unfortunately, issuance of this report was dramatically delayed by many circumstances. These included technical difficulties with the computerized vote counting system, the *Cohen v. Pacifica* and *Aaron v. Pacifica* lawsuits, resignation of Greg Guma as Executive Director, vacillation of Nicole Sawaya regarding her willingness to serve as the new ED and her refusal to communicate with Pacifica's Elections Supervisors, and interference in the elections process by Dan Siegel both as corporate counsel and as Interim ED with the culmination of his firing me as NES for sticking to established rules and refusing to count the votes *his way*.

Not having had the time usually allowed the National Elections Supervisor to write a report after the vote counts have been concluded, much of my energies were focused on personal economic survival rather than on providing Pacifica with the guidance expected from an NES at the end of the election cycle.

This report therefore touches only the surface of a highly complex process that is, in theory, highly democratic but that in practice is deeply flawed. Many of the fine points that should be addressed simply cannot be if this report is to be issued prior to the start of the 2009 election cycle. However, I stand ready to provide testimony to any panel that wishes to improve Pacifica elections.

On a personal note, allow me to say that I intend to continue the support that I have given Pacifica throughout my adult life, and that I will happily be of assistance to my successors in facilitating democratic control of mass media.

## **Getting Started**

Before my second round as Local Election Supervisor for KPFFK finished in December 2006, I was approached by Directors of the Pacifica National Board

(PNB) about applying for the position of National Elections Supervisor for 2007. My wife Marilyn and I discussed the possibility and we both shared strong reservations about it, having observed the extreme stress experienced by Lester Radke in 2006 and by Terrill Bouricious in 2003-2004.

However, we decided that it was important to tackle the timeline problem that had so disrupted previous cycles of Pacifica elections. We knew that even if we were able to bring the change to fruition, we would be stuck with working under the old timeline for the duration of the 2007 cycle. We also knew that when things went wrong, the blame would be dumped on Election Supervisors rather than addressing systematic difficulties. Even so, this challenge called me to put aside my reluctance and submit to further service for the Pacifica Foundation.

The first step was for the PNB to pass a resolution allowing an “early hire” of the NES. This was done in recognition that the Bylaws timeline did not allow enough leeway to do the preparation necessary for the election. I was hired a month prior to the hiring date advised in the Bylaws, and I was told that this was done in lieu of hiring the previous NES to tackle a variety of unfinished business.

Information necessary to do the job was not easy to come by. There was no handbook detailing the many complex tasks facing Elections Supervisors; no compilation of rulings of previous NESs; nor of resolutions passed by the PNB on election-related matters. The Final Reports from the 2004 and 2006 (but not 2003) election cycles were the only written information available.

Equipment loaned to me for the job by the Pacifica National Office included a cellular telephone and a laptop computer. The latter was new, but the laptop that had been used by the previous NES was later issued to the new National Program Coordinator. This routine decision proved problematic later in the year when we learned that the Vista operating system on the new laptop issued to the NES was incompatible with the ballot-scanning and vote-tabulating applications, ABBYY FormReader and Voting Solutions' ChoicePlus Pro, used in 2006.

When I began work in April, I attended a PNB meeting in Washington DC preceded by a meeting of the Operations Collective (a.k.a. the management group). I provided the General Managers and Program Directors with written instructions on how to keep track of volunteer hours to determine the eligibility of unpaid staff voters. I followed through with all of them in late May to assure that procedures would be in place for the June through August qualifying period. However, this was not properly implemented at any station, and with no Local Election Supervisor present to facilitate the process, we began the election year with the probability of widespread trouble in compiling accurate unpaid staff lists.

I spoke to the Pacifica National Board about the necessity to address the timeline problem and was resoundingly applauded. However, it is a long way from applause to forging consensus and drafting Bylaws language to effectuate the needed changes. I did participate in Elections committee and subcommittee meetings from mid-May through the end of September. While a farther reaching proposal to limit Pacifica elections to odd-numbered years (thus avoiding overlap with presidential/congressional elections, allowing more time for governance, cutting election expenses, and setting the schedule for alternating years rather than the confusing two out of every three years), only the main Amendment changing the intra-annual timeline to a more rational pace was added to the Bylaws. Unfortunately, the newly adopted timeline would not go into effect until Pacifica's 2009 Local Station Board elections.

Another request of the PNB at the April meeting in Washington DC was to authorize the early hiring of Local Election Supervisors to address problems of duplicates and inaccuracies in the databases used to compile mailing lists of voting members. The traditional date for hiring LESs was between July 1 and July 15, but the PNB didn't manage to address my request until mid-June. So the extra time to correct the database troubles that had been so damaging to earlier cycles of Pacifica elections was not available to us. In delaying the "early hire" of LESs, the PNB allowed membership list troubles that had dominated previous election cycles to once again run interference in the democratic process. This failure to act in a timely manner proved to be "penny wise and pound foolish".

## **Local Election Supervisors**

I spoke with all of the other Local Election Supervisors from the 2006 cycle. We had worked together under NES Les Radke, and I knew all of them to be smart and capable, dedicated and principled. For those reasons, and because of the steep learning curve in that fast-paced position, I offered each of them the job for 2007. The LESs for both of the most difficult stations, WBAI in New York and KPFA in Berkeley, declined because of the long hours, short tempers, high stress and low pay.

The 2006 LES for WPFW in Washington DC, Ikeso Alston, was vetoed by the Executive Director due to his having suffered a nervous breakdown at the end of that year's election. That is not an infrequent reaction to the difficulties and disparagement faced by Pacifica's Local Election Supervisors. I felt that Ikeso's confidence that he had learned the ropes and would do a better job in 2007 made him a preferable choice to any new person who would have to learn the job on the fly. Regardless, the Bylaws give the ED veto power over the hiring decisions of the NES, and so I then publicly posted the job.

The 2006 LES for KPFT in Houston was the only experienced veteran to take the job for a second time, and Jane Tucker Bradley proved to be an invaluable resource in helping the other LESs solve problems. Unfortunately, she did not last throughout the entire election cycle due to personal health trouble triggered by lingering apprehensions about candidate hostility after she had been physically attacked by a candidate at a campaign event in 2006. When it became clear that Tucker would not continue, I did persuade her to continue to participate in our weekly Election Supervisor conference calls. Her expertise and native wisdom were a real asset to the rest of our team.

In addition to KPFT, we had to change horses in midstream at KPFA after our initial LES, Chihiro Wimbush, was offered a better job with a film production company. Both of these transitions occurred as the Qualified Voter Membership Close Date was passing and the Candidate Filing Deadline was fast approaching.

Despite our sorrow at losing Chihiro, we were pleased to add JaNay Jenkins to our team. She was bright and capable. But she had no election or media work in her background. No matter. We hired JaNay and she quickly was up to speed.

Advertizing for Local Election Supervisors was done through several media, including station websites and various independent websites featuring jobs in the nonprofit sector. However, nearly all responses came from posting on the online community bulletin board Craig's List [www.craigslist.com](http://www.craigslist.com) in each city. Generally, applicants seemed fairly well suited for the job, but I was shocked that one of those seeking the KPFT job had worked for former Congressional criminal Tom DeLay and one applicant had worked for none other than notorious former Florida Secretary of State Katherine Harris. Regardless of those applications, we found numerous people worthy of an initial interview in all of the listening areas.

Although I revised the job description for Local Election Supervisor to better fit the actual requirements of the position, I overlooked the need to correct the erroneous notice that the job was part-time. In reality, the work of LES takes far more than forty hours a week. In the future, job listings should more accurately reflect the actual fact that the job will subsume your entire life for the duration.

Among qualities sought in the employment postings were: A quick learner; Attentive to detail; Computer savvy; Considerate and courteous; Decisive and firm; Friendly and helpful; Hard working; Independent; Lighthearted; Thick skinned; Tolerant and understanding; and Well organized.

The description also stated "The role of the Local Election Supervisor is to oversee the process from beginning to end, including: studying previous supervisors reports; interacting with station management, staff, volunteers, and board members; checking databases of voting members for accuracy and duplicates; establishing outreach to potential candidates; verifying nomination petition signatures; proofreading content of written statements for ballot pamphlet; organizing community and on-air candidate forums; monitoring production and broadcast of candidate statements; providing content for elections website; enforcing Pacifica's Bylaws and Fair Campaign Provisions;

encouraging civility among candidates from contentious factions; sending ballots to members who did not receive them; maintaining security of ballots received from voters; conducting the proportional representation vote count; and writing a final report. Election Supervisors must maintain strict neutrality, regardless of your personal politics, and must assure that every candidate gets a fair hearing.”

The LESs must hit the ground running, deal with an ever-changing situation and maintain control in an out-of-control environment. They need to learn radio production skills, the basics of moderating meetings, keep administrative records of all that transpires, and try to persuade people who resent the election process to lend their cooperation. Each LES steps into a situation where s/he is unknown and the people with whom they deal most directly are often suspicious of each other and all too frequently are outwardly hostile toward one another. For all their dedication and diligence, the LESs get accused by all manner of nut cases of being partisan in their administration of the elections.

That is why it was important to me, in the absence of experienced LESs, to hire individuals who were absolutely uninvolved with the internal politics of their radio stations. Regardless of the fact that each Local Election Supervisor was completely independent and neutral, they were each attacked with the same phony charges from various parties participating in the elections. No reasonable person should expect to have to put up with such abuse in their workplace.

With only indirect supervision from a remote National Elections Supervisor, the Local Election Supervisors naturally are subject to some influence by station management, staff, volunteers and activists. Even speaking casually with anyone considered to be on “the other side” by anyone else can result in the rumor mill chastising the LES and undermining the integrity of the election process. That is why I advised the supervisors I hired to avoid the station as much as practical, and to do as much work from home as possible. To what degree this helped or hurt, it is hard to assess. There is no readily obvious solution to this problem as it will be faced in each new election cycle by newly hired Local Election Supervisors.

## **Election Supervisors Communications**

It must be remembered that each Local Election Supervisor is isolated from the rest of the elections team, and that there is no formal training provided. The people hired for these challenging jobs have (by and large) not met the NES or their fellow LESs in person, probably have little or no election administration experience, and may not be familiar with the Pacifica community. The position requires that each LES hit the ground running and be able to change gears and to continually learn to fulfill newly changing duties as the job proceeds.

Rather than use the personal email accounts already in use by the five Local Election Supervisors when they were hired, each was required to set up a new free gmail account (e.g. votekpfk@gmail.com). My own account was (and still is) pacifica@mail2casey.com. These accounts allowed each of us to directly access all of the email communications from the Pacifica community without having to sort through other emails. It also facilitated the handoff of the LES position in the case of one person vacating office and another stepping up to the task.

To communicate among ourselves, I set up a Yahoo list that allowed each of the supervisors to communicate with all others using a single address.

An invaluable tradition started by our first NES Terrill Bouricious in 2003 was a weekly conference call among the election supervisors. This allowed all of us to compare notes, share complaints and concerns, and to brainstorm together seeking solutions for the many problems that arise in fulfilling our assignment.

While Pacifica provided a laptop and cellular telephone for the National Elections Supervisor, it did not do so for Local Election Supervisors. The contract offered to LESs promises the use of office space and supplies at their local station. There is considerable difficulty with LESs getting the promised office space at some stations. Furthermore, it is preferable that LESs work from home as much as possible to avoid undue influence from station personnel. The situation as it stood in 2007 was that LESs were running up bills on their personal cell phones and having to ask for reimbursement. It would be better for each LES to have a

dedicated number only for election purposes and to have a phone plan paid for by Pacifica. This would also make it easier to facilitate a handoff in case of a change in Local Election Supervisor.

It is indeed difficult to take on a job where one is self motivated with little formal supervision in an atmosphere where competing factions vie for power with a great deal of animosity and distrust. The fact that the job itself has a modicum of power and is in the center of a storm, and that the functions of the job change with the passage of time, and that it is temporary (meaning that whoever is chosen to perform these tasks will be simultaneously looking for their next job), makes elections team communications all the more important. Pacifica must facilitate the process by supporting the people who administer its elections.

## **Staff Membership Lists**

From the inception of my taking on this job until the bitter end, the word that resounded louder and longer than all others was “LISTS.” The question of who would be allowed to vote, and who would not, was the key issue for insiders who apparently wanted to determine the outcome not by open campaigning but by backroom manipulations to limit participation. This was particularly true in the compilation of lists of “unpaid staff.”

While the term “unpaid staff” is familiar to Pacifica insiders, a definition is appropriate here. Most of the labor engaged in to keep our noncommercial radio stations on the air is done by volunteers. Thousands of people throughout the country – and even internationally - give of their time to provide programming and other services necessary to our broadcasting network. Pacifica Bylaws give parallel definitions of this class of voter. “Staff” voters are “any non-management full-time or part-time paid employee of a Foundation radio station”; or “any member of a Foundation radio station ‘Unpaid Staff Organization’ or ‘Unpaid Staff Collective Bargaining Unit’ which has been recognized by station management, or...”

Let's stop there for now and try to discern what is meant by "recognition" by station management. Corporate counsel advised me that it means that two such groups, USOC at WBAI and UPSO at KPFA were "grandfathered in" to the Bylaws. However, some staff at WBAI questioned whether USOC had been actively "recognized" by a series of Interim General Managers. More challenging was a de-recognition letter issued by KPFA's Interim General Manager in August 2007. That was done toward the end of the qualifying period unpaid staff at the other three radio stations. So let's look at the rest of the Bylaws definition:

"Or, if the station has neither such organization or bargaining unit, then any volunteer or unpaid staff member of a Foundation radio station who has worked for said radio station at least 30 hours in the preceding 3 months, exclusive of fundraising marathon telephone room volunteer time. Said volunteer work shall be performed under the supervision of the Foundation radio station management and shall not include volunteer work on committees of a Local Station Board."

KPFA management asserted that, upon de-recognition of UPSO, qualifying as unpaid staff for election purposes would mirror the requirements of stations other than WBAI. If the de-recognition had occurred with proper notice prior to the beginning of the June 1 – August 31 qualifying period, I might have bought the argument. I had in fact explicitly discussed this with KPFA IGM Lemlem Rijio when she raised the question in a timely manner but she did not act until mid-August. At that point, the idea that two weeks' notice was sufficient to complete the requisite 30 hours of work did not pass muster. In fairness, I found that I had to issue a ruling retaining the UPSO requirement that had been in place on June 1 when the qualifying period began.

Complicating matters considerably is the failure of proper record keeping at any of the five stations. Despite an earlier resolution by the Pacifica National Board and my own guidelines issued to management in April 2007, compiling of lists of unpaid staff was largely left to last-minute guesswork as to who probably put in the 30 hours allowing them to cast a staff ballot.

The last sentence of the Bylaws definition of unpaid staff is vague as to its implementation. Is all of the qualifying work to be done under direct supervision of each station's General Manager or Program Director? Is it acceptable to simply require the producer of each program to turn in a list of volunteers with the hours worked during the qualifying period? Who verifies the process?

In addition to questions of who put in the requisite number of hours is the debate over how to classify workers who are in an internship or other training program. Some stations even get help from persons sentenced for traffic or other minor violations to do community service. Do their hours count toward voting membership? How do we measure the work done by members of collectives who do preparation for productions yet may never actually come into the studio?

Do not presume that all who may qualify wish to be counted as “unpaid staff.” Some programmers feel that they are more popular among their listeners than among other station volunteers. Therefore, they try to put in fewer than 30 hours during the 3 month qualifying period. This muddies the line between the two classes of voters and may give Staff more influence on local boards than was intended by the drafters of the Pacifica Bylaws.

Even the definition of “paid” staff is controversial. When is the beginning and end date for employees to qualify to vote? Is someone who worked during most of the past year eligible? What about someone who just started working there? And what constitutes “non-management”? That differs from one station to the next and does not always follow the dictates of logic.

## **Listener Sponsor Membership Lists**

Pacifica Bylaws state that “Listener Sponsor Members” shall be any natural persons who within the preceding 12-month period: (1) have contributed a minimum of \$25 to any Foundation radio station, or such minimum amount as the Board of Directors may from time to time decide; or (2) have volunteered a minimum of 3 hours of service to any Foundation radio station. Said contribution shall be considered non-refundable. Said volunteer work shall be performed

under supervision of the Foundation radio station management, and shall include volunteer work on the committees of the Local Station Board.” In addition, the Bylaws allow the LSB to “adjust or waive the contribution requirement ... on a **case by case** basis for reasons of financial hardship, where said LSB, in its discretion, determines that the proposed member has demonstrated a sincere interest in becoming a Member of the Foundation and is also genuinely unable to afford the contribution amount or to volunteer the minimum 3 hours of service.” (*emphasis added*)

Those criteria may seem relatively simple and straightforward. Yet keeping records of members is not. Why? The bulk of our Listener Sponsor members are just that. People who enjoy the programming offered on our noncommercial stations enough to send in some money to perpetuate our mission. Typically, we get their contact information when they phone in a pledge of support. They may request a “premium” (a gift to entice a pledge and to acknowledge their support) or may just make a donation. The telephone call is taken by a volunteer, often in a noisy room crowded with other volunteers taking calls. Sometimes information is misunderstood, such as the spelling of a name. That doesn’t really matter as long as the pledge is paid and the premium delivered. But it does matter if a member pledges more than once during a qualifying year, and a duplicate record is created using slightly different spellings. Such a phenomenon is not an uncommon occurrence. There are many such records in all of our databases. Those mistakes have little or no consequence for the subscriptions and premiums departments. But the hard-to-catch errors do play havoc with our elections.

In preparation for the WBAI vote count, I spent many hours painstakingly combing through membership records looking for potential duplicates. The most were caught by checking on a zip code basis, while other apparent duplicates had more than one address (for instance, some people subscribed from their home and from their workplace). Please note that most duplicates are inadvertent, not intentional. Of 15,319 members, duplicate ballots (and sometimes 2 or 3 extra ballots) were apparently sent to 74 members.

Because Interim Executive Director Dan Siegel fired me as I was about to board a plane for the WBAI vote count, no check was done to eliminate duplicate ballots and any that were sent in were included in the count. The extra ballots potentially represent nearly three percent of the ballots counted. That may not seem like much, but those extra votes could have made a difference in who was elected to the Local Station Board. More on a possible miscount at WBAI and other stations is noted later in this report.

## **Membership Cards**

After my first term of service as Local Election Supervisor for KPFK in 2003 - 2004, one of the recommendations I made for improving election procedures was to issue membership cards to station supporters. The purpose of this is simple. People will know from the card in their possession when their membership is due to expire. That way they can keep current with their financial and/or volunteer support. There will be no question of whether they are eligible to participate in the governance elections, and in which membership class they may vote.

New membership cards (or renewal stickers) may be issued as eligibility is extended through new donations or volunteer activity. If one's membership class changes between Listener Sponsor and Staff, a new card would reflect the status.

Another advantage of membership cards could be to arrange benefits in the community, such as discounts at concerts, museums, theaters, and retailers.

## **Opening Election Season**

As the Membership Deadline Date approaches, it is vital for each station to employ its airwaves (plus website and any other available means) to reach out to the listenership. We Election Supervisors ramped up that activity in 2007 and had wonderful cooperation from station management and programmers. In late July through August, Local Election Supervisors appeared on the air to explain the election process and upcoming deadlines and to take listener phone calls. I also appeared by long distance telephone on talk shows throughout the country.

This stage is important as an auxiliary membership drive. It helps to raise funds for station operations and to raise consciousness about noncommercial broadcasting. It is vital to give listeners an opportunity to sign up as members before the deadline excludes them from participation.

One new approach this year, suggested by KPFK Local Election Supervisor Liliana Sanchez, was to organize a membership recruitment party at each station on or just prior to the deadline date. These parties were fairly well attended and not only brought in new members but also got people started thinking about serving on the Local Station Board.

## **Candidate Recruitment**

One of the apparent conflicts of interest incorporated into the position of Local Election Supervisor is the role played in candidate recruitment. From the beginning of the job until the Candidate Filing Deadline, the LES is recording carts, staffing tables at station events, speaking at board meetings, hobnobbing with all and sundry, in an effort to get station supporters interested in running for a seat on the Local Station Board.

This task requires a good bit of salesmanship, as the position is unpaid, has little power (with each board member wielding only one of 24 votes), is riddled with conflict and frustration, and is quite time-consuming. This year, two stations had to postpone their elections because not enough members could be found to fill all the seats that were vacant. At other stations, members put in considerable effort only to have their willingness to serve rebuffed by the voters.

Candidates for the board can be subjected to an unpleasant level of name calling, finger pointing, and all-round bad manners by other candidates and station activists. Entreaties by Local Election Supervisors for participants to engage in a civil discourse are often ignored, and each LES is bombarded with all manner of complaints that Fair Campaign Provisions have been violated.

The apparent conflict in the LES role is that once candidates have been recruited, it is then the job of the LES to treat each candidate with absolute neutrality, even if some of those candidates may have been recruited by the direct efforts of the Local Election Supervisor.

## **Fair Campaign Provisions**

The Fair Campaign Provisions, defined in part by Pacifica By-Laws, are intended to protect all involved - station personnel, candidates, and the voters. One of the biggest problems is the unfamiliarity most programmers have with the provisions. Although each staff member, whether paid or voluntary, is required to sign off on the Fair Campaign Provisions, this requirement is logistically difficult to fulfill. The reality is that with most programming produced by volunteers who come and go at all hours, station management is not aware of exactly who is working on the premises (or doing support work off premises). Signs are posted and leaflets inserted into mail slots, but such communication attempts often go unnoticed by busy volunteers rushing into a sound booth to broadcast a program.

In every election, well-meaning programmers inadvertently mention the names of candidates or commit other transgressions against the Fair Campaign Provisions. And some are alleged to purposefully violate the provisions. Most of the supposed violations have to do with access to the airwaves or to other station and Foundation resources. Even candidates who have signed the Fair Campaign Provisions (which is a prerequisite to being placed on the ballot) have argued that they thought they could go on the air for non-election related matters (which they explicitly may not) or that they may phone call-in shows to talk on the air if they do not identify themselves (again, prohibited).

Enforcement is, of course, the key to making the Fair Campaign Provisions (FCP) work. Therein lies the rub. Allegations of FCP violations arise in great number at the height of Pacifica's election campaign. With numerous candidates contesting two elections at each station, the Local Election Supervisors already have their hands full of complex and demanding tasks. The National Elections

Supervisor is overseeing ten simultaneous elections and is overwhelmed with very long working hours and a plethora of problems. Try as they might, the elections team simply cannot handle the volume of complaints alleging FCP violations.

The best approach to enforcement would be to establish a panel of neutral persons to investigate and make recommendations for disposition of each matter. The election supervisors could then act accordingly. Just how to set up such an adjudication panel has yet to be determined, but it must be free of influence of local and national management and boards.

All allegations should be accepted in writing, and posted on a web page with resultant actions and reasons therefore.

In 2007, we did our best but some matters were not dealt with due to time constraints or to incomplete information. For instance, at one station a candidate was accused of physically assaulting a board member who had taunted the candidate. Only one person had witnessed the incident but, despite repeated requests by the Local Election Supervisor and station management, that witness never made a statement about the incident. The person who claimed to have been assaulted was the only complainant and the person alleged to have committed the offense denied having done so. In this kind of "he said, she said" situation, it is usually not possible to ascertain the truth.

As a side note, this was the first year that acts of violence were prohibited by the Fair Campaign Provisions. The ban was added because in the past Pacifica election supervisors have been physically attacked by candidates at public forums and were allowed to continue their candidacies - and to be seated on the board - due to lack of explicit prohibition of violence in the Fair Campaign Provisions.

Another new provision that proved somewhat controversial was a constraint upon use of email lists for endorsement of candidates by station personnel. The argument against this constraint was that (a) it only applied to staff and (b) some email lists were compiled without station resources. However, the new provision was maintained and enforced because staff members have a

much higher ratio of representation than do listener sponsors and therefore should not also be allowed to influence the listener election. Staff members may also have access to station lists, and programmers may enjoy some celebrity status allowing them to gather email addresses not available to nonprogrammers. This provision was enforced by temporarily taking some programmers off the air, but the number of violations was far smaller than the number of complaints heard when the new provision was first published.

## **Election Website**

One of the innovations I intended to institute for Pacifica elections was a national website as a central resource for posting of official information and exchange of ideas. Among the proposed features were: (1) complete compilation of all election rules and regulations including ByLaws, court orders, Pacifica National Board resolutions and a listing of all rulings by past and present Local and National Elections Supervisors; (2) comprehensive calendar of events for all election-oriented activities for each station; (3) information on all candidates, including candidate statements and questionnaire replies, photographs and any other appropriate data; (4) blogs for all candidates (including staff candidates), allowing direct communication between them and potential voters in the community of Pacifica supporters; and (5) pages devoted to Local Station Board subcommittees throughout the network, both to inform constituents and to recruit volunteers.

The candidate blogs were envisioned as extending to all board members so that soon there would be interactive communication of Pacifica Delegates and Directors with their constituents.

Unfortunately, the effort to provide this avenue of information and interaction was only partly successful. Failure to allocate appropriate funding for timely posting of available information made the website less useful than it should have been. To make the website fully functional, a full time web worker needs to be hired for the same term of office as Local Election Supervisors.

In fact, some groups of candidates never got their questionnaires posted at all. While pertinent candidate statements are accessible to Pacifica voters through booklets mailed with the ballots, the questionnaire replies are generally only available online. Also some Pacifica supporters like to see both the staff and listener sponsor ballot statements and questionnaire replies, and may wish to view them for all stations.

Such a resource would not only have a positive effect on the governance process in general, it would be of invaluable assistance to the never-ending parade of new election supervisors.

An important aspect of such a website is to provide information in any language commonly employed on Pacifica radio stations. Most importantly, this means translating everything into Spanish which currently constitutes about 15% of the programming on KPFK and is increasingly used at all stations.

One thing we must keep in mind about using the internet is that a digital divide still exists, and we must endeavor to keep all information accessible to every member of the Pacifica community.

## **Questionnaires**

The hastily drafted questionnaire used in the first few rounds of Pacifica elections was completely revamped for 2007. We threw out the useless inquiry of whether the candidate might miss board meetings - everybody always said "No" regardless of their schedule limitations. We added more pointed questions that might be of real interest to the voters. These included financial, logistical and technical issues that anyone elected to the board will have to consider.

One benefit of the questionnaire delving more deeply into Pacifica policies is that voters can hold their representatives responsible for upholding positions stated during the campaign. Another is that comparing responses often shows that candidates who may be on opposing slates actually share commonality on a number of issues to be decided by the board.

In order to allow the voters to make direct comparisons of candidates' positions on the issues, we went to the extraordinarily time-consuming effort of extracting each answer from every candidate's questionnaire reply and then recompiling them all into a group of answers for each of the 20 questions. It took a lot of extra time but was well worthwhile in providing focus on particular issues and ease of access for voters in determining and comparing the positions of all LSB candidates.

However, due to inadequate funding and time constraints on Pacifica's national web worker, there was considerable delay in posting the questionnaire replies. They were never posted at all for some of the ten simultaneous elections. Because of this, many voters and potential voters were deprived of valuable information needed to make reasoned choices in the Pacifica elections.

In future elections, Pacifica must provide for timely posting of campaign materials and other election-related information. The small investment in web postings will provide a necessary resource for facilitating grassroots governance for the Pacifica Foundation.

## **Mailing Houses**

It had been my intention to use mailing/fulfillment houses in the signal area of each station to mail the ballots and booklets. However, research showed that availability was a problem. This was doubly true because of my preference for unionized facilities.

I was able to find a unionized printer that could do the ten sets of election booklets in a timely manner. In addition to sporting a union label (unlike previous Pacifica election booklets), printer's bugs also showed that we used recycled paper and soy ink.

The unionized printer could not print the ballots which each had a unique random barcode representing individual members' personal identification numbers. The printing of ballots was therefore done by the mailing house.

Many mailing houses are unprepared to do the persnickety – and very expensive – “fulfillment” work required by our ballot distribution process. That means certifying that the ballot intended for a particular member is actually inserted in the envelope addressed to that member.

Unfortunately, the accuracy of the fulfillment work is difficult to gauge. We certainly did receive reports of some members getting ballots in the wrong class (Listener Sponsor versus Staff ballots) and even of some getting ballots for the wrong radio station. However, such complaints were few.

## **Ballots and Booklets**

The frenzy that follows the Candidate Filing Deadline in each election cycle will be eased beginning in 2009 due to Pacifica Foundation's adoption of the Bylaws Amendment changing the election timeline.

However, we did not benefit from that change in the 2007 election. Every election cycle, fewer than five percent of candidates file their papers before the very last day. Between that day and the drop-dead date for submitting booklets to the printer, the Local Election Supervisors verify petition signatures and send each candidate's statement to the National Elections Supervisor for layout in the booklets to be sent out with the ballots. The amount of work to be done in such a short time is so intense that all the election supervisors go for a week with very little sleep. The short turnaround time for preparing the booklets creates an unreasonable pressure to meet the printing deadline. Unlike previous NESs, I did not hire an outside firm to design the booklets, rather I did the graphic design and layout myself to *save the Foundation several thousand dollars*.

No time was available for reviewing the contents of candidate statements, nor for contacting candidates to request revisions. Nor do Pacifica Bylaws provide for such control by Elections Supervisors. The only guideline regarding candidate statements is in Article Four Section 2-B(3): "*a written statement of up to 500 words in length by the candidate introducing himself/herself and his/her interest in, qualifications for, serving as a Delegate, which statement shall be distributed,*

*or otherwise made available, to the Members entitled to vote along with the written ballot ..."*

One Listener Sponsor candidate for WBAI board caused a furor by writing a statement that was a narrative of his perspective of an LSB meeting. Complaints that the narrative was racist and sexist triggered my ruling that because Albert Solomon had not submitted a statement in keeping with the Bylaws guideline, he was disqualified as a candidate. That disqualification was, however, disregarded by the rump NES appointed by Dan Siegel in the wake of my illegal dismissal.

A slate of Listener Sponsor candidates for KPFA board submitted a tag-team message attacking station management. Because the "People's Radio" candidates each included biographical background as part of their written submissions, they were not disqualified.

In response to the People's Radio slate statements, Pacifica's then-Interim Executive Director Dan Siegel posted an "open letter" on the KPFA website that attacked the slate. This intervention by management in the election process was inappropriate, and I ordered the posting removed from the website.

If Pacifica elections move into the electronic age by providing ballots online, provisions must be made to assure that all eligible members including those who do not have internet access or who are blind or otherwise unable to read website postings of candidate statements and other election information can get needed information in a format suitable to the member.

## **Attack of the Attorneys**

The constant threat of lawsuits and the actual filing of lawsuits create a power imbalance in the conduct of Pacifica elections. Legal interference in our elections transfers power from the independent National Elections Supervisor and Local Election Supervisors to the corporate counsel of the Pacifica Foundation. In the last election cycle, this resulted in the Interim Executive Director calling the shots in how certain aspects of the elections were conducted.

For instance, in October when attorney Carol Spooner threatened to sue Pacifica if the ByLaws-mandated ballot mailing date was followed, corporate counsel and then-IED Dan Siegel acquiesced, agreeing to delay the ballots so the mailing would coincide with slate mailers of Spooner's clients. The KPFK vote count was delayed for nearly a month as a result of the Siegel decision. This decision was also the cause of a subsequent lawsuit by members of the Spooner client slate at WBAI, delaying the vote count there for four months and costing Pacifica tens of thousands of dollars.

The Spooner client slate at KPFK also later filed a lawsuit, but with different attorneys. They asked the court to order a recount including the ballots of the write-in candidate they had proposed who had not been a KPFK listener sponsor or volunteer. Dan Siegel refused to represent Pacifica in this case, and filed no papers. Los Angeles Superior Court Judge David Yaffe's tentative ruling in BC383600 (Grace Aaron et al v. Pacifica Foundation) was to void the election because of the delay in mailing the ballots, and to either conduct an entirely new election or to put the former board back in place. The court upheld the authority of the National Elections Supervisor to make the ruling that had been challenged by the Plaintiffs. Judge Yaffe read aloud from the document filed by the National Elections Supervisor. The court gave the Plaintiffs an out by allowing them to dismiss their case. After the case was concluded, Dan Siegel said **he did not care what the judge ordered** and demanded that the National Elections Supervisor conduct the Plaintiffs' recount regardless of the law and Pacifica Bylaws.

For my refusal to violate my principles and the election rules, I was fired by Dan Siegel, and he appointed someone who would follow his dictates rather than the established procedures. In attempting to retrieve Pacifica's laptop and vote counting equipment, Siegel even broke into my apartment and threatened my wife. This is no way to fulfill the Pacifica Mission Statement.

At my request, KPFK Interim General Manager Jim Lafferty intervened to secure my final paycheck that was being withheld by Siegel, and I delivered the equipment and associated materials to Mr. Lafferty.

Violation of numerous election rules after my sudden, unlawful dismissal calls all subsequent vote counts into question.

## **Slate Mailers**

Proponents of public financing in government elections have taken the opposite tack when it comes to Pacifica elections. Money plays a decisive role in the conduct of our elections. Any slate that is able to raise enough funds to pay for a slate mailer is far more likely to dominate the election than candidates who are not well funded. Independent candidates who are not on any slate tend to fare very poorly in Pacifica elections.

Slate mailers have been used in previous election cycles at KPFA and WBAI. 2007 saw the first-ever slate mailer at KPFA, causing a good deal of confusion and consternation. The power of the full-color postcard was evident in the result that included hundreds of write-in votes for a slate member who had not supported KPFA in at least ten years and who resigned in disgrace after he was declared elected to the board.

Complaints were raised by WBAI activists who said that one slate mailer sent in 2006 was done with member names on a form that showed through the envelope window. This, they contended, allowed the group sending the mailer to harvest the private contact information for Pacifica members. That practice was a violation of privacy and nullified the purpose of trusting mailing houses to keep the information secret. Accordingly, I established a new rule requiring any slate mailers to be sent out by the same mailing house used by Pacifica.

Two slates challenged the new rule but eventually conformed. However, corporate counsel Dan Siegel made a deal with them to delay the mailing of ballots so their slate mailers would have full impact.

The WBAI slate that had allegedly harvested member addresses in the 2006 cycle tried a different approach this time. They offered “free” keychain flashlights to anyone who sent in their contact information. The offer also advertised sale of

additional flashlights. This commercial use of our mailing list was not only distasteful and inappropriate, it put Pacifica Foundation's nonprofit status at risk.

It was my preference that no slate mailers should be allowed in this election cycle. Pacifica National Board Directors informed me that a resolution to that effect would be introduced prior to the Candidate Filing Deadline. However no such resolution was ever considered. It was, and is, my contention that adequate resources are provided to board candidates to communicate their messages to the voters. Those include candidate statements mailed directly to the voters with their ballots, detailed questionnaire replies posted on an official website, sixty second spots broadcast repeatedly over the airwaves, broadcast of candidate forums, and organizing of in-person community forums. Introduction of private funding into the election process, including for slate mailers, is a corrupting influence that threatens the very viability of Pacifica governance.

Upon conferring with corporate counsel Dan Siegel in September and October 2007, I was informed that slate mailers must be allowed.

Another aspect of electioneering is the efforts of outside groups who have made endorsements regarding our internal election process. These act in a way similar to unauthorized committees creating and funding advertising outside the auspices of official campaigns in government elections. A specific instance of this in 2007 was an endorser of one slate at WBAI generating an electronic telephone bank of prerecorded messages. There was a perception that the endorsed slate had somehow clandestinely acquired the phone numbers of WBAI listener sponsors. Upon investigation, we learned that those phone calls went to the membership of the outside group which had some overlap with WBAI supporters, and official WBAI lists were not in use. However, this sort of interference by outside groups in the internal governance of Pacifica should not be tolerated.

Pacifica does not currently broadcast endorsements of candidates for the boards of other nonprofit organizations. Any group that tries to influence our functioning should be duly warned that the power of our airwaves could be used to disrupt their own internal decision-making processes.

## **Airing Candidate Carts**

One of the ready resources available to Listener Sponsor candidates for Local Station Board is on-air announcements. Since the 2003 election cycle, each Listener Sponsor candidate has been offered the opportunity to record a brief statement that, together with a standardized introduction and wrap-up, is sixty seconds in length. Each of these recordings (known as a “cart”) is then played in rotation so that every candidate will get fair exposure in every time-slot.

One of the challenges to carrying out this task is the difficulty of getting many candidates scheduled to come to the station in a timely manner with a prepared and practiced script, in coordination with engineers’ availability.

At KPFK, candidate carts are also recorded in Spanish because about 15% of the station’s programming is in the Spanish language. This creates a logistical difficulty for candidates who are not fluent in Spanish. Their scripts must be translated, the translations approved, and the scripts read by someone other than the candidate. This means translators must be hired at station expense.

Another challenge is that the campaign season has, through 2007, conflicted with each station’s Autumn Pledge Drive. At the same time that ballots have been mailed, candidates’ voices have been kept off the air because of the necessary primacy of fundraising. When members receive their ballots, all the information they have about the candidates is their self-authored statements in the election booklet. Many ballots have been cast before members have had the opportunity to hear candidate carts and candidate forums broadcast over the airwaves. Fortunately, with adoption of the new timeline in Pacifica’s Bylaws, this conflict should no longer be of great significance.

An unexpected problem arose at KPFA where candidate carts were bundled in large groups playing for several minutes at a time. This was done rather than the traditional broadcast of carts individually, dispersed among other sorts of programming. Some candidates contended that the bundles always started with management’s favored candidates and that listeners tuned out after the first

couple of carts were aired. I spoke with KPFA's Interim General Manager Lemlem Rijio and Interim Program Director Sasha Lilley, and both agreed to de-bundle the carts and to broadcast them individually as other stations do. However, in practice they refused to conform to a direct order from the National Election Supervisor. The bundling continued, putting some candidates at a distinct disadvantage. The one candidate whose cart aired first in the bundle garnered the most first place votes by far in the KPFA Listener Sponsor vote count.

## **Candidate Forums**

One of the events that voting members have said they find informative is the broadcast of candidate forums. Each station has its own approach, but the main idea is that several candidates are on air live with a moderator. After a round of introductory remarks, the moderator reads a question and gives each candidate equal time to respond. Call-in lines are then opened to allow listeners to participate. Call-ins are allowed only half a minute to phrase a question and are not allowed to make statements. A neutral person other than the moderator keeps time with a stopwatch and alerts each speaker to wrap it up as their time is about to expire. Toward the end of the program, time is set aside for every candidate to make a closing statement. The moderator (or Election Supervisor) directs listeners to the election website for more information.

In the 2007 election cycle, I initiated an earlier round of broadcast forums than had been practiced in previous cycles. This came prior to the Fall Fund Drive so that members would have information prior to the arrival of their ballots. After the fund drive, another round of forums was staged on air. In addition, some stations chose to do rebroadcasts of the forums.

At KPFK, Spanish language forums were held immediately following the English versions. For these, Spanish interpreters were hired to help listeners in a normally Spanish language time slot to get familiar with Pacifica's governance and to get acquainted with the candidates for Local Station Board.

One of the difficulties in organizing candidate forums is carving out a strip of time slots suitable for this sort of programming at an hour when there is still substantial listenership yet when candidates who are working people may be able to participate. Scheduling the candidates is done with prior email notification to all, giving them a choice of dates on a first-come first-served basis.

It is best to try to balance candidates from different slates together for two reasons: Give the program contrast to interest the listening audience; Provide an opportunity for opponents to find common ground on some issues.

After the candidate forums have been aired, they should be posted online both at the local station's website and on a national election website for listening on demand.

## **Staff Candidates**

While the Listener Sponsor election of three-quarters of each LSB takes the limelight, the Staff election is often relegated to the shadows. Among the reasons for this are that both the number of candidates and the number of voters are much smaller for Staff than for Listener Sponsors. Also, there is a presumption that Staff voters are already "in the know", are familiar with the candidates and the issues before them. Such a presumption is unrealistic.

Historically, Staff candidates have had limited campaign opportunities - and in some cases virtually none. Early in the 2007 election cycle, we held staff luncheons on a weekday and a weekend early at most stations to get both paid and unpaid staff people interested in serving on the board. Events with free food can at least bolster willingness to cooperate during the election season, often seen as a period of sacrifice that may be resented by some programmers.

Also, we tried to elevate the level of awareness by including Staff candidate statements and questionnaire replies in the postings on the national elections website. When possible, we organized staff candidate forums and recorded them for at-will replay on station websites.

It is important, in the demanding heat of the Listener Sponsor election, not to overlook the importance of providing Staff members with the attention and information they need to make informed decisions on choosing their one-quarter of the Local Station Boards.

## **Campaign Websites**

One of the first things I did as National Elections Supervisor was to create a rudimentary prototype website to provide election information for the Pacifica community. It may still be viewed at [www.pacificaelections.info](http://www.pacificaelections.info) (please note that this site has "*GoDaddy*" ads as it is hosted free and is not intended for public use).

Due to limited time availability on the part of Pacifica's dedicated national web worker Pete Korakis and his being overworked with numerous other Pacifica projects, not enough attention was paid to posting vital election materials in a timely manner. While I had administrative access to the official website, I also did not have adequate time nor did I have the extensive training in the Joomla web-building software necessary to do the job needed to provide the functionality and interactivity required for Pacifica's election purposes.

We need a full time web coordinator for our elections. This is an absolute need under current circumstances. It will be even truer if we advance elections to a technologically modern standard of providing ballots online - or even allowing voting over the internet.

In the 2007 election cycle, at my insistence, Pete Korakis introduced the availability of blogs for all candidates. One concern in this regard was the use of foul language and unpleasantries by the less civil members of our community. Pete felt, at one point, that the experiment had failed and that we should either eliminate blogs or have a mediator to approve messages (a time-consuming and therefore expensive proposition). The use of blogs ("web logs") is a tool to help facilitate communications among all concerned in the Pacifica community. It is of utmost importance that we embrace rather than reject this important medium.

## **Email Blasts**

One possible way to reach voters is through email. At some stations, an email list of Listener Sponsors (and even of paid and unpaid Staff members) is a much unused resource. At other stations, there is no such compilation of email addresses readily available - but the work to create such a list would be useful for many reasons.

At KPFK an email blast was used for both classes of voters in 2007. They were reminded of election deadlines and kept up to date.

It would be advisable for all Pacifica stations to develop the ability to contact supporters with a quick, easy, cost-free email blast once every week or month. The initial setup stage would be labor intensive, and regular maintenance would be necessary. But email communication with our community would be well worth the effort.

The first step should be compilation of the email addresses of all paid and unpaid staff members. Communication with people who work for the station is necessary but sometimes difficult. Unpaid staff members particularly come and go at all hours, working on radio programs around the clock. In their haste, they don't necessarily stop to read notices posted on bulletin boards or walls, and so establishment of email blast lists would be a boon to the smooth functioning of each station (as well as of election procedures).

Gathering of email addresses should be an integral part of each station's public work, including sign-in at events and member sign-up during pledge drives.

## **Meeting Quorum**

Article Three Section 7 of Pacifica Bylaws sets quorum for counting Listener Sponsor ballots at ten percent (10%). For Staff ballots the quorum is one-quarter (25%). This threshold is sometimes set carelessly, based on the whole number of

presumed members in the database without taking into account requirements for voting membership.

Some of the problems of preparing accurate membership lists have been mentioned earlier. Due to a combination of LESs not being hired early to tackle the list problems and late delivery of the lists by most stations, in 2007 ballots were inadvertently mailed to ineligible parties.

Generally, meeting quorum is not a problem for Staff members, as they tend to be highly motivated to participate. In order to distinguish their ballots from Listener Sponsor ballots for the quorum count, I initiated a practice in this election cycle of using colored return envelopes for Staff members. To determine if quorum has been reached, we count unopened envelopes. Although some may contain more than one ballot and some envelopes may be empty, we assume one ballot per Listener Sponsor envelope.

Who is to be excluded from setting quorum?

- (1) Staff members who are also Listener Sponsors;
- (2) Anyone whose primary affiliation is with another Pacifica station;
- (3) Recipients of gift memberships;
- (4) Organizational memberships (which are not "natural persons" as is required by the Bylaws for voting membership).

We found not surprisingly that the fewer the number of candidates, the less likely quorum will be met. In fact, WPFW failed to achieve quorum in its Listener Sponsor election with only ten candidates running for nine seats. When the WPFW board asked for more time to reach quorum, corporate counsel Dan Siegel rejected their request.

Failure to reach quorum voids the election, and the outgoing board members who had not run for re-election are expected to continue to serve. Any who resign from the board are replaced by alternates from the previous valid election. At the subsequent election cycle, the entire board (in that membership class) is open. This means that instead of nine seats, WPFW will have eighteen

open Listener Sponsor seats in 2009. It will be doubly difficult to find enough candidates to serve on the board and to provide enough of an election contest to motivate members to vote in adequate numbers to reach quorum in 2009.

## **Making Voting Easier**

Among the reasons that we struggle to achieve quorum in Listener Sponsor elections are that the potential voters: (a) know too little about the governance of the Pacifica Foundation; (b) know too little about the candidates or discern little difference among the candidates; (c) perceive the election process as hard work - having to study the issues and candidate statements, compare the choices and rank candidates in order of preference.

One of the problems we have faced in even numbered years is that the Pacifica elections coincided with federal elections. Our members were receiving Pacifica candidate statements at about the time they were starting to study their voter pamphlets for government elections. We were just piling on extra work at an inconvenient time. Hopefully the newly adopted timetable will help to ease this burden. Shifting Pacifica elections to odd numbered years only would help even more.

Providing more readily accessible information about how ranked ballots and the single transferable vote actually works would make it easier for members to understand the simplicity of what some consider to be a complicated system.

Since our radio stations deliver cultural and public affairs content in an aural orientation, we have attracted a relatively large percentage of members who are visually impaired. Some blind or partially blind members of our community, as well as some with other disabilities, have reported difficulty with filling out the ballots. We need to request guidance from them to make ballot design and participation in the election and governance process more accessible.

## **Replacement Ballots**

As with every Pacifica election, the 2007 cycle was fraught with requests for ballots from members who had never received them, or who had lost or spoiled their first ballot.

There are many reasons for ballots not being delivered. Among the primary causes are: (a) the person was not a member during the qualifying period; (b) the address in the database is out of date; (c) the recipient mistook the nature of the mailing for a fundraising plea and pitched it out or tossed it onto a pile of other unopened mail; (d) membership list error; (e) mailing house error; or (f) postal delivery error.

When a request is submitted to the Local Election Supervisor for a ballot, the LES must first determine whether the person making the request is a member with standing to participate in the present election cycle. This is generally done by checking the original mailing list. If the name is found on the list, the Personal Identification Number from the first ballot sent to the individual is stricken from the NES's list of valid PINs, the PIN for a replacement ballot is inserted, and that ballot is mailed to the individual who requested it.

If the name is not found on the mailing list, we cannot assume that the list is correct and the person claiming membership is wrong. Our first step is to check with the subscriptions department - but sometimes they are unavailable or just too overworked and backlogged to provide a timely response.

We then inform the requesting person that their name was not found on the list. We ask how it is they feel they had qualified for voting membership.

Some may be volunteers, and the volunteer lists are generally not well maintained. Often, volunteers sign in with just a first name (perhaps a nickname) and give no contact information. Also, the hours worked are frequently not recorded or verified.

For those who claimed to have given money during the qualifying period, we ask to see bank or credit card statements or other proof of payment. Several people who were not in the database as members were provided ballots on the basis of such proof of payment. The question of why they were not listed in the database still needs to be examined.

Under the original Bylaws timetable which was followed from 2003 to 2008, the allotted turnaround time for fulfilling replacement ballot requests was too short. This should be somewhat improved with the newly adopted Bylaws amendment that provides a more reasonable elections timetable.

As noted earlier, most of the difficulties with replacement ballots may be avoided with the issuance and maintenance of membership cards.

Pacifica Bylaws already provide for distribution of ballots electronically. We need to study how other organizations do this. As an advocate of paper trails and of hand checking the computer count on at least the first round, I would hesitate to recommend online voting. But the idea of making Pacifica ballots securely available online (to be voted and mailed in as we do now) is one that could potentially save considerable money and a lot of the replacement ballot hassle.

## **Vote Count Delays**

Never in the conduct of Pacifica elections has every station held its vote count in a timely manner. In this election cycle, we ran into more problems than in any previous cycle. The delays emanated from two primary causes: the earlier delay in mailing ballots to some stations, and the difficulty in recruiting enough candidates at our two smaller stations. Let us address the latter problem first.

At two stations, WPFW and KPFT, the level of contentiousness is lower than at the first three stations. That leads to fewer supporters who are anxious to serve on the Local Station Board. At both of these stations, not enough people had filed by the Candidate Filing Deadline on September 25th to hold an election. That necessitated an extension of the Filing Deadline (as had been done in earlier

election cycles when this problem arose) at the two stations in question. Lack of widespread interest in foundation members running for LSB translates later in the process to a lack of interest in voting, especially when the number of candidacies just meets or barely exceeds the number of seats to be filled.

The other delays could have been prevented by simply sticking to the rules and treating all candidates and slates equally. Unfortunately, Pacifica's corporate counsel Dan Siegel gave special favors to two slates that threatened to sue us if ballots to their stations were mailed on time. The delay in mailing ballots ordered by Siegel subsequently caused further delays.

First, a lawsuit was filed against Pacifica by WBAI supporters who were associated with the very slate for which Siegel had arranged the postponement of mailing ballots. This group filed its lawsuit after a delay in the vote count had already been announced by the Local and National Elections Supervisors, yet that vital information was withheld from the court by the plaintiffs. The vote count was delayed by more than four months.

Second, a delay in the KPFK vote count was negotiated after a resolution was passed by the Pacifica National Board in the wake of the ballot mailing delay arranged by Siegel for the first ever slate mailing at a KPFK election. Failure to meet quorum further delayed the vote count so it was more than a month late.

The corporate counsel's decision to ignore the Bylaws-mandated deadline for mailing ballots underscores the NES's lack of actual authority in overseeing Pacifica elections. The National Elections Supervisor is constrained in the attempt to treat all candidates equally in the administration of Pacifica Foundation elections due to the contract that gives national management the power to dismiss the NES at any time for no reason at all. Such power resting in the hands of the Executive Director, Interim Executive Director or the Corporate Counsel is in fundamental conflict with the spirit of Pacifica ByLaws. This creates an unhealthy imbalance of power that undermines the independence and neutrality of administration of Pacifica elections as well as Foundation governance.

# Counting Votes

## **Method**

First, allow me to reiterate my support for the voting method used in conducting the Local Station Board elections for the Pacifica Foundation. The Single Transferable Vote (STV) is the most democratic means of voting and counting votes yet devised. For more information on how STV works, please go to any of these websites: [www.fairvote.org](http://www.fairvote.org), [www accuratedemocracy.com](http://www accuratedemocracy.com), [www.stv.govt.nz](http://www.stv.govt.nz), or see the entry on Wikipedia.org

STV allows each individual voter to use their own criteria for determining who should serve on the Local Station Board. While some members voted according to slate, others chose to put youth, women and/or people of color first, and some voted according to the stance that individual candidates took on a particular issue facing their radio station.

Unfortunately, the act of voting is rather complex – due not to the ranking of candidates in order of preference, but to the time and attention required to studying pertinent issues, learning the stance of each candidate on those issues, taking into account demographic considerations, and translating that information into a list of preferences.

The suggestion that I made in the ballot pamphlets for organizing one's preferences were perhaps too brief and not fully understood by all voters. The idea was to make marks by each candidate's statement to help group each voter's favored and disfavored candidates with a plus or minus sign or a zero for those candidates in the middle range. The next step is for a voter to distinguish among the favorite candidates and work one's way down to designating the least favored in last place. One bit of confusion that arose with a few voters was whether the most favored candidate should have the highest number, but it was widely understood that the favored candidate should be marked as Number One.

That being said, the majority of voters correctly marked votes ranking most of the candidates on their ballots. STV seems to be well understood and effective in translating the intent of the voters into seats on the boards.

## **Equipment**

The Elections Work Group based in the KPFK listening area stood ready from early in the election cycle to test the equipment and software. However, administrative and logistical obstacles delayed the availability of sample ballots until late in the process. The expertise of this group (which is nonpartisan in the context of Pacifica policies) should be consulted at the earliest convenience of any National Elections Supervisor.

It was therefore not discovered until vote counts were nearly underway that the laptop computer loaned by the Pacifica National Office to the NES used an operating system (Vista) that was incompatible with the three applications used to scan ballots, to translate that data into information readable by the vote counting software, and to conduct the round-by-round vote count. The laptop that had been used by the previous NES, Les Radke, had been re-issued to the new National Programming Director. Fortunately, for the first vote count (at KPFA), our consultant Ilya Edvokimov of WiseTrend, Inc., volunteered to help and brought his own laptop that was suitable to the task.

## **Software**

It was not until late December during the KPFK vote count that it was discovered (by then-Chair of the KPFK LSB, Jack Van Aken) that the software designed to “red-flag” invalid ballots was not always doing so. At that point, as the technical team worked on getting the computer vote count software operational, the NES determined to undertake a hand count of the KPFK Listener Sponsor election. The hand count was completed in a couple of days, ten days prior to the computer count which verified the hand count results.

## **Hand Counts**

Before being hired as National Elections Supervisor, I made it quite clear that I had a strong belief that small elections such as all Staff elections should be conducted by hand count, and that the accuracy of computer counts in larger elections should be demonstrated by doing a hand count for the first round.

This is partly to educate observers as to how the Single Transferable Vote works, and partly to placate those who have a healthy skepticism as to how far we can trust computer programming and operations to be accurate, precise and reliable. The latter consideration is particularly understandable after questions arising from the Presidential elections of 2000 and 2004.

Due to the small size of Staff elections at all stations, those were conducted strictly by hand count. Due to the low ratio of candidates to open seats in the KPFT Listener Sponsor election, that count was also done simply by hand. Due to the revelation that the computer software was buggy, we also hand counted the KPFK Listener Sponsor election.

## **Term Limits**

Pacifica Bylaws Article Four Section 8 imposes a limit of six consecutive years of service as a Local Station Board Delegate. In conjunction with the other timetable amendment which was adopted into the Bylaws in September 2007, I had proposed amending this limit to a single four year term with elections held only in odd-numbered years. Although the proposal gained wide support it did not get enough votes to place it on the ballot before the voting membership. It may well be worth reconsidering the benefits of limiting service on a local board to a single four-year term with a two-year hiatus between terms of service.

In the meantime, we must be prepared to enforce the existing term limits in the current Bylaws. The LSB members who are banned from seeking reelection in 2009 are listed in an appendix to this report, as are those who must step down from the LSB mid-term no later than February 2010. In addition, any Delegates

who were elected in 2004 and reelected in the 2007 cycle are barred from seeking reelection in 2010.

Lists of restricted candidates are included in the appendices to this report.

In anticipation of the forced mid-term resignations in early 2010, particularly at KPFK, KPFT and WPFW, it is important to recruit enough candidates for the 2009 election to fill the expected vacancies caused by the Bylaws-mandated term limits.

## **PNB Interference**

At the January 2008 Newark meeting of the Pacifica Nation Board, I was scheduled for an hour on the agenda to give my report as NES and to answer questions from the Directors, some of whom were newly seated.

After waiting all day while the board was in "executive session", I was given only a few minutes for a brief overview and no interchange with board members. I learned the next day that they would not hear from me again, but that the PNB had secretly passed a "resolution" about the conduct of the elections.

The "resolution" was apparently passed (nothing was ever forthcoming in writing) out of sheer ignorance. It allegedly ordered me to perform a recount at KPFK without bothering to hear the facts of the matter. The lead plaintiff in the Aaron v. Pacifica case, which was shortly thrown out of court, was a PNB Director. Yet the board had no interest in hearing the other side, the side that was upheld by Judge David Yaffe. Furthermore, the PNB was influenced by the manipulation of Pacifica corporate counsel/interim ED Dan Siegel who made it known to me that he did not give a damn what the judge ruled. Therefore, it was incumbent upon the election supervisors to ignore the rumored "resolution".

## **Management Interference**

Greg Guma, who hired me to be Pacifica Foundation's National Elections Supervisor for the 2007 election cycle, was known as a critic of our elections and

someone who felt that his power as Executive Director was undermined by interference from ill-informed but strongly opinionated board members.

However, Guma was unflinching in following the letter and spirit of Pacifica Bylaws in his administrative support for the election process. He published a brief commentary on other approaches to governance that might draw upon a number of traditions. Regardless of his personal and professional views on how best to govern the Pacifica Foundation, Greg Guma always lent his full support as ED to implementing the governance process established in the ByLaws and to the work of the Election Supervisors.

Many of the problems that arose in the elections this year may be traced to the disruption caused by the early severance of Greg Guma after he tendered his plan for resignation as Executive Director. The PNB ushered him out the door hurriedly rather than on the timetable he offered which would have left him at the helm during the election cycle. The vacuum of power, with an intermittent interim ED interlaced by the spectacle of unprofessional vacillation on the part of the presumptive new leader, created a virtual meltdown situation. With obvious instability at the top, the election campaigns descended into chaos.

As soon as Nicole Sawaya stepped into the Executive Director role, I left word with her assistant that I was available to meet at her convenience to brief her on the status of the ongoing elections. Ms. Sawaya sent word back that she had no intention of meeting with the NES and that she opposed Pacifica Bylaws provisions for elected boards.

Shortly thereafter, Ms. Sawaya's sent an email to the PNB attacking me for allegedly being partisan in my administration of the election. Apparently, she preferred to get her information by rumor and to spread falsehoods through a gossip mill rather than to meet face to face on a professional basis and civilly discuss any concerns that might arise. This was a great disappointment, as the warring factions had put aside their differences to join in support of Ms. Sawaya to be hired as Executive Director. My hope was that her leadership would help to bring about an Era of Good Feeling. Instead, she fomented the worst of behavior already prevalent at Pacifica.

Soon, Nicole Sawaya had resigned - at least temporarily - and Dan Siegel was put back into place as interim ED. At that point, the power really seemed to go to Siegel's head and he started ordering me about in how to fulfill my duties. He applied intimidation regarding the still-pending certification of KPFA results, telling me that I would be fired if I did not do so promptly. The problem was that criteria for certification had not been met due to irregularities in the campaign, as will be explained later in this report.

Regardless of my desire to maintain absolute integrity in each of the local elections throughout the cycle, I was forced to capitulate in order to continue my work in administering the elections at the remaining radio stations. I realize now that this was an unforgivable error on my part and that I should have publicized the fact that the Interim Executive Director was using extortion to intimidate the National Elections Supervisor and wrongly influence the outcome of the elections to the detriment of members of the Pacifica Foundation.

Essentially, Dan Siegel in his dual roles as corporate counsel and Interim Executive Director engaged in threats and manipulation to unlawfully control the outcome of Pacifica elections. This constitutes the highjacking of the vote count.

On the evening of March 13, 2008, I was about to leave for Los Angeles International Airport to fly to New York for the WBAI vote count when I received a message from Pacifica Chief Financial Officer Lonnie Hicks. Earlier in the day, he had confirmed that my accommodations in New York City were reserved. The new message said that Interim ED Dan Siegel did not want me conducting the vote count at WBAI and was firing me as National Elections Supervisor. Further information about the WBAI count follows later in this report.

A few days later, Dan Segel entered my home illegally without any prior notice, and without ringing the bell, knocking on the door or announcing himself. Siegel startled my wife Marilyn, who was home alone, in our living room and she yelled at him to get out. His intent was to confiscate election equipment and materials without compensating me for work completed. Siegel had apparently been drinking, and sat in a rented SUV flashing his headlights into our bedroom. Marilyn called the police to stop the harassment. We seriously considered

pressing trespass and assault charges, but felt any publicity about the incident would not look good for the Pacifica Foundation.

Shortly thereafter, I arranged through the good graces of KPFF Interim General Manager Jim Lafferty to deliver the desired equipment and materials in exchange for partial payment for services rendered.

## **Contractual Vulnerability**

Upon my hiring in April 2007, I had been given an At Will contract allowing my resignation or firing on a day's notice. Essentially, that means that the NES serves at the pleasure of Pacifica's Executive Director and therefore is unable to exercise independent judgment in an authoritative manner.

The Local Election Supervisors are similarly vulnerable to interference by management. With their jobs subject to the whims of the corporate counsel and ED on a daily basis, each LES is walking a tightrope to perform a very difficult undertaking in a fair manner while not displeasing the upper echelon of the Pacifica Foundation.

My firing was in violation of the final sentence of Article Four Section 4 of Pacifica Bylaws: *"Upon completion of, and certification of the results for, all of the elections, the National Elections Supervisor's term shall end."*

All subsequent vote counts are called into question because of the blatant violation of numerous election rules after my sudden and suspiciously partisan dismissal. If the PNB is going to allow the ED to dismiss the NES without cause or due process, it may as well save the expense and agony of the elections and amend the ByLaws to give the ED total power of appointing all LSB Delegates.

## **Campaign Irregularities at KPFA**

On Friday, November 16, 2007, the first vote count in that year's Pacifica election cycle commenced. Due to troubles regarding membership lists, the Staff vote count had been postponed. Numerous volunteers and observers joined us for the Listener Sponsor vote count. Under the watch of Local Election Supervisor

JaNay Jenkins, they counted envelopes to determine that Quorum had been reached, and then opened the envelopes to extract ballots and other contents. Meanwhile our technical team, including former NES Les Radke and WiseTrend consultant Ilya Edvokimov, was frantically trying to iron out software problems in preparation for the computer vote count.

As the last of the ballots was being opened I, as NES, learned of a bump in the road. A remedy adjudicated for a Fair Campaign Provisions violation that had arisen during the campaign had not been implemented. This problem brought into question the fairness of proceeding with the vote count itself. A programmer at KPFA had violated the provisions by sending a mass email endorsing a slate of Listener Sponsor candidates for the LSB. The remedy was for Larry Bensky to make that same list available on a one-time basis for each of the other slates to send a brief message (with restrictions as to content) by a certain date. It had been my understanding that the remedy had been fulfilled, and I was shocked to learn that Mr. Bensky had stonewalled its implementation.

I considered postponing count until after Bensky cooperated, but numerous factors came into play including (a) fact that KPFA had already exceeded quorum; (b) likelihood that allowing emails to Bensky list at that point would make little difference to outcome; (c) inevitable increased election administration costs; and (d) political pressure to move on to other stations to conduct their vote counts. After consultation with members of each of the four active factions in the KPFA election and with Local Election Supervisor Jenkins, I issued a new ruling.

I decided to proceed with the count, but ruled that certification would be withheld pending post-election implementation of the one-time access to the email list as determined in the previous adjudication. The purpose was to ensure equal access for all candidates to the means of communication available to some. While the election itself was over, each group would be able to share its concerns with KPFA supporters who had received the earlier mass email from a well-known Pacifica programmer.

At that point we began what turned out to be an all night vote count. When it got to be midnight and our welcome at the vote count venue had

expired, we packed everything up and moved to the station itself. It was slow going as the validity of each ballot had to be verified by hand due to an apparent glitch in the computer program. We were at it all night and did not have results until 1:30 the following afternoon. The results were announced as tentative because of the previous night's ruling and because we had to double-check the numbers after encountering the glitches associated with the computer count.

Several additional problems that had arisen during the campaign were also of concern. One had to do with the pamphlets that were mailed to members along with their ballots. Due to the unduly short turnaround time between the candidate filing deadline and the printers deadline, as mandated by the election schedule then enshrined in the ByLaws, there had been no time for proof-reading, let alone time to order rewriting of statements by candidates who did not fully comply with the statement requirements.

One aspect of this was that 11 of the 24 KPFA Listener Sponsor candidates had exceeded the number of endorsements allowed in their statements. ByLaws Article Four Section 2 (B) allows "up to 5 nominators" to be listed at the end of a candidate statement. One candidate listed 21 endorsers. There was no time to check any of the 18 who listed endorsers to see if they were actually nominators (that is, foundation members who signed the candidates' nominating petitions) and thus eligible to be listed in the voter pamphlet.

Another pamphlet error was the inadvertent listing of Steve Conley's second page as that of Steve Zeltzer. This was potentially confusing to the voters and unfair to both candidates.

Probably the largest level of inequity in the KPFA election was the posting on the KPFA website of an "open letter" by Interim Executive Director Dan Siegel denouncing one of the four slates vying for seats in the Listener Sponsor election. Mr. Siegel's diatribe against the self-styled "Peoples Radio" slate breached a line that had not been crossed by management in previous Pacifica elections.

When I learned of the "open letter", I instructed the KPFA web worker to remove it from the site but this was not done until a few days later. The possible

damage to the slate in question is immeasurable, but it may have had some negative and some positive effect depending on the predilection of the readers. In any case, it was inappropriate and was cause for much complaint among some KPFA supporters.

Another concern regarding imbalance in the KPFA campaign was the role of management in obscuring some candidates' audio spots and promoting others. This was done by "bundling" the spots in large groups with the management's favored candidates at the beginning and placing disfavored candidates deep within the bundles to make them less likely to be heard. All other stations ran the candidate spots one at a time as instructed. KPFA management agreed to do so as well but this apparently was only lip service to the Election Supervisors and did not actually occur.

After the second ruling was made regarding the Fair Campaign Practices violation by Larry Bensky, he still refused to cooperate. KPFA management was consulted and coyly suggested that there was nothing they could do because they claimed that Mr. Bensky had retired. They were ordered to keep him off of the air until the situation was resolved. Yet KPFA management blithely ignored the ruling of the National Elections Supervisor. In the end, Pacifica's Interim Executive Director resolved the situation, as noted above, but using extortion.

The "bundling" and Bensky problems both speak to the limitation of power held by Election Supervisors in the exercise of their authority. If Pacifica is serious about having its elections conducted by an independent outside authority, **power must be granted to the National Election Supervisor to suspend management figures without pay for interference with the elections process.** Suspensions would, of course, be appealable to the Pacifica National Board.

## **Illegal Count at WBAI**

No valid vote count was conducted at WBAI. After months of delay due to the lawsuit, the NES was suddenly fired by corporate counsel (again as Interim ED) just as I was about to board my flight to New York. The last day ballot drop-off that had been widely promoted for Friday, March 14, 2008, was canceled due to

Siegel's action. This disenfranchised an unknown number of Pacifica members. Dan Siegel further postponed the WBAI vote count from the announced date of March 15, and when it occurred the vote count was conducted improperly.

Without going into detail, this report must mention that in addition to the cancelled ballot drop-off day, there were allegations of mishandling of ballots prior to the vote count. The exact circumstances of how ballots may have been mishandled are not known to me personally, but an investigation is in order.

The persons appointed by Dan Siegel to conduct the WBAI vote count did not communicate with the NES to learn about planning for the vote count.

This resulted in the inclusion of a candidate who had been banned from the count due to failure to submit a candidate statement in conformity with Pacifica ByLaws requirements. This candidate's statement had been widely denounced as racist and sexist. While the ByLaws do not allow for exclusion of candidates based on the content of written statements, Article Four Section 2 (B) does require that a statement by each candidate "introducing himself/herself and his/her interest in, or qualifications for, serving as a Delegate." The statement in question did not fulfill that requirement, yet Dan Siegel's personal pick for vote count official ignored the established ruling of the National Elections Supervisor.

More importantly, the lack of communication and planning on the part of those persons led to what may have caused a serious error in the count itself. The step of screening potential duplicate ballots was simply skipped, allowing certain members to cast more than one ballot. This process had been explained in some detail to PNB Elections Committee members during a conference call on March 5, but this all-important step was ignored by the incoming vote count official. The vital process required the screening of ballots against a list that I had taken many hours to carefully compile from WBAI membership roles. That list identified 74 pairs (and in some cases triplicates and quadruplicates) of ballots that had been issued due to poor database practices.

As KPFK volunteer Michael Lauer had discovered in altering just 5 ballots to see the effect, even a handful of ballots could have changed who was elected to

two of the seats on the board, enough to change the balance of power at WBAI. Inclusion of up to 74 duplicate ballots in the WBAI vote count could have made an even more dramatic distortion. Yet the probable flaws in the count were allowed to stand by inept election officials and a corrupt corporate counsel.

## **Illegal Recount at KPFK**

KPFK's certified Listener Sponsor election was upheld in a court of law but overturned by Pacifica corporate counsel Dan Siegel.

Los Angeles Superior Court Judge David Yaffe ruled against Grace Aaron and her co-plaintiffs in their lawsuit against the Pacifica Foundation, BC 383600. He stated that if the plaintiffs did not withdraw their lawsuit, he would void the election and either (a) put the previous Local Station Board back in place, or (b) order that a new election be held. Judge Yaffe stated that the plaintiffs had used undue influence and financial power impact to the outcome of the election, and had no recompense for having run a non-member of the Foundation in violation of the ByLaws.

In the hallway outside the courtroom, Plaintiffs' attorney Jerry Manpearl complained to me: "*We tried to control you, Casey, and you wouldn't be controlled.*" Siegel said "*I don't give a damn what the judge's ruling was,*" and ordered the National Elections Supervisor to de-certify the official vote count and to do a new count on the terms specified by the Plaintiffs in the anti-Pacifica lawsuit. As NES, I refused to vacillate regarding the integrity of KPFK's election.

The background and outcome of this conflict follows:

**The Radford Rule** – As the KPFK vote count was about to begin, candidate Leslie Radford informed Local Election Supervisor Liliana Sanchez that she wished to withdraw from consideration, as the cornerstone of her campaign had been to promote bringing new blood, particularly youth and people of color, to the board. Later, as ballots were still being verified prior to the vote count, Ms. Radford once again contacted the LES to rescind her previous request. Radford said that some

of her colleagues had talked her out of withdrawing as a candidate. The question of this reversal was advanced to the NES for consideration.

Upon reflection of the ramifications of allowing candidates to withdraw and reinstate their candidacies at will, the NES issued a ruling that has come to be known as “The Radford Rule”. It states: “At the time provisional election results are first announced by the Local Election Supervisor or the National Elections Supervisor, the candidates who are declared elected as Delegates are considered to be seated on the Local Station Board, and the candidates who are declared Alternates shall remain in the announced order for purposes of filling vacated seats. In the case that any candidate withdraws after the initial announcement of results, Pacifica ByLaws Article Four Section 10 shall be applicable.”

**The Makalani Mess** – When the Radford Rule was established, there was no anticipation that it would be put to such immediate and dramatic use. A few days after the ruling was made, a test case arose. That was the situation caused by the election of Ahjamau Makalani as a write-in candidate. Mr. Makalani had originally failed to secure a place on the KPFK Listener Sponsor ballot due to having turned in an insufficient number of nomination signatures. Thus, the LES had not bothered to check his eligibility as she had done with all candidates who submitted enough signatures to be listed on the ballot. A slate mailer had promoted a write-in candidacy by Mr. Makalani, resulting in enough first place votes for him to be elected on the first round.

A few days later, a board member questioned whether Ahjamau Makalani was in fact a KPFK Listener Sponsor. Upon checking with the KPFK subscriptions department, it was learned that Mr. Makalani had last pledged membership more than ten years earlier and had not even paid that pledge. The NES conferred with Mr. Makalani who subsequently withdrew. Since he had already been declared elected to the board, the Radford Rule applied, and the first Alternate was seated.

The head of Mr. Makalani’s slate, Grace Aaron, filed suit against Pacifica and lost in court. The previous September, she had tried to get approval for another non-member to run for the board based on “volunteer work” as a guest on a KPFK talk show. That request was denied but did not stop Ms. Aaron’s slate

from running another non-member as a write-in candidate. When her judicial action was thwarted, Ms. Aaron found an ally in corporate counsel Dan Siegel who fired the NES for conforming to the judgment of the court.

**The Siegel Syndrome** – The result of Dan Siegel’s violation of the Radford Rule is that now candidates are free to withdraw and reinstate their candidacies after election results have been announced, until winners are actually sworn in as Delegates to their Local Station Boards.

This means that if, for instance, two or more unelected co-candidates on a slate determine that their withdrawal would boost another of their slate-mates to a position that would benefit from the earlier elimination of rival candidates, they are free to force a recount without their names in contention.

Similarly, if a winning candidate were to determine that withdrawal would boost a slate-mate to the board and lift another to one of the top Alternate positions, that candidate could force a recount. If the recount did not achieve the desired result, the withdrawal could be rescinded and that candidate once again be declared elected.

This scenario provides for endless recounts and ongoing expenses, all to the detriment of our democratic process.

**The Rump Recount** – At the command of Dan Siegel, the officially certified Listener Sponsor election at KPFK was illegally voided in favor of a flawed recount.

Siegel hired Michael Lauer, who had originally been recommended by Grace Aaron, lead Plaintiff in the dismissed lawsuit against KPFK and Pacifica, to conduct the illegal vote count.

When working as a volunteer on the initial vote count, Mr. Lauer had taken it upon himself to experiment with the ballots and do a count in which he altered the choices of voters. Mr. Lauer discovered in doing so that he could elect two different board members simply by reordering the votes on five ballots. While an experiment of this nature may be of interest in an academic setting, it was wholly

inappropriate for someone involved in the actual vote count, and is absolutely unforgiveable for a person in charge of conducting a vote count.

Whether any such manipulation of ballots was undertaken during the rump recount is unknown and unknowable. What is known is that corporate counsel Dan Siegel was aware of Mr. Lauer's ability to skew the results of the election prior to deciding to hire him.

## **Leveling the Playing Field**

As Marilyn and I expected when we entered the fray, our service to the Pacifica Foundation in administering its national election cycle for 2007 was fraught with difficulty. Perhaps, due to the recent era of good feeling at KPFK in 2006, we were not quite prepared to encounter such a bitter level of divisiveness at the three largest stations and on the national level. Particularly, we did not expect the sort of backstabbing that came from the corporate counsel.

Nevertheless, our faith in the Mission of the Pacifica Foundation and in the concept of democratic grassroots control of our radio network has never faltered.

We are hopeful that the hard work that was put into amending Pacifica ByLaws to establish a more realistic election schedule will help future Election Supervisors in their administration of the entire process.

Additional amendments may be in order to protect the process from the undue influence of money, and to facilitate the smooth governance of Pacifica.

First, we should provide for equal or equivalent resources available to all candidates. That would mean requiring candidates to forswear the use of any outside resources (including slate mailers, pre-recorded auto-dial telephone messages, and other means of campaigning dependent on outside organizations) to gain access to Pacifica airwaves and communications resources.

It actually would not take a ByLaws amendment to do this – simply a sheet to be signed by all candidates. Those who do not so pledge would not have access to any Pacifica Foundation resources.

Addition of such a pledge form to the candidate packet would not be unprecedented. In 2007, the NES added a pledge form asking candidates to sign in support of the Pacifica Mission Statement, and all did so.

Pacifica should study how unions and other nonprofit organizations conduct their elections to limit outside influence. We should also study how they use online methods for cutting administrative costs of elections while maintaining a free and fair process accessible to all members.

Part of providing a level playing field is the ban of on-air endorsements as well as web-based and email endorsements of Listener Sponsor candidates by programmers. Staff, both paid and unpaid, already have considerable influence in the roles they play in the radio stations and in representation far beyond their numbers on Local Station Boards and the Pacifica National Board. It is improper to allow any additional influence by programmers in the non-Staff segment of the elections designated for Listener Sponsors.

## **Honoring Pacifica's Listener Sponsors**

The way Pacifica elections work now, for the most part, is that once the voting is over communication with constituents becomes nearly nil. Delegates on the Local Station Board – and even Directors on the PNB – function with little regard for seeking the opinions of Foundation members who elected them in the first place.

Since the very reason for such elections is to provide Staff and Listener Sponsors with a voice in the governance of the Pacifica Foundation, it seems incumbent upon those in service to engage in ongoing reporting to constituents and solicitation of comments from the members they represent.

It was with that concept in mind that I, as NES, initiated online blogs for candidates. The idea was that by the end of the 2009 election cycle, if not sooner, all Delegates and Directors would have blogs for interactive contact with Pacifica members. The blogs on the Pacifica Foundation website, unfortunately, have seen little use.

While we cannot expect supporters of our broadcast network to involve themselves in every aspect of internal policy, we should make certain that they are aware of simple and effective means to communicate their concerns to the Delegates and Directors who represent them in governance of the Foundation.

## **Financial Considerations**

One of the primary limitations on the free and fair conduct of elections is the cost of administration. Highest of the expenses is the printing and mailing of ballots and accompanying election booklets. Another expense arises from the inadequate compensation paid to Local Election Supervisors and the NES. Adding to the budgeted expenses is the high cost of defending the Pacifica Foundation from frivolous lawsuits filed by parties hostile to democratic governance.

Lawsuits might be abated by requiring each candidate to sign a contract voiding their candidacy (or board membership) if they file suit against Pacifica.

The cost accompanying each of the ten elections simultaneously overseen by the National Elections Supervisor imposes constraints on the NES's ability to call a new election rather than to certify a faulty one. This is particularly true of Listener Sponsor elections due to the large number of ballots (and booklets) to be printed and distributed. Cutting costs will allow future Election Supervisors more discretion in enforcing Fair Campaign Provisions and ensuring free elections.

We can save considerable money in the future by making ballots available electronically. Many organizations do this already, and we can learn from their experiences how best to go about digitalizing our own election processes.

Candidate statements that since 2003 have been distributed by mailing printed booklets are already available online, as are questionnaire responses that have not been made available in print. Naturally, we need to be aware that some of our members may not have ready access to the internet – and those members must never be disenfranchised. But while we provide printed materials for those on the shrinking side of the digital divide, we should not refrain from advancing our efforts into 21<sup>st</sup> Century avenues of interactive communication.

However concerned we may be with cutting administrative expenses, we need to spend more on election personnel, both by paying LESs at a fair rate and by hiring an election web worker. The latter is all the more necessary if we are to save the cost – environmentally as well as financially – of printing and mailing tens of thousands of ballots and booklets.

## **The Future of Pacifica Elections**

As I mentioned in the opening of this report, the election of Pacifica Local Station Boards must be accepted as a permanent structural advance. It is not an “experiment”, although we are still in an experimental phase of its administration. We are learning as we go along, and hopefully will make the processes of electing our boards and governing our foundation more congenial and cooperative.

While there are many interpretations of the Pacifica Mission Statement, it is the mission that unites all of us. The mission enables the diverse programming that we treasure. Pacifica programming informs us, sometimes infuriates us, and often inspires us. We need to recognize that we are a community.

As a community that is diverse and dispersed, it is essential that we have a means of self-governance. As the Pacifica Foundation matured, we came to the realization that a form of democratic representation for the Listener Sponsors and Staff who make our radio network possible is an absolute necessity.

Having had a few years of experience with grassroots input, we have seen some very positive and negative aspects to the current structure. Some would wish to return to the elitist mode that dominated in the 1990s. That top-down model is a reactionary antiquity. Let us look instead to the future.

Following are some suggestions of possible alternatives for our governance. Many others have contributed ideas, including Tucker Bradley and Greg Guma, both of whose remarks are at the end of the appendices to this report.

**Elections in odd-numbered years** – A proposed ByLaws Amendment that failed to get enough LSB votes to be placed before Pacifica voters in 2007 would have changed scheduled elections from the confusing twice every three years to

once every two years. Restricting Pacifica elections of odd-numbered years only was intended to minimize conflict of our internal elections with Congressional and Presidential elections (as well as State Legislative and Gubernatorial elections). It was also proposed for the purpose of allowing a newly elected board to have time to settle in and start working together before another election cycle commenced, thus giving the governance apparatus a better chance to work. Finally, it would have reduced the cost of conducting elections by 25%, reducing the number of internal elections in each twelve year cycle from eight to six.

It may well be worthwhile to revisit this proposal.

**Elections staggered station-to-station** – My wife Marilyn made the observation that, as we had seen in Pacifica's previous election cycles, the task of overseeing ten simultaneous elections is absolutely crazy-making and nearly impossible in practical terms. Her suggestion is to hold elections one station at a time, allowing an experienced Election Supervisor to focus fully on administering the Staff and Listener Sponsor elections at one venue. The Supervisor would be able to keep track of all that transpired rather than juggling all the problems emanating from numerous stations. Currently, each station faces similar troubles simultaneously, but whether it is membership lists, Fair Campaign violations, replacement ballots, or vote counts, the task of coordinating ten elections at five sites around the country by remote control can be overwhelming to the NES and unfair to thousands of Pacifica members who deserve a sounder system of election administration. Marilyn's proposal would keep things from unraveling the way they have in every election cycle since 2003.

**Elections by online ballots** – As is provided for in Article Four Section 3 of Pacifica ByLaws, and has been under some discussion in the Elections Committee of the Pacifica National Board, it is time to consider digitizing our election process. There are two basic ways to utilize the internet for this purpose. One is to allow a member to log in with a security code and print out a ballot to be mailed to us for tabulation. The other also requires a security code, but will allow a member to vote electronically without a paper trail. The second method may be considered too easy to manipulate, so I would recommend the first option for now.

**Elections by responsive flexible voting** – Rather than having scheduled secret elections, Pacifica could offer members the opportunity to vest their vote openly in a representative. As long as the representative kept the confidence of a certain number of voters, s/he could remain on the board (perhaps with term limits). Voters could transfer their votes at will to potential board members. This could work two ways: (a) Those who have the most support – 6 Staff members and 18 Listener Sponsors – would have one vote each on the board; or (b) Board members could have their power pro-rated according to their level of support. Either case would allow for more flexibility, and would promote communication of board members with their constituents.

These are just a few ideas of many viable possibilities. We may decide to stick with the way we have been doing things, but we are not stuck with that. This radio network belongs to all of its Listener Sponsors and Staff, and it is up to us to keep and improve the fledgling grassroots democracy that we have created.

## **Thank You**

First and foremost, I want to thank my wife Marilyn Peters for agreeing to enter what we both knew would be a very difficult and challenging period of service to the Pacifica Foundation. As more than one Director of the Pacifica National Board remarked, in hiring me Pacifica got "two for the price of one". Marilyn assisted me in many administrative tasks as well as in several vote counts. Additionally she put up with considerable disruption to our private lives with my working from home virtually around the clock for nearly a year.

Thanks also to Greg Guma for having the confidence to hire me for this job. Despite personally disagreeing with the election process, Greg did his job by providing strong support for following Bylaws provisions. He also made some interesting observations in how Pacifica governance might be improved. It is my feeling that had the PNB kept Greg Guma in place through the end of 2007, as he had offered, the extent of problems we faced in this election cycle would have been mitigated.

Two people pushed me to apply for this position: former Pacifica National Board Directors who know who you are. The bold nature of this forthright report necessitates discretion. So I thank you, to whom I never owed any patronage or recompense, for opening the opportunity to serve our community.

I cannot thank enough our Local Election Supervisors who worked above and beyond the call of duty. Kudos to Lydia Harris (WPFW), Dale Ratner (WBAI), Liliana Sanchez (KPFK), Tucker Bradley and Mark Muhich (KPFT), and Chihiro Wimbush and JaNay Jenkins (KPFA). Their reports are attached as appendices.

The vote count at each station could not have occurred without the help of the many volunteers who counted and opened envelopes, sorted ballots and bore witness to the preparations and procedure of assuring accurate vote counts.

Thanks to the helpful folks on staff at each station and at the Pacifica National Office. I appreciate the attentiveness, courtesy and efficiency of PNO staff Lynn Magno, Phil Osegueda, Ben Garcia, Donna Gates, et.al. Thanks also to CFO Lonnie Hicks for kindly keeping me informed of financial constraints.

Special acknowledgement is due to Ilya Edvokimov of WiseTrend, Inc., a new US citizen, for going way beyond the call of duty in his assistance to the Pacifica election process.

None of this could have been possible without David Greene who hired me as KPFK Local Election Supervisor in 2003. Terry Bouricious served that year as National Elections Supervisor under untried - and very trying - circumstances, and provided valiant leadership in the first round of nationwide Pacifica elections.

Much thanks to Les Radke who served as KPFA Local Election Supervisor in 2003 and as National Elections Supervisor in 2006. Les hired me to do another round at KPFK in 2006, and was kind enough to step in to assist me with technical administration in 2007. We wish Les the best of health in the wake of the stroke he suffered on November 17, 2007, upon learning of the frivolous lawsuit filed against Pacifica by WBAI activists.

Finally, I cannot give enough thanks to my Mom who passed away shortly before I took on this monumental task. Lee Peters raised me to be a good listener and to be courteous and respectful to others. She also instilled me with a sense of civic responsibility and democratic values. Mom, I miss you.

This report is dedicated to the memory of Don White, who served as the first Chair of KPFK's Local Station Board and later as a Director of the Pacifica National Board. Don was a bridge builder who always had a good word about everybody. His influence in bringing civility and comradeship to the governance of Pacifica will be sorely missed. Don White, *PRESENTE!*

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