

# MEMBERS

## NEWSLETTER

Make Every Musician Benefit from Efficient Responsible Service

Vol. 24 No. 3

July • August • September 2006



New York, NY

### INCUMBENT VS INCUMBENT

## The Local 802 Elections

**L**OCAL 802's triennial election of officers will take place on December 5. The voter turnout, including absentee ballots, is expected to be the largest in decades.

Not since 1982 has there been such political polarization for so long before an 802 election. The level of hostility may have turned off some unaligned voters but, when the election actually takes place, even those members will be likely to vote.

### **A Unique Campaign**

This election is unique in Local 802 history. Although both parties have nominated candidates who are running for the first time, both groups are organized under the leadership of officers who are currently incumbents. By focusing their political attacks on the sitting president, the Concerned Musicians appear to be assuming the role of challengers but, as incumbents, their top leadership: Bill Dennison, Maura Giannini, Mary Landolfi and Jay Schaffner also have records to defend.

Theatre musicians were (and still are) angry about the 2003 Broadway agreement in which orchestra minimums were reduced from 24 to 18 and in which

"Special Situations" language was drastically altered to the Union's disadvantage. These negotiations were led, not by David Lennon, but by Bill Moriarity, Bill Dennison and Maura Giannini. That contract is part of their record. (See: "Union Democracy at Stake" on page 4.)

The reported bypassing of the rank-and-file committee in these negotiations was an exam-

ple of the kind of marginalization of musicians and committees of which the founders of the Concerned Musicians have been accused.

A similar pattern emerged in 2005 when Dennison, Landolfi and Schaffner attempted

### **Absentee Ballots**

A large proportion of the votes cast are expected to be in the form of absentee ballots and several of the candidates have been urging members to request them.

Some who remember the 20-year effort to end mail elections at 802 fear that the growing proportion of absentee ballots is a step backward. However, as long as they are sent only to members who request them (rather than unsolicited ballots being mailed to all members), absentee ballots should not diminish the electoral power of active New York musicians as the previous system did.

The election itself is only about two months away and we can only hope the debate will refocus on the ideas, records and visions of the candidates. However the political campaign proceeds, we hope that the members of 802 will elect the candidates who are best prepared to lead this Union in the critical years ahead. **MN**

### **WHY WE SUPPORT DAVID LENNON**

**T**HREE years ago the MEMBERS Party nominated David Lennon for 802 president over the objections of then President Bill Moriarity who had advocated the nomination of Bill Dennison. Lennon received the Party's nomination, because, among other reasons, of his commitment to member ownership of the Union and a more aggressive defense of live music.

The 2003 Broadway contract had raised questions about Moriarity's leadership in the minds of many of 802's theatre musicians, and several rank-and-file members of the Broadway negotiating committee had privately expressed concern with what they saw as the bypassing of the committee by Moriarity, Dennison and Maura Giannini at key points in the negotiations.

Lennon's role in the negotiations was restricted to negotiating health and safety issues and most musicians familiar with the contract believe that his accomplishments in that area were the most positive and successful of the entire agreement.

These concerns were undoubtedly a factor in Moriarity's inability to persuade the Party to nominate Dennison for president and it is clear that an undercurrent of division began to emerge within the Party even before the 2004 term of office began.

In any case, the MEMBERS Party believed that David Lennon represented the Union's best chance for strong leadership with a commitment to direct involvement of musicians and their representative committees. Lennon has more than lived up to his promise to promote union democracy during his two-and-one-half years in office.

We think David Lennon has been the best president 802 has ever had. More than any of his predecessors, he has kept faith with the members in setting Union policy, dealing with management and promoting the cause of live music.

Every committee with which he has worked has praised Lennon's enlightened leadership, his respect for the priorities of the musicians he represents, and his ability to communicate across

*(continued on page 6)*

to persuade the Executive Board to direct President Lennon to sign the "We Lied" letter drafted by Cablevision CEO James Dolan over the unanimous objections of both the Radio City Orchestra and its committee. (See: "Who Really 'Botched' The Radio City Negotiations" on page 5). This, too, is part of their record.

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Next Issue: **Making the Choice**

# The Financial Issues

UP to this point, the Concerned Musicians' political campaign against the MEMBERS Party has focused entirely on accusations against President Lennon, specifically with respect to the 2005 Radio City negotiations, his personal use of the 802 credit card and his cashing of two AFM reimbursement checks last year. We have provided the facts regarding Radio City negotiations in this and past issues of the *Newsletter* (See: "Who Really Botched the Radio City Negotiations" on page 5).

As for the financial issues, Lennon himself acknowledges, and has apologized for, his use of the card and the cashing of the checks. However, the escalation of both of these issues and the exaggeration and distortion of the facts by his detractors have convinced us that the specifics of these issues should be outlined for the record.

## THE CREDIT CARD

Although Lennon never concealed his use of the 802 AMEX card and repaid the charged amounts before the issue was raised, neither of 802's vice presidents (who had been aware of his credit card use) informed the 802 Executive Board about the situation until January of this year.

As a result of the delay in informing the Board, important Labor Department reports filed by Local 802 failed to reflect Lennon's use of the card or his repayments of the amounts charged. When Recording Vice President Denison finally raised the matter with the Board in January of 2006, it became evident that the Union would have to amend and refile the LM-2 reports and provide additional documentation to the Department of Labor (DOL).

On the advice of 802 Counsel Harvey Mars, the Executive Board voted unanimously to retain the services of Larry Cary of Cary Kane LLP and the Cornell University Labor program, a recognized authority in union reporting requirements, to guide Local 802 in

providing all of the relevant information to the DOL, to assist in amending and refile the Local's LM-2 reports and to advise the Board in adopting new financial reporting procedures.

## The Cary Report

Cary conducted an extensive investigation and issued an exhaustive report in which he made several points. Among these were the following:

- 1.) He did not believe that Lennon intended to defraud the Union in his use of the credit card.
- 2.) Personal use of a Union credit card is not unlawful, per se.
- 3.) There was no written 802 policy prohibiting personal use of the Union credit card.

## Moriarity's Testimony Questioned

Cary did, however, accept Bill Moriarity's testimony that, although he himself had never directed David Lennon not to use the credit card, he (Moriarity) had instructed Local 802 Controller Jon Bogert to tell Lennon not to use the card. Unfortunately, Cary did not attempt to contact Jon Bogert, himself, who has recently contradicted Moriarity's claim. Bogert has sent the following statement to David Lennon:

*"There are a number of points covered in the Cary Report dated February 24, 2006, with which I disagree. However, I take particular issue with a statement attributed to Bill Moriarity on pages 8 and 9 of the Report, which was subsequently repeated in a letter to the editor in the April 2006 edition of Allegro, about an apparent instruction from Bill to me concerning your use of the Local's American Express card.*

*"Mr. Cary never sought to corroborate with me the validity of Bill's statement. I have no recollection of having received such an instruction from Bill. Nor would there have been any reason for Bill to give me such an instruction inasmuch as he was quite capable of speaking to you directly on the matter, as he had with Tina Hafemeister on her use of the card, or he could have issued such an instruction to Tina, your immediate supervisor at the time.*

*"Since I have no recollection of having received an instruction on this issue from Bill, it is my belief that you and I never had a conversation on this matter until last week."*

## Cary's Recommendations

Even in the absence of a law or Union prohibition on personal credit card use, Cary concluded that Lennon should not have made personal use of the card and recommended

that the Executive Board impose a fine on him of one week's pay. He also urged the Board to adopt a prohibition on such use of the card in the future. The Board did impose the fine and adopted the recommended prohibition. Lennon also voluntarily agreed to pay Cary's fee of over \$16,000.

## THE CHECKS

The issue of the cashed checks has been the subject of some wildly improbable rumors including claims that Lennon actually wrote two \$10,000 checks to himself on the Union's General Fund. Whether these rumors were intentionally false or were simply the result of inaccurate word of mouth, the facts should be made clear.

In 2005, David Lennon received and cashed two AFM reimbursement checks (made out to David Lennon, Local 802, 322 West 48th Street) which should have been made payable to Local 802. These checks were in the amounts of \$1,543.95 and \$213.42. Lennon has stated that he assumed that the checks were intended for him. When he realized that the checks were actually intended for Local 802, he immediately reimbursed the Local in full.

## Charges Pending

Lennon's cashing of the checks is now the basis of charges filed against him by several of his political opponents within the administration and is a key element in their electoral campaign against him. (See: "The Charges" on page 6.)

It is unlikely that anyone would knowingly endorse and cash a check which was intended for another payee since such an action could certainly not be concealed for long. We believe that Lennon's cashing of these checks was an error, not malfeasance (as the charges claim). Although this matter and all relevant documents have been in the hands of the DOL for several months, no investigation has been initiated.

## The AFM Corrects Its Procedures

Recently, Lennon received two additional AFM reimbursement checks, one intended for him and one intended for Local 802. It is notable that the check intended for Lennon is made out to David Lennon, Local 802 AFM, exactly like the checks he is accused of cashing improperly, and the one intended for Local 802 is made out to Local 802 AFM as the earlier checks should have been.

Apparently, the Federation has now concluded that issuing reimbursement checks payable to David Lennon when they are really intended for Local 802 is inappropriate and misleading and they are now making the checks out more accurately. (See check reproductions on opposite page.)

MN

## MEMBERS NEWSLETTER

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**...this matter  
and all relevant  
documents have  
been in the hands  
of the DOL for  
several months...**

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21000021

Check # 200927

AMERICAN FEDERATION MUSICIANS - USA

1501 Broadway Suite 600  
New York, NY 10036

Check Date: 8/9/2005

Check Amount: \*\*\*\*\*\$1,543.95

\*\* Void after 90 days \*\*

One Thousand Five Hundred Forty-Three and 95/100----- USD

PAY TO THE ORDER OF: DAVID LENNON  
LOCAL 802 AFM  
322 W. 48th STREET  
NEW YORK, NY 10036

*L. Mainardi*  
Authorized Signature

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Check # 201412

AMERICAN FEDERATION MUSICIANS - USA

1501 Broadway Suite 600  
New York, NY 10036

3.31

Check Date: 11/1/2005

Check Amount: \*\*\*\*\*\$213.42

\*\* Void after 90 days \*\*

Two Hundred Thirteen and 42/100----- USD

PAY TO THE ORDER OF: DAVID LENNON  
LOCAL 802 AFM  
322 W. 48th STREET  
NEW YORK, NY 10036

*L. Mainardi*  
Authorized Signature

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The two checks reproduced above are the AFM Reimbursement checks that David Lennon cashed in 2005.

The two checks below are AFM reimbursement checks which he received recently. One of these checks is for him and the other is for Local 802. Please note that the first check (intended for him) is made out exactly like the checks he is accused of cashing improperly.

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JP Morgan Chase  
1166 Avenue of the Americas  
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021000021

Check # 203282

AFM-General Fund U.S.A. NEW

of the United States & Canada, 1501 Broadway Suite 600  
New York, NY 10036

Check Date: 8/10/2006

Check Amount: \*\*\*\*\*\$44.09

Forty-Four and 09/100----- USD

PAY TO THE ORDER OF: DAVID LENNON  
LOCAL 802 AFM  
322 W. 48th STREET  
NEW YORK, NY 10036

*L. Mainardi*  
Authorized Signature

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1166 Avenue of the Americas  
New York, NY 10036

021000021

Check # 203284

AFM-General Fund U.S.A. NEW

of the United States & Canada, 1501 Broadway Suite 600  
New York, NY 10036

Check Date: 8/10/2006

Check Amount: \*\*\*\*\*\$970.61

Nine Hundred Seventy and 61/100----- USD

PAY TO THE ORDER OF: LOCAL 802 AFM  
322 WEST 48TH STREET  
NEW YORK, NY 10036

*L. Mainardi*  
Authorized Signature

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# Union Democracy at Stake?

**T**HE central issue in the present election campaign is whether or not the views of 802's members should be respected by the Union's elected officers. The rank-and-file committee system is the bedrock of union democracy and, although there are many decent people whom we respect running for office with the Concerned Musicians ticket, we believe that the party's central leadership has demonstrated a contempt for the involvement of musicians in the conduct of their own contracts and negotiations.

Before the election of John Glasel in 1983, active musicians had little or no voice in the leadership and direction of Local 802. The MEMBERS Party's greatest success was in bringing control of this Union to the musicians who actually work under 802 contracts in NYC. We are proud of the giant steps forward we have promoted in member involvement, democratic elections and the committee system in 802.

There have been setbacks from time to time but we have remained dedicated to encouraging and respecting the democratic process.

In 2003, rank-and-file members of the Broadway negotiating committee complained about being left out of the loop by Bill Moriarity, Bill Dennison and Maura Giannini at key points in the negotiation. These complaints and the 2003 Broadway contract itself were matters of great concern to New York theatre musicians and to the MEMBERS Party. Our nomination of David Lennon that year was a reflection of these concerns.

In 2005, the Radio City Orchestra committee was angered by what they saw as attempts by 802 officers Bill Dennison and Jay Schaffner to undermine the committee's negotiating position by urging the signing of the notorious "We Lied" letter demanded by management. (See: "Who Really 'Botched' the Radio City Negotiations" on page 5).

More recently, theatre musicians have been concerned about buyout agreements (Industrial Promotional Broadway agreements) negotiated by Recording Supervisor (and Executive Board member) Jay Schaffner without consultation with the affected musicians.

All of these issues are of great concern to professional musicians and, of course, to the MEMBERS Party since we nominated these officers in the first place. Ironically, all of these current and former officers have now aligned themselves with the Concerned Musicians. They have brought many other musicians into their party who either don't know or don't care about their track records.

We believe that the foregoing cases represent an undermining of the right of working musicians to participate in the contracts and negotiations which affect them.

In contrast, every rank-and-file committee which has ever worked with David Lennon has praised him not only for his insight and creativity but for his respect for, and openness to, the input and guidance of the musicians he represents. (See letters of support on our Web site.) David Lennon and the MEMBERS Party are committed to union democracy at every level of this Union and we hope that members who care about these principles will support his reelection. **MN**

## Bylaws On the October 17 Agenda

*The October 17 membership meeting will consider two bylaw resolutions submitted by Executive Board member Jack Gale.*

### Scheduling of Meetings

The **first resolution** would address the fact that nothing in our present bylaws permits a membership meeting to be scheduled with less than 90 days notice in *Allegro*. This was workable 20 years ago when there were meetings every month. But now, with regular meetings scheduled only three times per year, it can sometimes be impossible to schedule a meeting (even a special meeting) less than three months from the time such a meeting is deemed necessary, plus whatever time it takes to get the notice into *Allegro*. The new proposal

would allow special meetings to be scheduled with 30 days notice in *Allegro*.

### Executive Board Voting

The **second resolution** would codify several decades of past practice by making it clear that the president or any other officer chairing an Executive Board meeting is to vote only in case of a tie. This is standard practice in 802 committees and the Executive Board. However, the current bylaw wording states that all Executive Board members present shall vote on all matters before the board, except the president who votes only to break a tie. The proposed change would codify past practice by extending this principle to whichever officer is actually chairing a meeting. **MN**

## THE MEMBERS PARTY CANDIDATES

The MEMBERS Party has selected its slate of candidates for the upcoming 802 election of officers. We are nominating candidates for every office except financial vice president for which we support the incumbent Jay Blumenthal.

For President: **David Lennon** (See: "Why We Are Supporting David Lennon" in this issue). For Recording Vice President: **Tino Gagliardi** (concerts, theatre and co-chair of 802's rank-and-file Theatre Committee).

Our Executive Board candidates are incumbents **Andy Schwartz** (guitar: jazz, clubdates and theatre), **Bobby Shankin** (drums: shows, clubdates and theatre) and **Art Weiss** (keyboard: shows, clubdates). New candidates are **Bud Burrige** (trumpet: jazz, clubdates and theatre), **Lynne Cohen** (oboe: concerts and theatre), **Michael Comins**

(violin: recording, theatre and concerts), **Tony Gorruso** (trumpet: recording, clubdates and theatre), **Gail Kruvad** (bass: concerts and chair-NYC Opera Committee) and **Tom Olcott** (trombone: ABT Committee, theatre and co-chair-Radio City Committee).

Our Trial Board candidates are incumbents **Al Hood** (bass: clubdates and hotels), **Carlina Ray** (bass: jazz and clubdates) and **Michael Roberts** (keyboard: hotels and clubdates). New candidates are: **Dean Crandall** (bass: concerts and Radio City), **Sara Cutler** (harp: concerts and NYC Ballet Committee), **Gene Moye** (cello: recordings, concerts and NYC Ballet), **Lanny Paykin** (cello: concerts and theatre), **Larry Rawdon** (cello: theatre and chair-802 Theatre Committee) and **Marilyn Reynolds** (violin: concerts, recording and theatre).

*We hope you will vote for all of these candidates on December 5.*

**I**N 2005, the members of the Radio City Orchestra were the victims of the most devastating corporate attack on musicians in the history of Local 802

The five-year contract, virtually imposed by management, contains an effective 25% pay cut (in the form of drastically reduced overtime payments), a scheduled reduction in the size of the orchestra (beginning in year three) and a gradual loss of job security.

## WHO REALLY

All of this happened in a negotiation in which management accused the Union of “lying” by when it said they were trying to cut musicians’ pay!

Throughout their campaign to discredit Lennon’s handling of the negotiations, Bill Dennison and Jay Schaffner claimed that the brief strike on November 2, 2005 was “ill-advised.” To our knowledge, they have never publicly acknowledged that they themselves (and their presidential candidate, Mary Landolfi) **voted to authorize that strike** along with the rest of the Executive Board on October 25, 2005.

Incredibly, they also argued that the Union should sign the letter drafted by Cablevision’s CEO Jim Dolan, claiming the Union had lied about management’s proposals to cut musicians’ pay. This was particularly offensive to the Radio City Orchestra Committee which has made it quite clear that the Union had *not* lied:

*“Since management proposals for overtime reduction recurred in various forms from meeting to meeting and never truly disappeared, we understood that overtime reductions were never off the table. Local 802’s public statements citing management pay-cut proposals accurately described the prevailing and unrelenting management bargaining pattern and were not ‘lies’ as Dolan*

*and Cablevision/Radio City claimed.” —The Radio City Orchestra Committee.*

A major corporation such as Cablevision clearly has the power and resources to drive a hard bargain with its employees and the Union, especially when its CEO can truthfully say that the \$75,000,000 income from Radio City’s Christmas Spectacular represents “less than 1% of his my annual income.” James Dolan’s credible threat to just close the show down if he did not get his way placed enormous pressure on Local 802 during the negotiations.

**botched**

Management knew that forcing Local 802 to sign (and publish at its own expense) the notorious “We Lied” letter Dolan had written and demanded would be disastrous for the Union in permanently damaging its credibility and in the \$100,000 cost of the ad. Moreover, the demand for the letter was a precondition for further talks.

The demand was withdrawn after 802 filed an unfair labor practice charge of extortion, but three Executive Board members had pressed to direct President Lennon to sign and publish the letter before

## THE RADIO CITY NEGOTIATIONS?

the result of the unfair labor practice charge could be known.

Management had often arbitrarily withdrawn previous offers, so it was evident that, even if 802 had signed the letter, the economic offer could have been withdrawn.

All of the Board members except Dennison, Landolfi and Schaffner opposed signing the letter. However, the Board did instruct Counsel to ask for the economic offer and the letter demand together, in writing, in one document to test the sincerity of Dolan’s quid pro

quo and to assure that, if the letter were signed, the economic offer would be honored. Although management declined to send the offer/demand in writing, Dennison, Schaffner and Landolfi did not change their opinion that the letter should be signed. Please check our Web site, [www.membersparty.com](http://www.membersparty.com), for the text of the letter they wanted the Union to sign.

Cablevision withdrew the offer/demand on November 5, 2005. They then repeatedly delayed the resumption of negotiations while tapes continued to replace the orchestra at the Music Hall. Within a day or so, the parties were summoned to mediation by Mayor Bloomberg.

We believe that, although Dennison and Schaffner’s advocacy for the signing of the letter was certainly within their rights, their efforts to promote that view outside the boardroom contributed to the negative outcome of the negotiations and the committee agrees.

*“It was obvious at mediation that Management was willing (even hoping) to walk out of the talks and to end the Orchestra’s involvement at Radio City once and for all. The fact that members of 802’s own administration had supported Dolan’s demand for the ‘We Lied’ letter left the Union severely weakened internally.*

*“This knowledge empowered management’s blatant retraction of key agreements, which*

*they had made in the presence of the mediator. The mediator, himself, was reluctant to hold management to these already agreed upon terms for fear that they might walk out and continue to run the show with tapes.*

*“There is no question in my mind that the actions of dissenting Local 802 officers, behind the scenes, was a major factor in our weakened position during mediation at Gracie Mansion which led to the disastrous contract.” —Andy Rodgers, Co-Chair – Radio City Orchestra Committee. MN*

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# The Charges

AS most members are undoubtedly aware, formal charges alleging malfeasance have been filed against President Lennon based on his cashing of two AFM reimbursement checks which, although they were made out to him, were actually intended for Local 802. (See: "The Financial Issues" on page 2.)

These charges will be on the agenda of the October 17 membership meeting during which those members present will make the decision whether or not to elect a committee to hear and try the charges and report its findings at a subsequent meeting.

## The Procedure

Unless the members at the meeting decide to dismiss the charges, a trial committee of seven members present will be elected. It may be difficult to empanel an unbiased committee since the matter has received so much publicity.

If a committee is elected, it will be bound by the same rules and procedures set out in the 802 bylaws for the Trial Board in hearing testimony and admitting evidence.

The Trial Committee would then report its findings at a later meeting at which the members present would render a final determination by secret ballot vote.

Local 802 has already made all of the details of this matter available to the Depart-

ment of Labor in connection with that agency's inquiry into the Union's financial reporting.

## Political Implications

Some see the October 17 membership meeting and the charges as a pre-election before the December election because, should Lennon be convicted and removed from office before the election takes place, Mary Landolfi, his opponent for the presidency, could become 802 president without the need for a membership vote. The charging parties are aware that, even if the charges are dismissed or if Lennon is acquitted, the fact that the charging process is taking place in the midst of the election campaign can only damage Lennon politically. **MN**

## Why We Support David Lennon

*(continued from page 1)*

the bargaining table. These are qualities we cannot afford to lose.

We will face difficult challenges in 2007 and David Lennon's leadership will be essential to our chances for success. He has developed a strong working relationship with the Local's Theatre Committee. We do not believe that opposition candidate Mary Landolfi or any of the other Concerned Musicians leaders (several of whom were key members of the negotiating team which brought us the 2003 Broadway contract) are as capable of leading 802 in this critical negotiation as David Lennon.

Lennon has been involved in highly successful negotiations with all four of the orchestras at Lincoln Center, where he demonstrated his creativity and negotiating skills on their behalf. We hope you will read the letters

from members of some of these orchestra committees which are posted on our Web site, [www.membersparty.com](http://www.membersparty.com).

We are all aware of the devastating contract reached with Radio City Music Hall. The controversy surrounding that situation has been repeatedly exploited by Bill Dennison and Jay Schaffner in their efforts to discredit Lennon's leadership.

It is important for members to know that Dennison and Schaffner's version of the "facts" has been repudiated by the Radio City Committee itself. The committee has consistently praised Lennon's leadership during that difficult period and believes that it was Dennison and Schaffner's interference in that negotiation that undermined the orchestra and the Union's position. (See: "Who Really 'Botched' the Radio City Negotiations" on page 5.)

We have certainly been concerned about Lennon's financial missteps in 2005, but we believe that they were mistakes, not malfea-

sance as they have been characterized by his, and our, political opponents. (See "The Financial Issues" on page 2). We also realize that by supporting him, we may be risking damage to our own electoral chances. Nevertheless, we believe that his reelection is essential to our Union's future and that his dedication, dynamism and creativity outweigh his regrettable financial indiscretions.

Although there are candidates among the Concerned Musicians slate whom we like and respect, the track records of the founder/leaders of that party cause us to fear for the future of the democratic committee system in this Union if they prevail in the upcoming elections. (See: "Union Democracy at Stake?" in this issue.)

We are supporting David Lennon because he has repeatedly demonstrated his commitment to members' and their elected committees' involvement in their contracts and negotiations, and because we share his vision for the priorities and future of Local 802. **MN**

# MEMBERS

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