

MEMBERS

NEWSLETTER

Make Every Musician Benefit from Efficient Responsible Service

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New York, NY

ELECTION BYLAWS CONSIDERED

February 11 Bylaw Meeting

TWO important resolutions have been submitted for 802's February bylaw meeting scheduled for 5:30 PM on Wednesday, February 11. Both of the proposals deal with the Union's election of officers.

Later Start Time Set

After decades of bylaw meetings at 3 PM on Tuesdays, the administration has begun scheduling them on Wednesdays at 5 PM. As a result, the window of meeting time is quite narrow since many musicians need to eat and get to work by 8 PM. This problem is aggravated by the later (5:30 PM) start time for this meeting.

Wednesday meetings favor Broadway players but a 5:30 start wastes an hour of possible meeting time during which a quorum could be present. It also increases the possibility of losing a quorum, before the resolutions can be voted on.

Come Early

Some suspect that the Administration purposely set the late time in hopes of losing a quorum before votes are taken so that the proposals

will fall and the Executive Board wouldn't have to vote on them. Whatever the reason for the late start, we urge members to plan to arrive by 5 PM (so that the meeting can start at 5:30 sharp) and be ready to stay if groups of mem-

For many years there has been a voting location at the Local's Long Island offices at which fewer than 15 votes have usually been cast. The 48th Street building is convenient for theatre and recording musicians and a polling place near Lincoln Center could facilitate voting for hundreds of musicians working there who often have limited time between rehearsals and performances to get to the Union Headquarters on election day.

An Omnibus Resolution

Resolution #2, submitted by Michael Comins, Tino Gagliardi, Jack Gale, and Bill Rohdin, would amend 802's election bylaw in several ways. Although this proposal was not submitted by the MEMBERS Party, all of its authors are associated with the party and three of them are editors of this *Newsletter*.

As most members know, most supervisory aspects of 802's elections are solely in the hands of the Union's Recording Vice President (RVP) who is usually a candidate in the elections which he or she supervises. Nominating petitions, candidate challenges, absentee ballots and all communications with the Amer-

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BE THERE!

IN January an important special membership appeal meeting could not be held because fewer than the quorum (125 members) were in the room. The issue—the current administration's unprecedented policy of dismissing charges against officers—could have been dealt with if just another dozen members had come to the meeting. (See Appeal Meeting on page 3.)

On February 11, if once again a quorum is not achieved, the lack of transparency in our election process will remain.

Once Union officers are in power, there is little members can do to prevent them from improperly manipulating Union procedures. Of course, officers are subject to appeals and charges but even those safeguards are meaningless unless members show up at membership meetings.

Most of us just want to live our lives, pursue our careers and leave Union matters to officers and activists. But, in times of crisis, we cannot just sit idly by. We need to **BE THERE** to participate and protect our Union and our careers.

bers leave before the votes are taken. Hopefully, there will be enough time to deal with both proposals before a quorum is lost.

A Lincoln Center Polling Site

Resolution #1, submitted by several Lincoln Center committee members, would institute an 802 polling site at, or near, Lincoln Center.

Financial Rumblings In the Music World

SHOCK waves from the current financial meltdown have brought significant problems to many venerable musical institutions including some in our area. The effect on orchestra endowments and operating funds has been heightened by a combination of general economic decline and falling stock market prices.

It has been reported that the market value of the Metropolitan Opera's \$300 million endowment has suffered an alarming loss of one-third

over the past few months. The Met is currently in contract negotiations with its orchestra and it remains to be seen what impact this development will have on proposals coming from both sides.

The New York City Opera, which has only recently snared incoming General Manager George Steel away from his short stint with the Dallas Opera in the hopes of erasing the Gerard Mortier fiasco, will soon be entering into contract negotiations with its orchestra and chorus. The NYCO's endowment has suffered a precipitous 50% decline from its \$45 million value just three months ago. The New York

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Next Issue: **June Bylaw Meeting**

Charges

ARTICLE IV of the Local's bylaws lists more than 50 acts that constitute chargeable bylaw violations. There are also many bylaws that establish duties of members and officers that could bring charges if violated. Many of these bylaws enforce Union standards, member cooperation with the Union and/or officers or prohibit false statements, acts of bad faith or unfair dealing.

Questionable Bylaws

Some bylaws are hard to understand and many are virtually unknown. Others have been brought to members attention over the past year. Two are of particular interest:

Charges Against Members

Section 1 (ee) makes it a violation "to conduct or play free rehearsals without permission of the Executive Board." And **Section 1 (yy)** says: "It shall be a violation to write and/or distribute any literature or pamphlet, either by mail or directly to the membership of Local 802, unless such literature or pamphlet bears the signature of at least one (1) member of Local 802 in good standing."

Both of these bylaws have been cited by top 802 officers in the past 12 months with the veiled implication that they might be invoked.

Paragraph (ee) has long been misunderstood by officers without commercial experience. It was intended to prevent members from playing rehearsals for engagements without payment for the rehearsals. The common practice of musicians playing with informal recreational 'rehearsal bands' (many, in the Union's own clubroom) in their spare time, was never intended to be a violation of this rule.

Paragraph (yy) is virtually unenforceable and could be a violation of free speech. It is especially a problem for members who suspect close ties between certain employers and Union officers, and don't want to expose themselves to their employers when they complain about Union policies. Also, many *Allegro* articles and Union

communications have been unsigned (e.g., the notorious Legacy Studios Film 'giveback' Survey). Even the new Film Work Survey bears no signature or name of an 802 member.

The purposes of charges against members are twofold: to address unfair dealing by one member against another and to compel member compliance with Union rules. Until the 1980s, 802's Trial Boards were kept busy with cases involving member disputes, prosecution for nonpayment of dues and fines. But, over the past decade, an average of only about one case per year has come to the Trial Board.

Charges Against Officers

Charges against officers are seldom successful. The process itself is difficult and unwieldy for the member filing the charges. This can be good since officers shouldn't be subject to possible removal from office without the most stringent due process.

Still, we need a process of some kind to address officers misuse of their offices, collusion with employers or other damage to members or the Union. As we have learned, there is very little members can do to protect themselves and their contracts against officers who have their own agendas.

Wasting Union Time and Money?

In Landolfi, Dennison and Blumenthal's recent improper use of the Union's e-mail pub-

lication *802 Notes* to defend officers against charges, they stated "**We believe this is a terrible waste of the money, time and resources of our union and its members.**" Two years ago, these same officers apparently felt differently when they themselves filed charges against 802 President David Lennon (which were dismissed by the membership by an unprecedented margin of more than 2 to 1).

They don't explain how charges take up excessive money, time and resources for anyone except the person filing them. Charges meetings take only a few hours: usually those set aside for meetings, in any case. When members believe officers are betraying their trust, filing charges can actually bring a degree of closure by leading to either a conviction or acquittal of the charged officer. Even the narrow 75 to 69 dismissal of charges against Board member Jay Schaffner last June, though controversial in itself, essentially put the matter to rest.

Thwarting the Process

More divisive are the alarming efforts by the current administration to squelch charges against officers and, in the process, commit even more serious bylaw violations. It is possible that some current Executive Board members are so inexperienced and uninformed about the Local's bylaws that they don't realize they are violating them. But the top officers who are directing them surely do know. **MN**

—Why Bylaws Are Important—

MOST members give very little thought to Union bylaws. They are lengthy and are often written in a form of 'legalese' which is not easily understood by casual readers.

Still, these basic 'rules' of Union membership are important to the governance of the Local, and to our rights as members.

Bylaws fulfill three functions within a union: (1) establishing internal procedures and rules; (2) promoting fair dealing among members; and (3) delegating duties and setting guidelines for officers in exercising their authority as officers.

When bylaws or amendments are proposed, it's important that members read them, talk about them, attend bylaw meetings, listen to the arguments and vote.

Even with elected officers in charge, bylaws place much union policy under the control of rank-and-file members in their roles as bargaining units, in committees or at membership meetings. Most of these require votes, quorums and majority rule.

In elections, contract ratifications, appeals and charges meetings, important decisions are in our hands and we owe our rights to this kind of control over 802 policy to our bylaws. **MN**

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UPCOMING AFM FILM NEGOTIATIONS

PLAYING out against a background of a lawsuit by some LA film musicians against the AFM and AFM's subpoenas delivered to International RMA officers for their organizational communications, AFM negotiations with the Alliance of Motion Picture and Television Producers (AMPTP) are scheduled to begin in Los Angeles in late February.

In an unprecedented move, AFM President Tom Lee has invited the entire IEB to attend. Incredibly, he has yet to invite International RMA President Phil Ayling, a key representa-

tive of the musicians who do more than 95% of AFM-scored films.

Film musicians across the country have been concerned about recent remarks by Union officials suggesting that weakening or eliminating the Film Musicians Secondary Markets Fund (which is on track for a record-setting \$85 million distribution this year) will somehow 'recapture' more film work for U.S. musicians. We hope that the next few weeks will bring an end to Union officers' working against the interests of musicians who do film work. **MN**

Appeal Meeting Canceled

THE January 13 meeting scheduled to hear and vote on David Finck's appeal of the Executive Board's October 7 decision to throw out charges against fellow officers was canceled for lack of a quorum. According to the announced count, only 119 of the required 125 members were present in the room by 3:30 PM at which time the meeting was called off.

There appeared to have been an organized plot to avoid a quorum for the meeting. Several attendees reported that they saw 15 or 20 members standing in the lobby outside of the clubroom between 3:00 and 3:30 PM, apparently waiting to enter the meeting if a quorum was achieved without them. After the meeting was officially called off, most of them walked into the clubroom and sat down for the discussion that followed.

Discussion Held

After the meeting was called off, Finck asked members to stay to talk for awhile and, remarkably, nearly 90 members remained until after 5 PM. Surprisingly, even with no one chairing the meeting, it was more orderly than some recent official 802 meetings.

Most of the discussion centered on how the Executive Board could justify performing a procedural review and throwing out charges against officers, given the fact that Article V, Section 7 of 802's bylaws specifically forbids the Board to hear charges against officers and assigns the procedural review to an elected Trial Committee.

Questions were also raised about 802 Counsel Harvey Mars' rationale for the Board's action. Mars claimed that the bylaws could be interpreted either way and took great umbrage at members' suggestions that he was only acting to defend the officers.

Dismissing Charges

All the Executive Board members who voted for the October 7 dismissal of the charges walked out as soon as the discussion began, except for Maura Giannini and Ethan Fein. Jay Schaffner (who was absent for the dismissal vote) also stayed but didn't speak. Only Fein spoke in defense of the Board's action.

The principal argument raised in support of the Board's right to throw out charges against officers was that, without that right, hundred's of frivolous or untimely charges could be filed that would require a great waste of Union time and resources. This claim is not supported by the fact that previous administrations have never 'screened' charges against officers in any way and yet there have only been two charges meetings in more than 20 years.

Several speakers expressed dismay at the Board's actions. One of them referred to the appearance of a lack independence on the current Executive Board and pointed out that many board members have never cast a dissenting vote (a vote cast in opposition to the majority decision) during the past two years. Ethan Fein took offense at this observation (although, according to published Executive Board's minutes, he is one of those who has not cast a dissenting vote). Fein concluded his response to the speaker with "f... you" (which in itself is a bylaw violation).

Responsibility Taken

One highlight of the meeting was a discussion on the notorious Legacy Studios survey (which had listed a series of possible give-backs in the AFM Film Agreement). After several inquiries as to who authored the unsigned survey and repeated refusals to answer that question, Vice President Dennison

suddenly relented and admitted that *he* had written it.

An Antidemocratic Precedent?

The bottom line is that the Executive Board dismissed charges against fellow officers and prevented them from being brought to the members. After decades of charges against officers simply proceeding according to the bylaws, a precedent may have been set by this administration's interference in this process.

Our Responsibilities

If we, the members of 802, can't show up at bylaw meetings, appeals or charges hearings in great enough numbers to produce a secure quorum well over the minimum of 125, we will have to accept virtually any actions our officers choose to take during their term in office. If groups of members can conspire to stay out of meetings in order to prevent quorums or to leave meetings en masse to end quorums, responsible 802 members will have to see to it that there are at least 150 to 200 members at important meetings so that such tactics will not be workable.

Although we are lucky to have colleagues like David Finck who have the integrity, intelligence and courage to stand up to improper behavior by Union officers, the rest of us should not just stand by and wish them well.

These are dark days for Local 802 and we are all in danger if there is no officer accountability in our Union. A lot can be accomplished by electing officers we can trust but we should also be able to prevent renegade behavior between elections when necessary. This can't be done by just a few strong individuals. *We all* need to take the time and trouble to show up when quorums are needed. **MN**

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New NYC Ballet Agreement

Ratified on 1/11/09 and covering the 2008–09 and 2009–10 seasons, the Ballet Orchestra settled for a 2-year wage freeze but achieved important gains in health care covering both regular and rotation players. The 26-week \$60,225 basic salary now includes a \$6,500 electronic media salary giving management broad rights to capture performances and dress rehearsals for promotional use. Captured material may also be used for commercial purposes, such as in movie theaters, Pay-Per-View TV, DVDs, etc., but should management make a profit on these ventures, all musicians

will share in the revenue stream—an agreement similar to the Met orchestra's. The media agreement was negotiated with and agreed to by the AFM, Local 802 and the NYCB.

Health care goes from 802's plan A to the Ballet's year-round Blue Cross PPO, w/hospitalization, that covers management and staff. Those opting out of the plan will receive a payment of \$3,000 per year. Eliminating catastrophic coverage, no longer necessary under the new plan, will save members almost \$2,000 annually and dental premiums will now be fully paid by management. **MN**

Financial Rumblings

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City Ballet's endowment has fallen from \$180 million to \$130 million over the same time period.

Carnegie Hall has cut its 2009–2010 schedule by 10 percent as a result of the recession, and has instituted a hiring freeze and has slashed \$4 million from the budget for its current season in order to keep it balanced. Carnegie's budget for next season is expected to be even lower than the revised \$76 million for this season and they have announced a schedule of 180 concerts, down from about 200 in recent seasons. **MN**

February 11 Bylaw Meeting

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ican Arbitration Association (the agency that conducts the balloting) are in the hands of the RVP's office. The only rules governing these activities are our bylaws.

Absentee Ballot Requests

In campaign calls to the absentee ballot list during the 2006 election, several members told callers they had received absentee ballots but had not requested them. Under current bylaws, there is no paper trail available to determine how or if that happened. Resolution #2 would require that absentee ballot requests be made in a letter including the member's signature and that the Recording Vice President keep those letters available for inspection by members for one year after the election.

Voter Eligibility

Current bylaws make it possible to join 802 as late as June 30 of an election year by paying

an initiation fee and 3rd-quarter's dues, vote in the election, and drop out without paying any further dues (including dues for the quarter in which they had voted). Resolution #2 would require people to join before January 1 of an election year to be eligible to vote in that year's election. New members would then have the opportunity to become familiar with 802, its officers and issues.

Reported "Unfavorably"

The Executive Board has reported this proposal "Unfavorably" on the grounds that it is "counter to the union's established policy to promote member participation in union elections, not to discourage it." We agree that voting should be encouraged but doubt that many 802 members would want 'new members' to join 802 just long enough to vote in an election and then drop out. It is in the interests of any union for its elections to be decided by members with some experience and familiarity with its policies and functions. We think that membership in Local 802, from at least the

beginning of an election year, would not be an unreasonable requirement for voting eligibility.

Union Information and Facilities

Resolution #2 would also require that lists, labels and other Union information or facilities available to any candidate be made available, on equal terms, to all candidates.

Campaign Contributions

Another anomaly in current election bylaws is Article VI, Section 11 (b), which prohibits candidates from accepting campaign contributions from 802 members who employ other members. Oddly, the provision fails to prohibit contributions from actual employers who are not 802 members (such as clubdate offices, producers, club owners, Radio City, etc.). Resolution #2 is intended to prohibit candidates from accepting contributions from employers even if the employer is *not* an 802 member.

We hope you will read the proposals, come to the meeting on February 11 to hear the discussion and vote for or against each of them. **MN**

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