

March 3, 2021

KPFK Local Station Board Executive Session Report  
Report Out from KPFK Local Station Board Closed Session of February 28, 2021.

LSB met in closed session to review the results of a motion to remove a delegate. It failed to achieve the required 2/3 majority necessary to pass. A motion to censure passed. (see attached). The board instituted a committee to work with Bella De Soto to fulfill the requirements of the motion to censure.

Respectfully Submitted

Jeanine Rohn  
Secretary

Please See Motion to Censure attached.

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Article Six, Meetings of the Board of Directors, Section 7: Open Meetings

“In addition, within a reasonable period after the closed meeting, the Foundation's Secretary shall post on the Foundation's website a general statement of the basis on which all or part of said meeting was closed.”

This notice is pursuant to and satisfies the requirements of Section 396(k)(4) of the Communications Act.

MOTION TO CENSURE BUT NOT REMOVE BELLA De SOTO FROM THE KPFK LSB

WHEREAS, KPFK LSB Members Jim Osborne, Kiyanna Williams, Jan Goodman, and Sandy Childs, have brought a Motion to Remove Bella De Soto From KPFK LSB or in the Alternative to Censure (hereinafter "the Osborne Motion") which Osborne Motion has been duly calendared for consideration of the KPFK LSB in a closed session on Feb. 21, 2021. (Underscored emphasis added);

WHEREAS, the surly videotaped remonstrance by Bella DeSoto described and linked-to in the Osborne Motion (which constitutes the gravamen of the Osborne Motion) can reasonably be construed as an attempt to intimidate members of the management and personnel of KPFK and other Pacifica stations and her fellow members of KPFK and Pacifica governance, into fealty to the speaker's worldview and programming agenda for KPFK and other Pacifica stations;

WHEREAS, such attempted surly intimidation is totally contrary to the humanistic ethos of the Pacifica Foundation, defiant of the Foundation's democratic and pluralistic governance structure, and unbecoming of elected members of the Pacifica Foundation's local station boards;

WHEREAS, the conduct referenced in the surly videotaped remonstrance at issue, in the (virtually inconceivable) event it were ever actually attempted, would not only constitute a very serious "crime spree" but obliterate the rights of KPFK's and Pacifica's members to collectively determine the destiny of the Foundation by and through the democratic processes set forth in our Foundation's Articles of Incorporation and Bylaws;

WHEREAS, assuming Bella DeSoto has formally retracted and apologized for her surly videotaped remonstrance, both in writing and orally, sincerely expressed regret for her rash action; has agreed to seek counseling or self-help programming as needed to ensure against any repetition of such unbecoming vituperation going forward; and has solemnly pledged to serve KPFK responsibly and without incident as a LSB member for the duration of her LSB term;

WHEREAS, Bella DeSoto has dedicated decades of volunteer time to KPFK and served as a LSB member for several years, has made such part of her identity and life's work and possesses a reliance interest in continuing to do so, and has since the date of the unfortunate conduct displayed in the videotaped remonstrance at issue, resumed serving KPFK responsibly as a LSB member, inter alia, as chair of the KPFK LSB Finance Committee and as co-author of a resolution with fellow LSB members (across factional and political lines) scheduled for consideration at the Feb. 21, 2021 LSB meeting, and has solemnly pledged to continue serving KPFK responsibly and without incident as a LSB member for the duration of her LSB term;

WHEREAS, totally unlike the momentous run-up to- and inflammatory rhetoric displayed at the infamous Jan. 6th Trump "Stop The Steal" rally preceding the insurrection and attempted putsch in the nation's capitol referenced in the Osborne Motion, the surly videotaped remonstrance by Bella DeSoto during a sparsely-attended otherwise conversational issue-oriented Zoom meeting described and linked-to in the Osborne Motion (which constitutes the gravamen of the Osborne Motion) cannot reasonably be construed as an "incitement" to lawless action or violence; and

WHEREAS, First Amendment precedents surrounding arguably protected controversial speech aren't binding on non-governmental entities such as Pacifica (although roughly comparable 14th Amendment "due process" precedents may be) as a matter of "persuasive authority" Bella DeSoto's videotaped remonstrance at issue does not satisfy the "incitement" criteria set forth by the US Supreme Court in:

- *Brandenburg vs. Ohio*, 395 U.S. 444 (1969) [speech (in that case by Ku Klux Klan leader Clarence Brandenburg) advocating illegal conduct or even violence is protected under the First Amendment unless the speech constitutes a threat of "imminent lawless action and is likely to incite or produce such action."]
  - *Hess v. Indiana* [protester declaring an intention to take over the streets held not subject to criminal prosecution, because "at worst, (the words) amounted to nothing more than advocacy of illegal action at some indefinite future time."] And
  - *NAACP v. Claiborne Hardware Co.* [organization official's declamation: "If we catch any of you going in any of them racist stores, we're gonna break your damn neck" ruled the hyperbolic language of advocacy, and judgment against the National Association for the Advancement of Colored People was overturned.]
- (Underscored emphases added.)

WHEREAS, Bella DeSoto's unbecoming vituperative videotaped remonstrance during a Zoom call similarly clearly falls into the category of protected speech under First Amendment precedents, and no lawless action or violence whatsoever transpired in its aftermath.

THEREFORE, in light of all the foregoing, in duly addressing the Osborne motion, the KPFK LSB hereby RESOLVES in its wisdom, fairness and sole discretion, to (and hereby does) censure Bella DeSoto for conduct unbecoming of elected members of the Pacifica Foundation's local station boards but not remove Bella DeSoto from the KPFK LSB.

Respectfully submitted,  
Eric C. Jacobson  
Public Interest Lawyer  
KPFK LSB