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November 26, 2007

Brothers and sisters,

Three ASEA members are protesting the convention delegate election which we conducted on October 23, 2007. The protest is dated October 29, which means the chapter needs to make a decision on it at the chapter meeting this Tuesday, November 27, which will be one day under the 30-day deadline.

The Elections Committee has examined the controlling documents carefully. We have received written testimony and conducted a hearing to collect the views of the interested parties. We have analyzed the 13 points in the protest and have responded to each one individually. We are ready to make some recommendations.

### **Controlling documents**

There are 4 controlling documents involved here.

1. In the ASEA Constitution,
  - ☞ Section 1.02 states that members are entitled to democratic elections, which it further breaks down into:
    - due notice of nominations and elections;
    - equal opportunity for competing candidates; and
    - proper election procedures.
  - ☞ Section 6.05 says that convention delegates shall be elected from the chapters, but offers no specifics.
  - ☞ Section 7.05 would seem to apply only to officer elections.
2. The ASEA Policies and Procedures Manual is oddly silent on the subject of chapter administration and governance, including chapter elections.
3. The Chapter Bylaws provide, in Article IV, Section 3, that all chapter elections are subject to the provisions of the AFSCME Elections Code. Paragraph F of that section states that nominations should be requested from the membership 90 days before the election. Article X says that all committees should have at least 3 members.
4. The AFSCME Constitution incorporates the Elections Code as Appendix D. In Section 2 it lays out the rules:
  - (A) a nominee must be a member in good standing;
  - (B) an election committee will be established and will have general responsibility for the conduct of the election; no member of the election committee may be a candidate for office;

(D) not less than fifteen days prior to the holding of nominations for local union officers, a notice of the nominations and elections shall be mailed to each member at the member's last known address.

(E) nominations may be made at a regular or special meeting by a local union member, or by a nominating committee;

(H) elections may be conducted at the same meeting as nominations, or at the following meeting, or by referendum, as provided in the local union constitution.

**Issues raised in the protest** (Note: The text shown below for each item is intended to serve as an indicative excerpt only. Refer to the protest document for the complete argument.)

1. *There was not an effective election committee in place at the start of the election process to conduct a fair and impartial election.*

Not true. Granted it was short-handed, but the election committee was in place and was effective, as evidenced by the fact that the election went smoothly. Also, the election committee does not need to be involved from the start of the election process in order to conduct a fair and impartial election.

2. *Juneau chapter members did not receive due notice of nominations and elections as specified in the Election Code. The election committee did not mail notices...*

The Juneau chapter has chosen to interpret the word "mail" in Appendix D to include email. The email notice went out on October 3<sup>rd</sup>, which is 16 days before the cutoff date. This meets the requirements of Appendix D; however it does not meet the 90-day requirement of the chapter by-laws.

3. *The election committee did not obtain a list of members in good standing ...*

Such a list is hard to come by, and not likely to be authoritative, but the point is well taken. It is possible that one or more imposters could have attended the meeting undetected, and maybe even voted. It is even theoretically possible, albeit very, very unlikely, that they could have done so in sufficient number so as to influence the election outcome.

4. *... whether the election committee maintained control at all times of the post office box where nomination forms were to be returned ...*

The election committee did not have any control over the mailbox, which was used to receive nomination forms. However, if an intended candidate's name had been left off the ballot we certainly would have heard about it.

On the subject of nominations, note that by disallowing nominations from the floor, and requiring a form in advance, our chapter does not comply with Elections Code subsections 2(E) and (H).

5. *The election was held during a 55-minute period ... all Juneau chapter members were not afforded a reasonable opportunity to vote.*

This is a good point.

6. *The notice of nominations was sent out ... 142 days before the convention.*

This is not relevant.

7. *Without the membership list ...*

See the response to item 3.

8. *There was no member sign-in list at the chapter meeting to document that a quorum was present...*

That a quorum was present, there was no doubt. But perhaps an attendee list should have been taken.

9. *There was no official record of who ballots were issued to at the meeting, whether those individuals returned ballots, whether ballots were lost, or whether some individuals ... voted more than once.*

The election committee took care to ensure that each individual received only one ballot of each type. Calculating detailed statistics is rarely worth the effort, but a list of those receiving ballots would be potentially useful.

10. *The chapter president appointed a new member to the election committee at the meeting while balloting was occurring.*

This is absolutely untrue. The appointment occurred after the meeting, once all the ballots had been returned. (Additional concerns about the chapter's committee appointment procedures are outside the scope of this protest.)

11. *When Chris Pace went to check on the results at 2:00 pm, [the election committee] was on the phone with the chapter president. The president was instructing them on how to conduct certain election procedures. ...*

The chapter president provided procedural advice and text for the report, but had no role in the vote count.

12. *[The election committee did not appear to have,] "general responsibility for the conduct of the election."*

The election committee was not involved in the decision to hold an election at a chapter meeting, but was merely given the task of making it happen. Once the chapter executive board gets used to having an active election committee, it will hopefully consult the committee before calling any future elections.

13. *Past practice.*

Current election procedures, such as email notification, are indeed a departure from past practice. This has no bearing on the validity of the election.

In summary, the chapter by-laws say that Appendix D applies to chapter delegate elections, but our entire nominating procedure is out of compliance with subsection 2(D) of same, so apparently we are in pick-and-choose mode with respect to that document.

The protesting parties have brought forward three valid issues, viz.:

- (1) the notice of nominations was given less than 90 days before the election, as required by the by-laws;
- (2) the lack of a current, accurate membership list made it impossible to verify the good standing of those present at the meeting; and
- (3) some members were not able to attend the meeting at that particular time and location.

They have provided no evidence to suggest that addressing any of these issues would likely have produced a different election result.

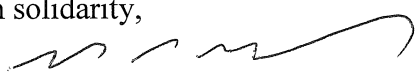
### **Recommendations**

1. The lack of a membership list needs to be looked at. Someone needs to make a summary of what has been tried around this, and what the issues are.
2. The built-in bias against shift workers, and/or people who work in the Valley, is very troubling. If we're going to vote at meetings we should also provide for absentee ballots.
3. New approaches to online voting should be investigated.
4. The chapter by-laws should be updated to reflect current practice.
5. The election committee should be brought to full strength by adding another active member as soon as possible.
6. As there is no reason to suppose that rerunning the delegate election would produce different results, this committee recommends that the chapter allow the October 23<sup>rd</sup> election to stand.

Overall the election went relatively smoothly. All candidates had a chance to speak, and from the comments received at the hearing it appears that most of the attendees were satisfied with the process. Thanks to all who submitted written or oral testimony; your remarks were taken into account.

This concludes the committee's report on the protest. It is now up to the chapter as a body to decide what action, if any, should be taken.

In solidarity,



John P. Roxburgh, Chair  
ASEA Election Committee