

STUDENTS' COUNCIL

Votes and Proceedings

Thursday October 7, 2004 – 5:15 p.m.
Council Chambers 2-1 University Hall

VOTES AND PROCEEDINGS (SC 2004-13)

2004-13/1

CALL TO ORDER

Speaker called the meeting to order at 5:25 p.m.

2004-13/3

SPEAKER'S BUSINESS

Point of Privilege: Knisely – As many of you certainly know and as many of you know and as the Speaker certainly knows, I've submitted a letter of resignation, resigning my position as Students' Councillor representing the faculty of Arts on October 5th. On October 7th, precisely, more specifically, approximately, a half hour ago, I submitted a retraction of that resignation to the Speaker on the grounds that I was acting on fraudulent misrepresentative information when I submitted my resignation. As I state in the resignation, and I would like it read as soon as I'm done talking, and in my retraction letter the reasons for my resignation were completely unconscionable and with the publication of the students newspaper today it was completely unreasonable for me to resign. There was absolutely no reason to believe that the repute of the Students' Union was ultimately in doubt. I had reason to believe that it was in doubt because I was lied to by a number of people as to what was going on when I was caused to resign. Since the Students' Union has not acted on my resignation so to appoint a new person or to call an election, the Students' Union has not incurred any cost and has not suffered any prejudice. What you will hear tonight will be that the allegations that have been disseminated through emails, through the Students' Union web board, and the students' newspaper are completely unfounded. They lack merit. They are driven by an attempt to maliciously assassinate my character amongst the students at the University of Alberta. For what end, I can only guess as I'm sure the rest of you can. For those reasons, I urge council to accept my letter of retraction of my resignation and allow me to continue in my position representing the undergraduate students of the Faculty of Arts in as good a way as all of you have come to expect, by my action in Council, by the work that I've done over the past several months, and by the care that I've taken for the integrity of the Students' Union for the assembly to insure that amongst the university community and amongst the province of Alberta and city of Edmonton, and with every person that the

Students' Union interacts that its officers act with integrity, with responsibility, and with accountability. My resignation was, when I was acting on the information that I had, an action of integrity, responsibility, and accountability. Now, those facts, I've discovered are completely untrue and there is no reason for my resignation to stand. It is not in the interests of the undergraduate students of the Faculty of Arts that I be allowed to leave or be forced from this body to disenfranchise them from their democratic right to have representatives sit on this Council and prevent the work that I wish to do over the next couple of months with respect to the undergraduate students with respect to undergraduate students with the Faculty of Arts and undergraduates across the University of Alberta; all of whom stand to benefit from my position and none of whom stand to benefit from my resignation, and for those reasons I request that my letter of retraction of my resignation be accepted.

Please see document VP 04-13.01

Speaker – Point of privilege not well taken. The reason the point of privilege is not well taken has nothing to do with the circumstances under which the resignation was tendered. Whether it was meritorious or not, whether it was speaking to the appropriate issues or not, it is simply based on my interpretation of the rules which are included in your Council package. That interpretation essentially boils down to this; once you have submitted a letter of resignation with the Speaker, that letter of resignation cannot be rescinded. It is effective immediately and is basically a done deal.

Knisely appeals the decision of the chair – Mr. Speaker, with all due respect, the Chair does not understand the rules that are at play. The Chair has said that the resignation is effective immediately, when that is clearly not the case. For that reason, there has to be a better investigation into the rules that are here. The Robert's Rules that have been sighted in the Council package state that when a (I'm paraphrasing here) that when a resignation has been acted upon the motion to rescind and to amend something previously adopted is not in order. This requires an interpretation of what happens when a resignation is acted upon and that goes to what I was saying earlier with respect to whether or not the Students' Union has taken an action or omitted to take an action that it otherwise would have taken – to suffer a cost or to suffer a prejudice of some kind, and that has clearly not been the case, and in the absence of any evidence to the contrary it must be maintained that that is the case and it therefore must be maintained that my resignation has not been acted upon. I have attended an Internal Review Board meeting in my position as Councillor following the submission of my resignation letter. I have acted upon my intentions to rescind my resignation. I have acted upon my position as Councillor. I have further acted upon that when I've attended here, but there has been no action on my part, on the part of the Students' Union to act upon the resignation. In fact, the President has submitted a motion that impeaches me from this organization, and if, in fact, I am resigned then there would be no need for that motion and that motion would be meaningless and have no effect. That is clearly not the case. If a resignation is filed then there would be no need to describe it as being a resignation that has been acted upon. There would be no need to differentiate between resignations and resignations that have been acted upon. So, what is the difference? The difference is that actions that are taken by this organization and the actions that are taken by me with respect to my position as councillor. I have not acted upon my resignation and neither has anybody in this room, neither has anyone in the Students' Union. For the foregoing reasons I urge Council to adopt my position and to defeat the Chair's ruling.

Speaker – Thank-you Councillor. Council, follow through with me as I go through my rationale as to how I came to this interpretation. First, reading section 22 of Bylaw 100. It says, “A member of Council may resign their office at any time by filing written notice with the Speaker of their resignation and the member will thereupon cease to be a member of Council on the earliest of either a) the date mentioned in the notice for such resignation to take effect, or b) 30 days after the notice is received by the Speaker”. Okay, so there are a couple of questions. One is, when is filing, or what is filing? And to that end, I’ve decided that filing essentially means when you submit the resignation letter to the Speaker. The next question is, whereupon do you cease to be a member of Council? Well, that’s simply defined by sections a) or b). In this particular instance, there was no date specified in the letter of resignation, so that means clause b) is in effect; 30 days after the notice is received by the Speaker. Now, the question is, I think – just looking at that – frankly, the clause doesn’t seem to indicate one way or another whether you should be allowed to rescind during that 30 day clause, but I would say one thing here. Filing effectively does two things; one (it depends on the situation, normally all filing does is immediately vacate the position, but in the case where clause b) is brought into action, filing does two things) It starts a 30 day time limit ticking. So, that is legal consequence number one and legal consequence number two is at the end of the 30 days the seat becomes vacant. All right? So, I believe that when clause 22b is engaged, filing has two potential legal consequences. Now again, just looking at section 22 doesn’t clearly indicate whether or not a person can revoke their resignation. For that, I looked a little further afield to Robert’s Rules, and what I found out in Robert’s Rules of Order is an action that cannot be rescinded or amended under “Actions that cannot be Rescinded or Amended” the motions to rescind and to amend something previously adopted are not in order under the following circumstances, and again it reads “When a resignation has been acted upon or a person has been elected to or expelled from membership or office, and the person was present or has been officially notified of the action”. I agree with the councillor that there is a question of interpretation with respect to what does ‘acted upon’ mean. I believe that ‘acted upon’ effectively means when legal consequences begin to stem from the effect of the resignation notice. In this case, I believe again, there are two legal consequences. One is to start the 30 day time limit ticking, which I believe is in effect here, and I believe this constitutes ‘action upon’, and so I believe that this rule of Robert’s actually is brought into play for that reason. In addition, I would also suggest that if you just look at this from a policy perspective, if people can revoke their 30 day resignation letter at any time it would be impossible for Students’ Council to do anything – take any action with respect to filling that position until those 30 days had expired, because at any time you could basically rescind your resignation and any action to the contrary would be void. To illustrate this in an example – someone could resign, have no date on the resignation, it’s effective in 30 days. Council could meet; decide to hold a by-election. The by-election could be held, someone could be elected, and then on the 29th day the person could come in, rescind their resignation and it’s over. The by-election was void. So, I think that in addition to the legal interpretation the policy ramifications of interpreting this in another way leave us open to all sorts of potentially unpleasant situations in the future and that is the rationale of the Speaker.

Ruling of Council: DECISION OF THE CHAIR SUSTAINED 16/14

BLATZ MOVED THAT the Presentations be made a Special Order.

Point of Order: Smith – Does this constitute a presentation on a motion? As I recall, the chair has ruled in the past that presentation that speak to motion later on in the agenda are, in fact, out of order?

Speaker – Point of order well taken. Right to appoint at same meeting.

Smith appeals the decision of the chair.

Appeal: WITHDRAWN

Motion: WITHDRAWN

SMITH MOVED THAT item 5a be added to agenda and be made a special order.

Amendment: RULED OUT OF ORDER

BLATZ/McLAUGHLIN MOVED TO have a discussion in Speaker’s Business.

Motion: DEFEATED

Speaker orders item 3a struck from the agenda.

2004-13/4

APPROVAL OF THE ORDERS OF THE DAY

SMITH/KNISELY MOVED TO approve the orders of the day.

NICOL MOVED TO amend the orders of the day by add the following motions:

Motion #1

MOTION BY NICOL, ORDERED THAT item 3a be postponed until such time as the Executive Committee:

a) Purchase liability insurance to cover all members of Students' Council to a minimum sum of 1 million dollars each, or an aggregate of no less than 10 million dollars.

b) Communicate with the Students' Union lawyer and develop a report on the legal implications of hearing any motion of non-confidence in regards to a member of Students' Council, both Executive and non-Executive, and the legal implications if such a motion should pass.

Point of Order: Kotovych – Given that you alluded just a second ago that item 3a has been struck, is it in order to postpone a motion that is no longer upon the agenda?

Speaker – Point of order well taken. The motion makes no sense now that 3z has been removed from the orders of the day.

Motion #1: RULED OUT OF ORDER

Motion #2

MOTION BY NICOL, ORDERED THAT the President draft a formal apology and explanation for his actions in relation to and during the lead up to the Council meeting of Thursday, October 7, to be published in a full page Gateway add as soon as possible.

Motion #3

Bill #20 - Councillor Resignation Reform Bill (sponsor; NICOL);
Principles (notice of motion/first reading)

1) Councillor's shall have the opportunity to rescind resignations at the consent of 50% of Council until such time as their resignation becomes effective.

Point of Order: Smith – I do not believe that any of these motions meet the threshold for late additions as set out in Standing Orders.

Speaker – Point of order well taken. Standing Order #20 requires that late additions be of such importance that they cannot be postponed.

Motion #2 and Motion #3: RULED OUT OF ORDER

NICOL/KIRKHAM MOVED TO suspend Standing Order #20.

Motion: DEFEATED

BLATZ/SMITH MOVED TO amend the orders of the day by including item 5a from the late additions package as a special order.

Point of Order: Knisely – A meeting was called. It had a motion that was very important. We're not dealing with that anymore. This is not an emergency meeting because the emergency subject matter of the meeting has been struck, so this obviously isn't the purpose that the meeting was originally called for, so it just doesn't pass the threshold test of late additions.

Speaker – Point of order not well taken. The proposed discussion deals with essentially the same point as the struck motion.

Amendment: CARRIED

DEBENHAM/NICOL MOVED TO amend the orders of the day by adding late addition 3b to the agenda package.

Amendment: RULED OUT OF ORDER

Smith appeals the decision of the chair.

Speaker – withdraws ruling.

Point of Order: Abboud - Has someone explained why this is pressing and urgent?

Speaker – Point of order well taken. Standing Order #20 requirements not met.

Amendment: RULED OUT OF ORDER

Debenham appeals the decision of the chair.

Speaker calls for a five minute recess.

Ruling of Council: DECISION OF THE CHAIR SUSTAINED

Main Motion: CARRIED

SMITH/LETTNER MOVED THAT Students' Council move in camera and allow to remain in the proceedings the Associate Director for the Environmental Coordination Office of Students, the Senior Manager Student Services, and the Executive Assistant to the President and Council for the Associate Director and Councillor Knisely if wither is seen fit to retain it.

THOMPSON/DEBENHAM MOVED THE previous question on the motion to move in camera.

Motion to Move the Previous Question: CARRIED

Motion to Move In Camera: CARRIED

LEWIS MOVED TO expel all people from the room who are not members of Students' Council.

Motion: RULED OUT OF ORDER

SMITH/BAZIN MOVED TO adjourn.

Motion to Adjourn: CARRIED 8:20 p.m.

ATTENDANCE (SC 2004-13)

Faculty/Position	Name	Point of Privilege
President	Jordan Blatz	√
VP Academic	Lisa McLaughlin	√
VP External	Alex Abboud	√
VP Finance	Alvin Law	√
VP Student Life	Duncan Taylor	√
BoG Undergrad Rep.	Roman Kotovych	√
Agriculture, Forestry and Home Economics	Leah Bennett	√
Agriculture, Forestry and Home Economics	Chelsy Shillington	√
Arts	Catrin Bergoff	√
Arts	John Chandler	√
Arts	Gabrielle Donnelly	
Arts	Aaron Johnson	X
Arts	Adam Knisely	X

Arts	Tamara Larter	√
Arts	Chris Laver Michelle Kelly (proxy)	X
Arts	Cameron Lewis	√
Arts	Anand Sharma	
Business	Chelsea Baron	-
Business	Steve Smith	√
Business	Nandini Somayaji	√
Education	Sean Clovechok	
Education	Trevor Panas	X
Education	Lillian Patz	
Engineering	Josh Bazin	X
Engineering	Graham Lettner	-
Engineering	Jamaal Montasser	-
Engineering	Gary Wicentowich	X
Law	Tara Thompson	X
Medicine and Oral Health Sciences	Brock Debenham	X
Native Studies (School of)	Matthew Wildcat	
Pharmacy	Erica Skopac	
Faculte Saint-Jean	Sarah Colpitts	-
Science	Justin Kehoe	√
Science	Stephen Kirkham	X
Science	Darren Lau	X
Science	Scott Nicol	X
Science	Shawna Pandya	X
Science	Chris Samuel	√
Science	Kelli Taylor	X
Science	Keith Vandersluis	X
Science	Omer Yusuf	X
General Manager	Bill Smith	

Speaker	Gregory Harlow	
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GUESTS OF STUDENTS' COUNCIL

Ariel Bowering	Arts I
Sara Martin	Arts IV
Tess Elsworthy	Arts III
Emily Johnson	Arts II
Meagan Johnston	Arts III
Jessie Breton	Science III
Jayne Nelson	ENES III
Paul Hart	Education V
Kim Deschamps	EAS (Grad)
Carmen Gustafson	ENCS V
Rob Butz	Arts III
Catherine van de Braak	
Cosanna Preston	Gateway
Dane Bullerwell	CRO
Danielle Sinnette	Arts III
Scott Harwardt	Arts II
Coire Cadeau	FCSR

Adam Knisely
11309 University Avenue
Edmonton, Alberta T6G 1Y8

October 7, 2004

Gregory L. Harlow
Speaker of Students' Council
Students' Union, University of Alberta
2-900 Students' Union Building
University of Alberta
Edmonton, Alberta T6G 2J7

Dear Mr. Harlow

Please be advised that I retract and rescind my resignation that I personally gave to you on October 5, 2004. My resignation was a preemptive measure against what may have been a serious situation where there was, on my information, a serious threat to the repute of the Students' Union.

It appears that I was acting under false information and my resignation was both ill-advised and the result of what I believe to be several fraudulent and defamatory statements made by an employee of the Students' Union. The situation turns out to be an orchestrated attempt to assassinate my character and humiliate me publicly amongst the University community, an attempt which has, by my estimation and much to my relief, failed miserably. There was, as it turns out, no danger to the repute of the Students' Union sufficient to warrant, in any reasonable or conscionable way, my resignation.

The Students' Union, to my knowledge, has not taken steps to act on my resignation, nor will it suffer any prejudice as a result of my reinstatement as a student councillor representing the Faculty of Arts. I believe that this action is legal, and the Students' Union is obliged to treat me in precisely the same manner as if my resignation had not occurred.

I expect that an announcement of my reinstatement be made on the earliest possible occasion, and that the relevant records be affected accordingly.

Yours sincerely,


Adam Knisely