

# STUDENTS' COUNCIL VOTES & PROCEEDINGS

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Tuesday November 29, 2005  
Council Chambers 2-1 University Hall

## VOTES & PROCEEDINGS (SC 2005-16)

- 2005-16/1      CALL TO ORDER
- The meeting was called to order at 6:00 p.m.
- 2005-16/2      SPEAKER'S BUSINESS
- 2005-16/2a      Announcements - The next meeting of Students' Council will take place on December 6, 2005.
- 2005-16/2a (i)      Jamaal Montasser resigns from the External Policy Committee
- 2005-16/2a (ii)      Heather Wallace resigns from Students' Council
- 2005-16/2a (iii)      Shad Thevenaz resigns from the Bylaw Committee
- 2005-16/3      APPROVAL OF THE ORDERS OF THE DAY
- KIRKHAM/LETTNER MOVED to approve the orders of the day.
- Main Motion: CARRIED
- 2005-16/4      PRESENTATIONS
- 2005-16/4a      Presentation given by Dr. Carl Amrhein and Mr. Philip Stack on Tuition.
- 2005-16/4a      KEHOE/JOHNSON MOVED TO postpone item 4b to the next meeting of Students' Council.
- Main Motion: CARRIED
- 2005-16/5      NOMINATIONS
- 2005-16/5a      POWER/KIRKHAM MOVED THAT Students' Council appoint Andrew Kwan and Florence Cheng as Depute Returning Officers for the 2005-2006 year.
- Speaker's List (mm): Power (CRO: Rachel Woynorowski)

**Main Motion: CARRIED**

2005-16/5b

**LEWIS/PAYNE MOVED THAT** Students' Council appoint a member to the External Policy Committee.

LEWIS nominates SHAMANNA: SHAMANNA accepts.

**Councillor Shamanna appointed to the External Policy Committee.**

2005-16/5c

**POWER/TOBIAS MOVED THAT** Students' Council ratify the following appointments to the Discipline, Interpretation and Enforcement (DIE) Board effective immediately: Dane Bullerwell, Joel David, Kanchana Fernando, James Koizumi, Amanda Nielson, Scott Nicol and Saarah Shivji.**POWER/KIRKHAM MOVED TO** amend the main motion by adding the words "And to nominate Kanchana Fernando as the Associate Chief Tribune".**Amendment to main motion: CARRIED****Main Motion: CARRIED***Speaker makes item 7e (i) a Special Order*

2005-16/7e (i)

**LEWIS/KIRKHAM MOVED THAT** Students' Council approve the proposed petition question below:  
Do you support the elimination of the plebiscites and referenda process of the Students' Union?

Speaker's List (mm): Tobias

**Main Motion: CARRIED***Speaker makes item 7e (ii) a Special Order.*

2005-16/7e (ii)

**LEWIS/KIRKHAM MOVED THAT** Students' Council approve the proposed petition question below:  
Do you support that the Students' Union only collects or approves fees distributed to a particular entity where the control of that entity corresponds to the financial contribution by students?**Main Motion: CARRIED***Speaker makes item 7e (iii) a Special Order.*

**2005-16/7e (iii)** **LEWIS/KIRKHAM MOVED THAT** Students' Council approve the proposed petition question below:  
 Do you support the elimination of all dedicated fees\* currently levied by the Students' Union?  
 \*Student Involvement Endowment Fund  
 Eugene L. Brody Fund  
 Access Fund  
 Refugee Student Fund  
 CJSR-FM Fund  
 Golden Bear and Panda Legacy Fund  
 Campus Recreation Enhancement Fund  
 Student Legal Services of Edmonton Fund  
 Alberta Public Interest Research Group Fund  
 Gateway Student Journalism Fund

**CROSSMAN/KELLY MOVED TO** amend the main motion by taking Eugene L. Brody Fund of the list.

Point of Order: Lewis – “Mr. Speaker I don’t think this amendment matched the members intent because his intent was to eliminate all dedicated fees and Eugene L. Brody is a dedicated fee, this would not reflect the intent of the member.

Speaker: You may be right Councillor, but I think that is exactly the debate that we’re here to have today and so on this one, that’s the only reason I can see why we’re all sitting here today. Your Point of Order is not well taken.

Speaker’s List (am): Crossman, Kirkham

**Amendment to main motion: DEFEATED**

Point of Order: Chapman – “Is it possible that this question is violating good faith because rescinding so many different funds would therefore put in jeopardy a great majority of what the Students’ Union actually is here for. Many of the services provided through these funds are integral to the services provided to students and we’re therefore rescinding a whole bunch of different services to students”.

Speaker: Point of order not well taken. It’s very controversial what the Students’ Union does.

Speaker’s List (mm): Lettner, Kirkham

**Main Motion: CARRIED**

*Speaker makes item 7e (iv) a Special Order.*

**2005-16/7e (iv)** **LEWIS MOVED THAT** Students’ Council approve the proposed petition question below:  
 Do you support the establishment of a dedicated fee, levied by the Students' Union, subject to the following conditions?  
 a. The fee would be assessed to each undergraduate student at \$10.00 per term.  
 b. The fees collected in that term will be awarded to one randomly selected undergraduate student.

Point of Order: Tobias – “Under provincial statute (in the late additions), under Part 2 “Gaming and Provincial Lotteries”, which is from the Liquor and Gaming Act (Province of Alberta). Section 20 (i) “an applicant for a gaming license that authorizes a gaming activity under section 207 (i) (b) or (f) of the Criminal Code (Canada) must be a charitable or religious organization”. Under certain circumstances the Students’ Union is capable of meeting criteria we’re actually running a Casino come February so in certain cases we are actually able to squeeze under charitable organization for very specific instances and for very specific funding situations. Where this question comes into exception is in Section 20, part 2, which states that proceeds from the gaming activity will be used for a charitable or religious object or purpose approved by the board. Currently this motion implies that all of the proceeds for this raffle, it’s not actually a lottery under provincial statute, it’s a raffle, and I’ve got the background documentation which comes right before that. For this particular raffle the proceeds are not going to a charitable/religious purpose, they are going directly into the pockets of undergraduate students, therefore I would argue that this is illegal”.

Point of Order, on the Point of Order: Chapman – “This isn’t taking about a lottery, this could be argued that it’s a scholarship and we do collect dedicated fee units from students to support scholarships”.

Speaker: Point of Order on the Point of Order, not well taken. There is nothing procedurally wrong with what the Vice President (Operations & Finance) is attempting to accomplish at this moment.

Speaker: The chair is in agreement with the Vice President (Operations & Finance) that this would be a violation of Part 2 of the Gaming and Provincial Lotteries Act. Specifically Section 20 (2) and rules the question out of order on those grounds.

**KIRKHAM/LEWIS APPEAL THE** decision of the chair.

Kirkham: Thank you Mr. Speaker. Notwithstanding the documents that have been placed before us, and I'd like to thank Mr. Tobias for being prepared and adding to the Late Additions, it's very useful. The problem stems from the fact that in the question that's being approved before us there is not notion of a lottery, a raffle or any sort of gaming that is being done here. Although one may logically infer that. The best example I'd like to draw is one that Councillor Chapman brought up is the way we dish out scholarships and bursaries on campus that we basically award or collect money. An award that might either be for academic achievement or financial need. Well both of those are specific more or less tangible items that can be used as reasons for giving out money there's nothing saying not having a reason is amount to something being a lottery. If, for example, we apply for a scholarship that was available and there was no criteria other than actually applying for it and having someone being randomly selected from those, is it suddenly a lottery because there is no criteria for it? Well no, there isn't. Just like there is a certain limited number of scholarships and everyone applies has to have a GP of 3.5 or above and that's the only requirement then a certain number of those people are randomly selected from that subject because there is no notion of a lottery, the intent was not a lottery, it's not worded as a lottery. It's unfortunate that this point of order has been raised and has been ruled as well taken. And it is unclear whether it is. Now, if you want to say "Yes, this is a lottery and there's no doubt it's a lottery", great it's a lottery. As Mr. Tobias said, it would actually be dealt with as a raffle not as an actual lottery. It's unclear whether or not profits from a raffle actually have to go to a non-profit group and in this case it's going to the Students' Union, which in this could issue a scholarship in turn for this monetary value, so I don't see any legal limitation there that ties our hands explicitly from being able to carry out the content of this question.

Tobias: Mr. Speaker, if I may again draw Councils attention to the last page of their Council package. Under Provincial Law actually you can only get a Gaming License for a bingo, a pull ticket scheme, a raffle or a casino. Lotteries are strictly under the purview of the provincial government and specifically the lottery board I believe. And in any case it's clearly outlined here that a raffle license authorizes a lottery scheme in which tickets or bonds are sold for a chance to win a prize. That's exactly what we are offering here Mr. Speaker and I think my point of order still stands based on that definition.

Lewis: Just very briefly Mr. Speaker. Under section 20 (i) (b) the very last words are "or purpose approved by the board". It would be the responsibility of the Students' Union, I believe, where this petition question passed, to convince the board that this is a reason to be approved and because that's outlined in law that is something that would be legal for us to try and obtain permission. And that makes this questions legal and I believe is the petition questions was passed it would make it the responsibility of the Students' Union to obtain that permission.

Thevenaz: We talked a lot about scholarships and how some scholarships are random. I just want to point out to Council that even a scholarship is random. There is a minimum entry requirement to apply for it. Almost every scholarship, I mean even if it's not, this is the entire student population we're talking about and it's just a random selection of just one student. It's the same as an entire town, because our campus is basically the size of a town and not only that, we're forcing students to proceed with this gambling activity. It's ridiculous, personally.

Point of Order (on appeal): Kirkham – “Under Standing Orders #43: the law being referenced of being used to declare something illegal must be presented to the chair. This has been done so that the Gaming and Provincial Lotteries Act has been provided. However, the problem is it has been extended as to basically what we’ve been debating on is if this constitutes a requirement for a gaming license. Unfortunately that gaming license as said in Section 20 (i) is referenced in Section 207 (i) or (f) of that Criminal Code of Canada. Unfortunately the code of that section has not been included here. Therefore we cannot make a relevant judgement on whether or not this would actually be a lottery or not. I’m trying to bring up the Criminal Code right now to find that section. That’s basically what the questions is and unfortunately we do not have that law in front of us”.

Speaker: Point of order not well taken. Having said, this is a fairly valiant effort to comply with the new Point of Order provisions which are quite stringent themselves in terms of expecting people to bring legislation to Council to argue on these points. Well I agree it would be nice if we had all of the particular provisions in front of us, which might be referenced by this. I think that a level of thoroughness not actually envisioned by the Standing Order and I’d hope that we could leave it at that.

**Shall the decision of the chair stand as the judgement of the assembly:  
SUSTAINED**

**Main Motion: Declared out of order.**

*Speaker makes item 7e (v) a Special Order.*

**2005-16/7e (v)**

**LEWIS/KIRKHAM MOVED THAT** Students’ Council approve the proposed petition question below:

Do you support forbidding The Students' Union, The University of Alberta, from referring to itself by any name other than its full legal name?

Point of Order: Lewis – “Mr. Speaker, even though this is my motion I’m going to suggest this motion is in bad faith. Particularly that it would serve no practical purpose besides forcing is to change all of our signage and it really doesn’t benefit anyone and I don’t think there was good faith coming from the member and proposition of this question”.

Speaker: The chair finds the point of order not well taken. While I agree that this is essentially an empty question, it causes no harm to the organization except for the wasting of \$2,000 which I agree is deplorable but nonetheless allowed under the existing rules of our legislation and because it has no negative impact on the organization, and because the scope for referenda is no way limited at this time, except it being illegal or bad faith, I don’t think that this would meet the threshold.

*Under Standing Orders, a 15-minute recess was taken.*

**JOHNSON/PAYNE APPEAL** the decision of the chair.

Johnson: Mr. Speaker, while I agree with you that the bar should be raised very high on what is bad faith. When I reasonably look at this petition question I ask myself why a person would put this question forward and when I reasonably think about the situations on this campus I can see no identity crisis that the Students' Union faces with miss-matching their name with somebody else's. I see no problem with the Students' Union using the words Students' Union as opposed to Students' Union, University of Alberta. I see how it would inconvenience the SU by causing us to spend money creating new signage, not only that, but limiting our ability to creating on our communications and marketing towards students. And when I think about these altogether the only conclusion I come to is that an individual has created this question out of bad faith to inconvenience the SU.

Kawanami: I think we need to keep in mind that there is a difference between stupid and illegal or in violations. We can all talk about the wisdom of some of these motions but the solution is that is to change the rule, it's not to pretend the rule says something it doesn't. I think Council is well on the way to changing the rules on a number of motions that have already passed first reading or appear on the order paper, so I tend to agree with the Speaker in this particular instant, while we may debate over the wisdom of this particular question, I think if we start imputing bad faith too broadly it gets to be too arbitrary and I think we should caution against that.

Lewis: Mr. Speaker, we've already ruled a question out of order because it was illegal, that's fine, we also have the ability given to us by DIE Board to rule questions out of order based on the fact that they are in bad faith. I think it's very clear that this questions was submitted to abuse the process because it serves to practical purpose and I think the only reason it was submitted was to slow down the process, bog down the process and abuse the process. And I think that Students' Council should rule against the will of the chair and strike the question down.

**TOBIAS/BLAIS MOVED THE** previous question.

**Motion to move the previous question: CARRIED**

**Shall the decision of the chair stand as the judgement of the assembly:  
OVERTURNED**

**Main Motion: Declared out of order.**

*Speaker makes item 7e (vi) a Special Order.*

**2005-16/7e (vi) LEWIS/SCHNEIDER MOVED THAT** Students' Council approve the proposed petition question below:  
Do you support giving the Discipline, Interpretation, and Enforcement Board of The Students' Union, The University of Alberta, the authority to examine and bring into compliance the legislation of The Students' Union, The University of Alberta with applicable provincial legislation?

Point of Order: Tobias – “Mr. Speaker, if I may call Councils attention to the Post Secondary Learning Act enclosed in your Council Late Additions, specifically section 95, part 1 “The business and affairs of a student organization of a public post-secondary institution, such of the U of A, must be managed by a Council”. This in effect, Mr. Speaker, would mean that some of the affairs of the Students Association would be managed by DIE Board which is explicitly a no-no under the PSL Act”.

Speaker: The Chair finds that the point of order is well taken. If this question were to pass it would essentially delegate to DIE Board the interpretation of the Post-Secondary Learning Act and it would also then give DIE Board the ability to essentially force the organization to comply it’s interpretation of the PSL Act. That would be an improper delegation and a violation of substantive law.

**Main Motion: Declared out of order.**

*Speaker makes item 7e (vii) a Special Order.*

2005-16/7e (vii) **LEWIS/SCHNEIDER MOVED THAT** Students’ Council approve the proposed petition question below:  
Do you support requiring that all contracts entered into by The Students’ Union, The University of Alberta, be available for viewing by undergraduate students?

**KUSTRA/PAYNE MOVED TO** amend the main motion by adding the word “future” before the word “contracts”.

Point of order: Kirkham – “This violates Bylaw 2400, Section 4, subsection A. The intent of the member was not for future contracts, but for all contracts entered into by the Students’ Union, University of Alberta. Therefore it violates as it does not reflect the intent of the member”.

Speaker: The Chair would argue that if this goes through as is, it would essentially be, once again, a violation of the law because it would force us to divulge existing contracts which would then place the Students’ Union in a situation where it would be in breach of the contract law and again, under Robert’s Rules this would be out of order. This amendment effectively saves this question in the chair’s mind. Since we’re assuming that the member acted in good faith he could not have possibly have intended the organization to act illegally. I think it’s only fair to interpret this original petition in that light. Point of order not well taken, amendment is still in order.

Speaker’s List (am): Kustra, Kirkham

**KIRKHAM/LEWIS MOVED TO** amend the amendment by striking the word “future” and replace with “except the General Manager’s contract and the Single Source Beverage Agreement”.

Speaker’s List (am to am): Kirkham, Tobias

**Amendment to the amendment: DEFEATED**

**LEWIS/PAYNE MOVED TO** amend the amendment by striking the word “future” and replace with the words “all contracts which would be illegal for viewing”.

Speaker’s List (am to am): Lewis, Kawanami, Bill Smith (GM)

**Amendment to the amendment: DEFEATED****Amendment to the main motion: DEFEATED**

Point of Order: Lewis – “Mr. Speaker, this question as it currently reads is illegal and you already told us why”.

Speaker: No I do not believe I did.

Lewis: After having defeated that amendment, this question is illegal because it would force us to divulge contracts that within the contracts it would be illegal to divulge.

Point of Order, on the Point of order: Kirkham – “Standing Orders number 43, he did not state which law is being violated”.

Speaker: Point of order, on the point of order is well taken.

Lewis: It's the section in Bylaw 2400 that will not allow us to violate any provincial statute.

Speaker: Which section?

Lewis: I believe it is section 4 B

Speaker: Bylaw 2400, Section 4 B says “Where a member wishes to circulate a petition, that member shall submit to Bylaw Committee, the intent of the question and Bylaw Committee shall approve, within 7 days, a question which if carried and acted upon, would not violate a Students' Union law or Federal or Provincial statute or regulation”. This question (Do you support requiring that all contracts entered into by The Students' Union, The University of Alberta, be available for viewing by undergraduate students?), lacking the proposed amendments, I'd have to find your point of order well taken and it would be a violation of contract law and it would force us to break particular secrecy clauses that we have or confidentiality clauses we have in existing contracts, therefore is illegal and thrown out.

**Main Motion: Declared out of order.*****Speaker makes item 7e (viii) a Special Order.***

- 2005-16/7e (viii)** LEWIS/KIRKHAM MOVED THAT Students' Council approve the proposed petition question below:  
Do you support directly electing the two undergraduate student representatives to the Board of Governors for two-year terms that overlap by one year?

**Main Motion: CARRIED*****Speaker makes item 7e (ix) a Special Order.***

- 2005-16/7e (ix)** LEWIS MOVED THAT Students' Council approve the proposed petition question below:  
Do you support implementing a mandatory hot lunch program to all undergraduate students at a cost of no more than \$60.00 per term?

Point of Order: Lewis – “Mr. Speaker for many of the same reasons that we decided to rule 7e (v) out of order, I think this is another question brought forward by a member in bad faith, brought forward to abuse the process and brought forward to bog down the process and I would like to see Students’ council rule this out of order and get it off of here”.

Speaker: one more time.

Lewis: My point of order is that this question was submitted in bad faith with the intention of abusing our referendum process.

Speaker: The Chair finds your point of order not well taken. Well a hot lunch program at \$60 may be a really stupid thing to do. Moreover the chair is not certain how you can provide a lunch for \$60 per person, per month. Nonetheless I do not think it falls outside the mandate of the Students’ Union if the SU chooses to do such a thing. And just based on this question in it of itself, the chair does not see bad faith written on this. This would be a legitimate viewpoint I think, so your point of order is not well taken.

**TOBIAS/LEWIS APPEAL THE** decision of the chair.

Tobias: So what the member is proposing here Mr. Speaker, is a mandatory hot lunch program to all undergraduate students at a cost of no more than \$60 per term. So let’s assume that 26,000 undergraduates here at the U of A, which means that we’d be collecting approximately 1.56 million dollars per term. If we assume a 13-week term with 5 days in every week so basically everyday you’re in class, you’re entitled to your hot lunch. That works out to 92 cents, per student, per day. Now currently in SUB Mr. Speaker, we see traffic approximating pretty much the entire population of campus. We’ve got fairly consistent numbers that show that most people on campus go through SUB at least once during the day. Approximately 300 of the approximately 26,000 people stop at L’Express per day Mr. Speaker. An if you’ve ever seen the line up at L’Express I think you’ve noticed now significant that line up can get and indeed how significant all the line ups at all the food vendor outlets in SUB can get. So that begs the question, if we are indeed to provide a hot lunch at 92cents, per student, per day for 26,000 undergraduate students Mr. Speaker, how on earth could we possible accommodate that kind of capacity within our current infrastructure, without say, renting QUAD for the entirety of the semester? Basically what I’m getting to Mr. Speaker is that, although this maybe a nice idea, it’s in fact physically impossible for us to do without making some major changes that would be well outside the realm of even our ability to raise fees, change our infrastructure. We simply do not have the resources to implement this and because there is absolutely no way for us to implement this and I’m pretty sure that the member submitting this never intended for this to become an absurdity because of course you can never have anything that will result in an absurdity. Either this question is in bad faith or it’s in bad faith, I can’t really decide which Mr. Speaker.

Kirkham: Thank you Mr. Speaker. I appreciate Mr. Tobias's comments and possible instead of rising on the point of order and saying that it's not physically possible something that might be more beneficial would be increasing the monetary value for example, by an amendment to hopefully make it plausible and a great analogy I'd like to draw here is the U-Pass, but kind of in a different light. Yes, there was a referendum 2 years ago to basically approve a U-Pass for \$60 per term. Even if it's \$120 per term or whatever monetary value it's at, it would be mandatory, just like this, for every single one of the 26,000 undergrads on this campus to purchase that U-Pass. Now, what happens if every single one of those 26,000 people take the bus to and from the University? It'd not physically possible, even with increase in services by ETS, ETS could not physically handle 26,000 students coming to and from the U of A everyday using their U-Pass. The same thing is occurring here, 26,00 people would not be able to eat lunch through the hot lunch program each and every day. Well we approved the U-Pass, we'll probably be approving yet another U-Pass later on this term. So if you're going to vote this down because it's not physically possible that we can't service those 26,000 people, then we're going to have to vote down the U-Pass too because ETS will not be able to service those 26,000 people. You have logistics, you have limitations, if monetary constraints is the issue here, then we should simply increase the funding by an amendment.

Khanna: I'd like to take a stab at this. I'd like to direct your attention to document SC 05-16.05 "DIE Board Report to Students' Council November 29, 2005" on the last page of that document it says that "The Board cites the 2004-2005 U-Pass #2 ruling as a precedent for this principle, where the Board previously ruled that where the will of the students, as represented by result of a referendum, would cause the eventual implosion of the organization. Council is authorized to not pursue the directive any further". We can't afford this, it can't be done, I think our organization would implode, I mean, this is in bad faith.

Kawanami: I know I said this on a previous motion, but I think we need to keep in mind the difference between stupidity and bad faith. If we're going to just equate stupidity with bad faith it leads us down a dangerous road. We've been pursuing funding in conjunction with the University, in conjunction with the City to try and do the unfeasible with the U-Pass. You could make a compelling argument that Student Nutrition is an equally compelling goal to affordable transit. I'm not sure of the weight of that. I recognize Councillor Khanna's point but to me, if we're going to use the U-Pass analogy, which seems to be cropping up. I think implied in that is if we can't get a hot lunch program for \$60, then its not offered, sort of similar to the U-Pass arrangement. And I think we need to keep in mind the analogy that if we're going to declare this in bad faith we have to take a retroactive look with what we're doing with ETS and should ETS come back up again. I'm not saying this is an intelligent motion, I'm not saying this is an efficient or effective use of SU resources but as the current rules stand we can't really kibosh this. And keep in mind that as we pointed out earlier, I'm not sure of the merits of spending too much time arguing over this, given that we're either in the process of passing motions or will be in the process of passing motions that can retroactively tube referendum questions for all sorts of reasons, so those are my thoughts on that.

Kelly: Not to rain on anyone's parade but ETS considerations and U-Pass considerations taken under account here, don't bring into consideration Councillor Khanna's point about SU implosion. Specifically ETS is not the SU. Whether or not it's feasible, etc. It has nothing to do with the sustainability of the SU and in this case it does.

Crossman: Thank you very much Mr. Speaker I think that the Vice President (Operations & Finance) made a very compelling argument in opposition to what's being discussed. In this referendum question I think that the facts and figures presented by the Vice President would make an excellent "No" campaign were this ever to get to referendum.

**SCHNEIDER/HUSSEIN MOVED THE** previous question.

**Motion to move the previous question: CARRIED**

**Shall the decision of the chair stand as the judgement of the assembly:  
SUSTAINED, 16/10**

**Main Motion: CARRIED**

*Speaker makes item 7e (x) a Special Order.*

**2005-16/7e (x)**

**LEWIS/PAYNE MOVED THAT** Students' Council approve the proposed petition question below:

Do you support the establishment of a mandatory universal bus pass subject to the following conditions?

- a. A fee would be assessed to each undergraduate student at no more than \$500 per term.
- b. Undergraduate students would be prohibited from arriving on campus by any means other than public transit.
- c. This program would only come into effect upon a "heads" result of a coin toss conducted by the Discipline, Interpretation, and Enforcement Board.
- d. The process in (3) would be repeated until a "heads" result occurs.

Point of Order: Lewis – "Mr. Speaker, the implied term in Bylaw 2400 allows us to rule something out of order that was submitted in bad faith. Mr. Speaker, this is absolutely, positively ridiculous".

Speaker: Councillor, the chair finds your point of order well taken. The chair would also like to point out this is also in violation of various provisions in the Post-Secondary Learning Act regarding the Board of Governors control over access to this institution.

**TOBIAS/KUSTRA APPEAL THE** decision of the chair.

Speaker's List (app): Tobias

**Shall the decision of the chair stand as the judgement of the assembly:  
SUSTAINED**

**Main Motion: Declared out of order.**

*Speaker makes item 7e (xi) a Special Order.*

**2005-16/7e (xi)**

**LEWIS/PAYNE MOVED THAT** Students' Council approve the proposed petition question below:

Do you support the establishment of a mandatory fee not to exceed one bicycle per day to provide hourly transportation to undergraduate students between Campus Saint-Jean and the Augustana campus?

Point of Order: Johnson – “I think that under Bylaw 2400 implied a point of bad faith. I would say that the provision of a fee of one bicycle is absurd and intended to make a mockery of the process and therefore is in bad faith”.

Speaker: The chair rules your point of order well taken. The chair also notes that the original wording of the petition question, as submitted, as “one penny farthing” and that’s a legitimate consideration as well considering that we’re dealing with bad faith provisions here. It seems very clear to the chair that this question was submitted in bad faith.

**KELLY/TOBIAS APPEAL THE** decision of the chair.

Speaker’s List (app): Kelly, Chapman, Kawanami, Hussein

**Shall the decision of the chair stand as the judgement of the assembly:  
SUSTAINED**

**Main Motion: Declared out of order.**

*Speaker makes item 7e (xii) a Special Order.*

**2005-16/7e (xii) LEWIS MOVED THAT** Students’ Council approve the proposed petition question below:

Do you support establishing frisbeetarianism as the official religion of The Students' Union, The University of Alberta, and implementing a mandatory tithe of 10% to support frisbeetarian activities, such levy to be substantiated by income tax records and collected as part of the Students' Union fee?

**KIRKHAM OBJECTS TO THE** consideration of the question.

**Shall the main motion be considered? DEFEATED**

*Speaker makes item 7e (xiii) a Special Order.*

**2005-16/7e (xiii) KIRKHAM MOVED THAT** Students' Council approve the following petition question upon the recommendation of Bylaw Committee.

Do you support that Students' Union bars charge \$2.00 for all pints\* of draught beer effective May 1, 2006 through April 30, 2007 subject to the following conditions?

1. Draught beer will be sold in pint\* volumes whenever alcohol is served.
2. Other volumes of draught beer may be sold at any price.
3. The existing selection of draught beer will continue to be carried.
4. Where the wholesale cost of a pint\* of draught beer is in excess of \$2.00, its price will be set at wholesale cost rounded up to the nearest dollar.

\*A pint is 16 fluid ounces (473 mL).

Speaker’s List (mm): Kirkham

**KEHOE/HUSSEIN MOVED TO** amend the main motion by striking out the words “\$2.00 for all pints of draught” and insert the words “the lowest price legally possible” and strike the words “subject to the following conditions” and all the following conditions, including the definition of a fluid ounce.

Speaker's List (am): Kehoe, Shamanna (Andrew Langstone)

**KEHOE/BLAIS MOVED TO** limit debate on the amendment to 3 addition speakers.

**Motion to limit debate: CARRIED.**

Point of Order: Lewis – "Mr. Speaker, as much as I appreciate the good nature behind the Councillors point of information. I don't believe this has anything to do with the question at hand, which is a petition question about beer".

Speaker: Point of order well taken.

Speaker's List (am): Kehoe

**Amendment to the main motion: WITHDRAWN (friendly)**

Point of Order: Tobias – "Thank you Mr. Speaker. Councillors, if you look in your Council packages, late additions, there is a letter addressed to Mr. Justin Kehoe from Dima Utgoff who is the director of Residence Services and the chair of the Alcohol Policy Review Committee. Mr. Speaker, I will not speak to the proposed business model and the viability thereof that we've spoken of this evening. If you look at the letter, the letter very clearly states which University Policy and in turn which AGLC Policy is in breach".

Point of order on the Point of order: Kirkham – "Unfortunately University Policies do not fall under the purview of the Students' Union. So if there is a specific section of legislation that is being violated it would be helpful if that section be noted and the actual law referred to".

Speaker: I ask that you reserve your point of order at this time because I don't think we've heard enough from the Vice President to be able to rule.

Tobias: If I could explain into particular why this letter is of any importance at all to the assembly. Our liquor license is not the same liquor license that a bar on Whyte Avenue has. A bar on Whyte can expect to be inspected by one of the City of Edmonton's 4 liquor inspectors at any given time, possibly even once a year. On the other hand a bar operated on this campus, of which there are only 2, we're under a different class of liquor license and actually we're under the University's liquor license. There is no possibility that we can be under any other liquor license because the University owns the space and they have the sole ownership of this liquor license. So basically the only interpretation of the law that matters are one width when it comes to this liquor license is the University's interpretation.

Speaker: So Mr. Vice President, you're alleging that a law would be broken by this question, you need to tell the assembly what law is going to be broken.

Tobias: Basically AGLC Policy #6.2.3 states that: "liquor prices may vary from day to day and "happy hours" are acceptable, however liquor sale activities must not promote intoxication". And then he goes on to talk more specifically about the University Policy that would be breached and he concludes his letter with "as stated above, this practice would certainly lead to increased cases of intoxication and is therefore a violation of AGLC and University Policy". Now we could go to court Mr. Speaker, but in the mean time, the only people that really have any authority to enforce this on campus are the people that have written us this letter.

Point of order on the point of order: Kirkham – "Standing Order 43 requires that the legislation be brought forward. The argument I'm hearing from Mr. Tobias is that this motion would be in violation of a provision in the AGLC Handbook in guidelines that state that the University controls our liquor license and we must abide by any policies that the University sets forth. I would like to see the quote in the AGLC Handbook that for Class "C" licensees that they may set their own policies and any bars operating under that Class "C" license will be subject to those policies".

Speaker: Point of order, on the point of order is not in order. The chair does not hear the Vice President making that argument. What the chair hears is the rule that would be in violation of is 6.2.3 "liquor prices may vary from day to day and "happy hours" are acceptable, however liquor sale activities must not promote intoxication" and the letter is simply one indicator that he would point the assembly towards that would indicate perhaps we would be in contravention of this. The letter is not definitive on this, it is not the law, it may simply be an indicator showing that we would be violating the law.

Tobias: Absolutely Mr. Speaker. This is an indicator of how the provincial law could be interpreted and will be interpreted by the APRC, should we take these steps and I would assume that the logical end to this, should we pursue this end Mr. Speaker, would be that we would essentially lose our right to run our bars. So of course the option is always open for us to sue the University but I'd suggest that's perhaps not what we want to be discussing this evening.

Speaker: The Chair is not prepared to make a decision on this. The chair feels that there is to some extent a judgement call involved here and that Students' Council is best situated here to make this judgement call. I would suggest for the members to fully debate here whether or not they feel that this would ultimately bring the organization into violation of the law. Now, I just want to say that it is your job tonight, if you believe this question would violate this rule, then you should toss it out, if you do not believe that it would violate this rule, then at least you should not defeat it on this ground.

### **The Chair poses the question to the assembly.**

Kustra: Wants to direct Council's attention to the date of the letter, which clearly indicates the previous version of the question. And that the questions in front of us is more flexible and less conducive to their definition of illegality by AGLC Policy.

Johnson: I just want to point out how explicit this letter is, it says "pricing beers at no more than \$2.00 per serving, per bottle promotes drinking to intoxication". These are the people who review our bars, review our practices and decide whether or not we are in compliance with the law. They have reviewed this possible practice, they have looked at it as \$2.00 per serving and even bring it down to a bottle, which is less than a pint and said they feel it would break the law. They are the people who are going to interpret it and have told us how they would interpret it.

Kirkham: Unfortunately the Vice President (Academic) is wrong. AGLC decides what is a promotion to intoxication, not the University's APRC. However, much they would like to believe they do, they don't. Although, yes, they have control over the Class "C" License. It does not stop us from getting our own liquor license. Although, yes, they have control over policies surrounding this University, they don't supersede in any length of the imagination the policies set for by the AGLC. The laws of the land sort of speak lies with the AGLC. Your decision here, honestly I understand from the political nature that this letter may have some weight and Students' Council brought up an excellent point where this is clearly in response to a previous question that was involved around the entire legalities of selling beer below cost. Bylaw Committee has fixed that from the new intent of the member and is bringing forward a question that should alleviate those concerns. Our focus here should be whether or not this is promotion of intoxication based on the guidelines set forth by AGLC based on evidence I tried to disseminate in my introduction. Bars sell at far below \$2.00, bars sell large quantities of beer that turn out per pint, less than \$2.00. This situation goes on and has gone on for years, decades. The AGLC has done nothing to stop it, therefore we can generally assume that it is implicit that it's not a promotion of intoxication. And even if it is, it's AGLC's place to state whether or not it's promoting intoxication. If it is, fine, in May or June when AGLC comes to the University and says "This is a promotion of intoxication", then we change it. Why? Because their guidelines supersede our Bylaws that's why we have a referendum, 4 months from now the road AGLC says "this is a promotion of intoxication" fine, we stop, we don't do it, the law supersedes any actions we give on ourselves.

Kehoe: The AGLC states that liquor sales must not promote intoxication. Which Councillor Kirkham has provided some anecdotal evidence of some establishments within the city of Edmonton that do sell alcohol at a similar volume at lower costs. I'm not entirely comfortable of accepting that anecdotal evidence of proof that those practices are following AGLC Policy and that AGLC inspectors are in turn keeping a close eye on absolutely everything and by the fact that that practice continues to on. I wouldn't be comfortable as accepting that as proof, that AGLC condones those practices and it's entirely possible that if the University were to state a complaint to AGLC that they could rule that this practice would be promoting intoxication. Therefore violating their policy. I'm more comfortable trusting in the judgement here of the chair of APRC then on anecdotal evidence, elsewhere in the city of Edmonton based on some knowledge of the AGLC.

Chapman: In 6.2.3 it says really explicitly what exactly would be the promotion to intoxication. It talks about 2 for 1's, free liquor. What we have here is a student trying to improve Students' Union businesses.

Bill Smith (GM): I appreciate Andrew Langstones creativity and persistence. The letter from Dima makes me nervous. Legalities can be criminal, civil, AGLC or the University's. The moment we receive a letter from senior administrators that they would interpret something to be a violation of AGLC regulations, that changes the grounds for us. Unfortunately we're in a situation where policing is provided by the University through 5-0, so the moment somebody on one of those busy nights we'd see with \$2.00 pints, the moment someone comes out of the bar and does something stupid, gets pulled over by 5-0. I'd suggest we're in serious trouble and don't forget a constant dial-up between Dima Utgoff and AGLC. They know each other well and their relationship is very close. Dima's letter changes things for us on a legal level. I think Students' Council needs to exercise prudence on this level.

Shamanna: I appreciate the concerns, but in the letter there is not definition of promotion to intoxication. It's very vague. It's also the bar staff whose responsibility is not to serve intoxicated patrons. This is advice from the University, not legal advice. At this time we can't rule as legality until we here from AGLC we can't rule out of order.

**KIRKHAM/BLAIS MOVED THE** previous question.

**Motion to move the previous question: CARRIED**

**Point of Order: DEFEATED, 11/13**

Point of Order: Khanna – "Bad Faith?"

Speaker: Point of order not well taken, the member's intent is in good faith.

Point of Order: Khanna – "Fiduciary Responsibility"

Speaker: Chair asks the General Manager to define fiduciary obligation to the assembly.

Bill Smith (GM): Fiduciary duty, as I understand, is the duty to subjugate all other interests in favour of the best interest of the organization and whose interests you serve. That's admitting to any conflicts of interests, or any motive other than the best interest of the corporation you serve.

**Chair invites other definition of Fiduciary Obligation.**

Lewis: Our fiduciary responsibility is to the health of the Students' Union and doing what is best for the SU, best for the members as well.

Kawanami: Wisdom of exercise? Not our best interest to solicit their ideas of fiduciary obligation

Chair: There are two interests here. Fundamental pull on direct democracy vs. representative democracy and where the loyalties shall lie legal obligations are crystal clear. Can delegate through referendum but responsible for those acts. Can air on sides of democratic or legal. The Chair chooses legal. In this situation it'd be best to have a lawyers opinion on this matter. There is sufficient evidence before me in my mind. Specifically the existence of the rules, and more importantly the letter from the University which I do believe does not constitute law in any sense, but is a definite indicator that a major player that deals with this kind of stuff on a frequent basis. In their opinion would violate the law and if correct, obviously a breach of our fiduciary obligation. Given that, the member can re-submit this question. I'm recognizing time constraints are involved. Given the circumstances the chair finds Khanna's point of order well taken and rules 7e (xiii) out of order.

**SHAMANNA/LEWIS APPEAL THE** decision of the chair.

Shamanna: Find ruling based on evidence before us. The letter is not a legal document, although it's a strong opinion, it's not a legal opinion. In terms of fiduciary responsibility I don't think selling beer will run us into the hole. Based on the fact that the member has submitted this 3 times and no one has sought legal advice, we owe it to the member to pass it.

Kelly: It's not the best interest to ignore this opinion. It's almost guaranteed that AGLC will take Dima's opinions as their own.

Point of order: Lewis – "The debate is legal, not on fiduciary obligation".

Speaker: Point of order not well taken, the question of fiduciary responsibility goes beyond that.

Crossman: We have 3 questions to ask ourselves: Have we been able to identify the law? No. Do we have solid legal interpretations? No. Do we have possible courses of action? Yes, uphold the motion, and pass the bill of retroactivity.

Point of Order: Lewis – "You're ruling this out of order on Bill 16, my question is what law or bylaw are we ruling this out of order?"

Speaker: Point of order not well taken. Common Law (the body of judicial decisions). An example would be DIE Board rulings.

**Shall the decision of the chair stand as the judgement of the assembly:  
SUSTAINED**

Point of Parliamentary Privilege: Kirkham – "Because we're bound by Bylaw, we're legally bound to approve six more questions, can we ask 5-0 to stay longer?"

Speaker: Not well taken, unfortunately 5-0 needs to go, we will reconvene on the 3<sup>rd</sup> floor of SUB at 10:20 p.m.

Quorum, not established. Meeting de facto adjourned Thursday December 1, 2005 at 6:20 p.m.

**ATTENDANCE (SC 2005-16)**

Faculty/Position	Name	1 <sup>st</sup> Roll Call	2 <sup>nd</sup> Roll Call
President	Graham Lettner	✓	
VP Academic	Mathieu Johnson	✓	✓
VP External	Samantha Power	✓	✓
VP Finance	Jason Tobias	✓	✓
VP Student Life	Justin Kehoe	✓	✓
BoG Undergrad Rep.	Adam Cook	✓	✓
Agriculture, Forestry and Home Economics	Miranda Baniulis	✓	✓
Agriculture, Forestry and Home Economics	Amanda Rajotte	✓	✓
Arts	Catrin Berghoff	✓	✓
Arts	John Chandler		
Arts	Michelle Kelly	✓	
Arts	Bryce Kustra	✓	
Arts	Cameron Lewis	✓	✓
Arts	Tim Schneider	✓	✓
Arts	Shad Thevenaz	✓	
Arts	Al-Amyr Sumar		
Augustana	Jonathan Friesen		
Business	Chris Young		
Business	Ryan Payne	✓	✓
Education	Lillian Patz		
Engineering	Brian Ceelen	✓	✓
Engineering	James Crossman	✓	✓
Engineering	Prem Eruvs	✓	
Engineering	Jamaal Montasser		
Law	Kyle Kawanami	✓	✓
Medicine and Oral Health Sciences	Suneil Khanna	✓	✓
Native Studies	Matt Wildcat		
Nursing	Nadia Ickert		
Faculté Saint-Jean	Joseph Blais	✓	✓

Open Studies	Sabine Stephan	√	
Physical Education and Recreation	Philip Goebel		
Science	Sheena Aperoch	√	√
Science	Jack Gordon	√	√
Science	Abbeir Hussein	√	√
Science	Stephen Kirkham	√	√
Science	Sylvia Shamanna	√	
Science	Omer Yusuf		
Science	Yuan √Hao		
Science	Chris Le	√	√
Science	Theresa Chapman	√	√
General Manager	Bill Smith	√	√
Speaker	Gregory Harlow	√	√

### Guests of Council:

Position	Name
President of RAC	Chad Fletcher
Chief Returning Officer	Rachel Woynorowski
The Gateway	Ross Prusakowski
Student at large	Andrew Langstone
Student at large	John Travolta