



ASSOCIATED STUDENTS/UNIVERSITY OF WYOMING

The facts in this case are as follows:

Senator and current Student Activities Council Chair Shannon Tufts brought an application for hearing before the ASUW Judicial Council on April 1, 1998. The disputed action arose as Senator Tufts was attempting to implement Senate Bill #1878. It was her opinion that the provisions of Senate Bill #1878 were inconsistent with the SAC By-Laws. She requested that the ASUW Judicial Council interpret Senate Bill #1878 to determine the structure of the Concert and Convocation Committee and how the committee would fit under the SAC By-Laws.

Senate Bill #1878 was passed by Senate on February 17, 1998 and signed by the ASUW President on February 18, 1998. Senate Bill #1878 calls for the creation of the Concert and Convocation Committee with the responsibility of programming "big name" events. An addendum to the bill states that the committee shall consist of the Assistant Director Programs/Activities acting as co-chair; a student co-chair; one ASUW senator; one Freshman Senator; and four additional members (Students at Large). The composition of the committee was to be approved by Senate.

At this point, it is essential to note the disputed action arose not in the passing of Senate Bill #1878 but in its implementation.

The Judicial Council has jurisdiction in this matter as provided by Article VIII, Section 2, subsections A, B, C, D of the Constitution of the Associated Students of the University of Wyoming. The Judicial Council has the power to act and requires the enforcement of its decisions under Article VIII, Section 3, subsections C and E.

As the ASUW Judicial Council began hearings into Senate Bill #1878 many difficulties soon emerged and the following two questions arose:

(1) Is Senate Bill #1878 constitutional?

(2) What did Senate Bill #1878 create? A "committee?" An "entity?" Or a "commission?"

The ASUW Judicial Council believed these questions to be crucial because until these questions were answered, Senator Tufts concerns could not be adjudicated.

The ASUW Judicial Council Held:

(1) Senate Bill #1878 is unconstitutional.

(2) Because the Judicial Council unanimously rendered Senate Bill #1878 unconstitutional, the second question became moot.

Reasoning:

The first reason why Senate Bill #1878 is unconstitutional is that it places a UW staff member in a formal leadership position within the ASUW Student Government. This is inconsistent with the Constitution of the Associated Students of the University of Wyoming. An addendum to Senate Bill #1878 describes the structure of the C&C committee and directs that a co-chair, the Assistant Director Programs/Activities, a paid University of Wyoming staff member, be included on the committee. The ASUW Constitution implicitly denies membership, leadership positions and voting authority to anyone who is not a full fee paying student of the University of Wyoming. It is ludicrous to assert that the absence of a specific provision in the ASUW Constitution prohibiting staff members ASUW membership, leadership positions and voting authority could be construed as granting them these privileges. This same line of reasoning could also lead one to conclude that a student from Colorado State University could be elected ASUW President because there is no specific provision in the ASUW Constitution denying them that right. The ASUW Constitution governs full fee paying students of the University of Wyoming and only these fee paying students. The Judicial Council concludes that students and students alone can hold appointed or elected positions in ASUW Student Government.

The second major problem with Senate Bill #1878 is the lack of clear legislative intent indicating where the C&C committee would fit into the ASUW Student Government structure. ASUW Senators Damori, Gasson, Olson, Sherlock and Tufts and President Neu could not give consistent, cohesive testimony as to whether the Concert and Convocation Committee is an entity, committee or commission, nor could they explain how the chain of command would work with the newly created "committee." The ambiguous language contained in Senate Bill #1878 and the lack of clear legislative intent, does not place the C&C Committee within the structure provided by the ASUW Constitution.

The ASUW Constitution, By-Laws, and policies establish three classifications for ASUW student government entities: ASUW Senate standing committees, Student Activities Council commissions, and officially sanctioned representative organizations, including Freshman Senate, the United Multicultural Council and the Non-Traditional Student Council. The language in Senate Bill #1878 does not place the C&C committee into any of these three categories. Without such a classification no hierarchy is established and therefore there is no clear means of checks and balances.

Although at least one senator testified that the C&C committee is most like an ASUW Senate standing committee. This would require a change in the ASUW Constitution which requires the approval of the student body in a student body general election as mandated by Article XI of the ASUW Constitution.

Although some witnesses testified that the C&C committee is most like an officially sanctioned representative organization such as Freshman Senate, United Multicultural Council and Non-Traditional Student Council, this stance is wholly inconsistent with ASUW policies and procedures. Each of the representative organizations listed above were created in order to ensure fair representation for all the students attending the University of Wyoming. These groups were created in order to provide for a interchange of information between these organizations and the Student Senate. Each of these groups have a broad scope in that they legislate, represent, and do some minor programming. Their membership is open to all students at the university. Certainly, all students are welcomed and encouraged to participate in these organizations.

This is in sharp contrast to the purpose and membership of the C&C committee. The C&C has an extremely narrow scope, in that its only purpose is to program for one or perhaps two large activities each year. Further, its membership is limited to the seven students who have been approved by the Student Senate. This is inconsistent with the open an inclusive nature of the before mentioned ASUW representative organizations. Clearly, given the distinctions between the C&C and the other quasi-independent ASUW entities the C&C committee should not be treated or characterized in a like manner.

Traditionally, ASUW Student Government conducts its programming through the commissions of the Student Activities Council, a standing committee of the ASUW Student Senate. When the sponsors of the bill were asked why the C&C committee was not created as a commission, they had three primary responses. First, they were not aware of the procedure used to create a new commission as outlined by the SAC By-Laws . Second, they wanted to expediate the process required to create a commission (committee). They hoped to circumvent the standard procedure that Student Senate has directed as described in the SAC By-Laws by creating an independent committee. They simply did not want to take the time to go through the proper channels in order to make the “entity” constitutional, but instead sped up the process so programming could begin immediately. This done without thinking about the future consequences. Third, they were concerned that the C&C committee would “overshadow the other commissions.” This is again a tenuous position. It is the very role of the SAC chair, the Lead Student Programmer, the advisors, and the Senate itself to ensure that each of the commissions is programming in a manner consistent with its purpose.

Therefore, based on the forgoing analysis the ASUW Judicial Council has the following recommendations:

It is the recommendation of the Judicial Council that the C&C Committee should be created as a commission under SAC, consistent with the applicable provisions of the ASUW Constitution, By-Laws, and the By-Laws of the Student Activities Council. By creating the C&C as a commission, it would function within the established structure of ASUW. There would be no questions about its place within the ASUW hierarchy.

It is further recommended that the Assistant Director Programs/Activities serve only in an advisory capacity. The Assistant Director Programs/Activities would not have commission membership or the ability to vote on commission activities. This would be consistent with the current advisor/commission relationship in the Student Activities Council.

Further, this commission, like all the other commissions, will have to go through the budgetary process described in the ASUW Finance Policy in order to receive their annual maximum subsidy of \$35,000. This in no way effects the original allocation of \$100,000 from the Student Loan Account. *This just is that what we want.*

While the Student Senate may be tempted to act hastily before the end of the school year, the ASUW Judicial Council feels this action would be imprudent. It was acting in haste without proper research and planning that has led to the ambiguous and unclear nature of the bill. This has stalled the implementation of a Concert and Convocation "Committee". The Judicial Council strongly urges restraint, thoughtfulness, and precision when drafting a subsequent bill with similar intent as Senate Bill #1878. The Judicial Council stresses further caution in regard to this matter due to the large amount of student fee dollars involved and the enduring nature of the proposed "commission".

Therefore, the Judicial Council of the Associated Students of the University of Wyoming unanimously holds that:

- Senate Bill #1878 is rendered unconstitutional. The actual bill shall keep its place within the historical record and shall still be known as Senate Bill #1878, but it shall be clearly marked unconstitutional. A copy of this opinion shall be attached to the bill.
- The Concert and Convocation Committee shall be disbanded and its membership vacated. The appointments the ASUW Student Senate has made to said committee shall be void.
- The funds allocated to the C&C committee by Senate Bill #1878 are enjoined until such time as ASUW Student Senate acts in a manner not inconsistent with this opinion. These funds shall revert back to the ASUW Student Loan Account if no action is taken by the Student Senate of the Associated Students of the University of Wyoming before December 1, 1998.

This opinion was issued upon the unanimous decision of the Judicial Council of the Associated Students of the University of Wyoming, signed April 23, 1998.



Chief Justice Krone



Justice Mathes



Justice Mehl



Justice Plemmons



Justice Studenmund

Review of ASUW Judicial Council Opinion
April 30, 1998
page 2

Twenty-nine school days elapsed between the time Senate Bill #1878 was signed and the day on which the application for a hearing was filed. My conclusion is that the twenty-nine elapsed days is a violation of Section 5 which specifies that the complaint must be filed within ten (10) school days of the disputed action, the action being the signing of the bill.

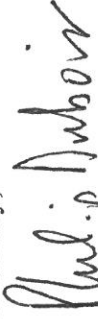
The Judicial Council received the application for a hearing on April 1, 1998, and provided its opinion on April 23, 1998. There were fourteen elapsed school days between the date the application for hearing was filed and the decision by the Council. This also violates Section 5 of Article VIII of the Constitution in that more than ten school days elapsed after the complaint was filed.

Based on these two observations, I am compelled to invalidate the opinion of the Judicial Council on a technicality.

The invalidation of the opinion of the Judicial Council on a technicality notwithstanding, the substance of the opinion of the Board is thoughtful and accurate. It is also clear that the Judicial Council has acted responsibly and appropriately in formulating its opinion. The inconsistencies between Senate Bill #1878 and the ASUW Constitution as specified in the Judicial Council opinion are matters that should be addressed by the ASUW Senate in such a way that Senate Bill #1878 is made consistent with the Constitution. It is my understanding that the ASUW Senate has taken prompt action with the passage of Senate Bill #1892 to respond to the observations and recommendations of the Judicial Council.

Thank you for the opportunity to review this Judicial Council opinion.

Sincerely,



Philip L. Dubois
President

PLD:wav



ASSOCIATED STUDENTS/UNIVERSITY OF WYOMING

April 8, 1998

Mr. Scott Neu
ASUW President
Wyoming Union

INJUNCTION

At its meeting on April 8, 1998 the Judicial Council of the Associated Students of the University of Wyoming met to discuss the constitutionality of Senate Bill #1878. At this preliminary meeting the Justices identified several internal inconsistencies that warranted further review. The Judicial Council is concerned that these inconsistencies may render Senate Bill #1878 unconstitutional.

The Judicial Council is aware that the money appropriated for the Concert and Convocation Committee has been made available. In addition, the membership of the committee has been approved by the Student Senate of the Associated Students of the University of Wyoming.

In order to preserve the integrity of the Associated Students of the University of Wyoming and its governing documents, the Judicial Council of the Associated Students of the University of Wyoming enjoins the financial operability of the A.S.U.W. Concert and Convocation Committee. This decision was made unanimously by the Judicial Council and is in effect until the final disposition of this matter. The Concert and Convocation Committee is not estopped from meeting or defining its structure. However, the Concert and Convocation Committee cannot take any action which may require funding.

The Judicial Council takes this action in accordance with the judicial powers invested in it by the Constitution of the Associated Students of the University of Wyoming.

s/ Samuel P. Krone
Chief Justice
Associated Students of the University of Wyoming
Judicial Council

ASUW

STUDENT GOVERNMENT

ASSOCIATED STUDENTS/UNIVERSITY OF WYOMING

April 8, 1998

Mr. Scott Neu
ASUW President
Wyoming Union


Dear Scott:

I am writing to officially inform you that the ASUW Judicial Council convened to hear arguments on the constitutionality of Senate Bill Number 1878 on April 8, 1998. As you are probably aware, the Judicial Council must convene within ten days of the initial notification, as specified in Article 8, Section 5, of the Constitution of the Associated Students of the University of Wyoming.

The By-Laws of the Judicial Council mandate that the initial meeting of the Justices serve as a preliminary hearing for the purpose of framing the issues on appeal and the gathering of data. The Judicial Council then has an additional ten days from its subsequent deliberative meeting, to issue an opinion.

The preliminary hearing went very well and the witnesses before the Judicial Council were most helpful. The deliberative meeting of the Judicial Council will be held on April 14, 1998. If there is any information that you feel would assist the Judicial Council in rendering a fair and appropriate decision, please let us know.

Sincerely,


Samuel P. Krone
Chief Justice
ASUW Judicial Council

CC: Ms. Angie Eicke, ASUW Vice President
Mr. Jesus Rios, ASUW President-Elect
Ms. Stephanie Olson, ASUW Vice President-Elect
Mrs. Charlotte Davis, ASUW Advisor



Office of the President
Post Office Box 3434
Room 206, Old Main
Laramie, Wyoming 82071-3434
(307) 766-4121

April 30, 1998

Jesus Rios /
President
ASUW
Wyoming Union
Campus

Sam Krone
Chief Justice
ASUW Judicial Council
ASUW
Wyoming Union
Campus

Dear President Rios and
Chief Justice Krone:

The opinion of the Associated Students of the University of Wyoming (ASUW) Judicial Council on Senate Bill #1878 has been forwarded to me with a request for my review. This was done according to Article VIII, Section 3, Paragraph A, of the Constitution of ASUW. Section 3 specifies that in the discharge of its jurisdictional responsibilities, the ASUW Judicial Council shall have authority subject to the approval of the University president. I have reviewed the Judicial Council opinion and have the following findings and recommendations.

Article VIII, Section 5 of the ASUW Constitution specifies:

“A dispute may be brought before the Judicial Council by any member of ASUW. All complaints must be filed with the ASUW secretary within ten (10) school days of the disputed action. The Judicial Council must act upon the complaint within ten (10) school days after the written complaint is filed.”

Senate Bill #1878 was passed by the ASUW Senate on February 17, 1998, and signed the following day. The chair of the Student Activities Council, Shannon Tufts, filed an application for a hearing before the ASUW Judicial Council on April 1, 1998.

Forward

ASUW

Application for Hearing Before the ASUW Judicial Council

Name Shannon Tufts
Address 4409 Grays Blvd #D
Telephone Number (307) 645-8072

Office Use Only
Received by ASUW
Secretary RS (Initial)
4/198 (Date)

This application must be filed in writing with the ASUW Secretary within ten (10) school days of the disputed action. The Judicial Council must act upon the complaint within ten (10) school days after the written complaint is filed.

- I. State the action(s) or decision(s), disciplinary or other, which are being appealed. This may include Legislative and Executive decisions or actions, as well as any other applicable decisions or actions by ASUW persons or entities.
- II. Statement of Facts -- Appellant should state, step by step, the facts involved in the case.
- III. Summary of Argument -- State why the decision(s) of action(s) taken are being appealed. Include any and all ASUW rules and procedures, policies, and regulations which would support the statement of facts as grounds for appeal.
- IV. Witnesses Appearing for the Appellant -- List those people appearing in your behalf.
- V. Other Supporting Evidence -- Supply any other material relevant to the case.

March 31, 1998

Shannon Tufts
ASUW College of Education Senator
ASUW Student Activities Council Chair
4409 Grays Gable #D
Laramie, WY 82072
(307) 745-8072

Ruth Shepherd
ASUW Secretary
PO Box 3625
University of Wyoming
Laramie, WY 82070

Dear Ruth,

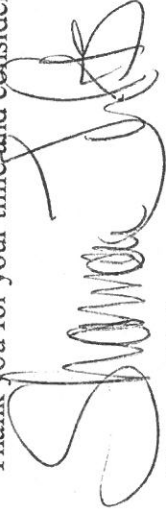
I am requesting that the ASUW Judicial Council be convened, as I need some interpretation in regards to ASUW Student Activities Council.

Within the past 24 hours I received a complete copy of Senate Bill #1753, which is the approval of the ASUW Student Activities Council By-Laws. Senate had recently passed Senate Bill #1878, which establishes a Concert and Convocation Committee under ASUW Student Activities Council.

After reviewing the SAC By-Laws I discovered that no committees can exist under SAC. With this, I am not sure how the C&C Committee belongs under the organizational structure of SAC, and how the powers of the C&C Committee agree with the powers defined by the SAC By-Laws.

I need interpretation on how the C&C Committee is to be structured under the ASUW Student Activities Council with/in the current SAC By-Laws (those approved in Senate Bill #1753).

Thank you for your time and consideration.



Shannon Tufts
ASUW College of Education Senator
ASUW Student Activities Council Chair

SENATE BILL #1753

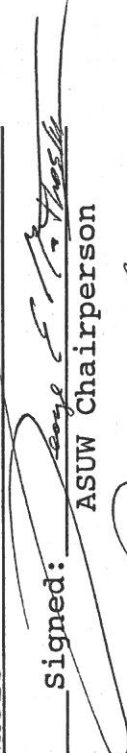
Title: Student Activities Council

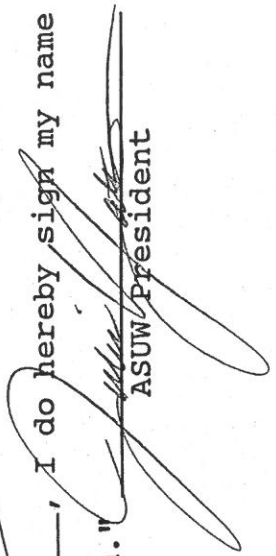
Date: April 1, 1993

Sponsor: Student Activities Council

1. WHEREAS, the Student Activities Council, formerly known as the
2. Student Activities Advisory Board, has undergone major
3. modification during the past academic year; and
4. WHEREAS, By-Laws are necessary because the Student Activities
5. Council is a complex standing committee in its organization
6. and responsibilities;
7. THEREFORE, be it enacted by the Student Senate of the
8. Associated Students of the University of Wyoming that the
9. Student Activities Council By-Laws become an official
10. document of the Associated Students of the University of
11. Wyoming. (See attachment).

Referred to: Committee of the Whole

Date of Passage: April 27, 1993 Signed:  ASUW Chairperson

"Being enacted on April 29, 1993, I do hereby sign my name
hereto and approve this Senate action."  ASUW President

Associated Students of the University of Wyoming

Student Activities Council By-Laws

Article I

- Sec. 1.** **Name:** This organization shall be known as the Student Activities Council of the Associated Students of the University of Wyoming.
- Sec. 2.** **Purpose:** The ongoing mission of the Student Activities Council shall be to provide a synergetic forum which promotes:
Unity through meaningful communication
Advocacy through mutual respect
Proficient student activities programming through the coordination of resources
The development of leadership through experience
- Above all, the Student Activities Council of the Associated Students of the University of Wyoming shall strive to provide quality programming which promotes student development.

- Sec. 3.** **Governing Laws:** The laws governing this Council shall be the Constitution and By-Laws of the Associated Students of the University of Wyoming, the Finance Policy of the Associated Students of the University of Wyoming, and these By-Laws. Every member is responsible for reading and abiding by these by-laws and the Constitution of the Associated Students of the University of Wyoming.

Article II Council Organization

- Sec. 1.** **Officers:** The officers of the Student Activities Council shall be the Chairperson, Lead Student Programmer, Secretary, and Treasurer.
- Sec. 2.** **Term of Office:** The terms of office for the elected and appointed officers shall be one academic year.
- Sec. 3.** **Senators:** Five A.S.U.W. Senators, including the Chairperson, shall serve on this Council.
- Sec. 4.** **Commissions:** The following A.S.U.W. Commissions shall have a permanent seat on the Student Activities Council to be filled each year by a respective commissioner.

Environmental	Special Events
Fine Arts	Community Service

done already

~~Articles and Forums~~

Marketing

Sec. 5. Other Student Programmers: In addition to the A.S.U.W. Commissioners, a representative from these additional student programming entities shall have a permanent seat on the Student Activities Council.

Residence Halls Association
Wyoming Union Programming Committee

Sec. 6. Ex-Officios: The following persons shall serve on the Student Activities Council as ex-officio members:

Assistant Director Wyoming Union, Programs and Services
ASUW Program Specialists (2)
Wyoming Union Program Specialist
ASUW Business Manager

Article III
Responsibilities of Council Officers

Sec. 1. General: The duties of the officers are those prescribed by these By-Laws and the Constitution, By-Laws, and Finance Policy of the Associated Students of the University of Wyoming.

done already
Sec. 2. Enforcing Rules: It shall be the responsibility of all officers to read thoroughly, understand, and enforce all of the Constitution and ^{By-}Laws of the Associated Students of the University of Wyoming and all provisions of the By-Laws and policies of this Council.

Sec. 3. Chairperson: The Chairperson shall preside at all Council meetings.

Sec. 4. Lead Student Programmer: The Lead Student Programmer shall have the responsibility of coordinating both a monthly and yearly activities calendar of events.

Sec. 5. Shared Responsibilities and Powers: The Chairperson and Lead Student Programmer shall share the power to create task forces, appoint commissioners, and act as liaisons to A.S.U.W. Student Government and the University of Wyoming. In addition they shall have the power to develop and evaluate the duties and job descriptions of the individual members of which the Student Activities Council is composed. Together, these individuals shall be responsible for the coordination of recruitment efforts, retreats, training, and recognition of members. They shall also be required to create and present a budget to the A.S.U.W. Budget and Planning Committee each year. Each of the A.S.U.W. Commissions shall be directly supervised by the Chairperson and

Lead Student Programmer of the Student Activities Council.

Sec. 6. Secretary: The Secretary shall be responsible for the recording, typing and distribution of the council minutes. Additionally, the secretary shall be responsible for maintaining a current and accurate history of all activities programming in which the Student Activities Council is involved.

Sec. 7. Treasurer: The Treasurer shall be responsible for the monitoring of all the Student Activities Council Administrative Funds. Each month, or more often if deemed necessary by the Chairperson, the Treasurer shall make a financial report to the Council.

Article IV Selection of Membership

Sec. 1. Senators: Five A.S.U.W. Senators shall be appointed by the A.S.U.W. Vice President to serve on the Student Activities Council.

Sec. 2. Commissioners: The A.S.U.W. Commissioners shall be appointed by the Chairperson and Lead Student Programmer of the Council. This shall occur within one week following the installation of the Lead Student Programmer and Chairperson. Appointments of A.S.U.W. Commissioners shall be approved by the Student Activities Council and A.S.U.W. Senate.

Sec. 3. Residence Halls Association Representative: A representative from the Residence Hall Association shall be chosen by that entity. This representative must then be approved by the Council as a whole.

Sec. 4. Wyoming Union Programming Committee Representative: A representative of the Wyoming Union Programming Committee shall be chosen by that entity. This representative must then be approved by the Council as a whole.

Article V Selection of Officers

Sec. 1. Chairperson: The Chairperson of the Student Activities Council shall be appointed by the A.S.U.W. Vice-President with the approval of the A.S.U.W. Senate.

Sec. 2. Lead Student Programmer: Nominations for the position of Lead Student Programmer shall be taken from the current membership of the Student Activities Council two weeks prior to the A.S.U.W. General Election. Each nominated individual shall be allowed to address the council. An election shall be held in which each

member of the Student Activities Council is allowed one vote. A candidate must receive a majority of the votes cast by the council in order to be elected.

- Sec. 3. Secretary and Treasurer: Nominations for the positions of Secretary and Treasurer shall be taken from the current membership of the Student Activities Council within three weeks following the A.S.U.W. General Election and the selection of commissioners. Each nominated individual shall be allowed to address the council. An election shall be held in which each member of the Student Activities Council is allowed one vote. A candidate must receive a majority of the votes cast by the council in order to be elected.

Article VI Installation

- Sec. 1. When: All officers of the Student Activities Council shall be installed immediately upon either their selection or election.

Article VII Removal of Council Officers From Office

- Sec. 1. Procedure: Any Council Officer, other than the Chairperson may be removed from their position. A petition must be signed by at least 50% of the current Student Activities Council and submitted along with a letter of explanation to the Assistant Director Wyoming Union, Programs and Services, the A.S.U.W. President, and the A.S.U.W. Vice-President. These three individuals shall then conduct a hearing for the appropriate office. The individual is removed from office if, after the hearing there is a 3/4 vote in favor of removal by the Student Activities Council.

Article VIII Meetings

- Sec. 1. Time and Place: Regular meetings of the Student Activities Council shall occur at least once a week during the regular academic school year.
- Sec. 2. Changes: Any temporary changes as to the date, time or place of regular meetings must be made by the Chairperson and Lead Student Programmer and made known at least 48 hours in advance of the meeting.
- Sec. 3. Parliamentary Procedure: Robert's Rules of Order, Revised, shall govern the parliamentary proceedings of all meetings; this in no manner shall change the order of business prescribed in these By-Laws; and shall in no manner change the effect of the Constitution and

Laws of the Associated Students of the University of Wyoming in regard to meetings.

Sec. 4.

Order of Business: The following order of business shall be followed at each meeting. Any parts which are unnecessary may be omitted by the Chairperson:

1. Meeting called to order by Chair
2. Roll call
3. Reading of minutes
4. Corrections and approval of minutes
5. Introduction of guests
6. Special programs
7. Commission reports
8. Old Business
9. New Business
10. Closing

Article IX
By-Laws

Sec. 1.

Amendment: The adoption, amendment, suspension or the alteration in any manner of these By-Laws shall only be accomplished in the following manner:

- a) The proposed By-Laws or amendments, or suspension of, or alterations to, shall be read to the Council at each of four successive meetings and must be passed at the final reading by an affirmative vote of two-thirds (2/3) of the total Council membership.
- b) When the proposed change is presented to the Council for the final reading, it shall not be subject to amendment or change from the floor, but must be adopted or rejected as read.
- c) The proposed changes to the By-Laws cannot be voted on until 15 days from the first reading.
- d) The proposed changes shall be voted on using a roll call vote. The vote shall be recorded by the secretary and placed in the minutes.