



ELECTIONS BOARD AGENDA

Associated Students

10/23/20, 4:00 PM

Virtual Meeting - Zoom

CALL TO ORDER by Andrew Yan at 4:00 PM

A. ROLL CALL

Name	Note:	Name	Note:
Andrew Yan <i>Chair</i>	Present	Ruth Garcia Guevara <i>Advisor</i>	Present
Wessal Esber <i>Vice Chair</i>	Present	Diana Collins Puente <i>Advisor</i>	
Emma Xing	Present	Ahura Nezhad <i>Senate Liaison</i>	
Shannon Hollingsworth	Present	Dylan Martinez <i>Senate Liaison</i>	Present
Austin Foreman	Present		
Lauren Sullivan	Present		
Daniel Ong	Present		

Also in attendance:

Marisela Marquez, Executive Director of Associated Students (joined at 4:46 PM)

Raymond Alonso, Judicial Council Chair (joined at 4:48 PM)

Icebreaker:

B. DISCUSSION ITEMS

B.1. Judicial Council Case

Andrew: At this point we're going to call an official meeting since we need to go into a discussion about the ballot. Minutes are being recorded. So the first item on the discussion is the email we received about Judicial Council.

Shannon: Can you tell me what they mean by the case? They wanted to make sure no one discusses it?

Andrew: The order says that "Judicial Council decided this morning to place an order to prevent any discussion of the details of this case with those who are not involved in this case. This does not apply to those individuals that you will call as witnesses"

Ruth: It is within the jurisdiction of the Judicial Council to be confidential and you're not supposed to share information outside the respondent, and they are within their rights to do that. I did want to say that everything that has been discussed here needs to stay between us and it is super important to keep that confidentiality.

Andrew: So we have that statement already in email, it's up to the board whether or not it would be a good idea to issue a statement in response.

Motion to send the statement from Elections Board in response to the judicial order

First/Second: Xing/Hollingsworth

Vote: 5-0 to APPROVE, no abstentions

B.1. Ballot

Andrew: Let's talk about the ballot now.

Ruth: What are we going to do about the ballot? One discussion is to let the ballot keep going on Monday or not. One thing I wanted to bring up is that there is a Constitution and the Constitution overrides everything. No one is allowed to break the Constitution and one thing to acknowledge is that Senate said in their vote that they are knowingly breaking the Constitution. One is we move as if the injunction never happened. One is you can make as if the injunction never happened, or you can try to have the injunction lifted. Or you could ask Senate and JC if they can give some clarity because we're kind of stuck in this middle ground and we're kind of stuck as to where the process should go in the future. The board is kind of in the middle of everything. The other thing to consider is would it be beneficial to postpone the ballot.

Andrew: Point of information, Senate did not say that they are breaking the Constitution. It is the belief of many senators that the vote is not breaking the Constitution. There was the debate on Legal Code not explicitly saying that Senate could not overturn the injunction. It's up to interpretation.

Ruth: I just want to tell you that there's a lot of things to consider. One of the biggest things is you do not want to do is break the Constitution.

Andrew: We are not breaking the Constitution by letting the election go forward as planned. As you all know the injunction makes it so that Senate could not approve the ballot that we had as stands, and of course I agree with the injunction itself because the Judicial Council does have power in Legal Code to send injunctions and people should follow them. The injunction did not say anything about the Senate calling a separate recall and special election themselves, and from my understanding, that is what happened.

Dylan: I think we started as a motion to call our own recall, let me check the minutes really quick.

Andrew: This is the motion, am I correct? "Motion to call a special and recall election regardless and independent of the outcome of the Judicial Council case of the injunction due to articulated concerns from constituents and limited timeframe which we have to work"

Dylan: Yes, that sounds right.

Austin: Yes, Senate approved both items to be on the ballot, SAG and the recall. First they approved the actual having of the Fall Special Election, then they said that they wanted both of the items to be on the ballot. I do want agree with what Senate said earlier, did Senate actually call the recall itself.

Andrew: From that motion I think it's clear that Senate called a special and recall election which they are fully within their power to do. As far as I'm aware Senate initially voted to overturn the injunction but instead they decided to move forward in spite of the injunction. They did not overturn the injunction.

Andrew: So we have two options. Option 1 is basically no action and let the ballot continue as planned. Option 2 is to take action, essentially to either postpone or stop the ballot. My recommendation is Option 1. It's the only viable option. We also have to realize we literally have 45 minutes until the Election begins. The time is 4:15 PM and we need a final answer to Sean by 5:00 PM. Today is Friday, and after 5:00 PM no one is working until Monday 8:00 AM, which is exactly when the ballot starts.

Andrew: It's a bit late to take drastic action. Everyone in this institution believes that the Election is happening as planned on Monday. Dylan, is that what the Senate thinks as well?

Dylan: Yes, that's correct.

Andrew: I need to call a 2-minute recess to post the statement we just approved earlier to Facebook.

Austin: The will of the Senate is to hold the election against the injunction, that isn't something that we decide. We're following the will of the Senate.

Wessal: We're kind of stuck between mom and dad.

Austin: We are following the Senate because our powers are given to us to the Senate. I don't think we're stuck between mom and dad, I think we're stuck between a parent and an uncle. The power of AS Elections Board is given to us by the Senate and therefore their decision to move forward with the fall special election, with both items on the ballot, regardless of the injunction, is directing us, as AS Elections Board, to follow the will of the Senate and let the election go as scheduled.

Andrew: I agree.

Austin: Does that makes sense everyone?

Lauren: I just want to clarify that we get our power from the Senate?

Austin: Senate has given us the power, or duty, to run the Election. That could ultimately be something they could take away, although who knows what that would look like. When giving us this power, when they decided on Wednesday to hold a Fall Special Election and even though they wanted both items on the ballot, and us as an underbody of the Senate whose powers and duties have been given to us by the Senate, and we, by holding the election are following the will of the Senate, ultimately, and that's where I came up with the uncle analogy. Senate is a parental body to the Elections Board, and Judicial Council is more of an aunt/uncle body to Election Board, so it's definitely confusing and I get it.

Wessal: I would like to pose a question. Are we wanting to go along with our parents who are breaking the Constitution?

Andrew: Objection, our parents are not breaking the Constitution. Again there are senators who believe they are doing everything correctly. It doesn't even matter in the end because it's not up to us to make that interpretation, but just to clear that up. No one here is breaking the law.

Austin; I also agree with that statement.

Austin: So, I'm kind of been speaking off out here about the whole situation with us following what Senate wants us to do and also about how it is basically a limbo position that is explicitly granted or explicitly denied. Does everyone understand the logic?

Shannon: Yes.

Daniel: I do understand what's going on and from what I understand yes, it's hard to say whether we're breaking any law or if the Senate as breaking any law so I do kind of agree with that.

Andrew: Marisela Marquez, the AS Executive Director asked to join the meeting. Raymond Alonso, Judicial Council Chair, is also now in the meeting.

[Redacted] [discussion about the Judicial Council case and the 'no discussion' order]

Wessal: Austin, can you repeat what you said to us 5 minutes ago so Marisela and Raymond hear it?
Austin: Sure, Ray said he stepped away from the computer so I'll wait for him to come back. I would like Ray to hear it.

Austin: Obviously this is a very new situation for everyone, we've never been here before and ultimately the Elections Board has talked about how we've come into a preliminary decision. We haven't made a motion on it but this is where we feel we are standing. Senate is a parental body to the Elections Board and they have designated the board the duties to manage elections, and that is the spring general and any other election including the recall election which is classified as a special election. The senate which met Wednesday evening until early Thursday morning decided to go through with holding a special election and in their motion they dictated that they wanted to see both the SAG and the recall item on the special election ballot on Monday. The AS Elections Board as a sub-body of the Senate and in doing so would be enacting the will of the Senate. We do and we have looked at the relationship between Senate and Judicial Council and as Elections Board we feel that Senate is our parental body, and Judicial Council for the sake of the analogy is an aunt or an uncle body. Senate has given us this power, this duty, and in their meeting they confirmed a motion and they made a motion to have a special election held including the recall, including the injunction not matter basically and noting that the election was placed on there. From us looking at the Constitution we do not see the power to overturn injunctions given nor restricted from the AS Senate, and just from a historical standpoint it's a judgment call. People throughout history have said powers not explicitly given are not implied. If it's not given you're not allowed to enact those powers. There have also been people throughout history that have said as long as it's not denied then you are free to go through with it. I'm sure real Supreme Court cases have been fought over that tiny issue. We are kind of in limbo about that. But we are clear that the AS Senate is the parental body, and they did say that they want to have the Fall Special Election held with both the SAG and recall on the ballot.

Wessal: I wanted to say thanks to Austin for repeating that again. There is a system of checks and balances set up, we have the executive, judicial and the Senate. One thing we do want to highlight, we're not saying the case is wrong or should not be heard. However it's like a two-prong thing, one we have the case, the JC's process is not in question. And the Senate calling an election is also not in question. It's just a lot of nuances that are happening.

Raymond: I would view the Senate as a parent. That and the JC can be like a mom and dad. I think Elections Board is a very sticky situation where everything they can do can be overturned by two different branches of government.

Wessal: But here's my proposal, not the Elections Board but me personally, we should move forward with the election, move on with the case, and then wait for the ruling on whether the results of the recall question should be accepted. I do want the JC to hear the case because it is within their right. There is nuance as to what's going on, setting precedent and overruling things like that is not specifically what we're trying to do, it's just the nuance of what we're trying to do and how carefully we as a board are taking each step forward.

Andrew: So let's go back to the ballot for a second, that is what truly matters right now only because of our limited timeframe. It is now 4:59 PM and we are clearly running out of time to make a decision. It seems like the board is in favor of our interpretation that the Elections Board is only a sub-committee of the Senate and thus we follow the Senate's orders, and the Senate's order was to hold a special and recall election. Whether or not the Senate broke the Constitution doesn't even relate to this board at all. That is a separate conversation that we are not involved in. We are just following the orders from Senate.

Austin: I wanted to remind everyone that no action would mean that we would follow through the request with what Senate has made.

Andrew: I believe that if we don't do anything today then yes that is correct anyways. Ruth, would you suggest a motion?

Ruth: I suggest a motion. I think it should be crystal clear what it is that you all are trying to do.

Andrew: To tell Sean what to do? He is currently waiting on the decision in the Slack chat because it's currently the end of the day 5PM.

Ruth: You are making the decision not Sean.

Emma: Can we do a motion to move forward with the Election as planned?

Austin: Yes, let's put both the SAG and recall as directed by the AS Senate in there.

Motion to move forward with the Election as planned including both SAG and the recall, as directed by the AS Senate

First/Second: Xing/Hollingsworth

Vote: 6-0 to APPROVE, no abstentions

Austin: Thank you to everyone for coming, have a great weekend.

MEETING ADJOURNED by Andrew Yan at 5:04 PM