



Gordon J. Wozniak  
Councilmember District 8

ACTION CALENDAR  
July 25, 2006

To: Members of the City Council

From: Councilmember Wozniak

Subject: Adopt a resolution recognizing the election of the four Student Action Executive officers in a free and fair ASUC election and supporting their appeal against the attempts of the ASUC Judicial Council to deny their victory by judicial machinations.

**RECOMMENDATION:**

Adopt a Resolution that the Berkeley City Council recognizes the election of the four Student Action Executive Officers (Gabriel, Gupta, Liou, and Chu) in a free and fair ASUC Election that was monitored by the League of Women Voters. In addition, support their appeal of the Judicial Council disqualification of the victorious Student Action candidates and request that the City Manager write letters to UC Berkeley Chancellor Robert Birgeneau, Associate Chancellor Chief of Staff John Cummins, and Director of ASUC Auxiliary Dr. Nad Permaul protesting this attempt to win in the 'courts' what was lost at the ballot box.

There have been several suits and appeals attempting to prevent the victorious candidates from taking office. There is a considerable amount of work that the ASUC Executives need to do during the summer to prepare for the academic year and effectively fulfill their constitutional mandates. It is important for the City Council to send a letter to the Chancellor and other Administration officials so that they are aware of our concerns.

**BACKGROUND:**

From April 25-27, 2006, the ASUC held its annual election for executive officers and senators. This election was monitored by the League of Women Voters and conducted by Elections Council Chair Jessica Wren and by Leslieann Cachola, who was hired as a consultant for the ASUC Elections Council.

On May 24, 2006, the ASUC Elections Council released the 2006 ASUC election results in which the four Student Action candidates for executive offices – Oren Gabriel, Vishal Gupta, Jason Chu, and Joyce Liou – clearly won. See Attachment A.

The election results were delayed by almost a month, because there were several lawsuits for alleged campaign violations. The ASUC Judicial Council initially acquitted the four Student Action Executives of potential minor violations of the election code with regard to their names

chalked on the sidewalk within 100 feet of a polling place. In an appeal of this decision, the plaintiff argued that the Student Action Chair committed perjury during the original hearing. Based on this undocumented claim, the ASUC Judicial Council overturned its initial decision and disqualified the Student Action Executive Slate from the election.

This decision undermines the will of the student body and the democratic principles on which the ASUC was established. The ASUC Judicial Council is currently reviewing an appeal of the disqualification decision.

**FISCAL IMPACTS:** None.

**LATE SUBMMITAL:** It is important that the Council take action on this item before it goes into summer recess. Since the academic year starts in August, it is important that the duly elected ASUC executive officers are in place at the beginning of the academic year. Since there are no Agenda Committee meetings until September, I am submitting this item directly to Council to be placed on the July 25, 2006 agenda.

**CONTACT PERSON:** Councilmember Wozniak, 981-7180.

**ATTACHMENTS:** Attachment A and Resolution

ATTACHMENT A  
2006 ASUC ELECTION RESULTS

PRESIDENT

**Oren Gabriel–4,014 (STUDENT ACTION)**

Lauren Karasek–1,434 (SQUELCH!)

Dmitri Garcia–1,274 (DAAP)

Executive Vice President:

**Vishal Gupta–3,893 (STUDENT ACTION)**

Ben Narodick–3,280 (SQUELCH!)

Academic Vice President:

**Joyce Liou–3,662 (STUDENT ACTION)**

Andy Ratto–1,984 (BEARS UNITED)

John O'Connor–766 (SQUELCH!)

External Vice President:

**Jason Chu–3,717 (STUDENT ACTION)**

Igor Tregub–3,498 (INDEPENDENT)

RESOLUTION TO SUPPORT THE RESULTS OF THE FREE AND FAIR ELECTION OF  
ASUC EXECUTIVE OFFICERS

WHEREAS, the Associated Students of the University of California (ASUC) held a free and fair election on April 25-17, 2006 for all registered students that was monitored by the League of Women Voters; and

WHEREAS, the student body voted in favor of the four Student Action Party Executive candidates: Oren Gabriel, Vishal Gupta, Jason Chu, and Joyce Liou; and

WHEREAS, the ASUC Judicial Council initially acquitted the four Executives for a potential minor campaign violation and later illegally revisited this closed case in which it had already rejected appeals; and

WHEREAS, the Judicial Council determined the Student Action Party Chair committed perjury, yet no official record of this alleged perjury statement exists; the Party Chair was compelled to be witness against himself; and the Party Chair acted as an advocate, not as a witness, as thus cannot be charged with perjury; and

WHEREAS, the Judicial Council wrongly disqualified the four Student Action Executives for several other reasons, namely: the candidates cannot be punished for the Party Chair's alleged perjury; a contempt of council judgment was not sought by the plaintiff; disqualification as a remedy violates the requirements that all election dispute remedies be outlined in the ASUC bylaws; and

WHEREAS, the Judicial Council acted outside its authority by using its power to certify elections in order to hear elections violations; the council lacks power to disqualify the candidates because they were not named parties in the appeal case; and the council lacked quorum when hearing the appeal;

NOW, THEREFORE, BE IT RESOLVED, THAT, the City of Berkeley recognizes the results of the 2006 ASUC election and the winning candidates President Oren Gabriel, Executive Vice President Vishal Gupta, External Affairs Vice President Jason Chu, and Academic Affairs Vice President Joyce Liou.

BE IT FURTHER RESOLVED THAT, the City of Berkeley write a letter to UC Berkeley Chancellor Robert Birgeneau, Associate Chancellor Chief of Staff John Cummins, and Director of ASUC Auxiliary Dr. Nad Permaul recognizing the victory of the Student Action Party Executive Slate in the 2006 ASUC election, supporting their appeal, and condemning as undemocratic the attempt to win in the 'courts' what was lost at the ballot box.

