



## Nipissing University Student Union

### **Report from the President for the October 5, 2016 Annual General Meeting**

May, June to July

Since the beginning of the term in May, the work has been progressing to collapse the trust fund in order to secure usable funding for the building project. One of the first tasks of this work was opening a dialogue with Canadore College, as they are a partner in the collapse of this trust account that hold fees from Canadore College students as well as Nipissing University Students. After learning the various steps and strategies involved in the collapse of the trust, which included contributing statements and materials from NUSU in order to make an application to the Public Guardian Trustee (PGT) which would allow for the funds to be delegated to Canadore College and NUSU. Several months went by and NUSU continued its work to set up an appropriate arrangement to hold the funds should they be released. This involved setting up a restricted account with Nipissing University. In this arrangement, invoices would come in for NUSU to pay for work related to the building project. Nipissing University would pay the invoices out of the restricted account with NUSU's written permission as per the signed Memorandum of Understanding that is now in place between the University and NUSU. When the trust fund was initially set up in the Agreement from 2005 between Canadore College, Nipissing University, CSRC and NUSU, a list of specific criteria was created as part of an order from Justice Karam. This list of criteria would be the only acceptable uses for the fees held in trust. This same list of criteria was recently reviewed by Mitchell Architects and was deemed to still be acceptable. This list of criteria would be applied to the arrangement between NUSU and Nipissing University.

After not hearing of any progress on the affidavit to the PGT, Canadore was reached out to. They explained that they were speaking to their legal counsel in the next few business days. After this, they responded with a series of concerns regarding NUSU's proposed arrangement with the university on July 12, 2016. These included but were not limited to concerns regarding how the new arrangement met the requirements of the original court order from the Honourable Mr. Justice Karam of the Ontario Superior Court, the nature of the new arrangement and as to whether or not the new arrangement would be supervised by an unbiased neutral third party and if there were to be a dispute between Nipissing University and NUSU the risk of the College being involved in any litigation.

Upon hearing of these concerns, C. John D'Agostino, NUSU's attorney was reached out to with the help of the Vice-President Governance and Legal Affairs on July 19, 2016. It was discussed that Mr. D'Agostino and Mr. Rahul Shastri, NUSU's primary attorney working on the Trust fund situation, would collaborate and work on a strategy to address the College's concerns. A follow-up telephone conference was arranged for July 26, 2016.

Between these meetings with our attorneys, the NUSU Executive committee arranged a sit-down meeting in the offices of Mr. Ken Peake of Paddon and Yorke on July 20, 2016. Mr. Peake is the trustee that is currently holding the trust fund. The focus of the meeting was primarily to establish a dialogue and working relationship with Mr Peake as well as to better understand his position and what his requirements would be regarding NUSU and Nipissing University's restricted account arrangement. Mr Peake was informed of NUSU's current position and progress with the building project and NUSU's sense of urgency with the project. Mr. Peake estimated that he could arrange a court date for September to have the matter settled.

On July 26, 2016 the follow up discussion with Mr. D'Agostino and Mr. Shastri was had. It was resolved that the two attorneys would collaborate to review the MOU between NUSU and Nipissing University and, if necessary, would modify it to resemble a formal trust agreement where the university would act as a new trustee to hold the building project funds, which would satisfy the College's concerns as they had described them. NUSU eagerly now awaits the follow up discussion. It was also discussed that now, because of the original Agreement from 2005 between Canadore College, Nipissing University, CSRC and NUSU no longer being in effect because of the ceased existence of CSRC, it would no longer be required of NUSU to place any fees collected for the building into the trust account held by Mr. Ken Peake. This would allow for the fees collected for the 2016-2017 school year to be used immediately for the building project upon their remittance from the University.

Other matters handled by the President since the last meeting involved the drafting of a proposed Board of Directors policy which would act as supplementary material of the NUSU By-laws and Robert's Rules of Order for the Board's convenience. The proposed policies, would explain the processes and procedures of voting, quorum, points of order etc. The draft of this policy was distributed to the Board for review and discussion will be had at the upcoming meeting. This policy is intended to serve as part of a proposed Board of Directors package of reference materials for their use during their term. Mr. Jordan Dempster will further elaborate on this package.

Work continues on the building project with Mitchell Architects with the majority of the plans completed. The final kitchen design was approved and is moving forward. A vote will be coming to the Board via email to approve the budget and design brief from Christian Bechard of Novita Techne Limited.

Mitchel Architects advised NUSU of a special request to be put forward to the counsel of the City of North Bay to have the development charges waived for the new building. A letter has been written by NUSU with the help of Mitchell Architects and the President of Nipissing University, Dr. Mike DeGagne, has also supplied a letter in support of the endeavour. NUSU wishes to express its deep gratitude to both Dr. DeGagne and Mitchell Architects for their assistance.

In collaboration with Mr. Markus Hawco, the Vice-President Finance, several applications have been made to different government programs including Fed Nor and NOHFC for financing for the building project. The Fed Nor application is progressing well as one of the representatives explained that the project was attractive to them and NUSU should not have difficulty progressing to phase 2 of the application. The application to NOHFC is being completed with assistance from Nipissing University, primarily Dr. Mike DeGagne and Ms. Marianne Berube, Chair of the Board of Governors. Any and all funding that is secured from these sources will be placed into the restricted account with Nipissing University for the express purposes of the Building Project.

The Communications department is to be commended for their efforts to complete and facilitate the launch of the new website for which their have been several positive comments. Within the Services department, Frosh Kit sales continue to progress well and it is expected that they will have sold out when Frosh Week begins. Within Finance, the audit process has just been completed and there will be several follow up discussions to be had with the auditors.

#### July to August

Since the last meeting of the Board, the Special Governance Commission has begun its work as was mandated after the Faculty Labour Dispute by the Nipissing University Board of Governors and the Nipissing University Academic Senate. The commission has been composed of two Nipissing University Board of Governors members to represent the university's administrative management, two Academic Senators to represent the university faculty and one student representative. In late 2015, the Vice-President Internal was elected by the NUSU Executive Committee to serve on the Commission and the position was to continue when the VP Internal was elected President.

The mandate of this commission has been to review the governance practices of the university and to recommend to the Board of Governors and Academic Senate best practices and improvements to the governance of the university.

Since then, the Commission composing of Mr. Steve Portelli and Mr. Tom Curry representing the Board of Governors, Drs. David Borman and David Tabachnick representing the Academic Senate and the President of the Student Union have been meeting on a semi-monthly basis and conducting the business of the commission via email. It was decided that the best way to complete the work and gather data would be to conduct an opinion survey of the interested parties of the university, namely the faculty, staff and students. It was decided that the NUSU President should be in charge of administering the survey to the students. Upon consultation with the commissioners and the NUSU Executive Committee, it was decided that rather than send the survey to all 5000 students, it would be more useful to send the survey to a select group that are currently involved or have been involved in the past with the governance of the university. This would serve a myriad of advantages, namely that targeting certain

students would render higher quality answers and data for the survey. Simply put, asking 25 students with involved experience with university governance would be preferable to asking 5000 students who have little to no knowledge of the matter. It would also result in the commission having a smaller, more manageable pool of higher quality data. The deadline for submitting the questionnaire is the first of September when the commission will meet again, evaluate the data and decide how to proceed. The final report from the Special Governance Commission is due to the Academic Senate and the Board of Governors by October 1, 2016.

On the matter of the Building Project Trust Fund, some progress has been made in over the previous month. Currently, there has been little communication between the interested parties of the matter save through correspondence of lawyers. The VP Finance and International of Canadore College approached the NUSU Executive to discuss the matter of the Trust Fund. In a sit-down meeting with the President and the NUSU Vice President Services, the options for releasing the trust fund through an application to Scotia Bank were discussed. This would entail NUSU and Canadore College making a joint application to Scotia Bank's trust fund department to set up two separate trust accounts, one for Canadore and one for NUSU. It was said that if this were to be done, NUSU would then be free to do what it wished with its money, as it would not be legally tied to Canadore's portion any longer. It was also discussed that if Canadore and NUSU worked together the money could be freed up relatively quickly. Canadore's reasoning for going with Scotia Bank was that it was the college's opinion that the Public Guardian Trustee would not accept an application to free up the trust funds unless it were to be going under the care of a third party that is in no way tied to either the college or the university.

The NUSU Executive Committee has been discussing the advantages and disadvantages of this option. The primary advantage is that this option is a solution that would result in the trust fund being released for use in the building project as originally intended. The primary disadvantage is that this option will result in more funds from the trust being used to pay the administrative fees of Scotia Bank. NUSU must however come to a decision soon.

As a development project within the city of North Bay, there are a series of development charges that are to be applied to the Student Centre Building Project totalling roughly \$150,000. Historically, it has been possible for these fees to be waived do to specifications in the bylaws for the city. Canadore College has in fact had the fees waived for the construction of their residence complexes. The NUSU President wrote a letter to the City Council formally requesting the waiving of these fees with support from Dr. Mike DeGagne and Mitchell Architects. Unfortunately, the request was denied through an email to Mitchell Architects. The NUSU Executive will be meeting with President DeGagne to speak about the matter in the hopes that the decision may be appealed.

As the university's twenty-fifth anniversary will be approaching in approximately a year's time, a committee has been struck to discuss the events. The NUSU President

sits on this committee. So far, the group has met twice and several ideas have been suggested including the revision of the three paintings of historical figures (Shakespeare, Einstein and the Mona Lisa) and the possibility of three new paintings being commissioned for use in the event. The current consensus of the group is that the anniversary will take place over the course of an entire year with several events to celebrate the milestone. Another important event will be the unlocking of the Nipissing University time capsule. These events and more will be planned in more specific detail as the committee continues.

The primary focus of the office continues to be the preparation for Frosh Week as August draws to a close. As well, NUSU regrets that office assistant Jacob Baisley will be ceasing his employment with the student union after filling the position for several years. He will be missed as he leaves to pursue his placement and NUSU wishes to express its deepest thanks for all of his devoted service. Two new office assistants will be hired and their training is taking place over the week of August 22.

### August to September

Since the last meeting, great progress has been made on the release and collapse of the trust fund for the NUSU Student Centre Building project. The Vice President Services and the NUSU President had met with a representative from Canadore College to attempt to come to a resolution about the joint trust between the two institutions. It had been determined that a potential option could be to enter into a joint application with Scotia Trust. While this option would guarantee the release of the funds, it would have cost NUSU an immense amount of the funds to pay the fees associated with the administration of the Scotia Bank account. It was left to the NUSU Executive to make the final decision. A potential alternative solution was developed that would involve the current system wherein the NUSU Executive would invoice the trust fund. Previously, when an invoice related to the building project would be forwarded to the signing authorities of the trust fund (Nipissing University, NUSU, Canadore College and the Canadore Student Council) and if all parties consented as per the original court order issued, the invoice would be paid out of the trust. The strategy would involve having Mitchell Architects draft a cost estimate that would allow NUSU's entire portion of the trust to be remitted and immediately paid to the project.

The NUSU Executive then discussed this solution with Mr Ken Peake of Paddon and Yorke, the trustee managing the account. After a phone discussion, Mr Peake was to follow up after some preliminary discussions with his colleagues. The NUSU Executive reached out to Mr Peake on September 13, 2016. He began by asking if NUSU had read the latest draft of an affidavit that had been drafted by legal council representing the parties in charge of the trust fund. This affidavit would act as consent by all parties to have the current trust fund collapsed, the monies appropriately assigned to the parties, and new trustees designated. Initially NUSU had opted to use Nipissing University as an alternative trustee, a position Canadore College did not agree with. This position by Canadore was the most up-to-date information that NUSU was aware of. Upon speaking with Mr Peake, then a subsequent discussion with Mr Rahul Shastri, NUSU's legal

council handling the trust matter, it was brought to our attention that Canadore had, in fact, agreed to sign the affidavit allowing Nipissing University to act as the new trustee to hold the building project capital. This was a major step forward in the progress of the building project. With the agreement of all parties, the affidavit will be submitted to the Public Guardian Trustee (PGT) and the court system. Legal council describes the matter as “out of NUSU’s hands” until it is settled. We eagerly await further news of the release. When the account is released and made accessible, the NUSU will have close to 7 million dollars solely devoted to the building project.

Moving forward, Nipissing University will act as the trustee for the funds for the building project. All monies for the building including those obtained from a lender will be held in a restricted, segregated account within Nipissing University. To access the funds, a similar process will be used as with the previous account with all authorities consenting to the use of the funds based on strictly defined terms. The primary difference will be that the authorities will be Nipissing University and NUSU. The details of this arrangement are being finalized.

On the progress of the building project itself, significant progress has been made. NUSU’s biweekly meetings with Mitchell Architects to ensure the project continues to move forward. During the last meeting (dated September 20, 2016), it was reported that three-dimensional renderings of the building would be complete within the next week. When asked about the construction schedule, NUSU was assured that the project was still on track meaning that the project would be going to tender (meaning that it would be sent out for bids by construction companies) by next month with construction to hopefully begin by late November 2016 and grand opening by May 2018. The details of the building plans are being finalized including final floor plan details, fixtures and security features. The NUSU Executive will be meeting with the interior designer shortly to discuss the interior design and furniture. The building construction drawings are nearing completion and once the plans have been finalized, they will be shared with the student body.

The most recent construction cost estimates came from Mitchell Architects and totalled nearly \$13 million. When the Board of Directors last met, the directors unanimously agreed to increase the overall budget of the project to \$14 million. KPMG has been very useful in the financial planning of the building. We have been meeting regularly with Mr Richard Simm and Ms Laurie Bissonette to discuss financial models based on staffing needs, project revenues and expenses over the course of the building’s lifespan. Using this information, Mr Simm will be reaching out to potential lenders in the hopes of accruing a loan to finance the building. The NUSU building project is in a strong position because of the trust fund. Mr Simm has worked on the York University Student Centre, a 100 million dollar project and has stated that the NUSU project would be very attractive to potential lenders. Because of the trust fund, NUSU currently has roughly 50% of the capital for the project in hand and lenders would have to lend the other 50%. When the York project was seeking financing, it had 10% of its 100 million of necessary capital in hand. NUSU position with potential lenders is a strong one.

Now that the building construction is imminent, the necessity for a land agreement between Nipissing University and NUSU is of the utmost importance. Presently, NUSU is consulting with KPMG on the merits of a land lease versus a land license. The primary difference between the two would be that the university would be the owners of the building and the land if the agreement were in the form of a licence. NUSU would become tenants in the building. A lease would allow NUSU to operate in the building and the land, which would be leased to the student union for a specified duration (minimum of 20 years). KPMG is continually speaking with the NUSU Executive committee on which would be the best to pursue in a financial sense. The agreement will be made with the university in the coming weeks.

Turning to other matters, the Special Governance Commission is almost complete its work. With the newest commissioner, Dr David Borman of the Philosophy Department, work has been moving at a significant pace. Recognizing the need for an external chair, Mr John Murray, a retired judge with experience in university governance agreed to act as chair of the commission. Several issues were discussed, debated and agreed upon including but not limited to development of a Senate mechanism for the provision of advice/recommendations on a draft budget; development of a mechanism for the provision of Senate advice on major decisions with academic impact; development of Statements of Collegial Governance for Senate and Board of Governors; development of Recommendations for Standing Joint Committee on Governance and plans on how to implement these recommendations. The final report is to be sent to the Board of Governors and the Academic Senate simultaneously. It is hoped that the Student Union will endorse the report for the betterment of relations between all who work and study at Nipissing University.

In other matters, Frosh Week was a great success with many satisfied students, staff of the university and NUSU sponsors. The NUSU staff and volunteers deserve the most sincere congratulations. The process for hiring a temporary administration assistant is on going for when our current administrative assistant goes on maternity leave. Over 100 applicants submitted resumes and almost 20 have been interviewed. A final decision will be made by the end of the week of September 19, 2016. The audit by BDO successfully completed and the results have been delivered. The NUSU App has been a success with the students with over 1000 downloads. The online store on the new NUSU website has been launched with several products for sale including NUSU branded scarves, hats, mittens and pens. Club Days has been successful with consistent activity in the main foyer for the event. The Clubs have also been briefed on the new Clubs Policy and have been adapting to it very well. Updates on these and more will come from the other members of the Executive Committee.