

Minutes*

Faculty Consultative Committee
Thursday, July 8, 2003
1:15 – 3:00
238A Morrill Hall

Present: Judith Martin (chair), Jean Bauer, Susan Brorson, Charles Campbell, Arthur Erdman, Marti Hope Gonzales, Emily Hoover, Mary Jo Kane, Jeff Ratliff-Crain, Martin Sampson, Charles Speaks, Carol Wells

Absent: none counted for a summer meeting

Guests: Executive Vice President and Provost Christine Maziar, Deputy General Counsel William Donohue; President Robert Bruininks

Other: Vice President Kathryn Brown; Kathryn Stuckert (Office of the Vice President and Chief of Staff); Elizabeth Wroblewski (Office of the Executive Vice President and Provost)

[In these minutes: (1) nomination to Advisory Committee on Athletics; (2) changing Kiosk and Brief to electronic-only publication; (3) faculty advisors; (4) naming a building; (5) weapons on campus; (6) library funding; (7) budget and related issues; (8) the ombuds report and function; (9) capital campaign priorities; (10) legislative auditor study of faculty and staff salaries; (11) other matters]

Professor Martin convened the meeting at 1:15 and called for a round of introductions inasmuch as there were new Committee members present.

1. Nomination to the Advisory Committee on Athletics

Professor Martin then noted that there is a faculty vacancy on the Advisory Committee on Athletics. President Bruininks appoints the members but this Committee nominates the faculty members. Professor Martin nominated Professor Kane to serve a second three-year term. The nomination, in the words of Professor Gonzales, was "so acclaimed" without dissent.

2. Kiosk and Brief

Professor Martin next reported that Vice President Gardebring asked for the Committee's reaction to a decision by University Relations to stop printing paper versions of Kiosk and Brief and to distribute them only electronically. This will save \$35,000 per year; of all the suggestions the President received about ways to save money, according to Vice President Gardebring, converting publications to an electronic-only distribution was the most common.

Committee members offered a number of comments.

* These minutes reflect discussion and debate at a meeting of a committee of the University of Minnesota Senate or Twin Cities Campus Assembly; none of the comments, conclusions, or actions reported in these minutes represents the views of, nor are they binding on, the Senate or Assembly, the Administration, or the Board of Regents.

-- Brief played an important role during the tenure debate as a reliable source of information; if it is only distributed electronically, fewer will be likely to browse it. In an era of budget stresses, it can play an important role in communication. There is a need to INCREASE communication, especially in the next couple of years.

-- The Morris campus had a weekly bulletin that fulfilled the same function as Brief; it used to come in print and is now only electronic. It is much easier simply to delete it without looking at it than was the case when it was in print. Brief provides a thumbnail sketch of the whole University. What are the relative costs of Brief and Kiosk?

-- The Committee should go on record emphasizing that it is important to have MORE communication in a time of change. When cuts are being made it is important to keep people informed.

-- Earlier this year committees registered concerns about the lack of communication on budget issues and were told that certain issues could not be discussed because of political sensitivities; this is an example of a decision that had no political sensitivity at all and could have been brought for consultation.

Professor Martin noted that the decision about Brief and Kiosk has already been made, but the Committee can speak with Vice President Gardebring about the communications that need to come from Morrill Hall to the rest of the University.

3. Faculty Advisors

Professor Martin drew the attention of Committee members to a set of email messages instigated by Professor Carol Chomsky in the Law School about the possibility of identifying a group of faculty members who would agree to serve as advisors (NOT advocates) for colleagues who bring grievances. The University of Illinois has a committee of faculty advisors who appear to play almost an ombuds role, similar but not identical to what Professor Chomsky has suggested, and the idea may interact with the recent report to the Committee on the ombuds function.

Professor Martin asked that Committee members review the materials in preparation for a fuller discussion later in the fall.

4. Naming a Building

Professor Mario Bognanno has asked if the Committee would agree to create an ad hoc committee (the members of which he has already identified) to work with the All-University Honors Committee on naming a building. This Committee would designate the ad hoc committee to make a recommendation to the President and (through him) the Board of Regents.

The Committee concluded that it was not necessary for it to sanction or establish such a committee; the individuals who would be involved are free to work directly with the All-University Honors Committee. The Committee also did not want to appear to be in the position of endorsing the effort or supplanting the All-University Honors Committee.

5. Weapons on Campus

Professor Martin now welcomed Executive Vice President and Provost Maziar and Mr. Donohue from the General Counsel's office to discuss the proposed policy concerning the possession and carrying of weapons. The proposed policy will be presented for review and action at the July 11 meeting of the Board of Regents.

The policy defines University property (that is, places) as any places under the control of the University (including, for example, such places as the Metrodome during University football games, as well as dormitories, leased space, etc.), employees, students, visitors (anyone on University property who is not an employee or student), weapons ("a firearm or a dangerous weapon as defined by Minnesota law"), etc. The policy provides that "no person, whether a student, employee, or visitor, shall possess or carry a weapon while on University property, except as authorized" by the policy. The exceptions include law enforcement and military personnel, those participating in military training, or by permission of the President or his designee. In addition, "otherwise lawful storage of a firearm inside a personal motor vehicle is permitted on University property." Violations of the policy fall under the Student Conduct Code for students, constitutes misconduct for employees that can result in discipline "up to and including termination," and will lead to a request to any visitor to leave University property and may lead to "a written directive to remain off University property."

The policy is straightforward, Dr. Maziar said. She reviewed the earlier draft policy that this Committee had developed, in December, 2001, and said that if one compares them, the proposed Regents' policy embraces what would have been proposed as Senate policy. The only change of note is that the Regents' policy uses the term "weapons" rather than "firearms" because it is difficult to predict what might be used as a weapon in addition to firearms.

Because there is no August Regents' meeting, Dr. Maziar told the Committee, the administration decided to bring the proposal for both review and action at the July meeting because of concern about individuals who might wish to carry weapons to University athletic events, some of which occur before the September Regents' meeting.

This policy is not breaking new ground vis-à-vis other state entities, Dr. Maziar noted. Mr. Donohue reported that Hennepin County and Ramsey County have explicitly banned guns from their premises, as have a number of the state's court systems. The University is acting in that context. The University believes it has a reasonable legal basis for adopting the policy. The administration also believes that the policy is within its responsibilities to bring policies to the Board of Regents to provide for the protection of the health and welfare of University employees, students, and visitors.

Why does the author of the legislation object to a University policy, Professor Speaks asked? Because she believes it is unnecessary and that the University has always had permitted guns on campus but just did not know about them. She also believes people need guns for personal protection. Professor Speaks said he did not know what the result of the policy would be but that it should be adopted because it is good policy. The policy does not stop anyone from carrying a weapon onto the campus, Dr. Maziar observed, but it does allow the University to take preventive action, which it could not do without the policy.

Will the University be required to post signs at every building entrance, Professor Ratliff-Crain asked? Dr. Maziar responded that the law suggests the University is not allowed to exclude from its property visitors who are carrying weapons; the University's interpretation of its constitutional status is

that it has the authority to control behavior on campus and is not required to have signs or greeters on the campus. The University has not made a final determination on signage, Mr. Donohue added.

If someone chooses to challenge the University policy, especially in the Metrodome, and claim he or she is following STATE law, is there teeth in the policy, Professor Ratliff-Crain asked? The individual could be excluded from the event in the Metrodome, Dr. Maziar said. The first time this will come into effect will be August 30, which is the date of the first home football game. At the Metrodome there is a repeating tape playing as well as signs. It is possible that some group might identify an individual to challenge the University policy and allege a violation of the law, Mr. Donohue said. There is an anomaly in the law, he pointed out, in that the Twins and Vikings are allowed to prohibit weapons at their games but the University may not be.

Professor Sampson asked a question and made two observations. What is the legal basis of the policy: is it based entirely on the University's constitutional autonomy or is it related to the legislation? He said he could imagine it more likely that people would show up to make a statement about the University's policy than they might to make a statement about another organization's policy, which might suggest the need for signage, and if the Board of Regents adopts the policy, it would not be surprising if someone chose the Metrodome as a test.

Mr. Donohue said there are several theories to justify the University policy; he described them for the Committee.

In terms of signs, the University is not legally disadvantaged by not having signs, but in any event the Metrodome has them posted.

Professor Kane said she strongly supported the policy and said there should be a statement from the Committee expressing its support so the Provost can tell the Regents that the policy has support from FCC. The Committee adopted Professor Kane's sentiment by acclamation.

Professor Campbell expressed concern about a portion of the policy language. Mr. Donohue said the language permits the University to not allow people carrying weapons into an event; the written notice reflects the requirement of the trespass statute, and allows the University to arrest someone if the written notice has been violated.

Professor Kane said she worried that this policy, if it led to a test of the University's autonomy, could raise that more fundamental issue. Has the University's autonomy been confirmed? Mr. Donohue said that there have been five court cases concerning the University's autonomy; all five upheld the autonomy and four of them struck down a state act that interfered with the autonomy (in the fifth case the court held that the statute did not violate the University's autonomy). Autonomy is also being challenged in the presidential search, he noted. This issue could lead to additional court support for the University's autonomy, Dr. Maziar commented. Professor Speaks said that even if Mr. Donohue advised that there were overwhelming odds that the University would lose a case over the policy, that advice would not affect his (Professor Speaks's) view that this proposal is good public policy.

The concern in the past has been not whether the courts would support the University's autonomy but whether the legislature would propose to remove it, Professor Campbell said. Mr. Donohue said he

has been at the University 20 years; during that period there have been several when someone made proposals to eliminate the University's autonomy; the proposals never have much legislative support.

Professor Martin thanked Mr. Donohue for joining the meeting. Dr. Maziar remained a few moments.

6. Library Funding

Professor Martin turned to Professor Campbell. Professor Campbell reported that one of the issues that will be on the agenda of the August 19 meeting of the Senate Committee on Finance and Planning will be funding for library acquisitions. The Committee will hear from the librarians and explore concerns about the erosion of funding for serials. He said he suspected there would be support for the libraries as an important common good that should be funded as best the University is able.

Dr. Maziar said that the felt need to protect the libraries was in evidence as budget cuts were made. The libraries were protected in the first round of cuts because they have no tuition in their base budgets, so the formula used for budget cuts (which included tuition) did not require as large a cut as some academic units faced. In the second round of cuts, the libraries were not cut at all. She said she did not, however, want to minimize or trivialize the challenges that research libraries are facing (in part because of predatory pricing by journal publishers).

Dr. Maziar noted that Representative Martin Sabo is taking up the banner of academic publishing, and while the University may have concerns about the specific language of his proposal (which could have unintended consequences), it very much appreciates Mr. Sabo opening a dialogue about the value of scholarly publishing. Professor Erdman, recalling Dr. Maziar's interviews with both the DAILY and the STAR-TRIBUNE, commended her for going after commercial publishers and differentiating them from scholarly society publications.

Professor Martin thanked Dr. Maziar for joining the meeting--and welcomed the President.

7. Budget and Related Issues

The President began by saying that most decisions about the second year of the biennium are done, assuming the state revenue forecast holds and that the University makes the cuts it has planned. He said he was nervous about making cuts so fast. The colleges worked hard on their plans, he said, and they protected students; there were "heavy hits" at the central and local level in operating and service costs. In addition, of course, every employee gave heavily in increased benefits costs.

The administration is discussing how the University should absorb additional cost increases for 2004-05, as well as several million dollars in additional reductions, but the most difficult challenges are resolved in the next year. He also said he was worried about the slow economic recovery; the administration has built confidence limits around the budget and set funds aside to handle additional problems. The budget assumptions used, however, were fairly conservative: tuition will increase, enrollment will stay even, and grant funding will stay even. The data for most decisions will be available in September-October and most decisions will be ready by the time of the November-December revenue forecast.

Professor Martin asked if the Budget Advisory Task Force would continue and if there would be more time for consultation with the Senate Committee on Finance and Planning. The President said there needed to be a conversation about consultation. He has reviewed what took place over the last several months and there may be some disagreement about the extent to which the consultative process was used. He said the University had the strong support of the House, Senate, and Governor, so none of them supported restrictions on the University's internal budgeting. There are parts of the budgeting process that cannot be public, as when the University is weighing options, because that would politicize the process. He said he would like a discussion of how to do the job of consultation well, even though there may not be complete agreement on the decisions made.

Does the wage freeze cover coaches, Professor Speaks asked? If a coach has a contract that says he or she will receive an increase because of winning a national championship, that contract will be honored, the President said; he said he sees that as a pre-existing contract; otherwise, the answer is yes. There have been questions about some employees (not just coaches), but there will be no increase in base salaries (including him, the President pointed out). The University WILL, however, deal with retention cases in order to keep valued employees. There will be some things that will come out that people may not like, but those increases will be as a result of agreements made earlier that need to be honored.

(At the very end of the meeting, after all guests had departed, Professor Wells asked why there would not be similar consideration given, for example, for a faculty member who had landed a \$20-million grant. That individual receives nothing, she said. What about faculty who have done extraordinary things this year? Professor Sampson said he has made the point that a salary freeze affects EXACTLY those stellar performers--and those people can almost never catch up from the lost salary increase. There cannot be any management text anywhere that says that is a good way to run an organization. At the least, Professor Wells said, there should be instructions that units must carry this year's productivity into next year's salary decisions. The Provost may need to highlight that point in the salary instructions, Professor Martin agreed. She said that she would ask Professor Campbell to consult on the salary instructions for next year.)

Often during spring semester, when committees complained about the budget consultation, they were told that there could not be public discussions because of political implications, Professor Speaks recalled. At the meeting today they have learned of a very small decision, to save \$35,000, to provide only electronic versions of Kiosk and Brief. There is absolutely nothing politically sensitive about that decision but the failure to consult reinforces the sense of a lack of consultation.

The President said that he was imperfect in consultation, but not by design. He said he values the views of his colleagues and the consultative process. He insists on knowing what the consultation will be on all significant decisions. At the same time, there is a need to keep the conversation at the right level or the process will be debased; it cannot get down to fine details. But things like Brief and Kiosk, class schedules, and so on, that have University value, do need to be talked about, he agreed. But he does not want to talk about whether to cut five positions in his office (which he did), because that gets into micromanagement and the Committee would be spending its time on the wrong things. The Committee should focus on broad strategy and directions--and there may be disagreements about the details.

The committees can have sensitive discussions and not record them, Professor Martin observed. The President added that they need to identify a way to consult that also does not require 100 hours of work per week of people talking to each other. What is different about the University of Minnesota is that

there is a lot of consultation, Professor Kane said. Perhaps Vice President Gardebring thought she had consulted by the use of a survey about delivery of Kiosk and Brief, but when questioned about their consultation, people get defensive and want to talk to many committees. There needs to be a decision about what is meant by consultation--and it should be kept at the major items, she said.

Professor Sampson repeated for the President his earlier comments about Brief and Kiosk and noted that they could become a cause celebre. He said the President's handling of the political process over the last few months was very well done. Brief, he recalled, was read more during the tenure debate and the same thing could be true during a period of budget cuts. It could be important to have continuity in communication.

The President agreed that the delivery of Brief may need to be revisited. He said he had made the judgment to try to communicate with the entire University community (through a series of emails during the winter and spring). It was not perfect but it did make people feel that they could talk to him about ideas, he said. He said he did not want shortchange internal communication, which in his judgment helped the University deal with the current situation.

8. The Ombuds Report and Function

The President turned to the report from Grievance Advisory Committee (GAC), chaired by Professor Laura Cooper, which he described as a very good report. He said he appreciated the sensitivity of the GAC to the current budget situation. The University will have to make some investments in administrative and support services, from time to time, and he said he would like talk with the Committee later in the summer about them.

The President said he did not believe he could put new money into new positions for the ombuds function. The report asks that the University create a council to address a set of questions. His question is how, given the resources that exist in the units concerned, can the University more productively and creatively deliver what is needed? It may be that the University is not doing things quite right--offices are doing a good job, but what is stopping a better use of the dollars and human resources? It may be that the University Grievance Office can do more information gathering.

A second question, something about which he said he does not know a great deal, is whether the grievance policy itself is in part responsible for some of the problems. He said he has asked some people to examine that question. If a unit has a grievance, the President said, it often takes a very long time to heal the wounds; people often do not cooperate if put in a competitive situation.

Professor Martin said the Committee would talk about broadening the responsibilities of the University Grievance Officer to include providing advice. The President said he wanted to move forward on the ideas presented in the GAC report.

Both Professors Erdman and Wells, both of whom have been on grievance committees, lent support to the President's observation about wounds. Professor Erdman said as soon as the grievance process begins, a stigma attaches to both parties, who are then treated differently by the University and both become emotionally involved. Once a grievance has been filed, the situation changes and the relationship becomes adversarial. Mediation beforehand would work much better. Professor Wells, who has also been on the Judicial Committee, said that people must find a specific policy that has been

violated--and then it takes the administration two years to react. If there were a group that could advise on policy ("is this a violation of policy? if so, write a letter"), most of the problems could be solved. There is no one better than Ms. Chalmers to handle these kinds of problems, Professor Wells said.

Professor Martin said the Committee would continue to think about the issues. The President suggested it talk with Vice President Brown about them.

9. Capital Campaign Priorities

The President distributed a handout outlining his priorities for the funds from the capital campaign. Private giving now makes up about 10% of the University's budget; that could rise to 15-17% in the next ten years.

Professor Martin reported that she will, on behalf of FCC, send regular "thank you" notes to faculty who make contributions to the University. The President said he thought that was a very good idea and pointed out that the University of Minnesota has set records in that regard; faculty and staff at Minnesota contributed nearly twice as much as their counterparts at the institution with the next-closest amount given in a capital campaign.

His ideas about the capital campaign were laid out in a brief memo; the President said he would like to have Committee ideas about them. He said he believed students "must be job one," and the University must do a better job of raising money for capital projects. Does the focus on students include graduate students, Professor Bauer inquired? It does, the President affirmed, and his memo specifically includes them and professional students. He has thought about using the roughly \$20 million the University has for aid as a matching fund, if the donations are at the central level, so the money can be moved to where the greatest needs exist for both undergraduate and graduate and professional students.

10. Legislative Auditor Study of Faculty and Staff Salaries

The President reported that there will be a legislative auditor study of faculty and staff salaries. It will likely be done in the fall, before the next legislative session. He said it is his sense that the Legislative Auditor wants a credible report. Dr. Zetterberg in Institutional Research and Reporting will be the lead individual from the University, but the President said he would like to consult throughout the process; perhaps a subgroup from Faculty Affairs and Finance and Planning could be appointed to work with Dr. Zetterberg.

Professor Speaks noted that the Committee on Faculty Affairs had just completed an exhaustive study of faculty salaries; the President asked that a copy of the report be provided to Dr. Zetterberg.

11. Other Matters

The President suggested that one of the "intellectual future" discussions should be devoted to higher education in Minnesota. There is interest in this subject on the part of the Governor and other leaders in Minnesota.

Professor Martin noted that the Committee had asked about audits (1) of the increased funding that had been provided to the football program a few years ago (did the increased funding lead to

increased revenues?) and (2) of the funds from the Coke contract. The President said there is a review of football currently underway; he suggested the Committee speak with Vice President Brown about it. He added that the University needs football to be successful if there is not to be very rough sledding on the budget for intercollegiate athletics in the years ahead.

The President also commented that the football stadium issue will not go away. The deadline is 2011; there are many who want to see football back on campus.

Professor Martin thanked the President for joining the meeting and adjourned it at 3:05.

-- Gary Engstrand

University of Minnesota