

Minutes\*

**Faculty Consultative Committee**  
**Thursday, September 19, 2002**  
**1:15 – 3:00**  
**238A Morrill Hall**

- Present: Dan Feeney (chair), Gary Balas, Susan Brorson, Tom Clayton, Les Drewes, Arthur Erdman, Marti Hope Gonzales, Mary Jo Kane, Judith Martin, Jeff Ratliff-Crain, Martin Sampson
- Absent: Muriel Bebeau, John Fossum, Marc Jenkins, Candace Kruttschnitt, Marvin Marshak, Mary McEvoy, Charles Speaks
- Guests: Executive Vice President and Provost Christine Maziar; Vice President Sandra Gardebring (Institutional Relations), Professor Laura Koch (Faculty Academic Oversight Committee for Intercollegiate Athletics), Associate Vice President Donna Peterson (Institutional Relations), Associate Vice President Richard Pfutzenreuter, General Counsel Mark Rotenberg, Brian Swanson (Office of Budget and Finance), Amelious Whyte (Office of the Board of Regents)
- Other: Michael Berthelsen (Office of Budget and Finance)

[In these minutes: (1) report of the chair (support service accountability, IRB matters); (2) discussion with Executive Vice President Maziar (governance policy report; Commission on Excellence report); (3) the proposed joint-use football stadium]

**1. Report of the Chair**

Professor Feeney convened the meeting at 1:15 and reported on a few items.

-- Vice President Carrier is drafting a charge to a group working on support service accountability; he and Professor Martin will work on it with Dr. Carrier and will then bring it to the Committee for comment.

-- On the IRB issue, there is a meeting on September 23 with Messrs. Bianco, Paller, and Hamilton to discuss the issues. Professor Ratliff-Crain reported that Carol Siegel (from the Research Subjects Protection Program) visited the Morris campus. It seems that they are beginning to hear about the problems; they acknowledge that things can change. Working in concert with the program will help; many of the problems come down to a question of sufficient staff.

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## **2. Discussion with Executive Vice President and Provost Christine Maziar**

Professor Feeney welcomed Dr. Maziar to the meeting. He reported first on the governance policy: Professor Sampson and Dr. Engstrand are working on revisions to the document and they hope to have a version ready for further discussion by early next week. There have been some changes in language but the general substance is the same: differentiation among employee ranks. Dr. Maziar asked that Interim Vice President and Chief of Staff Brown receive a copy of the draft. Professor Feeney said he would forward one once FCC has approved the latest version.

Dr. Maziar said she wanted to thank everyone who put time into the development of the document--she was especially appreciative of the fact that the document is framed in terms of the responsibilities of the tenured and tenure-track faculty with respect to curriculum and academic programs. She noted that at the University of Illinois the provost's letter to newly-tenured faculty highlights the responsibilities of the tenured faculty. That sends a message, she said. All too often the public only sees tenure as a privilege, not as signalling the significant responsibilities the faculty must take on.

She said she understood that the faculty preparing the document are being sensitive to the issues raised by P&A colleagues; she said she appreciated the respect being shown them. She related that she has spoken with the leadership of CAPA and expressed her general support for the draft. Professor Feeney thanked her for her support and recalled that the general issue has arisen at least three times in the last ten years and said that it is time to put it to rest.

The Committee discussed with Dr. Maziar the level at which the policy might finally be adopted. Professor Feeney said that once it goes through this Committee, it would then be circulated to CAPA and the deans and would then go to the Executive Committee, which would include the chancellors. The decision about what level to adopt the policy at can be decided later, he said. He said he would prefer that it be a sound policy, well-done, rather than rushed through.

Dr. Maziar next reported on the Commission on Excellence. The penultimate draft of the report is done, she said, and the Commission hopes to release it next week. She noted that she was an ex officio member of the Commission--a legislatively created body--and that it could well have been perceived as inappropriate for drafts of the report to circulate broadly within the University. In part, that is because of the importance of having the report perceived and understood to be a Commission document, not a University document.

The report will be good for the University, Dr. Maziar predicted. It affirms the University's mission, scope, and features, and commends its work in improving the student experience as well as identifying key initiatives and delivering on them. The report will challenge the legislature to return the level of public investment in the University to past levels; it will challenge the University to be more aggressive in setting priorities and reallocating funds to those priorities. The report will suggest two readily-measurable goals: be ranked among the top five public research universities in the country and be among the top ten public AAU institutions as measured by graduation rate. The Commission wanted to say something about undergraduate education but could not identify as pithy a measure as rankings of research universities so it turned to the graduation measure.

So the measure is rate, not quality, Professor Balas commented. The Commission sought something it could measure, Dr. Maziar said, and a measure that was output, not input; the latter can

become too focused on SAT scores. Within four years, Professor Kane asked? Yes, Dr. Maziar said, but there is no deadline to achieve the goals. The University will keep pushing to be in the top 10; the report will clearly say to the University to arrange its programs and support for undergraduates to enable a high graduation rate.

A lot of policies are moving in the direction of encouraging graduation, Professor Martin observed. It is not impossible for the University to get better. A 50% graduation rate in four years would put the University in the top 10% of the public AAU universities, Dr. Maziar said. Right now it is way down the list; the 4-year graduation rate is in the high 20% range.

Does the report "connect the dots," Professor Kane asked, pointing out that if the state restores the funding, the University can achieve the top 5/top 10 rankings the report recommends? The report does not, Dr. Maziar said, and cautioned that such a link can cut two ways; it can become "funding is contingent on. . .," an option some states have adopted.

Another positive outcome of the report is that it affirms the Regents' institutional performance measures. The report aligns itself with the governing body and advisory groups that have given the University direction. The report will be very useful for legislators and contains a great discussion of rankings, Dr. Maziar told the Committee.

If the administration signs on to improving graduation rates, what new initiatives does she see as a way to get colleges to buy into the goal, Professor Balas asked? There is already college support for the goal, Dr. Maziar said. She said she believed the Board of Regents will want to weigh in on the report--they are the governing body of the University, not the Commission, she pointed out. The impact of the report will depend on the extent to which the Regents adopt it.

What became of the proposal to identify five high-priority undergraduate programs, Professor Martin asked? That was a different legislative rider, not part of the charge to the Commission, Dr. Maziar said.

Does the goal of a 50% 4-year graduation rate accommodate non-traditional students who have legitimate reasons to go more slowly, Professor Sampson asked? One can divide the undergraduate population in two and should not count as part of the statistics the opportunities the University wants to provide to the community. Dr. Maziar said this was a good point. The Commission was asked by the legislature to review the University's mission and programs and make recommendations on directions to take that would confer the recognition of excellence. The recommendation of the Commission needs to be viewed in light of that legislative direction. It is also helpful to note that Commission did not choose a graduation rate but rather a peer group against which the University would be benchmarked.

Dr. Maziar noted that the Commission, early in its work, made clear that its focus would be on the Twin Cities campus, not the system. It focuses on Twin Cities issues and says so, in order that no one can misunderstand why there is not mention of the other campuses. The legislative intent was a focus on the Twin Cities. Professor Ratliff-Crain said he understood the focus but pointed out that some who want to clarify the mission and reduce funding for the University might argue that it eliminate the coordinate campuses; does the report leave the University open to that attack? This is not the University's biennial request, Dr. Maziar commented; the fact that the Commission states up front that its analysis and recommendations are focused on the Twin Cities actually provides the President with the opportunity to

frame the discussion of the contributions of the coordinate campuses in a way that is not overshadowed by the mission of the Twin Cities campus. This is NOT a University document, she emphasized, but its messages can be useful to the University.

Professor Drewes asked if the release of the report was timed with any relationship to the November election and what role the report would have in the legislative session. The report release was not timed to have any relation to the election at all--it will be released next week, Dr. Maziar said. The original due date was July 1; late appointments to the Commission made that date unrealistic. In terms of the legislature, she said it is hard to know given the turnover that will occur. The technical report section has a wealth of information that will help in briefing new legislators about the University's mission. The University may find it useful to quote parts of the report during the legislative session, she said.

Does the report talk about access versus excellence, Professor Feeney asked? The way the Commission talked about access, Dr. Maziar answered, is to say that it is important to ensure that there are no financial barriers to the University. It does not, for example, call for a University instructional presence throughout the state. The University can raise its graduation rate easily by raising standards so high that only the most able students would be able to attend, Professor Feeney pointed out. The Commission said that admissions standards will rise, but it supports a holistic view of admissions--and it did NOT try to frame the University's admissions standards. It focused on the output goals.

What role does the Board of Regents have in this, Professor Kane asked? Dr. Maziar said she would not presuppose what the Board would do--but it will need to comment on the report if it is to have any influence on University policy. Since the Commission endorses the Regents' performance measures, it is a very positive step. Is there anything in the content that the University will need to respond to, Professor Kane followed up? Nothing maligns the University, Dr. Maziar said; it challenges the University to do certain things but there are no smoking guns in the report.

Professor Feeney thanked Dr. Maziar for joining the meeting.

### **3. The Football Stadium**

Professor Feeney now welcomed Vice President Gardebring, Associate Vice President Richard Pfitzenreuter, and General Counsel Mark Rotenberg to the meeting to discuss the status of discussions about a proposed joint-use University-Vikings football stadium. He noted that a number of different Senate committees have expressed concerns; the faculty do not want to be "standing around" while things are happening. This Committee did develop a list of concerns that were provided to the three of them; that list will be incorporated in the minutes of the meeting as well as sent to the administration and the Board of Regents. Up to now there have been a number of "off the record" discussions of the stadium; it is time that the issues be on the record, he concluded.

The draft list of issues prepared by the Committee, with contributions from the members of the Student Senate Consultative Committee, as edited within a few days of the meeting, read as follows:

[begin statement of issues]

The Senate Consultative Committee acknowledges with appreciation the principles set forth by the Board of Regents that are to guide the University as it considers a proposal for a

joint-use football stadium on the University campus. The Committee is pleased at the Board's concern and wishes to affirm its support for those principles.

Like every other major public research university, the University of Minnesota is struggling to maintain its quality as a first class research and teaching institution. The University of Minnesota has many and significant undergraduate and graduate teaching missions; tuition income from the students in those programs is crucial to the University. It is also a center of research excellence with many faculty liable to be lured to private universities. There are expectations among Minnesotans that the University's research and cultural endeavors will continue to contribute importantly to the economy and quality of life of Minnesota. These are exactly the challenges the University should meet. Doing so is not easy in an era that has brought increased affluence to many private universities but a continual decline in state funding as a proportion of public university costs.

In this context it is striking that a proposal for a joint-use University-Vikings stadium engages none of the core needs of the University as it addresses these challenges. Instead, the implication is that the stadium would encumber the University's core endeavors with new management obligations, and possible financial commitments, in exchange for a more campus-focused football atmosphere six Saturdays a year. No one proposes that University-Vikings stadium income could lower tuition costs or finance research. No one seriously argues that the University's efforts at private fund-raising would benefit significantly from the existence of a University-Vikings stadium on campus. (Indeed, during long years of poor results on the football field and home games at an off-campus location, the core missions of the University of Minnesota have benefited immensely from the generous donations of friends and corporations and the University is among national leaders in the private support it receives.) No one argues that state appropriations would rise or that the University would be more successful in communicating its multifaceted mission to the citizens of the state were a joint-use stadium to be constructed.

If state research universities were not under siege at the present time, the lack of connection between the stadium idea and the well-being of the University would be merely perplexing. That this lack of connection characterizes the proposal precisely at a time when tuition has been rising and state support has dropped makes it deeply worrisome.

The risks and opportunity costs of this proposal for the University intensify our concern about this situation. The University becoming the sole user with massive costs the Vikings were supposed to shoulder is among the risks. Iron-clad legal structures to prevent the Vikings from backing away from the agreement cannot address other risks that have no legal remedies, such as NFL football losing popularity or an owner who opts to intentionally run the team into the ground as prelude to selling, a scenario not unfamiliar to Minnesotans. The wisdom of consigning the last sizeable parcel of available land on the Minneapolis campus to a six-Saturdays-a-year use demands systematic thinking about other potential uses the University might have for that area. We see little evidence the University is seriously asking itself this question. Whether the improvement in campus atmosphere sought by moving football back on the campus would be overwhelmed by the chaos of an NFL football crowd merits consideration. So do possible uses of naming rights that would do little to honor the University. A fourth issue is whether a campus with on-campus hockey facilities and a first rate hockey program in a state with an august hockey tradition really suffers significantly from off-campus football.

In short, we are deeply concerned that the administration may have focused its assessment on the far too narrow question of what an advantageous Memorandum of Understanding with the Vikings should look like. The first question should ask how the proposed concept would benefit the core missions of the University of Minnesota that the state quite rightly expects the University to continue despite the mammoth challenge from private research universities. If, as we suspect, risks and substantial opportunity costs preclude satisfactory answers to that question, then our second question is whether enough effort has gone into consideration of alternate locations, such as the State Fair grounds. We are also concerned that the alternative of the University as a tenant in a Vikings stadium constructed off campus seems to be lost in the shuffle.

Here is an itemized list of our concerns.

1. A major concern is the potential for catastrophic drain on institutional resources should there be a default on the stadium (current legislation provides that the stadium is owned and operated by the University): What if the Vikings, for whatever reason, no longer play in the stadium? What is the University's financial obligation for the stadium? The idea that the well-being of the University (financial and otherwise) will rest in part on the agenda of a professional sports team, a private, profit-making enterprise, is not appealing.
2. How is the loss of the last large open space on the East Bank campus being factored into the cost estimates? Is the opportunity cost included in the costing? Will the loss of space for such things as a translational research facility, medical clinics, for other Academic Health Center uses, or for other academic purposes have on the ability of University programs to be located on the campus? Once a stadium is up, the land is gone and cannot be dedicated to the academic mission of the university or to support activities at the service of that mission. It is critically important to ensure that any stadium is designed to maximize space for academic endeavors and for support for those endeavors.
3. Will there be an operating budget in place to pay for upkeep, cleaning, police, maintenance, utilities? Where will this money come from? How will the University handle the stadium's depreciation? And quite specifically, who is going to ensure that the inevitable litter in the aftermath of tail-gate parties and Vikings' games is disposed of? What will it cost? (If it is not paid for, former President Yudof's campaign to beautify the campus will be permanently set back.) Are there instances where University resources may be used to make this project possible and where its potential financial effects have been (or will be) underestimated (e.g., will there be expensive surprises about security, clean-up, etc.)?
4. The current proposal calls for the University to build a \$60-million parking ramp; University projections suggest it will lose \$3 million per year. Where will that money come from? University faculty, staff, and students? Just Twin Cities or coordinate campuses as well? Could the \$60 million be better spent elsewhere? There is a concern (1) about affordable parking for times outside of game days and (2) the effect game days may have on faculty, staff, and particularly student parking on campus. (See #11.) Is building a money-losing ramp to meet parking needs for 10-15 days per year (and giving the money for Vikings parking to the Vikings) a good investment? Spreading the parking across campus (i.e., using existing spaces and busing

fans to the stadium) may be a better solution, provided students, faculty and staff don't have to pay for this situation by being victims of "event parking" and full ramps when they come to campus. The prospect of yet another money-losing venture is unsettling, particularly in these uncertain political and economic times.

5. What will be the effect of having NFL fans on campus (some of whom may consume more than a modest amount of alcohol)? In addition to general behavioral issues, will there be an increase in the need for (and the cost of) security in the dorms, the parking ramps, and campus buildings in general as well as the increased clean-up. "After victory" mass celebrations (the likes of the hockey championship "celebration") near both campus and a football stadium will increase the likelihood of damage to University property. Who will be responsible for the costs of repair?

6. What will be the effect of the money spent on the stadium on the willingness of our legislative colleagues to appropriate funds for academic purposes? (The University does not want the cost of a stadium to count against what the legislature will give the University for its academic mission.)

7. Who decides what is an appropriate event when the stadium is used for non-football events? What if there is a conflict in scheduling between a non-University and a University-sponsored event? Who will have priority in scheduling non-football events at the stadium?

8. If there is to be a stadium--whether only for University football games or a joint-use stadium--the facility must have multiple uses and include recreational athletic space, possibly some continuously operating retail space, user-friendly meeting space, and a focal point for on campus transportation (that is functional other than for 10 - 15 football games/year).

9. Has there been any thought about alternative places to put the stadium? What about on the site of the University golf course or on the State Fair grounds? Or next to the current stadium (and expand the University campus towards it)?

10. Where will the power for the stadium come from--the University power plant or Excel? Can the UMN power plant handle the additional load?

11. Is football (and other event) traffic being considered in assessing the effect of a stadium on campus life, students, and access to University? On football game days, the East Bank will be virtually inaccessible to anyone coming from off campus. The need for people to get to campus on Saturdays and Sundays may be lower than during the work week; a professional football game on a week night during the regular academic year will create a nightmare for the thousands who come to campus for evening classes.

12. Is there consideration of the effect this structure will have on the campus décor? The proposed stadium will be enormous in comparison to other buildings in the surrounding area (it probably cannot be put partially below ground because the water level is too close to the surface) and would dominate the skyline of the campus.

13. Do the students/faculty/staff want this dual-use stadium on campus? Is a Gopher-only stadium being considered? Would it be a better use of the money?

[end statement of issues]

Voting on and formal transmission of the statement to the administration and the Board of Regents will be completed shortly.

Mr. Pfutzenreuter began the discussion and said he would focus on the predesign process; Mr. Rotenberg will talk about the Memorandum of Understanding (MOU) that is being negotiated with the Vikings. Mr. Pfutzenreuter drew the attention of Committee members to the "Guiding Principles" the University will use in its negotiations for the stadium. The Board of Regents discussed these principles at their meeting in September and made some changes; an updated version will be provided when it is ready.

Mr. Pfutzenreuter reviewed briefly how the situation evolved to where it is now, recalling the earlier discussion about renovating the Metrodome, which the Vikings rejected, the work of the stadium task force, and the legislative action appropriating \$500,000 to the University for predesign work and for development of an MOU with the Vikings. He noted that the University pays no money to play in the Metrodome, it also receives no money other than its own ticket revenue and a small amount from concessions.

One of the possibilities the Committee has inquired about is whether, if the Vikings were to leave and the University were to "inherit" the Metrodome, there would be a revenue stream to maintain the facility, Professor Martin commented. There would not, Mr. Pfutzenreuter said. The Twins pay very little for use of the Metrodome. The Vikings pay \$6 million of the \$9 million annual operating costs and are annoyed that they subsidize the Twins. If the Vikings leave, and the Twins are in a new baseball stadium, someone must pay for the Metrodome. The University would not want it; it would be an albatross, Mr. Pfutzenreuter said.

The University has hired an EXCELLENT team to work on the predesign and the MOU, Mr. Pfutzenreuter assured the Committee; it has leveraged the \$500,000 a great deal. The typical predesign costs about 1% of the total facility cost, so for a \$500 million stadium it should cost about \$5 million. The University is spending \$500,000 and is getting its money's worth. The predesign, Mr. Swanson explained, addresses the questions of what will be built, how it will be paid for, and what it will cost. It includes such things as the facility itself, the site, parking, transportation--all things physical, Mr. Pfutzenreuter added. Usually a predesign includes only the building, Mr. Swanson said; in this case it also includes the surrounding area. The MOU, in contrast, is all things transactional, Mr. Pfutzenreuter explained--how the building will be operated, how revenue will be shared, and so on.

Mr. Pfutzenreuter said the administration is doing a great deal of consulting inside the University as well as with public agencies. They are trying to be thorough in getting information. The schedule is short: the MOU and predesign are due to the legislature December 1, 2002 (the University will be slightly late because both items will be brought to the Regents in December for discussion). When the Board acts, that decision will be transmitted to the legislature; Mr. Pfutzenreuter said he did not know what would happen after that. The University will complete the predesign and MOU and turn them over to the legislature.

The Vikings plan an aggressive approach to the legislature to get a stadium. One reason is that the money from the NFL (a loan program matching the owner's contribution to a stadium) will supposedly not be available after March, 2003. Mr. McComb has said he will contribute \$100 million; the corresponding NFL loan would be \$50 million, repaid from TV revenues from visiting teams.

Professor Erdman asked Mr. Pfitzenreuter to review why other sites, such as the State Fair grounds, have not been considered as a site for a new stadium. The Vikings talked to the State Fair, Mr. Pfitzenreuter responded; the State Fair said they did not want the stadium. As for other sites, the University position is that it wants football on campus; the only site available that achieves that goal is the parking lots north and east of Mariucci Arena on the East Bank.

What about the golf course, Professor Balas asked? One of the University's principles in the negotiations is that the game-day experience should be enhanced, Mr. Swanson pointed out--so students can walk from a dorm, the game is near other athletic facilities, and so on. That would not be achieved if the stadium were on the site of the golf course. There is also inadequate infrastructure for a stadium on the golf course site. Professor Martin said the infrastructure is equally inadequate at the East Bank site.

Professor Erdman said it was inconceivable that no other sites were being considered. Mr. Pfitzenreuter said the University is only analyzing the East Bank site. Most of the concerns identified by this Committee have to do with that site, Professor Erdman observed; he said he understood the goal of a college sport experience on campus, but all the major problems arise because of the proposed location. The problems would be mitigated even further if the stadium were moved to Shakopee, Mr. Swanson responded; the farther it is away from campus, the more the game-day experience is diminished.

Professor Sampson pointed out, vis-à-vis "enhancing the game-day experience," that there are only six days per year when this is important. Has anyone analyzed why this is so important? Are the financial reasons? Intangibles that the Committee does not understand? When Memorial Stadium was torn down, there were not that many people who missed it. He recalled that when he was a new faculty member, after Minnesota beat #1-ranked Michigan, there were few clues on campus the next day to what had happened.

Professor Sampson asked if steps were being taken, with the predesign, to look at such things as parking and transportation. They are, both Mr. Pfitzenreuter and Ms. Gardebring assured the Committee. They are looking at marketing the State Fair grounds for tailgating and use of buses on the transitway, how to coordinate the proposed Washington Avenue LRT with the games, and possible coordination with the commuter rail that would run near the north end of the campus. Professor Martin pointed out that the planned commuter rail would run only on weekdays.

Apropos a handout from Mr. Rotenberg entitled "Consultant Team Summary, Gophers-Vikings Stadium Proposal," Professor Kane asked if there is a distinction being drawn between asking if the University is INTERESTED in collaboration and if the collaboration is a given. She pointed to the language of the first sentence of the handout: "Last session, the Minnesota Legislature requested that the University of Minnesota and the Minnesota Vikings reach an agreement on the development and operation of a joint Gophers-Viking stadium to be owned and operated by the University and located on the Twin Cities campus." She said she found this language deeply troubling because it assumes there will be a joint-use stadium, a proposition which she finds completely unacceptable.

Mr. Rotenberg said the language in the handout paraphrases but reflects the legislative language. He noted that the legislature respected the University's constitutional autonomy (it "requested," it did not instruct). The "request" permits the University to say "no." Given the University's constitutional autonomy, the legislature cannot instruct the University to enter an agreement; the language defers to the Board of Regents' autonomy and authority to decline to enter into an agreement.

When the Board of Regents meets in December to review the MOU and the predesign, it can decide to report to the legislature that it did not like the MOU and predesign and could not come to an agreement with the Vikings. What is on the table now are all issues related to a joint-use stadium on campus owned and operated by the University, Mr. Rotenberg said. The MOU will encompass all the issues that appear on the FCC list of concerns: what if the Vikings leave, opportunity costs, operating costs, whether other University revenue streams are at risk, and so on.

And if the answer to the last question is "yes," the University's answer is "no," Professor Martin asked? All issues are up for discussion, Mr. Rotenberg said, including such things as whether the Vikings should pay for part of the cost of a parking ramp and whether Mr. McComb should pay for getting the University's name attached to the stadium. With respect to the latter, his asset will increase in value by millions of dollars if he obtains an NFL-quality stadium at the University. Conventional business practice holds that if one does not hold equity in a business, one does not participate in the increased value of the business. The University has no equity in the Vikings. In this case, however, it may be that the University's contribution to the increased value of the Vikings should be recognized in the funding of the football stadium.

Professor Kane said that many people would agree with goal of enhancing the game-day experience; there is an assumption that a joint-use stadium would accomplish the goal. Is anyone considering a stadium WITHOUT the Vikings? Mr. Rotenberg said he was aware that there is some sentiment among members of the Board of Regents favoring that option but he did not know those holding that view would constitute a majority of the Board when the meet in December. His job, he said, is to bring an MOU that his client wants. Some believe the University's principles with respect to a football stadium could better be met without the Vikings.

Mr. Pfutzenreuter cautioned that the Committee must bear in the mind that the legislature will not build two stadia. So the University needs to take care of Mr. McComb's problem, Professor Kane asked? Mr. Pfutzenreuter said the legislature would probably rather build a stadium for the Vikings, and let the University end up playing in it, than let the Vikings leave the state. They will also build a baseball stadium, Professor Martin pointed out, rather than let the Twins leave.

The legislative action reflects a policy judgment that this is the best way to proceed, Vice President Gardebring said. It is asking the University to bring the outline of a proposal and what it will cost, how it will be run, and so on; the legislature will then decide whether it wishes to put money into the project. It asked for a proposal. The Board of Regents could say the proposal is not good enough and it could make the University's principles so tight that Mr. Rotenberg cannot get a deal. The Board DID tighten up the principles at its September meeting, she pointed out. The Board is mindful of the University's interests. The question is, if the University is pushed into a situation, what is the best deal it can get? Right now it is a third-class tenant in the Metrodome, she said.

And why is that important, Professor Balas asked? This is a very small part of the University and it affects six days per year. So what if it is a third-class tenant? What frustrates faculty is that this project is consuming administrator time. Professor Kane agreed but said she was more worried about the University's position vis-à-vis Mr. McComb: at best, the University could be a second-class tenant. Mr. Pfutzenreuter demurred; under the terms of the MOU and the lease, the Vikings are the UNIVERSITY'S tenant.

Mr. Rotenberg said that it does not appear to him that the two groups dealing with these issues are evenly matched; the University should not be under-rated because it has people who are veterans of dealing with Mr. McComb. University negotiators like its position: The University can say no. This is not like a municipal commission that is trying to keep a team in a city (as with the Chicago Bears at Soldier Field). The University is a teaching and research institution that does not need to keep the Vikings in Minnesota. As long as the Regents can say "thank you for working hard but this agreement is not good enough," there is an increased likelihood of a good deal for the University. This is not, Mr. Rotenberg repeated, like an elected official whose job depends on successfully keeping a team in a city. These negotiations are "outside the box" because there have never been negotiations between a university and a professional football team from the ground up. There is a major disconnect between the goals of an entertainment-oriented football team and a teaching and research institution; the question is whether those goals can be meshed. The legislature could imagine that funding a joint-use stadium is a way to say to the public that it did not give an asset to Mr. McComb but rather to a teaching and research institution. That will be up to the legislature to decide, he concluded.

Mr. Rotenberg described the various elements that will be included in the MOU, including athletic and non-athletic program requirements. Professor Martin said the faculty have been told that there will only be 50,000 square feet in a stadium for academic purposes; that is a tiny amount of the total space that will be available. Mr. Swanson said there is a group working on that issue. It will be addressed in the MOU, Mr. Rotenberg added. The University can make demands about the space. Other elements in the MOU include such things as construction time, the number of seats, number of club/luxury suites, retractable roof, parking, allocation of parking revenue, and financial and equity contributions. On the last, Mr. McComb has talked about a \$100-million contribution, but that could be linked to naming rights (which could generate sufficient income to cover much of the \$100-million contribution). Mr. Pfutzenreuter said that naming rights is complicated because it is no longer just the building but also parts inside the building.

Another element of the MOU is lease term, which is a big deal, Mr. Rotenberg said. It will include the conditions for early departure of the Vikings. This is of interest to the people of the state as well as the legislature, because if there is bonded debt that remains to be paid, it will be the people of the state and the legislature who pay, not the Board of Regents. There will be great interest in seeing the Vikings locked into a lease.

In terms of governance, will the stadium be run by the Regents and the administration like the Law School, the Crookston campus, and Northrop? Or will that create mission creep, putting the administration into the business of being a sports facilities commission when it was selected to run a research university?

Most of the concerns raised by FCC are subjects of discussion with the Vikings, Mr. Rotenberg told the Committee. If the client (the University and its Board of Regents) does not like the deal, they can

instruct him to try to get a better one or say that it is not a good deal and the University does not want to build a stadium. That is fine, he said; his job is to make sure his client's will is represented.

This is not just negotiation with the Vikings, Mr. Pfitzenreuter said; the UNIVERSITY'S position must be included in whatever goes to the legislature. The legislature can change the deal that is proposed so it must know the University's position.

Professor Sampson said he was not impressed with the comparison with a city trying to keep a team. Public Research I universities are fighting for their lives; the only benefit to this effort is that it gets a football stadium for six days per year. Chicago keeping the Bears is not the same as the people who will lose at the University. The losers will not be people at the table. They will be students who pay higher tuition later and researchers for whom there is no space to construct research facilities. What if there is a Viking stadium that does not have a problem with the Twins? What does the University lose if it is in an NFL stadium? It may be in a suburb, which would be less convenient. It is unlikely students will attend in any significant numbers unless the team wins. He asked Mr. Rotenberg if he in the position of having been asked by the Regents to develop an MOU period or whether the Regents have asked advice on whether the MOU as devised makes sense for the well-being of the University? In other words, did the Regents ask for an MOU that adequately captures what is at stake for the University and to which the University might say "no" even if it contains everything the University wants because the risk is so great?

Mr. Rotenberg said that he has a role as a senior officer; he is asked advice and he will offer it confidentially--but in that he is no different from the other senior officers. He may spend more time on the stadium than the others but he doesn't necessarily have any more wisdom. The client must decide if it would be acceptable to have a football program that is not on campus, in an NFL stadium, with no University role in running the stadium. He said that while he may have an opinion on the question, the view of this Committee might carry more clout.

Is there any macro approach to the stadium issue, Professor Sampson asked? The consultative process is an effort to help the community deal with the issues and to bring to the President and the Board of Regents an awareness of the key issues. This is a diffused decision structure; this and other committees and groups play a role at the level of abstraction that Professor Sampson is concerned about. One possibility would be to let the University work on teaching and research, let the Vikings work on their own needs, and let the University follow the Vikings on the stadium. The University community must decide that, not the General Counsel, Mr. Rotenberg said.

On the other hand, there are issues a transactional lawyer can deal with, such as whether the Vikings can get out of the contract and leave town. Mr. Rotenberg said he will be prepared to offer his professional advice to the Regents on whether the Vikings could break a lease. His major objective is to provide maximum legal security to the University and ensure there is no significant risk the Vikings could break the lease. If he cannot say that to the Regents, then he will say the opposite--that there is a risk.

One danger is not that the lease will be broken but that an owner would just let a team fade away so the fans don't attend, Professor Sampson said. Or there is the question of whether NFL football will continue its predominance as entertainment in American popular culture, Mr. Rotenberg said; it need not even be a case of a laggard owner. One way to protect the University is to provide in the MOU that the University's assets will not be at risk if the NFL team leaves or declines in profitability. The big question then, however, is WHO pays? The burden would have to go to the state, Mr. Pfitzenreuter said; the

University should walk away from a deal if there is not an open appropriation to cover costs in the event the NFL team does not or cannot. The University can build in language providing that in no event is it on the hook for the costs--but there are some things a contract cannot say. If there is this huge building on campus and it gets cobwebs in it from lack of NFL use and funding, what will the University do? Some problems cannot be solved legally, Mr. Rotenberg observed.

Professor Gonzales said that her concern, while the University is working to get the best possible deal with the Vikings, is that the legislature will tinker with the MOU or that it will punish the University if it does not agree to an MOU. Have there been any winks or nods about a link between the University's appropriation and the football stadium, Professor Kane asked? "What are we THINKING" she asked emphatically. The University should not even open this Pandora's box of an agreement with the Vikings. The Committee held a brief off-the-record exchange about the legislature, gubernatorial candidates, and the stadium.

Professor Drewes told Mr. Rotenberg the faculty will be counting on him to make a deal to protect the University. He commended the administration for its involvement of the many groups in the discussion; they are hearing a lot of concerns. He said he assumes there will be an MOU no matter what; given the principles the University has enunciated, are there any issues on which the University will be vulnerable? Things the Vikings do not like? (Besides the money, Professor Martin asked?)

There are, Mr. Rotenberg said. The Vikings are oriented to the bottom line. Mr. McComb wants his asset to increase in value to he can sell it. For that to happen it must generate revenue, it must be at a certain place in the NFL, and it needs a certain kind of stadium. Any money he has to put in or give to the University will be more of a sticking point than aesthetics, transportation, the financial package, and so on. Second, the principle that the stadium must generate benefits for the University could be a problem--why should the University receive revenue from HIS asset?

The University is in a powerful negotiating position now, Professor Erdman said; his concerns will increase when that position is gone. The University is in a complex negotiating position and any agreement could be changed by the legislature. The University does have a trump card--it can say "no"--but he expressed worry that the University could give up on some tough concern that is related to student/faculty welfare.

Professor Martin said that almost everything that has been discussed has been about the financial element of the stadium. The legislature MUST hear about the quality-of-life issues that arise as a result of having an NFL team on campus, she emphasized; that is the real rub. There will be a big building on the edge of the campus that will do little for the University. The legislature must understand that having the stadium will change the campus, that the stadium is not about teaching, research, and outreach. At the same time, she said, she understood the University is being used as a tool.

There are no other sites being considered, Ms. Peterson said, but if the Regents say "no," that does not mean a stadium will not be built.

The State Fair grounds would be great, Professor Sampson said. The University might not make as much money but there would be no conflict with the life of the campus. The University is already paying more than it should be for athletic facilities and it is fighting for its programs; these circumstances do not square with the huge amount of central administrative time taken for the stadium, and the worry

about funding, when there are issues that range from undergraduate education to medical contributions to public health. He said his question is not so much about dual use as about the amount of focus on the issue. There is a fundamental conflict between this issue and the discussion about the report of the Commission on Excellence with Dr. Maziar, Professor Martin maintained.

Would all these comments be the same if the stadium were exclusively used by the Gophers, Ms. Peterson asked? Professor Kane said she believed a lot of faculty would support a University-only stadium. The subtext in this is a profit-making NFL team. There could also be a lot more space available for other uses in a Gopher stadium, Professor Martin said.

Professor Feeney concluded the discussion by telling Messrs. Pfutzenreuter and Rotenberg and Ms. Gardebring that "you know how we feel." Both Mr. Pfutzenreuter and Mr. Rotenberg said that as long as the University can say "no" it has a lever. Mr. McComb knows that he cannot get a stadium without the University's participation. Despite occasional rhetoric about leaving, his asset will not increase in value without the University's help. The question is whether the University can get an acceptable agreement.

The University's opportunity costs must be kept on the top of the list, Professor Martin said.

The alternatives must be thought about as well, Professor Ratliff-Crain said, if there WILL BE a stadium. Mr. Pfutzenreuter said there are three options: renovation of the Metrodome, a new stadium on campus, or a new stadium elsewhere. The option of elsewhere is not being discussed and the legislature has largely dismissed renovation.

Professor Feeney thanked everyone for coming to the meeting and adjourned it at 3:30.

-- Gary Engstrand

University of Minnesota