Minutes[*]

Senate Committee on Finance and Planning
Tuesday, November 4, 1997
3:15 - 5:00
Room 238 Morrill Hall

Present: Fred Morrison (chair), Jean Bauer, Catherine French, JoAnne Jackson, Gerald Klement, Leonard Kuhi, Robert Kvavik, J. P. Maier, Peter Robinson, Charles Speaks, Susan Weinberg

Regrets: Jane Phillips, James VanAlstine

Absent: Cynthia Gillette, Stephen Gudeman, Richard Pfutzenreuter, Joby Sebastian, Shenoa Simpson

Guests: Ryan Johnson (Treasurer's Office); Associate Vice President Stephen Cawley

Others: a Daily reporter

[In these minutes: Insurance coverage for faculty, departments; projects on the South Mall; computing system improvements]

1. Insurance

Professor Morrison convened the meeting at 3:25 and welcomed Ryan Johnson to the meeting to discuss insurance coverage.

Mr. Johnson distributed a handout outlining the four different kinds of insurance coverage carried by the University: Educators Legal Liability (covering sexual harassment, discrimination, employment claims), General Liability (slip/fall, bodily injury), Property (fire, water damage, business interruption, theft), and Professional Liability (malpractice). Discussion immediately turned to the deductible provision for the Educators Legal Liability insurance, which is $50,000 per claim for the University and for departments (with no deductible on legal defense). The deductible is paid only when there is a settlement or a judgment.

Mr. Johnson explained that the Educators Legal Liability is the one line of insurance carried by the University which has had a record rise in claims (a phenomenon occurring nationally). This policy is carried through Ruminco, the University's captive insurance company. Committee members raised a number of points.

-- The deductible is paid by the department, not the individual who acted badly? Mr. Johnson

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affirmed that to be the case; if the individual was acting within the scope of employment, the University will indemnify individuals (with a few exceptions). This includes bad management.

-- $50,000 is more than the non-salary budget for many departments, and to pay the deductible would essentially wipe out a budget.

Mr. Johnson reviewed the history of premiums and claims under the Educators Legal Liability policy. In essence, the premiums paid from 1994 to 1997 were substantially less than the cost of claims. Beginning in 1995, the policy was set up so that the deductible to departments was $10,000, but the premium for the policy went from $150,000 to $250,000. The premium and deductible remained the same for the next three years, but the cost of claims (1995-1997) went from $515,000 to $697,000 to $1,283,000. These losses required a change; either the deductible had to be increased or the cost of the premium would increase--to about $1 million annually. For 1998, the premium increased to $667,000 and the deductible increased to $50,000. Mr. Johnson pointed out that the situation was actually worse than the numbers suggested, because in those instances where the General Counsel's office handles a case, the legal costs are not levied against the insurance policy.

-- In response to a question from a Committee member, Mr. Johnson explained the benefits to the University of self-insuring; Professor Morrison added that he had been involved in the creation of Ruminco, and was satisfied that self-insurance was the best way for the University to proceed.

-- While the number of claims under this policy has increased almost exponentially (from 3 in 1994 to 32 in 1997), there is no pattern to where they occur. They are scattered around the University, and are different kinds of claims. Some, Mr. Johnson told the Committee, are simply the result of bad management or not thinking about what one is doing. Mr. Johnson said that while the Americans with Disabilities Act has done much to improve the situation for those with handicaps, it has also led to an increase in litigation.

-- This situation would suggest, it was said, a need for better training of managers. Mr. Johnson agreed, and said that at his previous position, he was required to go through a lot of training once he assumed supervisory responsibility. The University seems not to do this--a proposition with which one Committee member took issue, pointing to the training provided by Associate Vice President Carrier and Dr. Delmont in Human Resources as being very effective. The problem, Mr. Johnson said, is that it only covers a small percentage of people at the University.

-- Ms. Jackson said she could not figure out whether there was any relationship between the number of claims and the (supposed) policy of the University to defend deans and administrators, not faculty, thus forcing faculty who cannot get help from the General Counsel to use outside attorneys and go to court.

-- One Committee member recalled experience on the Judicial Committee: a majority of the cases came from the Medical School, where there were "egregious violations" of people's rights. Even though the President was told, the Medical School did not change. (Mr. Johnson told the Committee that at least with the Educators Legal Liability, the Medical School does not have a record different from other units.) It was suggested by another Committee member that the

Committee advise the central administration to lean on the deans, and to tell them that if there are too many of these kinds of claims, that fact will become part of the dean's performance review, and that if it continues, the University will look for a new dean and department chairs. The administration has too often been seen to take the position that it will pay the claims, and support the administrator who caused them to be made, rather than deal with that administrator.

-- This appears to shift $40,000 in costs of deductibles from Finance and Operations to academic departments, and since a $50,000 claim would devastate a department, and be more money than it had, this becomes a loss-carrying scheme, not insurance. Was there any consultation on this with deans and department heads? It was part of the budget process, Ms. Jackson explained, but there was not specific discussion of it. With insurance costs rising, the only way to limit them was to change the deductible. One Committee member suggested that since departments have no money for these claims, they need an insurance policy to cover this deductible.

-- Departments can appeal a claim. The $10,000 deductible was to make departments aware of a problem; it did nothing to stop claims (although maybe they would have increased more quickly without the deductible). It is not clear if the $50,000 deductible will have an impact; it appears not to have. If a department is TRULY not blameworthy, the deductible can be appealed to the dean and central administration; the department will not be put out of business. ANY claim will be appealed, said one Committee member, and if successful, the funds will be provided from outside the department. Where will the funds come from? The General Counsel's office, Ms. Jackson said.

-- If a department has a claim against it because of the acts of one individual, everyone else in the department is penalized, because there will be no funds in the department to support the faculty.

-- In many cases, there is "fault" only in the technical legal sense, not in the sense of the general, normal meaning of the word. Departments are liable even if an individual does something he or she has been told not to do (e.g., sexual harassment) that leads to a claim, if done in the course of employment. It is not clear, however, that departments SHOULD be liable under these circumstances.

-- All of these funds are from the University, since Ruminco is a captive company. The question is how the money will be circulated internally--through Ruminco or through departments. If there is a zero deductible, the long-term cost to the institution is the same, and this elaborate procedure to attach liability is avoided. With Ruminco, the ONLY decision is whether to bear the costs across the University, or through particular units via the deductible (unless the decision is seen as unfair, when the cost is paid by the General Counsel, which means again it is being paid across the University). Is there such certainly about fault that there should be payment from "stupid departments"? Is there a lot of fault in the general, rather than technical liability, sense? Mr. Johnson said that in most cases involved more than $10,000 - $15,000, there was fault in the departments, where patterns of behavior were not addressed.

-- Again, this suggests the need for training. The lack of it, even with a University policy in place, makes the institution vulnerable to claims. Dr. Carrier reports, however, that it has been difficult to get people to participate in training unless it is made compulsory.

-- The Medical School pays the entire premium for the malpractice insurance, so there is no deductible.

Professor Morrison thanked Mr. Johnson for attending the meeting, and said the Committee would discuss a response at its next meeting.

2. Update on the South Mall

Ms. Jackson provided a short update on the capital request: she said that the South Mall has grown in importance in recent days. There has been a more detailed analysis of housing costs and the revenue needed for a positive cash flow in the event of new construction. She explained the various calculations that had been performed, taking into account the cost of capital for construction (which other housing units, such as Wilkins Hall, have not had), and how the cost of new units would compare with existing University housing and the surrounding private sector market.

With a proposed 350 units in the South Mall area (apartment-style housing), there would be an annual loss of $1.4 million if the same rates were charged as are charged in Wilkins ($372/month/bed). If the units are to break even, the charges would have to be $719/month/bed). That is too high. If construction costs are dropped, using class A apartment style (which is perfectly good, quality housing) rather than the University's usual building standards, the charge could be lowered to within the high end of the range for the area.

These analyses will be presented to the Regents. The Committee discussed with Ms. Jackson the implications of these analyses, how the projects would be constructed, what the costs would be, architectural implications, whether the cost should be spread across all apartment-style units at the University (i.e., why should the residents of Wilkins benefit from the fact that reserves were used to build it, eliminating capital costs, when other units will required bonding and debt service?) One suggestion, in response to Ms. Jackson's stated goal of having the units break even, was that rates be set slightly above the break-even point in order to develop a capital fund for such projects.

Ms. Jackson promised to return to the Committee with additional information as it became available.

3. Enterprise Projects

Professor Morrison turned next to Mr. Cawley to provide an update on the enterprise systems.

The bottom line is that they are up in the air, Mr. Cawley said. The only firm decision is that the financial system will not be replaced as part of the now-four-year project. The reason for the reconsideration is to reduce the risk; installing three new systems in parallel entailed a lot of risk, too big a burden on departments, and placed too much demand on people responsible for implementing them. The present projection is that the student system and human resources system will cost $42 million, spread over fiscal years 1998-99-00.

There will be a cash flow problem, but Mr. Cawley said he has told the administration that if the projects are spread over more years, the cost will rise, there will be a conflict with the change to semesters, and the year 2000 problem will have to be dealt with. It would cost $12 million to accommodate the last problem on the old systems, with no gain for anyone.

Mr. Cawley said there has been much discussion of how to proceed, and that he hoped the questions would be resolved at the December regents' meetings. In the meantime, they have been authorized to spend $10 million through the end of this year, and are moving on the three-year plan; he expressed appreciation to the support he has received from Dr. Bruininks, Dr. Cerra, Ms. Jackson.

Asked (with some exasperation) why these projects cost so much, Mr. Cawley explained that much of it is labor; he said it is like something one buys in a box: some assembly is required. Data must be moved from the old system to the new one, which is a very complex process. There are no transfer protocols since the University's existing system is so old.

Dr. Kvavik affirmed the last point, and said that anyone reading the more detailed report about this will come to the same conclusion. The systems are so old that there are no rules on how data were recorded. These are very complex systems, he said; the student system includes registration, financial aid, the bursar function, the class schedule, and so on, and it is being built to support all four campuses. The human resources system requires new equipment, since data are being moved from a mainframe to servers. There is also the front-end cost of setting up the systems on the web (which will permit the cost of the systems to be recouped). Each item is a major investment.

In addition, Dr. Kvavik said, the semester system courses for Fall, 1999, must be loaded beginning in July, 1998. There is no way to build a new system in the next nine months on COBOL; the University has neither the staff nor the funding to do so.

Dr. Kvavik emphasized that the student system is essentially the instructional management system of the University, not just student affairs data; it supports $250-300 million in annual activity in terms of courses, classrooms, and enrollment management. This is the core business of the University, he said; if put in perspective, the cost is not so large. And there will be major savings; he estimated that 75% or more of transactions that are now manual will become automatic--this should save faculty 80% of the time they spend on grading management and a similar amount for departments. If the student system is not implemented, he concluded, the University will be out of the instructional business.

The Committee inquired about standardization (it will be standard) and upgrading (provided annually). A major concern was customization, and the loss of all savings that results from extensive customization. There is an effort to evaluate what all the colleges are doing, in an attempt to systematize policies and reduce customization necessary. Dr. Kvavik said there will be a committee chaired by Dr. Bruininks to which all customization requests will be made, and there will be little interest in allowing any customization. There will have to be some; the University will have several calendars and three grading systems.

The key to being able to upgrade and maintain the system with the vendor, Mr. Cawley continued, will be to minimize customization. It may be necessary to change policies to match the software. This was the problem with CUFS; it was so customized that the vendor upgrades could not be implemented. One Committee member cautioned, apropos upgrades, against the "creeping featurism" that characterizes much software upgrading.

Dr. Kvavik also explained that the University has won the equivalent of the Baldwin Award for what it has done with its student system web page; the vendor is adapting it for use everywhere, and the University will receive 15% royalties from the sales. The income could range from $5-6 million up to $20 million. This will give the University a reputation as leader in the provision of student services (a dramatic change, since it has been seen as among the worst in this area).

There will be additional costs for delaying implementation of all systems, about $10 million. For a time, the University will have to continue to support the mainframe, and there will be the expense of building links between CUFS and the other systems.

Asked where the $42 million will come from, Dr. Kvavik said that is the question Ms. Jackson and her colleagues are working on. Whether or not the tax on departments will be continue is not clear; none of the money will come from tuition. The presumed charge of 1.4% on college budgets has been reduced to .7%; although they don't like any such tax, the deans believe this is fair, Dr. Kvavik reported. In the meantime, other ways of funding the systems are being sought. He also said it is the intent that any income derived from the sale of the student system would be used to offset costs of implementation.

Professor Morrison thanked Mr. Cawley and Dr. Kvavik, and adjourned the meeting at 5:00.

-- Gary Engstrand

University of Minnesota