

SENATE COMMITTEE ON SOCIAL CONCERNS
MINUTES OF MEETING
MARCH 22, 2004

[In these minutes: Lehman Brothers, Environmental Subcommittee Update, Proxy Voting, Mt. Graham]

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

PRESENT: Margaret Kuchenreuther chair, Barbara Boysen, Jennifer Oliphant, Ruth Taylor, Karen Holtmeier, Susan Von Bank, Greg Schooler, Julie Sweitzer, Thomas Augst, David Fox, Kenneth Heller, Mani Subramani, Twyla Treanor, Bobak Ha¹Eri, Joel Helfrich, Brian Wachutka, Melissa Williams

REGRETS: Ravi Norman, Kara Ferguson

ABSENT: Michelle Dawson, Robert Blair, Sarah Keller, Joseph Nowak

OTHER(S): Richard Pfutzenreuter, CFO; Sara Rostampour, MPRIG; Katie Tharp, MPRIG

I). Professor Kuchenreuther called the meeting to order and asked those present to introduce themselves.

II). Next, Professor Kuchenreuther introduced CFO Richard Pfutzenreuter. Mr. Pfutzenreuter was invited to share information with the Committee concerning the University¹'s business relationship with Lehman Brothers and to discuss the advantages and/or disadvantages of the University severing its business relationship with them.

Mr. Pfutzenreuter noted that the University has had a business relationship with Lehman Brothers, a national higher education bond underwriter, for quite some time. Prior to working with Lehman Brothers, the University had

a business relationship with Goldman Sachs. After reviewing the Social Concerns minutes, which outlines the Committee¹'s concerns about Lehman Brothers¹ business practices, Mr. Pfutzenreuter indicated he did not see a compelling case to sever the University¹'s relationship with them.

Professor Kuchenreuther explained to Mr. Pfutzenreuter that the Social Concerns Committee is charged with being concerned about the University¹'s relationship with the broader social community. To a degree, this Committee functions as the ethical watchdog of the University¹. She explained that MPRIG would like the Committee to endorse a resolution asking the University to boycott Lehman Brothers. MPRIG is very concerned about Lehman Brothers¹ involvement in the private prison industry, among other things. As a result, MPRIG is involved in an effort to have a national boycott of Lehman Brothers in order to force them to quit their involvement in the private prison industry. Because the Social Concerns Committee is responsible for looking at all sides of an issue, and the Committee has heard from MPRIG, it is now time to hear from the University. In discussions with the Office of Asset Management, there is a sense that Lehman Brothers¹ relationship with the University may go beyond that of a bond underwriter. Mr. Pfutzenreuter stated that this information is not accurate to his knowledge. He added that Lehman Brothers simply underwrites and helps to structure the University¹'s bonds.

Discussion highlights:

- Does the RFP process take into account a vendor¹'s subsidiary involvement or other ethical considerations as part of the selection criteria? Based on Mr. Pfutzenreuter¹'s experience, these considerations have not been factored in. He doubts whether all possible social concerns issues could possibly be identified in order to be incorporated into the selection criteria of a RFP. He also posed the following question to the Committee, who should decide what constitutes a social concern?
- Why did the University stop doing business with Goldman Sachs and start doing business with Lehman Brothers? In Mr. Pfutzenreuter¹'s view, it is good to change vendors every so often.
- How many higher education bond writers are there? According to Mr. Pfutzenreuter, there are some mid-size underwriters and a handful of large firms across the country. While there are other firms besides

Lehman Brothers that the University could deal with, Mr. Pfutzenreuter made it very clear that he is by no means advocating the University terminate its relationship with Lehman Brothers. Mr. Pfutzenreuter said he struggles with what the fundamental issue is around private prisons and why the University should abandon its relationship with Lehman Brothers just because they facilitate the underwriting for private prisons.

- A member explained to Mr. Pfutzenreuter that MPRIG¹'s resolution indicates that there exists a direct correlation between the increase in the number of private prisons and an increase in the incarceration rate. If this is true, the Committee is interested in knowing about the practicality of terminating the University¹'s business relationship with Lehman Brothers to another higher education bond underwriter. Mr. Pfutzenreuter acknowledged that he has a fiduciary responsibility to listen to the Committee relative to the University¹'s investments because of the Board of Regents¹ policy (<http://www1.umn.edu/regents/policies/financial/SocialConcerns.html>) . However, questioned whether he was obligated to talk to the Committee about the University¹'s business relationship with Lehman Brothers. Then he pointed out that the University has no investments with Lehman Brothers.
- When did the University establish a business relationship with Lehman Brothers? Mr. Pfutzenreuter believes it was 5 6 years ago. He indicated he could provide the Committee with the exact date if they wanted it.
- What would be involved if the University were to terminate its business relationship with Lehman Brothers? Mr. Pfutzenreuter emphasized that the University cannot simply terminate its business relationship with Lehman Brothers because this would be too expensive. He explained that if the University chose to stop doing business with Lehman Brothers, it would gradually switch its business to another vendor. As an example, Mr. Pfutzenreuter said that the next time the University issued debt it would use a vendor other than Lehman Brothers.
- What would be valid reasons to not to do business with a particular company? Not wishing to prejudice a potential RFP, he declined to answer, but emphasized there is not a simple answer to this question.

- Are decisions made to use a particular vendor based on objective business criteria only? Mr. Pfutzenreuter explained that when a RFP is issued, it must adhere to valuation criteria when selecting a vendor. The criteria must be very clear and concise to give all vendors a level playing field.
- Is there a benefit to the University to use Lehman Brothers over other vendors? One reason that may be an incentive for selecting a new underwriter would be new innovative ideas by a vendor on how debt can be structured. Also, Lehman Brothers was a low bidder.
- Do the larger firms always offer a better pricing structure? This has been Mr. Pfutzenreuter¹'s experience so far.
- Is it realistic to thoroughly investigate every company that responds to a RFP in terms of their business relationships, etc.? Mr. Pfutzenreuter, using Coca-Cola as an example, directed the question back to the Committee asking whether it would seem conceivable to know what is happening inside every large corporation around the world? Mr. Pfutzenreuter acknowledged the important role that the Social Concerns Committee plays. With respect to private prisons, he stated that the Committee must decide on the validity of this concern and how much influence the University would have on this issue if it chose not to do business with Lehman Brothers. A member noted that allegedly Sodexo, a leading food and facility management services company, was forced to rethink its involvement with the private prison industry after receiving pressure from several institutions of higher education and various special interest groups. While Mr. Pfutzenreuter was not familiar with the Sodexo matter, he commented that Sodexo could have changed its position on this matter for a variety of reasons.
- To summarize, Professor Kuchenreuther stated that she heard Mr. Pfutzenreuter say that it would be very hard to thoroughly screen and investigate every company that responds to a RFP. (Mr. Pfutzenreuter admits never having posed this question to the Office of the General Counsel.) Another member noted that the current RFP process does have some social issue type questions e.g. Describe your policies regarding equal employment opportunities¹.
- One member expressed a concern about the current RFP process because it puts the University in a completely reactionary mode versus being proactive. He asked for Mr. Pfutzenreuter¹'s thoughts on what

can be done to make the current system better in order to avoid pitfalls down the road. From Mr. Pfutzenreuter¹'s perspective it is easier to be proactive in terms of the University¹'s investments because the process is not as competitive as compared to an RFP situation. Mr. Pfutzenreuter noted that although Lehman Brothers involvement with private prisons is an issue for some, it is not an issue for him and he does not understand why it should be an issue for the University. Mr. Pfutzenreuter admits having a difficult time understanding what the University can do in order to influence Lehman Brothers. A member noted that the University could influence Lehman Brothers by terminating its business relationship with them until they are no longer involved in the private prison industry. According to Mr. Pfutzenreuter, he struggles with what the Committee wants the University to do surrounding this issue because from his perspective Lehman Brothers facilitates the issuance of debt to private prisons and if they did not do it then another underwriter would. Again, Mr. Pfutzenreuter stated he is very sympathetic to the role of the Social Concerns Committee and he believes it is appropriate for the Committee to raise these concerns; however, he believes the question of how egregious is this behavior needs to be asked. In Mr. Pfutzenreuter¹'s opinion, Lehman Brothers involvement with private prisons through issuing debt is not nearly as egregious as doing business with a company that operates a sweatshop in Indonesia. After all Lehman Brothers simply facilitates financing for private prisons; they did not create the prison system or the penalties. Why does it always have to be matter of all or nothing for the Committee around this issue, he asked. A member respectfully disagreed with Mr. Pfutzenreuter and stated that in her opinion the private prison industry has demonstrated they have a vested interest in the incarceration of people, which directly impacts communities across the United States. By issuing debt to the private prison industry, Lehman Brothers is guilty of human rights abuses. Therefore, the University could take a stand on this issue by making a public statement requesting that Lehman Brothers show that they are no longer involved in the private prison industry. And, if they remain involved, then, the next time the University assigns debt it should work with another company.

- Is it possible to ask the Office of the General Counsel how to incorporate language into the RFP process that would require vendors to demonstrate their relationship to the broader social community? The question for this Committee boils down to how can the University move forward in a practical way to deal with this issue. In Mr. Pfutzenreuter¹'s view, if the University were directly investing in a company that operated a private prison, that would be inappropriate, assuming the information concerning the egregious behavior of the private prison industry is true e.g. human rights violations, etc. In this case, there exists no such direct business relationship and in fact only a very indirect relationship at best. A member followed up on Mr. Pfutzenreuter¹'s comment by asking the Committee to consider where the University should draw the line in terms of whom it does business with. It was also noted that another factor to consider is how many violations should a company be allowed to have. In the case of Lehman Brothers, there exists concern over their involvement in the private prison industry among other things. In addition to all these considerations, it was further mentioned that when deciding whether or not to do business with Lehman Brothers, the University would need to look at the track records of Lehman Brothers¹ competitors e.g Goldman Sachs, Bear Sterns, etc. Are these companies any better? It is likely any one of these companies would be involved in something that would raise the Committee¹'s ire.
- The University has an interest as a public institution to defend the fundamental aspects of state services to society. As a result, an argument can be made to stop the further erosion of state services because further erosion is not in society¹'s best interest. Mr. Pfutzenreuter agreed this is an important issue but is not sure it has O'legs¹ in terms of social concerns for this particular matter.

Professor Kuchenreuther thanked Mr. Pfutzenreuter for meeting with the Committee. Mr. Pfutzenreuter concluded by encouraging the Committee to think about the degrees of freedom a company that the University does business with should be allowed.

Professor Kuchenreuther reminded members that MPRIIG has requested the Committee take a stand on this issue. Members should be prepared to vote on the resolution at the April 26th meeting.

It was suggested that the Committee investigate the University¹'s RFP process next year.

III). Professor Kuchenreuther called on Brian Wachutka to give a report on behalf of the Environmental Subcommittee. Mr. Wachutka indicated that since November the Subcommittee has been looking at the University¹'s energy production and purchasing. He noted that there are currently several projects going on simultaneously at the University dealing with various aspects of sustainability/energy.

The Subcommittee drafted 3 resolutions dealing with energy consumption that will hopefully make the University a better institution. He distributed copies of the resolutions:

- Renewable Energy Resolution of the Social Concerns Committee
- Energy Conservation Resolution of the Social Concerns Committee
- Energy Procurement Resolution of the Social Concerns Committee

Next, members provided Mr. Wachutka with feedback concerning the Renewable Energy Resolution. The following comments/questions were made:

- What is the definition of ³renewable energy²? Brian Wachutka defined renewable energy as a non-nuclear, non-large scale hydro, non-fossil fuel based energy source. One member noted there are some horrible technologies that are clearly renewable. Mr. Wachutka was encouraged to carefully look at the wording related to the use of ³renewable energy².
- How did the Subcommittee decide on 25% as the amount of energy the University should derive from renewable resources by 2014? Mr. Wachutka stated that it seemed reasonable and has been accomplished at comparable institutions.
- Does the \$1.7 billion dollars that Facilities Management, through its Facilities Condition Assessment (FCA), determined it would need to buildings on campus include operating costs or is it strictly going to be used for building maintenance? This might be something to look into further.
- Include a *Œ*whereas¹ clause pointing out that extraction and transportation of traditional fossil fuels entails known environmental risks and degradation. Therefore, any steps taken between producers

- and consumers will automatically reduce the amount of extraction and transport, thus reducing the environmental impact.
- If the point of this resolution is to reduce greenhouse gases, then that needs to be clearly stated. A suggestion was made to include a statement that commits the University to lower the amount of greenhouse gases that are emitted by its total energy consumption. This can be measured.
 - Concern was raised with respect to the statement that recommends the University increase its use of renewable energy by 25%. Instead, it would be better to recommend that there be an increase in the use of renewable energy but not the actual amount of renewable energy used because the University already uses too much energy. This resolution should technically be asking the University to decrease the amount of energy it uses.

Next, Mr. Wachutka noted that the Energy Conservation Resolution recommends that the University require life-cycle costing and total-cost/benefit accounting for all capital investments, equipment purchases and contracts with vendors. Comments/questions included:

- Pragmatically, how would such calculations be made, particularly for large pieces of research equipment? A suggestion was made to craft the language so that it gets the most bang for the buck with the least amount of resistance from purchasers of equipment. Inevitably there will be situations where the case can be made for purchasing or using equipment that is not necessarily energy efficient.
- Will these calculations be made at the point of purchase or should they take into account the on-going cost of operation? A member stated that because these are life-cycle costs, the calculations will depend on how the equipment is used. However, another member stated that given the scenario of use, two capital options are being considered.
- How does one assign value to the benefits of a purchase?
- This seems like an anti-social concerns resolution. It seems that this resolution is requesting the University to make a black and white decision on all its capital purchases. Instead, the University should invest some of its capital in technologies that are not less expensive but that will advance other social issues.

- Add some value-based language to the “therefore”¹ statement that follows logically from the “whereas”¹ statements.
- A suggestion was made to make all three resolutions into one resolution.

In light of time, Professor Kuchenreuther asked members to review the Energy Procurement Resolution and provide Mr. Wachutka with feedback on this as well as the other resolutions via email (wach0042@umn.edu).

A member requested hearing from someone from the Purchasing Department regarding the process they go through when making a purchasing decision. Professor Kuchenreuther noted that at the April 26th meeting Vice President O’Brien is scheduled to talk about sustainability issues/initiatives. Perhaps she will be able to answer that question if it is directed to her.

IV). PROXY VOTING: Below are the results of the proxy votes:

- Report on Political Donations and Policy Merck & Safeway passed unanimously.
- Develop Ethical Criteria for Patent Extension Merck passed unanimously.
- Review AIDS Pandemics Impact on Company Merck passed unanimously.
- Link Executive Pay to Social Criteria Merck unanimously voted down. By voting against this resolution, a member pointed out that this puts the Committee in line with the Senate Committee on Research.
- Increase Container Recycling/Recycled Content PepsiAmericas, Inc. Because Brian Wachutka did not receive the materials necessary to produce a written report in time for today’s meeting, members decided to conduct an email vote on this proxy after a written report is distributed electronically for members to review.

V). A motion was passed to extend the meeting until 4:30.

VI). Professor Kuchenreuther introduced the next agenda item, Mount Graham. She noted that attached to the agenda were the March 4, 2004 FCC minutes. Although these minutes did not expressly mention Mount Graham, they alluded to it in terms of the role the FCC plays as a steering committee for the Senate. From these minutes it seems that the academic

freedom issue is paramount on the minds of the FCC membership. There also existed a sentiment that it would not be a wise idea to stifle debate in the Senate.

Professor Kuchenreuther reported that she attended the Senate Research Committee (SRC) meeting today. The SRC was not particularly interested in discussing the Mount Graham issue any further. Next, Professor Kuchenreuther summarized the SRC¹'s Mount Graham resolution/opinion statement and today¹'s discussion on the issue. Essentially the SRC believes discussion around the Mount Graham issue has already occurred in the Committee. The SRC asked Professor Kuchenreuther whether the Social Concerns Committee had a resolution that it intended to bring to the Senate. Professor Kuchenreuther indicated she did not know, but added that there was sentiment on the Social Concerns Committee that a resolution should be brought forward. There was the belief on the part of the SRC that any further discussion on this matter was a moot point and the chances of the University deciding to back out of the project were extremely slim. A SRC member noted that perhaps the amount of information given to the SRC and the Board of Regents was inadequate, and, as a result, a suggestion was made to draft a resolution to determine how to collect complete information in the future. In the end, the SRC passed a motion to let their previous opinion stand.

A member noted that after researching the Mount Graham resolution the SRC passed on May 13, 2002 it was discovered that it was never officially passed because the SRC did not have quorum at that meeting. Professor Kuchenreuther stated that from her perspective the SRC believes that it has issued an opinion on this matter. This member continued by stating that whether it was a resolution or an opinion, nothing was passed because there was no quorum. Professor Kuchenreuther stated that like the Social Concerns Committee that does not always run strictly by Robert¹'s Rules of Order, the SRC may not always strictly follow Robert¹'s Rules either. Another member stated that if this technicality were mentioned to the SRC it would probably make them irritated.

In Professor Kuchenreuther¹'s opinion, the University made the wrong decision with respect to Mount Graham; however, the chances that the University will reverse its decision are basically non-existent. She has

communicated with Professor Balas concerning what she perceives as the larger issue, to ask people to think about the social, ethical, environmental, etc. ramifications of their research before they proceed. Professor Balas seemed open to the idea of having this as an agenda item for next year. By having the Social Concerns Committee and the SRC collaborate on a resolution to address these issues, would be one way to make something positive out of a dismal situation.

A member noted that the SRC will never changes its mind. They compare the Mount Graham issue to stem cell research, which in this member¹'s opinion are completely different. What will happen when the wild rice issue becomes a topic of discussion? Furthermore, there were strong feelings by this member that the Mount Graham discussion should be brought to the Senate as an action item.

The Committee continued to debate what further action, if any, they want to take with respect to this matter. The sentiment was expressed that the matter should not be dropped because there exists an important issue that has nothing to do directly with Mount Graham, but has parallels with stem cell research and other research going on at the University. Professor Kuchenreuther expressed concern that the Social Concerns Committee will lose credibility if it cannot move on from the Mount Graham issue.

A member asked if the Mount Graham discussion could continue at the April meeting. Professor Kuchenreuther noted that the agenda is already quite full and is uncertain whether there will be time. Agenda items for April 26th include:

- Kathleen O¹Brien the University¹'s sustainability initiative.
- Energy resolution(s).
- Lehman Brothers resolution.
- Proxy voting.

VII). Hearing not further business, Professor Kuchenreuther adjourned the meeting.

Renee Dempsey
University Senate