

Minutes*

Senate Consultative Committee
Thursday, October 21, 2004
3:00 – 4:00
Room 510 Morrill Hall

- Present: Marvin Marshak (chair), Jean Bauer, Carol Chomsky, Tom Clayton, Mary Jo Kane, Taquee Khaled, Scott Lanyon, Jamie Larson, Tom Pielow, Jeff Ratliff-Crain, Colin Schwensohn, John Sullivan, Stacey Vonderhaar, Nathan Wanderman, Carol Wells
- Absent: Susan Brorson, Charles Campbell, Dan Feeney, James Kanten, Seyon Nyanwleh, Teresa Wallace
- Guests: Professor Gary Balas (Senate Research Committee), Gail Klatt, Al Willie (Department of Audits), Avelino Mills-Novoa (Multicultural Affairs)
- Others: Professor Larry Rudnick (Department of Astronomy)

[In these minutes: (1) audit of contract with the University of Arizona concerning the Mt. Graham telescope project; (2) report on discussions with Housing]

1. Audit of Contract with the University of Arizona Concerning Mt. Graham Telescope Project

Professor Marshak convened the meeting at 3:00 and welcomed Ms. Klatt and Mr. Willie to the meeting to present the report of their audit findings. He noted that Professor Martin, last year's chair of the Committee, had requested on behalf of the Committee that the Department of Audits to conduct "an audit on the contract between the University of Minnesota and the Research Corporation of Tucson, Arizona, with respect to the Large Binocular Telescope on Mt. Graham." The request asked that the audit look into two questions: (1) "How has the University of Arizona complied with the Board of Regents stipulation regarding a fair grievance procedure that provides for fair, independent hearings and resolution of Apache complaints about access and their religious beliefs?" (2) "What are the concerns of the San Carlos Tribal Council regarding the \$120,000 scholarship fund and how should the University of Minnesota proceed in light of these concerns?"

Mr. Willie reported the results of the audit. The relationship between the University of Minnesota and the University of Arizona with respect to Mt. Graham is governed by a contract between the University of Minnesota and the Research Corporation of Tucson; there is no contract between the two universities with respect to the issues raised, access and helping the Apache tribe. They interviewed a number people but did not believe they needed to contact the Apaches to answer the questions posed by the Committee. They also reviewed a number of documents.

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With respect to the first question, informal progress has been made, but there is no firm grievance procedure in place. Mr. Willie also spoke informally with a representative of the U.S. Forest Service, which controls access to Mt. Graham. The Forest Service indicated that some discussions are underway relative for doing away with the red squirrel refugium, which in effect would ease access for the Apache to use Mt. Graham for religious or other traditional purposes and that the Forest Service is amenable to discussions about easing access in order that the Apaches can use Mt. Graham for religious purposes.

With respect to the second question, there is no \$120,000 scholarship fund per se. The Apaches considered tainted because it is likely the money that would not have come without the Mt. Graham project. There is a Tri-University Initiative (Minnesota, Virginia, and Arizona) that includes money for scholarships as well as other for other projects requested by the Apache. Professor Marshak asked if the University's \$40,000 is its total commitment to the \$120,000. Mr. Willie said the University's contribution is supposed to be annual, although the University has not decided if it will make the payment annually. Dr. Mills-Novoa reported that the University made a three-year commitment. The money is managed by the University of Arizona to meet the goals of the Tri-University Initiative because the San Carlos Apaches would not accept the money directly from the Research Corporation. The University's money was used to hire a staff member to coordinate efforts of the Tri-University Initiative. None of the money was used for scholarships, Professor Kane inquired? The funds have been totally decoupled from Mt. Graham, Dr. Mills-Novoa said, and are being used to fund an individual to work with the tribal needs of various tribes in Arizona. The remaining \$80,000 will be managed by the University of Arizona and applied to Tri-University initiatives with various tribes across Arizona including the Apache. The Tri-University Initiatives are projects identified by the Tribes.

Professor Kane asked if there were problems for the University because the money was not being used for scholarships, per the agreement. Dr. Mills-Novoa noted that there was no contract. If there was no obligation to use the funds in any particular way, Professor Kane said, the language should be changed. Mr. Willie noted that they have suggested formalizing the understanding of how the \$40,000 will be used.

Presumably the Board of Regents wanted things to happen that haven't been accomplished. Professor Balas commented; he asked if Ms. Klatt intended to report the audit results to the Board of Regents. Ms. Klatt said they had no plans to do so. The Tri-University Initiative met the intent expressed by the Board, which was to support educational efforts for the San Carlos Apaches. The initiative may not include scholarships but it is trying to meet needs identified by the tribe.

The University of Arizona is not living up to the Regents' stipulation about a grievance procedure, Professor Balas noted. That is a work in progress, Ms. Klatt said, and they are continuing to work toward it. Is it important to tell the Regents that the contract stipulation is not being adhered to, Professor Balas asked? It is not a contract, Ms. Klatt said; it is a representation by the President of the University of Arizona. So there is no stipulation, as question #1 suggests, Professor Balas asked? The Board requested that a cultural advisory board be established, Ms. Klatt said, and they are working on it. Was there a Regents' stipulation about a fair grievance process or is that the University's language, Professor Balas asked? Those were administrative commitments to the Board of Regents made in order to approve the Mt. Graham transaction, Ms. Klatt said, they were not a stipulation from the Regents to the University of Arizona.

Professor Chomsky said she was troubled, as she read the audit report, that there were no interviews of tribe members. This is supposed to be an audit of an issue with two sides, but the auditors only interviewed one side and relied on documents, which is problematic. There were representations that something would be done and the answer is that they are trying. She said she would want to know what the San Carlos Apaches believe. Dr. Mills-Novoa said that he was the one who recommended the auditors not talk with the tribe members. He said he knows of conversations that are going on between the Tri-University Initiative Working Group comprised of Department of American Studies staff and faculty, and staff and faculty from the Indigenous Law and Policy Program at the U of A with a variety of members of the San Carlos and White Mountain Apache Tribes. They are talking to "traditional" tribe members as well as more "modern" members interested in economic development (their terms, he noted) and there is movement toward a summit to work things out. He said that it was not clear whom to direct Mr. Willie to talk to as there are many interests among tribal members. He told the Committee he has met with several people in the Northern Tribes Initiative Working Group (the earlier version of the Tri-University Initiative). The lessons they learned were that things were not handled appropriately and that it is necessary to separate the concerns that the Apache have about the observatories on Mt. Graham from helping the assistance that the San Carlos Apache have requested. His recommendation was not to tamper with the ongoing discussions because the people who need to be at the table are there. He also said the University of Minnesota should not back away and that it has an obligation to help the San Carlos Apache tribes, if in fact the University is committed to continuing its involvement in the MGIO project.

The University is also a minor partner at a distance, Professor Marshak said, and its ability to influence what happens is limited. That is true, Dr. Mills-Novoa said, but the University can do some things. The best course is to pressure the University of Arizona, Professor Marshak said.

That is a very different report, Professor Chomsky said, referring to Dr. Mills-Novoa's comments. Things are at the point where the Committee can say that people are working towards understanding and agreement, and the issue should be brought back later. As Dr. Mills-Novoa indicated, the inquiry must be conducted with sensitivity, and it makes sense that sending auditors in to talk directly with tribal members would not help. Dr. Mills-Novoa agreed. They are working on a consultative process to obtain more Apache access.

This explanation helps with understanding the last paragraph of the auditor's report, which Professor Kane said she read as saying essentially that there was nothing that could be done. There is a need to let people know that there is work in progress. The auditor's report said that the auditors have no insight into the issues, Professor Marshak commented, but Dr. Mills-Novoa does. If they had put in a recommendation, Mr. Willie said, it would have been to let Dr. Mills-Novoa continue to work with the University of Arizona to work things through. That is not really an audit question, Professor Chomsky said; the Committee should say that it wishes to continue to hear how things are going. Dr. Mills-Novoa said he can report on what has transpired more fully; Professor Marshak suggested that he return in a few months to make such a report.

There is nothing about a deadline, by which time one should feel that things have been accomplished, Professor Lanyon observed. That is up to the two parties, Dr. Mills-Novoa said; there is need to build consensus within the San Carlos Apaches before they can attend any summit meeting. He said he can return to provide updates to the Committee whenever it wishes.

Professor Kane asked if there should be a recommendation about tying the future \$80,000 to progress. If the University stays with the Mt. Graham project, Dr. Mills-Novoa said, it should continue to contribute to the educational and legal development of the surrounding tribes. Should that commitment be formalized, Professor Kane asked? Dr. Mills-Novoa said it might be a good idea to set the structure and parameters.

Professor Ratliff-Crain said there are other questions that could be asked. There have been a lot of questions over the years and they came down to the ones the Committee posed; then it appears that the agreements are not as hard and fast as had been thought. A formal agreement could end up undercutting the work being done and rekindle the fires. The audit report does not help anything with respect to other concerns about where things stand. The San Carlos Apaches want the observatory destroyed, Dr. Mills-Novoa said, but they realize that will not happen, so they are negotiating about other things, such as the lifespan of the observatory, ultimate restoration of the mountain to its original condition, and full access. Statements about those issues would be appropriate if the University of Arizona owned the site, Professor Wells said, but it is owned by the United States Government, so there is a question about whom one should negotiate with. Dr. Mills-Novoa said that the University of Arizona is and should continue to support the Apache in negotiating for access with the Forest Service (FS) through the FS section 106 consultation process. Professor Wells said she was worried about the implications of formalizing the University's commitment. The negotiations and agreements are culturally consistent, Dr. Mills-Novoa said; they will take awhile to work out and cannot be put on a timeline. Some things involve gentlemen's agreements, Professor Wells said, and she would be reluctant to ask the President to make the situation more formal; it would be better to keep the gentlemen's agreements. A letter from the Committee could remind the President to check on the progress and note that it is a work in progress, Professor Marshak suggested. The idea is that this is a commitment the University should continue to honor, Professor Ratliff-Crain said. Professor Wells said a letter to the President would be better because the legalities of the arrangements are so complex that it is not possible for this Committee to untangle them in a 40-minute discussion.

Professor Marshak thanked Dr. Mills-Novoa, Ms. Klatt, and Mr. Willie for their reports.

2. Report on Discussions with Housing

Professor Marshak next reported that he and Mr. Wanderman met with Laurie McLaughlin, Director of Housing, about what it means to be a great research university with respect to residential life. There were a couple of things that came out of the discussion.

- The way students are assigned to residence halls, and especially the way men and women are assigned within the halls: Ms. McLaughlin noted that more mixing among women's rooms and men's rooms might be positive. She recalled that incidents in Frontier Hall (formerly all male) declined when men and women were mixed in both Frontier and Comstock (formerly all female); the number of incidents in Comstock did not change substantially. There also may be an operational benefit, because the University has "expanded" housing at the beginning of the semester and students in expanded housing could be placed in regular residence hall rooms more quickly if there were fewer restrictions on where men and women could reside. The Provost has suggested that a meeting on this subject be organized, which he is doing, Professor Marshak said.

- What is the primary role of the community advisors in a research university (a.k.a. residence hall advisors or RAs): to build community or to enforce discipline? Building community and mentoring would seem most important, but the two roles can be in conflict. Ms. McLaughlin said she would look into how the advisors are trained.

Professor Marshak adjourned the meeting at 3:55.

-- Gary Engstrand

University of Minnesota