

Minutes\*

**Faculty Consultative Committee  
Thursday, October 21, 2010  
1:00 – 3:00  
238A Morrill Hall**

- Present: Kate VandenBosch (chair), Peter Bitterman, Thomas Brothen, Nancy Carpenter, Carol Chomsky, Chris Cramer, Shawn Curley, Nancy Ehlke, Barbara Elliott, Michael Hancher, Caroline Hayes, Jan McCulloch, Michael Oakes, George Sheets
- Absent: Melissa Anderson, Elizabeth Boyle, Colin Campbell, Marti Hope Gonzales, Jeff Kahn, Russell Luepker
- Guests: Professor Nita Krevans (Graduate Education Policy Review Committee); President Robert Bruininks
- Other: Jill Christenson, Kathryn Stuckert (Office of the President)

[In these minutes: (1) committee business (matters related to "Troubled Waters" and to EFS); (2) proposed policy on appointments to graduate examining committees; (3) discussion with President Bruininks: "Troubled Waters"; (4) discussion with President Bruininks: The Enterprise Financial System]

**1. Committee Business (Matters Related to "Troubled Waters" and to EFS)**

Professor VandenBosch convened the meeting at 1:00 and said she would accept a motion to close the meeting because personnel matters would arise in the discussion; the motion was made, seconded, and voted unanimously. The Committee agreed that except for any personnel matters, the discussion would be on the record.

Professor VandenBosch said that later in the meeting the Committee would discuss two matters with the President, the film "Troubled Waters" and problems with the Enterprise Financial System (EFS).

The President has received a memo from Professor Cramer and her about EFS, which is appended to these minutes. The President and Provost were interested and dismayed to learn of the continuing problems with EFS, Professor VandenBosch told the Committee. The President was interested a year ago, Professor Hancher recalled; the problems become acute after a year.

The President has also received a memo about the film from the Committee. The memo applauded the reaffirmation of the value of academic freedom in President Bruininks' statement on the news release on October 15th. The Committee memo also applauded the decision to refer any future institutional questions about academic freedom to the provost as the chief academic officer. The memo proposed three additional steps to be taken:

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

- a study of issues on academic freedom and other topics that were raised by the handling of the film;
- release of a summary of actions and decisions made about the film; and
- preparation of a memo from the President to the University community, including the points from the news release and a statement of the planned follow up.

The points from the memo were outlined as topics for discussion with the President at this meeting.

With respect to next steps concerning the film, Professor VandenBosch said, the Committee should tease out the points that need further analysis, but she noted that the Committee is not a judicial body. Rather, the committee will raise questions concerning the broader context of issues raised by the film for discussion in governance and look to the future. She distributed copies of a draft set of questions for the Committee to consider and to edit. A list of suggested questions for future action is appended to these minutes.

On the question of whether Professor Weller, Director of the Bell Museum, was under pressure, as recently asserted in media, Professor VandenBosch reported that she had had a communication from General Counsel Mark Rotenberg; he wrote: "As we discussed this morning, this memorializes my conversation with Professor Susan Weller on Sunday, 10.17, at the President's request. In that conversation I asked her perspective on a 9.28 e-mail that was released to the media, which suggested that she had been muted by the administration. Professor Weller informed me that statements about her in the e-mail were not based in fact; that nothing could be further from the truth, and that she did not feel pressured by Dean Levine or Provost Sullivan; that they were the ones who asked the right questions; that she asked for their help and that they supported her in ways that have helped her get through this difficult matter; and that if it weren't for them this matter would have turned out even worse."

Professor VandenBosch reported that she had also spoken with Professor Weller before the film was released and had asked her if she was under pressure from the administration; Professor Weller said she was not and that in fact she had been well-supported.

Several questions arose concerning how the decision was made to block the release of the film. As reported in the media, there were some inconsistencies concerning responsibility for the decision. One has the impression that reports changed over time. Professor VandenBosch said she did not know the answers to the questions, and would ask the President for the timeline that the General Counsel is preparing.

Professor Elliott said there is a lack of clarity on who contracted to produce the film, if it was a sponsored project, on how the University's name got on it, and whether it was a contract or consulting. Those are important questions vis-à-vis University policies. Professor VandenBosch said that, based on documentation from the Bell Museum, the museum obtained extramural funding, some competitively and some gift, and that there was an external producer/director/writer, but that staff also worked on the project. She emphasized that the Committee should specifically raise questions that it wants answered in order for the Academic Freedom and Tenure Committee to do its work about the broader context.

Professor Bitterman said that much scholarly work involves the same level of complexity in contracts, subcontractors, and consortia involving public and non-public organizations, so it is important to dissect the relationships, and not just in this case.

Professor Chomsky said it is not clear where to talk about the issues raised in the questions. Some belong in Academic Freedom and Tenure, and perhaps some with this Committee. Also worth talking about is the University's response when the news about the cancellation of the film came out. There have been instances in the last year when this Committee was concerned about the agility of the University in responding to events and the nature of its response to crises of that kind; there should be a look at the post-reaction as well.

Professor Sheets said he agreed with Professor Bitterman that the complexity of issues posed by the film was not uncommon. That is why universities are venues for the production of ideas, and academic freedom applies to the institution as much as to individuals, and that is why he finds the restraint on the release of the film so troubling. It is a well-made film that took a public position. Professor Bitterman's point indicates how crucial an open environment is.

Professor VandenBosch reported that the President had said delaying the film was a mistake and should not have happened, but there are still confusing issues that should be addressed. Professor Oakes agreed that there are a lot of complex relationships; the issue for him is the non-bright line between academic work and administrative work. Administrators make the decision on the latter (e.g., the sidewalk slips or fixing a building), but everyone would fight for academic freedom for academic work products. The question is where the line is. That needs to be made more clear, so that when a professor works on a project for the University, it is clear when it is a work product of the University. The question is how to draw that line brighter.

Professor Sheets agreed those were excellent points. With respect to the building, if an administrator does not like the color, etc., that is fine. In this case, there was no objection to the technical elements, the objection was to the content.

The two categories blur, Professor Chomsky said. Part of the Regents' policy on Academic Freedom and Responsibility requires people to make it clear when they are speaking that they are not speaking for the University. But administrators do speak for the University, and different rules apply to their speech. What is the status of speech of the kind represented by the film? One could also consider whether it makes a difference if the film is a Bell Museum/University product or it is "funded by" the University and the Bell Museum.

Professor Hancher recalled that he had said earlier that he was discontented about how the issues surrounding the film had upstaged other more important issues, particularly the impending budget; he said he would qualify that statement by asking to what extent this case is typical and precedential. Are there other cases that should be brought into the discussion? If so, the questions should be given all the attention they require. If not, he said he is frustrated by the amount of time spent on it. That is why they have developed the questions, Professor VandenBosch responded. Then the questions need to be framed larger than this case, Professor Hancher said, and to the extent they are generalizable, one should be worried.

Professor Curley said he believed there are issues about academic freedom that should go to the Academic Freedom and Tenure Committee. The University communication issues can be passed to another committee that might be appointed to deal with them. But this is the only committee that can address the "what happened" questions on behalf of the faculty, and there is a hunger to know what

happened. Once they know what happened, they can answer Professor Hancher's question about whether this is just a one-off.

Professor Chomsky said she believed the list of questions was a good one. The faculty will expect this Committee to ask what happened and ensure that the review is thorough enough. The academic-freedom questions are general (that is, not about the specifics of this particular decision) and need to be addressed; the Academic Freedom and Tenure Committee is the best place to do that. She said she agreed that the faculty would probably like to know what happened. She also agreed with deferring the broader questions about University communications.

Professor Sheets said that another constituency to be kept in mind is the public. There was a time, in the evolution of academic freedom, that it was not an individual right but intended to protect the public's right to know. Society and culture are entitled to access to the exchange of ideas and academic freedom is a mechanism to provide that access. Discussions should include the public interest in ideas that are discussed without being stopped by administrators.

There is also a question about the effectiveness of the policy on institutional conflict of interest, Professor Chomsky said. The Committee should look at the regental and administrative policies on institutional conflict of interest to ensure they are adequate to protect against conflict in decisions like that made about the film. Did those policies work in this instance? She said she did not know. There were at least allegations about conflict of interest in the decision to delay the film. The President has said there was no conflict (that is, that the decision was not influenced by the personal interests of the University decision-makers) and we have no reason to doubt that. But the possibility that a decision will be PERCEIVED as influenced in that fashion is enough to raise conflict-of-interest questions. One could think about whether more is needed in the policy. Professor Oakes said the Committee must be sure that faculty members are involved as any revisions are made, not just administrators.

Professor VandenBosch said they could continue to refine the questions. She opened the meeting at this point.

## **2. Proposed Policy on Appointments to Graduate Examining Committees**

Professor VandenBosch now welcomed Professor Nita Krevans, chair of the Graduate Education Policy Review Committee, to discuss the draft policy on eligibility for graduate examining committees.

Professor Krevans provided the Committee with brief background on the work of her committee, charged last spring by the Senate Committee on Educational Policy to assemble and review all the graduate-education policies and to create a new set applicable University-wide. They will leave room for, and will expect, more tailoring by the colleges; they assume the policies will be in the University policy library like all other policies. They were going to try to approach the policies in an orderly fashion, but began receiving "911 calls" because certain policies that had been in the Graduate School constitution have disappeared and people were getting nervous about the absence of policy. The most important gap was a policy on eligibility for graduate examining committees. When the graduate faculty was decentralized on July 1, there was no legal document supporting decisions on eligibility for examining committees, so they were asked to fast-track a policy on the subject. She stressed that other issues are still covered by directives in the Graduate School catalogue. [When the six categories of graduate faculty appointments were eliminated on July 1, responsibilities for making decisions concerning membership in

graduate program faculties moved to the local level (see recommendation # 5 at <http://www.grad.umn.edu/transition/implementation.html>).

The formal owner of this policy will be the Vice Provost and Dean of Graduate Education, Professor Krevans said. Vice Provost Schroeder has reviewed this policy, then it went to the provisional Graduate Education Council (which has representatives from every college), then to the Senate Committee on Educational Policy twice, and now to this Committee. If this Committee approves it, they will send courtesy copies to all Directors of Graduate Study and their assistants. The policy will go to the Faculty Senate for approval and eventually there will be a 30-day comment period. Michele Gross, who administers the University's policy office, has also asked that Professor Chomsky review the draft. The whole point of the policy is to protect both students and faculty and provide them due process.

Professor Chomsky asked if this policy should be brought as part of a package of graduate-education policies. Professor Krevans said they have been asked to have something adopted before the start of the next semester. What about the definitions, Professor Chomsky asked? The Committee and Faculty Senate are only being asked to approve the policy, Professor Krevans said; they are developing a lexicon of terms for all the policies—but that is not ready yet.

Professor Bitterman said he works with two graduate programs that are trans-collegiate, but the policy refers to collegiate unit. That poses challenges. Professor Krevans said her committee has talked about that; the answer they received from the Provost was that all interdisciplinary programs will have an agreed-on collegiate home for administrative purposes; that understanding was in the graduate-education working group reports and in the Provost's memo from May 20, 2010 (<http://academic.umn.edu/provost/reports/email052110.html>; the reports are also accessible from this link). Moreover, some colleges do not have anyone responsible for graduate education and will have to appoint such a person.

Professor Sheets inquired about the lack of graduate faculty status and the implications for colleges. Professor Krevans said that colleges were asked to develop college-level graduate faculty rosters and colleges are also free to establish additional rules beyond those in the policy as long as the rules do not conflict with this policy. Professor VandenBosch, who served on one of the graduate-education working groups, said that it was her understanding that even though graduate-faculty status was eliminated at the institutional level, membership in faculties of individual programs would be maintained at the local level.

Professor Krevans noted that there are more stringent criteria for advisers and chairs. There also must be a public process for the selection and approval of advisers.

Professor Sheets observed that there are people who have a degree in a field in which they have not worked in for years; that should be considered in choosing committee members. Professor Krevans said that colleges can set more stringent rules.

Professor Hancher inquired if the draft policy reflects current policy. It reflects current practice, Professor Krevans said, although a few provisions are a little stricter.

Professor Hancher said that formalizing the role of emeriti/ae faculty raises a Human Resources question: How to avoid claims of payment or an employee relationship with emeriti/ae faculty. Both the

student and the faculty member must agree that the faculty member will continue as adviser or chair after retirement. Are those faculty members providing service or are they being compensated, Professor Hancher asked?

The larger question, Professor Hancher said, is that if the administration has decided that interdisciplinary programs shall have a home in one college, such a decision has intellectual implications that many might wish to speak to. Professor Krevans responded that no one has said the programs move into that college.

Professor Oakes inquired about the codified ability of staff members with a Ph.D. to serve as an adviser. They can, Professor Krevans said. That troubles him, he said. Professor Krevans said that many programs with a large number of research staff allow those staff to act as advisers; when some concerns were raised they got pushback on this because colleges want staff to be able to act as advisors. This is a serious matter for the faculty to think about, Professor Oakes said. And if it is the current practice, it will be a serious matter to change, Professor Chomsky said, if the charge to the committee is to reflect practice. They have changed some things, Professor Krevans said; their charge, Professor Hancher said, is to make things right. Professor Sheets noted that one could have been a non-faculty member but had been vetted by and admitted to the graduate faculty, but the graduate faculty doesn't exist any longer. Professor Krevans said that any appointment of an adjunct faculty member or research staff on an examining committee must be reviewed by the college. They were asked to move away from the Graduate School's centralized process to allow non-faculty to serve on committees, but they did not want to move the decision to the programs [Department level] so put it in the college [Dean's level], and the decisions must be reviewed individually by [a Dean]. So she wants to be certain that the DGS does not let someone unqualified serve on the examining committees, Professor Cramer commented; this Committee, he said, is saying it does not want to let colleges allow someone unqualified to serve on examining committees. There were a lot of Ph.D. staff on the graduate faculty, Professor Krevans pointed out; he objected then to them serving as advisers, Professor Oakes responded. [Subsequent email correspondence among FCC members showed broad agreement among members of the Committee that non-faculty members should not normally be permitted to advise doctoral students.]

In a discussion about the process, Professor Brothen said that the Committee on Educational Policy had expedited consideration of the policy in order to fill a hole in the dike; they would like to see it on the agenda of the December Faculty Senate meeting for action.

Professor VandenBosch suggested that Committee members communicate to Professor Krevans any comments they have on the draft policy, and said it will be brought back to the Committee when the docket for the Faculty Senate is being prepared. She thanked Professor Krevans for her willingness to take on the job of reviewing and consolidating all the graduate-education policies.

### **3. Discussion with President Bruininks: "Troubled Waters"**

Professor VandenBosch welcomed the President to the meeting and told him the Committee wished to discuss two unrelated items: follow-up on the controversy surrounding the film "Troubled Waters" and the memo that she and Professor Cramer sent to him conveying issues raised by department chairs about the Enterprise Financial System (EFS). The discussion turned first to the film.

President Bruininks began by commenting that he could not count the number of times he has said how deeply disappointed he is in the situation and how it unfolded. The University needs to find a way, as a community, to learn from the experience and to handle these matters differently. He said he believed that events unfolded innocently, in an attempt to determine if the film lived up to the requirements of funders, but the situation was not handled well. He said he feels strongly that questions about academic work should be handled by academic officers and faculty—which did not happen in this case before a decision was made to postpone the scheduled showing of the film on TPT and at the Bell Museum.

The President said he did not believe there was any individual conflict of interest or that there was any conspiracy to restrict speech; the matter was just not handled in the way it should have been. What is important is that the right decision was made, even if in an inelegant fashion: The film was shown on its originally-scheduled dates without any censorship or editing and the on-campus showing was improved by peer review discussion.

The President recalled the presentation of the play "The Pope and the Witch," which was a far more contentious event than this film. He received thousands of emails, some of which implied physical threats. The University was steadfast in defending academic freedom. The University held its ground and the play was performed, and afterward there was a fulsome discussion with the people concerned about it, the public, and scholars. He received letters after the performance and discussion complimenting the University on its handling of the play and inviting people with concerns to express their views.

The question is what can be learned now that is more in keeping with the values of the University, the President said. Vice President Himle has apologized for her mistakes. His view is that the institution must learn from the incident and go forward.

Professor VandenBosch said the Committee continues to work on the issues. The Committee has delivered preliminary questions to, and will collaborate with, the Academic Freedom and Tenure Committee for follow-up.

Challenges raise new questions, President Bruininks said, and that is what happened here. One question is about the reach of the Regents' policy on Academic Freedom and Responsibility. He regularly refers all questions for further review to the Provost, the General Counsel, and the Committee on Academic Freedom and Tenure. That committee is the right place to have the discussion about what can be learned. Further, questions that arise concerning whether the policy applies must start with a consultation with the Provost's office. When there is a controversy, he advises people to talk to the Provost and the wise people who comprise these committees.

The President agreed with the questions the Committee has raised and said he would work with it to see what can be learned. He also agreed that it was necessary to articulate a brief chronology, even though ultimately the right decision was made. He reported that he has asked the General Counsel's office to sort out the details and assemble a reasonable chronology that can be reviewed and help the University learn from the events.

In one of the emails that was published in the media a conclusion was totally wrong, the President said, the implication that Professor Weller, Director of the Bell Museum, was pressured to withhold the

film. He asked the General Counsel to talk with Professor Weller about that claim. [See the second full paragraph on page two of these minutes, beginning "On the question of whether. . .".]

The President said he would like to see what can be done to improve the procedures. He said he did not believe the events suggested the need for a policy change; he believes people were acting honorably and with the best of intentions. He noted that he had raised money for the film and believed it should be seen. He repeated his view that the University has to work its way through the events to learn from the experience and strengthen the academic community. There was no compromise of academic freedom or free inquiry; rather, there were a series of missteps that in this case were glaring and unfortunate and implicated the University's values.

Professor VandenBosch inquired if the Committee would receive a copy of the General Counsel's chronology of events, once it has been completed. It will, the President said; that is what it is for.

Professor Chomsky noted that the President had said the decision should have been made by an academic office, but as his earlier comments made clear, there would have been no vetting of the film if it was an academic work. The question asked about the film was whether it should have the University's name on it, which is not an academic question. It may be that the implications of having the University's name on it led to a decision to hold the movie pending review—in that sense, it was not an academic-freedom matter, although it came out that way. She said she knew that the President did not mean that academic work should be reviewed. The President said his point was that when questions are raised about the application of the policy in particular cases, the Provost must be at the table and review must occur from that perspective, although there is nothing wrong with considering other perspectives. He agreed with Professor Chomsky's observation that the question was about postponing, not cancelling, the film's release.

Professor Sheets asked if consideration was ever given to a less drastic and more appropriate step, if there was a concern about the University's name on the film, of asking for or just adding a disclaimer? Would that not have been sufficient? In retrospect, that could have been part of the consideration before the decision to postpone was made, had broader consultation been initiated, the President said. But, and as Vice President Himle has acknowledged, the mistake here was not immediately engaging academic leaders and experts to fully evaluate the options. There could be ambiguity in the area; if he speaks on a political matter, he has to utter a disclaimer, and the University's policy says that. There is no substitute for having people around the table; they could have talked about the options. His point, he emphasized, is that anything that touches academic freedom should include the Provost and the General Counsel; everyone, including Vice President Himle, agrees that she acted prematurely. When he and the Provost received the information they needed, they reversed the decision. What is ironic, the President said, is that a university with an almost-unblemished record of protecting academic freedom is now questioned about its commitment to established policy. There are a number of people in the film who he has vigorously defended on the grounds of academic freedom, but much of what has been written does not accurately characterize the values of the University. Making a mistake is not the worst thing in the world, the President concluded, because it does help people learn.

Professor Chomsky said she wished to reinforce the importance about speaking directly to the University community, particularly to the faculty, about the incident. He spoke at the Senate, but that was directed only to senators. His comments here will now be in the Committee's minutes, but that is not quite enough either. The message that was released to the public needed to be directed as well to the

University community. Something that so deeply engages the faculty should be said not only to the Committee but also to the University community. The President agreed to send out a letter.

Professor VandenBosch suggested that the President also address the question of the processes that will be in place in the future. The President agreed. He said he would welcome the advice of the Committee on the letter.

Professor Curley said there were two aspects of the situation. One was the decision leading to the postponement; the second was what happened after the decision and media aftermath. There are gray areas of academic freedom, issues that will be referred to the Committee on Academic Freedom and Tenure. There are also communication issues that need to be dealt with, both internal and external. He said Professor Chomsky's comment was on target. But it is not clear that academic freedom is the central issue; the questions are whether the film presented a University view or if disclaimers were needed and about how decisions are made about University communications. Those are another category of questions that arise, Professor VandenBosch commented; the President agreed. The incident raises a new set of questions about work at the University and when it should carry the University's copyright. His main point has been that the institution did not get the decision to the right place at the right time. Vice President Himle brings certain considerations to matters that are in keeping with her responsibilities, but in this case there were other factors related to the University's central values and responsibilities. The President emphasized again that the University made the right call, not because of pressure but because it was the right thing to do, to release it without censorship or editing.

What is needed now is addressing what the academic community can do to strengthen academic freedom, the President said. There are two elements to doing so—peer review and a civil culture to discuss the full range of perspectives—that will allow the University to address the challenges facing any society.

Professor Curley asked when the timeline would end; would it include not only the initial decision to postpone but also the decision to release? The President said he did not know because he did not have all the facts, but he believed a report from the General Counsel should be ready soon, and will include all relevant facts bearing on the issue.

#### **4. Discussion with President Bruininks: The Enterprise Financial System (EFS)**

Professor VandenBosch now raised the topic of EFS. She related that current concerns became apparent in the annual lunches that Committee members have with department chairs and heads; the discussions led her and Professor Cramer to send him the memo summarizing the opinions they had heard. She asked the President what his response was to the memo.

President Bruininks said he was upset to learn about the concerns. He has held monthly meetings about EFS and looked at the work plans. It appears there may be endemic problems that still need to be addressed; reporting is one but there are others as well if departments and PIs are still having problems. The President recalled that the University had major problems with the student system when it was first installed, but they were addressed in creating a highly responsive services system. EFS was built for centralized systems, which could be part of the problem. He said they must identify the most pressing problems and address them. He said he thought they were doing better; some of this, he surmised, could be old news.

Professor Bitterman assured the President that all of the points in the memo were correct as of two weeks ago.

The President said he would like the Committee's advice and said he was willing to raise these concerns to a high level and get them fixed.

It may be, Professor Sheets said, given the evidence about morale and impatience, that it would be appropriate for the President to send a letter to the University community asserting that these problems will be a priority and that he will speak to the appropriate individuals to get the problems solved. The President said he would be glad to do so and that he would like to get more of the facts and be able to discuss strategies to get good solutions. He said he would like to have substance in a letter and be able to lay out a plan.

The President said he did not want to prejudge what a plan might be. It is obvious that the problem with financial reporting at the local level has to be solved—that must be the highest priority. He said he needs to get a sense for the biggest problems and the solutions that would have the biggest impact. They may need to ask whether there is too much redundancy in the compliance function, which can slow down the system, and whether the internal systems are right (it may be that not all of the infrastructure should be decentralized, even though decentralization is part of the culture and drives much of what gets done. Professor VandenBosch noted that there were a lot of heads nodding when the President placed a high priority on reporting; the President agreed that it is critical that there be easily-understood and easily-accessible reports—that, he said, might solve a lot of the problems.

Professor Cramer opined that it could be that the problems arose because the early meetings were with middle and top managers, not with those at the local level to identify needs. The President said he had directed those responsible for EFS to engage people at the lower levels. He said he will encourage focus-group meetings with people who are very sophisticated about EFS, such as budget officers from around the University. He said he will get the right people around the table.

Professor Chomsky commented that this Committee has talked in the past with the Controller, Mr. Volna, and it sounded like the problems were being fixed. Those at the higher levels seem to say things are fine and getting better; others say not. She expressed concern that the President drill down far enough in the system; either that has not been done before or the people who did so were not hearing what they were told.

Professor McCulloch pointed out that morale is a large issue. The President can choose large pieces to solve, but it will also help to have small steps to people can see improvement. The President agreed. He said he has watched year after year and has become convinced the University must redesign its support systems because they are too complex and cost too much. There have been discussions that are starting to deal with the risk culture in the University; "we are highly risk averse," he said. He said that EFS needs to be stabilized and producing what people need, and then the institution must deal with risk. Vice President Mulcahy is leading the effort to deal with the institution's rules and procedures and to address its risk tolerance.

Professor VandenBosch thanked the President for responding to the Committee's concerns about these two matters.

She adjourned the meeting at 3:00.

-- Gary Engstrand

University of Minnesota

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**Questions arising from the handling of the film “Troubled Waters”  
Compiled by the Faculty Consultative Committee**

**General Questions**

*Questions 1 and 2 will guide FCC in its decision whether additional follow up is suggested. We anticipate receiving a timeline of actions concerning these events, which is being compiled by the Office of the General Council (OGC).*

1. What decisions were made, when and by whom, concerning the release of the film?
2. How and when was the film reviewed?

*The following questions have already been addressed by a statement from Susan Weller that was compiled by OGC. No further evaluation is required.*

3. Some of the communications released by the university under the Data Practices Act suggested that the Director of the Bell Museum was muted by administrators. Is there evidence that occurred? What led to the statements that it had happened?

**Academic Freedom**

1. Under what circumstances does academic freedom extend to individuals beyond faculty, faculty-like staff, and other University employees who produce intellectual and artistic content? Conversely, what personnel or functions of the University are not covered by academic freedom? In general, what are the limits to academic freedom?
2. What is the understanding of academic freedom and responsibility as they apply to University administrators, only some of whom are tenured faculty members? What are the limitations of academic freedom that arise from their responsibilities as administrators?
3. What measures, if any, should be taken to ensure that administrators and others who are not faculty members understand the meaning and implications of the policy on academic freedom and responsibility?
4. When projects that involve the production of intellectual or artistic content are undertaken as works-for-hire or otherwise by non-University employees, or the products of such projects are expected to be copyrighted or otherwise owned by the University (which may imply approval or endorsement by the Board of Regents of the University), what does that mean for application of the policies of academic freedom and responsibility? What oversight by University faculty or administration, if any, is appropriate? What actions are appropriate if concerns arise about the connection of the project with the University? When the University holds the copyright to

- products, is there, or should there be, routinely a disclaimer stating that views do not represent those of the University, the Regents, the University administration or the faculty in general? If such a disclaimer is discretionary, who decides whether to include one, and on what basis?
5. What procedures are in place to govern decisions about University products that are in a gray area, where it is not certain whether rights and responsibilities of academic freedom apply?
  6. The decision to delay showing the film was based in part on concern over controversy that would ensue from its showing. Some controversy is to be expected in disseminating intellectual work products associated with the University, however. The critical question is what actions are appropriate in the face of expected controversy. What have we learned from this particular controversy over how better to handle such concerns?

### **University Communications**

1. What role (if any) does University Relations usually play in dissemination of communications from academic units, distinct from communications by individual faculty? What role (if any) does University Relations usually play in the dissemination of information arising from arrangements between academic units and outside entities, such as the group that made the film? What role should University Relations play in those instances?
2. Control of information that implicates the University's brand or image is distinct from control of information arising as part of teaching, research and outreach. In the current case, this line appears to have been blurred. Is the difference understood by those who control University communications? How is the difference articulated in University policy and in procedural documents?
3. What changes in policy or process, if any, would be appropriate to ensure that decisions made by University Relations are made with full understanding of the implications of academic freedom?

### **Institutional Conflict of Interest**

1. Was an institutional conflict of interest implicated in the decision to delay showing of the film? Was the decision affected by improper influences, whether they constituted a violation of the Institutional Conflict of Interest policy or not?
2. Do the events surrounding the decision to delay the film suggest any concerns about the operations of the Institutional Conflict of Interest policy? Are the standards and procedures in the policy adequate for dealing with such decisions?

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University of Minnesota statement regarding "Troubled Waters" documentary

MINNEAPOLIS / ST. PAUL (10/15/2010) —The following is a statement from University of Minnesota President Robert Bruininks regarding the "Troubled Waters" documentary. Public documents about the documentary were made available starting today:

"One of the hallmarks of my 40-plus years at the university is a steadfast commitment to academic freedom. This value is the cornerstone of all great American universities. I have defended academic freedom at many levels throughout my career. The Board of Regents Policy on Academic Freedom and

Responsibility, amended and strengthened during my administration, and which has been referred to as a model to be emulated by other universities, articulates principles that will not be compromised.

"That is why I am particularly disappointed in the turn of events surrounding the release of the film, *Troubled Waters: A Mississippi River Story*. I regret that the appropriate steps were not taken to ensure that academic and university leaders were convened to resolve any questions about the film and whether it had been subject to the appropriate academic review prior to the initial decision to postpone the Twin Cities Public Television (TPT) broadcast and the premiere event at the Bell Museum.

"Vice President for University Relations Karen Himle also acknowledges that this would have been a stronger course of action:

"After I reviewed the film *Troubled Waters*, at the request of the staff at the Bell Museum, I knew that institutional interests as well as matters of academic freedom were intertwined. While I did consult with deans with academic responsibilities related to the subject matter of the film, my mistake was in not immediately initiating a process that more broadly engaged academic leadership and other university experts to fully evaluate the options and to then make a shared decision as to the best course of action, regardless of the short time before the film was scheduled for a screening at the Bell Museum and to air on TPT. I am sorry for this mistake and I accept responsibility for my decisions and actions in this matter." (Karen Himle)

"Today the U of M has made available to a number of requestors, and in satisfaction of media requests, the internal e-mails related to the release of the film. They will show internal disagreement on the handling of this matter. Susan Weller, director of the Bell Museum, may have said it best, 'We are like a big family; things get messy, but they usually turn out alright.' She is correct.

"The film was premiered at the Bell Museum in two-sold out showings, and broadcast on TPT unchanged and on the originally scheduled dates. Over the past few weeks, we have completed our review of this matter. In short, the University already has strong policy and sound practice that provide that any institutional questions regarding academic freedom should be referred to the Provost as the university's chief academic officer. In this case, that happened only after the film had been postponed. Once it was referred, the questions were addressed, and *Troubled Waters* was released on the original schedule.

"I am proud that the university is the place where faculty and staff are free to explore great ideas, debate and disagree, and take divergent positions on important issues and questions, all in the pursuit of knowledge and the advancement of learning. The Board of Regents Policy on Academic Freedom and Responsibility is fundamental to furthering that activity. We have reflected on this experience and learned from it."