

Minutes*

Faculty Consultative Committee
Thursday, September 19, 1996
1:30 - 4:30
Room 238 Morrill Hall

- Present: Virginia Gray (chair), Carl Adams, Carole Bland, Victor Bloomfield, Sara Evans, Dan Feeney, Russell Hobbie, Laura Coffin Koch, Michael Korth, Fred Morrison, Harvey Peterson, Craig Swan, Matthew Tirrell
- Regrets: W. Andrew Collins
- Absent: Michael Steffes
- Guests: President Nils Hasselmo; Professors Judith Garrard and Mary Jo Kane, chairs of the Academic Health Center and Professional Studies provostal faculty consultative committees, respectively
- Others: Martha Kvanbeck (University Senate), Maureen Smith (University Relations)

[In these minutes: Committee business; discussion of the biennial request, tenure, and the accreditation report with the President; FCC statements on collective bargaining and governance under the cease and desist order]

1. Committee Business

Professor Gray convened the meeting at 1:30 and distributed several handouts for consideration by the Committee.

- Committee members should make known to staff any proposed changes in the summary of change at the University which was led by or supported by faculty; once changes have been made, the document will be prepared for distribution in some fashion.
- There had been an exchange of correspondence with the Regents with respect to the cease and desist order. Professor Morrison has drafted an additional letter, from the Committee to the Regents, concerning consultation on tenure. The letter indicates that no additional consultation will take place (unless, perhaps, the Regents request it with respect to those units not affected by the cease and desist order), and noting clearly for the record that formal consultation on the Regents' proposed tenure code revisions has NOT taken place. After accepting a few revisions, the Committee agreed that Professor Gray should send the letter.
- It was unanimously voted that Professor Morrison serve as counsel to the Committee (pro bono)

*These minutes reflect discussion and debate at a meeting of a committee of the University of Minnesota Senate or Twin Cities Campus 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.

and will represent the Committee at the pre-hearing conference scheduled by the Bureau of Mediation Services.

- The Committee began deliberation on a statement of the Committee's position vis-a-vis collective bargaining. The debate was vigorous, and was not completed until after the discussion with the President and with the provostal faculty consultative committee chairs.

2. Discussion with President Hasselmo

Professor Gray next welcomed President Hasselmo to the meeting and asked him to review whatever topics he wished.

The President began with the biennial request, and expressed appreciation for the participation of the Finance and Planning Committee and this Committee in the deliberations. He said the memorandum from Professor Morrison was helpful in steering the biennial request in a direction where it now appears to have substantial student, faculty, administrative, and regental support--and it has the support without being an awful compromise. It focuses on issues that are central, such as compensation.

He told the Committee he has just received the report of the "Denny Task Force," a group chaired by Mr. Chuck Denny to review the human resources system at the University. He said he would like to have the report reviewed by the governance system, and said that he believed most of the issues can likely be dealt with even with the collective bargaining cease and desist order in place. The report addresses fundamental issues that have to do with the nature of the working environment at the University, and reaffirms a commitment to a compensation strategy that is already part of the biennial request.

The President said he did not want to fall into a trap of supporting fads, but said he believed the information technology issue is central to higher education at this time. It is also one that connects with interests on the part of the Governor and the legislature and the state in general.

The request is ambitious but reasonable, and the shared responsibility between the state, University, and students is a good approach. There will be a lot of additional savings and revenue enhancements that will be necessary within the University, but the state is also being asked for a very significant investment.

They have had discussions with the Governor, the President related, and those have been very productive. There has been a working group established, with three people from the Governor's office, three from his office, and three community people: Win Wallin, Ed Spencer, and Chuck Denny. Those three will be very critical in looking at what the University is doing and what it is asking for, but they are also supportive of the University's aspirations. There is a framework for continuing to present the University's request, with the Governor's support, it is hoped.

The Board has had only one quick look at the request, but the President said he has asked them repeatedly if they have questions or concerns about it; they seem to be comfortable with it. The University will probably go forward with the request largely unchanged at the October meeting of the Board, and it will then go to the Governor's office. The purpose of the discussion with the Governor's

office is not to negotiate a compromise position, but rather to share information and to understand the Governor's priorities and that they are addressed as much as possible by the biennial request.

The Governor has identified four themes that he has used as a framework, and they fit the request and U2000 very well: educational reform, economic vitality, an educated citizenry and education for the workforce, and government accountability. The University is tying in to those four themes.

In addition to the work group chaired by Messrs. Kvavik and Pfutzenreuter that helped assemble the request and back-up budget documents, there is also a task force chaired by Donna Peterson to "market" the request. It draws on people involved in external relations throughout the University, to be sure that all channels are used to get information out about the request. There have also been a series of meetings with various groups--most recently the editorial staff of the STAR TRIBUNE--about the Undergraduate Initiative. The reaction was very positive, the President said; they felt there was substantial change. Those presentations are continuing, with other constituencies; he said they must get down to that level of detail in order to understand what is going on, and to get through the "front page news barrier." He believes focusing on the Undergraduate Initiative is important because it is a central issue and one that the public can be engaged in. Related issues are also being highlighted.

Consideration is also being given to a technological literacy requirement, as part of the undergraduate curriculum.

Professor Adams inquired who the three representatives from his office were. They are Senior Vice President Marvin Marshak, Associate Vice President Richard Pfutzenreuter, and Dean Robert Bruininks, with Associate Vice President Kvavik available as an alternate. The Governor is very interested in K-12 education, and the work of the University with the K-12 system, so appointment of Dean Bruininks--who has worked a great deal on the issue--was seen as important. There will also be a conference on this subject in November sponsored by the Higher Education Advisory Council.

Professor Bloomfield inquired about the role of Mr. Swain, the new Vice President for Institutional Relations; is it largely confined to the capital campaign or a broader University role? It is the latter, the President affirmed: the entire spectrum of responsibilities that position has had. He has been very active in arranging the kind of presentation that was made to the newspaper; the President said he has asked Mr. Swain to schedule such meetings with editorial staffs and key groups in society. Mr. Swain has also been involved in the discussions with the Governor; by virtue of Mr. Swain's status in the community, he is an important personal link with key people.

Professor Swan asked about the technological literacy requirement. There has been no discussion about it. He said there should be concern that the University not commit itself to something that it has not, internally, committed itself. He also said that he would favor an approach that integrated technology across courses, rather than having a separate course requirement. There are enough problems trying to negotiate the liberal education requirements and the change to semesters; to add yet one more distinct requirement would be problematic. Working with high school experiences, and building on them, might be more effective. Where, however, does this fit into the broader question of course requirements and the faculty role in determining them?

The President said a technological literacy requirement would have to come through the

Educational Policy committee and normal channels; he said he would ask Dr. Marshak where the proposal stands. There have been discussions with MNSCU about this, whether it would be interested in also having such a requirement.

Professor Koch reported that Provost Shively had mentioned this item at the SCEP retreat earlier in the week. The impression he gave was that it would be built into courses, not another course requirement, and that it was simply an idea that had not been fleshed out.

Hearing no further questions about the biennial request, Professor Gray turned the topic to the tenure and asked the President for a comment.

The administration is preparing a statement, probably in question-and-answer form, that addresses the most commonly-asked questions about the implications of the cease and desist order. The Board and administration will be neutral as far as unionization is concerned, but there are some technical issues that need to be resolved (such as membership in the bargaining unit), and the President reviewed the current situation as it affects the Academic Health Center and other units. He said that they are operating on the assumption that unless discussion of something is specifically prohibited, the University will continue to operate as it has: promotion and tenure will go forward and the faculty governance system will be fully operational (although there may be some restrictions on the Committee on Faculty Affairs).

The governance system intends to continue its activities, Professor Gray told the President, and will issue a statement to that effect: it will be business as usual except for discussions of tenure and other large changes in the terms and conditions of employment.

Professor Adams inquired about the President's statement that the administration and Board will be neutral with respect to unionization. Is that because they believe it is required? Or because they believe it appropriate after they examined the question? Or has the question not come up? What is the background? He said he assumes the administration or Regents could be pro or con if they chose to, so one assumes this neutrality is the basis of a fairly carefully thought-out position.

The Chairman of the Board has informed him, the President related, that after consultation with the members of the Board, that that is the Board's position. The administration and Board are somewhat constrained by the law; they essentially can provide information, and will do so, but any form of advocacy may not be permitted, and neutrality seems to be the best stance.

Professor Morrison offered background information. Until the middle of the 1980s, state law was quite different from federal law in this regard. The state law prohibited a public employer from taking any position whatsoever, and required neutrality. Since the middle 1980s, that has been softened, but the University is still not in same position as the private sector.

What does that mean, Professor Bland inquired? If they have a position, they may state it? Professor Morrison declined to speculate what the administration could do.

Presumably the Board has thought about this and taken a position they believe is a choice, Professor Adams commented. The administration could be constrained by the Board's decision, or it could be that the administration feels constrained by Professor Morrison's view of the law.

The President said it was his best judgment that the administration should stay neutral, given the total circumstances at this time. He expressed doubt that if the administration were to take a position pro or con, it would be very effective. He said he has given some thought to the issue, and this is his best judgment.

The emphasis on choice puts him in an unfair position, Professor Swan told the President. He may have a personal position, but he is also a legal officer of the institution, and in some respects he is constrained by law. He said he did not understand what Professor Morrison said, but that constraint is real, and the President must have the best interests of the institution in mind. It is unfair to imply he has complete freedom. The President agreed, and said he did not feel that he had a lot of freedom. Given the circumstances, and the issue that has placed the University in the present situation, this is something the faculty must be allowed to sort out. They know where the administration stands on the tenure code; that position has not changed.

The President said he did not have much more to say about the situation. The Committee continued to discuss with him various possibilities.

Professor Bland said the dialogue suffers because it lacks the President's voice, as the leader of one of the major institutions and an experienced faculty member, on the kind of governance he thinks works in a university. One can understand the constraint he feels, she said, but people would welcome hearing from him on what he knows about how a union would work and what he knows about how a senate works with a union, about how these things affect productivity and what can be provided to the state. To say the faculty can wrestle with it puts the discussion in the hands of people who have not thought about these issues, but he has. Is there a way the faculty can benefit from his experience? It is bad to have him silent; he is the leader of the faculty as well as president.

Professor Gray quipped the President should consider adopting a pen name. The President said in jest that he had; he was going to call himself Fred Morrison.

On a more serious note, the President said that if he did not feel constrained, he would be glad to do as Professor Bland asked. But he said he believed he was prohibited from doing that.

If he is constrained, Professor Bland then asked, can he nonetheless help to insure that the discussion is as informed as possible? The faculty do not have the perspective that he and others do. And what does he hear from the presidents who have unions? What do they say? That is between the presidents, Professor Gray interjected; the faculty will have to ask that question themselves. Perhaps, said Professor Bland, but is there no way the leader of the faculty can help in the discussion?

The conversation continued.

Professor Adams inquired who would represent the University at the pre-hearing conferences held by the Bureau of Mediation Services. It will be John Erickson from Human Resources, the President said, along with the Office of the General Counsel, and two lawyers from Briggs and Morgan hired by the Board of Regents to assist. When they have a hearing, Professor Adams inquired, and the University is asked what its position on an issue is, who will present it? The President said that he would do so,

unless it were something the Board will have to decide on. The hearing officer will have to make decisions, Professor Adams pointed out, and someone will speak for the University. Thus far it is technical issues, the President responded. When it comes to questions of appeal of decisions, that would be decided by him and by the Executive Council, unless it were to go to the Board. The President said he has not delegated to anyone the right to make decisions, where there is a choice.

Professor Morrison said that he would note, but not ask a question, that the list of people the President identified contains no one from the academic side of the University. The decisions are being made entirely by people who are strangers to the academic enterprise. The President said this should not be a worry, because Senior Vice President Marshak is deeply involved. His worry is about minor things that are not noticed when done, but that come back to haunt the University later. The President said he understood.

The President next commented on the accreditation report; he urged the Committee to read the self-study report prepared by the working group (chaired by Professor Thomas Scott); it is very impressive, he said. One of the three people on the Governor's task force, Ed Spencer, was also on the accreditation committee, so is very familiar with the University.

In many ways, the site visit report was very positive, with glowing praise for what the University has achieved. It also expressed deep concern--and it must be recalled that the team was on campus during one of the darkest moments of turmoil, in April--about the University's ability to work together. They raised questions about the number of issues on the table, and whether the University has bitten off more than it can swallow. The problem is what should be taken off the agenda, the President commented, and they are trying to sort things out so the University does not get swallowed up by the changes. The concern was justified, however.

The team also raised questions about information technology, but that may not be as important as it seems in the report, the President said. It has to do with who is in charge of changes; is there a technology group that drives the changes, or are they driven by the academic side? The person who wrote the site visit report may have taken a philosophical stance different from the one the University wishes to take.

The report also raised questions about the Academic Health Center and suggested discontinuing association with CSC Index. The University had already done so, he noted.

If there are questions about the report, the President said, he would be glad to know of them. He wrote a letter to the North Central Association that raised certain issues about the report, he said; he said he expected that the report would be accepted. There will be a targeted visit in three years, which is a signal of concern that the change agenda is very aggressive, especially in the AHC, and the NCA wants to see how it plays out.

There is also the targeted visit with regard to the Regents, Professor Morrison noted. There are two items that call for a re-visit within the ten-year period; one is the AHC and the other is the Regents, he said.

Professor Koch said she was amazed at how perceptive the report was, and asked if the revisit in

three years would have an effect on the overall accreditation process. If the visit is mandatory, and the results are unsatisfactory, what does that imply? The University has been re-accredited for the next decade, the President said; that is unambiguous. He has puzzled over the same question, he said; the report was straightforward in terms of the University passing all the criteria for accreditation, and then there is a section containing advice and where these issues were raised. But the accreditation was never in doubt. Considering the high praise the University received, anything else would have been unreasonable.

Professor Gray said that some have suggested the University should be able to get some positive public relations out of the report, particularly the view that it is moving too fast on too many fronts. That could be used to the University's advantage, to make the point that it IS changing many things. The President said the University is trying to use the report, but the criticism he receives is about evenly divided between those who say the University is not changing enough and those who say it is changing too much and too fast.

The University is doing several things in the public relations area that will draw on the report, the President said, but they have not thought about using the report exclusively. There is the usual difficulty of getting into the media; he thought the accreditation report would receive much more coverage. There may have been too many other interesting topics on the agenda.

How does the University use the report, Professor Koch asked? It is being circulated, the President replied, and the issues it raised are being noted. It is not being used directly in the planning process, but is being used to share information about the University's position.

The one thing that did not seem perceptive--it was wrong--was that the University is near the top in expenditures per student, in the top 35 universities, Professor Bloomfield observed. Everyone finds that puzzling; it could be damaging. Most thought the data would go the other way. What is he doing to find out how that got that wrong? The President said he has asked the planning office to find out what data are available; that item was puzzling because it is both counterintuitive and counter to available information. The University may not be at the bottom of the Big Ten; the reality is being sought, although it is very difficult to get comparative data.

If one were simply to find out the state appropriation for each Big Ten university, and divide it by the number of FTE students, Professor Bloomfield asked, did the President have any idea where the University would rank? The President said he did not. He has asked Dr. Zetterberg to come up with the data; it is extremely important to find out where the University stands, in relative terms. When the accreditation team says the University is at the top, and the data say it is at the bottom, there is something wrong.

Professor Morrison next inquired if there were any data on faculty departures (resignations, retirements, and so on, and new hires). They have been generated for prior years; what about last year? Usually the report appears later in the year, but the data should be available by now. Professor Swan suggested that the impact of the tenure debate may not show up until next year. The President said he is personally involved in three retention cases, "and we may lose all three." They are directly related to the tenure discussion, he said.

Professor Bland reported she had received several calls about the expedited searches for administrative positions in the health sciences and had been asked to bring them to the attention of FCC and the President. The callers were concerned about the need for expedited searches for the positions, the brief announcement time, the qualifications for the positions that some perceived were a very close match with an inside candidate, and that the positions are being filled by white males. The President acknowledged that he had conducted expedited searches, used in compelling cases, but said he understood the concern. This is not a suggestion that the men in the positions are not doing a find job, Professor Bland said.

The President said he always wanted to leave on a positive note, and said that what is happening with the Undergraduate Initiative is very, very positive, and he expressed appreciation for the Committee's continued support for the initiative. It is, paradoxically, perhaps the most important thing the University can do to describe itself as a major research institution. He said he hoped the University would continue to build on it, and not be daunted by momentary setbacks.

3. Discussion with the Provostal Faculty Consultative Committee Chairs

Professor Gray welcomed Professors Judith Garrard and Mary Jo Kane to the meeting to report on the initial work of their provostal faculty consultative committees. The two chairs discussed the work of their committee and the issues they have taken up. Professor Gray thanked them for their work and said the committees should remain in contact with FCC.

4. Continued Discussion of Statements

Following the meeting with the PFCC chairs, the Committee continued to debate statements on collective bargaining and on governance. [Agreement on the precise wording of the two statements was reached the next day, and the statements were issued on September 20.] The statements were as follows:

STATEMENT ON COLLECTIVE BARGAINING

Faculty Consultative Committee

September 20, 1996

The Faculty Consultative Committee, as the elected leadership group for all of the faculty of the University, recognizes that there are divergent faculty views about the desirability and wisdom of collective bargaining. The Committee, therefore, has concluded that it, as a committee, should take no position on whether the faculty should support or oppose the collective bargaining effort that is under way. Indeed, the views of Committee members may reflect those of the faculty at large: some support the unionization effort, others oppose it, and some are ambivalent about it.

The Committee also notes, with respect to its stance of neutrality vis-a-vis collective bargaining, that it is supported by University funds and staff. It would be improper for the Committee to use those University resources either to support or to oppose collective bargaining. While individual members of

the Committee are free to make their views known, the Committee should take no position.

Irrespective of the views of our colleagues, and ourselves, about collective bargaining, the Faculty Consultative Committee is extremely concerned about the danger to the University that has been posed by the threats to academic freedom in the recent proposals from the Board of Regents to amend the tenure code. The Committee remains committed to opposing any actions which will endanger academic freedom and, thereby, the academic quality and strength of the University of Minnesota. The Committee also remains committed to supporting the tenure proposals presented in June to the Board of Regents by the Faculty Senate.

The present situation results from a threat to academic freedom and faculty governance, so the Committee has a responsibility to participate in discussions to resolve that threat. To that end, the chair and the vice chair of the Committee have agreed to participate in a coordinating group that includes two faculty members each from the American Association of University Professors, the University Faculty Alliance, and the "Group of 19." This coordinating group will work to ensure that the faculty present a unified, coherent, and consistent statement to the rest of the community about the value of the University and academic freedom.

**STATEMENT ON FACULTY-UNIVERSITY CONSULTATION
DURING THE "STATUS QUO" PERIOD**

Faculty Consultative Committee

September 20, 1996

In order to comply with the Bureau of Mediation Service's "status quo" order, the Faculty Consultative Committee (as the steering committee of the Faculty Senate) plans to proceed as follows.

1. Further consideration of amendments to the Tenure Regulations will be postponed. They are clearly "terms and conditions of employment."
2. We will seek to maintain regular consultation with the administration, in accordance with existing policies and practices, on other issues. Under the terms of the Order, we understand that the administration may be restricted from discussion on issues that are "terms and conditions of employment," but it is equally prohibited from making any changes in those items. If the administration declines to consult on a matter, we will expect it not to take any action on that matter until the Status Quo order is lifted. Committee chairs should report to the Faculty Consultative Committee any issue on which the administration declines consultation, so that item can be monitored and appropriate action taken.
3. We understand that the Order does not prevent continued normal activities under existing policies. Thus, for example, consideration of candidates for tenure and promotion can continue under existing policies.
4. The Order does not apply to the Academic Health Center, the Law School, or the Crookston or

Morris campuses at this time. Ordinary consultative processes can continue to go on in those units. Those processes may, however, be dampened by the inability of the University to be responsive on University-wide issues.

[Note: This same statement, amended appropriately, will be brought to the Senate Consultative Committee for action with respect to the University Senate when the Senate Consultative Committee convenes.]

Professor Gray adjourned the meeting at 4:30.

-- Gary Engstrand

University of Minnesota