

Minutes*

Faculty Consultative Committee
Thursday, September 26, 1996 (Part I)
11:30 - 1:30
Room 140 Nolte Center

Present: Virginia Gray (chair), Victor Bloomfield, W. Andrew Collins, Sara Evans, Russell Hobbie, Laura Coffin Koch, Michael Korth, Fred Morrison, Harvey Peterson, Craig Swan

Regrets: Carl Adams, Carole Bland, Dan Feeney, Matthew Tirrell

Absent: Michael Steffes

Guests: Vice President Tom Swain (Institutional Relations)

Others: Maureen Smith (University Relations)

[In these minutes: Hearings on collective bargaining]

1. Discussion with Professor Morrison

Professor Gray turned first to Professor Morrison to report on the pre-hearing conference at the Bureau of Mediation Services (hereinafter BMS).

He reported that the pre-hearing conference had occurred the day before. The University appeared with three lawyers, Associate Vice President Carol Carrier, and John Erickson from Human Resources. The University Faculty Alliance (UFA) appeared, with its two leaders and their lawyer. Those are the only two parties to the proceeding.

Interested parties also present were the Law Faculty Association, the Faculty Consultative Committee (represented by Professor Morrison), the AAUP leaders, and Professor Carl Adams on behalf of the Carlson School faculty.

The University produced a list of 1,550 people in the bargaining unit; the UFA and the University will deal about the list over the next two weeks, to come up with an agreed list. The University's list excludes all department chairs and all deans and directors. That was not true last time, he said; the department heads were in the unit, but they have been removed from the list this time.

The University raised questions about whether to go forward on three items. One is virtually all of the business of the Senate Committee on Faculty Affairs, one was the Intellectual Property policy (currently before the Research Committee), and one was that the University wished to continue consultation on the tenure issue. All of them were taken under advisement by the UFA; Professor

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Morrison said it was his understanding UFA has indicated it does not wish to have consultation on the tenure issue continue until after the election--at which time they would negotiate, if elected.

Professor Morrison said he would describe the University's attitude as proper and forthcoming, and it expressed an interest in meeting with the UFA about a wide variety of issues. The University representatives also expressed opposition to any meeting or information being provided to FCC or other groups that are not formal parties to the proceedings. Professor Morrison said he would describe the University's position toward FCC as proper, adversarial, and uncooperative.

The next pre-hearing conference will be on October 9, and will probably be a discussion of the lists, and who is in and who is out.

There was a second meeting in the afternoon, Professor Morrison said; from it there was issued a joint statement, which read as follows:

"At the request of the Commissioner of the Bureau of Mediation Services, representatives of the Faculty met with three members of the Board of Regents and the Commissioner.

"We are trying to ensure that communications between the Faculty and the Board of Regents remain open and positive while the faculty's petition for a collective bargaining election is pending.

"At the suggestion of the Commissioner, the substance of our conversations will be confidential."

This statement, he concluded, says everything that can be said. Present at the meeting that developed the statement were Regents Reagan, Spence, and Kim, Professors Rabinowitz and Walsh from UFA, himself, and the Commissioner of the BMS.

There has been considerable discussion about whether conversations could be carried on unofficially, Professor Bloomfield noted--something that would not constitute formal negotiations but that might get people off the dime before there is an election. Would what happened yesterday make that less likely than previously? Professor Morrison thought not; the conversation will continue. He will need specific instructions from the Committee at appropriate times.

Are there goals or purposes for these meetings, Professor Korth inquired? The basic goal of the Commissioner is to keep the situation from deteriorating into one where there is extreme hostility at the end of the process, whether or not there is a union. The Regents expressed, through their lawyer, at the public Wednesday meeting, their wish to proceed with discussion of the tenure code. Professor Morrison said he doubted that would happen.

It is a concern that the administration is taking the position that the FCC should not be there, Professor Gray said. The question was why the lawyers for the University were taking that position. Were the lawyers taking that position on their own, or had they been directed to take the position, she asked? And if so, by whom, Professor Morrison added. He also said he did not understand their rationale for not wanting FCC represented, although the point came up repeatedly during the meeting. He said he could not answer the question of whether the lawyers were the administration's lawyers, the

Regents' lawyers, or both. Nor, he said, is he sure that the lawyers represent a majority view of the Board of Regents, if they in fact are representing the Board. There are lawyers in the proceedings who are representing the University. What remains unclear is who hired them and is giving them instructions, in light of the policy divisions between the President and the Regents. Is their position that of the President, of a small number of Regents, or of the majority of the Board?

Also of concern, Professor Gray said, is leaving department chairs out of the unit. Apart from the merits of how they might vote in an election, department chairs generally think of themselves as faculty, and that is how they were treated in the earlier election. This is an unexpected change. Other Committee members agreed.

In the last election, Professor Morrison recalled, department chairs were in the unit, deans were out, and directors were mixed, depending on whether they were clearly supervisory or not. The University emphasized that it supplied the list in this way but was not taking a position on whether there should be additional names on the list; it may represent nothing more than the quickest way to get a list from the computer, which separates appointments by code number.

Could the department heads assert their "solidarity" with the faculty by petitioning the BMS, asked Professor Bloomfield later in the meeting? The proceedings are informal, Professor Morrison said; if the department heads put in a petition to the Director of the BMS, it would become part of the file.

Whether or not FCC could contest this decision will depend on whether it is a party to the proceedings; that decision might be made by agreement between the University and UFA, Professor Morrison reported. This should be discussed by the leadership group (with representatives from AAUP, UFA, FCC, and the "Group of 19").

Why would the University and the UFA be able to exclude other interested parties, Professor Koch inquired? The University WANTS to exclude other interested parties; the UFA has not taken that position, Professor Morrison said. The BMS offered to have communications sent to it, and it would in turn make copies for everyone.

Professor Gray asked about the agenda of the Senate Committee on Faculty Affairs. Professor Feeney has identified a number of items SCFA wishes to work on, some of them of long-standing interest. What should be done? Professor Morrison said there has been no decision on the issue; SCFA should continue forward unless the University says it will not discuss something. If no one from the administration will discuss a certain topic, then it is a subject it presumably does not wish to discuss. Professor Morrison said he took the position, forcefully, that if the University tells SCFA it will not discuss something, the faculty will expect the University to cease all activity on that item.

Professor Feeney wants to discuss part-time, non-regular, term, P&A faculty, Professor Gray reported. Obviously, the University wants to continue hiring them. SCFA needs to be able to discuss the implications of that practice. The University cannot tell the Committee to quit talking about it, can it? It cannot, Professor Morrison affirmed--but the Committee may not be able to get any useful information. This issue can be postponed for a week.

Another issue that arose at the meeting was that the University took the position it wanted an

election as soon as possible, Professor Morrison reported. There was question about whether the bargaining election in the core unit might be held before the decision whether to join the unit is made by the health sciences. That is unresolved, but it may be impractical. Committee members discussed the possible schedule of events.

Professor Morrison excused himself to attend a meeting with the health sciences faculty; Professor Gray thanked him for his report.

-- Gary Engstrand

University of Minnesota