

SENATE COMMITTEE ON SOCIAL CONCERNS
MINUTES OF MEETING
FEBRUARY 23, 2004

[In these minutes: Mount Graham Update, EAFE Commingled Index Fund Vote Results, Lehman Brothers, Middle East Forum Subcommittee Update, Proxy Business, Agenda Items for March 22, 2004, Environmental Subcommittee Update]

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

PRESENT: Margaret Kuchenreuther chair, Barbara Boysen, Ruth Taylor, Susan Von Bank, Greg Schooler, Julie Sweitzer, Thomas Augst, David Fox, Twyla Treanor, Kara Ferguson, Bobak Ha'Eri, Joel Helfrich, Brian Wachutka,

REGRETS: Jennifer Oliphant, Karen Holtmeier, Robert Blair, Kenneth Heller, Sarah Keller, Melissa Williams

ABSENT: Ravi Norman, Michelle Dawson, Mani Subramani, Joseph Nowak

OTHER(S): Sam Sharma, MPRIG; Katie Tharp, MPRIG; Sara Rostampour, MPRIG; Julie Swiler, JCRC

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

II). Professor Kuchenreuther reported that she along with Joel Helfrich and Professor Patricia Albers from the Department of American Indian Studies attended the February 9, 2004 Senate Research Committee (SRC) meeting to discuss the Mount Graham issue. Also in attendance were Professor Leonard Kuhl and Professor Lawrence Rudnick, both from the Department of Astronomy. At this meeting the Social Concerns Committee and the Department of Astronomy each presented their sides of the issue. The testimony from both these parties took longer than expected and,

therefore, the SRC postponed its discussion until Monday, February 23rd. In the meantime, Professor Kuchenreuther received an email from Professor Judith Martin, SCC Chair, indicating that a parliamentary decision had been made to block further discussion of this issue at the March 25, 2004 Senate meeting. Professor Martin referenced Article VII (2) of the Senate Constitution, which reads as follows:

"2. Controversies Between the University Senate and Institutes, Colleges and Schools

Controversies arising between the University Senate or its committees and a campus, institute, college, or school government or other division of the University shall be resolved by the president, after conference with representatives of the Senate and of the units in question."

Professor Kuchenreuther called on Joel Helfrich to comment further on this matter. According to Mr. Helfrich, Article VII (2) of the Senate Constitution completely goes against direction received earlier by Professor Martin. In November 2003, Professor Martin directed both the Research and Social Concerns Committees to prepare resolutions, either jointly or separately, for action at the March 25, 2004 Senate meeting. Mr. Helfrich is uncertain what spurred this reversal in direction. Was there someone behind the scenes exerting a tremendous amount of pressure in order to make this happen? Clearly, Senators were interested in both sides of this issue.

Professor Kuchenreuther noted that the Astronomy Department has a tremendous vested interest in the Mount Graham Large Binocular Telescope Project. They believe their involvement in this project is critical to their ability to attract new faculty. She added that in some of her informal conversations with members of the Astronomy Department, there exists a belief that the University of Arizona was not completely upfront when they assured the University that all issues with the San Carlos Apache had been resolved. Many of the Astronomy Department's arguments are very compelling stated Professor Kuchenreuther, but there exists a bigger ethical issue.

Professor Kuchenreuther stated that the University has measures in place for some members of the University community to examine the ethics of their research e.g. human subject research and vertebrate animal research. Human subject and vertebrate animal research protocols must always be passed through committees. These committees help researchers think about the ramifications of their research and possible alternatives to their research design. However, for other research endeavors there is no such process in place. In the case of Mount Graham, if there had been such a process, which required the Astronomy Department to examine the ramifications of their actions, Professor Kuchenreuther wonders whether the outcome may have been different. In the future, the Social Concerns Committee may want to think about how to enhance the University's dialogue regarding the overall ethics of research. A member added that this may also be an opportunity for the Social Concerns Committee to interact with the Senate Committee on Equity, Access and Diversity (EAD), which has had similar discussions.

Mr. Helfrich was extremely disappointed that discussions around Mount Graham had been squelched because at this point there was not yet an impasse between the Social Concerns Committee and SRC. The SRC had not yet issued a final report indicating it did not agree with the Social Concerns Committee. There was no reason for Professor Martin to impose this Constitutional maneuver. In fact, conversations have been taking place between the Department of American Indian Studies and the Astronomy Department. While these two units will never agree on this issue, they can gain a greater understanding of where each other is coming from by discussing the matter.

The Committee unanimously agreed to register its dissatisfaction with the decision to block further discussion of this matter at the Senate. The whole point of having an elaborate system of governance is to discuss issues as they arise. Why have a Senate at all if there will not be full debate of issues? It seems that the Senate devotes itself to a lot of paperwork, but when it comes to discussions of substantive issues, these get sidelined by procedural mechanisms. Every Senator should be concerned about such procedural mechanisms, despite what they think about the Mount Graham issue. The sentiment was expressed that the decision to block further discussion of this issue was very high-handed behavior on the part of a few

individuals. Members unanimously voted to register the Committee's dissatisfaction with the process being imposed to cut off debate/discussion on this issue and wanted it noted that Professor Martin's action to stop the Mount Graham discussion lacks transparency and appears arbitrary. Mr. Helfrich also shared with members that in a recent email to the FCC he quoted President Bruininks who commented at the October Senate meeting, "If you can't talk about these issues here, I don't know where you can in our society." He suggested this quote be incorporated in the statement of the Committee's dissatisfaction, which Professor Kuchenreuther will draft. Besides sending the letter to FCC, members agreed that it should be sent to the entire Senate as well as the Research Committee. A member added that because Professor Martin attempted to silence discussion rather arbitrarily around this issue and with impunity, she should be reminded that there is a larger framework within which she works. Another member also referenced the partisan tone to Professor Martin's email.

III). Professor Kuchenreuther reported that the vote on whether the University should invest \$15 million with the EAFE Commingled Index Fund for a period not to exceed 6 months was 6 to 5 against investing in the EAFE Commingled Index Fund. This vote reaffirms the University's 1998 position to not invest in Total Oil, a French company, because of their involvement in Myanmar (Burma). (One percent of the EAFE Commingled Index Fund is invested in Elf Aquitaine. Total Oil is a subsidiary of Elf Aquitaine). As a result, Asset Management has invested the \$15 million in a basket of futures of all developed countries excluding France. This option returns roughly the same earnings as the EAFE Fund, but costs the University about \$55,000 every 3 months because there is a fee attached to purchasing futures securities. Once the 6 months has elapsed, Mr. Schooler will be able to calculate the cost of this transaction, and will report back to the Committee.

Professor Kuchenreuther called on Joel Helfrich who had mentioned at the Committee's January meeting the desire to introduce a resolution reaffirming the Committee's position with respect to Total Oil. Mr. Helfrich learned that according to Robert's Rules of Order a motion to reaffirm a position previously taken by adopting a motion or resolution is not permissible.

IV). Professor Kuchenreuther called on Kara Ferguson, a member of the subcommittee investigating the charges against Lehman Brothers brought forward by MPRIIG, to provide the Committee with an update. Ms. Ferguson highlighted the following findings from her research into private prisons:

- Lehman Brothers is the number one financier of private, for-profit prisons as well as the number one underwriter for educational institutions.
- Lehman Brothers does a massive amount of business with the for-profit prison industry.
- Privatization of prisons became popular in the Reagan years. Prisons began to be privatized with INS facilities.
- As crime rates fell, and the war on terror began, private prisons changed their focus from state and federal contracts to INS facilities detaining immigrants. At one point, many private prisons faced bankruptcy due to a decrease in the incarceration rate and a decrease in state financial support. However, private prisons now see immigrant detainees as their new "cash crop".
- Privatization of prisons definitely impacts our legal system. The American Legislative Exchange Council (ALEC) helped draft legislation including mandatory minimums and the three strikes law. These laws are designed to keep people in prison for a long time and are guaranteed income for the private prison industry.
- Private corporations have hired famous public relations firms to create campaigns that call for increased detention of immigrants.
- There are many examples of corporate irresponsibility on the part of private prisons, which would legitimize the University's decision to divest from Lehman Brothers. For example, private prisons are being run as businesses, many of which have poorly trained and underpaid employees. In addition, over the years private prisons have had to pay millions of dollars in fines resulting from lawsuits demonstrating substandard conditions. The private prison industry's desire for profits have led to numerous problems caused by substantially lower wages, benefits and training standards, which, in turn, have led to unsafe living and working conditions for prisoners and prison employees alike.
- Prisoners incarcerated in private prisons are no longer wards of the state; instead they are the property of corporations with little state or federal culpability.

To conclude, Ms. Ferguson asked members to remember that in 2000 - 2001 Lehman Brothers stepped in to underwrite the debts of many private, for-profit prisons on the verge of bankruptcy. Lehman Brothers has been called on for conducting questionable sales/lease-back transactions and other questionable business practices, comparable to conduct by Arthur Andersen. It is for these and many other reasons that Ms. Ferguson recommends the University divest from Lehman Brothers. Lastly, Ms. Ferguson stated she would be sending an electronic copy of the handout she distributed today to Renee Dempsey, Senate staff, so it can be distributed to members participating remotely or who are not in attendance.

Comments/questions from members included:

- Ms. Ferguson was asked her opinion concerning the letter from Lehman Brothers to the University stating it had not been involved in the tax-exempt financing of private prisons for over two years and that the investment banker who led their municipal private prison financing efforts no longer works at their firm. Ms. Ferguson stated that it is unclear what provoked this letter from Lehman Brothers to the University. She added that Lehman Brothers continues to underwrite private prisons. As a matter of fact, in 2003 Lehman Brothers underwrote \$150 million in notes for the Wackenhut Corrections Corporation. This proves that the letter is untruthful.

Next, Professor Kuchenreuther called on Professor Augst to share with members what he learned from Carol Fleck, Director of Debt Management, regarding this matter. Professor Augst reported that when an RFP is issued, the University does not ask questions regarding a vendor's subsidiary companies or clientele. The RFP focuses its questions on the kind of services the vendor will be able to deliver. Ms. Fleck indicated that the University is very happy with Lehman Brothers. Hypothetically, she posed the question, if the University were to go through the RFP process to retain another underwriter, isn't it probable/possible that whoever is chosen could be involved in business practices, which some groups would consider contemptible. Professor Augst suggested inviting Carol Fleck and/or CFO Richard Pfitzenreuter to a future meeting assuming the Committee is interested in pursuing this issue further. In addition, he stated that the Committee may want to concern itself with the RFP process to ensure that

proper questions are being asked during the selection process of University vendors.

In a conversation with Associate Vice President of Asset Management Stuart Mason, Professor Kuchenreuther learned the following:

1. Possible alternative underwriters to Lehman Brothers include Goldman Sachs Group, Bear Sterns and Morgan Stanley. Without having researched these banking institutions, it is possible that any one of them could be involved in business practices that the Social Concerns Committee might find questionable.
2. Lehman Brothers relationship with the University has evolved over the years. Besides acting as the University's underwriter, Lehman Brothers has taken on a role as one of the University's financial advisors. The University has a very deeply embedded relationship with Lehman Brothers.

Professor Kuchenreuther reminded members that the Committee has the obligation of looking at the big picture. Divesting from Lehman Brothers could disrupt other informal and very important relationships that exist.

Professor Kuchenreuther postponed action on this item until March. She will invite CFO Pfutzenreuter to the Committee's March meeting. Members expressed an interest in learning more about broader procedural questions involved in the RFP process and whether it is possible to expand on the questions asked in the RFP. Also, the Committee is interested in learning more about the letter Lehman Brothers sent to the University. If the letter is inaccurate, then this would be very serious.

MPRIG representative Sam Sharma stated that even if there is a cost involved for divesting from Lehman Brothers, the University should pay the price for not being involved, even indirectly, in the private prison industry. The University's institutional concerns should not matter more than higher social issues. A member responded by saying this is not the issue. The issue is if the University divests from Lehman Brothers will it simply be moving its business from one firm with undesirable business practices to another. Another member added that if an organized boycott of Lehman Brothers comes to fruition, there exists a great opportunity to affect change in their as well as other organizations' behaviors.

In closing, the Committee agreed it would be helpful to receive and review a copy of the Lehman Brothers RFP prior to the March meeting.

V). Professor Kuchenreuther called on Kara Ferguson to provide members with a report from the Middle East Forum Subcommittee. Ms. Ferguson shared the following information:

- The forum will be held sometime in the fall of 2004, perhaps in conjunction with Human Rights Day or International Education Week. This will allow the Subcommittee time to organize the event as well as to work collaboratively with other organizations that may want to be involved e.g. Amnesty International, the University of Minnesota Human Rights Center, Minnesota Advocates for Human Rights, Center for Victims of Torture, etc.
- The proposed topic for the forum is 'Human Rights in the Middle East' with a special focus on Israel and Palestine. Time will be devoted to discussing options to change the situation in the Middle East and create peace in this area.
- Members were encouraged to share their ideas concerning possible keynote speakers.
- The target audience for this forum remains undecided; it may be the community at large or the University community.
- Grants from student organizations will be solicited to help provide financial backing for this forum.

Comments/questions from members:

- Is the topic of the University divesting from Israel going to be addressed? According to Ms. Ferguson, the forum will focus on what is currently occurring in the Middle East and to provide educational information. The goal is to make the forum more general.
- Professor Kuchenreuther reminded Subcommittee members that there was an interest in learning whether divestment is an effective tool for social change. However, she noted that inquiries by Julie Sweitzer earlier this fall uncovered no leads regarding scholarly work on this issue.
- Some departments may be in a position to donate money towards this forum. It was suggested that HHH, History, and other departments be contacted to solicit their support.

VI). The list of shareholder proxy resolutions were distributed to members. Professor Kuchenreuther asked for volunteers to research each of the proxies and make a recommendation to the Committee on which way to vote. Members volunteered for following proxies:

Report on Impacts of Genetically Modified Organisms-Safeway	K. Ferguson
*Increase Container Recycling/Recycled Content-Pepsi Americas	B. Wachutka
*Report on Political Donations and Policy-Safeway	David Fox
*Report on Political Donations and Policy-Merck	David Fox
Report Using GRI Guidelines-Safeway	Kara Ferguson
Review/Report on Global Standards-Visteon Corp	Kara Ferguson
*Develop Ethical Criteria for Patent Extension-Merck	Ruth Taylor
*Review AIDS Pandemic's Impact on Company-Merck	M. Kuchenreuther

Proxies denoted by * must be voted on at the March meeting. Depending on what is on the agenda for the March meeting will determine whether all or only some of these proxies will be voted on. A suggested sample format had been electronically distributed to members along with the February 23, 2004 agenda. Professor Kuchenreuther encouraged volunteers to get their reports to Ms. Dempsey by the Thursday prior to the Committee's next meeting so they can be distributed electronically to members prior to the March meeting.

Professor Kuchenreuther asked Greg Schooler if he had the text of each of the resolutions in the event a background report is unavailable and the volunteer needs to research the proxy without a background report. Mr. Schooler indicated he would be able to pull an old (2003) background report in the event a 2004 report is unavailable.

VII). Professor Kuchenreuther noted some of the agenda items for the March 22 meeting:

- Lehman Brothers
- Middle East Forum Subcommittee update
- Environmental Subcommittee update
- Proxy voting

VIII). Professor Kuchenreuther called on Brian Wachutka to provide the Committee with an update on the work of the Environmental Subcommittee. Mr. Wachutka expects to bring a resolution before the Committee at its March meeting. The goal of the Environmental Subcommittee is for a systemwide, step-up mandate for renewable energy production on all campuses.

Mr. Wachutka reported that the President's Sustainability and Energy Conservation Policy Work Group will be reporting to the Board of Regents in March. This work group is in the process of crafting draft policy language around the issue of sustainability and energy conservation at the University. The most effective way for the Social Concerns Environmental Subcommittee to accomplish its goal is to piggyback on the work of this group. Professor Kuchenreuther requested Mr. Wachutka get a copy of the draft policy language being crafted by the Sustainability and Energy Conservation Policy Work Group so it can be distributed to Social Concerns members prior to the March meeting.

The Environmental Subcommittee is planning on sharing its resolution, which outlines well-researched and realistic goals, with the Sustainability and Energy Conservation Policy Work Group. The Policy Work Group's goals tend to be more generic and less concrete than the goals of the Social Concerns Environmental Subcommittee.

Twyla Treanor reported that the Crookston campus has done some work with lighting applications in an attempt to save energy. However, there does not appear to be a lot of work going on with renewable and clean energy. Ms. Treanor emailed her findings to Mr. Wachutka.

Professor Kuchenreuther noted that Morris campus students had to vote to pay more for wind energy to run its student center because wind energy costs more. Also, as of recently, students on the Morris campus can also opt to pay more for wind energy in the dorms.

IX). Other Business - Joel Helfrich reported that the SRC heard testimony from the Astronomy Department in early 2002 after which they passed a statement on May 13, 2002 indicating they supported the research of the

Astronomy Department. It appears this statement, however, is null and void because the SRC did not have a quorum according to its minutes (<http://www1.umn.edu/usenate/research/02-05-13.html>). Therefore, when the SRC reaffirmed their statement in October 2003 they were reaffirming a null and void statement. Joel Helfrich plans to research this matter further.

X). Hearing no further business, Professor Kuchenreuther adjourned the meeting.

Renee Dempsey
University Senate