

Minutes*

**Senate Consultative Committee
Thursday, October 17, 2002
3:00 – 4:00
Room 238 Morrill Hall**

Present: Dan Feeney (chair), Muriel Bebeau, Judy Berning, Susan Brorson, Arthur Erdman, Yev Garif, Marti Hope Gonzales, Candace Kruttschnitt, Kari Lindeman, Judith Martin, Jeff Ratliff-Crain, Martin Sampson, Charles Speaks, Eric Steinhoff, Theresa Wallace, Thomas Walsh

Absent: Nick Cecconi, Tom Clayton, Les Drewes, Kelsi Holland, Mary Jo Kane, Marvin Marshak, Nathan Saete

Guests: none

Others: none

[In these minutes: (1) closing committee meetings; (2) removal of committee chairs and members; (3) charge and membership of the Business and Rules Committee; (4) student senate chair on SCC]

1. Closed Meetings

Professor Feeney convened the meeting at 3:00 and turned first to the proposed bylaw change that would allow Senate and Assembly committees to close their meetings.

Professor Ratliff-Crain recalled that at the Faculty Consultative Committee discussion earlier, he needed to be convinced. He said he believed meetings should be open and that this would be a big change.

One option would be to require unanimity to close a meeting, Professor Feeney said, instead of the proposed requirement of a two-thirds vote.

Professor Speaks inquired about the distinction between a closed meeting and a discussion that is off the record. A closed meeting would have no minutes for that portion of the meeting that is closed; an off-the-record discussion would also have no minutes. The latter practice, however, while widely used is not sanctioned by the Senate or Assembly constitution, bylaws, or rules.

What is the motivation for the proposal, Professor Kruttschnitt asked? Committees occasionally need to close meetings to talk about issues that are not covered in the three exceptions provided in the current bylaws, Professor Feeney explained (a committee may close a meeting, by a two-thirds vote, "when personnel matters are discussed, when quasi-judicial functions are carried out, or when closed sessions are required to protect the right of individuals" [Senate bylaws]). There have been issues in

* 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 represents the views of, nor are they binding on, the Senate or Assembly, the Administration, or the Board of Regents.

intercollegiate athletics and in budgets in the last year, he said. Professor Speaks said he has not closed a meeting in 25 years--but that there are often times when he asks that no minutes be taken and sometimes the Committee on Finance and Planning will agree to withhold minutes until a certain date. There have been times when Finance and Planning will talk with Mr. Pfitzenreuter or Dr. Bruininks, with Professor Stinson (the state economist), and must go off the record. It would be better to have the option to close the meeting; there are times that the committees would harm themselves and the University if a meeting is open and materials are distributed immediately.

Professor Ratliff-Crain said the proposed bylaw change did not make clear these compelling concerns. Professor Speaks agreed. He also commented that he was less concerned than some might be because he has great confidence in the faculty, staff, and students on the committees--and by the certainty that he would be reprimanded by the committee if he abused the privilege and tried to close meetings inappropriately. But up to now no one has objected, to him, at going off the record.

The proposal would required that the list of topics discussed when the meeting is closed be noted in the minutes, Professor Ratliff-Crain observed. If someone wanted to know more about a topic, after reading the list of topics in the minutes, the answer would be "no"? One cannot say the meeting is closed, or off the record, and then tell anyone who is interested about what was said, Professor Feeney pointed out.

Professor Speaks also noted that the minutes now include attribution; the intent is that meetings be as open as they can and that doors are not closed on important information. At the same time, the bylaw provision should not preclude important discussions. Ms. Wallace asked if it would be possible to change the criteria for closing meetings so they would be more applicable to the situations the committees face, rather than allowing committees to close meetings whenever they want to. Professor Feeney was not sure such language could be crafted; right now, he said, it is a case of trying to shove a square peg into a round hole. Some of the conversations with Dr. Bruininks or Mr. Pfitzenreuter would not fit the categories that now exist--and those categories would thus preclude consultation. He recalled that the Committee had many off-the-record discussions with President Hasselmo during the tenure debate that they did not want the contents of known to the Regents or to legislators. It is very difficult to keep one's perspective when everything is on the record.

Professor Speaks recalled that a year ago, Vice President Tonya Brown provided a lot of detail about the financing of athletics to the Finance and Planning Committee; her presentation was in advance of the same presentation to the Board of Regents. She agreed to make the presentation if the minutes would be withheld from distribution until after her meeting with the Regents. The Committee agreed. What was gained? Her confidence in the Committee, her ability to disclose fully, and it permitted the Committee to go to the Regents with a statement at the same time that Vice President Brown made her presentation.

Professor Martin said that closing a meeting provides a committee with the ability to deal with that relatively small number of delicate situations that arise. All of the members of the Committee are elected to represent the faculty; if people who consult with the committee are unable to do so in public, the faculty representatives will be unable to provide advice. There will not be many such times, but they do occur.

Professor Sampson pointed out that all Senate and Assembly committees are advisory; they can take no action on their own.

Professor Martin moved that the Committee approve the proposed change in principle, with revised language to be worked out between Professor Ratliff-Crain and the committee staff. The motion was adopted unanimously.

2. Removal of Committee Chairs and Committee Members

Professor Feeney explained that this proposal, which would allow the Faculty or Student Consultative Committee to remove a non-student or student member of a committee. He said he did not expect a rash of committee member or chair removals (none are expected), but there have been egregious cases that put the credibility of the organization at stake. The Senate must have available a drastic measure when that happens. This authority would not be used simply because someone is seen as an annoyance--but if a chair is failing to perform duties or a committee member is not permitting a committee to conduct business, there must be a mechanism to remove them.

The Committee voted unanimously in favor of the proposal.

Professor Speaks asked if the provisions that declare a committee seat vacated if someone misses three consecutive meetings applied to the Consultative Committee. Professor Feeney said he wished that matter brought back to this Committee later. He said he thought it very different to remove someone chosen in an all-campus election and to remove someone appointed by the Committee on Committees to a committee.

Professor Ratliff-Crain said he did not believe that because one is elected the clause should not apply. Professor Speaks agreed. There is an element of hypocrisy if one argues that the three-meeting rule applies to appointed committee members but not elected members. Professor Sampson, however, argued elected bodies should move very slowly to remove one of its members; it is important to protect the principle of elections and there is a difference between elected and appointed members. Robert's Rules of Order has strong provisions about throwing out elected committee members; it would be odd if elected members were to face sudden death because they missed meetings.

It was agreed that the Committee should seek a ruling from the parliamentarian, Professor McGowan, before deciding whether to take any action.

3. Business and Rules Committee

Professor Feeney said he had asked that the membership and charge to the Business and Rules Committee be distributed to the Committee in order to confirm its existence and operation. The group sets the docket for the Senate meetings and makes the call on whether to include or pull off docket items, how to bundle things together, and so on.

The Committee, with two abstentions, confirmed the membership and charge. The membership and charge are to be reported to the University Senate for information.

4. Chair of the Student Senate

Ms. Berning reported that the Student Senate Consultative Committee will be making a recommendation to grant a vote on this Committee to the chair of the Student Senate. It used to be that this Committee was composed of 10 faculty and 9 students; with the vice chair of the Senate a faculty member, it has 11 faculty and 9 students. This would add one student.

Professor Feeney said the Committee would take up the proposal at its next meeting. He adjourned this one at 3:50.

-- Gary Engstrand

University of Minnesota