

Oakland University Senate

Second Meeting
October 21, 1999

Minutes

Members present: Andrews, Benson, Boddy, Braunstein, Brieger, Buffard-O'Shea, Carter, Chapman, Coppin, Dow, Eberly, Eberwein, Esposito, Estes, Fink, Grossman, Herman, Hildebrand, Kleckner, Liboff, Mayer, McNair, Mili, Mitchell, D. Moore, K. Moore, Moran, Mosby, Pfeiffer, Riley, Rozek, Russell, Schwartz, Sen, Shablin, Sharma, Sieloff, Speer, Sudol, Wood
Members absent: Alber, Blanks, Didier, Downing, Early, Gardner, Long, Marks, Nakao, Olson, Otto, Polis, Rusek, Schochetman, Stamps

Summary of actions:

1. Approval of the minutes of the September 16, 1999 meeting. (K. Moore, Andrews) Approved.
2. Motion to adopt an amended Senate Constitution and to provide for transition rules. (Andrews, Buffard-O'Shea) First reading.
 - 2a. Motion to amend the previous motion to add a preamble and change the language in the amendment clause. (Riley, Sieloff)
 - 2b. Motion to split the motion to amend into two parts, the preamble and the amendment language. (Russell, Wood) Approved following a approval of a motion to waive the second reading (Andrews, Buffard-O'Shea)
 - 2c. Motion to amend by adding the preamble. Not approved following approval of a motion to waive the second reading (Sieloff, Liboff)
 - 2d. Motion to amend by changing the language in the amendment clause. Approved following approval of a motion to waive the second reading (Riley, Liboff)
 - 2e. Motion to delete the language concerning membership and to replace it with the language that was in the version approved last May. (Herman, D. Moore) No action taken. Quorum call reveals lack of a quorum.

After welcoming everyone to the second meeting of the Senate, Mr. Esposito called for approval of the [September 16th minutes](#). Ms. Moore so moved, Mr. Andrews seconded the motion and the minutes were approved as distributed.

Turning to the first information item, Mr. Esposito summarized the activities underway concerning general education. At a series of dinners this fall, faculty from all areas have been assembled to discuss general education and assessment techniques relating to general education. The purpose of these get-togethers has been to ascertain what the faculty think about the general education program, to identify the positive elements of the program and where improvement is needed. This semester's activities represent a fact-finding process and the information gathered will determine how the university should proceed with planning for changes to improve the general education program. Mr. Esposito stated that a report compiling what was learned and suggestions for improvement will be prepared and shared with the community.

Mr. Esposito then recognized Ms. Awbrey who distributed two documents concerning [program review](#), a guide and a schedule of reviews. She noted that program review is the

responsibility of several units, e.g. UCUI, the Graduate Council and the Provost's Office. In looking at program reviews, one goal was coordination and the development of a reasonable schedule so that units weren't constantly undergoing reviews, particularly those units which are reviewed by professional accrediting agencies. The schedule was reviewed by the Deans and the department chairs. She added that it is not set in stone and that accommodations can be made if a unit is not ready for a review.

The second goal was clarification of the decennial reviews and preparation of guidelines for the process and content of such reviews. The process begins with a self-study conducted by departmental faculty and either a site visit from an accrediting body or a site visit from colleagues and external people. A report based on the self-study, interviews, and the site visit is prepared by the accrediting body or the outside review committee and is given to the department. The department then has the opportunity to respond to the report. The report and response are forwarded to UCUI which has oversight over the program and is involved along with the Provost and department in developing enhancement plans. In reply to Mr. Fink's question regarding self-studies, Ms. Awbrey stated that a self-study prepared for an accrediting body can be used for a decennial review, that it would not be necessary for a unit to conduct two self studies.

With no old business on the agenda, the Provost directed the Senate's attention to the first item of new business, a motion to further amend the Senate Constitution. Mr. Andrews moved and Ms. Buffard-O'Shea seconded a motion to amend the Senate Constitution as specified (<http://www.oakland.edu/senate/const99rv.html>) and to approve the transition rules as printed in the agenda. Mr. Esposito then provided the background related to these new changes. The amended Constitution approved by the faculty in May, 1999 was presented to the Board of Trustees in June. The Board tabled it. Since then Mr. Esposito and Mr. Russi have been involved with the Board members in discussions concerning the amendments. The document represented by this motion reflects some further changes required by the Board in order for them to approve the amended Constitution. These changes include:

1. Changing the title of the Senate from University Senate to Faculty Senate.
2. Changing the composition of the Senate from 50 elected faculty senators and 3 other senators to only 50 elected faculty senators.
3. Changing the language of Article III par iv.

Also, Mr. Esposito has proposed an changing the title of the chair of the Graduate Council from Vice-Provost to Provost or his/her designee. He noted that this was simply a convenient time to make a needed change. A week ago he was led to believe that if these changes were made, the Board would approve the constitution. The result is the motion currently on the floor. However, the Board has now requested two additional changes, he reported and recognized Mr. Riley who MOVED to amend the motion by adding a preamble:

Preamble: The Faculty Senate, in accordance with the provisions of the Constitution of the Faculty Senate which may be granted, modified or rescinded by resolution of the university Board of Trustees, shall serve as an organization to advise the President of the university in regard to academic policies and programs.

and changing the language in the amendment clause:

Article VIII.

i. The ~~{University}~~ Faculty Senate shall have the right to propose amendments to the Constitution. After distribution to the members of the organized faculties and following an open hearing, a proposed amendment shall be submitted to the members of the organized faculties for ratification. If an amendment is ratified by a majority of the returned valid ballots in a mail referendum, it shall be submitted to the Board of Trustees ~~{for approval}~~ *which may approve or deny the proposed amendment*. An amendment shall be effective following approval by the Board of Trustees.

Ms. Sieloff seconded. Mr. Esposito explained that the preamble represents that part of the university [by-laws](#) that state that Senate actions are advisory to the President, that the Board wanted to connect that advisory statement to the Senate Constitution. The second change represents the Board's desire for the wording to be clear that they can approve or deny an amendment. Ms. Buffard-O'Shea asked if that hasn't always been the case and Mr. Esposito said yes.

Mr. Grossman expressed concern over the wording that the Board can modify or rescind the Constitution. Mr. Moran pointed out that the current Constitution gives only the faculty the right to change it and that this preamble is a major infringement on the rights of the faculty regarding its own governing body. He also felt that the Board does not have the right to change the Constitution, that this is guaranteed by the Faculty Contract. He concluded by stating this preamble is simply unacceptable. Mr. Esposito stated that the current Constitution exists, this by-law exists and the Faculty Contract exists, so if there is a conflict it exists prior to our consideration of this amendment. The Trustee's by-laws and the Contract may represent a legal issue that will need to be investigated.

Mr. Russell spoke in opposition to the preamble, stating that if this were approved the Board could modify the Constitution without faculty input. Mr. Moran argued that the Board should not have the right to modify the Constitution. Mr. Esposito stated that the by-law exists and that the Board believes the by-law is operative. He added that the only reason the by-law was looked at was because the Board wanted wording that stated the role of the Senate was advisory only. Ms. Eberwein commented that she has never before heard of these by-laws and that the Senate should get copies of them. She also thought the language was too restrictive, that the Senate's job did not only involve advising the President but also others on campus. Mr. Esposito remarked that the by-laws are what any corporate body operates under and that these have been around for a long time. Mr. Andrews thought that the fact that the by-laws state that the Senate advises the President is not an exclusivity clause and added that we have 30 years of history wherein this body has advised the Provost and through the Provost, the President. He added that if the provision predates the Faculty Contract, it might be superseded by the Contract wherein the university and Board have agreed to participate in shared governance. He felt the faculty are the ones who initiate the process and propose the amendments and the Board then approves them or not.

The Board is concerned about the meaning of shared governance, stated Mr. Esposito. The traditional view of shared governance is that universities are unique institutions and work best by taking into consideration the expertise of their faculties. It is recognized that faculty have

expertise in academic matters and primacy in those areas, and thus may initiate proposals that shouldn't then be overturned by the administration. Shared governance does not mean that the faculty have the right to be involved in all areas; the Board is concerned that the faculty may think it has expertise in all areas. Mr. Liboff commented in the old tradition, the faculty decided everything. Mr. Dow has reviewed the statutes that relate to the founding of Oakland University and he opined that it appears that supreme power is given to the Board of Trustees. But he asked, how can the Faculty Senate serve its function as an advisory body if the Board can modify its Constitution at any moment. Mr. Russell thought that since the Board approved the existing Constitution, they have delegated the right to amend to the faculty and that if we approve this, we have given up this right.

Mr. Moran pointed out that a deal was struck, that the Senate had agreed to consider the language changes requested by the Board, and now additional new language has been presented at the last minute. He found this troubling since the Board itself has complained about getting documents late and not having enough time to consider them. He argued that some of the faculty have felt their role is being eroded and that their advice tends not to be respected. He will vote against the preamble, he stated, as well as the other amendment since the amendment clause does not need the additional language. Mr. Andrews counseled that one should keep in mind the context of these proposals, that some of the changes do not substantively change anything. He reminded the group that the President and the Provost have worked diligently to bring the parties together to get to the point where we have a document the Board will approve. This is a political process, he averred, and the Board wants us to include their amendments in order to achieve the goal of a Faculty Senate. He argued that if the proposed preamble predates the Faculty Contract, the existing provisions of the Contract modify the preamble and the Board has given up the rights (e.g. modify, rescind) included in the preamble. He agreed with Mr. Esposito that this is a legal question that will need to be reviewed by the AAUP lawyer. Reading from paragraph 33 of the Faculty Contract, Ms. Speer stated that it appears that Oakland has the authority to control all final decisions.

Mr. Moran asked if there were any assurances that if this is approved, the Board won't have some additional changes. The Board has said that it would approve this, Mr. Esposito replied. Ms. Buffard-O'Shea wondered if it would be possible to delete the clause containing the problematic words, and just retain that part of the sentence that clearly states the Senate is advisory. Mr. Esposito thought not. Ms. Buffard-O'Shea felt there was a deeper meaning to these changes, that before when there were administrators inside the Senate the Board could exert control. Now, with the administrators eliminated, the Board is now trying to control the Senate from without.

We sent them a document, stated Mr. Moran. They sent it back. What if we send them another version with only part of it approved, he asked. Mr. Esposito agreed that the issue is the preamble, that the second proposed amendment changing the language in Article VIII is not substantive. He thought it might be possible to go to the Board with the information that the amendment language is ok but the preamble is not but he doesn't know how the Board will react. He added that he wished it were possible for the Board to talk directly to the faculty but that is not likely to happen.

Mr. Mitchell stated that the preamble seems unnecessary. But why, he wondered, does no one have a problem with the deletion of the last student spot on the Senate. He wondered if the Senate is forgetting why they are here at the university and asked for an explanation regarding

the elimination of the student representative. Mr. Andrews reminded him that the original proposal to the Board included a student, an AP and the Provost but the Board would not accept a membership that included non- faculty members. It is not something this body wanted but rather the Board's request. Mr. Mitchell then asked, if you are going to send them a refutal of the preamble, why not also refute the membership changes. Mr. Riley reminded him that we are only discussing the amendments on the floor, not the main motion.

Mr. Riley, at Mr. Russell's request, then MOVED, seconded by Ms. Wood, that the motion on the floor be split into two parts so that they could be voted on separately. Mr. Liboff asked if there would be any advantage in proposing changes to the wording of the preamble and Mr. Esposito replied that he would take any Senate recommendations/changes back to the Board. Mr. Herman asked what changes would make the preamble acceptable and Mr. Esposito responded that it was the right to modify or rescind the Senate. Ms. McNair asked why the second part of the amendment was ok and Mr. Russell responded, because it doesn't change anything. Mr. Esposito asked for a sense of the Senate on the whole package and proposed a vote. Mr. Andrews pointed out that generally amendments are considered at the second reading and Mr. Brieger expressed a desire for a legal opinion as to whether this preamble is a significant deviation from past practice before voting on this issue. What if the attorneys were to agree that this preamble was legal, regardless of the contract, Mr. Esposito asked. Even if the AAUP attorney told us that, Mr. Russell responded, he still wouldn't want it in the Faculty Senate Constitution.

Mr. Moore noted that the Board of Trustees has a mechanism to change the by-laws, and that the main the question is, does the Faculty Contract supersede the by-laws. Mr. Andrews then MOVED to waive the second reading of the motion to divide the motion into two parts; Ms. Buffard-O'Shea seconded. Mr. Liboff argued against waiving the second reading, stating that this is a political matter and wondering what would be achieved by waiving. Mr. Esposito replied that it might be advantageous for him to be able to report to the Board the Senate's feelings about the preamble, that the Senate's position would be very clear if it were to roundly defeat the inclusion of the preamble. Ms. Buffard-O'Shea argued against postponing the second reading, noting there is no guarantee that something else won't come up. Mr. Riley then called the question, the motion to waive second reading was approved by the required 3/4 majority and the Senate then proceeded to approve the motion to split the amendment into two separate motions, the preamble and the amendment wording change.

Since we want to give the Provost a sense of the Senate to take back to the Board, Mr. Grossman suggested that we go into a committee of the whole, take a straw vote, but not waive the second reading on the two amendments now on the floor. Mr. Russell stated that he would support not moving the main motion to a second reading, but would not agree to wait regarding the preamble. Mr. Schwartz proposed rewording the preamble, striking the phrase containing the words, grant, modify or rescind, noting that the Board was primarily interested in the language dealing with the advisory nature of the Senate. Mr. Braunstein thought we need to use the good offices of the Provost as messenger and give him a clear mandate. He added that the Provost has worked hard to represent us and whatever help we can give him would be welcome and useful. Ms. Sieloff, seconded by Mr. Liboff, MOVED to waive the second reading on the amendment to add the preamble. Mr. Grossman and Mr. Liboff both argued against the waiving, stating that they would prefer a legal opinion first. Ms. Buffard-O'Shea felt that the Senate should vote and should get a legal opinion.

Mr. Riley argued against rewriting the preamble and stated that the Senate should just vote and say no, and thus indicate that we do not like what it says. We don't want a preamble at all, Mr. Russell stated, adding that we got along fine without one for thirty years. Mr. Andrews responded that no one in the room wants any of this, that these changes represent what we need to do to get Board approval and that voting against their amendments might be viewed negatively by the Board. Mr. Moran asked if he was telling the Senate we have to accept the whole thing. Mr. Andrews said no. Mr. Brieger thought that if the goal was a Faculty Senate, a resounding straw vote is as resounding as a real vote. Mr. Moran disagreed, saying he'd never heard of a resounding straw vote. Mr. Moran also noted that development of an acceptable preamble would best be done through a joint committee of Board members and faculty but that is not likely to occur. We should vote this down, argued Mr. Schwartz and propose a new preamble with the word advise in it and save it for a second reading. Ms. Sieloff suggested a motion to substitute wording and Ms. McNair wondered why do we need a preamble at all. Mr. Esposito then called for a vote and the motion to waive the second reading was approved by the required 3/4 vote. The Senate then voted on the motion to add the preamble to the Constitution and defeated it unanimously.

Turning to the second part of the motion, the motion to amend the wording regarding amendments, Mr. Riley, MOVED to waive the second reading. Mr. Liboff seconded and the motion to waive was approved. The University's General Counsel has determined that the new wording does not affect the meaning, reported Mr. Esposito and the Board is aware of this. The Senate then proceeded to approve the new wording in the amendment section of the Constitution.

Now, stated Mr. Esposito, we have on the floor the motion to amend the Constitution which includes the amendment just approved. He summarized the changes which include:

- changing the name University Senate to Faculty Senate;
- eliminating all non faculty representatives;
- rewording of the general welfare clause, which does not affect or change its meaning;
- changing the Graduate Council chair from Vice Provost to Provost, or designee;
- changing the wording in the amendment clause, which does not affect or change its meaning.

Mr. Grossman asked if the Provost was planning on chairing the Graduate Council and Mr. Esposito replied no, that he plans on appointing a designee. Ms. Buffard-O'Shea asked for reasons why the Board did not want student, AP and Provost representatives on the Senate. The Board felt that since the faculty want a Faculty Senate, responded Mr. Esposito, then that's what they will get. Mr. Liboff commented that faculty senates at other institutions include non-faculty representatives and Mr. Esposito replied that the Board is aware there are other models. This would not prevent the Senate from appointing representatives from other areas commented Mr. Brieger and Mr. Esposito opined that the Senate certainly could develop a mechanism for creating non-voting seats.

Mr. Herman was interested in separating the membership change from the other amendments and, following Mr. Grossman's advice, MOVED to strike change 2, that portion of the amendment changing the composition of the Senate to an all faculty body and to revert to the language in the amended constitution that was approved by the faculty last May. Mr. Moore seconded the motion and Mr. Russell commented that this would be consistent with other bodies on campus. Arguing in favor of his motion, Mr. Herman stated that the AP assembly

has never considered itself a governance body and has relied instead on the Senate, that he thinks there should be a cross-fertilization of ideas and concerns and that he does not think that the minimal representation of non-faculty would in any way stifle the faculty voice. Speaking against the motion, Mr. Andrews argued that the original proposal that went to the Board had these non-faculty representatives and the Board said no, we will not accept this. If we approve this change, we will be killing our chance of having a Faculty Senate. Mr. Liboff stated that in the previous debate he argued for inclusion and feels duty bound to continue. Mr. Andrews responded that making this change will achieve nothing and end up with the status quo. Mr. Mitchell thought that the Board's new demands looked like they were negotiating and spoke in favor of the Herman notion.

Let's get a Faculty Senate going first by going along with the Board's demands, proposed Ms Buffard O'Shea and then afterwards, look for ways to get input from other constituencies on campus. Ms. McNair stated that she doesn't care about having a Faculty Senate if we give everything away. Mr. Moore concurred. Mr. Russell added that the University Senate has always allowed people to come and speak even if they couldn't vote. He added that most of the senate committees have AP and student representatives and that's where the students and APs can really play a role. Mr. Liboff wondered why shooting down the preamble wasn't a deal breaker but this motion is, arguing that this is a more innocuous change. Mr. Herman thought that the Board may not understand the idea of shared governance and that we should try and educate them. Mr. Andrews stated that it is disingenuous to offer this motion since the practical effect will be to kill the idea of a Faculty Senate. He thought that both actions, rejecting the preamble and the idea of a faculty-only senate, may be deal-breakers.

The more things you want changed, the more likely that it will be rejected was Mr. Esposito's opinion. Mr. Mitchell agreed that perhaps it would be rejected by the Board, but what is the use of having a Senate we don't want, he asked, adding that the university is already segregated enough. Mr. Russell said that the Steering Committee should invite APs and students to come to the meetings. The alternative is the current structure, stated Ms. Buffard-O'Shea, one in which the faculty voice is not as strong as it should be. Mr. Schwartz asked about the advisability of waiving the second reading. Mr. Esposito responded that he would take any changes approved today back to the Board. Mr. Moran then issued a quorum call, and a count of hands fell two short of the needed 31 for a quorum.

Mr. Esposito called for a motion to adjourn, Mr. Andrews complied and the exodus to the door indicated a second was not required.

Submitted by
Linda L. Hildebrand
Secretary to the University Senate

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updated 11/18/99

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