

Minutes of the Meeting
of the
Oakland University Board of Trustees
December 3, 1992

MAR 1 1993

ROCHESTER, MICHIGAN

Present: Chairman James A. Sharp, Jr. and Trustees Larry Chunovich, Andrea Fischer, David Fischer, David Handleman, L. Brooks Patterson and Stephan Sharf

Absent: Trustee Howard Sims

Chairman James A. Sharp, Jr., called the meeting to order at 2:05 p.m. in the Oakland Room of the Oakland Center.

Minutes of the Meeting of November 5, 1992

Trustee Andrea Fischer, seconded by Trustee L. Brooks Patterson, moved approval of the proposed minutes of the meeting of November 5, 1992. The motion was voted on and unanimously carried.

Resolution Commending Trustee Howard F. Sims

Mr. John De Carlo, Senior Vice President, General Counsel and Secretary to the Board of Trustees, stated that Trustee Howard F. Sims' term as Chairman of the Board ended on November 5, 1992, and at that Board meeting, the Trustees requested that a resolution be prepared commending Trustee Sims for his service.

Chairman Sharp stated that Mr. De Carlo should read the resolution. Mr. De Carlo then presented the following resolution for Board consideration:

WHEREAS, Trustee Howard F. Sims' term as Chairman of the Oakland University Board of Trustees concluded at the November 5, 1992, meeting of the Board; and

WHEREAS, Trustee Sims has served two terms as Chairman of the Board of Trustees from October 10, 1990, to November 5, 1992, and two terms as Vice Chairman of the Board of Trustees from September 14, 1988, to October 10, 1990; and

WHEREAS, Trustee Sims has also served the Board as Chairman of the University Affairs Committee, as a member of the Finance and Personnel Committee and on several ad hoc committees and has contributed his knowledge and insight expending many hours on the responsibilities associated with all of these duties; and

WHEREAS, Trustee Sims has spent countless hours coordinating the Board's activities and advising the university; and

WHEREAS, Trustee Sims has also shared his unique professional talent as an architect and his outstanding knowledge regarding construction and design with the university, at no cost and at the sacrifice of his personal time, saving the institution from critical problems and conserving financial resources; now, therefore, be it

RESOLVED, that the Board of Trustees, President Sandra Packard and the entire university community publicly express their appreciation and gratitude to Trustee Howard F. Sims for the many hours of dedicated service he has rendered as the Chairman of the Board of Trustees guiding its meetings in an orderly and efficient manner; and, be it further

RESOLVED, that the Board of Trustees wishes at this time to recognize Trustee Howard F. Sims' outstanding service as Chairman and as a Board member through the official adoption of this resolution; and, be it further

RESOLVED, that a copy of this resolution shall be provided to Trustee Howard F. Sims to convey the esteem in which he is held by the Board of Trustees, President Sandra Packard and the university community.

Trustee David Handleman, seconded by Trustee Larry Chunovich, moved approval of the resolution. The motion was voted on and unanimously carried.

President's Report

President Sandra Packard stated that she recently returned from the American Association of State Colleges and Universities meeting in Washington, and she took the opportunity to meet Senator Carl Levin and Representatives Dale Kildee and David Bonier. She noted that they were very positive and interested in the support of Oakland University and in its contribution to the state's economy, and pledged to help Oakland receive grant funding. Dr. Martin Packard made a presentation at the AASCU meeting in the educational program for spouses on "the role of male spouses of presidents of universities and colleges." President Packard stated that she also hosted an alumni group

in Washington and one of the alumni has agreed to host another event in the spring.

President Packard stated that she has recently met with Governor John Engler on two occasions, once in a private session and also with the university presidents. She noted that the Governor expressed optimism regarding funding for the Science and Technology Building. The Governor is interested in seeing that those institutions desperately in need of new academic space receive assistance from the state. She noted that the Governor did indicate that the state economy is depressed and revenues are not coming in as anticipated, so there will be some state budget adjustments during the course of this year which may or may not affect higher education. She noted that Michigan has been very supportive of higher education compared to other states. Recent data indicates that since 1983, Michigan has gone from being the 31st state in support of higher education to the 22nd. Michigan has moved up considerably in its support of and protection of funding for higher education. This reflects well on the state's leadership and on the citizens of Michigan who need to continue to support higher education for continued economic growth and development. She stated that she is hopeful that the recognition of the importance of higher education in Michigan continues.

President Packard reported that the Oakland University soccer team is in Tampa, Florida, participating in the Division II semifinals. This is Oakland's fifth trip for the championship events. She stated that the institution is very proud of Coach Gary Parsons and the soccer team.

President Packard then expressed her appreciation to everyone who participated in and assisted with the inauguration. The feedback she has received from attendees was that it was a "well-done event, it was very enjoyable and it looked flawless." She congratulated Ms. Margo King, Assistant Vice President for University Relations, and Ms. Beth Millwood, Assistant Registrar for Records, who chaired the committee and she thanked the committee itself. She noted that the event was fully supported by donations.

President Packard informed the Board that she is aware that her contract requires that she present her goals for the coming year and an evaluation process for the executives at the December meeting. In the absence of the Finance and Personnel Committee meeting this month, the goals will be presented in January, after the committee has had an opportunity to review them. She noted that her inaugural address clearly articulated her goals for the university over the next few years.

President Packard then stated that at the November Board meeting, "we all heard a very impassioned and concerned plea from a father regarding our services and the environment on campus for handicapped students." She noted that it is very difficult for any student who is different for whatever reason to fit in to a peer group and particular environments. She stated that she has asked Dr. Mary Otto, Special Assistant to the President and Associate Professor of Education, to investigate this issue. President Packard noted that according to the American Council on Education, one in eleven freshman entering universities report a disability. This compares with a 1978 figure of one in 38 freshman. Public Act 94-142 which mandates that students have an opportunity to receive an education regardless of their handicapped condition has resulted in a far greater number of students who have made it through high school successfully and are now ready for college. This has placed some "real challenges" on universities that are not physically equipped to deal with so many students nor is everyone trained in understanding the wide range of disabilities and student needs.

President Packard stated that, based on Dr. Otto's report and Dr. Paul Pearsall's comments "which were heartfelt by all who heard them," she will establish a President's Advisory Committee on Persons with Disabilities which she will meet with once a term. This committee will receive input from the university community on what needs to be improved upon to insure Oakland is "being as positive, responsive and helpful as possible."

President Packard then called on Dr. Otto who began by stating that it was a pleasure to have the opportunity to review this issue and to address the Board on some of the things Oakland is doing to accommodate students with disabilities. "It has been especially interesting to me, because as a counselor and an educator, I am particularly concerned about how people are treated and how they feel about their experiences."

Dr. Otto commenced her report by following up on some of President Packard's introductory remarks. The increase in the number of students with disabilities who are now enrolling in colleges and universities nationwide is reported at one in eleven full-time freshman. This represents 8.8 percent of all students enrolled in college last year and is an increase from 2.6 percent in 1978. Oakland is experiencing the same type of increase in the number of students enrolled with disabilities. In the 1991 fall semester, 100 students with disabilities requested and received assistance from Special Advising, compared to 73 students the year before and 63 in 1989. Of the 100 students who received assistance, 42 had mobility impairments, 21 had learning disabili-

ities, 11 had medical conditions, 8 had visual impairments, 7 had hearing impairments, 7 had psychiatric problems and 4 had closed head injuries.

Dr. Otto stated that on a regular basis, students with disabilities are referred to the Special Advising Office in North Foundation Hall. Dr. Jean Colburn, Director of Special Advising, meets with each of these students to determine their individual, specific needs. She noted that although disabilities can be divided into categories, each student is an individual and that individual's need is determined by the type of disability, personal circumstances, the length of the disability and many other factors. These students along with Dr. Colburn decide if and when an instructor should be notified about the disability and when special accommodations should be made for the student. Since many disabilities are not visible, students who want or need assistance must communicate with faculty.

Dr. Otto stated that the second largest group of students with disabilities at Oakland have learning disabilities. These disabilities, like many medical conditions, are not visible to the professor. Once the professor is informed and provided with a description of the student's needs, he or she is in the position to work with the student and Special Advising to accommodate the student's needs. Misunderstandings are most likely to occur when faculty are not informed about the student's condition or needs. When faculty are notified, the faculty respond and are genuinely interested and anxious to find ways to accommodate the student according to Dr. Colburn. Other services that are routinely available to students with disabilities include testing provided by Psychological Services and special tutoring provided by the Academic Skills Center.

While collecting this information from various offices, Dr. Otto noted that she has learned that there have been very few complaints about faculty treatment of students with disabilities. In fact, it appears that when concerns have been brought up, they are usually minor and have been resolved positively and quickly for the student. She spoke with a student with a hearing impairment who asked faculty to wear a special monitoring device and microphone to help the student better understand and hear the lecture. The student reported that the faculty at Oakland have been very willing to accommodate this need, even though it is sometimes "uncomfortable" for the faculty member to walk around with the microphone. She also spoke with faculty who have taught students in wheelchairs, are hearing impaired, visually impaired and who have medical conditions. These faculty said that students have informed them of their conditions and their needs and

special arrangements were made to accommodate these students. Examples of accommodations include enlarging handouts, class notes and exams for students who are visually impaired, looking in the direction of the students who are hearing impaired for the entire lecture, special testing, special tutoring and providing study guides and class notes for those who are unable to take notes. Faculty are most willing to accommodate these students, but they do rely on being informed about what the needs are in order to be able to meet them. It appears that once again, communication is a key to successful accommodation and resolution of concerns.

In addition to Special Advising, there are other related offices and programs at Oakland. The Committee for Handicapped Accessibility and Awareness (CHAA), was formed in 1991 for the purpose of increasing awareness and reviewing handicapped concerns and proposed programs on campus. The committee membership includes two students with disabilities and two faculty members from the School of Health Sciences in addition to others. Mr. Ronald Kevern, Assistant Vice President for Student Affairs, is the chair of this committee. Also, the American Disabilities Act Project Team was formed to analyze the university's operation to ensure program access. This team is coordinated by Ms. Catherine Rush, Director of the Office of Equal Opportunity. The Office of Equal Opportunity provides assistance with most of the services provided to students, coordinates compliance with ADA and addresses physical accessibility concerns and discrimination complaints. Also, the Special Education program, housed in the School of Education and Human Services and coordinated by Professor Carol Swift, offers graduate degrees in Special Education to prepare teacher in school personnel. In addition, the University Student Congress and Residence Hall Council consistently address handicapper issues and have demonstrated sincere interest in the welfare of students with disabilities.

Dr. Otto noted that there are very many people on this campus who are concerned about the educational environment and accessibility of the campus. Oakland University faculty and staff are genuinely concerned about continuing to create a "user friendly environment" for all students, and they are particularly concerned and interested in accommodating students with disabilities. Dr. Otto stated that "we will look to the future by working with the existing campus groups and continue to prepare ourselves through educational opportunities and through working with the recommendations from President Packard's new advisory group."

Chairman Sharp thanked Dr. Otto for her report.

Report on Financial Accounting Standards No. 106, Impact on Oakland University

President Packard stated that the Financial Accounting Standards No. 106 impact on Oakland is being brought to the Board for information purposes at this time. This issue raises a question which is being faced by most private corporations and many public universities in the country, including Oakland University and four other Michigan universities. She noted that Mr. Ray Harris, Acting Vice President for Finance and Administration and Acting Treasurer to the Board of Trustees, will describe the change and the possible solutions to the problem. President Packard stated that it is an issue that Oakland must take into consideration in its budget planning.

Mr. Harris stated that Financial Accounting Standard No. 106 was issued in December of 1990 by the Financial Accounting Standards Board (FASB). Oakland has followed the standards established by this board. FASB is one of two boards operating under the auspices of the Financial Accounting Foundation (FAF). The standard entitled, Employee's Accounting for Postretirement Benefits other than Pensions, requires a company to accrue as a current expense health care liabilities from the date an employee is hired to the date in which the employee becomes qualified or is entitled to the benefits. This is the cash method which most institutions, including Oakland, have traditionally followed. Mr. Harris stated that it is good accounting, but it certainly takes future costs and folds them into the present day, and for many institutions it is a significant change. For Oakland University both the faculty and nonfaculty have post-retirement benefit plans that will be affected by this new standard. Most nonfaculty employees qualify for these benefits in one of two ways--15 years of service and attainment of age 62 or 25 years of service at any age.

Mr. Harris stated that in preparation, Oakland hired Coopers and Lybrand to review the employee demographics and benefit plan and estimate the liability. According to the report, as of June 30, 1992, the University has an accumulated liability of \$15,304,000. In addition, it has an expected liability of over \$25,000,000. The university can either recognize this liability immediately or amortize it for a period of up to 20 years. Starting with the first fiscal year, 1993-94, the university would have to make a decision as to how it will account for this cost. Also, the university estimated the first year's annual expense would be approximately \$3,100,000. This would be a combination of amortizing the \$15 million over 20 years, paying interest of approximately 8.5 percent and accounting for yet another year of cost

for the employees working for Oakland who continue to earn this benefit. In relation to our current cash expense of about \$200,000, this indicates a ratio of 17 to 1. Ratios have ranged from 3 to 1 to 17 to 1 throughout the country. Mr. Harris stated that Oakland seems to be on "the outer edge" because it is a young institution and it is just now starting to have a number of retirees. Oakland's major expense is in the future. The cash benefits of companies that have been around for 100 years or so are already quite high. He noted that Oakland is not alone. The estimated cost across the country is \$335 billion.

Mr. Harris stated that at this time there are five options for Oakland as follows: 1) Budget for the cost and pay for it. This is not feasible, since Oakland is already having difficulty with its budget; 2) Change the plans or eliminate the benefits. The union contracts and responsibilities to employees will not allow for this option at this time; 3) A combination of both options above; 4) Ignore the costs and run a deficit which would basically destroy Oakland's financial reputation; and 5) Change from FASB to the Governmental Accounting Standards Board (GASB). GASB is the other board which governs and issues accounting rules across the country, and it does not currently require the accrual of postretirement monies. GASB may issue a statement for a No. 106 in 1996 or later; however, there is hope that when its statement is issued, it will be "kinder and gentler" than FASB's statement.

On Monday, November 30, 1992, four of the five affected Michigan institutions met in Ann Arbor to discuss this issue. As of that date, none of the institutions had made a firm decision. All of the institutions are leaning toward GASB, and none of them have changed their health and post retirement plans, although all are reviewing them. This issue will be placed on the agenda of the next quarterly meeting of the University Business Officers at which the ramifications of a percentage of the state institutions choosing GASB over FASB and the affect on the reporting of the institutions will be discussed. Oakland is independently exploring the ramifications to go GASB, but it will not make the problem go away. This choice merely gives Oakland time to build reserves, review plans and decide what can be done, since health costs are out of control. He noted that the administration will continue to explore this issue and report its findings and recommendations to the Board.

President Packard stated that this issue will be brought to the Finance and Personnel Committee for discussion; however, she wanted the full Board to know of the situation at this time.

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Trustee Stephan Sharf stated that the institution is facing the "true cost" of benefits which should have been considered at the time the benefits were authorized. The solution is not to cut benefits but to determine how their costs can be covered. Trustee Chunovich stated that he would oppose any cuts in benefits.

Chairman Sharp asked about any differences between FASB and GASB. Mr. Harris stated that this matter is being explored; however, GASB is more detailed in its reporting requirements. President Packard stated that she has been informed that there are some differences in how physical plant and gifts and grants are "booked" and the economic impact must be reviewed.

President Packard stated that in light of Trustee Sharf's concern that Oakland have the funds available when needed, cash flow would be affected and it would become necessary to make appropriate cuts in operating costs. She noted that she did not intend for a decision today, she just wanted to make the Board aware of the situation. This matter will be brought to the Board at a future meeting for a more in depth review.

Approval of Third-Year Negotiated Settlement between Oakland University and Police Officers Association of Michigan

Mr. Harris stated that a tentative agreement was reached with the Police Officers Association of Michigan on a third-year economic opener of a three-year agreement that will expire on October 1, 1993. This settlement is consistent with Board guidelines for 1992-93 union contract settlements and salary increase pools for non-represented employees.

Mr. Willard Kendall, Assistant Vice President for Employee Relations and chief negotiator for the university, stated that four agreements had economic openers this year. All had similar guidelines established by the Board and were consistent with a 3.75 percent salary adjustment.

Mr. Harris then made the following recommendation:

RESOLVED, that the Board of Trustees approves the negotiated third-year settlement of the Agreement between Oakland University and Police Officers Association of Michigan, October 1, 1990-October 1, 1993, as set forth in Exhibits A and B.

(Exhibits A and B are on file in the Office of Finance and Administration and the Office of the Board of Trustees.)

Trustee David Fischer, seconded by Trustee Chunovich, moved approval of the recommendation. The motion was voted on and unanimously carried.

Faculty and Administrative Personnel Actions

Dr. Ronald Horwitz, Acting Vice President for Academic Affairs, made the following recommendations:

Adjunct (Honorary Appointments)

Williams, George A., Clinical Associate Professor of Biomedical Sciences, effective August 15, 1992, through August 14, 1994 (renewal)

Sabbatical Leaves

Daniels, David W., Professor of Music, sabbatical leave from January 4, 1993, through April 28, 1993 (with full pay)

Edgerton, Robert H., Professor of Engineering, sabbatical leave from August 31, 1993, through December 18, 1993 (with full pay). [Supersedes previous Board action of September 10, 1992, which placed Mr. Edgerton on a sabbatical leave in the Winter 1993 semester at full pay. This change is due to a request by the department chair.]

Leaves with no pay

Meehan, Albert J., Assistant Professor of Sociology, leave from January 4, 1993, through April 28, 1993 (with no pay)

Special Levels

Paragraph 78 of the Faculty Agreement provides that Oakland may provide additional levels for individual faculty members. The following individual is proposed for an additional level:

Early, Kevin E., Assistant Professor of Sociology, \$1,264

Resignations

Karabeg, Almira, Assistant Professor of Mathematical Sciences, effective December 31, 1992

Trustee Chunovich, seconded by Trustees David Fischer and Sharf, moved approval of the recommendations. The motion was voted on and unanimously carried.

Trustee Patterson asked to return to the Police Officers Association of Michigan settlement issue. He stated that he is cognizant of his new job assignment next year, and he has raised the question regarding potential conflict of interest to the university's counsel. As the contract with the police officers has come forth, he wanted to remind the Board that there are opportunities for privatization which may save the institution money.

Trustee Andrea Fischer asked that the Board be informed of contract negotiations earlier in the process in order to consider policy issues. Mr. Kendall responded that he would be happy to inform the Board about the negotiations at any time prior to or during the process.

Purchase of Spectrometer

Dr. Horwitz stated that some time ago, Mr. De Carlo, as Interim President, briefed the Board on the possibility of the university acquiring a spectrometer that several of Oakland's faculty researchers have used at Henry Ford Hospital. The faculty have felt that the lack of such a machine on campus has hindered them in their non-funded research as well as in their ability to obtain outside funding in grants and contracts to conduct research. Bids and preliminary proposals have been obtained on equipment costs and funding is now in hand with a grant from the Oakland University Foundation of \$80,000, another \$80,000 designated to this project from an estate bequeathed to Oakland University, and a commitment from Dr. Jan Bennett, Oakland alumna, and her husband to lead a fund raising campaign for the balance of the \$260,000 purchase price of the machine.

Dr. Horwitz then made the following recommendation, noting that a purchase will not be executed until the full \$260,000 is in hand, either in actual funds or pledges:

RESOLVED, that the University be authorized to seek formal proposals for the purchase of a 300 MHz wide-bore NMR spectrometer and to execute the purchase of such equipment when the full funds are pledged or raised, and with a total price not to exceed \$260,000.

Trustee Patterson asked about the change in spectrometer technology and the potential to purchase or lease a new or used spectrometer.

Trustee Andrea Fischer, seconded by Trustee Patterson, moved approval of the recommendation for the purpose of discussion.

Professor Paul Tomboulian of Chemistry stated that the spectrometer under consideration is state-of-the-art. He noted that the two instruments under consideration are top-of-the-line instruments which will be maintained and upgraded, as upgrades become available, for a five- to ten-year period. He noted that used instrument companies have been investigated, but one of the problems is that they generally will not service instruments of this magnitude and independently purchased service contracts are very expensive.

Trustee Patterson asked if there are opportunities for Oakland to lease its equipment or engage in joint ventures with industry. Professor Tomboulian noted that a number of medical physicists who work extensively at Henry Ford will be able to use it, and the possibility exists of letting others use the equipment for a fee.

Trustee Sharf asked if leasing has been investigated. Professor Tomboulian stated that he has looked into leasing, and the service contracts are 10 to 15 percent of the cost of the instrument per year under a leasing arrangement.

There was discussion regarding the Henry Ford Hospital equipment which had been considered for purchase. Professor Tomboulian noted that the Ford equipment is outdated and that is why the faculty intends to purchase a new instrument.

President Packard noted that the resolution requests Board approval to seek formal proposals; therefore, leasing and other options can also be addressed.

Trustee Handleman asked if the Foundation funds of \$160,000 were designated for the purchase of the spectrometer. President Packard responded that the Foundation has approved \$80,000 for the purchase of a spectrometer; therefore, a new request would have to be submitted if a change were required. The \$80,000 from the estate bequeathed to Oakland was undesignated. She noted that good, solid academic and research programs in the sciences at other universities do have access to spectrometers. A spectrometer would not place Oakland on the cutting edge, it would just "catch us up." She stated that a spectrometer would give the faculty the additional research capacity to seek grants and undertake externally funded projects.

Trustee David Fischer stated that there may be a partner or other user who may be interested in committing to the purchase of the spectrometer. The partnership should be explored and the company should be identified before the equipment is purchased. The Trustees requested that the resolution be changed to read as follows:

RESOLVED, that the University be authorized to seek formal proposals for the purchase or lease of a 300 MHz wide-bore NMR spectrometer and to execute the purchase, **lease or joint venture agreement** of such equipment when the full funds are pledged or raised, and with a total price not to exceed \$260,000.

The motion was voted on and unanimously carried.

The Board was advised that it would be kept informed on the status of this project.

Renewal of Contract with Genix

Dr. Horwitz stated that in December, 1991, the Board approved an extension of a contract with MCN Computer Services, Inc., which is now named Genix, to handle the university's administrative data processing. The contract extension expires in December, 1992. The university is at the very last stages of implementing new administrative internal computing programs and is reluctant to pursue bids for a new contract until all of the programs are in place and the administration feels comfortable to be able to evaluate the bids appropriately.

Dr. Horwitz then made the following recommendation:

RESOLVED, that the University be authorized to execute a one-year renewal agreement commencing January 1, 1993, with Genix Inc., for administrative data processing services. The total university expenditure authorized for the one-year period, including base services and communications, is \$485,796.

He noted that during the contract period, the administration will be pursuing full bids on a new administrative computing contract. This extension will allow for time to do appropriate internal testing and evaluate the bids with the highest degree of accuracy possible.

Trustee Andrea Fischer, seconded by Trustee Chunovich, moved approval of the recommendation. The motion was voted on and unanimously carried.

Trustee Andrea Fischer asked how the bid list is prepared. Mr. Bill Connellan, Associate Provost, stated that initially all the companies that were doing administrative data processing in the area were explored, but there were not many at the time. He noted that there are many more companies in this field to be contacted, and a bid list has not been prepared at this time. President Packard stated that it will be Oakland's goal to seek as many bids as possible, since this will place Oakland in a more competitive position.

Application Fee for Physical Therapy Students

Dr. Horwitz stated that the physical therapy program is one of the most popular programs at the university. In fact, the national demand for physical therapists is one of the highest of any of the professional groups in the country. As a result, Oakland's School of Health Sciences, which offers a major in physical therapy, has been literally "swamped" with application requests. Oakland operates a very fine and highly selective program in both the undergraduate and graduate levels. As a result of the increased demand, the program staff have incurred an increase in costs in sending out detailed application packets. The department has requested to do the same thing that many other programs in physical therapy have done across the country and that is to impose an application fee for the individuals who are applying for the major in physical therapy. The amount of revenue generated from the assessment of the proposed fee will be very near the total cost incurred by the physical therapy department for mailing purposes.

Dr. Horwitz then made the following recommendation:

RESOLVED, that the Board of Trustees approves a special application fee of \$50 for prospective students in physical therapy, effective immediately.

Trustee Patterson, seconded by Trustees Andrea Fischer and Handleman, moved approval of the recommendation for the purpose of discussion.

Trustee Patterson suggested that a fee be assessed on the request for information rather than an application fee. Dr. Horwitz

responded that he knows of no university that assesses a fee for the distribution of information packets.

President Packard stated that the 600 applications that the fee would address are from students around the country, not just Oakland students.

Dean Ronald Olson, School of Health Sciences, responded to questions by the Trustees that those students who submit an application and pay the proposed fee will be paying for the distribution of the original 5,000 information packets and the 500 or so people who do not return the application which has been forwarded to them. He stated that the department has polled many of the public universities around the country and none charge for general information only for application processing.

The figures were reviewed by Dr. Horwitz who noted that there are approximately 5,000 inquiries which are responded to with information. These inquiries result in 500 to 600 application requests of which approximately 100 are returned. Those returned applications would require a \$50 fee under this proposal. He noted that 32 of the 100 applicants are selected for the program.

Trustee Chunovich stated that unless there is some educational application, he does not support the fee. He noted that 68 applicants will pay \$50 and not be accepted into the program. He stated that it should not cost twice as much to apply for physical therapy than it does to apply for general admission.

Dr. Horwitz stated that this is not an uncommon fee in professional programs. He noted that law schools very frequently charge application fees in three figures and they admit a very small percentage of their applicants. Also business and medical schools have similar charges.

President Packard noted that it is a consistent practice in the health sciences where there are far more applicants than can be accommodated. She stated that Oakland feels its program is too small, but because of the high cost of delivering instruction for physical therapy, it costs us much more to educate a student than the student pays in fees and tuition for the program. Oakland is

presently working with several area hospitals to develop a collaborative proposal where each of the hospitals will contribute some of the resources necessary to allow for an expansion in the size of the program.

Trustee Handleman, seconded by Trustee David Fischer, moved acceptance of the gifts to Oakland University. The motion was voted on and unanimously carried.

Discussion Regarding Board Committee Appointments and Structure

Chairman Sharp stated that he had asked the Trustees to give some thought to committee assignments, the charges of the committees and the structure of the Board committees. He thanked the Trustees for responding to his letter indicating their individual committee preferences. He noted that the final committee assignments have not been made in anticipation of a possible change in committee structure and revised charge language, but he would make his appointments prior to the January meeting. He then noted that he has received suggestions that the Investment Committee should be a subcommittee of Finance and Personnel as opposed to a separate ad hoc committee. He asked for a discussion on this issue.

Trustee Sharf stated that, in his opinion, the Investment Committee should be a separate committee because of its review of investment issues. Certain Trustees had experience and an interest in the investment process for institutional funds. Trustee Andrea Fischer concurred and moved that the Investment Committee be a separate committee of the Board. Trustee Sharf seconded the motion which was voted on and unanimously carried.

Chairman Sharp then called on Mr. De Carlo to review the committee charges. Mr. De Carlo stated that with the action taken on the Investment Committee, there will be a need for specific committee charges. He stated that he would consult with the Interim Vice President for Finance and Administration, and a recommendation will be submitted for Board consideration. He then stated that the current charges, which were approved by the Board in 1985 and revised in 1987, do not accurately set forth the process by which the committees consider and present their advisory recommendations to the full Board. In addition, there is a need to provide some committee consideration on governmental and legal matters. In order to clarify these issues, there is a recommendation to adopt new charges for the Finance and Personnel Committee and the University Affairs Committee. The charges clearly set forth that the committees are given authority only to review matters and to make a recommendation to the full Board, and that there will be no final action taken by the committees.

(During the recitation of the committee charges by Mr. De Carlo, as set forth below, Chairman Sharp asked that the introductory

statement to the charges be incorporated under each committee heading. The charges below include Chairman Sharp's request.)

Mr. De Carlo stated that the proposed committee charges are as follows:

COMMITTEES OF THE BOARD OF TRUSTEES
AND THEIR CHARGES

Finance and Personnel Committee (Four members)

The Finance and Personnel Committee will only have the authority to review the matters set forth and shall report recommendations to the full Board. The committee will, under these charges, take no final action on any matter. The committee will review appropriate fiscal and employee relations matters including the following:

1. University budgets.
2. University audits and meet independently with both internal and external auditors as required.
3. Appropriation requests.
4. Tuition and fee rates and room and board rates.
5. Insurance programs.
6. Personnel policies, benefits and employee appraisal systems.
7. Collective bargaining and labor/management relations matters.
8. Appointments and promotions within existing Board policy.
9. Compensation levels and related benefits.

University Affairs Committee (Four members)

The University Affairs Committee will only have the authority to review the matters set forth and shall report recommendations to the full Board. The committee will, under these charges, take no final action on any matter. The committee will review appropriate academic, student, development, governmental and legal matters including the following:

1. Campus master plan and related matters.
2. Transfer or assignment of real property interests.
3. Major construction and renovation projects as well as any major computer acquisition matter.
4. Academic, student affairs, and athletic matters.
5. Development efforts.
6. Meadow Brook programs, including the golf course.
7. Acquisition and disposition of major works of art and antiques.
8. Implementation and effectiveness of equal opportunity and affirmative action matters.

Trustee Andrea Fischer asked why computer acquisitions were noted under the University Affairs Committee rather than the Finance and Personnel Committee. President Packard stated that major computing functions handled on campus are predominantly academic and fall under the heading for the University Affairs Committee.

Trustee Chunovich noted that the proposed charges are more in line with what the committees are actually doing by reviewing matters prior to their presentation to the full Board for action. Trustee Chunovich, seconded by Trustee David Fischer, moved approval of the recommendation as amended above. The motion was voted on and unanimously carried.

President Packard noted that development efforts and antiques were added to the charges; should a capital campaign effort be established it should come before the Board as should any disposition of Meadow Brook Hall antiques.

Trustee Sharf asked for clarification if it was possible for one committee to be informed of items that were being addressed by the other committee in order to be fully aware of the issue prior to its presentation to the Board. Chairman Sharp stated that this information could only be shared at a public Board meeting by receiving a report from the committee which reviewed the item.

Mr. De Carlo stated that the simple answer to Trustee Sharf's question is, "No." The two committees should not discuss the same item. Trustee Andrea Fischer noted that any questions

regarding another committee's item can be asked in an open Board meeting.

President Packard stated that if there is an item about which a Trustee would like further background information or a tour of a facility, the administration would be happy to accommodate such a request.

The motion was voted on and unanimously carried.

Other items that may come before the Board

Chairman Sharp then called on Professor Ron Cramer, President of the Oakland Chapter, AAUP, who had requested permission to address the Board.

As Professor Cramer came forward, President Packard read portions of a letter she received commending Professor Cramer from one of his former students which included the following statement: "Dr. Cramer is a true educator, a builder of dreams. He is in all honesty, the finest instructor I have had at Oakland University." President Packard stated that it is not infrequent that she receives letters from former students about Oakland faculty.

Professor Cramer then made the following statement:

As you perhaps know, the Attorney General for the state of Michigan, Mr. Kelly, is currently reviewing the Open Meetings Act to determine if it is lawful for university Boards of Trustees to hold closed meetings of Board committees and subcommittees. Regardless of the legal issues involved, and irrespective of the Attorney General's finding, the American Association of University Professors is again asking the Oakland University Board of Trustees to reconsider its policy of holding closed board committee and subcommittee meetings.

There is ample precedent among sister institutions for abandoning your current policy. Apparently Oakland University is only one of four institutions still conducting closed committee and subcommittee meetings. In addition, a survey conducted by the AAUP of eight state universities in Michigan where collective bargaining is established, reveals that faculty members regularly attend Board committee or subcommittee meetings in all but two of these collective bargaining institutions.

The evidence indicates, then, that the vast majority of our sister institutions welcome faculty, students and other interested observers to Board committee and subcommittee meetings. And, it is right that they should do so. In this modern world of open covenants openly arrived at, it is archaic and anachronistic to continue conducting university business in private. There is little to be gained, aside from avoiding minor inconvenience and irritation, by conducting public business in private. On the other hand, much can be gained by reversing current policy, particularly if done so without the compulsion of legal obligation. The AAUP has for many years, and on several occasions, urged the Board of Trustees to open all committee and subcommittee meetings. The current policy does not advance the true interests of the Board or its public constituents. How salutary it is to debate and discuss public policy when the public is present as a welcome guest. I believe that reversing current policy on this issue would enhance even further the good relationship that this Board has worked so hard to establish between itself and the university community. Thank you for the courtesy of addressing you on this issue. It is a matter of substantial importance to the faculty, students, staff, the press and the community at large. I think this is the sort of issue that should be debated in a meeting such as the one we are having today.

There being no further comments, Dr. Horwitz stated that two members of the academic administrative team, Dr. Isaac Eliezer, Associate Dean of the College of Arts and Sciences, and Dr. Robert Nan Loh, Associate Dean of the School of Computer and Engineering Sciences, are both retiring from their Associate Deanships and are returning to the faculty. Dr. Eliezer is returning to the chemistry faculty and Dr. Loh will be returning to the engineering faculty. Dr. Eliezer was recognized with a round of applause. Dr. Loh was not present.

Trustee Andrea Fischer, seconded by Trustee Handleman, moved adjournment of the meeting.

Trustee Patterson stated that he believed that there was an item that should be addressed by the Board relating to a legal opinion. Trustee Patterson requested a closed session and asked the criteria or process for a closed session. Mr. De Carlo explained the basis for a closed session and stated that such a session was permitted for review of the written legal opinion of university counsel if there were six affirmative votes. Trustee Patterson

moved for a closed meeting in order to discuss the written opinion of university legal counsel. Trustee Andrea Fischer seconded the motion.

Ms. Margaret O'Brien, Senior Editor of The Oakland Post, stated that it is her understanding that the Open Meetings Act only allows a closed session for pending litigation, and she made a formal objection to the closed session. Mr. De Carlo stated that there is a provision in the act which indicates that statutory matters can be subject to closed meetings, and the written opinion of counsel is such a matter. Ms. O'Brien asked if Mr. De Carlo was familiar with the Booth Newspapers, Inc. v Wyoming City Council case. Mr. De Carlo stated that this case does not hold that a meeting cannot be held to review the written legal opinion of counsel, but it does limit the extent of the discussion with respect to the opinion of counsel. The Board must stay within the scope of the written opinion of counsel. He asked Mr. Robert Bunker, Assistant General Counsel, to share a copy of the case, which he had with him, with Ms. O'Brien.

A roll call vote was taken and the closed session was approved unanimously. The Trustees agreed to recess and return to the open meeting upon conclusion of the closed session. The meeting was recessed at 4 p.m.

The Trustees returned to the open meeting at 4:25 p.m. Chairman Sharp stated that the Trustees conferred in closed session regarding the written legal opinion of university counsel on the Open Meetings Act issue. He called on Mr. De Carlo to address this issue.

Mr. De Carlo stated that the university has received a written opinion from the Oakland County Prosecutor's office which was based on a request by the Senior Editor of The Oakland Post. He noted that in the opinion, the prosecutor raised one question with respect to the charges to the committee. Since a few of the prior charges provided authority to the committee to act, the prosecutor raised a question as to whether or not all of the actions of the committee would subject it to being a public body. Mr. De Carlo stated that there is no case law on this subject, and in reviewing the statute, the legal office believes that the actions of the committees, which do not engage in final decisions and do not operate under those specific charges, are within the provisions of the Open Meetings Act. Since the committees do not act in that fashion, the charges were changed prior to the recess to reflect current practice. This action responds to the prosecutor's concerns.

Mr. De Carlo noted the second question raised by the prosecutor related to the distribution of committee minutes. The prosecutor felt that the distribution of the minutes prior to the Board meeting would constitute a constructive quorum and provided the same amount of discussion which could be held in an open session. Mr. De Carlo stated that the legal office "respectfully disagrees" with this conclusion. He noted that there is no case law covering that issue. There is a citation to the Wyoming case which supports Oakland's position that it can have advisory committees. The cases that the courts have generally ruled upon relate to activities where the Board members themselves go back and forth and talk to each other. Mr. De Carlo stated that the distribution of the minutes is not covered by any case, and it is his opinion that this is acceptable, particularly since the minutes are brief and not reflective of a final action of a quorum of the Board. Mr. De Carlo stated that he does not believe the minutes would constitute the same level of discussion as an open or closed meeting because of their brevity. Since there has never been any intent to circumvent the Open Meetings Act and the minutes are used as a matter of record on the recommendations of the committee, Mr. De Carlo recommended that the committees withhold the distribution of the minutes until the open Board meeting or afterwards. He noted that the prosecutor has no objections to this action, and he recommended that the Board discuss and consider whether it would like to change its practice on the committee minutes.

Trustee Chunovich moved that the minutes of the committees be distributed to the Board and the public at the next open meeting after which the committee meetings are held. Trustee Andrea Fischer seconded the motion for the purpose of discussion.

Trustee Andrea Fischer then asked if there was a need to have minutes of the committee meetings. Mr. De Carlo responded that there is no requirement to have minutes, because an advisory committee of less than a quorum is not a public body. Trustee Andrea Fischer asked if Trustee Chunovich felt that the committees should have minutes. He responded that he felt it was up to the individual committee.

Trustee Patterson stated that in some cases, the history of an item may be in question, and committee minutes would be helpful. Trustee Andrea Fischer suggested that the motion be changed to indicate that the committees should determine if minutes are necessary, and if so, they shall be distributed to the Board and the public at the next Board meeting. Trustee Chunovich concurred with the change in his original motion.

Mr. De Carlo stated that he has discussed both the distribution of the minutes at a public meeting and the possibility of no minutes with the prosecutor's office, and there appeared to be no objection to either option.

Trustee Patterson then asked Mr. De Carlo if he feels satisfied that the new charges conform with the prosecutor's request. Mr. De Carlo stated that he believes the newly approved charges clearly delineate Oakland's practice in that the committees are merely advisory. Trustee Patterson asked if a motion to include the word "advisory" in the names of the committees in order to further clarify the role of the committees would be allowed at this time. Chairman Sharp noted that this motion was germane to the issue.

Trustee Chunovich's motion regarding committee minutes was then voted on and unanimously carried.

Trustee Patterson moved that the newly adopted committee charges be amended to read the Finance and Personnel Advisory Committee and the University Affairs Advisory Committee. Trustee Andrea Fischer seconded the motion which was voted on and unanimously carried.

Chairman Sharp noted that there is a philosophical issue for the Board to address regarding the request that the Board conduct its committee business in public. He stated that this subject will be discussed by the Board at its next open meeting in January.

There being no further items for discussion, Trustee Patterson, seconded by Trustee David Fischer, moved adjournment of the meeting. The motion was voted on and unanimously carried. The meeting was adjourned at 4:37 p.m.

Submitted

Approved,


Catherine Gianakura Rogg
Administrative Assistant
Board of Trustees

James A. Sharp, Jr.
Chairman
Board of Trustees