

Faculty Senate Minutes – Special Meeting on Constitution and By-laws  
Thursday, October 10, 2002  
Board of Trustees Conference Room

I. Call to order – President Brian Heuett 4:03 p.m. Reminded senators of next regularly scheduled meeting.

Attending: Senators - Brian Heuett (President), Robert Eves (President Elect), Joe Baker-arrived 3:51 p.m. (Treasurer), David Lund (Secretary), Virginia Stitt (Parliamentarian), Steve Barney, Ken Landra, Sara Ann Smith, Rea Gubler, Ty Redd, Steve Evans, Ron Martin, Jerry Bowler, Kay Andersen, Darin Wadley, Curt Bostick, Martha Hyder, Marty Larkin (as Fall semester proxy for Steve Heath), Deb Hill, Kathy Black, Eric Brown, and Janet Seegmiller; Visitors: Provost Abe Harraf; Excused: Mike McGarvy, Roy Johnson, Mike Grady, Boyd Fife

II. Discussion of proposed Faculty Senate Constitution. Brian Heuett took charge of the meeting. The listserve that was set up is not yet working as of 3:00 p.m. today. Brian Heuett reminded us that we voted last meeting to reject the proposed constitution until we can rewrite the preamble. He has received a great deal of feedback from many people both in favor and against rewriting the constitution. The process of changing the constitution and by-laws is as follows: It goes from us to the Presidents Council, then to the Board of Trustees. If they agree and pass it, it will go into effect. The Board of Trustees is the legal and binding body. Brian then reminded us that we all should have read the information given at the last meeting. He then opened the meeting for discussion.

Kathy Black indicated that she has done extensive reading, as an attorney, of the current constitution and by-laws; she could not find anything wrong with them. She then brought up article 5, regarding the process of changing the current constitution.

**ARTICLE V. Amendments.**

Amendments to the Constitution may be initiated by written petition signed by twenty-one (21) Faculty members of the University. Such petition shall contain the exact wording of the proposed amendment. Proposed amendments shall be voted upon by the Senate, with approval of two-thirds (2/3) of the eligible voting members of the Senate necessary for approval of the amendment. Voting shall be by secret ballot. Approved amendments shall then be presented to the University Faculty for ratification. Voting by the faculty shall be by secret ballot, and a statement of the wording of the proposed amendment shall be included on the ballot. Ratification of amendments requires the affirmative vote of two-thirds (2/3) of the Faculty casting ballots and shall go into effect thirty (30) days after the completion of the vote.

The Institutional Council, or its successor governing board, acting according to its regular procedures, shall retain the right to veto any amendment, which has been ratified by the faculty.

Amendment of the By-Laws of the Senate shall be according to the procedures established by the Senate, and such procedures shall be enunciated in the By-Laws.

According to this article, the senate has no power to amend the constitution; this must be initiated by the faculty. The only problem Kathy found in the constitution was the use of the word quarters, since we are now on a semester system. She then suggested that, in accordance with the current constitution and by-laws, faculty members should propose an amendment to deal with the incorrect wording.

Robert Eves then stated that the constitution is not clear, and that there are some difficulties with the current constitution in terms of the authority granted to the senate, among others. Kathy reiterated that the constitution is good as it is written. She feels that the by-laws are where discussion needs to occur and that the senate can amend and change the by-laws. The senate only has a specific amount of power granted by the current constitution, and needs to keep that in mind.

Ron Martin then wanted to know what the difference is between amending the constitution and rewriting it. Eric Brown brought up article 6, which Kathy Black reminded the senate applies only to the current constitution.

#### **ARTICLE VI. Adoption of the Constitution.**

This Constitution shall be considered adopted by a vote of two thirds (2/3) of the members of the Senate and the subsequent two thirds (2/3) vote of the entire faculty voting on the same, both of which voting procedures shall be by secret ballot, transmittal of the approved Constitution by the President of the University to the Institutional Council, and adoption of the Constitution by the Institutional Council according to its own procedures.

Kathy moved that the senate vote on whether to keep the current constitution and to adjourn the meeting based on the fact that we have nothing to vote on—there is no amendment that has been properly proposed by the required number of faculty. Joe Baker seconded the motion.

In discussion, Joe Baker asked Robert Eves to explain why the rewrite was necessary. He wondered if it were not the case that there was reason to rewrite the constitution in the past, specifically in order to draw specific lines of authority. He stated that these reasons may no longer exist and again asked what is wrong with the old constitution.

Curtis Bostick then started to discuss the current constitution beginning with article one. The current constitution is incorrect technically and does not provide the authority to the faculty that should occur in a shared governance situation. Ron Martin indicated that in his review of accreditation documents, we are not in compliance with the current models of such shared governance. There was general agreement with this statement. Janet Seegmiller then quoted state code regarding some of the governance of institutions of higher education. Brian Heuett indicated that the Board of Trustees had given the faculty senate the charge to revise/rewrite the constitution.

Kathy Black again read parts of the constitution, that delineate the authority of the faculty; but reminded the senate that such authority is subject to state, local and federal law. The essence of shared governance is that anything we do can be reviewed by state authorities. Robert Eves wanted to know when the faculty senate had ever done anything listed in the responsibilities described in the current constitution. Rea Gubler wanted to know if the word responsibility was synonymous with authority. Eric Brown wondered what exactly was being proposed as the Senate's course of action in the matter of the current constitution. He wondered if the senate should follow the directions given in article 6, or if is there some other model of the senate's perceived course of action that should be followed. The motion proposed by Kathy Black was then called to a vote and subsequently defeated with 1 vote in the affirmative, 18 votes in opposition, and 4 abstentions.

Brian Heuett then indicated, in answer to Eric Brown's question of what the senate was going to do, that we needed to vote to totally reject the proposed constitution. Or we could choose to maintain the current constitution. Choosing the latter, we could then excuse ourselves as senators, and a group of 21 faculty members could then write a statement to pursue the necessary changes in the current constitution pursuant to the provisions of article 6.

Curtis Bostick then wanted to know why the committee that was originally set up to rewrite the constitution had done so much work if they had not been given the authority to do so. The question was again raised, are we going to do anything? Eric Brown then wanted to know if we had a list of what needed to be changed. Steve Evans agreed that such a list would be very helpful. Brian Heuett thought that was the idea of setting up the listserve. He indicated that we need a motion to do something. He asked if we should trash the previous committee's work or not. Kenny Laundra indicated that we have an opportunity to make the language of the constitution such that the faculty has more power.

Provost Abe Harraf asked to address the senate and reminded us that the freedoms enjoyed in our country include the ability to change things. He also reminded us that if we change the current constitution, we would have to live with those changes. Steve Barney then said that, in his view, the faculty had gone into a state of learned helplessness--functioning in fear, instead of working within the parameters of the current

constitution. Provost Harraf illustrated this point by indicating that many of the committees in the constitution are not constituted and not functioning. Robert Eves asked why the Deans Council is in this whole mess anyway—that is why they seem to have so much power in matters concerning the faculty. The Provost said they are not to be involved in faculty affairs.

Kathy Black thought it might be a good idea to “take the current constitution for a spin” and see if we really have the authority that seems to be there. Steve Barney brought up the fact that the current university policy regarding curriculum does not mention the faculty senate. Marty Larkin thought we might be better served to work on amending the current constitution and try to fix it.

Ty Redd then moved that the senate look at revisions to the proposed constitution and send it out for faculty approval, Rea Gubler seconded this motion. In discussion, it was asked if this was constitutional; or should the faculty propose an amendment to the current constitution that would allow the rewrite/revision of the current constitution. Deb Hill and Eric Brown both indicated that we have the power to do what needs to be done, including change the constitution; but to date, we have not done so. The motion was called to a vote. The voting ended in a tie with 9 votes in the affirmative, 9 votes against the motion, and 3 abstentions. According to the current constitution, President Heuett had to break the tie--his vote was negative and the motion was defeated.

Steve Evans moved that the newly formed, ad hoc constitution and by-laws review committee carefully go over the current constitution word for word and come up with a list of proposed changes. This motion was seconded by Ron Martin. In discussion, Kathy Black thought we might want to divide the work into two separate jobs—one to find the technical things that need to be changed, and second to look at the types of things that are substantive changes in wording in terms of authority, etc. Joe Baker wondered why, if the current constitution was so badly written, nothing had been done since 1991 when it was originally approved by the Board of Trustees. The motion was called to a vote. This motion was passed with 16 votes in the affirmative 16, 4 votes in opposition, and 1 senator abstaining.

Steve Barney moved that we form the indicated ad hoc committee to meet the charge as put forth in the motion above, with representation from all colleges and at large senators and create a bullet list of current problems with the current constitution. The motion was seconded by Steve Evans. There was no discussion and the motion passed in the affirmative with 20 votes in favor and one abstention.

IV. Motion to adjournment was made by Robert Eves at 5:12 p.m.