

SPECIAL CALLED MEETING OF FACULTY SENATE AGENDA

Wednesday, September 18, 2019 at 3:00 p.m.

KAREN J. WILLIAMS COURTROOM OF THE LAW SCHOOL

PRESIDING: Professor Mark Cooper, Chair

Call to Order

CHAIR MARK COOPER (Film and Media Studies) – called the meeting to order.

Cooper provided a recap of recent actions taken. SACS continues to investigate the search process specifically with respect to Standard 4.2.f which has to do with external influence. The Board has been asked to reply to another set of queries by September 25th. They have been asked to supply the charge of the Presidential Search Committee, meeting minutes and other documents.

The investigation can result in a warning or more seriously, probation for up to two years. Probation would put us in company with Roanoke-Chowan Community College, the school most recently put on probation school under that general section, although not for that specific provision.

In response to the SACS investigation, the Board has invited a team of consultants from the Association of Governing Boards of Universities and Colleges to visit in October. There will be opportunities for that consulting team to meet with various people on campus.

The AAUP has not begun a formal investigation but is watching the situation closely.

Legislation is working its way through the state Senate. Senate Bill 798 would reconstitute the Board. There's also discussion that the House may put forward a bill, so there's likely to be manifold legislative action.

Senator Jackson, who's from Richland District 21 and is on the Education Committee, has called for a Senate investigation. That hasn't been charged yet so far as we know.

Finally, the press remains interested in the story. You probably all read the reports based on the FIOA releases, last week, but I do not anticipate the press interest will go away anytime soon.

The rules are all faculty may address the body, but senators have priority. Only senators may make motions and vote. Each senator shouldn't speak twice until everyone who wants to speak on an issue has an opportunity to speak.

Discussion of the Assembly

PROFESSOR CAROL HARRISON (Department of History) - provided copies of a resolution.

In consultation with colleagues, I've tried to design this resolution so that it builds on the resolutions Faculty Senate passed in July rather than simply repeating them. It focuses on the Board of Trustees and on what the Faculty Senate might want to endorse in terms of legislative action on the Board of Trustees, and I'm happy to answer any questions about it.

The motion was seconded and discussion opened.

PROFESSOR STEVE RODNEY (Physics and Astronomy) – Question, since I haven't been following the news perhaps closely enough, are the legislative points addressed here? Addressed to a particular legislative proposal that the state is considering?

PROFESSOR HARRISON -They are addressed to the fact that the legislature is considering a bill, although this does not refer specifically to that bill. Partly because as Mark said, there's potentially a House bill and at least my impression from the Senate subcommittee [of the Education Committee] hearing was that the Senate bill that exists is up for modification, discussion and will likely be amended.

She read the motion:

Whereas events and media reports since the Faculty Senate's July 11th "Resolution to Restore the Integrity of the Search Process" have demonstrated that divisive partisan politics interfered with the presidential search and

Whereas the university is, as a result of Board member's actions, facing enhanced Southern Association of Colleges and Schools (SACS) scrutiny as we come up for accreditation and

Whereas the university has, as a result of Board members' actions, sustained damage to its reputation both in South Carolina and beyond, therefore be it

Resolved, that in order to face these challenges effectively, the Faculty Senate endorses legislative reform of the Board of Trustees that will:

- 1) result in a board whose membership reflects the racial and gender diversity of the population of South Carolina as well as its geographic regions;*
- 2) established term limits for members of the board;*
- 3) provide for faculty and students' voting membership on the board; and*
- 4) require both new and continuing trustees to complete the SACS New Trustees Orientation (http://www.sacscoc.org/New_Trustee.asp) so that they will be better equipped to serve the interests of the University of South Carolina.*

PROFESSOR BETHANY BELL (College of Social Work)- I just have an editorial suggestion, that on the second whereas where we just refer to SACS, that we expand that to be SACSCOC, like their full legal name, because that also matches the hyperlink and number 4.

CHAIR COOPER - Bill, can we treat that as a friendly amendment?

PROFESSOR BELL - Yes, its editorial.

CHAIR COOPER – Carol, are you okay with that change? I'm not going to try and spell it out, but I will make a note.

Further discussion.

PROFESSOR TRACI TESTERMAN (School of Medicine)- So one of the major concerns I had about the process was the undue influence of the governor. And I'm sure we can't get rid of the governor's influence over the membership of the Board. But do you think it would be possible to prevent him from being present during certain consequential votes so that maybe people could vote their consciences a little better? I don't know if that's something that could be included in this or not.

CHAIR COOPER - I'd be happy to entertain an amendment. I think that's something we want to do as an amendment to discuss. I am not an expert on board composition in the state, but I do know the governor has a role on many other state boards. So, I don't know how likely that would be to persuade the legislature, but it's certainly worth adding if you'd like to propose an amendment. Did you want to add as an amendment?

PROFESSOR TESTERMAN -Okay, so I propose an amendment, stating that the governor shall not be present during votes to limit undue influence.

CHAIR COOPER - Is there a second for this amendment? (Second) It's been moved and seconded. Discussion of whether to amend the motion as described here.

PROFESSOR REBECCA STERN (Department of English) - May I ask a question? Was the governor in fact present at any of the votes in this process? Because as far as I know he wasn't.

CHAIR COOPER - That's correct.

PROFESSOR STERN - I'm not sure his presence is really the issue. I think his influence works when he is not present as well.

PROFESSOR ANDY KRETSCHMAR (School of Law)- The governor serves as ex-officio on the Board of Trustees. Are we thinking about questioning his role in that capacity as well? Because if we're thinking about him or her presumably not sitting, or not voting for certain things, are we specifying votes for presidential search or to focus on anything in the Board? I think we might need to expand on that a little bit before we add this.

CHAIR COOPER - And just one other consideration there. The governor actually has two seats on the board: he's ex-officio and then has the authority to appoint a board member. He has both a designee who fills in for him in his ex-officio role and an appointee who serves on the board. Further discussion?

PROFESSOR ABBAS TAVAKOLI (College of Nursing)- I was wondering is governor only on Board of Trustee of University of South Carolina, not Clemson? And if that's the case, why is that?

CHAIR COOPER - I am not qualified to answer that question. The question was about Clemson specifically, but I think it could be broadened to how many other boards is the governor on and for what reasons in the state? I know he is on several, but I don't know how many or why. The history of that is probably fairly complex. I'm looking back at Christian Anderson, who probably knows. He's given me a thumbs up. Fairly complex. Yes?

UNIDENTIFIED SPEAKER - I have a friendly amendment to the amendment, because the problem with this vote was not just coming from the governor. I went and looked at the Board of Trustees' own bylaws. I wonder if instead of saying the governor shouldn't be present we ask that all members of the Board reaffirm their commitment to "refrain from engaging in personal agendas that conflict with actions of the Board or the advancement of the institution as a whole."

CHAIR COOPER -That seems like a fairly different amendment. If there's a sense of people being in favor of that one, can discuss this a little more and take a vote on this amendment and then move to another possible amendment. Further discussion of this amendment.

PROFESSOR CHRISTIAN ANDERSON - So can I answer the question?

CHAIR COOPER - Yes, please.

PROFESSOR ANDERSON - In terms of the governor's role on the other boards, I've got the list of all the board members of several of the colleges. He or his designee is a member of the boards of the Citadel, of Coastal Carolina, College of Charleston, Francis Marion, Lander, MUSC, SC State. We already know about here and Winthrop. All of the regional campuses for USC are under this Board. So pretty much all of the boards except for Clemson.

CHAIR COOPER - Which has a historically strange board. Thank you, Christian. Other discussion of this amendment?

PROFESSOR TESTERMAN – Okay, so since I'm told that the governor was not actually present. I didn't think it would be possible to get rid of his ability to appoint, but it sounds like maybe it would be. I'm proposing that we revise the amendment to say that the governor, "Shall not have the power to appoint Board of Trustee members."

CHAIR COOPER – We'll need a vote on this one first and propose again.

PROFESSOR KAREN EDWARDS (College of Hospitality, Retail and Sport Management) - I just have a couple of questions or comments. One is about requiring the governor not to be present during votes. I'm not sure that that's lawful or not, and I think we should look into that. So that's a statement on that one.

The other point, and I am thoroughly in favor of diversity on the Board, but I'm not sure that the

way that we have number 1 stated leaves enough wiggle room for the realities of placement on the Board. And, I don't know the reason behind it, but we as a faculty and our student body do not, reflect the composition of the state, which is a gigantic problem that we have. And so it may be that this particular statement was placed in here to help rectify that issue. So that in fact faculty and the student body do reflect what the state looks like.

But I'm wondering if the specific requirement in terms of the board that membership reflects the ... It sounds prescriptive and might not adequately suit the realities of what placing on the Board would look like. And I'm for the whole thing, but just wanted to point that out for consideration. Those two points.

CHAIR COOPER - Thank you. It's feeling to me like we're ready to vote on this particular amendment and then we have some other suggestions for amendments to the resolution. So unless there's further discussion of this particular amendment?

PROFESSOR JENNIE POURNELLE - (School of the Earth, Ocean and Environment) - my concern was point 5 with the amendment, is the first four are very coherent and have to do with the structure of the Board and the way we'd like to see the it restructured to be more effective. Also, Rebecca's suggestion for an additional amendment emphasizing that Board members be required to abide by their own ethical standards and their own bylaws would be consistent with that. My fear is that what is now point 5 [about the governor's role] is going to pick a new fight and it's going to pick a fight that would not fare well for the sense of what it is that we want to accomplish, which is requiring the Board to actually function as a Board of Trustees and regents and not as a Board of self-interested patsies for whomever.

CHAIR COOPER - Thank you. Further discussion on the amendment. Are we ready to vote on it?

All those in favor of this amendment written here in brackets as number five, to require the governor not to be present during votes of the board, please say aye. All those opposed, please say nay. The motion fails and will be removed from the word document.

Now I will entertain other amendments or discussion of the main motion, which is the resolution. We had a couple of good ideas. Other amendments?

PROFESSOR STERN - I don't have a specific proposal. The Board of Trustees' own bylaws require that they "refrain from engaging in personal agendas that conflict with the action of the Board or the advancement of the institution as a whole." I'd like to propose that we require the members of the Board to reaffirm that element of their bylaws. Perhaps that's a way of getting at what we were trying to get at in the other amendment.

Another thing that has occurred to me is asking the members of the Board to sign onto the Carolinian Creed.

CHAIR COOPER - So those are two different amendments? Which one do you want to start with?

PROFESSOR STERN – Actually, I'm going to leave it open for discussion and I will allow others to take up what they think best there. Thank you.

CHAIR COOPER – Further discussion of the motion.

PROFESSOR MICHAEL GAVIN (Department of English) – My only concern about that is that the way it's structured, like we're asking specifically for legislative reform and it just sounds weird to say that the law is gonna say that they have to affirm the Carolinian Creed. That just seems like a strange law. That's my only comment. Thank you.

PROFESSOR BELL - No one's said specifically that it had to be under the Resolved, so I think we need to clarify where someone wants to place any [inaudible] if it's a new, whereas statement.

CHAIR COOPER - That's a helpful suggestion that you have both the “Whereas” and the “be it resolved” to work with.

PROFESSOR KIRK RANDAZZO (Department of Political Science, Chair) - I think the previous point is spot on in that this resolution points to legislation currently pending in the House and that legislation doesn't necessarily speak to the, the bylaws for our Board of Trustees, let alone the Carolinian Creed. So, I would say that the potential point 5 is probably not best placed here. But my suggestion and my question to this body would be in, addition to this statement, is there some sort of resolution or a censure of the Board of Trustees for actions taken in contradiction to the bylaws that are already written and in contradiction to the Carolinian Creed? It seems like if we had a separate resolution or statement of censure, we can bring that wording into play and more directly speak to the Board's actions that would be separate from what this particular resolution tries to do. Thank you.

CHAIR COOPER - Understood. So, if you wanted to follow that course of action as opposed to tinkering with this, we would first vote on this and have the introduction of another resolution or motion. Further discussion of this.

PROFESSOR MARCO VALTORTA (Department of Computer Science and Engineering)- One comment is, I'm not really going to propose an amendment, but I would like to point out since we've been talking about the bylaws versus the state law, in state law, the governor has an additional role. The governor shall strive to assure that the membership of the Board is the representatives of all citizens of the state of South Carolina. I don't think it's possible to remind the governor of this, but if someone wants to try, that is something that is actually in law right now.

CHAIR COOPER - Thank you, Marco. It's important to note that provision.

PROFESSOR PAUL MACKENZIE (Department of History) – Just a point of clarification. This is directed at the board, correct?

CHAIR COOPER - I believe it's kind of addressed to the Legislature.

PROFESSOR MACKENZIE - Okay. Shall we clarify who we're talking to? The thrust of my query is that if it's the board, does the board have the power to do any of these things that we would like it to do?

CHAIR COOPER - No, it does not.

PROFESSOR MACKENZIE - Okay. So, it's not the board then?

CHAIR COOPER - I think you're suggesting something stronger here.

PROFESSOR MACKENZIE - Well, no, I'm just talking to who is this document, if it passes, going to be sent?

CHAIR COOPER - Oh, it will be published on the Faculty Senate's web page.

PROFESSOR MACKENZIE - Okay. But without sort of you know, to-line line, it's sort of seems to me a like a little[inaudible].

CHAIR COOPER - I can't speak to the intent, but I believe that you're correct and in assuming that it's not in the power of the Board to do anything except maybe the last one. It could require of itself that it repeat training or undergo training.

PROFESSOR BELL - Wouldn't it make sense to deliver this to Harvey Peeler since he is the head of the Education Subcommittee? I'm just saying like last time we delivered it to the Board of Trustees, it was emailed to them. Yeah, so to just let it sit on the Faculty Senate website...

CHAIR COOPER - I was being a little bit glib, it would be a public resolution, but I would recall that we do not know what legislation may emerge, currently the only bill is Senate bill 798. There may be a House bill. I think it's hard to know definitively to whom this might be interesting or relevant.

PROFESSOR ERIK DOXTADER – With respect to the Senate bill, how do 1-4 correspond to the content of the Senate bill, which I've not had a chance to read.

CHAIR COOPER - I can tell you that the conversation on the sub-committee was very much about point 1, how the representation is drawn. Is it by judicial district as currently or by legislative district? How many members from each district? The subcommittee was very interested in doing something about point 1 and trying very hard to figure out what that could be. The legislation does not contain any language about points 2, 3, or 4. The term limits issue was brought up by several people who spoke to the subcommittee and seemed to get some nods from members of the panel and the 3rd point was brought up by a few of us and was maybe greeted with a little bit more skepticism from the panel. But all of these points except the last one were made explicit in the subcommittee meeting about the bill.

PROFESSOR ANDERSON - I would echo what Mark just said. I was at the committee meeting,

a committee meeting and and spoke as well. The bill is subject to all kinds of amendments and who knows what will happen with it, but it does recommend condensing the Board from 16-elected members to 7-elected members. I strongly recommended against that. I recommended that if you did, for some reason want to go to congressional districts that you would have two per so that you would have 14, a slight adjustment from 16, but I don't think 7-elected trustees is a good idea.

And as Mark said, we talked about term limits and other things like that. One point of clarification on point 4. That could certainly be required in the legislation. I do know that the trustees go through an orientation when they are appointed, but as we know, some of the trustees who have been on not for years but for decades, and so that orientation might be a little out of date.

I think that point 4 could be modified in some way to be directed either in a separate resolution or somehow in the same resolution to the Trustees to recommend the new orientation, but also some kind of ongoing Trustee development. I don't want to call it professional development because this isn't their profession, but some kind of ongoing Trustee education, to be able to be up-to-date with a lot of the issues that we're concerned here about. Again, legislation could require a bit, but one part is completely within their own purview, in their own control.

PROFESSOR HARRISON – Following up on Paul's question. I didn't specify who this was directed at partly because I'm not used to writing with “whereas” and “Resolves” but also because I think it should be made as widely available as possible. I think the Faculty Senate should publish it, and we should be free to send it to whoever we think might help us achieve these goals.

PROFESSOR DOXTADER - I drove to Atlanta this last weekend to do some work and I took the back roads and I saw more Confederate flags than I could count and I saw more churches than stores. This is a bright red state. That's the way it is. And I think there's a question in my mind relative to this proposal as to who it is that's defining divisive partisan politics. What counts as divisive? Are all partisan politics divisive? Is this a process which should somehow be apolitical?

It seems to me that the bulk of 1-4 refer to a set of process questions with the exception of number one, to some extent. Do we need to get into divisive partisan politics? The university is under investigation by an accredited organization for potentially violating its own rules as to how it conducts a search for a president.

The statement that was passed in the summer starts with the language of the governor has taken an extraordinary step. The remainder of that resolution doesn't capitalize on the fact that it was extraordinary, but it was extraordinary. And that may be all we need. I'm not going to propose an amendment, but I don't think the first whereas necessarily serves us, I don't think we need it, particularly as this is oriented towards reforming the Board of Trustees as a result of what are identified in the second paragraph as a set of process questions.

I also think we get into a difficult debate relative to Rebecca is important suggestion. I think we get into a difficult debate in terms of what's the difference between political and personal. And I think if you drive 10 miles in either direction from where we're sitting right now, the answer is very different.

CHAIR COOPER - Thank you. Yvonne, did you have something from the Palmetto College?

YVONNE DUDLEY (Faculty Senate Office) - David Crockett writes, is it possible to suggest a change to whereas number three, as a result of Board members actions in contravention of Board bylaws and the Carolinian Creed.

CHAIR COOPER - Is there a second for this amendment? (Second). It's been moved and seconded that we amend the language of the third whereas. Discussion?

PROFESSOR GWEN GEIDEL (School of the Earth, Ocean and Environment) – Having just read that, I'm a little concerned with language that almost admits upfront that we have maybe violated something pertaining to SACS, and I'm not sure we want to do that.

CHAIR COOPER - Other thoughts?

PROFESSOR VALTORTA - I don't know, are we on the amendment now in brackets? I think Professor Geidel's comment was more general.

CHAIR COOPER - Oh, I thought you were specifically speaking to the amendment. Yes, I just did this as an amendment because I know we've got a little communication lag with the people in the Palmetto College who are tuning in via Adobe Connect. I wanted to give an opportunity for full consideration of this idea.

PROFESSOR VALTORTA - Thank you.

CHAIR COOPER – Other discussion of this amendment? Yvonne?

YVONNE DUDLEY – David Crockett writes again, “We as a faculty, did not violate anything on SACS. The board may have.”

CHAIR COOPER - Thank you. Further discussion of the amendment?

UNIDENTIFIED SPEAKER - I think the important phrase here was “may have,” right? We don't know that. And to put it in here, that to me sounds like we say they did, and I think that might be a little dangerous too to claim they did.

CHAIR COOPER - Thank you. Yes.

PROFESSOR TESTERMAN - I think that simply adding the word perhaps in contravention of would give a little wiggle room, to make it less of an admission of something going on.

CHAIR COOPER – Yvonne would you look at the Adobe Connect and see if David is in favor of “perhaps.”

YVONNE DUDLEY – “I am not in favor of perhaps.”

CHAIR COOPER - He is not in favor of. That's not a friendly amendment. Thank you. Other discussion of this amendment?

PROFESSOR DOXTAER - I just want to echo what was said. This presupposes a finding of fact that hasn't been established. I don't see how it's possible to vote for this amendment.

CHAIR COOPER - Thank you. Further discussion?

PROFESSOR GAVIN – Just quickly, yeah, I oppose this amendment too. It just seems to introduce questions that we haven't answered yet and it would require other whereas clauses and it just seems to invite disagreement over issues that aren't for us, the main issue. Thank you.

CHAIR COOPER - Thank you. Other discussion?

PROFESSOR BELL - Can't we all agree that it was a violation of the Carolinian Creed, at least that part? As we all hold our students to that.

CHAIR COOPER - Thank you. Other discussion of the amendment. We're ready to vote. All those in favor of amending that third whereas as indicated to insert the phrase “in contravention of Board bylaws and the Carolinian Creed”, please say aye. All those opposed, nay. The nays have it. Motion fails.

PROFESSOR MATTHIAS SCHINDLER (Department of Physics and Astronomy) - Coming back to the point about the partisan politics that is mentioned in the first place, I would be in favor of removing the word “legislative” before reform because I think that just introduces an aspect of politics into the whole process where we just support reform, and I don't really care where it comes from, so I would like to remove the language because it might be perceived as being partisan.

CHAIR COOPER - Okay. So, Eric, you did not move to remove the first whereas, but this is an amendment. To delete the word legislative from the clause beginning resolved. Is there a second? Are you a senator in the back there? Okay, great. It would be super helpful if you would sit up here. So, it's been moved and seconded that we delete the word legislative from this clause, beginning “resolved.” Discussion?

PROFESSOR STERN - I believe that any reform of the Board has to come from the legislature because the provisions of the Board and the appointment of the Board and all of the guidelines of the Board are state law. So therefore, I think that when we're asking for this reform, the only place it can come from is the legislature unless I'm mistaken.

CHAIR COOPER - The Board is constituted under state law.

PROFESSOR VANCE KORNEGAY (School of Journalism and Mass Communications) - I'm aware of that this is more a matter of perception, how this resolution, if anybody's ever going to read it, it's going to be perceived. So yes, it is clear that reform has to come from the legislator, but I don't know if we need to spell that out.

CHAIR COOPER - Thank you. Other discussion? Thank you.

PROFESSOR ERNIE WIGGINS (School of Journalism and Mass Communications) I'm not feeling that concern. I think that to edit it out would be coy and we're not in a position here with the state of the university and everything that's going on to be coy or reserved about this matter.

CHAIR COOPER - Thank you. Other thoughts?

PROFESSOR MARK MACAUDA – (Department of Health Promotion, Education & Behavior) Thank you. I agree. I know we were talking earlier about whether we want to get into this idea of sort of partisan politics, but I think the behavior of some of the Board members goes a little bit beyond procedural issues. And I think that we need to, if we're going to do this, we need to be able to underline some of the behavior, which is less about process and more about operating in a way in direct conflict with the university and its ultimate wellbeing. I mean we have folks who act like that they're putting what they believe is some sort of struggle above the wellbeing and the operation of the university. And I think that needs to be in there. Just something to consider.

CHAIR COOPER - I'm hearing something like that statement frequently, so it would be super helpful if somebody could figure out an amendment to give us some language to work on.

Any further discussion of deleting the word “legislative “? Hearing none. All those in favor of deleting the word legislative, say aye. All those opposed? Motion fails. Further discussion of the main resolution. Other amendments?

PROFESSOR ARI STREISFELD (School of Music) - There was an interesting point brought up by the senator over here about, the phrase “divisive partisan politics.” Maybe a lot of us agree in this room that it was divisive and partisan. But I think the real problem here is that politics was brought into this process, that seems to be what a lot of people have talked about and what I've read about as being an issue. So, I'm wondering if we just get rid of “divisive and partisan,” it won't sound as divisive and partisan. It'll just be politics. Maybe that gets the point across. It doesn't matter whose politics, that just politics in general was brought in. So, I guess I'm posing amendment to erase “divisive and partisan.”

CHAIR COOPER - Okay. Is there a second? (Second). It's been moved and seconded that we amend the resolution to eliminate the words divisive and partisan from the first, whereas. Discussion?

PROFESSOR BRACKMANN - I think I agree with the sentiment of what's being proposed. I would also argue that just given the nature of the Board itself, as well as how the Board is elected

and selected, that this process is inherently political. I think we'd all agree that it should not be overly divisive and partisan. But I think if we're trying to get rid of the political, almost capital "P" out of this, I don't think that's practical. I think by the nature of being a public university, we have to accept that these are political decisions of and by themselves. So, in that regard, I think keeping divisive and partisan is more accurate. I think we can continue to discuss whether or not we use those exact words, but I think if we were to say, have demonstrated politics interfered, I, for one, I'm not shocked that politics interfere because this is again, a political decision in my opinion. I just think we need to consider that before striking those two words.

PROFESSOR DOXTADER - I agree with that completely. I think the assumption that this is somehow not a political process, I just think that's not real at some level. This is about politics. And the question is whether this was good politics or bad politics, there are better and worse forms. Partisan politics can be good politics, partisan politics can be incoherent and paralytic. And this is about a process that failed at the level of the process. That decision was made to suspend the search and in the middle of the summer when no one was around, that decision was reversed.

This points to I think Professor Randazzo's questioned about whether a different kind of statement needs to be written in terms of what kind of politics were in play. I mean, the closest analogy to what we're facing, and I think we need to take up the question of what we are, what we are considering, what we are faced with. I mean, there's an argument to be made that the analogy here is a coup. That what happened in the summer was a coup. It's consistent with the literature on the coup, which I've read some of and we need to take that into consideration, but it was political and it will continue to be political.

CHAIR COOPER - Am I understanding the tenor of your remarks so far correctly in thinking that you're trying to steer us towards language that may be like extraordinary, excessive, inappropriate, rather than divisive and political?

PROFESSOR DOXTADER – I think we have to have the larger discussion of finding of fact. I mean this is the definitional question. Everybody in the room is upset. The faculty is beside itself. And some students are happy and some students are very unhappy and a lot of students don't even know what's going on. And so I think the question of, are we talking about politics? Are we talking about process? I think these are crucial questions that have to be taken up now that we're all back on campus because they bear on the question of what should we do? I think legislative reform relative to the trustees is a good idea. The question is how is it best motivated?

CHAIR COOPER - Understood. Thank you.

PROFESSOR TESTERMAN - I agree that this amounted to a coup and I understand that of course it's a state university and so the state has some oversight. But the whole concept of academic freedom is supposed to put universities above that kind of political fray. So, I do think it would be appropriate to delete "divisive partisan." I mean, maybe you could replace it with some other words, but I don't think that that phrase is going to serve us as well as, you know, just saying politics or something else.

CHAIR COOPER - Thank you. Other discussion of the proposal to delete these two words from the first whereas?

PROFESSOR EDWARDS - I just wanted to throw out something along the lines of what your saying. Although I know that everyone has a lot of feelings about all these issues, what's wrong with just getting to the point and reducing a lot of the verbiage before the resolved part to say something along the lines of, "in light of the current scrutiny plus in order to retain the integrity of the university, The Faculty Senate resolves..." I would recommend that we avoid extraneous issues and just get to the point of what we want.

CHAIR COOPER - So the matter before us is concretely to decide whether to delete these two words, but I think you're gesturing in the direction of maybe deleting the first whereas and working on the what is now the third one a little bit.

Other discussion of deleting these two words? Ready to vote? Okay. All those in favor of the deleting the words "divisive and partisan" in this first whereas please say aye. All those opposed? The nays have it. The motion fails.

Okay. Other suggestions for amendments?

UNIDENTIFIED SPEAKER - [inaudible]

CHAIR COOPER – Gwen, if you make it then there can be a second.

PROFESSOR GEIDEL - I appreciate the comment that you made in terms of trying to simplify this and really get to the facts. I didn't write down the words that you had said, but I thought that the meaning of that was important. And so I would move to adopt what you had said previously.

PROFESSOR EDWARDS - Delete the first two "Whereas" and I'm not sure. I delete the first two "Whereas" and restate the second and restate the third, excuse me.

CHAIR COOPER - Okay, well we heard that a little bit differently. I heard delete the first. I heard her say something quite like the second one, but Karen, do you want to restate your idea? That would be great.

PROFESSOR EDWARDS - I believe you made request to me to make a motion with the reduced verbiage. I would move that we would reduce, eliminate the first, whereas paragraph, I would move that we amend the second paragraph to say, whereas the university is scratch as a result of the award member's actions and say and leave facing enhance Southern Association of Colleges and Schools, SACSCOC scrutiny as we come up for accreditation.

And let's see. I would, delete the next paragraph. And I know this is not the right term, but throw in some jargon about what somebody had said earlier about the integrity of the institution. Can anyone refresh my memory, who said that or what it was? I wouldn't put that the integrity of the institution is under scrutiny. I would say that the Faculty Senate wishes to bolster, reaffirm or something, safeguard. I like that one. Good and targeted to the institution.

Then resolved, I would eliminate “in order to face these challenges effectively”. Just leave it that the faculty senate endorses. And let's see, “Faculty Senate endorses legislative reform,” you could change that to just legislation that the Board of Trustees will ... That would be, sorry about the lengthy verbiage. I think we have some comments over here.

CHAIR COOPER – Do I have it [accurately captured on the screen]? Is there a second? Great, thank you. Discussion?

PROFESSOR TAVAKOLI - I would suggest to have the first paragraph because the whole point is that of process was political. And if we do not underline that, it doesn't show the resolution, the whole point.

CHAIR COOPER - Thank you.

PROFESSOR ANTHONY JARRELLS (Department of English) I would second that suggestion. I'm interested in possibly changing some of the language at the beginning, but I understood Carol's resolution to be an opportunity for this body to reaffirm its commitment to resolutions in the summer. And those introductory lines provide that kind of continuity that suggests that this is our own sort of process of thinking through this. So divisive partisan, that got me confused about whether this was people saying that they were watching Fox News and taking over castles versus governor interference and maybe that needs to be distinguished. But I kind of liked the spirit of the continuity of reaffirming this body's reaffirming its commitment to resolutions passed in the summer and I think the proposed changes make this look like it is a response to an accreditation challenge.

CHAIR COOPER -Thank you. Further discussion?

PROFESSOR MACAUDA - I also think that the changes makes it sound very passive, like things have happened and we're not happy with them. I still think calling out the Board for sort of undermining our process is important. And I think if we remove the political part in the beginning, we are sort of losing our teeth a little bit, and it's okay if we want to do that and we want it to be more of a statement of what we want to do going forward. I understand that, but I want to make sure that's actually what we want to do, and that we don't want to sort of call out a process that was really undermined by certain folks' political leanings, which is really what happened. So, I just like to consider that before we vote on making those changes.

CHAIR COOPER Thank you. I didn't put down undermining our process as a suggestion that it's part of the amendment, but that was language that I thought might be useful for the future. So, I just typed it in there. Other discussion?

PROFESSOR SPENCER PLATT (Department of Educational Leadership and Policies) – I'd just like to say that I agree with everything that the gentleman just said, except I don't think it's okay to let the Board off the hook. I think we do need to make sure that they are named in this resolution and that we do everything to make sure that we point to the process.

CHAIR COOPER - Thank you. Other discussion?

PROFESSOR TESTERMAN - Okay, I really think that loss of reputation is very important in practical terms, in terms of, you know, recruiting students and faculty, and this has been a major problem. And so I really feel like that should be mentioned either in the original phrase or somewhere else. I think that's an important thing to point out is that the result of the actions by the Board of Trustees was loss of/damage to reputation.

CHAIR COOPER - Thank you. Further discussion of the proposed changes of which undermining our process is not one.

PROFESSOR WIGGINS - I just wanted to say I was at the subcommittee hearing where Mark and Christian presented, represented the faculty so amiably and, responsibly. And they carry the spirit of, of determination in their comments. If we do this edit we will be ripping that determination and that spirit out of our activities here. I think that what we had before represents our feelings of the faculty, at least mine. That we were done. We were treated poorly by this Board and that should be reflected in our resolution.

CHAIR COOPER - Thank you. Further discussion of these proposed changes.

PROFESSOR MACKENZIE - It seems from the discussion that there are two separate things going on. One is things we would like to see changed and two, we want to raise our middle finger again, metaphorically speaking, I wanted to make it clear that, and this is not, "no mess, no fuss. It's done. Move on." I'm wondering if perhaps there was, ought to be two separate documents, resolutions.

PROFESSOR DOXTADER - I agree with those comments completely and I think it comes back to Professor Randazzo's suggestions as well. I think Professor Jarrells's point about deleting the first paragraph is spot on. I'm not in favor of language about undermining our process because I don't know that we have a process. And I don't know, is that something that we have by rule? I don't think we do. And I think if we want to claim that there needs to be a process that's our process, then that needs to be considered as number 5, I think.

But I wonder if we could change the language to reflect the proper language. I mean SACS is investigating undue political interference as I understand it. That's the point: external interference rather than political interference in so far as the search process was compromised by external, undue external political interference or insofar as the university is being investigated for a search that suffered or was compromised by undue political interference. That might be a way of keeping the first paragraph and solving some other problems at the same time.

CHAIR COOPER - Thank you. I understood the process referenced to be the search process as defined by the Board bylaws and as it was supposed to be conducted.

UNIDENTIFIED SPEAKER (inaudible)

CHAIR COOPER - I take your point, I was trying to capture the intent.

PROFESSOR POURNELLE - As many of you know, I've got five generations of my past folk buried up around Prosperity. So thinking a little bit about the rural parts of the state that may not be apparent in a drive by where all you will see is the Confederate flags that are out there asserting exactly what certain, not all, certain Board members asserted in this process. I for one, am not willing to back away from somebody flying a Confederate flag at my university. And if we are not brave enough to stand up for the people of this state and stand up for education in this state and show that we will stand firm, then how can they?

CHAIR COOPER - Thank you. Other discussion of the proposed amendment? "Undermining the search process" is not part of it. It's language that we might store for later. Any other further discussion? Are we ready to vote? All those in favor of amending the motion as described with the deletions and additions, please say aye. All those opposed, say nay. Motion fails.

Other discussion of the main motion?

PROFESSOR JOSHUA STONE (Department of Biological Sciences) - So I propose an amendment that we take out the phrase "divisive partisan politics" and instead say, "have demonstrated that extraordinary influence has occurred with the presidential search." I think that as we've seen from the reports, from The State article about some of the things going on behind the scenes, that the perception among members of the Board and some of McMaster's employees is that this is a partisan politics issue. So, I think we can choose to accept that paradigm that this is a partisan issue or we can instead say, we don't care what your reasons for, maybe in your mind, it was a partisan issue, but we don't care what that is. We care that you undermined the process in this way. And so, this was an extraordinary influence regardless of what your politics were. And I think it's important for us to remain outside of that paradigm that this is a partisan policy, political issue.

CHAIR COOPER – Thank you. So is there a second for the amendment? I believe I've captured it here. Would you just confirm that I've captured your proposed amendment? I have "demonstrated that extraordinary influence has occurred with the presidential search." Is there a second? It's been moved and seconded that we amend the resolution in this particular way to delete "divisive partisan politics" and insert the phrase "extraordinary influence has occurred with the presidential search." Is there discussion?

PROFESSOR GAVIN - I think this might be a friendly amendment, but because SACS uses the word "undue external" rather than extraordinary, I wonder if you'd be interested in changing it to 'have demonstrated that undue external influence interfered with the presidential search.'

CHAIR COOPER – Undue external influence is accepted as friendly amendment.

PROFESSOR ANDREW GRACIANO (Faculty Advisory Committee Co-chair) - I'm not a senator. I just wanted to point out in relation to this that the Board of Trustees and their supporters, I think, feel that our politics are also divisive and partisan and so I'm in favor of

removing the “divisive partisan politics” portion because there are politics on both sides and I think it muddies the waters, if we leave that in there.

CHAIR COOPER - Okay. Thank you. Further discussion.

(UNIDENTIFIED SPEAKER) - I kind of like “undue external influence,” however I worried that it's not external since McMaster serves on the board.

CHAIR COOPER – The issue that SACS will be investigating is whether he acted as the governor and member of a political party or whether he acted in his fiduciary role as a responsible member of the Board of Trustees. I understand how that could be confusing and difficult determination to make, but I think SACS will try to distinguish those two roles the governor has.

PROFESSOR TAVAKOLI - The whole point was, what kind of influence we talking about? But that was the whole process was political there and I believe we have to underline that point.

CHAIR COOPER - Thank you. Other discussion?

PROFESSOR ANDERSON - To the point about the governor's role. I think we'd have to go digging through the archives and probably dig back quite far before we found a time that a governor even attended a Board of Trustees meeting. I think that's what makes it extraordinary or undue because it's not normal for the governor. Yes, it's in the statute. Yes, he or she would have the right to be at the, at the meeting, but it's not the norm and it's not common for the governor to be there. And so that's why this stood out so much.

CHAIR COOPER - And the governor was not there just to be clear about but promised to show up at a certain point in the process.

Other discussion? Hearing none, all those in favor of amending the resolution as indicated, striking “divisive partisan politics” and replacing that with “undue external influence”, please say aye. All those opposed say nay. The ayes have it. The motion carries. Further discussion of the main motion.

UNIDENTIFIED SPEAKER - Could I make a motion to keep what we just said the “undue influence” but change the word right after it to “undermined” or I liked “compromised the presidential search.” That an external, undue external influence either undermined or compromised the political search. Cause if we're going to take out the political part, and I understand why, I still think we to underscore that what was done was more than just a little interference. It was a serious detriment to the process. And maybe putting one of those words that's a little stronger might help balance the removal of political.

CHAIR COOPER - I wrote compromise. So, it's a motion to amend the resolution to replace “interfered with” with “compromise.” Is there a second? It's been moved and seconded that we amend the resolution as indicated. Discussion?

UNIDENTIFIED SPEAKER - Just a very quick comment and somewhat related to that, but I think in that first sentence, we've omitted the year 2019, which I think would be important for the longevity of this.

CHAIR COOPER - I believe that we can consider that an editorial change.

UNIDENTIFIED SPEAKER - I don't want to beat a dead horse. I just want to point out that noting that the actions have compromised the presidential search actually appears to make the decision that is currently being investigated.

CHAIR COOPER - Compromise may carry a legal connotation in advance of the finding. Thank you. Other discussion?

PROFESSOR BRIAN LOVE (College of Pharmacy) -I share that same opinion, especially with the word “demonstrated” as well. I mean perhaps suggest or suggested, something of that nature.

CHAIR COOPER - Thank you. Other discussion of this change, the specific change to replace “interfered” with “compromise?” Hearing none. All those in favor of replacing the words “interfered with”, with the word “compromise” in this first, Whereas, please say aye. All those opposed? Ayes have it. Thank you. Other discussion of the main motion.

PROFESSOR DOXTADER - I just want to follow up on what Professor Jarrells said in terms of this sort of reading as an accreditation document. In terms of the second whereas could we add something along the lines of a SACS scrutiny that, I don't know, threatens is too strong but carries the risk of sanction. I mean, sanction is a possibility. Whereas the university is as a result of Board actions facing enhance SACS scrutiny, which brings with it the possibility of sanction and a threat to the university's accreditation. Part of this is, if we want to circulate this broadly as we come up for accreditation is a kind of a meaningless phrase to a lot of audiences. I think it's something we understand but something more direct and a bit more dire might serve.

CHAIR COOPER - Is there a second? Moved and seconded that we amend the second Whereas as indicated. Discussion?

PROFESSOR RODNEY - I've just brought up the text of the resolution from July 11th. It has a clause that says “whereas to succeed in its mission, the university must not only preserve its accreditation but continue to attract and retain talented students, faculty and administrators.” So, just bringing that as a relevant connection I think in the spirit of that last amendment.

CHAIR COOPER - Thank you. Other discussion of the proposed amendment? Hearing none, all those in favor of amending the resolution as indicated to delete the phrase in the second whereas, “as we come up for accreditation and”, and replace it with the phrase “which brings with it the possibility of sanction and a threat to the university's accreditation.” All those in favor, please say Aye. All those opposed? Motion carries. Further discussion of the main motion?

Other discussion. Senators we're ready to vote. I think all those in favor of the resolution as presented on your screens and amended through an hour and 20 minutes of discussion, please say

aye. All those opposed? Motion carries unanimously. Thank you.

I think we owe a special thanks to Carol Harrison for taking the time to give us something to work with here. [Applause.] And are there any other resolutions or motions to come before the Senate? The chair recognizes Marco Valtorta.

PROFESSOR VALTORTA - I would like to make a motion.

A motion to constitute a committee to study shared governance at the board level and make recommendations to the AGB Advisory Group to the Board.

A comment on this. This would be something for the Steering Committee to do, actually for the Faculty Senate Chair in consultation of the Steering and this Advisory Group as Mark explained before, is expected to come to the university in October. There are going to be two AGB groups working here. One already came in to review the administration of the university at the presidential and higher administration level and then other to review the governance at the Board level. So, this is addressing the second of these committees.

CHAIR COOPER - Thank you Marco. And the other thing to say just in case you missed it at the top of the meeting, the timeline would be a term-limited activity since they're coming in October. So, this committee would need to meet fairly quickly and do some homework and then consult. Second? Is there a second? It's been moved and seconded, and I'm going to try and get this right. That we, the Steering Committee form a committee to study shared governance at the board level and make recommendations to the AGB working group.

PROFESSOR VALTORTA - Correct.

CHAIR COOPER - Thank you. Discussion?

PROFESSOR DOXTADER - Oh, I don't have a comment on that. I just have a question. To whom would this committee first report its findings?

CHAIR COOPER - I think it would first report its findings to me, but hopefully also to the AGB consultants. The uncertainty here is the AGB will decide whom it wants to speak with on campus. We've been told already that they wants to speak with faculty leaders. I've been told that that means me. I think it would be great to have such committee, and I would say let's meet with this committee, but it will be up to the AGB consultants to decide to do that.

Further discussion of the resolution? Hearing none, all those in favor, please say aye. All those opposed? Motion carries. Thank you, Senator Valtorta.

PROFESSOR VANCE KORNEGAY (School of Journalism and Mass Communications) - At our last meeting, we heard a couple of options. One, we heard we wanted to resurrect the resolution about no-confidence. That seemed like a kind of milk toast proposal. And then we heard we wanted to make a resolution to dismiss the president that seemed kind of like a nuclear

proposal, and I see this, I voted for it. I think it's great, but I think it's tantamount to erecting a stop sign after there's been a car wreck. Someone said there was a coup this summer. We're all upset about that. This might make us feel good, but I'm wondering just how we might add some emphasis to that resolution from this summer. And I was wondering about the possibility of, since we're all back on campus, would it be worthwhile to, to just to resurrect the no confidence resolution and take it to a referendum.

In other words, not just a representative vote from people in the summer, but go back to our units and have the entire faculty vote on that "no confidence" resolution from this summer. It keeps that issue alive. I think we do need to keep it alive and it still deals with the fact that there's a car wreck and things are in flames and there's bodies on the side of the road. Let's hope the stop sign keeps that from happening again, but I don't think it still addresses some of the upset that's there and the appeal to move forward. I think that's going to have to happen somehow. So, I just throw that out for, for discussion. I don't know if you want to make a resolution for that or not. But that notion of entire faculty, our units voting individual is a referendum versus a representative vote, might have more weight to that.

CHAIR COOPER - Thank you. I take this as a suggestion for senators to take back to their departments. Departments can decide how they want to act, and they may decide to act individually and then, or they may decide to have their senators represent something. That's kind of what you're suggesting, I think.

PROFESSOR KORNEGAY – (inaudible) - then there's a headline associated with an act like that. I'm wondering what the headline will be here. I don't really know.

CHAIR COOPER - I understand. You know that there is a meeting in which the whole faculty can act as a whole faculty. It happens twice a year. It's the General Faculty meeting. It happened once earlier this year and then will happen again in April. Now I know that's quite a long time to wait, but it's also a lot of time to organize and to produce a consensus if you feel that's what's required.

Other thoughts?

UNIDENTIFIED SPEAKER - I think that having a way to reaffirm our displeasure is a good idea. But any sort of referendum, I think the voting would have to be anonymous. I don't think there's a department chair out there that would want to publicly be opposed to the president because of potential consequences. So, yes, we can discuss it with individual departments about whether such a thing as a good idea. But when it comes to actually voting in a referendum, it had better be anonymous.

CHAIR COOPER Thank you. Parliamentarian has reminded me that actually the faculty can call a meeting of the General Faculty. 25 members of the faculty would request that meeting from the president, right, as the presiding officer of the general faculty?

PARLIAMENTARIAN - [inaudible]

CHAIR COOPER - 25 members of the faculty call for a meeting of the general faculty by petitioning Senate Secretary Elizabeth West, but the president would preside at that meeting.

I think it's a very good suggestion for people to talk about this at their departments and have action come up that way. So I really appreciate that discussion. Thank you. Other thoughts?

PROFESSOR STERN - As the proposer of the nuclear option, I wanted to say, first of all, I'm very happy with this less nuclear resolution that we have passed. And secondly, I just want to put on the table a proposal for discussion for issuing a rebuke to those members of the Board of Trustees who broke with their charge as Trustees. And I'm going to quote from their bylaws again to quote, *refrain from engaging in personal agendas that conflict with the actions of the board or the advancement of the institution as a whole*, and that also compromise the integrity of the Carolinian Creed.

So I'm wondering if we want to craft a statement of rebuke? And I just want to read from John von Lehe's response to the AAUP in their inquiry, he says, "throughout the search process, the Board took steps to ensure active involvement of the faculty and compliance with the statement of government." And he then goes on to say that the Board's election of Mr. Caslen in the face of negative comments by university faculty should not be construed as an indication that the opinions of those faculty who opposed Mr. Caslen were ignored. The faculty were heard. However, a majority of the board simply disagreed and believed Mr. Caslen was best qualified to become our university's next president.

Do we want to issue a rebuke in response to the lack of respect for the faculty's opinions? That's my question.

CHAIR COOPER - Are you suggesting we engage that question now in the form of a proposal or are you suggesting we think about it? And I'll just remind folks of a couple things, if I may, there. The response to SACS is due on the 25th and the next Faculty Senate meeting is two weeks from now on October 2nd.

PROFESSOR STERN - I'll make the motion just so that we can vote it up or down. Propose that this committee issue a rebuke to those trustees who voted in violation of their basic charge.

CHAIR COOPER - Is there a second? It's been moved and seconded that we issue a rebuke to selected boards of members of trustees whom we believe or can find evidence for having violated their charge. Discussion?

UNIDENTIFIED SPEAKER – An alternative course of action might be to invite the members of the Board of Trustees to come before our body here. We, I think we had a visit from one of the members a year ago. I'm not sure that it would be taken up, but we could take that as an alternative approach.

CHAIR COOPER – Thank you. Yes. Leah Moody, a Board of Trustees member did visit last year at the beginning of the presidential search process. Other discussion? Hearing none.

PROFESSOR DOXTADER – I am not sure what's on the table.

CHAIR COOPER - A proposal to issue a rebuke to the Board of Trustees.

PROFESSOR DOXTADER – Are we talking about creating a process whereby we author a proposal? I mean we just spent two hours working on this. I don't think that we're all going to intuitively divine somehow the terms of a good rebuke. I'm not necessarily opposed to a rebuke, but I don't know what it would be, and I don't know how it's going to be authored and so I'm not sure what's on the table.

PROFESSOR STERN - Mailed you a draft of something that is at present quite rough. So, I'm perfectly happy to revisit this at our next meeting, if people would prefer and then we can actually have the text of something to look at.

CHAIR COOPER -- I think that would be great. I see it in my email, and I could read it out loud, but let's wait. Bill, do we have to vote because it's moved and seconded or can we withdraw this or table this?

PARLIAMENTARIAN – Needs to withdraw.

PROFESSOR STERN - I would like to withdraw my motion.

CHAIR COOPER - Thank you very much. All right. Any other matters to come before this very special called session.

I do have an announcement at the close of business here. And it's a comment for the Good of the Order. The AAUP group from the whole state meets this Saturday from 10 to 4:00 PM in Wardlaw 126. This is an opportunity to talk with other educators in the state, not just about what's going on here, but to learn about their issues as well, as well as get some information about the national picture. If you have time this Saturday, I urge you to attend. Wardlaw 126, 10 to 4:00 PM. Thank you.

PROFESSOR STERN - Just to make things official, I would like to move that the discussion of a rebuke be put on the agenda for the next faculty meeting.

CHAIR COOPER - Very good. There's been a motion. And is there a second? That we discuss the idea of a rebuke of Board of Trustees members at the next Faculty Senate meeting. And if this passes, that will mean I can put it on the official agenda as opposed to it having come up in New Business. Is there a discussion of that motion? All those in favor. All those opposed? Motion carries. Thank you.

Adjournment

A motion to adjourn was seconded and passed.