

Chair VerLinden called the meeting to order at 4:03 pm Tuesday, May 3, 2011, Nelson Hall East, Room 102 (Goodwin Forum). A quorum was present.

Members Present: Berman, Blake, Craig, Ellerd, Faulk, Flashman, Goodman, Heise, Kelly, Knox, Madar, Mola, Mortazavi, Moyer, Powell, Reiss, Richmond, Rizzardi, Tripp, Van Duzer, VerLinden, Wilyer.

Members Absent: Altschul, August, Crowder-Fiore, Nordstrom, Rodriguez, Shaeffer, Snyder, Rodriguez, Yzaguirre.

Proxies: Moyer for Thobaben, Knox for Cheyne, Craig for Yarnall.

Guests: S. Smith, Ayoob, Burges, Fulgham.

#### **1. Approval of Minutes from the Meeting of April 26, 2011**

M/S/P (Van Duzer/Goodman) to approve the minutes of the meeting of April 26, 2011 as written. Motion **PASSED** with 1 Abstention.

M/S (Goodman/Mortazavi) to move agenda items #6 and #7 to the top of the agenda.

Discussion:

It was accepted as a friendly amendment to have the Consent Calendar considered prior to these agenda items.

- Q: Why do these items need to be moved? A: They are more important and need to be discussed and it is a short Senate meeting.
- Chair VerLinden shared correspondence from an absent senator who requested a postponement of agenda item #7 to the following week.
- It was suggested that the discussion [of agenda item #7] begin at the current meeting and then be tabled and a decision made the following week.
- It was noted that the issues are simple and the Senate might be able to arrive at a conclusion today.

M/S (Knox/Goodman) that the motion [to move agenda items #6 & #7 to the beginning of the agenda] be amended to include that the discussion [of agenda item #7] be initiated today and continued next week.

Discussion:

There were no objections to ending debate and voting on the amendment.

Chair VerLinden announced the proxies for the meeting.

Voting on the amendment occurred and **PASSED** with 13 Yes Votes and 4 No Votes.

Discussion returned to the original motion:

- Continuing the conversation over two meetings will likely just duplicate it; wouldn't it be more efficient to postpone the entire discussion to next week?
- The chair of the ASCSU has been notified about the situation at HSU and is able to accommodate the time needed for HSU to undertake its process.
- Chair VerLinden shared the following email message [4/29/11 from Senator Cheyne:

*I must, in the strongest terms possible, object to debating the ASCSU Senate election at a meeting when one of the two principal players is unable to represent herself. The concept of allowing five minutes per individual to present a case, one of them being offered by a proxy, in no way acknowledges the potential complexity of this issue, including the likelihood that senators will have multiple questions relative both to substance and clarity. In the offered scenario only one of the two parties would be present to provide answers, which would further exacerbate what already is a highly prejudicial situation where the person "in residence" has not only the ears, but also the eyes of the body. It also violates a fundamental human right, at least in this country, that the accused has a right to face the accuser and offer a defense. And clearly an accusation has been made here, one that could have serious professional and personal consequences, namely that Marshelle's election as ASCSU Senator violates the GF Constitution, is invalid and therefore should be declared null and void. Of course one could argue that the accusations are not specifically directed at an individual person, but given that the consequences would be borne solely by an individual who was operating in good faith, her rights must be considered, and every precaution taken to ensure that this situation is handled with sensitivity, respect, and collegiality.*

*I strongly urge you to postpone discussion of this matter until both parties can be present. We often have had special meetings of the Senate during finals week. If that is not possible, then the meeting can be deferred until the first Senate meeting next year. Such a delay seems a small concession when weighed against the serious breach of professional etiquette and individual rights that would occur if a meeting were to be forced next week.*

*Please give your most serious consideration to this issue. I believe that it, and others of its ilk, lie at the heart of the crisis in governance and collegiality that this campus has been experiencing for some time.*

*I appreciate your time and thought.*

Discussion:

- The argument in the email diverts attention from the primary issue, which is eligibility, by making it personal. Making the issue about Senator Thobaben is committing the “red herring fallacy.”
- Q: Do the rules of order permit the minority candidate to win, or would the election be declared nullified and re-run? A: The Nominating and Elections Committee has discussed various issues and alternatives, if the Senate decides to forward the matter to the Committee.
- There are three concerns the Senate needs to address: 1) the interpretation of the Constitution (which has been referred to the Senate) ; 2) the question of whether or not it makes sense to apply term limits to the elected general faculty representatives to the statewide senate (which needs to be addressed separately) ; and 3) if the interpretation is made that there was an ineligible candidate, a ruling needs to be made about the outcome of the election. For discussion of the second question, it is crucial to have people who have served on the statewide senate present for the discussion.
- The issue is not about Senator Thobaben’s qualifications or about what the past practice has been. It is a question about the interpretation of the current Constitution. Senator Flashman requested that there be a new election and that until that election is held, no person will be certified for the ASCSU.

It was noted that the discussion of #7 has begun, but the Senate has not voted on the motion to re-order the agenda.

M/S/P (Mortazavi/Rizzardi) to end debate. Voting occurred and **PASSED**.

Voting on the motion to re-order the agenda with items #6 and #7 moved to the beginning, with the Consent Calendar to be considered before #6, and for the discussion of #7 to be carried over to a meeting on May 10 occurred and **PASSED** with 1 No vote and 1 Abstention.

## 2. Consent Calendar (ICC items)

ICC Chair Moyer reported two corrections to the Consent Calendar: a typographical error under 10-013 and the addition of “IA” to the list of prerequisites under 10-129.

The following items on the Consent Calendar were approved without objection:

**10-056: EED 210: Direct Experience with Children** – Change C-class from C-15 to C-78. C-15 is not the correct C-classification for this course in which students spend time observing classroom teaching. C-78 permits the department and the Dean to arrange appropriate WTU for the course.

**10-012 FISH 450: Introductory Fish Population Dynamics** – Change course number from 450 to 458 as course will be offered in conjunction with new course FISH 558 (see 10-013 below).

**10-013 FISH 558: Intro Fish Popn. Dynamics NEW COURSE** Description: Theory and analysis of exploited fish populations. Meets jointly with FISH 458. FISH 558 students develop fish population dynamics case study and report findings to class. [Prereq: MATH 105, STAT 109 or IA Weekly: 3 hrs. lect, 2 hrs computer lab]. Department has demonstrated that the 558 will operate at the graduate level.

**10-129 FISH 570: River Fish Restoration Ecology NEW COURSE** Description: FISH 570. River Fish Restoration Ecology (3). Principles of ecological restoration applied to river fishes, emphasis on biological, physical and watershed processes. [Prereq: FISH 310, FISH 430 or IA. Weekly: 2 hrs lec, 2 hrs lab.] This course is a graduate level course designed to meet jointly with FISH 470 (see 10-130). Department has demonstrated that the 570 will operate at the graduate level.

**10-130 FISH 470: River Fish Restoration Ecology NEW COURSE** Description: FISH 470. River Fish Restoration Ecology (3). Principles of ecological restoration applied to river fishes, emphasis on biological, physical and watershed processes. [Prereq: FISH 310, FISH 430. Weekly: 2 hrs lec, 2 hrs lab.] There is no cost impact on the department for 470/570 as the salary for the instructor is to be paid by the US Geological Survey. The course has been offered twice previously on a trial basis

**10-132 FISH 475: Fish Bioenergetics NEW COURSE** Description: FISH 475. Fish Bioenergetics (3). Energy requirements of fish; physiology of fish relative to energetic processes and constraints imposed by environmental conditions. [Prereq: STAT 109, FISH 310. Prior course in physiology recommended. Weekly: 2 hrs lec, 2 hrs lab.] This course will be a dual level course with FISH 575 which already exists so there will be no resource impact.

**10-076 FISH 410: Advanced Ichthyology NEW COURSE** Description: FISH 410. Advanced Ichthyology (3). Phylogenetic history of major groups of fishes. Survey world's extinct/living fishes. Geographic distribution; historical zoogeography. [Prereq: FISH 310 or equivalent. Weekly: 2 hrs lect, 3 hrs lab.] Meets jointly with FISH 510. Will be taught jointly with FISH 510 which already exists.

**10-357: GEOL 335: Geology Field Methods II** - add GEOL 332 as a pre-requisite (that may be taken concurrently) so that students in GEOL 335 will have had needed experience describing rocks in the field and creating stratigraphic columns.

Q: When IA (Instructor Approval) is added, is that usually discussed by the ICC? A: Every course, de facto, has IA; it is an insignificant change. In this case it was approved by Fisheries, but did not go back to the ICC.

### **3. Election of Senate Vice Chair (Chair of Faculty Affairs Committee)**

Chair VerLinden called for nominations for Senate Vice Chair and Chair of the Faculty Affairs Committee.

M (Powell) to nominate Chip Dixon.

M/S/P (Flashman/Mortazavi) that nominations be closed. Motion **PASSED** with 1 No vote.

Voting occurred and Senator Dixon was elected to serve as the Vice Chair of the Academic Senate and Chair of the Faculty Affairs Committee [through December 2011].

#### 4. Consider Objection to the Election of the Representative to the CSU Academic Senate

General Faculty President Powell explained that the Nominating and Elections Committee is bringing to the Academic Senate only one issue and that is whether or not an interpretation of the General Faculty Constitution is at issue.

Article IV, Section 8 of the *Constitution of the General Faculty of HSU* states: "No elected officer or representative of the General Faculty shall be eligible to serve more than two consecutive full terms in the same position." This article has not been complied with in the past and nobody noticed. It appears that the Constitution has been misinterpreted in the past. Once the Senate has made a ruling on the issue of interpretation, the Nominating and Elections Committee will decide how to proceed.

Chair VerLinden announced that Senator Flashman would make a statement, followed by the reading of an email message from Senator Thobaben, and then the Senate would deliberate.

The floor was yielded to Professor Fulgham who stated that the issue is that Section 8 has not been adhered to and no one has raised the question previously. He asked if the two term limit would apply to all general faculty representatives.

Senator Flashman presented his case with a PowerPoint presentation, prefaced with the following:

- The Constitution of the GF (HSU) is the foundation of faculty governance for HSU.
- Changes to the GF Constitution are allowed only by amendment in an established formal process requiring a majority vote of the General Faculty in residence.
- Past Practice is not a method described in the GF Constitution for making changes.
- A constitution is a foundational governing document for the operation of an organization under the principle of the rule of written laws and procedures. It is not about individuals.
- General Principles of Interpretation only look outside a document when the document is ambiguous or vague internally.

The ASCSU Constitution provides for each campus faculty to elect representatives to a statewide body, through its local governance processes. Statewide senators have 3 year terms.

Article IV. Section 8 of the *Constitution of the General Faculty of HSU* states that: "no elected officer or representative of the General Faculty shall be eligible to serve more than two consecutive full terms in the same position." Article VI. Section 7 states that: "The interpretation of this Constitution shall rest with the Academic Senate."

Other references in the Constitution to General Faculty representatives were cited. It is time to use the Constitution the way it was intended.

Chair VerLinden read the following email message [5/1/11] from Senator Thobaben:

*General Faculty Officers, Nominating and Elections Committee Members: Jay, John, Claire, Diane, Tyler and Eric:*

*It has saddened me tremendously to think that Martin Flashman would attempt to disqualify me so you could “declare” him the elected ASCSU senator based on his statement to wit: “After reconsideration of the facts and the GF constitution I request the Elections committee declare that I won the election to represent the HSU general faculty in the academic senate of the CSU.” [Email from Martin Flashman, dated Apr 28, 2011 at 9:41 AM]*

*I am knowledgeable about Article IV. Officers of the General Faculty, Section 8 of the General Faculty Constitution: No elected officer or representative of the General Faculty shall be eligible to serve more than two consecutive full terms in the same position. Years ago, when I was considering running for re-election, I asked if this article applied to ASCSU senators. I was informed that it did not apply to the number of consecutive terms the ASCSU senators could serve. There is no mention of ASCSU senators in Article IV (and its title very specifically references “Officers of the General Faculty”) which ASCSU senators are not, so there was no reason to limit ASCSU senators’ consecutive terms. The **past practice** of ASCSU senators serving multiple consecutive terms goes back decades and case in point is my re-elections not questioned until well after Martin lost this election. To disqualify me retroactively from an election I ran for in good faith and won would be highly reprehensible, very unprofessional, and in total disregard of the will of the general faculty. Further, this course of action would make the tacit assumption that the faculty who decided that term limits should not apply to ASCSU senators had no reasonable rationale for doing so and, for decades, just flagrantly disregarded of the language of the constitution. I believe that **my election as the ASCSUS senator should stand**.*

*If there is a need to discuss the GF Constitution: Article IV. Officers of the General Faculty, Section 8 at a senate meeting, please **wait until Bernadette and I can both be present**. As you are aware, Bernadette and I cannot attend this week’s Senate meeting and we are the two ASCSU senators. I leave on Monday for an ASCSU related meeting on Tuesday for which I am the only faculty representative. A proxy for me is inappropriate in this situation and my absence is legitimate.*

*Last, before considering what changes might be made to the HSU General Faculty Constitution in order to avoid ambiguity in the future, be aware that applying term limits to ASCSU senators will significantly decrease their opportunities to gain leadership positions in the ASCSU and in other statewide forums, including the CSU Board of Trustees. Typically it takes more than two terms to develop sufficient knowledge, visibility and trust to be chosen for these positions. Since holding such leadership positions generates positive benefits for HSU, it would be prudent to clarify the constitution’s language in a manner that honors past practice and makes it clear that term limits do not apply to ASCSU senators.*

M/S (Goodman/Van Duzer) to adjourn.

Chair VerLinden made the following announcements prior to adjourning:

- The Senate will meet next week (May 10) and the discussion will continue. The meeting may not begin until 5 pm, due to Finals Week scheduling.
- The End of the Year Faculty Social will be held on May 9 at the Plaza View Room (Jacoby Storehouse), Arcata.
- The University Police Chief asked Chair VerLinden to convey his appreciation to the faculty for their involvement and participation in the emergency drills held this semester.

Senator Mortazavi presented a gift to Chair VerLinden, with thanks from the Senate for his leadership for the past year. All applauded.