Minutes of Regular Meeting

Meeting
Regular meeting of the full senate, 3:15 p.m., Kendall Cram Room, Lavin-Bernick Center. The meeting was preceded by an executive session of faculty senators at 3:00 p.m. Because of the disruption caused by Hurricane Gustav, this was the first meeting of the academic year.

Presiding: The chair, President Cowen.

Attendance
Ex Officio: Cowen (pres./chair), Long (vice chair), Bernstein (provost), Sachs (sr vp and dean, School of Medicine), Lorino (CFO), Y. Jones (COO), Gallagher (proxy for Cullen, pres. ASB), Barrera (chair, SAC), Mackin (sec), Wiese (parl)

Deans: DeNisi (ABF), Query (Libraries), Schwartz (Arch.), Marksbury (SCS), Ponoroff (Law), Haber (SLA), Buckens (SPHTM), Altiero (SSE), Marks (SSW)

A. B. Freeman School of Business: Sujan, Ling Zhou (proxy for Page), McFarland

Newcomb-Tulane College:
Architecture: Bernhard
Continuing Studies: Green, McLennan
Law: Davies

Liberal Arts: Bidima, Cole, Rothenberg, Maveety, Balée

Medicine: Mushatt, S. Landry, M. Landry (proxy for DeSalvo)

Public Health and Tropical Medicine: Hutchinson (also proxy for Rose), Webber

Science and Engineering: Wietfeld, Rice (proxy for Walker), Tasker

Social Work: Pearlmutter, Lewis

Student Senators: Walker, Pillert, Kelley, Beyerstedt

Staff Senators: Earles

Invited Guests: Parker (chair, IT), Wilson (chair, Athletics), Robins (chair, Benefits), Langston (chair, FTFR), Carroll (PFAC), Purrington (faculty rep to Board), Levy (assoc. sr. vp research), Dozier (vp, development), Barron (CIO), Maczuga (assoc. vp tech. transfer), Cherrey (vp, student affairs), Grant (vp, univ. comm.), Johnson (gen. counsel), Mitchell (assoc prov), Coignet (strategic planning), Baños (chief of staff), Banker (spec. asst. to pres.), Kirkland (spec. asst. to chief of staff)

Absent Senators: MacLaren, V. Jones, Nowicki, Horowitz, Bunnell, Doucet, Schmehl

Introduction of New Senators and Guests
The following new senators and guests were introduced by President Cowen:

Ex officio senators: Kenneth Schwartz (dean of School of Architecture), Carole Haber (dean of School of Liberal Arts)

Faculty senators: Teresa Cole and Jean Bidima (Liberal Arts), Dave Mushatt (Medicine), Kay McLennan (Continuing Studies), Fred Wietfeldt (Science and Engineering)

Invited guests: Art Kirkland (special assistant to chief of staff and vice president).

Minutes
The minutes of the April 28 meeting were
Elections
Senators at Large
At the executive session of faculty senators preceding the open meeting, the following eight faculty members were elected senators at large for a one-year term:
Tom Langston (Chair, FTFR)
Jancy Hoeffel (Chair, SCAFRS)
Russell Robins (Chair, Benefits)
Geoffrey Parker (Chair, IT)
Dan Purrington (Chair, Faculty Rep to Board)
Linda Carroll (PFAC)
Gaurav Desai (PFAC)
Alicia Diaz-Thomas (Faculty Rep to Board)

President’s Faculty Advisory Committee
Senators Karen DeSalvo (SoM) and Russ Schmehl (SSE) were elected to the President’s Faculty Advisory Committee for three-year terms. Senator Harish Sujan (ABF) was elected to PFAC as a replacement for a two-year term, and Senator Kay McLennan (SCS) was elected as replacement for a one-year term.

President’s Report
President Cowen gave a summary report of two slide presentations, which were to be sent to the senate and posted on the senate Web site. The presentations covered major accomplishments of fiscal year 2008 and the goals and objectives for fiscal year 2009. Between those two presentations, the president also discussed what he saw as major challenges for FY 2009.

Fiscal Year 2008 Review
President Cowen said that student enrollment was higher in quantity and quality than had been expected at this stage of recovery. Undergraduate enrollment was most remarkable; applications had doubled from 17,000 to 34,000. The university had accepted 27 percent, hoping for an entering class of 1,400, but 1,565 freshmen actually enrolled. He said that enrollments in the School of Medicine, A. B. Freeman School of Business, and other divisions were also recovering at a faster pace than expected. He noted that as of the date of the senate meeting, the university had received 20,000 applications for next year’s incoming class. Last year, on the same date, the university had received 16,000 applications.

On the topic of faculty hiring, retention, and compensation, President Cowen said in FY 2008, the administration had begun a multi-year plan to enhance faculty compensation. The plan had begun with four schools: the School of Liberal Arts, the School of Science and Engineering, the School of Architecture, and the School of Social Work. Phase two of the plan, in FY 2009, would focus on the School of Public Health and Tropical Medicine and on basic scientists in the School of Medicine. Phase three would follow in FY 2010. The purpose was to close gaps in faculty salaries that existed before Hurricane Katrina but had become more prominent afterward. The president said he was pleased with the impact he expected the plan to have on all faculty when it was completed.

President Cowen added that the administration was also working on a staff compensation plan under the leadership of Anne Baños, chief of staff. The administration was working with compensation consultants to determine the scale and scope of the staff compensation issue. He said some progress was made on staff compensation last year, but he expected more to be accomplished this year.

The president described FY 2008 as a good year for faculty hiring. He said the university overall had hired 142 new faculty members. He praised the quality and diversity of the new hires, while noting that there were still some pockets of disappointment where attempts to hire had not succeeded.

At the leadership level, the university hired new deans of the schools of Liberal Arts and Architecture. President Cowen said that another person hired, whom most of those present would never meet, may have been the most important hire in the university—Jeremy Crigler, chief investment officer. He said Mr. Crigler was dealing with problems in the investment markets, which were down but would improve sooner or
later. The president noted that the chief investment officer’s office was in Connecticut because most money managers were on the east coast and the university found it easier to hire in that area.

Discussing fund-raising, President Cowen reminded the senate of the success of the recently completed Promise and Distinction campaign. The goal had been $700 million, and the university had raised $730 million. The completion of the campaign had been celebrated at Homecoming and had been publicized in the Times-Picayune. He commented that the issue was not simply how much money the university raised, but what that money could accomplish. During the campaign, the number of endowed chairs and professorships had increased 116 percent, so in nine years that number had doubled in comparison with the previous 165 years of the university’s existence. He added that fund-raising would continue and that initial planning for the next campaign had begun.

President Cowen said that Greer Field at Turchin Stadium had been completed and other capital projects were at different stages of development. A large expansion of the Primate Center was underway. Master planning for the health sciences campus, residential housing, and the Howard-Tilton Library had begun in FY 2008.

Financially, the university had done much better than expected in FY 2008, the president said. The university ended the year with an operating deficit of $20 million. The original budget had estimated a deficit of $34 million. In April, that estimate had been adjusted lower, to $28 million, but even that lower estimate turned out to be too pessimistic. The bottom line for the year showed a surplus of $75 million. The difference between the bottom line surplus and the operating deficit was due to one-time receipts and other items that would not repeat in subsequent years.

President Cowen said the FY 2009 budget projected an operating deficit of $30 million, but he expected the deficit to be lower. Some one-time money was anticipated, but not as much as in FY 2008. He believed the one-time money would end by 2010, but the university was still dealing with one insurance company and with FEMA. He hoped the university would eliminate the operating deficit by 2011 or 2012, at the latest.

Overall, President Cowen said, FY 2008 had been a good year.

Challenges for Fiscal Year 2009

President Cowen described five challenges the university faced in FY 2009:

1. One-time costs remaining from Hurricane Katrina. In addition to $100 million in debt from the hurricane, consulting costs and legal costs were still filtering through the system. He expected it would take another year or so to deal with those costs.

2. Ongoing operating deficits. The deficits remained a constraint. Nevertheless, the university had begun and would continue the faculty compensation enhancement plan. The university had also hired more than 140 new faculty members and would continue to invest in the future.

3. Lack of significant investment funds. Every dean had reported the need for more investment funds. The administration was seeking ways to increase those funds while still dealing with the effects of Hurricane Katrina.

4. FEMA. Dealing with FEMA was always a struggle, but the university would continue to pursue fair compensations for the damages it had suffered.

5. The economy. The university had minimal exposure to the failure of the infamous Wall Street financial institutions and had not lost money. However, the dollar value of the endowment had gone down significantly with the market. The effects would not be seen for a while because payout from the endowment is determined by a rolling 36-month value to dampen the effect of market volatility.

The credit crisis could possibly affect student loans and everyone’s personal credit. The president said the economy would recover but the recovery could take 24 to 36 months. The administration would continue to monitor the credit situation.

Another effect of the economy was to lower
expectations for fund-raising in the immediate future. The university would continue to ask for contributions but expected economic conditions to limit the response.

The president then opened the floor to questions. Senator Sujan asked whether problems with student loads would have an effect on the quality of students, which had risen recently.

President Cowen responded that he did not believe the situation would get that bad. If it did, it would affect all universities, although some of our peers were in a better position because of larger endowments. Still, his opinion was that the situation would not deteriorate that badly. With 40,000 applications, the university would have a cushion.

Senator Tasker asked what factors accounted for the increased interest and applications by students. The president said the administration could see a clear impact from three factors. First, high school students were familiar with the situation in New Orleans because they had come here or knew someone who had. Second, the public service requirement had tapped into the very best of young people. The idea of getting a quality education combined with public service and civic engagement resonated with students. That factor was evident in their essays and in discussions with them. President Cowen noted that two weeks before the senate meeting, he had attended the Service Nation Summit with 600 leaders in the United States. Senators McCain and Obama made an appearance. Tulane’s name was prominent in the discussions because it was seen as the epitome of what service programs should seek to achieve. Third, the president said that having a single undergraduate college also made it easier to tell the story of Tulane, whereas before, trying to explain seven different undergraduate institutions had been difficult.

Senator Purrington asked whether the administration planned to address the problem of salary compression, the situation in which new faculty members were hired at salaries at or above those of long-time faculty members. Provost Bernstein answered that the market always outpaces attempts to remedy the problem, but last year’s actions were the beginning of the administration’s plan to address the issue. This year, his office would look at faculty in the School of Public Health and Tropical Medicine and at basic scientists in the School of Medicine. Nevertheless, the problem would always recur over time.

Senator Webber asked if the debt of $100 million that the president had mentioned was the total debt of the university. President Cowen answered that it was not, it was the incremental debt incurred because of Hurricane Katrina.

Senator Webber then asked whether the recovery surpluses would be used to pay down that incremental debt. The president responded that eventually the university would pay down that debt and could, in fact, pay off some of the debt immediately. However, because the debt was at a low interest rate, the university decided instead to maintain higher liquidity to deal with the troubled economic situation if necessary.

Asked about the problems caused by last year’s large number of acceptances in the early action pool, the president said that standards for early acceptance had been significantly increased. As a result, more applicants would be deferred to the regular pool.

Hearing no further questions, President Cowen began a brief discussion of some of the university’s plans for FY 2009.

**Fiscal Year 2009 Goals and Objectives**

President Cowen began with the administration’s plan to enhance graduate education, especially doctoral programs. He said the provost had sent out a request for proposals for doctoral programs several weeks earlier. The administration had firmly committed to ultimately put in $4 million per year once the full doctoral portfolio was completed, which was 80 percent more than the current program received. At the same time, he said, the enhanced faculty compensation plan would continue.

In research, the president said, the administration was working with the Health Sciences Leadership Council to develop what was called Project 2020. The purpose of the project was to double the amount of external funding to
$300 million within a decade. The 2020 plan had been delivered to his office. He said the administration would make decisions about the proposals by the end of calendar year 2008.

The president said that a regrettable hazing incident in the spring of 2008 involving Pi Kappa Alpha fraternity had instigated a thorough review of policies on student conduct and campus life. The study, which was conducted by both internal and external reviewers, would soon be completed. He anticipated that the study would require some changes to university policies that would eventually be brought before the senate.

Several leadership searches would be conducted in FY 2009, President Cowen said. Dean Query, dean of libraries and academic information resources, was chairing a search for a chief technology officer. Three academic searches were being conducted under the oversight of the provost: a permanent executive director and endowed chair for the Newcomb College Institute, an executive director of the Murphy Institute for Political Economy, and a dean of the Law School.

President Cowen said that fund-raising would continue, but the most important project in that area would be a thorough analysis of the fund-raising infrastructure of the university. The purpose will be to develop the infrastructure so it is capable of running a billion dollar campaign in the future.

Another issue he mentioned that would be dealt with in FY 2009 was a diversity initiative. The objective would be to increase diversity in both the undergraduate student body and the faculty.

Financially, the university will seek to reduce the operating deficit while beginning to migrate back to a decentralized management center model. The university is currently using a hybrid model and would like to get back to the full DMC model as soon as possible, but full implementation would require a balanced operating budget. The president noted that the current hybrid model does still provide incentives for schools that surpass budget objectives.

The president closed the FY 2009 portion of the report by commenting that his full report listed about 20 objectives for the year. He reiterated that the reports would be sent to the members and guests of the senate.

Finally, President Cowen informed the senate that the full Tulane University Board did not meet in October because of disruptions caused by hurricanes. Instead, the board met in executive session by telephone and discussed the same report the president provided to the senate. The next full board meeting was scheduled for December.

Unfinished Business

Committee on University Honors.

Senator Davies presented the second reading of the committee motion to amend the bylaws. The amendment’s purpose, he said, was to make the bylaws consistent with the procedures approved by the senate at its April 28, 2008, meeting. The change read as follows:

Change to By-Law VI: Honorary Degrees

(1) Nominations of candidates shall be made to the Senate by the Senate Committee on University Honors and the Board Committee on University Honors, sitting together, with the exception that under special circumstances the privilege of nominating from the floor can be extended if there is a two-thirds majority of the voting membership in favor of receiving the nomination in this manner.

(2) Voting on such candidates shall be by written ballot in a session of the Senate attended only by voting members or their proxies. The proceedings of this session shall be kept confidential. No candidate shall be recommended by the University Senate to the President for review before recommendation to the Administrators for an honorary degree unless the candidate receives an affirmative vote of two-thirds of the voting members who are present.

(3) Any candidate thus presented to the Senate and failing to receive a recommending vote shall not be reconsidered within that current session.

The amendment to the bylaws was approved by 40 affirmative votes, constituting 2/3 of the voting membership of the senate, which was 60 members at the time of the vote.
Committee on Committees

Senator Langston, former chair of the committee, presented the second reading of the committee motion to amend the bylaws to expand the size and responsibility of the Committee on Equal Opportunity and to rename it the Committee on Equal Opportunity and Institutional Equity. To wit:

By-Law III, Committee on Equal Opportunity
Proposed Language:
Committee on Equal Opportunity and Institutional Equity: Functions
Advisory: To advise the Senate on the development and implementation of polices, procedures and practices pertaining to
1) recruiting and retaining a more diverse faculty, staff and student body;
2) enhancing the implementation of diversity policies;
3) improving the climate for under-represented faculty, staff and students.
In fulfilling its advisory functions, the Committee is expected to work closely with the Office of Institutional Equity and other responsible parties with roles in improving affirmative action, institutional equity, and diversity at the University.

Committee on Equal Opportunity and Institutional Equity: Membership
Chair, a faculty member; six additional faculty members; four students; three exempt staff; three non-exempt staff; and the following ex officio (non voting) members; the General Counsel, the Affirmative Action Officer, the Vice President for Human Resources, and one representative each from the Office of Multicultural Affairs, Disability Services, and Lesbian, Gay, and Bisexual Life, all ex officio (non-voting). This group of 22 should include representatives of different genders, minority groups and persons with disabilities.

In addition, up to two additional faculty members may be chosen by the Committee each year in consultation with the Vice President for Institutional Equity, with substantive expertise relevant to the Committee's anticipated agenda for the year.

Senator Carroll objected that the committee would be relinquishing its executive function. Senator Langston responded that it was merely relinquishing its pretension to an executive function.

The motion to amend the bylaws for the Committee on Equal Opportunity then passed with 40 affirmative votes.

Senator Langston next offered the second reading of a motion changing the bylaws to eliminate the Committee on Review of Faculty Status Decision Impasses. With little discussion, that motion to amend the bylaws passed with 42 affirmative votes.

Committee on Faculty Tenure, Freedom and Responsibility

As new chair of the committee, Senator Langston presented the first reading of two motions to amend the Faculty Handbook. These motions had been postponed at the April 28 meeting. The first motion was to replace the current wording in Article V, Section 2, of the Handbook with the Interim Principles and Procedures on Financial Exigency that had been previously approved by the senate.

President Cowen said that he had consulted with the executive committee of the board and their only concern was a lack of flexibility in the policy on the number of days for each group to respond. Circumstances might dictate shorter or longer response times. He said he had also discussed the issue with the President’s Faculty Advisory Committee and he believed the members generally agreed. The president said he did not have specific language to propose to amend the interim principles and procedures but he would present specific language at the second reading.

Senator Langston said that he agreed that specific language was necessary indicating who had the authority to modify the time constraints. Senator Carroll added that she believed specific language was important because once the change to the Handbook was approved, the new procedures would constitute an agreement between the faculty and the administration.

Senator Langston said he would be willing, as chair of FTFR, to consult with the president and
come up with specific language to address the perceived problem.

Senator Langston then read the second committee motion, which was to amend the Faculty Handbook by adding a sentence in the introduction stating that the Faculty Handbook was not an enforceable legal contract under Louisiana law. He said this change would acknowledge the board and administration’s response to the senate’s request for clarification of the status of the Handbook. Their response was that the Handbook was not an enforceable contract and if it were to be enforceable, it would require major revisions.

Senator McFarland asked what legal agreement the administration had with the faculty. Senator Langston referred the question to General Counsel Johnson. She said that the Louisiana Supreme Court had held that the Faculty Handbook was not a contract. Senator McFarland acknowledged that point but asked what legal obligations, then, the administration had to the faculty. General Counsel Johnson said that the appointment letters sent to the faculty are contracts. Senator McFarland pointed out that those letters are annual and therefore are valid for only one year. General Counsel Johnson said that the university follows the Handbook as guidelines but the legal status of tenure would have to be adjudicated in a court of law because there is no court decision about tenure being a contract.

Senator Langston said it appeared to him that the administration’s legal obligation to the faculty amounted to whatever a court of law forced them to abide by. So the faculty did not really know the status of tenure until a case was presented in court and argued. The question then arose whether the faculty was giving the game away by adding this sentence to the Handbook before such a court case arose. Senator Diamond had raised that question on April 28, but he had since come to change his mind after reading the relevant court cases.

Senator McFarland then asked whether tenured faculty have more protection than untenured faculty, adding that it was a pretty serious question. Senator Langston agreed with

the gravity of the question but could not see how it related directly to the motion being presented.

Senator Purrington asked what adding the sentence would accomplish. Senator Langston said its purpose was to provide fair warning to the faculty and to remind all parties that the Handbook was a guide.

Senator Carroll drew a comparison between faculty status at Tulane and at Loyola. She said Loyola’s handbook is a contract because the letters of appointment state that the appointment includes the handbook. Tulane’s Faculty Handbook is not a contract because Tulane does not write the letters of appointment that way.

Senator Langston said that if Tulane were to write letters of appointment that incorporated the Handbook into the contract the new sentence would become moot. The sentence reads, “As a general guide, this Handbook does not constitute and enforceable contract under Louisiana law.” In the case where the letter of appointment incorporated the Handbook, it would no longer be a general guide and so the rest of the sentence would not apply.

Senator Purrington asked whether it would be possible to change the letters of appointment. Senator Langston agreed that such a change would be possible but he doubted it would occur.

Senator Balée said that making the Handbook part of the contract could help the recruitment of new faculty.

Senator Rothenberg said that if the purpose is to give fair warning to the faculty, then the committee should add a warning to tenured faculty that they have only a one-year contract. Senator Langston said the committee had not taken a position on that interpretation. He believed he had more than a one-year contract, and he would not want to yield that position without a court hearing.

No further discussion arose on the first reading of the proposed amendments.

Committee Reports

Academic Freedom and Responsibility of Students

The former committee chair, Senator Purrington, discussed his written annual report.
He pointed out that the committee dealt with four cases. Two of these cases were very time consuming. One case was eventually returned to Newcomb-Tulane College for reconsideration. In the other case, the committee decided in favor of the students, but the committee’s recommendation was rejected by the president.

Senator Purrington said the committee would be working on clarifying its role and procedures in the coming year. He noted a potential problem in fairness when the committee forwards its recommendation to the president. The president then consults with the same administrators who made the original decision that the committee found reason to question.

Faculty and Staff Benefits

As a preface to the committee report, President Cowen explained that the university was unable to follow its normal procedures this year. Normally, the committee would make its recommendations on health benefits to the senate at the September meeting, and the senate would then weigh in with its decision. However, the hurricanes in September prevented the senate from meeting. The deadlines, on the other hand, did not change, so the administration had to make a decision without the advice of the senate.

Senator Robins, the chair of the committee, then made his report, which had been circulated to the senate in advance. His written report noted that the committee had participated in an exercise in November 2007 that simulated design of a health plan, had introduced a new vision benefit, and had participated in some stages of the development of the calendar year 2009 health plan.

In his oral report, Senator Robins focused on the 2009 health plan. He explained that the process normally involved the Health Care Oversight Committee, a consulting firm, and the senate committee. They requested proposals and received them. The lowest cost proposal was submitted by Blue Cross-Blue Shield and would have amounted to a 6.1 percent increase in premiums for 2009. United Healthcare came in slightly higher at 6.5 percent. Nevertheless, the oversight committee unanimously recommended retaining United Healthcare because United had a better network and its option for the second year was much lower. Senator Robins also said that complaints about service from United had dropped to 35 last year.

Because of the disruptions to the schedule in August, the Senate Committee on Faculty and Staff Benefits had been unable to form a quorum to evaluate the proposals. Senator Robins said some committee members had reservations about recommending United, but he believed the majority would have agreed with the oversight committee. Without a quorum of the senate committee and without a senate meeting in September, the administration had to make a decision before the end of September. The administration followed the recommendation of the oversight committee and renewed its contract with United Healthcare. Chief of Staff Baños explained that the plan year begins in January, but a long lead time is necessary to give employees adequate time to make their choices and to take into account the FSA enrollment period.

President Cowen asked about the wellness program. Chief of Staff Baños said she would refer that question to Sandy West, director of the workforce management office’s strategy planning and implementation, but she first pointed out that United was offering gift certificates for filling out a health risk assessment online. Ms. West said that the workforce management office was running the wellness program in coordination with United Healthcare. She also emphasized that employees should take advantage of United’s incentives.

Senator Purrington asked about a smoking-cessation program. Ms. West said a program was not yet available, but employees could fill out a survey and demonstrated interest could lead to a program. Senator Pearlmuter commented that the Student Health Center offered a smoking-cessation program.

Research

Laura Levy, the associate senior vice president for research and chair of the Committee on Research, presented the annual report, which had been distributed in advance in written form.
The committee had approved five requests for exceptions to the university policy prohibiting acceptance of sponsored projects with restrictions on publication and had denied one request. The Subcommittee on Summer Grants had coordinated with the provost’s office to provide summer fellowships.

Vice President Levy said the committee developed several changes in the “Fraud in Research” policy of the Faculty Handbook. In summary, the recommended changes cover three issues:

1. The policy was revised in 2005 to include specifications of the federal funding agencies, especially the National Science Foundation and the Public Health Service. It has since become clear that these specifications must be removed from the Faculty Handbook because they undergo frequent change by the federal agencies. The committee recommends that the specifications of federal agencies be removed to separate documents specific for grantees. The Handbook policy would then allude to the separate documents.

2. The policy requires revision to correctly reflect the current academic organization of the university.

3. The policy is entitled, and refers throughout, to “Fraud in Research.” This is not an entirely correct designation, since “fraud” is only one element of research misconduct. In 2006, the federal Office of Science and Technology Policy offered a definition of research misconduct, which includes fabrication, falsification and plagiarism. With this in mind, the revised document uses the term “Research Misconduct” in place of “Fraud in Research.”

Vice President Levy’s announcement of the committee recommendations constituted a first reading of the proposed changes to the Faculty Handbook. The senate will consider the proposals at its November meeting.

With no further business, the meeting was adjourned at 4:40 p.m.

Respectfully submitted,
Jim Mackin, Secretary

Secretary’s Note: All written reports mentioned in the minutes, including the president’s slides, will be available on the senate Web site, http://www.tulane.edu/~usenate/.