

Stony Brook University
University Senate
Campus Environment Committee
February 9, 2006

V.P. Administration Conference Room,
221 Administration Bldg.
1:00 – 3:00 pm

Attending: Bill Dethlefs, Chair; Mary Woodward, Vice Chair; Bob Aller, Malcolm Bowman, Gil Hanson, Catherine Horgan, Mary Hotaling, John Murray, Kristen Nyitray, John Robinson, Paul Siegel, Jason Torre, and Ramona Walls.

Excused: Bob Aller, Robert Hunter, Gary Kaczmarczyk, Catherine Murphy-Vetter, Debbie Nappi-Gonzalez, Dorothy Shannon Schiff and Muriel Weyl.

Guest: Kerri Dobbs.

Staff: Barbara Chernow, Asst. Vice President for Facilities and Services and John Fogarty, Director of Capital Planning.

Minutes

- I. Introductions – Bill Dethlefs
Members and guests were introduced and welcomed to the meeting.

- II. Review Minutes from Jan. 5, 2006 – All
The minutes were approved as submitted in advance.

- III. University Senate – Bill Dethlefs
 - a. Approval of Annual Report
A motion was made and passed to approve the 2004-2005 Campus Environment Committee Annual Report as submitted. [It was later requested by the Executive Committee that a change be made giving recognition to New York Assemblyman Steve Englebright for initially suggesting the idea of the Stony Brook Environmental Greenbelt during a prior University Senate meeting. That change was made].

 - b. Clarification of Membership: University Senate Resolution
The resolution for expanding membership on the Campus Environment Committee was received after the date of our last meeting. The resolution indicated three positions, not four had been approved. There are one, not two Library positions as originally believed. This required rescinding the appointment of Jason Torre as an official member of the committee. (See Attachment A for details).

c. Open Meetings Law

The University Senate received a legal opinion that the open meeting law applied to the full senate, and each of the standing committees. The legal opinion was forwarded to all standing committee chairs. See Attachment B for details.

IV. Smoking on Campus: Violations and Opportunities for Nonsmokers - All

The Executive Committee of the University Senate asked the Campus Environment Committee to address problems of smoking near the entrances of buildings on West Campus. [This request was later clarified to extend the 50' no smoking radius now the practice on East Campus to become the campus-wide standard].

Currently, there is a 50-foot no smoking radius around all building entrances on East Campus. This is a regional and national requirement of which all health care facilities must comply.* Under current campus policy, smoking is "prohibited in the following outdoor locations:

- at any outdoor event with seating
- within 15' of any building entrance or ventilation system.
- the only exceptions are residence hall bedrooms only if approved in writing, Long Island State Veterans Home Residents' Smoking Lounge, or designated outdoor smoking shelters, such as those at University Hospital.

(Source: Smoke-Free University P112, Issued by the Office of the President. Approved: November 20, 1997). (For additional details see Attachment C).

Signage is being developed for use on ashbins that are now stationed near building entrances. The bins will be placed at appropriate distances away from building entrances the 15' radius. Enforcement is based on adherence to the campus-wide no smoking policy. Enforcement is a shared responsibility and repeated violators are subject to a civil fine. A request was made to not place ashbins near the building air intake ports, particularly at the Melville Library. Discussion will continue during the next meeting.

*Suffolk County has restrictions within a 50-foot radius of all County buildings and all hospitals (public or private) within the county.

V. Subcommittee Reports

- a. Friends of the Ashley Schiff Park Preserve (FASPP) – Mary Woodward
New webpages have been developed and Gil Hanson has provided maps of trails in the preserve. Fundraising for scholarships is also doing well. Already four or more donors are using payroll deduction, primarily through the faculty/staff capital campaign. The main website is <http://www.ashleyschiff.org>
- b. Earthstock 2006 – Malcolm Bowman
This year's celebration of Earth Day will be on Friday, April 21. It will be an all-day event. An active committee has already started the planning. Last year more than 3,500 participated. A list of events and activities will be available soon.
- c. 'Little Acre Woods' subcommittee – Paul Siegel/Catherine Horgan

The committee has met twice to address not only the proposed natural flora that should be grown in this location, but also the implications of limited funding. Seasonal, smaller plants will be seeded. Still to be determined are the size of the trees to plant. The smaller the caliper diameter the easier and less expensive they are to plant. A multi-year plan is being developed for maintaining the site. Concerns were noted regarding the potential impact of invasive species. Another subcommittee meeting will be called for further planning and discussion.

VI. Requested Endorsements – Malcolm Bowman representing the Stony Brook Environmental Conservancy (SBEC)

- a. SBEC Letter to Francis Sheehan of the NY Department of Environmental Conservation (DEC) regarding open space conservation on SUNY Campuses- Informational Only. An opinion was received from the Executive Committee of the University Senate that prevents the University Senate, and its standing committees, from having any correspondence with the Office of the Governor or any state agency. Individuals are not so restricted. The letter in question asks for New York State DEC support for preservation of the natural areas that remain on SUNY campuses. For more information contact Malcolm Bowman, President of the Stony Brook Environmental Conservancy (SBEC).

- b. SBEC Letter requesting historical marker denoting the remains of Old Kings Hwy on campus.

Evidence of a portion of the Old Kings Highway network of colonial roads still exists within the northwest corner of the campus. A historical marker is being recommended for this area. It is featured on the SBEC website < <http://sbec.gushi.org>>. The features include an 18-foot roadbed complete with wagon ruts that are still visible. An easement and proof of land ownership are still needed as is clarification of the historical value of the site. Communication with Cy Robbins and Bev Taylor of the local historical society is still being pursued. David Smith, a historical consultant is also involved in determining proof of the historical value of this parcel.

- c. SBEC Letter requesting a nature trail around the DEC wetlands on West Campus. A nature trail and wildlife observation platform are proposed adjacent to the DEC declared wetland just west of Nicolls road and near the H and Mendelsohn Quads. Barbara Chernow indicated that the status change to a state designated wetland prevents any modifications of this area. One need of the university is to prevent overflow of this drainage basin. There is a proposal with the DEC to allow the university to remove the silt to promote drainage by increasing the permeability of the soil. A formal response is still pending. Gil Hanson will be meeting with Barbara Chernow regarding a long-term permeability assessment of this drainage basin. She did note that there is administrative interest in promoting recreational activities at this site. The letter from the SBEC will be sent to Barbara Chernow and Dick Mann for an official response.

VII. Other – General Observations

- a. A question was raised with Barbara Chernow regarding problems with the high temperature pipeline in the middle of Health Sciences Center Drive on East Campus.

She indicated that it was resulting from an aging infrastructure and that different sections of the pipe were creating a continuing problem.

- b. In line with the ongoing discussion on traffic enforcement, Barbara Chernow indicated that Wiley Engineering has been retained to do traffic counts at various points on campus. They will be using this data to recommend options for improvements of traffic flow and enforcement. A report is expected within three weeks.

In addition, all crosswalks have been repainted. Traffic enforcement has also been increased and University Police Chief Richard Young recently sent a campus-wide email asking for cooperation from all faculty, staff, and students.

- c. A request was made to have more stops added to the schedule for the bus routes that originate at South P Lot as they head north to the Student Activities Center. Terence Harrigan will be asked to explore this change.

VIII. Next Meeting – Bill Dethlefs

The next meeting will be on Thursday, March 9th, from 1 – 3 pm in the conference room of 221 Administration Building.

IX. Adjourn – Bill Dethlefs

The meeting was adjourned at 2:20 pm.

X. Preliminary Agenda for March 9th.

- a. Introductions
- b. Review of the Minutes
- c. Campus Recreation Advisory Committee
- d. Standardizing No smoking perimeter campus-wide
- e. Traffic Enforcement Report- Preliminary Results
- f. Earthstock – Role for the CEC
- g. Subcommittee Reports
- h. Next Meeting
- i. Adjourn

CAMPUS ENVIRONMENT COMMITTEE

2003/2004

Charge: It shall examine all aspects of the campus environment, including but not limited to safety, security, facilities planning, state of facilities, and general appearance of the campus. It will consult with and advise the Assistant Vice President for Facilities and Services.

Attachment A

Resolution passed unanimously at December 5, 2005 Senate Meeting

Motion to change Senate By-laws regarding membership of the Campus Environment Committee (B. Lindquist)

As the Campus Environment Committee has greatly expanded its charge in recent years; and

As the number of current and planned projects on the main campus and at other locations are increasing significantly; and

As this Committee meets monthly and consults with the Administration frequently on matters within its jurisdiction

The Senate is asked to pass a resolution to modify the University Senate By-Laws to increase the membership of the Campus Environment Committee as follows:

V. Committee Membership

2. Membership of the following committees shall be described below:

j. The Campus Environment Committee shall consist of:

- ~~one~~ two faculty members from each of the electoral divisions of Arts and Sciences
- ~~one~~ two faculty members from Engineering and Applied Sciences
- two faculty members from Health Sciences
- one library faculty member
- one professional employee each from West Campus and East Campus
- two undergraduate students;
- one graduate student;
- the Director of Environmental Health & Safety (*ex officio*, non-voting).

Motion Passed unanimously

Brent Lindquist: Point of information: membership will be increased through the elections scheduled for the Spring semester. If additional interim members are required prior to Fall 2006 the committee may make the recommendation to the Executive Committee for temporary appointments

Attachment B

From: Laurie Theobalt/Prov
Date: 02/01/2006 10:00 AM
To: Executive Committee
University Senate Standing Committee Chairs
Subj: Open Meetings Law

To EC and University Senate Standing Committee Chairs

Colleagues,

The University Council, Lynette Phillips, has forwarded to me (see below) an analysis of a recent decision by the State Appeals court. Her analysis concludes that, while the monthly meetings of the full senate are subject to the State Open Meetings Law, the meetings of the Senate Standing Committees are not.

However, from a public relations point of view I recommend that the Standing Committees of the Senate continue to welcome requests for public attendance at committee meetings.

Brent

On Tue, 2006-01-31 at 18:11, lphillips@notes.cc.sunysb.edu wrote:

You ask whether the State Open Meetings Law applies to meetings of the University Senate's standing committees. These committees include the Council on Faculty Rights and Responsibilities, Academic Planning and Resource Allocation, the Student Life Committee, and so forth. See generally <http://naples.cc.sunysb.edu/Admin/usenate.nsf/pages/standing>.

Briefly, the answer will depend on the particular function or activity that the group in question performs.

In this case, it appears that the Senate's standing committees serve solely in an advisory capacity, and do not themselves make binding decisions for or on behalf of the Senate or the University at large. Accordingly, these Standing Committees have no legal obligation to make their meetings open to members of the public.

The analysis is as follows.

Public Officer Law § 102 (2) defines a "public body" as "any entity for which a quorum is required in order to conduct public business, and which consists of two or more members performing a governmental function for the state". Public bodies have the statutory authority and obligation to make final decisions on matters of public business. By contrast, standing committees or advisory groups asked only to bring recommendations to an separate decision-maker or independent voting quorum do not themselves have authority to exercise the "power of the sovereign".

This issue was examined by the NYS Second Department (ours) in *Poughkeepsie Newspaper v. Mayor's Intergovernmental Task Force on NYC Water Supply Needs*, 537 NYS2d 582 (2d Dep't 1989). An intergovernmental group was created by invitation of the Mayor, to study the City's water needs and make recommendations back to him, which he could then accept or reject. A newspaper reporter was denied permission to attend a subcommittee meeting and sued. The Court found that the Task Force's sole purpose was to make recommendations. It was not itself a "public body" "performing a governmental function", thus was not itself subject to the Open Meetings Law.

According to the relevant SBU website, the Senate Standing Committees are required to 'advise and monitor', 'review and recommend', 'evaluate', 'discuss', 'make recommendations' and so forth. In each instance, the committee reports to an independent decision-making entity -- the University Senate, the President or another senior administrator. Because these groups operate in an evaluative and advisory capacity; lack authority to order their own initiatives implemented and, presumably, can accomplish their goals without a quorum, the "public forum" requirements of the State Open Meetings Law do not apply. I also note that in many instances, a remarkable amount of information is made available via publication of the committee minutes on the internet.

You also ask whether the Senate is legally required to keep a record that identifies the vote of individual members.

Here too, the answer will depend on the issue under discussion. If resolution requires quorum participation, a formal vote and can be characterized as a final action by the Senate in furtherance of its University governance purposes, then the public record should reflect how each member of the Senate voted. In this fashion, public events are memorialized for future reference purposes.

I trust this brief memo adequately addresses your concerns. Should you need additional clarification, do not hesitate to ask.

Lynette M. Phillips
Associate Counsel
SUNY Stony Brook

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Brent Lindquist
lindquis@ams.sunysb.edu>
01/20/2006 04:59 PM
To
skenny@notes.cc.sunysb.edu
cc
lphillips@notes.cc.sunysb.edu
Subject
New Open Meetings
Law Case

To: Shirley Kenny, President, Stony Brook University
From: Brent Lindquist, Univ. Senate President
Re: New Open Meetings Law Case

cc: Lynnette Phillips, University Council

I have received from your office the memorandum from Andrew Edwards (Univ. Council, SUNY) notifying State-Operated Campuses of the decision, issued by the NYS Court of Appeals in *Perez vs. CUNY*, that the Faculty Senate of Hostos Community College is subject to the Open Meetings Law. Mr. Edwards' memorandum strongly suggests that the courts will therefore interpret the Open Meetings Law as applying generally to University Governance Bodies.

I will discuss this issue with the Senate Exec on Monday. However it is my understanding that Stony Brook has always considered its monthly senate meetings to be subject to the Open Meetings Law and welcomes public observation.

The question I have for the Stony Brook University Council's office is "Does the Open Meetings Law also apply to the meetings of the Senate's standing committees?" While, in general I believe these committees would have no problem with public observers, there are times when they need to make frank observations in private. So when can these committees go into "closed session" and when can they not? I would appreciate direction on this.

Finally, the opinion issued by the Appeals Court notes (pages 9 and 10) that under the Freedom of Information Law, a public agency must maintain "a record of the final vote of each member in every agency proceeding in which the member votes". While the Stony Brook senate records summary votes (numbers of "ayes", "nays" and "abstentions") we do not record votes of individuals. Advice on this from Lynette's office would also be appreciated.

Attachment C

Smoke-Free University P112

Issued by the Office of the President.

Approved: November 20, 1997

Clauses addressing Procedure and Enforcement only

Procedure:

1. The Physical Plant shall ensure that NO SMOKING signs are posted at all building entrances and at other strategic locations.
2. Building Managers shall report any problems or specific needs to the Physical Plant.
3. The Physical Plant shall provide receptacles for the extinguishing of tobacco products near building entrances.
4. Environmental Health and Safety, Student Health Services and the Employee Assistance Program shall provide information on smoking and offer smoking cessation programs to the campus community.

Enforcement:

1. It is the responsibility of all administrators, faculty, staff and students to enforce this smoking policy.
2. Department Heads, Chairs and Directors shall ensure that all personnel within their areas comply with all of the requirements.
3. Employees or students who repeatedly violate the requirements of this policy may be disciplined through the Office of Human Resources or the Student Judiciary.
4. Any person who fails to comply with the requirements of this policy may be in violation of Article 13E of the New York State Public Health Law. Violations may be subject to the imposition of a civil fine in addition to University disciplinary action.
5. The Department of Environmental Health & Safety and the Department of Public Safety may be called upon to enforce the provisions of New York State Law.