

## **University Senate**

May 6, 2015

### **Members Present**

Members present at the meeting: 91

### **Call to Order**

Senate Chair Webster called the meeting to order at 3:27 p.m.

Chair Webster noted that all senators should have received ballots for the special elections and a clicker for voting on regular business items. He welcomed the new senators and asked them to stand and be recognized for their service. Chair Webster gave a brief overview of how to operate the clickers for voting on action items, and senators conducted a brief trial.

### **Election of the Chair-Elect**

Chair Webster introduced Daniel Falvey, Professor, Chemistry, College of Computer, Mathematical, and Natural Sciences (CMNS), and Jordan Goodman, Professor, Physics, College of Computer, Mathematical, and Natural Sciences (CMNS), as the candidates for Chair-Elect and thanked them for their willingness to serve. He opened the floor to nominations. Hearing no additional nominations, he requested that all voting senators vote on the Chair-Elect. Chair Webster announced that Jordan Goodman had been elected Chair-Elect.

### **Approval of the Minutes**

Chair Webster asked for additions or corrections to the minutes of the April 23, 2015, meeting. Hearing none, he declared the minutes approved as distributed.

### **Report of the Outgoing Chair, Donald Webster**

Chair Webster stated that Governor Hogan had announced that he would reinstate the 2% cost of living adjustment for all state employees.

Webster gave a brief overview of the work completed over the past year. He noted major accomplishments such as the work of the Joint Provost/Senate APT Task Force led by Brad Hatfield, which revised the APT Policy and Guidelines; the revisions to the Plan of Organization for Shared Governance led by Charles Wellford; the work on professional track faculty policies; and several new programs, certificates, and concentrations through the PCC Committee. He commended those involved in these initiatives, the committee chairs from the last year, and thanked senators for their work. Webster thanked Ken Holum, Parliamentarian, Reka Montfort, Executive Secretary and Director, and the Senate Staff for their support. He also commented on the strength of our University Senate because of how

inclusive we are of all constituencies. Chair Webster introduced the incoming Chair, Willie Brown.

Brown thanked Webster for his outstanding service and leadership over the past year and presented him with a token of appreciation.

### **Special Elections**

Chair Brown thanked Devin Ellis and the Nominations Committee for their work in developing the slates and the candidates who had agreed to run. He also encouraged senators to volunteer to serve on a senate committee. He then provided instructions on the process for the special elections.

#### Senate Executive Committee

Brown requested that all voting senators take out the ballots for the vote of the Senate Executive Committee and strike out Jordan Goodman as a candidate because the Chair-Elect is a member of the SEC. He opened the floor to nominations. Hearing no further nominations, he asked senators to complete their ballots.

#### Committee on Committees

Brown asked all faculty, exempt staff, graduate student, and undergraduate senators to take out the ballots for the vote of the Committee on Committees. He opened the floor to nominations. Hearing none, he asked the senators to complete their ballots.

#### Athletic Council

Brown asked all faculty senators to take out the ballots for the vote of the Athletic Council. He opened the floor to nominations. Hearing none, he asked the faculty and staff senators to complete their ballots.

#### Council of University System Faculty (CUSF)

Brown asked all faculty senators to take out the ballots for the vote of the Council of University System Faculty (CUSF). He opened the floor to nominations. Hearing none, he asked the faculty senators to complete their ballots.

#### Campus Transportation Advisory Committee (CTAC)

Brown requested that all faculty, staff, and undergraduate senators take out their ballots for the vote of the Campus Transportation Advisory Committee (CTAC). He opened the floor to nominations. Hearing none, he asked the senators to complete their ballots.

Chair Brown stated that Reka Montfort would announce the results of the special elections by email following the meeting.

Brown announced that the Senate meeting schedule for 2015-2016 had been finalized and would be emailed to senators. He reminded everyone that only senators or those introduced by senators may speak. For the record, each speaker should state his or her name and constituency prior to speaking.

**Special Order of the Day**  
**Michael Poterala, Vice President for Legal Affairs and General Counsel**  
***Free Speech vs. Actionable Conduct: An Introduction***

Chair Brown invited Michael Poterala, Vice President for Legal Affairs and General Counsel, to address the Senate.

Poterala thanked the Senate for the opportunity to present on free speech versus actionable conduct.

Poterala gave an overview of the First Amendment to the U.S. Constitution.

***“Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances.”***

Poterala also provided examples of conduct that may be regulated such as discrimination, threats, intimidation/harassment, fighting words, libel and slander, and time, place, and manner. He noted that attempts to regulate the **content** of speech are almost always unconstitutional. Poterala cited several cases such as Doe v. University of Michigan (1989) that upheld the First Amendment. He also provided practical suggestions such as responding with “more speech” when offensive speech occurs, articulating values of tolerance and civility; using content-neutral policies (time, place, and manner restrictions); acting swiftly in response to acts of violence and intimidation; ensuring that rules have a direct nexus to some impact on the educational environment; and considering curricular and extracurricular opportunities to discuss difficult issues.

Poterala also cited an excerpt from the University of Chicago, Report of the Committee on Freedom of Expression, January 6, 2015, as follows:

“In a word, the University’s fundamental commitment is to the principle that debate or deliberation may not be suppressed because the ideas put forth are thought by some or even by most members of the University community to be offensive, unwise, immoral, or wrong-headed.”

Chair Brown thanked Poterala for his presentation and opened the floor to questions.

#### **Q & A**

Senator Locke, exempt staff, inquired about mandatory diversity training that could help raise campus culture for tolerance.

Poterala responded that training for education, whether for employees or students, is a form of positive speech. We have a heightened ability to require training for employees. There are some student groups on campus that are interested in exploring opportunities to raise awareness and help create an inclusive environment by practicing civility and respect for others. This kind of guidance should give everyone an idea of what we can do and what crosses the line.

Senator Aparicio-Blackwell, exempt staff, inquired where do we draw the line at an institution of higher learning where people can disagree. How do we create an environment where people can voice opinions but still have some protection? Poterala stated that his office is not here to police behavior but rather to provide space to have discussions on a variety of opinions. What we have to do is give people the protection to explore and take chances. We are in the business of taking risks and chances. The most important thing that we can do is respect other people's ability to speak their views whether we agree with them or not but especially if we disagree.

Senator Stanley, undergraduate student, College of Behavioral and Social Sciences, stated that as students here paying tuition, we enter a contract with the University, and that falls under administrative law. That is why the University has the authority to have a code of student conduct, which can be more restrictive and not follow an exact legal process. He inquired whether that then allows the University to have more restrictions or regulations on speech than our government can impose. Poterala responded that when we have a code of conduct that deals with certain issues, our ability to address those relates to the educational environment. We have some discretion to deal with internal educational matters. We have an obligation under the law to maintain an educational environment that everyone can thrive in. However, that kind of discretion allows us to offer a different process. We cannot take away your liberty. The process correlates with the severity of the sanction. We do not have any more discretion to regulate speech because it is constitutionally protected.

Chair Brown thanked Poterala and noted that his presentation would be posted on the Senate website.

### **New Business**

Senator Lapin, faculty, College of Arts and Humanities, made a motion to approve the following resolution:

*Whereas a large majority of the fourteen universities in the Big Ten do not sell alcohol at athletic events,*

*Whereas numerous studies show that alcohol consumption and sexual assault are linked together on college campuses,*

*Whereas selling alcohol at athletic events opens the door to selling alcohol at other campus events,*

*Whereas the University may try to control who can purchase alcohol, control over who will drink that alcohol is impossible,*

*Whereas many people who have purchased and consumed alcohol at athletic events will drive cars immediately after the event,*

*Be it resolved that the University Senate opposes the sale of alcohol at on-campus athletic events.*

The motion was seconded.

Brown opened the floor to discussion of the resolution.

Senator Valmon, head coach, introduced Sasho Cirovski, member of the Athletic Council.

Cirovski stated that the athletic council spent the majority of the academic year discussing the proposed alcohol policy and voted 16-1 to approve the policy. He provided background on the rationale for the approval. He noted that this would give us an opportunity to lead the discussion on alcohol use. Regulations and restrictions are being put into place to prevent binge drinking. This is an opportunity for us to be leaders and educate. Fans like to consume alcohol and should be able to do so responsibly, not just in limited areas like the suites. This is an opportunity to generate revenue to use for educational purposes. He stressed that the revenue would not go to Athletics.

Brown noted that this is a heated topic. We have already heard many viewpoints, so he asked that speakers provide new perspectives and allow those who have not yet spoken an opportunity so that we can get to a vote.

Senator Stanley, undergraduate student, College of Behavioral and Social Sciences, spoke against the viewpoint that alcohol consumption is connected to sexual assault. He noted that studies have shown that perpetrators of sexual assault are repeat offenders and sexually aggressive regardless of the level of inebriation. We need to focus on changing mindsets and empowering positive bystanders. This will be a regulated area.

Senator Moser-Jones, faculty, School of Public Health, introduced Amelia Aria, Associate Professor in the School of Public Health.

Aria noted that her research focus over the last 20 years has been related to alcohol and drug use among young people. She stated that she was the Co-Director of the Maryland Collaborative, a large state-funded initiative to reduce high-risk drinking among college students across Maryland. In that capacity, at the athletics students' request, she summarized the issue of selling alcohol in the stadium. The reports used to support the sale of alcohol policy are not based on rigorously conducted research. She stated that the biggest limitation is the measurement of the problem before and after the policy. Few institutions have the infrastructure, which is a key focus area of the Maryland Collaborative. The research literature specific to the effects of allowing alcohol sales in college sports stadiums is not large, but studies that exist show a clear relationship between serving of alcohol and alcohol problems. At least one study shows a serious decrease in problems when alcohol sales are suspended. The broader alcohol research literature over the last three decades is very clear that the greater the availability the more likely people will drink and have alcohol related problems. She provided some important takeaways from the literature, including that more availability creates more opportunity and more problems. Many students subscribe to the forbidden fruit theory, that binge drinking

will decrease with accessibility. Educational approaches to teach responsible drinking have not been shown to be effective. Opportunities to drink on campus should be curtailed.

Senator Carter-Pokras, faculty, School of Public Health, noted that she echoed some of the comments made by Aria. She also brought a message from the Science Board of Public Health Associations. They urged that we should not have the University normalize this type of behavior. As faculty, we should support the education of the students.

Brown urged senators to be brief so that we could get to a vote on the resolution.

Patrick Ronk, SGA President, stated that the Athletic Council reviewed this issue. This proposal was brought forward by the Student Government Association and has been deliberated on thoroughly from every angle. The resulting research is that selling alcohol in stadiums does not increase problematic behavior whatsoever. In 32 schools surveyed in the last year that have sold alcohol, none saw an increase in problematic behavior and some saw decreases in such behavior. The reason for this proposal is to curb binge drinking and normalize social drinking behaviors on campus. We need to acknowledge that students drink on campus and create a safe and controlled environment where IDs are thoroughly checked. The University should hold students accountable and ensure that police and safety resources are available as a remedy for binge drinking and problematic behavior. All of the revenue will go to vital mental health services and diversity training.

Senator Locke, exempt staff, stated that alumni do not understand the different rules in different places on campus. The alumni find it confusing, and the majority of them would be in favor of the sales.

Senator Owen, faculty, University Libraries, made a motion to call the question and end debate on this resolution. The motion was seconded.

Brown noted that the motion to call the question and end debate required a 2/3-majority vote. He called for a vote on the motion to call the question. The result was 78 in favor, 22 opposed, 3 abstentions. **The motion passed.**

Brown noted that we would now move immediately to a vote on the motion to approve the resolution. The result was 42 in favor, 62 opposed, 2 abstentions. **The motion to approve the resolution failed.**

### **Adjournment**

Senate Chair Brown adjourned the meeting at 4:57 p.m.