AGENDA

NIU Board of Trustees
AD HOC COMMITTEE ON GOVERNANCE
1:30 p.m. – Monday, June 15, 2015
Board of Trustees Room
315 Altgeld Hall

1. Call to Order and Roll Call

2. Verification of Quorum and Appropriate Notification of Public Meeting

3. Meeting Agenda Approval

4. Review and Approval of Minutes: January 15, 2015
   February 5, 2015

5. Chair’s Comments/Announcements
   a. Review of Committee’s Work to Date
   b. Other Matters

6. Public Comment*

7. Board Governance Document Proposals
   a. Proposed Updates to Board Bylaws Regarding Public Appearances
      Before the Board
   b. Previously Identified Policy Initiatives for the Ad Hoc Governance Committee
      (1) Naming Rights Policy
      (2) Update University Insurance & Employment Benefits Policy
      (3) Update to Conflict of Interest
      (4) Establish/Clarify Administration Leave Policy
      (5) Reform of all Standing Committee Charter/Charges
      (6) Orientation and Continuing Professional Development
      (7) Review of Criteria and Establish/Clarify Appeal Rights for
         Appeals to the Board
   c. Newly Identified Policy Initiatives for the Ad Hoc Governance Committee
      (1) Retention of Consultants by the President and Board
      (2) Appointment of Affiliate Employees
      (3) Procurement Expenditures Under Grants and Contracts
      (4) Hiring of Direct Reports to the President
      (5) Employment Contracts, Compensation, and Benefits for Employees
          Reporting Directly to President
      (6) Presidential Obligations to the Board Regarding Statue, Regulations, or Policy

8. Next Steps

9. Other Matters

10. Next Meeting Date

11. Adjournment

NOTE (06/15/15) - The Northern Illinois University Board of Trustees is examining its existing policy concerning public comment/appearances before the Board through its Ad Hoc Committee on Governance and in accordance with rules governing amendments to the Bylaws (Article X of its Bylaws). Irrespective of any other published or posted policy, for this Ad Hoc Committee, individuals wishing to make an appearance before the Board should provide the Board Parliamentarian, or designee, a timely request to provide public comment any time prior to the start time of the meeting. Individuals seeking to provide public comment will not be asked to provide any information other than their name. The Committee Chair will limit time allotments for speakers to five minutes or less, depending on the number of timely requests and the available meeting time. Minutes of this meeting will record a summary of individuals’ remarks, subject to the same editing practices applied to the remarks of all meeting participants. Individuals making timely requests are welcome to supplement their public comments with written material, which will be distributed to Board members upon request.

Anyone needing special accommodations to participate in the NIU Board of Trustees meetings should contact Ellen Andersen, Director of Special Events, at (815)753-1999, as soon as possible.
CALL TO ORDER AND ROLL CALL

The meeting was called to order at 1:05 p.m. by Chair John Butler in the Board of Trustees Room, 315 Altgeld Hall. Recording Secretary Liz Wright conducted a roll call of Trustees. Members present were Trustees Robert Boey, Robert Marshall, and Marc Strauss, Student Trustee Paul Julion, and Board and Committee Chair John Butler. Also present were President Douglas Baker, Provost Lisa Freeman, General Counsel and Committee Liaison Jerry Blakemore, Greg Brady, Board Liaison Mike Mann, and UAC Representative William Pitney. With a quorum present, the meeting proceeded.

VERIFICATION OF QUORUM AND APPROPRIATE NOTICE OF PUBLIC MEETING

Mr. Blakemore indicated that appropriate notification of the meeting had been provided pursuant to the Illinois Open Meetings Act.

APPROVAL OF PROPOSED MEETING AGENDA

Trustee Boey made the motion to approve the agenda and Trustee Strauss seconded. The motion was approved.

REVIEW AND APPROVAL OF MINUTES OF 11/17/14

Trustee Strauss made the motion to approve the minutes of 11/17/14 and Trustee Boey seconded. The motion was approved.

Chair Butler noted that these minutes are slightly different than what has been seen in the past. The reason they’re so extensive is because it is actually more efficient from a time standpoint to provide more of a verbatim transcript of the meeting. This allows us to do some clean up and issue the minutes as quickly as possible. In our case, the minutes needed to be prepared in advance of the Board’s regular meeting so that there could be a first reading of the items we continue to discuss today.

CHAIR’S COMMENTS/ANNOUNCEMENTS

Chair Butler recognized the University Advisory Council representative Bill Pitney and asked if he had any statement at this time. He did not but did however want to have an opportunity to clarify a question if the need arises. Chair Butler said absolutely, if at any point anyone wants to voice a view or perspective please let him know.

PUBLIC COMMENT

Mr. Blakemore noted that no timely requests had been made to address this Ad Hoc Meeting.

DISCUSSION ITEMS

Information Item 7 – Review of Proposed Bylaw Reforms – Category A

John Butler then turned the floor over to Mr. Blakemore who had a presentation for the committee.
Jerry Blakemore thanked the Chair and members of the Board and indicated he wished to walk through the bylaws recommendations. We focused first on Category A bylaws and there have been some amendments made based on the various meetings that have occurred, as well as conversations with the chair and others. I would like to introduce Greg Brady who is the Deputy General Counsel, Eric Borneman and Ken Cloyd our interns. Eric has been the person who did the research on the bylaws. There are basically three categories for discussion today. The first category is the category where we would recommend that this particular bylaw be presented at a full meeting of the Board for a second reading. This is the recommendation of the General Counsel's office because we believe that all of the issues that were raised in the original discussion of this issue have been resolved and therefore, we want to start putting together the list of second reading bylaws. One that fits that category is the issue of presidential housing. As you recall in the first meeting of this committee, there was considerable discussion. The bottom line on this particular one is that we need to have as part of the Board’s bylaws explicit mandate for the president to live in the president’s house. There’s significant tax implications for that. What we have done in the bylaw is said that the Board can review that on a regular basis, not less than three years. If there are changes from the president’s perspective or the Board’s in terms of that mandate, we could make those changes. It’s a relatively simple bylaw. The one other part of that bylaw calls for the president to devote full time and loyalty to the university, etc. That’s a typical provision. So, unless there are additional questions, we’re going to recommend that you have this at least be a second reading for the Board. Then, we can go through the other issues where based on our conversations, there have been amendments. Greg and I will walk through what those amendments are. The last category, if we get there, is the further discussion where the proposal that was presented remains intact and we will await further direction before we propose any amendments.

Regarding presidential housing, the actual language of the proposal is included in your packet. This meets the legal requirement that for tax purposes it be a mandate. The board can always reconsider this in conjunction with the president, and we establish at least a three year review.

Marc Strauss suggested, with regard to the first paragraph, that we add some language that clarifies that, in the event that the Board does not review this within the three year period of time, the policy then in effect is not invalidated. The purpose for providing this provision is to make sure that the tax benefit is attainable and I wouldn't want there to be an inference that it wasn't for failure to review. He then asked whether, in the second paragraph, we have any definition for what unrelated to presidential duties and responsibilities might mean.

Jerry Blakemore replied to the first question, that, although it would not be necessary to do this, I think we can go forward with that minor revision. It will be even clearer that this is the policy in place. The purpose of the three years was not to set a sunset, but to basically say to the Board part of your responsibilities is a timely review of this. We will be explicit that failure to provide the timely review does not change the current status.

Robert Boey indicated that he believes what Trustee Strauss is concerned about is already there. I thought that language was clear to me Marc.

Marc Strauss noted, we want to avoid any argument that, if we fail to review within three years, somehow we have not done what we’re supposed to do. Then there may not be a requirement for residency anymore. I don't want to change the policy, I'm happy to review it. I think it’s good to retain flexibility. We may have a president who doesn't want the tax benefit and we should have the ability to do something about it. I just want to make sure that, in the event that we have somebody who wants to live there, and we assume that we’re going to do this, and somebody misses the tickler date, that we still get the tax benefit that we intend.

Jerry Blakemore recommended that we add to that first paragraph will be “failure to review the current policy shall not constitute a change in such policy.”

Marc Strauss was agreeable.
Jerry Blakemore asked Trustee Strauss to repeat his second concern.

Marc Strauss asked how we sort out what service on a board or commission is related to the presidential duties and responsibilities, and what service is not.

Robert Marshall noted, on the last line where it says, approved by the Board of Trustees, I’d like to make it “pre-approved,” so there’s no hassle at a later date.

John Butler indicated, I think that might be implied.

Marc Strauss noted, I’m not sure whether or not it’s implied, but I do know that we only meet four times a year and I think the president probably will need guidance, and may need it more frequently than four times a year. I’m not saying that I have the only correct approach to this. We’d be better if we understood what the difference was between what was related and what wasn’t, and then the president would know if he or she was free to go ahead and do whatever was appropriate. My interest in this is not to try to limit the president but to be able to provide clarification. We haven’t had a real challenge in the past with the president taking on so many responsibilities that the president wasn’t able to perform the duties, but if we’re going to the trouble at this point to review this particular bylaw provision, I think it makes sense to provide as much clarity as we could.

Robert Boey asked, do we have a list of president duties?

Jerry Blakemore replied, the presidential duties are included in the presidential contract with the Board.

Robert Boey noted that these are very general by nature, and asked, any that address’s this what we are concerned about?

John Butler requested we do this through an example. What would be unrelated to presidential duties? What about the humane society?

Jerry Blakemore suggested that the determination of what is and what’s not related is a determination within the exclusive purview of the Board. Make the determination on a case by case basis. Given the broad perimeters and responsibilities of a president, it is hard to think of circumstances where, if the president were called upon to serve on a board, that there is not some relationship to the university, particularly its mission, whether it’s community service or research.

Marc Strauss asked, can we approach this is a different way? I agree that there can certainly be a wide variety of things that wouldn’t be appropriate, so could we have a requirement instead that the Board be notified when these assignments are taken on and then, if there was a problem, we could raise it at one of our meetings? At least we’d know what has happened and then the president could exercise his or her own discretion about which boards to join.

Robert Boey noted that he had very mixed feelings over this whole thing because I think that we’re trying to define something that, to begin with, is very broad. How do you start to address general items, and do we expect the president to come to us every time he or she isn’t sure?

Marc Strauss noted, the language says service on boards and commissions. That’s what we’re talking about and I’m suggesting another approach to this is give us notice if you’re going to serve on a board or commission. Do it quarterly.

Douglas Baker offered to discuss four boards he is on, just so we get a map of the playing field. I’m the vice-chair of the University Research Association, the board that oversees the Fermi Lab. I’m the vice-president on that board, and would argue that we have faculty and it facilitates our research record. That’s clearly within the purview of the institution. I chair the board for the Illinois Science and
Technology Coalition (ISTC), and that deals with entrepreneurship and developing the economy of the state of Illinois. I think that links because we’re about human capital and we’re into property development. I’m on the board for Econ Illinois, which does economic education in high schools around the state, pipeline issues for us. I’m on the DeKalb County Economic Development Council. I sit on that executive board. That’s economic development here in the community. So I’d argue all those are within the purview of what a president’s supposed to be doing.

Robert Boey agreed.

Douglas Baker continued. Now for me, I’m busy enough that if I wanted to go sit on the board of Cargill, which would be a heavily time consuming kind of job, I’m probably not going to do that because I see that as a more distant link. It’s not dealing with policy statewide or county policy issues, it’s a corporate board. So I would clearly want to tell you I was going to do that because it would take a lot of time away from the presidency.

John Butler noted, in that instance, because this is what it is intended to cover, what we’re talking about is the most reasonable way for us to learn about interest in serving on a board, and do we think, in that instance, it would be appropriate for the president simply to notify us on a quarterly basis, and, if we had an issue, we could raise it at that time?

Douglas Baker indicated I’d be fine with that. I think Lisa and I, for example, do the same thing with conflict of commitment with faculty, or if they want to go do something and it’s going to conflict with their commitment with the institution. If a decision has to be made whether that’s okay or not, you would have to do that for me if you think I’m going to spend a month, a year, on this board, that’s probably a month away from the university that you’d have a hard time agreeing to. I think you’ll see, in conflict of commitment standards, it would be inappropriate for the president. So, I don’t know how you want to word it.

Robert Boey indicated, it falls under just a matter of trust in your judgment. I’m comfortable either way.

John Butler responded, the status quo language, I think, works against the position Trustee Boey is taking. This would require the president to seek approval if there was a belief that it was unrelated to presidential duties. I think we can agree we want to soften that language a little.

Robert Boey indicated that the president should bring the subject to us, but let’s soften the language.

Douglas Baker asked whether quarterly reporting is sufficient? Are you comfortable with that?

Marc Strauss responded that he is.

John Butler asked, would that be the case for “unrelated service,” or in all service?

Marc Strauss responded, I think it would probably be easier to say “all service,” and then we don’t have to define “related” and “unrelated.”

Jerry Blakemore indicated that we will make that change. I think that’s a great change to make. I think there is the oversight responsibility in having that report quarterly. It makes you aware of it, but again it’s really more of an issue with commitment. This is modeled after what is required of faculty and staff now. If you’re going to serve on a board, a supervisor is going to have to approve that. I will work on that language, something to the effect that the president may serve on boards and commissions and shall report on a quarterly basis.

John Butler asked, can that language indicate we wish to see changes and new commitments, so if it’s already been reported it doesn’t need to be reported again?
Jerry Blakemore indicated that OGC will work on that. The next item is presidential succession. The original proposal to the board basically provided the board a couple options after the executive vice president. One of those options was doing it on the basis of seniority. The other option, as I recall, was designating an individual from the university community; and then the third option is not going further than the executive vice president and provost. So you can basically say your succession is going to be limited to the executive VP or you could add another officer to the line of succession. The policy is also very specific about two significant issues. One, any removal of the president requires two-thirds vote of the board, not a majority vote of a quorum. It is such a significant move on the part of a board that we want it to be clear. And then two, it provides for the board to have the authority to change an interim in the event the board made that determination. And again, we point out that, in that circumstance, it would take a majority vote of the board. Again, we wanted to avoid situations where you could have a meeting, it could be four people, a quorum is established, but you could have three of what is an eight member board making certain significant personnel decisions, and so it is written from that perspective.

John Butler indicated, on that issue specifically, is there a way to indicate that it would be a majority or two-thirds of all voting members of the board? I’m thinking about an instance in which we wouldn’t have a full board seated for whatever reason. Because we have automatic termination of appointments that have not been acted on by the Senate within a particular period of time, there’s the possibility that we may find ourselves with fewer than eight trustees.

Robert Boey asked, how about throwing a minimum number in there?

John Butler responded, that wouldn’t help us necessarily, if we were seeking two-thirds or a majority. There’s a possibility that, in this environment, particularly where we have a Republican governor and a super majority of the other party in the general assembly, where there might be some disagreements about appointments, and a failure to act on the appointments. Then we find ourselves with less than eight trustees. This is what I’m concerned about. So if we could say two-thirds of all eligible voting members of the board?...

Greg Brady noted that, we could even go further to say, not merely a quorum of the board, if you really wanted to push it to clarification.

John Butler indicated, I think we should be as clear as possible. Take the next round of appointments, where there are four trustee seats up for either appointment or reappointment. The governor might appoint four, but then the Senate acts only on two. At some point those temporary appointments will expire, if I’m understanding the law correctly.

Jerry Blakemore responded, that is correct. The last General Assembly said that, if the governor or the General Assembly has not acted, then those terms expire. Prior to that time, they served until someone was appointed or reappointed.

Robert Boey indicated, usually the process starts sometime before their terms expire.

Marc Strauss added, there is no guarantee the process is going to finish. I would agree with you that the process may start, the challenge is, regardless of when it started, it often wasn’t concluded before a term expired. You were held over until your successor had been appointed and was qualified to serve. That’s no longer the case. The sitting board members terms will expire without any action by the governor and the Senate.

Robert Boey clarified, that’s the change that we’re talking about.

Marc Strauss responded, that’s correct. So John’s observation I think is a good one, that you could wind up without a full complement of trustees and his suggestion makes sense to me. I think the only other thing I would ask here is whether we’re going to have consistency with the contract that we have with the president. I don’t know whether there’s a provision in the contract about the basis on which the
contract can be terminated.

Jerry Blakemore added, the appointment of the members of the board is irrelevant with respect to the contractual obligation of the board.

Marc Strauss asked, of the required vote?

Jerry Blakemore responded, there's nothing in the presidential contract regarding...

Marc Strauss added, a vote for termination?

Jerry Blakemore noted, I’d have to double check it, but I think no.

Marc Strauss added, that would be fine, unless there was a two-thirds of the entire board requirement in the contract. As long as they are consistent.

Jerry Blakemore responded, there's no requirement in the presidential contract regarding the number of votes. We do talk about the nature of that vote, that action as opposed to vote.

John Butler asked, so then are we okay with making this change whereby we indicate it's two-thirds or a majority and the other locations where we’re qualifying the number?

Robert Boey asked, so, what's the worst case? We say that the worst case is that we have only four voting members?

John Butler responded, yes, in which case you would need three votes.

Robert Boey noted, I have trouble with that. For such an important issue to be in the hands of only four voting members when the full board is eight.

John Butler indicated, that hypothetical situation would constitute a governance crisis. Let’s hope that never happens. He further indicated, if we take the second paragraph of the proposal, under “temporary succession,” we’ve got this concept called “temporary succession,” when, for whatever reason, the president designates authority to the executive vice president and provost. I don’t have a problem with that, since it is for no more than 30 days. I would just simply say that the president should notify each member of the board rather than the executive committee, since it’s only a board of eight.

Jerry Blakemore acknowledged, alright.

John Butler continued, and then under the next section, it says “In the event that the president is unable to discharge the duties and responsibilities of the office of president.” It seems to me there should be a comma and an “or,” followed by the number of situations in which the executive vice president and provost would assume the role of acting president.

Marc Strauss added, I think the last one would be comma, or be absent for more than thirty days, right?

John Butler offered, or “the anticipated absence will last more than thirty days.” So, let me just read it as I would like it to read. “In the event that the president is unable to discharge the duties and responsibilities of the office of president, or to designate executive vice president and provost for temporary succession, or the anticipated absence will last more than thirty days, the executive vice president and provost shall assume the role of acting president.”

Jerry Blakemore asked, can I ask you to read it one more time?

John Butler responded, “In the event that the president is unable to discharge the duties and
responsibilities of the office of president, or to designate the executive vice president and provost for temporary succession, or the anticipated absence will last more than thirty days, ...” Does that make sense?

Jerry Blakemore responded, yes, let me indicate the purpose for which at least the original writing was done. The original writing was not done for the paragraph that is the initial paragraph, to lay out the time and circumstances; it was done to lead into the four areas where the cover paragraph would come into play. What you have done, which is fine, is basically indicated there are three specific areas where automatically the executive vice president takes on the role of acting president, in addition to the four areas that are under this paragraph. The reason for the four areas is that we wanted to make sure there was an objective basis for making this type of determination. I don't see any major issue with the revisions that have been put forth. I would, however, urge the board, in the event this issue ever comes up, that you really look to the best practices which are specific definitions of incapacity, abandonment, extended or prolonged absences. So we can go with this language. I’d like a little time to think it through a little bit more.

Robert Boey noted, the previous paragraph does cover, does imply, the temporary succession as well, but what happens if Doug goes to China for a month? Does this happen automatically?

John Butler responded, on Doug’s request, it would happen.

Robert Boey responded, exactly, I would assume it would be an automatic step that you would take.

Douglas Baker added, I would think.

Lisa Freeman added, yes

Marc Strauss added, for no more than thirty days.

Lisa Freeman advised, don’t say a month, because months are thirty and thirty-one.

John Butler indicated, the next section is about a situation where either the president’s unable to discharge his or her duties or, for whatever reason, the president is unable to designate the executive vice president and provost for reasons discussed below, or the absence is going to be longer than thirty days. It just lays out those potential possibilities. In those situations the board then will follow its policy, as laid out, in the next few months.

Robert Boey added, and since he’s here, I’d like to hear your reaction to that kind of thinking as well. Doug?

Douglas Baker responded, I think it’s okay. If I’m going to be gone a significant period of time I would coordinate with Lisa automatically and say, “you’re responsible if any decisions need to be made while I’m gone.” We would coordinate calendars and do all that stuff where she covers what needs to be covered, etc. I have just one small thing: I’d probably put in “calendar” or “working days,” to define it so there isn’t a question about that.

Marc Strauss asked, is there a preference? The calendar day?

Lisa Freeman responded, calendar days.

Douglas Baker added, calendar days probably would be fine. Working days is kind of a funny term for us, but I have seen that in court cases there can be a question about the time limits.

Lisa Freeman added, that’s a good point; and, in the case of incapacitation, we want everything to be really clean.
Jerry Blakemore indicated, I’m fine with this, but please understand that the board’s responsibility is in play whether the president acts, or fails to act, to make a temporary appointment. So, in effect, what you are adding here says, if he or she fails to make a temporary appointment, given the other issues that are in play, you still would have that obligation to make that determination. Just for purposes of clarity, it’s there, but it does not excuse the ultimate responsibility of the board if, for example, you determine by two-thirds vote of the board that the president is not capable of carrying out the duties.

Douglas Baker asked Mr. Blakemore, if I was in a car accident in a coma somewhere, would you need a board vote for Lisa to take the helm?

Jerry Blakemore responded, no, this is exactly why we have the four things. There is no vote needed; there is no action on the part of the board. It is as an operation of law -- board of trustee’s bylaws have the same effect of law.

Robert Boey asked, who decides incapacitated?

Jerry Blakemore responded, we have a definition right here, and that’s what the board would have to determine. And, that’s in the situation where you’re not in a car accident, but something else.

John Butler clarified, so there’s three ways to determine that according to this policy, either the president determines it, and I assume that means the incapacitated president; the board, by a two-thirds vote, determines it, or a medical provider or judicial declaration by a court. So there is three ways, either the president, the board, or some external entity qualified to do so.

Jerry Blakemore responded, an incapacitated president cannot make any type of determination. The board makes that determination. The president can make a temporary designation.

Marc Strauss added, unless the incapacity is the ability to meet the essential elements of the agreement. The draft says incapacitation is determined by the president or by a super majority, so there are circumstances under which there could be an incapacity, the president could recognize it, and the president could certify it.

Lisa Freeman added, if you’re having elective surgery and undergoing anesthesia, you know in advance you’ll be incapacitated.

Marc Strauss responded, correct.

Jerry Blakemore added, exactly.

Greg Brady advised, incapacity can be a fluid concept, where sometimes you’re not capacitated, sometimes you are incapacitated. There are moments where a cognizant president can recognize an incapacitation and try to trigger this portion of the draft. I think, obviously, it would all kick in to probably go to the board, as well, in that moment; and whether we take a vote, or not, is something we’ll talk about; but a president can recognize that and trigger this provision.

John Butler indicated, I don’t have any issues with the highlighted final vote count. Once we move this section we have the more complex issue of the line of succession and here’s what I’m recommending: I believe the president should designate succession order at least annually and report his or her determination to the full board. That permits the president to recognize, among his or her cabinet, who is best prepared to take that responsibility.

Greg Brady suggested, if you’re going to do annually, I think you should do a date because when does the annual marker start?
Marc Strauss responded, any date would be adequate and it should be at least annually so, if the president changes his or her mind, they have the ability to substitute in another direction from the one that’s been given.

Douglas Baker responded, if you’re picking a date, pick July 1st, the fiscal year.

John Butler noted, keep in mind that this is only for succession into the role as “acting president.” The board retains, throughout all of this, its ability to convene and appoint an alternative to the automatically placed person. The board is not relinquishing its authority to name the president of the university by doing this. It is able to, at any point in this cycle, make a determination that “person X” should be the “interim president” until a search is conducted.

Lisa Freeman added, I just want to point out the common usage at NIU; the terms “acting” and “interim” are not interchangeable. “Acting” reserves the right of the individual in that role to be a candidate in a search and “interim” rejects that. So you need to be cognizant of using “acting” or “interim.”

John Butler responded, I’m only using the terms that are used in the draft. I don’t think anyone should relinquish their ability to be a candidate during this process.

Lisa Freeman agreed and noted, so “acting” would be my preference.

John Butler clarified, what we’re talking about then is simply replacing “interim” where it appears lower in the document with “acting.”

Robert Boey asked, when do we decide whether “acting” or “interim” is used?

John Butler responded, I’m assuming that Provost Freeman has read the documents that govern the university more closely than I have, and is correct that those terms mean something different from one another.

Lisa Freeman noted, within common practice and usage within the university community, the qualifier “interim” is used to designate an individual who will not seek a permanent position, and the term “acting” is used to designate an individual who’s not permanent in the position but may seek to participate in the search for that position.

Marc Strauss asked, would it be helpful if we added a paragraph that said, the use of “acting” or “interim” in this bylaw provision is not meant to apply to anything about whether somebody can be a candidate? I’d have no problem doing that. I think there’s an effort here to distinguish between what happens for only thirty days, what rights and obligations are associated with succession through that route, as opposed to what happens for something that’s going to be for more than thirty days.

Robert Boey asked, you’re saying Marc that “acting” implies thirty days?

Marc Strauss responded, I’m saying that the way it’s drafted there are two different terms used for each, and if there is confusion or an implication that the words “acting” and “interim” mean something different, then we should add another paragraph that says, for that purpose, “acting” and “interim” don’t mean anything. I have no objection to doing that.

John Butler clarified, so then you would want us to retain the term “interim” in the subsequent use. “Interim,” as it’s used here, is the president that the board appoints outside of the automatic succession scheme.

Greg Brady responded, an “acting” president is something that is automatically done by the policy; if the board chooses another individual, it’s the “interim” president.
John Butler asked, is there any distinction between the amount of time that an "acting" versus an "interim" may serve without a search?

Jerry Blakemore responded, no, there is not. The year period, referring to the NIU Constitution, that talks about temporary service, I think, would apply to both. However you titled it, the year is what the year is. Again, I would agree with the provost, I think we can have a definition, add this to our definition section. I think it is ultimately up to the board irrespective of that definition. If you find, after six months, you want to move someone from one designation to another, you certainly have the authority to do that.

Marc Strauss noted, it looks like we use the term “acting” president for both the temporary and the succession by designation of the Board of Trustees, and we use “interim” president later. Should that just be “acting” president instead of “interim” president, and then we’re just using acting for all of these?

John Butler indicated, I think we should get rid of “interim.”

Robert Boey added, me too.

Marc Strauss asked, just get rid of the word “interim,” and say “active?”

John Butler responded, we should just get rid of it.

Marc Strauss asked, that’s in the second to last paragraph on the second page, which changes the word “interim” to “acting?”

John Butler responded, well it appears on the last bullet point. It says “the Board of Trustees appoints an interim or new president.”

Marc Strauss asked for clarification, so it should say...?

John Butler responded, “The board appoints another or a new acting president.”

Jerry Blakemore indicated, ultimately this is the board’s decision. I will provide this note of caution. In the event you appoint someone to serve in a temporary basis as president, and then you embark upon a national search for a president, if you have someone who is sitting in the “acting” position versus the “interim” position, you are sending two very separate signals. I’m not saying you shouldn’t, but I’m saying be conscious of that. There are a number of circumstances where people will purposely appoint someone in the “interim” position because they want the world to know that this position is open for consideration and there is not an insider track to it.

Marc Strauss asked, does “acting” and “interim” mean the same to everybody in the academic world?

Jerry Blakemore responded, no I don't think that's true. I think it's really clear [at NIU], because we've had this discussion of what “acting” means versus “interim.”

Lisa Freeman added, it’s not universal from institution to institution; but, at NIU, I think there is that shared understanding of “acting” and “interim” that I brought up previously that I think Mr. Blakemore is now echoing.

Douglas Baker responded, if it’s an acting person and you were going to conduct a national search, and you did not want them in the pool, you could say, in the announcement, that Lisa is the acting president but will not be a candidate. So, you could clarify that. Or, if you want Lisa to be a candidate she could. You would just have to indicate this in the job notification.

Marc Strauss added, I think that’s an important clarification. Maybe the best way to handle this is make all of these “acting,” so, in doing this, we’re not using two different terms, and still add the paragraph
that says that we mean nothing by using the term “acting,” with respect to whether or not that person will or will not be a candidate. I suggest that we use one word instead of two for this person.

John Butler asked, so one word plus the clarification?

Lisa Freeman responded, that leaves more freedom in any situation which I think is what the board should want.

Jerry Blakemore concluded, so we’re going with “active.”

John Butler indicated that Trustee Strauss had some concerns about the presidential contract.

Marc Strauss responded, in the last paragraph on page two, again, I think we might want to clarify that whatever action would be taken under this succession policy, it is not meant to supersede the provisions of the president’s employment contract -- whatever contract is in effect at that time.

Greg Brady asked, don’t you want it to go the opposite way though? Traditionally employees are, in their contracts, required to abide by all of the policies of the university.

Marc Strauss responded, we might want to do that, but for the fact that we have a contract where there wasn’t a policy and now there is a policy. So, I think your point is well taken, but with regard to the existing situation there is a contract. I can’t tell you, off hand, how it speaks to this issue, but those rights are already established, and I don’t want our action here to be prejudicial to the position that the president currently has. You could maybe address this situation separate from the situation going forward, because I think your observation is a good one, and then when we get to the point where we have future contracts, we’d have these guidelines and we’d incorporate them into a contract. I’d have no problem with that either.

Robert Boey asked, can we just all agree that whatever contract Doug has with us stays in place?

Marc Strauss responded, I think that’s fair. Our intension here isn’t to alter that.

John Butler asked, but shouldn’t we be specific and write, “any contract prior to this policy”?

Marc Strauss responded, that makes sense to me.

Robert Boey responded, I think that would be a good general phrase to use.

Marc Strauss agreed, and added, Mr. Brady may want to think about it, but that makes sense to me.

Jerry Blakemore indicated, we will give some thought to it, but here’s basically my view on this. One, the board has entered into a contract with the president; board action subsequent to that is not going to change the obligations of either the board or the president with respect to that president. We can be clearer on that in this provision, but it is really tied to the for-cause and non-cause provisions of the presidential contract that are already in place. And so, again, you’re absolutely right, as we further develop these kinds of agreements we may have definitions like “incapacity,” etc., but we’re in the area of what is good practices in the industry. I don’t think that this board would want to, and I don’t believe that it would be able to, make a major change on its own with an existing presidential contract.

Robert Boey agreed and added, I cannot imagine that either.

John Butler asked, does anyone else on the committee, or anyone else at the table, have anything else they want to say about presidential succession?

Jerry Blakemore indicated, I’m just needing one point of clarification and I’d just rather have clarification
than some confusion later on. What you’ve just talked about regards number two, not number one, so there is no change in the succession as it relates to the executive vice president and provost. We’re only talking about those circumstances subsequent to that occurrence?

John Butler responded, we discussed calendar days and that some information goes to the board and not the executive committee.

Jerry Blakemore agreed.

John Butler added, otherwise no.

Jerry Blakemore added, I just wanted to go on record.

Jerry Blakemore continued, on indemnification, the original proposal dealt specifically with issues regarding criminal convictions, and that drove us to expand the discussion into issues of who has ultimate authority and responsibility for making determinations [regarding indemnification] in that instance and on the non-criminal side of indemnification. With that, I’ll turn it over to Greg.

Greg Brady indicated, in your packets, you have a proposed amendment to the existing bylaws for indemnification. You can see the highlighted portions that we’re putting forth based upon conversations that we’ve had since the last meeting. You also have, for historical purposes, the three existing areas where indemnification for employees is discussed: there’s a state law; there’s a provision in the bylaws for the Board of Trustees; and there’s a provision in the regulations for the Board of Trustees. A component for the committee to consider is, for clarity and conciseness, whether one of the two existing board policies should be eliminated when we adopt the amendment. We don’t need a duplication of the policy. Our recommendation is to abolish the regulation component on indemnification and that all of the terms be placed into the bylaw proposal.

Marc Strauss asked, to what extent does our policy differ from the statutory entitlement to indemnification?

Greg Brady responded, it is contractually based. It is not statutorily based. The differences lie essentially in the state law, where everything runs through the Attorney General’s office. So, their determination of whether your within the scope of employment, or not, or the extent to which indemnification will be granted, is all produced through the Attorney General’s office; and, that law does indicate the types of lawsuits or claims that would warrant indemnification. The contractual regulation is a little bit broader, because the state law only deals with state and federal litigation. The regulations and the bylaws deal with administrative proceedings as well, so there’s another distinction. Our previous provisions had no direction on who determines whether you fall within the scope of employment to earn, or to be eligible for, indemnification, and then what the scope of that indemnification will be. Those are some of the things that we wanted to address here, and, as Jerry pointed out, really what drove this is that, originally, our provisions talked in terms of possibly covering criminal activities, and there is state law saying the state cannot pay for criminal convictions.

Marc Strauss asked, so, this proposed indemnification policy is subject to the availability of funds in the first sentence. Is the statute subject to availability of funds?

Greg Brady responded, exactly.

Marc Strauss clarified, it’s not going to pay.

Greg Brady agreed.

Marc Strauss asked, does it explicitly have a limitation on the availability of funds?
Greg Brady responded, I don’t believe it does. It does say that the funds will be drawn from the state treasury and we found that, practically, there have been arguments about how are we going to pay for stuff if the designated fund in the state treasury isn’t fulfilled. How is the state going to pay for stuff?

Jerry Blakemore indicated he wished to answer that question in a different way. We have had real life experience with the Attorney General’s office where they admit they are responsible for indemnification and said, point blank, if we don’t have it, you’re on your own. So practically, it is an obligation that the state has taken on, that they comply with as they have funds available. And this provision is no different than the subject to funds provision that all of us, as employees, work under.

Marc Strauss asked, so, you could find yourself in a position, whether you’re a board member, a professor, or other employee of the institution, where you don’t have a priority claim on assets in order to see that you’re indemnified? You’re basically in the line of creditors on a par with everybody else. So, this policy doesn’t do anything to advance the priority of anybody who might have a claim.

Greg Brady responded, no, but it does provide more [than the current policy]. It actually establishes that, if we’re dealing with a trustee or the president who seeks indemnification, whether they are within the scope of employment and how far that indemnification goes will be up to the executive committee. For all other employees, those determinations are made by the general counsel. Prior to this, we had zero concept of the scope of indemnification and who determines that.

Marc Strauss added, I’m sure we’ll have a little conversation about who determines it, and I get that it’s important we specify who does that. In terms of the scope of the indemnification, because it says “expenses including without limitation,” and some things are listed, and there are things that aren’t listed but may be included, if you take another job and you have to take time off from that job to come back and testify, are you entitled to compensation for that under this policy?

Greg Brady responded, we were intending to put more flexibility into the power of the university to determine to what extent that indemnification goes.

Marc Strauss asked, so the term expense is going to be determined by who?

Greg Brady responded, if it’s a regular employee the general counsel will work on those limitations, but there’s a practical determination to that because law suits and claims are not all the same; so the priority of the type of claim, the availability of resources, all of those things come into play to where it’s not necessarily advantageous to define that this person is going to get x, y and z, because it’s going to depend upon the circumstances.

Marc Strauss asked, so, we would need something here that shows what constitutes a reimbursable expense is also subject to the determination of whoever, for whatever class of potential claim? I don’t read that as being in this draft of the policy. Section (4d) says “expenses include without limitation,” but I don’t see where there’s a mechanism then to further define expense.

Greg Brady indicated, in the end of section one, the new provisions; that’s where that -- and maybe this isn’t clear enough and we can work on it and get it better -- but that’s where those determinations are being made.

Marc Strauss asked, that’s the intent of the last paragraph in section one?

Greg Brady responded, right, the last two paragraphs actually in section one, that for trustees and the president, the executive committee determines the scope of indemnification; then, the general counsel for all other employees. I can see your point though, as far as tying the two sections together, and that’s where we can work on that language. Maybe put something in section one subject to determinations.

Marc Strauss indicated, that would address my concern.
Jerry Blakemore added, although it's not written here, we're talking one, reasonable expenses, and two, when we say “without limitation,” it's not without limitation on what we would cover as “costs.” It is without limitation as the specifics of what we would determine to be a reasonably reimbursable or advance expense. For example, we list attorney’s fees, costs, judgment, fines, penalties and other liabilities; we didn't want the list limited to those in the event we get into some type of litigation where there are legitimate costs that are not part of this listing. So we don't want to be prescriptive exclusively and we want to have some discretion.

Marc Strauss indicated, I’d like to ask a couple of questions about something a little bit different. So the class of people covered by the indemnification and policy include “agents.” Can you give me an example of who might be an agent that is not a trustee, former trustee, officer, employee or student? Who would be included as an agent? I took agency law and I’m not sure that I can tell you who might be an agent that doesn't fall into one of those classifications. And the reason I’m asking is because we’ve excepted independent contractors, and an independent contractor could be constituted as an agent. So, I'm confused as to what the logic is, but I don't want to create an ambiguity in doing so about who’s covered and who is not covered.

Greg Brady responded, I can see your point on that. I think that's why we put agent in there. It's kind of like the catch-all of whoever doesn't fall into these categories who we’re supposed to be indemnifying. I like your distinction though, of the independent contractors, because by the contract typically indemnification is negotiated. So that's something that – that's a carve out I certainly would want to interject into this as far as if indemnification is contractually dealt with on an independent contractor basis, that's not going to fall here because I don't want an individual contractor arguing that they fall into our policy.

Marc Strauss added, maybe you could take a look and see whether this is really accomplishing what you intend. I’m not arguing that I want to cut somebody out. We want to encourage people to feel comfortable taking employment at the university or performing tasks for us. I don't want to cut somebody out or create a situation where we can’t figure out whether somebody is covered either.

Jerry Blakemore noted, if I were balancing between a broader net versus some clarity on who is covered, there are very few circumstances where someone is an agent and not an independent contractor. So, I wouldn't have a problem with deleting “agent” and we'll give some thought to it. What we were looking to do is have pretty broad categories because of the nature of who we obviously expect to perform certain duties on behalf of the university and who we contract with.

Robert Marshall asked, what of the alumni or the foundation; would they fall in any specific category if we ran into a problem?

Jerry Blakemore responded, it would not be the purpose of this indemnification provision to provide them indemnification. We’re not looking to broaden it to university related organizations. Now, having said that, you have vice presidents who serve, and who are obviously involved with, the alumni and foundation, but I’m not looking to indemnify the foundation.

John Butler asked, would someone like Dennis Barsema, who's chairing a search committee for the Vice President of Advancement, be indemnified with this agreement?

Jerry Blakemore responded, we include volunteers as part of who we actually include in this indemnification.

John Butler added, would that include Dana Stover, if she was volunteering in some capacity? What's a “duly authorized volunteer”?

Jerry Blakemore responded, a volunteer who has basically executed a document. We do this with the
athletic department every other day, with the "spouse of," and the like, who volunteer, whether it's bowl games or whatever. So we actually ask people to execute that voluntary agreement. That invokes the state indemnification act that Greg made reference to at the very beginning.

Douglas Baker asked, would you have to be specific? Dana attends lots of donor events. Does she have to do one for every event?

Jerry Blakemore responded, no, I think, in the case of the president's spouse, she is going to be covered in the same manner in which the president is. We can make certain that that is the case, but that is certainly the practice.

Marc Strauss added, I think we want to do that.

Jerry Blakemore responded, you wouldn't have to do every event.

John Butler asked, would we run into any legal hurdles if we were to duly authorize someone after the fact? So Dennis for example, let's say there's a law suit coming out of the search and Dennis is a target, let's say that he hasn't filled anything out and that suit comes along and we say, "well yes, we deem you to be indemnified but you need to sign this form saying you were...”

Jerry Blakemore responded, they don't have to sign the form; if the board determines that they should be indemnified, then they're going to be indemnified.

John Butler added, maybe that's a way we might invoke some of this, if we said "others deemed by the board to be functioning in an official capacity.” We get into layers of ambiguity as we do that, but, if the board's the instrument, if the board can deem somebody eligible for indemnification, shouldn't we say that somewhere?

Greg Brady responded, there's a clarification I want to make here as far as this volunteer component. Under the state law, volunteers can be indemnified by the state if the volunteer capacity is reduced to writing. Normally how we do that is through the volunteer agreement that Jerry was talking about. We haven't gone as far as having to reduce it to writing. And this is, like I talked about in the beginning, a separate contractually, quasi-contractual obligation versus the state's statutory obligation. So that's just the one clarification I wanted to make right now, but as far as if you do want to, you could go further with this language about who is a duly authorized volunteer? Do they have to go through a certain process; do they have to fill out a certain form? Again, that's within the board's prerogative.

Douglas Baker noted, I think that would be operationally difficult. If you've got students or alumni going out to recruit in high school, I don't think we want to send thousands of signature forms out.

Lisa Freeman added, we use the volunteer agreement on campus a lot for things like retired faculty with active federal grants where we need to track their effort and make sure they're subject to state indemnification and in that context it's not difficult because it's part of the on-boarding of a researcher who is no longer attached to the university as a formal employee; but, I think we'd want to keep it more flexible.

Greg Brady added, as far as the use of this, I just wanted to point out that it does say "reduced to writing;" it doesn't say you have to have a volunteer agreement. Again, traditionally we have a volunteer agreement to capture that, and reduce it into writing; but, if we have other things that are reducing the relationship into writing, I would argue that we have complied with the statutory component. You have to have the written to trigger the protections from the state law. That's what I want to clarify.

Robert Boey asked Mr. Blakemore, who indemnifies the Board of Trustees?

Jerry Blakemore responded, your bylaws currently now say that the board provides indemnification for
the board. What you don't have is clarity on issues like scope of indemnification and the like.

John Butler noted, we want a broad policy. We don't want to limit ourselves. My question was mainly whether there was any reason why one could not be deemed to be a duly authorized volunteer after the fact.

Greg Brady responded, I think it chips away at the credibility of the designation, but I don't think it's an end-all-be-all.

Jerry Blakemore responded, I think the board already has that authority now and I would caution against, particularly specific language. This is a costly provision and we are expanding indemnification at a very critical time. I want to make certain that people who are entitled to it understand that they're only entitled if they're operating within the scope. Those determinations are pretty important. I understand Mr. Chair your point that we don't fail to provide it when it should be provided, but I think you've got that authority.

Greg Brady added, the duly authorized volunteer and agent language was already existing in the bylaws and regulations. The reason why it was highlighted is because it was in the regulation, and again that was the only thing that was different from the regulation of the bylaws; we just pulled it over. The board has been operating since '96 with this language.

Robert Boey noted his concern that volunteer who are like Dennis Barsema, would be too many people to indemnify.

John Butler noted, we do make some judgments currently.

Jerry Blakemore added, we do and what we're trying to do in the policy is to be explicit as to who has that ultimate responsibility for determining who is indemnified. In the case of the Board of Trustees, including current and former members, and the president, it is the board through the executive committee; and with respect to all other employees, it would be the general counsel. We also call for some types of guidelines to be developed by the general counsel in this regard too, so we wouldn't be doing it blindly. If the board determined that it wanted to have that responsibility for everybody, I certainly would develop guidelines for you, but that's the prerogative of the board.

John Butler asked Mr. Blakemore, you, in this policy, are authorized to offer indemnification in the case of criminal investigations; what about civil?

Jerry Blakemore responded, it's not limited to criminal at all.

John Butler asked, where does the general counsel have the power to offer indemnification in a civil, administrative, or other non-criminal matter?

Jerry Blakemore responded, section one is the operable section.

John Butler asked, but there are instances in which you would not approve the payment or reimbursement of expenses of an employee in a civil manner that is related to his or her employment, aren't there? Let’s say the office of the inspector general is upset with an employee for doing something wrong, not following policy of some kind, and the employee wanted counsel to go with them to their interview. They’re the target of an investigation and they call you up and say I want you to indemnify me, I want you to pay for my attorney.

Greg Brady responded, the right and the scope of that indemnification is in the fourth paragraph, determined by the general counsel for an employee. For a trustee or a president, that's the executive committee. The general counsel determines whether we're going to indemnify an employee accused of a criminal offense, and that determination is based on the circumstances and what we believe will be the
final outcome. If it looks like it’s going to be a criminal conviction, we can’t indemnify; therefore, we can’t promise indemnification. But, if we think there’s going to be exoneration, that’s where the general counsel has some discretion in this draft to say, “we will defend this even though it’s a criminal action.”

Marc Strauss noted, we’ve so far resisted sending anything to the executive committee. I don’t know if I have a strong feeling one way or the other about the use of the executive committee for this purpose, but I don’t want it to be lost in the shuffle and I’m interested in what my colleagues think.

John Butler responded that the paragraph is there because we want to make sure that, in the instance that a trustee or the president is seeking indemnification and there is any disagreement, the board would have an opportunity, as a whole or the executive committee, to make its own determination. This would only occur if there was disagreement, where it wouldn’t naturally happen that the board was extending indemnification to one of its own or the president. This policy assumes you have this privilege, you have indemnification.

Greg Brady indicated, that’s not how this is drafted.

John Butler responded, so, would this, as it’s drafted, require the executive committee to convene in any instance in which there was an indemnification request?

Greg Brady responded, correct. If there is a request for indemnification from a trustee or the president, the committee would convene to determine whether they’re eligible or not, and the scope of the indemnification. If you don’t want that we can change it.

John Butler added that, it seems a lot to bring the whole board together in an instance like that.

Greg Brady responded, that’s the purpose for the executive committee being a smaller sub-set of the board, to make these types of determinations, but that’s within your prerogative.

Jerry Blakemore added, on March 6 at 8, 9 or 10 o’clock at night, Greg and I were making indemnification decisions because we had 52 federal and state agencies who had just visited us unannounced. There is no 48 hour notice to convene and post the agenda.

John Butler noted, it does seem to me to make sense for this to be a smaller group. Would you be interested in a report then to the full board of its determination?

Marc Strauss responded, I don’t have a strong feeling one way or the other. I was just interested in whether anybody else had a thought. If nobody else is troubled by it, I can live with it.

John Butler concluded, I think it makes sense, but I think the executive committee should report its decision to the full board within 24 hours of its decision. Can we move to the next?

Jerry Blakemore indicated that the next item concerned record retention. Currently the Board of Trustees website contains the record retention policy of the Board of Regents. And, in that policy, there is nothing that obligates the board to do anything on the record retention. It’s all university-level obligations. What we wanted to do in this area is to make certain, with some limitations, that the board is in compliance with the Record Retention Act for documents that are either “exclusive to the board” or “primarily for the purpose of the board,” so that we’re in compliance. The other thing that I will add is, whatever action the board takes in this regard has to be approved by the state. Unlike the other areas where you are within your exclusive purview to determine your bylaws and operations, in this case the university will have to get your policy approved in Springfield.

Marc Strauss indicated, I’m trying to understand what a “board of trustee record” is, and the particular question that I have is whether all of the things that I get in e-mails, boxes of stuff that I’ve got, and my notes, are all “board of trustee records” under some statute?
Greg Brady responded, no. The State Records Act doesn't deal with every single little document that comes across your desk.

Marc Strauss asked, so, is this policy intended only to include things that you have within your possession and control at the university?

Greg Brady responded, right. Remember, every individual is not the board in and of themselves. It is a board of many. That was the question that generated some of the clarifications regarding “official correspondence.” If one individual member sends off a memo, is that a board document or not? Those same questions were asked in our last conversation, and we’ve tried to work on that; but even I’ll admit I don’t know if we’ve hit the mark yet on this type of language, where we want to draw those lines; so, your point is well received.

Jerry Blakemore added, I take a minimalist view on what is a board record. There may be public documents and there may be documents that are public, but they may not necessarily be the board’s record. Here’s a classic example of a board record: The committee just approved minutes of November 17th; that’s a board record. The secretary of the board is ultimately responsible for maintaining those records, and, if necessarily, the distribution of those records. All of this is “academic” because ultimately the state’s going to tell us whether the proposed policy is going to be acceptable to them.

Marc Strauss noted, the purpose here is for our archival and record destruction purposes, and there are some things the state is interested in preserving. I’m correct in assuming that the things I have in my personal records are not within that definition. If I wanted to destroy any of that stuff, and somebody hadn’t already given me an order to preserve it because of litigation or whatever, I would be free to delete an e-mail or destroy whatever it is that I have in my basement.

Jerry Blakemore responded, that is correct, and part of what we want to do is make sure that the secretary of the board is the keeper of the official record of the board, not any individual member of the board. So you can destroy things that the secretary could not.

Marc Strauss responded, Ok, I appreciate that clarification.

Greg Brady indicated, we’ve had very little discussion on defining “official correspondence,” other than to point out the lack of clarity. How are we going to define “official correspondence?” We’ve tried to borrow some language from other places, but this is open for further defining. That seemed to be one of the more problematic areas in the listing of types of records that we think are covered here. Keeping of the closed session minutes are afforded a special amount of protection by law, by the Open Meetings Act. Those are kept and reviewed, because there is a requirement to do a biannual review of the closed sessions for the board in order to determine whether they need to be protected anymore. These are conversations that we have had since the last meeting. We’ve tried to start to address those here.

Marc Strauss offered some spelling and grammar comments, and noted, we have a couple of position designations, such as the FOIA officer and the board liaison, that are not defined anywhere. We have board officers that include a recording secretary and so on, but we never defined board liaison, and, in our bylaws, I don’t believe we’ve ever defined FOIA officer. Those positions are referred to in some of the things that we’re talking about here, so you may want to take a look at whether we need to address that.

Marc Strauss added, I think it would make sense to double check that, when we’re referring to people by title, that someplace we’ve been able to identify what that actually is.
Jerry Blakemore noted, it’s part of the university’s effort to update its policies. One of the best practices that’s been recommended is that you designate who the “owner of the policy” is so that they are the ones responsible for maintaining it, keeping it updated, etc. So athletic compliance policies, NCAA, are “owned” by the athletic department.

John Butler indicated, I have some questions about the sealed records. I know that I asked for this but I just want to make sure the committee understands. On page two it says all recordings of closed session meetings will be kept under seal by the Office of the General Counsel. The intention here is to answer the question what happens when we have a request, or there’s litigation that requires us, to provide someone or some party the recordings of the closed session meetings. This may happen when there is not a lot of time, similar to the indemnification matter. I recommend it read, “upon the recommendation of the General Counsel, in consultation,...” these records may be unsealed. This is the most intimate, complex and sometimes most sensitive discussions of the board. To what extent does the board want to be involved in the decision to release them versus the executive committee? I think it’s complicated for it to be the whole board because these decisions would have to be made rather quickly in response to a subpoena or something of that nature.

Marc Strauss asked, if it goes to the executive committee, does it have to make that decision in an open meeting?

Greg Brady responded, no that’s one of the exemptions in the Open Meetings Act. You’ll have to meet, you’ll have to open, and then you’ll go into closed session as an executive committee. One of the exemptions is to review closed sessions in order to determine whether to release them or not.

John Butler adds, the policy says “consultation.” It’s just simply saying it’s mandated that the chair consult with the executive committee, but does that require a meeting?

Greg Brady responds, if you have contemporaneous conversations, yes.

Marc Strauss adds, I’m thinking that actually makes it more cumbersome than if it was just the chair determining. You’d have to convene in open meeting where you’re not going to conduct any business in order to make a decision.

Greg Brady adds, that’s only if there’s contemporaneous conversation amongst all of the executive committee. If the chair reaches out to one member at a time, there’s not contemporaneous conversation; that is still a consultation with executive committee members and yet you’re not opening it up to an open meeting situation.

Marc Strauss noted, this might be one instance where it makes sense to just have the board chair do it instead of having to go through that.

Robert Boey asked, you mean the board chair instead of the executive committee, is that what you’re saying?

Marc Strauss responded, yes.

John Butler added, I think this would have to happen as a result of a recommendation by the general counsel. It starts with a recommendation by the general counsel and then the chair may approve the unsealing of these records, and then we can require notification so these records shall not be unsealed without first notification to the full board. That is, they won’t be unsealed until the full board is notified.

Robert Boey agreed.

John Butler added, that would give the full board a chance to say no, I disagree with the general counsel, or, no let’s convene a meeting and discuss.
Robert Boey agreed.

John Butler summarized, so, it starts with a recommendation from the general counsel; it goes to the chair; and then the chair notifies the board. Then, presumably, the records are released.

Jerry Blakemore suggested, I would start it a little differently than what’s here. I would start it with "consistent with relevant federal and state laws and/or order of a court of competent jurisdiction." That becomes the standard by which these records are released.

John Butler asked, so, we’re getting rid of the executive committee; the request starts with the Office of the General Counsel to the chair; there’s notification to the board before the release. The recordings won’t be unsealed without first notification to the full board.

Greg Brady responded, Okay, we’ll take a look to see if there is a reasonable time constraint, but I don’t want to box us in unnecessarily.

John Butler added, I just want to make sure the full board is notified that those particular recordings will be released.

John Butler added, I think there is the question again about three years, and in this case it may not seem necessary, but if we come up with language in the prior case, maybe we can use that language here.

Marc Strauss clarified, so, the absence of a review doesn’t eliminate the policy, as we discussed before?

Greg Brady agreed to make the change.

John Butler addressed the committee regarding the remaining items: I would prefer that we press on and get through the two remaining items. I don’t think they’re going to be particularly controversial or difficult. I think we may find ourselves wanting to spend a little more time on the reimbursement policy.

Jerry Blakemore responded that he and Mr. Brady will cover travel and reimbursement. This is a document that the board has actually seen some time ago. This was part of a workshop that the board did. The big issue here is whether, in fact, as we propose, this policy would provide that you may accept reimbursement; it doesn’t require members to do it. We’re explicit about reimbursement for expenses to attend regular and special meetings of the board. It also has a provision where a member of the board can have professional development opportunity that is paid for by the board in the fiscal year, and additional opportunities that are approved. I think we left such approval up to the executive committee of the board or the chair. It also provides an opportunity to be reimbursed for professional development activities and we’re specific about the number of those that for which a board member can be reimbursed. The language is “may,” not “must,” and if there are additional opportunities -- professional or otherwise -- it’s within the purview of the board to increase that number.

Greg Brady added, in addition to the proposal, you have the current board policy. This all stems from the Northern Illinois University law that allows members to receive reimbursement of their expenses.

Marc Strauss asked if the proposed policy is the same as the first reading version the board has seen before?

Greg Brady responded, yes, there’s no change.

John Butler noted, the owner of the policy appears to be a position that’s no longer with us, the Vice President for University Relations. The board liaison should be the person who is managing the travel and expense reimbursement policy or his or her designee.
Jerry Blakemore recommended “Board Liaison or such person designated by the board to serve this function.” That way we don’t have to change it in the event there’s a change in title; it’s a function that really drives this.

John Butler noted, we have a chance here to develop policy that controls the manner in which the student trustee’s expenses will be managed. As we know, student trustees are not in their careers and the board chair is often asked to authorize an advance so that the student trustee can pay for their travel, if there’s a conference, for example. I would like us to think about whether or not we can give the power to the president, who, at the request of the student trustee, will make arrangements for that to happen. Would that be violating the law?

Greg Brady responded, I’d have to double check here, but I believe the chair does have to do that under the NIU law.

Marc Strauss noted, the statute does say “at the discretion of the chairman of the board,” but can the discretion be delegated?

Jerry Blakemore responded, it can be delegated.

John Butler indicated, let’s try to work that into this, and again, we don’t have to get the specific language right now. I just want to make sure that I’m clear with the committee that I would like to do that, so that the process is more efficient and consistent, and can be relied on by the student trustee. I have trouble with the limitation of one professional development of opportunity and four university events. I can’t image that there would be need for more than four university events. I wonder if, rather than creating the formal process of requesting permission for more, if we could just eliminate the one in the case of professional development opportunities?

Marc Strauss added, with regard to university events, later on in the policy there is a provision which is one page three, it’s in the paragraph just above “advanced payment of travel and expenses for the student trustee,” and says that reimbursement is not available for, among other things, “university related organization events where the member is not an official participant or guest.” I am wondering how you read those two provisions together. The example might be something like the Red and Black. Is that a “university event” or is that a “university related organization event”?

Greg Brady responded, it’s a university event. So, for example, foundation or alumni association events that are not university events, but the Red and Black is a university event.

Marc Strauss responded, how would somebody know the difference? Let me give you another example: Say the Alumni Association has a reception at a football game; is that a “university event” or is it a “university related organization event”?

Greg Brady responded, I’d have to know the facts about how it is organized. If it’s all Alumni Association, and there’s no involvement of the university, it’s the Alumni Association. But it depends on how it is set up.

Marc Strauss added, my goal is to try to provide clarity. I’ve never submitted for reimbursement for anything; those are just examples that I could come up with very easily.

Lisa Freeman responded, I think they’re good examples. If we consider the research foundation, we could say something that highlighted student and faculty innovation would probably fall into “university related;” but, if there was a pitch competition and venture capitalists were involved, and some of the trustees wanted to go, you wouldn’t want to permit reimbursement. I think that clarity is probably important.

Robert Boey added, you would think it’s quite clear. As an example, I’m a member of the foundation
board, and sometimes it’s easier for me to just cover myself rather than ask for reimbursement. I come back to Trustee Butler’s question regarding professional development opportunities. My own feeling is that I’m not for no numbers. I think each of the trustees certainly should be able to decide, determine what is right; but, I would like to have some sort of a maximum number rather than leaving it wide open.

John Butler responded, I’m fine with a maximum number, but I would like it to be two, just to be on the safe side; because, if you move into a leadership position on the board, or you are the chair of a committee, you might have an opportunity, for example, to go to an AGB conference that deals with the finance committee – such as a recent conference that was close by, easy to get to, and relatively inexpensive – and you may also want to go to a national conference as well. This has never been a major issue, as far as I know; in fact, I think we need to do more professional development activities and I’m encouraging it.

Robert Boey agreed, and added, I have enough trust in the trustees to determine what’s the right thing to do. On the other hand, I want to put a number with it.

John Butler responded, I’m fine with a maximum number. I think we could say a maximum of two as long as we have a provision of some kind to approve additional professional development opportunities.

Robert Boey agreed.

John Butler asked if a change could be made to read, “shall be reimbursed for a maximum of two professional development opportunities,” and keep the number at four for university events? Are we comfortable with "the chair or executive committee" approving exceptions, as written?

Marc Strauss noted, additional reimbursement requests by the chair must be approved by the executive committee.

John Butler questioned whether "chair or the executive committee" might imply that a trustee can go to the chair first, and be rejected, and then go to the executive committee, and have their request accepted?

Marc Strauss asked, is your suggestion that it be to the chair, except for when it is the chair requesting?

John Butler recommended that the approval by the chair in consultation with the executive committee.

Jerry Blakemore responded, that would work. I like “consultation,” because then you’re not having the committee make a decision which would bring in the Open Meetings Act. It’s an obligation on the chair so talk to someone else, but it’s not like you have to have a meeting for the chair to make a decision.

John Butler summarized, so, it requires the approval of the chair and consultation with the executive committee. And requests from the chair must be approved by the executive committee. Another question: if circumstances permit the university to pay upfront fees, such as conference fees and so forth, is that prohibited under this policy?

Jerry Blakemore responded, no, it is not.

John Butler asked, is there language anywhere in the university travel policies that relate to conference hotels and distance? If the conference is being held in a resort hotel and they bargain for decent rates, but it may not be the lowest rate in the area, will the conference hotel be permitted?

Lisa Freeman responded, the language, as I understand it, as a user of the act, if there is a designated conference hotel that is the preferred reimbursable unit. If you choose to stay in another hotel, and you can document that the cost is lower than the designated conference hotel, then that’s usually an allowable alternative. If there’s no designated hotel, it can be challenging to justify the expense, but it’s
possible to do so and it’s usually based on proximity and lack of transportation costs, and if there are state mandated maximums in the cities.

John Butler responded, yes, concerning this language that calls for the lowest available lodging rate at the time of making reservations, can we replace that with whatever Provost Freeman just said? This would permit the trustee to be reimbursed for the conference hotel if I understand it correctly. What are commuting expenses on page three, the second to the last bullet?

Greg Brady responded, the key phrase is “commuting.” I live in Rockford, so my travel from Rockford to DeKalb to get to my job is my commute. I don’t get reimbursed for any of that.

John Butler added, but trustees would.

Greg Brady responded, you’re different. You file a TA2 to make your home base your physical home and that’s okay, but it’s dependent upon the filing of that TA2 form. That’s not considered your commute then, so that is the key language there.

John Butler indicated, as we get into the student trustee area I’d like a little bit of time to think about how best to amend that so that we can delegate the authority and create some consistency. I want to get rid of the risk management section completely.

Marc Strauss added, there are certainly times where we’re all on a bus together, or five of us are on a bus together at a football game.

Lisa Freeman added, the public conveyance is kind of ridiculous; if we’re all in DC, and we’re taking the Metra, for example.

Marc Strauss added, why would we all incur the expense? Why wouldn’t we make an effort to save the cost by traveling together? That’s my thought as well.

It was agreed the risk management language would be removed.

Marc Strauss noted that there is another policy that talks about some things in particular like seating at home football games. Does that provision go away if we adopt this policy? I just want there to be clarity and for us to understand. If we have a provision someplace that says that we are entitled to a seat in the box for the home football games, would this new policy, which says nothing about such seating, replace those existing provisions?

Greg Brady responded, we haven’t decided that yet, and I’m not familiar with the policy you’re using as an example. I do think, though, there should be some talk about, if this is adopted, what happens to the current BOT policy? I see this as a replacement for this BOT policy that you currently have from 1996.

John Butler asked, if that policy discusses the right of the board to accept seats at athletics events, for example, we’d need to have that in the new policy?

Greg Brady responded, right.

Marc Strauss noted, there is a paragraph in the existing policy that addresses that. I don’t think we want two separate policies, but we want to be considerate about whatever it is we’re doing, so we understand what all the implications are and have clear guidance.

Greg Brady responded, if there are, like that paragraph there, and that is something that you’d want to keep, and bring back over, please let us know.

John Butler indicated, yes, it is.
Marc Strauss added, to the extent that it’s not inconsistent with the gift ban act, or anything else, yes. Maybe you can give some thought to how we work through all of those issues. Nobody wants anything that’s going to cause a legal challenge.

Greg Brady agreed, since 1996 there have been a lot of changes as far as what is acceptable and what is not, as far as free things, so we’re going to have to really analyze.

Jerry Blakemore recommended we could come back to you with an even broader update based on changes in the law and not just focus on that one, in particular.

Robert Boey agreed, asking for an up-to-date statement.

John Butler responded, I’m fine with that as long as it doesn’t leave us in any kind of limbo where we’re then operating in a manner in which we could be criticized. Right now it’s comforting to have the existing policy. I know it was when I became a trustee. When I read that, I felt much more comfortable about going to athletic events and participating in those activities. Does anyone else have anything to say about the travel and expense reimbursement policy? So this makes no changes in the standard manner in which trustees submit for their mileage their expenses to go to meeting and so forth. None of that has changed?

Greg Brady responded, no, the operational component is dictated in fact by state regulations, so that we can’t change. It’s more of the what types of events.

Jerry Blakemore added, we wanted to look at the language on the student reimbursement issue. We could actually just say “the chair or designate,” and then it gives you the flexibility to ask the president, the financial officer, or whoever. I mean that’s easily taken care of with that word. We’re going to redraft and get things back to you. And we have help with the statute on the student on the reimbursement side. So it provides the board much discretion.

Robert Boey added, it makes sense for a president to be involved when the chair is away from the campus or whatever the case is. The president can have that designation then. It makes sense.

John Butler noted, I have no trouble, and I enjoy, facilitating that process for the student trustee, but it opens up the potential for inconsistency in the manner in which those rights and privileges are provided.

John Butler recommended the committee discuss the elections item.

John Butler noted, Trustee Coleman had some concerns about this when the amendment was introduced for first reading. Philosophically, I don’t have a problem with his analysis. What I attempted to do in making an amendment to this provision was to deal with the question of what does it mean to drop the trustees who got the least number of votes. I wanted to codify in the bylaws that it meant dropping the trustees who has zero votes in the first round of voting, so that the second round ballot would display for the trustees anyone who got one or more votes, and the trustees would have a full menu of options that included anyone who received any support. I would not indicate the specific number of votes each trustee received. Trustee Coleman argued that it we was probably better that we forced the board to consider the top highest vote getters. I’m not opposed to that, but I would like to at least retain that first round.

Robert Boey added, I think so too. What’s the definition of the highest vote getters? You said two, is it three, is it four?

John Butler responded, the current policy, as it has been interpreted, would consider the highest vote getters to be the two who had the most.
Marc Strauss added, there could be more, there could be four if there were ties.

John Butler added, Trustee Coleman has not asked us to make a change to the amendment; he’s just expressed a desire for the existing system; but, if we attempt to accommodate his concern, then we drop the trustees who got zero votes in the first round, and then hold a second round after which we would drop all trustees other than the two who received the highest number of votes.

Marc Strauss added, in that case, it could also involve more than two.

John Butler agreed, if there was a tie. The prospect of a tie is discussed in the proposed amendment. On a practical level, it would mean just lining out that middle series of votes, and we’d only have three rounds then.

Robert Boey asked, you had proposed something a little bit different previously, and I’m trying to remember what that was.

John Butler responded, it was to go another round. It was the attempt to keep some candidacies alive beyond the top two. My previous idea was to have four rounds before we declare an impasse. Five ballots provide an opportunity for some candidates to emerge that the trustees might not be aware are interested, or there’s interest in them. Trustee Coleman seemed to strongly believe we needed to force a choice. There’s some benefit in having a contest ultimately between two people, I agree.

Robert Boey noted, I’m alright if it goes an extra round. It gives a little bit more air to the whole system that whatever shakes out shakes out.

John Butler asked, well, what’s the position of the committee? Can we keep it as proposed, try to pass it; do we amend it or leave it the same?

Robert Boey responded, realistically, I think we’re talking about doing this in three rounds or four rounds. And, in some cases, there are going to be four rounds anyway if there is a tie.

John Butler noted, after the third round we’d declare an impasse. Frankly, this is where it becomes a problem for the board. I would like to avoid an impasse, if possible. In the proposed amendment, without the changes I just talked about, we would stop after the fourth round, and the chair would declare an impasse. Then, we would have to wait until the next special or regular meeting.

Robert Boey added, an impasse is highly unlikely it seems to me, but people can change their mind too, and change their votes.

John Butler responded, that’s what they might do. They might say, “I had no idea there was interest in Marc Strauss,” for example, or, “I had no idea there was interest in Bob Marshall.” So the question is three rounds versus four.

Robert Boey asked, how does the student trustee feel?

Paul Julion responded, with the possibility of the fourth round happening?

John Butler clarified, there currently is no fourth round. This policy change creates a fourth round.

Paul Julion responded, Okay.

John Butler added, a disadvantage of this strategy is that there might be a person who, once it’s clear that there is a split and things are not turning out as they thought it would, might actually wanted to put their hat in the ring.
Marc Strauss added, I’m fine with either approach. You could still wind up with an impasse after however many rounds. So you have to play it out. And, if the sentiment is, regardless, after four ballots, you take a break, I’m fine with that too. So it doesn’t matter to me. I do think there’s merit to dropping the zeros the first time through, and that would be a clarification from our current policy.

Robert Boey indicated, it’s just a matter of being more inclusive than exclusive; that’s all I’m thinking about.

John Butler asked, do you want to declare an impasse after three rounds, that’s fine with me too.

Robert Boey added, this is such an important vote, why stop at three? Why not just let it finish up, whatever it is? All you need is probably a fourth round, you probably can shake it out. Rather than leaving and saying come back and do it again, I’m in favor of finishing it up, whatever it takes.

John Butler clarified, so it’s three versus four, and it seems like four is winning.

Robert Boey responded, yeah, I wouldn’t stop at three. I say finishing up, and chances are four would do it, I would think.

Jerry Blakemore added, I just need clarification on the following: as I understand it, if in your first ballot you don’t have a sufficient number of votes, you eliminate the zeros, which, in effect, are the trustees who, for the first round, have said they are not putting their names forward for possible election.

Marc Strauss responded, or nobody else voted for them, whether or not they put their name forward.

Jerry Blakemore added, which would include themselves.

Marc Strauss responded, correct.

Jerry Blakemore added, so when you say zero, in effect you’re saying anyone said, I am not putting my name forward for the first round, would be eliminated also in the second round?

John Butler responded, that was the disadvantage that I mentioned earlier.

Robert Boey added, I can see that.

John Butler noted, this whole strategy is to whittle down the choices to a point in which the board is forced to make a decision. It forces the board to make a decision, or it makes clear the board is not ready to make a decision. If you allow the people to come back onto the ballot, then you’re not trying to generate a consensus candidate.

Robert Boey added, and I cannot imagine that if we have an impasse even the first time around that we cannot resolve it the second time around. Because how many impasses have we gone through before we say that we can’t have any more impasses? Is there a law against that? Is there a ruling against that?

John Butler responded, there’s a point in which the law requires the election of officers annually, and an impasse might arguably brake that law at some point. There might be a point in which our general counsel says you are now existing in violation of the law. This is always up to the board. So can we advance this recommended change?

Jerry Blakemore noted, and so we will add this to the list for second reading.

**Information Item 9 – Next Steps/Work Plan**

John Butler indicated, if we go back to the agenda, our plan was to review the proposed bylaws in
Category B. I think we should postpone that for another meeting. If we schedule another meeting, we may be able to achieve what we were supposed to achieve today, which was also to review, for a first reading, Category B items. Do we want to try to do that?

Marc Strauss agreed, that’s fine with me.

The committee determined the next meeting will be held on February 5, 2015, at 2:00pm.

11. NEXT MEETING DATE

Actual date/time: February 5, 2015 – 2:00pm

12. ADJOURNMENT

Chair: John Butler: Thank you everyone. This has been a long meeting but a productive one. I don’t see any other way we can do this work other than in this format, so I appreciate this time and commitment to this process, especially since in many cases we got into details and issues that don’t necessarily concern everybody in the room. I appreciate it. It’s important work. Thank you for coming. So is there a motion to adjourn?

A motion to adjourn was made by Marc Strauss and seconded by Robert Boey. The committee voted to adjourn at 4:30pm.

Respectfully submitted,

Recording Secretary

In compliance with Illinois Open Meetings Act 5 ILCS 120/1, et seq, a verbatim record of all Northern Illinois University Board of Trustees meetings is maintained by the Board Recording Secretary and is available for review upon request. The minutes contained herein represent a true and accurate summary of the Board proceedings.
CALL TO ORDER AND ROLL CALL

The meeting was called to order at 2:00 p.m. by Chair John Butler in the Board of Trustees Room, 315 Altgeld Hall. Recording Secretary Linda Odom conducted a roll call of Trustees. Present: Trustees Robert Boey, Robert Marshall, Marc Strauss and Board and Committee Chair John Butler.

Also present were President Douglas Baker, Jerry Blakemore, Mike Mann, Greg Brady, UAC Representative Jay Monteiro, and Brett Coryell.

VERIFICATION OF QUORUM AND APPROPRIATE NOTIFICATION OF PUBLIC MEETING

Mr. Blakemore indicated that appropriate notification of the meeting had been provided pursuant to the Illinois Open Meetings Act and a quorum was present.

APPROVAL OF PROPOSED MEETING AGENDA

Trustee Strauss motioned to approve the agenda; Trustee Boey seconded. The motion was approved.

PUBLIC COMMENT

Mr. Blakemore noted that no timely requests had been made to address the Committee.

CHAIR’S COMMENTS/ANNOUNCEMENTS

Chair Butler commented, this committee was created to review the by-laws and determine if there were policy changes that we should make to bring us into compliance with the existing law, and to provide consistency and clarity with regard to the way we function as a board. The Committee was also charged to perform some kind of self-assessment so that we might take a critical look at our operations, our behaviors and practices, and see if we can become a more efficient and higher performing body. We are also responsible for discussing professional development and determining what we will do to meet the individual capacity needs of the trustees. One matter of business before we begin is to note that we are missing minutes, and that is because Linda Odom, Mike Mann and I have been working on the process the Board uses to develop minutes. The process that we have settled on produces a rather massive set of pages and I’m trying to figure out how best to slim that down while creating some sort of a workflow process. We will have something out today for you to review.

Marc Strauss responded, I know that the intention was to make these minutes available to our colleagues and we have been doing that before we have either a full board meeting or committee meetings, so if this committee doesn’t meet again before we get through that cycle will we let people take a look at what we have and just explain that they haven’t been approved yet?

John Butler replied, yes, we will be sharing the draft meeting minutes. They won’t be adopted until we approve them at our next meeting. I’ll be helping the Trustees who aren’t here to direct their attention to the specific points in our discussions that may be important to them.
DISCUSSION ITEMS

PRESIDENTIAL SUCCESSION POLICY

Jerry Blakemore provided a brief summary of changes made to the presidential succession item. Revisions make clear that any decisions regarding presidential succession would require the deliberation of the full Board, not merely the Executive Committee. We made that change in the second full paragraph under temporary succession designation by the president. We wanted to clarify that it was “calendar days” not “business days” when we start the clock in terms of when to determine whether the president has been absent from duty. We also had a pretty extensive discussion regarding the difference between “acting” and “interim.” We basically said we’re going to throw out those definitions and go with the one title of “acting.” And, we wanted to make clear that the policy did not change conditions outlined in the current presidential agreement.

Marc Strauss asked whether the presidential agreement was the impetus behind changing two-thirds to three-quarters in two spots?

Jerry Blakemore indicated it was.

Marc Strauss noted, with the board of eight there’s no difference between a two-third and three-quarter vote, and Mr. Blakemore agreed.

Marc Strauss continued, I think it would behoove us to simply settle on two-thirds or three-quarters, whatever that is. Basically what we’re saying is that it would take six votes to do something and we should probably use either two-thirds or three-quarters, instead of having half of them say two-thirds and half of them say three-quarters.

Greg Brady responded, that’s presuming there will always be an eight member board and the contract calls for three-quarters.

Marc Strauss continued, it’s easy then to make them all three-quarters. It’s consistent with the contract. If the board size changes we’ll have to consider that then.

Jerry Blakemore noted, that’s what we were trying to do. If we missed a couple of three-quarters, or two-thirds, we can correct that. What we wanted to do is make it consistent with the current presidential agreement. If you look at some of the Robert’s Rules they use two-thirds; sometimes three-quarters. It is the same because you have to go up to the next one when you’re doing two-thirds. I will point out to the board that there have been circumstances where we have used the term “six,” but we got away from that because you could have a circumstance where you have a board member who automatically expires because they move out of state, or, in the case of the student trustee, their terms terminate either because they are no longer students or because they are not students in good standing. That’s why we have, in the past, stayed away from the number six. We could have six members of the Board.

John Butler responded, if you had only six Trustees, three-fourths of that Board, if for some reason you only had a Board of six, you would simply apply the three-fourths logic...

Jerry Blakemore responded, yes, right.

Marc Strauss clarified, then it would be five.

Jerry Blakemore added, correct. That’s why we did it this way as opposed to it’s got to be six votes or it’s got to be five votes.

John Butler asked, is that sufficient? Do we need to write it into the policy or if there was ever a disagreement we’d simply refer back to these minutes?
Jerry Blakemore clarified, you would refer to the plain meaning of the policy that you’ve written. John Butler indicated, I only say that because we have this distinction in the board elections which I think is rather rigid which actually does outline the number of votes required.

Marc Strauss continued, I think that there’s an advantage to having flexibility instead of having the number because the point is well taken and we contemplated that. I don’t remember the rest of the language in the voting provision, we don’t have that here today for the election procedure, but I think this formulation is a better one than setting out the precise number.

Robert Boey indicated, I’m comfortable with that.

Marc Strauss noted, for an eight person board, the quorum is five. The difference is whether a vote can be taken by the majority of a quorum, which is adequate for most resolutions that are introduced, or whether there’s a specified super majority vote which requires more than the vote of a majority of a quorum. The item number we’re discussing now involves one of those situations where there’s a majority vote specified which is like our election for officers. If you have only four members present not only do you lack a quorum for an eight member board, but you can’t pass any measure requiring a super majority because it requires more votes than are in attendance at the meeting.

Jerry Blakemore added, special circumstances are determined by the Board. Typically, when there is personnel action related to the president, you’re going to want a super majority and that’s basically the practice across the industry. There are other areas where if you are about to place the institution into long term debt there are some bylaws that will require a super majority for that type of action as well. Let me give you the example of why it’s sometimes necessary. So you have 50 percent plus one for a meeting. You have five trustees who are there. Of the eight you could have three people vote on a particular issue such as tuition or putting the institution into further debt, or some presidential action, and you’d want to limit the ability of three members of a Board to, in effect, obligate the entire Board. That’s what we’re trying to avoid.

John Butler replied, I don’t have a problem with that logic. My question is do we want to deal with a potential situation in which we don’t have a full Board impaneled for whatever reason? Obviously, political reasons may cause a vacancy and we might have six Trustees, or five Trustees, and this could go on for a period of time.

Greg Brady responded, but that’s covered by how we have it drafted. If you have a six member board then the standard is three-fourths of six members. That’s why we use the fraction as the standard, to accommodate for fluctuations in the membership of the Board.

Marc Strauss added, I would like to ask for two grammatical changes. The first is the paragraph that starts, “The acting president,” ... we could take out that comma. Your summary of the substance of the second provision, I think, would read more clearly if it read something like, “as specified in a succession order to be presented by the president to the Board by July 1 of each year and modified thereafter at the discretion of the president.” There’s another two-thirds that is in the next paragraph down, if we’re changing all of the two-thirds to three-quarters.

John Butler added, there’s also one in the last bullet point at the top of page three.

Jerry Blakemore clarified, there is no reason for it not to go to three-quarters. I believe what we focused on was the substance of the discussion that the Board was having. What you’ve done now is expand it. I think that’s a good thing to do.

John Butler responded, I thought we agreed that the board’s decision to appoint someone other than the person who is appointed by automatic succession would be a majority vote.
Marc Strauss added, that was our discussion and that is this last two-thirds item that I was referring to. Maybe that should remain majority if we’re consistent with the conversation that we had. As I recall the discussion, it was that we were going to treat that the same way we would a decision to hire a new president in the absence of this policy operating, and that would be a majority vote right?

John Butler added, right. That’s how I recall it. The idea was we would create two different standards. Removal of a president who’s been duly appointed as a result of a search would require a higher bar.

Jerry Blakemore indicated, correct. Just so we’re clear, that means that five members of the board would be able to appoint an individual not in the line of succession as acting president?

John Butler agreed.

Jerry Blakemore indicated, okay, not a problem.

John Butler added, automatic succession is designed to create continuity during a time of crisis, a very difficult time for the university, so there is less interruption in leadership. I’m sure my colleagues can’t imagine that there would be any other direction as the one that we’re suggesting here; however, the Board should reserve it’s right to make a change in this policy if it deems it necessary.

Robert Boey asked, “a majority of the full board;” is that the way it is?

Jerry Blakemore responded, I would suggest we just say board.

Marc Strauss asked, do we need formal action on these items?

Jerry Blakemore continued, I’d feel more comfortable if there was formal action.

Marc Strauss motioned to approve this amendment to the bylaw with the alterations that we’ve discussed today with a recommendation for passage on second reading by the full Board. Robert Marshall seconded the motion. A vote was taken and the policy was recommended unanimously for second reading and adoption at the March 12th meeting.

**RECORD RETENTION POLICY**

Greg Brady indicated, the primary discussion at the last Committee meeting concerned the review and release of closed session documents, the recordings from the closed sessions, and under what circumstances they would need to be accessed to be reviewed for possible release for whatever function. We recommended a three-pronged approach where the Chair could release in consultation with the Executive Committee; the Board could authorize release by a majority vote, meaning full board; or the Vice President and General Counsel could release in order to comply with a legal requirement or an order of a court. So we just want to check to make sure that remains your wishes. We went back and looked at the question raised by Vice Chair Strauss, concerning whether the Board Liaison was defined anywhere, and we could not locate a definition of that position. Whether that position needs to be defined is an open question at this point.

Marc Strauss replied, two comments, first we should define “Board Liaison.” We define “Treasurer” in the bylaws, we should add “Board Liaison.” We can refer to it here and then we’ll always appoint somebody as a Board Liaison.

Greg Brady clarified, where the officers of the Board are listed in the bylaws? Actually, the designation of the Board Liaison has been more administrative. In the past, it’s been somebody that the president has picked to interface with the Board to help with the functions of the Board.

Robert Boey added, I never considered the Board Liaison as an officer of the Board.
Marc Strauss responded, I think there might be merit to doing that, we can talk about it. The second issue that I want to raise is the last of the three conditions with regard to the release of closed meeting minutes. Should it be purely by recommendation of the Vice President and General Counsel? With all due respect, and I don’t believe that the decision would be made cavalierly, but I think there has to be some process whereby there’s notice and an opportunity to object before that happens without the Board knowing and being able to weigh in. I could offer some language that might accomplish that or you could draft whatever is suitable. That’s the notion that I would like to have conveyed for the third option.

Robert Boey replied, maybe things have changed, but the Liaison to the Board was always selected by the president, not through a Board vote. That’s the way I remember it.

Marc Strauss responded, we do not vote for assistant secretary, or assistant treasurer either.

Jerry Blakemore added, this is my suggestion. One, we can add another category in the same section of the officers that we will refer to as “administrative.” Under that, we will indicate that the president is authorized to appoint a Board Liaison whose duties will be determined by the president. They shall “include, but not be limited to,” and then we’ll put what the typical functions are.

John Butler responded, we can introduce that for first reading.

Jerry Blakemore replied, yes.

Robert Boey replied, we could have a new category B item?

Jerry Blakemore continued, there’s probably going to be what I refer to as a clean up on administrative related things. It provides what the president already has but it’s clear that that person is selected by, and the duties are determined by, the president. There will be some consultation with the Board Chair in particular, but maybe others, about what needs are and the like. We can do that just so it’s clear, because this is especially true with the record keeping.

John Butler continued, I recall that recommendation by the General Counsel was a precursor to the Chair even communicating with the Executive Committee. I thought we were going to add that, “upon the recommendation the Office of the General Counsel,” before the Chair would take the matter to the Executive Committee. I thought there was a stage where Mr. Blakemore would first recommend it and then the Board Chair would authorize it, in consultation with the Executive Committee. We agreed that that “consultation” would occur, although we weren’t sure how we would write it. Then, we discussed a notification requirement, that the Board Chair would notify the Board that these records have been unsealed upon the recommendation of the General Counsel.

Greg Brady replied, it’s my understanding that this is intended to address compelled disclosures for which we don’t have the opportunity to consult, about which there’s no discretion within the Board to say “no” to the release.

John Butler added, “in order to comply with state and federal law,” … is there a way of strengthening that to say “in response to an order”?

Greg Brady replied, “when compelled by law.” We would like to have a process where there is the review of the request to do it and the notification, but we may be forced into situations where we have to do a disclosure. How do you handle those in a timely manner?

Jerry Blakemore responded, this is not something that occurs frequently. In fact during my tenure here it has never been done. I see the chair as who the primary interface is first and foremost and then the Executive Committee. If we are compelled to do so, then that’s a conversation that the General Counsel would be having with the chair. Whether we use “comply with” or “compelled by” is not going to make a
lot of difference to me. “Compelled” is a higher standard, but I don’t know how a law that requires something isn’t compelling you to do it. In the other two circumstances, clearly consultation with the Chair and an opinion on the part of the General Counsel is appropriate.

Marc Strauss added, I’m happy with compelled. Can we also add something that says that, in the event that you are compelled to do so, notice will be provided to the Board so we know it’s happened?

Greg Brady indicated, so if we’re compelled to release, we’re going to give notice to the Board; and if the Chair, in consultation with the Executive Committee, determines the release, then you’re envisioning notice to the full Board after that decision is made?

John Butler agreed.

Marc Strauss added, we’ve allowed the Chair to make this determination in this draft; I think it would make sense to provide notice too.

Greg Brady added, the only one that doesn’t require notice is when the Board by a majority vote does it.

Marc Strauss indicated, then it was before the Board so that makes sense to me.

John Butler noted, I was looking for a slightly less cumbersome standard, which was that the Board Chair can authorize the release upon the recommendation of the General Counsel, and notification of that authorization will go to the full Board.

Greg Brady clarified, so Board Chair can make the decision upon the recommendation of the General Council, and then provide notice to the full Board. That’s what you just described?

John Butler continued, yes.

Greg Brady added, that requires a recommendation from the General Counsel?

John Butler added, yes.

Greg Brady responded, you’re lacking a lot of discretion there. Should that be “in consultation with” as opposed to upon recommendation of?

Marc Strauss added, I think so.

John Butler responded, “in consultation with the General Counsel,” the chair may authorize access or unsealing of these records provided notice is given to the whole Board immediately. I remember specifically the term immediately. So, in consultation with the General Counsel the chair authorizes, but then immediately notifies the board. There’s an assumption here that there’s a time period, a brief time period, where the Board could say no don’t do this. That would evoke this next potential process which is that the Board would convene a meeting and then you’d have to have a majority of the Board.

Jerry Blakemore responded, there are three options available whenever you’re going to release records. One is a majority of the Board can authorize. That is more likely than not, not going to happen because when you have release of records, unless it’s in your regular course of meetings, those records are going to need to be released and they’re not going to wait for three months. What you typically have are situations where a court orders or there is a legal determination that the Board is obligated to turn over those records.

John Butler asked, why don’t we make that the first condition. There’s a court order. It’s compelled. That’s condition number one.
Jerry Blakemore responded, in that condition, again I don’t believe a Board voting on the release is an option that it has.

John Butler said, I don’t think so either. Let’s just talk about that alone: the University’s compelled, the General Counsel authorizes it, and notifies the Board. Do we want to put a time limit on that notification? Do we want to say within 24 hours the General Counsel will notify the board?

Jerry Blakemore responded, I think you need to have a standard, “as soon as practical.” The reason that you need to have the General Counsel involved in that determination is it’s not just the court, there may be other agencies, entities that might be saying we want those records, and we want an opportunity to go to a court before its release to say this is why we believe that these are protected for whatever the reasons are. When you have a court order, we may decide we’re going to appeal that court order, and that’s where the consultation with the General Counsel is going to be important because we’re not going to defy a court order, but we can seek a stay of a court order, and we can go to the appellate level to argue whatever our argument is.

John Butler indicated, let’s start with that condition. So we’re compelled, there’s notification as soon as practical. The second condition would be a situation in which, in consultation with the General Counsel, the Chair determines that the release is appropriate and would notify the board as soon as practical of that determination. I’m thinking this could be highly sensitive information that the Board Chair may think is appropriate to release but other trustees may have a different opinion. We talked about, at the last meeting, providing an opportunity for the Board to say “hold on a minute, we really think we should talk about this.” Three or four trustees might call the Chair and say, “hold on a minute,” in which case the Chair presumably would stop that process and determine if they needed to consult with the entire Board.

Greg Brady asked, how do you want to treat the stopping of that? The Board Chair decides to release, notice is made, you have a week before the actual release will happen, and you get objections. You get one objection versus three objections? Do we need to address what happens in that interim period?

Marc Strauss responded, it clearly doesn’t make sense to say that the Board Chair then consults with the Executive Committee, because you’ll have a meeting, you’ll have to give notice -- you might as well give notice and have a meeting of the full Board as opposed to the Executive Committee, just like we’ve decided before.

John Butler continued, the Chair could “consult,” meaning contact the Executive Committee members and discuss. It doesn’t have to be a meeting.

Marc Strauss added, I think this is close to the borderline of what constitutes a meeting. The issue you’re raising is whether there’s an opportunity for someone who objects to ask for a meeting to have their concerns considered. We have a provision that allows a certain number of members to call for a meeting, so that number of members can call for a meeting. If it’s three then that’s probably a sufficient safeguard, so you’re not being held hostage by the wishes of one member. It requires some sense of number of Board members that we should do something other than what the Board Chair has decided to do. From my perspective, I think that would be adequate. So there’s notice and, if people feel strongly enough about the issues, they’ll call for a meeting and the full Board will get together and consider it.

John Butler added, if there is no court order involved, the Chair then can decide and notify the Board no less than five working days, or three working days, prior to the release of the document. Any preference?

Marc Strauss responded, my preference would be that the Chair notifies the Board of making a determination that he or she would like to authorize the release of the record. Then there’s a period of time when the Board can do whatever it is that the Board wishes. With regard to the other situation where you have a court order, you may still want to appeal it and, in that case, after the notice is given of the receipt of the court order, the same process would be possible. Namely, you could have a situation after the notice, knowing that there’s a court order, in which we may still want to consider whether to
direct that we don’t comply for some reason, in which case we would be asking the General Counsel to present an appeal or to ask for further clarification as to the records that are supposed to be turned over. In each one of these cases what protects us is having notification that there’s either a demand for the records by court order or a decision that’s been made by the Board Chair. Then the Board is notified that the record release is contemplated and, if the Board wants to do something about it, then the Board has an opportunity to.

Robert Boey responded, I have no issues with the court order; it’s absent the court order. Who’s going to decide when someone asks for information? I’m going to assume the General Counsel is the one.

John Butler responded, I would envision the General Counsel would come to the Chair and say, “I believe it makes sense for you to surrender these records and this is why,” and then the Chair would say “yes.” Then there would be notification to the Board and there would be a period of time where the Board could say, “we believe we should call a meeting on this matter.”

Robert Boey said, that’s fine.

John Butler added, we have a third situation, and that would be, through a normal course of business, a recommendation to release recordings, and that proposal is approved (or not) at a meeting of the full Board.

Jerry Blakemore continued, I’m mindful of Vice-Chair Strauss’s issue regarding getting close to the line of decisions being made without complying with the Open Meetings Act. I want us to be very careful, but authorizing the Board Chair to make a decision is helpful when it is difficult to bring the Board together. So I would think consideration should be given to having the Chair authorized to make a decision to turn over documents, subject to some period of time for Board’s objection or review. I’d be more comfortable with a situation that permits an initial decision of the Chair that becomes final after a certain period of time.

John Butler added, I agree. I think we have to go even further, as Trustee Strauss has recommended, to say that the objection needs to be from three trustees, or that no less than three trustees should call for the matter to be discussed at a meeting.

Greg Brady responded, within three calendar days, three trustees? Or, five calendar days, three trustees? The first is just the objection. I want to get a standard for the objection at this point, which is within X amount of days, three members have to object. That’s one event. So within three calendar days three trustees have to object; otherwise the release is good. Everybody okay with that?

Committee members signaled their agreement.

Greg Brady said, the second component is, if you get three objections, pulling together the meeting to discuss the matter will take at least 48 hours.

Jerry Blakemore added, I would suggest, in that regard, that we explicitly indicate that the Chair, the Vice Chair, or whatever number of members of the Board, then call a meeting.

Greg Brady added, this would be the case for records that were compelled as well, because there may be opportunities to appeal court orders that compel.

Jerry Blakemore continued, for records that are compelled, I see that as part of the consultation with our office. When you talk about consulting with the General Counsel or the General Counsel’s office, part of that consultation is, we have a law, a regulation, federal or state or a court order that says X. If our view is that they’ve gone beyond their authority and we should not release records, that kind of issue should be cause to notify the Board as well (in this case that we did not release the records). The consultation helps inform the Chair’s decision.
John Butler continued, I don’t mean to add another layer of complexity, but what if the Chair disagrees with the General Counsel? Do we want to create any provision that requires the General Counsel, by policy, to notify the Board of his or her recommendation in the event that the Chair disagrees with the General Council’s advise to release the information?

Marc Strauss added, if the General Counsel recommends the release he or she has to get the consent from either the Board Chair or the full Board. This option is already in the measures we’ve talked about, so I don’t think there’s any other layer of complexity to add to this.

Greg Brady added, legal counsel should not be functioning as a decision maker. As you’re discussing this I wouldn’t want the alternative to be that the General Counsel gets to decide differently and release records, or not release records, because there are circumstances where the General Counsel could recommend not disclosing something and there’s a disagreement with the Board Chair as well.

John Butler asked, do we want to create a situation in which the Board Chair notifies the Board if he or she disagrees with the decision of the General Council?

Marc Strauss indicated, in that case the rest of the Board is going to know, and they have the opportunity to have a meeting.

Jerry Blakemore continued, our professional obligation is to the client and the institution is the client. It is not any one individual of the institution, so it’s not a member of the Board or a president or a vice president. It is the institution. If General Counsel felt that releasing records was an appropriate decision for the Board, then notice would be given to the full Board. We start with the Chair; but, the reality is, if a court is compelling us to, or if there is good or sound reason to, release records, then the decision makers (i.e. the institution) have to weigh in on that.

Following this clarification, Trustee Strauss motioned to approve the draft language, pending modifications we discussed, and recommend the full Board pass this proposal on second reading. Trustee Boey seconded.

The motion was passed without objection.

**UPDATE INDEMNIFICATION POLICY**

Jerry Blakemore began the discussion of indemnification. What we have, in effect, set up is a situation where indemnification decisions regarding the Board and the president are within the purview of the Board Chair and Executive Committee, and those decisions related to other employees other than the president are within the purview of the General Counsel. The major issue, as I recall the consensus of the Committee, was to add language regarding notification to the Board, twenty four hours, of the decision on the part of the Executive Committee to indemnify. We also wanted to clarify our policy toward independent contractors. I think what we determined we were not indemnifying them. They may have such provisions in their contracts, but it wouldn’t be by Board policy. And we also took out references to “agents” because there was no clear definition of who that term was intended to cover, and it was the General Counsel’s office determination that all of the other categories really cover those circumstances that are most relevant to us; therefore, there is no need to add “agents” to the policy.

Marc Strauss added, I think we captured most of the things that we talked about in the last meeting. There is one thing that I want to ask about again. Is it a normal savings clause to indicate that, if there’s any provision that’s invalid the rest of the larger document is not rendered invalid? Once you get rid of a provision, the policy could be rendered meaningless or actually counterproductive to its intended purpose. My drafting preference would be to say that, not only is the entire bylaw provision not excised, but that the offensive provision be deemed amended to the extent necessary to comply with the law and be consistent with the intent of the document. What you’re doing is giving a judge the opportunity
to reform the instrument by inserting whatever language is required to maintain the intent.

Jerry Blakemore responded, I’m going to repeat what I believe you’ve indicated. At the end of Section 8, which now ends, “force and effect,” you would insert “and be deemed amendment to the extent necessary to comply with the intent of this provision”?

Marc Strauss clarified, “...to comply with law and consistent with the intent of the provision.”

Marc Strauss continued, for the Board and the president, in this draft, the question of indemnification goes to the Executive Committee, so it will require a meeting. There’s no independent judgment made by the Board Chair. That’s my understanding of the draft; correct?

Greg Brady responded, correct.

John Butler added, I remember talking about a process whereby, if there was a disagreement, then we convene a meeting, but I’m fine with this. This would then require the Executive Committee to meet; do I understand this correctly? If the president sought indemnification, the Executive Committee would have to have a meeting; would I understand this correctly? If the president sought indemnification, the Executive Committee would have to have a meeting; would I understand this correctly? If the president sought indemnification, the Executive Committee would have to have a meeting; would I understand this correctly? If the president sought indemnification, the Executive Committee would have to have a meeting; would I understand this correctly? If the president sought indemnification, the Executive Committee would have to have a meeting; would I understand this correctly? If the president sought indemnification, the Executive Committee would have to have a meeting; would I understand this correctly? If the president sought indemnification, the Executive Committee would have to have a meeting; would I understand this correctly? If the president sought indemnification, the Executive Committee would have to have a meeting; would I understand this correctly? If the president sought indemnification, the Executive Committee would have to have a meeting; would I understand this correctly? If the president sought indemnification, the Executive Committee would have to have a meeting; would I understand this correctly? If the president sought indemnification, the Executive Committee would have to have a meeting; would I understand this correctly? If the president sought indemnification, the Executive Committee would have to have a meeting; would I understand this correctly? If the president sought indemnification, the Executive Committee would have to have a meeting; would I understand this correctly? If the president sought indemnification, the Executive Committee would have to have a meeting; would I understand this correctly? If the president sought indemnification, the Executive Committee would have to have a meeting; would I understand this correctly?

Jerry Blakemore added, yes, a “personnel matter.”

John Butler added, then the Executive Committee would have to vote in favor of providing indemnification. That’s the policy that we’re creating? That doesn’t strike anyone as complicated? It just seems like a lot of work for a decision that should be a default decision.

Marc Strauss responded, the alternative is to ask the Board Chair to do it, to give notice, to provide an opportunity to object, and then the Executive Committee meets. It seems to me that it’s simpler just have the meeting. For all the times that it’s come up, I think that would be more effective.

Robert Marshall asked about Section 2. My understanding is that if any member of the Executive Committee finds himself or herself in a conflict, that person automatically is recused from voting on indemnification. That means that two votes could determine the fate of legal coverage. Should there be an additional alternative person from the rest of the Board that, in this particular instance, would replace the individual in order to have the opportunity for at least four possible votes?

Jerry Blakemore added, I think what the trustee is saying is the two of the three remaining Executive Committee members could, in effect, prevent indemnification if they voted “no.”

Robert Marshall continued, I’m just wondering if that’s fair, to put the fate of a Board member’s indemnification into the hands of two votes, rather than a larger number?

Marc Strauss asked, this bylaw provision can’t abrogate the state law correct? There’s an entitlement by the statute to indemnity. So, to the extent that there was a capricious action by the Executive Committee, you’d still have recourse under the state statute right?

Greg Brady agreed, the individual trustee would write a letter to the Attorney General’s office and ask for representation and indemnification under the law.

John Butler added, there’s also an insurance policy which I believe has an option A and an option B. The option A involves the use of the deductible in normal course of action. Option B would be, if the institution doesn’t, for whatever reason, provide the coverage, the insurance policy does. If the Executive Committee were to say “no,” the individual insured is still covered by the policy regardless of the decision by the institution.

Greg Brady added, we’ll have to check on the insurance angle, but that’s how the indemnification is paid,
not qualifying for indemnification.

Jerry Blakemore responded, there are some circumstances where the Executive Committee or the General Counsel should be saying “no.” The primary issue that the Executive Committee, under this provision, will have to deal with is the scope and extent of the indemnification. Who is going to monitor outside counsel’s bills? How far you’re willing to go in terms of the indemnification? What kind of limitations if any? We now require the law firm to give us a budget. We don’t do it in every circumstance, but that is something that you would have to consider. So it’s not so much whether coverage is provided; it’s pretty clear that, if you were a member of the board, current or former, and you were acting within the scope of that responsibility, you’re going to be covered. I don’t know how you can get away from that. But the extent of that coverage becomes challenging issues to deal with.

Marc Strauss responded, I think Trustee Marshall has raised an interesting issue that I hadn’t thought about and I’m not opposed to making some change to address his concern.

Jerry Blakemore responded, I recommend the following: I believe that, if the Board Chair is the subject of the recusal, as an example, the Vice Chair can select a member of the Board to serve on the Executive Committee. The Chair has authority already under the bylaws to appoint committee members, etc.; and, if the Chair is not the subject of the conflict, then the Chair could appoint another member to serve on the Executive Committee. I believe that addresses your point.

Robert Marshall agreed.

Jerry Blakemore responded, we can do that.

Marc Strauss motioned to recommend the approval of the policy on second reading, as modified per our conversation today; Robert Marshall seconded the motion.

John Butler acknowledged the motion and asked for discussion. He added, I would like us to work closely on all of these. What I’m concerned about is we’ve now made a couple motions to forward policies that require edits. The credibility of this Committee is going to depend on us presenting to the Board an absolutely prepared, complete and very sensible final result. I just want to make sure that we have a chance – if we don’t have another meeting before then, to make sure subsequent drafts reflect what we’ve discussed.

Jerry Blakemore responded, we will send to the Committee what our consensus is, and then we can take comments from individual members of the Committee and share those with the Committee before we finalize the document for the full Board for second reading. I’m very sensitive to this issue because you’re absolutely right, let’s not have a third conversation because we missed something.

John Butler responded, I think that makes sense. I have some reservations, as does Trustee Marshall, about the potential difficulty a former or current member of the Board could have if the Executive Committee was no inclined to offer indemnification. I worry about the language, for example, concerning “whether indemnification is proper.”

Greg Brady said, if we need to be clearer, the question is whether the person is “eligible.” Whether you’re eligible means whether you were acting within the scope of your employment, whether what you did is an act or omission that has to do with NIU business and operations; or, is it something you did in your personal capacity? If it’s within the scope of employment, indemnification is triggered automatically and then the scope of what that means is the more discretionary component.

Jerry Blakemore added, since we’re being careful about words, we should probably clarify that we are talking about either “employment or service,” since Board members are not employees.

Robert Boey added, I especially like the word “eligible.” I think that clarifies.
John Butler called for a vote and the Committee approved recommending the policy to the Board for second reading.

**TRAVEL AND EXPENSE POLICY**

Jerry Blakemore began the discussion on the revised travel and expense policy, noting that we've had discussion about the need to clarify the duties of the “Board Liaison.” He also clarified that we discussed increasing the number of reimbursable professional development opportunities from one to two. The revised draft reflects of that consensus and that the Chair could make those exceptions, but after consultation with the Executive Committee.

John Butler asked whether we had considered the situation of the Chair seeking an exception to the policy (wishing to attend more than 2 professional development opportunities)?

Jerry Blakemore added, we could have the Vice Chair in consultation with the Executive Committee.

John Butler responded, that would be fine.

Marc Strauss asked, what is the intension of the language that says that trustees will not be reimbursed for expenses associated with events where the member is not an official participant or guest at an event sponsored by a university related organization? I’m still not sure how this operates in practice.

Greg Brady responded, university related organizations, like the Alumni Association and the Foundation, can hold events that are outside of the scope of the university. They're their own events and that raises the question of what capacity a trustee has in participation in URO events. That’s the question. These other political events and fund raising events, those are sometimes events that can be more personal versus trustee related.

Marc Strauss continued, they are probably also prohibited from getting compensation for attending those by statute anyway. The university related organization are ones where I'm not sure it makes any difference to me in practice. If I go to an Alumni Association event or a Foundation event, they sell me a ticket, I pay for it and then I go. But that’s my personal practice. This opens the door to having somebody get reimbursed because their attendance is as an official participant or guest. I'm not opposed to that in principle, I’m just not sure what it means and I think there ought to be clear guidance for those who want to seek reimbursement for attending those events. What about the Red and Black or an Alumni Association event downtown? Is the intention that those be reimbursable, and, if that is the intension, would that reimbursement be permitted by the applicable statute?

Jerry Blakemore responded, let’s deal with the applicable statute. There’s a limitation on political events. That is probably the only condition where there's going to be a prohibition. We're not going to reimburse for political events; however, there are circumstances where the nature of the event is such that having the president or the Board Chair, or a representative of the Board, be part of the event, just given the nature of what the event is, makes sense. Here’s an example, the Alumni Association and Foundation do an events, for example, in Washington DC, where they are pursuing donors, etc. I think that a representative of the Board could be considered an official participant. An event related to the basketball team, however, such as a special event for major donors where there’s no speaking, no recruiting, no lobbying with donors ... that's not going to be a legitimate expense. I think it's going to be helpful for the Board to have some kind of guidelines going forward, but that is a classic example of where, in your official capacity, you are not representing the Foundation, but you are there representing the Board.

John Butler asked, is it possible for us to take out the phrase “university related organization” and just say “or events where the member is not an official participant or guest”?

Marc Strauss replied, I understand why you would make that suggestion but I’m not sure that it answers
this larger question which is - what are the appropriate circumstances where one would be entitled to reimbursement and your suggestion would make it even broader. This restricts it at least to a university related organization event. I don't have an objection to expanding it because there could be an appropriate circumstance that wasn't a university related organization but I still don't have any idea what the language intends. I don't know whether we're in a position to resolve this, but I think this is one of those areas in operation that nobody really knows the answer to and I think if we had a representative from the Alumni Association or from the Foundation here, they would admit to the same angst about what this is. I believe that there are events where they would like to have one or more Trustees present and the issue always is can they extend to us an invitation and not get charged for that invitation, or is it something where we have to make a payment and then seek reimbursement? I don't believe there's any clarity as to what it is that’s intended or appropriate or permitted by statute.

Greg Brady replied, I would not feel comfortable commenting on that at this point because I'd have to review the gift ban act principles in relation to that.

Marc Strauss continued, I understand that too but I think we should probably know what is possible and then have a conversation about what's desirable.

John Butler added, I agree and I think we also have the outstanding issue that Trustee Strauss talked about at the last meeting, which is the question of complementary tickets, seats and so forth.

Greg Brady added, we did research that. The old provision from the old policy as drafted would not survive the current gift ban tests. We have to come up with something and we can come up with something that’s more the guidance that you were looking for. We can't use the exact verbatim language of that last paragraph of the current policy. We did have that research done in our office so I did want to clarify that for you.

John Butler added, I think we need to see what comes out of that.

Marc Strauss continued, is the remainder of this proposal significant enough that we want to meet again on it before we take it back for second reading?

John Butler replied, we have a number of other items to look at, the question is do we want to take this back for second reading. I would like to take as much to the Board as we can at the next regular meeting. We have to figure out the definitions and the implications for reimbursable expenses, and then there’s the other issue which is what are we permitted to accept on a complementary basis.

Greg Brady responded, I understand the connection, but it feels like a different topic. The acceptance of something on a gift ban principle is different than whether you're going to be reimbursed for an expense from the university. Say I accept a complimentary ticket to a Foundation event. That's one event, that's one happening. A second event is, I be reimbursed for expenses related to that event because I attended in an official capacity.

John Butler responded, it also might be football seats, or it could be travel with an official party to an away game. All of this is covered in our existing policy statement, dated January 3, 1996. My issue of timing is not that there is a need to address this now, but your comments at the last meeting was that you expected this policy to replace the current policy.

Greg Brady added, that language, which is currently too broad, sets a test to determine if you’re able to accept tickets based on whether you’re attending in an official capacity. Where is the gift coming from, is it a prohibited source, what’s the value of it, and does it meet a number of exceptions which tickets to our own functions or functions of other state entities would be allowed as an intra or an inter-state gift? There is a multitude of exceptions; do you just lay out all of the exceptions from the gift ban in a policy or not?
Robert Boey responded, I can also see the argument that a Trustee should maybe be given a complementary ticket to the home football game; but, if it’s an away football game, that’s different. If you’re going to go, pay for it.

John Butler added, and then you’ve got the other issue of the Student Trustee.

Greg Brady responded, it sounds like, because of the gravity and the complication of the item, you may not be ready to submit it to the full Board.

Marc Strauss responded, it might be better for us to take some more time on this one because we have a number of complications. We could have a shorter conversation within the Committee because we’ve already gotten all of the background. If we can get the benefit of your counsel as to what it is that it’s appropriate for us to do, and you can give us an appropriate number of options that we could consider so that we don’t have to come back and write from scratch, we could pick A, B, C or combine it at that point.

Jerry Blakemore added, I would like to consult with the chair of the CARL Committee on this. We have a new governor with new ethics related executive order requirements that really do go right to the heart of some of these issues. With the chair’s concurrence, that’s an issue as part of CARL we will present and talk about. Our ethics officer is now reviewing that. I think it would be more than appropriate to have that discussion there and waiting on this would be the right thing to do.

Marc Strauss replied, yes, I think this has already gotten a first reading. Once we can get comfortable here then we’ll take it back to the Board for second reading.

**PRESIDENTIAL HOUSE**

Marc Strauss summarized some of the original goals of drafting policy related to presidential housing, indicating that the matter was originally introduced as a need for appropriate language that would produce the desired tax consequence for the president operating the house. He noted that the Committee also entertained a provision concerning whether or not the president could become committed to service on outside boards and commissions. Later we learned that there is a provision in the president’s contract that says that he is required to get consent from us to serve on those. The change that’s suggested here says that these obligations are going to be consistent with the employment arrangement and that on a quarterly basis we get a disclosure. If there is no other conversation on this I’ll make a motion.

Doug Baker responded, I think provision is fine, it just seems like it’s under housing when it’s something else, so I don’t know if it needs a different header. If I were to search the document I wouldn’t look under housing for this provision.

John Butler added, the problem with this location is it implies that it is somehow connected to the benefit.

Marc Strauss continued, I have no problem giving this a separate heading and I would trust that before it comes to the full Board that you can find an appropriate paragraph designation for it in the bylaws. I’ll make a motion that we approve this bylaw revision and recommend to the full Board to approve it on second reading with the changes noted today and a retitling and numbering of the second grammatical paragraph so that the board and commission portion is separated from the presidential housing paragraph.

Robert Marshall seconded the motion and the motion was approved.
ELECTIONS MATTER

John Butler reminded the Committee that they had earlier resolved to forward the amendments related to elections, specifically concerning balloting, to the Board.

Marc Strauss added, it’s already passed the first reading, so it’s already before the Board and the Board can take it up without a further recommendation from this Committee.

John Butler continued, did we want as a Committee to recommend it to the Board? We talked last time and we got a fairly good consensus that we supported it as it was written. We had a change to the election provisions which we discussed last time and we determined we’d make no changes to it as it was introduced for first reading. We could recommend that that also be forwarded to the Board for the second reading.

Marc Strauss responded, I’ll make a motion that we recommend it on second reading. If there are people who want to discuss it further they’ll have an opportunity to do it then.

Robert Boey added, Second.

The Committee approved the recommendation.

INTEREST DISCLOSURE POLICY

Jerry Blakemore indicated, we do not have further drafts for you to review on policy or bylaw related issues. At this point I think it would be helpful for the Committee to focus on the rationale for updating the university’s conflict of interest policy. It will be helpful for us to get instructions from you to draft something that would reflect your wishes. I think you’re going to need to take the time to review the document that we presented.

Jerry Blakemore continued, one of the areas for discussion by the Board is what the president refers to as the interest disclosure policy. It’s generally known as conflict of interest policy. The trend in the industry now is to provide more neutral language with respect to conflicts of interest because the real question is whether those interests in any way adversely affect your ability as members of the Board to make decisions based on not just what might be financial conflicts but any other types of conflicts and interests. It’s really a matter of disclosing those interests where appropriate and then recusing oneself if it reaches the level where you should not participate. What we’ve done is laid out the rationale for updated and modernizing the university’s conflict of interest policy. One, the current policy has been in place since 1996. The current policy focuses primarily on financial conflicts where the best practices now are you have to look at where there might be financial interest and other interests that might also influence a decision that need to be discussed. There is a major change in the legal landscape regarding ethics, and new changes that the current governor has made. There’s a new ethics law that was passed by the former governor that you, as members of the Board as well as employees, have to comply with. There are recent additional requirements on the economic interest statement. It is an area that is fraught with an awful lot of new rules and regulations. I won’t say they’re changing daily, but they did change last week with the governor’s issuance of executive order 1909. That having been said, we have reviewed and we would suggest that you take some time to review, conflicts of interest. AGB is well known in the industry as being on top of this. Since 2009 they have made this a major priority. We don’t have at this time any specific recommendations for you to review so we don’t have language, but we do think that there’s a little bit of homework that would be helpful. We are going to cover a couple areas that we do think should be part of your deliberations and ultimately in any revised conflict of interest policy.

Greg Brady continued, looking at this new ethical climate, the standard for what represents itself as a conflict should really be evaluated. For clarification, right now you have a bylaw that covers conflicts of interest and you have a completely separate policy, which Jerry is passing around. For consistency and clarity sake, it would be important to have a solid statement university-wide. First and foremost, what is a
conflict? Defining conflict not just a financial matter. AGB gets into those items. So you define what a conflict is, but then also how you manage the conflict is important because you’re not only dealing with actual conflicts, but the appearance of conflict, and you want to set a firm threshold for when a Board member would need to, or in fact their employee would need to, raise the issue of an actual or perceived conflict. The president has noted that these policies are now turning into interest disclosures policies. How will we appropriately manage these interests? Those are the key concepts for how we want to modernize the conflict of interest/interest disclosure issue at this institution.

Jerry Blakemore responded, let me address the standard issue and then we’ll open it up for questions. I believe that the standard has to go beyond financial, and I think that the standard should be something that can avoid “the appearance of impropriety.” That is a standard that every lawyer has in terms of how he or she is regulated, or at least evaluated. The appearance of impropriety, although a little bit more difficult to actually define, really sets the proper standard or the proper way of looking at things because it’s not nearly whether in fact there actually is a conflict, “perception is reality” is a standard that you should consider. Second, I believe that you have to manage yourselves. And, by that I mean you cannot rely on the president or employees who report to you to be the final determinators of whether a conflict should be disclosed or whether you should recuse yourself; therefore, one of the recommendations that we will be making is that you have a protocol so that people are required to disclose. Typically, it’s done to the General Counsel. If someone is required to recuse themselves, it should not be left to the individual Trustee but members of the Board might say, under these circumstances, we think it’s important. We will go as far as a vote that says you must recuse yourself from these discussions. I spent a good part of last week on a panel with the chair, with the General Counsel for Penn State University, and the two of us were speaking to a group of lawyers about ethics and conflicts, etc. He had a situation with his board (35 people); nine members wanted their own press release on an issue that was different than what the other members, related to whether, in fact, one of the board members, who was the subject of some litigation, was going to be able to recuse himself or not. Again, we have not had those kind of issues facing the Board. But the reality is you need to be in a position where there is a way in which issues can be resolved, because you’ve got a protocol in place and then you implement it, and we will be proposing something along those lines. Finally, I have had the privilege of serving as General Counsel in a couple different situations for eleven, twelve years. There have been only two major times when clearly there were conflicts and those two times have not related to my service for the past four years now here, so this is an issue that we are putting on the table not because there have been some problems that I have identified or our office has identified. In fact, it’s the exact opposite. The members here have disclosed to me and recused themselves in circumstances where legally there was no obligation for them to do so. So I think that you have, as members of this Board, a history and a culture of erring on the side of what is ethical even when it’s not necessarily, legally required, and so I think we can address these issues not because there’s a problem; we can address them because we need to be prepared in the event there is problem.

Marc Strauss responded, I would personally appreciate it if, when we’re taking a look at options, we could provide clear guidance about what is required. I don’t mind avoiding the appearance of impropriety, but Jerry’s comment is right that it’s sometimes difficult to be able to know what that means. It would be far easier if there were a set of more-objective standards that would handle the vast majority of the circumstances that we may find ourselves in; and, it would be easier to know what we have to do mechanically. I don’t believe there is any challenge ethically from any of the Board members, but making sure that we know what the procedure is and what’s required of us, I think, is more important than anything. The follow-up to that is to the extent that it is possible to coordinate whatever we have to do for Board purposes with what it is we have to do for state purposes, so we have an economic inter-statement that we have to file. Can we use that as part of this practice instead of creating a second statement that we have to fill out each year. We have a training responsibility, several of them at this point, that we have to do for the state. If we can incorporate those things so that we don’t have to add to the things that we’re already required to do, I would appreciate the effort to do those things and get it all coordinated so we have the least amount we need to do but still accomplish what it is that we’re trying to achieve.
John Butler asked, what is the difference between a conflict of interest policy and an ethics policy? I’m wondering if we’re setting out to develop something that can be followed campus wide. What makes sense in terms of developing a policy that directs people to follow all of the existing ethics standards such as, for example, the ethics act that we talked about? It seems to be directed specifically at “pay to play” activity and bans on use of state resources for political activity. Would we include that?

Greg Brady responded, that’s an excellent point. The policy is directed towards the activities, your existing policy from 1996 is directed towards the activities of trustees and employees of the university. You may want to parse out the two, especially in light of the fact that the state, in the last 20 years, has created ethics requirements. The community does confuse the issue of what is ethical, so in the development of this policy I think it is very important to draw those lines of what this is going to cover and what it’s not going to cover.

Jerry Blakemore continued, the difference between a conflict of interest policy and ethics; I see ethics as the overall umbrella and part of that umbrella has conflict of interest disclosure, recusal, etc. as part of it; but, it is not all of ethics, but conflict of interest is really part of that. Ethical provisions go beyond prohibitions into promoting a culture that is transparent -- that’s where the transparency issues become very important and where decisions made by public bodies are based on the information and data, objectively, as opposed to being influenced by family, financial, or other factors that are not relevant to the actual decision. That’s where the conflict of interest, in a sense, stops and you really get into what’s ethical more than anything else.

John Butler added, so I have an ownership stake in a company that is seeking to do business with Northern, that’s clearly a conflict of interest.

Jerry Blakemore continued, that’s clearly a conflict and that is the conflict that people tried to regulate in the old days and they have things like seven and a half percent of the stock in IBM and that’s really a percentage that they use. You could vote on anything so long as you didn’t have any more than seven and a half percent. Well the reality is, if your decision is based on some outside relationship, family or otherwise, then ethics is now saying that should be disclosed so that the public knows that. Technically, that may or may not be a recusal, but consideration should be given to recusing yourself even under those circumstances.

John Butler asked, to what extent do you have the capacity to render yourself objective in matters that you might be personally passionate about? I’m a huge proponent and advocate for collective bargaining, but I would not say that that bias should prevent me from voting on a collective bargaining agreement.

Jerry Blakemore continued, I made reference earlier that ultimately the Board has to manage itself. You may be comfortable with your ability to separate your professional or even personal interests, view, perspective, philosophy from your role as a Board member. Most people are not going to accept your willingness and ability as the determining factor. So, just to use that as an example, the Board might say, on collective bargaining, because of an employment situation, we feel better, in the interest of the Board, that you recuse yourself. Every contract that goes before the Board could involve a review in which members disclose to me what their professional interests are. Dealing with lawyers, for example, they may work for a large law firm, with clients all over the place; they have to make a determination that their firm may have a client, might be not be their client specifically, but it is an issue that, at the very minimum, requires disclosure. It doesn’t say that you can’t vote on it. That’s how you manage that interest.

Marc Strauss added, it will be interesting to see what the proposals look like because it sounds like a very imposing set of requirements. I don’t know how you disclose to everybody everything that you believe in or do. I think we can all agree that we would all want to put ourselves in the position where there’s confidence that we’re making decisions that are in the best interest of the institution.

Greg Brady added, I’m envisioning an overarching principle that the Board acts in the best interest of the
university and not its family, financial, interests, or any individual's personal interests; but, how far does personal interest go.

John Butler responded, there's another concept called "conflict of commitment."

Jerry Blakemore added, that would fall under this as well. You have conflict and the discussion we had regarding the president, that really is conflict of full loyalty and devotion, conflict of commitment, and interest and commitment.

Robert Boey replied, so if Doug goes to U of I and teach a class?

John Butler added, or if you get appointed to another university board.

Jerry Blakemore replied, right, exactly.

John Butler continued, we talked about the Board self-assessment leading to a statement of expectations. We could address some of these commitment matters there as well. We may not want to get into commitment territory with policy, but we might want to articulate that, as a Board, we've got certain internal commitment standards that we feel very strongly about. We could think about some of that as well.

**OTHER MATTERS**

John Butler continued, before we move to the next meeting date, I want to update the committee on the progress we’re making in coming up with some meaningful and useful means of evaluating performance of the Board. It’s one of the original purposes of this ad hoc committee. We’ve been doing some research that has led to some conversations with AGB, who has an evaluation instrument, and we think we’ve determined this is an ideal process for us. I want to turn it over to Jerry to talk about some of what we’ve learned and what believe we are going to pursue.

Jerry Blakemore responded, this does not require Board approval, but we would want Board consensus on this. AGB would contract with the Board for them to provide some evaluation tools including an anonymous way in which they can actually talk to the Board about its view of the Board and individual performances. Part of that effort, based on some interest of the Board Chair in particular, is to also broaden the scope of the evaluation to persons outside of the Board. Those constituents that interface with the Board could participate in the Board evaluation. The most significant part of what AGB would do for the Board is provide, based on the Board’s view of its priorities and the like, and in comparison with other boards, a statement of expectations. The roles and responsibilities of the Board could be more clearly defined. I’m excited about the fact that they could advise the university on how we can make your board orientation more comprehensive and more effective, and how we can look at ongoing professional development for the Board that’s done internally, not resulting in an additional cost to you or the university. So those are the kinds of things that they would do. They would have a consultant they’ve identified, a former president of a university, who would come in and actually meet individually with Board members, meet with other groups and help put together a plan for evaluation, internal evaluation, and help with that process.

Marc Strauss replied, you may want to think about this question, but while this is an anonymous tool, there may be records kept by somebody who is conducting this research or this aggregated information; my question is what of that information and the report will be subject to FOIA?

John Butler added, we will go through great lengths to make sure that people can confidentially comment on the performance of the Board.

Jerry Blakemore responded, I actually did have conversations with them on the sensitivity of such issues. They will provide a way for people to be candid about their thinking but not something that derails the
process. I don’t think this is an evaluation necessarily of individual members of the Board in the sense that they come back with a grade for each Trustee. It is really issues like board structured to maximize the effectiveness and efficiency of the Board. It’s an assessment of the system not individuals. As an example, you are sitting in a governance committee right now. You do not have a governance committee and it’s usually now more likely than not that boards, particularly effective boards, have governance committees to address what you just said (i.e. how do we deal with a trustee that is not attending meetings, or how do we set expectations for the board). Private boards, for example, have a governance committee because that committee usually is involved with recruiting members. AGB will look at the structure and say, for example, “you have four standing committees and you need six,” or “you have four committees and you have everybody on every committee, maybe you need to reduce the number of people.” It’s not a personal evaluation as much as it is how are you structured, and how is that aligned with the priorities that have been established. Enrollment is obviously a major priority. You don’t have an enrollment committee, but you have an ad hoc committee. This might be an opportunity for an outsider to say, “given where enrollment is, it really needs to be a permanent committee,” and it really needs to have these criteria or these functions.

John Butler added, I think the FOIA question for me is an issue of integrity. If we can’t guarantee, particularly staff members who are being asked to comment either quantitatively or qualitatively about their view about the performance of the Board, if we can’t guarantee that their name won’t be attached to their comments, then they’re not going to comment. So, we want to make sure that it’s structured in a way that we can guarantee people some level of confidentiality so they will participate in the process.

Robert Marshall responded, looking at the feedback from entities outside of the ward itself, do you have any kind of a sample list of some of the constituencies or constituents that might be able to give us some of that feedback?

Jerry Blakemore answered, yes and there has been no final decisions on how broad you would go. I think there is a general belief that you need to do this in a narrow way, not too broad, but, for example, the Board interacts with what we refer to as university related organizations, the Foundation as an example. That is a constituent group that is very relevant and important to the institution and how that interaction is and how it could be maybe improved, etc. is important. Another group would be your advisory group. You have a University Advisory Council, UAC, and you’ve got a member sitting in the meeting with you right now. That’s a natural place for them to sit and talk to. You know you’ve got the presidents of SPS and the Civil Service and the faculty so you wouldn’t do a survey, I don’t think, of the entire University Council, but there would probably be some pretty significant members there starting with the Executive Secretary of the University Council that would be part of that group.

John Butler continued, there’s a cost factor as well with respect to who we talk to and ask to participate. We could have qualitative interviews with hundreds of people but the cost would be prohibitive and the data I don’t think would be as essential to justify that cost. I think it’s fair to say at this point we are looking at a cost structure that’s under any obligation to follow an RFP process. We’re very pleased to see that we can do this at a reasonable cost. I view this as an essential action for the Board, which is why I made it a part of the main tasks of this ad hoc committee, but I think it is important, if the Committee members don’t believe this is needed, or they doubts it’s something that we should be talking about now, please share that with me, because I do want the Board to support this.

Robert Boey added, in all respects, John, this is ultimately like a report card on the Board.

John Butler responded, it basically is a report card by an agency that really does this very well and very professionally. Marc and I have interacted with the consultant that they’re interested in placing with us. Carol Cartwright is her name. She’s an absolutely outstanding academic leader and professional. I think she’s got great demeanor too. I think she’ll work well with our Board. This is not an extended consulting arrangement; it involves the administration of an anonymous survey, probably 15 to 20 interviews with external stakeholders, maybe some follow-up with some Board members to determine some of the issues behind some of the things they might have said on their survey with Carol; the production of some kind
of report or presentation by her, in which case that’s when we would meet her. It would be a workshop of some kind and that would be the end of it. We would take from that the opportunity to develop perhaps a statement of expectations and some commitments that would be formed in this ad hoc committee for structural change.

Jerry Blakemore noted, the only thing that I would add is, rather than looking at it as a report card or report card only, I would look at it as a report card on where you are particularly, on how you compare to other institutions, but also a plan for Board success. How can you be more effective, how can you work more efficiently?

Robert Boey replied, I would be more interested in that.

John Butler continued, we would develop what that ultimate plan is, but we would also have the benefit of their experience and knowledge across the country.

Robert Boey responded, it would be a very interesting to see the whole Board’s reaction to such an effort.

John Butler asked whether there were any questions about this information? Feel free to talk to me about this at your convenience.

**NEXT MEETING DATE**

John Butler added, in the interest of time, let’s attempt to schedule a meeting on-line.

**ADJOURNMENT**

A motion to adjourn was made by Marc Strauss and seconded by Robert Boey. The committee voted to adjourn at 5:07pm.

Respectfully submitted,

Linda Odom
Recording Secretary

_In compliance with Illinois Open Meetings Act 5 ILCS 120/1, et seq, a verbatim record of all Northern Illinois University Board of Trustees meetings is maintained by the Board Recording Secretary and is available for review upon request. The minutes contained herein represent a true and accurate summary of the Board proceedings._
Agenda Item 7.a.
June 15, 2015

PROPOSED UPDATES TO BOARD BYLAWS REGARDING
PUBLIC APPEARANCES BEFORE THE BOARD