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Minutes of the Regular Meeting of the Academic Council

Thursday October 22, 2009

Craig Henriquez (BME, Chair of the Council): Welcome, everyone. I'd like to start with a few announcements before we move to our agenda items. First, we have a couple of reviews taking place this academic year. Executive Vice President **Tallman Trask** is undergoing his third review since being appointed as Executive Vice President in 1995. Also Dean of the Graduate School, **Jo Rae Wright**, will undergo her first review since being appointed four years ago. ECAC works with the President and Provost in these two situations, and determines the list of faculty from which to draw potential committee members. After consultation with ECAC, the review committee for the Executive Vice President is appointed by the president.

The chair for Dr. Trask's review committee is Dean **Greg Jones** of the Divinity School. Dean Jones is joined by the following faculty members: **Deborah DeMott** from the Law School, **David Hsieh** from the Fuqua School, **Rob Jackson**, A&S and Nicholas, and **Nan Jokerst** from the Pratt School. Because of the substantial non-academic duties of the Executive Vice President, there are also a number of administrators on the committee:

Deborah Jakubs, University Librarian

Asif Ahmad, Vice President and Chief Information Officer, DUHS

Benjamin Reese, Vice President Office for Institutional Equity

Kerry Watson, CEO, Durham Regional Hospital

Jack Bovender, Trustee

For reviews of Deans, the committee is appointed by ECAC after consultation with the Provost. The chair for Dr. Wright's review committee is **Ann Marie Pendergast** in Pharmacology & Cancer Biology. She is joined by fellow committee members, **Liz Clark**, Religion, **Kenneth Land**, Sociology and **Monte Reichert**, Biomedical Engineering.

If you are interested in the details, the framework for performing reviews is given in Appendix C of the Faculty Handbook. The committees are not asked to make specific recommendations regarding reappointment

but asked to gather information and develop information. So if you receive a letter from these committees asking for your input and feedback, please try and make an effort to respond to help them do their jobs. We would like to thank all the faculty members who have agreed to perform this very important service to the University community.

Now my next announcement: for all of you Academic Council veterans, you probably know that the University Faculty bylaws require that there be a meeting once a year of the entire University Faculty – all 2800 of us – at which time the President gives a state of the University Address and the Chair of the Academic Council gives a summary of the activity the Academic Council over the past year and plans for the ensuing year.

For the past decade, or perhaps longer, this Annual Faculty Meeting has been at the same time as this October Academic Council meeting. There is a good reason for having it on the same day as the Academic Council meeting. The good reason is that you are guaranteed an audience (laughter) and the reason [for that] is we take attendance. (I should remind you to sign the attendance sheet that is coming around.)

The problem with having the Annual Meeting coincide with the Academic Council meeting is that it loses its independence. So after some discussion, ECAC and the President have decided to move the Annual University Faculty Meeting this academic year to another time and give it separation from the business of the Academic Council. We are currently planning on having it in lieu of the currently scheduled January Academic Council Meeting. If there are pressing matters for Academic Council in January, we will call a special meeting.

One of the questions that may be better answered by giving the meeting its own time, is whether the University community still thinks this required annual faculty meeting is really necessary or if it should be called only when necessary. The main official reason for calling a meeting of the University Faculty, other than the two presentations, is to change the bylaws of the University Faculty, which has actually been done a few times.

I was curious about the origin of this annual faculty meeting and format – and so Sandra and I did a little digging this week into the history of the Academic Council’s role in the University Faculty meeting.

In 1972, the famous Duke Christie Report (*The Nature and Role of the Academic Council*) was presented to the Academic Council. Not all of you may know about the Christie Report, but President Brodhead in a recent *Chronicle* article likened it to the Magna Carta. Instead of presenting it to King John of England, it was presented to President Terry Sanford of Duke. It was a sort of treaty, a treaty on how the Academic Council and the University would interact in the future.

One of the key recommendations of that report (which was ultimately adopted) was to delegate the decision-making powers of the entire University Faculty — in this case, the approval of all degrees earned and honorary degrees and the approval of new degree programs (which used to be done at the University Faculty Meetings) — to the Academic Council. This was an important change and called into question the need for having an annual faculty meeting.

Because there was this transfer of power from the University Faculty to the Academic Council, you had to have a University faculty meeting to change the bylaws. The Academic Council proposed the following language regarding the future of the University Faculty Meeting.

The University Faculty shall meet at the call of the President or the Chancellor or the Provost or upon written request of the Executive Committee of the Academic Council or by fifty members of the Faculty.

At this point the meetings to approve degrees were at least three times a year, so Academic Council was suggesting going from 3 required meetings to 0, which was a big change.

Two days prior to this meeting on October 26, 1972 there was a letter from Professor David Bradley who made the following motion to change the language of the bylaw. He said:

The University Faculty shall meet annually in October at which time the President of the University shall usually present a report of the state of the University and at which time the Chairman of the Academic Council shall report on the activities of the Council for the previous year and plans for the ensuing year.

This motion was offered at the Faculty meeting. Because the minutes of this meeting are not kept in our archives, Sandra and I had to go to the University Archives and dig it out of the official records. With the help of Tom Harkins we found the minutes.

In the minutes of that meeting, it was noted that the Christie committee considered the continued University Faculty meeting, but concluded that the Academic Council was more representative of the faculty than those that usually attended the University Faculty meetings and that more people attended the Academic Council Meet-

ings than attended the University Faculty meetings (laughter). Those present were also reminded that all faculty are invited to attend Academic Council Meetings and that the minutes of the Academic Council faculty meetings are sent to all faculty so there was no need for the chair to tell the entire faculty something they could read.

These arguments were apparently not very convincing and Professor Bradley’s motion was approved to have an annual faculty meeting with the President and Academic Council Chair presenting.

There was another revision in 1986 to change the wording of the bylaw from “The University Faculty shall meet annually in October...” to “The University Faculty shall meet at a date set by the Executive Committee of the Academic Council...” so we are actually taking advantage of that change.

And it turned out that the reason for doing this, which is sort of interesting, was not to move the date but to coincide it with the Founder’s Day celebration meeting and have the University Faculty meeting as part of the Founder’s Day celebration — which gives you something to think about.

So the question is: what to do in the future? We are interested in doing this experiment to see if giving the Annual Faculty Meeting its own time will boost attendance and visibility. We thought of perhaps suggesting inclusion of a presentation of Faculty Awards across the University from the previous year, recognizing new professors, newly chaired professors and those faculty and former faculty who have died during the year.

Remember this is not Academic Council’s meeting, this is the President’s meeting. This is also an opportunity for some community building. Of course, boosting attendance and visibility has been tried for 37 years with little gain, but we are nothing if not persistent (laughter).

If it is again poorly attended, ECAC may call another meeting and propose a bylaw change returning to something similar to that proposed in the original Christie report, having the meeting at the call of the President or ECAC, and we’ll see if another David Bradley emerges.

I was wondering if there are any comments or thoughts about the annual faculty meeting, thinking as I walked in and there were only twenty people here, what would have happened if there were an annual faculty meeting today, how many people would have attended? Are there any thoughts about the faculty meeting, its need in these times? Let’s see, everyone is enthusiastic... [silence... the dog did not bark...]

This is an interesting response I was expecting a little bit more. So maybe you should all think a bit more about this and if you have any comments or thoughts, please share by email you may be seeing a bylaw change in your email ten days before the next faculty meeting.

Speaking of boosting attendance, I wanted to make an announcement about the FDD. For those of you who don’t know, FDD is ECACs newly minted acronym — because we know how much you love acronyms — for the Faculty Dinner Dance, which is held in December. All Duke University faculty members are invited to this

black-tie-optional evening of dinner and dancing. The invitations will be sent out in the next month. You are asked to pay for tickets — I believe \$75 per person — to help offset some of the costs. This year's event will be on Thursday December 10, since Friday is the first day of Hanukkah. This is another opportunity for community-building and if you cannot attend and are in a generous mood you might consider paying for the ticket of a new faculty member in your department. We hope we can boost attendance and interest in this event.

We'll now move to the first order of business, the approval of the minutes from September 24th. [The minutes were approved by voice vote without dissent.] Thanks John and thanks Sandra for creating these verbatim minutes.

PhD in Environmental Policy

Next, we will vote on the proposal to create a PhD in Environmental Policy. Professor Randy Kramer presented this at last month's meeting. As you recall, the proposed University PhD Program in Environmental Policy will be jointly administered by the Nicholas School and the Sanford School, and will draw on the intellectual strengths of several social-science departments, other professional schools, and several university institutes. The proposed program is structured with a consistent set of knowledge and skill requirements common to all students, plus two concentration areas in economics and political science. If approved today, students will be admitted to enroll in Fall 2010. A couple of questions were raised after the meeting which were passed on to Professor Kramer.

One question was: [Could you clarify the reason for having this administered by two schools rather than just one?](#) The answer was: having it run by one school sends the message that the program is not important in the other school. We want the faculty and Deans of both schools to take ownership.

Another related question is: [Could someone graduating from the program get a job in a school of the environment?](#) The answer is yes, in fact, environmental schools often hire people from engineering schools, economics departments, public policy schools etc. Having a credential from both schools would be a plus; the students would be strong candidates for environmental policy jobs in Environmental Schools, Public Policy Schools as well as smaller environmental studies, public policy, and geography programs.

Professor Kramer is here today if you have any other questions. Are there any questions regarding this program? [no questions]

May I have a motion to approve the creation of a PhD in Environmental Policy? [The motion was passed by voice vote, without dissent.] Thank you and congratulations to all involved in the creation of this program in the Nicholas School and the Sanford School.

Institutional Conflict-of-Interest Policy

Henriquez: Our next agenda item is a presentation of the proposed policy to deal with possible Institutional Conflict of Interest. All faculty who work on sponsored

research are asked once a year to complete and submit a Conflict of Interest Disclosure Form in which they make the University aware of any financial involvement or consulting arrangements with outside entities. But conflicts can arise even if you do not participate in sponsored research. A conflict of interest arises because a faculty member may have the opportunity to influence the university's business decisions in ways that may lead to personal gain, or when a faculty member's outside relationships influence the integrity of decisions they make as teachers, researchers, and providers of health care. So the first step in dealing with conflicts of interest is for faculty to disclose to their school dean or University official, current, proposed or pending situations that may raise questions of conflict of commitment or interest, as soon as such situations become known to the faculty member.

For certain conflicts of interest, perhaps like doing research for a company in which the faculty member has a financial interest, a management plan may need to be developed. These management plans are developed and monitored by two committees — the Campus Conflict of Interest Committee and the Medical Center Conflict of Interest Committee. The Campus committee, which is appointed by the Provost in consultation with ECAC, manages situations on the campus side. The Medical Center Conflict of Interest Committee manages situations on the medical center side, and is appointed by the Chancellor for Health Affairs and the Chair is appointed by the Dean of the School of Medicine. For some reason, for which I am not aware, I do not believe this committee goes through ECAC.

While the conflict of interest policy for faculty has been around for a while, there is has not been a similar policy for Institutional officials or trustees of the University and so a new policy needed to be developed. Dr. Ross McKinney, who was the chief author of this policy, is present to tell us more about it.

Ross McKinney (Medicine/Pediatrics): There are actually two domains that are of particular concern that led us to develop this policy. There is the issue of the institution itself having a conflict of interest. I included in a brief summary a few prototypical examples of what I mean, but one I use is this: say the physics department is given a nuclear reactor by the American Uranium Company out of the goodness of its heart and with the hope that in fact, probably, you would buy a lot of uranium, and that Duke would end up being a purchaser. But the institution should think about what the ramifications are of a gift like that, the potential impact on the type of research that would be done, on the awareness of the public as to the fact that the gift came from an outside vendor who has a relationship with Duke.

In this case you have an institutional conflict of interest, where it is truly the institution that has the conflict. The most famous example of an institutional conflict of interest which was problematical, I mentioned here was the case of Jesse Gelsinger at the University of Pennsylvania. Jesse was a volunteer in a study of treatment for ornithine transcarbamylase deficiency, using an adenovirus vector in which the OTC gene was inserted.

He in fact died of a adenovirus hepatitis, as a result of that experiment.

There was a perception, at least on the part of the family's attorneys, that the university had not engaged in a correct level of oversight with this research because it stood to gain financially from the experiment that was being done and its potential success.

So, we have situations that are not covered by the personal conflict-of-interest policies that we have, where the institution itself is in fact the conflicted party.

The second area of concern concerns those people who are of sufficient stature in the institution that they can speak and act for it, so that somebody like the President of the University has the potential to sign over, or to act on behalf of, Duke and so a conflict of interest involving senior officials of that stature would have the potential to be the same kind of problem that you have with the institution's conflict per se.

So we are presenting in two parts here: a policy and an implementation. The policy will be presented to the Board of Trustees in December and reviewed by the conflict-of-interest committees both on campus and in the School of Medicine by the University Research Policy Committee, and by senior academic administration.

The notion there is that it will look at policy definitions, as a sort of a rough framework, and then implementation is how we will actually carry this out. For faculty, I think the largest impact will be on those who are also senior officials, who are in a position to use the authority of the institution to make purchases or make decisions. The other area will be on gifts, because we have the concern that there are gifts that are being given to the institution that may be in fact being given to influence people or policies or research outcomes, and so we would like to make sure that those are monitored and managed rather than being allowed to continue in their current free-range state.

So those are the primary issues. The impact on faculty will be for those faculty who are senior administrators and those people whose research might involve an institutional conflict of interest. [The policy] may in fact restrict some research that somebody might be able to do if it is unmanageable. We would hope that most of it is manageable and to this point we have been able to develop schemes or approaches to managing most cases that have come up. But one could imagine doing something that was of such high risk that you would want to have the work done under the oversight of some other entity if the institution stood to gain financially. The worry being that they might view the subjects as guinea pigs who are doing Duke's work or taking the risk for Duke so that Duke may profit and we don't want that perception to exist. So that is what these policies are for. I am happy to answer any questions that people have that are to the point of the policies.

Questions

Ann Brown (ECAC & Medicine): Are most of these policies in existence at other universities?

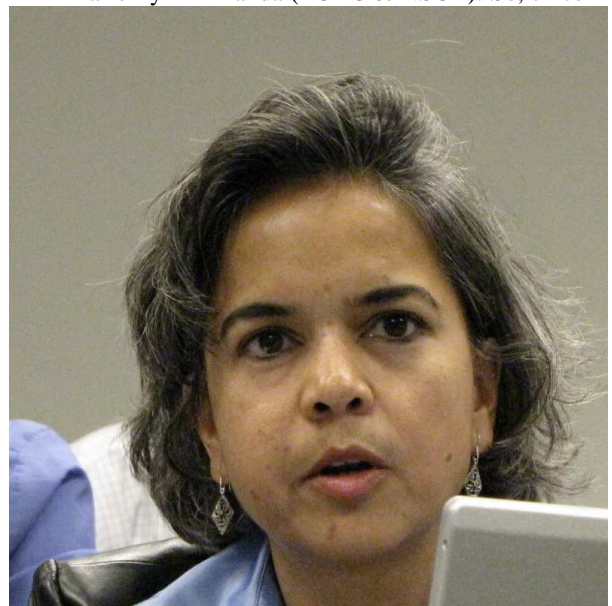
McKinney: They are. There is an expectation that there should be more of these policies. There are rela-

tively few universities that have complete institutional conflict-of-interest policies but they are increasing in frequency and there is an expectation. The Feds, in their most recent advance notice of proposed rule-making around conflict of interest, included the probability that institutional conflict of interest would be considered. So we are not on the very front wave, but we are relatively close to the front wave on this particular issue.

Craig Henriquez: Well, because my request about your enthusiasm about the University Faculty meeting did not generate a lot of discussion, we are actually ahead of schedule for the next agenda item. I think the folks are not quite here yet. They were anticipating we'd be a little more long-winded in our question and answers (laughter).

University Faculty Meeting, redivivus

Marie Lynn Miranda (ECAC & NSOE): So, since



we have the time I will say something about the annual faculty meeting which is that I think it's a great opportunity, a nice almost-requirement, to ask the President to come and talk to the faculty about these priorities for the year and I think that it requires him to cover a lot of different things that are going on in the University. My impression from him is that he spends quite a bit of time on it. I would rather see us moving in the direction of trying to find a venue and an arrangement such that more people both can and do attend. I think those two suggestions are moving away from having such a meaning.

Henriquez: So, trying to make it a more special event... I guess the point I was trying to make was to try to get it away from the Academic Council business and have be it a little bit more special. There are other places that I have read about in which this is done as a celebration, maybe toward the end of the year where the President speaks and there is also an acknowledgment of a number of the accomplishments of the faculty of the year and sort of a sense of where the University is at that time. We thought about doing this in January, because January is not really well programmed. There is a delay, you haven't had a meeting in over four weeks, and are sort of

ready for another one. So, we thought January might not be a bad time to have the University Faculty meeting and it sort of coincides with the State of the Union address by the US President. We don't want to upstage him, but we might have to. This particular meeting is on the same day. And, by the way, this is really the President's meeting. Dick, do you have something you would like to say about the meeting?

President Brodhead: If you ask, and since we have time until people come (laughter), I will say the following: I appreciate very much ECAC raising the question of what the most advantageous form of this address would be. I had no idea that the history could be reconstructed. I'm going to guess that the history of where the annual faculty meeting came from is known by about as many people as the history of the Magna Carta. In a sense, they're almost equally remote in time, at least to people's living memories. I think it's a great idea for the President to speak with the faculty. I have no desire not to speak with the faculty. One question is, could one find a way in which you are actually speaking to some large number of members of the faculty (a), and (b), what is the right time to do it? When it's on a scheduled day in October, you are scheduled in among various items of business and it's become sort of a "one more agenda item" kind of event.

I have certainly tried to speak about important subjects and I always would again, but of course last year there were topics that were very important for the President to speak about that were not ripe for presentation at the specified faculty meeting, for instance the economic situation of last year. If you'll remember, I spoke to you and I certainly always feel myself obliged to stand up and hear your comments and answer your questions at every meeting of the Academic Council, and we actually spoke in that session on many occasions last year, and I certainly don't think that the annual address ought to be a substitute for the regular interaction of the faculty and the President. On the other hand, I am perfectly happy to use my wits as best I can to focus on some subject of priority for University for this occasion; and if ECAC would be a partner in helping to create the occasion, I'd be very happy for their efforts. It will always be an experiment, and we will experiment until we get it right. Does anyone have a question?

Unidentified speaker: One place you could get a lot of faculty is in conjunction with the basketball games (laughter).

President: Maybe I could do it instead of the bouncing bulldogs at halftime (laughter). This is the trouble with open sessions, people say things like that.

Lee Baker : (Dean of Academic Affairs of Trinity College): Craig, I think the other thing in terms of strategizing, perhaps inviting Engineering Faculty Council, Arts and Sciences Council, the other faculty government bodies to try and have a collective hosting of this or something like this. At least get some other folks out there.

Henriquez: Very good idea.

Philip Costanzo (Psychology & Neuroscience): Just



to speak on behalf of it, I think that one of the advantages of having a communal talk to Duke University as an identified entity is that there is such a push for fractionation in everybody's academic worlds. This is an opportunity to push against that tendency to fractionate, to be a single institution where goals are shared. Even though that is a difficult thing, it's difficult to rouse people from those fractionated corners, it still will be a very important thing to continue doing, to promote an identity of goals...

Steffen Bass (Physics): I would suggest perhaps not to call it a faculty meeting because this associates with infinite boredom and pain regarding our regular faculty meetings. What's important is the idea of combining this



with honoring faculty, colleagues, and members of the University community, and making this a more effective event. Perhaps, to add as an incentive, there could be food and wine. Then you will get a better attendance.

Herman Staats (Pathology): I have been Chair of the Basic Sciences Faculty Steering Committee for the past couple of years and the School of Medicine has a faculty meeting that I make a presentation at every year.

From my point of view, the School of Medicine Annual Faculty Meeting is somewhat of a celebration of achievements, of those who have passed, and different things like that, and that is a celebration. And then towards the end of that meeting, I get up and have to present the business of the Basic Sciences Faculty Steering Committee and I think it's not the right venue to have a business meeting, where you might have to discuss very serious issues, in the context of celebrating faculty awards. So I feel like I am somewhat out of place at times when I want to bring up very serious issues, when I feel like I'm at a celebration of faculty.

Henriquez: This is speaking to Steffen's point about not calling it a University Faculty Meeting, but having the event, having the President speak to the entire University in some sort of way of building community, really is something that I think we could all benefit from. And then having University meetings if needed for by-law changes and whatever else needed to be done as a University faculty, and it would still be part of it, but this would be a separate event... We will ponder some more and think about it some more. Any input you have, please send it to us. We are now ready, thank you.

Faculty Scholar Awards

Our next item is one of the happier traditions of the Council — the presentation of the Faculty Scholar Award report. The history of the award was part of the meeting material and is on our web site. I hope you all had a chance to read this. I will now call on Professor Ben Ward, Chair of Academic Council's Faculty Scholars Committee to present this year's report on the outstanding seniors who were recently selected for this honor.

Ben Ward (Philosophy): Thank you very much. It's truly a pleasure for me to stand before you today to present the report of



the Faculty Scholar Award Committee. I continue to believe, though I won't insist on the point, that this is the one committee of the Academic Council for which participation should require a fee on the part of the faculty because the pleasures of membership on this committee are absolutely without parallel, I think, in the rest of the University.

We get the chance to meet and interact with the most extraordinary students we have, students who have set a very high standard, not only of academic performance, but more importantly of intellectual engagement, and we all know that those two are by no means synonymous and the former does not necessarily indicate the latter.

Just a couple of preliminary comments. We changed the deadline for submission of nominations this year, we held it back by about a month, or almost a

month or so, we were freed from the responsibility of tying the timing of the award to Founder's Day celebration, so were able to give nominators from the Directors of Undergraduate studies more time to decide whom they would nominate and to gather materials. We thought, perhaps naively, that that change might in fact generate more nominations. In fact, it did not. This year, we had exactly the same number of nominations, twenty-two, that we did last year when the nominations were due about a month earlier and we had exactly the same number of departments, sixteen, submit nominations this year. Not the same sixteen departments, but that is sort of an interesting fact.

One lamentable note this year, I'm not sure of the reasons for it, but this is the first year in my recollection, and I have been doing this for about fifteen years now, that we have not received any nominations from the Pratt School of Engineering. I'm not sure why that is the case, perhaps the Council should look into that, but there are certainly outstanding students in Pratt, we have seen quite a number of them over the years, but we did not see any candidates this year.

Now, without further ado, I want to read you the names of people we are proposing to the Council, they are subject to your approval, for designation both as Faculty Scholars on one hand, and as honorable mentions in the Faculty Scholar process. These students are [Rose Li](#) from the Department of Chemistry, [Kathryn Maxson](#) nominated by the Department of Biology, though much of her work has been in the Department of History and one of her strongest mentors has been one of my colleagues in the Philosophy Department, and [Matthew](#)

[Rognlie](#) who was nominated by Mathematics and Economics.

We also want to put forth the names of two students who are Honorable Mentions, this is really quite an important

category for us. These students are [John Harpham](#) who was nominated by Political Science, and [Jordan Rice](#) who was nominated by Spanish and Latin American Studies.

Let me ask all five of those students to come forward and join me up here if they would. (applause)

We also this year took special pains to bring to this meeting people who literally stand behind and support the young people you see standing before you today. These are people who have served as faculty mentors for these outstanding seniors and we have asked them to join us. Actually, I think it would be altogether appropriate for you to come forward as I call your name because you deserve to be up here almost as much as these young people who you have mentored. There may be one or two who are not here.

Mentors to Rose Li in Chemistry are [Mary Nijhout](#) and [Ann Motten](#) (applause), mentor to Kathryn Maxson is my colleague in Philosophy, [Alex Rosenburg](#) (applause), mentors to Matthew Rognlie are [David Kraines](#), [George Tauchen](#), and [Vince Conitzer](#) (applause), mentor to John Harpham is [Michael Gillespie](#) who is not here and mentors to Jordan Rice are [Judith Ruderman](#) and [Richard Rosa](#) (applause).

It is altogether appropriate (this is the first year we have taken pains to do this) to recognize explicitly the faculty mentors who do so much to support the activities and scholarship of the young people who we are honoring today and we are delighted to have them as a part of this mix. Is it appropriate for me to make the motion? Everything is all set but we have certain niceties. By the way Dick, if the Academic Council does decide to charge for participation on this Committee, that might be a good way of tackling the University deficit. I personally would be willing to pay a very hefty sum, for philosophers, as you know are not really interested in our own self-interests, it's always the greater good (laughter). I don't know if I should presume to speak for my colleagues in that respect.

May I then nominate or propose that the names of the five students who are indicated for designation as Faculty Scholars and Faculty Scholars with Honorable Mention be approved by the Council? [The motion was passed by voice vote, without dissent]

Ben Ward: Thank you, thank you very much indeed. (applause).

Henriquez: Thank you, and thank you Ben. I would also like to thank the other members of this committee: **George Truskey** (Pratt), **Louise Roth** (Biology) and **Joel Meyer** (Nicholas School) for your hard work and dedication to this committee. It has been mentioned that Ben has been chair of this committee for 15 years which I think is some sort of record for committee work. But, as he said before, this is a labor of love and an unalloyed pleasure — and we are very grateful for his service. I also want to extend my personal congratulations to these students for their outstanding achievements and contributions. They are representative of the outstanding students that make it a joy and privilege to teach at this University.

I will now call our meeting into Executive Session. Those who are not members of the faculty, we ask that you leave. We will remain in executive session for this last item on our agenda.

Respectfully submitted,

John Staddon
Faculty Secretary, November 7, 2009