

Minutes
Indiana University
BLOOMINGTON FACULTY COUNCIL
March 21, 2006
Ballantine Hall 008
3:30 - 5:30 P.M.

Attendance

MEMBERS PRESENT: Lisa Bingham, Julie Bobay, Craig Bradley, Bonnie Brownlee, John Carini, Richard Carr, Jorge Chapa, Les Coyne, Luis Davila, Erika Dowell, Emily Fairchild, Dennis Groth, Kevin Hunt, Robert Ivie, Cecile Jagodzinski, Elizabeth Johnson, Robert Kravchuk, David Mackay, Terrence Mason, Bryan McCormick, Murray McGibbon, Daniel Melamed, Alyce Miller, Theodore Miller, Theresa Ochoa, Harold Ogren, Isabel Piedmont, Paul Rohwer, Richard Rubinger, Jeanne Sept, Jodi Shepherd, Alex Shortle, Sarita Soni, Jerrold Stern, Herbert Terry, Larry Thibos, David Waterman, Maxine Watson, William Wheeler, Gary Wiggins, Nicholas Williams

MEMBERS ABSENT: LTC Lori Bass, Katy Borner, Romualdo De Souza, Paul Elliott, Patrick Harbison, Barbara Hawkins, William Hetrick, Susan Jones, Gene Kintgen, William Leckey, Gerald Marker, Dale McFadden, Lisa Pratt, Sara Pryor, Amy Reynolds, Neil Theobald, Cara Wellman

GUESTS: Betsy Henke (IUSA), Ann Gellis (Associate Vice President for Research Compliance), John Graves (Faculty Council)

Agenda

1. Approval of Minutes

March 7, 2006

<http://www.iub.edu/~bfc/docs/AY06/minutes/03.07.06.htm>

2. Agenda Committee Business (5 minutes)

(Professor Theodore Miller)

3. Presiding Officer's Business (5 minutes)

(Interim Provost Michael A. McRobbie)

4. Question / Comment Period* (10 minutes)

(Interim Provost Michael A. McRobbie and Professor Theodore Miller)

5. Intellectual Property Policy (30 minutes) [SECOND READING]

(Professors Randy Arnold and Robert Ivie and Professor Ann Gellis, Associate Vice President for Research)

6. IUB Parking Proposal (30 minutes) [ACTION ITEM]

(Craig Bradley, BFC Agenda Committee)

Original Report: <http://www.indiana.edu/~bfc/docs/AY05/ParkingReport.pdf>

Proposal: <http://www.indiana.edu/~bfc/docs/AY06/circulars/B34-2006.htm>

7. BFC Presiding Officer (10 minutes) [DISCUSSION]

8. Further Discussion on Conflict of Commitment (10 minutes)

<http://www.indiana.edu/~ufc/docs/policies/Commitment.htm>

9. Standing Committee Reports

10. Old Business

11. New Business

AGENDA ITEM #1: APPROVAL OF MINUTES

MCROBBIE: Ladies and gentlemen, could we start please? Welcome to everybody. We were speculating as to how many people would turn up given the weather. This is a highly commendable turnout given the state of the heavens outside. The first item is approval of the minutes from the last meeting. Can I have a motion to approve these please from somebody? And a second, and assuming there's no debate on this, all those in favor of approving the minutes from the last meetings, signify the usual way, any against, any abstentions? They are approved unanimously.

AGENDA ITEM #2: AGENDA COMMITTEE BUSINESS

MCROBBIE: Item #2 Agenda Committee Business, Ted.

T. MILLER: Thank you. I have a fairly brief report today I think primarily due to the fact that I have been sick almost continuously since the last I saw you. So I have no idea what the Agenda Committee has been doing, to tell you the truth, I just really have no idea. But the one thing that I did want to say, of course we're obviously coming to the end of the year here, we have two meetings beyond this one. The agenda for those two meetings will include several topics. One of them will be the topic of general education. A second one will be a topic of procedures, Bloomington campus procedures, implementing the Student Code of Conduct, the Bloomington campus procedures to implement that code. You will see on the final version of the agenda here today that the Intellectual Property Policy does in fact appear as an item. There was some question about whether we would actually have something that we were comfortable talking about today. But it is here and that item as you can see is a second reading. I'm not sure how many other readings we will have but it will be on our agenda also in the next meeting and whether we're going to be able to approve this this year or not, I think it would be very nice and commendable if we could although I'm not sure if we will. Obviously this is a fairly important document and we want to make sure that we have this right.

With regard to the general education, let me take a stab at saying what I think the Educational Policies Committee wants to accomplish this year and Bill Wheeler and John Carini can correct me if I'm wrong about this. My sense is that what the Educational Policies Committee would like to do is to have the Bloomington Faculty Council approve this year a fairly general framework for general education as applied to all degrees offered on the Bloomington campus. This framework would involve a specification of a set of categories within which coursework would be done within each degree program. The actual specification of what the courses will be in those categories is not

something that we hope to settle this year. That will be a topic for next year. We also do not necessarily want to specify or decide how the courses that are going to be included in the various categories are going to get there. That's another topic that we will reserve for further discussion. My sense is that right now what we're trying to do is to focus really on a fairly general framework that is fairly similar to the things that many of us are doing now in the degree programs that we're familiar with and hopefully we can get some agreement at that level in a fairly short period of time. Now Bill would you like to complement that?

WHEELER: I think that's an excellent summary. We will be making available to all of you no later than next week, perhaps before the end of this week, copies of the current state of the draft; as with the admissions document, we're expecting to go through four, five or six versions between now and April. So we will be opening an Oncourse CL site and keeping the latest copies there, and we will be adding each of you into that Oncourse CL site so that you can see all of the materials that are there. There are options there for discussion forums and things like that to give us some feedback. And each time that a new version is put out there, you'll receive an email message about it. We want to promote as wide discussion as possible in the brief time that we have. So, we will be bringing those things to you. I think that Ted's summary of what we're trying to do is accurate.

T. MILLER: Now, as many of you know, we have tried on several other occasions to develop a general education campus—a Bloomington campus general education program—and we have been unsuccessful in every effort. It's clear that the tradition of the campus really goes in a direction quite different from any kind of campus level curriculum. So, I'm not sure if we're going to be successful this time, I hope we can be because I really do believe and I'll try to say more about this next time, I really do believe, and I'm speaking now personally, I really do believe that the kinds of changes that we have seen implemented on the Bloomington campus, the vision for the Bloomington campus that many people have in terms of some future development, I really do believe that having a campus level general education program is an important ingredient of getting to a point where this university can operate within the system of education in the state of Indiana that is going to be required if we're going to do what many of us would like to see done.

Well that's a fairly vague statement but as I said, I'll try to say more about that next time. And for those who have contrary views, there'll be time for you to express them. Okay, I think that's all for now.

AGENDA ITEM #3: PRESIDING OFFICER'S BUSINESS

MCROBBIE: Thanks Ted. The third item is my business. I really just have one item I wanted to mention and that is that I have asked Ted for names for a number of search committees. I'm about to form four more search committees; that will be for the deans of HPER, Informatics, the School of Continuing Studies and the Graduate School. I would hope to have the first and the last of those established very soon and that is HPER and the Graduate School, the other two probably over the summer. So, if you combine those with the College search and screen committee that's already underway and a number of other committees and task forces that are necessary to form, I'm hoping we have enough faculty in the university to staff all those—it's going to be quite a few of them but hopefully it will be seen as progress. And I think at least for the first and last of those, HPER and

the Graduate School, we'll be able to may be have people identified in the fall and the other two might be a little after that as well.

Then the Enrollment Services search is in the final stages; there's been interviews going on this week and next week and we'd hope to have a decision there within a couple of weeks as well. Of course everybody realizes what an important appointment that would be as well and I want to pay credit to Bonnie and her colleagues for what they have done on that particular search committee that's really generated an excellent field.

AGENDA ITEM #4: QUESTION/COMMENT PERIOD

MCROBBIE: That's all I had, just to mention and we'll move to the question and comment period for myself and Ted and can I ask for any questions?

JAGODZINSKI: When will the search and screen committee for the Dean of University Libraries be constituted?

MCROBBIE: That will probably be, I would realistically say in the fall, the reason being that this Council has an operation underway looking at the library. I've been talking to Pat about having some external assessments done of future directions and so on and so forth. She and I have to deal with the pressure of everything else at the moment with the budget and what have you but I would hope to have that underway fairly soon. So I would say that search would start in the fall but that one will take just a little bit longer and that's a slightly more complicated one I think in terms of the future and you're probably well aware. Other questions?

OGREN: This is a comment actually about the library test that's lying in front of each of you. As you know from our last meeting, the library is doing an internal survey about the future of the library and which direction it should be going and the Library Committee of the BFC has volunteered to try to bring this to faculty meetings around the campus in the next month. One of the things we're going to do is have a discussion but also have a paper form like this that can be filled out at the meetings so that we can collect. And this is a first draft of it so I encourage you to look at it, take the test, you can take it with any color pencil because it's going to be hand graded and in particular notice that on the back there's also three more general questions and the idea would be to get a conversation about what people's needs are for the library in the future. After that finishes, there will also be a website that opens up to try to get even more complete coverage and it will be quite similar to this. So if there's any comment you can write them directly on the form, leave them when you leave we'll collect them and otherwise this is close to the final draft.

MCROBBIE: Other, yes?

WATERMAN: Yes, I just had a question. I don't know that there's any history to this but about the IMU hotel policies. It's a very nice hotel and very capable people and all working there but my understanding is that they don't give any preference at all to IU related events or IU guests and I'm just wondering if it's possible for the hotel to do that without costing them substantial money. It would seem justified in that it's a university facility and some cases the convenience of having people there rather than in town is fairly high.

I can just think of one example of a possible thing; the hotel doesn't maintain any kind of waiting list and we've had a guest that we invited for our department and about six months ago I called and there was no space because of the Auctioneer's Conference being held there but you have to just keep calling back everyday to find out if there is space in the hotel. One thing perhaps might be that if you're using an IU account, could they give some preference or waiting list for people who are waiting to get job candidates or other guests of departments and all. Again, I don't know what the history of this is.

MCROBBIE: Well without wishing to dazzle you with my particularly profound knowledge of the economics of a hotel and everything, can I take that one in person and I'll get you an answer to that question and find the right person who can get an appropriate answer...unless anybody wishes to volunteer the information if they have it but I'll certainly get a response to that. It seems like a reasonable point. Any other questions or comments from anybody?

AGENDA ITEM #5: INTELLECTUAL PROPERTY POLICY

MCROBBIE: Okay if there are no more questions and comments we're going to move on to the Intellectual Property Policy discussion and who's going to take the lead on this?

IVIE: I'd like to make a few opening comments about this second reading of the Intellectual Property Policy that we're trying to develop here. This draft that's before you today for the second reading reflects our efforts to take into account the feedback that we received from this body and from others after the first reading, which was a month and a half ago on the 7th of February.

I co-chair the Research Affairs Committee with Randy Arnold who introduced this last time and we're here to answer any questions or comments that you may have at this point but let me make a few opening comments about this draft and about the history of this draft and then ask Ann Gellis to make a few sort of framing comments that I think from experience will help us all interpret what's at work here.

Since that February 7th discussion we've met and consulted with multiple interested parties including a meeting on February 17th that included members of this body and the original vice president-appointed drafting committee. That combination of folks included Bryan McCormick, Ted Miller, Dennis Gannon, Bob Eno, Beth Cate, Kelly Kish, Randy and myself. At this meeting on the 17th we worked on improving the definition of Creators, clarifying disclosure requirements for software, on addressing concerns related to the production of online instructional materials and a number of others were minor matters, but important matters though. We also received input from copyright lawyers on the faculty of IUB, Paul Newman and IUPUI, Kenny Crews, culminating in a meeting of Ted Miller, Ann Gellis, Randy, Kelly and myself yesterday afternoon. We went through a set of revisions that had been penned by Ann Gellis in response to the said input from the copyright lawyers. The version that you have now is a result of those meetings and consultations. The policy is substantially the same as the February 7th draft but it's been amended to eliminate some inconsistencies, to achieve some clarifications and to anticipate some additional circumstances brought to our attention on and after February 7th.

There are a few places noted in this draft that are marked where we're still working on a detail or two. One of the things that we didn't successfully do is that in this draft we are replacing the reference to vice president for research with reference to the office of the president because that's

the only office right now that we can designate that's university wide and since this is a university wide policy.

Also there is missing from this some material that Randy had told you on the 7th and we had intended to include in it, it was just an oversight. It will be appear on this draft on pages 17 and 18 and that is simply some language that would add on page 17 for example, it would add "c" and drop everything from "c" on down that would say periodic that the Intellectual Property Policy Council shall "c. periodically review the effectiveness of the IURTC in utilizing the revenue that it receives under this policy to serve the interests of the university." And then the same theme would recur on page 18, which would be item "v". It would be an addition to the sentence that reads at the top "the Intellectual Property Policy Council shall submit a written summary of it's activities annually to the University Faculty Council" and we would add "and shall specifically address in this report the effectiveness of the IURTC in utilizing the revenues that it receives to serve the interests of the university". That was something we told you we were going to add and in the frenzy of getting this document ready for you today we just simply overlooked it.

Also I would note that on page 4 of this draft, there is one of—the main item that we have yet to nail down and it's in brackets toward the top of that page. Some language that needs to be added that will identify what the threshold is for submitting software code for evaluation as potentially patentable. That's a matter that may require some further discussion today and later. And Ann is working on that as we're thinking and speak about it now. So in short the draft that you are currently looking at is vetted version of the February 7th draft that we presented to you a month and a half ago.

The February 7th draft was some product of a work of two groups; first a university Intellectual Property Policy Committee was appointed by then Vice President for Research and co-chaired by Bob Eno of IUB and Simon Atkinson of IUPUI. That committee was asked to update the existing IU Intellectual Property Policy. This drafting committee produced a document that was referred, at the beginning of the current academic year, to the Research Affairs Committee here at IUB for its consideration. Now a bit more specifically it was in April of 2004 that the University Intellectual Property Policy review committee was established with the charge from Vice President McRobbie to review the appropriateness and effectiveness of the existing Intellectual Property Policy, how effectively it's been implemented and the stipulated revenue distributions. In April of 2005, that committee produced a draft that entitled, it was a draft document, that was entitled Indiana University Policy on Intellectual Property which was then passed along to the Research Affairs Committee at the beginning of this academic year for consideration. So that was the first group.

The IUB Research Affairs Committee determined after reviewing it that the original draft that it had received should be reformatted to separate policy from explanation of policy. So undertaking this reformatting, which is the formatting you've got, we did not attempt to make any substantial changes in the policy that had been generated by the original drafting committee. The IUB Faculty Affairs Committee also looked at this draft that had been produced by the McRobbie committee and upon reviewing that draft they offered our Research Affairs Committee some of the editorial changes that we've worked into reformatted versions. So the Faculty Affairs Committee put eyes on this as well as Research Affairs Committee.

In the course of discussing the IPP or the IP Policy this year, it's become increasingly apparent that everyone involved will benefit from an overview of the legal context and economic considerations

driving this policy reformulation as it relates to questions of copyright and patent ownership of faculty scholarship and inventions. Accordingly we've asked Ann Gellis to provide you here today with such an overview. We think that this will help everyone understand better the challenge before and to assess the proposed policy accordingly. While no policy can reasonably aspire to perfection, we believe this policy has at least two important virtues. First, the level of detail in which the policy is spelled out here which is greater than the level of detail in which IPP is typically spelled by peer institutions, protects faculty interests from willy-nilly encroachment in an era of corporate models and hyper privatization of public universities that constitute an economic incentive for universities that is increasingly to assert their legal right to ownership of intellectual property produced by faculty and their employees. So we think that the detail that we have here is a way of protecting faculty interests from further encroachment, at least willy-nilly.

Second, another virtue is the distribution of revenue to faculty generated by the transfer or commercialization of patented intellectual property here in this version is more generous than in the university's existing policy and more generous than the norm for peer universities or institutions. So at this point I'm going to ask Ann to explain the legal context that makes these two virtues perhaps a bit more meaningful to you.

GELLIS: Thank you, Bob, for that task ahead of me. I have a handout that will explain it all and in only one sheet of paper. First of all let me say that when we undertook the review of the existing policy, we did so initially because the existing policy required that revenue distribution provisions be reviewed every five years. So in compliance with that we decided well, we've had five years of experience with the existing policy, were there problem areas and we did identify a number of problem areas. One was the treatment of software, one was how to treat online instructional materials for web-based distributed education courses and another was we had in the existing policy a term of "institutional works" and it was not clear when it something was an institutional work and when it was not an institutional work and so we attempted in this policy to deal with those issues. Those areas remain in some ways still the areas that are most confusing for people.

Intellectual property includes two types of intellectual property. There are other forms of intellectual property but the policy deals only with patentable intellectual property and that which is copyrightable. There are other forms but what the policy is concerned about are those two main categories. Most of what we do falls into one or the other of those categories. There are some other things that we deal with that is intellectual property trademarks or intellectual property biological materials may be intellectual property than can be neither patented nor copyright but they are still intellectual property and we're going to push those to a side.

Most of what we do is, for example for copyright, books, manuscripts, articles, paintings, drama, anything video tapes, choreographed materials, anything that can be produced, it's the original expression of ideas produced to a tangible medium, it can be written. These are copyrightable, it can be electronic, obviously but it has to be tangible.

Patents are basically inventions. The types of processes, machines, manufacturing processes and so on. So we have these two types of intellectual property. Beyond that in order to patent something or to have copyright on something, you have to know who is the owner.

Now one of the things that I want to make clear is that when we talk about the owner the law will decide who is the owner or it will allow people to negotiate either through our policy or through

contract, who is the owner. Owner has certain legal rights but then there are rights to use intellectual property so that you can split the rights to own and the rights to use it, the rights to change it can be divided can be divided among people. If you look at the policy, it assigns ownership particularly in the copyright area and then also describes the rights to use that material basically between the university on the one hand and those people who have created it on the other.

Now I want to step back in terms of understanding what the Intellectual Property Policy does. It does not change what has been in this policy adopted in the 1990s and that is all patentable inventions and so on are owned by the university. The more difficult area is in the area of copyright. Now, under the law, in the outside world, not in our ivy tower, generally speaking for patents but certainly for copyright, there is a rule known as the work for hire rule. And that means that intellectual property that is created by employees, by law, unless changed by contract, the default provision is that intellectual property produced by employees is owned by the employer. So if you work for Lilly and you create an invention, make a drug, or you write something, you write a brochure, you write an insert for the drug or you do something and you produce a seminar or something that is written, those things belong generally speaking to Lilly, to the employer.

Before 1980, roughly, most universities by tradition didn't really pay much attention to the intellectual property that was produced by its faculty, particularly that which was copyrightable as opposed to patentable. And they basically allowed faculty to own their and have the copyright ownership of their scholarly work. So it was thought that faculty owned their work, their books, their articles and so on. This is the reversal of the work for hire rule. There was an event that happened in 1980 that somewhat and then carried forward through the mid-1990s and it changed the attitude of universities toward intellectual property and in particular patented or patentable intellectual property. In 1980 Congress adopted what's known as the Bayh-Dole Act. And the Bayh-Dole Act had as its purpose to ensure the commercialization and the bringing to the market of inventions and processes and those things that can be patented that were discovered with the aid of federal funding. So when you get federal funds from the National Science Foundation or the NIH and that helps you create something that can be patented, the idea behind the Bayh-Dole was to push that into the marketplace by giving to the institutions that received the money in this case the university, Indiana University, the right of ownership. And universities are required, under the Bayh-Dole Act, to commercialize intellectual property that is created with federal funds that is patented.

Moreover, the Bayh-Dole Act has a number of other provisions. It requires that the federal government have a non-exclusive license to all patented intellectual property created with federal funds. It allows the federal government, if it finds that a particular institution is not commercializing intellectual property, it's not taking the opportunities that the Bayh-Dole gives, it has the right to—it's known as marching rights—to go in and take the ownership of the intellectual property for the federal government. Prior to Bayh-Dole Act ownership of the rights in intellectual property was owned by federal government. So this was a way of giving the universities more of an incentive to get things out into the marketplace.

So now we have a push from the federal government not only to naturally push the goods out—the intellectual property into development but we need to have policies that complied with the Bayh-Dole and it is in the 1990s that you see almost every research institution adopt intellectual property policies and put down in writing many times for the first time what the rules were and so out of that comes this notion that for intellectual property can be patented that needs to be owned by the

university and—by the way the Bayh-Dole Act requires that universities and other institutions that get federal funds have a revenue sharing scheme with the inventors. So we need to have policies that provide for patentable intellectual property that have revenue distribution schemes.

The issue is what to do with copyright. Basically intellectual property is both. The Intellectual Property Policy at IU like that at every other institution that I've seen, and believe me I have read many many of these policies, in fact if anyone wants I have a copy of the Intellectual Property Policy at all of the Big Ten institutions and you will not see really any difference between that which we have drafted—well you'll a big difference, ours is about 20 times longer but other than that, the basic premises are the same. So the first thing the policy did and does now is distinguish between—with respect to copyrighted materials, it says okay, were not going to go back on the agreement we've always had with faculty. Those things that were traditional works of scholarship: your books, your articles, your paintings, your pottery, whatever it is, are still—the copyright belongs to the creator. So now we have two basic rules, patents and traditional works of scholarship.

And then there are things that don't quite fit into one or the other areas and these things became more important basically and the gaps in the policy developed after our first stab in 1996 at the Intellectual Property Policy. One is, if the university commissions a work to be produced, whether it's let's say a video tape or commissions a specific course or a seminar or a workshop. The policy says where IU has commissioned it specifically, the copyright is owned by the university.

What happens with online instructional materials? Now, if online instructional materials were exactly like other instructional materials that we have produced in the past and if people were like me they wrote them out on legal pads and still have their notes on paper and I did not use my computer in any way, we would say okay, doesn't it really make any difference if you sit at your computer and you type out your notes or you type out your course or you write a textbook on the computer, that makes no difference, it would be a traditional work of scholarship. But for web-based courses, what we've discovered that in many cases, not all cases but in most, I would say many to most cases, the kinds of university resources that are involved in putting together an online course is substantially more and are exceptional in the sense that there may be more people involved, there may be IU staff, people from UITS, graphic artists, all sorts of collaborative efforts plus additional university resources. And what this policy does is say, in those cases where—the policy attempts to define that we're not talking about ordinary resources, we're not talking about using the library or something comparable to the library, we're not talking about having a graduate assistant or maybe just a little addition help, we're talking about exceptional additional university resources. In those instances, the ownership would be within the university. It then goes on to spell out various rights to use it when you're here, various rights to change it, to modify it, to keep it up to date, various rights to use it when you leave the institution. So, as I said if there is this additional aspect of exceptional support, that becomes university owned.

Second exception: if we have outside external funding, in other words from the federal government which is in most cases but private, then the ownership is in the university because generally speaking under federal law you're required by the Bayh-Dole Act to have the ownership. Under copyright you're generally required if you have federal funding and you are required to produce something under the grant, let's say a video or web-based materials, those things the federal government requires that they have a non-exclusive license to those deliverables. So in order for the university to give the federal government it's non-exclusive license, it has to be the owner. So the policy says if it's externally funded, the university owns it. So even if what would otherwise have

been let's say a manuscript, that was produced with federal funds, at least initially is owned by the university. So we have exceptional support with respect to web-based materials, we have commissioned works by the university and we have externally funded intellectual property and those three cases where people would go out for copyright protection, the owner is the university.

That leaves one more area that was fairly confusing under the old policy and I dare say it's still confusing under the new policy and that is software. How is software treated? Some software, I am told, and Michael knows that I understand this to the bottom of my heart of the difference between hardware, software, patentable software and non-patentable software. But in any case, believe me, some software can be patented. The processes for example, I can give an example, the process by which you can encrypt that or the process by which you can have voice recognition. Now if you press me for another example I'm lost. Those things can be patented. All software, other than that part which can be patented, can be copyrighted. Software tends to, not in every case, but if you think about it in many many cases software is developed very often with outside funding from the federal government or private or often it is collaborative involving perhaps exceptional university resources. Plus it has this aspect that some of it may be patentable. So instead of trying to decide or to put in a policy which is which, we have said that for purposes of the policy, all software is initially treated as patentable and therefore you are required to disclose it to the IURTC. They will then make a determination based on their knowledge as to whether it in fact involves either external funding or whether it involves something that can be patented, whether it involves a university work, IU is either commissioned or involved exceptional university resources. If none of those exceptions apply, then it is by default a traditional work of scholarship and they will give you back the ownership rights and you can do anything you want and copyright the software in your own name or you can choose to have IU copyright it. In fact I have seen at least, for example, in Northwestern University policy takes the position that faculty ought to consider whether they want Northwestern University to copyright it anyway because it provides better protection. You can open source it.

If it's possibly patentable but IURTC doesn't think it really is worth patenting; if it thinks that oh yes okay it was either commissioned or had exceptional resources but they don't want to do anything with it, they will again ask you what you want to do with it and give you the rights to decide whether you want it back, whether you want them to copyright it or you want to copyright it. But initially, in order to make sure that we've got it in the right place and we don't lose rights or violate the federal law, we've initially said that it would be treated as patentable, you would file a disclosure; if you look at the IRTC website, they have disclosure forms for inventions, for copyrights and for software. They have a special form for software, it's about three pages including your signature and then they'll make a decision. That decision under the policy can be appealed to the Intellectual Property Policy Committee, which is a faculty [End of Tape 1, Side A, some comments lost] ... that is the way we sort of define works basically by ownership. So you start out with applicable intellectual property that is patentable and copyright, you have the big exception for traditional works and then we have a number of other exceptions that apply related to other additional university resources or external funds or it's being commissioned by the university.

T. MILLER: Could I just...let me just make a comment following up Ann's last point. This software issue is still one that as she has suggested, that's still under some active consideration. It seems to many people that the idea that all software created by the faculty or by the students or by the staff of Indiana University, that if all software created is sent to the IURTC for evaluation, that this might be something of an overkill in terms of the operation of that organization. It seems

reasonable to believe that some software probably shouldn't be sent there because it obviously is not patentable. So one of the things that we're trying to do here is to try to decide, try to create some sort of description about what the separation should be. Now, let me just say this is a topic that I really don't know very much about but Kelly and I this morning sat down and tried to determine whether any software that we knew about was patented and far as we could tell, there is no patented software.

GELLIS: But that's not true.

CARINI: At Indiana University.

T. MILLER: I'm just saying that we looked at the stuff that's on our computer. We opened up Microsoft Excel and we looked at some indication that Microsoft Excel was patented. Well, it's not. It's copyrighted. All of these sort of standard software programs that we're familiar with, these are copyrighted programs. They're not patented programs. So we're kind of searching for an idea about what really constitutes software that could be patented and that ...

FEMALE SPEAKER: Operating systems.

MCROBBIE: Unix, versions of Unix have been patented. It tends to be algorithms that get patented because that's relatively easy but my suggestion here is getting expert advice.

T. MILLER: Well yes, I'm just trying to say that this is a part of this that we're still pursuing actively.

GELLIS: Ted I think the way to go is to require the disclosure prior to—I was looking at other policies and also looking at the way the IURTC disclosure forms look. The key is to have a disclosure in order to protect your rights in case you do have something that's patentable and copyrightable is to make sure that you've got your disclosure in before you've made a public disclosure outside of the university. And so basically if you're going to take some software that you've developed and bring it outside of the university, you should disclose before that to make sure that you've protected all of your rights.

So my suggestion is to deal with that so—again, it's very hard for me to articulate this since I don't even understand what software is. So I'm assuming that if you're sitting in your office and you develop some software and you tell no one about it and you use it in your class and just talk to your spouse about it, you don't have to worry about disclosure. It's when you take that step to bring it to the public because you think you've got something that might be of interest or commercializable, if you'll excuse that word, then you ought to disclose it. And basically, it is the public disclosure outside of the university that runs the risk of if in fact you have something that's patentable, saying well you know what you can no longer patent it or your copyright is no longer, that you may lose some rights under the copyright law. So it seems to me that's the crucial point.

The other thing that I should just pass on in talking with people in IURTC today is that if you want to open source your software, again, I understand what open source means, that they will just say fine. That is that they are not second guessing on the issue of software, whether it should be open source or commercialized. So with that I'll...

MCCORMICK: As co-chair of the Distributed Education Committee I'm actually happy with the changes in this. I am concerned about the ongoing, what I believe, misperception, that distributed education requires significant and greater university resources. The idea that a 600sq foot classroom is a lesser investment of resources than 100MB of server space is a real concern and that's where this idea that the university invests greater resources into a DE class than it does with traditional classes. If you look at a complete cost analysis I don't know if that would fly.

GELLIS: I don't know. All I know is that if it's not true then it's treated as traditional works of scholarship.

MCCORMICK: Right. And actually I think that the language in here improves that but that's not the point. I'm concerned about perception, but the policy itself I'm fine with.

GELLIS: Ok.

CARINI: So can you give specific examples of a course had exceptional university support and there's an agreement between the faculty and the university as far as copyright ownership.

GELLIS: I know that there were many, particularly in the nursing school have done lots at IUPUI and have specific agreements before. I can't name a course right off the top of my head.

MCROBBIE: I believe there were some on the School of Continuing Studies too although someone may be able to illuminate that. I think there's been quite a bit of work done there.

GELLIS: The School of Education. The policy takes the position that it's the obligation of the university to say ahead of time that this is exceptional support. So if a unit—you go ahead and you develop something and nobody says anything to you and then at the end of the day the university says, wait a minute we own this, then the university is out of luck. The obligation is on the university to identify where it is giving exceptional support.

THIBOS: I have a question, Ann. Of all the things that we were talking about patentable and intellectual property, the wording says "creators shall disclose promptly to the IURTC office" ...

GELLIS: We're going to expand on what "promptly" means.

THIBOS: Not just promptly, it is the "shall" part. The thought is that this is a mandatory requirement for any faculty, students, staff, employees that are at the university?

GELLIS: Yes.

THIBOS: And there would a penalty associated with failure to comply?

GELLIS: Could be.

THIBOS: But that doesn't have to be specified in the policy statement? What I'm worried about is ambiguity.

GELLIS: I mean there are processes for handling, you know, not following university policies and so on that would take into account whether it is inadvertence or ambiguity or whatever. I don't see how you can build that into this policy.

ARNOLD: And I think the idea is that you shall disclose to IURTC as opposed to going and patenting it on your own outside of the university.

MCROBBIE: Or giving it away deliberately.

CHAPA: On that last point you if you open source it you're giving it away deliberately and now that—when Ann Gellis was speaking, I think you said the decision to make it open source was up to the creator.

GELLIS: I said that IURTC was generally amenable to that and if it's, again, if it is your—software has to be disclosed and then if IURTC determines that it doesn't qualify for any, it is not patentable, did not involve exceptional university support and was not externally funded, then they'll say you can do anything you want with it.

CHAPA: Ok, I misunderstood, thank you.

TERRY: You said unfortunately that you don't know what software is and that means that we have to turn to the definitions in here and I guess...

GELLIS: There is not definition.

TERRY: There is. I'm wondering, given the critical nature of whether something is software or not to the implementation of the policy, if there is any definition of software other than the one on page 9, which applies as far as I can tell only to software that is somehow, in one way or another incorporated in online instructional materials.

GELLIS: No, that is not defining software. That's just saying that if it includes software, that part of the course has to...

TERRY: Not g.

GELLIS: g?

TERRY: g.i.d it seems to me the definition of software for section g.

GELLIS: Yes.

TERRY: Okay, so is there any other software? Now my specific question based on that and it's the question I'm going to be asking I guess on behalf of colleagues. Is digital art, as a faculty member's creative work, software? Because on your definition of traditional works of scholarship you've specifically excluded works of scholarship that are software.

GELLIS: I think that's the idea.

TERRY: What do I say to my digital artist colleagues?

CARR: It wouldn't be executable.

TERRY: Sure it is, could be.

WHEELER: If it's dynamic it's executable.

TERRY: It's dynamic.

GELLIS: So yes, it is software.

TERRY: So his creative activities would probably never be defined as traditional works of scholarship because they are digital art?

GELLIS: Well, it's not defined as traditional works of scholarship in the sense that you must, you have to make a disclosure if want to basically distribute it. It may then be decided when it gets to the IURTC that it is in fact a traditional work of scholarship because it doesn't have these other aspects.

TERRY: But before he could exhibit this digital art he would have to make a disclosure?

GELLIS: Right.

TERRY: Okay, then I'll be able to tell him what he can do with it?

GELLIS: Yes.

TERRY: Second question, would a video game be software?

GELLIS: Yes.

TERRY: Because we have an entire program in which students and others develop video games. They would have to disclose. The third question related to that. Video games are inevitably what you just read correctly as collaborative works. Do you think this policy would sort out who the creator or creators are of that type of collaboration?

GELLIS: Not necessarily, no.

ARNOLD: The Creators should at that point sign an agreement saying who has what portion of the whatever.

TERRY: You can imagine in this case the faculty member who is the director of a students' MIME masters' thesis would have to negotiate an understanding with that student upfront regarding either the student or the faculty member for this purpose as the creator. They decide that between themselves and have to turn that on the disclosure form.

GELLIS: Right.

MCROBBIE: Other questions?

GROTH: Just a comment, I think in the policy it talks about student work being maybe exempt is too strong a word, but student work is owned by students, under all circumstances?

TERRY: What page?

GELLIS: Yes, it says that in the case of students, copyrights for online instructional materials created as students and submitted to course requirements are owned by the student even if they haven't used university resources. It's a very specific...

MCCORMICK: You know that's a sub point of the online materials though?

GELLIS: Right. Otherwise student intellectual property is treated the same way that everybody else is. That is, just the way faculty or staff intellectual property is treated. So if they were a part of doing a video game, they would be an inventor or a creator and have a joint copyright, you know, be a joint owner of the copyright.

THIBOS: Just to make a comment, one of the changes in this policy, it is my understanding that from the current policy that the Office of Technology Transfer is now getting a fair distribution of the revenue and I think that's a good idea. In my experience the main problem with the Office of Technology Transfer is lack funding, big legal costs to protect the intellectual property and by making them a stakeholder in making good decisions about which IP to pursue, I think it's a very good idea.

GELLIS: Yes, the Task Force on this issue and it's clearly from the beginning to the end there's a lot of documentation that they were under-funded.

MCROBBIE: It's not, I mean I've been on the IURTC Board for some years and it's not clear the figure is going to change that much to begin with. But what used to happen was that the share that went to the university went to the university and the university gave back what was effectively about the same amount. So now it goes directly to IURTC which gives them an incentive which they really didn't have before. I think it's a pretty good change.

OGREN: Just as a point of information, what is a rough magnitude of the revenues coming in from copyrights and patents to the University?

MCROBBIE: It was about \$8 million last year if I remember.

TERRY: This is a technical copyright law question in a way. Since among copyrights are the rights to make derivative works...

GELLIS: Excuse me.

TERRY: Since copyright covers the rights to make derivative works, does this contemplate that the university might years down the line want a financial stake in a derivative work created by the

original creator whose work was deemed to be partly owned by the university?

GELLIS: The original work was owned by the university?

TERRY: It was decided that the original work was not a traditional work of scholarship.

GELLIS: Okay, they...

TERRY: Years down the line, within the terms of copyright law, they create a derivative work; they are now working for somebody else. Does the university claim a stake in their derivative work?

GELLIS: But they are not working for the university?

TERRY: Not anymore.

GELLIS: You want to make it real hard for me right?

TERRY: They were graduate students among other things and they moved on and now they're doing derivative works based on their copyrighted work down here.

GELLIS: Well why don't they original work? [Laughter] I have to get back to you.

TERRY: It's not an abstract question.

GELLIS: I know it's not and there is something about derivative work in the policy and I'm trying to find it.

MCROBBIE: Ann's taking you up on an answer.

TERRY: Come back and tell me later.

MCROBBIE: You finally came up with a conundrum that defeated her.

GELLIS: But didn't shut her up!

MCROBBIE: Other questions? So maybe you can just explain. I believe we will now vote on this? Is that what we are doing or is this the first reading?

T. MILLER: This was a reading today. This is going to go to the University Faculty Council I believe next week; there'll be some discussion there and it will be coming back here probably after the next meeting but hopefully if not the next meeting, the final meeting of the year. Hopefully we can approve this.

IVIE: Yes, we basically wanted to see if we had made serious progress here and we've narrow the issues down and I think we know what's left to be done and so thank you very much.

MCROBBIE: Let me say having been involved in this from the outset that this really does—I know that it’s taken a while but this does constitute real progress. This is a very fine piece of work. I know a week ago Ann didn’t think it could be done. Alright, thank you all very much.

AGENDA ITEM #6: IUB PARKING PROPOSAL

MCROBBIE: If we could move on to agenda item 6 which is the parking proposal and I think Craig was going to start with this.

BRADLEY: Well those of you who were on the Faculty Council last year will recall that a report came to this Council, was given by Fred Cate on behalf of a rather large parking committee that made five proposals and that report is included within your materials; that’s a seven page white document. They had five proposals which are summarized on the one page yellow document which we’re bringing to you today. Clint Oster was the chair of that committee and he’s here today to answer any questions that anyone may have about the original committee report because I wasn’t on that committee. But I was here on the Faculty Council and I was surprised that that report never really got very far in the Council. There was a little bit of discussion and then the report was referred out to committees. The part of it that referred to graduate student parking was referred to the AI committee and two other parts dealing with “R” spaces and restricting the large parking garages to “A” permit stickers only we referred to the parking committee. The ones that were referred to the Parking Committee were never heard from again. The Parking Committee never got back to Faculty Council and the other one that went to the AI Committee, the AI Committee did report back although I believe they didn’t make a formal presentation here but Dave Daleke summarized their finding which was that the AIs on account of their teaching responsibilities—that is, limiting it to AIs who actually teach undergraduates ought to have parking privileges. And David simply mentioned that and then that was it. There was no further discussion on the parking proposal as I recall and obviously Ken Gros Louis was not interested in doing anything about parking; I think he made that clear.

Well, it seemed to me that this Parking Committee proposal deserved consideration by this body especially because the parking situation is going to get worse as soon as the Fess Street lot is closed which it’s going to be I believe this summer to build a multi-tier parking lot there. So if you park anywhere along Third Street including the Atwater Garage, you’re going to be affected by the closing of this Fess Street lot. Parking is going to get even worse than it is now.

One of the things that the committee found that I think is important to highlight is that parking is worse here than it is on other campuses. The ratio of stickers to parking spaces as I mentioned in first paragraph of the preamble here, 2.6/1 for “A” permits and 1.7/1 for “C” is worse here than it is at other campuses that the committee considered. So it isn’t just that we’re complaining a lot about our parking here, it really is worse here than it is other places. So in light of the AI Committee’s recommendation, I proposed here and the Agenda Committee is proposing to you that we reconsider numbers two, three and four of the original Parking Committee report and that we pass them. Notice that number one: implement the second phase of the universal transportation fees that all buses are free to students has been done. Also number five: construct a new parking garage. That is underway, so those two we don’t need to talk about. But two, three and four nothing has been done about this and I got on the Parking Committee this year on the hopes of moving this forward but the Parking Committee only met once in October and hasn’t convened again so obviously no moving forward of these proposals was within the contemplation of the Parking Committee.

So the three other proposals of the Parking Committee are to restrict the sale of “A” and “C” permits to faculty and staff only but staff includes if you at the bottom of number two, AIs. Now this is going to pose an enforcement problem because every graduate student, if this goes into effect, will now claim to be an AI but AIs are specifically defined here as graduate students who teach regularly scheduled classes of undergraduates and they should be considered staff. So this conforms to the AI Committee’s recommendation from last year.

Secondly, the other exception to the Parking Committee proposal that we make here is number one at the bottom. Trying to not—realizing that we can’t beat city hall, we exempted the reserve space next to Bryan Hall from this proposal. But that’s the only one. One of the things that the university that makes the parking situation much worse is to sell spaces to private individuals, some of them who are not even associated with the university, for personal private use and only they can use it, so it’s empty much of the time. Now this raises revenue for the university but it makes the parking situation worse and so this proposal is to do away with that.

Also there are pockets of reserved parking that I know no reason for. Notably, kitty-corner from the Law School, there three buildings; two old houses, which I believe contain AIs and the university real estate office which have their own 24-hour reserved parking lots and they are half empty all the time. I have no idea why those should exist but they do. And I suspect that there are other pockets elsewhere in the university that some of you may know of that have the same sort of arrangement. So really number one simply explains the fourth proposal of the Parking Committee to restrict “R” spaces for service and delivery vehicles only and again the only exception being the Bryan Hall parking lot.

Finally a matter in number three that wasn’t directly addressed by the Parking Committee and I don’t know how big a problem this is, is that some people evidently get jobs at the university so they can get a parking space and then they quit as soon as they get the permit and then they or their spouse or somebody uses the permit all year. Now again, this is an enforcement problem; it’s something that parking operations will have to deal with. Enforcement isn’t my job and I don’t know how to enforce it. One way obviously would be to make their paycheck contingent on giving back their parking permit. But to the extent that this contributes to the problem, it seems that we should suggest that this be handled. So we of course do not have control over this nor it turns out under the way the university has now been reorganized does Michael—this falls under Adam Herbert’s jurisdiction directly and I guess Dick McKaig as well but still it strikes me that it would be helpful for the Faculty Council to get behind a proposal to enact numbers two, three and four from the Parking Committee proposal last year. So that’s what we’re proposing. I’m sure people have feelings on this matter.

WATERMAN: How does the pricing of the permits fit into this? I read this and it’s talking about the “A” and “C” permit holders and the flavor of it is that the only way to reduce the ratio of permits to spaces is to restrict various groups but it would seem to make sense to raise the prices of the “A” permits. I can understand why the “C” permits would be left where they are since everyone has to have a parking space with a job. But if the “A” permit prices were raised, I understand that’s a self-supporting system, this would generate more revenue to build more parking, it would allow people to have choice and it would create an essentially subsidize and help keep the prices of the “C” permits low rather than have this kind of rationing system where everybody rushes...

BRADLEY: Well someone is going to get hurt either way. Of course the people who can't afford to pay a lot more for their "A" sticker would get hurt.

WATERMAN: But then they can park in the "C" lot. If people who really care about parking close can spend the money to buy an "A" sticker then the "C" permits are still available.

BRADLEY: Right, but then there wouldn't be enough spaces for the "C". That is certainly a way to go and I know that it's something that the Parking Committee considered and perhaps Clint can explain why they decided to go this way rather than that way.

OSTER: Well we looked at that, obviously we looked at that option and encountered considerable resistance to raising the "A" sticker because of concerns about many of the staff in some locations on campus, there really aren't any "C" lots that the staff can reasonably park in. So a relatively high proportion of the staff in some parts of the campus purchase "A" stickers. So if you're getting into the business of trying to raise the "A" rates significantly, and they would have to be fairly significant, then you're probably going to get into some sort of a business where you are going to have to subsidize "A" stickers for lower income people who don't have access to "C" lots. By the time you do that then your revenue, putting aside the enforcement issue, putting aside how much to subsidize, then much of your revenue generation capability goes away. So that didn't seem to be a particularly useful approach.

WATERMAN: Well forgive me for unloading some baggage from my own time on the Transportation Committee. It seems to me the related problem and it's discussed in here is, I can't understand the rationale of why some blocks of spaces are "A" and some are "C". For example some of the covered lots like Jordan, fill up later than the library parking lot next to R&TV and yet the Jordan lot is all "A" spaces, it's all "A" permits and that fills up later and it seems like the more desirable spaces should be "A" and the somewhat less desirable spaces should generally be "C" and if you give it some—made it more rational system like that then some of these pricings will obviously work out a lot more naturally.

OSTER: That may be. The committee exclusively looked at the issue of whether we wanted to get into the space by space issue of what should be "A" and what should be "C" and we quickly determined there was no way that we were going to do that because first of all there's remarkably little agreement about which of them is more attractive and which is the less attractive lots because it's not the issue where the lot is it is the issue of where you work relative to where the lot is. So quite honestly, we didn't look at that, we ducked that issue. You may be right but we ducked that issue.

MCROBBIE: Did you have a question?

A. MILLER: I just was curious, this is a point of interest, how for example handicap spots are allocated and what percentage, how that works, how that's determined?

OSTER: It was my understanding that there are some reasonably formulaic guidelines on what proportion of spots and the university follows those spots.

A. MILLER: And does that go lot by lot then?

OSTER: I believe that's right but again...

A. MILLER: You don't know what the percentages are?

OSTER: No, and I don't think it's up to us. I think there are some federal mandates.

A. MILLER: Right, that's what I was asking.

OSTER: It's my impression that we just do what we're supposed to do that way.

PIEDMONT: First I did want to mention that the Transportation and Parking Advisory Committee is going to convene this Thursday.

BRADLEY: After they were notified that this was on the Bloomington Faculty Council agenda.

PIEDMONT: Yes and I just wanted to urge all of you to look at this parking problem which is something that has been with us for a long time and promises to be with us well into the future unless we do address it in a different way. There's something called transportation demand management where the focus is to change people's travel behavior rather than achieving a specific—rather than limiting who can park where. And a great example of this is what they've done at the University of Michigan Ann Arbor where since 2003 they've implemented a series of commuter benefits such as free bus passes for faculty and staff in addition to students, subsidized van pool where people who live in the same neighborhood have a van and get a preferred parking space that way, more park and ride lots that are used by faculty, staff as well as students there. They also are an active participant in their local planning organization and their local transportation association and they have a lot of benefits for people who ride bicycles. So I think that that's something that is much more viable in the long term than worrying about building more lots and where are we going to park in our individual little cars.

MCROBBIE: Yes?

JOHNSON: Yes I had a couple of questions. Restricting the sale of "A" and "C" permits to faculty and staff only, what staff is that? Does staff mean that you have to work so many hours a week, is it only full time staff, do you know what was the intention of that?

BRADLEY: Perhaps Clint can elaborate on that.

OSTER: I don't honestly recall but we our approach was not to change the definition of eligibility for staff than what it currently is.

JOHNSON: Because a lot of graduate students are staff in the sense that they work so many hours and they may not teach but they work 20 hours for an office. And my other question is, in restricting the Atwater, Jordan and Poplars parking garages to "A" permit spaces only, you mean to eliminate the pay? Those lots say "pay lots" and where will we put people? I think that the Jordan Garage is used a lot for people coming for campus visits.

BRADLEY: Yeah, go ahead.

OSTER: Well we addressed that in the report.

DOWELL: I would kind of quarrel with the way you address it in the report because you talked mostly about being able to arrange for “A” permits, temporary ones in advance, and working at the Lilly Library, we promote our exhibitions, the Art Museum promotes exhibitions. Right next to the Jordan lot is the Admissions Office, I would say a lot of these people aren’t necessarily planning in advance in that way that the “A” permits could be arranged.

OSTER: It could be. When we looked at practices on most of the other Big Ten and other large Midwestern university campuses, that approach seems to work pretty well for them.

DOWELL: Can you tell me about the availability of paid parking in general on campus and I’m only familiar with what’s on my pathways here. There’s the Union lot, there are some other places. Places in the main library that are. But those are also hotly contested by students who don’t have other kinds of permits. I just see that this—we’ll be putting a terrible squeeze on institutions who are helping to draw visitors into campus.

OSTER: That’s true. Although if you look at the lots that were—the particular three garages that I’m talking about, they are sufficiently congested most of the time that it’s not clear that those particular garages, we’re looking at three garages, that they provide very much visitor parking anyway. And as I said, the other issue is that the way, at least we frequently do it with our guests, is we send them an “A” sticker.

DOWELL: Who is “we”?

OSTER: School of Public and Environmental Affairs and we have a paid garage right across the other way but we normally send them a temporary “A” sticker as a matter of courtesy. What is done at other campuses that seems to work is if you can’t do it quickly enough, you simply have one held in their name by an attendant if there’s an attendant at the garage. Look, there’s not a single recommendation we made that doesn’t have drawbacks to it. The basic problem is that—and with all due respect to demand management, there simply aren’t enough parking places on campus. People are being severely inconvenienced now. What most of these recommendations will do is pretty much change who is going to be inconvenienced and for the most part to be frank, the recommendations will inconvenience students a little bit more and full-time faculty and staff a little bit less.

MCROBBIE: I think it was Bill and then I think it was over this side and then David and then Alex. Bill?

WHEELER: Thank you. So I had a question but after your remarks I want to add a comment. I’m very familiar with the Atwater Garage and I think it’s fair to say that any spot that isn’t designated as “A” will be filled by a paying customer and that’s been the case for many years. The problem has been that we’ve increasingly had to designate more spots as “A” spots in order to have any spots available for faculty and staff to come in after ten o’clock in the morning. But I wanted to inquire, it’s my impression then that in the past there has been understandings for that lot with regards to the sororities and fraternities in that area. There’s certainly several sororities there that need parking. Is there currently an understanding that students in those sororities will be eligible for—it’s not an “A” sticker but there is some kind of sticker which allows some students to park in that lot?

OSTER: The committee's recommendation was that that garage be "A" sticker only?

WHEELER: But is there currently some arrangement for those sororities?

BRADLEY: Yes, there are spots reserved to the houses.

WHEELER: I mean in the Atwater Garage itself, there are some reserved ones for those sororities.

KISH: They're not reserved spaces but they are allocated a certain number of "AT" stickers which are Atwater Garage stickers.

WHEELER: And they are eligible for that one?

KISH: That's right. They get put into a lottery.

MCROBBIE: I think it was someone up there, was that...Alex?

SHORTLE: He asked my question. This recommends elimination of those spots and it comes up to about 20 spots a house in the Atwater Garage. So there's probably about 60 spots. So you recommend the elimination of those spots?

OSTER: That was the committee's recommendation.

SHORTLE: And also in the AI and GA, elimination of "A" and "C" permits, what about students who aren't under those two classifications; students that aren't TAs and are GAs like myself, I have a parking pass. There are other students...

OSTER: We will grab that back from you so fast.

SHORTLE: Well, there are students who work on campus that can be considered staff.

OSTER: Then if they qualify as staff then they can buy them as staff.

SHORTLE: And would I qualify as staff?

OSTER: I don't know.

BRADLEY: In general though students who have part time jobs would not qualify as staff.

MCROBBIE: David?

DALEKE: I just wanted to come back to the topic of including AIs and graduate students in general as staff. Alex just starting to mention some of this, clearly AIs who are teaching courses and one quick clarification, some AIs do teach graduate courses and not just undergraduate courses. So you might want to make that clarification on the document.

BRADLEY: We'll take that as a friendly amendment.

DALEKE: But RAs and GAs some of them have FTEs equivalent to AIs and you could easily justify classifying them also as staff. So I would encourage you to do that. One of the consequences of this though is that that category of student can barely afford to purchase an “A” sticker and if one of the goals of including them as staff is to allow them to park close so that they can come teach their night courses or whatever it is that they are doing, I don’t think we’re going to achieve that goal. So I think we need to carefully think about whether we’re going to prorate “A” stickers or whatever we might do to enable that group of students to be able to afford an “A” sticker to achieve the goal we’re aiming for.

BRADLEY: Well of course night courses aren’t going to be a problem because the parking restrictions are lifted at night anyway.

DALEKE: Is the Atwater going to be a 24-hour “A” only.

BRADLEY: I would certainly be happy that it not be 24-hour.

DALEKE: But regardless, even during the day, one of the goals of this is to try to get close parking for them and they won’t be able to afford it under some of these guidelines.

BRADLEY: Well they wouldn’t be eligible in any case.

DALEKE: AIs?

BRADLEY: No the AIs would be.

DALEKE: But that’s what I’m talking about, the population of the AIs. Another group that we haven’t captured here are post-doctoral fellows. These are individuals who work as research track or they might be temporary post-docs. They are often in an ambiguous situation where they are not counted as staff, they’re not counted as students and they’re not counted as faculty, so where do they fall in this category.

BRADLEY: They would be excluded.

T. MILLER: No, I don’t believe that’s right. A post-doctoral fellow is an academic appointee of the campus. They would be eligible for a parking permit.

GELLIS: They are employees.

DALEKE: As staff?

KISH: As faculty. And AIs are faculty. I just need to point out that I know and those in the AI Committee members know this, I really think what you want to do is consider AIs as faculty, not as staff. That’s a significant change in BFC policy. AIs in the BFC policy are faculty and not staff. I don’t mean to sound demeaning in that but that’s an important distinction.

DALEKE: We can just call them all academic appointees.

KISH: That would also be a change of policy.

BRADLEY: There was no intention to change the present policy in this respect.

ROHWER: Could you explain the inconvenience to students and where they are supposed to park?

BRADLEY: Well where students are supposed to park now in general is at the remote lots, the football stadium being the main one which has bus service and also to take buses which are now free to students to take around town or to ride bicycles or whatever.

OSTER: Which by the way is an option for faculty; faculty also can ride the free buses and they've been able to do so for quite some time. I do note with some interest how solemn I see faculty riding those buses. But nevertheless they are eligible for that without cost as is the case now with students who pay the fee. [End of Tape 1, Side B, some comments lost]

ROHWER: ... has there been a follow up this year?

BRADLEY: This is the follow-up.

ROHWER: So you haven't gone to see if the numbers have changed as far as the ratios.

BRADLEY: No, we tried to get that information from the parking people within the Parking Committee and they've never given it to us.

ROHWER: Have you gotten any statistics from IU Campus Bus for the universal transportation to see if people are making use of it?

BRADLEY: There was a report in the Parking Committee that yes bus ridership was up considerably after the free bus thing was initiated.

ROHWER: Did anything relate to the parking lot in the stadium?

BRADLEY: I don't remember specifically.

T. MILLER: I'm sorry, what do you mean by that?

ROHWER: I think that Alex and I have seen some statistics that point out that the increased ridership did not come from the stadium.

MCROBBIE: There was someone, yes?

A. MILLER: I just have a quick question about increasing fines and what that might do, as well as adding, I know this is sort of a sideline of the parking issues, but adding more bike racks. I know I've ridden my bike to campus many times and I've actually gotten ticketed because there's not enough space to go around so I used a pole and received a, I don't know if it was a fine, but a warning, the yellow or orange sticker and that's happened several times. So that's kind of discouraging for people who would ride but they think they're going to get there and not have a place to put their bicycle.

BRADLEY: Well that would a mandatory vest to the Parking Committee to figure it out.

A. MILLER: I hope the Parking Committee. I have called the Parking Office and they were not interested. They said the requests had to come from the departments or the buildings where the racks were and there was all this sort of convoluted administrative procedure that needed to take place. But increased fines, I would be curious to know if that had been analyzed?

MCROBBIE: I think it was actually... sorry

A. MILLER: I was just waiting for an answer about my question about increased fines.

BRADLEY: The part of the discussion where?

A. MILLER: No I'm asking if it was part of the discussion in terms of sorting out from the parking issues, what that would do in producing revenue and what the effect would be?

OSTER: Fines are a major source of revenue for parking operations. You are in a little bit of a tricky business there; if you increase the fines too much, people start paying attention to them too much and the revenue falls off and you have to increase parking fees. [Laughter] We didn't look at that specifically, but there are, as folks will tell you, a major source of revenue, primarily from students.

A. MILLER: Well anecdotally I have talked to some of the people who ticket at the parking lots and they say that some students are in a financial position to simply have it added to their bursar bill every semester and somebody comes along, a parental angel comes along and pays. Essentially that's their parking fee. So I just was curious about raising but I see you point.

MCROBBIE: I think it was Bill, Bill you're next.

WHEELER: I would like to move to delete Atwater from item number 3. I move to delete Atwater from item number 3 so item 3 would apply only apply to Jordan and Poplars.

MCROBBIE: So that's a motion.

TERRY: It needs a second.

SHORTLE: I'll second.

MCROBBIE: Alex has seconded. Hold on a second, I'm trying to get this in order. So we now debating that motion and Bill do you want to speak to your motion?

WHEELER: Well I proposed the motion. Atwater is the garage that I parked in for years. Since the time the committee did the study, the number of "A" parking spaces has been increased on that lot. So now it's only the top uncovered spaces that are not "A" at this point in time, everything else in there "A" and from observing that lot over the years, I think that the inconvenience imposed on the students who do use that, those are the sororities and those others, we're talking about a relatively few number of parking spaces and from personal experience I can say that if you arrive at that lot

before 10am with an “A” sticker any day of the week, that you will be able to find a parking place. If you arrive between eleven and noon you won’t, if you arrive between twelve and one you will. If you arrive between one and two [Laughter] which is probably more likely but after 3pm you certainly get into it without any problems. So I personally feel a great deal of empathy for the students in that and that’s why I think that it’s appropriate to maintain its current balance. I was very pleased personally to see when the “A” was increased because it used to be very difficult to find a parking place usually after nine o’clock in the morning but the parking operations has revised the distribution of “A” versus non-“A” in that parking lot. And while I realize that it would be difficult when Fess is changed or is closed for constructing a new one, nevertheless I think the students have a legitimate concern here.

OSTER: Let me just make one comment. I don’t know the specifics on that since I don’t park in Atwater and there’s plenty of parking where I park so whatever you all want to do on your side of campus is fine. But one of the things that I think was imposed on the committee, Ted was a member of the committee and he can comment on this as well, is that for many of the faculty and staff, it’s not just an issue of coming in, staying all day going home. One of the concerns we found, people who had to leave for doctor’s appointments, people who had to leave because of child care issues, and people who had to come in and out during the day were finding in many parts of the campus that this imposes considerable hardship on them. Sure they would come in before ten o’clock and in many cases before eight o’clock, they wouldn’t have any trouble finding a parking place but boy if they had to deal with a sick child, if they had to go to the doctor or whatever it might be, it imposes considerable inconvenience on them. So that’s one of the issues we had to try to think about the parking situation in a somewhat broader context. And as I said, when you’ve got more people—when a parking permit at IU is essentially a hunting license, there aren’t any painless things that we can do.

MCROBBIE: Herb can I just alert people that while we have this discussion, we are running out of time for the Conflict of Commitment discussion which needs attention. Okay, Herb.

TERRY: Speaking to this motion I would urge this prompt resolution either up or down, after which I would tend to propose an alternative motion that would recommend to President Herbert that before he leaves this university, he convene a blue ribbon panel and actually address this issue and make, as the chief executive officer of the university, appropriate decisions. But I would urge that we deal with this motion quickly so we can get to that.

CHAPA: Point of information.

MCROBBIE: Yes sir?

CHAPA: Is this motion before us from the Parking Committee on the floor?

MCROBBIE: It’s a motion from the Agenda Committee so it’s a motion in front of us but there’s just been a motion to amend it.

CHAPA: Okay I understand.

MCROBBIE: From Herb.

WATERMAN: So what are we commenting on?

MCROBBIE: We're now discussing the motion to amend it.

SHORTLE: I'm interested to see if there's an agreement made when they built that garage, dealing with the sororities parking spots, whether or not that was prior to the building of that structure of their land. I know there are ten spots behind Tri Delta that are spots that sororities used to be their land and they traded it to the university. Those are reserved spots for the girls that live in that house. I'm interested if there ever was an agreement made with the university for spots in that parking garage. I know there's an agreement that was made by fraternities for Woodlawn Field but nobody really knows about that because it's not written in the policy, it's just an agreement.

BRADLEY: I'm sure that the houses affected will call it to the university's attention and appropriate adjustments will be made.

WATERMAN: Well I'm in favor of something along the lines of what Herb Terry said because I think that the whole system is just so irrational as it is that these kind of catch-ups and things are not going to improve anything and it has to be something that's rationally priced. I mean, basically what we have now is system where people, whoever gets to campus early is the one who gets the parking spaces and no one's encouraged to ride their bike or ride free buses because the parking prices are so low. They can't build more parking because they don't raise enough revenues because the fees are so slow so we can't improve that. You can't keep the prices low for "C" permits and any other students as low as we otherwise would like because the high price permits are too low and there's no rational, I cannot and I read this three times, I cannot understand why we would want all of the parking spaces in these garages to be "A".

We basically have a rationing system now, so why not put some "C" and some student parking and some "A" in each one of those so that as you pointed out before, people park and work in different places of the campus and that gives everybody a chance. People who have lower incomes to park in convenient places and people who are willing to get an expensive permit. In other words I think that it's so irrational that unless someone looks at this whole thing and really studies and tries to put together a comprehensive proposal, including the idea of having, which is done in some campuses, of having lots in which you buy the right to park in particular lots and that works very well at some universities that I know, that we're not going to solve this and I think it's unwise for the faculty to approve this proposal because I think it's going to suggest that this is going to solve the problem and I don't think it's going to solve the problem at all. I don't think it's going to even improve it.

BRADLEY: Well it will certainly improve it during the time of crisis that's coming up in a few months when the Fess lot closes down.

WATERMAN: I don't want to imply that I disagree with every single thing on here that was just my opinion.

MCROBBIE: Ok we have a motion to amend in front of us. Anybody else want to speak to that motion to amend?

DAVILA: I should like to call the question.

MCROBBIE: Ok the question is called. Strictly speaking, we should vote on that but if there's anybody dissenting from the calling of the question? If there are dissents, let's vote on the amendment which is to exclude Atwater from this motion. All those in favor of that that is to exclude Atwater from this motion, all those in favor can you signify by saying yes please, saying "aye", and against "no". So all those in favor can I see hands please? All those in favor of excluding Atwater? And those against? I think that amendment is lost so now we go to the motion itself.

TERRY: I wish to move an alternative motion. I sent you the parliamentary procedures and guidelines and I can do that. And the motion is the following.

The Bloomington Faculty Council asks President Herbert to do two things:

1) As expeditiously as possible, to conduct a review of the problems of the closing of the Fess Lot will create and to consult broadly and to make an executive decision about how he might deal with the temporary problem created by the Fess Lot.

2) That he create a study group to broadly study parking on the Bloomington campus. That the group include members of effected constituent groups, that it conduct at least some open hearings, that it conduct a comprehensive study, that it report its findings to him and report them publicly by January 10, 2007, and that he act promptly on their recommendations and report what he decides to do to the effective groups.

MCROBBIE: What's the procedure for that?

WHEELER: Second.

MCROBBIE: Okay it's now seconded, but what else do we do?

BRADLEY: Now we have to discuss that.

MCROBBIE: So discuss the alternative motion. Okay, discussion of that motion.

KRAVCHUK: Clarification? Does this mean that we would substitute Herb's motion for this entire...?

BRADLEY: That's what Herb has proposed.

MCROBBIE: I believe that's what's being proposed, yes.

CHAPA: That was my question too.

MCROBBIE: Discussion on the alternative motion. Yes, Bob?

KRAVCHUK: It seems to me this essentially means we do nothing until we wait for a report that will appear well after the Fess lot is closed. Is that correct?

BRADLEY: Yes, the Fess lot—I mean, there's no way Herbert is going to be able to respond to this by May which is when I believe the Fess lot is going to close down.

TERRY: Actually I did propose that we challenge him to try and respond to that before then; that he take a look at the problem and decide whether it requires attention or not. That is a part of my alternative motion that you can move to delete it but you won't.

CHAPA: May I amend the amendment? I'd be willing to...my amendment to the amendment would be that we add that to the proposals before in two, three and four in this document. I see that complementing this and then this serves as a very positive complement rather than regarding it as an alternative. So if that's an appropriate amendment to the amendment, I would put it forward.

MCROBBIE: Okay so, where are we now? What's the procedure as to where we are? So we have an amendment to the alternative motion. So I guess we're now discussing that amendment.

KISH: No, we actually need a second.

MCROBBIE: We need a second, any second to that amendment?

T. MILLER: I'll second it.

BRADLEY: Will you consider that a friendly amendment Herb?

TERRY: I don't understand it well enough to know.

BRADLEY: Saying to add it to the other proposals.

TERRY: I'm not sure how it would be added, so no. We need a discussion to clarify that.

T. MILLER: Let me just say that if the Faculty Council were to approve the original proposal here today, clearly the Faculty Council does not have jurisdiction over parking. So the net effect of our approving this will basically be to tell President Herbert who I believe under our new structure is the person with authority over this matter. It basically would be to tell President Herbert that the faculty really think we've got a problem here that needs to be dealt with and we have some very specific ideas that we think might help us and that the faculty supports these ideas. In effect I think really the net effect of if it would be to turn this question over to the President to make some decisions about this. So the advantage of incorporating your thing as number 4 on the original motion would be to give President Herbert a couple of specific ideas that the faculty does support to help him along in terms of his thinking about what might be done.

TERRY: If that is what is done I would certainly accept the friendly amendment.

BRADLEY: Well then I will accept yours as a friendly amendment as well.

THIBOS: We're all friendly!

MCROBBIE: So do I take it that we're back to the original motion with that?

KRAVCHUK: He has to withdraw his I think for proposing this because...

KISH: No, Herb accepted Jorge's friendly amendment. Craig accepted Herb's friendly amendment and so we're back to the original motion as amended.

MCROBBIE: Plus point 4 which is Herb's point, which I think, do people have Herb's point, did they understand that or we'll have to read that again, can we take that as done?

BINGHAM: May I call the question since we have four minutes left?

MCROBBIE: Okay motion to call the question. Anybody dissenting from that, do we need to vote on that? Okay, no dissent, I'll call the motion. Sorry...

ROHWER: I dissent, I would prefer we discuss it.

MCROBBIE: We have to now vote if you dissent. I will now vote on the motion to call to motion. All those in favor of calling the motion, signify by saying "AYE". Against? Ok, the ayes have it, we will now move to the motion and since it was a motion to call the motion we have to now vote on the motion. All those in favor of the motion, as amended, signify by saying "aye"? [AYE] Against? [NO] We're going to do a count for the sake of the record. All those in favor of the motion please raise your hand? And those against, raise your hands please? So the motion is carried, it was 25 to 8.

KISH: Were there any abstentions?

MCROBBIE: Were there any abstentions?

KISH: Yes.

MCROBBIE: Motion is carried 25 to 8 with 1 abstention.

BRADLEY: Two.

MCROBBIE: Sorry, two abstentions. All right that's matter is finished. We have I think two minutes to discuss the last matter but I suggest we defer that to the next meeting. Hopefully we can deal with that first because it is an important matter and could I encourage everybody to come to the distinguished faculty lecture tomorrow night that Pete Bondanella is giving. I think that's...any standing committee reports? Any old business that needs to be raised and any new business that needs to be raised?

KISH: Michael I'll just make an announcement. Keeping with tradition, following the final meeting of the council, April 18th, Provost McRobbie will be hosting a reception for the Council at the Tudor Room in the Union. I'll send an email; of course family is invited so we will ask for RSVPS over the next couple of weeks. April 18th we'll start right around 6:00 pm after the Council breaks we'll walk over to the union.

MCROBBIE: Thank you all very much.

Meeting adjourned at 5:29 pm.