Minutes
Indiana University
UNIVERSITY FACULTY COUNCIL
Hawthorn Hall 318
Northwest Campus
March 28, 2006
1:30 - 4:30 P.M.

Attendance

Members Present: Charles Bantz, Bruce Bergland, Chris Bjornson, Jacqueline Blackwell, Julie Bobay, George Bodmer, Polly Boruff-Jones, Donald Coffin, Roseanne Cordell, Andre De Tienne, Erika Dowell, Jennifer Ronald Finkbine, Mary Fisher, Michael Foos, Karen Gable, Eyas Hattab, Barbara Hawkins, Dolores Hoyt, Kevin Hunt, Robert Ivie, Elizabeth Johnson, Marilyn Kintzele, Cathy Ludlum Foos, David MacKay, Bryan McCormick, Anna McDaniel, Alice Merz, Ted Miller, Keith Moore, Bart Ng, Harold Ogren, Markus Pomper, Paul Rohwer, John Ross, Alex Shortle, David Turnipseed, Rosalie Vermette, David Vollrath, Maxine Watson, William Wheeler, Nanci Yokom

Members Absent with Alternates: James Baldwin for Giles Hoyt

Members Absent: Jennifer Delaney, Brian Fife, David Fulton, Adam Herbert, Robert Kravchuk, Debomoy Lahiri, Dale McFadden, Michael McRobbie, Sandra Patterson-Randles, Ruth Person, Una Mae Reck, Michael Renfrow, Nakisha Robertson, Brian Vargus, Michael Wartell, Gary Wiggins

Guests: Simon Atkinson, Dennis Cromwell, John Graves, Martin Spechler, Maynard Thompson, Brad Wheeler, Kizhanipuram Vinodgopal

Agenda

1. Welcome from Indiana University Northwest Chancellor Bruce Bergland

2. Presiding Officer's Business (10 minutes)
   (President Adam Herbert)

3. Agenda Committee Business (10 minutes)
   (Professors Bart Ng and Theodore Miller)

4. Question/Comment Period* (10 minutes)
   (President Herbert and Professors Ng and Miller)

5. Policy on Intellectual Property (45 minutes) [FIRST READING]
   (Professors Simon Atkinson and Robert Ivie, Co-Chairs, UFC Research Affairs Committee and Beth Cate, Associate University Counsel)
   http://www.indiana.edu/~ufc/docs/AY06/circulars/U6-2006.doc
6. Visitors’ Access to Laboratories with Hazardous Materials or Laboratory Animals (20 minutes) [ACTION ITEM]
(Professors Simon Atkinson and Robert Ivie, Co-Chairs, UFC Research Affairs Committee)
http://www.indiana.edu/~ufc/docs/AY06/circulars/U5-2006.doc

7. Policy on Conflict of Commitment in Outside Professional Activities (20 minutes) [ACTION ITEM]
(Professors Bart Ng and Theodore Miller, UFC Co-Secretaries)
http://www.indiana.edu/~ufc/docs/AY06/circulars/Commitment.ufcapproved.amended.htm

8. University Reorganization Updates (30 minutes)
(President Adam Herbert and Professors Bart Ng and Theodore Miller)

9. Standing Committee Reports
10. New Business
11. Old Business

AGENDA ITEM #1: WELCOME FROM INDIANA UNIVERSITY NORTHWEST CHANCELLOR BRUCE BERGLAND

MILLER: Good afternoon. The first item on our agenda today is a welcome from the Chancellor of the Northwest campus, Bruce Bergland. Before I turn to Bruce who is here on my left I should indicate to you that President Herbert is not with us today. He had something come up that he had to deal with that he was unable to come. At the same time, Bart Ng who is our senior co-secretary has been grounded by his physicians. He was told that he could not fly his own plane which he normally would have done to come up here; nor could he get on the university plane to come up here and so Bart is in Indianapolis. He presumably will be join us when we get the Indianapolis group connected to us but he is not with us here today. So I am by default I guess the presiding officer of this meeting. As such I would like to welcome Chancellor Bruce Bergland for his welcome from the campus.

BERGLAND: Thank you very much. Maybe that’s Indianapolis.

NG: It’s us.

FISHER: Oh, we found them.

BANTZ: It’s Indianapolis here.

MILLER: We’ll hold the jokes. I’ve explained that President Herbert and Bart Ng are not with us here at the Northwest campus today. Bart is now with us in Indianapolis and he will be giving us the report of the Agenda Committee [Laughter].

NG: Ted is really funny today.

MILLER: But before we get to that we’re going to have Chancellor Bergland welcome us.
BERGLAND: Well thank you very much and yes, welcome to everyone. Welcome to all of you who are here in the room. My apologies that the room isn’t a little more hospitable in terms of temperature; I hope that we’re able to make this work so those of you at the remote locations are able to hear and participate.

Of course I welcome you all. We at IU Northwest, and I imagine every regional campus especially, always appreciate it when people from our other campuses come to our location because it doesn’t happen all that frequently. I, having delivered this welcome though, I am going to turn to some other comments but this is not a speech; it’s something that is very heartfelt on my part and something that is really a personal request to the UFC from me as chancellor of the Northwest campus.

MILLER: I’m sorry, let me remind you again please if you are having conversations or shuffling your papers we can all hear you. I’m not sure if it’s possible to mute the things individually. How do they do that? So that might maybe work better if you are not speaking into the microphones just mute them until you need to talk.

BERGLAND: A few comments and a request from me as chancellor. My comments basically relate to this institution per se and the circumstances we face here and it involves shared governance. You know we’re all unique in our ways and we all believe that our campuses are unique but this is my seventh year here at this campus and I guess I would have to claim that you are going to have to work awfully hard to find an institution in the state of Indiana that is living under more difficult circumstances than IU Northwest. I’m not sure how many people understand some of the conditions we deal with in terms of higher education. We have one Purdue campus which is about twice our size about eight miles to the northwest of us. We have another Purdue campus about half our size about twenty miles to the east. Ivy Tech has a very large operation in Northwest Indiana. One of its campuses is about ten blocks down the street from us.

In terms of the other conditions we face, I think all of you know that the northwest part of our state is the second largest population center in the state. Many would claim that it is one of the most, if not the most, segregated regions in our whole country, actually. It is one of the most heavily industrialized regions in the country and we all know what’s happened to heavy industry. The racial climate in this part of our state is very very negative. Segregation is rampant. Gary is the largest or is the most African American city of its size in the country; it’s got 100,000 people, 85 percent of whom are African American. My point in raising these points is not so much to say woe is us; we don’t feel that way. And I certainly am not saying woe is me because as I think some of you have heard me say over the years that I’ve been here, I’ve never enjoyed a job as much as I enjoy being chancellor here. However, it’s my belief that the conditions under which this campus operates have contributed to, at times, very difficult circumstances in terms of our institution trying to move forward and so forth. I certainly have contributed to the difficult circumstances at various times and right now we’re in a situation where, as of last Friday, we had a very difficult meeting in the Faculty Organization meeting. It’s pretty clear to me that, I guess for lack of a better way of saying it, I need some help in developing a productive relationship with our faculty organization. This is in no way a criticism of faculty organization, I’m not saying that. I’m saying that we are all here committed, and I am very committed to shared
governance but we don’t have a productive working relationship right now of the kind we all would like. And since you all are here and since the meeting just occurred on Friday I wanted to make this personal request of the UFC—and I don’t expect it to be discussed today. But I am asking that for whatever assistance you might feel comfortable offering in the days and weeks to come I would appreciate that and I’m not speaking for our faculty governance I’m speaking for me. I want to make sure that I’ve had, since I have this opportunity to speak to you personally to deliver that request. Having said all that though, of course, welcome to our campus and I hope this meeting goes well.

MILLER: Thank you Chancellor Bergland. We certainly will take that request under advisement. We will discuss this in the Agenda Committee. We’ll discuss it with the leadership of your Faculty Organization and I don’t think there’s anything in principle that would prevent us from doing something along those lines.

I’ll also say that one of the things that happens when you come to the Northwest campus by airplane is that you fly into the airport which is more or less on the lakefront and you drive here and the route that we took today was right through the middle of downtown Gary and a number of us who were on the buses, I mean it’s an amazing sight to see what downtown Gary is like. And so I think we all, those of us that were on these planes anyway, have a clear sense of what you are referring to in terms of the conditions that are kind of in this area.

AGENDA ITEM #3: AGENDA COMMITTEE BUSINESS

MILLER: Well we do not have presiding officer’s business today so we’ll go to the Agenda Committee business. Bart do you have something you’d like to say about the Agenda Committee?

NG: No I don’t have anything. I would ask you to make a report on the business of the Agenda Committee if I may. But I do also want to actually utter my apologies for not being to join you at Gary today. I actually had planned to do that until around two o’clock yesterday; until I found out that I have some problem with my eyes and so the bad news is that I cant be there but the good news is that I actually was able to have a doctor look at me this morning. They assured me that everything is fine except that I will be grounded for the next couple of weeks. I cannot put myself in a situation where there is significant pressure changes and that’s the reason why I cannot fly up to Gar today and I send my apology for that. So Ted you can go ahead and make the report on behalf of the Agenda Committee and I appreciate it.

MILLER: One of the items on our agenda today is a new revised policy on intellectual property. This is clearly the centerpiece of our agenda today I would say this is presented on the agenda as a first reading at the UFC. This policy has been under discussion in the Bloomington Faculty Council and at the Indianapolis Faculty Council for some time now. There have been a number of issues that have been discussed, a number of concerns raised, a number of modifications to the initial draft and I think a lot of people, not everybody, but a lot of people think that the draft that we’re going to be reviewing here today is a pretty decent draft that has a fair amount of support from people who have looked at it.
Now, not everyone has looked at it. The campuses outside of Bloomington and Indianapolis really have not taken this issue up and I think what that means is that it’s not exactly clear when we’re going to see this particular next at the BFC. It may be on our agenda again on April 11th. Please note that the April 11th is the final meeting of the UFC this year, it’s not the last week in April. A lot of people have been expecting it would be the last week in April. It was moved out of the last week in April because apparently several campuses have a final exam period that is in the last week this year and so the meeting was moved to the traditional UFC time of the second Tuesday of the month. So please make note of that.

But in any event, the intellectual property item may appear on that agenda again even although I would think the odds are really that we won’t see it again this again and it’s something that will be carried over for final action early next year. That would be my guess, I’m not sure about that but that would be guess.

There have been a lot of people who have kind of gotten into the discussion of this policy, really what you might think of as the last minute. It’s a very complicated policy, it’s a long policy and may be it’s in the nature of things that that’s the way it would happen but we got some last minute people who are trying to make their views known about this. For example, the School of Informatics is sponsoring a symposium—what amounts to a symposium on Friday of this week where they are going to sort of talk about their views of the software area of this policy which of course turns out to be the area that is most hotly contested right now. People have different ideas about how the software area is treated in this policy and we’ll have a discussion of that here today.

The other thing that we will be seeing on our next agenda is the Search and Screen Policy. You will recall that the Agenda Committee two months ago appointed a special ad hoc committee to draft a Search and Screen Policy. That was done. That Policy has been under discussion. It’s been actively under discussion in Bloomington and I’m hoping that we will have that back with us at the UFC meeting for discussion. Whether we’re going to be able to act on that, I do not know but that’s one of the items that will be with us in April. The Trustees of course are very interested in the search and screen issues. They have appeared to some fairly definite ideas about it and its pretty clear to me that some of their ideas are not very welcomed by the faculty. That is to say I think there some conflicts over what the Trustees think we should do and what the faculty seems to think we should be doing. So that’s something that we will have on our April agenda.

We also have been talking a bit in the Agenda Committee about the general education topic. This is also something that we have heard a lot about from the president, from the trustees. They are encouraging us to do things in the area of general education. The trustees are going to be meeting next week and I’m not exactly certain, I haven’t looked closely at the agenda but I’m expecting that Bart and I will have an opportunity to talk to the Trustees about the status of our general education efforts. We have some definite challenges in front of us in this regard primarily challenges in Bloomington and in Indianapolis but I think we have been able to persuade the trustees that we are making some progress. One sign of this progress certainly will be that at the next BFC meeting which is a couple of days before the trustees go into session, the BFC
Educational Policies Committee will be presenting a kind of a—what’s the word you were using Bill to describe this?

**WHEELER**: Interim statement.

**MILLER**: It’s an interim statement on general education and by this we hope to demonstrate that in Bloomington where for many years we’ve had all kinds of problems dealing with this topic. We are at least trying again in a serious way to deal with it. But in April one of the things that we could do and the Agenda Committee will talk about whether we should do this is I guess. Whether we should have a discussion about general education at that meeting and I think probably my view at this point would be that we probably should have a discussion. So I think that may be we can take that as a report from the Agenda Committee.

**AGENDA ITEM #4: QUESTION AND COMMENT PERIOD**

**MILLER**: Next item is question and comment period and I’d like to start this by asking Dennis Cromwell, who is with us in Bloomington to give us—one of the questions that people have been asking, is a question dealing with PeopleSoft and particularly the implications of PeopleSoft being bought out by Oracle. What does this mean to the university? How much of our investment is at risk because of this take over? There are all kinds of questions and people talking about this in hallways over water machines and so forth and so on. So Dennis Cromwell is a person who works in UITS and has some responsibility for this area and so we have asked him to come and give us a report on these PeopleSoft related matters. Dennis, I appreciate very much your taking time to visit with us today.

**CROMWELL**: That’s fine Ted, I’m happy to be here. Also joining me here in Bloomington is CIO Brad Wheeler and Brad is sitting behind us and if there are any other questions he may add to this discussion and is also available for questions. Just to make sure we bring everyone up to speed, PeopleSoft was the vendor that we purchased the student information system and the human resources management system, which also includes payroll, the HR and payroll function. That’s an integrated system. In the 2004-2005 timeframe there was quite a bit of consolidation in that enterprise application vendor space. In fact PeopleSoft bought a product, a company called JD Edwards, around that same timeframe, and then Oracle came in and almost a hostile situation, although it turned out not to be quite as hostile in the end, acquired PeopleSoft. I think that cleared the Department of Justice somewhere toward the end of 2004 beginning of 2005. Oracle has also purchased C Bolt, which is another vendor in that space and it really aligns it to pretty much that there is couple of major players in that space and that’s SAP and Oracle. Although we were kind of in the middle of that, our implementation phase, just to look at the facts and some of the positive aspects here, we are currently running release 8 of PeopleSoft and this will be supported by Oracle with a commitment through mid-2008. We have an active project in place to upgrade to the next release which is release 8.9 and that is targeted for completion around February 2008. So we will have made that implementation date before support drops. There is a follow on release of PeopleSoft which is 9.0 and we actually may rapidly move to 9.0. When we get out hands on this we’ll be in the middle of the 8.9 upgrade. If
it looks like we can move rapidly, we may do it at the same time. We may skip 8.9 and go to 9.0; we may follow on with a couple of months afterwards or as much as a year later to go to 9.0.

Both of those products will be supported by Oracle through around the 2012 timeframe. That’s where their targeting. Some of that depends on their development efforts because they are in an active project of taking all of their software products and bringing them into a common technical architecture. That product is called Fusion for PeopleSoft and Oracle. So if you hear of the term Oracle Fusion that’s… Well you know, we can all debate the quality of the marketing staffs on software so thanks. I know I’m getting some feedback and echo. At any rate, what we don’t know in 2012 is what that really is going to mean for Indiana University. We do know that the technical architecture that Oracle is describing is a solid one. It’s all based on JAVA. It’s based on open architecture standards that should allow you to integrate applications in and outside of their space. All of that sounds great. It sounds like it’s coming with a lot of promise. We also know a couple of things about Oracle. We don’t expect that path to Fusion to be a trivial upgrade. We expect it to be expensive, both from some software licensing aspects as well as just the cost of implementation. Some other negative things around that item that we have to look at...so everything that’s been published and what we’ve seen so far says that Oracle will continue to support PeopleSoft maybe better than PeopleSoft was supporting PeopleSoft in some ways. We also expect that the cost of that software licensing and the cost of management may continue to go up because Oracle traditionally is a very expensive software product. Even their database and their tools products fit that mode.

The other thing we’ve got to recognize, depending on how you look at the numbers and where you identify is that higher ed represents about one to five percent of Oracle’s total revenue stream. So that means that 95-99% of revenues for Oracle are outside of the higher ed space. So we have to understand our leverage with them is probably not great. Now there are other market segments that clearly are in the same boat that we are but that’s not…I mean certainly this is not something we like to see and we’re just not quite sure in the long run how responsive a vendor like Oracle will be in this space. I mean that’s what we know and I think it will continue to be a product. I think it will continue to be a product supported. We’ve got a clear support path through around 2012 before this becomes a serious problem. But we know we need to do some things today to prepare ourselves and so one of the things that we do as much as possible, we’re trying to be a participant in the decision making. We’ve had a pretty good relationship with PeopleSoft in terms of participating in their advisory groups and we’ve carried that forward into Oracle. We’ve tried to form whatever relationships we can with Oracle and they’ve got several that we participate with. I’m reminded of a document that I saw recently of the ten things that you should do in your IT environment and one of the ten recommendations is that you better be managing your vendors because if you’re not managing them, they’re managing you. As much as possible we try to manage them and deal with that.

As we look at doing enhancements and modifications, we’re trying to do it around the sides of the PeopleSoft product instead of in the middle of that and what I mean by that is the example of the electronic documents. If any of you are in the mode of processing PAFs or Personnel Action Forms or other of the HR documents, those are all electronic, they’re written at IU and they’re outside of PeopleSoft space. Eventually they go through the process of actually creating a document that is saved in PeopleSoft and a hire and those actions are taken place inside of the
product, but we enhance around the outside so that it protects us both from difficult upgrade paths but also allows us some flexibility in the future. We’ll continue to look at making sure that if we can and whenever we can our modification enhancements are done in those fashions so that we can carry those forward no matter what the underlying technology looks like. We also continue to both participate with but also track the activities and community source and open source arenas. Not as much in the human resource and payroll space, although admittedly that’s probably the one area where we’re the safest with Oracle and PeopleSoft because that’s a product line that has a rich history with PeopleSoft and has a lot of investment both in the corporate side as well as the higher ed side. Student administration is the one area where clearly that focus is only on higher ed. That’s where there is some community source activity involved and I don’t know if, Brad you want to add any items to that but clearly that’s one of the things that we continue to look at doing is tracking that space.

BRAD WHEELER: I suspect Dennis’s comments have answered the Council’s questions but we’d be happy to take your questions if there’s areas we’ve not touched on upon.

MILLER: Okay, are there some questions anybody would like to ask please?

OGREN: When is the next major milestone for PeopleSoft for IU? Where are we in the process?

CROMWELL: Well we’ve implemented the product fully, that’s in place. There’s a couple of, depending on whether you’re talking about student or HR and payroll. On the HR and payroll side, we’ve got two things in 2006 and one is an upgrade to the electronic document interface. There’s some usability enhancements that need to be put in. That’s targeted by the end of the year. Then, continued roll out of the time keeping product, which again is an IU developed product that sits on the peripheral of PeopleSoft. There’s some minor enhancements on the student side, some improvement in the data delivery and IUJE and some of those functions. The real major milestone is the 8.9 upgrade, which is really beginning in July of 2006, completing in February of 2008. That brings some enhancements in student self-service, registration, those kinds of places as well as some other needed enhancements, particularly on HR and payroll side. Those are the major milestones in the coming 18 months, 2 years.

MILLER: Okay, alright. Thank you very much.

BALDWIN: Just I don’t know, is there any contract obligation or anything to prevent PeopleSoft from completely abrogating the academic part of this deal completely before—could they just say they’re done with it and throw it away?

CROMWELL: Well they could. Most of time when you sign contracts, there are some penalties that are involved with the vendor although often they are limited to the amount of money you’ve actually spent on the software so you can get your money back on the software which I think a decision like that by Oracle would allow us to invoke. So I doubt very much that we’ll see that kind of problem with Oracle. Looking at historical places, the situation we’re more likely to see is they’ll continue to provide support and provide the overall product and the upgrades and things like financial aid and the payroll tax tables and things that they are kind of obligated to provide, but nothing else. Now whether we’ll see that or not, I think that’s something we’ve got
to look for in the next few years. But I think it’s more likely the situation for them just walking away. I guess it is always a potential that they might package up their higher ed component of their applications and sell it to somebody else. That is something that happens in the market place and it is obvious a potential. Nothing we’ve seen so far indicates that that is the case. In fact, they’ve treated higher ed. pretty well since the acquisition. So I don’t want to sit here and bash Oracle too much here, they’ve actually done some good things and their future is a good future from a technology perspective, at least on paper. But it usually comes with a price tag.

MILLER: Okay, other questions please.

FINKBINE: How captive are we to Oracle; for example, is there a competitor that we just might be able to go to?

CROMWELL: Well, part of the problem and it is kind of interesting here. There are very few competitors for the student administration space in terms of vendors. Purdue has signed down with SAP which is the major software competitor. In fact, it’s a larger company when it comes to application software than Oracle is. However, they have much fewer higher ed customers and no really truly delivered complete higher ed product yet. Purdue will be one of the early ones that come out in that space, so it will be an interesting piece.

SCT is another vendor out there. Illinois for instance runs their product. It’s called Banner. The other option that I think is far more attractive to us is the community source option and that’s the potential for there being a competitor that is aligned in the open source space. There is a planning grant of which actually Brad is an active participant in to look at formulating a community source project around—in the student area.

BRAD WHEELER: If I can join in here; we’re set, we’re going to run PeopleSoft for a number of years. Within HR and student; it’s a big thing to change, it’s open heart surgery, it doesn’t matter what you’re moving to, it’s a big difficult thing. So no immediate plans to move but like our many peers in higher ed space, a lot of these things concern us about concentration of vender power.

MALE SPEAKER: Brad can you get closer to the microphone, we cannot hear you.

BRAD WHEELER: I can; I’m a little bit closer here. There is a concern of that concentration of vendor power and where that can go. So I think the open source projects where we pool all our money with other colleges and universities that pitch in and we develop software and we all have our own rights to it and then we share improvements back allows us all to retain control of destiny and the thinking is that the systems will be much smaller modules rather than a monolithic system. But to be very clear to this Council, that is a number of years away. So our plans are set. I think our economic future is set and I’m not worried about Oracle running away or hiding from their obligations. They would have enormous black eye with all of higher ed if they did that. But we are working with our other peer institutions to think about where we want to make investments for the future and I think that’s all headed in the right direction.
MILLER: Ok. Anything else please? Alright, thank you very much Dennis and Brad. Very interesting and useful information.

CROMWELL: You are welcome.

MILLER: We have had one other question submitted that deals generally speaking with the status of the Labor Studies Program. I see Chancellor Bantz is with us in Indianapolis, Bart, Chancellor Bergland has something that he will contribute to this from a Northwest campus perspective, but Chancellor Bantz would you be able to say something to us about the status of Labor Studies and where we’re going with that?

BANTZ: If you can hear me…let me say that we are proceeding as we had planned for about the last twelve months and Bart Ng has been very helpful in this process as have been a number of our other colleagues in reviewing the options that are available for that program. There have been discussions recently with a potential merger home and we are waiting to see how that, both the faculty and the potential home. We have also renewed a request to see if there are any other possible potential homes for the program. All of those things are moving forward as we had planned. We will need to make serious decisions coming out of that but it would be premature now to say anything more specific at this time. Bill Plater has been responsible for the management…over a period of time and James Johnson there has been administering…

MILLER: Bart do you have anything you’d like to add to that?

NG: All I can say is that I have been in communication with Ruth Needleman, who actually submitted that question. I just want to confirm what Chancellor Bantz has just said. There is a great deal of effort during the past, I would say, couple months—first of all let me say that I want to actually acknowledge all the good work that has been done by the Division of Labor Studies faculty during this very difficult past six months. First of all they have actually gone through a very detailed review of their budget and they are now financially, they have a pretty good time and I think they are in good shape financially for the next two or three years. And I think that’s about as much as one can hope for given the current financial situation of the entire higher education. Secondly they have also spent a great deal of effort in organizing themselves because prior to last year the communication among themselves, between various campuses, was not ideal. I think they have done a great deal to organize themselves into a cohesive unit that will actually make them more attractive should they merge with either a school or a campus.

Now during this past couple weeks they were actively engaged in meetings with one of the schools on our campus, the Indianapolis campus. That has, at this point, the discussion is ongoing and they are trying to figure out whether it will be a good fit programmatically, academically, to see what can be done. But in the meantime it is likely they will also be opening up, possibly, be opening up a discussion with another school, I hope, on the Indianapolis campus and I will also ask Bill Plater to send out a message to the various chancellors, including Chancellor Bergland, more or less asking them to consider the possibility of looking at Labor Studies once again because the last time that request went out their financial and budgetary picture was really somewhat incomplete. But I think now that with the great deal of work that
was done in the last couple months that outlook has become much clearer so that will make it a more reasonable thing for the various campuses to look at Labor Studies for the possibility of taking over the program and make it part of one of the campuses outside of Indianapolis.

So all in all I think we are moving in the right direction. There is still a great deal of work that needs to be done and not the least of which is in fact to really find somebody who really will be willing to merge, to accept Labor Studies into their unit. But I am hopeful and I am optimistic.

MILLER: Thank you, Bart. Chancellor Bergland would you like to add something to that?

BERGLAND: Well yes and I believe the question said something about IU Northwest and I just will reiterate what I’ve always said and that is we are completely committed to Labor Studies on this campus regardless of what happens with the state-wide program there will be Labor Studies at IU Northwest and I’ve always said that. I hope sooner or later the message would be heard—I wouldn’t want to say how many times I’ve answered that question. We are committed. There is no question and no doubt. As far as the state-wide, taking over the state-wide program is concerned you know we never say never but I certainly am going to wait until the negotiations at IUPUI are completed before we would do much more than just look at data.

GODINEZ: Well I’m a student, my name is Dorine Godinez and I’m here on behalf of Labor Studies students and we’re not happy at all about this. We have the income, we have the students, we financially add a great deal to the bottom line of this university. This degree program has helped the community in many ways and has helped workers. This is a state college and we want this to continue. There’s three of us here and there will be more today. We’ve been here on rallies. We’ve done political parties such as Pete Viscloskey and other representatives that feel the same way we have. Time and time again we’ve had to put up with this same attack on Labor Studies. We’re not happy about it. We want the university’s support. These are our tax dollars, this is our college that we attend.

MALE SPEAKER: I’d just like to add that as a 58-year old student the education program called Labor Studies enables a wide variety of people to come to these classes and continue an education now that we weren’t able to earlier in our lives. Thank you.

MILLER: Thank you very much. Any further questions or comments from the members of the UFC please?

AGENDA ITEM #5: INTELLECTUAL PROPERTY POLICY

MILLER: Alright, next item on our agenda is a first reading of the policy on intellectual property and I would like to call Professor Robert Ivie, Co-Chair of the UFC Research Affairs Committee, resident expert on this policy. Bob I appreciate your yeoman service in this regard.

IVIE: I have a prepared statement that will take about ten or fifteen minutes. This is a tough policy and I was up late last night trying to organize my thoughts in a way that I think might be somewhat helpful for you to organize your thoughts. Before I get into this much further, I’m
going to call upon Beth Cate to add some further clarification. I just want to make sure since the picture is so small, let me ask, Beth are you out there?

**CATE:** I’m out here.

**IVIE:** Great, I’m already feeling better. Now let me just reiterate just very briefly something that Ted said in the beginning. This Intellectual Property Policy draft that you are looking at today for our first reading, our first discussion of it is the product of about two years effort in the most immediate history by various groups and various individuals and we are in a process that continues. But I do think we’ve reached a point where a profitable and useful discussion can occur.

This version that you have has gone through two readings at the Bloomington Faculty Council this semester and has had one preliminary reading at the Indianapolis Faculty Council this semester and is scheduled, I learned today, for another next week. Before all of that it was being carefully discussed in both the Indianapolis Faculty Council Research Committee and the Bloomington Faculty Research Committee and the Bloomington Faculty Affairs Committee, to work on it, to modify it here and there on some matters, especially of format and so on. So a lot of eyes have been placed on this and a lot of discussion has been prompted by it at various levels.

The basic policy reviewed by these committees has an even earlier history. It was the policy from which the draft that you are looking at now emerged, most immediately was generated by a university intellectually property policy review committee which was appointed back in April of 2004 by then Vice President for Research McRobbie. This drafting, I’ll call this the drafting committee, this drafting committee was co-chaired by Simon Atkinson of the IU School of Medicine… [End of Tape 1, Side A, some comments lost]… and also by Bob Eno of Indiana University Bloomington. The committee was charged with reviewing the appropriateness and effectiveness of the existing intellectual property policy at IU which was dated 1997; with reviewing its implementation and with reviewing it’s stipulated revenue distributions. This McRobbie drafting committee produced a draft of a revised intellectual property policy that was handed to the appropriate faculty councils and committees in April of 2005 and we took up the work the following fall in 2005.

That committee of course worked for a full year then trying to develop this revised policy. Our review to date of the McRobbie drafting committee’s draft has resulted in basically reformatting of what they produced in order to separate policy from the explanation of policy, sort of narrative format they had developed sort of conflated or at least interrelated those two elements as a strategy for trying to explain why the policy was that was being emerged but the committee felt that it would be better if we were able to extract the actual policy from that and in this reformatting we covered some of the explanation in the seven paragraph, one page plus introduction that is not the policy but is the introduction to the policy in the draft that you now have.

In undertaking this reformatting we did not attempt to make any substantial changes in the policy that had been generated by the drafting committee. Throughout this process, during this current academic year of bringing the proposed intellectual property policy into its present form, the one
you’re looking at, we have met various times with a variety of interested parties in order to address concerns that have been expressed all along the way as they have come up. In addition to council members such as Bryan McCormick and Ted Miller, these consultations have involved university legal experts such as Beth Cate and Ann Gellis, members of the original McRobbie drafting committee such as Dennis Gannon from computer science and committee chair Bob Eno, co-chair. Also copyright lawyers from both IUPUI, Kenny Crews and from IU-Bloomington in Paul Newman. It doesn’t mean that we’ve managed to solve everything that’s been brought to our attention or to satisfy everybody exactly, but we really have worked hard to be responsive to the kind of rich and diverse input that we’ve been getting along the way. The eighteen page document before you then consists of this short seven paragraph introduction of about a page plus, plus principle policy section. Those principle policy sections provide first, definitions of key terms that we’re working with here such as “creators”, such as “traditional works of scholarship”, such as “university works”, and such as “exceptional university support” and other matters. They are absolutely key to understanding the reasoning, the logic that goes into this particular strategy for a policy. It also includes a delineation of policy governing patentable intellectual property. So patentable property is one of the main sections. It also consists of a delineation of policy governing copyrightable intellectual property and it involves a section on a delineation of policy for revenue distribution. Then there are some additional sections that deal with protection of academic freedom, management of conflicts of interest and considerations of implementation.

In general the policy covers intellectual property that is either patentable or copyrightable. Consistent with past IU policy, patentable intellectual property produced by creators using university resources is owned by Indiana University. Also, consistent with past IU policy and practice, traditional works of scholarship such as scholarly articles and books and other things continue to belong to the creator. The university does not assert a right of ownership over this kind of intellectual property. The university does assert a right of ownership over any copyrightable material that falls within the definition of “university works”, that is those that are externally funded, those that are university commissioned and those that have received exceptional university support.

Software, which is basically defined as source code or executable code can be copyrighted and in some cases can be patented. The approach taken in this proposed policy is to treat all software, produced by creators using university resources as potentially patentable and thus subject to disclosure so that the university through IURTC can determine if it is patentable. If it is a university work and if it is not it will be deemed a traditional work of scholarship, owned by its creator. Now as computer scientist Dennis Gannon argues, it is not hard to file a disclosure which is an online form used to tell IURTC what the creator intends to do with the software; whether that involves commercializing it or releasing it to the university community as open source software and also the policy says that IURTC should make a determination within thirty days if a software item is patentable so that the delay would be short.

An alternative approach to software that was considered and decided against by the McRobbie drafting committee is the software IP policy adopted by the University of Wisconsin twenty years ago, October 1985. The Wisconsin approach presumes software falls first under copyright protection and thus does not make software automatically subject to disclosure for purposes of
considering whether it is patentable. The 1985 Wisconsin policy asserts university ownership only if the employee was hired for the specific purpose of developing the software in question. It leaves up to the creator, the responsibility of working out ownership issues in advance when software is developed under grant or contract support and or involves joint ownership. Larry Yeager argues that academic software should be seen as a traditional work of scholarship and it should be left to the creator, in whose best interest it would be to determine when a piece of software is potentially patentable. No further incentive or policy constraint is necessary or advised, Yeager maintains, beyond the general policy that potentially patentable intellectual property should be properly disclosed. Some IU faculty would prefer an approach similar to the 1985 Wisconsin policy but the drafting committee believed there were solid legal reasons and realities favoring an approach that requires all software, that is computer source code and executable code produced by creators using university resources should be disclosed and assessed by IURTC for potential patenting. In the question/answer period we may get into this but I am informed that this does not imply that there will be a tsunami of software disclosures that will overwhelm the IURTC for very practical reasons.

It should be noted that the distribution of revenue to faculty that is generated by the transfer or commercialization of patented intellectual property is more generous in the proposed IPP than in the university’s existing IPP and I’m told more generous than the norm for peer institutions; 35 percent of it will go to the creator plus 15 percent to the creator’s lab. The other half to IURTC as an incentive to get the IP to the market. In the course of discussing IPP this year, it has become apparent that everyone involved benefits from an overview of the legal context and economic factors driving this policy reformulation. Accordingly, I have asked Beth Cate from University Counsel to provide us with such an overview. [End of Tape 1, Side B, some tape problems]

CATE: …universities including IU have been developing intellectual property policies and then if there are any particular questions after I just run through a few general things I’ll be happy to try to answer those.

As Bob mentioned, intellectual property, for the purpose of this policy effort, has in the past and currently deals with copyrights and patents. Other major areas of intellectual property dealt with in the law like trademarks, for example, our policy has never attempted to deal with because they arise in a very different context and are created differently and they are handled very differently. So the policy does just cover patents and copyrights. And the reason why universities started developing intellectual property policies really reflects a number of developments. If you contrast with the business world or the private sector generally speaking, and the law backs this up, employers more or less own the intellectual property that their employees create in the scope of their employment—either directly as an operation of the law or through contracts with the employees when they are hired, which is something itself of a different setting than we tend to have. We don’t have the same kind of employment contracts you often find in the commercial world. Or both, the operation of the law and contract. And if you’ve heard the term “work for hire” which is a term that comes straight out of copyright law and there are some analogous threads in patent law then that’s what that’s referring to; that intellectual property created in the scope of employment tends to be owned by the employer. Well if you translated that directly to a university setting that would obviously create some disconnect with what has been very
historical practice with respect to some types of intellectual property that are near and dear to the hearts of the academy, most especially what have been referred to before as traditional works of scholarship—scholarly articles, books, monographs, artwork for fine arts faculty, and so forth. Things that universities historically have not exercised ownership rights in and were not desirous of changing that even when the copyright law changed in the late 1970s in a way that arguably would read such that everything all of us do and all of you do as faculty members would be owned by the university as employer. Fortunately for all of us at IU or certainly all the faculty, we are in the 7th Circuit and because a couple of the judges on the 7th Circuit Court of Appeals are themselves adjunct faculty members at various law schools they are very protective of the traditional works of scholarship exception to the work for hire doctrine.

But universities really undertook to deal in a policy way with how to distribute rights to intellectual property—patentable and copyrightable works that are created in university setting, based on what the law says but also what the sort of underlying heartfelt norms were here. In 1980 congress passed a statute called the Bayh-Dole Act which tried to fix some problems that were created by the way the federal government used to deal with intellectual property rights when it funded research at universities. The federal government used to hold patent rights to inventions that were created in the course of research. But they were terrible at translating those out into the market and so inventions would just sit in the federal government and nothing would be done with them and obviously that didn’t satisfy their commercial goals for the use of those inventions.

And so in 1980 under the Bayh-Dole Act, basically what the federal government said was that select universities will hence worth have the ability to hold the patent rights to inventions that are created in the scope of federally funded research, whether it’s wholly funded with federal funds or partly funded with federal funds. And this really operates whether you’re dealing with a grant or a contract. And the idea was that universities and entities that arose around them to help deal with tech-transfer would get inventions out into the market faster and better but there would be some rights reserved for the federal government to be able to use the inventions under a standard license and to sub-license others if the federal government thought that further dissemination of the invention was needed or to march in and take hold of the invention and the rights to it if the university wasn’t doing what it should be doing in the government’s view to get the stuff out there.

Bayh-Dole requires us, and by us I mean IU and other universities that accept federal funding, to hold the ownership and patents to inventions that are created with those federal funds, in whole or part, to give back to the feds like I said non-exclusive license to use that IP. We also have to have written agreements with inventors here at the university that requires them to promptly disclose inventions in the course of their research and assign the rights in those inventions to the university. So if any of you have come across the Intellectual Property Agreement as part of doing federally funded research that was drafted quite a while ago I guess when Bayh-Dole was first enacted. It needs a little updating but that’s when it came about to effectuate that part of Bayh-Dole. And then Bayh-Dole also required that we share revenue with inventors from licensing of covered inventions and so the Intellectual Property Policy in the past and the proposed current one has revenue sharing which meets that requirement.
Similarly for copyrightable works that are created with federal funds through the office of management and budget circulars that govern grants and contracts, there are provisions that go into all of our sponsored program agreements that reserve non-exclusive licenses for the federal government to copyrightable works that are created using federal funds; and that allows them to further license out the works to others. And in the course of any given sponsored program agreement, you can have a variety of sets of terms about intellectual property ownership. For example the state of Indiana until very recently and this is a result of probably fifteen years of hard negotiations by Bill Farquar and then Steve Martin and probably their predecessors, but the state on Indiana has always come in saying we own everything. We own everything and you own nothing and if you have some rights to use it, well, we’ll decide that. And with commercial sponsors, we go through these discussions and negotiations as well. And one of the things that policy has had to take into account, and that our old policy didn’t do quite as clearly as we would have liked, was to say that ownership of intellectual property where there is external funding is going to be dependant on what we have agreed to with the funder. That those terms are going to govern obviously how those rights play out.

So with all of this kind of backdrop in mind, institutions including IU began to develop written Intellectual Property Policies over the last many years now. In fact Wisconsin is going back 20 years and that’s not wholly uncommon although policies have morphed over time and trying to confront these issues and figure out how to distribute rights in patentable and copyrightable works. So I think generally speaking it’s safe to that every school I’ve ever come across addresses traditional works of scholarship in the same way that we do. That they carve out copyright ownership in things like articles and books and other sorts of traditional scholarly works for the creator. There was an agreement not to undo anything about that. Pretty much anything else that is created using university resources is university owned and that too is a fairly standard practice. And there is this focus on patents versus copyrights and patentable inventions. I’m not sure, and obviously you’ll be reading through the policy and there’s been a lot of debate and discussion about this I think leading up to this point, whether the patent versus copyright distinction is what is ultimately animating what’s going on in the policy development.

I think what has happened if you look back at the existing policy, the 1997 policy, everything has been defined within basically three categories; applicable intellectual property, which is, you use university resources to create a work. Institutional works which was attempting to be basically a category where the university instigates the creation of the work and directs it. And then traditional works of scholarship and instructional materials which were carve outs that even if you’ve created them using university resources, the creator owns the rights to those. And in that sense, applicable intellectual property and institutional works didn’t really distinguish between patent and copyright. They were university owned. It covered patentable material and copyrightable material too except for the carve outs I just mentioned. Similarly with externally funded works, if there was external funding involved, whether what emerged was patentable or copyrightable, the university still ended up owning the work and obviously there was some rights in the sponsors which may pertain as well.

And in the old policy there was revenue distribution that involved sharing of revenue with the creators. Where the confusion has come up as I understand it and obviously Simon and Bob jump in and we can may be clarify this if people have questions, but the way I have kind of
approached thinking about this is that the confusion arose largely because there are many copyrightable works in the institution that if you took the policy literally, you disclosed all of this stuff to IURTC, much of which they have absolutely no interest in dealing with because it has no commercial value or no potential value; because what IURTC is really about is attempting to commercialize university inventions and creations. And so for example we would get questions like you’ve got a departmental website, there are a lot of materials on the website that were created by administrators and perhaps faculty were asked to create certain things but by the department that could easily come within the scope of an institutional work; it’s copyright protected stuff because copyright protects virtually every form of expression once it is fixed in a tangible medium from which you can perceive it. So you put things up on the web, it’s copyright protected, well, did that need to be disclosed to IURTC? They were getting calls saying, from other institutions, saying do you mind if I put some of your material on our website with proper citation to IU and they didn’t want to handle all of that, understandably and so they were deferring back constantly to units, constantly to the academic authorities, to our office and so on. And so in the copyrightable world, there was a significant amount of material that they really didn’t want to deal with and felt that in fact the Intellectual Property Policy should try to sort of carve out for handling by other authorities. Another example was correspondence which can be covered by copyright. We have old letters and things like that that the National Library of Medicine has called to see if we would license them to include it in their archives for different scientists, you know biographical archives.

So I think were some of this patentable and copyrightable distinction has arisen is in the software realm is that software has gotten caught up in this because initially under the old policy, the old policy currently actually says that all software is disclosed to IURTC if it device-like software. Meaning if it actually operates, if it’s executable and it sort of runs in operation as opposed to just being the electronic media form of something that otherwise could be a hard paper traditional work of scholarship; a CD-ROM of your book instead of a paper textbook. And so I think that the struggle here as I understand it is to try to figure out a way to make sure for software is disclosed so IURTC can figure out if it falls into that camp of wanting to be protected and to have some analysis about how best to distribute it, to disseminate it and so forth and to popularize it or whether it’s something that’s better handled within the unit or by the institution or otherwise. And I guess for me the patent and copyright distinction for software doesn’t matter as much in the sense that you can have very valuable software, Brad might chime into this, but software can be extremely valuable even if it’s protected by copyright as opposed to patented.

There are arguments that people make as to why patent is some what stronger protection. It’s very exclusive and so on but I understand IURTC to be as interested in the disclosure of software that has been created with the use of university resources where it may only be protected by copyright for whatever reason. For example there may be earlier patented software which might be close enough that it prevents granting a patent to our software but there still may be some copyright protection or some other reason why it gains value in the market. Anyway, as I understand the new policy versus the old, I don’t see a lot of substantive change in the way the core concepts are approached. Traditional works of scholarship as I said continue to be treated and I think Bob’s already mentioned this, the same as they used to be. With externally funded works, we have tried to make that much more explicit because that's an area we got a number of questions in and we want to make sure that that is clear for people in terms of how those works are
treated. And other than that, I think yes that the revenue obviously has changed, the distribution has changed but I’m happy to try to answer I guess whatever questions you have and to give you any further background in the law if that is useful. I don’t want to get into too much detail because I don’t want to bog you down with it if it won’t be useful for you but that might be a little helpful.

**MILLER:** Okay, thank you very much Beth. Thank you very much. So our objective here today is to have a discussion about this. Let me begin by trying to focus your attention on the two areas of this policy that at least in my experience generated the most concern. One of them is in the section on copyrightable intellectual property. It actually appears beginning on page 9 of the document. There’s a treatment of materials that are online instructional materials. The initial draft of the document had a lot of people very upset and concerned about the way these online instructional materials were treated. This is a part of the policy that has been revised on several occasions and the last reading that we had at the BFC over this policy, as far as I could tell, we have basically addressed the issues that most people felt strongly about with regard to this particular section. There may still be some people who feel that there are issues that need to be resolved but by and large I think we have tried hard to deal with the online instructional material issue.

The second aspect of this that has been quite problematic really generally focuses on the software area that Beth has been talking about and I’d like to call your attention to a couple of the key sections of this which again have been revised to try to deal with some of those concerns. At the bottom of page 3 of the document, there is a section titled disclosure and the first sentence of that section reads “Creators shall disclose promptly to the IURTC any potentially patentable intellectual property including all software.” If you turn the page and look at the last sentence of this section, what it says is “For purposes of this section, promptly shall mean prior to any public disclosure outside the university.” So the upshot of this is that, at least it is my understanding of this language, that if you write a piece of software, it is not necessary for you to disclose that creation possibly ever. What you are supposed to do is to disclose it prior to any public disclosure. And my understanding of what this means is, and there may be some question about this and maybe we need to clarify this a bit, but my understanding of what this means is that if you write a piece of software for example that you execute on your webpage, if the software that is executed is not available to the people who are executing it; in other words the software is in a file on your server and the people who execute the file never see the code that is being executed, all they see is what has happened on the computer of what the result of it is, my understanding of this language is that that software really does not have to be disclosed to the IURTC. On the other hand, if I wanted to take my file of software and publish it somewhere to show people what wonderful software I have, that’s something that I would want to disclose to IURTC before I actually made it public. Yes, go ahead Beth.

**CATE:** Ted can I just ask you a question? One of the questions I had I guess when I was reading through this draft is from a Bayh-Dole standpoint if you’re creating that software in anyway with federal funds, this time frame will not work because of the obligations to promptly disclose irrespective of whether you’re making a public disclosure under that law.
MILLER: So you think this section needs to be revised from that point of view to include that idea?

CATE: Yes, I think that at least that that would have to be.

MILLER: Okay, alright. Now the second aspect of this is if you do disclose your software to the IURTC, there’s a question of how long they have to evaluate it and come back to you and tell you that they think that this is patentable or not and the policy has on page 15, I’m frankly not sure that this is the best place in the policy to lodge this particular idea but nonetheless, on page 15 under the protection of academic freedom section, part ‘B’, if you look at the last couple of lines of that, “In the case of software, IURTC should determine within 30 days whether the disclosure falls within the category of software likely to qualify for patent.” Essentially what this says is that they have thirty days to look at what you’ve done and to make some decision about it. Now I’m not sure if this language should determine, you know that’s not a very strong statement. Maybe we should strengthen the statement, I don’t know, but that’s something that we can talk some more about, I guess. Some people do not want to disclose their software. That’s really what it comes down to. Some people do not want to do this. But this mechanism of disclosure, with rapid decision making is meant to deal with the concerns that people have about this disclosure. Some people are afraid that their software is going into IURTC and never reappear. This policy is meant now to say that that cannot happen. That’s my perspective on some of the key issues here so if we have questions, other comments, please feel free.

WATSON: I have what I think may be a naïve question, but what happens if an individual wants to develop freeware as a part of their software and release it to the public? Does the university then have the right to step in and say you can’t do that? [Laughter] It sounds like the patenting is to clarify your financial interest in the product. But if the product wasn’t developed to achieve financial purpose, where does it sit?

CATE: I can give you my perspective on that from my discussions with IURTC and others in the university which is that IURTC is going to follow the instruction of the university in terms of how to treat material that is disclosed to it and whether their going to attempt to commercialize it or not. I mean, basically as I understand how they see their function, they know the marketplace and they can go out and access it. They can come back and advise on whether or not there is a market or what might be done with it. But ultimately what is done with it, I mean we have a lot of freeware out there and open source software that we share without any sort of commercial gain and if that’s what the university wants to do with it then that’s what gets done with it.

WATSON: But it’s the university that has the final voice rather than the creator.

CATE: If it’s something that falls within the scope of the university ownership under the policy, but with consultation with the creators.

IVIE: Beth, Bob Ivie here, I wanted to ask you to speak to the legality. My understanding is that is an example where the university argues that it has a claim on ownership because the creator was using university resources or other criteria were met that are in the definitions. So if the creator wanted it to be open source and the university thought that it could be commercialized,
it’s the university that claims it owns it, not the creator. Is that right?

CATE: My understanding is that the ultimate decision is the university’s, as to whether to pursue a commercial use of it but that generally speaking, how things have worked is they have consulted with the creators, tried to figure out how strongly the feelings are or not and sort of work through that. But yes ultimately the decision is the university’s, if it’s something that falls within the scope of university ownership and if it’s created with university resources it would be.

MILLER: But this would apply to the patentable software, not to the copyrightable software.

CATE: No.

MILLER: No?

CATE: Yeah, anything that’s marketable. Right now under the policy, this patentable versus copyrightable distinction is not made. Under the new policy, as I read it and I have some question as to whether there might be some other ways to word this which might be less confusing along these lines. It looks like there is first a review for patentability. Well not all software is going to be patentable but virtually all of it’s going to end up having copyright attached. Then the question becomes, is it otherwise a university work as defined under here right now and if so does the university assert ownership in that sense. But that may be software that is not patentable.

IVIE: Right, by this policy, if it’s deemed a university work even though it’s patentable it would still be subject to a decision about marketability.

POMPER: I have a question on this as well. Where in the scheme of things do algorithms by themselves fall?

CATE: [Laughter] Oh boy. You know, as a legal matter when…I worked at the federal circuit court of appeals and that is the court that deals with patent appeal cases and right when I got there was right when this issue was coming up about can you patent an algorithm or not. Generally speaking under the patent law, no you can not patent a pure algorithm, as such. The patent law covers processes, manufacturers; I forget the exact terminology, machines, manufacturers, processes and something else which is escaping me, articles of composition I think. So the idea is the algorithm actually has to do something. Now patent is issued for a novel, useful application not a pure idea as such and the courts have struggled with, and frankly the patent examining office has struggled with the line between what is an algorithm in software and what is actually an application. It took quite a while for the patent office to develop some guidelines to help their examiners figure this out. But no you can’t really patent a mathematical idea. What you can patent is software that executes the doing of something, if that something is novel and not obvious. In other words it’s not the obvious next step in the technological development to someone who knows the field.

POMPER: Ok.
LUDLUM FOOS: Relevant to that, on page 3, patentable intellectual property describes inventions, discoveries and manufacture and designs that have been reduced to practice and are novel, useful and non-obvious. So, reduced to practice, I think is maybe the relevant phrase there.

ATKINSON: Could I add something at this point? This is Simon Atkinson. One of the intents of the handling of software that is university work is to actually facilitate its distribution potentially as freeware or as open source code by eliminating issues of ownership when there are multiple creators. Most of the software that will fall into the category of university works is a team project and one of the ways to facilitate its distribution is to have essentially one owner for the work who can…which in this case will be the university, who in consultation with the creators can decide whether to distribute it as open source or freeware. That was one of the arguments that persuaded the drafting committee to go with this approach to software rather than the alternative.

MILLER: My sense is that the people who are most concerned about this are people who write their own software and who have not come to grips with this university works idea. What this document says, as I understand it is, if you write your own software, if you disclose it to the IURTC, in an overwhelming proportion of cases the software will be judged not to be patentable because most software is not patentable. If you wrote it yourself it is not going to be university work, whether you wrote it on your office computer or not, it is not going to be university work and the ownership will be returned to you as the creator and you can do what you want with it.

ATKINSON: That’s what the policy is intended to do.

MILLER: That’s what the policy is intended to say and I think that…I mean it’s a complicated policy and a number of people have not yet quite followed the document in terms of these procedures. My sense is that we’re pretty close to a reasonable position on this.

CATE: The only question I would have about that Ted is when we look at the definition of university works, what it doesn’t really cover here is works that use university resources but not exceptional university resources. As a matter of just actuality and practice, I don’t have a good feel for whether the sorts of things like Dennis Gannon was describing, for example in some of the earlier meetings these joint software projects are always going to involve exceptional support or be specially commissioned or be externally funded or something like that so that they do fall within the scope of this because those are the sorts of works, picking up on what Simon just said, where there was a real desire to be able to make it open source and to be able to go out and license it to others without the concerns about people needing to negotiate on a one-on-one basis with individual creators.

MILLER: I think I could imagine a situation where there is a group that gets together to do something that doesn’t use exceptional university support. But I think probably lying in the minds of people who are dealing with this that the odds are probably good that if you have a large group of people that’s working on a big project they are going to be the recipients of what would be viewed as exceptional university support.

CATE: Or as…
MILLER: But maybe not all of them would be.

IVIE: I’m really hesitant to say anything that might move Ted away from ultimately, positive
closure on the policy. [Laughter] I have to say that Ted has really been looking out after faculty
interests. He’s a bulldog on this one. I thought I was skeptical and he taught me a few lessons
about skepticism here. But as I read it Beth, the definition of creators says, “they are faculty
including visitors, staff or students who create intellectual property using university resources”.
It doesn’t say using exceptional university resources.

CATE: Right. I agree with you Bob. That’s sort of my area of confusion because I saw that. I’ll
have to go back and read this again, perhaps to be clear on this but the way it’s been described
that software will be reviewed to be, first is it patentable and second as a university work and if
not then it would be released to, in terms of ownership, to the creator or creators. Is that your
understanding?

MILLER: That’s the way I read it, Beth. But this idea about a creator, I mean traditional works
of scholarship are created by a creator. So if we are sitting in our offices using the typical
resources that we have, that doesn’t put something into a university work.

MCCORMICK: But software is a clear exclusion from a traditional work of scholarship.

MILLER: Right.

CATE: This is the difference, a departure from the current policy, because the current policy
would still cover software even if it was created without exceptional resources.

MILLER: Well but if you were to go back to what you said Beth, I mean a large share of the
software would ultimately end up being viewed as a traditional work of scholarship, if it wasn’t
patentable or wasn’t a university work, it’s sent back to the creator, well it would be viewed as a
traditional work of scholarship at that point.

IVIE: That’s what I was just saying. You just said that if it’s not patentable, let’s add the word
“or”, or it isn’t a university work. The exceptional university support applies to defining it as a
university work. The patentability dimension just requires…if this hypothetical person was
producing code on her own time outside of her employment, not using university resources, even
if it was patentable it would be hers not the university’s, on the patentability issue.

CATE: Right, the key is use of university resources. I mean, people could be creating patentable
stuff in their own homes all over the place but this policy wouldn’t apply to it. I think that the
distinction I was trying to make is just to highlight that there is category which I don’t know
whether, as you say it Ted, it amounts to much or anything that IURT¿ would ever care about
but this category of software that might be created using only sort of what we call the garden
variety level of support within the institution but that may be for example software that’s created
by a group of people and then they want to put that out there in some open source way. And is
that the kind of thing that the policy concludes that’s up to the individuals then to decide we’re
going to use a level of support or whether it’s externally funded or whether it’s commissioned by
the university to cabin what types of software IURTC can review and hold and care about.

**NG**: I have a question, this is under definition of about creators, and this is just right at the beginning. What defines creators? What is the problem if we say creators are faculty, staff or student who create intellectual property using except, what is the term now, exceptional university resources? I mean, that seems to be opening the door to—the level of support is what I’m trying to drive at. What was the term again, exceptional university resources?

**CATE**: The effect of that would be to remove patentable software that’s not created with exceptional resources or commissioned or otherwise within that definition of university work from university ownership.

**NG**: Okay, so therefore it’s either software is patentable or it is created under exceptional university resources; support of exceptional university resources.

**CATE**: Or externally funded or instigated by the university.

**NG**: So those are the IP that have to go through IURTC?

**CATE**: IURTC.

**NG**: IURTC, right.

**IVIE**: Bart software could be patentable or if it’s not patentable and just copyrightable, it could fall into the category of a university work or into the category of a traditional work of scholarship. If it falls into the category of a traditional work of scholarship because it does not involve exceptional university support, then it belongs to the creator.

**NG**: Okay.

**FISHER**: I’m interested in what happens when it’s not necessarily patentable but it’s marketable and IURTC is interested in being part of marketing it and helping it seal a deal with a company or whatever and so it may be that the creator needs some assistance with that side of the expertise as far as getting it to market and having it become marketable even if it’s not patentable.

**ATKINSON**: If it’s a university work then…

**FISHER**: Well, I mean if it’s not.

**ATKINSON**: If it’s not a university work I don’t think IURTC is going to do work for faculty for intellectual property that it’s not going to get money from.

**FISHER**: Right, I mean then it doesn’t fall under this policy, then it’s just a negotiated contract and the policy would not relate to it.

**MILLER**: Okay, well, those of you on campuses where this policy has not been discussed yet,
you get a hint of what you are in store for. Any concluding remarks that we need to make here?

LUDLUM FOOS: I’d like to thank Bob and Beth because now I feel I can go back to my campus and talk to people about it but before I couldn’t. Now I understand it a lot better, so thank you very much.

MILLER: Yes, so I think we owe a debt of gratitude to all of those who have worked so hard on this, Simon and Bob in particular. This is a very different piece of work than we had at the beginning of the year and I think it’s something that we’re closing in on, I think a point where we can approve it.

AGENDA ITEM #6: ACCESS TO LABORATORIES WITH HAZARDOUS MATERIALS AND LABORATORY ANIMALS

MILLER: Alright, we’ll move on then to the next agenda item and this will be the Visitor’s Access to Laboratories with Hazardous Materials or Laboratory Animals. This is I think may be the second or third time that we’ve seen this here—second time. And this is potentially an item that we can vote to approve or disapprove today. Simon Atkinson I believe is prepared to make some comments about this again just to get us back to speed.

ATKINSON: This is a policy that we’ve seen once before at UFC, it’s also been approved by the Bloomington Faculty Council and approved in principle subject to some changes by the Indianapolis Faculty Council. At the last meeting I discussed the general intent of this policy. I’ll go over that very briefly again. The two main reasons for the existence of this policy; first a safety reason to ensure that people who are in the laboratories are in a position to communicate with the emergency services in particular should a situation arise. And the second is for various reasons of compliance which we will have to deal with.

The policy basically requires that most people who are not university employees or students engaged in research need to have permission to access laboratories. If they are not native speakers of English then they need to have sufficient command of English language to be able to communicate in a basic way with emergency services and to have received the appropriate training so that they can safely operate in the laboratory.

At the last UFC and at the Indianapolis Faculty Council meeting there were several questions raised about the policy and there have been some changes since you last saw it at the UFC. Keith Moore raised a question about emeritus faculty. There is now an exception for emeritus faculty in the revised version of the policy.

At the Indianapolis Faculty Council, a very important question was raised about certain educational programs that bring young people of middle school or high school age into the university for various types of laboratory experience and that can extend to laboratory experiences of what you think of traditionally as a laboratory. So for example some of the experiences the Herron School of Art in Indianapolis came up specifically. So we’ve added an exception for students who are engaged in educational programs approved by the dean of the
school. So generally individuals younger than age sixteen would be excluded from conducting research in laboratories unless they are part of one of these organized programs. The other issue that came up was what is an animal. So we’ve now defined animals as vertebrates. So if you go into a laboratory and encounter hoards of poisonous spiders you’re on your own. [Laughter] So, are there any questions about the current draft?

MILLER: The changes from the document we saw previously are what, in bold here, that the convention or no?

ATKINSON: I can point them out to you. One change is in the heading, it was called “the interim access to laboratories policy”, and so it’s now “the visitor’s access to laboratory policy”. There is an additional footnote at the bottom of page one that defines what an animal is. The main changes are on page two under the section three, Covered Persons. So under subsection ‘B’, we’ve added number three and number four that exempts emeritus faculty and the classes supervised working laboratories from falling under the policy and then supervised work is defined under subsection ‘D’ which is added at the bottom of page two.

COFFIN: So as I understand this, mollusks are now being excluded from being animals.

ATKINSON: Mollusks are now excluded from being animals. According to the NIH they are not animals. So this basically follows the NIH definition.

COFFIN: And lobster tanks are okay?

ATKINSON: Right

IVIE: Progress is tangible.

MILLER: Alright, do we have questions or comments about this please anyone.

SPECHLER: Hi this is Martin Spechler in Indianapolis, I don’t know if I can spell mollusks but I can spell superseding and it’s with an ‘s’ and not a ‘c’ on page three.

OGREN: Yes, I have a question about the definition of a laboratory, we don’t mean a building, we mean a laboratory, a designated laboratory [End of Tape 2, Side A, some comments lost]…Cyclotron…area in that there is a visitor space, there’s office space and yet that’s to sometimes as a laboratory and does visitors. So how is that clarified?

ATKINSON: This would only be applied to the areas where the hazardous materials or animals are actually present. So it would not include office space.

OGREN: So that assumes that those areas are designated clearly I guess, some of them.

ATKINSON: Yes and if they have hazardous materials present, they have to be designated clearly by OSHA mandated signs on the doors.
MOORE: How would this policy affect individuals brought in on a contract basis; people brought in to service or maintain instruments or people brought in from outside the continental USA to train laboratory people in the use of instruments? Where do those kinds of people fall in this policy?

ATKINSON: They would not be conducting research; in most cases they will be present for less than five hours. So I know that that’s not true in some cases. So I don’t think that’s, I mean, we could imagine that the university would start applying this policy willy-nilly to all kinds of categories of people. I think it’s unlikely that anybody in the administration wants to waste their time kicking service men out once they’ve been working on an instrument for five hours.

MILLER: Okay, anything else please?

FISHER: I guess I have a silly question, what if we have a very young intellectually advanced student under sixteen who is actually a university student conducting advanced research from intellectually…

ATKINSON: This policy only applies to a category of people who are not university students or faculty or employees.

FISHER: I was worried more about the age limit, what if he’s under the age limit and yet he’s a university student?

ATKINSON: The policy doesn’t apply at all to students who have any business conducting research. So if you have a fourteen year old graduate student it wouldn’t apply to that student.

MILLER: They would not to be a Visitor?

ATKINSON: Right, yes.

MILLER: Alright, I think we have this on the floor. I think it’s been approved by all kinds of people previously. I think it’s probably in an appropriate status so we can vote on it if we wanted to and hearing no other questions let me ask those who would vote to approve this to say “aye” [aye] and those opposed “no”. Alright, it appears that it is anonymously approved. Congratulations to the Research Affairs Committees that have been working on this.

AGENDA ITEM #7: CONFLICT OF COMMITMENT

MILLER: Our next item is a policy on Conflict of Commitment in Outside Professional Activities. Some of you will recall that this policy was approved by the UFC during the last academic year, fall. I’m sorry, what does it say?

BALDWIN: November 29.

MILLER: November 29, 2005. Well it wasn’t the last academic year, it was this academic year. Okay, times flies ha? Well anyway it was approved. This is a policy that in principle is one that
the trustees will review and will consent to. Anyway, it has been before the trustees and there was a question raised and the particular question that was raised was in section 2; that the policy section item ‘C’ and you’ll see in that paragraph 2C there is an underlined word “written” permission. The policy that the UFC approved did not have that word written in there and the trustees seem to feel that it would be useful for these permissions that are under the subject of this paragraph that these permissions should be in writing just to foreclose any misunderstandings and so forth that might arise. And so they asked us to consider whether that would be acceptable to us and as we did that consideration, there were various other things along those lines that were suggested that we might add to this policy and so as you look through this, you’ll see a couple of things that are in there underlined in italics and these are now things that have now been added to the policy.

The first one you’ll see is at the bottom of section one the rationale and the point there is to simply indicate that there are a bunch of policies that are in effect in the university that bear these kinds of matters, related matters, and so in Appendix A you’ll find a list of them in this paper form and I guess in the electronic documents we have links to these various things, do we not hopefully. Yes, well we’re going to have, yes we will. We will have links to these various things for people who want to peruse them. So that’s one thing.

There’s a reference to Appendix A in the policy section. There’s this item we were just talking about in 2C. There is an item in section 4. There’s also an “in writing”, this is the section about disclosing activities that might be a conflict of commitment or might create a conflict of commitment and so the disclosure statements are to be made in writing. That’s one the—that’s the suggestion here. Then there’s another insertion in this section 4 and the Agenda Committee discussed this particular one before we convened here and I think the Agenda Committee decided that it would be better, that the word that’s there, this word “approvals” really doesn’t seem to fit the context of this sentence. And so instead of “approvals”, the Agenda Committee is recommending that we use the phrase “administrative decisions”. So what it says in section 4 is that the faculty member is supposed to disclose activities that have a potential conflict of commitment associated with them to the dean. The dean is supposed to evaluate the situation and if the feeling is that there’s no conflict of commitment that’s one thing that might happen, if there is a conflict of commitment and the dean and the faculty member come to some agreement about how that’s going to be handled, in both of those cases, there should be a written statement regarding that conclusion. So if the decision is that there is no conflict of commitment the dean should write that down. If there is a conflict of commitment, if there’s a management proposal to deal with it that should also be written down so everybody understands what’s going on. So instead of “approvals”, we think “administrative decisions will be documented in writing” will be a better statement there.

Then in section 5 we talk about people who are basically not in compliance with this policy and there’s some discussion about how such cases will be adjudicated. And the Code of Academic Ethics is a policy statement that the university faculty has that basically bears on the activities of the academic appointees and there’s some statement in there about how violations of the Code of Academic Ethics should be adjudicated. So that’s just a reference to an existing statement.
So these changes are viewed by the Agenda Committee anyway as being essentially minor changes. On the other hand I think I would like to have a vote on this so that Bart and I can go to the trustee meeting and say that we have considered this matter and we have made changes and the faculty has approved it. So, that’s my statement on this, if there are questions about these comments that people would like to make please do so.

BALDWIN: So the only change from what’s written here is that one word “approvals” to “administrative decisions”?

FEMALE SPEAKER: And some of the things that are underlined.

BALDWIN: No but I mean from what the document we have.

MILLER: The word “approvals” would be replaced by “administrative decisions”.

SPECHLER: This is Martin Spechler. Is it understood that for ten months appointees, professional activities that do no interfere with work during those ten months are alright?

MILLER: Yes. If you look at section 2 policy, point B, if you look at the second line of that, there is a phrase there “during the period of appointment”, okay, during the period of appointment. And what that means in Indiana University is that if you are a ten month appointee faculty member, your period of appointment begins one week prior to the beginning of the fall semester and it terminates with the graduation date in the spring. So for a ten month appointee, this policy applies to that period of time. When you’re outside of that period of time your activities do not constitute a conflict of commitment if you are a ten month appointee.

FISHER: Unless you’re in competition with the university right? If their activities are in competition with the university, the activity could inherently be a conflict of commitment, in the summer.

MILLER: But what does that mean, one of the ideas we have is that we should not be teaching for another institution?

FISHER: Right, that’s what I’m talking about.

MILLER: Well, but I mean if I want to go off and teach a class in some place in the summer, I don’t know of any reason why I can’t do that.

FISHER: But if you’re teaching the classes that you teach at IU, and taking IU materials, that would be a conflict. It’s what I understand.

MILLER: No, those are not IU materials, those are traditional works of scholarship [Laughter].

FISHER: Good luck with that.

IVIE: Ted has a compelling point though.
MILLER: but I mean, that was the idea underlying this policy. This phrase “during the period of appointment” limits the scope of the applicability of this policy.

DE TIENNE: Ted, I have a question of clarification regarding that section 2B, it says full-time tenure-track faculty, does it mean only the tenure track or that entire line?

MILLER: Tenure-track faculty is used in this document to refer to faculty members who are tenured and who are in a tenure-probationary status.

DE TIENNE: So it does not apply to tenured people who—so do you mean that tenured faculty cannot do this, cannot spend on the…

MILLER: The word tenure-track used here refers to both faculty who are tenured and faculty who are in a tenure-probationary status. Both of those groups are viewed as tenure-track. That’s the way the language is used here.

FISHER: I have to get back to my point. 3.D says undertaking activities that compete or have potential to compete with Indiana University in areas that are part of the appointee’s university responsibilities are examples of possible conflicts of commitment that have to be disclosed. And that was what I was talking about. I mean it seems to me to be obvious that if you’re already teaching a course and you’re going to teach that same course which might be in direct competition with the university, that could be a conflict of commitment and the dean might rule that way. You have to disclose it.

MILLER: Under this, the way this policy is now written, if you’re talking about an activity that takes place outside the period of your appointment, then this policy does not pertain to that.

NG: Mary one way to look at it is that you go on leave and you go and teach another university a course the same way you teach at Indiana University, that is not really competitive with Indiana University. I don’t think that is treated that way, otherwise we would have a problem, every time that we teach something, we cannot teach it somewhere else. Boy that is very restricting.

HAWKINS: Ted?

MILLER: Yes?

HAWKINS: If I can ask a question. Could you explain to me why under 2D this is restricted to just full-time tenure-track faculty and not librarians and not research appointees?

MILLER: Because that is the current policy. This policy does not alter the current status from that point of view. This is a very long standing university practice, not only an Indiana University practice but a fairly widespread practice. And traditionally this has been something that has been granted to the full-time tenure-track faculty. Now part A indicates that other academic appointees may engage in outside professional activities provided they do not constitute a conflict of commitment. So from the point of view of this policy, I think we are
trying to encourage people of all categories of academic appointees to engage in outside professional activities. From my point of view that’s one of the things that we should be doing. We’re trying to make an impact on the outside world after all; it’s not just all about us.

HAWKINS: But there’s not restriction on time for them?

MILLER: But there is a question about what is a conflict of commitment and the way this policy is phrased, the local dean is the person who in the first instance is the judge of whether this activity would create a conflict of commitment and…

HAWKINS: My question is that under B, full-time tenure-track faculty have a specified amount of time that they can work on outside professional activities and there’s no specified amount of time for other academic appointees.

MILLER: That’s correct.

HAWKINS: But the librarians consider themselves faculty in IU and if they’re considered faculty, they would fall under the tenure-track faculty.

VERMETTE: The librarians have their own policies.

SPECHLER: What about the increasing number of lecturers and senior lecturers?

COFFIN: I mean the other to read this is that it places restriction on full time faculty that it does not explicitly place on other academic appointees. I think you can read this as saying that if you’re a senior lecturer, you’re not bound by the one day a week. You could, at least as I would read this, spend more than one day a week if you could figure out how to get away with it.

HAWKINS: That’s right, you could teach your four classes on the Bloomington campus and go over to Ivy Tech at night and teach another four classes.

COFFIN: Well, except that I don’t think you can do that under general Indiana University policies…

BALDWIN: There’s this policy listed on the last page…

COFFIN: I don’t think you can draw paychecks from too Indiana-supported institutions simultaneously. I think if we go to these policies, I think that’s correct.

SPECHLER: I would be in favor of dropping the tenure-track and having 2B applied to lecturers and senior lecturers as well. They are an increasing and obviously very important part of our faculty.

MILLER: Are you making that a motion Marty?
**SPECHLER**: Yes, I would include that in 2B, we amend by excising tenure-track and thereby, I don’t know who made this comment, whether 2B is a restriction or a concession, but in any case, it seems to me that it applies equally to full-time lecturers and senior lecturers.

**VERMETTE**: And what about researchers and librarians?

**MILLER**: Is there a second to this?

**COFFIN**: I second it.

**MILLER**: Any discussion about this please?

**IVIE**: I would like to say something about it. I would be hesitant to support the amendment because I think it could open up a whole degree of complexity that we haven’t had an opportunity to really investigate and we wouldn’t really know what problems we may be creating here.

**VERMETTE**: What kind of problems?

**NG**: I will support what Bob has just said because I think faculty, full-time faculty, the way faculty work in terms of tenure track faculty is fairly well understood because it’s teaching, research and service and in fact the one day a week rule is to acknowledge the fact that service can take different forms, like the professional service and what not. Now it’s not entirely clear when somebody is hired as a lecturer, whose sole responsibility is to teach. And so I think that is simply just not comparable and I don’t believe we should actually move in the direction because you say that even though there are full-time employees, but there is in fact a distinction between the nature of work they perform, versus the tenure-track faculty.

**MOORE**: I don’t think 2B really has anything to do this policy; it’s simply a statement if something exists outside of this policy. I would prefer to see 2B struck from the document.

**FISHER**: It needs to be written. It protects us.

**BOBAY**: I wonder if the language in the document just needs to be made consistent. I mean, the document opens up talking about all academic appointees, the rest, then 2A talks about academic appointees as if this policy refers to all and only in 2B does it really specify one type of academic appointee. If the policy is meant to cover just that one type of academic appointee, perhaps it could be fixed by making the whole document about conflicts of commitment for full-time faculty because I happen to agree with the other comment about applying this to other academic appointees before you really understand the work environment for each of those different groups.

**WHEELER**: Ted, first my recollection is that Ann Gellis spoke at some length on this point when we discussed this earlier and I would be reluctant to have a vote without her being present to speak to that issue again. So to that extent I would like to move to table this amendment and bring it up for a vote next time when Ann can be with us.
FOOS: …with a date that is not debatable, if he tables it without a date.

KISH: He’s asking to postpone the motion to the next meeting.

MILLER: And so we do not debate such a motion?

FOOS: It’s debatable.

MILLER: It is debatable.

FOOS: But it would need to be—because it’s got a date with it.

MILLER: Two thirds?

FOOS: To table it I believe it becomes a two third but you can debate.

KISH: I don’t think he really wants to table it; he wants to postpone the motion to a certain date.

MILLER: We’re going to postpone it to the next meeting of the UFC, is that what you’re saying Bill?

HAWKINS: I might suggest to do that because I think that if the changes that have been made in other faculty appointments, I think we need to just go back and make sure the language for clinicals is such that they are excluded from point B.

MILLER: But they are.

HAWKINS: I know they are now but I’m not sure they should be given how their jobs have been implemented. They are eligible for tenure-like leaves. We need to go back and double check B.

MILLER: Double check B for what Barb?

HAWKINS: I’m not sure that it should be just full-time tenure-track faculty that should be listed under B.

LUDLUM FOOS: I think we need to keep in mind that what we’re looking at is a document that’s already been approved by the University Faculty Council and it’s been brought to us with a few minor suggested changes. What’s being proposed now is that we rethink the policy in a substantive way. I’d be very hesitant to do that on the floor on the fly like this as if we were just amending a motion in the first instance. We’ve already approved this after extended discussion and really we should not start changing it, as I said, on the fly. Whether Bill’s idea of postponing the whole discussion, I don’t know, but I don’t think we should vote on that at this time.

FISHER: And that’s not what was brought to the group.
COFFIN: There is in the document a definition of academic appointees; any person who has either a fulltime or a part-time academic appointment in the university. One of the problems with changing B so that it would implicitly incorporate, if you struck full-time tenure-track faculty and substituted academic appointees, then you’d be saying part-time faculty members could only spend one day a week on outside activities and we surely don’t mean that. Right? I mean, having been a part-time faculty member at IUPUI, believe me, I spend more that one day a week on my real job.

HAWKINS: I guess what concerns me is the ambiguity that full-time tenure-track faculty are permitted to spend one day on average, but we’ve got all these other full-time people who fit under the full-time faculty ranks for which we make no specification.

WATSON: What if it says full time academic appointments?

MILLER: Those appointees are covered under part A of number 2.

HAWKINS: I don’t think it says the time amount that they’re restricted to.

MILLER: It says all academic appointees may engage in outside professional activities.

LUDLUM FOOS: May I call a point of order? Do we in fact have a motion on the floor to postpone this?

FOOS: We don’t have a second on it.

MILLER: Okay, we have a motion to postpone until the next meeting, is there a second please?

KISH: Postpone the amendment, the amendment, not the original motion?

MILLER: Postpone the amendment?

HAWKINS: Marty’s amendment.

KISH: Martin introduced a motion that was seconded by Don.

WHEELER: The effect is we couldn’t finish action on it today but we can continue discussion of other items and I have one such point I wish to bring to you.

KISH: But the Board is going to act on this before your next UFC meeting.

MILLER: Yes, well.

HAWKINS: You can always come back and visit it next year.

MILLER: The Board is set to approve this next week. I would say the initial discussion of this policy at the last Board meeting, it’s very clear that the Board was quite focused on this part 2B.
They were wondering why we would want to grant this to any group of academic appointees. Why would we want to do this? I’m happy to say that the administration of Indiana University represented by the president, by the various deans of faculties from the campuses, by some of the chancellors, a number of the chancellors, all basically stepped in and said well you know, this is a very important but common practice at American universities and we would not want to have a policy that did not include this, it would not be good for Indiana University to have this policy.

HAWKINS: Yes, but we’re not arguing against that. I am saying that we’ve left out specificity on the amount of time that other full-time faculty appointees can spend on outside activities. So when do you decide that it’s a conflict of commitment.

MILLER: The other academic appointees basically can do these activities provided that they do not constitute a conflict of commitment. That’s what the policy says.

HAWKINS: Can’t we specify that?

MILLER: Well, you decide that the way the policy says you decide it. The academic appointee discloses the activity to their dean and the dean determines whether it is a conflict of commitment or not. That’s what the policy says we do; it’s a disclosure policy, just like this other one we were talking about earlier, that’s the fundamental aspect of it is disclosure.

IVIE: Could I comment? I oppose either delaying approval of this or changing what we have. This came back to us after being discussed and then basically acted on by the Board for minor editorial changes. We already approved this policy through discussions before. It’s very important that we not mess with 2B because that’s preserving something we currently have. And as Ted just said, it had to be re-defended. If anything this policy is progressive in 2A by trying to extend some of this courtesy to beyond what we have historically had. So I think if we start trying to redefine B, we could more likely lose what we have that gain anything more specific. So I hope that we can just take a vote on this as approving the editorial changes.

MILLER: Okay, other comments? Comments on Bill’s motion?

FOOS: Has it been seconded?

MILLER: No one has seconded it. Alright, so Bill you are out of luck.

KISH: So we go back to the amendment.

MILLER: So we’re now back to Marty’s amendment, we’re still discussing Marty’s amendment, any further discussion on Marty’s amendment?

BOBAY: Remind me what that amendment should be.

MILLER: It was to strike the term tenure-track faculty from…

SPECHLER: Just tenure-track.
MILLER: …tenure-track from 2B, right. So 2B would then apply to all full-time faculty. Now, what does the phrase full-time faculty mean? If you look at the academic appointments policy which this Council approved in 2001, it’s a very fundamental policy which outlines and delineates the various categories of academic appointees that can exist within Indiana University. Some of these categories are viewed as faculty categories. Other categories are not so designated. The librarian category is not designated as a faculty category. It is designated as a tenure-track category, but it is not a faculty category. So the faculty categories are the tenure-track faculty and then a variety of non-tenure-track faculty categories including the clinical, the lecturers, the visitors, adjuncts, the research scholars are lumped into the faculty category. So there are a certain set of faculty categories and if we change this policy to say full-time faculty shall be permitted, that would expand this particular perk, if you will, to not only the group that it currently applies to but to the clinicals, to the lecturers, to the adjuncts and if there is a full-time adjunct they may not be as kind of—maybe there aren’t any full time adjuncts, to the visitors, to the research scientists, that would be the list we would be talking about.

FISHER: Ted, it seems to me one of the issues…

SPECHLER: I’d like to say in defense of this proposed amendment which I made, I think first of all obviously this is along the lines of extending to lecturers and senior lecturers, academic freedom and other kinds of attributes of faculty membership which the tenure-track faculty have enjoyed for a long time. So the first point is additional elements of equality to people who do much but not all of what we do. That’s the first thing.

And the second thing is that yes it’s possible that the trustees would withdraw 2B completely. I think that that’s quite unlikely. They may, if they notice it at all, they might say no, we don’t accept that; you have to go back to tenure-track and in which case I guess I would cave in. But I think it’s worth raising with them, beyond that of course, we’ve already inserted a change in this policy, “administrative decisions” rather than “approvals.” So it’s not quite just what they’re approved in the past. I think it’s worth discussing with them. Lecturers, again, lecturers and senior lecturers are an increasingly prominent part of our teaching faculty on all campuses.

HAWKINS: I’d like to call a question.

FISHER: Mary Fisher. I would like to say that I am not in support of Marty’s amendment at this time. I think we should approve the policy as amended from the Agenda Committee, but I would recommend that his idea go to Faculty Affairs for study, that it could come at a future time as an amendment. Once it’s been studied we know the implication of it when we have not put at risk the basic policy. I think it’s inappropriate to do it at this time.

MILLER: Okay.

HAWKINS: Ted I just want to clarify one thing. I don’t see B as a perk, I see it as a restriction compared to A, but the way it’s currently written, it could be seen as a restriction where there is no restriction on A.
MILLER: The question has been called and so we’ll have a vote on Marty’s amendment. All those in favor please say “aye” [aye].

KISH: Ted we’re going to have to go site by site here.

MILLER: Okay let’s count the hands at the various sites and we’ll see what happens. All those in favor of Marty’s amendment please raise your hands at your various places; somebody please count.

NG: One from Indianapolis.

MILLER: Any other positive votes? All those opposed, alright. The no’s have it, the amendment fails. Alright, we’re back to the discussion of the policy itself. Bill?

WHEELER: I have a two part question; first your comments earlier about ten month appointees, I inferred from your comments that during the rest of the year, during the summer, I’m not an academic appointee. If the answer to that is yes, then when I look at 2C, it no longer pertains to a ten month appointee during the summer which means that a ten month academic appointee could use university resources in the performance of outside professional activities without the written permission.

LUDLUM FOOS: Are you saying anybody who is not currently employed by the university may use university resources?

WHEELER: That’s what it’s saying. But of course because you do have your office key, I mean, you do have your office and you could go to your office computer and do outside activities during the summer when you are not an academic appointee and you could do that without requesting written permission because as currently written, C would pertain only during the period of your academic appointment.

MILLER: Well I don’t think the implication of during the period of appointment phrase implies that outside the period of appointment you are really not a faculty member of Indiana University, nor an academic appointee of Indiana University. I don’t think that that is true.

WHEELER: You think during the summer I’m an academic appointee although I’m not appointed.

MILLER: Yes, I think you’re an appointee but you’re outside the period of your appointment.

FISHER: That only relates to B.

MILLER: It only relates to B, that’s right.

BOBAY: Can I call a question?
MILLER: Okay, so we’re going to vote for or against the motion now. All those in favor of approving this revised Policy on Conflict of Commitment, please say “aye” [aye], all those opposed to approving it say “no”. Very good, I shall report to the trustees that we are…

HAWKINS: One abstention.

MILLER: Okay, one abstention, sorry.

AGENDA ITEM #8: UNIVERSITY REORGANIZATION

MILLER: Alright, next item on our agenda is the university reorganization. We have two components to this item today. One of them is that we have received from President Herbert questions regarding the university reorganization. Have those been distributed everywhere Kelly?

KISH: I tried to email them around the state but I’m not sure that everyone has received one. I know Bart has some; I know that David has some in South Bend.

MILLER: We got these actually while we were here in the room. So it’s possible that some people have not yet received the answers to the questions about university reorganization from the president. But they will be coming to you shortly and I thought what we could do here today in the time that we have left, since Maynard Thompson is with us, I would like to ask Maynard to just make some remarks about the questions and the answers to them. To give us a little bit of sense of what’s in them and then we can come back to this in two weeks when the president presumably will be with us at that time and if we have more specific questions we can deal with them then. Maynard, please.

THOMPSON: I’ll summarize briefly the questions, I’ll summarize briefly the president’s response and then I’ll be glad to respond to questions from the audience on the content. First question was related to the structure of the future of Indiana University, would we continue to be one university or are we moving toward a system. The second part of the question was would regional campuses have more autonomy and the thrust of the president’s response is that he envisions the university as continuing to operate as one university with a single board of trustees and leadership administered by a university president. He continues to see certain aspects of university administration as providing services to all of the campuses.

As far as the regional campuses are concerned, they now have significant control over their daily operations. They operate their own budgets, have their own tenure promotion recommendations, develop their mission statements and admission criteria and so forth and so on. And certainly that is intended to continue, there may be some areas in which it will expand and particularly in response to mission differentiation initiatives.

What is the role of the president in Bloomington, what is the role of the president for the rest of the institution? The president is specified by the university, the fundamental principles as the CEO for the entire university with the ultimate responsibility for operations under general policies established by the university board of trustees. Under this new system, he will also be
the CEO for the Bloomington campus. In that system, the provost serves as a chief academic officer. The result is that the Bloomington campus will for the first time move to the same administrative structure as the other campuses. Mainly the CEO for the campus has control over all aspects of campus operations.

The provost as the CEO, the chief academic officer for the Bloomington campus, he has specific university-wide responsibilities mainly for the graduate school, for continuing studies and student enrollment services.

As part of the president’s executive staff, the provost and the executive vice president will provide advice and recommendations to the president on issues that affect all campuses. The executive vice president does not have specific administrative responsibilities on the Bloomington campus.

Third question, what is the future of graduate education and research on the regional campuses and at IUPUI? Who will provide leadership for undergraduate education, who will provide leadership for graduate education and how will the general leadership interact with campus authority on academic matters? The Graduate School will continue to provide leadership for graduate education throughout the university. The Dean of the Graduate School will continue to be the representative for graduate education in the various national professional organizations. Guidelines for the graduate programs on the regional campuses were approved by the board of trustees. Each campus is expected the research activities of its faculty and to contribute to the goal of doubling the sponsored research by 2013. The executive vice president has the responsibility of monitoring the quality of undergraduate effort, academic programs and for program reviews and the task of reviewing proposed new undergraduate programs at all campuses other than Bloomington. He also acts as a liaison of the board of trustees and is IU’s representative on the Commission for Higher Education.

Each individual campus has responsibility for academic programs offered on that campus and the expectation is that these responsibilities will be fulfilled consistent with the policies of the board of trustees. Academic Leadership Council will continue to function as an advisory group. It will provide advisory observations on the campuses on all proposed academic programs.

How will RCM work in the new administrative structure? RCM as you know is a budgetary and financial planning process and in its basic principle it is largely independent of university structure. It’s currently under review. The final draft of the review should be passed on to the president yet this week and whatever recommendations he chooses accept by [End of Tape 2 Side B some comments lost]… the university administration in some form will continue to operate. [Laughter] It enables the university to take advantage of the economies of scale and to provide the essential services in a cost effective way. Over the next year there will be a review of UA functions to determine whether or not some of them or all of them can achieve greater efficiencies and savings and become more transparent in terms of the service charges. Part of that is related to a mandate for a review from the board of trustees on auxiliary operations and a charge to make a report by the end of the summer or early fall.
The final comment or final question was what institutional models are being used? …sustain and enhancing the academic distinction of the university. The process that was launched in December with the appointment of a new vice president for the life sciences, an individual who would take the lead in coordinating and monitoring the life sciences. That process continued with the restructuring of the role of the president that was announced in January and at the January meeting the board expressed it’s intent to reexamine other aspects of university structure and that examination will take place during the summer, possibly extending into the early fall. The president’s expectation is that most of the restructuring efforts should be completed by the end of the current academic year. I believe he intends to meet that goal. I may not be able to answer questions but I’m glad to try.

MILLER: Any comments or questions people would like to ask at this point?

AGENDA ITEM #10: NEW BUSINESS

MILLER: Now we have a couple of minutes left, just one item of new, let’s see where’s my agenda, one item of new business. You all will recall that the university has a family leave policy that has been approved by the faculty and also approved by the trustees. There have been proposals to change that policy which have been rejected by the trustees. We have been extending the current policy on a year to year basis for the last several years hoping that we can come up with some way to persuade the trustees to expand this benefit. That’s why we’ve been unsuccessful in doing that. But I think we are continuing to try. (Tape problems, some comments lost)

MILLER: Well, the Fringe Benefits Committee I believe is continuing. Elizabeth?

JOHNSON: The Fringe Benefits Committee is working to try to discover what the university administrators will support. We have realized that there’s no point in going to the trustees with a policy that is not fully supported and asked for by campus administrators, deans and so forth and so that’s been one of our goals. It’s been rather hard to do this year because there’s been a lot of energy directed elsewhere in terms…(Tape problems, some comments lost)

NG: I have the wording of the resolution that if there faculty compensation and benefit committee well as to consider it, I’m going to read this so that you know what you are talking about. The resolution that the committee wants us to consider is as follows: The Faculty Compensation and Benefits Committee of the University Faculty Council is continuing to study the university’s family leave policy for academic appointees. To ensure the continuation of the current Partially-Paid Family Leave Policy, the UFC requests that the Board of Trustees confirm that the current policy will remain in place until June 2008. By that time the UFC hopes to present a revised policy for the Board’s consideration.

MILLER: So that is two years.

NG: That’s two years.
MILLER: So are we on board with this? Ok, we have a motion, we have a second. Any further discussion please? Any further questions? If not all those in favor please say “aye” [aye], opposed? Alright. The aye’s have it. I believe that takes us to the end of our agenda and I am happy to declare this meeting adjourned.

Meeting adjourned at 4:20 pm.