

Lionel Raff called the meeting to order with the following members present: Arquitt, Austin, Bell, P., Binegar, Cruz-Rodz, Darcy, Fullerton, Greiner, Johannes, Jordan, Lamphere-Jordan, Lehenbauer, Martin, Martinez, Mitchell, Murray, Phillips, Rockley, Rouch, Terry, and Toetz. Also present: T. Agnew, L. Bird, D. Bosserman, J. Cook, G. Gates, M. Heintze, D. Hunt, D. Lane, A. Matoy, D. Shields, J. St. John, L. Talent, M. Tilley, J. Weaver, and G. Wiggins. Absent: Bell, G., Bilbeisi, Chaney, Henneberry, Moomaw, Mott, Sirhandi, and te Velde

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Raff announced that the President and Provost were both out of town and Dr. Bosserman would be representing Administration at the Council meeting.

Due to the fact that several Council members did not receive the May 11 Faculty Council Minutes via the ListServ, they will be approved/corrected at the next Council meeting. Cruz-Rodz moved acceptance of the June 8, 2004 Agenda. Lamphere-Jordan seconded. The Agenda was approved.

SPECIAL REPORT: State of the Budget for the Upcoming Academic Year – Joe Weaver

Weaver said the OSU budget would be presented to the Board on June 17 and 18 and it will subsequently be approved by the State Regents the following week and as of now nothing he could report would be actually official. Weaver said at the present time all he could do was make a couple of comments and respond to any questions he might be able to answer. Weaver said the state appropriations received for general university use were about 2.4 million and that is slightly higher than expected which was much better than the 11 million dollar cut received last year. They are also planning, and will build into the budget, about 2.6 million dollars in enrollment growth revenue and that is a result of this year's enrollment and a continuing population that is presently on the campus. This is not enrollment growth that is projected for next year. They are not building in an increase in enrollment of any kind. For tuition and fee revenue they are anticipating for general university about 8 million dollars. That is, the total new resources that can be applied to needs and priorities are about 13 million. Weaver said he thought it was an interesting contrast that we are looking at 8 million dollars in tuition revenue compared to 2.4 from the state and that is one thing that will be reflected in our budget documents. In 5 to 10 years time, we have gone from being a state-supported institution to state-assisted. The current year's budget will show a higher percentage of funds coming from revolving revenues that we generate through tuition and fees, sales and services, and grants and contracts. More are coming from those sources than from the state. It will be more like 55% tuition, fees, and revenues and 45% state. Ten years ago, it was more like 60% being state and 40% being from OSU sources. Weaver felt this was a remarkable change in a short amount of time. Weaver continued that, on the expense side, the priorities funded first will be mandatory costs to make sure the facilities will stay up and running. The largest items of mandatory costs are fringe benefits with utilities being second. Those two account for about 4 million dollars. The remainder will be federal compliance for research programs, insurance, miscellaneous items for a total of about 5.1 or 5.2 million in mandatory costs. The next most significant item will be a faculty and staff raise program that OSU will try to implement October 1. Approximately 2.5 million is being set aside for that. The next priority Dr. Strathe has is replacement of faculty positions. No decision has been made as to which positions and departments will be filled. Ongoing discussions will be held during the summer with the Deans and Department Heads. Between 20 to 25 faculty positions will be filled depending on departments and salary costs associated with replacing faculty. Weaver said Strathe's idea is that OSU needs to begin to put back some of the faculty positions lost last fiscal year. That amount will be about two million dollars. That will be about one-fourth of the positions currently counted as open and vacant that need to be put back into the budget. Another item intended to be presented to the Board is if we want to be a tier two school in *US News and World Report*, a faculty size of "X" is required, where X is significantly more than 100 slots – more on the order of 200 slots. Weaver said they would present a balanced and a much healthier budget than last fiscal year. Last year OSU closed out with about one percent of the budget in reserve. The norm is about 12 percent. This year it will be improved by several million dollars and be in a lot stronger position. This is an issue going forward into the fiscal year that will have to be dealt with. In another matter, with fall enrollment, there is some concern about international applications, particularly for graduate students. The enrollments are still strong but down slightly at this point. It is early as far as graduate enrollment is concerned and hard to project with all the federal changes concerning

Homeland Security and the regulations graduate students have to go through. Some countries can not even send students to the United States any longer. This will have to be watched. Also, attention needs to be paid to the state questions on the ballot this fall. There will be ten to twelve state questions, many that will affect education funding. Some are very high priorities for the Governor and the comment Weaver gets from Robert White is that if the Tobacco Tax does not pass, that would be bad for OSU because things that the Governor has planned on funding through that mechanism would have to be funded another way. Weaver stressed the state budget is built on those questions and they really need to pass. Weaver noted that we need to be alert to the possibility that the alternative retirement plan, which is required by recent OTRS legislation, might cost OSU some money that was not anticipated three months ago. One, he noted, is the removal of the age 26, one-year requirement. That will cost some money in the short run. Weaver then asked for any questions. Darcy asked how much would be mandatory costs and Weaver replied \$5 million. He continued that his figures showed about \$13 million in revenue, and about \$12.2 in expenses, which is about \$800,000 to the good at this point. Fullerton asked how \$40 per barrel oil helped the state. In the past when oil prices were down, we all had to tighten our belts and she was waiting for someone to say, "Boy we're paying a lot for gas and here's what the university is going to get". Weaver replied unfortunately the State has been diversifying their revenues and while there is a positive impact, the utility budget is being taken up largely due to natural gas prices and he felt we were more a victim of those prices than we are a winner. Weaver said the strength of our budget was sales tax, personal income tax and corporate income tax. Gates asked if the State Regents had gotten any handle on solving the scholarship commitments. Weaver replied they had allocated a significant amount of money toward the problem to fund the current year but not a long-term solution. Raff asked what percentage of the revenue increase was due to tuition increases. Weaver said we grossed about 75 million in tuition revenues so it is a little over 10 percent and at this point and time, we are trying to talk about the amount of money that the cost of education will go up as opposed to percentages because we still remain at the bottom of the Big XII in terms of where our position is on tuition. Therefore, the percentage increase might be high. The amount of the increase will be around \$300 per student, and he feels this is manageable. About one-third of the cost of their education is born by the students. St. John asked what deans and departments heads were being consulted in regard to open faculty positions. Weaver replied the deans had given a list of their highest priority faculty positions and they will be given a chance to update them if anything has changed. He said he was not speaking for Dr. Strathe but said she would probably talk to every dean and give every college a chance to make a request for those positions. Darcy asked to what extent is there a balance between the student's needs in terms of classrooms, teachers, and sections, and research which the students may not see at all. Weaver replied that question should be directed to the Provost. Arquitt said when you are talking about targeting faculty positions that brings to the surface the question of where we are in the strategic planning process and what do we know about what direction this campus is supposed to be taking. Bosserman replied to the best of his knowledge the strategic plan will be taken to the Board and discussed at their planning retreat in July and taken to the Board for approval in September. Martinez asked about money for endowed chairs for the University and which for OSU have been approved. Weaver replied if there was a particular one he was interested in, they could check on it. He requested that an email be directed to him after which he would investigate and obtain the information. Raff said he had received a question from a faculty member if he had actual hard data as to how many millions of dollars had been allocated to funding the endowed professorships and how many of those millions will we receive. Bosserman said he would let Raff know. Pat Bell asked about open retired slots and if there was money for two or three Assistant Professors could the vacant positions be filled in that way. Weaver said if there was a vacant slot and the dean

wanted to describe it as two Assistant Professors, they would not have a problem with that. Johannes said it was mentioned that the tuition assumption was based upon this year's enrollment but is there any indication as to what the fall enrollment will look like. Weaver said we know about continuing enrollments based on the students that are currently enrolled here. We know our Junior class this year is bigger than the Junior class that it replaced and that there is a pretty good idea that there will be a continuing enrollment growth for next year. Weaver said for the past several years, he has not felt comfortable in recommending building enrollment growth into the budget until things stabilized. Heintze said the freshman applications for this fall are running just slightly ahead of last year. This year we are up about 300 applications from out-of-state candidates and down about 250 candidates from in-state. In our state there is a flat high school graduation rate for the next several years and maybe that is saying something about the economy in our state. The good news is that the number of quality students offered admission seems to be very good. The key will be if we can yield, at the end of the year, about the same number of students that we admitted from the prior year. If that happens, the class will be very similar. The thing problematic point relates to out-of-state acceptances because the yield rate is typically a little less. Heintze added on the transfer side, the applications have been running a little down all year but the acceptances have been running way ahead, as much as 35 percent and that is really a function of the quality of the transfer students. There is a better cut of transfer student this year and there is a chance there might be an increase even though the application rate is not quite what it was last year. The wild card in all this is the international students. Normally there are about 50 freshman and 75 to 100 in transfers. He feels the issue, not just here but around the country, is what will happen to graduate student enrollment in the fall. We are experiencing a significant decrease in international graduate student enrollment as are many other institutions. Darcy said when President Schmidly was hired, one of his top priorities was diversity. Darcy continued that about 75 percent of the African-American applicants are accepted and about 95 percent of the white applicants are accepted and he was wondering if the university had made any progress at all in admitting and gaining African-American students. Heintze said right now in this class, the percentage of students within the applicant pool for diverse students is up in all three major categories – Hispanic, Asian, and African-American. Heintze said there was a report on the Admissions website that has some very good information regarding the number of students who have applied, been accepted, etc. in all those categories and it is broken down by ethnicity as well as in-state and out-of-state, male/female, etc.

SPECIAL REPORT: House Bill 2226 – New Retirement Program – Anne Matoy

Raff introduced Matoy and said that House Bill 2226 had passed the legislature and had been signed into law by the Governor on June 3. Matoy said that House Bill 2226, which was introduced by Representative Terry Ingmire and Senator Mike Morgan, passed because it had the support of the entire OSU family. She thanked the faculty leadership and Carol Moder, in particular, who continually met any request on a moment's notice when they were called on. In addition, Matoy thanked members of the Flexible Compensation Benefits Committee, chaired by Terry Lehenbauer and the retirement subcommittee chaired by Camille DeYong and Bill Barfield, who were particularly instrumental in getting the bill passed. Faculty Council, the Emeriti Association, and Human Resources worked together to draft and promote passage of the legislation. They worked with OU, OTRS, and the legislative staff. All of OSU expressed support during this effort.

HB 2226 does provide for optional OTRS. Matoy said the Faculty Council first requested optional OTRS twenty years ago and it has taken this long to accomplish that request. In addition, anyone in OTRS prior to 1995 is expected to have increased monthly retirement

benefits based on the new benefit formulas established in HB 2226. These are to be more comparable to the benefits received by other higher education institutions and common school members for the same contributions.

Employees in the OSU Retirement Plan and OTRS prior to July 1, 1993, will continue to receive an adjustment acknowledging their participation in the plan that existed prior to July 1, 1993. These employees will receive at least 11.5% of pay in retirement contributions with the formula adjusted to reflect the pre-93 contribution. The new OSU contribution rate will be \$1,500 to OTRS plus 10% of pay over \$7,800 of salary, plus 11.5% of pay over \$48,000 of salary each fiscal year. The threshold amount of \$48,000 has been lowered from the current \$72,000 to reflect the increase in contributions. This improvement, plus those resulting from the passage of HB 2226 will create a premier retirement system for OSU employees. With an optional OTRS program, new hires on or after July 1, 2004, will be able to select the retirement program best suited to their needs, thus enhancing recruitment of faculty and researchers. Other changes, such as the increase to 11.5% for OSU contributions and the change in the OTRS retirement benefit formula, will enhance retirement for current employees.

OTRS will recalculate monthly retiree payments of OSU/OU retirees who retired after July 1, 1995. If the recalculation based on the new benefits formula in HB 2226 results in an increase, the retiree will receive the new monthly retirement income beginning January 1, 2005. Regardless of calculation results, OTRS will not reduce income of a retiree. Due to provisions in HB 2226, no retroactive benefits will be paid.

The new formulas eliminate the year by year calculation for 1995 through 2007 when the salary caps are gradually lifted. Years in which a member contributes less than the applicable low or high-base cap will be considered with all years after 2007 when the caps are removed. Years in which a member contributes at the applicable salary cap will be considered together. In both cases the high three-year average that applies to members who joined prior to July 1, 1992, or the high consecutive five-year average that applies to members who joined after July 1, 1992, will apply for this period. Additional information including sample calculations provided by Oklahoma Teachers' Retirement System and the full text of HB 2226, are available on the OSU Human Resources website at http://www.okstate.edu/OSU_per/retadd.htm. In addition, you may wish to obtain a new Retirement Estimate from OTRS, 1-877-738-6365, or from the OTRS website at www.trrs.state.ok.us. Matoy added that OTRS is in the process of updating their website and to be patient while they are getting up to speed.

At the June 18, 2004 OSU/A&M Board of Regents meeting, President Schmidly, in keeping with his commitment, will request an increase in university contributions to 11.5% of pay for employees in the OSU Retirement Plan to be effective July 1, 2004. This change will affect all employees currently in the 11% Plan. In another item, in order to start to take advantage of some of the optional OTRS provisions, an alternate retirement program must be created. A program that will affect new hires (hired after July 1, 2004) will also be taken to the Board. This group of new hires will have a choice of joining OTRS in which case OSU will pay their 7% member contribution and pay the employer fee of 7.05% of compensation. The employer fee is not credited to the account of OTRS participants. Or, if the employee elects to join the Alternate Retirement Plan, OSU will contribute 11.5% of pay to TIAA-CREF or whatever approved vendors OSU has as we go forward. That 11.5% goes into individual accounts. It will have a two year vesting requirement. If you leave OSU before the end of two years, all contributions made will be forfeited. The one year employment and age 26 eligibility requirement will not be

repeated in the Alternate Plan. New employees who elect participation in OTRS will not have to pay their own OTRS contributions for the first year of employment or until age 26. Employees must be regular continuous employees (an appointment of at least six months) with an FTE of at least .75. Employees with federal benefits, visiting faculty, interns, post docs, and residents and certain other classification will remain ineligible for participation in OSU retirement contributions.

OSU has committed to OTRS they will assume their fair share of the unfunded liability. If a person chooses the Alternate Plan and does not participate in OTRS, OSU will pay an additional 2.5% to OTRS to continue OSU's commitment to the unfunded liability. That funding surcharge can be readjusted in the future, although it will be three years before we have an idea of exactly what happens. The other change in the Bill is that there will be a future option available to current members of OTRS to elect to stay in OTRS or to withdraw. The provisions of that cannot be fully explained or ascertained at this point because it will require IRS approval and this process should take a good year. After IRS approval is received, all members of OTRS will be contacted explaining what the options are, what happens if you choose to withdraw, and what happens if you chose to cease contributions and you will have a full year in which to make a one-time decision.

Raff asked Matoy to relate how much benefit will be received by the passage of HB 2226 by someone that retires in 2007 over what they would have gotten had this Bill not been passed. Matoy replied the change in the retirement benefit formula for anyone who has been in OTRS between 1995-2007, and if they are in that group of people here prior to 1992, will mean an increased retirement income of approximately \$417 per month if their contributory salary is over whatever the cap was. This does not depend on whether the employee is low base or high base. If the employee's total compensation has consistently been over those caps, it could mean up to \$417 per month. If they are in the group that came after 1992 who have OTRS calculated on the high consecutive five years the benefit they would get is about \$317 per month. Raff asked Matoy if there had been discussion about what happens if the OTRS premiums change and go up as they have in the past. Has there been any discussion about when the 7 goes to 7.5%, if it does. Matoy replied they will prepare the election form (a sample has been received by the attorney) to commit to the 7 and 7.05%. That does not prohibit the university from doing more in the future depending on what the retirement environment is in five or ten years, etc. But the initial commitment will be to the 7 and 7.05%. Johannes asked if OTRS would always be the option for new hires and Matoy replied that is correct and no one is hurt at all by this legislation. It does not take anything away from anybody and gives increased opportunities for those who choose to take advantage of it or increase benefits depending on which case you are in. Fullerton asked if there would be councilors available when the time comes to make a choice on whether to withdraw or to stay in and Matoy replied, "yes". They are working on some kind of educational program that will lay out what happens under various scenarios. Matoy added new hires will have 90 days to make a decision and that decision will be retroactive to date of hire. A consultant has been hired working with HR to create a video explanation of the possibilities as well as written materials. Binegar asked if the video would be available "streaming", picked up, in presentations, etc. and Matoy replied her goal is that it could be checked out to individuals who wanted to view it as well as have it within a benefit sign-up session and added nothing is definite at the present time. Arquitt asked about the three highest years of pay. Matoy replied OTRS considers your three highest years during your career that you have contributed to OTRS. Johannes asked about "phased retirement" saying he had discussed this with Matoy in the past and it was not a possibility and did she think it might be a possibility now. Matoy replied the

problem before was an FTE requirement and she said they could certainly look at it now in light of the changes coming forth. Matoy said Johannes could contact the Flexible Compensation Benefits regarding his question. Raff wanted it clarified that if new hires take OTRS they would get either the 7% plus the administrative fee of 7.05% or the 11.5%, or what that might become, but not both.

**REPORT OF STATUS OF FACULTY COUNCIL RECOMMENDATIONS:
President Schmidly, Provost, and Vice Presidents**

- 01-04-01-BUDG **Market-Driven Salary Increase to Tenured and Tenure-Track Faculty:**
Administration will continue to look at faculty salary issues. Special award program for Fall 2003 was finalized, and funding for salaries will be a legislative priority. Recommendation will be shared with the Equity consultant. Adjustments made to \$40K for identified tenure-track faculty.
- 02-12-04-RFB **Maternity/Family Leave Recommendation:** Accepted. The Flexible Compensation Benefits Committee has received the endorsement of Staff Advisory Council. Faculty Council may take action in a pre-council meeting.
- 03-02-06-EXEC **Tulsa Bus Policy:** The recommendation from the fiscal staff of OSU-Tulsa, as well as the shuttle operations staff, is for the interim policy, as written, to become the permanent policy and that all other rides for business purposes be handled in the same manner as other chargeback services.
[Bosserman reported he had asked Hess and Gasem to attend this meeting and report and neither were available but would attend the Sept. meeting.]
- 04-01-01-RFB **TIAA-CREF Vested Accounts Recommendation:** Pending. Under study. Will be responded to this fall.
- 04-04-01-CFSS **An Improved Process for Campus Planning:** Pending. A meeting was held on May 10 at which recommendations from FAC were received. The campus planning process will be finalized over the summer months.
- 04-05-01-RES **Research Professor Track:** Pending. Under study by the Council of Deans and the subcommittee of faculty representatives working with Provost Strathe on revisions to the Policy Statement.
- 04-05-02-RFB **Proposed Changes to Faculty and Staff Sick Leave and Family Medical Leave Act Policies Concerning Maternity/Paternity/Adoption:**
Accepted. Appropriate University policies are being updated.

Tilley asked if the report of the equity consultant was available. Raff said one copy had been provided to Carol Moder. Bosserman said for Raff to e-mail him and he would find out if there was one available.

St. John asked if the Tulsa Bus Policy was paid for by departments or a waived fee. Bosserman replied the way the interim policy reads now is that if you are a student you pay to ride the bus. If you are Stillwater faculty teaching a course in Tulsa or Tulsa faculty teaching in Stillwater that is in your increment and you ride the bus free. If you are not in one of those two classes and there is space available, you may ride free, otherwise, you pay. The increment is in the departments allocations for that faculty member. Bosserman added the bus is run by OSU-Tulsa and they subsidize it every year for \$200,000 and they are the ones that put it in place.

REPORTS OF STANDING COMMITTEES:

Raff reported that one-third of Council had rotated off May 31 and effective June 1 several new committee members and chairs took office. Many of the following updates are statements of what the committee agendas for the coming year might be.

ACADEMIC STANDARDS AND POLICIES — Mark Rockley

As a new Chair, Rockley said they would continue to look at the work the committee did last year regarding the grade appeal process. They will also make a major push to address the issue of grade inflation. It has also been recommended that the committee prepare a set of detailed recommendations related to the OSU drop policies.

ATHLETICS — Don Murray

Murray reported some of the agenda items for the upcoming year will be to look at grades by gender and sport; obtain a financial report again from Dr. Birdwell in the Athletic Department as he was very gracious and easy to work with; again meet with student-athletes and have a larger role in the selection of those students; meet with coaches to find out what some of their issues are.

BUDGET — Earl Mitchell

As a new Chair, Mitchell said what he planned to do in terms of updating was to continue to spend time with Joe Weaver as Scott Gelfand did and to look at the budget overall and to be somewhat more proactive with Administration. Some things happened this year that were very positive in terms of impact on the budget and that was because of the cooperation with the Council and Administration on the retirement issue. Next year there will be new things coming up for the University as a whole. Mitchell had visited with Debbie Blackburn, Chair of the Education Committee, and one of the concerns Mitchell has in terms of the budget internally is a general feeling in the State as to how education fits in the budgeting process. He said that her conversation was about common education. Mitchell feels there are some aspects of education that the faculty needs to be involved in. He plans on the committee meeting once a month. Please let Mitchell know of any ideas the committee needs to deal with. Johannes asked if Mitchell was on the University Budget Committee and Mitchell replied he was as Chair of the FC Budget Committee. Darcy said with what Weaver reported earlier and the President's salary survey that he launched, OSU needs approximately \$10 million to bring our average to mediocrity in the Big XII and we are about half way there with the \$5 million, but it could very well be that the \$5 million is allocated in such a way that the salary structure at OSU could actually be worse next year after the raise program because of gaps at the senior level. He continued that OU is getting many more Endowed Chairs than OSU and to what extent is it possible that we actually will have a salary program two years running as opposed to every six years. Weaver corrected Darcy's statement that an 8 or 10 million dollar adjustment needs to be made on top of an average annual merit increase and that amount needs to be developed on top of annual raises. Darcy asked if the administration could possibly go to the legislature for a second year. Mitchell said what is trying to do is to get us to think more positively about things we can do and he tries not to worry about things he has no direct control over. Bosserman said he felt the University Budget Committee worked very well this year. It is composed of all the Vice Presidents, Deans, Agency heads for the Stillwater campus, representatives from the branch campuses, Faculty Council and Staff Advisory Council. Having all those people in the room meant that our budget did get "tweaked" as we went along because of input from the various

constituencies. He ask that all continue to come to the table because that is the only way they can receive feedback on what we are laying out on the table and asking for ideas. Raff commented that the survey conducted by the Budget Committee in 2003-2004 was very well received by the faculty and he recommends this be made a regular annual activity of the Budget Committee. It is pro-active and gives the faculty more input into the budge process. Rockley asked what percentage of the total gross university budget are directed toward payment of the primary providers, i.e., the teaching staff. Weaver said he would have to work that up but he did know that salary benefits in general are roughly 85 percent of the enterprise. Pat Bell asked how much of this is a problem of the allocation of internal resources and how much is an external political problem. Weaver said in his own personal view he feels this is not a reallocation problem and another 10 or 12 million dollars cannot be allocated to salaries and we have to grow new revenues through growing enterprise and research and through academic programs. Johannes asked how we compare percentage-wise as to when we made the plan to reduce administrative costs years ago. Weaver said KPMG did do a survey and recommended many positions be eliminated and many were. Those dollars hardly impacted our salary structure. They were reallocated to positions but that is a good example of an internal reallocation that did not move us up to a level. In another matter, Raff reported the Provost increased the Faculty Council budget for the coming year by \$3,000 and now there are line items which, including Foundation funds, amount to about \$14,000.

FACULTY — Linda Austin

Austin reported some old business they will be working on over the summer and into the first few months on the fall semester regarding a non-tenure track clinical position. This will follow along the line of the Research Professor Track that was passed at the May meeting. A draft of a motion came out of the College of Osteopathic Medicine and there are three issues the committee needs to review before they bring a recommendation to Council. The first one is should there be a limit on the percentage of faculty within a college who are in a non-tenure track clinical position. One suggestion has been that an upper limit of 25 percent should be a part of the proposal. The second issue has to do with the restriction of the actual track to certain colleges. There is a move to restrict the clinical professor track to Vet Med and the College of Osteopathic Medicine. Austin thinks she needs to talk to faculty in other colleges to identify other departments who might use this track and how eligibility to use this track could be identified. The third issue has to do with the percentage of funding that should come from practice planner external fund. The COM is able to generate more funds externally than the Vet College. One figure proposed is 75 percent but some feel this is too high and that perhaps there should be a provision motion that says something like, “the final source of funding is dependent on departmental resources and faculty guidelines”. In other words, not have a percentage at all. Raff said this issue was discussed at the last FC Executive Committee Meeting and a number of suggestions were made. He felt Austin would entertain any other suggestions anyone else would have regarding this issue and to contact her if you do. Tilley asked if these employees would be “at will employees”, which means the University could get rid of them whenever they wanted to because they were not tenured. Austin replied they would have contacts probably for one year.

LONG-RANGE PLANNING AND INFORMATION TECHNOLOGY COMMITTEE – Birne Binegar

As new committee chair, Binegar said he would take up work that was left by Mark Weiser and his committee and the charge at the April 2004 meeting that was to investigate rumors and

problems with the IT Division. Binegar said he was going to report on how that investigation is going and the three tracks which they are following – although they are really only effectively following two of those tracks. One issue was personnel management within the IT Division. They heard complaints and rumors of complaints about mistreatment of personnel. This morning (June 8) letters were sent out to about 90 IT employees asking them to meet with a small subcommittee of the LRP&IT committee to discuss personnel issues and more than that – to get a feeling for the working conditions inside ITD. Employees were asked to call Birne Binegar, Lionel Raff, or Bob Darcy, and they will set up appointments for half-hour discussions about the environment in ITD. Another track is the fiscal track. They received from Dr. Wiggins, via Joe Weaver, the printouts – the AMOs – of expenditures for the last couple years. They also received printouts of the salary structure inside ITD. They are reviewing these hard data. There is not even a preliminary analysis of these data now. Hopefully they can make sense of this and put it in their report. The third track that opened up has to do with allegations that were mentioned at the last FC meeting which have to do with intellectual property of Texas Tech and how that was brought to OSU and how that is going to be reconciled with the law and standard procedures. That issue is basically in the hands of OSU Legal Counsel. Since they brought the matter to OSU Legal Counsel's attention, they have an interest in that matter but the investigation will be handled by that Counsel. There are some other areas that are opening up one being continuing problems with e-mail. Binegar is not sure if the committee will have a technical investigation, but they will certainly bring the concerns of faculty about the instability and lack of e-mail to the IT Division. There are other reports that the committee finds troubling. There may be explanations for them, but they do not know these explanations. For example, they have heard of the administrative rights of certain PC's in Whitehurst being transferred to or given to someone over in Math Science without the knowledge of the owners of the PC's. These have typically been highly-placed people in Whitehurst. We find that troubling and will be looking into that as well. Binegar said he was sorry there was not anything substantial to report, but they actually do not want to report anything until they have something substantial. He then asked for questions. Johannes said his sources told him that we have a cease and desist order to stop the O-Key and the calendar systems and to his knowledge when he looked at it yesterday it was still up and would Binegar care to comment about that? Binegar replied he was in Whitehurst yesterday and the calendar was still up. Binegar added he did not know what to say about that, but the calendar program is one of a collection of programs taken from Texas Tech. Binegar said he did know that Mark Weiser received a letter from Texas Tech stating the cease and desist order and that was conveyed to Scott Fern of the OSU Legal Counsel's Office and also to the Provost's Office. What was done with that letter Binegar did not know. He has heard rumors that there are negotiations to work out licensing issues with Texas Tech but it does seem to be clear that Texas Tech has claimed ownership of that Intellectual Property. Johannes said it made him very, very nervous, as we try to convince students to be honest and aboveboard when he does not believe the university is now acting in that fashion. He said, "That's a comment not a question." Binegar followed up with a comment saying, "The other thing that is troubling about this is another program, the O-Key System, has been abandoned by Texas Tech because it is insecure." Raff said, "I just wanted to make sure that I understand this and that everyone else does, the University Legal Counsel, Scott Fern and Charles Drake, are investigating the allegations of improperly downloading copyrighted material from Texas Tech. Is that correct?" Binegar replied he was not sure if it was copyrighted, but the allegation is that there were programs that were proprietary programs that were taken off. Raff continued, "In normal situations like that, individuals involved in the allegations are put on administrative leave until such time that the allegations are laid to rest or substantiated. I don't think that has been done, has it? Binegar replied, "Not to my knowledge." Raff said, "Can you give me any reason why?"

Binegar replied, "Conjecture, but I won't say it out loud." Raff stated, "And that's a question for the Administration obviously. That's the normal procedure." Does anyone else want to comment? Rockley said, "Yes, you mentioned something about the administrative rights for some of the computers of high officials in Whitehurst being transferred without their knowledge. Could you explain to me what administrative rights means and does that mean that is a harbinger of doom for the rest of the faculty because that may well be done on their computers as well." Binegar replied, "Well, actually there's a distinction to be made clear. There is a transfer of administrative rights during the migration process. In carrying out the operation, IT personnel need to have administrative rights on the machines." Rockley asked, "But what does that mean, administrative rights? Does that mean the ability to do what?". Binegar replied that having administrative rights means, for one thing, access to files on the hard drive locally, but access remotely as well. Therefore, someone sitting somewhere off campus could have the necessary permission needed to look at your files, get on to your computer and read your files or to run extra programs. Binegar wanted to clarify that there will be, for people who migrate, a temporary authorization to get on your computer and reconfigure it and that is to be expected, but this granting of administrative rights on the Whitehurst machines was done without the knowledge and prior to the migration process; and that is what was disturbing.

Raff asked if there were any other comments. Arquitt said, "If there is a request that we quit using calendar and program, how hard is it to take it offline until the issue is solved and why has that not been done"? Arquitt continued, "It seems like at least if you had a discussion on it you would have quit using it until you resolved the issue until you paid a fee or were given permission to use it. But you wouldn't keep blatantly using something that belongs to someone else."

Darcy said, "I think one of the most disturbing parts of this is that there are people who could explain some of these things who are not doing it, perhaps in this room." Raff ask Dr. Wiggins if he would like to comment. Wiggins replied, "I would. First on the issue of permission and people taking administrative rights unbeknownst to others, that's a new one to me and if there is evidence for it I'd be happy to work with you on it. As to the issue of the calendar and O-Key, we are in discussions with Texas Tech and it's not completely appropriate to reveal the nature of those discussions until they are complete. There is an understanding between two institutions and what we are doing now does not violate this understanding. And those discussions are going forward. There are a number of issues on both sides and until that negotiation is complete it would be inappropriate to say a lot more. But, there is an understanding".

Fullerton said, "Dr. Wiggins, in fairness to you we are hearing rumors – was there a time at one point, to your knowledge or not, that OSU employees were violating copyright laws or that they had inappropriately taken intellectual property from Texas Tech? Just to clarify, you know for those of us who really have no reason to think one way or another, was there a point in time that that happened?" Wiggins, "Again that..." David Bosserman said, "I have to interject here as the Risk Manager for the institution, be careful with your answer here". Wiggins replied, "It is under investigation and review. I will defer to what Dr. Bosserman said. The only thing I will say is, to my knowledge no employee of OSU acted in a way that at the time of action he believed was inappropriate. And I will defer to Dr. Bosserman to say that things are under active investigation and I don't think it is appropriate to comment on the substance until that investigation is complete." Fullerton said, "OK. Thank you".

Rockley asked, "Dr. Bosserman is fair to say that Texas Tech has provided, a cease and desist order which has been delivered to us in writing"? Bosserman replied, "I think that it would be fair to say that Texas Tech has communicated with us and we are in communication with Texas Tech. Given the information they have provided us, Dr. Wiggins and his staff are in contact with their staff to outline specifically circumstances surrounding the issue." Rockley, "So then is this *ex post facto* or *a priori*"? Bosserman asked, "In response to their letter". Rockley said, "So then it is *ex post facto*".

Darcy said he needed to ask Dr. Bosserman and Dr. Wiggins, "In your opinion, is everything all right and well in IT or are there some problems"? Wiggins replied, "There are some substantial problems. E-mail has been mentioned. We must get completion on that and deal with some things. Are there some other problems? Again, I'm not going to comment on the allegation with Texas Tech except to say that it is being dealt with. Beyond that, are there other issues with staff satisfaction, 'Yes', particularly in some departments, but in other departments the staff level satisfaction is fairly high. And proof to tell three years of no raises creates staff dissatisfaction in every department to a degree. I think we've had some specific areas that we have to work with staff satisfaction. I will be happy to hear the results of the interviews that the committee conducts and we will conduct our own via HR and we are taking action". Darcy asked if that HR report would be available. Wiggins replied, "It has been labeled as confidential and the employees have been guaranteed confidentiality. So I would have to defer to HR on that."

Raff asked if anyone else would like to comment or ask a question.

Arquitt said, "I'm a little bit concerned that we are still using the calendaring program and that we're in a discussion with Texas Tech and what the impact will be on our budget. I have a hard time believing that we are not going to have to pay a good bit of money." Bosserman said, "That would be a business decision, but as I understand it right now the calendaring program is up because we are in negotiations with them to determine if there is a reasonable amount that we can negotiate in either goods or services to take care of that. So until that is known specifically I can't tell you the business decision, but it will be a business decision determination. And the decision is, if we determine that a calendaring system was necessary for the institution, would it cost us more to deal with Texas Tech to have full rights, if you will, or have our own. It's just like any other thing in IT, do we do it ourselves or do we go out and get software from someplace else. They do those break-even analyses all the time. So I can't answer your question specifically, but it is being looked at as a business decision." Raff said, "I would like to note one point: What you just said is absolutely right - anytime in IT, even in my research program. I've faced the same thing. Do I assign my post docs and my graduate students to develop code and do the theoretical chemistry, or do I go out and buy already programmed software and use up grant funds. How much is the time worth and how much is the money worth are decisions that all have to be made. But you make that decision before you get the code, not after you get the code. That's the key point here. Now I'm sure the investigation will elucidate that point." Bosserman said, "If the barn door hadn't already been opened, would we do that before we opened the barn door?" Darcy replied, "Somebody opened the barn door"? Bosserman said he was just putting it in the vernacular. Rockley said, "Given the barn door has been injudiciously opened, could you explain to me why, in good form, we don't do a voluntarily cease and desist until the matter has been resolved effectively because it is good form, good policy, and good public relations and because it is a good example. I don't mean to be hammering, but we've gotten the same nonsense from the ITD in prior years." Bosserman said, "It would depend on if we could reach an agreement, deal, with Texas Tech to keep it going. Right now you have a

calendar system, the system is up and running, and people have been trained to use it. If we can make an accommodation with them to keep it, why cease and desist and then bring it back up? So right now we have open dialog, as I understand, I am not in on that dialog Gary correct me if I'm wrong but they understand that it is still up, correct? Wiggins replied, "Correct". Bosserman added, "And so given that their understanding is that we are keeping it up until the dialog is completed, I can say that we are, from a risk standpoint, okay". Rockley said, "So your answer to the question is why should we take it down, the answer is we were basically pitting expediency against moral rectitude for the students, as an example. Are you willing to stand by that"? Bosserman, "No, not as you stated it". Darcy asked, "The Director of IT says that he is absolutely clueless as to who opened the barn door. Do you have any information about who opened the barn door"? Wiggins replied, "Sir, I did not say that..." Bosserman added, "He did not say that, he admitted that there were issues here, there and other, and that would be the barn door opening. He is dealing with those". Darcy said, "I think that I am quoting here. He said that he had no knowledge of, and then he followed by a broad statement about anything to do with the computer programs that were once at Texas Tech and...." Wiggins replied, "What I said was, and again I have to be very careful because we are in continued discussions, I did not say I had no knowledge of who did it, I said that I am not at present going to discuss the details of the situation". Darcy said, "But you also said that you had no knowledge". Bosserman replied, "That was on the migration issue and on the migration issue only". Wiggins added, "I said that I had no knowledge on the permissions being granted on the computers in Whitehurst". Fullerton clarified, "That's what he was saying about the computers in Whitehurst. That's what he said he didn't know anything about." Darcy said, "Oh, so you do know who opened the barn door"? Wiggins replied, "Again, I'm not going to comment on the ongoing situation that's a personnel matter".

Raff ended the discussion by saying, "In any event, let me note that is why we have a tape recording, so what is said is on the tape and we don't have to argue about it. Let's move on".

RETIREMENT AND FRINGE BENEFITS — Terry Lehenbauer

Lehenbauer said he had served on the University Flexible Compensation Benefits Committee for the past two years and although he had not served on the Faculty Council Retirement and Fringe Benefits Committee, he was very familiar with issues they had been involved with. He said the R&FB committee will be watching some of the changes that will be occurring with regard to House Bill 2226 and the major focus for the committee during the coming years will be to develop guidelines and recommendations with administration to help educate employees on how they should best go about evaluating their situation and making the best choice for staying in OTRS or going to the alternate retirement system. Also, the committee will be following the pending recommendation that the University release its hold on vested TIAA-CREF funds belonging to faculty and staff which is still under investigation by administration and they are anticipating a report this fall. Lehenbauer reminded everyone that the deadline for application to the OSU-John Hancock Long-Term Care Insurance Plan, as an optional insurance program, is Friday, June 11. In other matters, this committee along with the University Flexible Compensation Benefits Committee will be considering some optional insurance programs that will be new to the University and those will likely include the Medigap Insurance Program and also cancer insurance. In regard to phased retirement, Lehenbauer said this was discussed in the Retirement subcommittee during the past two years and he said now that we do know where we are at with retirement programs and that OTRS is now optional and no longer a mandatory program, he feels it is more plausible to go back and revisit that issue. Tilley said in the past the problem with phased retirement was there was a limit as to how much money you could earn and

still collect the retirement benefits. Johannes said when he was Chair of the FC Retirement and Fringe Benefits Committee, they were trying to investigate the rights and advantages of emeriti faculty and to allow them to remain active if they wanted to. He asked Lehenbauer if he felt this issue was appropriate for the R&FB Committee or more appropriate for the Faculty Committee. Raff felt this should be looked at by the Faculty Committee. Johannes was questioning whether a Professor could retire and then as an Emeritus Professor become a Research Professor because he said it actually hurt a Professor to go for an NSF Grant and write down Professor Emeritus. Raff replied as he recalled the document approved would not preclude that. Raff then asked Lehenbauer to explain to everyone what would happen if they did not sign up for the long-term insurance by June 11. Lehenbauer said as he understood it, employees would have guaranteed acceptance and not be pre-approved for coverage. Plus, once the June 11 "open enrollment" passes each annual enrollment period you may have to meet some requirements to be insured. Fullerton ask if you already had long-term disability insurance was this the same. Lehenbauer said the John Hancock was a long-term care program and not the same.

RULES AND PROCEDURES — A. J. Johannes

Johannes reported Terry Lehenbauer, Bob Darcy and Tom Jordan were the committee members for 2004-2005. In addition to running the elections and ruling on procedural matters, last year the committee worked on making changes to the Faculty Council By-Laws for converting the Faculty Council to a Faculty Senate. Although the proposal had strong support from the General Faculty, it did not have support in the Faculty Council Executive Committee and consequently, the Rules and Procedures Committee withdrew the proposal without bringing it to a vote. They will once again attempt to put together a proposal to change from a Faculty Council to a Faculty Senate and that would mean changing the Chairman of Faculty Council, who is the President of the University. Johannes said since he had not seen the President in FC meetings in five or six months, it seemed to him this change is reasonable and appropriate. Johannes hopes to have a full set of recommendations to bring before Council by the October meeting.

REPORTS OF LIAISON REPRESENTATIVES:

Staff Advisory Council — Deborah Shields

Shields reported the SAC Policies and Procedures Committee is looking at Performance Evaluation Policies and looking into Human Resources providing a certain number of scholarships for staff to attend HR development training classes. Shields read the following statement from the SAC Chair: "We thank Faculty Council members for their participation in Staff Appreciation Day. Also, on behalf of the Chair, SAC will meet next on June 9th. At that time new officers will be elected. SAC has had a great year, and we are looking forward to what is yet to come." Mitchell asked if departments weren't usually the ones to provide payment for staff to attend development training classes. Duane Hunt replied that in some cases there are so many employees in the department they are restricted to one class per calendar year that the department will fund. Since 1997, \$25,000 was allocated to staff to attend this training. Lamphere-Jordan asked why staff are being charged to participate in Human Resources development training classes that she felt HR should be providing at no charge. Hunt replied it cost to bring the trainers to campus as many of them are consultants and leaders in their industry.

AG Faculty Council — Marcia Tilley

Tilley reported the AG Council met May 4 and voted to send a letter to Dean Curl asking him to communicate to University administration that they were opposed to proposed centralization of the student tech fee allocation and elimination of the student advisory input into the allocation

process. Also, five candidates will be brought to campus to interview for the position as Dean of the College as follows: Kirby Barrick from Illinois (June 14-15); John Abernathy from Texas Tech (June 24-25); Keith Lusby from the University of Arkansas-Fayetteville (June 28-29); D. C. Coston from OSU (July 1-2); and James Heird from Colorado State (July 6-7).

Student Government Association — Joe St. John

St. John said SGA had been very involved, along with other state universities, with the State Legislature this year lobbying for higher education to receive more funding and planned to do so again next year. He also reported booths would be set up at different SGA sponsored events, Orange Peel, etc., to encourage students to register in Payne County to vote. In regard to Faculty Council and University-Wide Committees, St. John said SGA would work very hard this year to appoint students to these committees and have reliable student representation. Johannes commented that in years past as the semester wears on student participation on committees diminishes as they get involved in other things and he thinks this is because they do not have to report to anyone on committee work. He said they are making a lot of the decisions as SGA representatives and he felt they might want to do something about this issue. St. John said they plan on having students present formal reports to SGA on what their particular committee is doing. Raff asked if students appointments had been made and St. John replied “no because of summer and they would make appointments in the fall”.

The meeting adjourned at 5:00 p.m. The next regular meeting of the Faculty Council is September 14, 2004. No meetings are held in July and August.

Respectfully submitted,
Birne Binegar, Secretary