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UNL FACULTY SENATE MEETING MINUTES East Campus Union,

April 6, 2010

Presidents John Fech, John Lindquist, and Kathy Prochaska-Cue, Presiding

1.0 Call to Order

President Fech called the meeting to order at 2:34 p.m.

2.0 Announcements

2.1 UNL Research Fair

President Fech reminded the Senate that the Research Fair was running through April 8 and the dedication of the new Multicultural Center will take place on April 16.

2.2 Vice Chancellor Owens Retiring from Administration

President Fech reported that the retirement reception for Vice Chancellor Owens will be held from 4:00 – 6:00 p.m. in Hardin Hall on April 13.

2.3 Next Brown Bag Luncheon

President Fech reported that he attended the brown bag lunch on plagiarism where he learned many useful things. He stated that the next luncheon will be on April 15 and the topic is the ethics of data selection.

2.4 Academic Freedom Award

President Fech reported that he received a message from Professor Ball of the Academic Freedom Award Committee stating that no nominations were put forward for the award this year. He noted that academic freedom is one of the hallmarks of the faculty and people need to consider nominating people for this important award next year.

2.5 Time Limit on Speaking

President Fech pointed out that there were several motions that need to be addressed and stated that comments will be kept to a five-minute time limit.

2.6 Recognition of Outgoing Senators

President Fech reported that the following Senators are going off the Senate: Professor Hank Van Den Berg, Economics; Professor Suchata Nadkarni, Management; Professor George Meyer, Biological Systems Engineering; Professor Joyce McMeen, Nutrition & Health Sciences; Professor Roch Gaussoin, Agronomy & Horticulture; Professor Brett White, Animal Science; Professor Shunpu Zhang, Statistics; Professor Robert Wright, Entomology; Professor Steve Harris, Plant Pathology; Professor Ken Dewey, School of Natural Resources; Professor Al Williams, Sociology. President Fech stated that he appreciates the service these professors have provided to the Senate and noted the importance of this work.

President Fech reported that the following Senators' term have ended but they have been re-elected to serve on the Senate: Professor Tom Zorn, Finance; Professor William Grange, Theatre Arts; Professor Kathy Prochaska-Cue, Child, Youth & Family Studies; Professor William Kranz, Northeast Research & Extension Center; Professor James Schild, Panhandle Research & Extension Center; Professor David Woodman, School of Biological Sciences; Professor Merlin Lawson, Geosciences; Professor Barbara LaCost, Educational Administration; Professor Tom Winter, Classics & Religious Studies.

President Fech stated that he really appreciates the form of everyday leadership that serving on the Senate provides. He noted that Senators are here because of their interest in shared governance. He pointed out that the Senate is an important force for guiding the university and that he is going to ask Senators to take it to the next level. He noted that the common response people have is that they are too busy, but everyone has the same 24 hours in a day and becoming more involved is possible. He stated that becoming more involved in faculty governance provides personal growth and learning. He pointed out that other motivating forces for greater participation in doing service work are: passion for giving something back to the university, belief in academic freedom, wanting to bring about institutional change, and a sense of belonging or support. He stated that the chances are that people will find motivational fulfillment in serving on the Executive Committee. He asked Senators to please consider running for the Executive Committee since new faculty members are needed to serve on the Committee.

3.0 Associate to the Chancellor Susan Poser

President Fech stated that Associate to the Chancellor Poser was reporting for the Chancellor who was traveling.

Associate to the Chancellor Poser reported that the search committee for the Vice Chancellor of IANR is proceeding at pace. She stated that four candidates will be coming to campus for interviews at the end of April and beginning of May. She noted that the candidates will be meeting with the Senate Executive Committee and there will be open forums for all faculty members. She stated that each of the candidates has a busy schedule and it was difficult to find dates for the on-campus interviews which is why the interviews are so late in the semester. She noted that all of the candidates are coming in from out of state.

Associate to the Chancellor Poser stated that the second set of the budget reductions should be announced during the third week of April. She noted that the announcement has been delayed due to the Chancellor's traveling schedule. She pointed out that these announcements will be the remainder of this year's budget cuts. She reported that the state may have a billion dollar deficit next year which will more than likely have implications for the university.

Associate to the Chancellor Poser stated that the search committee for the SVCAA will be announced soon. She noted that a search consultant has already been retained, but the search will not start in earnest until late summer.

Associate to the Chancellor Poser stated that she wrote to VC Franco to obtain information on PeopleSoft, the new student information system. She reported that a major milestone was reached when UNK and UNL began registering students for courses. She stated that approximately 5800 students have registered at UNL, and UNO and Chardon State students started registering yesterday. She reported that work still needs to be done on the financial aid component of the system. She asked that anyone with questions please contact either Dr. Earl Hawkey, Director of Registration & Records, or VC Franco.

Associate to the Chancellor Poser reported that Dr. Bill Nunez, Director of Institutional Research & Planning, is here attending the meeting. She noted that Bill will be taking over as Associate to the Chancellor on May 17 and pointed out that he will do a fabulous job.

Professor Chouinard, Mathematics, noted that this would be the last opportunity to ask Associate to the Chancellor Poser a question since she will become Dean of the Law College in May. He pointed out that he really appreciates her contributions to the Senate and he is sure she will get more acknowledgement of her work as Associate to the Chancellor at the next Senate meeting. He noted that she is a lawyer and asked if, as a lawyer, she thinks it would be fair if a lawyer is charged with an ethical violation to be able to identify other witnesses. Associate to the Chancellor Poser stated that as a law professor she would say that this would depend. Professor Chouinard asked if she would be happy to defend herself under the rules laid out in the Research Misconduct Policy. Associate to the Chancellor Poser noted that the policy is to be discussed later in the meeting and she will be happy to discuss this at the appropriate time.

Professor Chouinard asked if she understands that a charge of research misconduct is an ethics charge. Associate to the Chancellor Poser stated that the particulars of the Research Misconduct Policy should be discussed at the appropriate time in the meeting, rather than having a discussion on a hypothetical situation.

Professor Carlson, Veterinary & Biomedical Sciences, asked when the names of the candidates for VC of IANR will be announced. Associate to the Chancellor Poser stated that they will be announced sometime at the end of April before the candidates come to campus and there will be plenty of time for people to review the candidates' vita.

President Fech thanked Associate to the Chancellor Poser and stated that he was glad to have worked with her on the Senate and that he appreciates her involvement and openness.

4.0 Approval of 3/2/10 Minutes

Professor Dewy, School of Natural Resources, moved that the minutes be approved. The motion was seconded by Professor McCollough, Anthropology. The motion was approved.

5.0 Committee Reports

5.1 Committee on Committees Report (Professor Moeller)

Professor Moeller stated that she wanted to reiterate about the faculty's responsibilities and governance. She noted that faculty members can sometimes by guilty of communication to younger faculty members to guard their time by not getting involved with committee service. She pointed out that recent research shows that this is not a good thing because one of the main reasons for leaving a university is due to faculty members not feeling connected. She noted that service work is an opportunity for faculty members to align themselves with colleagues and peers in other departments and across the campus. She reported that four people are going off the Committee on Committees and will need to be replaced. She pointed out that this Committee often does not require a lot of time but work on the Committee is a thoughtful process.

Professor Moeller stated that there was a slight rise in the number of people volunteering to serve on committees this year but more volunteers are still needed.

5.2 Computational Services and Facilities Committee Report (Professor Allison)

Professor Allison stated that one of the primary tasks of the CSFC this year was to develop a good working relationship with the new Chief Information Officer. She reported that the CSFC had a variety of meetings dealing with issues such as the digital commons repository, reports on the migration of Blackboard, and other activities. She stated that the new initiative this summer will be to look into improving security for computing on campus. She reported that a campus-wide information system committee is being resurrected and it will look at policies relating to computer security issues on campus.

Professor Allison noted that the CSFC wants to set up a committee to look into doing more with the global classroom. She pointed out that this course provides real time video exchange with students in different countries. She stated that the global classroom is not heavily used and the CSFC would like to see it used more.

Professor Allison reported that web assessment is an important classroom tool used for evaluation. She stated that Maple TA is currently being used but it is being stretched to its limit and consideration needs to be given about possibly replacing it.

5.3 Faculty Senate Executive Committee Report (President Fech)

President Fech stated that the report is a compilation of the things the Executive Committee did throughout the year. He asked for any questions.

6.0 Unfinished Business

6.1 Endorsement of Research Council's Resolution on Digital Commons Repository

President Fech noted that Professor Royster from University Libraries gave a presentation about the Repository last month. He stated that there is a motion on the floor to endorse the Research Council's resolution supporting the Digital Commons Repository and asked if there was any further discussion. There was no discussion. The motion was approved.

6.2 Proposed Revisions to the Procedures to be Invoked for Significant Budget Reallocations/Reductions

President Fech stated that he and Professor Bender, Chair of the Academic Planning Committee, created an ad hoc committee to review and possibly make suggestions to revise the reallocation/reduction procedures. He noted that members of the ad hoc committee included representatives from the Senate, APC, ASUN, UNOPA, and UAAD. He stated that the motion to approve the revised document was presented last month and is scheduled to be voted on at this meeting. At this time he wanted to recognize Past President Prochaska-Cue for further comments.

Past President Prochaska-Cue noted that she chaired the ad hoc committee and reported that the committee worked well and thoughtfully. She stated that not all of the changes that some members wanted were made but the final revisions were presented to the Senate at the last meeting. She stated that after the meeting she was contacted by some of the members of the committee who felt that something was missing in the procedures and she was asked to bring an amendment to the Senate. She stated that the amendment is to add the language "will be voting members and" to footnote six in the document. Professor Konecky, University Libraries, seconded the motion.

Professor Franti, Biological Systems Engineering, wants to know why the document states that UAAD and UNOPA members can have a designee while other representatives cannot. Past President Prochaska-Cue

stated that most of the language in the document is the original language of the 1993 document and adding designee is not part of her amendment.

Professor Bender, Chair of the APC, stated that this semester UNOPA and UAAD are participating in budget cutting deliberations but they do not have voting rights yet because the Bylaw has not been changed to allow them voting privileges. He pointed out that if UNOPA or UAAD wish to appoint someone else to participate in the budget cutting process, this person must participate throughout the entire budget cutting process and not just come to an occasional meeting.

Nancy Myers, UAAD representative, noted that she is currently the representative on APC for UAAD and stated that having managerial/professional employees involved in the budget cutting process would be very significant. She pointed out that there are approximately 5,900 regular employees at UNL, 2,000 are faculty, 1,829 are managerial/professional, 1,874 are staff, and 194 are administrators. She noted that because the cuts hit mostly the managerial/professional and staff people, having a voice is a key to the budget cutting process. She asked if the campus is thinking of shared governance, shouldn't we include the whole campus in the budget cutting process?

The motion on the amendment was approved.

President Fech stated that the next vote was on the motion to approve the revised Procedures to be Invoked for Significant Budget Reallocation/Reductions. He stated that after the Senate approves the document it will need to go to ASUN and APC for approval and then to the Chancellor. If the Chancellor approves the document it will be forwarded to the Board of Regents for final approval.

The motion to approve the revised Procedures to be Invoked for Significant Budget Reallocation/Reductions was approved by a majority of the Senate members.

6.3 Motion on Research Misconduct Policy

President Fech stated that the motion to approve the revised Research Misconduct Policy was postponed until this meeting. He stated that President Elect Lindquist will give a brief update on the policy.

President Elect Lindquist reminded the Senate that at the February 2 meeting Professor Stock made a motion to get a legal review of the policy and to consider Emeritus Professor McShane's suggested changes and comments. He stated that the motion also stated that the document was to be reviewed again by the Executive Committee. He reported that the ad hoc committee did get a legal review of the document and the letter from Associate General Counsel Odabassi was sent out to the Senate in an email message with the most recently revised policy in March.

President Elect Lindquist noted that the email message also included the document with suggestions made by Professor Chouinard. He stated that there are some issues with Professor Chouinard's proposed language to the document. He reported that the ad hoc committee met again to discuss Professor McShane's comments and to review the memo from Associate General Counsel Odabassi which addressed the proposed language made by Professor Chouinard. As a result of these meetings, members of the ad hoc committee suggested bringing forward a new motion and a newly revised document. He stated that if people would look at the draft policy they would see on page 9 the language suggested by Professor Chouinard at the February meeting and the language being proposed by the ad hoc committee.

Professor Chouinard called for a point of order. He stated that if President Elect Lindquist is referring to an itemized menu that the Senate has not seen, this cannot be discussed. Professor Harbison, Parliamentarian, stated that an amendment must be made in order to introduce these changes. President Elect Lindquist made a motion to amend the document to replace the language on page nine of the document with the changes suggested by the ad hoc committee. Professor Konecky seconded the motion.

Professor Chouinard clarified that the Senate is trying to deal with his original changes to the document and is not requesting other changes. He distributed a handout to the Senators which he said was instrumental to his discussion. He stated that the rationale for his motion is largely because of Associate General Counsel Odabassi and because he was not presented with the alternatives. He stated that he had engaged in an interchange with Associate General Counsel Odabassi and had the ad hoc committee consulted with him as he suggested, his suggestions would have been vetted. He noted that he only received a response from Associate General Counsel Odabassi yesterday afternoon. He stated that his proposal would allow respondents to identify witnesses after evidence is disclosed. He pointed out that this is acceptable under federal regulations.

He pointed out that Associate General Counsel Odabassi identifies that in order to implement the suggested changes a number of sections in the policy will need to be changed. He noted that he did not have the needed time to go through the document and identify these sections before today's meeting. He reiterated that he believes the policy needs to be rewritten with the provision that the respondent has the ability to call witnesses after obtaining knowledge of the evidence that is being used to support the claim of research misconduct.

Professor Chouinard stated that he does not think we should dump approving this policy on the new Senate at the next meeting; for that reason he moves that the Senate postpone this issue until the September meeting so there is time to develop the policy further. He stated that he is recommending that the Senate postpone the whole discussion and document so there is time to do a correct version and to get it all done at one time. Professor Peterson, Agricultural Economics, seconded the motion.

President Fech asked if there was any discussion on Professor Chouinard's motion. Professor Chouinard stated that the Senate would basically be voting on changing the policy so that the respondent gets an opportunity to find out what the evidence is, and allows time for the respondent to identify other witnesses. He pointed out that currently the policy gives the respondent the opportunity to provide evidence after the draft report is made and it does not allow the respondent to provide additional witnesses before the hearings. He pointed out that the respondent may not be able to identify all of the witnesses if the respondent does not know what the evidence is against him/her. He stated that Associate General Counsel Odabassi's response to his email indicates that it is allowable to have an intermediate step. He suggestion is that before the draft report is written, the investigative committee should inform the respondent of all of the evidence against him/her and gives the respondent a limited period of time to identify any additional witnesses or evidence. He stated that a number of detailed changes would need to be made to the policy and it would not make sense to make these changes at this meeting. He stated that he believes it is fundamental fairness for the respondent to identify witnesses after the evidence is provided. He pointed out that Associate General Counsel Odabassi stated that this could be included in the policy if it is done correctly.

Professor Schubert, Electrical Engineering, stated that he would support Professor Chouinard's motion. He questioned why the protective mechanism for faculty members was not included in the policy. Professor Harbison stated that as a point of order only the motion can be discussed at this time.

President Elect Lindquist noted that Professor Chouinard's motion was to postpone a vote on the policy, but it is not clear what will happen as a result of postponing the vote on the document. He pointed out that more specific information will need to be provided because it is not clear what should be done next. He stated that he does not want to come back to the Senate with the policy only for it to be postponed again. He pointed out that we are currently operating under the 2005 document which is absolutely not a good policy.

Professor Franti stated that he does not want to support a motion to postpone voting on the policy. He noted that significant major improvements have been made to the policy. He pointed out that the Senate needs to recognize that the ad hoc committee, the Executive Committee, and the Office of Research have worked timelessly on the document and the Senate should have trust in the work they have done. He stated that revisions to the policy can always be considered at a later time.

Professor Chouinard stated that he thinks the ad hoc committee could have spent it's time better if more outside input was obtained during the drafting of the document. He stated that he believes the ad hoc committee is exhausted. He stated that the specific changes are precisely the changes being recommended by Associate General Counsel Odabassi.

President Fech asked that comments be limited to postponing voting on the policy.

Emeritus Professor McShane stated that he supports a motion to postpone voting on the document. He stated that there are some things that still need to be corrected in the document, such as miss-numbered footnotes. He stated that he did not want to bog the Senate down with the particulars. He noted that these changes should not be done from the floor of the Senate.

Professor McCollough, Anthropology, stated that she agrees with a lot of what has been said but pointed out that the 2005 document is awful and she thinks the revised policy should be approved at this meeting.

Emeritus Professor McShane stated that he thinks the Board of Regents has to approve the policy and we would be whistling in the wind if we don't get it right. Associate Vice Chancellor Espy stated that the Senate,

Office of Research, the Chancellor, and the Board of Regents would all need to approve the document.

Professor LaCost, Educational Administration, calls the question.

The vote on Professor Chouinard's amendment was: 16 in favor, 27 against, 5 abstentions. The motion failed.

President Fech stated that it was now time to address President Elect Lindquist's motion to amend the language in the document. President Elect Lindquist reminded the Senate that his motion was to include language on page 9 of the document as identified in the copy distributed to Senators. Emeritus Professor McShane asked if the language "and present evidence to rebut the testimony and other evidence used against respondent before a preliminary determination is made by the Investigation Committee" would be removed. President Elect Lindquist stated that this would be removed.

The vote on Professor Lindquist's motion was: 46 in favor, 1 abstention. President Fech noted that the amended motion passed.

President Fech stated that it was now time to vote on the actual policy. Professor Chouinard noted that the motion before the Senate is to approve the policy and he wanted to present a substitute motion to approve the policy but with reservations. He stated that he does not understand why the ad hoc committee is against wanting to fix the document as he suggested. He pointed out that Associate General Counsel Odabassi wrote that changes can be made. He suggested that the Executive Committee fix the document and bring it back to the Senate. He noted that if the motion passes he has no intention of opposing it. He reported that if his amendment passes he will run for the Senate Executive Committee, but if it doesn't pass, he will not run for election. Professor Stock, English, seconded the motion. Professor Chouinard stated that the actual motion is to approve the policy. Professor Harbison noted that the motion calls for the approval of the policy with reservations and calls for the document to be fixed, but it does not state when it should be fixed. Professor Chouinard stated that the deadline is that the Executive Committee should submit corrections to the document at the September meeting.

Professor Franti stated that he is unsure what approval with reservations means, and asked the Parliamentarian whether this is procedurally possible. Professor Harbison stated that it's a motion to approve. President Fech pointed out that the word reservation is open to interpretation. Professor Franti questioned whether such a motion can be legally made.

Professor Carlson, stated that he and some other Senators are puzzled about what is gained by waiting until September to address and vote on the issue. He stated that he realizes that new Senators will be coming onto the Senate at the April 27 meeting, but asked how we are going to educate them any better in September than now. He asked if the new Senators will be any more enlightened in September than at the end of the month and asked why the Senate doesn't deal with the issue this month. Professor Schubert pointed out that the policy will address all faculty members and there is no reason to exclude faculty members starting on the Senate at the end of April.

Professor Chouinard stated that a second factor supporting his resolution is that the changes recommended by Associate General Counsel Odabassi are substantial and difficult to do in just three weeks. He pointed out that any further revisions will need to be reviewed by many people.

Associate to the Chancellor Poser pointed out that she did not think that Associate General Counsel Odabassi called for the changes, but stated that the changes could be made. She stated that she does not think the approval with reservation is necessary if the Senate trusts that the Executive Committee will make changes at a later date. She pointed out that if someone were to be accused of research misconduct next week they would have to abide by the current policy in place which the Senate has already stated is not a good policy. She stated that she does not think the motion to approve with reservations was a good idea because it could cause confusion for the research office and any respondent as to which policy should be used if allegations are made.

Professor Franti stated that he would not want to approve such an important document with reservations. He stated that people should vote either for or against the policy.

Interim Secretary Shea asked for clarification of the "whereas" statements in Professor Chouinard's motion. Professor Chouinard stated in the first whereas clause he is stating that what he wants is a policy that is fair and he does not want to jeopardize the university's funding. He stated that the second statement is essentially the content of Associate General Counsel Odabassi's response and is contrary to Associate General counsel

Odabassi's email that was included in the email sent by the Senate in March. He stated that the third statement refers to the 2005 policy and states that all evidence must be provided and all witnesses must be identified at the beginning of the procedures. The respondent has the opportunity to submit further evidence but not witnesses after the draft report has been written. He stated that number four basically states that the respondent should be able to understand the evidence against him/her and be able to identify additional witnesses. He noted that the policy being voted on does not do this. He stated that Associate to the Chancellor Poser's comments is why we need to change this document. He stated that if we are serious about this being a problem then we should allow the respondent to identify witnesses. He stated that if the Senate believes that this is the way it should be, so be it, but he doesn't think this is fair.

Associate Vice Chancellor Espy asked Professor Chouinard if he thinks that there is only one chance for the respondent to see the evidence. She pointed out that the language in the document has been changed so that there is no specific timeframe for suggesting witnesses. She stated that there seems to be a notion in the Senate that this process happens in one fell swoop. In fact, the experience has been that the committee is composed of faculty members who do their job very diligently. She stated that the respondent is apprised of the charges in the beginning, receives a draft inquiry, and most respondents will be interviewed in the beginning of the process. She noted that the process can take place over a period of weeks. She stated that claimants and respondents are often asked back again to address specific questions. She pointed out that faculty members sitting on the inquiry committee and the investigative committee take their charge quite seriously. She stated that it appears that people are under the assumption that the respondent is kept blind during the process, but experience has shown that this cannot be further from the truth.

Professor Chouinard stated that he served on an Academic Rights & Responsibilities special hearing committee case that dealt with research misconduct under the 2005 policy, and noted that the first real view the respondent had of the evidence against him/her was not provided until the draft report of the investigative committee was written which happened after the hearings. He stated that he does not believe there is an opportunity to identify further witnesses. He pointed out that if there were other opportunities for this he would be much happier with the document.

Associate Vice Chancellor Espy stated that Professor Chouinard is correct with the basis of the 2005 policy that was used in the case he is referring to, but specific changes have been made to address these concerns and the new policy is quite different. She noted that the old policy is fundamentally flawed. President Elect Lindquist pointed out that Professor Chouinard served on a grievance committee that followed an investigation of research misconduct.

Professor LaCost asked for a point of order. She asked if Professor Chouinard's motion is a substitute motion for the original motion that is on the floor. Professor Harbison stated that with Professor Chouinard's motion the Senate would vote essentially on a blanket motion, and is an amendment to strike the original motion.

Professor LaCost called the question.

The vote on Professor Chouinard's motion to approve the policy with reservations failed with a majority voting against the motion, only three in favor, and with three abstentions.

President Fech asked if there was any further discussion on the motion to approve the policy.

Emeritus Professor McShane stated that he thought he heard Associate to the Chancellor Poser state that we assume that the Executive Committee would exercise reasonably good judgment on changing the footnotes. Interim Secretary Shea stated that he is not aware of any problems with the footnotes. He pointed out that footnotes are just referring to the legal documents supporting the procedures. Professor McShane claims that footnotes appear twice and parts of the document he finds a little unsettling. He pointed out that he made a list of reasonable issues that he thought should be changed but that don't affect the substance of the policy. President Elect Lindquist pointed out that the footnotes are there to make reference to specific legal documents that are associated with the policy and they are cross-referenced with these federal documents.

Emeritus Professor McShane stated that he just received the document and assumes that private discussions are now over. He pointed out that he asked to be invited to the ad hoc committee meetings but was not. He stated that all he is asking is whether the committee can make changes to the document without changing the substance of the document. Interim Secretary Shea suggested that the footnotes be checked for correctness and if they are not correct that they will be changed.

Emeritus Professor McShane asked about the good faith language in the document. Interim Secretary Shea stated that the other changes recommended by Emeritus Professor McShane were discussed and appropriate changes were made and the process is now complete. Emeritus Professor McShane stated that the good faith language has to do with allegations and testimony and the definition of it is limited in the document. Interim Secretary Shea noted that in section II, I. a change in the definition was made and he does not see a problem with it. Emeritus Professor McShane claimed that the statement isn't broad enough to take care of other people involved in the case. Interim Secretary Shea noted that it is merely a definition of good faith and it seems adequate.

Professor Leiter, Law, called the question.

The motion to approve the Research Misconduct Policy as revised is approved by a vote of 40 in favor, 1 against, and 3 abstentions.

8.0 New Business

No new business was discussed.

The meeting was adjourned at 4:04 p.m. The next meeting of the Faculty Senate will be held on Tuesday, April 27, 2010, 2:30 p.m. in the City Campus Union, Auditorium. The minutes are respectfully submitted by Karen Griffin, Coordinator, and Interim Secretary Patrick Shea.