Meeting called to order at 3:44 p.m. on April 3, 2017

MINUTES SUMMARY

I. Roll – The following senators were absent: Bauer, Boucher, Bstieler, Carr, Celikkol, R. Collins, Davis, Finkelhor, Herold, Mellyn, Puccilli, Simos, Taylor, and Wake. Barnett, Carter, LaCourse, Senier, and Wilder were excused. Ron Rodgers, Mica Stark, Nancy Targett, and Stan Waddell were guests.

II. Remarks by and questions to the provost – Provost Nancy Targett said that, based on some items she read this morning, she would like to make a statement today, and begin a conversation with the faculty that she had believed had been started when she first arrived. She said that she has witnessed the excellence of our UNH faculty, and has celebrated their successes. She commended our faculty’s passion and commitment to our students, and said that those attributes are part of what drew her to UNH. She said that she has also seen a troubling tendency within our community to jump to conclusions about the intent of the administration without gathering the facts first. She has made an effort to build solid relationships with our faculty, to demonstrate that we are more alike than we are different in our goals and desires, and is concerned to recognize that there remains significant distrust of the administration among our faculty.

The controversy over the street sexual harassment display in the Memorial Union Building is the most recent case in point. The provost said that her office believed that they were working with the individuals putting up the display, but that some of the vulgar and profane comments included were not appropriate for a common space such as the MUB wall. She said that the display was taken down in consultation with the organizers, with new materials posted that put the information in context with national numbers and how UNH fits into the larger picture. She feels the new display tells a great story, and is disheartened by accusations of censorship by the administration, and by the description of the administration’s efforts to address sexual harassment as gratuitous.

The provost asked how she might break through this culture of distrust, and establish strong alliances with faculty, asserting that her only agenda is to see our students succeed and that she assumes this is all faculty members’ agenda as well, even if she and the faculty do not always agree on how that should be accomplished. She noted that newspapers and other outlets pick up these negative stories, to our detriment.

A senator said she has not heard about the MUB wall and asked what it is about. She suggested that an “issues at hand” update might be really helpful. The provost acknowledged the irony of her incorrect assumption that all faculty knew about this controversy. Another senator said that she would not want the provost to believe that she had made no inroads building faculty trust,
saying that real progress is being made. The provost said that she hopes this is true and that she and the faculty can work effectively together even with differing opinions.

Another senator said that he has felt the same dismay as the provost describes in observing the discord between the administration, the faculty union, and the Faculty Senate. He asserted that all of us are on the same team and noted that, several years ago, President Huddleston wanted to create an introduction to the administration for incoming faculty in an effort to open up more intimate dialogues between faculty and the administration.

A senator said that in his experience over the last fifteen years, there has been a lack of transparency on the part of the administration, and some top-down measures that have raised legitimate concerns. He feels very strongly that the views of the Faculty Senate have not been well respected in the past. The provost asked if it would be possible now to hit the reset button on that history and committed personally to showing respect to this body, and to avoid assuming the worst. Instead, she hopes to open those dialogues before assumptions are made.

Another senator said that it is problematic for faculty to first learn of campus controversies through public news outlets or social media rather than hearing about it through university channels. The provost said that is a really good point and asked how, in our highly de-centralized academic world, we can get that kind of information out to the faculty more effectively. She said that both the administration and the faculty can do better than we have done, and thanked the group for allowing her to express her concerns today.

III. Remarks by and questions to the Senate chair – Senate chair Dante Scala reported to the group regarding the questions about curtailed operations announcements raised earlier this semester. Chief Paul Dean said that 25,000 individuals have signed up for Everbridge text message notifications for the Durham campus, with another 2,000 from the UNH-Manchester campus, and 800 from the School of Law. Regarding transportation issues on days when the university opens late, the director of transportation said that for a 9:30 a.m. start time, campus busses will start running at 8:05 a.m. to Portsmouth and Rochester, 8:15 to Dover, and 8:30 to Newmarket, with the campus connector being the last route to start, at 9 a.m.. Parking lots open at 7 a.m. for a 9:30 a.m. opening time. A senator suggested that this transportation information needs to be made available to the public. As far as updates about curtailments being posted on the university website, Dante said that he reached out to UNH Media Relations to express the Senate’s opinion that the website should post updates there. Chief Dean concurs, and will continue to work with Media Relations to see what can be done.

The chair said that earlier today, all senators should have received an email containing the proposal of a motion from the Senate Campus Planning Committee regarding tobacco use on campus. The CPC will present a report and this motion at the May 1 Senate meeting. The chair asked the senators to review the motion and attached report and share that information with their departmental colleagues in order to gather feedback for the discussion here. The chair also sent the proposed motion to other stakeholders in the community: the undergraduate student government leaders, the Graduate Student Senate, Healthy UNH, and chief human resources officer Kathy Neils, who will share the information with UNH staff.
IV. Minutes – It was moved and seconded to approve the minutes from the March 20, 2017 meeting. A correction was suggested in Item VI, and one in Item VII. Thus adjusted, the minutes were approved unanimously, with 4 abstentions.

V. Discussion with Ron Rodgers and Stan Waddell on right-to-know policies – The chair introduced USNH General Counsel and Secretary Ron Rodgers, who will share information about Right to Know requests and answer questions. Stan Waddell, UNH Chief Information Officer, was also in attendance to address related technology issues, joined by Mica Stark, Vice President for Public Affairs, and Provost Targett.

Ron welcomed questions from the group, saying that his office exists to help the members of the university community accomplish their missions. He said that the answers may not be easy, because issues and laws change, as well as the context in which the issues are raised, but he will do his best to address faculty concerns. He also said that the Human Resources partners are good resources for faculty information. He also suggested that asking questions ahead of time is always the better option, noting that in the current social media climate, once items have been posted or sent, they cannot be retrieved. He urged faculty to take care in their communications.

Conceptually, there are four areas of legal issues that have come together to bring us here today.

- The Right to Know law has been in place for many years. There are public records acts in all fifty jurisdictions of the United States and in the federal government, as part of the democratic process of our government.
- There is a strong and growing interest in public advocacy and political activity
- Information Technology itself is changing quickly, forcing us to look at our business practices to see if those practices are meeting our needs and furthering the goals of our institutions
- Records management is changing as well, and managing paper communications is different from managing electronic communications.

These four areas interact with each other and those interactions are the focus of today’s conversation. The Right to Know law has some basic rules, and it’s important to go over those rules. More interesting, however, is the application of those rules. There are two ways to examine such application: 1) look back to past activity and create a method to justify that activity, or 2) examine the rules and apply them to future events so that we can shape them and avoid potential distractions that might interfere with accomplish our mission. Ron asserted that rules should never become our purpose.

There are two sections of the Right to Know law in the State of New Hampshire (also known as a Freedom of Information Act in some states and in the federal government). One has to do with meetings of public bodies in order to do their public work. The other is the record section, having to do with records kept by public entities. The meeting section has application in the university system only in reference to the Board of Trustees and its committees and nowhere else. He noted that this meeting itself is not considered a public meeting, and is not subject to the RTK law.

Records, however, apply throughout the university system. These are records created or obtained in furtherance of university business, and are considered government records which are subject to reasonable access by anyone at all. There also exist a large number of records which are not in
furtherance of university business which could be excluded from a Right to Know request. These might include personal correspondence. It is clear from the rulings of other jurisdictions that we have a solid argument to exclude these personal records from our response to a request.

The other side of the spectrum would be communications from an administrative office, which office has the sole purpose to further the work of the university. Such communications would all be included.

The work of the faculty introduces a unique category which is rarely found in other public entities, but which has been raised and litigated in other states. Those areas in which faculty have conducted their own scholarship as part of their official duties, but which is not necessarily in furtherance of the work of the university. He used the example of climate change research.

A senator asked if personal emails sent and received through a private server (and not over the UNH system) are more easily identified as personal. Ron responded that, for legal purposes, the location of the records isn’t particularly relevant. He did say that communications not stored on a university device may preclude their examination. He said there are three things to keep in mind when you are communicating electronically:

1. Does the device you’re using belong to you or to the university?
2. Are you using university servers or university accounts (Exchange)?
3. Is the purpose of the communication the furtherance of the university’s mission, or personal?

The more involved the communication is with university factors, the harder it will be to prove that the communication is truly personal. Ron noted that if the communication is in furtherance of the university mission, it does not matter if it is on a personal device; it is susceptible to Right to Know requests.

A senator asked about Facebook or other chats, Skype, and other such vehicles. Ron said that the question here becomes whether the conversation is ephemeral or if it has been recorded. If it is recorded, you may be accountable to provide access.

Ron emphasized that, going forward, these rules do not need to get in the way of faculty accomplishing their work. He suggested that faculty should consider separating their personal and professional lives more clearly, noting that in some areas, this might mean having separate devices or separate accounts for personal and professional use. There are ways to separate out personal emails that come in to your UNH account, and suggested forwarding all personal emails to a personal account and then replying to the sender with instructions to use the other, private, account. He urged faculty to be thoughtful and professional, reflecting on how the things we say might look to others, and said this is one way to avoid potential issues.

A senator asked who pays for the work involved in responding to Right to Know requests. Ron said that, for all public agencies, those costs are born by the agency and therefore generally passed on to taxpayers/consumers/students. UNH usually responds electronically, so there is minimal cost in providing documentation. We have been relatively fortunate to not have had too many of these requests.
The Graduate Student Senate representative asked how these rules apply to graduate students. Ron responded that for any graduate student working in a compensated position at UNH, the Right to Know law applies. Again, when research is done, not in direct furtherance of the university mission, there may be exceptions. A senator asked for a hypothetical example of when a scholarly exchange might cross the line into the area of political advocacy. Ron said that such a question moves out of the area of Right to Know laws into the area of the rights and obligations of individual faculty in their official positions. There is a division between scholarly efforts and political advocacy. The dividing lines are developing. Here, what we’re talking about is what a faculty member can do in their official capacity, what they can do as part of their work at the university, versus what they ought to be doing on their own time. We’re all private citizens, and as we step of our roles at the university, we have all the rights and privileges of a private citizen. We are free to engage in political activity and free to engage in public advocacy. Research that is subject to peer review or publication, with intellectual rigor is perfectly appropriate for the faculty role in engaged scholarship. To take that another step, the faculty member who writes an op-ed piece is also acting in an appropriate role in their official capacity, particularly in a public land-grant university. In such a case, the faculty member should include a disclaimer that while they work in a particular capacity at the university, they do not speak for nor represent the university as a whole. At the opposite end of the spectrum, promoting opinions or attempting to persuade in ways that are not part of the university’s mission, or not framed in scholarly rigor, would be personal and not professional activity.

A senator asked if not using university resources include using university email or the system server for personal communications. Ron replied that the university’s policy on using university technology resources says that we can use those resources for non-university purposes as along as it does not interfere with the use of those resources by other members of the community, and with the approval of our supervisors. The records that are created are owned by the university, and the university has an obligation to examine those records to determine if they would be subject to a Right to Know request.

The best way to avoid Right to Know or other investigative requests is to not use university resources for personal communications. A senator asked about using the university WiFi on personal devices through a cloud-based email system, asking if there remain any records of network packets traversing the network when using the WiFi. Stan Waddell said that generally speaking, there are not, as these files are encrypted through the application used. Ron reminded the group that even with the freedom to use the university WiFi, there is still good reason to keep personal and professional communications separate.

A senator mentioned political issues coming up in the state that the students may wish to agitate against, and said that faculty may wish to support those students’ efforts. She asked how often the university has dealt with Right to Know requests in the last ten years, and what the outcomes have been. Ron noted the limited time remaining today, and said he would be happy to speak afterwards with the senator about her concerns. He said that if faculty wish to help students in their public advocacy, they need to do it on their own time, and not with university resources. He asserted that it is important for faculty to give students good guidance in such matters. He noted that from time to time the university may take a position on a public advocacy issue germane to its mission, such as education funding.
He said that the university has had an increasing number of Right to Know law requests, ranging from simple responses to media outlets to more complicated data-driven requests from collective bargaining units, state legislators, and political advocates, of which Judicial Watch's request is just one. All of these requests come through his office.

Ron said he is very grateful to have had a chance to speak with the Senate about this issue, and while we have only scratched the surface today, he hopes there will be more conversations in the future. The chair thanked Ron and Stan for their time.

VI. Agenda Committee motion to amend Senate bylaws to add new COLSA department – Jim Connell, representing the Agenda Committee, presented the following motion to amend the Senate bylaws in order to include a newly formed department in the College of Life Sciences & Agriculture.

**Rationale:** The College of Life Sciences and Agriculture has established the new Department of Agriculture, Nutrition, & Food Systems, which should be added to the Senate bylaws as an academic unit eligible for Faculty Senate representation. Therefore, the Agenda Committee moves that:

**Motion:** Section 4 of the Bylaws be amended to include the Department of Agriculture, Nutrition, & Food Systems as an academic department eligible to elect Senate members.

Because the Senate elections have already begun, it would be important to pass this motion as soon as possible so that the affected COLSA departments may proceed with the election of their Senate representatives. As a practical matter, Jim moved to suspend the rules and vote on this motion today. That motion was seconded. It was noted that the new department will be the fifth COLSA department. The motion to suspend the rules was put to a vote and passed unanimously, with no abstentions. The motion to amend the Senate bylaws, Section 4, was then put to a vote and passed unanimously with no abstentions.

VII. Agenda Committee motion to add one class day to Spring 2016 calendar – Dan Innis, Senate vice-chair, informed the Senate that due to the number of Tuesday classes which were cancelled this spring for weather-related curtailed operations, the administration has asked the Faculty Senate to approve changing the first Spring 2017 reading day, Tuesday, May 9, to a Tuesday class day. The motion is presented by the Agenda Committee and needs no second. Dan pointed out that the motion states that faculty may choose to hold class on that day at their own discretion, but that they are not required to use this extra day for class time. Because this is a time sensitive issue, Dan also moved to suspend the rules in order to vote on this motion today, and that motion was seconded.

A senator suggested that a regular policy on this kind of change in the calendar would be helpful to faculty, noting that many faculty have already rearranged their course syllabi to adjust for the lost days. Had they been aware that this extra day would be provided, they might have done things differently. He said that a standard policy that all faculty and students could plan on would be helpful. The chair of the Senate Academic Affairs Committee responded that in their work with the registrar to set up the next five-year calendar, there is a plan to keep the first of the two reading days reserved for precisely that purpose.
Another senator asked if it’s possible to make public which faculty would actually use this day for class, noting that some faculty are planning to use that reading day (and the classrooms that would be vacant if there were no classes scheduled) for review sessions and other academic events. Dante said he is unsure if that is a request he can take to the registrar, although he noted that different rules apply to classroom use on “reading days” and “classroom days.” A senator asked if the Student Senate has been informed of this change, and Dante said he doesn’t believe so. Another senator said that some students already have internship interviews scheduled for that day, and expressed concern that they might be penalized for not attending a class held then. She said that being aware of the registrar’s plans to use the first reading day as a time to make up snow-days will help, going forward. A senator asked about potential scheduling conflicts over rooms that had been assumed available on a reading day. The AAC chair asked if this motion was a suggestion of the administration, or comes at the request of the Agenda Committee, adding that it feels late to him to make such a change in the calendar. Dante said that the request came from the administration, and that he is willing to go back to the administration to gather more information. If the Senate would like more information before voting on this motion, it would be appropriate to not vote to suspend the rules today, and we can re-address the matter in two weeks. The vice chair said that making this decision in two weeks seems too late.

The motion to suspend the rules was put to a vote, needing a two-thirds majority to pass, and failed, with 31 votes in favor of suspending the rules, 19 votes against it, and 2 abstentions. Dante said he would gather answers to the questions posed today and the Senate will revisit the issue in two weeks.

VIII. CPC report on transportation issues – Danielle Pillet-Shore, chair of the Senate Campus Planning Committee, reported on a number of transportation issues. Much of this information is available on the Transportation Policy Committee’s website. The committee is chaired by the vice president for finance and administration, Chris Clement, and the committee asked the CPC chair to share several messages with the Senate members. There is a subscription service which provides email updates with parking news. UNH supports a Guaranteed Ride Home program, which is designed to assist users of alternative transit programs (Wildcat Transit, carpool, vanpool, train, bicycle, or RideShare) who may need to return home in an unexpected hurry. The free service is intended to encourage faculty, staff, and student commuters to use alternative transit options, and is only intended as an emergency solution. Participants may have up to two emergency rides per semester. The TPC handles more than parking issues, and faculty are invited to peruse their website to see what services are available. In the “Contact” area of the website, faculty can make suggestions and ask questions with an online form. Project update documents are available on the website. Faculty can also bring issues to Danielle and the CPC. She will be meeting with the TPC on April 14, and is happy to take faculty concerns with her to that meeting.

Last year there were complaints about parking lots being closed off without sufficient warning to faculty. The TPC says that the sandwich boards which announce those closings should be up seven days in advance.

Regarding parking spaces, the 2016 Benchmark Report by the TPC states that there are 7020 automobile spaces (slightly up from the previous year). The TPC reports a tightening of faculty/staff ratios (the ratio of the number of permits sold versus the number of faculty and staff on campus). The TPC believes that additional spaces may be needed after 2018, but emphasized that parking spaces are an expensive commodity. Danielle referenced a survey, done by the survey
research center, asking students, faculty, and staff about their experiences with parking on campus, saying that the TPC is trying to get a baseline of information to assist them in tracking satisfaction levels of community members.

A fourth ZIP car has been added for the Durham campus, with the use of this service up 8%. Amtrak ridership is up 22%.

Students requested that the winter parking ban be adjusted to allow for evening parking between December 1 and January 2, if there is no inclement weather, and the plan has had a successful pilot.

The university has funded a Mill Road Visitor Lot Parking Deck Feasibility Study to examine the possibility of increasing parking space in that area. Some of the upcoming projects are outlined in the Improvement Priorities document. An expanded transit pullout length and passenger waiting area is planned near Kingsbury, a bus wash facility will be added, as well as more real-time transit displays. The South Drive Transitway project is a top priority, and will require $3.6 million to complete. The other top priority is to replace the Wildcat Transit fleet, at the cost of $4.5 million.

A senator asked if the funding for the South Drive Transitway would come from the operating budget or capital funds. Danielle said it should come from capital funds, and that the university might ask for some state funding for that project. A senator commented on the issues of wetlands in the South Drive area. Another senator said that there is a buffer zone in that area that should provide protection. Danielle responded that the TPC says there would be no impact on those wetlands with the current plan. She invited any concerned senators to email her with specific questions.

A senator asked if parking at UNH is free with a handicapped tag, as it is in other parts of the state. It was noted that the handicapped tag allows free parking in any handicapped spot, but that to park in regular faculty/staff parking areas, a permit is still required.

A senator said that moped parking space is getting harder to find, due to the increase in the number of scooters on campus. Danielle said that there has been a noticeable increase in moped use, and that the number of moped permits has been capped at 400. Like other parking, there may be spaces available, but they may not be in the prime locations.

IX. AAC report and motion on the proposed five-year calendar – Due to time constraints, this report was postponed until the next Senate meeting.

X. FAC report on faculty numbers - Due to time constraints, this report was postponed until the next Senate meeting.

XI. Graduate Student Senate flyer on three-minute thesis challenge – Jovana Milosavljevic, the Graduate Student Senate representative to the Senate, told the group that the 2017 Three Minute Thesis Challenge will be held April 20 and April 26, in two rounds. The events will be held in the MUB Theater II.

XII. New Business – There was no new business.
XIII. Adjournment - Upon a motion and second to adjourn, the group voted to adjourn the meeting at 5:29 p.m.