

APPROVED
MINUTES OF SPECIAL MEETING*
BERKELEY DIVISION OF THE ACADEMIC SENATE
April 19, 2007

The Berkeley Division met on Thursday, April 19, 2007, in Booth Auditorium at Boalt Hall School of Law, pursuant to call. Professor William Drummond, chair of the Berkeley Division, presided, calling the meeting to order at 1:05 p.m.

I. Minutes

The minutes of the April 27, 2006 and the November 14, 2006 Division meetings were to be presented at the spring Division meeting immediately following this special meeting.

II. Business

Comments by Berkeley Division Chair William Drummond

The special meeting was requested by 17 members of the Division who proposed two resolutions concerning the Energy Biosciences Institute (EBI) proposal as the business of the meeting. These resolutions were promptly posted online, but due to time constraints, no amendments or substitute resolutions were included in the notice. Any amendments or substitute resolutions raised from the floor could be considered during the meeting.

Chair Drummond reviewed parliamentary procedures according to *Robert's Rules of Order*. An amendment limiting the scope of the main motion would require a simple majority to act upon it. An amendment outside the scope of the main motion could be considered by unanimous consent, but any action would require a two-thirds majority. Amendments to resolved clauses would be considered and disposed of before moving to the whereas clauses. The agenda was approved without objection. Professor Anne Wagner (Art History) would speak on behalf of the group.

Procedural motion presented by Chair William Drummond

Motion:

To limit debate for a Senate member speaking for the first resolution to five minutes, and a Senate member speaking against the resolution (or proposing an amendment) to five minutes. To limit debate for a Senate member speaking for the second resolution to five minutes, or a Senate member speaking against the resolution (or proposing an amendment), to five minutes. To limit subsequent speakers to three minutes each.

The motion was moved and seconded.

Vote: The motion was approved by voice vote.

Chair Drummond stated the question by reading the main motion aloud. Chair Drummond recognized Professor Anne Wagner (Art History) to speak on behalf of the proponents of the main motion for the purpose of moving the main motion, but not for debate.

* The audiorecording of the special meeting is available online at <http://academic-senate.berkeley.edu/ebi.html>, and in the Academic Senate Office at 320 Stephens Hall, by appointment.

Main motion presented by Professor Anne Wagner

The proponents of the main motion urge the University to exercise a greater degree of transparency and deliberation to actively protect the University's academic mission and the public trust before entering into a major collaboration with BP, a for-profit corporation. Though guidelines have been established to protect the University in such cases, the speed with which the EBI proposal was developed raises many questions as to whether due consideration may have been hastened in order to move this project forward. The resolutions presented here reaffirm the critical importance of the Senate's participation as an equal partner in shared governance to protect Berkeley's status and reputation as a great public university. The University must protect its academic interests from corporate influence. These resolutions do not threaten academic freedom, as those opposed have claimed.

Main Motion:

WHEREAS the public mission of the University of California, Berkeley, mandates the highest standards of scholarly integrity and transparency, particularly in regard to its relationships with for-profit sources of funding, and

WHEREAS the problems resulting from a previous contract with an outside corporation, Novartis, led to an independent review by a team from Michigan State University, which laid out specific "guidelines to govern future university/industry agreements,"¹ and

WHEREAS the Michigan State review explicitly recommends that the University "avoid industry agreements that involve complete academic units or large groups of researchers," and "encourage broad debate early in the process of developing new research agendas," and furthermore warns that "There are indications that the overstatement of academic freedom mixed with interests in commercialization is simultaneously eroding the public trust in science and the genuine merits of scholarly autonomy," and

WHEREAS the proposed BP contract establishing the Energy Biosciences Institute raises deep questions on all these grounds, be it therefore

RESOLVED that the Academic Senate urges the Chancellor that no contract with BP be entered into until a comprehensive review of its terms is executed, with that review taking full account of the recommendations of the Michigan State report, and that the renegotiated contract be made available in full for consideration by all members of the Senate.

* * * * *

WHEREAS the proposed partnership between BP and the University of California, Berkeley, raises a host of concerns, chief among them the integrity of the principle of shared governance, and

WHEREAS decisions about appointments and the allocation of resources appear to have gone forward without meaningful and effective Academic Senate review, be it therefore

¹ See Busch Team External Review of the Collaborative Research Agreement between Novartis Agricultural Discovery Institute, Inc., and The Regents of the University of California

RESOLVED that the Committee on Committees, in consultation with other relevant Senate bodies, immediately convene an impartial (and appropriately supported) blue ribbon Ad Hoc Committee, composed of senate members not previously involved in the BP negotiations and free of any real or perceived conflict of interest, to review those aspects of the partnership that impinge on the Senate's mandate, to advise the Chancellor of their findings, to provide continued oversight of any subsequent contract between the University and BP, and to develop a set of protocols to govern future contractual agreements between the University and all for-profit funding sources.

Chair Drummond recognized Professor Randy Schekman (Molecular and Cell Biology) for the purpose of speaking against the main motion but not for debate.

Presentation against the main motion by Professor Randy Schekman

Contrary to the claim that the intent of the main motion is to improve transparency in the EBI process, these resolutions would create a 'bureaucratic blockade' to corporate and private funding, severely impacting scholarly research at Berkeley. The language used by opponents to the BP contract threatens the collegial relationship of faculty across disciplines. Professor Schekman indicated he would present two amendments, a substitute for each of the resolutions of the main motion, later in the meeting.

Presentation of the second resolution by Professor Wagner

Chair Drummond invited Professor Wagner to present the second resolution of the main motion, which had already been read aloud; Professor Wagner had no additional comments.

Chair Drummond then recognized Professor Schekman for the purpose of presenting a motion to amend, but not for debate.

Motion to amend the first resolution of the main motion presented by Professor Randy Schekman (Handout A)

Motion:

Move that this substitute amendment (Resolution A) be approved to replace the first resolution of the main motion:

*Compromise Amendment to the resolutions¹ before the Academic Senate,
which concern the Energy Biosciences Institute. April 19, 2007*

WHEREAS the public mission of the University of California, Berkeley, mandates the highest standards of scholarly integrity and transparency, particularly in regard to its relationships with sources of private funding, and given the position of the Systemwide Academic Senate on this issue, be it

RESOLVED, cognizant of the memorial passed and ratified by the Systemwide Academic Senate in 2006², that the Academic Senate instruct the Chair of the Berkeley Division to advise the Chancellor that grave issues of academic freedom would be raised if the campus were to deviate from the principle that no unit of the University, whether by faculty vote or administrative decision, has the authority to prevent a faculty member from accepting external research funding based solely on the source of funds. Policies such as the faculty code of conduct are already in place on our campus to uphold the highest standards and

integrity of research. The Academic Senate believes that any intervention on the basis of assumptions about the moral or political standing of the donor is unwarranted.

1. Notice of a special meeting of the Academic Senate, April 19, 2007 with resolutions concerning university agreements
(http://academic-senate.berkeley.edu/meetings/documents/Div_SpecialMtg_0407.pdf/).

2. Memorial passed by the Systemwide Academic Council on September 27, 2006 and ratified by the Assembly on October 11, 2006.
(<http://www.universityofcalifornia.edu/senate/assembly/oct2006/research%20funding.11.06.pdf>)

“The Academic Council instructs the Chair of the Council to advise the President that grave issues of academic freedom would be raised if the Regents were to deviate from the principle that no unit of the University, whether by faculty vote or administrative decision, has the authority to prevent a faculty member from accepting external research funding based solely on the source of funds. Policies such as the faculty code of conduct are already in place on all campuses to uphold the highest standards and integrity of research. The Academic Council believes that the Regental intervention on the basis of assumptions about the moral or political standing of the donor is unwarranted.”

The motion was seconded.

Discussion:

Chair Drummond recognized individuals for the purpose of general debate; highlights of the discussion follow.

- Academic freedom of the faculty must be upheld by approval of the substitute amendment. Reference was made to a recent resolution passed by the systemwide Academic Senate reaffirming the academic freedom of faculty. Senate committees will be involved in oversight of the EBI contract process; the Senate must not be restricted in function.
- It is the right of faculty to govern their interests in the University through the process of shared governance. The Senate must also guard against division of the campus along disciplinary lines.
- The academic freedom of the faculty for individual inquiry, and the collective right of the faculty to participate in shared governance are not separate issues and should be addressed together to protect the University's interests. Professor Schekman's substitute motion does not address what the speaker sees are primarily procedural issues pertaining to shared governance.
- The proponents of the main motion strongly uphold the need for open review, debate, and Senate oversight. Their concern is with the terms of the BP agreement and in protecting the University's interests; they do not seek to prohibit the University from entering into agreement with BP or any other corporate entity.
- One member noted that the limited amount of information available on the EBI and limited debates have contributed to a polarization of the faculty. It is still unclear whether the University has agreed to the recommendations of the Michigan State

report (on Novartis), and whether those protocols are being followed in the EBI contract; the terms of this agreement are of great concern.

Chair Drummond recognized Professor Charles Schwartz (Physics).

Procedural motion presented by Professor Charles Schwartz

Professor Charles Schwartz moved to table the first resolution of the main motion and the proposed amendment (Resolution A) for this meeting, and to refer them to Senate leadership for deeper consideration. This would allow the special meeting to focus on the second resolutions of both the main motion and the proposed amendment (Resolution B), both of which recommend Senate oversight of the EBI process.

Chair Drummond offered two options at this point: to vote on Professor Schwartz's motion, or to go into quasi-committee of the whole for more open discussion not bound by *Robert's Rules of Order*, then to reconvene. Professor Jack Citrin called the question on Professor Schwartz's motion. Chair Drummond then clarified that the amendment on the floor took precedence over the newly proposed amendment by Professor Schwartz. Therefore this motion to table would be limited to Professor Schekman's proposed amendment of the first resolution of the main motion. A two-thirds majority would be required to act.

Motion:

Move to table the proposed amendment (Resolution A) of Professor Schekman and refer it to Senate leadership for further consideration.

The motion was seconded.

Vote: The motion to table the proposed amendment (Resolution A) was defeated.

All in favor: 94

All against: 157

Reintroduction of the motion to amend

Chair Drummond stated that the amendment (Resolution A) presented by Professor Schekman was now on the floor for a vote.

Procedural motion presented by a Senate member

A Senate member made the motion that the meeting reorganize for open discussion in quasi-committee of the whole, to address both amendments (Resolutions A and B) together in their entirety, to better address the concerns expressed. Chair Drummond reviewed the procedures from *Robert's Rules of Order* for meeting in quasi-committee of the whole. It was noted that the second amendment (Resolution B) had not yet been presented.

Motion:

Move that the meeting reconvene as quasi-committee of the whole.

The motion was seconded.

Vote: The motion to convene in quasi-committee of the whole was defeated by a voice vote.

Reintroduction of the motion to amend:

Chair Drummond stated that the motion to amend the first resolution of the main motion (Resolution A) presented by Professor Schekman earlier was again the motion on the floor.

Vote: The motion was approved by voice vote.

Motion to amend the second resolution of the main motion presented by Professor Randy Schekman

Professor Schekman presented a motion to amend the second resolution of the main motion (Resolution B). Professor Schekman noted the care that had gone into developing this resolution, which restates a proposal originally made by Chair Drummond.

Motion:

Move an amendment (Resolution B) to replace the second resolution of the main motion as follows:

BE IT RESOLVED that the Academic Senate instruct the Chair of the Berkeley Division to advise the Chancellor that an adequately supported committee³ composed of four members of the Academic Senate, the chairs of the Budget Committee, the Committee on Research, the Committee on Academic Planning and Resource Allocation, and the Committee on Academic Freedom, be constituted to serve in an advisory capacity to the chancellor in the initiation and oversight of the Energy Biosciences Institute and similar future endeavors.

3. Excerpt from the memo of W. Drummond, Chair, Berkeley Division of the Academic Senate, emailed on March 21, 2007. (http://academic-senate.berkeley.edu/EBI_chron.pdf), itself derived from the aforementioned resolutions.

“Following the announcement of February 1, the nature of consultations with the Senate changed. Negotiations got underway to create a contract to operationalize the EBI. On March 20, VCR Burnside advised me that the chairs of the Budget Committee, the Committee on Research, the Committee on Academic Planning and Resource Allocation, and the Committee on Academic Freedom had been invited to participate in the negotiation of the contract for the EBI agreement with BP. She asked that DIVCO entrust these chairs to provide confidential input to the negotiations. Once the contract was signed, they would be released from a pledge of confidentiality.”

The motion was seconded.

Discussion:

Chair Drummond recognized individuals for purposes of debate only. The proposed amendment (Resolution B) was revised to clarify that the Senate oversight committee would be comprised of the four committee chairs only. A comma after “...four members of the Academic Senate...” was deleted and parentheses added around the list of the four committee chairs, so that the proposed amendment reads as follows:

BE IT RESOLVED that the Academic Senate instruct the Chair of the Berkeley Division to advise the Chancellor that an adequately supported committee³ composed of four members of the Academic Senate (the chairs of the Budget Committee, the Committee on Research, the Committee on Academic Planning and Resource Allocation, and the Committee on Academic Freedom), be constituted to serve in an advisory capacity to the chancellor in the initiation and oversight of the Energy Biosciences Institute and similar future endeavors.

Chair Drummond recognized a member of the audience to speak.

Amendment presented by a Senate member

A Senate member made a motion for an amendment to strengthen and clarify the intent of the amendment on the floor by adding particular phrases from the main motion.

Motion:

Move that two phrases from the main motion be added to the proposed amendment (Resolution B, as amended). (Inserted text is underlined below).

BE IT RESOLVED that the Academic Senate instruct the Chair of the Berkeley Division to advise the Chancellor that an adequately supported committee³ composed of four members of the Academic Senate (the chairs of the Budget Committee, the Committee on Research, the Committee on Academic Planning and Resource Allocation, and the Committee on Academic Freedom), be constituted to serve in an advisory capacity to the chancellor in the initiation and oversight of the Energy Biosciences Institute and similar future endeavors, with that review taking full account of the recommendations of the Michigan State report and to develop a set of protocols to govern future contractual agreements between the University and all for-profit funding sources.

The motion was seconded. A two-thirds majority would be required to act.

Vote: The motion to amend the proposed amendment (Resolution B, as amended) was defeated.

All in favor: 82

All against: 186

Reintroduction of the proposed amendment to the second resolution of the main motion, as amended:

Chair Drummond noted that the motion on the floor was again the proposed amendment (Resolution B, as amended with parentheses) presented by Professor Schekman. A simple majority would be required to act upon this motion.

Vote: The proposed amendment (Resolution B, as amended), was approved by voice vote.

Chair Drummond summarized the action: the resolved clauses of the substitute amendments presented by Professor Schekman had now been approved to replace the resolved clauses of the main motion. The meeting moved on to consider the whereas clauses.

Chair Drummond recognized Professor John Taylor (Plant & Microbial Biology) to present a motion to amend, but not for debate.

Motion to amend the first set of whereas clauses of the main motion presented by Professor John Taylor

Professor Taylor moved to replace all whereas clauses in the first resolution of the main motion with the following language.

Motion:

To replace all the whereas clauses in the first resolution of the main motion with the following language:

WHEREAS the public mission of the University of California, Berkeley, mandates the highest standards of scholarly integrity and transparency, particularly in regard to its relationships with sources of private funding, and given the position of the Systemwide Academic Senate on this issue,

The motion was seconded.

Vote: The motion was approved by voice vote.

Professor John Taylor was recognized for the purpose of presenting a second amendment, but not for debate.

Motion to amend the second set of whereas clauses of the main motion presented by Professor John Taylor

Professor John Taylor moved to replace all whereas clauses in the second resolution of the main motion with the following language.

Motion:

To replace all the whereas clauses in the second resolution of the main motion with the following language:

WHEREAS the proposed partnership between BP and the University of California, Berkeley raises concerns about appointments and the allocation of resources,

The motion was seconded.

Vote: The motion was approved by voice vote.

Final motion presented by Chair Drummond

Chair Drummond noted that there were now two approved substitute amendments (Resolution A and Resolution B, as amended), presented by Professor Schekman and Professor Taylor, on the floor to replace the main motion.

Motion:

To replace the entire main motion with the two approved substitute amendments (Resolution A and Resolution B, as amended):

WHEREAS the public mission of the University of California, Berkeley, mandates the highest standards of scholarly integrity and transparency, particularly in regard to its relationships with sources of private funding, and given the position of the Systemwide Academic Senate on this issue,

BE IT RESOLVED, cognizant of the memorial passed and ratified by the Systemwide Academic Senate in 2006², that the Academic Senate instruct the Chair of the Berkeley Division to advise the Chancellor that grave issues of academic freedom would be raised if the campus were to deviate from the principle that no unit of the University, whether by faculty vote or administrative decision, has the authority to prevent a faculty member from accepting external research funding based solely on the source of funds. Policies such as the faculty code of conduct are already in place on our campus to uphold the highest standards and integrity of research. The Academic Senate believes that any intervention on the basis of assumptions about the moral or political standing of the donor is unwarranted.

* * * * *

WHEREAS the proposed partnership between BP and the University of California, Berkeley raises concerns about appointments and the allocation of resources,

BE IT RESOLVED that the Academic Senate instruct the Chair of the Berkeley Division to advise the Chancellor that an adequately supported committee³ composed of four members of the Academic Senate (the chairs of the Budget Committee, the Committee on Research, the Committee on Academic Planning and Resource Allocation, and the Committee on Academic Freedom) be constituted to serve in an advisory capacity to the chancellor in the initiation and oversight of the Energy Biosciences Institute and similar future endeavors.

Vote: The two substitute amendments (as amended) were approved in place of the main motion, by majority in a voice vote.

II. Other matters authorized by unanimous consent

None

The meeting was adjourned at 2:35 p.m. without objection.

Daniel Melia
Secretary, Berkeley Division

Handout A: Compromise amendment to the resolutions before the Academic Senate, which concern the Energy Biosciences Institute. April 19, 2007.