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MEMORANDUM

To: Board of Trustees; Chairman Jim Lindgren
President Jim Davis, Turtle Mountain Community College

From: Thomas M. Disselhorst, Attorney

Date: August 26, 2010

Subject: Concerns in suggested changes to bylaws for Board of Trustees

Your secretary e-mailed to Dr. Davis and myself a summary of several concerns the Board of Trustees had with suggested changes to the bylaws that were presented on Saturday, August 21, 2010.

1. Approval of Board of Trustees bylaws by Board of Directors. Why have the Board of Directors approve possible amendments to the Board of Trustees' bylaws? Why not have the Council approve amendments to the Board of Trustees' bylaws?

Answer: Because of the need to have a process for determining issues relating to the hiring and termination of the President of College without needing to go to the Council for approval, the bylaws of both the Board of Trustees and the Board of Directors are even more interlinked than they were before - they depend on each other. You would not want the Board of Directors to try to make changes to their bylaws that would affect the powers of the Board of Trustees, or vice-versa.

Thus, to protect against that possibility, where there are changes to the bylaws of the Board of Directors that affect the relationship between the Board of Directors and the Board of Trustees, those changes in the bylaws of the Board of Directors that affect the Board of Trustees should be agreed to by both Boards. The same is true for amendments to the Board of Trustees bylaws that affect the Board of Directors. The easiest way to make sure that bylaw amendments made by either Board do not affect the bylaws of the other Board is to require both Boards to approve any changes to the both sets of bylaws.

The reason the Council is not involved is that the bylaws of both Boards, as they are now constituted, do NOT require Council approval. The Charter, as proposed, recognizes the right of the Boards to amend their bylaws without Council approval. Requiring Council approval of bylaw amendments would very possibly be a significant change in institutional governance that would require prior approval of the Higher

Learning Commission. Getting that prior approval can be a lengthy, and even expensive, process requiring a separate visit by the Higher Learning Commission to the College.

2. Why not eliminate altogether the ability of the Chairman of the Board of Directors to seek appointment of a Trustee to establish a quorum of the Board of Directors?

I see no particular problem with removal of “the appointment of a trustee to provide a quorum of the Board of Directors” provision, but the Board of Directors would also have to agree, because the Chairman of the Board of Directors can request such an appointment by the Board of Trustees under the proposed amended bylaws for the Board of Directors. It is my understanding that the Board of Directors has approved the bylaws as amended subject to some minor changes.

If this provision were eliminated altogether, there would need to be some conforming amendments in both sets of amended bylaws, but that would not be difficult.

I realize there may be other issues of concern; I will be available at 5:30 PM this evening, Thursday, August 26, 2010.