

“Majority of members” really does mean “majority of members” Rebuttal

by Nick Strobel (select title to view video of these comments)

At the March 22, 2023 Senate meeting, I say at timepoint 00:30:08 of the [recording of the meeting](#) that section 2 of the referendum article means “majority of the entire membership.” There was NO objection or contrary word to that interpretation. I quote right from the Constitution. Steven Holmes presented a SIX-page packet of procedures to add to the Constitution during his Public Comment. This is item 7 of his proposal for a new section 3 in Article VII of the Constitution: “If a majority of Academic Senate members vote affirming the referendum, then the Senate action shall be null and void”. It does not say “If a majority of Academic Senate members *casting ballots* vote affirming the referendum” like it does in others sections of the Constitution. Why the heck not? NO where in the entire six-page packet does it say “majority of Academic Senate members casting ballots”.

At timepoint 00:34:42 of the [March 22nd recording](#), Korcok talks about section 1 of the referendum article of the Constitution stating 15% of the Academic Senate *membership*. There was NO objection or contrary word to that interpretation.

Now let’s take a look at the actual historical record of what happened when the Constitution referendum article was changed. The COMPLETE historical record is attached at the end in which after an examination of ALL Senate minutes and E-Board minutes and supporting documents of the meetings from Fall 2011 to Spring 2014, you are given what those documents actually say about the Constitution and By-Laws.

The change to the Referendum section of the Constitution was discussed in the Senate at just two meetings over a decade ago. McNellis was not on the Executive Board or a Senator. For the entire time period of Fall 2011 to Spring 2014 when the Constitution revision+election was in process, McNellis attended just two Senate meetings, both in fall 2011, with one of those to talk about the BCOUGH initiative and the other meeting that he attended had no discussion of the Constitution at all. He attended none of the E-Board meetings during that time period. McNellis was Enrollment Management Chair in 2011-12 but that was not on the E-Board at that time (EMC was added to E-Board in December 2015).

Holmes attended just one Senate meeting and none of the E-Board meetings during the entire time the Constitution revision+election was in process. Holmes attended on April 18, 2012 to describe the Constitution changes BUT the referendum article change was not discussed at that meeting!

Who from today’s Senate was on E-Board during the time of the referendum change: Korcok and Strobel. Who from today’s Senate was on the Senate back then: Anna Collins (Poetker), Clint Rigby. That’s it. Those four people are more likely able to tell you the *Senate’s* intent back then but it was over a decade ago and a lot has happened since then.

The October 2011 E-Board minutes do list the three people to ask to be on the revision committee: Terri Meier, Michael McNellis, and Steven Holmes. McNellis said that the *intent* of the *authors* was that the change in the text of removing the 40% quorum requirement for the referendum meant it would become just a majority of members *casting votes*. The intent of the *authors* was to make it easier for the rest of the faculty to be heard if there was a disagreement with their elected representatives. This is in the same Constitution revision that added a much higher bar to the Ratification article to make it equivalent to the Amendment article.

There is NO documentation of the intent of the change to have the removal of any quorum from the referendum vote mean that it becomes a majority of whoever casts a vote—that would be a great reduction in requirement for passing a referendum. Frankly, whether or not it was the intent of the *authors* that “majority of members” actually means “majority of members casting votes”, is irrelevant. It is the intent of the *Senate* who approved the change—how the Senate interpreted the new language (recall who was actually in the room)—and the clear statement of what is actually on the paper that matters. If a student writes a term paper and then later claims after the paper is graded and returned to the student, that they meant something else substantially different from what they wrote down, I suspect that most of us would be a bit skeptical of that claim or we would stick to grading what is written in the paper. Maybe we’d give that first year student some slack but I think we can expect more from those with advanced college degrees—if the intent was “majority of

members casting votes”, then why didn’t you write that down when you removed the quorum clause?

I agree that in the original language, with the 40% quorum clause in there, that “majority of Academic Senate members” could mean “majority of Academic Senate members casting ballots” BUT that interpretation is only possible if that quorum statement is in there! It is a substantially different statement if there is NO quorum clause at all in there and I believe that the Senate and faculty who voted in the change were interpreting the new referendum article to mean what the words actually say: “majority of members” means “majority of members”, not “majority of members casting votes” because with the latter interpretation, you could have a very small number of faculty, even smaller than the number in the Senate, overturning a Senate action.

BUT what about that 15% required to sign the referendum petition in the first place? Well, this assumes that everyone who signs the petition thinks the Senate did something wrong and assumes that NONE of the signatories could possibly support the Senate action but still feel that a contentious issue should be brought to the entire Academic Senate to decide or could possibly feel that putting it up for a vote might finally stop a vocal minority in the Senate from keeping the acrimonious debate going.

BUT let’s assume all 15% of the signatories think the Senate did something wrong. With zero quorum, that 15% could overturn the Senate action, an action taken by representatives elected by the entire full-time faculty body. So, for a full-time faculty of 358, we have 54 people overturning an action of a body of representatives elected by 358 people. Is that really the intent?

Actually, it’s even worse than that: Those 54 people are just making it *possible for an election* to take place where ZERO quorum is required, so you could have just 34 people voting and just 18 people needed to overturn a Senate action. Where did I get 34 people for this scenario? That’s the number of people who voted in the Fall 2012 Constitution revision or just 13 percent of the faculty at that time. *The number of people casting ballots could be even smaller.*

We’re to believe that it was the intent of the Senate that striking the 40% quorum language, so that the sentence became “If a majority of Academic Senate members vote against the Senate action, then the Senate action shall be null and void” actually means “If a majority of Academic Senate members *casting ballots* vote against the Senate action, then the Senate action shall be null and void”? We’re to believe that it was the intent of the Senate to set up a plausible scenario where just 18 or fewer people could overturn a Senate action? Really?

We’re to believe that the proofreading of the 2012 Senate—including veteran English faculty such as Kathy Freeman who helped negotiate our current contract where the language has to be precise—the proofreading of the Senate and the revision committee was so poor to forget to put in the crucial clarification of “*casting ballots*” like we have in the other Constitution articles? No one caught that oversight in over a decade? Really?

A more reasonable interpretation of the documentation evidence we have is that the *SENATE’s* intent for placing it on the ballot was that the language was meant to *raise the bar* of the referendum from having a 40% quorum and majority of votes casts (the original Constitution language) to it being a majority of the Academic Senate members = membership to overturn a Senate action.

BUT let’s say that the 2012 Senate’s *hidden* intent was indeed a “majority of Academic Senate members *casting ballots*” instead of what the text actually says, “majority of Academic Senate members”. The instructions given by the President of the Academic Senate to the entire Academic Senate *before* the election took place was that a majority of members = 180 was needed to overturn the Senate action. The President of the Academic Senate was given no guidance as to the *hidden meaning* of the text due to excessive debate—over 2.5 hours long—in a fruitless attempt to create procedures and there was no objection to the President’s interpretation of that article at the March 22 meeting of what a “majority of members” meant. I used the most straightforward interpretation of the Constitution text in announcing the results: a “majority of Academic Senate members” means a “majority of Academic Senate members”.

If the current Senate chooses to go along with this unspoken, *hidden* meaning of the text AND changes the rules of the election after the fact, I believe that the credibility—the integrity—of the Senate will be gone in the eyes of the students, classified staff, and administration and even most of the faculty and possibly the Board

of Trustees. How far the Senate has deviated from what we had in 2017/18 when BC received accreditation accolades for how BC makes decisions!

===== **Full history of the change to the Referendum article in the Senate records**

Quotes from the Senate minutes that say *anything* about the Constitution. Information from the E-Board minutes is not secret information because it is shared again in the public Senate meeting. There are NO (ZERO) other records describing the change to the Constitution besides the minutes and the single, supporting document = Constitution draft at ONE Senate meeting in 2012.

**** August 31, 2011 E-Board minutes**

Single line note saying that the C&Bs need to be thoroughly reviewed and updated.

- **September 7, 2011 Minutes**

REPORTS

President's Report (Rodriguez)

Other issues Corny would like the Senate to address involve updating and revising the Senate Constitution and Bylaws, written procedures for pre-requisites and a set of criteria for how emeriti will be selected.

**** October 12, 2011 E-Board minutes**

Request for someone to form a team to update the C&Bs. Note about language related to elections needing to be reviewed by the team.

- **October 19, 2011 minutes**

REPORTS

President's Report (Korcok)

Volunteers were requested to work with Corny on reviewing and possibly revising the Senate Constitution and Bylaws. Terry Meier volunteered.

McNellis attended to talk about BCOUGH.

**** October 26, 2011 E-Board minutes**

C&Bs Revision team possibilities of people to ask: Terry Meier, Michael McNellis, Steven Holmes.

- **November 2, 2011 minutes**

NEW BUSINESS

Academic Senate Constitution and Bylaws Review

Terry Meier has already volunteered. Corny asked for more volunteers and indicated that much time would be required. It was noted that Michael McNellis may be willing to help with this.

- **November 16, 2011 minutes**

McNellis guest. There is NO discussion about the Constitution at all in this meeting.

**** January 25, 2012 E-Board minutes**

Mentions that the C&B revisions committee met and made progress.

- **February 29, 2012 Minutes**

President Reports

* At the next Senate meeting, Senators can expect to have a draft revision of the Constitution & Bylaws to review and expect for Dr. Jensen to attend the next meeting.

**** March 7, 2012 E-Board minutes**

There is discussion about the Constitution in the minutes BUT nothing given in the minutes about the referendum article of the Constitution. Discussion of other parts of the Constitution. McNellis and Holmes not present.

- **March 14, 2012 Minutes**

NEW BUSINESS

Constitution & Bylaws Revision
This item was tabled until the next Senate meeting.
[No Constitution draft in the supporting docs]

- **March 28, 2012 Minutes**

NEW BUSINESS
Constitution & Bylaws Revision
This item was tabled until the next Senate meeting.
[No Constitution draft in the supporting docs]

- **April 18, 2012 Minutes**

NEW BUSINESS
Constitution & Bylaws Revision
Corny reviewed the document and explained that primary changes were made to the terms of office and the list of committees. It was suggested that on page 4, Article V, Section 6 the term “representative” be changed to “Senator” as it is throughout the document. Stephen Holmes from the revision committee suggested that all officers should serve two-year terms. There was discussion about the need for two-year terms and whether to stagger terms among the officers.

A motion was made to change the terms for all officers to two years. M/S: Stratton/B. Kelly.
Discussion continued on whether two-year terms were necessary or even beneficial. It was noted that two-year terms may allow for continuity but may be less appealing to those interested in serving in the future. It was suggested that single terms allow faculty to vote for someone new if warranted.
With only 3 votes in favor, the motion did not pass. Senators were asked to share the document with their constituents and be prepared to vote at the next meeting.

[No Constitution draft in the supporting docs]
[This is the ONLY time that a revision committee is mentioned in ANY of the Senate minutes in any academic year. Holmes in attendance; McNellis not attend]

- **May 2, 2012 Minutes**

UNFINISHED BUSINESS
Constitution & Bylaws Revision
Corny asked if there was feedback on the proposed revisions. There were no comments or suggestions for changes. A motion was made to approve the proposed revisions to the Constitution and Bylaws as presented. M/S/C: Freeman/Whitney
[Holmes and McNellis not in attendance]

[The only document about the proposed revision is the track changes revision of the Constitution. NOTHING in the Senate records about the intent, so a reasonable person would go with a straightforward interpretation of the text.]

<https://committees.kccd.edu/sites/committees.kccd.edu/files/REVISION%20Constitution%20%26%20Bylaws.pdf>

This meeting is the ONLY meeting in all of 2012+2013+2014 (spring and fall) where there’s a draft of the revisions.

===== Revision of referendum article

ARTICLE VII -- REFERENDUM

Section 1 Upon presentation to the Senate of a referendum petition, signed by fifteen percent of the “Academic Senate Association” members protesting an action by the Senate, the President shall suspend such action until a referendum election is held.

Section 2 Within three weeks, excluding recesses and holidays of the suspension action, an election shall be conducted. If a majority of “Academic Senate Association” members vote against the Senate action, ~~with at least forty percent of the members voting~~, then the Senate action shall be null and void.

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**** August 23, 2012 E-Board minutes**

Question raised whether all faculty need to ratify C&Bs.

- **August 29, 2012 Minutes**

Good and Welfare and Concerns at END of meeting

Michael Korcok made note of several documents provided to the Senators such as the Constitution & Bylaws, a summary of the 11-12 Senate motions and resolutions, a contact list of Senators and Executive Board members as well as a list of 12-13 meeting dates.

[No Constitution revision draft in the supporting docs. Ratified 2004 Constitution used for Senator orientation]

- **September 12, 2012 Minutes**

REPORTS

President (Rodriguez)

Corny reminded the Senate that changes to the Constitution and Bylaws were approved last spring. The Senate will need to conduct a vote for the Senate Association (all faculty) to confirm and implement those changes.

- **November 28, 2012 Minutes**

REPORTS

President (Rodriguez)

Ratification on the Constitution & Bylaws revisions will end Thursday, November 29 at 5:00p.m.

**** December 5, 2012 E-Board minutes**

What the current C&Bs say about temporary replacement of department chair. Nothing about Constitution revision.

[There is No Constitution draft in supporting docs for any meeting in 2013]

**** January 23, 2013 E-Board minutes**

President's Report: not enough votes in fall election (same info as in January 30 Senate meeting)

- **January 30, 2013 Minutes**

REPORTS

President (Rodriguez)

There was a vote held in the fall to ratify the Senate Constitution & Bylaws revisions; however, according to the ratification procedures outlined in the Constitution & Bylaws, there were not enough total votes to ratify. Corny will send a communication to all faculty explaining the need to vote when the revisions are sent back out this spring for ratification.

[No record of a vote in Spring 2013]

**** March 20, 2013 E-Board minutes**

Kathy Freeman talked about training of new Senators to include a review of C&Bs. [Same thing shared with Senate on April 3]

- **April 3, 2013 Minutes**

(condensed summary) Kathy Freeman shares ideas about better meetings, training of new Senators to include a review of the C&Bs. This would be the 2004 ratified Constitution.

**** August 28, 2013 E-Board Minutes**

Faculty will need to vote again on Constitution review [Same thing shared with Senate on Sept 4]

- **September 4, 2013 Minutes**

REPORTS

President (Rodriguez)

Constitution & Bylaws: Faculty should look for an email from Corny explaining the need to conduct a vote

again on the Constitution & Bylaws revisions made in 2012. Although the majority of faculty votes were in favor of the revisions, according to the Constitution & Bylaws there were not enough votes in total to ratify the revisions.

[NO record of vote in Fall 2013]

[There is No Constitution draft in supporting docs for any meeting in 2014]

**** January 29, 2014 E-Board Minutes**

Note about need to ratify the constitution this semester [Shared again at Feb 5 Senate meeting]

- **February 5, 2014 Minutes**

REPORTS

President (Rodriguez)

There will be receiving information regarding the ratification of the Constitution and By Laws. It was voted on earlier however there were not enough votes.

- **March 5, 2014 Minutes**

REPORTS

President (Rodriguez)

Corny reported that the changes recommended to the Academic Senate Constitution and By-laws need to have at least half of the faculty to vote; that would be 129 to vote, and only 34 voted last time. Of those, two-thirds would need approval.

[Yes, just 34 people voted in the Fall 2012 election!]

**** March 12, 2012 E-Board Minutes**

Note about upcoming election and 2/3 vote needed to ratify.

- **April 23, 2014 Minutes**

REPORTS

President (Rodriguez)

Voting for ratification of the Constitution & By-Laws will begin this Friday the 25th. Please vote. In October, there were not enough votes to ratify, so we must open the polls once again. There have been no major changes in language, except the president's term has increased from one year to two years. Minor changes have been made to clarify language.

[Nothing in the minutes about the referendum article]

- **May 7, 2014 Minutes**

Unfinished Business

Installation of 2014-15 Officers

Corny Rodriguez welcomed new Officers and Senators and noted that with the approval of the new Academic Senate Constitution, the presidential term was increased from one year to two years. This change does not apply to the new president, Steven Holmes, but Corny hopes that Steve will choose to continue his presidency, regardless.