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Sent: Thursday, January 19, 2012 5:26 AM
Subject: New York Times - "Penn State's Trustees Recall Painful Decision to Fire Paterno"

The text below is the article that will appear in today's print version of the New York Times.

Text of New York Times Article
By Pete Thammel and Mark Viera
January 19, 2012

It was growing late on the night of Nov. 9, 2011. John P. Surma, the chief executive of U.S. Steel and the vice chairman of Penn State University's board of trustees, sat at a rectangular table at the Penn Stater Hotel. Gov. Tom Corbett of Pennsylvania was on the speaker phone. Other trustees were present, many emotionally spent.

The board, scrambling to address the child sexual abuse scandal involving the university and its football program, had already decided to remove Graham B. Spanier as president. Then, many of those present recalled this week, the tension in the room mounted. Joe Paterno's future was next up. Surma announced that an agreement appeared to have been reached to fire Paterno, too — the trustees having determined that he had failed to take adequate action when he was told that one of his longtime assistants had been seen molesting a 10-year-old boy in Paterno's football facility.

Surma, those present recalled, surveyed the other trustees — there are 32 — for their opinions and emotions before asking one last question: "Does anyone have any objections? If you have an objection, we're open to it."

No one in the room spoke. There was silence from the phone speakers. Paterno's 46-year tenure as head coach of one of the country's storied college football programs was over, and the gravity of the action began to sink in.

"It was hard for us to want to get to the point where we were going to say that," said Ira M. Lubert, a board member who works in private equity. "I was laying in bed that night shaking. And I couldn't sleep — thinking: We just terminated Joe Paterno."

The 100 or so hours beginning with the arrest of Jerry Sandusky, a former defensive coordinator for the football team, had built to a crescendo by that Wednesday night's meeting of the trustees. By then, the campus was aflame with discontent. Penn State students and faculty, its alumni and its growing number of outside critics had been roiled by anger and confusion, embarrassment and sorrow. Reporters had inundated State College. It was, plainly put, the most trying time in Penn State's 156-year history.

On Wednesday, in a conference room in New Jersey, a group of 13 trustees spoke to The New York Times in detail about that week — a somewhat frantic, certainly exhausting week that led to the firings of Paterno and Spanier and to the disturbances on campus that those dismissals set off.

The board decided to share its story because it grew weary of hearing criticism, which included calls from alumni who started a group known as Penn Staters for Responsible Stewardship in an effort to replace the current board members. The trustees, over three hours, described how they had felt blindsided by Spanier's failure to keep them informed of the nature and scope of the Pennsylvania attorney general's investigation of Sandusky, along with the investigation of university officials.

Spanier, two other senior university administrators and Paterno had all given testimony before a criminal grand jury by late spring of 2011. They had been questioned extensively about what they had done after learning of a report in 2002

that said Sandusky had molested a young boy in the showers of the football building. According to the trustees, Spanier never informed them of any of that before Sandusky's arrest on Nov. 5.

The trustees also laid out what they said were three key reasons for firing Paterno: his failure to do more when told about the suspected sexual assault in 2002; what they regarded as his questioning of the board's authority in the days after Sandusky's arrest; and what they determined to be his inability to effectively continue coaching in the face of continuing questions surrounding the program.

The trustees, who had not spoken publicly in any detail since the firings, also disclosed that, while having fired Paterno, they were still honoring the terms of his contract and are treating him financially as if he had retired at the end of the 2011 season.

To some trustees, Paterno failed in not reporting to the police what he had been told of Sandusky's suspected assault. Some of the trustees were also upset that Paterno was seen leading "We are Penn State" cheers on his lawn with students and fans who had gathered after Sandusky's arrest, which some board members viewed as insensitive.

That Paterno knew of the nature of the suspected 2002 assault, which he stated in his grand jury testimony, was enough for some to decide that he had not acted appropriately in simply informing the university's athletic director, Tim Curley, and another top official, Gary Schultz. Both of them have been charged with failure to report to the authorities what they knew about the incident and for subsequently lying to a grand jury.

"To me, it wasn't about guilt or innocence in a legal sense," the trustee Kenneth C. Frazier, the chief executive at Merck, said of Paterno's decision not to go to police. "It was about these norms of society that I'm talking about: that every adult has a responsibility for every other child in our community. And that we have a responsibility not to do the minimum, the legal requirement. We have a responsibility for ensuring that we can take every effort that's within our power not only to prevent further harm to that child, but to every other child."

Saturday, Nov. 5

At 5 p.m., the trustees met via telephone for an emergency session.

The trustees on the conference call who had read the details of the charges against Sandusky and the two senior university officials felt a distinct lack of urgency by the university. Many were irked that Spanier had released a statement in full support of Curley and Schultz, who were indicted for perjury. The trustees were floored, they said, that Spanier did not seem to recognize the severity of the situation.

"We deal with crisis every day at this university," they recalled Spanier saying. "We won't have a problem with this."

The trustees, meanwhile, were shocked by the charges — and caught completely unaware. There had been reports in The Patriot News of Harrisburg that a grand jury was investigating a claim that Sandusky had molested a local high school boy. But Sandusky had been retired from Penn State for years.

"There was a lack of information being provided to us," said Mark H. Dambly, a trustee and the president of a real estate development company. "We found out about it when the rest of the world found out about it."

Lubert, for his part, had just dropped off his son and daughter-in-law after brunch when he got a call from his son while driving home to Philadelphia. His son told him that Curley and Schultz had just been indicted on perjury charges.

"That's impossible," Lubert said. "If they were, I would know that."

His son responded: "Do yourself a favor and when you get home turn on the television. It doesn't matter what channel."

Anne Riley, another trustee, said she would always remember being at the opera, sitting in seat 15, Row B, of the balcony, when she heard the news. The trustee Keith E. Masser was playing golf in Naples, Fla., and found out by checking at his phone. Frazier heard about the severity of the situation while sitting in his car outside a burger place.

The trustees quickly realized that Spanier had chosen not to keep them informed.

During a board meeting last May, after Spanier had testified before the grand jury, the board received a short briefing — the trustees estimated it was 5 to 10 minutes — on Sandusky's being under investigation by a grand jury.

The briefing, which took place during a "seminar" session not open to the public, included an explanation of what a grand jury investigation was by the university counsel Cynthia Baldwin. (Baldwin had sat in on the grand jury testimony but was not legally allowed to speak to the trustees about the contents of the testimony, according to Lanny J. Davis, external counsel and crisis management adviser to the office of the Penn State president and to the board of trustees.)

The trustees this week said that they were disappointed that Spanier, who was legally allowed to speak about his grand jury testimony, did not brief the board on the nature of the questions by the grand jury about the 2002 episode.

"He should have told us a lot more," Lubert said. "He should have let us know much more of the background. He was able to legally share his testimony and I think that he had an obligation to do that with the board so we could get more engaged with the problem."

The mention of the grand jury investigation by Baldwin and Spanier was so brief that Surma barely remembered it. No one asked questions.

"Part of being a leader at that level is to be a risk manager and to think through what might happen," the trustee Karen B. Peetz, an executive with Bank of New York Mellon, said of Spanier.

Spanier has not been charged in the perjury case. He told the grand jury he was never told that Sandusky's encounter with the young boy in the showers in 2002 involved sexual assault.

Spanier declined to comment for this article when reached on his cellphone. He listened, but would not respond, when told how the trustees had described his actions.

Paul Suhey, a former football captain for Paterno and an orthopedic surgeon in the State College area, was the only trustee on campus for the 5 p.m. conference call as others dialed in from around the country.

"I was pretty upset," Suhey said. "I knew we had a problem."

Steve Garban, the board's chairman, admitted to not reading the grand jury's charges until late Sunday night, more than 24 hours after it went public. After he did, he felt that Paterno, his former coach, lifelong friend and occasional drinking buddy, needed to be let go.

But the trustees concluded their call with a deepening skepticism about how the university administrators would handle it.

Peetz, the bank executive, said she came to a simple conclusion: "We are up against the challenge of our lives."

Sunday, Nov. 6

The trustees met again Sunday night, some of them now on the scene in State College, having arrived by private plane or car. When they met, they realized that Spanier and others had already arranged for lawyers from two firms to be

present, as well as representatives from a public relations firm. They were meant to brief the trustees on how to handle the crisis.

"It was indicative of the culture," Dambly said. "We showed up and it was already determined what law firm it was going to be."

The Sunday meeting ended with the trustees eager to issue a news release, expressing a commitment to a full internal investigation and sympathy for any victims.

In the interviews this week, they accused Spanier of having altered the release. It was made to appear as a joint release from Spanier and the board, and diluted the language involving the promised investigation.

"I got up the next morning to read the press release online and it really didn't reflect what we had come to the conclusion of as a board," Lubert said. "I remember reading that, and I was sick. I then knew we had a serious problem."

Surma added: "The big difference that I remember was that we had very explicit comments about the independent investigation and what it would investigate and its freedom of access. What came out was something much different than that."

Garban said he soon informed Spanier that he could no longer speak for the university on the issue.

"I have to take some blame for this," Garban said. "I still sort of thought Graham could get us through this or help get us through this. And he participated in writing the press release, and after it came out, I knew it wasn't right."

Garban read the grand jury report after the meeting and regretted not reading it sooner: "It was like, 'Oh my God, Steve, where've you been?' It floored me."

Tuesday, Nov. 8

On Tuesday, Surma and Garban met to have breakfast at the Nittany Lion Inn around 7:30 a.m. Sandusky's arrest had been headline news for four days. Paterno was supposed to meet with reporters for his weekly conversation about the team's next game.

A 1959 Penn State graduate, Garban was a former captain of the football team, and he subsequently had a 33-year career at the university. But several members of the board were upset with his leadership during the days after Sandusky's arrest. Garban had remained loyal to Spanier for too long, some felt; other trustees wanted Spanier gone.

The trustees, indeed, were clamoring for a change. Garban recognized the discontent among the board members. So Garban and Surma asked for time alone. Sitting at the breakfast table, Garban broached the subject of changing the board's leadership before Surma could even bring it up.

"John, let's not go there," Garban recalled telling Surma. "You need to take this over. And let's agree — take it over."

Stepping into the power vacuum, Surma joined Garban at Old Main, the central administration building on campus, to meet with university personnel, including Spanier. Surma said that it became clear to him that Spanier was no longer in control of the university. Surma said Spanier seemed to realize as much himself.

"Do I have support of the board?" Spanier asked Garban.

"I can't answer that question," Garban recalled replying.

The trustees promptly canceled Paterno's weekly news conference. It was evidence of how much the board's confidence in Paterno had eroded.

Then Surma said he started making preparations for what might come next with Spanier. He handed out orders to the university's counsel and the public relations firms working on its behalf.

Perhaps the most important moment came when Surma met with Rodney A. Erickson, the university's executive vice president and provost. Erickson explained to Surma that he did not know anything about the allegations until shortly before Sandusky was arrested. Surma believed Erickson was sincere.

Then Surma hinted that Erickson, who had been looking to retire in the near future, might be asked to take over the presidency.

"If it comes to it, we may need you," Surma told Erickson.

Erickson simply replied, "O.K."

Spanier's inquiry about the board's support set the agenda for what would be a conference call among trustees at 7 p.m. The call lasted two to three hours. Surma chaired the discussion and told the trustees that Erickson could be an alternative to Spanier.

That Erickson, who was widely respected by the trustees for his broad understanding of the university, said he would be willing to replace Spanier gave the trustees confidence about firing Spanier. But the trustees still had to make a final decision on Paterno. The seriousness of the task was not lost on the board members, and it was decided that the board would meet in person the next night.

"I'd like everyone to come together tomorrow and look people in the eyes," Lubert recalled saying during the call.

Wednesday, Nov. 9

The trustees glumly descended on State College for what they knew would be a long and painful day. Lubert said that he had trouble sleeping. Peetz recalled feeling as if she were an executioner going to the guillotine. Stephanie Nolan Deviney, a trustee and a partner at the law firm Fox Rothschild in Exton, Pa., remembered going to the bedroom of her 7-year-old to kiss him before she left for State College.

"I thought of the mothers of all those boys in the presentment," Deviney recalled this week. "And I thought about what they must feel when they kiss their sons good night."

The trustees gathered in a conference room at the Penn Stater at 7 p.m. In a rare occurrence, the governor joined the meeting by telephone for its duration. However, the soberness of the discussion was broken up by the clamor of tool-belted workers crawling around under the table trying to fix the telephone line. "Governor," Surma asked every few minutes, "are you still with us?"

The trustees first discussed Spanier's status. The trustees said that they sensed there was a consensus about Spanier's future as the president. Earlier, Spanier had tried to submit his resignation, but Garban and Surma did not accept it. Garban told Spanier that the board felt it needed to deal with the matter itself. So, instead, the trustees paged through Spanier's contract, and then decided to fire him. They named Erickson the interim president.

Then the trustees decided the fate of Paterno, who had come to Penn State as a young assistant coach in 1950 and who had helped build it into a national university, to which he donated more than \$4 million. The 13 trustees interviewed Wednesday said that Paterno did not reach out to them before the Nov. 9 board meeting, and some said that it would not have mattered, because they did not believe that he could say anything to save his job.

Wick Sollers, Paterno's lawyer, issued a statement Wednesday in response to the accounts offered by the trustees: "After learning of the alleged incident in 2002, Joe Paterno reported it immediately and fully to his superiors at the university. He believed these officials, who had the authority and responsibility to conduct investigations, would act appropriately. He did what he thought was right with the information he had at the time. Blaming Joe Paterno for the failure of administration officials and the board to properly investigate Jerry Sandusky is unjustified."

On that Wednesday night in November, though, the only thing left for the board to do was to figure out how to carry out the firing. Could representatives safely show up at Paterno's home amid the media frenzy? Was it realistic to expect Paterno, then 84, to meet with the trustees? The trustees decided to fire him by telephone, a decision that many board members interviewed expressed as their biggest regret.

Shortly before 10 p.m., Fran Ganter, the associate athletic director for football, delivered an envelope to Paterno's home, just off Penn State's campus. Inside the envelope was a telephone number. Paterno called the number, and Garban answered. Then he passed the telephone to Surma, who was seated next to him. Surma asked if Paterno could hear him O.K. Paterno said that he could. Then Surma told Paterno of the trustees' decision. "The board of trustees has determined effective immediately you are no longer the football coach," Surma recalled saying.

Then he heard a click. Paterno hung up.

Surma and Garban sat at the table for a moment, numb. Then the telephone rang again. Surma answered. It was Paterno's wife, Sue, who said, during a short conversation: "After 61 years, he deserved better." Then she hung up on Surma.

Board members at the meeting lingered and eventually decided that they would join Surma at a news conference at a ballroom elsewhere in the Penn State. The ballroom quickly filled as hundreds of onlookers gathered. Trustees sat on a raised dais behind Surma, who sat stoically as Garban turned over the news conference to him.

Then Surma announced to a room full of reporters and television cameras, and to the country watching at home, that Penn State's board of trustees had fired Joe Paterno.

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