

MINUTES OF A SPECIAL MEETING
THE UNIVERSITY OF OKLAHOMA BOARD OF REGENTS
DECEMBER 22, 1977

A special meeting of The University of Oklahoma Board of Regents was held in Room 138 of the College of Nursing Building on the Health Sciences Center Campus, Oklahoma City, on December 22, 1977, beginning at 5:20 p.m.

Notice of the time, date, and place of this meeting were submitted to the Secretary of State as required by Enrolled House Bill 1416 (1977 Legislature). The notice of the place of the meeting was submitted as Room 130 in the College of Nursing Building. The meeting room was changed to Room 138 at the last minute by College of Nursing personnel; however, a notice of the new meeting place was placed on the door of Room 130 and a University of Oklahoma Health Sciences Center police officer was stationed at the entrance to Room 130 to direct individuals down the hall to Room 138.

The following were present: Mr. Thomas R. Brett, President of the Board, presiding; Regents Bob G. Mitchell, M.D., K. D. Bailey, Richard A. Bell, Dee A. Replogle, Jr., Charles E. Engleman, and Ronald H. White, M.D.

The following were also present: Dr. Paul F. Sharp, President of the University, Provost William G. Thurman, Vice President David A. Burr, and Mrs. Barbara H. James, Executive Secretary of the Board of Regents.

Health Sciences Center Parking System

Initial studies beginning in 1967 have documented a need for parking structures on the Health Sciences Center Campus of the University. Recently the University has completed feasibility studies for a bond issue of approximately \$7,000,000 to begin a system which will pool the parking needs and costs of several State, Federal and private agencies. This bond issue will be Phase I of a total system to be developed comparable to the Steam and Chilled Water Plant.

Studies to date have indicated three options, all of which are financially feasible:

1. 1100-car structure with 22,000 sq. ft. of student/faculty/staff service space (commercial) as the only structure in Phase I. This structure will be placed on the H Lot (University owned) with direct connections to the University Hospital and Clinics and the Biomedical Sciences Building.
2. The structure listed in #1 above and a 410-car structure added to a new building being constructed by University Hospital and Clinics with management and eventual ownership arrangements as previously presented to the Board of Regents. This contains area excavated for surge space for University Hospital and Clinics but the space is not finished. Future completion of the space is not precluded.

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3. Structures proposed in #1 and #2 above with the surge space finished for warehouse utilization. This will increase the fiscal needs by \$750,000 over the life of the bond issue. University Hospital and Clinics has agreed to bear the entire cost.

Financial consultants have indicated that the security of the bonds is effected by including specialized space but the effect is not significant enough to harm the issue.

Bond Counsel has indicated that inclusion of the surge space is inappropriate, if not illegal, and inclusion may jeopardize the entire issue. An opinion has been requested from the Attorney General and the question is also being discussed with the Oklahoma State Regents for Higher Education. Both are pending.

This issue has not been resolved over the past 60 days.

President Sharp recommended approval of Option 2 and approval of the \$7,000,000 Health Sciences Center Parking System Revenue Bonds, Series A, as reflected in the attached resolutions unless it is shown in the next two weeks that the surge space is both appropriate and legal. To delay further will impede resolution of a 10 year old problem.

If it is determined in the next two weeks that the surge space is both appropriate and legal, President Sharp recommends approval of Option 3 and approval of the \$7,750,000 Health Sciences Center Parking System Revenue Bonds, Series A.

Dr. Thurman stated that since the agenda was mailed to the Regents for this special meeting we have received an opinion from the Attorney General's Office regarding the legality of including the construction of the surge space in this revenue bond issue. A copy of the Attorney General's opinion was distributed to each member of the Board, and is as follows:

"December 22, 1977

"Mr. Bruce M. Perry
Executive Director
The University Hospital and Clinics
800 N.E. 13th Street
P.O. Box 25606
Oklahoma City, Oklahoma 73125

"Opinion No. 77-297

"Dear Mr. Perry:

"The Attorney General has considered your request for an opinion wherein you state that The University of Oklahoma has proposed to issue revenue bonds under the provision of 70 O.S. 1971, §§4001-4014, inclusive, as amended, to construct two parking garage structures and related facilities including a structure for the use of University Hospital. You then inquire as to whether

a proposal of the University Hospital Board of Trustees to include approximately 14,000 square feet of roughly finished space in the parking structure is a legal application of the University of Oklahoma's bonding authority.

"Title 70 O.S. 1971, §4001(a) was amended in the First Regular Session of the Thirty-fourth Oklahoma Legislature, specifically to authorize and include parking facilities within those enumerated facilities the usage for which the Boards of Regents for all state educational institutions are authorized to set aside a portion of the respective campuses under their jurisdiction. Section 4001(a), as amended, provides:

"Subject to and in accordance with the terms hereof, the boards of regents for all state educational institutions for and in behalf of any university, college, school or institution under the jurisdiction of each of the said boards are hereby authorized from time to time to set aside such portion of their respective campuses or of the campuses under the jurisdiction of said boards, or any other land owned or leased by said boards, as may be necessary and suitable for the construction thereon of dormitories, student housing, co-operative group housing, parking facilities, adult education facilities, kitchens, dining halls, auditoriums, student union buildings, field houses, stadiums, public utility plants and systems for the supplying of water, gas heat or power to the university, college or institution or related institutions and other self-liquidating projects and other revenue-producing buildings deemed necessary by said boards for the comfort, convenience and welfare of their students, and suitable for the purposes for which said institutions were established, including additions to existing buildings used for such purposes; to acquire through construction, purchase, condemnation or any combination thereof such dormitories, student housing, cooperative group housing, parking facilities, adult education facilities, kitchens, dining halls, auditoriums, student union buildings, field houses, stadiums, public utility plants and systems and other revenue-producing buildings and acquire or construct additions, improvements and extensions to existing buildings and structures used for such purposes and to equip, furnish, maintain and operate all such buildings and structures; and to acquire through purchase, condemnation or otherwise any land, rights-of-way, easements, licenses and permits needed for the present or future use of such buildings, structures, plants and systems; provided, that such boards of regents shall not construct or acquire, for their respective institutions, such utility plants or systems whose capacity is in excess of the present or reasonably contemplated future needs of such institutions or related institutions, except as provided in subsection (c) hereof.'

"Title 70 O.S. 1971, §4002(a) provides, in part:

"'For the purpose of paying all or part of the cost of acquisition of any such lands, rights-of-way, easements, licenses and permits and the construction, acquisition, equipment and furnishing of any such building or buildings or structure or structures, plants or systems, or of any additions, improvements, or extensions thereto, or any additions to existing buildings, the Board of Regents of the institution for which such buildings, structures, plants or systems (all of which lands, rights-of-way, easements, licenses and permits, buildings, structures, plants and systems constructed, acquired, added to, improved or extended hereunder as a single project are hereafter referred to as 'the building') are to be constructed, acquired, added to, improved, extended, furnished or equipped (which Board of Regents or each of them is hereinafter referred to as 'the board') is authorized to borrow money on the credit of the income and revenues to be derived from the operation of the building, together with the income and revenue derived from any existing revenue-producing building or facility or facilities and, in anticipation of the collection of such income and revenues, to issue negotiable bonds in such amount as may in the opinion of the board be necessary for such purposes, and is authorized to provide for the payment of such bonds and the rights of the holders thereof as hereinafter provided....'

"Title 70 O.S. 1971, §4013 provides:

"'The Board of Regents which by the Constitution and/or by the laws of this State is charged with the control, management, and government of one or more of the universities, colleges, schools or institutions of higher education shall have for each of the universities, colleges, schools and institutions under its jurisdiction exclusive determination of need, control, and management of all self-liquidating revenue bond matters as provided for in this Article.'

"It is apparent from the law above cited that the various boards of regents of the state educational institutions and in this case the Board of Regents of the University of Oklahoma, have been vested by the Legislature with exclusive authority to determine the need for self-liquidating projects and revenue producing buildings as deemed necessary for the "comfort, convenience and welfare of their students." It reasonably follows that it likewise comes within the exclusive province of the various boards of regents to determine the need for issuance of revenue bonds to obtain money for the construction, acquisition, and furnishing of any such structure.

"Title 70 O.S. 1971, §4014 provides:

"For each of the proposed bond issues to be issued pursuant to §§4001 through 4014, Title 70 of the Oklahoma Statutes, a Statement of Essential Facts shall be prepared by the issuing Board of Regents for the use and information of prospective bond purchasers. It shall be the duty of the Oklahoma State Regents for Higher Education to examine such Statement of Essential Facts and determine that, based upon such facts and projections, the projected revenue will satisfy the financial obligation to be incurred under the proposed bond issue. If the facts are found by the State Regents to be substantially accurate and if the State Regents find that, based upon such facts and projections, the projected revenue will satisfy the financial obligation to be incurred under the proposed bond issue, then the Oklahoma State Regents for Higher Education shall certify such to the Attorney General of Oklahoma before the proposed bond issue can be approved by the Attorney General. The certificate shall be made in substantially the following form:

"The Oklahoma State Regents for Higher Education do hereby certify that the provisions of §4014, Title 70 of the Oklahoma Statutes have been complied with in proper order, for the revenue bond issue mentioned above.'

It is clear that, following a determination of need by the Board of Regents, a Statement of Essential Facts must be prepared and submitted to the Oklahoma State Regents for Higher Education for their examination and certification that projected revenues are sufficient to satisfy the financial obligation to be incurred under the proposed bond issue.

"The responsibility of the Attorney General with regard to proposed bond issues of the boards of regents is set out at 70 O.S. 1971, §4008 as follows:

"All bonds issued hereunder shall have on the backs thereof the certificate required by Section 29 of Article 10 of the Constitution of Oklahoma. Such bonds shall be submitted to the Attorney General of Oklahoma for his examination and such bonds, when having been examined and certified as legal obligations by the Attorney General in accordance with such requirements as he may make, shall be incontestable in any court of the State of Oklahoma unless suit thereon be brought in a court having jurisdiction thereof within thirty days from the date of such approval. Bonds so approved by

the Attorney General shall be prima facie valid and binding obligations according to their terms and the only defense which may be offered thereto in any suit instituted after such thirty day period shall have expired shall be forgery, fraud or violation of the Constitution.'

"Pursuant to Section 4008, it is the responsibility of the Attorney General to examine the bonds prior to their issue to ensure that such bonds are in conformity with the forms and procedures adopted and approved by the Attorney General, as Ex-Officio Bond Commissioner of the State, to ensure that when issued, they will constitute valid, legal and binding obligations of the issuing authority. The Attorney General has no authority to involve himself in the process of determining the need for the issue. Such determination is necessarily of a subjective nature and reserved by statute exclusively to the regents.

"It is the opinion of the Attorney General that the authority to determine the need for the proposed structure and the corresponding determination of necessity for the issuance of revenue bonds to finance same is exclusively within the province of the University of Oklahoma Board of Regents. The sole criterion by which the Board of Regents is to be guided in the exercise of that discretion is the statutory requirement that the Board must first determine such structure to be necessary for the comfort, convenience and welfare of the students of the University and suitable for the purposes for which the University was established.

"Sincerely,

/s/ Larry Derryberry

LARRY DERRYBERRY
ATTORNEY GENERAL OF OKLAHOMA

/s/ Wm. Don Kiser

WM. DON KISER
ASSISTANT ATTORNEY GENERAL"

Mr. Scott Brown said the essence of the Attorney General's opinion is that the question of whether the surge space is of benefit to the students of the University of Oklahoma is solely within the jurisdiction of the Regents. The Attorney General has placed the burden back on the Regents to make this determination.

Regent Brett asked for a brief explanation of the time element and course of action in the event the Regents should determine the construction of the surge space should be included in the project. Mr. David Walters, Assistant Provost, said he believes it would take anywhere from 10 days to two weeks to update the feasibility study. He is of the opinion the necessary changes in the other bond documents could be accomplished during that same period of time.

After further discussion, Regent Mitchell moved that the Regents determine the surge space does benefit the students of the University of Oklahoma, that the construction of the space be included in the parking system revenue bond issue, and the parking system matter be referred back to the administration for preparation of the appropriate documents and presentation to the Regents at the January 19, 1978 meeting.

After further lengthy discussion, the following voted yes on the motion: Regents Brett, Mitchell, Bailey, Bell, Replogle, and White. Regent Engleman voted no because he said he believed this would be stretching the bonding authority of the Regents. The Chair declared the motion approved.

Regent Brett suggested adoption of the following resolution:

Pursuant to Title 70 Oklahoma Statutes, Section 4001 and 4013, and based on the facts presented to the Board of Regents, it is hereby determined that the 14,000 square feet of "surge space", roughly finished, in the 410-car parking structure is needed by the University of Oklahoma Health Sciences Center for the comfort, convenience, and welfare of the students of the University of Oklahoma.

Regent Bailey moved approval of the resolution. The following voted yes: Regents Brett, Mitchell, Bailey, Bell, Replogle, and White. Regent Engleman voted no. The Chair declared the motion carried.

Appointment of Architects for 1,100-Car Structure

An item was included in the agenda pertaining to the appointment of architects and engineers for the 1,100-car parking structure. Regent Brett said he understands discussions, negotiations and interviews are still going on with firms with regard to the appointment of architects and engineers for this project. This item therefore will be removed from this agenda and probably will be on the agenda for the January 19 meeting. There was no objection to the removal of this item from the agenda.

Establishment of Fee for Architects on the 410-Car Structure

An item was included on the agenda regarding the establishment of a fixed fee for Rees Associates, Incorporated for architectural and engineering services on the 410-car parking structure. Attention was called, however, to the fact that since the cost of this structure is now increased by \$750,000 because of the action just taken by the Regents that the recommendation included here is no longer appropriate. The Regents agreed this item should be removed from the agenda also. An updated recommendation will be presented to the Regents at the January 19 meeting.

Purchase and Installation of Communications and Navigations Systems for
University Aero Commander

The Aircraft Maintenance Department submitted a requisition for the purchase and installation of the following equipment for the Aero Commander aircraft:

- 1 PN-101 Compass System
- 2 Collins VHF 250 Com.
- 1 Collins VIR 350 Nav. Rec.
- 1 Collins GLS 350 Glidescope Rec.
- 1 King KDM 705A Distance Measuring Equipment
- 1 King KR 85 ADF System
- 1 King KA 57 Autopilot Adapter
- 1 King KT-76 Transponder
- 1 Bonzer MK-10 Radar Altimeter
- 1 Airdata AD-611D R-Nav. wired to both #1 & #2 Nav.
Rec. Certified IFR

All of the aircraft maintenance that cannot be done by the University's Aircraft Maintenance Department has been entrusted to Downtown Airpark, Inc., the local Aero Commander dealer in the Oklahoma City area.

The Department recommended that the Downtown Airpark, Inc. be the sole vendor for this purchase because of their past experience with the aircraft. In addition, their workmanship has always been of the highest quality, and because of the obvious potential hazards associated with aircraft operations, there should be no compromise as to quality.

Accordingly, a single bid was sent to Downtown Airpark. The bid was returned with a total price of \$24,735.00 for the purchase and installation of the above listed equipment. This price is considered to be fair and reasonable.

The cost of the purchase will be charged to 147-350, University Aircraft Services.

When the aircraft is down for the new instrumentation work, the interior will also be refurbished by Downtown Airpark, Inc. at an estimated cost of \$4,700.

President Sharp recommended approval of the award of a purchase order to Downtown Airpark, Inc. in the amount of \$24,735 for the purchase and installation of the communications and navigation equipment.

Regent Mitchell moved approval of the recommendation. The following voted yes on the motion: Regents Brett, Mitchell, Bailey, Bell, Replogle, Engleman, and White. The Chair declared the motion unanimously approved.

Sale of Land to Oklahoma Public Welfare Commission

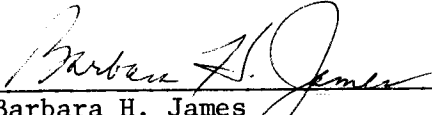
At the regular December meeting, the Board of Regents approved the sale of 7.4 acres of land on the Health Sciences Center Campus to construct a Children's Diagnostic Center. Preliminary architectural renderings indicate the need for an additional 175 feet (north-south) to accommodate the Center.

Previous approval was given to sell Blocks 2 and 3, Culbertson Heights Addition. The additional 175 feet can be provided by selling Block 1, Culbertson Heights Addition. The additional cost is \$138,155.95, making a total purchase price of \$602,000.60.

President Sharp recommended approval of the sale of Block 1, Culbertson Heights Addition, Oklahoma City, to the Oklahoma Public Welfare Commission for \$138,155.95.

Regent White moved approval of the recommendation. The following voted yes on the motion: Regents Brett, Mitchell, Bailey, Bell, Replogle, Engleman, and White. The Chair declared the motion unanimously approved.

There being no further business the meeting adjourned at 5:55 p.m.



Barbara H. James
Executive Secretary of the Board of Regents

Others present at all or part of the meeting:

Mr. Arthur Tuttle, University Architect
Mr. Robert B. Lewis, Leo Oppenheim & Company
Mr. Rod Durrell, Leo Oppenheim & Company
Mr. Scott Brown, Fagin, Brown, Bush, Selvidge and Tinney
Mr. David Walters, Assistant Provost, Health Sciences
Dr. Kurt Ockershauser, Legal Counsel
Mr. Joe Flowers, Director of Information Services, Health Sciences Center
Mr. Bruce Perry, Executive Director, University Hospitals and Clinics
Mr. Mack Braly, University Hospital Trustee
Mr. Jim Bross, The Norman Transcript
Mr. Jim Killackey, The Daily Oklahoman
Ms. Nancy Gilson, Oklahoma Journal