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Board of Regents, Murray State University

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MINUTES OF THE MEETING OF THE BOARD OF REGENTS
MURRAY STATE UNIVERSITY
March 14, 1981

The Board of Regents of Murray State University met in Special Session March 14, 1981, at 1:00 p.m. in the Board Room, Third Floor, Wells Hall, on the campus of the University. The following members were present: Mr. J. W. Carneal, Mr. Terry Clark, Dr. Charles E. Howard, Mr. Jere McCuiston, Mr. Bill Morgan, Mrs. Sara Page, Dr. Ed Settle, Mr. Steve West, Mr. Jerry Woodall, and Mr. Ron Christopher, Chairman, presiding.

None were absent.

Also present for the meeting were Dr. Marshall Gordon, Vice-President for University Services; Mrs. Patsy R. Dyer, Secretary of the Board; Dr. Constantine W. Curris, President; Dr. Ken Purcell, President of the Faculty Senate; Mr. James Overby, University Attorney; Mr. Harold Hurt of Hurt, Haverstock & Jones; Mr. Jim Hall, Executive Assistant to the President; members of the news media and visitors.

Chairman Christopher called the meeting to order and directed the Secretary to include in the Minutes the following two letters requesting this special meeting.

March 4, 1981

Mr. M. Ronald Christopher, Chairman
Murray State University Board of Regents
P. O. Box 309
Murray, KY 42071

Dear Chairman Christopher:

The purpose of this letter is to request a special meeting of the Murray State University Board of Regents.

I would appreciate your calling this meeting to be held on or before March 14, 1981.

Thank you for your consideration and cooperation.

Respectfully,
/s/ Billy B. Morgan, Regent
Murray State University

* * *

Steven L. West
1627 College Farm Road
Murray, KY 42071

March 3, 1981

Hon. M. Ronald Christopher, Chairman
Murray State University Board of Regents
P. O. Box 309
Murray, KY 42071

Dear Ron:

This letter is to request a special meeting of the Board of Regents pursuant to KRS 164.340.

I would appreciate it if this meeting could be held on Saturday, March 14, 1981. My present plans will be taking me from Murray for the next week. I plan to be back in Murray no later than Thursday, March 12, 1981.

Your cooperation will be appreciated.

Very truly yours,
/s/ Steven L. West
Member - Board of Regents

The following agenda was presented for the meeting:

1. Report of Vice President Marshall Gordon
2. Committee Assignments
3. Consideration of the application to the FCC for the FM Radio Station in Henderson and ratification of agreement to withdraw application
4. Executive Session

Report of Vice President Marshall Gordon

DR. GORDON: I think it would be an understatement to say that the past three weeks have been very interesting for me. I will say that I have had excellent cooperation from all members of the staff at the University. The assistants to Dr. Curris, the Vice-Presidents, the Deans, the Chairmen, Directors, all have been extremely cooperative. These are trying times for all of us and, of course, it makes it easier when you get full cooperation from the people here. I can truthfully say that some things have been moving along in a smooth way and it is business as usual.

The first item of significant business in which I was involved was to meet with Secretary of Finance, George Atkins. He was here Thursday, February 26, and we talked about several things including the anticipated increase in tuition. At that time there was some question whether or not tuition monies would come back to the University or would go into a central pool where the state would control those funds, but we felt since the tuition increase, if it were invoked, would be a tax on students, consequently, the University should have access to that money. We also tried to insist that any cuts in our budget be across-the-board. The reason for this is rather obvious if you have looked at the relative budgets of Murray State and the other regional universities in the state. We have done extremely well in years past. Our cost per credit hour is relatively high, and I think this is due to some very excellent budgeting that has been done by Jim Hall and others. One of the things we tried to say was that since budgets are built on an incremental basis that they should be reduced in the same fashion. As you know the tuition monies will, if they are recommended by the Council on the 9th of April, accrue to the University. One of the reasons for a high cost per credit hour is that we have a high number of baccalaureate degree programs. Some of the other institutions have a high number of associate degree programs and a high number of programs that do not lead to a two-year degree or a four-year degree. Consequently, they can generate credit hours with less dollars. At one time, we were graduating the largest number of baccalaureate people as a function of the total enrollment, which in essence is saying we are doing what we were funded to do.

We spent some time talking about the impact of the budget cut and made the point that since relatively 65% of our budget was for salaries, any cut would be a loss of personnel. We tried to point out that unlike industry where you can change your productivity in a short period of time by either decreasing or increasing the personnel, it would take some time to develop a cadre of qualified faculty; and if you make significant cuts at one time, you might impact this for years to come. We

talked about a critical mass of faculty that was necessary to produce excellence in teaching, research, or service but these kinds of things take a long period of time.

Another thing we discussed was to try and protect the 9% money that has been set aside for faculty/staff salaries.

We had a meeting with the Council staff--Harry Snyder, Mr. Carter, and Mr. Mullis--to become familiarized with some of the priority items with respect to the Council and what they were expecting to receive from us in a short period of time. We found that our budget preparation was moving along about as fast as anyone else's. The Council is involved in a desegregation plan and a review of mission statements that were handed down sometime ago. The meeting was very profitable for me, and the Council indicated their support and willingness to help us during this period of time.

On Wednesday, March 11, we attended a meeting of the Council, and I have some handouts of the agenda for that meeting. The Governor was there and the budget news was the big item. I have included in this handout a statement that Governor Brown issued to the press. In essence what he was having to deal with was \$185 million shortfall in revenues for the State of Kentucky, and it has been determined that higher education would receive a cut of \$20.2 million. One of the things we were surprised to learn was that they would give us credit for the \$12.5 million that we had begun to make plans to cut from our budget. This meant that we had to come up with an additional \$7.7 million.

I would like for Jim Hall to address the budget situation at Murray State, and how this anticipated cut will impact the University.

MR. HALL:

The \$20.2 million cut as Dr. Gordon mentioned includes the \$12.5 million that we have previously been told that higher education would have to absorb. We had internally developed a plan to deal with the \$787,000 reduction which is Murray State's part of the \$12.5 million. If the proposed 5½% cut is across-the-board, it will mean an additional \$580,000 that we will have to absorb which will be a total of approximately \$1,371,000.

One unanswered question is will the Council recommend an across-the-board cut? Mr. Snyder is on record saying that he is opposed to across-the-board cut. As Dr. Gordon mentioned, the previous cut was made across-the-board so there is precedent and it is to our advantage to have the across-the-board cut.

I might make one other statement about tuition. There was a tuition increase proposed earlier. That increase as recommended by the Council was 12.6% for undergraduate residents, 19.2% for undergraduate nonresidents, 12.5% for graduate residents, and 13.8% for graduate nonresidents. A tuition increase of that magnitude would yield approximately \$600,000 additional revenue for Murray State. The Council has backed off a little based on the Governor's statement, saying he favored only a 10% maximum. A 10% tuition increase would yield us approximately \$450,000. I think it is mandatory in our financial situation and most of the other institutions have so indicated that we have some tuition increase.

This week the Council asked us to supply a plan to them by March 23 as to how we would make a 5.5% decrease in our budget. The financial representatives of all the institutions will be meeting Tuesday and Wednesday in Bowling Green to discuss this. On Wednesday evening the Presidents will be meeting to discuss the same subject. As soon as we have that additional input,

I think that the staff will be ready to address the Council's request on how we would make reductions of 5.5%. I think that brings us up to date unless you have questions on our budget situation.

DR. GORDON: The problem is we do not know about the tuition and we have to have a plan for this reduction by March 23. The suggested procedure is that after the Wednesday meeting, we will prepare a tentative plan to be submitted to the Council on Higher Education after it has been run by the Budget Committee of the Board with the notation that this plan has not been approved by the Board of Regents. Then we will bring the plan to the Board for action.

MR. CARNEAL: You will determine what the tuition situation will be on Wednesday night? I do not see how you can go forward until you know.

DR. GORDON: No. The problem is that the tuition question will not be resolved until the 9th of April. That is when the Council meets again.

DR. CURRIS: The specific resolution on the Council on Higher Education is that we come up with a 5.5% plan assuming no tuition increase so for internal planning, you can look at various options but what has to be submitted to them is the full amount of the cut, which is approximately \$1.2 million. That plan has to be submitted by the 23rd.

MR. CARNEAL: The tuition question really does not affect the 23rd.

DR. GORDON: Except for the strategy involved in what you submit.

MR. MORGAN: Has there been any yardstick determined as to the impact of the increased tuition as far as decreasing students applying for the University?

MR. HALL: Yes. We have a number of models that we developed over the years that show us the impact based upon our historical data of certain levels of tuition increases and what enrollment decreases you will have. For in-state students, the levels of tuition increases being considered will not have a negative effect on the number of students, but the tuition increases that are talked about will have a very large effect on the out-of-state graduate students and a minor effect on the undergraduate out-of-state students.

MR. MORGAN: This has been taken into consideration when you were looking at the total income?

MR. HALL: Yes.

MR. CARNEAL: Another consideration is President Reagan's budget and how much grants will be cut back. That can have a tremendous impact on student enrollment.

Dr. Gordon: The second item that was covered in the Council meeting was a desegregation plan for the State of Kentucky. Murray State University prepared an affirmative action plan in 1976 and Kaj Spencer deserves considerable credit for doing an outstanding job. He submitted the Affirmative Action Plan to the Department of Labor, and this was significant because at the time we really did not have to because our grants and contracts from the Federal sources were under \$50,000. In any event, that plan was approved. The Office of Civil Rights requested the Affirmative Action Plan which was updated last year by Rick Stinchfield, and I believe the University of Kentucky and Murray State were the only two schools that had acceptable plans.

The other item that received considerable press and I have included this for your information was the "Cox resolution." Essentially what it proposed is that a study be made to determine the feasibility of some mergers within the State. For example, Morehead possibly might be merged with Eastern Kentucky and be called the University of East Kentucky, Murray State and Western would be merged and called the University of West Kentucky, the merger of UK and Kentucky State, and the merger of Vo Tech programs with the community college system to create a junior and technical college. The responsibility of that college would be divided up and the western portion of that be given to the University of West Kentucky for supervision and the part that lies in the eastern part of the State to the University of East Kentucky. Other things included the elimination of one law school, one dental school, and one engineering school.

The diagnostic lab expansion is being advertised for bids. Bid date is March 27, and I have a copy of that for your information.

On March 24, representatives from the Boy Scouts of America will be here to sign a contract with Murray State University and we are very pleased with that particular situation.

MR. CHRISTOPHER: Dr. Gordon, on behalf of the Board, let me thank you for your cooperation, hard work, and dedication to Murray State University during this period of increased responsibilities.

Committee Assignments

Chairman Christopher stated that some time ago he contacted each member regarding committee assignments but the assignments had not been listed in the Minutes and directed the Secretary to include the assignment in the Minutes of this meeting. He further stated that the Investments Committee is a joint committee with the Murray State University Foundation and only two Board members would serve on this committee. He further asked the four members who had agreed to serve on this committee to designate which two would serve.

COMMITTEES

Buildings and Grounds (Physical Plant)	- Chairman Charles Howard Jerry Woodall J. William Carneal
Budget	Chairman J. William Carneal Steve West Jere McCuiston Jerry Woodall
Academic, Student, and Alumni Affairs	Chairman Terry Clark Bill Morgan Sara L. Page Jere McCuiston
Investments	Bill Morgan Charles Howard *Ed Settle *Steve West
*members of joint committee with MSU Foundation	
Audit	Chairman Ed Settle Sara L. Page Terry Clark

It was noted that some members did not receive the information regarding bylaws which was mailed to them. Mr. Christopher stated that in reviewing the bylaws information he noted some institutions have a completely different type of committee structure, and that if the Board sets up bylaws, the entire committee structure could be looked at again.

Consideration of the application to the FCC for the FM Radio Station in Henderson and ratification of agreement to withdraw application

Chairman Christopher asked Mr. James Overby to report to the Board concerning the withdrawal of the application with the Federal Communications Commission for the FM Radio Station in Henderson.

- MR. OVERBY: The University has had an application for a FM Station in Henderson with the Federal Communications Commission. Western also has had a similar application. There has been some conversation, as I understand it, between the presidents of the two institutions and generally speaking, they have agreed to withdraw the applications. I mentioned that for this reason. Procedural steps that are taken before the Federal Communication Commission involve an order of dismissal, and in order for the judge to withdraw it, he needs your approval. I have indicated to Western's attorney in Washington that it was my understanding we were agreeable to that. I would recommend to this Board that we go along with it for the reason that if for some reason we are left with the situation in which the agreement does not go through, then we are going to be in an inferior position from the standpoint of presenting our claim. There is one caveat that is added to it. That is this application is not to be renewed for the next two years. I have taken the liberty subject to your approval of advising Western's attorney in Washington that it would be agreeable. He asked if this Board would approve it. If you will approve it, it will be helpful in resolving this.
- MR. CARNEAL: You mentioned only Henderson. There was also one pending in Owensboro. Does that include the Owensboro question?
- MR. OVERBY: Western has agreed to withdraw its application if we withdraw ours, and neither of the two institutions is to make further applications.
- MR. CARNEAL: Then, you are saying the applications affecting the Henderson station and the Owensboro station will both be withdrawn.
- MR. CHRISTOPHER: Murray and Western. That leaves Evansville and Owensboro.
- MR. CARNEAL: I still do not have my question answered because I know the stations in Owensboro were quite concerned about this, and it was my understanding that Murray had withdrawn and was not participating with Western in going forward with establishing a 100-watt or whatever in Owensboro.
- MR. CHRISTOPHER: Let me call on Dr. Curris, if you do not mind. We had this on the February 7 agenda. We never did get to it, and I think Dr. Curris was prepared to report on the situation at that time.
- DR. CURRIS: The information that has been presented is substantially correct. There was an application by Murray State University to establish a satellite station in Henderson. There was an application from Western Kentucky University to establish a satellite station in Owensboro. Both were seeking the same frequency so it was referred to as the Owensboro-Henderson conflict. The statements made by Mr. Overby are correct in that Western after some discussions between the two presidents agreed to withdraw if Murray would withdraw its application. There were several options presented in those discussions. Initially, the Western response was to favor a joint station-- joint in terms of the two universities cooperatively operating a satellite station that would serve that area. The Western Board of Regents subsequently decided to withdraw totally subject to the condition that Murray State University withdraw its application. They set a deadline in that resolution.

Accordingly, I consulted with the Chairman, of the Board, Vice-Chairman Carneal, and with Mrs. Page, who had had some contact on this issue. I notified the President of Western Kentucky University that Murray State would withdraw its application so that there would be in essence an agreement by the deadline stipulated by the Western Board of Regents, I believe it was February 3. I then enclosed all the background materials in the February 7 agenda and indicated that this action has been taken pursuant to these conversations and indicated that the Board had the privilege if it so desired to take action. As I understand Mr. Overby's comments, in discussions with the Washington attorney's office, they would prefer that some kind of action be taken by this Board in essence to formally withdraw this application. Is that correct, Jim?

MR. OVERBY: That is precisely it, and it has a two-year limitation on it.

DR. CURRIS: That is right. The resolution adopted by the Western Board of Regents pointed out that neither institution would seek an application during the next two years. Now, with reference to the other item of conversation, let me point out that Evansville, Indiana--a public school system or some independent corporation--has requested and I believe received approval to start a public radio station in Evansville. Presumably the signal from Evansville would extend into the Owensboro-Henderson area. In addition, Kentucky Wesleyan College has submitted its own application for an entirely different frequency, and we have been assured by the President of Kentucky Wesleyan that its Board is proceeding with that so there will be public radio in that area. Those two facts made the issue of Murray and Western jointly pulling back more palatable to the advocates of public radio as well as to people who did not support public radio from that area.

MR. CHRISTOPHER: I have a copy of Western's resolution, and they say that this resolution is subject to the condition that Murray State University withdraw its pending FM application for the Owensboro-Henderson area and further joins with Western in a mutual agreement not to reapply for a FM station in the Owensboro-Henderson area directly or indirectly or by any other conceived relationship for a period of two years from the date of such agreement. I think that if we adopt the same position that what Jim is asking for and what Western is asking for will be brought about.

MR. OVERBY: I think it is in the interest of all people concerned that this be done.

MR. CHRISTOPHER: I would like to entertain a motion at this time that this Board adopt a resolution drafted by Mr. Overby with the same tenor or approach that Western Kentucky University made stating that Murray State joins with them in withdrawing the application and will not make application for a period of two years.

MR. CARNEAL: I would move approval of said resolution.

MR. MCCUISTON: I second.

MR. CHRISTOPHER: Mr. Carneal moved, Mr. McCuiston seconds. All those in favor, please state aye. Opposed, nay. Motion passes.
(See Addendum)

MR. CHRISTOPHER: Mr. Overby, let me call upon you to explain to the Board what actions you have taken to implement the resolutions that were passed at the February 21 meeting wherein you were authorized to get auditing and legal help concerning the charges preferred against the President.

MR. OVERBY: Mr. Christopher, I would be delighted to respond.

I took it there was some degree of urgency to the request or the instruction of the Board. Pursuant to your authorization and your direction, I consulted with other University officials who are familiar with that procedure and requested that the law firm of Hurt, Haverstock, and Jones be employed. I will come to the accounting firm in just a moment. The reason for that was I have complete confidence in the ability of these men as attorneys and their ability to do a job in a relatively short period of time. They are organized and set up in such a way that they can crash a particular program or question in order to come up with results. Now, in Western Kentucky we have an awful lot of good law firms. This would have been and is my personal choice if I were hiring, and I thought they could best help me to do what you wanted done. I would say to the Board that this law firm is hired on an hourly basis. It is not for a sum total. They will be paid for work that is earned. Should you have any doubt as to whether or not this was needed, I can say to you that, except perhaps on three occasions since this has occurred, I have not been to bed before two o'clock in the morning, and I have started at seven. I think this indicates these men have been working, too; which means that the task that you entrusted to me was one that I considered important not only from the standpoint of the future of Murray State University, but also from the standpoint of doing a thorough and fair look at what had taken place because I think fairness to all parties concerned is important.

In addition to hiring this law firm, I also asked that the regular accountants that had been employed come and work again on an hourly basis. I would say to you that they have met my standards. I am better equipped to qualify or to say what the standards for an attorney ought to be, but I have been completely satisfied with the work that has been performed. I say to you that it was needed. In my judgment it was not a useless expenditure. I would have to say that I am conscious of the fact that there might be some individuals who might feel that having worked closely with Dr. Curris that they might even want somebody else to look at it. We have been working on the task that you have given to us. I am entirely comfortable with the arrangements that have been made, and I am prepared to answer any questions.

MR. CHRISTOPHER: I think some people had the question in mind that the auditors were authorized to receive up to \$10,000. Is that correct?

MR. OVERBY: I believe that is correct; I would have to recheck. These arrangements were made through the regular individuals who arrange contracts. I just told the University officials that what I wanted was these two particular firms and I wanted them at the accustomed hourly rate which would be for work done. There was a maximum that was put on that, but that does not mean they automatically get the maximum.

MR. CHRISTOPHER: They will provide you and the University with some sort of statements showing the work that was done when they request the funds?

MR. OVERBY: Yes, and these people are experts; by that I mean they are highly qualified.

MR. CARNEAL: How does the news media report that this Board has agreed to spend \$32,000?

- MR. OVERBY: I am not going to get in any hassle with news media here today. What I am going to say to you is this: This Board authorized and directed me to do certain things. I have done it. The contract has been prepared on an hourly basis. There is an upper limit. It has been prepared in accordance with State standards, and, consequently, that is as close as I can come.
- MR. CARNEAL: I assume all the members will receive a copy of the contract.
- MR. OVERBY: It has been given to the news media through Mr. Stinchfield's office, as I understand it.
- MR. CARNEAL: I am asking about the members of the Board.
- MR. OVERBY: Certainly.
- MR. CHRISTOPHER: Any other questions? Thank you, Mr. Overby.
- MR. CARNEAL: I have never seen the motion that was made and approved at the February 21 meeting giving Jim Overby as counsel certain authority. That motion was prepared and it was adopted on a 6-4 vote at our last meeting, and I would like to have a copy of it, but I would like for the Secretary to read that to the Board right now. I would like to have my memory refreshed on what authority has been given to counsel.
- MRS. DYER: "Be it resolved that the Murray State Board of Regents does hereby authorize and empower James Overby to serve as Chief Legal Counsel and Attorney in the investigation, preparation and presentation of the charges hereby adopted by this Board of Regents. James Overby as Chief Legal Counsel shall have the right to inspect and receive copies of all existing internal Murray State and Murray State Foundation records and work papers; the right to make such request for inspection and copies of any administrative officer or other officer or employee of Murray State University or Murray State Foundation who is responsible for the maintenance, care and keeping of such records and work papers, regardless of whether such records and work papers are in the person's actual personal custody and control and shall have the right to investigate and question any administrative officer or other officers or employees of Murray State University or Murray State University Foundation for the purpose of obtaining any and all further information relevant to the removal of President Curris.
- Be it further resolved that James Overby as Chief Legal Counsel shall be empowered with the right and authority to employ additional counsel, other investigative personnel and independent accountants which shall be reimbursed by reasonable professional fee to assist in the investigation, preparation and presentation in the case concerning removal of Dr. Curris."
- MR. CARNEAL: There is no limitation on who he can hire. No approval required by this Board. He can hire any number of additional counsel or accounting firms or whatever in this motion as I understand it. We place no limitation on his authority.
- MR. CHRISTOPHER: Well, I think you've got to look to the man and hope that he will use reasonable. .
- MR. CARNEAL: I don't question Jim Overby being reasonable. My question is, there is no limitation in what we approved.
- MR. CHRISTOPHER: Not as such. I take it that your question is, is there a limitation of x number of dollars? I did not hear that in the resolution.

MR. CARNEAL: Is there any limitation on forms or counsel in what we've read?

MR. CHRISTOPHER: Jim.

MR. OVERBY: Mr. Christopher, I direct your attention to the fact that the contract as prepared does have an upper limit that is indicated in it. It's on an hourly basis, but it is prepared with an upper limit.

MR. CARNEAL: You're saying, Jim, that would cover it if you decided additional counsel or accounting firms...

MR. OVERBY: No, Sir, I'm not saying that with respect to the law firm of Hurt, Haverstock, and Jones there is a limit. I would hope that this Board has known me long enough and has paid me long enough to know that I'm not necessarily going to go out here and waste the taxpayers money. I can say to you without any hesitation that I think this is money well spent.

MR. CARNEAL: I don't question that, Jim. Probably no one in here has known you longer than I have--about forty years. I respect you and your judgment. My question is simply this: the motion we approved placed no restrictions on you of any kind in how many people you could hire, how many accounting firms, how many attorneys. That is my question.

MR. OVERBY: The answer has been given, Mr. Carneal, I think, because you were here when the motion was made and when it was read and when it was approved.

MR. CARNEAL: Alright, Jim. I was also here when that motion was presented and, apparently, a number of people knew what was in the motion. I had not seen it. It was a lengthy motion. It was handed to Patsy to read, and she read it. To this day, I don't have a copy of it. So, that is the reason I asked for it to be read.

Now, I'd like to ask the next question to Jim. Who do you represent in the case we're talking about right now? As I understand it, you have not hired the outside counsel as of now.

MR. OVERBY: Yes.

MR. CARNEAL: You already have done this?

MR. OVERBY: Yes, Sir.

MR. CARNEAL: Did anybody on the Board concur on that?

MR. OVERBY: I was in consultation; as a general rule, with the Chairman of the Board, but I thought the resolution was sufficiently significant that I should get on it, and that's what I did. I was acting pursuant to this Board, and you're asking who I represent, I represent the Board of Regents. I think that was made very explicit at the last meeting. I have always represented the Board of Regents; I felt that so long as he had the confidence of the Board that I reported to the Board through Dr. Curris. That's the position I took, and I would still take that, but I represent the Board in answer to your question.

MR. CARNEAL: So you have consulted with the Chairman then on these people that have been hired. Ron, have you consulted with any other members of the Board on this selection? You know, he represents the Board.

- MR. CHRISTOPHER: Bill, the consultation was such that he called me, and for instance on the accounting firm, I initially questioned using the same firm that had prepared the University's audit. Mr. Overby was satisfied with them; he thought under the circumstances it would be more economical, and that in the interest of time, it would be better to use them. I said if that's who you want to use, then I think it's your prerogative. He consulted with me on procedure; there were people who called me asking whether he had the authority, and I responded to those people yes, he had the authority. That's the type of consultation there was. Again, as far as talking with Jim Overby is concerned and under the circumstances, Bill, I think that we've all shown we have faith in Jim Overby. He's hired by the University to be the University's attorney, and I've known him to be a very reasonable man. I did not think that Jim Overby would be frivolous with the taxpayer's money and I still don't think that's the case.
- MR. CARNEAL: I do not question Jim Overby's integrity in any way. I'm just asking some questions about the resolution: were there any limitations and so forth? Now, he says he has talked with you. Did you discuss with any other members of the Board hiring this accounting firm or this law firm?
- MR. CHRISTOPHER: No, I did not. I left that completely up to Jim Overby.
- MR. CARNEAL: Okay. Now then, in this case where he's hired the outside counsel and the accounting firm, and you say you represent the Board, there are six members of the Board who voted to file these charges. Who represents the other four members of the Board?
- MR. OVERBY: Mr. Carneal, the Board of Regents, if I understand it correctly, speaks through its minutes and the minutes reflected that this resolution was adopted. If there are people who want individual representation insofar as any of their interests are concerned, that I assume would be your prerogative, but the Board as a whole was the Board that passed the resolution. To that extent, I represent them in that capacity.
- MR. CARNEAL: So you represent the six members of the Board and not the four that dissented.
- MR. OVERBY: If you're talking about your individual capacity, this Board speaks as a whole and, consequently, I think that's the way I represent them.
- MR. CARNEAL: Okay. As I see it then, as a dissenting member, I am not being represented in this instance.
- MR. CHRISTOPHER: Certainly you are, Bill. You understand the corporate structure. Do you understand that Mr. Overby is saying that the Board speaks through its minutes?
- MR. CARNEAL: That's right. I understand it correctly, Ron.
- Let me ask you another question. There has been a suit filed against the Board by Dr. Curris. He names five members of the Board that he would like to seek a restraining order to prevent them from being seated at the March 28 hearing. Who does Jim Overby represent in that case: There's five people on one side and five on the other.
- MR. CHRISTOPHER: I think in the capacity as members of the Board of Regents, he would represent the Board. Now, you have been sued individually, as I understand it, and it would be my understanding in that capacity, it's up to your own prerogative. If you want Mr. Overby to represent you, he will. If you do not, you certainly have the right to have counsel of your choice. Is that correct, Mr. Overby?

- MR. OVERBY: I would think so. Certainly, because as a matter of fact, the issue as to certain members of the Board has not been drawn in their individual capacity because they were not named in the lawsuit. That's one of the reasons, Mr. Carneal, why it is so terribly important that I move expeditiously on these things, because whereas you've raised three or four questions, and they're good questions, there have been fifty other questions that have presented themselves both to me and to this law firm that has required our close attention. There's going to be questions that are going to be presented for some time to come, but you don't answer these in one fell-swoop. All I can do is to say to you that I am going to give it my whole undivided attention.
- MR. CARNEAL: I understand that. I don't question that. I still come back to the case of the lawsuit. The Board as a whole has charges filed against it. Five members have been asked to not be seated. Now, then, in preparing this case, what does Jim do? Does he represent the five that in the suit have been asked not to be seated at the hearing?
- MR. CHRISTOPHER: No, Bill, it goes back to the original concept that you asked about a minute ago and that is that this is a body corporate, and he represents that body corporate. As the University attorney, he represents this Board of Regents, and in that capacity you are represented by him.
- MR. CARNEAL: I have the same representation in this case you're talking about as the five members of the Board who were asked not to be seated?
- MR. CHRISTOPHER: Certainly. Now, in an individual capacity, Dr. Curris has also filed against you as an individual and in that capacity, if you so desire, you may have counsel of your own choice, but as in the complaint that was attached to the summons that was served on me, all ten members of the Board were named as parties defendant in this lawsuit.
- MR. CARNEAL: So you are saying he equally defends the five who were not named.
- MR. CHRISTOPHER: Yes.
- DR. CURRIS: Mr. Christopher, we are checking on this, but I do not believe I have sued board members individually.
- MR. CHRISTOPHER: You named them in your complaint.
- MR. CARNEAL: I propose we amend the resolution we approved the other day that would preclude counsel from hiring any additional firms, lawyers, consultants of any kind without the complete and total approval of the Board. This is open-ended, and I would like to see that closed, and that is my motion.
- MRS. PAGE: I second the motion.
- MR. CHRISTOPHER: Let me call on Mr. Overby to discuss with you whether he anticipates any additional help being necessary.
- MR. OVERBY: Mr. Christopher, it is my judgment, at the present time at least, we are proceeding in an orderly fashion. I think the help we have is going to be entirely adequate. I see no reason for hiring additional help. However, I am at the instructions of the Board as to how you want me to proceed. I would say this, there always comes situations in something of this magnitude in which something might need to be done. At the present time, certainly we are getting the job done that you told us to do.

- DR. SETTLE: If for nothing else, this would at least improve Board communications.
- MR. CHRISTOPHER: I fail to see that we haven't communicated that well.
- MR. CARNEAL: Well, I get a lot of surprises in the newspapers, Ron.
- MR. CHRISTOPHER: Again, Bill, the Board speaks through its minutes, and its minutes, as Mrs. Dyer read, authorized Mr. Overby to do what he did.
- MR. CARNEAL: I understand that. We've just read it, and I've made a motion that it be amended, and I have a second.
- MR. CHRISTOPHER: Would you restate your motion for us?
- MR. CARNEAL: I move that the motion that was approved on the 6-4 vote on the 21st of February with reference to the duties and responsibilities of Jim Overby be amended to preclude him from hiring any additional counsels, firms, consultants of any kind without the approval of this Board.
- MR. CHRISTOPHER: Is there any intent in that motion to affect what has already been done?
- MR. CARNEAL: The motion speaks for itself as far as I am concerned.
- MR. CHRISTOPHER: I am asking you that as a matter of discussion.
- MR. CARNEAL: All I am trying to do is put a restriction on it. It is completely and totally open-ended, and I think that there should be some restriction put on it.
- MR. CHRISTOPHER: I understand. Any further discussion?
- MR. MORGAN: What is the time required, or is there any time requirement to call a special session of this Board in case a need were found?
- MR. CHRISTOPHER: It takes a written request from two members of the Board. Do you know the time required, Mr. Overby? Is it a 24-hour notice?
- MR. OVERBY: I could not recall.
- MR. MORGAN: You're talking about a day or two.
- MR. CHRISTOPHER: Right. Any further discussion? All those in favor of the motion, please state aye. Opposed, nay.
- All voted aye, except Mr. West voted nay.
- The motion passes. Any further discussion on the matters pertaining to Jim Overby?
- DR. HOWARD: I have a question. Having spent a third of my life on the Board; that to find out what is going on in the Board meeting from reporters is down right embarrassing. I was curious about this so-called \$32,000 expenditure for outside help. I realize that the resolution of the last meeting was passed by a 6 to 4 vote, and I voted against it. Nevertheless, I realize that Mr. Overby was empowered to do what he did. I attempted to get a copy of the application for the Personal Services Contract, which I have, and I'll be glad to pass them out. I've got one for everyone. I have some questions about the legality of this. I don't pretend to be an attorney, and I want Mr. Overby to know that I have no question about his integrity. He has represented me in many, many lawsuits over the past 13 years, and I've been very happy with his counsel. Jim, I'm not questioning your authority or your integrity, but I have some questions about this document.

Under Item 2, "Justification of the work to be performed by an outside individual or firm" and "Part B. Have efforts been made to secure these services through regular employment channels?' The answer being "no." "If no, explain why such efforts were not made: Board of Regents directed that a firm be employed to assist the Board's attorney to meet hearing deadline." I maintain that the Board did not direct a firm be employed. It empowered Mr. Overby to do so. However, I think the Board should have been consulted before this was done. I question the legality of that.

In "Item A. Explain in detail the need for such services: Murray State University attorney is 75% full time, is in two federal cases at this time. Importance to the hearing, most important on the Murray State University campus for full ground work for appeal. Essential emergency basis as considered by the Board of Regents and need timely dispositions of matter and this firm is local, therefore, reasonably available and already familiar with some facts and aspects of the law. This firm has an excellent reputation and will be acceptable to the Board of Regents."

My question is what does that mean, "already familiar with some facts?' Can you answer that or can Mr. Overby answer that question?

- MR. OVERBY: It was my general understanding that perhaps some members of the firm had been advised of some of this problem before. That may have been. I don't know if that's an inadvertent statement that went in there or not, when it did. The main reason I wanted this law firm be employed was because they had the size to handle it, the number of people. Secondly, they were local and, consequently, doesn't involve driving from Frankfort or Paducah or some place to get on to it. They have the familiarity with Murray State University because, you know, they're living here, and this seems to me would give them some degree of information.
- DR. SETTLE: Mr. Overby, did you imply that some members of the Board and this legal firm are involved in initially preparing the charges?
- MR. OVERBY: No, Sir. I did not mean to imply that.
- DR. SETTLE: Was that the case? That some members of the firm have been involved already in helping to prepare the charges that were presented to you on the 21st?
- MR. CHRISTOPHER: I am unaware...why are you asking me?
- DR. SETTLE: I don't know. It's just that it says to me--it was some of the facts--like they've been participating before hand. I don't understand what that means.
- MR. OVERBY: It was my general understanding, and I was attempting to say... now this contract was prepared, frankly, by other people on campus. Not by me. I did give some information that was asked.
- DR. SETTLE: But they weren't involved--any member of the legal firm was not involved in preparing charges of the hearing?
- MR. OVERBY: Not as attorneys, no.
- DR. SETTLE: Or charges preferred against Dr. Curris?
- MR. OVERBY: No, not as attorneys, no.

- MRS. PAGE: Were they as individuals?
- MR. OVERBY: I don't feel like I should go into that in public session. We're talking about pending litigation. Now, if you want to go into executive session, I'll be glad to talk to you about it.
- MRS. PAGE: I would like to know who drew up the charges that were approved at our last meeting.
- MR. OVERBY: The charges that were presented, I prepared them.
- MR. WEST: I move that the Board ratify this contract as well as ... is that required?
- MR. CHRISTOPHER: I don't know that that's necessary, Mr. West. It has been signed by Dr. Gordon who has been given that responsibility and also by George Atkins. Does this contract need Board ratification, Mr. Overby?
- MR. OVERBY: I don't think that it does. I don't see that it would hurt for it to be ratified.
- MR. WEST: I didn't think it did. I just thought I would--the same way we ratified the FM station earlier.
- MR. CHRISTOPHER: I think the previous resolution that was read by Mrs. Dyer would probably be sufficient.
- MR. WEST: I withdraw my motion.
- MR. CARNEAL: I'd like to make a comment. I noticed that Marshall Gordon signed this on the 23rd day of February. Our meeting on the 21st lasted over into the 22nd. Just a comment. It would seem to me that somebody already had a pretty doggone good idea about who they were going to hire on this case when we met here on the 21st. Comment.
- MR. CHRISTOPHER: It may be that...Dr. Gordon, do you want to comment on that?
- MR. CARNEAL: Apparently, it was prepared the next day or at the meeting.
- MR. OVERBY: Mr. Christopher, let me just respond to that briefly.
- One, I considered this thing to be probably the most important thing that I've ever done in my life. I considered it to be at the behest of the Board. I didn't think there was any time to be dragging any feet and I got on it. There was no doubt and never has been any doubt if I was hiring someone privately, I would hire this law firm. They're good. They're capable. They're recognized as being a good law firm, and they're handy. So I didn't have any problem making that decision whatsoever.
- MR. CHRISTOPHER: That would have been the Monday after our meeting on Saturday.
- MR. CARNEAL: That is right. That went over into Sunday.
- DR. SETTLE: Mr. Christopher, I'd like to ask some questions and mainly I am coming from information that I get in the region. Some of this information implies that there are groups of citizens in different communities all over Western Kentucky considering a class-action suit on the part of taxpayers to sue the Board for misuse or illegal use or whatever of public funds. Now, if this comes about, I think there are some public answers that the Board needs to know about. As far as--again, I don't understand conflict of interest and all this--but I think you need to answer some questions. Number one, have you ever been a member of this legal firm?

MR. CHRISTOPHER: Yes, I was. Not this particular firm, no.

DR. SETTLE: Has any member of this firm ever represented you personally in any ongoings of your personal life?

MR. CHRISTOPHER: What business of yours is this?

DR. SETTLE: Only thing I can say is that when people from the region begin to sue the Board, I'm part of the Board. Some people from Hopkinsville have called; some people from Paducah. My point is I'm part of this Board. You are responsible to the Board like I'm responsible to the rest of you. I don't want to jeopardize anybody else on this Board, and I don't think any other member should want to jeopardize any other member on this Board; and if there is conflict of interest, it needs to be above board. Open. Public. I'm saying...

MR. CHRISTOPHER: Well, get your allegation out.

DR. SETTLE: Now, there's no allegation. I just think information needs to be out. I'm not alleging anything.

MR. CHRISTOPHER: I think you're way off base.

MR. WEST: Mr. Chairman, it seems like we're getting into personnel matters. I move that we go into executive session to discuss personnel matters and property matters.

MR. CARNEAL: May I ask a question or do you want to wait until you get your motion?

MR. WEST: Well, I haven't gotten a second yet.

MR. CARNEAL: Could I ask a question.

MR. CHRISTOPHER: Sure.

MR. CARNEAL: I think in light of some of the things that we've said, Steve, that your motion is in order that this Board possibly approve this contract.

MR. WOODALL: I would like to make a comment before we do go into executive session.

I, as other members of the Board, have been accused of clandestinely getting together and bringing about a lot of things. It appears to me that some people have been getting together here this morning and I wasn't invited to attend. What about you, Mr. Morgan?

MR. MORGAN: I didn't attend any meetings.

MR. MCCUISTON: I second the motion.

MR. WEST: There's a motion and second on the floor.

MR. CHRISTOPHER: If you want to move to ratify this, I think that needs to be done in public session.

MR. WEST: We can move later.

MR. CHRISTOPHER: There is a motion and second for the Board to go into executive session for the purpose of discussing personnel matters as well as a property acquisition matter. All in favor, aye; opposed, nay.

Mrs. Dyer, let's call the roll.

Mr. Carneal: No
 Mr. Clark: Aye
 Dr. Howard: No, may I explain my vote?

Dr. Howard: I am really upset by some action that was taken in the Legislature. I noticed your comment that we hope the Legislature would stay out of this, but as most of you know, an educational subcommittee of the Legislature voted to ask Governor John Y. Brown to void the Personal Services Contract for \$32,000 that's being used for this investigation of Dr. Curris. Even one legislator was quoted that this is a cancerous condition, which I think is a pretty strong term; but, nevertheless, that's what he said about misuse of public funds. I think that one of the things that I hear from people is we have a real credibility problem, and I think part of the credibility problem is executive sessions. That's the reason I'm voting no on this executive session because I feel that I can discuss anything regarding this in public, and I think the public has a right to know. I just don't feel like I can participate in an executive session regarding this matter. Thank you.

Mr. McCuiston: Yes
 Mr. Morgan: Yes
 Mrs. Page: No
 Dr. Settle: No
 Mr. West: Yes, could I explain my vote?

MR. WEST: Mr. Overby mentioned earlier some of these questions do border on legal issues. I think the Board is well advised to discuss those in executive session. As to the Legislature, I don't think they're going to condemn a special session. That's why I voted yes.

Mr. Woodall: Yes
 Mr. Christopher: Yes

MR. CHRISTOPHER: I vote yes and let me say that Dr. Gordon made inquiry with me just before we sat down and said he had some matters, one of which was a property acquisition, which I think even you, Dr. Howard, would agree needs to be discussed in executive session; the law permits it.

Second of all, I think that if Mr. Overby has matters that he wants to discuss with the Board that that does legally fall under the category of personnel matter, and I think that it's only appropriate that those matters be discussed first and then if you want to discuss them in public, you may, but I vote yes.

What's your count?

MRS. DYER: Six yes's and four no's.

MR. CHRISTOPHER: Motion passes.

To those members of the press or visitors, there is no way of knowing at this time how long an executive session might last. I assure you that every effort will be made to keep the executive session as short as possible, but we will return to public session before we adjourn. We will have a five minute recess.

Let me call the meeting to order again, and say we are still in public session. One member of the press, Mr. Bartleman, has objected to the way in which the Board went into executive session, and he would like for us to do it appropriately. What is the objection, Mr. Bartleman?

MR. BARTLEMAN: I believe in the Open Meetings Law you have to be more specific than just to say personnel matter, and you indicated you wanted to discuss legal matters, but it is my recollection that it was not in the motion. It is just a personnel matter and land acquisition and to avoid any future problem that could arise, you might want to address that.

MR. CHRISTOPHER: Do you want to advise the Board, Mr. Overby?

MR. OVERBY: I believe, Sir, that you stated it correctly. We are going to be discussing pending litigation as well as the land acquisition matter.

MR. BARTLEMAN: That was not included in the motion earlier discussed.

MR. OVERBY: That would meet your problem, would it not?

MR. BARTLEMAN: Yes, as long as what you are going to discuss in closed session is what your motion encompasses and nothing more.

MR. OVERBY: I think the point is well taken.

MR. CHRISTOPHER: Would you restate your motion, Mr. West?

MR. WEST: The motion simply being that to go into executive session to discuss a personnel matter to include pending litigation surrounding that personnel matter and a property acquisition.

MR. MCCUISTON: Second.

MR. CHRISTOPHER: All those in favor, please say aye; opposed, nay. Motion passes.

MR. BARTLEMAN: You still have to be more specific on the personnel matter if you'd read the open records law.

MR. CHRISTOPHER: Mr. Overby, did the last motion comply with the law?

MR. OVERBY: Yes.

MR. CHRISTOPHER: We are in executive session.

The executive session began at 2:20 p.m. and ended at 5:30 p.m., at which time the Chairman declared the Board in public session.

Chairman Christopher called attention to the 1981 National Conference on Trusteeship to be held in New Orleans April 5 - 7, and stated anyone interested in going should contact Mrs. Dyer.

He read a letter from the Geography staff of the Geosciences Department inviting any and all members of the Board to visit with faculty in the area at any time.

Chairman Christopher acknowledged a letter from Dr. Ken Purcell, President of the Faculty Senate, stating that the evaluation process of all academic administrative personnel will begin next Monday, that forms and instructions are to be distributed to all regular teaching faculty with the results of the evaluation available within a few weeks, and that procedures dictate that results be forwarded to the individual's supervisor, except in the case of the President's evaluation, the evaluation will be made available to the Board of Regents only upon its request. Chairman Christopher requested that the faculty evaluation of the President be forwarded to the Chairman of the Board and stated that if members wish to review the information they can do so.

The Chairman stated that an appeal had been made by a student concerning a disciplinary proceeding and that this matter is referred to the Academic, Student, and Alumni Affairs Committee of the Board for action.

Mr. McCuiston presented the following resolution and moved that it be adopted:

WHEREAS, certain members of the Board of Regents have heretofore received numerous complaints against Dr. Constantine W. Curris, President of Murray State University, which complaints could and, in the judgment of some of the Regents, do constitute grounds for filing of charges against Dr. Curris; and

WHEREAS, charges have heretofore been placed against Dr. Constantine W. Curris as President of Murray State University and a hearing date set for March 28, 1981; and

WHEREAS, the Board of Regents has heretofore authorized its attorney, James O. Overby, to conduct an investigation concerning the charges; and

WHEREAS, the Board of Regents has authorized its Chairman to amend the charges, add new charges, or drop existing ones; and

WHEREAS, additional information has been presented to the Chairman pursuant to this investigation; and

WHEREAS, it now appears that the charges should be put in final form in order to permit Dr. Curris to prepare his defense to be presented to the Board on March 28, 1981,

NOW, THEREFORE, Chairman M. Ronald Christopher is hereby authorized and directed to present this final statement of charges against Dr. Constantine W. Curris, this final statement of charges being all of the charges to be heard on March 28, 1981.

Mr. Morgan seconded and the roll was called with the following voting:

Mr. Carneal:	No
Mr. Clark:	Aye
Dr. Howard:	No
Mr. McCuiston:	Aye
Mr. Morgan:	Aye
Mrs. Page:	No
Dr. Settle:	No
Mr. West:	Aye
Mr. Woodall:	Aye
Mr. Christopher:	Aye

The Secretary reported the vote six ayes and four no's. The Chairman declared motion passes.

MR. CHRISTOPHER: Mr. West, you indicated that you wanted to make a motion about the contracts that we talked about earlier.

MR. WEST: I would like to move that the Board ratify and approve the arrangements that Mr. Overby has made in this regard to the resolution that was passed at the last meeting including but not limited to the entering into a contract by Murray State University with Hurt, Haverstock and Jones and Meany & Associates.

MR. WOODALL: Second.

MR. CHRISTOPHER: Call the roll, Mrs. Dyer.


Mr. Carneal	No
Mr. Clark:	Aye
Dr. Howard:	No
Mr. McCuiston:	Aye
Mr. Morgan:	Aye
Mrs. Page:	No
Dr. Settle:	No
Mr. West:	Aye
Mr. Woodall:	Aye
Mr. Christopher:	Aye

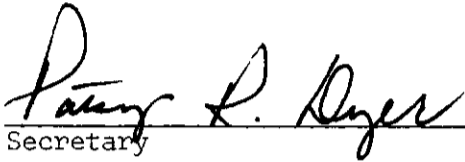
The Secretary reported the vote six ayes and four no's. The Chairman declared motion passes.

MR. CHRISTOPHER: Dr. Settle, I think we need to clear up something in public. Are you satisfied now that there are no conflicts of interest that you want to discuss further?

DR. SETTLE: I have no further comments.


There being no further business, Mr. West moved that the meeting be adjourned. Motion was seconded and carried. The Chairman stated the Board would reconvene in this room at 8:00 a.m., March 28, 1981. The meeting ended at 5:40 p.m.

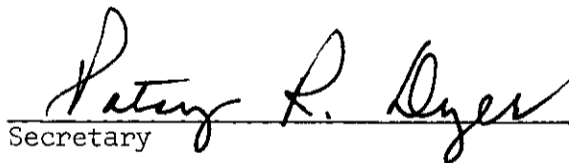

Chairman


Secretary

Addendum

BE IT RESOLVED that Murray State University withdraws its pending FM application for the Owensboro-Henderson area, together with cooperative efforts with Henderson Community College, for an FM radio station. This resolution to withdraw its pending FM application for the Owensboro-Henderson area is pursuant to an understanding with Western Kentucky University wherein both Murray State University and Western Kentucky University mutually agree "not to reapply for an FM station in the Owensboro-Henderson area, directly or indirectly, or by any other conceived relationship, for a period of two years from the date of such agreement."


Chairman


Secretary