

# UCCSN Board of Regents' Meeting Minutes November 26-27, 1991

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BOARD OF REGENTS

UNIVERSITY OF NEVADA SYSTEM

November 26, 1991

The Board of Regents met on the above date in the Lobby of Ham  
Concert Hall, University of Nevada, Las Vegas, in a special  
meeting.

Members present: Mrs. Carolyn Sparks, Chairman

Mrs. Shelley Berkley

Dr. Jill Derby

Dr. James Eardley

Mr. Joseph M. Foley

Mrs. Dorothy S. Gallagher

Dr. Lonnie L. Hammargren

Mr. Daniel J. Klaich

Mrs. June F. Whitley

Others present: Mr. Mark H Dawson, Chancellor

President Robert Maxson, UNLV

Mr. Donald Klasic, General Counsel

Ms. Mary Lou Moser, Secretary

Also present were UNLV Faculty Senate Chairman Dr. Lori Temple and CSUN President Roderick Colebrook.

#### 1. Public Testimony Regarding UNLV Athletic Program

Chairman Sparks opened the meeting at 1:05 P.M. stating this was a special meeting posted to hear public testimony on the videotaping issue at UNLV. She stated that remarks should be limited to three minutes and that each would be timed.

She asked those persons who spoke at the evening meeting on November 20, 1991 to please wait until the end. She announced there was a sign-up sheet at the back of the room and encouraged those who wished to feel free to sign in.

Chairman Sparks stated that she was here as an elected official who has given up a large segment of her life for a non-paying job to serve the State to make a difference in

higher education. She related she has been on the Board 7 years and has watched dramatic improvements on all Campuses during that time. She stated she had attended a banquet to honor the UNLV football team a new evenings prior to this meeting and described the emotions that had put this current matter in perspective. She related that a number of the players had spoken about what the University meant to them and what it had done for him. She cited "Hunky" Cooper's emotions as he told of his father being a graduate of the University, and of others who loved their University and their coaches; how others were ready for the next season; and for how they came to UNLV to get an education. Chairman Sparks stated that the Board has a great deal of respect for the students and faculty; that UNLV is building into a good, academic school.

Dean John Massengale was asked to explain the conditioning class in question. Dean Massengale stated the class is PE 130C, listed on page 136 of the UNLV catalog. The class first appeared in 1974 and has run for the past 17 years. The conditioning class is for student athletes to condition themselves for their respective sports and they earn one credit. It is open to all students. The assigned instructor is Dan Austin, and in the past Tim Wilson and Gil Royes

have also been in charge. Each year class content is reviewed with the teacher of record, including the legalities to be observed. All students must have weight lifting, suited to their particular sport. Class members may meet at different times because of their schedules; individual kinds of exercises are designed for specific kinds of activities. Coaches can request specific training exercises for their sports.

Chairman Sparks questioned whether Coach Tim Grgurich was an instructor, with the Dean replying that he was not.

Chairman Sparks then asked whether the coaches grade the students for this class, and the Dean again replied they did not, but they may make suggestions to the instructor of record. Mrs. Whitley asked why coaches would conduct this class and whether they would be teaching for Mr.

Austin. The Dean answered that the coaches would be adding to, not supplanting Mr. Austin. Dr. Eardley asked about the term "characteristics of the sport", with the Dean replying that it is an attempt to increase the strength and skill and agility of the student for the particular sport, but the basis of the conditioning is weight lifting.

Chairman Sparks read from the NCAA rules, Section 17.02.

12.2, Article B, that attendance is voluntary for a conditioning class, that it is open to all students, not just athletes, that the class is to meet for 8 hours per week, there is to be no sports equipment present (i. e., a ball, etc.), fundamentals of a sport or techniques may not be taught.

Dr. Eardley asked whether Department Heads evaluate the instructor of this class. Dean Massengale replied that yes, they do, but not for Mr. Austin who is not in the Department but reports to the Athletic Director. He stated that the Athletic Director determines merit for Mr. Austin.

Mr. Klaich asked whether a breakout session was part of the conditioning class or outside the class and whether it was standard practice. Dean Massengale answered that they are part of the conditioning class if the coach wishes, but it is voluntary. Dr. Eardley asked whether the class was now over, and the Dean replied that it runs continually. Dr. Eardley then asked which Athletic Director would evaluate this class (Mr. Finrock or the newly appointed Mr. Weaver), with the Dean replying that he did not know, that the evaluations usually occur in the Spring and probably Mr. Weaver would be instrumental in the evaluation but would consult

with the coaches.

Chairman Sparks stated the Board would entertain public testimony and input, and asked that no "name-calling", nor "grilling" of the Board, nor series of questions to the Board would be acceptable.

Those testifying were:

Mr. Jesse B. Scott, NAACP, who is pastor of the Second Christian Church, distributed a statement of reconciliation and healing, stated he had watched the growth of UNLV over the years, and it was his belief that the University does not belong to the Regents, the Presidents, the coaches, or the Faculty Senates, but belongs to all. He cautioned that the distractions take away from the University and urged the Board to act in the best interests of the students and the State.

Mr. Chet Cox, a scholarship donor and concerned citizen, stated he had watched the growth of UNLV and that Mr. Jerry Tarkanian and his staff had brought national recognition to UNLV and he feared that with Mr. Tarkanian's leaving the University the strong monetary

support would no longer be forthcoming.

Dr. Terry Piper, Director of Residential Life at UNLV, stated the Board determines the visibility of UNLV and which interest groups are to run the University, but one voice not heard has been the students, who are affected by the current controversy. The Residence Hall Executive Board, made up of students, asked that Dr. Piper relay that they feel there is a lack of understanding of what is happening, they are suspicious of the Board, the Administration and athletics; they are afraid the matter will never get resolved; they are unclear of what is actually the truth; the media blitz is forceful, although they do know it can't be believed. He continued that the student leaders stated they fear negative opinions about their school and fear the publicity will affect the degrees they are working for. They request the focus be placed on academics rather than basketball, and are looking to the Board for leadership. They want a positive reputation.

Dr. Kenneth Koester, State Board of Education member, stated he had graduated from UNLV and became a faculty member here and has tutored and taught UNLV athletes.

He urged that the University "get back to the real world" and added that graduates are hired from what is known about their University. He stated he did not think a camera should be used without the persons knowing about it, but if something was wrong, he felt it could be used in a classroom. He stated he did not think the Board should get rid of the President, that Dr. Maxson and his Administration has brought a great deal more to the University than athletics.

Dr. Lewis L. Friedman, a concerned citizen and physician, stated he and his son have contributed to the unrestricted funds of the President, and that he, personally, has assisted medical students and football students to complete their education. He stated he was one of the founders of the football foundation and believed that "overzealous" alumni and coaches have lost sight of the NCAA rules. He added that he felt the NCAA was needed as it assures a "level playing field", but that all rules need to be observed and self-policing is "very important". He stated that in his opinion the media had handled the matter badly, and they should stop. He lauded the basketball coach, and urged the Board to get on with running the University



and to let the Athletic Director take care of the Athletic Department.

Dr. Vernon Mattson, Assistant Professor of History, stated he began at UNLV in 1969 and is very much aware of its history. He related that the issue is not Maxson vs. Tarkanian, or athletics, but that the Administration in their pursuit of getting information did the most damage to the University. He stated he did not agree with the Faculty Senate's resolution, that although the President has done a great deal for academics, he is responsible and the Administration is responsible for violation of civil liberties.

Dr. Bill Thompson, Professor of Public Administration, came to UNLV in 1980. He stated he agreed with Dr. Mattson and offered for a solution that the Administration use this opportunity for policy making. He related that a cooperative arrangement with a University in China has been dropped because of this matter, that the Chinese government does not want to have their students come to UNLV. He stated he felt the "camera episode" is not an isolated situation, citing classroom evaluations and interference by Department Chairmen

with students. He felt that unofficial investigations should be totally prohibited unless the President authorizes such in writing.

Dr. Jim Deacon, Professor of Environmental Studies, stated he began teaching at UNLV in 1960. He stated he had missed the point of the testimony of the previous two professors. He felt there were two main issues, the desire to learn and the resistance to change. He stated he felt the media is using the resistance to change to tear apart the community. He related that as UNLV attempts to change its athletic program over the past year-and-a-half that the use of cameras was a rallying point. He stated that the changes made by Interim Athletic Director Finrock have been resisted by some.

Dr. Ian Mylchreest, History Department, teaching American Constitutional History, stated he believed the taping incident has nothing to do with civil rights and had voted for the Faculty Senate resolution. He stated he felt the issue was the manner in which the University should administer the Athletic Department. He stated he felt academic freedom (at UNLV) was "alive

and well"; that the Administration has defended academic freedom on the Campus. He stated that his classroom door is unlocked and "anyone can come in". He stated that this in no way compares to "Berkeley in the '60's". He related that the "ball and chain" of the Athletic Department is an embarrassment and cited an incident of visiting in Australia where they wanted to know "What's the real dirt?". He stated that at the "best" Universities athletics is subservient and urged that the Athletic Department be "cleaned up".

Mrs. Nancy Flagg, employee at UNLV, stated she is a valedictorian graduate of UNLV and has been involved with the University for 17 years. She asked that the Board stand up and take action and not to give the public a "sacrificial lamb". She stated that a majority of the University have denounced Mr. Booke's action on taping, and urged that a policy be developed. She added that the Campus is ready to go forward, but felt the community is not. She stated that she felt the University has "squandered" funds on the Daniels case and attorney fees. She related that the underlying issue is the President in enacting the will of a majority of the Campus; that the Athletic Department had been "out

of control". She added that no one has denied a mistake occurred, nor have they covered it up, and she felt the Board was taking proper action by questioning an employee, that they should take action and move on.

Mr. Andrew Carney, Pan America - Texas, questioned why the Board was "carrying the Daniels things on" when he never did play at the University. He stated he felt it was ludicrous to "go through this" over such a small thing. He related that in his opinion Jerry Tarkanian should never leave UNLV. He remarked that students now don't want to come to UNLV because of all this. He urged the Board to "get serious" and that Jerry Tarkanian should stay.

Mr. Klaich countered by stating that a lot of students do want to come here as evidenced by the fact that enrollments are up; that students come to UNLV to study.

Mr. David Chapman had signed the roster, but did not appear when his name was called.

Dr. Dale Anderson, Dean, UNLV College of Education, stated he was a former varsity basketball player on

a scholarship and owned a great deal to athletics for his success. He related he had played in conferences and in national championship games. He stated he had lived as a student athlete and felt that the priorities must lie in academics for all students. Dean Anderson stated he was President-elect of the National Deans of Education of the United States and interacts with the top Universities in the country. He cited the growth in enrollments at UNLV and related to the Board that of 21 new faculty members hired last year in his College, they were able to hire their number one choice each time, and added that none came because of any athletic team but because of the academic standing of the institution and because they felt there was an opportunity to become leaders nationally. He stated he did feel that the UNLV men's basketball program was a negative factor in hiring, however. He stated it was crucial that athletics and the men's basketball program in particular must return to its proper place in the mission of the University. He stated that athletics and academics can co-exist, but that academic is primary.

Mr. Paul Sturiff, from the UNLV Student Government,

stated his organization has passed a resolution on the video taping. He stated the students were "outraged" that the taping had been done and they felt that athletics is subordinating academics. He stated he supported the President's actions taken after the taping and supported the Administration. He stated the students did their own investigation. They felt the video taping was a "smear" but it was time to pull together, to put academics over athletics and to move forward.

Mr. Ronald Bruno Bordigioni stated that he had talked with a judge "yesterday", and asked the Board not to lose faith but to do the right thing. He stated he knew Mr. Booke, and Sheriff Robin Holmes, Bullhead City, and made a reference to the Attorney General. Chairman Sparks cautioned him about making accusations.

Mr. Lonnie Wright, a UNLV graduate in Hotel Management, stated he also held a master's degree in education. He stated he was a former UNLV basketball player, and felt there had been discrimination and that he did not feel UNLV had ever "embraced" their athletes and helped them to graduate. He stated he had applied for, but had

never been hired, a full-time job at UNLV because he was a former UNLV basketball player. He stated a group of former UNLV basketball players has been formed, but they are stereotyped as "dumb Neanderthals" and that he had to go to another continent to get a job that in his own town he was discriminated against.

Dr. Christian (Chris) Dolan stated he had been at UNLV since 1962, and felt the present Administration had allowed the professional activities of his colleagues to put UNLV on the "academic map".

Mr. Henry Zawacki stated that he was hearing that academicians wanted to get rid of athletes when he thought "this was about locked doors". He stated he blames the "top man" for the incident. He stated he has not missed a practice (of the men's basketball team) in 4 years and that he could always "knock on the door" and "Timmy would let you in". He added that the doors were locked because they lock themselves as they shut. He stated he did not believe there had ever been tape over the doors (so no one could get in or see in). He related that the newspapers had "killed" Tarkanian, that they did not like him. He stated that no member of the Board

of Regents came by the practices, and they were getting "paid big bucks". Chairman Sparks questioned whether he attended both practice and conditioning classes, and he answered that he did, that he had been a coach for 30 years.

Mr. Patrick Cleary stated he was a UNLV supporter, an attorney, and a "real booster" and supported both athletics and academics. He stated he believed the force that brought the community together was UNLV basketball.

Dr. Hammargren entered the meeting.

Mr. Cleary stated that in his opinion the filming was a violation of civil liberties.

Chairman Sparks asked whether there were others who had not signed the roster who would like to speak and encouraged them to do so.

Dr. Kent Pinney stated he had been at UNLV 19 years, having come from the University of Utah Campus. He stated he has mixed emotions concerning this matter for he has a great respect for all those involved. He



asked why the media must focus on the negative. He urged that all must function together as a body -- that UNLV has a "marvelous" academic program and he is also grateful for the great athletic program on the Campus.

Mr. Roderick Colebrook, CSUN President, stated he does not condone the videotaping, but can understand what went on. He stated he felt some wrong decisions had been made, but realized there were infractions. He added that he supports President Maxson; that he feels the President has done a tremendous job in putting academics first and athletics second. He stated he wanted UNLV to be known for academics. He offered that President Maxson should be allowed to deal with the problem and to relate his solutions to the Board. He stated he felt the hiring of the new Athletic Director is a good, positive change and should now be given the opportunity to handle the Athletic Department.

Ms. Pauline Kennedy, foster mother and concern citizen, stated she did not understand Mr. Booke's job and she thought he had been hired as the UNLV Compliance Officer. She added that Jerry Tarkanian has done a lot for the University and the Board should ask him if he wants

to retire.

Mr. John Woodrum, President of the Independent Casino and Hotel Operators organization, stated he has a personal interest in the University as his son is a Sophomore at UNLV. He stated academic freedom is a necessity. He related that he is proud of what the basketball program did for his community, that they have brought in over a billion dollars for Nevada. He stated he knows why UNLV exists and it is not the Hotel School, which doesn't make headlines, it is the championship basketball team. He cited the State's gambling interests that "stood shoulder to shoulder" and took on the rest of the country when gambling was frowned upon; and stated that the Rebels did the same with their basketball program. He stated that it was the Board of Regents' job to make the University work, and added that the Board is being watched and that they had better perform, or "we will perform".

Dr. Len Zane, Professor of Physics, stated he has been with UNLV since 1973. He stated he would like to think the faculty at UNLV deserves at least some of the credit for building the University. He acknowledged that the

basketball program had given the University visibility but that it was time to get the University back in control. In conceding that Mr. Tarkanian had resigned, he stated that no apologies were made when Mr. Tarkanian or the players had embarrassed the University, but that Mr. Booke had apologized. He related that he was pleased with the "new regime" and found it very exciting.

Dr. Ken Hanlon, Music Department, stated he had arrived at UNLV in 1970, and had been instrumental in starting the pep band. He stated he did not condone the video taping, but was concerned that the Faculty Senate resolution might be "starting a war". He related that in 1972 the President wanted to hire the coach, but the boosters did that. He added that he felt a policy was needed on surveillance; that the number one job of the University was academics and that sports was an extracurricular activity.

Mrs. Jackie Mc Call Singer stated she was very involved with academics at the University and called for an independent investigation. (Ms. Singer had spoken to the Board at their meeting on November 20, 1991.) She

stated she felt the Board's credibility was low and that she had talked with President Maxson about her feelings. She stated she will always support academics at the University. She asked whether UNLV had a private investigator on its payroll and asked what funds were used to pay him. Chairman Sparks asked what, specifically, Ms. Singer wanted investigated. Ms. Singer stated that the public hasn't heard enough. Chairman Sparks stated that the Board has the facts on the matter.

Mr. G. R. Fitzgerald stated that his daughter was attending UNLV, and asked how many tapings had been done and that the public did not know about. Chairman Sparks stated there was one instance of taping and three tapes had been made. She stated that no other classes have been secretly taped, that Dr. Maxson, Mr. Finfrock and Mr. Booke all assure this was the only instance. Mr. Fitzgerald asked Mr. Foley about the statement made that Mr. Tarkanian would stay if President Maxson would leave. Chairman Sparks answered that the remark had been made by Mr. Bruce Pascoe, a reporter.

There being no other persons who wanted to speak, the Board took a 15-20 minute break.

President Maxson stated that the taping had been a mistake, and that no one had ever questioned that it was a mistake.

He explained the incident of mail opening, which was reported in the media, had occurred six months ago and he had only read it in the newspaper after the taping incident came to

light. In checking with Vice President Harry Neel, the

President learned that the System auditors were concerned that checks coming into the Athletic Department were not

centrally handled. This caused the gifts to not be properly acknowledged. At the request of the auditors, the mail was

then opened at a central location, but after 5 or 6 days,

when a complaint was received, the practice was stopped.

The President related that no complaints had been filed

with his Office. He added that UNLV has a procedure for

the filing of complaints.

In the matter of the investigator as posed by Ms. Singer,

President Maxson stated that the Public Safety Director

does hire a security firm for routine building checks. He

stated that it is necessary for a 24-hour per day security

check and they contract with people who handle security.

He cited a biology lab in the animal research area where there had been break-ins about 3 years ago. Also, he cited that in the building where the President's Office is housed, there are computer labs open 24-hours a day for student access and these are checked periodically for security reasons. Mrs. Berkley asked if there was any covert surveillance, with the President replying that there was none; however, if he ever found out it did happen, the Board would not have to deal with it.

Mr. Klaich stated he was sorry a number of the persons present before the break had left and expressed his appreciation for their input. He added that after the Wednesday personnel session (November 20, 1991) he had asked that the video tapes in question be released and had sought consultation whether it would be legal to do so because he felt the public should see the tapes. He stated he would vote against the calls for a private investigation, and felt the "Let's get on with it" attitude was great and that the new Athletic Director should be allowed to serve. He related that he regrets the "camp" mentality, that anyone who says anything gets stuck in a "camp". He added that he appreciates the input, but does not want anyone labeled into a "camp". Mr. Klaich said that he saw no need for personnel action, fur-

ther investigation or condemning the Administration; that he had every confidence in the President. He stated he did not condone the video taping, and accepted the apology. He declared that it was time to put it all behind and to let the "armchair quarterbacks" on the Board of Regents stop administering policy.

Mrs. Gallagher stated she felt the Board has been open and fair minded, and that after this meeting and the 9 hours of the last meeting that she did not intend to "be back on this matter". She stated she felt very comfortable with the Board actions and that the Board did take its job very seriously. She added that it was now time to work on a supportive policy and cited that there were decisions to be made in the State which would make a difference, that the State had some "big problems".

Chairman Sparks also stated that the Board takes its job seriously, that they are elected officials, and this would not normally be a Board matter, but would be an administrative matter. However, in attempting to do what is right for the System, the Board needed to have input from the Administration and from the public. Dr. Eardley stated that this had been a real challenge for the Admin-

istration to solve; that it was time to stop the infrac-  
tions. He stated that President Maxson has complete back-  
ing. Dr. Hammargren stated that President Maxson has  
complete backing and gets an "A+ in academics"; however,  
he did not believe it was an Administration affair, that  
the System Office was involved so the Board needed to look  
at the problem.

General Counsel Klasic stated that in his opinion, there is  
no legal objection to the public seeing the tapes. Mr. Eric  
Pappa, reporter, stated that his paper, the Las Vegas Sun,  
had requested a copy of the tape. Mr. Klaich stated that  
the release of the tapes is not asked for with pride, for  
it will cause pain for the University.

As the tape was being readied for showing, General Counsel  
Klasic related that the video tape was of the men's basket-  
ball team, filed between 3:15 and 4:00 P.M. on October 8,  
1991 in a room at the North Gym. He stated that all the  
people on the tape are from the men's basketball team and  
program. Chairman Sparks added that the video contained  
a breakout session of the men's basketball program. Mr.  
Foley asked about what they were viewing, and Mr. Klaich  
explained that as Dean Massengale had stated there are



breakaway sessions that anyone in the class who wants to sign up for extra conditioning specific to a certain sport or activity may do so; that it is not just for those in the conditioning class and that the breakaway sessions may be taught by anyone.

General Counsel Klasic explained that there was no audio; that it was a continuous recording in that the video recorder was not turned off during the filming. He also stated that in order to avoid charges that there was an attempt to influence the news media, no comment would be made about the activities shown on the tape while it was running. The tape would be shown and persons would be free to draw their own conclusions. He added that 5 copies had been made for distribution to the media and if there is a great demand for the tapes there will be a charge for the duplication costs.

The tape of October 8, 1991 was then shown. The meeting was recessed during the showing of the tape.

The meeting reconvened at 4:10 P.M. after the viewing of the tape.

Mr. Foley left the meeting.

## 2. Preplanning for a Committee on Surveillance

Chairman Sparks announced that Chancellor Dawson would soon appoint a Committee on Surveillance with representatives from Faculty Senates, students, classified personnel, Administrators and Regents. She promised to announce the names of the members of the Committee at the Board meeting on December 5 and 6, 1991.

## 3. Report of the Regents Fall Workshop

Chairman Sparks announced that academic discussions had taken place at the Fall retreat held in Gardnerville and reports and recommendations would be forthcoming.

## 4. New Business

Mrs. Gallagher asked that an action item be placed on the next Board agenda for a vote of confidence for President Maxson.

Mrs. Berkley asked that a policy be developed so that coach-

es could no longer teach conditioning classes, and was informed that there is such a policy in the Handbook. Mr. Klaich suggested that the new Athletic Director should be given a chance to review current policies and to suggest any new policies as necessary. Mrs. Berkley agreed.

The meeting adjourned at 4:45 P.M.

Mary Lou Moser

Secretary of the Board

11-26-1991