

[9/18/92]

City of Clemson

WHITE PAPER

ISSUES RELATED TO CITY OF CLEMSON'S PROPOSAL FOR ANNEXATION OF CLEMSON UNIVERSITY CAMPUS INTO THE CITY OF CLEMSON

A draft agreement on annexation-consolidation of municipal services of the city of Clemson and Clemson University, dated April 20, 1992, was forwarded to President Max Lennon by Mayor Larry Abernathy and City Administrator Charles Helsel. At the request of Manning N. Lomax, vice president for administration, a committee of Clemson University faculty met twice to address issues related to a proposal for annexation of the university campus into the city of Clemson. The results of the committee's deliberations and interim research on questions related to the proposal are presented in this white paper.

Recommendation

On balance, the annexation response team advises the university to continue to pursue ways to enhance town-gown relationships, but recommends unanimously, and without reservation, that the university not be annexed or merged with the the city of Clemson. The benefits of a closer working relationship with the city of Clemson can be achieved without becoming a part of the city through annexation.

It is the consensus of the team that for the university to accede to this proposal would involve a surrender of autonomy for no obvious benefit. Annexation into the city of Clemson would subject the university to another layer of bureaucracy and regulation with ill defined authority, an obvious cost associated with acceptance of the city's proposal. From the committee's perspective there are no compelling reasons to examine or pursue this proposal any further. If the university were to agree to annexation, however, the committee recommends a careful examination of the provisions of the city's proposal to determine which would be legally binding and which could be altered by future city councils.

Summary

The benefits to the city from annexing Clemson University are additional revenues of various kinds, offset by possibly open-ended service responsibilities in order to treat all its citizens equally. A second benefit to the city is the ability to claim a size of close to 20,000 population in efforts to attract industry, commercial facilities, and higher quality residential development, as well as in other annexation efforts. Despite disclaimers, it is likely that the city also has some interest in collecting business licenses from on-campus businesses.

The benefits to the university from this proposal are not obvious. The university might receive some additional services, paid for in part out of the city's increased revenues from state aid to subdivisions, but most issues examined by the committee offer few clear benefits for the university.

Clemson University should at all times be aware of the impact of its policies and activities on the city of Clemson and make every effort to be a good neighbor and maintain clear channels of communication with the city. As a major employer of city residents; a source of students who live, shop, and drive in the city; a sponsor of public sporting, cultural, entertainment, and educational events; and a host to on-campus businesses competing with the local business community, Clemson University has significant impacts on the city of Clemson and its citizens. Policies related to these impacts could continue to be implemented in the context of the current Joint City-University Committee even in the absence of annexation.

While formulating this broad recommendation, the committee identified the following specific issues:

1. **Status issues.** Clemson University was designated a municipal corporation in 1893, and its powers to operate a recorder's court, employ university police, and impose traffic fines rest on that basis. It is not clear that the legal basis for that authority still exists since the Home Rule Act. However, the university traffic regulations, which require legislative approval, clearly recognize the existence of the Clemson University municipal judge, a condition which cannot occur without a municipality (Regulation 27-3005.1). A legislative amendment was drafted by Clemson University for introduction during the 1992 session of the General Assembly to make it absolutely clear that Clemson University retains its municipal corporation status. This amendment was not introduced, however, because the city of Clemson objected.

The team feels that there are some risks to the university in opening the issue of municipal status and that final judicial or legislative resolution of

the status issues would be a prerequisite to any decision related to agreeing to annexation into the city of Clemson. The attached memorandum outlines some of the issues surrounding the university's legal status as a municipality that would have to be resolved prior to either annexation or consolidation.

2. **Property to be annexed.** Clemson University owns a large amount of property, some contiguous, some not, which could be annexed. It might be possible just to annex a part of the campus represented by the dormitories, perhaps including the president's house and Clemson House so that the campus residents would all be in the city. The advantage of annexing less than the full campus is that the city would not have regulatory power over classrooms, laboratories, the South Carolina Agricultural Experiment Station, and experimental forest. The disadvantage might come in finding it more difficult to clearly allocate responsibility between the two entities for service provision (water, sewer, fire protection, traffic enforcement, etc.) Several members of the team noted that the map attached to the annexation proposal was not accurate in delineating campus boundaries and that the legal description of the property to be annexed was not adequate or precise.
3. **Revenue issues.** Local governments collect revenue primarily in the form of property taxes, business licenses, fees and charges for services, accommodations taxes, traffic and other fines, and state aid to subdivisions. There are some potential future revenue sources also. The local option sales tax is available to counties to adopt by referendum, and perhaps in the future, motor vehicle or admissions taxes may become available on a local option basis.

Property tax. It is possible that the area to be annexed may include buildings that are privately owned and leased to the university and therefore subject to city property tax. In general, the campus as state property is not subject to property taxes, the major source of operating income for local governments. Provision of services by the city to state entities is a bone of contention in Columbia, Rock Hill, and most college communities where the campus lies within the municipal boundaries.

Business licenses. The team received a preliminary opinion from several sources that the city's proposal to exempt university-owned businesses from the business license tax would not stand up to a court challenge since it is discriminatory. It is likely that many university businesses—such as the bookstore, the canteen, the laundry, agricultural sales, forestry sales, etc.—would be subject to city business licenses if the

campus were annexed. Like classes of service providers must be treated equally.

Fees and charges for services. Fees would be negotiable depending on what services are provided by each party, as indicated in the city's proposals. City residents and businesses regularly pay for water, sewer, and refuse collection as well as for certain recreational services. In the event of annexation or consolidation, the university could negotiate a fee in lieu of taxes arrangement of some kind for certain kinds of services, particularly solid waste disposal. Whether or not annexation occurs, the Joint City-University Committee should attempt to clarify the proposed division of costs between the university and the city for fire services in the event of an additional fire substation.

Accommodations tax. There would be no change in the accommodations tax since it is collected on a county basis. Any short-term accommodations on campus now subject to accommodations tax would continue to pay the tax, but a part of the revenue would now accrue to the city rather than the county.

Fines. The city's proposed solution of a branch recorder's court would retain fines for the university but raises some issues of control over parking and other violations on campus.

State aid to subdivisions. The proposal to share this revenue with the university would not be binding on future city councils. This revenue (estimated at \$250,000), together with being able to claim a larger city size for marketing purposes, appears to be a major motivating factor for the city's proposal.

Future taxes. At present Pickens County does not collect local option sales taxes, but this tax could be adopted countywide at any future date. If the tax were adopted, campus businesses and student off-campus purchases would be subject to this tax whether or not annexation occurred, because the tax is adopted on a county rather than a municipal basis. If the campus were in the city, however, additional revenue would accrue to the city. There is no authorization for other local taxes at present, but among those perennially considered are a local motor vehicle tax and a local admissions tax. If these taxes were authorized, both of them would generate considerable revenue on the Clemson campus from cars registered in other jurisdictions and from sporting events.

4. **Zoning.** Under city ordinances, present nonconforming university uses of its property would be grandfathered upon annexation, but the issue of

whether the university would be subject to the city's zoning ordinance is somewhat muddy. The governing state statute would require the university to be subject to city zoning laws (§ 6-7-830) upon annexation, but an opinion of the attorney general on this section of the code states that the State is not required to obtain permits or submit to local adopted means of enforcing those [municipal and county zoning] ordinances. Zoning classifications of land to be annexed would have to be accepted voluntarily by the university. The question of zoning limitations and regulations that would interfere with research activities on campus was raised. The attached memorandum forwarded to us by Andy Smith of the South Carolina Advisory Commission on Intergovernmental Relations identifies the zoning category for the University of South Carolina campus in Columbia.

5. **Local ordinances.** The enforcement of local ordinances on university property would have to be addressed. Applicable ordinances include but are not limited to the noise ordinance, the building code, and the occupancy ordinance (unrelated persons). Any annexation agreement would have to address their enforcement on campus.
6. **Service provision.** The division of responsibility for provision of municipal-type services to the campus is addressed to some extent by the proposal, but arrangements would have to be spelled out in much greater detail. Existing cooperative arrangements can be continued or expanded independent of any decision about annexation.
7. **Access to university facilities.** If the university becomes a part of the municipality, so that its students (who pay no property taxes) now have access to all local recreation programs, there will be increased pressure for reciprocal access to university recreational facilities.
8. **Student participation in government.** Annexation of the campus would add about 7,000 voting age citizens to the city (1990 population of 11,096 of whom 9,502 are 18 years of age or older). Together with students now living in the city, the student population in the area proposed for annexation would constitute more than 50 percent of the city's population and more than 50 percent of the population eligible to register to vote.

As citizens of the city, students would have the opportunity to participate in government, an important aspect of their extracurricular education. They might also be able to shape the community into one more responsive to campus needs and concerns. However, under the influence of such a dominant student voting bloc, the town could become, like students, very short term in its perspective and oriented exclusively toward its tran-

sient population without enough concern for the needs of its long-term residents. Because many of those long-term residents are faculty and staff, the quality of the community could deteriorate, making it more difficult to attract and keep good faculty and staff or encouraging them to live farther from campus, which would exacerbate the already severe traffic problems. Changes in the quality of life in the city for long-term residents would cause relocation of current residents and future residents affiliated with the university to neighboring communities like Pendleton, Six Mile, Liberty, Seneca, Easley, and unincorporated areas of the tricounty area. In addition, students would constitute a voting majority that does not pay any property taxes and thus might be less fiscally restrained than a group that must weigh the benefits of services against the costs of taxes. Because of the size of the student population relative to permanent residents, Clemson's situation is somewhat unique compared to other university communities in the state.

A subsidiary issue is whether there would be pressure on the city to create wards (single member districts) for city council in order to insure student representation on city council. Wards would increase the likelihood of student bloc voting and student representation on city council. Since voting districts are based on population rather than number of voters registered, council representatives from campus wards with minimal voter registration could exercise significant control over municipal affairs. Under a six ward system campus residents could make up two wards and comprise 50 percent of a third.

The Annexation Response Team

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Attachments:

Memorandum from Janis K. Cheezem

Memorandum from Shirley Gossett to Andy Smith