

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2011	2012	2013	2014	2015
Capital Expenditures	\$ -0-	\$0	-0-	-0-	-0-
Operating Costs	-0-	-0-	-0-	-0-	-0-
External Revenues	-0-	-0-	-0-	-0-	-0-
Program Income (County)	-0-	-0-	-0-	-0-	-0-
In-Kind Match (County)	-0-	-0-	-0-	-0-	-0-
NET FISCAL IMPACT	\$0	-0-	-0-	-0-	-0-

ADDITIONAL FTE

POSITIONS (Cumulative) 0

Is Item Included in Current Budget? Yes _____ No X
 Budget Account No.: Fund _____ Depart: _____ Unit _____
 Object _____ Program: _____

B. Recommended Sources of Funds/Summary of Fiscal Impact:

C. Departmental Fiscal Review: _____

III. REVIEW COMMENTS:

A. OFMB Fiscal and/or Contract Development and Control Comments:

**NO fiscal impact*

[Signature]
 OFMB
 10/14/10

[Signature]
 Contract Development and Control
 10/14/10

B. Legal Sufficiency:

[Signature]
 Assistant County Attorney
 10/15/10

C. Other Department Review:

 Department Director

This summary is not to be used as a basis for payment.

Mr. T. Williard Fair, Chairman
State Board of Education
325 W. Gaines Street
Suite 1520
Tallahassee, FL 32399

Dear Chairman Fair:

I am writing to express the concerns of the Palm Beach County Board of County Commissioners regarding the proposed sale of WXEL FM 90.7 from Barry University to Classical South Florida, Inc. It is our understanding that the approval of this sale will be brought to the State Board of Education on December 17, 2010. Classical South Florida appears to be a subsidiary of American Public Media Group, Inc., which is a company based in Minnesota.

It is the belief of the Palm Beach County Board of County Commissioners that the local ownership and control of public radio stations such as WXEL FM 90.7 is beneficial to our constituents, as it may provide our citizens a resource for local issues. In addition, we are concerned with allegations that the proposed sale to Classical South Florida will result in the loss of jobs to local residents in Palm Beach County. For these reasons, we ask that you carefully consider the effect that the proposed sale to Classical South Florida will have on the residents of Palm Beach County.

Sincerely,

Burt Aaronson, Chairman
Board of County Commissioners

FLORIDA DEPARTMENT OF EDUCATION



STATE BOARD OF EDUCATION

T. WILLARD FAIR, *Chairman*

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Dr. Eric J. Smith
Commissioner of Education



July 21, 2010

The Honorable Bob Martinez:
Holland & Knight
100 North Tampa Street
Suite 4100
Tampa, FL 33602

Dear Governor Martinez:

The Department has reviewed your letter dated July 6, 2010, and we appreciate the time taken to respond to our information request. I do have some comments and questions based on the information you provided. However, before I mention these I wanted to address some primary concerns the Department has with the transactions contemplated by Barry University.

While the licenses are in the name of Barry University's subsidiary, the Department is concerned that the broadcasting licenses are a public asset. Therefore, we have questions about Barry University's ability to sell these licenses in general, and use the proceeds for its private interests. When Barry University took over WXEL, it was not sold. According to our records, there was a merger at no cost other than taking on the operating obligations.

The Attorney General's office routinely examines the issue of public trusts. Therefore, we have contacted them. They are presently reviewing the question of whether a public trust was created with the broadcasting licenses. If they determine that a public trust has been created, I expect they will intervene in this matter to protect the public's interest. I think it is critical that this matter be resolved by the Attorney General before any sale takes place.

Moreover, since Barry University is a private institution the Department is also concerned with it profiting on the sale of a public asset. The State of Florida has expended far more money than Barry University to operate WXEL, yet Barry University is taking the position that it should

DEBORAH K. KEARNEY
GENERAL COUNSEL

The Honorable Bob Martinez:

July 21, 2010

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retain all sales proceeds even if it means receiving millions more than it has paid to operate the radio station.

The Department also believes it is in the public interest to keep the radio and TV licenses in the control of one entity. This issue is exacerbated when the radio license is taken over by an out-of-state public broadcaster, rather than transferring both licenses to a local community-backed organization. The Department has not been given sufficient assurances that the radio station will have local control.

In your letter, you state that the Board of Trustees of Classical South Florida, Inc. are residents of South Florida, and that an Advisory Board will be composed of residents of the WXEL listening area. However, it is unclear how this structure will give sufficient control to the residents of the WXEL listening area. I would like to see the documents that dictate how appointments to the Board of Trustees and Advisory Boards are made and what powers they have. Furthermore, if Classical South Florida, Inc. is controlled by an out-of-state company what assurances do we have that WXEL will have sufficient local decision making? The Department will need to further review this issue and would appreciate any additional comments that you could provide.

We realize that Barry University would like to transfer the radio station as quickly as possible. However, as the administrator of the state's public broadcasting system, the Department of Education has an obligation to ensure that public funds are maintained for public purposes.

The issues addressed above are critical to our overall review of your requested approval. However, we also have some very specific issues concerning the expenses that Barry University attributes to its operation of WXEL. Therefore, even if we could be convinced to approve the proposed transfer in principle, we would also need a clear understanding of the actual unreimbursed funds expended by Barry University to operate WXEL so that we can compare it to the state's investment in WXEL.

For example, the Department is looking for more details concerning the costs incurred by Barry University, as noted in your letters, and supporting documentation. Specifically, we would like copies of the underlying loan documentation and the payment history of the loan. If this documentation demonstrates that the loan has been paid back to Barry University then I do not believe it should be listed as an expense.

In your letter, you also listed over \$1.7 million dollars in expenses, which is the amount Barry University claimed it could have earned if it did not pay expenses of WXEL. The lost investment value of any contributions to WXEL does not appear to us to be a legitimate expense. Barry University wanted to operate WXEL and understood it would incur costs. Moreover, Barry University received value from operating WXEL which should offset this claimed expense. However, the Department is willing to receive any further information that would support treating this item as an expense.

The Honorable Bob Martinez:

July 21, 2010

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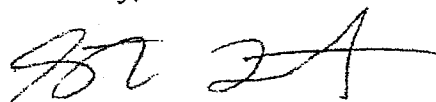
Barry University also lists over \$1.8 million as an "Initial Cash Contribution." The Department would like to see documentation supporting the actual expenditure of such funds. In addition, we would need verification that the contribution was never paid back.

Furthermore, Barry University did not distinguish its expenses between the radio and TV stations. Therefore, it is possible that most of the \$4,050,000 sales price received by Barry University would be profit. The Department would like to see documentation demonstrating the actual unreimbursed expenses of Barry University related to the radio station.

Finally, if Barry University is planning to retain the TV station, then we would like to know where the radio station plans to broadcast. As you know, the current broadcasting station is owned by the State of Florida and we have not charged Barry University any rent. Is it the intent of the purchaser of the radio station to identify alternate broadcasting facilities?

If you have any questions, please do not hesitate to contact me.

Sincerely,



Steven S. Ferst
Deputy General Counsel

The City of Boynton Beach



OFFICE OF THE CITY COMMISSION
Mayor Jose A. Rodriguez
Vice Mayor Marlene Ross
Commissioner William Orlove
Commissioner Steven Holzman
Commissioner Woodrow Hay
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September 8, 2010

Mr. T. Willard Fair, Chairman
State Board of Education
325 W. Gaines Street
Suite 1520
Tallahassee, Florida 32399

Dear Mr. Fair:

In a letter dated June 22, 2010, the City Commission of the City of Boynton Beach, Florida ("City") provided our thoughts and issues regarding the pending sale of WXEL 90.7 FM, a public radio station with offices and a broadcast tower in the City, to Classical South Florida, a subsidiary of American Public Media.

Since that letter was sent, Doug Evans, President of Classical South Florida, addressed the City on August 3, 2010 regarding the organization's plans for the radio station. His presentation left the City with the following comments:

Local programming – Classical South Florida's own website demonstrates the lack of local programming that they currently provide for the community. When Mr. Evans addressed the City, the majority of programs featured on the website were produced by other companies, American Public Media, the station's parent organization, and simulcasts. One program provided local programming a five-minute listing of local events. Area residents enjoy the broad programming that WXEL provides, including locally produced programs on the arts, finance, music and special events. There is concern within the community that local programming will cease at WXEL.

Local board participation – Mr. Evans admitted that four of the nine Classical South Florida trustees live in Minnesota. Community residents have expressed concern that a board not fully based in WXEL's service area will not have the best interest of the local Boynton Beach community. A lack of total participation and involvement from a South Florida-based board could diminish or decimate local programming at WXEL.

Employment for current staffers -- Mr. Evans could not confirm whether or not the current staffing levels will be maintained. Many of the employees of WXEL live in the Boynton Beach community. Any loss of jobs in the area, especially in this economic climate, will have immediate and lasting adverse effects on the City and surrounding community.

With concern in the community over the pending sale, we ask that the Board give serious consideration to the issues being raised. The City is concerned that the pending sale will result in a loss of a local voice heard throughout a five county area of Florida without any comparable replacement. The City is also concerned that WXEL's studios, deeded by the City for the purpose of a "non-profit educational and/or public broadcasting or communications system," may be transformed to a purpose not intended by past and current City leaders.

As leaders of the City, we are compelled to advocate for our residents who are deeply concerned regarding the pending sale of WXEL 90.7 FM. Although the City is not advocating for or against the pending sale, we are compelled to relay the concerns that have been brought to our attention. We trust the Board will give due consideration to these concerns when it considers the request for approval. Please let the City know if there is further information you need regarding this matter.

City of Boynton Beach
By its Mayor



Jose Rodriguez
Mayor