

MINUTES OF THE DECEMBER 8, 2009, GOVERNANCE AND NOMINATING COMMITTEE MEETING

The Governance and Nominating Committee (“the Committee”) of the Board of Regents of the Smithsonian Institution held a meeting on December 8, 2009, beginning at 1:30 p.m. in the Smithsonian Castle in Washington, D.C. Participating were Committee Chair Shirley Ann Jackson* and Committee member Representative Doris Matsui*. Committee member Christopher J. Dodd was unable to participate. In attendance were Secretary G. Wayne Clough, Chief of Staff to the Secretary Patricia Bartlett, Assistant to Representative Matsui Julie Eddy*, Office of the Regents Program Officer Grace Jaeger, Chief of Staff to the Board of Regents John K. Lapiana, General Counsel Judith Leonard, Assistant to Senator Dodd Colin McGinnis*, Director of Government Relations Nell Payne, and Inspector General A. Sprightley Ryan.

The Chair called the meeting to order.

APPROVAL OF MINUTES

The Chair asked for comments on the draft minutes of the July 27, 2009, meeting. There were none and the minutes were approved.

REPORT OF THE CHAIR

GAO Report

As part of the Smithsonian’s fiscal year 2010 Federal appropriation, the Government Accountability Office (GAO) was asked to review the progress of Smithsonian governance reforms by December 31, 2009. GAO completed that review and will present its findings during testimony before the House Appropriations Subcommittee on December 10, 2009. GAO staff allowed the Smithsonian to provide management’s responses to its report before it was made final on December 7, 2009. The prepared testimonies of the GAO, Secretary Clough, and Inspector General Ryan, as well as management’s responses, will be distributed to Committee members.

In general, GAO found that progress was made against all 25 Governance and Nominating Committee recommendations, as well as those offered by GAO in its May 2008 review. GAO also determined that additional attention by the Regents, and the Committee in particular, might be productive in two areas. First, GAO concluded that the selection, use, and evaluation of non-Regents on Regents’ committees would benefit from increased transparency. The GAO report referenced discussions from the July 27, 2009, meeting of the Committee on the development of a bylaw to codify and clarify the role of non-Regent committee members.

The Chair noted that Ms. Leonard and Assistant General Counsel Craig Blackwell provided her with further information on the potential ramifications should the bylaw be enacted, especially with regard to the delegation of the statutory duties of Regents and the

** participated by teleconference*

application of the Regents' ethical and financial disclosure obligations to non-Regent committee members. This issue will be further discussed at the next meeting of the Committee on March 8, 2010. One issue immediately clarified for the GAO was that the charters of the Regents' committees require all committee members, including non-Regent committee members, to file annual financial disclosures.

GAO's second conclusion regarded the need to strengthen "two-way" communications between the advisory boards and the Board of Regents. GAO cited a number of outreach efforts conducted by Board Chair Patricia Stonesifer and former Chair Roger Sant, but noted that such efforts have not been formalized. Specifically, GAO noted in its draft report that there was no guarantee that future chairs would continue the same practice.

Dr. Jackson noted that Ms. Stonesifer and she had discussed this aspect of the report and, as a result of their discussion, advised GAO that during the first quarter of 2010 the Regents would work to codify processes for two-way communications between the Regents and advisory board chairs.

In addition, the Committee will continue to review the best practices of diverse organizations with similar advisory board structures and look for new ways to promote communications and strengthen partnerships with the Smithsonian's advisory boards. Dr. Jackson and Ms. Stonesifer also asked staff to identify and study similar governing board/advisory board relationships and report their findings to the Committee at the March 2010 meeting.

Ms. Payne noted that, unlike most GAO reports, the report on the Smithsonian's governance reforms contained no additional recommendations, which she characterized as remarkable. Dr. Jackson thanked Ms. Payne for serving as principal liaison with the GAO during the review process.

Advisory Board Appointments

Dr. Jackson made note of the biographies of candidates for appointment or reappointment to eight Smithsonian advisory boards, which were provided in the meeting materials. She explained that the appointment of a new trustee to the Hirshhorn Museum and Sculpture Garden board did not require action from the Committee or the Board of Regents because the Hirshhorn board, pursuant to the Museum's founding statute, retains the authority to appoint new trustees. She added that the appointment was included in the meeting materials for informational purposes, as well as in the interest of transparency.

The Committee was reminded that in April 2009 the Regents approved an amendment to the bylaws of the Advisory Council of the National Museum of African American History and Culture to support the increase of the Council's size from 17 to "not more than 35." Accordingly, three candidates were submitted for the Committee's consideration, and the Committee was advised that the Museum anticipated that it would recommend between six and eight additional candidates for consideration at the next Committee meeting.

Ms. Matsui noted that she agreed with the proposed nominations. The following motion was then approved.

VOTED that the Committee recommends that the Board of Regents approves the proposed slate of candidates for appointment or reappointment to eight Smithsonian advisory boards.

Regents' Committee Assignments

Included in the meeting materials were proposed committee rosters for calendar year 2010. Dr. Jackson said she had spoken at length with Board Chair Patricia Stonesifer about the proposed assignments and outlined the suggested changes: Paul Neely will replace Hacker Caldwell on the Advancement Committee, as well as continue to represent the Smithsonian National Board; Phillip Frost will serve as Chair of the Compensation and Human Resources Committee; Robert Kogod, if elected, will replace Roger Sant on the Executive Committee and will step off of the Finance Committee; France Córdova and Roger Sant will join the Governance and Nominating Committee, increasing its membership to five; and France Córdova will join the Strategic Planning and Programs Committee.

In addition, the proposed committee changes addressed the membership and leadership structure of the Investment Committee. Dr. Jackson said that the Investment Committee would be strengthened with the addition of David Rubenstein and the creation of the position of Vice Chair. She explained that the proposed position was suggested in recognition that, although this key committee is ably chaired by David Silfen, a Regent with fiduciary-like responsibility for oversight of the Endowment should share the committee's leadership duties. She added that Roger Sant had agreed to assume this role for 2010.

Ms. Matsui concurred with the proposed committee rosters. The Committee, however, did not consider a motion to approve the proposed committee memberships. Instead, it agreed to engage the full Committee in this action by circulating a mail ballot to all members after the meeting.

ADJOURNMENT

The Chair adjourned the meeting at 1:50 p.m.