

MINUTES OF THE MARCH 31, 2008, 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 March 31, 2008, beginning at 3:00 p.m. in the Smithsonian Castle in Washington, D.C. In attendance were Committee members Robert P. Kogod and Doris Matsui. Committee Chair Shirley Ann Jackson and Committee members Patricia Stonesifer and Diana Aviv participated by teleconference. Also present by invitation of the Committee were Celia Rody of Morgan Lewis & Bockius; Acting Secretary Cristián Samper; Chief of Staff to the Regents John Lapiana; Assistant General Counsel Craig Blackwell; Assistant General Counsel Elaine Johnston; Inspector General Sprightley Ryan; and Assistant to Congresswoman Matsui Alexis Marks. General Counsel John Huerta and Administrative Assistant to the Chief Justice Jeffrey Minear participated by teleconference. Office of Government Relations Director Nell Payne and Senior Program Officer Pherabe Kolb joined the meeting for the discussion of the Government Accountability Office report. Debbie Hechinger and Marla Bobowick from BoardSource participated by teleconference for the discussion of planning for the Board of Regents open meeting.

Dr. Jackson called the meeting to order. The following matters were discussed:

Approval of the Minutes

The Committee approved the minutes of its March 18, 2008, meeting.

Report of the Chair

Dr. Jackson advised the Committee that the Government Accountability Office (GAO) is in the final stages of its review of Smithsonian governance issues. The Chair asked Ms. Payne and Ms. Kolb to report on the status of the GAO review. The report is scheduled to be issued on May 15, 2008. The Smithsonian and Senator Feinstein will receive a draft of the report at the end of April. The Smithsonian will prepare a response to be released at the same time as the GAO report. An exit conference with Smithsonian management is scheduled in April. The purpose of the exit conference is to provide corrections or clarification to the GAO statement of facts. The Committee discussed the possible conclusions of the GAO report and appropriate Smithsonian response. Ms. Payne will suggest a plan for a proactive Smithsonian response, including the possibility of meeting with Senator Feinstein prior to the public release of the report.

Dr. Jackson noted that the Board’s first annual public meeting was being rescheduled to September or November 2008. The Chair advised the Committee that topics for the next scheduled committee meeting on April 14, 2008, will include Regents’ self-assessment and orientation; planning for the public Board meeting; the communications plan being developed by the Office of Public Affairs; the Office of Development fund-raising policy and advisory board study; the indemnification policy; and revised committee assignments.

Discussion of Information Disclosure Policy

Mr. Huerta reported on his meeting with the public interest groups that objected to Smithsonian Directive 807 (“Requests for Smithsonian Institution Records,” or SD 807), the Institution’s current directive on information disclosure. The meeting was productive and the groups were receptive to the Smithsonian issues. The discussions related to preliminary draft revisions to SD 807. The General Counsel has proposed further revisions to the directive that are modeled on Freedom of Information Act (FOIA) policies issued by the Government Accountability Office (GAO) and the Library of Congress. Like the Smithsonian, those agencies are not covered by the Federal FOIA law but have adopted policies on disclosure that follow the spirit of FOIA. The Committee agreed that the revised draft policy was a good approach. It was suggested that the deliberative process exemption be further refined to ensure that Regents’ deliberations are appropriately protected. It was further suggested that the General Counsel apply the proposed revised policy to a pending FOIA request as a case study to test whether the policy will be effective in practice. Dr. Samper noted that SD 807 is a directive issued by the Secretary in accordance with guidance from the Board of Regents. The existing directive will remain operative until a revision is issued. Mr. Minear withdrew from the meeting after the discussion of this agenda item.

Board of Regents’ Public Meeting

The Committee discussed planning for the first annual open meeting of the Board of Regents. The meeting will be scheduled in September or November 2008 to accommodate the Congressional schedule as well as to enable the new Secretary to participate fully in the planning. BoardSource has been engaged to assist the Regents in planning this meeting. Ms. Hechinger and Ms. Bobowick joined the meeting by teleconference to hear the Committee’s views on the purpose and potential format of the open meeting. The Committee agreed that the purpose of the meeting was for the Board to receive input directly from the public about Smithsonian activities, as well as to give the Board an opportunity to convey directly to the public the goals and expectations of the Regents and the Smithsonian.

Several potential formats of the meeting were discussed, ranging from conducting a normal Board meeting open to the public to holding an open forum, or something in-between. The nature of the audience and identification of specific issues that would benefit from interaction between the Board and the public are considerations that should determine the format and content of the meeting. It was suggested that the meeting include status reports from the Secretary about specific issues or strategic plans, with discussion among Regents about the issues raised and feedback from the public. The meeting should be made widely available through webcasting. BoardSource will incorporate the Committee’s views into a proposed plan. Ms. Hechinger and Ms. Bobowick withdrew from the meeting after the discussion of this agenda item.

Indemnification Policy

The Committee deferred until its next meeting discussion of the proposed revisions to the Smithsonian indemnification policy.

Executive Session

The Committee excused all staff except Mr. Lapiana, Ms. Marks, and Ms. Johnston and convened in executive session to discuss nominations for new Regents. Dr. Jackson withdrew from the meeting due to a schedule conflict and requested Mr. Kogod to chair the executive session.

Adjournment

There being no further business, the meeting was adjourned at 5:10 p.m.

Respectfully submitted,

Shirley Ann Jackson, Chair