

# PROCEEDINGS OF THE BOARD OF REGENTS

*June 11, 2007*

## ATTENDANCE

This regularly scheduled meeting of the Board of Regents was held on Monday, June 11, 2007, in the Regents' Room of the Smithsonian Institution Building. The meeting was comprised of a morning session. Executive Committee Chair Roger Sant called the meeting to order at 9:00 a.m. Present during the meeting were:

The Chief Justice	Shirley Ann Jackson	Doris Matsui
Xavier Becerra	Sam Johnson	Roger W. Sant
Anne d'Harnoncourt	Robert P. Kogod	Alan G. Spoon
Phillip Frost	Patrick J. Leahy	Patricia Q. Stonesifer
	Walter E. Massey	

L. Hardwick Caldwell, Chair, Smithsonian National Board

Unable to participate were:

Eli Broad	Thad Cochran
Richard B. Cheney	Chris Dodd

Also present were:

Acting Secretary Cristián Samper  
Special Advisor to the Regents John K. Lapiana  
Assistant to the Chief Justice Jeffrey P. Minear  
Assistant to the Vice President Neil Patel  
Assistant to Senator Cochran T.A. Hawks  
Assistant to Senator Dodd Joe Hepp  
Assistant to Senator Leahy Kevin McDonald  
Assistant to Congressman Becerra Melody Gonzales  
Assistant to Congressman Johnson David Heil  
Assistant to Congresswoman Matsui Alexis Marks  
Governance Committee Member Diana Aviv  
Governance Committee Counsel Celia Roady, Esq., Morgan, Lewis & Bockius  
Independent Review Committee Chair Charles Bowsher  
Independent Review Committee Member Stephen Potts  
Independent Review Committee Member Peter Smith  
Independent Review Committee Counsel Paul Martin Wolff  
Independent Review Committee Counsel James Joseph  
Independent Review Committee Counsel Stephen Sorensen  
Independent Review Committee Consultant Cleve Corlett

Mr. Sant began the meeting by welcoming the members and staff of the Independent Review Committee (IRC). He thanked them for their continuing work and the opportunity to discuss the IRC's preliminary findings and recommendations. Mr. Sant then invited Mr. Bowsher, the Chair of the IRC, to discuss the IRC's efforts to date. Mr. Bowsher noted that the Smithsonian staff was very cooperative and provided materials requested by the IRC in an expeditious manner. He explained the IRC's efforts were focused primarily on the compensation and expenses of the former Secretary as well as overall governance of the Institution by the Board of Regents. The IRC's work, Mr. Bowsher stressed, was not to conduct a detailed management review. All members of the IRC agreed that they took on this engagement due to their deep affection for the Smithsonian.

Mr. Bowsher noted that the former Secretary's compensation would be a major issue in the IRC's forthcoming final report and that the full Board of Regents should have been more involved in setting his pay. Mr. Bowsher said that the Board appeared to be unaware of many aspects of the former Secretary's compensation package, including the housing allowance, and added that every Regents must know what compensation the Board approves for its chief executive. Determination of compensation for future Secretaries should account for the honor and privilege of serving in that position.

Similarly, the IRC concluded that the Smithsonian senior Trust compensation structure should be harmonized with the Federal compensation system. This action would reflect that many Trust positions are functionally similar to those in the Federal sector and should be paid accordingly. Any deviations from the Federal system should be well-documented and reasoned. In the end, Mr. Bowsher said, all senior compensation decisions must be open and transparent.

Mr. Potts then addressed issues related to the governance of the Smithsonian by the Board of Regents. All three committee members agreed that the Smithsonian possesses a deeply ethical culture and that any existing problems are primarily the result of actions by the top leadership in the Castle. Mr. Bowsher noted the former Secretary marginalized the Office of the General Counsel and the Office of the Inspector General. He noted that much information that should have been considered by the Board was never brought to the attention of the Regents due to a

tight information flow managed by the Office of the Secretary. He stressed that the Smithsonian's governance problems were "very fixable" and that the "gatekeepers" — the General Counsel, the Inspector General, and the Chief Financial Officer — would need much better access to the Board. Following these general comments by Messrs. Bowsher, Potts and Smith, the IRC solicited comments from the Board.

Many Regents raised various options regarding the composition, size, and structure of the Board and requested clarification on certain recommendations proposed by the IRC. Dr. Jackson asked whether the governance problems addressed by the Board were caused by flaws in the Board's structure or a failure to follow existing policies and processes. To clarify certain characterizations that may appear in the IRC's final report, Dr. Massey provided Mr. Bowsher with a memorandum clarifying the role of the Institution's outside consultants in the senior compensation process.

At 10:45 a.m., the first portion of the morning session ended by Mr. Sant expressing the Board's "immense gratitude" to the IRC for its service to the Institution.

At 11:00 a.m. all of the above-referenced Regents reconvened, along with Acting Secretary Cristián Samper, Special Advisor to the Regents John Lapiana, and General Counsel John Huerta. Diana Aviv, L. Hardwick Caldwell, and Celia Roady also remained for this portion of the meeting.

Mr. Sant called the meeting back to order to take up the Report of the Governance Committee ("the Committee"). Mr. Sant noted that, in the event that the Board was unable to finish the entire agenda on this date, the meeting would resume with a telephone conference call on Monday, June 18, 2007, at 8:00 a.m. He then turned the meeting over to Ms. Stonesifer, the chair of the Governance Committee.

Ms. Stonesifer started the meeting by noting that the conclusions being presented to the Regents are the result of a constructive partnership between members of the Committee and Smithsonian staff, all of whom she named. She also stated that the Committee commenced its review process

by looking at established “best practices” in the non-profit sector. The Committee anticipates that the Institution will strive to be with the best in governance practices through the process of comparing the Smithsonian’s governance practices to the best practices of top non-profits.

Ms. Stonesifer led the Regents through a thorough discussion of the Report of the Governance Committee. She highlighted Section I, the Principles, which guided the new approach the Regents would use to governing the Institution in a more accountable and transparent mode. She noted the importance — and difficulty — of changing the Board of Regents’ Charter, adding that it warranted working with outstanding consultants on board governance to make certain that the Regents “get it right.”

When reviewing other recommendations offered by the Committee, Ms. Stonesifer discussed the proposal to incorporate the Committee of the Whole meetings into the formal Regents’ business meetings. Ms. Stonesifer also noted the Governance Committee’s recommendation to split, via an amendment to the Regents’ Bylaws, the formal role of the Chancellor and the role of the Chair of the Board, at which time the Chancellor, the Honorable Chief Justice John Roberts, arrived. If approved by the Regents and effected through an amendment to the Board’s Bylaws, the Chair of the Regents’ Executive Committee would now also be the Chair of the Board of Regents. This recommendation is intended to recognize both the tremendous contributions of the Chief Justice to the proceedings of the Board of Regents and the *de facto* role that the Chair of the Executive Committee has held when presiding over the Committee of the Whole meetings when the Chancellor could not be present.

Under Ms. Stonesifer’s guidance, the Regents continued to discuss the Governance Committee’s recommendations. Even though the Independent Review Committee had used more of an investigative approach in its review, such as interviewing stakeholders, it was agreed that only minor divergences existed between the two committees’ recommendations.

The Regents then discussed in greater detail the critical role of the Smithsonian’s “gatekeepers” — the Inspector General, the Chief Financial Officer, and the General Counsel — in the effective governance of the Institution. The Board agreed that these important officers must have

adequate resources, as well as ready access to the Board in order to effectively carry out their responsibilities. The Regents made it clear that they want the Inspector General to know that she has access to all of the Regents whenever she believes that she needs to communicate with them, either as a group or individually.

The Regents carefully reviewed the rest of the Committee's recommendations and made minor suggestions for modifications. Ms. Stonesifer stated that the Committee would meet on Wednesday, June 13, 2007, to incorporate the Regents' suggestions into a final report, which would be offered for the Regents' adoption on Monday, July 18, 2007. The open session of the Regents' meeting concluded at 12:30 p.m., after which the Regents went into executive session.

RESPECTFULLY SUBMITTED,

A handwritten signature in cursive script that reads "Cristián Samper K." The signature is written in dark ink and is positioned above the printed name.

CRISTIÁN SAMPER  
ACTING SECRETARY