

LEGAL SERVICES CORPORATION

SUNSHINE ACT MEETING OF THE BOARD OF DIRECTORS

Monday, November 29, 1999

11:00 a.m.

Legal Services Corporation  
750 First Street, N.E.  
Washington, D.C.

BOARD MEMBERS PRESENT:

Douglas S. Eakeley, Chair  
LaVeeda Battle  
John N. Erlenborn  
Hulett A. Askew  
Edna Fairbanks-Williams  
F. William McCalpin  
Nancy Hardin Rogers  
Thomas F. Smegal, Jr.  
Ernestine Watlington  
John Broderick, Jr.

STAFF AND PUBLIC PRESENT:

John McKay, President  
Danilo Cardona, VP for Programs  
Victor Fortuno, VP for Legal Affairs, General Counsel,  
& Corporate Secretary  
John Hartingh  
James J. Hogan, VP for Administration  
Susan McAndrew, Senior Assistant General Counsel  
David Richardson, Comptroller/Treasurer  
Mauricio Vivero, VP for Government Relations & Public  
Affairs  
Burt Thomas, Program Counsel

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## 1 P R O C E E D I N G S

2 CHAIR EAKELEY: Well, we have a quorum. I'm going  
3 to call the meeting to order and we'll note the presence on  
4 the record of the other members of management mentioned by  
5 Victor.

6 We have two items on the agenda for today. The  
7 first is approval of the Board's response to the Inspector  
8 General's Semiannual Report to the Congress; and, secondly, a  
9 request for emergency funding by Legal Services of North  
10 Carolina and a management recommendation that was circulated  
11 under cover of a memo from Elizabeth Soto-Seelig dated  
12 November 24, 1999.

13 Are there any other items for the agenda?

14 MR. FORTUNO: Doug?

15 CHAIR EAKELEY: Yes.

16 MR. FORTUNO: I believe there are actually three  
17 items on the agenda. Do you have a copy of the meeting  
18 notice?

19 CHAIR EAKELEY: I do not have a copy of a notice of  
20 meeting.

21 MR. FORTUNO: And the notational vote should also

1 set out the three items. The first is the SAR, consider an  
2 act on the draft SAR.

3 The second is consider and act on the proposal to  
4 move some money from Grant Recoveries to allow for funding of  
5 the emergency grant to Legal Services of North Carolina.

6 The third item is consider and act on staff request  
7 to revise the Corporation's FY 2000 COB to add to the U.S.  
8 Court of Veterans Appeals line an additional \$15,000 received  
9 from the U.S. Court of Veterans Appeals. That is not going  
10 to require a whole lot, but it is a separate and distinct  
11 agenda item.

12 CHAIR EAKELEY: All right. Let's start with Agenda  
13 1, then.

14 Does everyone have the 11/1999 draft response or  
15 the Board of Directors' Semiannual Report?

16 I will accept as silence as tacit acquiescence.

17 I have three proposed changes to make and then  
18 we'll have to talk the process, but let me just put those on  
19 the table and then solicit your views on the rest of the  
20 document.

21 First, I thought that the message of the Board of

1 Directors ought to be reconstituted so that it fairly  
2 presents what was of significance during this reporting  
3 period, including our response to the CSR issue, but not  
4 presenting it as the dominant issue throughout the reporting  
5 period.

6 This was, after all, the year we celebrated our  
7 25th Anniversary, a number of major new steps were taken in  
8 the areas of state planning and competition and technology,  
9 as well as in compliance. I think that this gives us an  
10 opportunity to briefly present those highlights as well as  
11 address the CSR issue in a slightly different fashion.

12 My proposal would be to ask management to --  
13 assuming people are in agreement -- to re-present those three  
14 paragraphs of a message in a way that gives us more of an  
15 effective communication with the Congress.

16 MS. FAIRBANKS-WILLIAMS: We need to blow our own  
17 horn whenever we can. I definitely agree with that.

18 CHAIR EAKELEY: The other two things I thought we  
19 needed to do, first, was to correct the record with respect  
20 to the access issue as it concerns the Legal Aid Bureau of  
21 Maryland. We're on page 2 of the Inspector General's report.

1 He says that the Legal Bureau of Maryland denied the OIG  
2 auditors access to needed information.

3 My understanding is and we do address that a bit on  
4 page 9 of our "Discussion on Program Integrity." We don't  
5 really address the access issue as presented by the OIG.  
6 What I'd like to say in there is something that says that the  
7 issue of access was referred to management. Management has  
8 discussed or is in the process of negotiating a protocol that  
9 will provide access while protecting necessary client  
10 confidentiality and a trend-like indication. Words to that  
11 effect.

12 MR. McCALPIN: Doug, let me say something in that  
13 respect. There is a paragraph on page 5 of the draft which  
14 we got at the meeting. Then on the second page of the Acts  
15 from Sue McAndrew on the 24th, there is a modification to  
16 that.

17 I must say that in my discussions at the time of  
18 the meeting both with members of the staff and with Wilhelm  
19 Joseph, I had the distinct impression that there was, in  
20 fact, agreement on the protocol to be utilized by Legal  
21 Services of Maryland.

1           The effect of the paragraph on page 5 plus the  
2 amendment that we got last week backs away from that. My  
3 clear understanding in talking with both the staff and with  
4 Wilhelm Joseph was that there was an agreement on the  
5 protocol.

6           CHAIR EAKELEY: John or Danilo, do you want to just  
7 step in on this one?

8           MR. CARDONA: Yes. I have here Burt Thomas who was  
9 the one who which William Sulick of the Office of Compliance  
10 and Enforcement went and dealt with Wilhelm Joseph and his  
11 staff with regard to access of documents in there.

12           We agreed on the methodology that was proposed by  
13 and was agreed by the Maryland Legal Aid Bureau and LSC. We  
14 had a one-day run of that test of that methodology. We  
15 agreed on it. The only thing that we need to do is go back  
16 and do a full review of the program.

17           However, we caution that that methodology is going  
18 to be resource intensive both in staff time and, you know, in  
19 the number of staff and the time that we need to be present  
20 at the program.

21           MS. FAIRBANKS-WILLIAMS: But Wilhelm agreed to

1 that?

2 MR. McCALPIN: There was agreement --

3 MR. FORTUNO: If I may interrupt for a moment?

4 This is Vic and I think to assist the reporter here, if you  
5 could identify yourselves as you speak, he would be able to  
6 make sure that the record correctly reflects who's speaking.

7 CHAIR EAKELEY: This is Doug Eakeley. I don't have  
8 a November 24 fax correction to page 5 of the report.

9 MR. McCALPIN: I have it.

10 CHAIR EAKELEY: Does anybody else?

11 MR. McCALPIN: Pardon? it's from Elizabeth Soto --  
12 no. I'm sorry. It's from Sue McAndrew for all Board Members  
13 dated November 24 and it's about four pages.

14 MR. SMEGAL: I don't have it, either.

15 CHAIR EAKELEY: This is Doug Eakeley.

16 MR. BRODERICK: This is John Broderick. I don't  
17 have it.

18 MS. BATTLE: This is LaVeeda Battle. I'm just  
19 joining you.

20 CHAIR EAKELEY: Hi, LaVeeda.

21 Well, let me say again I think the point is that I



1 guess we don't have the text to look at. The point is to be  
2 a little bit more affirmative in what we believe to have been  
3 developed procedures for providing access while recognizing  
4 that there is still another time-intensive site visit that  
5 needs to take place.

6 MS. FAIRBANKS-WILLIAMS: Edna here. I think we  
7 should give Wilhelm the courtesy of saying that he has agreed  
8 and that negotiations are under way and all this happy blah-  
9 blah.

10 CHAIR EAKELEY: Well, yes. Edna, this is Doug  
11 again. I think that that was purposely the intention of the  
12 text at page 5 of the November 19th draft, but I thought we  
13 could go a little bit further without compromising anyone.

14 MR. MCKAY: This is John McKay. I think --

15 CHAIR EAKELEY: Let me just move on for a second  
16 because I think that we may just need to get some textual  
17 revisions to tighten this a little bit and clarify it.

18 The third area on the draft that I thought should  
19 be addressed was in response to the section on Legislative  
20 and Regulatory Review which is page 9 of the Inspector  
21 General's SAR.

1           There are two ways that I thought that this should  
2 be addressed. First, I take issue with the statements that  
3 access to confidential and attorney-client privileged  
4 materials -- that without access to such material it is  
5 impossible to insure the grantees comply with statutory and  
6 regulatory restrictions.

7           I think we've lived with recognition of principles  
8 of confidentiality and privilege for 25 years. There are  
9 issues that caused OIG and management to go to the Congress  
10 on this issue, but we have agreed to take them up at the  
11 Board level. That's the second notion I'd like to suggest be  
12 incorporated into our draft response, which is that the Board  
13 has a description of the Board resolution, the reasons for it  
14 and what the Board intends to do to deal with competing  
15 claims of access, our need for access as well as the need for  
16 protection.

17           MR. McCALPIN: Doug, where in the report would you  
18 put that?

19           CHAIR EAKELEY: I thought we needed to put it in  
20 there somewhere. I think we may want -- I don't know. It  
21 may be a separate heading on legislative review or statutory

1 recommendation or access, but I think that it needs to be --  
2 I think we need to find a way to work it in.

3 MR. McCALPIN: I agree.

4 MR. BRODERICK: I share your views.

5 CHAIR EAKELEY: Sounds like a consensus.

6 MS. FAIRBANKS-WILLIAMS: Yes.

7 CHAIR EAKELEY: This is Doug Eakeley again. If, in  
8 fact, people are in general agreement with these three  
9 editorial modifications to the report, we'll need to find a  
10 process to make sure that those are incorporated in a way  
11 that gets this to the Congress in time; but, meanwhile let me  
12 open it up more generally and ask whether anyone else has any  
13 other suggestions or comments or questions.

14 MR. McCALPIN: I have one more and, unfortunately,  
15 it relates to that document which I seem to have and nobody  
16 else does, but it seems to me that on what was page 8 of our  
17 draft under the FY 2000 appropriations there is a short  
18 second paragraph which in the document of November 24th was  
19 amended -- let me just read a small part of it.

20 "After the end of the reporting period and after  
21 passing six continuing resolutions and the Congress so

1 approved," I thought that the reference to the six continuing  
2 resolutions was kind of a gratuitous challenge or insult to  
3 the Congress and I didn't think we needed to say it.

4 CHAIR EAKELEY: I'll second that motion.

5 MR. ERLENBORN: Shouldn't we rather than talk about  
6 at the end of the fiscal year, there may be a time frame that  
7 would constrain us from doing this, but shouldn't we say  
8 that, "Now the appropriation has been finally approved."  
9 This just apparently ends with the continuing resolutions of  
10 the past to keep the government running.

11 MR. VIVERO: Yes. It would now read, "After the  
12 end of the reporting period, the Congress approved and sent  
13 to the President a 305 million dollar appropriation for LSC.  
14 The Congress added \$5 million to last year's funding level  
15 to be used specifically for client self-help and information  
16 technology grants to LSC recipients.

17 MR. ERLENBORN: Bill, did you have that?

18 MR. McCALPIN: Yes. "After the end of the  
19 reporting period," yes. I didn't read everything that I  
20 have, but I have the full amendment in front of me, yes.

21 MR. ERLENBORN: I do now also. And I think that

1 takes care of the issue I raised.

2 CHAIR EAKELEY: Doug Eakeley again. Are there any  
3 other questions, suggestions, modifications to propose?

4 M O T I O N

5 MR. ERLNBORN: If we don't have any other proposed  
6 changes, let me propose that we have the staff compose the  
7 language to comply with the agreement that we've reached here  
8 among the Board members and give the authority to our  
9 Chairman, Doug Eakeley, to give final approval before the  
10 response to the SAR is sent to the Congress.

11 MR. McCALPIN: Second.

12 MR. ERLNBORN: I'll put that in the form of a  
13 motion.

14 MR. McCALPIN: Sorry, I thought it was. I'll  
15 second.

16 CHAIR EAKELEY: Is there any discussion?

17 Let me just point out, the thing is due tomorrow  
18 and, unfortunately, we got jammed because of the Thanksgiving  
19 Holiday last week. I apologize to everybody for that. I  
20 don't apologize for Thanksgiving. I apologize for being a  
21 bit jammed here.

1 Any further discussion?

2 (No response.)

3 MR. McCALPIN: Would you be able to do it, Doug?

4 CHAIR EAKELEY: I will be back here by 3:00 this  
5 afternoon. I've got a conference call, but I'll be in my  
6 office physically and able to turn this around and approve  
7 it; but, certainly, it negotiates any further language in  
8 this before -- well, before the end of the evening,  
9 certainly.

10 All those in favor of authorizing the Board Chair  
11 to approve the final editorial contents of the Board's  
12 Semiannual Report to the Congress along the lines that we've  
13 discussed?

14 (A chorus of ayes.)

15 CHAIR EAKELEY: All those opposed.

16 (No response.)

17 CHAIR EAKELEY: Any abstentions?

18 (No response.)

19 CHAIR EAKELEY: The ayes have it. The motion  
20 carries. The Semiannual Report to the Congress is approved  
21 as indicated and subject to final editorial approval by the

1 Board Chair.

2 Let me turn, if I may then to Item No. 2, which is  
3 the request for emergency assistance from Legal Services of  
4 North Carolina.

5 CHAIR EAKELEY: We have or you should have attached  
6 to Elizabeth Soto-Seelig's memo fax of November 24 a memo  
7 from J. Brown to Danilo Cardona and approved by John McKay,  
8 recommending that in response to a request for emergency  
9 funding of \$317,250 that LSC provide funding in the amount of  
10 \$51,500 to LSNC.

11 Let me just start off by asking whether anyone has  
12 any questions or comments on that recommendation which is  
13 circumscribed by, in part -- in large part by the \$70,000  
14 budget balance that we have carried over. I guess even more  
15 relevant now is the fact that another \$15,000 of that 70 is  
16 being requested to be allocated to the Court of Veterans  
17 Appeals which is Agenda Item No. 3.

18 M O T I O N

19 MS. FAIRBANKS-WILLIAMS: It seemed to me like it  
20 was a very well thought out recommendation and salary and  
21 fringe benefits that they figured out, made sense to me. So

1 I would vote that we agree with the \$51,500.

2 CHAIR EAKELEY: Edna, do you want to convert that  
3 into a motion to approve the management recommendation?

4 MS. FAIRBANKS-WILLIAMS: Yes, please.

5 CHAIR EAKELEY: Is there a second?

6 MS. BATTLE: I'll second it. This is LaVeeda  
7 Battle.

8 CHAIR EAKELEY: Thank you, LaVeeda.

9 Any further discussion?

10 (No response.)

11 CHAIR EAKELEY: Hearing none, all those in favor of

12 --

13 MR. RICHARDSON: Doug?

14 CHAIR EAKELEY: Yeah.

15 MR. RICHARDSON: Doug, this is Dave Richardson.

16 There are two items separate here. One is that we do have  
17 grant recoveries for the \$71,761 of which only approximately  
18 \$51,000 is to go to North Carolina. The reason that that  
19 additional money was placed there was just so that if there  
20 was any other emergencies we could respond to it. The 15,000  
21 that is for the U.S. Court of Veterans Appeals is just



1 additional money that the Court made available to us.

2 CHAIR EAKELEY: All right. Thank you, David.

3 That's a helpful clarification; and, therefore, I misspoke.

4 Although, on the other hand, the logic to the recommendation  
5 remains obviously described.

6 Any further comments, questions, discussion?

7 (No response.)

8 CHAIR EAKELEY: Hearing none, all those in favor of  
9 the motion, say, "aye."

10 (A chorus of ayes.)

11 CHAIR EAKELEY: Any opposed?

12 (No response.)

13 CHAIR EAKELEY: Any abstained?

14 (No response.)

15 CHAIR EAKELEY: The ayes have it; the motion  
16 carries.

17 That brings us to Item No. 3. Before I speak  
18 further on that, could someone explain what the proposal is  
19 on Agenda Item No. 3 to transfer \$15,000 in order to adjust  
20 the current operating budget?

21 MR. RICHARDSON: This is David Richardson, again.

1 During the year, the U.S. Court of Veterans Appeals made  
2 available to us \$850,000 for the processing of grants.

3 Later in the year they provided an additional  
4 \$15,000 for the management of the grant. We have not yet  
5 spent the money; but, since they have made it available and  
6 have actually transferred it to us to clean up their year-end  
7 books, we needed to include it in ours. This motion is just  
8 to simply move the money into the budget and it will actually  
9 be a part of the carry-over for the U.S. Court of Veterans  
10 Appeals funds.

11 CHAIR EAKELEY: All right. Thank you, David.

12 Would someone care to put that recommendation into  
13 the form of a motion?

14 M O T I O N

15 MS. FAIRBANKS-WILLIAMS: Doug, Edna. He sounded  
16 good.

17 MS. WATLINGTON: Second it.

18 CHAIR EAKELEY: Is there any further discussion?

19 (No response.)

20 CHAIR EAKELEY: Hearing none, all those in favor of  
21 the motion say "aye."

1 (A chorus of ayes.)

2 CHAIR EAKELEY: All those opposed.

3 (No response.)

4 CHAIR EAKELEY: Abstained?

5 (No response.)

6 CHAIR EAKELEY: The ayes have it; the motion  
7 carries. This ends the official business of the Board.

8 MR. FORTUNO: Doug, if I may? This is Vic. I've got  
9 one last point I think we probably ought to put on the  
10 record. If I've got your permission, I'll go ahead and do  
11 that.

12 It's just concerning the less than seven days'  
13 notice and satisfying the technical requirements.

14 CHAIR EAKELEY: Yes, please, Victor.

15 MR. FORTUNO: The Government and Sunshine Act  
16 requires that announcements of meetings be posted at least  
17 seven calendar days before the meeting unless a majority of  
18 the directors determine via recorded vote. The Corporation  
19 business requires a meeting on fewer than seven days.  
20 Because of the SAR and the need to have this finalized and up  
21 to the Congress in the next day or so, this meeting had to be

1 held on less than seven days.

2 A notational vote was sent out on the 23rd of  
3 November to the solicitation for a notational vote to the  
4 Board and we got back all eleven directors voting, "Yes, the  
5 Corporation business required and approving holding of a  
6 meeting on less than seven days." So we satisfied that  
7 requirement.

8 CHAIR EAKELEY: Do you need a motion?

9 MR. FORTUNO: No. That was just informational and  
10 for the record.

11 CHAIR EAKELEY: Is there any further business?

12 MS. FAIRBANKS-WILLIAMS: You were talking about  
13 something in December, Doug, when you were talking to me.  
14 Was that to be a telephone or a what

15 CHAIR EAKELEY: Actually, Edna, while people were  
16 getting on, I was talking with John Broderick's ad hoc  
17 committee to talk to them about the possibility of a  
18 conference call on their committee report. But that was just  
19 for John and Ernestine and Tom Smegal; although, depending  
20 upon members, it was just going to be the three of us, the  
21 four of us.

1           MS. FAIRBANKS-WILLIAMS: Okay. I guess we're  
2 organized.

3           CHAIR EAKELEY: We're presenting a semblance of  
4 organization. I'm not sure that I would ever want to claim  
5 that we're organized.

6           MS. FAIRBANKS-WILLIAMS: Oh, okay.

7           CHAIR EAKELEY: Any further business?

8           (No response.)

9           CHAIR EAKELEY: If none, is there a motion to  
10 adjourn?

11                                   M O T I O N

12           MS. WATLINGTON: I so move.

13           MS. FAIRBANKS-WILLIAMS: Second.

14           CHAIR EAKELEY: That was Ernestine followed by  
15 Edna.

16           All those in favor?

17           (A chorus of ayes.)

18           CHAIR EAKELEY: We stand adjourned. Thank you very  
19 much for taking time out of an undoubtedly business first  
20 Monday back from the holidays. We will be in touch in a  
21 little while.

1                   (Whereupon, at 11:35 a.m., the meeting was  
2 adjourned.)

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