



*Preserving America's Heritage*

**MINUTES**

**FALL BUSINESS MEETING**

**ADVISORY COUNCIL ON HISTORIC PRESERVATION**

**NOVEMBER 4, 2015**

**WASHINGTON, D.C.**

ADVISORY COUNCIL ON HISTORIC PRESERVATION

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**MEETING**  
**ADVISORY COUNCIL ON HISTORIC PRESERVATION**  
**Russell Senate Office Building, Kennedy Caucus Room**  
**Washington, D.C.**  
**November 4, 2015**

**PROVISIONAL AGENDA**

**Call to Order 9 a.m.**

- I. Chairman's Welcome
- II. Historic Preservation Policy and Programs
  - A. Building a More Inclusive Preservation Program
    - 1. American Latino Heritage Initiative
    - 2. ACHP Youth Initiatives
  - B. Preservation50 and the ACHP Public Policy Initiative
  - C. Policy Statement for Resilient Communities
  - D. White House Council on Climate Preparedness and Resilience
  - E. Historic Preservation Legislation in the 114th Congress
    - 1. Veterans Administration Enhanced Use Leasing
    - 2. National Park Service Centennial
    - 3. Surface Transportation Legislation
- III. Section 106 Issues
  - A. Section 3 Report Recommendations Implementation
  - B. Federal Agency Support for SHPOs and THPOs
- IV. ACHP Native American Affairs Committee Activities
- V. New Business
- VI. Adjourn

**IN ATTENDANCE**

**Milford Wayne Donaldson**, Chairman  
**Teresa Leger de Fernandez**, Vice Chairman  
**Terry Guen**  
**Dorothy Lippert**  
**Lynne Sebastian**  
**Brad White**

Architect of the Capitol

Secretary of Agriculture

**Stephen Ayers**

Represented by:

**Arthur Blazer**  
Deputy Under Secretary  
for Natural Resources  
and Environment

Secretary of Defense

Represented by:

**Maureen Sullivan**  
Deputy Assistant  
Secretary of Defense  
(Environment, Safety &  
Occupational Health)

Secretary of Education

Represented by:

**Ursula Wright**  
Associate Assistant  
Deputy Secretary for  
Special Projects

Secretary of Homeland Security

Represented by:

**Jeffery Orner**  
Management  
Directorate Chief  
Readiness Support  
Officer

Secretary of Housing and Urban Development

Represented by:

**Marion McFadden**  
Deputy Assistant  
Secretary for  
Community Planning  
and Development

Secretary of the Interior

Represented by:

**Michael Bean**  
Principal Deputy  
Assistant Secretary for  
Fish, Wildlife, and  
Parks

Secretary of Transportation

Represented by:

**John Drake**  
Deputy Assistant  
Secretary for  
Transportation Policy

Secretary of Veterans Affairs

Represented by:

**Stella Fiotes**  
Executive Director,  
Office of Construction  
and Facilities  
Management

President, National Conference of State Historic  
Preservation Officers

**Elizabeth Hughes**  
Maryland SHPO  
**Erik Hein**  
NCSHPO Executive Director

Native American Member

**Leonard Forsman**  
Chairman, Suquamish Tribe

Chairman, National Trust for Historic Preservation

Represented by:  
**Elizabeth Merritt**  
Deputy General  
Counsel

### **OBSERVERS**

Chair, National Alliance of Preservation Commissions

Represented by:  
**Paige Pollard**  
Executive Director

General Chairman, National Association of Tribal Historic  
Preservation Officers

Represented by:  
**Greig Arnold**  
Vice Chairman, Makah  
Tribal Council

President, ACHP Alumni Foundation

**Katherine Slick**  
Historic Preservation Consultant

In attendance and participating in the meeting were ACHP Executive Director John M. Fowler; Susan Glimcher, director of the Office of Communications, Education, and Outreach; Charlene Vaughn, assistant director, Office of Federal Agency Programs.

### **PROCEEDINGS**

#### **Chairman's Welcome**

Advisory Council on Historic Preservation (ACHP) Chairman Milford Wayne Donaldson opened the fall business meeting at 9:05 a.m. He asked Vice Chairman Teresa Leger de Fernandez to lead the group in the Pledge of Allegiance. The Department of Defense (DoD) had the proxy for the General Services Administration (GSA). The agenda was adopted. Chairman Donaldson welcomed new members Ursula Wright, John Drake, and Greig Arnold. Chairman Donaldson appointed Shayla Shrieves recorder for the meeting and asked members to introduce themselves.

Chairman Donaldson welcomed Russ Carnahan to the table. He is now the president of Preservation Action and had previously served in the U.S. House of Representatives and as co-chair of the Congressional Historic Preservation Caucus. Mr. Carnahan discussed the importance of advocacy in public policy and reminded members to tell the story of historic preservation during the anniversary year.

Stephen Ayers provided a brief history of the Kennedy Caucus room and gave an update on the Capitol dome's restoration. Chairman Donaldson congratulated Elizabeth Hughes on being named Maryland State Historic Preservation Officer (SHPO).

Chairman Donaldson said November is Native American Heritage Month so the ACHP arranged a special visit to the National Museum of the American Indian (NMAI). Suzanne Shown Harjo, principal curator of the NMAI exhibit, "Nation-to-Nation: Treaties between the United States and American Indian Nations" gave the tour. Also, he noted that the White House Tribal Nations Conference begins today. As a member

of the White House Council on Native American Affairs, the ACHP has been helping to plan and organize the conference and will participate in the Environment, Natural and Cultural Resources breakout session on Thursday. On Friday, Leonard Forsman, Butch Blazer, and Dorothy Lippert will host the annual ACHP Tribal Leaders meeting at the National Building Museum. The topic of discussion is a national tribal historic preservation strategy.

Chairman Donaldson mentioned the retirement of Bruce Milhans after 13 years with the ACHP. He said Mr. Milhans' work has always been first rate, and he will be missed. Mr. Milhans said it has been a privilege and an honor to work with the members of the ACHP. John Fowler mentioned new hires MaryAnn Naber as the Federal Highway Administration (FHWA) liaison and Ira Matt as the Natural Resources Conservation Service (NRCS) liaison. Mr. Fowler thanked the NRCS for continuing to grow the partnership with the ACHP.

The July meeting minutes were unanimously adopted with a motion by Lynne Sebastian and second from Brad White. Ms. Wright abstained. The chairman mentioned the latest Section 106 Success Stories and urged members to send in nominations for more stories.

### **Award Presentation**

Gerald Solomon and Marlys Osterhues of the FHWA presented Chairman Donaldson with an award to the ACHP for environmental excellence. Ms. Osterhues said the award is for excellence in programmatic agreements that brought quantitative streamlining benefits to the agencies involved, specifically in California. Chairman Donaldson said he appreciated the award and that the California SHPO was the only one to take on this project.

### **Building a More Inclusive Preservation Program**

Chairman Donaldson outlined the goal of building a more inclusive preservation program and the desire to make the work of the ACHP and its partners more relevant to the changing population of the United States and to broaden the engagement of all Americans in telling their story. He mentioned that, at the July business meeting, the membership adopted recommendations for follow-up actions for ACHP.

Vice Chairman Leger de Fernandez worked with Susan Glimcher and Ron Anzalone to develop an approach to engaging the Latino and Hispanic communities. Chairman Donaldson joined Vice Chairman Leger de Fernandez, Bob Stanton, Mr. Blazer, and Kak Slick for a listening session in Santa Fe, New Mexico, in October. Vice Chairman Leger de Fernandez said the meeting in Santa Fe was exciting and engaging. Attendees included professional preservationists as well as people who never considered themselves preservationists but work in continuing the centuries-old cultural traditions of New Mexico.

She reported that a number of relevant issues surfaced about how the ACHP's work can promote the inclusion of the Latino and Hispanic communities to tell their stories. The issue of National Register criteria along with the potential difficulties of having something listed in the National Register frequently came up. Also the issue of language was a big point—word choices like the word “preservation” and what that may mean to members of the public when talking about retaining a community's culture. Vice Chairman Leger de Fernandez and staff will analyze these different themes and build them into what the ACHP will do with regard to the next 50 years. She suggested a second listening session in a more urban area and having federal agencies at the table to listen to this.

Mr. Blazer said he started discussions regarding follow-up from the meeting to improve the dialog and operations between national forest staff and those who use the resources of the national forests. Ms. Slick

said the listening session brought awareness about engagement in conserving heritage.

### **ACHP Youth Initiatives**

Mr. Fowler introduced Michael Tomlin who was in the audience with several graduate students from Cornell University's historic preservation program.

Chairman Donaldson noted Mr. Stanton was at the National Trust meeting's panel on diversity, so he called on Ms. Glimcher to report on the Communications, Education, and Outreach (CEO) Committee's activities from the previous day.

Ms. Glimcher said Office of Communications, Education, and Outreach (OCEO) staff put together a draft strategic plan on youth engagement in historic preservation for the ACHP. One of the goals is encouraging young people to consider careers in historic preservation; another encourages ACHP members to promote mentoring networks for students participating in their own educational and volunteer programs. The committee also discussed more than 20 conferences that have been recommended for the ACHP to attend in 2016. Many of these will offer opportunities to promote the 50th anniversary of the National Historic Preservation Act (NHPA) and use it as a platform to raise awareness about ACHP work and youth programs. She said Mr. Stanton suggested members serve as brand ambassadors for historic preservation.

Chairman Forsman said the ACHP has been involved with the President's Generation I initiative to include tribal youth in historic preservation. The ACHP has had great success this year with a roundtable at Suquamish, a field visit to an archaeological site at Mohegan, and sessions at the White House Tribal Youth Gathering. Following these, the Native American Affairs (NAA) Committee directed the staff to develop a plan to ensure the sustainability of a Native youth program at the ACHP. The staff developed a plan which the committee discussed and unanimously endorsed in the meeting. The primary goals are to introduce Native youth to historic preservation and encourage them to consider preservation as a career choice. This includes reaching out to tribal colleges and also introducing curriculum into schools to teach more about the importance of preservation in their communities.

Ms. Wright said in the CEO Committee she mentioned some non-traditional conferences to engage youth, including youth of color. She talked about participating in conferences of the National Urban League, National Council of La Raza, expanding the net a bit, introducing new audiences to the opportunities to engage youth in this space. Another audience is churches and associations that work with churches across the country. Churches are sometimes the greatest legacy that groups have in this country, she said. Early college and career academies were also discussed, as well as trades.

Terry Guen said the focus of preservation 50 years after the NHPA can be different like dance, stories, cultural heritages instead of just buildings. She said a common platform is needed for all the agencies' activities in historic preservation. Dr. Lippert said Native American cultural heritage is unique in the challenges facing Native youth. Preserving cultural heritage can be vital in just helping people survive, because the culture is what has helped Native people survive more than 500 years. Vice Chairman Leger de Fernandez said engaging businesses in hiring youth as docents and reaching out to chambers of commerce will be included in the recommendations.

Mr. Fowler mentioned Mr. Stanton's priority is meeting the challenge in diversifying the preservation workforce. The ACHP should encourage people from all communities to get engaged in preservation as a profession. He asked members to think about how they might use federal programs and partners to promote this goal, including reaching out to the Department of Labor.

## Preservation50

Chairman Donaldson said members were asked to provide brief statements about the challenges and opportunities before the national preservation program at 50 years, and all members and two observers responded. While the statements differed substantially, there are some recurrent themes that predominantly fall into four general categories:

- Calls to seek more collaborative partners and supporters, and to broaden the base of support for preservation, through education, enhanced communication, targeted outreach, and other means.
- Calls for action to enhance engagement with diverse communities, better recognize and preserve the diverse heritage of the nation, “tell all the stories,” and improve existing tools and processes to address such needs.
- Strategies for reimagining successful outcomes in preservation work through more emphasis on collaboration and “win-win” solutions as well as the expanded use of constructs like heritage conservation (rather than historic preservation), cultural landscape, traditional cultural places, and intangible heritage.
- Suggested emphasis on improving specific aspects of the national preservation program to address:
  - Funding and tax incentives
  - Project review (Section 106)
  - Technology and digitization
  - Education and training
  - Climate change and sustainability
  - Balancing agency missions, preservation, and federal stewardship

The chairman asked Mr. White to lead a follow-up discussion. Mr. White said he was pleased with the thoughtful recommendations to improve the national historic preservation program. The ACHP membership is launching a year-long effort to fulfill its statutory mandate to advise the President and Congress on the most pressing issues facing historic preservation. The discussion following will form the framework for evaluating improvements in legislation, policy, regulation, and operations that will equip the national historic preservation program to face the challenges of the future. As the year progresses, the ACHP will develop specific recommendations for actions. He opened the floor for discussion.

Ms. Slick said one common item among the statements had to do with the question of federal agency responsibility. She wondered if the ACHP was asking the federal agencies to be leaders in preservation or was it saying this is a responsibility they have in addition to their basic mission? Mr. Fowler reminded members of the wording of the NHPA charging agencies with preservation responsibilities. Chairman Donaldson said he has seen greater participation of the agencies looking at preservation. Michael Bean said common themes were about the intangible aspects of history and culture. He said federal agencies do a good job of exerting leadership regarding preserving buildings, sites, and other historic properties, but he was not sure they know how to address this emerging emphasis upon intangible aspects of culture. Jeff Orner said the Department of Homeland Security (DHS) provides leadership in preservation, but the mission is essential. Generally he does not have to make a tradeoff of historic preservation versus mission, but there are times he has to take a serious look and make careful decisions.

Dr. Sebastian said in the next 50 years people will run up against a problem—having one yardstick (the National Register) for deciding what is important. It plays two roles: the honor roll and the planning role. She said, while trying to look at cultural heritage and intangibles and broadening of the scope, people are going to run into difficulties with current procedures and criteria. She encouraged members to think about broadening their ideas about multiple ways of thinking about significance. Chairman Donaldson talked about challenges in Congress.

Ms. Hughes said looking to preserve intangible cultural resources through the existing preservation framework is a significant challenge but one that should be embraced. She said she likes the focus on creative mitigation strategies through Section 106 and citizen engagement. Paige Pollard said it is good to move toward a lens of evaluating significance through looking at culture. There is a trend across the country of more legal activity against local preservation commissions for choices that are more ambiguous, and the end result is fewer people want to serve on such commissions, she said.

Vice Chairman Leger de Fernandez asked how to broaden who is listening to the different stories, and how to make sure people know what is happening between the different communities.

Mr. White thanked the members for their insightful comments and mentioned Goucher College's forum on the future of preservation practice March 18-19, 2016. The ACHP will be a forum sponsor.

### **Policy Statement on Resilient Communities**

Mr. White said the Rightsizing Task Force has completed its work, which set the stage for a working group to develop a policy statement to assist communities in recognizing historic preservation as an important tool. He thanked the working group members and Charlene Vaughn and her staff. The purpose of the policy statement is to implement the major provisions of the *Managing Change* report from 2013 and to promote historic preservation as a tool to address structural economic changes in rural and urban communities, to influence the outcomes in communities and neighborhoods suffering from excessive amounts of vacancy and abandonment, and to integrate historic preservation into local planning. Mr. White read through the presentation from the packets. He said the policy statement document will be published in the *Federal Register*, and the ACHP will receive public comments, then it will be submitted as a final policy statement to the ACHP for approval. That vote will take place via an unassembled meeting at the end of 2015 or beginning of 2016.

At this time, Mr. Blazer left the table. Ms. Hughes also left the table and was replaced by Erik Hein.

Ms. Wright asked to what extent the ACHP has been engaged with the interagency teams working on Promise Zones and the Office of Management and Budget (OMB) community solutions task force. Ms. Vaughn responded that she has talked to the Department of Housing and Urban Development (HUD) and engaged SC2, and that SC2 did not really want to be involved in preservation. She said there have not been many entities wanting to embrace historic preservation, which is why the ACHP is drafting the policy statement. She said she has not engaged OMB directly.

Ms. Wright said some of the Administration's energy around interagency work has really kicked off in the last couple of years. The OMB task force is strong, and she suggested the ACHP reach out to them with this project before publishing in the *Federal Register*. She offered to make the introduction. She said there is an excellent opportunity to engage the current 13 Promise Zones in some of work the ACHP is trying to do. Marion McFadden said HUD would be happy to make connections with the SC2 players and try to schedule a meeting with HUD's White House staff. Ms. Guen suggested climate resilience be addressed as part of the statement.

### **White House Council on Climate Preparedness and Resilience**

Chairman Donaldson noted the Council on Climate Preparedness and Resilience (CCP&R) met on September 30, and Mr. Fowler is representing the ACHP. While the CCP&R has acknowledged the challenges of climate change to the nation's cultural heritage, the topic does not currently appear to be receiving much attention. He has reached out to Christy Goldfuss, Managing Director of the Council on Environmental Quality and a co-chair of the CCP&R, indicating the ACHP would like to provide

recommendations as to how heritage issues might be incorporated into the CCP&R agenda but has not yet received a response. The Preservation Initiatives (PI) Committee has been considering possible recommendations on how to elevate consideration of historic resources and historic preservation by the CCP&R.

Mr. White said the PI Committee heard a presentation from the National Park Service (NPS) coordinator on climate change and cultural resources recounting all the work the NPS has been doing on the subject. They talked about the CCP&R's work and how the ACHP can advance its interests with the group.

Mr. White introduced a motion: Whereas America's historic properties increasingly are at risk from climate impacts, and whereas NPS and other entities are rapidly expanding knowledge and understanding of the possible severity of such impacts to our national cultural patrimony, the ACHP calls upon the Council on Climate Preparedness and Resilience to promote a federal leadership role in addressing the cultural heritage aspects of climate adaptation and directs the ACHP staff to advance the recommendations set forth in the briefing paper, "Sustainability, Climate Change, and Historic Preservation."

Ms. Guen seconded the motion, and it passed unanimously.

### **Legislation**

Mr. White said the PI Committee talked about a variety of legislative initiatives and the legislative agenda for the 114th Congress. He made two motions; the first, That the ACHP support the Los Angeles Homeless Veterans Leasing Act bill, S. 2013 and H.R. 3484, and direct the chairman to convey to the Administration and the Congress its support of the bill, its sense that the Enhanced Use Leases can be an efficient and cost-effective tool for addressing the challenges of underutilized historic buildings with the Department of Veterans Affairs' inventory, and its request that the Administration and the Congress consider expanding the bill's Enhanced Use Lease authority to all of the Department's historic properties.

Dr. Sebastian seconded it. Stella Fiotes said the Department of Veterans Affairs is in full support of this bill and the motion to take advantage of this tool. The chairman waived the roll call vote, and the motion passed unanimously.

Mr. White then introduced his second motion: That the ACHP strongly support the National Park Service Centennial Act bill, H.R. 3556, and direct the chairman to convey the ACHP's support to Congress. Further moved, that the chairman convey the recommendation for H.R. 3556 that Indian tribes and Native Hawaiian organizations be included in the list of non-federal parties in the bill's Sections 101(a)(2) and 901(a).

Vice Chairman Leger de Fernandez seconded it.

Mr. Bean said he welcomes the ACHP's support for this legislation. He suggested modifying the motion so as to express support for the bill with a request to clarify the intent of the bill to include Indian tribes and Native Hawaiian organizations among the non-federal parties. This is a way to avoid calling for an amendment. Mr. White accepted the amended motion. Mr. Hein asked to offer a friendly amendment regarding the National Conference of State Historic Preservation Officers' (NCSHPO) wish that this resolution would include something seeking support for the reauthorization of the Historic Preservation Fund (HPF). Mr. Bean expressed concern that this would result in the situations of the past when council members felt they could not vote because there is not yet an Administration position on the amended language. Mr. Hein withdrew his suggestion.

The chairman waived the roll call vote, and the motion passed unanimously.

Mr. White and Chairman Donaldson thanked Mr. Bean for his op-ed piece in the *Salt Lake Tribune* regarding recommended reauthorization for the HPF and tying it to the Land and Water Conservation Fund reauthorization. Both funds derive from the proceeds of Outer Continental Shelf energy leases.

### **Surface Transportation Legislation**

Elizabeth Merritt said the National Trust has been extremely concerned and strongly opposed to the amendments to the surface transportation bill. Mr. Fowler discussed implications of the bill for the ACHP's work, including the application of Section 4f. Mr. Drake said the provision allowing for the Section 106 process to substitute for the 4f process applies only for projects involving rail or transit lines.

### **Section 106 Issues**

Chairman Donaldson mentioned the issue of energy development in the Badger Two Medicine area in Montana. The ACHP recently issued comments to the Secretaries of Agriculture and the Interior after Section 106 consultation was terminated by the Blackfeet Nation. He discussed the meetings with the affected parties, as well as the public meeting in Montana. He said the Secretary of Agriculture wrote a letter, making a recommendation to the Secretary of the Interior to terminate the leases to drill. The letter quoted the ACHP comments. Mr. Bean said the Department of the Interior (DOI) is grateful for the input from the ACHP and Department of Agriculture, and there will be a decision fairly soon. Maureen Sullivan thanked the ACHP staff for all the hard work they did to support this, especially Reid Nelson and Katry Harris. Chairman Forsman said he thought it was an impressive display of public interest in cultural resources. Ms. Guen said the responses were passionate.

Mr. Ayers said the ACHP submitted its Section 3 report to the President on February 15, 2015. The Federal Agency Programs (FAP) Committee heard about the number of steps the ACHP is taking to implement the report's recommendations. Initial efforts to implement these recommendations have focused on issues of leasing historic properties. There were also a series of challenges that were discussed and commitments made among federal agencies including the following:

- Current OMB guidance to agencies to "Reduce the Footprint" gives no "reduction" credit for agencies leasing historic properties, and acts as a disincentive to lease such properties.
- Agencies face continued problems with OMB budget scoring rules that require the government's cost for leases to be recovered upfront.
- And, many agencies are not taking full advantage of existing authorities that do allow leasing of historic buildings.

Mr. Ayers said to remedy the first two challenges, it was acknowledged that the ACHP should work with its members and alumni to develop a plan for addressing these challenges with OMB. Regarding the last issue of agencies not fully utilizing leasing authorities, it was agreed that federal property managers would develop a compendium of best practices to be shared across all federal agencies to better inform all federal agencies on the authorities that are available to them.

Mr. Fowler said the challenge is how OMB implements and interprets certain policies, and he felt there was value in turning to several former GSA Public Buildings Commissioners and former DoD and DOI officials that had actively served on the ACHP, to see what could be drawn from their experience and insights that might give an effective strategy for moving forward. Ms. Sullivan said the challenges in dealing with OMB on "Reduce the Footprint" are vast, but the ACHP should frame the approach with an awareness of what outcome OMB is trying to address. She said members have to make a case why leasing

provides a better outcome for Reduce the Footprint than outright selling. Mr. Orner said this is an important point to clarify.

At this time, Chairman Donaldson left the table and passed the gavel to Vice Chairman Leger de Fernandez.

### **Funding for Tribal and State Historic Preservation Programs**

Vice Chairman Leger de Fernandez said at the July 2014 meeting, the NCSHPO board addressed the membership on the challenges they face in meeting the demands of federal agencies in the Section 106 process. A consistent theme emerged from all of these: core funding for tribal and state historic preservation programs was inadequate to meet the demands placed on Tribal Historic Preservation Offices (THPOs) and SHPOs. The HPF is the source of federal support for state and tribal preservation programs. Authorized at \$150 million per year, the annual appropriation of HPF money has never gotten to that level, she said. At the July 2015 meeting, the members adopted an action plan to find near-term ways to bolster support for the critical work the SHPOs and THPOs do in the Section 106 process. This essentially means looking at ways federal agencies can assist SHPOs and THPOs for carrying out essential Section 106 activities. Oversight of actions to carry out the plan is entrusted to the FAP Committee and the NAA Committee.

Mr. Ayers said these efforts include a host of actions, already underway, such as:

- Efforts by NPS to develop a primer on the HPF that explains how it supports activities undertaken by SHPOs, THPOs, and Certified Local Governments (CLGs) in carrying out the requirements of the NHPA, as well as an explanation of the types of activities that are funded by the HPF, and perhaps examples of other activities these partners might undertake with other sources of revenues.
- The ACHP plans to revisit the opinion it rendered on the intent of Section 110(g) of the NHPA regarding federal agencies providing support to SHPOs, and attempt to resolve concerns later expressed by DoD about this issue, so it can be reissued.
- ACHP efforts to work with NPS on a concise statement about under what circumstances, if any, SHPOs and THPOs may be confronted with a conflict of interest should they receive assistance from federal agencies.
- ACHP staff is also developing plans to meet with Federal Preservation Officers to discuss the ACHP's action plan and advance its goals, as well as identify opportunities in making Section 106 reviews more efficient.
- And, lastly, ACHP staff has also begun to frame a plan for updating and expanding the ACHP's "Tribal Fees Memo" to include SHPOs, THPOs, and CLGs, and to address related topics regarding fees in the Section 106 review process.

At this time Chairman Donaldson returned to the table.

Chairman Forsman said he was pleased to hear the progress staff has made in implementing its plan. This is a serious issue for the tribes. Mr. Fowler asked federal agencies to think about creative mitigation and also encouraged NCSHPO and NATHPO to share examples with the ACHP about agencies doing creative mitigation.

### **Tribes as Signatories to Section 106 Agreements**

Chairman Forsman said at the March meeting in San Francisco, four THPOs from California spoke about the challenges they have experienced with Section 106 agreements. He said the NAA Committee had a lot

of discussion about consultation and how Section 106 requires consultation with the tribes and other communities. Committee members asked the ACHP to consider amending the regulations to make Indian tribes mandatory signatories when historic properties of significance to them will be adversely affected. They also asked the ACHP to issue guidance and to elevate the issue within the federal government. He said the committee had a brief discussion about this during its September teleconference and asked staff to survey tribes. Staff received information from 29 tribes.

The responses indicate that the problems are not widespread but tend to be regionally based or specific to certain agencies. So, the committee decided more can be done at the staff level to address the misconceptions agencies and SHPOs have about the role of tribes in agreements. The committee adopted and voted on a resolution to make recommendations to the ACHP. The resolution says: In response to the concerns expressed by certain tribes regarding the failure of certain agencies to engage tribes in consultation or as invited signatories that the committee recommend to the ACHP that we engage in communication and education efforts to increase implementation of the existing regulations and policy to include Native Americans when agency action is going to affect historic properties and that those options can include other things: 1) engagement of high level officials versed in the Section 106 process, 2) prioritize engaging those agencies that are not as responsive to others in the process, and, 3) develop guidance and materials to support this effort.

He said both OFAP and ONAA have talked about things they could do in the way of guidance, training, and outreach. Dr. Lippert said the information compiled generated a lot of information that can be applied to the rest of what the ACHP does. Chairman Donaldson said it seems to be about the relationship tribes have with a particular agency.

### **National Tribal Historic Preservation Strategy**

Chairman Forsman said the other item the committee discussed was the promotion of a national tribal historic preservation strategy, modeled after efforts in Indian Country to develop a national strategy for natural resources. Mr. Blazer had introduced the concept, and the committee agreed it had value for the preservation world. He said the ACHP would not develop strategy but simply encourage tribal leaders to consider working on this. He would offer support, but it has to come from Indian Country in order to address tribal needs and concerns.

### **New Business**

Mr. White said the ACHP is a sponsor of the preservation rightsizing network event December 8 at Rutgers-Newark, which is a kickoff to their rightsizing action agenda.

Chairman Donaldson noted the spring business meeting is March 23-24, likely outside of Washington, D.C. The summer meeting will be July 13-14, and the fall meeting is November 30-December 1.

Chairman Donaldson said the next presidential election is about a year away and advised members to look at how to preserve ACHP initiatives and try and institutionalize things being worked on.

Chairman Donaldson asked the students in the audience to give a comment about what they observed at the meeting. The students came to the table to give their individual impressions. They said they enjoyed the conversations on cultural resources, inclusion of diverse groups, involving young people, interaction between state, federal, and tribal governments, among other things.

The meeting adjourned at 12:17 p.m.