



Preserving America's Heritage

**MEETING
ADVISORY COUNCIL ON HISTORIC PRESERVATION
Russell Senate Office Building, Kennedy Caucus Room
Washington, D.C.
April 4, 2019**

PROVISIONAL AGENDA

Call to Order 8:30 a.m.

- I. Chairman's Welcome
- II. Transition to Full-Time ACHP Chairman
 - A. Transition Process
 - B. Strategic Plan Development
- III. Section 106 Issues
 - A. Digital Information Task Force Proceedings
 - B. Reflections on Development of Chairman's Comment Letter on Growler Case
 - C. National Park Service Proposed Rule on National Register Nominations
- IV. Historic Preservation Policy and Programs
 - A. White House Opportunity and Revitalization Council and the ACHP
 - B. Traditional Knowledge and the National Historic Preservation Program
 - C. Section 106 Success Stories: Future Directions
- V. Committee Reports
- VI. New Business
- VII. Adjourn



Preserving America's Heritage

**MEETING
ADVISORY COUNCIL ON HISTORIC PRESERVATION
ANNOTATED AGENDA**

- I. Chairman's Welcome
- II. Transition to Full-Time ACHP Chairman. *Chairman Wayne Donaldson will update members on the status of the confirmation of a new full-time ACHP chairman.*
 - A. Transition Process. *Transition Working Group Chairman Brad White will report on steps that have been taken to advance transition planning. Members will have the opportunity to provide guidance on the formalization of an ACHP Executive Committee, which will require amendments to the ACHP's Operating Procedures after consultation with the new chairman. Discussion only, no formal action.*
 - B. Strategic Plan Development. *Chairman Donaldson will lead a discussion on strategic plan directions based on the assessment of achievements under the current strategic plan. Members will be asked for their recommendations to be shared with the incoming chairman. Discussion only, no formal action.*
- III. Section 106 Issues
 - A. Digital Information Task Force Proceedings. *Federal Agency Program Committee and Task Force Chairman Jordan Tannenbaum will report on the work of the Task Force and invite member comments on direction and desired work products. Discussion only, no formal action.*
 - B. Reflections on Development of Chairman's Comment Letter on Growler Case. *Chairman Donaldson will lead a discussion on the process used for the development of the ACHP's comments in this recent case. Members may offer suggestions to improve the process for the future. No formal action needed.*
 - C. National Park Service Proposed Rule on National Register Nominations. *The Secretary of the Interior's designee will brief members on the proposed rule that would implement provisions in legislation enacted in 2016 that set the process for federal agency nominations of their historic properties to the National Register and include some other provisions. Members will have the opportunity to ask questions about the content and the process of finalization. No formal action needed.*

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- IV. Historic Preservation Policy and Programs
- A. White House Opportunity and Revitalization Council and the ACHP. *A representative from the Department of Housing and Urban Development will brief members on this new White House council. Members will have the opportunity to discuss the potential contributions of the ACHP to this initiative. No formal action needed.*
- B. Traditional Knowledge and the National Historic Preservation Program. *Vice Chairman Leonard Forsman and Members Dorothy Lippert, Reno Franklin, and Shasta Gaughan, and Office of Native American Affairs Director Valerie Hauser will introduce the members to the concept of "Traditional Knowledge," the knowledge and practices of indigenous peoples, and how it is employed in the programs conducted under the National Historic Preservation Act. Members will have the opportunity to discuss how the ACHP might advance greater respect for it in the national preservation program. No formal action needed.*
- C. Section 106 Success Stories: Future Directions. *Communications, Education, and Outreach Committee Chairman Robert Stanton will report on committee discussions on the use of the "Section 106 Success Stories" now that the target of 106 stories has been reached. Members will be invited to share their ideas. No formal action needed.*
- V. Committee Reports. *The committee chairmen will report briefly on any additional items discussed during committee meetings that warrant member attention.*
- VI. New Business. *There is no new business at this time.*
- VII. Adjourn. *The meeting will adjourn by 1 p.m.*



Preserving America's Heritage

**ACHP COMMITTEE MEETINGS
SUMMARY OF PROCEEDINGS
National Building Museum
Washington, D.C.
April 3, 2019**

FEDERAL AGENCY PROGRAMS COMMITTEE

Committee Chairman Jordan Tannenbaum called the meeting to order and asked Office of Federal Agency Programs (OFAP) Director Reid Nelson to report on staffing. Mr. Nelson announced that Jaime Loichinger was selected as the new assistant director of the Federal Permitting, Licensing, and Assistance Section. He also introduced Bill Marzella as the new Bureau of Land Management (BLM) Liaison, and Alexis Clark, who is now a permanent assistant historic preservation specialist in the Federal Property Management Section.

Strategic Planning Preparation

Chairman Tannenbaum framed the committee's consideration of preliminary input into an updated strategic plan as setting the stage for the arrival of a new full-time ACHP chairman. The strategic planning process will occur formally once the new chairman has been confirmed. Members were provided with a summary of accomplishments primarily staffed by OFAP under the existing strategic plan, particularly those involving federal preservation programs and fostering the protection and enhancement of historic properties (goals II & III), which relate to oversight of the Section 106 review process.

Mr. Nelson reviewed a series of ongoing priorities, described in the meeting book paper, that the ACHP anticipates carrying forward in a new strategic plan. Chairman Tannenbaum asked for feedback and reaction from the committee to these priorities or the addition of new ones.

Shasta Gaughen (NATHPO) and Luis Hoyos suggested that addressing the effects of climate change on historic preservation should be added as a goal and might include activities like education, outreach, or vulnerability assessments.

Dan Jiron (USDA) offered suggestions related to other federal requirements and land management activities, including addressing Section 106 coordination with agencies' obligations to meet the One Federal Decision (OFD) policy directive, addressing wildfires and forest management in concert with NEPA streamlining efforts, and planning for rural broadband expansion given that a rulemaking is likely. Mr. Nelson mentioned that tailoring the Section 106 process through program alternatives was a broad strategy that might be appropriate for several of these specific ends. Reno Franklin added that program alternatives for forest management should be broadly applicable in terms of managing the risk of fires for both forests and their host communities.

David Clarke (FHWA) and Colleen Vaughn (DOT) echoed prioritizing engagement with the OFD policy

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as an emerging and important consideration for federal agency planning. Strategies to address it might include both specific and shared agency guidance. Ms. Vaughn suggested NEPA-Section 106 training and training about how to develop complex Programmatic Agreements wherein multiple SHPOs and/or THPOs participate would help develop solutions to achieve the collaboration necessary to carry out OFD.

Maureen Sullivan (DoD) recommended framing the plan so that fulfillment is not simply ACHP participation in an effort, but a measurable contribution. She also advocated perpetuating the ACHP's work on training, including specialized/tailored training.

ACHP Chairman Wayne Donaldson suggested inclusion of traditional knowledge and considering changing the National Historic Preservation Act (NHPA) regulations to better integrate tribal consultation. He said the Section 106 process may not have yet met the ACHP's goals for early interaction with SHPOs and THPOs, and that the ACHP's involvement of industry in the review procedure may also be needed.

Chairman Tannenbaum noted questions about Section 110 of the NHPA and how it intersects with Section 106 often surface when he teaches Section 106 courses. Mr. Nelson said the ACHP had explored working with the National Park Service (NPS) to produce Section 110-focused training in the past and could revisit that effort.

Serena Bellew (GSA) urged that the new strategic plan incorporate a role for the ACHP in facilitating communication between SHPOs and Federal Preservation Officers. John Fowler observed that the capability of a full-time chairman might come into play for this and other goals. In particular, the new chairman might be positioned to pursue resolution of long-standing federal program or policy conflicts at the policy level. Terry Guen suggested that raising the profile of the ACHP as a participant in preservation and part of the federal preservation program at the community level would be valuable.

Digital Information Task Force

Blythe Semmer provided an update on the ACHP's Digital Information Task Force, which met for the second time on March 19 to refine goals and direction for the initiative. Members have proposed a focus on formulating recommendations for how the availability of digital and geospatial information about historic properties can be improved to inform federal project planning. This goal assumes that, in light of the ACHP's role in the federal preservation program, the effort centers on Section 106 reviews and how they can be made more efficient through early identification of historic places in project siting decisions. The Task Force also acknowledges the role of data managers, like SHPOs, THPOs, and tribes, and recognizes that different preservation needs may require different types of data. The Task Force will meet again in May.

Ms. Gaughen noted the sensitivity of some historic properties information as well as the general concern of data security with any online tool. Ms. Semmer clarified that the Task Force has recognized that considering the confidential or sensitive nature of some cultural resources information must factor into its recommendations.

Chairman Donaldson said past NPS efforts on this topic should inform this work. Mr. Nelson noted bringing information about that and other past efforts on this topic is part of the goal. There has been much work done on digital information management, but the Task Force will focus on what value the ACHP can add to existing programs. Members also discussed the work that state agencies have done in managing data and how a federal geospatial data transfer standard has been established.

Erik Hein (NCSHPO) observed that the concern lies not in simply exchanging information but in making sure information is roughly equivalent in content, and that the quality of input data is reliable.

The members discussed the need for funding to support advancements in data management, how such support might come from private as well as federal budget sources, and the way that industry might also make “in-kind” contributions of collected information.

ACHP Vice Chairman Leonard Forsman emphasized that, while more accessible data may be a goal, consultation is still important, and much necessary information will not be available in a database or GIS system. Consultation is necessary, and some information may not be shared in hostile relationships.

Mr. Jiron said the Task Force provided an opportunity to improve interagency coordination and data sharing.

Coordinating Member Review of ACHP Comment Letters

The ACHP membership recently reviewed a chairman’s letter drafted to address the termination of consultation by the Navy in a case involving locating Growler aircraft at a base in Washington. Mr. Nelson reviewed the options for conveying ACHP comments in such cases and presented a draft protocol for making sure members are effectively involved when a chairman’s letter is developed based on experience in the Growler case.

Mr. Clarke urged flexibility in scheduling public meetings because of the difficulty in organizing them. The members discussed other time constraints relevant to the 45-day total processing time the ACHP is allotted by regulations to issue comments when consultation is terminated. In the draft protocol, the ACHP staff commits to informing the membership about a new termination within two days and deciding on the response format within five days. Mr. Fowler explained that within that period, the members have three days in which to contact the chairman and express their views on whether the ACHP response should take the form of full membership engagement in the development process, development of a response led by a panel, or the development of a chairman’s letter for membership review. During those days, the staff is also exploring the logistics of potential response pathways.

Brad White expressed concerns about member involvement in meetings about Council Comments where some topics seem to be off limits because decisions about these matters were reached earlier in the consultation process. He would like to see greater definition of options for member comment or review. Chairman Donaldson questioned whether the ACHP should be able to change positions even if it contradicted staff positions taken prior to a termination, and Elizabeth Merritt (National Trust for Historic Preservation) asked what would happen if public comments questioned a staff decision reached at an earlier stage. Mr. Fowler clarified that the membership can disagree with a staff position and can address anything it sees fit in its formal comments to a federal agency. However, the members should be mindful of the implications for making the agency, as represented by staff in earlier stages of the consultation, appear unreliable. Mr. Nelson noted that Mr. White’s concern points to considerations of whether a case is ripe for termination in terms of whether resolution of disagreements or impasses at earlier stages of the review process prior to the resolution of adverse effects has been fully accomplished. The situational awareness of a full-time chairman in the office may allow such preliminary issues to be addressed at the policy level earlier in future cases.

Update on Activities

Chairman Tannenbaum called on Mr. Nelson for brief updates about other recent activities.

Ms. Semmer informed the committee that two reports from the Federal Permitting Improvement Steering Council (Permitting Council), on best practices for FY19 and an annual report on FAST-41 implementation in FY18, are forthcoming. She also mentioned the Permitting Dashboard has been recently updated and now includes Section 106 milestones that more closely align with the review process. Thanks are due to Ms. Vaughn for helping facilitate the update.

Ms. Vaughn provided an update on DOT's 2018 Program Comment for Rail Rights-of-Way. The Federal Railroad Administration has already used the Program Comment more than 100 times. Guidance on the property-based approach stipulated in the Program Comment is under development, and DOT staff is working on a draft with ACHP staff to share with the members. Ms. Loichinger noted DOT and ACHP staff are working closely on the draft and hope it will be ready by the end of the month. As a result of the furlough, the schedule for completing the guidance has shifted, and the ACHP is exploring options for a time extension with DOT.

Mr. Nelson asked Doug Pulak (VA) to discuss the status of the Department of Veterans Affairs' implementation of the recent Program Comment on Vacant and Underutilized Properties. Currently, VA is developing the composite list of properties that could be subject to the Program Comment should an applicable undertaking covered by the Program Comment be proposed; and a narrative explaining its conclusion that historic utilitarian properties may be eliminated without endangering the continued National Register eligibility of the historic districts in which they are located. The initial list was sent to the ACHP this week and will be distributed soon to SHPOs, THPOs, Indian tribes, Native Hawaiian organizations, and veterans' organizations for a 60-day review period. Angela McArdle noted the list will be distributed by email and posted on the ACHP's website for access by stakeholders.

Regarding disaster recovery activities, Ms. Loichinger recently returned from a trip to San Juan, Puerto Rico, with FEMA's FPO John Ketchum and ACHP Disaster Liaison Valerie Gomez. The trip provided an opportunity for numerous site visits and a training seminar with FEMA's historic preservation staff, as well as training for the state agencies regarding the Section 106 process. As the shift from response to recovery just recently began, permanent recovery work is just now being developed. The FEMA PA has been helpful in streamlining the Section 106 process; HUD's Responsible Entity recently signed onto it, which will assist them in expending their disaster recovery funds. Mark Wolfe (NCSHPO) added that the Texas SHPO just received its contract from NPS for the subgrant to support disaster recovery projects but that administrative hurdles still remain before the funds can be made available to projects.

NATIVE AMERICAN AFFAIRS COMMITTEE

Committee Chairman Reno Franklin convened the meeting, and ACHP Vice Chairman Leonard Forsman offered a traditional opening.

Chairman Franklin introduced a special guest speaker, Victor Carmen-Lopez, to talk about *Global Indigenous Youth: Through Their Eyes*. Mr. Carmen-Lopez provided background on his work as a member of the United Nations Global Indigenous Youth Council and the key issues that led him to suggest the publication. He served as the editor, and authors were selected from each indigenous region of the United Nations.

Traditional Knowledge Initiative

Chairman Franklin explained that traditional knowledge is the interpretation of what sacred places are and is based on culture, tradition, and sacredness; a complex understanding of place. He went on to talk about the Environmental Protection Agency's (EPA) work with traditional ecological knowledge (TEK) and explained that TEK and traditional cultural knowledge are intertwined.

Valerie Hauser explained that traditional knowledge is not a new topic. The NHPA was amended to recognize it in acknowledging that properties of religious and cultural significance to Indian tribes and NHOs could be eligible for the National Register. The Section 106 regulations include traditional knowledge as "special expertise" and require that federal agencies acknowledge tribal and NHO special expertise.

Ms. Hauser explained that Office of Native American Affairs (ONAA) staff decided to focus on traditional knowledge to address the long-standing disrespect in the Section 106 process toward Indian tribes and tribal knowledge. And, the United Nations Permanent Forum on Indigenous Issues' focus on traditional knowledge this year provides an opportunity to highlight issues regarding how it is perceived. The purpose of the initiative is to build respect and help non-Native people understand it. The ultimate aim is for traditional knowledge to be viewed at the same level as "scientific knowledge."

ONAA staff has begun discussions with EPA as the logical partner. ONAA and EPA staff hosted a webinar for EPA staff in March and plan to host another in May. ONAA has also drafted an information paper on traditional knowledge. Staff is not seeking to define it but rather to provide information to help Section 106 practitioners understand what it is and how it is used in the review process.

Members discussed the importance of preservationists to recognize and understand traditional knowledge and issues with consultation and the failure to acknowledge tribal expertise. Members acknowledged that this effort would take time; that it is an education process. Members also discussed whether the ACHP should issue guidance about traditional knowledge and ultimately decided that educating practitioners was more appropriate. Members do not want it to become just another box to check in the Section 106 process.

Ms. Gaughen explained that traditional knowledge is "whatever the tribes say it is." Rather than issuing guidance, it is more important to lay the groundwork for something that is enforceable. She also explained that there is disconnect between traditional and scientific knowledge. Scientists' pursuit of knowledge about the past is not a right. Tribes have a right to protect that knowledge. Dorothy Lippert explained that there is suspicion among scientists that traditional knowledge is invented to protect sites to stop projects. Traditional knowledge holders need to be respected as experts. Dr. Lippert suggested that bringing tribal youth into historic preservation careers is one way to change the narrative.

Katherine Slick suggested finding some positive examples or a court case reversing a decision that did not incorporate traditional knowledge.

Alicia Sylvester (DoD) indicated that the committee should see the information paper before publication. Ms. Guen suggested that historic preservation should be looking forward as much as it looks back.

Chairman Franklin asked Governor Tim Menchengo of the Santa Ana Pueblo if he would like to speak to the issue. The governor spoke at length in his language. He then explained that traditional knowledge cannot be defined by an organization or by someone who has not had it handed down to them respectfully. He stated that everything being discussed has been discussed over and over. He suggested that federal agencies need to respect tribal governments as governments. Tribes had governing systems before Europeans came and still have that governance now. Traditional knowledge is the knowledge of that governance and is not something one can get in recommendations or guidance.

Governor Menchengo suggested that regulations and laws are needed to give teeth to the ideal of building respect for traditional knowledge. He said he believes tribes need to determine how to proceed, and if people do not accept what Native people say, we will never move beyond just ideals and where we are now.

The governor also explained that emotions, experiences, and actions inherent in traditional knowledge cannot be conveyed through a document about Section 106 consultation. The process is designed to protect the past, not the future, and projects often just roll through. He suggested the need to protect the past to protect the future. He said that progress would not be made until tribal and religious leaders have

the right to put the language into these documents and into the regulations. It should not be guidance or recommendations, but actual regulations.

Strategic Plan

Ms. Hauser explained that there will be a discussion about strategic planning at the business meeting. In preparation for that discussion, the committee should consider recommendations for Chairman Franklin to present.

She reminded the committee members that, at the committee meeting in October 2018, they asked for a summary of what the ACHP has accomplished before they could meaningfully engage in strategic planning. That list is now in the meeting book. She suggested that the members focus on broad goals, not at the individual project level. She asked the members to consider if the existing strategic goals adequately capture what the ACHP is currently committed to or might want to do in the future. She also asked if the one strategic plan goal focused on tribal and Native Hawaiian policy work is adequate to meet the direction the members want the ACHP to take.

Chairman Donaldson suggested that something should be included in the regulations to encourage a more strategic approach. Mr. Tannenbaum suggested the ACHP-Salish Kootenai College initiative be considered a priority. Ms. Guen suggested youth be trained to define and manage traditional knowledge. Ms. Slick suggested that ACHP training be expanded to specifically train private sector cultural resource professionals, acknowledging that they do much of the preservation work. Chairman Donaldson suggested that a Native youth representative be added to the committee. Finally, Governor Menchengo suggested that the ACHP meet in the Southwest and New Mexico to discuss strategic planning with Indian tribes.

ACHP-Salish Kootenai College (SKC) Partnership

Ms. Hauser provided an update on the partnership, explaining that the 35-day shutdown necessitated the cancellation of plans to co-host a federal-tribal summit at SKC as well as the proposed internship program in Washington, D.C. Instead, ONAA and the ACHP Foundation will work with SKC to develop the program further and memorialize commitments in an agreement.

COMMUNICATIONS, EDUCATION, AND OUTREACH COMMITTEE

Committee Chairman Robert Stanton opened the meeting with a discussion of the full-time chairman transition and budget. Chairman Donaldson noted that Aimee Jorjani's nomination may make it to the full Senate next week. Mr. Fowler commended Ms. Slick and Chairman Stanton's efforts in securing a \$7 million budget for the ACHP in the Congress.

Youth Outreach

Susan Glimcher discussed the Historically Black Colleges and Universities (HBCU) projects focusing on engaging youth and building a more inclusive historic preservation program. She shared a fact sheet about the Touching History project and thanked the NPS and National Trust for their assistance and partnership with the ACHP. She discussed the plans for starting a second program at Tuskegee University this summer. Ms. Glimcher also mentioned the ACHP has been invited to participate in the annual HBCU conference in September. She asked committee members for their thoughts on where the program should go from here. Options include adding more schools and extending the reach to Latino and Asian American-serving schools.

Ms. Glimcher also asked members for their thoughts on how to better market this program and how to involve more ACHP members. Mr. Hoyos mentioned that architecture schools do not attract diverse students, and getting a job in the field is a daunting task. He said he is willing to be of assistance and

noted it is important to partner with those who can leverage other forms of outreach like planners, NCPE, and the AIA. He also suggested focusing on technology, in particular architectural technology, along with sustainability and energy training. Mr. Tannenbaum suggested getting the Touching History project on the agenda of the Congressional Black Caucus Foundation's annual meeting. Mr. Franklin told about his tribe's ownership of a construction management firm and the partnership with California State University-Chico for education in construction management. He suggested that such a model could work with other ethnic communities. Ms. Guen added that promoting historic preservation with landscape architecture is also a good foundation, and it would be good if the ACHP project could help with credentialing for students.

Stephanie Hamlett (DOI) said paid internships are scarce, but federal agencies have the ability to set aside spaces that would be available for students in certain programs. Joy Beasley (NPS) said the NPS is happy to demonstrate what role it plays in the national historic preservation program for the students and hopes they will apply what they have learned as they go forward with their careers. There will be chances for them to interact with the NPS programs even if they do not end up working for NPS, and they have a foundation now.

Social Media

Lynne Richmond discussed the plans for an ACHP podcast series to be unveiled for Historic Preservation Month in May. She said it is inexpensive to get started, and it would give the ACHP viewership a chance to see some behind-the-scenes action of the agency or a particular issue discussion or a site visit. Members discussed the amount of staff time needed to produce films like this and how to market it so as not to overwhelm viewers with too many videos.

Publications

Shayla Shrieves announced that the Section 106 Success Story project is coming to a close with the publication of the 106th story just this week. Staff has worked for several years to write these stories and will be producing an online compendium for use in the future. It will be indexed in several ways. Members discussed the current uses of the success stories, for instance, they have been used as leave-behinds in congressional visits, in training, in meetings with tribal leaders, in conferences and meetings with federal officials. They continue to provide a quick and easy explanation of the Section 106 regulations to a lay audience.

Strategic Planning

Chairman Donaldson noted Ms. Jorjani will want to make adjustments to the strategic plan, and with her interface with the staff on a daily basis, this will inform the planning. Ms. Glimcher noted the Office of Communications, Education, and Outreach will suggest that the office continue to build on engaging youth, building a more inclusive preservation program, online initiatives, and raising awareness of the ACHP and the basics of historic preservation to a wide range of audiences. Mr. Franklin suggested establishment of best practices for historic preservation in post-natural disaster cleanups and updating a toolkit. Kevin Murphy (National Trust for Historic Preservation) suggested climate change adaptation would be an important topic to discuss. Mr. White said carrying on the mission of Preserve America would also make sense to include. Partnerships and interface with ACHP members was also discussed as well as keeping up-to-date on current legislation.

PRESERVATION INITIATIVES COMMITTEE

ACHP Strategic Planning

After welcoming attendees to the meeting, Committee Chairman Brad White opened discussion of the agency's accomplishments under the current Strategic Plan and asked for feedback on priorities that should shape development of a revised plan. He noted his own interest in legislative issues, climate

change, implementation of the ACHP's Preservation50 recommendations, and preservation's economic benefits.

Ms. Slick mentioned the importance of seeking long-term funding for digitization and survey of information on historic properties. Mr. Tannenbaum noted that planning for the United States' 250th anniversary has begun, including designation of the U.S. Semiquincentennial Commission. He questioned whether the ACHP might play a role with the Commission and noted that past ACHP staff member Michael Quinn was consulting on the initiative. Chairman Donaldson—a Trustee of US/ICOMOS—recommended expanding the strategic plan's emphasis on international preservation and increasing partnership efforts with US/ICOMOS. Mr. Fowler noted that the ACHP is an institutional member of US/ICOMOS and has a statutory role to play under the NHPA as a cooperating party in participation by the United States in the World Heritage Convention. Also, the ACHP and US/ICOMOS are in discussions regarding the ACHP Office of Native American Affairs providing support for a newly constituted US/ICOMOS Indigenous Cultural Heritage Committee.

Mr. Hoyos stressed the need for the ACHP to do more regarding climate resilience and adaptation, and asked if the ACHP might issue guidance on the subject in the context of Section 106 review. Mr. Hein noted that NCSHPO has been exploring mitigation approaches for adaptation. He mentioned the problem of Historic Preservation Fund (HPF) disaster grant funds not being available for projects that result in an adverse effect to a historic property even if the intervention saves the property. He also noted that issuance of NPS guidance on historic properties and flooding is pending. Ms. Slick noted that traditional knowledge regarding cultural landscapes has a role to play in climate adaptation discussions. Ms. Guen stressed that consideration of cultural landscapes is important to achieving climate resilience.

Chairman Donaldson stressed the importance of following through with implementation of the Preservation50 report recommendations. He also raised the issue of revisiting the ACHP's committee structure to address any redundancies. Ms. Slick recommended continuing and expanding the internship program but noted the need to examine its organizational efficiency given that aspects are run out of three different offices. Mr. Fowler noted that organizational realignment in general will need to be considered following confirmation of the new chairman and development of a new strategic plan. Chairman White stressed the need to identify new sources of financial support for the ACHP and develop new financial partnerships.

Ms. Slick raised the question of how the ACHP approaches legislative issues and advocates for legislation, and she asked how the legislative agenda is set. Mr. Fowler stated that the members set the legislative agenda, and Chairman White noted that the new chairman will play an expanded role in coordinating with Congress. Mr. Fowler said Ms. Sullivan has recommended that the ACHP have a full-time legislative liaison. Both Mr. Hein and Chairman White agreed with that recommendation, and Mr. Wolfe noted that the Texas SHPO has a similar staff position that has been very effective. Mr. Hein noted the importance of gaining greater "insider" knowledge regarding the likelihood of legislation advancing. Ms. Guen stressed the need to be more proactive in legislative affairs. Ted Monoson (NCSHPO) described some of his congressional outreach work and the role that individual SHPOs play in working with NCSHPO to promote preservation concerns in Congress.

Mr. Fowler asked what legislative activities the ACHP should be doing that it does not do now, such as host briefings for congressional committees and caucuses. Mr. Hoyos recommended reaching out to each new member of Congress. Mr. Hein recommended developing staff relationships. Chairman Donaldson suggested cultivating relationships with members of the Historic Preservation Caucus. Nancy Boone (HUD) noted that the congressional liaison for HUD's Office of Environment and Energy works to address controversial cases and put forward the facts of the situation to Members of Congress.

Mr. Fowler discussed several points regarding the ACHP's coordination with Congress. Unlike other agencies, the ACHP does not have to obtain clearance from the Office of Management and Budget before commenting on legislation. The ACHP also can draft legislation and seek a congressional sponsor. He said it is not clear whether the ACHP would need someone working full-time or part-time on congressional issues given the relatively small number of congressional committees the ACHP normally works with.

Legislation in the 116th Congress

Chairman White noted the positive measures included in the recently passed John D. Dingell Jr. Conservation, Management, and Recreation Act and thanked the preservation partners for their work on the legislation. A landmark piece of conservation legislation, the Act permanently reauthorized the Land and Water Conservation Fund and reauthorized the Historically Black Colleges and Universities historic preservation program through 2024.

Office of Preservation Initiatives Director Dru Null briefed the attendees on the staff proposal that the ACHP continue with its legislative agenda for the previous Congress pending confirmation of the new chairman. Many of the issues of concern for the ACHP in the previous Congress remain the same in the 116th Congress. There was general consensus with this approach.

Mr. Monoson reported on several legislative points of interest. There have been discussions in the House Natural Resources Committee about pursuing permanent authorization for the HPF. This year's HPF level is historically high, but the figure for FY 2020 will be influenced by the outcome of congressional discussions regarding overall spending caps for the next two years. The preservation partners are in agreement on a request of \$141 million for the HPF, and a "Dear Colleague" letter is circulating and gaining signatories in the House. A similar Senate letter is under development. The Historic Tax Credit Coalition is working on a new bill that would enhance the existing credit and effectively recapture some of the value lost when the timing for taking the credit was changed in last year's tax overhaul.

White House Opportunity and Revitalization Council

Ms. Boone reported that HUD is still considering the ACHP's recent request to be added as a member of the White House Opportunity and Revitalization Council (Council). HUD will be issuing a call for public comments on how the goals of the Council can be best fulfilled. The agency also will be issuing regulations regarding investment in Opportunity Zones. While use of the Opportunity Zone tax credit would not trigger Section 106 review, projects will often involve federal funding or approvals that would necessitate such review.

Ms. Merritt reported that Connecticut had proposed exempting projects in Opportunity Zones from the state historic tax credit. The bill has since been modified to apply only in small towns. This is one example fueling concerns that Opportunity Zones could have negative as well as positive consequences for historic properties.



Preserving America's Heritage

MINUTES
SPRING BUSINESS MEETING
ADVISORY COUNCIL ON HISTORIC PRESERVATION
APRIL 4, 2019
WASHINGTON, D.C.

MEETING
ADVISORY COUNCIL ON HISTORIC PRESERVATION
Kennedy Caucus Room, Russell Senate Office Building
Washington, D.C.
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IN ATTENDANCE

Milford Wayne Donaldson, Chairman
Leonard Forsman, Vice Chairman
Terry Guen
Luis Hoyos
Dorothy Lippert
Robert Stanton
Jordan Tannenbaum
Brad White

Architect of the Capitol

Christine Merdon
Acting Architect of the Capitol

Secretary of Agriculture

Represented by:
Dan Jirón
Acting Deputy Under
Secretary

Secretary of Defense

Represented by:
Maureen Sullivan
Deputy Assistant
Secretary of Defense
(Environment, Safety &
Occupational Health)

Administrator, General Services Administration

Represented by:
Beth Savage
Director, Center for
Historic Buildings,
Public Buildings
Service

Secretary of Homeland Security

Represented by:
Teresa Pohlman
Executive Director,
Sustainability and
Environmental
Programs

Secretary of Housing and Urban Development

Represented by:
Danielle Schopp
Director, Office of
Environment and
Energy

Secretary of the Interior

Represented by:
Ryan Hambleton
Deputy Assistant
Secretary for Fish and
Wildlife and Parks

Secretary of Transportation

Represented by:
Barbara McCann
Director, Office of
Policy Development,
Strategic Planning, and
Performance

Native American/Native Hawaiian Member

Reno Keoni Franklin
Chairman Emeritus, Kashia
Band of Pomo Indians

President, National Conference of State Historic
Preservation Officers

Mark Wolfe
Texas State Historic
Preservation Officer

General Chairman, National Association of Tribal Historic
Preservation Officers

Shasta Gaughen
Pala Band of Mission Indians
Tribal Historic Preservation
Officer

Chair, National Trust for Historic Preservation

Represented by:
Elizabeth Merritt
Deputy General
Counsel

OBSERVERS

Managing Director, Council on Environmental Quality

Represented by:
Ted Boling
Associate Director for
NEPA

Chair, National Alliance of Preservation Commissions

Represented by:
Stephanie Paul
Program Director

President, ACHP Foundation

Katherine Slick
Historic Preservation Consultant

In attendance and participating in the meeting were ACHP Executive Director John M. Fowler and Reid Nelson, Director, Office of Federal Agency Programs.

PROCEEDINGS

Chairman's Welcome

Advisory Council on Historic Preservation (ACHP) Chairman Milford Wayne Donaldson opened the spring business meeting at 8:30 a.m. He asked Leonard Forsman to lead the Pledge of Allegiance. The agenda was adopted. Chairman Donaldson appointed Shayla Shrieves recorder of the meeting. The minutes from the October business meeting were adopted with a move from Brad White and second from Beth Savage. Christine Merdon welcomed everyone to the Capitol campus and provided members with background information about the Kennedy Caucus Room. Chairman Donaldson welcomed former ACHP Member Ann Pritzlaff and Professor Michael Tomlan with students from Cornell University who were visiting. There are no proxies for this meeting. The members introduced themselves around the table.

Katherine Slick gave a report on the work completed under the Cultural Resource Fund regarding the money that came from the Positive Train Control resolution. The Fund gave 470 grants including 196 to tribal nations and 41 states.

John Fowler gave a staffing update. Jaime Loichinger is the new assistant director of the Federal Permitting, Licensing, and Assistance Section of the Office of Federal Agency Programs (OFAP). Bill Marzella is the new Bureau of Land Management (BLM) Liaison. Alexis Clark has joined the staff full time after serving as an intern last summer.

Chairman Donaldson discussed the transition to a full-time ACHP chairman. The full-time chairman is a Presidential appointee and has to be confirmed by the US Senate. Aimee Jorjani had a confirmation hearing last year, and her nomination came out of the committee favorably in May. Her nomination, along with about 270 others, was not acted upon in the last Congress. She was renominated by the President on January 16, and was being considered by the Senate Committee on Energy and Natural Resources this morning. (Later on in the meeting it was announced that the Committee reported her out favorably again, and her nomination moves to the full Senate for final action.)

Executive Committee

Chairman Donaldson said last summer he established a transition working group to coordinate transition efforts. Council members had several issues and discussions on how they want to formalize the Executive Committee.

Mr. White said today's discussion will inform recommendations for Ms. Jorjani when she assumes the position of chairman. The ACHP currently has an Executive Committee, an informal advisory body to the chairman in the absence of the full membership. It provides input from a small group of members, primarily in the preparation for ACHP meetings. It currently includes the chairmen of the standing committees. Members were surveyed last year, and the results of those surveys showed overwhelming consensus on the Executive Committee to be more formalized.

Any modifications would likely require some changes to the Operating Procedures. Mr. White said members endorsed the idea that membership would not necessarily just be standing committee chairmen but would include rotating membership on the Executive Committee, so there is participation throughout others' terms of their office. It would not replace the full membership but might take action, if necessary, during an interim period.

Terry Guen said she supports this idea but wanted to know more about the primary purpose of the committee to provide guidance to the chairman and the executive director during periods when the full membership is not convened. She asked if there is an example.

Mr. White said there are times where the Committee has made recommendations to the chairman to write a letter to take some action. Mr. Fowler said the Committee might serve as a vetting process for a letter that might need a quick review. There may be occasions that come up where the ACHP needs to act in a short time period. For example, the executive director gets legislative referrals from the Office of Management and Budget (OMB), and they have a three-day turnaround. Having a full-time chairman will make it more expeditious for the ACHP to respond, but the Executive Committee might weigh in to bring broader views to the membership on the issue.

There could be times where the membership directs the chairman, in consultation with the Executive Committee, or delegates some authority in a specific case to the Executive Committee. If it was formalized, the Committee would not have a standing authority to act on behalf of the membership but could act when delegated on a particular issue.

Mr. Fowler said it could become a way that the membership can express more opinions and direction on actions that might otherwise be taken by the chairman, the executive director, or the staff.

Jordan Tannenbaum said at the United States Holocaust Memorial Museum, the executive committee meets bi-monthly. He said it is an effective way to get business done quickly and efficiently. Their findings and decisions are presented to the full council, which meets twice a year. He asked about the term of a rotating member at large.

Mr. Fowler said it is useful to continue to have the committee chairmen engaged, but then to bring in somebody else as a fresh voice every now and then.

Maureen Sullivan said because there are no federal agencies who are committee chairmen at this point, she wanted to insist that no decision be made unless there is a federal agency representative as part of the Executive Committee. She said it is only fair, given the preponderance of federal agencies that are members of the full ACHP, that the federal agency views be part of that decision making.

Chairman Donaldson agreed. Mr. White said he hoped a more formal Executive Committee would be able to include a federal agency head. Mr. Fowler recounted how there was a time when the ACHP had a regular federal member on the Executive Committee. It fell into disuse because he could not get policy-level representation.

Vice Chairman Forsman said there would be an advantage to having a federal employee on the Executive Committee because they have information that can be helpful to the ACHP. He added that members should define the idea further and give some examples of the types of things this committee would do.

Strategic Plan

Chairman Donaldson said the ACHP is required to prepare a multiyear plan under the Government Performance and Results Modernization Act. It needs to be done with the full-time chairman, but members have been discussing the general directions for a new plan. He added that he liked having the sequential committee meetings and suggested it would be a good model for the future.

Mr. White said the Preservation Initiatives Committee talked about the accomplishments over the past six or seven years of the strategic plan. Based on the discussion, the Committee recommends exploring the following priorities as the ACHP moves forward with strategic planning. These include identifying new sources and expanding existing sources of financial support; continuing to expand legislative activities seeking more proactive engagement with Congress; continuing to expand the focus on climate resilience and adaptation; expand ACHP involvement in some international preservation efforts; continuing to expand the internship program and maximize its organizational efficiency; and seek involvement in planning for the 250th anniversary of the United States in 2026.

Reno Franklin said the Native American Affairs Committee had tribal leadership at their meeting: Governor Tim Menchego of Santa Ana Pueblo, who offered words of encouragement and advice which Mr. Franklin took into account going through the recommendations.

He pointed out that there was only one tribal priority in the previous strategic plan, and there is need for having more than one in this upcoming strategic plan. The first suggestion offered by numerous people was to revise the regulations. This would allow a more strategic approach to tribal and Native Hawaiian participation in the process. Mr. Franklin said Governor Menchego told the committee that nothing will change until tribal and religious leaders have the ability to make recommendations and not just participate in consultation.

Next, Mr. Franklin suggested making the success of the ACHP and Salish Kootenai Tribal College partnership a priority. It has been a fruitful relationship thus far, and he would like to expand on it.

The goal of that project is to train Tribal Historic Preservation Officers (THPOs) at a tribal college. As a part of that, there was a recommendation to include a Native youth in the committee. The previous day they had a presentation from Victor Lopez-Carmen, ACHP staffer Guy Lopez's son, who recently edited a book *Global Indigenous Youth: Through Their Eyes*. He did worldwide research, interviewing and going to many different countries offering perspectives from Native youth or Indigenous youth.

Mr. Franklin said the committee wants to expand the ACHP training program to include cultural resource management (CRM) firms and practitioners. That is something that has come up numerous times when there are agencies working with CRM firms, sometimes the way they consult with tribes could be more effective.

He also said they want to get more into Indian Country. Governor Menchego invited the ACHP to New Mexico to sit down with his people and the other 19 or so Pueblo Tribes and talk to them on their lands. Mr. Franklin suggested making it a priority to get out more often and visit tribal partners.

Mr. Tannenbaum said the Federal Agency Programs (FAP) Committee members acknowledged that the ACHP has accomplished a great deal under the current plan and particularly under long range goals two and three. This includes fairly routine but important tasks related to participating in Section 106 consultations, the development of Section 106 guidance and program alternatives, but also important policy and program issues, like maintaining active participation in the Permitting Council and Broadband Workgroup as well as the One Federal Decision MOU and the Unified Federal Review Process.

He said there was also support for continuing to carry out the ACHP's role under the Preserve America Executive Order and further work on the historic preservation implications of climate change. The development of program alternatives for important forest management needs and issues, continued guidance and assistance to agencies on complying with the One Federal Decision, the recognition of the importance of traditional knowledge and effective tribal consultation, more work on integrating NEPA and Section 106 reviews.

Further, the committee suggested the strategic plan give advice on complying with Section 110 requirements, perhaps in coordination with the National Park Service (NPS), further support for communication between Federal Preservation Officers (FPOs) and State Historic Preservation Officers (SHPOs), as well as better communication among all Section 106 stakeholders.

It is advised to utilize the presence of a full-time chairman to tackle long-standing Section 106 policy issues, and leveraging partnerships to expand the influence of the ACHP and teach the public more about what the ACHP does and its accomplishments.

Robert Stanton said the Communications, Education, and Outreach (CEO) Committee met and discussed the importance of utilizing the wide array of news and electronic media to convey to the widest spectrum of the American public possible, the importance of citizen engagement in historic preservation. He said through a number of surveys and special studies that there still is not a full appreciation throughout the breadth of the American population on the importance of respecting and preserving the collective heritage. He said the committee proposes to continue to utilize all resources available to get the word out, and follow through on the goal of diversifying the preservation movement.

An important element of that whole effort is to emphasize the importance of engaging youth. The committee discussed a program that was inaugurated last year and which he said was "poetry in motion."

It was a major partnership between NPS, the National Trust for Historic Preservation, Morgan State University, and the ACHP, where six outstanding students participated in "Touching History: Preservation in Practice."

Mr. Stanton said the program encouraged them to take another look at their career goals and perhaps some of them will be sitting around this table within the next six years demonstrating that they had made a commitment to pursuing a career in historic preservation.

According to the strategic plan, he said youth involvement is one of the key components of diversifying the preservation movement. This year will involve Morgan State and Tuskegee University in Alabama. One of the major considerations that came out of the discussion is whether to continue to develop this program. He noted the committee endorsed its continuation but also suggested developing the program to the extent that it could become replicated—involving other colleges and universities that have significant enrollment of minority students.

The committee wants to maximize the use of today's technology, listening to youth in terms of whether the ACHP is communicating effectively with them, and be open to constructive input from them in terms of how their federal government is or is not serving them in terms of sharing what the opportunities are about their engagement.

Ms. Guen said she was impressed by the format of having the four committee meetings sequentially. She was interested in something Governor Menchego said that the discussion is about traditional knowledge or traditional ecological knowledge. His opinion was that Section 106 was formulated to protect the past but not so much the future. For his needs, there must be a living space. She suggested that this wisdom applies to all peoples. Looking at resilience and all these other issues, that will be an ongoing issue.

Mr. Fowler said the committees and meeting structure can change. When the new chairman comes in, the opportunity exists for the membership talk with the chairman about the best way to structure the operations of the ACHP. He said a challenge is that so much of the work gets done in committees, but the agency representatives at the committees are not the agency representatives sitting at the business meeting table. In order to get the federal agency input from the policy level, it is a challenge that needs to be considered.

He said at the July business meeting he might include a day or a half day set aside for strategic planning. Mr. Tannenbaum suggested serving lunch at the committee meetings, or inviting someone in to speak at that point, like an agency representative or a subject matter expert.

Digital Information Task Force

Chairman Donaldson said the task force includes the Departments of the Interior and Transportation, National Alliance of Preservation Commissions (NAPC), National Conference of State Historic Preservation Officers, National Association of Tribal Historic Preservation Officers, Council on Environment Quality, the National Trust, and Expert Member Dorothy Lippert.

Mr. Tannenbaum gave an overview. The group has met twice and has spent time assessing the broad body of work already out there on digitization of information, about historic properties, and has given further thought to a proper role for the ACHP in this broad endeavor.

Recognizing the ACHP's oversight role for the Section 106 process, they agreed the central focus ought to address the need to ensure that consistent information about historic properties is electronically available to agencies and other planners to inform the Section 106 review process. The task force intends to call upon the expertise of a number of other stakeholders who have been working on different parts of this broader puzzle by inviting them to serve on a workgroup that advises on these efforts and is planning to convene them in person in a meeting in May. After the task force hears from them, they will further refine goals and establish more specific expectations and deliverables to convey findings and advice on the issue.

The committee reminded everyone that tribal information needs to be protected, as does any sensitive information about historic properties. Information made electronically available to federal agencies and project planners should not be used as a substitute for consultation with tribes, or anyone else. The task force needs to remain cognizant of the work already done by NPS and the federal data standards work groups, and not repeat those efforts.

One goal should be ensuring that information about historic properties is made available to and utilized by planners at the earliest possible stages of planning and decision making. The task force needs to consider how the ACHP might make the case, whether to the Administration, the Hill, or industry, that investments in the further development of such systems would be wise. They asked how it will be funded.

Reflections on the Development of the Chairman's Letter on the Growler Case

Chairman Donaldson said it was complicated trying to get the letter out. Besides the 45-day time limit in the regulations, it also happened during the 35-day federal government shutdown. He developed a system where staff was sent to conduct a public meeting in Washington. Then a chairman's letter was drafted, which is one of the ways that the ACHP is allowed to fulfill its formal responsibilities.

Usually, when there has been a termination of a Section 106 case, Chairman Donaldson would send a group of council members to a public hearing. That panel normally consists of two federal agency members and three members that are appointed by the President. The timing this time did not make the panel option viable.

Mr. Tannenbaum said the process worked well. This is a model as to how to proceed in situations where there is a termination of consultation. He asked Reid Nelson to come to the table and report on the process and the recommendations. Mr. Nelson said it was a very good letter, and it was much improved because of council member input. The 45-day period means that staff has a relatively short amount of time to pull together formal comments to the head of a federal agency that try to capture the collective views of the ACHP members about cases that sometimes have been going on for years and have been complicated throughout their life cycle. Staff is proposing a protocol on how to use essentially the same process going forward in the future to develop these letters. He summarized the protocol from the meeting book.

Mr. Franklin said he thought the process was effective, giving members an opportunity to include things in the chairman's comments and chairman's letter. Mr. White said he would like to know how the determination is made of what is included, or what topics can or cannot be addressed. He noted members are not involved in the day-to-day work of Section 106 consultation and do not know what took place from the beginning of a consultation until the termination.

Mr. Fowler said with a full-time chairman, the ACHP will have policy-level leadership in the office on a daily basis, and so the chairman is going to be more intimately involved in the development of staff positions on controversial cases. He said it could be a fairly dramatic change, and it also gets back to thinking about the role of the Executive Committee, and the question of communication between the chairman and the membership. Mr. White agreed and stressed communication with the members will be important in developing these policy-level positions.

Chairman Donaldson said maybe something was missed in the process on how the Area of Potential Effects (APE) was determined in the Growler case. There were controversial comments from several people saying something in one way and then changing their mind. He acknowledged it can get complicated. Mr. Stanton asked how the letter is shared publically, for example, disclosed to the media or to the public in general. Chairman Donaldson said it goes on the ACHP website and is public information at that time. Mr. Fowler said it is public as soon as the letter is delivered to the agency head. At that point, he shares it with the council membership, consulting parties, and the media.

Ms. Guen endorsed the benefits of a public meeting. She said there is a lot of benefit to the community when the ACHP shows up. They can see that members are present and that this process included them as a backup, as a face to face. People really want to be heard.

Mr. Nelson noted that Tom McCulloch and Katharine Kerr interacted with the public in Washington. They had tremendous feedback from the public there. He acknowledged the ACHP received a large body of feedback electronically as well. Staff efforts through the media informed people of the opportunity to comment and resulted in a lot of things coming in via email.

Mr. Fowler said customarily, within the 45-day regulatory limit, there is a public meeting. One thing he welcomes in this protocol is having a council member present at the public meeting, so it shows the community that the ACHP has made the commitment of involving policy-level leadership in hearing what the public has to say.

Elizabeth Merritt said the National Trust appreciated the chairman's responsiveness to the comments that were submitted. She warned about the possibility of a case where there may be a consensus before the public meeting between the SHPO, the agency, and the ACHP about issues such as the APE. Then the public may disagree. Some of those previous "handshake" deals might need to be called into question, as a result of being responsive to the public feedback.

She said over the years, the ACHP comments in these rare termination cases have often made an enormous difference and been extremely influential. Here, however, it is her understanding that the ACHP received a letter back from the Secretary of Defense acknowledging the comments but determining that the undertaking would go forward as planned. She suggested it would be useful to think about how to handle situations like that.

With regard to the scope of ACHP comments, Mr. Fowler said the membership can comment on anything it wants to. This is an advisory comment. It is a tool that can be used for a variety of purposes. With the APE issue in the Growler case, there had been a lengthy, arduous debate in the consultation process about what the APE was. In the end, the agency is entitled under the regulations to make the final determination on the APE. At the same time, there is no legal constraint on the ACHP members commenting on that determination. It gets down to what the ACHP wants to say.

National Park Service Proposed Rule on National Register Nominations

Chairman Donaldson said NPS recently issued a proposed rule that would implement provisions in legislation enacted in 2016 that revised the process for federal agency nominations of their historic properties to the National Register. The proposed rule would affect the determination of eligibility process. It has raised a variety of concerns in the preservation community.

Ryan Hambleton said the reason for taking this action stems primarily from the 2016 amendments to the NHPA, which required NPS to make implementing regulations for the legislative provisions. The proposed rule hinges entirely on that law. He read a portion of the legislation, noting this requires that the Secretary of the Interior may accept the nomination directly by a federal agency for inclusion of a property on the National Register only if one of six different conditions is met. He wanted to hear thoughts on the interpretation and noted the comment period on the proposed regulatory changes ends on April 30.

He added that other proposed changes deal with the desire of NPS and the Department of the Interior (DOI) to attempt to protect private property rights, by ensuring that if an entity or person owns a majority of the land area of a historic district that is up for nomination that they have a say in whether their property is listed there.

Mark Wolfe said the National Conference of State Historic Preservation Officers has serious concerns about the proposed language, which he feels goes far beyond the statutory language that was cited. It deprives citizens and the SHPOs from participation in what is a very important segment of the national preservation program. It creates a system that favors the opinions of people who own more land. In other words, the votes of people of comparative wealth and government entities that are land-holding entities are now going to be worth more than the votes of other property owners and residents in that district.

He found that ironic, given that the national preservation program is making the effort to make sure that the National Register really represents all of the people of the nation. He said this works in the opposite direction. Also, the process that is proposed is really unworkable from the SHPO perspective. For example, SHPO capacity differs from state to state in terms of resources and ability to determine the square footage of every lot in a proposed National Register Historic District.

Mr. Franklin said he respectfully disagrees with the decision to make a determination that this rulemaking does not have an effect on American Indian tribes, tribal governments, and Native Hawaiians. He asked Mr. Hambleton to revisit the decision. There are thousands of sacred sites, cultural sites, and archaeological sites of traditional cultural importance to tribes throughout public lands, state parks, and national parks. Any one of those would be affected by the decision. He said Executive Order 13175 clearly states that federal agencies will consult Indian tribes on decisions that affect them.

Luis Hoyos noted that he sits on the State Historical Commission in California and said, from his perspective, the National Register rules have been robust, very reliable, and reasonably understood by the public. Every time there is a conflicted situation with a property owner, once they are reminded of the rules, or once the rules are explained to them in a public setting in the Commission meetings, most of them walk away satisfied that the rules give them a chance to deny a listing if they disagree and so the determination stands. Most of them walk away satisfied.

He said he is concerned and alarmed at the nature of the proposed regulatory changes, the exceptions that these rule changes bring. He said these rules are aggressive and that they erode the authority of state commissions. Their determinations and their decisions might be summarily set aside by people who did not participate in the process. He said the current rules work more than reasonably well; they are fair. Property rights are amply protected. He said he cannot help but think that many of the proposed changes are just unnecessary.

Ms. Guen said her work with underserved groups led her to think the National Register still serves as a gateway of very high distinction. The Boston Chinatown community that she worked with on a nomination was not in favor of it initially because they had so little experience with historic preservation. But they understood the high bar to reach in a nomination. To have the bar pushed further away in some situations is not going to benefit the nation. The potential of that occurring grows by adding these rules. The current rules certainly seem to be functioning well and some communities are just starting to engage; there is a potential for the proposed changes to exclude some communities that are already struggling just to meet the current standards.

By the appearances of this discussion, probably those financially entitled will have more votes than those who are less represented. She said the extra rule changes are not needed.

Ms. Sullivan said she is concerned about the Department of the Interior's determination that DOI did not need to go through the Office of Information and Regulatory Affairs process for an interagency review. She said the woefully inadequate estimate that this would not have significant impact on federal agencies is off the mark. She wholly encouraged DOI to revisit that decision when they go to the final rule and respect the Executive Order 12866 process that has been established for a long time. She will also raise this issue with OMB-OIRA.

Dorothy Lippert noted regarding land ownership that Native Americans have been here since time immemorial. Over the last 500 years there has been a process of transference of land away from Native communities. She is concerned that by weighting the process toward landowners, this is going to be one more thing that is a detriment to tribal nations and tribal sovereignty.

Ms. Merritt raised several questions and ambiguities that she has been hearing discussed frequently: If there are historic districts that include federal and non-federal ownership, such as federal checkerboard ownership in the west or Main Street historic districts where there is a post office and courthouse, and then a lot of other private property, can the federal agency block those nominations? Can they block eligibility determinations? How does the SHPO calculate the denominator of ownership in order to determine whether a majority of landowners by acreage object when there is that kind of mixed ownership?

She said there has also been a lot of concern that in the Section 106 consultation process, if there is a disagreement between the federal agency, the SHPO, and other consulting parties about whether a property or a district is eligible for the National Register, that the federal agency could essentially block that disagreement from getting resolved, and thwart the Section 106 consultation process. Also, these regulations could interfere with the use of the historic tax credits by blocking, for example, Main Street historic districts from being listed on the National Register if a federal agency owning a property in the district objects.

Shasta Gaughen said the sovereign tribal governments are not being consulted in an appropriate fashion on this proposed rule. She said the idea that this rule change is not going to have an effect on tribal historic properties is “in the twilight zone.” She encouraged DOI to reconsider the level of consultation they are undertaking, but not just provide for more public comment, because tribes and tribal governments are not the public, they are sovereign nations.

Government-to-government consultation is necessary for tribes to fully be able to engage with NPS on the implications of this rule on tribal sovereignty, on tribal cultural properties, on the responsibilities of THPOs, and, also, for the tribes that may not have THPOs, but have the same level of concern and the same right to be consulted.

She asked Mr. Hambleton to consider having a longer process, so the tribes can have an appropriate venue to voice these concerns. Every other historic preservation organization is more easily able to define their area of concern, but for tribes, it is the entire country.

Mr. Tannenbaum said he has been involved with the Section 106 process for almost 50 years, and the regulations have changed a bit over time. He has been involved in many cases where things have hit a wall early in the process, and the ability to have either the SHPO or the agency go to the Keeper for a determination of eligibility is important. Having that objective review has been able to move these Section 106 cases through the process and arrive at decisions that are beneficial to both parties. He serves on a local commission and mentioned a current case where if this were the rule in effect, the status of a particular potential National Register-eligible district probably would not be determined. That would cause the whole process to go off the rails.

He also teaches Section 106 courses for the Department of Defense and said he can give a list of cases where the ability to trigger a determination of eligibility under Section 800.4(c)(2) of the Section 106 regulations has been very important in keeping things moving.

Ms. Slick said the first threshold of eligibility or listing is really key to what tiers off a number of other activities. Those activities have been designed to be consultative in spirit. She said it seems that this

approach sets up something that becomes adversarial, and she does not think that is needed or wanted in preserving the nation's history.

Mr. White questioned what consistent challenges DOI is trying to address with these proposed regulations. He said the ACHP would be happy to help them address those challenges in a way that is consistent with the spirit of the Act and the regulations as they have evolved thus far.

Ted Boling reiterated the importance of the Executive Order 12866 process. It is an opportunity for DOI to get candid input from its fellow federal agencies. It is an essential part of the way the government does rule-making, so he looks forward to working with DOI on that. The Council on Environmental Quality obviously has a vital interest in the NEPA and Section 106 processes working well together and federal agencies working well together.

Chairman Donaldson said it is important to understand how the program got here in the first place. He noted that the large infrastructure programs in the Eisenhower era, especially with the freeway interchanges and pipelines and transmission lines that were so important after the war led to the creation of the National Historic Preservation Act. That put an obligation on federal agencies. If they are going to take action or spend money, they must take into consideration these particular properties that are unique to the history of America, which goes well beyond issues of property ownership.

These properties that are on the National Register set the bar, and from that has been a trickle-down system from state registers to local registers to city registers. He said it is important to understand that where an owner subdivides his property into 1,000 trust units and names himself trustee for each unit so he has 1,000 votes to object to the listing of a historic district is just wrong. It is wrong for a lot of different reasons and should be addressed.

It is important to look at why the Act was created and what it has achieved over 50 years. He said the ACHP has a lot of experience that should be relied upon.

Mr. Hambleton said he appreciated the comments, and he understands and admires the passion that everyone on the ACHP has for historic preservation, and understands the strong feeling about this proposed rule. He has learned a lot and heard a lot since this rule was first proposed about a month ago, and he said he looks forward to seeing what everyone submits. On the issue of consultation in the meantime, he will take those comments back to NPS. He appreciated the offers of assistance in resolving some of the issues.

Ms. Sullivan asked if the ACHP members could review the ACHP comments before they get officially submitted to NPS. She cautioned that if they are speaking on behalf of the ACHP, then the ACHP members should have the opportunity to review the final comments. She said Executive Order 12866 requires if there is a significant rule that it go to OMB and the Office of Information and Regulatory Affairs to have that review shared among the federal agencies and reviewed by OMB for analysis in consistency to ensure that all the federal agencies are speaking with one voice prior to it going out to a public release. These conversations are usually very fruitful. It allows the ability to engage all the experts in the federal government, their thoughts and expertise.

Mr. Boling said there are some thresholds as to whether a rule is considered significant. It is applied to things like the Navy tinkering with their categorical exclusions. It is not necessarily limited to rules that have an impact of \$100 million or more on the national economy; it also addresses rules that are of policy significance or are of a more open-ended basis.

Mr. Fowler said the discussion was incredibly valuable for the development of the ACHP's comments, and to get a sense of members' concerns. He directed members to material in the meeting book to see

what the initial thinking was, which was to focus on the intersection between the Section 106 regulations and how the DOE process might be changed. Staff also had raised concerns about tribal consultation and the interagency coordination.

He said this regulation was identified as being under consideration almost a year ago, and there is a process whereby proposed regulations are put in an online database that the Office of Information and Regulatory Affairs maintains. He reached out early on to NPS and DOI expressing the ACHP's desire to coordinate with them, first to get an understanding of what the scope of the rule might be. He saw that if the rule changes were to address determinations of eligibility, there needed to be some serious consideration of how these things fit together with the Section 106 process.

Mr. Fowler said the ACHP did not get a response. He went to his contacts at OMB and asked for insight, and they could not get information on what was going on. In the end, not long before it was issued, he received a verbal summary from the budget examiner on what the scope was going to be, but not much in the way of content. He said the ACHP made every effort it could at the staff level to encourage early coordination on this. He will be developing the comments and will share a draft comment letter with members.

White House Opportunity and Revitalization Council and the ACHP

Chairman Donaldson said in December 2018, the President issued Executive Order 13853 which established the White House Opportunity and Revitalization Council. The mandate of this new council is to promote the revitalization of urban and economically distressed communities, particularly opportunity zones that are eligible for new opportunity zone tax benefits created in last year's tax overhaul.

The council could provide an excellent venue for the ACHP to advocate for historic preservation as a strategy for urban revitalization. The federal tax credits have had success in promoting community revitalization, affordable housing, and creating jobs. Given the ACHP's history and interest in this issue, he sent a letter to the secretary of HUD asking that the ACHP become a member of the opportunity council. He has not received a response yet from HUD.

Danielle Schopp said HUD is considering bringing the ACHP to the table and was very encouraging and welcoming about the idea of having the ACHP there. She appreciates the engagement that has happened so far and will continue.

She gave a brief overview of opportunity zones. The idea is to encourage public-private investment in distressed communities for economic development and offer capital gains tax relief to investors who invest in qualified opportunity zones. A qualified opportunity zone is a geographic area that has been designated by the Secretary of the Treasury. Opportunity zones are areas around the country where the poverty rate is 20 percent or higher, or the median income is less than 80 percent of that of the surrounding area. Opportunity zones can be in both urban and rural areas.

Governors can nominate up to 25 percent of eligible low-income communities' census tracts as opportunity zones. Then the Treasury Department qualifies these. They are geographically mapped and are eligible for this private investment that gives investors capital gains tax relief.

When a taxpayer sells an asset and realizes capital gains, they are subject to capital gains tax. Investors may put these gains in an opportunity fund established for investing in properties in opportunity zones, thus deferring tax on those gains and reducing the eventual rate by which they will be taxed. Investors have to put their capital gain in a qualifying opportunity fund within 180 days of the day the gain is received. The Treasury Department is estimating that over the course of opportunity zones, there will be \$100 billion invested. The concept is to unleash people's capital gains and focus them to lift up these

depressed areas. These opportunity funds can be paired with low-income housing tax credits, new market tax credits, and historic tax credits for additional benefits.

An important thing to know about the opportunity zone program is that it is not subject to NEPA or the Section 106 processes. HUD sees that coming into play through aligning federal resources and in layering in other federal programs.

Mr. White asked if all properties within an opportunity zone are exempted from Section 106 consultation, or whether the opportunity zone itself does not trigger Section 106. Ms. Schopp clarified that creation of the zone itself does not trigger Section 106.

Traditional Knowledge in the National Historic Preservation Program

Chairman Donaldson said traditional knowledge can be thought of as knowledge and practices of indigenous peoples, and often is employed in the programs conducted under the National Historic Preservation Act. The ACHP has long recognized traditional knowledge as an important factor in evaluating and understanding the significance of traditional cultural properties important to indigenous people. The agency has had this understanding for quite a long time. But as new members come in, they probably do not have the same level as the people that are going out, in terms of understanding and appreciation of traditional knowledge.

Vice Chairman Forsman said the importance of the beliefs, oral histories, and traditions that are connected to the landscape of American Indian people in this nation is so crucial to the preservation of the country. He considers it true patriotism to respect the traditions of American Indian tribes and their elders. It is a very important part of the cultural landscape. He stressed the importance of native language. Those words in that language are so crucially a part of the landscape that each of the tribes across the nation has, and it is all intertwined.

Vice Chairman Forsman said it is important that traditional knowledge be treated as just as important as the archaeological sites or the natural formations that are part of creation stories and other things, and that people remember to preserve and protect those as treasures of this country.

Mr. Franklin said he was conflicted at the committee meeting in understanding Pueblo culture and Pueblo rules and then asking a Pueblo governor to speak on a very sacred subject in a room full of people who may or may not be privy to hearing the information that he shared. He understood the weight of that decision and said he was fortunate that Native American Affairs Office Director Valerie Hauser also understood that. When one talks about traditional knowledge, it is not just the archaeological site, but it is how the information in itself is obtained. The roundhouse leader is responsible to everybody in a tribal community with teaching protocols like the ones that he followed and observed yesterday.

Those protocols in themselves are a piece of the overall traditional knowledge that Native Americans follow and hand down and ask others to observe. The task in front of both the Office of Native American Affairs and the Native American Affairs Committee is to find a medium that allows agencies and cultural resource management practitioners to gain insight and knowledge into how to gain access to that traditional knowledge from tribal leaders and tribal cultural authorities. That is not a simple task.

The committee said this needs to happen, but it should not be guidance, because to provide that kind of guidance in itself would be inappropriate, but to be more informative at the onset, and teaching from the perspective of the ACHP being a partner with tribes through informative papers and opportunities to learn.

The committee said they are looking to fill that gap between what the Environmental Protection Agency is calling traditional ecological knowledge, which many tribes concur with, and what the historic preservation community is calling traditional knowledge, and helping to explain that, in that space, one does not exist without the other. They are indeed very similar, if not, the same thing.

Mr. Franklin said he will provide in the coming meetings an informative paper that explains this and also some more testimony. The goal of the presentation of traditional knowledge is to teach, to inform, to bridge gaps, and to provide opportunities to expedite processes that are duplicative of each other.

Dr. Lippert said one of the things that was important to her to speak about in the meeting the previous day is the importance of acknowledging tribal experts. As Mr. Franklin noted, there are old Indians and there are elders, and they are not always the same person. Tribes acknowledge people who have traditional knowledge, and respect those people and defer to them because they have gained this wisdom over the years, and they know how to do things in the correct way.

In her job in the Repatriation Office at the National Museum of Natural History, they have practices where they defer to the tribes on things like sacred objects, because the museum cannot identify sacred objects. Most of the people in her office are not tribal members, so people do not have expertise on what the meaning of objects are and how they relate to a tribal community. She said tribal members come in and explain to staff that a certain object is sacred and they need it back for ceremonies. Staff are required to defer to that expertise when that happens.

It is important to respect the people who hold this knowledge. Just because something has been written down by a western scientist, does not make it traditional knowledge. Something written in a book is not necessarily the thing to rely on. Listening to people in the communities is the best practice.

Ms. Gaughen said western science and western ways of knowledge-making tend to focus on categories and taxonomies. That is not really a traditional way of defining what things are. If these are put into words and are defined in ways that do not have flexibility, that actually makes things harder for tribes. This happens when it comes to sharing the knowledge that they often do not want to share, but have to share in the service of saving what is most important, because the West does not acknowledge that these tribal definitions are as significant as they are.

She said she sees the need for ACHP information papers but also understands the fact that these are confidential types of ideas. They are sacred ideas, and there are currently 573 federally recognized tribes, and thus that many potentially different ways of defining traditional knowledge. As the ACHP proceeds on this attempt to define traditional knowledge, it must do what it can to listen more to those practitioners with that firsthand experience.

Ms. Slick said it is important to bring the awareness of tribal knowledge forward and create an opportunity for that information to be shared. She said it is going to take a lot of time and a major commitment on the agency's part to building relationships, because that information does not come easily. The relationship building becomes a foundation for how it will be presented and how to accept it.

Mr. Stanton said the Native American Affairs Committee provided a very moving experience. He said one of the most noble characteristics that defines one's humanity is to establish respect for others. The other one is to accept people's differences. He said he hopes that as the ACHP proceeds in advancing the preservation of the nation's rich and diverse natural and cultural heritage, that respect for one another and our differences will continue to grow as well.

He suggested there be other opportunities to have more interaction with others, including governors, mayors, tribal leaders, and leaders from the Latino community, the African American, Asian communities. There is, he said, no substitute for personal interaction.

Mr. Tannenbaum reminded members that in the US, Native Americans, through the boarding school process, were forbidden to speak their traditional languages. He felt the significance of Governor Menchego being able to join the committee meeting and speak to members in his own language. He said it is good to remember how important language is. Chairman Donaldson continued that it was not only speaking, but the clothes, the hairstyle, the mannerisms, and everything else. He has been told often by tribal members, "If you lose a language, you lose a culture."

Ms. Guen agreed that the live spoken language embodies a culture. Having grown up in a bilingual community, but barely being bilingual, she said she understands it, going into her own home and half the literature is in Chinese and she is not capable of reading fluently half of it. She said it is important for each new generation to push to continue with the language and teach the children; it is core to the identity. She suggested part of the strategic planning for the ACHP would be to consider always having on staff somebody who has ecological training, whether it be landscape architecture or other types of land management interpretation.

Mr. Franklin said the ACHP is trying to bridge that gap to help agencies and practitioners understand how to go about getting traditional knowledge from a tribe, and where to incorporate that into the process.

Section 106 Success Stories and Future Directions

Chairman Donaldson thanked Ms. Shrieves for doing all the editing and production on the stories, and Ms. Slick for coming up with the original concept of this. He announced there are now 106 published success stories, and he was pleased that the goal was finally reached. He suggested starting a new series of 110 Section 110 stories.

Mr. Stanton reported that the stories have been widely used at conferences, congressional visits, and training. He has used them extensively in a wide range of speaking engagements to diverse audiences. These are extremely effective tools of conveying in a succinct way the good work on the part of the ACHP in the interest of the American public in preserving heritage. These are effective tools with which to communicate both the letter and spirit of the National Historic Preservation Act.

Chairman Donaldson said the compendium of stories will be put together soon, and the stories themselves are useful when he goes to meet with legislators on the Hill or their home offices; it is great to bring those in, because they really love to see that.

Ms. Slick said although she is not eager to start the 110 project, she thought it would be interesting to showcase successful agencies that stepped forward and met their Section 110 responsibility. She said there is an ongoing need to talk about the successes that agencies do writ large, and to capture those as they become both educational, but also celebratory about the work that is going on.

Mr. Tannenbaum suggested another series of success stories focused on the NEPA-Section 106 substitution process, because people usually have a lot of questions about that process.

Mr. Fowler commended Ms. Shrieves noting she was more than an editor, she was the enforcer who got people to turn in stories on time, and she was adamant about having one from every state. He also thanked all the staff members who contributed to drafting these stories even though his editing may have frustrated them. He asked members to think about how they might be able to use these within their agency

or organization to educate people on the Section 106 process and how it can come out with good solutions.

Chairman Donaldson noted the stories involve many different partners. They also reach across great areas. One of the reasons the series is so successful is that Section 106 is really and always has been a partnership relationship.

Barbara McCann said she was pleased to see the latest batch of stories had four related to transportation, and there certainly have been quite a number related to transportation issues. She was thinking about what they could do in DOT to use all of those. She said there is a tendency of people in agencies to look at these processes as a hassle, and to really show how the dispute process results in positive outcomes is so valuable. Using it to send that message, and these processes can have good outcomes is helpful.

Ms. Savage said the series is a really valuable thing, and they have used it in-house at the General Services Administration in various ways. She said it is great that they are all online, but she hoped staff could look at the website and figure out potential ways to make them more accessible.

Mr. Fowler said it would be useful for him to hear how agencies or other members are using the stories to share. He is interested to work with NAPC to see how to use these to raise the level of understanding for the local preservation commissions and local preservationists. Stephanie Paul said she has shared stories quite a bit with her members. The members enjoy reading them, and they have worked on some of the projects.

Members discussed having links in the stories to other issues or programs. Mr. Fowler said as one goes through the lists of consulting parties, there are community groups and groups that have interests that one does not think of as being historic preservation, but there has been an intersection with what the ACHP does and what they do.

Committee Reports

Mr. Stanton said he touched upon the Historically Black Colleges and Universities (HBCU) initiative in the strategic plan discussion. Today, there are 105 fully accredited HBCUs. The ACHP will be continuing this program working with the White House Initiative for Historically Black Colleges and Universities and with Morgan State University, the National Trust, and NPS. This year the ACHP will be including Tuskegee University, in Tuskegee, Alabama. He hopes to continue to involve other colleges that have significant minority populations, again, broadening the circle of the face of America in this noble endeavor of historic preservation.

Mr. Fowler recognized the partners who have made this possible. He thanked Susan Glimcher and the OCEO staff for coming up with this idea in the first place, and then carrying it through. NPS has provided the funding and the experiential opportunity at the Western Training Center at Grand Teton.

He thanked Joy Beasley who has been an outstanding partner from NPS, as well as the HOPE Crew program at the National Trust that has been an integral part of this. The ACHP Foundation has provided its assistance in building the partnership, getting the resources out to the participants, and providing wise counsel on how to move forward. It is a great interagency public-private partnership that he really looks forward to continuing.

Mr. Tannenbaum said for the FAP Committee, they noted last year, the ACHP approved two Program Comments (PCs): DOT Program Comment on rail rights-of-way, and the VA Program Comment on vacant and underutilized properties.

Mr. Nelson came back to the table and said there has been significant progress in implementing both of those items. Regarding the PC to VA, issued on October 19, 2018, the ACHP recently received a list of properties that they have determined should be subject to the PC, 391 properties in all. His staff will be working expeditiously to inform preservation and veterans organizations about that list, and put it on the website, so that the appropriate stakeholders will have the opportunity to weigh in on that. It was an important part of the process that was built into the PC.

For the Department of Transportation PC, issued August 17, 2018, there were two parts of that. One was an exemptions part, which has been used about 106 times, principally by Amtrak. There was also a property component. One of the things the PC required was that the Department of Transportation, in consultation with the ACHP, issued guidance on how to implement that part of the PC within about nine months. He has had a number of productive meetings with the Department of Transportation recently to provide some initial comments on that draft guidance.

Mr. White thanked Dru Null and her staff for the work that they do for the Office of Preservation Initiatives and for the committee. He also congratulated her on her first meeting as the new director of the Office of Preservation Initiatives.

He said the committee is continuing to be guided by the legislative agenda approved by the ACHP members for the previous Congress, pending confirmation of the new chairman. For the FY2019 appropriations that were passed in February, the preservation program received \$102.66 million, which is the largest appropriation it has had in the history of the program. The preservation partners have an aggressive, optimistic budget proposal FY2020 which would total \$140 million.

He noted that the John Dingell Jr. Conservation, Management, and Recreation Act was passed in February with many important conservation elements. These include permanent reauthorization of the Land and Water Conservation Fund, reauthorization of the HBCU preservation grant program, and creation of the Golden Spike National Historical Park. There were six new national heritage areas that were designated, as well as five new national monuments.

New Business

Chairman Donaldson noted there is no new business at this time. Regarding ACHP meetings in 2019, he has a schedule set up in consultation with Ms. Jorjani. The summer meeting will be July 9-10. The fall meeting will be November 6-7. Right now, they are all scheduled for Washington, D.C., although he always recommends that the ACHP get out of the city.

He thanked the staff, and also said he would like to continue encouraging the new chairman, as well as the rest of the members, to work with the White House in getting a more diverse membership on the ACHP. He has built a council to try to represent the full story of the heritage of America. He said he hopes that initiative continues in the White House. The meeting adjourned at noon with a motion from Vice Chairman Forsman and second by Mr. Franklin.