



Preserving America's Heritage

**MEETING
ADVISORY COUNCIL ON HISTORIC PRESERVATION
Smithsonian Castle
Washington, D.C.
July 10, 2019**

PROVISIONAL AGENDA

Call to Order 8:45 a.m.

- I. Chairman's Welcome
- II. Chairman's Award for Achievement in Historic Preservation
- III. Transition to Full-Time ACHP Chairman
 - A. Transition Process
 - B. ACHP Executive Committee
- IV. Section 106 Issues
 - A. Digital Information Task Force Proceedings
 - B. National Park Service Proposed Rule on National Register Nominations
 - C. Federal Communications Commission Program Comment for "Twilight Towers"
 - D. Government Accountability Office Report "Tribal Consultation: Additional Federal Actions Needed for Infrastructure Projects"
 - E. Update on Prior Section 106 Issues
- V. Historic Preservation Policy and Programs
 - A. White House Opportunity and Revitalization Council and the ACHP
 - B. Legislation
 - C. Planning for the Semiquincentennial
- VI. Committee Reports
- VII. New Business
- VIII. Adjourn

ADVISORY COUNCIL ON HISTORIC PRESERVATION

401 F Street NW, Suite 308 • Washington, DC 20001-2637
Phone: 202-517-0200 • Fax: 202-517-6381 • achp@achp.gov • www.achp.gov



Preserving America's Heritage

MEETING
ADVISORY COUNCIL ON HISTORIC PRESERVATION
ANNOTATED AGENDA

- I. Chairman's Welcome
- II. Chairman's Award for Achievement in Historic Preservation. *Chairman Wayne Donaldson will present the award to NASA for the restoration of the Apollo Mission Control Center.*
- III. Transition to Full-Time ACHP Chairman. *Chairman 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. Discussion only, no formal action.*
 - B. ACHP Executive Committee. *General Counsel Javier Marques will present proposed Operating Procedure amendments to implement the members' prior direction on formalizing the Executive Committee. Discussion only, no formal action.*
- IV. 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. Possible action on intermediate recommendations.*
 - B. National Park Service Proposed Rule on National Register Nominations. *Executive Director John Fowler will update members on the status of the proposed rule. No formal action needed.*
 - C. Federal Communications Commission Program Comment for "Twilight Towers." *Office of Federal Agency Programs Director Reid Nelson will update members on the FCC's plans for addressing the issue of Section 106 compliance for the "Twilight Towers." Discussion only, no formal action.*
 - D. Government Accountability Office Report "Tribal Consultation: Additional Federal Actions Needed for Infrastructure Projects." *Anne-Marie Fennell, Director, Natural Resources and Environment team from GAO, will brief members on the report and its recommendations. Chairman Donaldson will lead a discussion on actions that members might deem appropriate for the ACHP to take to further the goals of the report. Discussion only, no formal action.*
 - E. Update on Prior Section 106 Issues. *Mr. Nelson will report on recent developments on the Providence Viaduct termination and ACHP comment and the Railroad Right-of-Way Program Comment. Discussion only, no formal action.*

ADVISORY COUNCIL ON HISTORIC PRESERVATION

401 F Street NW, Suite 308 • Washington, DC 20001-2637
Phone: 202-517-0200 • Fax: 202-517-6381 • achp@achp.gov • www.achp.gov

V. Historic Preservation Policy and Programs

A. White House Opportunity and Revitalization Council and the ACHP. *Office of Preservation Initiatives Director Dru Null will update members on this White House council. Members will have the opportunity to discuss the potential contributions of the ACHP to this initiative. No formal action needed.*

B. Legislation. *Preservation Initiatives Committee Chairman Brad White will report on several bills in Congress of interest to the ACHP. These include funding for National Parks' deferred maintenance, Historic Tax Credit, National Heritage Areas, the American Battlefield Act, and the African American Burial Ground Act. Depending on the status of the legislative process, members may be asked to take positions on the legislation. Otherwise, no formal action needed.*

C. Planning for the Semiquincentennial. *Cathy Gillespie from the U.S. Semiquincentennial Commission will brief members on the plans for the 250th anniversary of the Declaration of Independence in 2026. Members will have the opportunity to discuss how historic preservation and the ACHP should fit into the initiative. No formal action needed.*

VI. Committee Reports. *The committee chairmen will report briefly on any additional items discussed during committee meetings that warrant member attention. No formal action needed.*

VII. New Business. *There is no new business at this time.*

VIII. Adjourn. *The meeting will adjourn by 1 p.m.*



Preserving America's Heritage

**ACHP COMMITTEE MEETINGS
SUMMARY OF EVENTS
National Building Museum
Washington, D.C.
July 9, 2019**

FEDERAL AGENCY PROGRAMS COMMITTEE

Chairman Jordan Tannenbaum called the meeting to order and welcomed incoming ACHP Chairman Aimee Jorjani as an observer of the meeting and asked attendees to introduce themselves.

Staffing and Recruitment Update

Office of Federal Agency Programs Director Reid Nelson announced Emily Choi, a former ACHP intern, will join the Federal Permitting, Licensing, and Assistance Section in September.

Digital Information Task Force

Blythe Semmer provided an overview of four issues that emerged from the May meeting of the ACHP's Digital Information Task Force. The Task Force is charged with formulating recommendations for how the availability of digital and geospatial information about historic properties can be improved to inform federal project planning. The input of an advisory group of technical experts provided perspectives from the field in both cultural and natural resources management helped shape the definition of these issues. She requested input from the committee on the issue areas and whether others should be added.

Tom Cassidy (NTHP) said the output of the Task Force should be specific policies, examples and best practices, and funding recommendations. Maureen Sullivan (DoD) noted that any funding recommendations should be supported by information about the benefit that funding would bring to federal projects in terms of reduced time or costs. Members discussed the use of geospatial information about historic properties and some of the hurdles, including state disclosure laws, funding for technological platforms, and protecting sensitive information about federal facilities.

On the topic of funding, Caroline Henry (DOI) reminded the committee that industry representatives on the Task Force's advisory group indicated a willingness on the part of private enterprise to help fund state and tribal GIS improvements if they saved time and effort in the planning process. State Historic Preservation Offices (SHPOs) and tribes are already managing this data, but levels of digitization, system platforms, and accessibility vary widely. Mark Wolfe (NCSHPO) said states sometimes have to direct resources to other, more immediate needs, though GIS and databases are a priority to them.

While the Task Force needs to make the point of quantitative efficiency in project delivery, one place to begin may be the time savings of more readily-accessible information, particularly to industry in pre-planning stages. Reno Franklin mentioned the value of this data to the disaster recovery process. One suggestion for gathering metrics to support funding proposals was to survey agencies about their experiences, or the experiences of their applicants, in using GIS data at SHPOs. While full supporting

ADVISORY COUNCIL ON HISTORIC PRESERVATION

401 F Street NW, Suite 308 • Washington, DC 20001-2637
Phone: 202-517-0200 • Fax: 202-517-6381 • achp@achp.gov • www.achp.gov

information may not be available at this time, Brad White suggested the ACHP should talk about the fact that funding needs to be explored to advance the goal.

Ms. Semmer said funding opportunities might not be confined to requesting new sources of funds for states and tribes but could also include exploring how existing agency programs may be used to greater advantage for purposes like facilitating SHPO knowledge-sharing or providing training on the use of GIS. Mr. Nelson asked how the National Park Service (NPS) could play a greater role through technical assistance.

Leveraging Federal Historic Buildings Workgroup

Mr. Nelson explained how the proposal to create a Leveraging Federal Historic Buildings Workgroup is a means of supporting the recommendations in the 2018 Section 3 Report to the President. The Department of Veterans Affairs (VA) has agreed to work with the ACHP on running the Workgroup as an outgrowth of the agency's interest in improving its use of Section 111 lease provisions and other shared issues of promoting historic building re-use. Proposed members are the Forest Service, Department of Defense, General Services Administration, US Postal Service, VA, National Conference of State Historic Preservation Officers, National Trust for Historic Preservation (NTHP), National Aeronautics and Space Administration, and NPS. The consensus of the committee was that Federal Preservation Officers are the appropriate level of representation.

Ms. Sullivan declined the invitation for the Department of Defense.

Mr. Nelson asked if there were other new developments since the publication of the Section 3 report. Dan Jiron (USDA) proposed including new Farm Bill provisions for Department of Agriculture (USDA) agencies. There was general discussion about the goals and purpose of the Workgroup and the varying levels of expertise among property-managing agencies in using the out-leasing provisions of the National Historic Preservation Act (NHPA). USDA and VA are interested in the topic for this reason, and Mr. Cassidy noted the potential applicability for the NPS in addressing maintenance backlogs through partnerships with non-federal entities. Mr. Nelson summarized that the effort is partly about removing impediments to leasing and reusing historic buildings but will also build awareness of Sections 110 and 111 among all federal agencies. Agencies reporting for the 2018 Section 3 report cycle noted they needed assistance in this regard. The discussion concluded with an acknowledgement that since all agencies consult with the ACHP in using the Section 111 lease provisions, the ACHP plays an appropriate role in providing information on this topic.

ACHP Section 106 Training Update

Katry Harris provided an update on new developments in the Section 106 training program. She described a completely updated suite of classroom courses, which are designed for the learning needs of the ACHP's typical training audience: 50 percent federal agency staff, 25 percent applicants or contractors, and 25 percent all other categories of Section 106 participants. Feedback from previous courses and current adult learning techniques were used for the redesign, which emphasizes interaction rather than lecture for a mostly professional audience.

Ms. Harris also announced that five e-learning courses are available for free until September 30 on the ACHP E-Learning Portal, including the newest course on early coordination with Indian tribes developed with the Office of Native American Affairs (ONAA). Three of the ACHP's most popular webinars are being converted to the e-learning format at this time, and they will be available on the Portal in the near future. A new webinar schedule will be announced around Labor Day. Committee members were encouraged to publicize these training opportunities within their organizations and constituencies.

Update on Major Activities

Rail Rights-of-Way Program Comment Guidance

Jaime Loichinger passed out an outline of guidance under development for the Rail and Transit Rights-of-Way Program Comment. She noted a review copy would be emailed to stakeholders the next day for a three-week review period. A teleconference for ACHP members to discuss the guidance draft will be scheduled about midway through that period. Colleen Vaughn (DOT) noted that the Department of Transportation will be distributing the draft to its transportation stakeholders at the same time for review. Betsy Merritt (NTHP) asked what role congressional staff played in the development of the guidance, and Ms. Vaughn replied none.

Federal Communications Commission (FCC) Program Comment on Twilight Towers

Mr. Nelson reviewed the issue of “twilight towers,” or those cell towers constructed during an interim period before execution of the FCC’s Nationwide Programmatic Agreement (PA) for Telecommunications Projects for which no Section 106 review can be documented. He explained the FCC’s previous exploration of a Program Comment to allow collocations on such towers following the process of the FCC’s Nationwide PA for Collocation, objections to the FCC’s proposed language, and the ACHP’s recommendations to FCC about responding to stakeholder concerns and considering other ways to resolve longstanding effects to historic properties that may be unknown, such as those incorporated in the Program Comment for Positive Train Control. Jill Springer (FCC) explained how the FirstNet program is motivating FCC’s interest in this issue, since it prioritizes collocating tower infrastructure. She reminded the committee of FCC’s previous public comment opportunity on the draft Program Comment in December 2017. Mr. Nelson recommended a panel of ACHP members to advise FCC before the agency advances a Program Comment request. The NTHP, NCSHPO, and the National Association of Tribal Historic Preservation Officers (NATHPO) expressed an interest in being on the panel. Shasta Gaughen (NATHPO) registered an objection to FCC’s contention the agency cannot locate twilight towers. Ms. Merritt noted the NTHP opposes this type of Program Comment.

Providence Viaduct I-95 Consultation Update

Ms. Loichinger reported recent progress on this case. After consultation was terminated last year, the Federal Highway Administration (FHWA) has reinitiated consultation, and there has been considerable activity in the last couple of months. FHWA proposes the transfer of three properties to the Rhode Island Department of Transportation, with preservation covenants to ensure preservation and access by the Narragansett Indian Tribe in perpetuity. Management plans for each property will be developed to ensure their setting is maintained. A new Programmatic Agreement has been drafted that includes these stipulations, and FHWA has communicated its interest in finalizing the new PA soon.

Implementation of the Vacant and Underutilized Properties Program Comment to the Department of Veterans Affairs

Doug Pulak (VA) explained that VA is currently reviewing comments received in response to its recent request that stakeholders examine lists of properties to which the Program Comment will apply. Twelve comments were received, from seven SHPOs, one tribe, one city, and three preservation organizations. A webinar on the Program Comment has been drafted and should be ready by the end of the fiscal year.

Proposed Revisions to National Register Regulations

Chairman Tannenbaum noted a final update on the ACHP’s efforts to advise the Department of the Interior (DOI) of comments and concerns with the proposed revisions was included in the meeting book. Serena Bellew (NPS) told the committee there was much interest in two *Federal Register* notices on the proposed revisions, returning 3,300 comments that the NPS is now sorting and categorizing. There is no set schedule for next steps. A second notice was specific to Indian tribes, and DOI staff attended a National Conference of American Indians meeting. Vice Chairman Leonard Forsman noted the unanimous opposition to the changes at that meeting as well as a sense by the tribes in attendance that the

consultation effort was inadequate. Valerie Grussing (NATHPO) observed that efforts to raise awareness among tribes about the proposed changes are especially important and that DOI's outreach has not constituted real tribal consultation. For instance, no letters were sent directly to tribal leaders. Mr. Franklin expressed disappointment that a good relationship between NPS and Indian tribes has been sacrificed over a small issue. John Fowler noted that the ACHP met with the Office of Information and Regulatory Affairs at the Office of Management and Budget (OMB), along with NCSHPO and NATHPO, to discuss regulatory review procedures. Ms. Merritt offered that only five out of more than 3,000 comments received in response to the first *Federal Register* notice were positive, an overwhelmingly negative reaction.

Defense Infrastructure: Additional Actions Could Enhance DoD's Efforts to Identify, Evaluate, and Preserve Historic Properties

Chairman Tannenbaum asked Ms. Sullivan to comment on her agency's response to the recent Government Accountability Office (GAO) report titled, "Defense Infrastructure: Additional Actions Could Enhance DoD's Efforts to Identify, Evaluate, and Preserve Historic Properties." Ms. Sullivan characterized the findings as principally focused on data errors in DoD's property databases, which are inevitable given the very large number of properties the department manages.

NATIVE AMERICAN AFFAIRS COMMITTEE

Committee Chairman Reno Franklin called the meeting to order and welcomed Ms. Jorjani, the ACHP's first full-time chairman, to the committee meeting. He explained that while she has been confirmed, she is not officially onboard but is attending as an observer.

Traditional Knowledge Initiative

Chairman Franklin opened the discussion with a summary of the committee's thoughts from the March meeting as well as ACHP's recent efforts. He reminded the committee that it recommended the ACHP focus on education efforts. Chairman Franklin also noted that there has been overwhelming support for the ACHP to do something to help Indian tribes build respect for their traditional knowledge.

ONAA Director Valerie Hauser explained that staff has drafted an information paper. The paper is very basic, meant to introduce the reader to the concept of traditional knowledge and to explain that the term "special expertise" in the regulations essentially means traditional knowledge. She also explained that the audience is primarily federal officials, SHPO staff, applicants, and other Section 106 participants who have not worked with Indian tribes or Native Hawaiian organizations (NHOs) or who do not understand the relationship of traditional knowledge to the Section 106 process. Finally, Ms. Hauser explained that the ACHP is not trying to define traditional knowledge but provide examples of how other organizations have defined it. The draft will be sent to tribal and Native Hawaiian staff, and ONAA will begin a new series of discussions about the paper to ensure this subject is treated with the utmost sensitivity and respect.

Mr. Fowler drew members' attention to the fact that when the ACHP revised the regulations, it included a requirement for federal agencies to acknowledge the special expertise Indian tribes and NHOs have to evaluate the eligibility of historic properties of religious and cultural significance to them. Robert Stanton asked how to preserve the wide array of traditional knowledge, thus making a regulatory basis for the ACHP's initiative on traditional knowledge. He suggested that staff continue to emphasize this. Katherine Slick suggested that traditional knowledge be tied to language preservation and noted the need for examples. She also said the connection to place is what everyone is trying to protect, and examples of successes would be helpful. Chairman Franklin reiterated the importance of language to tribal identity and even citizenship. Mr. Tannenbaum reminded the committee that indigenous languages were not allowed to be spoken at points in U.S. history, and Native peoples were punished for speaking them. Ms. Gaughen

again reminded the committee that traditional knowledge is “whatever a tribe says it is” and that the ACHP should not try to define it. She went on to suggest that federal agencies need to be comfortable with the knowledge that Indian tribes may not share traditional knowledge and that the ACHP needs to include confidentiality in the traditional knowledge discussion. She also reminded the committee that traditional knowledge is “an ancient way of knowing.” Dorothy Lippert recounted her recent experience in New Zealand and how everyone simply accepts that the land is Maori land, uses Maori place names, and knows Maori concepts, culture, and history. Ms. Bellew suggested ONAA staff meet with the FPO Forum to talk about traditional knowledge in the Section 106 process.

Early Coordination with Indian Tribes

Chairman Franklin referred to the draft handbook in the meeting book and reminded members that this is one of several ACHP initiatives to improve tribal involvement in federal agency infrastructure. Ms. Hauser provided a brief background about why the ACHP has created this handbook and how it is organized. She and Ira Matt explained that staff has coordinated with others including a tribal working group, industry representatives, and federal permitting agencies. They also pointed out that the handbook includes examples from an Indian tribe, an energy company, and a transportation agency. Ms. Harris announced that the companion e-learning course on early coordination just launched online. Members suggested the ACHP partner with the Council on Environmental Quality to promote the handbook and ensure that the course is promoted to other audiences, such as contractors. Staff explained that the goal is to publish the handbook in September; therefore, any input from members must be received in 30 days.

Status of ACHP-Salish Kootenai College Partnership

Mr. Tannenbaum provided an update on the ACHP delegation visit to the college in late May. He reported that Ms. Slick, Mr. Matt, Ms. Hauser and he met with college officials to discuss the proposed Memorandum of Understanding (MOU) and ways in which the ACHP and the college could partner. It was a successful trip and upon his return, Mr. Tannenbaum secured funding to establish two scholarship funds, one of which is an endowed and named scholarship. The ACHP hopes to have the MOU in place in September.

GAO Report on Tribal Consultation in Infrastructure Projects

Ms. Hauser explained that there was a congressional request to GAO to review federal agency processes for tribal consultation on infrastructure. GAO looked at policies for consultation with tribes and Alaska Native Corporations, key factors that tribes and federal agencies identify as hindering effective consultation, and the extent to which federal agencies have taken steps to facilitate consultation on infrastructure projects. The 21 federal agency members of the Federal Permitting Improvement Steering Council were selected. GAO also reviewed all written testimony from the 2016 consultations and interviewed officials from 50 Indian tribes in 2017 and representatives of eight intertribal organizations. Most of the findings and recommendations have been addressed over the years on guidance issued by the ACHP. The three reports from GAO, the ACHP, and the interagency group create a useful record of tribal concerns and potential agency actions that could help resolve them. A GAO representative will meet with the members during the business meeting to offer a summary of the report including its findings and recommendations.

Mr. Fowler suggested that the members consider ways in which the ACHP can respond to the report given that the ACHP has done a great deal of work, including issuing guidance, on federal agency consultation with Indian tribes. Ms. Slick suggested the ACHP send its early coordination handbook to the congressional members who requested the GAO report. Vice Chairman Forsman suggested that the ACHP emphasize “collaboration” between federal agencies and Indian tribes and that agencies be advised to frontload their project budgets with funding for tribal consultation, cultural resource management, and mitigation. Mr. Nelson suggested that agencies invest more in the beginning of the Section 106 process to avoid problems later.

COMMUNICATIONS, EDUCATION, AND OUTREACH COMMITTEE

Chairman Robert Stanton called the meeting to order and started the discussion about the Touching History: Preservation in Practice program. Molly Baker from the National Trust's HOPE Crew said the Morgan State students will be doing projects both on their campus and again at the Peale Center in Baltimore. Patricia Knoll discussed the upcoming field trip the students were going to take to Historic St. Mary's City, Maryland, with an archaeology presentation and tour by former ACHP Expert Member Julia King.

The six Morgan State students were in attendance at the committee meeting and discussed their feelings about participating in the program. Student Terry Mayo said he never thought he would travel to Wyoming and was appreciative of the experience they had at Grand Teton National Park. He noted that he always wondered why people do not seem to take care of buildings like they should, and that is a reason he was drawn to historic preservation as part of his architecture degree. Student Stephanie Walker said she hopes to change the situation of abandoned buildings; this internship opened her eyes to so much. Student Tyriq Charleus said he started off not knowing what historic preservation was all about, but now he thinks it is time for him to teach it to others. He said many things need to be changed in his neighborhood in southeast Washington, D.C. Student Danasha Kelly said she wanted to be a more well-rounded architect, and taking this internship has helped that. Student Zahaira Williams said this experience has caused her to be more considerate of historic properties. Student Devin Funderburk said the Grand Teton experience made him see that it is larger than him and his colleagues; that preserving what is there for the next generation is important. Professor Dale Glenwood Green said diversifying the architecture profession is grossly important.

Susan Glimcher noted the ACHP is participating in the arts and humanities cluster of agencies as part of the White House Initiative on Historically Black Colleges and Universities. It will also be part of the Initiative's annual conference in September hosting a breakout session about grant writing as well as a booth. Initiative Senior Associate Director Arthur McMahan said the Touching History program is exactly what he wants to see—students strengthening their communities and being the inspiration.

Mr. Tannenbaum said this is a program the ACHP branded, and it should continue. He suggested the Rosenwald schools as a possible preservation project. Dr. McMahan asked about the strategy to get the message down to high schools. There was discussion about trades, technical schools, and recreation centers, as well as social media and technology. Mr. Charleus said it is important to get the message to younger students, too; hands on activities for elementary kids would be useful.

Mr. Franklin encouraged the students to take in all the experiences they are offered and honor their ancestors. He said that will influence the way they design in their architecture careers. Dr. Lippert said the world needs these students' voices and thoughts. Terry Guen advised them not to be dissuaded from studying. Mr. Tannenbaum stressed the needs for a video about Touching History. Ms. Jorjani noted trades education is an area she will be focusing on during her chairmanship.

Outreach

Lynne Richmond discussed the recent outreach regarding the Apollo Mission Control Center. While in Houston for the grand opening of the newly-restored center, she posted to social media various times and conducted Facebook Live interviews with Chairman Donaldson before the main ceremony and with Johnson Space Center Historic Preservation Officer Sandra Tetley following the festivities. Those two interviews have been viewed more than 700 times.

Awards

Patricia Knoll announced that the next day's presentation of the ACHP Chairman's Award for

Achievement in Historic Preservation would acknowledge the efforts of NASA Johnson Space Center and its partners for the restoration of Apollo Mission Control. It is timely, as the nation celebrates the 50th anniversary of the Apollo moon landing later this month. Several honorees from Texas will be present to make remarks and receive certificates.

She also explained the ACHP-HUD Secretary's Award for Excellence in Historic Preservation jury would meet the next afternoon. The ceremony will take place during the November business meeting.

Conferences

Ms. Knoll reported that, in addition to the HBCU Week conference in September, the ACHP will be sponsoring a table at the National Trust conference in mid-October in Denver, Colorado. Also, as part of the transition to a new chairman, OCEO will be exploring potential conferences that the new chairman might attend as a way to meet the preservation community.

PRESERVATION INITIATIVES COMMITTEE

America 250: The United States Semiquincentennial

After welcoming attendees to the meeting, Committee Chairman Brad White introduced Jim Campi of the American Battlefield Trust, which is serving as the administrative secretariat for the United States Semiquincentennial Commission. Mr. Campi briefed the group on the status of planning for the celebration that has been branded as "America 250." Events and activities will take place from 2020 through 2027, with July 4, 2026, being the focal point. The initiative will celebrate not just the American Revolution, but also the 250 years of history since 1776. He asked the group for feedback on how to involve the ACHP and the preservation community.

Ms. Bellew (NPS) suggested reaching out to the British government, and Luis Hoyos recommended also coordinating with Mexico, Spain, and France. Mr. Stanton stressed the need to use the celebration to teach youth about civics and American history. Mr. Hoyos said NPS theme studies are an education vehicle, and that interpretation of historic places can be used to educate. Jeff Durbin (NPS) noted that a place-based focus on what was happening in the whole country in 1776 would help to promote inclusion.

Erik Hein (NCSHPO) reminded the group that the Historic Preservation Fund was established during the Bicentennial and suggested this might be the opportunity for another major preservation advance. Mr. Fowler noted that 2026 also will be the 60th anniversary of the NHPA. Mr. Cassidy (NTHP) suggested the possibility of new funding initiatives or creation of new national parks.

Ms. Gaughen (NATHPO) said the initiative offered an opportunity to acknowledge that the United States was "built upon the backs" of Indian tribes. Ms. Guen mentioned the need to address immigrant groups, such as the Chinese, who have come to America since 1776. Mr. Cassidy suggested looking carefully at what made the Bicentennial celebration a success and being sure to include the places and stories of all Americans. Mr. Stanton asked if the Semiquincentennial Commission will be having listening sessions to engage citizens, and Mr. Campi confirmed that they will.

New Notable Legislation and Legislative Actions

Chairman White, Mr. Stanton, and Mr. Tannenbaum serve on the Board of Directors of the Julius Rosenwald & Rosenwald Schools National Historical Park Campaign. They briefed the group on legislation that has been introduced that would require NPS to undertake a special resource study of sites associated with philanthropist Julius Rosenwald, particularly the schools that he funded. This is the first step toward possible creation of a discontinuous National Park.

Office of Preservation Initiatives (OPI) Director Dru Null briefed the group on several pieces of

legislation. The DOI appropriations bill that was included in a minibus of bills in the House includes favorable funding levels for historic preservation programs. However, Ted Monoson (NCSHPO) noted that the House and Senate still needed to reach a budget deal regarding spending caps for the next two years. He also mentioned that recently passed disaster recovery legislation includes \$50 million for the Historic Preservation Fund. NCSHPO and NPS have been in discussions about how to expedite distribution of this money given delays that occurred with last year's funding.

Ms. Null reported that the Chaco Cultural Heritage Area Protection Act, which would make an approximately 10-mile protective zone around Chaco Culture National Historical Park off limits to federal mineral leasing, has received new support from the Administration. After Interior Secretary David Bernhardt visited Chaco, he declared a one-year moratorium on federal oil and gas leasing in the proposed 10-mile protective zone, and the Bureau of Land Management testified at a congressional hearing that DOI has no objection to the bill. Also of interest, the Explore America Act—which would authorize technical assistance to applicants under the Preserve America program in years where grant funds are not appropriated—has been reintroduced in Congress.

The Committee then turned to consideration of proposed motions to support four preservation-related bills. A question was raised regarding when a bill is considered to have Administration support since that would affect how federal agencies might vote on the motions. Ms. Null explained that if there is no official Statement of Administration Policy, other public pronouncements of a position—such as testimony before Congress by the agency involved—is deemed to reflect the Administration position. In the case of the Restore Our Parks/Restore Our Parks and Public Lands Act, the President's FY 2020 budget included the funding program as set forth in the latter bill. There was general consensus in the Committee to support the proposed motion on these related bills.

Regarding the National Heritage Area Act, Nancy Boone (HUD) questioned whether the bill was ripe for comment, and Beth Savage (GSA) noted that NPS had not been clear in its congressional testimony regarding problems with the bill. Ms. Jorjani questioned whether the ACHP should dictate to NPS on reforming the program. Chairman White said the focus was on the codification of what is now an ad hoc program, and Mr. Fowler noted that OMB supports a more comprehensive approach to National Heritage Areas. Despite the issues raised, the general sense of the Committee was to advance the motion to the full membership.

There is no Administration position on the Historic Tax Credit Growth and Opportunity Act. While noting this might lead the federal agency representatives to abstain from voting on the bill, Ms. Null pointed out that the ACHP consistently has supported legislation to maintain and enhance preservation tax incentives. Shaw Sprague (NTHP) noted that the bill has a high level of support and momentum in Congress. There was a general consensus that the Committee supported bringing the proposed motion to the full membership.

NPS has testified in opposition to the African American Burial Grounds Network Act, recommending that it be amended to provide for a study to determine the most appropriate way of recognizing historic African American burial grounds in lieu of establishing another network-style program. Mr. Cassidy said the National Trust supports the bill. Mr. Wolfe (NCSHPO) expressed sympathy for the NPS concern regarding lack of resources to implement the several newly created Networks. Mr. White suggested amending the motion to support the NPS call to first do a study. Mr. Cassidy suggested tabling the motion and reaching out to advocates of the bill. The general consensus was to table the motion.

White House Opportunity and Revitalization Council

Ms. Boone announced that she had brought a letter from HUD Secretary Ben Carson declining the ACHP's request to be added to the White House Opportunity and Revitalization Council (WHORC).

Mr. Cassidy suggested that the ACHP vote on a resolution asking HUD to reconsider its decision.

Mr. Fowler noted that HUD also chairs the new White House Council on Eliminating Regulatory Barriers to Affordable Housing, which was created on June 25. The Executive Order creating the new council identifies “historic preservation requirements” as one of the regulatory barriers. Ms. Null provided background on the ACHP’s previous involvement with affordable housing, including a policy statement that promotes flexibility in applying historic preservation review requirements. Mr. Wolfe noted there is a push in many communities to outlaw single family housing.

Mr. White suggested that the ACHP ask to be added to the affordable housing council in addition to seeking reconsideration of HUD’s decision on the request to join the WHORC. Ms. Savage asked what would be cited to HUD as the reason for reconsideration. Mr. Fowler responded that the ACHP could cite contributions to other Administration interagency groups, such as the Federal Permitting Improvement Steering Council. Ultimately, there was a general consensus on recommending that the full membership consider asking HUD to 1) reconsider its rejection of the request regarding the WHORC, and 2) add the ACHP to the affordable housing council.



Preserving America's Heritage

MINUTES
SUMMER BUSINESS MEETING
ADVISORY COUNCIL ON HISTORIC PRESERVATION
JULY 10, 2019
WASHINGTON, D.C.

MEETING
ADVISORY COUNCIL ON HISTORIC PRESERVATION
Smithsonian Castle
Washington, D.C.
July 10, 2019

PROVISIONAL AGENDA

Call to Order 8:45 a.m.

- I. Chairman's Welcome
- II. Chairman's Award for Achievement in Historic Preservation
- III. Transition to Full-Time ACHP Chairman
 - A. Transition Process
 - B. ACHP Executive Committee
- IV. Section 106 Issues
 - A. Digital Information Task Force Proceedings
 - B. National Park Service Proposed Rule on National Register Nominations
 - C. Federal Communications Commission Program Comment for "Twilight Towers"
 - D. Government Accountability Office Report "Tribal Consultation: Additional Federal Actions Needed for Infrastructure Projects"
 - E. Update on Prior Section 106 Issues
- V. Historic Preservation Policy and Programs
 - A. White House Opportunity and Revitalization Council and the ACHP
 - B. Legislation
 - C. Planning for the Semiquincentennial
- VI. Committee Reports
- VII. New Business
- VIII. Adjourn

IN ATTENDANCE

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:
Stanley Gimont
Deputy Assistant
Secretary for Grant
Programs

Secretary of the Interior

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

Caroline Henry
Federal Preservation
Officer

Secretary of Transportation

Represented by:
Loren Smith
Deputy Assistant
Secretary for Policy

Secretary of Veterans Affairs

Represented by:

Anthony Costa
Acting Executive
Director, Office of
Construction and
Facilities Management

Native American/Native Hawaiian Member

Reno Keoni Franklin
Chairman Emeritus, Kasha
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:

Paul Edmondson
President

OBSERVERS

Managing Director, Council on Environmental Quality

Represented by:

Ted Boling
Associate Director for
NEPA

President, ACHP Foundation

Katherine Slick
Historic Preservation Consultant

Incoming ACHP Chairman

Aimee Jorjani

In attendance and participating in the meeting were ACHP Executive Director John M. Fowler; ACHP Office Directors Reid Nelson, Druscilla Null, Valerie Hauser, Javier Marques; Anne-Marie Fennell, Director, Natural Resources and Environment team, Government Accountability Office; Valerie Grussing, Executive Director, National Association of Tribal Historic Preservation Officers; Jim Campi, Chief Policy and Communications Officer, American Battlefield Trust; Richard Kurin, Smithsonian Distinguished Scholar and Ambassador-at-Large; and Jill Springer, Federal Preservation Officer, Federal Communications Commission.

PROCEEDINGS

Vice Chairman's Welcome

Advisory Council on Historic Preservation (ACHP) Vice Chairman Leonard Forsman opened the summer business meeting at 8:45 a.m. He asked Robert Stanton to lead the Pledge of Allegiance. Vice Chairman Forsman holds the proxy for Chairman Wayne Donaldson, who was absent from the meeting. The agenda was adopted with a motion by Reno Franklin, and a second by Mr. Stanton. Vice Chairman Forsman appointed Shayla Shrieves recorder of the meeting. The minutes from the April business meeting were adopted with a motion from Luis Hoyos and second from Jordan Tannenbaum. Vice Chairman Forsman conveyed a message from Chairman Donaldson sending his congratulations to Aimee Jorjani on becoming the ACHP's first full-time chairman.

Vice Chairman Forsman said Ms. Jorjani is confirmed but not yet officially on board. There are processing requirements to be fulfilled before she can formally assume the chair. Due to her current status, she is not formally a member of ACHP, but the Operating Procedures allow the chairman to invite an individual to be an observer at the ACHP meetings. Vice Chairman Forsman asked Ms. Jorjani to be an observer today and thanked her for her commitment.

Ms. Jorjani said she was delighted to be at the meeting and thanked the ACHP, particularly Chairman Donaldson, for all the work that has been done during this time of transition. She thanked the ACHP staff for their continuing work on the Federal Permitting Council and all the other activities. She said she is looking forward to starting the job and appreciates everyone's patience as she transitions into this role.

Vice Chairman Forsman acknowledged Paul Edmondson, newly appointed President of the National Trust for Historic Preservation; Stanley Gimont, Deputy Assistant Secretary for Grant Programs, representing the Secretary of Housing and Urban Development; and Loren Smith, Deputy Assistant Secretary for Policy representing the Secretary of Transportation. The members introduced themselves. Vice Chairman Forsman said he believes this is the first time an American Indian has chaired an ACHP business meeting.

He then called on Richard Kurin to provide welcoming remarks on behalf of Smithsonian Secretary Lonnie Bunch and thanked the Smithsonian for hosting the ACHP. Dr. Kurin said, on behalf of Secretary Bunch and the Smithsonian Institution, it was a great pleasure to have the ACHP meeting here. He said the Smithsonian respects the work of the ACHP and has relied on it. He gave a history of the institution. Vice Chairman Forsman also thanked Sharon Park, the Smithsonian's Federal Preservation Officer, for making all the arrangements, and Katherine Slick for organizing the members' dinner the previous night.

Staff Updates

John Fowler said the ACHP hired Emily Choi to be an assistant historic preservation specialist joining the staff this fall. She was an intern twice with the ACHP in the past two years. He mentioned there are three interns this summer and thanked Judy Rodenstein for her good work in managing the intern program. He introduced Jonathan Stark-Sachs, a law student at Roger Williams University, working in the Office of General Counsel; Veronica Martin, in a master's program at the University of Maryland, working in the Office of Federal Agency Programs on training; and Audrey Kelly, a recent graduate from the University of Virginia's master's program in architectural history, who is a joint intern with the Office of Preservation Initiatives and the Office of Communications, Education and Outreach. He also noted staff member Blythe Semmer has successfully defended her dissertation and will receive her PhD from the University of Maryland in August.

Mr. Fowler also said the previous day the World Heritage Committee inscribed eight Frank Lloyd Wright buildings on the World Heritage List. Brad White said he was pleased at the inscription and has been looking forward to this since they were originally nominated more than two years ago. It has been one of his major projects, as his organization was a major donor for the restoration of Wright's Unity Temple.

At this time, Mr. Gimont left the meeting.

Chairman's Award for Achievement in Historic Preservation

Vice Chairman Forsman began the ceremony to award the ACHP Chairman's Award for Achievement in Historic Preservation for the restoration of NASA's Apollo Mission Control Center in Houston, Texas. The project has preserved one of the most important and critical sites associated with the space program. Two weeks ago, Mr. Fowler, Chairman Donaldson, and several staff members had the great honor of attending the ribbon cutting and grand opening of the Mission Control Center. The ACHP is proud to have played a role in bringing this project to fruition through its funding authority, which allowed privately raised funds to be donated to NASA for this specific restoration. This award recognizes the Johnson Space Center; Space Center Houston; the city of Webster, Texas; and the Manned Space Flight Operation Association. Mr. Stanton welcomed the guests: Mayor Pro-Tem Councilwoman Andrea Wilson and Councilwoman Beverly Gains from Webster, Texas; Sandra Tetley, Historic Preservation Officer at NASA's Johnson Space Center; Adam Graves owner/principal GRAVitate; Mark Wolfe, Texas State Historic Preservation Officer; and Rebecca Klein, NASA Federal Preservation Officer.

Mr. Stanton thanked Rep. Brian Babin of Texas who was able to join the group before the business meeting to meet the award winners. He introduced a video presentation. All the award winners addressed the council members offering their thanks and stories of the preservation successes and hard work that went into this massive restoration.

Mr. Fowler added Chris Daniel and Javier Marques were the two ACHP staff members instrumental in making this happen. One of the great aspects of this particular project is the demonstration of the ACHP's ability to use its authority to accept funding in order to support the preservation efforts of other federal agencies. Mr. Fowler said the ACHP would be happy to do more of this type of work. Vice Chairman Forsman said this is a good example of creativity.

Transition to Full-Time Chairman

Vice Chairman Forsman said converting the chairman position to full time fulfilled the goal of the ACHP, dating from the 2006 Preserve America Summit, which looked at ways to improve the effectiveness of the national historic preservation program. Last summer, the chairman had established a transition working group to coordinate the transition efforts. While the proposal for formalizing an ACHP Executive Committee was one product, the drawn-out confirmation process delayed doing that. With the confirmation of the new chairman, the ACHP can now move forward.

Vice Chairman Forsman noted he is already seeing opportunities for the ACHP to address issues that have defied resolution. He said oftentimes there is a solution, but it cannot be implemented because the ACHP lacks the political infrastructure. Now with a full-time chairman, there will be more opportunities to address those issues.

Strategic Plan

Dru Null came to the table to update members on the strategic planning process. The basic requirements of a federal agency strategic plan are to have a mission statement and long-term goals that are directed at fulfilling that mission statement. In turn, each long-term goal has strategic goals that hang under it to be

accomplished within four years or a bit longer. While the chairman's confirmation process was pending, ACHP members took several steps to lay the groundwork for moving forward when she was on board.

Ms. Null said, based on previous strategic planning efforts, the staff outlined the proposed planning process. A draft plan would be developed, presented to members for discussion at the November business meeting. Members would then determine the next steps. If the plan needed some revisions and not be in a position to be adopted at the November meeting, it could be adopted at an unassembled meeting later. Or if further work was necessary, it might have to be finalized at the spring 2020 meeting.

Vice Chairman Forsman said the transition group will be working with the new chairman to adopt an approach. Mr. Fowler asked if members had suggestions for a venue to have the strategic planning meeting. Mr. Hoyos asked that materials be distributed ahead of time, so members can study them.

Executive Committee

Vice Chairman Forsman said one of the actions taken last year as part of the transition process was the circulation of a questionnaire to members and staff on a variety of operational and organizational issues. The formalization of the ACHP's Executive Committee was singled out. At the spring business meeting, there was a general consensus on the framework for this committee.

He invited Mr. Marques to the table to present draft Operating Procedure amendments. Mr. Marques said as part of the discussions on the transition to having a full-time chairman, one of the issues that came up was formally establishing the Executive Committee. He gave an overview of draft Operating Procedure amendments to do this and asked that the members look at the draft and provide comments and edits within the next two weeks. Staff will then work with the incoming chairman and then provide proposed amendments for member action by an unassembled meeting vote.

Maureen Sullivan asked if the committee would continue to meet in the morning of each business meeting, and is there ability for either the Executive Committee or the chairman to call ad hoc meetings if there is a special interest item that comes up. Mr. Marques said yes, they could continue to meet directly before a business meeting, and the committee or the chairman could call for a meeting at any time.

Mr. White asked if there is any limitation on the actions the Executive Committee can take. Mr. Marques said yes; there are only four authorities that the Executive Committee has. The fourth item in the authority is a catch-all, that members can vote to give them more authorities.

Mr. Tannenbaum asked if the committee could weigh in on budgetary issues. Mr. Marques answered that the chairman already has inherent authorities within the Operating Procedures to deal with the budgetary issues, but this is one of the topics that the Executive Committee could advise on.

Teresa Pohlman said she is not clear on what is meant by legislative matters. Mr. Marques said these might be instances when the ACHP has to take immediate action and there is no time to consult the full membership. The Operating Procedures require the executive director and the chairman to consult with the full membership or with a subgroup. This is establishing the Executive Committee as that subgroup.

Mr. Franklin asked if the chairman could appoint a different observer in the case of discussions about the executive director, who sits as an observer. Mr. Marques said yes, it needs to be specified. Mr. Tannenbaum suggested the possibility of having an executive session to take care of issues like that.

Vice Chairman Forsman asked about any differences between this proposal and the strategic planning documents, because they both address how the chairman does business. Mr. Marques said the Operating Procedures are procedural. The strategic plan is substantive about the policies and the agency's work.

Terry Guen asked if anybody who is a member can call a meeting. Mr. Marques said the way it is set up, the chairman would be the person setting the meetings. Members can at any point, either in the Executive Committee or outside, ask for a special meeting, but it is not specified.

He added, amendments to the Operating Procedures need 16 affirmative votes or more. Mr. Fowler stressed that his goal is to get consensus among the members on the outcome.

Digital Information Task Force

The Digital Information Task Force is under the leadership of Mr. Tannenbaum. Members include the Departments of the Interior (DOI) and Transportation; Council on Environmental Quality, National Conference of State Historic Preservation Officers (NCSHPO), National Association of Tribal Historic Preservation Officers (NATHPO), National Alliance of Preservation Commissions, the National Trust, and Expert Member Dorothy Lippert.

Mr. Tannenbaum said at the May meeting the task force decided to focus on the development of recommendations for an action plan on four proposed issue areas. The committee also discussed the benefit of advancing FY21 budget recommendations that might further the goals of the task force.

The National Trust, NCSHPO, and other preservation partners sought a \$5 million Historic Preservation Fund appropriation for competitive grants programs for SHPOs and THPOs to create enhanced GIS layers of cultural resources and predictive models in FY20. He said while an appropriation was not included, the ACHP could recommend such a program be included in the Administration's FY21 request. It relates to the task force's goals and the ACHP's broader participation in improving infrastructure-permitting efficiency by making data about historic properties available to inform the early stages of planning.

Dr. Pohlman offered FEMA's help or information for the ACHP. She said often times different states have different standards for their GIS databases and how they actually keep and format the data. She said this has been a problem in having the databases talk to each other. She asked if there is any move on the group's part to try to get some standardization. Mr. Tannenbaum said that is one of the main focuses of this particular initiative.

National Park Service Proposed Rule on National Register Nominations

In April, the National Park Service (NPS) issued a proposed rule that would implement provisions of legislation enacted in 2016 that amended the process for federal agency nominations of their historic properties to the National Register. The proposed rule includes some other provisions affecting the National Register of Historic Places nomination process. Vice Chairman Forsman said the proposed rule may also affect how the determination of eligibility process in Section 106 is implemented and raised a variety of concerns in the preservation community and among tribal nations. He asked Ryan Hambleton to brief members on the rule-making process and speak to issues that were raised in the consultations.

Mr. Hambleton said NPS put a notice in the *Federal Register* on May 24 indicating that it was going to initiate tribal consultation. On June 24, there was a consultation session at a meeting of the National Congress of American Indians in Sparks, Nevada, which Vice Chairman Forsman attended and spoke at. Following that, there was a teleconference on July 1. The tribal comment period closed on July 8.

He said he did not have anything additional to report out at the moment, since the comment period just closed. Staff are still processing comments. Mr. White asked how many comments did NPS receive during the original comment period and how many were in favor of the proposed rules. Mr. Hambleton said he thought it was a few thousand, and it was quite overwhelmingly against.

Shasta Gaughen thanked NPS for reopening the comment period on behalf of tribes but noted the NPS meetings do not constitute tribal consultation, because they were not government-to-government. She expressed concern that the changes would remove the ability to comment on effects to historic properties, not just from the Native American standpoint but for all historic properties.

Mr. Franklin said he hoped NPS will take those comments seriously, noting a ratio of 3,300 negative comments to five positive does not happen too often. He asked NPS to consider what the tribes are asking and move accordingly.

Ms. Guen said she wanted to say a couple words on behalf of communities that are not represented in the National Register. There are a lot of communities doing catch-up work right now, and are enthusiastic about having an opportunity to be listed, realizing that National Register listing provides an opportunity to share their stories, especially about more recent immigrants.

Mr. White said at the last meeting he asked what problem the NPS is trying to address with this rule change but did not receive an answer. Mr. Hambleton said there are two parts to this rule. The first is to implement the 2016 amendments which Congress passed. The second is to strike a balance between private property rights and historic preservation. Mr. White asked what private property rights the National Register designation infringes upon. Mr. Hambleton responded that it is up to any individual how they decide they want to feel about being listed on the National Register.

Vice Chairman Forsman said it is troubling to him that the Department of the Interior feels that after 50 years of National Historic Preservation Act (NHPA) law, regulations, practice, and successes that something is not working or is unsuccessful. There are many successful things. To give private-property owners and federal agencies veto power over a collaborative process that does not prevent anybody from developing their property—they just may have to go through a bit more process—is problematic. He said, at least for the tribes, there is an ancient relationship to the landscape that goes back thousands of years and that is completely enshrined in language, in relationship to the land, and ceremonies. Everything is tied into these places where many Native Americans have been fortunate enough to being able to continue to live on. Many tribes were removed from those places and are trying to reclaim those relationships. He said he hopes Mr. Hambleton will take back to Secretary David Bernhardt and the other principals at the Department of the Interior, the importance and the impacts of this, as a short-term specific process.

Dorothy Lippert thanked Mr. Hambleton for coming to the meeting and for listening to everyone's opinions regarding this issue. She said it has been thousands of years that this land has been native land. Private property rights, by comparison, are a very recent thing. The proposed rules seem to ignore that. She said there is a continuum between the past and the present. These regulations in a sense try to make a division between the past and the present. She said there needs to be more consideration given to that link.

Mr. Edmondson said the National Trust has provided extensive comments on this proposal and is strongly against it. He said it is a matter of interest for the entire preservation community. Also, it is a matter of interest for the ACHP because it is the body that is set up to enforce the NHPA. In the National Trust's view, these regulations are incompatible with the NHPA. Mr. Hoyos asked Mr. Hambleton to sketch out the next steps in the process, and to offer his best guess of a calendar for what could be expected. Mr. Hambleton said it is hard to say. As noted, there were a lot of comments on this that critiqued it; some of them were very complex. He said it is going to take a while to look at all those and go over everything that they have heard. He cannot picture this happening in the next several weeks.

Ms. Gaughen asked Valerie Grussing to come to the table. Dr. Grussing said she wanted to address Mr. Hambleton's point about the intent of this bringing the regulations in line with the 2016 amendments. All lawyers she has talked to agree that that is demonstrably false. She said the 2016 amendments were intended to give State Historic Preservation Officers, Tribal Historic Preservation Officers, and local

communities a stronger voice in federal nominations, not to make agencies the sole conduit for federal nominations.

She said NATHPO thanks NPS for reversing its position that tribal consultation was not required. However, one group meeting and one teleconference are not government-to-government consultation. Through these listening sessions, NPS has now heard all about the effective consequences of these proposed actions, and so regardless of the intent, NATHPO hopes that the Secretary will now uphold the Department of the Interior's obligations to consult, and to make that consultation on the subject of whether this should proceed at all.

Mr. Fowler said at the last meeting there was some concern expressed by federal agencies regarding inter-agency coordination and review of these regulations before they went out. He asked if agencies still share that concern about an opportunity for inter-agency review and if there are plans for inter-agency review on the final regulation before it is published.

Ted Boling reiterated the purpose behind the interagency review requirements of E.O. 12866 and supported such review. He expects the Department of the Interior, in light of the comments received and their consultations, would reconsider that decision. The E.O. 12866 process would enable the public to provide their views to the Office of Information Regulatory Affairs (OIRA) about a final rule.

Dr. Pohlman said she thought it might be a useful thing to discuss this within the interagency group and talk with OIRA about the processes and procedures. The concerns that were brought up earlier have been reinforced by the comments received. Mr. Fowler said the ACHP was invited to meet with the OIRA staff person. The executive directors of NCSHPO and NATHPO, himself, and the ACHP's associate general counsel had the opportunity to express the views in the comment letters and elaborate on concerns.

Federal Communications Commission Comment for Twilight Towers

Mr. Tannenbaum said the Federal Communications Commission (FCC) has been in discussions with the ACHP and others for many years about Twilight Towers and how to address the effects that may have occurred during their construction. Twilight Towers are cell towers that were built between 2001 and 2004 that may not have gone through Section 106 review. The FCC estimates that slightly fewer than 5,000 such towers may exist. Some speculate there may be more.

At this time, Mr. Gimont returned to the meeting.

Mr. Tannenbaum provided background on the FCC discussions. He said staff has advised FCC staff that in order to prepare for a discussion on the Program Comment in accordance with existing protocols for member engagement on the development of Program Comments, the ACHP would designate a panel of members to advise staff on negotiations to refine the current draft Program Comment. Mr. Tannenbaum said he would appreciate the chairman's direction on forming such a panel of members to advise staff going forward. Vice Chairman Forsman said he will have Ms. Jorjani follow-up with recruiting a panel.

Ms. Slick asked what options does a citizen, tribe, or state with a concern about an existing tower and its effect on historic resources have. Jill Springer came to the table and said the FCC has a collocation agreement executed in 2001 that largely excludes collocations on existing towers. It also has a nationwide Programmatic Agreement (nPA) executed in 2005 that sets out the Section 106 process for towers. She said, since the collocation agreement preceded the tower nPA, there was a proliferation of non-compliant towers or towers for which tower companies cannot prove that Section 106 reviews happened.

The nPA allows any member of the public, any member of a tribal nation, a SHPO, and anyone at any time to make a complaint to the FCC that a tower is having an effect on a historic property. Once that

happens, the FCC undertakes an investigation into that tower. During the time the complaint is pending, collocations are not allowed. The FCC wants to address the issue with a Program Comment for the Twilight Tower period, because only a small number of towers have been identified as having any issues through the complaint process.

Mr. Franklin volunteered to serve on the panel. He encouraged FCC to reach out to tribes as a federal agency, rather than waiting for tribes to come to them regarding concerns with cell towers. Ms. Gaughen said NATHPO would also like to be a part of that committee to discuss the Program Comment. She likes the idea of having some mechanism in place for mitigating effects, similar to the Positive Train Control Fund. Such a fund would go a long way, even if there are effects that have occurred that can no longer be mitigated, to be able to carry out some mitigation.

GAO Report: Tribal Consultation, Additional Federal Actions Needed for Infrastructure Projects

Valerie Hauser came to the table and noted the ACHP met with the Government Accountability Office (GAO) several times and then advised GAO throughout the process, provided documentation, and reviewed and commented on drafts of the report. This is the third major report on the topic of tribal consultation for federal infrastructure development. The first was issued in January 2017 by an interagency group. The second was issued in May 2017 by the ACHP. Then this one was issued in March this year. All three reports taken together give a complete picture of tribal concerns regarding infrastructure development and provide a comprehensive set of recommendations.

Anne-Marie Fennell came to the table. She said this report was undertaken at the request of 26 congressional members including the chairman of the House Natural Resources Committee. GAO conducted a broad look at tribal consultation on infrastructure projects across 21 federal agencies. As part of the review, they looked at each of the agencies' regulations, policies, and guidance.

To obtain the tribal perspectives, they reviewed the oral and written comments of 100 tribes that had provided comments in 2016 to a White House call for comments on tribal consultation and opportunities for improvement on consultation for infrastructure projects. They supplemented the comments with additional interviews with 57 tribes. She gave a thorough overview of the findings. GAO recommended that these agencies develop in their policies how they would proceed with ensuring that they provided the appropriate feedback to tribes about how their input was considered in the decision-making process.

During the course of the GAO review, they also noted that there had been a long-standing disagreement between the ACHP and the Army Corps of Engineers Regulatory Program's guidance for implementing Section 106. Because there had been a number of unsuccessful attempts at resolution, GAO recommended that the Congress consider how such differences could be resolved.

She closed her presentation by noting that she will be monitoring the implementation of the recommendations and updating that information on the website.

Vice Chairman Forsman thanked Ms. Fennell and her staff for their great work. He said it is a very important report for the tribes to have, providing ways to improve the relationship. He is impressed with the amount of work that took place.

Ms. Gaughen acknowledged that tribal consultation is not always easy, as not every tribe has a THPO. She said she hopes that agencies understand that there needs to be flexibility to enable tribes to respond to those requests for consultation. As far as developing a database of tribes, she said there are models out there, and she hoped that is something that can be resolved.

Mr. Franklin said GAO has done some good work. The report identifies the agencies that are carrying out their consultation responsibility in an appropriate manner. He encouraged follow-up with the 16 agencies that did not have policies for reporting decisions to tribes. He noted that some of the responsibility is on tribes to give updated contact information.

Dr. Lippert said the report is very thorough with a lot of good details about the challenges for agencies and for tribes. She noted the discussion of how some agencies need training on the basic level about what tribes are, about tribal sovereignty, and tribal history and culture. She asked Ms. Hauser if there are things the ACHP could do to support agencies in dealing with these challenges. Ms. Hauser responded that a course was launched in 2008 by an inter-agency working group, titled “Working Effectively with Tribal Governments,” and will be back online shortly. It is a free basic course that answers many of the issues that GAO identified. The ACHP has also just launched an online, on-demand course on early coordination with Indian tribes, primarily focused on infrastructure development. It also covers many of the basic concepts that someone would need to know in the context of Section 106.

The ACHP is also in the final stages of developing a handbook on early coordination and collaboration. It has sets of recommendations for federal agencies that permit undertakings, for Indian tribes to help them be better prepared to participate in the process, and for applicants. Both the Offices of Federal Agency Programs and Native American Affairs (ONAA) have issued an enormous amount of guidance, primarily focused on federal agencies, that all speak to many of these same issues.

Ms. Hauser noted that there are opportunities as a member of the Permitting Council, and she has been invited to present to the Federal Preservation Officers about some important topics regarding tribal consultation. Dr. Lippert recommended that all of these things continue; she sees these as efficiencies for agencies, because they help agencies avoid conflict. In her experience as a Native American archaeologist, when there are tribal members working as archaeologists, project reviews can move more quickly and efficiently.

Ms. Hauser reported on work with Salish Kootenai College to train and encourage young native people who are looking at historic preservation as a career. Dr. Lippert sees that as another kind of efficiency. When tribal members work for tribes or for federal agencies, they can help the agencies be more efficient. She suggested that training the next generation should be watched to see how it improves tribal consultation.

Ms. Guen said the report provides a score card of sorts that can lead to improvement in performance. She understands these types of reports cannot be produced for all issues, but this kind of investment is often needed to tackle these complex matters.

Update on Prior Section 106 Issues

Reid Nelson came to the table for an update on Section 106 issues including developments regarding the Providence Viaduct Bridge project in Providence, Rhode Island. The ACHP provided its formal comments to the administrator of FHWA on May 3, 2017, via a chairman’s letter. The focus of the comments addressed the transfer of three parcels of land significant to the Narragansett Indian tribe. The transfer to the tribe had been agreed to in a Programmatic Agreement, but FHWA was unable to fulfill the terms of that agreement.

In an unusual step, FHWA responded to the ACHP’s comments on June 28, 2018, indicating that, rather than addressing the comments, it would reinstate Section 106 consultation. The ACHP has been participating in that attempt to reach agreement once again on the resolution of adverse effects. FHWA has taken steps to ensure the long-term protection of one of the properties and is working on developing a Programmatic Agreement to establish measures to do the same for the other two properties. FHWA has

not been able to transfer the properties themselves to the tribe as envisioned in the original agreement. Instead, they are being held by the state. FHWA is working on covenants that would ensure the long-term protection of historic properties on those parcels.

Mr. Nelson continued with discussion of the ACHP comments to the Secretary of the Navy on the Growler expansion, provided on February 19, 2019. They urged the Secretary to carry out additional noise analysis to refine its adverse effects analysis and made some recommendations on mitigation actions. The Navy responded that it had determined that additional noise analysis was unnecessary and also indicated they would explore those programs to afford protections to the rural areas. They indicated their intention to move forward on funding some rehabilitation at the Ferry House.

Mr. Nelson noted that the Navy has begun to implement the undertaking and was told that they are moving forward in providing funding on the rehabilitation of the Ferry House. It is reported that the attorney general for Washington filed a lawsuit yesterday. Mr. Stanton asked if it is true that a Member of Congress has introduced a bill that would direct the Navy to conduct a noise impact and mitigation study. Mr. Nelson said he did not know for sure but would look into it.

Mr. Nelson acknowledged that the members voted to adopt the recent amendment to the Program Comment for the rail rights-of-way and extend the time period allowed for the Department of Transportation to October 14, 2019, for developing guidance to implement the second component of the Program Comment. The ACHP is taking steps to share it broadly with the preservation community to comment to the Department of Transportation. He encouraged members to share it with others. A teleconference will be scheduled in about two weeks for members to share their views with the staff. He thanked Colleen Vaughn, Federal Preservation Officer with the Department of Transportation.

Historic Preservation Policy and Programs

Mr. White recounted the White House had established the Opportunity and Revitalization Council, chaired by the Secretary of HUD under Executive Order 13853. This was to promote revitalization in urban economically distressed communities, particularly in Opportunity Zones. At that time, the ACHP was not identified as a member of the new council. Chairman Donaldson wrote the Secretary of HUD requesting designation to the Council. Just yesterday, the ACHP received a letter denying the request.

Subsequently, Executive Order 13878 was issued, establishing another council known as the Council on Eliminating Regulatory Barriers to Affordable Housing, also chaired by the Secretary of HUD. This E.O. indicated that historic preservation was one of the barriers to affordable housing. Again, the ACHP was not, as part of the E.O., made a member of that council. This was discussed at the Preservation Initiatives (PI) Committee.

Mr. White gave an overview of ACHP work in the affordable housing area over the past 15 years. The general consensus of the PI Committee was that the ACHP should: ask that the Secretary reconsider his decision denying the request to be on the revitalization council; and request to be on the affordable housing council, particularly since historic preservation is mentioned specifically as one of the perceived barriers to affordable housing, and the ACHP has expertise in this topic.

Mr. Gimont said he could not provide a lot of insight into the decision of the Secretary with respect to the rejection of the request. He said the ACHP can ask for a reconsideration of that, but he had the sense that the decision has been made, and HUD would be moving forward.

With regard to the affordable housing council, he urged the members to submit a request for inclusion and participation in that. He said the point Mr. White made with regard to the specific mention of the Section 106 concerns establishes a good foundation for making that request. He said HUD is promoting the

Administration's policy goals to devolve some of the authorities under various programs for community development and affordable housing back to the state and local level while honoring the congressional intent, as demonstrated by appropriations for these programs, that they continue.

Dr. Lippert said she supports making the request to join the affordable housing council. She served on the jury for the ACHP-HUD Award in years past and noted there is no reason why affordable housing cannot go hand-in-hand with historic preservation.

Mr. Hoyos said the ACHP would like to be at the table, in recognition of the accumulated knowledge in the ACHP on these very complex planning issues. He noted that the planning of modern cities has evolved considerably, and that preservation is part of urban planning.

Ms. Guen urged HUD to include the ACHP on the Opportunity Zones council. Mr. Gimont said HUD is trying to encourage the use of funding under housing programs such as CDBG and HOME. He thinks there remains a lot of misinformation and misunderstanding with the application of Section 106.

Mr. Fowler interjected that maybe they should talk further about having a HUD liaison at the ACHP. Mr. White suggested scheduling at some future meeting a time for more discussion about Opportunity Zones, and how Section 106 and HUD work together.

Mr. Wolfe said that, although this is a new Executive Order, it is virtually word for word out of a report from the previous Administration. This is a bipartisan issue that needs to be addressed head-on. He urged the ACHP to be as involved as it can be in responding.

Mr. White said he would make the first motion, to move to direct the chairman to request reconsideration of the Secretary of HUD's decision to deny ACHP participation on the Opportunity and Revitalization Council under Executive Order 13853. Mr. Hoyos seconded it.

Ms. Sullivan said that if the Secretary has made a decision, the federal agency members would not question his decision. She said if HUD is willing to revisit, she was not quite sure what new information is available. Mr. Gimont said he was a bit unsure of the protocols. He understands the Secretary issued the letter yesterday, so it would seem there is an opportunity to ask for reconsideration, but the outcome is uncertain.

Vice Chairman Forsman said he was thinking that maybe the Secretary did not have all the information he needed when the decision was made.

Mr. Fowler said the federal agencies are members of the ACHP, and as a member of the ACHP, they need to decide what action the ACHP should take. If they feel bound somehow to defer to the decision of another agency, they should abstain or vote against it.

Beth Savage said that if there is information not presented in the first request, such as regarding the work of the ACHP on the Permitting Council, that would be relevant to asking for reconsideration. Dr. Pohlman agreed.

Mr. Fowler said the letter focused on preservation as a positive tool for revitalization; it did not draw on the experience with the Permitting Council regarding regulatory issues. He also noted that the letter was sent by the chairman appointed in the last Administration. Now that there is a full-time Senate-confirmed appointee of this Administration, he thought that should be grounds in itself for reconsideration.

Mr. Boling said it is simply to give the incoming chairman opportunity to revisit the question. It is an opportunity for reconsideration, not necessarily a directed reconsideration.

The vice chairman called the question, and the motion passed, with abstentions from the Departments of Veterans Affairs, Transportation, Defense, Agriculture, Homeland Security, Housing and Urban Development, Interior, and the General Services Administration.

Mr. White offered another motion, to direct the chairman to pursue with the Secretary of HUD to include the ACHP as a participant in the Affordable Housing Council. Ms. Guen seconded it. The motion passed, with abstentions from the Departments of Veterans Affairs, Transportation, Defense, Agriculture, Homeland Security, Housing and Urban Development, Interior, and the General Services Administration.

Mr. Fowler expressed frustration with latter vote, noting there has not been a decision made by the Secretary. The federal agencies are saying that they do not even support the ACHP going forward and seeking a seat on the Affordable Housing Council. Mr. Smith asked if an abstention is to be described in that way and said this issue probably needs more discussion. Vice Chairman Forsman said an abstention indicates a lack of information or authority or context to vote on an issue, not necessarily a vote against it.

Mr. White thanked Mr. Gimont for being at the meeting and making the presentation. Vice Chairman Forsman said, on behalf of Suquamish Tribe, he wanted to thank him for the work on CDBG grants. Those have had historic impact on his reservation by establishing housing.

Mr. White continued on with four more motions. He moved that the ACHP support the Restore Our Parks Act, Senate Bill 500, Restore Our Parks and Public Lands Act, House Bill 1225, and direct the chairman to advise the Congress of this support. Mr. Stanton seconded it. Vice Chairman Forsman waived the roll call vote and called for a voice vote. The motion passed with abstentions from the Departments of Veterans Affairs, Transportation, Defense, Agriculture, Homeland Security, Housing and Urban Development, Interior, and the General Services Administration.

Mr. White continued. He moved that the ACHP support the Preserving America's Battlefields Act, that is Senate Bill 225 and House Bill 307, and the National Park Service recommendation that the bill be amended to require day of battle restoration efforts funded under the bill be performed in accordance with the Secretary of the Interior's Standards for Historic Preservation, and direct the chairman to advise the Congress of this support. Mr. Tannenbaum seconded it. The motion passed.

Mr. White moved that the ACHP support the Historic Tax Credit Growth and Opportunity Act, that is House Bill 2825, and direct the chairman to advise the Congress of this support. Mr. Hoyos seconded it.

At this time, Caroline Henry came to the table and Mr. Hambleton left. Ms. Henry said she just wanted to note that DOI will be abstaining on this. She clarified that this is not representing opposition to the bills or the proposed bills, but that language is in flux.

The motion passed with abstentions from the Departments of Veterans Affairs, Transportation, Defense, Agriculture, Homeland Security, Housing and Urban Development, Interior, and the General Services Administration.

Mr. White moved that the ACHP support the National Heritage Area Act, that is House Bill 1049, and directs the chairman to advise the Congress of this support, and also to urge Congress to work with the National Park Service to address the operational concerns raised in the agency's testimony of April 30, 2019. Mr. Franklin seconded the motion. It passed with abstentions from the Departments of Veterans Affairs, Transportation, Defense, Agriculture, Homeland Security, Housing and Urban Development, Interior, and the General Services Administration.

America 250

The vice chairman invited Jim Campi to the table to talk about the United States Semiquincentennial. First, Mr. Campi thanked members for endorsing the American Battlefield Preservation Act today. He then explained that the Commission is a congressional commission composed of 33 members: elected officials, 16 private citizens, and ex-officio members representing various federal agencies, departments, and organizations like the Smithsonian and National Archives.

The American Battlefield Trust was selected by NPS in May 2018 to be the administrative secretariat of the commission. Together with the commission they are creating what is going to be called the America 250 Foundation. America 250 is going to provide private-sector fundraising and administrative support for the commission. He showed a PowerPoint presentation.

The Semiquincentennial Commission is preparing to go forth with a series of listening sessions beginning this fall to engage diverse audiences and help it develop its programmatic plans for the 250th anniversary. He also is working initially to develop signature programs, national programs that would commemorate important anniversaries and would also potentially have a lasting legacy beyond the 250th. A national civics and history education initiative is under consideration. He would anticipate working with governors, state legislatures, and state commissions on that. He asked members how existing preservation initiatives or activities they are already engaged in can be enhanced during the America 250 commemoration.

Mr. Franklin suggested a better way to acknowledge Native Americans in the Constitution. Mr. White said that alludes to the broader issue that this is a real opportunity for all Americans to acknowledge the fact that not everyone celebrates this occasion in the same way or celebrates it at all. It would be a good time to acknowledge the broader America and both the opportunities and the challenges and the shortfalls as well as the great things that have happened. Ms. Guen said the 250th anniversary offers an opportunity for projects to clarify and update history that has not been clearly told to date.

Historically Black Colleges and Universities Project

Mr. Stanton said the previous day the Communications, Education, and Outreach (CEO) Committee had seven students from Morgan State University share their experiences with Touching History: Preservation in Practice. The ACHP expanded the program to include Tuskegee University, which means a total of 18 students would have an opportunity to experience hands-on preservation work.

He commended the leadership and support of the National Trust for Historic Preservation and the NPS. The CEO Committee will be developing recommendations for opportunities to expand partnership among other ACHP members. The program might then involve three or four more universities.

A key component is the White House initiative on the support of Historically Black Colleges and Universities (HBCU). The ACHP and its two principal partners have been rated A+ for this program as a signatory example of the President's initiative on HBCUs.

Vice Chairman Forsman thanked Mr. Stanton and the staff for the hard work. It was evident the previous day in the presentation, and he enjoyed hearing the students' plans for the future and the fact that they were getting introduced to historic preservation. Mr. Fowler reminded members of the critical role the ACHP Foundation plays in making these projects work. They are a nonprofit partner that does a lot of the administrative and logistical support that could not be done in-house.

Mr. Tannenbaum reported on the Federal Agency Programs Committee meeting. Noting the ACHP training program, he commended Katty Harris for her excellent work. The committee discussed creating a

work group on leveraging federal historic buildings as recommended in the Preserve America Section 3, 2018 Report to the President. Members recommended the work group look specifically at Section 111 leasing authorities and ways to use them. Mr. Tannenbaum commended the Department of Veterans Affairs (VA) for their early joining in this effort, and their interest in working with the ACHP on it. He asked the chairman to approve sending invitations to the following agencies: the US Forest Service, GSA, National Aeronautics and Space Administration, NPS, US Postal Service, VA, NCSHPO, and the National Trust for Historic Preservation.

New Business

Vice Chairman Forsman said there is no new business. The fall meeting is scheduled for November 6-7. This may be altered based on the strategic planning discussion. For now, the meetings are expected to be in Washington, D.C.

He thanked the Smithsonian for hosting the meeting. He asked the Creator to put a blessing on everybody in their travels and moving forward and enjoy their summer. Mr. Franklin made a motion to adjourn, and Mr. Tannenbaum seconded it. The meeting adjourned at 1 p.m.