

# **SUMMARY PROCEEDINGS OF THE BOARD OF REGENTS**

*May 7, 2007*

## **MEETING COMMENCEMENT**

This plenary meeting of the Board of Regents was convened at 2:30 p.m., approximately one hour late due the lengthy executive session that followed the morning meeting of the Committee of the Whole.

## **REPORT OF THE EXECUTIVE COMMITTEE**

Committee Chair Roger Sant offered the report of the Executive Committee, noting that the Committee had held several meetings since the January 29, 2007, meeting of the Board of Regents. Of particular importance was a special Executive Committee meeting that was conducted on March 25, 2007, and included the participation of all but two members of the Board of Regents.

During that meeting, the Regents discussed the current controversy facing the Smithsonian and expressed regret that this was detracting from the Institution's many recent accomplishments and hurting its ability to carry out its important work. The Regents then accepted the resignation of Secretary Lawrence M. Small, which had been submitted to the Chief Justice on March 24, 2007. As the Institution's Charter provides for the ability of the Chancellor to appoint an Acting Secretary, the appointment of Dr. Cristián Samper as Acting Secretary was proposed by the Executive Committee and supported by the Regents and the Chancellor. Noting her many professional achievements and the critical role she plays at the Institution, the Regents expressed the hope that Sheila Burke would continue to serve as Deputy Secretary and Chief Operating Officer of the Smithsonian.

During that meeting, Mr. Alan Spoon was asked to chair a search committee to identify a suitable candidate to replace Secretary Small. As Dr. Walter Massey had not been confirmed yet by Congress for his second term as a Regent, he resigned as chair of the Governance Committee. The Executive Committee consequently approved the appointment of Ms. Patricia Stonesifer as chair of the Governance Committee.

During the Executive Committee's special meeting on April 9, 2007, the Committee voted to support the Recommended Interim Policies and Practices as approved by the Regents' Governance Committee on April 6, 2007. The Executive Committee also held a regularly scheduled meeting on April 12, 2007. During that meeting, the Executive Committee approved the agenda proposed for the May 7, 2007, Regents' meeting. It also discussed the status of plans to implement the recommendations of the External Review Committee for Smithsonian Arts; the response process to recent inquiries from Senator Grassley; and the Smithsonian's April 11, 2007, oversight hearing before the Rules and Administration Committee of the United States Senate, which was viewed as a constructive and meaningful step forward in the restoration of the Smithsonian's integrity.

## **REPORT OF THE SMITHSONIAN NATIONAL BOARD**

Submitted by Smithsonian National Board Chair L. Hardwick (“Hacker”) Caldwell, the report on the activities of the National Board included a motion to appoint Peggy Paulson Burnet and Paul Neely as vice chairs of the Smithsonian National Board. The Regents discussed Article 5.2b of the Smithsonian National Board’s Bylaws, which requires its members to have completed two years of board service before being appointed chair or vice chair. Although Mr. Neely has not met this requirement, the National Board requested the Board of Regents’ support for this nomination in light of Mr. Neely’s enthusiastic dedication to and support of the Institution and the Smithsonian National Board.

The Regents considered the qualifications of Mr. Neely with respect to Article 5.2b of the National Board’s Bylaws and, with one Regent voting in opposition, the following motion was approved:

*VOTED that the Board of Regents appoints Peggy Paulson Burnet and Paul Neely as vice chairs of the Smithsonian National Board for one-year terms effective October 2007. With respect to Mr. Neely, the Board of Regents makes an exception to Article 5.2b of the National Board’s Bylaws, which require the chair and vice chairs to have completed two years of service prior to their appointment.*

The Regents next reviewed the proposed appointments of nine new members to the Smithsonian National Board. Accordingly, the following motion was approved:

*VOTED that the Board of Regents appoints Valerie Anders, John Ellison, Michael Francis, Shelby M. Gans, Robert E. Keith, Jr., Robert E. Long, Jr., Robert D. MacDonald, Gary B. Moore, and Marna Del Mar Schnabel to the Smithsonian National Board for three-year terms effective October 2007.*

## **APPOINTMENTS TO SMITHSONIAN ADVISORY BOARDS**

The Regents considered the nominations for appointments to Smithsonian advisory boards. The Regents agreed that Regent Phillip Frost should be added to the slate of nominees for the Cooper-Hewitt Board of Trustees. Accordingly, the following motions were approved:

*VOTED that the Board of Regents appoints Wendy Reilly to the Board of Trustees of the Archives of American Art for a three-year term effective immediately.*

*VOTED that the Board of Regents reappoints William Drenttel, Anne B. Ehrenkranz, Phillip Frost, Eric Green, and Richard Meier to the Cooper-Hewitt Board of Trustees for three-year terms effective immediately.*

*VOTED that the Board of Regents appoints Robert S. Feinberg, Gregory Kinsey, James W. Lintott, and Leopold Swergold and reappoints Susan Beningson, Catherine G. Benkaim, Richard M. Danziger, Nancy Fessenden, Farhad Hakimzadeh, Hassan Khosrowshahi, and Masako Shinn to the Board of Trustees of the Freer Gallery of Art and Arthur M. Sackler Gallery for four-year terms effective September 7, 2007.*

*VOTED that the Board of Regents appoints John Fahey and reappoints Michael J. Collins and William H. Luers to the Board of the National Museum of Natural History for three-year terms effective June 1, 2007.*

*VOTED that the Board of Regents appoints Thomas E. Lindley to the Advisory Board of the Smithsonian Environmental Research Center for a three-year term effective immediately.*

## **PROPOSED BYLAWS OF THE ADVISORY BOARD OF THE ANACOSTIA COMMUNITY MUSEUM**

The Regents approved the proposed bylaws adopted by the recently established Advisory Board of the Anacostia Community Museum.

*VOTED that the Board of Regents approves the proposed Bylaws of the Advisory Board of the Anacostia Community Museum.*

## **PROPOSED AWARD OF THE JOSEPH HENRY MEDAL**

In recognition of National Museum of the American Indian Director Rick West's distinguished service and contributions to the prestige and growth of the Museum, the Smithsonian Institution, and the greater museum community, the Regents approved a motion to present the Joseph Henry Medal to Mr. West.

*VOTED that the Board of Regents presents to W. Richard West, Jr., the Joseph Henry Medal in recognition of his manifold contributions to the Smithsonian Institution as founding director of its National Museum of the American Indian.*

## **REPORTS OF SELECTED ADVISORY BOARDS**

The Board of Regents regularly receives updates from Smithsonian advisory boards to facilitate communications between the boards and the Regents. During this meeting, the Regents reviewed reports from the advisory boards of Cooper-Hewitt, National Design Museum; the Freer Gallery of Art and Arthur M. Sackler Gallery; and the Hirshhorn Museum and Sculpture Garden. All of the reports effectively conveyed the initiatives and concerns of each board and their respective museums. Each also detailed concerted efforts to increase fund raising in response to dwindling Federal resources. Acting Secretary Samper added that he already has met with two of the three boards.

## **REPORT OF THE AUDIT AND REVIEW COMMITTEE**

Committee Chair Roger Sant presented the report of the Audit and Review Committee. As the minutes of the Committee's April 25, 2007, meeting were not yet complete, he summarized the key points of that meeting and noted that the minutes would be included in the agenda of the next business meeting of the Board of Regents.

An important focus of the April 25 meeting was the management letter from KPMG. Although KPMG gave an unqualified audit opinion, its letter noted two reportable conditions and included 23 recommendations on 11 subjects. The reportable conditions noted the Institution's accounting staff capacity, including understaffing of the Office of the Comptroller, and the documentation supporting the valuation of the alternative asset classes that have been added to the Institution's Endowment portfolio.

The management letter's listing of 23 recommendations was in stark contrast to the four received two years ago and the absence of recommendations in last year's report. The Committee discussed the surprising increase and concluded that, whereas little had changed at the Institution since last year's management letter and all 23 items had in fact existed at that time, the change must be due to the audit team, which was largely new this year, and the outside environmental factors that influence such reviews.

Funding has been secured to address the issue of accounting staff capacity. Three people will be added to the staff of the Office of the Comptroller this year and future increases are planned. The second reportable condition, the valuation of alternative investments, is proving to be both confusing and problematic for many institutions like the Smithsonian. Recent American Institute of Certified Public Accountants pronouncements caused KPMG to classify such funds as the S&P 500 Index as alternative investments, a practice to which the Committee and numerous other organizations take great exception. This new definition of alternative investments pushed the Institution to a combined total of 62 percent, well beyond the 25 percent asset allocation target for alternative investments. The Finance and Investment Committee's subcommittee, the Investment Committee, made a formal appeal to KPMG regarding this policy, which was forwarded to KPMG by the Audit and Review Committee, and a review by KPMG is currently under way.

Inspector General Sprightley Ryan reviewed several items with the Committee, which were characterized as fairly modest, and noted plans to present a report on the audit of the CEO of Smithsonian Business Ventures' expenses to the Regents during their executive session. Chief Financial Officer Alice Maroni updated the Committee on a number of financial matters, including the fact that the Institution is responding to all 23 recommendations with appropriate seriousness and without delay. Ms. Maroni anticipates that all of the recommendations will be addressed within the next year.

Ms. Maroni noted that cash and banking procedures are being improved to facilitate the audit process. In addition, efforts are under way to clarify policy and improve procedures for the reimbursement of relocation expenses, as Federal and Trust policies currently do not align. The 12-month plan for the policy compliance reviews performed by of the Office of the Chief Financial Officer also was presented.

Treasurer Sudeep Anand discussed insurance as part of an ongoing effort to better inform the Committee on the complicated issues surrounding insurance coverage for both Federal and Trust activities and property. The Committee also received an extensive report on the Smithsonian's disaster preparedness planning process. The Institution's plans appear to be in line with Homeland Security requirements, as well as more comprehensive than the plans of similar Federal institutions.

The Committee then held three executive sessions. The first, which was held with KPMG, included further discussion of the management letter. The Committee agreed that it is not certain that the management letter was correct but will continue to respond to its contents as if it were. The Committee next met with the Chief Financial Officer, the Comptroller, and the Inspector General and received a status report on the Institution's solicitation for a new auditing firm. The Committee anticipated that its recommendation would be presented in the next few weeks. Inspector General Ryan and the Committee then discussed the review of the expenses of the Chief Executive Officer of Smithsonian Business Ventures.

## **LEGISLATIVE ACTIVITIES AND ISSUES**

The Legislative Activities and Issues report was presented by Acting Secretary Samper, who first discussed the April 11, 2007, hearings before the Senate Rules Committee. Regents Roger Sant and Patricia Stonesifer participated in one panel hearing. Acting Secretary Samper and Inspector General Sprightley Ryan participated in a second, along with Mark L. Goldstein, the Government Accountability Office's director of physical infrastructure issues.

Acting Secretary Samper characterized the hearings as constructive, noting that a number of issues relating to compensation, facilities, and other areas were covered. Follow-up actions have included the Institution's submission of additional information in response to requests by Senator Feinstein and the launch of a three-month review of its governance. The House Interior Appropriations Subcommittee hearing on April 24, 2007, was postponed and is anticipated to be held sometime after the Regents' June 11, 2007, meeting. The Acting Secretary added that the Institution had just received notice that the Senate Rules Committee plans to hold additional hearings on Smithsonian governance issues on July 18, 2007.

The first terms of three citizen Regents expire this year. Dr. Massey's nomination has been introduced in Congress but no action has been taken. Because Dr. Massey's first term has recently expired and he is therefore no longer a voting Regent, Senators Cochran, Dodd, and Leahy agreed to seek Congressional support for his reappointment as soon as possible. The reappointments of Mr. Sant and Ms. Stonesifer will be pursued at the end of the year.

The Regents received an update on the status of the Institution's proposals to construct new greenhouses in Suitland, Maryland and a replacement facility at the Smithsonian Tropical Research Center in Gamboa, Panama. Management is working with the Congressional committees of jurisdiction to determine whether legislative authorization is required for these projects and to secure necessary appropriations. The Institution hopes that the authorization question will be resolved by the time the appropriation process concludes in the fall.

## **REPORT OF THE GENERAL COUNSEL**

*January – December 2007*

The report of the Office of the General Counsel was presented by General Counsel John Huerta. Mr. Huerta reminded the Regents that recent changes in Federal rules on discovery now include the preservation of electronic records related to the subject of an inquiry. On March 23, 2007, the Office of the General Counsel issued a memo to all unit directors and members of the Board of Regents advising them to preserve records according to these rules in response to the inquiries of Senator Grassley and the initiatives of the Independent Review Committee.

Mr. Huerta added that he had the Institution's litigation docket in hand and emphasized that it is always available to the Board of Regents. He also said that the Regents' Governance Committee is developing more formal procedures by which the Regents will be informed about the content of and concerns about the litigation docket.

## **UPDATE ON SMITHSONIAN-RELATED ACTIONS BY THE GOVERNMENT ACCOUNTABILITY OFFICE**

The report on Smithsonian-related actions by the Government Accountability Office (GAO) was presented by Acting Secretary Samper. The GAO is conducting a review of Smithsonian real property management and security and anticipates that its report will be released in the fall. In addition, the GAO performed government-wide audits on government purchase cards and premium travel, both of which were initiated on November 8, 2006.

Acting Secretary Samper said that the Institution has followed up on the results of the audits of premium travel and government purchase cards. The GAO audit identified five premium travel-related expenses, all of which were related to travel by former Secretary Lawrence Small, and received appropriate documentation and explanations from the Smithsonian on March 27, 2007. On March 19, 2007, the Institution also responded to the GAO's request for documentation and explanations related to six transactions using Smithsonian-administered purchase cards. The Institution believes that all six transactions were legitimate and that the GAO will concur with this opinion following its review of the Institution's response.

During the week prior to this meeting of the Board of Regents, the Institution received a letter from Senator Feinstein of the Senate Rules Committee. Senator Feinstein has asked the GAO to also undertake a study of the Smithsonian's governance and requested that the results of that study be completed prior to the July 18, 2007, Congressional hearing.

## **UPDATE ON SMITHSONIAN ON DEMAND ACTIVITIES**

Introduced by Deputy Secretary Sheila Burke, Dr. Richard Kurin, director of the Smithsonian Center for Folklife and Cultural Heritage, director of Smithsonian National Programs, and chair of the pan-institutional Smithsonian On Demand Committee, presented an illustrated overview of

Smithsonian On Demand and the programming initiatives of Smithsonian Networks, the Smithsonian's filming partnership with Showtime Networks Inc. If successful, it is projected that as many as 25 million households will receive more television programs about the Smithsonian within the next few years than have been distributed over the last four decades. The programming is produced in high-definition for distribution by satellite and cable television operators; other delivery platforms also are being explored in order to enable web and classroom access. Revenue to the Smithsonian over the first five years, which includes minimum guaranteed licensing fees, will be proportionally distributed with 50% to the participating units and 50% to Smithsonian central administration. This equitable distribution of proceeds provides added incentive for all Smithsonian units to engage in the venture.

The responsibilities of the pan-institutional Smithsonian On Demand Committee ("the Committee") were summarized by Dr. Kurin. The Committee reviews the initiative's programs, which are either developed or acquired by Smithsonian Networks, to ensure that all are factually correct, as well as consistent with the reputation of the Smithsonian. Dr. Kurin briefly described the types of programs that currently are in production, which include "mission critical" programs that derive from the interests and proposals of Smithsonian units and staff and reflect a Smithsonian treatment or approach; films produced by Smithsonian Networks that include Smithsonian content; and programs that have no Smithsonian content, but address Smithsonian topics of interest in science, history, art, and culture.

Dr. Kurin outlined the administration and oversight of the Smithsonian Networks partnership, noting that the business operations and operational logistics of the endeavor are administered by Smithsonian Business Ventures; contract compliance is reviewed by the Office of the General Counsel, the Office of Contracting, and the Office of Public Affairs, among others; and program production facilitation and review, as well as revenue sharing policies, are overseen by the Smithsonian On Demand Committee. The Committee also oversees the process for proposing, reviewing, and recommending the mission-critical programs.

The Committee has developed written reputational guidelines for both the factual and the reputational review of programs, deriving those guidelines from a variety of relevant sources, including the Smithsonian Standards of Conduct and the Institution's mission. Dr. Kurin said that the Institution, through the review process, identifies and attempts to address factual and reputational concerns and encourages the Networks to correct or resolve them, if not in initial and treatment stages, then in the video editing stage. He added that, by the terms of the contract, the Smithsonian can halt the public dissemination of programs not resolved through this process.

Regarding outside requests for filming, which previously were the source of confusion and concern, Ms. Burke said that 167 requests to film were received over the last year, only two of which were declined because of the contract. The Regents asked to be provided with more information about the two rejected proposals. Ms. Burke noted that the Smithsonian also has the flexibility to meet the needs of Smithsonian units and staff by engaging annually in six filming projects outside of the Showtime contract. She added that two major organizations that initially voiced opposition to the project have changed their positions and currently have freestanding filming agreements.

Dr. Kurin addressed the challenges facing the venture, such as the ability to produce superior films and generate healthy revenue, as well as several of its unanticipated benefits. He highlighted the development of an archival digitization pilot project that will make more Smithsonian holdings available to the public; support the ability of participating units to make use of finished programs for exhibitions; and increase the potential to create additional audiovisual programs as a result of access to background footage (“B-roll”) shot by Smithsonian Networks. In addition to the opportunity to widely disseminate the Smithsonian’s research, collections, exhibitions, and other information, the initiative also has the possibility of enlisting 153 Smithsonian affiliates around the U.S. in the making of television programs, thus enhancing their efforts to distribute information about their collections and programs.

## **SMITHSONIAN BUSINESS VENTURES INITIATIVES**

The report on Smithsonian Business Ventures (SBV) initiatives summarized the status of two recent actions: the selection of a new catalog fulfillment provider and the establishment of a multi-platform marketing partnership with American Express. Under the prior catalog fulfillment provider’s management, a significant service interruption occurred during the peak of the fiscal year 2006 holiday season, resulting in an estimated \$550,000 loss. Smithsonian Business Ventures consequently decided to transfer the Catalog’s outsourced fulfillment functions to AB&C Group in Ranson and Martinsburg, West Virginia, in order to achieve a more reliable fulfillment operation at a significantly reduced rate. Other benefits of this change include the AB&C Group’s use of the same systems platform as that used by SBV, as well as the relatively close proximity of the vendor’s site to the Catalog’s Herndon, Virginia, offices.

Smithsonian Business Ventures reported that a major credit card company has decided not to move forward with a co-branded Smithsonian affinity credit card. SBV is actively pursuing other financial services organizations in an effort to locate another credit card issuer who would be interested in promoting their products to Smithsonian members, visitors, and customers, for which the Smithsonian in turn would receive a share of revenues generated. SBV has reached several agreements with American Express for several multi-platform marketing opportunities. This non-exclusive marketing alliance will generate significant exposure for Smithsonian Journeys travel tours and other products among American Express cardholders and, if successful, incremental sales for Smithsonian products through American Express channels.

## **DONOR RECOGNITION, SPONSORSHIPS, AND CREATION OF ENDOWMENTS**

The Acting Secretary introduced proposed resolutions for donor recognition and sponsorship opportunities, as well as actions to create endowments, which were developed in accordance with the fund-raising principles, policies, and procedures approved by the Board of Regents and applicable Smithsonian directives. A Regent requested clarification of the definition of the term quasi-endowment. Management will follow up with further background on this question.

The following motions were then approved *en bloc*:



*VOTED that the Board of Regents recognizes the generosity of the Conrad N. Hilton Foundation to the National Air and Space Museum and gratefully approves the creation and naming of the Barron Hilton Endowed Fund, an endowment that will be used to create an early childhood education program at the Museum's National Mall building, to support the revitalization and modernization of the Pioneers of Flight Gallery, and to provide ongoing income for the development of future exhibitions throughout the same building. The Board also approves the recognition of the generosity and dedication of The Conrad N. Hilton Foundation to the National Air and Space Museum by naming the National Mall Museum's Pioneers of Flight Gallery in honor of Barron Hilton. The naming, as well as a plaque within the Barron Hilton Pioneers of Flight Gallery, will recognize his corporate- and aviation-related accomplishments and be associated with the Gallery for 25 years.*

*VOTED that the Board of Regents recognizes the generosity and dedication of Harvey and Constance Krueger to Cooper-Hewitt, National Design Museum and gratefully approves the creation and naming of The Peter A. Krueger Internship Program Fund, an endowment to support the Museum's summer internship program. The Board also approves naming the grand staircase in the Museum's Carnegie Mansion facility the Krueger Family Grand Staircase, in Memory of Peter A. Krueger. The grand staircase will be so-named for 40 years.*

*VOTED that the Board of Regents recognizes the generosity of the Rocks Build America Foundation and its sponsoring organization, the National Stone, Sand & Gravel Association to the National Museum of Natural History and gratefully approves the creation and naming of the Rocks Build America Foundation Endowment Fund. The purpose of this endowment is to maintain and repair the Rocks Gallery's exhibits, as well as to provide funds to upgrade and improve its displays. The Board also approves recognizing the Foundation's generosity by placing a panel at the entrance of the Geology, Gems, and Mineral Hall that acknowledges "The Rocks Build America Foundation and its sponsoring organization, the National Stone, Sand & Gravel Association." The Museum will update this panel to include the names of Association members contributing to The Rocks Initiative: Building Excellence project. The Foundation will be recognized for three years as sole sponsor of the Rocks Gallery and thereafter as a sponsor for as long as the Rocks Gallery exists.*

*VOTED that the Board of Regents recognizes the generosity and dedication of Guenther and Siewchin Yong Sommer to the National Air and Space Museum and gratefully approves the creation and naming of the Guenther and Siewchin Yong Sommer Endowment to support the maintenance, operations, and improvements of the galleries and exhibits at the Museum's National Mall building. In addition, the Regents approve placing a plaque recognizing the Sommers' generosity in a location overlooking the National Mall building's Air Transportation Gallery, which shall remain in the exhibit area for as long as there is an Air Transportation Gallery.*

*VOTED that the Board of Regents recognizes the generosity of the late Grant W. Howell to the Smithsonian and gratefully approves the creation and naming of the Grant W. Howell Endowment for the support of biological and environmental research.*

*VOTED that the Board of Regents recognizes the generosity of Elaine Milestone and gratefully approves the creation and naming of the Elaine and David Milestone Fund for Science and Education, an endowment to support the Smithsonian's science-related activities, including educational outreach.*

*VOTED that the Board of Regents recognizes the generosity and dedication of Ralph and Shirley Shapiro to the National Museum of African Art and gratefully approves the creation and naming of the Ralph and Shirley Shapiro Discretionary Fund, an endowment to provide funds for the discretionary use of the director of the National Museum of African Art to advance its mission.*

*VOTED that the Board of Regents approves the creation and naming of the Warren M. Robbins Library Endowment, National Museum of African Art, an endowment to be used for the general purposes of the Warren M. Robbins Library, as determined by the director of the Smithsonian Institution Libraries. Further, the Board authorizes the transfer of funds identified for this endowment.*

*VOTED that the Board of Regents recognizes the generosity to the Smithsonian American Art Museum of The Lunder Foundation, and its principals, Peter and Paula Lunder, and gratefully creates an endowment with their gift. The proceeds of this endowment will support, at the discretion of the Museum's director, the efforts of the chair of the Museum's education department and the Museum's education department, including outreach and related activities. The Regents further approve naming the chair The Lunder Education Chair.*

*VOTED that the Board of Regents approves the creation of the National Museum of the American Indian General Endowment, a quasi-endowment for the benefit of the general activities of the Museum, as determined by its director. Further, the Board authorizes the transfer of funds identified by the Museum for this purpose.*

*VOTED that the Board of Regents approves the creation and naming of the Dibner Library of the History of Science and Technology Endowment, a quasi-endowment, and that the proceeds of the quasi-endowment be used for the general support of the Dibner Library of the History of Science and Technology, as determined by the director of the Smithsonian Institution Libraries. Further, the Board authorizes the transfer of funds identified for this endowment.*

*VOTED that the Board of Regents recognizes the generosity of Rolls-Royce to the National Air and Space Museum and to Phase Two construction of its Steven F. Udvar-Hazy Center and approves placing two prominent signs reading "Welcome Center sponsored by Rolls-Royce" at the National Mall building's welcome center for a period of 10 years.*

*VOTED that the Board of Regents recognizes the generosity of The Ocean Conservancy to the National Museum of Natural History and accepts the terms of this sponsorship agreement. The Board also approves the recognition of The Ocean Conservancy and secondary sponsors of the High Bay Media Experience on a panel mounted at the entrance to the Ocean Hall and on a plaque mounted within the Hall, and, in addition, the recognition of The Conservancy in a credit appearing at the conclusion of the High Bay Media Experience film loop. The Ocean Hall entrance panel will remain in place until the Hall is permanently closed, and the plaque in the Hall and the film credit will remain in place until the High Bay Media Experience is discontinued.*

*VOTED that the Board of Regents recognizes the generosity of The Fertilizer Institute to the National Museum of Natural History and accepts the terms of this sponsorship agreement in support of the Museum's planned exhibition Worlds Under Foot.*

*VOTED that the Board of Regents recognizes the generosity and dedication of the LeFrak family to the National Museum of American History and gratefully approves naming the new lobby of the Museum's Carmichael Auditorium the Samuel J. and Ethel LeFrak Lobby. Further, this name shall be associated with the space until at least December 31, 2030, and, after that date, until such time as the Museum chooses to renovate or transform the lobby area.*

*VOTED that the Board of Regents recognizes the generosity and dedication of Enid and Lester Morse to Cooper-Hewitt, National Design Museum and gratefully approves the naming of the former dining room on the first floor of the Museum's Carnegie Mansion facility the Enid and Lester Morse Gallery in their honor. The gallery will be so-named for 40 years.*

## **REPORT OF THE FINANCE AND INVESTMENT COMMITTEE**

Mr. Spoon presented the report of the Finance and Investment Committee. He opened his comments by stating that, because of his increased responsibilities on both the Executive Committee and the search for a new Smithsonian Secretary, he would propose that Phillip Frost assume the chairmanship of the Committee. Accordingly, the following motion was approved:

*VOTED that the Board of Regents appoints Phillip Frost as chair of the Board's Finance and Investment Committee.*

Mr. Spoon gave an oral report on the April 12, 2007, meeting of the Finance and Investment Committee. Five topics were discussed: the Smithsonian's external debt, the report of the Investment Committee, the ongoing review of retail outsourcing, the fiscal year 2007 mid-year financial report, and the application and reaffirmation of the Endowment payout policy.

Regarding the Institution's external debt, Mr. Spoon said that the Institution currently has approximately \$113 million in external debt, which does not include a recent decision by the

Rockefeller Foundation to forgive a \$500,000 loan. The remaining debt is made up of the financing for both the Discovery Center at Natural History and the Udvar-Hazy Center.

Mr. Spoon next reported on the activities of the Investment Committee, which met twice following the January 2007 Regents' meeting. During its February 7, 2007, meeting, the Investment Committee reviewed the results of two studies conducted by Cambridge Associates: an annual review of the Institution's portfolio through December 31, 2006, and a study of the Endowment's asset allocation policy. Although the Endowment's traditional managers did not beat their benchmarks, its composite performance more than made up for the shortfall. The Endowment's value now stands at \$912 million, with a 6.2% five-year real return at year-end, surpassing its long-term investment objective of 5.5%. In aggregate, key investment decisions from October 1, 2005, through December 31, 2006, added approximately \$13.0 million to the Endowment portfolio.

Mr. Spoon briefly described the new asset allocation policy for the long-term portfolio adopted by the Investment Committee and its consideration of appropriate benchmarks. Mr. Spoon highlighted the results of the absolute return investments and assured the Regents that members of the Finance and Investment Committee and its subcommittee, the Smithsonian Investment Committee, are carefully proceeding and are sensitive to the reputational questions that such investments might raise. He added that the Investment Committee continues its search for top-performing managers, as well as access to the credit industry.

Mr. Spoon was asked if the Finance and Investment Committee would consider creating a summary of the Institution's investment philosophy for use by the Regents and for dissemination to the public. He readily accepted the proposal, as well as an additional suggestion to include an explanation of the Endowment's performance.

Mr. Spoon then addressed the ongoing review of retail outsourcing, the third issue discussed during the April 12, 2007, meeting of the Finance and Investment Committee. This project, which began in the fall of 2006, is intended to improve the performance of the Institution's assorted retail operations and includes the consideration of alternative management structures. The Regents' support will be sought if the review indicates the need to consider the use of third-party management.

The fourth topic of the Committee's April meeting was the mid-year review of the Institution's financial health. The Endowment has performed very well this fiscal year with a projected year-end market value of \$918 million, which will exceed budget by \$49 million. However, the most pressing challenge to the Institution remains its facilities backlog. At \$51 million, Federal appropriations for facilities maintenance fell well-short of the minimum industry standard of \$94 million. Federal funding for the Facilities Capital account was held at the 2006 level and remains inadequate for institutional renewal.

The Institution is largely on track to meet its budget this year. Revenues in fiscal year 2007 are forecast to exceed budget by \$22 million, although expenses are anticipated to exceed budget by \$20 million. Mr. Spoon added that the Institution's net assets are increasing, which will be

important with respect to the anticipated legal expenses from the current review of the Institution's governance and related matters.

Mr. Spoon also said that the Institution is projected to meet its fund-raising goals this year, with more than half already in hand. Director of External Affairs Virginia Clark then was asked to apprise the Regents about the state of the Institution's fund-raising efforts in response to recent events. Although the Smithsonian has seen a modest decline in its membership programs, Ms. Clark anticipates that the Institution will be able to sufficiently maintain its funding base and donor relationships.

The final item addressed during the April meeting of the Finance and Investment Committee was the application and the reaffirmation of the Endowment's payout policy, which is five percent of the average market value over the last five years. As explained by Mr. Spoon, the proposed payout for fiscal year 2008 would be \$37.23 per share, or \$40.6 million, which is comparable to the Institution's usual policy. Accordingly, the following motion was approved:

*VOTED that the Board of Regents accepts the recommendation of the Finance and Investment Committee and approves a payout rate of \$37.23 per share for all Endowment funds for fiscal year 2008.*

## **REPORT OF THE NOMINATING COMMITTEE**

Nominating Committee Chair Patricia Stonesifer said that the Committee would like to delay, until the next Regents' meeting, its full report on the Committee's efforts to identify potential nominees to the Board of Regents. She said that the Committee continues to refine its list of the attributes of an ideal candidate and that the initiatives of the newly formed Governance Committee will further inform the Nominating Committee's work. She added that the Committee is likely to suggest the selection of someone with museum, art, or other cultural experience to fill the anticipated vacancy of Regent Anne d'Harnoncourt, whose second and final term will expire in December 2007. Ms. Stonesifer also noted that three Regents are currently eligible for reappointment by Congress.

## **REPORT OF THE GOVERNANCE COMMITTEE**

The Institution's governance was a leading subject for discussion during Regents' meetings leading up to and including the May 7, 2007, meeting of the Board of Regents. On Sunday, May 6, 2007, the newly formed Regents' Governance Committee invited the Board to join outside experts for a roundtable discussion designed to vigorously examine governance issues at the Smithsonian. Guest speakers Victoria Bjorklund, Scott Harshbarger, William Josephson, and William P. Ryan shared their perspectives on the governance of nonprofit organizations and how the best practices of nonprofit governance might apply to the Smithsonian.

During the Monday, May 7, 2007, morning meeting of the Committee of the Whole, Governance Committee chair Patricia Stonesifer presented a progress report on the numerous initiatives undertaken by the new Committee. Since its inaugural meeting on March 21, 2007, the

Committee has developed, received approval for, and launched the implementation of 12 interim policies and procedures designed to address, in part, issues raised by the Inspector General and Congressional inquiries. During its review of broader governance initiatives based on the best practices of 21<sup>st</sup>-century nonprofit governance, the Committee is focusing on three priority areas: effective board and committee structure; effective monitoring, oversight, and information flow; and effective transparency. The Committee intends to present concrete recommendations to the Regents at their June 11, 2007, meeting and plans to continue to engage the Board in other long-term initiatives to advance good governance at the Smithsonian.

In addition to the Progress Report of the Governance Committee, the Regents received copies of “Principles for Effective Practice,” a draft paper by the Panel on the Nonprofit Sector’s Advisory Committee on Self-Regulation; the BoardSource report *The Source: Twelve Principles of Governance that Power Exceptional Boards*; biographies of the roundtable speakers; and a draft of the Governance Committee’s work plan. The draft plan proposes a three-phased approach intended to cultivate a governance culture at the Smithsonian that is guided by best practices in the nonprofit sector. The first phase, which is currently under way, is designed to provide immediate stabilization and clarity to the Institution’s governance through the swift articulation and implementation of interim good governance practices and processes. Following the June 11, 2007, meeting of the Board of Regents, when the Governance Committee will present its recommendations, the Committee will launch the second phase of its work plan, which is intended to establish a superior governance framework designed to advance the Institution’s mission. To ensure the future development and support of governance best practices at the Smithsonian, the third phase of the plan will establish an ongoing and systematic review and renewal of the Institution’s governance.

During the meeting of the Committee of the Whole, Ms. Stonesifer also introduced Governance Committee member and Independent Sector President and CEO Diana Aviv, who engaged in the Regents’ frank exchange about the Institution’s recent governance issues. There were discussions about both perceived and real tensions between “the Castle” (Smithsonian management) and the units; changes in the landscape and division of the Institution’s public and private sectors since the 1999 hiring of former Secretary Lawrence Small; and issues of transparency. The benefits of a transparent governance structure, whereby organizational risks and less-than-positive outcomes are collectively understood and responsibly shared, were discussed. Supporting the movement towards improved transparency and communication, the Regents discussed the need to enhance a culture of deep inquiry, to support increased monitoring and compliance, and to develop more constructive partnerships between the Office of the Secretary, the Office of the General Counsel, the Office of the Inspector General, and the Institution’s advisory boards, among others. The desire to improve the accessibility of the Institution’s web site was noted; the Regents also agreed that enhanced communication between members of the Board of Regents was needed.

It was acknowledged that the mission of the Smithsonian remains sound, despite recent management upheavals. In addition, the Regents were unanimous in their support for the work of the Governance Committee, as well as overall efforts to reform and enhance the governance of the Institution.

During the luncheon following the meeting of the Committee of the Whole, the Regents listened to another presentation on nonprofit governance. Introduced by Ms. Aviv, “Governing the

Smithsonian: Views from Outside the Castle” featured two speakers from the previous day’s roundtable discussion, William Josephson and William P. Ryan. Mr. Josephson, the former assistant attorney general-in-charge of the New York State Law Department’s Charities Bureau, current member of the Expert Advisory Group, and a widely regarded expert on tax-exempt organizations, and Mr. Ryan, a research fellow at the Hauser Center for Nonprofit Organizations at Harvard University, consultant to nonprofit organizations and foundations, and co-author of *Governance as Leadership: Reframing the Work of Nonprofit Boards*, offered their perspectives on the current and future state of governance at the Smithsonian, including the application of best-practice governance to the Institution. Their frank assessments were well-received.

The discussion of the Smithsonian’s governance continued during the afternoon meeting of the Board of Regents, wherein the Regents reviewed the proposed charter for the newly formed Governance Committee, as well as the minutes of its numerous meetings between March 21 and April 23, 2007. Ms. Stonesifer drew the Regents’ attention to the crucial responsibilities included in the Committee’s proposed charter, such as developing and recommending to the Board of Regents policies for the corporate governance of the Smithsonian, as well as overseeing the implementation of those policies. In addition, it was proposed that, with the assistance of the Governance Committee, all Regents’ committees review and amend their charters to ensure best-practice charter development. Accordingly, the following motion was approved:

*VOTED that the Board of Regents approves the proposed Charter of the Governance Committee and requests its other committees to revise their charters to comparable standards.*

## **INTRODUCTION OF NEW AGENDA ITEM: THE ARTS AND INDUSTRY BUILDING**

In response to a request received within the week prior to the meeting of the Board of Regents, Executive Committee Chair Sant asked the Chancellor for permission to introduce a topic that was not included in the previously approved meeting agenda. Mr. Sant reminded the Regents of their 2004 decision to close the Arts and Industries Building because of safety issues, including an overarching concern about the structural integrity of the national landmark’s roof. The building has been vacated since the end of calendar year 2006 and management has been aggressively exploring options for funding the repairs needed to reestablish the viability of the historic structure. Consultations with outside agencies, including representatives from the Office of Management and Budget and the United States Congress, have determined that, to date, the most practicable way to address the building’s extensive needs would be to engage in a partnership with an outside entity wherein that organization (or organizations) would fund the building’s critically needed repairs and operational costs as a condition of a long-term lease of the site.

Mr. Sant informed the Regents that Congressional offices have requested that the Institution confirm its commitment to the consideration of a private-sector partnership to fund the redevelopment of the Arts and Industries Building. He then proposed a motion to express that commitment, as well as to request that the Acting Secretary proceed with a Request for Qualifications (RFQ). The purpose of proceeding with a RFQ would be to provide the Institution

with information about the types of parties who might be interested in engaging in a partnership with the Smithsonian whereby the Institution would not bear any of the revitalization costs, including operational expenses, during the period of the building's partnership. Although one organization in particular already has signaled its strong interest in the site, it is assumed that the wide distribution of the RFQ process would encourage other groups to also consider such an arrangement. The draft motion proposed that responses to the RFQ be due in three weeks.

Representative Becerra, who reminded the Regents about the legislation he previously sponsored to create a Commission on the Museum of the American Latino and the fact that the Arts and Industries building could conceivably host that museum, asked about the obligations incurred by the possible adoption of this RFQ. He was assured that passage of the motion would not require the Institution to commit to any of the proposals tendered during the RFQ process. Rather, the move to issue a RFQ would enable the Smithsonian to solicit information from potential interested partners, which would subsequently be presented to the Regents for review. Ms Burke further explained that, unlike a Request for Proposal, a RFQ would simply establish the financial qualifications of a potential partner, as well as their intended use for the building. Mr. Sant added that adoption of the motion also would indicate to the Congress that the Smithsonian remains committed to exploring all means necessary to address its enormous backlog of revitalization and maintenance issues.

Further discussion ensued about the language of the proposed motion, as well as the urgency of adopting it during the course of this particular meeting. The Regents agreed that the proposed response period of three weeks should be extended to allow for a broader group of potential respondees.

With Representative Becerra abstaining from the vote, the following revised motion was then approved:

*VOTED that the Board of Regents reiterates its position, as previously discussed with OMB and the Congress, that a partnership to redevelop the Arts and Industries Building remains an important strategy to save this national landmark, absent sufficient Federal appropriations for facilities revitalization. The Board also requests the Acting Secretary to continue the Smithsonian's pursuit of private-sector redevelopment options and proceed with a RFP with responses due in 45 days.*

## **REPORT OF THE INDEPENDENT REVIEW COMMITTEE**

During the morning meeting of the Committee of the Whole, Mr. Sant provided an overview of the work of the Independent Review Committee (IRC), which was established by the Board of Regents on March 19, 2007, in response to recent correspondence from Senator Grassley, as well as concerns voiced by Congress and the private sector. The Committee is charged with reviewing the Secretary's expenses and compensation as presented in reports by Cotton & Co. and the Inspector General; considering associated findings and actions by the Board of Regents; and assessing related Smithsonian practices. IRC members include Committee Chairman Charles A. Bowsher, Stephen D. Potts, and A.W. "Pete" Smith, Jr.; Paul Martin Wolff, a partner of Williams & Connolly LLP, has been retained as counsel.



The IRC projects that its review will be completed around the end of May 2007. It is anticipated that the Regents' Governance Committee will review the IRC's recommendations prior to the June 11, 2007, Board of Regents' meeting and bring to that meeting a draft response for the Regents' consideration. The Regents' response would then be included in the final IRC report.

## **REPORT OF THE SEARCH COMMITTEE FOR THE 12<sup>TH</sup> SECRETARY**

Designated Committee Chair Alan Spoon gave the report from the *ad hoc* Search Committee for the 12<sup>th</sup> Secretary of the Smithsonian. Proposed Committee members include Regents Xavier Becerra, Anne d'Harnoncourt, Patrick Leahy, Walter E. Massey, Roger Sant, and Alan G. Spoon; Smithsonian National Board Chair L. Harwick Caldwell; and Assistant to the Chief Justice Jeffrey Minear. It was proposed that two or three additional members be added in the future by Mr. Spoon, in consultation with Executive Committee Chair Roger Sant.

Accordingly, the following motion was approved:

*VOTED that the Board of Regents establish an ad hoc Search Committee for Secretary and appoint the following individuals to the Committee: Xavier Becerra, Hacker Caldwell, Anne d'Harnoncourt, Patrick Leahy, Walter Massey, Jeffrey Minear, Roger Sant, and Alan Spoon, all effective immediately. In addition, the Regents agree, in consultation with the Committee and the chairman of the Executive Committee, to the appointment of up to three additional non-Regent members.*

## **EXECUTIVE SESSION**

The plenary meeting of the Board of Regents concluded at 4:25 p.m., after which the Regents met in executive session.

## **RELATED REGENTS' EVENTS, INCLUDING THE MEETING OF THE COMMITTEE OF THE WHOLE**

On Sunday, May 6, 2007, the Regents were invited to attend a series of meetings organized by the Regents' Governance Committee. From approximately 10:30 a.m. until 1:00 p.m., the dynamic panel discussion "Governance at the Smithsonian: Observations from Outside the Castle" was moderated by Committee member Diana Aviv (an overview of that meeting was described previously in the Report of the Governance Committee that begins on page xiii of this summary). Panelists included Victoria Bjorklund, Scott Harshbarger, William Josephson, and William Ryan. A working luncheon was then held at about noon. From about 1:30 until 5:15 p.m., the Governance Committee and attending Regents engaged in the roundtable discussion "Basic Building Blocks for Better Smithsonian Governance."

From 6:30 until 9:30 p.m. on the evening of May 6, the Regents, their spouses, and senior management hosted a dinner in the Castle Commons to honor donors to the Smithsonian's

history and cultural programs. A brief cocktail reception in the Enid A. Haupt Garden preceded the dinner.

On the morning of Monday, May 7, 2007, the Committee of the Whole convened in the Regents' Room at approximately 9:00 a.m. (Meetings of the Committee of the Whole are designed to allow the Regents to conduct extended conversations about topics presented in or raised by the previously approved agenda for the afternoon meeting of the Board of Regents.) Executive Committee Chair Roger Sant opened the meeting of the Committee of the Whole by welcoming the Congressional liaisons, whose inclusion was unique to this meeting. The Regents agreed to discuss the future attendance of Congressional liaisons during the executive session of the meeting of the Committee of the Whole. The Regents also decided to continue the routine recording of Board of Regents' meetings and to consider at a later date whether or not to record future discussions of the meetings of the Committee of the Whole.

The Regents then addressed the three items on the agenda for the meeting of the Committee of the Whole: an update by Executive Committee Chair Roger Sant on the work of the Regents' Independent Review Committee, an overview by Acting Secretary Cristián Samper of his first six weeks in office, and a progress report by Committee Chair Patricia Stonesifer on the activities of the Governance Committee. Descriptions of Mr. Sant's and Ms. Stonesifer's comments may be found in this summary in the Report of the Regents' Independent Review Committee and the Report of the Governance Committee, which begin, respectively, on pages xvi and xiii.

Acting Secretary Cristián Samper began his overview of his first six weeks in office with a resounding affirmation of his commitment to serving the Smithsonian, keen appreciation for the trust that the Regents have placed in him, and deep conviction that the process of comprehensively addressing the Smithsonian's current challenges ultimately will strengthen the Institution. He thanked the Regents for their support, as well as for the enormous contributions of time they have invested.

Dr. Samper then reviewed recent actions to address the Smithsonian's present problems, initiatives to build a stronger institution for the future, and vision for what that future could hold. During his first six weeks in office, he has focused on three issues: strengthening public trust in the Smithsonian, improving employee morale, and keeping key projects and priorities on track.

Including the April 11, 2007, hearing before the Senate Committee on Rules Administration, Dr. Samper has held numerous meetings with members of Congress, the administration, and the media. In his explanations of the Institution's mission, commitment to serving the public, and ambitious agenda, Dr. Samper emphasized that trust must be the foundation of all that the Smithsonian is and does. He added that he is humbled by and firmly committed to the development of that trust.

He drew attention to the recent abundance of good news at the Smithsonian. A few of the exciting reports or initiatives under way at the Smithsonian include the two-year extension of panda Tai Shan's stay at the Zoo; the strength of the Institution's overall attendance figures; the completion of Pod 5 at the Museum Support Center in Suitland, Maryland; the launch of the

Encyclopedia of Life project; the development of an exciting partnership with the Council of Chief State School Officers; and the pending openings of the Kogod Courtyard at the Donald W. Reynolds Center for American Art and Portraiture and the butterfly exhibition at the National Museum for Natural History.

During his meetings with members of Congress and the Office of Management and Budget, Dr. Samper heard expressions of both deep concern about recent events and strong support for the Smithsonian. Although the Senate Rules Committee has requested a GAO study on the Institution's governance, it is clear that Congress expects the Institution to take the lead in the aggressive reformation of its governance. The Office of Management and Budget remains supportive of the Institution's initiatives, including its efforts to secure increased Federal and private support.

Regarding his commitment to improving morale and effecting transparency within the Smithsonian, Dr. Samper said that he has held numerous Town Hall Meetings, launched a Secretary's column in the monthly staff newspaper, and continues to issue all-staff e-mails regarding the Institution's efforts to address its problems. At each point of contact he notes his appreciation for the talents and ongoing work of the staff and his commitment to advancing the Smithsonian's mission and agenda. In addition, Dr. Samper has been candid about the impact of base erosion; the need to invest in programs as well as facilities; problems with Smithsonian Business Ventures (SBV); concerns about the External Review Committee's report on the Smithsonian Arts; and the status of the search process for the new Secretary. The organization, responsibilities, and commitment of the Institution's governing Board of Regents also have been made clear to staff.

Dr. Samper said that funding will be critical to the advancement of the Smithsonian's agenda. He acknowledged that the Federal government's domestic and international priorities will continue to affect Federal support for the Institution but that he will persist in making a strong case for increased Federal funding. He noted, however, that private sector fund raising remains strong and that the Institution anticipates that it will surpass its goals for this year. To maintain that support, Dr. Samper and Director of External Affairs Virginia Clark have been in close contact with advisory board members, major donors, and contributing members in a concerted effort to keep these key supporters informed about ongoing events, as well as the Institution's commitment to advancing its ambitious agenda.

Dr. Samper asserted his firm belief that the Institution needs to strengthen its programmatic activities in research, collections, and education, as these initiatives fulfill the Smithsonian's core mission — the increase and diffusion of knowledge. He emphasized the need to support the development and activities of the Smithsonian's scholarly staff and cited his recent announcement to release \$500,000 from the Secretary's discretionary fund to support the Smithsonian Institution Fellowship Program for 2007.

Again emphasizing the success of current programs and initiatives within the Institution, Dr. Samper closed his remarks by highlighting the passion and support for the Smithsonian that continues to be expressed by its visitors, staff, donors, volunteers, and members of Congress. Although this remains a trying time for the Institution, Dr. Samper reiterated his belief that

tremendous opportunities lie in the challenges presently faced by the Smithsonian and that a healthier institution with a strengthened ability to articulate and achieve its mission will emerge.

The Regents then discussed the anticipated legal fees from the ongoing review of the Institution. The Office of the General Counsel will monitor, but not officiate over, such fees that are necessary for the Institution's response to the Congressional review. Ms. Stonesifer's report on the efforts of the Governance Committee followed (see page xiii), after which the Committee of the Whole entered into a two-part executive session.

During a brief luncheon that followed the first half of the executive session, the Regents, Regents' liaisons, and members of Smithsonian senior staff listened to another governance-related presentation, "Governing the Smithsonian: Observations from Outside the Castle." Governance Committee member Diana Aviv introduced two of the speakers from the previous day's panel discussion, William Josephson and William Ryan, who shared their opinions about the present and future state of the Smithsonian, especially with regard to 21<sup>st</sup> century best-practice rules for the governance of non-profits. At 1:10 p.m. the Regents resumed their executive session of the Committee of the Whole after which the meeting of the Board of Regents commenced at about 2:30 p.m. and was concluded at 4:25 p.m., whereupon the Board of Regents met in executive session.

Acting Secretary Samper held a press briefing at about 5:30 p.m., after which he joined members of the Board of Regents for a meeting with Smithsonian directors. The directors were apprised of the Regents' discussions, including the commencement of the search process for the 12<sup>th</sup> Secretary of the Smithsonian and the Board's overall efforts to address the problems currently faced by the Institution.