

MINUTES OF THE
APRIL 6, 2009, MEETING
OF THE
BOARD OF REGENTS
OF THE
SMITHSONIAN INSTITUTION



Smithsonian Institution

SMITHSONIAN INSTITUTION
Minutes of the Meeting of the Board of Regents
April 6, 2009

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MINUTES OF THE BOARD OF REGENTS

April 6, 2009

ATTENDANCE

This scheduled meeting of the Board of Regents was held on Monday, April 6, 2009, in the Freer Gallery of Art's conference room. The meeting included a morning session and an afternoon session, which were followed by an executive session. Board Chair Patricia Q. Stonesifer called the meeting to order at 8:59 a.m. Present were:

The Chief Justice ¹	Sam Johnson ²	Doris Matsui
Eli Broad	Robert P. Kogod	Roger W. Sant
Phillip Frost	John W. McCarter Jr. ³	Alan G. Spoon
Shirley Ann Jackson		Patricia Q. Stonesifer

L. Hardwick Caldwell, Smithsonian National Board Chair

Vice President Joseph R. Biden, Senator Thad Cochran, Senator Christopher Dodd, Senator Patrick Leahy, and Representative Xavier Becerra were unable to attend the meeting.

Also present were:*

France Córdova, Regent Designee ⁴	Grace L. Jaeger, Program Officer, Office of the Regents
G. Wayne Clough, Secretary	Jeffrey P. Minear, Counselor to the Chief Justice
Richard Kurin, Under Secretary for History, Art, and Culture	Joe Hepp, Assistant to Senator Dodd
Alison McNally, Under Secretary for Finance and Administration	Kevin McDonald, Assistant to Senator Leahy
Patricia L. Bartlett, Chief of Staff to the Secretary	Melody Gonzales, Assistant to Congressman Becerra
Amy Chen, Chief Investment Officer	David Heil, Assistant to Congressman Johnson
Virginia B. Clark, Director of External Affairs	Alexis Marks, Assistant to Congresswoman Matsui
John K. Lapiana, Chief of Staff to the Regents	Peter Schwartz, Global Business Network (GBN) Cofounder and Chairman ⁵
Evelyn S. Lieberman, Director of Communications and Public Affairs	Mark Tino, GBN Senior Practitioner ⁵
Alice C. Maroni, Chief Financial Officer	Reggie Van Lee, Booz Allen Hamilton (BAH) Senior Vice President ⁵
Carole M.P. Neves, Director of the Office of Policy and Analysis	Gary Bettger, BAH Senior Associate ⁵
Tom Ott, President of Smithsonian Enterprises (SE)	Gregory Bokman, SE Chief Financial Officer ⁶
Nell Payne, Director of Government Relations	Peter Gibbons, SE Retail Group Director ⁶
A. Sprightley Ryan, Inspector General	Carol LeBlanc, SE Business Development and Licensing Director ⁶
Marsha S. Shaines, Acting General Counsel	Scott Stark, SE Communications Manager ⁶
Barbara Feininger, Senior Writer-Editor, Office of the Regents	

¹ The Chancellor, Chief Justice John G. Roberts, Jr., attended the afternoon plenary session and executive session.

² Mr. Johnson arrived at 9:10 a.m. and was present for the consideration of all proposed motions.

³ Mr. McCarter departed at 2:10 p.m. and was not present for the consideration of motions 2009.04.02-2009.04.12.

⁴ Dr. Córdova, Regent Designee, attended by invitation of the Regents and departed at 1:00 p.m.

⁵ Messrs. Schwartz, Tino, Van Lee, and Bettger were present for the Regents' Strategic Planning Session.

⁶ Messrs. Bokman, Gibbons, and Stark and Ms. LeBlanc were present for the Smithsonian Enterprises Presentation.

* With the exception of Secretary Clough, Chief of Staff to the Secretary Patricia Bartlett, and Chief of Staff to the Regents John K. Lapiana, Smithsonian staff joined the meeting at 11:05 a.m.

MORNING PLENARY SESSION

OPENING REMARKS

Board Chair Patricia Stonesifer welcomed the attendees and expressed her appreciation for the morning tour of the Freer Gallery of Art by Julian Raby, the Director of the Freer and Sackler Galleries. She said that the decision to conduct some of the Board of Regents' meetings outside of the Smithsonian Castle (in this case, at the Freer Gallery of Art) reflected a commitment to strengthening the Regents' attachment to the Smithsonian's mission.

Ms. Stonesifer then provided a brief overview of the meeting agenda. Noting that the schedule was extremely full, she said that the Regents would be engaged in a detailed strategic planning exercise that morning, after which an update on the business, vision, and oversight of Smithsonian Enterprises would be presented. She announced that on the way to lunch the Regents would join National Museum of African American History and Culture Director Lonnie Bunch to see the six proposed designs for the new Museum and discuss the status and content of that design effort. She said that the afternoon session of the Regents' meeting also would be very full and would require the Regents' commitment to conduct strategic and time-sensitive discussions. Strategic Planning and Programs Committee Chair Doris Matsui was then asked to present the Committee's report.

REPORT OF THE STRATEGIC PLANNING AND PROGRAMS COMMITTEE

Before beginning her report, Strategic Planning and Programs Chair Doris Matsui noted the *Washington Post* article on Board Chair Patricia Stonesifer, which was printed in that morning's edition, reflected the "turning of a page" at the Smithsonian. She added that the report highlighted the Smithsonian's renewed ability to focus its vision on its future. She also reported that the Office of Management and Budget had expressed its support for the Smithsonian's undertaking of a strategic planning process.

Review of the Strategic Planning Process

Ms. Matsui reminded the Board that in September 2008 the Board had approved the Secretary's recommendation to engage the Smithsonian and its stakeholders in the development of a new strategic plan. Reflecting the Secretary's commitment to an inclusive process, the subsequent creation of the strategic planning process was designed to engage a broad spectrum of internal and external stakeholders. The process includes scenario-building exercises that will inform the development of a strategic plan that can respond to present and future uncertainties, both economic and political, that face the Smithsonian.

The three phases of the Smithsonian's strategic planning process will be supported by the Smithsonian's Office of Policy and Analysis; two outside consultants, Booz Allen Hamilton and Global Business Network; and a 22-member Strategic Planning

Steering Committee that represents a diverse set of perspectives within and outside of the Institution. Ms. Matsui said that the Steering Committee had assisted the consultants in identifying key individuals and groups to interview during Phase I, suggested participants for the scenario-planning phase, and is currently helping identify themes that have emerged from both phases and will be reflected in the final strategic plan.

Ms. Matsui reported that Phase I, the baseline information-gathering phase of the Strategic Planning Process, was complete and directed the Regents' attention to the analysis of online surveys and individual and group interviews included in the Board's agenda books. She added that the report also was posted on PRISM, the Smithsonian's internal Web site, and reminded the Board that in January 2009 it had approved the launch of Phase II.

The scenario-planning exercises that comprise Phase II were reported as approximately 70 percent complete. Ms. Matsui explained that the exercises involve intensive two-day workshops that challenge Smithsonian stakeholders to conceptualize and discuss visions of the Institution's future through scenario-based modeling. The sessions are intended to generate detailed ideas about how the Smithsonian might respond to possible future events that either challenge or support the Smithsonian and its ability to fulfill its mission. Ms. Matsui cited the current economic downturn as a timely example of an external challenge to the Institution.

Ms. Matsui said that the workshop participants would meet with the Smithsonian's museum, program, and office directors at the end of April 2009 to examine and discuss the results of the scenario-planning sessions. She added that the consultants would then synthesize all of the information gathered during Phase II and deliver a report of their findings in mid-May 2009.

**Engaging the Regents
in a Scenario-Planning
Session**

Ms. Matsui said that after her presentation the Regents would engage in an abbreviated scenario-planning session with the assistance of Global Business Network (GBN) Cofounder and Chairman Peter Schwartz (who previously gave a luncheon presentation during the September 22, 2008, Board of Regents' meeting), a member of his team, and representatives from Booz Allen Hamilton. She explained that the results of the first three scenario-planning workshops would be presented for the Regents' review and comment, and that their advice, including whether or not the different scenario environments appear to be on target, would inform Mr. Schwartz's final report. She also noted that a similar exercise with the Smithsonian's advisory board chairs was scheduled for the following week.

SCENARIO-PLANNING SESSION

Ms. Matsui then welcomed Mr. Schwartz, GBN Senior Practitioner Mark Tino, Booz Allen Hamilton (BAH) Senior Vice President Reggie Van Lee, and BAH Senior Associate Gary Bettger. Mr. Schwartz explained that the results of effective scenario-planning exercises reflect a balance between highly structured, rigorous analysis and imagination. He also noted that the Smithsonian is not an institution "of the moment" and that its unique position in American history demands that the

development of its strategic plan recognizes the importance of this larger, long-term context.

The Board then engaged in a two-hour session to consider short- and long-term visions for the Smithsonian. Although near-term views were discussed, the majority of the discussions were directed to projections of the Institution some five to 10 years into the future, as well as for the decades beyond. The Board reviewed a summary of stakeholder responses from Phase 1 of the Strategic Planning Process; it also provided feedback on the scenario-planning session and the overall strategic planning process.

PRESENTATION BY SMITHSONIAN ENTERPRISES

The Chair introduced the presentation by Smithsonian Enterprises President Tom Ott by first noting that Smithsonian Enterprises (SE) had undergone some of the most dramatic changes in the Institution over the last two years. The unit was reorganized and renamed (from Smithsonian Business Ventures to Smithsonian Enterprises), its priorities were realigned, its relationship to the rest of the Institution was redefined, and its leadership changed. The Chair said that there were three goals for this presentation: to reintroduce the Regents and their liaisons to SE and its leadership team; to ensure that all understand the scope of SE's businesses; and to make clear the challenges and possibilities that face SE, given the current economy and shifts in technology and consumer behavior.

Overview of Smithsonian Enterprises

Mr. Ott thanked Ms. Stonesifer for the opportunity to address the Board. He then reminded the Board that Smithsonian Enterprises is a division of the Institution that, when operating at its fullest potential, provides significant outreach for the Smithsonian by translating its recognized quality, expertise, and goodwill into products and services that enhance the Smithsonian's reach and reputation while adding value and benefit to the consuming public. SE, frequently the largest source of unrestricted revenue for the Institution's Central Trust, was affirmed as the Institution's primary revenue-generating unit by the Smithsonian Business Ventures Task Force and the Board of Regents in January 2008. Mr. Ott also explained that SE's 454 employees are divided among three units — Media, Retail, and Licensing and Business Development — that operate out of either Washington, D.C.; Herndon, Virginia; or New York, New York; including three airport locations.

Mr. Ott then cited several examples that demonstrate how SE supports the outreach and mission of the Smithsonian. In its Media Group, SE's magazines attract 8 million combined monthly readers and generate 2.2 million National Associate memberships annually — the biggest associate membership program in the Smithsonian. In the Retail Group, SE museum stores record 1.8 million individual store transactions with visitors. In the Licensing and Business Development Group, Mr. Ott reminded the Board that the forthcoming release of *Night at the Museum: Battle of the Smithsonian* is anticipated to attract over 25 million moviegoers.

Next an overview of SE's mid-year forecast was provided. Acknowledging the challenging environment in which SE now operates, Mr. Ott said that its top-line

revenues are forecast to be essentially flat as compared to fiscal year 2008 actual revenues. He said that the total fiscal year 2009 revenue forecast of \$157.3 million reflected an anticipated \$17.6 million drop from SE's fiscal year 2009 budget of \$174.9 million, and was projected to result in a net gain loss of \$9.3 million. However, Mr. Ott reported that extraordinary efforts by SE management had mitigated all but \$1 million in anticipated net losses, resulting in a revised net gain forecast of \$26.2 million for fiscal year 2009. Examples of aggressive actions by SE management included reductions in workforce, compensation, and discretionary costs, consolidations in businesses, renegotiations with vendors, and explorations of new revenue-generating opportunities. He cautioned, however, that because of the economic downturn SE is operating in uncharted territory and that additional risks will likely challenge SE during the remainder of the fiscal year.

Mr. Ott then summarized the shared issues that all SE groups now face. He said the challenges to SE products and services include the aging of the SE customer base, weaknesses in brand perception and marketing, insufficiently robust digital offerings, and a lack of centralized databases. Challenges from within the Institution include the need for greater pan-institutional understanding of, collaboration with, and support for SE; inadequate funding for long-term initiatives and infrastructure needs; compromised ability to exercise speed and agility when working with business partners in the commercial marketplace; and untapped digital resources and opportunities that could, if improved, enhance and support the Smithsonian's outreach and value.

Media Group

Overviews of each SE group were then provided. Mr. Ott first presented a review of the Media Group. He noted that the group's Magazine Publishing division provides 95 percent of the Media Group's revenue and 90 percent of its net gain, and that the remainder of the group is comprised of Smithsonian Books (a partnership agreement with HarperCollins) and Smithsonian Channel (a joint venture with Showtime, Inc.).

Mr. Ott explained that advertising's migration from print to digital had permanently altered the landscape of magazine publishing. He noted that it is an industry under siege, most recently because of recession-driven cuts in advertising and marketing budgets, and that the Smithsonian's Magazine Publishing division is the most challenged business within all of SE. Although the division's online ad spending and magazine-associated internet businesses are performing well, they cannot replace print revenue losses.

Smithsonian Books, which also operates in a difficult industry, provides mission-enhancing benefits but only marginal financial support. Smithsonian Channel's joint venture with Showtime, however, provides a guaranteed annual source of revenue that is anticipated to grow with the increased distribution of the Channel. Mr. Ott also noted that all operating expenses for the Emmy Award-winning channel are borne by the joint venture.

Mr. Ott reported that the Smithsonian Media Group had taken both tactical and strategic actions to address the challenges it faces. He said that although the tactical, or reactive, actions were effective, long-term, proactive strategic decisions also must be made. Mr. Ott said that the keys to the future success of the Magazine Publishing division will be rooted in its ability to successfully migrate from a

magazine company to a platform-neutral content provider. To do so, he proposed that Magazine Publishing pursue a strategic publishing partnership that allows SE to control content; he added that the Secretary supported the investigation of this idea. Mr. Ott also said that digital growth should be accelerated and monetized, especially through the use of pan-institutional collaborations, and noted that this initiative would require a Smithsonian-wide cultural shift, a reexamination of revenue-sharing policies, and an investment in both infrastructure and staffing. Increasing media opportunities that are not ad-reliant and maximizing the content and growth of Smithsonian Channel also will enhance revenues.

Retail Group

SE Retail Group Director Peter Gibbons then spoke about the state of the Smithsonian's retail businesses. Mr. Gibbons reminded the Board that the SE Retail Group includes museum and airport stores, food and beverage centers, interactive concessions, theaters, the Smithsonian Catalog, and e-commerce activities. He reported that the Retail Group forecasts \$89 million in fiscal year 2009 sales, a 9 percent shortfall to budget. Although overall visitation to Smithsonian museums is up, overall Smithsonian retail transactions have dropped 8 percent, compared to fiscal year 2008 transactions, due to the recessionary impact on consumer spending.

Mr. Gibbons reported that aggressive management efforts have mitigated much of the impact from these changes. He said that these efforts have focused on three areas: revenue-generating initiatives, increasing visitation numbers and the duration of visitors' stays, and control of costs.

In addition to mitigating the impact of the changing retail landscape, the Retail Group's strategic priorities will include acquiring new mission-related content in the Institution's theaters and expanding its focus on mission-related products and programs. Mr. Gibbons said that the wealth of content material that exists throughout the Smithsonian, including its museums, research, education, and publishing programs, presents enormous potential for expanded retail initiatives.

He focused on two key initiatives that will advance the goals and revenue-generating efforts of the Retail Group: the consolidation of the museum store and catalog businesses and the reconceptualization of the catalog and e-commerce platforms. Noting that these businesses represent 76 percent of the total Retail Group, he said that they offer enormous upside potential and, if reorganized, would present significant opportunities for organizational efficiencies.

The proposed consolidation of the museum stores and catalog units would combine eight separate operations into four. Each division's organization, distribution center, systems, and inventory would be merged into four overarching operational systems: retail organization, retail distribution center, retail systems, and retail inventory. Regarding the reconceptualization of the catalog and e-commerce platforms, Mr. Gibbons noted that the catalog organization had, over time, reduced the scope of its targeted audience and thereby limited its vitality, recognition, and reach. By expanding its sights to include younger, trend-conscious audiences and updating its product offerings and delivery systems, the Retail Group plans to broaden its consumer base, move "from muumuus to MOMA," and better align its products to the Smithsonian's culture.

Mr. Gibbons then explained the benefits that will be achieved through these operational and strategic-planning initiatives. The consolidation of the museum stores and catalog divisions will result in operational cost savings and will increase the Retail Group's leverage with suppliers. Merchandise costs will decrease, and consolidated product volume will support the development of exclusive proprietary goods that provide important contextual information, or storytelling opportunities, for Smithsonian merchandise. Staff talent will likewise be leveraged through the consolidation of abilities, goals, and activities. By creating contemporary merchandise and marketing programs, the Retail Group's initiatives will enhance the Smithsonian's brand awareness, affirm its relevance, and ultimately expand its revenue growth.

**Business Development
and Licensing Group**

Mr. Gibbons then introduced SE Business Development and Licensing Director Carol LeBlanc, who noted that her scope of responsibilities includes product licensing and travel. Ms. LeBlanc first noted that SE's licensing, student travel, and Smithsonian Journeys programs generate limited revenue and experience relatively flat year-to-year growth; she noted, however, that the low investment requirements of each are very attractive to the Institution. She said that the enterprises share a common need for and commitment to brand control. Ms. LeBlanc acknowledged that this SE group also has been impacted by the economic downturn, noting that decreases in consumer discretionary spending have resulted in an industry-wide drop in the travel industry.

To address these challenges, Ms. LeBlanc explained that the Smithsonian's travel programs must embrace a "cradle to grave" strategy that expands its niche programs beyond its current target audience (now primarily seniors, with some teenaged consumers) and embrace a broader market. This portfolio approach will present new cultural and educational product offerings designed to better engage children, baby boomers, families, and college-aged groups. National and international destinations, short and long term trips, and other customizable options also will expand the scope and depth of the Smithsonian's travel opportunities.

To support these goals, and in recognition of the current challenges to the travel industry, Ms. LeBlanc said that her group is investing in the development of a long-term strategic plan; moving towards an online marketing mix; exploring marketing partnerships; and promoting value-added, cost-conscious products that recognize current travel trends. She said that the Smithsonian's travel programs are focused on managing expenses and positioning itself to take advantage of what is anticipated to be an inevitable rebound in the industry.

With regard to licensing opportunities, Ms. LeBlanc said that she examined two issues when she assumed the management of the Licensing and Business Development Group: why this business had not grown over the years and, if it were to be developed, what its appropriate size would be. She directed the Board's attention to a chart demonstrating the scope of the Smithsonian's licensing-based retail sales as compared to that for other organizations. She said that the licensing strategies employed by some organizations, such as Disney Consumer Brands, are not appropriate for the Smithsonian. However, other like-minded organizations generate significantly more revenue than the Smithsonian does through licensing agreements. Ms. LeBlanc said that the Smithsonian's retail

sales from licensing opportunities could be developed from approximately \$30 million to at least \$250 million annually through aggressive but thoughtful management.

To do so, Ms. Le Blanc said that the Institution must focus on and develop its Product Licensing Group, invest in the creative expertise and product development necessary for its success, and cultivate and formalize institutional support for this initiative. Ms. LeBlanc next presented a comprehensive licensing strategy that was based on careful analysis of the Smithsonian brand, consideration of consumer genres that are compatible with the Smithsonian's core, and identification of consumer groups and product categories that offer strong potential for product affinity and revenue growth.

Ms. LeBlanc said that the carefully developed strategy has allowed the Smithsonian to communicate with potential licensees and retailers about possible product licensing opportunities. The Smithsonian can now articulate the basis for its focus on certain consumer groups, explain the platforms it wants to employ to achieve future growth, and present a vision about where it wants to go in the future. She added that the licensing strategy has been well received. Ms. LeBlanc concluded by asserting that there is growth potential in the Smithsonian's travel and product licensing areas and that, if carefully and thoughtfully done, these initiatives will extend the Smithsonian's mission, increase its reach, and successfully generate incremental revenue.

**Oversight of
Smithsonian
Enterprises**

SE Chief Financial Officer Gregory Bokman then updated the Board on the status of the policies, procedures, and processes that govern the oversight and accountability of Smithsonian Enterprises. Noting that SE had experienced enormous changes over the last two years, Mr. Bokman reminded the Regents that, of the 25 governance reform recommendations put forth by Regents' Governance Committee in 2007, five impacted SE and one was specifically directed at the unit.

Mr. Bokman reported that SE operations were subsequently assessed against 112 existing Smithsonian Directives. He said that it had fully converted to the Smithsonian travel policy, and, with the exception of three existing policy exceptions that were reapproved by the Secretary, is now in compliance with all other directives. SE's annual budget processes are now synchronized with the Smithsonian's budget planning schedule; its internal controls have been reviewed as part of the overall Smithsonian assessment and rated "Green," or low risk; SE's employee compensation plan now complies with the Smithsonian's Unified Compensation policy; and the unit is participating on a team of Smithsonian representatives in the creation of Smithsonian-wide revenue-generating contract procedures that will be fully implemented upon their completion.

He reminded the Board that Smithsonian Business Ventures' primary business decisions previously were first reviewed and approved by its advisory board, recommended to the Secretary, and subsequently presented to the Regents. Major SE business processes are now presented through the Secretary to the Regents' Finance Committee, and include reviews with the Smithsonian's Chief Financial Officer so that the decisions can be integrated into the Smithsonian's overall financial processes.

Mr. Bokman said that SE senior compensation is now presented to the Smithsonian Office of Human Resources, and subsequently to the Secretary and the Regents' Compensation and Human Resources Committee. He explained that another new process includes a meeting with senior Trust leadership and museum directors at the end of the annual budget cycle to examine in detail SE's annual plan, as well as review SE's cost structure and benchmarking.

Mr. Bokman said that SBV previously was audited annually by the Smithsonian's external auditors, KPMG, as part of the overall Smithsonian audit; he added that that audit had a much higher materiality threshold with fewer audit details and procedures. With regard to internal reviews by the Office of Inspector General, he said that SE had 11 open audit comments at the start of fiscal year 2008, and that all are now closed. He also said that KPMG was engaged to conduct a stand-alone audit of SE for fiscal year 2008, which will again be conducted for fiscal year 2009. The audits, which include much a lower materiality threshold with significantly increased procedures, are now reported through the Secretary to the Regents' Audit and Review Committee.

In summary, Mr. Bokman said that oversight of SE was demonstrably stronger and more frequent. Mr. Bokman also reminded the Board that their agenda books included a detailed overview of the quantity and type of interactions between SE leadership, Smithsonian management, and the Board of Regents.

Discussion

Ms. Stonesifer thanked Mr. Ott and his team for a "remarkable presentation." She then opened the meeting for discussion.

The first question regarded the scope, underlying philosophy, and restrictions of SE licensing and partnership agreements, and included concerns about the potential commercialization of the Smithsonian and the need to maximize the public's good will towards the Institution. The Regents discussed the possibility that the enduring existence of certain products, if pursued through partnership agreements, will be controlled by a partner and that the partner could readily become a de facto fulfiller—not promoter—of a Smithsonian product. Mr. Ott was asked if, when considering potential licensing and partnership agreements, SE considers the possibility that it might have sufficient in-house capabilities to pursue certain initiatives. It also was established that the overall mix of SE royalty rates averages 6–7 percent, depending upon the product.

The relationship between product quality and the Smithsonian's reputation was discussed, including SE's selection of toy products. Mr. Ott outlined recent changes in SE's vetting process for proposed licensing and product agreements. He said that curators were previously involved in the product approval process and that now, in addition to those professionals, the Secretary, museum directors, and an advisory committee previously established by Acting Secretary Cristián Samper are included in discussions regarding new product categories and specific product approval as appropriate. He added that the process also includes careful consideration of the reputational aspects of both products and vendors, concern for educational standards and enhanced parental involvement, and the development of Web links that will guide consumers to SE Web sites that provide additional educational information about the products, potential uses, and applicable Smithsonian resources.

The Board also discussed the Smithsonian's reputational considerations with regard to other SE businesses. Ms. Matsui expressed concerns over liability issues that can arise with SE travel programs and in particular, with cruises. She proposed a more detailed discussion regarding this issue.

Ms. Stonesifer concluded the discussion by thanking Mr. Ott and his team for their presentation. She said that their efforts had aligned an important part of the Smithsonian's revenue stream with the Institution's mission and culture. She added that these actions were undertaken in a very short amount of time and during a period of great change. She also expressed her appreciation for SE's noteworthy actions to adapt to the changes effected by the economic downturn and SE's contributions to the Smithsonian's budget process.

Session Adjournment

Ms. Stonesifer then adjourned morning session at 12:05 p.m.

AFTERNOON PLENARY SESSION

The Chancellor called the afternoon session to order at 1:20 p.m.

REPORT OF THE BOARD AND EXECUTIVE COMMITTEE

Ms. Stonesifer opened her report by first thanking Mr. Kogod and his wife for hosting the Regents' dinner the previous evening. She then expressed her deep appreciation to Mr. Sant, noting that his leadership over the last two years established a standard to which she, as the new Chair of the Board, aspired.

Regents' Survey Results

The Chair then reported on the results of the first annual Regents' self-assessment survey. Stating that 10 Regents had responded to the survey, Ms. Stonesifer noted her desire that all members of the Board participate in the next review.

Ms. Stonesifer said that, in general, the responses to the survey were quite strong and indicated a shared belief that Board and committee meetings were both well-managed and substantive in their content. She then highlighted two issues for the Board's consideration: strategic attachment and individual expertise.

The survey indicated an almost uniform lack of certainty regarding the Regents' sense of influence with regard to the Institution's major strategic choices and the overall strategic planning process. Ms. Stonesifer said that the scenario planning exercise that morning, as well as the strategic planning discussions scheduled for the Board's June and September 2009 meetings, have been planned in part to better engage the Board in both the strategic planning process and the hard choices that will need to be made during it. She added that the Board's commitment to the Smithsonian's mission will continue to be fostered through first-hand exposure to the Smithsonian staff and programs that support that mission, and cited that morning's guided tour by Freer and Sackler Galleries Director Julian Raby as such an opportunity.

The results of the self-assessment survey, said Ms. Stonesifer, also prompted a closer examination of the individual expertise each Regent can offer to the Board. Citing the recent contributions of individual Regents to the Smithsonian's finance and investment challenges, as well as the development of the new National Museum of African American History and Culture, she asked that each Regent consider other areas of expertise they could offer to benefit both the Board and the Smithsonian. She noted that the scientific expertise within the Board could be applied to the consideration and development of the plans for Smithsonian science.

Board Issues for 2009

Ms. Stonesifer next directed the Board's attention to four issues that will be substantively addressed during the next meetings of the Board: strategic planning, communications and government affairs, the national campaign, and interdisciplinary science. She asked the Board to opine on whether these are the right issues for the Board to explore at this time and if there are elements of each that should be especially included in these discussions.

Conducting an organizational review of the Institution was discussed and, in particular, supporting a commitment to excellence in the Smithsonian's organizational process. The Secretary said that the Institution was preparing to engage an organizational consultant to review the Smithsonian's administrative finance functions and how the Institution conducts its programs, such as interdisciplinary research and education. Noting that an organizational review will be a multi-staged process, he said that he anticipates that the organizational review will likely be conducted in the fall of 2009 and that the results of that analysis will be driven by the results of the strategic planning process, and will inform subsequent discussions by the Board.

New Orientation Materials for the Board of Regents

Ms. Stonesifer then reported that the Office of the Regents, with the support of numerous offices throughout the Institution, had created a new Orientation Book. The book includes substantive information about the duties and responsibilities of the Board of Regents, as well as how the Board executes its duties. She said that the book will be provided to both of the new Regents and given to current Board members, as well as posted on the Regents' Web site.

Meeting of the Executive Committee and Approval of the January 26, 2009, Meeting Minutes

In closing, Ms. Stonesifer said that the Executive Committee met with the Chancellor on March 19, 2009, for the purpose of approving the agenda for this meeting, as well as to provide a preliminary approval of the minutes of the January 26, 2009, Regents' meeting. The Board of Regents then approved the minutes.

See attached Resolution 2009.04.01 (Minutes of the Board of Regents, Appendix A).

REPORT OF THE SECRETARY

Asbestos Findings

Secretary Clough stated that his progress report to the Regents would primarily focus on three issues: asbestos-related problems in two Smithsonian museums; the status of the Smithsonian's budgets and fund-raising efforts; and recent appointments to the Institution's leadership team.

The Secretary said that the *Washington Post* had recently published three articles about two asbestos-related findings at the Smithsonian. The first incident involved an exhibits production employee at the National Air and Space Museum (NASM) who, in a Museum-sponsored briefing the previous year, was informed that some of the joint spackling compounds applied to the Museum's wallboards contained asbestos. Secretary Clough explained that, although the Smithsonian had previously conducted asbestos prevention and protection information sessions with the Institution's physical plant employees (i.e., electricians and mechanics), this was the first time that the members of this particular office had been made aware of the problem — an action the Secretary characterized as an "oversight."

The employee filed a Workers' Compensation claim with the Department of Labor, and a claim under the Federal whistleblower protection provisions of the Clean Air Act. Both claims were denied, and the employee has appealed.

The *Washington Post* then published an article about an incident that occurred during the renovation of the National Museum of American History from September 2006 to November 2008. The Secretary explained that, although the Smithsonian had followed all proper procedures and advised the prime contractor in advance about the existence of asbestos in the 1960s-era building, a subcontractor conducted an unauthorized procedure in a wall system and subsequently discovered asbestos-laden masking tape on pipe insulation in that area. In response to this discovery and in accordance with best practices, the site was shut down, and the museum underwent a \$2 million remediation effort.

The Secretary emphasized that the public was not exposed to asbestos in either museum. He also detailed the efforts that the Smithsonian had undertaken both before and after these reports, including an ongoing executive review of safety procedures.

He first explained that the Smithsonian's physical plant includes older buildings with both known and unknown construction materials and that findings of asbestos, for example, are common in any building constructed in the 1970s. He then spoke of a Smithsonian-wide safety initiative that was initiated over five years ago. Since the launch of that effort, the Institution has established new safety manuals, policies, and procedures. In addition, the Smithsonian's total recordable injury rate fell to below the Bureau of Labor Statistics' national average of all museums, historical sites and similar institutions, as well as below the Federal government average; and safety-related communications with staff have been enhanced.

Secretary Clough said that NASM became aware of the building's asbestos issues prior to the launch of the pan-institutional safety initiative. He added that the decision to counsel and train the Museum's physical maintenance staff on asbestos-related issues reflected the established safety practices at that time. He said that the NASM asbestos safety briefing that prompted this specific employee's concerns was evidence of the Smithsonian's implementation of updated safety systems.

However, the Secretary also noted that the previous oversight that occurred at

NASM also reflected the decentralized nature of the Smithsonian. He said that, although the new safety processes are effective, it is imperative that the Smithsonian always remain vigilant about maintaining a centralized, consistent, and organized approach with regard to the safety of its employees and the public.

Secretary Clough said that the Smithsonian is taking a number of steps to assure both the public and its staff about the safety of its facilities. He reported that an independent outside expert will be brought in to conduct a thorough review of the Smithsonian's asbestos safety policies, procedures, and communications to assure that they are effective and comply with applicable legal standards. This process will include interviewing workers, who may participate anonymously. The group will also assess all of the Smithsonian's safety procedures and communications, including those for other hazardous materials. The Secretary said the findings will be reported directly to the Office of the Secretary; he added that asbestos safety will be an agenda item at every bi-monthly meeting of the Smithsonian's safety coordinators, who will keep museum directors informed about safety issues.

The Secretary said that current and former NASM employees who believe they might have been exposed to asbestos in the performance of their work will be offered free medical screenings by an outside expert. All current and former Smithsonian employees and volunteers may visit the Institution's Health Services, free of charge, to discuss asbestos-related concerns; all employees also will have access to, either in person or through PRISM, an educational lecture by an outside authority on asbestos. In addition to the carpenters, plumbers, welders, pipe fitters, electricians, and others who have already received mandatory asbestos safety training, all exhibits production employees have been mandated to undergo similar training. The Secretary added that he would provide updates to the Board on the results of these initiatives.

Commenting on his testimony before the Committee on House Administration about the Smithsonian's management of asbestos and other hazardous materials, the Secretary reported that the hearing went very well and that the media coverage was balanced. He also thanked the Congressional Regents for their support. He added that a meeting was being scheduled with the editorial staff at the *Washington Post* to discuss its coverage.

**The Smithsonian's
Federal and Trust
Budgets**

Secretary Clough next updated the Board on the status of the Institution's budgets. He first reported on the \$25 million allocation to the Smithsonian from the American Recovery and Reinvestment Act of 2009, or "stimulus bill." The Secretary said that, although more funding had been anticipated, he believes that this amount is appropriate for the Institution. The funds will be applied as follows: \$4.6 million will be directed to the Arts and Industries Building, primarily for work on the building's exterior; the National Zoo will receive \$11.4 million that, in combination with other funding, will include addressing animal fire safety issues at the Zoo; and the remaining \$9 million will be dispersed to fund other shovel-ready projects throughout the Institution. The Secretary thanked the Congressional Regents for their many efforts to successfully guide the Smithsonian through the process of the bill's creation and approval. He said that the Institution will be providing monthly reports to the Congress about the Smithsonian's stimulus-funded projects, including the jobs that it creates. The Secretary added that 80% of the Smithsonian's stimulus funds will be spent within at least the first

120 days of receipt, which could allow the Smithsonian the opportunity to participate in other stimulus-funded projects that prove to need extra support, and that these actions will put the Smithsonian in very good standing when it submits its regular Federal budget request.

Regarding the fiscal year 2009 Federal Budget, which was received with the approval of the fiscal year 2009 Omnibus Appropriation, the Secretary reported that the Smithsonian is in good shape. The Institution received a total of \$731 million, a 7 percent increase over its fiscal year 2008 budget, which allowed the Federal hiring freeze to be lifted. The appropriated funds include \$593 million for Operations (including \$6.9 million for facilities maintenance), \$123 million for Facilities Capital and \$15 million for the Legacy Fund. Congress also agreed to allow the Institution to shift funds to cover almost all of its non-discretionary items.

The fiscal year 2010 Federal budget process was reported as under way, in good shape, and fair. The Secretary commented on the Smithsonian's positive meetings with the new leadership of the Office of Management and Budget (OMB) and said that the Federal budget proposed by OMB represents a 6 percent increase over the fiscal year 2009 Federal budget. He also noted that the OMB allocation was not final and that the distribution between Operations and Facilities Capital might require some changes. Secretary Clough added that the fiscal year 2010 budget includes \$20 million for the design of the new National Museum of African American History and Culture, which is a mandated expenditure.

Discussing the fiscal year 2009 Trust budget, the Secretary said that, in addition to the challenges previously reported by Smithsonian Enterprises President Tom Ott, other components of the Trust budget reflected the impact of the economic downturn. He said that the Smithsonian's endowment had dropped nearly 30 percent and therefore revenues from the endowment had decreased. Although management has taken successful steps to balance the Trust budget, such as offering extended hours at the top three museums to increase attendance and extend retail operations, Secretary Clough said that aggressive planning continues to prepare for the possibility of additional revenue shortfalls. He added that the results of these efforts would become clear within the next two months, at which point management might have to consider additional actions, such as employee furloughs. On the positive side, the Secretary reported that fund-raising efforts remain on track to reach the Smithsonian's \$120 million fund-raising goal for fiscal year 2009.

**Additions to the
Smithsonian's
Leadership Team**

The Secretary then briefed the Regents on the status of several senior leadership positions. In addition to Johnnetta Cole, the new Director of the National Museum of African Art who joined the Board for lunch that day, Richard Koshalek was hired as the new Director of the Hirshhorn Museum and Sculpture Garden. Secretary Clough characterized both as high-energy leaders with big-picture views; he also thanked Eli Broad for his support in cultivating Mr. Koshalek's interest in and commitment to the Hirshhorn. He announced that Judith Leonard, who has extensive experience in both Federal agencies and educational institutions, will begin as the new Smithsonian General Counsel in June 2009 and reported that the search for the next Under Secretary for Science was under way. Ms. Stonesifer requested that copies of that job description be provided to the Board to that it

could support that search. Ms. Stonesifer also expressed her appreciation to Acting General Counsel Marsha Shaines for her invaluable, and active, leadership during this period of transition in the Office of General Counsel, which prompted applause from those present.

REPORT OF THE SMITHSONIAN NATIONAL BOARD

Smithsonian National Board (SNB) Chair Hacker Caldwell presented the report from the Smithsonian's pan-Institutional advisory board. Comprised of 34 members, with 17 honorary members and 176 alumni, SNB represents 30 states and Washington, D.C. Mr. Caldwell reminded the Board that SNB's goals continue to be outreach and advocacy in SNB members' communities on behalf of the Smithsonian, as well as generating financial resources.

Mr. Caldwell reported that SNB members have been conducting a national effort to introduce Secretary Clough to their home communities. He said that welcoming events for the Secretary had been held in Los Angeles (including a dinner hosted by Regent Eli Broad) and New York City, and that the Secretary would soon attend SNB-sponsored activities in Boston, Washington, D.C., San Francisco, and Minneapolis.

SNB members have welcomed the Secretary's invitation to strengthen SNB's advisory role to the Institution. National Board members and alumni have participated in the first two phases of the Smithsonian's strategic planning process. Mr. Caldwell reminded the Board that two of the four newly elected non-Regent members of the Regents' Advancement Committee are affiliated with SNB, one as a current SNB member and the other as a SNB alumnus. In addition, the National Board's spring 2009 meeting will include discussions with the Secretary on the Institution's educational direction.

Mr. Caldwell also asked for the Board's support for the proposed slate of nine nominees to the SNB Class of 2009, which would be considered during the report of the Regents' Governance and Nominating Committee.

REPORT OF THE AUDIT AND REVIEW COMMITTEE

The Report of the Audit and Review Committee was presented by Committee Chair John McCarter. Mr. McCarter said that the Committee had met three times since the January 26, 2009, Regents' meeting and that his update would include several topics that had been recurring items on the Committee's agenda.

Report on the Institution's Audited Financial Statements for Fiscal Year 2009

Mr. McCarter first reported that the Smithsonian received an unqualified opinion on its audited financial statements for fiscal year 2008; the Institution's auditors, KPMG, also found no material deficiencies. He said that the significant decline in the endowment's value was the most significant activity in the fiscal year 2008 report. Reflecting the impact of the economic turmoil in the global investment markets, the Institution recorded a nonoperating loss of approximately \$199 million in fiscal year 2008, whereas it recorded an approximately

\$120 million gain in fiscal year 2007.

KPMG's management letter also was discussed. KPMG acknowledged the Institution's improvements in its financial reporting, noting that there had been a significant improvement in the number of uncorrected audit differences (a decline of 67%) and an improvement in corrected audit differences (a decline of 80%). In addition, approximately 75% of the open audit comments from previous years were closed by the Institution during fiscal year 2008.

KPMG identified three "significant deficiencies" as a result of the fiscal year 2008 audit, which largely pertained to technical reporting issues in connection with three areas: contributions accounting, accounting for construction activities, and the process of identifying assets to be recorded as "released from restriction." Mr. McCarter said that the Committee was confident that management understood what must be done to resolve these issues, and was committed to addressing them during fiscal year 2009.

At the request of the Inspector General, KPMG also performed its first audit of Smithsonian Enterprises' (SE) "net gains." This action was taken to verify the basis upon which certain SE compensation calculations are based. KPMG reported that the SE net gain reported for fiscal year 2008 was properly stated and could reliably be used for compensation computations. KPMG identified three "significant deficiencies" at SE: system access; inventory and sales returns reserves; and the accounting for deferred promotion costs. Mr. McCarter again reported that management expects to resolve all of these issues in fiscal year 2009. He also noted that KPMG reported to the Committee on their required communications in connection with both the Institution's audit and the audit of SE's net gain.

Mr. McCarter reminded the Regents that the Office of the Inspector General is responsible for the Institution's engagement with KPMG and in that capacity oversees the conduct of the audit. He thanked the Inspector General and the Chief Financial Officer for their different contributions to the audit process and reported progress on the effort to appropriately distribute responsibilities between their offices, the Committee, and the full Board. Mr. McCarter said that the Inspector General noted that the fiscal year 2008 audit was completed earlier than the fiscal year 2007 audit and provided suggestions to further improve the audit process. He also said that, over the course of the Committee's regular executive session meetings with the Inspector General, it had received numerous updates on her office's most recent audits.

**Update on
Governance Reform
Recommendation 23**

Mr. McCarter next addressed the Institution's progress on the reform of its internal financial controls. He reminded the Board that Governance Reform Recommendation 23 had directed the Committee to work with the Secretary and the Chief Financial Officer to review the Institution's financial reporting systems and internal controls. He said that management had undertaken a comprehensive assessment of the control environments for 23 separate financial processes and developed a detailed plan for addressing the control deficiencies that were identified. The control environment for each process was rated and ranked to establish the level of risk to the Institution should control deficiencies or suggested improvements not be addressed.

Mr. McCarter reported that 18 of the processes evaluated were noted as having adequate internal controls and were rated either moderate risk or low risk. Five processes, however, were rated high risk. In response, the Committee reviewed the original plan to address these control deficiencies and directed the Chief Financial Officer to accelerate the proposed actions to strengthen controls associated with these high risk areas, and review the costs associated with the proposed remediation plan.

The Chief Financial Officer later presented, and the Committee subsequently endorsed, a revised plan that accelerates the remediation of the control deficiencies identified for the high risk areas and requires fewer new resources. Mr. McCarter said that management is committed to addressing the control deficiencies of the high risk areas as quickly as possible, given the sequential nature of the actions that are required. He added that management has committed to substantially eliminating the current control deficiencies and achieving an essentially moderate risk control environment by the end of 2010, but that achieving these goals will be largely dependent on the speed with which the Institution can hire new staff and improve personal property management.

An inventory of personal property remains the only action to be conducted in fiscal year 2011. By the end of summer 2011, the results of the inventory should confirm that management has achieved a moderate risk environment for the management of personal property. Mr. McCarter then noted that another high risk area, contribution accounting and financial reporting for donations, is part of a larger review by an outside consultant contracted by the Office of External Affairs to advise on the Institution's national campaign. He said that the results of this review will be instrumental in establishing the timeline for strengthening the charitable contributions internal controls environment. The costs associated with these process improvements also have yet to be established.

Mr. McCarter again stated that management's ability to address these deficiencies will be dependent upon the Federal budget request for fiscal year 2010, which includes a number of new Federal positions to support the strengthening of internal controls. He noted, however, that this is the first time that the Institution has a comprehensive view of its internal controls deficiencies, the actions required to address the problem areas, and a preliminary estimate of the remediation costs. He added that the work being done to transition the Institution's high risk areas to areas of moderate risk is consistent with the work being done to resolve the open audit findings identified by KPMG; he also stated that both the Committee and management remain committed to addressing the Institution's internal control deficiencies.

IRS Form 990

Revisions to IRS form 990, which will dramatically and substantively change the reporting requirements of the Institution's non-profit tax return, were then discussed. Mr. McCarter reminded the Board that the new reporting requirements will go into effect with the Institution's preparation of its fiscal year 2009 return, which will be filed during the summer of 2010. He said that the Committee will hold an extensive session with staff during that summer, prior to filing the revised 990.

**Expiration and
Cancelling of Federal
Funding Obligations**

Mr. McCarter then reported on an issue that Representative Sam Johnson had brought to the attention of the Committee. In a process designed to prevent overspending, Federal obligations for unspent appropriations for Salaries and Expenses expire after one year and unspent funds are subsequently returned to the U.S. Treasury after five years. Mr. McCarter further explained that every well-run Federal agency has some funds that properly revert to the Treasury when they cancel and that the Smithsonian's cancelled amounts are in line with government-wide experience.

As noted by Mr. Johnson, the Smithsonian's fiscal year 2008 financial statements state that \$4.2 million or 0.9% of the Smithsonian's total fiscal year 2003 Salaries and Expenses appropriation reverted to the Treasury because the funds had expired for new obligation and remained unexpended at the end of the five-year period in an expired status. Mr. McCarter said that the Committee discussed at length the amount of the cancelled funds, the tools available to management to limit cancelling balances, and the steps management will take to reduce these balances in the future without overspending the Smithsonian's Federal appropriations. He assured the Board that the Committee believes that management has taken important steps to address this issue and that, going forward, the Committee will be monitoring management's actions with regard to this issue.

REPORT OF THE GOVERNANCE AND NOMINATING COMMITTEE

**Statement of
Appreciation to the
Office of the Regents
and Acting General
Counsel Marsha
Shaines**

Before giving the Governance and Nominating Committee report, Committee Chair Shirley Ann Jackson expressed her appreciation to John Lapiana and the Office of the Regents for their efforts on behalf of the Committee. She also praised Marsha Shaines, who was attending her final meeting as Acting General Counsel, for her leadership and support for the Committee's initiatives, especially with regard to FOIA and governance issues.

**Appointment Status of
Two New Regents**

Dr. Jackson then updated the Board on the appointment status of the newly elected citizen Regents, David Rubenstein and France Córdoba. She reported that the Senate had approved both nominations with the support of Senators Leahy and Dodd. Dr. Jackson said that Mr. Rubenstein met with members of the House Administration Committee in February 2009; she also reported that Committee staff anticipated that his nomination would soon go to the House floor. Regarding Dr. Córdoba, Dr. Jackson said that Representatives Becerra, Johnson, and Matsui had introduced legislation to provide for her appointment and that Dr. Córdoba would next meet with the House Administration Committee. The appointments of both nominees, said Dr. Jackson, are expected to be finalized before the Board's June 2009 meeting.

**Revised Financial
Disclosure Statement**

The Regents' annual financial disclosure forms were discussed next. Dr. Jackson said that the revised forms would soon be mailed and highlighted two refinements approved by the Committee at its last meeting.

Dr. Jackson explained that nominated Regents who are awaiting formal approval of their appointments by the Congress and the President will be asked to complete

the Regents' financial disclosure statement in advance of formal approval. The purpose of this action will be to identify any potential conflicts of interest so that nominees can participate in deliberations as guests of the Board. She also reported that Regents now will be asked not only to identify relationships with business or financial concerns that may be doing business with the Smithsonian, but also entities that may be seeking business with the Smithsonian. This change is intended to strengthen the Board's ethics reporting and bring its disclosure responsibilities more in line with those of Smithsonian staff, as well as other public officials.

Statement of Appreciation to Diana Aviv

Next Dr. Jackson requested that the Board consider a new motion that was not on the formal meeting agenda. She reminded the Board that Diana Aviv, a non-Regent and founding member of the Governance and Nominating Committee, had resigned from the Committee in March 2009. Because Ms. Aviv had provided critical assistance to both the Committee and the Board in its governance reform initiatives, the Board agreed that her departure would leave a significant void in the Committee's membership. A statement of appreciation for the contributions of Ms. Aviv was then approved.

See attached Resolution 2009.04.02 (Minutes of the Board of Regents, Appendix A).

Revisions to the Smithsonian's Indemnification Policies

Proposed revisions to the Smithsonian's indemnification policies were then considered. Dr. Jackson said that two policies, one for employees and volunteers and the other for advisory board members and Regents, had been reviewed with regard to the unique and substantial protections already afforded by Federal law, in particular the Westfall Act. In addition, the Justice Department is generally authorized to represent Federal officials and employees sued for acts conducted within the scope of their employment. Dr. Jackson presented the Committee's recommendation that the Board adopt an indemnification policy for employees and volunteers that gives the Regents discretion to reimburse liabilities or a legal defense expenses not provided by the Smithsonian or the Department of Justice.

With regard to advisory board members and Regents, she said that the Committee recommended a similar policy, except that Regents and advisory board members would be entitled to payment for legal expenses in civil actions where they succeed on the merits, and entitled to advancement of legal expenses (if the Department of Justice has declined to provide representation). In both instances, certain conditions must be met. These conditions include showing that the member did not receive any personal benefit that he or she otherwise was not entitled to from the action and that the member reasonably believed that the action under complaint was lawful. These provisions, Dr. Jackson explained, were to address the Committee's conclusion that such mandatory indemnification is necessary to attract quality candidates to the Smithsonian's advisory boards, including the Board of Regents.

She noted that the Committee had considered the benefits of a completely discretionary policy that would allow the Board to decline indemnification if it determined such an action was warranted. The Committee concluded, however, that the benefits of attracting strong board members outweighed the potential dangers of mandatory indemnification. Dr. Jackson added that the Smithsonian's

current indemnification policy, which was adopted in 2001, was mandatory in these aspects for both employees and board members. She noted that members of the Board's Executive Committee had expressed concern about the mandatory provisions in the board member policy. To address that issue, members of the Committee subsequently agreed to new language in the policy that provides for the Board of Regents' determination that the standards for indemnification have been met.

See attached Resolution 2009.04.03 (Minutes of the Board of Regents, Appendix A).

Appointments to the Smithsonian National Board and Smithsonian Advisory Boards

The Board was asked to consider proposed appointments to the Smithsonian National Board and several Smithsonian advisory boards. Dr. Jackson said that the proposed appointment of each candidate was supported by the respective advisory board, museum or unit director, the Under Secretary with oversight responsibility of that unit, the Office of External Affairs, the Secretary, and the Committee. The appointments were approved.

See attached Resolutions 2009.04.04–2009.04.08 (Minutes of the Board of Regents, Appendix A).

Non-Regent Appointments to the Strategic Planning and Programs Committee

The proposed appointments of three individuals to serve as non-Regent members of the Strategic Planning and Programs Committee were next discussed. Dr. Jackson reminded the Board that in May 2008 the Regents had adopted a Governance and Nominating Committee recommendation to appoint non-Regent members to Regents' committees and that members of Smithsonian advisory boards or other individuals with strong ties to the Institution would be considered first. She also noted that in January 2009 the Board had approved the appointment of four non-Regents to the Advancement Committee, which has already benefited from their engagement.

Dr. Jackson said that the nomination of the proposed candidates had been reviewed with both the Secretary and Strategic Planning and Programs Committee Chair Doris Matsui, after which the Committee agreed to recommend their appointments by the Board of Regents. She also noted that each candidate is a current member of a Smithsonian advisory board. The appointments of Clark Bunting, Judy Huret, and Paul Neely to the Strategic Planning and Programs Committee were then approved.

See attached Resolution 2009.04.09 (Minutes of the Board of Regents, Appendix A).

Revisions to the Bylaws of the National Museum of African American History and Culture Advisory Council

The report of the Governance and Nominating Committee concluded with a discussion of proposed revisions to the bylaws for the Advisory Council of the National Museum of African American History and Culture. Dr. Jackson explained that the proposed revisions address the size of the Council, term limits, and the structure of the Council's committees and are largely intended to support the Advisory Council's efforts during this critical period of fund raising and development for the new Museum. She reminded the Board that although the term limits and size of the Council were established by statute, the Board of Regents possessed the authority to waive them. Noting the Committee's

recommendation to approve the proposed revisions, the Regents approved the motion.

See attached Resolution 2009.04.10 (Minutes of the Board of Regents, Appendix A).

In closing, Dr. Jackson noted that the Board, at its discretion, might consider a revision to its Bylaws regarding the Board Regents' oversight responsibilities for advisory councils created in anticipation of new museums versus those for advisory boards to fully established museums.

RECENT ACQUISITIONS AND DISCOVERIES

Ms. Stonesifer directed the Board's attention to a report on recent activities of significance to numerous units. She said that, although this topic would not be reviewed during this meeting, future Board meetings will include more information and discussion about the new acquisitions and discoveries that affirm the Smithsonian mission.

LEGISLATIVE ACTIVITIES AND ISSUES

Director of Government Relations Nell Payne stated that the report found in the Regents' agenda books was current. Ms. Stonesifer noted that the stability of the Smithsonian's current Federal budget discussions reflected the dedicated efforts of Ms. Payne and her staff.

REPORT OF THE FINANCE COMMITTEE

Attending his last meeting as a member of the Board of Regents and Chair of its Finance Committee, Eli Broad presented his final report for that Committee. Mr. Broad said that the Finance Committee had met once since the last Regents' meeting and that he would update the Board on three topics reviewed by the Committee.

Mid-Year Financial Report

Mr. Broad reported that Chief Financial Officer Alice Maroni had provided a mid-fiscal year 2009 financial report to the Committee. It was acknowledged that fiscal year 2009 continues to be a financially difficult year for the Smithsonian because of the global economic crisis. The value of the endowment has been reduced, business revenues have decreased in response to changes in American consumers' behavior, and cuts in the Federal Reserve's interest rates have driven down returns on the Institution's short-term investment income. Overall, the Institution forecasts a decrease in net assets of \$172 million, primarily due to the impact of the U.S. economic recession on the endowment. In addition, most major sources of Central Trust budget income have fallen short of budget.

Mr. Broad said that the Secretary had taken immediate steps to reduce the

Smithsonian's near-term spending. Two pan-institutional teams were chartered: one to consider options for stimulating new unrestricted Trust revenues, and one to evaluate the rationale for expenditures from the Institution's Central Trust budget. The recommendations of the two teams and the results of the strategic plan will inform the fiscal year 2010 and future Trust budgets.

With respect to the Federal budget, Mr. Broad reminded the Regents that Congress had enacted and the President then signed into law an omnibus appropriations bill in March 2009. The Smithsonian will receive a 7% increase in Federal funding over the prior year, which will be sufficient to cover most of the Institution's mandatory expense requirements. He also noted that the Institution had received \$25 million from the American Recovery and Reinvestment Act of 2009 for facilities repair and revitalization.

**Fiscal Year 2010
Federal Budget**

Mr. Broad said that the Committee also was briefed about the Institution's fiscal year 2010 Federal budget request to Congress. He noted that, in light of the new Administration's commitment to reduce the Federal budget deficit by half during President Obama's first term, obtaining Federal increases will be challenging. Nevertheless, Mr. Broad reported that the Institution's negotiations with the Office of Management and Budget resulted in a better outcome than the majority of comparable organizations. At \$759 million, the Smithsonian's fiscal year 2010 budget request to Congress is 6% over the fiscal year 2009 appropriation (excluding the Legacy Fund).

The Board then approved a proposed motion to authorize the Secretary to submit to Congress the Smithsonian's Federal budget request for appropriated funds for fiscal year 2010.

See attached Resolution 2009.04.11 (Minutes of the Board of Regents, Appendix A).

The Committee also received an update from Smithsonian Enterprises (SE) President Tom Ott. Because the content of the report to the Committee was included in the SE presentation to the Board earlier that day, Mr. Broad declined to add further comment.

Mr. Broad concluded his report by thanking Chief Financial Officer Alice Maroni and her staff for their support. Mr. Sant then expressed, on behalf of the Board, his appreciation to Mr. Broad for his contributions as a member of the Board of Regents, as well as his ongoing commitment to serve on the Regents' Investment Committee. In response, an enthusiastic and standing ovation was held for Mr. Broad in recognition of his contributions to the Smithsonian.

REPORT OF THE FACILITIES COMMITTEE

**Update on the
Smithsonian's Facilities
Capital and
Maintenance
Requirements**

Facilities Committee Chair Robert Kogod said that the Committee met on February 23, 2009, at which time it reviewed the Smithsonian's facilities capital and maintenance investment requirements for fiscal years 2008 through 2017. He noted that that report, copies of which were included in the Regents' agenda

books, was made in response to the 2007 GAO report that documented, at that time, a \$2.5 billion shortfall over a 10-year period. Mr. Kogod said that the Committee had requested that the Office of Facilities Engineering and Operations (OFEO) provide updated reports twice a year so that both the Committee and the Board of Regents are kept current on of the Smithsonian's facilities capital needs; he also noted that the October 30, 2008, report reflected an updated shortfall estimate of \$2.338 billion.

Search for New OFEO Director

Mr. Kogod next reported on the search for a Director of OFEO. The position, which was announced as either a Federal or Trust-funded position, attracted approximately 200 applications from within and outside of the Smithsonian. Under Secretary for Finance and Administration Alison McNally, the selecting official, reported that the applicant pool had been screened and subsequently reduced and that an appointment would likely be made at the end of April or in early May 2009.

Comments on Committee Size, Federal Funding

Noting that the Facilities Committee had relatively few members (Mr. Kogod, Senator Leahy, and Representatives Becerra and Johnson), Mr. Kogod said that he anticipated that a request to augment the Committee's membership will likely be brought to the Board at a later time. He also said that he had no further comments to add to earlier reports on the Federal appropriations for the Smithsonian's facilities capital requirements that were included in the stimulus bill and the Legacy Fund.

Updates on Major Facilities Capital Projects

Mr. Kogod then provided updates on five major Smithsonian facilities capital projects, noting that a sixth key project — the design and construction of the National Museum of African American History and Culture — had been previously reviewed by the Board that day. He reported that construction of a greenhouse complex at the Institution's Suitland Collections Center (SCC) in Suitland, Maryland, was approximately 10 percent complete with an anticipated completion date of December 2009. The total cost of the project will be about \$15 million, of which \$12.5 million has been appropriated and \$2.5 million is included in the fiscal year 2010 budget. The status of renovations to Pod 3, a storage facility that is located at the SCC, was reviewed. Mr. Kogod said that construction was approximately 30 percent complete and is anticipated to be finished in March 2010. The total estimated cost of the project is \$42.65 million, of which \$25 million already has been Federally funded and \$15 million is included in the fiscal year 2010 Federal budget.

He then discussed the replacement of laboratory and office facilities at the Gamboa, Panama, site of the Smithsonian Tropical Research Institute. The total estimated project cost is \$19.13 million in Federal and Trust funds (\$3.46 million will be Trust); \$8 million is in hand and \$11 million is in the fiscal year 2010 budget. Mr. Kogod said that the anticipated date of completion for the project has not yet been determined because of a recent change in the project's architectural firm.

Mr. Kogod said that construction of Phase 2 of the National Air and Space Museum's Steven F. Udvar Hazy Center in Dulles, Virginia, is approximately 11 percent complete and anticipated to be finished in the spring of 2011. The total project cost will be \$81 million, of which \$68 million in Trust funding is in hand

and \$13 million is included in the fiscal year 2010 Federal budget. The total estimated project cost of replacement laboratory and support facilities at the Smithsonian Environmental Research Center in Edgewater, Maryland, is \$41 million. The majority of the project's funding will be Federal, and therefore subject to appropriations; \$3.5 million is in hand, \$12.5 million will in the fiscal year 2010 budget, and \$25 million will be in the fiscal year 2011 budget. Construction is scheduled to commence in 2010 and be completed in 2012.

**Vehicle Maintenance
Branch Authorization**

Mr. Kogod then presented the Committee's recommendation that the Board authorize the Secretary to submit a request for Congressional authorization to plan, design, and construct a new vehicle maintenance facility at the Suitland Collections Center. As Mr. Kogod explained, the facility is presently housed in a National Zoo building (the General Services Building, or GSB) that will soon be renovated. He added that the current location is also incompatible with other offices, such as the Zoo's Animal Nutrition Commissary, that are located in the GSB. He reported that OFEO had conducted extensive investigations of relocation options for the vehicle maintenance facility both during and after the renovation of the GSB, including reviews of both build-to-suit and for-lease facilities. The Facilities Committee concluded that the construction of a new vehicle maintenance facility would best address the needs of both the Vehicle Maintenance Branch and the offices of the National Zoo that will inhabit the GSB after its renovation. The Regents approved the proposed motion.

See attached Resolution 2009.04.12 (Minutes of the Board of Regents, Appendix A).

In response to a question about OFEO's overview of the Smithsonian's estimated facilities capital and maintenance investment requirements for fiscal years 2008 through 2017, Mr. Kogod explained that the information presented to the Regents was derived from very extensive reports with line-by-line items of consideration. Based upon his prior positive experiences with OFEO and familiarity with the supporting documentation, Mr. Kogod characterized the figures in the overview as "educated estimates."

REPORT OF THE GENERAL COUNSEL

The report of the General Counsel, copies of which were included in the Regents' agenda books, did not elicit questions from the Board.

REPORT OF THE ADVANCEMENT COMMITTEE

The Report of the Advancement Committee was given by Committee Chair Alan Spoon. Mr. Spoon reported that the Committee had met twice since the last Regents' meeting and that the four new, non-Regent members of the Committee — Travis Engen, Sako Fisher, David H. Koch, and Adrienne Bevis Mars — had participated in the second meeting. He noted that new members demonstrated a deep level of commitment and interest in the Committee's work and that the Committee welcomed their contributions.

Mr. Spoon said that the Advancement Committee reviewed several issues over the course of its recent meetings, including an internal gift-counting policy for the Institution's national campaign. It also conducted informal discussions about several potential donors for the National Museum of African American History and Culture (NMAAHC), reviewed a proposed naming for recommendation to the Board, and considered an orientation plan and schedule for new Committee members.

Fund-Raising Update

Mr. Spoon then asked Director of External Affairs Virginia Clark to provide an update on the progress of the Smithsonian's fund-raising efforts. By the end of the first third of fiscal year 2009, the Smithsonian raised \$48.2 million, or 40 percent, of its \$120 million fiscal year 2009 fund-raising goal. In addition to the naming being presented for the Board's consideration, Mr. Spoon said that the Smithsonian received and recorded a \$3 million from the Rockefeller Foundation for the NMAAHC; received a letter of commitment regarding a \$200,000 gift from the Getty Foundation for the Freer and Sackler Galleries to support the digitization of their collections; received \$100,000 from the Bank of America for the Anacostia Community Museum and the NMAAHC; and received a \$2.8 million bequest for National Museum of American Indian from the estate of Barbara Bingham Moore. Ms. Clark reported that the Office of External Affairs has been carefully monitoring the payment schedules for the Smithsonian's large gifts, especially with regard to the economy. Mr. Spoon said that she assured the Committee that only a few Smithsonian donors have asked to reschedule their payments and that none of those gifts would seriously impact work currently under way.

Progress on the Development of a National Campaign

Mr. Spoon also reported that the Smithsonian's external campaign consultant, Marts & Lundy, had conducted three Smithsonian visits to interview staff. He added that the content of the discussions would inform Marts & Lundy's internal assessment, which in turn will be considered as the Institution develops a comprehensive campaign.

Naming Action

Mr. Spoon concluded his report by asking the Board to consider a proposed motion that had been approved and forwarded by the Advancement Committee. The proposed motion to approve a naming for the Smithsonian Institution Libraries was seconded and approved.

See attached Resolution 2009.04.13 (Minutes of the Board of Regents, Appendix A).

REPORT OF THE INVESTMENT COMMITTEE

The Report of the Investment Committee was given by Roger Sant on behalf of Committee Chair David Silfen. Mr. Sant reported that the Smithsonian's endowment was \$783.7 million at the end of calendar year 2008. He explained that this figure represented a 25.7 percent decline against the endowment's policy benchmark of 29.6 percent, or 400-some basis points better than benchmark.

Mr. Sant reminded the Board that the Smithsonian changed its 70/30 (equity/bond) investment policy about four years ago and established a Regents'

committee to provide oversight of the endowment's management. The Smithsonian's portfolio now is considerably diversified and, over a five-year trailing average, the endowment has outperformed traditional benchmarks, giving a 2.9 percent average return per year, which Mr. Sant attributed in part to the efforts of the Investment Committee. Although first quarter numbers were not yet in, Mr. Sant expressed guarded optimism that the market's performance in first quarter 2009 may not turn out to be as bad as the last several quarters.

With regard to the endowment's performance attribution, Mr. Sant reported that the Committee's decision to shift to overweight cash from U.S. equities resulted in an increase in value of approximately \$23.2 million in 2008. Some of the Committee's other decisions, however, offset those gains, resulting in an overall net increase of \$12.1 million in 2008.

In response to the economic downturn, Mr. Sant said that the Finance Committee would review the Smithsonian's payout formula during its May 2009 meeting and consider whether the current payout rate of 5 percent is both appropriate and prudent given the enormous declines in and overall volatility of the market. Mr. Sant was asked if senior management had determined which initiatives or issues would provide the highest and best use of payout funds over the next few years. Mr. Sant said that that information had been requested for the next Finance Committee meeting. The Board also discussed the application of the Uniform Prudent Management of Institutional Funds Act (UPMIFA) to the management of the Smithsonian's endowment.

ADJOURNMENT

This meeting of the Board of Regents was adjourned at 3:05 p.m., after which the Regents met in executive session. The executive session was adjourned at 3:15 p.m.

Respectfully Submitted,

G. Wayne Clough
Secretary

MINUTES OF THE BOARD OF REGENTS

April 6, 2009

APPENDIX A APPROVED RESOLUTIONS

VOTED that the Board of Regents approves the Minutes of the Meeting of January 26, 2009. [2009.04.01]

VOTED that the Smithsonian Board of Regents and, in particular, the Governance and Nominating Committee, express their deep appreciation and gratitude to Diana Aviv for her service as a founding member of the Committee. [2009.04.02]

VOTED that the Board of Regents adopts the revised indemnification policies. [2009.04.03]

VOTED that the Board of Regents appoints Rodney C Adkins, Gordon M. Ambach, Barbara McConnell Barrett, William H. Bohnett, Edward K. Gaylord II, Myra M. Hart, Jonathan M. Kemper, John W. Rowe, and Phyllis M. Taylor to the Smithsonian National Board for three-year terms effective October 1, 2009. [2009.04.04]

VOTED that the Board of Regents appoints Susan Tompkins Pillsbury and reappoints Martin J.G. Glynn and Michael E. Feng to the Board of the Freer Gallery of Art and the Arthur M. Sackler Gallery for four-year terms effective September 11, 2009. [2009.04.05]

VOTED that the Board of Regents appoints Abbe Raven to the Board of Directors of the National Museum of American History, Kenneth E. Behring Center, for a three-year term effective May 1, 2009. [2009.04.06]

VOTED that the Board of Regents appoints Ian C. Gibson-Smith and Omar Rodriguez to the Council of Philatelists of the National Postal Museum for three-year terms effective immediately. [2009.04.07]

VOTED that the Board of Regents appoints Jerrell W. Shelton and Winfred O'Neil Ward to the Smithsonian Institution Libraries Board for three-year terms effective immediately. [2009.04.08]

VOTED that the Board of Regents appoints W. Clark Bunting, Judy Huret, and Paul Neely to the Strategic Planning and Programs Committee as non-Regent members effective immediately. [2009.04.09]

VOTED that the Board of Regents approves the proposed amendments to the bylaws for the Advisory Council of the National Museum of African American History and Culture. [2009.04.10]

VOTED that the Board of Regents authorizes the Secretary to submit to Congress a Federal budget request for appropriated funds for fiscal year 2010 as part of the President's budget in the amount negotiated with OMB and authorizes the Secretary to inform OMB and Congress fully about the implications of the President's budget for the mission and priorities of the Institution. [2009.04.11]

VOTED that the Board of Regents authorizes the Secretary to submit a request for Congressional authorization to plan, design, and construct a new vehicle maintenance facility at the Smithsonian's Suitland Collections Center in Suitland, Maryland. [2009.04.12]

VOTED that the Board of Regents recognizes the generosity of Margaret H.P. Nuttle to the Smithsonian Institution Libraries and approves naming The Margaret Henry Dabney Penick Fund and each residency made possible by her gift a Margaret Henry Dabney Penick Resident Scholar. [2009.04.13]