NATIONAL CAPITAL MEMORIAL ADVISORY COMMITTEE

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MEETING

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OPEN TO PUBLIC OBSERVATION

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WEDNESDAY,
NOVEMBER 7, 2012

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The Committee convened in the Boardroom of the Commission of Fine Arts, Suite 312 of the National Building Museum, 401 F Street, Northwest, Washington, D.C., at 1:00 p.m., Peter May, Chair,
NATIONAL CAPITAL MEMORIAL ADVISORY COMMITTEE MEMBERS PRESENT:

PETER MAY, Chair

THOMAS LUEBKE, Commission of Fine Arts
DAVID MALONEY, District of Columbia
BRADLEY PROVANCHA, Department of Defense
CHRISTINE SAUM, NCPC
MICHAEL TURNBULL, Architect of the Capitol
MINA WRIGHT, General Services Administration

COMMISSION STAFF PRESENT:
GLENN DeMARR
NANCY YOUNG

WITNESSES PRESENT:

REPRESENTATIVE ELEANOR HOLMES NORTON, District of Columbia

JOHN DIBBLE, Vietnam Veterans Memorial Fund

STEWART HICKEY, Desert Storm War Memorial Association

KYLE LEGGS

ANN TROWBRIDGE, Smithsonian Institution

P-R-O-C-E-E-D-I-N-G-S

1:04 p.m.

CHAIRMAN MAY: Good afternoon. Welcome to the second meeting this year of the National Capital Memorial Advisory Commission. With me today, by the way my name is Peter May, representing the Director of the National Park Service.

With me today, Mina Wright, for the Commissioner of GSA Building Service. Thomas Luebke for the Chairman of the Commission of Fine Arts. Christine Saum for the Chairman of the National Capital Planning Commission.

David Maloney for the Mayor of the District of Columbia. Michael Turnbull for the Architect of the Capitol. Bradley Provancha for the Secretary of Defense.

Thomas Sole, who is normally here representing the Chairman of the American Battle Monuments Commission, will not be here today.

He happens to be leaving today for Honolulu, where the ABMC will be dedicated new pavilions and Vietnam battle maps on November 11th.

We ordinarily are accompanied by Katry Harris, representing the Advisory Council on Historic Preservation and she's not here at the moment, but if she comes in we'll recognize her at that point.

Thank you very much to Tom Luebke and the Commission of Fine Arts and the staff for opening up the board room today for our use and for getting things all set up for us. We really do appreciate that.

Let's see, today we are expecting that D.C. Delegate Eleanor Holmes Norton will be joining us at some point to testify about one of the bills on the agenda.

And when that occurs we'll most likely interrupt our normal proceeding, no matter where we are, and give her the opportunity to speak, understanding her busy

schedule. So, we'll see how that works out.

The Commission has several items of business today, four legislative proposals to establish commemorative works or amend existing legislation authorizing commemorative works, and one administrative item, which the review and approval of operational bylaws for the Commission.

So, we will move to the first item on the agenda, S. 3548, Native American Veterans' Memorial amendments. On September 13, Senator Daniel Akaka introduced S. 3548, a bill that would amend the authority establishing a Native American Veterans' Memorial.

The memorial was authorized under Public Law 103-384, in 1994, to be placed on the interior of the National Museum of the American Indian.

S. 3548, proposes to amend Public Law 103-384, to direct that the memorial be placed outdoors on the side of the Museum.

Senator Akaka is in his home state of Hawaii on business today, and has sent a statement to the Commission, which has been provided to the members of this Commission.

We also have an email from the record from a person identified as Gene Public, which was also provided to the Commission and which is in opposition to this proposal and to all the proposals before us today.

Now, we did send out invitations to a number of interested parties on this legislation. Did not hear much in the way of confirmations, so I guess the easiest thing to do is just simply ask if there's anyone here who wishes to testify or to speak about this piece of legislation.

Please come forward and be on the microphone.

MS. TROWBRIDGE: I'm Ann Trowbridge, Associate Director for Planning at Smithsonian. I know that you notified the

Director, Kevin Gover of the American Indian Museum. We did not learn about the meeting until yesterday afternoon, Planning, however I have spoken with our Office of Government Relations and the Smithsonian's official position on this is that we are neutral on this legislation.

CHAIRMAN MAY: Okay, thank you very much, I appreciate hearing that. So, my agenda is getting shorter since we don't have some of the folks we expected to testify.

So, I guess we'll move straight into a discussion of this bill. As noted before, the original Public Law authorized a memorial to be placed on the interior of the structure of the National Museum of the American Indian.

It was authorized in 1994, and after the enactment of the Commemorative Works Act, but the memorial was directed to be located on the interior of the museum and, as such, was not required to conform to the

Commemorative Works Act.

And the memorial sponsor, the National Congress of the American Indians, was to required to seek site or design approvals from the Secretary of the Interior or the Administrator of the GSA or from the National Capital Planning Commissioner or the Commissioner of Fine Arts.

However, if it's moved outdoors, it is, it's not entirely clear, but we believe that, we at the Park Service believe, that the memorial would be subject to the Commemorative Works Act, and I'll explain why in just a second.

Like I say, I'll move straight into that. The issue here is that the, like many of the other Smithsonian Museums, they are authorized to be placed on the Mall in their locations.

But the land on which they are placed, is not specifically transferred to the jurisdiction of the Smithsonian Institution.

And this has been an issue of some discussion between the National Park Service and the Smithsonian.

But, now in some cases, most recently in the case of the National Museum of African American History and Culture, the land was explicitly transferred.

The Congress directed that we transfer the land and so there was a transfer of jurisdiction and so it's very clearly under the jurisdiction of the Smithsonian Institution.

So, in this circumstance, we believe that it is and, again, this is not entirely clear, it's a subject of some discussion even within the Park Service about the nature of the jurisdiction here.

But if moved outside, and if it is considered Park land, then it would trigger requirements of the Commemorative Works Act.

It would be locating, it would shortcut some of the provisions of the

Commemorative Works Act by specifying a location. And also by placing it within Area 1, as defined by the Commemorative Works Act, which again bypasses another requirement of the Commemorative Works Act, which says that there should be a second Act of Congress determining that a memorial subject is worthy of location within Area 1.

The other complications with the Commemorative Works Act are that a proposed military memorial is maybe precluded from Park land by the Commemorative Works Act, because there are very specific provisions about what military subjects can and cannot be commemorated under the Commemorative Works Act.

Well, anyway, given that, there are some follow on questions depending on what position we may take or may note, which regard to whether this is subject to the Commemorative Works Act.

If it is, if the Commission feels

that the memorial should not be precluded from this location, would we recommend that the legislation be amended to include a provision common to memorial legislation, that requires that it be established in conformance with the provisions of the Commemorative Works Act.

If we include, if we can agree that it is on Park land. And then, given that, are we inclined to address the issue of the threshold for locating military memorials on Park land and we want to recommend that Section 3(b) of the bill be revised to remove the direction to place the site on Area 1.

So, that's a little bit confusing but that sort of hits on the major points that we have for discussion. And I would, I'm sorry, we're in the discussion phase and we don't take additional testimony at this point.

So, I'm interested in hearing what other Commissioners have to say on this topic. So, Ms. Saum.

MEMBER SAUM: If I may, I'd like to

present, with all due respect, I'd like to present an alternative interpretation of this. It's complicated by the fact that the proposed legislation refers back to the legislation that established the memorial in the first place.

And that refers back to the legislation that established the Museum, and that refers back to legislation from 1975, that set aside the land for the construction of the Museum.

CHAIRMAN MAY: Reserved the land, yes.

MEMBER SAUM: Yes, reserved the land for the museum. And it's only that 1975, legislation that it appears to me, that actually specifies the site.

And unfortunately that interpretation, for me, when I read that, it's the part bounded by 3rd Street and Maryland Avenue, 4th Street and Jefferson Drive, appears to include both the museum site and

Reservation 201.

And so, would you like to take a break right now, or shall I conclude my remarks.

CHAIRMAN MAY: Yes, I think maybe we should go ahead and do that. We now see that we're joined by Representative Eleanor Holmes Norton and we'd like to offer you the opportunity to speak now the bill that you sponsored, if you'd like to take that opportunity at this time.

So, we have a microphone here we'd like you to use so that we can record your remarks. You can stay where you are or sit there, whatever you like.

REP. HOLMES NORTON: I appreciate your hearing me in light of the schedule of the day. I've come to testify in favor of my bill. This matter was brought to my attention by constituents of mine, residents of the District of Columbia.

My bill is H.R. 6077. It would

designate a trail in Glover Park, running from Canal Road to Van Ness Street as the Rachel Carson Nature Trail.

Actually these constituents use the trail, knew enough about the life and work of Rachel Carson and that this is the 50th Anniversary of her book, Silent Spring, to bring this matter to me.

The Interior Department is well acquainted with Rachel Carson's work, because there is already a Natural Wildlife Refuge named for her in Maine.

Much of her work was done in Glover-Archbold Park. I shouldn't say much of her work. She did observations in that park, I don't know where all of her work was done.

I know some of it was done in the Chesapeake Bay. But she lived in this area and did many of her observations right here. I don't know of anything named for her here, even though she was a federal employee and many of her observations came when she worked

for the federal government.

She certainly is credited with raising environmental consciousness, perhaps, for the first time, in our country. She graduated from Johns Hopkins in Marine Zoology, and worked for a long while with the Fish and Wildlife Services.

She wrote two books. The third, A Silent Spring, she wrote after she had resigned from the federal government. But her findings had been sustained by the government, the Science Advisory Committee, through the Kennedy Administration.

This is a Scientist of considerable accomplishment in our country. She was inducted into the American Academy of Arts and Letters.

So, I'm not sure anyone else would care about this trail, but I hope it matters to the Park Service that there are residents who, not only care about it, but want to commemorate it in a way that, it seems to me,

the Interior Department would appreciate.

So, I'm asking you to consider naming that trail, a trail where Rachel Carson did some of her work, for Rachel Carson. I have a bill, but I would appreciate your endorsement of the bill.

I'm pleased to answer any questions you may have of me.

CHAIRMAN MAY: Certainly, I have one to start but first off, let me say how much we appreciate your coming and testifying before us, or testifying is the wrong, coming and speaking to us today about his.

It certainly is an interesting proposal and we've had, we've done a fair amount of study in response to that. We, the Park Service.

The question I have is, one of the things that we've not been able to determine at this stage, is the extent of her actual work or activities in Glover-Archbold, and I don't know if anyone else will be here today

to testify about this, who has an interest in it.

REP. HOLMES NORTON: And I don't think that you could ever find that, define what percentage of her work was done where, but apparently some was done in Glover Park.

Much of it was done while she was a federal employee. She lived in this area. I'm sure she went to our other parks, which also says a great deal about the extensive parks that we have in this area.

So I don't think you could ever find, I have not, we have not been able to find precisely what work was done, or why she even chose Glover Park.

But she had a very good eye for choices. She began as a Naturalist, as a farm girl, and she just became interested in nature around her.

CHAIRMAN MAY: So far I think we may have found a couple of photographs indicating that she had been in the park on

various activities, but not much more than that.

So any information along those lines I think is --

REP. HOLMES NORTON: Have you looked at the archives of the Fish and Wildlife Services, for example. She was one of, when it was formed as a full fledged Agency, she was one of only two professional women in the entire Agency at the time.

CHAIRMAN MAY: We've not gone very far with that research yet, we've been working mostly with our records.

REP. HOLMES NORTON: So, you asked the question because of what?

CHAIRMAN MAY: Well, this is something of an unusual proposal. You have proposed memorials in the past and the typical process for establishing a memorial is that Congress decides that a particular subject matter is worthy of commemoration.

And then the process of locating

where it would be is handled through more of an administrative process and it involves the National Capital Planning Commission, the Commission of Fine Arts and the Park Service typically working with a memorial's sponsor.

Because we're putting a name on a trail, it doesn't fit the normal Park Service mold for how to name a trail. It falls under the Commemorative Works Act, so it falls into those sorts of thing, those sorts of constraints. And in this circumstance, we're talking about a specific site which is out of the norm for the Commemorative Works Act.

So that's one of the reasons why I'm particularly interested in that issue. But also, frankly, because it has been so specifically stated that it should be this trail, in particular, I was trying to understand if you had information that we didn't have yet, about her connection to that.

REP. HOLMES NORTON: We've had, we'd be glad to look for more information,

which I take it would more incline you to accept this particular trail, if she had had some relationship with this trail or this park.

CHAIRMAN MAY: Yes, I think that there is a separate question of whether or not she should be commemorated in this general fashion, and then there's a question of whether it should be this trail.

REP. HOLMES NORTON: I understand fully. When we do a, when somebody wants to a statute on the Mall, this whole purpose of this group is to make sure that doesn't happen, that people go through a process.

We're trying our very best to go through a process, we don't know any other way to do it. Since the matter, nobody would even think about, it looks like, and that's amazing that we're in the 50th Anniversary and you all at the National Park Service, not all of you, but certainly you are, Mr. May, and that there's been no national commemoration of this

woman.

And yet, in a real sense, I would argue that she deserves much more than a trail here, because so much of her work, and that is of course undisputed, was done using our own parks.

And she became an internationally-renowned Scientist because of her work done. But, it took citizens, and it often does, to discover this issue and I think they ought to be commended for doing so and we certainly will try to do more to find out how much of her work came from this area or Glover Park.

When she died, she lived in Silver Spring. She was always of this area when she was doing, in her professional life.

CHAIRMAN MAY: Please don't mistake my comments for any sort of resistance to the proposal, I'm not taking a position on that.

REP. HOLMES NORTON: No, I understand.

CHAIRMAN MAY: I'm just seeking

additional information. I think it's helpful for all of us in a longer process. Does anyone else have questions?

(No response.)

REP. HOLMES NORTON: Well, we'll try our best to find more information, in-depth information about her work here, and especially in our own parks.

CHAIRMAN MAY: We appreciate that.

REP. HOLMES NORTON: Thank you for your work with our parks. We treasure them.

CHAIRMAN MAY: Thank you. So, I think we'll go ahead and return back to our regular agenda. And, Ms. Saum, you were in the middle of making a point.

MEMBER SAUM: Basically my point, there are several points. The first one is that the, this legislation seems to apply to a square bounded by Third, Fourth, Independence and Jefferson Drive, which includes both the museum site and a Park Service Reservation, which I believe is Number

201.

And so it would be, it would help me if the legislation were clarified to say whether or not they were going to put it on the museum grounds or on the Park Service Reservation.

And if they are planning on putting it on the museum grounds, I would argue that since the Commemorative Works Act only refers to areas administered by the National Park Service and the Administrator of General Services, it will be hard for me to see how this land, the museum site could be administered by the Park Service, seeing as how all the submissions to NCPC regarding construction on that site, have been from the Park Service.

They built the building, they maintain the property. So it would seem to me that if it is going on the museum site, that it is not subject to the Commemorative Works Act, but only subject to the types of project

review that would normally be required of anything that was going to be built on the museum site.

CHAIRMAN MAY: Yes, that is part of where we, there is a lack of clarity. From what I understand, based on my discussions with our Solicitor's Office, the term administered actually means, has jurisdiction over it.

And because there was not a transfer of jurisdiction, there is simply an authority to design and construct a museum on that site, it did not, the authorization from the museum or the reservation of the site, for that purpose, did not clearly transfer jurisdiction. At this point I can't say definitively that absolutely the Park Service has jurisdiction, but it is, it's certainly one of the possibility that we're dealing with.

And we're seeking to get clarity on that and unfortunately I can't offer that

here today. And I certainly, even if we got clarity of our position, it doesn't necessarily mean that we have agreement with the Smithsonian about that.

Because it has been a subject of some discussion in the past, related to other museums and exactly how the land is handled.

MEMBER LUEBKE: Mr. May, I have a couple of questions.

CHAIRMAN MAY: Sure.

MEMBER LUEBKE: Aside from the question of the jurisdiction and administrative definition which is essentially a legal question, supposing that there were jurisdiction, in terms of administratively, my question is how does it apply in time and then also in terms of, the two issues I see otherwise are site designation being prima facie to the proposal and the question of the applicability of the Reserve.

And if this is something that was authorized, way back when, and I'm not clear

exactly because it seems to be a series of amended laws.

My question is do we have a good sense of, does this authorization fall under, is it a pre-existing authorization in the first place, and therefore it does apply because it was made before 1986?

Or it does apply and it applies after 2003, because of the creation of the Reserve? I'm sorry to raise, this is a very, very difficult case because it's layered.

And I see those two issues as something we really have to understand before we take a position.

CHAIRMAN MAY: Right. First of all, let me say the, this area does not fall into the Reserve.

MEMBER LUEBKE: Oh.

CHAIRMAN MAY: The Reserve, the line of the Reserve is drawn at Jefferson and so that should be on the map that you all received with your package.

MEMBER LUEBKE: Thank you.

CHAIRMAN MAY: So it's not a Reserve issue as much as it is a, preordaining the site. There is an issue with this type of military commemoration and whether that falls within the bounds.

So that is another issue. Do we have other thoughts on this? I mean I have some thoughts about how we might conclude the conversation, but I'm certainly very interested in hearing what everyone has to say.

If there are other thoughts on this. Mr. Provancha.

MEMBER PROVANCHA: A question. Can you help us with the precedent for other similar types of memorials for veteran groups? Perhaps along an ethnic line.

Is there a Hispanic veterans' memorial, Italian American, African American, a subset like a Code Talker, those types of things?

One of the things that we discuss sometimes at NCPC, is memorial proliferation.

CHAIRMAN MAY: Right.

MEMBER PROVANCHA: And the availability of suitable sites for future generations.

CHAIRMAN MAY: I'm not aware of other ethnic groups being commemorated separately, ethnic groups of veterans being commemorated separately.

We do have the memorial to Women in Service to America, and that is a subset, if you will, of the military that's not along the lines of some of the other ones.

For example, the First Division Memorial, the Second Division Memorial, things like that. Mr. DeMarr, did you have insight on this? Maybe you need to be on the microphone, are you on a microphone?

MR. DEMARR: We are reminded over here that there is the African American Civil War Soldiers Memorial up on U Street and 10th.

CHAIRMAN MAY: And of course there previously authorized but never built, Black Revolutionary War Patriots Memorial.

MR. DEMARR: correct.

CHAIRMAN MAY: Other comments, questions?

MEMBER LUEBKE: To clarify, this is not associated with a single conflict as that example, but is broadly all contributions of the Native American people in the American military.

CHAIRMAN MAY: Right. Other comments? Given that the lack of clarity on the jurisdiction or the applicability of the Commemorative Works Act, what I would like to try to do is, first of all, try to seek as much clarity on that topic as I possibly can and share that information with the Commissioners. But, and maybe, in the long run, we can actually conclude our discussion today, until we have that information.

But I think actually what we could

also do, is do an if-then kind of letter, which states that if it is considered that it would be outside of the, on the exterior of the museum but in land that falls under the jurisdiction of the Park Service, which as Ms. Saum points out, could be the case with Reservation 201.

Then these are the following issues. And we would site the issue of the military commemoration complication, the pre-designation of the site and so on.

And then explain how it would fall under the Commemorative Works Act processes for approval of design and so forth. Alternatively, if it is not located on land under the jurisdiction of the National Park Service, then we would expect that it would go through a different kind of approval process, and it would be subject, presumably, to NCPC and CFA review. I'm seeing nods from both representatives, that would assumed to be the case.

So is we're all in agreement with taking that approach and trying to draft a letter, I see some nods of recognition.

MEMBER LUEBKE: Can you clarify the thing you were saying, it would be a question of spelling out these issues of applicability --

CHAIRMAN MAY: Right.

MEMBER LUEBKE: -- in terms of --

CHAIRMAN MAY: Right.

MEMBER LUEBKE: --

administratively, chronologically.

CHAIRMAN MAY: Right.

MEMBER LUEBKE: Is the, okay.

CHAIRMAN MAY: And I think that the, you know, when it comes to the terms such as whether it qualifies in under the Commemorative Works Act, as it falls into that narrow space that is allowed for military memorials, I think there actually is an issue there. Because it's the, if you go back to the Commemorative Works Act, the authorization

for military memorials is fairly specific.

Let me pull that up here. Memorials to military subjects be located on military properties or other properties. And the exceptions being memorials to wars or other major conflict.

Are there other circumstances in which military memorials are allowed on Park land under the Commemorative Works Act? And, again, I'm asking DeMarr.

MR. DEMARR: No.

CHAIRMAN MAY: No. So we can note that it is not consistent without necessarily taking a firm position, because it's hard to take a firm position when we don't really know where it falls.

You know, we're happy to try to draft that letter, capturing those comments and circulate it for the Commission to review and hopefully all agree upon.

And if you all agree, then I would like to hear a motion to that effect.

MEMBER PROVANCHA: Before we make a motion, would you give us some guidance, please? It looks like the staff has done a nice job, as usual, of analyzing the legislation and there's a recurring theme about the issue of inside the facility versus outside on the grounds.

Is this intended for us to consider and also to vote on and discuss that also?

CHAIRMAN MAY: Well, if, are you asking whether we should be taking a position on whether it should be inside or outside?

MEMBER PROVANCHA: Correct, yes.

CHAIRMAN MAY: I'm not sure that we necessarily want to do that. I mean if it was a very clear cut case, that it would be outside and it would on lands under, that are covered by the Commemorative Works Act, then I think it would be, we would be in a better position to take a clear position that this type of commemoration is not consistent

because of how military memorials should be commemorated.

This is a little different. I mean if it winds up being outside on lands that are not considered to be Park land, then what's the point of this Commission weighing in on inside or outside?

MEMBER LUEBKE: Well, it might be worth posing the letter to, because this is a suggested change to authorize an interior memorial, if I'm not mistaken --

CHAIRMAN MAY: Yes.

MEMBER LUEBKE: -- it might be worth clarifying that, should that part of the authorization not be rewritten, then this discussion would not apply.

In other words, that if you leave it alone then it -- maybe that's the whole point of the legislation.

CHAIRMAN MAY: Right.

MEMBER LUEBKE: But I think it's worth saying that this whole discussion then

is obviated.

CHAIRMAN MAY: Right. If it remains inside, there's no CWA issue.

MEMBER LUEBKE: There's no jurisdiction either for the design review bodies either.

CHAIRMAN MAY: Yes, we can certainly incorporate that in the letter.

MEMBER LUEBKE: I think it's worth clarifying.

CHAIRMAN MAY: So, it would be difficult to try to rephrase that one more time, but I think we've got the gist of it. And I would just ask for somebody to move that we write a letter in that direction.

MEMBER TURNBULL: I will move that we move to put together a letter, as you discussed, and with the additional comments that were made.

MEMBER WRIGHT: Second.

CHAIRMAN MAY: The motion has been moved and properly seconded. All those in

favor please signify by saying, aye.

(Chorus of ayes.)

CHAIRMAN MAY: All opposed?

(No response.)

CHAIRMAN MAY: Hearing no opposition, the matter is passed unanimously. So, now we're moving on to H.R. 5914, National Desert Storm and Desert Shield Memorial.

On June 7th, Congressman Phil Roe introduced H.R. 5914, a bill which would authorize the National Desert Storm Memorial Association to establish the National Desert Storm and Desert Shield Memorial in the District of Columbia.

I understand Congressman Roe cannot be here today but has sent a statement to the Commission, which was provided to the members in advance.

We have also received statements in support, which have also been provided to you by Congressman Joe Donnelly, Barrett Capperman, Scott Ferencz, and from Randy

Shumacher on behalf of CSO Architects, the firm that's working with the Desert Storm War Memorial Association.

I understand, let's see, I have two individuals who we believe may be here to speak, Mr. Stewart Hickey, who is here, and Mr. Kyle Leggs, as well. Very good.

So, Mr. Hickey, would you like to come up and take a microphone and give us your statement.

MR. HICKEY: I have a statement here from the President of the National Desert Storm War Memorial Association, I'd like to read. His name is Scott Stump.

Chairman May, Commissioners, Ladies and Gentlemen, my name is Scott Stump and I am a Desert Storm Veteran, where I served as an Infantryman in the United States Marine Corps.

I want to encourage and ask you all to support, for your support for the building of that National Desert Storm, Desert

Shield Memorial in Washington, D.C.

It has been almost 22 years since our men and women in uniform were called to service in the far away and unfamiliar, to most of that time, Middle East. If you all remember, there were many uncertainties at that time regarding what would happen as we expelled the forces of Iraq from Kuwait.

By the grace of God, we were able to accomplish our objectives with absolute and total success in an unbelievably quick time frame.

Unfortunately, that is what most folks remember about Desert Shield and Desert Storm, if they are even old enough to remember it at all.

However, I think there's several very important reasons why this conflict needs to be memorialized. As mentioned previously, the sovereign country of Kuwait was liberated and returned to her citizens.

The evil and sadistic intentions

of Saddam Hussein were stopped and a country and its grateful people started the rebuilding process.

Our efforts, along with 33 other nations, reshaped the destiny of Kuwait. All of us working together for this common and noble cause and goal was awe inspiring in retrospect.

Secondly, Desert Shield/Storm brought out the best in our country. People were patriotic, flags were everywhere and people felt good about our country.

This was only 15 years after Vietnam, in fact many of the ghosts and bad feelings our country harbored, were finally put to rest because of Desert Storm.

I feel that Desert Storm truly healed many of the open wounds that were leftover from the Vietnam conflict. Upon returning home, my unit participated in a welcome home parade.

We were reluctant. However, the

parade, as my commanding officer said, was for the people and not necessarily for us. At the end of his remarks our commanding officer dedicated the parade to all the Vietnam Veterans who never got a parade. At that point we all knew that Desert Storm was about much more than just Kuwait.

I firmly believe that if it weren't for Operation Desert Storm, our men and women currently serving in uniform would not be treated with the respect any dignity that they absolutely command and deserve.

Lastly, we cannot forget those over 600,000 men and women who served. Their service needs to be remembered for generations to come and should never be forgotten.

Most importantly, close to 400 families did not have loved ones return home, 15 of which were women. Those men and women who died while in service to our country need to be remembered and honored with a lasting tribute and a tangible tribute to their

families, friends and loved ones.

Some folks tend to lump Desert Storm together with Operation Iraqi Freedom and Enduring Freedom. I feel this is an injustice and an absolute mistake. It's not fair to the men and women serving now, nor to the Desert Shield/Desert Storm Veterans to throw these conflicts together and label it the Gulf War.

These are two separate and distinct actions with totally different objectives and type of warfare. They need to be commemorated individually.

Although Desert Storm, as its name applies, a relatively short, swift operation, the men and women who served in country were prepared to give all, if need be. Thankfully, it wasn't nearly as bad as the media predicted.

However, even if it was only one person who lost their life while serving, it's still necessary and important to commemorate

Desert Shield and Storm through this memorial and by way of Congressional authorization through H.R. 5914, Sincerely, Scott Stump.

I just have a couple of personal comments. I, too, am a Desert Storm Veteran, and one of the things I notice, since I work in the D.C. area here, there's no World War I National Memorial.

And the District of Columbia has a World War I Memorial, but the nation doesn't. And we know a year or two ago, the last World War I Veteran died.

So there's no one to come before this Commission, who was a World War I Veteran, to speak on their behalf and say we need a World War I Memorial.

I don't want Desert Storm and Desert Shield to end up like the World War I Veterans, with no memorial and no one alive yet to speak for them.

So, Desert Storm is sort of like a forgotten war, like Korea became after World

War II. And World War I became after World War II.

We've sort of fallen between Vietnam and the Global War on Terrorism and, like Scott said in his statement, there are a lot of people that don't even remember because they're not old enough. Thank you very much.

CHAIRMAN MAY: Thank you. Mr. Leggs.

MR. LEGGS: Good afternoon, Mr. Chairman and members of the Commission. My name is Kyle Leggs, I'm a retired Army Lieutenant Colonel, United States Army Reserve and I served proudly in Operation Desert Shield and Desert Storm and Farewell and I'm here to testify on behalf of H.R. 5914.

I'd like to just state on behalf of the Members of the Board of Directors for the National Desert Storm War Memorial Committee, which I am the Design Chair.

Those members could not be here because of logistical challenges where they

are located. But I am here to speak on behalf and in support of this particular bill.

And I'll just read from, a brief excerpt from our website that we've established, that you can visit, as well, at www.nationaldesertstormwarmemorial.org

As we all know, August 2, 1990, Saddam Hussein invaded Kuwait. This being, you know, an attack on a small neighbor to its south, set off a chain of events that we'll never forget and will impact America, this country, forever.

Operation Desert Shield was in full swing as a result of that, and over the next six months we had some 700,000 Americans on duty in support of Operation Desert Shield to support this effort.

On January 16, 1991, as we all know, Operation Desert Storm was launched, following Saddam Hussein's refusal to heed U.N. Resolution 678, refusing to withdraw his forces from Kuwait.

January 15th, as you recall, was the deadline in 1991, and that set off, as you can all remember, coalition effort of relentless bombardment of air strikes and ground forces soon to follow, with an astounding 100 hours of an operation which was victorious.

History tends to overlook the certainty of delicate nature of the whole operation. The fact that the coalition of 34 countries held together and came forward and fought the intense threats of chemical and biological warfare, need not be brushed aside.

I can remember whole-heartedly sitting up on numerous occasions in full protective gear, with the bombardment of scud missiles, patriot missiles and various sorts of other materials that put us in harms way.

The area that I was in, Dhahran, of course was the area that the members of the 14th Quartermaster Detachment succumbed to the scud missile that hit and attacked that

particular unit.

I remember it vividly, I was there in a nearby area. I was seeing the ambulances going by, transporting the wounded and the dead to a nearby MASH Hospital.

So, for me, it is personal. And I do support the efforts that we have before us today, with respect to establishing a memorial in the proximity of what we now have as the Vietnam Veterans Memorial on Constitution Avenue.

We are, of course, as you mentioned earlier, support, having support of an Architect that's on board. We've got preliminary drawings and so forth, that we've actually began to put forth.

And, with that, I'll just say that I'm here to answer any questions that you may have, and again in support of H.R. 5914, thank you.

CHAIRMAN MAY: Thank you. Do we have any questions for Mr. Leggs?

MEMBER SAUM: I actually have a question. I'm just curious, you say that you have some preliminary designs. Have you been thinking about sites already?

MR. LEGGS: Yes, we're looking at a sequence in terms of a time line, if you will, of what is currently on the Mall that houses the World War II, Korea, Vietnam in a sequential time sequence of what we think would be apropos for a suitable monument for that site that is near the Vietnam War Veterans Memorial.

CHAIRMAN MAY: Okay, do we have other questions? I do have one. You mentioned the start of the conflict in 1991?

MR. LEGGS: That's correct.

CHAIRMAN MAY: Do you have a date for the official end of the conflict?

MR. LEGGS: As we can see by today's actions, a lot of what's going on today is --

CHAIRMAN MAY: I understand that,

but I'm looking, if you're saying that there has been no end to it, that's, I guess that's one answer.

But, I mean is there an official date that it ended, from what you understand?

MR. LEGGS: Well, I don't have that specific date in front of me in terms of some of the other operations that continued. I mean there was the bombing of the Kulmar Towers, which I lived in.

So, I never really saw it as an official end, if you will, from a personal standpoint, I don't have the exact date.

CHAIRMAN MAY: The reason that I asked for a specific date is because the Commemorative Works Act does have a time that must pass before certain subjects are commemorated.

If it's an individual, it would be 25 years. If it's a war or major conflict, it would be ten years.

MR. LEGGS: Well, we're looking at

February/March time frame, 1991, is when the official war was declared by Congress and the President.

CHAIRMAN MAY: All right, thanks.

MR. LEGGS: Sure.

CHAIRMAN MAY: Other questions?

MR. HICKEY: The official date of the cease-fire, when we ended offensive operations was, here it would have 28 February, 1991. And on the ground for us I believe it was 1 March, because of the time change.

CHAIRMAN MAY: Okay, thank you. Okay, is there anyone else who wanted to testify on this topic?

MEMBER PROVANCHA: Just a general observation, comment, if I may?

CHAIRMAN MAY: Yes, please.

MEMBER PROVANCHA: I think your, the concept resonants with some of who are also Desert Storm/Desert Shield Veterans.

CHAIRMAN MAY: All right, thank you

very much.

MR. LEGGS: Sure, thank you.

CHAIRMAN MAY: And we did not see anybody else who is interested in speaking, so I will say a few things to kick off the discussion.

The, this is the first time this particular proposal has come before us. Of course we've seen many memorial proposals dealing with a wide variety of subjects. There are a couple of key questions as it relates to this.

The Park Service has a relatively small concern about the drafting of the provision having to do with deposit of excess funds. I don't think that that's something that we need to go into in great detail here.

But we do want to make sure that that clause is appropriately drafted if this gets, does pass the Congress, that the funds are appropriately disposed of when, in the event there are excess funds for the memorial.

And so we'll circulate that. Whatever we decide to do on that topic, and in response to this particular proposal, we'll include some information for the rest of the Commission, having to do with, I guess, technical corrections to that language regarding excess funds.

So, there are essentially, I think, the essential question on this is whether, how this conforms to the Commemorative Works Act. And the Commemorative Works Act states specifically, a military commemorative work may be authorized only to commemorate a war or similar major military conflict or a branch of the armed forces.

And then the second question is a commemorative work, well, and this is related too. A commemorative work solely commemorating a limited military engagement or a unit of an armed force, may not be authorized.

And then it goes on to say that it has to be ten years from the designated end of such war or conflict. We did ask, in advance of this meeting, Mr. Provancha to give us some opinion, if possible, on the question of war or major military conflict.

And maybe you should, if you could speak to that.

MEMBER PROVANCHA: I'm glad to accept that assignment from the Chair and to conduct that research. I've reached out and made initial contacts with the Office of the Secretary of Defense, Historian's Office, as well as the General Counsel Office.

I have not yet received their response. So as soon as I do receive that, I will be glad to, it focuses on a couple of questions, limited, separate and limited military engagements.

Whether this is considered a large and continuing military undertaking? A war or a major military conflict? In this town,

obviously you can see there's political implications from some of the language and so forth. But we're glad to address these issues.

CHAIRMAN MAY: Okay, we would appreciate hearing that. That's what I have in terms of preliminary discussion. Does anyone have comments or issues that you'd like to raise?

MEMBER LUEBKE: Well, I have some observations and it's a difficult question. There's two, I think two issues that we have to face here.

One is what you've just identified, is the definition, whether this constitutes a war or a major military conflict, which is something I think we would look for the advice of the Department of Defense.

The other procedural issue is the problem, which we've seen now, we're seeing increasingly, is this idea that there can be

a pre-designation of a site. That's an important point.

I mean it's not in the legislation but it comes up, something we have to be aware of, if it is in fact authorized under the Commemorative Works Act, that requires a site selection process.

I just want to clarify, though, that this is a, this falls into a category which is difficult. The way this law is written it identifies very clearly large major conflicts, i.e. wars, versus limited military engagements.

And where this falls, clearly, you could, I suppose people could make an argument either way. I don't know that we, necessarily, are the body to make that determination.

But I would like to offer a few examples of history about commemoration and wars, just to clarify that there were no national war memorials in this city until

1982, when the VVM, the Vietnam Veterans Memorial was completed.

There is no, there actually is a national World War I Memorial, but it's in Kansas City, Missouri. There is no Spanish-American War Memorial.

There is no Mexican-American War Memorial. There's not memorial to the War of 1812. There is no national Civil War Memorial. There is no national Revolutionary War Memorial.

So, it isn't, these are all important, I think they all qualify as wars. None of them has a national memorial in Washington, D.C. By the same token, there have been limited military engagements over the last several decades, including Grenada, Bosnia, Serbia, Somalia, none of which either have been designated either.

So I'm just offering this examples as how difficult this is under this law to make a determination about the applicability

of this proposal.

So, again, I'm scratching my head, hoping that we can get better guidance, perhaps, from DoD.

CHAIRMAN MAY: Do we have other comments?

MEMBER PROVANCHA: Just one final comment about the, he made a reference to the last survivor of World War I. That was Frank Buckles. Prior to his passing, about two years ago, at almost 107, he did come to the Pentagon and was recognized and helped to move the Department toward recognition of the World War I survivors and participants for their contributions.

CHAIRMAN MAY: Okay, Mr. Maloney.

MEMBER MALONEY: Just one small point. I notice that the proposed bill does recommend the location in the District of Columbia, and there are other memorials, the Air Force Memorial, for instance, which is across the river in Arlington, Virginia.

And I wondered whether or not it might be a good idea to recommend, if there is a specific location identified in the bill, that it be the National Capital Region, rather than just the District of Columbia.

Just to provide a larger possible selection of sites.

CHAIRMAN MAY: I'm glad you mentioned that. I think we did note that, and typically what we look for is language that says the District of Columbia and environs, which does allow things.

And, in fact, there are locations available to us in the immediate vicinity that are part of the memorial core of Washington, they're not actually in the District of Columbia specifically, thinking in particular about Arlington National Cemetery and Memorial Drive that leads up to it, which actually has, is the site of some memorials already and there are additional space for other memorials.

So, that is a very good point that I think we should making in whatever comments we provide to the Congress. I guess I have an essential question for the Commission, which is that, do we feel at this point, given that we do not know how to consider this.

Whether it is a war or other major military conflict, whether we really are in a position to comment at this stage, or whether we could note that we're studying that question and we'll let them know what we've learned from the Department of Defense or others.

I mean I'm trying to find a way to be able to say something to the Congress at this point, but since we don't have clarity on the issue of whether this fits within the Commemorative Works Act, guidelines or not, I'm not sure what we should say.

MEMBER LUEBKE: I think, well, I think that's a very, I think it is very difficult for this body to make that

determination. I think we should also make it very clear that, I think we all support the idea of commemorating the sacrifice and service of the military in whatever ways appropriate.

And there's many ways that that can happen. So it's not, I think it's very important to underscore that support. An interesting issue that was raised by one of the witnesses, is the question of, and I don't know that maybe we are too close to it in time.

Will history conceive of Desert Storm/Desert Shield as part of a larger conflict which continues to this day. And is this all together one larger middle eastern war that we will, you know, in some, and in some years from now feel as actually a major war that really needs to be addressed in that fashion.

I don't think that's something for the letter, but it's a question to ponder,

because I think it's a very real issue in this case.

CHAIRMAN MAY: Well, certainly, all the members of this Commission agree with your initial statement about supporting commemoration in an appropriate manner of the sacrifice of our military.

And, well, but when it comes to this particular proposal I think not, and I don't think that we really are, at this moment, prepared to make a statement about whether this is a major military conflict or a war.

I think that we could provide comments to the Congress that state that as an open question, and that we continue to research it. And that if it is considered such, we would recommend that the language be modified to include Washington, D.C. and its environs.

And that if, if it's, if it would not be considered a major military conflict

that would, you know, there are certainly other opportunities for commemoration that might be appropriate, or something to that effect.

MEMBER PROVANCHA: One other observation is according to the current charter, we're supposed to serve as an information focal point. The new bylaws change, clarify, expand that role to serving as a consultant on matters of design, siting and so forth.

So perhaps like you're referring to, under the current charter, our authority is to serve as an information focal point, perhaps this could be characterized as an informational presentation to us as opposed to a decisional.

CHAIRMAN MAY: Right, that's true. I mean I will say it's not the intention of the new charter to really modify our authorities, are authorities are established by the Congress.

It's a question of how, the way people can regard what we do. And we are and will remain, I think, an information focal point in that we listen to what everyone has to say.

And we try to digest it and we put into the context of all the other memorials that exist and are proposed and provide feedback to the Congress about how to, how best to follow their prior guidance given to us under the Commemorative Works Act.

So, and I think that's what we can do at this stage. So, again, I would simply say that we send a letter saying that we support an appropriate commemoration.

It is unclear, at this stage, whether this would be considered a major military conflict or, under the terms of the Commemorative Works Act, and we are researching that question. But, if it is considered such, then it would be appropriate to modify the language of the bill to include

the environs of Washington, D.C., so that it is more consistent with past memorial proposals and provides flexibility to the sponsors to find an appropriate location in a slightly broader sphere. Ms. Saum.

MEMBER SAUM: May I make suggestion.

CHAIRMAN MAY: Yes.

MEMBER SAUM: That you add something on to that that says if it is determined that it is not --

CHAIRMAN MAY: Yes.

MEMBER SAUM: -- suitable under the Commemorative Works Act, for any reason, that we recommend that opportunities be sought on --

CHAIRMAN MAY: Military.

MEMBER SAUM: -- Department of Defense land, such as Arlington Cemetery.

CHAIRMAN MAY: Absolutely. I think that sounds, that's consistent with recommendations that this Commission has made

in the past.

MEMBER TURNBULL: Is the research we're looking for primarily coming from the Secretary of Defense?

CHAIRMAN MAY: Well, I think that's where we're starting. And depending on what we find, it may be that further research is necessary, but it may also be that we get definitive enough information.

MEMBER TURNBULL: Okay.

CHAIRMAN MAY: So, with Ms. Saum's proposed addition with regard to an alternate for commemoration on military property or DoD property, I would ask for a motion that we write a letter expressing that.

MEMBER SAUM: I so move.

MEMBER LUEBKE: Second.

CHAIRMAN MAY: Properly moved and seconded. Do we have any further discussion?

(No response.)

CHAIRMAN MAY: All those in favor please say aye.

(Chorus of ayes.)

CHAIRMAN MAY: Opposed?

(No response.)

CHAIRMAN MAY: None. Thank you very much. I will note, for the sponsors of this, or the folks who are working to establish this memorial, that, and I think this is the same advice that we have given, I think, perhaps through Congressman Roe's Office, that the nature of the Commemorative Works Act process is to establish that something is worth commemorating first, and then the site would come second.

And we cautioned against getting too far in the research of and, I guess, setting your hopes on a particular site in advance of the commemoration actually being authorized.

We, you know, should the Congress take action to authorize this, Park Service will work vigorously with you or whoever is authorized to establish a memorial and to find

an appropriate site and go through the right process. And we look forward to doing that should the Congress decide that it's worth, that this is a subject worth commemorating.

So, thank you very much. I think we're ready to move on to our next item. On June 29th, District of Columbia Delegate Eleanor Holmes Norton introduced H.R. 6077, a bill which would designate the Rachel Carson Trail in Rock Creek Park.

We have already heard from Delegate Norton and I think that we also have a written statement that was provided to you, as well.

We understand that Advisory Neighborhood Commission 3-D, is in support of the trail, in fact they sent a letter to the Secretary of the Interior, requesting this designation directly by the Secretary.

And our response, I think in that case was that this falls under the Commemorative Works Act because it is naming

something in someone's memory in the District of Columbia.

And I think now we have a bill to address that, so it's become a different, it's no longer a question for the Department, it's a question for Congress and for today, for this Commission.

So, now do we have anyone in the audience who is here to speak about this proposal?

(No response.)

CHAIRMAN MAY: We do not, okay. Okay, so I have a few things to say to kick this one off as well. This is, I think as we all realize, a somewhat unusual proposal.

It's not often that we get a trail designation proposed that winds up falling under the terms of the Commemorative Works Act. Although, the Commemorative Works Act does explicitly allow for landscape features as commemorative works. And this would fall under that framework.

The National Park Service does regularly receive requests to name areas or features in parks in honor of individuals, and in, particularly in the case of the District of Columbia, we direct their attentions in other ways, because it is very difficult to accomplish, anywhere in the Park Service, but especially in the District of Columbia, because of the Commemorative Works Act.

I guess one of the questions before us today is a confirmation from this Commission that we would consider such a trail designation as a commemorative work under the Commemorative Works Act.

Can we make a determination of national historic significance based on the bill's description of Rachel Carson's contribution in the field of science.

And if we, would we agree, no, sorry, would the Commission recommend that site specific provisions of this, in other words stating specifically that it shall be

the trail that runs through Glover Park, Glover-Archbold Park, be taken out of the legislation.

Now I will note that in the past we have addressed memorials for individuals where there was already a site with that person's name on it.

And that was the Francis Marion Memorial. And in that circumstance, the legislation that was eventually approved did explain why it was appropriate to establish a memorial to General Francis Marion, but that it did not designate Marion Park, which is an existing square on Capitol Hill, to be the site of the memorial.

But simply describes the location of the park and states that the property has a relationship to General Marion. There maybe a parallel here that we would want to consider, where we simply note that this is a subject worthy of commemoration and we note that she had some involvement in Glover Park,

and there is a trail that runs through it.

And then let the dots be connected after the memorial legislation is passed. And that's certainly an option that's opened to us. The, one of the questions I was trying to address a little bit was specifics of Rachel Carson's connection to Glover-Archbold Park and, again, that maybe if we go to the Marion kind of model, that that's something that can be fleshed out more fully and the case can be made, again, allowing us to connect the dots after the Congress decides that this is a subject worthy of commemoration.

There is also a provision in the bill that directs specific design elements of the trail, such as signage and images. We may want to speak to that question, as well, because it is more prescriptive than what we would usually see in a commemorative works legislation.

And it doesn't necessarily go around the entire process, but it is, as I

said, it's more prescriptive than we usually see in this circumstance.

So, those are, that's what I have in the way of opening remarks. Do we have, does anyone have comments?

MEMBER TURNBULL: You had mentioned earlier, when Mrs. Norton was talking about possible further information. Are you, are we looking for more backup from Fish and Wildlife, are they involved?

CHAIRMAN MAY: We haven't pursued it very far with Fish and Wildlife. We were looking through our own records, but I think there's more work that could be done in that regard.

MEMBER TURNBULL: But, I mean, I'm just looking at their website and under the Director's Corner, there's a whole big article on Rachel Carson.

And they're getting into the 50 years and, I mean, it sounds like they've been looking at this also, I mean at her records.

So I would agree that there's, you would think that there would be more information there.

CHAIRMAN MAY: Yes, we believe there is. What we've been looking at so far, at least in my office, has to do more with Glover-Archbold Park and the connection in that regard, less about the, you know, the worthiness of commemorating Rachel Carson.

But, it is a, there certainly is more research I think that can be done. Other questions? Mr. Luebke, do you have something to say?

MEMBER LUEBKE: Well, I do have some comments. Let me start by saying that I think that maybe you could, it would be hard to find a, I think that the subject of Rachel Carson is an extremely worthy subject for national commemoration, particularly for her work that was seminal in establishing the environmental movement and certainly the passage of the National Environmental Protection Act, some years after the

publication of her book, Silent Spring.

So, I think that that's the easier part of this. I think this question of predesignation again is very problematic. I don't believe it's the same as Marion Park and its statue to General Marion, and that the park had already been named Marion Park, probably in the 1930s, I'm imagining or some, there was an association of longstanding and this was a question of adding or augmenting an existing recognized affiliation.

I don't know that there would be much to build on in Glover-Archbold Park. Again, not a bad thing, but it is difficult to come at this with the idea of predesignation.

But I want to raise one other issue that I think we have to, as a national body in a national capital region, we have to look a little bit more broadly, in that there already is a Rachel Carson Trail in the National Capital Region.

It is about seven miles and it

runs from, it is centered on the northwest branch of the Anacostia and it runs through Silver Spring, where Rachel Carson was a resident for much of her professional life.

And I believe that's where she died. Right now it's a seven mile loop that goes up to Wheaton Regional Park and down, it is envisioned to be, through the State of Maryland, a 25 mile Rachel Carson Green Way Project, which extends from New Carrollton in Prince George's County, all the way up into the upper reaches of the Patuxent Valley.

I think get into even Howard County. So the question here is, there already is one, and it's only a few miles away. I don't know if the sponsors or Representative Norton or anybody is aware of that.

I think it's important, as a national body, in the National Capital Region, to actually consider this as perhaps, well, it certainly would be duplicating something and

it may actually be very confusing.

So that's what I'm, it's just a fact and I just want to put that on the table. I don't know what the right answer is. Again, I'm completely in support of national commemoration for Rachel Carson and I'm not against something in Glover-Archbold Park, but I think, again, we have a very problematic proposal here.

MEMBER WRIGHT: Yes, I agree. Not just because of the redundancy but also until I hear some, I mean just that she used the park for observation doesn't seem to be enough.

And then I have to resort to me usual saw which is, the proscription just saying that images have to be on the signs really is troubling to me.

Because that could end up just so schlocky. So that we want to, I mean, so I concur with Tom's comments and I wonder what the response would be if we included that

information in the letter.

And then in any case, at this point, when I see a bill that has, that goes that far, to dictate design parameters, it makes me kind of nervous. And makes me want to vote against it, just for that alone. This is very troubling.

MEMBER MALONEY: Mr. Chairman, I agree with the comments about the specificity in the bill. I think that's unwarranted and not the best way to approach it.

However, in response to Tom's comments, which I think are very interesting and do raise sort of interesting sort of mental challenge, the trail in Maryland, you could ask the same things about the existing trail in Maryland.

The parks that it goes through, do they have any particular relationship to her work, or is it merely intended to commemorate her in the context of parks, in general.

It seems in both cases some work

in, along the lines that you suggested, of trying to figure out exactly where she did her work and whether or not any of these parks, in particular, happen to be appropriate locations.

It seems to me, also, that she's more than a local figure. She's more than someone who is significant to the Washington area.

She's someone who is significant, certainly nationally and perhaps internationally. And the question of whether or not a Maryland State memorial or a Washington suburbs memorial has the same impact as something that is a national memorial is a good question.

And you just passed out the Rachel Carson National Wildlife Refuge. Okay, does that area have any particular relationship to work that she did?

It seems obviously she was a resident of this area and did her work here.

Was an employee of the federal government. And it seems to me that it would be appropriate to have a memorial to her in this area.

Another question is perhaps if Maryland is thinking of this as a long, extended trail, perhaps that trail could be extended through portions of the District, and perhaps go down to the Anacostia and it could perhaps even connect to Glover-Archbold Park.

But it seems to me that all of these questions really sort of do aim at the initial question of where did she do her work and how might those places have influenced what she did.

CHAIRMAN MAY: Other comments?

MEMBER PROVANCHA: The comment that, the connection, it is yet to be determine how much of her work, her seminal work, was done at the park. It's similar to the George Washington slept here kind of concept.

On the issue of naming, if the Chairman would please help us. I'm searching within the Commemorative Works Act for something that would, I think in your introductory remarks you used the reference to landscape features.

I find that in Section 8095, but it talks about landscape features shall be just compatible with the climate. Is that loosely interpreted that we could name a park or a portion of a park, such as a trail?

Is that the section of the Act that we're applying?

CHAIRMAN MAY: No, I think, generally speaking, the, it's, the Commemorative Works Act is triggered by commemorating someone on park land or GSA land in the District of Columbia or its environs.

And the fact that it could be a landscape, it could be a garden, for example, that's commissioned or the Congress --

MEMBER PROVANCHA: Yeah, garden is

cited as an example.

CHAIRMAN MAY: Gardens, things like that. So the idea that it could be something like that, it's the mere fact of doing a commemoration in some fashion with some permanent feature on park land that triggers the Commemorative Works Act from our perspective.

So I think that's the way we treat it, and that's why we, for example, well among other reasons, we won't allow, you know, a plaque of anyone's name on it to be put in the ground.

Or a brick with a donor's name on a sidewalk. Those things we don't allow on land that we control, because it runs afoul of the Commemorative Works Act. It's, you are commemorating someone on park land.

So that's what it triggers for us, it's less about, you know, if it's a landscape feature that has somebody's name on it.

MEMBER PROVANCHA: So we're

liberally interpreting Section 8902, that talks about gardens or memorial groves to include parks, trails, outdoor environments.

CHAIRMAN MAY: We, again, it's not even interpreting that. It's simply interpreting the Commemorative Works Act more broadly, but under the definition of a commemorative work, it's any attempt to commemorate a person or event in the District.

MEMBER PROVANCHA: Thank you for that clarification.

CHAIRMAN MAY: Ms. Saum.

MEMBER SAUM: Well, I was going to actually quote the language but I think you clarified it. But I did want to note that in Montgomery County, part of their park network actually includes the Rachel Carson Conservation Park.

And that that park has six miles of natural surface trails for hiking and equestrian use. So it's more than just a trail, it's actually a park.

CHAIRMAN MAY: A whole park.

MEMBER PROVANCHA: Sounds like more fodder for the memo.

CHAIRMAN MAY: Yeah, so does anybody want to take a shot at formulating something that, or, I mean I don't, I don't feel as strongly as Ms. Wright, that we should simply be opposed to this because of some of the language that's in there.

I think that the idea of commemoration is a good one.

MEMBER WRIGHT: I didn't go that far.

CHAIRMAN MAY: Okay, sorry if I summarized incorrectly.

(Laughter.)

CHAIRMAN MAY: In any case, but I think that some of the suggestions that were made about how more broadly a commemoration might be appropriate, and that, you know, that really is the only step that should be taken at this time.

And that there are opportunities, perhaps, to connect into an existing trail network that bears her name. Or that may be another form of commemoration.

Perhaps in Glover-Archbold Park or perhaps somewhere else where it might make sense. In any case, I'm looking for somebody to try to put all of these thoughts together into a single letter that we can all get behind. Anybody want to take a shot?

I'll fumble through this one, too, if nobody else takes a shot. Ms. Saum.

MEMBER SAUM: Well, one suggestion, I don't know if it completely fulfills the requirement, is that we find that Rachel Carson is definitely someone who is worthy of commemoration in the Nation's Capital.

But that we are concerned that this is not the appropriate manner. And that it is too, it is too prescriptive in that it locates, that is specifies a particular location and way of, I mean the way in terms

of you saying it has to have pictures, it has to have signs.

CHAIRMAN MAY: Right.

MEMBER LUEBKE: If I could offer a couple of comments friendly to that beginning. I think it should, the letter, the motion would read that it recognizes the longstanding existence of the Rachel Carson Park in nearby, adjacent Montgomery County.

And it's a planned green way which offers opportunities for connection into the District of Columbia. I don't know that we want to use the word inappropriate, I don't know that this is inappropriate, but that more research should be done about what would be the best way to commemorate this national figure.

And that what isn't in this legislation is perhaps too specific at this time.

CHAIRMAN MAY: I agree with --

MEMBER LUEBKE: It was Christine's

motion.

MEMBER SAUM: I regard that as friendly.

CHAIRMAN MAY: Okay, I would agree with that. So that's a motion and we have a friendly amendment. Does anybody else want, well, I'll second that, that motion. Are there any further comments?

(No response.)

CHAIRMAN MAY: Okay, hearing none, all those in favor, please say aye.

(Chorus of ayes.)

CHAIRMAN MAY: Opposed?

(No response.)

CHAIRMAN MAY: None, okay. So we've got that one down, too. Moving on to the fourth item on the agenda. Okay, the next item on the agenda and the last bill the Commission will review today is H.R. 6291, in which Congressman Don Young introduced on August 2, 2012, to allow donor recognition at the Vietnam Veterans Memorial Center.

Congressman Don Young is not able to be here today and has sent a statement to the Commission which was provided to everyone by email last week.

John Dibble, the Chairman of the Board of the Vietnam Veterans Memorial Fund, provided material for our review earlier this week and is here to speak with us and share a short video presentation.

Why don't you come on up right now. With regard to the video presentation, I mentioned to Mr. Dibble, that we are all fairly familiar with the Memorial Project itself.

It may or may not be worth the time to take right now, I'll leave that up to you, whether you'd like to go ahead with the video presentation or not.

MR. DIBBLE: Mr. Chairman, I guess I would ask if anyone is not familiar, we can show it and alternatively we can send you a DVD which you can play on your own schedule.

I mean I'm always aware when I'm the last speaker on an agenda, people are getting tired. You've had a lot of things going on, and in that spirit, by the way, I'm not going to read these remarks, but I will address the core issue.

This involves H.R. 6291, which is denominated as the Vietnam Veterans Donor Recognition Act. This stemmed from the enabling legislation for the Education Center at the Wall, which has been authorized to be built across Henry Bacon Drive from the Vietnam Veterans Memorial, colloquially called the Wall.

And as part of that enabling legislation it was provided that all the funds had to raised privately and it was also provided that there could be no recognition of donors.

That was actually made as an amendment to the Commemorative Works Act for everything established past the date that this

particular legislation went into effect, which was in 2003.

And applies not just to the Education Center, but to everything else to subject to the Commemorative Works Act. This pending legislation, 6291, amends it so that we could, in fact, recognize donors using, I believe the words are discreet and words like subtle and no corporate logos.

And they would have to be approved by the Secretary of the Interior in consultation with NCPC and the CFA. And if they were not approved, we could resubmit them.

And it would require the submission of a design. Now I think one of the most important things is, this type of recognition is, subtle and discreet recognition would be inside the Educational Center, not outside.

It's going to be inside, it is not outside the structure, itself. By the way,

you all do have a written statement which has all the attached things.

I'm just going to leave you with that. Our reason for seeking this legislation is the practically of raising funds to build anything, from private sources, are such that large corporate donors will not give money unless they receive recognition.

We have been told this by several large corporations, that their corporate policy is they will only make a contribution if they receive recognition.

They are not looking to put their logo in there, they are not looking for any kind of advertising, they simply want their name recognized as a donor. That's just a very practical matter.

Because we have had to raise the funds here privately, it hampers us considerably to not be able to approach these large corporate donors, because we cannot recognize them under the existing legislation.

We simply seek to be able to put a tag line or some very discreet form of recognition inside the Education Center. And it is there so that we can further the fund raising effort.

This is really in keeping with a number of policies and guidelines published by the Park Service. Where there are cooperative partnerships and there's money raised through these cooperative partnerships to do various things with the Park Service.

So it's not something that's a new concept, but it's something that really hamstrings us because of the existing legislation. This 6291 simply seeks to remove that language so that we can do that. I'll be glad to entertain any questions of anyone.

CHAIRMAN MAY: Thanks. I do have one question, I guess it's two part. First of all, the, I think one of the initial discussions that we had on this topic was, it wasn't discussion, but we had an exchange of

letters on this topic, Jan Scruggs written to the Secretary of the Interior suggesting this and asking essentially permission to include a donor wall.

And I think the response was essentially that it's not something that we can do because of the Commemorative Works Act. The letter from Jan Scruggs indicated, and I'm, I can pull out the exact wording of it, but it said essentially that the plaque would, it was seeking a donor recognition plaque to be displayed within the Education Center.

The plaque will not be a permanent part of the structure. So there's nothing, no mention of the permanence of this in the proposed legislation. So I'm wondering if what you're proposing is something that would be a plaque that would eventually be removed or would be removable.

MR. DIBBLE: Well, it's a very good question, Mr. May. I mean we're not talking about carving this in granite, okay? And so

it is a plaque.

My hope would be we would have to remove it to put additional names of corporations who gave us money for an endowment to maintain this very high tech Education Center.

And so, you know, that might be added to. But I, it was never foreseen as something that would be, as I said, engraved in stone. It is literally a plaque that would list the names of those corporations who made substantial donations to the Center.

So I mean it's not, it is not the same as some monuments. I think FDR is one of them where it actually is in stone. We're not seeking to do that. This is inside and it's simply a recognition of corporate donors.

CHAIRMAN MAY: Right. So a follow on to that is that you made reference to doing something that is more or less consistent with the Park Service's guidelines for donor recognition across the country.

Which, of course, doesn't apply in Washington, because of the Commemorative Works Act released some aspects of it, certain types of recognition don't apply.

The Department's guidelines or the Park Service's guidelines for donor recognition typically involves creating a donor recognition plan with the Park and those things typically include a time limitation.

And that the time limitation is, I guess, somewhat proportionate based on, to some extent based on the life of the whatever is being supported, but also in some proportion to what's been given.

And it is, you know, some of the examples that are cited on the website that you pointed out in your testimony are in cases where there was a ten year time limit.

And, you know, we're dealing with major donations there. So, I guess what I wonder is that something that, again, for the sake of being consistent with other Park

Service policy, is that something that you can see happening in this circumstance.

I mean I'm getting the impression that maybe you are since you're saying it's not carved in granite. And maybe it could be something like an electronic donor recognition screen that would cycle through and mention folks.

MR. DIBBLE: We work with the Park Service obviously, I mean we partner with them on all kinds of things including the maintenance of the Wall and the ceremonies there.

So we're very much in that mode. And I think the development of a plan is something that we probably want to do. And I have read that, that there's a time limit that are placed on these things and I think that makes some sense.

As I also said, our hope would be that these donors might make another donation. Because we're already planning for the

maintenance side of, this is a very high tech facility.

It has large screen television displays and interactive things for kids and stuff and so we're really looking ahead that we're going to, it's not just the money to build it and put the initial exhibits in.

So we're hopeful that we'll get continuing donations and that would be part of the plan is, you know, if it was an initial donation, that's one thing, and if it goes on, then we might continue it.

But I also look at that list of donors as probably changing over time.

MEMBER WRIGHT: I have a question. So could you describe any of the gifts as conditional? Are you going to lose money if you don't have a way to acknowledge your donors? I mean this is what happens in museums and non-profits all over the world.

So, have they, has it been a condition precedent of some of your donations?

MR. DIBBLE: Yes.

MEMBER WRIGHT: Yes. And could you give us just some rough idea of what that means, percentage-wise?

MR. DIBBLE: In terms of money?

MEMBER WRIGHT: Yes, if you just were throwing out a number, what would you say is the percentage of your donations is conditional?

MR. DIBBLE: Okay, we have none at this level now, because these corporation place, well, I shouldn't say that. For instance, Time Warner was an initial contributor and contributed 20 million dollars.

Ten million cash and ten million in kind. But we had a lot of corporate donors that we've approached. Because we have a very active fund raising campaign. And they just flatly said, we cannot consider a multi-million dollar contribution unless there's donor recognition, that's part of our

corporate policy.

And so we simply can't even get to that money now.

MEMBER WRIGHT: Got it, okay.

MR. DIBBLE: If this is passed, we plan to go back to them and say, we can give you the recognition. And they're perfectly fine with something that's subtle, discreet, they don't want their corporate logo or anything, but their guidelines, either their charitable trust that they have for the corporation or that their Board has established, require that they have recognition.

Which actually makes a lot of sense. Because we're talking about donations probably at the level of up to ten million dollars.

And that's a substantial portion of the total amount necessary to finish the center. We've raised about half the money, but we're trying to get over the hump.

Because we have enough to build the structure, but these exhibits cost so much, we've got to get the rest of it, and that's an ongoing process.

We need these, we need these corporate contributions.

MEMBER WRIGHT: And your charge includes the ongoing maintenance and operation of the whole facility?

MR. DIBBLE: No, we're simply looking ahead and we've actually talked to the Park Service about this down the pike, because I mean we contribute in partnership to the maintenance of the Wall now.

So we kind of have some experience with that. But we know, once this is built, we're going to have a high tech facility with a lot of visitors and there's going to be maintenance costs.

And this isn't even mowing the grass. This is replacing electronics, upgrading software, things like that. So

we're already looking ahead.

Right now we're just looking at raising the money to finish building and equipping the Center. But this is in the future. But I, you know, I would be less than candid if I didn't say that someone who contributed funds to build it in the first place, is a likely candidate for us to go back and say, we're going to look at you to help maybe endow maintenance.

MEMBER WRIGHT: So you are imagining, you are trying to be poised to supplement the Park Service's funding of this facility for the foreseeable future?

MR. DIBBLE: Yes, a long time.

MEMBER WRIGHT: As a 501(c)(3)? Is that --

MR. DIBBLE: Well, we are a 501(c)(3).

MEMBER WRIGHT: You are, okay.

MR. DIBBLE: And we can establish, I mean we haven't gotten in detailed

discussions, but we can establish a separate endowment under the 501(c)(3) to do this.

MEMBER WRIGHT: That's what I'm asking, yes.

MR. DIBBLE: To contribute money toward the maintenance. Because we're very much aware of the fact that the Park Service, like every government organization, has a limited budget and we plan to work with them.

And I'm not saying that --

MEMBER WRIGHT: Different priorities.

MR. DIBBLE: Yes.

MEMBER WRIGHT: Got it.

MR. DIBBLE: But we're just, that's looking ahead. Right now we want to get the thing built and then we're going to probably come back to these same people and ask them to help maintain it.

MEMBER WRIGHT: Thank you.

CHAIRMAN MAY: Other questions?

MEMBER LUEBKE: Yes, could you

clarify the applicability of the 2003 amendment in this particular case? I'm not quite, and perhaps also this is sort of a thorny issue of interior versus exterior. Is there any, do we feel definitively that this applies to this particular?

CHAIRMAN MAY: Yes, I confirmed that yesterday with our lawyers that they believe quite firmly that the prohibition against donor recognition applies on the interior of this facility.

MEMBER LUEBKE: It applies.

CHAIRMAN MAY: Well, you know, this is such a, again, this has been the day of difficult cases. And, by the way, thank you for your straightforward and easy forthright of laying out of the issue.

And I think everybody understands your mission and what you're trying to do and it's all very, seems very good faith. I think one of the underlying issues here is typological in that we are dealing here with

a memorial center, which is fundamentally, really, about interpretation. Which fundamentally pushes it, maybe into the museum category as opposed to a memorial.

And that's why this is a little bit of an odd duck for everybody. It was at the time of the authorization 2003, and this clearly another, this is a legacy issue now that we're talking about something that probably wants, for you to do what you need to do, you probably do need these higher dollar donors which I'm going to get back to.

The purposes, that I am sure the Smithsonian would sit here and smile knowingly if they listened to this conversation about just how, what their requirements are for donor recognition and how big the letters can be.

I want to sort of get back to the subject at hand, which is the Commemorative Works Act and probably its purpose, which is about national commemoration and a national

story which is told by the American people.

And this is not a chide in any way, but I think the fundamental idea was balancing or protecting this National Mall, this national landscape, commemorative landscape from commercialization.

And fundamentally the danger of corporate donation and recognition is that it amplifies that possibility against what I think is ideally understood to be a very grass roots, bottom up kind of idea, that there's broad based support for whatever is going on.

The danger with the recognition and bringing in the big dollars, is precisely that it concentrates the capacity of a very few people to do what they want in this national narrative.

That's the danger and I believe that's the intent of the law. I wasn't there at the signing, at the drafting of the legislation or the report language, but I'm assuming that's the issue.

So, this is a kind of a sacred space and a sacred, I think that we consider it very highly as a national shared narrative.

And if it can't be funded by individuals, should it be funded by some big corporations, that's the question. I don't know, I sort of don't, at the same time I completely understand what you're trying to do and my Commission has been very supportive of the Center.

And so we're back at one of these head-scratchers where I don't know where, how it applies. Perhaps, under the law, it may actually be fairly clear. But I'm not --

MEMBER LUEBKE: Well, you know, the law that put in the specific donor recognition provision, is the law that authorized the construction of the Center.

It's, you know, those things happened at the same time. And it's, you know, if the, I can't speak to intent at the time, but if the intention was for this

facility to be guided by the Commemorative Works Act in terms of the approval processes and design review and so on, it would be a different sort of circumstance.

Because this, you know, as a facility on the Mall, it's not specifically part of a memorial or its grounds. And one could say that we could have donor recognition in a, within a facility on Park land.

I mean certainly that occurs in some other locations. And it certainly is, the sort of things that we're talking about here are things that are quite present in other institutions operated by other entities.

The Kennedy Center, for example, or the Smithsonian and so on. There is other donor recognition. I mean it is a very odd circumstance.

You know, I think that the biggest concern that we might have is that with other large efforts like this, you know, memorial efforts that are tens or over 100 million

dollars, which we have a few of those.

Raising that kind of money means getting it in larger pieces and that of course triggers the recognition issue. There, it's, the Park Service, generally speaking, does look to outside partners, as well.

Much of the work that the Trust of the National Mall is doing is seeking the same, you know, donations on the same kind of scale.

And, but it's a different thing with a memorial to put the name of various donors on a wall as part of a memorial, is it the same sort of thing that we're talking about here or not?

I don't know, I mean we're not taking a particular position at this moment. We note some of these difficulties with it. I did want to bring out the fact that this is not, that what's proposed in the legislation, is not entirely consistent with our policies, because it's not time limited.

But that maybe something that we might want to recommend. Anyway, we're really in the witness testimony segment of the, do we have further questions of Mr. Dibble?

MEMBER PROVANCHA: I have one question. I think in your remarks, I just want to, there was a follow up question related to applicability. In Mr. Dibble's written statement on Page 4 and 5, it not only references it but it quotes sections of the Park Service Donor Recognition Guidelines which are provided at Attachment 4.

But did I understand you to say those are not applicable? Those Donor Recognition Guidelines are not applicable because of the Commemorative Works Act in this region?

CHAIRMAN MAY: There are certain things that we can do under the normal Donor Recognition Policies, that we cannot do in this region Because of the Commemorative Works Act, yes, that's the case.

For example, a good example is, might be the, you know, we had some donated funds for, well, I'll do a more theoretical example.

But if we had donated funds to do a, to do improvements within one of the parks, we could, we could do that within a building, but we couldn't necessarily do it on a site.

Because it becomes an exterior feature and in effect we're commemorating the corporation or that donor, in that circumstance.

So there's certain things that we can't do, that we might be able to do elsewhere. We can put a plaque on the outside of a building in another area of the country.

MEMBER PROVANCHA: So the references in Mr. Dibble's statement here, should be considered or should be set aside as not applicable?

CHAIRMAN MAY: Well, I think your point is that, we certainly we wouldn't want

something done legislatively, that's not even consistent with the policies.

I appreciate the fact that they actually looked to our policies to try to do something that was consistent with that. I appreciate that. In terms of our discussion, I don't think it matters one way or another.

We need to be thinking about this in terms of when is the point of having the donor recognition prohibition in the Commemorative Works Act, and how does this interact.

MEMBER PROVANCHA: I think I heard FDR was cited as a precedent, a reference, where donors are recognized.

MR. DIBBLE: Just as an example, because I believe they do recognize donors, but that's on a monument, I believe. And this is a wholly different kind of concept.

And if I may address your question, by the way, we're very sensitive to the fact that someone giving money doesn't

control the content of the Education Center.

And, in fact, in terms of total, a percentage of the total money raised, this is, and this is a total guess on my part, no more than 20 percent.

Most of the donated money for this has come in relatively small amounts, from individuals. And there have been some corporate donations of larger amounts, but nothing on that level.

So we, about the biggest connection there is, to a lot of these corporations is that one or more executives are Vietnam Veterans, or the company was involved in the Vietnam War because it made hardware or something else.

And they feel obligated to give some money. But they're not asking that we highlight, you know, the PRC-25 radio.

MEMBER LUEBKE: I mean, I think the issue is as much about the precedent as it is about the, this particular case.

MR. DIBBLE: There's actually kind of an interesting, and I don't want to confuse the issue, but if you actually look at the commemorative work site, the original one, in the definition section the definition of a commemorative works actually excludes anything on the interior of a structure. And then we had the legislation that enabled this that says you can't do recognition.

Which I think probably overrides that in our case, but I mean it's --

CHAIRMAN MAY: It overrides it in all cases. I think that's on, donor recognition on a memorial site, whether it's inside the building or out, is prohibited by that clause.

I do want to point out the FDR donor wall preceded the Commemorative Works Act and it's a controversial issue.

MEMBER LUEBKE: And we have another example, the Martin Luther King Memorial I believe in which, could you explain the

circumstances there?

CHAIRMAN MAY: I wish I could.

(Laughter.)

MEMBER LUEBKE: Well, I think it's, it does exist.

CHAIRMAN MAY: It was not authorized when it was put in. And we are still considering exactly how we're going to address that at this stage. And I cannot say anything more about that.

MEMBER LUEBKE: I'm sorry to bring it up. It raises the question, though, about you have a body, you have this legislation which was vetted and crafted in 2003, and fully considered, and it is of a piece.

And now we're looking at, well, should we be changing it when it was clearly done intentionally. At the same time, we're finding over and over again that there are issues with this question of interior versus exterior, museum versus memorial, sanctity versus information.

You know, equally possible would be, well, we don't want to make a special exemption for this particular case, but we might want to revisit the policy generally for the CWA as a law.

So I feel like on the specific it's, the answer may be no.

CHAIRMAN MAY: I would love to get into that discussion. What I want to do, is I want to wrap up questions for Mr. Dibble.

MEMBER LUEBKE: I'm sorry.

CHAIRMAN MAY: So we can get into the meat of our discussion. So does anybody have any further questions?

(No response.)

CHAIRMAN MAY: Okay.

MR. DIBBLE: Thank you.

CHAIRMAN MAY: Is there anybody else here who would like to testify on this issue?

(No response.)

CHAIRMAN MAY: No, okay. So now --

MEMBER LUEBKE: I'm sorry to jump the gun.

CHAIRMAN MAY: No, that's okay.

MEMBER LUEBKE: What I said earlier.

CHAIRMAN MAY: No, I think that the, this really does go to a core question. Is it, does it make sense to allow or to, for this to be done on this single circumstance because it is a really, truly unique circumstance in ways that we can probably understand and appreciate, but maybe others could not. It's not, you know, it's not everybody can see those fine lines between a Visitor's Center and, a Visitor's Center at a Memorial and the Memorial itself.

Or this facility versus the Martin Luther King Bookstore or the FDR Bookstore, things like that. But I think there is a broader question of whether that prohibition within the Commemorative Works Act is what we really need to address.

MEMBER LUEBKE: Well, what I'm trying to get at is, it appears, and I don't have the 2003 amendment in front of me, but my surmised intent was quite clear not to have the donor recognition and therefore why are we second guessing the will of Congress from nine years ago, so completely when everything was already there and understood what it would be.

However, maybe the experience of the intervening decade is such that we want to revisit the entire question. I don't know, I'm very ambivalent about this.

CHAIRMAN MAY: Right, I do think that as a general statement, it would make sense for this Commission to say, we would note that this legislation proposes something that is contrary to the Commemorative Works Act.

MEMBER LUEBKE: I think it's hard not to.

CHAIRMAN MAY: Right. We could also make comments about how, about what has

happened in the intervening decade since this was initially passed and make a statement that if the Congress were to take action in this regard, that it should be considered in the broader context.

MEMBER SAUM: Well, just right up front I think I should acknowledge that NCPC has some rather longstanding policies directly, that would specifically go against --

CHAIRMAN MAY: And that precedes the Commemorative Works Act amendments?

MEMBER SAUM: Yes, it does.

CHAIRMAN MAY: Right.

MEMBER SAUM: However, it does raise a concern that I've had for a long time, that if we as a people think something is worth commemorating in the Nation's Capital, shouldn't we the people be willing to pay for it.

I mean I'm troubled by this recurring idea that, yes, you can build this,

but we're not going to take any responsibility for it. I mean, and I'm also concerned by the idea of precedent.

That if we, I mean I think that the authorization that created the Visitors Center, is pretty explicit that it is covered by the Commemorative Works Act and the Commemorative Works Act is equally explicit that donor recognition is not allowed.

And so it seems to me that the, unless we're willing to grant exceptions, which will then open the door to every subsequent memorial sponsor to come and ask for similar exceptions because everybody may not be in quite as dire need of the volumes of money that are required for this particular event.

MEMBER LUEBKE: We would be in worse shape.

MEMBER SAUM: Everybody is trying to raise money. And I think that the only other satisfactory alternative is for Congress

to consider whether or not it wants to amend that provision.

MEMBER TURNBULL: And one provision might be a limited scope. It could be not just an open, I mean we don't know. I mean that would be up to them to review and clarify.

CHAIRMAN MAY: Well, certainly if the Congress were to undertake modifying, doing modifications to the Commemorative Works Act, I would expect that there would be consultations with National Park Service and Commission of Fine Arts and NCPC.

How that might occur, and it certainly, it's a logical possibility to consider. Ms. Wright.

MEMBER WRIGHT: I think there is a difference between what's proposed here, inside a building, and putting a plaque on a memorial, number one.

And, number two, as a, I've been in and out of non-profits and worked as a

Museum Curator, actually in this building.

CHAIRMAN MAY: I remember those years.

MEMBER WRIGHT: And it's very difficult to pay for, I mean in the perfect world, we the people should be doing this. But we the people are broke and not, and not going to, we can't, we're, I would imagine, going to be engaged in a pretty robust conversation about the essentials.

And if you talk to a lot of people, they probably wouldn't say that a memorial of any kind, much less an interpretive center for a memorial, is an essential.

So, on the one hand, it seems to me unreasonable to ask, if we the people are not going to pay, and then we're going to, what's that word, hamstring. No, that's a muscle.

What's the, what am I looking for here? Tie the hands of the non-profits who

are stepping in to do the work, right? Trust for the National Mall, comes to mind.

That doesn't seem to make sense to me. So what's a poor non-profit to do?

MEMBER LUEBKE: Reduce scope.

MEMBER WRIGHT: Okay, but that's a different agenda. We may not agree whether this thing is necessary in the first place, but that's water over --

MEMBER LUEBKE: I'm just saying that that's what a non-profit has to do. And it's not really germane. My problem is we had a law in front of us, and we're advising on a law that doesn't make the distinction between inside, outside, memorial, museum.

MEMBER WRIGHT: I get that.

MEMBER LUEBKE: I don't know that have a --

MEMBER WRIGHT: Let me finish.

MEMBER LUEBKE: Okay.

MEMBER WRIGHT: But we've already talked about commenting to Congress about

whether or not the law is reasonable. And it needs to be amended.

I mean I get we don't want, you know, the Fenway Citgo Station sign hanging out on the National Mall. But there are degrees and there's such a thing as description and good taste.

And maybe we're creating a, maybe Congress has inadvertently created a situation which is limiting and we should comment on that.

This idea that all hell is going to break loose, when a precedent is set, just drives me crazy in Washington. Because it's why we don't innovate.

We use it as an excuse not to take risk. And sometimes, you know, I think it's worth asking the question. I'm finished now, thank you.

CHAIRMAN MAY: No, I agree totally with your sentiment about your, an unreasonable fear of precedent. But having

dealt with this particular precedent, over and over again, there are sometimes when the precedent is not, is something to be feared.

MEMBER WRIGHT: I hear you. But the opposite is that we're creating a situation that makes it impossible for public/private partnership to thrive.

CHAIRMAN MAY: Right, and it's, I agree that it makes it more difficult, yes.

MEMBER LUEBKE: Just to add one comment. I actually agree with the comments of my colleague except as they apply. I think that is makes sense as applies to museums and not memorials.

And that's the fundamental flaw in this whole ointment. Is that we had a kind of a hybrid of a problem.

MEMBER WRIGHT: Well, that's the thing, this is a little bit of a weird thing here. I get that we don't want a, you know, Exxon Mobil sign or acknowledgment on a memorial.

That would be tacky and inappropriate. But inside a building? I mean which, in effect, is going to function as an educational institution or as any, as the interpretive hub, it seems to be a different animal.

And not at all uncommon or, I don't know, I'm having word problems. I just think that it's difficult.

CHAIRMAN MAY: I'm sympathetic to that. So, the, I guess I'm interested if others have thoughts on this particular issue, because there is one more issue that I wanted to address, that's specific to this legislation, before we try to sum it up. Anybody else have anything else?

(No response.)

CHAIRMAN MAY: Okay. So one of the requirements in here is that it establishes a process for how the donor recognition would actually occur, the mechanics of it.

And that it would be, it makes it

sound like, okay, there's a donor that needs to be recognized and the Vietnam Veterans Memorial Fund transmits the, you know, who it is and how it would be displayed, to the Secretary, and the Secretary has to consult with the Commission of Fine Arts and NCPC.

And within 15 days, say yes this is fine or no it's not, this is how you should rework it. That process, first of all, creates a completely new process and it is, I think, knowing how difficult it is to get even a meeting with staff of these Agencies to discuss an issue within 15 days, I think that this is a completely impractical requirement.

And I think that even if the, you know, I think it would be appropriate for us to suggest to the Congress that if they were to take action and approve this, putting aside what we say about the broader issue and the Commemorative Works Act, that this process needs to be modified to work better with the normal Commemorative Works Act process.

In other words, I would suggest that if Congress decides that this is the way it shall be, that the approval process should flow with other design approvals that are required before a structure could be built.

MEMBER LUEBKE: Just as a point of process, it's absolutely, if you're going to require a consultation with the actual Commission of Fine Arts, for example, a 15-day turnaround is almost, it's completely impractical.

Maybe 45 would probably be the shortest amount of time. In any case, I agree with your idea that that would have to be revised.

CHAIRMAN MAY: And I think we could offer and the Park Service could assist in drafting, you know, working with the DVMF and others to devise a process that's responsive.

I think the general sentiment here is that they didn't want it to be caught up in endless bureaucratic convolutions. So, and we

wouldn't want that either. But I think we have ways of dealing with this in terms of our process. I don't mean that.

(Laughter.)

MEMBER WRIGHT: That didn't sound good.

CHAIRMAN MAY: We have ways to accommodate the foundation and getting something done. So, I think we have consensus that there should be a statement that this, what's proposed is contrary to the Commemorative Works Act.

I think we have consensus about the process issue, that it needs to be modified to work better with the existing precedent, should the Congress decide to take action on this particular proposal.

And then I think that on the scope of the Commemorative Works Act or the implications for the Commemorative Works Act, I think a statement noting that this exception raises issues for the particular clause of the

Commemorative Works Act with regard to donor recognition and how it is applied on other, in other memorials.

And that it may be appropriate to have further discussions to reconcile that.

MEMBER LUEBKE: I think you should get something, some language in there as it applies to the interior display within a structure who's apparent purpose is didactic or interpretative as opposed to symbolic and commemorative.

So if you can make that, I think you should clarify that no one is supporting going on exterior commemorative at all.

But there's a conceptual issue that needs to be addressed, and could apply.

MEMBER WRIGHT: Well, if the exception was made here that it would be because of these reasons.

CHAIRMAN MAY: Right. I see.

MEMBER LUEBKE: In other words, I don't think anybody is supporting rethinking

this prohibition on donor memorial, recognition on outdoor commemorative works, generally, or specifically.

MEMBER PROVANCHA: Earlier on in our discussion also there was a reference to consideration of time bounding or time limitation. The current language in the proposed legislation talks about permanent statements as opposed to --

CHAIRMAN MAY: Okay, so we can, evolving, changing. And if we were to make a statement in a letter that says that if an exception is made in this circumstance, it would be because it is indoors and because it's a facility that's primarily interpretive in nature rather than commemorative.

And that in order to be consistent with other parts of this policy, it would be best to consider this as something that is time limited.

MEMBER WRIGHT: Hold on, though, because that, if you, you know, that lends

itself to something that could just be kind of, you know, cheesy. Like a little foam core plaque in the lobby, are we talking?

CHAIRMAN MAY: No, no, we're not suggesting anything like that.

MEMBER WRIGHT: How can you say that it's part of a building, but it's temporary. What are we talking about?

MEMBER TURNBULL: Nonstructural.

CHAIRMAN MAY: Well, no, yeah, sort of nonstructural. But it could, the Park Service has done this on many occasions where we have plaques that are installed and then are later removed.

MEMBER WRIGHT: Okay, plaques, fine.

CHAIRMAN MAY: But it could also be, it could be done in electronic form.

MEMBER WRIGHT: Yes.

CHAIRMAN MAY: And it, you know, I guess that's enough. But it's something that would be easily removable.

MEMBER WRIGHT: Fine, you're saying that it can't be carved into the entranceway into the stone.

CHAIRMAN MAY: Right.

MEMBER WRIGHT: Okay, got it.

CHAIRMAN MAY: In fact, the Park Service policies prohibit anything that would become part of the historic fabric of an existing facility or building or whatever.

MEMBER PROVANCHA: That would also give the greatest flexibility if, for some reason, there was a parting of the ways and the sponsor withdrew their support.

CHAIRMAN MAY: Right. Okay, so I think I have enough information to put into a letter. And unless anybody has anything else to add, I would just move that we put that into a letter and circulate it for consideration by the Commission, capturing all of those thoughts that we just discussed.

MEMBER TURNBULL: I will second that.

CHAIRMAN MAY: It's been move and properly seconded, all those in favor?

(Chorus of ayes.)

CHAIRMAN MAY: All those opposed?

(No response.)

CHAIRMAN MAY: Great unanimity across the board all day. Thank you very much. Now we move on to the really exciting part of our day, modifying the bylaws.

So introducing this topic, on April, 2010, the Commission found the existing charter should be updated to reflect the Commission's appropriate relation to the Federal Advisory Committee Act.

Some of us are familiar with the Federal Advisory Committee Act or FACA as it is known. And some Commissions are subject to FACA. This being a Commission made up exclusively of government officials, is technically not subject to FACA, but has adopted the bylaws in the past that essentially subject it to the same rules that

would apply for FACA.

Since those rules were initially adopted, there has been greater, I think, attention on Federal Advisory Commissions and we have the benefit of the General Services Administrations, I guess, advice and management of these issues. And the National Park Service Office of Policy has, which administers Advisory Commissions for the National Park Service, agreed with the Park Service that we should modify the charter and that, I'm trying to summarize here.

We can, we should modify the charter to more adequately illustrate how the Commission meets Department of Interior and Commemorative Works Act requirements.

And so, accordingly, we have developed modified bylaws that follow the model that was adopted by the GSA. I don't want to go into every word that's in here, I'll mention a few things in particular.

The bylaws now detail the

Commission's authority to convene an Advisory Panel of experts on specific subjects, where needed, when it come to determine preeminent and historic lasting significance when considering memorials for proposed Area 1 placement.

It discusses when and how Commission members may discuss issues with memorial sponsors. This is an issue that's come up in the past where individual memorial sponsors have contacted members of the Commission and it's not been clear whether those communications were appropriate.

And we do clarify that those Commissions, when it's a matter of providing information to members of the Commission for their use in deliberations by the Commission are appropriate provided, and the only provision there is that when such individual meetings take place, that they be mentioned in due course during any kind of deliberation on the subject matter that has been discussed.

In other words, if somebody wants to meet with you individually, you are empowered to do so, but you should report that to the full Commission. And it should be a matter of exchange of information rather than an attempt to be persuaded on a particular position.

There are other changes to how the Commission is administratively managed and other operating procedures like determining a quorum, clarifying the Advisory Council's participation and the agenda, is it developed and so on.

So, having done that and assuming that you all have spent hours studying this and have your own distinct thoughts about how this would go, do we have any comments specifically on these bylaws?

Or, if not, we could certainly, we could vote to approve, we can approve the amendments or we could take it back for further revision, as appropriate.

So, I'll open it up for any kind of comments.

MEMBER PROVANCHA: I was impressed. It looks like a lot of the language was lifted and imported exactly from the two-page charter. I have a version that was signed by Mr. May in November of 2009, and it looks like in just a couple of cases there's some new language or expanded language, such as in the authority paragraph.

It talks about being an Advisory body. I think many of those things are very helpful. There's a new element at the bottom of Page 1, about being a consultant and reporting requirements are new.

There's several procedural clarifications in the Administration Section, and so forth. The only two that I could not find was one called Designated Federal Official.

Is there no longer a need to put that language in the new bylaws?

CHAIRMAN MAY: Designated Federal Official appearing in the original bylaws, hold on a second. I'm not sure. Ms. Young, do you want to, I think you need to be on a microphone, so maybe you need to come to the table here.

MS. YOUNG: That is a FACA entity, a Designated Federal Official and also a Committee Management Official.

When the determination was made that we were no longer subject to the Federal Advisory Committee Act, we no longer had those officials.

So there are things that those officials do for the Committee that the bylaws now give it to the Chairman and the Secretary, rather than a Designated Federal Official or Committee Management Official, because we just don't have that.

MEMBER PROVANCHA: So the document that was provided in our package, an example of FACA bylaws is just for reference, general

information?

MS. YOUNG: Yes, yes.

MEMBER PROVANCHA: The reason I'm asking is it has a couple of things, it talks about open meetings, closed meetings and the voting procedure which, again, are not currently in the proposed bylaws.

MS. YOUNG: Well, we didn't put the open/closed meetings because there's a provision in the bylaws that there are no closed meetings, so that's not in there.

MEMBER PROVANCHA: Okay. And the last question had to do with the management meeting and record keeping. There's a reference to 41 CFR 102, and I didn't find that reference.

There's instead a different reference, 41 Part 102, OBE moved, no longer applicable.

MS. YOUNG: No, it's applicable to the Department of Interior. That's one of the Department of Interior requirements, how we're

supposed to keep records.

MEMBER PROVANCHA: And was there also a requirement, something about reporting to the Secretary of the Interior, some language along that line?

MS. YOUNG: The Commission reports to the Secretary. That's part of the original charter requirement and without, we're not being chartered by the Secretary of Interior, that requirement is not there any longer.

So what we're doing is we're writing the minutes and reporting to Congress and keeping the records that way.

CHAIRMAN MAY: Thank you. Other comments, questions? I'm not seeing anybody lean forward to the microphone. So, then I would entertain a motion to approve the bylaws as they have been drafted.

MEMBER SAUM: I move that we approve the bylaws as amended.

CHAIRMAN MAY: Okay.

MEMBER LUEBKE: Seconded.

CHAIRMAN MAY: Properly moved and seconded, any further discussion?

(No response.)

CHAIRMAN MAY: All those if favor please say aye.

(Chorus of ayes.)

CHAIRMAN MAY: Excellent, thank you. We're just zipping along here. Okay, so we're coming to our closing moments here under other business.

Next we'd like to recognize, well, Christine Saum and I think I'll turn things over to you and you can do the next item.

And I will pass out the material that has been provided.

MEMBER SAUM: Some of you are aware that NCPC has been doing research on commemorative works in the Nation's Capital. Working with members of the Park Service, we have done a lot of research on what things we have memorials to and how those memorials were developed, subject matter, process.

And all of that information has been summarized in this document in front of you, which has been prepared in partnership with the Park Service and in consultation with a number of other government agencies, including the Commission of Fine Arts.

And I'm not going to go through it, I'd like to introduce Lucy Kempf, who is the staff member at NCPC, who has been heading up this effort.

And Glenn DeMarr, I think, has worked with Lucy a lot, too. And I just want to invite you to review this so that, you know, take this home, look at it.

I hope that we will have an opportunity to talk about it at a future meeting.

CHAIRMAN MAY: This is a report that, I think, well was just recently presented to NCPC, so a number of us have seen it already.

It's an excellent compilation of

information all about memorials and it's a good follow on the museums and memorials master plan.

It lays out some ideas about how we might move in the future. So it's, I think it's a very helpful step, certainly for us, and we appreciate all the work that NCPC has done and Lucy, in particular, in getting that done. Any other comments on this?

MEMBER LUEBKE: I certainly participated in consultation and thrilled to see the product come out and thanks, it's a very valuable effort for us to see what's ahead.

CHAIRMAN MAY: Okay, thank you very much. Do any other members have any other business to bring up?

(No response.)

CHAIRMAN MAY: Okay, I have one other thing to mention, which is that this meeting will mark the last time that Nancy Young is with us as the Secretary of the

Commission.

And I just want to say how much I personally appreciate all of her service. She's been doing this work for the Commission for 25 years, believe it or not.

And it really is great because all the things, all the information that you got in advance, and all of the analysis is all Nancy's hard work and preparation and I certainly appreciate all that she has done for us. And Nancy doesn't know this, but immediately following adjournment, we're going to go have some cake.

(Laughter.)

CHAIRMAN MAY: Anyway, thank you very much. Anybody else have anything else to say, before we adjourn?

(No response.)

CHAIRMAN MAY: Okay, let's see if I can hit it hard enough to satisfy. Thank you.

(Whereupon, the above-entitled matter was concluded at 3:26 p.m.)

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C E R T I F I C A T E

This is to certify that the foregoing transcript

In the matter of: National Capital Memorial Advisory Committee Meeting

Before: National Park Service

Date: 11-07-12

Place: Washington, DC

was duly recorded and accurately transcribed under my direction; further, that said transcript is a true and accurate record of the proceedings.

Neal R Gross

Court Reporter