

**MINUTES**  
**WAR MEMORIAL BOARD OF TRUSTEES**  
**REGULAR MONTHLY MEETING**

**Thursday, November 8, 2007**

The Board of Trustees of the War Memorial of San Francisco met in regular session at 2:00 p.m. on Thursday, November 8, 2007, in the Trustees' Board Room, War Memorial Opera House, President Horn presiding.

**ROLL CALL**

Present: President Horn, Vice President Bechtle, Trustee Bashford, Trustee Davis, Trustee Farrow, Trustee Jarman, Trustee Myatt, Trustee Pelosi and Trustee Tsakopoulos-Kounalakis;

Absent: Trustee Moscone and Trustee Shultz.

Staff Present: Elizabeth Murray, Managing Director  
Gregory Ridenour, Assistant Managing Director/Executive Secretary

**APPROVAL OF MINUTES**

President Horn called for approval of the minutes of the October 11, 2007 regular meeting of the Board. On motion of Trustee Farrow, seconded by Trustee Bashford, the minutes were unanimously approved.

**PRESIDENT'S REPORT**

**San Francisco Opera General Director - David Gockley:** President Horn welcomed David Gockley, General Director the San Francisco Opera, who asked to address the Board on the Opera's progress towards expanding and implementing its audio/video recording and broadcast initiatives.

Mr. Gockley thanked War Memorial Trustees and staff for their support in the Opera's incorporating new technology into Opera productions, making it possible to enhance Opera House audience experience and expand programming into the community. Mr. Gockley reported that the Opera's live simulcasts in Civic Center and other locations, and most recently at AT&T Park, were very successful and noted that other venues have approached the Opera about live simulcasts to additional locations. He also reported that the introduction of *Opera Vision* in June 2006—live video of the performance projected onto screens visible from balcony seating sections—received a 75% approval rating, and the Opera is currently using *Opera Vision* for three performances of each fall season production. Mr. Gockley added that the Opera is reviewing possibilities for slightly relocating *Opera Vision* screens to address sightline concerns expressed by patrons seated in the front of the balcony circle.

Mr. Gockley stated that as planned, the Opera has established in-house video production capability with their capital investment of constructing an A/V suite, making it possible for the Opera to dramatically extend its audience by offering Opera productions in multiple formats and markets. He said the Opera is currently working with its unions towards establishing a partnering arrangement that will enhance both the art form and workers and which will further establish San Francisco as a cultural destination. Mr. Gockley stated that he looks forward to updating the Trustees on these plans in the near future.

**American Legion War Memorial Commission – New Chairperson:** President Horn reported that the American Legion War Memorial Commission, at its October 2007 meeting, elected LeRue Grim as Chair of the

Commission, succeeding Greg Corrales who served as Commission Chair for the last two years. On behalf of the Board, President Horn extended congratulations to Mr. Grim, and noted that the Board of Trustees looks forward to continuing its work with Mr. Grim and the Commission in the coming years.

### MANAGING DIRECTOR'S REPORT

Ms. Murray followed up on questions raised by Trustees at last month's meeting regarding staff's presentation of rental requests for Board consideration. She clarified that staff's presentation of one or more rental request as "routine" is intended to inform the Board that the prospective licensee has satisfactorily completed and submitted the War Memorial's standard license agreement; that the War Memorial has confirmed availability of the facility for date, time and use requested; and that the proposed rental is based on standard rental rates, policies, terms and conditions. She noted that if and when this is not the case, for example if a prospective licensee is requesting a modification to, waiver of, or special condition on, a proposed rental use, staff informs the Board on the rental request document and/or verbally when the rental request is presented.

Ms. Murray noted that as requested by the Board at the last meeting, staff reviewed previously issued City Attorney opinions for relevant references or clarification concerning rental uses of the War Memorial facilities for activities which may be inconsistent with the intent of the War Memorial Trust Agreement, and that staff found no applicable references or advice. Ms. Murray stated that she conferred with Deputy City Attorney Adine Varah on questions and concerns raised by Trustees and reported that Ms. Varah provided verbal advice regarding the constitutional prohibition against viewpoint-based discrimination in City rentals of its facilities for expressive activities. In summary, Ms. Varah advised that under the First Amendment of the U.S. Constitution, when a government entity, like the War Memorial and Performing Arts Center, elects to make its facilities available to the public for expressive activities, including gatherings of community groups, nonprofit performing arts groups and others, it cannot restrict access to such facilities based on the viewpoint of speakers or groups. Ms. Murray added that the approval by this Board of any rental request does not signify the Board's endorsement of the renter or of the renter's rental activity.

In discussion, Trustee Myatt referred to the purpose of the War Memorial as stated in the War Memorial Trust Agreement, and said he believes the Trustees should be advised if a proposed rental is to raise funds for a purpose that may be inconsistent with the Trust Agreement. Trustee Pelosi stated that event presentors typically know in advance how much they plan to charge for tickets and if their ticket proceeds are going to benefit something other than their own organization. He said he believes this information is useful, and Trustees should know if and for what purpose funds are being raised from a rental use of the War Memorial.

Ms. Murray stated that the War Memorial's standard rental application does not currently ask for information about distribution of ticket proceeds, but said she believes it would be possible to modify the rental application and request prospective licensees to state if and for what purpose any proceeds from their proposed rental will benefit someone/something other than their organization. She added that staff could then include this information on the monthly rental request documents provided to Trustees.

Following further discussion, President Horn asked staff to again confer with the Office of the City Attorney to determine what modifications, if any, could be made to the War Memorial's rental application and/or license agreement, that would address the issues raised and provide appropriate information for Trustees' consideration of rental requests.

**Rental Requests:** Ms. Murray reported that rental requests as mailed to Trustees, which were corrected and re-distributed to Trustees at the start of today's meeting, are routine and requested their approval. On motion of Trustee Myatt, seconded by Vice President Bechtle, the following resolution was unanimously adopted:

#### RESOLUTION NO. 07-43

RESOLVED, By the Board of Trustees of the War Memorial of San Francisco that the following rental requests are hereby approved:

**HERBST THEATRE**

Florante Aguilar An Evening of Harana & Kundimau	September 20, 2008	\$1,100.00
San Francisco Opera Center Adler Master Class with Donor Observation	March 27, 2008	\$500.00
Another Planet Entertainment Magnetic Fields	February 28, 29, 2008	\$2,200.00
Sacred Heart Cathedral Preparatory Spring Music Rehearsal and Performance	May 6, 7, 2009	\$1,260.00
California Academy of Sciences 2008 Conversations at the Herbst	January 3, 2008 February 19, 2008 March 5, 24, 2008 April 28, 2008 June 9, 2008	\$3,780.00

**Additional Rental Requests:** Ms. Murray reported that additional rental requests as submitted are routine and requested their approval. On motion of Trustee Shultz, seconded by Vice President Bechtle, the following resolution was unanimously adopted:

**RESOLUTION NO. 07-44**

RESOLVED, By the Board of Trustees of the War Memorial of San Francisco that the following additional rental request is hereby approved:

**HERBST THEATRE**

Richmond Ermet AIDS Foundation Help is on the Way X	December 7, 2008	\$630.00
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**Final Report of Revenue and Expenditures for FY 2006-07:** Ms. Murray stated that in advance of today's meeting Trustees received a copy of the War Memorial's Final Report of Revenue and Expenditures for Fiscal Year 2006-07, which ended June 30, 2007. She stated that the War Memorial began fiscal year 2006-07 with a budgeted deficit of \$188,000, which was covered and back-filled by use of War Memorial Special Fund balance. She reported that due to actual earned revenue exceeding budgeted revenue by \$164,000, and operating expenditures under budget by \$323,000, the War Memorial ended fiscal year 2006-07 with an operating savings of \$299,000, which amount will accrue back to the Special Fund balance for use to cover subsequent fiscal year shortfalls or capital project funding. Ms. Murray commented on primary areas of expenditure savings including workers compensation and scavenger service fees; and noted significant revenue overages from Opera House outside rentals and Herbst Theatre rentals, acknowledging the outstanding work of the War Memorial's Booking Administrator, Jennifer Norris in increasing facility rentals. Following discussion and on motion of Vice President Bechtle, seconded by Trustee Farrow, the following resolution was unanimously adopted:

**RESOLUTION NO. 07-45**

RESOLVED, By the Board of Trustees of the War Memorial of San Francisco that it hereby approves the War Memorial Final Report of Revenue and Expenditures for Fiscal Year 2006-07.

### **SECRETARY'S REPORT**

**Revenue, Appropriations and Status of Building Projects Reports for October 2007:** Mr. Ridenour referred to the Revenue, Appropriations, and Status of Building Projects Reports for October 2007, and requested a resolution to approve housekeeping expenditures as submitted. On motion of Vice President Bechtle, seconded by Trustee Myatt, the following resolution was unanimously adopted:

#### **RESOLUTION NO. 07-46**

RESOLVED, By the Board of Trustees of the War Memorial of San Francisco that Purchase Order Nos. WM080152 through WM080202 and Revenue Transfer Nos. RAWM08000020 and RAWM08000026 are hereby approved.

### **MISCELLANEOUS CORRESPONDENCE**

President Horn stated that Trustees have received copies of letters to the Trustees from the Alexander Hamilton Post #448 of the American Legion and from LeRue Grim, Chair of the American Legion War Memorial Commission, concerning planning and relocation issues relating to the Veterans Building Seismic/Life Safety Upgrade project. President Horn referred these letters to War Memorial staff for review and consultation with the Office of the City Attorney, and he requested staff to report back to the Board on these issues.

### **PUBLIC COMMENT**

Wallace Levin, County Veterans Service Officer, Vice President of the Veterans Affairs Commission, and Commander of American Legion Post #244, reiterated the concern he expressed to Trustees last month that some of the exhibits in the Arts Commission Gallery on the first floor of the Veterans Building have content that may not be suitable for young children and may not be appropriate for installation in a building that serves as a memorial to veterans.

### **ADJOURNMENT**

There being no further business, President Horn adjourned the meeting at 3:00 p.m.

Gregory P. Ridenour  
Executive Secretary