

STEAK & SHAKE CO
Form DEF 14A
December 18, 2006

**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549**

SCHEDULE 14A INFORMATION

Proxy Statement Pursuant to Section 14(a) of the Securities Exchange Act of 1934

Filed by the Registrant
Filed by a party other than the Registrant

Check the appropriate box:

- Preliminary Proxy Statement
- Confidential, for Use of the Commission Only (as permitted by Rule 14a-6(e)(2))
- Definitive Proxy Statement
- Definitive Additional Materials
- Soliciting Material Pursuant to Section 240.14a-12

The Steak N Shake Company
(Name of Registrant as Specified In Its Charter)

(Name of Person(s) Filing Proxy Statement, if other than the Registrant)

Payment of Filing Fee (Check the appropriate box):

No fee required

Fee computed on table below per Exchange Act Rules 14a-6(i)(4) and 0-11

- 1) Title of each class of securities to which transaction applies:
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- 3) Per unit price or other underlying value of transaction computed pursuant to Exchange Act Rule 0-11 (set forth the amount on which the filing fee is calculated and state how it was determined):
- 4) Proposed maximum aggregate value of transaction:
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Fee paid previously with preliminary materials.

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- 1) Amount previously paid:
 - 2) Form, Schedule or Registration Statement No.:
 - 3) Filing Party:
 - 4) Date Filed:
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THE STEAK N SHAKE COMPANY

**NOTICE OF ANNUAL MEETING OF SHAREHOLDERS
TO BE HELD FEBRUARY 7, 2007**

TO THE SHAREHOLDERS OF THE STEAK N SHAKE COMPANY

NOTICE IS HEREBY GIVEN that the Annual Meeting of Shareholders of The Steak n Shake Company (the "Company") will be held on the 10th floor of the Columbia Club, 121 Monument Circle Indianapolis, Indiana on Wednesday, February 7, 2007 at 1:30 p.m., Eastern Time, for the following purposes:

1. To elect eight directors to serve until the next Annual Meeting of Shareholders and until their respective successors are elected and qualified;
2. To ratify the selection by the Audit Committee of the Board of Directors of Deloitte & Touche, LLP as the Company's independent auditors for the fiscal year ending September 26, 2007;
3. To approve the 2007 Non-Employee Director Restricted Stock Plan; and
4. To transact such other business as may properly come before the meeting and any adjournment thereof.

The Board of Directors has fixed the close of business on December 5, 2006 as the record date for the determination of shareholders entitled to notice of and to vote at the Annual Meeting.

We urge you to sign, date and mail the enclosed proxy in the envelope provided or to vote via the telephone or internet (pursuant to instructions contained on the Proxy card) whether or not you expect to be present in person. You may revoke your proxy at any time prior to the time the proxy is exercised by filing with the Secretary of the Company a properly executed instrument revoking such proxy, by filing a properly executed proxy bearing a later date, or by attending the Annual Meeting and withdrawing your proxy and voting in person.

By Order of the Board of Directors

David C. Milne, Secretary
December 18, 2006
Indianapolis, Indiana

**PLEASE SIGN AND DATE THE ENCLOSED PROXY CARD AND RETURN
IT PROMPTLY IN THE ENCLOSED ENVELOPE OR CAST YOUR
VOTE VIA TELEPHONE OR INTERNET IN ACCORDANCE
WITH THE INSTRUCTIONS ON THE PROXY CARD**

THE STEAK N SHAKE COMPANY
500 Century Building
36 South Pennsylvania Street
Indianapolis, Indiana 46204
(317) 633-4100

PROXY STATEMENT
For the Annual Meeting of Shareholders
To be held February 7, 2007

This proxy statement is furnished to the shareholders of The Steak n Shake Company (the “Company”) in connection with the solicitation by the Company of proxies to be voted at the Annual Meeting of Shareholders (the “Annual Meeting”) to be held at the 10th floor of the Columbia Club, 121 Monument Circle, Indianapolis, Indiana on Wednesday, February 7, 2007 at 1:30 p.m., Eastern Time, and at any adjournment thereof. This proxy statement and the accompanying form of proxy were first mailed to shareholders on or about December 18, 2006.

Each properly executed proxy returned prior to the meeting will be voted in accordance with the directions contained therein. The enclosed proxy may be revoked by the person giving it at any time before it is voted by giving written notice to the Secretary of the Company or by attending the Annual Meeting, withdrawing the proxy and voting in person.

OUTSTANDING COMMON STOCK

The record date for shareholders entitled to vote at the Annual Meeting was December 5, 2006. At the close of business on that date, the Company had issued and outstanding 28,203,032 shares of Common Stock entitled to vote at the Annual Meeting.

ACTION TO BE TAKEN AT THE ANNUAL MEETING

Unless the shareholder otherwise specifies in the proxy, the accompanying proxy will be voted (i) FOR the election, as directors of the Company, of the eight persons named under the caption “Election of Directors”; (ii) FOR the ratification of Deloitte & Touche, LLP as the Company’s independent auditors for the fiscal year ending September 26, 2007; and (iii) FOR the approval of the 2007 Non-Employee Director Restricted Stock Plan.

QUORUM AND VOTING

The presence, in person or by proxy, of the holders of a majority of the outstanding shares of Common Stock is necessary to constitute a quorum at the Annual Meeting. In deciding all matters presented for approval at the Annual Meeting, a holder of Common Stock is entitled to one vote, in person or by proxy, for each share registered in his/her/its name on the record date. Directors of the Company are elected by a plurality of the votes cast by the holders of the shares of Common Stock represented at the meeting. Abstentions, broker non-votes and instructions on the enclosed form of proxy to withhold authority to vote for one or more of the nominees will result in the nominee receiving fewer votes; however, it will not affect the outcome of the election. Approval of the proposal to ratify the selection of the auditors will occur if it receives more votes cast in its favor than are cast in opposition to it. Abstentions and broker non-votes with respect to this proposal will not be counted as votes for or against it. The approval of the 2007 Non-Employee Director Restricted Stock Plan will require that the number of votes cast on such proposal represent more than 50% of the votes entitled to be cast, and a majority of the votes cast must vote in favor of such proposal, in accordance with the listing standards of the New York Stock Exchange. Abstentions with respect to this proposal will be counted as votes cast and will have the same effect as a vote against this proposal. Broker

non-votes will not be considered as votes cast on this proposal but could affect the requirement that the number of votes cast on such proposal represent more than 50% of the votes entitled to be cast.

SHAREHOLDER PROPOSALS

The Company's bylaws require shareholders to provide advance notice prior to bringing business before an annual meeting or to nominate a candidate for director at the meeting. In order for a shareholder to properly bring business or propose a director at the 2008 Annual Meeting, the shareholder must give written notice to the Company at the address on the front page of this proxy statement. To be timely, a shareholder's notice must be received by the Company on or before August 18, 2007, or in the event that the date of the meeting associated with this notice is changed more than 30 days from February 7, 2007 such notice must be delivered or mailed to and received by the Company not later than 120 days prior to the date the Company mailed proxy materials for the preceding year's annual meeting or 10 calendar days following the date on which public announcement of the date of the meeting is first made. These procedures apply to any matter that a shareholder wishes to raise at the 2008 Annual Meeting, other than those raised pursuant to 17 C.F.R. §240.14a-8 of the Rules and Regulations of the SEC. A shareholder proposal that does not meet the above requirements will be considered untimely, and any proxy solicited by the Company may confer discretionary authority to vote on such proposal.

OWNERSHIP OF COMMON STOCK

The following table shows the number and percentage of outstanding shares of Common Stock beneficially owned as of December 5, 2006 by each person or entity known to be the beneficial owner of more than 5% of the Common Stock of the Company:

Name & Address of Beneficial Owner	Amount and Nature of Beneficial o Ownership	Percent f Class
MSD Capital, L.P. MSD SBI, L.P. 645 Fifth Avenue, 21 st Floor New York, NY 10022-5910	2,782,300 ⁽¹⁾	9.80%
Neuberger Berman, Inc. 605 Third Avenue New York, NY 10158	1,695,146 ⁽²⁾	6.00%

(1) This information was supplied on a Schedule 13F-HR filed with the Securities and Exchange Commission on November 14, 2006. MSD Capital, L.P. and MSD SBI, L.P. share voting and investment power over the reported shares.

(2) This information was supplied on a Schedule 13G filed with the Securities and Exchange Commission on February 15, 2006. Neuberger Berman, Inc., Neuberger Berman Management, Inc. and Neuberger Berman, LLC share voting power over the shares.

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The following table shows the total number of shares of Common Stock beneficially owned as of December 5, 2006, and the percentage of Common Stock so owned as of that date, with respect to (i) each director, (ii) each executive officer named in the Summary Compensation Table, and (iii) all directors and executive officers, as a group:

Name of Beneficial Owner	Amount and Nature of Beneficial Ownership (1)	Percent Class
Jeffrey Blade	45,800 ⁽²⁾	*
Peter M. Dunn	171,900 ⁽³⁾	*
Alan B. Gilman	488,510 ⁽⁴⁾	1.70%
Wayne L. Kelley	82,998 ⁽⁵⁾	*
Charles E. Lanham	392,730 ⁽⁶⁾	1.40%
Ruth J. Person	13,250 ⁽⁷⁾	*
Gary T. Reinwald	209,786 ⁽⁸⁾	*
J. Fred Risk	118,331 ⁽⁹⁾	*
John W. Ryan	28,445 ⁽¹⁰⁾	*
Steven M. Schmidt	2,000 ⁽¹¹⁾	*
Gary S. Walker	82,801 ⁽¹²⁾	*
Edward Wilhelm	0	*
James Williamson, Jr.	227,792 ⁽¹³⁾	*
All directors and executive officers as a group (18 persons) ----	2,011,683 ⁽¹⁴⁾	7.10%

*Less than 1%.

⁽¹⁾ Includes shares that may be acquired pursuant to stock options exercisable within 60 days.

⁽²⁾ Includes 13,800 shares that may be acquired pursuant to stock options exercisable within 60 days.

⁽³⁾ Includes 55,149 shares that may be acquired pursuant to stock options exercisable within 60 days.

⁽⁴⁾ Includes 122,877 shares that may be acquired pursuant to stock options exercisable within 60 days.

⁽⁵⁾ Includes 10,000 shares that may be acquired pursuant to stock options exercisable within 60 days. Also includes 16,351 shares held by Mr. Kelley's late father's estate in a residuary trust, to which he disclaims beneficial ownership.

⁽⁶⁾ Includes 13,250 shares that may be acquired pursuant to stock options exercisable within 60 days. Also includes 21,750 shares owned by Mr. Lanham's affiliate, Hartford Heritage, LLC.

⁽⁷⁾ Includes 13,250 shares that may be acquired pursuant to stock options exercisable within 60 days.

⁽⁸⁾ Includes 59,785 shares that may be acquired pursuant to stock options exercisable within 60 days.

⁽⁹⁾ Includes 13,250 shares that may be acquired pursuant to stock options exercisable within 60 days. Also includes 723 shares owned of record and beneficially by Mr. Risk's wife, with respect to which he disclaims beneficial ownership.

⁽¹⁰⁾ Includes 13,250 shares that may be acquired pursuant to stock options exercisable within 60 days.

⁽¹¹⁾ Includes 2,000 shares that may be acquired pursuant to stock options exercisable within 60 days.

⁽¹²⁾ Includes 34,994 shares that may be acquired pursuant to stock options exercisable within 60 days and 300 shares owned of record and beneficially by Mr. Walker's minor children.

⁽¹³⁾ Includes 13,250 shares that may be acquired pursuant to stock options exercisable within 60 days. Also includes 19,011 shares owned of record and beneficially by Mr. Williamson's wife, with respect to which he disclaims beneficial ownership.

(14) Includes 424,596 shares that may be acquired pursuant to stock options exercisable within 60 days held by all directors and executive officers as a group.

SECTION 16(a) BENEFICIAL OWNERSHIP REPORTING COMPLIANCE

Section 16(a) of the Securities Exchange Act of 1934 sets forth certain filing requirements relating to securities ownership by directors, executive officers and ten percent shareholders of a publicly held company. To the Company's knowledge, based on the representations of its directors and executive officers and copies of their respective reports filed with the Securities and Exchange Commission, all filing requirements were satisfied by each such person during the fiscal year ended September 27, 2006 with the exception of two Forms 4 filed late by the Company on behalf of Mr. Kelley. These Forms 4 reported the reallocation of shares among several trusts resulting from his father's estate, of which he is trustee, as well as sales by his father's estate which were not reported in a timely manner by the estate's broker.

INTERESTS OF CERTAIN PERSONS IN MATTERS TO BE ACTED UPON

All persons standing for election as director were unanimously nominated by the Board of Directors. No person being nominated as a director is being proposed for election pursuant to any agreement or understanding between any such person and the Company.

MISCELLANEOUS

a) Creation and Distribution of Proxies

The entire cost of soliciting proxies will be paid by the Company. In addition to the solicitation of proxies by use of the mails, certain officers, directors and employees of the Company, none of whom receive additional compensation therefor, may solicit proxies by telephone, facsimile or personal interview at the expense of the Company. The Company will also request brokers, dealers, banks and voting trustees, and their nominees, to forward this proxy statement and the accompanying form of proxy to beneficial owners and will reimburse such record holders for their reasonable expense in forwarding solicitation material.

b) Code of Business Conduct and Ethics.

The Company has in place a long-standing code of ethics. It applies to its principal executive officer, principal financial officer and principal accounting officer, as well as all officers, directors and employees. A copy of the Code of Business Conduct and Ethics (the "Code") can be obtained without charge on the Company's web site (www.steaknshake.com) or by written request to the Company at the address on the front page of this proxy statement. If the Company makes any substantive amendment of, or grants any waiver of a provision of the Code, the Company will disclose the nature of such amendment or waiver via its website and in a current report on Form 8-K.

1. ELECTION OF DIRECTORS

Eight directors will be elected to serve until the next Annual Meeting and until their respective successors shall have been duly elected and qualified. All of the nominees are currently directors of the Company and were elected at the Annual Meeting of Shareholders held February 8, 2006 except Mr. Wilhelm, who was appointed to the Board on March 20, 2006.

If any of the nominees named below is not available to serve as a director at the time of the Annual Meeting (an event which the Board of Directors does not now anticipate), the proxies will be voted for the election as directors of such other person or persons as the Board of Directors may designate, unless the Board of Directors, in its discretion, amends the Company's bylaws to reduce the number of directors.

The nominees for the Board of Directors of the Company are listed below, along with the age, tenure as director and business background for at least the last five years for each:

Name	Age	Served As Director Since	Business Experience
Peter M. Dunn	51	2004	Currently President and Chief Executive Officer; President and Chief Operating Officer of the Company from 2002 to February 11, 2004; formerly President, Borden Foods Co., 1997-2001.

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Alan B. Gilman	76	1992	Currently Chairman of the Board of Directors; President and Chief Executive Officer of the Company from 1992 to September 30, 2002; Chief Executive Officer and Co-Chairman of the Company from September 30, 2002 through August 11, 2003; Chief Executive Officer and Chairman of the Company from August 11, 2003 through February 11, 2004.
Wayne L. Kelley	62	2003	Director of Steak n Shake Operations, Inc., a subsidiary of the Company, from 1999 through 2006; President of Kelley Restaurants, Inc., the Company's largest franchisee, from 1988 through 2005; currently employed by the Company in a senior real estate advisory role.
Ruth J. Person	61	2002	Chancellor, Indiana University Kokomo and Professor of Management; President, American Association of University Administrators 2003-2004; President, Board of Directors, Workforce Development Strategies, Inc.; Member, Key Bank Advisory Board - Central Indiana.
John W. Ryan	77	1996	Private investor; Chancellor of the State University of New York Systems from 1996 through 1999; President of Indiana University from 1971 through 1987.
Steven M. Schmidt	52	2005	President & CEO, ACNielsen; EVP, VNU Marketing Information New York, NY; formerly President of Pillsbury Foods, Canada. Has also held senior executive posts with Pepsi-Cola and Procter & Gamble.
Edward W. Wilhelm	48	2006	Currently Chief Financial Officer of Borders Group, Inc.; held a number of senior financial positions at Borders Group, Inc. since 1994.
James Williamson, Jr	75	1985	Private investor.

The Board has determined that all of the nominees standing for election at the 2007 Annual Meeting, other than Messrs. Dunn, Gilman and Kelley, are “independent” within the meaning of the listing standards of The New York Stock Exchange because none of those nominees has, directly or indirectly, any material relationship with the Company. The Board has made these determinations after considering the following:

- 1) None of the independent nominees for director is an officer or an employee of the Company or its subsidiaries or affiliates, nor has been such an employee within the prior three years.
- 2) None of the independent nominees for director has received, nor has an immediate family member of such nominees received during any twelve month period in the last three years more than \$100,000 in direct compensation from the Company, other than director and committee fees and pension or other forms of deferred compensation for prior service.
- 3) None of the independent nominees for director or any member of their immediate family is or within the past five years has been affiliated with the Company’s external auditor.
- 4) None of the independent nominees for director or any member of their immediate family have within the last three years been employed as an executive officer of another company on which company’s Compensation Committee one of the Company’s present executive officers served.
- 5) None of the independent nominees for director is a current employee or has an immediate family member who is a current executive officer of a company that in any of the last three fiscal years has done business with the Company in an amount of \$1 million or 2% of such other company’s consolidated gross revenues.

6)

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None of the independent nominees for director serves as a director, trustee, executive officer or similar position of a charitable or non-profit organization to which the Company or its subsidiaries made charitable contributions or payments in fiscal year 2006 in excess of \$1 million or 2% of the organization's consolidated gross revenues.

THE BOARD OF DIRECTORS RECOMMENDS THAT YOU VOTE “FOR” THE ELECTION OF THE NOMINEES NAMED IN THIS PROXY STATEMENT.

COMMITTEES AND MEETINGS OF THE BOARD OF DIRECTORS

The Board of Directors held five meetings during fiscal year 2006. The Board has five standing committees: an Executive Committee, a Personnel/Benefits Committee, an Audit Committee, a Compensation Committee, and a Nominating/Corporate Governance Committee.

The Executive Committee may, between meetings of the Board of Directors, exercise all of the powers of the Board of Directors except as otherwise provided by law. During the fiscal year ended September 27, 2006, the Executive Committee met three (3) times. Mr. Williamson serves as Chairman and Mr. Risk and Dr. Ryan serve as members of the Executive Committee.

The Audit Committee, among other duties, serves in an oversight role intended to ensure the integrity and objectivity of the Company’s financial reporting process. It operates under a written charter which was approved by the Board, a copy of which is attached hereto as Appendix A and is also available at the Company’s website (www.steaknshake.com) or by written request to the Corporate Secretary at the address on the front page of this proxy statement. The Committee meets with representatives of management and the independent auditors to review matters of a material nature related to auditing, financial reporting, internal accounting controls and audit results. The Audit Committee is also responsible for making determinations regarding the independence and selection of the Company’s independent auditors. See “Report of the Audit Committee,” below. During the fiscal year ended September 27, 2006, the Audit Committee met seven (7) times. Mr. Risk serves as Chairman of the Committee and Mr. Lanham, Mr. Schmidt and Dr. Ryan served as members for the entire year. Mr. Wilhelm was appointed to the Committee on March 20, 2006 and will assume Chairmanship of the Committee on Mr. Risk’s retirement from the Board on February 7, 2007. Each member of the Audit Committee is “independent” as that term is defined in Rule 10A-3 of the Exchange Act and the listing standards for the New York Stock Exchange. In addition, the Board of Directors has determined that Mr. Risk and Mr. Wilhelm qualify as “audit committee financial experts” as that term is defined in Item 401(h)(2) of Regulation S-K.

The Compensation Committee is charged with establishing the compensation for the Company’s Chief Executive Officer and the other executive officers, as well as administering incentive and equity-based compensation plans. See “Report of the Compensation Committee” below. The Compensation Committee met five (5) times during fiscal 2006. Mr. Williamson serves as Chairman of the Compensation Committee and Mr. Lanham, Dr. Person, Mr. Wilhelm, Mr. Schmidt and Dr. Ryan served on the committee during fiscal year 2006. Mr. Wilhelm was appointed on March 20, 2006. Each member of the Committee is “independent” as that term is defined in the listing standards of the New York Stock Exchange. The Committee operates under a written charter approved by the Board of Directors, a copy of which is available on the Company’s web site (www.steaknshake.com) or by written request to the Corporate Secretary at the address on the front page of this proxy statement.

The Nominating/Corporate Governance Committee is charged with making recommendations regarding the nomination of appropriate individuals for election to the Board of Directors, overseeing the Company’s Corporate Governance Guidelines, allocating Board resources to various committees and evaluating the performance of the Board, its Committees and its individual members. Dr. Ryan is the Chairman of the Committee and Messrs. Lanham, Risk and Schmidt served on the Committee during fiscal 2006. During fiscal year 2006 the Committee met five (5) times. The Committee operates under a written charter that was approved by the Board of Directors, a copy of which may be obtained on the Company’s web site (www.steaknshake.com) or by written request to the Corporate Secretary at the address on the front page of this proxy statement. Each member of the Committee is “independent” as that term is defined in the listing standards of the New York Stock Exchange.

The Nominating/Corporate Governance Committee has promulgated Corporate Governance Guidelines, which are available on the Company's web site at www.steaknshake.com. Shareholders may also obtain a copy free of charge by directing a request to the Corporate Secretary at the address on the front page of this proxy statement.

The Nominating/Corporate Governance Committee identifies nominees for director from various sources, including, without limitation, its members, other directors, senior management, shareholders and third party consultants. Candidates are evaluated based on their credentials and the then-current needs of the Board and the Company. Of particular importance are the candidate's experience, judgment, integrity, ability to make independent inquiries, understanding of the Company's business environment and willingness and ability to devote adequate time to Board activities. The Nominating/Corporate Governance Committee will identify nominees who meet specific objectives in terms of the composition of the Board, such as financial expertise, and may take into account such factors as geographic, occupational, gender, race and age diversity. In the past year the Committee used a third party search firm (the "Search Firm") to perform a national search to identify qualified individuals to serve on the Company's Board. Mr. Wilhelm was one such individual identified by the Search Firm. The Search Firm supplied the Board with Mr. Wilhelm's resume and other background information regarding his business and other relevant experience. After Messrs. Gilman, Williamson, Risk and Dunn and Dr. Ryan interviewed Mr. Wilhelm and reviewed the information provided by the Search Firm, it was determined that he brought several attributes that would strengthen the Board. Included among those attributes were the fact that he was a "financial expert" under New York Stock Exchange Listing Standards, had important experience as Chief Financial Officer of a large public company and had extensive experience in the retail industry. Based on these attributes and the feedback resulting from interviews with him, Dr. Ryan nominated Mr. Wilhelm for election to the Board.

Shareholders who wish to recommend to the Nominating/Corporate Governance Committee a candidate for election to the Board of Directors at the annual meeting should send their suggestions to the Corporate Secretary at the address shown on the first page of this Proxy. The Corporate Secretary will promptly forward all such letters to the members of the Committee. In order for director nominations to be properly brought before an annual meeting by a shareholder, timely notice must be given by the shareholder to the Corporate Secretary. To be timely, the notice must be delivered at the above address not less than 120 days prior to the date the Company mailed proxy materials for the preceding year's annual meeting.

Nominations for directors must include the following information: (i) a statement of the nominee's qualifications; (ii) all information required to be disclosed in the solicitation of proxies for elections of directors pursuant to Regulation 14A of the Securities Exchange Act of 1934; (iii) the name and address of the shareholder making the nomination; (iv) a representation that the shareholder is a holder of Company's common stock and intends to appear at the meeting to make the nomination; (v) a description of all arrangements or understandings among the shareholder and the nominee; and (vi) the written consent of the nominee to serve as a director if so elected. Other than the submission requirements set forth above, there are no differences in the manner in which the Nominating/Corporate Governance Committee evaluates a nominee for director recommended by a shareholder.

The Personnel/Benefits Committee makes determinations and recommendations to the Board of Directors regarding personnel policies and employee benefit plans, administers the Company's 401k and Profit Sharing Plan and performs such other functions with respect to personnel and benefit matters as may be requested by the Board. The Personnel/Benefits Committee met two (2) times during fiscal 2006. Mr. Lanham is Chairman of the Committee and Dr. Person and Mr. Kelley are members, together with Mr. Blade, Senior Vice President and Chief Financial Officer, Mr. Reinwald, Executive Vice President, Ms. Crosby, Senior Vice President of Human Resources, and Ms. B. Charlene Boog, Associate Vice President, Administration. Mr. Gilman and Mr. Dunn serve as *ex officio* members of the Committee. Mr. Lanham is not standing for reelection to the Board and will be replaced as Chairm