

MINUTES
NAHBA QUARTERLY TELEPHONE CONFERENCE
THURSDAY, JUNE 15, 2006

Attendance:

Barbara Wessinger, Chairman, South Carolina DOT
Janis Gramatins, FHWA Washington
Bob Black, FHWA Washington
Marshall Wainwright, FHWA Washington
Becky Bennett, FHWA Nevada
Bill Bowman, Nevada DOT
Keith Melvin, South Carolina DOT
Jean Todd, Nebraska DOT
Randy Needham, Right of Way Manager, NDOR
Ken Payne, Assistant Attorney General, NDOR
Ken Erlenbusch, FHWA, South Dakota
J. R. Watson, OAAA
Joe Little, CBS Outdoor (OAAA)
Rod Boehm, Tennessee DOT
JoAnna Campbell, Georgia DOT
Lynn Holschuh, Florida DOT
Juanice Hagan, Florida DOT
Scott Taylor, Missouri DOT
Craig Wood, Missouri DOT
Joyce Musick, Missouri DOT
Kerry Yoakum, Ohio DOT
Tim Anderson, Texas DOT
Kenneth Parmelee, CalTran
Amy Joyce, Oregon

Barbara convened the meeting and thanked everyone for their participation. The following is an overview of the issues discussed.

1. OAC Technical Council, AASHTO Right of Way and Utilities Subcommittee – Scott Taylor updated the participants on the establishment of the OAC Technical Council within the AASHTO Right of Way and Utilities Subcommittee. The NAHBA Board feels that the formation of this Council is a critical step to bring the OAC program into the forefront with AASHTO and will help elevate the voice and mission of NAHBA. Currently, the states of South Carolina, Missouri, Ohio, Maryland, Michigan and Florida are represented on the Council. Terry

Sampson, Right of Way Director for Missouri and Member of the Subcommittee's Executive Board is the Chairman of the Council is encouraging representation on the Council by other interested states. The next meeting of the Council will be held subsequent to the August NAHBA Conference. At that meeting, the Council will begin discussing issues that affect a cross-section of the states' regulatory program. The Executive Board of the Subcommittee will review these issues to identify topics for discussion at breakout sessions at the 2007 AASHTO Right of Way and Utilities Conference in Orlando, Florida.

2. Request was made to FHWA for a workshop to rewrite portions of the 2006 FHWA Guidance Document on Outdoor Advertising Terminology and Inventory Considerations. Juanice Hagan, Florida DOT, raised concerns that the document, as written, could be perceived as being written from an industry perspective; conveys the impression that states are doing content-based regulation; and contains too many details for multiple states. Specific issues of concern have been outlined and submitted via e-mail to FHWA. Janis Gramatins, FHWA, agreed to coordinate with NAHBA on holding a workshop to discuss the need to rewrite sections of the Guidance Document. The Guidance Document can be found at: <http://www.fhwa.dot.gov/realestate/oacguide.htm>.
3. Discussion with FHWA on the status of nonconforming signs with radio transmitters added to the structure. Juanice Hagan asked if FHWA has issued an opinion on this topic. Janis Gramatins does not feel guidance on this specific subject has been issued by FHWA; nevertheless, unofficially, he does believe there may be a distinction between a transmitter feeding a message from a sign (advertising) versus an antenna that is added to a structure for a non-regulatory issue (non-advertising). Joe Little explained that the outdoor advertising industry is exploring technology that determines the audience of a billboard through car radio transmitters. Joanna Campbell, Georgia DOT, submitted an article to NAHBA last May, which was e-blasted to the membership at that time, discussing this technology. Barbara Wessinger will re-blast the article to the membership. NAHBA will continue to monitor this issue and will survey the membership to better understand what is happening nationwide and to analyze existing regulatory language adopted by the states to address these types of transmitters and antennas.
4. The State of Nebraska has an ongoing problem with an individual placing off-premise advertising signs on a trailer and parking it on private property along control routes. When contacted, they simply move the trailer to another location. Texas and Missouri indicated they have had similar problems. Both states have issued, to individuals not complying with state law, up to three notices and have then pursued injunctions through their Court systems.
5. The State of Nebraska has an entity with an on-premise electronic sign that, after several warnings, has again placed off-premise advertising on the electronic sign. South Carolina, Alabama, Florida, Missouri, Utah and Ohio have all had similar

instances (specifically with stadiums and civic centers) and either through court action or mediation have taken the position that if the goods or services advertised on the sign is at the location, the advertising message should be allowed to remain. The question was raised by Nebraska that if a venue was only open for a portion of a year, could the advertisement remain on-site year round. No state participating in the teleconference has litigated that question.

6. Status of Oregon Lawsuit – Amy Joyce gave an update on the status of the Oregon State Supreme Court decision that found the permitting of outdoor advertising signs based on on-premise/off-premise message unconstitutional to their state law. ODOT has petitioned the court for reconsideration of the remedy portion of the Court’s decision. It may be that the final decision will be delayed until the State Legislature addresses the issue in their 2007 session. In the meantime, the State is working on a permitting scheme to address permitting based on whether or not a sign location will benefit from compensation. FHWA has worked closely with the state on this issue and has held to the position that the State is in control of their regulatory program. Barbara will e-mail the membership a copy of the Court’s ruling. NAHBA will continue to monitor this issue.
7. Update on Neutral Stakeholder Meeting – Barbara Wessinger and Janis Gramatins discussed the FHWA Neutral Stakeholder Process that is currently underway. A neutral processor entity has been selected and this independent group will hold, within the next few months, interviews with the OAC stakeholders to gather a list of significant issues that are a concern regarding the outdoor advertising regulatory control program. A report will be submitted by the end of this calendar year. In addition, a notice of this effort will be published by FHWA in the Federal Register. FHWA representatives asked for participation by the states in identifying the big issues and specific recommendations on what needs to be done to address the issues, including those changes that will have to be done legislatively.
8. Update on storage and retrieval of FHWA documents – Jimmy Isonhood is heading the effort to store hundreds of OAC archived documents scanned from FHWA’s files. He will update the membership on the status of this effort at the Annual Conference in August. The archived documents will be shared with the NAHBA membership and FHWA.
9. 2006 Educational Conference – Barbara Wessinger reminded everyone that this year’s conference will be held in Cleveland, Ohio on August 27 through August 30th. The registration form can be downloaded from the NAHBA Web site.

Teleconference was ended at 3:10 p.m.

Juanice M. Hagan
Secretary-Treasurer