

NAHBA/FHWA Bi-Annual Teleconference

October 21, 2014

2:30 pm EST

Board Members Present:

Roy T. Grasse, Chairman from North Carolina
Wendy Knox, Vice Chair from Texas
Rob Jessee, 2nd Vice Chair from Florida
Brooks Glasnapp, Sec/Treasurer from Iowa
Scott Robinson, Host State Chair from Minnesota

FHWA Headquarters:

Dawn Horan – Realty Specialist
Clifford Pearson – Realty Specialist

State Representation:

Connecticut – John Burke
Delaware – Jeff Leonard
Florida – Rob Jessee, Juanice Hughes and others
Illinois – Tim Hoesli and others, FHWA
Iowa – Brooks Glasnapp
Kansas – Bill Simons and other
Kentucky – Heidi Franklin
Louisiana – Denise Elder and others
Massachusetts – Ed Farley and other
Michigan – Melissa Staffeld
Minnesota – Scott Robinson
Mississippi – Group
Missouri – FHWA
Nebraska – Jean Todd
New York – FHWA - Cheryl Malen
North Carolina – Roy Grasse, FHWA- Mike Dawson, Asst-AG-Ebony Pittman
Oregon – Jill Hendrickson
Pennsylvania – John H.
South Carolina – General counsel- Barbara Wessinger
Texas – Wendy Knox, and others, FHWA
Utah – Rod McDaniels

Virginia – Suzanne Ellison and other
West Virginia – FHWA – Jeff Robinette

Affiliate Members

OAAA: Myron Laible and Kerry Yoakum

Chairman Roy Grasse opened the meeting and introduced the board of directors and roll call was conducted by Brooks Glasnapp. FHWA representatives Dawn Horan and Cliff Pearson introduced themselves. A brief bio was shared on their new office director – Virgil Pridemore.

Several topics/questions [following] had been posed by the NAHBA membership and were listed on the agenda for response by FHWA.

Dawn provided an update on the status of the Federal/State Agreement initiative. FHWA supports States who wish to have their FSAs reviewed for possible revision, and new guidance released was intended to clarify the process. States have varied widely on their reception to this initiative.

Cliff addressed a question on whether additional guidelines were available regarding the new inventories that must be created due to MAP-21. He clarified that FHWA does not require an inventory, per se, but it is a logical first step to achieving effective control. Adequate efforts to discover and monitor are necessary. Signs discovered should be incorporated into the regular control systems used by the DOTs subject to their status of conforming or nonconforming. There is no hard date on completion at this time, but since MAP-21 now has almost two years of age on it, some progress should be evident at this point.

Cliff addressed a question of whether we might expect to see any amendments made to MAP-21 [regarding routes subject to control] in the next reauthorization package. Cliff reminded us that his office did not have awareness or opportunity to vet the provisions of MAP-21 prior to October 2012, and that they are certainly not aware at this point of what provisions or revisions might be possible in the next reauthorization bill. Reminder: Funding may expire, but regulation changes remain in effect unless specified otherwise.

Dawn provided a brief synopsis on the history of the Scenic America lawsuit against FHWA (joined by OAAA) challenging the validity of the Sept. 25th, 2007 FHWA guidance on LEDs. After summary judgment was moved by both sides, the case was dismissed with prejudice. Scenic America has appealed. As of this time, the Sept. 25th, 2007 guidance still holds. If the court mandates any change, FHWA will advise the States.

An update on junkyards with respect to MAP-21 was requested and Cliff handled this question. The penalty was reduced from 10% to 7% and the NHS has expanded. States are to achieve effective

control on the expanded NHS. Again, as MAP-21 is now two years old, some forward progress should be evident. Inventory development is a logical first step to achieving effective control.

There was a question regarding changing materials on a nonconforming sign. Since guidance documents have indicated that changing the type of material on support posts (i.e. wood to metal) is not permitted, would this also extend to the type of material used for the face panels? Dawn said that in her opinion, this crosses the threshold into modification, just as it would for the support posts. Like materials need to be used in order to avoid a substantial change in the structure.

There was a question on whether damage calculations on nonconforming signs may factor in used prices for materials for repair work, while using new prices for the hypothetical whole replacement cost [this can greatly affect a sign owner's ability to stay below the cancellation threshold of 50%, or whatever percentage a State uses, in the case of damage]. Dawn's response was a deferral back to the States on that determination in accordance with State requirements, followed by a reminder that nonconforming signs need to remain substantially the same.

During open discussion time, Jean Todd (Nebraska) asked about the proper treatment of LED signs discovered on the expanded portions of the NHS. In particular, she was asking about whether an existing LED operating at intervals not within guidelines should be grandfathered-in, or made to conform to the State's current regulations. Dawn said this is a tough question and they have posed this issue to Chief Counsel. Her recommendation is to not force a change at this time until they have an official position on the matter.

Roy Grasse asked if the States were required to submit an on-premise test to FHWA for approval. Dawn indicated not necessarily, provided the regulations in the CFR were being followed.

Roy reminded the membership of the 2015 NAHBA/AASHTO Conference on April 26 – 30 in Minneapolis, Minnesota.

There being no further business to discuss, the meeting was adjourned. Minutes taken by Brooks Glasnapp.