

Notes from OAC Technical Council Teleconference
Monday, October 19, 2015

Attending

Jim Spalla
Barbara Wessinger
Clyde Johnson
Ron Johnson
Wendy Knox
Kristin White
Evan Rothblatt
Jill Hendrickson
Rob Jessee
Juanice Hughes

Not available for call

Bill Wright
Matt DeLong
Lyle McMillan

The meeting was called to order by Barbara Wessinger, Vice Chair.

(1) Pilot Project with FHWA on moving nonconforming signs impacted by transportation projects – Barbara discussed the need to reformat the Proposal based on input received to date. Prior to redrafting, she asked that the Council members focus on the intent of the Pilot. Originally, we wrote to test relocating on the perpendicular or moving laterally at the same location. Perhaps we should refocus on asking FHWA for the broadest interpretation and negotiate down based on what FHWA would agree to. From discussions with Council members, it appears there are four possible options for relocating the impacted nonconforming sign, all of which would be nonconforming in their new location:

- (a) Relocate to anywhere the department deems appropriate (statewide). In expressing her personal feeling, Barbara feels this is too broad and defeats the intent of the HBA because the sign could be relocated to an area that currently has no signs.
- (b) Relocate to anywhere on the project corridor that caused the impact (project limits).
- (c) Relocate to surrounding property (reasonable distance restriction - adjoining or on same property).
- (d) Relocate to a lateral or perpendicular move from existing sign.

Each option has different consequences. A state may have to amend its laws, rules, and/or procedures in order to work within this proposed pilot.

Clyde indicated he believes we have a better chance securing approval for the Proposal from FHWA if we are looking to simply move the sign back off the right of way.

Following was a discussion on the movement of nonconforming signs to conforming locations, and while this currently can be accomplished by the states and be in conformance with federal

regulations, the intent of the proposed pilot is to utilize 23 USC 502 to test for outcomes from possible statutory and/or regulatory changes (the movement of nonconforming signs to nonconforming locations). This authority extends only to statutory, regulatory and policy provisions under Title 23 of the United States Code. The proposed pilot contemplates a different treatment of nonconforming signs, which has national implications.

Florida and Minnesota expressed that how the Proposal identifies “location” is critical. Both states would prefer as much flexibility (broadest interpretation) to movement as possible since there could be problems relocating a sign on the corridor of the transportation project that is impacting the billboard(s). In addition, concern was raised on the need to establish specific parameters for the movement. Rob interjected that perhaps we should look at a sign not being more nonconforming than at its original location. Examples for parameters would be no movement for nonconforming signs within scenic highway designations and interchange block-out zones. Ron asked if a parameter could be a beautified nonconforming billboard at the new location.

Barbara would like to have the redraft completed within two weeks (November 2nd) in hopes of inviting Dawn Horan of FHWA to the November 19, 2015 teleconference to discuss the draft Proposal. It would be appreciated if the Council members could provide input as soon as possible so these deadlines can be met. Comments should be sent directly to Barbara. Barbara will provide Juanice with advance notice on the participation of Dawn at the November 19, 2015 teleconference.

(2) Reporting format for proposed pilot – Rob reviewed the reporting spreadsheets he designed. The intent is to have a summary sheet that allows for a quick and easy look at the savings attained by the states and supporting spreadsheets for each participating state that goes into deeper detail. The report breaks down the data by state; then by pilot project; and then by each transaction of the pilot. Further, the report is designed to capture:

- Dollar savings – A comparison of the estimate if the state had to acquire compared to an estimate if the state had to pursue through a condemnation hearing.
- Time savings – A comparison of the administrative time saved if relocation was utilized in lieu of a taking.

Discussions centered on the question of time being an appropriate measure to track and if it is, how we capture that data. If we want to average time, do we want to look at days, months, etc.? We have to report consistently for each participating state. Do we estimate what we would have taken to a negotiated settlement vs. a full taking? If we estimate what it would take, we can then measure either because we know the time from first contact to relocation agreement but can we realistically estimate a settlement vs. a condemnation? While everyone, in general, felt that we need to try to get a time measurement because it will be important for us to demonstrate the importance of addressing the nonconforming signs quicker in the process, Kristin indicated she is not sure how we would handle time measurements. If we can measure time it will have to be to OT, as Feds are going to want to know does it speed along the projects vs. going to an OT. Barbara indicated that South Carolina allows nonconforming billboards impacted by transportation projects to relocate with a move off the right of way to a conforming location. We may be able to track those types of moves in the past to get a time measurement. Rob raised a concern of tracking relocation to conforming locations since we are

looking at movement to nonconforming locations in the proposed pilot. He reminded the Council members that we want a change to federal regulations; therefore, how it measures to the constant probably does not matter. Saving time and money is what we want and perhaps we need to look at the constant as the multiplier (i.e., what we have done in the past would take “x” time in order to get to an OT or settlement). Juanice was asked to send the spreadsheets out to the Council members and Barbara asked that comments/suggested revisions be sent to Rob as soon as possible.

It was suggested that the Council also research the impact of the Uniform Act requirements on the payment of relocation claims for billboards impacted by transportation projects. Are we looking at cures vs. relocation costs? Comments should be sent to Barbara.

- (3) Update on NCHRP 20-7 Proposal – Barbara discussed that our project was not approved for funding at the Fall meeting and we have another opportunity to submit for a May 2016 Conference in Iowa. What we do not know at this time is the submission deadline, and Barbara will get with Matt for direction. Once that information is secured it will be sent out to the Council because we need strong grass roots solicitation to dispel any negative comments about proposals relating to outdoor advertising control. Matt was not on the Fall selection committee but he is a part of the Spring committee. Since he is the sponsor of our 20-7 proposal, he may not be able to vote on the project but he can hopefully explain it in detail at the meeting. We need both the Council and NAHBA membership to be advocates for the proposal. Barbara indicated she will prepare an explanation that can be sent to the NAHBA membership and provide that to Wendy. As it relates to the Council, Kristin will prepare and distribute to the Council a spreadsheet of the 20-7 committee members that need to be contacted and Council members can sign up for individuals they will contact.
- (4) New Business - Kristin indicated she would like to see a discussion at the next Council meeting on how the proposed pilot would be impacted by local government ordinances. Bill Wright has also indicated he would like to be on the agenda of the next meeting to discuss the possibility of a pilot project regarding updating state laws.

The next Council teleconference will be at 2:00 PM EST on Thursday November 19, 2015. A GoToMeeting format will be followed.

Everyone was thanked for their participation and the meeting was adjourned.