

MINUTES
MICHIGAN STATE TRANSPORTATION COMMISSION MEETING
April 30, 2009
Lansing, Michigan

Meeting noticed in accordance with Open Meetings Act, Public Act 267 of 1976.

Present: Ted B. Wahby, Chair
 Linda Miller Atkinson, Vice Chair
 Maureen Miller Brosnan, Commissioner
 Steven K. Girard, Commissioner
 James S. Scalici, Commissioner

Also Present: Jackie Shinn, Chief Deputy Director
 Frank E. Kelley, Commission Advisor
 Marneta Griffin, Commission Executive Assistant
 Jerry Jones, Commission Auditor, Office of Commission Audit
 Patrick Isom, Attorney General's Office, Transportation Division
 Greg Johnson, Chief Operations Officer
 Leon Hank, Chief Administrative Officer
 John Friend, Bureau Director, Highway Delivery
 Mark VanPortFleet, Bureau Director, Highway Development
 Wayne Roe, Jr., Administrator, Contract Services
 Ed Timpf, Administrator, Financial Operations
 Rob Abent, Bureau Director, Aeronautics and Freight Services
 Susan Mortel, Bureau Director, Transportation Planning
 Tim Hoeffner, Administrator, Intermodal Policy
 Sharon Edgar, Administrator, Bureau of Passenger Transportation
 Melvin Williams, Administrator, Freight Services and Safety Division
 Bill Shreck, Director, Office of Communications

Excused: Jerrold M. Jung, Commissioner
 Kirk T. Steudle, Director

A list of those people who attended the meeting is attached to the official minutes.

Chair Wahby called the meeting to order at 9:00 a.m. in the Bureau of Aeronautics Auditorium in Lansing, Michigan.

Chief Deputy Director Jackie Shinn paid tribute to Alicia Evans Suber who is retiring after 30+ years of service to MDOT. She served in Public Transportation, Manager of the DBE Program, Office of Economic Development, Special Assistant to former Director, Gloria J. Jeff, and currently as Special Assistant to Jackie Shinn. Most recently she has coordinated the Cities of Promise effort and oversaw the development of RCAR.

Commissioner Atkinson paid tribute to Charles "Chuck" David Erickson who passed away on March 18, 2009. He was one of the longest seated commissioners in the state of Michigan serving the citizens of Dickinson County and Road Commissions across the state for more than 32 years. He was serving as Chairman of the Dickinson County Road Commission at the time of

his death.

I. **COMMISSION BUSINESS**

Commission Minutes

Chair Wahby entertained a motion for approval of the minutes from the joint meeting between the Michigan Aeronautics Commission and the State Transportation Commission of March 26, 2009.

Moved by Commissioner Atkinson, with support from Commissioner Brosnan, to approve the minutes from the joint meeting between the Michigan Aeronautics Commission and the State Transportation Commission of March 26, 2009. Motion carried.

Chair Wahby entertained a motion for approval of the minutes from the regular State Transportation Commission meeting of March 26, 2009.

Moved by Commissioner Scalici, with support from Commissioner Atkinson, to approve the minutes from the regular State Transportation Commission meeting of March 26, 2009. Motion carried.

II. **APPOINTMENTS**

Commissioner Scalici nominated Commissioner Atkinson as Vice Chair of the Commission.

Chairman Wahby entertained a motion to approve the nomination of Commissioner Atkinson as the Vice-Chair to the State Transportation Commission. Moved by Commissioner Scalici, with support from Commissioner Brosnan. Motion carried on a unanimous voice vote.

III. **DIRECTOR'S REPORT – GREG JOHNSON, CHIEF OPERATIONS OFFICER**

Jackie Shinn, Chief Deputy Director, announced that Greg Johnson, Chief Operations Officer, will fill in for Director Steudle. Mr. Johnson's presentation focused on:

American Recovery and Reinvestment Act (ARRA)

The required 120 day obligation (June 29, 2009) is \$296.5 million. By the end of September we will have all of the ARRA projects under obligation. When the obligation window closes and other states have not met their obligation, we have a number of other jobs in the pipeline that Michigan will be ready to insert to capture any dollars that get re-obligated.

Chair Wahby asked if the other states are not ready, how we go about grabbing what is out there.

Mr. Johnson replied that there is going to be a polling of the states to see if everyone has hit their obligation target. For those who have not, those dollars come back into a central pool for states that already have had projects and have met their obligation.

Commissioner Atkinson asked about those states that have already affirmatively rejected ARRA funds—does that move the timetable up or do they just go into the same pool.

Mr. Johnson replied that that 120 day window will stay the same. Right not, we are hearing nationally that most of the Governors who said that they were going to reject stimulus funds were not specifically speaking on transportation issues; they were talking about other things such as unemployment. Most of the DOTs have not come out and said that they were going to reject any transportation dollars coming to their states. It may just be an issue of them not working fast enough to hit that 120 day obligation.

Design/Build/Finance Update – M-21 and I-69

M-21 is a bridge project (Genesee County) in the August 2008 letting. The successful bid was \$7,275,000 million with Dan's Excavating, Inc. as the prime contractor and URS Corporation as the lead designer. Construction start date was December, 2008. Bridge demolition began early April, 2009; completion is expected sometime late this summer.

Chair Wahby asked if the restriction on the amount of bidders that have bid on it affects the pricing of it and how many bidders did they get on this project.

Mr. Johnson asked for Mark VanPortFleet for a response.

Mr. VanPortFleet stated that there were three bidders—they started with five and two backed out during the prequalification phase.

Chair Wahby asked if we were paying a premium to go that way (design/build/finance) over competitor bidding where we go the other way.

Mr. Johnson replied that the second project (I-69) came in approximately \$4 million under the engineers' estimate for the overall design/build and finance portion of it. Right now it seems like there is dollar savings because of the competitive nature of the market. This is not going to be how we deliver the lions share but is a tool used when we have an opportunity to get some things done and we don't necessarily have the immediate dollars to do.

The second project is a portion of I-69 (St. Clair County) in the August 2008 letting. The successful bid was \$38,325,355 million with Interstate Highway Construction Co. as the prime contractor and Rowe Professional Services, Inc. as the lead designer. Construction start date was October 2008 (temporary traffic cross-overs were completed in 2008). Freeway reconstruction work and bridge rehabilitation was started in late April, 2009 and completion is expected around September 15, 2009.

Commissioner Scalici asked, regarding losing two contractors on the M-21 (Genesee County) project, if we lost them because of the design/build/finance or did we just lose them in general.

Mr. Johnson replied that one of the things we heard at the time was that some of the financial institutions were just starting to get into this disaster recognition mode and we

had some folks that were unwilling to come to the table unless this was more of a mega project—they wanted more assurance that this was going to be a money maker for them.

Chair Wahby commented that there was also hesitancy by some banks to participate, but it kind of leveled off once they got more information.

Ms. Shinn added that this has been a mountain of work for the staff to take on with our regular program. The Barrier Buster Team started months in advance on the announcement of this program. Susan Mortel and Mark Chaput from the University Region have been heading up this effort, meeting every week keeping us on track and making sure we are taking advantage of every opportunity. Next month we will be bringing to the Commission our same efforts in the Transit community, rail and those other programs that have been available to MDOT.

Chair Wahby added that during his conversation with the Director, he (Director Steudle) was very complementary of his staff, as we should be because this has been a large undertaking both from the amount of work and also the timeframe he had to deal with.

Ms. Shinn also added that we have been aided very diligently by FHWA staff.

IV. **RESOLUTIONS**

Resolution of the State Transportation Commission Amending the State Trunk Line Fund Bonds, Series 2004/2006 Project List Approved by a Previously Adopted Commission Resolution – Ed Timpf

At the State Transportation Commission meeting held on March 26, 2009, the Commission approved a bond resolution intending to amend the project list. MDOT has afforded the 30-day legislative notification period required by statute and seeks the Commission's approval to finalize the project list changes (Exhibit V).

Mr. Timpf asked for questions and a roll call vote approving this resolution; no questions were forthcoming.

Chair Wahby entertained a motion to approve the Resolution of the State Transportation Commission Amending the State Trunk Line Fund Bonds, Series 2004/2006 Project List Approved by a Previously Adopted Commission Resolution. Motion was made by Commissioner Brosnan and supported by Commissioner Atkinson to approve the resolution. Mr. Kelley called the roll; motion carried on a unanimous vote.

Resolution of the State Transportation Commission Amending the Jobs Today Project List Approved by a Previously Adopted Commission Resolution – Ed Timpf

At the State Transportation Commission meeting held on March 26, 2009, the Commission approved a bond resolution intending to amend the project list. MDOT has afforded the 30-day legislative notification period required by statute and seeks the Commission's approval to finalize the project list changes (Exhibit Y).

Mr. Timpf asked for questions and a roll call vote approving this resolution; no questions were forthcoming.

Chair Wahby entertained a motion to approve the Resolution of the State Transportation Commission Amending the Jobs Today Project List Approved by a Previously Adopted Commission Resolution. Motion was made by Commissioner Brosnan and supported by Commissioner Scalici to approve the resolution. Mr. Kelley called the roll; motion carried on a unanimous vote.

Resolution of the State Transportation Commission Amending the Economic Stimulus Project List Approved by a Previously Adopted Commission Resolution – Ed Timpf

At the State Transportation Commission meeting held on March 26, 2009, the Commission approved a bond resolution intending to amend the project list. MDOT has afforded the 30-day legislative notification period required by statute and seeks the Commission's approval to finalize the project list changes (Exhibit Z).

Mr. Timpf asked for questions and a roll call vote approving this resolution; no questions were forthcoming.

Chair Wahby entertained a motion to approve the Resolution of the State Transportation Commission Amending the Economic Stimulus Project List Approved by a Previously Adopted Commission Resolution. Motion was made by Commissioner Brosnan and supported by Commissioner Girard to approve the resolution. Mr. Kelley called the roll; motion carried on a unanimous vote.

V. **OVERSIGHT**

Commission Agreements (Exhibit A) – Wayne Roe, Jr.

Mr. Roe presented information on 18 agreements. Pending any questions, Mr. Roe asked for approval of Exhibit A.

Commissioner Atkinson questioned the accuracy, regarding Item #18 (Transportation Planning – Jurisdictional Transfer), which indicates that the agreement is between MDOT and the Otsego County Road Commission, but says that “jurisdiction will transfer from MDOT to the Midland County Road Commission...”.

Leon Hank clarified that it is a typo and it should read “jurisdiction will transfer from MDOT *to the Otsego County Road Commission*”, and if it is later determined that it is not correct, he will get the information back to the Commission.

No other questions were forthcoming.

Chair Wahby entertained a motion. Motion was made by Commissioner Atkinson, with the understanding about the memorandum specified in Item #18, and supported by Commissioner Scalici to approve Exhibit A. Motion carried on a unanimous voice vote.

Bid Letting Pre-Approvals (Exhibit A-1) – Wayne Roe, Jr.

Mr. Roe presented information for the May 1 and 15, 2009, bid lettings, 22 State projects with engineers' estimates totaling \$72.4 million are scheduled to be let. Of the 22 State projects, 9 have warranties with engineers' estimates totaling \$61.5 million. Eight of the 22 State projects approved for use of the American Recovery and Reinvestment Act

Program (ARRA) funds have engineers' estimates totaling \$59.8 million. In addition to the State projects advertised in May, 29 Local projects with a total engineers' estimate of \$20.4 million, 5 Aeronautics projects with a total engineers' estimate of \$6.0 million, and 1 Freight Services project with an engineer estimate of \$2.6 million. Pending any questions, Mr. Roe asked for approval of Exhibit A-1.

Commissioner Brosnan commented that she appreciated the breakout of the Jobs Today and ARRA funding. She then asked if this met the reporting requirement for the federal government or is there more beyond that that normally you would report in terms of numbers of jobs created.

Mr. Roe responded that we have considerable efforts that are currently ongoing relative to reporting. We are working very closely with Federal Highway on a daily basis in order to make sure the reports are complete and accurate.

No other questions were forthcoming.

Chair Wahby entertained a motion. Motion was made by Commissioner Brosnan and supported by Commissioner Atkinson to approve the May bid letting. Motion carried on a unanimous voice vote.

Letting Exceptions Agenda (Exhibit A-2) – Mark VanPortFleet

Mr. VanPortFleet provided information on 1 State project that was over the engineers' estimate and is accompanied by a justification memo. Pending any questions, Mr. VanPortFleet asked for approval of Exhibit A-2; no questions were forthcoming.

Chair Wahby entertained a motion. Motion was made by Commissioner Atkinson and supported by Commissioner Girard to approve Exhibit A-2. Motion carried on a unanimous voice vote.

Contract Adjustments (Exhibit B) – John Friend

Mr. Friend briefed the Commission on the ARRA projects as we start the construction and delivery phase. We were approached by FHWA and asked them to be involved in the risk management planning associated with the delivery of the ARRA projects. We reviewed a draft with them, have met with the local units of government (MML, CRAM) to seek input. The risk management plan has a deadline of June 1st. There will be increased oversight by MDOT related to some of the construction quality assurance associated with hot mix and concrete projects. We have a lot of confidence that we can manage this size program, however it is expected that there will be some increase in oversight responsibilities.

Additionally, as the risk management plan is developed and implemented, we are going to have a series of statewide meetings—one for each region—where we will invite our MDOT staff and others associated with ARRA project administration to see exactly what we have to do for that program. You may be hearing something about the risk management plan and our efforts in that area. We will be moving very quickly to get that finalized.

Regarding the performance matrix associated with economic stimulus projects mentioned at last month's meeting, the department will start to include a chart specific for the ARRA projects.

Mr. Friend then provided information for 6 MDOT projects and 2 Local projects. Attention was drawn to MDOT Overrun Item #2009-14 (21 bridges involving joint and header replacement...on I-94...in Jackson and Washtenaw Counties).

Pending any questions, Mr. Friend asked for approval of Exhibit B.

Commissioner Atkinson asked, regarding MDOT Extra Item #2009-034 that which says that it had not previously been before us, if this is the one that was withdrawn in February.

Mr. Friend replied yes.

No other questions were forthcoming.

Chair Wahby entertained a motion. Motion was made by Commissioner Girard and supported by Commissioner Brosnan to approve Exhibit B. Motion carried on a unanimous voice vote.

VI. **PRESENTATIONS**

Transportation Asset Management Council 2008 Annual Report – Carmine Palombo

Mr. Palombo introduced members of the Council: Susan Mortel, Steve Warren, and Brian Sanada (new Council Coordinator). This presentation is shared with Steve Warren.

The Council has accomplished a lot in the last year. We now have five years of road and bridge condition data using a uniform rating system for the entire state. Emphasis has been on training and education. We have increased the scope of the work to not just doing the condition ratings on the federal aid system, as we've been required to do, but the non-federal aid road condition data as well. Time was also spent creating a new Asset Management Bridge Committee (Chaired by Roger Safford, Grand Region) particularly with emphasis on educating local elected officials on the issues of bridges and the importance of maintaining bridges early on in the process so that we can maximize the life on them. Additionally, we have also been working on some Act 51 reform, held the 4th Annual Conference, instituted an awards program, developed a Predictive Model at the statewide level, and contributed to the TF2 Report.

Mr. Warren talked about the data collection. One of the most important things that we have done as an industry (MDOT, CRAM, and MML) on transportation in Michigan, is to come together and agree upon one rating system for our roadways. This is significant because in order to do any type of asset management, you need to know the condition of your asset—what it has been, what it is today, and what it will be in the future. Right now we have information on what it has been over the last 5 years and what it is currently. Our strategy has been investing appropriately at the right time with the right fix.

We evaluate our pavement according to PASER (Pavement Evaluating Rating system). It evaluates the road according to a scale of 1-10 and those ratings are categorized into 3 groups, good (10, 9, 8), fair (7, 6 5) and poor (4, 3, 2, 1). That correlates to not only the condition of the road but the appropriate thing to do to the road at that time. Good pavement really only requires typical routine maintenance (crackseal, minor patching, snow removal), fair requires preventive maintenance (crackseal/patch, surface treatment, non-structural overlay, concrete joint repair) and poor requires rehab/reconstruct (resurface, structural overlay, replace concrete slab, complete reconstruct).

Our roads that are currently in good and fair condition are declining almost at an accelerating rate. Our roads are deteriorating in a much faster rate than we are maintaining or improving them. About two-thirds of our roads were in fair condition in 2004 but dropped to less than 50% by 2008. The condition of most of these roads went into the poor category. We missed the opportunity to make the appropriate investment at a lesser cost. Last year (2008) we reported that 25% of our roads (trunklines, county and city roads) were in poor condition. Now just one year later that has increased to almost 32%. There is a cost for not making the appropriate investments. The total investment to bring everything up to good condition in 2004 was about \$3.7 billion; today it is about \$7.2 billion.

Chair Wahby asked Mr. Johnson if he was correct that, in looking at the state roads, our mission was to have our roads (state roads) in good condition by the end of 2007.

Mr. Johnson stated he was correct.

Chair Wahby further commented that he didn't want to leave the impression that this was everything, so as far as the state is concerned we reached our goal at that time of meeting the 2007 requirements of being at 90% good.

Mr. Warren added that there is information in the report that actually distinguishes the costs between the trunkline freeways, which are generally speaking in pretty good shape as alluded to. It also includes the county primaries and the city major streets which are in much worse condition. So when you roll all that up, this is what you get.

There have been a lot of questions about local roads (non-federal aid roads; MDOT's trunklines are federal aid roads) which are in significantly worse condition when compared to federal aid roads.

Mr. Palombo continued by talking about bridge conditions. The condition of state owned bridges continue to improve, while the condition of local owned bridges continues to decline. The CPM program at the local level would help local bridge conditions.

The Council provides several types of trainings: PASER – 325 participants, Asset Management Workshop – 119 participants, Conference – 228 participants, Asphalt Repair Seminar – 20 participants, Asset Management for elected officials – 307 participants, and Internet Reporting Tool Training – 300 participants.

This year the Council had a Strategic Planning Initiative session that allowed them to prioritize what needed to be done. This session focused on the areas of: Model Asset Management Plan, Awards Program, Predictive Model, New TAMC Bridge Committee, improving the web site, and the revision of Act 51 reporting requirements.

The condition of federal aid system has deteriorated every year for the past 5 years and the rate of deterioration is increasing. Of particular concern is the rate of deterioration of roads in fair condition. Stimulus dollars will help some, but there is no evidence that this trend is going to reverse itself.

Chair Wahby commented that the administration says 2011 is going to be a critical year, especially regarding the requirement for matching funds. Certainly the concern is that we may not have the matching funds available. This is why we need some attention legislatively to find out how we are going to get more funds; otherwise we could stand to lose millions of dollars in funds because we don't have the matching funds.

Mr. Palombo agreed whole heartedly. This data suggests that we could use an influx of those dollars much sooner than 2011 for no other reason than just to ward off what's happening here.

As we've pointed out we have a limited sample of pavement conditions of the non-federal aid roads indicating their condition is worse than federal aid roads. State bridge conditions are improving while local bridge conditions are declining.

There are a few things to look forward to in 2009. We'll be spending more time and budget on trying to get a better handle on the local road pavement condition data. There will possibly be legislation to expand the focus of asset management to additional roadway infrastructure. Additionally we will be working with Michigan Tech on the Predictive Model results.

Chair Wahby asked if local communities can access the information.

Mr. Palombo replied yes; all this information is public.

Chair Wahby commented that this is very valuable information and commended the Council on the work that they've done.

Mr. Palombo asked for questions.

Commissioner Brosnan commented that the strength in the report given every year hinges on participation of our partners at the county level and municipal level supplying data and collecting data. She then asked, given the tough economy that we all find ourselves in, if he has heard or gotten any feedback from those partners that perhaps they are not going to be able to collect this data on an annual basis—maybe to move to a bi-annual basis or something like that because we are not able to look at these numbers unless the data comes in the way that it does.

Mr. Palombo replied that there are two things we run into. One is that our budget has stayed the same as a Council since the inception. It is important for us to continually look at the budget and how we are going to do things cost effectively. Data collection is the biggest part of our budget so we are constantly looking for ways to get more with less, but yet not sacrifice on the data. Now we have a pretty good basis for information particularly on the federal system. Last year was the first year where we went through everybody and said we think we have enough information now from a statistical point of view so rather than do the entire 40,000 mile system we can divide it in half—half one year and half another year. That helps with our budget, helps them with their budget, and with increases in cost such as gas. On the local side we are in the process of putting together a policy that will tell everybody that we will reimburse them once every 3 years for them to collect on local roads.

Commissioner Brosnan stated that it's important to know that they have already given that consideration because she would expect that we would be hearing from our partners that this might not be do-able on an annual basis.

No other questions were forthcoming.

Digital Billboards: Unsafe and Unsightly At Any Speed – Rod Cortright, Scenic Michigan Board Member

Mr. Cortright introduced Abby Dart, Program Director, and Mary Lou Tanton, 1st Vice President of Scenic Michigan. His presentation focused on:

Aesthetic Concerns

Digital billboards are counter to form-based considerations, the brightest objects in the landscape, become the dominant visual element and overwhelm the fundamental character of the place, on-premise digital displays with motion can be particularly garish, a distraction from other visual/scenic qualities, and clash with historic or established architectural elements, even at great distances. Other considerations are effects on property values, light and noise effects on nearby households and businesses, and enormous compensation costs if signs are altered, moved, or removed.

Highway Safety Implications

Digital billboards are the brightest object in the driver's field of vision, especially at night. They cause drivers to make inadvertent and instinctual glances. Images rotate every 4, 6, or 8 seconds causing lingering looks to see what's next. Complex messages often take 5 seconds to comprehend. At noon the sun is measured at 600 lumens off the landscape. During the daytime, a digital sign can be set at over 930 lumens. The Virginia Tech Transportation Institute found digital billboards to be 10 times brighter than the surrounding area, and 3 times brighter than a traditional billboard.

Environmental Consequences

Anything that distracts the driver from the forward roadway for more than two seconds significantly increases the chances of crashes and near crashes. Twenty-three percent of crashes and near-crashes that occur in metropolitan environments are attributable to eyes off the forward roadway greater than two seconds. Nearly 80% of the crashes and 65%

of near crashes were caused by distractions that made the driver look away for up to three seconds. If you add it all up the brightest object in a driver's field of vision plus frequently changing intermittent messages plus complex advertising messages equals more than two seconds distraction.

Can a digital sign simultaneously be safe for motorists and effective as an advertising medium? There may be something that can be done but we need more study. What we know right now is that: if the motorist spends enough time to read and comprehend the sign, by definition they have taken their eyes away from the driving task too long, digital signs are designed to pull drivers' attention from the roadway, otherwise they are useless as advertising, drivers already have too much distraction inside and outside the car, and digital signs, because they are especially distracting due to bright light, vibrant color, and image changes or motion, divert attention from official signs that are necessary for the safe operation of the car.

The billboard industry sponsored two studies of digital signs in Cleveland conducted by Suzanne E. Lee and Tantala Associates, purporting to show they are safe. The Maryland State Highway Administration commissioned an independent study to assess the validity of the studies and prepare a peer-review report. It was the conclusion of that report that the Lee and Tantala studies are not valid.

Upcoming Research

The Federal Highway Administration is conducting research that will hopefully be completed by 2010. The American Association of State Highway and Transportation Officials (AASHTO) are sponsoring preliminary research leading to future investigations. The Transportation Research Board of the National Academy of Sciences is conducting a human-factors workshop and will manage AASHTO research.

What We Want State and Local Governments to Do

Until we have some of these studies completed, until we have some guidelines on the books that actually talk about the safety considerations of placement of these billboards, intervals of message change, size, lighting, the only responsible action is to place a moratorium on the construction of off-premise electronic billboards along highways and other major roadways. If we don't do these things, communities may expose themselves to enormous liabilities (not only from a safety standpoint but an economic standpoint as well) if electronic billboards are proven to be unsafe. A couple weeks ago a county in New York considered changing the requirement that digital billboards go from an 8 second interval to a 15 second interval. They were immediately informed by the billboard industry that they would consider that a regulatory takings and would be requesting compensation if that resolution was passed.

Mr. Cortright asked the Commission to consider a resolution to place a moratorium on placements of digital billboards along highways until such a time as those studies are done.

Chair Wahby called on Mark Dionise, Utility Coordination and Permits Section Manager with MDOT's Lansing Real Estate Division to comment regarding what has been requested of the Commission.

Ms. Shinn called attention to a memorandum given to the Commissioners from Matthew DeLong, Administrator, Real Estate Division, regarding requirements for commercial outdoor advertising displays.

Mr. Dionise commented that if we did want to put a moratorium on signs it would have to be backed by legislation. Current legislation along with our federal agreement with FHWA allows these types of signs to be placed as long as it meets certain criteria. There are a variety of criteria in the current Highway Advertising Act that gives guidance on spacing and size of signs. Recently we had an amendment to the Highway Advertising Act that gives some guidance on luminance and brightness of signs along with the number of seconds that a sign has to remain static before it can switch to another message. We feel there is guidance there and look forward to the report from FHWA.

Ms. Shinn pointed out that the FHWA is currently working on a Safety Study, looking at the issue of lumens, distractions and other issues. That study is scheduled to be released at the end of this year. We will certainly bring it forth as this is an issue that the Governor and the Commission are interested in. At that time, we would bring any recommendations that we would see in that study to help Michigan in this arena.

Chair Wahby asked if it would still require legislation.

Ms. Shinn replied that it would.

Chair Wahby asked what her recommendation was.

Ms. Shinn replied that her recommendation would be to wait until the Safety Study is released by FHWA to see that Michigan, in fact, is in compliance. If there are recommendations that the Commission and the Governor would like us to pursue legislatively, then we would bring that to your attention and move in that direction. Right now we would be imposing on the billboard community without that data; a particular action that I think we would have a difficult time defending.

Chair Wahby clarified that they will bring that to us at some point when the data is available.

Ms. Shinn replied yes.

Commissioner Brosnan asked when the data is expected to be available.

Ms. Shinn replied that she understood it to be at the end of 2009, however asked Jim Steele if he had any more information than that because this is not just Michigan, it is a national effort.

Jim Steele of FHWA added that the last he knew, they were looking for test sites to study and his office recommended several sites in Michigan but he did not know when the study would be done.

Chair Wahby commented that there was a process going and we had to wait for the results of that process before we can take action.

Commissioner Scalici asked about the signs that are going up now before the study is back; are we going to have any way to revisit those.

Ms. Shinn replied that under the law, as long as they are in that spacing requirement, we do have some limitations in Michigan. In 2006 we amended the Billboard Act with the Governor's direction to limit spacing, where signs can go up and how often the change could occur as well as some of the little ones. There are some already in the law that limits our proliferation of these signs.

Chair Wahby summarized that it was a legal issue.

Ms. Shinn agreed. We are watching this issue very carefully. As long as they are operating within the 2006 changes we cannot restrict their being permitted.

Chair Wahby commented that once we get all the facts and we get the report in on the base of studies then there can be recommendations later.

Commissioner Brosnan asked, given the scope of the issue before us, how many electronic billboard requests are there currently in the Real Estate Division that are awaiting approval.

Mr. Dionise responded that we really don't have good information on that because a billboard, as it is permitted, can be changed to include this type of technology and it would not be required for the sign owner to secure an additional permit.

Ms. Shinn added that, in other words, the number of billboards that we permit but not necessarily whether it be digital or the traditional kind.

Chair Wahby stated that the recommendation is to wait until the study is completed and get the report to us. In the meantime, as has been pointed out, there is nothing that we can do to restrict anything if they are in compliance with the existing rules.

Ms. Shinn replied that it would be arbitrary on our part.

Mr. Isom stated that that it is correct. Legislation allows companies to have billboards and does not currently authorize a moratorium.

Commissioner Atkinson, for a point of clarification, commented to Mr. Isom that, when he says the legislation allows the billboards, actually the statutes that we are talking about don't distinguish between digital billboards and static billboards; or do they?

Mr. Isom replied that in a certain sense she was absolutely correct. The standard such as spacing and so forth would apply without regard, but there is a specific provision dealing with illuminating billboards, how bright they can be, and how frequently the message can

change. So the legislature has specifically addressed the digital billboards and specified standards that they must meet.

Ms. Dart interjected that it is perfectly legal to establish a moratorium. Montana, California and other states are pending until the study is done but no additional signs are converted from regular to digital. We might want to think about things from a legal standpoint. By not knowing right now which billboards in Michigan are digitalized you could open yourselves up to some issues if there are some safety accidents. It is probably not the best presentation for the state to say you don't know where they are. We have some reservations if someone were to ask "where are digital billboards in Michigan" and you don't know. You have no process for discerning which is a billboard, or which is a digital. Since digitals are under scrutiny right now for safety reasons, that's probably possibly something you ought to look at.

Chair Wahby stated that we are going to leave this in the hands of the department and Attorney General's office understanding that they will get back to us.

No other questions were forthcoming.

VII. **PUBLIC COMMENTS**

Chair Wahby asked if any member of the audience wanted to address the Commission.

Dr. James Anderson, Professor of Economic History at MSU, spoke in favor of the need for digital billboards.

No other comments were forthcoming.

Chair Wahby asked if any Commissioner wanted to address the Commission.

Commissioner Brosnan thanked Scenic Michigan for taking the time to come out and give their presentation.

ADJOURNMENT

There being no further business to come before the Commission, Chair Wahby declared the meeting adjourned at 10:40 a.m.

The next full meeting of the Michigan State Transportation Commission will be held on May 28, 2009, in the 1st floor Bureau of Aeronautics Auditorium in Lansing, Michigan, commencing at the hour of 9:00 a.m.