

Maryland Underground Facilities Damage Prevention Authority

MINUTES OF MEETING OF AUTHORITY

Wednesday, June 5, 2013

The meeting was called to order by Chairman Tom Hoff at 9:00 am in the Miss Utility One Call Center, 7223 Parkway Drive, Hanover, MD 21076. In attendance were Authority members Thomas Baldwin, Robert Cooper, Walter Gilmer, Bernard Cochran, Cynthia Flanders, Arthur Bell and Marcia Collins. Also in attendance were the following: Laura Olander, Bruce Bereano, Scott Brown with Washington Gas, Thurman Smith from Utiliquest, Dora Parks, Matt Ruddo, Tom Hastings, Tim Captein with Comer Construction and Lenny Corbin with Gray and Son.

The Minutes of the meeting of the Authority of Wednesday, May 1, 2013 were adopted.

The meeting began discussing Reliable Contracting's lawyer who has sent the Authority three letters about the Administrative Procedures Act (APA). The APA states that lawyers can represent clients at Authority hearings. Tom Hoff asked Paul Finamore to research this issue for the Authority. More discussion to follow, however, Bruce Bereano added that the APA applies only to state agencies. The Authority is not a state agency so this does not apply to the Authority. Will revisit later in the meeting.

Report of Authority Treasurer - To date, OCC has been paid along with Jim Barron's consulting time. Cindy said the NPV log can be put on the website for viewing and asked if the Authority wants to pay the web developer to implement this log into the site. Jim Barron said why pay someone to put it up when all they need to do is email him and request a copy. Most importantly, we have had some difficulties with people trying to file NPV's online and this needs fixed and/or addressed - BGE has had trouble submitting - they can put information in but when they try to submit, the NPV won't go through.

Cindy will need a replacement soon and asks that the Authority think about her replacement. Need a new public member by September.

NPV Withdrawals - There were 2 potential Hearings: one with reliable, and one with Washington Gas. New research was done and at the last minute Pinpoint was invited but there has been no response. Jim said he will send out a formal letter and set a Hearing date for them. There have been several requests to have an NPV withdrawn as the complaintant no longer wanted to file a violation. Can they do this? Tom Baldwin said he doesn't think authority is obligated to do that. Tom Hoff said if we get an NPV and it is a definite violation of the law it doesn't matter who filed it as the Authority can move forward. Unless an NPV is

fuzzy and there are questions that need answered, the Authority no longer needs the person who filed the complaint and this should be done on a case-by-case basis. Tom Hoff said when someone files an NPV, they are giving the Authority the information to use and the Authority can do what they choose to do. Bruce agreed. This will be dealt with on a case-by-case basis.

Tom Hoff addressed the unresponsiveness from Pinpoint. It was decided that Jim Barron will draft a letter to WSSC and let them know they are the responsible party, let them know what the law is in the statute, and give them a Hearing date. He will let them know that they can bring whoever they wish to the Hearing. If they don't want a Hearing, or do not respond, they will be told what their fine will be. They will have 20 days to respond.

For the record, Kevin Woolbright had no comment on WSSC/Pinpoint discussion.

July 10th will be the next Authority meeting and will also serve as the next Hearing date. Marcia may be on jury duty. Cindy cannot make it. All agreed to the July 10th date.

The June 30th free file date ends soon. It was discussed that the filing fee remain waived for now and this will be reevaluated in September. All in favor. Cindy will make the change on the website. Phone number needs changed also.

Update from PHMSA grant task force - Tom Baldwin, Marcia Collins and Jim Barron met regarding this. Need to plan for an August 18th submission but no date has been set yet when the next submission date is. Special projects will be looked at according to Annmarie at PHMSA. Jim suggests a Marketing Plan regarding training and information about the Authority. He also wants to request a salary for an investigator - someone who can work in the field and get missing information, go to the sites, photograph sites, and put together a case. Jim wants to be ready for submission by August 1st and said to email him if any new ideas surface.

Virginia software update - Sonia has a lot of questions and will contact the people in Virginia to discuss. This should be completed by next week.

PHMSA revised budget update - Jim asked if he could make some changes to the current budget and PHMSA said it was not a problem.

Jim put the proposed new grant request for money items on the board so all members could review.

Subscribers June 18th - Jim Barron will go and try to get money from them also.

Go to PSC for funding? Tom Baldwin suggested it is worth a try. Tom Hoff said there is no contribution from state or city governments. Why not ask for

surcharges from them to support the Authority? Jim Barron and Tom Hoff want to be first on the Subscribers Committee agenda on June 18th so they can ask for money.

10. a - #233 - Gaines vs. BGE - Have not had any traction because there is no ticket but they say they are not guilty of violation. Should Dora review the law with them because they do not understand? They are going to be fined. All agreed.

#282 - BW Excavating - No response from them. Tom Hoff said they are the 3rd hearing slot on July 10th. All in favor.

On a side note, the Authority cannot continue to be ignored. In letter to violators, they need to know that lack of communication results in a Hearing date, and not showing up at a Hearing will cause the Authority to take further action. Bruce suggests they know they will be summoned. Send letter, give them 20 days to respond, if they don't respond send another letter and give hearing date. If they don't show up, send them their fine.

#283 - Reliable - sending letter. This was discussed earlier in meeting.

#284 - C&M Construction - Letter went out on May 2nd and they have failed to respond. Letter will be sent letting them know the date of their Hearing which will also be on July 10th.

285 - D.R. Horton - Same as above. Hearing on July 10th.

292 - Suburban Construction - Offered Hearing date of today, June 5th. They came back and presented a ticket that Jim couldn't find when he did his research. He is wondering if the ticket they have is viable for this particular violation. This is still being researched.

303 - Green Scapes Hearing on 7/10.

316a, b, 408, 411a and b - Pinpoint. These are also scheduled for 7/10.

11. New NPV's #308 - Midasco vs. Baltimore City - This was a mismarking and SHA inspector confirmed but there is nothing in writing from SHA inspector. Tom Hoff asked Tom Hastings if he could produce anything and his response was no. Jim Barron will prepare a letter requesting more information. For the record, Marcia Collins was not part of this discussion.

B #326 - B&P claims this wasn't marked correctly. Details in handouts. Need more information.

C #446 - Nathan Rivard - No ticket. This was a hand excavation and on Ackerman's property. A letter needs to be sent. Tell them what the law is and let it go. Convey this to complainant. No fine.

#545 - Kenneth Robinson - No NPV filed initially. It began as a phone call to Laura Olander which she forwarded to Jim Barron. Jim told Eileen Stewart (complainant) that he needs concrete proof regarding the excavation she is complaining about. Now she is afraid of the neighbor and doesn't want to complain. Send a letter saying there is not enough information and there has been no damage. Case closed.

If an NPV isn't filed, the Authority won't deal with any more phone complaints.

12. Non-member updates:

- a. Antietam Cable - in contact and in process
- b. Allegany County - has not responded to Jim Barron's letter. Bruce will handle.
- c. Norfolk Southern Railroad - they said it is corporate policy not to be a member. Jim Barron will pursue with a letter.

13. Upcoming conferences:

- a. MML - June 23-25. Jim will be attending this and MACO in August.

16. Future meeting dates - July meeting is scheduled for the 10th. There will be no August meeting but there will be a September meeting. The September meeting will be on September 11th. Any special meeting dates can be suggested and scheduled if necessary.

Scott brown suggested the documentation upload section of the website be re-done to make everyone aware this is an option on the site.

There being no further discussion or business of the Authority, the meeting was adjourned. The next Authority meeting is scheduled for Wednesday, September 11, 2013.