

Maryland Underground Facilities Damage Prevention Authority

MINUTES OF MEETING OF AUTHORITY
Wednesday, May 1, 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 Tom Hoff, Wayne Gilmer, Marcia Collins, Walter Gainer, Kevin Woolbright, Tom Baldwin, Cindy Flanders, and Bernard Cochran. Bruce Bereano and Laura Olander were also present. Jim Barron, Matt Ruddo, Scott Brown from Washington Gas, Thurman Smith from Utiliquest, Susie Comer, Dorothy Miller, Tim Kaptein all with Comer Construction and Lenny Corbin with Gray and Son were also present. Charlie McCadden and Marc Haines from BGE arrived as guests around 10 am. Authority member Wayne Gilmer was absent.

Chairman Tom Hoff welcomed everyone then passed around *Damage Professional* magazine so everyone could see the article written on Jim Barron's new role with the Authority. Chairman Hoff then thanked the law firm Niles Barton (Paul Finnamore) for his help with Jim Barron's contract.

First order of business was a Motion to approve the April Authority Minutes. All in favor.

Chairman Hoff asked all the guests in attendance to introduce themselves.

Report from the Treasurer: Cindy Flanders said she will email the spreadsheet to everyone as well as email the long information so Authority members can go in at any time and view the financials. So far this year, \$16,169.00 has been spent with the majority for computer equipment. Money for the second half of the Grant term was deposited into the Authority's account in April. There is currently a balance of \$83,236 in the account. Cindy asked the web developer to set it up so that people can pay their fines online. Cindy asked what additional ideas anyone has for the online NPV report because she can have three more columns added. Jim Barron said Authority members should also be able to go in and see what the current status is with NPV's. Jim added that the software Virginia has allows this to be done.

Grant money progress report: Jim Barron showed what was submitted back to Janella at PHMSA. He has not heard back from her but explained that the buckets are going to be allocated differently but approval is necessary from PHMSA first. The current Grant is over at the end of August and what isn't spent has to be returned. Tom Hoff offered the Authority the use of OCC's Accounting Department on a contractual basis just to have a professional accounting report, etc. Jim Barron said the next PHMSA grant application will be in August. Tom Baldwin and Marcia Collins offered to work with Jim Barron to figure out where money will be allocated to in the next grant request.

Revenue stream: Jim Barron said an annual budget is needed. Grants should be reserved for special projects. He is going to the next Subscribers meeting on June 18th with Kevin Woolbright and ask them to help fund because there is no guarantee the Authority will get another Grant. Jim wants more done with education; Tom agreed saying an outreach program is very important to what the Authority is all about and seeking Grant money for outreach is a great idea.

Report from April 9 Virginia Corporation Hearings: Jim attended a day of hearings in Virginia to see how they do things there. The Damage Prevention group has been in place for 20 years and is very impressive with a courtroom setting, over a million dollar budget, and 6 investigators on staff. They have high tech cameras, projectors, and screens and present presentations on each case provided by investigators. Jim Barron showed their fining matrix (penalty weighting system); the maximum fine is \$2,500 but can be fined per occurrence so if multiple occurrences happen these can add up into the hundreds of thousands. The head of the Damage Prevention group in Virginia (Massoud) said he would give the Authority the software program they use and the Authority can adjust to their own needs. Chairman Tom Hoff offered his IT Department for support in the short term. Tom said it is important to keep track of everything that takes place such as tracking damages and data to show the effectiveness of the Authority. Tom also offered to go to the next meeting in Virginia with Jim if he isn't out of town.

Next, everyone at the table introduced themselves to all the guests that were present.

Standard Letters: There will be a 20-day notice. Jim Barron created template letters. All members agreed 20-day notice is adequate amount of time. Motion to move. All in favor.

Hearing Process: Jim Barron showed everyone the new recording equipment and said he will start putting all the handouts up on the screen rather than make copies for everyone. Cindy will start storing all the NPV's on the website and will email everyone password and login information so they can look at everything that is going on.

Attorney at hearings: Bruce said the statute is silent on this issue as to both sides. Depending on the case, there will probably be a situation where someone will come in with counsel and there is no way to stop this. Especially since the actions by the Authority are appealable by the court. The Authority should have counsel on standby in these events. The main role of counsel would be to answer legal questions or a procedural matter that needs ruled upon. Tom Hoff said the Chairman runs the meeting and recognizes who can be sworn in and give recorded commentary - and it's not the lawyer. Tom said he won't let the lawyer talk as a lawyer.

Room arrangement: Jim Barron should be at the head of the table.

Need to know how to swear someone in and who is responsible for this. Bruce said the oath can be done by either the chair or the Executive Director. Bruce has the exact wording used by the courts when people take an oath and this is what will be used. Kevin Woolbright asked if the Authority can ask for a list of who will be in attendance at the hearing. The answer is yes. If they have an attorney, the Authority will know in advance. The Chairman will set the parameters during the hearing. This is a learning process that will just have to be controlled. Cost of having an attorney available for the Authority is on the list for the next grant request.

Insurance: Jim Barron got some quotes but needs Bruce's help. Members of this body cannot be sued according to the law which limits Authority's liability because they are protected by the statute.

Upcoming meetings: Jim Barron is going to MML and MACO and would like to get a presentation together. Jim would like a booth just for the Authority at the Chesapeake Damage Prevention Conference. Also wants to have some give-aways for these events. A vote was taken whether to spend money on this. All in favor.

Delegate Myers letter: Delegate Myers turned in a non-member (Antietam Cable Company). Jim sent a letter to Antietam Cable Company and they got back to Dora immediately with a signed contract from them. They are now members. There is no fee to join the Miss Utility system. Delegate Myers has received a thank you letter from Jim Barron. Bruce noted that technically the Authority could have fined Antietam but now there should be a letter of closure as soon as they are up and running in the system and let them know the Authority will look into whether or not they also need to be active and we still have the option to fine if they don't also follow through with the law. Motion - all agreed. Jim Barron is also following up on another non-member Dora Parks made him aware of. Jim will send a letter and see what happens.

NPV 233: Gaines and Company filed a complaint against BGE - there were marks on ground, marks removed, struck a line but ticket check said they had a no conflict on ticket. When researched, BGE indicated it was marked so Jim is not sure of what their complaint was. Authority sent a letter. Betsey Gaines says the Authority is wrong. Jim provided the Google map that was sent with the letter to Gaines and the damage done really happened on Bell Drive. Both of these areas were marked by BGE. Jim Barron sent another letter to Gaines letting them know they could be fined; NOT BGE. Kevin suggested that a new NPV with the correct address be filed and this NPV should be closed because there was no issue with it. Motion to close and dismiss without prejudice. Motion moved and all in favor.

NPV 241: Letter sent to Kenneth Traugott saying insufficient information given because Elm Street Development was the Contractor and had nothing to do with the digging. Nobody knows who did the actual digging and the correct information wasn't provided. Actually, there were no tickets by Elm Street and the Authority just can't prove who did the digging. Since the Authority only relies on information from the Complainant and there is no investigative staff, it is not the Authority's obligation to find out who did the digging. Motion moved. All in favor.

Jim Barron said the Authority needs to look at how a lot of these utilities are owned by developers which raises the question: should developers also be One Call members? If they own a facility, they need to be a member. Tom Hoff discussed Broadband and said the opinion is that those operating a facility are facility owners. Plus, if not a member of Miss Utility, money for damages cannot be collected.

NPV 282: BW Excavating. Failure to locate, etc. Jim found there was, in fact, a ticket that was active at the time of the damage but no action taken because there is no way it could be determined if that company checked the system. However, because of all the tickets at that time, the Authority did feel there was clear evidence. A fine of \$500 along with training through the DPC was issued to them. Have not heard back from them yet. Bruce suggests these letters not be sent certified mail anymore. They have 20 days from the date of the letter to respond.

NPV 283: Reliable Contracting. No response yet. If no response by 20 days, this will be put on next Agenda.

NPV 284: Filed by Washington gas against C&M Construction. No locate request. Jim researched through ITIC. Letter will be sent. Dora will get information that Artie wants. This will be revisited.

NPV 285: No locate request. Researched through ITIC and nothing found for DR Horton. There was damage. If there is no ticket, no investigation is necessary.

284 and 285: Should get letters with potential fines. Having no ticket is \$2,000.00. If they can't provide any different information proving otherwise, they have to pay the fine. Motion was made. All in favor for both to get letters with fines.

Since time was running out, Chairman Hoff suggested that the rest of the NPV's on the list could be discussed later and that Jim Barron could send everyone copies of the letters he sends.

292 & 303: Jim Barron will send letters.

316 a & b, 408, 411 a, b, and c: There needs to be a way to complain against a marking company. Walter Gainer discussed Pinpoint and how a disaster is around the corner. They mark water and sewer and are always the low bid but rarely mark. They are also in violation because they delayed the tickets over 48 hours. There are even more violations. Tom Hoff suggested writing a letter to WSSC-Pinpoint, tally up the violations, and send. Motion was made. All in favor. Letter should be sent to General Manager. Aggregate into one letter and add up all the fines. All in favor. Kevin Woolbright did not vote.

308, 326 and 446: On hold for now.

There being no further discussion or business of the Authority, the meeting was adjourned. The next Authority meeting is scheduled for Wednesday, June 5, 2013.